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MOVING POLICY FORWARD IN 2011 AND BEYOND

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Keynote Address:

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P R O C E E D I N G S

MR. PICCONE: There are a couple of empty seats here. I would say if they say 'reserved' and they're not taken, they're open. So, there are three seats here and maybe one other, but I do see three seats up front.

My name is Ted Piccone. I'm a Senior Fellow and Deputy Director for Foreign Policy here at Brookings Institution. Thanks for coming out today. We are here today to take stock of U.S. relations with Cuba, where they stand today, particularly in light of the President's decision last month to expand licenses for people-to-people contacts, among other things, and where they might be headed in the next two years.

While it sometimes looks like U.S.-Cuba relations have been frozen in a Cold War time warp, dynamics are evolving, both in Cuba and in the United States that, in my view, portend a thawing of the relationship.

In Cuba, Raul Castro's government is dealing with chronic economic distress by undertaking some significant reforms that could open the door to more private sector economic activity and thereby diminish the role of the state in economic affairs.

In the short term, however, it looks like unemployment will go up and public subsidies and rations will go down making life harder for the average Cuban. Meanwhile, even though some political prisoners are being released, political life remains repressed and controlled by state authorities.

In the U.S., there are growing demands for loosening some of the tightest sanctions the U.S. has on any country in the world with a coalition of business, trade, religious and human rights groups all calling for an end to the embargo as the best way to support the Cuban peoples' potential to govern themselves.

President Obama's decision to expand licenses for certain categories of travel, last month, was highly welcomed by this community.

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On the other hand, a small but vocal minority of Cuban-Americans and their allies continue to demand the status quo and are now trying to block the recent moves to ease the embargo, and I would say they're doing so even though public opinion, including in the Cuban-American community, is moving in the other direction.

The case of the USAID contractor, Alan Gross, has complicated matters as an example of the problems of trying to provide technical assistance to groups in Cuba in a country with arbitrary laws, virtually no due process, and Draconian punishments for criticizing the state.

So, with that scene setter, let me now introduce the panel. We are extremely privileged to have with us a remarkable public servant who has devoted his career to the cause of improving the quality of life, not only for New Mexicans, not only for Americans, but for impoverished and imprisoned people in some of the world's toughest spots. Bill Richardson just finished two terms as governor of New Mexico. He won reelection four years ago with the support of 69 percent of the voters. He was recently named Special Envoy for the Organization of American States last month where he will be involved, I think, in some other trouble shooting activities. You have his bio. He has a remarkable record in Congress, 15 years representing part of New Mexico, served as President Clinton's Ambassador to the United Nations, confirmed by the Senate as Secretary of Energy, and of course he's been involved in many sensitive international missions from North Korea, Iraq, to Cuba and Sudan.

After hearing from Governor Richardson, we will then hear from Stephen Propst who is a partner at the law firm of Hogan and Lovells here in Washington. He works in the international law practice and is an expert on U.S. export laws, economic sanctions, and international trade policies. We will be very fortunate to hear from him and I hope some of you got copies of a report that he has just authored that really lays

out the framework of U.S. laws and regulations on sanctions and what authority the President has, in addition to what he has already recently exercised, to ease sanctions further while keeping in mind the overarching policy of support for the Cuban people and promoting democracy and human rights in Cuba.

And then we'll hear from Patrick Kilbride. Patrick is the Senior Director for the Americas at the U.S. Chamber of Commerce. He has years of experience working in this field, now representing the U.S. business community on a wide range of hemispheric issues, rule of law, market access, standards, competitiveness, et cetera. Patrick spent time in the Bush Administration as Deputy Assistant U.S. Trade Representative and also worked at the Council of the Americas and the American Apparel Footwear Association and has law firm experience as well.

So, we've got a great panel here and I will now turn the table over to Governor Richardson. Thank you.

(Applause)

GOVERNOR RICHARDSON: Thank you. Thank you very much, Ted, for those overly generous introductory comments, all of them true. I think what is most remarkable about this panel is you will hear from me general political foreign policy talk, but I think from these individuals, real statistical substance to what we're discussing.

Thank you to Brookings, to all of you following this very important issue. I was going to recognize the Secretary General of the OAS who told me he was going to be here and I don't know if he's here, but if he is, welcome Jose Miguel. If you're not here, it's okay too.

Here's my remarks. I am going to basically continue a thesis that I've had on the issue of U.S. relationship with Cuba. I have always felt that U.S. policy towards Latin America needs more attention and in that context, resolving the Cuba issue

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will help hemispheric relations and U.S. interests.

I believe that what Ted said is true, there has been recently positive developments, but still problems, positive developments in the U.S.-Cuba relationship. President Obama deserves credit for the easing of travel, the remittances, a range of initiatives that are pretty close to what President Clinton had several years ago, and this decision was done after a lot of different political pressures, it was delayed but nonetheless it was done, and I believe the Obama Administration deserves credit for that step.

At the same time, the Cuban government has also taken some positive steps. The release of prisoners through the Spanish government, the Roman Catholic Church, a series of close to, I think, 50 individuals. I do think the Cuban government needs to do something about allowing some of those dissidents to stay in Cuba, but nonetheless, this has been a positive step.

The U.S.-Cuba migration talks have gone relatively well. They deal with a range of issues that maybe are not front burner in terms of sexiness, in terms of high profile, but they deal with migration, homeland security, energy, across the board issues. There is cooperation between the United States and Cuba and Haiti, especially in rural health clinics that I think is very positive. There have also been positive steps on both sides in the human rights front as it relates to access, to high profile cases. On the Alan Gross issue, there is progress in allowing access to the Gross family in Cuba. The U.S. also has reciprocated allowing access of the families of the Cuban 5 to visit.

