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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

October 11, 1995
(Senate)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

H.R. 927 - Cuban Liberty and Democratic Solidarity Act
(Burton (R) IN and 43 cosponsors)

The Administration supports the central objective of H.R. 927, i.e., to promote a peaceful transition to democracy in Cuba. However, H.R. 927 contains a number of seriously objectionable provisions that would not advance U.S. interests in Cuba and would damage other U.S. interests. Therefore, the President's senior advisers would recommend that H.R. 927 be vetoed unless the following provisions are deleted or amended:

- The bill would encroach upon the President's exclusive authority under the Constitution to conduct foreign affairs, or otherwise unduly limit the President's flexibility, by purporting to require the President or the Executive branch to pursue certain courses of action regarding Cuba. Mandatory provisions should be replaced with precatory language in the following sections: 102(b); 110(b); 112; 201; 202(e); 203(c)(1); and 203(c)(3).
- The effectiveness of civil penalties as a tool for improving embargo enforcement is greatly limited by the exemption in section 102(d) for activities related to research, education and certain other purposes, and the burdensome requirement for an agency hearing for civil penalties in other cases. Section 102(d) should be amended to address this shortcoming.
- Section 103 should be amended to make the prohibition of certain financing transactions subject to the discretion of the President.
- Section 104(b), which would require withholding U.S. payments to International Financial Institutions, could place the U.S. in violation of international commitments and undermine their effective functioning. This section should be deleted.
- Sections 106 and 110(b), which would deny foreign assistance to countries, if they, or in the case of section 110(b), private entities in these countries, provide certain support to Cuba, should be deleted. Section 106 would undermine important U.S. support for reform in Russia. Section 110(b) is cast so broadly as to have a profoundly adverse affect on a wide range of U.S. Government activities.

- Section 202(b)(2)(iii), which would bar transactions related to family travel and remittances from relatives of Cubans in the United States until a transition government is in power, is too inflexible and should be deleted.
- Sections 205 and 206 would establish overly-rigid requirements for transition and democratic governments in Cuba that could leave the United States on the sidelines, unable to support clearly positive developments in Cuba when such support might be essential. The criteria should be "factors to be considered" rather than requirements.
- By failing to provide stand-alone authority for assistance to a transition or democratic government in Cuba, Title II signals a lack of U.S. resolve to support a transition to democracy in Cuba.
- Title III, which would create a private cause of action for U.S. nationals to sue foreigners who invest in property located entirely outside the United States, should be deleted. Applying U.S. law extra-territorially in this fashion would create friction with our allies, would be difficult to defend under international law, and would create a precedent that would increase litigation risks for U.S. companies abroad. It would also diminish the prospects of settlement of the claims of the nearly 6,000 U.S. nationals whose claims have been certified by the Foreign Claims Settlement Commission. Because U.S. as well as foreign persons may be sued under section 302, this provision could create a major legal barrier to the participation of U.S. businesses in the rebuilding of Cuba once a transition begins.
- Title IV, which would require the Federal Government to exclude from the United States any person who has confiscated, or "traffics" in, property to which a U.S. citizen has a claim, should be deleted. It would apply not only to Cuba, but world-wide, and would apply to foreign nationals who are not themselves responsible for any illegal expropriation of property, and thus would create friction with our allies. It would require the State Department to make difficult and burdensome determinations about property claims and investment in property abroad which are outside the Department's traditional area of expertise.

SUMMARY OF AGREEMENT ON CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY (LIBERTAD) ACT OF 1996

President Clinton has agreed to sign, and to urge Congressional Democrats to support, legislation dramatically tightening the embargo on Fidel Castro's Cuba that:

- * **ADDS NEW SECTION CODIFYING EXISTING EMBARGO** -- (In Section 102) Puts into law all existing Cuban embargo Executive Orders and regulations, thus ensuring the embargo cannot be lifted until a democratic transition is underway in Cuba, as defined in Title II (Sec. 204) of the LIBERTAD bill. No presidential waiver of any codified embargo provisions.
- * **INCLUDES TITLE IV** -- The mandatory denial of visas to individuals who traffic in confiscated property after the date of enactment. (Not included in Senate bill; discretionary authority in House bill made mandatory in Conference)
 - Title IV will only be waiveable for individuals, on a case by case basis, for travel to the United States for humanitarian medical reasons, or to defend themselves in legal actions pursuant to Title III.
 - Trafficking is defined to include any changes, improvements and/or expansions of an existing investment after the date of enactment, thereby chilling foreign investment in Castro's Cuba.
 - *EXEMPTION (see next page)*
- * **INCLUDES TITLE III** -- Creating a private right of action for American citizens to sue persons who traffic in property expropriated from them by the Castro regime, effective August 1, 1996. (Not included in Senate bill; restored in Conference)
 - The President will have authority to delay implementation, for periods of no more than six months, only if he determines such a delay would be "necessary to the national interest and will expedite a transition to democracy in Cuba," and will have the authority to temporarily suspend the right to sue prospectively, for periods of no more than six months. Any suspension must be submitted to Congress 15 days before taking effect.

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

SUMMARY OF THE CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY (LIBERTAD) ACT

TITLE I: STRENGTHENS INTERNATIONAL SANCTIONS AGAINST THE CASTRO GOVERNMENT

- * URGES THE PRESIDENT TO SEEK, IN THE U.N. SECURITY COUNCIL, AN INTERNATIONAL EMBARGO AGAINST THE CASTRO DICTATORSHIP.**
- * AUTHORIZES THE PRESIDENT TO FURNISH ASSISTANCE TO SUPPORT THE DEMOCRATIC OPPOSITION AND HUMAN RIGHTS GROUPS IN CUBA**
- * PROHIBITS LOANS, CREDITS OR OTHER FINANCING BY A U.S. NATIONAL OR AGENCY IN TRANSACTIONS INVOLVING U.S. PROPERTY CONFISCATED BY THE CUBAN GOVERNMENT**
- * CODIFIES THE EXISTING EMBARGO ON CUBA IN STATUTE SO THE EMBARGO MAY NOT BE LIFTED UNTIL A TRANSITION GOVERNMENT IS IN PLACE**

TITLE II: SUPPORT FOR A FREE AND INDEPENDENT CUBA

- * INSTRUCTS THE PRESIDENT TO DEVELOP A PLAN FOR PROVIDING SUPPORT TO THE CUBAN PEOPLE DURING THE TRANSITION TO A DEMOCRATICALLY ELECTED GOVERNMENT**
- * AUTHORIZES THE PRESIDENT TO TERMINATE THE EMBARGO ONCE A DEMOCRATIC GOVERNMENT IS IN POWER IN CUBA**

TITLE III: PROTECTION AGAINST CONFISCATORY TAKINGS OF AMERICAN PROPERTY BY THE CASTRO REGIME

- * PROTECTS THE INTERESTS OF AMERICAN CITIZENS WHOSE PROPERTY WAS CONFISCATED BY ALLOWING ACTION IN U.S. COURTS**
- * THIS CONCRETE ACTION WILL DETER FOREIGN INVESTMENT IN CUBA**

TITLE IV: EXCLUSION OF ALIENS WHO HAVE CONFISCATED PROPERTY

- * PROVIDES FOR THE EXCLUSION FROM THE U.S. OF ALIENS WHO CONFISCATED PROPERTY OF U.S. NATIONALS OR WHO TRAFFIC IN SUCH PROPERTY**

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, in consultation with the Attorney General, ~~may~~
9 *shall* deny a visa to, and the Attorney General ~~may~~ *shall*
10 exclude from the United States, any alien who the Sec-
11 retary of State determines is a person who, *after the date*
12 *of the enactment of this Act—*

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

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

21 (3) is a corporate officer, principal, or share-
22 holder with a controlling interest of an entity which
23 has been involved in the confiscation of property or
24 trafficking in confiscated property, a claim to which
25 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, ~~on or after Janu-~~
10 ~~ary 1, 1959~~

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

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

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

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

(ii) a debt which is a charge on prop-

erty nationalized, expropriated, or otherwise taken by the Cuban Government; or
(iii) a debt which was incurred by the Cuban Government in satisfaction or settlement of a confiscated property claim.

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

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

(A)(i) ~~transfers~~ transfers, distributes, dispenses, brokers, ~~manages~~, or otherwise disposes of confiscated property; or

(ii) purchases, ~~leases~~, receives, ~~possesses~~, obtains control of, ~~manages~~, ~~uses~~, or otherwise acquires or holds ~~an interest in~~ confiscated property, or

(iii) improves (other than for routine maintenance), invests in (by contribution of funds or anything of value, other than for routine maintenance), or begins after the date of the enactment of this Act to manage, lease, possess, use, or hold an interest in confiscated property,

(B) ~~engages in~~ ^{enters into} a commercial ~~activity~~ ^{arrangement} using or otherwise benefiting from confiscated property, or

(C) causes, directs, participates in, or profits from, trafficking (as described in subparagraphs (A) and (B)) by another person, or otherwise engages in trafficking (as described in subparagraphs (A) and (B)) through another person,

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

(c) EFFECTIVE DATE.—

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

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

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Visa

- new investment
made after certain date

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 Government of Cuba from participation in the Organization of American States.
- Sec. 106. Assistance by the independent states of the former Soviet Union for the Government of Cuba.
- 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 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. Impact on lawful United States Government activities.

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 AGAINST CONFISCATORY TAKINGS BY THE CASTRO REGIME

Sec. 301. Statement of policy.

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.

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) The 1992 FREEDOM Support Act re-
5 quires that the President, in providing economic as-
6 sistance to Russia and the emerging Eurasian de-
7 mocracies, take into account the extent to which
8 they are acting to "terminate support for the com-
9 munist regime in Cuba, including removal of troops,
10 closing military facilities, and ceasing trade subsidies
11 and economic, nuclear, and other assistance".

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

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

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

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

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

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

22 (19) The Castro government continues to utilize
23 blackmail, such as the immigration crisis with which
24 it threatened the United States in the summer of
25 1994, and other unacceptable and illegal forms of

1 conduct to influence the actions of sovereign states
2 in the Western Hemisphere in violation of the Char-
3 ter of the Organization of American States and
4 other international agreements and international
5 law.

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

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

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

23 (23) Article 39 of Chapter VII of the United
24 Nations Charter provides that the United Nations
25 Security Council “shall determine the existence of

1 any threat to the peace, breach of the peace, or act
2 of aggression and shall make recommendations, or
3 decide what measures shall be taken . . . , to main-
4 tain or restore international peace and security.”.

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

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

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

23 (27) The Cuban people deserve to be assisted in
24 a decisive manner to end the tyranny that has op-
25 pressed them for 36 years, and the continued failure

1 to do so constitutes ethically improper conduct by
2 the international community.

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

6 **SEC. 3. PURPOSES.**

7 The purposes of this Act are—

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

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

14 (3) to provide for the continued national secu-
15 rity of the United States in the face of continuing
16 threats from the Castro government of terrorism,
17 theft of property from United States nationals, and
18 the political manipulation of the desire of Cubans to
19 escape that results in mass migration to the United
20 States;

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

24 (5) to provide a policy framework for United
25 States support to the Cuban people in response to

1 the formation of a transition government or a demo-
2 cratically elected government in Cuba; and

3 (6) to protect United States nationals against
4 confiscatory takings and the wrongful trafficking in
5 property confiscated by the Castro regime.

6 **SEC. 4. DEFINITIONS.**

7 As used in this Act, the following terms have the fol-
8 lowing meanings:

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

13 (2) **APPROPRIATE CONGRESSIONAL COMMIT-**
14 **TEES.**—The term “appropriate congressional com-
15 mittees” means the Committee on International Re-
16 lations and the Committee on Appropriations of the
17 House of Representatives and the Committee on
18 Foreign Relations and the Committee on Appropria-
19 tions of the Senate.

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

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

1 (A) the nationalization, expropriation, or
2 other seizure by the Cuban Government of own-
3 ership or control of property, on or after Janu-
4 ary 1, 1959—

5 (i) without the property having been
6 returned or adequate and effective com-
7 pensation provided; or

8 (ii) without the claim to the property
9 having been settled pursuant to an inter-
10 national claims settlement agreement or
11 other mutually accepted settlement proce-
12 dure; and

13 (B) the repudiation by the Cuban Govern-
14 ment of, the default by the Cuban Government
15 on, or the failure of the Cuban Government to
16 pay, on or after January 1, 1959—

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

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

23 (iii) a debt which was incurred by the
24 Cuban Government in satisfaction or set-
25 tlement of a confiscated property claim.

1 (5) CUBAN GOVERNMENT.—(A) The term
2 “Cuban Government” includes the government of
3 any political subdivision of Cuba, and any agency or
4 instrumentality of the Government of Cuba.

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

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

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

19 (A) the economic embargo (including all
20 restrictions on trade or transactions with, and
21 travel to or from, Cuba, and all restrictions on
22 transactions in property in which Cuba or na-
23 tionals of Cuba have an interest) that was im-
24 posed against Cuba pursuant to section 620(a)
25 of the Foreign Assistance Act of 1961 (22

1 U.S.C. 2370(a)), section 5(b) of the Trading
2 With the Enemy Act (50 U.S.C. App. 5(b)), the
3 Cuban Democracy Act of 1992 (22 U.S.C. 6001
4 and following), or any other provision of law;
5 and

6 (B) the restrictions imposed by section
7 902(c) of the Food Security Act of 1985.

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

10 (A) an alien; or

11 (B) any corporation, trust, partnership, or
12 other juridical entity not organized under the
13 laws of the United States, or of any State, the
14 District of Columbia, the Commonwealth of
15 Puerto Rico, or any other territory or posses-
16 sion of the United States.

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

19 (10) OFFICIAL OF THE CUBAN GOVERNMENT
20 OR THE RULING POLITICAL PARTY IN CUBA.—The
21 term “official of the Cuban Government or the rul-
22 ing political party in Cuba” refers to members of the
23 Council of Ministers, Council of State, central com-
24 mittee of the Cuban Communist Party, or the Polit-
25 buro of Cuba, or their equivalents.

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

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

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

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

19 (ii) the property is occupied by an official
20 of the Cuban Government or the ruling political
21 party in Cuba.

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

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

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

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

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

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

18 (i) the delivery of international tele-
19 communication signals to Cuba;

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

1 (iii) transactions and uses of property inci-
2 dent to lawful travel to Cuba, to the degree that
3 such transactions and uses of property are nec-
4 essary to the conduct of such travel; or

5 (iv) transactions and uses of property by a
6 person who is both a citizen of Cuba and a resi-
7 dent of Cuba, and who is not an official of the
8 Cuban Government or the ruling political party
9 in Cuba.

10 (14) TRANSITION GOVERNMENT IN CUBA.—The
11 term “transition government in Cuba” means a gov-
12 ernment that the President determines as being a
13 transition government consistent with the require-
14 ments and factors set forth in section 205.

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

17 (A) any United States citizen; or

18 (B) any other legal entity which is orga-
19 nized under the laws of the United States, or
20 of any State, the District of Columbia, the
21 Commonwealth of Puerto Rico, or any other
22 territory or possession of the United States,
23 and which has its principal place of business in
24 the United States.

1 **SEC. 5. SEVERABILITY.**

2 If any provision of this Act or the amendments made
3 by this Act or the application thereof to any person or
4 circumstance is held invalid, the remainder of this Act,
5 the amendments made by this Act, or the application
6 thereof to other persons not similarly situated or to other
7 circumstances shall not be affected by such invalidation.

