USE AND EFFECT OF UNILATERAL TRADE SANCTIONS

HEARING

BEFORE THE

SUBCOMMITTEE ON TRADE

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTH CONGRESS

FIRST SESSION

OCTOBER 23, 1997

Serial 105–60

Printed for the use of the Committee on Ways and Means

U.S. GOVERNMENT PRINTING OFFICE
54–892 CC WASHINGTON : 1999

COMMITTEE ON WAYS AND MEANS

BILL ARCHER, Texas, *Chairman*

PHILIP M. CRANE, Illinois
BILL THOMAS, California
E. CLAY SHAW, JR., Florida
NANCY L. JOHNSON, Connecticut
JIM BUNNING, Kentucky
AMO HOUGHTON, New York
WALLY HERGER, California
JIM McCRERY, Louisiana
DAVE CAMP, Michigan
JIM RAMSTAD, Minnesota
JIM NUSSLE, Iowa
SAM JOHNSON, Texas
JENNIFER DUNN, Washington
MAC COLLINS, Georgia
ROB PORTMAN, Ohio
PHILIP S. ENGLISH, Pennsylvania
JOHN ENSIGN, Nevada
JON CHRISTENSEN, Nebraska
WES WATKINS, Oklahoma
J.D. HAYWORTH, Arizona
JERRY WELLER, Illinois
KENNY HULSHOF, Missouri

CHARLES B. RANGEL, New York
FORTNEY PETE STARK, California
ROBERT T. MATSUI, California
BARBARA B. KENNELLY, Connecticut
WILLIAM J. COYNE, Pennsylvania
SANDER M. LEVIN, Michigan
BENJAMIN L. CARDIN, Maryland
JIM McDERMOTT, Washington
GERALD D. KLECZKA, Wisconsin
JOHN LEWIS, Georgia
RICHARD E. NEAL, Massachusetts
MICHAEL R. McNULTY, New York
WILLIAM J. JEFFERSON, Louisiana
JOHN S. TANNER, Tennessee
XAVIER BECERRA, California
KAREN L. THURMAN, Florida

A.L. SINGLETON, *Chief of Staff*
JANICE MAYS, *Minority Chief Counsel*

SUBCOMMITTEE ON TRADE

PHILIP M. CRANE, Illinois, *Chairman*

BILL THOMAS, California
E. CLAY SHAW, JR., Florida
AMO HOUGHTON, New York
DAVE CAMP, Michigan
JIM RAMSTAD, Minnesota
JENNIFER DUNN, Washington
WALLY HERGER, California
JIM NUSSLE, Iowa

ROBERT T. MATSUI, California
CHARLES B. RANGEL, New York
RICHARD E. NEAL, Massachusetts
JIM McDERMOTT, Washington
MICHAEL R. McNULTY, New York
WILLIAM J. JEFFERSON, Louisiana

Pursuant to clause 2(e)(4) of Rule XI of the Rules of the House, public hearing records of the Committee on Ways and Means are also published in electronic form. **The printed hearing record remains the official version.** Because electronic submissions are used to prepare both printed and electronic versions of the hearing record, the process of converting between various electronic formats may introduce unintentional errors or omissions. Such occurrences are inherent in the current publication process and should diminish as the process is further refined.

CONTENTS

USE AND EFFECT OF UNILATERAL TRADE SANCTIONS

THURSDAY, OCTOBER 23, 1997

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON TRADE,
Washington, DC.

The Subcommittee met, pursuant to notice, at 11:12 a.m., in room 1100, Longworth House Office Building, Hon. Philip M. Crane (Chairman of the Subcommittee) presiding.

[The advisories announcing the hearing follow:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON TRADE

FOR IMMEDIATE RELEASE — CONTACT: (202) 225–1721
September 9, 1997
No. TR–15

Crane Announces Hearing on the Use and Effect of Unilateral Trade Sanctions

Congressman Philip M. Crane (R–IL), Chairman, Subcommittee on Trade of the Committee on Ways and Means, today announced that the Subcommittee will hold a hearing on the use and effect of unilateral trade sanctions. The hearing will take place on Tuesday, September 23, 1997, in the main Committee hearing room, 1100 Longworth House Office Building, beginning at 10:00 a.m.

BACKGROUND:

A number of U.S. laws and executive actions authorize unilateral economic or trade sanctions on other countries or entities for a variety of purposes, including human rights, anti-terrorism, nuclear non-proliferation, political stability, anti-narcotics, worker rights, and environmental protection. Some examples of Presidential authorities to impose such sanctions include the International Emergency Economic Powers Act (IEEPA), the Narcotics Control Act, and the International Security and Development Cooperation Act of 1985.

During the 104th Congress, several unilateral trade sanctions or measures that limit the ability of a company to trade with a particular country were enacted. For example, the Iran and Libya Sanctions Act of 1996 mandates sanctions against foreign investment in the petroleum sectors of Iran and Libya as well as exports of weapons, oil equipment, and aviation equipment to Libya. These sanctions include a prohibition on government procurement, denial of Export-Import bank loans, denial of export licenses, and import sanctions under IEEPA. In addition, the Cuban Liberty and Democratic Solidarity Act (Helms-Burton or the Libertad Act) strengthened U.S. trade sanctions against Cuba. In the 105th Congress, pending legislation includes H.R. 2431, the "Freedom from Religious Persecution Act of 1997."

A recent study by the National Association of Manufacturers (NAM) estimates that from 1993 through 1996, 61 U.S. laws and executive actions were enacted authorizing unilateral economic sanctions for foreign policy purposes, specifically targeting 35 countries. The sanctioned countries, NAM reports, represent 2.3 billion potential customers (42 percent of the world's population) and $790 billion worth of export markets (19 percent of the world's total).

In announcing the hearing, Chairman Crane stated: "I have long been concerned about the growing tendency to resort to unilateral trade sanctions to enforce foreign policy or other non-trade goals. Before we impose sanctions, we should think long and hard about the effect of such sanctions on the U.S. economy and our businesses, workers, and consumers. There is little evidence that these sanctions have changed the behavior of the targeted government. Instead, the use of sanctions has translated into billions of dollars of lost opportunities here. I believe that the better policy is to pursue our goals with our trading partners through multilateral efforts in an attempt to achieve consensus."

FOCUS OF THE HEARING:

The focus of the hearing is to examine the use of unilateral trade sanctions by the United States, including both legislative and executive action. The Subcommittee will also assess the impact of such sanctions on the U.S. economy, businesses, workers, and consumers, as well as whether recent trade sanctions have achieved their original goals. Finally, the Subcommittee will examine what strategy should govern the resort to economic sanctions to ensure that they actually advance U.S. interests.

DETAILS FOR SUBMISSIONS OF REQUESTS TO BE HEARD:

Requests to be heard at the hearing must be made by telephone to Traci Altman or Bradley Schreiber at (202) 225–1721 no later than the close of business, Monday, September 15, 1997. The telephone request should be followed by a formal written request to A.L. Singleton, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. The staff of the Subcommittee on Trade will notify by telephone those scheduled to appear as soon as possible after the filing deadline. Any questions concerning a scheduled appearance should be directed to the Subcommittee on Trade staff at (202) 225–6649.

In view of the limited time available to hear witnesses, the Subcommittee may not be able to accommodate all requests to be heard. Those persons and organizations not scheduled for an oral appearance are encouraged to submit written statements for the record of the hearing. All persons requesting to be heard, whether they are scheduled for oral testimony or not, will be notified as soon as possible after the filing deadline.

Witnesses scheduled to present oral testimony are required to summarize briefly their written statements in no more than five minutes. THE FIVE-MINUTE RULE WILL BE STRICTLY ENFORCED. The full written statement of each witness will be included in the printed record, in accordance with House Rules.

In order to assure the most productive use of the limited amount of time available to question witnesses, all witnesses scheduled to appear before the Subcommittee are required to submit 200 copies of their prepared statement and an IBM compatible 3.5-inch diskette in ASCII DOS Text or WordPerfect 5.1 format, for review by Members prior to the hearing. Testimony should arrive at the Subcommittee on Trade office, room 1104 Longworth House Office Building, no later than Friday, September 19, 1997. Failure to do so may result in the witness being denied the opportunity to testify in person.

WRITTEN STATEMENTS IN LIEU OF PERSONAL APPEARANCE:

Any person or organization wishing to submit a written statement for the printed record of the hearing should submit at least six (6) single-space legal-size copies of their statement, along with an IBM compatible 3.5-inch diskette in ASCII DOS Text or WordPerfect 5.1 format only, with their name, address, and hearing date noted on a label, by the close of business, Tuesday, October 6, 1997, to A.L. Singleton, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements wish to have their statements distributed to the press and interested public at the hearing, they may deliver 200 additional copies for this purpose to the Subcommittee on Trade office, room 1104 Longworth House Office Building, at least one hour before the hearing begins.

FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages including attachments. At the same time written statements are submitted to the Committee, witnesses are now requested to submit their statements on an IBM compatible 3.5-inch diskette in ASCII DOS or WordPerfect 5.1 format. Witnesses are advised that the Committee will rely on electronic submissions for printing the official hearing record.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. A witness appearing at a public hearing, or submitting a statement for the record of a public hearing, or submitting written comments in response to a published request for comments by the Committee, must include on his statement or submission a list of all clients, persons, or organizations on whose behalf the witness appears.

4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and the public during the course of a public hearing may be submitted in other forms.

Note: All Committee advisories and news releases are available on the World Wide Web at 'HTTP://WWW.HOUSE.GOV/WAYS__MEANS/'.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202–225–1721 or 202–226–3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON TRADE

FOR IMMEDIATE RELEASE CONTACT: (202) 225–6649
September 22, 1997
No. TR–15-Revised

Change in Date for Subcommittee Hearing on the Use and Effect of Unilateral Trade Sanctions Tuesday, September 23, 1997

Congressman Philip M. Crane (R–IL), Chairman of the Subcommittee on Trade of the Committee on Ways and Means, today announced that the Subcommittee hearing on the use and effect of unilateral trade sanctions, previously scheduled for Tuesday, September 23, 1997, at 10:00 a.m., in the main Committee hearing room, 1100 Longworth House Office Building, will now be held on Tuesday, October 21, 1997.

WRITTEN STATEMENTS IN LIEU OF PERSONAL APPEARANCE:

Any person or organization wishing to submit a written statement for the printed record of the hearing should submit at least six (6) single-space legal-size copies of their statement, along with an IBM compatible 3.5-inch diskette in ASCII DOS Text or WordPerfect 5.1 format only, with their name, address, and hearing date noted on a label, by the close of business, Tuesday, October 6, 1997, to A.L. Singleton, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements wish to have their statements distributed to the press and interested public at the hearing, they may deliver 200 additional copies for this purpose to the Subcommittee on Trade office, room 1104 Longworth House Office Building, at least one hour before the hearing begins.

All other details for the hearing remain the same. See Subcommittee press release No. TR–15, dated September 9, 1997.)

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON TRADE

FOR IMMEDIATE RELEASE CONTACT: (202) 225–6649
October 14, 1997
No. TR–15-Revised-2

Change in Date and Time for Subcommittee Hearing on the Use and Effect of Unilateral Trade Sanctions Tuesday, October 21, 1997

Congressman Philip M. Crane (R–IL), Chairman of the Subcommittee on Trade of the Committee on Ways and Means, today announced that the Subcommittee hearing on the use and effect of unilateral trade sanctions, previously scheduled for Tuesday, October 21, 1997, at 10:00 a.m., in the main Committee hearing room, 1100 Longworth House Office Building, will now be held on Thursday, October 23, 1997, at 11:00 a.m.

Witnesses scheduled to present oral testimony are required to deliver their statements to the Subcommittee on Trade Office, 1104 Longworth House Office Building, no later than 12:00 noon on Tuesday, October 21, 1997.

WRITTEN STATEMENTS IN LIEU OF PERSONAL APPEARANCE:

Any person or organization wishing to submit a written statement for the printed record of the hearing should submit at least six (6) single-space legal-size copies of their statement, along with an IBM compatible 3.5-inch diskette in ASCII DOS Text or WordPerfect 5.1 format only, with their name, address, and hearing date noted on a label, by the close of business, Thursday, November 6, 1997, to A.L. Singleton, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements wish to have their statements distributed to the press and interested public at the hearing, they may deliver 200 additional copies for this purpose to the Subcommittee on Trade office, room 1104 Longworth House Office Building, at least one hour before the hearing begins.

All other details for the hearing remain the same. (See Subcommittee press release TR–15, dated September 9, 1997, and No. TR–15-Revised, dated September 22, 1997.)

Chairman CRANE [presiding]. Good morning, and welcome to this hearing of the Ways and Means Subcommittee on Trade. The focus of our hearing today is to examine the use of unilateral trade sanctions by the United States, including both legislative and executive action. We will assess the impact of such sanctions on the U.S. economy, businesses, workers and consumers, as well as whether recent trade sanctions have achieved their original goals. Finally, we will examine what strategy should govern the use of economic sanctions to ensure that they actually advance U.S. interests.

I have long been concerned about the growing resort to unilateral trade sanctions to enforce foreign policy or other nontrade goals. Before we impose sanctions, we should think long and hard about the effect of such sanctions on the U.S. economy and our businesses, workers, and consumers. There is little evidence that these sanctions have changed the behavior of the targeted government. Instead, the use of sanctions has translated into billions of dollars of lost opportunities here.

I believe that the better policy is to pursue our goals with our trading partners through multilateral fora in an attempt to achieve consensus. Accordingly, today together with my colleague Congressman Hamilton, I have introduced legislation that would provide a framework for consideration of unilateral trade sanctions by the legislative and executive branches. The bill would not prohibit the imposition of trade sanctions, but it would establish a more deliberative and disciplined approach to U.S. sanctions policy.

Specifically, the bill would establish consultations between Congress and the executive branch, as well as consideration of alternatives to the use of sanctions. In addition, the bill would ensure that Congress and the administration have adequate information about the likely effectiveness and economic and humanitarian costs of a proposed sanction. The bill would provide for a detailed analysis of whether the proposed sanction is the best tool for achieving U.S. objectives. Finally, the bill would impose regular reporting and sunset requirements. I believe that such a framework would allow us to pause and examine the impact the sanctions would have before we rush into what may be a counterproductive effort.

I now recognize our distinguished Ranking Minority Member, Mr. Matsui for any statement he would like to make.

Mr. MATSUI. Thank you very much, Mr. Chairman, for holding today's hearings on the use and effect of unilateral trade sanctions. This is a subject that deserves a thorough public airing. We need to take steps and evaluate objectively the results, both positive and negative, of our various past legislative and administrative actions that have resulted in the imposition of unilateral U.S. sanctions.

It seems too often in recent years we have pursued unilateral sanction policies that have both failed to achieve the original goals sought by these policies, and have resulted in burdensome economic costs for U.S. business and workers. Indeed, a recent economic analysis has estimated that some $15 to $19 billion in annual sales of U.S. exports have been lost because of unilateral sanctions currently in place in the United States. This has in turn resulted in the loss of some 250,000 export jobs in this country.

Perhaps the most important economic impact for unilateral sanctions, however, is the damage done to its reputation of the United States and to companies as reliable suppliers and the image of the United States as an evenhanded trading partner. Moreover, as we have seen in recent months, our unilateral sanction actions have created enormous tension and friction with some of our major trading partners.

Having said this, however, let me be quick to acknowledge that there are many circumstances when it is entirely appropriate to pursue unilateral sanction strategies. A key for public policy makers, whether they be legislators or the President and his Cabinet, is to identify where circumstances warrant the use of such sanctions and what the costs to the U.S. interest is, and how best to structure such sanctions so as to minimize frictions with third countries.

I look forward to hearing the testimony from today's witnesses of this important subject. At this point, I would like to yield to the Ranking Member of the Subcommittee, Mr. Rangel, who has some observations he would like to make.

Mr. RANGEL. Thank you, Mr. Matsui.

Thank you, Mr. Chairman.

I cannot talk against sanctions, having been one of the House leaders in organizing the sanctions against South Africa and having seen them succeed. The difference there of course was that we had multinational support against South Africa. The question really comes is whether or not sanctions by the United States unilaterally, without the support of trading countries, makes any sense at all.

But when it gets to the point of Cuba and Helms-Burton, the arrogance displayed by the United States against a free trade world in violation of every moral but certainly international code that you can think of, has brought the wrath of trading nations down on us in a way that even our most sophisticated diplomats cannot explain. But it would seem to me that beyond the arrogance and the embarrassment, the question is, how can we get rid of that dictator that we have in Cuba. Every economic failure that they have, they blame on the embargo. Every time they have a storm, they blame it on the embargo. Every crisis, every epidemic, they blame on the embargo. The truth of the matter is, that I think that Fidel Castro is in office because they believe it's the embargo and not his lack of leadership or lack of sensitivity that is causing the pain and distress there.

The Cuban people are our friends. The embargo has caused sickness, illness, death, malnutrition, and unemployment. That's on the people of Cuba. It would seem to me that we ought to think seriously about really getting rid of the dictatorship because the biggest threat to dictators, and the biggest support of democracy is free trade. Let our businessmen get in there. Sell them cars, beans, rice, chicken, agricultural products, dairy products. Let our students be able to go there and show what a great America we have. Let our reporters go there and exchange information. Let television be there to show what we're doing here and what they are doing there.

If we think this type of thing can work where you have 1 billion Chinese in China, if we think we can work at North Korea, North Vietnam, why in God's name can it not work on this small island 90 miles from our shore? Sanctions, in order to get small political pleasures in small geographic districts to determine who is going to get the electoral college votes, is not worth the price we're paying for it, not just in money and trade, but in the integrity of the trade policy of the United States of America.

Thank you, Mr. Chairman.

[The opening statement follows:]

Opening Statement of Hon. Charles B. Rangel, a Representative in Congress from the State of New York

Mr. Chairman, I thank you for holding today's hearing on this important topic.

As you know, I have long been interested in the effectiveness, or lack thereof, of using unilateral trade sanctions. I believe that there are probably some limited instances where unilateral trade sanctions are warranted.

The imposition of unilateral sanctions in South Africa is a prime example of when it is appropriate to use such tools.... In that case, we and the rest of the world held fast to the belief that such sanctions were morally and universally needed to overcome the evils of apartheid. Unilateral sanctions were widely used by many countries as a way of removing the very linchpins of apartheid. Moral and humanitarian issues were at stake. World powers came together to enforce humanitarian and moral rights by using a single effective tool....trade embargo.

Trade sanctions are sometimes useful and necessary in very limited situations. When used in appropriate circumstances, they can be most effective in reaching intended results. However, in the vast majority of instances where unilateral trade sanctions are applied, I believe that the intended objectives sought by the imposition of sanctions is both ambiguous and ineffective. Cuba, is a prime example of an instance where sanctions are simply not accomplishing the intended results.

The application of trade sanctions in Cuba was originally intended to topple the communist government. It was never intended to harm women, children or the elderly. Unfortunately, the stated objective has not been met. Fidel Castro is alive and well and still in power, notwithstanding our best efforts to implement sanctions. What the unilateral sanctions have done is to harm the weakest and most vulnerable members of Cuba's society. Women, children and the elderly are the ones that are suffering from our trade sanction policies, not Fidel Castro.

As a result of our trade embargo, the American Association for World Health Executive Summary entitled *The Impact of the US Embargo on Health & Nutrition in Cuba*, concluded that the embargo had seriously impacted the availability of proper nutrition, public water treatment supply systems, and the dissemination of medical information, medicines and equipment. Clearly, the unilateral trade policies of the US Government should not be continued where the evidence demonstrates that the most vulnerable members of society, rather than the communist government, are being impacted. Yet we persist in using this ineffective tool.

I believe that there is a better way of bringing about political change in Cuba. Engagement, rather than utilization of an ineffective unilateral trade sanction, is the better approach. The use of economic sanctions in Cuba has many drawbacks. It is counterproductive and has resulted in the needless backlash of anti-American sentiment. Utilization of economic sanctions in Cuba has impaired our relationships with our allies, particularly when we threaten to boycott allies companies, which fail to honor our trade sanctions against Cuba. American corporate competitiveness has been diminished as a result of our insistence on economic sanctions.

The negative fallout from the use of economic sanctions is quite lengthy. It begs the question, why would anyone use such measures when its clear that they are not working? We are hurting our corporate interests. We are risking anti-American sentiment and encouraging the wrath of our allies when we impose trade sanctions. Why in gods name do we persist?

Let's all take a good dose of common sense and try a different approach. I would like to offer my legislation, HR 1951, as a reasonable solution and alternative approach.

This important legislation would relax restrictions on the shipment and sale to Cuba of food, medicine, medical supplies and equipment. My legislation is aimed at helping the most vulnerable members of Cuba. For once Mr. Chairman, let us be guilty of doing the right thing at the right time. I hope you will consider hold another hearing on Cuba later this year. I would be honored to work closely with you in this endeavor.

Chairman CRANE. Thank you. Our first witnesses now will be three of our colleagues, Congressman Lee Hamilton of Indiana, Congressman Jim Kolbe of Arizona, and Congresswoman Ileana Ros-Lehtinen of Florida. I would like to ask that you try and keep your oral presentations to 5 minutes, but any written statements will be made a part of the permanent record.

You may proceed in that order.

STATEMENT OF HON. LEE H. HAMILTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA

Mr. HAMILTON. Thank you very much, Mr. Chairman. I, along with you, am introducing today this bill with respect to unilateral sanctions. Most of my testimony will be on that point.

Let me just indicate that I think my concern here about unilateral sanctions has developed in the past few years for several reasons. We're imposing these sanctions much more frequently. The President's Export Council noted that more than 75 countries are now subject to or threatened by unilateral sanctions. We're using a wider variety of unilateral measures to target a wider range of foreign conduct. The Council counted 21 specific sanctions covering 27 different target behaviors. We have adopted unilateral sanctions in the last 2 years that are extraterritorial in scope. So this is a tool that we're turning to more and more frequently as a policy, as a part of our tool kit, as it were, in the conduct of American foreign policy.

I have a lot of concerns about these unilateral sanctions. I think they often cost us exports. They cost us jobs. They cost us profits. They cost us investment opportunities. I don't think we have entered into these sanction laws with a full understanding of the impact they will have on the wide range of American policy interests, both public and private.

Unilateral sanctions might be worth their price in terms of exports and jobs and profits and all the rest if they succeeded in achieving their aims. But unilateral sanctions usually do not achieve their aims. I think the distinction Mr. Rangel drew is an important one, between multilateral sanctions on the one hand, and unilateral on the other.

The most alarming aspect of U.S. sanctions policy to me is the very weak information base upon which these unilateral sanction decisions are typically made. We have dozens of laws today that give the President the power to impose unilateral sanctions. We don't give him any guidelines. We don't tell him to follow any principles. He can just apply them whenever he wants to, in effect. I'm not talking now about trade sanctions. I am talking about unilateral sanctions designed to achieve certain foreign policy interests.

So the question is what do you do about it? What should be done about the increasing frequency and scope of the unilateral sanctions? A lot of things have to be done about it. We have to reinvigorate multilateral diplomacy. We have got to be sometimes more patient with our diplomats to see that they can accomplish their aims. We have to exercise I think greater discipline in the initiatives we take legislatively. But what I want to emphasize here today is that I think we need to improve the decisionmaking process on sanctions. Before the President acts, before the Congress acts, we ought to have inhand better information about the potential costs and benefits that these sanctions will involve.

So Chairman Crane, Mr. Kolbe, and I, and others have introduced a bill to put into place a process which will ensure that we have the best information before we impose these sanctions. The bill would reform the process by which both Congress and the

President adopt unilateral sanctions. We have in the bill a number of guidelines that apply both to the Congress and to the President. Those guidelines include, for example, a 2-year sunset, a waiver authority for the President, protecting the sanctity of existing contracts, making sure you target sanctions as narrowly as possible, and minimizing any interference with humanitarian efforts by nongovernmental organizations.

We provide a procedure to be followed in this bill that requires a committee of primary jurisdiction to include a report on a sanctions bill, an analysis by the President of the bill's likely impact on U.S. policy interests, U.S. economic interests, and U.S. humanitarian interests. We require the President of course to make a report before he puts sanctions into place. I won't go into further detail on that.

It is important for me to say before I conclude that there are a lot of things this bill does not do. It does not prevent the Congress or the President from imposing unilateral sanctions. It does not impact any sanctions that are currently in place. We're not trying to change existing law here at all. The bill imposes no limitations on the foreign countries or the conduct that can be targeted. The bill would have no impact on sanctions imposed under any multilateral agreement. It does not have an impact on restrictions or controls on the export of munitions. It doesn't impact Jackson-Vanik, resolutions of disapproval, after a presidential decision, for example, to maintain MFN, most-favored-nation, trade for China or any other country. The measure does not impact regulations or laws implementing trade agreements. We're not talking here about trade sanctions in any way. That's a whole separate set of very complex laws that you know a great deal about in this Subcommittee. So we don't impact all of these things.

In sum, then, what you have here is a bill that seeks not a red light for sanctions, but rather a yellow light, a cautionary light that says in effect that before you take this step of putting unilateral sanctions into place, whether you're the President or the Congress, there are some things you ought to do. You ought to stop, you ought to be careful, you ought to look around, you ought to proceed with caution. You ought to have more information.

I really don't see how people would oppose this bill, to be very blunt about it. Because to oppose it is to say that the Congress and the President cannot use and should not have additional information about sanctions. I think that's a position that neither we in the Congress nor the President should take.

I urge your Subcommittee to consider this bill, Mr. Chairman. I thank you for the fact that you are cosponsoring it with me. I look forward to working with you toward the enactment of the bill. Thank you for permitting me to testify.

[The prepared statement follows:]

Statement of Hon. Lee H. Hamilton, a Representative in Congress from the State of Indiana

Mr. Chairman, thank you for inviting me to testify today. I appreciate the opportunity to participate in your deliberations on this important issue.

For many years now, the Ways and Means Committee has had to take up controversial foreign policy sanctions that originated in the International Relations Committee. I knew it was only a matter of time before you called one of us in for questioning!

Today, I want to highlight several concerns on unilateral sanctions that I believe merit attention by this subcommittee and by the Congress. I will then offer a couple of suggestions on how we can improve our policies.

In that regard, Mr. Chairman, I will make a few remarks about the bill you and I plan to introduce later today.

CHANGING CHARACTER OF SANCTIONS

The United States needs economic sanctions in its foreign policy toolkit.

We need to respond to many international problems. Economic sanctions can be an attractive policy option when military action is not warranted, and diplomacy seems to have failed. In some circumstances, the conduct of a particular country may be sufficiently abhorrent or dangerous that we will feel compelled to respond, regardless of whether other countries join us.

Prior to 1980, several major laws authorized the imposition of economic sanctions for foreign policy purposes. Those laws tended to give the President considerable flexibility to decide when and how to impose sanctions. They also tended to target foreign conduct, rather than specific countries.

During the past two decades, however, and especially since 1990, U.S. sanctions policies have evolved substantially.

First, we impose unilateral sanctions more frequently. In a report prepared earlier this year, the President's Export Council noted that more than 75 countries are now subject to, or threatened by, one or more unilateral U.S. sanctions.

Second, we use a wider variety of unilateral measures to target a wider range of foreign conduct. The Export Council counted 21 specific sanctions covering 27 different target behaviors. We have also given the President less latitude in implementing sanctions.

Third, during the past two years we have adopted unilateral sanctions that are extraterritorial in scope. In 1996, we departed from our longstanding policy of opposing secondary boycotts by enacting two laws that penalize *foreign* firms for activities in Cuba, Iran, and Libya. Meanwhile, roughly twenty states and localities have adopted laws prohibiting government commercial dealings with U.S. or foreign companies that do business with countries that have poor human rights records.

Fourth, over the pahold in *existing* sanction statutes. None of these measures has made it to the President's desk. If any do, however, they will raise difficult questions about the roles of Congress and the President in the conduct of foreign policy.

CONCERNS ON UNILATERAL SANCTIONS

I have several concerns about the increasing frequency and scope of unilateral sanctions.

First, unilateral measures often cost U.S. exports. The Institute for International Economics estimated earlier this year that restrictions imposed for foreign policy purposes are costing $15–19 billion in export sales annually.

Perhaps the two most widely-cited examples of the costliness of unilateral sanctions are the 1979 decision to embargo grain sales to the former Soviet Union after its invasion of Afghanistan and the ban on U.S. participation in the construction of a Soviet gas pipeline to Europe in the early 1980s:

—Despite our embargo, the Soviets were able to buy all the grain they needed from other countries, and they stayed in Afghanistan. The total cost to the United States? Four billion dollars—$2 billion in federal crop payments and $2 billion in lost foreign grain sales.

—When U.S. firms were barred from the pipeline project, European contractors stepped in. U.S. firms lost hundreds of millions of dollars in sales and a big share of the European turbine market. Thousands of potential jobs were lost. Yet the pipeline was built anyway.

Another example of the cost of unilateral sanctions recently came to my attention. I understand that the five countries currently under total U.S. trade embargoes—Iran, Iraq, Libya, Cuba, and North Korea—together account for roughly 11% of the world's wheat export market. This means that 11% of the world wheat market is off-limits to U.S. farmers. But it doesn't mean those countries can't get wheat. If they have the cash, there are plenty of other countries willing to do business with them.

My *second* concern is that our reputation for unilateral sanctions is costing potential export sales and foreign investment opportunities. Many executives I have spoken with over the past couple of years have told me that foreign firms and governments are increasingly steering clear of U.S. companies when making procurement decisions. They are concerned that deals with U.S. firms could be jeopardized by subsequent sanctions. I also understand that some European companies have begun to tell prospective customers that U.S. competitors can't be counted on because of U.S. sanctions policies.

Third, exports lost to unilateral sanctions mean lost jobs. Fifteen to twenty billion dollars in export sales would support tens of thousands of American jobs.

Fourth, unilateral sanctions, especially third-party measures like the Helms-Burton and Iran-Libya statutes, can harm important U.S. foreign policy interests.

Both of these laws appear to have deterred some investment in their target countries, but at great cost:

—Both laws have damaged relations with some of our closest friends, countries whose support we count on for many important foreign policy and trade initiatives.

—The U.S.–EU dispute over Helms-Burton continues to pose a threat to the World Trade Organization. If ongoing U.S.–EU talks on an "out of court settlement" fail, the case may return to the WTO, where just about every scenario points to a weakening of the rules-based international trading system.

—U.S. sanctions on the firms investing in the Iranian energy development project would also probably send us back to the WTO, and retaliation against U.S. exports or investment seems likely.

—U.S. leadership on trade issues has also been weakened. Some of our closest friends have been talking about the need to rein-in U.S. policies. In OECD talks on the Multilateral Agreement on Investment, for example, the EU and Canada have pressed for provisions that would prohibit measures like Helms-Burton and the Iran-Libya Sanctions Act.

Fifth, in addition to antagonizing foreign governments, some of our state and local sanctions are raising difficult questions concerning the constitutional authority to conduct U.S. trade and foreign policy.

All of us in Congress want to respect the legitimate moral concerns that are motivating state and local sanctions. We want to support local initiative and public involvement in foreign affairs.

But it is one thing for state and local governments to express concern about foreign policy matters. It is quite another for them to take foreign policy actions that impact U.S. national interests, but that are not authorized by the one institution that is responsible for safeguarding and promoting those national interests: the federal government. U.S. national interests are not likely to be served by the emergence of distinct foreign and trade policies at the state and local level.

Ineffectiveness of Unilateral Sanctions

Unilateral sanctions might be worth their price in exports, jobs, and foreign policy interests if they succeeded in achieving their aims. They rarely do. In fact, they are sometimes counterproductive and harmful to the very people we are trying to help.

A number of studies have concluded that sanctions, both unilateral and multilateral, have worked less than half the time since the early 1970s. One of the most thorough and credible of these studies, from the Institute for International Economics, found that unilateral *and* multilateral sanctions together have succeeded less than 20% of the time since 1990.

Unilateral measures have been especially ineffective. Consider three prominent examples:

—The U.S. trade embargo has failed to bring about a change of government in Cuba in more than 35 years.

—U.S. non-proliferation sanctions did little to stop Pakistan's nuclear program.

—After two years, a total U.S. trade embargo has had no apparent impact on the policies of Iran.

Unilateral sanctions rarely work because the world economy has become too interdependent. When we deny a country access to our products *or* our markets, it has plenty of alternatives.

Multilateral sanctions are a different story. They can be an effective foreign policy tool in certain circumstances. When we impose sanctions with other countries, the results can sometimes be impressive:

—Multilateral sanctions hastened the end of apartheid in South Africa.

—UN sanctions against Libya have sharply limited the Qadaffi government's military adventurism and terrorism.

—Multilateral sanctions on Iraq have not toppled Saddam Hussein, but they have kept him and his military in a tight box.

—UN sanctions helped restore democracy to Haiti and motivated Belgrade to pressure the Bosnian Serbs.

Weak Information Base

One of the most alarming aspects of U.S. sanctions policy, in my view, is the weak information base upon which most unilateral sanction decisions are typically made.

Several dozen U.S. laws authorize the President to impose sanctions of one kind or another. Few of these laws require the President to assess the foreign policy, humanitarian, or domestic economic impact of a proposed sanction—before or after it is imposed. There are few, if any, opportunities for public comment. This stands in marked contrast to our trade sanction and trade remedy laws, which often require an economic impact assessment and public comment before the President imposes any measures.

Congress does not usually have before it a detailed assessment of new sanctions bills when it takes them up. We hold hearings and we debate proposals in markups. But our review of sanctions is rarely systematic or comprehensive.

PROPOSALS

What should be done about the increasing frequency and scope of unilateral sanctions?

First, we need to reinvigorate multilateral diplomacy. Many unilateral sanctions have been devised by members of Congress exasperated by the slow pace of diplomatic efforts to curb terrorism, human rights abuses, or proliferation. Our Presidents need to be more aggressive and creative in their diplomatic approaches to these problems.

Second, Congress needs to be patient with diplomacy, and it needs to exercise greater discipline in its legislative initiatives. We have become very fond of sanctions. It is relatively easy for us to pass bills authorizing sanctions, but these bills often hand the President extremely difficult decisions on when to impose measures. We are taking the easy way out. A more constructive approach for Congress would be to work with the President to develop policy alternatives to unilateral sanctions and inducements for multilateral cooperation.

Third, we need to take a close look at state and local sanctions. This Committee has considerable expertise here, and I would urge you to give this matter some attention. I recognize, however, that this issue may ultimately need to be addressed by the courts.

SANCTIONS REFORM BILL

Finally, we need to improve our decision-making on sanctions. Before they act, Congress and the President should both have in hand better information on the potential costs and benefits of unilateral sanctions proposals. And they should both proceed in a more deliberative and disciplined manner.

As Chairman Crane noted in his opening statement, he and I have drafted a bill that seeks to accomplish these objectives. The bill would reform the process by which both Congress and the Executive Branch consider unilateral sanctions proposals. We plan to introduce this bill later today. Let me say a few words about what it would do.

The bill *defines* a unilateral sanction as any restriction or condition on foreign economic activity that is imposed solely by the United States for reasons of foreign policy or national security.

For both Congress and the Executive Branch, the bill sets out *guidelines* for future sanctions proposals and *procedures* for their consideration and implementation.

The guidelines would be largely similar for both branches. We propose that sanctions bills approved by Congress and sanctions measures imposed by the President:

—Contain a two-year sunset;

—Provide waiver authority for the President;

—Protect the sanctity of existing contracts;

—Be targeted as narrowly as possible on those responsible for sanctionable conduct;

—Minimize any interference with humanitarian work performed by nongovernmental organizations; and

—Include measures to address any costs incurred by U.S. agricultural interests, which are especially vulnerable to foreign retaliation.

With the exception of this agriculture provision, all of the guidelines would be mandatory for the Executive Branch. But the President could waive several of them in the event of a national emergency.

The bill's *procedural reforms* for Congress would require a committee of primary jurisdiction to include in its report on a sanctions bill an analysis by the President of the bill's likely impact on a range of U.S. foreign policy, economic, and humanitarian interests. The committee would also need to explain in its report why it did not adhere to any of the sanctions content guidelines.

By invoking the Unfunded Federal Mandates Act of 1995, the bill would also require a report by the Congressional Budget Office on a sanctions bill's likely economic impact on the U.S. private sector. Under the terms of the Unfunded Mandates Act, the bill could not be considered on the House or Senate floor until the CBO analysis was completed and made public.

With respect to the Executive Branch, the bill would require the President to report to Congress prior to implementation on the likely impact of a proposed measure on U.S. foreign policy, economic, and humanitarian interests. The President would also be required to consult with Congress and to provide opportunities for public comment. To provide time for this consultation, public comment, and reporting, a sanction could not be imposed—except in the event of a national emergency—until 60 days after the President had announced his intention to do so.

It is also important to understand what our bill would *not* do:

—The bill would not prevent Congress or the President from imposing unilateral sanctions.

—The bill would not impact any sanctions currently in effect.

—The bill's Executive Branch guidelines and procedural requirements would apply, however, to *future* sanctions imposed by the President pursuant to *existing* laws.

—The bill would impose no limitations on the foreign countries or conduct that could be targeted by sanctions.

—The bill would have no impact on any of the following kinds of measures—now or in the future:

- Sanctions imposed under any multilateral agreement to address a foreign policy or national security matter—including proliferation, human rights, and terrorism.
- Restrictions or controls on the export of munitions.
- Resolutions disapproving a presidential decision to maintain MFN trade privileges for China or any other country.
- Measures imposed under U.S. laws and regulations implementing trade agreements, combating unfair foreign trade practices, and safeguarding the domestic market.
- Import restrictions designed to protect food safety or to prevent disruption of domestic agricultural markets.
- Measures to implement international environmental agreements.
- Import restrictions designed to protect public health and safety.

This bill is not a red light for sanctions. It is a flashing yellow light. Its message is to take a careful look around and proceed with caution.

I hope that members who have supported sanctions in the past—as I have—would be able to support this bill. To oppose a measure like this is to say that Congress and the President can't use and shouldn't have better information about sanctions. That is a position neither we nor the President should take. We need not fear information.

This bill would require those who propose sanctions to work harder to justify their proposals. It would ensure that elected officials and the public are better informed about the potential consequences of a proposed measure. Sanctions that receive the kind of careful scrutiny this bill will require are bound to be more effective in achieving their aims and to cause less collateral damage to humanitarian and economic interests. And if they are less costly to the U.S. economy, they will be more likely to retain public support.

Chairman Crane and I will welcome your thoughts on our bill in the coming weeks. We will also be grateful for your co-sponsorship.

Thank you.

Chairman CRANE. Thank you, Mr. Hamilton.

Mr. Kolbe.

STATEMENT OF HON. JIM KOLBE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Mr. KOLBE. Thank you very much, Mr. Chairman, for this opportunity to testify once again before this Subcommittee. I seem to have become a regular here. I want to commend you and Representative Hamilton for the work on this extraordinarily important issue.

Mr. Chairman, over the past several years, we've seen what I think is a disturbing trend in the foreign policy of the United States. It's the explosive growth of unilateral sanctions. In recent years, the U.S. Congress and the administration have seemed to be far more willing to employ unilateral economic sanctions to achieve rather nebulous foreign policy goals. In just this year in Congress, we have seen a number of bills or amendments introduced which are designed to unilaterally sanction specific countries. Mr. Rangel was right when he talked about the difference between South Africa and some of these others, where in South Africa, it was multilateral. I am talking here about the unilateral sanctions that are only supported by the United States.

The kind of bills I am talking about that are in Congress now, would sanction Nigeria, Turkey, and Indonesia for human rights abuses. You have another one which would withdraw foreign assistance from Mexico and Colombia for failure to cooperate in international antinarcotics efforts, and another bill which would sanction a number of countries ranging from China to Vietnam to Saudi Arabia, for failure to stop religious persecution.

Now I'm not saying these are not legitimate foreign policy issues or legitimate goals for us to pursue. I am questioning the efficacy of the method that is being used. Foreign policy 101 tells us that one-sized solutions doesn't fit everyone. These are complex issues that we're dealing with. They require careful forethought before action, not knee-jerk unilateralism.

Nor am I saying that economic sanctions should never be imposed. They can be an effective tool of foreign policy, particularly in international trade policy when applied selectively and multilaterally, and I would underscore the word multilaterally. But we must remember they are just a tool. They are not the ultimate solution. They should be used judiciously with due consideration given to their long-term impact.

Let me just give you one example, the drug certification exercise that we go through every year. Each year under the Foreign Assistance Act, the President is required to submit a list of drug producing and transit countries which he has certified as fully cooperative with the United States in helping to control narcotic interdiction. If the President fails to certify that a country is cooperative, then the country is deemed decertified, and it becomes ineligible for U.S. aid and other benefits. But it also tends to do something else to the decertified country. It paints it as a pariah state, hopefully with an eye toward embarrassing the government into being more cooperative with the United States. If Congress disagrees with the President's certification of a particular country, a resolution of disapproval can be introduced which if passed, overturns the President's decision.

The whole purpose of the statute is to encourage countries to cooperate with us in stopping narcotics trafficking. Does it work? No. It hasn't come even close to working. Countries subject to the review resent the judgmental and unilateral nature of our certification process. Rather than increasing cooperation, it creates a political backlash against the United States, a backlash which often hampers the prospects for progress in other areas.

When we threaten to impose unilateral sanctions on friendly countries such as Mexico, one with which we have a good relationship in other areas, we are jeopardizing cooperation on all of those other issues. We share a 2,000 mile border with Mexico. It's our third largest trading partner. Because of these realities, the United States needs Mexican cooperation on a number of issues, from illegal immigration to cross-border pollution. Decertification of Mexico is not likely to help solve the drug problem. But one thing is certain, it certainly is going to poison our bilateral relations and hamper cooperation on a number of important bilateral issues.

So the problem is real, and it's growing. Unilateral sanctions are becoming an increasingly popular tool of foreign policy, despite their limited utility. I think it's time that we in Congress applied the brakes. In this session of Congress, I introduced legislation to establish a bipartisan commission to take a hard look at our certification process to see if it's meeting our intended objectives. Now today, I am pleased to be an original cosponsor of this legislation which you, Mr. Chairman and Mr. Hamilton, are introducing, along with Senator Lugar over in the other body.

The bill requires, as Mr. Hamilton has pointed out, that Congress take into account the economic costs of the proposed sanction, and weigh it against its potential effectiveness before the sanction is imposed. It's just a common sense approach to it. Only if there is a good possibility the sanctions would succeed should it become law.

So, Mr. Chairman, I think it's clear the United States can't retreat from the world stage or the world economy or our leadership role there. I also think it's becoming increasingly obvious that unilateral sanctions are a poor tool of foreign policy. There needs to be a recognition in Congress that unilateralism has limits and that we need to give greater deference to multilateral approaches. For in the end, world engagement and multilateralism do not reduce America's influence, but extend it. They do not reduce the respect for America's power, they enhance it. Thank you.

[The prepared statement follows:]

Statement of Hon. Jim Kolbe, a Representative in Congress from the State of Arizona

Thank you very much for the opportunity to testify today. I would like to commend Chairman Crane and Representative Hamilton for their work on this very important issue.

A GROWING PROBLEM

Mr. Chairman, over the past several years we've witnessed a disturbing trend in our foreign policy. And that is the explosive growth of unilateral sanctions. In recent years the U.S. Congress seems to be far more willing to employ unilateral economic sanctions to achieve rather nebulous foreign policy goals. Just this year we've seen a number of bills or amendments introduced which are designed to unilaterally sanction specific countries.

These include bills which would sanction Nigeria, Turkey, and Indonesia for human rights abuses, which would withdraw foreign assistance from Mexico and Colombia for failure to cooperate in international anti-narcotics efforts, and one bill which would sanction any number of countries from China, to Vietnam, to Saudi Arabia for failure to stop religious persecution.

Now, I am not saying that these are not legitimate foreign policy issues. I am just questioning the efficacy of the methods. Foreign policy 101 tells us that one size solutions do not fit all. These are complex issues we are dealing with. They require careful forethought before action, not knee-jerk unilateralism.

Nor am I saying that economic sanctions should never be imposed. They can be an effective tool of foreign policy, particularly in international trade policy and when applied selectively and multilaterally. But we must remember they are just a tool, not the ultimate solution. They should be used judiciously with due consideration given to their long-term impact.

AN EXAMPLE

Let's just take one example—our annual drug certification exercise. Each year, under the Foreign Assistance Act, the President is required to submit a list of drug producing and transit countries that he has certified as fully cooperative with the United States in controlling drugs. If the President fails to certify that a country is cooperative, then that country is "decertified" and it becomes ineligible for U.S. foreign aid and other economic and trade benefits. It also tends to paint the "decertified country" as something of a pariah state, hopefully, embarrassing the government into being more cooperative with the United States. If Congress disagrees with the President's certification of a particular country, a resolution of disapproval can be introduced which, if passed, overturns the President's decision.

The whole purpose of this statute is to encourage countries to cooperate with the United States in stopping narcotics trafficking. Does it work? No! Not even close. Countries subject to review resent the judgmental, unilateral nature of our certification process. Rather than increasing cooperation, it creates a political backlash against the United States, a backlash which often hampers the prospects for progress.

When we threaten to impose unilateral sanctions on friendly countries such as Mexico we are jeopardizing cooperation on a large number of issues. We share a 2,000 mile border with Mexico. Mexico is our third largest trading partner. Because of these realities, the United States needs Mexican cooperation on a number of issues from illegal immigration to cross-border pollution. Decertification of Mexico is not likely to help solve the drug problem. But one thing is certain: it would definitely poison our bilateral relations and hamper cooperation on a number of important bilateral issues.