So, I think there have been a number of confidence-building steps that as Ted mentioned, lead us to a point where maybe this is the time to move forward.

Now, my thesis has been that the big issues, the embargo, which largely is controlled by the Congress, the Cuban 5, Guantanamo, the issues that really divide us,

I believe should be put aside and dealt with after a series of humanitarian and other measures are dealt with. I think this is political reality whether you talk about electoral votes in Florida, whether you talk about Congressional law, which if you look at the Helms-Burton Act, it's very specific about gaining approval of Congress, and I think what our Speakers have been able to do is come forth with some actions that a President can take in Executive Orders, and I really want you to listen to what they say because some of the comments they make are very revealing. Therefore, what I would propose happen is that the migration talks that have gone well be expanded to include humanitarian issues.

Now, the second point I want to make is that the U.S.-Cuba relationship should not be viewed as quid pro quos, you do something, we'll do something. Many times foreign policy relationships are guided that way. My view is that U.S. and Cuba need each to take steps and not wait for others to act, that we've had cases that each side knows how we need to improve its relationship, and the time for action is now and I've been to Cuba three times in the last year and a half, and I see, again, signs of progress but still signs of suspicion, signs of lack of confidence, but nonetheless, I think the time has come to recognize that modest steps many times lead to broader steps.

Now, what needs to happen? I believe that the Cubans need to free Alan Gross. It's very simple. They should do it. He's been in prison 14 months. His family is not well. Gross' family, the charges -- you know, we all have our views -- I think are dubious. Nonetheless, there's a legal process going on, but for humanitarian reasons, I believe this man should be released. That should be the next step.

Now, beyond that, there are other steps I believe the United States should consider taking, and then I will list what steps I believe the Cubans should take.

Number one -- and I also want to mention that I think as far as the travel

issue, there's a person in here who's done great work on that and I want to thank Joe Garcia, a Cuban-American, a friend of mine, who was an early champion of this travel initiative and he is in the audience, and Joe, will you please stand up. Thank you.

(Applause)

Secondly, I believe the U.S. government should lift the terrorist label on Cuba. This is not the case, that Cuba is a terrorist nation. I think it makes sense that this happened not just for symbolic reasons, but it also complicates many telecommunications transactions that take place.

I believe also, and this is a very important step, it's an environmental step, in terms of potential cooperation between the United States and Cuba on preserving our fragile marine environment, and that is to take advantage of the Oil Spill Commission recommendations, American recommendations, bipartisan, Senator Graham, Bill O'Reilly -- Bill Reilly, not -- I'm thinking of O'Reilly -- the other fellow, good fellow -- who -- and there I believe the recommendation is for there to be a joint cooperative effort to deal with contamination of potential oil spills in our surrounding seas. This is something that with Bermuda and Cuba together and the United States, find ways to do some joint planning to protect this fragile marine environment and prevent a potential oil spill, and with us an expert on this issue, Mr. Jorge Pinon, another Cuban-American who has shown exceptional leadership on this issue.

Other steps that might be taken by the U.S., smaller steps, put an agricultural extension agent at the Cuban intersection in Havana -- in the American section in Havana. These are steps since agriculture is the primary contact, commercial, that the United States and Cuba have, that those steps should take place.

I believe we need to review, and not necessarily eliminate, but review some of the democracy projects that we have -- review them. I notice that the budget

number is about the same from last year, but perhaps there are some that might have outlived their usefulness, and I know the Senate Foreign Relations Committee is looking at ways of expanding people-to-people contact in the context of these initiatives rather than provoking areas that might cause more divisions between these two countries.

So, those are the steps the U.S. should consider. I'm not saying they all be done unilaterally, I'm saying they should be done in the context of expanding the migration talks to include humanitarian issues.

And now here's what I suggest that the Cuban government do in the context of improving these relationships. Some of them are very technical but they're very important to people. One, eliminate the requirement for Cubans abroad to carry two passports, one Cuban and the other of their naturalized country, as well as lower the cost of the Cuban passport which can cost as much as \$400 per person and then \$200 every two years to remain active.

Number two; abolish the strict conditions and costs when Cuban nationals visit a foreign country. After 30 days out of country they're charged up to \$170 U.S. per month. After one year out of Cuba they lose their permission to travel outside of the country.

Number three; eliminate the category of salida definitiva which is only applied to Cuban-Americans. Give them the same status as other Cubans who've immigrated to other countries. Moreover, Cuban-Americans should be allowed to visit Cuba without hindrance, including those who left the country on boats and rafts. By the way, those that came in rafts can't go back. That should be eliminated.

There should be also expedite or remove the exit visa carta blanca process so Cubans can travel more freely.

Number five; reduce the fees the Cuban government charges for planes

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to land in Cuba, which is almost \$160 per passenger. With more travel, perhaps this can be lowered without loss of revenue.

Number six, lift restrictions on Cubans, especially those that are bloggers -- Google, PayPal, many that today are prohibited from blogging. I think that makes an enormous amount of sense.

Additionally, there are other steps that maybe are not in the context of getting a lot of visibility but are important. Restrictions on bank accounts in Cuba. OFAC should work to allow U.S. people to be able to open banking accounts for family and friends in order to transact small or micro businesses on the island. This would also facilitate direct loans and micro loans to the new and legal small business sector. The more important independent sources of revenue, the more independence.

