

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

RICHARD SIERRA; VERONICA GOOCH;)
 ROLAND SIERRA; LUCIA LLERAS DE)
 LABRADA; PRISCILLA LLERAS-BUSH, in)
 her personal capacity and as Personal)
 Representative of the ESTATE OF OLGA)
 ROMAGOSA; MÁRIAN MARIA DE LOS)
 ANGELES ROMAGOSA; and LISETTE)
 ROMAGOSA SMYRNIOS,)
)
 Plaintiffs,)
)
 v.)
)
 TRAFIGURA TRADING, LLC,)
)
 Defendant.)
)
 _____)

C.A. No.
DEMAND FOR JURY TRIAL

COMPLAINT

Plaintiffs, Richard Sierra, Veronica Gooch, Roland Sierra, Lucia Lleras de Labrada, Priscilla Lleras-Bush, in her personal capacity and as Personal Representative of the Estate of Olga Romagosa, Márian Maria de los Angeles Romagosa, and Lisette Romagosa Smyrnios (collectively, “Plaintiffs”), by and through undersigned counsel, as and for their Complaint against Defendant Trafigura Trading, LLC (“Defendant” or “Trafigura US”) hereby allege:

PRELIMINARY STATEMENT

1. Plaintiffs bring this action to recover damages and interest under the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, codified at 22 U.S.C. § 6021, *et seq.* (the “Helms-Burton Act” or “Act”) against Defendant Trafigura US for trafficking in property that was confiscated by the Cuban Government on or after January 1, 1959, and as to which Plaintiffs own claims.

2. The Helms-Burton Act was enacted in 1996 to preserve the “fundamental right to own and enjoy property which is enshrined in the United States Constitution” and 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.

3. 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. 22 U.S.C. § 6081. Recent events, including mass protests, have shown that the Cuban Government—even after the death of Fidel Castro—continues to oppress and deprive its people.

4. In explaining its enactment of the Helms Burton Act, Congress expressly found: “The Castro government threatens international peace and security by engaging in acts of armed subversion and terrorism such as the training and supplying of groups dedicated to international violence.” 110 Stat. 785, 787, 104 P.L. 114.

5. Congress further announced that it is “the foreign policy of the United States ... to bring democratic institutions to Cuba through the pressure of a general economic embargo ... and ... to protect the claims of United States nationals who had property wrongfully confiscated by the Cuban Government.” 22 U.S.C. § 6081.

6. The Cuban Government has allowed foreign companies, such as Trafigura US, to benefit and profit from the use of confiscated property. “This ‘trafficking’ in confiscated property provides badly needed financial benefit, including hard currency, oil, and productive investment

and expertise, to the current Cuban Government and thus *undermines the foreign policy of the United States.*” 22 U.S.C. § 6081 (emphasis added).

7. In addition, for most of the period since 1982, the U.S. Department of State has designated Cuba a State Sponsor of Terrorism. Currently, only three other countries join Cuba on that list—North Korea, Iran, and Syria. Most recently, the State Department explained Cuba’s inclusion on the list as follows:

For decades, the Cuban government has fed, housed, and provided medical care for murderers, bombmakers, and hijackers, while many Cubans go hungry, homeless, and without basic medicine. Members of the National Liberation Army (ELN), a U.S.-designated Foreign Terrorist Organization, traveled to Havana to conduct peace talks with the Colombian government in 2017. Citing peace negotiation protocols, Cuba has refused Colombia’s requests to extradite ten ELN leaders living in Havana after the group claimed responsibility for the January 2019 bombing of a Bogota police academy that killed 22 people and injured more than 87 others.

Cuba also harbors several U.S. fugitives from justice wanted on or convicted of charges of political violence, many of whom have resided in Cuba for decades. For example, the Cuban regime has refused to return Joanne Chesimard, on the FBI’s Most Wanted Terrorists List for executing New Jersey State Trooper Werner Foerster in 1973; Ishmael LaBeet, convicted of killing eight people in the U.S. Virgin Islands in 1972; Charles Lee Hill, charged with killing New Mexico state policeman Robert Rosenbloom in 1971; and others.

Cuba returns to the SST list following its broken commitment to stop supporting terrorism as a condition of its removal by the previous administration in 2015. On May 13, 2020, the State Department notified Congress that it had certified Cuba under Section 40A(a) of the Arms Export Control Act as “not cooperating fully” with U.S. counterterrorism efforts in 2019.

In addition to the support for international terrorism ..., the Cuban regime engages in a range of malign behavior across the region. The Cuban intelligence and security apparatus has infiltrated Venezuela’s security and military forces, assisting Nicholas Maduro to maintain his stranglehold over his people while allowing terrorist organizations to operate. The Cuban government’s support for FARC dissidents and the ELN continues beyond Cuba’s borders as well, and the regime’s support of Maduro has created a

permissive environment for international terrorists to live and thrive within Venezuela.

U.S. Department of State Press Statement (Jan. 11, 2021).