A SUGGESTED SOLUTION

The problem is real and growing. Unilateral sanctions are becoming an increasingly popular tool of foreign policy despite their limited utility. I think it is time we in Congress applied the brakes. This Congress, I introduced legislation to establish a high level bipartisan commission to take a hard look at our certification process to see if it is meeting our intended objectives. I am also pleased to be an original cosponsor of bipartisan legislation which will be introduced later today by myself, Representative Crane, Representative Hamilton and Senator Lugar. This bill will require Congress to take into account the economic cost of the proposed sanction and weigh it against its potential effectiveness before sanctions are imposed. Only if there is a good possibility that the sanctions would succeed should it become law.

CONCLUSION

I think it is clear that the United States cannot retreat from the world stage or the world economy. I also think it is becoming increasingly obvious that unilateral sanctions are a poor tool of foreign policy. There needs to be a recognition in Congress that unilateralism has limits and that we need to give greater deference to multilateral approaches. For in the end, world engagement and multilateralism do not reduce America's influence; but extend it. They do not reduce respect for America's power. They enhance it.

Thank you.

Chairman CRANE. Thank you, Mr. Kolbe.
Ileana.

STATEMENT OF HON. ILEANA ROS-LEHTINEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Ms. ROS-LEHTINEN. Thank you so much, Chairman Crane and the Members of your Subcommittee for the opportunity to address this important issue. I will first address the general issue of the sanctions, and then focus on the case of Cuba and the Helms-Burton law.

The people of the target countries do benefit from sanctions because these sanctions help free them from enslavement and oppression. The global community benefits as well, as sanctions reaffirm our international norms. The American people benefit as sanctions are used to protect them from security threats. U.S. businesses do benefit in the present, as their interests are protected. U.S. businesses are also gaining for the future as sanctions help change conditions in these countries and help to create an environment that is more conducive for their investment.

Attaching an economic cost to bad behavior acts as a disincentive. The economic costs of sanctions can directly improve the problem of dangerous behavior by a foreign government by limiting that government's capacity to engage in those offending practices. Such was the logic behind President Teddy Roosevelt's decision to discontinue the sale of American scrap metals and fuel oil to Japan. Since Japan was heavily dependent on imported fuel and metals, Roosevelt thought that an embargo of these goods could halt the Japanese war effort.

Sanctions express commitment to norms of international conduct, to human rights, to nonaggression. Sanctions reinforce such norms by holding the aggressors accountable. Sanctions go beyond rhetoric and promises, converting policy into action. A 1992 GAO, General Accounting Office, report strengthens this argument citing that such sanctions are effective by punishing violators and by deterring future violations by the threat of subsequent penalties.

Sanctions also offer a more acceptable alternative to armed conflict or military invasion. As Woodrow Wilson once said, sanctions are "an economic, peaceful, silent, and deadly tool." In the post-cold war era, as leaders are more focused on technological and economic successes, sanctions have the potential for even greater impact. Because of the trend toward economic integration and globalization of trade, sanctions are now an even more powerful tool. That is the reality understood not just by us in the United States, but by other countries such as Canada, which has used unilateral sanctions against the Abacha regime in Nigeria and has been working on a similar approach to Burma.

Those who contend that engagement would be more successful than economic isolation in bringing about a positive change in these pariah states, they fail to see what the truth of the engagement has been: That there must be an openness that will allow benefits to flow broadly to the general population. As we know, this is not the case with the countries that the United States has imposed sanctions on. This is certainly not the case in Cuba under the Castro regime, which brings me to the Libertad Act or the Helms-Burton Act, which coincides with many of the principles of free trade and takes into account many of the factors that investors look at.

Investors tend to be motivated by three things: That capital flows naturally to those places where conditions are most favorable; that transactions have a certain degree of protection and security; and third, the search for quick returns. In the absence of the first two, the last one becomes a moot point. For this reason, Euromoney ranks Cuba last on its list of the world's investment risks. Institutional Investor's 1996 Credit Ratings ranks Cuba among the last out of 135 countries.

By contrast, the Libertad Act in working toward a transition to democracy in Cuba, toward respect for human rights, toward a free and independent judiciary, toward a market-driven economy, and because it establishes a framework for strict guidelines, would lead to the creation of a future environment conducive to free trade and economic growth, an environment where U.S. businesses will be able to prosper.

Focusing on this last point, free trade does not work without private property. Yet private property rights and a separate private sector do not even exist in Cuba today. By contrast, the Libertad Act does protect private property rights.

Another pivotal point linking free trade, United States business interests, and the Helms-Burton bill is that countries which are engaged in trade with the Castro regime in the absence of fundamental, concrete, verifiable economic and political change in Cuba sacrifice their image with the Cuban people for relatively little gain. For those present here and other United States entrepreneurs and members of the business community, I would like to underscore that the United States is benefiting by staying out of Cuba now. The statement that other countries are going to monopolize the Cuban market and that there will be no room for us when a transition comes is a myth.

The Libertad Act, according to U.S. Interest Section officials is actually being used by foreign investors as an excuse to withdraw from bad business ventures. So it has been successful. It has already begun to bear fruit as companies are withdrawing from Cuba and deals involving United States confiscated property such as the Grupo Domos deal, are falling through. We would love to have our U.S. allies join with us in our efforts and have our sanctions be multilateral. But we can not sit idly by waiting for them to come around. The people of Cuba need our support. The United States is the only country that has stood up to the ruthless Cuban dictator, and has sent a clear message to the world that it considers the freedom of the Cuban people a higher priority. The United States must assume its leadership role, and sanctions are a powerful tool for precisely that purpose. They make sense from a moral, ethical, political, and commercial standpoint. Thank you so much.

[The prepared statement follows:]

Statement of Hon. Ileana Ros-Lehtinen, a Representative in Congress from the State of Florida

I would like to thank Chairman Crane and the Members of the Subcommittee on Trade of the Committee on Ways and Means for the opportunity to testify before you on the use and effect of trade sanctions. My statement will first, briefly address some of the general questions relating to the use of sanctions and will then focus on the case of Cuba and the Cuban Liberty and Democratic Solidarity Act.

In a nutshell, *the people of the target countries are gaining*, as sanctions help free them from enslavement and oppression. *The global community benefits* as sanctions reaffirm international norms. *The American people are gaining* as sanctions are used to protect them from security threats. *U.S. businesses are gaining in the present* as their interests are protected. *U.S. businesses are also gaining for the future* as sanctions help change conditions in these countries and create an environment conducive to investment.

Attaching an economic cost to bad behavior acts as a disincentive. The economic cost of sanctions can directly improve the problem of dangerous behavior by a foreign government, by limiting that government's capacity to engage in the offending practices. Such was the logic behind President Teddy Roosevelt's decision to discontinue the sale of American scrap metals and fuel oil to Japan. Since Japan was heavily dependent on imported fuel and metals, Roosevelt thought an embargo of those goods could halt the Japanese war effort.

Sanctions express commitment to norms of international conduct, human rights, and nonaggression. Sanctions reinforce such norms by holding the aggressors accountable. Sanctions go beyond rhetoric and promises, and converts policy into action. A 1992 GAO report strengthens this argument citing that such sanctions are effective by *punishing violators* or by *deterring* potential violations by *the threat* of subsequent penalties.

Sanctions also offer a more acceptable alternative to armed conflict or military intervention. As Woodrow Wilson once said: sanctions are "an economic, peaceful, silent, and deadly tool."

In the post-Cold War era, as leaders are more focused on technological and economic success, sanctions have the potential for even greater impact. *Because of the trend toward economic integration and globalization of trade, sanctions are now an even more powerful tool*.

This is a reality understood, not just by the U.S., but by other countries such as Canada who has used unilateral sanctions against the Abacha regime in Nigeria and has been working on a similar approach to Burma.

There are those who contend that "engagement" would be more successful than economic isolation in bringing about positive change in pariah states. However, the primary criterion that must be met to use "engagement" is: there must be *openness* that will allow benefits to flow broadly to the general population. As we all know, this is not the case with the country's the U.S. has imposed sanctions on.

This is certainly not the case in Cuba under the Castro regime... which brings me to the Libertad Act.

The Libertad Act coincides with many of the principles of free trade and takes into account many of the factors investors look at. Investors tend to be motivated by three things: (1) capital knows no boundaries and flows naturally to those places where conditions are most favorable; (2) transactions concluded with sovereign governments have a certain degree of protection and security, as they are normally recognized by successor governments; and (3) the search for quick returns.

In the absence of the first two, the last one becomes a moot point. For this reason, *Euromoney* magazine ranks Cuba last on its list of the world's investment risks. *Institutional Investor's 1996 Credit Ratings* ranked Cuba among the last out of 135 countries.

By contrast, the Libertad Act, in working toward a transition to democracy in Cuba; toward respect for human rights; toward a free and independent judiciary; toward a market-driven economy; and because it establishes a framework of strict guidelines, would lead to the creation of a future environment conducive to free trade and economic growth; an environment where U.S. businesses will be able to prosper.

Focusing on this last point, *free trade does not work without private property*. Yet, *property rights* and a separate private sector *do not exist in Cuba today*.

By contrast, the Libertad Act protects property rights. It re-establishes the expectation of recovery or indemnification which is virtually lost when Europeans and others traffick in property confiscated from U.S. citizens. In doing so, the Libertad Act serves to counter the lawless exploitation of property which serves to poison the well for future trade and investment.

Another pivotal point linking free trade, U.S. business interests, and the Libertad Act is that *countries who are engaged in trade with the Castro regime*—in the absence of fundamental, concrete, verifiable economic and political change in Cuba—*sacrifice their image with the Cuban people* for relatively little gain. They are resuscitating a regime that is not only brutal, ranked by the U.S. State Department as one of the worst human rights violators, but is also is the most powerful obstacle to market reform on the island.

For those present here and for other U.S. entrepreneurs and members of the business community, I would like to underscore that: *the U.S. is gaining by staying out of Cuba*. The statement that other countries are going to monopolize the Cuban market and there will be no room for the U.S. when a transition comes is *a myth*.

During discussions with U.S. Interest Section officials earlier this year, it was said that when a transition does take place, *the Cuban people will hold a significant level of resentment toward those who helped prolong their oppression*. Statements made to these U.S. officials in Cuba clearly indicate that American businesses enjoy the respect of much of the Cuban people, because American corporations are not perceived as capitalizing on the suffering and subjugation of the island's population. USINT officials have further said that: *"the Libertad Act is actually being used by foreign investors as an excuse to withdraw from bad business ventures."*

In essence, the Libertad Act has already begun to bear fruit as companies are withdrawing from Cuba and deals involving confiscated U.S. property, such as the Grupo Domos deal, are falling through. It has forced the issue of property rights, generating multilateral negotiations on global investment disciplines, with an agreement expected by the U.S.–EU summit in December. In addition, the Libertad Act and its predecessor, the Cuban Democracy Act, are credited with the growth of dissident and human rights groups on the island, and with germinating internal discontent against the regime.

In the end, we would love to have U.S. allies join us in our efforts and have these sanctions be multilateral. But we cannot sit idly by waiting for them to come around. The people of Cuba need our support. Thus far, the U.S. is the only country that has stood up to the ruthless Cuban dictator and has sent a clear message to the world that it considers the *freedom* of the Cuban people a *higher* priority.

The United States must assume its leadership role and sanctions are a powerful tool for precisely that purpose. They make sense from a moral, ethical, political, and commercial standpoint.

Chairman CRANE. Thank you. I was looking, Ileana, at your written statement. You were mentioning first of all that protection of property rights under the Libertad Act is certainly something we all universally embrace. But in the absence of multilateral agreements on the use of sanctions, hasn't there been profound violation of the property rights of individuals who fled Cuba that have been taken advantage of by other countries that have moved into acquire property there? I would hope that when Castro is gone, there would be indemnification assured.

But if you don't have the multilateral agreements on how to impose the sanctions on rogue countries, does it not work contrary to what you are hoping to achieve?

Ms. ROS-LEHTINEN. That's an excellent question, Congressman Crane. That is something that certainly the gentleman behind me, Stuart Eizenstat, has been working on when he was in charge of the negotiations with our neighbors, Canada, Mexico, the European trading partners, to have them respect Helms-Burton, which our position is that it's not extraterritorial in nature. It respects private property rights of American citizens who were American citizens at the time of their confiscation. These are individuals who have already filed suit. There is a program here in the United States. They have done all the paperwork, and yet they have not been able to get any negotiations through with these companies.

These foreign companies enjoy going to Cuba, taking over property because they have very little costs associated with them. Meanwhile, our U.S. taxpayer, our American property owner is out completely. He has no recourse in U.S. courts, and the only available recourse is through the Libertad Act.

That is exactly why we passed the Helms-Burton legislation, to protect the private property rights of American citizens whose property was illegally confiscated, and they have no other recourse. There is nowhere for them to go. This gives them the opportunity to address their grievances in court. If they seek to do so, they can do the private negotiations with the person in the company that has taken over their property. That is something that we respect in the United States. That is something that those foreign governments respect in their own countries as well. They just want to get off easy in Cuba, take over somebody's else's property, and then suffer no consequences. That is precisely what the Libertad Act seeks to correct.

We firmly believe that without these private property rights, without Helms-Burton, the private property rights of American citizens would not even be heard. In fact, that is what Helms-Burton does.

Even though these foreign governments say that because of Helms-Burton, they cannot trade with Castro, Helms-Burton has nothing to do with that, with their trading. They can trade with whomever they want. They can do whatever deals they want. We are saying to them they cannot do it on a confiscated U.S. property that once belonged to an American citizen and which we contend still belongs to an American citizen.

Chairman CRANE. Thank you.

Mr. Matsui.

Mr. MATSUI. I would like to thank Lee and Jim and Ileana for their testimony.

Ileana, I would like to just ask you one question. With the exception of the United States, and putting Helms-Burton aside for 1 minute, there are no other countries that are really seeking breaking off relations with Cuba. Is that correct?

Ms. ROS-LEHTINEN. There are some countries that have sanctions imposed on other countries, but not on Cuba. For example, Canada, as I pointed out——

Mr. MATSUI. Right.

Ms. ROS-LEHTINEN [continuing]. Has a wonderful hypocritical policy because they believe very strongly for human rights in Burma. They are very much against the dictatorial regime in Nigeria. But when it comes to cheap vacations on the beaches of Cuba, they are willing to overlook all of those problems.

Mr. MATSUI. As a result, I wonder, you see given technology and given the needs of almost every market economy or even controlled economy now needing technology in order to continue to survive economically, we've seen it in Asia, we've seen it with Korea, we've seen it with Taiwan, certainly the Four Tigers and even China now in the southern part of China, because they need technology. That means that they have to have people going back and forth, and they have to have a kind of a free discussion.

It would seem to me that if we want to move in a way to democratize Cuba or any country like Cuba, you almost have to have some kind of economic intercourse with that country. You almost have to have some kind of relationship with that country. I am wondering if what we're doing has really hampered that effort. I think Mr. Rangel has expressed it numerous times, but particularly today when he talked about Castro and his group using the embargo and using our sanctions as a way to keep himself in power. But even more importantly, it makes it very difficult for the Cubans to get outside information from us and move toward a more liberalized system in terms of both political and social.

Perhaps you can respond to that because here it's been since what, the fifties, or some 40 or 50 years from the date we first began to cut off relations with Cuba. We are really not much better in terms of the United States-Cuban relations. So how are we going to overcome this? I know we can wait for Castro to die, but maybe something else might happen.

Ms. ROS-LEHTINEN. Well, I think we share the same goals. We would like for Cuba to be free. We differ on the approaches and how we get to that goal. But I know that Members of this Subcommittee, including Mr. Rangel, desire that and that is the wish of every free American citizen. But you have to have some kind of basis for that engagement to work as I have been pointing out. In Cuba there is no basis, there is no floor for these actions to take place, and to promote the kind of changes that we would all like to see take place.

For example, when you talk about the free flow of information, that is the one monopoly that Castro loves to have in Cuba, where he jams signals for Radio and TV Marti, he monopolizes the press. There is no free press in Cuba. It is very difficult for people to have access to what is going on. We would love to have the press go back and forth, but Castro only allows CNN. You have got to look at the CNN reports on Cuba and you will find out after 1 month of seeing their reports, why it is that Castro only allows CNN to cover.

Mr. MATSUI. But you see, if we had a group of our businesspeople, if we had workers there, if we had scientists go there, you can't prevent them from talking and discussing things. So it just seems to me that over time it would—it wouldn't be done over night, but over time it would have a very very positive effect. It would create kind of free thinking——

Ms. ROS-LEHTINEN. If we would have just heard this 6½-hour rambling speech of Fidel Castro recently, and he says it time and time again. He could not be more open and honest about saying there will be no reforms in Cuba. He says socialism or death. He has been saying it for 38 years and just reiterated it just 3 weeks ago at the Cuban Communist Party Congress. There is one-party system there. He controls it all.

When you talk about the embargo, the embargo that we would like to be lifted is the embargo that Fidel Castro has on the Cuban people, where they cannot express ideas freely, where they cannot freely worship their god, where they cannot say anything because they have these watchdog committees that violate their human rights each and every day. What happens to a free exchange of ideas in Cuba? The dissidents are in jail. The real dissidents and the real opposition is in jail.

So it is very difficult in a closed police state for us to have this Pollyanna view that if we sell them Bic pens, then Castro will have elections on Tuesday. We wish that that would be true, but it is not going to happen. Castro himself says that it will not happen. He can not be any clearer about what he wants for the Cuban people. Foreign investment just goes into his pockets.

We build hotels there, hotels that by law that Cuban people can not enter. We build beautiful swimming pools that by law the Cuban people can not swim in, and restaurants that the Cuban people can not enter. Foreign investment goes to Castro's pocket. It does not filter to the Cuban people. They see none of that. They have a complete apartheid system of government where it is one system for the tourists and the communists that lead, and pesos and worthless devalued pesos for the Cuban worker, who gets paid maybe $20 a month, while the tourists are enjoying a wonderful vacation in Cuba. That's the reality of Castro's Cuba today.

Mr. MATSUI. Thank you. My time is up, but we'll undoubtedly have to continue this discussion. I appreciate it, and thank all three of you.

Chairman CRANE. Mr. Thomas.

Mr. THOMAS. Thank you very much, Mr. Chairman. I won't try to belabor the points. It just seems to me that the attempt to create a structure which is one thing to some people and something entirely different to another is inevitably doomed. Castro is on the same path as the satellite countries, and in fact, the Soviet Union itself. It's just that it's a different timeframe. It's also hard for me to argue that a country is closed when Members of Congress not only travel there, but brag about the fact that they travel there and perhaps perpetuate some of the concerns that we might have.

The difficulty I have of course is that I agree with my friends Mr. Hamilton and Mr. Kolbe that you can't have a policy of one size fits all. That to a certain extent, the idea of whacking back through a sanction is almost a faddish kind of a thing that's going on.

Notwithstanding that, I can't accept the argument that you should never have a policy in which you fall short of some kind of military intervention, especially if there's an opportunity to utilize an economic sanction for a good reason that's well designed and coordinated. Our job is to make sure that we don't overstep our bounds to the extent that we don't accomplish what it is that we decide that we want to accomplish.

You then of course have to fall back on the argument that I think Ms. Lehtinen is making and others make. There are sometimes when, if the issue is so important and so critical and so fundamentally violative of positions that we take, we have to make the decision notwithstanding others, that perhaps you have to go it alone.

I do think though that those decisions need to be made less often than they are made most of the time, because if you pick and choose, when you choose correctly it is far more effective. So I have difficulty because it isn't a one size fits all, and it's not a don't ever do it kind of a situation. Whenever you fall in between, the problem is when, how much, to what extent, under what circumstances.

That's what we are going to be wresting with in listening to other folk. Give us the examples.

I am especially interested in the administration's examination since a number of us would be perhaps a bit bolder than they would be as to whether or not we utilize sanctions, and whether or not they believe sanctions are useful, properly applied in the proper place. Reactions?

Mr. KOLBE. My only reaction, Mr. Chairman and Mr. Thomas, would be that I think the key words that you just said were well designed and coordinated. I think that the sanctions that you use must be well designed and they must be coordinated.

Mr. HAMILTON. Mr. Thomas, I agree with all of your remarks. I think you are absolutely right. There are times when unilateral sanctions would be appropriate. We ought not to exclude them from the arsenal of weapons, so to speak, that a President and the Congress has in exercising American foreign policy.

I also agree with your comment that we should use some care in the imposition of those sanctions. I think we all recognize that sanctions result from frustration by Members of Congress, perhaps in the executive branch as well, when a country does something we don't like. There are a lot of countries that do things we don't like. We don't want to send in the Marines. That's a little too extreme. Rhetoric is not tough enough. So we're looking for other tools. What we have done in the past few years, as you very well point out, is we have just fallen more and more into this business of applying sanctions.

All I am suggesting with the bill that Mr. Kolbe, Chairman Crane, and I have introduced is to say, "Be careful here, let's take our time, let's weigh the factors, let's make sure we have got a process in place that makes us consider all those factors before we act." That's the point of it.

Mr. THOMAS. My concern is that when all of those in fact do occur, that there's an understanding that you move forward, and you move forward in a way that makes it effective unhesitatingly until and unless it's no longer necessary. In certain instances, I notice, we have wavered along the way because other people aren't with us, because time somehow seems to wear you down. The fact of the matter is in certain instances time should not be the problem, and others not agreeing with us is sometimes their fault, not ours.

Thank you, Mr. Chairman.

Chairman CRANE. Mr. Rangel.

Mr. RANGEL. Thank you, Mr. Chairman.

Lee Hamilton, we're really going to miss you in this Congress. I can think of no Member, whether people agreed or not agreed, that has enjoyed more respect in the Congress than you have. I am going to miss your advice, even though you may think I never take it, and the great comraderie which you have provided us. You are going to be missed.

Mr. HAMILTON. Thank you.

Mr. RANGEL. I would like to say to Mr. Kolbe as you referred to the sanctions as it relates to the countries that we didn't think were cooperating in the area of narcotics, I sponsored that legislation. I couldn't agree with you more. It just doesn't work.

Of course to my dear friend, Ileana, I share your pain in terms of wanting to see your home country enjoy the sweet nectar of liberty and freedom, and you are right, we both are seeking the same goal. It's a question of how we can work together. Quite honestly, I wish you and I had the power to set the basis for change. Because with the State Department, from President Carter, Reagan, Bush, Clinton, when I ask what should these people do in order to start talking, all of them would say well Castro has got to send a signal, he's got to be serious. They have to do something. We have got to be convinced. But still, that goal post keeps moving as the political situation in the United States, and more specifically in Florida, as that changes, our policy changes. I can not think of anybody that had any meaningful job on the Latin American desk or in the State Department that didn't change their Cuban position after they left.

All of them are saying now the embargo should be removed. Of course all of them have to state the policy that's given by the President. Presidents change that policy as we find the Clinton policy changing, the Bush policy was changing. I know darn well compensation for property that has been confiscated should be openness. A promise of elections that could be monitored should be one of the things that we are looking for.

But I look forward to visiting Cuba next year with the Pope and the cardinal, with tons of food and medicine, with American flags, and all of those things.

Do you approve of these type of intrusions into Cuba by Americans and by the Pope? Do you think this violates Helms-Burton or the spirit of it?

Ms. ROS-LEHTINEN. We welcome the Pope's message to free the people Cuba message. That is what we would like to hear from the Pope, to send a message of hope and democracy and liberty and freedom from enslavement. We hope that is the message that the Pope will deliver in Cuba.

Mr. RANGEL. So you welcome the Pope doing this?

Ms. ROS-LEHTINEN. I am not in charge of the Pope's itinerary. He's going and I wish him much success.

Mr. RANGEL. No, because I agree with you. I would want American students to do it. I would want American businesspeople to go there and say I'm not——

Ms. ROS-LEHTINEN. Let us talk 1 minute about this free flow of people. You know something interesting that is happening now, we have got baseball fever in Miami, as you can imagine, as our Florida Marlins are going to be victorious in the World Series. We have a wonderful pitcher there, his name is Livan Hernandez. I think Livan's case speaks volumes about the reality of Castro's Cuba today. Livan is a wonderful, wonderful pitcher, 22 years old. He has a brother in Cuba who people say is an even better pitcher than Livan. He was playing ball. He was doing a good job. But then because Livan, the brother is banned from playing baseball in Cuba because the Cuban Government fears that he will defect. He is one of eight other players and coaches who are banned.

So when you talk about free flow, it is always one way, Charlie. That is what—you always want to excuse Castro and blame the United States. Let us accuse Castro and applaud the United States for taking the strong moral stand against the dictatorship who does not even allow a guy to play ball because he does not want him to leave the country. He exploits people, whether you are a ball player or whether you are cleaning pots and pans. All of those investments and all of that free flow that we would love to take place, is a one-way street because Castro says all of that cash is going to my pocket. That is the reality.

You want to excuse him and blame us. I want to accuse him and applaud us. That's a big difference.

Mr. RANGEL. Listen. We're doing business with 1 billion communists——

Ms. ROS-LEHTINEN. And it is wrong for us to do so, Charlie. Just because we are doing it with China does not mean that it is right to do it everywhere else. I vote against most-favored-nation status to China each and every time. It is one of my proudest votes. Shame on us for what we are doing. There is something more important than trade, and that is human rights and democracy and liberty.

Mr. RANGEL. We're doing business with those scoundrels in North Korea.

Ms. ROS-LEHTINEN. We should not do it.

Mr. RANGEL. We are doing business with these scoundrels in North Vietnam, communists up there. You know it and I know it. We're doing business with communists. They haven't changed their colors.

Ms. ROS-LEHTINEN. I voted against that too.

Mr. RANGEL. Now you're telling me it's going to be baseball, baseball that should be something we should consider in not talking freely with the people in Cuba about finding out the basis that we normalize our relationship. Baseball. The brother of a Cuban that comes over here and becomes an American hero, and because the brother over there, Castro is mistreating him, that's an impediment for our State Department. Clinton is not even running for reelection to do business to say can we talk. That's what we're talking about.

If you are telling me that we have to consider how Castro treats the mother and the brother of a baseball hero who happens to be Cuban here, there's nothing——

Ms. ROS-LEHTINEN. We have to consider how Castro treats 11 million people. Yes, I think that we have to consider that.

Mr. RANGEL. Thank you.

Chairman CRANE. Mr. Neal.

Mr. NEAL. Thank you, Mr. Chairman. A question for any one of the panelists. Is there a reason that in your judgment in a certain geopolitical state that sanctions work and in other instances do not work? We have had some success in a place like South Africa where I think we helped to change the debate. At the same time, it seems as though the reaction in China, for example, over MFN is always one of hostility. It seems not to work very well. Is there a reason for that?

Lee.

Mr. HAMILTON. Well, in general I think the response is that multilateral sanctions often work, not always, and that unilateral sanctions rarely work. That seems to me to be the general rule. I think unilateral sanctions really have been quite ineffective overall.

Multilateral sanctions, I think the record is quite uneven. The South African case is always I guess exhibit number one. We recognize that the multilateral sanctions there were quite successful.

I think the U.N. sanctions against Libya have sharply limited the Gadhafi government's military adventurism and terrorism. I think the multilateral sanctions against Saddam Hussein and Iraq were very important. They kept him and his military, or are keeping him, in a tight box. I think sanctions have helped in Bosnia, and I think that sanctions have helped in Haiti. I'm sure there are cases where sanctions have not helped.

Mr. NEAL. Jim.

Mr. KOLBE. Just very quickly to add to that. I would say that Lee is correct in saying that. I think there are two things. One is the fact that they are multilateral, and they tend to work much better when other countries are cooperating obviously.

Since you mentioned the word geopolitical, Richard, I would just note that I think quite honestly they work better when the country is small. It would be very hard, I think, impossible to make unilateral sanctions work against China and very difficult even to make multilateral sanctions work against a country as large as that country, and that economy are. So you have to find other avenues, pressure, other ways of trying to open the economy, open the political system there, pressure to keep them from trading nuclear weapons, nuclear technology with countries like Pakistan, missiles with Iran. The economic sanctions have very, very little impact in a country like that. So that's just the geopolitical reality.

Ms. ROS-LEHTINEN. Certainly multilateral sanctions I would agree are far more effective in most situations than unilateral, but I agree with my colleagues, they have been successful unilateral sanctions in the past as well.

Mr. NEAL. Thank you, Mr. Chairman.

Chairman CRANE. Mr. McDermott.

Well, I want to thank the panelists for their participation this morning. We look forward to working with you.

I now call our next witness, Hon. Stuart Eizenstat, Under Secretary of State for Economic, Business, and Agricultural Affairs of the State Department.

STATEMENT OF HON. STUART E. EIZENSTAT, UNDER SECRETARY OF STATE FOR ECONOMIC, BUSINESS, AND AGRICULTURAL AFFAIRS, U.S. DEPARTMENT OF STATE

Mr. EIZENSTAT. Thank you, Mr. Chairman, Members of the Subcommittee. I am here to discuss with you how we can work together and think more comprehensively about where and when sanctions should be applied in promoting America's interests around the world. I have worked to advance America's security, prosperity, and values in a number of capacities. Last year in my role as special representative for the promotion of democracy in Cuba, I traveled 50,000 miles to work with our allies to adopt measures that support democracy and further isolate the Castro government, and understand the consequences of acts by regimes that consistently conduct themselves outside the norms of acceptable behavior. I met with the father of a man who lost his life in the inexcusable shoot down of a plane to Cuba, and have spoken to the parents of one of the victims of PanAm 103. These experiences have helped me better understand the role of sanctions in foreign policy, and have firmed my resolve to work with you on ways to more effectively change abhorrent behavior and isolate rogue regimes.

The record is clear in this age of increasing globalization. We have turned more frequently to sanctions to deal with inappropriate or unacceptable behavior by states. We must improve our ability to use them effectively. They should be used only when carefully considered by both the executive and legislative branches as to their likely effectiveness after all benefits, costs and consequences are analyzed and after the full range of diplomatic and political options have been attempted to change the conduct in question by the target country or group.

Sanctions, especially multilateral sanctions, have been effective. Iraq, Libya, former Yugoslavia, Haiti and others provide examples. At the same time, a realistic appraisal of our experience has taught that sanctions are not a panacea and are not cost free.

The general concept of sanctions is not new. The idea is as old as society itself. But the frequency with which we have turned to sanctions has increased dramatically since 1990. More than half the sanctions imposed in the last 80 years have been imposed in the past 3½ to 4 years.

Sanctions are an important potential tool, but as I indicate, they are not without costs. They offer important levers for behavior modification, and they will continue to do so. Sanctions on South Africa, on Iraq, Libya and Serbia, in each instance have been important. There are examples of unilateral sanctions which have been effective or which have served as an encouragement to others. The recent sanctions on Burma, for example, have increased international attention to human rights abuses by the regime. The Europeans, Canadians, and Japanese have now also imposed sanctions or withdrawn benefits. Even in Cuba, while Castro remains in power, sanctions have discouraged foreign investment. In still other areas, unilateral sanctions have proven effective in combatting the scourge of drugs.

In general, however, such cases tend to be much fewer in number and generally restricted to those in which we have overwhelming economic or political leverage. Unilateral sanctions are not only less likely to be successful than multilateral ones, but they also impose costs which we have to recognize honestly. For one thing, unilateral sanctions have embroiled us in differences with key allies that often can detract from the desired result. They also have real costs to U.S. business and American workers. A number of organizations have released different studies of the cost and effectiveness of these sanctions, including the President's Export Council, which has estimated the direct costs of economic sanctions in 1995 at between $15 and $19 billion. It is also suggested that sanctions have an indirect effect through undermining confidence in the reliability of U.S. suppliers in providing a competitive advantage to foreign competitors. This is not to say that we should forswear the use of sanctions or that they are an inappropriate tool. They do have a role to play in our panoply of tools to defend our interests.

Permit me to give you some lessons that I think we've learned from sanctions over the years. First, as a general rule, we should resort to sanctions only after appropriate diplomatic options have been aggressively pursued and have failed or appear to be inadequate.

Second, a primary consideration in considering a sanctions regime must be whether or not the sanction measures are likely to be effective in achieving the goal and whether they are part of an integrated strategy. Sanctions that are ineffective in the long run debase and undermine the value of sanctions in general as a potent foreign policy tool.

Third, we should design sanctions carefully so that to the extent possible, the target country feels the pain, not the innocent, and certainly not solely our U.S. business community and citizens.

Fourth, sanctions are much more likely to be effective when they have multilateral support and participation. Multilateral sanctions maximize international pressure. They are more difficult to evade or avoid, and they minimize damage to U.S. business.

Fifth, while our preference must be to act multilaterally, there are times when the stakes are so high, when important national interests or core values are at issue that we must also be prepared to act unilaterally. Otherwise, our ability to influence or respond to threats will always be subject to someone else's veto. But again, primary considerations in unilateral sanctions must be whether or not they are effective, whether they are part of a cohesive strategy to change behavior, and whether they contribute to or will detract from our efforts to gain multilateral support.

Sixth, we must work together, the administration, Congress, communities at the State and local level, the business community and NGOs, to see that our use of sanctions is appropriate, coherent, and designed to attract international support.

Seventh, engagement with countries is more often better than isolation. There are many countries which engage in certain practices or policies which we find objectionable. We need to tailor our approach to fit the individual target. Cutting off dialog and engagement with those countries would often be counterproductive. There are other cases, however, where the practice of a country are so egregious, so outside the norms of international behavior, so threatening to U.S. interests and those of our allies, that an attempt at engagement is pointless and indeed could be counterproductive. For example, engagement with a country such as Iraq which simply feeds Saddam Hussein's appetite for inappropriate behavior, the same is true with respect to Iran.

Eighth, the President must be given discretion to waive sanctions in the national interest. This is important to have. We have effectively used it under title III of the Libertad Act.

Ninth, Mr. Chairman, experience has shown that development early on of appropriate consultative mechanisms with countries which share our goals can be helpful on states of critical importance.

Thank you, Mr. Chairman. I have also discussed ILSA and the Helms-Burton Act specifically in my testimony. I assume that my entire testimony can be introduced in the record. But in the interest of time, I'll defer giving any further opening statement.

[The prepared statement follows:]

Statement of Hon. Stuart E. Eizenstat, Under Secretary of State for Economic, Business, and Agricultural Affairs, U.S. Department of State

Mr. Chairman and Members of the Committee, thank you for this opportunity to testify before you on the use and effect of unilateral trade sanctions.

Mr. Chairman, the view that I would like to lay before you today is that the record is clear. Properly designed, implemented, and applied as part of a coherent strategy, sanctions, including economic sanctions, can be and are a valuable tool for enforcing international norms and protecting our national interests. In this age of increasing globalization we have turned more frequently to sanctions to deal with inappropriate or unacceptable behavior by states. We should improve our ability to use them effectively. They should be used only when carefully considered by both the Executive and Legislative branches as to their likely effectiveness, after all benefits, costs, and consequences are analyzed, and after the full range of diplomatic and political options has been attempted to change the conduct in question by the target country or group.

Sanctions, especially multilateral sanctions, have been effective. Iraq, Libya, former Yugoslavia, Haiti and others provide examples. But at the same time, a realistic appraisal of our experience has taught that sanctions are not a panacea and they are not cost-free. Our object must be to learn from our growing experience, to draw the appropriate lessons so that we can find the best, the most effective way to employ this potentially powerful tool while minimizing the adverse costs.

Some things are clear. We should resort to sanctions only after other appropriate diplomatic options have been aggressively pursued and have failed, or would be inadequate. Sanctions are much more likely to be effective when they have multilateral support and participation. Multilateral sanctions maximize international pressure on the offending state while minimizing damage to U.S. competitiveness and more equitably distributing the sanctions burden across the international community. There are times, however, when the stakes are high, when important national interests or core values are at issue, that we must also be prepared to act unilaterally. Before imposing unilateral sanctions, serious thought must be given to all the potential ramifications.

In many instances, engagement can be preferable to isolation although the choice is not always so stark. In some cases, a mixed policy approach that incorporates both carrots and sticks may be appropriate. Engagement, including engagement by the US business community, may contribute a positive influence. In the case of some rogue regimes, however, engagement would simply feed the regime's appetite for inappropriate or dangerous behavior.

Most importantly, there can be no "one-size fits all" approach. The President must have the flexibility to tailor our response to specific situations.

Mr. Chairman, the general concept of sanctions is not new; the idea is as old as society itself. In their work "Economic Sanctions Revisited" authors Hufbauer, Schott and Elliott cite the imposition of a trade embargo by the Athenian leader Pericles on neighboring Megara in approximately 432 BC in retaliation for Megara's attempted expropriation of territory and the kidnapping of three women. In 1812 the United States imposed an embargo on Great Britain in retaliation for British attempts to limit US trade with France. In 1917 President Wilson imposed an embargo on the sale of iron, steel and other war essentials to Japan. President Roosevelt also imposed economic sanctions on Japan in 1940. I was personally involved in the use of sanctions against the former Soviet Union following its invasion of Afghanistan during my service in the Carter White House. So the use of sanctions in pursuit of foreign policy objectives is not new.

We, however, are living in an age of heightened political and economic global integration and growing interdependence in which most countries derive their prosperity, and even power, from growing engagement in the international economy. In such a world, sanctions are an important and potentially effective, if problematic, tool for enforcing international norms and standards of behavior, mediating not only between differing countries, but in the relationship between individual states and their own citizens as well. Sanctions are also a tool, however, which bring with themselves real costs as well as potential benefits.

The frequency with which we turn to sanctions has increased dramatically, particularly since 1990. The U.S. has applied sanctions for foreign policy purposes a total of 115 times since World War I, 104 times since World War II, and according to the count of the President's Export Council, 61 times since 1993. Thus more than half the sanctions imposed in the past 80 years have been imposed in only the past four years. These figures do not include the increasing use of sanctions at the state and local levels.

In the UN, the Security Council imposed sanctions only twice between 1945 and 1990: Rhodesia and South Africa. Since 1990, however, the UN has imposed mandatory sanctions on 8 countries: Iraq for its invasion of Kuwait; Serbia for its use of force in former Yugoslavia; Libya in reaction to the PanAm 103 massacre; Somalia and Liberia in their civil strife; Rwanda for genocide; Haiti for abrogation of democracy; and Angola during a renewed insurrection. Just within the past few weeks the UN has threatened further tightening of existing sanctions on UNITA, and imposed sanctions on the revolutionary junta in Sierra Leone.

Others have also resorted to sanctions. The EU, Japan and Canada have joined us in imposing sanctions on Burma. The EU is withholding aid from Kenya until that country deals with problems of corruption and rigged elections. The IMF has also moved to condition its lending to Kenya on serious efforts to deal with problems of pervasive corruption. The East African states imposed sanctions on Burundi, the Economic Community of West African States (ECOWAS) on Sierra Leone, and the Association of South-East Asian Nations (ASEAN) on Cambodia.

Sanctions are used for a variety of purposes:

- to punish a country for unacceptable behavior;
- to influence the behavior of a target country;
- to signal disapproval of a government's behavior;
- as a necessary early reaction and as a warning that harsher measures—even military—could follow;
- to limit a target state's freedom of action;
- to deny resources or technology;
- to increase the cost of engaging in unacceptable behavior;
- to draw international attention to unacceptable behavior;
- to challenge our allies to take more forceful action themselves in support of common objectives;
- or at times, simply to signal that a business-as-usual approach to a government that violates core values is not acceptable.

We also use sanctions in pursuit of a large number of policy objectives. These include such things as support for human rights, including workers and religious rights, promotion of democracy, to combat terrorism or the scourge of narcotics, in support of weapons of mass destruction and conventional non-proliferation or protection of the environment.

We have available a broad array of policy measures. These include not only punitive or coercive economic measures but political and military steps as well. These may range from simple measures such as a change in the level and size of diplomatic missions to the ultimate sanction, application of military force, with many possible stops in between. The Secretary's Advisory Committee on International Economic Policy has developed an "Illustrative Matrix of Foreign Policy Tools" including possible diplomatic, political, cultural, economic and military measures ranging from friendly persuasion, including positive inducements, to hostile or coercive steps. This matrix offers a response ramp of measures from which one could select appropriate tools for seeking to change the behavior of states that violate international norms.

We must be frank to recognize that in today's interdependent, global economy, the ability of the US to unilaterally deny key economic benefits to a target country is limited. Nevertheless, there are some measures which are not subject to foreign substitution, such as denial of a US quota, withdrawal of port privileges or landing rights, and actions in international financial institutions, consistent with their own rules, to withhold loans and assistance.

In any event, it is not always easy for us to agree whether specific sanctions have been effective. How we judge the effectiveness of sanctions depends on the desired results—overthrow of a government (in which case anything other than the application of military force is likely to be ineffective by itself); changes in a regime's behavioral patterns by increasing the cost of doing business (by deferring investment, deterring trade and the like where multilateral sanctions are likely to be most effective); or simply as a means of expressing moral or other outrage at what we consider unacceptable behavior.

There is no single, common standard against which to measure success or failure. The standards proposed by a firm dependent on sales to Burma (where we imposed targeted unilateral sanctions) would certainly differ from those applied by a committed human rights activist who oppose any interaction that might legitimize or strengthen the position of the authorities. The lower the expectations set for what sanctions are intended to accomplish, of course, the more likely the judgment is to be positive and, perhaps, the greater the willingness to bear the costs imposed on the country imposing sanctions.

One thing is clear: sanctions are an important potential tool but are not a panacea and they are not without costs. Sanctions do offer, however, important levers for behavior modification and will continue to do so. There is one common thread: the sanctions which are most likely to be successful are multilateral ones in which a significant number of countries with economic and political clout have agreed. These also impose fewer burdens on the US business community since the companies of a significant number of countries will be required to forswear doing business with the target country.

Multilateral sanctions on South Africa were certainly a major contributor to bringing down apartheid. In Iraq, multilateral sanctions have blocked Saddam Hussein's access to the resources needed to rebuild his war machine and, even worse, restock his arsenal of non-conventional weapons. In Libya, UN sanctions have made Qaddaffi pay a heavy price for failing to turn over for trial those indicted for the massacre of PanAm 103. In Serbia, sanctions, backed up by the very real threat of military reversals for the Bosnian Serbs, clearly brought Milosevic to the negotiating table in Dayton.

There are examples of unilateral sanctions which have been effective or which have served as an encouragement to others to take action. The sanctions the United States imposed on Burma called increased international attention to human rights abuses by the ruling regime. The Europeans, Canadians and Japanese have now also imposed sanctions or withdrawn benefits. Even in Cuba, while Castro remains in power, US sanctions have discouraged foreign investment and increased pressure on the regime to adopt reforms. In other areas such as the effort to combat the source of drugs, the use or threat of unilateral sanctions has proven to be an effective tool.

In general, however, such cases tend to be fewer in number and generally restricted to those instances where we have overwhelming economic or political leverage.

Nonetheless, it is often important to show US leadership in isolating regimes or governments whose actions violate international norms. The repressive Castro regime, the last dictatorship in the hemisphere, is such a case. The greatest challenge is to develop common policies with our allies to deal with such regimes.

Unilateral sanctions are not only less likely to be successful than multilateral, they also impose costs, which must be honestly recognized. For one thing, the unilateral nature of many of our sanctions efforts has embroiled us in differences with key allies that detract from the desired results.

Unilateral sanctions are also now being imposed on countries by US states and localities—such as New York City and the State of California's actions against Swiss banks, or the sanctions imposed by Massachusetts on Burma. While the latter were adopted in pursuit of a noble goal, the restoration of democracy in Burma, these measures also risk shifting the focus of the debate with our European Allies away from the best way to bring pressure against the State Law and Order Restoration Council (SLORC) to a potential WTO dispute over its consistency with our international obligations. Let me be clear. We are working with Massachusetts in the WTO dispute settlement process. But we must be honest in saying that the threatened WTO case risks diverting United States' and Europe's attention from focusing where it should be—on Burma.

The actions against Swiss banks are counter-productive, failing to recognize the real progress made by Switzerland in dealing with its past conduct during WWII, and discouraging further cooperation to right the wrongs of the past.

While state and local governments should express the democratic will of their citizens, unless sanctions measures are well conceived and coordinated, so that the United States is speaking with one voice and consistent with our international obligations, such uncoordinated responses can put the US on the political defensive and shift attention away from the problem to the issue of sanctions themselves.

Questions have been raised about the constitutionality of state sanctions, and I am not here to debate that issues. But from the perspective of the Department of State, we are concerned about the impact of state and local sanctions on the President's ability to send a clear and unified message to the rest of the world. As the world's only economic and military superpower, the United States has the obligation to project a coherent and consistent message to oppressive regimes. Ad hoc and scattered actions at various levels of government, however well-intentioned, can do more harm than good in achieving the desired objective and impede the President's and Secretary of State's conduct of foreign policy. It is the Executive Branch of the US Government which is charged with conducting the nation's foreign policy, in consultation with the US Congress, not states and municipalities. We should have only one foreign policy at a time.

We are working with Massachusetts, and with other state and local governments which have implemented or are considering the imposition of various sanctions measures, to try to ensure that they are designed so that they do not conflict with our international obligations and work to advance rather than retard progress toward meeting our foreign policy objectives.

Unilateral sanctions in particular also have real costs to US business and American workers. A number of organizations have recently released different studies of the cost and effectiveness of sanctions, including the President's Export Council, the National Association of Manufacturers, the European-American Business Council, the United Nations Association of the United States, the Secretary's Advisory Committee on International Economic Policy, and the Carnegie Foundation. Others are engaged in on-going studies on sanctions, such as the Center for Strategic and International Studies. USA*ENGAGE has been formed with over 600 US member companies solely for the purpose of dealing with the sanctions issue from an American business perspective.

