

November 2007

ECONOMIC SANCTIONS

Agencies Face Competing Priorities in Enforcing the U.S. Embargo on Cuba



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Highlights of [GAO-08-80](#), a report to congressional requesters

Why GAO Did This Study

The 48-year U.S. embargo on Cuba aims to deny resources to the Castro regime by prohibiting most trade, travel, and financial transactions with Cuba. The departments of Commerce, Homeland Security (DHS), Justice, and the Treasury are responsible for enforcing the embargo as well as protecting homeland and national security. Since 2001, U.S. agencies have changed the embargo's rules in response to new laws and policies. GAO was asked to examine (1) the rule changes in 2001-2005 and their impact on U.S. exports, travel, cash transfers, and gifts to Cuba; (2) U.S. agencies' embargo-related activities and workloads; and (3) factors affecting the embargo's enforcement. GAO analyzed laws, regulations, and agency data, interviewed agency officials, and observed agency activities at Port Everglades and Miami International Airport, Florida.

What GAO Recommends

GAO recommends that (1) CBP reassess whether its use of resources for intensive inspections of arrivals from Cuba at the Miami airport effectively balances enforcing the embargo with protecting homeland security and (2) OFAC assess its use of resources for investigating and penalizing Cuba embargo violations. CBP agreed with the intent of a draft recommendation on using risk-based inspections at the airport but considered it unwarranted. Using additional CBP data, GAO revised its report and recommendation as appropriate. OFAC commented that it allocates resources based on several factors.

To view the full product, including the scope and methodology, click on [GAO-08-80](#). For more information, contact David Gootnick at (202) 512-3149 or gootnickd@gao.gov.

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What GAO Found

The loosening of embargo rules on some exports led to increased agricultural shipments to Cuba, but the impact of tighter restrictions on travel, cash transfers, and gifts is unknown. In 2001, responding to a new law, Treasury's Office of Foreign Assets Control (OFAC) and Commerce's Bureau of Industry and Security (BIS) loosened embargo restrictions on some trade with Cuba. U.S. exports to Cuba—mostly agricultural products—rose from about \$6 million to about \$350 million from 2000 to 2006. In 2004, responding to new administration policy, OFAC tightened rules on travel to Cuba, for example, by requiring that all family travelers obtain specific Treasury licenses and reducing the permitted frequency of family visits from once a year to once every 3 years, and it also tightened rules for sending cash transfers and gift parcels. Because reliable data are not available, the impact of these tighter restrictions on travel, cash transfers, and gifts cannot be determined.

U.S. agencies enforce the Cuba embargo primarily by licensing and inspecting exports and travelers and by investigating and penalizing or prosecuting embargo violations. BIS processed twice as many exports license applications for Cuba in 2006 than in 2001, and OFAC issued about 40 percent more Cuba travel licenses in 2006 than in 2003. Reflecting the administration's embargo-tightening policy, DHS's Customs and Border Protection (CBP) inspects all exports to Cuba at Port Everglades and, since 2004, has increased intensive, "secondary" inspections of passengers arriving from Cuba at the Miami airport; in 2007, CBP conducted these inspections for 20 percent of arrivals from Cuba versus an average of 3 percent of other international arrivals. CBP data and interviews with agency officials suggest that the secondary inspections of Cuba arrivals at the airport may strain CBP's ability to carry out its mission of keeping terrorists, criminals, and other inadmissible aliens from entering the country. Moreover, recent GAO reports have found weaknesses in CBP's inspections capacity at key U.S. ports of entry nationwide. After 2001, OFAC opened more investigations and imposed more penalties for embargo violations, such as buying Cuban cigars, than for violations of other sanctions, such as those on Iran. In contrast, BIS, DHS's Immigration and Customs Enforcement, and Justice have primarily investigated, penalized, or prosecuted export violations and crimes that present a greater threat to homeland and national security or public safety.

U.S. officials and others told GAO that several factors hinder enforcement of the Cuba embargo, sometimes acting in concert. (1) Lack of cooperation from foreign countries has undercut the embargo's effectiveness and hampered inspections and investigations. (2) Divided U.S. public opinion, particularly regarding the new travel and cash transfer restrictions, has contributed to widespread, small-scale embargo violations and the selling of fraudulent religious and other travel licenses, among other problems. (3) Some embargo violations are difficult to detect or control, such as fraudulent licenses and on-line money transfers via third countries. (4) The embargo's complexity and changing rules may have led to unintended violations by some individuals and companies.

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Abbreviations

BIS	Bureau of Industry and Security (under Commerce)
CACR	Cuban Assets Control Regulations
CAFC	Commission for Assistance to a Free Cuba
CBP	Customs and Border Protection (under DHS)
DHS	Department of Homeland Security
EU	European Union
GDP	gross domestic product
ICE	Immigration and Customs Enforcement (under DHS)
ITC	International Trade Commission
OAS	Organization of American States
OEE	Office of Export Enforcement (under BIS)
OFAC	Office of Foreign Assets Control (under Treasury)
TSRA	Trade Sanctions Reform and Export Enhancement Act of 2000
UN	United Nations

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United States Government Accountability Office
Washington, D.C. 20548

November 30, 2007

The Honorable Charles B. Rangel
Chairman
Committee on Ways and Means
House of Representatives

The Honorable Barbara Lee
House of Representatives

For nearly five decades, the United States has maintained a comprehensive embargo on Cuba through various laws, regulations, and presidential proclamations regarding trade, travel, and financial transactions. The stated purpose of this embargo—the most comprehensive set of U.S. economic sanctions on any country—is to weaken the Castro regime by denying it hard currency. To achieve this goal, the Cuban Assets Control Regulations (CACR),¹ which the Department of Treasury’s Office of Foreign Assets Control (OFAC) administers, generally prohibit all trade, travel, and financial transactions with Cuba or Cuban nationals by U.S. citizens, residents, foreign visitors, or foreign subsidiaries of U.S. firms. Trade with Cuba also is subject to U.S. export control laws and regulations; for example, because the United States has designated Cuba a state sponsor of terrorism, certain military items are statutorily prohibited from being exported to Cuba. Agencies, bureaus, and offices under the Departments of Commerce, Homeland Security (DHS), Justice, and Treasury enforce the Cuba embargo,² primarily by licensing exports, travel, financial, and other transactions; inspecting exports and travelers; investigating suspected embargo violations; and penalizing or prosecuting violators. The agencies carry out these activities in the context of responsibilities for homeland

¹31 C.F.R. pt. 515.

²The principal entities implementing and enforcing the embargo are the Department of Commerce’s Bureau of Industry and Security; DHS’s U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, and U.S. Coast Guard; the Department of Justice’s U.S. Attorneys and Federal Bureau of Investigation; and the Department of Treasury’s OFAC. In addition, State, Defense, and other departments, as appropriate, assist in making some licensing decisions. In this report, we refer to all of these entities as “agencies.”

security, for which they are expected to use risk management as a means of allocating limited resources effectively.³

The rules of the embargo have changed several times since 2001 in response to new legislation and administration policies. The Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA)⁴ required the President to lift unilateral U.S. sanctions on commercial sales of food, agricultural commodities, and medical products worldwide and permitted the export of these goods to Cuba and other designated state sponsors of terrorism, subject to licensing. In addition, since mid-2003, the administration has introduced policies aimed at tightening the embargo on Cuba. In 2003, for example, the President directed DHS to tighten enforcement of the embargo, and, in 2004, the President initiated tighter restrictions on travel, cash remittances, and gifts to Cuba. These tighter restrictions reflected recommendations by the interagency Commission for Assistance to a Free Cuba (CAFC),⁵ which concluded that the Cuban government captures a percentage of the money spent by U.S. residents on travel, cash remittances, and gifts through a variety of taxes and fees and this hard currency helps keep the Cuban government in power. The administration plans to introduce additional changes to the embargo based on the commission's recommendations and is exploring measures to further tighten the embargo.

In response to your request, we examined (1) the changes to the embargo rules in 2001 through 2005 and these changes' impact on U.S. exports,

³Risk management is a systematic process for analyzing threats, vulnerabilities, and consequences, as well as the criticality (or relative importance) of assets to support key decisions linking resources with priorities. [For example, see GAO, *Risk Management: Further Refinements Needed to Assess Risks and Prioritize Protective Measures at Ports and Other Critical Infrastructure*, GAO-06-91 (Washington, D.C.: Dec. 15, 2005) and GAO, *Homeland Security: A Risk Management Approach Can Guide Preparedness Efforts*, GAO-02-208T (Washington, D.C.: Oct. 31, 2001).] Managing homeland security efforts on the basis of risk has received widespread support from Congress, the President, senior agency officials, and others. For example, see the Office of Homeland Security's 2002 *National Strategy for Homeland Security* (available at <http://www.whitehouse.gov/homeland/book/index.html>).

⁴Agriculture, Rural Development, Food and Drug Administration, and Related Appropriations Act, Pub. L. 106-387, Title IX, 114 Stat. 1549A-67–1549A-72 (2000) (codified at 22 U.S.C. §§ 7201-7209).

⁵The President established CAFC in October 2003 to identify (1) ways the U.S. government could hasten the end of the Castro dictatorship and (2) U.S. programs to assist the Cuban people during a transition to democracy.

travel, cash remittances, and gifts to Cuba; (2) U.S. agencies' activities and workloads in enforcing the embargo; and (3) factors that have affected the embargo's enforcement. In conducting this review, we analyzed applicable laws, agency regulations and other records, and studies of the Cuba embargo. To identify agencies' enforcement activities and obtain information on workloads and staffing, we analyzed data from Commerce, DHS, Justice, State, Treasury, and other sources and interviewed appropriate agency officials. Additionally, we observed agency screening of cargo at Port Everglades (Ft. Lauderdale) and inspections of passengers and baggage at Miami International Airport, Florida,⁶ and discussed investigations and prosecutions of embargo violations with headquarters and field officials. We also obtained officials' and others' views and reviewed data regarding factors that affect enforcement of the Cuba embargo and other sanctions. (See app. I for additional information about our scope and methodology.) We conducted our work between December 2006 and November 2007 in accordance with generally accepted government auditing standards.

Results in Brief

The loosening of embargo rules on some exports led to increased commercial agricultural shipments to Cuba. However, the impact of tighter restrictions on travel, cash remittances, and gifts to Cuba is unknown.

- **Exports.** In 2001, as required by TSRA, Commerce's Bureau of Industry and Security (BIS) introduced new, streamlined procedures to expedite processing of license applications for exporting eligible agricultural commodities to Cuba, and OFAC clarified rules for vessels carrying exports to Cuba. From 2000 through 2006, annual U.S. exports to Cuba rose substantially, from \$6 million to about \$350 million, with the result that U.S. exports to Cuba over the period totaled more than \$1.5 billion. Agricultural products have comprised the majority of U.S. exports to Cuba—98 percent of total exports in 2006. U.S. exports of medical products to Cuba are limited because they remain subject to other statutory restrictions and are licensed through BIS's standard licensing process.
- **Travel.** In 2004, reflecting administration policy, OFAC began tightening restrictions on U.S. travel to Cuba. Rule changes included reducing the

⁶Port Everglades is one of three ports handling the majority of U.S. exports to Cuba; Miami International Airport currently is the only U.S. airport with regular, direct service to Cuba.

permitted frequency of family visits from once every 12 months to once every 3 years; restricting visits to immediate family; lowering the allowed per diem—the amount of money that family travelers may spend per day—from \$167 to \$50; requiring each family traveler to obtain a license; eliminating the license for additional family visits in cases of humanitarian need; and increasing restrictions on educational and religious travel. Because no reliable data are available, the impact of the new restrictions on travel to Cuba cannot be determined.

- **Remittances and gifts.** In 2004, reflecting administration policy, OFAC and BIS tightened restrictions on sending cash remittances and gift parcels to Cuba. Rule changes included restricting remittance recipients to senders' immediate family, expanding the ban on remittances or gifts to senior Cuban government and Communist Party officials, and drastically reducing the value of remittances that travelers could carry to Cuba. Rule changes also restricted the recipients and contents of gift parcels. Because no reliable data are available, the impact of the new restrictions on remittances and gifts to Cuba cannot be determined.

After the embargo rule changes in 2001 and 2004, BIS and OFAC licensing of exports and travel to Cuba increased. DHS's Customs and Border Protection (CBP) inspections of exports to Cuba and of passengers arriving from Cuba also increased, reflecting administration policy, with the passenger inspections straining agency resources at Miami International Airport. In addition, OFAC cases related to the Cuba embargo comprised a large percentage of the agency's investigation and penalty caseload from 2000 through 2006, although it administers more than 20 sanctions programs. In contrast, BIS, DHS's Immigration and Customs Enforcement (ICE), and Justice reported undertaking relatively few investigations, penalties, and prosecutions of Cuba embargo violations because of their focus on competing homeland and national security priorities.

- **Licensing.** Following implementation of the TSRA-related rule changes in mid-2001, the number of export license applications for Cuba that BIS processed each year doubled, from 263 in fiscal year 2001 to 544 in fiscal year 2006. Similarly, following implementation of the new restrictions in 2004, the number of licenses that OFAC issued for travel to Cuba each year increased by 38 percent, from about 30,100 in 2003 to about 41,300 in 2006. The impact of the increased export licensing workload on BIS resources is unclear because the agency lacks reliable staffing data

about some of its most difficult cases.⁷ OFAC responded to the increased travel licensing workload by reassigning staff at its Miami field office from auditing and public outreach activities,⁸ but like BIS, OFAC lacks reliable staffing data. Recent OFAC audits have identified significant violations at some firms.

- **Inspections.** Since 2004, consistent with changes in administration policy and embargo rules, CBP has screened all exports to Cuba from Port Everglades⁹ and conducted intensive (secondary) inspections of more passengers and their baggage arriving from Cuba at Miami International Airport.¹⁰ According to CBP, the increase in secondary inspections reflects its assessed risk of Cuba embargo violations by arriving passengers after the 2004 rule changes.
- **Exports.** According to CBP officials, CBP screens all shipments to Cuba from Port Everglades—about 50 shipments out of a total of 26,000 per month—with limited impact on agency resources at the port. CBP officials noted that Cuba-bound shipments at Port Everglades appear to be at low risk for embargo violations, given the repetitive nature of the shipments—mostly agricultural products—and the observed high level of carrier and shipper compliance.
- **Passengers.** CBP said that it increased its secondary inspection of passengers arriving from Cuba to reflect an increased risk of embargo violations after the 2004 rule changes, which, among other things, eliminated the allowance for travelers to import a small

⁷According to agency officials, some license applications pose unusual or foreign policy issues; deciding these cases requires interagency analysis and discussion by senior agency officials.

⁸The Cuban Democracy Act of 1992 mandated that Treasury establish and maintain an OFAC field office in Miami to strengthen enforcement (see 22 U.S.C. §6009). According to Treasury, the Miami field office was established in 1996 and, in complying with its mandate, the office has audited travel service providers, conducted public outreach to ensure that proper information about the embargo was provided to individuals and companies, and investigated suspected violations of the Cuba embargo.

⁹Three U.S. ports handle the majority of exports to Cuba: Port Everglades (Ft. Lauderdale), Florida, which handles all container shipments, and New Orleans and Gramercy, Louisiana, which handle bulk shipments to the island.

¹⁰Currently, Miami International Airport is the only U.S. airport with regular, direct flights to Cuba.

amount of Cuban products for personal consumption. CBP data show that in fiscal year 2007, about 20 percent of passengers arriving at Miami from Cuba were referred for secondary inspection, compared with about 3 percent of passengers arriving at the airport from other countries. CBP data, as well as statements by CBP officials, suggest that the high rate of secondary inspections of arrivals from Cuba and the numerous resulting seizures (mostly small amounts of Cuban tobacco, alcohol, and pharmaceuticals) occupy a majority of the agency's inspection facilities and resources at the Miami airport,¹¹ straining CBP's capacity to inspect other travelers according to its mission of keeping terrorists, criminals, and inadmissible aliens out of the country. This impact occurs in the context of recent GAO reports of weaknesses in CBP's inspection capacity at major ports of entry nationwide that increase the potential for terrorists' and inadmissible travelers' entering the country. These reports emphasize that effective use of secondary inspection resources is critical to CBP's accomplishing its priority antiterrorism mission.¹²

- **Investigations.** OFAC, BIS's Office of Export Enforcement (BIS/OEE), and ICE reported that since 2001, they have shifted resources from investigations of suspected Cuba embargo violations to higher priorities. Although the Cuba embargo is one of more than 20 sanctions programs OFAC administers,¹³ embargo-related cases comprised 61 percent of OFAC's investigatory caseload from 2000 through 2006. OFAC officials said that Cuba cases require fewer resources per case than do investigations of suspected violations of other sanctions; however, they were unable to provide data showing allocations for the Cuba embargo or other investigations. In contrast, Cuba embargo-related cases comprise a minor part of BIS/OEE's and ICE's investigation caseloads (3

¹¹The inspections of arriving passengers and their baggage take place in three designated secondary examination areas at the airport and can involve x-ray and physical inspections of the baggage.

¹²For example, see GAO, *Border Security: Despite Progress, Weaknesses in Traveler Inspections Exist at Our Nation's Ports of Entry*, [GAO-08-219](#) (Washington D.C.: Nov. 5, 2007).

¹³Treasury's OFAC administers and enforces more than 20 economic and trade sanctions programs based on U.S. foreign policy and national security goals against targeted foreign countries, terrorists, international narcotics traffickers, and those engaged in activities related to the proliferation of weapons of mass destruction.

percent and 0.2 percent, respectively); agency officials stated that cases related to controlling the spread of sensitive technology or protecting homeland security have been given higher priority.

- **Penalties and prosecutions.** Although the Cuba embargo is one of more than 20 sanctions programs that OFAC administers, OFAC penalties for Cuba embargo violations represented more than 70 percent of its total penalties in 2000-2005, falling to 29 percent in 2006. Most Cuba embargo penalties were for infractions such as purchasing Cuban cigars and were, on average, smaller than the penalties for violating other sanctions. Although OFAC could not provide reliable data showing its allocations for Cuba embargo cases versus other sanctions cases, it said that the Cuba embargo cases required relatively few resources. In contrast to OFAC, BIS and Justice have focused on priorities, such as prosecuting violent crimes and penalizing export violations, that present a greater threat to public safety and homeland and national security. In 2002-2006, reflecting its limited number of embargo-related investigations, BIS imposed penalties totaling about \$50,000 for Cuba embargo violations and about \$30 million for violations of other sanctions. Justice reported that U.S. Attorneys have prosecuted few cases involving violations of the Cuba embargo in recent years, in part because the U.S. Attorney's Office prefers to focus resources on more significant cases involving multiple violations.¹⁴

U.S. officials and others cited the following key factors as hindering agencies' enforcement of the U.S. embargo on Cuba: (1) lack of foreign support for, and cooperation with, the embargo; (2) divided U.S. public opinion about the embargo, particularly the recent tightening of restrictions; (3) the difficulty of detecting some embargo violations; and (4) the embargo's complexity and changing rules. In some cases, these factors act in concert.

- **Lack of foreign support and cooperation.** The unilateral nature of the embargo and a lack of multilateral cooperation hamper U.S. agencies' diplomatic and enforcement efforts, according to agency officials. For example, some governments have actively opposed the

¹⁴In 2006, the U.S. Attorney's Office implemented a policy of considering for prosecution any embargo violation presented to it by an investigatory agency. The U.S. Attorney's Office in Miami recently secured convictions against four individuals who conspired to provide fraudulent religious licenses for more than 4,500 illegal trips to Cuba—the office's first embargo related-case in several years.

U.S. embargo by refusing to identify U.S. travelers making unauthorized visits to Cuba via third countries, complicating agencies' enforcement activities, or have declined to limit their trade, financial, and travel relations with Cuba, further undermining the embargo's stated purpose.

- **Divided U.S. public opinion.** Agency officials said that divided public opinion about the embargo has contributed to widespread, small-scale violations of restrictions on family travel and remittances and to an environment in which some individuals can profit from illegal activities, such as selling fraudulent religious travel licenses. In addition, human rights, religious, and other groups have criticized the increased restrictions on family travel and remittances; and several of these groups have engaged in acts of civil disobedience, such as traveling to Cuba without a license.
- **Difficulty of detecting some criminal violations.** Agency officials said that the difficulty of detecting certain embargo violations creates challenges to enforcing the embargo. For instance, Treasury licenses and other documents can be duplicated, and no system exists for quickly verifying their legitimacy; CBP has identified several thousand fraudulent licenses. Also, financial services technologies, such as stored-value cards and online money transfer services, and widespread money laundering in southern Florida create opportunities for transferring funds to Cuba illegally.
- **Complexity and changing rules.** Agency officials reported that the embargo's complexity and rule changes have created public uncertainty, possibly reflected in small-scale violations of, and confusion about, rules on travel, cash remittances, and allowable baggage. For example, immediately after the travel rule changes in 2004, it was unclear to both passengers and CBP officers whether the new 44-pound limit on baggage for family travel applied to medical and personal safety items such as wheelchairs, crutches, and child safety seats; in 2006, BIS clarified that the new limit did not include such items.

In this report, we recommend that the Secretary of Homeland Security direct CBP to re-examine whether the level of resources used for secondary inspections of travelers returning from Cuba at Miami International Airport effectively balances the agency's responsibilities for enforcing the embargo on Cuba and for protecting homeland security. We also recommend that the Secretary of the Treasury direct OFAC to assess its allocation of resources for investigating and penalizing violations of the

Cuba embargo with respect to the numerous other sanctions programs it administers.

DHS, Treasury, State, and Commerce provided written comments regarding a draft of this report (see apps. VI through IX). DHS said that although CBP agreed with the intent of our draft recommendation that they use a risk-based approach in allocating resources for secondary inspections at the Miami airport, they considered it unwarranted. CBP said that it allocated resources at the airport using a risk-based approach that reflects the increased risk of embargo violations after the 2004 rule changes. Based on additional data provided by CBP regarding its risk factors, we revised our report and recommendation. Treasury expressed neither agreement nor disagreement with our recommendation but stated that OFAC's resources for investigating and penalizing violations of the Cuba embargo and other sanctions programs are allocated according to the agency's priorities, legal obligations, and volume of work. Treasury's comments do not address our finding that, since 2000, OFAC has conducted more investigations and imposed more penalties for violations of the Cuba embargo than for all of the other 20-plus sanctions programs the agency implements. State and Commerce expressed neither agreement nor disagreement with our draft report. (See "Agency Comments and Our Evaluation" for fuller summaries of these comments and our responses.)

Background

Cuba is the largest Caribbean nation, with a population of 11.4 million and an area of about 111,000 square kilometers (slightly smaller than Pennsylvania). Since Fidel Castro came to power in early 1959, Cuba has been a communist state characterized by a one-party political system and a centrally planned economy. Per capita nominal gross domestic product (GDP) was about \$4,100 in 2006,¹⁵ and the economy is heavily dependent on international tourism, Venezuelan subsidies, and exports of natural resources. As we have previously reported, the Cuban government routinely violates its citizens' human and political rights, controls the media and jams foreign broadcasts, and harasses and imprisons independent journalists and political dissidents.¹⁶

¹⁵Central Intelligence Agency, *The World Factbook 2007* (Washington, D.C., 2007). Estimate as of Oct. 18, 2007. State estimates per capita nominal GDP to be \$3,300 to \$3,400.

¹⁶See, for example, GAO, *Foreign Assistance: U.S. Democracy Assistance for Cuba Needs Better Management and Oversight*, [GAO-07-147](#) (Washington, D.C.: Nov. 2006).

Key Elements of the U.S. Embargo on Cuba

The CACR, the designation of Cuba as a state sponsor of terrorism, several laws, and changes in administration policies since mid-2003 are key elements of the current U.S. embargo on Cuba.

