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H.R.927

Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Enrolled as Agreed to or Passed by Both House and Senate)

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE- This Act may be cited as the `Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996'.

(b) TABLE OF CONTENTS- The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Purposes.

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SEC. 2. FINDINGS.

The Congress makes the following findings:

- (1) The economy of Cuba has experienced a decline of at least 60 percent in the last 5 years as a result of--
 - (A) the end of its subsidization by the former Soviet Union of between 5 billion and 6 billion dollars annually;
 - (B) 36 years of communist tyranny and economic mismanagement by the Castro government;
 - (C) the extreme decline in trade between Cuba and the countries of the former Soviet bloc; and
 - (D) the stated policy of the Russian Government and the countries of the former Soviet bloc to conduct economic relations with Cuba on strictly commercial terms.
- (2) At the same time, the welfare and health of the Cuban people have substantially deteriorated as a result of this economic decline and the refusal of the Castro regime to permit free and fair democratic elections in Cuba.
- (3) The Castro regime has made it abundantly clear that it will not engage in any substantive political reforms that would lead to democracy, a market economy, or an economic recovery.
- (4) The repression of the Cuban people, including a ban on free and fair democratic elections, and continuing violations of fundamental human rights, have isolated the Cuban regime as the only completely nondemocratic government in the Western Hemisphere.
- (5) As long as free elections are not held in Cuba, the economic condition of the country and the welfare of the Cuban people will not improve in any significant way.
- (6) The totalitarian nature of the Castro regime has deprived the Cuban people of any peaceful means to improve their condition and has led thousands of Cuban citizens to risk or lose their lives in dangerous attempts to escape from Cuba to freedom.
- (7) Radio Marti and Television Marti have both been effective vehicles for providing the people of Cuba with news and information and have helped to bolster the morale of the people of Cuba living under tyranny.
- (8) The consistent policy of the United States towards Cuba since the beginning of the Castro regime, carried out by both Democratic and Republican administrations, has sought to keep faith with the people of Cuba, and has been effective in sanctioning the totalitarian Castro regime.
- (9) The United States has shown a deep commitment, and considers it a moral obligation, to promote and protect human rights and fundamental freedoms as expressed in the Charter of the United Nations and in the Universal Declaration of Human Rights.

- (10) The Congress has historically and consistently manifested its solidarity and the solidarity of the American people with the democratic aspirations of the Cuban people.
- (11) The Cuban Democracy Act of 1992 calls upon the President to encourage the governments of countries that conduct trade with Cuba to restrict their trade and credit relations with Cuba in a manner consistent with the purposes of that Act.
- (12) Amendments to the Foreign Assistance Act of 1961 made by the FREEDOM Support Act require that the President, in providing economic assistance to Russia and the emerging Eurasian democracies, take into account the extent to which they are acting to 'terminate support for the communist regime in Cuba, including removal of troops, closing military facilities, and ceasing trade subsidies and economic, nuclear, and other assistance'.
- (13) The Cuban Government engages in the illegal international narcotics trade and harbors fugitives from justice in the United States.
- (14) The Castro government threatens international peace and security by engaging in acts of armed subversion and terrorism such as the training and supplying of groups dedicated to international violence.
- (15) The Castro government has utilized from its inception and continues to utilize torture in various forms (including by psychiatry), as well as execution, exile, confiscation, political imprisonment, and other forms of terror and repression, as means of retaining power.
- (16) Fidel Castro has defined democratic pluralism as 'pluralistic garbage' and continues to make clear that he has no intention of tolerating the democratization of Cuban society.
- (17) The Castro government holds innocent Cubans hostage in Cuba by no fault of the hostages themselves solely because relatives have escaped the country.
- (18) Although a signatory state to the 1928 Inter-American Convention on Asylum and the International Covenant on Civil and Political Rights (which protects the right to leave one's own country), Cuba nevertheless surrounds embassies in its capital by armed forces to thwart the right of its citizens to seek asylum and systematically denies that right to the Cuban people, punishing them by imprisonment for seeking to leave the country and killing them for attempting to do so (as demonstrated in the case of the confirmed murder of over 40 men, women, and children who were seeking to leave Cuba on July 13, 1994).
- (19) The Castro government continues to utilize blackmail, such as the immigration crisis with which it threatened the United States in the summer of 1994, and other unacceptable and illegal forms of conduct to influence the actions of sovereign states in the Western Hemisphere in violation of the Charter of the Organization of American States and other international agreements and international law.
- (20) The United Nations Commission on Human Rights has repeatedly reported on the unacceptable human rights situation in Cuba and has taken the extraordinary step of appointing a Special Rapporteur.
- (21) The Cuban Government has consistently refused access to the Special Rapporteur and formally expressed its decision not to 'implement so much as one comma' of the United Nations Resolutions appointing the Rapporteur.

