

# CHALLENGES FOR U.S. POLICY TOWARD CUBA

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## HEARING

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS

UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

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OCTOBER 2, 2003

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THURSDAY, OCTOBER 2, 2003

U.S. SENATE,  
COMMITTEE ON FOREIGN RELATIONS,  
*Washington, DC.*

The committee met, pursuant to notice, at 2:32 p.m. in room SD-419, Dirksen Senate Office Building, Hon. Richard G. Lugar (chairman of the committee), presiding.

Present: Senators Lugar, Chafee, Allen, Enzi, Coleman, Dodd, and Bill Nelson.

The CHAIRMAN. This hearing of the Senate Foreign Relations Committee is called to order. Today the committee meets to examine United States policy toward Cuba. This is a particularly opportune time to address the subject because something new is happening in Cuba. Little noticed by outsiders, a courageous and diverse pro-democracy movement has quietly risen above the ramparts of Castro's repression. Independent journalists are doing their best to provide alternative views. Individuals are opening their homes and personal libraries to their communities. Independent labor unions are documenting violations of worker rights. Cuba's more than 300 political prisoners and their families are now getting help from human rights groups, part of the citizen's groundswell that is relying on its own initiative to seek peaceful emancipation from a totalitarian state. The most public expression of this movement is the Varela Project, launched by Oswaldo Payá using a provision of the constitution that allows citizens to request a popular referendum. Payá, a leader of the home-grown Christian Liberation Movement, collected more than 11,000 signatures on a petition asking the government to hold a vote on establishing more democratic freedoms.

But instead of granting the petition, Castro's submissive National Assembly refused to recognize it. The government rounded up some 75 activists, many directly connected to the Varela Project, named for the 19th century reformer, Father Felix Varela. After sham trials, the activists were given sentences ranging from 6 to 28 years. The Castro regime punctuated its crackdown by executing three Cubans accused of attempting to hijack a boat and flee the country.

If Castro thought the war in Iraq would distract the world from these actions, he was wrong. The United States denounced him, as did most of Latin America, the European Union, the Vatican, the International Council of Free Trade Unions, and a number of foreign governments and intellectuals, including many who normally

overlook Castro's outrages or make hay criticizing United States policy toward Cuba.

This combination of a re-energized international community and a vigorous dissident movement on the island itself presents the United States with an opportunity to promote the forces of freedom and reunite the civilized world against Fidel Castro's policies. I believe that our current Cuba strategy has not worked. More than 40 years of diplomatic isolation and economic embargo have not toppled Castro, brought democracy to the island, or improved the daily lives of average Cubans. The Helms-Burton law, passed in 1996, has failed to deter third countries from investing in Cuba. Too often our Cuba policies have isolated us from our European and Latin American allies and reinforced Castro's efforts to convince many of his people that the United States holds a grudge against them.

Opening up to Cuba now, however, would send the wrong signal, appearing to reward Castro for his crackdown and it would be too divisive here at home. But the current policy is not our only option. Adjustments can be made that leverage our relationships with both Europe and Latin America and support the aspirations of the freedom-seeking democrats in Cuba.

This approach is based on three principles. First, the United States should expand its support for the pro-freedom forces in Cuba by boosting our program that gives them short-wave radios and books, by raising the power of Radio Marti's signal, and by bringing more dissidents to the United States for cultural exchanges.

Second, we should work with Europe, Latin American countries, and the Organization of American States to reach out to political activists. In the past, many of our allies have neglected Cuba's democrats because they disagree with larger U.S. policy, but the Varela crackdown has awoken others to the dissidents' plight. At the same time, we should narrowly focus our combined pressure on Castro and his inner circle to end their human rights abuses.

Third, at an appropriate time we should consider implementing a rational end to travel restrictions to let more ideas flow into the country. We must think beyond the fruitless war of attrition that has only served to make Castro a folk hero in some parts of the world and to distract American policymakers from issues of greater or equal importance in Latin America. By focusing on human rights instead of Cuba, we will convince skeptical allies in this hemisphere and in Europe that our policy is pro-democracy and not simply anti-Castro.

The 77-year old cold war dinosaur's days are surely numbered. A transition is inevitable and we should begin to prepare now. This 3-point policy will help that transition by encouraging a new generation of Cuban leaders to talk to one another and to listen to their people, a dialog through which they are bound to find common ground among the glaring failures of the dilapidated regime.

This afternoon, three impressive panelists have joined us to discuss Cuba policy. First, our colleague, Senator Max Baucus, who recently traveled to Cuba, will present his legislation that lifts restrictions on trade to Cuba. In the second panel, representing the administration, we have Assistant Secretary of State for Western Hemisphere Affairs, Roger F. Noriega, and the Director of the

Treasury Department's Office of Foreign Assets Control, R. Richard Newcomb. On our third panel, we will hear from José Miguel Vivanco, executive director of Human Rights Watch's, Americas Division; Emilio González, senior managing director for global and governing affairs at the law firm of Tew Cardenas, and formerly the Director of Central American and Caribbean Affairs on the National Security Council; and Bernard Aronson, the managing partner of ACON Investments, and formerly the Assistant Secretary of State for Western Hemisphere Affairs.

We welcome these distinguished witnesses. It's a special privilege to have you with our committee today, Senator Baucus. Let me just note the colleagues who have joined us, including Senator Coleman, the chairman of our Latin American affairs subcommittee and Senator Enzi who has played quite a role and has deep interests in this, and obviously Senator Nelson, an outspoken person of interest in this subject. I hope others will join us.

As the distinguished ranking member joins us we will of course recognize him for his statement. He is busy, I am advised, on the floor. And I would say for the benefit of all members, there will be a rollcall vote as I understand it at 3:15. The committee will recess at that point, we hope without too much inconvenience to our witnesses, and reassemble immediately after the rollcall vote.

[The opening statement of Senator Lugar follows:]

#### OPENING STATEMENT OF SENATOR RICHARD G. LUGAR

Today the Foreign Relations Committee meets to examine U.S. policy toward Cuba. This is a particularly opportune time to address this subject because something new is happening in Cuba. Little-noticed by outsiders, a courageous and diverse pro-democracy movement has quietly risen above the ramparts of Castro's repression. Independent journalists are doing their best to provide alternate views, individuals are opening their homes and personal libraries to their communities, independent labor unions are documenting violations of workers rights. Cuba's more than 300 political prisoners and their families are now getting help from human rights groups, part of a citizens' groundswell that is relying on its own initiative to seek peaceful emancipation from a totalitarian state.

The most public expression of this movement is the Varela Project, launched by Oswaldo Paya using a provision of the constitution that allows citizens to request a popular referendum. Paya, a leader of the homegrown Christian Liberation Movement, collected more than 11,000 signatures on a petition asking the government to hold a vote on establishing more democratic freedoms.

But instead of granting the petition, Castro's submissive National Assembly refused to recognize it. The government rounded up some 75 activists, many directly connected to the Varela Project, named for the 19th Century reformer Father Felix Varela. After sham trials, the activists were given sentences ranging from 6 to 28 years. The Castro regime punctuated its crackdown by executing three Cubans accused of attempting to hijack a boat and flee the country.

If Castro thought the war in Iraq would distract the world from these actions, he was wrong. The United States denounced him, as did most in Latin America, the European Union, the Vatican, the International Council of Free Trade Unions and a number of foreign governments and intellectuals, including many who normally overlook Castro's outrages or make hay criticizing U.S. policy toward Cuba.

This combination of a re-energized international community and a vigorous dissident movement on the island itself presents the United States with an opportunity to promote the forces of freedom and reunite the civilized world against Fidel Castro's policies.

I believe that our current Cuba strategy has not worked. More than 40 years of diplomatic isolation and economic embargo have not toppled Castro, brought democracy to the island, or improved the daily lives of average Cubans. The Helms-Burton law, passed in 1996, has failed to deter third countries from investing in Cuba.

Too often our Cuba policies have isolated us from our European and Latin American allies and reinforced Castro's efforts to convince many of his people that the

U.S. holds a grudge against them. Opening up to Cuba now, however, would send the wrong signal, appearing to reward Castro for his crackdown, and it would be too divisive here at home. But the current policy is not our only option. Adjustments can be made that leverage our relationships with both Europe and Latin America and support the aspirations of the freedom-seeking democrats in Cuba.

This approach is based on three principles. First, the United States should expand its support for the pro-freedom forces in Cuba, by boosting our program that gives them short-wave radios and books, raising the power of Radio Marti's signal, and bringing more dissidents to the United States for cultural exchanges. Second, we should work with Europe, Latin American countries, and the Organization of American States to reach out to political activists. In the past, many of our allies have neglected Cuba's democrats because they disagree with larger U.S. policy, but the Varela crackdown has awoken others to the dissidents' plight. At the same time, we should narrowly focus our combined pressure on Castro and his inner circle to end their human rights abuses. Third, at an appropriate time, we should consider implementing a rational end to travel restrictions to let more ideas flow into the country.

We must think beyond the fruitless war of attrition that has only served to make Castro a folk hero in some parts of the world and to distract American policy makers from issues of equal or greater importance in Latin America. By focusing on human rights inside Cuba, we will convince skeptical allies in this hemisphere and in Europe that our policy is pro-democracy, and not simply anti-Castro. The 77-year-old Cold War dinosaur's days are numbered. A transition is inevitable, and we should begin to prepare now. This three-point policy will help that transition by encouraging a new generation of Cuban leaders to talk to one another and to listen to their people, a dialog through which they are bound to find common ground among the glaring failures of the dilapidated regime.

This afternoon, two impressive panels have joined us to discuss Cuba policy. Representing the administration, we have Assistant Secretary of State for Western Hemisphere Affairs, Roger F. Noriega, and the Director of the Treasury Department's Office of Foreign Assets Control, R. Richard Newcomb.

On our second panel we will hear from José Miguel Vivanco, executive director of Human Rights Watch's Americas Division; Emilio González, senior managing director for Global and Government Affairs at the law firm of Tew Cardenas and formerly the Director of Central American and Caribbean Affairs on the National Security Council; and Bernard Aronson, the managing partner at ACON Investments and formerly the Assistant Secretary of State for Western Hemisphere Affairs. We welcome you all and look forward to your insights.

The CHAIRMAN. Yes, Senator Nelson.

Senator NELSON. Thank you, Mr. Chairman. I just wanted to underscore what you have said that here we are in a time when we see the beginnings of the breaking out of the shackles that have enveloped that island for decades. We see this courageous band of people headed by Oswaldo Payá. They go out and get over 11,000 signatures under the auspices of the Cuban constitution to petition to the national assembly so freedom of speech, free and fair elections, free enterprise, can be brought as items to the national assembly. And not only does the Government of Cuba, Castro's Cuba, ignore the legal procedures that were followed by the Varela Project in the petition, but then they do what has shocked the free world, they start throwing these people in prison with prison sentences up to 15 and 20 years in prison.

And so whereas Castro had courted favor in the capitals of Europe and was having some sympathy, suddenly others realized that his true colors were coming out. Then just to make matters worse, when some people are trying to escape for freedom, they catch them, they bring them back, they execute them, and then lo and behold another group trying to escape, they are sent back from the clutches of our government to go back and they are sentenced up to 10 years. And so a combination of all these things, it seems to me, Mr. Chairman, that I would raise the same issue as you. Whatever we try to do in changing our policy, we don't want to be per-



ceived that we are rewarding these kinds of unacceptable behavior by Castro and his government. Thank you, Mr. Chairman.

The CHAIRMAN. I thank the Senator.

Senator Enzi, do you have a statement?

Senator ENZI. Mr. Chairman, I have a statement as well but I'd be willing to defer to the Senator from Montana.

Senator BAUCUS. Mr. Chairman, I'm willing to defer to my colleague, a member of the committee.

Senator ENZI. Yes, Mr. Chairman, I'd like to make a statement.

The CHAIRMAN. Proceed.

Senator ENZI. I thank you for holding this hearing and I thank you for your comments and also the comments of the Senator from Florida. To your list of things that need to be done, we probably need to have some kind of provision so that if we do catch people that have escaped from Cuba we don't send them back to Cuba, but perhaps find some country that would be willing to harbor them that we could send them to as an alternative.

But for my statement, there's an old saying that I think we're all familiar with that fits the theme of this hearing pretty well. It says that even though it isn't always possible to change the whole world you can always use what influence you have on whatever's before you. Today we have before us our continued review and discussion of our policy about Cuba.

The title of our hearing is "Challenges to U.S. Policy Toward Cuba." We will be taking a look at the challenges to our current policy that come from within our own country and those that come from without, most notably from Castro and his own policies. There is no question that the behavior of Castro and the Cuban Government has presented a strong challenge to our policy for Cuba for many years.

In a word, his conduct has been deplorable. He's refused to provide the most basic of human rights to his people. He's refused to allow his people the right to exercise the most basic of human rights and freedom. He tries to do everything he can to control what the people of his country see and hear. He also tries to make the United States his scapegoat for everything that goes wrong in his country and his people always seem to believe him, but who can blame them? Who can they ask or turn to for another opinion? Most of them have never known anything else but Castro, and when he does something wrong we punish him in ways that serve more to punish the people of Cuba than Castro himself.

There is another level of challenges to our policy with Cuba. They come from within our own government, from the administration, and from the Members of Congress who believe as I do that the time has come for a change in our policy toward Cuba beginning with just the travel policies. When we introduced the Freedom to Travel to Cuba Act on April 30, 2003, we were prepared for the questions that were soon to follow. We presented our case fairly and pointed out the need for change based on a philosophy my father used to call "if you keep on doing what you've always been doing, then you're going to wind up with what you've already got," 40 years of already got.

He was right. It's foolish to do the same thing over and over again and expect different results every time. In fact, if we were

to let someone impartial to help us out with this one, he'd ask us what our policy toward Cuba was, and when we explained it, he'd just ask one simple question: Is it working for you? Is it getting you what you want? That's when we'd have to realize why we must change our policy with Cuba, because our current policy isn't working. In fact, it hasn't been working for a very long time, for us or for the people of Cuba, and it's driving other countries to help Cuba. It's not widening the gap, it's narrowing it, for him.

Brazil just extended \$400 million in credit. The curious thing is why it's taken us so long to figure that out. Clearly we need a different policy, one that goes further than embargos, one that replaces a needlessly restrictive travel policy with one that not only works but encourages increased communications between our people and the people of Cuba, one that offers the Cuban people a chance that their human rights might increase in the process.

We now have 29 Senators supporting the Freedom to Travel to Cuba Act. While this hearing is not going to formally address this issue, I don't think there's any denying that it's an important part of the mix. The greatest resource we have for change and for promoting change in other countries is for our people to travel there. I like to think of our people as ambassadors for freedom. When people in other countries have a chance to interact with their own people and come to know them, they'll realize the great gift that freedom is and how it could change their lives, if only their government would permit its expression. With policy change and people to people, we project a fear that freedom of communication will pull the wool over American eyes, that we won't be able to see the live communism. That goes against history.

If we're truly serious about bringing change to the Cuban Government, we would promote every policy option we can to ensure that change comes from within Cuba. Our ambassadors of freedom can help do that by increasing Cuban people's idea of what is possible for them to achieve and to be as a nation. That's how we brought down the Berlin Wall, not by closing everything off.

There was a time when we thought we could close our eyes to the problems of the rest of the world and just live our lives in the safety and security of our borders. We then learned the harsh lessons of what happens when we refuse to get involved in the problems of the rest of the world. As we've all heard, those to whom much is given, much is expected. There is no question that we have all been given much. We are truly blessed to call ourselves American citizens. There is also much expected of us from around the world. Much is also expected of us by the people who live on an island less than 100 miles from our shore. We must not and will not ignore their expectations. We will also not ignore our responsibilities to our neighbors. Thank you again for holding this hearing.

The CHAIRMAN. Thank you, Senator Enzi.

Senator Coleman, the chairman of our subcommittee that deals with Latin America, has just returned from a visit to Cuba. Do you have a comment?

Senator COLEMAN. I will be brief but I would like to add my voice, Mr. Chairman. First, I associate myself with your comments in your opening statement and actually with the comments of my

friend and colleague, Senator Enzi. We traveled to Cuba, we're going to change Cuba, I have no question about that. I have been a believer that the best way to promote democratic change is increase travel, no question about that, but, and here's the but, I just got back from Cuba and I met with the wife of Roberto de Miranda, sentenced to 20 years for organizing a teachers' union, signing the Varela Project. I learned about Pedro Alvarez Ramos, a labor organizer sentenced to 25 years. I met with the wife of Oscar Espinosa Chepe, independent economist, failing health, served 20 years.

And I have to tell you that I can't remember their faces and look in their eyes and say now is the time we're going to travel, we're going to open up travel, that Castro has to let those people go. There has to be a firm commitment to human rights. This is no longer about what other countries do and no longer about philosophical arguments, no longer about the economic benefits. These are human beings who are suffering, who are suffering right now, and we can either choose to say that we're going to stand with them and the tradition we have for human rights or not.

And if Castro were to do that I would stand in line and say, let's start traveling, let's start trading, let's start doing some things. But until he does and those people are still sitting there for 20, 25, 28 years, it would not be conscionable to support getting rid of the travel ban right now.

[The prepared statement of Senator Coleman follows:]

PREPARED STATEMENT OF SENATOR NORM COLEMAN

NOW IS NOT THE TIME FOR MORE TRADE, TRAVEL WITH CUBA

The future of U.S. policy toward Cuba is bound in two tides of change.

First is the momentum building in the United States to engage with Cuba. U.S. policy toward Cuba over the last 40 years has not brought change. Castro has outlasted eight U.S. Presidents, and in the post-cold war world, Cuba no longer poses a strategic threat to us. Americans have recognized Cuba as a potential market for our agricultural goods—which under a 2000 law can be exported to the island. My colleague and friend Senator Mike Enzi has introduced a bill in the Senate that would lift the restrictions against Americans traveling to Cuba. Senator Baucus, whom I also hold in high regard for his strong stance in favor of trade, has introduced legislation that would end the U.S. trade embargo against Cuba.

The other growing tide is the demand for human rights for the people of Cuba. Cuba is no paradise. Cubans lack the right to free speech, to free association, or to free enterprise. The sheer numbers of Cubans leaving for our shores speak to the disastrous state of human rights on the island. Last year at great personal risk, over 30,000 Cubans signed a petition, the Varela Project, calling for a referendum on democracy and human rights in Cuba. The Cuban Government responded with a wave of repression, arresting over 75 leading dissidents. This crackdown drew harsh criticism from even those who had been most tolerant of Castro's government.

Like many other Americans, I have believed that the best way to promote change in Cuba is through increased trade and travel—a position that put me at odds with the administration. With this view in mind—but also with great concern over the crackdown which began this spring—I recently traveled to Cuba.

I met with Cuban officials and had satisfactory discussions about the opportunities for agricultural sales from my State of Minnesota. During each of these meetings, I also raised my concerns about human rights.

I spent time with the other face of Cuba, too. I visited with some of the few leading dissidents who are not in prison—Oswaldo Payá of the Varela Project, and Elizardo Sanchez and Vladimiro Roca of Todos Unidos, an umbrella group for various human rights organizations. And I met with the wives of some of Cuba's political prisoners.

One woman told me about the arrest of her husband, Roberto de Miranda, and his sentencing to 20 years for organizing a teachers' union and for signing the Varela Project petition. I learned about Pedro Alvarez Ramos, a labor organizer,

who was sentenced to 25 years in a prison some 265 miles from his family's home in Havana. Oscar Espinosa Chepe, an independent economist and journalist, was sentenced to 20 years and is suffering from chronic liver disease.

I was told that these prisoners are typically held in cells 6 feet by 3 feet. Lacking cots, they sleep on the floor, beside a hole in the ground which serves as their toilet. These cells have no ventilation, which is especially difficult given Cuba's climate.

Trying to remain in contact with their husbands was another source of heartache for the women. After traveling hundreds of miles for scheduled meetings with their husbands—in a country where few people own automobiles—their husbands' captors often cancel the appointments for no apparent reason. Scheduled telephone calls are similarly called off.

I continue to believe that both tides of change are inevitable. Thanks to the brave efforts of people like Mr. Payá and others, Cuba will change someday. And I am equally certain that America will one day lift its embargo and travel restrictions.

I want to go back to Cuba. I want to enjoy its beautiful beaches and to engage its warm and welcoming people. I want 2 million Americans tourists to spend money in Cuba and lift up its economy—but not while Chepe, de Miranda, and many others serve Jurassic prison sentences for seeking freedom.

America should end its embargo on Cuba when the Government of Cuba ends its embargo on its own people. Mr. Castro, let your imprisoned dissidents go—and when you do I will gladly join the chorus of people seeking to end the travel ban and trade embargo.

The CHAIRMAN. I thank the Senator.

Senator Allen, I understand you have a statement.

Senator ALLEN. Yes. Mr. Chairman, thank you for holding this hearing as we examine this contentious, spirited issue and examine our relationship with Cuba and actions that might warrant any changes. I have a statement that I'd like to have put in the record.

The CHAIRMAN. It will be put in the record in full.

Senator ALLEN. And I'll paraphrase. Listening to my colleagues' statements here, the recent crack-down by Castro's regime on democratic activists in the midst of the military actions over in the Middle East with our country, he probably thought nobody was going to be paying attention. But even those countries that have been somewhat of apologists for Fidel Castro found that even appalling.

The principal approach that I think the administration and Mr. Noriega will be explaining to us I think makes a great deal of sense. When you talk about travel, the reality is travel to Cuba, and what influence would Americans have and if they had American money and American trade, as if we are the only country in the world with any wealth, of any goods, or of any products. There are people from every country in the world that visit Cuba, not every, but many from Europe, from Canada.

What has all this done to change Fidel Castro and his repressive regime? These are people from democratic countries. They may not always agree exactly with us, but nevertheless these are free countries. This has had absolutely no impact whatsoever on his repression, on his persecution of individuals. Then when you look at the details of tourism and supposedly being ambassadors the vast majority of Cuban citizens are barred from entering into these tourist resorts or hotels.

There's a practice called tourist apartheid. It is a crime if a Cuban citizen, if you actually wanted to have some influence over the selective members who can go to one of these places for tourists, criticize the Castro's regime to a foreigner. That's punishable by 3 years in prison. Workers at the tourist resorts get their jobs because of their loyalty to the Communist party and have a lot of

their wages taken by the regime. They are paid in dollars, but they get paid in the Cuban money and it's an unfair exchange rate.

There's also been assertions that black Cubans appear to be discriminated against in the tourist industry and are grossly underrepresented in the senior ranks of the Communist party of Fidel Castro.

So the point is, before we start changing our policies, rather than blaming the United States, I think that the reason there is not more trade, more tourism, more interaction and willingness of the U.S. Government to change the policies is due to the actions of Fidel Castro, who continues his tyrannical, repressive regime. They are also a state sponsor of terrorism, and on the list from the State Department.

And so I would hope that we'd stand firm for freedom and make the changes conditional on the changes and the advancement of individual and human rights for the people of Cuba, and when that's done, yes, we'll all be happy because Cuba's a beautiful island with great resources, a great history before these last several decades, and it would be great if they had some opportunity and prosperity, but most importantly, a better way of life than under this regime, which unfortunately has gone on for too many years.

And for us to apologize, to ignore the dissidents, who normally we would consider to be people who are just expressing their rights or wanting to leave or wanting to make a change peaceably, petitioning their government, we as Americans, of all countries in the world, need to stand strong for freedom and stand for individual rights of the people of Cuba, and that's what I hope that we'll continue to do and pressure that regime to somehow get a scintilla of enlightenment. Thank you, Mr. Chairman.

[The prepared statement of Senator Allen follows:]

PREPARED STATEMENT OF SENATOR GEORGE ALLEN

Thank you Mr. Chairman for holding this hearing. The Cuba policy of our country always draws spirited and vigorous debate, so it is important to revisit the topic periodically to examine whether the actions or policies of the Castro regime warrant a change in U.S. policy.

I would first like to commend Secretary Noriega for his clear and in my view accurate assessment of the situation in Cuba. Clearly, the recent crackdown on democratic activists has shocked our international colleagues from the apathy with which they have treated Castro's brutal and tyrannical regime.

The recent events in Cuba offer a unique opportunity for the United States to garner greater support from the international community to exact meaningful democratic reforms in Cuba. Castro has long been able to isolate the United States for its Cuba policies, now it appears Cuba has vastly overestimated the depth of support it enjoys around the globe and now faces opposition from once friendly countries.

In seizing this new found support for change in Cuba I believe the United States must do all it can to help those brave Cubans openly defying the Castro regime. There is a groundswell for reform in Cuba; we saw a hint of it when the Varela Project garnered the signature of over ten thousand Cubans calling for a popular vote on democratic reforms.

Castro's fear of this movement was on full display when he arrested approximately seventy-five independent journalists and reform activists. To no one's surprise, these dissidents were not provided due process, faced mock trials and were sentenced to jail terms ranging from six to twenty-eight years.

I believe the plan put forward by Secretary Noriega represents an effective and principled policy for the U.S. to pursue towards Cuba.

We all agree that the desired goal of any Cuba policy is to advocate for a representative government and basic human rights. However, in achieving that goal the U.S. should not compromise the principles on which it was founded. We cannot

turn a blind eye to repression or the continued degradation of the rights of the individual. In achieving our goal, we must remain consistent in our message and resolute in our actions.

As Secretary Noriega has stated, our strategy for change should center on helping those inside Cuba working for change, continuing to highlight the gross human rights violations that take place under the Castro regime and continuing to urge our allies in both the Americas and around the world to hold Castro responsible for these acts of violence and repression.

We should not however, make any concessions to the Castro regime until real changes are permitted to take place in Cuba.

It is often argued that the United States should remove the existing travel ban to Cuba. Proponents for such a policy contend that when U.S. citizens begin traveling to Cuba they will influence and augment reform from within. It is supposed that our democratic principles and love of freedom will rub off on the Cuban people who will demand a representative government and basic human rights.

To this argument, I would point out that Canadians and Europeans have been traveling to and trading with Cuba for decades, and their presence as citizens of democracies has done little to bring change or reform to Cuba. When foreigners visit Cuba to vacation, rarely do they interact with Cuban citizens. Instead they are whisked off the resorts on the coasts of the island and are isolated from the circumstances under which most Cubans live.

I am highly skeptical of this strategy for exacting change in Cuba. Since it took power in Cuba in 1960, the Castro regime has tyrannically repressed the will of the Cuban people. I frankly do not see any credible evidence that by encouraging Americans to visit Cuba, and handing U.S. dollars to the Cuban Government, the lives of the Cuban people will improve or expedite a change in government.

Our Cuba policy should reflect a desire to stand with the Cuban people and advocate for their individual rights and well-being. In doing so, I would advise great care to not legitimize or perpetuate a system that fails to provide its people neither sustenance nor freedom.

The United States has taken the correct and principled position on Cuba. I do not believe we should change this policy until the Castro regime takes a definitive step towards respecting the rights and freedoms of the Cuban people.

The CHAIRMAN. Thank you, Senator Allen.

Senator Chafee, do you have an opening statement?

Senator CHAFEE. No, Mr. Chairman.

The CHAIRMAN. Very well.

Senator Baucus, thank you very much for coming and we look forward to your testimony.

**STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR FROM MONTANA, RANKING MEMBER, COMMITTEE ON FINANCE, U.S. SENATE**

Senator BAUCUS. Thank you, Mr. Chairman. I must say this has been a very interesting discussion here. I've had a great time just sitting and listening to various points of view, and I think they're points that are well-expressed and well-articulated and I thank all Senators for being so directly involved.

Thank you, Mr. Chairman, for the opportunity to appear today, and I want to also thank you personally for your continued leadership, not only on this major issue, that is trying to find a solution, but on the issue of sanctions, generally it's something that you've been involved with for many years, and many deeply appreciate that. I also want to thank Senator Enzi, Senators Dodd and Hagel and others on this committee for their ongoing leadership on the issue of Cuban sanctions. They spent a good bit of time on this.

