

CRS Report for Congress

Received through the CRS Web

Cuba and the State Sponsors of Terrorism List

Updated August 22, 2006

Mark P. Sullivan
Specialist in Latin American Affairs
Foreign Affairs, Defense, and Trade Division

Cuba and the State Sponsors of Terrorism List

Summary

Cuba was first added to the State Department's list of states sponsoring international terrorism in 1982, pursuant to Section 6(j) of the Export Administration Act of 1979 (P.L. 96-72). At the time, numerous U.S. government reports and statements under the Reagan Administration alleged Cuba's ties to international terrorism and its support for terrorist groups in Latin America. Cuba had a history of supporting revolutionary movements and governments in Latin America and Africa, but in 1992 Fidel Castro stressed that his country's support for insurgents abroad was a thing of the past. Cuba's policy change was in large part a result of Cuba's diminishing resources following the breakup of the Soviet Union and the loss of billions of dollars in annual subsidies to Cuba.

Cuba remains on the State Department's terrorism list with four other countries: Iran, Syria, Sudan, and North Korea. According to the State Department's *Country Reports on Terrorism 2005* (issued in April 2006), Cuba has "actively continued to oppose the U.S.-led Coalition prosecuting the global war on terror and has publicly condemned various U.S. policies and actions." The State Department report also asserted that Cuba maintains close relationships with other state sponsors of terrorism such as Iran and North Korea and contended that Cuba has provided safe haven for members of several Foreign Terrorist Organizations. The report also maintained that Cuba continues to provide safe haven to U.S. fugitives from justice but noted that "Cuba has stated that it will no longer provide safe haven to new U.S. fugitives who may enter Cuba."

Cuba's retention on the terrorism list has received more attention in recent years in light of increased support for legislative initiatives to lift some U.S. sanctions under the current economic embargo. Should U.S. restrictions be lifted, a variety of trade and aid restrictions would remain in place because of Cuba's retention on the terrorism list. Supporters of keeping Cuba on the terrorism list argue that there is ample evidence that Cuba supports terrorism. They point to the government's history of supporting terrorist acts and armed insurgencies in Latin America and Africa. They stress the government's continued hosting of members of foreign terrorist organizations and U.S. fugitives from justice. Critics of retaining Cuba on the terrorism list maintain that the policy is a holdover from the Cold War and that Cuba no longer supports terrorism abroad. They argue that domestic political considerations are responsible for keeping Cuba on the terrorism list and question many of the allegations made in the State Department report.

For additional information on Cuba, see CRS Report RL32730, *Cuba: Issues for the 109th Congress*, by Mark P. Sullivan. For further information on state-sponsored terrorism and U.S. policy, see CRS Report RL33600, *International Terrorism: Threat, Policy, and Response*, by Raphael Perl; and CRS Report RL32417, *The Department of State's Patterns of Global Terrorism Report: Trends, State Sponsors, and Related Issues*, by Raphael Perl.

Contents

Sanctions Associated with the Terrorism List	1
Removing a Country from the Terrorism List	2
Cuba's Initial Placement on the Terrorism List	3
Current Rationale for Retaining Cuba on the Terrorism List	5
Biological Weapons Issue	6
Arguments Supporting and Opposing Cuba's Retention on the Terrorism List ..	8
Cuba's Stance Against Terrorism	8
Harboring Members of Foreign Terrorist Organizations	9
Basque ETA Members	9
Colombian FARC and ELN Members	10
Harboring U.S. Fugitives from Justice	10
Comparison with Other Countries on the Terrorism List	11

Cuba and the State Sponsors of Terrorism List

Sanctions Associated with the Terrorism List

The “state sponsors of terrorism list” is mandated under Section 6(j) of the Export Administration Act of 1979, as amended (P.L. 96-72; 50 U.S.C. app. 2405(j)), under which the Secretary of State makes a determination when a country “has repeatedly provided support for acts of international terrorism.” Cuba has remained on the list since 1982, and at present there are four other countries on the list — Iran, North Korea, Sudan, and Syria.

