

**POPULAR PROVINCIAL COURT  
HAVANA  
HEARING ROOM ON CRIMES AGAINST THE SECURITY OF THE STATE**


**JUDGMENT NUMBER TWO OF TWO THOUSAND ELEVEN (2-2011)**

**PRESIDING:** In Havana, on March eleven, two  
ARMANDO TORRES AGUIRRE thousand eleven.-----

**JUDGES:** Hearing on oral and public proceedings  
ELIZABETH RUIZ PÉREZ before the Court on Crimes Against the Security  
ANGEL GARCÍA LEYVA of the State of the Popular Provincial Court of  
GIL AMADO PAYNE HERNÁNDEZ Havana, Case Number **ONE OF TWO**  
PELAGIO CORTINA LESCALLES

**THOUSAND ELEVEN**, filed on for a crime of **ACTS AGAINST THE INDEPENDENCE OR TERRITORIAL INTEGRITY OF THE STATE**, against defendant **ALAN PHILLIP GROSS**, a citizen of the United States, native of New York, United States of America, passport number two, zero, eight, zero, two, one, two, four, nine, son of Fred and Evelyn, sixty-one years of age, married, college educated, graduate of a bachelor’s degree in Sociological and Health Sciences, Executive Director and Principal Partner of “Joint Business Development Center, Limited Liability,” known by its English acronym as JBDC, LLC, with legal domicile at fifty-five hundred thirty, Wisconsin Avenue, Suite eleven hundred fifteen, Chevy Chase, Maryland, United States of America, and legal residence at [REDACTED] [REDACTED] [REDACTED], United States of America, held under the cautionary measure of *PROVISIONAL IMPRISONMENT* for this Case and defended by appointed counselor Master of Science Armanda Nuris Piñero Sierra. -----

Acting as Prosecutor is Specialist Humberto González Figueroa. -----


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Opinion by Judge Doctor Armando Torres Aguirre.-----

**FIRST WHEREAS:** Proven that held defendant **ALAN PHILLIP GROSS**, citizen of the United States of America, owner of “Joint Business Development Center” (JBDC), located at fifty-five hundred thirty Wisconsin Avenue, Suite eleven hundred fifteen, Chevy Chase, Maryland, United States of America, on a date unspecified, but prior to the month of June of the year two thousand four, was contacted by also United States citizen [REDACTED] whom he knew to be Director of the Project named “*Iniciativa de Desarrollo de Cuba*” [“Cuban Development Initiative”] of the *Fundación Panamericana Para el Desarrollo* [“Pan-American Foundation for Development,” FUPAD by its Spanish acronym], an entity that receives funds from the Government of the United States of America through the United States Agency for International Development (USAID) assigning them in part to the implementation of programs against the Cuban State, whose objectives include destroying the Revolution and consequently affecting national independence, so that he would bring to Cuba a package which, among other goods, contained a video recording camera, and deliver it to Cuban citizen [REDACTED] [REDACTED] member of the “*Logia Masónica de Cuba*” [Cuba Masonic Lodge], which request defendant accepted, arriving in Havana on June twenty-six, two thousand four and fulfilling the task in this city, receiving in exchange the sum of approximately four hundred U.S. dollars from FUPAD funds upon his return to the United States days later. -----

Afterwards, in the early months of the year two thousand five, on a date not precisely established, defendant **ALAN PHILLIP GROSS** was again contacted in the United States by [REDACTED] who still held the same position at the Pan-American Foundation for Development and who on this occasion requested that he purchase high technology

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communications equipment with the purpose of introducing it into Cuba, which request was accepted without qualms by defendant, an expert on the subject who, to fulfill

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this task, acquired a “Smart” brand cellular phone with “T-Mobile” card and service, a “DELL” laptop computer, and a BGAN satellite connection equipment, model nine two zero one, which that year began covering the geographical area of Cuba and is also characterized by allowing Internet access through the Inmarsat satellite operator that provides worldwide solutions for mobile service and is suitable for establishing small to medium-sized wireless data networks, easily and quickly, through which e-mail and data and video files may be exchanged; and which are virtually undetectable because the equipment uses state of the art technology that bypasses national connection channels, establishing a direct connection with satellites; for which action he received from [REDACTED] on this occasion the sum of fifty-five hundred U.S. dollars from Pan-American Foundation for Development (FUPAD) funds. -----

In the meantime, in the same year two thousand seven, defendant **ALAN PHILLIP GROSS** prepared a Project for FUPAD that he named “*Tecnología de la Información y las Comunicaciones para Cuba, Proyecto Experimental*” [“Information and Communication Technology for Cuba, Experimental Project”], in which he drew up, in addition to the technical aspects, a program of purely political content which aimed to provide Internet access to what he called “*pro-democracy groups,*” using satellite communications media such as the BGAN system, which he planned to introduce into Cuba through multiple channels, such as tourism, humanitarian missions, and diplomatic pouches, that would, according to his projections, “*break*