- **Cuban Assets Control Regulations.** In 1963, Treasury issued the CACR, which regulate all transactions involving property and services in which Cuba or a Cuban national has an interest, including travel, remittances, and other financial transactions with Cuba.¹⁷ After coming to power in 1959, the Cuban government began seizing U.S. properties and businesses. The United States responded with increasingly tight restrictions on trade with Cuba, culminating in President Kennedy's declaration in February 1962 of an almost complete embargo on Cuba.¹⁸ These rules have been revised many times since 1963 to reflect U.S. policy changes with regard to the Cuba embargo. For example, OFAC's 1999 amendments to the CACR significantly expanded travel licensing. (See app. II for a timeline of key changes to the CACR and other events in the evolution of the U.S. embargo on Cuba since 1960.)
- **Designation of Cuba as a state sponsor of terrorism.** In 1982, the United States designated Cuba a state sponsor of terrorism,¹⁹ principally for supporting terrorist groups in Latin America such as the M-19 movement in Colombia. Designated state sponsors of terrorism are subject to strict export controls, including a ban on the export of arms-

¹⁷See 31 CFR pt. 515. The CACR replaced the Cuban Import Regulations, issued in 1962, which were less comprehensive. Treasury issued the CACR under the authority granted by the Trading with the Enemy Act of 1917 (see 50 U.S.C. app. § 5(b)), which confers broad authority on the President to impose embargoes on foreign countries.

¹⁸The President's declaration was authorized by the Foreign Assistance Act of 1961 (Pub. L. No. 87-195, 22 USC § 2370), also known as the Act for International Development of 1961. Section 620(a) authorized the President "to establish and maintain a total embargo upon all trade between the United States and Cuba."

¹⁹See 47 *Federal Register* 16623-01. "State sponsor of terrorism" is a designation applied by the Department of State to nations that are designated by the Secretary of State to have repeatedly provided support for acts of international terrorism. Inclusion on the list imposes strict sanctions. The list began on December 29, 1979, with Libya, Iraq, South Yemen, and Syria. Besides Cuba, currently there are four countries designated as state sponsors of terrorism: Iran, North Korea, Sudan, and Syria. See <http://www.state.gov/s/ct/c14151.htm>.

related technologies and a policy of denial²⁰ for dual-use exports.²¹ Financial transactions with state sponsors of terrorism also are restricted, and designated countries are ineligible to receive U.S. foreign assistance. Many of these restrictions already applied to Cuba under the existing embargo at the time of its designation. The current U.S. embargo on Cuba is the most comprehensive regime of U.S. sanctions on any country, including the other countries designated by the U.S. government to be state sponsors of terrorism—Iran, North Korea, Sudan, and Syria. (See app. III for a comparison of U.S. sanctions on Cuba and these countries.)

- **Cuban Democracy Act.** In 1992, the President signed the Cuban Democracy Act,²² intended to support democracy in Cuba by further restricting U.S. trade with the Cuban government and encouraging other countries to limit their trade. The law permitted U.S. exports of medicine and medical supplies to Cuba, with certain exceptions. However, the law required that exporters obtain a specific license for such items and that the U.S. government be able to verify the items were used for the intended purposes and benefited the Cuban people. The law also restricted trade with Cuba by foreign subsidiaries of U.S. firms and prohibited any vessel unlicensed by Treasury from (1) loading or unloading freight in a U.S. port within 180 days after leaving a Cuban port where it engaged in trade of goods or services or (2) entering a U.S. port while carrying goods or passengers to or from Cuba or goods in which Cuba or a Cuban national had an interest.
- **Helms-Burton Act.** In 1996, shortly after Cuban authorities shot down an aircraft flown by U.S. citizens, the President signed the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act, commonly known as the

²⁰Under a policy of denial, agencies review export licensing applications with “a presumption of denial.” To obtain a license for export, applicants must provide sufficient justification and evidence to overcome this presumption. In general, agencies review export licenses under a policy of (1) denial (presumption of denial), (2) case-by-case review, or (3) approval (presumption of approval).

²¹Dual-use items are technologies that have both military and civilian applications.

²²National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, Div. A, Title XVII, 106 Stat. 2572-81 (1992).

Helms-Burton Act.²³ This law codifies the CACR²⁴ and allows the President to suspend the embargo only if he determines that a transition government is in power in Cuba. The law also permits U.S. nationals to sue in U.S. federal court persons trafficking in property seized by the Cuban government²⁵ and provides for denying entry into the United States to aliens (and their immediate families) involved in the trafficking of seized property.²⁶

- **Trade Sanctions Reform and Export Enhancement Act of 2000.** In 2000, Congress passed TSRA, which required the President to lift unilateral U.S. sanctions on the export of food, agricultural commodities, and medical products worldwide and permitted their export to Cuba²⁷ and other designated state sponsors of terrorism subject to licensing.²⁸ The legislation was introduced in Congress after lobbying by farm groups and agribusiness firms affected by declining agricultural exports and lower commodity prices in the late 1990s.

²³Pub. L. No. 104-114, 110 Stat. 785.

²⁴Section 102(h) of Helms-Burton states that “the economic embargo of Cuba, as in effect on March 1, 1996, including all restrictions under part 515 of title 31, Code of Federal Regulations, shall be in effect upon the enactment of this Act, and shall remain in effect, subject to section 204 of this Act.” The conference report accompanying the act explains that section 102(h) was not intended to prohibit executive branch agencies from amending existing regulations to tighten economic sanctions on Cuba or to otherwise implement Helms-Burton. In addition, GAO previously has concluded that section 102(h) also does not prohibit OFAC from amending the CACR in ways that ease economic sanctions on Cuba. See GAO, *Cuban Embargo: Selected Issues Relating to Travel, Exports, and Communications*, GAO/NSIAD-99-10 (Washington, D.C.: Dec. 1998).

²⁵The President has the authority to suspend this provision if its suspension is necessary to the national interests of the United States and will expedite a transition to democracy in Cuba. Since the law was enacted, the provision has been suspended at 6-month intervals.

²⁶These last two titles (III and IV) of Helms-Burton apply only where the property seized by the Cuban government is subject to a claim by a U.S. person.

²⁷As discussed in this report, agency officials told us that TRSA has limited applicability to exports of medical products to Cuba because of other statutory restrictions.

²⁸TSRA made Cuban government importers—such as Alimport, a state-run enterprise that is the primary importer of food in Cuba—eligible to purchase U.S. food and agricultural exports. Prior to TSRA, Cuba’s socialist economy provided limited opportunities for U.S. exports to individuals, nongovernmental organizations, and private business, as provided under law, regulation, and policy.

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- **Administration policy.** Since mid-2003, the administration has taken actions, and plans to take additional actions, to tighten the embargo on Cuba.²⁹ In October 2003, the President directed DHS to (1) strengthen enforcement of the embargo by increasing inspections of travelers and shipments to and from Cuba and (2) target those who travel illegally to Cuba via third countries or on private vessels. In May 2004, the President announced new measures to tighten the embargo based on recommendations of the Commission for Assistance to a Free Cuba.³⁰ The President had established CAFC in October 2003 to identify (1) ways the U.S. government could hasten the end of the Castro dictatorship and (2) U.S. programs to assist the Cuban people during a transition to democracy. The commission has issued two reports, in May 2004 and July 2006, respectively, which included about 40 recommendations to tighten the embargo.³¹ To date, the administration has implemented, or partly implemented, about half of these recommendations and plans to implement the rest. Additionally, the administration is exploring ways to tighten the embargo further. One interagency working group is considering ways to restrict Cuban officials' assets abroad and another is exploring ways to limit Cuba's nickel exports.³²
 - **2004 CAFC report.** The report concluded that hard currency provided by U.S. travelers' spending and U.S. residents' remittances and gifts contribute to keeping the Cuban government in power. The Cuban government captures a percentage of travelers' spending through state-run airlines, state-run stores, and customs duties. Most U.S. travelers go to Cuba to visit family; however, the CAFC report

²⁹In contrast, earlier in 2003 (March), OFAC had amended the CACR to relax some travel restrictions and increase the amount of cash that travelers were permitted to carry from \$300 to \$3,000. See 68 *Federal Register* 14141.

³⁰The commission is cochaired by the Secretaries of State and Commerce and includes the Assistant to the President for National Security; the Secretaries of Homeland Security, Housing and Urban Development, and Treasury; and the Administrator of the U.S. Agency for International Development. The commission initially was chaired by the Secretary of State.

³¹The reports and other information are available at the commission's Web site (<http://www.cafc.gov>).

³²According to State officials, the Cuban Nickel Targeting Task Force has met four times and, at its last meeting in July 27, 2007, steel industry representatives agreed to provide input.

found that some travelers using educational travel licenses engage in tourist activities, thereby spending money on the island without participating in the kind of meaningful exchanges with the Cuban people that these licenses are designed to encourage. According to the report, the Cuban government profits from U.S. remittances through inflated fees for currency exchange and state-run stores where products are sold for hard currency. The report contained recommendations to tighten the embargo and prepare U.S. agencies to assist the Cuban people in a transition to democracy. For example, the report recommended restrictions on the frequency and duration of family visits and suggested new limits on recipients eligible for remittances.

- **2006 CAFC report.** This report followed up on the findings of the 2004 report and described changes in Cuba since the original report. The embargo-related recommendations of the 2006 report are primarily focused on stricter enforcement of the embargo. For example, the report recommends increased enforcement of the Helms-Burton Act, greater controls on medical equipment exported to Cuba, and the establishment of several task forces to identify new ways to deny hard currency to the Cuban government.

U.S. Agencies' Activities in Enforcing the Cuba Embargo

The U.S. agencies enforcing the embargo on Cuba conduct four general types of activities: (1) licensing trade, travel, and financial transactions; (2) inspecting travelers and exports and auditing firms licensed to provide travel and financial services; (3) investigating suspected embargo violations; and (4) imposing civil fines or penalties on, or prosecuting, violators. Table 1 summarizes the activities undertaken by these agencies in enforcing the embargo. In addition, State is responsible for providing overall foreign policy guidance on licensing decisions and for obtaining international cooperation for U.S. agencies enforcing the embargo as well as support for the U.S. strategy of denying the Cuban regime hard currency resources in the pursuit of broad U.S. foreign policy goals, such as encouraging political and human rights.

Table 1: U.S. Agencies' Cuba Embargo Enforcement Activities

Type of activity	Department (agency)	Embargo-related activities
Licensing	Treasury (OFAC)	<p>OFAC regulates and licenses (1) travel by family members, religious organizations, authorized trade missions, and a wide range of others; (2) humanitarian assistance; (3) educational, research and journalistic activities; (4) financial transactions involving Cuban assets; (5) imports from Cuba; and (6) travel and financial service providers.</p> <p>OFAC licenses U.S. residents' financial transactions involving Cuba, such as accessing estates, insurance policies, and security deposits boxes as well as other banking transactions.</p> <p>OFAC's Miami field office processes (1) licenses for family travel and (2) authorizations for Cuba travel, carrier, and remittance-forwarding service providers. OFAC headquarters processes all other licenses.</p>
	Commerce (BIS)	BIS regulates and licenses commercial exports and re-exports to Cuba of agricultural commodities, nonagricultural products such as medical equipment and supplies, and humanitarian donations and gift parcels.
	State, Defense, and other agencies	State, Defense, and other agencies, as appropriate, assist Treasury and Commerce in licensing decisions that pose unusual travel, financial, and trade-related license issues or foreign policy concerns. State provides overall foreign policy guidance on Cuba licensing decisions.
	DHS (U.S. Coast Guard)	U.S. Coast Guard's 7th District in Miami issues permits for vessels to travel to Cuba. Applicants must meet Commerce and Treasury licensing requirements.
Inspections and audits	Treasury (OFAC)	OFAC's Miami field office participates with OFAC headquarters in conducting audits and other reviews of licensed travel and financial service providers, who are required by regulation to maintain records of their Cuba-related transactions.
	DHS (CBP)	<p>CBP inspects exports and passengers to and from Cuba and refers suspected embargo violations to OFAC, BIS/OEE, or ICE, as appropriate.</p> <p>CBP inspects all passengers arriving from Cuba at Miami International Airport. Currently this is the only U.S. airport with regular, direct service to Cuba. Since December 2006, JFK International Airport in New York has hosted an average of two to three charter flights to Cuba per month.</p> <p>At other U.S. airports, CBP screens passengers on international flights for compliance with applicable U.S. laws and regulations, including embargo travel, trade, and agricultural restrictions.</p> <p>CBP's automated systems flag all U.S. shipments to Cuba for screening.</p>
Investigations	Treasury (OFAC)	OFAC investigates suspected embargo violations referred by other agencies, detected by OFAC enforcement activities, or self-reported by violators. One investigator in OFAC's Miami field office supports CBP inspections and ICE and other agencies' investigations.
	Commerce (BIS/OEE)	BIS/OEE investigates suspected embargo violations referred by other agencies, detected by BIS enforcement activities, or self-reported by violators. BIS/OEE has regional field offices in eight cities, including Ft. Lauderdale, Florida, and one regional suboffice.
	DHS (ICE)	ICE investigates Cuba embargo-related cases referred by CBP or other agencies or detected by ICE enforcement activities.

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Type of activity	Department (agency)	Embargo-related activities
Penalties and prosecutions	Treasury (OFAC)	OFAC imposes civil fines and penalties for embargo violations.
	Commerce (BIS)	BIS imposes fines and penalties for embargo violations.
	Justice (U.S. Attorneys Offices)	U.S. Attorneys prosecute criminal violations of the Cuba embargo or related crimes. U.S. Attorneys Offices in Miami, Houston, and Philadelphia have prosecuted embargo cases, according to Justice. The U.S. Attorney's Office in Miami leads the Cuban Sanctions Enforcement Task Force, established in October 2006 as recommended by CAFC. The task force includes representatives from BIS/OEE, CBP, ICE, OFAC, and the U.S. Coast Guard.

Source: GAO analysis of department records and interviews with department officials.

Notes:

BIS = Bureau of Industry and Security
CBP = U.S. Customs and Border Protection
CAFC = Commission for Assistance for a Free Cuba
DHS = Department of Homeland Security
ICE = U.S. Immigration and Customs Enforcement
OEE = Office of Export Enforcement
OFAC = Office of Foreign Assets Control

The agencies carry out these Cuba embargo-related activities in the context of their broader responsibilities for homeland security, law enforcement, national security, foreign policy, and international trade (see table 2). Since the September 2001 terrorist attacks on the United States, the agencies' homeland security-related responsibilities—such as stopping terrorists and illegal immigration, enhancing port security, and interrupting drug and terrorist money laundering—have increased dramatically, and the agencies are expected to manage these responsibilities on the basis of assessed risk of terrorism and other threats.³³ Managing homeland security efforts on the basis of risk has received widespread support from Congress, the President, senior agency officials, and others as a way to allocate limited

³³As we have previously reported, within its sphere of responsibility, DHS and its components cannot afford to protect everything against all possible threats and, as a result, must make choices about how to allocate its resources to most effectively manage risks. For example, see GAO, *Department of Homeland Security: Progress Report on Implementation of Mission and Management Functions*, [GAO-07-1240T](#) (Washington, D.C.: Sept. 18, 2007).

resources effectively.³⁴ In particular, the *National Strategy for Homeland Security*³⁵ and DHS's strategic plan³⁶ have called for the use of risk-based decisions to target DHS resources to priority threats and vulnerabilities.³⁷ As we have previously reported, risk management is a function of threat, vulnerabilities, and consequences. The consequences of a terrorist attack, for example, may include loss of human lives, economic costs, and the adverse impact on national security. Another closely related consideration is the criticality (relative importance) of the assets at risk.³⁸

Table 2: Key Agency Missions and Priorities

Agency	Mission and priorities
OFAC	<p>Treasury's OFAC administers and enforces more than 20 economic and trade sanctions programs based on U.S. foreign policy and national security goals against targeted foreign countries, terrorists, international narcotics traffickers, and those engaged in activities related to the proliferation of weapons of mass destruction. OFAC acts under presidential wartime and national emergency powers, as well as authority granted by specific legislation, to impose controls on transactions and freeze foreign assets under U.S. jurisdiction. Many of the sanctions are based on United Nations and other international mandates, are multilateral in scope, and involve cooperation with allied governments.</p> <p>OFAC is a component of Treasury's Office of Terrorism and Financial Intelligence, which marshals the department's intelligence and enforcement functions with the twin aims of safeguarding the financial system against illicit use and combating rogue nations, terrorist facilitators, weapons of mass destruction proliferators, money launderers, drug kingpins, and other national security threats.</p>

³⁴For example, see GAO, *Aviation Security: Efforts to Strengthen International Passenger Prescreening Are Under Way, but Planning and Implementation Issues Remain*, GAO-07-346 (Washington, D.C.: May 16, 2007).

³⁵Office of Homeland Security, *National Strategy for Homeland Security* (Washington, D.C.: 2002). Available at <http://www.whitehouse.gov/homeland/book/index.html>.

³⁶DHS's strategic plan states, "We will guide our actions with sound risk-management principles that take a global perspective and are forward-looking. Risks must be well understood, and risk management approaches developed, before solutions can be implemented.... We will direct our resources toward those priority threats and vulnerabilities based on potential consequences and likelihood of a success" [U.S. Department of Homeland Security, *Securing Our Homeland: U.S. Department of Homeland Security Strategic Plan 2004* (Washington, D.C., 2004): 54]. Available at <http://www.dhs.gov/xabout/strategicplan/>.

³⁷See GAO-07-1240T.

³⁸See GAO-06-91.

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Agency	Mission and priorities
BIS	<p>Within Commerce, BIS's mission is to advance U.S. national security, foreign policy, and economic objectives by ensuring an effective export control and treaty compliance system and promoting continued U.S. strategic technology leadership. BIS's paramount concern and mission is protecting the security of the United States, which BIS says includes U.S. national security, economic security, cyber security, and homeland security.</p> <p>Within BIS, the Office of Export Enforcement's priorities emphasize investigating potential violations of dual-use exports related to weapons of mass destruction, terrorism, and unauthorized military end use. BIS/OEE's eight regional offices and one regional suboffice are responsible for conducting investigations in multiple states.</p>
CBP	<p>CBP is the lead federal agency charged with keeping terrorists, criminals, and inadmissible aliens out of the country while facilitating the flow of legitimate travel and commerce at the nation's borders, and it devotes most of its resources to inspecting items and persons entering the country. CBP's top priority since the terrorist attacks of September 2001 is keeping terrorists and terrorist weapons out of the country.</p> <p>CBP reports that it assesses all passengers flying into the U.S. from abroad for terrorist risk using several automated systems to identify people who may pose a risk. CBP regularly refuses entry to people who may pose a threat to U.S. security. For items leaving the United States, CBP uses an automated targeting system to identify exports for examination by its officers.</p> <p>CBP operates 326 official ports of entry composed of airports, seaports, and designated land ports of entry along the northern and southern borders. CBP also has preclearance operations at 15 international ports in Aruba, Bahamas, Bermuda, Canada, and Ireland, where travelers are processed for advance approval to enter the United States prior to departure from the respective airport. CBP annually processes over 400 million passenger and pedestrian entries,^a 20 million containers, and 130 million conveyances^o through ports of entry.</p>
ICE	<p>The largest investigative branch within DHS, ICE is responsible for eliminating vulnerabilities in the nation's border, and with economic, transportation, and infrastructure security. ICE investigates drug smuggling, human trafficking and smuggling, financial crimes, commercial fraud, document fraud, money laundering, child exploitation, immigration fraud, and export violations.</p> <p>According to the agency's fiscal year 2006 annual report, ICE's mission is to protect America and uphold public safety by targeting the people, money, and materials that support terrorist and criminal activities. ICE fulfills this mission by identifying criminal activities and eliminating vulnerabilities that pose a threat to the nation's borders, as well as enforcing economic, transportation, and infrastructure security. By doing so, ICE seeks to eliminate the potential threat of terrorist acts against the United States. Since the terrorist attacks of September 2001, ICE's priority mission has been protecting the homeland from future terrorist attacks.</p>
U.S. Coast Guard	<p>The Coast Guard is a military, maritime service within DHS and one of the nation's five armed services. Its core roles are to protect the public, the environment, and U.S. economic and security interests in any maritime region in which those interests may be at risk, including international waters and America's coasts, ports, and inland waterways. The Coast Guard has five fundamental roles: maritime safety, maritime security, maritime mobility, national defense, and protection of natural resources.</p> <p>Within its maritime security role, the Coast Guard's mission is to protect America's maritime borders from all intrusions by: (a) halting the flow of illegal drugs, aliens, and contraband into the United States through maritime routes; (b) preventing illegal fishing; and (c) suppressing violations of federal law in the maritime arena.</p>

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Agency	Mission and priorities
U.S. Attorneys	<p>Within the Department of Justice, U.S. Attorneys have many competing priorities, including prosecuting cases involving terrorism, counterterrorism, and government contractor fraud. U.S. Attorneys serve as the nation's principal litigators under the direction of the Attorney General. There are 93 United States Attorneys stationed throughout the United States, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands. U.S. Attorneys are appointed by, and serve at the discretion of, the President of the United States, with advice and consent of the United States Senate. Each United States Attorney is the chief federal law enforcement officer of the United States within his or her particular jurisdiction.</p> <p>U.S. Attorneys conduct most of the trial work in which the United States is a party. The United States Attorneys have three statutory responsibilities under Title 28, Section 547 of the United States Code:</p> <ul style="list-style-type: none">• Prosecution of criminal cases brought by the Federal government• Prosecution and defense of civil cases in which the United States is a party• Collection of debts owed the Federal government, which are administratively uncollectible.

Source: GAO analysis of agency records and websites, prior GAO reports, and other records.

^aThese statistics represent the total number of crossings, but do not reflect the number of unique individuals that entered the country. For example, a person may enter the country on multiple occasions throughout the year, and CBP counts each separate entry by the same person as an additional traveler processed.

^b“Conveyance” refers to the means of transport by which persons or goods enter the country, such as by vehicle, aircraft, truck, or vessel.)

Loosening Embargo Led to Increased U.S. Exports, but Impact of Tighter Restrictions on Travel, Remittances, and Gifts Is Unknown

U.S. agencies' loosening of the embargo rules on some U.S. exports in 2001 led to increased commercial agricultural shipments to Cuba. The impact of tighter restrictions implemented in 2004 and 2005 on travel, cash remittances, and gifts to Cuba cannot be determined because of an absence of reliable data.

Embargo Rules for Exports, Travel, Remittances, and Gifts Changed in 2001-2005

In 2001, Commerce and Treasury issued rule changes to implement TSRA, loosening restrictions on some commercial exports to Cuba. In 2004-2005, OFAC increased restrictions on travel, remittances, and other transactions to Cuba, as recommended by CAFC, and in 2005 clarified that embargo rules require exporters to receive payment from Cuba before shipments leave U.S. ports or finance their transactions through third-country banks.

Restrictions on Some
Commercial Exports Loosened
in 2001, but Payment Rules
Tightened in 2005

In mid-2001, BIS and OFAC issued rule changes to implement TSRA, which required the President to lift unilateral U.S. sanctions on the commercial export of agricultural products, medicines, and medical equipment to Cuban government importers.

- **BIS.** As required by TSRA, BIS introduced new procedures to streamline processing of export license applications for TSRA-eligible items for Cuba.³⁹ Under this streamlined licensing process, an exporter must submit prior notification of a proposed transaction to BIS. The exporter may proceed with the shipment when BIS confirms that no reviewing agency has raised an objection (generally within 12 business days), provided the transaction meets all of the other requirements of the license exception.⁴⁰ This review includes the screening of the ultimate recipient of the commodities to ensure it is not involved in promoting international terrorism. Prior to these changes, most U.S. exports to Cuba were prohibited and the few permitted exports were licensed on a case-by-case basis. Under the TSRA-related changes, agricultural exports—such as food, feed, fish, drinks, livestock, fiber, tobacco, wood products, and seeds—may be approved through the expedited licensing process.⁴¹ Exports of medicines and medical devices to Cuba, however, continue to be subject to the licensing requirements established in the Cuban Democracy Act.⁴²
- **OFAC.** Reflecting TSRA, the new rules required that Cuban payments for U.S. exports be in the form of cash in advance or financed through a third-country bank. OFAC also clarified that Commerce licenses covered re-exports of items covered by TSRA and that vessels could re-

³⁹The streamlined licensing process is formally known as the License Exception Agricultural Commodities process and commonly known as the notification process. OFAC regulates U.S. exports of TSRA-eligible agricultural commodities, medicines, and medical devices to other sanctioned countries, such as Iran and Sudan.