8. Recently, the Cuban Studies Institute reported that “Iran, Cuba, and Venezuela have developed a close and cooperative relationship against the U.S. and in support of terrorist groups and states.”¹ The report elaborates on Cuba’s ties to terrorism:

- In 1996, Cuba shot down two unarmed civilian American aircraft over international waters in the Florida Straits, that incident immediately precipitated passage of the Helm’s Burton Act. There are outstanding U.S. indictments against Cuban Air Force pilots and General Rubén Martínez Puente, the head of the Cuban Air Force, in connection with that act of terrorism, which killed four men, three of them American citizens. Fidel and Raul Castro personally accepted responsibility for ordering the downing.
- Cuban military officers are acting as liaison between Venezuelan military and the narco-guerrillas of the Colombian FARC. Cuban General Leonardo Ramon Andollo, Chief of Operations of the Cuban MINFAR (Ministry of the Armed Forces), has visited Venezuela several times and acted as a go between the Cuban and Venezuelan military involved in drug trafficking.
- The FBI estimates that Cuba has provided safe harbor to dozens of fugitives from U.S. justice who live on the island under the protection of the Cuban regime. Some of these fugitives are charged with or have been convicted of murder, kidnapping, and hijacking, and they include notorious killers of police officers in New Jersey and New Mexico, most prominent among them Joanne Chesimard (Assata Shakur), placed by the FBI in 2013 on the “Most Wanted Terrorist List.” The FBI is offering millions of dollars for information leading to her apprehension.
- Other terrorist fugitives of the U.S. living in Cuba include Ishmael LaBeet, one of the five men convicted of the infamous Fountain Valley Massacre, a racially tinged 1972-armed robbery in the Virgin Islands that turned into mass murder, with eight dead. Guillermo Morales, the master bomb-maker of the Puerto Rican separatist group FALN (Fuerzas Armadas de Liberación Nacional), which set off 140 or so explosions around the United States during the 1970s and 1980s, killing at least six people. Victor Gerena, an

¹ Cuban Studies Institute, “Cuba’s Support for Terrorism,” <https://cubanstudiesinstitute.us/principal/cubas-support-for-terrorism> (last visited August 12, 2021).

armed robber working for another Puerto Rican separatist group, who is believed to have taken the proceeds of a \$7 million heist to Cuba with him. Charles Hill who in 1971 hijacked a civilian plane carrying 49 passengers and fled to Cuba. Hill is also wanted for the 1971 murder of New Mexico State Police officer Robert Rosenbloom. Others include William Lee Brent, William Potts, and Ronald LaBeet, all wanted in the U.S.

- Current and former Spanish members of Basque Fatherland and Liberty (ETA), a Basque terrorist organization continue to reside in Cuba. While some of these terrorists are on the island as part of an accord between the Cuban and Spanish governments, others are hiding in Cuba, fugitives of Spanish justice. ETA terrorist, José Ángel Urtiaga Martínez, has lived in Cuba since the 1980s and is wanted by Spanish Justice. In addition, there are about a dozen other ETA members living in Cuba.
- Former Cuban intelligence official, Uberto Mario, has described how the Cuban regime trained Venezuelan “Tupamaros,” pro-Maduro groups who violently attack Venezuelan students.
- Managed by Cubans and Venezuelans sympathetic to Cuba, Venezuela’s immigration system, “Misión Identidad,” facilitates the entry of Cuban agents into Venezuela. Cubans also control SIME (Servicio de Identificación, Migración y Extranjería, Caracas) which facilitates the travel of drug organizations, Colombian guerrillas, and Islamist terrorists. Cuba also has on the island duplicate Venezuelan forms and stamps to issue passports and identifications to these groups.
- In 2013 “Prensa Islámica” published an article on Cuba-Iran growing relationship. The article explains that Cuba has shared with Iran its “vast knowledge on intelligence” and has discussed cooperation “on electromagnetic weapons capable of sabotaging enemy communications.”
- In January 2019, Colombia’s President asked Cuba to extradite several leaders of Colombian terrorist group Ejército de Liberación Nacional (ELN). Yet Cuba refuses. Living in the island are a) Nicolas Rodríguez, aka Gabino; b) Israel Ramírez Pineda aka Pablo Beltrán; c) Victor Orlando Cubides, aka Aureliano Carbonell. There are also three female members of the ELN in Cuba: Consuelo Tapias, Isabel Torres, and Luz Amanda Pallares, aka Silvana Guerrero.
- Other leaders of the Colombian terrorist group, Fuerzas Armadas Revolucionarias de Colombia, FARC have used Cuba as temporary safe haven. They include Ivan Marquez and Rodrigo Londoño Echeverry, aka Timochenko.

- The electro-magnetic cyber-attacks against U.S. and Canadian diplomats in Havana that harmed several of them, is still an unresolved issue.

9. Trafigura US has trafficked in Plaintiffs' wrongfully confiscated property, thereby providing support for the Cuban Government, which has been designated by the U.S. State Department as a State Sponsor of Terrorism. Trafigura US's conduct is in direct contravention of U.S. foreign policy.

10. "To deter trafficking in wrongfully confiscated property," the Helms Burton Act provides U.S. nationals, like the Plaintiffs, "a judicial remedy in the courts of the United States that would deny traffickers any profits from economically exploiting Castro's wrongful seizures." 22 U.S.C. § 6081.

PARTIES

I. Plaintiffs

11. Richard Sierra is a United States national within the meaning of 22 U.S.C. § 6023(15)(A). He acquired ownership of his claim to the Confiscated Property before March 12, 1996, which claim he still owns. He became a naturalized U.S. citizen on May 14, 1976. He resides in Broward County, Florida.

12. Veronica Gooch is a United States national within the meaning of 22 U.S.C. § 6023(15)(A). She acquired ownership of her claim to the Confiscated Property before March 12, 1996, which claim she still owns. She became a naturalized U.S. citizen on March 17, 1967. She resides in Tarrant County, Texas.

13. Roland Sierra is a United States national within the meaning of 22 U.S.C. § 6023(15)(A). He acquired ownership of his claim to the Confiscated Property before March 12,

1996, which claim he still owns. He became a naturalized U.S. citizen on or about March 17, 1967. He resides in Tarrant County, Texas.