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*through the blockade of access to information” and “the blockade and strict surveillance of communications between existing pro-democracy groups in Cuba,”* when the reality is that as a result of the comprehensive embargo imposed on Cuba and maintained by successive governments of the United States of America itself, the country has been technologically and financially limited in furthering the development of computerizing society, that includes mass access to computerized networks; nevertheless, defendant presented his Project to [REDACTED] [REDACTED] who did not accept it, and whose content then remained stored on a Kingston brand flash memory he owned.-----

This being the state of things, in the year two thousand eight defendant **ALAN PHILLIP GROSS**, upon learning that Development Alternatives Inc. (DAI), located at Wisconsin Avenue, Chevy Chase, Maryland, United States of America, a contractor for the United States Agency for International Development (USAID), had issued an announcement for the preparation and execution of a counterrevolutionary Project for Cuba called *“Programa Democracia para Cuba”* [Democracy for Cuba Program], that had been assigned a substantial amount of money, contacted United States citizen [REDACTED] Principal Development Specialist at Development Alternatives Incorporated (DAI), to participate in the Project in this way, with the purpose of receiving the payment he would receive for its implementation if he were to be selected.-----

This Development Alternatives Inc. Project was sponsored by USAID, an institution that responds to the special services interests of its Government, under the guise of development aid, and also seeks among its objectives to overthrow the Socialist Revolution to establish a capitalist system in Cuba, to which end it finances a series of programs and subsidizes a wide range of

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organizations and centers that act against Cuba and which, that year, through the Office of the Assistant Administrator for Latin America and the Caribbean, had issued a call for proposals to prepare Projects, in their words, to support “*programs that extend the reach and repercussion of independent civil society in Cuba and, consequently, accelerate the transition to democracy*” using as its legal basis sections one hundred nine and two hundred two of the Cuban Liberty and Democratic Solidarity Act of nineteen ninety-six, known as the “Helms-Burton Act” and Subsection g) of section seventeen hundred five of the Cuban Democracy Act of nineteen ninety-two, known as the “Torricelli Act,” so revealing, by the notoriety of these provisions, the aggressive and interventionist character of said programs that aim to impact Cuban civil society and its socialist political system and, hence, its autonomy

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as a nation, for which they have destined large sums of money, over sixty-five million dollars between the years nineteen ninety-six and two thousand eight, awarded to more than twenty-five U.S. organizations with the object of supporting what they call “*the transition to democracy in Cuba.*” -----

By realizing these plans, the United States Agency for International Development (USAID), intended to create the conditions for disseminating, through said means, distorted information on Cuban reality, while avoiding detection as the source of the disinformation by competent State organisms, with the primary objective of influencing certain sensitive sectors of society, such as the religious, youth, blacks, women, and what they consider marginal strata, to discredit the revolutionary Government and generate discontent that would facilitate promoting

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acts of civil disobedience or disturbances that would allow them to spread an image of social and political chaos within the country and so enable its Governmental maneuvers against Cuba, aimed at destroying its Revolution and consequently damaging the constitutional stability to which the people of Cuba are entitled. -----

In the meantime, defendant **ALAN PHILLIP GROSS**, seeking to achieve his purpose of actively participating in the mentioned "*Democracy for Cuba Program*" and receiving the of over two hundred and fifty thousand U.S. dollars offered as payment, also presented to Development Alternatives Inc. (DAI) endorsements of his personal accomplishments and his *curriculum vitae*, in which he consigned his personal experiences and those of his company in the use of modern communications techniques, already installed in numerous countries, which elements contributed to his selection and to bringing to fruition the intentions contained in said *Program*; so, on October thirty, two thousand eight, inmate **PHILLIP GROSS** reached an agreement with DAI, represented by citizen [REDACTED] acting as Manager of said institution, setting up a contract of confidentiality or non-disclosure, given the clandestine nature intended for the implementation of the Project in Cuba. -----

The Project prepared by defendant **ALAN GROSS**, which he named "*Para la Isla*" ["For the Island"], essentially contained the ideas that he had outlined in his previous attempt with [REDACTED] named "*Information and Communication Technology for Cuba, Experimental Project*," as it coincided with the requirements of the DAI "Program" underway, consisting of the use of high fidelity and satellite transmission portable, cellular and wireless devices to facilitate the transmission of "*unrestricted*" information and communications between what he called "*democratic activists*" and "*other participants*," in such way that "*these*

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*communications could not be monitored,” with the stated purpose of “contributing to the promotion of a just and democratic government” in Cuba.-----*

In the documents he prepared for the mentioned Project, defendant **ALAN PHILLIP GROSS** repeatedly stated that his intention and that of his sponsors was to contribute to a *“peaceful transition in Cuba,”* which, within the framework of the interests of said agencies, is none other than the destruction of the Cuban socialist Revolution and hence an attack against the sovereignty of the nation, for which he created an Internet website that he designed and housed at “Google,” with a validity of one year that would expire on February twelve, two thousand ten, naming it *“Para La Isla. Net”* [“For the Island.Net”] for which he configured several services, such as an encyclopedia and the possibility of sending and receiving e-mail and videos, on whose homepage, in addition to its name, could be read the phrases: *“si no es ahora cuándo”* [“if not now, when”] and *“el futuro de Cuba es ahora”* [“the future of Cuba is now”], all under a backdrop of the Cuban national flag, an obvious subliminal incitement to subversion against the political, economic and social order of Cuba.-----