By the way, I think one of the big shots of OFAC is here, is Jeff Bronger here? Jeff? Please -- this is a very important guy. He gives me -- he gives licenses if you want to go to Cuba. Jeff has been terrific. I want to thank you, Jeff. Keep those licenses coming. He also has property in New Mexico and I know he's embarrassed for me to thank him.

Jenny Hertchvang also who I've known many years, she covered me at the UN, I don't know if she's here with you -- is she in the back? Okay. So, anyway, Jeff, thanks again and thank you for being here.

In terms of embargo restrictions, well, the embargo has a definite impact on the Cuban government's ability to purchase American products. The embargo should be waived for all non-government individual cash purchases of U.S. goods. Small private businesses in Cuba would have an expanded ability to supply themselves directly through contact with businesses outside the U.S.

In terms of communications, while the Venezuelan government will soon

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finish a telecommunications underwater cable connection to Cuba, the U.S. should further facilitate more communications with Cuba such as roaming agreements with U.S. carriers, the sale of U.S. communications infrastructure equipment too.

Look, I just think that what I want all of you to hear is just some of the sanctions issues that can be done by Executive Order.

Now, again what I'm saying is both nations need to establish a process by which some of these improvements continue. I think it's important that at this time when the confidence-building measures are working, that somehow we find a way to expand the migration talks so that it's migration and humanitarian issues and put all of these issues that I've mentioned on the table. Leave the big issues like the Cuban 5, the strict embargo provisions, Guantanamo, issues relating to other components of the embargo that can't be touched unless there's Congressional action, but deal with some of these areas that can be done by Executive Order, that can be done by negotiations within the Executive Branch, and continue to move forward.

Now, on both sides there's a little pettiness. You know, there's like -- because of the mistrust of 52 years, and I recognize that, but I think the time has come to eliminate the pettiness. You know, like the Cuban government tells me that they're upset that after some successful negotiations that the migration -- Americans had with them that there were some meetings with dissidents in Cuba. So that upsets them. Well, that's petty. I mean, this is government-to-government; this is America's human rights traditions. Nobody's hurting anybody. In fact, I think as I said, the Cuban government deserves credit for letting many of these political prisoners out to go to Spain, the 60 or so negotiated by the Cuban government, maybe even more in the last few days. But these petty differences that we have, there were some over the access of the families of the Cuban 5 in the United States on our side. You know, why let those little personal

things get in the way of improving relations between people, human rights?

So, with that I want to thank you. I think I've stuck to my 15 minutes, or have I gone over? Right on time, thank you all very much.

(Applause)

MR. PROPST: Great, well, thanks very much, Ted, for the introduction and thanks to you and Brookings for hosting this event today. It's really an honor to be here with Governor Richardson for this very timely event.

I'm going to talk for a few minutes about the legal analysis that I'm releasing today regarding the President's authority to make further modifications to the Cuban sanctions without specific authorization or action, I should say, from Congress.

As we all know, this is a very politically charged subject and the prospects for getting meaningful legislation through Congress to further ease the sanctions remain questionable, so until there are clear steps or signs of a transition to democracy in Cuba or a more significant shift in attitudes on Capitol Hill, Presidential action to modify the sanctions likely will remain the most effective avenue for further changes.

Before I get into the substance of the analysis, let me just quickly mention a couple of background points. As the cover page of the paper indicates, it was prepared at the request of the Cuba Study Group but I want to be clear that I'm not acting, and my firm is not acting, as legal counsel for the Cuba Study Group nor are we lobbyists for the Cuba Study Group. This is an independent legal analysis that I've prepared as a matter of personal and professional writing without compensation.

Second, it is a legal analysis, it's not a policy paper, so I'm not advocating for any particular approach to the Cuban sanctions, I'm simply trying to identify the boundaries and the scope of the President's authority without making any

policy judgments as to what, if anything, should be done.

That said, I think President Obama clearly has indicated and acted on a clear interest to make modifications to the Cuban sanctions through his Executive authority. The January 14th announcement is just the latest in a series of changes that the Obama Administration has made and those have now been implemented through revisions to existing regulations without action by Congress.

These changes undoubtedly will raise questions about, among others, the President's authority to make these changes and the paper that I'm releasing argues, makes the case, that the President does, in fact, have sufficient legal authority for those changes and, in fact, could do much more.

I'm sure you're all familiar with the substance of the January 14 changes so I won't try to go into too much detail on those but I just want to mention a few points that I think are particularly relevant for this discussion.

With respect to remittances, the restoration of the non-family remittances provision that previously existed under President Clinton, has been restored but in fact it in some ways goes further and is broader than what existed or was put in place in 1999 and I think most notably there is a specific reference to using those remittances to support private economic businesses in Cuba, which is a very significant policy statement that has been incorporated into the regulations and provides a clear regulatory basis for those types of activities.

With respect to travel, there obviously were existing authorizations in the regulations for academic and religious activities, travel-related activities. What he's done is converted existing specific licensing provisions, in other words, you had to go to OFAC to request specific authorization. Now those are -- there are general licenses for certain categories of travel by those types of organizations, and very significantly it includes

authorization for universities, academic institutions, and religious organizations to open bank accounts at Cuban banks. This is essentially authorization of an importation of a service from the perspective of the OFAC regulations. This is authorizing U.S. institutions to import financial services from Cuban banks.