14. Lucia Lleras de Labrada is a United States national within the meaning of 22 U.S.C. § 6023(15)(A). She acquired ownership of her claim to the Confiscated Property before March 12, 1996, which claim she still owns. She became a naturalized U.S. citizen on December 8, 1976. She resides in Mazatlán, Mexico.

15. Priscilla Lleras-Bush is a United States national within the meaning of 22 U.S.C. § 6023(15)(A). She acquired ownership of her claim to the Confiscated Property before March 12, 1996, which claim she still owns. She became a naturalized U.S. citizen on June 10, 1981. She resides in Ellis County, Texas.

16. Olga Romagosa's claim to the Confiscated Property is prosecuted by Plaintiff Priscilla Lleras-Bush, in her capacity as Personal Representative of Olga Romagosa's estate. The Circuit Court for Miami-Dade County, Florida, Probate Division, has opened Olga Romagosa's estate and Priscilla Lleras-Bush has taken the Oath of Personal Representative. *In re Estate of Olga Romagosa y Diaz, deceased*, Case No. 2022-000651-CP-02. Olga Romagosa was a United States national within the meaning of 22 U.S.C. § 6023(15)(A). She became a naturalized U.S. citizen on December 7, 1978. She acquired ownership of her claim to the Confiscated Property before March 12, 1996. Prior to her death on September 17, 1998, she resided in Miami-Dade County, Florida.

17. Márian Maria de los Angeles Romagosa is a United States national within the meaning of 22 U.S.C. § 6023(15)(A). She acquired ownership of her claim to the Confiscated Property before March 12, 1996, which claim she still owns. She became a naturalized U.S. citizen on December 2, 1966. She resides in Collin County, Texas.

18. Lisette Romagosa Smyrnios is a United States national within the meaning of 22 U.S.C. § 6023(15)(A). She acquired ownership of her claim to the Confiscated Property before March 12, 1996, which claim she still owns. She became a naturalized U.S. citizen on July 7, 1967. She resides in Williamson County, Texas.

II. Defendant

19. Defendant Trafigura Trading, LLC (“Trafigura US”) is a Delaware limited liability company and a wholly owned subsidiary of Trafigura Group Pte Ltd. Trafigura US has its principal place of business at 5 Houston Centre, 1401 McKinney, Suite 1500, Houston, Texas 77010. Trafigura US is responsible for all US operations of Trafigura Group PTE LTD (“Trafigura Group”), which includes the Trafigura Mining Group (the “Mining Group”). It has been registered in the State of Texas and other states since 1998 to conduct the following on behalf of the Trafigura Group, which includes the Mining Group: (i) management, administration, financing and support for industrial and technical services; (ii) trade especially in raw materials with companies which are Trafigura Group members, including Mining Group members, and with third parties; (iii) investment in and administration of moneys, goods and claims; (iv) guarantee of securities for debt liabilities of Trafigura Group members, including Mining Group members, and their companies; (v) acquisition and disposition of real property; and (vi) administration and exploitation of intangible rights and know how.

JURISDICTION AND VENUE

20. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 because Plaintiff’s claims arise under the laws of the United States, specifically Title III of the Helms-Burton Act, 22 U.S.C. §§ 6081–85.

21. The amount in controversy in this action exceeds \$50,000, exclusive of interest, treble damages, court costs, and reasonable attorneys' fees. 22 U.S.C. § 6082(b).

22. Defendant Trafigura US is subject to the personal jurisdiction of this Court because it was formed in Delaware within this judicial district.

23. Venue is proper in this District under 28 U.S.C. § 1391(b)(1) because Defendant resides in this District and under 28 U.S.C. §§ 1391(b)(2), because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this District.

24. Contemporaneous with this filing, Plaintiffs have paid the special fee for filing an action under Title III of the Helms-Burton Act, 22 U.S.C. § 6082(i).

THE HELMS-BURTON ACT

I. Background

25. In 1996, the U.S. Congress passed the Helms-Burton Act, and President Clinton signed the Act into law on March 12, 1996. The Act had several goals, including to “protect United States nationals against confiscatory takings and the wrongful trafficking in property confiscated by the Castro regime,” 22 U.S.C. § 6022(6). Further, Congress determined that “‘trafficking’ in confiscated property provides badly needed financial benefit, including hard currency, oil, and productive investment and expertise to the ... Cuban Government and thus undermines the foreign policy of the United States,” which foreign policy includes “protect[ing] claims of United States nationals who had property wrongfully confiscated by the Cuban Government.” 22 U.S.C. § 6081(6).

26. Congress found that international law “lacks fully effective remedies” for the “unjust enrichment from the use of wrongfully confiscated property by governments and private entities at the expense of the rightful owners of the property.” 22 U.S.C. § 6081(8).

27. Congress thus decided that “the victims of these confiscations should be endowed with a judicial remedy in the courts of the United States that would deny traffickers any profits — from economically exploiting Castro’s wrongful seizures.” 22 U.S.C. § 6081(11). The result was Title III of the Helms-Burton Act—“Protection of Property Rights of United States Nationals”—which imposes liability on persons trafficking in property confiscated from a U.S. national (including property confiscated from a person who became a U.S. national before March 12, 1996) by the Cuban Government on or after January 1, 1959, and which authorizes a private right of action for damages against such traffickers. *See* 22 U.S.C. § 6082.

28. The Helms-Burton Act authorizes the President (or his delegate, the Secretary of State) to suspend for periods of up to six months at a time (1) the Title III private right of action, 22 U.S.C. § 6085(c); and/or (2) the effective date of Title III of August 1, 1996, 22 U.S.C. § 6085(b). Although Title III’s creation of liability as to those engaged in trafficking has remained in force since August 1996, the ability of any potential plaintiff to bring a private right of action for Title III violations had been suspended by several Presidents until May 2019, when President Donald Trump allowed the suspension of Title III’s private right of action to lapse, thereby allowing such actions to proceed.