Afterwards, defendant **ALAN PHILLIP GROSS**, using the financing delivered by Development Alternatives Inc. (DAI), over sixty thousand U.S. dollars, purchased sixty-three units and their high-tech accessories for surreptitious introduction into Cuba and later use in the configuration of three networks with Internet access by satellite in the

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occidental, central and oriental regions of the country, specifically in the cities of Havana, Camagüey and Santiago de Cuba. To this end, in New York, United States, he contacted United


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States citizen [REDACTED] a member of a Jewish organization based in that country, and, without offering details, told him that he would participate in a project called "*Para Cuba*" ["For Cuba"], who in turn recommended that he contact Cuban citizen [REDACTED] member of the Cuban Jewish community; through [REDACTED] he came to know of the existence of Jewish groups that travelled frequently to Cuba, and at that point conceived the idea of introducing the units into the country through the mediation of visitors from the Jewish community, when possible, for which he also applied for a travel permit at the Office of Foreign Assets Control (OFAC) of the Treasury Department of the Government of the United States, and an export license for the units at the Department of Commerce of said Government, stating in his application the high level of discretion of his contracts for Cuba and that he would be extremely careful not to put himself at any risk, in addition to stating that all of the work would be carried out with "*non-governmental*" groups; so was he granted the corresponding licenses to travel to our country.-----

Having guaranteed all of these logistics and with the purpose of obtaining its dividends through the services he would offer to Development Alternatives Inc. for the Project he had developed in his effort to undermine the national independence of Cuba, defendant **ALAN PHILLIP GROSS** made his first trip on March thirty, two thousand nine, bringing with him all the equipment and information communication media needed to set up a network, which he was able to introduce into the country without being detected by Customs at the "José Martí" International Airport in Havana, on which occasion he contacted said [REDACTED] at the Hebrew Community synagogue in the capital, located at Street I, number two hundred sixty-three, corner with thirteen, Plaza de la Revolución municipality, where he transferred the

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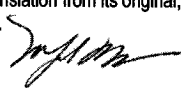
equipment and interconnected it, with the use of a BGAN unit, which enabled communication by satellite, and only told [REDACTED] that his intention was to “*improve communication between the Jewish communities*”, so concealing the true purpose of the USAID-sponsored DAI Program. On this occasion he contacted several persons using the system he installed, including [REDACTED] subcontracts manager for “Development Alternatives Inc.” -----

During this stay in Cuba, defendant **ALAN PHILLIP GROSS** also trained Havana Jewish community members [REDACTED] and [REDACTED] in the use of the equipment, without explaining his true purposes, performing connectivity tests in the area surrounding the institution itself and installing on the network several points of wireless access in different places of the synagogue that would allow them to offer Internet connection to the largest number of community visitors, whether they were members or not, so that eventually those modern satellite communications media could be used by the true targets of the “Program,” the members of the internal counterrevolution. -----

As agreed, upon his return to the United States on April six, two thousand nine, defendant **ALAN GROSS** delivered a report on the results obtained in Cuba to [REDACTED] who was the person in charge of receiving them after every trip he made to the country, which also served as verification in order to receive payment for executing the “*Project.*” -----

In the aforementioned report, defendant **ALAN PHILLIP GROSS** informed [REDACTED] [REDACTED] about his creation of the “*Para La Isla. Net*” website as a means of providing Internet access to the users of the wireless networks he was installing, and about his proselytism among them so that they would use the site to open their e-mail accounts instead of using other sites such as Gmail, Yahoo or Hotmail, which would essentially allow him to track their usage; he

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likewise informed [REDACTED] that he told said clients that they should not use their own surnames in the e-mail addresses they created,

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obviously to further impede their identification by the competent Cuban authorities.-----

Persisting in his illegal behavior and to avoid detection by Cuban customs officials of the introduction into the country of these satellite communications media and to avoid being discovered and frustrated in his plans already underway, defendant **ALAN PHILLIP GROSS** contacted [REDACTED] in the United States, a member of the United States Jewish community who would travel to Cuba as part of a religious group, from whom he requested that she insert among her luggage some communications equipment, which said U.S. citizen agreed to, unaware of the true plans of the accused, who travelled to Havana on April twenty-five, two thousand nine bringing with him a BGAN satellite terminal and a Laptop computer, while [REDACTED] did the same on the following day with the rest of the equipment necessary to configure a network; they both arrived at the "José Martí" International Airport in the Cuban capital and met later at the "Parque Central" Hotel in said city, where inmate **PHILLIP GROSS** collected the equipment that [REDACTED] had brought him. -----

This being the state of things, defendant **ALAN PHILLIP GROSS** traveled to Santiago de Cuba with the mentioned goods and once there contacted [REDACTED], leader of the Hebrew Congregation, to whom he delivered said media, leading her to believe that it was a "*donation to improve communication between the Jewish communities,*" proceeding immediately to install them at the premises of the Hebrew community in that city, located at two

