

**EXECUTIVE CALENDAR -- (Senate - March 16, 2006)**  
[109th] [S.AMDT.3166](#) to [S.CON.RES.83](#)

Mr. ENSIGN. Mr. President, I ask unanimous consent the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 319

(Purpose: To encourage multilateral cooperation and authorize a program of assistance to facilitate a peaceful transition in Cuba, and for other purposes)

At the end of the bill, add the following:

**TITLE XXIX--PEACEFUL TRANSITION IN CUBA**

**SEC. 2901. SHORT TITLE.**

This title may be cited as the ``Cuba Transition Act of 2005".

**SEC. 2902. FINDINGS.**

Congress makes the following findings:

- (1) The Cuban people are seeking change in their country, including through the Varela Project, independent journalist activity, and other civil society initiatives.
- (2) Civil society groups and independent, self-employed Cuban citizens will be essential to the consolidation of a genuine and effective transition to democracy from an authoritarian, communist government in Cuba, and therefore merit increased international assistance.
- (3) The people of the United States support a policy of proactively helping the Cuban people to establish a democratic system of government, including supporting Cuban citizen efforts to prepare for transition to a better and more prosperous future.

(4) The Inter-American Democratic Charter adopted by the General Assembly of the Organization of American States (OAS) provides both guidance and mechanisms for response by OAS members to the governmental transition in Cuba and that country's eventual reintegration into the inter-American system.

(5) United States Government support of pro-democracy elements in Cuba and planning for the transition in Cuba is essential for the identification of resources and mechanisms that can be made available immediately in response to profound political and economic changes on the island.

(6) Consultations with democratic development institutions and international development agencies regarding Cuba are a critical element in the preparation of an effective multilateral response to the transition in Cuba.

### **SEC. 2903. PURPOSES.**

The purposes of this title are as follows:

(1) To support multilateral efforts by the countries of the Western Hemisphere in planning for a transition of the government in Cuba and the return of that country to the Western Hemisphere community of democracies.

(2) To encourage the development of an international group to coordinate multilateral planning to a transition of the government in Cuba.

(3) To authorize funding for programs to assist the Cuban people and independent nongovernmental organizations in Cuba in preparing the groundwork for a peaceful transition of government in Cuba.

(4) To provide the President with funding to implement assistance programs essential to the development of a democratic government in Cuba.

### **SEC. 2904. DEFINITIONS.**

In this title:

(1) **DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA.**--The term ``democratically elected government in Cuba" has the meaning given the term in section 4 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6023).

(2) **TRANSITION GOVERNMENT IN CUBA.**--The term ``transition government in Cuba" has the meaning given the term in section 4 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6023).

### **SEC. 2905. DESIGNATION OF COORDINATOR FOR CUBA TRANSITION.**

(a) *In General.*--The Secretary of State shall designate, within the Department of State, a coordinator who shall be responsible for--

(1) designing an overall strategy to coordinate preparations for, and a response to, a transition in Cuba;

(2) coordinating assistance provided to the Cuban people in preparation for a transition in Cuba;

(3) coordinating strategic support for the consolidation of a political and economic transition in Cuba;

(4) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in this title; and

(5) pursuing coordination with other countries and international organizations, including international financial institutions, with respect to assisting a transition in Cuba.

(b) *Rank and Status of the Transition Coordinator.*--The coordinator designated in subsection (a) shall have the rank and status of ambassador.

#### **SEC. 2906. MULTILATERAL INITIATIVES RELATED TO CUBA.**

The Secretary of State is authorized to designate up to \$5,000,000 of total amounts made available for contributions to international organizations to be provided to the Organization of American States for--

(1) Inter-American Commission on Human Rights activities relating to the situation of human rights in Cuba; and

(2) the funding of an OAS emergency fund for the deployment of human rights observers, election support, and election observation in Cuba as described in section 109(b) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6039(b)(1)).

#### **SEC. 2907. SENSE OF CONGRESS.**

(a) *Sense of Congress Regarding Consultation With Western Hemisphere.*--It is the sense of Congress that the President should begin consultation, as appropriate, with governments of other Western Hemisphere countries regarding a transition in Cuba.

(b) *Sense of Congress Regarding Other Consultations.*--It is the sense of Congress that the President should begin consultations with appropriate international partners and governments regarding a multilateral diplomatic and financial support program for response to a transition in Cuba.