29. Although, on July 16, 1996, President Clinton suspended the private right of action under Title III for six months, the August 1, 1996 effective date was never suspended. Title III of the Act therefore came into effect on August 1, 1996. Starting on that date, traffickers in confiscated property were liable to U.S. nationals with claims to that property but could not be sued while the private right of action remained suspended.

30. President Clinton and subsequent administrations renewed the suspension of the Title III private right of action, typically for six months at a time, by decision of the President or

the Secretary of State. There was never any guarantee that additional suspensions of the private right of action would be granted indefinitely into the future, and the operative provisions of the Act have remained in effect continuously since 1996.

31. It should have come as no surprise to traffickers that President Trump would allow the suspension of Title III's private right of action to lapse. As early as November 2018, then White House National Security Advisor John Bolton stated that the Trump Administration planned to give the continued suspension of Title III "very serious review." In January 2019, then Secretary of State Michael Pompeo announced that the Trump Administration was reviewing whether further suspensions of Title III were justifiable or necessary.

32. On April 17, 2019, Secretary of State Pompeo announced that the Trump Administration would no longer suspend the right to bring an action under Title III, effective May 2, 2019. On May 2, 2019, upon the expiration of the last suspension, activating the right to bring an action under Title III.

II. The Helms-Burton Act's Private Right of Action

33. Title III of the Helms-Burton Act, which took effect in August 1996, imposes liability against persons who "traffic" in property confiscated by the Cuban Government on or after January 1, 1959, the claims to which are owned by persons who became U.S. nationals after the confiscation of their property and before March 12, 1996. Specifically, the Act provides:

(1) Liability for trafficking. — (A) Except as otherwise provided in this section, any person that, after the end of the 3-month period beginning on the effective date of this title, traffics in property which was confiscated by the Cuban Government on or after January 1, 1959, shall be liable to any United States national who owns the claim to such property for money damages...

22 U.S.C. § 6082(a)(1).

34. The Act defines “person” as “any person or entity, including any agency or instrumentality of a foreign state.” 22 U.S.C. § 6023(11).

35. The Act defines “United States national” to include “any United States citizen or any other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or any commonwealth, territory, or possession of the United States, and which has its principal place of business in the United States.” 22 U.S.C. § 6023(15).

36. The Act adopts the definition of “agency or instrumentality of a foreign state” under 28 U.S.C. § 1603(b), *see* 22 U.S.C. § 6023(1) (“Agency or Instrumentality of a Foreign State. — The term “agency or instrumentality of a foreign state” has the meaning given that term in section 1603(b) of title 28, United States Code.”).

37. A person “traffics” in confiscated property if that person “knowingly and intentionally”:

- (i) sells, transfers, distributes, dispenses, brokers, manages, or otherwise disposes of confiscated property, or purchases, leases, receives, possesses, obtains control of, manages, uses, or otherwise acquires or holds an interest in confiscated property,
- (ii) engages in a commercial activity using or otherwise benefiting from confiscated property, or
- (iii) causes, directs, participates in, or profits from, trafficking (as described in clause (i) or (ii)) by another person, or otherwise engages in trafficking (as described in clause (i) or (ii)) through another person, without the authorization of any United States national who holds a claim to the property

without the authorization of any United States national who holds a claim to the property.

22 U.S.C. § 6023(13).

38. The Act defines “property” as “any property (including patents, copyrights, trademarks, and any other form of intellectual property), whether real, personal, or mixed, and any

present, future, or contingent right, security, or other interest therein, including any leasehold interest.” 22 U.S.C. § 6023(12).

39. The Act defines “confiscated” in relevant part as:

[T]he nationalization, expropriation, or other seizure by the Cuban Government of ownership or control of property, on or after January 1, 1959

- (i) without the property having been returned or adequate and effective compensation provided; or
- (ii) without the claim to the property having been settled pursuant to an international claims settlement agreement or other mutually accepted settlement procedure.

22 U.S.C. § 6023(4)(A).

40. The term “knowingly” under the Act means “with knowledge or having reason to know.” 22 U.S.C. § 6023(9).

41. The Helms-Burton Act adopts the definition of “commercial activity” under 28 U.S.C. § 1603(d), *see* 22 U.S.C. § 6023(3), which defines the term as “either a regular course of commercial conduct or a particular commercial transaction or act. The commercial character of an activity shall be determined by reference to the nature of the course of conduct or particular transaction or act, rather than by reference to its purpose.” 28 U.S.C. § 1603(d).

42. Under the Act:

(A) The term “Cuban Government” includes the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba.

(B) For purposes of subparagraph (A), the term “agency or instrumentality of the Government of Cuba” means an agency or instrumentality of a foreign state as defined in section 1603(b) of title 28, United States Code, with each reference in such section to “a foreign State” deemed to be a reference to “Cuba.”

22 U.S.C. § 6023(5).

43. Since August 1, 1996, when Title III of the Helms-Burton Act went into effect, it has been clear that companies doing business with Cuba or in Cuba incurred potential liability under the Helms-Burton Act if they knowingly and intentionally traffic in confiscated property. Companies doing business in and/or with Cuba have therefore been on notice since August 1, 1996, that they would face potential liability under the Helms-Burton Act for trafficking in confiscated property.

III. Remedies Under the Helms-Burton Act's Private Right of Action

44. A person who “traffics” in a U.S. national’s confiscated property under the Helms-Burton Act is liable to a plaintiff for money damages equal to:

- (i) the amount which is the greater of —
 - ...
 - (II) the amount determined [by a court-appointed special master], plus interest; or
 - (III) the fair market value of that property, calculated as being either the current value of the property, or the value of the property when confiscated plus interest, whichever is greater[.]

