

US Code

(Unofficial compilation from the Legal Information Institute)

TITLE 22 - FOREIGN RELATIONS AND INTERCOURSE

CHAPTER 69—CUBAN DEMOCRACY

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CHAPTER 69—CUBAN DEMOCRACY

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§ 6001. Findings

The Congress makes the following findings:

- (1) The government of Fidel Castro has demonstrated consistent disregard for internationally accepted standards of human rights and for democratic values. It restricts the Cuban people’s exercise of freedom of speech, press, assembly, and other rights recognized by the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on December 10, 1948. It has refused to admit into Cuba the representative of the United Nations Human Rights Commission appointed to investigate human rights violations on the island.
- (2) The Cuban people have demonstrated their yearning for freedom and their increasing opposition to the Castro government by risking their lives in organizing independent, democratic activities on the island and by undertaking hazardous flights for freedom to the United States and other countries.
- (3) The Castro government maintains a military-dominated economy that has decreased the well-being of the Cuban people in order to enable the government to engage in military interventions and subversive activities throughout the world and, especially, in the Western Hemisphere. These have included involvement in narcotics trafficking and support for the FMLN guerrillas in El Salvador.
- (4) There is no sign that the Castro regime is prepared to make any significant concessions to democracy or to undertake any form of democratic opening. Efforts to suppress dissent through intimidation, imprisonment, and exile have accelerated since the political changes that have occurred in the former Soviet Union and Eastern Europe.
- (5) Events in the former Soviet Union and Eastern Europe have dramatically reduced Cuba’s external support and threaten Cuba’s food and oil supplies.
- (6) The fall of communism in the former Soviet Union and Eastern Europe, the now universal recognition in Latin America and the Caribbean that Cuba provides a failed model of government and development, and the evident inability of Cuba’s economy to survive current trends, provide the United States and the international democratic community with an unprecedented opportunity to promote a peaceful transition to democracy in Cuba.
- (7) However, Castro’s intransigence increases the likelihood that there could be a collapse of the Cuban economy, social upheaval, or widespread suffering. The recently concluded Cuban Communist Party Congress has underscored Castro’s unwillingness to respond positively to increasing pressures for reform either from within the party or without.
- (8) The United States cooperated with its European and other allies to assist the difficult transitions from Communist regimes in Eastern Europe. Therefore, it is appropriate for those allies to cooperate with United States policy to promote a peaceful transition in Cuba.

(Pub. L. 102–484, div. A, title XVII, § 1702, Oct. 23, 1992, 106 Stat. 2575.)

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Effective Date

Section 1712 of title XVII of div. A of Pub. L. 102–484 provided that: “This title [enacting this chapter, amending section 16 of Title 50, Appendix, War and National Defense, and enacting provisions set out as a note below] shall take effect on the date of the enactment of this Act [Oct. 23, 1992].”

Short Title

Section 1701 of title XVII of div. A of Pub. L. 102–484 provided that: “This title [enacting this chapter, amending section 16 of Title 50, Appendix, War and National Defense, and enacting provisions set out as a note above] may be cited as the ‘Cuban Democracy Act of 1992’.”

Ex. Ord. No. 12854. Implementation of Cuban Democracy Act

Ex. Ord. No. 12854, July 4, 1993, 58 F.R. 36587, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Trading with the Enemy Act, as amended (50 App. U.S.C. 1–6, 7–39, 41–44), the Cuban Democracy Act of 1992 (Public Law 102–484, sections 1701–1712, October 23, 1992, 106 Stat. 2575) (the “Act”) [22 U.S.C. 6001 et seq.], and section 301 of title 3, United States Code,

I, WILLIAM J. CLINTON, President of the United States of America, hereby order:

Section 1. Implementation of the Act. All agencies are hereby directed to take all appropriate measures within their authority, including the promulgation of rules and regulations, to carry out the provisions of the Act.

Sec. 2. Functions of the Department of State. The Secretary of State shall be responsible for implementing sections 1704, 1707, and 1708 of the Act [22 U.S.C. 6003, 6006, 6007]. Responsibility for transmitting the certification required by section 1707 and the report required by section 1708 of the Act is delegated to the Secretary of State.

