

Statement of José Luis Fernández

President, Inter-American Entrepreneurs Association in Puerto Rico
on the “*Puerto Rico Democracy Act of 2007*,” H.R. 900,
and “*The Puerto Rico Self-Determination Act of 2007*,” H.R. 1230,
to the Subcommittee on Insular Affairs of the Committee on Natural Resources,
U.S. House of Representatives
March 22, 2007 * Washington, DC

Madame Chair and Distinguished Members:

Thank you for inviting such a representative group of citizens to testify.

My name is José Luis Fernández, President of the Inter-American Entrepreneurs Association in Puerto Rico, an organization founded 46 years ago to promote free enterprise and international business development. We -- like most other Puerto Ricans -- hope you will provide us with a serious process to answer the question of the territory's status preference. Our primary interest is the serious deterioration in our islands' economic situation due to the lack of resolution as to what the territory's ultimate status will be. This basic political question:

- Denies us the economic advantages of statehood or nationhood needed to compete in the greater American and the global economies;
- Distracts attention from economic and social issues;
- Raises questions about what the appropriate economic and social policies are; and
- Discourages investment in Puerto Rico while encouraging investment elsewhere.

A state of confusion, indifference and uncertainty has permeated over the years. Territory status stopped benefiting Puerto Rico long ago. That is why the *status quo* only obtained 0.06% of the vote the only time it was ever voted on -- in 1998 -- and all other status proposals -- including “Commonwealth” proposals -- have been for a different governing arrangement.

Dissatisfaction with Puerto Rico's current situation is so great that now there are as many people of Puerto Rican origin in the States as in the islands; Over 3,000 Puerto Ricans a month move to Florida; and a recent poll revealed that at least a third of all Puerto Ricans are seriously considering leaving the territory.

Past local processes to answer the question of our status preference have failed because they have included proposals not attuned to what the Congress would accept based on the Constitution and basic laws and policies of the United States.

In most cases, these options have included “Commonwealth” proposals later rejected by the U.S. Government, which would have to act to change Puerto Rico's status.

In the 1998 referendum, the impossible option was a “None of the Above” line -- when all of the options that U.S. officials have ever said they would be willing to implement were on the ballot.

H.R. 1230 would repeat the mistake by inviting us to choose a non-territory “Commonwealth status” that would not be statehood or nationhood -- when there is no precedent for such a status and the President’s Task Force on Puerto Rico’s Status, the Clinton Administration, and the first Bush Administration have all said that there cannot be such a status.

Further, the local political minority that requested H.R. 1230 has repeatedly made it clear that their intent is that the non-territory “Commonwealth status” be their “Development of the Commonwealth” proposal. Chairman Don Young and Ranking Democrat George Miller of your full Committee reported in 1999 that the proposal is based on principles that the Committee rejected in 1998, the Clinton Administration specifically rejected it as impossible for constitutional and other reasons in testimony and in a report to the full Committee in 2000 and 2001, and the President’s Task Force on Puerto Rico’s Status rejected it in December 2005.

The proposal would permanently bind the U.S. to:

- Puerto Rico determining the application of most federal laws and court jurisdiction;
- Puerto Rico entering into international trade and other agreements and organizations that States and territories cannot;
- Replacing tax exemptions for the income of U.S. companies in Puerto Rico that Congress just repealed;
- Granting an additional subsidy for the insular government; and
- Continuing all current programs of assistance to Puerto Ricans, totally free entry to any goods shipped from Puerto Rico, and citizenship.

It would be counter productive -- and irresponsible -- for Congress to invite Puerto Rico to propose a non-territory “Commonwealth status” when it knows that the intent of the proponents for such a status is a proposal that Congress would not -- and cannot -- implement.

By contrast, the “*Puerto Rico Democracy Act*”, H.R. 900, proposes a process that includes only real statuses -- statehood, independence, and nationhood in a true free association with the U.S. in addition to the current territory *status quo* -- all of the real statuses that have support in the island.

It would continue the current status if -- and for as long as -- Puerto Ricans vote for that instead of voting to seek one of the real status alternatives.

My one concern about H.R. 900 is that it would enfranchise non-citizens of Puerto Rico to vote in the determination of Puerto Rico's status preference even though they may have no real connection with the islands (other than birth) and may never. Unlike citizens of Puerto Rico, these citizens of the States would also have voting representation in the U.S. Government decision of whether to implement the preference.

