No. 24-699

IN THE

Supreme Court of the United States

EXXON MOBIL CORPORATION,

Petitioner,

v.

CORPORACIÓN CIMEX, S.A. (CUBA), *et al.*,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

BRIEF OF *AMICI CURIAE* KING RANCH, INC., VERTIENTES-CAMAGUEY SUGAR COMPANY, AND GRANT MANHEIM IN SUPPORT OF PETITIONER

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INTEREST OF *AMICI CURIAE*[1]

Amici Curiae are owners of claims to property in Cuba that was confiscated by the Cuban government after Fidel Castro came into power. Their claims either have been or could be brought against agencies and instrumentalities of the Cuban government (as well as the companies doing business with them), seeking compensation for damages due to trafficking in the confiscated property.

King Ranch, Inc. ("King Ranch") is based in Texas and holds a certified claim from the Foreign Claims Settlement Commission ("FCSC") for confiscated property that was expropriated by the Castro regime in 1960, including a cattle ranch and associated land and other assets, which are still in use today even though King Ranch has never received any compensation. King Ranch is the plaintiff in an ongoing civil action against various Cuban state-owned entities that are trafficking in and benefitting from the confiscated property. *See King Ranch, Inc. v. Empresa Agropecuaria Nuevitas, et al.*, No. 1:21-cv-00594 (D.D.C.).

Vertientes-Camaguey Sugar Company ("VCSC") is currently based in Florida but previously operated in Cuba starting in 1942, where it engaged in the business of growing sugar cane and manufacturing and selling raw sugar, refined sugar, blackstrap molasses, and alcohol. It also raised cattle. All of its assets were confiscated by the Cuban government in 1960, including its factories,

1. In accordance with Rule 37.6, neither a party nor party's counsel authored this brief, in whole or in part, or contributed money that was intended to fund its preparation or submission. No person (other than the *amici* or their counsel) made a monetary contribution intended to fund its preparation or submission.

approximately 179,897 acres of land, its 270 miles of railway, associated roads and supply lines, and the Port of Santa Maria. Many of VCSC's shareholders obtained certified claims from the FCSC. VCSC has reason to believe that Cuban agencies and instrumentalities are currently trafficking in its confiscated property, and it is actively considering whether the Helms-Burton Act provides a path to recover value for its shareholders, either by suing the agencies and instrumentalities or their business partners (or both).

Grant Manheim is one of the VCSC shareholders. He is a U.S. national who holds a substantial claim. Cuban state-owned entities and their business partners are currently trafficking in the property confiscated from VCSC.

SUMMARY OF ARGUMENT

The decision below imposes yet another in a long line of barriers to recovery for victims of the Castro regime's confiscation of property beginning in 1959 during the Cuban Revolution. More than sixty years later, Castro's victims here in the U.S. still have not received any compensation for the rampant confiscation of their property. The Cuban government, on the other hand, continues to use and benefit from the confiscated property through state-owned entities and their foreign business partners. Lucrative oil and mining operations, agricultural land developments, luxury hotel properties, and profitable port facilities all operate on confiscated property, generating profits for the communist Cuban government and its allies at the expense of the rightful owners.

The Helms-Burton Act is intended to end the Cuban government's stonewalling of compensation owed to U.S. nationals. Enacted in 1996, the Act (formally known as the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act) creates a private right of action in its Title III for U.S. nationals who "own[] the claim" to property "confiscated by the Cuban Government on or after January 1, 1959." 22 U.S.C. § 6082(a)(1)(A). Such claimants may sue "any person" that "traffics in" the confiscated property. *Id.*

For twenty-three years, the Executive Branch exercised its prerogative to suspend Title III's private right of action. That suspension ended in May 2019, meaning that claimants have been able to bring suit for over six years now. However, despite nearly 6,000 claims being certified by the FCSC, no claimholder has successfully enforced a judgment on a claim, and most have not even tried to file suit. Of the estimated forty-five Title III lawsuits brought since 2019, the majority of them—twenty-nine in total—involve ***uncertified*** claims.

A primary reason for this widespread reticence is the overly restrictive barriers to recovery imposed by the lower courts, contrary to Title III's explicit language and broad remedial purpose. Both the Second Circuit and the Eleventh Circuit have recognized that Title III broadly defines trafficking and broadly imposes liability, but nevertheless, the lower courts have found reasons to deny recovery, even in the face of trial court verdicts for plaintiffs. So far, the only two favorable verdicts have been vacated during post-trial litigation.

The court of appeals' majority opinion continues this unwarranted trend—this time invoking sovereign

immunity to insulate the Cuban government and its state-controlled entities. Petitioner correctly identifies the problems with the majority's (mis)interpretation of the statutory text, including ignoring Title III's plain language, drawing unsupported conclusions from the legislative history and findings, and elevating the Foreign Sovereign Immunities Act, 28 U.S.C. § 1602 et seq. ("FSIA") to a sort of super-statute that yields only to an "ultra clear" statement of Congress. The practical import of the majority opinion is that a Title III claimant seeking to obtain compensation from a Cuban agency or instrumentality cannot use Title III itself, cannot use the expropriation exception to sovereign immunity, and can only use the commercial activity exception if it can obtain discovery from Cuba—a dubious proposition under the best of circumstances and a particularly fraught one here because Cuban laws impose criminal sanctions, including lengthy prison sentences, on anyone who aids a Title III claim.

Furthermore, the majority failed to acknowledge the context in which Title III was enacted and continues to exist. Cuba would not be granted sovereign immunity under the process in place before the enactment of the FSIA. This is because Cuba presents a paradigmatic case for an exception to sovereign immunity due to the longstanding lack of comity with the United States, marked by decades of hostilities, sanctions, and Cuban government alliances with inimical foreign nations. The Helms-Burton Act itself was born from hostilities with Cuba—a bipartisan response to "an unprovoked attack by Cuban military jets on an American civilian aircraft" trying to rescue refugees fleeing Cuba. *Havana Docks Corp. v. Carnival Corp.*, 592 F. Supp. 3d 1088, 1107

(S.D. Fla. 2022). This is why Title III explicitly targets the Cuban government, 22 U.S.C. § 6081, and includes agencies and instrumentalities in the definition of persons who "shall be liable" if they traffic in confiscated property. *Id.* §§ 6023(11) & 6082(a)(1)(A).

The majority's approach of requiring Title III claims to also satisfy the FSIA framework wrongly defers to the communist Cuban government at the expense of its victims and threatens to deny claimants the "judicial remedy" that Congress promised, 22 U.S.C. § 6081(11), because many instances of trafficking by Cuban-owned enterprises may not satisfy any FSIA exception. Moreover, the sheer cost and burden of establishing jurisdiction under the FSIA will discourage claimants from even trying.

The dissent's approach, by contrast, accords with Title III's plain language, fulfills Congress' intent of deterring the Cuban government and compensating its victims, and removes the FSIA's burdens and barriers on Title III actions, which are significant factors considered by *Amici* (and presumably other claimants) in deciding whether and how to pursue their Title III claims. Frankly, the prospect of many years of litigation and multiple appeals is a daunting reality that has an outsized influence on the decision whether to bring a claim at all. The dissent correctly paves the way through the courthouse doors for Title III plaintiffs, as Congress intended. The majority opinion wrongly slams those doors shut. It should be reversed

ARGUMENT

I. The Helms-Burton Act Is Intended To End The Cuban Government's Stonewalling Of Compensation Owed To U.S. Nationals.

The confiscation of *Amici's* properties occurred in the early 1960s, but like thousands of other claimants, they have never been compensated. The Cuban government has every incentive to continue its six-decade campaign of denying compensation to U.S. nationals through any and every means possible. One of its most effective delay tactics, on display in this case, is the FSIA.