Under various provisions of law, certain trade benefits, most foreign aid, support in the international financial institutions, and other benefits are restricted or denied to countries named as state sponsors of international terrorism. Under the authority of Section 6(j) of the Export Administration Act, validated licenses are required for exports of virtually all items to countries on the terrorism list, except items specially allowed by public law, such as informational materials, humanitarian assistance, and food and medicine. Being listed as a sponsor of international terrorism also restricts bilateral assistance in annual foreign assistance appropriations acts, as required most recently in Section 527 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 2006 (P.L. 109-102). Section 502 of the Trade Act of 1974 (P.L. 93-618; 19 U.S.C. 2462) makes a country ineligible for the Generalized System of Preferences (GSP) if it is on the Section 6(j) terrorism list. Section 620A of the Foreign Assistance Act of 1961 (P.L. 87-195; 22 U.S.C. 2371) also prohibits assistance authorized under the act to the government of a country that “has repeatedly provided support for acts of international terrorism.” Likewise, Section 40 of the Arms Export Control Act (P.L. 90-629; 22 U.S.C. 2780) prohibits the export or other provision of munitions to a country if the government “has repeatedly provided support for acts of international terrorism.”¹

Cuba’s retention on the terrorism list has received more attention in recent years in light of increased support for legislative initiatives to lift some U.S. economic sanctions under the current embargo. Should U.S. sanctions be removed, a variety of trade and aid restrictions would nonetheless remain in place because of Cuba’s retention on the terrorism list. At this juncture, however, sanctions have not been

¹ Both Section 620A of the Foreign Assistance Act and Section 40 of the Arms Export Control Act have provisions similar to Section 6(j) of the Export Administration Act in which the Secretary of State may publish a determination that a country is supporting international terrorism. However, the only published determinations by the Secretary of State have been those under Section 6(j) and constitute what is known as the “state sponsors of terrorism list.”

removed and Cuba remains subject to a comprehensive U.S. trade and financial embargo (pursuant to the Trading with the Enemy Act and the Foreign Assistance Act of 1961).

In addition to the terrorism list sanctions imposed by the Export Administration Act, Section 40A of the Arms Export Control Act (P.L. 90-629; 22 U.S.C. 2781) prohibits the sale or export of defense articles and defense services if the President determines and certifies to Congress, by May 15 of each year, that the country “is not cooperating fully with United States antiterrorism efforts.” This list has been issued annually since 1997, and currently includes Cuba, as well as Iran, North Korea, Syria, and Venezuela.²

Removing a Country from the Terrorism List

Under Section 6(j) of the Export Administration Act, a country’s retention on the terrorism list may be rescinded in two ways. The first option is for the President to submit a report to Congress certifying that 1) there has been a fundamental change in the leadership and policies of the government of the country concerned; 2) the government is not supporting acts of international terrorism; and 3) the government has provided assurances that it will not support acts of international terrorism in the future. The second option is for the President to submit a report to Congress, at least 45 days before the proposed rescission will take effect, justifying the rescission and certifying that 1) the government concerned has not provided any support for international terrorism during the preceding six-month period; and 2) the government has provided assurances that it will not support acts of international terrorism in the future.

Over the years, three countries have been removed from the terrorism list. South Yemen was removed in 1990 when it ceased to exist upon merging with North Yemen. Iraq was removed from the list in 1982 and again in 2004 (after having been added back in 1990). Libya was removed in May 2006.

Although Section 6(j) does not set forth a procedure for Congress to block the President’s removal of a country from the terrorism list, Congress could pass legislation on its own to block the removal. In contrast, Section 40 of the Arms Export Control Act, which prohibits the export of munitions to governments repeatedly providing support for international terrorism, sets forth a specific procedure for Congress to consider a joint resolution to block the President’s removal of a country from the terrorism list. In addition, both Section 40 of the Arms Export Control Act and Section 620A of the Foreign Assistance Act of 1961 (which prohibits most assistance to countries supporting international terrorism) provide presidential waiver authority for national security interests or humanitarian reasons.