8 **TITLE I—STRENGTHENING**
9 **INTERNATIONAL SANCTIONS**
10 **AGAINST THE CASTRO GOV-**
11 **ERNMENT**

12 **SEC. 101. STATEMENT OF POLICY.**

13 It is the sense of the Congress that—

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

18 (2) the President should advocate, and should
19 instruct the United States Permanent Representa-
20 tive to the United Nations to propose and seek with-
21 in the Security Council, a mandatory international
22 embargo against the totalitarian Cuban Government
23 pursuant to chapter VII of the Charter of the Unit-
24 ed Nations, employing efforts similar to consulta-
25 tions conducted by United States representatives
26 with respect to Haiti;

1 (3) any resumption of efforts by any independ-
2 ent state of the former Soviet Union to make oper-
3 ational the nuclear facility at Cienfuegos, Cuba, and
4 the continuation of intelligence activities from Cuba
5 targeted at the United States and its citizens will
6 have a detrimental impact on United States assist-
7 ance to such state; and

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

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

19 (B) any further political manipulation of
20 the desire of Cubans to escape that results in
21 mass migration to the United States,

22 will be considered an act of aggression which will be
23 met with an appropriate response in order to main-
24 tain the security of the national borders of the Unit-

1 ed States and the health and safety of the American
2 people.

3 **SEC. 102. ENFORCEMENT OF THE ECONOMIC EMBARGO OF**
4 **CUBA.**

5 (a) **POLICY.—**

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

7 The Congress hereby reaffirms section 1704(a) of
8 the Cuban Democracy Act of 1992, which states the
9 President should encourage foreign countries to re-
10 strict trade and credit relations with Cuba in a man-
11 ner consistent with the purposes of that Act.

12 (2) **SANCTIONS ON OTHER COUNTRIES.—**The
13 Congress further urges the President to take imme-
14 diate steps to apply the sanctions described in sec-
15 tion 1704(b)(1) of that Act against countries assist-
16 ing Cuba.

17 (b) **DIPLOMATIC EFFORTS.—**The Secretary of State
18 should ensure that United States diplomatic personnel
19 abroad understand and, in their contacts with foreign offi-
20 cials, are communicating the reasons for the United States
21 economic embargo of Cuba, and are urging foreign govern-
22 ments to cooperate more effectively with the embargo.

23 (c) **EXISTING REGULATIONS.—**The President shall
24 instruct the Secretary of the Treasury and the Attorney
25 General to enforce fully the Cuban Assets Control Regula-

1 tions set forth in part 515 of title 31, Code of Federal
2 Regulations.

3 (d) TRADING WITH THE ENEMY ACT.—

4 (1) CIVIL PENALTIES.—Subsection (b) of sec-
5 tion 16 of the Trading With the Enemy Act (50
6 U.S.C. App. 16(b)), as added by Public Law 102-
7 484, is amended to read as follows:

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

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

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

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

1 (2) CONFORMING AMENDMENT; CRIMINAL FOR-
2 FEITURE.—Section 16 of the Trading With the
3 Enemy Act is further amended—

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

6 (B) by striking subsection (c).

7 (3) CLERICAL AMENDMENTS.—Section 16 of
8 the Trading With the Enemy Act is further amend-
9 ed—

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

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

14 (e) DENIAL OF VISAS TO CERTAIN CUBAN NATION-
15 ALS.—It is the sense of the Congress that the President
16 should instruct the Secretary of State and the Attorney
17 General to enforce fully existing regulations to deny visas
18 to Cuban nationals considered by the Secretary of State
19 to be officers or employees of the Cuban Government or
20 of the Communist Party of Cuba.

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

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

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

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

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

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

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

1 (g) TELECOMMUNICATIONS SERVICES.—Section
2 1705(e) of the Cuban Democracy Act of 1992 (22 U.S.C.
3 6004(e)) is amended by adding at the end the following:

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

14 “(6) REPORTS TO CONGRESS.—The President
15 shall submit to the Congress on a semiannual basis
16 a report detailing payments made to Cuba by any
17 United States person as a result of the provision of
18 telecommunications services authorized by this sub-
19 section.”.

20 () CODIFICATION OF ECONOMIC EMBARGO.—The
21 economic embargo of Cuba, as in effect on ____, 199____,
22 including all restrictions under part 515 of title 31, Code
23 of Federal Regulations, shall be in effect upon the enact-
24 ment of this Act, and shall remain in effect, subject to
25 section 204 of this Act.

1 SEC. 103. PROHIBITION AGAINST INDIRECT FINANCING OF
2 CUBA.

3 (a) PROHIBITION.—Notwithstanding any other provi-
4 sion of law, no loan, credit, or other financing may be ex-
5 tended knowingly by a United States national, a perma-
6 nent resident alien, or a United States agency to a foreign
7 national or a United States national for the purpose of
8 financing transactions involving any property confiscated
9 by the Cuban Government the claim to which is owned
10 by a United States national as of the date of the enact-
11 ment of this Act, except for financing by the United States
12 national owning such claim for a transaction permitted
13 under United States law.

14 (b) SUSPENSION AND TERMINATION OF PROHIBI-
15 TION.—

16 (1) SUSPENSION.—The President is authorized
17 to suspend the prohibition contained in subsection
18 (a) upon a determination made under section
19 203(c)(1) that a transition government in Cuba is in
20 power.

21 (2) TERMINATION.—The prohibition contained
22 in subsection (a) shall cease to apply on the date on
23 which the economic embargo of Cuba terminates as
24 provided in section 204.

25 (c) PENALTIES.—Violations of subsection (a) shall be
26 punishable by such civil penalties as are applicable to vio-

1 lations of the Cuban Assets Control Regulations set forth
2 in part 515 of title 31, Code of Federal Regulations.

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

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

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

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

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

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2), the Secretary of the Treasury shall in-
17 struct the United States executive director of each
18 international financial institution to use the voice
19 and vote of the United States to oppose the admis-
20 sion of Cuba as a member of such institution until
21 the President submits a determination under section
22 203(c)(3) that a democratically elected government
23 in Cuba is in power.

24 (2) TRANSITION GOVERNMENT.—Once the
25 President submits a determination under section

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

3 (A) the President is encouraged to take
4 steps to support the processing of Cuba's appli-
5 cation for membership in any international fi-
6 nancial institution, subject to the membership
7 taking effect after a democratically elected gov-
8 ernment in Cuba is in power, and

9 (B) the Secretary of the Treasury is au-
10 thorized to instruct the United States executive
11 director of each international financial institu-
12 tion to support loans or other assistance to
13 Cuba only to the extent that such loans or as-
14 sistance contribute to a stable foundation for a
15 democratically elected government in Cuba.

16 (b) REDUCTION IN UNITED STATES PAYMENTS TO
17 INTERNATIONAL FINANCIAL INSTITUTIONS.—If any
18 international financial institution approves a loan or other
19 assistance to the Cuban Government over the opposition
20 of the United States, then the Secretary of the Treasury
21 shall withhold from payment to such institution an
22 amount equal to the amount of the loan or other assist-
23 ance, with respect to either of the following types of pay-
24 ment:

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

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

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

12 **SEC. 105. UNITED STATES OPPOSITION TO TERMINATION**
13 **OF THE SUSPENSION OF THE CUBAN GOV-**
14 **ERNMENT FROM PARTICIPATION IN THE OR-**
15 **GANIZATION OF AMERICAN STATES.**

16 The President should instruct the United States Per-
17 manent Representative to the Organization of American
18 States to oppose and vote against any termination of the
19 suspension of the Cuban Government from participation
20 in the Organization until the President determines under
21 section 203(c)(3) that a democratically elected government
22 in Cuba is in power.

1 SEC. 106. ASSISTANCE BY THE INDEPENDENT STATES OF
2 THE FORMER SOVIET UNION FOR THE GOV-
3 ERNMENT OF CUBA.

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

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

19 (c) INELIGIBILITY FOR ASSISTANCE.—

20 (1) IN GENERAL.—Section 498A(b) of that Act
21 (22 U.S.C. 2295a(b)) is amended—

22 (A) by striking “or” at the end of paragraph
23 (4);

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

1 (C) by inserting after paragraph (4) the follow-
2 ing:

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

12 (2) DEFINITION.—Subsection (k) of section
13 498B of that Act (22 U.S.C. 2295b(k)), is amended
14 by adding at the end the following:

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

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

1 “(B) imports from the Cuban Government
2 at preferential tariff rates;

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

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

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

20 “(B) For purposes of subparagraph (A), the
21 term ‘agency or instrumentality of the Government
22 of Cuba’ means an agency or instrumentality of a
23 foreign state as defined in section 1603(b) of title
24 28, United States Code, with ‘Cuba’ substituted for

1 ‘a foreign state’ each place it appears in such sec-
2 tion.”.

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

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

10 (d) FACILITIES AT LOURDES, CUBA.—

11 (1) DISAPPROVAL OF CREDITS.—The Congress
12 expresses its strong disapproval of the extension by
13 Russia of credits equivalent to \$200,000,000 in sup-
14 port of the intelligence facility at Lourdes, Cuba, in
15 November 1994.

16 (2) REDUCTION IN ASSISTANCE.—Section 498A
17 of the Foreign Assistance Act of 1961 (22 U.S.C.
18 2295a) is amended by adding at the end the follow-
19 ing new subsection:

20 “(d) REDUCTION IN ASSISTANCE FOR SUPPORT OF
21 INTELLIGENCE FACILITIES IN CUBA.—

22 “(1) REDUCTION IN ASSISTANCE.—Notwith-
23 standing any other provision of law, the President
24 shall withhold from assistance provided, on or after
25 the date of the enactment of this subsection, for an

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

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

19 “(B) At the time of a certification made with
20 respect to Russia under subparagraph (A), the
21 President shall also submit to the appropriate con-
22 gressional committees a report describing the intel-
23 ligence activities of Russia in Cuba, including the
24 purposes for which the Lourdes facility is used by
25 the Russian Government and the extent to which the

1 Russian Government provides payment or govern-
2 ment credits to the Cuban Government for the con-
3 tinued use of the Lourdes facility.

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

6 “(D) For purposes of this paragraph, the term
7 ‘appropriate congressional committees’ includes the
8 Permanent Select Committee on Intelligence of the
9 House of Representatives and the Select Committee
10 on Intelligence of the Senate.

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

14 “(A) assistance to meet urgent humani-
15 tarian needs, including disaster and refugee re-
16 lief;

17 “(B) democratic political reform and rule
18 of law activities;

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

21 “(D) the creation of private sector and
22 nongovernmental organizations that are inde-
23 pendent of government control;

24 “(E) the development of a free market eco-
25 nomic system;

1 “(F) assistance under the secondary school
2 exchange program administered by the United
3 States Information Agency; or

4 “(G) assistance for the purposes described
5 in the Cooperative Threat Reduction Act of
6 1993 (title XII of Public Law 103-160).”.

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

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

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

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

1 SEC. 108. REPORTS ON COMMERCE WITH, AND ASSISTANCE
2 TO, CUBA FROM OTHER FOREIGN COUN-
3 TRIES.

4 (a) REPORTS REQUIRED.—Not later than 90 days
5 after the date of the enactment of this Act, and by Janu-
6 ary 1 each year thereafter until the President submits a
7 determination under section 203(c)(1), the President shall
8 submit a report to the appropriate congressional commit-
9 tees on commerce with, and assistance to, Cuba from other
10 foreign countries during the preceding 12-month period.

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

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

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

21 (3) A description of the joint ventures com-
22 pleted, or under consideration, by foreign nationals
23 and business firms involving facilities in Cuba, in-
24 cluding an identification of the location of the facili-
25 ties involved and a description of the terms of agree-

1 ment of the joint ventures and the names of the par-
2 ties that are involved.

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

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

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

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

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

1 (7) An identification of countries that purchase,
2 or have purchased, arms or military supplies from
3 Cuba or that otherwise have entered into agreements
4 with Cuba that have a military application, includ-
5 ing—

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

9 (B) a listing of the goods, services, credits,
10 or other consideration received by Cuba in ex-
11 change for military supplies, equipment, or ma-
12 terial, and

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

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

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

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1 tions to support democracy-building efforts for Cuba, in-
2 cluding the following:

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

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

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

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

15 (b) OAS EMERGENCY FUND.—

16 (1) FOR SUPPORT OF HUMAN RIGHTS AND
17 ELECTIONS.—The President shall take the necessary
18 steps to encourage the Organization of American
19 States to create a special emergency fund for the ex-
20 plicit purpose of deploying human rights observers,
21 election support, and election observation in Cuba.

22 (2) ACTION OF OTHER MEMBER STATES.—The
23 President should instruct the United States Perma-
24 nent Representative to the Organization of American
25 States to encourage other member states of the Or-

1 ganization to join in calling for the Cuban Govern-
2 ment to allow the immediate deployment of inde-
3 pendent human rights monitors of the Organization
4 throughout Cuba and on-site visits to Cuba by the
5 Inter-American Commission on Human Rights.

6 (3) VOLUNTARY CONTRIBUTIONS FOR FUND.—
7 Notwithstanding section 307 of the Foreign Assist-
8 ance Act of 1961 (22 U.S.C. 2227) or any other
9 provision of law limiting the United States propor-
10 tionate share of assistance to Cuba by any inter-
11 national organization, the President should provide
12 not less than \$5,000,000 of the voluntary contribu-
13 tions of the United States to the Organization of
14 American States solely for the purposes of the spe-
15 cial fund referred to in paragraph (1).

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

20 SEC. 110. IMPORTATION SAFEGUARD AGAINST CERTAIN
21 CUBAN PRODUCTS.

22 (a) PROHIBITION ON IMPORT OF AND DEALINGS IN
23 CUBAN PRODUCTS.—The Congress notes that section
24 515.204 of title 31, Code of Federal Regulations, prohibits

1 the entry of, and dealings outside the United States in,
2 merchandise that—

3 (1) is of Cuban origin;

4 (2) is or has been located in or transported
5 from or through Cuba; or

6 (3) is made or derived in whole or in part of
7 any article which is the growth, produce, or manu-
8 facture of Cuba.

9 (b) EFFECT OF NAFTA.—The Congress notes that
10 United States accession to the North American Free
11 Trade Agreement does not modify or alter the United
12 States sanctions against Cuba. The statement of adminis-
13 trative action accompanying that trade agreement specifi-
14 cally states the following:

15 (1) “The NAFTA rules of origin will not in any
16 way diminish the Cuban sanctions program. . . .
17 Nothing in the NAFTA would operate to override
18 this prohibition.”.

19 (2) “Article 309(3) [of the NAFTA] permits
20 the United States to ensure that Cuban products or
21 goods made from Cuban materials are not imported
22 into the United States from Mexico or Canada and
23 that United States products are not exported to
24 Cuba through those countries.”.

1 (c) RESTRICTION OF SUGAR IMPORTS.—The Con-
2 gress notes that section 902(c) of the Food Security Act
3 of 1985 (Public Law 99–198) requires the President not
4 to allocate any of the sugar import quota to a country
5 that is a net importer of sugar unless appropriate officials
6 of that country verify to the President that the country
7 does not import for reexport to the United States any
8 sugar produced in Cuba.

9 (d) ASSURANCES REGARDING SUGAR PRODUCTS.—
10 Protection of essential security interests of the United
11 States requires assurances that sugar products that are
12 entered, or withdrawn from warehouse for consumption,
13 into the customs territory of the United States, are not
14 products of Cuba.

15 **SEC. 111. WITHHOLDING OF FOREIGN ASSISTANCE FROM**
16 **COUNTRIES SUPPORTING NUCLEAR PLANT**
17 **IN CUBA.**

18 (a) FINDINGS.—The Congress makes the following
19 findings:

20 (1) President Clinton stated in April 1993 that
21 “the United States opposes the construction of the
22 Juragua nuclear power plant because of our con-
23 cerns about Cuba’s ability to ensure the safe oper-
24 ation of the facility and because of Cuba’s refusal to

1 sign the Nuclear Non-Proliferation Treaty or ratify
2 the Treaty of Tlatelolco.”.

