

No. 24-983

IN THE
Supreme Court of the United States

HAVANA DOCKS CORPORATION,
Petitioner,

v.

ROYAL CARIBBEAN CRUISES, LTD.,
NORWEGIAN CRUISE LINE HOLDINGS,
LTD., CARNIVAL CORPORATION,
MSC CRUISES S.A., AND
MSC CRUISES (USA), INC.,
Respondents.

**On Petition for Writ of Certiorari to the
U.S. Court of Appeals for the Eleventh Circuit**

SUPPLEMENTAL BRIEF FOR PETITIONER

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SUPPLEMENTAL BRIEF FOR PETITIONER

Pursuant to this Court’s Rule 15.8, Petitioner Havana Docks Corp. files this supplemental brief to address the President’s recently issued National Security Presidential Memorandum 5, *Strengthening the Policy of the United States Toward Cuba* (June 30, 2025) (“NSPM-5”) (attached and available at <https://tinyurl.com/wpdz77jx>). The Petition argued that review of the Eleventh Circuit’s decision is warranted because that decision so directly undermines significant Congressional mandates and Executive Branch policies concerning Cuba. See Pet. 16-24; Reply Br. 6-10; compare Opp. 24-27. NSPM-5 confirms that this is so. It details how U.S. national security policies depend on preventing exactly the massive payments to the Cuban government, embargo evasions, and tourist activities the Eleventh Circuit’s decision invites and enabled.

National security memoranda define and advance the President’s most important foreign policy initiatives, those that require cross-government coordination to achieve specifically defined and paramount objectives. And so it is here. NSPM-5 first sets out the core purpose that guides U.S.-Cuba policy, to “channel funds toward the Cuban people and away from a regime that has failed to meet the most basic requirements of a free and just society.” *Id.* §1. It then specifies distinct policies the U.S. government will pursue to achieve that core purpose. *Id.* § 2. And, it directs 10 heads of Departments and 16 additional senior officials to take particular actions to implement those policies. *Id.* § 3. NSPM-5’s core purpose, the related policies, and its implementing actions are all directly at odds with the Eleventh Circuit’s decision.

1. NSPM-5 confirms that the core purpose of the nation's policy toward Cuba is to cut off funds to the Cuban government to "promote a ... free country for the Cuban people." NSPM-5 § 1.¹ The Eleventh Circuit's decision, on the other hand, ensures that funds will flow to the Cuban government through its exploitation of confiscated properties. Under Havana Docks' and Judge Brasher's construction of the LIBERTAD Act's Title III, properties the Cuba regime confiscated from U.S. national are simply ruled off limits to commercial activities until democratic reform occurs in Cuba. That is so because any unauthorized exploitation of them gives rise to significant liability through the intended operation of Title III's private right of action. Under the Eleventh Circuit's rule, in contrast, many of Cuba's most significant commercial properties are open for business. Third parties can pay the Cuban government to use them unless a U.S. national can show that it would have owned the property when exploited, assuming there had been no confiscation.

NSPM's link between stopping payments to the Cuban government and facilitating democracy also underscores Congress's similar choices reflected in Title III's text. Under the Eleventh Circuit's rule, the passage of time turns many "confiscated" properties into "unconfiscated" ones for purposes of Title III's private right of action (and its prohibition on commercial use of confiscated property). But Congress determined instead that property, once "confiscated," remains confiscated and its exploitation gives rise to

¹ NSPM-5 amended and reinstated a similar statement of policy and direction issued by President Trump in 2017 but later eliminated by President Biden. See NSPM-5 § 4(a)-(b).

liability under Title III until (i) “the property [is] returned” to the U.S. national, (ii) “adequate and effective compensation [is] provided” to the victim, or (iii) “the claim to the property [is] settled pursuant to an international claims settlement agreement” 22 U.S.C. § 6023(4) (definition of “confiscated”). In practice, this means the property remains treated as confiscated until a transitional or democratic government is in place in Cuba. Indeed, “all rights created under [Section 6082] to bring an action for money damages with respect to property confiscated by the Cuban Government” continue until the President determines “that a democratically elected government in Cuba is in power” or when the President chooses to suspend such rights (along with the economic embargo generally) after finding that “a transition government in Cuba is in power.” *Id.* § 6082(h) (termination of rights); *id.* § 6064(a); see also *id.* § 6082(d) (no recovery against Cuban government entity after transition to democratic government). In this way, NSPM-5’s objectives and those set out by Congress in Title III are entirely in sync, and they are completely at odds with the Eleventh Circuit’s interpretation of Title III.

