JOINT CORPORATE COMMITTEE ON CUBAN CLAIMS

c/o LONE STAR INDUSTRIES, INC.
300 FIRST STAMFORD PLACE
STAMFORD, CT 06912
(203) 969-8600

October 10, 1995

Dear Senator:

I recently wrote to urge you to oppose Title III of legislation, the "Cuban Liberty and Democratic Solidarity Act," that purports to protect the property rights of U.S. nationals against the confiscatory takings by the Castro regime. At that time, Senator Helms was planning to attach this legislation as an amendment to the then-pending Foreign Operations Appropriations Bill. It is my understanding that this legislation now may be brought to the Senate floor as a free-standing bill as early as Wednesday of this week. I am writing once again to urge you to oppose this legislation insofar as it contains Title III in its present form because it poses the most serious threat to the property rights of U.S. certified claimants since the Castro regime's unlawful expropriations more than three decades ago.

In the rush to pass this legislation and thereby demonstrate our firm resolve against Fidel Castro, the far-reaching domestic consequences of this legislation have received far too little attention. In my letter of September 20th, I wrote of the irreparable harm certified claimants would suffer if Title III of this legislation is passed. For the first time ever and contrary to international law, this legislation would permit a specified national origin group, Cuban-Americans, who were not U.S. citizens at the time their property was confiscated, to file Title III lawsuits against the Government of Cuba for the property losses they suffered as Cuban nationals. Indeed, this legislation even permits Cuban exiles abroad to file lawsuits in U.S. federal courts if they establish a corporation in the United States for the purpose of pursuing any claim they may have against Cuba. The creation of a new right to sue is never an inconsequential matter yet the careful scrutiny such a provision deserves has been disturbingly lacking to date.

We can reasonably expect plaintiffs' attorneys to exploit this newly created lawsuit right to the fullest extent possible, creating a tide of litigation that will all but sweep away the value of the claims currently held by U.S. certified claimants. Each time one of those lawsuits is reduced to a final judgment against Cuba, the injury to U.S. certified claimants increases. Ultimately, the cumulative weight of those judgments will extinguish any possibility the certified claimants ever had of being compensated. A virtually bankrupt Cuba cannot be expected to compensate the U.S. certified claimants, who hold claims valued today at nearly $6 billion, when it is also facing the prospect of satisfying potentially tens of billions of dollars in federal court judgments held by Cuban-Americans, whose claims have been valued as high as $94 billion.

National Council of the Churches of Christ in the USA

Office of the
General Secretary

URGENT ATTENTION: FOREIGN POLICY AIDE

September 19, 1995

Dear Representative:

I write on behalf of the National Council of Churches of Christ in the USA (NCC) **to urge your opposition to the Cuban Liberty and Democratic Solidarity bill, H.R. 927, which is scheduled to be considered on the House floor this week.** We believe strongly that contrary to its stated objectives, the bill is likely to provoke a negative response that will harm efforts to achieve peaceful social, economic, and political change in Cuba.

The National Council of Churches and many of its member denominations have maintained a decades-long relationship of pastoral accompaniment with the Protestant churches of Cuba. Through Church World Service (CWS) -- our relief, refugee, and development program -- the NCC has assisted for more than thirty years in the resettlement in the U.S. of Cuban asylum seekers and refugees. Over the past four years CWS has carried out regular shipments of humanitarian assistance that is administered through the Cuban Ecumenical Council for use in nursing homes and childrens' hospitals.

On numerous occasions the NCC has called on the U.S. and Cuban governments to engage in dialogue aimed at resolving the long-standing conflict between our countries. In particular, we have urged measures that would foster greater communication and understanding between people in the U.S. and Cuba, which we view as key to achieving a more normal relationship.

Our deep concerns about the Cuban Liberty and Democratic Solidarity Act include the following:

1. By incorporating in U.S. policy recognition of property claims of Cubans who became U.S. citizens subsequent to the expropriation of their property, and by subjecting to sanctions anyone who "traffics" in such property, the bill is likely to strengthen hard-liners within the Cuban government and fuel renewed anti-U.S. sentiment among the Cuban population. This provision is likely be interpreted within Cuba as a move to return to the economic and social situation that existed there prior to the 1959 revolution. There is little or no support for such a move within Cuba, even among the most vehement critics of the current regime.