This hearing comes at an important time. Last spring, the Cuban Government, as has been noted, arrested and imprisoned 75 dissidents whose only crime frankly was speaking freely, and I, along with members of this committee, led efforts to condemn those ac-

tions. It's outrageous the actions that President Castro took and the crackdown was certainly unacceptable, and here in Congress those on both sides of the embargo battle immediately denounced the arrests. That's a no-brainer.

But beyond these immediate denunciations, there was a second, more puzzling reaction in Washington. Somehow, people saw the arrests as a vindication of the embargo policy rather than as an indictment of its failings. They fell back into the mistake of thinking U.S. policy ought to be built around a system of rewards and penalties for Castro.

Some people, including many of my good friends in the Congress who believe in engagement, concluded that to ease the embargo now would only be a reward for Castro for bad behavior. I respectfully would strongly disagree. This is not about rewarding Castro. It's about changing Cuba, about how best to change Cuba. Let's remember the embargo has been in place for more than four decades and it has not worked. The arrests in March were not unique, they were merely the latest in a 40-year-old record of oppression in Cuba.

Moreover, many dissidents were reported and arrested because the Cuban Government was concerned about their meetings with Americans. In other words, the arrests indicate that the Cuban Government fears increasing contact between dissidents and Americans. If that's the case, we should not reward Castro by maintaining a failed embargo, that only shelters his regime from American influence. If the Cuban Government fears contact between the American and Cuban people, the answer is to send more Americans, not fewer.

Alternatively, the so-called carrot-and-stick approach forces an odd logic. Under its rationale, one would have to believe that a continuation of the embargo would have some new and positive effect on conditions in Cuba. That makes no sense, it has not worked. Current U.S. policy is broken, it needs to be fixed.

I support engagement in Cuba because I think it's the best way to effect democratic change in Cuba. Is engagement good for Americans also? Of course it is, in many ways. The benefits for American farmers are obvious. Lifting travel restrictions and the increased farm sales that would occur would create more jobs and improve the economy, not only in my State but every other in the union.

Let's also remember that Castro is doing just fine under our embargo. If we want to maintain, for example, the travel ban in the name of supporting dissidents, well that's fine with him. In fact, perhaps that's exactly what he wants us to do. And if I'm correct, then the arrests of 75 dissidents ought to create a greater sense of urgency in Congress to reform our failed and counterproductive embargo.

Three weeks ago I traveled to Cuba. I met with officials from the Cuban Government, I met with Cuban dissidents, including Oswaldo Payá, as has been referred to here, and the wives of several jailed dissidents. I have the highest regard for them. They are some of the most courageous persons I've had the privilege to meet. We've talked about the Varela Project and under the constitution all that he is attempting to accomplish. It's very courageous the actions that he is taking.

But more than anything else I was also struck by the devastation wrought on the Cuban people by the past four decades of Communist dictatorship, which has decimated the Cuban economy. Responsibility for the terrible poverty and oppression imposed on the Cuban people rests entirely with the current regime. Nevertheless, the U.S. embargo, however well-intentioned, has done nothing to improve these conditions, and if anything the embargo appears to have exacerbated the isolation and powerlessness of the Cuban people.

Democratic change in Cuba must begin with the Cuban people and U.S. policy can have a profound effect on whether or not the Cuban people are adequately empowered to undertake such momentous change, but a carrot-and-stick approach is tantamount to giving Castro a veto over U.S. policy. If he wants a warming in our relationship then he'll do something nice. If he's getting nervous and thinks we're too close he'll go and arrest more people. He's controlling us. He's dictating our policy. We're not firm in U.S. policy with respect to Cuba.

To hold off engagement simply as a carrot for him to release one or two dissidents or to embrace the status quo because we think it will induce change is a mistake, is a delusion. I know we all share the same goal, helping the Cuban people achieve independence. I know there are different opinions on this committee and I respect that deeply, but 43 years of sanctions have accomplished nothing. We must move beyond the politics of the issue and press for change.

Mr. Chairman, as you were speaking, I listened closely to what you were saying. I essentially agree with your points. You mentioned a 3-point policy, if I heard you correctly, that is, Radio Marti and with the people, working with our allies to work perhaps with dissidents, with other countries, and third, you said, assuming the first two seem to have some effect then we could think about our travel ban and our embargo.

This issue reminds me so much of the same general issue we had with China 10 years ago. At that point, the U.S. Congress was engaged in big debates. Should we condition MFN on an annual basis, that is, should we condition continuing most favored nation status to China on China's adherence to human rights? That was the issue, huge issue, huge debate. And, Mr. Chairman, it was my thought, and it was the minority view at the time, but I respectfully think it turned out to be the better view, is that, no, we should not condition MFN on human rights abuses in China, because that just makes it more difficult. China cannot agree to cut back significantly on human rights. They'd have to save face in order to get the MFN treatment.

Rather, the better approach is to engage China. China is a different country, we're a different country. China's not a friend, it's not an enemy, it's a separate country. We have interests, they have interests. We have to work with China, we have to engage China. We work on the issues where we agree as well as the issues where we disagree. And in this case we finally dispensed with the annual conditional treatment of MFN with China. We passed a PNTR, permanent trade relationship with China, and at the same time focused on human rights issues in China. We didn't forget human



rights, we kept focusing on them. And I will say today I think as a consequence this United States has a much better relationship with China today than it would have had it not done so, that is, if we'd kept up this annual MFN treatment, which frankly was, I think, bankrupt at the time.

And it's analogous to this situation. Castro is Castro. Cuba is Cuba. The United States is the United States. Other countries trade with Cuba. Other countries don't have travel bans with Cuba, we do. Are we effecting change in Cuba? No way with these travel bans. Will we effect more change in Cuba by lifting the travel bans and embargo, yet at the same time progressively working on human rights abuses in China? I say yes. I say that's a better approach because it allows countries to work with you, they want to work with you more under those terms, you're not pushing them in the corner, which makes it publicly for them to change their views. Rather, you're letting them do something that they in some cases want to do, maybe not entirely in this case, but we have more influence, I think, with the approach that I'm suggesting.

[The prepared statement of Senator Baucus follows:]

PREPARED STATEMENT OF SENATOR MAX BAUCUS, U.S. SENATOR FROM MONTANA  
AND RANKING MEMBER OF THE SENATE FINANCE COMMITTEE

Thank you very much for the opportunity to appear before you this afternoon. Mr. Chairman, thank you for your continued leadership not only on this issue, but on the issue of sanctions generally. I also want to thank Senators Enzi, Dodd, Hagel, and others on this committee for your ongoing leadership on the issue of Cuba sanctions.

This hearing comes at an important time. Last spring, the Cuban Government arrested and imprisoned 75 dissidents, whose only crime was speaking freely. I, along with members of this committee, led efforts to condemn those actions. The crack-down in Cuba was unacceptable. And here in Congress, those on both sides of the embargo debate immediately denounced the arrests.

Yet, beyond these immediate denunciations, there was a second, more puzzling reaction in Washington. Somehow, people saw the arrests as a vindication of the embargo policy, rather than as an indictment of its failings. They fell back into the mistake of thinking U.S. policy ought to be built around a system of rewards and penalties for Castro. Some people, including many of my good friends in Congress who believe in engagement, concluded that to ease the embargo now would only reward Castro for bad behavior.

I respectfully, but strongly, disagree. This is not about rewarding Castro. It is about changing Cuba. The embargo has been in place for more than four decades, and it has not worked. The arrests in March were not unique. They were merely the latest in a forty-four year record of oppression.

Moreover, many dissidents were reportedly arrested because the Cuban Government was concerned about their meetings with Americans. In other words, the arrests indicate that the Cuban Government fears increasing contacts between dissidents and Americans. If that is the case, we should not reward Castro by maintaining a failed embargo. That only shelters his regime from American influence. If the Cuban Government fears contact between the American and Cuban people, the answer is to send more Americans, not fewer.

Alternatively, the so-called "carrot-and-stick" approach forces an odd logic. Under its rationale, one would have to believe that a continuation of the embargo would have some new and positive effect on the conditions in Cuba. This makes no sense. I support engagement, because I think it's the best way to effect democratic change in Cuba. Castro is doing just fine under our embargo. If we want to maintain—for example—the travel ban in the name of supporting dissidents, then that's fine with him. In fact, perhaps that's exactly what he wants us to do. And if I am correct, then the arrests of 75 dissidents ought to create a greater sense of urgency in Congress to reform our failed and counter-productive embargo.

Three weeks ago, I traveled to Cuba. I met with officials from the Cuban Government, and I met with Cuban dissidents—including Oswaldo Payá and the wives of three jailed dissidents. More than anything, I was struck by the devastation

wrought on the Cuban people by the past four decades. Communist dictatorship has decimated the Cuban economy. Responsibility for the terrible poverty and oppression imposed on the Cuban people rests entirely with the current regime.

Nevertheless, the U.S. embargo, however well-intentioned, has done nothing to improve these conditions. If anything, the embargo appears to have exacerbated the isolation and powerlessness of the Cuban people. Democratic change in Cuba must begin with the Cuban people. And U.S. policy can have a profound effect on whether or not the Cuban people are adequately empowered to undertake such momentous change. But a “carrot-and-stick” approach is tantamount to giving Castro a veto over U.S. policy. If he wants a warming in our relationship, then he’ll do something nice. If he’s getting nervous, and thinks we’re too close, he’ll go and arrest more people. To hold off engagement simply as a “carrot” for him to release one or two dissidents, or to embrace the status quo because we think it will induce change, would be a mistake.

I know we all share the same goal—helping the Cuban people achieve independence. I know there are different opinions on this committee and I respect that. But 43 years of sanctions have accomplished nothing. We must move beyond the politics of this issue and press for change. I appreciate the chance to testify today. And I again thank the chairman, both for holding this important hearing, and for agreeing to mark up Senator Enzi’s and my travel legislation later this year.

The CHAIRMAN. Senator Baucus, we thank you very much for that testimony. Let me say on behalf of the committee we thank you for your friendship with this committee. As the leader on the Finance Committee, you and Senator Grassley over the years have been good friends. We likewise want to have a very good relationship with your committee, because so many of our interests—

Senator BAUCUS. They do overlap.

The CHAIRMAN [continuing]. Cross over.

Senator BAUCUS. They do.

The CHAIRMAN. Particularly in the trade areas as well as in international and domestic taxation, so I thank you for taking this time and preparing the statement today.

Senator BAUCUS. And I thank you, Mr. Chairman, very much for allowing me to take the time.

The CHAIRMAN. The chair would like to recognize now two distinguished members of the administration, the Honorable Roger F. Noriega, Assistant Secretary of State for Western Hemisphere Affairs, and Mr. R. Richard Newcomb, Director of the Office of Foreign Assets Control, Department of the Treasury.

Let me mention before the testimony of these witnesses that committee chairs received notice that the rollcall vote has now been pushed back to 3:45 p.m., I mention that just as a mental footnote. If there are future announcements, the chair will make them promptly so that members will have some idea of our status. But this does give us a longer period of time to hear the testimony of our witnesses and to commence the questioning of them.

Mr. Noriega, very good to have you and I’ll ask you to testify first and then Mr. Newcomb.

**STATEMENT OF HON. ROGER F. NORIEGA, ASSISTANT SECRETARY OF STATE FOR WESTERN HEMISPHERE AFFAIRS, U.S. DEPARTMENT OF STATE, WASHINGTON, DC**

Mr. NORIEGA. Thank you very much, Mr. Chairman. I appreciate the opportunity to be here to talk about this very important topic that’s important to all of us. In preparing my testimony, Mr. Chairman, I asked that we emphasize our constructive, proactive measures to help the Cuban people move toward a much brighter future

rather than dwell on our differences, which does little to improve the lives of the Cuban people. Now more than ever we have an opportunity to cooperate on our common objective of freedom for Cuba.

Mr. Chairman, I hasten to note at the outset that the Cuban people do not today accept the excuses of the regime for denying them basic freedom and well-being. They know very well that their family and friends in this country do more to help them than any group of people on the face of the Earth. Two million foreigners visit the island of Cuba every year and the proceeds of that travel go to the regime, not to the people, and the impact on Cuban policies is absolutely negligible, which was evidenced by the recent crackdown.

We all agree that the Cuban people will be best served by an end to the Cuban dictatorship, followed by a full transition of democracy characterized by open markets and respect for human rights that will sweep away the vestiges of this regime.

A second point I'd like to make from the start, which relates directly to the challenges to achieving a transition, is that the recent events in Cuba have opened the eyes of many people around the world to the true nature of the Castro regime. That Castro runs a dictatorship that denies the Cuban people basic rights was not a surprise to any of us, but for many it was a revelation, which moved them to jump off the bandwagon and to activism against the regime.

Finally, we must consider Cuba in the context of a region that has changed dramatically in recent decades, as you know full well, Mr. Chairman, a transition to which you contributed greatly in the Americas. While the rest of the hemisphere continues to work on its future by building representative democracy, expanding economic development, and increasing regional cooperation, the Castro regime remains a dictatorial anachronism, stuck in a bankrupt Marxist past suffocating in its own rhetoric. Quite out of place with the Americas, Castro is an implacable foe of democracy, reform, and economic progress.

Our hemisphere is the first in the world to agree unanimously that in the words of the Inter-American Democratic Charter, which was signed on September 11, 2001, the peoples of the Americas have a right to democracy and that "democracy is essential for the social, political, and economic development of the peoples of the Americas." The charter indicates "the obligation of governments to protect and defend democracy."

The growing international consensus on the nature of the Castro regime and the need for change manifests itself in many ways. Many of those who stood by Castro in those early days have now disassociated themselves in the wake of the crackdown. Nobel Prize-winning Portuguese novelist Jose Saramago, a dedicated Communist and previously an admirer of the Cuban revolution, put it succinctly, reacting to Castro's crackdown: "This is as far as I go. To dissent is a right." Noted Chilean author and long-time Castro supporter Carlos Franz, announced last July that he was turning down the Jose Marti Journalism Prize to protest the crackdown.

As these old sympathizers make a definitive break with the regime, the regime knows that it is in a fight for its life, and that

is a fight that the regime is going to lose. In a superb analysis and call for action published in the Washington Post on September 21, four Eastern European former Presidents, Vaclav Havel, Arpad Goncz, and Lech Walesa, each a product of his own country's progress from repression to democracy, said that in the wake of the repression, "the voices of free-thinking Cubans are growing louder and that is precisely what Castro and his government must be worried about."

For the first time in 20 years, Mr. Chairman, the world is no longer obsessed with debating the U.S. embargo, but has no choice but to focus on the dictatorship that is the object of our policy. There is virtual unanimity in the United States that the Cuban people will be better off the day Castro slips into history. While we do not all agree on the tactics to hasten that day, I think it is logical to reserve any further concessions to be used to motivate a transitional government to remove the vestiges of a corrupt old dictatorship and commit to the most profound economic and political reforms.

We advance none of our goals by making further unilateral concessions to a decrepit dictatorship. At a time when other nations are moving to pressure Castro, Mr. Chairman, this is not the appropriate time to be giving him a \$1 billion windfall that would come from U.S. tourism today. That is a windfall that we should reserve to help the Cuban people, not their jailer.

Despite some differences of opinion, I am confident that we can use our common energies to promote shared objectives, such as finding more creative, more effective ways to help the Cuban people prepare for a happier future without Castro.

Last year, President Bush offered to match steps toward freedom and more open markets by the Cuban Government with steps to ease the embargo and travel restriction. Predictably, the Government of Cuba rejected this proposal and followed up by jailing Cubans who dared to think about their future. Mr. Chairman, we must help those brave people through actions designed to accelerate and shape the democratic changes that the people of Cuba seek. Toward that end, the United States is maintaining and augmenting our support for Cuba's growing civil society. Our aim, Mr. Chairman, is not to engage Fidel Castro, but the other 11 million Cubans who are part of Cuba's future.

Much has already been done in this area, as you know well. We need to redouble our efforts in this climate of increased repression, bringing in new Cuban and international actors into this process. We are also increasing efforts to break the information blockade that Castro has on his own people. Steps have already been taken to improve the effectiveness of the freedom broadcasting to Cuba through the Martis, through innovative and new technical measures.

We are maintaining international and multilateral momentum against the regime to bring about fundamental change that will pressure the regime itself. We will work with foreign governments, with regional parliaments, with political party internationals, with the Organization of American States, with other international organizations, to build a consensus for change in Cuba. Maintaining our pressure on human rights issues generally, including by working

with like-minded governments to achieve a stronger, clearer U.N. Human Rights Commission resolution on Cuba this year will be a very important objective of this government.

We are also raising our profile in the public diplomacy and public affairs arenas, particularly to transmit our message of support for the Cuban people for rapid and effective change in Cuba and reaching out to groups like labor organizations around the world that want to defend their brother workers on the island of Cuba. I believe it is critical to augment our outreach to Congress on developments in Cuba with respect to our policy and I'm committed to a regular dialog with you and your colleagues to accomplish this objective.

We will continue to work to make sure that travel by Americans to Cuba is consistently supportive of our policy goals in Cuba. We have begun this process by eliminating and refining some license categories, working with Treasury's OFAC and other involved agencies. We will seek enforcement actions against those who travel in violation of U.S. law. Mr. Chairman, I note that about 200,000 American citizens visit the island legally every year. Some of them do so for genuine useful purposes that are contemplated in the law, educational, scientific, technical exchanges of that kind. We recently discovered a group leaving Havana that was talking about their wonderful golf tournament that they took part in under a religious license, and I know that some golfers are religious about their golf game, but that is beyond the pale when it comes to exploiting the Cuban island and in violation of U.S. law.

In these days of acute national security concerns, we have taken a number of actions to confront the challenges of Cuban espionage against the United States by insisting that Cuba's representatives are authentic diplomats and not spies who are here to do us harm.

In conclusion, Mr. Chairman, let me again quote from Havel, Walesa, and Goncz. "The internal opposition is getting stronger, it has not been brought to its knees by the police round-up last March. times are changing, the revolution is getting old and the regime is getting nervous." I couldn't agree more.

Mr. Chairman, now is not the time to offer unilateral concessions that might buy the regime one more terrible day in power. It is a debatable proposition. Perhaps it will bring about change to make unilateral concessions to a regime on its last legs, but it's a very risky proposition, the price for which the Cuban people themselves will pay. Instead, we need to continue building on the multilateral coalition for change that is emerging and to reach out our hand to the courageous men and women in Cuba who will one day see their efforts come to fruition and build Cuba's future. Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Noriega follows:]

PREPARED STATEMENT OF HON. ROGER F. NORIEGA, ASSISTANT SECRETARY OF STATE  
FOR WESTERN HEMISPHERE AFFAIRS, U.S. DEPARTMENT OF STATE

Thank you for inviting me to discuss United States policy toward Cuba. I'm delighted to have this opportunity to address this important topic. One point I'd like to make from the start, which relates directly to the challenges to achieving a transition: recent events in Cuba have opened the eyes of many around the world to the true nature of the Castro regime.

That Castro runs a dictatorship which denies Cubans their basic rights was not a surprise to us. But for many, it was a revelation, and one that has helped us all—

Americans, and our allies around the world—to recognize that we all agree that the Cuban regime has betrayed its people politically and failed them economically. We recognize that the Cuban people will be best served by an end to the dictatorship, followed by a full transition to democracy characterized by open markets and the respect for human rights. Our commitment to helping Cubans achieve genuine democracy is an important unifying concept, drawing us together on an issue more often marked by disagreements.

#### THE WESTERN HEMISPHERE TODAY

While the rest of the hemisphere continues to work on its future by building representative democracy, expanding economic development and increasing regional cooperation, the Castro regime remains a dictatorial anachronism, stuck in a bankrupt Marxist past, suffocating in its own rhetoric.

I recall when working on Latin America in the late 1980s, the State Department produced a map which showed the continent in 1979 versus 1989, with countries ruled by dictatorships marked in red, democracies in blue. Literally dozens of countries had gone from authoritarian rule to democratic governance. Some achieved this feat despite assaults by violent leftist insurgencies. Despite all the challenges that face our region today, the incredible achievements of the 1980s cannot be denied.

The same map today continues to reveal the obstinate and destructive resistance to change by the Cuban regime. The Castro regime has passed up opportunities to reform, because the Castro brothers hope to retain power until they die. In the past 18 months, Fidel Castro has engineered a constitutional amendment declaring “socialism,” immutable; indicated his intention to remain in power until forced from office, including by death, explicitly denied that Cuba will move to open markets, and staged the most sweeping crackdown on peaceful advocates of change in the history of Cuba.

Castro is an implacable foe of democracy, reform, and economic progress, and his continued presence as head of a government in our region is offensive in our democratic region. Our hemisphere is the first in the world to agree unanimously that, in the words of the Inter-American Democratic Charter, “the peoples of the Americas have a right to democracy” and that “democracy is essential for the social, political, and economic development of the peoples of the Americas.” The Charter indicates the “obligation to protect and defend” democracy.

Our hemisphere will be a safer, happier place when Castro leaves the scene, whether by natural processes or, as is the goal of U.S. policy, as the result of the will of the Cuban people and the concerted action of advocates of peaceful change in Cuba.

#### CHALLENGES TO MULTILATERAL CONSENSUS

The growing international consensus on the nature of the regime and the need for change plays out in many contexts: many of those who had stood by Castro in those early days have now begun to speak out publicly against the abuses of his regime. Even before the regime’s ruthless repression of civil society in March of this year, President Lula of Brazil said in late 2002, “Let’s not confuse the passion that my generation has for the Cuban revolution and what it represented then with any approval of the Cuban regime today. I defend religious freedom, freedom for trade unions and political freedom.”

Nobel Prize-winning Portuguese novelist Jose Saramago, a dedicated Communist and previously an admirer of the Cuban revolution, put it succinctly reacting to Castro’s crackdown: “This is as far as I go . . . to dissent is a right.”

Noted Chilean author and long-time Castro supporter Carlos Franz announced last July that he was turning down the Jose Marti Journalism Prize, which the regime sought to award him, as a way of protesting the March crackdown of civil society. He said he could not accept a journalism award purported to support freedom of expression because among the dissidents imprisoned in Cuba, there were a number of authors and some 20 newsmen.

The critical factor in the coalescence of this unprecedented multilateral consensus on Cuba was that egregious act of repression. Rather than detail the injustices of the Cuban regime’s repression here, I would direct the Committee to the superb Amnesty International report, “Essential Measures? Human Rights Crackdown in the Name of Security,” which is an extremely complete and credible depiction of the mechanism of Castro’s brutality. It is important to note that the Cuban regime’s actions were not a sign of strength, but of fear—fear of its own people and fear that it will not survive Castro’s demise. As the noted exiled Cuban academic Juan Antonio Blanco recently pointed out, the regime convicted people to lengthy jail sentences for owning a decrepit typewriter to send a simple message: it will treat Cu-

bans who seek their fundamental freedoms peacefully “with same implacable rigor with which it smashed earlier armed opposition to the revolution.” The regime knows that it is in a fight for its life.

This is a fight that the regime will lose. In their superb analysis and call for action published in the Washington Post on September 21, former eastern European Presidents Vaclav Havel, Arpad Goncz and Lech Walesa, each a product of his own country’s progress from repression to democracy, said that, even in the wake of the repression, “the voices of free-thinking Cubans are growing louder, and that is precisely what Castro and his government must be worried about.”

That repression provoked our European and some Latin American allies to denounce the regime in some of the most dramatic and compelling terms ever. Latin American nations led the effort at 2003 Human Rights Commission to win approval for a resolution on Cuba.

There has been an unrelenting drumbeat of criticism and demands for justice since Castro’s brutal acts took place. In March, the European Union (EU) condemned the arrests of the 75. On April 30, the European Commission decided to postpone indefinitely Cuba’s bid to join the Cotonou agreement, a preferential trade pact. On June 5 the EU announced its decision to implement the following actions: limit bilateral high-level governmental visits, reduce the profile of member states’ participation in cultural events, and invite Cuban dissidents to national-day celebrations.

In April, the Inter-American Commission on Human Rights stated its profound concern about violations of Cubans’ rights by the regime, and in May, 17 OAS member states, including 14 of Cuba’s Latin American neighbors, issued a declaration citing the arrest and severe sentencing of 75 Cuban citizens who were exercising their fundamental rights. In April, the UNCHR resolution on Cuba passed, calling for a visit to Cuba by a personal representative of the U.N. High Commissioner for Human Rights. The Cuban Government refused to allow a visit. Both the Chilean House and Senate passed resolutions opposing the crackdown, as did the Central American Parliament.

There are challenges to the multilateral insistence on change. Predictably, in the wake of the crackdown, the regime tried, but failed, to excuse its repression as a justifiable reaction to the pro-democracy activities of the chief of the U.S. Interests Section, Jim Cason. Mr. Cason has done a superb job to support democratic development and civil society in Cuba. That is our policy in Cuba, and, in fact around the hemisphere. Jim was implementing bipartisan U.S. policy, and we are very proud of his work there.

Cuba failed miserably in its efforts to blame us, or by extension to “blame the victims” by implying that the opposition got what it deserved for having met with the Interests Section staff. (Indeed, part of the laughable “evidence” against the poet Raul Rivero, condemned to 20 years in Castro’s gulag, is that he owned two plastic chairs in which U.S. diplomats had once taken a seat.) Another charge against one of the convicted dissidents was that he met with a U.S. Congressman.

There are other challenges. European countries are the biggest foreign investors in Cuba, and even though Castro has of late denounced European leaders, especially Spanish President Jose Maria Aznar and Italian President Silvio Berlusconi, in the most insulting of terms, we know that some mistakenly argue that the policy of insisting on justice for the 75 prisoners of conscience somehow puts Europe “too much on the side of the United States.” Such individuals assert that Europe is most effective in pressing for change by following a distinct policy from the United States, a paradoxical position, since the essence of our policy is to promote democratic change. In any event, we believe that while the coalition within the EU for justice for the 75 will remain intact, commercial interests and this desire to be distinct from us will continue to serve as motivation for some to seek a return to the previous engagement policy.

Challenges to a multilateral approach in Latin America are complex. Again speaking with total frankness, it would have been extremely gratifying to see more Latin American governments speak up forthrightly for change in Cuba and against the repression. As the Secretary said so eloquently in Santiago in June, after the OAS General Assembly: “how could we, as a Community of Democracies which has seen what we have been able to achieve in this hemisphere over the last fifteen or twenty years, fail to speak out with respect to what Castro is doing to his people?”

It is my profound desire, and I take as a personal mission, to encourage greater involvement by Latin American governments in the quest for democracy and development in Cuba, consistent with our shared commitment as articulated in the Inter-American Democratic Charter.

For the first time in 20 years, the world is not obsessed with the U.S. embargo, but rather the dictatorship that is the object of our policy. There is virtual una-

nimity in the United States that the Cuban people will be better off the day the Castro regime slips into history. While we do not all agree on the tactics to hasten that day, I think it is logical to reserve any further concessions to be used to motivate a transitional government to remove the vestiges of the corrupt old dictatorship and commit to the most profound economic and political reforms. We advance none of our goals by making unilateral concessions to a decrepit dictatorship. Moreover, despite some differences of opinion, I hope that we can use our common energies to promote shared objectives, such as finding more creative, more effective ways to help the Cuban people prepare for a happier future without Castro.

#### U.S. PROGRAMS TO PROMOTE DEMOCRACY AND HUMAN RIGHTS

It is clear that with Castro there can be no reform in Cuba. President Bush's Initiative for a New Cuba challenged the Castro government to undertake political and economic reforms. The President made clear that his response to such concrete reforms would be to work with the U.S. Congress to ease the restrictions on trade and travel between the United States and Cuba. For the first time since the Castro regime came to power, the United States offered to match steps toward freedom and more open markets by the Government of Cuba with steps to ease the embargo and travel restrictions. Not surprisingly, the Castro regime rejected this opportunity to help move his country toward a soft landing.