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

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

12 (4) In a September 1992 report to the Con-
13 gress, the General Accounting Office outlined con-
14 cerns among nuclear energy experts about defi-
15 ciencies in the nuclear plant project in Juragua,
16 near Cienfuegos, Cuba, including—

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

19 (B) the absence in Cuba of an adequate in-
20 frastructure to ensure the plant’s safe operation
21 and requisite maintenance;

22 (C) the inadequacy of training of plant op-
23 erators;

24 (D) reports by a former technician from
25 Cuba who, by examining with x-rays weld sites

1 believed to be part of the auxiliary plumbing
2 system for the plant, found that 10 to 15 per-
3 cent of those sites were defective;

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

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

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

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

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

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

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

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

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

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

4 (b) WITHHOLDING OF FOREIGN ASSISTANCE.—

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

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

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

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

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

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

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

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

9 (3) DEFINITION.—As used in paragraph (1),
10 the term “assistance” means assistance under the
11 Foreign Assistance Act of 1961, credits, sales, and
12 guarantees of extensions of credit under the Arms
13 Export Control Act, assistance under titles I and III
14 of the Agricultural Trade Development and Assist-
15 ance Act of 1954, assistance under the FREEDOM
16 Support Act of 1992, and any other program of as-
17 sistance or credits provided by the United States to
18 other countries under other provisions of law.

19 **SEC. 112. REINSTITUTION OF FAMILY REMITTANCES AND**
20 **TRAVEL TO CUBA.**

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

23 (1)(A) before considering the reinstitution of
24 general licenses for family remittances to Cuba, in-
25 sist that, prior to such reinstitution, the Cuban Gov-

1 ernment permit the unfettered operation of small
2 businesses fully endowed with the right to hire oth-
3 ers to whom they may pay wages, buy materials nec-
4 essary in the operation of the businesses, and such
5 other authority and freedom required to foster the
6 operation of small businesses throughout Cuba; and

7 (B) if licenses described in subparagraph (A)
8 are reinstituted, require a specific license for remit-
9 tances described in subparagraph (A) above \$500;
10 and

11 (2) before considering the reinstitution of gen-
12 eral licenses for travel to Cuba by individuals resi-
13 dent in the United States who are family members
14 of Cuban nationals who are resident in Cuba, insist
15 on such actions by the Cuban Government as abro-
16 gation of the sanction for departure from Cuba by
17 refugees, release of political prisoners, recognition of
18 the right of association, and other fundamental free-
19 doms.

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

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

1 partment of Justice for crimes committed in the United
2 States.

3 SEC. 114. NEWS BUREAUS IN CUBA.

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

8 (1) The exchange is fully reciprocal.

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

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

18 (4) The Department of the Treasury is able to
19 ensure that only accredited journalists regularly em-
20 ployed with a news gathering organization travel to
21 Cuba under this subsection.

22 (5) The Cuban Government agrees not to inter-
23 fere with the transmission of telecommunications
24 signals of news bureaus or with the distribution

1 within Cuba of any United States-based news orga-
2 nization that has a news bureau in Cuba.

3 (b) ASSURANCE AGAINST ESPIONAGE.—In imple-
4 menting this section, the President shall take all necessary
5 steps to ensure the safety and security of the United
6 States against espionage by Cuban journalists it believes
7 to be working for the intelligence agencies of the Cuban
8 Government.

9 (c) FULLY RECIPROCAL.—It is the sense of the Con-
10 gress that the term “fully reciprocal”, as used in sub-
11 section (a)(1), means that all news services, news organi-
12 zations, and broadcasting services, including such services
13 or organizations that receive financing, assistance, or
14 other support from a governmental or official source, are
15 permitted to establish and operate a news bureau in the
16 United States and Cuba.

17 SEC. 115. IMPACT ON LAWFUL U.S. GOVERNMENT ACTIVI-
18 TIES.

19 Nothing in this Act shall prohibit any lawfully au-
20 thorized investigative, protective, or intelligence activity of
21 a law enforcement agency or of an intelligence agency of
22 the United States.

1 **TITLE II—ASSISTANCE TO A**
2 **FREE AND INDEPENDENT CUBA**
3 **SEC. 201. POLICY TOWARD A TRANSITION GOVERNMENT**
4 **AND A DEMOCRATICALLY ELECTED GOVERN-**
5 **MENT IN CUBA.**

6 The policy of the United States is as follows:

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

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

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

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

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

3 (A) to a transition government in Cuba;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (a) **AUTHORIZATION.—**

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

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

20 (b) **PLAN FOR ASSISTANCE.—**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (vi) Peace Corps programs; and

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

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

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

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

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

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

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

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

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

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

24 (h) REPORT ON TRADE AND INVESTMENT RELA-
25 TIONS.—

1 (1) REPORT TO CONGRESS.—The President, fol-
2 lowing the transmittal to the Congress of a deter-
3 mination under section 203(c)(3) that a democrat-
4 ically elected government in Cuba is in power, shall
5 submit to the Committee on Ways and Means of the
6 House of Representatives and the Committee on Fi-
7 nance of the Senate and the appropriate congres-
8 sional committees a report that describes—

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

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

17 (i) reciprocal extension of nondiscrim-
18 inatory trade treatment (most-favored-na-
19 tion treatment);

20 (ii) designation of Cuba as a bene-
21 ficiary developing country under title V of
22 the Trade Act of 1974 (relating to the
23 Generalized System of Preferences) or as a
24 beneficiary country under the Caribbean
25 Basin Economic Recovery Act, and the im-

1 plications of such designation with respect
2 to trade with any other country that is
3 such a beneficiary developing country or
4 beneficiary country or is a party to the
5 North American Free Trade Agreement;
6 and

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

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

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

20 (2) CONSULTATION.—The President shall con-
21 sult with the Committee on Ways and Means of the
22 House of Representatives and the Committee on Fi-
23 nance of the Senate and the appropriate congres-
24 sional committees and shall seek advice from the ap-
25 propriate advisory committees established under sec-

1 tion 135 of the Trade Act of 1974 regarding the pol-
2 icy and negotiating objectives and the legislative pro-
3 posals described in paragraph (1).

4 **SEC. 203. COORDINATION OF ASSISTANCE PROGRAM; IM-**
5 **PLEMENTATION AND REPORTS TO CON-**
6 **GRESS; REPROGRAMMING.**

7 (a) **COORDINATING OFFICIAL.**—The President shall
8 designate a coordinating official who shall be responsible
9 for—

10 (1) implementing the strategy for distributing
11 assistance described in section 202(b);

12 (2) ensuring the speedy and efficient distribu-
13 tion of such assistance; and

14 (3) ensuring coordination among, and appro-
15 priate oversight by, the agencies of the United
16 States that provide assistance described in section
17 202(b), including resolving any disputes among such
18 agencies.

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

24 (1) to ensure coordination between the United
25 States Government and the private sector in re-

1 sponding to change in Cuba, and in promoting mar-
2 ket-based development in Cuba; and

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

6 (c) IMPLEMENTATION OF PLAN; REPORTS TO CON-
7 GRESS.—

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

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

1 to which such assistance has been distributed in ac-
2 cordance with the plan.

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

9 (3) IMPLEMENTATION WITH RESPECT TO
10 DEMOCRATICALLY ELECTED GOVERNMENT.—The
11 President shall, upon determining that a democrat-
12 ically elected government in Cuba is in power, sub-
13 mit that determination to the appropriate congres-
14 sional committees and shall, subject to an authoriza-
15 tion of appropriations and subject to the availability
16 of appropriations, commence the delivery and dis-
17 tribution of assistance to such democratically elected
18 government under the plan developed under section
19 202(b).

20 (4) ANNUAL REPORTS TO CONGRESS.—Not
21 later than 60 days after the end of each fiscal year,
22 the President shall transmit to the appropriate con-
23 gressional committees a report on the assistance
24 provided under the plan developed under section
25 202(b), including a description of each type of as-

1 sistance, the amounts expended for such assistance,
2 and a description of the assistance to be provided
3 under the plan in the current fiscal year.

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

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

13 (a) PRESIDENTIAL ACTIONS.—Upon submitting a de-
14 termination to the appropriate congressional committees
15 under section 203(c)(1) that a transition government in
16 Cuba is in power, the President, after consulting with the
17 Congress, is authorized to take steps to suspend the eco-
18 nomic embargo of Cuba and to suspend the right of action
19 created in section 302 with respect to actions thereafter
20 filed against the Cuban Government, to the extent that
21 such steps contribute to a stable foundation for a demo-
22 cratically elected government in Cuba.

23 (b) SUSPENSION OF CERTAIN PROVISIONS OF
24 LAW.—In carrying out subsection (a), the President may
25 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.

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

22 (1) section 620(a) of the Foreign Assistance
23 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 congressional
7 committees containing an assessment of the property
8 dispute question in Cuba, including—

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

14 (2) an assessment of the significance of promptly
15 resolving confiscated property claims to the revitalization
16 of the Cuban economy;

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

22 (4) an assessment of the role and types of support
23 the United States could provide to help resolve
24 claims to property confiscated by the Cuban Government
25 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 **AGAINST CONFISCATORY**
17 **TAKINGS BY THE CASTRO RE-**
18 **GIME**

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

20 The Congress makes the following findings:

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

24 (2) The wrongful confiscation or taking of prop-
25 erty belonging to United States nationals by the

1 Cuban Government, and the subsequent exploitation
2 of this property at the expense of the rightful owner,
3 undermines the comity of nations, the free flow of
4 commerce, and economic development.

5 (3) Since Fidel Castro seized power in Cuba in
6 1959—

7 (A) he has trampled on the fundamental
8 rights of the Cuban people; and

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

11 (i) millions of his own citizens;

12 (ii) thousands of United States na-
13 tionals; and

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

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

23 (5) The Cuban Government is offering foreign
24 investors the opportunity to purchase an equity in-
25 terest in, manage, or enter into joint ventures using

1 property and assets some of which were confiscated
2 from United States nationals.

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

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

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

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

22 (8) The international judicial system, as cur-
23 rently structured, lacks fully effective remedies for
24 the wrongful confiscation of property and for unjust
25 enrichment from the use of wrongfully confiscated

1 property by governments and private entities at the
2 expense of the rightful owners of the property.

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

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

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

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

21 (a) CIVIL REMEDY.—

22 (1) LIABILITY FOR TRAFFICKING.—(A) Except
23 as otherwise provided in this section, any person
24 that, after the end of the 6-month period beginning
25 on the date of the enactment of this Act, traffics in

1 property which was confiscated by the Government
2 of Cuba on or after January 1, 1959, shall be liable
3 to any United States national who owns the claim to
4 such property for money damages in an amount
5 equal to the sum of—

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

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

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

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

19 (ii) court costs and reasonable attorneys'
20 fees.

21 (B) Interest under subparagraph (A)(i) shall be
22 at the rate set forth in section 1961 of title 28,
23 United States Code, computed by the court from the
24 date of confiscation of the property involved to the

1 date on which the action is brought under this sub-
2 section.

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

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

21 (B) If the claimant in an action under this sub-
22 section (other than a United States national to
23 whom subparagraph (A) applies) provides, after the
24 end of the 6-month period described in paragraph
25 (1)) notice to—

1 (i) a person against whom the action is to
2 be initiated, or

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

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

16 (i) the amount determined under para-
17 graph (1)(A)(ii), and

18 (ii) 3 times the amount determined appli-
19 cable under paragraph (1)(A)(i).

20 (D) Notice to a person under subparagraph
21 (B)—

22 (i) shall be in writing;

23 (ii) shall be posted by certified mail or per-
24 sonally delivered to the person; and

25 (ii) shall contain—

1 (I) a statement of intention to com-
2 mence the action under this section or to
3 join the person as a defendant (as the case
4 may be), together with the reasons there-
5 for;

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

9 (III) a copy of the summary state-
10 ment under paragraph (8).

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

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

22 (C) In the case of property confiscated on or
23 after the date of the enactment of this Act, a United
24 States national who acquired ownership of a claim to
25 the property by assignment for value after such date

1 of enactment may not bring an action on the claim
2 under this section.

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

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

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

1 (D) An interest in property for which a United
2 States national has a claim certified under title V of
3 the International Claims Settlement Act of 1949
4 may not be the subject of a claim in an action under
5 this section by any other person. Any person bring-
6 ing an action under this section whose claim has not
7 been so certified shall have the burden of establish-
8 ing for the court that the interest in property that
9 is the subject of the claim is not the subject of a
10 claim so certified.

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

16 (7) LICENSES NOT REQUIRED.—(A) Notwith-
17 standing any other provision of law, an action under
18 this section may be brought and may be settled, and
19 a judgment rendered in such action may be en-
20 forced, without obtaining any license or other per-
21 mission from any agency of the United States, ex-
22 cept that this paragraph shall not apply to the exe-
23 cution of a judgment against or the settlement of ac-
24 tions involving property blocked under the authori-
25 ties of section 5(b) of the Trading With the Enemy

1 Act that were being exercised on July 1, 1977, as
2 a result of a national emergency declared by the
3 President before such date, and are being exercised
4 on the date of the enactment of this Act.

5 (B) Notwithstanding any other provision of law,
6 any claim against the Cuban Government shall not
7 be deemed to be an interest in property the transfer
8 of which to a United States national required before
9 the enactment of this Act, or requires after the en-
10 actment of this Act, a license or permission of any
11 agency of the United States.

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

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

1 (e) CERTAIN PROPERTY IMMUNE FROM EXECU-
2 TION.—Section 1611 of title 28, United States Code, is
3 amended by adding at the end of the following:

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

11 (f) ELECTION OF REMEDIES.—

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

13 (A) any United States national that brings
14 an action under this section may not bring any
15 other civil action or proceeding under the com-
16 mon law, Federal law, or the law of any of the
17 several states, the District of Columbia, or any
18 territory or possession of the United States,
19 that seeks monetary or nonmonetary compensa-
20 tion by reason of the 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 subparagraph
22 (A) but only to the extent of the difference be-
23 tween the amount of the recovery and the
24 amount of the 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 subparagraph (A) to the same ex-
5 tent as any certified claimant who does not
6 bring an 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 ENTITIES.—In determining the amount or ownership
5 of a claim in an action under this title, the court
6 shall not accept as conclusive evidence any findings,
7 orders, judgments, or decrees from administrative
8 agencies or courts of foreign countries or inter-
9 national organizations that declare the value of or
10 invalidate the claim, unless the declaration of value
11 or invalidation was found pursuant to binding inter-
12 national arbitration to which the United States or
13 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 national of the United States
13 (on or after the date of the enactment of this section) who
14 was ineligible to file a claim under that section, nor any
15 national of Cuba, including any agency, instrumentality,
16 subdivision, or enterprise of the Government of Cuba or
17 any local government of Cuba in place on the date of the
18 enactment of this section, nor any successor thereto,
19 whether or not recognized by the United States, shall have
20 a claim to, participate in, or otherwise have an interest
21 in, the compensation proceeds or nonmonetary compensa-
22 tion paid or allocated to a national of the United States
23 by virtue of a claim certified by the Commission under
24 section 507, nor shall any district court of the United
25 States have jurisdiction to adjudicate any such claim.

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

5 **SEC. 305. LIMITATION OF ACTIONS.**

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

9 **TITLE IV—EXCLUSION OF**
10 **CERTAIN ALIENS**

11 **SEC. 401. EXCLUSION FROM THE UNITED STATES OF**
12 **ALIENS WHO HAVE CONFISCATED PROPERTY**
13 **OF UNITED STATES NATIONALS OR WHO**
14 **TRAFFIC IN SUCH PROPERTY.**

15 (a) **GROUND FOR EXCLUSION.**—The Secretary of
16 State, in consultation with the Attorney General, may
17 deny a visa to, and the Attorney General may exclude from
18 the United States, any alien who the Secretary of State
19 determines is a person who—

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

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

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

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

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

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

14 (A) the nationalization, expropriation, or
15 other seizure by foreign governmental authority
16 of ownership or control of property on or after
17 January 1, 1959—

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

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

1 (B) the repudiation by foreign govern-
2 mental authority of, the default by foreign gov-
3 ernmental authority on, or the failure of foreign
4 governmental authority to pay, on or after Jan-
5 uary 1, 1959—

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

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

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

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

23 (3) TRAFFICS.—A person “traffics” in con-
24 fiscated property if that person knowingly and inten-
25 tionally—

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939-7845
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Steve Wolf
224-5111
Rob Leath
652-1519

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

7 (B) engages in a commercial activity using
8 or otherwise benefiting from confiscated prop-
9 erty, or

10 (C) causes, directs, participates in, or prof-
11 its from, trafficking (as described in subpara-
12 graphs (A) and (B)) by another person, or oth-
13 erwise engages in trafficking (as described in
14 subparagraphs (A) and (B)) through another
15 person,

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

18 (c) EFFECTIVE DATE.—

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

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

And the Senate agree to the same.