**SEC. 2908. ASSISTANCE PROVIDED TO THE CUBAN PEOPLE IN PREPARATION FOR A TRANSITION IN CUBA.**

(a) *Authorization.*--Notwithstanding any other provision of law other than section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1) and comparable notification requirements contained in any Act making appropriations for foreign operations, export financing, and related programs, the President is authorized to furnish an amount not to exceed \$15,000,000 in assistance and provide other support for individuals and independent nongovernmental organizations to support democracy-building efforts for Cuba, including assistance for--

- (1) political prisoners and members of their families;
- (2) persons persecuted or harassed for dissident activities;
- (3) independent libraries;
- (4) independent workers' rights activists;
- (5) independent agricultural cooperatives;
- (6) independent associations of self-employed Cubans;
- (7) independent journalists;
- (8) independent youth organizations;
- (9) independent environmental groups;
- (10) independent economists, medical doctors, and other professionals;
- (11) establishing and maintaining an information and resources center to be in the United States interests section in Havana, Cuba;
- (12) prodemocracy programs of the National Endowment for Democracy related to Cuba;
- (13) nongovernmental programs to facilitate access to the Internet, subject to section 102(g) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6032(g));
- (14) nongovernmental charitable programs that provide nutrition and basic medical care to persons most at risk, including children and elderly persons; and

(15) nongovernmental charitable programs to reintegrate into civilian life persons who have abandoned, resigned, or been expelled from the Cuban armed forces for ideological reasons.

(b) *Definitions.*--In this section:

(1) **INDEPENDENT NONGOVERNMENTAL ORGANIZATION.**--The term "independent nongovernmental organization" means an organization that the Secretary of State determines, not less than 15 days before any obligation of funds to the organization, is a charitable or nonprofit nongovernmental organization that is not an agency or instrumentality of the Cuban Government.

(2) **ELIGIBLE CUBAN RECIPIENTS.**--The term "eligible Cuban recipients" is limited to any Cuban national in Cuba, including political prisoners and their families, who are not officials of the Cuban Government or of the ruling political party in Cuba, as defined in section 4(10) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6023(10)).

#### **SEC. 2909. SUPPORT FOR A TRANSITION GOVERNMENT IN CUBA.**

(a) *Authorization of Appropriations.*--In addition to funds otherwise available for such purposes, there are authorized to be appropriated such sums as are necessary to the President to establish a fund to provide assistance to a transition government in Cuba as defined in section 4(14) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6023(14)).

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(b) *Designation of Fund.*--The fund authorized in subsection (a) shall be known as the "Fund for a Free Cuba".

(c) *Availability of Funds.*--Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

#### AMENDMENT NO. 320

(Purpose: To amend chapter 118 of title 18, United States Code, to prohibit foreign war crimes prosecutions of Americans)

At the end of title IV, add the following:

#### **SEC. 405. PROHIBITION OF WAR CRIMES PROSECUTION.**

(a) *In General.*--Chapter 118 of title 18, United States Code, is amended by adding at the end the following: "§2442. International criminal court

“(a) *Offense.*--Except as provided in subsection (b), it shall be unlawful for any person, acting under the authority of the International Criminal Court, another international organization, or a foreign government, to knowingly indict, apprehend, detain, prosecute, convict, or participate in the imposition or carrying out of any sentence or other penalty on, any American in connection with any proceeding by or before the International Criminal Court, another international organization, or a foreign government in which that American is accused of a war crime.

“(b) *Exception.*--Subsection (a) shall not apply in connection with a criminal proceeding instituted by the government of a foreign country within the courts of such country with respect to a war crime allegedly committed--

“(1) on territory subject to the sovereign jurisdiction of such government; or

“(2) against persons who were nationals of such country at the time that the war crime is alleged to have been committed.

“(c) *Criminal Penalty.*--

“(1) **IN GENERAL.**--Any person who violates subsection (a) shall be fined not more than \$5,000,000, imprisoned as provided in paragraph (2), or both.

“(2) **PRISON SENTENCE.**--The maximum term of imprisonment for an offense under this section is the greater of--

“(A) 5 years; or

“(B) the maximum term that could be imposed on the American in the criminal proceeding described in subsection (a) with respect to which the violation took place.

“(d) *Extraterritorial Jurisdiction.*--There is extraterritorial jurisdiction over an offense under this section.

“(e) *Civil Remedy.*--Any person who is aggrieved by a violation under subsection (a) may, in a civil action, obtain appropriate relief, including--

“(1) punitive damages; and

“(2) a reasonable attorney's fee as part of the costs.

“(f) *Definitions.*--In this section--

“(1) the term ‘American’ means any citizen or national of the United States, or any other person employed by or working under the direction of the United States Government;

“(2) the term ‘indict’ includes--

“(A) the formal submission of an order or request for the prosecution or arrest of a person; and

“(B) the issuance of a warrant or other order for the arrest of a person,

by an official of the International Criminal Court, another international organization, or a foreign government;

“(3) the term ‘International Criminal Court’ means the court established by the Rome Statute of the International Criminal Court adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on July 17, 1998; and

“(4) the term ‘war crime’ means--

“(A) any offense now cognizable before the International Criminal Court; and

“(B) any offense hereafter cognizable before the International Criminal Court, effective on the date such offense becomes cognizable before such court.”.

(b) *Clerical Amendment.*--The table of sections in chapter 118 of title 18, United States Code, is amended by adding at the end the following:

“Sec..2442..International criminal court.”.