Most of these studies reach similar conclusions and criticisms of the current use of sanctions. According to these studies, sanctions, particularly unilateral economic sanctions, are often seen as undisciplined, poorly targeted and/or ineffective. Measures may be overly broad—like applying a meat cleaver where laser surgery would be more appropriate—and the consequences are not well thought through. Decisions to impose sanctions may be made with little or no analysis of the actual impact the proposed sanctions are likely to have on various groups within the target country, or on how economic pressure is likely to be translated into political pressure. Alternatives such as diplomatic measures, sometimes more effective, may not always be considered.

Some also argue that the cost to the US economy and US competitiveness can be disproportionate to the results achieved. The President's Export Council, for example, recently estimated the direct cost of economic sanctions to the US economy in 1995 at $15–19 billion in lost export sales and up to 250,000 jobs. It also suggested that sanctions have an indirect effect through undermining confidence in the reliability of US suppliers and providing a competitive advantage to foreign competitors. Other studies have also pointed to lost exports and lost jobs, to cases where US components are specifically designed out of products because the producers do not wish to face the prospect of eventual restrictions on exports to particular markets, and to reports that foreign firms have intentionally switched R&D away from the US to Europe because of a desire to avoid sanctions problems.

The imposition of sanctions may also place us in difficult policy dilemmas. Would, for example, the imposition of strict sanctions on Syria, a country on our terrorist list (and with good reason), be consistent with our desire and need to engage Syria in the most cooperative way possible in seeking peace in the Middle East?

It is unfortunately also true that too often a decision to impose sanctions may be taken reactively, to demonstrate moral indignation or the resolve to be seen as doing something—without any real consideration of whether the measures imposed will be an effective means of advancing our goal and without consideration of the costs along with the benefits. H.R. 2431 (the Wolf-Specter Freedom from Religious Persecution Act) is, we believe, as case in point. While we agree with the goal of the bill and have made respect for religious freedom a top priority in our human rights policy, as originally constituted the bill could actually undercut our efforts to promote the very values that the bill seeks to foster: adversely impacting our diplomacy in regions from South Asia to the Middle East, and undermining our efforts to promote the very regional peace and reconciliation that can foster religious tolerance and understanding. H.R. 2431 is an excellent example of the need for the Administration and Congress to work together to craft the kind of legislation that will be effective in meeting our common goals.

This is not to say that we should forswear the use of sanctions, or that sanctions are an inappropriate tool. They do have a role to play in our panoply of tools to defend US interests. There is a great need for more dialogue and engagement between the Executive and Legislative branches, more opportunity for comment by the public, and more careful attention to all the potential consequences before we leap. The issue is how we can ensure that this potentially valuable tool is an effective instrument of policy while minimizing the costs.

The studies to which I have referred generally indicate that thoughtfully designed and implemented, sanctions may be an effective policy tool. The task we face is to substantially reduce negative effects while still achieving policy goals. Critics recommended a number of both policy and process changes. These include: broader and more methodical consideration of policy alternatives, increased emphasis on multilateral sanctions, improved consultation and coordination between Congress, the Administration and State and local governments, and revisiting sanctions if the objectives are not achieved in a reasonable period of time.

The mixed results of various sanctions regimes, both multilateral but especially unilateral; the lack of an agreed "standard of performance" against which to measure the utility of sanctions; the economic and other costs imposed on those imposing the sanctions and on third countries; the differences which unilateral sanctions with an alleged extraterritorial impact in particular have caused with our allies, who may share our objectives but disagree with our tactics; all have led to a growing number of calls to reexamine, to rethink the way in which we use sanctions. Here are some of the lessons we have learned from our growing experience with sanctions:

First, as a general rule, we should resort to sanctions only after other appropriate diplomatic options have been aggressively pursued and have failed or would be inadequate. Sanctions are, after all, only one of many measures available to us, from symbolic measures like withdrawing an Ambassador, reducing Embassy staff, to denying visas to target figures, entering into security arrangements with neighboring countries, to military intervention and everything in between. We should also not forget the power of positive inducements—rewarding desired behavior.

Second, a major objective of sanctions is to change behavior. That implies that a primary consideration in considering a sanctions regime must be whether or not the sanctions measures are indeed likely to be effective in achieving that goal and whether they are part of an integrated strategy. Sanctions that are ineffective, that are easy to evade or avoid, that are imposed merely to "make a statement," are not only pointless in achieving our objectives, but in the longer run debase and undermine the value of sanctions as a potent foreign policy tool.

Third, we should design sanctions carefully so that, to the maximum extent possible, the target country feels the pain, not the innocent and certainly not solely our business community and citizens. Sanctions should be constructed so as to minimize the cost to the U.S. and its allies while extracting maximum leverage. Whether we act alone or in concert with others, we should analyze before we penalize, studying in advance the specific purpose, enforceability, cost and likely effect of any decision to impose sanctions.

Fourth, sanctions are much more likely to be effective when they have multilateral support and participation. Multilateral sanctions maximize international pressure on the offending state. They show unity of international purpose. And, because they are multilateral, these sanctions regimes are also more difficult to evade or avoid, while minimizing damage to U.S. competitiveness and more equitably distributing the sanctions burden across responsible countries. We should make a maximum effort to develop a multilateral sanctions regime in instances when sanctions are a viable option, and given a reasonable period of time to develop an international consensus for such sanctions.

Fifth, if we have been unsuccessful in achieving a multilateral regime, we must nonetheless recognize that, while our preference will be to act multilaterally, there are times when the stakes are so high, when important national interests or core values are at issue, that we must also be prepared to act unilaterally. Such actions must be considered, sometimes applied, if the United States is to play a leadership role. Otherwise, our ability to influence or respond to international or regional threats will always be subject to someone else's veto. But again, primary considerations in any eventual application of unilateral sanctions must be whether they are effective, whether they are part of a cohesive strategy to change behavior, and whether they contribute to or detract from our efforts to gain multilateral support for our policy objectives. There generally should be some reasonable expectation that the sanctions will have a significant impact on those targets, and that there is some expectation they can be effectively implemented and enforced.

Sixth, we must recognize that in our democratic system the impulse to impose sanctions is by no means restricted to the Executive Branch. If our policies are to be effective, we must work together—Administration, Congress, communities at the state and local level, the business community, NGOs—to see that our use of sanctions is appropriate, coherent, and designed to attract international support. Congress should go through the same careful consideration and balancing of interests as the Executive Branch. There must be more structured, systematic discussions between the Executive Branch and Congress when sanctions are an option.

Seventh, engagement is more often better than isolation though the choice is usually not between these two extremes There are many countries which engage in certain practices or policies which we find objectionable, which we seek to change. We need to tailor our approach, whether carrots or sticks or a mix of the two, to fit the individual target. In many cases, engagement at every level may be a better, a more effective way to achieve our intended result. In such cases, engagement, including engagement by the US business community, will contribute a positive influence. Cutting off dialogue and engagement with those countries would be counterproductive. In other countries, critical US interests may be so involved that isolation is simply not an option, as is the case with China, where not simply economic but important security interests in the Pacific are at stake. Even during the height of the so-called "evil empire," for example, the Reagan Administration sought to both engage and change the Soviet Union.

In other cases, however, the practices of a country may be so egregious, so outside the norms of international behavior, so threatening to US interests and those of our allies, that any attempt at engagement is pointless. Engagement with a country such as Iraq would simply feed Saddam Hussein's appetite for inappropriate behavior. In the case of Iran, economic pressure is one component of a policy designed to demonstrate that countries which want to benefit from full participation in the international community must abide by accepted norms of international behavior. Pending such a change, our approach limits the capacity of Iran to support terrorism or acquire weapons of mass destruction.

Eighth, the President, the custodian of the country's foreign policy under the Constitution, must be given discretion to waive sanctions in the national interest. This authority, or example in Title III of the Libertad Act (Helms-Burton) has been used effectively to help build an international consensus to take a much tougher position to encourage democracy and human rights. The Administration, which is charged with carrying out our foreign policy, must have the flexibility to tailor our response to specific situations. There can be no "one-size fits all" approach.

Ninth, Mr. Chairman, experience has shown that the development early on of appropriate consultative mechanisms with countries which share our goals can be helpful on states of critical concern. While such mechanisms do not guarantee results, the absence of such a mechanism can almost certainly guarantee failure.

Let me turn now, Mr. Chairman, to two special cases, ILSA and the Libertad Act.

I would venture to say that no nation's behavior poses a greater threat to US political and security interests than that of Iran. Iran's support for terrorism, its efforts to obtain weapons of mass destruction and the means to deliver them, and its efforts to disrupt the peace process in the Middle East are intolerable. They threaten our friends, allies, and interests in the Persian Gulf, the Middle East and beyond. As the Mykonos decision in Germany indicated, the reach of Iran's terrorist activities extends to Europe, as well. The behavior of the Iranian regime is dangerous and unacceptable. It has been for years and remains so. Even with the new government and the possibility of change which it may present, we see no sign that Iran has changed its external behavior in areas of critical concern to us and to our allies as well. It is a matter of great frustration that some of our allies do not seem to share our sense of urgency in confronting Iran's dangerous behavior and convincing the new Iranian Government of the need for change.

We are not prepared to carry on business as usual with the Iranian regime, and we feel very strongly that our friends and allies should not do so either. We supported the Iran and Libya Sanctions Act (ILSA) only after our earlier bilateral and multilateral efforts failed to produce change in Iran's behavior in areas of critical concern to us. In the case of Iran, efforts were made for years to develop a multilateral consensus inhibiting Iran's efforts to acquire weapons of mass destruction and deter support for global terrorism. They were not fully successful. Our allies have resisted trade and investment sanctions that impose economic pressure on Iran. Europe joined us in some efforts to prevent Iran from acquiring the technology and components needed to build weapons of mass destruction. Europe's "critical dialogue" was designed to engage Iran but had no apparent effect in altering its unacceptable behavior. The "critical dialogue" seemed, at times, less critical and more a design for economic benefit.

Nonetheless, the sanctions provided by ILSA are not an end in themselves, but the means to further our goal of denying to Iran the ability to carry on its highly objectionable behavior. That is why ILSA also includes a provision for a waiver of the law towards any country that agrees to undertake substantial measures, including economic sanctions, to inhibit Iran's behavior. We are committed to working with our allies in the EU and others to build an effective multilateral coalition that would increase our cooperation on Iran. European Union members, for example, believe that their existing cooperation in the various nonproliferation agreements—such as the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual Use Goods and Technologies, the Missile Technology Control Regime, and the Nuclear Suppliers' Group—and their on-going efforts to fight international terrorism provide an adequate basis for the Administration to grant country-wide waivers. We do not. These steps are important and we should not be dismissive of them. But they are not enough. We believe that they should do more to address our common concern regarding Iran, particularly on the issues of their pursuit of long range missle capability, weapons of mass destruction, terrorism, and sales of sensitive technology, but we should not be dismissive of the steps taken so far. In the wake of the Mykonos decision, the EU has withdrawn its Ambassadors and suspended its critical dialogue, although we cannot be certain that these measures will continue. Of more lasting importance are the commitments barring arms transfers. Nevertheless, we have told the EU we will not be in a position to grant country-wide ILSA waivers based on these measures alone.

We are undertaking a thorough investigation of foreign investment in two Iranian energy projects—one in the Balal field involving the Canadian company Bow Valley and the Indonesian company Bakrie and another in the South Pars field in which the French company Total, the Russian company Gazprom and the Malaysian company Petronas are reportedly large investors. We are making every effort to gather as expeditiously as possible the necessary information to establish whether sanctionable activity under ILSA has occurred. Since we take the possibility of sanctions very seriously, we want the information on these cases to be as complete and accurate as possible. While we have not made any final decision, we are committed to fully implementing the law.

Our Cuba policy is illustrative of one of the principal goals of economic sanctions—to encourage our friends and allies to adopt policies that can advance our common interests. Our allies and major trading partners disagree with our embargo of Cuba and have urged us to change or alter the provisions of the Libertad Act. At the same time, our allies have said they agree with us on the key goal of encouraging democracy and human rights in Cuba.

Last year, the President, for the first time in the 37 years since Castro took power, launched a broad effort to develop a multinational approach to promote democracy in Cuba. The President's initiative built on years of bipartisan policy towards Cuba.

The President launched this initiative when he acted to suspend the right of claimants to file suit under Title III of the Libertad Act. He wanted to use the opportunity presented by the six-month suspension to explore whether US friends and allies were prepared to do more to achieve our common objective of expediting a peaceful transition to democracy in Cuba. I was appointed as Special Envoy for the Promotion of Democracy in Cuba.

After months of effort, thorough consultation with the Congress and the Cuban-American community, and thousands of miles of travel by myself and many dedicated people, we have succeeded in launching an unprecedented, multilateral effort that has changed the terms of the discussion about Cuba. Much more can, should, and will be done, but today we can genuinely say that Cuba's government is increasingly isolated and under growing pressure to launch fundamental democratic change.

Our initiative has involved governments, non-governmental organizations, and the private sector. As part of our April 11 Understanding with the EU on Helms-Burton, we are seeking to reach an agreement on disciplines on investment in properties expropriated in contravention of international law, and to address questions of conflicting jurisdiction. Agreement on such disciplines would make an important contribution to advancing a key Helms-Burton objective, that is, to deter foreign companies from unfairly acquiring assets that have been confiscated from US nationals by governments, like the Castro regime, which refuse to abide by international norms.

Last week we held another round of talks with European Union representatives. While we still have significant differences with the EU, both sides agreed that we should continue the talks since we are making progress and see promising areas for future work.

EU representatives have said they are disappointed that no agreement was reached at this last round. So are we. Both the EU and the US will benefit from additional protections afforded to our investors abroad by effective and enforceable disciplines on investments in confiscated properties. And we can both benefit from avoiding problems arising from so-called conflicting jurisdiction, which have been at issue in connection with Helms-Burton and other legislation. That is why we proposed, as part of the agreement, a high-level consultative mechanism to encourage discussion before either side acts. Closer cooperation with our international partners in responding to threats posed by states that refuse to respect international norms will be more effective in changing unacceptable behavior and will be less likely to result in conflicting policies which undercut our respective interests.

In conclusion, as the world becomes more interdependent, as we move forward to establishing codes of acceptable international behavior and the will to enforce them, the effective application of sanctions will be a real asset. But it is no panacea. Thus it is all the more important that we undertake a rigorous analysis of sanctions before we impose them. We need to know not only how they will affect the target governments, but also how they affect vulnerable groups within the target countries. We also need to know how proposed sanctions affect US interests in other areas, including US business and workers, and how they affect our international partners on whose cooperation we depend to advance key foreign policy goals.

Sanctions can be an effective tool to punish states that violate international norms and threaten vital US interests. And we must keep this tool at our disposal. But we need to work to sharpen our ability to use it effectively. One lesson is that taking time to forge a consensus both at home with the American people and abroad with our allies can greatly increase the effectiveness of sanctions and reduce the cost to the United States. Building such a consensus in many cases does not come quickly. However, it can help to avoid problems down the road while demonstrating to the offending state that our nation and the international community are united in opposing its unacceptable behavior.

Sanctions are intended to send a serious message. Both Congress and the Administration need to ensure that, when we do choose to impose them, we do so in a way that has the greatest possible impact with the least possible damage to the US business community, to American workers, and to other US interests.

Chairman CRANE. It will be made part of the permanent record. We thank you, Mr. Eizenstat.

How does the use of our unilateral sanctions affect U.S. interests in the WTO, World Trade Organization?

Mr. EIZENSTAT. Well, with respect to one interest and one example which I have been very directly involved with, that is the Helms-Burton Act, let me first give a context and then a specific answer. We believe that the Helms-Burton Act is a reasonable bill targeted to protect U.S. property interests against further confiscation. We also believe that the dispute, that this is occasioned with the Europeans, should not be brought to the WTO at all, but should be resolved through diplomatic means, as indeed we have attempted with some success to do.

Nevertheless, the European Union brought a suit, Mr. Chairman, in the WTO and was threatening to pursue it before our April 11 understanding. It was our position stated privately and publicly that we would not participate in such an action because of the foreign policy and security interests involved. We hoped, and luckily at that point did not actually have to take that position because of our compromise. It is quite clear that if that position were taken or if it is taken in future positions, it could have a potentially negative precedential effect, and that other countries may take the same position when we bring suits. So it's not a position we took lightly. It's one of the reasons that we wanted to solve this matter through diplomatic means. We think the WTO is a very important instrument in which we win the overwhelming majority of cases, and indeed we file more cases than any other country, and we win more cases. So we have an interest in seeing to it that the WTO remains a viable and important dispute resolution system.

Chairman CRANE. Thank you.

Mr. Matsui.

Mr. MATSUI. Thank you very much, Mr. Eizenstat, for your testimony today. I only have one question. I agree with you that some countries are outlaw countries and you almost have to declare them as such and not trade with them. The Libya-Iran sanction issue is one in which I believe you have such a case. On the other hand, we have a potential problem. I know that you are discussing these things right now within the White House and the different agencies, so I won't ask you for your conclusion, but with the French company Total now engaging with Iran for energy resources, this is going to create obviously some kind of a fracture some place and sometime down the line. I realize the sensitivity of this issue at this particular time. But how do we try to address problems such as these? I agree with the premise of Iran. On the other hand—and it's OK for us not to have relations with Iran, but now we're involving third countries into this debate as well. How do we resolve a problem similar to that, because this has been a problem I think that we're going to see an increase of, mainly because of the fact that we have different jurisdictional interests between the various Committees of the Congress and for a lot of reasons.

Mr. EIZENSTAT. Thank you, Mr. Matsui. The Total-Gazprom-Petronas matter, as well as a second issue involving a Canadian and Indonesian consortium do present difficult situations.

First, let me say that with respect to Iran, there is no country literally on the face of the Earth which presents a greater danger to the United States security and national interests and to those of our friends than does Iran. In its resort to support for terrorism, its effort figuratively and literally to blow up the Middle East peace process, its urgent efforts to acquire weapons of mass destruction, including missile capacity to deliver chemical and nuclear warheads, it is a very significant threat to our interests. ILSA is an act which is designed not to propose an extra-territorial regime, but to deny benefits such as Ex-Im Bank guarantees to countries which do business with Iran as usual.

We have been working with our European allies on an accelerated basis now for almost a year to try to encourage them to take a greater concern about these threats. We are beginning to see some progress, not enough, but some progress. For example, after the recent Mykonos trial in Germany in which the highest court determined that at the highest levels of Iranian Government, there was an effort to assassinate people in Germany, the European Union withdrew its ambassadors, it suspended its critical dialog, which we always felt was less critical than simply an economic dialog. In addition, the Europeans have taken significant, although not fully adequate steps in terms of limiting arms and high technology products.

We are working with a so-called trilateral working group. This is the United States, the European Union, and Canada. We have had a meeting already in October. There will be another one at the end of this month, to try to toughen up this regime.

I would mention to the Subcommittee, because this Subcommittee was responsible in significant part for title IV of ILSA being in the act. That the goal of ILSA is to achieve a multilateral regime, including economic sanction, in which there is a deterrent to the capacity of Iran to acquire weapons of mass destruction in support of terrorism. That is the goal of the statute, not sanctions per se. So we are working in every way we can with the Europeans to create that type of regime, to deny in a meaningful way the Iranian

Government with the very capacity which is so threatening. We're also working with China and Russia in the same way.

At the same time, I want to make it absolutely clear because of inaccurate press reports, we are investigating with alacrity, we are doing so in a thorough way, the Total-Gazprom issue. I have a team of experts led by Deputy Assistant Secretary Bill Ramsey in Paris as we speak. He'll be then going to Moscow, later to Ottawa, then to Kuala Lumpur, and to Jakarta, to determine the facts of this case and to determine whether or not this is sanctionable activity under ILSA. If it is, sanctions are certainly a viable option.

Mr. MATSUI. If I can just, and I know my time is up, but let me just follow up with one further question. Again, these have been press reports and so I don't feel that I'm saying anything that would be inappropriate. But there have been press reports to the effect that Iran within the next 6 to 8 months will have a nuclear missile capability of anywhere up to 1,200 miles. Obviously it would then be a major threat to the Middle East, but certainly also even to western Europe.

For the French to be providing hard currency to the Iranians at a time when the Iranians then could become a nuclear threat to the French is kind of odd, to say the least, for the French to allow this to all happen. I again, don't want to get into the specific case, because that's something your entire administration are working on, but it would just seem to me that from my perspective that this is something that undoubtedly has to be dealt with. The French have been a problem over the years for many of us in terms of allowing these kinds of activities to occur. Somehow, we have to begin to—Europeans and the United States, and other countries that have obviously an interest in their own security, have to begin to address this issue.

I appreciate what you all are doing, but it's again, obviously it's your decision. But it's my hope that we can take whatever strong action we can take with respect to the French. I normally don't like unilateral sanctions or third party sanctions, but if it becomes an issue of national security and with an outlaw country, certainly we have an obligation to make sure that we do whatever we can to diminish that threat.

Mr. EIZENSTAT. Permit me to answer in three ways. First of all, we have said in the same terms you have and with the same urgency to the French at very senior levels that this is no time for business as usual with a regime which is making such rapid gains in acquiring missile and chemical and nuclear capacity.

Second, I want to make it absolutely clear, we have not agreed in any way, shape or form to defer sanctions with respect to this particular matter. We have not examined it sufficiently at this point to determine if it is sanctionable. If it is, we then will have to go through a decisionmaking process as to how to handle this.

Third, the issue that we are dealing with is what is the best way to deny Iran the capacity to continue to acquire these weapons of mass destruction and to support terrorism. What we are looking for is the most effective way consistent with the Iran and Libya Sanctions Act to deny Iran that very threatening capacity. We know that we need the cooperation of the Europeans, the Russians, the Chinese, and others to be fully effective.

Mr. MATSUI. Thank you very much, Mr. Ambassador.

Chairman CRANE. Mr. Thomas.

Mr. THOMAS. Thank you, Mr. Chairman. I thank you very much, Ambassador Eizenstat. This perhaps doesn't have the import of a potential nuclear missile confrontation, but I believe it's directly responsive to that portion of your testimony in which you have referred to, but did not include on ILSA.

You say, "We are not prepared to carry on business as usual with the Iranian regime. We feel very strongly that our friends and allies should not do so either." This is more under the business as usual category rather than potential nuclear missile confrontation, and the country is Israel, not Europe. The item is pistachios, which often times brings a smile to people's face. But I have been involved through this Subcommittee with Israel prior to the United States-Israel Free Trade Agreement and I take very seriously our friends and allies not living up to the sanctions that we have placed on Iran.

My concern is that industry people and others have presented evidence which shows that up to 98 percent of the pistachios entering Israel happen to be Iranian pistachios. I frankly am less concerned about the transshipment of Jordanian olives that get transformed into Israeli olives and other things that through transshipment somehow wind up with an Israeli label on it because frankly, I don't mind spreading the wealth in that particular part of the country. What I do object to is an ally like Israel apparently being unwilling to pursue ordinary investigative procedures to determine the validity of this. I understand they have said that perhaps they are California as well as Iranian. But the sampling that they utilize doesn't allow them to determine either of those.

I know you have been interested in this. I know they have tried to argue that there now has been an indictment. My belief is the indictment was more for tax evasion than for this violation. Where are we? What are we doing? Is there any kind of a time table for Israel to quit stalling and move forward on the determination of whether or not this information is accurate?

Mr. EIZENSTAT. Mr. Thomas, this is in fact not a laughing matter. I was in the Middle East about 2½ weeks ago. I met with very senior ministers in the Israeli government, including Mr. Sheransky, the Prime Minister and others. I directly raised the pistachio issue. We believe that there is clear evidence that there is a violation of Israel's own laws against trading with Iran. You can go into virtually any kiosk on the streets in Jerusalem or Tel Aviv and get what are clearly Iranian and not falsely labeled Turkish pistachios. I said so. I said that we felt that this was a very important and urgent matter. I believe that that sense of urgency has now been not only imparted, but understood and shared.

There has been an important indictment against someone who has been at least alleged to be involved in this trade. We hope that that indictment and others which will follow will send a very clear signal to importers in Israel that they should not be doing business here. We have also indicated our willingness to provide them with evidence of how you can easily sample products because Turkish and Iranian pistachios are easily distinguishable. We will continue to follow this very very closely.

So I think we have not only gotten their attention, but they are beginning to act as this indictment indicates. We will not let it fall through the cracks.

Mr. THOMAS. I thank the gentleman. I'll supply some specific questions so that I can have a better understanding. But I can't think of a better example, not withstanding all of the qualifications that we've made, that this particular ally in this particular instance needs to make sure that they understand this is a serious and important concern of ours. Thank you.

Thank you, Mr. Chairman.

[Questions were submitted to Mr. Eizenstat from Bill Thomas. The response of Mr. Eizenstat follows:]

Question: I am concerned about other nations' failure to impose sanctions on countries like Iran, particularly after U.S. industry and government representatives have tried to draw their attention to problems. For example, the U.S. pistachio industry has been presenting U.S. and Israeli government sources with evidence that up to 98% of the pistachios being brought into Israel are actually raw, Iranian pistachio nuts. I understand you are among the U.S. officials that have raised this issue.

1. With whom did you meet in Israel?

2. What has the Administration asked our ally to do and what time table has been set for doing it?

3. Israel recently suggested its evidence shows imported nuts could be from either California or Iran. U.S. Customs believes the samples of nuts Israel provided were too small to permit adequate analysis of trace elements in the nuts as Customs would do in analyzing product brought into the United States. What has the Administration done to encourage our ally to revise its sampling?

4. I understand Israel has informed the United States that Israel is prosecuting one importer for bringing in Iranian pistachios. The California pistachio industry has heard that indictment was primarily based on tax evasion. Please explain whether the Administration has written information, including the indictment, and whether there has been any outcome in the case. If you possess the indictment, can you supply copies to me and to the Committee?

Have other indictments been announced?

Answer: I share your deep concern about the illegal import of Iranian pistachios into Israel. Because of that concern, during my visit to Israel in October (my first in my new role as Undersecretary of State for Economic, Business and Agricultural Affairs), I raised this issue with both Natan Sharansky, Minister for Industry and Trade, and Shmuel Slavin, Director General of the Ministry of Finance (under whose jurisdiction the Israeli Customs Service falls). In addition, the issue was discussed at length during an October meeting in Jerusalem between an interagency team of officials from the State Department, the U.S. Trade Representative and the U.S. Customs Service, and senior officials from, inter alia, the Israeli Ministry of Industry and Trade, Customs Service, and Ministry of Agriculture.

During my meetings with Minister Sharansky and Mr. Slavin, I expressed concern that the Government of Israel was not taking adequate steps to prevent Iranian pistachios from entering into the Israeli market in violation of its own embargo. I observed that pistachios are a major source of foreign currency for Iran, and that our common policy objectives vis-a-vis Iran were seriously impaired by providing them, albeit indirectly, with much needed hard currency.

In response to my inquiry, I was informed that the Israeli Customs Service and Israeli Standards Institute had been cooperating to develop a system for randomly conducting chemical origins-testing of imported pistachios. Officials from the Finance Ministry told me that they had recently turned away two shipments of pistachios as a result of this effort. I encouraged them to increase the frequency of their testing.

The U.S. Customs Service Laboratory has been cooperating with Israeli Customs over the last several months to assist the Israelis in developing their testing skills. Our Customs officials have expressed satisfaction with this cooperative effort. It is true that these efforts have been somewhat hampered by an inadequate sample pool. This problem is not unique to Israel—U.S. Customs is also seeking to update its sample. We are engaged in an interagency effort to assist both our labs and the Israelis to improve their sample.

Israeli customs has filed a criminal case against an Israeli pistachio importer, Hamama Brothers, and its General Manager Meir Hamama, for illegally and knowingly importing pistachios of Iranian origin in violation of the embargo. While we have not received a written copy of the indictment, an official from the U.S. Embassy in Tel Aviv confirmed the nature of the indictment by attending the opening of the trial on November 4 and speaking with the prosecutor in the case. The Haifa Customs Authority is preparing a separate tax evasion case against Hamama Brothers arising from their illegal import of Iranian pistachios. An indictment has not been filed in the tax evasion case yet.

While the indictment against Hamama Brothers was the result of an Israeli Customs investigation, begun in the summer of 1996, into a number of Israel's larger pistachio importers, to our knowledge the Government of Israel has not issued any other indictments yet.

I can assure you that we take this issue very seriously and will continue to press the Israeli government to crack down on the import of Iranian pistachios.

Chairman CRANE. Thank you.

Thank you, Mr. Secretary. The Subcommittee will go into recess in response to the vote that is still on the House floor. Then we'll be back with you, Mr. Yeutter.

[Recess.]

Chairman CRANE. The Subcommittee will come to order. Our next witness is Hon. Clayton Yeutter, with the law firm of Hogan & Hartson, former U.S. Trade Representative, and former Secretary of Agriculture.

Clayton, you may proceed. We, I think, are blessed with no vote interruptions during your presentation.

STATEMENT OF HON. CLAYTON K. YEUTTER, COUNSEL, HOGAN & HARTSON; FORMER U.S. TRADE REPRESENTATIVE; AND FORMER U.S. SECRETARY OF AGRICULTURE

Mr. YEUTTER. Thank you very much, Mr. Chairman. It's good to be here and good to see the Members and staff of your Subcommittee again. As you'll remember, it was 12 years ago when I became USTR and began to spend a lot of time in this room. It's a pleasure always to come back. I compliment you Mr. Chairman, for your personal interest in this topic which is an incredibly important one, far more important than most people today yet realize.

You have copies of my prepared text, which are available, of course, for the record.

Chairman CRANE. It will be made a part of the permanent record.

Mr. YEUTTER. Thank you. I will try to extemporaneously summarize the basic content of that testimony.

The first point I would like to make to you, Mr. Chairman and Members of the Subcommittee, is that this is a situation that's begun to get out of hand. Unilateral sanctions have become almost a fad in this country over the last several years. We need to put a halt to that. You have seen some of the numbers. I'm sure they came up in the earlier testimony today. In the last 4 years or so, we have had something like 61 sanctions implementations involving about 35 countries with whom we trade. They cover about 40 percent of the world's population. We have about 20 percent of our U.S. export markets covered with sanctions activities of one kind or another.

One must wonder about the wisdom of that course of action, Mr. Chairman, when one considers that exports today constitute about one-third of U.S. economic growth. Why in the world would we jeopardize exports to 20 percent of the world's market when this is so important to the U.S. economy?

The other thing that troubles me about the sanctions efforts, Mr. Chairman, is the response that these actions generate elsewhere in the world. We try to be a role model for the world in terms of our own behavior. Ironically, as we take actions intended to alter and improve the behavior of others, we're getting a reputation of U.S. arrogance, of haughty behavior. We are considered to be sanctimonious in our approach to these issues. Recently, someone even called us an "international nag." Regrettably, all of these descriptions are to some degree accurate, perhaps more accurate than we would prefer.

Putting all that aside, Mr. Chairman, it seems to me, we need to approach this issue systematically and balance the competing interests appropriately. That's what government is all about, whether it be in the legislative branch or the executive branch. What we're really trying to do in this case is balance whatever foreign policy benefits we might get from imposing sanctions, that is, what kind of corrective behavioral response we might obtain, versus the economic cost imposed on ourselves as we implement the sanctions. That's really what your Subcommittee needs to focus on as you evaluate this situation and any legislative response that you might provide for it.

Unilateral sanctions, which seem to be our primary modus operandi these days, almost never work. The track record of unilateral sanctions is just abysmal. Multilateral sanctions do sometimes work, but we seem not to choose multilateral responses these days. We choose unilateral ones. One must wonder why we do not have the intelligence to avoid a policy that has such a poor track record. The answer to that, of course, is because it sometimes plays well politically here at home, even though it's a policy of failure. But we need to rise above that and try to follow policies that make sense over time rather than policies that have short term, transitory political benefits here at home.

Putting that in a broader context, I appreciated what a former State Department official said to me 1 month or so ago, to the effect that we have chosen the wrong medicine, if you will, for the ills that are involved in sanctions situations. We want to change behavior around the world, and we want instant gratification. But the fact is, we don't change behavior over night. This is something that requires time. Sanctions do not provide time. So we have chosen the wrong response.

When we perceive and evaluate the punishment we provide for what we believe to be the "bad actors" of the world, basically what we are saying to these folks, Mr. Chairman, is: "If you don't change your behavior, we're going to stop selling things to you." The reaction on the other side of the table when we say that is: "Oh, the Americans are going to stop selling to us. Gee, I think I can live with that. Let's move forward."

We don't change behavior much if we stop selling to those folks, for other people will sell to them unless we get an effective multilateral sanctions program, and we haven't been moving in that direction. That is why unilateral sanctions have a terrible track record.

Now when you look at the other side of that equation, Mr. Chairman, which is the cost side, you have to say: “Well if we don’t really accomplish much in terms of foreign policy benefits, and if we don’t really accomplish much in changing the behavior of rogue states around the world, then it really doesn’t make any sense to do this unless the cost is minimal.” If it’s a “freebie” for us, or if the cost to the American economy is minimal, one can justify doing this. But the fact is, the cost is pretty darn high. The major point I would make today is that unilateral sanctions have imposed severe costs on the American economy for many years to come.

I’d like to expand on that for just 1 minute. We have gone through the trauma of sanctions with agricultural embargoes. You’ll remember the grain embargo, Mr. Chairman, in 1980, and the soybean embargo in 1973. I lived through both of those as an agriculturalist. We’re still paying the damages from those actions. The cost was not a 1-year expenditure; it’s one that has lasted for many years.

The soybean embargo led to the establishment of a major soybean industry in Brazil, with huge Japanese investments in that country. Brazil is now our major competitor in soy bean markets. The grain embargo led to a huge loss in market share for the United States in what was then the Soviet Union. We have never regained that market share. Those are two agricultural examples, but one can carry those examples forward to the rest of the economy too.

In my judgment, all of the estimates that we have made of costs of economic sanctions are gross understatements. We are bearing a cost that’s going to continue for years to come, and it’s going to amount to billions of dollars. We are rather complacent about that right now, Mr. Chairman, because our economy is doing well and our exports are doing well, not—withstanding all these sanctions. But some day, we’re going to have a downturn in the economy. Then we’re going to say: “Gee, where are our export jobs?” Then we’re going to say: “I guess we just gave them away, didn’t we?” We handed market share around the world to our competitors on a silver platter. We’re going to rue the day that we have done that. We’re in the process of doing it right now. A few years from now, we’re going to come back and say: “Why were we so stupid? Why did we do this? We swung at the bad guys of the world and we hit our own exporters in the chin.” That’s just not a very intelligent modus operandi.

When one looks at the foreign policy side, and Brent Scowcroft will have more to say about this than I, to me firing that sanctions weapon is like using the last bullet you have available. Sanctions are a definitive, final kind of action. When we implement sanctions, we’re done. At that point, we have exercised whatever influence we’re going to exercise over that nation for a long time to come. We have no more bullets in our gun. We have fired them all.

Is that a satisfactory situation? Basically, we have walked away from our foreign policy challenges and declared defeat. This is a policy of failure rather than a policy of victory. One must ask the wisdom of that course as well.

I would summarize, Mr. Chairman, by saying there's got to be a better way. There is a better way. We have to systematically evaluate each of these situations when they arise and make a deliberate, considered cost-benefit analysis of the potential foreign policy benefits versus the economic cost, and then decide whether any of this makes sense. We should have a three-step process, which is really the essence of your legislation.

One is to engage ourselves around the world with tough traditional diplomacy, leverage if you will. Let's find ways we can leverage the rogue states of the world, and there are a lot of ways we can do it if we just carry them out. Sanctions are the easy way out. They are also the worst way out. We need to do it the hard way sometimes. It may be hard to "engage," but that's the right way to do it. We have to try to make engagement work through strong diplomacy.

If that doesn't do the job, step two is multilateral sanctions. If we can't get the job done with step one, let's move to step two, and let's put together a coalition of countries around the world and put multilateral sanctions in place. That's hard too. Unilateral sanctions are a lot easier. We can do them ourselves. But again, it's the wrong way for it almost certainly will fail. The much better way is multilateral sanctions. If we really want to have a chance at success, we have got to go the multilateral route because the unilateral route 9 times out of 10, maybe 95 times out of 100, is not going to succeed.

So we ought to see if we can put together a multilateral coalition to apply sanctions and make them work. Let's see if we can get some allies to go with us. So if we're firing bullets and we get to the last bullet in our gun, we've got some other people who can hand us more guns or fire their own to back us up.

Then it's only as a last resort, not as a first resort, that we ought to look at unilateral sanctions. There may be a few times, Mr. Chairman, where we'll want to go to unilateral sanctions, where we are so appalled by what is happening around the world and so frustrated by not being able to do anything through engagement or through multilateral sanctions we'll say: "What the heck, let's go ahead and do unilateral sanctions even if it's going to impose a cost on our exporters and our total economy." But let's do that after carefully thinking about it, and analyzing the tradeoffs, rather than rushing pell mell into unilateral sanctions without thinking, which is what we have been doing in recent years. Thank you, Mr. Chairman.

[The prepared statement follows:]

Statement of Hon. Clayton K. Yeutter, Counsel, Hogan & Hartson; Former U.S. Trade Representative; and Former U.S. Secretary of Agriculture

Mr. Chairman, thank you for the opportunity to appear before this Subcommittee to discuss a problem that represents a growing threat to American interests: the proliferation of unilateral U.S. economic sanctions. Simply put, the use of unilateral sanctions as a tool of U.S. foreign policy has gotten out of hand and is imposing major burdens on our companies and farmers. Put still more simply, as a nation we've been shooting ourselves in the foot regularly! We are using unilateral sanctions as the first tool out of our foreign policy toolbox, instead of the last. We are turning to unilateral sanctions where their deployment would be futile or counterproductive to advancing our foreign policy or human rights objectives, and where the costs to American workers, farmers, and companies clearly outweigh the potential benefits. And we've not even been thinking about what we're doing to ourselves.

I would like to spend a few moments on several specific aspects of the problem.

First, resort to unilateral sanctions has become almost a fad. A recent study of the National Association of Manufacturers found that, in the past four years, the U.S. imposed unilateral sanctions for foreign policy reasons 61 times. The 35 targeted countries account for over 40% of the world's population and about one-fifth of the potential export markets for American goods, services, and farm products.

With exports presently accounting for a third of our economic growth, one must question the wisdom of applying sanctions to 20% of our export markets. That may not hurt much now, with our economy purring along impressively, but the hurt will unquestionably be felt in the future. If and when we have a downturn in our domestic economy, people will be clamoring for export related jobs—at which time we'll unhappily discover that we've given them away through unilateral sanctions.

Second, unilateral sanctions do not work. Unfortunately, the current popularity of unilateral sanctions is badly misplaced. In the vast majority of cases, these measures fail to impose a significant burden on their intended targets. This reflects the tremendous expansion of global trade and the intense competition among exporters that exists today in virtually every industry. There are few goods, services or technologies that cannot now be acquired from a wide variety of sources. For example, today the United States accounts for 20% of world exports of agricultural equipment and 16% of world exports of telecommunications equipment. The "offending" countries need not buy such products from us; the most likely impact of unilateral sanctions is simply to hand markets over to foreign competitors.

Even where unilateral sanctions do impose an economic burden on a foreign country, they seldom lead to improved conduct. As a former U.S. diplomat recently pointed out, we want instant gratification with sanctions, but behavioral changes are almost always evolutionary. Thus, sanctions are an improper treatment for abhorrent behavior. All too frequently they provide despotic leaders an opportunity to solidify their political support by railing against the alleged arrogance of the United States.

Proponents of sanctions often admit their shortcomings, but nevertheless justify them on the basis of moral leadership. The argument is that improper behavior must be challenged, and, as the leader of the world, the U.S. must be in the forefront of that challenge. We must "send a message" of condemnation of the abhorrent conduct, even if its impact on the offending nation may be minimal, and even if that may damage our own interests. There may indeed be times when we should do precisely that—but those times should be the exception rather than the rule. And this should be a considered decision, whether it be made by the Congress, the Executive Branch, or both. If the U.S. alone is to send such a message, we should do so only after carefully deliberating the relevant factors, on the upside and the downside. Today we seem not to deliberate at all; we simply rush to impose sanctions because we "must do something."

Not all sanctions are ineffective. In particular, multilateral sanctions have often advanced American interests. The extraordinary consensus to oppose Soviet expansionism led to 40-years of effective export restraints imposed by the anti-Communist allies through CoCom, the Coordinating Committee on East-West Trade. Since the end of the Cold War, multilateral sanctions against Iraq and Serbia have also curbed activities hostile to U.S. interests.

Third, unilateral sanctions threaten America's prosperity and global influence. Incredibly, we seem to have forgotten the lessons of past embargoes. The Institute for International Economics concluded that U.S. sanctions cost $15 billion to $19 billion in lost exports in 1995, which translates into a loss of 200,000 jobs in the export sector. Beyond the direct damage of current sales and jobs lost, unilateral sanctions generate extensive downstream effects. The loss of a sale of a fleet of aircraft sacrifices the sale of related service contracts, upgrades, and replacement parts, as well as long-term commercial relationships that can generate new sales in the future. Therefore, the job loss over time will far exceed that attributable to the initial sanctions decision.

The case of the Soviet grain embargo is a classic illustration of this. When President Carter imposed the embargo against Russia to protest the invasion of Afghanistan, the Russians simply turned to other suppliers, all of whom were delighted to seize market share from the United States. Russia paid a bit more for grain than if it had bought from us, but not much more. By the time President Reagan terminated the embargo, American farmers had lost $2.3 billion in sales. Seventeen years later, we have not yet restored our Russian grain exports to pre-embargo levels.

As in the case of the grain embargo, once foreign competitors establish a beachhead in markets the U.S. has abandoned, for whatever reason, the losses to American workers and farmers multiply. When the United States banned exports of equipment for use in building the Siberian pipeline in the early 1980s, Europe and Japan gained a foothold in the previously U.S.-dominated market for arctic drilling equipment, which they fully exploited. When the United States banned soybean exports to Japan in 1973, the Japanese invested in Brazilian soybean production. The U.S. share of world soybean exports then fell dramatically, and today Brazil is still our toughest export competitor.

Over time, the cumulative effect of the repeated resort to unilateral sanctions is a loss of confidence in American suppliers and America as a place to do business. If we do not take action to shore up that basis of trust and America's image as a reliable business partner, we will place in jeopardy the robust export sector that has contributed so much to our current economic prosperity. Sapping our economic strength, in turn, will reduce America's political influence on the world stage.

Fourth, unilateral sanctions constitute a "declaration of defeat" in foreign policy. When a nation does something to offend us, it is assuredly appropriate for us to respond. But why unilateral sanctions? Whatever happened to traditional diplomacy?

As the world's strongest nation, the U.S. has immense leverage throughout the world. Every nation wants something from us, and in situations of rogue behavior we should carefully and comprehensively explore just where our leverage lies. It may, and often does, lie in areas totally unrelated to sanctions. But in recent years we've been so quick to rush to sanctions that we've not given diplomacy, broadly defined, a chance to work. That, of course, is simply foolish. We should try to influence behavior through engagement, long before we even contemplate moving to sanctions.

That is why more than 600 companies and trade associations have now joined together in USA ENGAGE. Their objective is to bring some sanity to this process, to ask our government to respond to abhorrent behavior in a deliberate way rather than on the basis of pure emotion, as we often do with unilateral sening an action, so long as the threat is credible. But implementing the threat (e.g., through sanctions) is another matter, for that can generally be done just once. It is like firing the final bullet in a revolver. What does one do next? At that point one's options are limited indeed. Unless the bullet finds its mark, i.e, the sanctions are effective, we're now isolated. Our influence is at an end, and with unilateral sanctions we have no friends or colleagues who might throw us another revolver.

About all we can do at that point is run, and that is the typical outcome for unilateral sanctions. We make persuasive speeches about moral leadership, but then we take an action that denies us the opportunity to exercise that leadership. We isolate ourselves, and we're forced to abandon the good fight because we've chosen the wrong weapon.

Fifth, a better alternative. What should we do? We should put in place a procedural modus operandi for dealing with these global behavioral challenges in a systematic way. Unilateral sanctions should be at the *end* of that procedural chain, not at the *beginning*.

As I alluded earlier, we should *start with* vigorous *engagement*, leverage if you will. Bold, sometimes even brash, diplomacy is in order when we observe repulsive conduct elsewhere in the world. But let's truly exhaust the diplomatic options, broadly defined, before we move beyond them. And let's have the President or the Secretary of State certify to the Congress that we've reached the end of that road before we start to tread a different road.

If diplomacy fails, and it sometimes will, then let's examine *multilateral sanctions* as an option, not unilateral ones. Unilateral sanctions are the easy answer in these situations, which is one reason why we often choose them. Diplomacy is hard work, and it takes time, which does not suit our penchant for a quick response. Puttinge allies in the Gulf War, a coalition brilliantly pulled together by President Bush. That is one reason the War was a success for us, and it is also the reason that multilateral sanctions have an infinitely higher probability of success than do unilateral sanctions. Putting it in crass political terms, if all we want is "an issue," if all we want is to tell our constituents that we're "doing something," then we might as well use unilateral sanctions even though they'll accomplish little or nothing. But if we really want to affect abhorrent behavior elsewhere in the world, we ought to demand of ourselves the patience to do it right. In this case that means starting with diplomacy, and then moving, if necessary, to a multilateral sanctions effort.