Sec. 3. Functions of the Department of the Treasury. Except as provided in section 4 of this order, the Secretary of the Treasury shall be responsible for implementing sections 1705 (b)–(e) and 1706 [22 U.S.C. 6004 (b)–(e), 6005] of the Act, to the extent that these sections pertain to transactions with Cuba.

Sec. 4. Functions of the Department of Commerce. The Secretary of Commerce shall be responsible for implementing sections 1705 (b)–(e) of the Act, to the extent that these sections pertain to the exportation to Cuba from the United States or from a third country of goods and technology subject to the jurisdiction of the Department of Commerce.

Sec. 5. Consultation. In consultation with the Secretary of State, the Secretary of the Treasury and the Secretary of Commerce are hereby authorized to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of the Act and this order.

Sec. 6. Nothing in this order shall be deemed to affect any functions vested by law in the Federal Communications Commission.

Sec. 7. Effective Date. This order shall be effective immediately.

William J. Clinton.

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§ 6002. Statement of policy

It should be the policy of the United States—

- (1) to seek a peaceful transition to democracy and a resumption of economic growth in Cuba through the careful application of sanctions directed at the Castro government and support for the Cuban people;
- (2) to seek the cooperation of other democratic countries in this policy;
- (3) to make clear to other countries that, in determining its relations with them, the United States will take into account their willingness to cooperate in such a policy;
- (4) to seek the speedy termination of any remaining military or technical assistance, subsidies, or other forms of assistance to the Government of Cuba from any of the independent states of the former Soviet Union;
- (5) to continue vigorously to oppose the human rights violations of the Castro regime;
- (6) to maintain sanctions on the Castro regime so long as it continues to refuse to move toward democratization and greater respect for human rights;

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- (7) to be prepared to reduce the sanctions in carefully calibrated ways in response to positive developments in Cuba;
- (8) to encourage free and fair elections to determine Cuba's political future;
- (9) to request the speedy termination of any military or technical assistance, subsidies, or other forms of assistance to the Government of Cuba from the government of any other country; and
- (10) to initiate immediately the development of a comprehensive United States policy toward Cuba in a post-Castro era.

(Pub. L. 102-484, div. A, title XVII, § 1703, Oct. 23, 1992, 106 Stat. 2576.)

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§ 6003. International cooperation

(a) Cuban trading partners

The President should 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 this chapter.

(b) Sanctions against countries assisting Cuba

(1) Sanctions

The President may apply the following sanctions to any country that provides assistance to Cuba:

(A) The government of such country shall not be eligible for assistance under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] or assistance or sales under the Arms Export Control Act [22 U.S.C. 2751 et seq.].

(B) Such country shall not be eligible, under any program, for forgiveness or reduction of debt owed to the United States Government.

(2) "Assistance to Cuba" defined

For purposes of paragraph (1), the term "assistance to Cuba"—

(A) means assistance to or for the benefit of the Government of Cuba that is provided by grant, concessional sale, guaranty, or insurance, or by any other means on terms more favorable than that generally available in the applicable market, whether in the form of a loan, lease, credit, or otherwise, and such term includes subsidies for exports to Cuba and favorable tariff treatment of articles that are the growth, product, or manufacture of Cuba;

(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

(C) does not include—

(i) donations of food to nongovernmental organizations or individuals in Cuba, or

(ii) exports of medicines or medical supplies, instruments, or equipment that would be permitted under section 6004 (c) of this title.

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, with each reference in such section to "a foreign state" deemed to be a reference to "Cuba".

(3) Applicability of section

This section, and any sanctions imposed pursuant to this section, shall cease to apply at such time as the President makes and reports to the Congress a determination under section 6007 (a) of this title.

(Pub. L. 102-484, div. A, title XVII, § 1704, Oct. 23, 1992, 106 Stat. 2576; Pub. L. 104-114, title I, § 102(f), Mar. 12, 1996, 110 Stat. 793.)

Repeal of Section

Pub. L. 104–114, title II, § 204(d)(3), Mar. 12, 1996, 110 Stat. 810, provided that on date on which President submits determination under section 6063 (c)(3) of this title that democratically elected government in Cuba is in power, this section is repealed.