The Administration will not wait for Fidel Castro to show that he is interested in change, because sadly for him and for Cuba, we don't believe that day will come. What we will continue to do is focus on actions designed to accelerate and shape the democratic changes the Cuban people seek. Toward that end, we are:

- Maintaining and augmenting our *support for Cuba's growing civil society*. Much has been done; we need to redouble our efforts in this climate of increased repression, bringing in new Cuban and international actors.
- *Increasing efforts to break the information blockade Castro has on the Cuban people*. Steps have already been taken to improve the effectiveness of the Martis through innovative new technical measures.
- *Maintaining multilateral and international momentum* against the regime's abuses and for fundamental change which will increase pressure on the regime itself. The international consensus which Castro created by revealing the true, oppressive nature of his government is the single most important new factor in the quest to encourage democratic development in Cuba. We will work with foreign governments, with regional parliaments, with political party internationals, and in all available international organizations to make clear the international community's insistence on real reform.
- *Maintaining our pressure on human rights issues generally*, including by working with like-minded governments to achieve a UN Human Rights Commission resolution on Cuba which reflects the international consensus on Cuba today.
- *Raising our profile in the public diplomacy and public affairs arenas*, particularly to transmit our message of support for the Cuban people for rapid and effective change in Cuba.
- I believe it is critical to *augment our outreach to Congress* on developments in Cuba and with respect to our policy, and I'm committed to regular discussions with the relevant committees to accomplish this.
- We will continue to work to *make sure that travel by Americans to Cuba is consistently supportive of our policy goals*. We have begun this process by eliminating and refining license categories. Working with Treasury's OFAC and other involved agencies, we will also seek enforcement actions against those who travel in violation of the law.
- We have taken a number of actions to *confront the challenges of Cuban espionage against the United States* by insisting that Cuba's representatives here are authentic diplomats and not spies.
- We continue to demand *reciprocal treatment for Cuban Interests Section staff*, compared to treatment by Cuba of our diplomats in Havana.
- The Administration remains committed to taking concrete steps, using the legal tools available to us, to *confront trafficking by foreign corporations in properties confiscated by the regime from Americans*.

#### CONCLUSION

We are in the end game of the Cuban people's long travail with dictatorship. When Pope John Paul II made his triumphant 1996 journey back to a free Nica-



ragua, he called that country's decade of oppression by a small and unrepresentative clique a "long dark night." Cuba's night has been longer and darker—but we believe we have an opportunity to help the Cuban people bring it to an end and the right policy in place to help them do so.

There is a glimmer of real hope on the horizon. Our allies, especially in Europe are insisting with us on a systematic and unprecedented way for real change. Even more encouraging is that Cubans of conscience and with a commitment to democracy and reform are working day by day for change. The crackdown did not crush the opposition, but rather has imbued remaining activists with a new sense of urgency and mission. Oswaldo Payá has said that he is reconstructing his network of civil society activists, and stories of regime abuses of ill political prisoners like Raul Rivero and Marta Beatriz Roque provide additional motivation for these Cubans of conscience. To quote again from Havel, Walesa, and Goncz, "the internal opposition is getting stronger, it has not been brought to its knees by the police round-up last March, times are changing, the revolution is getting old and the regime is getting nervous." I couldn't agree more.

Since we are in the end game, there is nothing more important than for us to stay the course. Now is not the time to experiment with perhaps well-meaning, but fundamentally misguided new tactics in Cuba which we believe would strengthen the regime, not move forward the day of fundamental reform. Instead, we need to continue building on the multilateral coalition for change, and to reach out our hand to the courageous men and women in Cuba who will one day see their efforts come to fruition. Thank you.

The CHAIRMAN. Well, thank you very much, Secretary Noriega, for your testimony.

Director Newcomb, would you give us your testimony.

**STATEMENT OF R. RICHARD NEWCOMB, DIRECTOR, OFFICE OF FOREIGN ASSETS CONTROL, U.S. DEPARTMENT OF THE TREASURY, WASHINGTON, DC**

Mr. NEWCOMB. Thank you, Mr. Chairman, for the opportunity today to address issues concerning travel and trade with Cuba. The Treasury Department's Office of Foreign Assets Control [OFAC] is currently responsible for implementing, administering, and enforcing 27 economic sanctions and embargo programs pursuant to Presidential and congressional mandates in furtherance of foreign policy and national security objectives. These programs are primarily directed at countries and groups of individuals, such as terrorists and narcotics traffickers who engage in activities that are inimical to U.S. interests.

Sanctions programs may be either comprehensive or selective, using the blocking of assets and/or trade or investment restrictions to accomplish their objectives. The embargo in Cuba is one of the oldest, most comprehensive, complicated, and challenging programs we administer, one that generates considerable interest on the part of the public. The embargo constitutes to serve as an important part of the administration's policy to support and encourage a peaceful transition to democracy and a free market in Cuba.

OFAC plays a crucial role in the implementation of administration and enforcement of this policy. Our jurisdiction extends to transactions by persons subject to U.S. jurisdiction, wherever in the world located, involving property in which Cuba or a national thereof has any interest whatever, direct or indirect. Such transactions are normally prohibited absent OFAC authorization. Because our role is focused primarily on the regulation of transactions involving persons subject to U.S. jurisdiction and not on our multilateral and bilateral relations, I defer to my colleague, Roger Noriega, to address issues arising in that context.

In February of last year, I testified before the Senate Appropriations Committee's Subcommittee on Treasury and General Government on the administration and enforcement of restrictions on travel to Cuba. Since then, the administration and OFAC in particular, have instituted a number of additional measures to facilitate authorized travel to Cuba and ensure that prohibitions against unauthorized travel are properly enforced.

In the first instance, these measures involve our efforts across the board to promote transparency, consistency, and efficiency of our administrative process. In that regard we have published two comprehensive sets of guidelines. The first sets forth criteria for submitting license applications to travel to Cuba pursuant to 11 categories of activities for which licenses may be issued. The second sets forth enforcement procedures governing OFAC's response to violation of our sanctions program, including those involving travel.

We've also taken measures to implement current foreign policy initiatives, both with respect to the President's stated commitment to facilitate humanitarian aid to Cuba and in order to curb the abuses of licenses issued for travel related to non-accredited educational exchanges, where travelers were engaging primarily in tourist activities. A decision was made to eliminate this provision. Finally, we have made progress in carrying out certain statutory mandates to facilitate travel relating to the export of agricultural commodities to Cuba and to initiate hearings before an administrative law judge on the imposition of civil penalties for engaging in unauthorized travel transactions.

Regulations prohibit most imports into the United States of Cuban origin goods as well as transactions by persons subject to U.S. jurisdiction, wherever in the world located, involving trade between third countries in Cuba. My remarks, however, will center primarily on the issue of travel since in this program the Department of Commerce retains licensing jurisdiction over most exports and re-export transactions from the United States directly to Cuba. Our primary role in this regard is to regulate the manner of financing of such exports and licensed travel transactions relating to the export of the kind exported by the Commerce Department.

Over the years Congress has been actively involved in the formulation of policy with regard to Cuba. In 1992, the Cuba Democracy Act added civil penalty authority and required the creation of an administrative hearing process for civil penalty cases and the establishment of an office in Miami to assist in administering and enforcing the Cuba program. The Cuba Liberty and Democratic Solidarity Act, also known as Libertad, required that underlying prohibitions set forth in the regulations are to remain in place until there is a transition to a democratically elected government in Cuba.

Most recently, in 2000, Congress passed the Trade Sanctions Reform Act, which we refer to as TSRA, providing for the license of agricultural commodities, medicine, and medical supplies to countries against which the United States maintains trade prohibitions. TSRA also restricts the President's discretionary authority to authorize travel-related transactions to, from, or within Cuba, to transactions related to the 11 specific types of travel activities. Any

activity falling outside these 11 categories is defined by TSRA as tourism and may not be the basis for issuing a license.

Following through on a commitment I made in the hearings last year, we published a comprehensive applications guideline on our Web site<sup>1</sup> in April of this year providing clearly articulated criteria for applying for licenses pursuant to each of the 11 categories of activities for which specific licenses may be granted. Examples are often included to provide additional guidance to applicants in furtherance of our goal to promote transparency and understanding by the public of our administrative process.

The criteria set forth in these guidelines seek to ensure that existing policy is clear and properly carried out through our licensing process. In addition, these guidelines seek to eliminate the abusive practice of allowing unaffiliated persons to travel under a license issued to another party and ensure that there exists the sufficient nexus between the qualifications of persons traveling under the authority of the license and the full time agenda of authorized activities they will engage in while in Cuba.

The largest volume of license applications processed by our office has traditionally involved travel to Cuba and by far the largest proportion of these applications, more than 90 percent, relate to visits by close relatives. The manual processing of these applications is often time-consuming and often perfunctory because of the volume of submissions and the policy support of licensing family reunification, which is considered per se humanitarian. This category of travel is handled by our Miami office, which processed nearly 20,000 such applications last year.

The remaining categories of license applications are processed in our main office here in Washington, and they involve freelance journalism, professional research, attendance at professional meetings not covered by a general license, educational exchanges involving academic study pursuant to a degree program, religious activities, participation in a public performance, clinics, workshops, athletic or other competitions or exhibitions, support of the Cuban people, humanitarian projects, information collecting relating to private foundations or research of educational institutes, informational materials, agricultural, medical exports, and other exports that are licensed, exports of medicine or medical supplies, and certain telecommunication equipment. Our office in Washington also processes other non-travel-type activities.

With the advent of these new guidelines, new streamlined procedures, and the assignment of additional staff, we are now able to process most applications not requiring interagency review within 10 days of receipt, doing better than a goal I'd set last year of 2 weeks. By far, the majority of our enforcement actions with respect to the Cuban embargo concern individuals who engage in unauthorized travel transactions relating to Cuban tourism.

We work closely with U.S. Customs service in an effort to enforce these travel restrictions. As returning Cuba travelers are identified by Customs agents and inspectors at ports of entries, those travelers who are not able to claim a general or specific license to en-

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<sup>1</sup>The Web site address for the U.S. Department of the Treasury's Office of Foreign Assets Control is: [www.treas.gov/offices/eotffc/ofac/](http://www.treas.gov/offices/eotffc/ofac/)

gage in travel-related transactions are routinely referred to OFAC for investigation and civil penalty action. Regardless of the motivation underlying the travel violation, we endeavor to enforce the law evenly and consistently in accordance with our responsibilities under the law.

In January of this year we published our economic sanctions enforcement guidelines in the Federal Register, enhancing the transparency of OFAC's administrative process by providing in a public document a procedural framework for the enforcement of economic sanctions programs. Our enforcement guidelines include a schedule of proposed civil money penalties for certain violations of the regulations, include those involving unauthorized tourist-related travel to Cuba.

Investigative findings are referred to our civil penalty branch for consideration with an administrative record containing evidence of transactions involving Cuba. In September of this year, we revised our administrative penalty procedures to afford travelers to Cuba additional opportunities to present mitigating factors for consideration before final penalty ensues. Administrative law judges will provide at the review of the penalty assessment if the right to administrative hearing has been invoked.

As a consequence of the President's May 2002 policy direction to ease restrictions on humanitarian aid and to facilitate support for civil society, we've refined and updated the licensing procedures in our guidelines. We've also prioritized this category of license applications over other travel categories and a dedicated staff for specific rapid process of these activities.

Tourism, however, in whatever form, is both inconsistent with the current policy and prohibited by the Trade Sanctions Reform Act. Our enforcement of the ban on tourist travel recently extended to the rescission of a regulatory provision implemented in 1999. This provision had originally been designed to allow structured, non-accredited educational exchanges to take place that promoted substantive, people-to-people contact between U.S. and Cuban nationals.

Our experience over the past years, however, demonstrated that persons traveling to Cuba under the authority of these licenses were engaging primarily in tourist activities that consisted at best of educational tours designed to afford Americans an opportunity to see Cuba, involving minimal substantive contact with Cuban nationals. This provision was part of a larger category of licensable educational activities under which we continue to authorize academic study in Cuba pursuant to a degree program at an accredited U.S. academic institution. Non-accredited academic educational exchanges taking outside the structured curriculum of an accredited degree, however, too often devolved into tourism.

In addition, the original policy underlying this provision was undercut by restrictions imposed by the Cuban Government on substantive open interactions between U.S. and Cuban nationals. Last year, we confirmed reports that groups traveling to Cuba under these licenses were particularly vulnerable to Cuban Government requirements for approval of their schedules and assignments to a tour guide or an escort to the group. Contacts between members of these groups and Cuban nationals were casual at best and often

limited to Cubans employed in government positions in the tourism industry. This practice subverted access to the Cuban people and diluted any meaningful educational exchange.

Despite our considerable efforts, the licenses continue to be used for tourism, plain and simple, with groups using their licenses to attract other unaffiliated parties to travel, to sightsee in Cuba under the pretext of educational exchange, a clear violation of section 910 of the Trade Sanctions Reform Act.

Mr. Chairman, this concludes my prepared remarks this afternoon and I welcome any opportunity to answer any questions you or other committee members may have. Thank you very much for the opportunity.

[The prepared statement of Mr. Newcomb follows:]

PREPARED STATEMENT OF R. RICHARD NEWCOMB, DIRECTOR, OFFICE OF FOREIGN ASSETS CONTROL, U.S. DEPARTMENT OF THE TREASURY

#### I. INTRODUCTION

Chairman Lugar, Members of the Committee,

Thank you for the opportunity today to address issues concerning travel and trade with Cuba. As you know, the Treasury Department's Office of Foreign Assets Control ("OFAC") is currently responsible for implementing, administering and enforcing 27 economic sanctions programs pursuant to Presidential and Congressional mandates in furtherance of the foreign policy and national security objectives of the United States. These programs are primarily directed at countries and groups of individuals, such as terrorist and narcotics traffickers, who engage in activities that are inimical to U.S. interests. Sanctions programs may be either comprehensive or selective, using the blocking of assets and/or trade or investment restrictions to accomplish their objectives.

The embargo on Cuba is one of the oldest, most comprehensive, complicated and challenging programs we administer, and one that generates considerable interest on the part of the public. The embargo continues to serve as an important part of the Administration's policy to support and encourage a peaceful transition to democracy and a free market in Cuba. OFAC plays a crucial role in the implementation, administration and enforcement of this policy. OFAC's jurisdiction extends to transactions by persons subject to U.S. jurisdiction, wherever in the world located, involving property in which Cuba or a national thereof has any interest whatsoever, direct or indirect. Such transactions are normally prohibited absent OFAC authorization. Because OFAC's role is focused primarily on its regulation of transactions involving persons subject to U.S. jurisdiction, and not on our multilateral and bilateral relations, I defer to my colleague from the State Department to address issues arising in that context.

In February of last year, I testified before the Subcommittee on Treasury and General Government Appropriations, Committee on Appropriations of the United States Senate, on the administration and enforcement of restrictions on travel to Cuba (the "2002 Hearings"). Since then, the Administration, and OFAC in particular, have instituted a number of additional measures to facilitate authorized travel to Cuba and ensure that the prohibitions against unauthorized travel are properly enforced.

In the first instance, these measures involve our efforts across the board to promote the transparency, consistency and efficiency of our administrative process. In that regard, we have published two comprehensive sets of guidelines. The first sets forth criteria for submitting license applications to travel to Cuba pursuant to the eleven categories of activities for which licenses may be issued. The second sets forth enforcement procedures governing OFAC's response to violations of our sanctions programs, including those involving travel to Cuba.

We have also taken measures to implement current foreign policy initiatives, both with respect to the President's stated commitment to facilitate humanitarian aid to Cuba and in order to curb the abuse of licenses issued for travel related to non-accredited educational exchanges, where travelers were engaging primarily in tourist activities. A decision was made to eliminate this provision. Finally, we have made progress in carrying out certain statutory mandates to facilitate travel relating to the export of agricultural commodities to Cuba and to initiate hearings before an

administrative law judge on the imposition of civil penalties for engaging in unauthorized travel-related transactions.

I am submitting for the record our brochure on Cuba entitled: “What You Need to Know About the U.S. Embargo,” which covers all facets of this economic sanctions program, as well as an historical overview and chronology demonstrating how the policy has shifted in the past with respect to Cuba travel.

## II. TRAVEL AND TRADE—STATUTORY UNDERPINNINGS

The Regulations prohibit most imports into the United States of Cuban-origin goods, as well as transactions by persons subject to U.S. jurisdiction wherever in the world located involving trade between third-countries and Cuba. My remarks, however, will center primarily on the issue of travel, since in this program, the Department of Commerce retains licensing jurisdiction over most export and reexport transactions from the United States directly to Cuba. OFAC’s primary role in this regard is to regulate the manner of financing of such exports and license travel-related transactions relating to exports of the kind authorized by the Department of Commerce.

When I speak about travel during the course of this testimony, I refer specifically to restrictions on “transactions related to travel,” rather than simply to “restrictions on travel.” OFAC’s jurisdiction under the Trading With the Enemy Act (“TWEA”) is to prohibit or regulate commercial or financial transactions, not travel *per se*.

The licensing criteria set forth in the Cuban Assets Control Regulations, 31 CFR Part 515 (the “Regulations”) implemented under the authority of this statute, address transactions incident to travel. OFAC’s jurisdiction under TWEA to regulate these classes of transactions has withstood judicial review and been confirmed by the United States Supreme Court in *Regan v. Wald*, 468 U.S. 222 (1984).

As you are aware, over the years, Congress has been actively involved in the formulation of policy with regard to Cuba. In 1992, the Cuban Democracy Act (the “CDA”) added civil penalty authority and required the creation of an administrative hearing process for civil penalty cases and the establishment of an OFAC office in Miami to assist in administering and enforcing the Cuba program. The Cuban Liberty and Democratic Solidarity (Libertad) Act of 1996 (the “Libertad Act”) required that the underlying prohibitions set forth in the Regulations are to remain in place until there is a transition to a democratically-elected government in Cuba.

Most recently, in 2000, Congress passed the Trade Sanctions Reform and Export Enhancement Act (the “TSRA”), providing for the licensing of agricultural commodities, medicine and medical supplies to countries against which the United States maintains trade prohibitions. TSRA also restricts the President’s discretionary authority to authorize travel-related transactions to, from, or within Cuba. Under section 910 of the TSRA, that authority is restricted to travel-related transactions related to activities “. . . expressly authorized in paragraphs (1) through (12) of section 515.560 of title 31, Code of Federal Regulations, or in any section referred to in any of such paragraphs (1) through (12) (as such sections were in effect on June 1, 2000).” Any activity falling outside of these twelve categories is defined in this section of the TSRA as “tourism” and may not be the basis for issuing a license. A synopsis of these twelve categories of activities for which travel-related transactions are authorized pursuant to a general license or that may be authorized upon the issuance of a specific license is found at page nine of OFAC’s *Comprehensive Guidelines for License Applications to Engage in Travel-Related Transactions Involving Cuba (the “Comprehensive Application Guidelines”)*, a copy of which is being submitted for the record. I will also describe these categories shortly when I discuss how license applications are processed.

## III. ADMINISTRATIVE PROCESS

### A. Licensing

Following through on a commitment I made at the 2002 Hearings, OFAC published the *Comprehensive Applications Guidelines* on its website on April 29 of this year, providing clearly articulated criteria for applying for licenses pursuant to each of the eleven categories of activities for which specific licenses may be granted. Examples are often included to provide additional guidance to applicants in furtherance of our goal to promote transparency and understanding by the public of OFAC’s administrative process. The criteria set forth in the *Comprehensive Application Guidelines* seek to ensure that existing policy is clear and properly carried out through OFAC’s licensing process. In addition, the *Comprehensive Application Guidelines* seek to eliminate the abusive practice of allowing unaffiliated persons to travel under a license issued to another party, and ensure that there exists a sufficient nexus between the qualifications of persons traveling under the authority of

a license and the full-time agenda of authorized activities they will engage in while in Cuba.

*The Miami Office:* The largest volume of license applications processed by OFAC has traditionally involved travel to Cuba, and by far the largest portion of those applications—more than 90%—relates to visits to close relatives. The manual processing of these applications is time-consuming and often perfunctory because of the volume of submissions and the policy in support of licensing family reunification, which is considered humanitarian per se. This category of travel is handled by OFAC's Miami office, which processed nearly 20,000 such applications during 2002. Again, because of the humanitarian nature of these travel requests, that office handles such requests promptly, usually completing and mailing the licensing response within 24 hours of receipt.

Another of the Miami office's primary responsibilities is to regulate certain activities of 202 entities nationwide, which are currently licensed to: (1) provide travel and carrier services to authorized travelers; and (2) remit funds to Cuban households on behalf of individuals who are subject to U.S. jurisdiction in the amounts and frequency authorized under the Regulations. Almost two-thirds of these licensed entities are headquartered in Miami.

Integral to this regulatory program is the licensing and compliance oversight of the direct charter flights to Cuba currently authorized from Miami, Los Angeles and New York to carry authorized travelers. The Miami office also investigates alleged violations of the Regulations and processes enforcement referrals from the U.S. Customs Service and the U.S. Coast Guard. I am submitting for the record a copy of OFAC's most recently issued *Circular*, setting forth guidelines applicable to the service providers.

*The Washington Office:* The remaining categories of travel-related license applications are processed at OFAC's main office in Washington, DC, and involve: 1) freelance journalism; 2) professional research and attendance at professional meetings not covered by the general license; 3) educational exchanges involving academic study pursuant to a degree program; 4) religious activities; 5) participation in a public performances, clinics, workshops, athletic or other competitions, or exhibitions in Cuba; 6) support for the Cuban people as provided in the CDA; 7) humanitarian projects; 8) information collection activities of private foundations or research or educational institutes; 9) informational materials, agricultural and medical exports and other exports authorized by the Department of Commerce; and 10) exports of medicine or medical supplies and certain telecommunications equipment or reexports of U.S.-origin agricultural commodities from a third country to Cuba. The Washington office also processes all non-travel license applications involving Cuba, from blocked estates to international corporate acquisitions.

During calendar year 2002, OFAC's Washington, DC staff handled more than 1,000 license applications for travel in these various categories with support from OFAC's Office of Chief Counsel. With the advent of our *Comprehensive Application Guidelines*, new streamlined processing procedures and the assignment of additional staff, we are now able to process most license applications not requiring interagency review within ten days of receipt, doing better than the goal of two weeks I set at the 2002 hearings.

#### *B. Enforcement*

By far the majority of OFAC's enforcement actions with respect to the Cuba embargo concern individuals who engage in unauthorized travel transactions related to Cuba tourism. There are a few organizations and individuals who view travel to Cuba as an act of civil disobedience, and there are passionate constituencies on both sides of this issue. We are often contacted by individuals concerned that OFAC take enforcement action against what they view as U.S. tourist travel to Cuba, as well as those who believe that any travel-related restriction is an infringement of their constitutional rights.

OFAC has worked closely with the U.S. Customs Service over the years in an effort to enforce Cuba travel restrictions. As returning Cuba travelers are identified by Customs agents and inspectors at ports of entry in the United States or at U.S. Customs Preclearance Facilities in Canada or the Bahamas, those travelers who do not claim a general or specific license from OFAC to engage in Cuba travel-related transactions are routinely referred to OFAC for investigation and civil penalty action.

*Enforcement Guidelines:* Regardless of the motivation underlying a travel violation, OFAC endeavors to enforce the law evenly and consistently in accordance with our responsibilities under the law. On January 29 of this year, we published in the *Federal Register* our *Economic Sanctions Enforcement Guidelines (the "Enforcement Guidelines")*, enhancing the transparency of OFAC's administrative process by pro-

viding in a public document a procedural framework for the enforcement of economic sanctions programs administered by OFAC. I am submitting for the record a copy of the *Federal Register* notice containing the *Enforcement Guidelines*.

The *Enforcement Guidelines* include a schedule of proposed civil monetary penalties for certain violations of the Regulations, including those involving unauthorized tourist travel-related transactions with Cuba. A schedule of proposed civil monetary penalties for unauthorized transactions involving the provision of travel, carrier and remittance services to Cuba is also set forth.

In addition to the *Enforcement Guidelines*, OFAC also published in the *Federal Register* on February 11, 2003, disclosure guidelines involving civil penalties. Since April, 2003, information on civil penalty proceedings against individuals is routinely provided on our website on an aggregate basis, encompassing individuals who have engaged in unauthorized travel-related transactions involving Cuba.

*Enforcement Procedures:* Investigative findings are referred for civil penalty consideration with an administrative record containing evidence of transactions involving Cuba. OFAC has, in September of this year, revised its administrative penalty procedures to afford travelers to Cuba additional opportunities to present mitigating factors for consideration before a final penalty ensues. Administrative law judges will preside at the review of the penalty assessments if the right to an administrative hearing has been invoked.

I am submitting for the record a chart that depicts the number of Cuba travel cases opened for investigation and referred for civil penalty enforcement action from January 1996 through June 2002. As shown, 6,398 travel cases were opened for investigation and 2,179 cases were referred for civil penalty enforcement action.

Typical penalty assessments for unauthorized travel range from \$3,000 to \$7,500, but the majority of cases are settled in amounts reflecting the mitigation range outlined in the *Enforcement Guidelines*. A number of persons who are the subject of penalty proceedings, however, request administrative hearings, often with the assistance of public interest legal organizations.

#### IV. HUMANITARIAN AID AND EDUCATIONAL TOURISM

On May 20, 2002, President Bush announced the *Initiative for a New Cuba*, which is intended to encourage the Cuban regime to undertake fundamental political and economic reforms, and to provide additional support to Cuba's nascent civil society, so that Cuba can take its place in the Western Hemisphere's community of democracies. In announcing the Initiative, the President said that the "Administration will ease restrictions on humanitarian assistance by legitimate U.S. religious and other non-governmental organizations that directly serve the needs of the Cuban people and will help build Cuban civil society." This announcement followed the President's statement in January of 2002, affirming the continued enforcement of travel restrictions while calling for increased outreach to the Cuban people.

##### A. Humanitarian Aid

As a consequence of the President's policy direction to ease restrictions on humanitarian aid and to facilitate support for civil society in Cuba, OFAC has refined and updated its licensing procedures as reflected in the *Comprehensive Applications Guidelines*. OFAC has also prioritized this category of license application over other travel categories and has dedicated staff for the purpose of ensuring rapid processing of these applications.

OFAC considers applications for humanitarian assistance both with regard to projects conducted in Cuba on an ongoing basis and with regard to the accompanied delivery of donated goods. Licenses are granted that involve the participation of government-affiliated organizations where the applicant can substantiate that the particular organization has demonstrated a degree of independence, and when the organizations can provide humanitarian assistance in an accountable and verifiable way directly to the Cuban people. More intense monitoring by the licensee, with a detailed plan for accountability and follow-up, will be necessary when considering involvement with government-affiliated organizations. Direct transfers of funds to the Cuban regime or its agencies to conduct activities generally will not be licensed, but payments such as hotel expenses, the purchase of essential project commodities in state stores, and customs duties are examples of expenditures that would normally be permitted.

##### B. Educational Tourism

Tourism, in whatever form, is both inconsistent with current policy and prohibited by section 910 of the TSR. OFAC's enforcement of the ban on tourist travel recently extended to the rescission of a regulatory provision implemented in 1999. This provision had originally been designed to allow structured, non-accredited edu-



cational exchanges to take place that promoted substantive people-to-people contact between U.S. and Cuban nationals. Our experience over the past few years, however, demonstrated that persons traveling to Cuba under the authority of these licenses were engaging primarily in tourist activities that consisted at best of “educational tours” designed to afford Americans an opportunity to see Cuba, involving minimal substantive contact with Cuban nationals.