The effort to achieve compensation began shortly after Castro seized power. In 1964, Congress authorized the FCSC "to gather information for an eventual negotiation on claims of confiscated properties in Cuba." *Garcia-Bengochea v. Carnival Corp.*, 57 F.4th 916, 920 (11th Cir. 2023). This claim review process occurred twice, with the first Cuba program continuing through July 6, 1972 and the second transpiring in 2005-2006; in total, the FCSC certified "nearly 6,000 claims valued at about $1.9 billion."[2] *Id.* (citing Sylvia M. Becker & Patrick Hovakimian, *Foreign Claims Settlement Commission of*

2. This value includes only certified claims; because the Helms-Burton Act also permits actions by anyone who "owns the claim"—whether certified or not—the total value of all outstanding claims is certainly higher. 22 U.S.C. § 6082(a)(1)(A); *see also id.* § 6082(a)(5)(C) ("A United States national, other than a United States national bringing an action under this section on a claim certified [by the FCSC] . . . may not bring an action on a claim under this section before the end of the 2-year period beginning on the date of the enactment of this Act.").

the U.S., United States Department of Justice (updated April 21, 2022) (available at https://www.justice.gov/fcsc/claims-against-cuba)). "Cuba and the United States, however, have never reached a settlement on these claims (or, for that matter, on claims by Cuba against the United States)." *Id.* (citing Richard E. Feinberg, *Reconciling U.S. Property Claims in Cuba: Transforming Trauma into Opportunity*, Latin America Initiative at Brookings, at 2-15 (December 2015)).

Because Cuba never agreed to settle the claims of U.S. nationals, Congress passed the Helms-Burton Act to provide a remedy for the "wrongful confiscation or taking of property belonging to United States nationals by the Cuban Government, and the subsequent exploitation of this property at the expense of the rightful owner." 22 U.S.C. § 6081(2). Congress expressly found that "[s]ince Fidel Castro seized power in Cuba in 1959 . . . he has trampled on the fundamental rights of the Cuban people; and . . . through his personal despotism, he has confiscated the property of" Cuban citizens, U.S. nationals, and Cubans who have sought asylum in the United States. *Id.* § 6081(3). Congress further announced that "the foreign policy of the United States" includes "protect[ing] the claims of United States nationals who had property wrongfully confiscated by the Cuban Government." *Id.* § 6081(6). Accordingly, Congress sought to "provid[e] 'United States nationals who were the victims of th[o]se confiscations . . . with a judicial remedy in the courts of the United States.'" *Valle v. Trivago GmbH*, 56 F.4th 1265, 1270 (11th Cir. 2022) (quoting 22 U.S.C. § 6081(11) (alteration in original).

II. None Of The Nearly 6,000 Certified Claims Has Been Enforced Successfully Under Title III, And Most Claimants Have Not Even Tried.

This judicial remedy—located in Title III, 22 U.S.C. § 6082(a)—is inclusive and broad. *See Fernandez v. Seaboard Marine Ltd.*, 135 F.4th 939, 955 (11th Cir. 2025) ("Our reading of the law may seem broad, but the Act imposes broad liability."). It imposes liability on "any person" that "traffics" in confiscated property by, *inter alia*, having an interest in confiscated property, engaging in any commercial activity using or benefitting from confiscated property, or doing either of these things by or through another person. 22 U.S.C. §§ 6023(13)(A), 6082(a); *see also Moreira v. Générale, S.A.*, 125 F.4th 371, 396 (2d Cir. 2025) (Title III uses a "capacious definition of 'trafficking'"); H.R. Rep. No. 104-468, 58 (1996) (Conf. Rep.), reprinted in 1996 U.S.C.C.A.N. 558, 573 ("The purpose of this civil remedy is, in part, to discourage persons and companies from engaging in commercial transactions involving confiscated property. . . ."). The remedy applies to individuals, entities, and agencies and instrumentalities of foreign governments. 22 U.S.C. § 6023(11) (defining "person").

When the Trump administration allowed Title III's broad remedy to go into effect for the first time in May 2019, there was good reason to anticipate substantial demand for it. According to the Department of Justice, a total of 8,821 claims were submitted to the FCSC under two Cuba claims programs, one completed on July 6, 1972 and a second completed on August 11, 2006.[3] Of

3. U.S. Dept. of Justice, Foreign Claims Settlement Commission, "Completed Programs–Cuba," https://www.justice.gov/fcsc/claims-against-cuba (last visited Nov. 17, 2025).

those claims, 5,913 resulted in awards by the FCSC, and the total amount of principal awarded was $1.9 billion.[4] Because the United States did not settle any of these claims with Cuba,[5] the value grew to $8.5 billion with interest, according to some estimates.[6]

Despite the staggering monetary incentive for claimants to avail themselves of Title III's private right of action, a surprisingly small number of them have actually done so. An estimated forty-five Title III lawsuits have been filed in the district courts, and the majority of those—reportedly twenty-nine of the forty-five—are based on *uncertified* claims.[7] This means only sixteen of the 5,913 *certified* claims have found their way through the courthouse doors.

Even more surprising, zero of the Title III lawsuits has resulted in a recovery for a plaintiff. Havana Docks Corporation filed the first ever Title III lawsuit on the

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4. *Id.*

5. *Id.*

6. *See* Miami Herald, "American owners of confiscated property in Cuba prepare for potential lawsuits" (Apr. 25, 2019), available at https://www.miamiherald.com/news/nation-world/world/americas/cuba/article229623064.html (reporting that the 5,913 claims are "now valued at $8.5 billion because of accumulated interest").

7. The U.S.-Cuba Trade and Economic Council makes some Title III statistics available on its website. *See Libertad Act Filing Statistics*, available at https://static1.squarespace.com/static/563a4585e4b00d0211e8dd7e/t/664e2fe9347bf160c998fa81/1716400105412/Libertad+Act+Filing+Statistics.pdf (last visited Nov. 17, 2025).

morning of May 2, 2019,[8] seeking damages against four cruise lines (Royal Caribbean Cruises, Norwegian Cruise Line Holdings, Carnival Corporation, and MSC Cruises) for trafficking in confiscated property. *See Havana Docks Corp. v. Royal Caribbean Cruises, Ltd.*, 119 F.4th 1276, 1278 (11th Cir. 2024), *cert. granted sub nom. Havana Docks Corp. v. Royal Caribbean Cruises*, No. 24-983, 2025 WL 2808811 (U.S. Oct. 3, 2025). Havana Docks owns a certified claim to confiscated property at the Port of Havana, which was used by the four cruise lines when their ships docked at the Havana Cruise Port Terminal. The cruise lines used the confiscated docks for profitable commercial activities, without any compensation paid to Havana Docks, which is exactly the conduct targeted by Title III's remedy. *Id.* The district court entered "judgments of over $100 million against each of the four cruise lines," but the Eleventh Circuit reversed, set aside those judgments, and remanded for further proceedings in October 2024. *Id.* at 1278-79.

In the first ever jury trial involving a Title III claim, "a Miami jury rendered verdicts totaling $119.4 million against all four corporate Defendants." *Echevarria v. Expedia Grp., Inc.*, 2025 WL 2576674, at *1 (S.D. Fla. Sept. 5, 2025). But the district court set aside the jury's verdict and entered judgment in favor of all four defendants. *Id.* at

8. U.S.-Cuba Trade and Economic Council, "After 43 Months, Florida District Court Judge Hands First Cuba Libertad Act Verdict- Four Cruise Lines Must Pay US$439,217,424.51 Plus US$11,707,484.31 In Legal Fees. Appeals Probable," available at https://www.cubatrade.org/blog/2022/12/30/5ktq139s6hbx6zam2lse7uiiy193lz ("On 2 May 2022, Havana Docks Corporation, a certified claimant, was the first to file a Libertad Act Title III lawsuit in the United States Southern District Court in Miami, Florida.").

*6. The court acknowledged that "[m]uch time and money has been spent by the parties and counsel" and observed that "[t]here may be little comfort for either side of this first-ever Helms-Burton Act jury trial. . . ." *Id.*

The second ever jury trial in a Title III case resulted in a defense verdict by a Delaware jury. In *Central Santa Lucia L.C. v. Expedia Group, Inc.*, the key issue was whether the plaintiff timely "acquired ownership of its claims on or before March 12, 1996," with the defendant arguing that plaintiff had untimely acquired its Title III claim through an assignment after that deadline. 2025 WL 1888699, at *1 (D. Del. July 8, 2025). The district court granted the defendant's request to have a bifurcated jury trial on that single issue, and the jury returned a verdict in favor of the defendant. *See Central Santa Lucia L.C. v. Expedia Group, Inc.*, No. 1:22-cv-00367-JLH, Dkt. Nos. 271, 280 (D. Del.).

