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Testimony

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Transfers of Military Assistance Fuels
by El Salvador

Statement of
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Before the
Subcommittee on Foreign Operations
Committee on Appropriations
United States Senate



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Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss our review of transfers of fuels purchased for El Salvador with U.S. Military Assistance Program (MAP) funds. At Senator Harkin's request, we investigated allegations that MAP-funded fuel supplied to the Salvadoran Air Force had been improperly transferred to air crews involved in a supply operation supporting Nicaraguan Democratic Resistance forces, or Contras. We found that such transfers did occur. We also found that transfers of MAP-funded fuel to other third parties occurred.

These transfers violated agreements between the United States and El Salvador stipulating that title or possession of U.S. supplied defense items or services cannot be transferred without prior U.S. government consent. We found no evidence that such consent was sought or obtained.

I will also discuss our review of the State Department's earlier efforts to investigate allegations of MAP-funded fuel transfers in El Salvador. And finally I will discuss transfers of MAP-funded fuel to the U.S. government.

DELIVERY OF MAP-FUNDED FUEL

As of November 1988, the United States had spent \$21.1 million in MAP grant funds to purchase fuel, including \$12.7 million for commercial jet (COMJET) fuel and aviation gas (AVGAS) supplied to the Salvadoran Air Force at Ilopango Air Base. The remaining \$8.4

million was for diesel fuel supplied to the Salvadoran Army. The U.S. government has contracted with Exxon International Company to supply MAP-funded fuel to the Salvadoran military since funding became available in 1985.

The United States began providing MAP-funded COMJET fuel to the Salvadoran Air Force at Ilopango in August 1985 and MAP-funded AVGAS in August 1986. Before then, the Salvadoran Ministry of Defense had purchased COMJET and AVGAS with Salvadoran national defense funds. Eventually MAP-funded fuel replaced the fuel funded by the Ministry. By late August 1985, all COMJET fuel at Ilopango had been purchased with MAP funds, and by late August 1986, all AVGAS had been purchased with MAP funds.

TRANSFERS TO THE CONTRA SUPPLY OPERATION

As you know, Lieutenant Colonel Oliver North and others were involved in establishing a supply operation to air drop supplies to Contra forces inside Nicaragua. At Lt. Col. North's request in the summer of 1985, Major General Richard Secord (ret.) and his associates set up an organization called Enterprise; purchased aircraft and hired air crews; purchased weapons and ammunition in Europe; and chartered aircraft from Southern Air Transport, a U.S. company.

Use of Ilopango Air Base

At Lt. Col. North's request in September 1985, Mr. Felix Rodriguez, a private individual supporting the Contra supply operation, arranged with the Salvadoran Air Force Commander for Enterprise

air crews to operate at Ilopango. According to Mr. Rodriguez, the Commander agreed to provide service space and supported the supply operation as it expanded to include Southern Air Transport aircraft. Mr. Rodriguez told us that after the operation began, the Commander provided base access passes and maintenance support to the Enterprise air crews and permitted them and Southern Air pilots on charter flights for Enterprise to refuel aircraft at the base.

The Enterprise air crews began arriving at Ilopango in February 1986 and conducted air drops in Nicaragua from March to October. Southern Air pilots on charter flights for the Enterprise landed at the base in April and May 1986 to deliver munitions from Europe, air drop supplies to the Contras and transport Enterprise personnel.

According to Mr. Rodriguez, he acted alone in arranging for the air crews and others to operate at Ilopango. He stated that no one else, including officials assigned to the U.S. Military Group (MILGROUP) at the Embassy in San Salvador, was involved. We interviewed Colonel James Steele and Lieutenant Colonel David Rankin, the U.S. officials who served as MILGROUP Commander and Chief of the MILGROUP Air Force section during 1986, respectively. These officials stated that they were aware that the air crews and others operated at Ilopango, but that they had no role in arranging for the use of base facilities or refueling privileges.

Although we attempted to verify the information provided by Mr. Rodriguez and former MILGROUPE officials with the Salvadoran Air Force Commander, he would not comment on any aspect of the Contra supply operation, including whether or not he believed it was an official U.S. government activity. The Commander said that Salvadoran national security interests prevented him from discussing the subject. We did not find any evidence that the former MILGROUPE personnel were involved in arranging for the use of facilities at Ilopango or for refueling privileges.

Transfers of MAP-Funded Fuel

According to Salvadoran Air Force and Southern Air records, the Enterprise air crews and Southern Air pilots on charter flights for Enterprise purchased fuel on at least 63 occasions during 1986. On 32 occasions, these purchases involved MAP-funded fuel. From April to September 1986, the Salvadoran Air Force sold 61,107 gallons of MAP-funded fuel to the Contra supply operation, including 24,310 gallons of AVGAS to the Enterprise air crews and 36,797 gallons of COMJET fuel to Southern Air pilots.

The Salvadoran Air Force received cash payments of \$109,335 in U.S. dollars for the fuel sold. According to Mr. Rodriguez, he established a cash fund, with funds provided by Secord associates, to pay in advance for air crew purchases of AVGAS. According to Southern Air officials, their pilots paid cash for COMJET fuel before each refueling.