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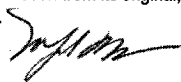
hundred fifty-three Corona street, between Habana and Maceo, from where he attempted unsuccessfully to establish communication, because the connective part of the BGAN was broken; he decided to leave the equipment there and travel to the capital and from there return to the United States of America on May four of the same year.-----

As previously, upon concluding this trip, defendant **PHILLIP GROSS** sent his DAI sponsors a detailed report of his activities in Cuba, in which he highlighted, among other details, the identity and social function of the person he met in Santiago de Cuba, the population of the province, and the location of its inhabitants.-----

Insisting on his illegal activity, defendant **ALAN PHILLIP GROSS** planned his third trip to Cuba with the purpose of continuing to stealthily introduce information communications equipment for the creation of wireless data networks for the purposes described, and in order to do so without being detected by Cuban customs authorities, from his offices in the United States he contacted U.S. citizen [REDACTED], also member of a Jewish denomination that would travel to Cuba along with other members of his congregation, and asked him to insert some of the equipment among his luggage, which request [REDACTED] agreed to, unaware of the true purposes of named defendant, traveling to Cuba on June four, two thousand nine with the mentioned media in his possession, while defendant **PHILLIP GROSS** did the same on the same date, but aboard a different flight, so avoiding drawing the attention of Customs officials at the "José Martí" International Airport in the city of Havana.-----

Once in Cuba, defendant **ALAN PHILLIP GROSS** collected the information communications equipment brought by [REDACTED], that would allow him to configure another network similar to the two previous ones, with a satellite connection because it also

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included a BGAN Terminal among its components, and with these items he travelled by land to Camagüey, where he contacted [REDACTED], president of the Hebrew Community in that province, to whom he stated that said equipment was a donation from the Jewish community in the United States to improve communications between the Cuban Jewish communities, once again concealing his true purpose, and with [REDACTED]'s acquiescence he installed the equipment at the headquarters of said congregation, located at three hundred sixty-five Andrés López Sánchez Street, between Joaquín de Agüero and Capdevilla, Camagüey, setting up a wireless

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satellite communications network and performing some connectivity tests until he was able to link to the Internet, after which he returned to Havana and from there to the United States on the eighteenth day of the same month.-----

Upon his return to the United States, defendant **PHILLIP GROSS**, exactly as previously indicated, provided a detailed report to his sponsors from "Development Alternatives Inc." in order to be paid for his work, in which he informed them of the steps he had taken to transfer all of the equipment to the cities of Santiago de Cuba and Camagüey without being discovered by the Cuban authorities, qualifying the work unequivocally as a high-risk assignment, and conveying to them that detection by Cuban authorities of the communications network he was setting up "*would lead to seizure of the equipment and the arrest of its users,*" among other details. -----

At this point, and persisting in his efforts to create clandestine wireless communications networks in Cuba that would facilitate the transmission and reception of materials to and from

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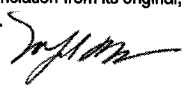
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abroad and internally within the country among elements opposed to the revolutionary process, defendant **ALAN PHILLIP GROSS** on a date unspecified prepared a lengthy document, which he kept along with others on his “Kingston” brand flash memory, dated June two, thousand nine, passworded “Joint9” and entitled: “*Cómo comunicarse con seguridad en ambientes represivos*” [“How to communicate securely in repressive environments”], explaining that it was “*aimed at political activists who operate in non-permissive environments and those who support their work,*” in which he put forward a complete work methodology applicable for these purposes, using current computer media and communications technology, such as mobile telephones, digital cameras, computers, flash memories, e-mail communications, Websites, IP Volumes, Blogs and Internet Cafés, describing the personal measures to be taken by their users as well as the most trustworthy programs and technical media, [and] concluding that he prepared his work based on a compilation of materials on the subject, as well as “*his personal experiences and those of other colleagues,*” whose content is entirely consistent with the activities developed by inmate **PHILLIP GROSS** in realizing his “*For the Island*” Project and with the information communications equipment he purchased to that end, as well as the measures he used in deploying the media introduced into Cuba.-----

Afterwards, defendant **ALAN GROSS** traveled to Cuba on two other occasions, from June twenty-two to thirty-one and from November twenty-four, two thousand nine, until his detention on the third of December of the same year, and visited the country’s capital and the cities of Camagüey and Santiago de Cuba, where he had installed networks with Internet access via satellite for counterrevolutionary purposes, with the intention of selecting and training additional persons in the use of said media, who would also be in charge of looking out for its

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proper maintenance, defendant always in compliance with the instructions contained in his contract with Development Alternatives Inc. (DAI) in terms of presenting a report at the conclusion of each trip to ensure his payment, which once he completed execution of the Project would amount to a total of two hundred fifty-eight thousand two hundred and seventy-four U.S. dollars, exposing the lucrative, conspiratorial and undercover nature of his actions, aimed at creating a technological infrastructure practically undetectable by the Cuban authorities, that would enable compliance with the purposes of the mentioned U.S. government agencies and of the U.S. Government itself, of undermining Cuban constitutional order and hence affecting the independence of the State. -----