Although likely of little solace, at least these plaintiffs achieved a resolution. Petitioner's Title III lawsuit, on the other hand, is in its seventh year of litigation but remains at the pleadings stage because of the protracted litigation over the threshold sovereign immunity defenses. *See* Pet. Br. 12-14 (discussing procedural history). Faced with such an arduous and expensive path to what has thus far been a false promise of compensation, it is no wonder that most claimants have elected not to pay the $7,202 court filing fee[9] and undertake the lengthy litigation required to pursue Title III's promised remedy.

9. The current district court fee schedule is available at https://www.uscourts.gov/court-programs/fees/district-court-miscellaneous-fee-schedule (last visited Nov. 17, 2025).

III. Lower Courts Have Imposed Overly Restrictive Barriers To Recovery, Contrary To Title III's Remedial Purpose.

The reality of Title III litigation stands in stark contrast to the robust ambition that motivated it. It was a bipartisan response to the Cuban government's "shooting of the airplanes used to save Cuban refugees fleeing the island suffering a Communist dictatorship for the last 65 years." *Echevarria*, 2025 WL 2576674, at *6. Congress made its intent crystal clear: Title III exists (i) to compensate the many victims of the Castro regime's despotism and property confiscations and (ii) to deter foreign investment that uses confiscated property, "provides badly needed financial benefit . . . to the current Cuban Government," and "undermines the foreign policy of the United States." 22 U.S.C. § 6081(3),(5),(6). Title III's private remedy is not just a nice option for claimants; it is "an obligation" of the U.S. government to protect its citizens "against wrongful confiscations by foreign nations." *Id.* § 6081(10). Indeed, for most of Castro's victims, "Title III of the Act was the only remedy available to obtain monetary compensation." *Garcia-Bengochea*, 57 F.4th at 932.

So far, the judicial branch of the U.S. government has downplayed this obligation and, instead, has found reasons to side with the Cuban government and its foreign-investor accomplices. For example:

Invoking Sovereign Immunity. Respondents argued successfully in the court below that the FSIA imposes substantial barriers to Title III claims. *See* Pet. Br. 14-16. Sovereign immunity is perhaps the most insidious barrier

invoked by the lower courts to thwart the obligation of Title III because most commercial activity in Cuba involves entities that are owned or controlled by the Cuban government.[10] For example, the State Department has identified dozens of Cuban entities, across all sectors of the economy, that are under the control of the Cuban military.[11] The list includes entities like Respondent CIMEX and its subsidiaries, Grupo de Administración Empresarial (a conglomerate that runs large parts of Cuba's economy), Almacenes Universales (responsible for importing food), Terminal de Contenedores de Mariel (runs Cuba's largest port), Gaviota (manages tourism in Cuba), and dozens of resort hotels. As Petitioner rightly argues, those entities should be primary targets of Title III, not immunized from it. Pet. Br. 24 ("[T]he Congress that wrote the Helms-Burton Act understood that Cuban instrumentalities would be *the most frequent* violators of the prohibition on 'trafficking' in confiscated property." (emphasis in original)).

Finding Untimely Claim Acquisition. Other defendants have argued successfully that Title III prohibits claims from being transferred, devised, or inherited after March 12, 1996. *See* 22 U.S.C. § 6082(a)(4)(B); *see also*

10. *See* Miami Herald, "The Cuban government imposed new limits on the private sector," (Aug. 20, 2024) available at https://www.miamiherald.com/news/nation-world/world/americas/cuba/article291215475.html (explaining that GAESA "is run by the military and . . . controls large sectors of the Cuban economy").

11. *See* U.S. Dept. of State, "List of Restricted Entities and Subentities Associated With Cuba Effective June 12, 2020," at https://2017-2021.state.gov/cuba-sanctions/cuba-restricted-list/list-of-restricted-entities-and-subentities-associated-with-cuba-effective-june-12-2020/ (last accessed Nov. 17, 2025).

Garcia-Bengochea, 57 F.4th at 931 ("A U.S. national whose property was confiscated before March 12, 1996, cannot recover damages for another person's unlawful trafficking of that property unless 'such national'—*i.e.*, the specific person bringing suit—acquired the claim to the property before March 12, 1996."). As one member of the Eleventh Circuit has observed, the pertinent statutory language may have been a mistake. *See Garcia-Bengochea*, 57 F.4th at 931-939 (Jordan, J. concurring) (explaining the untimely acquisition issue in detail, concluding that "the language of § 6082(a)(4)(B) was the result of sloppy drafting," and "urg[ing] Congress to fix it."). The language may have been motivated by a congressional concern with preventing champerty,[12] but that concern evaporates in the context of a claimholder's estate or heirs seeking to pursue a deceased family member's Title III claim. *E.g.*, *PDVSA US Litig. Tr. v. Lukoil Pan Americas, LLC*, 991 F.3d 1187, 1195 (11th Cir. 2021) (describing champerty as involving a stranger or officious intermeddler vis-à-vis the claim). There is no rational basis to prevent a Title III claimant's heirs from pursuing his or her claim simply because the claimant passed away after March 1996; this approach effectively buries a number of Title III claims because many claimants who fled Cuba in the 1960s passed away before the option to file suit became available in 2019. *See Garcia-Bengochea*, 57 F.4th at 935-36 ("I can think of no rational basis for allowing heirs to sue if they inherited their interests in confiscated properties prior to the passage of the Helms-Burton Act, while at the same time precluding heirs who inherited their interests after enactment.").

12. The acquisition provision is awkwardly drafted but certainly evinces a concern with preventing assignments of claims "for value." 22 U.S.C. § 6082(a)(4)(C).

Deferring to Defendant's Corporate Structure. Other defendants also have argued successfully that their byzantine corporate structures protect them from Title III liability. The game is simple: conduct the unlawful trafficking in Cuba through an entity that is out of the jurisdictional reach of a U.S. court and then argue that the related entity doing business in the United States is too far removed from the subsidiary's misconduct to be liable. *E.g.*, *Sierra v. Trafigura Trading LLC*, 2024 WL 3823018, at *5 (D. Del. Aug. 14, 2024) (Singaporean defendant engaged in Cuban mining operation and successfully argued lack of jurisdictional contacts with the United States, notwithstanding numerous commercial activities conducted in the U.S. through subsidiaries). It worked for Expedia Group even after an adverse jury verdict. *See Echevarria*, 2025 WL 2576674, at *5 (finding "that Expedia Group, Inc., as the parent holding company, cannot be held liable for the conduct of Expedia-WA"). There is no reason for lower courts to indulge this game-playing in the face of Title III's broad trafficking definition targeting anyone who "causes, directs, participates in, or profits from, trafficking . . . by another person, or otherwise engages in trafficking . . . through another person." 22 U.S.C.A. § 6023(13)(A)(iii).

Placing Expiration Dates on Claims. Other defendants also have argued successfully that Title III claims can expire depending on the type of property interests that were confiscated. This argument leverages the fact that Title III was passed thirty-seven years after the Cuban Revolution began and was suspended another twenty-three years thereafter. *See Havana Docks Corp.*, 119 F.4th at 1278, 1283-85 (explaining the history). In the *Havana Docks* case, for example, the lower court concluded

that the plaintiff's certified claim expired, not because of an expiration date in the claim, but because the 99-year term of the underlying confiscated concession would have ended in 2004. *Havana Docks Corp.*, 119 F.4th at 1286. There are myriad legal problems with this conclusion, starting with the simple fact that it denies compensation to the rightful owner for years of unauthorized trafficking in the confiscated docks. The decision represents another judicially-created limit on Title III in favor of traffickers.

Faulting Victims for Lacking Original Property Records. Other defendants also have argued successfully that a claimant should produce original deeds or other official public records to prove ownership of the confiscated property at issue. *See Trinidad v. Expedia Grp., Inc.*, 2024 WL 4634071, at *2 (S.D. Fla. Oct. 31, 2024) (finding insufficient documentation because plaintiff "has not produced a notarial deed or other public documents to evidence his ownership of the property"). This issue is directed towards uncertified claims that do not benefit from the evidentiary presumptions afforded to certified claims, *see* 22 U.S.C. § 6082(a)(2), but it still evinces an unwarranted judicial willingness to disregard Title III's mandate. Castro's victims obviously did not have time to stop at the local property records office while fleeing Cuba for their lives, nor is there any requirement in Title III that they somehow procure those records in order to pursue their claims now.