Again, as significant as these changes are, there actually is a lot more the President could do and to understand the scope of that authority you really need to understand the statutory and regulatory framework under which the Cuban sanctions were implemented and I won't try to go into all the details of that but will mention that the sanctions originally were established solely as a matter of the President's discretion in the early 1960s. Through a series of subsequent actions, Congress has established statutory mandates for those sanctions and most notably the Helms-Burton act in 1996 "codified" the Cuban sanctions. There is a specific provision in the statute that addresses that and it also states that the sanctions shall not be terminated or suspended until a transition to democracy is underway in Cuba.

But the source of the President's authority, in addition to the Constitution and some other places, also resides in those same statutory provisions. The Cuban Democracy Act really set the foundation for current U.S. policy towards Cuba and articulated two very clear and dual strategies for the transition to democracy and the resumption of economic growth in Cuba, on the one hand sanctions directed against the Castro government, but equally important support for the Cuban people. And in subsequent provisions the CDA confirms the President's authority to make exceptions to the sanctions.

Helms-Burton essentially reaffirmed the policy statements of Helms-Burton and includes provisions that authorizes the President to furnish assistance to individuals and NGOs to support democracy-building efforts and, I think importantly, the

very provisions that Helms-Burton codified include specific language under which the President may make exceptions to those prohibitions.

These are just -- not a comprehensive list, but a number of the things that have been done by Executive Order over the last 15 years and so I think, you know, one very important question is if Section 102(h) of Helms-Burton that codified the Cuban sanctions has any meaning, what are the boundaries of the President's authority to modify the sanctions?

And I think my answer to that, in part, is that if you look at -- and you'll notice two very interesting things if you compare the 1996 version of the regulations that were codified and the current version of the regulations -- sections 515 201 through 208 - - well, through 207, are virtually identical now as they were in 1996. The only new provision is 208 which was added by Helms-Burton, so true to Helms-Burton, those restrictions on trade with Cuba have remained in place and intact, have not been suspended or terminated.

However if you compare the 500 series sections of the Cuban Assets Control Regulations you will see that they are very dramatically different now than they were in 1996. So essentially the President has done a whole series of things already to modify those Cuban sanctions and if you take the position that Section 102(h) of Helms-Burton prohibits any modifications to the Cuban sanctions, you're essentially arguing that all of these actions were not legitimate.

Interestingly, the GAO has -- the General Accounting Office, the investigative arm of Congress -- has looked at this issue twice at the request of members of Congress who were concerned in the past about the President's authority to do some of these things. First in 1999 the GAO reviewed President Clinton's actions and concluded that the President does have authority to -- and did have sufficient authority to

make the changes that he made. There is also a very interesting letter from the Office of Foreign Assets Control that's attached as an appendix to that report which very clearly states the government's position that Helms-Burton did not rule out reasonable adjustments to the licensing regime consistent with limitations on suspension or termination of the sanctions.

Then more recently in 2009 the GAO reviewed both the statutory framework underlying the sanctions and some of the President's actions and made some comments about authorities to make further changes. Significantly, again, the GAO report concluded that the President does have broad authority to modify the sanctions and the GAO report notably noted that they had verified their conclusions with various government lawyers and policymakers.

This GAO report is interesting, though, because it does identify some things that the President could do but provides essentially no explanation or legal analysis supporting those conclusions, and so to some extent this was sort of the jumping off point for my legal analysis, trying to fill in the legal analysis supporting those conclusions, and then trying to identify what other things the President could do.

So, in terms of possible additional changes, there are a number of additional things that he could do on remittances. He could convert additional existing general licenses to specific licenses and there obviously are a number of those, but significantly there already are broad provisions in the CAR, specific licenses for humanitarian projects in support for the Cuban people that include a number of specific things that I think are of interest. So, he could convert those, to some extent, to specific licenses.

Financing, if you look at the 1996 version of the CACR, it actually did allow U.S. financial institutions to issue letters of credit for transactions with Cuba.

Additional authorization for exports of goods and services to Cuba, there are, just as the President established, an entirely new licensing exception for consumer communications devices. He could establish additional provisions along those lines. Imports of goods and services from Cuba, there are just a lot of different things you could think about here, but one in particular that I think is -- that I know is of interest is allowing U.S. citizens to do business over the internet with small entrepreneurs in Cuba.

All of these authorizations would need to be consistent with certain statutory provisions. The restriction on transactions involving confiscated property, transactions involving blocked property and accounts, there's also, as the Governor mentioned, Cuba remains designated as a state sponsor of terrorism, and there are provisions that that triggers with respect to exports to Cuba on the Commerce Control List.

The last slide just tries to identify some of the specific boundaries, and I won't run through those, but this is essentially a series of where there are specific statutory prohibitions on transactions with Cuba. Thanks.

MR. PICCONE: Thank you, Steve.

MR. KILBRIDE: Thank you, Ted. It's a privilege to be here with Governor Richardson and Stephen Propst. Talk about two tough acts to follow but I'll do my best.

I'm Patrick Kilbride. I'm the Senior Director for the Americas at the U.S. Chamber of Commerce, the largest business federation in the world representing the interests of more than three million member companies, local chambers, and industry associations.

The Chamber's position on Cuba is very simple. We oppose the embargo and we support incremental steps towards the lifting of the embargo, such as

the recent steps by the Administration and the potential steps that Ted outlined.