Madame Chair and Distinguished Members, Puerto Ricans want to finally be able to choose among real statuses that can be implemented by Congress. The ongoing political impasse divides and holds down our people and only benefits a few select economic interests -- some external companies and a select few who work for them ... and some lobbyists here in Washington -- vs. most Puerto Rican entrepreneurs and most Puerto Ricans.

The business community -- representative of our people as a whole -- abhors the uncertainty of the present status and abhors the unrealistic process implied by the Constitutional Convention proposal. Congress should not be in a position to raise expectations that eventually would be unwilling to fulfill.

Madame Chair, I appreciate your openness and willingness to listen to the citizens. People need to regain confidence, they are looking for trust and they are expecting a true commitment. Please help put an end to this limbo that: has forced so many of us to leave the island; consigns almost half of those who remain to poverty; has resulted in Puerto Rico slipping further and further behind the States economically, as reported last year by the Brookings Institution and the Government Accountability Office; and denies us the democracy for which so many Puerto Ricans have sacrificed on behalf of the United States.

Thank you.

**POPULAR DEMOCRATIC PARTY
DEVELOPMENT OF THE COMMONWEALTH**

The people of Puerto Rico, in the exercise of their sovereignty, their natural right to self government and their free will as ultimate sources of their political power, hereby reaffirm the validity of the Commonwealth established as an autonomous political body, that is neither colonial or territorial, in permanent union with the United States under a covenant that cannot be invalidated or altered unilaterally and proposes its autonomic development. The relationship between Puerto Rico and the United States will continue to be based on common defense, market and currency and on the irrevocability of the U.S. citizenship, acquired by birth and protected by the U.S. Constitution.

This relationship guarantees the autonomous development of Puerto Rico based on the democratic precept of government with the consent of the governed and the recognition that Puerto Rico is a nation with its own history, idiosyncrasy, culture and Spanish language.

To achieve its maximum economic progress and well-being, the people of Puerto Rico propose to develop Commonwealth retaining all the powers that are not delegated to the United States. Under Puerto Rico's fiscal autonomy, economic development areas will be identified in which joint action can produce jobs and other benefits for both parties, including the flexibility in the use of federal funds, providing that programs of direct aid to individuals will continue as they are present. The Commonwealth will be able to enter into commercial and tax agreements, among others, with other countries, and belong to regional and international entities, consistent with the common interests of defense and security between the United States and Puerto Rico, as agreed to in the covenant.

Once the request for the development of the people of Puerto Rico is approved, a Constituent Assembly will be called to negotiate with the U.S. government the terms and conditions of the covenant, which will include a mechanism to approve the application of legislation approved by the U.S. Congress.

ARTICLE I – PUERTO RICAN IDENTITY

A. PUERTO RICAN NATIONALITY

Puerto Ricans have a common history, idiosyncrasy, culture and language that constitute a specific nationality separate from that of any other nation.

B. PUERTO RICAN CITIZENSHIP

Persons born in Puerto Rico are Puerto Rican citizens by birth and their Puerto Rican citizenship is transmittable to their descendants as determined by the Commonwealth and would have the rights, privileges and obligations that derive from it.

ARTICLE II – BASIS OF THE UNION

The union between Puerto Rico and the United States will continue to be based on the following fundamental elements determined by Puerto Rico freely and in agreement with the United States:

A. COMMON CITIZENSHIP

People born in Puerto Rico will continue to be citizens of the United States by birth and this citizenship will continue to be protected by the Constitution of the United States and by this Covenant and will not be unilaterally revocable.

B. COMMON DEFENSE

The United States will maintain authority and responsibility over defense matters. This will include: the same responsibility for the defense of Puerto Rico and its people as the United States and its people; denying and limiting military or strategic access to Puerto Rico to any foreign power, maintaining the bases or other military installations currently operating in Puerto Rico as well as the National Guard; stipulating that the case of the Municipality of Vieques will be the object of the highest attention in agreement with the legitimate call of its residents; and, any additional need would be considered and dealt with through specific and separate agreements.

C. COMMON CURRENCY

The U.S. dollar is and will continue to be the currency in Puerto Rico.

D. COMMON MARKET

A common market will continue to exist between Puerto Rico and the United States, by which the free flow of goods and services between the two countries will continue.

ARTICLE III – DISTRIBUTION OF POWERS

A. SELF GOVERNMENT

The Commonwealth emanates from the power of the people to govern themselves, and for that reason, the people of Puerto Rico retain all the powers that have not been delegated to the United States.