² U.S. Department of State. “Determination and Certification under Section 40A of the Arms Export Control Act,” Public Notice 5411 (May 8, 2006), Federal Register, Vol. 71, No. 96, p. 28897, May 18, 2006.

Cuba's Initial Placement on the Terrorism List

Effective March 1, 1982, the Reagan Administration added Cuba to the list of state sponsors of terrorism pursuant to Section 6(j) of the Export Administration Act of 1979. Press reports at the time indicated that the Commerce Department notified Congress on February 26, 1982, that Cuba was being added to the list of countries that sponsor international terrorism, but that no explanation for the addition was given.³ The Commerce Department published an interim rule in the *Federal Register* on April 19, 1982, stating that it was amending the export control regulations, with an effective date of March 1, 1982, to add a statement that “Cuba has been designated by the Secretary of State as a country that has repeatedly provided support for acts of international terrorism.”⁴ The addition of Cuba was not considered significant at the time since the United States already had comprehensive economic sanctions on Cuba dating back to the early 1960s; as a result, the economic sanctions associated with being added to the terrorism list would have had no practical significance.

Although the Administration provided no explanation in the *Federal Register* notice as to why Cuba was added to the terrorism list, various U.S. government reports and statements under the Reagan Administration in 1981 and 1982 alleged Cuba's ties to international terrorism. In addition, a 1998 State Department chronology on U.S.-Cuban relations and a 2003 State Department document provide further explanation of why Cuba originally was designated a state sponsor of terrorism.

- The Central Intelligence Agency's *Patterns of International Terrorism 1980*, published in June 1981, stated: “Havana openly advocates armed revolution as the only means for leftist forces to gain power in Latin America, and the Cubans have played an important role in facilitating the movement of men and weapons into the region. Havana provides direct support in the form of training, arms, safe havens, and advice to a wide variety of guerrilla groups. Many of these groups engage in terrorist operations.”
- In January 1982, President Reagan stated in his State of the Union address: “Toward those who would export terrorism and subversion in the Caribbean and elsewhere, especially Cuba and Libya, we will act with firmness.”⁵
- In February 1982, the Department of State published a research paper on “Cuba's Renewed Support for Violence in Latin America,” originally presented in December 1981 to the Subcommittee on

³ R. Gregory Nokes, “U.S. Adds Cuba, Drops Iraq from Terrorism List,” *Associated Press*, February 26, 1982; William Chapman and John M. Goshko, “U.S. Lifts Curbs on Certain Sales to South Africa; U.S. Acts to Relax Embargoes on South Africa, Israel,” *Washington Post*, February 27, 1982.

⁴ *Federal Register*, Vol. 47, No. 75, April 19, 1982, pp. 16623-16624.

⁵ *Public Papers of the Presidents*, 18 Weekly Com. Pres. Doc. 76. January 26, 1982.

Western Hemisphere Affairs of the Senate Foreign Relations Committee, which detailed Cuba's support for armed insurgencies and terrorist activities in Latin America and the Caribbean.⁶ The State Department asserted in the paper that Cuba has "encouraged terrorism in the hope of provoking indiscriminate violence and repression, in order to weaken government legitimacy and attract new converts to armed struggle." The paper maintained that Cuba was most active in Central America, especially Nicaragua, where it wanted to exploit and control the revolution, and El Salvador and Guatemala, where it wanted to overthrow the governments.⁷ Cuba also was reported "to provide advice, safe haven, communications, training, and some financial support to several violent South American organizations." This included training Colombian M-19 guerrillas, with the objective of establishing a "people's army."⁸