References in Text

The Foreign Assistance Act of 1961, referred to in subsec. (b)(1)(A), 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 Arms Export Control Act, referred to in subsec. (b)(1)(A), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§ 2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

Amendments

1996—Subsec. (b)(2). Pub. L. 104–114, § 102(f), added subpar. (B), redesignated former subpar. (B) as (C), and inserted concluding provisions “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, with each reference in such section to ‘a foreign state’ deemed to be a reference to ‘Cuba’.”

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§ 6004. Support for Cuban people

(a) Provisions of law affected

The provisions of this section apply notwithstanding any other provision of law, including section 2370 (a) of this title, and notwithstanding the exercise of authorities, before October 23, 1992, under section 5(b) of the Trading With the Enemy Act [12 U.S.C. 95a, 50 U.S.C. App. 5(b)], the International Emergency Economic Powers Act [50 U.S.C. 1701 et seq.], or the Export Administration Act of 1979 [50 App. U.S.C. 2401 et seq.].

(b) Donations of food

Nothing in this or any other Act shall prohibit donations of food to nongovernmental organizations or individuals in Cuba.

(c) Exports of medicines and medical supplies

Exports of medicines or medical supplies, instruments, or equipment to Cuba shall not be restricted—

- (1) except to the extent such restrictions would be permitted under section 5(m) of the Export Administration Act of 1979 [50 App. U.S.C. 2404 (m)] or section 203(b)(2) of the International Emergency Economic Powers Act [50 U.S.C. 1702 (b)(2)];
- (2) except in a case in which there is a reasonable likelihood that the item to be exported will be used for purposes of torture or other human rights abuses;
- (3) except in a case in which there is a reasonable likelihood that the item to be exported will be reexported; and
- (4) except in a case in which the item to be exported could be used in the production of any biotechnological product.

(d) Requirements for certain exports

(1) Onsite verifications

(A) Subject to subparagraph (B), an export may be made under subsection (c) of this section only if the President determines that the United States Government is able to verify, by onsite inspections and other appropriate means, that the exported item is to be used for the purposes for which it was intended and only for the use and benefit of the Cuban people.

(B) Subparagraph (A) does not apply to donations to nongovernmental organizations in Cuba of medicines for humanitarian purposes.

(2) Licenses

Exports permitted under subsection (c) of this section shall be made pursuant to specific licenses issued by the United States Government.

(e) Telecommunications services and facilities

(1) Telecommunications services

Telecommunications services between the United States and Cuba shall be permitted.

(2) Telecommunications facilities

Telecommunications facilities are authorized in such quantity and of such quality as may be necessary to provide efficient and adequate telecommunications services between the United States and Cuba.

(3) Licensing of payments to Cuba

(A) The President may provide for the issuance of licenses for the full or partial payment to Cuba of amounts due Cuba as a result of the provision of telecommunications services authorized by this subsection, in a manner that is consistent with the public interest and the purposes of this chapter, except that this paragraph shall not require any withdrawal from any account blocked pursuant to regulations issued under section 5(b) of the Trading With the Enemy Act [12 U.S.C. 95a, 50 U.S.C. App. 5(b)].

(B) If only partial payments are made to Cuba under subparagraph (A), the amounts withheld from Cuba shall be deposited in an account in a banking institution in the United States. Such account shall be blocked in the same manner as any other account containing funds in which Cuba has any interest, pursuant to regulations issued under section 5(b) of the Trading With the Enemy Act.

(4) Authority of Federal Communications Commission

Nothing in this subsection shall be construed to supersede the authority of the Federal Communications Commission.

(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.

(f) Direct mail delivery to Cuba

The United States Postal Service shall take such actions as are necessary to provide direct mail service to and from Cuba, including, in the absence of common carrier service between the 2 countries, the use of charter service providers.

(g) Assistance to support democracy in Cuba

The United States Government may provide assistance, through appropriate nongovernmental organizations, for the support of individuals and organizations to promote nonviolent democratic change in Cuba.

Amendment of Section

Pub. L. 104–114, title II, § 204(d)(3), Mar. 12, 1996, 110 Stat. 810, provided that on date on which President submits determination under section 6063 (c) of this title that democratically elected government in Cuba is in power, this section is amended by repealing subsection (d).

