

Testimony of  
**Mr. Richard Newcomb**

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I. Introduction

Chairwoman Feinstein and members of the Subcommittee,

Thank you for inviting me to testify today on the programs administered by the Treasury Department's Office of Foreign Assets Control (OFAC) that respond to the threat posed by international narcotics trafficking.

OFAC administers economic sanctions and embargo programs against specific foreign countries, regimes, or groups of entities and individuals to further U.S. foreign policy and national security objectives. Sanctions are usually imposed pursuant to a Presidential declaration of national emergency under the authority of the International Emergency Economic Powers Act or the Trading with the Enemy Act, or may be imposed by Congress as in the case of the Foreign Narcotics Kingpin Designation Act (the Kingpin Act).

OFAC administers 21 economic sanctions programs against target countries, regimes, or named groups and individuals. OFAC began administering international counterterrorism sanctions in January 1995, and now administers five counterterrorism sanctions programs. Sanctions against international narcotics traffickers centered in Colombia were first imposed by the President in October 1995. In 1999, the Kingpin Act provided the authority to impose similar sanctions on a global basis. OFAC's implementation of the counterterrorism and narcotics trafficking sanctions programs has led to the identification and exposure of hundreds of individuals, businesses and other entities engaged in international narcotics trafficking or terrorism.

Economic sanctions programs involving foreign narcotics traffickers rely principally on the President's broad powers under the International Emergency Economic Powers Act (IEEPA) and the Kingpin Act to prohibit commercial transactions involving specific entities and individuals. These powers are employed to freeze, or block, foreign assets by prohibiting transfers of those assets located in the United States or in the possession or control of U.S. persons, as well as to prohibit financial transactions (such as bank lending), imports, exports, and related transactions.

II. Specially Designated Narcotics Traffickers (SDNT)

On October 21, 1995, President Clinton signed Executive Order (EO) 12978, imposing sanctions on named narcotics traffickers centered in Colombia. The objectives of this program are to identify, expose, isolate and incapacitate the businesses and agents of the Colombian drug

cartels, to deny them access to the U.S. financial system, and to deny them the benefits of trade and transactions involving U.S. businesses and individuals.

The principal tool implementing EO 12978 is OFAC's list of SDNTs, developed by OFAC in close consultation with the Justice and State Departments. Since the inception of the program in October 1995, OFAC has identified 578 business and individuals as SDNTs, including ten Colombian drug cartel leaders, 231 businesses and 337 other individuals. Four of the most notorious Colombian drug cartel leaders were identified in the Executive Order itself. OFAC has designated six additional Colombian drug cartel leaders since 1998, including four leaders of Colombia's powerful North Valle drug cartel in 2000 and 2001. United States persons are prohibited from engaging in financial or business dealings with the ten drug kingpins and the 568 other SDNTs.

Consequences of the sanctions against Colombian drug cartels have been swift, clear, and compelling. Many targeted front companies have been forced out of business, others are suffering financially, and numerous targets have been isolated financially and commercially. By May 2001, more than sixty SDNT companies, with an estimated annual aggregate income of more than U.S. \$230 million, had been liquidated or were in the process of liquidation. SDNTs have been denied the advantages of access to the financial infrastructure of the United States, and the benefits of trade and transactions in the U.S. or involving U.S. businesses. SDNT individuals have been denied U.S. visas or had their visas revoked.

The SDNT list, recently coined by one major Colombian daily as the "lista antimafia" [anti-mafia list], has heightened sensitivity in Colombia to the risks of doing business with named SDNTs. One prominent financial institution told OFAC, the SDNT list has created an "iron curtain" between SDNTs and banks. U.S. compliance with the requirements of the SDNT program has been excellent. U.S. businessmen in Colombia call the SDNT program as "a good preventive measure" that facilitates avoidance of the drug cartels' fronts and agents.

OFAC's Bogota office coordinates the sanctions against narcotics traffickers in Colombia and conducts research on specially designated narcotics traffickers and their front companies and agents. The OFAC Attaché in Bogota maintains excellent liaison with the U.S. Embassy, Colombian government agencies, and the Colombian banking and private sectors that has led to widespread compliance with the narcotics sanctions program. OFAC staff travel regularly to Colombia in support of the sanctions program, and have extensive knowledge of Colombian front companies and individuals. OFAC will continue to identify businesses and other property owned or controlled by the Colombian drug cartels and to expand the SDNT list to include additional drug traffickers and their organizations.