Only if we fail to achieve the necessary cooperation for multilateral sanctions should we consider unilateral sanctions. If we're to choose sanctions as our weapon, let's have a big arsenal, not just one six-shooter. And let's have a lot of other people firing weapons, not just ourselves. We should know by now that sanctions programs do not succeed automatically; they rarely succeed even under the best of circumstances. So it behooves us to get the circumstances right, to do everything we can to maximize the potential to affect behavior. Otherwise, sanctions are essentially a sham, often doing more harm than good.

Does that mean we should never apply unilateral sanctions? Not at all, but it does suggest that we move in that direction only as a last resort, and only if the anticipated foreign policy or other benefits are determined to be greater than the economic costs to U.S. exporters and to the U.S. economy generally.

We know that sanctions are going to cost American jobs; the issue is how many. And we know they're going to damage our reputation as a reliable supplier of American products and services worldwide. The question is how badly our reputation will be damaged, whether irrevocably, and over how large a segment of the American economy. The overall question, of course, is whether it is worthwhile to do this to ourselves. In some cases it may be. In those cases we should implement unilateral sanctions.

Follow-through. Once we choose the sanctions route, whether multilateral or unilateral, we should also put appropriate follow-through mechanisms in place. The U.S. International Trade Commission and the Administration ought to monitor each of our sanctions programs to determine on an ongoing basis just how successful they are and also just how costly they are. If the results are disappointing, we should reconsider our actions; if they are encouraging, we may wish to extend the sanctions time frame. In any case, there should be a sunset for sanctions actions, perhaps after two years, unless they are reauthorized on the basis of all facts then available.

If and when sanctions are applied, we should respect the sanctity of existing contracts. Otherwise we'll create enormous inequities and stimulate endless litigation. And the President needs some implementation flexibility, so that he can effectively shape the sanctions effort.

In summary, in this often heated environment, where we are appalled by conduct we observe somewhere on the globe, we need to stop and think. We should never sacrifice our basic values, and we should never forego our leadership role in this world. But we should ask ourselves whether we can affect the behavior in question, for sometimes we cannot. If and when we can, the next question is how best to do that. We'll discover that unilateral sanctions will rarely be the answer. The final question is whether we can affect the objectionable behavior without doing far more damage to ourselves, particularly in the long run, than to the miscreants. If not, we should think mighty hard before we aim our sanctions weapons at the miscreants and instead hit our exporters and all their employees.

If we approach this delicate issue in a systematic way, we'll make the correct policy decisions. The American public has good instincts and remarkable judgment when confronted with matters such as this. We've just not dealt with sanctions issues in a systematic, rational way in recent years, and that must change.

Mr. Chairman, I will happily respond.

Chairman CRANE. Thank you, Clayton. I agree with you totally. With regard to multilateral sanctions, have you any recommendations or thoughts on how one goes about building that kind of consensus?

Mr. YEUTTER. You do it the way President Bush did in the gulf war. Obviously it's a little easier in that situation than it is in these because one has a more definitive objective, and it is one around which folks can rally more readily because national security is at stake. But it's the same process.

We simply must have a President of the United States and a Secretary of State who will get on the phone with the major players around the world in a given situation and say: "We have a problem here of reprehensible behavior. We need to do something that will bring about civilized conduct by this Nation in this particular situation, but we're going to have to apply pressure. Will you help us do it." You have to make that phone call to Germany, France, the United Kingdom, Japan, and whatever other countries are necessary.

If we get the cooperation of the key players in that particular situation, vis-a-vis that particular offending country, multilateral sanctions can and will work. As I said, that's not easy, but that's why we have a President of the United States, and that's why we have a State Department.

Chairman CRANE. Thank you.

Mr. Matsui.

Mr. MATSUI. Thank you, Mr. Chairman.

Thank you very much, Clayton, for your testimony. You know, one of the reasons that I, and I'm not questioning the legislation that Mr. Hamilton and Mr. Crane have introduced. The problem with the whole area of sanctions is that it's really an emotional issue. I agree with everything you are saying. To think that we could do a cost-benefit study after the two planes went down by the Cubans just before Helms-Burton passed the House almost unanimously, perhaps it was unanimously, it just wouldn't happen because all of a sudden the Members are outraged. You see evening news stories and those kinds of things. I think it does help to try to set up some process, but the reality is is that usually it's a very emotional response.

Second, I think it's—I don't know of a time really when either President Bush or President Reagan or President Carter also was able to get multilateral support for economic sanctions. The gulf war was a very unique situation. Obviously, the pipeline of energy was threatened and so it's a much easier case to make. But economic sanctions, there's always a country that's going to go in there and say hey, I want to cut this deal. Iran is not a very good country, but you've got the French in there thinking they are going to make a little economic hit out of it because other countries won't go in.

I think the key really is testimony like yours, the group that Anne Wexler and others have put together to try to get the message out, because the American public doesn't understand the consequences. I think you stated it, that there's economic loss, export loss, opportunities. It hurts workers, it hurts U.S. industries. Somehow we have to communicate to the public and to our colleagues, you know, two-thirds of the Members of the Congress are new since 1990, that there is a price to pay. That's why I think it's important that this hearing is going on. That's why I think it's important you testify and this group is out there and others begin to talk this issue up.

This is an issue that seems to be coming up, as you suggested, monthly now. Again, how do you argue a case in the middle of a crisis that we shouldn't be doing these kinds of things. You can almost get pushed into it in a very emotional situation. But I think that it almost has to be done on a case by case basis because of this. I don't know, I agree with you intellectually and substantively 100 percent. On the other hand, if something happens in the Middle East or Eastern Europe tomorrow, undoubtedly on Tuesday we'll have a bill on the floor and it would probably pass overwhelmingly.

Perhaps you can't respond to a theoretical question like that, but how do we really handle this given these impediments that I just raised in terms of the emotional aspects of this?

Mr. YEUTTER. You have raised all the right questions, Congressman Matsui, and we have thought about all of them. You are right about the emotions of these kinds of situations and the desire of people to do something immediately. That's one of the values though of having a deliberative process in place so that you can say to your constituents who want instantaneous action: "Look, we're going to work on this situation, but we're going to do it in a careful way so that we make sure that we do the right thing."

If you've got a procedural mechanism in place that can fend off some of that emotion, even for a relatively short time, that would help. In other words, instead of getting a decision in the next 48 hours, if you can even postpone it 1 or 2 weeks, that may lead people to come to their senses and operate in a more sensible, objective manner.

Mr. MATSUI. Hope that a crisis occurs Thursday so we don't have to vote until Tuesday, and give us the weekend to think about it.

Mr. YEUTTER. You can do a benefit-cost calculation fairly quickly if you have to. It depends on how much time you want to allow for that, but if the administration knows the offending country well, the administration ought to be able to come back to the Congress in a fairly short period of time with a good evaluation of what the benefits and costs would be of moving toward sanctions.

Until now, that hasn't been done at all. Basically, we have been shooting from the hip in all these situations. That's just very unwise.

But in terms of the educational task, you are right, Congressman Matsui. It's up to the USA*ENGAGE folks and everybody else who has an interest in this issue to do a better job of explaining what the tradeoffs are and especially that there is a major downside in this situation, that there is a lot of cost here. That message just hasn't been conveyed very effectively thus far.

There are jobs at stake, lots of jobs at stake if we start doing foolish things. We have already started. We are going to lose those jobs forever if we're not careful. We're not going to win them back. And we're going to lose market share permanently in these situations.

Multilateral sanctions are going to be hard. We may not be able to get coalitions together in some situations. But we ought to think long and hard before we go to the alternative of unilateral sanctions because that really is shooting ourselves in the foot.

If I can make just one supplementary comment that's in my testimony but I didn't mention here orally. One of the reasons unilateral sanctions are going to be so costly to this country in the future relates to the way business is being conducted around the world today as contrasted to 20 or 30 years ago. Today everything is alliances. No matter what industry you observe, whether it be the food industry of California or manufacturing industries in Chicago, we now have alliances or linkages around the world—joint ventures, long-term contracts, just in time inventory commitments, and all kinds of investment arrangements. You have, in essence, a team approach in the way things are done today in business around the world. You are either on that team or off it.

The problem with unilateral sanctions is that we force our guys off the team. They have to go to all of their colleagues and counterparts and say: "We'd like to be a part of your consortium, but we have this sanctions program that says we can't sell in such a such a country, and therefore, you won't be able to sell either." They are going to say: "Thanks, but you know, I guess we'd better replace you."

Mr. MATSUI. One thing, and I know my time is up and I'll be very brief, but one thing I think that's important is that conditionality doesn't work. The MFN issue always comes up. If you've got a small country you can overwhelm and obviously they'll capitulate if the GDP, gross domestic product, is zero compared to the United States. But you take a country comparable or even somewhat smaller or certainly a larger country populationwise, they take it as a threat to their sovereignty and a threat to their self-worth as a nation.

It's always been my feeling that the only time you really should consider sanctions is if we decide this is a rogue country, and then you just cut it off. You don't condition it. You don't threaten them saying we're going to do this if you don't do these kinds of things or if you do these things, we're going to cut it off. Because I think that, as you suggested, and this is why I mention this, what you basically end up doing is using your best hold card. You take away any other opportunity to begin the process of trying to reach some accommodation. That's your last shot. You might as well hold that in reserve and not even talk about it, and then do it if you find that you can't negotiate through diplomacy and other ways.

Mr. YEUTTER. Absolutely. In fact, I pointed out in my prepared testimony that any good negotiator knows that one must make threats sometimes. But a good negotiator never carries out the threats unless he absolutely has to because he knows that once you do that, you are through. That's what is so unwise about this policy. With unilateral sanctions, we do treat the big guys differently from the little guys.

Mr. MATSUI. Cuba versus China.

Mr. YEUTTER. Yes. Look what we do with Burma versus what we do with China right next door. There are countless examples like that.

But the other point, and I think the real bottom line of this, Congressman Matsui, is that if we are looking at creating conditions that will foster democracy around the world, do we foster democracy by engaging in unilateral sanctions? The fact is, we foster democracy when nations, poor nations generate economic growth. Economic growth is almost synonymous with the creation of democratic institutions. Look at Korea, Taiwan, Argentina, and Chile, examples of countries that have become more democratic as they generated more economic growth.

The flip side of that is that the purpose of economic sanctions is diminution of economic growth in the country that we don't like. Well, how does one generate democracy if you are diminishing economic growth, deliberately forcing a reduction in economic growth? We ought to look at the countries in which we have economic sanctions and ask ourselves whether we have fostered democratic institutions in any of these countries by the implementation of economic sanctions. I would hypothesize, Congressman Matsui and Mr. Chairman, that in almost every case, we'll conclude that economic sanctions have worsened the probabilities of democratic progress in those countries.

Mr. MATSUI. Thank you very much, Mr. Ambassador. I really appreciate your testimony.

Chairman CRANE. Mr. Jefferson is coming up. But just one quick question. With the imposition of those economic sanctions, who are you punishing more, the rulers, the parasites that are living off the backs of working people or are you hurting those people?

Mr. YEUTTER. Well, as you well know, Mr. Chairman, in almost every case one hurts the lower echelons of that society. There are countless examples of that too. The rich and the ruling class typically find ways to exempt themselves from punishment. So we punish the low and middle classes in those societies, along with punishing our own exporters.

Chairman CRANE. Mr. Jefferson.

Mr. JEFFERSON. Thank you, Mr. Chairman. To follow up on the Chairman's inquiry, would it be true then that the less affluent the country is, the more devastating sanctions might be for the people of the country?

Mr. YEUTTER. Without question. Also the more likely that we'll apply unilateral sanctions to them. We have an inclination, as Congressman Matsui was indicating, of omitting the major nations of the world from sanctions programs and forcing our sanctions primarily on the poorer countries of the world where we find conduct that's abhorrent.

Mr. JEFFERSON. When you say that where there's more economic growth, there's likely to be more democracy, what is your reasoning behind that? Is it because people have a greater stake in the decisions the country makes or what?

Mr. YEUTTER. That's a bit hard to analyze because I'm sure it varies from country to country. But we have seen just so many examples over the last 15 or 20 years where countries that have been previously dependent upon state-controlled economies have shifted to much greater reliance on their private sectors. As that has occurred, they have generated much higher levels of economic growth. We have then seen a proliferation of democratic institutions, over and over again.

That's true of almost all of Latin America today. Those countries are not perfect by any means in their conduct, but when one evaluates where they are today versus where they were 20 years ago, the contrast is stark and very positive. I used to live in Latin America, so I have observed that first hand.

Mr. JEFFERSON. There's a long list of sanctions that can be imposed. We in this country have talked about just about every one of them, economic sanctions, bans on travel, visa bans, and a number of other ones. But when you talk about unilateral sanctions in general, do you mean in every specific case that it operates in about the same way or do you make a distinction between the various ones, bans on financing, private rights of action and whatever the sanctions might be.

Mr. YEUTTER. No. I think there's a lot of difference between and among all of those, Mr. Jefferson. That's a very good point. I'm glad you raised it.

As you may know, the State Department has recently had an Advisory Committee that has worked on a list of potential actions that could be taken in the way of engagement or leverage in the event of reprehensible behavior around the world. Some of the items that you have just mentioned are on their list. There are a lot of others. I think they have a list of 100 or so that they are about to make public in a report.

But the fact is if and when we have the challenge of confronting reprehensible behavior around the world, we should pick the right, the correct response. Some of those make very good sense. They would not fall within the category of what I would call sanctions, but rather in the category of what I would call leverage. I would make a significant distinction between the two concepts.

But one has to look at each of those individually to categorize them.

Mr. JEFFERSON. But probably the countries that against which they are imposed wouldn't make that much of a difference between them. They would be equally outraged.

Mr. YEUTTER. Well, countries are going to be outraged no matter what we do in the way of denying them access, additional consulates in the United States or denying them appointments to lucrative United Nations positions or whatever.

But we have to stand up and do what we think is right in all of these situations. My fundamental point here today, Mr. Jefferson, is that we have been doing the wrong thing rather regularly.

Mr. JEFFERSON. I understand. Let me ask you one question about Cuba. Do you feel that the current restrictions upon the United States companies with respect to Cuba, are the most cost effective methods to achieve the goals of the United States policy toward Cuba?

Mr. YEUTTER. Well, I would defer to your judgment and the judgment of people who are experts on the Cuba situation as to whether or not we could follow a policy that would be more effective than the one we have today. I would answer your question by saying that in my personal judgment, as I look at Cuba today after 30 years or so of economic sanctions, I do not find greater evidence of democratic institutions today than 30 years ago. So my personal conclusion would be that our present policy leaves much to be desired. What our alternative policy ought to be is another matter.

Mr. JEFFERSON. Well, do you and members of the USA*ENGAGE support proposed legislation that would end restrictions in a more narrow area upon the sale of health care products that might be unauthorized export of commodities to Cuba?

Mr. YEUTTER. The USA*ENGAGE effort is one that's not intended to deal with specific sanctions issues or even specific countries. The whole thrust of this effort, which is reflected in the legislation that Chairman Crane introduced today, is to put a procedure in place by which we can exercise some common sense in dealing with such issues. Under that procedure, one can make a whole variety of decisions all the way from traditional diplomacy to the application of unilateral sanctions.

All we're saying is let's stop and think and let's have a deliberative process by which we make these decisions instead of rushing into them on the basis of emotion. In USA*ENGAGE, we want to avoid getting into a debate over individual issues or individual countries because we think that would be counterproductive. Neither do we want to get involved in a debate over whether we ought to lift sanctions on a given country where we apply sanctions today, as we do in Cuba.

It would be most appropriate to review our sanctions programs in all countries, Cuba included, but let's review it with that same kind of deliberative process and make a carefully considered decision as to whether we ought to reconsider sanctions, change them, tighten them, weaken them, or move to a different modus operandi.

Mr. JEFFERSON. Thank you.

Chairman CRANE. We thank you, Clayton, for your presentation today and we look forward to continuing to work with you every opportunity we have.

Our next panel includes Richard Albrecht, senior advisor of the Boeing Commercial Airplane Group, on behalf of USA*ENGAGE; Frank Kittredge, president of the National Foreign Trade Council; Charles Kruse, president of the Missouri Farm Bureau, on behalf of the American Farm Bureau Federation; Willard Berry, president of the European American Business Council; and John Kavulich, president of the U.S.-Cuba Trade and Economic Council.

If you will all take your seats and we will proceed in the order that I introduced you. If you can try and summarize your written testimony in 5 minutes or less, we would appreciate it in the interest of our time constraints, but your printed statements will be made a part of the permanent record.

You may proceed.

STATEMENT OF RICHARD R. ALBRECHT, SENIOR ADVISOR, BOEING CO.; ON BEHALF OF USA*ENGAGE

Mr. ALBRECHT. Thank you, Mr. Chairman. My name is Richard Albrecht. Until last summer, I served for 13 years as executive vice president for the Boeing Commercial Airplane Group, with responsibilities for sales, marketing, and customer support activity for Boeing's airplane business around the world. I am here today on behalf of USA*ENGAGE, a broad-based coalition of well over 600 companies, trade, and agricultural organizations. We have come together to encourage policy makers to find alternatives to unilateral sanctions as a foreign policy tool. To be frank, we think that unilateral sanctions are ineffective and unnecessarily costly to the U.S. economy. We think there is a better way.

USA*ENGAGE was founded by the leaders of the National Foreign Trade Council and was formed to give a voice to the concerns that we in the international business, trade, and humanitarian aid community have about the current sanctions process. Unilateral sanctions that limit or prohibit American activity overseas have been proposed or are already in place for some of the largest potential markets in the world.

In addition, we are witnessing a growth in United States-imposed secondary boycotts, which our Nation has long opposed as we did with the Arab boycott of Israel. These actions are alienating the United States from our allies and our trading partners, and they conflict with the policy of engagement that has been a tradition of United States foreign relations since World War II.

Members of USA*ENGAGE do not quarrel with the goals of most proposed sanctions. Americans support human rights, support the rule of law, and religious freedom. All Americans, including our member companies, want to prevent nuclear proliferation.

Where we at USA*ENGAGE part company with our opponents on this issue is over the means chosen to change behavior. Unilateral sanctions have proven to be dismally ineffective in producing social change. The case of Cuba is a prime example. Sanctions ignore diplomacy, ignore multilateralism, and ignore the benefits of engagement.

Today two-thirds of all Boeing airplanes produced are shipped overseas. We must have continued access to foreign markets, especially those emerging economies with fledgling airlines because their initial purchases usually establish the brand that they will buy in the long term.

Unilateral sanctions are unpredictable, and for our business that spells trouble. The international aerospace market is intensely competitive. Boeing fights head to head with Airbus for every airplane order, and those orders mean jobs for U.S. workers. Our customers must be confident that their airplanes will be financed, delivered, and serviced over many years. When sanctions raise questions about our ability to deliver, it counts against us in a very concrete way during the evaluation process and gives Airbus Industry an undeserved advantage.

I can assure you, our European competitors know very well how to plant the seeds of doubt about the United States as a reliable supplier. Airplane decisions are often made for 20 year periods of time and longer.

Boeing's current business is not exempt from the roulette wheel of sanctions implementation. Today we are precluded from selling aircraft in 7 countries, and at least 11 more markets are at risk because of current or potential sanctions. We estimate the market potential in these at-risk countries to be as much as $175 billion during the next 20 years.

What we need is a process that will give our businesses, humanitarian and other organizations some assurance their investments in a country will not be wiped out indiscriminantly by a unilateral sanction. We applaud your efforts, Chairman Crane, and those of your colleagues, Congressman Hamilton and Senator Lugar, and all of the other cosponsors who have agreed to sign your legislation requiring a sober and objective examination before sanctions are imposed.

American foreign policy leaders need to recall the examples of how engagement has contributed to the spread of democratic ideals and free institutions throughout the world. The post-World War II economic reconstruction of Europe led by the Marshall Plan is one of the enduring triumphs of American foreign policy. Perhaps it's because I have been in a business that involves the production and sale of equipment that gets people together around the world, that I have become a true believer in engagement, and in engagement as an effective way to make change. I have seen the changes occurring in China over the past 15 years. I have been to Hanoi several times in the last few years and witnessed startling liberalization there. I have seen what's happened in Russia and in the eastern bloc countries and how they have opened up. Engagement does work and it does produce change.

The members of USA*ENGAGE believe we can continue America's tradition of engagement if legislation like yours is adopted. Without a process like the one spelled out in this legislation, I fear that the growth in the use of unilateral sanctions will continue, and further impair our ability to spread ideals like human rights, rule of law, and religious freedom, and all of us, regardless of what country we call home, will suffer because of it.

Thank you very much.

[The prepared statement follows:]

Statement of Richard R. Albrecht, Senior Advisor, Boeing Co.; on behalf of USA*ENGAGE

Mr. Chairman and Members of the Subcommittee, I am Richard Albrecht, Senior Advisor to The Boeing Company. Until last summer, I served for thirteen years as Executive Vice President for the Boeing Commercial Airplane Group, overseeing all sales, marketing, and customer relations for Boeing's airplane business. I am here today on behalf of USA*ENGAGE, a broad-based coalition of 645 companies and trade and agricultural organizations. We have come together to encourage policymakers to find alternatives to unilateral sanctions as a foreign policy tool. To be frank, we think unilateral sanctions are ineffective and unnecessarily costly to the U.S. economy. We think there is a better way.

USA*ENGAGE, founded by the leaders of the National Foreign Trade Council, was formed to give a voice to the concerns we in the international business, trade, and humanitarian aid community have about the current sanctions process. Unilateral sanctions that limit or prohibit American activity overseas have been proposed or are already in place for some of the largest potential markets in the world. In addition, we are witnessing a growth in U.S. imposed secondary boycotts, which our nation has long opposed, like we did with the Arab boycott of Israel. These actions are alienating the U.S. from our allies and trading partners, and they conflict with the policy of engagement that has been a tradition of U.S. foreign relations since World War II.

Members of USA*ENGAGE do not quarrel with the goals of most proposed sanctions. Americans support human rights, the rule of law, and religious freedom. All Americans, including our member companies, want to prevent nuclear proliferation. Where we part company with our opponents on this issue is over the means chosen to achieve these goals. Unilateral sanctions have proven to be dismally ineffective in producing social change—the case of Cuba is a prime example. Sanctions ignore diplomacy, ignore multilateralism, and ignore the benefits of engagement.

Today two-thirds of all Boeing airplanes produced are shipped overseas. We must have continued access to foreign markets, especially those emerging economies with fledgling airlines because their initial purchases usually establish what brand they will buy in the long-run.

Unilateral sanctions are unpredictable, and for our business that spells trouble. The international aerospace market is intensely competitive. Boeing fights head-to-head with Airbus for every airplane order overseas, and those orders mean jobs for U.S. workers. Our customers must be confident their airplanes will be financed, delivered, and serviced. When sanctions raise questions about our ability to deliver, it counts against us in a very concrete way during the bid evaluation process and gives Airbus an undeserved boost.

Boeing's current business is not exempt from the roulette wheel of sanctions implementation. Today we are precluded from selling aircraft in seven countries, and at least eleven more markets are at risk because of current or potential sanctions. We estimate the market potential in these at-risk countries to be about $175 billion during the next twenty years.

What we need is a process that will give our businesses, humanitarian organizations, and NGOs some assurance their investments in a country will not be wiped out indiscriminately by a unilateral sanction. We applaud your efforts, Chairman Crane, and those of your colleagues Congressman Hamilton and Senator Lugar, and all the other co-sponsors who have agreed to sign your legislation requiring a sober and objective examination before sanctions are imposed. This is a turning point in our nation's way of relating to its global neighbors, and your bold leadership will help define a thoughtful and rational method of expressing our views to the rogue states of the world in a way that is constructive, unified, and effective.

American foreign policy leaders need to recall the examples of how engagement has contributed to the spread of democratic ideals and free institutions throughout the world. The post-World War II economic reconstruction of Europe, led by the Marshall Plan, is one of the enduring triumphs of American foreign policy. America did not repeat its earlier mistakes of isolationism and protectionism following World War I and, as a result, more people in every region of the world enjoy more freedom and economic success than any time in our history.

The members of USA*ENGAGE believe we can continue America's tradition of engagement if legislation like the Hamilton/Crane/Lugar bill is adopted. Without remedies like this, I fear the growth in the use of unilateral sanctions will continue to impair our ability to spread ideals like human rights, rule of law, and religious freedom, and all of us, regardless of what country we call home, will suffer because of it.

USA*ENGAGE'S VITAL MESSAGE

The companies and organizations comprising USA*ENGAGE are convinced that by working with Members of Congress, the Executive Branch, state and local legislators, and opinion leaders in non-governmental organizations and the media, we will develop better procedures for making decisions about unilateral sanctions, discover new ways for the public and private sectors to work together toward common goals, such as respect for the rule of law and human rights, and arrive at a better understanding of the true economic, humanitarian, and political cost to the U.S., resulting from the indiscriminate use of unilateral sanctions for an ever-increasing number of reasons. The reasons for the formation of USA*ENGAGE continue to be the core message that I want to convey today:

- USA*ENGAGE companies and organizations agree with many of the objectives of the unilateral sanctions proposals. Americans support human rights, the rule of law, and religious freedom. All Americans want to prevent nuclear proliferation. Where we part company with most proponents of unilateral sanctions is over the means they have selected—tools that are deeply flawed and often counterproductive. In many ways they are a "boomerang" approach to foreign policy, turning the punishment targeted for the other country back on ourselves.
- Unilateral sanctions have an abysmal track record in achieving their stated objectives. Multilateral sanctions programs, however, have demonstrated greater impact, such as in South Africa, and in some respects Serbia and Iraq. There are few, if any, countries today that are so dependent on U.S. exports and investment that we can unilaterally coerce them into making changes that they would not otherwise undertake. This results from the fact that in a globalized economy, there are abundant non-U.S. exporters, as well as investors, ready to replace excluded U.S. firms. Likewise, there are few countries that are crucially dependent on the U.S. as a market for their exports.
- Often unilateral sanctions merely create greater resistance to change. Authoritarian regimes by stiffen their opposition to outside pressure, and use the pressure to rally internal support for themselves.
- Government officials and ruling elites in sanctioned countries almost always find ways of circumventing the restrictions of sanctions, while ordinary citizens, the very people we hope to help, often feel the greatest pain from the deprivation the sanctions cause.
- The cumulative impact of unilateral sanctions constitutes significant costs to the U.S. economy. Earlier this year, the Institute for International Economics calculated costs to be $9–$15 billion per year in lost exports and 200,000 well-paying export-related jobs. These jobs pay 12–25 percent more than the average manufacturing wage. Therefore approximately $1 billion in export-related wage earnings are lost each additional year sanctions are in place. These hidden cost do not appear in any budget projections, and these projections include costs that may result from business lost because foreign companies do not believe they can count on an American partner. Though indirect, these costs are real, and ineffective unilateral sanctions are the root cause.
- At Boeing we have specific examples of how foreign airlines and our company are the unintended targets of indiscriminate U.S. sanctions. Colombia and Vietnam, despite normal relations with the U.S. government, remain stripped of their eligibility for Ex-Im Bank financing. In the case of Colombia, Avianca Airlines is locked out of the Ex-Im Bank because its government has not been certified as cooperating in narcotics intervention—an issue unrelated to Avianca. Likewise in Vietnam, the train to normal relations left the station without one key car—Ex-Im eligibility. Without Ex-Im, American-made aircraft for these developing economies will be nearly impossible to attain. We risk ceding these lucrative markets to Airbus, and the only losers will be the American worker.

• America must maintain its long-standing tradition of engagement with countries of differing beliefs. Our people-to-people contact is rooted in the belief that individual Americans and private American organizations (educational, commercial, philanthropic, religious, and emergency relief) present our nation's true face to the world reflecting the core values that continue to inspire and change nations around the globe. This effect is evidenced by the outbreak of democracy in the early 1990s in East Europe, Latin America, and Asia.

• Unilateral sanctions assume we can have more influence abroad by isolating and coercing governments and inflicting pain on their populations rather than by reaching out to them and proving by example and direct involvement that free market democracy and tolerance are the firmest foundation for prosperous and peaceful development.

USA*ENGAGE endorses the legislation offered by Representatives Crane and Hamilton and Senator Lugar. We regard this bill's enactment as a matter of serious national policy because it will require thorough and sober consideration of the impact of unilateral sanctions before they are imposed, including ascertaining their chances for success or failure, their costs, and any alternative means of achieving the objectives of the sanctions.

Chairman CRANE. Thank you.
Mr. Kittredge.

STATEMENT OF FRANK D. KITTREDGE, PRESIDENT, NATIONAL FOREIGN TRADE COUNCIL, INC.; AND VICE CHAIRMAN, USA*ENGAGE

Mr. KITTREDGE. Thank you, Mr. Chairman. I am Frank Kittredge, president of the National Foreign Trade Council, an association of 550 U.S. companies engaged in international trade and investment. It's a particular pleasure for me to be here this morning.

The National Foreign Trade Council is a business association that has long been deeply concerned about the increasing tendency to resort to unilateral sanctions as the preferred first option in reacting to an adverse policy or action by a foreign government. Let me emphasize that the issue here is unilateral sanctions for foreign policy purposes. No one would deny that there are situations in which economic leverage is an important tool of foreign policy. Economic sanctions that are multilateral have proved effective in some cases. Unilateral sanctions programs on the other hand, are almost always ineffectual, and worse, counter productive.

Our USA*ENGAGE coalition has conducted a thorough examination of the sanctions issue. Two of the most important conclusions we have reached are one, the costs of unilateral sanctions to the U.S. economy are very real, but are often indirect and long-term, and therefore have tended to be underestimated in the national debate over sanctions. Two, there are common sense reforms that can be implemented to increase the effective use of economic leverage by the United States.

Addressing the first point, the cost of unilateral sanctions to the U.S. economy as a whole was calculated in a study released in April by the Institute for International Economics showing that in 1995, unilateral sanctions cost the U.S. economy 200,000 to 250,000 well-paying export related jobs and reduced U.S. exports by $15 to $20 billion. In its study, the institute said, "The price is paid through a highly discriminatory tax imposed on workers that participate in export markets. Nevertheless, the United States continues to employ sanctions far more than any other country." In fact, as of January 1997, they were imposed or threatened against 75 Nations, representing 52 percent of the world's population, as reported by the President's Export Council.

Let me give you a few examples of the impact of these sanctions on U.S. companies affecting their employment and their market opportunities. In July of this year, President Suharto of Indonesia overturned a business decision to give a $600 million powerplant contract to a United States partnership with the result that Mitsubishi won the bid. Proposed Federal and State sanctions against Indonesia were cited by Indonesian Government sources as the reason.

Second, as the United States gradually negotiated normalized political relations with Vietnam, United States sanctions remained in place. A major American chemical company wanted to be involved in a reverse osmosis water sanitation plant by supplying a water filtering system. Because of U.S. sanctions, the Vietnamese awarded their business to Asahi Chemical. The U.S. company's system had been in the original design, but was subsequently designed out and Japanese equipment was designed in. This was doubly significant because the plant was a prototype for others of its kind.

Third, Airbus Industry, and I say this with the full knowledge of my associate here, has often been portrayed by this country as a foreign threat to U.S. aerospace jobs. But one could argue that the real threat to these jobs originates in Washington, not Toulouse. Twenty 5 years ago, Airbus's first line of jet aircraft, while assembled in Europe, contained more than 50 percent U.S. parts and components. To escape U.S. foreign policy controls, Airbus, as of 1992, had reduced its sourcing of U.S. controlled components to below 20 percent.

Fourth, a U.S. supplier of oil drilling equipment and technology recently was excluded from a contract to build an offshore oil rig in the North Sea. There would seem to be no threat of United States sanctions against Great Britain, but the potential customer feared that United States law might preclude a future decision to move the equipment to other more politically sensitive locations.

Fifth, the United States power generation industry has lost $15.8 billion in nuclear power generation opportunities in China as a result of United States sanctions imposed following the 1989 Tiananmen Square crackdown. Canada, Germany, and Japan got the business. Losing this significant business at a time of virtually nonexistent domestic demand has forced at least one U.S. supplier to cut more than a third of its U.S. nuclear work force. At the same time, the sanctions have had the result of completely isolating the United States from the Chinese nuclear program.

These examples and others like them represent a serious loss of business, jobs, and U.S. involvement in these countries. How can sanctions policy be reformed to avoid these sorts of costs, and at the same time contribute to an effective and coherent U.S. foreign policy? Most important, we need a more deliberative process for resolving foreign policy issues without precipitously resorting to unilateral sanctions.

Your legislation, Mr. Chairman, is the key ingredient to this approach. With its common sense procedural framework, its requirement for reports on likely success, economic costs, alterative solutions, and impact on other U.S. objectives, as well as its guidelines for waiver authority, contract sanctity, and sunset provisions, it puts in place the due diligence that should be required of any program with the far-reaching impact and serious consequences of unilateral sanctions.

Finally, we believe that the U.S. private sector makes its greatest contribution to free market democracy through a constructive involvement in economies and societies around the world. Yet unilateral sanctions are a serious form of isolation. If we want other nations to share certain values with us, there is no substitute for sharing our values with them through a policy of active engagement at all levels—political, diplomatic, economic, charitable, religious, educational, and cultural. The whole range of American activity in other nations transmits our values and ideals.

It has been our experience that trade and investment are powerful tools for helping these values take root and grow. This will not be achieved by the absence of private American institutions, but only by deeper commitment and engagement in the world by the United States.

Thank you, Mr. Chairman.

[The prepared statement follows:]

Statement of Frank D. Kittredge, President, National Foreign Trade Council, Inc.; and Vice Chairman, USA*ENGAGE

Mr. Chairman and Members of the Subcommittee, I am Frank D. Kittredge, President of the National Foreign Trade Council, an association of 550 U.S. companies engaged in international trade and investment. I am also appearing today as Vice Chairman of USA*ENGAGE, a broadly-based coalition of about 650 American companies and trade and agricultural organizations that has formed to encourage policy-makers to find alternatives to unilateral economic sanctions as a foreign policy tool.

It is a particular pleasure for me to be here this morning. These hearings mark the beginning of the congressional phase of an extended dialogue that has been taking place elsewhere for some time. That dialogue concerns the wisdom of frequent use by the United States of unilateral sanctions to affect the behavior of other governments. The National Foreign Trade Council is a business association that has long been deeply concerned about the increasing tendency to resort to unilateral sanctions as the preferred first option in reacting to an adverse policy or action by a foreign government. I will therefore focus my remarks today on the commercial consequences of frequent imposition of unilateral sanctions.

Let me emphasize that I am speaking about *unilateral* sanctions for *foreign policy purposes*. No one would deny that there are situations in which economic leverage is an appropriate tool of foreign policy. Those are situations in which we have enough cooperation of the target country's other trading partners to actually deny them something they need and link that denial to changes in their behavior. Economic sanctions that are multilateral in this sense have proved effective in some cases. Unilateral sanctions programs, on the other hand, are almost always ineffectual and, worse, counterproductive.

The concern of NFTC member companies about the rapidly growing trend of proposed unilateral sanctions in 1995 and 1996 led our Board of Directors to initiate the USA*ENGAGE coalition. This coalition, which was formally launched in April of this year has conducted an exceedingly thorough examination of the sanctions issue. Two of the most important conclusions we have reached are: (1) the costs of unilateral sanctions to the U.S. economy are very real, but are indirect and long-term and therefore have tended to be underestimated in the national debate over sanctions; and (2) there are common-sense reforms that can be implemented to increase the effective use of economic leverage by the U.S. These reforms, combined active policies of engagement, promise a more successful coordination between U.S. foreign policy and foreign economic relations.

(1) The cost of unilateral sanctions to the U.S. economy as a whole was calculated in a study released in April by the Institute for International Economics showing

that in 1995 unilateral sanctions in place cost the US economy 200–250,000 well-paying export-related jobs in 1995 and reduced US exports by $15 to $20 billion. In its study the Institute said "the price is paid through a highly discriminatory 'tax' imposed on workers that participate in export markets. Nevertheless, the United States continues to employ sanctions far more than any other country."

Let me give you a few examples of the long-term impact of sanctions on U.S. companies, affecting their employment and profitability:

—in July of this year the President of Indonesia overturned a business decision to give the $600 million Tan Jung Jati power plant contract to a U.S. partnership with the result that Mitsubishi won the bid. Proposed federal and state sanctions against Indonesia were cited by Indonesian government sources as the reason;

—Shak Deniz is a major offshore oil field in the Caspian Sea, claimed by Azerbaijan. The field contains about 2 billion barrels of oil, worth perhaps $50 billion at today's prices. In 1996 a U.S. company felt that it had to turn down an opportunity for a partnership interest in Shak Deniz because Iran was likely to be a 10% partner in the project. It is highly likely that a non-U.S. company will take on this American company's share;

—an American company was selected to do a major power plant in Colombia valued at about $165 million, representing a breakthrough into a new market for the U.S. company. Most of the design work for the contract would have been done in the U.S., involving more than 40 suppliers. When Colombia was decertified, eliminating the U.S. Ex-Im Bank from participation, the company was given 30 days to find alternative financing. As a result, a French consortium got the business;

—as the U.S. gradually negotiated normalized political relations with Vietnam, sanctions remained in place. A major American chemical company wanted to be involved in a reverse osmosis water sanitation plant by supplying a water filtering system. Because of U.S. sanctions, the Vietnamese awarded their business to Asahi Chemical. The U.S. company's system had been in the original design, but was subsequently designed out; Japanese equipment was designed in. This was significant because the plant was a prototype for others of its kind;

—a U.S. consumer products company produces cough drops in Mexico for sale throughout Mexico, the U.S. and Canada. One key ingredient is sugar, which is purchased from Mexican refiners. An early draft of the Helms-Burton law would have required companies to certify that there was no Cuban content if the final product was intended for U.S. distribution. Given the nature of the Mexican sugar refinery industry, which buys sugar from all over the Caribbean, it was impossible to identify Cuban sugar. Although the provision was not included in the final bill, it illustrates the problem of foreign subsidiaries that are unable to comply with U.S. sanctions law;

—the U.S. power generation industry lost $15.8 billion in nuclear power generation business in China as the result of sanctions imposed following the 1989 Tiananmen Square crackdown. Canada, Germany and Japan got the business. Beyond losing this significant business, this has had the result of completely isolating the U.S. from the Chinese nuclear energy program.

(2) How can sanctions policy be reformed to avoid these sorts of costs and at the same time contribute to an effective and coherent U.S. foreign policy?

The most important point I would like to make to you today is that the U.S. private sector makes its greatest contribution to free market democracy through constructive involvement in economies and societies around the world. We are urging common sense reforms that will support this role and help the U.S. to pursue more effective policies with less self-inflicted cost.

This morning Chairman Crane and Congressman Hamilton have taken the lead in introducing legislation that would establish a more deliberative and disciplined approach to U.S. sanctions policy. The key to this bill is that it requires due process in considering the costs to U.S. security and diplomatic relationships, as well as economic costs of proposed sanctions. It would require consideration of the likelihood that proposed sanctions will achieve their stated objectives. It would scrutinize efforts to pursue alternatives to unilateral sanctions, such as multilateral initiatives and diplomacy. Importantly, the "Enhancement of Trade, Security and Human Rights through Sanctions Reform Act," would require presidential waiver authority, ensure contract sanctity, authorize compensation for American farmers injured by unilateral sanctions, and require a two-year sunset on all such measures. Independent annual reports are also mandated to assess the cost and success of existing U.S. sanctions programs.

This legislation would not seek the repeal of any existing sanctions legislation, nor would it prevent the President or the Congress from imposing sanctions whenever the foreign policy or national security of the United States dictates. It seeks to ensure a sensible and deliberative process so that sanctions measures are driven by common sense instead of being taken to counter-productive ends by politics and emotion.

The business community has a major contribution to make in ensuring that the kind of world that will evolve following the Cold War respects the rule of law, the rights of individuals, and international norms. This is the kind of world in which most of the peoples of the world and certainly the American people aspire to live. It will not be achieved by the absence of private American institutions, but only by deeper commitment and engagement in the world by the United States.

I thank the Chairman and the Subcommittee for the privilege of testifying today.

Chairman CRANE. Thank you, Mr. Kittredge.

Mr. Kruse.

STATEMENT OF CHARLES KRUSE, PRESIDENT, MISSOURI FARM BUREAU; AND MEMBER, BOARD OF DIRECTORS, AMERICAN FARM BUREAU FEDERATION

Mr. KRUSE. Thank you, Mr. Chairman. I am Charles Kruse. I am president of Missouri Farm Bureau, and also serve on the board of directors of American Farm Bureau. I am a fourth generation farmer and operate a corn, wheat, soybean and cotton farm in Stoddard County, Missouri. I am very proud to be here today representing the 4.7 million member families of American Farm Bureau.

Farm Bureau has longstanding policy opposing artificial trade constraints such as sanctions. We believe that opening trade systems around the world and engagement are the most effective means of reaching international harmony and economic stability. Our members depend on world markets for over one-third of all the sales that we produce in this country. It seems in a way somewhat contradictory that I'm here today to address the issue of establishing a reasonable framework for economic sanctions at the same time that I am here in Washington stressing the importance of passing fast track trade negotiating authority.

This Subcommittee has provided outstanding leadership in introducing sound legislation that would provide fast track trade negotiating authority to this and future administrations. It is international trade that has moved our economy one of the most stable times in our history. To maintain that role, our negotiators must have the ability to work with our trading partners to continue to open new and expand existing markets.

Farm Bureau believes that all agricultural products should be exempt from all embargoes except in the case of armed conflict. Should a trade embargo or restrictions be declared under such circumstances, the embargo should apply to all trade, technology and exchanges. An embargo should not be declared without the consent of Congress.

The threat of embargoes or other restrictions adversely affects markets, and is an inappropriate tool in the implementation of foreign policy. If an embargo is enacted, farmers should be compensated by direct payments for any resulting loss. All export contracts calling for delivery of agricultural commodities or products within 9 months of date of sale should never be interfered with by the U.S. Government except following an embargo consented to by Congress. This sanctity of contracts is essential to maintain the United States as a reliable supplier.

Our policies are dedicated to more open trading systems around the world, not more sanctions or embargoes. For 50 years, the United States has followed a reasonably consistent policy of engagement with the entire world to promote peace and freedom. Recently however, the United States has begun to depart from the longstanding preference for engagement. In just 4 years, the United States has imposed 61 unilateral economic sanctions on 35 countries. These countries from which the United States is isolating itself contain approximately 40 percent of the world's population.

To continue to impose sanctions during a time when we are working to secure freer trade through the World Trade Organization and international agreements gives our trading partners very conflicting signals. We can look back to the Soviet grain embargo which cost U.S. agriculture approximately $2.8 billion. When we withheld our wheat from the Soviet Union, our other competitors and suppliers around the world, France, Canada, Australia, and Argentina stepped right in and gladly took the markets away from us.

In far too many cases, we don't recover from these types of situations. I must stress that when any type of sanction or embargo is imposed, either political or trade, agriculture is the first to be hit in retaliation. While we in agriculture depend upon exports for our economic well being and future growth, no country is totally dependent upon the United States for its food. Our customers turn to our competition when our ability to deliver is disrupted by political or other market distorting actions. Sanctions and embargoes not only cost us in immediate loss of sales, but also destroy customer confidence in the United States as a secure and reliable supplier. Our customers find other suppliers and then are very hard and sometimes almost impossible to win back.

America's prosperity is tied to our ability to remain competitive in global markets. Over 12 million working Americans and their families depend upon U.S. exports and access to global markets for their jobs. Sanctions and embargoes are sanctions against our own people, and only serve to disrupt the marketplace on which we depend.

Let me conclude, Mr. Chairman, by saying that we believe that the Hamilton-Crane-Lugar sanctions reform bill addresses many of the concerns of our members, and provides a reasonable common sense approach to establishing a framework for consideration of unilateral economic sanctions. I commend you, Mr. Chairman and Members of this Subcommittee, for your work in this regard, and I pledge to you that we in Farm Bureau look forward to working with you to make this legislation a reality. Thank you.

[The prepared statement follows:]

Statement of Charles Kruse, President, Missouri Farm Bureau; and Member, Board of Directors, American Farm Bureau Federation

Mr. Chairman and members of the Committee, I am Charles Kruse, President of the Missouri Farm Bureau and a member of the AFBF Board of Directors. I am here today representing the American Farm Bureau Federation as well as the Missouri Farm Bureau. The American Farm Bureau represents 4.7 million member families in the United States and Puerto Rico. Our members produce every type of farm commodity grown in America and depend on sales to the export market for over-one third of our production.

Farm Bureau has longstanding policy opposing artificial trade constraints such as sanctions. We believe that opening trading systems around the world and engagement are the most effective means of reaching international harmony and economic stability.

Former President Ronald Reagan said, “the freer the flow of world trade, the stronger the tides of human progress and peace among nations.” These same sentiments were spoken by General Colin Powell last January at the Farm Bureau’s Annual Meeting in Nashville, Tennessee.

In the last decade, democracy has ascended amidst economic liberation in Taiwan, Korea, Poland, Hungary, Slovenia, the Czech Republic, Chile, Argentina, Bolivia, Peru, Brazil, Uruguay and Ecuador. The opportunities for peaceful American engagement and influence in the world are greater than ever before.

Let me review some Farm Bureau policies that express the deep commitment of our members to opening and keeping open markets—not closing doors as happens when sanctions or embargoes are enacted:

Farm Bureau believes all agricultural products should be exempt from all embargoes except in the case of armed conflict.