References in Text

The International Emergency Economic Powers Act, referred to in subsec. (a), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§ 1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

The Export Administration Act of 1979, referred to in subsec. (a), is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, as amended, which is classified principally to section 2401 et seq. of the Appendix to Title 50. For complete classification of this Act to the Code, see Short Title note set out under section 2401 of the Appendix to Title 50 and Tables.

Amendments

1996—Subsec. (e)(5), (6). Pub. L. 104–114, § 102(g), added pars. (5) and (6).

Delegation of Functions

For delegation of congressional reporting functions of President under subsec. (e) of this section, see section 1 of Ex. Ord. No. 13313, July 31, 2003, 68 F.R. 46075, set out as a note under section 301 of Title 3, The President.

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§ 6005. Sanctions

(a) Prohibition on certain transactions between certain United States firms and Cuba

(1) Prohibition

Notwithstanding any other provision of law, no license may be issued for any transaction described in section 515.559 of title 31, Code of Federal Regulations, as in effect on July 1, 1989.

(2) Applicability to existing contracts

Paragraph (1) shall not affect any contract entered into before October 23, 1992.

(b) Prohibitions on vessels

(1) Vessels engaging in trade

Beginning on the 61st day after October 23, 1992, a vessel which enters a port or place in Cuba to engage in the trade of goods or services may not, within 180 days after departure from such port or place in Cuba, load or unload any freight at any place in the United States, except pursuant to a license issued by the Secretary of the Treasury.

(2) Vessels carrying goods or passengers to or from Cuba

Except as specifically authorized by the Secretary of the Treasury, a vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national has any interest may not enter a United States port.

(3) Inapplicability of ship stores general license

No commodities which may be exported under a general license described in section 771.9 of title 15, Code of Federal Regulations, as in effect on May 1, 1992, may be exported under a general license to any vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national has an interest.

(4) Definitions

As used in this subsection—

(A) the term “vessel” includes every description of water craft or other contrivance used, or capable of being used, as a means of transportation in water, but does not include aircraft;

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(B) the term “United States” includes the territories and possessions of the United States and the customs waters of the United States (as defined in section 1401 of title 19; and

(C) the term “Cuban national” means a national of Cuba, as the term “national” is defined in section 515.302 of title 31, Code of Federal Regulations, as of August 1, 1992.

(c) Restrictions on remittances to Cuba

The President shall establish strict limits on remittances to Cuba by United States persons for the purpose of financing the travel of Cubans to the United States, in order to ensure that such remittances reflect only the reasonable costs associated with such travel, and are not used by the Government of Cuba as a means of gaining access to United States currency.

(d) Clarification of applicability of sanctions

The prohibitions contained in subsections (a), (b), and (c) of this section shall not apply with respect to any activity otherwise permitted by section 6004 of this title or section 6006 of this title or any activity which may not be regulated or prohibited under section 5(b)(4) of the Trading With the Enemy Act [12 U.S.C. 95a (4), 50 U.S.C. App. 5(b)(4)].

(Pub. L. 102–484, div. A, title XVII, § 1706, Oct. 23, 1992, 106 Stat. 2578.)

Repeal of Section

Pub. L. 104–114, title II, § 204(d)(3), Mar. 12, 1996, 110 Stat. 810, provided that on date on which President submits determination under section 6063 (c)(3) of this title that democratically elected government in Cuba is in power, this section is repealed.

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§ 6006. Policy toward a transitional Cuban Government

Food, medicine, and medical supplies for humanitarian purposes should be made available for Cuba under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] and the Food for Peace Act [7 U.S.C. 1691 et seq.] if the President determines and certifies to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate that the government in power in Cuba—

- (1)** has made a public commitment to hold free and fair elections for a new government within 6 months and is proceeding to implement that decision;
- (2)** has made a public commitment to respect, and is respecting, internationally recognized human rights and basic democratic freedoms; and
- (3)** is not providing weapons or funds to any group, in any other country, that seeks the violent overthrow of the government of that country.