B. DELEGATION OF POWERS

The powers related to the Federal laws related to defense, currency, U.S. citizenship, Social Security, Medicare, unemployment insurance, banks and brokerage, Postal Service and the programs for providing social and educational assistance to citizens and veterans are delegated to the United States. In addition, international relations are delegated to the extent consisted with this Covenant.

C. SHARED POWERS

Areas of special cooperation will be identified in which the United States and the Commonwealth will exercise shared powers for the benefit of both people through the process established in Article XII.

ARTICLE IV – RIGHTS OF CITIZENS

A. CONSTITUTIONAL RIGHTS

The U.S. citizens residing in Puerto Rico will be protected by all the rights, privileges and immunities granted by the Constitution of the United States and the Commonwealth.

B. ECONOMIC BENEFITS

The Federal programs that provide social and educational assistance directly to Puerto Rico's residents, such as the Nutritional Assistance Program, Pell Grants and educational loans, among others, will continue and be guided by the applicable Federal and State regulations.

The United States recognizes as acquired rights Federal programs for veterans and Social Security, Medicare, and unemployment insurance benefits for which Puerto Rican workers and employers have made and will continue to make the corresponding Federal contributions.

ARTICLE V – ECONOMIC DEVELOPMENT

A. WITH THE UNITED STATES OF AMERICA

To promote Puerto Rico's economic development, and considering the present and future relations between Puerto Rico and the United States, the U.S. commits to provide the Commonwealth an annual block grant adjusted for inflation, so the Government of Puerto Rico can continue to provide social assistance, develop public works and infrastructure, and provide incentives for the creation of jobs and socioeconomic development.

The U.S. and Puerto Rico will identify and agree on areas of economic development in which joint action will produce jobs and other economic benefits for both parties, including the creation of special incentives programs for investment in the islands.

B. INTERNATIONAL

The Commonwealth will have control over international trade and will establish a policy to promote its maximum economic development. To that effect, it will have the capacity to enter into commercial and tax agreements, among others, with other countries, consistent with the common interests of the defense and security of Puerto Rico and the United States.

The Commonwealth will be able to enter into international agreements and belong to regional and international organizations consistent with the common interests of the defense and security of Puerto Rico and the United States.

The United States commits to support the participation or membership of Puerto Rico in the agreements and organizations to which this article refers.

ARTICLE VI – FEDERAL LANDS

The Government of the United States will transfer to Puerto Rico the lands that now it has in Puerto Rico with the exception of those lands that are used for common defense or that are necessary to exercise the powers delegated in this Covenant.

ARTICLE VII – AREAS OF SPECIAL COOPERATION

Puerto Rico and the United States will establish other areas of special cooperation intended to guarantee the quality of life of Puerto Ricans and to continue nourishing from the collective experiences of institutional and local development of both peoples. For the sake of an orderly and calm future and development in harmony with the cultural, spiritual, psychological, and economic nature of both peoples, Puerto Rico and the United States commit to jointly determine strategies to: control drug trafficking; regulate communications; protect the borders from illegal immigration; protect the environment and recognize guarantees of mutual benefit consistent with international rules; promote a new basis for cooperation between workers and management; deal with natural disasters; share technological advances in the sectors of agriculture, medicine, pharmacology, criminal justice, and other disciplines in the areas of Natural and Social Sciences and Humanities.

ARTICLE VIII – FEDERAL COURT

The Federal Court will have jurisdiction over matters that arise from: provisions of the Constitution of the United States and of the Federal laws that apply to Puerto Rico consistent with this Covenant and not in violation with the laws of the Constitution of Puerto Rico. Spanish and English will be the official languages of that court.

ARTICLE IX – RESOLVING DISPUTES

A. NEGOTIATION COMMITTEE

Any controversy about the interpretation of this Covenant will be resolved through negotiations between the parties to this Covenant, that is the United States and the Commonwealth of Puerto Rico. In all negotiations, the Commonwealth of Puerto Rico will be represented by a negotiating committee of three (3) members appointed by the governor and confirmed by seventy-five percent (75%) of each of the two (2) legislative houses of Puerto Rico.

At least, two (2) of the three (3) members of the committee should believe in the political philosophy described in this Covenant, that is, be Commonwealthers. In the same manner, the United States of America will be represented by a committee of three (3) members appointed by the President of the United States.

