Thank you very much, Mr. Chairman. It is a

great pleasure being here with you, and I commend you and Senator

Feingold and Senator Grams for your effort in working with

respect to this issue. I think it is extraordinarily important.

With your permission, I would like to ask unanimous consent

that my entire statement be put in the record. I would like to simply

summarize so as to save you some time.

I have the privilege, as you have indicated, of

serving as chairman of two key subcommittees that are relevant to

this matter in the House, and prior to that I was the chairman of

the Republican Task Force on Terrorism and Unconventional Warfare.

Everything you have described today—through both the video

and your statements—with regard to Sudan and the terrorist activities

is true in spades.

I became aware of these matters long ago, but frankly the issue

of what was in section 321 of the antiterrorism bill was not something

I really focused on until Louis Farakhan went over to the

Middle East and came back with money from Libya and elsewhere,

or it looked like he had a deal to do that.

Some of us began looking into the rules and regulations regarding

the financial transactions that could be done, and discovered

that while there were some executive orders governing such trans-

actions, they were not comprehensive. As a result, this provision

was drafted.

It was drafted with two purposes in mind, (1) prohibiting some

American citizen from going abroad to obtain contributions, but

more directly, prohibiting any foreign nation that is identified as

a terrorist country—one of the seven that are out there, not just

Sudan—from being able to, as the government of that country, contribute

money. It would be wrong for us to take that money.

And then the other way around. That is, financial transactions

between both U.S. citizens and U.S. permanent resident aliens and

the governments of those foreign countries were to be prohibited,

and that is what section 321 was all about.

Well, along the way the Treasury Department expressed its concern

to me that the diplomatic relationships we might have could

be strained. There were all kinds of possible exceptions, all kinds

of problems that would be there.

And since financial transactions are administered by the Treasury

Department, albeit with some consultation with the Secretary

of State, the decision was made, because of the complexity, or the

potential complexity of this, to give them a broad basis for regulatory

relief with the assumption that the Treasury Department

would write some regulations that would specifically provide for

diplomatic opportunities where the law would not be that harsh.

Well, I want to tell you that what came out of the Treasury Department’s

regulations was very, very disappointing, and I am

going to refer to my statement with regard to this.

In August of last year, I learned that the Treasury Department

had published these regulations. To my surprise, I discovered that

the regulations reversed the effects of the prohibitions on the aforementioned

financial transactions. These regulations permit all financial

transactions with Sudan and Syria other than those which

pose a risk of furthering domestic terrorism.

I must say, so we understand it now, that we have economic restrictions

against the other five countries officially in place but economic

restrictions are not officially in place against the Sudan or

Syria, even though this provision in the antiterrorism bill was designed

to stop financial transactions with all terrorist list countries.

So this issue became far more important, perhaps, because there

were no other economic sanctions in place against these two terrorist

States.

At any rate, the regulations that the Treasury Department issued

prohibit U.S. persons from receiving unlicensed donations and

from engaging in financial transactions with respect to which the

United States person knows, or has reasonable cause to believe

that the financial transaction poses a risk of furthering terrorist

acts in the United States.

My cosponsor, Mr. Schumer, recently said that this is a loophole

big enough to drive a car bomb through. The reality, Mr. Chairman,

and I think I have got to make this very, very clear, was not

my intention, nor was it that of Mr. Schumer nor anyone else connected

with drafting these provisions in the antiterrorism bill, that

the regulatory authority provided should be exercised in this manner.

If I had known the administration was going to choose to render

the prohibition meaningless, I would not have agreed to the broad

authority that was placed there. This business-as-usual policy represents

a step backward in the efforts to isolate terrorist States,

particularly the terrorist activities in the Sudan and Syria.

So, in my judgment, the regulations could also permit transactions

with other nations if the current executive order should

ever be lifted. That is why H.R. 748 was introduced in the House

and why, I gather, that you are going to consider it here in the

Senate. It was to close this loophole.