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2. The bill specifies conditions for the expansion of U.S. assistance that are likely to undermine diplomatic efforts to achieve a peaceful resolution of the conflict between the U.S. and Cuba. By linking broader U.S. assistance to Cuba to a highly specific set of conditions, the bill reduces significantly the diplomatic tools available to the Administration. At the same time, the bill fails to broaden humanitarian or exchange programs that foster stronger people-to-people relationships.

3. The bill reinforces regulations promulgated in August 1994 that restrict travel and shipment of goods to family members. These new restrictions have led to serious delays in efforts to secure licenses for travel to Cuba. The ability to travel to Cuba on short notice is particularly important to the pastoral accompaniment of the Protestant churches during this difficult period of transition. [Oscar: other problems resulting from the new regulations?]

The NCC believes that a new approach to U.S. - Cuban relations is long overdue. The Cuban Liberty and Democratic Solidary Act represents a further deepening of an anachronistic policy in serious need of change. **I strongly urge you to oppose H.R. 927 and to support efforts to bring about more normal relations between the U.S. and Cuba.**

Sincerely,

Joan B. Campbell

Joan Brown Campbell
General Secretary
National Council of Churches
of Christ in the U.S.A.

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ROBERT L. MUSE (DC)

VIRGINIA OFFICE:
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September 20, 1995

Senator W. Cohen
United States Senate
Washington, D.C. 20515

Re: "The Cuba Liberty and Democratic Solidarity Act"

Dear Senator:

My client Amstar, along with thousands of other U.S. citizen holders of claims certified against Cuba in the 1960's by the Foreign Claims Settlement Commission, will suffer devastating economic injury if Title III of Senator Helm's bill (formerly S. 381) is passed as an amendment to the Foreign Operations Appropriations Bill. It is for this reason that I am writing.

It is absolutely false that Title III has been revised in ways that make it no longer violative of both international law and the rights and interests of U.S. citizens holding claims certified against Cuba pursuant to the 1964 Cuba Claims Act. As you know, Title III allows lawsuits to be brought in the federal courts against Cuba and private individuals either living in or doing business in that country with respect to properties taken from their owners for the most part thirty-five years ago. Damages are recoverable against Cuba and others for treble the current value of those properties. Contrary to international law, it makes no difference under Title III whether a litigant was a U.S. citizen at the time the property in Cuba was taken. Indeed Title III is specifically designed to give subsequently naturalized Cuban Americans statutory lawsuit rights against Cuba of a type that we as a nation have never before given anyone else - even those who were U.S. citizens at the time of their foreign property losses.

Title III of Senator Helm's amendment will produce the following consequences if enacted in its present form:

* Our federal courts will be deluged in Cuba-related litigation. On August 28, 1995 the *National Law Journal* (attached) reported that 300,000 - 430,000 lawsuits are to be expected from Cuban Americans if Title III is enacted. According to judicial impact analysts at the Administrative Office of the U.S. Courts each of these suits will average

$4,500 in costs, whether they go to trial or not. Therefore the administrative costs to the courts alone of Title III will reach nearly $2 billion

* If we enact Title III those 5,911 claimants certified under the 1964 Cuban Claims Act will see their prospects of recovering compensation from an impoverished Cuba diluted to virtually nothing in a sea of Cuban American claims (To put this matter into context, the Department of State has estimated Cuban American property claims at nearly $95 billion). It is critical that it be understood that a claim certified by the Foreign Claims Settlement Commission constitutes a property interest [1] If Congress enacts Title III with the foreseeable effect of destroying the value of the $6 billion (according to State Department figures) in claims held by American citizens, it should expect to indemnify those citizens someday, under the Fifth Amendment's "takings clause", to the full amount of their economic injury. If Title III is made law, the American taxpayer will quite probably someday demand an explanation as to how on earth he or she has been forced to step into the shoes of the Cuban government and compensate U.S. companies and individuals for their property losses in Cuba over thirty-five years ago