It is no mystery why so few Title III claimants have brought their claims and why only two of them—Petitioner and *Amicus Curiae* King Ranch—have sued Cuban state-owned entities directly. For many claimants, the protracted litigation of sovereign immunity defenses is

simply not an option because the value of their claims does not justify the expenditure of resources necessary to engage in years of litigation. *See*, *e.g.*, *In re Haskew*, Claim No. CU-0849 at 12 (FCSC June 26, 1968) (certified claim in the amount of $1,716.60 plus interest awarded to a VCSC shareholder).[13] *Amici's* own experience confirms this obstacle is real. Not a single VCSC shareholder has brought suit under Title III yet, even though many of them have certified claims.[14]

Moreover, it is telling that, of the dozens of claimants that have sued, most have chosen to assert their claims against defendants that are not agencies or instrumentalities of a sovereign. For example, Havana Docks alleged that the defendant cruise lines contracted with Cuban state-owned entities that were part of the Cuban government's Ministry of Transportation and Ministry of Tourism, but none of the Cuban entities were sued. *See Havana Docks v. Carnival Corp.*, 592 F. Supp.3d at 1129-32. The *Sierra* plaintiffs alleged that the defendants trafficked through a joint venture with Cuban state-owned entity EMINCAR, but again, the Cuban entity was not sued. 2024 WL 3823018 at *2. And in *Seaboard*, the plaintiff did not sue the two Cuban entities that contracted with the defendant. 135 F.4th at 946 (referring to contracts with TCM and Taina). These examples suggest there is rampant concern about the cost, expense, and delay imposed by the FSIA.

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13. The decision is available at https://www.justice.gov/fcsc/cuba/documents/1-1500/0849.pdf (last visited Nov. 17, 2025).

14. The Department of Justice maintains a searchable index of Cuba claims decisions on its website at this link: https://www.justice.gov/fcsc/claims-against-cuba (last visited Nov. 17, 2025).

Amici share this concern and are awaiting the outcome of this case in order to weigh the significant value of their Title III claims against the potential for significant fees and costs due to protracted litigation and deliberate obfuscation by the Cuban government, its instrumentalities, and other putative defendants. King Ranch has stayed its case in the district court pending the decision in this case. VCSC and Mr. Manheim have not yet brought suit. The value of litigation against Cuban instrumentalities will depend to a large degree on whether the path forward under Title III is the formidable one directed by the majority or the straightforward one envisioned by the dissent that provides claimants a real opportunity to recover what is rightfully theirs.

IV. The Court of Appeals Erroneously Insulated The Cuban Government And Its Accomplices From Congress' Attempt To Hold Them Accountable.

The court of appeals' majority opinion is emblematic of the judicial reticence to do what the statute says. Contrary to Title III's instruction that "any person" (defined to include agencies and instrumentalities) that traffics in confiscated property "shall be liable" to the claimholder, 22 U.S.C. § 6082(a)(1)(A), the decision largely defers to the Cuban government and imposes additional barriers to recovery. Title III, however, demands the opposite approach.

A. Cuba Presents A Paradigmatic Case For An Exception To Sovereign Immunity Due To The Longstanding Lack Of Comity With The United States

Petitioner thoroughly expounds on the errors committed by the majority below, including ignoring Title III's plain language, drawing unsupported conclusions from the legislative history and findings, and elevating the FSIA to a sort of super-statute that yields only to an "ultra clear" statement of Congress. *See* Pet. Br. 4. This is not how sovereign immunity works.

Nor is it in accord with the historic rationale for sovereign immunity, *i.e.*, comity. *See Rubin v. Islamic Republic of Iran*, 583 U.S. 202, 208 (2018) ("This Court consistently has recognized that foreign sovereign immunity 'is a matter of grace and comity on the part of the United States.'" (quoting *Verlinden B. V. v. Central Bank of Nigeria*, 461 U.S. 480, 486 (1983))). Comity can have different meanings in different contexts. This Court has described it as "the recognition which one nation allows within its territory to the legislative, executive or judicial acts of another nation, having due regard both to international duty and convenience, and to the rights of its own citizens, or of other persons who are under the protection of its laws." *Hilton v. Guyot*, 159 U.S. 113, 163–64 (1895). Put differently, comity exists to protect harmony with other nations. *See Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241, 271–72 (2004) (explaining that comity interests are served by helping "potentially conflicting laws of different nations work together in harmony" (quotation omitted)); *see also Sosa v. Alvarez-Machain*, 542 U.S. 692, 762 (2004) (Breyer, J.

concurring in part) (describing "the practical harmony that comity principles seek to protect").

Since the Cuban Revolution of 1959, U.S.-Cuba relations have been the opposite of harmonious. In the past sixty-six years, Cuba has provided a launching pad for missiles aimed at the United States by the former Soviet Union. *See C.I.A. v. Sims*, 471 U.S. 159, 180 n.24 (1985). It "has provided widespread support for armed violence and terrorism in the Western Hemisphere," which it accomplished "with the political, economic, and military backing of the Soviet Union." *Regan v. Wald*, 468 U.S. 222, 243 (1984). It has deployed troops abroad to support "objectives inimical to United States foreign policy interests." *Id.* It has fomented the spread of communism in the Western Hemisphere. *See Zemel v. Rusk*, 381 U.S. 1, 14–15 (1965). It has targeted U.S. citizens and Cuban refugees for false arrest, imprisonment, and torture. *Id.*; *see also Jerez v. Republic of Cuba*, 775 F.3d 419, 421 (D.C. Cir. 2014).[15] Since the collapse of the former Soviet Union, Cuba has formed alliances with other nations hostile to

15. On December 11, 2024, Maria Werlau, the Executive Director of the Free Society Project (Cuba Archive), gave prepared testimony before the U.S. House of Representatives, Committee on Foreign Affairs Subcommittee on Global Health, Global Human Rights, and International Organizations, during a hearing on "The Communist Cuban regime's disregard for human rights." Her testimony details the Cuban Government's history of atrocities and is available at https://chrissmith.house.gov/uploadedfiles/2025-12-11-_written_testimony_of_maria_c_werlau.pdf (last visited Nov. 17, 2025).

the United States, particularly Venezuela[16] and China.[17] Cuba has been subject to U.S sanctions for more than sixty years, *Regan*, 468 U.S. at 226 n.4, and it has been designated as a state sponsor of terrorism by the State Department.[18]

The Helms-Burton Act itself was born from hostilities with Cuba. It was enacted "following an unprovoked attack by Cuban military jets on an American civilian aircraft" trying to rescue refugees fleeing Cuba. *See Havana Docks Corp. v. Carnival Corp.*, 592 F. Supp. 3d at 1107; *see also* 22 U.S.C. § 6046 (Congressional condemnation of the Brothers to the Rescue incident). Congress made its intent crystal clear. It found that the Cuban government has systematically repressed the Cuban people through, among other things, "massive and systemic violations of human rights" and "deprivations of fundamental freedoms." 22 U.S.C. §§ 6021(4), (24). It found that additional sanctions were necessary "to protect United States nationals against confiscatory takings and the wrongful trafficking in property confiscated by the Castro

16. CiberCuba, "Cuban regime sends delegation to Venezuela amid growing political instability," (Jan. 9, 2025), at https://en.cibercuba.com/noticias/2025-01-09-u1-e197721-s27061-nid295173-regimen-cubano-envia-delegacion-venezuela-medio (last visited Nov. 17, 2025).

17. CiberCuba, "The regimes of Cuba and China agree to strengthen their military cooperation," (Sept. 17, 2025), at https://en.cibercuba.com/noticias/2025-09-17-u1-e197721-s27061-nid311176-regimenes-cuba-china-acuerdan-reforzar-cooperacion#google_vignette (last visited Nov. 17, 2025).

18. U.S. Dept. of State, "State Sponsors of Terrorism," at https://www.state.gov/state-sponsors-of-terrorism/ (last visited Nov. 17, 2025).

regime." 22 U.S.C. §§ 6022(2), (6). And it unequivocally denounced the Cuban government's history of atrocities and confiscation of property, finding that trafficking in confiscated property "*undermines the comity of nations*, the free flow of commerce, and economic development." 22 U.S.C. §§ 6081(2)-(3) (emphasis added).