⁴⁰See 66 *Federal Register* 36676 and 15 C.F.R. § 740.18.

⁴¹See 15 C.F.R. §§ 740.18 and 772.1. A list of eligible agricultural commodities is available for review at the U.S. Department of Agriculture Web site (<http://www.fas.usda.gov/cmp/cmmnty.pdf>).

⁴²According to agency officials, TSRA did not clearly repeal or supersede the relevant Cuban Democracy Act provisions on medical products, so the latter's requirements still apply. The act requires a specific license for exports of medicines and medical items and establishes monitoring requirements and other criteria. As a result, medicines and medical devices are eligible for export to Cuba through BIS's standard license application process.

enter U.S. ports within 180 days after carrying authorized exports to Cuba notwithstanding the restrictions contained in the Cuban Democracy Act.⁴³ Representatives of agricultural and medical producers and sellers, port authorities, state government agricultural agencies, and U.S. producer and industry associations may travel to Cuba with a Treasury (OFAC) license. Cuban officials may travel to the United States under a general OFAC license provided State has granted them a visa. Under the rules, travel transactions related to marketing, sales negotiation, accompanied delivery, and servicing of exports are possible with a specific Treasury license.⁴⁴

In 2005, OFAC clarified that cash-in-advance payment means the U.S. seller or seller's agent must receive payment from Cuba before the shipment departs from the port where it was loaded.⁴⁵ Previously, sellers had interpreted cash-in-advance payment to mean that payment could be received any time before delivery of goods to Cuba (i.e., while the shipment was in transit to Cuba). Table 3 summarizes key BIS and OFAC rule changes implementing TSRA.

Table 3: Trade and Related Rule Changes Implementing TSRA

Embargo rules in effect at time of 2001 changes	Embargo rules in effect after 2001 changes
Trade	
<ul style="list-style-type: none"> U.S. exports to Cuba requiring a license, including agricultural products, are subject to a policy of denial. 	<ul style="list-style-type: none"> Exports of TSRA-eligible agricultural products to Cuba permitted with a license. Other U.S. exports to Cuba requiring a license remain subject to a policy of denial.
<ul style="list-style-type: none"> Some medical exports permitted under the Cuban Democracy Act, subject to standard export licensing process. 	<ul style="list-style-type: none"> No change.
<ul style="list-style-type: none"> No imports of Cuban products, except for informational materials and some artwork, unless specifically authorized by Treasury. 	<ul style="list-style-type: none"> No change.

⁴³As discussed, the Cuban Democracy Act prohibits any vessel unlicensed by Treasury from loading or unloading freight in a U.S. port within 180 days after leaving a Cuban port where it engaged in trade of goods or services. See Pub. L. 102-484, Div. A, Title XVII, § 1706 (codified at 22 U.S.C. § 6005).

⁴⁴See 66 *Federal Register* 36683 and 31 C.F.R. § 515.533.

⁴⁵See 70 *Federal Register* 9225 and 31 C.F.R. § 515.533.

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• **Trade-related travel and financial transactions**

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| • Certain financial transactions authorized provided underlying exports are authorized. | • Seller or seller's agent may receive payment for exports to Cuba licensed under TSRA via third country banks or cash in advance. ^a |
| • Travel transactions related to marketing, sales negotiation, accompanied delivery, and servicing of any licensed exports are permitted with a Treasury license. | • No change. |
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Source: GAO analysis of Commerce regulations, CACR, the *Federal Register*, Code of Federal Regulations, and other records.

^aIn 2005, OFAC clarified that "cash in advance" means the U.S. seller or seller's agent must receive payment from Cuba before the shipment departs the port where it was loaded. See 70 *Federal Register* 9225 (codified in 31 C.F.R. § 515.533).

More Restrictive Rules for Travel, Remittances, and Gifts Introduced in 2004-2005

In response to the administration's policy of tightening the embargo, OFAC implemented substantial new restrictions on travel, remittances, and gift parcels.⁴⁶

- **Travel.** In 2004, as recommended by CAFC, OFAC tightened restrictions on family, educational, religious, and other travel. New regulations reduced the frequency of family visits from once every 12 months to once every 3 years; narrowed the category of relatives eligible for such visits; reduced the allowed per diem—the amount of money that family travelers could spend per day—from \$167⁴⁷ to \$50; required that all family travelers obtain specific Treasury licenses;⁴⁸ and eliminated the specific license authorizing additional family visits to Cuba in cases of

⁴⁶OFAC issued these and other changes to the CACR as interim final rules, which took effect without public comment (although OFAC did allow for postissuance comment). As stated in OFAC's February 2005 clarification notice, CACR requirements can be altered without a notice of proposed rule making, without the opportunity for public participation, and without any delay in the effective date. "Because the CACR involves a foreign affairs function, the provisions of the Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. § 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. §§ 601-612) does not apply." See 70 *Federal Register* 9225.

⁴⁷Regulations provided for a daily spending (living expenses) limit for family travel not to exceed the "maximum per diem rate" for government travel to Havana, Cuba, as published by the State Department for the period that the family travel took place. At the time of the changes, the published per diem rate was \$167. See 31 C.F.R. § 515.560 (2003).

⁴⁸Prior to these changes, family travel was conducted under a general license; that is, travelers had to meet CACR criteria for family travel but did not have to apply for a Treasury license for their first trip within a 12-month period. See 31 C.F.R. § 515.561 (2003).

humanitarian need.⁴⁹ Changes to the CACR for educational travel eliminated licenses for certain activities by secondary schools; limited students and professors eligible to travel under an academic institution's license to those enrolled or employed on a full-time, permanent basis; and required that certain licensed educational activities (programs) be no shorter than 10 weeks. In 2005, OFAC announced that, owing to an increase in cases of suspected religious license abuse, some religious groups would be required to apply for a more restricted license. Under this restricted license, religious organizations made up of multiple congregations, such as national religious denominations, are limited to 4 trips annually, with 25 travelers per trip, and must submit travelers' names to OFAC prior to travel. The 2004 rule changes also eliminated the provision that allowed authorized travelers to import up to \$100 worth of Cuban goods for personal consumption, with the exception of informational materials such as publications and artwork. Additionally, a BIS rule change limited authorized travelers to Cuba to no more than 44 pounds of baggage.⁵⁰ Table 4 summarizes key changes for family, educational, and religious travel.

⁴⁹Initially, the rule authorizing a second family trip to Cuba within a 1-year period required the existence of an "extreme humanitarian need." Interpreting this criterion as meaning that a relative in Cuba must be very ill, applicants began furnishing OFAC a copy of their Cuban relative's medical certificate as proof. Over time, U.S. officials became concerned about the legitimacy of some of these certificates. OFAC referred the issue to the State Department, which modified the rule to eliminate the word "extreme" and allow the travel license simply because of a "humanitarian need" stated in the application. OFAC subsequently required that applicants include a written description of the humanitarian reason that impelled their visit with a close relative in Cuba and later changed this requirement by deeming that a visit with a close relative per se qualified as a humanitarian need. This licensing policy (current until the 2004 rule change) required that, to obtain a license, applicants simply identify the person whom they would visit in Cuba and the qualifying family relationship to that person.

⁵⁰The rules provide exemptions for those traveling to conduct official business of the U.S. government, foreign governments, or certain intergovernmental organizations; journalistic and religious activities; activities supporting the Cuban people; humanitarian projects; or exportation, importation, or transmission of informational material. All other travelers seeking to take more than 44 pounds of baggage require a Commerce license. Apparel worn by travelers while traveling to Cuba, and personal safety and medical commodities for use by travelers, such as wheelchairs, crutches, portable medical devices (for example, oxygen tanks), and child safety seats and strollers, are not included in that 44-pound limit. See 15 C.F.R. § 740.14.

Table 4: Restrictions on Family, Educational, and Religious Travel before and after 2004-2005

Embargo rules in effect at time of 2004-2005 changes	Embargo rules in effect after 2004-2005 changes
Family travel	
<ul style="list-style-type: none"> • Visits to relatives within three degrees of relationship (extended family including cousins). 	<ul style="list-style-type: none"> • Visits to relatives within one degree of relationship (grandparent, grandchild, parent, sibling, spouse, or child).
<ul style="list-style-type: none"> • Unlimited length of stay. 	<ul style="list-style-type: none"> • Length of stay limited to 14 days.
<ul style="list-style-type: none"> • One authorized visit per 12-month period. 	<ul style="list-style-type: none"> • One authorized visit per 3-year period.
<ul style="list-style-type: none"> • Family travel conducted under a general license (i.e., family travelers do not have to apply for a specific Treasury license). 	<ul style="list-style-type: none"> • All family travel specifically licensed (i.e., all family travelers must apply for licenses prior to travel to Cuba).
<ul style="list-style-type: none"> • Per diem for family travel is \$167.^a 	<ul style="list-style-type: none"> • Per diem for family travel reduced to \$50.
<ul style="list-style-type: none"> • Specific license available for additional family visits in a 12-month period. 	<ul style="list-style-type: none"> • No license available for additional family visits in any 3-year period.
Educational travel	
<ul style="list-style-type: none"> • Secondary institutions eligible for license. 	<ul style="list-style-type: none"> • Only undergraduate, graduate institutions eligible for license.
<ul style="list-style-type: none"> • No minimum length of stay. 	<ul style="list-style-type: none"> • Ten-week minimum length of program for certain education activities.
<ul style="list-style-type: none"> • Students from nonlicensed institutions may travel to Cuba through programs offered by licensed institutions. 	<ul style="list-style-type: none"> • Students must be enrolled at licensed institution to travel to Cuba.
<ul style="list-style-type: none"> • License valid for 2 years. 	<ul style="list-style-type: none"> • License valid for 1 year.
Religious travel	
<ul style="list-style-type: none"> • Religious organizations can make unlimited trips to Cuba; no limits on the number of travelers. 	<ul style="list-style-type: none"> • Religious organizations made up of multiple congregations limited to 4 trips per year, 25 travelers per trip. • Single congregation religious organizations unaffected.
All travel	
<ul style="list-style-type: none"> • No weight limit for baggage to Cuba. 	<ul style="list-style-type: none"> • Travelers limited to 44 lbs of baggage; no extra baggage allowance for family travelers.
<ul style="list-style-type: none"> • Travelers may import up to \$100 of Cuban products for personal consumption. 	<ul style="list-style-type: none"> • Travelers may not import any Cuban products, with the exception of informational materials such as publications and artwork.

Source: GAO analysis of CACR, the *Federal Register*, the Code of Federal Regulations, CAFIC recommendations, and other records.

^aRegulations provided for a daily spending (living expenses) limit for family travel not to exceed the “maximum per diem rate” for government travel to Havana, Cuba, as published by the State Department for the period that the family travel took place. At the time of the changes, the published per diem rate was \$167. See 31 C.F.R. § 515.560 (2003).

- **Cash remittances and gifts.** In mid-2004, OFAC and BIS began implementing new restrictions on remittances and gift parcels. The OFAC rule changes narrowed the category of recipients of cash remittances to the sender’s immediate family and expanded the ban on remittance recipients to certain senior Cuban government and Communist Party officials. The changes also substantially reduced the value of remittances that licensed travelers could carry to Cuba—from \$3,000 to \$300.⁵¹ BIS rule changes also narrowed the category of recipients eligible to receive gift parcels and limited the contents of such parcels.⁵² Table 5 summarizes key rule changes for remittances and gift parcels.

Table 5: Restrictions on Remittances and Gift Parcels to Cuba before and after 2004 Embargo Rule Changes

Embargo rules in effect at time of 2004 changes	Embargo rules in effect after 2004 changes
Remittances	
<ul style="list-style-type: none"> • Remittances are permitted to any household in Cuba. 	<ul style="list-style-type: none"> • Remittances are permitted to immediate family members only (grandparent, grandchild, parent, sibling, spouse, or child).
<ul style="list-style-type: none"> • Authorized travelers may carry up to \$3,000 in remittances to Cuba. 	<ul style="list-style-type: none"> • Authorized travelers may carry up to \$300 in remittances to Cuba.
<ul style="list-style-type: none"> • No senior Cuban government or Communist Party officials may receive remittances. 	<ul style="list-style-type: none"> • Expanded ban on remittances to certain senior Cuban government and Communist Party officials.
<ul style="list-style-type: none"> • Nondepository institutions^a must have specific Treasury license to forward remittances. 	<ul style="list-style-type: none"> • All depository and nondepository institutions^a must have a specific Treasury license to forward remittances.

⁵¹The rule changes did not reduce the value of remittances that could be sent to Cuba via OFAC-licensed remittance forwarders, which remained at \$300 per quarter. However, as discussed, the 2004 rule changes narrowed the category of recipients eligible to receive these remittances.

⁵²The rule change stated that CAFC had found “that, although gift parcels provide a critical humanitarian benefit to the Cuban people, they directly benefit the Castro regime in two ways. Such parcels decrease the burden on the Cuban regime to provide for the basic needs of its people, enabling the regime to dedicate more of its limited resources to strengthening its repressive apparatus. Moreover, through delivery charges, the regime is able to generate additional sources of much needed hard foreign currency.” See 69 *Federal Register* 34565.

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Gifts

- | | |
|---|---|
| <ul style="list-style-type: none">• Gift parcels may be sent to individuals or religious, charitable, or educational organizations in Cuba. | <ul style="list-style-type: none">• Gift parcels may be sent to immediate family only; cannot be sent to certain Cuban government or Communist Party officials. |
| <ul style="list-style-type: none">• One gift parcel may be sent per month from the same sender to the same recipient. | <ul style="list-style-type: none">• One gift parcel may be sent per month per household in Cuba (other than food). |
| <ul style="list-style-type: none">• Gift parcel may contain food, seeds, clothing, personal hygiene items, veterinary medicines and supplies, fishing equipment and supplies, soap-making equipment, vitamins, medicine, medical supplies and devices, hospital supplies and equipment, equipment for the handicapped, receive-only radios, and batteries for such equipment. | <ul style="list-style-type: none">• Gift parcel contents limited to food, medicine, medical supplies and equipment, including hospital supplies and equipment and equipment for the handicapped, receive-only radios, and batteries for such equipment. |

Source: GAO analysis of CACR, the *Federal Register*, the Code of Federal Regulations, CAFC recommendations, and other records.

^aDepository institutions are financial institutions in United States, such as savings banks, that are legally allowed to accept monetary deposits from consumers. Nondepository institutions, such as Western Union, can conduct certain financial transactions but are not allowed to accept monetary deposits from consumers.

Embargo Changes Led to Increased Agricultural Exports, but Impact on Travel, Remittances, and Gifts Is Unknown

Agricultural exports to Cuba rose substantially after TSRA-related rules changes were implemented in mid-2001 before declining somewhat in 2005-2006. Medical exports are limited because they remain subject to other statutory restrictions. However, the impact of tighter restrictions on travel, remittances, and gifts to Cuba implemented in 2004-2005 cannot be determined, because reliable data are not available. As a result, U.S. officials do not know whether the rule changes have reduced the hard currency available to the Castro regime as intended.

U.S. Agricultural Exports to Cuba Rose Dramatically after TSRA Rule Changes

From 2000 through 2006, total U.S. exports to Cuba rose from \$6 million to nearly \$350 million per year, according to U.S. Census Bureau and U.S. Department of Agriculture data. U.S. agricultural exports to Cuba over the 7 years totaled more than \$1.5 billion.⁵³ In 2000, U.S. exports to Cuba consisted mostly of donated items, electric machinery, and cereals. After Cuba began importing U.S. agricultural products in late 2001, exports to the

⁵³In contrast, U.S. agricultural exports to Cuba for 1990-1999 totaled about \$20,000, according to a recent U.S. International Trade Commission (ITC) report. See ITC, *U.S. Agricultural Sales to Cuba: Certain Economic Effects of U.S. Restrictions*, Investigation No. 332-489, Publication 3932, (Washington, D.C.: July 2007). The report is available at the ITC Web site (<http://www.usitc.gov>).

island jumped to \$144 million and increased to about \$400 million by 2004, making the United States the largest exporter of food to the island and Cuba's fourth-largest trading partner.⁵⁴ However, U.S. agricultural exports to Cuba declined after 2004. (See fig. 1.) According to U.S. exporters, OFAC's 2005 clarification of the cash-in-advance payment requirement⁵⁵ caused delays in shipping and contributed to the observed decline in sales to Cuba after 2004.⁵⁶ Some smaller U.S. exporters also have complained that OFAC's licensing process has hindered sales to Cuba;⁵⁷ however, OFAC officials said that the majority of TSRA-related license applications were approved in 2 to 3 weeks. In addition, some exporters have complained that

⁵⁴Regarding the dramatic increase in U.S. agricultural exports to Cuba, the ITC's July 2007 report stated that several factors give the United States a competitive advantage in exporting agricultural products to Cuba. The United States' proximity to Cuba reduces shipping costs and allows U.S. exporters to make timely deliveries of small quantities of food, eliminating the need for Cuba to store large amounts of food. Additionally, U.S. exporters can deliver shipments to multiple Cuban ports, facilitating the distribution of food in a country with poor transportation infrastructure. Moreover, there is evidence that Cuban consumers prefer the high quality of U.S. agricultural products.

⁵⁵The ITC's July 2007 report said that, after OFAC's clarification, Alimport refused to pay cash in advance reportedly because by doing so, the exported products would become Cuban property while still in the U.S. port, and thus would be vulnerable to confiscation by Cuban exiles in the United States with legal claims against the Cuban government. Treasury said that Alimport's reported concern does not appear to be valid because the Terrorism Risk Insurance Act—the only relevant statute under which claimants can attach blocked assets—provides a specific exception for assets that are licensed pursuant to a statutory requirement. Treasury stated that TSRA provides such a statutory licensing requirement, and thus the agricultural commodities, even if owned by Cuba while in the United States, could not be attached pursuant to the Terrorism Risk Insurance Act.

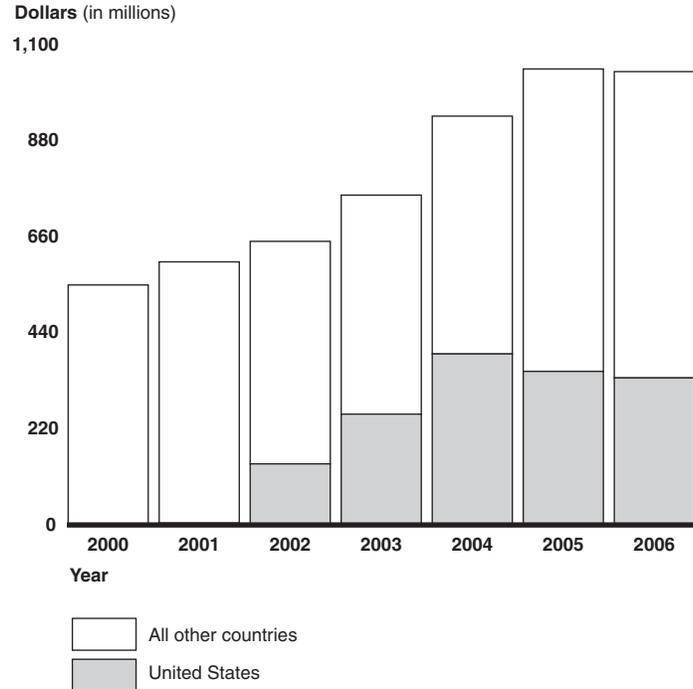
⁵⁶The ITC's July 2007 report attributed this decline to the 2005 rule clarification for payments, which increased the transaction costs associated with imports from the United States, and other factors, such as favorable credit terms offered by other countries and an overall decline in Cuban imports in 2006. Additionally, some exporters suggest that Cuban officials may have wanted to diversify their import suppliers in response to their perception that the United States was a potentially unreliable supplier—a perception enhanced by the 2004-2005 embargo rule changes. The majority of Cuban agricultural imports from the United States are consumed by Cuban citizens.

⁵⁷Smaller exporters or those attempting to sell agricultural products to Cuba for the first time have reported that they found the travel licensing process to be cumbersome, nontransparent, and time consuming.

Cuban purchasing officials are routinely denied visas to travel to the United States or receive visas valid for such a short period as to render them useless.⁵⁸

⁵⁸The ITC's July 2007 report said that travel to the United States by Cuban officials was necessary for U.S. exporters to make sales. Particularly important are Cuban officials traveling to inspect U.S. processing and facilities, fresh produce, live animals, and other products subject to sanitary and phytosanitary standards. (Phytosanitary standards refer to plant health, and may include requirements about storage pests, plant diseases, chemical treatments, and weeds.) For many agricultural products, restricting business travel effectively bars U.S. sales to Cuba. State recognized that visits by Cuban officials ensuring compliance with sanitary and phytosanitary standards may be needed to complete sales. State also said that the department had issued visas to groups of Cuban officials engaged in such activities on several occasions since Cuban purchases began in December 2001, and that it is prepared to consider similar visits in the future, so long as they are properly coordinated through the U.S. Department of Agriculture. State asserted that the duration of the visas the department grants to Cubans for such visits adheres to the itineraries approved by Agriculture. In contrast, State said it does not believe that marketing visits by Cuban officials are necessary for such sales and so does not grant visas for that purpose.

Figure 1: Cuban Agricultural Imports from the United States and Other Countries, 2000-2006



Source: GAO analysis of U.S. Census Bureau, U.S. Department of Agriculture, and other data.

In contrast to U.S. agricultural exports, U.S. commercial exports of medical products to Cuba did not increase substantially in 2000-2006 and constitute a minor part of U.S. exports to the island. In 2006, for example, medical and pharmaceutical products comprised only 0.04 percent of authorized U.S. commercial exports to Cuba, whereas agricultural products made up 98 percent of the total (see table 6).⁵⁹ As previously discussed, commercial exports of medical products continue to be subject to the restrictions established in the Cuban Democracy Act and are licensed through BIS's standard licensing process. According to State officials, the current Cuban government restrictions on travel outside of Havana by U.S. officials make it difficult to conduct onsite inspections of Cuban facilities where the U.S.

⁵⁹Licensed humanitarian exports to Cuba (which are reported under nonagricultural products in U.S. Census Bureau data) include some medical and pharmaceutical products.

medical exports are used. As a result, U.S. officials have been unable to ensure that the exported products are used as intended and benefit the Cuban people.⁶⁰

Table 6: Composition of U.S. Exports to Cuba in 2006

Type of export	Agricultural exports to Cuba		All exports to Cuba	
	Value (\$ millions)	Percentage of total exports	Value (\$ millions)	Percentage of total exports
Medicinal and pharmaceutical products	--	--	0.12	0.04
Other nonagricultural products ^a	--	--	6.90	1.98
Agricultural products	--	--	340.75	97.98
Cereals	136.36	39.21	--	--
Oils, fats, and sugars	61.29	17.62	--	--
Meat and fish	58.99	16.96	--	--
Animal feed	35.09	10.09	--	--
Vegetables and fruit	21.83	6.28	--	--
Nonedible agricultural ^b	13.49	3.88	--	--
Dairy	12.57	3.61	--	--
Miscellaneous edible	1.05	0.30	--	--
Beverages	0.08	0.02	--	--
Total	340.75	97.98	347.78	100.00

Source: GAO analysis of U.S. Census Bureau and U.S. Department of Agriculture data.

^aOther nonagricultural products include humanitarian items approved on a case-by-case basis, which were eligible for export to Cuba prior to TSRA. Agency officials estimate that licensed humanitarian items include donated medicines and medical products.

^bNonedible agricultural products include cork; wood; fertilizers; paper; paperboard; textile fibers and yarn; fabrics; dyeing, tanning, and coloring materials; and rubber manufactures.