- The State Department's *Patterns of International Terrorism: 1982* stated that "both Cuba and the Soviet Union continue to provide financial and logistical support and training to leftist forces in the area [Central America] that conduct terrorist activity." The report further stated: "In its efforts to promote armed revolution by leftist forces in Latin America, Cuba supports organizations and groups that use terrorism to undermine existing regimes. In cooperation with the Soviets, the Cubans have facilitated the movement of people and weapons into Central and South America and have directly provided funding, training, arms, safe haven, and advice to a wide variety of guerrilla groups, and individual terrorists."
- A 1998 State Department chronology of U.S.-Cuban relations from 1958 to 1998 notes that the United States added Cuba to the terrorist list in 1982 because of its support for the M-19 guerrilla group in Colombia.⁹ In January 1982, State Department officials asserted that Cuba was involved in providing arms to the M-19 in exchange for

⁶ U.S. Department of State. Cuba's Renewed Support for Violence in Latin America," *Department of State Bulletin*, February 1982, pp. 68-81.

⁷ Former U.S. diplomat Wayne Smith, who served as chief of the U.S. Interests Section in Havana from 1979-1982, maintains that a Cuban official told him in December 1981 that Cuba had halted all arms shipments to Central America, but that there was never any U.S. response to this Cuban overture. Smith has been a critic of U.S. policy toward Latin America for some years. See Anya K. Landau and Wayne S. Smith, "Cuba on the Terrorist List: In Defense of the Nation or Domestic Political Calculation?" Center for International Policy, November 2002, p. 3.

⁸ U.S. Department of State. Cuba's Renewed Support for Violence in Latin America," *Department of State Bulletin*, February 1982, *Ibid.* p. 77.

⁹ "Chronology of U.S.-Cuban Relations, 1958-1998," U.S. Department of State. Available on the internet at [<http://usembassy.state.gov/havana/www017.html>].

facilitating U.S.-bound drug smuggling.¹⁰ M-19 was responsible for hijacking a plane from Colombia in January 1982; the incident ended when the hijackers were given safe passage to Cuba.¹¹

- A 2003 State Department document broadened the explanation of why Cuba was designated a state sponsor of terrorism in 1982.¹² Reflecting the rationale set forth in the documents from 1981 and 1982 described above, the State Department maintains that Cuba was added to the list because of its support for terrorist groups in Latin America. It contends that Cuba was providing support for terrorist organizations at the time, including the Puerto Rican nationalist group known as the Armed Forces of National Liberation (FALN), the Farabundo Marti National Liberation Front (FMLN) in El Salvador, and the Sandinista National Liberation Front (FSLN) in Nicaragua. It also asserts that “Cuba helped transship Soviet arms to Nicaragua and El Salvador for use by terrorist organizations, trained anti-American insurgents elsewhere in Latin America, and supported insurgencies or war efforts in Angola and Ethiopia.”¹³

Current Rationale for Retaining Cuba on the Terrorism List

According to the State Department’s *Country Reports on Terrorism 2005*¹⁴ report (issued in April 2006), Cuba has “actively continued to oppose the U.S.-led Coalition prosecuting the global war on terror and has publicly condemned various U.S. policies and actions.” The report also asserted that “Cuba did not undertake any counterterrorism efforts in international and regional fora.”

The State Department report also noted that Cuba maintains close relationships with other state sponsors of terrorism such as Iran and North Korea and asserted that it has provided safe haven for members of several Foreign Terrorist Organizations. The report maintained that Cuba provides safe haven to various Basque ETA members from Spain and to members of two Colombian insurgent groups, the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN), although the report also maintained that there is no information concerning

¹⁰ George Gedda, “U.S. Claims Cuba Linked to Drug Smuggling Activities,” *Associated Press*, January 27, 1982; Assistant Secretary of State for Inter-American Affairs Thomas Enders testified before Congress in March 1982, with the same allegations. See Jim Anderson, “U.S. Charges Cuba Using Drug Ring to Funnel Arms,” *United Press International*, March 12, 1982.