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

(23) Article 39 of Chapter VII of the United Nations Charter provides that the United Nations Security Council 'shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken . . . , to maintain or restore international peace and security.'

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

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

(26) United Nations Security Council Resolution 940 of July 31, 1994, subsequently authorized the use of 'all necessary means' to restore the 'democratically elected government of Haiti', and the democratically elected government of Haiti was restored to power on October 15, 1994.

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

(28) For the past 36 years, the Cuban Government has posed and continues to pose a national security threat to the United States.

SEC. 3. PURPOSES.

The purposes of this Act are--

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

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

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

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

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

government in Cuba; and

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

SEC. 4. DEFINITIONS.

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

(1) AGENCY OR INSTRUMENTALITY OF A FOREIGN STATE- The term `agency or instrumentality of a foreign state' has the meaning given that term in section 1603(b) of title 28, United States Code.

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

(3) COMMERCIAL ACTIVITY- The term `commercial activity' has the meaning given that term in section 1603(d) of title 28, United States Code.

(4) CONFISCATED- As used in titles I and III, the term `confiscated' refers to--

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

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

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

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

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

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

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

(5) CUBAN GOVERNMENT- (A) The term `Cuban Government' includes the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba.

(B) For purposes of subparagraph (A), the term `agency or instrumentality of the Government of Cuba' means an agency or instrumentality of a foreign state as defined in section 1603(b) of title 28, United States Code, with each reference in such section to `a foreign state' deemed to be a reference to `Cuba'.

(6) DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA- The term `democratically

elected government in Cuba' means a government determined by the President to have met the requirements of section 206.

(7) ECONOMIC EMBARGO OF CUBA- The term `economic embargo of Cuba' refers to-

(A) the economic embargo (including all restrictions on trade or transactions with, and travel to or from, Cuba, and all restrictions on transactions in property in which Cuba or nationals of Cuba have an interest) that was imposed against Cuba pursuant to section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)), section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)), the Cuban Democracy Act of 1992 (22 U.S.C. 6001 and following), or any other provision of law; and

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

(8) FOREIGN NATIONAL- The term `foreign national' means--

(A) an alien; or

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

(9) KNOWINGLY- The term `knowingly' means with knowledge or having reason to know.

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

(11) PERSON- The term `person' means any person or entity, including any agency or instrumentality of a foreign state.

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

(B) For purposes of title III of this Act, the term `property' does not include real property used for residential purposes unless, as of the date of the enactment of this Act--

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

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

(13) TRAFFICS- (A) As used in title III, and except as provided in subparagraph (B), a person `traffics' in confiscated property if that person knowingly and intentionally--

(i) sells, transfers, distributes, dispenses, brokers, manages, or otherwise

disposes of confiscated property, or purchases, leases, receives, possesses, obtains control of, manages, uses, or otherwise acquires or holds an interest in confiscated property,

(ii) engages in a commercial activity using or otherwise benefiting from confiscated property, or

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

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

(B) The term `traffics' does not include--

(i) the delivery of international telecommunication signals to Cuba;

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

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

(iv) transactions and uses of property by a person who is both a citizen of Cuba and a resident of Cuba, and who is not an official of the Cuban Government or the ruling political party in Cuba.

(14) TRANSITION GOVERNMENT IN CUBA- The term `transition government in Cuba' means a government that the President determines is a transition government consistent with the requirements and factors set forth in section 205.