### III. Foreign Narcotics Kingpin Designation Act ("Kingpin Act")

OFAC also administers the Foreign Narcotics Kingpin Designation Act ("Kingpin Act"), passed into law in December 1999 and modeled after OFAC's Colombia SDNT program. The Act's objective is twofold. First, it is intended to "de-certify" foreign drug lords rather than foreign governments and countries. Second, it is designed to deny significant foreign narcotics traffickers and their organizations, including related businesses and operatives, access to the U.S. financial system and all trade and transactions involving U.S. companies and individuals. The Kingpin Act

operates on a global scale and authorizes the President to impose sanctions upon a determination that a foreign narcotics trafficker presents a threat to the national security, foreign policy, or economy of the United States.

All assets of foreign persons, both businesses and individuals, designated under the Kingpin Act and subject to U.S. jurisdiction are blocked. This includes bank accounts and other financial property, any commercial or financial contracts, and any other real or personal property or interests in property. U.S. persons and companies are prohibited from engaging in any transaction that evades or avoids the prohibitions of the Kingpin Act. Corporate criminal penalties for violations of the Kingpin Act range up to \$10,000,000; individual penalties range up to \$5,000,000 and 30 years in prison. Civil penalties of up to \$1,000,000 may also be imposed administratively.

On June 1, 2001, President Bush invoked the Kingpin Act to announce the names of 12 foreign persons that he determined were significant foreign narcotics traffickers, or kingpins. President Clinton named the first group of 12 kingpins on June 1, 2000. President Bush is required by the Kingpin Act to designate additional kingpins by June 1 of this year. Redesignation of kingpins is not required.

On January 31, 2002, pursuant to the Kingpin Act, the Office of Foreign Assets Control, in consultation with the Department of Justice, Federal Bureau of Investigation, Drug Enforcement Administration, Department of Defense, Department of State, and the Central Intelligence Agency, identified 12 foreign businesses and 15 associated foreign individuals in the Caribbean and Mexico as derivative (or "Tier-II") designees, that is, persons who act for, or provide assistance or support to, a kingpin. OFAC determined that these 27 individuals and entities were acting as fronts or agents for kingpins previously named by the President.

OFAC has authority under the Kingpin Act to make derivative (Tier-II) designations of businesses owned or controlled by a kingpin and of those acting as a kingpin's agent. The Kingpin Act does not target a particular region or country; it is directed at significant foreign narcotics traffickers and their organizations and operatives, wherever located throughout the world.

The 27 newly designated Tier-II businesses and individuals, located in the Caribbean and Mexico, include a drugstore chain and pharmaceutical distributor, air courier service, a hotel and resort complex, as well as real estate, electronic security, and consulting firms. The drugstore chain, Farmacia Vida, an associated pharmaceutical distributor, Distribuidora Imperial de Baja California, seven associated businesses and 12 associated individuals comprise a network of front companies located in Mexico that have been under the control of Benjamin and Ramon Arellano Felix, leaders of Mexico's Tijuana drug cartel named as significant foreign narcotics traffickers on June 1, 2000. Another network comprising Manuel Aguirre Galindo, also a member of Mexico's Tijuana drug cartel, the hotel and resort complex Oasis Beach Resort & Convention Center and one other associated individual, were also designated. Finally, in the Caribbean, one air courier service and one associated foreign individual located in St. Kitts & Nevis were named because they were operated by Kingpin Glenroy Vingrove Matthews, named on June 1, 2000.

Implementation of the Kingpin Act has produced results mirroring those of the Colombian SDNT sanctions program. Companies owned or controlled by kingpins have been damaged and isolated financially and commercially. They have been denied access to banking services in the United States and to the benefits of trade and transactions in the U.S. and involving U.S. businesses. Mexican and European companies have terminated business relationships with the Tijuana drugstore chain and related pharmaceutical distributor. It has been reported that some Mexican banks have cancelled loans used for the purchase of pharmaceuticals. The U.S. Customs Service has notified all travelers at the busy San Ysidro border crossing in California that all medicines purchased at the Farmacia Vida drugstore chain in Tijuana, Mexico will be seized. Press accounts of the Mexican resort hotel designated by OFAC indicate that its business has declined significantly. A recent Washington Post article described the Oasis Beach Resort, usually crammed with U.S. tourists, as "practically deserted" on a recent weekend.

OFAC will continue to identify businesses belonging to significant foreign narcotics traffickers on a worldwide basis and to expand the kingpin list to include additional drug traffickers, their fronts and agents.