When the Trump Administration lifted the suspension of Title III beginning in May 2019, the intent was to remove barriers to compensation and hold the Cuban government accountable. *See Garcia-Bengochea*, 57 F.4th at 920. Remarks by then Secretary Pompeo reaffirmed the commitment of the United States to stand with the Cuban people and against the communist Cuban government, which "continues to deprive its own people of the fundamental freedoms of speech, press, assembly, and association" and which "undermines the security and stability of countries throughout the [Western Hemisphere], which directly threatens United States national security interests."[19] The Secretary concluded, "[t]oday we are holding the Cuban Government accountable for seizing American assets."[20]

The majority opinion below fails to account for the historical context of the United States' policy toward Cuba and the plethora of evidence demonstrating that, as far as Title III is concerned, comity and U.S. foreign relations are best served by enforcing the private right of action, not thwarting it. The majority acknowledged that "foreign

19. Michael R. Pompeo, Secretary of State, "Remarks to the Press" (Apr. 17, 2019), at https://2017-2021.state.gov/remarks-to-the-press-11/ (last visited Nov. 17, 2025).

20. *Id.*

sovereign immunity is a matter of grace and comity extended to foreign states by our political branches" and is motivated by "foreign-relations concerns." *Exxon Mobil Corp. v. Corporacion CIMEX, S.A.*, 111 F.4th 12, 25 (D.C. Cir. 2024), *cert. granted sub nom. Exxon Mobil Corp. v. Corporacion Cimex*, No. 24-699, 2025 WL 2808809 (U.S. Oct. 3, 2025). But they missed the point. There is no comity with Cuba, and the political branches of the U.S. government have repeatedly and loudly proclaimed their concerns with holding the Cuban government responsible for its atrocities, including through Title III's remedy for victims. The majority's analysis is backwards and fails to recognize that comity and foreign-relations concerns cut the opposite direction in this case.

B. The Majority's Gloss On The FSIA's Commercial Activity Exception Ignores Cuba's Ongoing Efforts To Criminalize Conduct In Support Of Title III Claims.

The majority's analysis of the commercial activity exception also leads to a deeply flawed result favoring the Cuban government. The majority agreed that Respondent CIMEX's remittance business and procurement of goods constitute direct effects, but it nevertheless instructed the "district court to further assess whether CIMEX 'causes' those effects and whether the effects are sufficiently 'direct." *Exxon Mobil Corp.* 111 F.4th at 32. Thereafter, the majority put a giant thumb on the scale in favor of CIMEX—crediting an unsubstantiated, self-serving declaration from a CIMEX lawyer and holding that "the pertinent inquiry is whether CIMEX's remittances operations at ***the four to ten stations located on former Essosa property*** cause a direct effect in the United

States—not whether CIMEX's entire remittances business does so." *Id.* at 34 (emphasis added). In other words, the majority discounted the billions of dollars in remittances and goods flowing to and from dozens (perhaps hundreds) of confiscated properties and, instead, held that the commercial activity exception requires Petitioner to trace the precise remittances and goods flowing to only four-to-ten of those properties.

There is no support for this approach in Title III, which defines trafficking to include, *inter alia*, "commercial activity using or otherwise benefitting from confiscated property." 22 U.S.C. § 6023(13)(A)(ii). The majority's holding effectively limits that definition to commercial activity ***only*** using or otherwise benefitting from the claimant's confiscated property. That is the only activity that counts under the FSIA's commercial activity exception, according to the majority.

The majority thus imposed an unworkable extra-textual limitation on Title III's broad remedy. To illustrate, consider that their approach precludes any evidence of the direct effect of CIMEX's trafficking in other confiscated service stations. There is no good reason why the commercial activity exception should turn solely on CIMEX's trafficking in Essosa's confiscated service stations, if discovery shows that CIMEX is also trafficking in other confiscated service stations too. Taken to its logical conclusion, the majority's approach would mean that sovereign immunity would not be a defense if a claimant owned the claim to all the confiscated service stations, but it may be a defense if a claimant owned the claim to only one of those stations. In the former scenario, the claimant would get credit for all the effects

of CIMEX's trafficking activity, but in the latter, only the activity at one station would count.

Furthermore, the majority oddly accepted at face value CIMEX's "evidence" consisting of a declaration from its legal director, Mali Suris Valmaña. The relevant paragraph of that declaration states:

> I have reviewed the property records registered on the Registries of Property of the Ministry of Justice of the Republic of Cuba for all of the 276 Western Union Locations operated by CIMEX. They indicate that only between four and ten (4-10) of the properties at which there are Western Union Locations had or could have had any connection to Essosa.

See Exxon Mobil Corp. v. Corporación CIMEX S.A., No. 19-cv-1277, Dkt. 42-4 at 4 ¶ 12 (D.D.C. June 16, 2020).

Recognizing that the majority is not the trial court in this case, it should nevertheless be obvious to any court that the declaration is "evidence" in form but not substance. The declarant in Cuba is comfortably outside the jurisdiction of any U.S. court and can easily avoid being compelled to testify. Not surprisingly, there is good reason to believe her declaration is not the full truth, based on Petitioner's ongoing efforts to obtain discovery from CIMEX's business partners, which have uncovered at least one person who "indisputably possesses evidence that contradicts Ms. Valmaña's assertions [in her declaration] and demonstrates CIMEX's awareness that it is purchasing American goods at retail outlets such as its service stations." *See Exxon Mobil Corp. v. Corporación CIMEX S.A.*, No. 19-cv-1277, Dkt. 108 at 2 (D.D.C. June 25, 2025).

In fact, the declaration does not explain what records were searched exactly; it does not explain how Essosa's former service stations were identified in the records; it does not explain why the range is four-to-ten; and it does not explain which four-to-ten stations are at issue or where they are located. Presumably, this information exists in the property records that were ostensibly searched. But tellingly, the property records themselves are not attached to the declaration, nor are they anywhere in the record.

The lack of supporting documentation is no accident. The property records, and any other documents in Cuba, are shielded from discovery in Title III lawsuits because Cuban law imposes criminal penalties on anyone who provides information in aid of a Title III claim. On December 24, 1996, the National Assembly of People's Power in Cuba approved Law No. 80,[21] Law for the Reaffirmation of Cuban Dignity and Sovereignty, in reaction to the enactment of the Helms-Burton Act. Law 80 makes it a criminal act to, among other things, seek, supply, request, receive, accept, or facilitate information that would favor the application of the Helms-Burton Act. On February 16, 1999, the National Assembly of People's Power in Cuba approved Law No. 88,[22] Law for the Protection of National Independence and the Economy, which amended the 1988 Penal Code and punished acts aimed at supporting, facilitating, or collaborating with

21. An English version of Law 80 is attached as Exhibit 1.

22. An English translation of Law 88 is attached as Exhibit 2. A discussion of how the Cuban government has enforced the law can be found on Amnesty International's website at https://www.amnesty.org/en/wp-content/uploads/2021/06/amr250182005en.pdf (last visited Nov. 17, 2025).

the application of the Helms-Burton Act. Under Law 88, providing information that supports a Title III claim carries a penalty of imprisonment from seven to fifteen years or more if aggravating circumstances exist such as the involvement of two or more persons. Any person who even seeks information that may be used in aid of a Title III claim is subject to imprisonment from three to eight years or more if aggravating circumstances exist.

Amici would face an even greater burden if held to the majority's view of what it takes to satisfy the commercial activity exception in Title III cases. This is because all of their claims are primarily based on confiscated land in Cuba—a cattle ranch from King Ranch and almost 180,000 acres of sugar farms from VCSC. The best way to discover how those properties are used today would be to travel to Cuba or to obtain information from someone in Cuba—both of which run the risk of potential criminal sanctions under Cuban Laws 80 and 88. In *Amici's* experience, it is a very difficult proposition to obtain any information about the use of confiscated property in Cuba.