(15) UNITED STATES NATIONAL- The term `United States national' means--

(A) any United States citizen; or

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

SEC. 5. SEVERABILITY.

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

TITLE I--STRENGTHENING INTERNATIONAL SANCTIONS AGAINST THE CASTRO GOVERNMENT

SEC. 101. STATEMENT OF POLICY.

It is the sense of the Congress that--

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

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

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

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

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

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

will be considered an act of aggression which will be met with an appropriate response in order to maintain the security of the national borders of the United States and the health and safety of the American people.

SEC. 102. ENFORCEMENT OF THE ECONOMIC EMBARGO OF CUBA.

(a) POLICY-

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

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

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

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

(d) TRADING WITH THE ENEMY ACT-

(1) CIVIL PENALTIES- Subsection (b) of section 16 of the Trading with the Enemy Act (50 U.S.C. App. 16(b)), as added by Public Law 102-484, is amended to read as follows:

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

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

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

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

(2) CONFORMING AMENDMENT; CRIMINAL FORFEITURE- Section 16 of the Trading with the Enemy Act is further amended by striking subsection (b), as added by Public Law 102-393.

(3) CLERICAL AMENDMENTS- Section 16 of the Trading with the Enemy Act is further amended--

(A) by inserting `SEC. 16.' before `(a)'; and

(B) in subsection (a) by striking `participants' and inserting `participates'.

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

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

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

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

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

`(B) includes an exchange, reduction, or forgiveness of Cuban debt owed to a foreign country in return for a grant of an equity interest in a property, investment, or operation of the Government of Cuba (including the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba) or of a Cuban national; and'; and

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

`As used in this paragraph, the term `agency or instrumentality of the Government of Cuba' means an agency or instrumentality of a foreign state as defined in section

1603(b) of title 28, United States Code, with each reference in such section to `a foreign state' deemed to be a reference to `Cuba'.'.

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

` (5) PROHIBITION ON INVESTMENT IN DOMESTIC TELECOMMUNICATIONS SERVICES- Nothing in this subsection shall be construed to authorize the investment by any United States person in the domestic telecommunications network within Cuba. For purposes of this paragraph, an `investment' in the domestic telecommunications network within Cuba includes the contribution (including by donation) of funds or anything of value to or for, and the making of loans to or for, such network.

` (6) REPORTS TO CONGRESS- The President shall submit to the Congress on a semiannual basis a report detailing payments made to Cuba by any United States person as a result of the provision of telecommunications services authorized by this subsection.'.

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

SEC. 103. PROHIBITION AGAINST INDIRECT FINANCING OF CUBA.

(a) PROHIBITION- Notwithstanding any other provision of law, no loan, credit, or other financing may be extended knowingly by a United States national, a permanent resident alien, or a United States agency to any person for the purpose of financing transactions involving any confiscated property the claim to which is owned by a United States national as of the date of the enactment of this Act, except for financing by the United States national owning such claim for a transaction permitted under United States law.

(b) SUSPENSION AND TERMINATION OF PROHIBITION-

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

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

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

(d) DEFINITIONS- As used in this section--

(1) the term `permanent resident alien' means an alien lawfully admitted for permanent residence into the United States; and

(2) the term `United States agency' has the meaning given the term `agency' in section 551(1) of title 5, United States Code.

SEC. 104. UNITED STATES OPPOSITION TO CUBAN MEMBERSHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS.

(a) CONTINUED OPPOSITION TO CUBAN MEMBERSHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS-

(1) IN GENERAL- Except as provided in paragraph (2), the Secretary of the Treasury shall instruct the United States executive director of each international financial institution to use the voice and vote of the United States to oppose the admission of Cuba as a member of such institution until the President submits a determination under section 203(c)(3) that a democratically elected government in Cuba is in power.

(2) TRANSITION GOVERNMENT- Once the President submits a determination under section 203(c)(1) that a transition government in Cuba is in power--

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

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

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

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

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

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

SEC. 105. UNITED STATES OPPOSITION TO TERMINATION OF THE SUSPENSION OF THE CUBAN GOVERNMENT FROM PARTICIPATION IN THE ORGANIZATION OF AMERICAN STATES.

