

United States Senate

COMMITTEE ON FOREIGN RELATIONS

WASHINGTON, DC 20510-6225

February 26, 2015

The Honorable John F. Kerry
Secretary of State
U.S. Department of State
2201 C Street NW
Washington, D.C. 20520

Dear Mr. Secretary:

In his public address on December 17, 2014, President Obama announced that the Department of State would review Cuba's designation as a State Sponsor of Terrorism. As you undertake this review, I write to bring the following issues to your attention.

The Export Administration Act of 1979 – which establishes part of the legal foundation for designating a country as a sponsor of terrorism – defines the term “repeatedly provided support for acts of international terrorism” to include “the recurring use of any part of the territory of the country as a sanctuary for terrorists or terrorist organizations.”

In February 3 testimony before the Senate Foreign Relations Committee's Subcommittee on the Western Hemisphere, Assistant Secretary Roberta Jacobson directly confirmed that the Castro regime provides sanctuary to U.S. and foreign terrorists. Moreover, according to the State Department's Country Reports on Terrorism, more than 70 U.S. fugitives from justice – including American criminals wanted for their involvement in the murder of U.S. law enforcement personnel, arms trafficking, and the hijacking of civilian airplanes – were living in Cuba as of 2007.

Foremost on the list of American fugitives is Joanne Chesimard, who the Federal Bureau of Investigation (FBI) placed on its list of Most Wanted Terrorists in 2013. In 1977, Chesimard was convicted of first-degree murder for the execution-style killing of New Jersey State Trooper Werner Foerster. After breaking out of prison in 1979, the FBI reports that she fled to Cuba in 1984, where she has received continuous support from the Castro regime for three decades. Cuba's decision to provide Chesimard with political asylum is an intolerable insult to all those who long to see justice served, including Trooper Foerster's family and the brave officers serving in the New Jersey State Police.

Additionally, the Castro regime is harboring former Central Intelligence Agency officer and convicted arms trafficker Frank Terpil, who is wanted for his role in providing more than 20 tons of plastic explosives to the late Libyan dictator Muammar Gaddafi. Cuba continues to offer safe haven to Charles Hill, who is wanted for the 1971 murder of a

New Mexico State Police officer and the hijacking of a civilian plane carrying 49 passengers – a blatant act of terrorism. These cases are a limited, but representative sample, of the dozens of U.S. fugitives sheltered by the Castro regime to this day.

The Castro regime also provides sanctuary to groups designated as Foreign Terrorist Organizations by the State Department, including Euskadi Ta Askatasuna (ETA) and the Fuerzas Armadas Revolucionarias de Colombia (FARC). Based in Spain, ETA has been responsible for the deaths of more than 800 people, as well as numerous bombings, political assassinations, and kidnappings. The State Department's most recent Country Report on Terrorism states that more than a dozen ETA members continue to receive safe haven in Cuba. While the Colombian government and the FARC are in negotiations in Havana to end that country's longstanding armed conflict, members of the FARC remain responsible for the murder and kidnaping of U.S. citizens, as well as countless acts of terrorism in Colombia.

In light of this information, it is imperative to understand that the Export Administration Act, along with the Arms Export Control Act and Foreign Assistance Act, all clearly state that no country can be removed from the list of State Sponsors of Terrorism until the President certifies to Congress that the government concerned has provided assurances that it will not support international terrorism and terrorists in the future. Any such commitment from the Castro regime would be highly questionable, given that Cuban Vice Foreign Minister Josefina Vidal, on December 22, 2014, publicly defended Cuba's "legitimate right" to provide political asylum and sanctuary to anyone its deems appropriate.

Beyond its longstanding efforts to shelter terrorists and U.S. fugitives, Cuba colluded with North Korea in July 2013 to smuggle 240 metric tons of weapons through the Panama Canal. This incident constituted, to date, the single largest violation of United Nations Security Council sanctions against North Korea. Cuba and North Korea's attempt to smuggle MiG jets, missile batteries, and explosives through the Panama Canal posed a direct threat to global commerce, and demonstrates the two governments' utter disregard for international peace and security.

Additionally, as you conduct your review, it cannot be overlooked that members of Cuba's military are the subject of open federal indictments pending in the United States for the 1996 shooting down of American civilian planes operated by Brothers to the Rescue. The former head of the Cuban Air Force, General Rubén Martínez Puente, and Cuban pilots Lorenzo Alberto Pérez-Pérez and Francisco Pérez-Pérez, are wanted on four counts of murder for their role in the incident. Recently, the newspaper *Politico* reported statements that indicate that Cuban President Raul Castro – in his capacity as Minister of the Revolutionary Armed Forces of Cuba in 1996 – personally gave the order for the shoot down. The increasing evidence of Raul Castro's culpability in the tragic death of three U.S. citizens and one U.S. permanent resident is a disturbing demonstration of how senior Cuban officials have been complicit in the murder of American civilians.

As the Department of State moves forward with its review of Cuba as a State Sponsor of Terrorism, it is essential to recognize that the Castro regime has a long track record of providing sanctuary to terrorists and harboring U.S. fugitives who have murdered American citizens, while undermining international security. And, before Cuba is removed from the list of State Sponsors of Terror, the Castro regime must be held to account for these acts and American fugitives must be brought back to face justice in the U.S. It is of the utmost importance that the State Department raise these issues in this week's talks between the United States and Cuba.

Sincerely,



Robert Menendez
Ranking Member
Senate Foreign Relations Committee