In the month of November two thousand nine, while defendant **PHILLIP GROSS** was in the United States of America, he received a call from United States citizen [REDACTED] ex Grand Master of the Masonic Lodge in Washington and an individual whose behavior is characterized by being markedly against the Cuban political system, who called defendant by recommendation from [REDACTED] because he was interested in Development Alternatives Inc.'s "*Democracy for Cuba Program*" where defendant worked, and they agreed to meet and talk at a café near his offices, during which encounter [REDACTED] became interested in the possibility of extending to the Masonic lodges

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in Cuba the activities that defendant had been undertaking, and they both agreed to meet in Havana during the month of December of the same year to continue discussing the subject, when [REDACTED] would visit Cuba. -----

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This was the state of things when, on December two, two thousand nine, while defendant **ALAN PHILLIP GROSS** and United States citizen [REDACTED] were in Havana, they agreed to meet at the "Hotel Nacional de Cuba" and again took up the idea discussed in Washington of extending the Project to institutions of the Cuban freemasonry, agreeing to a follow-up meeting to fine-tune the details, which meeting was not held due to the arrest of defendant **PHILLIP GROSS** by the Cuban authorities on the night of the third day of that month, during which operation two flash memories were seized among his belongings, one a "Micro Center" and the other a "Kingston" brand, in which he had saved a large part of the documents containing the projects that the inmate was executing against the Cuban State. -----

On all of the occasions that defendant **ALAN P. GROSS** travelled to Cuba to surreptitiously introduce information communications equipment, personally or through the use of third parties, he did so on a tourist visa which obligated him to declare said equipment to Cuban customs officials, but he did not do so, but rather introduced them covertly in order to establish the mentioned wireless satellite communication networks, in addition to selecting or training persons in the use and care of the equipment. After his arrest, searches were performed at the three premises where he had installed said wireless networks and the authorities charged with the investigation seized three Hughes brand BGAN satellite communications terminals, model number nine two zero one, with cards, connection cables and batteries; three Laptops, one a MACBOOK and the other two Apples, with feeder cables and current transformers; three Routers, one a Workgroups Switch Linksys, one a Cisco Linksys model with feeder cable and transformer model LS one twenty V dash fifteen ALE, and another Ruckus wireless, Zone Director model one thousand with cable and current transformer; thirteen BlackBerry telephones,


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model eight three two zero, with hands-free cables, earphones and battery chargers, SIM cards and SD micro cards, in addition to their battery chargers; six Western Digital brand External Hard Drives with connection cables; two Polycom multi-conference intercoms; two Logitech Webcams; one Radio Shack Radio Frequency Modulator; fourteen Ruckus wireless transmitters or points of access, all with network and feeder cables and current transformers; ten Apple Ipods; one Clarisys Internet protocol telephone, with USB connection cable; one two-gigabyte "Kingston" flash memory; one Magic Jack modem with USB connection; one Logitech headset with integrated microphone; one "Clarisys" telephone and telephone line two, dash, two eight zero, dash, seven six four seven; one Cisco Router with cable and current transformer; one Linksys wireless Switch with cable and current transformer; one Cisco Linksys Router with cable and current transformer; one mobile telephone charger with connection cable; one Linksys Switch with cable and current transformer; one Logitech mouse; one green Eddie Bauer compass; one set of Logitech headphones with integrated microphone and connectors; one Corning Data CP zero five twenty current transformer with a Belkin F five U four hundred four dash BLK connection equipment with four USB ports; one "Clarisys" IP telephone with connector cable; six current adapters; four Wonpro power adapters; two Flash memories, one "Kingston" brand and the other "Micro Center" brand; one Router with cable and current transformer; and one white cable adapter with two USB ports. -----

That held defendant **ALAN PHILLIP GROSS**, who is sixty-one years of age and of the expressly stated general information and circumstances, obtained a Bachelor of Science degree in Sociology and Health from the University of Maryland; obtained a Master's degree in Social Work at the "Virginia Commonwealth University School of Social Work," where he has also

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been an adjunct professor; was associated to the

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“Jewish Federation of Bethesda,” Maryland, and the BBYO; has acted as principal partner or executive for several companies in the United States of America; was owner of the “Joint Business Development Center LLC,” located in Maryland, United States at the time these events occurred; has worked in over fifty countries in Africa, Europe, Asia and America. Particularly, he has installed “VSAT” communications systems for the Government of the United States, having been contracted by diverse institutions that receive USAID funds in countries such as Iraq, Afghanistan and Pakistan, and has also sold these communications systems to military units of the United States Army National Guard, some of which have performed missions in the abovementioned countries; on one occasion he was directly contracted by USAID to develop a commercial feasibility study at the frontier of the Israel-Palestine conflict. During the decade of the nineties in the last century, after the fall of the socialist block in Eastern Europe, he was contracted by different firms, businesses and “Non-Governmental Organizations” (NGOs), to perform feasibility studies, trade studies and projects to facilitate the transition to the capitalist system. He has maintained a plausible behavior for North American society and does not have a criminal background in the Republic of Cuba.-----