The bill strips the executive branch of the authority to issue regulations

exempting transactions from the prohibition. It establishes

instead a legislative exception only for transactions incident to routine

diplomatic relations among countries. By this, we mean those

transactions which arise when citizens of this country or representatives

of a terrorist supporting country travel or engage in activities

for diplomatic purposes.

For example, a cab ride from Kennedy Airport to the United Nations

building would not be included. Similarly, an American diplomat

traveling to Syria or Sudan on official business could perform

the financial transactions necessary for that trip.

Mr. Chairman, I think that is what we intended to begin with,

but that is not the way the Treasury Department has allowed the

enactment of section 321 of the antiterrorism bill to work. If we are

going to isolate these terrorist States, section 321 must be enacted

as intended.

Finally, I want to make one last comment. I know there are

those who believe that the targeted countries—Sudan, in particular—

are at the point now where they are ripe for changing their

ways, and there are those who think they have already changed;

that may be true. I would love to believe that those nations will

change in the future.

But I know it was only a few weeks ago that I had a visit from

the Ambassador from Sudan. We had a long conversation in which

we discussed a lot of the activities he said they had done in Sudan

to correct the problems and not allow terrorist activities to be done.

He encouraged me to be supportive and open to the possibility of

opening trade and removing the restrictions, et cetera .

Although I cannot reveal all of the details, because I serve on the

Intelligence Committee, I can tell you that when I went back to the

Intelligence Committee and asked my Intelligence Committee

sources about the Ambassador’s statements, I found that the great

majority of them were simply unfounded and not true.

So I am very suspicious when I hear people say that the Sudan

is ready to cooperate, considering its past history of human rights

violations as well as terrorist encouragement.

It is one of those things that I will remain, and I trust you will,

too, very skeptical of as we listen to those who say they have improved

the situation.

That is not to say that we would not like to see the targeted nations

change in those ways, but the changes need to be open, demonstrable,

and clearly felt so that we can actually see terrorist activities

are no longer supported. That is simply not the case today,

and until that is the case, I would certainly urge the enactment of H.R. 748 in the House and your companion legislation in the Senate

so that we may send it to the President, because it needs to

be law, Mr. Chairman.

Thank you, Mr. Chairman and Members of the Subcommittee, for the opportunity

to appear before you today to discuss this critical issue of international terrorism

and Sudan. I commend you for taking the time to focus on this important matter,

and in particular, Mr. Chairman, for your leadership in the Senate in shaping U.S.

policy toward terrorist sponsoring governments.

I have the privilege of serving in the House as chairman of both the crime subcommittee

and the Intelligence Committee’s Subcommittee on Human Intelligence,

Analysis and Counterintelligence. These assignments have presented me with the

opportunity to receive extensive information on the nature and extent of the threat

posed by international terrorism.

In my view, the forces of militant extremism in the Middle East and Africa are

among the greatest international dangers currently facing America and its vital interests.

The deadly threat posed by international terrorists must not be underestimated.

We have all seen the pictures of bloody slaughter caused by these violent criminals.

Yet, if hatred and coldheartedness were all that these killers needed, the world

would be even more endangered than it already is. But terrorists need more than

desire. They need support; they need infrastructure. And that’s why the presence

of terrorist supporting countries is so harmful to the world community.

A handful of pariah States—Cuba, Libya, North Korea, Iran, Iraq, Syria and

Sudan—have been designated by the State Department, pursuant to section 6(j) of

the Export Administration Act, as terrorist sponsoring countries or ‘‘Terrorism List

Governments.’’ No one should discount the significance of this designation. Without

the support of these countries, terrorists would literally not have a home, much less

the active assistance of government officials.

With regard to Sudan specifically, I would remind the Subcommittee of how U.N.

Ambassador Bill Richardson described this country only a few months ago in connection

with his confirmation. He said, ‘‘The Sudanese Government destabilizes its

neighbors, supports terrorists, commits human rights abuses against it own citizens,

and pursues civil war in the south.’’ Clearly, the training and support of terrorists

occurring in Sudan are major contributors to the untold human suffering cause by

religious extremists in this region of the world.

Mr. Chairman, there should be no higher priority for the United States in the battle

against terrorism than the elimination of foreign government support for terrorists.