22 U.S.C. § 6082(a)(1)(A)(i).

45. Pre-filing interest under the Act accrues from “the date of confiscation of the property involved to the date on which the action is brought.” 22 U.S.C. § 6082(a)(1)(B). Interest is calculated “at a rate equal to the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System” for the calendar week preceding the date of confiscation and compounded annually. 28 U.S.C. § 1961(a) (incorporated by reference in 22 U.S.C. § 6082(a)(1)(B)).

46. A person who “traffics” in a U.S. national’s confiscated property under the Act is also liable for plaintiffs’ court costs and reasonable attorneys’ fees. *See* 22 U.S.C. § 6082(a)(1)(A)(ii).

47. The Act provides for “Increased Liability”

... If the claimant in an action under this subsection... provides, after the end of the 3-month period described in paragraph (1) notice to —

- (i) a person against whom the action is to be initiated, or
- (ii) a person who is to be joined as a defendant in the action,

at least 30 days before initiating the action or joining such person as a defendant, as the case may be, and that person, after the end of the 30-day period beginning on the date the notice is provided, traffics in the confiscated property that is the subject of the action, then that person shall be liable to that claimant for damages computed in accordance with subparagraph (C).

See 22 U.S.C. §§ 6082(a)(3)(B) and 22 U.S.C. 6082(a)(3)(C)(ii) (allowing damages “3 times the amount determined applicable under paragraph (1)(A)(i)”).

FACTUAL ALLEGATIONS

I. The Confiscated Property

48. Plaintiffs’ claims arise from their stock ownership, as well as inherited ownership interests, in (i) a mining operation run by Minas de Matahambre, S.A. (the “Mining Company”), (ii) the Mining Company’s assets, including Terminal Maritima de Santa Lucia, the Port and its facilities, agricultural land, mining concessions, roads, infrastructure, intangibles, and future and contingent rights and the Santa Lucia ore body, and (iii) an affiliated company called Compañía Operadora Rometales, S.A (“Rometales”) that operated a sulfuric acid plant next to the Port. The Company, its assets, and Rometales are hereinafter referred to as the “Property” or “Confiscated Property.”

A. The Mining Company: Minas de Matahambre

49. Alfredo Porta (“Porta”) conceived the idea that the desolate mountains, ridges, and lower foothills of the province of Pinar del Rio in Cuba ought to contain mineral wealth, and set

to work to explore them in 1913. Porta discovered a large area of mineral-bearing land, following the trend of the ore-bearing hills, and he obtained mines and land titles on what were known as the Matahambre and Santa Lucia ranches. Porta asked Manuel Luciano Diaz (“Diaz”), one of the most prominent financial figures in Cuba, to join him in this venture. Diaz served as Cuba’s Secretary of the Interior, Public Works, and Agriculture under President Tomás Estrada Palma. Diaz was the owner of the Port in Santa Lucia, Pinar del Rio, which linked the mines with the Port and extended their possessions to a vast territory of what is known as the Matahambre-Castellanos-Santa Lucia Mining District today.

50. In 1913, Diaz and Porta went into partnership to develop a copper mine in the province of Pinar del Rio, about nine miles from the port of Santa Lucia with approximately 1800 hectares of land. Diaz agreed to furnish the capital necessary to exploit the property and to put the ore on the market, while Porta was entitled to a certain percentage of the income from the mines, after all expenses of the operation and cost of capital had been paid. The management of the property was in the hands of Diaz. Diaz built a road on his property to ship the ores to the Port at Santa Lucia. At its peak, Minas de Matahambre was the largest copper mine and the second largest mining company in Cuba.

51. On or around March 14, 1921, the successors of the Porta and Diaz partnership incorporated Minas de Matahambre S.A., with Manuel Luciano holding almost all shares. A few months later, a 59% stake was sold to American Metals Company, a U.S. company partially owned – at the time – by the U.S. Government. On April 27, 1944, Dr. Romagosa (son-in-law to Manuel Luciano, the husband of his daughter Amparo) became President of Minas de Matahambre S.A. and bought back almost all of the stock held by American Metal Company (54,228 shares). At the

time of confiscation in 1960, there were 54 shareholders of its 92,000 shares, almost all of whom were successors of Manuel Luciano Diaz.

B. The Mining Company's Assets

52. At the time of confiscation, the Mining Company owned the Matahambre ranch and other properties, thirteen mines (twelve Matahambre Mines and El Mono), a power plant, roads, a funicular, commercial buildings, infrastructure, housing for workers and family members, an airport within vast territories occupying over 17 km from the mines to the Port in Santa Lucia. The Mining Company also owned almost every commercial building in the area with a few exceptions.

53. The Mining Company's assets included Terminal Marítima de Santa Lucia, S.A. ("Terminal"). The Terminal provided a dock and pier facility for loading and unloading at the Port for the shipment of pyrites and processed sulfuric acid as well as lead and zinc mined by "Minera Inspiración Occidental," the lessee at El Mono mining reserve, and for the shipment of copper mined by Minas de Matahambre.

54. Presidential Decree Number 1620, dated May 5, 1958, awarded Banco de Desarrollo Economico y Social ("BANDES") the concession to build the Terminal, dredge a channel, and construct a new dock (among other projects), for which \$2,400,000 in financing was approved.

55. On November 20, 1958, the Mining Company submitted a project for evaluation by BANDES and was subsequently awarded the contract to complete the construction. The financing was allocated for this purpose.