**SECOND WHEREAS:** That the Court became convinced of the facts declared proven through evaluation of the abundant documentary evidence found in the Preliminary Case File, mainly the certificates of seizure of the computer media introduced into Cuba by defendant, executed on [REDACTED] at the Board of the Hebrew community of Cuba, located

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in Havana, on [REDACTED] at the Board of the Hebrew community of Cuba in Santiago de Cuba, on [REDACTED] for part of the equipment introduced by the accused and installed at the headquarters of the Hebrew community in the city of Camagüey, found at pages five through seven, twenty-four to twenty-eight, and one hundred eighty-two of the Preliminary Case File; the Certificate of Arrest of defendant **ALAN PHILLIP GROSS**, where the date, time, location and motives for same are noted, as well as in the Certificate of Seizure prepared during the personal search of named defendant on the night of December three, two thousand nine, the date of his detention, when, among other things, two Flash memories, one a "Kingston" and the other a "Micro Center" brand were seized from him, which later underwent expert analysis, and the certificate of return to defendant **ALAN GROSS** of personal objects unrelated to the criminal proceedings against him—pages eight through fourteen and seven hundred and seventy-seven through seven hundred and seventy-eight—; the document resulting from the reading of passport number two, zero, eight, zero, two, one, two, four, nine, belonging to indictee, where the dates of entry and exit from Cuba appear—pages forty-nine to fifty-two—; the certifications issued by employees of the different hotels where defendant **PHILLIP GROSS** stayed, in Havana as well as Santiago de Cuba and Camagüey, which dates coincide with those stated in the factual account of his stays in Cuba—pages sixty-six, one hundred forty-four, one hundred forty-six, one hundred forty-seven, one hundred fifty-three, three hundred forty-three and three hundred forty-five—; the Certification issued by the Legal Advisor of the rental branch of the Cubacar Agency, Havana, which states that defendant rented an automobile from this entity between the seventh and the eleventh of June two thousand nine, at the point of sale of the Hotel Presidente in the capital and returned it in the city of Santiago de Cuba—page one hundred

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forty-two--; the Certification issued by the Director of the *Agencia de Control y Supervisión* [Agency for Control and Supervision] of the *Ministerio de la Informática y las Comunicaciones* [Ministry of Computer Sciences and Communications] (MIC, by its Spanish acronym), which confirms that this agency never received an application from defendant **ALAN PHILLIP GROSS** for the establishment of satellite communication stations in Cuba--page one hundred sixty-seven--; the Certification from the *Registro Central de Sancionados* [Central Registry of Convicted Persons] of the Ministry of Justice, which states that defendant does not have a criminal record in the Republic of Cuba--page one hundred thirteen--; the Certificate of Inspection of the “Kingston” Flash Memory seized from defendant on the date of his detention and the five documents recovered from same, as well as their official translation by the *Equipo de Servicio de Traducción e Intérpretes* [Translation and Interpretation Service Unit], where the purposes of the inmate are discovered, and even though the defense contested these findings, alleging that revealing said documents and

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creating a “mirror” image of them should have been done in the presence of the defendant and a notary public to guarantee the inalterability of its content and access to all parts of the processing of said copies, which opinion was based on doctrinal criteria and on its interpretation of the provisions of article two hundred thirty-six of the *Ley de Procedimiento Penal* [Law of Criminal Procedure], the Court admitted this evidence because said procedural law does not include a procedure regulating the retrieval of digital documents as articles of evidence, which then falls under the administrative methodological regulation of chain of custody, which was not broken,

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although the serial numbers of the seized flash memories were not recorded, they were sealed in the presence of defendant **ALAN GROSS** and a certificate of seizure of evidence issued in his native language and signed by defendant at page twenty-three of Volume one of the Preliminary Case File, and so sent to the *Laboratorio Central de Criminalística* [Central Crime Laboratory], which after performing the expert analysis returned said flash memories in a duly sealed envelope to the Examining Magistrate of the case who, in the presence of witnesses and prosecutors, opened it and showed the recovered documents to the accused, who for the most part recognized them and about which he even added information, which procedure was recorded on video and viewed for the benefit of the judges during the oral proceedings, documented at pages two hundred fifty-eight through two hundred seventy-seven of Volume Two of the File, whose translation into the English language is also signed by defendant, stating that the only document rejected by him was the one entitled: "*How to communicate securely in repressive environments,*" but which appeared on his "Kingston" flash memory under the password "Joint9," which coincides with part of the name of his business: "Joint Business Development Center," wherefore upon logical deductive reflection, the Court believes that the document under discussion was prepared by him; so it must undoubtedly be concluded that the "Kingston" brand flash memory subjected to expert analysis was that seized from defendant and that said expert analysis is reliable and also includes the content of said documents, as it is evident that the one entitled "*Information and Communication Technology for Cuba, Experimental Project,*" is a detailed Project that served as a basis for the one later approved by the DAI, given the similarities that can be appreciated in the detailed reports issued by defendant to said entity regarding the fulfillment of certain stages of the "*Para la Isla*" Project being executed, in which