2. NSPM-5’s policy objectives are likewise at odds with the Eleventh Circuit’s narrow interpretation of Title III. NSPM-5 sets out three central policies designed to achieve its core foreign policy objective:

- (a) End economic practices that disproportionately benefit the Cuban government or its military, intelligence, or security agencies or personnel at the expense of the Cuban people.
- (b) Ensure adherence to the statutory ban on

tourism to Cuba.

(c) Support the economic embargo of Cuba described in section 4(7) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (the embargo)

NSPM-5 § 2(a)-(c) (“Policy”).

The Eleventh Circuit’s decision directly undermines each of these central policies. By limiting the scope of Title III suits against parties that commercially exploit confiscated property, the decision ensures that funds will continue to flow to the Cuban government and, as described below, to its “military, intelligence, or security agencies or personnel” *Id.* § 2(a); *infra* p. 6-7. All the cruise lines’ substantial payments—exceeding \$130 million—went to the Cuban government, and none went to “the Cuban people.” NSPM-5 § 2(a); see Pet 21.

For the second policy, the Eleventh Circuit’s rule hardly “[e]nsures adherence to the statutory ban on tourism to Cuba.” NSPM-5 § 2(b). Instead, it rewards the cruise lines for bringing tourism to Cuba and ensures that tourism will flourish there in the future.

And for the third policy of “support[ing] the economic embargo of Cuba,” *id.* § 2(c), the Eleventh Circuit’s rule could not be more detrimental. As described above, see *supra* p. 2, that rule has blown an enormous hole in the embargo by declining to adopt the bright line prohibition on dealings applicable to all confiscated property, and by instead permitting exploitation of various confiscated, time-limited

properties and other confiscated properties whenever the claim-holder cannot prove that it would have held a present interest when exploitation occurred. Pet. 18-22. Title III's private right of action is among the embargo's most important enforcement mechanisms, and the Eleventh Circuit has reduced it to a near nullity even as the Administration has reaffirmed its importance. See *id.*

Indeed, the Eleventh Circuit's rule severely undermines the embargo and thus NSPM-5's policy because time-limited concessions such as Havana Docks' were both common and among the most valuable properties the Cuban regime confiscated. The pre-revolutionary Cuban government used such concessions to entice foreign companies to construct infrastructure, exploit resources, and build and operate public utilities. The confiscated concessions subject to U.S. nationals' claims include those related to the operation of a hotel in Havana, mining, oil exploration and refining, and port infrastructure.²

² See, e.g., Foreign Claims Settlement Commission ("FCSC") Dec. 4545, *available at* <https://tinyurl.com/38x82w66> (International Hotels Corp., April 14, 1971) (Havana hotel operated pursuant to a 60-year lease); *Fernandez v. Seaboard Marine LTD.*, 135 F.4th 939, 946 (11th Cir. 2025) (a 70-year concession "for the construction of new buildings and works" around the Mariel Bay). For other confiscated concessionary property interests concerning coal and nickel mining, port operations, oil exploration and refining, and the telephone system that were very likely time-limited, see, e.g., FCSC Decs. 0030, *available at* <https://tinyurl.com/mpkv3u2j> (Berwind Corp., Feb. 7, 1968); 2726, *available at* <https://tinyurl.com/2d8ux57j> (Felix Heyman, Aug. 14, 1968); 5013, *available at* <https://tinyurl.com/3n7d2wkc> (Int'l Tel. & Tel. Co., June 17, 1970); 6049, *available at* <https://tinyurl.com/bdd6f9uf> (Moa Bay Mining Co., Feb. 3, 1971).

3. NSPM-5 section 3 sets out particular actions designed to implement the President's policies. These, too, are directly at odds with the cruise lines' practices enabled by the Eleventh Circuit's decision and show how that decision impedes the U.S. objective of bringing democratic governance to Cuba.