I'm going to talk a little bit about why, and first I think it's useful to look at Cuba in the context of our economic relationships in the world and in Latin America. And if you look at our trading relationships with our close neighbors today we see a problem. We've alienated, to some extent, our allies in Canada with "buy American" rules that make it harder for our integrated economies to work together. We've failed to implement our NAFTA commitments with Mexico, which has resulted in the imposition of retaliatory tariffs against U.S. industries and a severe loss in market share for the industries most directly impacted. We failed to move forward with free trade agreements with Colombia and Panama that were negotiated years ago in good faith and that would give unilateral opening to U.S. industries since those countries already have access to our markets.

And then you look at Cuba which obviously faces a much different set of circumstances and yet it's one more country that fits into this pattern of markets that we're forfeiting around the world.

And our trade with Latin America accounts for fully 43 percent of all our exports. It's clearly a very critical region and market for the United States. President Obama outlined last year, and reiterated again his State of the Union this year, his goal of doubling U.S. exports in five years and due to a fairly severe dip in exports between 2008 and 2009, in fact we're finding ourselves to be on pace with 17 percent export growth in 2010. But if that's to be sustained, we have to engage in every market where we have opportunities and that's going to include Cuba.

Now, first of all, as I mentioned, we applaud recent steps to ease restrictions on U.S. travel to Cuba. We believe the President's moving in the right direction. We'd like to see more, including many of the steps that Ted's outlined. We commend members of the House and Senate who in previous Congresses have

introduced bills to move us towards a more open trading relationship with Cuba. We think that getting this policy right matters tremendously, first of all because it sends a signal of our commitment to the world about American values, about how we engage and how we work as a catalyst for change, and, you know, from the business community's perspective, our policy with Cuba is an anachronism. The embargo began in 1960. It was implemented to help -- excuse me, to pressure Castro to democratize and instead it's made a martyr out of a tyrant and has helped to prop up the Cuban regime.

Cuba's poverty today is the direct result of its own economic mismanagement but the embargo allows the regime to blame it on Washington. No one seriously argues that the dictatorship in Cuba could have withstood five decades of free trade, free markets, and free enterprise. In fact, we believe that the most powerful catalyst for change in the world is economic freedom and the ability of individuals to determine their own economic futures. That's the future we want to see for Cuba.

Now, political and economic freedoms go hand-in-hand and the Chamber's own mission statement commits us to advancing human progress through an economic, political, and social system based on individual freedom, incentive, initiative, opportunity, and responsibility. It's on the basis of these values first and foremost that we support closer economic engagement with Cuba.

We're convinced that additional commercial and people-to-people contacts would facilitate a transition, act as a catalyst, to further civil liberties in Cuba.

Now, public opinion in the United States has shifted, we believe. Public opinion polls have show a turning tide, especially among Cuban-Americans with more than half of the Cuban-American community supporting lifting of travel ban for Americans and nearly half supporting a lifting of the embargo.

When we look at the incremental steps that are available, some of the

steps that Peter outlined -- excuse me -- Stephen outlined so well, we see that when we've taken such steps in the past, we've seen immediate benefits for U.S. exporters.

In 2000 there was a partial easing of the embargo under the Trade Sanctions Reform and Export Enhancement Act. The sale of agricultural exports was permitted but with a variety of restrictions and licensing requirements. We saw, as a result, the U.S. exports to Cuba rose from less than a million dollars to \$392 million in 2004 and U.S. agriculture exports or products captured 42 percent of the Cuban market.

In 2005, the last Administration tightened those terms of engagement to require payments before the goods departed a U.S. port. The result was that U.S. agricultural sales to Cuba decreased by 15 percent.

As currently interpreted, exporters to Cuba cannot take advantage of private U.S. financing and this has disproportionate impacts on would-be small business - - excuse me, smaller exporters, who avoid the Cuban market because of the complexity of the regulations and in fact it nearly completely stymies the ability of these smaller exporters to do business at all in Cuba even under the terms that are allowed under current law.

U.S. exporters are missing out on significant opportunities here. While the Cuban economy is small and under developed, firms from third countries today operate freely on an island that is only 90 miles from our shore and is a natural market for U.S. goods and services. Prior to the embargo, the United States accounted for nearly 70 percent of Cuba's international trade. It was the seventh largest market for U.S. exporters, particularly for agricultural products.

The embargo forced Cuba to seek out new sources for its domestic consumption and many years ago now, 2001, the International Trade Commission estimated that American exporters were losing up to \$1.2 billion annually in sales. It

seems very likely that this sum has grown in the intervening decade.

Today, you know, it's no longer Russia doing the bulk of the trade with Cuba. Today we see Venezuela, China, Vietnam, Canada and Brazil dominating the Cuban market. The U.S. is losing the ability to be a player when and if there is an opening in Cuba.

We've supported recent Congressional efforts such as those of Congressmen Peterson and Moran, in the last Congress, to ease restrictions on agricultural trade which represent an important first step to restoring the competitive advantage of U.S. goods and enabling our U.S. exporters to recover lost markets. In particular, easing the terms of already legal trade with Cuba, particularly by applying the commercial term of cash in advance payments, would have a demonstrable impact on the ability of America's small exporters to access the Cuban market.

Cuba, moreover, is the only country in the world where the U.S. government restricts travel by American citizens who are able to travel freely, if they can get there, even to Iran and North Korea. There is a strong case to be made that additional people-to-people contacts, such as those encouraged by the U.S. in Eastern Europe during the Cold War would lead to Cuba becoming more open and democratic.

Restrictions on the ability to travel for the purpose of establishing commercial relationships also significantly impacts our ability to do business with Cuba under legal terms. U.S. exporters often lose out to third country competitors because of the significant delays travel restrictions place on their ability to transact commercial sales.