Title IV - Trafficking

para - 3a

Visa denied for people who sell
their property

- An administrative statement of policy urging Dems
to vote for bill.
- 9 Cuban officials who own a home in

Bosnia brief - 2:00 pm

POTUS will sign bill

New section 1023 codifying Waivers

Title IV is Waiver only on case by case basis for
emergency personal travel to US

Title III - Trafficking provision

5-16

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11/20/95

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3

(including cover page)

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On her way out, Candy asked me to
fax this to you —

TRADE WITH CUBA, U.S. URGED: Pressure from business will end 35-year embargo, Bentsen predicts

By David Crane, The Toronto Star
-Mon Nov 20, 1995

It's time the United States ended its trade embargo against Cuba, says former U.S. secretary of the treasury, Lloyd Bentsen.

And he predicted the move would happen after next year's U.S. presidential election.

Bentsen, who is the most senior American with close ties to the Clinton administration to talk of ending the 35-year U.S. trade embargo against Cuba, made the comments in a speech in Toronto to members of the North American Institute.

Any time the United States can start trading with Vietnam and negotiating with North Korea, nations against which the United States lost tens of thousands of soldiers in combat, "and put that behind us and relegate it to history," Bentsen said, "it's time we lifted the embargo on Cuba."

Bentsen, who served as chairman of the powerful U.S. Senate finance committee before becoming secretary of the treasury when U.S. President Bill Clinton took office, said the evidence was clear that "unilateral embargoes don't work."

When the United States cut off soybean shipments to Japan, Brazil moved in as a competitor; when the United States withheld grain from the former Soviet Union, Canada and Australia benefitted; and when the Reagan administration embargoed the sale of U.S. technology for a natural gas pipeline from Russia to Western Europe, Japanese technology companies benefitted and almost drove giant Caterpillar Inc. out of business, Bentsen said.

The right wing of the U.S. Republican party has adopted a harsh stand on Cuba, in an effort to force Cuban President Fidel Castro out of office. But this is designed to cater to Cuban-American voters in Florida and New Jersey, some of whom have amassed considerable wealth in the United States and want to use it to gain control of the Cuban economy and political institutions.

But U.S. corporations are expressing concern that Canadian, Mexican and European businesses, in the meantime, are gaining a trade and investment advantage in the country of about 12 million people.

Early next year, the U.S. Chamber of Commerce is considering launching a national campaign to delink U.S. political complaints with Cuba from economic ties, giving U.S. corporations the right to enter the Cuban market.

In the meantime, the Castro regime has been moving away from tight controls over the economy, and toward political and legal rights. At a meeting of the Association of Caribbean States in Trinidad in August, which drafted plans for an alliance committed to democracy and free trade, Castro approved a pledge for member states.

Cuba has been liberalizing its economic policies and opening itself to foreign investment

In it, they committed themselves to: "The right of their peoples to self determination, the rule of law, the adherence to democratic principles, human rights and peaceful resolution of disputes." While critics contend Cuba has some distance to go before fulfilling these principles, it is now publicly committed to them.

At the same time, Cuba has been liberalizing its economic policies and opening itself to foreign investment. One of the biggest foreign

investments is that of Toronto-based Sherritt Inc.'s \$150 million partnership with General Nickel Co. of Cuba to exploit the island's rich nickel reserves.

In the first half of this year, Canadian exports to Cuba amounted to \$102.7 million, compared with \$53.2 million in the first half of last year. Canadian imports from Cuba in the first six months of this year totalled \$147.4 million, compared with \$82.3 million in the first half of last year. Canada and Mexico have both maintained trade ties with Cuba during the Castro years, despite pressure from successive U.S. presidents and congressional efforts.

However, plans by some Canadian banks to move into Cuba this year have been put on hold after the U.S. Treasury threatened punitive measures against Canadian banks operating in the United States.

In his speech to the North American Institute, Bentsen also appealed to the International Monetary Fund to ease up on the tough conditions it has imposed on Mexico in return for assistance during the peso crisis.

With the loss of more than 1 million jobs as a result of the crisis, and deepening poverty among large segments of the Mexican population, the tightly restrictive economic policies imposed by the IMF are too harsh, Bentsen said.

The North American Institute is a trilateral body of business, academic and public officials from the three NAFTA countries, who meet to discuss issues of common interest, such as the environment, culture and identity, trade, federalism, and education.

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Pay-As-You-Go Scoring

H.R. 927 would affect receipts; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act (OBRA) of 1990. In view of the unpredictability of the number of lawsuits that may be brought under Title III, OMB has not yet been able to estimate the paygo effect of receipts from filing fees for such lawsuits. (However, discretionary costs to the Government from lawsuits could be significant and could place a heavy burden on the court system.)

* * * * *

Question:

Shouldn't the U.S. try to "move" international law in the direction of Title III? Wouldn't U.S. business be better off?

Answer:

- o U.S. business interests abroad would be significantly damaged if the rest of the world were to follow the precedent that would be established by Title III.
- o It is well-settled international practice that questions of ownership of property is determined by the state in which that property is located.
- o It is the expropriating government that is responsible for confiscations in violation of international law, not subsequent investors.
- o Businesses and investors worldwide rely on the determinations of title made by the governments in the countries in which property is located.
- o U.S. businesses engage in more international investment than those from any other country, and profit from these established "rules of the game."
- o If other countries adopted laws like Helms/Burton, however, U.S. businesses investing in China, the former East Germany or Israel, for example, could find themselves subject to unforeseen lawsuits by disgruntled property claimants from third countries in the courts of those third countries.

Question:

Will Title III help U.S. claimants get their property back, or get compensation?

Answer:

- o Just the opposite. Title III will enormously complicate the U.S. Government's ability to settle property claims against Cuba. That's why most U.S. claimants are on record as strongly opposing these provisions.
- o A flood of pending lawsuits during Cuba's inevitable transition to democracy and market economics will delay privatizations and other reforms.
- o Pending lawsuits will also make it more difficult for the U.S. Government to negotiate a government-to-government claims settlement agreement because we will likely be required to determine, on a case-by-case basis, which of the nearly 6,000 U.S. claimants have availed themselves of the Title III provision.

Questions and Answers on
The Cuban Liberty and Democratic Solidarity Act
(The Helms/Burton Bill)

1. Isn't Helms/Burton just what we need to get rid of Castro? Shouldn't we toughen U.S. policy?
2. Haven't recent changes in the Helms bill taken care of all the Administration's problems?
3. Would Title III lawsuits really violate international law?
4. Shouldn't we try to move international law in the direction of penalizing "traffickers?" Wouldn't U.S. business be better off?
5. Will Title III help U.S. claimants get their properties back, or get compensation for their losses?
6. Is there any hope U.S. claimants will get compensation from Cuba without Title III? What about Cuban-Americans who weren't U.S. citizens when their property was taken?
7. Can the Cuban Government be sued under Title III? Does international law permit that?
8. How many lawsuits are likely to be filed?
9. How will Helms/Burton affect Cuba's transition process once a transition government is in power?
10. What do U.S. allies think about the bill?

Question:

Won't the Helms/Burton legislation give Castro the "final push" necessary to get rid of him? Shouldn't U.S. policy be toughened?

Answer:

- o The Helms bill would NOT promote a peaceful transition in Cuba. The bill's attempts to increase existing pressure on the Cuban government would likely be counterproductive.
- o New sanctions against foreign investors ("traffickers") would provide a rallying point for Castro inside Cuba, and allow him to keep the focus on "U.S. aggression" rather than on the need for political and economic reforms.
- o The bill would also create serious frictions with our allies at a time when they are becoming more active and helpful in promoting human rights in Cuba.
- o It is difficult to find new, constructive ways to apply pressure on the Castro regime because the U.S. already has in place against Cuba its toughest and most comprehensive economic embargo. The embargo has helped to force the limited but positive economic changes taking place in Cuba.
- o While the U.S. discourages foreign investment in Cuba, particularly when it would involve expropriated U.S. properties, such investment will not ultimately determine the fate of the Cuban regime. Our efforts to deter it should not prompt us to sacrifice our broader interests or undermine valuable principles of international law.

Question:

Haven't the revisions made in the Helms Bill resolved all the concerns the Administration expressed about the bill earlier?

Answer:

- o No. The Administration still opposes the bill in its current form.
- o The Helms bill would not promote a peaceful transition in Cuba. (see previous question.)
- o In addition, many of its provisions recklessly disregard broader U.S. interests and relationships and could be difficult to defend under international law.
- o We are particularly concerned about Title III, which would create a "right of action" for U.S. nationals with property claims in Cuba to sue those who invest ("traffic") in those properties in U.S. courts.

Question:

Would Title III lawsuits really violate international law?

Answer:

- o The right to sue created in Title III would represent an unprecedented extra-territorial application of U.S. law that would be very difficult to defend under international law. The principles behind Title III are not consistent with the traditions of the international system.
- o U.S. allies have already objected to what they see in Title III as an improper extra-territorial extension of U.S. law.
- o This right to sue is different from existing provisions of law which permit U.S. courts to apply principles of international law in that it involves an extra-territorial application of U.S. law.
- o The provisions permitting suits against agencies and instrumentalities of foreign states present still other legal difficulties.
- o The Department of State has prepared a more detailed discussion of legal considerations regarding Title III, which is attached.

Question:

Is there any hope for certified U.S. claimants to get compensation without Title III? What about Cuban American claimants?

Answer:

- o Yes. In the last several years, the U.S. Government has negotiated government-to-government claims settlement agreements in a number of countries that have resulted in significant compensation for U.S. claimants. We expect to do the same for -- or otherwise satisfactorily resolve -- U.S. citizen claims against Cuba when conditions are right. (The current Cuban Government would be unlikely to agree to appropriate terms.)
- o While a government-to-government claims settlement agreement would cover only expropriations that violated international law -- those involving claimants who were U.S. citizens when their property was taken, the U.S. Government intends to encourage future Cuban Governments to establish a mechanism under Cuban law to resolve all property claims, including those of Cuban Americans.

Question:

How many lawsuits are likely to be filed under Title III?

Answer:

- o The truth is that no one knows how many lawsuits will be filed under Title III, but the universe of potentially eligible claimants could number in the hundreds of thousands. While not all eligible claimants would file suits, if even a relatively small percentage of them did it could clog up U.S. courts and greatly complicate the tasks of resolving claims and assisting Cuba's economic recovery.
- o While it could be difficult for plaintiffs to obtain damages from defendants without assets in the U.S., that would not prevent plaintiffs from filing suits to obtain default judgments for use in later negotiations.

Question:

Could the Cuban Government be sued? Would that violate international law?

Answer:

- o Title III permits suits against "any person or entity, including any agency or instrumentality of a foreign state in the conduct of commercial activity." The bill thus appears to permit suits against agencies and instrumentalities of both the Cuban and other foreign governments in circumstances that go well beyond existing law and that would be highly problematic under internationally-accepted principles of foreign sovereign immunity.
- o Other ambiguities in the bill create at least the possibility that foreign states themselves -- not only their agencies and instrumentalities -- could be sued in U.S. courts. This would present even greater difficulties under international law and damage to the interests of the U.S. Government.

Question:

How will the Helms bill affect transition and democratic governments in Cuba?

Answer:

- o While the bill calls for the development of a "plan" for U.S. and international assistance to transition and democratic governments, it contains no authorization of funds to provide such assistance.
- o The bill suggests that only limited humanitarian assistance should be offered to a transition government in Cuba at the very moment it would most need U.S. help in consolidating democratic and free market institutions.
- o The U.S. would also be barred from supporting Cuban membership in the IMF, World Bank and IDB until there is a democratic government in power, effectively preventing many of the kinds of support for a transition government these sources could offer.
- o The requirement in section 104 that the President withhold U.S. contributions to these institutions if loans to Cuba are approved over U.S. objections could violate the U.S. Government's commitments to those organizations and undermine their effectiveness.
- o If the purpose of Title II of the bill is to offer hope and incentive to those inside Cuba who seek change, the current version offers little prospect for significant U.S. help.

- Worse still, Title III of the bill will make it extremely difficult for a transition government to resolve property claims and privatize state enterprises, and so actively hamper the efforts of such a government to restore stability and prosperity to the Cuban economy.
- Perhaps one of the most objectionable aspects of Title III is that it will hurt U.S. business seeking to enter the Cuban market once the transition to democracy begins. Ironically, the most likely targets of Title III lawsuits would be U.S. companies seeking to participate in the rebuilding of a free and independent Cuba.



United States Department of State

Washington, D.C. 20520

LEGAL CONSIDERATIONS REGARDING
TITLE III OF THE LIBERTAD BILL

The U.S. Government has long condemned as a violation of international law the confiscation by the Cuban Government of properties taken from U.S. nationals without compensation, and has taken steps to ensure future satisfaction of those claims consistent with international law. Congress recognized the key role of international law in this respect. Title V of the International Claims Settlement Act of 1949, as amended, pursuant to which the Foreign Claims Settlement Commission (FCSC) certified the claims against Cuba of 5,911 U.S. nationals, accordingly applies to claims "arising out of violations of international law."

The State Department, however, opposes the creation of a civil remedy of the type included in Title III of the "Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995" (the "LIBERTAD bill") currently under consideration by the Congress. The LIBERTAD bill would be very difficult to defend under international law, harm U.S. businesses exposed to copy-cat legislation in other countries, create friction with our allies, fail to provide an effective remedy for U.S. claimants and seriously damage the interests of FCSC certified claimants. It would do so by making U.S. law applicable to, and U.S. courts forums in which to adjudicate claims for, properties located in Cuba as to which there is no United States connection other than the current nationality of the owner of a claim to the property. Specifically, the LIBERTAD bill would create a civil damages remedy against those who, in the language of the bill, "traffic" in property of a U.S. national. The bill defines so-called "trafficking" as including, among other things, the sale, purchase, possession, use, or ownership of property the claim to which is owned by a person who is now a U.S. national.

The civil remedy created by the LIBERTAD bill would represent an unprecedented extra-territorial application of U.S. law that flies in the face of important U.S. interests. Under international law and established state practice, there are widely-accepted limits on the jurisdictional authority of a state to "prescribe," i.e., to make its law applicable to the conduct of persons, as well as to the interests of persons in things. In certain circumstances a state may apply its law to extra-territorial conduct and property interests. For example, a state may do so in limited circumstances when the conduct has or is intended to have a "substantial effect" within its territory. The Senate version of the bill appears to imply that so-called

"trafficking" in confiscated property has a "substantial effect" within the United States. Some have explicitly defended the LIBERTAD bill on this ground.

Asserting jurisdiction over property located in a foreign country and expropriated in violation of international law would not readily meet the international law requirement of prescription because it is difficult to imagine how subsequent "trafficking" in such property has a "substantial effect" within the territory of the United States. It is well established that under international law "trafficking" in these confiscated properties cannot affect Cuba's legal obligation to compensate U.S. claimants for their losses. The actual effects of an illegal expropriation of property are experienced at the time of the taking itself, not at any subsequent point. An argument that subsequent use or transfer of expropriated property may interfere with the prospects for the return of the property would be hard to characterize as a "substantial effect" under international law. Under international law, the obligation with respect to the property is owed by the expropriating state, which may satisfy that obligation through the payment of appropriate compensation in lieu of restitution.