* If we violate international law and long-standing U.S. adherence to that law by enacting Title III and conferring retroactive rights upon non-U.S. nationals at time of foreign property losses, history tells us that we will *not* be permitted to stop with Cuban Americans The equal protection provisions of the Constitution will not tolerate limiting the conferral of such an important benefit as a federal right of action on only one of our many national-origin groups whose members have suffered past foreign property losses If, as will surely happen, a former South Vietnamese army officer who is now a U.S. citizen sues in order to gain the same right accorded Cuban Americans to recover damages for property expropriations he suffered, who, if Title III is enacted, is prepared to say he should not have such a right? On what principled basis would such a right be denied him if given by Congress to Cuban Americans? What about Chinese Americans, Hungarian Americans, Iranian Americans, Greek Americans, Palestinian Americans, Russian Americans, Polish Americans? Are we going to claim surprise when the courts tell us that the equal protection of laws requirement of the Constitution mandates that each of these national-origin groups receive the same right of action against their former governments that we are proposing to give Cuban Americans by virtue of Title III? How many such suits might we then expect from these other national-origin groups, and at what cost to both the national treasury and our relations with the many countries that will end up being sued in our federal courts? It must also be kept in mind that U.S. companies that have invested in various countries where our naturalized citizens have property claims (e.g.

[1] See, *Shanghai Power Co. v. United States*, 4 Cl. Ct. 237, (1983) *aff'd. mem.* 765 2d 59 (Fed.Cir. 1984), *cert. denied* 474 U.S. 909 (1985).

Vietnam) will be held liable for so-called "trafficking" in those claimed properties if Title III is enacted and extended constitutionally to other national-origin groups.

* The multitude of lawsuits that will be filed pursuant to Title III will over time be converted to final judgments against Cuba, and as such will constitute a running sore problem for the United States. Title III lawsuits are explicitly made nondismissible. The fact of hundreds of thousands of Cuban American judgment creditors against Cuba will make it impossible for us to normalize relations with a friendly government in that country. Aircraft and ships would be seized, Cuban assets in the U.S. banking system would be attached, goods produced in Cuba would be executed upon when they arrive in U.S. ports - all in pursuit of recovery of billions of dollars in federal court awards. The population of Cuba (the majority of whom were not even born when the properties of the Cuban American judgment creditors were taken) will be indentured for decades to come to the judgments entered against their country on our federal court dockets. How is such a state of affairs conducive to a reconciliation between Cubans on the island and the Cuban community of the United States?

The alternative to the permanent estrangement Title III lawsuits will produce between Cuba and the United States would of course be for a U.S. president to dismiss the judgments entered against Cuba. Notwithstanding the prohibition against such executive branch action contained in Title III, it is probable that the courts will ultimately uphold the dismissals as a legitimate exercise of the presidential prerogative to conduct foreign affairs.[2] What then?

The creation of a cause of action by Congress is obviously not a trivial matter. Hundreds of thousands of Cuban Americans will quite properly avail themselves of the right of action to be given them by Title III. These cases will proceed inexorably to final judgments. (There are really no defenses available to Cuba under Title III. It is a strict liability statute). As final federal court judgments they will carry the faith and credit of the United States government, with all the rights and remedies of execution set out in our laws. What will be the consequence of the president extinguishing these judgments and their concomitant rights of execution?

Again, as in the case of certified claimants, a federal court judgment is a property interest protected by the Constitution. If that interest is extinguished by presidential order, the Fifth Amendment "takings clause" with its duty of full compensation will be triggered. If Title III is enacted it should be with full knowledge that Congress may someday be asked by the public to explain how the American people came ultimately to be liable for tens of billions of dollars of damages in recompense to a group of non-U.S. nationals at

[2] See, Dames & Moore v. Regan, 453 U.S. 654 (1981).

the time they lost properties in Cuba.[3] In a period of heightened concern for potential governmental liability under the takings clause of the Fifth Amendment, Title III should be approached with the greatest caution and seen for the liability time bomb that it is.

* A troubling aspect of Title III is its contemptuous disregard of international law. As a nation we and our citizens benefit from international law in a myriad of forms, such as overseas investment and intellectual property protection, the safety of our diplomats and sovereignty over our marine resources. Many other examples of the benefits to the United States of an international rule of law could be given. How can we in future demand compliance with international law by other nations if we are prepared to violate that very law by enacting Title III? The proponents of this legislation have never satisfactorily answered that fundamental question.

To conclude, certain proponents of Title III from outside the Senate have engaged in a campaign to minimize its significance. Boiled down, their message is that a vote for Title III is an inconsequential thing. For example, they will say that a litigant cannot or will not sue Cuba itself, but rather any actions are limited to "third party traffickers" in confiscated properties. Let there be no mistake on this point. Title III is an unprecedented federal court claims program against the nation of Cuba. Section 302 of Title III is plain and unambiguous in its meaning. It is the inescapable consequences of that meaning that the Senate must address.