The opportunities for growth and job creation in the travel industry are real for both U.S. businesses in Cuba. The International Trade Commission estimates that lifting the travel ban would increase U.S. visitors to Cuba from 171,000 to up to one million. An increase in U.S. citizens traveling would create greater demand and more

hard currency in the pockets of everyday Cubans.

I want to spend a moment talking about the terms under which U.S. business could prospectively do business in Cuba and, you know, the fact is, the companies that are members of the U.S. Chamber of Commerce insist on the rule of law in the markets where they do business, and they're a force for change in the institutions that provide the rule of law. For that reason, the U.S. Chamber, in 2010, formed a coalition for the Rule of Law in Global Markets to help our companies ensure that those factors necessary for them to operate legally and profitably were in place in countries around the world. Those factors include: transparency, they need to know what the laws are and how they will be applied; they include predictability that the laws and regulations will be enforced across the board and consistently; they need stability; they need to know that laws won't be changed retroactively or arbitrarily; they need enforceability and accountability knowing that all the players in a market will be held to the same rules and that government officials will also be held accountable; and they need due process, they need to know that when there are inevitable disputes that there's a process that they can rely on to get to a fair and legal resolution.

Now, it's our goal to work for these changes in Cuba, but we believe that the first step to getting there is greater engagement, and without that kind of engagement, the United States will have no ability to influence the future of Cuba and U.S. exporters who might otherwise play a very significant role in the economic development of the island, will lose that opportunity and U.S. jobs that might have been created by that engagement will fall to the wayside. Thank you very much.

(Applause)

MR. PICCONE: We're going to get mic'ed up here, but let me just turn to some questions for the panelists. And what I might do -- we have about 20, 25 minutes.

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Governor Richardson has to catch a plane, so just go straight to an exchange with the audience since we have so many people here.

I think what you've heard is some powerful political and business argument and a legal framework for what's up ahead for change in the U.S.-Cuba relationship. There are some, you know, restrictions on the ground here and in Cuba, but since we're here in Washington I would start reflecting on what we face with Congress.

We have action just in the past week from Senators Rubio and Menendez of a new amendment to legislation that would in effect roll back some of the changes that President Obama announced last month. That's a political rally. We've gone from a Congress that was maybe considering facilitating opening to Cuba to a Congress that is trying to block it.

I'm wondering, particularly, Governor Richardson, from your political experience, how do you think if you were in the White House the Obama Administration should deal with those kinds of concerns and the argument behind it which is that, you know, we are somehow enriching the Castro regime and helping them continue a repressive state?

GOVERNOR RICHARDSON: Well, my view is that your statement that the Congress has turned more negative on the Cuba issue is correct. Therefore, what I would do if I'm the Obama Administration and there's a decision been made to deal with Cuba on a more realistic basis, then I would continue taking additional steps, additional Executive Orders, additional initiatives, to improve the relationship on a humanitarian basis.

Again, Senator Menendez, Rubio, they're very respected members of the Congress. I would say that their bill has a decent chance in the House of Representatives if it's considered. I don't think it would pass the Senate. I don't think it

has the strength to become law, nonetheless, it's -- it shows the debate and the strength of the other side on this issue.

I do believe that presidential authority, executive authority, should be exercised by the President. I think to his credit he did do this travel initiative. There were some political factors with the election, it was delayed, but in the end he did do it, and I believe that we should continue moving forward.

The Menendez-Rubio bill should not be a signal that the President should stop and let that bill take its course. There should be, as I said, an expansion of the migration talks into humanitarian issues. The next step would be the freeing of Alan Gross. I believe the Cubans will find if they free Alan Gross, the U.S. Administration will be very interested in talking about all of these issues, all of these improvements that we've discussed, but that right now is a barrier to the further moving of executive initiatives that the U.S. can take and I believe the Cubans would take.

MR. PICCONE: Thank you. Let's turn to the audience. There are microphones. If you could identify yourself and keep it relatively brief since we are short on time. I see a hand on the right here and then over on the left.

MS. STERN: Thank you. Paula Stern. Nice to see you, Bill, Governor. Thank you, gentlemen, for your comments.

My question really just is a reinforcement of the point you made, Bill, about what you tackle first, and from a political reality point of view you said you don't go after the embargo, you go after some of these other steps. From an economic point of view, I'd like to share with you the report I did over, I think, ten years ago which was the template for what my former agency, the U.S. International Trade Commission then did when they did its study, and what I concluded was no matter what we did with liberalization in our economic restrictions, the changes, the increase in trade, the

increase in growth in Cuba will only come about with the changes in Cuba once it removes so much of its authoritarian economic policies. So, from a point of view both economically and politically, Bill, I think that's a very -- I completely agree with you. It's not a question, but I did want to share this because I know there was a mention of the ITC report and there's not been that many projections made on 'what if'. That was my conclusion ten years ago or more and I think it's the same case today.

We still have to see what economically they'll do at home in Cuba.

MR. PICCONE: I mean I don't know if anyone wants to comment on that. I take it more as a comment than a question, but I think you're absolutely right that the economic changes that are underway in Cuba remain a big question mark as to what impact it's going to have in terms of a more dynamic Cuban economy. I mean, they are in really bad shape. There was a report yesterday about the continuing problems with the sugar industry and reducing of the rations. So, you're going to see, I think, a lot of short-term turbulence and it's not clear what impact that's going to have in terms of creating some kind of economic engine in the country.

But at least it seems to be moving in the right direction.

I have a question over here on the left. Peter?