For example, the President directed that regulations be tightened to ban "tourism to Cuba," including to ensure that "educational travel be for legitimate educational purposes," including having such visitors "engage in a full-time schedule of activities to enhance contact with the Cuban people" and "promote the Cuban people's independence from Cuban authorities." *Id.* § 3(b)(i)-(ii). He also directed officials to enforce those regulations in a manner that "accords with the policies outlined in section 2 of the memorandum." *Id.* § 3(b)(iv); see *id.* § 2 (no payments to Cuba). These provisions are designed to ensure continued, robust enforcement of Title III against tourism companies as well as to close the door on arguments made by the cruise lines that rampant tourist activities are somehow "educational" activities consistent with OFAC regulations. See Opp. 24.

As importantly, NSPM-5's section 3 seeks to target and prevent payments to "any entities or subentities ... that are under the control of, or act for or on behalf of, or for the benefit of the Cuban military, intelligence, or security services or personnel (such as Grupo de Administracion Empresarial S.A. (GAESA), its affiliates, subsidiaries, and successors)" NSPM-5 § 3(a)(i). The cruise lines contracted with three principal Cuban operators to conduct their

onshore tours.³ Those entities are either owned by or acting on behalf of the Cuban government, and at least two of them are affiliated with the Cuban military and security services.⁴ Two are directly or indirectly owned by GAESA itself, which is singled out in NSPM-5, and OFAC has sanctioned all three, to restrict payments to them to advance U.S. national security interests.⁵ The operator of the confiscated Havana port paid by the cruise lines was, as well, recently revealed to be an affiliate of GAESA.⁶

³ Grupo Internacional de Turoperadores y Agencias de Viajes, Havanatur S.A. (“Havanatur”); Agencia Viajes Cubanacan S.A. (“Cubanacan”); and Grupo de Turismo GAVIOTA S.A. (“Gaviota”).

⁴ See Updating Cuba Restricted List, 90 Fed. Reg. 31558-31562 (July 14, 2025), *available at* <https://tinyurl.com/mt8p3zjj> (“CIMEX—Corporacion CIMEX S.A.,” and “Gaviota-Grupo de Turismo Gaviota” identified as “entities and sub entities under the control of, or acting for or on behalf of, the Cuban military, intelligence, or security services or personnel.”); see also U.S. Dep’t of the Treasury, Treasury Designates & Blocks 10 Entities for Cuban Embargo Violations (February 9, 2004), *available at* <https://tinyurl.com/4ye9axwd> (Havanatur’s “corporate parent is CIMEX” and Cubanacan is “owned by the Government of Cuba”).

⁵ See N. Gamez Torres, *These Cuban Companies are Actually Run by the Military, Secret Documents Show*, The Miami Herald (Aug. 6, 2025), *available at* <https://tinyurl.com/4e4whh2c> (GAESA owns CIMEX and Gaviota, “GAESA’s flagship tourism company”); OFAC Sanctions List Search, CUBANACAN GROUP, *available at* <https://tinyurl.com/4ncm32x7>; OFAC Sanctions List Search, HAVANATUR, S.A., *available at* <https://tinyurl.com/27jrf3tc>; *supra* n. 4 (Gaviota).

⁶ See N. Gamez Torres, *supra* n. 5, (GAESA controls “Aries S.A., the company that operates the cruise terminal in Havana, which was used by several cruise companies taking U.S. travelers to the island between 2016 and 2019.”).

* * * * *

While these details show the conflict between what the Eleventh Circuit's rule permits and what NSPM-5 seeks to prohibit, the broader point should not be lost: The Eleventh Circuit's decision would, if not reversed, directly and substantially undermine the Administration's most formally and comprehensively stated efforts to enforce the embargo and thus to hasten the transition to a democratic Cuba. Title III's private right of action is a central component of enforcing the embargo. At each turn, the Eleventh Circuit's decision impedes the nation's foreign policies, much as it defeats Congress's objective to have Title III's private right of action serve as a lever to limit exploitation of confiscated property and thus force a transition to democracy in Cuba.

CONCLUSION

For the foregoing reasons and those set out in the Petition and Reply Brief, this Court should grant Havana Docks' petition for writ of certiorari.