56. Upon information and belief, the Mining Company initiated the construction work. However, the new terminal was completed and inaugurated after its confiscation by the Cuban

Government in 1961. The Mining Company was never compensated for its work and its lost property rights, nor was it permitted to operate the new Terminal.

57. The Mining Company also was the officially authorized port and customs agent for Santa Lucia. In fact, the territorial seats of the mining establishment in Cuba were Matahambre and Santa Lucia—the former encompassing the mines, mineral extraction and processing facilities, and production support units and workers' housing (approximately 1,250 families), and the latter encompassing the terminal for the export of the ore and the reception of equipment, spare parts, and supplies. Santa Lucia had a little over a thousand residents, and it included homes for the workers at the mines, a school, a church, a golf course, a clubhouse (used by the owners of the Mining Company, their family, friends, and club members), and an airfield that mainly provided services to the Mining Company and residents.

58. Matahambre and Santa Lucia were linked by an old colonial road that was receiving improvements by the Mining Company until becoming a paved road. The road allowed the transport of ore between the mine and the Port.

59. Pursuant to Presidential Decree No. 820 of 1916, the Mining Company also owned the right of way in perpetuity from the Minas de Matahambre to the Port and a concession to build a terminal at the Port to facilitate the transportation of minerals from the mines to the Port as well as to import all the equipment and machinery needed for the exploitation of the mines.

60. The Mining Company also acquired the following assets, concessions, and property rights:

- a. port and maritime concession to build a wharf and a warehouse in Santa Lucia;

- b. concession to build an embankment from the terminal to the warehouse and the wharf; and
- c. concession to build a dry dock (called a varadero) to facilitate commercial navigation and import-export transactions.

61. By Public Deed No. 206 of March 14, 1921, the Mining Company acquired the following additional properties, servitudes, leaseholds, and other real property rights:

- a. Ranch Matahambre – 737 hectares (1,821 acres) adjoining Santa Lucia in the North, Matahambre in the south, Pena Blanca in the east and Matahambre and Managuaco in the west.
- b. Ranch Pena Blanca – 108 hectares (267 acres) surrounding by the Mines of Matahambre;
- c. Ranch San Luis de Managuaco at Nombre de Dios town, consisting of 30 hectares (74 acres) adjoining Ranch Matahambre in the east and Ranch of San Luis de Managuaco in the south and west;
- d. Servitude of right of way (easement) for the funicular occupying an area of 20 meters wide by 8,921 meters long totaling 179,026 square meters (44 acres) from the mines to the Port plus 22,663 square feet (5.6 acres) at Terminal of Santa Lucia. (The funicular passed from the mines to Santa Lucia over the land currently occupied by Empresa Minera del Caribe, S.A.(EMINCAR),² a business partner of Defendant in Cuba.); and

² EMINCAR is a joint venture with the Government of Cuba to develop the Castellanos zinc and lead mines.

e. Infrastructure (including water pipelines, electrical stations, roads, buildings, and warehouses) located in both the mining area and in the Port area that is currently occupied by EMINCAR.

C. The Rometales Plant

62. Rometales was a pyrite-based sulfuric acid plant (the “Plant”) with a daily capacity of 300 tons, a separate plant to extract copper, lead, gold, and silver from pyrite residue, and an energy plant located next to the Port. The Plant was in operation during the exploitation of Gold Castellanos, a gold mine located on the Confiscated Property.

63. The Plant was a mixed (private/state-owned) property with capital valued at \$1 million, of which BANDES held one-fourth of the shares. Three of the four private owners were shareholders of the Mining Company. Ernesto Romagosa was the President, Waldo Diaz was Vice-President and both Jose M. Diaz Nuñez and Jose Portuondo de Castro were shareholders only. All held shares valued at approximately \$199,900, except for Diaz Nuñez, who held approximately \$149,900 in shares.

64. After pyrite was discovered at El Mono Mine, the Plant was formed on October 11, 1957 to process sulfuric acid. The El Mono Mine held approximately 1,000,000 tons in pyrite reserves.

65. BANDES lent the Plant \$7,400,000 and purchased \$250,000 worth of shares on or around March 23, 1957. The total cost of the investment in the Plant increased to \$16 million before it was confiscated by the Cuban Government, which continued to use it until the closure of the copper and pyrites mines on the Confiscated Property.

II. Cuba Confiscated the Confiscated Property

66. On July 21, 1960, the Cuban Government announced the intervention of the Mining Company, and by Resolution of the Central Planning Board published in the Official Gazette No. 125 on June 29, 1961, the Cuban Government completed the forced confiscation of the Mining Company, all its assets, and Rometales (*i.e.*, the Confiscated Property), transferring ownership to the State.

67. At the time of confiscation, Minas de Matahambre was the largest mine in Cuba, and the fourth most important company among non-sugar-related industries based on the number of workers (1,250) located in Matahambre, Pinar del Río. As an example, the lifetime production of the Matahambre mines (1913 to 1997) totaled approximately 590,300 tons of copper concentrate.

III. Plaintiffs Own Claims to the Confiscated Property

68. As explained, *supra*, at the time the Cuban Government confiscated the Mining Company and its assets, there were 54 shareholders of its 92,000 shares, almost all of whom were successors of Manuel Luciano Diaz. Plaintiffs' claims were inherited from Ernesto Romagosa y Sanchez and Amparo Diaz y Martinez who both died prior to March 12, 1996. Amparo Diaz y Martinez was one of Manuel Luciano Diaz's daughters. They had four children. These children were Ernestina (d. 1984), Olga (d. 1998), Ernesto (d. March 1986), and Amparo (d. June 2005). All the children were United States citizens prior to March 12, 1996.