This is why section 321 of the Antiterrorism and Effective Death Penalty Act

of 1996 is a vital tool in this battle.

The clear and unambiguous language of the statute addresses the problem of financial

support to terrorist sponsoring countries: Whoever . . . knowingly or having

reasonable cause to know that a country is designated . . . as a country supporting

international terrorism, engages in a financial transaction with the government of

that country, shall be fined under this title, imprisoned for not more than 10 years,

or both. The term ‘‘financial transactions’’ is defined very broadly to include virtually

all transfers of monetary instruments or a thing of value.

Section 321 of the Anti-Terrorism Act

I became aware of the need for legislation in this area last year when I learned

through news reports that the Rev. Louis Farakhan had traveled to Libya, and received

a personal pledge of significant financial support from Col. Moammar

Gadhafi. Like most Americans, I was outraged that a well known supporter of terrorism

and enemy of the United States such as Col. Gadhafi would be able to provide

financial support to a U.S. citizen.

After reviewing the relevant statutes and regulations, I learned that the principle

means for restricting most economic transactions with terrorist supporting countries

was through executive order, and that not all governments known to support terrorists

were covered by such orders. I therefore concluded that a permanent ban on

financial transactions between U.S. persons (a term which includes both individuals

and corporate entities) and countries which support terrorism was necessary.

This ban, which became section 321 of the Antiterrorism Act, was offered as an

amendment to the bill on the House floor by Congressman Charles Schumer, the

ranking minority member of the crime subcommittee and myself, and it was adopted

on a voice vote.

It was drafted with a dual purpose in mind. First, it prohibits financial support

from terrorist countries to U.S. persons, thus attempting to prevent the long-arm

of terrorism from reaching the shores of the United States through domestic entities.

Second, and more broadly, it prohibits all financial transactions by U.S. persons

with these countries, regardless of where these transactions take place. The obvious

goal of this language is to cutoff terrorist sponsoring governments from the

economic benefit of doing business with U.S. companies.

Since five of the seven terrorism list governments are already subject to economic

sanctions as a result of executive order, the immediate impact of the ban related

to Sudan and Syria.

While we were preparing the amendment, we were advised by the administration

that the broad wording of the prohibition could have unintended consequences, particularly

in the area of diplomacy. I agreed to authorize the Department of the

Treasury, in consultation with the State Department, to issue regulations which

provided some exceptions to the ban. We intended these regulations to exclude various

innocuous transactions that occur in the course of diplomatic activities and

other related official matters

In August of last year, I learned that the Treasury Department had published its

regulations in relation to section 321. To my great disappointment, I discovered that

the regulations reversed the effect of the new prohibition. These regulations permit

all financial transactions with Sudan and Syria, other than those which pose a risk

of furthering domestic terrorism. The regulations prohibit U.S. persons from receiving

unlicensed donations and from engaging in financial transactions with respect

to which the United States person knows or has reasonable cause to believe that

the financial transaction poses a risk of furthering terrorist acts in the United

States. As my cosponsor, Mr. Schumer, recently said, this is a loophole big enough

to drive a carbomb through it.

Mr. Chairman, let me make this point as clearly as I can. It was not my intention

then, nor is it now, that the regulatory authority provided in section 321 should be

exercised in this manner. Had I known that the administration would chose to

render the prohibition meaningless with its regulations I would not have agreed to

give it such broad authority. This ‘‘business as usual’’ policy represents a step backward

in the effort to isolate Syria and Sudan. The regulations could also permit

transactions with the other nations if the current executive orders should ever be

lifted.

I have introduced H.R. 748 along with Mr. Schumer to close this loophole and to

prohibit transactions other than those that are specifically connected to diplomatic

activities. The bill strips the executive branch of the authority to issue regulations

exempting transactions from the prohibition. It establishes instead a legislative exception

only for transactions ‘‘incident to routine diplomatic relations among countries.’’