Respectfully submitted,

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ATTACHMENT A

PRESIDENTIAL ACTIONS

**NATIONAL SECURITY PRESIDENTIAL
MEMORANDUM/NSPM-5**

Presidential Memoranda | June 30, 2025

MEMORANDUM FOR THE VICE PRESIDENT

THE SECRETARY OF STATE

THE SECRETARY OF THE TREASURY

THE SECRETARY OF DEFENSE

THE ATTORNEY GENERAL

THE SECRETARY OF THE INTERIOR

THE SECRETARY OF AGRICULTURE

THE SECRETARY OF COMMERCE

THE SECRETARY OF HEALTH AND HUMAN
SERVICES

THE SECRETARY OF TRANSPORTATION

THE SECRETARY OF HOMELAND SECURITY

THE DIRECTOR OF NATIONAL INTELLIGENCE

THE DIRECTOR OF THE CENTRAL
INTELLIGENCE AGENCY

THE CHAIRMAN OF THE JOINT CHIEFS OF
STAFF

THE ASSISTANT TO THE PRESIDENT AND
CHIEF OF STAFF

THE DIRECTOR OF THE OFFICE OF
MANAGEMENT AND BUDGET

THE ASSISTANT TO THE PRESIDENT FOR
NATIONAL SECURITY AFFAIRS

THE ASSISTANT TO THE PRESIDENT AND
HOMELAND SECURITY ADVISOR

THE COUNSEL TO THE PRESIDENT

THE ASSISTANT TO THE PRESIDENT FOR
ECONOMIC POLICY

THE UNITED STATES TRADE REPRESENTATIVE

THE DIRECTOR OF THE OFFICE OF SCIENCE
AND TECHNOLOGY POLICY

THE REPRESENTATIVE OF THE UNITED
STATES OF AMERICA TO THE UNITED NATIONS

THE ADMINISTRATOR OF THE SMALL
BUSINESS ADMINISTRATION

THE ADMINISTRATOR OF THE UNITED STATES
AGENCY FOR INTERNATIONAL DEVELOPMENT

THE DIRECTOR OF THE OFFICE OF PERSONNEL
MANAGEMENT

SUBJECT: Reissuance of and Amendments to
National Security Presidential Memorandum 5 on
Strengthening the Policy of the United States Toward
Cuba

Section 1. Purpose. The United States recognizes the need for more freedom and democracy, improved respect for human rights, and increased free enterprise in Cuba. The Cuban people have long suffered under a Communist regime that suppresses their legitimate aspirations for freedom and prosperity and fails to respect their essential human dignity.

My Administration's policy will be guided by the national security and foreign policy interests of the United States, as well as solidarity with the Cuban people. I will seek to promote a stable, prosperous, and free country for the Cuban people. To that end, we must channel funds toward the Cuban people and away from a regime that has failed to meet the most basic requirements of a free and just society.

In Cuba, dissidents and peaceful protesters are arbitrarily detained and held in terrible prison conditions. Violence and intimidation against dissidents occur with impunity. Families of political prisoners are retaliated against for peacefully protesting the improper confinement of their loved ones. Worshipers are harassed, and free association by civil society organizations is blocked. The right to speak freely, including through access to the internet,

is denied, and there is no free press. The United States condemns these abuses.

The initial actions set forth in this memorandum, including restricting certain financial transactions and travel, encourage the Cuban government to address these abuses. My Administration will continue to evaluate its policies so as to improve human rights, encourage the rule of law, foster free markets and free enterprise, and promote democracy in Cuba.

Sec. 2. Policy. It shall be the policy of the executive branch to:

- (a) End economic practices that disproportionately benefit the Cuban government or its military, intelligence, or security agencies or personnel at the expense of the Cuban people.
- (b) Ensure adherence to the statutory ban on tourism to Cuba.
- (c) Support the economic embargo of Cuba described in section 4(7) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (the embargo), including by opposing measures that call for an end to the embargo at the United Nations and other international forums and through regular reporting on whether the conditions of a transition government exist in Cuba.
- (d) Amplify efforts to support the Cuban people through the expansion of internet services, free press, free enterprise, free association, and lawful travel.

(e) Not reinstate the “Wet Foot, Dry Foot” policy, which encouraged untold thousands of Cuban nationals to risk their lives to travel unlawfully to the United States.