A. Ernestina

69. Ernestina Romagosa Sierra married Ricardo Sierra (d. 1963) and had three children. Their three children are:

- a. Plaintiff Richard Sierra;
- b. Plaintiff Veronica Gooch; and

c. Plaintiff Roland Sierra.

B. Olga

70. Olga Romagosa married Martin Lleras and had four children, two of whom are plaintiffs in this case along with the Estate of Olga Romagosa:

a. Plaintiff Lucia Lleras de Labrada; and

b. Plaintiff Priscilla Lleras-Bush, individually and in her capacity as Personal Representative of the Estate of Olga Romagosa.

C. Ernesto

71. Ernesto married Angela Romagosa, the plaintiff in *Angela Romagosa Fernandez v. Trafigura Trading, LLC*, Case No. 2021-cv-01606, pending in this District. Ms. Romagosa died on February 16, 2022, approximately three months after she filed her Complaint in that case. Ernesto and Angela had three children, one who died in 2018 and two who are plaintiffs in this case:

a. Plaintiff Márian Maria de los Angeles Romagosa; and

b. Plaintiff Lisette Romagosa Smyrnios.

IV. Defendant is Knowingly and Intentionally Trafficking in the Confiscated Property

72. Defendant is trafficking in the Confiscated Property in violation of the Act. Specifically, Defendant causes, participates in, and/or profits from the Trafigura Group's and its Mining Group's mining operations in Cuba, and those mining operations use the Confiscated Property.

73. According to their 2016 Annual Report, the Trafigura Group and its Mining Group entered into a joint venture with the Cuban Government to make a large investment in mining

operations on the island: “The project is another illustration of Trafigura Mining Group’s ability to put its expertise and investment to work in challenging economic or political environments. Work is so far proceeding to plan, and the mine is expected to start production towards the end of 2017.”

74. The mining operation—referred to as the Castellanos lead and zinc mine—is conducted through EMINCAR, a joint venture between the Trafigura Group including its Mining Group (which owns a 49 percent interest) and Cuban state agency Geominera (which owns a 51 percent interest). With a capital outlay equivalent to \$230 million, construction was completed in 18 months from start to finish. According to financial reports, the Trafigura Group and its Mining Group invested at least \$230 million in the venture through a loan to EMINCAR.

75. Output reached full capacity in 2018, when the Castellanos mine produced 100,000 tons of zinc concentrate and 50,000 ton of lead concentrate per annum. The mine processed approximately 800,000 tons of ore and generated a profit for the Trafigura Group and its Mining Group. The mine has a reserve life of 22 years and is thus an important addition to the Trafigura Group’s and its Mining Group’s mining portfolio as well as an important source of foreign exchange earnings for Cuba.

76. At current market prices, the value of the zinc deposit is approximately \$5.9 billion calculated as market price less cash costs of extraction. The value of the lead deposit is \$1.07 billion calculated in the same manner.

77. The Trafigura Group and its Mining Group increased its investment in the mine in 2018, reporting an increase in the loan to EMINCAR of approximately \$67.5 million, bringing the balance of the outstanding loan to \$297.5 million as of September 30, 2018.

78. The Trafigura Group’s and its Mining Group’s operations in Cuba currently occupy and use a vast portion of the Confiscated Property. The uses include the Castellanos mine, a power

plant, a processing plant, the Terminal, the Port, and new infrastructure and improvements to the Confiscated Property for purposes of the mining operations. All of these uses constitute unlawful trafficking in violation of the Act.

79. Trafigura US manages the Trafigura Group and its Mining Group's commodities trading activities in the U.S. It also facilitates financing for the Trafigura Group and its Mining Group's operations, including its operations in Cuba using the Confiscated Property. Since 2017, Trafigura US has guaranteed over a billion dollars' worth of financing obtained through the issuance of various debt instruments by special purpose vehicles. Some of this financing has been obtained through public notes and private placements issued to U.S. investors. Upon information and belief, some of this financing has been used for the Trafigura Group's and its Mining Group's operations in Cuba using the Confiscated Property.

80. Neither the Cuban government nor any of the Defendants has ever obtained authorization from or paid any compensation to Plaintiffs or their predecessors for the use of the Mining Company, the Port, the Terminal, Rometales, the Plant, or any other Confiscated Property.

81. In February 2022, Plaintiffs, through counsel, sent Defendant notice letters pursuant to 22 U.S.C. § 6082(a)(3)(D) ("Notice Letters") notifying Defendant that it is trafficking in confiscated property as defined in the Helms-Burton Act, the claims to which are owned by Plaintiffs, without the authorization of Plaintiffs. The table below shows the dates that Defendant received these letters by various methods including Certified Mail, FedEx, and Messenger:

Recipient	Certified Mail Received	FedEx Received	Messenger Delivery
Trafigura US	2/12/2022	2/10/2022	2/15/2022

82. Defendant has not responded to Plaintiffs' Notice Letters. Likewise, it has not sought to obtain Plaintiffs' authorization to traffic in the Confiscated Property.

83. Even after Defendant received Plaintiffs' Notice Letters, giving it actual notice of Plaintiffs' claims, Defendant continued to traffic in the Confiscated Property, the claims to which are owned by Plaintiffs.

84. Defendant has trafficked and is trafficking in the Confiscated Property by and/or through the trafficking by the Trafigura Group and/or its Mining Group which are engaged in commercial activities that use or otherwise benefit from the Confiscated Property.

85. Defendant participates in or profits from trafficking in the Confiscated Property by the Trafigura Group and/or its Mining Group which have engaged in and are engaging in commercial activities using or otherwise benefitting from the Confiscated Property.

86. Because Defendant did not obtain the authorization of Plaintiffs with regard to these acts of trafficking, Plaintiffs were injured by Defendant's acts of trafficking in the Confiscated Property to which Plaintiffs own claims.