The other option is to search for information available outside Cuba to establish a U.S. nexus with commercial activity using or benefitting from *Amici's* confiscated property. However, the ongoing U.S. sanctions severely limit trade with Cuba, which makes it difficult to do this with the granularity demanded by the majority's opinion. Generally speaking, there is enough public information about Cuba to plead plausible allegations regarding (i) which entities are using or benefitting from confiscated property, (ii) what commercial activities they are engaged in, and (iii) whether those activities have a nexus with the United States. This should suffice to state

a Title III claim, but the majority imposes a heightened requirement of tracing specific commercial activities to specific confiscated properties, which is virtually impossible to accomplish because of (i) the lack of access to the confiscated properties in Cuba and (ii) the ease with which Cuba can manipulate the information it chooses to introduce as "evidence" in court, while using Laws 80 and 88 to thwart other discovery. Thus, although the majority purports to approve the use of the commercial activity exception in Title III cases, it effectively makes the exception unavailable to most claimants.

C. The Dissent's Approach Rightly Recognizes That Agencies And Instrumentalities Should Not Be Immune From Title III.

In this context, Judge Randolph's approach makes eminent sense and shows how straightforward a Title III action can be. He would have held that "Title III, considered alone, deprives the Cuban defendants of immunity from suit," leaving no need for plaintiffs to fit their claims within an exception to the FSIA. *Exxon Mobil Corp.*, 111 F.4th at 39. Judge Randolph found "scarcely a difference between" the law at issue in *Kirtz* and Title III "in terms of language or function," and saw no reason to give foreign sovereigns greater solicitude than federal or state governments in determining whether Congress has superseded a back-ground rule of immunity. *Id.* at 40 (discussing *Department of Agriculture Rural Development Rural Housing Service v. Kirtz*, 601 U.S. 42, 49-50 (2024)). As Judge Randolph explained, the notion that "Cuban agencies enjoy more protection from lawsuits than agencies of the United States . . . would be a shock" to the Congress that wrote Title III. *Id.*; *see*

also supra Section IV.A (explaining why Cuba presents a paradigmatic case for an immunity exception).

Judge Randolph's straightforward application of Title III to litigation against the Cuban government and its agencies and instrumentalities ameliorates the overly restrictive, anti-textual barriers imposed by the lower courts on Castro's victims. All that is required to pursue an action against a foreign sovereign is effective service of process plus an exception to immunity. *See* 28 U.S.C. § 1330. If the Helms-Burton Act provides the exception, then there should be no need to wade into the more time-consuming and expensive factual inquiries attendant to other immunity exceptions under the FSIA. *See* 28 U.S.C. §§ 1605-07. Moreover, personal jurisdiction is typically established by effecting service of process on the foreign sovereign and/or its instrumentalities. *See* 28 U.S.C. §§ 1330(b), 1603(a). This solves the problem inherent in attempting to establish personal jurisdiction over foreign companies that traffic in confiscated property through joint ventures with the Cuban Government. *See*, *e.g.*, *Sierra v. Trafigura Trading LLC*, 2024 U.S. Dist. LEXIS 144600, *36 (D. Del. Aug. 14, 2024) (dismissing Title III action and finding insufficient basis for general or specific jurisdiction over Singapore-based Trafigura Group).

Amici agree with Petitioner that forcing Title III claims into the FSIA framework will deny many claimants the "judicial remedy" that Congress promised, 22 U.S.C. § 6081(11), because many instances of trafficking by Cuban-owned enterprises may not satisfy any FSIA exception. Moreover, the sheer cost and burden of establishing jurisdiction under the FSIA will discourage many claimants from even trying. A Title III action

against a Cuban agency or instrumentality should be straightforward because the relevant trafficking activities are likely to be identifiable from public sources, as they were in this case. *See Exxon Mobil Corp. v. Corporación CIMEX S.A.*, 534 F. Supp. 3d 1, 9 (D.D.C. 2021) (describing the trafficking activities set forth in the complaint and supporting declaration from counsel). Injecting the FSIA exceptions into the mix adds layers of additional discovery that, in turn, add cost, time, and complexity that unnecessarily impedes the remedy afforded by Title III.

CONCLUSION

Congress intended the Helms-Burton Act to create a clear path to compensation for claimants against the Cuban government and its agencies and instrumentalities. The decision below wrongly obstructs this path and threatens to close the courthouse doors to many Title III plaintiffs. It should be reversed.

Respectfully submitted,

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December 5, 2025

APPENDIX

TABLE OF APPENDICES

APPENDIX A — CUBAN LAW 80

ASAMBLEA NACIONAL
DEL PODER POPULAR
REPÚBLICA DE CUBGA

Law for the Reaffirmation of Cuban Dignity and Sovereignty

RICARDO ALARCÓN DE QUESADA , President of the National Assembly of People's Power of the Republic of Cuba.

I MAKE IT KNOWN : That the National Assembly of People's Power, in its session on December 24, 1996, "Year of the Centennial of the Fall in Combat of Antonio Maceo", corresponding to the VII Ordinary Period of Sessions of the Fourth Legislature, has approved the following:

WHEREAS : In the United States of America, the so-called "Helms-Burton" Law has been put into effect, which has as its purpose the colonial reabsorption of the Republic of Cuba.

WHEREAS : Cuba has suffered from the imperialist policy of the United States of America, determined to seize it by different means, from the attempts to buy the Island from Spain, the application of the theory of "manifest destiny and ripe fruit" and its reflection in the Monroe Doctrine, trying to systematically prevent our struggles for national liberation until the intervention of 1898 that frustrated the independence for which the Cubans had fought with the blow of a machete, courage, intelligence and audacity, and convert Cuba into their colony .

Appendix A

WHEREAS : Through the Platt Amendment and its continued interference and intervention in the internal affairs of the country, the United States of America usurped part of the national territory by installing the Guantánamo Naval Base, imposed corrupt and despotic regimes at its service, including the disgraceful and bloody Machado and Batista tyrannies, and since 1959 it systematically attacks Cuba with the declared purpose of putting an end to its independence, eliminating Cuban nationality and subjecting the people to servitude.

WHEREAS : The Cuban people, faithful bearer of the independence legacy of the mambises, of the workers, peasants, students and intellectuals who have fought and will fight the pretensions of their secular enemy, is willing to make the greatest efforts and sacrifices to maintain sovereignty , the independence and freedom that he definitively conquered on January 1, 1959.

WHEREAS : The process of nationalization of the wealth and natural resources of the Nation, carried out by the Revolutionary Government on behalf of the Cuban people, was carried out in accordance with the Constitution, current laws and International Law, without discrimination, with public benefit purpose; providing adequate compensation, which was agreed upon through bilateral negotiations with all the governments involved, with the exception of the United States of America, which refused to do so due to its policy of blockade and aggression, seriously harming its nationals with this action.

Appendix A

WHEREAS : The Cuban people will never allow the destinies of their country to be governed by laws dictated by any foreign power.

WHEREAS: The "Helms-Burton" Law has been almost unanimously rejected by the international community for its nature in violation of the principles of International Law recognized in the Charter of the United Nations Organization, as well as for its extraterritorial application in contradiction with international standards, pretending to arbitrarily and illegally dictate rules to be fulfilled by other states.

WHEREAS : A significant number of foreign businessmen have shown their confidence in Cuba by investing in the country or negotiating potential investments, making it a duty to use all possible legal formulas to help protect their interests.

WHEREAS: The National Assembly of People's Power, as representative of all the people, repudiates the "Helms-Burton" Law and declares its inalienable decision to adopt the measures that are within its reach in response to this anti-Cuban legislation and claim compensation to that the Cuban State and people have a right.

THEREFORE : In use of the power granted by Article 75, paragraph b, of the Constitution of the Republic, the National Assembly of People's Power has approved the following:

Appendix A

LAW 80

CUBAN DIGNITY AND SOVEREIGNTY REAFFIRMATION LAW

ARTICLE 1. The "Helms-Burton" Law is declared unlawful, inapplicable and without any legal value or effect.

Consequently, any claim protected by it from a natural or legal person, regardless of their citizenship or nationality, is considered null and void.

ARTICLE 2. The disposition of the Government of the Republic of Cuba is reaffirmed, expressed in the nationalization laws enacted more than thirty-five years ago, in relation to an adequate and fair compensation for the expropriated assets of natural and legal persons who at that time they held the citizenship or nationality of the United States of America.