¹¹ “Hijackers Release 74 Hostages; Fly to Cuba,” *Associated Press*, January 29, 1982

¹² U.S. Department of State, Bureau of Western Hemisphere Affairs, “Fact Sheet: U.S. Cuba Policy,” July 30, 2003, [<http://www.state.gov/p/wha/rls/fs/22905pf.htm>].

¹³ *Ibid.*

¹⁴ This report replaces the State Department’s annual Patterns of Global Terrorism report.

terrorist activities of these or other organizations in Cuba. The State Department's 2002 and 2003 terrorism reports acknowledged that Colombia acquiesced to this arrangement and that Colombia publicly said that it wanted Cuba's continued mediation with the ELN in Cuba.

The 2005 report also maintained that Cuba continues to permit U.S. fugitives from justice to live legally in Cuba but noted that "Cuba has stated that it will no longer provide safe haven to new U.S. fugitives who may enter Cuba." The report asserted that the U.S. government periodically requested Cuba to return wanted fugitives to the United States but that Cuba continues to be non-responsive. (The 2004 terrorism report contended that more than 70 fugitives from U.S. justice were in Cuba.) Many of the fugitives are accused of hijacking or committing violent actions in the United States, including Joanne Chesimard, who is wanted for the murder of a New Jersey State Trooper in 1973. Most of the of the fugitives entered Cuba in the 1970s. The report also noted that Cuba publicly demanded return of five of its agents convicted of espionage in the United States, the so-called "Cuban Five."

The 2005 reported noted that Cuba demanded that the United States surrender to Cuba Luis Posada Carriles, alleged to be responsible for a plot to assassinate Fidel Castro in 2000 and for the 1976 bombing of a Cubana Airlines plane in 1976. In May 2005, Posada was arrested by the U.S. Immigration and Customs Enforcement (ICE) and charged with entering the United States illegally. He remains at a federal immigration facility in El Paso, Texas. A Department of Homeland Security press release indicated that ICE does not generally deport people to Cuba or countries believed to be acting on Cuba's behalf.¹⁵ Posada had been imprisoned in Venezuela for the bombing of the Cuban airliner but reportedly was allowed to "escape" from prison in 1985 after his supporters paid a bribe to the prison warden.¹⁶ In November 2000, Posada had been imprisoned and ultimately convicted in Panama, along with three Cuban Americans, for weapons charges in the plot to kill Fidel Castro. In August 2004, however, then Panamanian President Mireya Moscoso pardoned Posada along with the three U.S. citizens. (For more on the Posada case, see CRS Report RL32488, *Venezuela: Political Conditions and U.S. Policy*, by Mark P. Sullivan.)

Biological Weapons Issue. Until the 2005 terrorism report, past State Department annual reports on global terrorism did not mention controversial allegations first made by some State Department officials in 2002 that Cuba has been involved in developing biological weapons.¹⁷ The 2005 report, however, asserted that while Cuba invests heavily in biotechnology, "there is some dispute about the existence and extent of Cuba's offensive biological weapons program."

¹⁵ Department of Homeland Security, Office of Public Affairs, Statement, May 17, 2005.

¹⁶ Ann Louise Bardach, "Our Man's in Miami. Patriot or Terrorist?," *Washington Post*, Apr. 17, 2005.

¹⁷ For more, see CRS Report RL32730, *Cuba: Issues for the 109th Congress*, by Mark P. Sullivan.