The President should instruct the United States Permanent Representative to the Organization of American States to oppose and vote against any termination of the suspension of the Cuban Government from participation in the Organization until the President determines under section 203(c)(3) that a democratically elected government in Cuba is in power.

SEC. 106. ASSISTANCE BY THE INDEPENDENT STATES OF THE FORMER SOVIET UNION FOR THE CUBAN GOVERNMENT.

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

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

(c) INELIGIBILITY FOR ASSISTANCE-

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

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

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

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

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

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

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

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

'(B) imports from the Cuban Government at preferential tariff rates;

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

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

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

` (B) For purposes of subparagraph (A), the term `agency or instrumentality of the Government of Cuba' means an agency or instrumentality of a foreign state as defined in section 1603(b) of title 28, United States Code, with each reference in such section to `a foreign state' deemed to be a reference to `Cuba'.'

(3) EXCEPTION- Section 498A(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2295A(c)) is amended by inserting after paragraph (3) the following new paragraph:

` (4) The assistance is provided under the secondary school exchange program administered by the United States Information Agency.'

(d) FACILITIES AT LOURDES, CUBA-

(1) DISAPPROVAL OF CREDITS- The Congress expresses its strong disapproval of the extension by Russia of credits equivalent to \$200,000,000 in support of the intelligence facility at Lourdes, Cuba, in November 1994.

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

` (d) REDUCTION IN ASSISTANCE FOR SUPPORT OF INTELLIGENCE FACILITIES IN CUBA-

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

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

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

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

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

` (3) EXCEPTIONS TO REDUCTIONS IN ASSISTANCE- The requirement of paragraph (1) to withhold assistance shall not apply with respect to--

- ` (A) assistance to meet urgent humanitarian needs, including disaster and refugee relief;
- ` (B) democratic political reform or rule of law activities;
- ` (C) technical assistance for safety upgrades of civilian nuclear power plants;
- ` (D) the creation of private sector or nongovernmental organizations that are independent of government control;
- ` (E) the development of a free market economic system;
- ` (F) assistance under the secondary school exchange program administered by the United States Information Agency; or
- ` (G) assistance for the purposes described in the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103-160).'

SEC. 107. TELEVISION BROADCASTING TO CUBA.

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

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

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

SEC. 108. REPORTS ON COMMERCE WITH, AND ASSISTANCE TO, CUBA FROM OTHER FOREIGN COUNTRIES.

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

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

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

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

(3) A description of the joint ventures completed, or under consideration, by foreign nationals and business firms involving facilities in Cuba, including an identification of

the location of the facilities involved and a description of the terms of agreement of the joint ventures and the names of the parties that are involved.

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

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

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

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

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

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

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

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

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

SEC. 109. AUTHORIZATION OF SUPPORT FOR DEMOCRATIC AND HUMAN RIGHTS GROUPS AND INTERNATIONAL OBSERVERS.

(a) AUTHORIZATION- Notwithstanding any other provision of law (including section 102 of this Act), except for section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1) and comparable notification requirements contained in any Act making appropriations for foreign operations, export financing, and related programs, the President is authorized to furnish assistance and provide other support for individuals and independent nongovernmental organizations to support democracy-building efforts for Cuba, including the following:

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

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

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

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

(b) OAS EMERGENCY FUND-

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

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

(3) VOLUNTARY CONTRIBUTIONS FOR FUND- Notwithstanding section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227) or any other provision of law limiting the United States proportionate share of assistance to Cuba by any international organization, the President should provide not less than \$5,000,000 of the voluntary contributions of the United States to the Organization of American States solely for the purposes of the special fund referred to in paragraph (1).

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

SEC. 110. IMPORTATION SAFEGUARD AGAINST CERTAIN CUBAN PRODUCTS.

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

(1) is of Cuban origin;

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

(3) is made or derived in whole or in part of any article which is the growth, produce, or manufacture of Cuba.