B. COMMISSION TO RESOLVE DISPUTES

If it is not possible to resolve a controversy through a negotiation between the parties, the controversy will be submitted to the Commission to Resolve Disputes. This commission will have five (5) members, two (2) appointed by the Commonwealth of Puerto Rico, two (2) appointed by the United States of America and a fifth member appointed by majority of these four (4). The five (5) members will select a chairman from their membership.

Decisions of this Commission in disputes between the Governments of the Commonwealth of Puerto Rico and the United States of America regarding the interpretation of this Covenant will be final and firm.

ARTICLE X – LEGALITY

The agreement between the people of Puerto Rico and the government of the United States of America will have the force recognized by the constitutional and international rights in force as a bilateral covenant that recognizes rights and delegates powers, based on mutual consent, that cannot be unilaterally renounced or altered.

ARTICLE XI – SYMBOLS

The symbols, flags and hymns of the Commonwealth of Puerto Rico will continue to be as at present.

ARTICLE XII – OTHER INTERNATIONAL ASPECTS

The Commonwealth of Puerto Rico will retain the authority to ratify cultural, educational, scientific and sports agreements.

ARTICLE XIII – NEGOTIATION

- a. Once this development proposal is approved by the people of Puerto Rico, a Constituent Assembly will be called that will negotiate with the Government of the United States the terms and conditions of the association between Puerto Rico and the United States and the specific drafting of such agreement on behalf of the people of Puerto Rico. This Constituent Assembly will not be able to adopt proposals that undermine or cancel the mandate expressed by the people of Puerto Rico or that undermines the precepts of common citizenship, market, currency and defense, or against the Puerto Rican national identity.
- b. The Constituent Assembly will design and propose to the Government of the United States a mechanism for a specific agreement regarding the application of legislation approved by the Congress of the United States after the adoption of the covenant and that the people of Puerto Rico wish to have extended to Puerto Rico. The people of Puerto Rico will elect a Resident Commissioner who will represent Puerto Rico before the Government of the United States and who will be considered a Member of the U.S. House of Representatives for purposes of all legislative matters that have to do with Puerto Rico, but whose role will also be extended to representing Puerto Rico before the Executive Branch of the United States.
- c. The main political parties of Puerto Rico will be represented in the Constituent Assembly and will be able to nominate candidates to be part of the assembly.
- d. The Covenant will take effect after it has been negotiated and approved by the Government of the United States and the Constituent Assembly, and it has been approved by the people of Puerto Rico in a referendum called for that purpose.
- e. Any change to the terms of this Covenant will have to be approved by the people of Puerto Rico in a special vote conducted consistent with its democratic processes and institutions.
- f. The Constituent Assembly will not have authority to alter, modify, amend, and/or change the Constitution of the Commonwealth of Puerto Rico.

**Approved by the Governing Board of the Popular Democratic Party
On October 15, 1998**

Puerto Rico Governor and Popular Democratic President on the “Development of the Commonwealth” proposal

SAN JUAN (EFE) Dec. 28, 2005 – Governor Anibal Acevedo Vilá... defended the proposal for the development of the Commonwealth of 1998, approved by the Governing Board of his political party, ratified in the party platforms of 2000 and 2004, and that “reflects our aspirations for autonomous development.” He said that the proposal contains 13 articles to develop the Commonwealth. “We are ready to undertake this development when the United States demonstrates the maturity to recognize that this type of relationship is what the people of Puerto Rico want and is the type of relationship that both countries need.”

San Juan Star March 3, 2005 – “Gov. Acevedo Vilá...Wednesday...at a PR House Government and Federal Affairs Committee status hearing...said the definition is the one used in the 1998 status plebiscite.”

El Nuevo Día Feb. 28, 2005 – “For Governor Anibal Acevedo Vilá...the definition of Commonwealth of 1998 continues to be effective.”

El Vocero Feb. 13, 2007 - ...the executive director of the PDP [“commonwealth” party], Aníbal J. Torres...The analysis of the status issue, he advanced, won’t lead to a new formula, but to strengthen the Commonwealth based on the definition that Governor Anibal Acevedo Vilá proposed already, almost ten years ago.

Translated quote from PDP (“commonwealth” party) 2004 Platform (p. 12)

“In the discussions of the Constitutional Assembly on Status, the Popular Democratic Party will push the autonomous development of the Commonwealth consistent with the status proposal approved by the Governing Board, October 15, 1998.”