

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

(Pub. L. 104–114, § 2, Mar. 12, 1996, 110 Stat. 786.)

REFERENCES IN TEXT

The Cuban Democracy Act of 1992, referred to in par. (11), is title XVII of div. A of Pub. L. 102–484, Oct. 23, 1992, 106 Stat. 2575, which is classified principally to chapter 69 (§6001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6001 of this title and Tables.

The Foreign Assistance Act of 1961, referred to in par. (12), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The FREEDOM Support Act, referred to in par. (12), is Pub. L. 102–511, Oct. 24, 1992, 106 Stat. 3320, as amended, also known as the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

SHORT TITLE

Section 1(a) of Pub. L. 104–114 provided that: “This Act [enacting this chapter and sections 1643l and 1643m of this title, amending sections 2295a, 2295b, 2370, 6003, and 6004 of this title, section 1611 of Title 28, Judiciary and Judicial Procedure, and section 16 of Title 50, Appendix, War and National Defense, repealing sections 1465 to 1465f, 1465aa to 1465ff, 6003, and 6005 of this title, amending provisions set out as a note under section 1446g of Title 7, Agriculture, and repealing provisions set out as notes under sections 1465, 1465c, and 1465aa of this title] may be cited as the ‘Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996.’”

§ 6022. Purposes

The purposes of this chapter 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.

(Pub. L. 104–114, § 3, Mar. 12, 1996, 110 Stat. 788.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 104–114, Mar. 12, 1996, 110

Stat. 785, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6021 of this title and Tables.

§ 6023. Definitions

As used in this chapter, 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.

(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.

(4) Confiscated

As used in subchapters I and III of this chapter, 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, 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 deter-

mined by the President to have met the requirements of section 6066 of this title.

(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 2370(a) of this title, section 5(b) of title 50, Appendix, 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 subchapter III of this chapter, the term “property” does not include real property used for residential purposes unless, as of March 12, 1996—

(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 [22 U.S.C. 1643 et seq.]; 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 subchapter III of this chapter, 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 6065 of this title.

(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.

(Pub. L. 104-114, § 4, Mar. 12, 1996, 110 Stat. 789.)

REFERENCES IN TEXT

Subchapters I and III of this chapter, referred to in pars. (4), (12)(B), and (13)(A), were in the original references to titles I and III, meaning titles I and III of Pub. L. 104-114, Mar. 12, 1996, 110 Stat. 791, 814. Title I of Pub. L. 104-114 enacted subchapter I (§ 6031 et seq.) of this chapter, amended sections 2295a, 2295b, 6003, and 6004 of this title and section 16 of Title 50, Appendix, War and National Defense, and repealed subchapters V-A (§ 1465 et seq.) and V-B (1465aa et seq.) of chapter 18 of this title. Title III of Pub. L. 104-114 enacted subchapter III (§ 6081 et seq.) of this chapter and sections 1643l and 1643m of this title and amended section 1611 of Title 28, Judiciary and Judicial Procedure. For complete classification of titles I and III to the Code, see Tables.

The Cuban Democracy Act of 1992, referred to in par. (7)(A), is title XVII of div. A of Pub. L. 102-484, Oct. 23, 1992, 106 Stat. 2575, which is classified principally to

chapter 69 (§6001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6001 of this title and Tables.

Section 902(c) of the Food Security Act of 1985, referred to in par. (7)(B), is section 902(c) of Pub. L. 99-198, title IX, Dec. 23, 1985, 99 Stat. 1443, which was set out as a note under former section 1446g of Title 7, Agriculture.

The International Claims Settlement Act of 1949, referred to in par. (12)(B)(i), is act Mar. 10, 1950, ch. 54, 64 Stat. 12, as amended. Title V of the Act is classified generally to subchapter V (§1643 et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1621 of this title and Tables.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 6024. Severability

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

(Pub. L. 104-114, §5, Mar. 12, 1996, 110 Stat. 791.)

SUBCHAPTER I—STRENGTHENING INTERNATIONAL SANCTIONS AGAINST THE CASTRO GOVERNMENT

§ 6031. 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.

(Pub. L. 104-114, title I, §101, Mar. 12, 1996, 110 Stat. 791.)

§ 6032. Enforcement of 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 [22 U.S.C. 6003(a)], 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 [22 U.S.C. 6001 et seq.].

(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 [22 U.S.C. 6003(b)(1)] 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) Omitted

(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), (g) Omitted

(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 on March 12, 1996, and shall remain in effect, subject to section 6064 of this title.

(Pub. L. 104-114, title I, §102, Mar. 12, 1996, 110 Stat. 792.)

REFERENCES IN TEXT

The Cuban Democracy Act of 1992, referred to in subsec. (a), is title XVII of div. A of Pub. L. 102-484, Oct.