Impact of New Restrictions on Travel, Remittances, and Gifts Is Unknown

Because reliable data are not available, agencies cannot determine the impact of the 2004-2005 rule changes on the amount of travel to Cuba and on the value of cash remittances and gift parcels sent to Cuba. Data on travel to Cuba are incomplete and cover different populations; moreover, estimates of the value of remittances and gift parcels vary greatly, and U.S.

⁶⁰Cuban government propaganda cites continuing U.S. restrictions on medical exports as a cause of medical shortages in Cuba.

agencies have not tracked remittances or gift parcel shipments over time. As a result, U.S. officials cannot reliably determine whether the 2004-2005 rule changes have reduced the amount of hard currency available to the Cuban government as intended.

- **Travel.** No reliable estimates of total U.S. travel to Cuba exist, because U.S. and Cuban government data are incomplete and cover different populations.
 - The number of travel licenses issued by OFAC in 2004-2006 is not a reliable gauge of authorized U.S. travel to Cuba because not all approved licenses are used and U.S. citizens may travel to Cuba under general or group licenses.⁶¹ Additionally, with licensing data for family travel available for only 2 full years (2005-2006) after the embargo rule changes, it is not possible to analyze licensing trends.
 - CBP reports the total number of travelers on direct flights from the United States to Cuba, but U.S. agencies do not have reliable data or estimates for the number of authorized or unauthorized U.S. travelers visiting Cuba via flights from third countries, such as the Bahamas or Mexico.⁶² For example, OFAC officials told us that carriers and travel service providers report fewer authorized travelers on direct flights to Cuba since 2004, but the agency has no data on authorized or unauthorized travelers on flights via third countries.
 - The International Trade Center⁶³ reports total numbers of U.S. travelers entering Cuba; however, these data are based on Cuban government data, which understate U.S. travel to Cuba because

⁶¹Full-time journalists, professional researchers, and U.S. federal (but not state) and foreign government officials, among others, are authorized to travel to Cuba under a general license. In addition, educational, religious, and some other licenses often authorize multiple travelers to visit Cuba on multiple trips.

⁶²Authorized U.S. travelers may enter Cuba legally through third countries, although banking restrictions make purchasing airline tickets from a third country to Cuba difficult inside the United States. Estimates of the number of unauthorized travelers to Cuba transiting third countries to enter Cuba exceed 120,000 annually.

⁶³The International Trade Center is the joint technical cooperation agency of the United Nations (UN) Conference on Trade and Development and the UN World Tourism Organization.

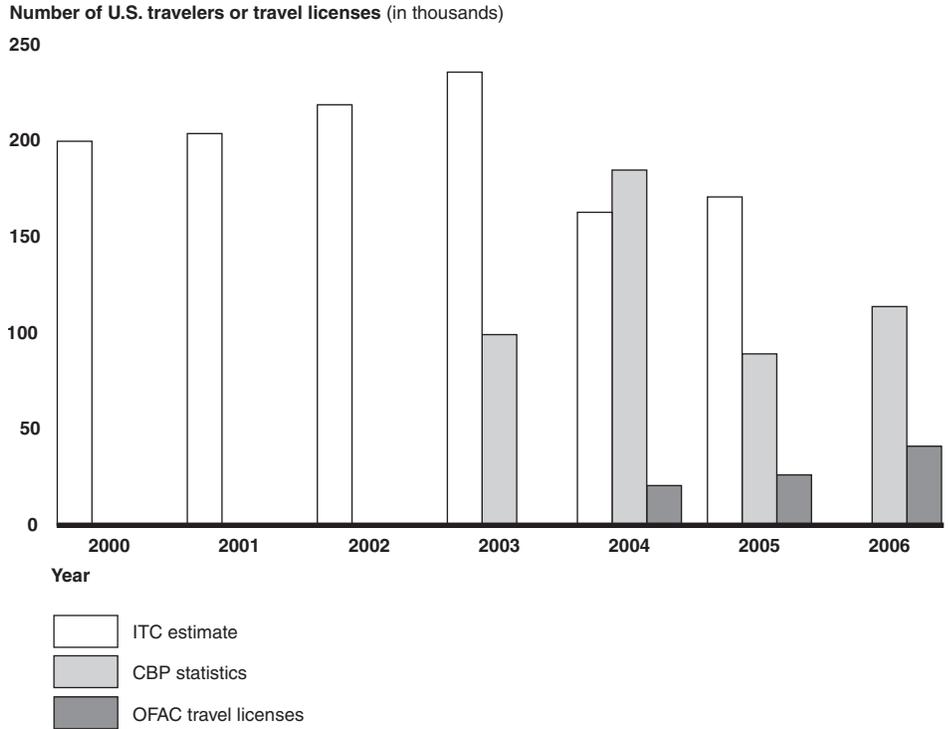
Cuban authorities classify many U.S. residents visiting Cuba as returning Cuban citizens.⁶⁴

A comparison of data on U.S. travel to Cuba reported by OFAC, CBP, and the U.S. International Trade Commission illustrates the discrepancies among the available data on travel to Cuba (see fig. 2). For example, in 2005, OFAC reported issuing about 26,000 licenses for travel to Cuba; CBP reported that about 90,000 passengers traveled directly from the United States to Cuba; and the International Trade Commission estimated that about 171,000 U.S. travelers entered Cuba, mainly Cuban Americans visiting family.⁶⁵

⁶⁴One study estimated that about 90 percent of the nonresident visitor arrivals to Cuba reported as “other Caribbean arrivals” by the UN World Tourism Organization probably are visits to Cuba of Cuban born Cuban Americans traveling to Cuba via other countries, according to the ITC’s July 2007 report.

⁶⁵The Cuban government reported that about 2.26 million international travelers arrived in Cuba in 2005.

Figure 2: Data on U.S. Travel to Cuba and Travel Licenses Issued, 2000-2006^a



Source: GAO analysis of data from OFAC, CBP, and the U.S. International Trade Commission.

Note: OFAC reports numbers of Cuba travel licenses issued, CBP reports numbers of passengers traveling directly from the United States to Cuba, and the International Trade Commission estimated total U.S. travelers in Cuba based on data reported to the UN World Tourism Organization by the Cuban government.

^aIn 2000-2003, family travel was authorized under a general license, and therefore OFAC does not have comparable travel licensing data for this period.

- **Remittances and gifts.** No reliable data exist for cash remitted directly or indirectly from the United States or for gift parcels sent to Cuba.
- Although remittance forwarders are required to maintain records of cash sent from the United States to Cuba and to make these records available during an audit,⁶⁶ data collected from these forwarders by

⁶⁶For example, remittance forwarders must maintain copies of the affidavits individuals sending remittances must sign attesting that they are aware of, and in compliance with, OFAC regulations governing remittances sent to Cuba. See 31 C.F.R. 515 and TDF 90-22.52.

OFAC are not reliable for estimating remittances sent from the United States to Cuba.⁶⁷ In addition, the forwarders' records cover only remittances sent directly to Cuba, excluding remittances sent by informal means⁶⁸ or indirectly from the United States via third countries.

- Estimates of remittances to Cuba vary widely. A study by the Inter-American Dialogue estimated that U.S. remittances to Cuba in 2001 were \$930 million.⁶⁹ The 2004 CAFC report estimated that U.S. remittances to Cuba in 2003 ranged from \$400 million to \$800 million but acknowledged that they could be as high as \$1 billion.⁷⁰ A 2005 study by a Miami-based public opinion research consulting firm concluded that Cuban Americans sent approximately \$460 million to their families in 2004.⁷¹ Data from several sources show that worldwide remittances to Cuba increased steadily from 1995 to 2005, from between \$500 million and \$600 million to between \$900 million and \$1 billion.
- Regarding gift parcels, BIS maintains data on the value of approved gift parcel licenses approved but does not consistently or

⁶⁷OFAC officials told us that the data are collected annually and used for licensing and enforcement purposes. The data are self-reported by service providers and may double count some remittances.

⁶⁸Studies in 2002 and 2004 concluded that as a result of Cuban and U.S. efforts to control and influence remittances, and relatively high transaction costs (fees), Cuban remitters in the United States tend to rely more on informal remittance mechanisms. According to a 2001 Inter-American Development Bank survey of Cuban remitters, 46 percent rely on *mulas* (mules) or *viajeros* (travelers). Recognizing the significant flow of remittances through informal means, the 2004 CAFC report recommended that the President direct U.S. law enforcement authorities to conduct "sting" operations against "mule" networks and others who illegally carry money to Cuba.

⁶⁹Remittances of \$930 million would comprise about 3.2 percent of Cuba's estimated nominal GDP for 2001 of \$29.4 billion.

⁷⁰Remittances of \$400 million, \$800 million, or \$1 billion would comprise about 1.1 percent, 2.3 percent, or 2.8 percent, respectively, of Cuba's estimated nominal GDP for 2003 of \$35.4 billion.

⁷¹Remittances of \$460 million would comprise about 1.1 percent of Cuba's estimated nominal GDP for 2004 of \$40.2 billion.

systematically collect data from the consolidators on the actual value of the parcels sent.⁷² In 2003, BIS issued 53 licenses with a total value of \$236.9 million. In 2005, BIS issued 22 licenses with a total value of \$100.4 million.

Commenting on a draft of this report, Treasury said that estimating the impact of U.S. sanctions on Cuba is difficult; OFAC does not have the ability to monitor the movement of all travelers and funds from the United States to Cuba; and maintaining such data is impossible in an open economy with multiple means of violating sanctions. Treasury also noted that estimating the impact of U.S. sanctions on Cuba is more appropriately the role of State and the intelligence community but that some indirect data, such as media reports, indicate a sharp decline in U.S. tourism and dollars in Cuba since 2004.

Agencies Performed More Licensing and Inspections, Straining Inspection Resources, while Most Investigations and Penalties Targeted Minor Violations

Following the embargo rule changes in 2001 and 2004, BIS and OFAC licensing of exports and travel to Cuba increased. CBP inspections of exports to Cuba and passengers arriving from Cuba at Miami International Airport also rose, reflecting administration policy, with the passenger inspections straining agency resources at the airport. Although OFAC administers more than 20 sanctions programs, OFAC cases related to the Cuba embargo after 2000 comprised the majority of the agency's investigation and penalty caseload. In contrast, BIS, ICE, and Justice reported undertaking relatively few investigations, penalties, and prosecutions of Cuba embargo violations because of their focus on competing homeland and national security priorities.

Licensing Workloads for Exports and Travel to Cuba Generally Increased after Embargo Rule Changes

BIS's export licensing workload increased substantially after the implementation of export licensing rule changes in mid-2001. Similarly, OFAC's travel licensing workload increased significantly following the implementation of new, more restrictive travel rules in 2004. However, to

⁷²Individuals may send gift parcels from the United States to Cuba without a license, but gift parcel consolidators must possess a Commerce license. Consolidators may send parcels worth up to the total dollar value listed on their licenses, which may be greater than the value of gift parcels actually sent. See 15 C.F.R. 746.2. GAO previously reported that BIS had not comprehensively analyzed available data on actual shipments of items subject to its export controls. See GAO, *Analysis of Data for Exports Regulated by the Department of Commerce*, GAO-07-197R, (Washington, D.C.: Nov. 2006).

accommodate its increasing licensing workload, OFAC has performed fewer audits of air carriers and travel, financial, and other service providers. The number of vessel permits issued by the U.S. Coast Guard dropped in 2006, after the agency tightened its application requirements.

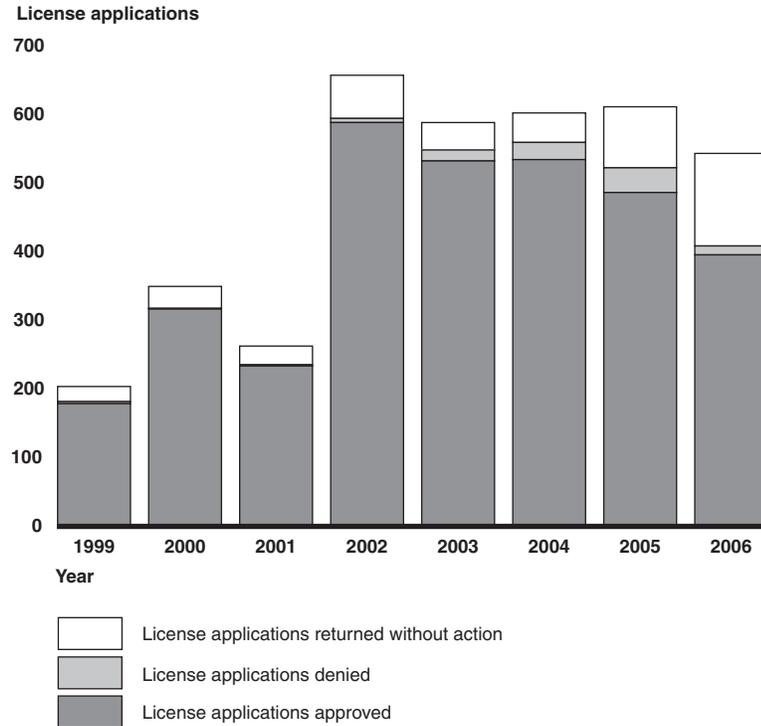
BIS Export Licensing Workload Doubled after Mid-2001 Rule Changes

After the implementation of TSRA-related rules changes in July 2001, the number of export license applications for Cuba⁷³ processed by BIS doubled from 263 in fiscal year 2001 to 658 in fiscal year 2002—the first full fiscal year the new rules were in effect. The number of applications processed varied slightly in fiscal years 2003 through 2005 before falling somewhat in fiscal year 2006 (see fig. 3).⁷⁴ Nevertheless, despite the overall substantial increase in Cuba license applications processed, these cases represented less than 4 percent of the more than 80,000 total export license applications that BIS processed in fiscal years 2000-2006.

⁷³The number of applications processed includes both standard and streamlined license applications. As previously discussed, the streamlined licensing process is formally known as the License Exception Agricultural Commodities process and commonly known as the notification process.

⁷⁴The drop in license applications from fiscal years 2005 to 2006 shown in fig. 3 may reflect U.S. exporters' perceptions that the 2004-2005 rule changes reduced U.S. export opportunities (by causing Cuban officials to reduce their reliance on imports from the United States). In addition, the ITC's July 2007 report on U.S. agricultural exports to Cuba suggested that the 2005 payment rule change may have forced some smaller exporters out of the market. Moreover, as previously discussed, Cuban agricultural imports declined in 2005-2006 (see fig. 1).

Figure 3: Cuba Export License Applications Processed by BIS, Fiscal Years 1999-2006



Source: GAO analysis of Commerce (BIS) data.

Notes:

License applications include both standard and streamlined license applications.

License applications are returned without action when the application and supporting documents provide insufficient information for Commerce to approve or deny the application.

The impact of the increased export license processing workload on agency resources is unclear because BIS lacks data about some of its most challenging cases. Currently, most agricultural shipments are licensed under the streamlined process, which BIS reports consumes fewer resources than does the standard process.⁷⁵ BIS officials estimate that the five licensing officers in the Foreign Policy Division of its Office of

⁷⁵Exporters are not required to use the streamlined process; however, most do because the processing and approval of standard applications for export licenses can take more than three times longer.

OFAC Travel Licensing Workload Increased Substantially after 2004 Rule Changes, Resulting in Fewer Audits of Service Providers

Nonproliferation and Treaty Compliance spend about 40 percent of their time processing applications for Cuba export licenses⁷⁶—about the same as the percentage of time they spent processing such applications before the 2001 embargo rule changes. However, processing some applications requires input from other Commerce offices and federal agencies. Additionally, agency officials told us that a limited number of export licensing applications for Cuba present unusual or foreign policy issues⁷⁷ and, because they require additional supervisory and interagency review and consideration, are time consuming and resource intensive. Although the officials said that the number of such cases had increased in recent years, they were unable to provide reliable estimates of the staff resources required to process these cases.⁷⁸

OFAC's licensing of travel to Cuba increased significantly following the implementation of the 2004 travel restrictions because the new regulations required specific licenses for family travel. A comparison of the 2-calendar-year periods immediately before and after the new restrictions shows that the number of licenses issued increased by about 24 percent, from 54,600 to 67,814 (see table 7). In 2002-2003, licenses authorizing additional family visits to Cuba in cases of humanitarian need accounted for nearly 98 percent of all Cuba licenses that OFAC issued.⁷⁹ In 2005-2006, family travel licenses accounted for more than 96 percent of all Cuba licenses issued.

⁷⁶BIS has a total of about 55 licensing officers in its Office of Nonproliferation and Treaty Compliance and its Office of National Security and Technology Transfer Controls.

⁷⁷State officials cited the following two license applications as illustrative of those presenting unusual issues: (1) an application to allow U.S. persons to participate in cancer vaccine trials underway in Cuba; and (2) an application to allow U.S. persons to participate in potentially beneficial experimental medical treatments in Cuba that are unavailable in the United States. In considering such applications, officials said they try to balance U.S. humanitarian goals (e.g., allowing sick U.S. children access to cancer vaccines) with U.S. foreign policy goals (e.g., denying resources to the Cuban government).

⁷⁸In April 2007, the Deputy Assistant Secretary of State for Economic, Energy, and Business Affairs told the House Committee on Foreign Affairs that State provides foreign policy guidance on approximately 30 to 50 Commerce and Treasury license applications for Cuba each month.

⁷⁹OFAC data show that the number of licenses issued for additional family visits to Cuba in cases of humanitarian need grew substantially before this period, from 9,979 in 2000 to 19,252 in 2001.

Table 7: Comparison of Cuba Travel Licenses Issued by OFAC, 2002-2003 and 2005-2006

Type of travel license	2002	2003	Total 2002-2003	2005	2006	Total 2005-2006
Humanitarian ^a	23,920	29,343	53,263	--	--	--
Family travel ^b	--	--	--	25,304	40,308	65,612
All others	620	717	1,337	1,171	1,031	2,202
Total	24,540	30,060	54,600	26,475	41,339	67,814

Source: GAO analysis of OFAC data.

Note: Our analysis excludes data for 2004, because family travel was authorized under general or emergency licenses for the first half of the year and under specific licenses for the second half of the year.

^aBefore the 2004 travel rule changes, individuals could apply for a specific Treasury license to make additional trips to visit family in Cuba during a 12-month period in cases of humanitarian need.

^bBefore the 2004 travel rule changes, travelers visiting close relatives in Cuba could travel once every 12 months under a general license. The 2004 changes required each traveler to obtain a specific OFAC license prior to travel and limited visits to once every 3 years.

OFAC estimates that it currently has about nine staff—five in the office’s Miami Field Office⁸⁰ and four at headquarters—working full time on Cuba embargo licensing, excluding some supervisory staff. In addition, some staff who work on one or more of the other 29 sanctions programs administered by OFAC work on aspects of the Cuba embargo as necessary. OFAC reports that it has devoted fewer staff hours to the Cuba embargo since 2003⁸¹ because the demands of newer sanctions have required it to reallocate staff and it has automated aspects of the Cuba licensing program. OFAC officials also report that a limited but increasing number of Cuba licensing applications present unusual or foreign policy issues that require additional supervisory and interagency review. However, OFAC

⁸⁰In addition, one additional staff in OFAC’s Miami field office devotes about half his time to enforcing the Cuba embargo and the other half to duties not related to the Cuba embargo.

⁸¹In 2003—before the rule changes—OFAC estimated that about 21 staff equivalents (or about 15 percent of its total authorized staff resources) were devoted to implementing and enforcing the Cuba embargo.

officials were unable to provide reliable estimates of the total staff resources devoted to enforcing the embargo on Cuba.⁸²

In 2004, OFAC tasked its Miami field office with issuing the family travel licenses required by the new restrictions in lieu of auditing travel service providers and conducting public outreach. In 2004-2005, the first years the changes were in effect, field office staff processed family travel applications by hand and quickly developed a backlog of 6 to 8 weeks, according to OFAC data, in part because the process required screening to determine whether applicants had traveled to Cuba in the previous 3 years. To eliminate the backlog, the field office hired three contractors and, by the end of 2005, launched an automated system that enabled staff to process most applications in 24 hours without the help of contractors. Several travel service providers in Miami told us that OFAC quickly processed their customers' applications and returned the licenses as files attached to e-mails. However, as of May 2007, four of five field office staff remained engaged full time in processing family travel license applications.

In May 2007, OFAC officials told us that because most of the agency's Miami field office staff are engaged in processing travel license applications, OFAC has conducted few audits since 2004 of the more than 200 carriers and agents licensed to provide travel, financial, and other services for Cuba.⁸³ Prior to 2004, the Miami field office frequently audited these providers, in several cases detecting problems—such as missing or incomplete customer records—that resulted in OFAC's suspending the providers' licenses.⁸⁴ In addition, OFAC officials said they suspect that

⁸²Commenting on a draft of this report, Treasury said that most of OFAC's Cuba-related work is centered in the agency's licensing division and involves responding to requests for guidance from the public and applications for licenses to engage in Cuba-related transactions. Treasury cited the example of licensing travel-related and other transactions incident to the marketing, sales negotiation, and accompanied delivery or servicing of agricultural products exported to Cuba, as provided by TSRA.

⁸³Currently, there are 29 carrier service providers, 16 of which also have travel service provider licenses to arrange travel on their own flights. In addition, there are 158 travel service providers, of which 95 also are licensed as remittance forwarders and 2 are licensed solely as remittance forwarders. Most of these service providers are located in the Miami area, but a few are located in other states, such as New Jersey and California.

⁸⁴OFAC officials told us that the Miami field office also has reduced its public outreach, despite an increase in inquiries regarding the rule embargo changes. As previously discussed, OFAC's Miami field office was established at the direction of Congress to strengthen enforcement of the Cuba embargo.

some service providers were involved in the fraudulent use of travel licenses to violate the embargo. In 2006, OFAC resumed audits of service providers, auditing 11 service providers and suspending 8 of them for significant violations of Treasury regulations.⁸⁵ OFAC said the audits were part of a strategic initiative to shift the agency's enforcement focus from violations by individual travelers to violations by those in the travel industry that facilitate large numbers of embargo violations. None of the three travel service providers we visited in Miami had been audited by OFAC since 2004.

U.S. Coast Guard Issued Fewer Vessel Permits after 2004 Rule Changes

The number of vessel permits issued by the Coast Guard for travel to Cuba dropped significantly after the agency issued new regulations for U.S. vessels entering Cuban territorial waters and changed its application requirements in response to the administration's policy of tightening the embargo.⁸⁶ Starting in 2004, boaters applying for a permit were required to submit copies of valid OFAC travel licenses and BIS export licenses;⁸⁷ previously, these documents were not required. In 2002, the Coast Guard issued more than 500 vessel permits; however, after the new requirements took effect in 2006, the Coast Guard issued only 38 permits. Coast Guard officials explained that most vessel permits currently issued are for humanitarian or religious groups.

⁸⁵Seven of the eight suspensions cited violations for providing travel services to unauthorized travelers, systemic failure to ensure travelers were authorized, and working with agencies not authorized to provide Cuba travel services. One service provider was cited for failure to maintain records systematically.

⁸⁶Based on the authority in Presidential Proclamation 6867, as amended by Presidential Proclamation 7757, the Coast Guard enacted new regulations for entry into Cuban territorial waters in July 2004. See 33 C.F.R. § 107.200 et seq. The regulations require any U.S. vessel or vessel subject to U.S. jurisdiction less than 100 meters (328 feet) in length to have a Coast Guard permit to travel to Cuba.

⁸⁷A Treasury license is required because sailing a vessel to Cuba likely will require the crew or passengers to engage in some financial transactions in Cuba, such as paying port or other fees, which are prohibited under by the CACR unless licensed. An export license is required because, under U.S. law and regulation, sailing a U.S.-owned vessel from the United States to a foreign country constitutes an export of that vessel.