As a general rule, even when conduct has a "substantial effect" in the territory of a state, international law also requires a state to apply its laws to extra-territorial conduct only when doing so would be reasonable in view of certain customary factors. Very serious questions would arise in defending the reasonableness under international law of many lawsuits permitted by Title III of the LIBERTAD bill. The customary factors for judging the reasonableness of extra-territorial assertions of jurisdiction measure primarily connections between the regulating state, on one hand, and the person and conduct being regulated, on the other. Title III would cover acts of foreign entities and non-U.S. nationals abroad involving real or immovable property located in another country with no direct connection to the United States other than the current nationality of the person who holds an expropriation claim to that property. Moreover, the actual conduct for which liability is created -- private transactions involving the property -- violates no established principle of international law. Another customary measure of reasonableness is the extent to which the exercise of jurisdiction fits with international practice. The principles behind Title III are not consistent with the traditions of the international system and other states have not adopted similar laws.

International law also requires a state assessing the reasonableness of an exercise of prescriptive jurisdiction to balance its interest against those of other states, and refrain from asserting jurisdiction when the interests of other states are greater. It would be very problematic to argue that U.S.

interests in discouraging "trafficking" outweigh those of the state in which the property is located, be it Cuba or elsewhere, International law recognizes as compelling a state's interests in regulating property present within its own borders. The United States guards jealously this right as an essential attribute of sovereignty. In contrast, discouraging transactions relating to formerly expropriated property has little basis in state practice.

That international law limits the United States' exercise of extra-territorial prescriptive jurisdiction does not imply that U.S. courts must condone property expropriations in cases validly within the jurisdiction of the United States. Our courts may refuse to give affect to an expropriation where either (i) the expropriation violated international law and the property is present in the United States or (ii) in certain cases, the property has a legal nexus to a cause of action created by a permissible exercise of prescriptive jurisdiction. In fact, generally speaking, our laws prohibit our courts from applying the "Act of State" doctrine with respect to disputes about properties expropriated in violation of international law. If applied the doctrine might otherwise shield the conduct of the foreign state from scrutiny. Indeed, in a number of important cases the Department of State has actively and affirmatively supported these propositions in cases before U.S. courts to the benefit of U.S. claimants, including with respect to claims against Cuba. The difficulty with Title III of the LIBERTAD bill stems not from its willingness to disaffirm expropriations that violate international law, but from its potentially indefensible exercise of extra-territorial prescriptive jurisdiction.

Some supporters of the LIBERTAD bill have advanced seriously flawed arguments in defending the extra-territorial exercise of jurisdiction contemplated by Title III. Some have defended Title III on the deeply mistaken assumption that international law recognizes the wrongful nature of so-called "trafficking" in confiscated property. No support in state practice exists for this proposition, particularly with regard to property either held by a party other than the confiscator or not confiscated in violation of international claims law (if, for example, the original owners were nationals of Cuba at the time of loss.) Many of the suits allowed by Title III would involve "trafficking" in properties of this type, where an internationally wrongful act would seem extremely difficult to establish.

Regrettably, the support in international state practice offered by some for viewing so-called "trafficking" as wrongful has generally confused a state's power to assert jurisdiction over conduct with the "Act of State" doctrine, discussed previously. The unwillingness of our courts to give effect to foreign state expropriations violative of international law in

matters over which they have valid jurisdiction under international law, however, does not imply that international law recognizes as wrongful any subsequent entanglement with the property. Others have suggested that general acceptance of domestic laws relating to conversion of ill-gotten property makes "trafficking" wrongful under international law. This argument is extremely unpersuasive as many universally accepted domestic laws, including for example most criminal laws, have no international law status. So-called "trafficking" has no readily identifiable international law status. International law does condemn a state's confiscation of property belonging to a foreign national without the payment of prompt, adequate and effective compensation. In such circumstances the U.S. Government has been largely successful in assuring that U.S. claimants obtain appropriate compensation, precisely because of the protection afforded by international law.

Some supporters have maintained incorrectly, in addition, that Title III is similar to prior extra-territorial exercises of jurisdiction by the United States over torts committed outside the United States. The Alien Tort Statute (ATS) and the Torture Victim Protection Act of 1991 (TVPA) have been cited as examples in this context. The assertion is plainly false and the LIBERTAD bill differs significantly from the examples cited. While the ATS and TVPA do empower U.S. courts to adjudicate certain tortious acts committed outside the United States, they do so only with respect to acts that violate international law. The ATS covers only torts "committed in violation of the law of nations or a treaty of the United States." Similarly, the TVPA creates liability for certain conduct violating fundamental international norms of human rights (i.e. torture and extra-judicial killing). In contrast, as explained previously, supporters of the LIBERTAD bill have failed to identify any basis in international law permitting the use of U.S. courts for the adjudication of suits regarding extra-territorial "trafficking."

Title III of the LIBERTAD bill also deviates substantially from accepted principles of law related to the immunity of foreign sovereign states, as well as their agencies and instrumentalities. Although much of the discussion of the bill has focussed on suits against certain foreign corporations and individuals, in its current form the Senate version of the bill would allow a suit to be brought against "any person or entity, including any agency or instrumentality of a foreign state in the conduct of commercial activity" that "traffics" in confiscated property. Since "trafficking" is defined to include such things as possessing, managing, obtaining control of, or using property, it would appear at a minimum that Title III authorizes suits against many Cuban or other foreign governmental agencies or instrumentalities. To the extent Title III provides for such suits, they would be highly problematic and difficult to defend.

The Foreign Sovereign Immunities Act (FSIA), enacted in 1976 after careful deliberation, is consistent with international law principles of foreign sovereign immunity. To the extent the LIBERTAD bill would permit suits against agencies and instrumentalities of foreign governments it would go far beyond current exemptions in the FSIA. The LIBERTAD bill, unlike the FSIA, would not require the agency or instrumentality to be "engaged in commercial activity in the United States." Moreover, the LIBERTAD bill contemplates suits against agencies or instrumentalities of foreign states for any conduct that constitutes so-called "trafficking"; as defined in the LIBERTAD bill this notion is broader than owning or operating property, the FSIA standard.

Similarly, to the extent the provisions of the LIBERTAD bill permitting suits against "entities" is construed to authorize suits against foreign governments as well, it would go well beyond current exemptions in the FSIA and under international law for claims involving rights in property. Under the FSIA, a foreign state (as distinguished from its agencies and instrumentalities) is not immune only when the "property or any property exchanged for such property is present in the United States in connection with a commercial activity carried on in the United States by the foreign state." The LIBERTAD bill would appear not to impose those requirements. In addition, suits against "entities" would in these circumstances include those brought against foreign governments other than Cuba that may have acquired confiscated property in violation of no principle of international claims law. These potential expansions of the exceptions from the immunity of foreign states, as well as their agencies and instrumentalities, from the jurisdiction of U.S. courts and their implications for U.S. liability in other countries represent matters of great concern.

Some have suggested that even though the creation of a cause of action such as that contemplated in Title III of the LIBERTAD bill is not currently defensible under international law, the United States should enact these provisions of the bill to promote the development of new international law principles in this area. Suggestions of this sort in this context rest on a dubious premise of how state practice contributes to international law. While the practice of states represents a source of international law, state practice makes law only when it is widespread, consistent and followed out of a sense of legal obligation. The enactment of Title III in the face of serious questions about its consistency with international law, and without the support of the international community, would not contribute positively to international law relating to the expropriation of property.

In addition to being very difficult to defend under international law, enactment of Title III would also undermine a

number of important U.S. interests connected to these significant international law concerns. General acceptance of the principles reflected in Title III would harm U.S. business interests around the world. At present and in general, the laws of the country in which the property lies govern the rights to that property, particularly with respect to real property. United States businesses investing all over the world benefit from their ability to rely on local law concerning ownership and control of property. Under the precedent that would be set by Title III, a U.S. business investing in property abroad could find itself haled into court in any other country whose nationals have an unresolved claim to that property. Such a precedent could increase uncertainties for U.S. companies throughout the world. Perversely, Title III would hurt U.S. businesses most directly in Cuba. U.S. businesses seeking to rebuild a free Cuba once a transition to democracy begins will find themselves easy targets of Title III suits, as U.S. corporations generally are subject to the jurisdiction of our courts.

Congress should expect that the enactment of Title III of the LIBERTAD bill, with its broad extra-territorial application of U.S. law, significant departures from established claims practice and possible contravention of international law, will create serious disputes with our closest allies, many of whom have already voiced their objections. The United States must expect the friction created by Title III to hurt efforts to obtain support in pressing for change in Cuba. Moreover, once the transition to democracy does begin, Title III will greatly hamper economic reforms and slow economic recovery as it will cloud further title to confiscated property.

Perhaps most importantly, Title III of the LIBERTAD bill would not benefit U.S. claimants. The private right of action created by Title III, furthermore, would likely prove ineffective to U.S. claimants. Past experience suggests that countries objecting to the extra-territorial application of U.S. law reflected in Title III, most likely some of our closest allies and trading partners, could be expected to take legal steps under their own laws to block adjudication or enforcement of civil suits instituted against their nationals. Moreover, many foreign entities subject to suit would deem U.S. jurisdiction illegitimate and fail to appear in our courts. Title III would in those circumstances merely produce unenforceable default judgements. In addition, some commentators have estimated potential law suits to number in the hundreds of thousands, so the LIBERTAD bill would also clog our courts and result in enormous administrative costs to the United States. As the lawsuits created under Title III might not result in any increase in or acceleration of compensation for U.S. claimants, these costs would be unjustifiable.

In so far as it departs from widely accepted international claims law, Title III of the LIBERTAD bill undermines widely-established principles vital to the United States' ability to assure that foreign governments fulfill their international obligations for economic injury to U.S. nationals. In doing so, Title III hurts all U.S. citizens with claims against another government. With respect to claims against Cuba specifically, the cause of action contemplated in Title III of the LIBERTAD bill will hamper the ability of the U.S. Government to obtain meaningful compensation for certified claimants. Consistent with our longstanding and successful claims practice, at an appropriate time when a transition to democracy begins in Cuba, the United States will seek to conclude a claims settlement agreement with the Cuban government covering certified claimants, or possibly create some other mechanism to assure satisfaction of their claims. If Title III is enacted into law and U.S. claimants have an opportunity, at least on paper, to receive compensation for claimed properties from third party "traffickers," the Cuban Government may simply refuse to address these claims on the grounds that the claimants must pursue alternative remedies in U.S. courts. Yet, as indicated previously the prospects for broad recoveries in this manner are very poor.

Even if Cuba accepts its international law responsibilities with respect to U.S. claims, the United States can expect that a large quantity of private suits would profoundly complicate claims-related negotiations, as well as subsequent claims payment procedures. Cuba might easily demand that the United States demonstrate that each person holding an interest in any of the nearly 6,000 certified claims, and possibly the tens of thousands of uncertified claims, has not already received compensation via a lawsuit or private settlement. As the United States will not have records of private suits, let alone non-public out of court settlements, doing so would be extremely difficult. In addition, dealing with unpaid judgments in this context would likely prove particularly difficult.

Finally, the Castro regime has already used, and if enacted into law would continue to use, the civil cause of action contemplated by Title III of the LIBERTAD bill to play on the fears of ordinary citizens that their homes or work places would be seized by Cuban-Americans if the regime falls. The United States must make it clear to the Cuban people that U.S. policy toward Cuban property claims reflects established international law and practice, and that the future transition and democratic governments of the Cuban people will decide how best to resolve outstanding property claims consistent with international law.

What's Wrong with Helms/Burton?
Administration Talking Points

- The Helms bill would not promote a peaceful transition in Cuba. New sanctions against foreign investors ("traffickers") would provide a rallying point for Castro inside Cuba, and allow him to keep the focus on "U.S. aggression" rather than on the need for reforms.
- The bill's attempts to increase existing pressure on the Cuban government would likely be counterproductive, and could be more damaging to U.S. interests than to Castro.
- The bill would create serious frictions with our allies at a time when they are becoming more active and helpful in promoting human rights in Cuba. Because of its extra-territorial reach, the Helms bill will focus allies' attention on opposing U.S. policy, rather than on pressing for democracy in Cuba.
- While U.S. policy is to discourage foreign investment in Cuba, particularly when it would involve expropriated U.S. properties, our efforts to deter it should not prompt us to sacrifice our broader interests or undermine valuable principles of international law.
- Title III of the bill, which would allow U.S. nationals with expropriation claims against Cuba to sue in U.S. courts third country nationals who invest ("traffic") in those properties, is a bad idea.
 - It could clog up U.S. courts with a flood of lawsuits, filed mainly by Cuban-Americans.
 - It would complicate prospects for resolving the claims of certified U.S. claimants (and hamper future Cuban privatization efforts) by tying up properties in court. Certified U.S. claimants oppose this bill.
 - It would create a dangerous precedent that, if followed by other countries, could expose U.S. investors in Eastern Europe, China or elsewhere to lawsuits in third countries anywhere in the world brought by disgruntled property claimants.
 - It would be extremely difficult to justify under international law and has already drawn harsh criticism from our allies.
- The U.S. expects to negotiate successful resolution of certified claims with a future Cuban Government under existing international law, and assist other U.S. claimants as well.
- The U.S. already has in place against Cuba its toughest and most comprehensive economic embargo. The embargo has helped to force the limited but positive economic changes.
- Let's keep international pressure on Castro, not focus it on ourselves.

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Dana Sloan

LIBERTAD BILL CLOTURE CALL LISTWhite House/NSC

✓ Daschle - pete
 ? Bryan - Andy - 4:15pm mtg w/mas
 ✓ Dorgan - Doug
 Lautenberg - Bruce
 ? Reid - gone thru Friday - NO vote
 ✓ Ford - Joe
 OK ✓ Kohl - Kate FAX: 43149
 Heflin - Gary phelt - Title 3, Claims
 Cheffer - federal cost
State

40?

Drann
 50 - 52, Republican
 1 C Cloture
 - 5-6 marginal
 Dems

? Bradley
 ? Lautenberg - No
 Pell
 - Heflin
 Mikulski
 ? Hollings
 Graham

Conrad - ok
 Jefford - possible

Gehston
 Kennedy
 Pell
 Exxon

Will not vote

DOD

Nunn - OK per Dodd
 OK - Exon - Gregg/Andy Gehston
 - Bryan - Mary Bennett
 OK - Robb - Ridge
 might vote w/ us on cloture.

Hatfield will vote no on cloture

Bumper
 Harkin
 Levin

ok - Rockefeller

- procedural vote
 - Final passage

ICS
 Tom Piacente
 703-614-1977
 Col Ferraro
 Andy
 4-6244
 Per. Section

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20504

UNCLASSIFIED

FAX TRANSMITTAL SHEET

Number of pages + cover

FROM: Chris Burrell

TELEPHONE: 202-456-9171

FAX NUMBER: 202-456-9170

	TO	PHONE	FAX NUMBER
1.	<u>Al Malden</u>		
2.			
3.			
4.			
5.			
6.			

Everything you always wanted
to know about Cuba!

- Fact Sheet
- Talking Points

- Qs and As
- Freedom House Speech

AL
I faxed
pp. 2-17
to Berman's
office
Bill

FACT SHEET ON PRESIDENT'S DECISIONS ON CUBA

- The President has approved a package of measures to tighten enforcement of the embargo and enhance our support for the Cuban people.
- These measures are consistent with the spirit and letter of the Cuban Democracy Act and will advance our objective of a peaceful transition to democracy in Cuba.

1. ENFORCING CUBA-RELATED LAWS

- **Steps up** enforcement of embargo and Neutrality Act.
- **Directs** strengthening of the Office of Foreign Assets Control both in Washington and in Miami.