87. Plaintiffs have been injured by Defendant's unauthorized acts of trafficking in the confiscated property to which Plaintiffs own claims because, *inter alia*:

- (a) Defendant is profiting without obtaining consent from or paying adequate compensation to Plaintiffs;
- (b) Plaintiffs are not receiving the benefit of their interests in the Confiscated Property;
- (c) Defendant is profiting without obtaining authorization or paying adequate compensation to Plaintiffs for authorization to traffic in the confiscated property;

- (d) Defendant is profiting or otherwise benefiting from trafficking in the Confiscated Property by or through others without obtaining authorization from, or paying adequate compensation to, Plaintiffs;
- (e) Defendant's trafficking in the Confiscated Property has undermined Plaintiffs' rights to compensation for the Confiscated Property;
- (f) Defendant has profited from its use of the Confiscated Property at Plaintiffs' expense;
- (g) Defendant has denied Plaintiffs the ability to obtain economic rent that could have been negotiated for in exchange for their authorization for Defendant to traffic in the Confiscated Property;
- (h) Defendant has appropriated from Plaintiffs the leverage from the Helms-Burton Act that Plaintiffs would have had on the Cuban Government to negotiate compensation for their Confiscated Property;
- (i) Defendant has injured Plaintiffs by trafficking in the Confiscated Property without Plaintiffs' authorization and without making any payment of compensation to Plaintiffs because in the Helms-Burton Act, Congress provided the rightful owners of confiscated property with the right to be compensated from defendants who have economically exploited the confiscated property;
- (j) Defendant has injured Plaintiffs by trafficking in the particularized Confiscated Property to which Plaintiffs own claims without seeking or obtaining Plaintiffs' authorization to traffic in that particularized Confiscated Property and as a result Defendant's failure to do so has

resulted in concrete and particularized monetary harm and injury to Plaintiffs;

- (k) The harms and injuries suffered by Plaintiffs as a result of Defendant's failure to obtain Plaintiffs' authorization to traffic in the Confiscated Property have a close relationship to traditionally recognized common-law actions for unjust enrichment, trespass, trespass to chattels, and conversion;
 - (l) There is a direct causal link between Plaintiffs' injuries from the Cuban Government's confiscation of the Confiscated Property and Defendant's unjust enrichment, trespass, trespass to chattels, and/or conversion from Defendant's commercially beneficial use of the Confiscated Property without Plaintiffs' authorization; and
 - (m) Defendant's trafficking in the Confiscated Property without Plaintiffs' authorization has caused a concrete injury to Plaintiffs that is traceable to Defendant and has a close relationship to harms traditionally recognized providing a basis for a lawsuit in American courts – such as unjust enrichment, trespass, trespass to chattels and conversion.
88. Plaintiffs never abandoned their claims to the Confiscated Property.

**COUNT ONE
CLAIM FOR DAMAGES
TITLE III OF THE HELMS-BURTON ACT**

89. Plaintiffs incorporate by reference all of the foregoing paragraphs as if fully stated herein.
90. This case is brought pursuant to Title III of the Helms-Burton Act, 22 U.S.C. § 6082.

91. Defendant did traffic, as the term “traffic” is defined in 22 U.S.C. § 6023(13), in the Confiscated Property without authorization of Plaintiffs who own claims to the Confiscated Property. Defendant is therefore liable to Plaintiffs under the Helms-Burton Act.

92. Defendant also knowingly and intentionally participated in, benefitted from, and profited from the various members of the Trafigura Group’s and the Mining Group’s trafficking in the Confiscated Property without the authorization of Plaintiffs.

93. Defendant engaged in a commercial activity using or otherwise benefitting from the Confiscated Property.

94. Defendant also causes, directs, participates in, or profits from trafficking by the various members of the Trafigura Group and the Mining Group in the Confiscated Property.

95. Defendant did not seek nor obtain Plaintiffs’ authorization to traffic in the Confiscated Property.

96. Defendant’s knowing and intentional conduct in relation to the Confiscated Property constitutes trafficking without authorization as defined in 22 U.S.C. § 6023(13).

97. As a result of Defendant’s trafficking in the Confiscated Property, Defendant is liable to Plaintiffs for all money damages allowable under 22 U.S.C. § 6082(a), including but not limited to, those equal to:

- a. The amount which is the greater of: ... (i) the amount determined by a special master pursuant to 22 U.S.C. § 6083(a)(2); or (ii) the “fair market value” of the Confiscated Property, plus interest;
- b. Three times the amount determined above (treble damages);
- c. Prejudgment interest; and
- d. Court costs and reasonable attorneys’ fees, and expenses.

98. At current prices, the fair market value of the confiscated property is at least \$7 billion based on the value of the zinc and lead deposits alone and not including the infrastructure at the mine site. After trebling, the total potentially recoverable amounts under 22 U.S.C. 6082 exceed \$21 billion. Plaintiffs are entitled to an allocation of the recoverable amount in an amount to be determined at a trial of this matter.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs demand judgment against Defendant as follows:

- A. Awarding damages as allowed by law in amounts to be allocated at trial of the total recoverable amount of approximately \$21 billion;
- B. Awarding prejudgment interest as allowed by law on any amounts awarded;
- C. Awarding attorneys' fees, costs, and expenses; and
- D. Awarding such other and further relief as may be just and proper.

JURY DEMAND

Plaintiff demands a jury trial on all issues so triable, and a trial pursuant to Rule 39(c), Federal Rules of Civil Procedure, as to all matters not triable as of right by a jury.

Dated: March 22, 2022

CROSS & SIMON, LLC

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