Yours sincerely,

Robert L. Muse

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[3] See, *Dames & Moore v. Regan*, supra, at 688: "Though we conclude that the President has settled petitioner's claims against Iran, we do *not* suggest that the settlement has terminated petitioner's possible taking claim against against the United States." (Emphasis added). Justice Powell, concurring in part and dissenting in part, had this to say: "The Government must pay just compensation when it furthers the nation's foreign policy goals by using as 'bargaining chips' claims lawfully held by a relatively few persons and subject to the jurisdiction of our courts." Id. at 691.

JOINT CORPORATE COMMITTEE ON CUBAN CLAIMS

c/o LONE STAR INDUSTRIES, INC
300 FIRST STAMFORD PLACE
STAMFORD, CT 06912
(203) 969-8600

September 20, 1995

Dear Senator:

The Joint Corporate Committee on Cuban Claims represents more than thirty U.S. corporations with certified claims against the Government of Cuba stemming from the Castro regime's unlawful confiscation of U.S. property without just compensation. Our member corporations hold more than one-half of the $1.6 billion in outstanding certified corporate claims. On behalf of the Joint Corporate Committee, I am writing to urge you to oppose Title III of legislation Sen. Helms will offer as an amendment to the Foreign Operations Appropriations Bill because it poses the most serious threat to the property rights of the certified claimants since the Castro regime's confiscations more than thirty years ago.

The centerpiece of the Helms legislation is Title III, which creates a right of action that for the first time will allow U.S. citizens -- regardless of whether they were U.S. citizens at the time their property was confiscated in Cuba -- to file lawsuits in U.S. courts against persons or entities that "traffic" in that property, including the Government of Cuba. In effect, this provision creates within the federal court system a separate Cuban claims program available to Cuban-Americans who were not U.S. nationals as of the date of their injury. This unprecedented conferral of retroactive rights upon naturalized citizens is not only contrary to international law, but raises serious implications with respect to the Cuban Government's ability to satisfy the certified claims.

Allowing Cuban-Americans to make potentially tens if not hundreds of thousands of claims against Cuba in our federal courts may prevent the U.S certified claimants from ever receiving the compensation due them under international legal standards. After all, Cuba hardly has the means to compensate simultaneously both the certified claimants and hundreds of thousands of Cuban-Americans, who collectively hold claims valued as high as $94 billion, according to a State Department estimate. In addition, this avalanche of lawsuits undoubtedly will cloud title to property in Cuba for years, thereby lessening the prospects for restitutionary approaches in satisfaction of some of the certified claims.

Apart from the injury to the interests of U.S. certified claimants, we can reasonably anticipate that this legislation, by opening our courts to such an expansive new class of claimants, will unleash a veritable explosion of litigation that will place an enormous if not overwhelming burden on our courts. Moreover, the legislation even would allow Cuban exiles abroad to avail themselves of this lawsuit right simply by forming a corporation in the United States, transferring any claim they may have against Cuba into that U.S. corporate entity, and bringing suit in U.S. federal courts. In addition, other similarly situated U.S. nationals of various ethnic origins who have suffered property losses under similar circumstances can be expected to pursue this lawsuit right on equal protection

grounds. While it is difficult to predict with any precision the number of lawsuits that will be filed under this legislation, it is not unreasonable to conclude that they will number in the hundreds of thousands.

Finally, we must consider the impact of this lawsuit right on the ability of a post-Castro Cuban government to successfully implement market-oriented reforms. There can be little doubt that the multitude of unresolved legal proceedings engendered by this legislation will all but preclude such reform, which must be the foundation of a free and prosperous Cuba. Even should the President, as an incident of normalizing relations with a democratic Cuban government, ultimately extinguish these claims, if history is a guide, our government could assume tremendous liability to this newly created class of claimants.

In light of the pernicious implications of this legislation for the legal rights of certified claimants, an already overburdened court system, the claims settlement process and the orderly disposition of claims, and the post-Castro investment environment, we urge you to oppose the Helms amendment insofar as it contains Title III in its present form.

Sincerely,

David W. Wallace

David W. Wallace, Chairman

STATEMENT OF DAVID W. WALLACE, CHAIRMAN
JOINT CORPORATE COMMITTEE ON CUBAN CLAIMS

ON S. 381,
THE CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY ACT OF 1995

SUBMITTED TO

THE SUBCOMMITTEE ON WESTERN HEMISPHERE
AND PEACE CORPS AFFAIRS
THE COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE

JUNE 14, 1995

Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to submit this statement expressing the views of the Joint Corporate Committee on Cuban Claims with respect to S. 381, the "Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995."