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the secretive character of these projects is evidenced by emphasizing the detectability of the technological components to be used in its execution and classifying their level of risk on a numbered scale, stating on the lower margin of each page that *“All of the information contained on this page is considered highly confidential and should not be disclosed or reproduced for distribution without the express written consent of JBDC LLC. Failure to comply with this may result in irreparable damage to certain parties on the Island,”* adding also that *“the blockade of access to information and close surveillance of communications among pro-democracy groups has considerably affected the capacity of the island to make well-founded decisions and that through the efficient use of current information and communications technologies, the possibility of generating and supporting social change on the island will increase sooner than later,”* using this end as the basis for creating networks and emphasizing the way in which the equipment would be transferred to Cuba by taking advantage of United States missions for dissemination throughout the country, which Project anticipated the delivery of travel memoranda and accounting for each visit, which would total five, as support documents for payment of its different stages of execution and expected monitoring and surveillance of the activity of the “electors” on the mentioned networks, the regular contact between them and the data they accessed, and defendant’s the knowledge of the objectives is confirmed in a letter he sent to [REDACTED] [REDACTED] at the Office of Foreign Assets Control, in which he refers to his activities with regard to the USAID *“Program for Cuba,”* through the Non-disclosure Agreement between Joint Business Development Center (JBDC), the business he owns, and Development Alternatives Incorporated (DAI), and its highest level of confidentiality, which document was also recovered and seen, all of which may be found at pages one hundred eighty-seven through

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two hundred fifty-seven and six hundred sixty-eight through seven hundred fifty-one-; the Document from the *Dirección de Divulgación e Información* [Directorate of Information and Disclosure] of the Cuban Ministry

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of Foreign Relations, which contains the entire text of the markedly interventionist speech by [REDACTED] USAID employee, published on the Internet and the Certification issued by the Ministry itself which names the DAI and USAID Internet sites, the program content for both institutions, the assignment of United States Agency for International Development (USAID) funds to the Pan-American Foundation for Development (FUPAD), and the interventionist character of said U.S. government agency toward Cuba—pages two hundred eighty-two through two hundred ninety-seven-; the Certification issued by the Legal Director of General Customs of the Republic regarding the procedure for importing BGAN satellite communications equipment, in which it is clear that importation requires authorization and releases or permits issued by the MIC Agency for Control and Supervision to install, operate and run them—pages three hundred thirty-seven through three hundred forty-one-; the certifications from the Cuban Directorate for Immigration and Foreigners which include the dates of entry and exit from the country for United States citizens [REDACTED] [REDACTED] and [REDACTED], which fully coincide with those stated in the historical narrative, that latter two of which, as appears in the statement of facts, were those who, at the request of the inmate and unaware his true purposes, transferred to Cuba part of the equipment destined to the wireless networks that he personally installed—pages three hundred fifty-five, three hundred fifty-nine and three hundred sixty-three-;

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the License issued by the Department of the Treasury of the Government of the United States of America, to defendant **ALAN GROSS** and its translation into Spanish by the Translation and Interpretation Services Unit—pages seven hundred fifty-two through seven hundred fifty-nine—; the Cuba Program of the United States Agency for International Development (USAID) for the year two thousand eight, in its original English as well as the official translation into Spanish performed by the Translation and Interpretation Services Unit, which contains the entire doctrine of this federal dependency towards Cuba and makes evident that its aim is to destroy the Cuban socialist State ratified by its Constitution and replace it with the capitalist system, an openly interventionist policy, demeaning to the sovereignty of the Cuban State—pages eleven hundred thirty-two through thirteen hundred thirteen—; the personal files on United States citizens [REDACTED], [REDACTED], [REDACTED] and [REDACTED], all linked to North American governmental agencies—pages thirteen hundred seventy to thirteen hundred seventy-seven—; the illustrative photo-table of the items introduced into the country undercover by defendant **ALAN PHILLIP GROSS**—pages thirteen hundred ninety-two through fourteen hundred sixty-one—; the Certification by the Director of Legal Affairs of the General Customs of the Republic detailing that the document issued, consisting of a Passenger Customs Declaration in the name of inmate **PHILLIP GROSS**, must be completed in order to import articles and products beyond personal belongings, and that the acting customs inspector did not retain the declared article because he believed it to be a MODEM and therefore registered its payment at CADECA as an import tax, adding that in said statement there is no mention of passenger declaring satellite equipment, which had it been so would have been retained pursuant to Ministry of Computer Sciences and Communications Resolution number ten of two thousand six; the certification of JDBC LLC

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statutes, certificate of incorporation, and profit and loss statement with estimated business profit or loss and investment risk for the year two thousand eight; the sworn statement of defendant's wife **Judith Gross**, dated February twenty-three of the current year, in which she explains the situation of her family and provides details on the filing of a lawsuit against DAI, apologizing if her husband's work caused damages to the people of Cuba; the sworn statement of [REDACTED] [REDACTED], attorney and partner in the Gibson Dunn law firm of Washington DC regarding the non-disclosure agreement between DAI and the company of defendant **ALAN GROSS**, explaining its frequent use in the United States to prevent the disclosure of trade secrets to third parties and competitors, which is not the case here since the object of the contract between **PHILLIP GROSS** and DAI was not commercial transactions, as the margins at the foot of each page bear the previously mentioned warning regarding the high level of confidentiality of the Project and the "irreparable