We found no evidence that the Salvadoran government requested or obtained U.S. consent for the Salvadoran Air Force to transfer MAP-funded fuel to the Contra supply operation. Colonel Steele and Lt. Colonel Rankin stated that they were aware that parties involved in the operation refueled at Ilopango, but that they did not know the refuelings involved MAP-funded fuel. They also stated that they never received a request from any party for consent to transfer MAP-funded fuel nor did they approve the transfer.

According to Colonel Steele and Lt. Colonel Rankin, they did not know that the Salvadoran Air Force tanks contained only MAP-funded fuel and that the possibility of a transfer of MAP-funded fuel did not occur to them. Colonel Steele told us that he periodically told Salvadoran military officials, including the Salvadoran Air Force Commander, to ensure that MAP-funded items were not transferred to the Contras because such a transfer could jeopardize future MAP funding.

TRANSFERS TO OTHER THIRD PARTIES

The Salvadoran Air Force also transferred MAP-funded fuel to parties at Ilopango other than those involved in the Contra supply operation. The Salvadoran Air Force Commander stated that he authorized the transfer of MAP-funded fuel to refuel privately owned aircraft involved in earthquake relief efforts in October 1986 and to refuel a Mexican government aircraft on official business in December 1988. We were unable to identify the number of refuelings, type and quantity of fuel, or payments for these

transfers because the Salvadoran Air Force Commander would not discuss specific details.

We just recently learned that three Southern Air Transport flights initially believed to have involved other third party transfers actually involved one flight in support of the Contra supply operation and the other two were U.S. government contract flights.

STATE DEPARTMENT INVESTIGATION

In 1987, Senator Harkin and the Arms Control and Foreign Policy Caucus asked the State Department to investigate the allegations that MAP-funded AVGAS was transferred to the Contra supply operation at Ilopango. The Defense Security Assistance Agency (DSAA) and Embassy in San Salvador assisted the State Department in its investigation. The investigation focused only on AVGAS because no other type of fuel was alleged to have been transferred.

In late 1987, the Embassy staff reported that they believed that the only source of AVGAS at Ilopango during the time of the alleged transfers was MAP-funded fuel in the Salvadoran Air Force tank. However, they did not consult with current MILGROUP officials to confirm this information. State Department officials concluded that MAP-funded fuel had possibly been transferred to the air crews and drafted a letter to Senator Harkin in January 1988 stating that a "technical violation" of the third-party transfer restriction may have occurred. State sent a copy to DSAA for comment.

DSAA officials were concerned about the accuracy of the draft response and asked current MILGROUP officials to confirm the number of AVGAS sources at Ilopango and obtain delivery rates of MAP-funded AVGAS for 1986 and 1987. In late January 1988, the MILGROUP reported that AVGAS was available from both the military and civilian sides of the base and that the delivery rates for 1986 and 1987 were similar. Because State, DSAA and MILGROUP officials had no evidence that the air crews refueled aircraft with AVGAS from the military side and believed that delivery rates showed a consistent pattern of consumption, they concluded that no significant diversion to other users had occurred. State reported this information to Senator Harkin in February 1988 and to the Caucus in June 1988.

During the State investigation, no one with direct knowledge of the supply operation was questioned about refueling activities at Ilopango. Since State, DSAA and MILGROUP officials investigating the matter had found no evidence of a transfer and considered the allegations to be general in nature, they believed further questioning was unwarranted. However, if the officials had questioned the air crews, former MILGROUP officials, and the Salvadoran Air Force Commander about refueling activities, they could have determined that the air crews refueled from the Salvadoran Air Force side of the base in August and September 1986. They could have then examined data on deliveries of MAP-funded AVGAS and confirmed that the air crews refueled when the Salvadoran Air Force AVGAS tank contained only MAP-funded fuel.

RESTRICTIONS ON TRANSFERS

In fiscal year 1982, MAP grant funds were merged into the Foreign Military Sales (FMS) trust fund account. Items and services purchased with these funds, including fuel supplied to the Salvadoran military, are procured through the FMS program and are subject to restrictions under the Arms Export Control Act. The act provides that the President cannot sell defense items or services unless the recipient country has agreed not to transfer title or possession without prior U.S. government consent. The Salvadoran government was bound by that restriction through FMS agreements it signed with the U.S. government concerning MAP-funded fuel.

We found no evidence that the Salvadoran government requested or obtained U.S. consent for the Salvadoran Air Force to transfer MAP-funded fuel to any third parties. Because the Salvadoran Air Force Commander apparently authorizes transfers of MAP-funded fuel at his own discretion, we believe greater control is required. DSAA officials agree and at their request, the State Department has tasked the Embassy to draft an agreement with the Salvadoran government establishing additional guidelines for the use of MAP-funded fuel and granting U.S. consent only for certain third-party transfers.

REPORTING THIRD-PARTY TRANSFERS TO CONGRESS

The Arms Export Control Act requires the President to report to the Congress any unauthorized third-party transfers, as well as transfers that may have constituted "substantial" violations of FMS sales agreements. A violation may be substantial based on either

the quantities or gravity of the consequences involved. These reporting responsibilities have been delegated to the Secretary of State. In January 1989, we informed State of the transfers of MAP-funded AVGAS to the Contra supply operation and of the transfers to other third parties. We subsequently confirmed the transfers of MAP-funded COMJET to the Contra supply operation and informed State of these transfers in March 1989.