Screening All Exports to Cuba Has Little Impact on CBP Resources, but Increased Passenger Inspections Strain CBP Capacity at Miami Airport

CBP screens all exports bound for Cuba from Port Everglades, Florida; however, the impact of these screenings on agency resources is reportedly small. Since the 2004 embargo rule changes, CBP has increased its intensive (secondary) inspections of passengers arriving from Cuba at Miami International Airport,⁸⁸ inspecting about 20 percent of Cuba arrivals versus an average of 3 percent of other international arrivals in 2007. CBP data show that the high rate of intensive inspections of arrivals from Cuba, and the resulting seizures, have strained CBP's capacity to carry out its primary mission of keeping terrorists, criminals, and inadmissible aliens from entering the country at Miami International Airport.

CBP Screens All Shipments to Cuba, with Little Impact on Agency Resources

Consistent with the President's October 2003 directive and 2004 CAFC recommendations to increase inspections of shipments to Cuba, CBP screens all container shipments bound for Cuba from Port Everglades.⁸⁹ However, CBP reported that the impact of these screenings on agency resources is small.

In a process it characterizes as risk based, CBP currently screens shipping documents and confirms export licenses for approximately 50 container shipments bound for Cuba from Port Everglades monthly.⁹⁰ CBP stated that exports to Cuba appear to be low risk owing to the repetitive nature of the shipments—mostly agricultural products—and the shippers' and carrier's high level of compliance with the embargo. CBP officials at the port said they have encountered a few administrative errors but no embargo violations on shipments destined for Cuba and that they maintain a

⁸⁸Currently, Miami International Airport is the only U.S. airport with regular, direct flights to Cuba. Two other airports—John F. Kennedy International Airport, New York, and Los Angeles International Airport, California—also are authorized to host direct flights to Cuba and have hosted such flights in the past. According to OFAC and CBP, John F. Kennedy International Airport has hosted about two to three charter flights per month since December 2006.

⁸⁹Three U.S. ports handle the majority of exports to Cuba: Port Everglades (Ft. Lauderdale), Florida, which handles all container shipments, and New Orleans and Gramercy, Louisiana, which handle bulk agricultural shipments to the island.

⁹⁰All shipments to Cuba appear on the port's "open shipment list" when the shipper's export declaration is filed in the Automated Export System, which is a paperless (electronic) system that allows exporters to file the shipper's export declarations and ocean manifest information directly to CBP Officers at the port confirm export license information using the Treasury Enforcement Communication System.

cooperative relationship with the single carrier that currently ships cargo from Port Everglades to Cuba.

According to CBP officials, implementing the policy of screening all shipments to Cuba has had a limited impact on officers' other duties (i.e., agency resources) because of the relatively small number of shipments to Cuba from Port Everglades. According to CBP, Port Everglades—one of the largest container ports on the East Coast—handles about 26,000 container shipments monthly, including shipments bound for Middle Eastern and Persian Gulf countries that may pose transshipment risks. CBP told us that about 90 shipments are referred monthly for intensive, physical examination, based on automated risk assessments and officers' professional judgment.

Intensive Inspections of Arrivals from Cuba Strain CBP Resources at Miami International Airport

CBP Inspection of International Passengers

At inspection facilities in U.S. airports, CBP officers inspect passports, visas, and biometric data for all international passengers wishing to enter the United States, mainly to determine their admissibility into the country. Generally, international passengers arriving by air must present a U.S. passport, permanent resident card, foreign passport, or a foreign passport containing a visa issued by the Department of State. CBP officers also may inspect travelers' luggage. Because most travelers attempting to enter the country through these ports of entry have a legal basis for doing so, CBP uses a streamlined screening procedure—**primary inspection**—to process individuals who can be readily identified as admissible. Persons whose admissibility cannot be readily determined, who are assessed as potentially posing a high risk of terrorism or major crimes, or who are randomly selected as part of a CBP statistical monitoring process are subjected to an intensive **secondary inspection**. The secondary inspection includes a closer review of travel documents and possessions, additional questioning by CBP officers, and cross references through multiple law enforcement databases to verify the traveler's identity, background, purpose for entering the country, and other corroborating information. At the end of this process, the individual may be admitted, refused entry and returned to the country of origin, or detained while admissibility is subject to further review.

Since 2004, CBP officials have reportedly referred for intensive, secondary inspection a higher percentage of passengers arriving from Cuba at Miami International Airport, reflecting the assessed risk of embargo violations. Agency data and statements by CBP officials suggest that the relatively high rate of Cuba embargo-related inspections and seizures strains CBP's resources at the airport—one of the nation's busiest—adversely affecting its ability to carry out its primary mission of keeping terrorist, criminals, and inadmissible aliens out of the country. This impact occurs in the context of recent GAO reports of weakness in CBP's inspection of travelers at major ports of entry nationwide.

CBP officials told us that CBP had increased its inspections of travelers arriving from Cuba at the Miami airport since 2004. Moreover, CBP data show that in fiscal year 2007, about 20 percent of passengers arriving on flights from Cuba—mostly U.S. citizens or residents—were referred for secondary inspection, compared with about 3 percent of passengers arriving on flights from other countries, including source or transit countries for narcotics. According to CBP, the agency's risk management approach at Miami reflects an increased risk of embargo violations subsequent to Treasury's 2004 rule changes, which increased restrictions on family travel and remittances and eliminated the allowance for travelers to import up to \$100 of Cuban products for personal consumption.

Data provided by CBP suggests that the increase in secondary inspections of Cuba arrivals—most of them U.S. citizens or residents—and numerous resulting seizures of small amounts of Cuban products have strained its inspections resources at Miami International Airport. According to CBP data and officials:

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- During the processing of the eight daily flights from Cuba,⁹¹ most of the airport's three secondary inspection facilities and most CBP inspections personnel at these facilities are occupied with inspecting Cuba arrivals and seizing contraband and, as a result, inspection of other arrivals is sometimes delayed. At each of the three facilities, a minimum of eight CBP officers and agriculture specialists are available to conduct secondary inspections, which sometimes involve x-raying and physically inspecting baggage.
 - Processing these seizures requires an average of about 14 staff hours per day and often requires overtime. CBP data show that seizures of contraband from Cuba arrivals average about 11 per day and lead to about 5 arrests monthly. CBP staff reported that processing each seizure takes from 45 minutes to 3 hours, depending on the type of violation.
 - During a 6-month period from October 2006 to March 2007, CBP's inspections of passengers and baggage arriving from Cuba at the Miami airport resulted in about 1,500 seizures, mostly small amounts of tobacco, alcohol, and pharmaceutical products. In contrast, CBP made 465 seizures from passengers arriving on other flights at the Miami airport over the same 6-month period, including 111 seizures of drugs totaling 211 kilograms and 115 seizures of money totaling \$2.4 million.

The impact of CBP's Cuba-related inspections process on its ability to carry out its primary mission of protecting against terrorists and terrorist weapons at the Miami airport occurs in the context of recent GAO reports that found weaknesses in CBP's inspections capacity nationwide and highlighted that effective use of secondary inspections are critical to CBP's primary antiterrorism mission. In November 2007, we reported that CBP staffing shortages have affected its ability to carry out antiterrorism

⁹¹As of May 2007, five flights were scheduled to arrive from Cuba in the 10 minutes between 11:30 a.m. and 11:40 a.m., one at 4:00 p.m., one at 4:30 p.m., and one 5:45 p.m.

programs and have created other vulnerabilities in its inspections process at U.S. ports of entry.⁹² There is also a growing concern that terrorists with no criminal record may use legitimate travel documents when they attempt to enter the country through ports of entry. The report observed that the shortages and weaknesses increased the potential that terrorists and inadmissible travelers could enter the country and that failure to apprehend a potentially dangerous person increases the possibility that homeland and national security may be compromised.

Most OFAC Investigations Related to Cuba Embargo, but BIS and ICE Shifted Resources to Homeland Security and Other Priorities

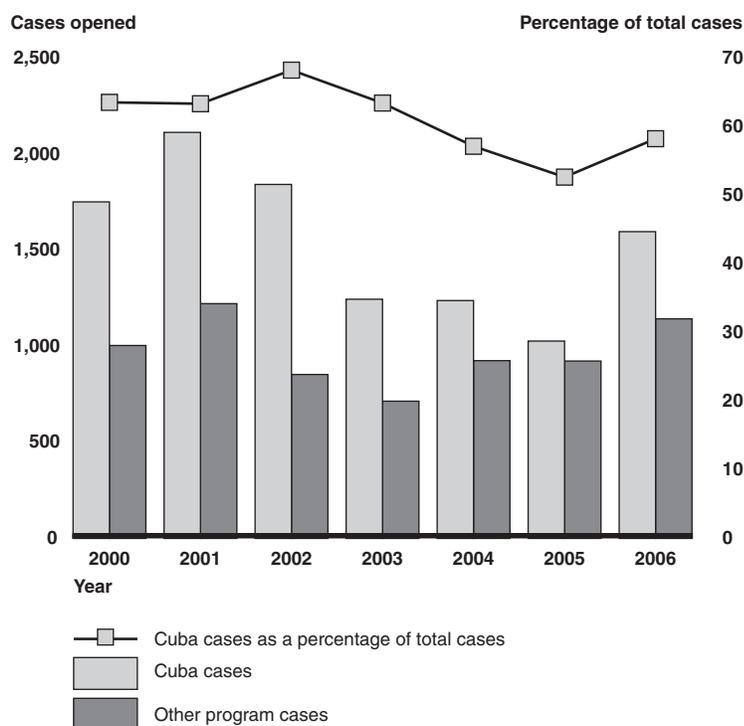
Officials at OFAC, BIS, and ICE said that after 2001, they shifted resources from investigations of suspected Cuba embargo violations to higher priorities, such as investigating suspected violations of other sanctions, terrorism, or other crimes that pose a high risk or threat to homeland or national security. However, in 2000-2006, OFAC conducted more investigations of Cuba embargo violations than of violations of all other sanctions. In contrast, Cuba embargo-related investigations comprised a minor part of BIS/OEE's and ICE's caseload.

- **OFAC.** Although the Cuba embargo is one of more than 20 sanctions programs that the agency administers, OFAC data show that from 2000 through 2006, investigations involving suspected violations of the Cuba embargo comprised 61 percent of its total investigatory caseload. Over that period, OFAC opened 10,823 investigations involving suspected violations of the Cuba embargo and 6,791 investigations involving

⁹²For example, see [GAO-08-219](#). This report shows that staffing shortages can affect the quality of traveler inspections and make it difficult for ports of entry to fully carry out antiterrorism and other traveler inspection programs and minimize traveler wait times. Because ports of entry rely on officers working overtime to accomplish their inspection responsibilities, staffing shortages contribute to morale problems, fatigue, and safety issues for CBP officers contribute to observed high rates of attrition, which robs CBP of experienced officers, and interferes with officer training. The report also observed that since the terrorist attacks of September 11, 2001, CBP's role has involved increased emphasis on countering threats posed by terrorists and others attempting to enter the country with fraudulent or altered travel documents. In addition, the report noted that intelligence officials believe that the United States will face a persistent and evolving terrorist threat, that the terrorist group al Qaeda will intensify its efforts to put operatives here, and that terrorists with no criminal record may use legitimate travel documents when they attempt to enter the country through ports of entry. Although CBP's goal is to interdict all violators, CBP estimated that several thousand inadmissible aliens and other violators entered the country through ports of entry in fiscal year and that the agency may need up to several thousand more officers and agricultural specialists to operate its ports of entry.

suspected violations of other sanctions⁹³ (see fig. 4; table 10 in app. IV provides additional information about OFAC's Cuba embargo and other sanctions investigations).

Figure 4: OFAC Investigations of Suspected Violations of the Cuba Embargo and Other Sanctions Programs, 2000-2006



Source: GAO analysis of Treasury (OFAC) data.

⁹³Subject to available resources, OFAC opens investigation (enforcement) cases based on an investigatory lead that creates a reasonable suspicion that a sanctions violation has occurred. If the resulting investigation establishes that there is sufficient evidence of a violation to support opening a civil penalty case, the case is referred to OFAC's civil penalty unit. Otherwise the case is closed.

OFAC was unable to provide data showing its allocation of staff resources to Cuba embargo and other investigations.⁹⁴ However, according to OFAC officials, the agency has targeted a smaller proportion of its resources to Cuba embargo violations since 2001, because the agency assigns these cases a lower priority than cases involving terrorism, weapons of mass destruction, and national security. Additionally, OFAC officials said that Cuba embargo cases consume a much smaller portion of the agency's resources than the number of Cuba embargo violations suggests. The majority of Cuba embargo investigations involve unlicensed travel and imports of Cuban cigars; according to agency officials, such cases are relatively simple matters that require fewer resources per case than do complex cases involving suspected violations of U.S. trade and financial sanctions, such as those on Iran. In addition, although OFAC conducts only civil investigations, cases from all sanctions programs, including Cuba, can lead to criminal investigations by other agencies. Some of these cases may involve close collaboration between OFAC and the criminal investigative agency.

- **BIS.** According to BIS officials, the agency devotes few resources to Cuba embargo-related investigations: as of mid-October 2007, BIS reported a total of 785 open enforcement cases nationwide, of which 26 (about 3 percent) involved the Cuba embargo. Officials at BIS/OEE's field office in Ft. Lauderdale explained that because of the need to concentrate on homeland and national security issues, such as the illegal export of controlled, sensitive technologies, the office focuses few resources on investigations related to the Cuba embargo. The officials noted that the office's 6 agents, each with a workload of about 13 cases, give priority to cases related to homeland and national security, such as preventing the exportation to Iran of dual-use items that can be used as components for nuclear weapons.⁹⁵
- **ICE.** According to agency officials, ICE investigations since 2001 have focused increasingly on homeland security issues such as terrorism and crimes such as narcotics trafficking and money laundering rather than

⁹⁴OFAC stated that the agency's enforcement staff do not specialize by sanctions program and work simultaneously on numerous cases within multiple programs, and the agency's case tracking system does not provide a basis for estimating staff time by sanctions program.

⁹⁵Dual-use items subject to BIS regulations have primary commercial use, but also have military and proliferation applications, or may be used in terrorist activities.

on Cuba embargo violations. Our analysis of ICE data show that the agency devoted 30 percent fewer investigative staff hours to Cuba embargo-related cases in fiscal years 2002-2006 than in fiscal years 1997-2001. In fiscal years 2002-2006, Cuba embargo-related investigations accounted for an average of less than 0.2 percent of the agency's total investigative staff hours. In fiscal year 2006, ICE conducted five investigations of potential trade and travel violations of the embargo; in the first half of fiscal year 2007, ICE reported seven ongoing investigations related to the embargo. According to ICE officials, the slight increase in Cuba-related cases this year has resulted from actions by several federal agencies in response to the administration's policy of tightening the embargo.

Most OFAC Penalties Targeted Cuba Embargo Violations, but BIS Penalties and Justice Prosecutions Focused on Other Priorities

From 2000 through 2005, OFAC imposed more penalties for violations of the Cuba embargo than for the other sanctions programs it administers; although the number of OFAC penalties for Cuba embargo violations fell in 2006, OFAC was unable to provide reliable estimates of staff resources devoted to enforcing the embargo. In recent years, BIS has imposed few fines for violations of the Cuba embargo and U.S. Attorneys have conducted few prosecutions of such violations. Officials at BIS and Justice told us that although minor violations of some embargo restrictions probably are widespread, they have focused agency efforts on penalizing and prosecuting export control and other cases that present a greater threat to public safety and homeland and national security.

- **OFAC.** Reflecting the relatively large number of embargo-related investigations opened in 2000 through 2006, OFAC imposed a substantial number of civil penalties for Cuba embargo violations during that period.⁹⁶ Our analysis of OFAC data shows that from 2000 through 2006, the agency collected fines totaling about \$8.1 million for 8,170 violations of the Cuba embargo—an average of \$992 per violation. Most of these violations were relatively minor, such as purchasing Cuban cigars on the Internet.⁹⁷ Over the same period, OFAC imposed fines totaling about \$12.4 million for 3,054 violations of other sanctions programs, such as

⁹⁶OFAC said that civil penalty cases are opened based upon a determination of a probable violation and referral by investigators and, since these cases have been vetted by investigators, they most likely will result in some penalty action.

⁹⁷However, in August 2007, OFAC imposed an \$186,000 fine on one of the largest Internet travel agencies for arranging trips to Cuba without proper licenses.

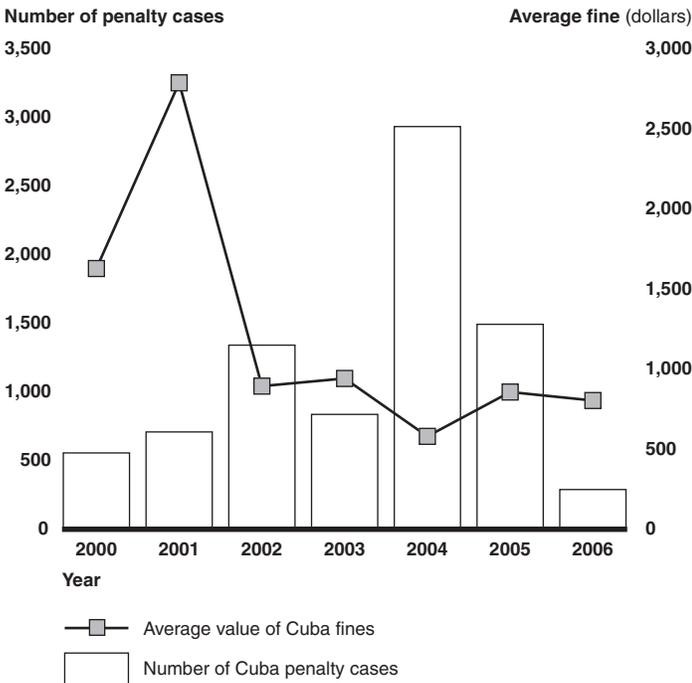
those on Iran, North Korean, and Syria—an average of about \$4,071 per violation. (Table 11 in app. IV provides additional data about OFAC’s Cuba embargo and other sanctions penalties.)

Although the Cuba embargo is one of more than 20 sanctions programs that the agency administers, OFAC data show that from 2000 through 2005, Cuba embargo cases—most involving unlicensed travel and imports of Cuba cigars—accounted for over 70 percent of the agency’s total penalty cases. However, in 2006, the number of fines collected fell to 290 and Cuba embargo cases accounted for 29 percent of total penalty cases (see fig. 5.). OFAC said that this decline reflected a decision to focus more resources on penalizing violations of other sanctions programs. Similarly, according to OFAC, the decline in the average value of fines collected for Cuba embargo cases after 2001 reflects a decision to better utilize agency resources by issuing warning letters rather than penalties or by informally settling with offenders for lower fines than might have been assessed through the formal penalty process.⁹⁸

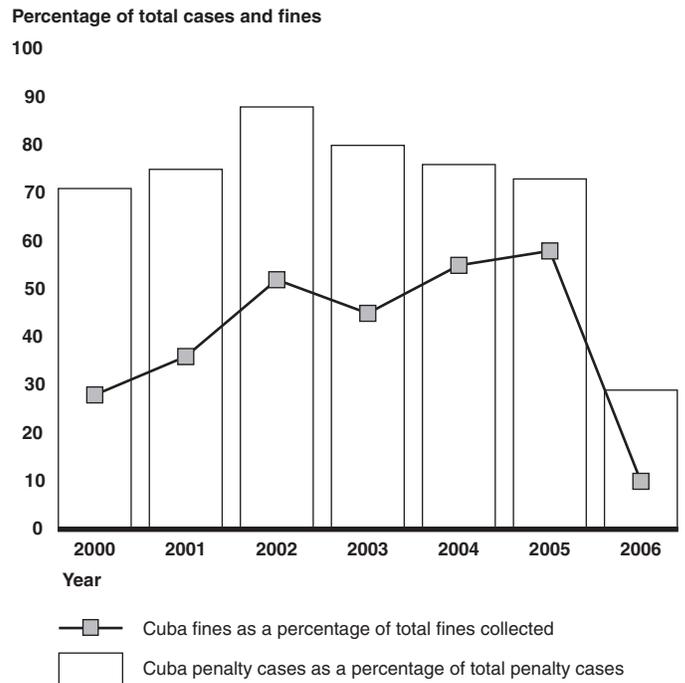
⁹⁸OFAC reported that although it prevailed in a number of administrative law judge proceedings involving Cuba travel-related violations, the recommended penalties were less than provided by the current civil penalty guidelines, motivating both the agency and the violators to resolve disputes through informal settlements at amounts less than may have been assessed through a formal penalty process. In addition, OFAC reported that it had made an aggressive effort to close cases where the statute of limitations had run out or the penalty was otherwise unenforceable.

Figure 5: OFAC Civil Penalty Cases and Fines for Violations of the Cuba Embargo, 2000-2006

Number of Cuba penalty cases and average value of fines collected



Cuba penalty cases and fines as a percentage of total cases and fines



Source: GAO analysis of Treasury (OFAC) data.

OFAC was unable to provide reliable estimates of the staff resources devoted to imposing penalties for Cuba embargo violations.⁹⁹ However, OFAC said that compared with violations of other sanctions, most Cuba embargo violations involving individual travel or imports are simpler and involve repetitive fact patterns, resulting in more efficient processing and requiring fewer resources. OFAC said that cases involving group travel and travel service providers are typically more

⁹⁹OFAC stated that none of its civil penalty staff are dedicated to any one sanctions program and that its staff must work on all of the active sanctions programs administered by OFAC as well as on violations under terminated programs that are still viable under the applicable statute of limitations. Most civil penalty staff work on cases involving several different sanctions programs each day. Further, OFAC noted that many cases involve violations of multiple sanctions programs.

complex, and cases involving commercial trade violations tend to involve the same amount of resources regardless of the sanctions program.

- **BIS.** Since 2001, reflecting the low priority it assigns to its Cuba embargo-related investigations and few resources, BIS has imposed relatively few Cuba embargo penalties. In 2002-2006, BIS collected civil fines totaling \$49,500 for nine violations of the Cuba embargo involving two companies.¹⁰⁰ In contrast, over the same period, BIS collected about \$30 million in fines for 281 violations of export controls and sanctions on countries such as Iran. BIS also has issued few warning letters related to violations of the Cuba embargo; in 2006, less than 10 percent of BIS's almost 200 warning letters related to the embargo.
- **U.S. Attorneys.** Justice reports that U.S. Attorneys have prosecuted few cases involving violations of the Cuba embargo in recent years¹⁰¹ because, for many of the reasons previously stated, the investigatory agencies (OFAC, BIS, and ICE) have presented few cases for prosecution. Officials at the U.S. Attorney's Office in Miami,¹⁰² however, have expressed a commitment to pursue criminal prosecutions of cases involving violations of the embargo and report having recently begun to put more emphasis on these cases. Following efforts by the interagency

¹⁰⁰In November 2005, BIS imposed a \$37,500 civil penalty on Medical Equipment Specialists, Inc., for five violations involving (1) attempting to export and conspiring to export X ray film processors to Cuba via Canada without the required license and with knowledge that a violation would occur and (2) making false representation regarding the ultimate destination on the shippers export declaration. In May 2006, BIS imposed a \$12,000 civil penalty on Dresser Instruments S.A. de C.V. for four violations involving aiding and abetting unlicensed re-exports of pressure gauges and other items to Cuba.

¹⁰¹Justice officials reported a current prosecution of a Cuba embargo-related case by the U.S. Attorney for the Southern District of Florida, headquartered in Miami, and prior prosecutions of Cuba embargo-related cases by U.S. Attorneys in Houston, Texas, and Philadelphia, Pennsylvania. However, Justice officials told us that, due to limitations in the department's database for prosecutions and convictions, the department cannot readily provide an accurate accounting of all embargo-related cases.