(f) Ensure that engagement between the United States and Cuba advances the interests of the United States and the Cuban people. These interests include: advancing Cuban human rights; encouraging the growth of a Cuban private sector independent of government control; enforcing final orders of removal against Cuban nationals in the United States; protecting the national security and public health and safety of the United States, including through proper engagement on criminal cases and working to ensure the return of fugitives from American justice living in Cuba or being harbored by the Cuban government; supporting United States agriculture and protecting plant and animal health; advancing the understanding of the United States regarding scientific and environmental challenges; and facilitating safe civil aviation.

Sec. 3. Implementation. The heads of executive departments and agencies (agencies) shall begin to implement the policy set forth in section 2 of this memorandum as follows:

(a) Within 30 days of the date of this memorandum, the Secretary of the Treasury and the Secretary of Commerce, as appropriate and in coordination with the Secretary of State and the Secretary of Transportation, shall initiate a process to adjust

current regulations regarding transactions with Cuba.

(i) As part of the regulatory changes described in this subsection, the Secretary of State shall identify any entities or subentities, as appropriate, that are under the control of, or act for or on behalf of, or for the benefit of, the Cuban military, intelligence, or security services or personnel (such as Grupo de Administracion Empresarial S.A. (GAESA), its affiliates, subsidiaries, and successors), and publish a list of those identified entities and subentities with which direct or indirect financial transactions would disproportionately benefit such services or personnel at the expense of the Cuban people or private enterprise in Cuba.

(ii) Except as provided in subsection (a)(iii) of this section, the regulatory changes described in this subsection shall prohibit direct or indirect financial transactions with those entities or subentities on the list published pursuant to subsection (a)(i) of this section.

(iii) The regulatory changes described in this subsection shall not prohibit transactions that the Secretary of the Treasury or the Secretary of Commerce, in coordination with the Secretary of State, determines are consistent with the policy set forth in section 2 of this memorandum and:

(A) concern Federal Government operations, including Naval Station Guantanamo Bay and the United States mission in Havana;

- (B) support programs to build democracy in Cuba;
 - (C) concern air and sea operations that support permissible travel, cargo, or trade;
 - (D) support the acquisition of visas for permissible travel;
 - (E) support the expansion of direct telecommunications and internet access for the Cuban people;
 - (F) support the sale of agricultural commodities, medicines, and medical devices sold to Cuba consistent with the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7201 et seq.) and the Cuban Democracy Act of 2002 (22 U.S.C. 6001 et seq.);
 - (G) relate to sending, processing, or receiving authorized remittances;
 - (H) otherwise further the national security or foreign policy interests of the United States; or
 - (I) are required by law.
- (b) Within 30 days of the date of this memorandum, the Secretary of the Treasury, in coordination with the Secretary of State, shall initiate a process to adjust current regulations to ensure adherence to the statutory ban on tourism to Cuba.
- (i) The amended regulations shall require that educational travel be for legitimate educational

purposes. Except for educational travel that was permitted by regulation in effect on January 27, 2011, all educational travel shall be under the auspices of an organization subject to the jurisdiction of the United States, and all such travelers must be accompanied by a representative of the sponsoring organization.

(ii) The regulations shall further require that those traveling for the permissible purposes of non academic education or to provide support for the Cuban people:

(A) engage in a full-time schedule of activities that enhance contact with the Cuban people, support civil society in Cuba, or promote the Cuban people's independence from Cuban authorities; and

(B) meaningfully interact with individuals in Cuba.

(iii) The regulations shall continue to provide that every person engaging in travel to Cuba shall keep full and accurate records of all transactions related to authorized travel, regardless of whether they were effected pursuant to license or otherwise, and such records shall be available for examination by the Department of the Treasury for at least 5 years after the date they occur.

(iv) The Secretary of State, the Secretary of the Treasury, the Secretary of Commerce, and the Secretary of Transportation shall review their respective agencies' enforcement of all categories of permissible travel within 90 days of the date the regulations described in this subsection are finalized

to ensure such enforcement accords with the policies outlined in section 2 of this memorandum.

(c) The Secretary of the Treasury shall regularly audit travel to Cuba to ensure that travelers are complying with relevant statutes and regulations. The Secretary of the Treasury shall request that the Inspector General of the Department of the Treasury inspect the actions taken by the Department of the Treasury to implement this audit requirement. The Inspector General of the Department of the Treasury shall provide a report to the President, through the Secretary of the Treasury, summarizing the results of that inspection within 180 days of the adjustment of current regulations described in subsection (b) of this section and annually thereafter.