ARTICLE 3. Compensation for US properties nationalized by virtue of this legitimate process, validated by Cuban law and International Law, referred to in the previous article, may form part of a negotiating process between the Government of the United States of America and the Government of the Republic of Cuba, on the basis of equality and mutual respect.

Claims for compensation for the nationalization of said properties must be examined together with the compensation to which the Cuban State and people are entitled, due to the damages caused by the blockade and

aggressions of all kinds, whose responsibility corresponds to the Government of the United States of America.

ARTICLE 4. Any natural or legal person of the United States of America that uses the procedures and mechanisms of the "Helms-Burton" Law, avails themselves of them or tries to use them to the detriment of others.

ARTICLE 5. The Government of the Republic of Cuba is entrusted with the adoption of the additional provisions, measures and facilities that are necessary for the total protection of current and potential foreign investments in Cuba and the defense of their legitimate interests against the actions that could derive from the "Helms-Burton" Law.

ARTICLE 6. The Government of the Republic of Cuba is empowered to apply or authorize the formulas required for the protection of foreign investors against the application of the "Helms-Burton" Law, including the transfer of the interests of the foreign investor to trust companies, financial entities or investment funds. ARTICLE 7.

Likewise, they will facilitate the aforementioned information and documentation available to foreign investors who request it to promote legal proceedings before the courts of their respective countries, under the protection of legal provisions that protect their interests or that have been issued to prevent or limit the application of the Helms-Burton Law.

ARTICLE 8. Any form of collaboration, direct or indirect, to favor the application of the "Helms Burton" Law is declared illegal. Collaboration is understood as, among other behaviors:

Seek or provide information to any representative of the Government of the United States of America or to another person in order that it may be used directly or indirectly in the possible application of that law or assist another person in the search for or the provision of said information .

Request, receive, accept, facilitate the distribution or benefit in any way from financial, material or other resources from the Government of the United States of America or channeled by it, through its representatives or by any other means, the use of which would favor the application of the "Helms-Burton" Law.

Disseminate, disseminate or help the distribution, with the purpose of favoring the application of the "Helms-Burton" Law, of information, publications, documents or propaganda materials of the Government of the United States of America, its agencies, or dependencies, or from any other origin.

Collaborate in any way with radio or television stations or other means of dissemination and propaganda with the aim of facilitating the application of the "Helms-Burton" Law.

ARTICLE 9. The Government of the Republic of Cuba must submit to the National Assembly of People's Power or

to the Council of State, as the case may be, the legislative projects that are necessary to sanction all those facts that in one way or another involve collaboration with the purposes of the Helms Burton Act.

ARTICLE 10. It is ratified that economic remittances from people of Cuban origin residing abroad, to their relatives residing in Cuba will not be affected by any tax. The Government of the Republic of Cuba must adopt whatever measures it deems convenient to facilitate said remittances.

People of Cuban origin residing abroad may operate bank accounts in freely convertible currency or in Cuban pesos in banks of the Republic of Cuba, and the interest they receive on these accounts will not be subject to any tax.

Likewise, they may contract with insurance entities, insurance policies whose beneficiaries are permanent residents in Cuba. Beneficiaries may freely receive, without payment of any tax, the corresponding benefits.

ARTICLE 11. The Government of the Republic of Cuba will keep updated the data on the indemnities to which the Government of the United States of America is obliged as a consequence of the effects of the economic, commercial and financial blockade and its aggressions against the country and will add to these claims the damages caused by thieves, embezzlers, corrupt politicians and gangsters, and, in addition, by the torturers and murderers of the Batista tyranny for whose actions the Government of the United States of America has been held responsible by enacting the Law " Helms-Burton".

ARTICLE 12. Natural persons who have been victims in their person or property or in the person or property of their relatives, of the actions sponsored or supported by the Government of the United States of America referred to in the following paragraph, may claim the corresponding indemnities before Claims Commissions that will be created and organized by the Ministry of Justice of the Republic of Cuba, which will be empowered to decide on its validity, as well as its amount and the responsibility of the Government of the United States of America.

The actions referred to in the preceding paragraph will include the deaths, injuries and economic damage caused by the torturers and murderers of the Batista tyranny and, in addition, by saboteurs and criminals at the service of North American imperialism against the Cuban Nation since January 1 from 1959.

The Ministry of Justice is empowered to regulate the processing of claims referred to in this article and issue any other provision to that effect.

ARTICLE 13. The National Assembly of People's Power and the Government of the Republic of Cuba will cooperate and coordinate with other parliaments, governments and international organizations, in order to promote as many actions as are deemed necessary to prevent the application of the "Helms-Burton" Law.".

ARTICLE 14. The entire people of Cuba is called upon to continue the in-depth and systematic examination of

the annexationist and colonial plan of the Government of the United States of America included in the "Helms-Burton" Law, in order to ensure that in each territory , community, work or study center and military unit, there is full knowledge of the specific consequences that the execution of said plan would entail for each citizen and guarantee the active and conscious participation of all in the application of the necessary measures to defeat it.

FINAL PROVISIONS

FIRST : The Government of the Republic of Cuba and the competent state agencies are empowered to dictate as many provisions as are necessary for the purposes of compliance with the provisions of this Law.

SECOND : All legal or regulatory provisions that oppose the provisions of this Law are repealed, which will take effect as of its publication in the Official Gazette of the Republic.

GIVEN in the Session Room of the National Assembly of People's Power, Palace of Conventions, in the city of Havana, on the twenty-fourth day of the month of December, nineteen hundred and ninety-six.

RICARDO ALARCON DE QUESADA

APPENDIX B — CUBAN LAW 88

NATIONAL ASSEMBLY OF PEOPLE'S POWER
REPUBLIC OF CUBA

Law for the Protection of National Independence and the Cuban Economy

RICARDO ALARCÓN DE QUESADA, President of the National Assembly of People's Power of the Republic of Cuba.

I WISH TO STATE: That the National Assembly of People's Power in its First Extraordinary Meeting of the Fifth Legislature, held on February 15 and 16, 1999, has approved the following:

WHEREAS: The Government of the United States of America has dedicated itself to promoting, organizing, financing and directing counter-revolutionary and annexationist elements inside and outside the territory of the Republic of Cuba. For four decades, it has invested considerable material and financial resources to carry out numerous covert actions with the purpose of destroying Cuban independence and economy, using for such purposes, among others, individuals recruited within the national territory, as the Central Intelligence Agency has acknowledged since 1961, in a report that was disclosed in 1998.

WHEREAS: The "Torricelli" Amendment included in the Defense Spending law of 1992, enacted by the Government of the United States of America, foresaw the provision of material and financial means for the

development of counter-revolutionary activities inside Cuba, and through the Law of March 12, 1996, known as the Helms-Burton Law, the economic war against Cuba was expanded, intensified and codified, detailing the supply of such resources to individuals who would be used in the national territory to fulfill the subversive and annexationist purposes of the Empire, having publicly recognized, since that date and on repeated occasions, the delivery of said funds from the Federal Budget of the United States for those purposes.

WHEREAS: The Federal Budget Law of 1999, enacted on October 21 1998 by the Government of the United States of America, set a minimum limit of two million dollars for carrying out counter-revolutionary activities inside Cuba and on January 5, 1999 the President of that country announced plans to increase federal funding for the promotion and execution of said activities with resources from entities and individuals.

WHEREAS: The aforementioned actions constitute a permanent aggression against the independence and sovereignty of the Republic of Cuba, [a] violation of International Law and of the principles and rules governing relations between the States, and this aggression has persistently been expanded and intensified for 40 years, and has also been endorsed through the aforementioned legislative decisions and has been proclaimed as a State policy against our country, using considerable official resources for its achievement, while promoting the use of the [funds] allocated for these purposes by other private entities and individuals.

Appendix B

WHEREAS: It is an inevitable duty to respond to the aggression to which the Cuban people are subjected, defeat the annexationist objective and safeguard national independence, criminalizing any conduct that favors the application of the aforementioned "Helms-Burton" Law, the blockage, the economic war against Cuba, the subversion and other similar measures that have been adopted or will be adopted in the future by the Government of the United States of America, through provision or regulation, regardless of its normative rank, as well as other measures that tend to promote or develop that aggressive policy against the fundamental interests of the Nation.