Should a trade embargo or restrictions be declared under such circumstances, the embargo should apply to all trade, technology and exchanges. An embargo should not be declared without the consent of Congress.

The threat of embargoes or other restrictions adversely affects markets and is an inappropriate tool in the implementation of foreign policy. If an embargo is enacted, farmers should be compensated by direct payments for any resulting loss.

All export contracts calling for delivery of agricultural commodities or products within nine months of date of sale should never be interfered with by the U.S. government, except following an embargo consented to by Congress. This sanctity of contracts is essential to maintain the United States as a reliable supplier.

As you can see, our policies are dedicated to more open trading systems around the world—not more sanctions or embargoes.

For 50 years, the United States has followed a reasonably consistent policy of engagement with the world to promote peace and freedom. Recently, the United States has begun to depart from the long-standing preference for engagement. In just four years, the United States has imposed 61 unilateral economic sanctions on 35 countries, according to the U.S. Alliance for Effective Engagement. These countries, from which the United States is isolating itself, contain about 40 percent of the world’s population.

Professor Donald Losman of the U.S. Industrial College of the Armed Forces has stated, “Comprehensive economic sanctions almost always fail to achieve their political goals, while at the same time opening a Pandora’s box of economic and international relations headaches. They tend to strengthen offending regimes and policies. Pain without gain is probably the best description.”

The Institute for International Economics estimates that unilateral economic sanctions cost the United States $15–19 billion in lost exports in 1995. This translates into the loss of more than 200,000 American jobs. A 1994 Council on Competitiveness report found that eight unilateral sanctions episodes cost the U.S. economy $6 billion in annual sales and 120,000 export related jobs.

To continue to impose sanctions during a time when we are working to secure freer trade through the World Trade Organization and international agreements gives our trading partners very conflicting signals.

The Soviet grain embargo cost the United States about $2.8 billion in lost U.S. farm exports and U.S. government compensation to American farmers. When the United States cut off sales of wheat to protest the Soviet invasion of Afghanistan, other suppliers—France, Canada, Australia and Argentina—stepped in. They expanded their sales to the Soviet Union, ensuring that U.S. sanctions had virtually no economic impact. Russia still appears to restrict purchases of American wheat, fearing the United States may again use food exports as a foreign policy weapon.

I must stress that when any type of sanction or embargo is imposed, either political or trade, agriculture is the first to be hit in retaliation. We are dependent upon exports for over one-third of all sales. However, no country is totally dependent upon the U.S. for its food. They go to our competition.

Sanctions and embargoes not only cost us in immediate loss of sales, but also destroy customer confidence in the United States as a secure and reliable supplier. Our customers find other suppliers and are very hard to win back.

America’s prosperity is tied to our competitiveness in global markets. Agricultural trade accounts for over 30 percent of U.S. production. Over 12 million working Americans and their families depend upon U.S. exports and access to global markets for their jobs. Sanctions and embargoes are sanctions against our own people and only serve to disrupt the marketplace on which we depend.

The United States still has an unprecedented opportunity to promote its values throughout the world by peaceful engagement. Reaching out through engagement, not withdrawing behind sanctions or embargoes, is the best way to achieve change.

Thank you for the opportunity to speak on behalf of American agriculture.

Chairman CRANE. Thank you, Mr. Kruse.

Mr. Berry.

STATEMENT OF WILLARD M. BERRY, PRESIDENT, EUROPEAN-AMERICAN BUSINESS COUNCIL

Mr. BERRY. Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to testify today. I'm Willard Berry, president of the European American Business Council. Our 80 member companies include many of the largest United States and European firms operating in the United States. The Council strongly opposes economic sanctions, and is alarmed that Federal, State and local authorities are increasingly adopting them.

We have witnessed a proliferation of economic sanctions in recent years. Experience shows that these measures have had almost no success in achieving their stated aims, namely, changing the behavior of the target country. What these measures have done is seriously harm business, and in doing so have eroded the competitiveness of U.S.-based companies, cost American jobs, and strained relations between America and its closest allies.

In my testimony, I will highlight the recent findings of the study undertaken by our council to assess the negative impact of these measures, that they have had on companies and the overall U.S. economy, and suggest alternative approaches.

To give policymakers a better understanding of how sanctions harm business, the council conducted a survey to quantify the impact on both European and U.S. companies. U.S. authorities are often, too often adopting these measures without looking at the price tag. Economic sanctions usually involve tradeoffs with other important policy goals such as job creation and economic growth. According to our survey's findings, U.S. economic sanctions have harmed the global operations of 80 percent of the companies surveyed. That's 94 percent of the U.S.-owned companies in this study.

Looking exclusively at their U.S. operations, sanctions have had a negative effect on 65 percent of the companies surveyed. Forty four percent of the companies surveyed said they had been forced to forego a business opportunity to comply with U.S. sanctions laws.

It is difficult to accurately assess the aggregate volume of business lost to sanctions. Generally companies do not like to report these losses. However, in our study 18 cases were reported in which sanctions forced companies to miss out on a total of $1.9 billion in business opportunities. U.S.-owned companies reported most of these cases, averaging about $130 million in lost opportunities for each case cited.

One of the primary goals of the study was to determine what business effects are the most likely consequences of sanctions. We asked companies what specific harmful effects would result if each of nine types of sanctions were imposed. The loss of joint venture opportunities, something highlighted by Ambassador Yeutter earlier, a critical element of global competitiveness was cited most frequently. Almost as many companies said they would reduce employment in the United States. This was followed by the loss of supply relationships.

The study also looked carefully at individual sanctions. Denying U.S. entry visas to overseas executives, one of the Helms-Burton sanctions, would harm a greater share of companies than any other type of sanction examined. Especially a large number of European companies reported that this sanction would harm their business. Seventy percent of those surveyed say they would be forced to cut back on investment in the United States, and there is $416 billion of European investment in the United States, and 65 percent said they would cut back on U.S. employment. European investment supports around 6 million jobs. Denying most-favored-nation status to strategic countries could jeopardize the operations of more U.S. firms than any other of the sanctions examined.

As for the existing sanctions laws, State and local sanctions affected 70 percent of the surveyed companies. Iran and Libya affected 66 percent. Sixty four percent said they had already been affected by the Helms-Burton law, even though it has been only applied in limited circumstances.

There are a number of proposals and bills before the Congress currently that we oppose. These are listed in the testimony.

Finally, Mr. Chairman, I would like to mention while we oppose these measures, we strongly support your efforts and those of Representative Hamilton and Senator Lugar to enact a sanctions policy reform bill. We urge the other Members of the Subcommittee to support this legislation as it is considered this year.

In conclusion, we would like to encourage the Congress and the administration to work more closely to minimize the unintended negative consequences of sanctions. We also recommend that policy makers exhaust other foreign policy options before enacting economic sanctions, and make every effort to take action on a multilateral basis before imposing unilateral measures.

Thank you, Mr. Chairman and Members of the Subcommittee, for the opportunity to testify.

[The prepared statement follows:]

Statement of Willard M. Berry, President, European-American Business Council

Mr. Chairman and members of the committee, thank you for the opportunity to testify today. I am Willard Berry, President of the European-American Business Council. The Council is the only truly transatlantic business organization that provides actionable information on policy developments and works with officials in both the US and Europe to secure a more open trade and investment climate. Our 80 member companies include many of the largest US and European firms. The Council strongly opposes the increasing number of unilateral and extraterritorial sanctions adopted by US federal, state and local authorities.

Since 1993, US authorities have enacted 81 sanctions laws and executive actions against 36 countries. Several new measures are pending before Congress in the current legislative session. Experience shows that these measures have had almost no success in achieving their stated aims namely changing the behavior of the target country. What these measures have done is seriously harm business and in doing so have eroded the competitiveness of US-based companies, cost Americans jobs, and strained relations between America and its closest allies.

In my testimony today, I will highlight the recent findings in a study undertaken by the Council to assess the negative impact these measures have had on companies and the overall US economy. I also will highlight what is at risk if these policies continue to proliferate and suggest an alternative approach to considering economic sanctions.

SANCTIONS STUDY RESULTS

To give policymakers a better understanding of how sanctions harm business, the Council conducted a survey to quantify the impact on both European and US companies. Our hope is that legislators here, in state capitals, and in cities throughout the country will see that sanctions measures bring with them considerable economic costs which are generally understood. Sanctions measures usually involve trade-offs with other policies which are given high priority in the Congress and elsewhere. I have brought a number of copies of the study with me, and am happy to offer them to you and your colleagues. The study was released earlier this month and EABC representatives have since been meeting with House and Senate staff to explain the results.

Overall, US economic sanctions have harmed the global operations of 80 percent of the companies surveyed, including 94 percent of the US-owned companies in the study. Looking exclusively at their US operations, sanctions have a negative effect on 65 percent of the companies surveyed, including 83 percent of US-owned companies. Forty-four percent of the companies surveyed said they have been forced to forego a business opportunity to comply with a sanctions law.

It is difficult to accurately assess the aggregate volume of business lost due to sanctions, but anecdotal figures gathered in the study illustrate an extraordinary impact. (13) Companies reported 18 cases in which US sanctions forced them to miss out on a total of $1.9 billion in business opportunities. US-owned companies accounted for most (87 percent) of this total, averaging almost $130 million in lost opportunities for each case cited.

One of the primary goals of the study was to determine what business effects are the most likely consequences of sanctions measures. The EABC asked companies what specific harmful effects would result if each of nine types of sanctions were imposed on them. The loss of joint venture opportunities was cited most frequently, a critical element of global competitiveness. Almost as many companies said they would reduce employment in the US, followed by the loss of supply relationships and a retraction in outbound investment.

The study also looked carefully at individual sanctions measures. Denying US entry visas to overseas executives would harm a greater share of companies than any other type of sanction examined. An especially large number of European companies report that this sanction would harm their business. Seventy percent of those surveyed say they would be forced to cut back investment in the US, and 65 percent said they would cut back US employment. Other sanctions that our study found particularly harmful are those that would deny US bank loans and credits, ban imports from overseas companies, and deny US export licenses. US-owned firms said that denying most-favored-nation status to strategic countries could jeopardize their operations more than any of the other sanctions examined.

As for existing sanctions laws, state and local sanctions (such as the Massachusetts law targeting Burma) have affected 70 percent of the surveyed companies. The Iran and Libya Sanctions Act (ILSA) has affected 66 percent of the companies surveyed. Sixty-four percent said they had already been affected by the Helms-Burton law, even though it has only been applied in limited circumstances. US export controls have harmed 61 percent of the respondents. Among US embargoes, the ban on trade with Cuba has affected 61 percent of the companies, followed by embargoes on Iran (60 percent), Iraq (60 percent), Libya (47 percent), and North Korea (42 percent).

We are aware that Congress is considering amendments to strengthen Helms-Burton and that some members have called for aggressive enforcement of ILSA. According to our survey, these actions would further threaten joint ventures involving US-based companies and reduce foreign investment and jobs in the US.

We have found that both US- and European-owned companies are greatly affected by sanctions, but in somewhat different ways. US-owned companies tend to be more aware of sanctions and report in greater numbers that they are affected by them. European-owned companies, however, are significantly harmed. Sixty-eight percent report that their global operations have been affected and 50 percent say that their US operations have been affected. These are significant figures, as European-owned companies account for 54 percent of all foreign direct investment in the US and support nearly 6 million US jobs.

LEGISLATIVE ISSUES

The Council opposes several bill under consideration in the Congress.

The Council opposes two amendments included in the Foreign Policy Reform Act, H.R. 1757. The first amendment, offered by Rep. Ileana Ros-Lehtinen (R–FL), would impose new reporting requirements about the implementation of Helms-Burton. The second, offered by Sen. Jesse Helms (R–NC), would essentially apply the visa denial provisions of the Helms-Burton law to every market in the world. We are similarly opposed to H.R. 2179, legislation introduced by Rep. Bill McCollum (R–FL) that would repeal the waiver of title 3 of Helms-Burton, thereby opening the door to lawsuits against foreign companies doing business in Cuba.

Each of these measures could seriously disrupt talks between US and EU officials on creating multilateral disciplines for expropriated property and the use of extraterritorial laws. Negotiators hope to incorporate a bilateral agreement into the proposed Multilateral Agreement on Investment (MAI) being negotiated in the Organization for Economic Cooperation and Development (OECD). Therefore, the Council believes it would be better for the US to give those negotiations a chance to succeed rather than to endanger them by acting unilaterally. A binding multilateral agreement would be a better solution for everyone involved. Such an agreement would improve the prospects for individuals and business not to be harmed by expropriation without compensation, while avoiding a trade dispute caused by US action that is considered extraterritorial by all of its trading partners.

The Council is similarly opposed to the Freedom from Religious Persecution Act, H.R. 2431, and its Senate counterpart, S. 772. This legislation would impose economic sanctions against countries that persecute religious groups. Like other unilateral sanctions measures, this legislation has the potential to hurt the competitiveness of US companies without achieving its aims. The Council strongly believes that the best way to address human rights violations, such as religious persecution, is through engagement.

The Council strongly supports the efforts of Rep. Lee Hamilton (D–IN) and Sen. Richard Lugar (R–IN) to introduce a sanction policy reform bill. The legislation, which was introduced this morning, offers a more deliberative and disciplined approach for policymakers considering economic sanctions proposals. The bill strives to maximize US foreign policy flexibility, calling for all future sanctions measures to include Presidential waivers for national interest, sunset provisions, protections for contract sanctity, and mandates that a cost analysis be made of any sanctions bill before it is passed. We urge you to support this legislation as it is considered this year.

CONCLUSION

Our study shows that both US- and European-owned companies have experienced a number of different negative effects from sanctions. While noting that other studies have shown that sanctions measures almost always fail to achieve their goals, the EABC has demonstrated that they impose significant costs on business. Furthermore, enacting new sanctions or strengthening existing sanctions would have a detrimental effect on the US economy and US workers.

The EABC recommends that the US Congress and Administration establish guidelines such as those proposed by the Lugar-Hamilton bill to evaluate sanctions measures before they are enacted. In addition, Congress and the Administration should work more closely together to minimize the unintended negative consequences of sanctions. The EABC also recommends that policymakers exhaust other foreign policy options before enacting economic sanctions and make every effort to take action on a multilateral basis before imposing unilateral sanctions.

Thank you, Mister Chairman and members of the committee, for the opportunity to testify today.

Chairman CRANE. Thank you, Mr. Berry.

Mr. Kavulich.

STATEMENT OF JOHN S. KAVULICH II, PRESIDENT, U.S.-CUBA TRADE AND ECONOMIC COUNCIL, INC.

Mr. KAVULICH. Thank you, Mr. Chairman. I appreciate the opportunity to appear today to discuss a country that has been the subject of unilateral trade sanctions almost longer than any other. Cuba is the largest Caribbean Sea area country, larger than nearly all of the islands within the Caribbean Sea area combined, and with nearly one-third of the combined populations. Almost as large as the State of Pennsylvania and approximately as long as the State of Florida. With its 11 million citizens, the population is approximately the same as the State of Illinois, your State. If Cuba were a State within the United States, it would rank seventh in population.

Between 1980 and 1992, the value of licensed United States-owned foreign subsidiaries trade with Cuba was $4.5 billion, from almost 3,000 licenses issued to more than 100 United States companies, a number of which have certified claims, yet continue to choose to trade with Cuba when permitted.

The implementation of the Cuban Democracy Act in October 1992 eliminated virtually all United States-owned foreign subsidiaries trade with Cuba. In the absence of an unrestricted commercial and economic presence by United States companies, Cuba is importing from, exporting to, obtaining financing from, and investments from other countries. From Canada, Canadian companies have announced, committed or delivered investments of more than $2 billion in the mining, energy, tourism, health care, transportation, and agricultural sectors. From Italy, active companies include Fiat, Stet International, Benetton, Costa, San Pellegrino, and Olivetti. Costa will cease to operate its cruise ship venture in 1998 because U.S.-based Carnival cruise lines has purchased the company, and U.S. regulations require that the agreement be severed.

From Spain, hundreds of millions of dollars have been targeted toward tourism, tobacco, fishing, production of tubing, and real estate. From France, Devexport and Babcock, and Gemco will upgrade a powerplant. Sieta provides financing for the tobacco crop. ELF Aquitaine plans to supply gas stoves and cooking gas. Club Med has a hotel. Companies are exporting poultry, producing control panels for power plants, and operating bakeries. Societe General and Alcatel have offices in Havana. Citroen, Renault, and Peugeot all export vehicles.

From the United Kingdom, the first foreign investment fund to operate in Cuba since the revolution. BAT produces tobacco products. Castrol has a joint venture to produce lubricants.

From the Netherlands, Unilever has a partnership with Cuba's Suchel to make the deodorant, soap, shampoo, toothpaste, and perfumes, including Pepsodent brand. Shell Caribbean has an office in Havana. ING Bank became the first foreign bank in Cuba since the revolution.

From Mexico, Banamex has a joint venture to process receivables from credit cards. TIMSA operates a cellular telephone system. Raw materials are provided for the production of footwear.

From Germany, Mercedes Benz installs heavy equipment motors, has a contract to sell 480 buses, and exports vehicles. Siemans and

Brucker have exported MRI and CAT Scan equipment. Adidas has a $5 million sponsorship contract with Cuban athletic teams.

From Sweden, Volvo exports vehicles and has a joint venture to replace as many as 100,000 truck motors, assemble buses, and other heavy motorized equipment. From South Africa, Atlantis Diesel Engines has an $85 million contract to supply 10,000 engines for the sugar industry. From Brazil, Telebras is seeking contracts for 50,000 public telephones and the exportation of digital switching equipment. From China, Cuba has imported more than 1 million bicycles.

From Japan, Casio watches and calculators are being assembled in the Pinar del Rio region of Cuba. Sharp products are exclusively distributed by a Canadian company. Canon photocopiers and facsimile machines have an overwhelming market share. Panasonic exports air conditioners, heavy construction equipment from Komatsu, Hitachi, and Mitsubishi. Mizuno has a $5 million sponsorship contract with Cuban teams. Nissan, Suzuki, Mitsubishi and Toyota vehicles are exported.

From South Korea, Samsung and Goldstar products are imported. Goldstar assembles televisions in Cuba. Daewoo construction equipment and Diahatsu vehicles are exported. From Israel, joint ventures to produce metal, plastic, and cardboard containers for chemical products; and operate a citrus plantation, exporting the fruit to Europe and the Middle East. Finally, from Australia, Western Mining Co. is negotiating a $500 million mining venture.

The value of unrestricted annual United States-Cuba trade has been estimated to be as high as $7 billion, with perhaps 70 percent or $4.9 billion being exports from the United States to Cuba. According to the U.S. Department of Commerce, for each $1 billion in U.S. exports, 20,000 new employment opportunities can be created. United States-Cuba trade could be responsible for creating perhaps 100,000 or more new employment opportunities for American workers.

According to the U.S. Department of Commerce, the value of the United States exports to China in 1996 was approximately $12 billion. China has more than 100 times the population of Cuba, yet Cuba's import potential from the United States may be nearly 40 percent of the current value of the United States exports to China.

Which United States companies would export to Cuba? Perhaps Kemper Insurance and Motorola from the Chairman's district, Dow Chemical from Representative Camp's district, Corning and Dresser Industries from Representative Houghton's district, Cargill from Representative Ramstad's district, Packard Bell and Blue Diamond from Representative Matsui's district, Sylvia's from Representative Rangel's district, Boeing from Representative McDermott's district, and the Port of New Orleans from Representative Jefferson's district. Thank you.

[The prepared statement follows:]

Statement of John S. Kavulich II, President, U.S.-Cuba Trade and Economic Council, Inc.

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear before this hearing on the "Use and Effect of Unilateral Trade Sanctions" to discuss one country which has been the subject of unilateral trade sanctions in varying degrees by the United States for longer than almost any other country.

SECTION ONE-CUBA AND THE UNITED STATES

Cuba is the largest Caribbean Sea-area country, larger than nearly all of the islands within the Caribbean Sea-area combined, and with nearly one-third of the combined populations. Nearly as large as the State of Pennsylvania and approximately as long as the State of Florida. With 11 million citizens, the population is approximately the same as the State of Illinois, the home of Chairman Crane. If Cuba were a state within the United States, it would rank 7th in population.

Cuba, like the United States, was a founding signatory of the General Agreement on Tariffs and Trade (GATT). Cuba, like the United States, is a member of the World Trade Organization, unlike the People's Republic of China and Russia, for example. The United States and Cuba share membership in many international organizations and are signatories to many of the same international treaties.

Between 1980 and the end of 1992, for example, the value of licensed United States-owned foreign subsidiaries' trade with enterprises within Cuba was US$4.563 billion-US$2.637 in exports and US$1.926 billion in imports from 2,938 licenses issued to more than 100 United States companies, a number of which have certified claims, yet continued to choose to trade with Cuba when permitted.

Some of the companies receiving licenses included: Alcoa, Beckton Dickinson, Continental Grain, Corning, Del Monte, Dow Chemical, E.I. du Pont de Nemours, Exxon, Ford Motor Company, General Electric, Goodyear Tire and Rubber, Honeywell, ITT, Ingersoll-Rand, Johnson & Johnson, 3M, Otis Elevator, Pfizer, Caterpillar, Cargill, Carrier, Picker International, Tenneco, Union Carbide, Vulcan Hart, and Westinghouse among many others.

NOTE: Some of the same companies that have chosen to trade with Cuba have also chosen to register their trademarks and patents within Cuba. During the last several years, these registrations have increased at an exponential rate. Many United States companies have continued to maintain their trademark and patent registrations since before the 1959 revolution. A number of well-known United States companies, including McDonald's, Victoria's Secret, and Toys-R-Us, for example, each spent tens of thousands of dollars in legal fees upon their return to South Africa because their trademarks had lapsed due to a lack of use, and other companies were now using their names. Members of the Subcommittee on Trade might find interesting that two years ago, when the Office of Foreign Assets Control (OFAC) of the United States Department of the Treasury failed to continue the authorization for United States companies to make the required payments within Cuba to maintain the registration of their trademarks and patents, the Chamber of Commerce of Cuba notified each of the United States companies that all protections would be continued until the United States Government reinstated the authorization. The authorization was reinstated, but one year later. Cuba has not, to date, become a market for pirated United States-branded products, as continues to be symptomatic with some of this country's significant trading partners.

The implementation of the Cuban Democracy Act in October of 1992 eliminated virtually all United States-owned foreign subsidiaries' trade with Cuba.

SECTION TWO-CUBA AND OTHER COUNTRIES

In the absence of an unrestricted commercial and economic presence by United States companies, the government of Cuba, Cuba government-operated companies, Cuba-based joint ventures, and Cuba-based economic associations are importing from, exporting to, obtaining financing from, and investments from other countries.

As of October 1997, the estimated value of announced investments within Cuba by private sector companies and government-controlled companies from twenty-five countries is US$5.9 billion, of which US$1.3 billion is estimated have been committed and/or delivered.

From Canada, the United States' principal trading partner, companies have announced, committed, or delivered investments of more than US$2 billion in the mining, energy, tourism, health care, transportation, and agriculture sectors. Canadian companies export everything from air conditioners to food to telephones to construction materials.

From Italy, active companies include Fiat (automotive), Stet International (communications), Benetton (clothing), Costa Crociera (passenger ship port and passenger cruise operations), San Pellegrino (beverages), Olivetti (computers and cash registers), Moneblanco (soda fountains), and Fantinel (winery). Various companies have exported equipment used in the production of pharmaceuticals. A yacht constructed in 1938 for Hollywood singer Kathleen Baker, and now owned by an Italian entrepreneur, is plying the island's waters with tourists. Costa Crociera will cease to operate its cruise ship during the first quarter of 1998 as United States-based Carnival Cruise Lines has purchased the company, and United States Government regulations require the severing of the Cuba commercial dealings.

From Spain, hundreds of millions of dollars have been targeted toward tourism, agriculture, fishing (exclusive marketing rights), production of tubing, and real estate. A Spanish company finances the production of, and imports, and distributes the majority of Cuba's tobacco products. Recording contracts with Cuba-based musicians and groups from which a Canary Islands-based company reported that it averaged 100,000 sales per compact disc produced.

From Panama, Caribbean International Motors S.A., reported vehicle sales to Cuba exceeding US$62 million in 1996, a nearly 100% increase from 1995.

From France, Devexport and Babcock & Gemco will upgrade a power plant. Sieta S.A. provides the financing for the tobacco crop. ELF Aquitaine, the oil and chemical conglomerate, plans to supply 100,000 eastern Cuba homes with gas stoves and cooking gas by the year 2002. The gas, which will eventually amount to 40,000 tons annually, will initially be imported and then bottled on the island. Companies are exporting poultry, producing control panels for power plants, operating bakeries, and investing in tourism (Club Med). Societe General and Alcatel (many telephones are from this company) have offices in the Republic of Cuba. Citroen, Renault, and Peugeot export vehicles.

From Russia, Cuba imports a substantial quantity of its oil, Russia purchases sugar. The value of the bilateral trade exceeds US$500 million annually.

From the United Kingdom, British American Tobacco (BAT) has an agreement to produce various types of tobacco products for multiple export markets. The government is providing millions in financing and financing guarantees. The first foreign investment fund to operate in Cuba since the 1959 revolution is from the United Kingdom. Britain's Burmah Castrol Group, through its Dutch subsidiary, has a joint venture to use excess Cuban refining capacity to process lubricants for sale in the Caribbean.

From The Netherlands, Unilever PLC has a partnership with Cuba's Suchel to make deodorant, soap, shampoo, toothpaste, perfumes and other products. Shell Caribbean has an office in Havana. ING Bank NV became the first foreign bank to operate within Cuba since the 1959 revolution.

From Mexico, a company will produce plowing equipment designed in Cuba. The equipment will be sold in Mexico, Cuba, Latin American-area countries. Banamex has a joint venture to process receivables from credit cards. TIMSA, an US$8 million joint venture, operates cellular telephone systems. Raw materials are provided for the production of footwear.

From Germany, Mercedes Benz has been installing heavy equipment motors for more than two years in Cuba. The company also signed a contract in 1996 for the sale of 480 buses, with a ten-year parts guarantee, to the city of Havana. Mercedes Benz vehicles can be rented in Cuba and are being used as taxicabs in some cases. Eurowings LTDA, announced that it was negotiating in Cuba a series of investments and trade agreements for the European and Latin American companies it represents. A government official proposed a US$1 billion project to reconstruct the island's railway system. Siemans and Brucker have exported MRI and CAT Scan equipment. Adidas has sponsorship contracts, valued at an estimated US$5 million, with Cuba teams.

From Sweden, Volvo has negotiated a joint venture that could result in the company replacing as many as 100,000 truck motors, assemble buses and other heavy motorized equipment. Volvo vehicles may be rented in Cuba.

From South Africa, Atlantis Diesel Engines has a US$85 million contract to supply 10,000 engines for the sugar industry.

From Namibia, negotiations to establish a joint venture to produce and package vaccines and other pharmaceuticals.

From Brazil, Telebras is seeking the contracts for as many as 50,000 public telephones during the next seven years, and contracts to export digital switching equipment.

From China, Cuba has imported more than 1,000,000 bicycles. Letters of intent to construct a hotel, operate a restaurant, and produce footwear.

From Japan, Casio brand watches and calculators are being assembled. Cuba is the first Latin American country to assemble Casio brand products. Other Casio products are planned to be assembled in Cuba as well. Meiwa, the electronics company, has an office in Cuba. Sharp Electronics products are exclusively distributed in Cuba by a Canadian company. Canon photocopiers and facsimile machines have the overwhelming market share in Cuba. Panasonic exports air conditioners. Heavy construction equipment from Komatsu, Hitachi, and Mitsubishi. Mizuno, the Japan-based athletic equipment manufacturer, has sponsorship contracts, valued at an estimated US$5 million, with Cuba teams. Nissan, Suzuki, Mitsubishi, and Toyota vehicles are exported.

From South Korea, Samsung products are imported. Goldstar products are imported and the company assembles televisions in Cuba. Daewoo construction equipment. Diahatsu vehicles are exported.

From Israel, a US$1 million joint venture within Cuba to produce metal, plastic, and cardboard containers for chemical products; and a US$22 million joint venture which operates a 115,000 acre citrus plantation, exporting the fruit to Europe and the Middle East.

From Australia, Western Mining Company is negotiating an agreement to operate mining ventures in the country. The total value of the investments may exceed US$500 million.

From Vietnam, a company is producing and distributing Cuba-developed insecticide.

From Argentina, CODEMAR S.A. has a computer software joint venture.

From Lebanon, Fransabank has an office in Cuba.

SECTION THREE-CUBA'S POTENTIAL

The value of unrestricted annual United States-Cuba trade has been estimated to range from US$3 billion to US$7 billion-with, perhaps, 70%, or US$2.1 billion to US$4.9 billion being exports from the United States to Cuba.

According to the United States Department of Commerce, for each US$1 billion in United States exports, 20,000 new employment opportunities can be created. United States-Cuba trade could be responsible for creating perhaps 100,000 or more new jobs for United States citizens.

According to the United States Department of Commerce, the value of United States exports to the People's Republic of China in 1996 was approximately US$12 billion. The People's Republic of China has more than 100 times the population of Cuba, yet Cuba's estimated import potential from the United States may be nearly 40% of the current value of United States exports to the People's Republic of China.

Which United States businesses would export to Cuba? Perhaps, Kemper Insurance and Motorola from Chairman Crane's district. Dow Chemical from Representative Camp's district. Corning and Dresser Industries from Representative Houghton's district. Cargill from Representative Ramsted's district. Packard Bell and Blue Diamond from Representative Matsui's district. Sylvia's from Representative Rangel's district.

Mr. Dwayne Andreas, Chairman of Archer Daniels Midland Company, headquartered in Chairman Crane's state, has said that the current Cuba market could be a several hundred million dollar per year opportunity for his company. Mr. James Perrella, Chairman, President, and Chief Executive Officer of the Ingersoll-Rand Company has expressed his company's interest toward Cuba. Mr. Oscar Wyatt, Chairman of the Executive Committee of The Coastal Corporation, has said that an ability to access opportunities in Cuba would be of value to the United States. Mr. Lee Iacocca, former Chairman and Chief Executive Officer of Chrysler Corporation, who has visited Cuba, has spoken of the value to the United States business community and consumers in having access to the island's developing market. Mr. Curtis Carlson, Chairman and Chief Executive Officer of Carlson Companies, the US$20 billion hospitality conglomerate headquartered in Minnesota wants to operate Radisson Hotels, T.G.I. Friday's restaurants, and CarlsonWagonlit travel agencies in Cuba.

The tourism sector, for example, is receiving the most direct attention of the Cuban government. In 1997, Cuba expects to receive 1,190,000 tourists and earn gross revenues of nearly US$1.7 billion—a nearly 15% increase from 1996. Approximately forty foreign airlines are providing services to Cuba. Since 1962, Delta, Continental, and United Air Lines have held route authorities to Cuba from various states including Illinois, Florida, New York, California, and Massachusetts. SH&E, the world's largest civil aviation consultancy, estimates that United States-Cuba air travel could reach 5.2 million passengers annually; that the economic impact upon United States airlines might approach US$1 billion annually; and that there may be a potential for up to US$2 billion in aircraft sales to Cubana Airlines, not including general aviation aircraft and helicopters. Cubana Airlines currently operates U.S.S.R.-built aircraft, two leased DC–10's through a Mexican company, and a small fleet of Fokker turboprop aircraft. The Europe-based consortium, Airbus, and Canadian manufacturers, among others, are currently seeking export opportunities.

The State of Arkansas was the largest supplier of rice to Cuba before 1959. Today, Cuba imports from the People's Republic of China, Vietnam, and Thailand what amounts to approximately 15% of current United States rice exports. Cuba Rice imports have been decreasing as the People's Republic of China and Vietnam, among other countries, provide Cuba with new growing and cultivation methods. In 1996, Cuba imported 350,000 tons, spending approximately US$135 million.

Burger King, which is owned by Grand Metropolitan of the United Kingdom, has more than 100 restaurants in Puerto Rico, with one-third the population of Cuba.

SECTION FOUR-QUESTIONS

Generally, if a country institutes a unilateral trade sanction, the government and citizens of the targeted country will design and implement short term, medium term, and long term commercial and economic strategies designed to minimize the impact of the unilateral trade sanction. Over time, a unilateral trade sanction becomes an expected "cost of doing business." Those governments which choose to maintain commercial and economic relations with the targeted country and those companies which choose to maintain commercial and economic relations with the targeted country factor this "cost of doing business" into the relationship.

The government and business sector of a country under a unilateral trade sanction may, after a period of time, no longer expect, or count upon, the re-entry of United States companies. If the government and business sector are no longer placing the United States into their short term, medium term, or long term development strategies, United States competitors may become confident that the market is theirs and will be theirs in the years to come.

A long-term unilateral trade sanction by the United States may lessen the likelihood that within the targeted country there will be many citizens old enough to remember any advantages of having an unrestricted commercial and economic relationship with the United States. Thus, a necessary advocacy constituency may not have influence. Then, a question to consider: How does the United States demonstrably show the value of a relationship if no tangible evidence of a positive relationship currently exists within the targeted country for its citizens to support?

Thank you.

Chairman CRANE. Thank you. Let me ask just one quick question. What are in your collective minds the appropriate steps that Congress should go through before considering unilateral sanctions?

Mr. KITTREDGE. Well, if I might take a swing at that to begin with, Mr. Chairman. As the legislation tries to point out, there needs to be a finding or an assessment whether the sanctions have a chance of being successful or not. Second, there needs to be a finding as to what the cost to the U.S. economy is in the overall. Then there needs to be an evaluation of how much have we tried to multilateralize the effort, as you have heard so many people says the difference between unilateral and multilateral is critical. Then if sanctions are considered, there should be contract sanctity, and there should be a sunset provision. There's one other thing in the beginning that I left out. There should be a finding as to what impact does it have on our other agreements, on our relationships with our trading partners and with our allies.

Chairman CRANE. Can you think right off hand of a successful unilateral sanction that we have imposed that achieved the objective at less cost than we paid for it?

Mr. KITTREDGE. I certainly can't. But you wouldn't expect me to.

Chairman CRANE. Any of the rest of you?

Mr. BERRY. No, sir.

Chairman CRANE. Mr. Matsui.

Mr. MATSUI. Thank you, Mr. Chairman. I would like to ask on behalf of Mr. Rangel a couple of questions of the panel. Mr. Rangel would be here, but he is managing a bill on the floor at this time. He has been since about 12:45. So he is not able to be here. That bill will probably continue on until 3. So he has requested that two questions basically be asked. Then I would like to ask questions of my own.

To Mr. Kavulich, and I think you may have answered some of these already, and I'm going to ask the entire question. It's actually three questions are asked here. In terms of the fact that you have received your license to visit Cuba and obviously market their health care products, Mr. Rangel has asked well what are the consequences of all this in terms of how it affected your organization? Two, do your members support the expansion of these opportunities? I would imagine your answer is yes. Then what about your sales factors? I think you did answer that. But perhaps you can, for the record, very briefly answer all three of those again on behalf of—the question on behalf of Mr. Rangel.

Mr. KAVULICH. Thank you, Mr. Matsui. In terms of health care, the Clinton administration last October began to permit United States companies under license to go to Cuba to explore sales opportunities, and also take product samples. Since that time, a number of companies have gone. The first such company did go last October and did receive an order. So this willingness on the part of the Cuban health care companies to purchase from American companies when they can is real. More and more companies are taking advantage of it. It would be nice if some of the license requests moved a little faster through the Office of Foreign Assets Control at Treasury, but I know they are working on it.

As far as the other combined questions, and this might sound like it's taking a political position, but I'm not. I just haven't found a chief executive officer of a major American company that either supports current policy toward Cuba or would not choose to have an opportunity to trade with Cuba today as their decision, as opposed to someone else's. The interest level is growing exponentially.

Mr. MATSUI. Thank you for your response. I think that segways into the second question Mr. Rangel requested I ask. That is, what do all five of you believe has been the positive effects or negative effects of Helms-Burton. I think Mr. Kavulich, you did answer that, that obviously——

Mr. KAVULICH. If I can add one quick element to it. That is, with unilateral sanctions in general, Cuba is a unique case, because we're talking 38 years of varying degrees, and there have basically been three generations of Cuban citizens who have grown up under existing United States policy.

One of the problems or one of the challenges, let's say, I'm trying to be nonpolitical about it, for any administration or any Member of Congress when they are discussing the use of sanctions, as in the case of Cuba, we haven't been there for so long that many of the individuals in Cuba today who are running these new companies and who are the technocrats per se, and who are going to be in their thirties and forties and around for the next 20 years, they have absolutely no idea, no recollection of the value of having United States business in the country. All they know is from old movie reels about what it was like in the fifties. That's a problem, the lack of face-to-face contact.

Mr. MATSUI. Thank you.

Mr. KITTREDGE. Maybe Clayton Yeutter said it best, I think it was Clayton just before, that 37 years or whatever that the sanctions have been in place, and it ought to be time to think of a new way to look at it. It certainly has not had any success in its original intention.

Mr. MATSUI. Yes, Mr. Albrecht.

Mr. ALBRECHT. It's difficult to find something positive as a result of the Helms-Burton legislation, but I think one positive result would be a greater awareness of the futility of unilateral sanctions on the part of America.

Mr. MATSUI. Mr. Berry.

Mr. BERRY. In the testimony I mentioned that in the survey, 64 percent of the respondents said they had been harmed in one way or another. That fails I think to mention the chilling effect. One of the substantial things there I think, which is hard to measure, is how European companies in particular have had to review their investments in the United States, which is the largest location for European investment and is sizeable.

The last thing that I would mention is traveling to European a lot, what it really has done in terms of the relationship between the United States and the European Union, I think that has been improving since April, but I think a lot of other things on the agenda could not be advanced in any way because Helms-Burton had just irritated people so enormously on the other side of the Atlantic.

Mr. MATSUI. Thank you.

Mr. Kruse.

Mr. KRUSE. Yes, sir. I think whether we're talking about in this case Helms-Burton or any unilateral trade sanctions, I think the issue that applies and one of the features of this legislation or many of the features that we find very positive is that it will cause us to take a deliberate, disciplined approach in looking at, as you mentioned, Congressman Matsui, what are the outcomes of this. How many jobs are we talking about losing? How does this impact our economy? So many times in agriculture, the history has been very clear. We look back and the unintended consequences of trade sanctions and embargoes hit us right between the eyes in this country, not just the producers, but the people whose jobs depend on the success of agriculture and all the other businesses represented here.

So I think as we look ahead, we need to make sure, and I think this legislation goes a long way in making sure that unilateral trade sanctions are the last tool out of the box, not the first, and that we really understand the impact of what's going to happen if we in fact impose these sanctions.

Mr. MATSUI. Thank you. I thank all five of you.

If I may just ask one question or make an observation and then perhaps put it in the form of a question in terms of my time. One of the areas I am concerned about, and I think one or the two of you may have brought up fast track, and it does follow up on what Mr. Kruse said. Trade sanctions should be the last alternative, the last resort. I'm afraid what's going on is that it's become the first resort.

If you think about the whole issue of China, we conditioned MFN with respect to China right after Tiananmen, and it was trade sanctions we decided rather than using diplomacy and perhaps other forms of international discussions. I have given this a lot of thought and it's been my point of view, particularly in view of what's been going on with the fast track issue and how difficult it's been, is that many people throughout the country in America and within the beltway now look upon trade and the economic advantages of trade as being secondary, and that it's really not that important.

Now I don't know whether it's because of our economy or the 78 months of economic growth, or is it because we just don't care, or maybe we just need to rethink this over again, and we have to go through a whole new educational process. Perhaps every generation does need to do this. But it seems to me that recently there has been a significant increase in unilateral sanctions over the past decade is just because trade has taken a secondary role rather than a primary role in terms of our international discussions.

That's why the fundamental problem seems to be trying to explain to the American public, to our colleagues, and to everybody that is involved in the opinion making in leadership, the importance of trade, both in terms of I think as all of you have suggested, moving to democracy in terms of transporting our values to other countries very indirectly, and also in terms of the economic advantage between both countries.

I am surprised at the number of my colleagues, and Mr. Crane and I are both working this fast track issue along with other Members, that don't even understand or know what the word or phrase comparative advantage means. In fact, there was a recent article in this week's National Journal, which I would all suggest that you read.

It was suggested that we shouldn't trade with less developed countries because their wages are so low. Of course if that's the point of view we take, Britain shouldn't have traded in the 1890's and early 1900s. They were trying to colonize every country they could find that was less developed. We shouldn't have been trading with Japan or Europe after World War II because obviously their wages were much lower than ours. In fact, we should only be trading with countries that have the mirror image of our economy, in which case we wouldn't be, because we would have no comparative advantage between us.

Somehow, we have to recreate a discussion about this issue because it's really creating major damage. I think fast track is in deep deep trouble. You all know that. I think this is permeating the entire discussion. I really believe that this is kind of the root problem of the whole issue of unilateral sanctions. It's easy, let's just take a shot at Cuba, let's take a shot at some country and let's do it by economic sanctions because that doesn't hurt. That's the point of view people have.

Mr. Kittredge.

Mr. KITTREDGE. Well, the point you make is a fundamental one. If the country doesn't understand the benefits of trade, it's almost impossible to get support for fast track or antisanctions legislation or a better way to go about it. I think we all recognize we have to do, and that's everybody, has to do a better job of trade education. The BRT has a program and Boeing probably is one of the best companies in that regard. The chairman of the NFTC, National Foreign Trade Council, who wasn't here today but was at the press conference this morning, from Ingersoll Rand, Jim Perella, his company has done a very good job in getting the message out. But it's hard to do.

It seems that the other side, if you will, has a very short message. Trade equals loss of jobs, and you go from there. We all have to do much better—the chairman of Procter and Gamble was here at a fast track hearing earlier in the year. He said exactly that. The whole group, you all, we, everybody has to do a better job in explaining——

Mr. MATSUI. I'm not suggesting you're not doing a good job. I'm just saying that there's some communication——

Mr. KITTREDGE. Well, I don't think—we have got to do a lot better job.

Mr. MATSUI. Right. Right.

Mr. BERRY. I think you make a very good point, Congressman Matsui. I think it's reflected in the proliferation of sanctions measures at the State and at the local level. There are 17 or 18 things, we have some of them listed in our study, that have been enacted. There are others. Even in a State like New Jersey, where the State authority says that there will be a $2 billion cost, the legislature still ignores it.

So there is a fundamental educational problem. I think that's a very good point.

Mr. MATSUI. Yes. Mr. Kruse.

Mr. KRUSE. Yes, sir. I think you make an excellent point too in reference to the fact that the economy is doing really well right now. Unfortunately, as we look at fast track and our ability in the next few years to be at the table, and that's what we're talking about, this country being at the table and trying to negotiate trade agreements. These negotiations are going to go on whether we are a part of them or not. Somewhere down the road, you know the old saying what goes up is going to come down some day, and this economy at some point is going to start looking perhaps a little different. We all hope that's not the case, but I think realistically we would think that that's a high probability.

Then we're going to start realizing the impact of losing jobs in this country because we have not had the opportunity to be at the table and to be a partner in all these trade agreements that are being formulated.

Mr. MATSUI. Particularly agriculture. They are part of the WTO, World Trade Organization, negotiations.

Mr. KRUSE. Yes, sir.

Mr. MATSUI. Very shortly. I know I'm thinking the unthinkable for the first time, that fast track, who knows what might happen. But I want to thank all five of you for your obviously excellent testimony, but all the effort and work you have been doing as well on behalf of free trade. Thank you.

Chairman CRANE. I want to follow up just briefly on what Mr. Matsui said. That is to compliment you for what you are doing. But in addition, Mr. Kavulich, you mentioned Motorola and Kemper. I also have the corporate headquarters of Ameritech, Sears Roebuck, and United Airlines. Right across my current border is Baxter and Abbott Laboratories. I thought, “Wow, we’ve got all these major exporters in my district.” We had a Trade Subcommittee hearing back home, and we are the fifth largest export State in the Nation. Over 90 percent of our State exporters are companies employing 500 or less.

I had a fellow that came in to see me who was doing business in the Persian Gulf. He says, “Congressman, have you any idea how many companies in your district are doing business over there?” I said, “No, I really don’t.” He said, “Over 150.” He had a breakdown name by name of those businesses. I looked that list over, and I never heard of one of them. These were infinitely less than 500 employees. I have been trying to communicate with chief executive officers of our big corporations, but the little businesses are more important than that, to explain to their employees the importance of exports to the business, to their job preservation and growth. That message apparently is not getting out all that well because at town meetings back home, when I bring up the question of trade, people start drifting off to sleep. We’re not communicating properly. We need more of that direct communication.

If I get called by a chief executive officer like the head of Ameritech or something, surely he’s got my attention. But do his employees call? I don’t get all that input from the employees of the biggies or the little ones. I am not sure they understand it. Otherwise, they wouldn’t show that kind of boredom, especially when you consider, as someone already mentioned today, that one-third of our economy is our trade. It’s the most dynamic component. God forbid we don’t get fast track this year, because if we don’t, we won’t get it until the next millennium.

I personally believe that’s going to cause a recession before the end of this century. So whatever thoughts you have and suggestions and recommendations, in that vein, please communicate them not just to us, but get them out there to some of those businesses that are actively involved in this, and really their futures depend on it.

I thank you all for your participation today. With that, I will let you gentlemen depart and welcome our next panelist. That is Hon. Brent Scowcroft, president of the Forum for International Policy and former National Security Advisor.