The controversial allegations date back to May 2002, when then Under Secretary of State for Arms Control and International Security John Bolton stated that “the United States believes that Cuba has at least a limited offensive biological warfare research-and-development effort” and “has provided dual-use technology to other rogue states.” Bolton called on Cuba “to cease all BW-applicable cooperation with rogue states and to fully comply with all of its obligations under the Biological Weapons Convention.”¹⁸

When questioned on the issue, Secretary of State Powell maintained that Under Secretary Bolton’s statement was not based on new information. Powell asserted that the United States believes Cuba has the capacity and the capability to conduct research on biological weapons but emphasized that the Administration had not claimed that Cuba had such weapons. Some observers viewed Powell’s statement as contradicting that of Under Secretary Bolton.¹⁹ In late June 2003, news reports stated that an employee of the State Department’s Bureau of Intelligence and Research maintained that Under Secretary Bolton’s assertions about Cuba and biological weapons were not supported by sufficient intelligence.²⁰

In March 30, 2004, congressional testimony before the House International Relations Committee, Under Secretary of State John Bolton asserted that “Cuba remains a terrorist and BW threat to the United States.” According to Bolton: “The Bush Administration has said repeatedly that we are concerned that Cuba is developing a limited biological weapons effort, and called on Fidel Castro to cease his BW aspirations and support of terrorism.” Bolton went on to add a caveat, however, that “existing intelligence reporting is problematic, and the Intelligence Community’s ability to determine the scope, nature, and effectiveness of any Cuban BW program has been hampered by reporting from sources of questionable access, reliability, and motivation.”²¹ The *New York Times* reported on September 18, 2004, that the Bush Administration, using more stringent intelligence standards, had “concluded that it is no longer clear that Cuba has an active, offensive bio-weapons program.”²²

An August 2005 State Department report to Congress indicated that while observers agree that Cuba has the technical capability to pursue some aspects of

¹⁸ John R. Bolton, “Beyond the Axis of Evil: Additional Threats from Weapons of Mass Destruction,” The Heritage Foundation, Heritage Lectures, May 6, 2002.

¹⁹ David Gonzalez, “Carter and Powell Cast Doubt on Bioarms in Cuba,” *New York Times*, May 14, 2002.

²⁰ James Risen and Douglas Jehl, “Expert Said to Tell Legislators He Was Pressed to Distort Some Evidence,” *New York Times*, June 25, 2003.

²¹ House International Relations Committee, “The Bush Administration and Nonproliferation: A New Strategy Emerges,” Hearing, March 30, 2004. *Federal News Service*.

²² Steven R. Weisman, “In Stricter Study, U.S. Scales Back Claim on Cuba Arms,” *New York Times*, September 18, 2004.

offensive biological warfare, there is disagreement over whether Cuba has an active biological warfare effort now or even had one in the past.²³

Arguments Supporting and Opposing Cuba's Retention on the Terrorism List

In general, those who support keeping Cuba on the terrorism list argue that there is ample evidence that Cuba supports terrorism. They point to the government's history of supporting terrorist acts and armed insurgencies in Latin America and Africa. They point to the government's continued hosting of members of foreign terrorist organizations and U.S. fugitives from justice. Critics of retaining Cuba on the terrorism list maintain that it is a holdover of the Cold War. They argue that domestic political considerations keep Cuba on the terrorism list, and maintain that Cuba's presence on the list diverts U.S. attention from struggles against serious terrorist threats.

Cuba's Stance Against Terrorism

Those who concur with the Administration's current rationale for keeping Cuba on the state sponsor of terrorism list point to strong anti-American statements made by Fidel Castro and other Cuban officials. Fidel Castro stated that the September 11, 2001 terrorist attacks in the United States were in part a consequence of the United States having applied "terrorist methods" for years.²⁴ Cuba's subsequent statements became increasingly hostile, with Cuba's mission to the United Nations describing the U.S. response to the U.S. attacks as "fascist and terrorist" and asserting that the United States was using the attack as an excuse to establish "unrestricted tyranny over all people on Earth."²⁵ Castro himself said that the U.S. government was run by "extremists" and "hawks" whose response to the attack could result in an "infinite killing of innocent people."²⁶

Those who question Cuba's retention on the terrorism list point out that Cuba has ratified all 12 international counterterrorism conventions in.²⁷ They further point to Cuba's expression of sympathy and offer of support to the United States in the aftermath of the World Trade Center and Pentagon attacks in 2001, including the offer of medical and humanitarian assistance and the use of airspace and airports to

²³ "Adherence to and Compliance with Arms Control, Nonproliferation and Disarmament Agreements and Commitments," U.S. Department of State, August 2005.

