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Congressional Oversight Needed as Obama Administration Moves to Remove Cuba from State Sponsors of Terrorism List

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The Obama Administration has recently chosen to normalize relations with Cuba. In addition to establishing embassies and expanding commercial transactions, the White House has also declared that Cuba will be removed from the State Department's State Sponsors of Terrorism list.

To remove Cuba from the list would be to ignore both the Cuban government's inherently malicious nature and the utility of terrorist designations. For over three decades, the Castro regime has directly supported organizations designated by the U.S. government as terrorist. Recent activities that warrant Cuba's place on the list include Havana's violations of United Nations Security Council (UNSC) resolutions, leadership role in directing Venezuela's military and intelligence, and steadfast support and intimate relationship with such countries as Syria, Iran, and North Korea. The Castro regime also continues to harbor U.S. fugitives and subsidize their livelihoods. One fugitive has been on the FBI's Most Wanted Terrorists list since 2013 for killing a New Jersey State Trooper.

Removing Cuba from the list would also remove restrictions that preclude their receipt preferential foreign aid and trade benefits. Repealing the designation combined with further weakening of sanctions will not bode well for U.S. taxpayers. The regime routinely defaults on foreign loans and is

guilty of the largest uncompensated theft of U.S. assets in recorded history, valued at \$7 billion. Congress cannot ignore the implications of an undeserving regime's being removed from this list.

Why the Castro Regime Cannot Be Trusted

President Obama's new Cuba policy has been heavily criticized and rightfully so. His predecessors, both Republican and Democrat, recognized that a Cuba governed by the Castro regime will never be receptive to genuine engagement.

Previous unilateral attempts by the Carter and Clinton Administrations to reduce hostilities ended up backfiring on the U.S. In 1977, President Carter reestablished diplomatic relations by allowing each country reciprocal interest sections. The government in Havana responded shortly thereafter by sending expeditionary forces and resources to Marxist insurgencies in over a dozen African countries. The Clinton Administration for years attempted to improve relations and was rewarded by the Castro regime's shooting down of Brothers to the Rescue flights. In what the U.S. determined to be an international act of terrorism, the Cuban military, at the order of current leader Raul Castro, shot down two American aircraft over international waters, killing three American citizens and one U.S. resident.

According to the State Department's annual terrorism report, the government in Havana continues to support the terrorist Colombia's Revolutionary Armed Forces (FARC).¹ While the FARC have been weakened, it is premature to assume that they have been defeated. Throughout the past two years of peace talks in Havana, the FARC has continued to kidnap

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and kill Colombian civilians and military alike. FARC strongholds still exist throughout the country, and it is widely known that they have sanctuary just across the border in Venezuela. Considering that the FARC has relationships with Islamist terrorist organizations, has murdered a quarter-million Colombians, and has established drug trafficking networks spanning the globe, the threat that it poses is obvious.

Most recently in July of 2013, Havana was found to have violated UNSC arms trafficking resolutions 1718, 1874, and 2094. Panamanian authorities seized a North Korean freighter for attempting to transport missiles and fighter planes through the Panama Canal concealed under sacks of sugar.²

Cuba walked away unscathed, despite being the first country in the Western Hemisphere to violate these resolutions. It should be noted that the State Department's 2013 *Country Reports on Terrorism* made no mention of the incident despite its release date of April 2014.

Cuba's Removal Would Violate the Law and Potentially Endanger U.S. Taxpayers

According to Section 6 of the Export Administration Act (EAA), the law by which Cuba was added to the State Sponsors of Terrorism list, the country can be removed from the list only if:³

- (A) (i) there has been a fundamental change in the leadership and policies of the government of the country concerned;
 - (ii) that government is not supporting acts of international terrorism; and
 - (iii) that government has provided assurances that it will not support acts of international terrorism in the future; or
- (B) (i) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

(ii) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

It is easy to deduce that Cuba fails to meet the requirements of both sections. Cuba's leadership has not changed, nor has its political system. In spite of its new relationship with the U.S., Cuba's leader Raul Castro claims the government will not democratize. While Cuba's financial circumstances have curbed its ability to support international terrorism, its alliances with Syria, Iran, and North Korea should remain a source of concern. It is also unlikely that the U.S. could ever receive genuine guarantees against future actions, as recent talks in Havana proved. Cuba's top diplomat stated: "Change in Cuba isn't negotiable."⁴

Terrorism designations as determined by the EAA are a critical instrument in foreign policy, as they carry restrictions on U.S. foreign aid, commercial transactions, and participation in international financial institutions.