The Joint Corporate Committee on Cuban Claims, of which I serve as Chairman, represents more than thirty U.S. corporations with certified claims against the Government of Cuba stemming from the Castro regime's unlawful confiscation of U.S. property without just compensation. Our member corporations hold more than one-half of the $1.6 billion in outstanding certified corporate claims. Since its formation in 1975, the Committee has vigorously supported the proposition that before our government takes any steps to resume normal trade and diplomatic relations with Cuba, the Government of Cuba must provide adequate compensation for the U.S. properties it unlawfully seized.

Although I am submitting this statement in my capacity as Chairman of the Joint Corporate Committee, I would like to note parenthetically that I also serve as Chairman and Chief Executive Officer of Lone Star Industries, Inc. Lone Star is a certified claim holder whose cement plant at Mariel was seized by the Cuban Government in 1960. Lone Star's claim is valued at $24.9 million plus 6% interest since the date of seizure.

On behalf of our Committee, I want to commend the significant contribution you have made to the debate on U.S.-Cuba policy by focusing renewed attention on the Castro regime's unlawful expropriation of U.S. property -- an issue that all too often gets lost in the debate over the wisdom of the embargo policy. Recognizing the important role that trade and investment by U.S. businesses will have in Cuba's economic reconstruction and its eventual return to the international community, evidence of concrete steps by the Government of Cuba towards the satisfactory resolution of the property claims issue must be an essential condition for the resumption of economic and diplomatic ties between our nations.

I think it is important to recall the essential reason for which the U.S. government first imposed a partial trade embargo against Cuba in 1960, followed by the suspension of diplomatic relations in 1961 and the imposition of a total trade embargo in 1962. These actions were taken in direct response to the Castro regime's expropriation of properties held by American citizens and companies without payment of prompt, adequate and effective compensation as required under U.S. and international law. This illegal confiscation of private assets was the largest uncompensated taking of American property in the history of our country, affecting scores of individual companies and investors in Cuban enterprises.

These citizens and companies whose property was confiscated have a legal right recognized in long-established international law to receive adequate compensation or the return of their property. Indeed, Cuba's Constitution of 1940 and even the decrees issued by the Castro regime since it came to power in 1959 recognized the principle of compensation for confiscated properties. Pursuant to Title V of the International Claims Settlement Act, the claims of U.S. citizens and corporations against the Cuban government have been adjudicated and certified by the Foreign Claims Settlement Commission of the United States. Yet to this day, these certified claims remain unsatisfied.

It is our position that lifting the embargo prior to resolution of the claims issue would be unwise as a matter of policy and damaging to our settlement negotiations posture. First, it would set a bad precedent by signaling a willingness on the part of our nation to tolerate Cuba's failure to abide by precepts of international law. Other foreign nations, consequently, may draw the conclusion that unlawful seizures of property can occur without consequence, thereby leading to future unlawful confiscations of American properties without compensation. Second, lifting the embargo would remove the best leverage we have in compelling the Cuban government to address the claims of U.S. nationals and would place our negotiators at a terrible disadvantage in seeking just compensation and restitution. We depend on our government to protect the rights of its citizens when they are harmed by the unlawful actions of a foreign agent. The Joint Corporate Committee greatly appreciates the steadfast support our State Department has provided over the years on the claims issue. However, we recognize that the powerful tool of sanctions will be crucial to the Department's ability ultimately to effect a just resolution of this issue.

Apart from the need to redress the legitimate grievances of U.S. claimants, we also should not overlook the contribution these citizens and companies made to the economy of pre-revolutionary Cuba, helping to make it one of the top ranking Latin American countries in terms of living standards and economic growth. Many of these companies and individuals look forward to returning to Cuba to work with its people to help rebuild the nation and invest in its future. As was the case in pre-revolutionary Cuba, the ability of the Cuban government to attract foreign investment once again will be key to the success of any national policy of economic revitalization.

However, unless and until potential investors can be assured of their right to own property free from the threat of confiscation without compensation, many U.S. companies simply will not be willing to take the risk of doing business with Cuba. It is only by fairly and reasonably addressing the claims issue that the Cuban government can demonstrate to the satisfaction of the business community its recognition of and respect for property rights.