This provision was part of a larger category of licensable educational activities under which OFAC continues to authorize academic study in Cuba pursuant to a degree program at an accredited U.S. academic institution. To date, OFAC has issued 760 two-year specific licenses to accredited U.S. colleges and universities for this purpose, as well as numerous licenses to individual undergraduate and graduate students seeking to pursue academic study in Cuba where their academic institution has not applied for an institutional license. OFAC will continue to license educational exchanges pursuant to accredited academic activities.

Non-accredited educational exchanges taking place outside the structured curriculum of an accredited degree program, however, too often devolved into tourism. This was made evident when parties sought renewals of their licenses and reported on activities undertaken, as well as from information received from other sources and in the press. Licensed organizations typically advertised their trips on their websites, emphasizing the climate, music and dance, and seeing the art and architecture of Cuba. Very few ads focused on educational exchanges with the Cuban people. Press articles portrayed this category of travel as tantamount to tourism, and OFAC was increasingly in the position of having to justify its authorizations of activities that OFAC never intended to take place. I have only to cite to an article issued last Sunday in the travel section of the *Washington Post* in this regard, recommending that people act fast if they want to see Cuba by traveling under remaining licenses that have not yet expired. I am submitting this article and others like it for the record.

In addition, the original policy underlying this provision was undercut by restrictions imposed by the Cuban Government on substantive and open interactions between U.S. and Cuban nationals. In 2002, we confirmed reports that groups traveling to Cuba under these licenses were particularly vulnerable to Cuban Government requirements for approval of their schedules and assignment of a tour guide or escort to the group. Contacts between members of these groups and Cuban nationals were casual at best, and were often limited to Cubans employed in government positions in the tourism industry. This practice subverted access to the Cuban people and diluted any meaningful educational exchange.

While many of the activities undertaken pursuant to these licenses could not necessarily be viewed as violations of the terms of those licenses, they were addressed through denials of renewal requests or tighter restrictions in new licenses. This resulted in lengthy and time-consuming exchanges with applicants, many of whom had developed expectations that they had a right to continue promoting tours of Cuba on the part of alumni associations and other interest groups.

In an effort to communicate our licensing policy and correct this situation, we issued application guidelines that characterized people-to-people contact as activity that would normally entail direct interaction between U.S. and Cuban individuals not affiliated with the Cuban Government, and would normally not involve meetings with Cuban Government officials. Pursuant to these guidelines, OFAC would evaluate, among other things, whether the U.S. program is structured to result in direct and individual dialogue with the Cuban people and whether the proposed activities with the Cuban people are educational in nature, such as participation in joint activities that may include seminars, lectures and workshops. OFAC also evaluated whether each traveler would be fully participating in all of the proposed people-to-people activity.

Despite our efforts, the licenses continued to be used for tourism, plain and simple, with groups using their licenses to attract other unaffiliated parties to travel to sightsee in Cuba under the pretext of “educational exchange,” a clear violation of §910 of the TSRA. Moreover, the demand on OFAC staff generated by the administration of this one provision was interfering with other licensing responsibilities including the facilitation of humanitarian aid to Cuba. The provision was rescinded after lengthy consultations with and policy guidance from the State Department. I am submitting for the record a copy of the *Federal Register* notice amending the Regulations.

#### V. AGRICULTURAL TRADE AND ALJS

OFAC is in the process of carrying out two additional statutory mandates, one involving the facilitation of certain exports and the other the initiation of hearings be-

fore an administrative law judge on the imposition of civil penalties for engaging in unauthorized travel-related transactions. Pursuant to the TSRA, OFAC issues licenses for the export of agricultural commodities, medicines and medical supplies to Iran, Sudan and Libya. The Department of Commerce, as I said earlier, authorizes the export of such goods to Cuba from the United States, but OFAC issues licenses for travel-related transactions in conjunction with exports to Cuba of the kind authorized by the Department of Commerce. I am pleased to inform you that we are current with respect to the processing of license applications to export these goods to Iran, Sudan and Libya as well as with respect to license applications to travel to Cuba in conjunction with sale of these goods that have been authorized by the Department of Commerce.

#### *A. Agricultural Trade*

Section 910 of the TSRA expressly provides for case-by-case review of license applications for travel in support of agricultural exports. Consistent with the TSRA, the Regulations provide that travel and other transactions that are directly incident to the "marketing, sales negotiation, accompanied delivery, or servicing of exports that appear consistent with the export licensing policy of the Department of Commerce" may be authorized by specific license.

Over the past twelve months, OFAC has issued over 200 licenses to travel to Cuba in conjunction with the sale of agricultural commodities, medicine and medical supplies on the part of producers, consultants, trade councils, state governments, seaport authorities, and cargo shipment services. Financing of these exports is restricted by the TSRA to payment of cash in advance or to financing by third-country financial institutions, except that such financing may be confirmed or advised by a United States financial institution. General transportation services relating to authorized exports are permitted by general license.

#### *B. Administrative Hearings*

Prior to 1992, OFAC lacked civil penalty authority to enforce the Cuban embargo. With the passage of the CDA in 1992, TWEA was amended to provide that civil fines of up to \$50,000 (now adjusted for inflation to \$55,000) could be levied for violations of the Regulations. The CDA also required that the Secretary of the Treasury impose such penalties "only on the record after opportunity for an agency hearing . . . with the right to pre-hearing discovery." In 1996, the LIBERTAD Act increased the number of categories of violations for which civil penalties may be sought to include all travel-related violations. Judicial review by Article III courts is available once the Administrative Law Judge's civil penalty determination is made final.

An administrative review process has now been initiated with Administrative Law Judges ("ALJs") in place. The substantial majority of hearings concern Cuba travel-related violations by individuals. OFAC has contracted with two other federal agencies for the services of ALJs to conduct OFAC's civil penalty hearings.

As of today, I have forwarded more than 50 hearing requests to the Treasury Department's Office of General Counsel for hearings before these ALJs. I have also notified nearly 50 hearing requestors that I will sign Orders Initiating Proceedings in the near future. I will shortly sign Orders Initiating Proceedings with the cases en route to the ALJs. I have directed my staff to extend settlement offers in other cases pending acknowledgment of hearing requests where applicable criteria are met, including first and sole offenses and absence of aggravating factors.

Additionally, I have issued, in September 2003, revised regulations for the hearing process. These revised regulations increase over previous regulations the number of opportunities for U.S. persons to settle their penalty cases before final agency action.

## VII. CONCLUSION

OFAC currently has sufficient resources devoted to the Cuba program to ensure the timeliness of responses to license applications and the enforcement of the prohibitions with regard to unauthorized travel-related transactions. OFAC will continue to administer and enforce the restrictions on travel-related transactions involving Cuba in a manner that is timely, fair, and consistent with that law.

Thank you.

The CHAIRMAN. Well, thank you very much, Director Newcomb. We appreciate your testimony. The Chair would suggest that we have a round of questioning with members limited to 7 minutes. I'll commence the questioning by making an observation that the

issue of travel, which both of you have discussed at some length in your testimony, has been one on which Cuban-Americans in Florida have had progressively different views. I mention this because the Aspen Institute has invited a number of us to conferences. I've attended some of these. I mention Cuban-Americans in Florida frequently because despite all protestations to the contrary, both political parties have been very interested in them. To some extent our policy may have been guided by strong leadership in that State as well as elsewhere, but a majority still favor an overall embargo.

Now we have a very sharp split on an age basis, with younger people favoring rather unlimited travel to see their relatives in particular. We also have the ability to carry money to their relatives. These are both humane considerations that are fully understandable, although some older Cuban-Americans are taking a much more dour view of this. But an overall majority of all Cuban-Americans favor travel and remittances in a different policy than we have now.

Furthermore, when queried beyond that, the younger people tended to favor what might be called broader engagement. That means, I suppose, tourists or the rest of us who would come and go from Cuba on the basis that probably this opens up dialog. As you've pointed out, Mr. Newcomb, the tour guides may be guided to the wrong persons. On the other hand, the thought is giving an overwhelming number of people descending upon Cuba—if they were all allowed to get in—all sorts of activities accompanied by a very different level of communication, in which we use our communication skills to bombard the island with our messages that something different might happen.

I ask both of you for some comment about this overall policy in light of what appears to be not only continuing restrictions on all of this, but as a matter of fact, as I understand the policy, maybe fewer reasons why people will travel, particularly in the tourism situation that you pointed out, Mr. Newcomb, and maybe in others in which the administration may feel that this is less justifiable.

I think all of us are trying to wrestle with how we have a better outcome in Cuba, now and in the post-Castro era. Members have differed already in their opening statements in terms of the intensity of this. It's the subject of our hearing today and we want your expert testimony. Would you try out that for size to begin with, Mr. Secretary?

Mr. NORIEGA. Well, thank you very much, Mr. Chairman. I don't think that the Cuban-American community is necessarily monolithic, speaking very briefly on that. However, what I encounter is a shared view that we shouldn't do anything that would help the regime cling to power. Now there may be some doubts as to whether we ought to try some new ideas and we want to be more proactive in new ways of engaging the Cuban people and helping the Cuban people. But as far as travel is concerned of Cuban-Americans there or Cubans who are here as immigrants, there is a particular category for family travel and humanitarian remittances to the island, which I think are justifiable, and we have taken a decision not to crack down in that area, because we don't want to be perceived as limiting the ability of people to do legitimate family

related travel and provide remittances to their family on the island.

So we believe that that sort of contact, where family members are going to see family, going to see blood on the island, is very important and it does have a favorable impact. And remittances that go to individuals on the island, even though the regime very carefully and assiduously vacuums up that money by making them buy the basic necessities in dollar stores, is nevertheless useful in terms of helping people. So the family related transactions, I think, are probably particularly healthy.

The CHAIRMAN. Should there be any limits on the families? In other words, should they be allowed to travel as often as they want to and to take as much money as they want to?

Mr. NORIEGA. Well, we think there should be some humanitarian considerations when it comes to family. There is at this point a \$300-per-quarter limit on what anyone can send to any person on the island, not whether they're family or not. That was intended to try to encourage remittances for people who might be trying to start their own little business there or to a journalist or human rights activist who needed a stipend to keep body and soul together. But that was the intention of that originally.

But on the travel for tourism, Mr. Chairman, I think it needs to be borne in mind that the military in Cuba is particularly involved in this sector of the Cuban economy. It's estimated that 65 percent of the hotel rooms are controlled by the military in Cuba as a money-making enterprise and 70 percent, another fact, 70 percent of the hotel rooms are in isolated tourist enclaves where you have to literally cross a couple of barricades to get to them and average Cubans can't reach them. So tourism travel raises grave doubts, because it is funneling resources directly to the repressive apparatus of the state and the impact on the Cuban people themselves and the interaction of the Cuban people is actually fairly minimal.

The CHAIRMAN. Let me just return to my question on the relatives themselves. Should there be limits on the number of times they can travel? Why should there be a limit of \$300 per quarter for relatives trying to help their old folks, for example, in Cuba?

Mr. NORIEGA. We'd have to do some analysis as to whether or not that limit was actually causing hardship. Frankly, I'd have to get a written answer to you on that, Mr. Chairman.

The CHAIRMAN. Well, I'd appreciate if you would give that analysis and that would be helpful for the record.

Mr. NORIEGA. Absolutely, and Mr. Newcomb may have something to add on the subject.

[The following response was subsequently supplied by Mr. Noriega.]

Under the current regulations, persons visiting Cuban nationals who are close relatives may travel once per year under an OFAC general license. Additional trips within one year require a specific license, and OFAC acts expeditiously on these requests. The current policy on travel to visit close family provides sufficient flexibility to meet the legitimate humanitarian needs of relatives in the United States and Cuba. However, in this context as well as others, we are concerned that unlimited travel to Cuba would only provide greater benefits to the regime.

For remittances, U.S. persons aged 18 or older may send to the household of any individual in Cuba cash remittances of up to \$300 per household in any consecutive three-month period, provided no member of the household is a senior-level Cuban Government or Communist party official.

We believe that the current remittance levels are adequate to provide humanitarian support without providing a windfall to the regime. Our policy is to help the Cuban people while not assisting the regime.

Mr. NEWCOMB. Thank you. Mr. Chairman, our role in the licensing of these visits relates primarily to a fair, even-handed approach to issuing licenses in a timely manner. With regard to family visits, which we view as humanitarian per se, they are generally licensed for one trip. The second and subsequent trips we endeavor to license with a 24-hour turnaround, so by coming in to our Miami office, we make this a top priority to issue these as quickly as possible so that family reunification can take place.

The CHAIRMAN. I thank you.

Senator Dodd.

Senator DODD. Well, thank you, Mr. Chairman. My apologies to you and to the members of the committee and our witnesses at the outset.

Let me begin by thanking you, Mr. Chairman, for conducting this hearing at this level of full committee and the participation we have here of people. Our colleague from Minnesota is the most recent person to travel to Cuba and we'll hear, I'm sure you already have, some observations from Senator Coleman.

I hope we can in a sense, and I applaud my colleagues here for their efforts over the years, to try something different in this whole arena. The Attorney General of the United States, John Ashcroft, was the successful author of the amendment that limited, freed up the selling of food and medicine to Cuba in a Senate provision a few years ago, and to his credit was a worthwhile effort. And of course our colleague from Wyoming has been a champion of trying to come up with some new ideas in this area. I know Senator Baucus was here as well, and certainly these individuals can speak for themselves, but all of us share a common determination to achieve change in Cuba, and have no tolerance whatsoever for a dictatorial regime.

But there has been such preoccupation on Fidel Castro and far less attention on the 11 million people who are Cuban who live on the island and I think all of us are trying to focus on ways in which we can focus on them and their families of course who have come here. And my admiration for the exile community is boundless, I have great admiration for them and what they've been through, how they've suffered, the division of families over the years. They are a remarkable people and I would certainly want any comments I would make to reflect my appreciation for their efforts as well.

And like you, Mr. Chairman, I am somewhat concerned about sort of an uneven approach to all of this, and we have countries around the globe that we don't exactly applaud and agree with their policies, and I can think of a range of them as I sit here today that I wouldn't want them to be—I wouldn't want to live under them at all, but yet our travel restrictions regarding those countries are very different. And I wonder if maybe our witnesses might begin by just trying to draw some distinctions here.

And as I understand it, and I'll stand corrected if I'm wrong on this, but to the best of my knowledge, if I decided this afternoon to travel to North Korea, to Iran, to Libya now those countries may not let me in, but I know of no restriction within my own govern-

ment that would prohibit me from trying to go. Could you draw a distinction for me on what basis should my country distinguish my ability to travel to North Korea, a government I presume all of us abhor given its record, certainly Libya with a record of terrorism, certainly Iran with all of its difficulties. How do we draw in the minds of the citizens the distinction between allowing someone from our country to at least try to go to those places and not allowing them to travel to the island of Cuba? What makes Cuba so much worse than these other places?

Mr. NEWCOMB. Senator, if I might start by just laying out the technical requirements. There are no travel restrictions for North Korea or Iran. There currently are travel restrictions with regard to Libya.

Senator DODD. I stand corrected. All right, we'll stick with North Korea and Iran then.

Mr. NEWCOMB. OK, but those for the record are the technical requirements.

Senator DODD. OK, no, no, I appreciate the technical approach. Mr. NORIEGA. I was hoping he'd talk longer on them.

Senator DODD. Yes, I know. It's sort of a fundamental question I have in my mind. What's the distinction here?

Mr. NEWCOMB. I would note that as recently as the year 2000, and you alluded to this, Mr. Chairman, the Congress of the United States spoke on the restrictions of travel to Cuba when it codified the travel restrictions and the ban on tourism.

Senator DODD. I'm asking you for a public policy from the administration standpoint, you're advocating we maintain a restriction. You think there should be no change here. Do you think we ought to think set restrictions on North Korea and Iran? Would you support that?

Mr. NEWCOMB. I don't come anywhere near making policy on North Korea and Iran, but I will answer your question. The restrictions are on transactions and the issue is spending money in Cuba and generating revenue, capital for that regime. I think that Cuba is more appealing as a tourist destination than North Korea and Iran, particularly because of its proximity to the United States. We have to make a policy decision whether it would represent a significant windfall to that regime if you allowed tourism in addition to everything else particularly exploitative of people who don't benefit from the travel. Instead it goes to a regime that pays four times as much to a policeman than it does to a teacher.

Senator DODD. I'm fully aware with all of that. But I wouldn't want to make any comparison of what a person gets in North Korea either or Iran. Let me ask you this. It was stated last year by Under Secretary Bolton, there was an assertion that Cuba was developing bio-weapons. In fact, we asked Mr. Bolton to come before this committee to answer questions about that since it was obviously a serious allegation. He refused, or for whatever reason didn't come up. Carl Ford did. He was asked for evidence to back up Mr. Bolton's allegations. He downplayed those charges, saying the administration hadn't meant to imply, and I'm quoting him, "that it had a smoking gun."

The Defense Department and the CIA, to the contrary, have for many years asserted that Cuba posed no military threat to the

United States, its interests, or its allies. Now these assessments, one or the other is correct and you have most recently, I think it was on Tuesday or Wednesday of this week, on Tuesday, an article in the Detroit Free Press, which I'll ask unanimous consent to be included in the record.

The CHAIRMAN. It will be included in the record.  
[The article referred to follows:]

[From the Detroit Free Press, September 30, 2003]

QUESTION AND ANSWER WITH COLIN POWELL: SECURITY BRINGS PAINS, FREEDOMS

*Before speaking to the U.S. Arab-Economic Forum, U.S. Secretary of State Colin Powell met with the Free Press editorial board. Here are excerpts of the conversation.*

*Question.* Has the search for weapons of mass destruction in Iraq become irrelevant at this point?

Answer. Oh, no, not at all.

*Question.* Do you expect that we will find them, and are there consequences if we don't?

Answer. I am quite confident that we will find evidence of the programs and I hope we will find the weapons themselves. David Kay (a CIA special adviser for the weapons search) is hard at work. We will get a first report from Mr. Kay later this week. He's got something like 1,400 people at work. They have miles of documentation, they have lots of things to look at. And they have hundreds of people to interview. It is very painstaking work.

Now, if we haven't found a huge factory full of stuff or a warehouse full of stuff, where will we find them?

Well, I don't know. We haven't found that yet. But there is no doubt in my mind that the program that we found necessary to go in and take out is there. It wasn't a figment of anyone's imagination.

Two weekends ago I was in a place called Halabja in northern Iraq and I went to a mass grave and I participated in a memorial service there and the dedication of their equivalent of their holocaust museum.

On a March morning in 1988, Saddam Hussein dropped sarin and VX agents on that populated town and killed 5,000 people. It is documented. You've seen the pictures. I saw victims who survived. I spoke to many mothers and dads two weeks ago who lost children and lost members of their families.

That was 15 years ago. And at the end of the Gulf War, two years later, 1991, we found this stuff and destroyed a lot of it. And then for a period of six years, seven years almost, inspectors kept looking for the rest of it—kept being refused, denied, misled. And one more came out. When we thought, no, they couldn't have had any of that stuff, suddenly a defector, his son-in-law, if you will recall, shows up in 1995 and tells us about all kinds of other stuff that we hadn't discovered.

Finally, in 1998, President (Bill) Clinton was so persuaded that the program was there and they had the weapons and they wouldn't account for them and they wouldn't come clean with the inspectors that he bombed Iraq for four days to go after these facilities. That was five years ago.

That caused Saddam to make it impossible for the inspectors to continue their work. Then another four years went by and President (George W.) Bush came into office and took this bold decision.

Anybody who wishes to believe that from 1988 when he used it, and it wasn't the first time that he used it, to 1991 when we captured and destroyed a lot, through seven years of inspections when he didn't 'fess up, and the whole world recognized what President Clinton did was probably the right thing to do in 1998, anybody who wants to make the assumption that in the intervening couple of years it all went away and he no longer had any intention and this sweet Saddam Hussein who was willing to gas 5,000 people on a spring day in 1988 was suddenly a different Saddam Hussein than one we were dealing with in 2001, 2002, 2003—other nations might have been willing to make that judgment and assumption, but not President Bush. He wasn't going to walk away from this challenge.

*Question.* Do we not have to find them, then, to justify the actions that we have taken?

Answer. I don't want to quite answer your question that directly because I can see how it might spin out. But I think we will find solid evidence of the program.

And I think you will begin to see that with Dr. Kay's presentation later this week. So you will have evidence that will justify what we did.

But on top of that evidence, there is a body of evidence that he is responsible for human rights abuses, that he filled mass graves, that he was responsible for terrorist activity. Therefore, if you look at the whole body of evidence—and I spoke to terrorism and human rights in my Feb. 5 presentation before the United Nations—I think what we did was totally justified on all counts.

The president led with weapons of mass destruction, so I don't want to say they suddenly aren't important. They are. We made that assumption as part of our case. And I think we will be able to demonstrate that it was a sound presentation to make.

*Question.* The conference that brought you to town is all about building bridges with the Arab world. We hear a lot from the local Arab community, as well as Arabs in the Middle East, that they are uncomfortable coming to this country because they are treated like terrorists because of our new anti-terrorism policies. How do you, as the chief diplomat, chief bridge-builder, build those bridges in light of that?

*Answer.* We are working very hard at this. The motto we are using, the slogan we are using is "Secure Borders, Open Doors." We had to secure our borders after 9/11. It was stunning to us that individuals could come to this country, get in, and sort of just melt into the population, go to flight schools and do all sorts of other things. And they all came out of Arab lands, principally Saudi Arabia. And we realized how vulnerable we were. And the American people, and the Congress representing the American people and the president decided that we had to get a handle on who was coming into this country.

So we have done a lot. We've created the Department of Homeland Security. We found that we had disparate databases in lots of different agencies. The State Department had the largest database to check people against called Tipoff. We've now merged Tipoff with all of the other databases to create a new terrorist threat center.

*Question.* Is that all done?

*Answer.* It was announced last week that the new center has been formed with Tipoff, my program, as the central database and the other databases are being merged into it. It will take a long time before all of the computers are linked up and made compatible with one another, but it is under way.

The other things we are doing have to do with biometrics on our passport and visa applications for people coming into the country. It is taking us a long time and a lot of money to put these systems in place.

In the process, however, it became much harder to get into the country. I hope that it will become easier as time passes and as our systems come on line and start to do a better job of talking to one another. I hope we reach a point where one of my consular officers somewhere overseas gets an application for a visa, interviews the individual, puts in the data, the data comes back here electronically, we get a clearance back in a very short period of time. So, the problems that Arab Americans or Arabs are having will go away with time—not just Arabs. I get complaints from just about every country in the world, especially the Muslim countries, not just Arab countries. Indonesia and Malaysia, places like that as well.

It's the balance you have to make between security and openness. And the lecture that I will give everywhere is that we have to protect our borders, but by God, America is an open country, a country of countries, a nation of nations and we don't want to change that. We want to be a welcoming society. But there has been a drop-off of people coming here, for schools, hospital care, and for other purposes, tourism, because of the difficulty with visas. But we are hard at work on it.

*Question.* Metro Detroit has a large Iraqi Shia community, many of whom were refugees who fled Saddam Hussein's regime and were very supportive of the war. But now many of them are upset with how the U.S. Government has handled the post-war situation. A lot of them are saying that the U.S. has not listened to Iraqis, they feel they are being ignored. What would you say to them?

*Answer.* I would tell them to watch our actions in the days ahead. Take a look at what we have done in the last month—two months really. In the last two months we have created a governing council representing all parts of Iraq, all ethnicities. Kurds in the north, Sunnis in the middle, Shias in the south, Turkomen—all the other parts of Iraq are included in this governing council. We have helped the governing council put together a cabinet of ministers so every cabinet department now has an Iraqi minister in charge, starting to rebuild that ministry, whether it's education, water, foreign ministry. I now have a foreign ministry colleague who I have met with at the UN, met with in Geneva. And he is representing the Iraqi people



to the world. He has been accepted at the Arab League. He's in New York now at the UN General Assembly.

So, slowly but surely, we want to start passing more and more responsibility off to Iraqi leaders. But we have to be careful. Some of my colleagues in the Security Council say, come on, just do it in 30 days. Thirty days from now, just turn it all over.

We didn't put this much political capital, and this much treasure and these many American lives at risk and lost, to give it back over to a few people who essentially have been picked up and said now you're the government.

They are going to have to have a constitution, they are going to have to have that constitution ratified and we are going to need elections in order to put in place a government that is legitimate in the eyes of the people because the people selected that government.

But it takes time. If we do it too fast, we'll be setting them up for failure, and that's what we're not going to do.

*Question.* Can we accomplish any meaningful growth in trade and economic exchange with the Middle East without settlement of the Israeli-Palestinian conflict, and how far away are we there?

*Answer.* I think it will all be so greatly facilitated with the solution of the Israeli-Palestinian conflict but that's really not holding people back. Right next door in Jordan we've concluded a free trade agreement . . . and their trade has soared in recent years and is really, really growing as a result of that free trade agreement. . . . The king spends a great deal of time in the United States and I spend a great deal of time in Jordan; I'm very close to him and I know what his goal is and that is to make his country more democratic, more representative of the interests of the people and not just the monarchy, and to educate his young people for a different kind of future.

He needs to not only trade the usual indigenous goods, he needs to get into the service sector, he needs to get into the IT sector, he needs to upgrade the quality of education in Jordan and that's what every Arab nation has to focus on. That's why, in addition to working on the Middle East peace process between the Palestinians and the Israelis, you'll hear me talk tonight about the Middle East Partnership Initiative, the Millennium Challenge Account, all the other things we have been doing to get ready for the day when there is peace.

Now to your question, we are greatly disappointed in the fact that (Palestinian) Prime Minister Mahmoud Abbas resigned from office, and we are now waiting to see whether Ahmed Qureia can put together a cabinet. There's been some discussion over the past 24 hours that a cabinet has been put together.

More importantly, however, is will the new prime minister have political authority—real political authority—that is separate and distinct from that wielded by Chairman (Yasser) Arafat? And will he have full control of the security forces? And if he does have full control over the security forces, will he use those security forces to go after terrorists?

The fact of the matter is that as long as Hamas and the Palestinian Islamic Jihad can just sit back and make their own judgment as to whether they think things are going well or not and decide whenever they wish to that they're going to blow up another bus full of children and bring the whole thing to a halt again—until the Palestinians take on that challenge and say to them “No, enough of that. This is no longer an acceptable way to achieve our political objectives. We will never get a Palestinian state as long as we try to do it by blowing up innocent people. We're blowing up the dreams of our own people.”

And until the Palestinian leadership takes on that challenge, we can have conferences, we can have plans, we can have proposals, we can have timelines, but it will be very difficult to go forward. Israel knows it has to meet its obligations under the road map, has to end settlement activity, unauthorized outposts have to go. I have a serious problem with this fence that's being built. We have to open up access between Palestinian cities, towns and villages. We've got to get Israeli troops out of there and turn responsibility back over to the Palestinians. We had started down that road right after Aqaba, when we got everybody on the road map. It was slow, it was halting, it couldn't go fast enough because we couldn't guarantee that Hamas wouldn't start it all up again—and they did.

*Question.* How do you find someone to make this work that is acceptable to the United States and Israel and also has credibility with the Palestinian people? And as settlements expand and the fence is built, it's carving up the West Bank and doesn't it almost preclude the possibility of a Palestinian state?

Answer. We painfully came to the conclusion that Chairman Arafat was not a partner for peace. The Israelis had come to that conclusion some time ago. President Clinton came to that conclusion at the very end of his administration. The last day of his administration he called me as I was getting ready to become Secretary of State the next day and all of his efforts had just come to naught. And he let me have it for about 20 minutes on the phone about Yasser Arafat and how a great deal had been put before him and he didn't take it.