(b) EFFECT OF NAFTA- The Congress notes that United States accession to the North American Free Trade Agreement does not modify or alter the United States sanctions against Cuba. The statement of administrative action accompanying that trade agreement specifically states the following:

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

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

(c) RESTRICTION OF SUGAR IMPORTS- The Congress notes that section 902(c) of the Food Security Act of 1985 (Public Law 99-198) requires the President not to allocate any of the sugar import quota to a country that is a net importer of sugar unless appropriate officials of that country verify to the President that the country does not import for reexport to the

United States any sugar produced in Cuba.

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

SEC. 111. WITHHOLDING OF FOREIGN ASSISTANCE FROM COUNTRIES SUPPORTING JURAGUA NUCLEAR PLANT IN CUBA.

(a) FINDINGS- The Congress makes the following findings:

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

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

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

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

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

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

(C) the inadequacy of training of plant operators;

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

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

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

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

(6) The Geological Survey has indicated that the Caribbean plate, a geological

formation near the south coast of Cuba, may pose seismic risks to Cuba and the site of the power plant, and may produce large to moderate earthquakes.

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

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

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

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

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

(b) WITHHOLDING OF FOREIGN ASSISTANCE-

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

(2) EXCEPTIONS- The requirement of paragraph (1) to withhold assistance shall not apply with respect to--

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

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

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

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

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

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

(3) DEFINITION- As used in paragraph (1), the term `assistance' means assistance under the Foreign Assistance Act of 1961, credits, sales, guarantees of extensions of

credit, and other assistance under the Arms Export Control Act, assistance under titles I and III of the Agricultural Trade Development and Assistance Act of 1954, assistance under the FREEDOM Support Act, and any other program of assistance or credits provided by the United States to other countries under other provisions of law.

SEC. 112. REINSTITUTION OF FAMILY REMITTANCES AND TRAVEL TO CUBA.

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

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

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

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

SEC. 113. EXPULSION OF CRIMINALS FROM CUBA.

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

SEC. 114. NEWS BUREAUS IN CUBA.

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

(1) The exchange is fully reciprocal.

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

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

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

(5) The Cuban Government agrees not to interfere with the transmission of telecommunications signals of news bureaus or with the distribution within Cuba of publications of any United States-based news organization that has a news bureau in Cuba.

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

(c) FULLY RECIPROCAL- As used in subsection (a)(1), the term 'fully reciprocal' means that all news services, news organizations, and broadcasting services, including such services or organizations that receive financing, assistance, or other support from a governmental or official source, are permitted to establish and operate a news bureau in the United States and Cuba.

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

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

SEC. 116. CONDEMNATION OF CUBAN ATTACK ON AMERICAN AIRCRAFT.

(a) FINDINGS- The Congress makes the following findings:

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

(2) The members of Brothers to the Rescue were flying unarmed and defenseless planes in a mission identical to hundreds they have flown since 1991 and posed no threat whatsoever to the Cuban Government, the Cuban military, or the Cuban people.

(3) Statements by the Cuban Government that Brothers to the Rescue has engaged in covert operations, bombing campaigns, and commando operations against the Government of Cuba have no basis in fact.

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

(5) International law provides a nation with airspace over the 12-mile territorial sea.

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

(7) At approximately 3:24 p.m., the pilot of one of the Cuban MiGs received permission and proceeded to shoot down one Brothers to the Rescue airplane more than 6 miles north of the Cuban exclusion zone, or 18 miles from the Cuban coast.

(8) Approximately 7 minutes later, the pilot of the Cuban fighter jet received permission and proceeded to shoot down the second Brothers to the Rescue airplane almost 18.5 miles north of the Cuban exclusion zone, or 30.5 miles from the Cuban

coast.

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

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

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

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

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

(14) This premeditated act took place after a week-long wave of repression by the Cuban Government against Concilio Cubano, an umbrella organization of human rights activists, dissidents, independent economists, and independent journalists, among others.

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

(b) STATEMENTS BY THE CONGRESS- (1) The Congress strongly condemns the act of terrorism by the Castro regime in shooting down the Brothers to the Rescue aircraft on February 24, 1996.