(d) The Secretary of the Treasury shall adjust the Department of the Treasury's current regulation defining the term "prohibited officials of the Government of Cuba" so that, for purposes of title 31, part 515 of the Code of Federal Regulations, it includes Ministers and Vice-Ministers; members of the Council of State and the Council of Ministers; members and employees of the National Assembly of People's Power; members of any provincial assembly; local sector chiefs of the Committees for the Defense of the Revolution; Director Generals and sub-Director Generals and higher of all Cuban ministries and state agencies; employees of the Ministry of the Interior (MININT); employees of the Ministry of Defense (MINFAR); secretaries and first secretaries of the Confederation of Labor of Cuba (CTC) and its component unions; chief editors, editors, and deputy editors of Cuban state-run media organizations and

programs, including newspapers, television, and radio; and members and employees of the Supreme Court (Tribuno Supremo Nacional).

(e) The Secretary of State and the Representative of the United States of America to the United Nations shall oppose efforts at the United Nations or (with respect to the Secretary of State) any other international forum to lift the embargo until a transition government in Cuba, as described in section 205 of the LIBERTAD Act, exists.

(f) The Secretary of State, in coordination with the Attorney General, shall provide a report to the President assessing whether and to what degree the Cuban government has satisfied the requirements of a transition government as described in section 205(a) of the LIBERTAD Act, taking into account the additional factors listed in section 205(b) of that Act. This report shall include a review of human rights abuses committed against the Cuban people, such as unlawful detentions, arbitrary arrests, and inhumane treatment.

(g) The Attorney General shall, within 90 days of the date of this memorandum, issue a report to the President on issues related to fugitives from American justice living in Cuba or being harbored by the Cuban government.

(h) The Secretary of State and the Administrator of the United States Agency for International Development shall review all democracy development programs of the Federal Government in Cuba to

ensure that they align with the criteria set forth in section 109(a) of the LIBERTAD Act.

(i) The Secretary of State shall convene a task force, composed of relevant agencies, including the Office of Cuba Broadcasting, and appropriate non-governmental organizations and private-sector entities, to examine the technological challenges and opportunities for expanding internet access in Cuba, including through Federal Government support of programs and activities that encourage freedom of expression through independent media and internet freedom so that the Cuban people can enjoy the free and unregulated flow of information.

(j) The Secretary of State and the Secretary of Homeland Security shall continue to discourage dangerous, unlawful migration that puts Cuban and American lives at risk. The Secretary of Defense shall continue to provide support, as necessary, to the Department of State and the Department of Homeland Security in carrying out duties regarding interdiction of migrants.

(k) The Secretary of State, in coordination with the Secretary of the Treasury, the Secretary of Defense, the Attorney General, the Secretary of Commerce, and the Secretary of Homeland Security, shall annually report to the President regarding the engagement of the United States with Cuba to ensure that engagement is advancing the interests of the United States.

(l) All activities conducted pursuant to subsections (a) through (k) of this section shall be carried out in a

manner that furthers the interests of the United States, including by appropriately protecting sensitive sources, methods, and operations of the Federal Government.

Sec. 4. Earlier Presidential Actions. (a) This memorandum amends sections 1 and 3 of National Security Presidential Memorandum 5 of June 16, 2017 (Strengthening the Policy of the United States Toward Cuba) (NSPM-5), and reissues NSPM-5 in its entirety. It does not otherwise amend the text or timelines reflected in the original NSPM-5 and is not intended to direct agencies to repeat actions already implemented under that NSPM.

(b) This memorandum supersedes and replaces both National Security Presidential Directive 52 of June 28, 2007 (U.S. Policy toward Cuba), and Presidential Policy Directive 43 of October 14, 2016 (United States-Cuba Normalization).

(c) This memorandum does not affect either Executive Order 12807 of May 24, 1992 (Interdiction of Illegal Aliens), or Executive Order 13276 of November 15, 2002 (Delegation of Responsibilities Concerning Undocumented Aliens Interdicted or Intercepted in the Caribbean Region).

Sec. 5. General Provisions. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Secretary of State is hereby authorized and directed to publish this memorandum in the *Federal Register*.

DONALD J. TRUMP