

THE SECRETARY OF STATE  
WASHINGTON

September 20, 1995

Dear Mr. Speaker:

I am deeply concerned about H.R. 927, the Cuban Liberty and Democratic Solidarity Act, which the House is scheduled to consider this week. The Department of State believes that in its current form this legislation would damage prospects for a peaceful transition in Cuba and jeopardize a number of key U.S. interests around the world. For these reasons, I would recommend that the President veto the bill if passed by the Congress in its current form.

As you know, we share with the sponsors of the bill the goal of promoting a peaceful transition to democracy in Cuba. We have pursued that goal by maintaining a tough, comprehensive economic embargo against the Cuban government while reaching out to the Cuban people through licensing private humanitarian aid and improved telecommunications. This policy, guided by the Cuban Democracy Act, has helped to force the limited but positive economic changes that are taking place in Cuba.

We believe that H.R. 927 would actually damage prospects for a peaceful transition. We have consistently objected to the overly rigid list of more than a dozen "requirements" for determining when a transition or a democratic government is in power. These inflexible standards for responding to what may be a rapidly evolving situation could leave the United States on the sidelines during a transition. Moreover, by failing to provide clear authority to assist even a transition or democratic government that meets the bill's certification requirements, the legislation fails to signal to the Cuban people that the United States is prepared to assist them once the inevitable transition to democracy in Cuba begins.

In addition to damaging prospects for a rapid, peaceful transition to democracy, H.R. 927 would jeopardize other key U.S. interests around the globe. For example, it would interfere with U.S. assistance to Russia and other nations of the former Soviet Union. Other provisions would condition assistance to any country if it -- or even a private entity in its territory -- participates in the completion of a nuclear power plant in Cuba. This kind of rigid conditioning of

The Honorable  
Newt Gingrich, Speaker,  
House of Representatives.

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assistance can have far-reaching consequences and may interfere with our ability to advance the national interest.

While we are firmly committed to seeking the resolution of U.S. property claims by a future Cuban government, the right created by the bill to sue in U.S. courts persons who buy or invest in expropriated U.S. properties in Cuba ("traffickers") is a misguided attempt to address this problem. Encumbering property in Cuba with litigation in U.S. courts is likely to impede our own efforts to negotiate a successful resolution of U.S.-citizen claims against Cuba and could hamper economic reform efforts by a transitional government in Cuba. U.S. citizens and corporations with certified claims have publicly opposed these provisions. In addition, these provisions would create tensions in our relations with our allies who do not agree with the premises underlying such a cause of action. This stance would be hard to defend under international law. Furthermore, we know that this provision is already being used by the Castro regime to play on the fears of ordinary citizens that their homes and work places would be seized by Cuban-Americans if the regime were to fall.

Title III will also ultimately prove harmful to U.S. business. First, it sets a precedent that, if followed by other countries, would increase litigation risks for U.S. companies abroad. Second, it will create a barrier to participation by U.S. businesses in the Cuban market once the transition to democracy begins. Because the lawsuits contemplated by the bill may be brought against the United States as well as foreign companies and are not terminated until the rigid requirements for a democratic Cuban government are satisfied, the bill erects an enormous legal hurdle to participation by U.S. businesses in the rebuilding of a free and independent Cuba.

Finally, the provisions of the bill that would deny visas to "traffickers" in expropriated property, which are global in scope and not limited to Cuba, will create enormous frictions with our allies and be both burdensome and difficult to administer.

In sum, the Department of State believes that while the goals of H.R. 927 are laudable, its specific provisions are objectionable and in some cases contrary to broader U.S. interests, even to the goal of establishing democracy and a free market in that country with active U.S. involvement. Given these considerations, the Department of State can not support the bill and, if it were presented to the President, would urge a veto.

Sincerely,



Warren Christopher