Even though these restrictions and others are further reinforced by the Cuban Liberty and Democratic Solidarity (Libertad) Act of 1996, a law which strengthened the Cuban embargo, the Obama Administration is systematically chipping away at the embargo until it becomes obsolete. For example, the Administration recently expanded the allowable exceptions on Cuban imports from the U.S. Items such as building materials are now classified as agricultural products. It can be argued that this new regulation is a violation of the law as Castro's military controls much of Cuba's agricultural sector.

Congress Cannot Ignore the Dangerous Implications

While terrorist designations fall under presidential powers, Congress can and should remain vigilant with respect to the White House's dangerous rapprochements. The ultimate focus should be on promoting policies that protect U.S. national security.

1. U.S. Department of State, *Country Reports on Terrorism 2013*, April 2014, pp. 213-214, <http://www.state.gov/documents/organization/225886.pdf> (accessed January 27, 2015).

2. Bruce Klingner, "North Korean-Cuban Arms Shipment Shows Need to Tighten Sanctions," Heritage Foundation *Issue Brief* No. 3996, June 22, 2013, <http://www.heritage.org/research/reports/2013/07/north-korean-cuban-arms-shipment-shows-need-to-tighten-sanctions>.

3. U.S.C. § 2405(j)(4)(A).

4. Bradley Klapper and Michael Weissenstein, "US, Cuba End Historic Talks with More Questions than Answers," Associated Press, January 23, 2015, http://hosted.ap.org/dynamic/stories/L/LT_UNITED_STATES_CUBA?SITE=AP (accessed January 27, 2015).

ty while simultaneously promoting U.S. values such as freedom and democracy.

More specifically, Congress should:

- **Urge the President to condition all future U.S. agreements with the Cuban government upon significant, meaningful, and measurable changes.** The President's new Cuba policy has gone against the principle of existing U.S. law by not requiring the Cuban government to modify its behavior one iota in exchange for a loosening of restrictions. Many are quick to point out that the regime released 53 political prisoners in January, but that proved to be mistaken. Many of the prisoners either had already been released or were close to being set free. They were also subsequently put under strict house arrest or arrested shortly afterwards for political reasons. In the 18 months the White House was secretly negotiating with the regime, there were over 13,000 political arrests on the island. Arrests in 2014 represented a 40 percent increase from the preceding year. The White House has yet to impose any serious conditions on Cuba.⁵
- **Continue to support Cuba's democratic opposition and human rights activists.** Congress must make sure that U.S. policy continues to support civil society groups on the island that uphold U.S. values and are unaffiliated with the Castro regime and its Communist ideology. The Cuban government is strongly against Washington's support for dissidents and is painting it as an obstacle to the President's much-wanted embassy in Havana. Congress has must continue its active support for these groups.⁶
- **Ensure that current and future funding from the U.S. Agency for International Development and State Department does not support the Cuban government or military.** While

these groups have generally been prohibited from receiving U.S. assistance, the Cuban government is pushing the Obama Administration to fund its regime-sponsored Communist groups. Members of Congress hold the purse strings, and prohibiting the funding of these groups falls to them.

- **Reject policies that support financing for U.S. exports.** Business interests have been leading the movement against the Cuban embargo, and the President's new policy has emboldened them. Recently, the U.S. Agricultural Coalition for Cuba was launched. Backed by large corporations such as Cargill, the coalition is lobbying to end the embargo in order to receive U.S. taxpayer subsidies for exports to Cuba. Business interests should not be allowed to dictate foreign policy.
- **Keep the Focus on Cuba.** Congress must stay vigilant with respect to the President's naïve approach to the Castro regime. President Obama has granted an undeserving dictatorship the prestige of being allowed an embassy and an ambassador in the U.S. He continues to refer to Cuba's leader and unelected dictator, Raul Castro, as president. The next move appears to be removing Cuba from the State Sponsors of Terrorism list.

Terrorism designation is not only about what the country is currently doing, but also about the potential for future malicious actions. Removing Cuba from the terrorist list is much more than a symbolic gesture. It carries far-reaching implications that can endanger U.S. national security interests.

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5. Capitol Hill Cubans, "During Obama-Castro Negotiations, Over 13,000 Political Arrests Took Place in Cuba," *Capitol Hill Cubans*, January 6, 2015, <http://www.capitolhillcubans.com/2015/01/during-obama-castro-negotiations-over.html> (accessed January 27, 2015).

6. Klapper and Weissenstein, "US, Cuba End Historic Talks with More Questions than Answers."