2. PROMOTING DEMOCRATIC TRANSITION IN CUBA

- **Authorizes** issuance of licenses on a case by case basis for transactions to provide support for the Cuban people. Support will be allowed for activities of human rights organizations or of Cuban individuals and NGOs.
- **For example:**
 - U.S. NGOs will be authorized to send faxes, computers, copiers and other communications equipment to Cuban NGOs.
 - U.S. NGOs will be authorized to help independent Cuban organizations set up offices or to provide training to Cuban human rights activists.
 - USG will provide a grant of \$500,000 to Freedom House to work with Cuban NGOs to promote democracy and respect for human rights.
- **Authorizes** issuance of specific licenses for the establishment and operation of reciprocal news bureaus in Cuba and the United States.

Clarifies and amends regulations governing travel to Cuba. Specific licenses will be issued for transactions related to travel to Cuba for all genuine research, news-gathering, cultural, educational, religious, or human rights purposes. Transactions related to tourism remain strictly prohibited.

3. HUMANITARIAN TRAVEL

- **Authorizes** general license for transactions in connection with travel to Cuba to visit close relatives in humanitarian cases.
- This general license will apply only once in any calendar year. For any additional travel-related transactions in humanitarian cases, a specific license will be required.

4. REMITTANCES

- Does not change the rules: Money transfers to Cuba are allowed to pay for legal emigration fees and in cases of humanitarian need.
- Authorizes Western Union to open offices in the US and Cuba to make money transfers to the island. This will make transfers easier and cheaper.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

October 6, 1995

REMARKS BY THE PRESIDENT
IN FREEDOM HOUSE SPEECHThe Hyatt Regency
Washington, D.C.

9:37 A.M. EDT

THE PRESIDENT: Thank you very much. I'm honored to be introduced by someone who writes so powerfully about the past and is working so effectively to shape the future. The Secretary of State and I have tried to encourage both those activities by keeping Win Lord busy at the State Department.

I'm honored to be here with all of you and to be here at Freedom House. For more than 50 years, Freedom House has been a voice for tolerance for human dignity. People all over the world are better off because of your work. And I'm very grateful that Freedom House has rallied this diverse and dynamic group. It's not every day that the Carnegie Endowment, the Progressive Policy Institute, the Heritage Foundation, and the American Foreign Policy Council share the same masthead. I feel that I should try out a whole list of issues and try to get check-off here -- (laughter) -- before the meeting goes any further.

It does prove that there is a strong, dynamic center in our country that supports America's continued leadership in the world. We have all worked for that. And I want to publicly thank the Secretary of State and Tony Lake, the others in our foreign policy team -- my counselor, Mr. McLarty, up here who's been especially active on our behalf in Latin America. And I want to thank all of you who have supported that continued endeavor.

You know, in 1991 I sought the presidency because I believed it was essential to restore the American Dream for all Americans and to reassert America's leadership in the post-Cold War world. As we move from the Industrial to the Information

Age, from the Cold War world to the global village, we have an extraordinary opportunity to advance our values at home and around the world.

But we face some stiff challenges in doing so as well.

We know that at home we have the responsibility to create opportunity for all of our citizens to make the most of their own lives, to strengthen their families and their communities. We know that abroad we have the responsibility to advance freedom and democracy, to advance prosperity and the preservation of our planet. We know that the forces of integration and economic progress also contain the seeds of disruption and of greater inequality. We know that families, communities and nations are vulnerable to the organized forces of disintegration and the winner-take-all mentality in politics and economics. We know all this and therefore, we have an even heavier responsibility to advance our values and our interests.

Freedom House, in my view, deserves extraordinary praise for your sense of timing of this meeting. I wonder if Adrian Karatnycky and his colleague knew that in the days prior to this discussion the United States would have the opportunity to demonstrate so vividly once again the proposition this conference seeks to advance: that American leadership and bipartisan support for that leadership is absolutely essential as a source of our strength at home and our success abroad.

We must stand for democracy and freedom. We must stand for opportunity and responsibility in a world where the dividing line between domestic and foreign policy is increasingly blurred.

Our personal, family and national security is affected by our policy on terrorism at home and abroad. Our personal, family and national prosperity is affected by our policy on market economics at home and abroad. Our personal, family and national future is affected by our policies on the environment at home and abroad. The common good at home is simply not separate from our efforts to advance the common good around the world. They must be one in the same if we are to be truly secure in the world of the 21st century.

We see the benefits of American leadership and the progress now being made in Bosnia. In recent weeks, our military muscle through NATO, our determined diplomacy throughout the region, have brought the parties closer to a settlement than at any time since this terrible war began four years ago. Yesterday, we helped to produce an agreement on a Bosnia-wide cease-fire. Now, the parties will come to the United States to

pursue their peace talks mediated by our negotiating team and our European and Russian counterparts.

We have a long way to go, and there's no guarantee of success. But we will use every ounce of our influence to help our parties make a peace that preserves Bosnia as a single democratic state, and protects the rights of all citizens, regardless of their ethnic group.

If and when peace comes, the international community's responsibility will not end. After all the bloodshed, the hatred, the loss of the last years, peace will surely be fragile. The international community must help to secure it. The only organization that can meet that responsibility strongly and effectively is NATO. And as NATO's leader, the United States must do its part and send in troops to join those of our allies under NATO command with clear rules of engagement. If we fail, the consequences for Bosnia and for the future of NATO will be severe. We must not fail. (Applause.)

The United States will not be sending our forces into combat in Bosnia. We will not send them into a peace that cannot be maintained. But we must use our power to secure that peace. I have pledged to consult with Congress before authorizing our participation in such an action. These consultations have already begun.

I believe Congress understands the importance of this moment and of American leadership. I'm glad to see Chairman Livingston here at the head table today. As I have said consistently for two years, we want and welcome congressional support. But in Bosnia as elsewhere, if the United States does not lead, the job will not be done.

We also saw the benefits of America's leadership last week at the White House where leaders from all over the Middle East gathered to support the agreement between Israel and the Palestinian Authority. For nearly a half-century now, Democratic and Republican administrations have worked to facilitate the cause of peace in the Middle East. The credit here belongs to the peacemakers. But we should all be proud that at critical moments along the way, our efforts helped to make the difference between failure and success.

It was almost exactly a year ago that the United States led the international effort to remove Haiti's military regime and give the people of Haiti a real chance at democracy. We've succeeded because we've backed diplomacy with sanctions and, ultimately, with force. We've succeeded because we understood

that standing up for democracy in our own hemisphere was right for the Haitian people and right for America.

American efforts in Bosnia, the Middle East and Haiti and elsewhere have required investments of time and energy and resources. They've required persistent diplomacy and the measured use of the world's strongest military. They have required both determination and flexibility in our efforts to work as leaders and to work with other nations. And, sometimes, they've called on us to make decisions that were, of necessity, unpopular in the short run, knowing that the payoff would not come in days or weeks, but in months or years.

Sometimes, they have been difficult for many Americans to understand because they have to be made, as many decisions did right after World War II without the benefit of some over-arching framework, the kind of framework the bipolar Cold War world provided for so many years.

To use the popular analogy of the present day, there seems to be no mainframe explanation for the PC world in which we're living. We have to drop the abstractions and dogma, and pursue, based on trial and error and persistent experimentation, a policy that advances our values of freedom and democracy, peace and security.

We must continue to bear the responsibility of the world's leadership. That is what you came here to do, and that's what I want to discuss today. It is more than a happy coincidence that the birth of bipartisan support for America's leadership in the world coincides with the founding of this organization by Eleanor Roosevelt and Wendell Willkie in 1941 when, for the first time, Americans, both Democrats and Republicans, liberals and conservatives and moderates, understood our special obligation to lead in the world.

The results of that responsible leadership were truly stunning -- victory in the war and the construction of a post-Cold War world. Not with abstract dogma, but again, over a five-year period, basing experience on new realities, through trial and error with a relentless pursuit of our own values, we created NATO, the Marshall Plan, Bretton Woods -- the institutions that kept the peace in Europe, avoided nuclear conflict, helped to spread democracy, brought us unparalleled prosperity and ultimately ensured the triumph of freedom in the Cold War.

In that struggle, Freedom House and organizations like it reminded Americans that our leadership is essential and that to

advance our interests that leadership must remain rooted in our values, must continue to advance democracy and freedom to promote peace and security, to enhance prosperity and preserve our planet.

When it comes to the pursuit of these goals, it is important that we never forget that our values and our interests are one in the same. Promoting democracies that participate in this new global marketplace is the right thing to do. For all their imperfections, they advance what all people want and often fight and die for: Human dignity, security and prosperity. We know these democracies are less likely to go to war, less likely to traffic in terrorism, more likely to stand against the forces of hatred and intolerance and organized destruction.

Throughout what we now call the American Century, Republicans and Democrats disagreed on specific policies -- often heatedly from time to time -- but we have always agreed on the need for American leadership in the cause of democracy, freedom, security and prosperity. Now that consensus is truly in danger, and interestingly enough, it is in danger in both parties. Voices from the left and the right are calling on us to step back from, instead of stepping up to, the challenges of the present day. They threaten to reverse the bipartisan support for our leadership that has been essential to our strength for 50 years. Some really believe that after the Cold War the United States can play a secondary role in the world, just as some thought we could after World War II, and some made sure we did after World War I.

But if you look at the results from Bosnia to Haiti, from the Middle East to Northern Ireland, it proves once again that American leadership is indispensable, and that without it, our values, our interests, and peace itself would be at risk.

It has now become a truism to blame the current isolationism on the end of the Cold War because there is no longer a mainframe threat in this PC world. But when I took office, I made it clear that we had a lot of work to do to get our own house in order.

I agree that America has challenges at home that have to be addressed. We have to revive our economy and create opportunity for all of our citizens. We have to put responsibility back into our social programs and strengthen our families and our communities. We have to reform our own government to make it leaner and more effective. But we cannot do any of these things in isolation from the world which we have done so much to make and which we must continue to lead.

Look at what is going on. Many of the new democracies in this world, they're working so hard. I see their leaders all the time. They believe in the cause of freedom, and they are laboring out there in these countries against almost unbelievable obstacles. But their progress is fragile. And we must never forget that. We have to see them as growing, growing things that have to be nurtured in a process that could still be reversed.

And we also have to recognize that we confront a host of threats that have assumed new and quite dangerous dimensions -- the proliferation of weapons of mass destruction. In the Technology Age, that can mean simply breaking open a vial of sarin gas in a Tokyo subway. It can mean hooking into the Internet and learning how to build a bomb that will blow up a federal building in the heart of America. These forces, just as surely as fascism and communism, would spread darkness over light, disintegration over integration, chaos over community. And these forces still demand the leadership of the United States.

Let me say again: The once bright line between domestic and foreign policy is blurring. If I could do anything to change the speech patterns of those of us in public life, I would almost like to stop hearing people talk about foreign policy and domestic policy, and instead start discussing economic policy, security policy, environmental policy -- you name it.

When you think about the world in the way that you live in it, you readily see that the foreign-domestic distinction begins to evaporate in so many profound ways. And if we could learn to speak differently about it, the very act of speaking and thinking in the way we live, I believe, would make isolationism seem absolutely impossible as an alternative to public policy.
(Applause.)

When the President of Mexico comes here in a few days and we talk about drug problems, are we talking about domestic problems or foreign problems? If we talk about immigration, are we discussing a domestic issue or a foreign issue? If we talk about NAFTA and trade, is it their foreign politics or our domestic economics? We have to understand this in a totally different way. And we must learn to speak about it in different ways.

The isolationists are simply wrong. The environment we face may be new and different, but to meet it with the challenges and opportunities it presents and to advance our enduring values, we have to be more engaged in the world, not less engaged in the

world. That's why we have done everything we could in our administration to lead the fight to reduce the nuclear threat; to spread democracy in human rights; to support peace; to open markets; to enlarge and defend the community of nations around the world; to share our aspirations and our values, not in abstract, but in ways that are quite practical and immediately of benefit to the American people.

Consider just a few examples. Every American today is safer because we're stepping back from the nuclear precipice. Russian missiles are no longer pointed at our citizens and there are no longer American missiles pointed at their citizens. Thanks to agreements reached by President Reagan, President Bush and our administration, both our countries are cutting back their nuclear arsenal.

Over the past three years, we've been able to persuade Ukraine, Kazakhstan and Belarus to give up nuclear weapons left on their land when the Soviet Union collapsed. We've convinced North Korea to freeze its nuclear program. We've secured the indefinite extension of the Nuclear Nonproliferation Treaty. We're working hard to make sure nuclear materials don't wind up in the hands of terrorists or international criminals. And I hope and pray that next year we'll succeed in getting a comprehensive nuclear test ban treaty.

Americans are safer because of the tough counterterrorism campaign we have been waging, including closer cooperation with foreign government, sanctions against states that sponsor terrorism, and increasing the funding, the manpower, the training for our own law enforcement. These have helped us to get results -- big, visible results, like the conviction just this week of those who conspired to wage a campaign of terror in New York -- and things that aren't so visible but are very important, the planned terrorist attacks that have been thwarted in the United States and on American citizens, the arrests that have been secured in other countries through our cooperation.

We have an obligation to work more and more and more on this. And if there is any area in the world where there is no difference between domestic and foreign policy, surely it is in our common obligation to work together to combat terrorism.

That is why, even before Oklahoma City, I had sent legislation to the Hill asking for additional resources and help to deal with the threat of terrorism. And after Oklahoma City, I modified and strengthened that legislation. The Senate passed the bill quickly, but I am very disappointed that the bill is now stalled in the House. We need this legislation.

I believe federal law enforcement authorities must be held accountable. I believe we must be open about whatever has happened in the past. But that has nothing to do with our obligation to make sure that the American people have the tools that they need to combat the threat of terrorism. So, once again, I say I hope antiterrorism legislation will pass. We need it. The threat is growing, not receding.

When we gave democracy another chance in Haiti, a lot of people said this has nothing to do with the United States. Well, it did. It did. It mattered that, when somebody came to our country and gave their word that they would leave and bring back democracy, that we enforce that commitment. And in a more immediate sense, in the month before our intervention, 16,000 Haitians fled tyranny for sanctuary in Florida and elsewhere in our region; but three months after the intervention, the refugee flow was practically zero.

When Mexico ran into a cash flow crisis, we put together an emergency support package to help put our neighbor back on the course of stability and economic progress. And to their credit, the Republican leaders of the Congress supported that effort. But it was impossible to pass a bill through the Congress endorsing it because of all the surveys which showed that the American people were opposed to the Mexican bailout by about 80-15, as I remember the poll on the day that I took executive action to do it. This is another case, however, when what may be unpopular in the short run is plainly in the interest of the United States in the long run.

When your neighbors are in trouble and they're trying to do the right thing, you normally try to help them, because it's good for the neighborhood. Look what's happened since the United States stepped in to try to be a good neighbor to Mexico. Economic growth has returned, even though in a fragile state, more quickly than it was anticipated; exports have returned to levels that exceed what they were pre-NAFTA; and just yesterday, President Zedillo called me to say that Mexico will repay \$700 million of its debt to the United States well ahead of schedule.

Consider what would have happened if we would have taken the isolationist position. What would have happened to their economy? What would have happened to the international financial market's reaction to that in Argentina, in Brazil, throughout Latin America and other fragile, emerging democracies? What would have happened to our relationships and our cooperation on a host of issues between us? It was the right thing to do. Was it a domestic issue or a foreign issue? You tell me. All I know

is, we have a better neighborly relationship and the future is brighter for the American people and for the people of Mexico because we are pursuing a strategy of engagement, not isolation.

You can see that in what's happening in Europe, where we're trying to bring the nations of Europe closer together, working for democracy and economic reform in the Soviet Union and Central Europe and modernizing NATO, strengthening the Partnership for Peace. And, again I will say, these things also further our interests.