Mr. Scowcroft, you can proceed, and if you want, condense in your oral presentation your written presentation. But the written will be a part of the permanent record. With that, proceed.

STATEMENT OF HON. BRENT SCOWCROFT, PRESIDENT, FORUM FOR INTERNATIONAL POLICY; AND FORMER NATIONAL SECURITY ADVISOR

Mr. SCOWCROFT. Thank you very much, Mr. Chairman. It's a great pleasure for me to be here with you to discuss the very important issue of unilateral sanctions. I don't actually have a prepared statement, but I do have a few opening remarks, Mr. Chairman.

First, a word about economic sanctions in general, not simply unilateral ones. Economic sanctions, at least in theory, are the middle ground of actions against objectionable behavior by other states between diplomatic discussions and negotiations on the one hand, and the use of force on the other hand. Now there's a lot of space in between and sanctions really have been devised to fill that space. I would comment that one other device we used to use was covert action, which has now fallen into almost complete disuse.

There are really two, perhaps three objectives against which sanctions are applied. The first is to prevent an offending state from doing something it otherwise would be likely to do. That's the nature of our sanctions against Iraq, to keep it from aggressive military action which we think they would otherwise undertake. Another example of this kind of sanctions which are really fairly rare, would be CoCom during the cold war.

A more common objective of sanctions is to change the behavior of an offending state, which is basically what is behind our sanctions against Iran, Cuba, and many others. That is a much more difficult task.

Finally perhaps, we use sanctions simply to punish behavior of which we disapprove. Perhaps an example of that is the case of the Soviet invasion in Afghanistan when we stopped selling grain and refused to go to the 1980 Olympics.

Sanctions inflict pain, economic pain. They also require the imposing state or states to incur pain. Clearly, the objective of sanctions is to make the pain inflicted exceed by as much as possible the pain incurred by imposing the sanctions.

Now basically how have sanctions worked in a multilateral setting? The kinds of sanctions we imposed and are imposing on Iraq are working very effectively. Changing behavior as an objective of sanctions has not worked well at all. The case most frequently cited for the success of economic sanctions is that of South Africa and the destruction of apartheid. But even there, the evidence is mixed. There, there was a special circumstance of a huge domestic ally that we had in South Africa to make a success of those sanctions.

Sanctions against Libya in part, perhaps, have been successful, but not enough to achieve the goals of those sanctions. The sanctions have made Gadhafi nervous, but since oil is not included in those sanctions, they have not inflicted sufficient pain to convince him to release the accused criminals of PanAm 103 for trial.

Now the issue of unilateral sanctions. The big problem with multilateral sanctions is that one has to go to the lowest common denominator. Unilateral sanctions avoid all the negotiating and watering down and dealing with other countries to get a sanctions regime. Thus, they have become a favorite weapon to deal with offending behavior of almost any kind.

They seem to have many advantages. They allow us to say we're doing something about an unpleasant situation. Therefore, they make us feel good. They let us shed responsibility. We have done something and don't have to follow it up and we can just go about our way. They allow us to avoid serious thinking about how we can actually do something useful to change a situation. Finally, they calm all sorts of domestic pressure groups who are agitated by the offending behavior. Last, there are no readily identifiable costs involved, like the obvious costs involved in the use of force.

The first problem with unilateral sanctions, however, is that they don't work. I have mentioned that even multilateral sanctions have a dismal track record. Unilateral sanctions have an unblemished record of failure. I can not think of a single case where they have achieved their objective. Of course, the most outstanding record of how they don't work is the 30-odd years in which we've had unilateral sanctions on Cuba. It's difficult to see that Castro's position is any less secure than it was when we began.

When the world community applies sanctions as a group, the inflicted costs on the offending party are greatly disproportionate to those small costs incurred by any individual member of the sanction committee. That is not nearly so true with unilateral sanctions. Indeed, the offending state may actually be able to avoid any significant pain through the acquiring of substitute suppliers.

But if it were only that unilateral sanctions didn't work, it still might be useful to use them to signal our disapproval of certain actions. Unfortunately, there are costs to us as well. Some of them are quite heavy. Let me mention just a few. Once sanctions are imposed, taking them off, short of success, and I can think of no single case of success of unilateral sanctions, represents a humiliation and a signal of U.S. impotence.

Evidence of their ineffectiveness as well, reduces the possibility that the next time they are imposed they will be even as effective. They impose clear costs on U.S. business and in many cases hand U.S. markets over to others. I think the recent case of Conoco and Total with respect to Iran is an excellent example of that. In the process, they undermine confidence in the commercial reliability of U.S. firms. Indeed, they may actually benefit the sanctioned state by giving its leaders a scapegoat for its own economic ills, as in "the great Satan" called up by the Iranian leadership. They can also be used to whip up nationalist fervor and thus increase support for regimes that we find reprehensible. They also hurt those internationally oriented groups in the target country, those groups that we least want to have suffer.

We sometimes also damage an entire relationship of major importance to us by the imposition of sanctions. Here, I would cite sanctions against Pakistan for its nuclear weapons program. Pakistan is a state of great importance to us, and our overall relationship has suffered greatly because of that one issue. We certainly create frictions with our friends and allies who may differ with us on the imposition with sanctions. Thus, we reduce our ability to lead them on other unrelated issues.

When we impose third-party boycotts, those disagreements can turn relationships very poisonous. After all, we have fought third-party boycotts, especially in the Middle East with the Arab boycott in Israel, for decades. To turn around and apply it ourselves is not helpful.

Last, more intangible, but perhaps in the long run most damaging, unilateral sanctions often appear to other countries as U.S. arrogance or as the exercise of cultural imperialism. In sum, Mr. Chairman, I believe unilateral sanctions do not work and they do serious damage to larger U.S. interests. Thank you.

Chairman CRANE. All I can say, Mr. Scowcroft is amen. Let me also though compliment you on this article that was in the Washington Post. Bob and I are going to get this distributed to all of our colleagues with both of us signing off on it, because as I'm sure you are aware, fast track is at risk. God forbid, too, because I share your view that the most civilizing influence we have exerted worldwide has been through economic ties.

Mr. SCOWCROFT. Yes.

Chairman CRANE. I think it holds the greatest hope for improving the lives, as it's already demonstrating in China, of more people than ever before in the span of recorded history. So we thank you for that.

Mr. SCOWCROFT. Thank you.

Chairman CRANE. I now yield to my distinguished Minority Member Mr. Matsui.

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

I also want to commend you on this fast track piece, Mr. Scowcroft. I read it Sunday morning and it was one of the best pieces on fast track that I have read in all the years I've been in Congress, I have to tell you, and it's been 19 years. So I really appreciate it. I just wish that all of the Members, my colleagues could have seen it. Obviously, with Chairman Crane's leadership here, we'll get it out to all of our colleagues.

Mr. SCOWCROFT. Thank you.

Mr. MATSUI. Can I just ask you one question? I'm torn on this, so this is a stream of consciousness question more than anything else. There is a time when the United States should offer or engage in sanctions on a country, and I'm posing this as a question, if that country is so bad and so much out of step with world norms, I would imagine that we would have to impose sanctions or at least cutoff diplomatic and all ties, economic, diplomatic, and other ties with that country. When that happens, when other countries, third countries begin and still deal and still engage that rogue country or country we would consider to be a rogue country, how do we deal with that? Because that seems to be the case in Iran and with the French now with Total being involved with them.

I happen to take the side that we should do everything we can to get the French to not give that contract or not engage in that contract because it gives the Iranians hard currency, which would then allow them to continue to develop in a short time their nuclear weapons capability. But on the other hand, I know that there are others that feel strongly in the other way. This does go against my whole notion of supporting open, free trade.

So perhaps you can help me work my way through this because I am having a very difficult time with this particular issue, and other issues similar to it.

Mr. SCOWCROFT. Well, Mr. Matsui, you certainly raise what is the real problem. As I say, there is this broad gulf between simply diplomatic talks and the use of force. We have to fill it somehow. Sanctions, even if they're not effective, sometimes are essential to impose. But I think we really ought to try to avoid the feel-good result of sanctions and try to do something that is useful.

In the case of Iran, for example, there's no doubt that Iran is a regime that we would like to change—for which we'd like to change the behavior. Unilateral sanctions are not going to do it in Iran, especially if others replace us. It actually could be of benefit to Iran to have a dispute among the industrial democracies, for example.

It seems to me, one of the things we ought to start out doing is go to our friends in Europe, for example, and in Japan and so on, sit down with them and say now look, some of the Iranian behavior is obnoxious to all of us. The export of terrorism is against all civilized norms of behavior. Now what can we agree to do that would help, that would send a message to Iran, that would hurt Iran. I guess I would say fewer sanctions universally imposed might well be more effective than total sanctions by the United States only. But there are a number of different things I think we can try.

Sometimes we may feel we have to impose unilateral sanctions. But if we do, and there are very useful comments in the bill about this, we ought to do it with the full understanding of the fact that not only is it unlikely to achieve our goals, but the costs might be very high.

Mr. MATSUI. The Libya Iran bill that was passed last year, and of course the Ways and Means Committee actually added to that an exception for——

Mr. SCOWCROFT. Yes.

Mr. MATSUI. One of the exceptions we added onto it gives the Secretary or the President the authority now to negotiate with other countries to try to set up kind of a European-U.S.-Asian group.

It seems to me, and maybe I understand this better, maybe we do have commonality here in the sense that the problem with the legislation, it's a direct affront to a country rather than if we did it quietly through diplomacy, perhaps if we weren't so visible with the French right now——

Mr. SCOWCROFT. That's right.

Mr. MATSUI. Perhaps it might work better because we've stiffened the backs of the French. They feel they can't back down. Before you know it, we have a confrontation. It's a whole issue of national sovereignty rather than an issue of joint security against a rogue country.

Mr. SCOWCROFT. That frequently is the way it is perceived. When we do it publicly as the legislation requires us to do, then it's taken as an affront to their sovereignty.

Mr. MATSUI. I truly believe that had we not been so public with China in the early nineties perhaps, when I say that, I am talking about Democrats and Republicans, Members of the House and Senate, all of us, we might have had more success. But what we did was we obviously confronted them. Then we obviously had to back down because they weren't going to work. Perhaps we would have been somewhat further along, it's hard to say, than the way we are now.

Mr. SCOWCROFT. Well, I think back to the days of Jackson-Vanik. When we were working quietly with the Soviet Union behind the scenes to get Jewish immigration out, we got the numbers up fairly high. As soon as we passed Jackson-Vanik and imposed it publicly, they went to zero.

Mr. MATSUI. Well thank you very much. I really appreciate your testimony and your being here.

Mr. SCOWCROFT. Thank you, Mr. Matsui.

Chairman CRANE. I too, Mr. Scowcroft. I know you have had a busy schedule today, but we deeply appreciate the fact that you did it.

Mr. SCOWCROFT. I appreciate the opportunity. Thank you very much.

Chairman CRANE. Our final panel today will include Kimberly Ann Elliott, research fellow for the Institute for International Economics; Marino Marcich, director of International Investment and Finance of the National Association of Manufacturers; and Matthew Massaua, regional director of international policy and market development at the USA Rice Federation. If our witnesses will be seated, we shall proceed in the order in which I introduced you.

Before you proceed though, I have here the recent report of the President's Export Council on the subject of unilateral export sanctions. I ask unanimous consent that this valuable report be placed in the hearing record. I thought it would be unfair since you have to depart for another meeting, Bob, if I reserved that request for myself alone.

[The report follows:]

UNILATERAL ECONOMIC SANCTIONS:

A REVIEW OF EXISTING SANCTIONS AND THEIR IMPACTS ON U.S. ECONOMIC INTERESTS WITH RECOMMENDATIONS FOR POLICY AND PROCESS IMPROVEMENT

THE PRESIDENT'S EXPORT COUNCIL

June 1997

INTRODUCTION

In June of 1996, your Export Council reported to you its concern that unilateral economic sanctions for foreign policy purposes are being employed without sufficient examination of the full range of impacts on our own national interests. We submitted a brief paper suggesting that the costs of such sanctions for the nation's international competitiveness are substantial, and we cited assessments by others evaluating their foreign policy benefits.

Concluding that neither costs nor benefits are well enough understood to form a basis for prudent decision making, we recommended the creation of a bipartisan panel of government and private sector experts to direct a comprehensive and independent assessment of sanctions laws, practices, costs and benefits, and to recommend policies that would guide the future use of such measures. Subsequently, you asked that we undertake to extend our report in three ways:

1. To catalog and describe existing unilateral economic sanctions,
2. To assess the impact of such sanctions on U.S. economic interests, and
3. To recommend specific actions.

This report comprises our response to your request. It was prepared by Mike Jordan's Subcommittee on Export Administration with help from staff members of Mike Armstrong, John Barry and George Becker and under the lead of Boyd McKelvain.

BACKGROUND

Observations from our previous report are summarized below:

- **National security, economic, and foreign policy interests are interdependent.**
  - Defense relies on commercial technology leadership for battlefield advantage.
  - Competitiveness of U.S. high-tech industry requires free access to world markets.
  - *Growth* in living standards depends heavily on trade.
  - International trade was 13 percent of GDP in 1970 versus 30 percent in 1995.
  - Exports are projected to grow by 9.5 percent per year through the year 2000.
  - Expanding trade is critical to creating good, high-wage jobs.
  - Our 11 million export-related jobs pay 13 to 17 percent more than non-trade jobs.
  - Established trading partners' economies and populations are relatively mature.
  - The big emerging markets (BEMs), by 2000, will take more U.S. exports than all of the European Union and Japan.
  - BEMs pose the greatest challenges to our foreign policy interests.
  - Proliferation threat is created by desire of some BEMs for independent defense.
  - Some BEMs do not yet have the democratic processes and respect for human rights required to meet international norms.

- **Policy makers face a dilemma.**

  - Proliferation, terrorism, human rights (including worker rights) abuse, and drug trafficking by third world emerging nations are high priority issues for both domestic and foreign policy.
  - Threats to the security and well-being of Americans or their affinity groups in foreign countries create a political imperative for effective national reaction.
  - While the stated objective of foreign policy actions ordinarily is to improve the offending behavior, there are times when it is sufficient domestically to demonstrate resolve and distance ourselves from the behavior.
  - Even though unilateral economic sanctions may be ineffective in achieving change in the target country's policies, such sanctions are seen by many as the weapon of choice when multilateral cooperation is not achieved because:
    - ◊ They show national resolve to deal tangibly with unacceptable behavior,
    - ◊ Perceived direct costs to economic interests are unlikely to be of political significance relative to the immediate priority of dealing with the target,
    - ◊ Economic sanctions have no visible effect on the budget deficit, and
    - ◊ Cost-bearing parties and their political representatives are reluctant to be portrayed as "soft" on the target behavior.
  - Success in changing the most dangerous target behaviors has come from multilateral actions achieved through U.S. leadership. For example, the North Korea Framework Agreement, gained through high-risk diplomacy and constructive engagement, has succeeded in freezing that rogue country's nuclear weapons program.
  - But the threat threshold required to use trade sanctions to deal with such behaviors has been substantially higher for our allies than for the United States.
  - When a target country's economy or national security is not linked significantly with the United States, the potential for nonmilitary unilateral action against the target to accomplish more than distancing has been very limited.

- **Economic impacts of unilateral sanctions may be substantially larger than perceived.**

  - Access to the $50 billion nuclear energy market of China is critical to the survival of the U.S. nuclear power supply industry. Continued denial of access will result in the loss of tens of thousands of jobs across 28 states, and the gradual elimination of the trained personnel base now supporting more than 100 U.S. nuclear power plants and the nuclear Navy.
  - Repeated denials of the use of U.S. civil aircraft in the fleets of, or in service to, countries targeted for various foreign policy purposes have given a permanent competitive advantage to the European aircraft and engine industry and weakened our most important exporting industry.
  - Retaliation by our allies and trading partners against U.S. extra-territorial sanctions in the early 1980's created overwhelming losses of global market shares

for some of our most competitive heavy equipment exporters and permanent loss of thousands of well-paying jobs. While that embarrassment led to avoidance of such measures for more than a decade, we began to see a reversion to extra-territoriality in 1995 and the proposal of an unprecedented secondary boycott against our allies in an attempt to force their compliance with our approach to dealing with rogue countries

Section I. SCOPE AND EXTENT OF CURRENT U.S. FOREIGN POLICY-BASED UNILATERAL ECONOMIC SANCTIONS

Historical Review

The basic laws authorizing economic sanctions for foreign policy purposes were enacted prior to 1980. These statutes are the International Emergency Economic Powers Act (IEEPA); the Trading With the Enemy Act (TWEA); the Foreign Assistance Act of 1961; the Export Administration Act of 1979 (although the EAA lapsed in 1994, its provisions have remained in effect through an executive order issued under IEEPA); the Arms Export Control Act (AECA); the Atomic Energy Act as amended by the Nuclear Non-Proliferation Act; and Section 247c of the United Nations Participation Act.

These statutes reflect a cooperative relationship between the Congress and the Executive Branch with respect to foreign policy generally and the use of unilateral economic sanctions in particular. Most pre-1980 legislation articulates the reasons for and circumstances in which sanctions may be imposed and establishes procedures to ensure timely communication between the Congress and the Executive Branch concerning their use. These statutes generally reserve for the Executive Branch some substantial discretion and flexibility concerning imposition or removal of sanctions measures in specific circumstances. Typically, they do not target individual countries for the imposition of specific sanctions.

In the early 1980's, the cost to the U.S. economy of unilateral sanctions became a matter of greater concern, as exemplified by the reaction to the U.S. grain embargo and extraterritorial restrictions on allies and trading partners' use of U.S. origin goods and technology in the Soviet-European gas pipeline. Agricultural products were virtually eliminated from eligibility for use in unilateral sanctions, and such extreme extraterritorial measures were avoided until the mid-1990's.

Recent Trends

Legislation enacted since 1990 reflects a new propensity for the Congress to take a direct hand in the direction and conduct of foreign policy vis-a-vis unacceptable behaviors of Third-World countries by utilizing unilateral economic sanctions in a much more prescriptive manner:

- Mandating, rather than simply authorizing, their use;
- Specifying a wider variety of target behaviors to trigger imposition of the sanctions;
- Identifying the precise conditions for their removal;
- Defining many different types of sanctions to be imposed; and
- Naming specific target countries.

More than 75 countries now are named as subject to, or under threat of one or more of some 21 specific sanctions based on 27 target behaviors. And in 1996, two major new extraterritorial laws were enacted, including the mandatory application of secondary boycotts against the citizens of our trading partners and allies who undertake certain energy investments in countries sanctioned by the United States.

While the use of foreign policy-based unilateral economic sanctions at the state and local government level was not included in the review at Appendix I, we observe that both Japan and the European Union have filed challenges in the World Trade Organization against U.S. sub-federal trade actions that are not consistent with obligations under the WTO Government Procurement Agreement.

Specific types of sanctions in current federal legislation include the following:

- Deny benefits, such as OPIC insurance, allowed under the Foreign Assistance Act
- Withdraw eligibility for Export-Import Bank programs
- Deny U.S. participation in nuclear power projects
- Deny U.S. participation in defense trade
- Deny U.S. participation in communication satellite launch programs
- Vote against approval of assistance by international financial institutions
- Withhold payments to international institutions that override U.S. opposition
- Deny U.S. participation in financial transactions with the target
- Prohibit eligibility for loans from U.S. financial institutions
- Prohibit serving as a primary dealer of U.S. bonds or as a U.S. funds repository
- Curtail air transportation
- Withdraw sugar import quota
- Deny transfer of spoils of war
- Prohibit all imports into the United States
- Prohibit exports and re-exports of U.S. goods, services and technology
- Deny participation in procurement programs of the United States
- Prohibit imports of fish, fish products and fishing equipment
- Deny dealing in U.S. government debt instruments
- Deny benefits under tariff programs (GSP)
- Permit U.S. claimants to confiscated property to bring suit in U.S. courts against "traffickers" in confiscated property
- Deny entry of officials and their families to the United States

Survey of Existing U.S. Unilateral Economic Sanctions

Appendix I presents the requested Survey of U.S. Unilateral Economic Sanctions. This document contains a comprehensive summary of current U.S. laws and regulations that authorize or mandate U.S. unilateral economic sanctions to achieve foreign policy purposes. The survey does not encompass trade-based sanctions (e.g., Section 301 of the Trade Act of 1974), and it does not cover unilateral export controls for defense articles and services nor for other goods and services based on their specific qualities or specified end uses (i.e., based on national security, anti-proliferation, etc.).

The survey reflects a significant body of law authorizing or mandating unilateral economic sanctions. Of particular concern are the apparent *ad hoc* processes followed in enacting and implementing the laws, the absence of any visible coherent rationale or guiding principles for their existence, and the lack of any methodology to assess whether any substantive objective is being achieved and at what cost to other national interests.

The survey identifies all unilateral sanctions programs that target individual countries and that target a particular activity. More than 75 individual countries, from Angola to Zaire, are specifically identified in the survey as subject to or threatened by one or more unilateral foreign policy sanctions. (See survey index pp.50-55.) Many sanctions target particular activities on the basis of a determination that a country or entity has engaged in a particular target activity.

The survey covers more than 40 separate legislative acts in which unilateral foreign policy sanctions have been mandated, including several annual departmental appropriations or authorization laws. The survey and its index (pp.56-58) catalogue the specific sanctions measures according to the reason for enactment. Some statutes are identified with more than one reason; e.g., IEEPA, Foreign Assistance Act.

Sanctions Targeted at Individual Countries

The body of the survey is organized into five sections that reflect the variety of U.S. unilateral foreign policy sanctions. The first section covers sanctions targeted at individual countries. Iran, Iraq, Cuba, North Korea, and Libya are obviously prominent in this section. However, this is also where one finds programs authorizing or requiring imposition of sanctions against persons in third countries; e.g., Title III and Title IV of the Cuban Liberty and Democratic Solidarity Act of 1996, and Section 106 and 111 of that Act (p.11), and the Iran and Libya Sanctions Act of 1996 (pp.12-13).

The sanctions against the People's Republic of China in 1990, contained in the Foreign Relations Authorization Act for 1990-91, as amended, which continue in effect, also are found in the first section of the survey, at p.16. Likewise, the most recent legislation in the survey, the 1997 Omnibus Appropriations Act (September 30, 1996), is found in this section of the survey. This Act includes provisions targeted against Burma; countries not in compliance with United Nations Security Council sanctions against Iraq or Serbia and Montenegro; the Palestine Liberation Organization; Cuba; Iran; Iraq; Libya; North Korea; Serbia; Sudan; Syria; China; Guatemala; Haiti; countries not taking steps to implement educational programs to prevent the practice of female genital mutilation; and any country whose duly-elected head of government is deposed by military coup or decree, until a democratically-elected government takes office. Not every one of the various provisions of the 1997 Omnibus Appropriations Act requires imposition of sanctions at the date of enactment. Most provisions specify certain circumstances or conditions that will trigger a requirement for sanctions.

Legislation Targeted At Particular Activity

Unilateral sanctions legislation targeted at particular activities covers a range of problems including terrorism (nine separate statutes), proliferation of weapons of mass destruction (five separate enactments, not including IEEPA and the EAA), and environmental concerns (four separate statutes), including the High Seas Driftnet Fisheries Enforcement Act (p.29), pursuant to which the United States has identified Italy for possible sanctions. In the environmental area, limited import embargoes are now in effect against Mexico, Venezuela, Columbia, Panama, Vanuatu, Belize, Costa Rica, Italy, and Japan, pursuant to the Marine Mammal Protection Act of 1972, as amended, and against shrimp imports from countries not certified as having a regulatory program against incidental take of sea turtles pursuant to Section 609 of the Departments of Commerce, Justice and State, the Judiciary and Related Agencies Appropriations Act of 1990.

Four separate statutes authorize sanctions against countries that are not cooperative with respect to prevention of narcotics trade and related money laundering and public corruption (pp.24-25). Sanctions measures are imposed against countries that are not "certified" by the President as either cooperating or where "vital national interests" of the United States favor certification.

Other unilateral sanctions provisions address the harboring of war criminals (two statutes) and forced labor (one statute). Certain imports from Mexico and China are now subject to restrictions under the forced labor provisions of the Smoot-Hawley Tariff Act of 1930 (p.38).

Sanctions Pursuant to Authority to Restrict Imports or Exports of Particular Goods

The Arms Export Control Act and the EAA authorize or require unilateral sanctions against specific countries relating to activities with respect to munitions or dual-use goods. More than a dozen countries are under some form of restriction under these authorities (pp.39-40).

Restrictions Under the Foreign Assistance Act

The Foreign Assistance Act contains provisions covering a multitude of circumstances and pursuant to this legislation, unilateral sanctions are in effect or required based on subsequent findings against Pakistan, Burma, Syria, Saudi Arabia, Qatar, the United Arab Emirates, and the New Independent States of the Former Soviet Union, in addition to measures against Cuba, North Korea, Iraq, Iran, and the Palestine Liberation Organization (pp.41-42).

Restrictions on Favorable Trade Status

Four separate statutes include provisions that allow for, or require restriction of, favorable trade status for foreign policy reasons. In addition to the well-known annual review process for most-favored nation tariff treatment for Communist countries under the "Jackson-Vanik" provision of the Trade Act of 1974, as amended, the Generalized System of Preferences Renewal Act, as amended, the Caribbean Basin Economic Recovery Act, as amended, and the Andean Trade Preference Act, as amended, all restrict benefits based on certain foreign policy findings with respect to a beneficiary country (pp.41-45).

Restrictions on Activity of Financial Institutions

Five separate statutes contain unilateral sanctions provisions that call for U.S. actions or opposition within multilateral financial institutions or the Export-Import Bank (pp.46-49). China in particular has been a target of these provisions.

Conclusion

The Survey of U.S. Unilateral Economic Sanctions is a resource for understanding and appreciating the current scope and extent of unilateral economic measures enacted to achieve foreign policy objectives.

The objectives reflected by these measures are ones that all of us strongly agree are appropriate goals. However, the survey demonstrates that the sum of all of these unilateral measures for achieving the goals constitutes a complex web of restrictions and legal impediments in the international trading system that extends well beyond the legislative intent of the individual statutes. This at least in part is due to a growing propensity for Congress to assume a direct role in the conduct of foreign policy by adopting highly specific legislation often without reference to previous laws and sanctions already in place.

The compilation also suggests the absence of a disciplined, consistent process for creating, imposing, and maintaining rational foreign policy-based economic sanctions.

More importantly, it reveals the absence of any prudent provision for attempting to understand whether the sanctions serve to achieve or to damage the interests of our nation.

Section II. IMPACT OF FOREIGN POLICY-BASED UNILATERAL ECONOMIC SANCTIONS ON U.S. ECONOMIC INTERESTS

Scope

The PEC's assessment of economic impacts necessarily is qualitative. We are unable to provide an econometric analysis of the cost of economic sanctions in terms of foregone U.S. wages and income, investment, and competitiveness. Such a study requires the resources and information gathering capabilities of an entity such as the International Trade Commission. Instead, this report attempts to provide a useful description of the nature of impacts based on our business experience in the international marketplace and our understanding of the factors that have influenced foreign customers' selection among international sources of supply.

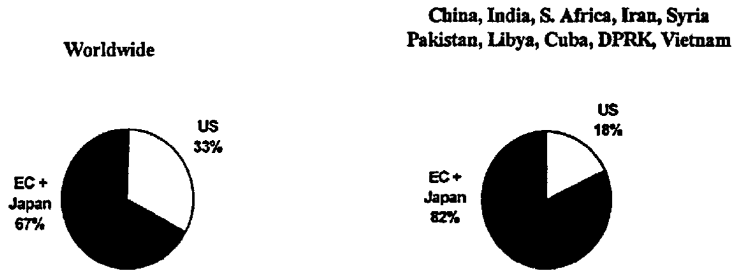
Our presentation of this information on business impacts is not intended to reflect our evaluation of whether the related sanctions should have been imposed. We have not undertaken that type of assessment and have reached no conclusion on such a question.

Impacts may be characterized in two primary categories. The first and most obvious are direct impacts: foregone sales and business relationships related to the country or entity targeted by sanctions. The second category, indirect impacts, relates to effects on U.S. competitiveness in friendly third-country markets. Indirect impacts are cumulative and, we believe, may be significantly more important to the nation's economic interests.

Direct Impacts

Estimates of the economic costs of unilateral sanctions typically are limited to the interrupted sales to the target of goods specifically affected by the sanction. These are costs that would be borne even if the sanction were multilaterally imposed The PEC paper of June 1996 provides a rough estimate of the shortfall of U.S. market shares in ten unilaterally sanctioned countries compared to Japan and the European Community:

Comparison of U.S. with E.C. and Japanese Merchandise Exports 1992



Shortfall of U.S. Exports to 10 Sanctioned Countries – $11 Billion and 220,000 US Jobs

Source: IMF, 1993

Sanctions against all but Libya, Cuba, the DPRK, and Vietnam were limited in scope.

A more detailed and comprehensive analysis of such direct effects was released by the Institute for International Economics on April 16, 1997. IIE estimated the U.S. shortfall for 26 sanctioned countries as $15 billion to $19 billion for 1995 with 200,000 to 250,000 jobs affected.

Indirect, Cumulative Impacts

Indirect impacts include:

- Special advantages created for foreign competitors in both U.S. and third-country markets;
- Uncertainty about availability and the effects of utilizing U.S.-origin goods, services, and technology;
- Unreliability of U.S. firms and their affiliates as suppliers and as business partners;
- Retaliation by friendly third-country governments and trading partners against U.S. interference in their international trade policy decisions.

While the first of these impacts serves to strengthen our key competitors globally, the latter three impacts are of great importance because they weaken U.S. competitiveness also in third-country markets, including our most important trading partners. All of these impacts are functions of failure to gain cooperative action among our allies to deal with foreign policy problems. The latter three largely are the result of extraterritorial application of sanctions.

Appendix II provides anecdotal cases of both direct and indirect economic impacts of unilateral sanctions. The following discussion provides a description of the principal impacts of U.S. unilateral sanctions seen in the international market place with illustrative examples drawn from Appendix II.

Special Advantages to Foreign Competitors from Market Substitution

Economic sanctions typically restrict transactions of U.S. firms and their foreign subsidiaries as well as the sale by all persons of U.S.-origin goods and technology involving targeted countries, end uses, and end users. When the restrictions are unilateral, leading competitors in third countries move to substitute for the U.S. presence under "sanctuary market" conditions.

- Foreign Competitors are Strengthened
  Foreign suppliers are able to gain overall economies of scale and experience and to extract more favorable pricing and terms and conditions for their sales than would be available under open competition. Such advantages result in competitive strength against U.S. goods and services in global markets, including in the United States.

- Effects are Cumulative – Extending Beyond Removal of Sanctions
  Infrastructure plant and equipment provided by foreign competitors during sanctions may have lifetimes of 10-to-50 years; e.g., aircraft, trucks, locomotives, power plants. Associated sales of replacement parts and service over the lifetime of such products often are equal to the value of the initial sale contract. Moreover, initial investment in training, support equipment, and spares inventories would have to be repeated in order to switch to U.S. suppliers.

- Illustrative Examples

  - The Soviet-Western Europe Gas Pipeline Embargo of 1982 shifted global turbine market leadership from the U.S. to Europe with a permanent cost of thousands of U.S. jobs. When the U.S. government attempted to stop the use of U.S. goods and technology in construction of the pipeline to bring gas from the Soviet Union to Western Europe, GE Power Systems (GEPS) was forced to break contracts with European manufacturers for the use of GEPS designs and parts and components in European-made turbines. European governments retaliated by making compliance with the U.S. law illegal for European companies. Where they had been dependent on GEPS for the high-tech half of the turbine components, the European firms were able to gain essential independence.

    A large part of GEPS' market share, which fell from 18% in 1981 to 6% in 1982, was given over to three major European competitors. That share loss had to be recovered by extraordinarily costly restructuring, cost and quality improvements. Meanwhile, the now independent European firms have been given an unearned competitive boost and thousands of good U.S. jobs have disappeared.
    (See Appendix II, Section G.2.)

- Continued unilateral exclusion of U.S. nuclear energy cooperation with China --
  - ◊ threatens survival of U.S. industry's ability to support the existing 100 U.S. nuclear power plants and the nuclear Navy,
  - ◊ denies state-of-the-art safety features in equipment for the world's largest and fastest growing nuclear energy industry, and
  - ◊ costs the opportunity to compete for $15 billion in projects over the next 14 years, with 225,000 job years in 28 states at stake.

  Nuclear energy cooperation with China has been withheld in an attempt to force China's compliance with U.S. nuclear non-proliferation standards since 1985. Notwithstanding China's desire to include U.S. bidders in its nuclear power procurements, since 1991 China has been able to complete its own nuclear power reactor, purchase four reactors from France (two completed and two under contract) at a price of $4 billion, sign a $3 billion contract for two Canadian reactors, and reach advanced negotiations for two Russian reactors.
  (See Appendix II, Section H.1.)

- U.S. special restrictions on commercial aircraft and related equipment exports drive sanctioned countries to establish long-term commitments to non-U.S. suppliers. For example, Vietnam standardized on Airbus aircraft when the embargo was extended in 1993. The initial lost sale by Boeing to Airbus of Europe was $211 million. Even though the embargo was soon lifted, that loss is likely to grow to $1.6 billion over the next three years. Similar commitments presently are being made by Syria and Lebanon.
  (See Appendix II, Section A.5.)

- By including equipment for commercial satellite launch in the 1993 U.S. unilateral missile sanctions against China and Pakistan, $1.5 billion in exports to China were blocked and a market opportunity was created for European suppliers. Stricter interpretation of the "Helms Amendment" could have blocked most of the $9 billion annual U.S. exports to China.
  (See Appendix II, Section A.6.)

- Sanctions against Angola, Libya, Iran, and Vietnam prohibited CONOCO from competing successfully on projects needed to create unique technological know-how for development of certain oil-bearing formations in other countries including Dubai, Russia, Canada, Colombia and the United States. Competitors from Canada, the Netherlands, and the United Kingdom are reaping the benefits of the expertise gained in those U.S.-sanctioned countries in other locations, including the U.S. Gulf of Mexico.
  (See Appendix II, Section G.2.)

Uncertainty, Unreliability, and Retaliation Stem from Unilateralism and Extraterritorial Application of U.S. Sanctions

U.S. companies believe their international competitiveness is burdened by perceived U.S. disregard for its international trade policy commitments, and for the reliability of its companies and their products and services in global markets.

- **Perceived uncertainty and unreliability** of supply is a major factor in the choice among alternative suppliers. Just as the typical consumer avoids automobiles or appliances from sources that have a poor record of continuity and parts and service availability, so do public and private institutions when considering investments.

  U.S. foreign policy has disrupted the commitments of U.S. suppliers and the international distribution of U.S. goods and services to a much greater extent than that of the governments of any of our foreign competitors. Even though the Congress established a presumption in favor of contract sanctity in the Export Administration Act of 1979, U.S. unilateral economic sanctions seldom have been imposed with such a provision. As a result, there is abundant evidence that U.S. economic interests are impacted by the burden of perceived unreliability of the United States as a source of products and services.

- Illustrative Examples of the Impact of Perceived U.S. Unreliability

  China, Pakistan, and India have been subject to or threatened by a wide variety of U.S. economic sanctions for many years.

  - China began procurement of an anticipated fleet of 250-300 Sikorsky commercial helicopters in 1984 with a purchase of 24 Black Hawks. The second tranche was under negotiation when the Tiananmen sanctions were enacted. Because this aircraft configuration had some military variants of commercial components, the State Department denied permission even to service the existing fleet. China turned to Russia, France, and the EC-120 European helicopter consortium to acquire its commercial helicopter fleet. The immediate impact is in sales already lost by Sikorsky of more than $1 billion and the potential of $3.1 to $3.7 billion, with tens of thousands of related jobs for the firm and its suppliers. Moreover, the implementation of U.S. policy demonstrated that U.S. helicopter suppliers are unreliable.
    (See Appendix II, Section A.4.)

    Such experiences as the aborted commercial helicopter fleet, the previously described commercial satellite case, denial of support for U.S. equipment for the Three Gorges Dam Project, the prohibition on nuclear energy cooperation, and the continuing threat of essentially complete denial of commercial trade from withdrawal of MFN or under the Helms Amendment have demonstrated the unreliability of U.S. suppliers for the burgeoning Chinese infrastructure market. China clearly has considered this in other procurements, including airliners for its commercial fleet.

- Pakistan has been subject to sanctions and threatened sanctions similar to those for China. The most well-known case was the U.S. abrogation of Pakistan's contract for F-16 aircraft due to the inflexible Pressler amendment that leaves no room for Presidential discretion. Pakistan already had paid $658 million toward the $1.4 billion purchase, and the United States was unable to return the money. Recently, the Pakistani national airline issued a procurement notice for ten wide-body airliners. It required bidders to forego the normal contract clause protecting the supplier from obligations for failing to fulfill contractual requirements if the failure is caused by their own government's action. European bidders will be able to comply with the requirement. U.S. bidders will not. Pakistan's fleet already contains a much smaller number of U.S. aircraft than would be expected based on the U.S. share in other markets. Thus, unreliability of U.S. supply continues to undermine important opportunities to regain a presence in a market almost lost to U.S. suppliers.
  (See Appendix II, Section A.3.)
- India also has been the subject of U.S. unilateral sanctions and sanctions threats for many years. One of the most disruptive and frustrating to India occurred in the early 1990's when missile sanctions were imposed on the Indian Space Research Organization (ISRO). No U.S. export licenses, even for non-controlled items, to fulfill supplier commitments could be approved to ISRO or its suppliers for many months because of interagency disagreement over the scope of the sanctions.
- These countries represent an important and rapidly growing share of the global market for commercial aircraft for the next 20 years. Continuation of the present trends could mean a shortfall of tens of billions in U.S. export sales and scores of thousands of U.S. jobs. To compete at all, U.S. suppliers must respond to the unreliability burden with price or other concessions that are not required of our international competitors.

Trading partners in third countries continue to be reminded of reasons to avoid dependence on U.S. goods. A European turbine manufacturer held a $70 million Iranian order for turbines when the unilateral embargo on U.S. trade with Iran was announced in 1995. The manufacturer was dependent on a U.S. source for the specially designed control unit. The component would comprise 3% of the finished turbine's value and, if taken from a foreign inventory, would be eligible for reexport to Iran without U.S. permission. However, the Treasury Department advised at the outset that such an export from the United States was prohibited by the Executive Order. The foreign manufacturer proceeded to design its own control unit, jeopardizing the future of the U.S. controls business. Later in 1995, Treasury stated that it was uncertain what would be the legal authority for the earlier interpretation and that it had submitted the matter for an interagency determination. As of May 1997, no decision had been reached, but the de facto policy remains negative.

- **Extraterritorial measures,** or otherwise attempting to force compliance by third-country trading partners with U.S. unilateral sanctions are especially damaging to the reputation of U.S. firms as reliable business partners and sources of supply. Such measures are applied by
  - restricting the use, resale, or retransfer of U.S. origin goods and technology by foreign purchasers,
  - restricting foreign exports of foreign-made goods containing U.S.-origin parts and components or technology,
  - extending the jurisdiction of U.S. law over foreign business transactions of foreign subsidiaries of U.S firms, or
  - penalizing foreign firms if they have engaged in U.S. targeted transactions.

  Compliance requires foreign firms to avoid, without U.S. permission, transactions involving ever-changing lists of thousands of U.S.-targeted persons, entities, destinations, and countries as well as types of end uses and end users specified by various U.S. regulations.

  The regulations are implemented, pursuant to laws described in Appendix I, by the Departments of Commerce, Energy, Treasury, and State. There is no single point of contact in the U.S. government for persons who are or may be affected by one or more of the regulations, and integration of regulatory policy and practice is minimal.

  Compliance failure may subject the foreign person to criminal penalties in the United States or denial of further transactions involving U.S. goods or domestic markets.

- Illustrative Examples of Impacts of Extraterritorial Measures

  - The Soviet-Western Europe Pipeline Embargo, which attempted to cause foreign manufacturers using U.S. goods or technology to break their contracts, highlighted the extensive extraterritorial practices used by the United States to carry out its foreign policy. Directly affected firms immediately took steps to reduce their exposure to American "light switch diplomacy" by designing out U.S.-origin components (see Appendix II, Section G.2.), but the broader effect was to sully the reputation of U.S. suppliers generally. In a 1986 speech, the Chairman of the European Business Roundtable stated that his company, Philips, NV, would avoid U.S. parts and components because of U.S. unilateral controls. The United Kingdom and other major trading partners passed laws forbidding compliance by their citizens with laws of other nations that interfere with their national trade policies. British Aerospace sent letters notifying its U.S. suppliers that it reluctantly had established a practice of designing out U.S.-origin components in its products because of the associated extension of U.S. unilateral control over its freedom to market its products under the laws of its own country. The company also required U.S. respondents to its purchase requests to identify unilateral reexport controls associated with any of their bids. The National Academies/National Research Council panel preparing the 1991 report on U.S. export controls was told by European manufacturing firms that, where possible, they were avoiding U.S. parts and components in their products because of U.S. unilateral export controls.

- In the highly concentrated commercial aircraft industry, no internationally successful large airliners were available in the early 1980's without a major share of their value being comprised of U.S.-origin parts and components. Airbus now has reached the point where new aircraft can be configured to exclude U.S. engines and other components in order to reach the 10% U.S content de minimis required to escape U.S. extraterritorial controls on the sale of its aircraft.
- International partnerships are essential to the development of some types of high technology, capital intensive equipment. Prospective foreign investment partners frequently request special terms and conditions to overcome the possibility that U.S. extraterritoriality will capture control over their contributed technology or otherwise interfere with the success of a prospective business relationship. Reminders occur frequently. One effect has been to cause foreign partners to withhold leading edge technologies from such exposure.
- Extraterritorial controls reduce the value of U.S. foreign investments in many ways. For example, in 1995, a European subsidiary of a U.S. firm was forced to accept a $1.5 million reduction in the annual fee for leasing an airliner when it responded negatively to the potential lessee's question about including Havana in its international route structure. This response was required by the U.S. Cuban Assets Control Regulations (CACR).

- **Retaliation** against U.S. attempts to force compliance with its unilateral sanctions creates controversy, confusion, and costs for U.S. interests.
While some argue that the Iran and Libya Sanctions Act of 1996 (ILSA) and the Cuban Liberty and Democratic Solidarity Act of 1996 (LIBERTAD) are not properly labeled as extraterritorial measures, they clearly are perceived by our allies and trading partners as attempts to force compliance with U.S. unilateral foreign policy.

The European Union, Canada, and Mexico have retaliated by making illegal the compliance with either U.S. law. To the extent that companies in those countries are "controlled" by U.S. persons (e.g., U.S. subsidiaries), they are unable to comply with the Cuban Assets Control Regulations (codified by LIBERTAD) without violating their own national law. The recent conflict over Cuban pajamas sold by Canadian Walmart stores is illustrative. Criminal penalties are provided by the U.K. and Canada as well as by the United States.

Under current law, the airliner leasing case described above would pose criminal liabilities for the lessor under UK law if the Cuban service were denied and under U.S. law if it were accepted. While the U.S. has yet to impose significant penalties under either ILSA or LIBERTAD, substantial trade retaliation is expected if and when that occurs. Meanwhile, progress in other important initiatives, such as the Multilateral Agreement on Investment and the Transatlantic Business Dialog, has been damaged by the hostility and diversion created by this controversy.

Conclusion

We were not asked and we have not undertaken to address the effectiveness of economic sanctions in achieving foreign policy objectives of the United States. However, we have included as Appendix III a summary of the 1990 report of the Institute for International Economics, the most extensive analysis published to date. IIE plans to publish an update of its report in the near future.

While much of the economic impact information presented here necessarily is qualitative and anecdotal, we trust that it will add to the base of understanding needed to guide improved policies and processes governing the use of unilateral economic sanctions in the future. Economic sanctions inevitably will have economic costs for the United States. However, this information suggests that a large portion of negative impacts on U.S. economic interests could be reduced by more thoughtful consideration of policy options, and more rational design and implementation of sanctions when they are deemed to be required. The use of measures that interfere with third-country trading partner relationships and create undue uncertainty about the reliability of U.S. firms and the long-run availability of U.S. goods and services is seen as most damaging. We also have seen that the threat of sanctions creates economic impacts on U.S. interests in substantially the same manner as the actual implementation of sanctions.

Sanctions purposes cover a broad spectrum from attempts to influence cultural practices or send "signals" of our disapproval of certain policies or practices, to attempts to deter or penalize serious violations of international security agreements. This suggests that negative consequences for U.S. interests might be reduced by selecting equally effective alternatives, or at least minimal sanctions, where the potential for actually changing the target behavior is small.

Section III. SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS FOR IMPROVED POLICIES AND PROCESSES

Summary of Conclusions

This report demonstrates that the sum of unilateral economic sanctions measures for achieving appropriate U.S. foreign policy goals now constitutes a complex and growing web of restrictions and legal impediments in the international trading system that extends well beyond the legislative intent of the individual statutes, executive orders, and regulations. This is at least in part due to a growing propensity for Congress to assume a direct role in the conduct of foreign policy by adopting highly specific legislation often without reference to previous laws and sanctions already in place.

There is no disciplined use of policy guidelines in a consistent process for creating, imposing, and maintaining rational foreign policy-based economic sanctions. Also importantly, there is no ongoing, systematic analysis directed at understanding whether sanctions are serving or damaging the interests of our nation, either individually or in the aggregate.