MR. KORNBLUN: Peter Kornbluh, National Security Archive. Governor Richardson, it's terrific to see you again. Thank you for coming to Washington. We welcome you back here, hope you'll stay.

(Laughter)

You raised as one of your first points taking Cuba off the terrorism list and of course that's the peg that the Rubio-Menendez bill is being hung on, the fact that Cuba has been on this list since Ronald Reagan -- the Reagan Administration put Cuba on the list really to obfuscate the difference between supporting guerilla insurgency in

Central America and the issue of terrorism. And the question I have is the politics of taking Cuba off the list. It doesn't belong on the list, as you say, certainly Ileana Ros-Lehtinen would hold hearings about it if Obama notified Congress that he was taking Cuba off the list, but there is no evidence that Cuba belongs on the list.

So, what does it take for the Administration to engage the politics of removing something that really is an interference in moving the relationship into the future?

GOVERNOR RICHARDSON: Well, Peter, you know this issue very well, and by the way, it's good to see Paula Stern and maybe later the economists here can maybe answer Ted's question. Are Raul Castro's economic initiatives -- are they -- do they mean anything? They're audacious, but why is he doing it? I don't know the answer. How significant are they?

But, Peter, my view is that, look, this terrorism list is not very consistent. You know, North Korea is off the list. President Bush took it off a couple years ago, so I just don't think that there's any validity to Cuba being on the list. Now, it's an emotional issue. My view is you take it in the context, not -- what I want to avoid is the word quid pro quo. Reciprocity is better. If you have reciprocity and both countries take steps, I think the removal of Cuba from the terror list is one of the five steps that the U.S. could take while the Cubans can make -- I won't say five steps -- maybe six steps, so you're not into this quid pro quo, but it's in the context of executive action. The President, the State Department actually can remove a country from the list. It has to go through an internal due process and announce it. I believe that's one of the next steps that should happen because it complicates, for instance, the telecommunications exchanges that could happen. I don't know if it also affects food and medicine. Joe Garcia, does it affect the food and medicine?

MR. GARCIA: The way that the regs are written, they limit the sale of medicine to Cuba. The Cubans have to certify the end user which makes it very difficult for hygienic products, soap, things of that nature.

MR. PICCONE: And maybe Stephen, since -- if you were the lawyer in the White House, what can you tell us about the way the law works on the terrorism issue?

MR. PROPST: Well, I think it's just -- it's a process set forth in the Export Administration Act for the President making a decision and then notifying Congress of the intent to remove Cuba from the list and then there's a certain amount of time that must pass.

MR. PICCONE: So, you think it's a doable, from a legal point of view, proposition?

MR. PROPST: Certainly. I mean, that's built into the statutes. It's notification that has to be made.

MR. PICCONE: Thank you.

MR. PROPST: I mean, there are certain, you know, there are provisions that must be met in terms of certifying that, you know, conditions are right. I think there's a provision on, you know, certifying the transition to democracy.

MR. PICCONE: So, that might make it a little more difficult in this case.

I have a couple more hands. John Maisto?

MR. MAISTO: Secretary, Ambassador, a question about the OAS in Cuba. Back in 2009 there was a major effort by the OAS to try to reincorporate Cuba into the American system, but there doesn't seem to have been much Cuban reaction to it. Is there any way that you can see that the OAS, and perhaps in your new role, can help in - can really help the United States and help the hemisphere in that effort.

GOVERNOR RICHARDSON: Well, let me say -- and John, you were Ambassador to the OAS, very able work along with 50 other countries, I can't remember - Colombia, Panama, so it's good to see you.

The OAS has played a very good role in Haiti. If you look at the elections there, there's now a two-person election coming on March 20th. Haiti went -- the OAS winnowed down the candidates. They can play a very constructive role.

I think the OAS is one of those hidden gems that we haven't used in a while.

The Cubans resist being part of the OAS. They still have that rhetoric. But yeah, I see a role for the OAS, especially with the OAS educational programs, cultural programs, many others where there can be more of a regional approach to resolving the Cuba issue.

So, the Secretary General, I don't know if he's here, but I believe there is a sincere effort on the part of the OAS to reengage Cuba and I think once Cuba gets more into feeling that it's part of the hemisphere, they may reciprocate.

MR. PICCONE: Just to add a footnote to that, I mean, the challenge for Cuba is that if it wants to access inter-American Development Bank credit or loans, it has to go through the door of the OAS and the problem with that is that the OAS has certain standards for its membership which includes respect for democracy and human rights. Now, it's not always perfectly respected in every current member of the OAS, but nonetheless is an important threshold, an important standard out there that John and many others were involved in establishing.

So, there's a real tension in that. I think there's a lot the IDB could do in providing technical assistance, but right now I think there's a lot of nervousness about opening that door, but with the changes, it's a possibility.

I have Anya up front here and then someone in the front row. We'll take two now.

MS. LANDAU FRENCH: Anya Landau French with the New America Foundation. I'd like to thank you so much for an excellent panel. I have a question for Stephen. It looks like a fabulous resource and I can't wait to read it. My question is whether or not your report takes a look at Bush Administration precedents for use of the executive authority to alter the sanctions, not simply to tighten them, but in fact to loosen them. And if memory serves I think there might have been in 2008 something on cell phones and in 2003, on actually family travel and remittances. Thank you.

MR. PICCONE: And let's take another one here.