¹⁰²The U.S. Attorney for the Southern District of Florida has a staff of approximately 233 Assistant United States Attorneys and 227 support personnel. Besides the main office in Miami, there are three staffed branch offices in Ft. Lauderdale, West Palm Beach, and Fort Pierce and one unstaffed branch office in Key West. There is also a high-intensity drug trafficking area office in West Miami-Dade and a health care fraud facility in Miramar.

taskforce that the office established in 2006,¹⁰³ the office filed a criminal indictment in 2007 against individuals who conspired to provide fraudulent religious licenses to facilitate more than 4,500 illegal trips to Cuba—the first embargo-related indictment in several years.¹⁰⁴ The lead defendants pled guilty and recently were sentenced to 12 and 30 months' imprisonment, and two others to 4 months' home confinement. The U.S. Attorney's Office in Miami reports that this prosecution has resulted in approximately two dozen leads on other large-scale trip organizers, of which investigations are presently being pursued. Although the U.S. Attorney's Office in 2006 implemented a policy of considering for prosecution any embargo violation presented to it by an investigatory agency, the Office indicated a strong preference for prosecuting the more significant cases, as opposed to the more common individual cases, citing the resources required and the frequent humanitarian issues involving in prosecuting individual violations. The U.S. Attorneys Office in Miami, for example, said that it does not intend to pursue criminal charges against the 4,500 individuals, who paid \$250 each to obtain the fraudulent religious licenses, on the grounds of both limited resources and humanitarian issues involved in prosecuting individuals on family travel.

U.S. Agencies Face Several Challenges in Enforcing the Embargo on Cuba

U.S. officials and others cited the following key factors as hindering agencies' enforcement of the U.S. embargo on Cuba: (1) lack of foreign support for, and cooperation with, the embargo; (2) divided U.S. public opinion about the embargo, particularly the recent tightening of restrictions; (3) the difficulty of detecting some embargo violations; and (4) the embargo's complexity and changing rules. In some cases, these factors act in concert.

¹⁰³The 2006 CAFC report recommended that U.S. agencies establish an interagency law enforcement task force for better enforcement of U.S. economic sanctions on the Castro regime. The Cuban Sanctions Enforcement Task Force, established and headed by the U.S. Attorney in Miami, includes BIS/OEE, CBP, ICE, OFAC, and the U.S. Coast Guard. The Federal Bureau of Investigation supports this effort by advising and assisting the task force about counterintelligence issues.

¹⁰⁴The indictment alleged that several individuals in Florida had obtained and sold fraudulent religious travel licenses for more than \$1 million. The 2006 CAFC report recommended directing law enforcement agencies to pursue criminal investigations, including prosecution, where possible and appropriate, of CACR and other violations, especially for those found to have been involved in organizing or facilitating unlicensed travel transactions with Cuba.

Lack of Foreign Support Hampers Diplomacy, Investigations, and Prosecutions

Although most countries recognize the right of the United States to determine its own foreign policy and security concerns, the embargo's unilateral nature and a lack of multilateral cooperation with the embargo impede U.S. efforts to isolate the Cuban regime diplomatically and deny it hard currency resources. Although State officials have testified that sanctions are best implemented within a diplomatic framework based on broad multilateral consensus, the department has been unable to obtain such foreign support for the United States' Cuba embargo policy.

- Many countries, particularly Canada, Mexico, and the members of the European Union, pursue different strategies in their diplomatic relations with Cuba. Although the European Union and others share the United States' ultimate goal of a free, democratic, and market-oriented Cuba, differences remain between the United States and other countries concerning the best method to encourage democracy and human rights on the island. In general, the governments of these countries favor a policy of cautious engagement with the Cuba, with normalization conditioned on evidence of improved human and political rights.
- Opposition by many countries—particularly Canada, Mexico, and the members of the European Union—to the extraterritorial application of U.S. laws and regulations under the Cuba embargo¹⁰⁵ has created diplomatic and trade disputes as well as problems for individual U.S. firms.¹⁰⁶ Cooperation with the U.S. embargo is explicitly illegal in some countries and may violate laws in other countries that prohibit discrimination based on nationality.¹⁰⁷ Over most of the past 16 years, an overwhelming number of UN member states have voted annually to condemn the U.S. embargo for, among other issues, its extraterritorial

¹⁰⁵These concerns relate to the application of U.S. laws and regulations concerning the Cuba embargo to persons resident in or incorporated in other countries.

¹⁰⁶In 1997, for example, the European Union initiated a case against the United States in the World Trade Organization regarding provisions of the Helms-Burton Act and certain aspects of the Cuba embargo. See WT/DSB/M/46 (Aug. 6, 1998).

¹⁰⁷For example, U.S. officials approached some European banks to convince them to close Cuban accounts and cease handling Cuban government payments for U.S. exports. The European Union warned these banks that such measures would violate European Union antidiscrimination laws.

effects¹⁰⁸ (app. V summarizes the results of these votes from 1992 through 2007). However, recent Commerce foreign policy reports state that the administration has worked diligently with other nations, especially countries in Europe and Latin America, to resolve these disputes.¹⁰⁹ Moreover, State officials noted that recently a number of Canadian and European banks have ceased doing business with Cuba.¹¹⁰

- Some countries have taken steps to undermine the embargo,¹¹¹ for example, by refusing to identify U.S. travelers making unauthorized visits to Cuba¹¹² or to allow their citizens to provide evidence or testify in embargo-related cases.¹¹³ These countries also have not cooperated in efforts to block the export of U.S.-made items to Cuba. U.S. officials reported that this lack of cooperation complicates agencies' embargo monitoring and investigatory work.
- Countries that do not support the U.S. embargo conduct normal trade, financial, and travel relations with Cuba, and some governments and multilateral institutions provide development and economic assistance

¹⁰⁸For example, in 2007, 184 UN member states—including all major U.S. allies—supported a resolution calling for an end to the U.S. embargo, 4 member states opposed the resolution (the United States, Israel, the Marshall Islands, and Palau), and 1 member state abstained from the vote (Micronesia). Only in 1992 did a majority of UN member states not vote against the U.S. embargo. In that year, 59 member states voted for ending the embargo, 3 member states were opposed, and 71 member states abstained.

¹⁰⁹The 2007 and prior reports are available at the BIS Web site (<http://www.bis.doc.gov>).

¹¹⁰Canadian and European banks that reportedly have recently ceased doing business in Cuba include Bank of Nova Scotia, Barclays, BAWAG PSK, Credit Suisse, Deutsche Bank, HSBC (including subsidiaries Banitsmo (Panama) and Bank Canada), ING Groep NV, Royal Bank of Canada, and Swiss Bank UBS.

¹¹¹In the case of Canada and members of European Union, for instance, opposition to the U.S. embargo reflects their laws. For example, the Canadian Foreign Extraterritorial Measures (United States) Order explicitly prohibits compliance in Canada with the U.S. embargo on Cuba (see <http://www.canadiannetworkoncuba.ca/Documents/FEMA-96.shtml>).

¹¹²Cuban tourist cards can be purchased at third-country airports and foreign customs officials usually stamp only these loose-leaf visas, not the permanent pages of U.S. passports.

¹¹³For example, the Canadian Supreme Court recently refused to honor a letter of request from a U.S. court seeking the production of documents and oral evidence from a Canadian citizen and resident for use in a court action related to a U.S. prosecution for violation of the Cuba embargo. See *Morgan, Lewis & Bockius LLP v Gauthier* ((2006) 82 OR (3d) 189 (SCJ)).

to Cuba. These actions increase the amount of hard currency available to the Castro regime, undercutting one of the U.S. embargo's stated purposes.¹¹⁴ For example, the Central Intelligence Agency reports that in 2006, Cuba exported an estimated \$3 billion in commodities, increasing its exports by two-thirds since 2000,¹¹⁵ and imported an estimated \$10.2 billion, nearly tripling its imports since 2000.¹¹⁶ In 2005, according to the UN World Tourism Organization, Cuba hosted nearly 2.3 million international tourists, generating income of more than \$1.9 billion—22 percent and 4 percent more tourists and income, respectively, than in 2003.¹¹⁷ Moreover, direct flights to Cuba are available from European and Latin American countries as well as from Canada.

Divided U.S. Public Opinion Presents Enforcement Challenges

Officials from OFAC, BIS, ICE, CBP, U.S. Coast Guard, and the U.S. Attorney's Office in Miami reported that community polarization on embargo issues—particularly the changes implemented since 2004—presents challenges that affect agencies' abilities to enforce the embargo. Some agency officials said that lack of public support for the embargo, coupled with the controversial nature of recent rule changes, has

¹¹⁴The 2004 CACF report stated that along with remittances, mostly from the United States, trade, tourism, and access to subsidized Venezuelan oil were the Castro regime's "economic lifelines." State said that, although there were no reliable estimates of the value of Venezuelan oil subsidies, the Cuban government reported that trade with Venezuela totaled more than \$2.5 billion in 2006.

¹¹⁵Leading Cuban exports include sugar, nickel, tobacco, fish, medical products, citrus, and coffee. Cuba's leading buyers were Canada (19 percent), Netherlands (19 percent), China (16 percent), Bermuda (14 percent), and Spain (5 percent). In 2006, high metals prices continued to boost Cuban earnings from nickel and cobalt production. Additionally, Cuba has been paying for Venezuelan oil, partly by exporting the services of Cuban personnel, including some 20,000 medical professionals. See Central Intelligence Agency, *The World Factbook 2007* (Washington, D.C., 2007).

¹¹⁶Leading Cuban imports include petroleum, foodstuffs, machinery and equipment, and chemicals. Cuba's leading suppliers were Venezuela (27 percent), China (16 percent), Spain (10 percent), Germany (7 percent), Canada (6 percent), Italy (4 percent), and the United States (4 percent). Since late 2000, Venezuela has been providing Cuba oil on preferential terms, and it currently supplies an estimated 98,000 barrels per day of petroleum products. See Central Intelligence Agency, *The World Factbook 2007* (Washington, D.C., 2007). State said that, although there were no reliable estimates of the value of Venezuelan oil subsidies, the Cuban government reported that trade with Venezuela totaled more than \$2.5 billion in 2006.

¹¹⁷See United Nations World Tourism Organization, *World Tourism Highlights, 2006 Edition*. Available at www.world-tourism.org.

contributed to widespread, small-scale violations of embargo restrictions on family travel and remittances and an environment in which some individuals can profit from illegal activities, such as selling fraudulent religious and other travel licenses.

- Some human rights and religious groups and others have criticized the increased restrictions on family travel and remittances, with certain groups maintaining that the travel restrictions violate constitutional rights, humanitarian norms, and several international agreements to which the United States is a party.¹¹⁸ These groups have particularly objected to hardships created by the elimination of the specific license for additional family visits in cases of humanitarian need. Others have complained about the disparity between restrictions on family travel and remittances and restrictions on trade and trade-related travel,¹¹⁹ or that their new restrictions on educational travel compromise academic freedom. In addition, religious groups have claimed that the new restrictions on religious travel unconstitutionally constrain the free exercise of religion.
- Several U.S. organizations have engaged in acts of civil disobedience against the embargo, such as refusing to apply for licenses for religious travel or humanitarian exports to Cuba, claiming that in their view the U.S. embargo violates protected constitutional, human, or religious rights.¹²⁰ Agency officials told us that before 2005, they had unilaterally issued licenses to at least one of these groups to deliver humanitarian exports to Cuba and that the decision in 2005 to enforce the restrictions against these groups strictly created an enforcement and public relations dilemma.

¹¹⁸Although highly critical of the Cuban government's political repression and human rights violations, Human Rights Watch, for instance, has criticized the restrictions on travel by U.S. citizens and argued that the restrictions violate article 19 of the International Covenant on Civil and Political Rights and the 1975 Helsinki Final Act and successive accords.

¹¹⁹For example, more than 20 governors of U.S. states have visited Cuba over the past several years as part of state-sponsored trade delegations.

¹²⁰One group, Pastors for Peace, for example, reports having organized and conducted 18 unauthorized "friendship caravans" to Cuba since 1992 (see <http://www.pastorsforpeace.org>). Another group, the Venceremos ("we shall overcome") Brigade, reports that over the past 35 years it has organized unauthorized travel to Cuba for more than 8,000 people from the United States (see <http://www.venceremosbrigade.org>).

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- Some U.S. agricultural producers and exporters, industry groups, and state government officials have criticized but complied with OFAC's strict interpretation of TSRA's cash-in-advance payment requirement. Some of these groups have called for eliminating the cash-in-advance payment or third-country financing requirements or the entire embargo.

Some Embargo Violations Are Difficult to Detect

U.S. officials said that the difficulty of detecting certain embargo violations, such as use of fraudulent licenses and other documents, creates challenges to enforcing the embargo.

- Agency officials said that detection of fraudulent Treasury licenses and other documents is difficult. Travel licenses can be duplicated on a computer,¹²¹ and no fast, automated system exists for CBP to check whether licenses are legitimate. Moreover, smugglers and others attempting to travel with fake documents can easily avoid detection by not boarding a flight if they observe that CBP is conducting inspections of departing passengers.¹²² CBP Miami reports that, since the 2004 rule changes went into effect, it has identified several thousand fraudulent travel licenses.
- CBP and ICE officials reported that new financial services technologies present opportunities for sending funds to Cuba in violation of the U.S. embargo. In particular, travelers can easily exit the United States

¹²¹As we observed at OFAC's Miami field office and at several travel service providers in Miami, to facilitate the quick processing of family travel licenses, OFAC e-mails most travel licenses to providers or individuals in the form of an Adobe Acrobat file (commonly known as a "PDF file"). Agency officials are aware that these computer files can be manipulated to produce fraudulent licenses. OFAC officials said they had worked with a contractor to put in place reasonable measures to prevent duplicating licenses.

¹²²CBP occasionally inspects passengers and baggage departing for Cuba and other international destinations based on intelligence, referrals from Transportation Security Administration officers, public tips, or risk factors.

carrying stored-value cards worth hundreds of thousands of dollars.¹²³ CBP officers noted that they generally lack the authority and technology to examine these cards. In addition, a number of non-U.S. online transfer services provide opportunities for sending funds to Cuba without detection, and some of these sites allow transfers greater than the limit, and without other restrictions, imposed by the CACR.¹²⁴

- ICE and BIS/OEE officials reported that widespread money laundering in Southern Florida—specifically, the region’s Black Market Peso Exchange¹²⁵—created additional opportunities for transferring funds illegally to Cuba without detection via third countries. Officials also noted that the close relations between Cuba and Venezuela created opportunities for U.S. residents or companies to transship goods or transfer funds illegally to Cuba via Venezuela.

¹²³According to the 2007 National Money Laundering Strategy—issued by the Departments of Justice, Homeland Security, and Treasury—stored-value cards (sometimes referred to as prepaid cards) are an emerging cash alternative for both legitimate consumers and money launderers alike. Stored-value cards provide a compact, easily transportable, and potentially anonymous way to store and access cash value. Open system cards lower the barrier to the U.S. payment system, allowing individuals without a bank account to access illicit cash via automated teller machines globally. The 2007 strategy states that the U.S. Drug Enforcement Administration, ICE, and the Internal Revenue Service have all found prepaid cards used in conjunction with bulk cash smuggling. Drug dealers load cash onto prepaid cards and send the cards to their drug suppliers outside the country. The suppliers then use the cards to withdraw money from a local automated teller machine.

¹²⁴For instance, Caribbean Transfers (<http://www.caribbeantransfers.com>), based in Cuba, and Family Remittances (<http://www.familyremittances.com>), based in Canada, are online services that allow customers to send funds to Cuba through debit and transfer cards. Duales (<http://www.duales.com>) and Transcard (<http://www.transcard.com>) are Canadian online services that allow customers to send funds to a variety of countries, including Cuba, via debit and transfer cards.

¹²⁵According to the *2007 National Money Laundering Strategy*, the most complex money laundering methods are often those that use trade to transfer value into or out of the United States. Trade-based money laundering encompasses a variety of schemes. The most common in the Western Hemisphere is the Black Market Peso Exchange in which Colombian drug traffickers swap illicit dollars in the United States for clean pesos in Colombia. Other methods include manipulating trade documents, and using criminal proceeds to buy gems or precious metals. Trade-based schemes are also used by informal value transfer systems to settle accounts.

Embargo Complexity and Changes Create Public Uncertainty

Officials report that the embargo's complexity and rule changes have created public uncertainty and made compliance more difficult.

- Agency officials said that some small-scale violations and confusion may reflect the complexity and recent changes to regulations governing allowable travel, cash remittances, allowable baggage, and other transactions. For example, immediately after the travel rule changes in 2004, it was unclear to both passengers and CBP officers whether the new 44-pound limit on baggage for family travel applied to personal safety and medical commodities for use by travelers, such as wheelchairs, crutches, portable medical devices (e.g., oxygen tanks), and child safety seats and strollers. In 2006, BIS clarified that the new limit did not include these items; however, before the clarification some passengers had these items counted against their limit while others did not.
- BIS officials told us that frequent changes in the regulations since 2000 have made compliance difficult for U.S. companies. Additionally, BIS reported that companies sometimes find intersection of the CACR, TSRA, and U.S. export controls confusing. For example, some exporters are confused by the fact that exports of TSRA-eligible medical products to Cuba are subject to different licensing requirements than exports of the same products to other designated state sponsors of terrorism.¹²⁶

Conclusions

The comprehensive U.S. embargo on Cuba has been in effect for nearly 50 years as an expression of overall U.S. foreign policy toward the Castro regime and as a means of depriving Cuba of hard currency. At the same time, U.S. policymakers have provided certain exceptions to the embargo, both for Cuban Americans who seek to maintain ties with family members in Cuba through travel, cash remittances, and gifts, and for others participating in educational, religious, and informational exchanges. Since 2004, the United States has tightened the rules governing these exceptions—directly affecting Cuban Americans and other Americans who have sought to conduct authorized travel and cash remittances—to further deny Cuba hard currency. However, U.S. agencies cannot determine the

¹²⁶As previously discussed, according to agency officials, because TSRA did not clearly repeal or supersede the relevant Cuban Democracy Act provisions on medical products, the act's requirements still apply.

actual impact of the rule changes on the availability of hard currency to Cuba, in part because available data cannot reflect unauthorized travel and remittances—travel licenses are easily counterfeited, travelers may transit through countries that oppose the embargo, and new technologies for remittances and other international money transfers make tracking such remittances impossible.

Following the September 2001 terrorist attacks, several agencies redirected resources from enforcing the Cuba embargo to accomplishing homeland and national security priorities, such as stopping terrorism, weapons proliferation, narcotics trafficking, and money laundering. For example, reflecting DHS's strategic emphasis on targeting its resources to priority threats and vulnerabilities, ICE devoted 30 percent fewer staff hours to investigating Cuba embargo violations in fiscal years 2002-2006 than in the previous 5 fiscal years. However, reflecting administration policy and embargo rule changes, two agencies maintained a focus on enforcing the Cuba embargo. Based on its assessment of the risk of embargo violations after 2004, DHS's CBP increased its intensive, secondary inspections of arrivals from Cuba at Miami International Airport—one of the nation's busiest—and, in fiscal year 2007, conducted secondary inspections of 20 percent of arrivals from Cuba versus 3 percent of arrivals from other countries. Our analysis of CBP data and interviews with CBP officials show that this intensive inspection of travelers and the numerous resulting seizures of small amounts of Cuban-made products have sometimes occupied a majority of the airport's secondary inspection facilities and delayed inspections of other passengers, straining the agency's resources for accomplishing its priority mission: keeping terrorists, criminals, and inadmissible aliens out of the country while facilitating the flow of legitimate trade and travel. This impact is especially troublesome in the context of recent GAO reports of weaknesses in CBP's inspections capacity at major ports of entry nationwide, which increase the potential of terrorists' and inadmissible travelers' entering the country. In addition, since 2000, Treasury's OFAC—responsible for administering more than 20 sanctions programs—has conducted more investigations and issued more penalties related to the Cuba embargo than for all of the other sanctions programs it administers. OFAC officials stated that Cuba embargo cases required fewer resources, but they could not provide data showing that the agency's resource allocations appropriately support its responsibility to enforce other sanctions, including those on countries engaged in terrorism, weapons proliferation, and narcotics trafficking.

Recommendations for Executive Action

In light of the recognized weaknesses in CBP's inspections capacity at major ports of entry, we recommend that the Secretary of Homeland Security direct CBP to re-evaluate whether the current level of resources focused on secondary inspections of passengers arriving from Cuba at the Miami airport effectively balances its responsibility for enforcing the Cuba embargo with its responsibilities for keeping terrorists, criminals, and inadmissible aliens out of the country.

In addition, in light of OFAC's responsibilities for administering more than 20 sanctions programs, including sanctions against countries engaged in terrorism, weapons proliferations, and narcotics trafficking, we recommend that the Secretary of the Treasury direct OFAC to assess its allocation of resources for investigating and penalizing violations of the Cuba embargo with respect to the numerous other sanctions programs it administers.

Agency Comments and Our Evaluation

The Departments of Homeland Security, the Treasury, State, and Commerce provided written comments regarding a draft of this report, which we have summarized below with our responses (see apps. VI through IX, respectively, for the agencies' complete comments). In addition, these agencies and Justice provided technical clarifications, which we incorporated as appropriate.

- **DHS.** DHS's comments focused on our draft recommendation that CBP use a risk-based approach in allocating staff and other resources at Miami International Airport. DHS wrote that although CBP officials agreed with the intent of the recommendation, they considered it unwarranted. CBP asserted that it has historically used, and continues to use, analysis and risk management principles in allocating resources and "throughout the cargo and passenger environments according to CBP guidelines." DHS also stated that CBP's use of resources to increase inspections of flights from Cuba did not reduce its inspections of other flights and that CBP has "maintained a consistent inspection of all flights." In response to these comments, we revised our report and recommendation to emphasize the need for CBP to re-evaluate whether the current level of resources focused on secondary inspections of passengers arriving from Cuba at the Miami airport effectively balances its responsibility for enforcing the Cuba embargo with its responsibilities for keeping terrorists, criminals, and inadmissible aliens out of the country. As our report states, CBP acknowledged that in 2004,

following changes in administration policy and embargo rules, its officers began referring more passengers arriving from Cuba for secondary inspection. In addition, DHS acknowledged that in fiscal year 2007, CBP conducted secondary inspections of about 20 percent of passengers from Cuba versus about 3 percent of international passengers from other countries. Further, CBP officials told us that these intensive inspections—along with the numerous resulting seizures of mostly small amounts of Cuban tobacco, alcohol, and pharmaceutical products—occupy a majority of the staff and facilities available for secondary inspections and frequently result in overtime at the Miami airport. Our report also observes that this adverse effect occurs in the context of recently reported weaknesses in CBP’s inspections capacity at major ports of entry nationwide, which increase the possibility of terrorists’ and inadmissible travelers’ entering the country.

- **Treasury.** Treasury expressed neither agreement nor disagreement with our draft recommendation that OFAC assess the consistency of its resource allocations related to Cuba embargo violations with the risk of these violations to U.S. security. Treasury stated that OFAC’s resources for investigating and penalizing violations of the Cuba embargo and other sanctions programs are allocated according to the agency’s priorities, legal obligations to enforce all sanctions laws fairly, and volume of work. Treasury reiterated that Cuba-related cases represent a smaller portion of OFAC’s enforcement work and require fewer resources than the number of such cases suggests. However, Treasury’s comments do not address our finding that, since 2000, OFAC has conducted more investigations and imposed more penalties for violations of the Cuba embargo than for all of the other 20-plus sanctions programs the agency implements, including sanctions related to terrorism, weapons proliferation, and narcotics trafficking. In contrast, we report that other agencies reduced the resources devoted to Cuba embargo violations after 2001 to focus on cases presenting a greater threat to homeland and national security and that embargo-related cases comprise a small percentage of their workloads. In addition, Treasury did not provide data showing OFAC’s allocation of resources for the Cuba embargo versus the more than 20 other sanctions programs it administers.
- **State.** State expressed neither agreement nor disagreement with our report. Rather, State noted the U.S. policy of encouraging a rapid, peaceful transition to democracy in Cuba and emphasized the

importance of maintaining and enforcing U.S. trade and travel restrictions to support this process.