I tried for 14 months to try to get Mr. Arafat to move. I got him out of his confinement in the Muqata'a (Arafat's compound) twice. I went into the Muqata'a through Israeli lines, then the Palestinian lines, with one set of bodyguards passing me off to another set of bodyguards and I sat there across from him when he had a machine gun on his desk and told him that you've got to change. You simply have to become a partner for peace and start taking action against terrorists or we're not going to get anywhere and I'm not going to be able to deal with you.

We got him out of that situation and he didn't change. And so last year, the 24th of June, the president gave a speech, a vision for the Palestinian state that would need new leadership. And guess what, we found new leadership in Prime Minister Abbas, so the Palestinians, with Arafat, created a prime minister position, and we wanted to work with him. And that's why the president went to Aqaba and before that Sharm al-Sheik.

But Abbas was not able to get full control of all the security forces, couldn't wrest them away from Arafat, Arafat constantly undercut him. And finally Abbas said "I've got to have it or I'm going to quit." Arafat didn't give it and he quit.

Arafat is still seen by the Palestinian people as their leader. You can't take away from people what they think about leadership and who their leader should be. But the Palestinian people have to start looking at what that leadership has gotten them. It's not gotten them one day closer to the Palestinian state.

And they're cheering him on now because the Israelis, I think, made a mistake in threatening to exile him and kill him and other things. They just put him back on Page One and every television station. It was a mistake.

With respect to the second part of your question, actions such as continuing settlement activity and a fence that is on your property is fine, but as it transgresses and goes into Palestinian territory, you're creating a de facto situation which makes it harder to define the contiguous line needed for a Palestinian state. We've made it clear to the Israelis that we wouldn't be interested in any final solution that looks like Bantustan or a bunch of little fiefdoms all over the West Bank. It has to be a contiguous, sensible state. So if we can get to the point where we're having those discussions it will be very tough. President Clinton had some very tough discussions with the Israelis and got them to acknowledge how much would have to be given up in order to bring peace between the two parties.

I think if you can get to that point where serious negotiations on what the state looks like take place, you can make progress. Because the reality is that Israel needs peace just as badly as the Palestinians do. Demographically Israelis need peace. Arabs and Palestinians will outnumber them and it will, de facto, by demography, become a Palestinian area pressing in on Israel. Israeli leaders know this and the Israeli people know it. And they know they will have to make the kinds of sacrifices suggested by your question.

*Question.* Is there any scenario, other than President Bush not winning, where you would choose not to serve a second term?

Answer. The only answer I give to that question, and it's the only answer I can give, I don't serve a term, I don't have a term, I serve at the pleasure of the president and, of course, just my own pleasure. I'm proud to be serving the president, pleased to be serving the nation again, but I serve at the pleasure of the president. It would be most inappropriate for me to make a judgment as to how long I'm going to serve.

*Question.* Is there some part of the world, other than the obvious parts, the Middle East, Iraq, North Korea, that should be getting more attention?

Answer. The whole rest of the world . . . if you go through your newspaper today and you add up all those places, pick out all of those places where you have found news and written about it, it all comes to about 100 million people in a world of 6 to 7 billion. And if you look at the rest of that world, we don't spend enough time educating the American people—about China, 1.3 billion people in that country that has done the most remarkable things . . . trying to expand the wealth you see in the eastern part of the country out to the rest of the country.

We don't talk enough about what is essentially an arc of stability and peace and good relations with the United States throughout most of Asia, with the exception

of North Korea, and what we have done in recent months to bottle North Korea up with its neighbors on our side of the issue and we'll keep applying pressure on the North Koreans to get us through this diplomatic problem with respect to the nukes.

India, 1.1 billion people, the Indian prime minister was with the president last week, didn't make any news, nobody covered it, there was no crisis. There is always tension between India and Pakistan. This is the first time in 40 years the United States has excellent relations with India, and excellent relations with Pakistan.

Africa, the president's trip got a lot of coverage, 850 million people in desperate need, HIV/AIDS is the worst weapon of mass destruction on the face of the Earth, killing more than any other weapon of mass destruction and it's spreading. We've got to work on it.

Our own hemisphere, from the days when I was national security advisor and there were generals running countries everywhere, the only dictatorship left is Castro's Cuba and it is no longer a threat to the rest of the hemisphere. . . . I have a personal history with so many of these countries and now they all have democratically elected leaders. They all have economies that are going through difficult transitions in a globalized, open trading world. They're going to figure it out, because they can't stand pat. . . . They're working hard at it, committed to democracy.

There's a big world out there and a lot of good things going on and America has a lot to do with a lot of those good things. . . . It doesn't get enough attention. Everybody focuses on the issue of the day, which is understandable.

Senator DODD. Secretary Powell, the Secretary of State, was asked the question, "Is there some part of the world, other than the obvious parts, the Middle East, Iraq, North Korea, that should be getting more attention?" And it's a rather lengthy answer here but at point he says, "Our own hemisphere, from the days when I was national security advisor and there were generals running countries everywhere, the only dictatorship left is Castro's Cuba and it is no longer a threat to the rest of the hemisphere."

Which is the policy of the administration regarding Cuba? Is it Mr. Bolton's assessment, or is it the Department of Defense, the CIA, and the Secretary of State? There appears to be some sort of a contradiction here about whether or not we're posing a threat, which would get to the issue of travel restrictions and embargos. If a country poses no threat to it other than we don't like it, which we don't, why would we maintain those kind of restrictions since we don't apply it anywhere else in the world?

Mr. NORIEGA. Mr. Chairman, if I may answer. We continue, Senator Dodd, to believe that Cuba has at least a limited developmental and defensive biological weapons research and development effort, and has provided dual-use biotechnology to other rogue states.

Senator DODD. Is the Secretary of State wrong then?

Mr. NORIEGA. This reflects the consensus on what the U.S. Government's experts believe about Cuba and its biological weapons capability. The Secretary was asserting, as I recall that statement, about it being a threat militarily. There are various aspects to the sort of threat that Cuba might represent. I don't think that this—his statements I mean, I'm convinced that his statement that you cited and this statement are not inconsistent.

Senator DODD. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Dodd.

Senator Chafee.

Senator CHAFEE. Well, thank you very much, Mr. Chairman. I had the opportunity and pleasure of going to Cuba in January 2001 and I was struck by the changes that seemed to be coming to the island, obviously with the break-up of the Soviet Union and the

loss of billions of dollars of Soviet aid. Some of that change was necessary just for financial reasons, more and more as we've talked about foreign tourists at the hotels, and there just seemed to be an air of change, and at the same time a thawing of a relationship, I believe, that we were cooperating with Castro on negotiations with the Colombian insurgents, the ELN, I believe, the meetings were being hosted in Havana. I believe that a Coast Guard officer was stationed in Havana to help us with drug interdiction, and so these were the signs of a thaw and signs of cooperation, but it seems to have turned.

And, Mr. Secretary, in your written statement, you said that the new chief of the U.S. interests section has done a superb job supporting democratic development, and can you be more specific? I know that the Cuban Government has said we're paying some—allegations we're paying the dissidents in being more active and inciting the dissidents and thus came the crackdown. What exactly was Mr. Cason doing to support democratic development?

Mr. NORIEGA. Thank you very much, Senator Chafee. The policy of the United States is to provide material, political, and moral support, to the dissidents. That's been our policy for 5 years, 6 years, 10 years before. There are no payments that I'm aware of that go from the U.S. Government to any of these people. This was an assertion that the regime made because they can't understand why anyone on their own time and voluntarily would think about their own future and about the future of their own country and building a better future for their people, because that is of course an area that's reserved for Fidel Castro and his cronies to think about and not the people of Cuba.

Senator CHAFEE. So you can say definitively no U.S. money went to dissidents?

Mr. NORIEGA. I am not aware of any sort of U.S. Government cash payments to any dissidents on the island. We donate books, cassette players, radios, to Cubans from all sectors of society. I imagine some of this even ends up inadvertently in the hands of people in the government who confiscate some of this material and then take it and use it. But what Mr. Cason is doing is in the finest tradition of the Foreign Service, which we did in Eastern Europe, which we did in the Soviet Union, which we're doing today in other states that are controlled by dictatorships. The United States Embassy is a special place for these people in terms of support and a way to communicate with the rest of the world to receive information and send information out.

The Castro regime would have us believe that there is something wrong with that, and it would be a real shame if we deny the Cuban dissidents the solidarity to which they're naturally entitled by believing the lies of the regime. Castro has been slapping his people around since Jim Cason was in junior high school and he needs no pretext for throwing people in jail and harassing them and denying them health care when they're in jail. He needs no pretext for that. He does it because he's a brutal dictator who's particularly desperate now because he sees not only his people thinking about the future, but he sees people who worry about dissidents on the island and are trying to do something to help them.

Senator CHAFEE. Well, thank you. And in your position as Assistant Secretary for Western Hemisphere Affairs obviously you have to work with other countries through the hemisphere, and how is our policy toward Cuba affecting our relationship with other countries in the hemisphere?

Mr. NORIEGA. I appreciate the opportunity to answer that because this is an area that I'm very hopeful about. There was an initiative after the crackdown in the OAS by the Governments of Nicaragua, Canada, Chile, Uruguay, to get a statement of support for the dissidents, really more a denunciation of the brutal crackdown. In the final analysis that was not approved by a majority because 13 of the 14 nations of CARICOM which are OAS members said that we can't talk about Cuba while Cuba's not in the room, and then Mexico and Brazil and Guatemala had their own opinions, but 14 of Castro's Latin American neighbors joined in a statement along with the Bahamas, United States, and Canada that was an unprecedented statement of his neighbors about the crackdown and the need for him to respect human rights.

And that was a breakthrough and we have communicated with our friends in the region, like-minded countries in the region, and said let's keep this dialog going. The fact of the matter is we didn't talk about Cuba at the OAS for many years because the United States didn't find it convenient to talk about these things. But now we have an Inter-American Democratic Charter that lays out the rules of the game, that says that Castro's Cuba has no place in the inter-American system, and we're very comfortable working with our neighbors to hold that regime accountable to this standard for this hemisphere promoting democracy, the rule of law, market economies that are important to social development.

Senator CHAFEE. And can you talk specifically about Venezuela and our relationship with them vis-à-vis our Cuban policy?

Mr. NORIEGA. The Venezuelan Government has demonstrated a terrific affinity for the Cuban Government. They have a good relationship. They provide them oil on favorable terms. The Cuban Government provides doctors to Venezuela. Some Venezuelans don't like this and they're concerned that Venezuela is going the way of Cuba. We disagree with Venezuela on Cuba, but the fact is I think that Venezuela is sort of unique in its attitudes toward the regime of Fidel Castro. I think most countries in the hemisphere view that government as destabilizing in the Americas.

Senator CHAFEE. I know my time is up, but am I incorrect that recently the President of Brazil visited there and it seemed like a good relationship between those—

Mr. NORIEGA. That's exactly right, he did visit. It's interesting that apparently Fidel Castro visited President Lula, when he was detained in Brazil, and I think it was that sort of personal tie that was particularly important. But as my written statement indicates, President Lula has said that, to paraphrase, don't confuse our romanticism about the Cuban revolution with support for the policies of the regime today. The quote is there quite explicitly noted in my testimony, to have an accurate quote.

Senator CHAFEE. Thank you.

The CHAIRMAN. Thank you Senator Chafee. We are almost 6 minutes into the rollcall vote. I'd be happy to recognize the Senator

for his questions or to recess and start again. All right, we will recess and come back after the rollcall vote. We thank you for your patience with us. Thank you.

[A short recess was taken.]

Senator NELSON [presiding]. If everyone could take their seat, I've been requested by the staff director, the chairman is delayed on the floor, so out of courtesy to our witnesses we want to proceed with the hearing, and I was the next in line for the questions. Welcome, Mr. Noriega.

Mr. NORIEGA. Thank you very much.

Senator NELSON. It wasn't long ago that you were here in the committee when we voted your nomination to be confirmed, and of course, it was done on the Senate floor unanimously. And what I would like to do is I'd like to clarify a number of the points of the Cuba policy with regard to the administration.

I read and I reread your prepared statement, and I did not see in your prepared statement the articulation of what the policy is in regard to travel to Cuba. Would you state that again for the record?

Mr. NORIEGA. Yes, sir. I apologize for any omission on that subject. The policy of the U.S. Government is that tourism travel to Cuba is not in the interest of a democratic transition in Cuba, and for that reason we do not believe that there should be any change in current law. As you know, in the year 2000, in the Trade Sanctions Reform Act, the Congress approved a codification of the ban on tourism travel. We believe that that should not be changed, particularly in the wake of the crackdown on human rights in Cuba.

There are categories of lawful travel: education, science, cultural, religious, under which anywhere from 180,000 to 200,000 people from the United States travel every year to Cuba. But we believe that that is a very important sort of contact with the Cuban people, family travel is very important, humanitarian travel is very important, and we actually encourage that and want to find ways to encourage that sort of contact. But in terms of tourism, it will tend to benefit the regime, pump money into that repressive apparatus, and that would be bad for the Cuban people, and it's a policy of President Bush not to support any change in that. As a matter of fact, as recently as today the administration expressed its views on S. 950, saying that if this bill were presented to the President in its current form, the President's senior advisers would recommend that he veto the bill.

Senator NELSON. Do you agree with my opening comments in this committee hearing that it would be perceived as a reward to Castro were the travel policy to be changed at this particular time in light of the crackdown by the Castro government on dissidents, the executions of the people who hijacked the ferry, as well as the others who were thrown into prison?

Mr. NORIEGA. Absolutely, Senator, I do agree with that. It would be perceived as business as usual, with people going to the island, this beautiful tropical island, taking advantage of tourism, hotels, to which Cuban people from all walks of life have no access. Only those people who are fierce supporters of the regime have access to those hotels. The very idea that there would be significant impact of this kind of tourism is very difficult to accept.

In addition, it would fly in the face of the approaches of others in the world now. In Paris, at Charles de Gaulle airport, non-governmental organizations are going to the places where the flights to Havana are leaving, passing out postcards and saying "don't believe what you see, this is not a tropical paradise, it's a tropical gulag." And the very idea that at the same time the United States would open up, and it would be potentially massive numbers of people who want to participate in that sort of low-end, very exploitive sorts of tourism, would represent a very bad signal in terms of U.S. policy and our standing by our principles.

Senator NELSON. Picking up on the question that Senator Chafee asked you about direct assistance to dissidents, and you spoke that there was indirect assistance such as books and cassette players, is that in the range of some \$4 million a year?

Mr. NORIEGA. Yes, sir, it is. I don't have the number explicitly. I think it may be closer to \$5 million or \$6 million, but it has gone up in the last several years.

Senator NELSON. Would it surprise you that when we were trying to encourage Serbian dissidents, it was the policy of the U.S. Government that we assisted with some \$50 million, not \$4 million or \$5 million? So what is the policy of this administration? Will there be an attempt to increase that indirect assistance?

Mr. NORIEGA. My bureau, within the budgeting system of the Department, has asked for an increase.

Senator NELSON. I think you've asked for an increase from \$4.2 million to \$7 million, and my question is, why not much more? Cuba is exceptionally important to us that we encourage the dissidents. They don't want to feel like they've been conflicted, so they don't want it directly, but indirectly, and we were giving some \$50 million to Serbian resistance. Why would we not give more?

Mr. NORIEGA. Well, we make our decisions as the art of the possible in terms of the budgeting process, Senator, but I take your point and I think we should do our very best to maximize the sums of money that we can move in an effective, accountable way to help the folks on the island of Cuba. It's absolutely essential.

Senator NELSON. I've met with Oswaldo Payá on several occasions. I have a great deal of admiration for him. I sponsored the resolution congratulating and recognizing the Varela Project. We passed it unanimously in the Senate. And I think that anything that we can do that will assist them, and I would suggest you look at a much more considerable increase of assistance to the dissidents.

Let me ask you this. Why has the administration not appointed the vacant positions on the advisory board for Radio and TV Marti?

Mr. NORIEGA. Senator, that's a very good question. I don't have the answer for you. I know that this is something, that revitalizing the Marti broadcasting is a very important part of our policy. I think that this has to be an area where we need to move swiftly and in an affirmative way. I don't have a specific answer for you as to when that would be done, but I think it has to be part of renovating the Marti, and the highest standard we can set is to make them worthy of Jose Marti.

Senator NELSON. Well, I certainly agree, and I was one of the co-sponsors when I was in the House of Representatives of setting up

this organization and it hasn't fulfilled its potential, and you need some new blood to rev up this organization so that it will be effective and so that they can get the message to those people whose lives are shackled. But keeping these board positions vacant for almost 3 years now is not a good sign, and I would encourage you and the members of this committee have a good deal of good feeling toward you in your new position, I would encourage you to get the administration off the dime and get these positions appointed.

Let me ask you this. I was, needless to say, shocked after the executions, the summary executions that the policy of the U.S. Government would be that we would negotiate prison sentences for people later interdicted on the high seas being returned to Cuba instead of at least arranging, as we have done so frequently in the past, for them to go to a third country, so that they would not be returning to a prison cell. Can you explain the policy of the U.S. Government in the return of those people to 10-year prison sentences?

Mr. NORIEGA. Senator, I should say at the outset that we didn't negotiate at all with the Cuban regime on the sentences for those people. The Cuban regime volunteered a statement, a diplomatic note to us, about the treatment of these people, which we took into account in deciding to repatriate these individuals. We actually tried to find a way to charge them with a crime so we would at least be able to hold them in our custody rather than return them. We resorted to extraordinary measures to be in a position where we wouldn't have to return them.

Senator NELSON. Well why didn't we do what we had done in the past, arrange for them to go to a third country?

Mr. NORIEGA. In some cases we're able to do that if they have—

Senator NELSON. Not on that particular group.

Mr. NORIEGA. If they have—if they demonstrate a well-founded fear of persecution or credible fear of persecution.

Senator NELSON. In this case there were 12 that were returned.

Mr. NORIEGA. Right. There were some yes, Senator, in that group, if I understand, who were able to voice some concerns and were transported, to Guantanamo, where they underwent some additional interviews and for those people who did demonstrate a credible fear of persecution, we were looking for another country to send them to.

It's our policy not to magnetize the United States any more than it already is because these desperate people throw themselves into the sea and sacrifice everything they have and risk their lives in order to reach here. Our policy is one of encouraging safe, legal, and orderly migration. To that end, we take the extraordinary measure of actually doing refugee and asylum claims in the country itself and interviewing people for these asylum claims. But it is our hope that people would pursue legal means for migrating to the United States because they put themselves at risk. The last thing that we would want to do is encourage people to hijack vessels—

Senator NELSON. I understand that's our policy.

Mr. NORIEGA [continuing]. And also to assault Federal officers who are trying to—



Senator NELSON. That's our policy, that's an understandable policy, but that's not what happened with those folks and that was just a little bit after the executions, which have shocked a lot of people in the State of Florida.

Mr. Chairman, your staff director insisted that I go ahead as a courtesy to the witnesses and I have just one other question.

The CHAIRMAN [presiding]. Very well.

Senator NELSON. We really do have the goodwill for you to do well because the Western Hemisphere is exceptionally important to the foreign policy interests of the United States. There was an inexcusable crime that was committed several years ago and that was the shooting down in cold blood of a Brothers to the Rescue plane. Years later an indictment has been returned against the pilots. My question to you, what is the policy of the U.S. Government about indicting the person who decided to shoot down the Brothers to the Rescue, who is Fidel? What is the policy of the government?

Mr. NORIEGA. The decision on the indictment, Senator, was made by the Department of Justice and the U.S. Attorney. They are the ones that decided how to present this to the grand jury and whether to include Fidel Castro in that indictment and whether to indict him. I suspect that one of the considerations was whether or not this would complicate matters in terms of his so-called head of state immunity, and that probably had something to do with it, but I'm not a lawyer and not an expert in their rationale, but my speculation is that had something to do with it.

Senator NELSON. Well, to use your word "suspect" I'll tell you what I suspect. I suspect that the decision to indict was not made by the U.S. Attorney, but it was made by the highest circles in the White House, and if you're going to indict the pilots, I wonder why don't you get right to the source of the decision to shoot down the Brothers to the Rescue?

Mr. NORIEGA. Senator, knowing what I do about the case, I don't suspect that that decision was made at the so-called highest levels of our government. I think that decision was made by the U.S. Attorney, and on the other point—

Senator NELSON. Well you and I agree on a lot of things, but on that one we don't.

Mr. NORIEGA. Well, we're just a couple of suspicious guys at least. But at the very least, let me, on the other issue of how much money we can provide to the opposition and dissidents on the island, let me just note that we will apply effectively that sum of money that Congress appropriates for that purpose.

Senator NELSON. Thank you.

The CHAIRMAN. Thank you very much, Senator Nelson. I thank you for continuing the questioning and the meeting and apologize for my tardiness. As was the case with several of us as we got to the floor we were approached by Senators who had other very important issues and so we have tried to take care of as many of those as possible. Senator Enzi was another one who had a mark-up in fact right on the floor, but I now recognize you, Senator, for your questions.

Senator ENZI. Thank you, Mr. Chairman. I'm one of the fortunate Senators who has the ability, because of low populations in my State, to talk to almost all of my constituents, which of course

would include all of my Cuban constituents, and they keep raising questions for me and that's what led to me working on this travel bill, and I'm really disturbed at some of the actions that our government is taking. Now I understand that Castro arrested and imprisoned the 75 dissidents and that that's wicked and wrong. There isn't anybody that doesn't think that that I know of, probably everybody in Cuba as well except Castro.

But we made some policy changes and some of them didn't necessarily have to do with that imprisonment. One of the things that I'm concerned about is why we've changed. I'd like the inside story on why we've changed the travel policy specifically as it deals with people to people?

Mr. NORIEGA. The particular regulations that we promulgated making some changes in the travel licensing requirements was pretty narrow. It was for non-academic educational exchanges, in other words exchanges that weren't in the context of academic study. They might be educational but in point of fact they took the nature increasingly of tourism. We received mail from people complaining about, here, look at this brochure, it's go participate in mojito tours of Cuba and it's going to be called an educational exercise, and it was summer break in Cuba and that was inconsistent with our policy.

But I want to be very clear, Senator, that we do want to continue educational travel of an academic nature, cultural ties, humanitarian travel. As a matter of fact—

Senator ENZI. But do we specifically single out people to people and say no more of that?

Mr. NORIEGA. No, Senator. That was that one category of travel where there was a general license for that sort of travel, where we licensed travel that was in a non-structured sort of educational activity and folks who had been licensed in that way were abusing that opportunity, abusing that license, and carrying out what was fairly obvious forms of tourism. Having said that—

Senator ENZI. One of those licensees is from Wyoming that's now going to be excluded, and he's been taking groups over there for some time. And I asked him specifically about this thing that the tourists are kept in enclaves and they're not allowed to talk to average people and that they're shepherded around and that sort of thing and that hasn't been the case with his tours. Now they have to be very careful in instructing their people on how people that they talk to could get in trouble, but have encouraged them to talk to average citizens there, to just be careful on what they're saying, but they are by no means shepherded around the whole time.

Mr. NORIEGA. Sure.

Senator ENZI. So how are you going to distinguish between the groups that have some true educational value there and are making a difference perhaps in the whole Cuban situation—

Mr. NORIEGA. Well, there are other categories of travel that would remain available. We noted that 70 percent of these hotels were in tourist enclaves and this fellow probably made a point, conscious point, of avoiding those and going to other accommodations that would be more out on the economy and open in Cuban society. I don't know the details of what sort of operation he runs. It could very well be eligible for some other form of specific licensing, but

if you would ask him to communicate with either me or Mr. Newcomb we can do what we can to try to accommodate some sort of license where he could continue his work, assuming it was lawful, within the confines of U.S. laws approved by Congress 3 years ago.

Senator ENZI. OK, I appreciate that. Another area that I'm kind of, that I need more details on, deals with the congressional. I understand the congressional intent that was originally established with TSRA concerning the assistance to Cuban people through the trade of agriculture and medicine products. Can you explain the State Department's interpretation, how the intent has changed on that, why we're doing something different in the last 10 months than we have before?

Mr. NORIEGA. In terms of that one decision on the regulation change, I'm not familiar with any other way we interpret it, other than this one area where I explained that we made a decision, made a judgment that it was being abused and that it wasn't consistent with travel.

Senator ENZI. Can you give me a little more detail on how that was being abused?

Mr. NORIEGA. Are we talking about the travel, the non-education, sort of non-academic study sort of travel? Is that what you're talking about, Senator?

Senator ENZI. No, actually not. We were doing some health care exhibitions in Cuba.

Mr. NORIEGA. Oh, I see, oh, that's not now we're—

Senator ENZI. I changed subjects on you a little bit.

Mr. NORIEGA. I got it, I got it. I apologize for that. In 2003, it is correct that we approved a couple of exhibitions and actually before 2003 there were a couple of exhibitions that were licensed. The last time we denied a license, frankly in direct response to the crackdown, and we felt that we quite literally didn't want to do business as usual with the regime and be perceived as carrying on normal commercial exchange with the government right in the wake of the crackdown. Other governments have proceeded differently, but that is the policy that we believe makes sense for the United States.

Senator ENZI. Have any of those other countries expressed any concern that maybe we were being too harsh in that area?

Mr. NORIEGA. Not to me. The one concern I hear from other countries because of TSRA is that the Cuban Government is using that cash-only requirement as a basis to pay U.S., some U.S. exporters and that's money that the Cuban Government owes to other countries and other governments, and they're stiffing the other governments because our law requires that they pay cash, they're taking cash that they owe to other countries or owe to other governments and paying to U.S. farmers and others with very explicit political intent of influencing the debate here in the United States, and frankly I'm glad that our farmers are getting that and not other farmers from other wonderful places in the world.

Senator ENZI. I'll quickly ask one more question if that's OK and shift gears one more time, and that's to ask you if you can tell me a product that isn't on a U.S. control list, meaning it has some military application that Cuba can't get under our present policy,

not from us but from other people? Are we really denying them anything other than what's on our military control list?

Mr. NORIEGA. They can buy whatever they want and develop whatever they want, I suppose, if Fidel Castro decided that that's where he wanted to put his resources. I would expect that that's the case. It was the same of the Soviet Union when we maintained export controls on the Soviet Union, but we actually denied them that as a matter of principle and as a matter of making it more difficult for them to get certain products, but——

Senator ENZI. Well, we've always had export controls, you know, to virtually every nation including Great Britain.

Mr. NORIEGA. Absolutely, right.

Senator ENZI. But not to the extent that we've had here, but it hasn't precluded them from getting anything except what's on the control list. Just a point that I wanted to make. I thank the chairman.

Mr. NORIEGA. They pick it up from other countries, yes.

The CHAIRMAN. Thank you very much, Senator Enzi. Senator Coleman.

Senator COLEMAN. Thank you, Mr. Chairman. And Mr. Chairman, thank you for holding this very important hearing. I appreciate the opportunity to be here. Mr. Noriega, when I was in Cuba, one of the things that's working, a little bit of private entrepreneurship, is they have what I think they call paladares, my Spanish isn't so good, restaurants in homes and at one time I think there were about 100 of them and now the government has limited the number, I think to around 24.

I had a conversation with the head of the central bank, I think Mr. Soberon, I think was his name, and it was an interesting conversation. But I asked him about why they don't just kind of let these things go. Folks there, the help they get in American dollars, they're getting tips, they're making some money. And one of his responses was something to the effect of they're kind of keeping the lid on this because they really don't want an entrepreneurial class, because an entrepreneurial class would be susceptible to American influence and that was of concern.

How can what can we do to support an entrepreneurial class without being accused of meddling, you know, in the internal affairs of another country? What kind of actions can we take? And not because it's an American influence, but because it's a good thing, it's a good thing. So what can we do? What can Mr. Cason do? What can our interest section do without crossing a line?

