



One Hundred Fourteenth Congress
U.S. House of Representatives
Committee on Foreign Affairs
2170 Rayburn House Office Building
Washington, DC 20515
www.foreignaffairs.house.gov

April 29, 2015

The Honorable John F. Kerry
Secretary of State
United States Department of State
2201 C Street, N.W.
Washington, DC 20520

Dear Secretary Kerry:

I am writing to express my deep and growing concern over the December release and transfer of six detainees from Guantanamo Bay, Cuba to Uruguay. These Syrians, Tunisians and Palestinians, originally detained in 2002, are all accused of being hardened al-Qaeda fighters, having been involved in forging documents, trained as suicide bombers, and engaged in fighting at Tora Bora. After a first-hand assessment by Committee staff, this transfer appears to be inconsistent with U.S. law, as Uruguay has not taken steps to mitigate the risk that these detainees pose to the United States, including the U.S. Embassy in Montevideo.

As you know, prior to such a detainee release, the Secretary of Defense is required by law (P.L. 113-66) to determine that steps have been or will be taken to “*substantially* mitigate the risk” of released individuals from again threatening the United States or United States persons or interests. Congress received – after reported reluctance from then-Secretary of Defense Chuck Hagel – the required determination related to these six detainees in July 2014.

As part of this process, according to Congressional correspondence with the State Department, a decision to transfer a detainee is made only after “specific conversations” with the receiving country about the measures they “will take in order to sufficiently mitigate the specific threat that the detainee may pose.” According to your Department, “If we do not receive adequate assurances, the transfer does not occur.”

In light of these required determinations and assurances, it was surprising and very concerning that senior Uruguayan officials asserted that they had *not* imposed or accepted any conditions when they agreed to receive these former detainees. In December, the Uruguayan defense minister clearly stated “They will not be restricted in any way;” while a U.S. official involved in this transfer acknowledged publicly that “we waited until the last minute to deal with the details.”

While I am hopeful that the newly-inaugurated Vázquez administration can be convinced to provide some mitigation measures, I am further concerned that in a December 2, 2014 letter to then-President of Uruguay, Jose Mujica, the Department's then-Special Envoy for Guantanamo Closure Clifford Sloan stated "There is no information that the above mentioned individuals [the six detainees] were involved in conducting or facilitating terrorist activities against the United States or its partners or allies." This dubious assertion certainly lessens any sense of obligation Uruguayan officials may feel to undertake adequate risk mitigation efforts, as required by U.S. law.

Given the troubling circumstances of these detainee transfers, Committee staff looked into the detainees' current status, including through official travel to Uruguay. The information received raises added, serious questions and concerns.

Uruguayan legislators and officials reported that while the Government of Uruguay agreed to accept the detainees per formal U.S. government request, the only way the transfers would be permissible under Uruguayan law was for the detainees to arrive in Uruguay as refugees. Thus, the Administration facilitated Uruguayan access to the detainees while still in Guantanamo Bay to encourage them to sign formal petitions for refugee status in Uruguay. According to two Uruguayan senators with whom Committee staff spoke, once they arrived in Uruguay as refugees, Uruguayan law prohibited Uruguayan officials from conducting monitoring, surveillance, or imposing travel restrictions on the detainees.

As monitoring, surveillance, and travel restrictions are important tools to "substantially mitigate the risk" of released detainees threatening the U.S., it appears that Uruguayan law regarding the treatment of refugees conflicts with U.S. legal requirements. Was the Department aware of this implicit conflict? If so, why was this transfer completed?

Of added concern, the Uruguayan government, again apparently in keeping with Uruguayan law, provided each of the six former detainees with Mercosur identity cards allowing them ease of travel to Mercosur member countries (Argentina, Brazil, Paraguay, Venezuela and Uruguay) as well as associated countries (Chile, Colombia, Ecuador, Peru and Bolivia.) While technically Mercosur identity card holders of certain nationalities may require a visa based on each country's requirements, the February 2015 travel of one of the individuals to Argentina underscores the ease of travel afforded the former detainees now that they are characterized as refugees in Uruguay. This freedom of widespread movement would seem to make effective mitigation, if attempted, near impossible.

Also troubling, upon arrival in Montevideo, Uruguay's labor union, PIT-CNT, provided housing to the detainees – in a house located only six blocks from the U.S. Embassy. I remain concerned that this close proximity to the Embassy, combined with the apparent lack of host country mitigation measures, poses a potential risk to the safety and security of our Embassy and its employees, including local hires.

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Mr. Secretary, I share your commitment to the safety and security of Department employees, and appreciate the challenges of these dangerous times. To follow up on our recent correspondence on this matter, I respectfully request that the Department provide the Committee a briefing on the current status and activities of these former detainees, including risk mitigation efforts undertaken by the newly-elected government in Uruguay, to address my above stated concerns in greater detail. Please contact Tom Sheehy, Committee Staff Director, to make arrangements. Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "E. Royce", with a stylized flourish at the end.

EDWARD R. ROYCE
Chairman