- **Commerce.** Commerce's letter, which provided several technical clarifications, expressed neither agreement nor disagreement with our report.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to interested congressional committees; the Secretaries of Commerce, Homeland Security, State, and Treasury; and the Attorney General. We also will make copies available to others on request. In addition, this report will be available at no charge on the GAO Web site (<http://www.gao.gov>).

If you or your staffs have any questions about this report, please contact me at (202) 512-3149 or gootnickd@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix X.



David Gootnick
Director, International Affairs and Trade

Objectives, Scope, and Methodology

This report examines (1) the changes to the rules for the U.S. embargo on Cuba in 2001 through 2005 and these changes' impact on U.S. exports, travel, cash remittances, and gifts to Cuba; (2) U.S. agencies' activities and workloads in enforcing the embargo; and (3) factors that have affected the embargo's enforcement.

To identify the changes to the embargo rules in 2001 through 2005 and assess these changes' impact on U.S. exports, travel, remittances, and cash gifts to Cuba, we analyzed laws and regulations that establish the embargo and export controls on Cuba, such as the Trading with the Enemy Act of 1917,¹ the Cuban Democracy Act,² the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act,³ the Trade Sanctions Reform and Export Enhancement Act of 2000,⁴ the Cuban Assets Control Regulations (CACR)⁵ and other agency regulations, and appropriate entries in the *Federal Register*. We also discussed the changes with officials and attorneys at the Departments of Commerce, Homeland Security (DHS), Justice, State, and Treasury, and reviewed agency fact sheets and other literature available from agency officials and Web sites. To assess the status of the recommendations and other initiatives in the 2004 and 2006 reports of the interagency Commission for Assistance to a Free Cuba (CAFC),⁶ we compared them with entries in the *Federal Register* and discussed their implementation with agency officials, including State's Cuba Transition Coordinator. We also reviewed legal, Congressional Research Service,⁷ and other analyses of the embargo rule changes. With regard to the impact of the 2001-2005 rule changes, we reviewed economic and other studies of the

¹50 U.S.C. app. § 5(b).

²National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, Div. A, Title XVII, 106 Stat. 2572-81 (1992).

³Pub. L. No. 104-114, 110 Stat. 785.

⁴Agriculture, Rural Development, Food and Drug Administration, and Related Appropriations Act, Pub. L. 106-387, Title IX, 114 Stat. 1549A-67-1549A-72 (2000) (codified at 22 U.S.C. §§ 7201-7209). The law also permitted export of such items to some other countries subject to U.S. sanctions.

⁵31 C.F.R. pt. 515.

⁶These reports and related materials are available at the commission's Web site (<http://www.cafc.gov>).

⁷See, for example, Congressional Research Service, *Cuba: U.S. Restrictions on Travel and Remittances*, (Publication RL31139, Washington, D.C., updated Aug. 21, 2007).

Cuba embargo, such as the U.S. International Trade Commission's (ITC) July 2007 report⁸ and reports from the Congressional Research Service. We also analyzed data on, and analyses of, travel, trade, and remittances from a variety of sources, including Treasury's Office of Foreign Assets Control (OFAC), Commerce's Bureau of Industry and Security (BIS), DHS's Customs and Border Protection (CBP), the U.S. Census Bureau, the U.S. Department of Agriculture's Foreign Agricultural Service, the Central Intelligence Agency, the United Nations (UN), the Inter-American Development Bank, other multilateral institutions, the Cuban government, prior GAO reports, and private firms. We judged that available data were sufficiently reliable for assessing the impact of rule changes related to the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA) on U.S. exports to Cuba but not for assessing the impact of new restrictions on U.S. travel and remittances to Cuba.

To identify U.S. agencies' activities and workloads in implementing and enforcing the embargo for 2000-2006, we analyzed Commerce, DHS, Justice, State, and Treasury records, including agency strategic and performance plans, performance and budget reports, congressional testimonies, mission statements, and organization charts and other records, such as prior GAO reports.⁹ We examined four general types of agency activities: (1) licensing trade, travel, and financial transactions; (2) inspecting travelers and exports and auditing licensed service providers; (3) investigating suspected embargo violations; and (4) prosecuting or imposing civil fines or penalties on violators.

- **Licensing.** We analyzed BIS and OFAC licensing data, obtained estimates of staff devoted primarily to Cuba licensing, and reviewed data from the U.S. Coast Guard about the number of vessel permits issued. We discussed changes in licensing workload—including the streamlined BIS licensing process required by TSRA—and staffing with agency officials in Washington, D.C., at OFAC's Miami field office, and with the U.S. Coast Guard's headquarters in Washington, D.C., and district command in Miami. Agency officials were unable to provide accurate estimates of the staff working part time on the Cuba embargo—for example, the staff involved in the interagency

⁸See ITC, *U.S. Agricultural Sales to Cuba: Certain Economic Effects of U.S. Restrictions*, (Investigation No. 332-489, Publication 3932, Washington, D.C., July 2007). This and other ITC publications on Cuba are available at the ITC's Web site (<http://www.usitc.gov>).

⁹See, for example, [GAO/NSIAD-99-10](#).

consideration of license applications with unusual or foreign policy issues—because they do not routinely segregate time charges by sanctions regimes for the attorneys, functional specialists, and senior officials involved in these cases. We also discussed the license application process with three travel service providers in Miami.

- **Inspections and audits.** We analyzed the volume of shipments and number of flights to Cuba and the airports and ports handling this traffic using CBP and U.S. Census Bureau data. Based on this analysis, we conducted fieldwork at Port Everglades (Ft. Lauderdale, Florida)—the third largest U.S. port for U.S. exports to Cuba and the only one handling container shipments—and Miami International Airport, Florida—currently the only U.S. airport with regular, direct service to Cuba. We analyzed data about CBP inspections at Port Everglades and Miami International Airport; obtained estimates of CBP officers devoted to inspecting shipments departing for Cuba and passengers arriving from Cuba and at these and other locations; and observed agency inspections of cargo at Port Everglades and travelers and baggage at the Miami airport. We also analyzed data on CBP seizures of drugs, money, and other materials from passengers arriving from Cuba and other destinations at Miami International Airport. We discussed CBP's inspection activities and workload, including the role of CBP's automated targeting and export systems¹⁰ in identifying cargos and passengers that may pose a high risk to homeland or national security, as well as the U.S. Coast Guard's role in inspecting vessels sailing to or from Cuba, with agency officials in Washington, D.C., and Florida. To obtain information about OFAC's current and previous audits of travel and financial service providers, we interviewed agency officials in Washington, D.C., and Miami; reviewed agency records; and discussed the audits with three travel service providers in Miami.
- **Investigations.** We analyzed data from OFAC, BIS's Office of Export Enforcement (BIS/OEE), and DHS's Immigration and Customs Enforcement (ICE) about the number of, and staff resources devoted to, investigations of suspected embargo violations and audits of licensed carrier, travel, and financial service providers, and discussed these

¹⁰Information about the Automated Targeting System, an intranet-based enforcement and decision support tool for all CBP targeting efforts, and the Automated Export System, which provides for the electronic filing of the shipper's export declarations and transportation (manifest) information to CBP, is available at DHS and CBP Web sites (<http://www.dhs.gov> and <http://www.cbp.gov>).

investigations and audits with agency officials in Washington, D.C., OFAC's and ICE's Miami field offices, and BIS/OEE's Ft. Lauderdale field office. We also discussed the role of ICE's Exodus Command Center in supporting ICE criminal investigations and CBP outbound cargo inspections by coordinating their actions with the agencies involved in export licensing (primarily BIS, OFAC, and State).¹¹

- **Prosecutions and fines.** We analyzed data from OFAC and BIS about the number and value of fines imposed, as well as data from Justice about the number of prosecutions and convictions, for violations of the Cuba embargo from 2000-2007,¹² and we discussed these prosecutions with agency officials in Washington, D.C., and the U.S. Attorney's Office in Miami.¹³ OFAC has not maintained data on the number of Cuba embargo prosecutions since 2001, and because of limitations in Justice's database, we were unable to obtain accurate information from the department about the number of prosecutions and convictions related to violations of the Cuba embargo.¹⁴ As a result, we relied on anecdotal information provided by agency officials and our analysis of a limited number of OFAC, BIS, and Justice records with references to embargo prosecutions and convictions.

To identify and evaluate factors that have affected the embargo's implementation and enforcement, we obtained agency officials' views and reviewed agency records and reports, such as Commerce's annual foreign

¹¹A description of the Exodus Command Center is available on the CBP Web site (<http://www.cbp.gov>).

¹²Information for OFAC penalties was available for 2003-2007. See OFAC's Web site (<http://www.treas.gov/offices/enforcement/ofac/>).

¹³The U.S. Attorney for the Southern District of Florida has its main office in Miami. Additional information about the office is available at its Web site (<http://www.justice.gov/usao/fls/>).

¹⁴Justice's Legal Information Office Network System database comprises caseload data entered by each of the 94 U.S. Attorneys Offices relating to the lead and other charges. According to Justice, because of the high evidentiary standards for prosecutions under the Trading with the Enemy Act, many prosecutions involving embargo violations involve charges under more general criminal statutes, such as those related to giving false information to a federal officer or failing to report (illicit) income. However, information in the Legal Information Office Network System database is insufficiently detailed to allow Justice to identify prosecutions for embargo violations under these more general statutes.

policy reports,¹⁵ and other assessments of the embargo and U.S. sanctions policy more generally, including Congressional Research Service and prior GAO reports.¹⁶ Based on our discussions with agency officials and analysis of records, we examined four specific factors: (1) lack of foreign support and cooperation, (2) divided U.S. public opinion, (3) the embargo's complex and changing rules, and (4) the difficulty of detecting some violations.

- **Lack of foreign support.** To identify and assess foreign government views on the U.S. embargo on Cuba and related issues, we analyzed UN resolutions and records of General Assembly votes on the U.S. embargo from 1992-2006, statements by foreign governments accompanying those votes, and other statements or reports by foreign governments on the U.S. embargo. We also analyzed data from the Central Intelligence Agency's *World Factbook*, the United Nations, and other sources to assess changes in foreign countries' trade, financial, and travel relations with Cuba. We obtained agency officials' views about U.S. efforts to obtain foreign cooperation and support for enforcing the embargo, as well as how the lack of such support affects enforcement and U.S. efforts to isolate the Cuban regime diplomatically and deny it hard currency resources in the pursuit of broad U.S. foreign policy goals.
- **Divided public opinion.** We obtained the views of OFAC, BIS, ICE, CBP, U.S. Coast Guard, and Justice officials about the nature and extent of public opposition to the embargo, and how divided public opinion affects embargo compliance and agency efforts to enforce the embargo. We reviewed reports, testimonies, letters, and other records from human rights, religious, and other groups summarizing their positions on the U.S. embargo on Cuba, particularly the changes in embargo rules after 2000, and interviewed representatives of some of these groups.
- **Complex and changing rules.** We obtained the views of OFAC, BIS, BIS/OEE, CBP, and ICE officials about the complexity of the embargo rules and other export control regulations that apply to Cuba and the nature and effectiveness of agencies' efforts to explain embargo

¹⁵These reports are available at the BIS Web site (<http://www.bis.doc.gov>).

¹⁶See, for example, GAO, *Export Controls: Challenges Exist in the Enforcement of an Inherently Complex System*, GAO-07-265 (Washington, D.C.: Dec. 20, 2006) and *Economic Sanctions: Effectiveness as Tools of Foreign Policy*, GAO/NSIAD-92-106 (Washington, D.C.: Feb. 19, 1992).

restrictions and changes to the U.S. public and companies. We also reviewed testimony and statements by U.S. companies and trade groups.

- **Difficulty of detecting some violations.** We obtained the views of CBP, ICE, OFAC, BIS, and BIS/OEE officials about the difficulty of detecting some embargo violations. We reviewed the *2007 National Money Laundering Strategy* and other assessments of the impact of new technologies and other factors on agency efforts to monitor and control the international transfer of funds. Using simple Internet searches and information from a study of remittances to Cuba, we identified non-U.S.-based online services offering cash transfers to Cuba. We contacted a judgmental sample of some of these services to determine whether they enforced U.S. restrictions about the amount, frequency, and recipients of U.S. cash remittances to Cuba. We obtained the views of OFAC, CBP, and ICE officials about the security of OFAC travel licenses, and data from CBP about the numbers of fraudulent licenses identified since 2004.

We conducted our work between December 2006 and November 2007, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Evolution of the U.S. Embargo

Table 8: Evolution of the U.S. Embargo on Cuba, 1960-2007

Year	Key events/changes (month)	Related or other events (month)
1960	United States imposes embargo on exports to Cuba, except for food and medicines (Oct.)	<ul style="list-style-type: none"> • Cuba and the Soviet Union resume diplomatic relations (May) • Cuba confiscates U.S.-owned oil refineries (June) • United States suspends Cuba's sugar quota (July) • Cuba begins nationalizing U.S.- and foreign-owned property (Aug.)
1961	United States breaks diplomatic relations with Cuba (Jan.)	<ul style="list-style-type: none"> • U.S.-supported Cuban exiles invade Cuba at the Bay of Pigs (Apr.) • Fidel Castro declares, "I am a Marxist-Leninist, and will be one until the last day of my life" (Dec.)
1962	United States declares almost total embargo on Cuba (Feb.)	<ul style="list-style-type: none"> • Organization of American States (OAS) suspends Cuba (Jan.) • OFAC issues Cuban Import Regulations (Feb.) • Cuban missile crisis (Oct.-Nov.)
1963	OFAC issues CACR (July)	<ul style="list-style-type: none"> • CACR prohibit travel to Cuba and make financial and commercial transactions with Cuba illegal • United States freezes all Cuban-owned assets in the United States (July)
1964	OAS members support U.S. embargo (July)	<ul style="list-style-type: none"> • OAS members vote to enact economic sanctions and break diplomatic relations with Cuba (July)
1965		<ul style="list-style-type: none"> • First Cuban boatlift (Oct.) • Start of Freedom Flights program, which allows 250,000 Cubans to come to the United States by 1971 (Nov.)
1966		<ul style="list-style-type: none"> • Cuban Adjustment Act allows 123,000 Cubans to apply for permanent U.S. residency (Nov.)
1972		<ul style="list-style-type: none"> • Cuba joins the Council for Mutual Economic Assistance, the communist block trade association (July)
1973		<ul style="list-style-type: none"> • United States and Cuba sign antihijacking agreement (Feb.) • Cuba sends 500 tank drivers to aid Syria during the Yom Kippur War (Oct.)
1974	U.S. and Cuban officials conduct secret normalization talks (Nov.)	<ul style="list-style-type: none"> • Talks conducted by Assistant Secretary of State William Rogers and Assistant to the Secretary of State Lawrence Eagleburger • Talks end over Cuban involvement in Angola
1975	OAS members end support for the U.S. embargo (July)	<ul style="list-style-type: none"> • United States welcomes the OAS vote and says it will open serious normalization talks with Cuba (July) • U.S. foreign subsidiaries permitted to trade with Cuba (Aug.) • Cuba starts deploying 35,000 combat troops to support Marxist regime in Angola (Oct.) • United States declares that Cuban involvement in Angola and support for the Puerto Rican independence movement end efforts to improve U.S.-Cuban relations (Dec.)
1977	United States reduces restrictions on travel and remittances to Cuba (Mar.)	<ul style="list-style-type: none"> • Remittances capped at \$500 per quarter or \$2,000 per year, limited to close relatives, and could be transferred via authorized remittances forwarders • United States lifts Cuba travel ban and allows U.S. citizens to spend \$100 on Cuban goods during visits (Mar.) • United States and Cuba sign agreements on fishing rights and maritime boundaries (Apr.) • United States and Cuba open interests sections in Havana and Washington, D.C., respectively (Sept.)

Appendix II
Evolution of the U.S. Embargo

(Continued From Previous Page)

Year	Key events/changes (month)	Related or other events (month)
1978		<ul style="list-style-type: none"> • Cuba begins deploying 20,000 troops to Ethiopia (Jan.) • Anti-Castro Cuban exile groups bomb the Cuban Mission to the United Nations in New York and the Cuban Interests Section and the Soviet Mission in Washington, D.C. (Fall) • Cuban officials and a group of Cuban exiles known as the “Group of 75” hold “Dialogue Talks”
1979	Cuban government authorizes family visits from the United States	<ul style="list-style-type: none"> • Cuban policy reflects 1978 “Dialogue Talks” • Cuban-supported <i>Sandinistas</i> overthrow Nicaraguan government (July) • Soviet combat brigade reported in Cuba (Aug.)
1980	Marief boatlift (Apr.-Sept.)	<ul style="list-style-type: none"> • A total of about 125,000 Cubans flee to the United States from the Cuban port of Marief • U.S. and Cuban officials start discussions about repatriation of the Marief refugees (<i>Mariefitos</i>) (Dec.)
1982	United States designates Cuba a state sponsor of terrorism (Feb.) and restricts travel to Cuba (Apr.)	<ul style="list-style-type: none"> • Citing Cuban support for the M-19 movement in Colombia, United States adds Cuba to list of countries supporting terrorism • Designated state sponsors of terrorism are subject to strict export controls, including a ban on the export of arms-related technologies and a policy of denial for dual-use exports (dual-use items are technologies that have both military and civilian applications) • Financial transactions with state sponsors of terrorism are also restricted, and they are ineligible to receive U.S. economic assistance • Many of these restrictions already applied to Cuba under the existing embargo at the time it was declared a state sponsor of terrorism (Feb.) • United States halts charter air service between Miami and Havana and effectively bans travel to Cuba by prohibiting monetary expenditures in Cuba by U.S. citizens (Apr.)
1983		<ul style="list-style-type: none"> • United States intervenes in Grenada (Oct.) • U.S. intervention follows leftist coup and discovery that Cubans are building an airstrip on the island that could be used for military aircraft.
1984		<ul style="list-style-type: none"> • United States and Cuba conclude migration pact (Dec.) • Cuba agrees to accept return of the <i>Mariefitos</i>
1985		<ul style="list-style-type: none"> • Radio Marti begins broadcasts to Cuba (May) • Cuban government immediately jams the signal and later suspends the 1984 U.S.-Cuba immigration accord
1987		<ul style="list-style-type: none"> • United States and Cuba conclude a new immigration accord that reinstates the 1984 agreement (Nov.)
1988	OFAC changes some travel and import licensing rules	<ul style="list-style-type: none"> • New licensing system instituted for travel service providers and agencies forwarding remittances to Cuba • Licensing requirements ended for importing recordings, printed materials, and other media from Cuba (Aug.)
1989	OFAC limits travel-related expenses for U.S. citizens to \$100 per day (Nov.)	
1990		<ul style="list-style-type: none"> • TV Marti begins broadcasts to Cuba (Mar.) • Cuban government immediately jams the signal

Appendix II
Evolution of the U.S. Embargo

(Continued From Previous Page)

Year	Key events/changes (month)	Related or other events (month)
1991	OFAC changes embargo rules to permit remittances of \$300 per quarter to close family (Oct.)	<ul style="list-style-type: none"> • Meeting with Cuban dissidents, the President calls on Cuba to release political prisoners and hold elections (May) • Soviet President Gorbachev says the Soviet Union will withdraw all its troops from Cuba (Sept.) • Soviet Union terminates economic subsidies for Cuba worth \$6 billion annually (Dec.)
1992	Congress enacts the Cuban Democracy Act (Oct.)	<ul style="list-style-type: none"> • Intended to support democracy in Cuba by restricting U.S. trade with the Cuban government and encouraging other countries to limit their trade • Permitted U.S. exports of medicine and medical supplies to individuals, nongovernmental organizations, and private businesses in Cuba • Law required (1) exporters to obtain a specific license for such items and (2) State to conduct onsite inspections of Cuban end-users to ensure that the items benefited the Cuban people • Restricted trade with Cuba by foreign subsidiaries of U.S. firms and prohibited any vessel that had traded in Cuban ports from loading or unloading freight in U.S. ports for 180 days except pursuant to a Treasury license
1994	United States bans remittances to Cuba and tightens travel restrictions (Aug.)	<ul style="list-style-type: none"> • Ban permits remittances for extreme humanitarian cases; new rules replace general license for travel and remittances with a specific licensing requirement • Cuba declares open immigration policy; new boatlift begins when 30,000 refugees set sail for the United States (Aug.) • United States and Cuba issue joint communiqué on migration; United States agrees to accept a minimum of 20,000 Cuba migrants per year (Sept.)
1995	United States lifts ban on transactions for permanent news bureaus in Cuba and some travel restrictions (Oct.)	<ul style="list-style-type: none"> • Cuban government introduces the “convertible peso” • U.S.-Cuba joint statement on 1994 migration accord provide for the return of Cubans to Cuba (May) • Deputy Assistant Secretary of State for American Affairs becomes the highest ranking U.S. official to visit Cuba in more than a decade (July)
1996	Congress enacts the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act, also known as Helms-Burton (Mar.) European Union (EU) adopts the Common Position on Cuba, conditioning full cooperation with Cuba in the opening of the Cuban economy on improvements in human rights and political freedom (Dec.)	<ul style="list-style-type: none"> • The President suspends all direct flights between the United States and Cuba after the Cuban Air Force shoots down two civilian aircraft, killing four members of Brothers to the Rescue (<i>Hermanos al Rescate</i>), a Miami-based Cuban exile group (Feb.) • Title II codifies the CACR and allows the President to suspend the embargo only if he determines that a transition government is in power in Cuba • Title III of the law also permits U.S. nationals to sue in U.S. federal court persons trafficking in property seized by the Cuban government (the President has the authority to suspend this provision to promote the transition to democracy in Cuba; since the law was enacted, the provision has been suspended at 6-month intervals) • Title IV of the law denies entry into the United States to foreigners involved in the trafficking of seized property, as well as to their immediate family members
1997	OFAC approves licenses for U.S. news organizations to open bureaus in Cuba (Feb.) U.S.-EU Understanding on Cuba (Apr.)	<ul style="list-style-type: none"> • EU agrees to suspend its World Trade Organization case against the Helms-Burton Act • United States and EU agree to work together to develop binding measures to deter investment in confiscated property, and the United States agrees to use the Presidential waiver for Title III of Helms-Burton
1998	United States relaxes restrictions on travel and remittances	<ul style="list-style-type: none"> • Direct flights to Cuba resumed • Remittances allowed under general license • Research-related travel, people-to-people exchanges, and travel for religious or cultural purposes expanded

Appendix II
Evolution of the U.S. Embargo

(Continued From Previous Page)

Year	Key events/changes (month)	Related or other events (month)
1999	OFAC amends CACR travel rules	<ul style="list-style-type: none"> • Significantly expands travel licensing
2000	Congress enacts the Trade Sanctions and Export Enhancement Act of 2000 (TSRA)	<ul style="list-style-type: none"> • Permits the commercial export of food, agricultural commodities, and medical products to Cuban government importers • Prior to TSRA, Cuba's socialist economy provided limited opportunities for U.S. exports to individuals, nongovernmental organizations, and private business, as provided under the Cuban Democracy Act • The legislation was introduced in Congress after lobbying by farm groups and agribusiness firms affected by declining agricultural exports and lower commodity prices in the late 1990s
2001	OFAC and BIS introduce rule changes to implement TSRA	<ul style="list-style-type: none"> •
2003	OFAC loosens some restrictions on travel and remittances (Mar.) The President directs DHS to enforce the embargo more strictly and establishes CAFC (Oct.)	<ul style="list-style-type: none"> • Regulations amended to allow travel beyond circumstances of humanitarian need and increase the amount of cash that travelers were permitted to carry from \$300 to \$3,000 (Mar.) • Cuban government arrests 75 leading dissidents, who are tried, convicted, and sentenced to between 6 and 28 years in prison (Mar.)
2004	President announces new restrictions on travel, remittances, and gifts (May)	<ul style="list-style-type: none"> • President endorses first CAFC report, which, among other things, recommends tightening restrictions on travel, remittances, and gifts to Cuba • OFAC issues new rules restricting travel, remittances, and gifts to Cuba (June) • U.S. Coast Guard issues new rules for vessels traveling to Cuba (July)
2005	OFAC issues clarification of cash-in-advance rule	<ul style="list-style-type: none"> • Clarifies cash-in-advance to mean U.S. sellers must receive payment before shipments depart U.S. ports
2006	Second CAFC report issued (July)	<ul style="list-style-type: none"> • President endorses second CAFC report, which, among other things, recommends additional measures for tightening restrictions on travel, remittances, and gifts to Cuba

Source: GAO analysis of U.S. agency and other records.