I was told just last week that by all the trade initiatives which have been taken, from NAFTA and GATT to over 80 separate individual trade agreements that Ambassador Kantor has conducted, 15 of them with Japan alone, the expanded volume of exports for the United States has created more than two million jobs in the last two and a half years, paying well above the national average. With the Summit of the Americas, with the APEC process that we have agreed on, there are more to come.

The Commerce Department and the State Department have worked together more and have worked harder than ever before to try to help Americans take advantage of these new opportunities. They are a part and parcel of our foreign policy and our domestic policy.

And let me say one other thing: We have tried to make it a constant refrain that while we seek to engage all countries on terms of goodwill, we must continue to stand up for the values that we believe make life worth living. We must continue to stand up for the proposition that all people, without regard to their nationality, their race, their ethnic group, their religion or their gender, should have a chance to make the most of their own lives to taste both freedom and opportunity.

The most powerful statement of that by anyone in our administration recently was a statement made by the First Lady at the Women's Conference in Beijing, where she condemned abuses of women and their little children, and especially their little girl children, throughout the world, not sparing the problems of domestic violence and street crime here in the United States.

These are the kinds of things that America must continue to do. From Belfast to Jerusalem, American leadership has helped Catholics and Protestants, Jews and Arabs to walk the streets of their cities with less fear of bombs and violence. From Prague to Port-au-Prince, we're working to consolidate the benefits of democracy and market economics. From Kuwait to Sarajevo, the

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brave men and women of our Armed Forces are working to stand down aggression and stand up for freedom.

In our own hemisphere, only one country, Cuba, continues to resist the trend toward democracy. Today we are announcing new steps to encourage its peaceful transition to a free and open society. We will tighten the enforcement of our embargo to keep the pressure for reform on, but we will promote democracy and the free flow of ideas more actively. I have authorized our news media to open bureaus in Cuba. We will allow more people to travel to and from Cuba for educational, religious and human rights purposes. We will now permit American nongovernmental organizations to engage in a fuller range of activities in Cuba.

And today, it gives me great pleasure to announce that our first grant to fund NGO work in Cuba will be awarded to Freedom House to promote peaceful change and protect human rights. (Applause.)

Just mentioning this range of activities and the possibilities for positive American leadership demonstrates once again how vital it is to our security and to our prosperity, demonstrates once again that advancing our values and promoting our self-interests are one in the same.

I suppose, given the purpose of this conference and the unique sponsorship of it, that everybody here shares that belief and that, in a way, I'm just preaching to the choir. But this isolationist backlash, which is present in both parties, is very real. And if you look at it from the point of view of people who feel threatened by the changes in the world, it is even completely understandable. So it is important that we not simply condemn it, it is even more important that we explain the way the world is working. And as the world works its way through this period of transition toward a new order of things in which we can garner all of the benefits of change and technology and opportunity and still reinforce the importance of giving everybody a chance, giving all families the chances to be strong, solidifying communities, as we work our way through this period, it is more and more important that we not simply condemn the isolationists, but that we seek to explain how the world works and why we must be engaged and lead.

Condemnation is not enough. Characterization is not enough. We must work through these issues. The American people are good people. They have common sense. They care when people are being murdered around the world. They understand that a war somewhere else could one day involve our sons and daughters. They know that we cannot simply pretend that the rest of the

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world is not there. But many of them have their own difficulties. We must work and work on the basic values and interests and arguments until we beat back the forces of isolation, with both intense passion and reason.

You can do that. That is what you must help us to do. Every one of you, each in your own way, with your own centers of influence, you can do that, with assertion and with argument.

Let me just give you one specific example: I am determined to do everything I can to preserve our international affairs budget. It represents, after all, less than two percent of our overall budget. Foreign aid is unpopular in the abstract because Americans believe we spend a lot more of their money on foreign aid than we do. But when you ask the American people how much we should spend, they will tell you, three percent, four percent, five percent -- more than we, in fact, spend.

No agency in this era when we're trying to balance the budget can be exempt from conscious cost-cutting. Vice President Gore and I have worked very hard to give the American people the smallest government, in terms of federal employees, we've had since President Kennedy was in office; to eliminate hundreds of programs. But we must have the tools of diplomacy.

American leadership is more than words and the military budget. Although the military budget is important, we must have a diplomacy budget. Some in Congress literally want to gut foreign assistance -- to hack the State Department's budget, to slash the Arms Control and Disarmament Agency, the USIA, AID.

They would shirk our responsibilities to the United Nations. I want to go give this speech to the United Nations. Wouldn't you like it if I did? Wouldn't you like it if I did? (Applause.) I appreciate the applause, but you tell me what I'm supposed to say. I will go give this speech, and they will say, thank you very much, Mr. President, where's your \$1 billion? (Laughter.) Why is the United States the biggest piker in the U.N.?

Now, let me say, does the United Nations need to be reformed? Has a lot of our money and everybody else's money been wasted? Does there need to be greater oversight? Of course, there does. Is that an argument for taking a dive on the United Nations? No.

We need your support for this. We must do this. It is the right thing to do. It is the responsible thing to do. Those who really would have us walk away from the U.N., not to mention the international financial institutions, they would really threaten our ability to lead.

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As you know, in instances from Bosnia to Haiti, working out how we can lead and still maintain our alliances and cooperate through the United Nations and through NATO is sometimes frustrating and almost always difficult. But it is very important. We don't want to run off into the future all by ourselves. And that means we have to work responsibly through these international organizations. And we have to pay our fair share. Every dollar we spend on foreign assistance comes back to us many times over.

By reducing the threat of nuclear war in the Newly Independent States, we've been able to cut our own spending on strategic weapons. By supporting democratic reforms and the transition to free markets in the Soviet Union and in Central Europe, we promote stability and prosperity in an area that will in the future become a vast market for the United States. By assisting developing nations who are fighting against overpopulation, AIDS, drug smuggling, environmental degradation, the whole range of problems they face, we're making sure the problems they face today don't become our problems tomorrow. The money we devote to development or peacekeeping or disaster relief, it helps to avert future crises whose cost will be far greater. And it is the right thing to do. It is the right thing to do.

I am very worried that all these budgets are at risk -- some of them in an almost deliberate attempt to cut the United States off from partnership. I'll just give you one other example so I can go home and tell the Vice President I did it. (Laughter.)

We have a little bit of money devoted to a comprehensive, worldwide effort to deal with the threat of global warming. It is simply a matter of science and evidence. Just in the last several days, there have been a whole new rush of scientific evidence that 1995 is the warmest year on our entire planet in 20,000 years, that the whole in the ozone layer is bigger than we had imagined it to be, and that global warming is a real threat. We spend a pittance on it. That is one of the items targeted for elimination. This is not budget-cutting, this is ideology. This is another example of what the teenagers say about "denial" being more than a river in Egypt. (Laughter.) This is wrong. It is not necessary to balance the budget, and it necessary to reverse it to stand up for America's values and America's interests.

Let me just cite one more example. Radio Free Europe and Radio Liberty were key weapons in the war of ideas waged against

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communism. Many of you stood up for it and fought for them. To meet the challenges of the new era, they have been dramatically downsized and moved from Munich to Prague. But some want to squeeze their already vastly reduced budget on the eve of major Russian elections, at the very time the Russian reformers most need objective information and the free exchange of ideas. They would do the same for the Voice of America, which serves on the front lines of democracy all around the world from Burma to the Balkans.

Reckless budget cutters would shut down our embassies first and consider the consequences later. Last year alone, our embassies responded to nearly two million requests for assistance from Americans overseas. They helped American companies billions of dollars in contracts. And every international business leader will tell you that the State Department and its embassies are working harder to advance our economic interests than at any time in the history of the global economy.

If we didn't have diplomats in Asia and Latin America to help stem the flow of drugs to our shores, imagine how much harder that task would be. In Northern Ireland and the Middle East, if we didn't have people representing us, it would be a lot harder to move the peace process forward. In Burundi or Rwanda, if we didn't have brave people there, like Ambassador Bob Krueger, it would be even harder to avoid human tragedy. We don't need half-strength and part-time diplomacy in a world of fast-moving opportunities and 24-hour-a-day crisis.

The last point I want to make is this: There are people who say, "Oh, Mr. President, I am for a strong America. I just don't understand why you fool with the U.N. What we need is for America to stand up alone. We'll decide what the right thing to do is and do it. Let the rest of world like it or lump it. That's what it means to be the world's only superpower." That also is a disguised form of isolationism.

Unilateralism in the world that we live in is not a viable option. When our vital interests are at stake, of course, we might have to act alone. But we need the wisdom to work with the United Nations and to pay our bills. We need the flexibility to build coalitions that spread the risk and responsibility and the cost of leadership, as President Bush did in Desert Storm and we did in Haiti.

If the past 50 years have taught us anything, it is that the United States has a unique responsibility and a unique ability to be a force for peace and progress around the world,

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while building coalitions of people that can work together in genuine partnership.

But we can only succeed if we continue to lead. Our purpose has to be the same in this new era as it has ever been. Whatever our political persuasions, I believe we all share the same goals. I think we want a future where people all over the world know the benefits of democracy; in which our own people can live their lives free from fear; in which our sons and daughters won't be called to fight in wars that could have been prevented; in which people no longer flee tyranny in their own countries to come to our shores; in which markets are open to our products and services; where they give our own people good, high-wage jobs; a country in which we know an unparalleled amount of peace and prosperity because we have fulfilled a traditional American mandate of the 20th century well into the 21st, because we -- we -- have led the world toward democracy and freedom, toward peace and prosperity.

If we want the kind of future I described, we have to assume the burden of leadership. There is simply not another alternative. So I ask you, bring your passion to this task, bring your argument to this task, and bring the sense of urgency that has animated this country in its times of greatest challenge for the last 50 years to this task.

The future, I believe, will be even brighter for the American people than the last 50 years if -- if -- we can preserve our leadership in pursuit of our values.

Thank you, and God bless you all. (Applause.)

END

10:19 A.M. EDT

TALKING POINTS

-- The President has decided to take a series of steps to invigorate the Cuban Democracy Act's (CDA) goal of promoting a peaceful transition to democracy in Cuba.

-- These steps are consistent with the spirit and the letter of the CDA and implement precisely what it calls for: Use the embargo effectively to put pressure on the Castro government and help those people and forces in Cuba that are struggling for democratic change.

-- Nothing in today's decisions reflects a weakening of the President's commitment to the embargo. On the contrary: Every element of the embargo remains in place and the means to enforce it will be strengthened. At the same time, the Administration will reenergize its efforts to reach out to the Cuban people through the free flow of ideas and information and by strengthening the island's fledgling civil society.

ENFORCING THE EMBARGO

-- The President has directed that the office in charge of enforcing the embargo, the Office of Foreign Assets Control be significantly beefed up, both here and in Miami.

-- The President also will be consulting with the Attorney General on how to effectively implement the provisions of the embargo.

-- If we are serious about going after those who violate the embargo, then we ought to make sure that we have rules that can be complied with. Today, many Cuban-Americans circumvent the travel rules and go to Cuba without a license. They do not do it to flout the law or because they do not believe in the embargo. They do it because of the time it takes to get the license and because in many instances time is of the essence. Therefore, the President has decided to provide a general license for Cuban-Americans to make an annual visit to Cuba for humanitarian reasons. This will help those who really need to travel on an urgent basis. It will cut down on violations of the embargo. And it will make enforcement of the law fairer and easier.

REACHING OUT TO THE CUBAN PEOPLE

-- The President also shares the CDA's belief that the U.S. can promote democracy in Cuba through the power of ideas and by reaching out to the Cuban people.

-- The other decisions made by the President are designed to strengthen those on the island who can be agents of change: Human rights activists, dissidents, independent organizations.

-- First, we will authorize the establishment of reciprocal news bureaus in Cuba and the U.S. Of course, we will not approve Cuban bureaus until a full range of US news bureaus are granted entry to Cuba. This decision will significantly increase the flow of news to and from Cuba, thereby helping the Cuban people escape their state's monopoly over information.

-- Second, we will allow U.S. NGOs to help their counterparts in Cuba in a variety of ways to increase their independence from the central state:

-- For example, US NGOs will be authorized to send fax machines, copiers, computers, and other communications equipment to Cuban NGOs who promote democratic values and respect for human rights. US NGOs also will be able to help their Cuban counterparts set up offices and to provide training to Cuban human rights activists.

-- The USG will be providing a grant to Freedom House to work with Cuban NGOs to advance the cause of democracy.

-- Third, travel regulations will be amended to clarify who can and cannot go to Cuba. Restrictions on travel for scientific, news-gathering, educational, cultural, religious purposes, or for the purpose of helping independent activities on the island, will be eased. This will result in increased exchanges between the Cuban and American people. Transactions to finance tourist travel to Cuba remain prohibited. Like other elements of the embargo, this ban will be more strictly enforced than before.

WESTERN UNION

-- Finally, the President has decided to authorize Western Union to set up offices here and in Cuba to send wire transfers more simply and at a lower cost to those who need to pay emigration fees or for family emergencies. The rules on remittances remain the same -- Western Union simply will make transfers easier and cheaper.

Q's and A's

Q.: What prompted the President to take these decisions now? Is there any connection to the pending Helms/Burton legislation?

A.: No. The Administration for some time has been reviewing ways to increase the effectiveness of the economic embargo and to reinforce our policy of support for the Cuban people. The President believes the time has come to re-energize our efforts to promote democratic change in Cuba, and firmly believes these measures will advance that goal.

Q.: Was any of this negotiated with the Cuban government?

A.: No. These decisions were not made to please the Cuban government. They were made because we firmly believe that they will promote democratic change on the island.

Q.: Do these decisions require an executive order or legislation?

A.: No. They simply require amendments to the Cuban Assets Control Regulations issued by the Treasury Department.

Q.: When will these decisions be effective?

A.: Immediately.

Q.: Don't these changes represent a softening of the embargo? You are allowing more travel to Cuba, reciprocal news bureaus, assistance to Cuban NGOs, etc. Aren't all of these signs of an opening up to Cuba?

A.: Absolutely not -- we are opening up to the Cuban people, not to the Cuban regime. The President is committed to maintaining the embargo unless and until significant movement is made toward democracy. In fact, the steps announced today will strengthen the embargo: The President and the Attorney General will be discussing how best to enforce the embargo provisions and the office responsible for monitoring the embargo will be significantly beefed up.

The other measures are designed to reinforce Cuba's fledgling civil society, to expand the free flow of ideas, to provide assistance and breathing space to human rights organizations, independent groups, dissidents and free thinkers. This is precisely the sort of thing that the Cuban Democracy Act called for in order to strengthen those in Cuba who could act as agents for peaceful change.

Q.: By allowing Cuban-Americans to visit their relatives once a year, isn't the President rescinding the August 1994 sanctions?

A.: No. Under the August 1994 decision, persons could travel to Cuba to visit relatives only on humanitarian grounds. That remains the case.

The only change concerns the licensing procedures. Since August 1994 and prior to today's announcement, persons who wished to visit a relative in Cuba for humanitarian reasons were required to apply for a specific license. That took a long time and caused serious hardships to Cuban-Americans who urgently needed to visit a sick or dying relative. It also led many Cuban-Americans to violate the regulations in order to hasten their trip. Under the new regulations, transactions related to travel to Cuba to visit relatives in humanitarian cases will be allowed once a year without requiring a specific license. This will significantly shorten the time required to travel, thereby both addressing a pressing humanitarian concern and reducing the incentive to violate the law. But the basis for travel to Cuba of this kind remains the same: Serious humanitarian circumstances involving a close relative.

Q.: Do the changes regarding academic or educational travel take us back to the rules in place prior to August 1994?