Concerns were expressed about the infringement of federal foreign policy and trade policy prerogatives by state and local government economic sanctions.

The information about economic impact that we have been able to add to that provided by others necessarily is qualitative and anecdotal. Nevertheless, we believe there is reason to conclude that a large portion of the negative impacts on U.S. economic interests could be reduced with no significant impact on foreign policy interests. In particular, we conclude that much improvement could be gained by more thoughtful consideration of optional approaches, and better design and implementation of sanctions when they are deemed to be required. Of greatest concern are measures that create undue uncertainty about the use of U.S. goods and services, that cause U.S. firms and their affiliates to be seen as unreliable, and that interfere with third-country trading partner relationships.

Policy Guidelines Recommended

The President should establish guidelines for the selection and implementation of unilateral economic sanctions and consult with Congress to ensure adherence to such guidelines. The following are recommended:

- Unilateral economic sanctions can be an appropriate tool of U.S. foreign policy and should be available to policy-makers when used in conjunction with the effective implementation of the other policies and processes recommended herein.
- Unilateral economic sanctions must be justified in context of
  - other foreign policy and national interests, including security, economic, and international norms and policy obligations;
  - other appropriate foreign policy measures and their potential effectiveness for accomplishing the stated objective; and
  - failure of reasonable diplomatic efforts to obtain cooperation in multilateral sanctions.
- Compliance costs will be mitigated through a rational organizational structure for sanctions implementation with integrated regulations and licensing/outreach process.
- Inequitable impact on workers and economic sectors will be avoided.
- Extraterritorial measures and secondary boycotts will be avoided.
- Decisions will be preceded, except in emergencies, by consultations with affected private parties and the Congress.

- Unilateral economic sanctions will not be continued when the stated objectives are not being achieved after a reasonable period of time.

Process Improvements Recommended

The President should establish processes to assure disciplined adherence to the policy guidelines.

Organizational Structure and Methodology

First, we believe that it is important to establish an organizational structure and methodology to improve the effectiveness of measures employed to deal with target behaviors. We recommend the following steps:

- Create a Policy Review and Administrative Oversight Committee –
  - Under the joint leadership of NSC and NEC;
  - With standing membership of CIA, Commerce, Defense, Energy, State, Treasury, and USTR plus ad hoc membership of others, such as Agriculture, Labor, NRC;
  - Responsible to review all sanctions policy and implementation issues and, as necessary, provide Presidential decision review memoranda.
- Require that relevant decision reviews include the following considerations for each of the optional approaches:
  - Statement of foreign policy objective and assessment of likelihood of achievement;
  - Relationship to overall U.S. strategy vis-à-vis the target;
  - Relationship to measures imposed multilaterally or by U.S. allies;
  - Comparison of likely impacts on the interests, as appropriate, of the target, the United States, allies, and other affected friendly countries, including political, security, military, economic, energy, humanitarian, and worker rights interests;
  - Description of milestones toward achievement of the stated objective;
  - Date for review and re-authorization requirement;
  - Criteria for success/failure measurement; and
  - Possible exit strategies if extension is not warranted.
- Direct the Oversight Committee to
  - Establish and direct a contingency planning process to develop approaches and decisions options for dealing with potential target countries and entities under alternative future scenarios.
  - Request the International Trade Commission to
    - conduct and update annually an analysis of the near and long-term economic impacts of existing sanctions, including direct and indirect effects; and
    - estimate economic impacts of proposed sanctions, including optional approaches associated with the contingency planning process.

Mitigation of Impacts on U.S. Economic Interests

Second, we believe it is possible and appropriate to mitigate inequitable impacts on U.S. citizens and unintended consequences for U.S. competitiveness without undercutting the foreign policy effectiveness of the sanctions. We recommend consideration of the following measures:

- Reduce uncertainty and unreliability of using U.S. goods and services.
  - ♦ Permit a limited form of contract sanctity by allowing performance of pre-existing contracts that are legally enforceable and which would be abrogated by compliance with the sanction –
    - ◊ until completion of the contract obligation if the date for construction or delivery and specification of quantity and price were agreed upon under the pre-existing contract, or
    - ◊ for open-ended contracts, only to the extent such performance does not extend beyond the date of the sanction by more than one year –

    unless the President determines that such permission would cause a significant threat to the national security of the United States. (Note: New or similar future business would not be permitted by such contact sanctity.)
  - ♦ Avoid unilateral controls on U.S.-origin goods and technology in transactions abroad by foreign persons when comparable, substitutable goods otherwise are available to the target.
- Reduce unintended negative consequences and inequitable impacts for U.S. persons.
  - ♦ If the permission of contract sanctity (as recommended above) is determined by the President in any specific circumstance to cause a significant threat to the national security of the United States,
    - ◊ permit a grace period for completion only of contractual obligations necessary to recover committed costs, or
    - ◊ reimburse, from general funds of the United States, the committed costs of the contracting parties.
  - ♦ Allow adjustment assistance for displaced workers;
  - ♦ Issue compensation plan at time of sanction implementation or, in emergency, within 30 days of sanction implementation;
  - ♦ Require that implementing agencies establish advisory committees comprised of parties typically affected by their regulations to permit ongoing assessment and removal of the unintended negative impacts of the regulations;
  - ♦ Publish implementing regulations in proposed or interim final form with opportunity for public comment.

State and Local Government Sanctions

We urge the Administration to make an early assessment of whether federal initiatives might be appropriate in respect to state and local government actions that may impinge upon federal responsibilities in the areas of foreign and trade policy.

Chairman CRANE. All right. Our first witness will be Ms. Elliott.

STATEMENT OF KIMBERLY ANN ELLIOTT, RESEARCH FELLOW, INSTITUTE FOR INTERNATIONAL ECONOMICS

Ms. ELLIOTT. Thank you very much, Mr. Chairman. Let me apologize in advance. I may have to leave a bit early, in fact, to go to a conference on sanctions. I will summarize my remarks and request that they be included in full in the——

Chairman CRANE. Oh yes. Without objection all of your full statements will be made a part of the permanent record.

Ms. ELLIOTT. Thank you. In 1919, when he was promoting the League of Nations, President Wilson envisioned sanctions as an "Economic peaceful, silent, deadly remedy . . . which in my judgment no modern nation could resist." The reality of course has been quite different. The global comprehensive and vigorously enforced sanctions against Iraq and the former Yugoslavia have produced at best, limited and tenuous results. Unilateral sanctions, even when imposed by the largest economy in the world, face far larger challenges. Even against such small and vulnerable targets as Haiti and Panama, military force eventually was required to achieve American goals.

Extensive empirical research by myself and my colleagues Jeffrey Schott and Gary Hufbauer on the effectiveness of economic sanctions throughout this century suggests that those two cases are not unusual. Since 1970, unilateral U.S. sanctions have achieved foreign policy goals by our estimation in only 13 percent of the cases in which they have been imposed. There's a table in my testimony that gives all of the numbers behind that.

Other recent research that we have done and that I guess has been discussed earlier today, suggests that sanctions in 1995 cost the United States nearly $20 billion in potential exports, and perhaps 200,000 or more jobs in the relatively highly compensated export sector.

Our research addresses the issue of the effectiveness of sanctions through empirical research, through assessment of the outcomes in 115 cases of economic sanctions from World War I through 1990. In addition to assessing outcomes, our research also identifies the conditions under which sanctions are most likely to achieve foreign policy goals. We judged 35 percent of those 115 cases throughout this century to have at least partially achieved their goals, and concluded that sanctions are most likely to be effective when the goal is relatively modest and the target country is much smaller and weaker than the country imposing sanctions; when the sanctioner and target are friendly toward one another prior to the imposition of sanctions and conduct substantial trade with one another; and when the sanctions are imposed quickly and decisively to maximize impact. For example, the average cost to the target, as a percentage of its GNP, gross national product, in successful cases was 2.4 percent, but only 1 percent of GNP in failed cases. Finally, sanctions we found would be more effective when the sanctioner avoids high costs to itself.

Our forthcoming edition will add probably 30 to 40 cases to the current 115. Our results so far as very preliminary, but we don't expect the fundamental results to change very much.

Of the 115 cases, the United States was a participant in 78, usually as the leading sanctioner, and often alone. A striking result of our analysis is the declining utility of U.S. economic sanctions, especially when they are unilateral. In cases where American policymakers received little or no cooperation from other countries, the United States was successful 70 percent of the time from 1940 to 1970, but in the seventies and eighties, again, only 13 percent of U.S. unilateral sanctions achieved any success at all.

While the benefits of economic sanctions are elusive, the costs are not. Trade sanctions deprive the United States of the gains from trade, and frequently penalize exporting firms that are among the most sophisticated and productive in the U.S. economy. In a $7 trillion economy, the $15 to $19 billion that I mentioned may not be huge, but they are tangible, and they do hit some of the most productive and sophisticated firms.

I would just like to cite very quickly some research by my colleague David Richardson and Karin Rindal, who found that workers in plants involved in exporting are more productive and more highly compensated than workers in comparable plants that do not export. Employment growth is nearly 20 percent higher in exporting firms and plants than in those that never exported or have stopped. Finally, exporting firms and plants are less likely to go out of business in an average year. They also concluded that the communities that host these exporting operations, as well as the workers and shareholders, benefit from having a more stable, growing, and high performance work force and tax base.

In sum, a rapidly changing global economy means that unilateral economic sanctions are decreasingly useful, yet increasingly costly. If sanctions are to have any chance at all of producing favorable outcomes, they must be multilateral, they must be carefully formulated, and they must be vigorously enforced. Thank you.

[The prepared statement follows:]

Statement of Kimberly Ann Elliott,[1] Research Fellow, Institute for International Economics

A nation that is boycotted is a nation that is in sight of surrender. Apply this economic, peaceful, silent, deadly remedy and there will be no need for force. It does not cost a life outside the nation boycotted, but it brings a pressure upon the nation which, in my judgment, no modern nation could resist.

PRESIDENT WOODROW WILSON, 1919 [2]

The reality, alas, has been far different from what President Wilson envisioned. The global, comprehensive, and vigorously enforced sanctions against Iraq and the former Yugoslavia have produced at best limited and tenuous results. Unilateral sanctions—even when imposed by the largest economy in the world—face far more difficult challenges, especially in an increasingly integrated international economy. Even against such small and vulnerable targets as Haiti and Panama, military force eventually was required to achieve American goals.

Extensive empirical research on the effectiveness of economic sanctions throughout this century suggests that these two cases are not unusual. Since 1970, unilateral US sanctions have achieved foreign policy goals in only 13 percent of the cases where they have been imposed. In addition to whatever effect repeated failure may have on the credibility of US leadership, other recent research suggests that economic sanctions are costing the United States $15 billion to $19 billion annually in

[1] The views expressed are the author's and do not necessarily reflect the views of the Institute's Board of Directors, Advisory Committee, or staff.

[2] Quoted in Saul K. Padover, ed., Wilson's Ideals (Washington: American Council on Public Affairs, 1942, p. 108).

potential exports. This, in turn, translates into 200,000 or more jobs lost in the relatively highly compensated export sector.[3]

POTENTIAL BENEFITS OF SANCTIONS AS A FOREIGN POLICY TOOL

The Institute's research program on economic sanctions began in the early 1980s, in the wake of the grain embargo, imposed in response to the Soviet invasion of Afghanistan, and the pipeline sanctions, imposed in response to the Soviet role in the Polish crackdown on the Solidarity trade union. The conventional wisdom then was that sanctions never work, that they are costly politically and economically, and that their use should be constrained.

Our research addresses these issues empirically, through assessment of the outcomes in 115 cases of economic sanctions beginning with World War I and ending in 1990. In addition to assessing outcomes, our research also identifies the conditions under which sanctions are most likely to achieve foreign policy goals.

We judged 35 percent of these cases to be at least partially successful and concluded that sanctions are most likely to be effective when:

(1) The goal is relatively modest. This also lessens the importance of multilateral cooperation, which often is difficult to obtain.

(2) The target country is much smaller than the country imposing sanctions, economically weak, and politically unstable. (The average sanctioner's economy was 187 times larger than that of the average target.)

(3) The sanctioner and target are friendly toward one another prior to the imposition of sanctions and conduct substantial trade. The sanctioner accounted for 28 percent of the average target's trade in success cases but only 19 percent in failures.

(4) The sanctions are imposed quickly and decisively to maximize impact. The average cost to the target as a percentage of GNP in success cases was 2.4 percent and 1 percent in failures.

(5) The sanctioning country avoids high costs to itself.

Our forthcoming third edition will extend this dataset by roughly another 30 to 40 cases. Although the results to date are preliminary, we do not expect these conclusions to change significantly.

Of the 115 cases studied, the United States was a participant in 78, usually as the leading sanctioner and often alone. The results for US sanctions are broadly similar to those described above because the United States has been the dominant user of economic sanctions. Thus, the 33 percent success rate for US sanctions was virtually identical to that for the sample as a whole.

A striking result of our analysis, however, is the declining utility of US economic sanctions as a foreign policy tool, especially when they are unilateral (see table 1). Prior to the 1970s, sanctions in which the United States was involved, either alone or with others, succeeded at least partially just over 50 percent of the time. Between 1970 and 1990, however, US sanctions succeeded in just 21 percent of the cases initiated.

Table 1. Effectiveness of Economic Sanctions as a Foreign Policy Tool

	Number of successes	Number of failures	Success ratio (successes as a percentage of total)
All cases	40	75	35%
Cases involving US as a sanctioner:			
1945–90	26	52	33%
1945–70	16	14	53%
1970–90	10	38	21%
Unilateral US sanctions:			
1945–90	16	39	29%
1945–70	11	5	69%
1970–90	5	34	13%

[3] Gary Clyde Hufbauer, Jeffrey J. Schott, and Kimberly Ann Elliott, Economic Sanctions Reconsidered: History and Current Policy, second edition, rvd. (Washington: Institute for International Economics, 1990). The third edition of this research should be available early next year. See also Gary Clyde Hufbauer, Kimberly Ann Elliott, Tess Cyrus, and Elizabeth Ann Winston, "US Economic Sanctions: Their Impact on Trade, Jobs, and Wages," Institute for International Economics Working Paper, April 1997.

The results for unilateral US sanctions, those in which American policymakers received either no or only minor cooperation from other countries, are even more striking. In 55 post-war episodes, the success rate for such cases was only slightly below that for all cases involving the United States, 29 percent versus 33 percent. However, more than two-thirds of those successes occurred in the early post-war period, when the United States was successful nearly 70 percent of the time. In the 1970s and 1980s, a mere 13 percent of unilateral US sanctions achieved any success at all (table 1).

Many factors contribute to these results but a large part of the explanation must be the effects of globalization. The United States is no longer as dominant in the world economy as it once was and its leverage has declined concomitantly. Given that these trends have continued in the 1990s, or even acclerated, there is little reason to expect that the utility of unilateral sanctions has improved in recent years.

Costs of Economic Sanctions

While the benefits of economic sanctions are elusive, the costs often are not. Trade sanctions deprive the United States of the gains from trade and frequently penalize exporting firms that are among the most sophisticated and productive in the US economy. As American sanctions have expanded and proliferated over the past 20 years, they have also led to increasing tensions between the United States and its allies and trading partners around the world.

In a recent extension of the IIE research, my colleagues and I estimated that economic sanctions cost the United States $15 billion to $19 billion in forgone merchandise exports to 26 target countries in 1995. The analysis tentatively suggests that even limited sanctions, such as restrictions on foreign aid or narrowly defined export sanctions, can have surprisingly large effects on bilateral trade flows (see table 2).

Table 2. Estimated change in trade due to sanctions, 1995 (percent)

Scope of sanctions imposed [a]	All countries, exports plus imports [b]	OECD countries, exports only	United States, exports only
Limited	c	−21/5	c
Moderate	−31.2	−33.1	−68.0
Extensive	−91.9	−78.0	−96.8

Notes:

a. Limited sanctions include narrowly defined trade, financial, trade, or cultural sanctions, such as suspension of foreign aid or restrictions on exports of narrow categories of goods or technologies; moderate sanctions cover more broadly defined categories of trade or finance; extensive sanctions usually encompass most trade and financial flows between two countries.

b. There are 88 countries in the database.

c. The coefficients on these variables suggest that even limited sanctions depress trade by 15 to 20 percent but in these tests the regression coefficients were not statistically significant at normal confidence levels.

Lower exports of $15 billion to $19 billion would mean a reduction of more than 200,000 jobs in the relatively higher-wage export sector and a consequent loss of nearly $1 billion in export sector wage premiums.[4] Though the estimates were calculated using trade in the base year of 1995, similar costs accrue each year that similar sanctions remain in place.

These effects could be overstated to the extent that exporters are able to redirect their goods to other markets. There are several reasons, however, to think the cumulative effects could be greater than suggested in this analysis. First, the study excludes investment flows and services exports, which in 1995 equalled nearly 40 percent of the value of goods exports. Second, one would expect the long-term effects of sanctions to be relatively more severe for suppliers of sophisticated equipment and infrastructure equipment than for exports as a whole.

Indeed, many American businessmen claim that the effects of even limited unilateral US sanctions go well beyond targeted sectors and that the effects linger long after they are lifted because US firms come to be regarded as "unreliable suppliers."

[4] The US Department of Commerce estimated that, in 1992, $1 billion of goods exported supported 15,500 jobs. Adjusting that figure for subsequent productivity growth gives an estimate of 13,800 jobs; multiplied by $15 billion to $19 billlion gives a figure of 200,000 to 260,000 jobs. See US Department of Commerce, US Jobs Supported by Exports of Goods and Services (Washington, November 1996). This same study, along with research by Richardson and Rindal, also estimates that jobs in the export sector pay 12 percent to 15 percent better than comparable jobs in other sectors. Based on an average annual wage in manufacturing in 1995 of $34,020, the export sector wage premium would have been over $4000. See Hufbauer, et al. (1997), and J. David Richardson and Karin Rindal, Why Exports Matter: More! (Washington: Institute for International Economics and the Manufacturing Institute, February 1996).

Sanctioned countries may avoid buying from US exporters even when sanctions are not in place, thus giving firms in other countries a competitive advantage in those markets. Exports lost today may also mean lower exports after sanctions are lifted because US firms will not be able to supply replacement parts or related technologies. Foreign firms may also design US intermediate goods and technology out of their final products for fear of one day being caught up in a US sanction episode. If perceived as precedents that are likely to be repeated, the secondary boycotts and extraterritorial sanctions passed last year in the Iran/Libya Sanctions Act and the Helms-Burton Act could exacerbate this unreliable supplier effect. This effect could explain why the estimated impact on US exports is higher than for the OECD countries as a group (table 2).

In a $7 trillion economy these costs may not be huge but they are tangible. Moreover, they are concentrated on sectors and firms involved in international trade and investment that are often the most sophisticated and competitive in the American economy. Research by my colleague J. David Richardson and Karin Rindal shows that:

- workers in plants involved in exporting are more productive and more highly compensated than workers in comparable plants that do not export;
- employment growth is nearly 20 percent higher in exporting firms and plants than in those that never exported or have stopped exporting; and,
- exporting firms and plants are less likely to go out of business in an average year.

Richardson and Rindal also conclude that the communities that host exporting operations, not just the workers and shareholders in those operations, benefit from having a relatively more stable, growing, and high-performance workforce and tax base.[5]

In sum, a rapidly changing global economy means that unilateral economic sanctions are decreasingly useful yet increasingly costly. If sanctions are to have any chance at all of producing favorable outcomes, they must be multilateral, they must be carefully formulated, and they must be vigorously enforced.

Chairman CRANE. Thank you very much. You check your schedule and when you have to depart. Don't feel embarrassed. We appreciate your participation very much.

Ms. ELLIOTT. Thank you, Mr. Chairman.

Chairman CRANE. Mr. Marcich.

STATEMENT OF MARINO MARCICH, DIRECTOR, INTERNATIONAL INVESTMENT AND FINANCE, NATIONAL ASSOCIATION OF MANUFACTURERS

Mr. MARCICH. Thank you, Mr. Chairman. May I submit for the record the report we did with Georgetown University Law School?

Chairman CRANE. Without objection, so ordered.

[The report is being retained in the Committee files.]

Mr. MARCICH. In November 1995 Ken Saro-Wiwa and eight other environmental activists were hanged by the military government in Nigeria right after a trial that according to most observers lacked international standards of due process. The Burmese dissident, Nobel Prize winning dissident Suu Kyi remains under virtual house arrest. The American public has recently been treated to witnessing Mexican officials bribe their top antinarcotics official. Captured on tape we hear Cuban pilots joke about downing a civilian aircraft over international waters.

Is it any wonder that Americans increasingly prefer to not watch the news, particularly when it concerns international issues? I don't think anyone can help but be moved by such scenes. Brutal

---

[5] See Richardson and Rindal (1996).

repression is far too common on this century of world war and totalitarian governments. As we contemplate how to respond to terrorist acts, torture, violations of basic human rights, there is a temptation to react with all the severity our anger can muster, which is why we increasingly resort to unilateral economic sanctions.

The problem with this approach is very simple. It's been highlighted by numerous speakers today. Unilateral sanctions simply don't work. Earlier this year, seven U.S. Senators wrote the President urging him to enact a new sanctions law against Burma, which the President eventually did. Yet in the letter, the Senators write that "Since the Burma sanctions bill was signed into law, the situation has gone from bad to worse." Although the letter's signers would argue to the contrary, they unintentionally make my point.

In March of this year, the NAM, National Association of Manufacturers, released the study I mentioned on unilateral economic sanctions for foreign policy purposes from 1993 to 1996. What we really discovered was a real bewildering array of good intentions gone awry. In just 4 years, 61 U.S. laws or executive decisions targeted against 35 countries. Kimberly mentioned the study by the Institute for International Economics that concluded about a $15 to $19 billion loss as a result of sanctions in 1995 alone. When you consider that plants or firms that export experience almost 20 percent faster employment growth and pay about 12 to 15 percent more in wages, you get a better idea of how closely linked the issue of unilateral economic sanctions is to our future long-term economic prosperity.

To be frank, there is more however to the national interest than market share. I think our U.S. industry and the American people expect the U.S. Government to play a leading role in the promotion of human rights. Make no mistake about it. If you read the State Department annual report on human rights, to be frank, I looked at all the 35 countries that were sanctioned in that 4-year period. It's not a pretty picture. It troubles our consciences and makes us want to act. But action taken without calculation of its effect is mere shadow boxing, an exercise that achieves nothing. Diplomacy, negotiation, and when our national security is directly at stake, military resolve, are the appropriate tools by which we can alter unacceptable behavior.

It's quite clear that these sanctions have not worked to change the behavior of rogue regimes. I intend to follow up the NAM study with a brief updated report on the effectiveness of sanctions. What I did was basically compare the stated objective of each of the sanctions measure adopted in this 4-year period with the conclusion drawn in the 1996 human rights and global terrorism and narcotics control reports produced by the State Department. I used a very liberal methodology on assessing the State Department's conclusion as to whether any improvement had taken place. The results shouldn't surprise anyone and are fully consistent with other testimony you have heard today. We get about 90 percent failure rate.

If unilateral economic sanctions have not worked to change the behavior of a targeted country, then it's quite clear the United States should examine other weapons in its arsenal. Take the case of Burma. Before the ink was dry, Burmese officials were saying the action would have no effect on their policies. Japan indicated it would not go along with the policy. Burma's neighbors indicated they were not going to go along with it. ASEAN admitted Burma in July 1997. Statistics appear to indicate that foreign direct investment in Burma has increased in 1996, not withstanding the United States decision to bar new investment.

When Nelson Mandela himself, no stranger to a repressive regime or the issue of sanctions, was asked if South Africa would boycott Burma, he declined, stating that sanctions would only cause chaos and suffering in Burma, and that South Africa preferred to act through international bodies such as the United Nations.

What can U.S. business do to promote, support human rights? I think it would be a mistake to say that American trade and investment will bring about immediate revolutionary change in many countries targeted by sanctions. Expect U.S. business to play the leading role in this effort, would perhaps lead to some unfulfilled expectations. But I can say that trade and investment promote improved conditions of life in developing countries through increased economic growth, employment, and improved working conditions. In the words of a former U.S. Secretary of Labor, "where capitalism lurks, democracy is just around the corner."

Similar logic concerning the failure in the human rights context can also be applied in the annual antinarcotics certification debate. As a result of the decertification of Colombia, the Export-Import Bank shut down in that country, leading to about $500 million worth of lost exports and thousands of jobs with it.

Mr. Chairman, I don't think that throwing Americans out of a job will corral any drug barons in Colombia. Nearly 2 decades ago, former Secretary of State George Schultz warned against the dangers of light switch diplomacy. I believe this warning is more relevant now than ever. As of August 31, 46 separate initiatives were pending at the Federal, State or local level, authorizing sanctions against 38 countries, including allies such as Costa Rica, Turkey and Mexico, India, Indonesia, and Switzerland as well. Our commercial relationships are not an electrical current. For the sake of American prosperity and interests, we should leave the light switch alone. Thank you.

[The prepared statement follows:]

Statement of Marino Marcich, Director, International Investment and Finance, National Association of Manufacturers

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to testify in today's hearings on the use and effect of unilateral trade sanctions. My name is Marino Marcich, director of international investment and finance at the National Association of Manufacturers. I am submitting for the record A Catalog of New U.S. Unilateral Economic Sanctions For Foreign Policy Purposes 1993–96 (with analysis and recommendations), a report the NAM produced with Professor Barry Carter of Georgetown University Law School in March, 1997.

On November 5, 1995, Ken Saro-Wiwa and eight other political activists in Nigeria were hanged by the military government after a trial that, according to most observers, ignored fundamental standards of legal process. Burmese Nobel Peace Prize winning dissident Aung San Suu Kyi remains under virtual house arrest. We watch as Mexican officials bribe their country's top anti-narcotics official. And captured on tape, we hear Cuban air force pilots joke about shooting down American citizens as they fly over international waters. Is it any wonder that Americans increasingly prefer not to watch the news, particularly when it concerns international issues?

No one can help but be moved and angered by such scenes. Brutal repression, far too common in our century of world war and totalitarian governments, stretches like an ugly scar across the landscape of our times.

As America contemplates how to respond to terrorist acts, torture and violations of basic human rights, there is a temptation to react with all the severity our anger can muster—which is why we turn to unilateral economic sanctions.

The problem with this approach is simple: unilateral sanctions don't work. Earlier this year, seven U.S. Senators wrote the President urging him to invoke a new sanctions law against Burma, which the President eventually did. Yet, in the letter, the Senators write that, "Since the (Burma sanctions) bill was signed into law, the situation has gone from bad to worse." Although the letter's signers would argue to the contrary, they unintentionally make my point.

On March 4, 1997, the NAM released a new study on the use of unilateral economic sanctions for foreign policy purposes from 1993 to 1996. What we found was a bewildering array of good intentions gone awry. In just 4 years, 61 U.S. laws or executive decisions were adopted authorizing unilateral economic sanctions targeted against 35 countries that account for 42 percent of the world's population and $790 billion worth of export markets. A new study by the Institute for International Economics concludes that U.S. exports to 26 target countries were reduced by $15–19 billion in 1995 as a result of economic sanctions. Resulting job losses in the export sector may have been as high as 200,000. When you consider that plants or firms that export experienced almost 20 percent faster employment growth and pay about 12–15 percent more in wages, you get a better idea of how closely linked the issue of unilateral economic sanctions is to America's long-term prosperity.

This is just the tip of the iceberg. A disturbing trend we've noticed over the years is what we call the "de-Americanization" of products that once used American components. Under various U.S. laws, U.S. components suppliers are obligated to certify that the end product will not be exported to any country subject to a U.S. embargo. In the same way as a consumer avoids buying a product from a supplier with unreliable service, foreign purchasers avoid becoming dependent on suppliers who represent a political risk. And the rash of sanctions measures have made U.S. suppliers precisely that.

Where Airbus once relied solely on U.S.-built engines, two of its latest models are designed for non-U.S. engines. In the wake of the pipeline and grain embargoes of a decade ago, European purchasers avoided U.S. components suppliers except where such components were unavailable from other sources. China and India hedge against potential sanctions by maintaining a significant Russian share in their fleets. In the wake of the grain embargo, Brazil, Argentina and others grew to become significant long-term competitors of U.S. farmers and are so to this very day.

There is, however, more to the national interest than market share. Americans expect the U.S. Government to play a leading role in the promotion of human rights, and U.S. industry understands, respects and supports this. Make no mistake about it, the panoply of evil is large and vivid. It troubles our consciences and makes us want to act. But action taken without calculation of its effect is mere shadow boxing, an exercise that achieves nothing. Diplomacy, negotiation, and, when our national security is directly at stake, military resolve, are the appropriate tools by which we can alter unacceptable behavior.

Economic sanctions have not worked to change the behavior of rogue regimes. I have since followed up the NAM study with a brief updated report on the effectiveness of sanctions, which will be released shortly. I compared the stated objective of each of the sanctions measures targeted against the 35 countries with the conclusion drawn in the 1996 human rights, global terrorism and narcotics control reports produced by the State Department. A very liberal methodology was adopted when assessing the State Department's conclusion as to whether any improvement in the targeted country's behavior had taken place. Where the State Department annual report pointed to signs, however modest, of improvement in human rights or counter-narcotics efforts, the result was tabulated as "partially successful."

The results should not surprise anyone. Federal sanctions enacted from 1993 to 1996 failed to change the behavior of the targeted country 86 percent of the time. For 11 percent of the targeted governments, a partial success was achieved. In only one instance, or 4 percent of the cases, was the sanction considered a complete success.

The results are fully consistent with previous studies concluding that sanctions did not achieve their stated foreign policy objectives over 80 percent of the time in the 1970s and 1980s. There is reason to believe that the failure rate will increase due to the effects of globalization, as more and more countries are able and willing to fill the void left when U.S. companies are denied the opportunity to export and invest.

If unilateral economic sanctions have not worked to effectively change the behavior of the targeted country, then the U.S. must examine other weapons in its arsenal. A failure rate of almost 90 percent suggests a need for reflection and caution. Consider the recently-applied sanctions against Burma. Before the ink was dry, Burmese officials were saying that the action would have no effect on its policies. Japan indicated that it would not go along with the U.S. approach. Burma's neighbors were not willing to go along with the U.S.-inspired approach. ASEAN admitted Burma in July 1997. Statistics appear to indicate that foreign direct investment in Burma increased in 1996, notwithstanding the U.S. decision to bar new U.S. investment. And when Nelson Mandela—himself no stranger to a repressive regime or the issue of sanctions—was asked if South Africa would boycott Burma, he declined, stating the sanctions would only cause chaos and suffering in Burma and that South Africa preferred to act through international bodies such as the UN.

What can American business do to support human rights? I cannot say that American trade and investment will bring about immediate revolutionary change in many countries targeted by sanctions. To expect U.S. business to play *the* leading role in this effort would perhaps lead to unfulfilled expectations. But I can say that U.S. trade and investment improve conditions of life in developing countries through increased economic growth, employment and improved working conditions. In the words of a former U.S. Secretary of Labor, "where capitalism lurks, democracy is just around the corner."

Sanctions, however, do the exact opposite, causing chaos, suffering and hardship for the very people they are designed to help. It is argued that trade with rogue regimes is immoral. But could someone explain how causing economic dislocation and pain for people in developing countries is any less immoral, or whether deepening their poverty will cause people to rise up against their well-armed oppressors?

Similar logic can be applied not only in the human rights context, but in the annual anti-narcotics certification debate. As a result of the de-certification of Colombia, the Export-Import Bank shut down in that country, leading to $500 million in lost U.S. exports and thousands of jobs with it. Throwing Americans out of a job will not corral any drug barons in Colombia.

Nearly two decades ago, former Secretary of State George Schultz warned against the dangers of "light-switch" diplomacy; the belief that commercial relations could be turned on and off like a switch. This warning is more relevant now than it was two decades ago. As of August 31, 1997, 46 bills were pending in the 105th Congress authorizing unilateral economic sanctions against 38 countries, including China, Costa Rica, India, Indonesia, Mexico, Switzerland and Turkey. Fourteen sanctions measures were pending at the state and local level targeting 17 countries. Our commercial relationships are not an electrical current. For the sake of American prosperity and interests, let's leave the light switch alone.

Thank you.

Chairman CRANE. Thank you very much, Mr. Marcich.

Our final witness, Mr. Massaua.

STATEMENT OF MATTHEW MASSAUA, REGIONAL DIRECTOR, INTERNATIONAL POLICY AND MARKET DEVELOPMENT, USA RICE FEDERATION

Mr. MASSAUA. Good afternoon, Mr. Chairman. My name is Matthew Massaua. I am regional director for international policy and market development at the USA Rice Federation. I appear here on behalf of the USA Rice Federation, the national trade association of the U.S. rice industry, which is working to advance the common interests of this country's rice farmers, millers, marketers, and allied industry segments.

Trade has historically been and will continue to be critical to the U.S. rice industry. The United States is exporting approximately half of the rice it produces, and consistently ranks as the second or third leading rice exporter in the world. The U.S. share of world rice trade has ranged from 12 to 28 percent. Today, U.S. rice is sold in over 100 countries around the world, recognized for its quality and reliability. The United States is also considered a reliable diversified supplier, exporting long, medium and short grain varieties of rice with a wide range of processing options.

Our major export destinations include the European Union, Mexico, Japan, Turkey, Canada, Haiti, and South Africa. In addition, we're working to develop markets in other countries which have provided greater market access under the Uruguay round agreement.

Of all the grains exported by the United States, rice has been hit particularly hard by unilateral trade sanctions. For example, before President Clinton's Executive order on the U.S. trade embargo with Iran in 1995, that country was emerging as one of the largest markets for high quality U.S. rice. Similarly, the largest importer of U.S. rice in 1989 was Iraq, which was closed to U.S. rice exporters by executive order in 1990. Trade restrictions imposed by the U.S. Government, however well justified, do impact U.S. rice exporters and consequently the entire rice sector in this country. Despite occasional exemptions, such as general license programs, trade restrictions currently in force effectively reduce the size of the world rice market available to U.S. commercial exports.

The recent scenarios in the Middle East have their counterpart in the Cuba of 1960. At that time, Cuba was the largest single importer of United States rice, preferring to buy the United States product on a commercial basis because of quality, proximity, and reliable supply. In 1951, Cuba imported a peak volume of approximately 250,000 metric tons of United States rice, which represented about half of total United States exports at the time. In 1996, a 250,000 metric ton market would have accounted for approximately 10 percent of our total exports.

Cuba's share of total United States exports varied considerably from year to year, ranging anywhere from 17 to 51 percent in the 10-year period prior to the embargo. Since the embargo, Cuba's annual imports have averaged around 300,000 metric tons, with primary import origins from Thailand, China, and Vietnam.

The United States rice industry believes once the United States Government has lifted the embargo, Cuba will again become a significant market for United States rice. Because of the structural changes that have occurred in Cuba and changing food consumption patterns, it's possible that a post-embargo Cuba may not immediately be in a position to commercially import the same high quality United States rice it had in the past. However, our industry views the Cuban market as one of great potential. Once the embargo is no longer in place, the U.S. industry will expect to reenter the Cuban market and will work closely with the U.S. Government to make use of any government programs which may assist in maximizing potential gains in this important market.

In conclusion, Mr. Chairman, the trade sanctions currently in force are allowing other rice exporting nations such as Thailand and Vietnam to gain major competitive advantages over the United States rice industry. Furthermore, for 1997 and 1998, when the United States is expected to harvest its third largest rice crop on record, U.S. Department of Agriculture estimates that more than 13 percent of projected global rice import demand will be subject to unilateral trade sanctions. This represents a very significant degree of lost marketing opportunities for the U.S. rice industry.

I again thank you for this occasion to appear before the Subcommittee.

[The prepared statement follows:]

Statement of Matthew Massaua, Regional Director, International Policy and Market Development, USA Rice Federation

Good morning Mr. Chairman, my name is Matthew Massaua. I am Regional Director for International Policy and Market Development at the USA Rice Federation. I appear here this morning on behalf of the USA Rice Federation, the national trade association of the U.S. rice industry which works to advance the common interests of this country's rice producers, millers, marketers and allied industry segments. The Federation is composed of three charter members—the U.S. Rice Producers Group, the USA Rice Council and the Rice Miller's Association.

U.S. RICE TRADE

Trade has historically been, and will continue to be, critical to the U.S. rice industry. The U.S. exports approximately half of the rice it produces, and consistently ranks as the second or third leading rice exporter in the world. The U.S. share of world rice trade has ranged from 12 percent to 28 percent. The U.S. industry's largest global competitor is Thailand, which maintains an average market share of about 30 percent. Today, U.S. rice is sold in over 100 countries around the world and is widely recognized for quality. The U.S. is also considered a reliable, diversified supplier, exporting long, medium and short grain varieties of rice with a wide range of processing options.

Current major export destinations for U.S. rice include the European Union (EU), Mexico, Japan, Turkey, Canada, Haiti, and South Africa. In addition, the U.S. rice industry is working to develop markets in other countries that have provided greater market access under the Uruguay Round agreement.

THE U.S. RICE INDUSTRY AND GLOBAL TRADE ISSUES

Of all grains exported by the United States, rice has been hit particularly hard by unilateral trade sanctions. For example, before President Clinton's executive order on the U.S. trade embargo with Iran in 1995, that country was emerging as one of the largest markets for high quality U.S. rice. Similarly, the largest importer of U.S. rice in 1989 was Iraq, which was closed to U.S. rice exporters by executive order in 1990. Trade restrictions imposed by the U.S. government, however well-justified, do impact U.S. rice exporters and consequently the entire rice sector in this country. Despite occasional exemptions, such as "general license" programs, trade restrictions currently in force effectively reduce the size of the world rice market available to U.S. commercial rice exports.

U.S. AND CUBA RICE TRADE

The recent scenarios in the Middle East have their counterpart in the Cuba of 1960. At that time, Cuba was the largest single importer of U.S. rice, preferring to buy the U.S. product on a commercial basis because of quality, proximity and reliable supply. In 1951, Cuba imported a peak volume of approximately 250,000 metric tons of U.S. rice which represented about half of total U.S. exports at the time. In 1996, a 250,000 metric ton market for U.S. rice would have accounted for approximately 10 percent of total exports.

Cuba's share of total U.S. exports varied considerably from year-to-year, ranging from 17 to 51 percent in the ten-year-period prior to the embargo in 1963. Since the embargo, Cuba's annual imports have averaged around 300,000 metric tons, with primary import origins of Thailand, China and Vietnam.

The type of rice purchased by Cuba from the U.S. was a high quality U.S. long grain product. In the years since the embargo, Cuba has imported a lower grade product, both long and medium grain.

The U.S. rice industry believes once the U.S. government has lifted the embargo, Cuba will again become a significant market for U.S. rice. Because of the structural changes that have occurred in Cuba and changing food consumption patterns, it is possible that a post-embargo Cuba may not immediately be in a position to commercially import the same high quality U.S. rice it had in the past. However, the U.S. rice industry views the Cuban market as one of great potential.

Once the embargo is no longer in place, the U.S. industry will expect to re-enter the Cuban market and will work closely with the U.S. government to make use of any government programs which may assist in maximizing potential gains in this important market.

CONCLUSION

Mr. Chairman, the U.S. trade sanctions currently in force are allowing other rice exporting nations such as Thailand and Vietnam to gain major competitive advantages over the U.S. rice industry. Furthermore, for 1997/98 when the U.S. is expected to harvest its third largest rice crop on record, USDA estimates that more than 13 percent of projected global rice import demand will be subject to unilateral trade sanctions. This represents a significant degree of lost marketing opportunities for the U.S. rice industry.

Chairman CRANE. Well, we thank you for your participation. While it's not directly related to unilateral sanctions which obviously all of our witnesses but one I think today agreed on, I would urge you also to please try and get the word out, to communicate about the urgency of fast track extension before this session is over. Because while we're taking a hit on sanctions economically, and a big hit, I fear if we don't get fast track extended this session, it won't happen until the next millennium. Based upon the importance of trade, considering we're 4 percent of the world's market here in terms of consumers, our trade growth is the most dynamic component of our economy. You folks are aware of it, certainly. Please get the word out and communicate to colleagues here on the Hill, because we have many who unfortunately, well most, the vast majority, have not heard the presentations that you folks have made. They need to get that information.

With that, I thank you very much for your testimony. That concludes our hearing. The record will be open until November 6.

[Whereupon, at 2:52 p.m., the hearing was adjourned, subject to the call of the Chair.]

[Submissions for the record follow:]

Statement of Robert P. O'Quinn, Heritage Foundation

Mr. Chairman and members of the Subcommittee on Trade, I am Robert P. O'Quinn, Policy Analyst for International Economics and Trade in the Asian Studies Center of The Heritage Foundation. Thank you for inviting me to testify about economic sanctions, by which I mean export, import, investment, and funds movement restrictions.

In his first term, President Bill Clinton imposed new unilateral U.S. economic sanctions on 35 target countries that comprise 42 percent of the world's population and consume 19 percent of the world's exports during his first term. This explosive growth in the use of economic sanctions raises important policy questions: (1) Are economic sanctions an effective means of achieving American foreign policy objectives? (2) What do economic sanctions cost the American economy? (3) Do unilateral state and local economic sanctions undermine the coherence of American foreign policy, reduce flexibility, and violate the U.S. Constitution? and (4) What strategic doctrine should govern the use of economic sanctions to ensure that they actually advance American interests?

Historically, economic sanctions have a poor track record. Economic sanctions were imposed by various countries in 116 cases worldwide between 1914 and 1990. They failed to achieve their stated objective in 66 percent of the cases. In most of the remaining 34 percent of the cases, economic sanctions were at best partially successful.[1] Although proponents cite South Africa as an example of the successful application of economic sanctions, unique factors existed in that case that are unlikely to be found in other countries. Most important was the fact that the sanctions were imposed multilaterally by the international community, not solely by the United States.

Although multilateral economic sanctions might succeed in the appropriate circumstances, unilateral economic sanctions will fail more often than not. By itself, a unilateral trade or investment embargo may not be enough to persuade a target country's government to change its objectionable policies. In today's global economy, foreign rivals will quickly and easily replace American companies in a target country's market. Moreover, applying unilateral U.S. economic sanctions against friendly countries because of single issue disputes (such as drug trafficking) may reduce cooperation on other issues and damage broader U.S. interests.

Unilateral economic sanctions cost the American economy dearly. In 1995, U.S. economic sanctions reduced exports to 26 target countries by as much as $15 billion to $19 billion, eliminated more than 200,000 jobs in relatively high wage export sector, and caused American workers to lose nearly $1 billion in wages.[2] Moreover, the effects --

---

[1] Gary Clyde Hufbauer, Jeffrey J. Schott, and Kimberly Ann Elliott, *Economic Sanctions Reconsidered: History and Current Policy*, Washington, D.C.: Institute for International Economics, 1990, pp. 92-93.
[2] Gary Clyde Hufbauer, Kimberly Ann Elliott, Tess Cyrus, and Elizabeth Winston, "U.S. Economic Sanctions: Their Impact on Trade, Jobs, and Wages," Washington, D.C.: Institute for International Economics, April 16, 1997, p. 3.

through lost follow-on sales and services, diminished foreign confidence in the reliability of American companies as suppliers, and reduced foreign direct investment in the United States - can reverberate through the U.S. economy long after sanctions have been removed.

Finally, economic sanctions imposed by state and local governments are disruptive and unconstitutional. They can interfere with foreign policymaking by preventing the United States from "speaking with one voice" on international affairs. Moreover, unilateral state and local economic sanctions appear to violate both foreign commerce and the federal supremacy clauses of the U.S. Constitution.

Economic sanctions are important strategic weapons in the policy arsenal. Like other strategic weapons, however, they must be used with extreme care lest American companies, their workers, their suppliers and their shareholders become "friendly fire" casualties.

Because economic sanctions are only a step below a blockade or other military action, the decision to apply economic sanctions should receive the same deliberate and sober consideration as committing U.S. troops to battle. The widespread misapplication of unilateral economic sanctions by Congress and the President since the Cold War ended suggests such deliberation is not occurring. The United States needs a new strategic doctrine governing the use of economic sanctions to achieve American foreign policy objectives. To fashion this new doctrine, Congress should:

1) **Establish guidelines for implementing economic sanctions.** Before Congress and the President consider imposing economic sanctions, the following remedies should have been exhausted:

   - Private persuasion.
   - Public cajoling.
   - Consultation with allies on multilateral sanctions.
   - Non-economic sanctions.

   Economic sanctions to achieve clearly defined national security objectives should be treated differently from sanctions that are intended to serve a moral or economic purpose. In national security cases, sanctions may be justified even if their probability of success is low.

   For non-national security purposes, economic sanctions should only be applied only if there is a high probability of success. To determine the likelihood of success, Congress and the President should ask the following four questions:

1. Is the proposed sanction's objective limited enough to be achievable?

2. Does the United States have a monopoly advantage that it can exploit against the target; if not, will other countries cooperate with United States in imposing this sanction?

3. Is the sanction's impact so large that it may persuade the target country to change its policies?

4. Is the sanction's impact on the U.S. economy small enough not to cause significant harm to American companies, their workers, their suppliers, and their shareholders, as well as American consumers?

Congress and the President should only proceed with a proposed economic if and only if all of the above questions can be answered affirmatively. Otherwise, the proposed sanction merely pleases domestic constituency groups with no plausible hope of achieving its objective and should be discarded.

2) **Avoid secondary boycotts.** Unless U.S. national security interests are clearly at risk as is the case in Iran, Libya, and Cuba, Congress should not apply economic sanctions extraterritorially.