Notes:

CACR = Cuban Asset Control Regulations
 CAFC = Commission for Assistance to a Free Cuba
 EU = European Union
 OAS = Organization of American States
 OFAC = Office of Foreign Assets Control
 TSRA = Trade Sanctions Reform and Export Enhancement Act of 2000

U.S. Sanctions on Cuba and Other Countries

U.S. sanctions include, among others, those related to narcotics trafficking, the proliferation of weapons of mass destruction, and support for terrorism. The embargo on Cuba is the most comprehensive set of U.S. sanctions on any country, including the other countries designated by the U.S. government to be state sponsors of terrorism—Iran, North Korea, Sudan, and Syria. For example, whereas all travel to Cuba must be licensed, U.S. persons may travel to any of the other four countries without a license. The amount of money that U.S. travelers may spend per day in Cuba is limited, but there are no restrictions on travelers’ spending in other sanctioned countries. The frequency, quantity, and recipients of remittances to Cuba are regulated; unlimited personal remittances may be sent to other sanctioned countries. No imports are permitted from Cuba other than informational materials; import exceptions for gifts valued up to \$100 exist for Iran and Sudan, while all imports from North Korea are subject to U.S. government approval. For all five countries, exports of military technologies are statutorily prohibited and exports of dual-use technologies—that is, items with both military and civilian application—are subject to a licensing policy of denial. Table 9 compares U.S. sanctions on Cuba, Iran, North Korea, Sudan, and Syria.

Table 9: Comparison of U.S. Sanctions on Cuba, Iran, North Korea, Sudan, and Syria

Types of transactions	Sanctioned country				
	Cuba	Iran	North Korea	Sudan	Syria
Travel	Travel prohibited except as authorized by Treasury license	No license needed for travel	No license needed for travel	No license needed for travel	No license needed for travel
	Family travelers limited to \$50 spending per day for food and lodging expenses	Travelers may engage in transactions ordinarily incident to travel and maintenance	Travelers may engage in transactions ordinarily incident to travel and maintenance U.S. firms may organize group travel to North Korea and transact business with North Korean carriers	Prohibitions on transportation-related transactions involving Sudan	See note a.

Appendix III
U.S. Sanctions on Cuba and Other Countries

(Continued From Previous Page)

Types of transactions	Sanctioned country				
	Cuba	Iran	North Korea	Sudan	Syria
Remittances					
Restrictions on senders	Limited remittances to immediate family only (no more than \$300 per household in any 3-month period)	Unlimited personal remittances are permitted	Unlimited personal remittances are permitted	Unlimited personal remittances are permitted	See note a.
Restrictions on financial institutions and forwarders	For transactions within the United States, funds must be transferred by Treasury-licensed remittance forwarders	Funds may be transferred by U.S. banks provided they are routed through non-U.S., non-Iranian offshore banks.	Restrictions on payments and transfers to and from blocked accounts in U.S. financial institutions	Funds may be transferred through institutions not controlled by the Sudanese government, including U.S. banks and money service businesses	See note a.
Imports	Imports prohibited except for informational materials No person subject to U.S. jurisdiction may deal in any property in which Cuba or a Cuban national has an interest	Imports prohibited except gifts valued at \$100 or less, information or informational materials, foodstuffs intended for human consumption, and carpets and other textile floor coverings	Imports must be approved by OFAC, which reviews information about whether the product was produced by foreign persons or the North Korean government or affects the development or production of sensitive technology	Imports prohibited except merchandise or gifts up to \$100 in value, informational materials, goods containing components of Sudanese origin incorporated into manufactured products or substantially transformed in a third country	See note a.
Exports					
Items on U.S. munitions list	Statutorily prohibited from export	Statutorily prohibited from export	Statutorily prohibited from export	Statutorily prohibited from export	Statutorily prohibited from export
Items on the Commerce control list	Subject to a policy of denial except when authorized by law	Subject to a policy of denial except when authorized by law	Most items subject to a policy of denial except when authorized by law	Most items require a license and are subject to a policy of denial except when authorized by law	All items subject to a policy of denial; some medical and telecommunications items reviewed on a case-by-case basis

Appendix III
U.S. Sanctions on Cuba and Other Countries

(Continued From Previous Page)

Types of transactions	Sanctioned country				
	Cuba	Iran	North Korea	Sudan	Syria
Items subject to export administration rules but not on the Commerce control list (EAR99)	Must be licensed	Must be licensed	Food and medicine classified as EAR99 do not require a license	Must be licensed	License required except for food and medicines that are EAR99; all items subject to a policy of denial
Foreign subsidiaries of U.S. firms	Foreign subsidiaries subject to regulations	Foreign subsidiaries subject to regulations	Foreign subsidiaries subject to regulations	Foreign subsidiaries subject to regulations	See note a.
Re-exports	Generally prohibited	Foreign persons may re-export EAR99 items	Generally prohibited	Generally prohibited	Generally prohibited
Exceptions	Informational materials TSRA-eligible agricultural commodities (with license) Medicine and medical devices (with license) Donated humanitarian items (food and medicine)	Informational materials TSRA-eligible agricultural commodities (with license) Medicine and medical devices (with license) Donated humanitarian items (food, clothing, and medicine) Gifts valued at \$100 or less	Some EAR99 items, such as food and medicine, can be exported without a license	Informational materials TSRA-eligible agricultural commodities (with license) Medicine and medical devices (with license) Donated humanitarian items (food, clothing, and medicine)	Informational materials Food Medicine Publicly available software and technology

Appendix III
U.S. Sanctions on Cuba and Other Countries

(Continued From Previous Page)

Types of transactions	Sanctioned country				
	Cuba	Iran	North Korea	Sudan	Syria
Financing of authorized exports	For TSRA-eligible items: (1) cash in advance or (2) via third-country financial institutions (excluding U.S. persons or Cuban government of entities)	Cash in advance Sales on open account (provided the account receivable is not transferred by the person extending the credit)	Some transactions with U.S. financial institutions are permitted	Cash in advance Sales on open account (provided the account receivable is not transferred by the person extending the credit)	See note a.
	Financing and incidental transactions for non-TSRA-eligible items authorized under a general license for Commerce-approved exports	Via third-country financial institutions that are neither U.S. persons nor Iranian government entities		Via third-country financial institutions that are neither U.S. persons nor Sudanese government entities	

Source: GAO analysis of U.S. agency records, the *Federal Register*, the Code of Federal Regulations, and other records.

^aNot explicitly addressed or unable to determine or summarize. Treasury did not provide additional information in technical comments on our report.

OFAC Investigations and Civil Penalties for Violations of the Cuba Embargo and Other Sanctions Programs, 2000-2006

Table 10: OFAC Investigations of Suspected Violations of the Cuba Embargo and Other Sanctions Programs, 2000-2006

Enforcement cases opened	2000	2001	2002	2003	2004	2005	2006	2000-2006	Percentage
Cuba	1,753	2,115	1,844	1,246	1,239	1,028	1,598	10,823	61
Other sanctions programs	1,005	1,223	854	715	926	924	1,144	6,791	39
Total	2,758	3,338	2,698	1,961	2,165	1,952	2,742	17,614	100.0

Source: GAO analysis of Treasury (OFAC) data.

Table 11: OFAC Penalty Cases and Fines for Violations of the Cuba Embargo and Other Sanctions Programs, 2000-2006

	2000	2001	2002	2003	2004	2005	2006	2000-2006	Percentage
Cuba									
Actions	557	710	1,343	838	2,937	1,495	290	8,170	73
Collections	907,802	1,981,914	1,202,093	790,183	1,706,008	1,282,757	233,446	8,104,203	39
Average collections	1,630	2,791	895	943	581	858	805	992	--
Other									
Actions	233	239	177	207	919	554	725	3,054	27
Collections	2,340,706	3,449,598	1,098,954	971,868	1,416,976	931,341	2,222,675	12,432,118	61
Average collection	10,045	14,433	6,209	4,695	1,542	1,681	3,066	4,071	--
Total									
Actions	790	949	1,520	1,045	3,856	2,049	1,015	11,224	100
Collections	3,248,508	5,431,512	2,301,047	1,762,051	3,122,984	2,214,098	2,456,121	20,536,321	100

Source: GAO analysis of Treasury (OFAC) data.

Note: Collections and average collections are expressed in dollars.

Results of Votes in the UN General Assembly on Resolutions Calling for an End to the U.S. Embargo on Cuba

Table 12: Results of Votes in the UN General Assembly on Resolutions Calling for an End to the U.S. Embargo on Cuba, 1992-2007

Year (General Assembly session)	Number of member states			
	Voting for the resolution	Voting against the resolution (member states)	Abstaining from the vote (member states)	Absent from the vote (member states)
2007 (62nd)	184	4 (United States, Israel, Marshall Islands, Palau)	1 (Micronesia)	3 (Albania, El Salvador, Iraq)
2006 (61st)	183	4 (United States, Israel, Marshall Islands, Palau)	1 (Micronesia)	4 (Côte d'Ivoire, El Salvador, Iraq, Nicaragua)
2005 (60th)	182	4 (United States, Israel, Marshall Islands, Palau)	1 (Micronesia)	4 (El Salvador, Iraq, Morocco, Nicaragua)
2004 (59th)	179	4 (United States, Israel, Marshall Islands, Palau)	1 (Micronesia)	6 (El Salvador, Iraq, Morocco, Nicaragua, Uzbekistan, Vanuatu)
2003 (58th)	179	3 (United States, Israel, Marshall Islands)	2 (Morocco, Micronesia)	7 (El Salvador, Iraq, Kuwait, Liberia, Nicaragua, Palau, Uzbekistan)
2002 (57th)	173	3 (United States, Israel, Marshall Islands)	4 (Ethiopia, Malawi, Nicaragua, Uzbekistan)	7 (Côte d'Ivoire, El Salvador, Kiribati, Madagascar, Micronesia, Morocco, Palau)
2001 (56th)	167	3 (United States, Israel, Marshall Islands)	3 (Micronesia, Latvia, Nicaragua)	6 (Bosnia and Herzegovina, El Salvador, Kiribati, Morocco, Palau, Solomon Islands)
2000 (55th)	167	3 (United States, Israel, Marshall Islands)	4 (El Salvador, Latvia, Morocco, Nicaragua)	7 (Bosnia and Herzegovina, Estonia, Micronesia, Kiribati, Palau, Tuvalu, Uzbekistan)
1999 (54th)	155	2 (United States, Israel)	8 (Estonia, Micronesia, Georgia, Latvia, Morocco, Nicaragua, Senegal, Uzbekistan)	12 (Albania, Bosnia and Herzegovina, Cameroon, El Salvador, Kiribati, Marshall Islands, Nauru, Oman, Palau, Saint Vincent and the Grenadines, Saudi Arabia, Tonga)

Appendix V
Results of Votes in the UN General Assembly
on Resolutions Calling for an End to the U.S.
Embargo on Cuba

(Continued From Previous Page)

Year (General Assembly session)	Number of member states			
	Voting for the resolution	Voting against the resolution (member states)	Abstaining from the vote (member states)	Absent from the vote (member states)
1998 (53rd)	157	2 (United States, Israel)	12 (El Salvador, Estonia, Georgia, Latvia, Lithuania, Morocco, Nepal, Nicaragua, Republic of Korea, Senegal, Macedonia, Uzbekistan)	6 (Albania, Micronesia, Kuwait, Marshall Islands, Oman, Palau)
1997 (52nd)	143	3 (United States, Israel, Uzbekistan)	17 (Estonia, Georgia, Kuwait, Latvia, Liberia, Lithuania, Morocco, Nepal, Oman, Republic of Korea, Moldova, Romania, Rwanda, Saudi Arabia, Senegal, Tajikistan, Macedonia)	15 (Azerbaijan, Bahrain, Cambodia, Comoros, Democratic Republic of Congo, Egypt, El Salvador, Micronesia, Gabon, Marshall Islands, Nicaragua, Palau, Seychelles, Turkmenistan, United Arab Emirates)
1996 (51st)	137	3	25	--
1995 (50th)	117	3	38	--
1994 (49th)	101	2	48	--
1993 (48th)	88	4	57	--
1992 (47th)	59	3	71	--

Source: GAO analysis of UN General Assembly records.

Note: Information about specific member states voting for or against UN General Assembly resolutions or abstaining or absent from such votes is not readily available prior to 1997.

Comments from the Department of Homeland Security

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

November 9, 2007

Mr. David Gootnick
Director, International Affairs and Trade
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Gootnick:

RE: Draft Report GAO-08-80, Economic Sanctions: Agencies Face Competing
Priorities in Enforcing the U.S. Embargo against Cuba
(GAO Job Code 320468)

The Department of Homeland Security appreciates the opportunity to review and comment on the draft report referenced above that addresses United States agencies' embargo-related activities and workloads, as well as factors affecting the embargo's enforcement. The Government Accountability Office (GAO) recommends that the U.S. Customs and Border Protection (CBP), a component of DHS, use a risk based approach to allocate limited inspection staff and other resources at the Miami International Airport (MIA). CBP officials agree with the intent of the recommendation but believe it is not warranted because CBP has historically taken and continues to take such an approach.

GAO correctly notes that CBP inspects all exports to Cuba at Port Everglades and all passengers arriving from Cuba at the MIA. All arriving international passengers are inspected, regardless of nationality or country of origin. All cargo export manifests can be reviewed regardless of destination. CBP officials however dispute the assertion that "these inspections, unlike CBP's inspections of all other exports and arriving passengers, are not based on the risk these exports and passengers pose to U.S. homeland or national security and, at the Miami International Airport, divert resources from risk based inspections of other arriving passengers." Based on a twelve month Fiscal Year 2007 statistical sample pulled from the Automated Targeting System (ATS), CBP has demonstrated that approximately 20.3% of passengers arriving at MIA from Cuba were referred for further examination. This compares to approximately 3.37% of all arriving international passengers to MIA from countries other than Cuba.

MIA personnel utilize risk analysis and risk management principles (e.g., collect data and information, analyze and assess risk, prescribe action, and track and report results/outcomes) to identify criteria and targets via systems such as the ATS in order to

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Appendix VI
Comments from the Department of Homeland
Security

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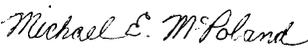
appropriately assign and allocate inspectional staff and resources on a daily basis. Risk management principles are taught to CBP officers starting at the CBP Academy, and are continuously reinforced by management at the MIA. These principles were referenced in written answers to several GAO questions raised in August about inspections of in-bound flights from Cuba and other places.

We also want to separately emphasize that personnel in the outbound unit at Port Everglades utilize risk management concepts and screen shipments for all countries, including Cuba. Risk management concepts and principles are used throughout the cargo and passenger environments according to CBP guidelines.

CBP officials in responding to GAO questions in August also commented that inspections of flights from other countries did not decrease as resources were used to inspect more inbound flights from Cuba. CBP has maintained a consistent inspection of all flights.

Technical comments have been provided under separate cover.

Sincerely,


for Steven J. Pecinovsky
Director
Departmental GAO/OIG Liaison Office

Comments from the Department of the Treasury



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

NOV 09 2007

FAC No. CU-379305

David Gootnick
Director
International Affairs and Trade
U.S. Government Accountability Office
44 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Gootnick:

This responds to your electronic transmission of October 17, 2007, to the U.S. Department of the Treasury ("Treasury") attaching a copy of the draft report entitled: Economic Sanctions: Agencies Face Competing Priorities in Enforcing the U.S. Embargo against Cuba (GAO-08-80). We have reviewed the portions of the report pertaining to matters administered by the Office of Foreign Assets Control ("OFAC"). We are providing the following comments regarding the recommendation of the Government Accountability Office ("GAO") that the Secretary of the Treasury direct OFAC to assess whether its allocation of resources for investigating and penalizing violations of the Cuba embargo is consistent with the risk that these violations pose to U.S. national security in light of what GAO views as OFAC's higher priority foreign policy and national security responsibilities.

OFAC is responsible for administering over 20 sanctions programs imposed by the President and Congress, including those related to terrorism, proliferation of weapons of mass destruction, and narcotics trafficking, as well as sanctions with respect to Iran, Sudan, Burma and Cuba, among others. OFAC has an obligation to fairly enforce all the laws it is entrusted to implement.

OFAC's resources are allocated according to its priorities and obligations as well as the volume of work generated, which differ based on the scope of the particular sanctions program. OFAC is organized in a manner that enables it to carry out its responsibilities as efficiently as possible in light of the different mandates of the various sanctions programs it administers.

In administering these sanctions, it is important that Treasury not only enforce prohibitions but also authorize certain otherwise prohibited activities that are consistent with U.S. foreign policy. Indeed, most of OFAC's Cuba-related work is centered in its Licensing Division and involves responding to requests for guidance from the public and applications for licenses to engage in Cuba-related transactions. One example is the licensing of travel-related and other transactions incident to the marketing, sales negotiation, accompanied delivery or servicing of agricultural products exported to Cuba, as provided for by the Trade Sanctions Reform and Export Enhancement Act of 2000.

Appendix VII
Comments from the Department of the
Treasury

Within OFAC's Enforcement Division, Cuba cases represent a much smaller portion of OFAC's enforcement workload than their numbers suggest. Not all enforcement cases require the same allocation of resources, as they differ by complexity and importance. For example, the majority of OFAC Enforcement's Cuba cases involve unlicensed travel and imports of Cuban cigars, which are relatively simple matters that require few agency resources compared to complex cases involving trade and finance.

Estimating the overall impact of U.S. sanctions on Cuba is quite difficult, and OFAC does not have the ability to monitor the movement of all travelers and funds from the United States to Cuba. The number of enforcement actions against violators, moreover, is a limited measure of a sanction program's overall effectiveness because most compliance remains voluntary.

Thank you for the opportunity to comment on the GAO's draft report.

Sincerely,

Barbara L. Hammel for

Adam Szubin
Director
Office of Foreign Assets Control

Comments from the Department of State



United States Department of State

*Assistant Secretary for Resource Management
and Chief Financial Officer*

Washington, D.C. 20520

NOV 02 2007

Ms. Jacquelyn Williams-Bridgers
Managing Director
International Affairs and Trade
Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548-0001

Dear Ms. Williams-Bridgers:

We appreciate the opportunity to review your draft report, "ECONOMIC SANCTIONS: Agencies Face Competing Priorities in Enforcing the U.S. Embargo against Cuba," GAO Job Code 320468.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report.

If you have any questions concerning this response, please contact David McFarland, Economic Officer, Bureau of Western Hemisphere Affairs, Office of Cuban Affairs at (202) 647-5561.

Sincerely,

A handwritten signature in black ink, appearing to read "Bradford R. Higgins".

Bradford R. Higgins

cc: GAO – Michael Rohrback
WHA – Kirsten Madison
State/OIG – Mark Duda

Department of State Comments on GAO Draft Report

ECONOMIC SANCTIONS: Agencies Face Competing
Priorities in Enforcing the U.S. Embargo against Cuba
(GAO-08-80, Job Code 320468)

Thank you for allowing the Department of State the opportunity to comment on the draft report *Economic Sanctions: Agencies Face Competing Priorities in Enforcing the U.S. Embargo against Cuba*.

The Department appreciates the professionalism with which the Government Accountability Office (GAO) staff conducted its research, data collection, and analysis over the past year and GAO's stated willingness to incorporate the Department's technical comments into the final report.

The Department looks forward to a day when the Cuban government reflects the hopes and dreams of the Cuban people. Despite the best efforts of the Cuban government and its allies to try to shift attention to U.S. policy and to issues outside of Cuba, we believe it is essential that the focus remain on supporting a process of meaningful and enduring change in Cuba. At this moment, economic sanctions remain an essential part of the USG policy mix, and the Department is committed to working with other Federal agencies to this end.

U.S. policy goals as recommended by the first and second reports of the Commission for Assistance to a Free Cuba remain clear: Encourage a rapid, peaceful transition to a democracy that is strongly supportive of fundamental political and economic freedoms.

The Cuban regime is poised to capitalize on proceeds from any expansion of U.S.-origin trade and travel, which they actively seek. Loosening trade and travel restrictions, or limiting the ability to enforce them, would signal to the Cuban people that the United States had accepted the regime's public relations campaign, which sells the prospect of superficial changes as fundamental reform. Loosening the restrictions would also provide increased revenue to the successor dictatorship run by Raul Castro, and prolong of its tight control over all aspects of Cuban life.

Eventually, U.S. economic engagement will help Cubans transform their country and be a critical factor in the recovery of Cuba's economy after decades of mismanagement. However, economic engagement will only have positive impact

when the totalitarian state is dismantled, and Cubans are free to speak their minds, to own businesses, and to elect their leaders.

In the meantime, the American people are the largest providers of humanitarian aid to the Cuban people in the world. The Department was pleased to note specific reference to this in the GAO's report. In 2006, the United States Government authorized more than \$270 million in private humanitarian assistance, in the form of gift parcels, non-agricultural humanitarian donations, and medical donations. The United States Government also authorized sales to Cuba of agricultural, medical and other necessary goods totaling nearly \$350 million in 2006, facilitated and authorized by the U.S. Government interagency process described in this report.

We appreciate the careful record of the history of sanctions laws and regulations the GAO produced as part of this helpful reference resource. The Department will continue to work with other federal agencies to ensure that, as directed by sanctions laws and regulations, the United States remains the strongest supporter of the Cuban people.

Comments from the Department of Commerce



THE SECRETARY OF COMMERCE
Washington, D.C. 20230

November 1, 2007

Mr. David B. Gootnick
Director, International Affairs and Trade
Government Accountability Office
441 G Street, NW, 4T55
Washington, DC 20548

Dear Mr. Gootnick:

Thank you for the opportunity to comment on the Government Accountability Office's draft report entitled, *Economic Sanctions: Agencies Face Competing Priorities in Enforcing the U.S. Embargo against Cuba, GAO-08-80*.

I enclose the Department of Commerce's comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Carlos M. Gutierrez".

Carlos M. Gutierrez

Enclosure

Appendix IX
Comments from the Department of
Commerce

U.S. Department of Commerce
Comments on
Economic Sanctions: Agencies Face Competing Priorities in Enforcing
the U.S. Embargo against Cuba GAO-08-80

- p. 33 Statement, "BIS officials estimate that the eight licensing officers in the Foreign Policy Division of its Office of Nonproliferation and Treaty Compliance spend about 25 percent of their time processing applications for Cuba export licenses."

This statement does not accurately characterize the Foreign Policy Division's available personnel resources or the percentage of time licensing officers spend processing Cuba export licenses. The equivalents of two licensing officers are dedicated full-time to processing Cuba export licenses. By means of clarification, BIS officials estimate that the five licensing officers in the Foreign Policy Division of the Office of Nonproliferation and Treaty Compliance spend about 40 percent of their time processing applications for Cuba export licenses.

- p. 41 Statement, "According the BIS officials, the agency devotes few resources to Cuba-embargo-related investigations: at the end of February 2007, BIS reported a total of 701 open enforcement cases nationwide, of which less than 4 percent (25) involved the Cuba embargo."

GAO asked for the most recent statistics. As of October 17, 2007, BIS has 785 open enforcement cases nationwide, of which 26 are Cuba-embargo cases.

GAO Contact and Staff Acknowledgments

GAO Contact

David Gootnick, (202) 512-3149 or gootnickd@gao.gov

Staff Acknowledgments

In addition to the contact named above, Virginia Hughes, Michael Rohrback, Francisco Enriquez, Reid Lowe, and Sandra Moore made key contributions to this report.

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