²⁴ Andrew Cawthorne, "Cuba's Castro Urges U.S. to Keep Calm," Reuters, September 11, 2001.

²⁵ Kevin Sullivan, "Castro Warns About U.S. Military Plans," *Washington Post*, September 23, 2001, p. A38.

²⁶ *Ibid.*

²⁷ Anya K. Landau and Wayne S. Smith, "Cuba on the Terrorist List: In Defense of the Nation or Domestic Political Calculation?" Center for International Policy, November 2002, p. 5.

receive planes headed to the United States.²⁸ (Cuba's critics view these offers as gratuitous.) Those questioning Cuba's retention on the terrorism list also contend that Cuba has made repeated offers to the United States since November 2001 for a bilateral agreement to fight terrorism, but that the United States has not responded.²⁹ Some who question the Administration's rationale for keeping Cuba on the terrorism list, while acknowledging Cuba's history of supporting revolutionary movements and governments in Latin America and Africa point to several versions of the State Department's *Patterns of Global Terrorism* report in the 1990s that stated that Cuba no longer actively supported armed struggle in Latin America or other parts of the world.

Harboring Members of Foreign Terrorist Organizations

In reference to the Administration's allegations that Cuba hosts members of foreign terrorist organizations, some observers maintain that this is line with Cuba's long-time hostility toward the United States and the remnants of its very active involvement in supporting terrorist groups in the past. On the other side, some observers maintain that Cuba has shed its past as a supporter of terrorist and insurgent groups, and members of terrorist organizations who reside in Cuba do so pursuant to agreements or the acquiescence of the home countries of the terrorist organizations.

Basque ETA Members. Some observers maintain the presence of Basque ETA members in Cuba stems from a 1984 agreement with the Spanish and Panamanian governments.³⁰ Cuba asserts that the ETA members have never used Cuban territory for terrorist activities against Spain or any other country and that the issue is a bilateral matter between Cuba and Spain.³¹ On the other side, some observers maintain that after the 1984 agreement, some 20 ETA members sought by the Spanish authorities for killings in Spain were known to have found refuge and support in Cuba.³² Moreover, the Spanish government requested the extradition of an ETA suspect from Cuba in August 2003, and according to the State Department, publicly requested Cuba to deny ETA members sanctuary in November 2003.³³

²⁸ Cuban Ministry of Foreign Relations. "Declaration by the Ministry of Foreign Affairs: Cuba has nothing to hide, and nothing to be ashamed of," May 2, 2003.

²⁹ Ibid.

³⁰ Anya K. Landau and Wayne S. Smith, "Cuba on the Terrorist List: In Defense of the Nation or Domestic Political Calculation?" Center for International Policy, November 2002.

³¹ Cuban Ministry of Foreign Relations. "Declaration by the Ministry of Foreign Affairs: Cuba has nothing to hide, and nothing to be ashamed of," May 2, 2003. Available on the internet at [http://www.iacenter.org/cuba_may303.htm]

³² Cuban American National Foundation, "Castro's Cuba: Continuing Sponsor of Terrorism," October 2001.

³³ "Spain to Request Extradition of Suspected ETA Members from Mexico, Cuba," *Xinhua General News Service*, August 2, 2003.

