

Statement of  
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before the

Committee on Agriculture, Nutrition and Forestry  
United States Senate

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Mr. Chairman, Ranking Member Stabenow, Members of the Committee:

Thank you for the opportunity to appear before the Committee today to address the role of the Department of Commerce with regard to regulating agricultural trade with Cuba. As you know, on December 17, 2014, the President announced the most significant changes in Cuba policy in more than fifty years. As he noted, these changes are intended to create more opportunities for the American and Cuban people by increasing commerce, travel, and the free flow of information. To implement these changes, the Department of Commerce's Bureau of Industry and Security (BIS) amended the Export Administration Regulations (EAR) on January 16, 2015, to expand the authorization for exports and re-exports of certain categories of items to Cuba.

The January 16, 2015 amendment of the EAR created License Exception Support for the Cuban People (SCP) and expands the scope of License Exception Gift Parcels and Humanitarian Donations (GFT). License Exceptions facilitate trade by authorizing specified exports without individual licenses as long as the terms of the exception are followed. License Exception SCP authorizes the export of certain categories of items including building materials such as lumber, plywood, and other wood products for use by the private sector for the construction or renovation

of privately-owned buildings, and tools and equipment for private sector agricultural activity. It also authorizes exports of tools, equipment, and supplies to private sector entrepreneurs, including restaurateurs and other food service providers. License Exception GFT now authorizes consolidated shipments of multiple gift parcels, which may contain an unlimited quantity/dollar value of food. Individuals who wish to send food in gift parcels no longer have to search for a party that has received a license from BIS authorizing consolidated shipments to Cuba.

Other provisions of the amendment to the EAR facilitate the export of certain telecommunications items intended to improve the free flow of information to, from, and among the Cuban people and items necessary for the environmental protection of U.S. and international air quality, waters and coastlines.

The changes announced by the President did not, however, result in amendment of the EAR with regard to BIS authorization of exports of agricultural commodities. The Trade Sanctions Reform and Export Enhancement Act (TSRA) of 2000 governs how BIS regulates exports of agricultural commodities. To implement TSRA, BIS created License Exception Agricultural Commodities (AGR) for exports of agricultural commodities from the United States to Cuba provided that they are designated as EAR99 (subject to the EAR but not on the Commerce Control List). To be eligible for License Exception AGR, exporters must provide prior notice to BIS through our online application system. BIS and the Department of State's Bureaus of Economic and Business Affairs and Western Hemisphere Affairs review notices on an expedited basis (generally within 12 business days). Consistent with TSRA, this expedited review process includes screening the ultimate consignee to ensure that the recipient does not promote international terrorism and that the transaction does not raise proliferation concerns. Provided that the transaction meets the terms and conditions of License Exception AGR,

exporters may proceed with the transaction once BIS confirms that neither reviewing agency has raised an objection. Exports of agricultural commodities must be made pursuant to a written contract and must take place within one year of the signing of a contract unless the export is a commercial sample or donation (in which case the contract requirement does not apply).

During 2014, BIS processed 56 AGR notifications, valued at \$2.4 billion, with an average turnaround of 10 days. Multiple shipments may be made pursuant to a single notification. The dollar value reflects proposed exports, not actual exports. During 2014, exporters made 600 shipments of agricultural products to Cuba. Commerce's Census Bureau reports the value of agriculture exports in calendar year 2014 at about \$287 million.

In Cuba, only state-run companies are authorized to engage in foreign trade transactions, and often a whole category of commodities imported from the United States is channeled through a specific company. Shipments of agricultural commodities (specifically food) made under License Exception AGR are generally consigned to ALIMPORT (Empresa Cubana Importadora de Alimentos), a state-run company with the Cuban Ministry of Foreign Trade as its largest shareholder.

The President's announcement did result in new regulatory guidance issued by the Department of the Treasury pursuant to the Cuban Assets Control Regulations regarding "cash in advance" as it pertains to the export of agricultural commodities. My colleague from Treasury's Office of Foreign Assets Control will discuss the regulatory reinterpretation of "cash in advance."

Thank you, once again, for the opportunity to appear before the Committee today. I would be pleased to answer any questions Members may have.