MR. LUXNER: Larry Luxner, editor of Cuba News and news editor of the Washington Diplomat. The question is for Governor Richardson. You mentioned the Alan Gross case several times as a major obstacle to better relations between our countries. As we all know, a few weeks ago the Castro regime announced that it's seeking a 20-year jail sentence against Mr. Gross on rather vague charges of crimes against the state.

In your opinion, is this necessarily bad news or in fact could it be a signal that the Cubans finally want to bring this case to a close as saving face as part of some informal understanding with the White House that this is a necessary step in further improving relations.

MR. PICCONE: Okay, Stephen, we want --

MR. PROPST: Sure. Yeah, good question, and I don't think the paper talks in specifics about the Bush Administration changes for a couple of reasons, but you're certainly right that there were a couple of steps that the Bush Administration took to loosen sanctions, but then of course significantly rolled them back later.

I really focused on the Clinton changes and the Obama changes because those were specifically addressed in the two GAO reports. So, it was a function of looking at those and then the presidential authority to make those changes.

MR. PICCONE: Fair point. Alan Gross?

GOVERNOR RICHARDSON: Well, look, I'm going to give you a politician answer because there's two sides to this. On the one hand it's good that the *fescale* has moved forward with a charge that is totally absurd, 20 years, but at least he's moved forward and this man has waited 14 months and at least there's a judicial process that is starting.

The next step is for the courts to hand out whatever sentence emerges. My hope is that the court says, Mr. Gross, you can go, and that there's a political process involved.

My understanding is that after the charges have been filed, the court is obligated to move fairly soon, but I think this is a case that has become very significant with the American public, with the Obama Administration, and rightly so.

The Cubans, I believe, if they let Gross go, will open a huge panoply of potential discussions that will lead to continued progress in the relationship. You know, without talking about quid pro quo, the last good move was with the President with the travel restrictions. That was significant, and the Cubans like to say, well, it's not as much as Clinton, but it is significant. It means that students can go, religious groups can go, remittances are improved. It's a good measure, and hopefully someday there will be a total lifting of the travel ban so everybody can go.

So, it's become the hottest political issue dividing the two countries, the Gross case, and I believe the Cubans hopefully are moving in the direction of settling it with this absurd charge. Does that make sense?

MR. PICCONE: I mean, it's a really important issue, also -- the symbolism of the case involves an individual who's been charged under some absurd laws, but there's something else behind it which has to do with U.S. promotion of democracy and the way that strategy has unfolded in Cuba.

Some of these changes that are now underway and that also started in 2009 allow for more exchanges on telecommunications, trade and services, there are some prohibitions in the U.S. law that Congress would have to fix in terms of U.S. investment in the network, but in the meantime we're seeing this new internet pipe from Venezuela. Eventually that's going to catch up. I mean, Cuba has the lowest internet penetration in the hemisphere, so there's a long ways to go, but I'm wondering if you have any comments about the U.S. democracy promotion strategy, particularly in light of what we saw in Egypt and Tunisia. In Egypt there was quite widespread use of the Internet. In Tunisia, much less so where it was really very controlled by the state, but the civil society figured out how to get around it.

I think this is going to really be the critical next step in terms of figuring out how does the United States appropriately do support for democracy in countries like Cuba. Any reflections on that issue?

GOVERNOR RICHARDSON: Well, one of the suggestions I had made that could be -- could be part of a bilateral discussion is freer access for Cuban bloggers and giving them access to some of the internet stations that exist around the world and in the United States. I think that's healthy. I think that's good. PayPal -- Joe, what are the other ones?

MR. GARCIA: (Off mic) PayPal, being able to use (inaudible), that kind of stuff, which is now (inaudible).

GOVERNOR RICHARDSON: That's healthy. I think that's good.

MR. KILBRIDE: You know, I think my comment would be, Ted, that you know it's often said that diplomacy is the first line of defense and I would add to that -- and maybe I'm quoting someone -- that business is often the first line of diplomacy.

I think, you know, we've seen a turning inward in the United States that is very regrettable and it embodies itself, among other things, in a reluctance to complete these trade agreements that I talked about. But I think it's absolutely critical that we reverse that and that we engage the world and obviously the internet is a critical tool in that. But, you know, just in general, if we're going to be a catalyst for change in Cuba, Egypt, Tunisia, you know, all the countries in the world where we'd like to see further democratic and economic openings, it's got to be through engagement.

MR. PICCONE: We have time for just a couple more questions. I see a hand in the back.

MR. MAYBERDUKE: Hi, I'm Gary Mayberduke. I was the political economic counselor in Eucen back in the late '90s.

I wanted to go back to the question that was asked, the first question that talked about the ITC study, which talked about the billion and a half in extra trade.

I did a study after that on that and found that even if it was twice that amount, if you took into effect value added, that is a lot of the things in the ITC study, for increase in tourism, really would have come out of tourism to Florida or tourism to Dominican Republic and not really added an extra incremental trade -- significant incremental benefit to the travel industry. But if you took that into account, you really looked at a possible gain in trade to the United States of maybe 50 to -- .50 to \$1.50 per American citizen. My point in this is not that we shouldn't consider loosening the embargo. I think there's a lot of reasons for doing that, designed to help encourage a better Cuban economy and perhaps eventually more freedom in Cuba, but we really

should engage in specious arguments which I think is the benefits to trade to the U.S. are relatively minor in the overall scheme. Thank you.

MR. PICCONE: Thank you. Thank you very much. We'll take that as a comment and I'm afraid that we will have to wrap it up now. We've had, I think, a very useful discussion. I want to particularly thank all three of our panelists and Governor Richardson for his time.

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