We are pleased that S. 381 does not waver from the core principle, firmly embodied in U.S. law, which requires the adequate resolution of the certified claims before trade and diplomatic relations between the U.S. and Cuban governments are normalized. However, we are concerned with provisions of Section 207 of the revised bill that condition the resumption of U.S. assistance to Cuba on the adoption of steps leading to the satisfaction of claims of both the certified claimants and Cuban-American citizens who were not U.S. nationals at the time their property was confiscated. Notwithstanding the modifying provisions which accord priority to the settlement of the certified claims and give the President authority to resume aid upon a showing that the Cuban Government has taken sufficient steps to satisfy the certified claims, this dramatic expansion of the claimant pool, as a practical matter, would necessarily impinge upon the property interests of the certified claimants.

Even though the claimants who were not U.S. nationals at the time of the property loss would not enjoy the espousal rights that the certified claimants enjoy, the recognition of a second tier of claimants by the U.S. Government at a minimum would necessarily color, and likely make more complicated, any settlement negotiations with Cuba to the detriment of the certified claimants.

Moreover, the fact that the legislation gives priority for the settlement of certified property claims is of little consequence within the context of such a vastly expanded pool of claimants that seemingly defies a prompt, adequate and effective settlement of claims. In addition, once this second tier of claimants is recognized, it would be exceedingly difficult politically for the President to exercise his waiver authority. Finally, this dramatic expansion of the claimant pool would serve as a significant disincentive for a post-Castro Cuban Government to enter into meaningful settlement negotiations with the United States given the sheer enormity of the outstanding claims and the practical impossibility of satisfying all those claims.

In short, while we are sympathetic to the position of those individuals and entities who were not U.S. nationals at the time their property was seized, we believe that U.S. Government recognition and representation of this group of claimants -- even falling short of espousal of their claims with a post-Castro government in Cuba -- would harm the interests of the already certified claimants. We believe that the recognition of a second tier of claimants will delay and complicate the settlement of certified claims, and may undermine the prospects for serious settlement negotiations with the Cuban Government.

It is our view, based on well-established principles of international law, that individuals and entities who were Cuban nationals at the time their property was confiscated must seek resolution of their claims in Cuban courts under Cuban law under a future Cuban Government whereby the respective property rights of former and current Cuban nationals may be fairly determined. In taking that position, we categorically reject any notion that a naturalized American has any lesser degree of right than a native-born American. That objectionable and irrelevant notion serves only to cloud the real issue here, and that is simply the question of what rights are pertinent to a non-national as of the date of injury. Simply put, international law does not confer retroactive rights upon naturalized citizens.

Many of the same objections noted above also apply to Section 302 of the revised bill, which allows U.S. nationals, including hundreds of thousands of naturalized Cuban-Americans, to file suit in U.S. courts against persons or entities that traffic in expropriated property. We believe this unrestricted provision also will adversely affect the rights of certified claimants. By effectively moving claims settlement out of the venue of the Foreign Claims Settlement Commission and into the federal judiciary, this provision can be expected to invite hundreds of thousands of commercial and residential property lawsuits. Apart from the enormous, if not overwhelming, burden these lawsuits will place on our courts, this provision raises serious implications with respect to the Cuban Government's ability to satisfy certified claims.

First, allowing Cuba to become liable by way of federal court judgments for monetary damages on a non-dismissible basis necessarily will reduce whatever monetary means Cuba might have to satisfy the certified claims. Second, this expected multiplicity of lawsuits undoubtedly will cloud title to property in Cuba for years, thereby lessening the prospects for restitutionary approaches in satisfaction of some of these claims. Moreover, under this provision, the President would have no power to dismiss these suits as an incident of normalizing relations with a democratically elected government in Cuba once they are commenced. Consequently, the foreign investment that will be crucial to Cuba's successful implementation of market-oriented reforms will be all but precluded by these unresolved legal proceedings.

In conclusion, we want to commend you for your efforts in raising the profile of the property claims issue and focusing attention on the importance of resolving these claims to the full restoration of democracy and free enterprise in Cuba. We also recognize and appreciate the efforts you have made to modify this legislation in response to the concerns expressed by the certified claimant community; however, we hope that you will further consider our continuing concerns regarding the implications of this legislation for the legal rights of certified claimants, an already overburdened court system, the claims settlement process and the orderly disposition of claims, and the post-Castro investment environment.