WHEREAS: The purpose of this Law is to sanction those actions that in accordance with imperialist interests seek to subvert the internal order of the Nation and destroy its political, economic and social system, without in any way undermining the fundamental rights and guarantees enshrined in the Constitution of the Republic.

WHEREAS: In compliance with the provisions of the Law Reaffirming Cuban Dignity and Sovereignty, Law No. 80 of 1996, the Government of the Republic of Cuba, has presented for the consideration of the National Assembly of People's Power, the corresponding project.

THEREFORE: The National Assembly of People's Power in use of the powers conferred on it in Article 75, paragraph b) of the Constitution of the Republic, has adopted the following:

Appendix B

LAW 88

LAW FOR THE PROTECTION OF NATIONAL INDEPENDENCE AND THE CUBAN ECONOMY

CHAPTER I

GENERAL CONSIDERATIONS

ARTICLE 1. This Law aims to classify and sanction those acts aimed at supporting, facilitating or collaborating with the objectives of the "Helms-Burton" Law, the blockage and economic war against our people, aimed at disrupting internal order, destabilizing the country and liquidating the Socialist State and Cuban independence.

ARTICLE 2. Given the special character of this Law, its application will take preference over any other criminal legislation that precedes it.

ARTICLE 3.1 The provisions contained in the General Part of the Penal Code apply, as appropriate, to the crimes provided for in this Law.

2. In the crimes provided for in this Law, the court may impose confiscation of property as an accessory sanction.

3. The crimes provided for in this law are punished regardless of those committed for its execution or on the occasion of it.

Appendix B

CHAPTER II

REGARDING CRIMINAL OFFENSES

ARTICLE 4.1 Anyone who provides, directly or through a third party, to the Government of the United States of America, its agencies, departments, representatives or officials, information to facilitate the objectives of the "Helms-Burton" Law, the blockage and the economic war against our people, aimed at disrupting internal order, destabilizing the country and liquidating the Socialist State and Cuban independence, incurs a penalty of deprivation of liberty for seven to fifteen years.

2. The penalty is deprivation of liberty for eight to twenty years when any of the following circumstances occur:

if the act is committed with the help of two or more people;

1. if the act is done for profit or through a gift, remuneration, reward or promise of any advantage or benefit;

2. if the culprit came to know or possess the information surreptitiously or using any other illicit means;

3. d) [sic.] if the culprit knew or possesses the information by reason of the position they hold;

4. if, as a result of the act, serious damage to the national economy occurs;

5. if, as a result of the act, the Government of the United States of America, its agencies or departments, take retaliatory measures against Cuban or foreign industrial, commercial, financial or entities of any other nature, or against any of their leaders or relatives.

ARTICLE 5.1 Whoever seeks classified information to be used in the application of the "Helms-Burton" Law, the blockage and the economic war against our people, aimed at disrupting internal order, destabilizing the country and liquidating the Socialist State and Cuban independence incurs a penalty of deprivation of liberty for three to eight years, or a fine of three thousand to five thousand quotas[1], or both.

2. The penalty is deprivation of liberty for five to twelve years when any of the following circumstances occur:

3. if the culprit came to know or possess the information surreptitiously or using any other unlawful means;

4. if the act is committed with the help of two or more people.

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1. Translator's Note: Installments of between one and fifty Cuban pesos.

5. The penalty is deprivation of liberty for seven to fifteen years if the information obtained, by the nature of its content, causes serious damage to the national economy.

ARTICLE 6.1 Whoever accumulates, reproduces or disseminates, material of a subversive nature of the Government of the United States of America, its agencies, departments, representatives, officials or any foreign entity to support the objectives of the Helms-Burton Law, the blockage and the economic war against our people, aimed at disrupting internal order, destabilizing the country and liquidating the Socialist State and Cuban independence, incurs a penalty of deprivation of liberty for three to eight years, or a fine of three thousand to five thousand quotas, or both.

2. The same penalty is incurred by whoever with the same purposes introduces into the country the materials referred to in the previous section.

3. The penalty is deprivation of liberty for four to ten years when any of the following circumstances occur in the events referred to in the previous sections:

4. if the acts are committed with the help of two or more people;

5. if the acts are carried out for profit or through a gift, remuneration, reward or promise of any advantage or benefit.

6. The penalty is deprivation of liberty for seven to fifteen years if the material, due to the nature of its content, produces serious damage to the national economy.

ARTICLE 7.1 Anyone who, for the purpose of cooperating with the objectives of the "Helms-Burton" Law, the blockage and the economic war against our people, aimed at disrupting internal order, destabilizing the country and liquidating the Socialist State and Cuban independence, collaborates by any means with radio or television stations, newspapers, magazines or other foreign media, incurs a penalty of deprivation of liberty for two to five years or a fine of one thousand to three thousand quotas, or both.

2. Criminal responsibility in the cases provided for in the previous section will be enforceable on those who use such means and not on foreign reporters legally accredited in the country, if that is the route used.

3. The penalty is deprivation of liberty for three to eight years, or a fine of three to five thousand quotas, or both, if the act described in section 1 is carried out for profit or through a gift, remuneration, reward or promise of an advantage or benefit.

ARTICLE 8.1 Anyone who disturbs public order with the purpose of cooperating with the objectives of the "Helms-Burton" Law, the blockage and the economic war against our people, aimed at disrupting internal

order, destabilizing the country and liquidating the Socialist State and Cuban independence incurs a penalty of deprivation of liberty for two to five years, or a fine of one thousand to three thousand quotas, or both.

2. Anyone who promotes, organizes or incites to carry out disturbances of public order referred to in the previous section incurs a penalty of deprivation of liberty for three to eight years, or a fine of three thousand to five thousand quotas, or both.

ARTICLE 9.1. Whoever promotes the objectives of the "Helms-Burton" Law, the blockage and the economic war against our people, aimed at disrupting internal order, destabilizing the country and liquidating the Socialist State and Cuban independence carries out an act aimed at preventing or harming the economic relations of the Cuban State, or of industrial, commercial, financial or entities of any other nature, national or foreign, either state-owned or private, incurs a penalty of deprivation of liberty for seven to fifteen years, or a fine of three thousand to five thousand quotas, or both.

2. The penalty is deprivation of liberty for eight to twenty years when any of the following circumstances occur:

3. if violence, intimidation, blackmail or other illicit means are used in carrying out the act;

4. if the act is carried out for profit or through a gift, remuneration, reward or promise of any advantage or benefit;

5. if, as a consequence of the act, the Government of the United States of America, its agencies or departments, take retaliatory measures against industrial, commercial or financial entities, Cuban or foreign, or against any of their leaders or relatives.

ARTICLE 10. Anyone will incur a penalty of deprivation of liberty for two to five years, or a fine of one thousand to three thousand quotas, or both, who:

1. proposes or incites others by any means or form, to commit any of the crimes provided for in this Law;

2. arranges with other persons for the commission of any of the crimes provided for in this Law;

ARTICLE 11. Anyone, who for the performance of the acts provided for in this Law, directly or through a third party, receives, distributes or participates in the distribution of financial, material or any other means, from the Government of the United States of America, its agencies, departments, representatives, officials or private entities, incurs a penalty of deprivation of liberty for three to eight years, or a fine of one thousand to three thousand quotas, or both.

ARTICLE 12. Whoever commits any of the crimes provided for in the preceding articles with the cooperation of a third State that collaborates with the Government of the United States of America for the purposes indicated, will be subject to the established sanctions.

Appendix B

FINAL PROVISIONS

FIRST: The Office of the Attorney General of the Republic, with respect to the crimes provided for and sanctioned in this Law, exercises public criminal action on behalf of the State in accordance with the principle of opportunity, according to the interests of the Nation.

SECOND: The People's Provincial Courts are competent to hear the crimes provided for in this Law.

THIRD: Any legal or regulatory provisions that oppose the provisions of this law are repealed, which will take effect from the date of its publication in the Official Gazette of the Republic.

GRANTED in the meeting hall of the National Assembly of People's Power, Convention Palace, in the city of Havana on February sixteenth, nineteen ninety-nine, the "Year of the 40th Anniversary of the Triumph of the Revolution".