(2) The Congress extends its condolences to the families of Pablo Morales, Carlos Costa, Mario de la Pena, and Armando Alejandro, the victims of the attack .

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

TITLE II--ASSISTANCE TO A FREE AND INDEPENDENT CUBA

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

The policy of the United States is as follows:

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

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

(3) To encourage the Cuban people to empower themselves with a government which

reflects the self-determination of the Cuban people.

(4) To recognize the potential for a difficult transition from the current regime in Cuba that may result from the initiatives taken by the Cuban people for self-determination in response to the intransigence of the Castro regime in not allowing any substantive political or economic reforms, and to be prepared to provide the Cuban people with humanitarian, developmental, and other economic assistance.

(5) In solidarity with the Cuban people, to provide appropriate forms of assistance--

(A) to a transition government in Cuba;

(B) to facilitate the rapid movement from such a transition government to a democratically elected government in Cuba that results from an expression of the self-determination of the Cuban people; and

(C) to support such a democratically elected government.

(6) Through such assistance, to facilitate a peaceful transition to representative democracy and a market economy in Cuba and to consolidate democracy in Cuba.

(7) To deliver such assistance to the Cuban people only through a transition government in Cuba, through a democratically elected government in Cuba, through United States Government organizations, or through United States, international, or indigenous nongovernmental organizations.

(8) To encourage other countries and multilateral organizations to provide similar assistance, and to work cooperatively with such countries and organizations to coordinate such assistance.

(9) To ensure that appropriate assistance is rapidly provided and distributed to the people of Cuba upon the institution of a transition government in Cuba.

(10) Not to provide favorable treatment or influence on behalf of any individual or entity in the selection by the Cuban people of their future government.

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

(12) To be prepared to enter into negotiations with a democratically elected government in Cuba either to return the United States Naval Base at Guantanamo to Cuba or to renegotiate the present agreement under mutually agreeable terms.

(13) To consider the restoration of diplomatic recognition and support the reintegration of the Cuban Government into Inter-American organizations when the President determines that there exists a democratically elected government in Cuba.

(14) To take steps to remove the economic embargo of Cuba when the President determines that a transition to a democratically elected government in Cuba has begun.

(15) To assist a democratically elected government in Cuba to strengthen and stabilize its national currency.

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

SEC. 202. ASSISTANCE FOR THE CUBAN PEOPLE.

(a) AUTHORIZATION-

(1) IN GENERAL- The President shall develop a plan for providing economic assistance to Cuba at such time as the President determines that a transition government or a democratically elected government in Cuba (as determined under section 203(c)) is in power.

(2) EFFECT ON OTHER LAWS- Assistance may be provided under this section subject to an authorization of appropriations and subject to the availability of appropriations.

(b) PLAN FOR ASSISTANCE-

(1) DEVELOPMENT OF PLAN- The President shall develop a plan for providing assistance under this section--

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

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

(2) TYPES OF ASSISTANCE- Assistance under the plan developed under paragraph (1) may, subject to an authorization of appropriations and subject to the availability of appropriations, include the following:

(A) TRANSITION GOVERNMENT- (i) Except as provided in clause (ii), assistance to Cuba under a transition government shall, subject to an authorization of appropriations and subject to the availability of appropriations, be limited to--

(I) such food, medicine, medical supplies and equipment, and assistance to meet emergency energy needs, as is necessary to meet the basic human needs of the Cuban people; and

(II) assistance described in subparagraph (C).

(ii) Assistance in addition to assistance under clause (i) may be provided, but only after the President certifies to the appropriate congressional committees, in accordance with procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961, that such assistance is essential to the successful completion of the transition to democracy.

(iii) Only after a transition government in Cuba is in power, freedom of individuals to travel to visit their relatives without any restrictions shall be permitted.

(B) DEMOCRATICALLY ELECTED GOVERNMENT- Assistance to a democratically elected government in Cuba may, subject to an authorization of appropriations and subject to the availability of appropriations, consist of economic assistance in addition to assistance available under subparagraph (A), together with assistance described in subparagraph (C).

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