Mr. NORIEGA. Sure. Well, from the point of view of the Cuban Government everything crosses the line that Jim Cason does or that anyone that wants to help the Cuban people does. But having said that, we do want to find some creative ways to encourage contact with these self-employed people, these micro-enterprises that were budding initially. There were actually at one point, there were between 180,000 and 200,000 of these paladares, oh, I'm sorry, not paladares, but the whole self-employed people registered, and that number's down closer to 120 now because of the government coming in and strangling it with red tape and all of that.

But I think this is an area where we should do some work, maybe encouraging cooperative organizations that know how to or-

ganize, some business management training, maybe video cassettes or books that we can make available to people so that they can pick up, hone their entrepreneurial skills. The thing about entrepreneurial skills are they're natural, they're very natural. I remember asking a Cuban economist well, you don't have economists in Cuba that don't really know about a modern economy, how do you do it? And he said you don't need economists to make an economy work, you need rational actors who have the ability to operate and do what's in their natural interests.

But it is good that we're doing some of this, Senator, already, providing resources, books, to them. One of the areas that we hoped might bud when we allowed licensing of remittances from any U.S. person over 18 to any Cuban was maybe the idea that some people might give them some money to help them buildup their inventory, for example, and help them start to buildup these small enterprises. But this is an area where we need to do some work and I think it would be very useful.

Senator COLEMAN. Mr. Noriega, one area where I had some concern with the present policy has to do with the issue of medical supplies. I understand under the year 2000 legislation, TSRA legislation, that medical supplies are OK, but there is, I believe, kind of an end-use provision in there, concern about to make sure it's not being used for biological weapons or other things, and so it's a requirement that, I believe, some kind of certification requirement that says you've got to know what the end-use requirement is and you've got to track it and certify it to some degree.

And I would suspect, or I would believe there are some products, such as we had a concern about AIDS and one of the things you need for AIDS is machinery that does CD4 counts that they don't make in Cuba. Can you help me understand and just kind of maybe educate me a little bit about the purpose, the importance of this kind of end-use requirement? To me it would slow up getting supplies that we all agree are good things, this is for the Cuban people. Can you help me understand that a little bit?

Mr. NORIEGA. Yes, Senator. Over the years since 1992, Cuba has been able to buy medicine and medical supplies from the United States. It was very convenient to them to say that they couldn't but the fact is they could. A couple of facts are that the United States is a high-cost provider for these sorts of things and they also, the regime, which is really the only entity that purchases anything in Cuba, was unwilling to pay those high prices and wasn't credit-worthy and they wanted credits. So a lot of the time it would be readily available to line up, for example, Caritas, the Catholic church arm, to do end-use monitoring for some shipment of material. And I asked the head at the time, in 1998 I was in Havana, and I asked him, have you ever been asked to do this? And he said, oh yes, all the time. I've got a bunch of file folders of these MOUs were I agreed to go and do end-use monitoring and that was totally acceptable and the license was approved, but the government didn't buy anything because the government doesn't have any money.

And so a lot of time that's the complicating factor, but we also would have people that would come to our attention in terms of a transaction of medical equipment and medical supplies and we'd be glad to run to ground and facilitate to the extent that it's allowable

under the law the approval of a license, because we wouldn't want to deny basic articles, particularly if this is the only place where you can get them. In terms of whether it has a dual-use capability, that's a much bigger, compelling argument, and we would have difficulty surmounting that argument if that were a case in certain areas.

But by and large we would want to facilitate those kinds of transactions and it isn't impossible by any means to arrange some sort of end-use monitoring if the government wants to try to do it.

Senator COLEMAN. I would just hope that that end-use monitoring provision would not prevent the opportunity for needed medical supplies to get to those who need them where there aren't any of these other concerns, so take a look at that and I'll certainly look on this end. I think that would be the right thing to do.

Mr. NORIEGA. Yes, sir, thank you.

Senator COLEMAN. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Coleman.

Secretary Noriega, we thank you very much for your testimony and for your responses to your questions, and in a couple of instances you've indicated you would furnish additional information for the record and we would appreciate that, of course, also.

Mr. NORIEGA. Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you for coming. I'd like to call now upon our third panel, Mr. José Miguel Vivanco, executive director, Americas Division, Human Rights Watch; Mr. Emilio T. González, senior managing director, Global Government Affairs of the law firm of Tew Cardenas; and Mr. Bernard Aronson, Managing Partner, ACON Investments, LLC. Gentlemen, we thank you for coming today. We thank you for your patience waiting for this moment to testify and we look forward to the testimony. I'll ask you to testify in the order that I introduced you. If you have prepared statements they will each be made a part of the record in full and you may proceed either with the statements or with summary comments. Mr. Vivanco.

**STATEMENT OF JOSÉ MIGUEL VIVANCO, EXECUTIVE DIRECTOR, AMERICAS DIVISION, HUMAN RIGHTS WATCH, WASHINGTON, DC**

Mr. VIVANCO. Thank you very much, Mr. Chairman, members of the committee. I am honored to appear before you today. Thank you for your invitation to address the human rights situation in Cuba and to discuss U.S. policy toward that country. I would like to submit for the record my written testimony.

The CHAIRMAN. It'll be published in full in the record.

Mr. VIVANCO. Thank you very much. Mr. Chairman, members of the committee, Human Rights Watch has been monitoring human rights condition in Cuba for more than 15 years. Severe political repression has been constant throughout this time. Cuba has long been a one-party state. It has long restricted nearly all avenues of political dissent. It has long denied its people basic rights to fair trial, free expression, association, assembly, movement, and the press. It has frequently sought to silence its critics by using short-term detentions, house arrest, travel restrictions, threats, surveil-

lance, political-motivated dismissal from employment, and other kinds of harassment.

But this year's crackdown on political dissent in Cuba in its scale and intensity is the worst we have seen in a decade or more. The crackdown was a reaction to the flowering of civil society in Cuba over the last several years and to the growing activism and ambitions of its dissident community. It followed the success of the Varela Project, led by dissident Oswaldo Payá in gathering signatures from Cuban citizens on a petition calling for political reform.

The crackdown began on March 18. In just a few days state security agents arrested dozens of people, launching an all-out offensive against non-violent dissidents, independent journalists, human rights defenders, independent librarians, and others brave enough to challenge the government's monopoly on truth. In due process terms, their trials were a shame, and in the end, 75 defendants received sentences ranging from 6 to 28 years, with an average sentence of 19 years. Cuban courts have not imposed such draconian sentences on such large numbers of people in more than two decades.

What do these troubling developments mean for U.S. policy toward Cuba? What approach offers the greatest likelihood of effecting change in Cuba? The first thing I hope we can all agree on is that no one should have any illusions about the character of the Cuban Government, no one should romanticize any aspect of this cruel system, or make any excuses for Fidel Castro's abuses. The crackdown on dissent in Cuba is not the fault of the United States or the fault of the U.S. embargo or the fault of the Cuban-American community. The responsibility lies exclusively with Fidel Castro.

We should also agree that this is no time to reward Fidel Castro. This is time for maximizing effective pressure on the Cuban Government to change its policies, but we also need to be tough-minded and strategic in assessing whether the all-out embargo currently in place is the best available tool for achieving our goals. Is it likely to move the Cuban Government? Do Cuba's cynical rulers even see it as punitive? I believe that the answer to both questions is no and that a middle ground approach will serve the costs of Cuba's brave dissidents far better.

I said that as someone who is often supportive of economic sanctions, even unilateral economic sanctions against governments that systemically violate human rights. Human Rights Watch believes that sanctions, when carefully targeted and deployed as part of a larger diplomatic strategy, can be effective in promoting human rights and in expressing where the United States stands on human rights. This year, for example, we applauded the U.S. Congress for supporting additional U.N. sanctions against the Government of Burma. We are generally skeptical of argument that trade with the United States or exposure to American values and practices can somehow convince repressive governments to be kinder and gentler to their people.

But it seems to us that any American policy designed to promote human rights in another country has to meet two basic tests to be worthy of continuation. First, is the policy more likely to be effective than the alternatives? Second, does it advance the interests and speak to the needs of those struggling to defend human rights

in the country concerned? After 40 years it's clear that the all-out embargo against Cuba fails both tests. Many of the dissidents struggling for change inside Cuba want to see the embargo eased, including the writer, Raul Rivero, and the activist, Hector Palacios Ruiz, who were sentenced, respectively, to 20 and 25 years in prison in April, as well as Oswaldo Payá, the leader of the Varela Project.

Refusing to heed those who would risk everything for freedom in Cuba is senseless. It will be as if the United States had taken steps to defend liberty in the whole Soviet empire that were categorically opposed by Andrei Sakharov, Lech Walesa, and Vaclav Havel. Leading Cuban dissidents understand that the embargo helps Fidel Castro's cause, not theirs, because it is indiscriminate rather than targeted. It allows the Cuban Government to shift blame to the United States for the Cuban people's suffering, because it isolates the Cuban people from the world, it makes it easier for the Cuban Government to control what they hear, see, and know. Because it is bitterly opposed by most nations of the world, it enables the Cuban Government to divide the international community, leading ironically to less international pressure on Fidel Castro, not more.

At the same time, a relaxation or end to the embargo will not by itself be an effective strategy for promoting change in Cuba. We need to be clear-eyed about this as well. The Cuban Government is not going to stop locking up dissident just because American tourists have joined the Canadians sunning themselves on Cuba's beaches or because American CEOs have joined the Europeans signing contracts with Fidel Castro. There's a need to be carefully targeted, multilateral pressure on the Cuban Government, or Cuban dissidents won't have the space to fight for change.

We need a middle ground between unquestioning engagement with the Castro government, an all-or-nothing approach that plays into Fidel Castro's hands. All sides in the Cuban policy debate need to ask themselves, what does Castro fear most from the United States? It is not the continuation of the embargo or its dismissal. It is the prospect that the United States might someday agree with allies in Latin America and in Europe on an effective common strategy for defending the rights of the Cuban people.

For that reason, I would argue that America's Cuba policy should not even be directed at Havana right now. Given the history of this relationship, there is very little that the United States can do bilaterally to influence the Cuban Government. Instead, America's Cuba policy should be directed toward the other nations of Latin America, toward Europe, toward Canada. It should be aimed at forging a principal common strategy for promoting political change in Cuba. A united international community will have immensely more political and moral authority with the Cuban Government than a divided international community.

Because of the crackdown in Cuba there is an opportunity now to forge a more united approach. The European Union has already toughened its common position on Cuba, for example. Latin American countries have supported resolutions on human rights in Cuba at the United Nations, which although far too mild, are a step forward. But much more can be done. The United States should be urging Latin democracies to speak forcefully against political re-



pression to Cuba and to stop backing Cuban membership in bodies like the U.N. Commission for Human Rights. It should press Latin diplomats to meet with Cuban dissidents. It should urge European countries to impose on the Cuban leadership the same targeted sanctions, including the denial of visas and the seizure of assets that they have imposed against other repressive governments, such as Burma and Zimbabwe.

While easing some trade and investment with Cuba and ending the senseless ban on travel to Cuba, the United States should also work with allies to develop common rules governing economic engagement there. Foreign investment in new private enterprises has helped limit the power of the state in countries like China and Vietnam. But in Cuba, workers in joint ventures with foreign companies are still hired and paid by the Cuban Government. That's remaining at the mercy of the state. European, Canadian, and ultimately American companies should receive licenses for investment in Cuba only if that policy changes.

The tragedy of the all-out U.S. embargo on Cuba and a key argument for easing it is that it makes the United States impotent in pressing its allies for these tougher measures. The Bush administration knows it, knows that it has virtually no influence with the rest of the world on Cuba. When Cuba was up for re-election to the U.N. Human Rights Commission this year, the administration hardly even tried to convince Latin countries to find an alternative candidate. In most capitals, Castro has succeeded in making the embargo a bigger issue than his own repression.

The best alternative to sanctions against Cuba, therefore, is not a policy of no sanctions. It should be possible to forge a middle path that isolates the Cuban Government, not the Cuban people, but so long as the United States is unwilling to climb down to a tough, yet sensible policy, it will not persuade its allies to rise up to such a policy. Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Vivanco follows:]

PREPARED STATEMENT OF JOSÉ MIGUEL VIVANCO, EXECUTIVE DIRECTOR, AMERICAS  
DIVISION, HUMAN RIGHTS WATCH

Thank you for your invitation to address the human rights situation in Cuba and to discuss U.S. policy towards that country.

Human Rights Watch has been monitoring human rights conditions in Cuba for more than 15 years. Severe political repression has been constant throughout this time. Cuba has long been a one-party state. It has long restricted nearly all avenues of political dissent. It has long denied its people basic rights to fair trial, free expression, association, assembly, movement and the press. It has frequently sought to silence its critics by using short term detentions, house arrests, travel restrictions, threats, surveillance, politically motivated dismissals from employment, and other harassment.

But this year's crackdown on political dissent in Cuba, in its scale and intensity, is the worst we've seen in a decade or more.

The crackdown was a reaction to the flowering of civil society in Cuba over the last several years, and to the growing activism and ambitions of its dissident community. It followed the success of the Varela Project, led by dissident Oswaldo Paya, in gathering signatures from Cuban citizens on a petition calling for political reform.

The crackdown began on March 18. In just a few days, state security agents arrested dozens of people, launching an all-out offensive against nonviolent dissidents, independent journalists, human rights defenders, independent librarians, and others brave enough to challenge the government's monopoly on truth. In due process terms, their trials were a sham. And in the end, 75 defendants received sentences ranging from 6 to 28 years, with an average sentence of 19 years. Cuban courts

have not imposed such draconian sentences on such large numbers of people in more than two decades.

What do these troubling developments mean for U.S. policy towards Cuba? What approach offers the greatest likelihood of effecting change?

The first thing I hope we can all agree on is that no one should have any illusions about the character of the Cuban Government. No one should romanticize any aspect of this cruel system, or make any excuses for Fidel Castro's abuses. The crack-down on dissent in Cuba is not the fault of the United States, or the fault of the U.S. embargo, or the fault of the Cuban-American community. The responsibility lies with Fidel Castro, period.

We should also agree that this is no time to reward Fidel Castro; this is a time for maximizing effective pressure on the Cuban Government to change its policies. But we also need to be tough-minded and strategic in assessing whether the all-out embargo currently in place is the best available tool for achieving our goals. Is it likely to move the Cuban Government? Do Cuba's cynical rulers even see it as punitive? I believe the answer to those questions is no, and that a middle ground approach would serve the cause of Cuba's brave dissidents far better.

I say that as someone who is often supportive of economic sanctions, even unilateral economic sanctions, against governments that systematically violate human rights. My organization believes that sanctions, when carefully targeted and deployed as part of a larger diplomatic strategy, can be effective in promoting human rights and in expressing where the United States stands on human rights. This year, for example, we applauded the U.S. Congress for supporting additional U.S. sanctions against the government of Burma. We are generally skeptical of arguments that trade with the United States or exposure to American values and practices can somehow convince repressive governments to be kinder and gentler to their people.

But it seems to us that any American policy designed to promote human rights in another country has to meet two basic tests to be worthy of continuation. First, is the policy more likely to be effective than the alternatives? Second, does it advance the interests and speak to the needs of those struggling to defend human rights in the country concerned? After 40 years, it's clear that the all-out embargo against Cuba fails both tests.

Many of the dissidents struggling for change inside Cuba want to see the embargo eased, including the writer Raul Rivero and the activist Hector Palacios Ruiz, who were sentenced, respectively, to 20 and 25 years in prison in April, as well as Oswaldo Paya, the leader of the Varela Project. Refusing to heed those who risk everything for freedom in Cuba is senseless. It would be as if the United States had taken steps to defend liberty in the old Soviet empire that were categorically opposed by Andrei Sakharov, Lech Walesa, and Vaclav Havel.

Leading Cuban dissidents understand that the embargo helps Fidel Castro's cause, not theirs. Because it is indiscriminate, rather than targeted, it enables the Cuban Government to shift blame to the United States for the Cuban people's suffering. Because it isolates the Cuban people from the world, it makes it easier for the Cuban Government to control what they hear, see and know. Because it is bitterly opposed by most nations, it enables the Cuban Government to divide the international community, leading, ironically, to less international pressure on Fidel Castro, not more.

At the same time, a relaxation or end to the embargo would not, by itself, be an effective strategy for promoting change in Cuba. We need to be clear-eyed about this, as well: The Cuban Government isn't going to stop locking up dissidents just because American tourists have joined the Canadians sunning themselves on Cuba's beaches, or because American CEOs have joined the Europeans signing contracts with Fidel Castro. There does need to be carefully targeted, multilateral pressure on the Cuban Government, or Cuba's dissidents won't have the space to fight for change. We need a middle ground between unquestioning engagement with the Castro government and an all-or-nothing approach that plays into Fidel Castro's hands.

All sides in the Cuba policy debate need to ask themselves: What does Castro fear most from the United States? It is not the continuation of the embargo, or its demise. It is the prospect that the United States might someday agree with allies in Latin America and Europe on an effective common strategy for defending the rights of the Cuban people.

For that reason, I would argue that America's Cuba policy should not even be directed at Havana right now. Given the history of this relationship, there is very little the United States can do bilaterally to influence the Cuban Government. Instead, America's Cuba policy should be directed towards the other nations of Latin America, towards Europe, towards Canada. It should be aimed at forging a principled, common strategy for promoting political change in Cuba.

A united international community will have immensely more political and moral authority with the Cuban Government than a divided international community. Because of the crackdown in Cuba, there is an opportunity now to forge a more united approach. The European Union has already toughened its common position on Cuba, for example. Latin American countries have supported resolutions on human rights in Cuba at the U.N., which, although far too mild, are a step forward. But much more can be done.

The United States should be urging Latin democracies to speak forcefully against political repression in Cuba, and to stop backing Cuban membership in bodies like the U.N. Commission for Human Rights. It should press Latin diplomats to meet with Cuban dissidents. It should urge European countries to impose on the Cuban leadership the same targeted sanctions, including the denial of visas and the seizure of assets, that they have imposed against other repressive governments, such as Burma and Zimbabwe.

While easing some trade and investment with Cuba, and ending the senseless ban on travel to Cuba, the United States should also work with allies to develop common rules governing economic engagement there. Foreign investment in new private enterprises has helped limit the power of the state in countries like China and Vietnam. But in Cuba, workers in joint ventures with foreign companies are still hired and paid by the Cuban Government, thus remaining at the mercy of the state. European, Canadian and ultimately American companies should receive licenses for investment in Cuba only if that policy changes.

The tragedy of the all-out U.S. embargo, and a key argument for easing it, is that it makes the United States impotent in pressing its allies for these tougher measures. The Bush administration knows it has virtually no influence with the rest of the world on Cuba. When Cuba was up for reelection to the U.N. Human Rights Commission this year, the administration hardly even tried to convince Latin countries to find an alternative candidate. In most capitals, Castro has succeeded in making the embargo a bigger issue than his own repression.

The best alternative to dumb sanctions against Cuba, therefore, is not a policy of no sanctions. It should be possible to forge a middle path that isolates the Cuban Government, not the Cuban people. But so long as the United States is unwilling to climb down to a tough, yet sensible policy, it will not persuade its allies to rise up to such a policy.

The CHAIRMAN. Thank you very much, sir, for that testimony.  
Mr. González.

**STATEMENT OF EMILIO T. GONZÁLEZ, SENIOR MANAGING DIRECTOR FOR GLOBAL GOVERNMENT AFFAIRS, LAW FIRM OF TEW CARDENAS, LLP, WASHINGTON, DC**

Mr. GONZÁLEZ. Thank you, Mr. Chairman, for the opportunity to be here. I have a longer version of my statement that I'll submit for the record.

The CHAIRMAN. It will be published in full in the record.

Mr. GONZÁLEZ. Sir, for 26 years I served in the United States Army as an artillery, intelligence and foreign area officer throughout Latin America. I last served the U.S. Government as Director for Western Hemisphere Affairs at the National Security Council, a position which I held until July of this year. I enthusiastically support the administration's current policy and do not believe that now is the time to change U.S. policy with regard to trade and travel with Cuba.

The Cuban Government has gone to great lengths to reinvent itself as a responsible neighbor, but its past and current actions demonstrate otherwise. For over a decade the Cuban Government has embarked on a policy of promoting tourism, not to open itself up to the outside world, but to open the outside world's pocket-books to the Cuban Government. Millions of tourists from Europe, Latin America, Canada, whose commitment to democracy is no less

than our own, have traveled to Cuba, making it a major tourist destination in this hemisphere.

Yet over the past 10 years, Cuba is no freer, there is no less repression, and Cuba's economy is no more open than in years past. In fact, Cuba remains every bit the totalitarian state it was at the height of the cold war. Foreign travelers to Cuba are surprised to find that Cubans have become second-class citizens in their own country. Cubans are not allowed to swim at tourist beaches, eat at tourist restaurants, or even stay at tourist resorts. Inexpensive entertainments for foreigners comes on the backs of the Cuban people, but the money derived from tourism benefits only the Cuban Government.

I find it incredulous to think that increased travel by U.S. citizens will reduce government control and lift the Cuban people out of poverty and into a prosperous and democratic future. The Castro regime believes that U.S. tourists will provide an instant cash infusion to deplete its government coffers. The common perception is that the United States could flood Cuba with tourists, and by extension, U.S. ideals. I do not believe this would ever be allowed to happen.

The Castro regime doesn't want unlimited United States tourists. It wants only enough tourists to sustain its restrictive infrastructure. There will be no flood of tourists, just a controlled collection of limited dollars. Whatever economic benefits a reform in the tourist industry brings, it is measured against real or perceived encroachments on state power. For the Castro regime, tourism is not about economics and jobs, but about sustaining its political control.

With regard to trade and particularly the increase in agricultural sales to Cuba that has received widespread attention, these purchases should not be a prelude to increased or broader credit-driven trade with Cuba afforded to other developing countries who have demonstrated actual interest in reform and democracy. Furthermore, this is not, and I very seriously doubt it will ever be, a significant market that will be made available exclusively to U.S. agricultural producers. Our current policy of accepting only cash sales for agricultural products is not only politically appropriate, but economically responsible.

At a time when some are calling for credits to enhance trade with Cuba, it is interesting to note that Cuba is considered probably one of, if not the most, deadbeat nations in the world. The main reason the Castro regime wants the lifting of the travel ban is that it cannot afford to pay its foreign creditors elsewhere. What few dollars the government can muster are being used to make strategic agricultural purchases from the United States in hopes of enticing our farmers and other agricultural concerns to serve as their advocates. But the only reason the Cuban Government can make those purchases is that it has stopped payment on essentially every other debt it has accrued.

Cuba's foreign debt has been estimated to be between \$20 and \$40 billion. The vast majority of this will likely never be repaid, and certainly not by the Castro regime. Cuba owes significant debts to Russia, Japan, Argentina, France, Norway, Mexico, and other countries who mistakenly believed that they were dealing with an honest trading partner. Foreign creditors are freezing

Cuban Government bank accounts and other assets around the world. One Canadian firm has even resorted to tracking down and placing liens on Cuban merchant vessels in ports around the world in hopes of collecting back payment. In fact, a positive by-product of current U.S. policy is that the U.S. Government does not have to take a number in the long line of creditors hoping to be repaid.

President Bush has offered and maintained through his initiative for a new Cuba a principled approach by engaging the Cuban people while repudiating the Cuban Government's totalitarian nature. The United States seeks increased trade, reduced trade barriers, and more open societies around the world. In the meantime in Cuba, human rights activists, independent journalists, and trade union leaders have been recently arrested on trumped-up charges. Others have been summarily executed for leaving the country.

I believe that at this time it would be grossly inappropriate to ease U.S. restrictions on the Castro regime given its failure to take a modicum of steps to democratize its political system, respect human rights, and open its economy. And if I may, sir, as the only Cuban-American testifying today, I'd like to say that I hope to be able to come here one day in the future in a free and democratic Cuba to advocate for greater engagement, to advocate for unrestricted travel, to advocate for increased economic intercourse, but I grant you, gentlemen, that now is not only not the time, but now is precisely the wrong time to engage in any policy changes. Thank you.

[The prepared statement of Mr. González follows:]

PREPARED STATEMENT OF EMILIO T. GONZÁLEZ, SENIOR MANAGING DIRECTOR FOR  
GLOBAL GOVERNMENT AFFAIRS, LAW FIRM OF TEW CARDENAS, LLP

Mr. Chairman: I am Emilio T. González, Senior Managing Director for Global and Government Affairs at the law firm, Tew Cardenas, LLP. For over 26 years I served as a United States Army officer in artillery, intelligence and foreign area assignments. I last served the United States Government as Director for Western Hemisphere Affairs at the National Security Council, a position I held until July of 2003.

Thank you for inviting me to present my views on the Administration's policies with regard to travel and trade with Cuba. For over forty years, U.S.-Cuba relations have proven to be as passionate and divisive a subject as one can find. Having said that, I do not believe that we are all here to find ways with which we can continue to nourish a corrupt, hostile and belligerent government 90 miles off our shores. Honorable people differ on the best ways to bring about meaningful political, economic and social change in Cuba. But we should always keep in mind the interests of the Cuban people and their future, and our national security interests, when deciding on any meaningful change to our policy.

Since coming to power in 1959, the government of Fidel Castro and his revolutionary elite has been obsessed with the United States. Notwithstanding the Revolution's mantra about national independence and dignity, the United States continues to be Cuba's main political focal point. The Castro regime dedicates all available assets to influence U.S. public opinion, decision-makers and the media. Since coming to power, and it bears repeating, the Castro government has constantly and continually declared its hostility to the United States, regardless of whether it is a Republican or Democratic administration. For example, the Cuban Government has:

- Exported revolution throughout the Americas and the world. Cuban troops have been deployed around the globe fomenting revolution, creating instability and renting out its armed forces and internal security personnel. The same government that sent troops to the Golan Heights against Israel and trained major radical terrorist groups in the Middle East and Latin America is now courting us with trade opportunities.
- Sent military officers to Viet Nam to torture U.S. prisoners of war.
- Engaged in narcotrafficking. Ample testimony and information exists that the Castro government has engaged in narcotics-trafficking into the United States.

In the early 1980s, four senior members of the Castro regime were indicted for narco-trafficking. They are still being shielded from U.S. justice by Castro.

- Offered sanctuary to fugitives from U.S. justice, including terrorists and cop killers.
- Continued to be placed on the State Department's list of State sponsors of terrorism. The Cuban Government retains broad relations with international outlaw groups such as the Revolutionary Armed Forces of Colombia (FARC) and the Basque ETA organization.
- Conducted offensive espionage operations against the United States. More Cuban spies are incarcerated today in U.S. prisons than from any other country, possibly from all other countries combined.

While this is not an exhaustive list, it does illustrate an ongoing pattern of conduct by the Castro regime and places today's discussion in a proper, national security context.

#### TRAVEL

I support current Administration policy and do not believe that now is the time to change current U.S. policy. The Cuban Government has gone to great lengths to reinvent itself as a responsible neighbor but its past and current actions demonstrate otherwise.

For over a decade, the Cuban Government has embarked on a policy of promoting tourism, not to open itself up to the outside world but to open the outside world's pocket books to the Cuban Government. Millions of tourists from Europe, Latin America and Canada, whose commitment to democracy is no less than our own, have traveled to Cuba, making it a major tourist destination in the hemisphere. Yet, over the past ten years, Cuba is no freer, there is no less repression and Cuba's economy is no more open than in years past. Despite the sunny beaches, allure of sex and flashy nightlife, Cuba remains every bit the totalitarian state it was at the height of the Cold War.

Tours to Cuba are booked through government entities that then use a broad array of other government entities, many of them military-controlled, to house, transport and control every aspects of a tourist's stay in Cuba. Independent travelers may succeed in finding private accommodations, but the long arm of the state is always within easy reach.