Colombian FARC and ELN Members. With regard to Colombian guerrilla group members in Cuba, the State Department annual reports on global terrorism for 2002 and 2003 acknowledged that Colombia acquiesced to the presence of Colombian guerrillas in the country, and has publicly said that it wants Cuba's continued mediation with the ELN in Cuba. The Cuban government maintains that it has been actively involved in hosting peace talks, and that its contributions to peace talks have been acknowledged by Colombia and the United Nations.³⁴ On the other hand, some observers contend that Cuba's role in supporting the terrorist activities of the FARC was demonstrated by the arrest of three alleged Irish Republican Army (IRA) operatives in Colombia in August 2001 — one of whom, Niall Connolly, had lived in Havana as Sinn Fein's representative since 1996. The three went into hiding in June 2004 after they had been acquitted by a lower court on charges of training the FARC in bombing techniques. In December 2004, however, they were subsequently convicted of the charges by a Colombian appeals court in absentia and sentenced to 17 years in prison. Connolly, who has denied being an IRA member, maintains that he was in Colombia to observe the conflict resolution process. The three announced that they were back in Ireland in early August 2005, days after the IRA announced that it was ending its armed campaign.³⁵

Harboring U.S. Fugitives from Justice

Supporters of keeping Cuba on the terrorist list point to the more than 70 fugitives from U.S. justice residing in Cuba. These include such fugitives as: Joanne Chesimard, who was convicted for the killing of a New Jersey state trooper in 1973; Charles Hill and Michael Finney, wanted for the killing of a state trooper in New Mexico in 1971; Victor Manuel Gerena, member of a militant Puerto Rican separatist group, wanted for carrying out the robbery of a Wells Fargo armored car in Connecticut in 1983; and Guillermo Morales, another member of a Puerto Rican militant group, who was convicted of illegal possession of firearms in New York in the 1970s.

Those who oppose this rationale for keeping Cuba on the terrorist list argue that this has nothing to do with terrorism and that many countries (e.g. Mexico and El Salvador) harbor fugitives from U.S. justice, but are not on the terrorist list.³⁶ Moreover, they argue that Cuba has expressed interest in considering negotiation of the mutual extradition of fugitives. For example, Cuba would like to see the extradition of Orlando Bosch, a Miami resident, and Luis Posada Carriles. Both are accused of responsibility for the bombing a Cuban airliner in 1976, while Posada, as described above, was imprisoned in Panama for several years on weapons charges in a plot to assassinate Fidel Castro. Opponents of this rationale also point out that

³⁴ Cuban Ministry of Foreign Relations. "Declaration by the Ministry of Foreign Affairs: Cuba has nothing to hide, and nothing to be ashamed of," May 2, 2003.

³⁵ "Questions Remain on the Extradition Fight that Shook the Peace Process," *The Irish Examiner*, August 8, 2006.

³⁶ Mexico, for example, reportedly harbors hundreds of fugitives from justice. See Guy Taylor, "Home a Safe Haven for Mexican Suspects; Death Penalty Halts Extradition for U.S. Crimes," *Washington Times*, January 9, 2004, p. A1.

Cuba has vowed not to allow new U.S. fugitives from justice to live in Cuba. Several years ago it deported two fugitives from justice to the United States; U.S. drug fugitive Jesse James Bell was deported in January 2002, and William Joseph Harris, wanted on child abuse charges, was deported in December 2001.

Comparison with Other Countries on the Terrorism List

The level of terrorist activity by countries on the state sponsors of terrorism list varies considerably. As noted above, in addition to Cuba, there are four other countries on the list — Iran, Syria, Sudan, and North Korea. Iran is considered the most active state sponsor of terrorism, while countries believed to be less active supporters of terrorism include Sudan and Cuba.

Given this wide range of activity, some suggest that there should be a tiered approach with sanctions calibrated to the degree of support for terrorism, while others maintain that any level of support for terrorism is unacceptable and must be met with strong sanctions. Some suggest that should there be more flexibility in the ability to add and remove countries from the terrorism list in order to bring about behavioral changes in the states that are involved in terrorist activities; others believe that there is already sufficient flexibility in the legislative conditions set forth in the Export Administration Act for the Administration to add and remove countries according to their behavior.