A4.: No. For example, professional researchers still need to apply for a specific license. What the changes seek to do, first, is clarify the rules to make it clear who can and who cannot engage in travel related transactions -- that will make it easier both to comply with and to enforce the law. Second, the changes are designed to expand exchanges between the American and the Cuban people to increase the free flow of ideas without allowing tourism. Specific categories of travel-related transactions that will now be permitted include:

-- Transactions for travel by persons acting on behalf of an organization with an established interest in international relations to collect information related to Cuba;

-- Transactions for travel by a US student sponsored by a US college or university or for participation in a formal course of study at a Cuban academic institution; the regulations will allow American and Cuban undergraduates to study in each other's countries;

-- Transactions for travel by US national to participate in public exhibition or performance in Cuba;

-- Transactions for travel to support Cuban NGOs or individuals that promote independent activity on the island.

Q.: What are acceptable payments of travel expenses for tourism, scientific, scholarly, cultural or religious visits?

A.: There is no change to these rules. Authorized transactions include principally transportation-related transactions and payment of living expenses up to \$100 per day. Details are provided in the Treasury regulations.

Q: The other major element of the August 1994 sanctions concerned remittances to in Cuba. Have these rules changed as is reported in the *Washington Post*?

A5.: No. Transfers of money to Cuba are allowed to pay for emigration fees up to \$500 and to help a close relative in Cuba in cases of humanitarian need (these include serious illness or severe medical emergency). The decision to authorize Western Union to open offices in the US and Cuba simply will facilitate the transfer of such monies and make them cheaper.

Q.: Which US news organizations will be allowed to open bureaus in Cuba?

A.: The President's decision to authorize the establishment and operation of reciprocal news bureaus will have tremendous benefits for the Cuban people. It will meet their hunger for uncensored information and permit wider reporting of events in Cuba.

We do not know which US organizations will be allowed to establish bureaus in Cuba once they apply. But we will not approve Cuban news bureaus until a range of US news bureaus -- including print, electronic, national and regional -- are permitted entry into Cuba.

Q. Will you insist on inclusion of Radio and TV Marti?

A. We believe that Radio and TV Marti are effective institutions and need to be strengthened. We do not contemplate at this time requiring their inclusion as conditions for reciprocity.

Q. Won't the opening of news bureaus in Cuba require Castro's approval? Will you negotiate with him?

A. No. The President's decision to authorize reciprocal bureaus is a unilateral U.S. decision. US news organizations are now in a position to try to get approval from the Cuban

government to open bureaus in Cuba. As for the opening of Cuban news bureaus in the US, this will depend on the range of US news organizations the Cuban government permits to operate in Cuba.

Q. Do these decisions affect mail delivery?

A. No

Q. You say you are going to step up enforcement of the embargo. What does that mean?

A. The hardships caused by the strict humanitarian visitation policy and the confusion caused by restrictions on non-tourist travel accounted for some of the violations of the embargo rules that have been occurring. Now that we have addressed the humanitarian concern of Cuban-Americans wishing to visit relatives, clarified the regulations and expanded the scope of permissible exchanges between Cuba and the US, the justifications for flouting the law are gone and we are in a position to crack down on those who choose to violate the rules. The increased staffing of the office in charge of monitoring the embargo (OFAC) will make this possible.

Q. Is this a first step towards lifting the embargo?

A. No. Our policy remains dictated by the Cuban Democracy Act: We will not lift the embargo or change the nature of our relationship with the Castro regime unless and until significant movement is made toward democracy. Significant movement includes holding free and fair elections, freeing all political prisoners, showing respect for basic civil liberties and human rights.

But we are also prepared to consider other, calibrated responses if Cuba demonstrates its true commitment to political or economic reform. The obstacle to improved relations between the US and Cuban government is how the Cuban regime behaves toward its own people. When that behavior changes, so will our policy toward Cuba.

Q. What kind of assistance to Cuban NGOs will be allowed?

A. Our aim is to strengthen those in Cuba who can act as agents of peaceful change, to nurture independent thinking and activities. Non-governmental groups need additional breathing space and resources to increase their effectiveness and independence from the central state. The changes we are announcing will help accomplish this goal. They will authorize assistance to Cuban human rights organizations and other

individuals or NGOs striving to promote democracy and respect for human rights on the island.

Forms of assistance might include sending fax machines, copiers, or computers to Cuban NGOs; providing training to Cuban human rights activists; helping independent Cuban organizations set up offices, etc.

Q. What do you mean when you refer to Cuban NGOs?

A. We mean Cuban organizations genuinely independent from the state, such as human rights organizations, dissident groups, the church and some labor groups.

SUBJECT: Status of Helms Cuba Legislation.

- The Senate began consideration of the Helms Cuba Legislation this week. Senator Dole immediately filed a cloture petition.
- The motion to invoke cloture failed in the Senate on a 56-37 vote (6 Senators did not participate). Senator Dodd led the fight against cloture.
- Another cloture vote is scheduled to take place on Tuesday and another possible vote could take place on Wednesday. At this point, the outcome of those votes remains unclear. Our current strategy is to try to defeat the motion. We have some reason to believe that Senator Nunn may help Senator Dodd with his efforts to defeat cloture. We will need Republican support to do so, since there are some Democrats who support the bill.
- The Administration's central arguments against the bill are (i) that it would tie the President's hands during a chaotic and potentially dangerous transition in Cuba and (ii) that the provision allowing lawsuits in the US against anyone who uses expropriated property in Cuba is inconsistent with international law and would make our domestic court system the arbiter of the island's future political and economic stability.
- So far, the Administration has avoided taking a position on the question of a possible veto of the Helms bill, although both bills share the afore mentioned objectionable provisions. (Secretary Christopher has stated that he would recommend a veto of the House version of the bill, which has other, additional objectionable provisions.)

cc: Vice President
Chief of Staff

FACT SHEET ON PRESIDENT'S DECISIONS ON CUBA

1. ENFORCING CUBA-RELATED LAWS

- Directs the Attorney General to step up enforcement of embargo and Neutrality Act.
- Directs strengthening of the Office of Foreign Assets Control both in Washington and in Miami.

2. PROMOTING DEMOCRATIC TRANSITION IN CUBA

- Authorizes issuance of licenses on a case by case basis for transactions to provide support for the Cuban people. Support will be allowed for activities of human rights organizations or of Cuban individuals and NGOs.
- For example:
 - U.S. NGOs will be authorized to send faxes, computers, copiers and other communications equipment to Cuban NGOs.
 - U.S. NGOs will be authorized to help independent Cuban organizations set up offices or to provide training to Cuban human rights activists.
 - USG will provide a grant of \$500,000 to Freedom House to work with Cuban NGOs to promote democracy and respect for human rights.
- Authorizes issuance of specific licenses for the establishment and operation of reciprocal news bureaus in Cuba and the United States.
- Clarifies and amends regulations governing travel to Cuba. Specific licenses will be issued for transactions related to travel to Cuba for all genuine research, news-gathering, cultural, educational, religious, or human rights purposes. Transactions related to tourism remain strictly prohibited.

3. HUMANITARIAN TRAVEL

- Authorizes general license for transactions in connection with travel to Cuba to visit close relatives in humanitarian cases.
- This general license will apply only once in any calendar year. For any additional travel-related transactions in humanitarian cases, a specific license will be required.

4. REMITTANCES

- Does not change the rules: Money transfers to Cuba are allowed to pay for legal emigration fees and in cases of humanitarian need.
- Authorizes Western Union to open offices in the US and Cuba to make money transfers to the island. This will make transfers easier and cheaper.



September 28, 1995

The Honorable Harold Ickes
The White House

Dear Harold:

As you know, when President Clinton and I spoke about VOA's appropriations problems on Air Force One last summer, he indicated that he would like to highlight the importance of international broadcasting in his budget negotiations with Congress. He specifically asked that I coordinate this effort with you.

It now appears clear that international broadcasting will be one of the items that suffers major cuts in the final appropriations bill for Commerce, State and Justice. It also seems clear that, absent some unforeseen development, the President will veto that bill.

I would like to suggest that the President's veto message, as well as his other comments on the bill, contain a ringing endorsement of international broadcasting. I am enclosing some possible language along with a copy of a letter that Pat Griffin sent to Senator Daschle early this week. I would also urge the President to include strong support of the USIA exchange programs and public diplomacy.

Although he has not spent much time on this topic, it is one that President Clinton clearly believes in. He made commitments about international broadcasting during his 1992 campaign, and in his statements of May, 1994 in which he delinked MFN and human rights for China. In response to those May, 1994 statements, VOA added an extra hour of Mandarin programming on radio, as well as a new weekly show that we simulcast on radio and TV for China. While the Chinese media blacked it out, VOA broadcast Mrs. Clinton's speech live to China in both Mandarin and English, and we re-broadcast it four more times in Mandarin. President Clinton also supported and signed the landmark International Broadcasting Act of 1994, and, besides naming me to head VOA, he appointed the members of the new International Broadcasting Board of Governors.

Interestingly, the importance of U.S. international broadcasting is an issue that resonates with conservatives, neo-conservatives, and a great number of ethnic groups. I have provided Jennifer O'Connor with recent editorial endorsements of VOA by the Washington Times, New York Post, and the Wall Street Journal, and with statements by the Polish American Congress (Dziennik Zwaizkowy) and Ukrainian National Association. I also sent her a letter that the Heritage Foundation sent to members of the U.S. Senate on September 7, 1995. Commenting on the

THE WHITE HOUSE

WASHINGTON

2 October 1995

MEMORANDUM FOR TONY LAKE
PAT GRIFFIN
ALICE RIVLIN
LAURA TYSON

CC: GEOFFREY COWAN
GORDON ADAMS
BRUCE SASSER

FROM: HAROLD ICKES 
SUBJECT: VOICE OF AMERICA

Attached is a memorandum to me from Geoff Cowan, director of Voice of America. He notes that the President is likely to veto the Commerce, Justice, State appropriations bill for many reasons, including the substantial cuts in international broadcasting. He has included some proposed language for the President's veto message.

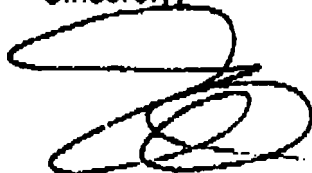
Please let me know how this language or similar language may be incorporated into our veto message or other public statements on this bill. Please be in touch with Jennifer O'Connor on my staff regarding questions or concerns on this matter. Thank you.

fact that the Heritage Foundation was siding with President Clinton on VOA, and not with conservative Republican budget cutters, the Washington Times observed that hell must truly have frozen over.

Many thanks for your help on this important matter.

Best wishes,

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'G' followed by a series of loops and a final flourish.

Geoffrey Cowan
Director

enclosures

cc: Jennifer O'Connor

Proposed language:

Cuts in the proposed budget for International Broadcasting would be a grave mistake, akin to unilateral disarmament in the information age. Just last year, with bi-partisan support, we adopted the International Broadcasting Act which cut more than 20 percent from the budget (producing a savings of \$468 million dollars for U.S. taxpayers between FY95 and FY97), consolidated key functions of VOA and RFE/RL, provided for the creation of a new Radio Free Asia, and created a new Broadcasting Board of Governors to oversee all operations. At the \$395 million request level, we can continue to provide news and information lifeline for people throughout the world, from Bosnia to China, and we could continue to serve as an antidote to the lies being spread by the huge international propaganda machines of other countries, such as Iran, which broadcasts in 24 languages. But at the appropriated figure, we would cease to be a worldwide presence.

COMMANDER IN CHIEF
U. S. ATLANTIC COMMAND

15 October 1995

Dear Senator Nunn,

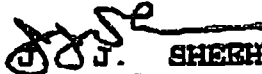
I am writing to provide my assessment of the potential effect the Cuban Liberty and Democratic Solidarity Act (The Helms/Burton Bill) could have on the United States Atlantic Command and operations in Guantanamo Bay, Cuba. There are currently 8,000 Cuban migrants in camps at Guantanamo Bay, down from 20,000 five months ago. DoD has processed more than 100,000 Cuban and Haitian migrants in Guantanamo Bay over the last few years. When the migrant population was at its peak, it cost the Department of Defense over \$1 million a day in operations and maintenance - money which was not in the budget. Additionally, prior to the White House policy announcement in May, we had more than 6,000 U.S. personnel in a potentially explosive situation - guarding and caring for Cuban migrants who were frustrated because there was no hope of leaving the camps.

From a military perspective, the current version of the Helms Burton Bill could create the conditions for more migrants. I believe the Cuban economy is at a low point. I have this on our interviews of more than 40,000 Cubans who have been through Guantanamo. They say one of the primary reasons for leaving Cuba is to be able to provide a basic quality of food and shelter for their families. The bill in its current form could further punish the people, not Castro or the privileged elites. Furthermore, rather than promoting a peaceful transition in Cuba, the bill would give Castro an excuse to maintain his focus on "U.S. aggression," rather than his own failed ideology. I also question the bill's implied assumption that strengthening the embargo will lead to a revolt from within and create the conditions for a transition to democracy. Cuba is not Haiti - the circumstances which allowed for a successful intervention in Haiti, with only one American casualty, do not exist in Cuba.

Any operations involving U.S. forces in Cuba would likely have a much high cost in terms of lives and national treasure.

Our policy objective should be the peaceful transition of power in Cuba, and I support any congressional language that brings about that change.

Sincerely,


J. J. SHERHAN
General, U.S. Marine Corps

The Honorable Sam Nunn
Senate, Committee on Armed Services
Senate Russell Office Building
Washington, D.C. 20510-6050

Thank you for everything you have done!

CALL LIST
OCTOBER 17 CLOTURE VOTE
HELMS-BURTON CUBA BILL

Republicans

Democrats

Hollings
Kassebaum
* Jeffords
Chafee

State
State
State

Nunn
Heflin

State
State

Kempthorne
Domenici
Grassley
Bond

NSC Leg
NSC Leg
NSC Leg
NSC Leg

Simpson
Bennett
Hatfield

WH Leg
WH Leg
WH Leg

Rockefeller
Bumpers
Harkin
Levin
* Robb
Exon

WH Leg
WH Leg
WH Leg
WH Leg
WH Leg
WH Leg

NSC and OMB Leg to assist WH Leg on calls to Democrats

37

Reid
Bryan
Brasley
Robb

Nunn will call

Against to talk to other who

Nunn
Bingaman
Simon

Proceeded Monuments

Reid
Cohen
Robb

Thorn
Reid
Bryan
Brasley
Lieberman
* Hollings

Reid
Cohen
Robb

CALL LIST

OCTOBER 17 CLOTURE VOTE
HELMS-BURTON CUBA BILL

Republicans

Democrats

Hollings
 * Kassebaum
 * Jeffords
 Chafee

State
 State
 State

Nunn
 Heflin

State
 State

Kempthorne
 Domenici
 Grassley
 Bond

NSC Leg
 NSC Leg
 NSC Leg
 NSC Leg

Simpson - *chuck*
 Bennett - *chic*
 Hatfield - *Karen Smith*

WH Leg
 WH Leg
 WH Leg

Rockefeller
 Bumpers
 Harkin
 Levin
 * Robb
 Exon

WH Leg
 WH Leg
 WH Leg
 WH Leg
 WH Leg
 WH Leg

NSC and OMB Leg to assist WH Leg on calls to Democrats

37

Reid

Bryan

Bradley

Robb

Nunn will help

Agreed to talk to other members
 Nunn

Bingaman

Simon

Placental Monuments

Reid

Cohen

Robb

Mamm

Reid

Bryan

Bradley

Lieberman

* Hollings

Bjrd

Ford

Tchaska

Dellums [Questions for Pence and Christopher]

- conditions on deployment
- auth. for U.S. troops to leave if withdrawal/peace enforcement efforts deteriorate.

Auth for Troop Deployment

- possible approach
Nunn/Warner/Cohen
- sense of Senate authorization

Sen. Kasse

- Strike Title ~~the~~ - Take
- Insert new amendment (substitute)
~ did not go far enough