Foreign travelers to Cuba are routinely surprised to find out that Cubans have become second class citizens in their own country. Cubans are not allowed to swim at tourist beaches, eat at tourist restaurants or stay at tourist hotels. Tourists are not usually aware that Cubans cannot read whatever they want, write whatever they want, work wherever they want or live wherever they want. Inexpensive entertainment for foreigners comes on the backs of the Cuban people, but the money derived from tourism benefits only the Castro regime.

I find it incredulous to think that increased travel by U.S. citizens will reduce government control and lift the Cuban people out of poverty and into a prosperous and democratic future. U.S. tourists would more than likely be herded into existing resorts where their movements and activities will not be far from the watchful eyes of government minders.

Furthermore, the Cuban Government would closely regulate tourist visas. Unlike tourism in more established and mainstream locations, the Cuban Government uses tourism to support continued political control. The Castro regime believes U.S. tourists would provide an instant cash infusion to depleted government coffers. Unfortunately, the Castro regime will not allow appreciable change in the daily lives of Cuba's people. The common perception is that the U.S. could "flood" Cuba with U.S. tourists and by extension, U.S. ideals. This would never be allowed to happen. The Castro regime doesn't want unlimited U.S. tourists; it wants only enough tourists to sustain the restricted tourism infrastructure. There will be no flood of tourists, just a controlled collection of limited dollars. Whatever economic benefit a reform in the tourism industry brings, it is measured against real or perceived encroachments on state power. For the Castro regime, tourism is not about economics and jobs but about politics and control.

#### TRADE

Trade with Cuba, particularly the increase in agricultural sales, has received widespread attention in recent years. Since enactment of the Trade Sanctions Reform and Export Enhancement Act (TSRA) of 2000, it is estimated that Cuba has purchased over \$285 million in agricultural commodities from the United States. These purchases, while beneficial to our farmers, should not become the prelude to

the increased, broaden credit-driven trade with Cuba afforded to other developing countries who have demonstrated actual interest in reform and democracy. Furthermore, this is not, and never will be, a significant market that will be made available exclusively to U.S. agricultural producers. Our current policy of accepting only cash sales for agricultural products is not only politically appropriate but economically responsible.

At a time when some are calling for credits to enhance trade with Cuba, it is interesting to note that Cuba is one of the biggest deadbeat nations in the world. In fact, the main reason the Castro regime wants the lifting of the travel ban is that it cannot afford to pay its foreign creditors. What few U.S. dollars the government can muster are being used to make strategic agricultural purchases from the United States in hopes of enticing our farmers and other agricultural concerns to serve as advocates to Cuba's agenda before Congress. But the only reason that the Cuban Government can make those purchases is that it has stopped payment on essentially every debt it has accrued.

Cuba's foreign debt has been estimated to be between \$20 and \$40 billion. The vast majority of this will likely never be repaid, and certainly not by the Castro regime. Cuba owes significant debts to Russia, Japan, Argentina, Spain, France, Norway, Mexico and other countries who mistakenly believed that they were dealing with an honest trading partner. Foreign creditors are freezing Cuban Government bank accounts and other assets around the world. One Canadian firm has resorted to tracking down and placing liens on Cuban merchant vessels in ports around the world in hopes of collecting back payment. A positive byproduct of current U.S. policy is that the U.S. government does not have to take a number in the long line of foreign creditors hoping to be paid.

Moody's has lowered Cuba's credit rating to Caa1—"speculative grade, very poor" and Dunn and Bradstreet rate Cuba as one of the riskiest economies in the world. Any credit offered to Cuba to make purchases over and above its cash sales would be done at the expense of U.S. taxpayers. European, Latin American and Canadian taxpayers have paid a steep price for their government's willingness to extend credit to an irresponsible borrower.

Rather than open and reform its economy, Cuba remains intentionally inefficient. Expansion of the economy to create job growth is highly unlikely as long as the Castro regime's political imperatives override economic necessities. An open and reform economy with increased foreign investment would result in less control over the Cuban workforce. Under the Castro regime foreign firms are required to enter into contracts with Cuban state enterprises to hire employees. These enterprises, many of them controlled by the Cuban military, are paid in U.S. dollars but then pay their workers in near worthless pesos. The Cuban government essentially extorts 95% of Cuban workers salaries from foreign firms as the price of doing business. The Castro regime carefully controls who works in the tourist industry, and retains the right to fire them without cause and without reference to the foreign investor paying the bills.

Increased trade generally results in direct foreign investment in developing countries, helps lift people out of poverty and promotes economic reform. However, most objective observers should agree that the Castro regime is only interested in foreign investment, not reform and not the welfare of the people of Cuba. Years of investment and economic interaction with foreign investors have failed to make Cuba more democratic, respect human rights or make the Cuban people wealthier.

#### U.S. POLICY

Notwithstanding the difficulties involved in dealing with Cuba, President Bush has attempted to deal seriously with the issue. On May 20, 2002, the President unveiled his Initiative for a New Cuba. This proactive approach to promoting change in Cuba called on the Castro regime to:

- Undertake political and economic reforms,
- Conduct free and fair elections next year for the National Assembly,
- Open its economy, to allow independent trade unions, and
- End discriminatory practices against Cuban workers.

If Cuba were to take these concrete steps toward democracy, President Bush will work with the United States Congress to ease the ban on trade and travel between the U.S. and Cuba. I hope to one day be championing greater trade and commerce with Cuba but today is not that day and now is not the time.

The Initiative for a New Cuba also provides for greater contact through improved mail service, greater NGO participation in Cuba and educational opportunities for children and family members of imprisoned dissidents. The Initiative for a Free

Cuba is but the beginning of an ongoing, flexible, and responsive campaign designed to generate rapid and peaceful change in Cuba. As the President has stated, the U.S. has no designs on Cuba's sovereignty. The U.S. wishes to be a helpful and productive partner but Cuba needs to respond in equally productive ways. The ball is clearly in Castro's court. Trade with the United States is not and should not be a one-way street where U.S. resources, capital, technology and yes, unwitting tourists, are used to prolong systemic human rights violations, one-party rule and absence of the rule of law.

President Bush has offered and maintained a principled approach by engaging the Cuban people while repudiating the Cuban Government's totalitarian nature. The United States seeks increased trade, reduced trade barriers and more open societies around the world, meantime, in Cuba, human rights activists, independent journalists and trade union leaders have been recently arrested on trumped-up charges and have been summarily sentenced to long prison terms. Others attempting to flee Cuba have been put before a firing squad and shot.

Fidel Castro and his revolutionary clique have the blood of tens of thousands of Cuban citizens on their hands, citizens whose only crime was to speak their mind, worship their God, own their business, educate their children and even attempt to leave. Some want to believe that the revolutionary dictator who came on to the world's political stage in 1959 is now an older, wiser, more pragmatic leader. This could not be further from the truth. The same man who only recently declared that, with Iran he could bring the U.S. to its knees now wants us to bring him U.S. trade and tourism dollars. The same man who blasted four U.S. civilians out of the sky over international waters now wants us to offer him trade credits. The same man, who shields cop-killers and trains and harbors terrorists, now wants us to believe that he is a kindler, gentler despot worthy of our consideration.

I believe that at this time it would be grossly inappropriate to ease U.S. restrictions on the Castro regime given its failure to take even a modicum of steps to democratize its political system, respect human rights, and open its economy. Instead, Fidel Castro has ordered the most intense wave of repression against Cuba's budding civil society and all of us are expected to look the other way. This is not the time to change existing policy with regard to travel and trade. In fact, this is the wrong time to change existing policy. To do so would be an affront to those inside Cuba ceaselessly working, at great personal risk, to promote human rights and political change. It would send a signal of weakness not only to our allies in Europe, whose equally principled positions have been heard loud and clear, but also to the Castro regime which thinks the American people can be bought for a few grain sales. Before any meaningful change in U.S. policy towards Cuba is considered, we should insist that Cuba unconditionally release all of the dissidents and opposition leaders arrested earlier this year.

Justice Benjamin Cardozo wrote that "the great ideals of liberty and equality are preserved against assaults of opportunism, the expediency of the passing hour, the erosion of small encroachments, the scorn and derision of those who have no patience with general principles." I respectfully ask that we stand with Justice Cardozo on the side of principle as we discuss this important foreign policy matter.

The CHAIRMAN. Thank you very much, Mr. González. The chair welcomes Bernard Aronson, an old friend of the committee and valued public servant of our country. We're delighted that you're here today, sir. Please proceed.

**STATEMENT OF BERNARD W. ARONSON, MANAGING PARTNER,  
ACON INVESTMENTS, LLC, AND FORMER ASSISTANT SECRETARY OF STATE FOR WESTERN HEMISPHERE AFFAIRS,  
WASHINGTON, DC**

Mr. ARONSON. Thank you, Mr. Chairman. I appreciate that and I remember very fondly the enormous support and interest that you provided in the region when you were the ranking member of the Western Hemisphere Subcommittee and the cooperation that I enjoyed personally. So it's great to be back before the committee. And I also want to commend you and the committee for holding this hearing. We usually get in trouble in Latin America when we



ignore problems that are emerging and that develop into crises, and so I commend you for trying to focus some attention on Cuba.

One might think listening to the debate that nothing has changed. We could have had many of these same debates over the last 40 years, but in fact a lot has changed and I think we need to recognize that if we're going to devise policies that are going to achieve the goals that I think everybody in this room share, which is to promote a rapid, peaceful transition of Cuba to democracy.

The first change is that the policy the United States has pursued in the last number of decades of containment has succeeded. There was a time when this committee would hold a hearing on Cuba and the issue was Cuban support for revolutionary guerrilla groups in dozens of nations in this hemisphere. That's a bad dream of the past, and today Cuba is isolated politically. Nobody believes that the future belongs with Castro-style socialism, and so I think we can approach this issue with more confidence than we seem to muster.

Second, clearly the major change is the collapse of the Soviet Union. The Soviet Union provided upwards of \$7 billion a year in direct and indirect subsidies for this government and this regime. No successor nation, no other nation is going to take its place, which has vastly weakened Cuba economically, politically, and again isolated it.

The only issue we need to think through is how we can achieve the goal we know is going to be achieved in the future, which is a democratic Cuba; how we can achieve that peacefully and how we can achieve it rapidly, because we have deep interests in both of those goals. A traumatic and violent change on this island is not in our interest. We know that dictatorships are always in crisis at times of transition, which Cuba is approaching. I think we also can learn some lessons from the transitions in Eastern Europe, which we ought to try to apply to Cuba, though each case is different. One is the importance of supporting civil society. Another is the fact that in a time of transition we don't always know who's who in these kinds of regimes. Probably the single most important individual in the collapse of communism in the Soviet Union, was Boris Yeltsin, at one time a member of the central committee of the Communist party of the Soviet Union. My sense of the Cuban reality is that most Cubans, even in official positions, understand that the jig is up, that this regime is not going to endure in its current form for long, that Cuba is going to be forced by political and economic necessity to change.

I think we have to find ways to engage with these individuals because one of the other lessons of the transitions we've seen is that the wreckage these regimes leave behind is considerable. Nicaragua still has not fully recovered from just 10 years of Sandinista rule and the property claims that have to be sorted out. We need to be thinking not only how to promote change in Cuba, but how to promote it in a way that the Cuban people have a chance to recover rapidly and quickly, and that's not a small challenge.

The debate that we're engaged in, as you know, Mr. Chairman, is a very old debate in foreign policy, which is how do you influence a dictatorial regime. Do you isolate that regime, do you sanction that regime, or do you engage with it? And we have debated this

about South Africa, we've debated it about China, we've debated it about Iran, we're debating it about Cuba. And interestingly, many of those who advocated opening trade and investment with China on the grounds that over time it would create space for economic empowerment which would lead to political pressures, lead to rule-based law, take the opposite view with Cuba—that we need to sanction Cuba. And many of those who advocated sanctioning South Africa on the grounds that it was a harsh, repressive regime which we needed to isolate and not engagement take the opposite view on Cuba.

The only reason I make the point is I think that we should recognize that everybody in the debate has equal good faith. Nobody is soft on Castro. These are judgment calls that we have to make and try to come up with the best answer. My own view, and I think José Miguel Vivanco made this point as well, is that we could be much more creative in the way we carry out our policy toward Cuba and thereby try to enlist greater international support, and I'll address specifically the area of trade and investment.

I don't think we have to debate whether to lift the embargo or tighten the embargo as the only alternatives. We've had some experience in places like South Africa with the Sullivan Principles. A creative approach to Cuba could take into account the legitimate concerns of those who say that investment flows and tourist flows will just be captured by the state and the resources will be used by the state to strengthen its security apparatus without necessarily going to the other extreme of saying therefore let's not pursue these kinds of activities. We could condition trade and investment on changes in Cuba whereby the Cuban Government had to allow foreign firms to hire and fire workers directly and pay them directly, which is currently not the practice and the same in tourism.

Even if we took those steps and Cuba didn't respond, it seems to me you'd put a lot of pressure on the Cuban Government to make those internal changes and at least it would be very clear where the burden of responsibility lay if they didn't choose to take us up on it. I think we could also enlist the Europeans and others in moving in that direction. The European Union conditioned Cuban involvement in the Lome convention, which is a preferential trade regime, and its successor, on Cuban democratization. Negotiations to include Cuba didn't go forward because the Castro regime didn't go forward on the democracy agenda, but I think that kind of targeted sanction that José Miguel Vivanco was talking about could enlist far broader multilateral support.

One of the mistakes we make is that we are so aggressive in this that we actually crowd out some of the other countries who ought to be doing more in defending human rights in Cuba but don't want to look like they are our cat's paw.

I'll make two brief additional suggestions and leave it open for questions. I think the Cuban-American community is an enormous resource in this battle for democracy. I think we ought to reduce the restrictions on remittances even though those dollars also go into this government eventually through dollar stores. But I think it's an important way for them to support their families and they

ought to make the judgment of how much of their resources they can provide and not have the U.S. Government make that decision.

I think we ought to explore ways to allow Cuban-Americans to claim their relatives on the island as tax-deductible dependents, as we do for Mexicans and Canadians, consistent with U.S. tax law, again as a way to allow them to provide support. I think the more economic support Cuban-Americans provide their countrymen on the island the more independent they are of the recourse and power of the state.

Finally, Mr. Chairman, as I alluded to before, I think we shouldn't minimize the wreckage that's going to be left behind after 50 years of rule by this regime. The embargo was originally placed on Cuba because of the expropriation of U.S. properties. As you know there are thousands of such claims that are filed that have to be adjudicated, and as we saw in Nicaragua, the failure to move forward on that aggressively is an enormous deterrent to follow-on investment once democratization comes because foreign firms don't want to invest if property rights are unclear, if there are multiple claimants. So I think we ought to think seriously about trying to promote some kind of process, and this obviously has to be a decision of the executive branch to begin to adjudicate those claims and to create mechanisms where they can be done quickly. Most of the companies involved, the major companies, have written those claims off years ago for tax purposes. We ought to think about a mechanism where that can be done speedily, thinking ahead of what a fledgling democratic regime in Cuba will face as far as a transition to democracy.

The policy of isolation was the right policy in the cold war when every dollar that went to Cuba either provided another AK-47 to guerrillas in El Salvador or helped fund Cuban military adventures in Africa. In the current environment we need to be much more creative than we are, and I think some sort of a targeted approach as I suggest where we condition trade and investment on the changes that I recommend would be more effective. I think we would find broader multilateral support and that would create pressures that would be very hard for the Cuban Government to resist. Thank you.

The CHAIRMAN. Well thank you very much, Mr. Aronson. The chair would suggest again 7 minutes of questioning in a round. If there are additional questions then we will have additional opportunities. Let me begin the questioning by just picking up where you have left off, Mr. Aronson. I envision, as you do, a very, very difficult picture in terms of the claims. This committee has been listening to people with regard to Nicaragua for a long time. This has been very, very disruptive in terms of a constructive relationship with the country as well as a feeling of injustice by many Americans with regard to the country.

If anything, the Cuban situation is much more complex. The emotions behind some of the claims are enormous and heartfelt. As you have suggested, many firms wrote off the claims a long time ago, but were probably not knowledgeable. The catalog of all of this is not clear. The need to sort it out in advance on behalf of the country is apparent.

I mention that because we have Iraq reconstruction on the floor now. We are seized with how difficult it is once a regime changes, in this case a regime we have changed, to try to find some touchstone for an economy to work. I think it's not far-fetched that when and if the Cuban regime changes there will be requests, maybe even demands, that the United States seize the issue with equal fervor. To the extent that we have somehow worked our way through the rocks and shoals of this to any degree we will be immeasurably better off, but that will require creative thinking on the part of our government. I think it's an important claim.

Now, the other thing that you've mentioned that seems to me is new to this is a tax deduction for remittances by relatives, Cubans or Cuban-Americans going to Cuba. You have supported the idea, as I've heard you, that there should not be limits on these persons in supporting their relatives, either in terms of the number of times they go or how much money they take. Whatever the argument may be that the Castro government will siphon off this money for bad purposes, the sums of money are probably not enormous. The things they would be spent for are not the same as they were in the cold war.

But nevertheless this is another interesting idea, and this is why I pressed Mr. Noriega. Why set limits on these particular people? I even suggested just looking at it through political eyes. In Florida, there isn't support for this although there are hard-liners who do support it. I thought the responses of Mr. Noriega were somewhat ambiguous about this, and I've asked him to think about it some more.

Now, the question I want to ask of all three of you was reintroduced by Mr. Vivanco, and that is sort of point two of my strategy when we began the hearing. It was the need for international cooperation. It is clear for the moment that when we take these issues to the United Nations or to the Inter-American dialog or wherever we take them, that we're not getting the support of Europeans who surely share our view of the human rights dilemmas there. In part it's because we have not really set the stage for this. I think it's important that we do so if we are to make more sense, more of an impact. It seems to me it would be made stronger by international cooperation, and so I want to query this further with each of you.

Is the idea of pursuing international cooperation important? You have already testified that it is, Mr. Vivanco. Physically, how do we go about doing this? What are the steps? Granted, this is not a cure-all but it is one step currently that we could do without violating anybody's strictures, it seems to me. We could bring more pressure to bear upon the current government. Can you outline how we might proceed?

Mr. VIVANCO. Mr. Chairman, I'm fully convinced after following human rights conditions for many, many, many years that there is a very, very slim chance that change will come as a result of some domestic movement in Cuba. The regime of Fidel Castro has full and very, unfortunately, very effective control over the population in Cuba. So if there is a case where international pressure is perhaps the only hope to push that government and to push, you

know, the conditions there, to improve human rights condition, to create an open and democratic society, it is the Cuba case.

Now, I'm also fully convinced that this is perhaps, you know, a crystal-clear case where a multilateral approach is of the essence. Without the support of Mexico, Brazil, Argentina, Canada, and key European allies, it's very, very difficult to exercise effective pressure in that government. Unfortunately, the message that the Cuban Government is receiving from the United States and the rest of the world is in full contradiction. We are prescribing isolation, the rest of the world prescribe engagement in Cuba.

The CHAIRMAN. Well, how do we get on the same wavelength with them?

Mr. VIVANCO. There is obviously as the precondition to start talking to and negotiating with potential allies in the region you have to make some moves, unilateral moves. For instance, the first steps that I would recommend to take is to lift the travel ban on Cuba. If you lift that ban, which makes no sense, which was not the policy for Eastern Europe, that will be a very powerful and unequivocal signal, a message, not only for the Cuban Government, the Cuban Government is irrelevant here, the strategy is to persuade the rest of the allies to come to some specific agreement for targeting sanctions, on other kind of sanctions to push the government in the right direction.

The CHAIRMAN. Mr. González.

Mr. GONZÁLEZ. Sir, thank you. I would argue, sir, that the United States is engaged in an engagement program with our European friends and our Latin American friends. Not a day goes by when our embassies aren't receiving instructions on one aspect or two aspects of human rights in Cuba, of particular dissidents, of issues. Foreign visitors coming to the United States regardless of what part of the world they're from, interestingly enough, change democracy and human rights in Cuba, at least during my tenure, was also a topic of conversation.

And one of the things that I think we've been successful in doing is this is no longer about the United States against Cuba. This is no longer David versus Goliath. You find an increasing number of countries that view this as a human rights issue and I think we are seeing consensus. I think that what happened, as Assistant Secretary Noriega said earlier, the lamentable things that happened earlier this year, the jailings, the executions, this woke up a lot of people, it woke up a lot of people that didn't really want to wake up, and they see Fidel Castro at his worst. When he bares his teeth he's a very, very bad man, and as a result they've come to terms with the fact that this is just as bad a regime as everybody says it is and has been saying for some time, and the region as a whole, and the Europeans have been very, very proactive and forward-leaning with regards to human rights. You don't see them talking about the travel ban or the embargo, you see them talking about what's important, which is the human rights and something that they can all be in agreement with.

There are always going to be countries for varying bilateral differences that are not going to agree with us. We're never going to get Chavez, President Chavez of Venezuela, to sign on board a human rights agenda with Cuba, that's a statement of fact. There

are other countries out there who have leaders and political parties that don't share our view, not because of our embargo policy, not because of our travel policy, but because they have an ideological affinity with this regime and it goes back 40 years.

So again, I would take a counter-argument in that I think we are seeing, the United States is reaching out to our friends around the world. I think we are having success. Yes, it's not going as fast as I certainly would like to see it, but we are getting quite a bit of help, overtly and discreetly from people who quite frankly a year ago I never would have thought would be helping us on this issue. Thank you, sir.

The CHAIRMAN. Thank you.

Mr. Aronson.

Mr. ARONSON. Mr. Chairman, I think we could approach the Europeans and maybe some in Latin America and try to strike a bargain along the lines I suggested: whereby we take the step of conditioning trade and investment on some changes internally, the right to foreign firms to hire workers directly, to pay them directly, and remove that control that currently exists by the Cuban Government where they do the hiring and firing and they siphon off 80 percent of the wages. If the Europeans saw us making a step toward them we might be able to convince them to adopt similar codes like the Sullivan Principles in South Africa. If you had that sort of broad approach toward Cuba it would put enormous pressure on the government to make some internal reforms.

So I think that would be one direction I would go. I think we could encourage some of the eastern Europeans to try to do a little bit more. I don't know if they could pull it off, but I would love to see some of the armies that have made the transition from Communist rule to democratic rule in eastern Europe engaging with the Cuban army and trying to find dissidents and reformers within the middle ranks that I think probably exist.

I think that we have been so aggressive in confronting Castro that we sometimes suck the oxygen out of the space and make it a little bit harder for others to stand up. Having said, to their credit the Spanish Government has been more forward-leaning on democracy in Cuba in recent years, so has the Mexican Government.

And sometimes this is not our problem. I was very disappointed to see the President of Brazil, who styles himself as a trade unionist, go to Cuba this past week, a country that locks up anybody who believes in democratic trade unionism, and say nothing about human rights. I thought that was a betrayal of his values and he should have known better.

The CHAIRMAN. I thank each of you for those responses.

Senator Enzi.

Senator ENZI. Well again, Mr. Chairman, I just thank you for holding this hearing. It's been very enlightening. I've learned a lot. I think there are some common threads there that could be worked on. Yes, there would be some changes in U.S. policy, some of them are very subtle changes and I think would be welcomed by some of those other countries. I think the multilateral, the obligation to work multilaterally is extremely critical.

One of the bills that I've been working on for about 5 years is our Export Administration Act, and one of the things that we real-

ize is that every country in the world makes most of the products that we have on some of our lists, and we spend a great deal of money trying to control those items that they can get from anywhere, and those items could be limited if we had some multilateral agreements, but we've given up on multilateral agreements.

We've mentioned this afternoon South Africa several times and last month I had an opportunity to be in South African and I got to meet with a fellow by the name of Ahmed Kathrada, who is one of the people imprisoned at the same time as Nelson Mandela, tried with him, imprisoned with him, he's the one who edited "The Long Walk Home," and helped get it smuggled out of there, and it was very touching for him to mention that a copy of all of his letters and memoirs are going to be at the University of Michigan because they were the first entity in the world to promote sanctions against South Africa, and then the United States joined in that. But one of the keys is we weren't the only country, and that's the difference with Cuba. We're the only country and the rest of the countries are saying, what do you think you're proving?

So we definitely need to have some multilateral action on this and I think it can be achieved, and I think the wedge is also something that has been suggested by this panel, which is the actual bankruptcy of Cuba. As the other countries realize they're bankrupt and don't want to lose the investment that they have there, they might join us multilaterally. I'm doing some things that would bring about some changes that would restructure the government and the finances there to bring them out of bankruptcy.

So I really don't have any questions for this panel. I really appreciate the comments that you have and I'm glad that we have the full text and I've noted some of those things, probably taken them out of context to use them the way that I want to, but that's what we do around here.

So I thank you very much and thank you, Mr. Chairman.

The CHAIRMAN. Well, thank you, Senator Enzi.

Mr. Aronson, do you have a comment?

Mr. ARONSON. You mentioned your interest and concern about this claims issue. Maybe the Congress could consider setting up an independent commission that could have members of the executive branch, people from Treasury, some people from investment banks, and some claimants to start to think through this thing, because, as you've said, the analogy of Iraq, the goal isn't just to topple this dictatorship, the goal is to create a decent, hopeful place for the Cuban people who have suffered through this nightmare to inherit.

And I think we're not doing very much to make that likely these days. We're sort of all sitting here waiting for something to happen, but once that happens Cuba is going to be a country we try to rescue, and as we've discovered in many places in the world, that's a complicated challenge.

The CHAIRMAN. Mr. Aronson, I suppose that if we did not have this extraordinary situation in Iraq in front of us, we would not understand the gravity of the problem, but I think that we all do now. And the dilemma comes down not just to the debate we're having on the floor as we speak about reconstruction money, quite apart from money for our troops, but the fact that a great deal more of reconstruction money is going to be required, and that very little

of it seems to be forthcoming in the pledging conference or with others abroad that might be helpful and that probably share our idealism, but that at the same time don't seem to share our sense of responsibility about this.

Now, one way in which America might react is to say essentially, we are very sorry that you've had Saddam Hussein for all these years, but on the other hand we have some problems to solve here in this country and you'll just have to do the best that you can. There are some Americans who would say that they're very sympathetic. But I'm saying, for the moment at least, that a majority of Senators and Members of the House are not going to say that. The President of the United States clearly is not of that view, because to leave the wreckage out there endangers our security. Most of us believe that.

We're going to have some wreckage just 90 miles off the coast and the problem then will come back to us. Do you just walk away from it? If not, what do you do about it? Now if in fact Castro does owe \$40 million, which he may, if we've not thought through this with people from the international community and quite apart from people in our own country who feel they have claims, my prediction is that at some point this committee will be discussing the reconstruction of Cuba, and the question will be, how in the world do we deal with the debt of Cuba? We really haven't solved that with regard to Iraq. There the figure is often \$200 million owed to Russians and Germans and Frenchmen and Saudis and Kuwaitis.

Now, let's say that we don't do anything about it. The United States says, well it's out there, but after all we sort of know that Saddam never intended to pay it. But here we have a fledgling democracy. It's a new, bright hope for these people. That's the most optimistic of views about this, but we may have something like that. Suddenly the rest of the world comes after these people and says, you owe us \$200 million. Here we are trying to put \$20 million into reconstruction. It would be totally overwhelmed by this if we have not come to some understanding with the rest of the world, which is not contributing \$20 billion at this point, but which may contribute \$1 billion or \$2 billion, but still they want their \$200 million.

This is why some foresight on the part of our government is imperative. I appreciate the strong feelings about Cuba, but anybody who has strong feelings about the future of the Cuban people has to understand that some economic wreckage lies ahead without some foresight here. It seems to me we may or not make any headway right now. Maybe the countries of the world will say, well, let's wait and see. Maybe we'll do better later on rather than dealing with this now. Maybe we will, but I doubt it and I doubt that understandings even in this country with regard to those claims will be any better, having watched, as we've suggested, Nicaragua and other cases.