By this we mean only those transactions which arise when citizens of this

country or representatives of a terrorist supporting country travel or engage in activities

for diplomatic purposes. For example, a cab ride from Kennedy airport to

the United Nations building would not be included. Similarly, an American diplomat

traveling to Syria on official business would not be included. I realize that this legislation

could affect many law-abiding U.S. companies doing business in the affected

countries. Under current law, such business may be entirely lawful. But in my view,

the only way we are going to eliminate the governmental support terrorist organizations

desperately need, is to take a firm stance against economic relationships with

these countries.

Again, I thank the Subcommittee for inviting me to testify on this issue, and I

look forward to working with you on legislation that will deter the spread of terrorism

in the world.

Thank you.

No, they are not. I think you will find that they

believe there should be much more flexibility with this legislation.

If we can come up with specific exceptions within certain bounds

I would be open to them, as I think you should be, but to say, ‘‘a

plague on your house, we do not want this kind of restrictive prohibition,’’

is not acceptable and that is apparently their position.

You are going to hear from them today, but that is how I understand

their position.

Well, at least the arms of the administration

dealing with this bill are ignoring it. I think that there are people

in the administration, in the intelligence community, and others

who could tell me that the Sudanese are not on the up and up right

now.

I am also concerned because a lot of businessmen in America say,

‘‘hey, we need these financial transactions. We are going to be isolated.

We are going to be cutoff. We are not going to be able to do

business. Somebody else is going to do the business.’’

I have heard that argument about every time the Congress has

proposed an economic sanction. There are times when economic

sanctions are a bad idea, and there are times when they are absolutely

necessary.

This is not an economic sanction in the true sense, but it is a

specific restriction on financial transactions. Some American business

interests certainly could complain that the restriction hurts

them, but we have got to do something about terrorist States, and

there is no other way to do it. If they want to do business with us,

as some of them profess they want to do; then they must change

their ways, modify their ways, stop their terrorist support.

But I think the administration is only listening to the business

community that wants to continue its policies in trading with

Sudan, or expand its trade with Sudan.

With the Sudanese Government, Mr. Chairman.

It would not prohibit private transactions among private citizens.

It is strictly with the Government, and it is limited to financial

transactions with the Government.

Absolutely. I certainly hope that the Sudanese

Government would permit humanitarian relief and not hide behind

this restriction in some manner. Humanitarian aid from a relief organization

does not require a financial transaction with the Sudanese

Government. Thus, such relief is not automatically restricted

by this prohibition.

That is exactly correct. The objective of 321 and

the objective of 748 are both the same: To impair the Government

of the Sudan from furthering terrorism and to restrict its financial

transactions with United States citizens, be it individuals or businesses,

that could be in furtherance of such terrorism. I do not believe,

Mr. Chairman, that you can simply narrow that down and

say only those transactions that pose that risk. Treasury’s regulation

is just too narrow. As Mr. Schumer said, you can drive a car

bomb through it. You can drive a lot of things through it.

There was a lot of discussion about an oil deal

with one of our American companies. I understand that there have

been those who have back-tracked from the deal saying, ‘‘Oh, this

really did not or was not going to happen,’’ but it would have been

directly with the Government of Sudan. It would have been a new

financial transaction with a substantial amount of money involved.

Hundreds of millions of dollars. However, it did

not take place.

That is correct, because they said that such a

deal does not pose a direct threat to terrorism. In other words, we

cannot say that this deal is directly financing the terrorist activity

itself.

That is correct.

I do not know if I would want to go that far,

but it could be interpreted that way, Mr. Chairman.

I think that you have got to recognize that there are indirect

means of supporting terrorism. That is why the financial transactions

are so important. Why should we, as the Government and

as citizens of the United States, allow money to flow from our country

to the Government of Sudan, knowing that it could be used to

sponsor terrorism? That is really what the issue is all about.

It is not that we want to cutoff the private citizen’s business

deals. However, all money is fungible. So if the Sudanese Government

gets money from our people, from our citizenry, it can use

that money for a variety of activities—including terrorism, and we

have no way of knowing which money the Government is using for

what.

That is right. It just renders it meaningless.

That is why the bill is so important that you are about to sponsor

here in the Senate.

Thank you very much, Mr. Chairman. I appreciate

it.