(Pub. L. 102–484, div. A, title XVII, § 1707, Oct. 23, 1992, 106 Stat. 2579; Pub. L. 110–246, title III, § 3001(b)(1)(A), (2)(V), June 18, 2008, 122 Stat. 1820, 1821.)

References in Text

The Foreign Assistance Act of 1961, referred to in text, 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 Food for Peace Act, referred to in text, is act July 10, 1954, ch. 469, 68 Stat. 454, which is classified generally to chapter 41 (§ 1691 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of Title 7 and Tables.

Amendments

2008—Pub. L. 110–246 substituted “Food for Peace Act” for “Agricultural Trade Development and Assistance Act of 1954” in introductory provisions.

Effective Date of 2008 Amendment

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

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§ 6007. Policy toward a democratic Cuban Government

(a) Waiver of restrictions

The President may waive the requirements of section 6005 of this title if the President determines and reports to the Congress that the Government of Cuba—

- (1) has held free and fair elections conducted under internationally recognized observers;
- (2) has permitted opposition parties ample time to organize and campaign for such elections, and has permitted full access to the media to all candidates in the elections;
- (3) is showing respect for the basic civil liberties and human rights of the citizens of Cuba;
- (4) is moving toward establishing a free market economic system; and
- (5) has committed itself to constitutional change that would ensure regular free and fair elections that meet the requirements of paragraph (2).

(b) Policies

If the President makes a determination under subsection (a) of this section, the President shall take the following actions with respect to a Cuban Government elected pursuant to elections described in subsection (a) of this section:

- (1) To encourage the admission or reentry of such government to international organizations and international financial institutions.
- (2) To provide emergency relief during Cuba’s transition to a viable economic system.
- (3) To take steps to end the United States trade embargo of Cuba.

(Pub. L. 102–484, div. A, title XVII, § 1708, Oct. 23, 1992, 106 Stat. 2580.)

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§ 6008. Existing claims not affected

Except as provided in section 6004 (a) of this title, nothing in this chapter affects the provisions of section 2370 (a)(2) of this title.

(Pub. L. 102–484, div. A, title XVII, § 1709, Oct. 23, 1992, 106 Stat. 2580.)

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§ 6009. Enforcement

(a) Enforcement authority

The authority to enforce this chapter shall be carried out by the Secretary of the Treasury. The Secretary of the Treasury shall exercise the authorities of the Trading With the Enemy Act [50 App. U.S.C. 1 et seq.] in enforcing this chapter. In carrying out this subsection, the Secretary of the Treasury shall take the necessary steps to ensure that activities permitted under section 6004 of this title are carried out for the purposes set forth in this chapter and not for purposes of the accumulation by the Cuban Government of excessive amounts of United States currency or the accumulation of excessive profits by any person or entity.

(b) Authorization of appropriations

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to carry out this chapter.

(c) Omitted

(d) Applicability of penalties

The penalties set forth in section 16 of the Trading With the Enemy Act [50 App. U.S.C. 16] shall apply to violations of this chapter to the same extent as such penalties apply to violations under that Act [50 App. U.S.C. 1 et seq.].

(e) Office of Foreign Assets Control

The Department of the Treasury shall establish and maintain a branch of the Office of Foreign Assets Control in Miami, Florida, in order to strengthen the enforcement of this chapter.

(Pub. L. 102–484, div. A, title XVII, § 1710, Oct. 23, 1992, 106 Stat. 2580.)

References in Text

The Trading With the Enemy Act, referred to in subsecs. (a) and (d), is act Oct. 6, 1917, ch. 106, 40 Stat. 411, as amended, which is classified to sections 1 to 6, 7 to 39 and 41 to 44 of Title 50, Appendix, War and National Defense. For complete classification of this Act to the Code, see Tables.

Codification

Section is comprised of section 1710 of Pub. L. 102–484. Subsec. (c) of section 1710 of Pub. L. 102–484 amended section 16 of the Appendix to Title 50, War and National Defense.

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§ 6010. “United States person” defined

As used in this chapter, the term “United States person” means any United States citizen or alien admitted for permanent residence in the United States, and any corporation, partnership, or other organization organized under the laws of the United States.

(Pub. L. 102–484, div. A, title XVII, § 1711, Oct. 23, 1992, 106 Stat. 2581.)