3) **Forbid state and local governments to impose economic sanctions.**

Thank you, Mr. Chairman, and I request that my articles, *A User's Guide to Economic Sanctions* and *To Promote Religious Liberty, Cut Aid, Not Trade* be submitted for the record.

Statement of Hon. Jim Ramstad, a Representative in Congress from the State of Minnesota

Mr. Chairman, thank you for calling this hearing to discuss the use and effect of unilateral trade sanctions.

While I do not disagree with the foreign policy goals of many of the sanctions bills Congress has passed, since there are real consequences for real people tied to these sanctions, we need to make sure they achieve the intended goals.

I am aware that a 1997 report by the National Association of Manufacturers found few cases in which sanctions had effectively changed the behavior of targeted governments.

I am also aware that the 1997 report of the President's Export Council determined that sanctions hurt the reputation and credibility of U.S. firms in the international marketplace and that "a large portion of the negative impacts on U.S. economic interest could be reduced with no significant impact on foreign policy interests."

More importantly, however, I have heard from a number of constituents who—while not questioning the intentions of our legislation—have strong concerns about the impacts of sanctions legislation on U.S. leadership in the global arena and their own businesses.

Knowing all this, I appreciate this opportunity to hear expert testimony on the impact of American sanction policy. I also look forward to learning more about the Chairman's recently introduced legislation to give Congress and the Administration a thoughtful framework in which to devise effective sanction policy.

Thank you again, Mr. Chairman, for calling this hearing. I look forward to hearing from today's witnesses about the effectiveness of unilateral sanctions and possibilities for improving our methods for achieving our foreign policy goals.

Statement of U.S. Association of Former Members of Congress, Hon. James W. Symington

This report summarizes highlights and reflections of the U.S. Association of Former Members of Congress (FMC) delegation who visited Cuba from December 9 to 14, 1996 under the auspices of the U.S. Association of Former Members of Congress (FMC). The delegation's composition was unique in that no such bipartisan political group of current or former Members of Congress has visited Cuba in the past 25 years. The delegation was chaired by Association President former Representative Louis Frey (R/FL) and former Representative James Symington (D/MO) served as Vice Chairman. The Congressional component consisted of two current Members of Congress, Toby Roth (R/WI) and Jon Christensen (R/NE) and four former Members of Congress: Senator Dennis DeConcini (D/AZ) and Representatives Michael Barnes (D/MD), Frey and Symington. The delegation also included, and was greatly aided by, Walter Raymond, Senior Advisor to the Association and former Special Assistant to the President for National Security Affairs, and Ambassador Timothy Towell, who formerly served in the U.S. Interests Section in Havana and as U.S. Ambassador to Paraguay.

This program initiative of the U.S. Association of Former Members of Congress was funded by a grant from the Ford Foundation. The purposes of the trip to Cuba were to look and listen, to have a frank exchange of views with a cross section in the country, become better informed about conditions and attitudes on the Island and share American attitudes with the Cubans. The Cubans responded positively to this effort to have a broad and candid dialogue. The delegation will share its impressions and ideas with public and private groups in the United States.

The delegation was based in Havana and met a broad range of senior Cuban Government officials, municipal and local authorities, university leaders and students, individuals in "self-employed" enterprises, Western diplomats, religious leaders and a number of representatives in the democratic opposition (dissidents). Members of the delegation also took opportunities to reach out and talk to individual Cubans on the street to broaden their view of daily life in Cuba. The delegation had the opportunity to visit Matanzas Province and to discuss local and regional issues with municipal and provincial level leaders. In the course of the five days, visits were made to a variety of facilities including schools, at the primary as well as at the university level, an oil refinery, cooperative farm, church, community health center and teen club. The resort facilities along the Varadero Beach were held up as an important example of "Western capital investment." These facilities also serve to highlight the disparity in quality of life between the average Cuban and the foreign tourist. Animosity toward the latter is tempered by recognition of their importance to the economy. For its own part, the delegation encountered no hostility from any quarter. The delegation's itinerary and meeting agenda is attached.

As its observations and exposure to Cuban opinion were limited by time, the delegation's conclusions must be deemed tentative. Its members do not profess instant expertise on Cuba. However, having devoted a fair portion of their professional lives to politics—domestic and foreign—they were able to bring such experience to bear in their discussions and subsequent analysis. The end of the Cold War and the end to massive Soviet subsidies augurs for fundamental structural change in the Cuban economy and the underlying assumptions upon which Cuba's current political system rests. The next two to five years will be critical for the future directions of Cuba. This view was shared by a cross-section of people encountered. It would appear to offer the United States policy options which heretofore were unavailable.

The state of mind of Cuba. Cuba's island mentality sets it apart from the attitudes and experience of the peoples of Central and East Europe as they sought to break from communism. It also tends to foster a "siege mentality" in the country. Less porous than the Iron Curtain, Cuba's ocean moat has thus far repelled the successful infiltration of new ideas. Moreover, in the Cuban view of history, the West, and particularly the United States, is not perceived as a force which helped support an independent Cuba. Current Cuban historians, bureaucrats and students stress that America's entry into the war for Cuban independence from Spain was unnecessary and exploitative.

In the course of the delegation's discussions in Havana, the members received a variety of mixed comments about the Cubans who have left the island. Many look upon those who have fled with mixed emotions. There is a sense of relief for family members and friends, envy for those who struck it rich and resentment against those who would employ the power of a super-state to take or regain property, prerogative and power in their former homeland. Paradoxically, the departure for almost 40 years of significant numbers of the class of potential leaders has left the island with a more limited prospect for active internal dialogue, not to mention a more focused struggle for democratic change. By contrast, in Central and East Europe, after the communist takeovers, most of the population (including the potential political elite) remained in country, while in Cuba. Most of the political elite have been killed, jailed or systematically forced to leave.

The Castro regime has created a system which its spokesmen say has no exact parallel. They call it "Cuban Socialism." The Cuban officials say they want to avoid moving from "communism to corruption, as has happened in Russia." Politically, there is no moderation and Cuba continues as a tightly controlled police state. Maintenance of the status quo and the public acceptance of its "advantages" requires close supervision and severe limitations on personal freedoms, a centrally controlled Government press and frequent human rights violations. Cuban children are propagandized from the start. As an example, during a visit to an elementary school, the delegation was treated to a lively patriotic song by a typically friendly group of five year olds, which called on the fellow citizens "to fight to the death against the great enemies of their country and the revolution." The controlled Cuban press diligently fills in the details of the challenge. At the same time, grass roots citizens efforts and self-help projects developed by residents in one of the poorer districts in Havana were genuine and impressive. The vitality, character and innate goodness of the Cuban people continue to survive despite all the obstacles that exist.

There is dissatisfaction with the Government, but Castro is not universally blamed. Spokesmen for the regime underscore that, in the past 35 years, a genuine effort has been made to promote social and economic justice. They take pride in the improvements which have been recorded in the fields of education and public health. In this context, the Revolution still is discussed in positive terms. At least among ruling circles—and we suspect perhaps beyond—there is a strong sense of pride, including pride in fighting its most powerful neighbor to a standstill. As one senior Cuban official stated, adjustments could be considered in all areas except compromise in the social and economic progress achieved by the Revolution and as long as such changes can be made without causing the Cubans to appear weak internally and in the world's eyes. A policy to resist U.S. domination resonates in Cuba, although there is little ill will toward the United States, rather a general puzzlement about current U.S. policy toward Cuba. This attitude, articulated by officials, provincial workers, farmers, university students and others, is shared to an extent by the independent democrats and dissidents. Where differences emerge is over what political, economic and social policies should be adopted to meet the needs of the Cuban people.

The economy is in very bad condition despite the best face put on it by senior Cuban officials. Two members of the delegation, who had visited Cuba in 1994, were able to identify limited positive economic changes in Havana, which probably were carried out largely by necessity. Doctors' and lawyers' salaries are roughly $8 per month; tobacco factory workers earn about $6 per month. Western companies in Cuba make salary payments for their workers directly to the Cuban Government in dollars and approximately five percent of the dollar value (in the open market) is passed to the Cuban worker in pesos. There are instances where doctors, lawyers and other professionals work and earn more as bellhops and make more money. In the long run, such anomalies will diminish interest in advanced education. Significant workers' benefits exist covering medical, educational and retirement expenses, although there is no social security system and retirement payments derive from general revenue. The Minister of Economy pointed out that the Cubans were faced with an incredible challenge with the sudden cut off in 1991–92 of the Soviet subsidy of at least $6 billion per year. He stated that the Russians had provided an additional $1.2 billion military subsidy annually. The Minister commented that the economy hit bottom in 1993–94, began to turn around in 1995 and is rallying upward in 1996. There may be some truth to this, but the increase does not begin to cover the 40 percent loss of GNP in the 1992–94 time frame. Another indication of Cuba's economic decline is the drop in annual oil consumption from 13 million tons in the days of Soviet support to eight million tons today. Cuba's own oil production meets about 15 percent of this lowered requirement. The rest much be purchased in what the Cubans describe as their "Caribbean market." The country has the appearance of a "socialist state" economy with sparse stores, limited products, poor transportation and a breakdown of facilities. Food is available but supplies and variety are limited. As an example each Cuban has a ration of six to eight eggs per month. The desperate character of the economy is reflected in the high incidence of prostitution, forced on young women out of necessity. Dissident economists pointed out that the Cuban Government numbers are wrong and that the economy is "dead in the water." Havana's darkened streets, decaying structures, makeshift conveyances and universally inadequate plumbing lend credence to this suggestion.

There have been tentative steps taken to move toward reform, including: the establishment of areas where self-employment is permitted, not including professions such as medicine, law and engineering; the legalization of the dollar and interchangeability with the peso; the move from state farm to cooperative in the agricultural sector; the relaxation of certain restrictions in foreign investment; and the expansion of tourism. Many of the best tourist facilities, including Varadero Beach, exclude the local population. Western observers label this practice as "apartheid tourism." Such tourism brings revenue to the country, but increases resentment from the citizens as a result of their exclusion. The delegation learned that the owner of the private restaurant (paladares) in which it dined grosses $7,000 per month. This is significant in light of the fact that each paladares can only seat 12 customers and can employ only family members. Even after expenses, which include a $750 monthly license tax for each paladares, this is a step toward the establishment of a private business sector. In the agricultural sector, the delegation met directly with farmers in the newly formed cooperatives. It is claimed that incentives are built into the process and that farmers who work hard and produce more earn more both in cash payments and in a greater share of the produce from the farm. There is a safety net, and farmers who are ill on the job receive a 70 percent salary payment and those who are ill for non-job related reasons receive a 50 percent payment. Permission for open farmer markets to be established has the potential for strengthening the "private" agricultural sector. It has brought more food to market but at significantly higher prices. Each step, to date, has been so carefully calculated and circumscribed as to vitiate real benefits to the economy. Nevertheless, it was the delegation's perception that the modest reforms are a start and should be nurtured wherever possible.

Castro retains his powerful place in Cuban life and governance, and is feared by all, but with fewer manifestations of hands-on daily management. The two delegates who had been in Cuba before saw fewer Castro icons dominating Havana. The delegation noted with interest consistent reminders of Jose Marti and other revolutionary leaders of the late 19th Century.

The challenge to managing the Cuban economy after the end of the Soviet subsidy has been addressed in several ways:

(1) There is a concentrated effort to attribute all Cuba's economic problems to the policies of the United States. Opposition to the embargo is now supplemented by strident exploitation of the Helms-Burton Act as the current cause for their pain. By systematically pressing this propaganda theme, the Cubans are attempting to buy time with the propaganda tactic. The average Cuban knows much more about "Helms Burton" than his counterpart and the delegation noted this point to Cuban officials. Nationwide public meetings address the subject. School students discuss and debate the issue. Ministers can quote the law verbatim. The Cuban Government has scheduled an international conference, involving Cubans living in Cuba and overseas (Spain, Mexico, Venezuela and the United States), in Havana on January 18 and 19.

(2) There has been belt tightening and the traditional propaganda point that the social and economic justice that has been established by the Revolution must not be lost is emphasized repeatedly. There is some popular support—not dissimilar to that encountered in Central/East Europe and the NIS—for the belief that changes should jeopardize social benefits of the Revolution, including free medical care, education and pension rights. These are vital for a population that has little, if any, reserve.

(3) There are limited "reform" steps being taken. While modest and carefully calculated, they represent more creativity than at any time in the past 20 years. Some of the more forward leaning members of the Castro Government may want to move faster, but they are unwilling to get too far out in front. The "modernists" in the regime realize that one day (probably after Castro), if these experiments are to work, they will need to be given more space. One Cuban official implied that they are starting to have labor problems. The Government tried for two years to pass an income tax bill but it has not been able to convince or overcome the opposition of the labor unions. The delegation noted that while some officials echoed the party line, others went beyond and were prepared to engage in reasonable exchange. The old leaders are still in evidence, but a new generation is preparing to take the field. While members of this new team may see the world differently, they are not yet certain whether they can make any viable changes in policy in Cuba. By exercising a senior statesman role (witness the exploitation of Castro's visit with the Pope), Castro permits a potential successor team of political and economic leaders to cope with the economic crisis created by the end of the Soviet subsidy. If they move too

far out in front or appear to show a lack of revolutionary commitment, Castro can preemptively remove them from office.

The delegation's tentative conclusion is that Castro has politically weathered more than 30 years of an American embargo and the more recent challenge created by the end of the Soviet subsidy and today, while impacted by the Helms-Burton Act, still remains solidly in control. As will be noted, the negative impact of Helms-Burton may be offset by its use to divert national attention from the innate efficiencies of the system. Western diplomats concurred with Cuban officials that Helms-Burton has been successful in limiting some new foreign investment. The total economic impact of U.S. action since 1962 has been devastating, but Cuba has lived with this reality. While the Soviet subsidy was of vital importance, in recent years the Cubans have coped without it. Non-U.S. investment has been of modest help in meeting the shortfalls and this probably will grow. A key unanswered question will be whether the Cubans will press forward with modest economic reforms which would make the country a more attractive market for foreign investors. The delegation was advised by certain Cuban officials that the anger and concern in Cuba over the Helms-Burton Act appears greatest over Titles I and II which expand the U.S. embargo and the U.S. commitment to support internal democratic processes in Cuba.

Views from the diplomatic community. The delegation was briefed by Mexican, Czech and Canadian Embassy officials. The Mexicans and Canadians predictably thought Helms-Burton was counterproductive. The Mexicans believed Cuba is changing, more economically than politically, and that the Cubans will not be able to control the economic forces that will be created by internal reform dictated by necessity. The Mexicans think that the Pope's visit also will play an important part in strengthening "people power." The Canadian Ambassador also believes changes would continue out of necessity and that Cubans authorities think they can control the changes. Should such changes get out of hand and/or should the succession of executive authority not be handled effectively, he was less sanguine about the avoidance of violence and a return of U.S. military involvement. There is a fear of succession among the Cubans, but the subject is avoided by Cuban authorities. The Canadian Ambassador noted that the Concilio Cubano was deemed a threat because of the promise it held for bringing the dissidents together. The Concilio was a coalition of a large number of unofficial groups and individuals, established in October 1995 and crushed by the Cuban authorities in February 1996. The Czech diplomat said that despite the fact that the democratic opposition is weak and fragmented, it is necessary to support the democratic movement as a moral force. He sees no evidence of an emerging civil society and expects change will come from above and from external pressure. The Czech was alone among the diplomats in arguing for a continuation of the embargo. One diplomat envisioned that Castro would be out of power in two years, possibly violently, and that the OAS would provide support for free elections.

The church as a moral force. The delegation made a concerted effort to determine the role of religion in Cuba, particularly with the possibility of a visit by the Pope within a year. The decrease in Catholic Church total attendance and membership reflects its vigorous suppression by the regime in the 1960s. Cardinal Ortega noted that in 1961, the number of Catholic priests was cut from 800 to 200 and the number of nuns dropped from 2,500 to 200. The Catholic University was closed, and access to means of communication was cut. The church was "reduced to silence." He added, however, that he believes the Church in Cuba has been experiencing a religious reawakening since the late 1980s. Recent surveys suggest that two percent of the Cuban population regularly attend mass while about seven percent of the population is Catholic. He believes the projected visit of the Pope will stimulate religious awareness and energize the population. The Cardinal echoed the Pope's views on the embargo and believes that after more than 30 years, it is time for a change. Three representatives of different Protestant denominations with whom the delegation met also suggested that there is a greater interest among the population in church matters and in the faith. Another approximately seven percent support one of the 52 separate Protestant denominations. The Protestant groups appeared to be more willing to seek accommodation with the Castro regime. The largest number of Cubans supports Santeria, a derivative of the Catholic Church mixed with the faith, religious practices and beliefs brought to Cuba by Africans several hundred years ago. This practice is particularly prevalent among the black population of Cuba, which is over 50 percent.

The democratic opposition. Discussions with the democratic political opposition/dissidents, who were identified to the delegation by human rights groups in the United States and by diplomats in Havana, produced some surprising statements. The majority of the group opposed Helms-Burton, although it is not clear how many of these want to drop the embargo. One dissident called it the Helms-Burton-Castro Act, in view of the opportunity it provides Castro for blaming the United States further for Cuba's economic problems. Several dissidents said that an opening of the economy at this point is the best way to effect genuine political change. One said that the EU posture was helpful as EU member states were both exploring economic opportunities and supporting the democratic movement. Another said that "if the doors were wide open and one million Americans came to Cuba next year, Castro would fall immediately." The dissident thought the Cuban economy needed infusions of risk capital to reinvigorate and enfranchise the people. They believed this would speed the transition to a civil society and of democratic processes. Investments, properly managed, bring more people into the process. One of the dissidents presented a formal letter calling for changes in the embargo including a call for "the unconditional lifting of the embargo of food and medical supplies for Cuba." This echoes the view of Cardinal Ortega who would welcome food and feed grains via Title III of Public Law 480 which provides for distribution through such voluntary agencies as Caritas.

Another dissident recognized that, realistically, Helms-Burton will remain for a while and suggested that the United States press vigorously for "Sullivan/Arcos Principles" to be established for all Western companies trading with Cuba. The Sullivan Principles were a code of business conduct supportive of labor which Westerners adopted to put pressure on the former South African Government to end apartheid. Senior Cuban dissident Arcos has drafted a similar set of "principles" designed to assure that Western companies trading with Cuba would use that opportunity to raise the standard of living of Cuban workers and their families. This suggestion is consistent with Stuart Eizenstat's efforts to press allies to insist on Western business practices in Cuba which include safe work places and fair wages. They would also required Western businesses to hire and pay workers directly which is not now allowed under Cuban law.

One dissident underscored the extreme difficulty in building political support from a population that has been so crushed and subjugated. In referring to the Concilio Cubano, which brought together a large number of dissident groups for the first time, one Cuban said that it was a great idea but lacked sufficient support from the United States and the EU. Moreover, cooperation and coordination of efforts within the dissident community appears difficult to achieve. There were even differences of approach and some mutual suspicions within the group the delegation met. These sentiments were fueled by the dissidents own sense of permanent threat from the Castro regime. Several said that they probably would be picked up and interrogated after their meeting with the delegation, and one dissident thought he might be arrested.

Continued detentions. The delegation discussed the plight of political prisoners with key members of the Cuban Government, including Minister of Justice Robert Diaz Sotolongo and the President of the National Assembly Ricardo Alarcon. The point was strenuously made that the continued arrest and imprisonment of Cuban citizens for political reasons has a direct and continuing negative impact on American and international opinion about Cuba. The delegation made the point to both Cuban leaders in separate meetings. At the meeting with Minister Sotolongo, who had been appointed earlier, members of the delegation noted that the violation of human rights and political repression were critical barriers to an improvement in the bilateral relationship, more so even than the expropriation issues. It was suggested that Mr. Sotolongo, as a new minister, could make a fresh start, reexamine previous actions and take some ameliorating initiatives.

The Minister deflected a discussion of specific cases, but said the Ministry would assess past actions to determine if judicial errors had been made. He rejected the delegation urging that the Concilio be accredited because "the aims it pursued were not helpful in building our own society...therefore it is not possible to allow space for the Concilio Cubana." While time constraints prevented exploring this statement further, the delegation pressed the case for recognition of individual human rights and fair trials. The delegation emphasized that changes in this area, including the release of Concilio members still in jail, could impact directly and positively on U.S.-Cuban relations. In closing, the Minister of Justice defended the Cuban Administration of Justice, but added that he had taken careful notes of the American concerns and will consider them. He also indicated a willingness to meet again. To confirm its concerns, the delegation forwarded to Castro a formal request for the release of 17 political prisoners by name.

Background on policy considerations. The delegation is committed to political change and the respect for human rights in Cuba. The delegation is not recommending any lessening of that commitment. To "get there from here" may require, as has been the case with China, a more nuanced policy than that which has been in place for nearly four decades. Castro has withstood the U.S. embargo since 1962, plus the shock of the loss of more than $7 billion in annual Soviet subsidies. It can probably withstand the current low level of Western economic engagement. In contrast to Central/East Europe, the internal opposition, while well-intentioned and a moral force, does not now constitute, nor hold out the promise of being an alternative power base. There appears no likelihood that, in the near term, Cubans in opposition to the regime will be able to assume power. The military command has troop loyalty. The Castro Government has taken key steps to insure adequate funding to the military, even by engaging them in civilian economic enterprises—such as running the tourist trade—to avoid the financial problems that have beset the Russian Army. Further, Castro has assembled a competent network of young party nomenklatura leaders—one step from the top—and they are prepared to take on more responsibilities. The contrast with Central/East Europe is again instructive. When the old leadership fell in the Revolution of 1989, there was a vacuum filled by the intellectual and popular opposition. Over time, much of this leadership has been filled by rising nomenklatura—espousing their democratic commitment—such as Kwasniewski in Poland, Horne in Hungary and their counterparts in other countries. With Cuba's primary political opposition in exile, Castro hopes to finesse this stage and leave new leadership in place which is committed to the goals and methods of the Revolution. If there were to be conflict in Cuba in a post-Castro period, in the short term, it would more likely be between a reform wing and a law-and-order wing within the current Castro government. This could lead to civil strife which would be a matter of great national security concern to the United States.

Such hypothetical scenarios invite a renewed examination of the policy options. The facts that Russia is no longer Castro's provider and Castro has lost the capability to export subversion in the Western hemisphere are major changes in the national security equation. It is the delegation's judgment that the timing is right for some adjustments in policy in 1997, as there appears to be some soul-searching in Havana and the United States is not facing any elections. Castro is in the final chapters of his rule, although at this juncture he will probably continue until his death or incapacitation. As stated previously, there does not appear to be a basis for anticipating an internal overthrow of Castro and his government. Some of the dissidents urged the United States to let up the pressure so that they can grow internally and ultimately be prepared to win a battle with Castro and/or his successors.

The visit confirmed the delegation's impression that trust between the Cuban and U.S. Governments is almost negligible. The realities around which policies must be crafted are that Castro is not going to fall and Helms-Burton is not going to disappear. At the same time, the delegation uniformly believes that we should seek to identify policy initiatives which are acceptable to the United States and which will help the Cuban people who are suffering. To make such initiatives viable, the Cuban Government will need to see these initiatives as also in their national interests. To traverse so great a distance, each country will have to begin taking small but significant steps.

Such a step on the Cuban side was taken, in the judgment of the delegation, when Cuban authorities turned over to the U.S. Coast Guard six tons of cocaine intercepted by Cuban naval elements in Cuban waters. Given America's preoccupation with international drug trafficking, this step deserves appropriate recognition and response. Members of the delegation, however, made it clear that it will be very difficult to move forward, in any appreciable degree, without a unilateral step by Cuba concerning political prisoners as discussed with the Minister of Justice and requested in writing of President Castro. A second major question which must be addressed is that of a negotiated settlement regarding expropriated property. The point has been made by EU members that this is an issue to be settled between Cuba and the United States as governments have to settle expropriation claims directly and not through third parties. When the delegation raised this with the Cuban officials, the latter stated that they have virtually no funds available to meet these claims, certainly not in terms of 1996 values. Again, while both of these points require discussion, the delegation focused its attention on the human rights concerns of the American people and the Congress.

How can we help the transition to democracy? The time is ripe to look for opportunities to open up the country to people, ideas and information. We need to play cards that will open the avenues to a peaceful transition. In the likelihood of a nomenklatura takeover after Castro, lacking the mystique of Castro, they will have to demonstrate their success in economic terms. As soon as the economy starts to move forward, the people will begin to become "economically enfranchised" and supply and demand pulls will start to shape domestic policy. The engagement by non-American Western investors, tourists and students will begin a process which could lead to the establishment of a civil society and a peaceful transition to not only an economic but also a political open society. This may take ten years, but it is an option that can be achieved with limited, if any, violence.

In summary, some of the basic precepts on which U.S. policy is formulated need to be re-examined. Castro is not going to fall nor will he be pushed off his pedestal by Helms-Burton. Engagement is more likely to achieve the path, primarily in the economic section but coupled with "Sullivan Principles" to insure that trade has the desired social dimension and supports an emerging working class. Policies which increase the probability of violent confrontation should be avoided and are not needed. Members of the delegation encourage Stuart Eizenstat's continued efforts to try to develop some common strategies with the EU to accomplish U.S. foreign policy goals. The United States should continue to press the EU to work for the adoption of the "Sullivan/Arcos Principles" which would guarantee a greater role for the Cuban workers and we should press the EU to work for the adoption of the "Sullivan/Arcos Principles" which would guarantee a greater role for the Cuban workers, and urge Cuba to release political prisoners still incarcerated. If these steps are taken, several basic building blocks will have been laid to establish a civil society in conjunction with EU allies. This could give the United States a basis for modifying Titles III and IV.

POSSIBLE ACTIONS ENVISIONED BY THE DELEGATION TO BE TAKEN IN 1997 INCLUDE:

(1) A comprehensive bilateral program to reduce drug trafficking. The effort which led to the recent 6-ton cocaine bust should be expanded. Consideration might be given to developing joint counter-narcotics interdiction strategies, including undertaking joint naval patrols in the Bahamas and in Cuban and U.S. waters.

(2) Visit by the International Human Rights Law Group to monitor the judicial process. This idea was raised with Minister of Justice Sotolongo who said he received many visits, but he was not closed to the idea. He said Cuban sovereignty and principles would have to be observed. The delegation urged the Minister to review all convictions, as a satisfactory resolution of cases concerning prisoners of conscience would evoke a positive U.S. response.

(3) Consultation with U.S. nuclear experts before completion and operation of Cuba's first nuclear plant. The delegation urged closer international supervision and were advised that IAEA had paid a visit. The plant is being built with Russian equipment and technology and, with the precedent of the Chernobyl plant disaster in Ukraine, is a cause of international concern. The Cuban officials took pains to remind the delegation that they are as interested as the United States in constructing a safe facility. An offer of a visit by a technical group from the southern United States (possibly Florida) whose citizens would be the most directly affected by any nuclear waste, emissions or malfunction should be considered.

(4) Support for human rights in Cuba. The delegation urges the U.S. Government, in conjunction with the EU, to press for the initiation of a process permitting free and open elections, maintained by a responsible international body. Further, the Cubans should be urged to invite the International Committee of the Red Cross to examine the conditions of Cuban prisons. Such a demarche to the Cubans would probably most effectively be pressed through the appropriate third party from the EU or Central Europe. The concurrent release of a number of political prisoners, estimated by the dissidents at 300–500, would be a dramatic gesture with little downside. In the judgment of the delegation, the political prisoners are considered as political chips and insurance rather than a security threat.

(5) An offer to open property settlement discussions. The Cubans acknowledge that this is still an outstanding issue in the bilateral relationship, but politics aside, they have neither the funds nor the will to make a new offer, unless it is part of a larger negotiation concerning bilateral relations. Nevertheless, an effort should be made to establish a process with a payment schedule even if actual funding is deferred to a future date.

(6) The elimination of barriers to two-way communication. This could range from the current—and significant—establishment of the CNN Bureau, to the sale of Western books, magazines and papers and the removal of impediments to Internet connections. In this regard, the delegation was advised by the democratic opposition that TV Marti is never heard in Cuba except by party officials who have satellite dishes. Ordinary Cubans cannot own a satellite dish. Congress should explore how effective TV Marti actually is and if it proves to be as ineffective as the delegation was advised, funding should be stopped for TV Marti. These funds, however, should continue to be allocated for informational programming to Cuba. The delegation believes the estimated $12 million currently allocated for TV Marti could be effectively spent on more informational and academic exchanges and improvements to other

communications channels including the provision of a broad Internet capability. In addition, serious program attention should be given to developing and broadcasting, via a variety of communication channels, basic educational materials concerning the development of a political and economic democracy. Paralleling U.S. programming to Central/East Europe and the NIS, the time is right to provide materials to support a peaceful transition in Cuba.

(7) Lifting of restrictions on air travel from the United States to Cuba. This could be done on a step-by-step basis, such as for holidays, to monitor the new arrangements. However, it should be noted that Americans do get to the island now through a very complicated routing. The FMC delegation, for example, traveled via Costa Rica and Mexico. Others go via Nassau and, in comparatively large numbers, travel onward to Cuba by charter. In other words, travel restrictions are finessed and the difficulties imposed are counterproductive. These restrictions do not appear to have any redeeming value. Lifting them would facilitate and energize a range of contacts between Cubans in Cuba, their relatives in the United States and with the wider American community. Such contacts would provide a source of physical and moral support to the Cuban citizens and could temper the conduct and course of the regime itself.

(8) The removal of barriers to humanitarian assistance. Discussions with Caritas, the international arm of the U.S.-based Catholic Relief Services, were very positive and members of the delegation will be in further communication with it. Other channels may also be explored. The Cuban-American community in the United States has been very helpful in assisting their families, but the current restrictions have reduced this assistance. The delegation sees no reason to create obstacles to such assistance.

(9) The removal of remaining impediments to exchange programs. Significant increases in exchanges should be authorized and, as needed, financed. On the basis of our discussions with faculty and students, stringent visa restrictions—which they said appeared to be getting tighter—have directly hampered two-way student and professor exchanges involving the University of Havana. On the basis of the knowledge of the important role such exchanges have played in the past and continue to play in Central/East Europe and the NIS, the free flow of information can directly benefit the democratization process.

(10) A U.S. Government call for the formal adoption of the "Sullivan-Arcos Principles" by the foreign investment community (EU, U.S. and others) as an integral component of their business arrangements in Cuba. International and domestic trade unions should be urged to enlist their support and intercession with Western governments and the business community.

(11) Enhanced foundation support for academic and scholastic programs. The MacArthur and Kellogg Foundations currently support the Center for American Studies at the University of Havana. Others with equivalent interests should be encouraged to determine if such programs (see Paragraph 5 above) meet their criteria for support.

(12) Development of a Speakers Program. Encourage the extension of speaking invitations from non-governmental Cuban groups to U.S. leaders. The delegation asked if Billy Graham were to visit Cuba could he speak to the Cuban people. The answer was that if invited by a Cuban institution, Billy Graham and other religious leaders could visit and speak in Cuba. By this measure, the openings for speaking engagements for scientific, cultural, farm and business leaders would be considerable.

(13) Consideration by Members of Congress of fact-finding trips to Cuba. Hill staffers from the House and Senate foreign affairs committees have been invited to visit Cuba and should be encouraged to do so.

The FMC delegation believes that the contacts developed and candid discussions which took place in mid-December in Havana were an important start. The bipartisan quality of the group, its liberal to conservative construction, and its ability to be one step removed from the direct domestic political pressure that a formal Congressional delegation would have suggest that this opening should be pursued. The delegation was asked by the Cubans to plan a sequel trip at an appropriate time in the future and the FMC will consider such a possibility if and when it appears such a mission could serve a constructive purpose.

Representative Louis Frey, Jr.,
Republican-Florida (1969–1979)
Chairman of Delegation

Representative James Symington,
Democrat-Missouri (1969–1979),
Vice Chairman of Delegation

Representative Toby Roth,
Republican-Wisconsin (1981–1997)

Senator Dennis DeConcini,
Democrat-Arizona (1977–1995)

Representative Jon Christensen,
Republican-Nebraska (1995–)

Representative Michael D. Barnes,
Democrat-Maryland (1979–1987)

to tell you, Dennis Hertel managed to speak to everybody that he met for long periods of time, and he spent more time being a former Member of Congress than I did. I slept and read a lot.

Thank you very much. I yield back.

Mr. FREY. I would now like to yield to the gentlewoman from Maryland, Beverly Byron, to talk about the trip to China in September 1996 and the result of the trip. The former Members paid their own international travel costs, and the costs in China were paid by the Foreign Affairs Committee of the National People's Congress.

Mrs. BOGGS. The gentlewoman from Maryland, Mrs. Byron, is recognized.

Mrs. BYRON. Let me say that, Lou, I have to have this side of the aisle, I am sorry. I cannot speak from the other side. It just does not work. It is like church and the movies; you know which side you are comfortable on.

Let me say that we were able to pull together a delegation of 10 former Members, of 4 spouses, 2 daughters, no animals, to meet in Beijing in September of last year, and we began a 10-day study tour of China at the invitation of their Foreign Affairs Committee.

This group of former Members, many of whom had been in China before, were able to gain a great deal of comparison with the previous visits. Prior to the trip, we held briefings with the State Department, the Foreign Affairs Committee staff of the House, and received many, many pages of background material.

While we were in Beijing, we held meetings with the chairman of the Foreign Affairs Committee, our host, Zhu Liang, and since he stated that since launching a reform campaign, economic development is China's first priority. The United States position is still one China. That was discussed on numerous occasions. That has not changed.

We will see the magical date of July 1, 1997, approaching, and the world will be looking at the transfer of Hong Kong and how China handles the current vibrant, economically stable city that is presently there.

A second meeting was held with the chairman of the standing committee, and that was a discussion on the public influence in the United States of the press, and it is important to have a continuing dialog. It was discussed that an exchange program should begin between our two countries.

The Vice Premier, Minister of Foreign Affairs Qian Qichen, stated, and this is rather interesting, that China must be economically stable to have a peaceful world. As this body begins its discussion in the next few weeks on most-favored-nation status for China and the vote is taken next month, I quote the Vice Premier. Human rights have improved greatly since 1940.

That is 56 years.

He also stated, but China's leaders are working on correcting a number of areas.

It will be interesting to see what areas.

Ambassador Sasser and his DCM were extremely helpful with us, and we had in-depth briefings with his country team.

The remainder of the trip was outside Beijing. We went to Xian, where the Provisional People's Congress were our host. They talked about trade and education. There are 47 universities and 10 military academies in Xian alone. Shanghai, which was a municipality, was our host.

Much of the discussion was on foreign trade, with $48 million spent last year, $8 million with the United States, and last September there were 15,000 joint ventures, of which 1,700 were with U.S. companies.

We were able to export a little bit of the U.S. culture when Carlton Sickles gave us a rendition on his miniature harmonica and Nancy Schulze and Judy Brewster belted forth with "Edelweis." I am not sure how the German exchange program song sheet got with us, but it did.

We moved on to Quilin, and there we were able to see the sister city of Orlando, FL, even to the fireworks that they held as we were on board a riverboat. This city is visited by 8 million Chinese visitors a year and a half a million from overseas. Much of the discussions were on environmental, water, electric issues, and they were very pleased to talk about their new airport that was to open in the next week which will give 10 times the capacity of the current airport.

Several members of our delegation did some in-depth research on medical issues and, at every point and turn in the visit, tried acupuncture. I will let them report that on their own.

As a result of our trip, I think it is the intent of this organization, the former Members, to create and encourage sponsorship of an exchange program of the U.S. Congress and the Nation's People's Congress. The board of directors has approved this, and we are going to be looking to fund that.

We have a delegation report that has been filed with various Members of the House and the State Department. Were it not for Lou Frey and Linda Reed, this trip would not have been possible, and I want to thank them and look forward to many more of this group that is before us today taking part in such an exchange.

Thank you.

Mr. FREY. I thank the gentlewoman. She is chairman of the committee to work on this with a number of the people who went on the trip, so we certainly appreciate that.

I would next like to yield to the former president of the association, who really put together a trip through the Ford Foundation to Cuba. One of the things I think we found is that there are times that we, as former Members, can do things relatively unofficially that it is difficult for sitting Members to do, and maybe this Cuban trip was one of them.

So the gentleman from Missouri, Mr. Symington.

Mrs. BOGGS. The gentleman from Missouri, Mr. Symington, is recognized for his remarks.

Mr. SYMINGTON. Madam Speaker, Mr. FMC President Frey, thank you.

The week of December 9 to 15, 1996, I was privileged to join three other former Members and two then sitting Members of Congress on a bipartisan fact-finding trip to Cuba.

The delegation of three Democrats and three Republicans consisted of our association president, Lou Frey of Florida, as its chairman, myself as co-chairman, Mike Barnes of Maryland, Dennis DeConcini of Arizona, Toby Roth of Wisconsin, and JON CHRISTENSEN OF NEBRASKA.

Our very full schedule of visits and appointments, arranged in part privately and in part via the Cuban Government, brought us together with ordinary people, students, academicians, church leaders, political dissidents, industrialists, Government officials, members of the diplomatic corps, and the U.S. intercession. For these contacts and opportunities, we were indebted to our very able association consultant, Walter Raymond, and to the good offices of a former Cuban hand, retired Ambassador Timothy Towell, who advanced and accompanied us on this trip.

We were well briefed prior to the visit by the State Department and National Security Council; Mr. Eizenstat, the President's Special Envoy on Cuban Affairs; leaders of the Cuban-American communities; and Members of Congress and key legislative aides. Upon return, we were debriefed by these same individuals and offices and particularly the chairman of the House foreign affairs committee, international affairs committee, BEN GILMAN, and the ranking member, LEE HAMILTON, and their staffs. Our recommendations were placed in the RECORD by Mr. HAMILTON.

Briefly, they reflected the consensus of this group that, first, the lives and prospects of the Cuban people are still, as my fellow Missourian, Mr. Buechner, intimated, under rigid government control; and, second, that a policy of selective engagement would prove more effective in diminishing those rigidities than one of unremitting isolation and sanctions.

We specifically recommended the permitting of food and other humanitarian assistance, properly handled, without the present obstacles to travel and shipment. The Cuban people themselves, including those in endangered opposition, when given the opportunity, expressed the hope that Americans would soon return in great numbers on business or vacation or both. The larger questions thus raised remain before our Government and Congress for review and consideration.

Thank you very much.

Mr. FREY. Thank you, Mr. Symington.

C-SPAN was nice enough to cover it. We had a press conference. We came

Statement of Hon. Malcolm Wallop, Retired U.S. Senator

No argument can be made that the previous sanctions and their expanded Helms-Burton successors are or have been effective in achieving the foreign policy objectives of the United States. It is laughable to hear American Spokesmen claim to have seen no improvements from the rest of the world's policy of engagement, as though we have even a modest, let alone spectacular list of achievements after our own forty years of embargoes. Indeed we can more easily believe we have become the wall against which Castro leans. In the vacuum created by our absence we are credibly blamed by him as the cause of all problems. Notwithstanding the claims of its supporters, the case cannot be made that ordinary Cubans blame their leader for their woes.

In the case of Helms-Burton we have chosen a path unbecoming a great nation. WE ARE WAGING WAR ON CIVILIANS. Not in Iraq, not in Iran, not in Vietnam, not in South Africa, in fact nowhere save in Cuba, have we chosen to add trade in food, medicine and humanitarian supplies to the embargoed list. We have forbidden direct travel and the transfer of money from American families to their Cuban relatives. We have declared that nation of 11 million people a national security threat! We have chosen to punish not only those whom we have accused of violating the embargo but in an extraordinary act of pettiness punish their families as well. We have asserted our right to the extraterritorial reach of this law in contravention of our agreements under GATT, NAFTA, and the Organization of American States. In short we have offended our world trading partners and regional neighbors, while achieving nothing but added suffering to those whom we profess to be trying to help.

Let's examine some of the effects of each of these. By waging war on the civilian population through the embargo on food, medicine and humanitarian supplies, can it be argued that in a post Castro Cuba the population will be grateful, or that the successor government will be inclined to embrace anything we suggest? The proponents will argue that no such embargo exists on medicine but their outraged resistance to making that clear in law, the virtual impossibility of procuring necessary permits, and the fact that virtually no trade in medicine has taken place belies their argument. The recently published study on the effects of this embargo on the health of Cuban children, women and seniors should cause any American to wince. The increases in malnutrition, the unavailability of breast x-ray, the lack of kidney dialysis, the extended pain and suffering of leukemia sufferers, the lack of ordinary medicines for burn victims and so on are not the tools of war of the America most of us know. Water borne diseases are increasing because we deny replacement parts for American built sanitation equipment. Is this how we wish to be remembered? And the rational proffered for all of this? If ordinary Cubans are not made to suffer, Castro is the beneficiary. Yet with North Korea for example, a country which can clearly be called a threat to Americans and American interests, we not only allow such trade, we are giving food and medical aid, nuclear technology, fuel, and other necessities. And oh yes they have killed Americans, taken them captive, and done as much or worse to our South Korean Allies. Why North Koreans should be more susceptible to engagement than Cubans one can only guess. In Iraq we lifted the embargo or some sales of oil so they could afford to purchase the permitted trade in foods and medicines.

There are those who argue that Castro has no desire to trade in these commodities. If that is so, then at least it will be demonstrably his fault that medicine is unavailable and children are malnourished and Americans need have no further qualms about our policies. For the time being however, for America this is a new venture. We seek to fight human rights violations with ones of our own!

Now then the ban on direct flights to Cuba has only made travel more expensive for those Cubans who wish to visit families, and at the same time turned many of them into stretchers of the truth as they claim medical or emergency necessity to qualify for their visits. Somebody gets richer while the ordinary folk pay for this policy. The same is true of the banned direct transfer of money. It was reported last week that these family dollars were the largest single segment of the Cuban Economy. The tortuous route this money must take to arrive there only makes some Bahamian, Honduran or other facilitator richer by up to twenty percent of the transfer. One of the most predictable, and least desirable consequences of unilateral sanctions is pure unadulterated graft.

Examine the notion of Cuba as a National Security threat. Does any one doubt that if this be so we have clearly under funded the defense budget? This island of 11 million is about to storm Florida! Assistant Secretary of State Stuart Eizenstat has told our world trading partners that National Security is self-defining and cannot be questioned. But it is laughable, and demeaning as well. Last year Drug Czar McCaffrey stated that Cuba's air force was in his words 'flat on its ass'. This year in the Senate Armed Services Committee hearing on his appointment to be Commander in Chief of the U.S. Southern Command General Wilhelm responded that the only threat Cuba posed was that of migration, and they were no longer capable of force projection. Does anyone believe that you relieve the migration pressure by making life ever more intolerable for the average Cuban? What of the listening post at Lourdes? Would we not be endlessly more knowledgeable of its capabilities were we there in some capacity rather than proudly professing the certain failure of engagement as a potential policy? And lastly, if we worry about the 'Chernobyl' style nuclear reactor would we not be better off treating that problem as we have North Korea's by encouraging the use of American technology to prevent the oft stated threat to the American south of a Kiev style meltdown? If we must have devils can we not at least design our own defenses?

So our own people save for Secretary Eizenstat claim there is little or no tangible threat to our security but since it is self-defining according to his lights we can declare it to be so. But think for a moment what that might mean as a U.S. led world precedent. Could not China, for example make the same case over Taiwan? Where would that leave us? We could deny that in that particular instance it was self-defining, and that only we held the key to the box of definitions. We could abandon the Taiwan Relations Act and throw our friend to the wolves. We could seek 'multilateral' sanctions against China, for clearly any unilateral actions would be self defining in terms of the US economy! Does the Sub-Committee on Trade believe we would have many takers for multilateral sanctions given the emerging size of the Chinese economy. We are set on this path without thought to its consequences, and it's time we paused. President Clinton claimed in Buenos Aires last Thursday that it was "the hardest line people in Miami who are basically responsible for this policy." It is truly time that America, not Miami, was basically responsible for this policy, and that all our interests present and future be considered. It is not in our interest to pander to Castro. It is, however, in our interest to consider the fact that he is mortal, that there will be a successor government, that we will likely not know much about it or its players by being absent, and that clearly any influence we could hope to have will not be bought with large sums of U.S. taxpayer dollars so much as it will be with knowledge acquired and not presumed.

We seem to view Castro, as he views us in return, as some prehistoric rooster. As we stare at each other across the seventy miles each seems to expect the other to lay the first egg. Perhaps a great nation could, as a moral undertaking, become a hen long enough to try something new after forty years of failure.

As to the general utility of unilateral sanctions let me make three points. They don't work, and haven't ever achieved the purposes for which they were imposed. While failing, they hurt most those whom we say we wish to help, and, while failing, they deny market access to American business and a great competitive loss which in most respects will be irretrievable. All the cultural aspects of freedom and democracy which American business carries with it by its very nature, is lost to the furtherance of what ought to be American policy. Thirdly, any chance we might have of gaining knowledge, influencing culture, and embracing the tools of freedom are lost to us.

The great Yale and Us War College historian Eugene Rostow wrote in his brilliant book "Towards Managed Peace" that since the Boston Tea Party there has never been a decade in our country's history without some unilateral embargo, and that there is no instance he can cite in which they have achieved the purposes for which they were imposed. The answer is as the answer has always been, that these are actions designed to satisfy domestic political needs rather than to achieve some goal of National American interest. If our interest now is global consistency, hemisphere stability, Cuban Freedom then it is time to make an American policy to achieve just that.

○