

Stat. 785, known as the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, 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.

§ 6046. 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 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.

(Pub. L. 104-114, title I, §116, Mar. 12, 1996, 110 Stat. 803.)

SUBCHAPTER II—ASSISTANCE TO FREE AND INDEPENDENT CUBA

§ 6061. Policy toward transition government and 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 non-governmental organizations.

(8) To encourage other countries and multi-lateral 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.

(Pub. L. 104-114, title II, §201, Mar. 12, 1996, 110 Stat. 805.)

§ 6062. Assistance for 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 6063(c) of this title) 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 [22 U.S.C. 2394-1], 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). Such economic assistance may include—

(i) assistance under chapter 1 of part I [22 U.S.C. 2151 et seq.] (relating to development assistance), and chapter 4 of part II [22 U.S.C. 2346 et seq.] (relating to the economic support fund), of the Foreign Assistance Act of 1961;

(ii) assistance under the Food for Peace Act [7 U.S.C. 1691 et seq.];

(iii) financing, guarantees, and other forms of assistance provided by the Export-Import Bank of the United States;

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

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

(vi) Peace Corps programs; and

(vii) other appropriate assistance to carry out the policy of section 6061 of this title.

(C) Military adjustment assistance

Assistance to a transition government in Cuba and to a democratically elected government in Cuba shall also include assistance in preparing the Cuban military forces to adjust to an appropriate role in a democracy.