I appreciate your raising this issue. I think it's a very constructive and basically a new thought, at least in the public forum. It is important for us to talk about. Likewise, there is a need to be talking to other people, as you've suggested. Mr. González, let me just say that you've had a lot of experience with this subject. Essentially I gather your testimony is fair enough, but don't get car-



ried away, don't get too far ahead of this train. That may be unfair. I just want a bit more of your reaction perhaps as to how we think down the trail, if we are in fact going to have a responsible government at some point, how do we support one that will not be overwhelmed by the circumstances of the debt or the lack of commerce that's proceeding currently and that probably won't proceed much further with the Castro bankruptcy? How do we prepare for that in a way that may be more humane for the Cuban people?

Mr. GONZÁLEZ. Thank you, Senator. How you prepare for a transition I think is a subject that you have any number, in fact, there's an entire university program right now being funded on how you prepare for a transition. But I think it's important to note that I share the concerns that Bernie Aronson made about the debt or the claims, and I also think you're going to find more than a few people out there that are going to at one point, maybe because the whole debt issue hasn't been surfaced, are going to come up and say, you know what, maybe let's belly up and maybe let's not file a claim or let's not go after a claim. That may not be everybody, but there may be a fair number of people out there and that's worth exploring.

The other thing I think that we're going to find is that unlike Iraq, which is on the other side of the world, you have a very large reservoir of goodwill amongst the Cuban-American communities, not just in the United States, but throughout the world, Spain, Mexico, Venezuela. There's an abundance of goodwill to go back and help, to go back and invest, to go back and build.

I've never come across, I mean I'm from South Florida, I'm about as involved in South Florida and the Cuban-American community as you can get, sir. I've never come across somebody that says, I'm going to go back and reclaim this or I'm going to go back and throw somebody out of a property that I had 50 years ago, quite the contrary. What you have is just an abundance of goodwill to want to go do something once the time is right and proper.

One of the most frustrating aspects of it is you have a government that doesn't want to be helped. You have churches that would love for nothing better than to establish relationships with other churches in Cuba and maybe build or fix a leaky roof or build some new pews, but for internal reasons they're not allowed. You have NGOs that want to go and directly liaise or directly establish relationships with what few real NGOs there are in Cuba and they're not allowed.

We talked about the possibility of Sullivan Principles. At one point there was something called the Arcos Principles for Cuba, but in the Cuban context foreign investment is a completely different animal. Foreign investment in most countries is come here, help us grow our economy, create jobs, build prosperity. That's just a non-starter in Cuba under these circumstances. Foreign investment is fill my hotels, operate here under my rules, and if you don't want to operate under my rules, then you don't need to operate here. And it's very simplistic, but that's the way things are done there.

A lot of these companies in Europe and in Canada and in Latin America that have penetrated the Cuban market did so because they wanted to get in, get their money, and get out. It isn't the same with tourism, sir. It isn't like you're going to go online and

log on [www.ramada.com](http://www.ramada.com) and book a room somewhere. That's just not going to happen because when you do that, that means you've got people all over the country, that means if we take Sullivan Principles and you have builders of hotels and resorts who are able to hire their own personnel, pay them the going wage, give them the same medical and dental benefits that maybe we enjoy, those people are now a class apart, they're not under the thumb of the government, they're free thinkers now. That's something that that government will not allow and will not stand for.

So I think as we start looking at things like travel and trade and foreign investment in a Cuba context, we have to be prepared to think in an unconventional way. Likewise, the claims issues. I share the concern. Having served as the person responsible for Central American affairs, we still have Nicaragua claims outstanding. The last thing we need is several thousand Cuban claims outstanding. But I will grant you, sir, that once we get to that point, you'll find more than a few people willing to do the right thing.

The CHAIRMAN. Well, I trust that that's probably right. I mean, you're experienced in living there in the South Florida community, visiting with people who might have claims and so forth. You're an expert witness. This is why we appreciate your coming.

I would just add one further dimension for you and other leaders in that community to think about. I suppose as time goes on that there probably is less desire on the part of Cubans or Cuban-Americans in South Florida to assume that they will return to be governing agents of Cuba. In the past, as I have visited with some groups in South Florida, it was not really clear that that was their view. In other words, some, I think, had aspirations, in fact, to go and become leaders of Cuba.

Now, maybe that will work out. We're into a little bit of that problem in our Iraq situation now. This is why it's sort of topical, because it sometimes happens that people who have been away for a long time are not accepted by people who have been there for a while and suffered through the whole thing and feel that they ought to be the ones, even if we can't identify who they are. In the case of Cuba now we can identify some. You've cited some names today of rather courageous Cubans who are in fact in the country now, much more conspicuous than were Iraqi opponents to Saddam Hussein, for example.

I'm hoping, maybe against hope, that in addition to trying to work out some of the claim problems in advance, likewise there's some sense of the leadership issue in ways that do not lead to some divisions between those who might be supportive and who are on the mainland of the United States now and those who still in fact reside in Cuba. I ask you as an expert witness again for some comment on that facet.

Mr. GONZÁLEZ. Sir, you mentioned earlier how you had seen some polling data where a certain generation thought one way and a certain generation thought another, and I guess if I include myself in the older generation you've outed me now as somebody in the same category as my parents or—

The CHAIRMAN. But you may be thinking young.

Mr. GONZÁLEZ. Sir, I'll give you an example. I'm 46 years old. I came to this country when I was 4 years old. I learned the language the hard way, in a classroom trying to struggle. I went to college here. I went into the United States Army. I've served this country. Everybody I know in my generation, not one person, not one, has ever said, gee, I want to go back and be President of Cuba, gee, I want to go back and take back this business that my grandfather, perhaps even great-grandfather, at some point lost.

I think what you find is a large body of people that are willing to say, we want to go back and help, not unlike, I will tell you, what you find with the Jewish community here sending their children to Israel, going back and wanting to contribute. You have younger generations—my daughters, both my daughters are college-age. They're wrapped up in this because it's almost family lore, but at some point you have to say, where can we be most useful? Me saying that I'm going to go back and be a future President or Minister of Defense or Governor of what province, those things are you may have heard those maybe 15, 20 years, but right now what you have, sir, is I think you have a more mature community, you have a more thoughtful community, and you have a community that's ready to get down and get to work and do for Cuba what we've been able as a community to do here in the United States: raise our families, go to our churches, be prosperous, go to school, vote, have discussions like this.

I for one am astounded at the fact that I can come here and testify. This is something that's unheard of in other countries, especially Cuba. This is the kind of thing that gets you shot in other countries, especially Cuba. So again, I would just I appreciate the question but I would hope that if we take anything out of this regarding the Cuban-American community, it's that it's a very different community and it's a community that's just as passionate, it's a community that's extremely responsible, and it's a community that's ready to stand up and do the right thing at the right time, and when that time comes, sir, I guarantee you we'll have another hearing like this and there'll be very, very little differences in what the right thing will do to help Cuba join the nations of the in this community, the world community, and the Inter-American community in this century.

The CHAIRMAN. Well, I appreciate the point you've made. I would in fact mention that perhaps you are right. The people that I visited with in southern Florida 20 or 25 years ago on this issue are people my age, it's a different generation. You are not my age, thank goodness for that, you have at least a quarter of a century on me there. I was around here in Washington as a young naval officer serving Admiral Burke, who was then Chief of Naval Operations, and who sent me out to what was then National Airport to see Fidel come in for the first time as he headed to the United Nations. I took out with me a young seaman who was not of Latin American background, he was just an impressionable young person who got carried away and began yelling, Fidel, Fidel.

And I told him, easy there, so that we could be just observers of this process, not part of the rally. There was sort of a charismatic quality about all of this excitement, with the people all jamming

the airport. The planes were out in the middle of the airport. Fidel was making his way right for the rope line as fast as he could.

So having seen all of that and all of the evolution subsequently, this hearing—I'm sure for each one of us—and that's true for all of you, you have been involved in this much of your lives—is sort of a panorama of reactions and changes. All I'm saying presently is that now it may be informed more by our crisis in Iraq and maybe by a change in the views of the American people. We've not been a country that was wanting to be engaged in nation-building, not that we would be in Cuba, but still our skills are not adequate right now for dealing with problems of this variety.

The President of the United States has acknowledged that we're going to need more people—whether they be at State, Defense, NSC, some outside agency—that tries to think through, what do we do in situations where there is debris all around, and counter-claims, and problems of government? It just seems to me, once again, that to the extent that tactfully and thoughtfully we can sort this out ourselves, but then also engage other countries in the sorting out in advance, we maybe can make some headway down the trail.

I thank you all for your comments. Senator Enzi, do you have any further questions? Well, we appreciate your coming and all the witnesses today and the participation by what was a larger crowd at the beginning but still a stalwart band at the end. The hearing is adjourned.

(Whereupon, at 5:48 p.m., the committee adjourned, to reconvene subject to the call of the Chair.)

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#### PREPARED STATEMENT SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF HON. RUSSELL D. FEINGOLD, U.S. SENATOR FROM WISCONSIN

I would like to thank the chairman and ranking member of the Senate Foreign Relations Committee for convening a hearing on "Challenges for U.S. Policy to Cuba." For forty years, the United States has attempted to improve human rights and bring democratization to Cuba through economic sanctions and travel restrictions. This hearing gives us an important opportunity to reflect on the effectiveness of U.S. policy and to determine where we should go from here.

This last year points to the difficulties the United States has had in achieving our policy objectives in Cuba. Since March 2003, we have seen a dramatic deterioration of the human rights situation in Cuba, as President Fidel Castro has cracked down on labor unions leaders, human rights activists and independent journalists. In April 2003, the Cuban Government's execution of three men who had hijacked a ferry left many in the human rights community and in the Congress outraged. Meanwhile, Castro's political system remains intact, and the Cuban people continue to suffer from severe economic hardships.

The United States must continue to speak out against the human rights violations of the Castro regime toward the Cuban people. At the same time, however, we must recognize that travel restrictions and current elements of the embargo have not been effective in encouraging the political changes and democratic freedoms that Cubans seek. Instead, they have provided the government with an excuse for its human rights failings, and for the economic, social and cultural hardships the country is experiencing.

While complete normalization is not appropriate at this time, we must start with repealing the travel ban. I have had many constituents in Wisconsin express concern about this ban. It is not only an infringement of the rights of Americans to travel to the place of their choosing, but it also destroys an important tool we possess in spreading democratic ideals and building relationships with Cubans. During this Congress, I cosponsored S. 950, the Freedom to Travel to Cuba Act of 2003,

with a number of my colleagues. I hope that the Senate will take action on this legislation.

In addition, I continue to support meaningful trade relationships with respect to food, medicine and education that would improve the health and well-being of the Cuban people. I believe, however, that limited sanctions must be maintained to provide ongoing leverage and to help us achieve our broader human rights objectives. Any further loosening of the embargo should be linked to the Cuban Government's compliance with international standards of human rights, efforts to free political prisoners, and introduction of democratic reforms.

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## RESPONSES TO ADDITIONAL QUESTIONS SUBMITTED FOR THE RECORD

RESPONSES OF HON. ROGER F. NORIEGA, ASSISTANT SECRETARY OF STATE FOR WESTERN HEMISPHERE AFFAIRS, TO ADDITIONAL QUESTIONS FOR THE RECORD SUBMITTED BY SENATOR CHRISTOPHER J. DODD

*Question 1.* Supporters of the embargo against Cuba maintain that one of the goals of the embargo is to support dissidents in Cuba. How is the embargo supporting them? Last spring, the taint of support, be it real or imagined, prompted a severe crackdown on Cuban dissidents. In light of this situation, do you think that current U.S. policy in this area has been effective?

Answer. The embargo is one of the many tools of our policy to promote a rapid transition to democracy in Cuba. The embargo indirectly supports the development of civil society in Cuba by denying the regime the hard currency it needs to perpetuate itself and strengthen its repressive apparatus.

Cubans with a commitment to democracy and reform are working day by day for change and the crackdown has only imbued them with a new sense of urgency and mission. The Administration is implementing a series of actions designed to accelerate these democratic changes that Cubans seek. Foremost among these actions is maintaining our support for Cuba's growing civil society and looking at ways to augment it.

Much has been done over the past year. The U.S. Interests Section in Havana has provided support to civil society, in conjunction with other diplomatic missions. Much more remains to be done.

We have worked to distribute about two million printed items, 1,000 magazine subscriptions and more than 10,000 am/fm/short wave radios. More than 150,000 pounds of food and medicine have been provided to the families of political prisoners and other victims of repressions. USAID grantees have helped establish more than one hundred independent libraries inside Cuba. USAID grantees have published via the Internet more than 18,000 reports from Cuba's independent journalists.

In a speech at Georgetown University earlier this year, Oswaldo Paya, author of the civil society Varela Project, made the point that the question should not be whether or not the embargo should be lifted but when and how. Paya said U.S. policy should not change in any fundamental way until the Cuban people enjoy their fundamental rights and can interact with Americans on the basis of equality and free will. The United States will continue to enforce economic sanctions and the ban on travel to Cuba, until Cuba's Government proves that it is committed to real reform.

*Question 2.* Last year, Under Secretary John Bolton asserted that Cuba was developing bioweapons. We asked Mr. Bolton to come before this committee to answer questions about his remarks. Instead, the Assistant Secretary for Intelligence and Research, Carl Ford, appeared before the committee. When asked for evidence to back up Bolton's allegations, he downplayed the charges saying that the administration hadn't meant to imply it had a "smoking gun." The Defense Department and CIA, to the contrary, have for many years asserted that Cuba poses no threat to the U.S., its interests or its allies.

- Obviously, both assessments cannot be correct. On what evidence were the State Department's serious allegations based? Which conclusion—the Department of State's or the DOD's and CIA's do you believe to be correct? On what do you base your judgment?

Answer. We continue to believe that Cuba has at least a limited, developmental offensive biological weapons research and development effort and has provided dual-use biotechnology to other rogue states. This reflects the consensus on what U.S. Government experts believe about Cuba and its biological weapons capability.

*Question 3.* On Tuesday, Secretary Powell said in an interview with the Detroit Free Press, that “Castro’s Cuba . . . is no longer a threat to the hemisphere.” I agree with the Secretary of State. However, this statement is in contrast to earlier allegations by State Department officials that Cuba is pursuing bioweapons.

- Is Secretary Powell at odds with other members of the State Department over whether Cuba is a threat?
- Certainly, we all have our problems with Cuba, its human rights record, and with the lack of democracy there. However, if it’s not a threat—as Secretary Powell says—then why aren’t we addressing these problems through travel and engagement—as we do with other countries that we disagree with?

*Answer.* The fact that Cuba is not actively “exporting revolution” as it was in the 1970’s and 80’s and therefore less of a threat to the hemisphere, is not contradictory to concerns by U.S. Government experts that Cuba has at least a limited offensive biological warfare research and development effort which needs to be monitored closely.

We don’t believe that lifting the travel ban will benefit the Cuban people. Instead, it will provide the regime with much needed hard currency, a large portion of which goes to fund Cuba’s police state and its state-run ventures. The Administration will continue to enforce economic sanctions on Cuba and the ban on travel, until Cuba’s Government proves that it is committed to real reform.

*Question 4.* If its goal is to cut off hard currency flows to Cuba, then why has the administration chosen to make it easier for Cuban-Americans to send remittances to the island? These remittances already infuse up to \$1 billion per year, and are a main source of revenue keeping the Cuban economy afloat.

*Answer.* There has been no easing of the regulations concerning remittances. Under the current regulations, U.S. persons aged 18 or older may send to the household of any individual in Cuba cash remittances of up to \$300 per household in any consecutive three-month period, provided no member of the household is a senior-level Cuban Government or Communist party official. We believe the current remittance levels provide for a reasonable level of humanitarian support to the Cuban people in a manner consistent with our foreign policy.

Profits from tourism present a far more important source of hard currency for the Cuban Government. The United States will continue to enforce economic sanctions on Cuba and the ban on travel to Cuba, until Cuba’s Government proves that it is committed to real reform. Much of the profits from the tourism industry go to fund Cuba’s police state and its state-run ventures. The Cuban Government controls the tourism industry and Cuba’s armed forces ministry run an increasing portion of Cuba’s state-owned and joint-venture tourist resorts.

Profits from the tourism industry provide the blood for the regime and its repressive apparatus. Broader travel to Cuba would only provide greater benefits to the regime.

*Question 5.* OFAC appears to be preparing to find and fine people who travel to Cuba without licenses. In light of Secretary Powell’s statements, why is the administration greatly increasing its investment of time and money on finding Cuban travel ban violators, during a time when so many of our national priorities—like health care, education and homeland defense—are all being severely underfunded?

*Answer.* The United States has imposed and continues to impose sanctions and other restrictions on trade and transactions with certain countries, including Cuba, to further our foreign policy and national security objectives. The United States will continue to enforce economic sanctions on Cuba and the ban on travel to Cuba, until Cuba’s Government proves that it is committed to real reform. Moreover, enforcement of U.S. law is not discretionary but is the legal responsibility of law enforcement authorities.

One essential element of our policy towards Cuba is purposeful effective interchange of ideas between Americans and Cuban nationals in order to help encourage the development of civil society in Cuba. There are 12 categories under the Cuban Assets Control Regime that provide for such travel to Cuba. Tourism, however, is not one of these categories. Much of the profits from the tourism industry go to fund Cuba’s police state and its state-run ventures. The Cuban Government controls the tourism industry and Cuba’s armed forces ministry run an increasing portion of Cuba’s state-owned and joint-venture tourist resorts. Profits from the tourism industry provide the life-blood for the regime and its repressive apparatus.

Broader travel to Cuba would only provide greater benefits to the regime. We therefore continue to work to ensure full and effective implementation of the Cuban Assets Control Regime in order to promote the development of a truly independent

civil society in Cuba and to deny the regime the hard currency it needs to continue its stranglehold over Cuban society.

*Question 6.* Recently, the Bush Administration has been talking about pursuing “multilateral approaches” to Cuba and about urging our allies in Europe and Latin America to pressure Cuba on human rights. Certainly, our friends and allies around the world should be raising those issues with the Cuban Government. However, nearly every other country has trade, travel and diplomatic relations with Cuba and we have none. In your opinion, does this situation create favorable conditions for a U.S.-led multilateral effort? Does our embargo, which almost no other country in the world supports, create an obstacle to our developing effective multilateral pressure on Cuba?

Answer. The embargo is one of the many tools of our policy to promote a rapid transition to democracy in Cuba. Another aspect of our policy is to encourage greater international involvement, especially by Latin American and European governments in the quest for democracy and development in Cuba.

There is growing international consensus on the nature of the Castro regime and need for change. Many of those who stood by Castro in the early days have now begun to speak out publicly against the regime. The critical factor in the coalescence of this multilateral consensus was the repression of the past Spring. That repression provoked our European and some Latin American allies to denounce the regime in some of the most dramatic and telling terms ever. Latin American nations led the effort at the 2003 Human Rights Commission to win approval for a resolution on Cuba. There has been an unrelenting drumbeat from the EU and others of criticism and demands for justice since Castro’s brutal acts took place.

For the first time in 20 years, the international community is focused on the Castro dictatorship, not the U.S. embargo. While we do not all agree on the tactics to hasten the establishment of democracy in Cuba, we are working with the EU and Latin American countries to promote shared objectives, such as finding more creative and effective ways to help the Cuban people prepare for a free and prosperous future without Castro.

*Question 7.* In your statement, you stated that Fidel Castro cracked down on pro-democracy activists because he did not want to, or was afraid of, what would happen if the U.S. engaged Cuba. You also said that the condemnation of Castro and the unity with regards to this issue among the international community came after his crackdown, not before then—a crackdown you said was caused, at least in part, by U.S. gestures towards engagement. So, if I understand you correctly, the international community and condemnation of Castro on this issue was a result of moves towards engagement.

- Why then is the administration giving Castro what he wants? You said that the administration does not want to appease Castro, but according to your own statements, that is exactly what the administration is doing by keeping these bans on travel and trade. Please comment.

Answer. The actions by the Castro regime in March and April of this year against the peaceful opposition were taken out of fear. The Cuban Government felt threatened by the momentum gained by those seeking democratic change in Cuba. In an effort to cut off the opposition movement at the knees, political activists, including independent journalists, labor leaders, economists, librarians, writers and heads of human rights groups arrested and 75 sentenced to long prison terms.

President Bush’s policy toward Cuba is one of support for the Cuban people not for the Castro regime. Our Interests Section in Havana demonstrated its leadership by supporting the opposition. Through USINT and U.S. grantees, we have worked to distribute about two million printed items, 1,000 magazines and more than 10,000 AM/FM/SW radios. USAID programs have provided more than 150,000 pounds of food and medicine to families of political prisoners and other victims of repression. USAID grantees have helped establish more than 100 independent libraries inside Cuba, and have published via the Internet more than 18,000 reports from Cuba’s independent journalists.

We will continue to pursue actions designed to accelerate and shape the democratic changes the Cuban people seek.

We would reward an anachronistic regime by unconditionally lifting the embargo. The changes in Cuba which one of its leading dissidents, Oswaldo Paya, and others on the island advocate have not taken place. To lift the embargo when the Castro regime has chosen to ignore all calls from governments, international and non-governmental organizations to free all prisoners of conscience would be to reward a ruthless dictator who remains the main obstacle to democratic change in Cuba.

As I stated previously, we will continue to enforce economic sanctions on Cuba and the ban on travel, until Cuba's Government proves that it is committed to real reform.

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RESPONSES OF R. RICHARD NEWCOMB, DIRECTOR, OFFICE OF FOREIGN ASSETS CONTROL, U.S. DEPARTMENT OF THE TREASURY, TO ADDITIONAL QUESTIONS FOR THE RECORD SUBMITTED BY SENATOR CHRISTOPHER J. DODD

*Question 1.* How much staff time is spent on enforcing the embargo against Cuba? How does this compare to the figures for how much time is spent on tracking down al-Qaeda or terrorist financing sources? Do you feel that your office is burdened by embargo enforcement with regards to the War on Terror? If so, what changes in approach would you recommend?

Answer. Approximately 15% of total Office of Foreign Assets Control ("OFAC") staff is allotted to enforcing the embargo against Cuba. Approximately 20% of total staff is devoted to tracking down terrorist financing sources. In addition, resources are also devoted to identifying persons who commit, threaten to commit, or support terrorism for listing as Specially Designated Nationals and compliance measures to ensure that financial institutions and others block any transactions involving such entities that might flow through U.S. financial systems.

Enforcement of the Cuban embargo is not a burden that reduces the amount of attention OFAC is able to devote to the War on Terror. OFAC's mission is to implement and enforce U.S. policy currently with respect to 27 economic sanctions and embargo programs. OFAC must balance its resources to effectively manage the programs entrusted to us in order to accomplish stated objectives consistent with the priorities set by the President. At this time, the President has stated priorities for both the terrorism program and the Cuba sanctions program that require us to judiciously allocate resources for the best outcome.

*Question 2.* Are you hiring, or have you hired, new administrative law judges (ALJs) to hold hearings for people who have traveled to Cuba without a license? If so, how much will this endeavor cost?

Answer. Yes, OFAC has hired three ALJs to hold hearings for individuals who have requested hearings as provided in the Cuban Democracy Act, 22 U.S.C. 6001 et seq. We have established procedures for the hearings, which were published in the *Federal Register* on September 11, 2003. The ALJ program is expected to cost \$600,000 for FY 2004. These ALJs will also hear non-travel cases where the law provides for a hearing and a person requests one in accordance with the regulations and administrative procedures that govern this area.

*Question 3.* I understand that you will have to pay salaries and benefit for the judges and for a "Secretary's Designee," who, under the September 11, 2003 regulations, is required to review certain ALJ decisions. In addition, support staff for the ALJs and the Secretary's designee—secretaries, receptionists, law clerks, and transcribers—will be needed.

Will attorneys from OFAC's General Counsel's Office be diverted in order to develop evidence for, conduct discovery in, and prosecute these cases? For how long will they be diverted? What other resources will you need for this effort?

Answer. OFAC has obtained authorization from the Office of Personnel Management to utilize, on a pro-rata cost-reimbursable basis, three existing ALJs (and their support staffs) from other agencies. None of these judges will hear OFAC civil penalty cases on an exclusive or full-time basis. The \$600,000 cited above includes reimbursement expenses for the judges (and their support staffs), court reporting fees, and witness travel. Since hearings have yet to commence, this figure is only an estimate.

The Treasury Department does not currently contemplate hiring an individual(s) to serve as the Secretary's designee(s). Instead, the Secretary will designate an existing employee (or employees) to carry out this function as an additional duty. Existing staff will support any Secretary's designee as necessary.

One attorney in the Office of Chief Counsel (Foreign Assets Control) is currently spending about 90% of his time on the hearing program. Additionally, the General Counsel of the Treasury Department has assigned six attorneys from within the Treasury Department to assist in presenting the Director's case against persons alleged to have violated the Cuban Assets Control Regulations to the administrative law judges. Each of these six attorneys is assisting with this effort on an as-needed, part-time basis. As we continue working through the current hearing backlog, we project that the number of pending cases will drop significantly over the next six



months to a year. The number of attorneys assigned to assist with this effort will remain commensurate with the existing workload. If case levels fall as projected, the number of Treasury Department attorneys handling these cases will be appropriately reduced.

Question 4. Last spring, OFAC issued new regulations that eliminated the “People-to-people” educational travel license category.

What was the administration’s rationale for eliminating this category of permissible travel to Cuba? How many Americans have traveled to Cuba annually under this category of travel? What types of groups were traveling to Cuba for people-to-people educational exchanges?

Answer. Travel-related transactions involving Cuba are prohibited unless such transactions are authorized in accordance with current licensing policy set forth in §515.560(a) of the Cuban Assets Control Regulations, 31 C.F.R. Part 515 (the “Regulations”), and the related sections enumerated in §515.560(a). See: Section 910 of the Trade Sanctions Reform and Export Enhancement Act (“TSRA”), Pub. L. No. 106-387, §910(b), 114 Stat. 1549, 1549A-72 (2000).

The licensing provision for non-academic educational exchange programs was recently removed because the trips often devolved into tourism, which OFAC is prohibited from licensing by §910(b) of TSRA. Additionally, the Cuban government required groups traveling under this licensing section to receive approval of their agendas and assignment of Cuban-government approved tour guides or escorts. These requirements limited access to the people and diluted meaningful educational exchange.

The non-academic educational exchange licenses authorized each licensed organization to take an unspecified number of persons to Cuba under its auspices. Accordingly, OFAC does not have statistics on exactly how many travelers utilized these licenses annually.

The article from the February 19, 2003 edition of *The San Francisco Chronicle* that I submitted with my prepared statement provides an indication of the types of groups that were traveling. The groups were comprised of a wide variety of individuals who typically responded to advertisements frequently placed on Internet Web sites by organizations that had been granted OFAC licenses. As reported in the article, some groups engaged in such varied activities as “jazz tours, hiking tours, salsa-dancing tours, Spanish-language-instruction tours, and steam-railroad tours.” The reporter states that his own group had a tour guide from a Cuban government agency.

Question 5. In May, OFAC created new regulations that made it tougher for most Americans to visit Cuba and see the country for themselves, but made it easier for Cuban Americans.

Do you believe that this policy is discriminatory? Why or why not?

Answer. All transactions involving property in which Cuba has an interest including travel-related transactions are prohibited unless authorized by a general or specific license consistent with the Regulations. The amendments made in March 2003 did not include any change with respect to the frequency of travel for family visitation with close relatives by Cuban Americans. I do not believe that a foreign policy permitting family visitation is improperly discriminatory. Family reunification has been a part of U.S. foreign policy toward Cuba since the beginning of the embargo.