Violations of Sales Agreements

The transfers of MAP-funded fuel to the Contra supply operation and other third parties violated FMS sales agreements between the U.S. and Salvadoran governments in effect during 1986 and 1988. We have recommended that the Secretary of State report these transfers as violations of these agreements under the act. We understand that the Secretary plans to report the transfers involving the Contra supply operation.

We believe that the transfer of fuel to the Contra supply operation may have constituted a substantial violation of the 1986 sales agreement because it occurred when the U.S. government was prohibited by the fiscal year 1986-87 Foreign Assistance Authorization, PL 99-83, from using MAP funds to support military or paramilitary operations of the Contras. The U.S. government could not have legally approved the transfer even if the Salvadoran government had requested consent because the Arms Export Control Act states that the President shall not give consent unless the United States itself would make the transfer. The Foreign

Assistance Authorization would have prevented the United States from transferring MAP-funded fuel to the Contra supply operation.

We have recommended that the Secretary of State determine whether the transfer to the Contra supply operation may have constituted a substantial violation and if so, report it to the Congress as such.

TRANSFERS TO THE U.S. GOVERNMENT

During our review, we also found that the Salvadoran Air Force has transferred MAP-funded fuel to the U.S. government to refuel U.S. military aircraft delivering MAP items and providing transport service, and Southern Air Transport aircraft on contract flights for the Military Airlift Command to deliver cargo and for the State Department to deliver humanitarian aid to the Contras. These transfers involved the sale of at least 942,509 gallons of MAP-funded COMJET fuel from August 1985 to October 1988. We could not determine the exact total because data on sales during certain time periods in 1985, 1986 and 1987 were not complete.

State and DSAA believe that transfers of MAP-funded fuel to refuel U.S. military and contract aircraft are not third party transfers because the parties involved are U.S. government entities and the U.S. government originally provided the MAP-funded fuel. We believe this position is reasonable.

Payment Procedures

Payments for MAP-funded fuel sold to refuel U.S. military aircraft and Southern Air Transport aircraft on contract flights were

either made directly to the Salvadoran Air Force or credited to the FMS trust fund. Total direct payments equaled \$691,732 including the local currency (colon) equivalent of \$390,213 in U.S. Treasury checks issued by the U.S. Embassy to pay for MAP-funded fuel sold to refuel U.S. military aircraft from August 1985 to April 1987. The remaining \$301,519 consisted of cash payments in U.S. dollars by Southern Air pilots from March 1986 to October 1988.

DSAA and MILGROUP officials became concerned about the propriety of direct payments to the Salvadoran Air Force and lack of U.S. government control over use of the monies, and implemented a credit system in April 1987 to pay for fuel sold to refuel U.S. military aircraft. This system resulted in crediting payments to a holding account for El Salvador in the FMS trust fund, used to finance purchases of defense items and services for the Salvadoran military. As of September 1988, credited payments totaled \$805,795.

DSAA and MILGROUP officials stated they did not know that Southern Air pilots paid the Salvadoran Air Force directly and therefore did not consider these payments when implementing the credit system in April 1987. Consequently, Southern Air pilots continued to pay cash when refueling at Ilopango. In early 1989, MILGROUP officials informed the Salvadoran Air Force Commander that cash payments for fuel are prohibited. Southern Air Transport officials told us that, as of April 1989, company pilots no longer purchase fuel at Ilopango.

Use of Payments

According to the Salvadoran Air Force Commander, he used the proceeds from the sale of MAP-funded fuel to pay for construction of facilities at Ilopango and other operational requirements. The U.S. official serving as MILGROUP commander during 1987 stated that he reviewed Salvadoran Air Force expenditure records in April 1987, at the invitation of the Salvadoran Air Force Commander. He told us that the records showed that sale proceeds had been spent for construction of facilities, spare parts and other defense-related requirements. He did not verify the accuracy of this information.

According to DSAA, recipient countries are entitled to keep the proceeds from sales of defense items procured through the FMS program, including those funded with MAP grant financing. Because the United States does not retain rights to the title, countries are not required to return items when no longer needed, or the proceeds if they are sold.

We are concerned that countries can generate cash from MAP-funded items without any expenditure controls. We believe that recipient countries should use proceeds from the sale of MAP-funded items procured through the FMS program only to finance additional defense-related purchases. We have recommended that DSAA amend the standard FMS sales agreement to include a provision requiring proceeds from the sale of MAP-funded items to be returned to the FMS trust fund account of the recipient country.

This concludes my statement. The information I have presented is based on our review of data on fuel deliveries and purchases at Ilopango and interviews with State Department and DSAA officials, U.S. Embassy personnel in El Salvador including current and former MILGROUP officials, and Salvadoran Air Force officials. We also obtained information from Mr. Felix Rodriguez, members of the Enterprise air crews and Southern Air Transport officials. I will be happy to respond to any questions.