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damage" that its disclosure could cause to certain parties, which clearly evidences his knowledge of its political and subversive content in Cuba; also weighed were other documents that credit the fact that defendant has maintained a plausible social behavior for North American society, all of which may be found at pages fifty-one through eighty-four of the Case File. -----

The Court also considered the convincing expert analyses carried out and documented during the preliminary investigation phase of the process and reported during oral proceedings by the appointed experts, who ratified the issued reports in all of their parts, such as the expert criminal handwritten document analysis explained by expert [REDACTED] performed

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on documents handwritten by defendant **PHILLIP GROSS**, which reveal his personality traits; the expert document analysis performed on United States passport number two, zero, eight, zero, two, one, two, four, nine, belonging to defendant, which establishes its authenticity, and the expert document analysis on handwritten texts written and signed by defendant in his native language, in which he narrates some of the activities he developed in Cuba, as well as their purposes, which coincide with those set forth in the factual account and his link to USAID, recognizing that said agency's policy against Cuba is mistaken—pages one hundred six through one hundred ten and three hundred five through three hundred fourteen—; the expert computer science criminal analyses performed on the technical condition, and capacity for use and data recovery reported on by expert [REDACTED], which prove that the information communications equipment seized and listed in the statement of facts, including 5 BGAN terminals, microcomputers, “BlackBerry” and “Clarisys” cellular telephones with their respective chargers, switches, wireless routers, webcams, Ipods and other accessories, with the exception of one of the BGAN terminals seized in Santiago de Cuba, are in operating condition and have multiple functions, such as global positioning systems, photographic cameras, advanced switching and packet sending that optimize data transfer, e-mail and Internet navigation sharing a single connection, and that all of this equipment allows for the configuration of a highly reliable network which makes it very difficult to detect the transmission and reception of e-mail, data files and videos because it is cutting edge technological equipment and establishes a direct connection with the satellites. That among them it was possible to establish the existence of texts alluding to USAID, as well as photos that confirm the implementation of wireless communication networks with state of the art equipment that contain password-

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protected files that reveal the existence of the Project created by defendant, which he named “Para la Isla” and a chart that shows his *Curriculum Vitae* with an account of the countries where he has worked. In the expert criminal computer science data recovery analysis performed on the “Kingston” flash memory seized from defendant on the date of his detention, five files were found in “doc” format, whose authors appear as defendant ALAN PHILLIP GROSS and [REDACTED] and as organizations the companies “JBDC,” “A.P. Gross & Company, Inc” and “BAE SYSTEM,” in which the names [REDACTED], [REDACTED], “USAID” and “DAI” can be read, and in another expert criminal computer science analysis on the technical condition, and capacity for use and data recovery performed on this flash memory and the “Micro Center” flash memory also seized from defendant, data files were recovered with documents that are attached to pages of the Preliminary Case File, printed in their original English and translated into Spanish which were already mentioned as documentary evidence—pages one hundred eighty-four and one hundred eighty-five, four hundred thirty-five through six hundred sixty-six, and from seven hundred seventy to eleven hundred five—; the experts’ report on the deployment and uncontrolled use of BGAN terminals, WIFI wireless networks and accessories, and their integration into individual networks not authorized to operate within the national territory, presented by expert [REDACTED], chief specialist for Rules and Regulations at the Ministry of Computer Sciences and Communications, which concluded that the importation and activation of wireless media and the implementation of individual networks configured by them without authorization constitutes a violation of current legislation, adding that as a consequence of the

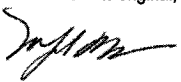
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well-known embargo imposed on Cuban and maintained by successive United States governments, the country has found itself limited in accessing state of the art technology that would allow it to further develop the computerization of society and consequently a mass approach to computer networks, and specifying that satellite wireless networks are difficult to detect because they sidestep national connection channels and establish a direct link to the satellites—pages three hundred twenty-two through three hundred thirty-three—; which was corroborated by the explanations offered by [REDACTED] and [REDACTED] [REDACTED], Legal Directors of the Ministry on Computer Sciences and Communications and the General Customs of the Republic, respectively, who mentioned current legal regulations on the subject, specifically those violated by defendant, the former emphasizing that computer networks must be recorded in the *Registro de Proveedores del Entorno Internet* [Registry of Internet Environment Providers] and that “BGAN”s are included among the equipment whose importation requires prior approval from the MIC Agency for Control and Supervision, pursuant to the provisions of the Ministry’s abovementioned Resolution number ten of two thousand six, which ministerial resolution was verified by the Court, and assuming, based on the abovementioned Certification issued by the Legal Director of General Customs of the Republic, that this equipment constitutes a satellite receiving station—pages one hundred seventeen through one hundred forty—; the deposition of [REDACTED] Specialist at the Library of the Board of the Hebrew Community of Cuba, who analyzed the phrase “*If not now, when*” found on the webpage created by defendant, and explained that it refers to a maxim from Rabbi Hillel, contained in chapter one of verse fourteen of the Pirke Avot Talmud dated over two

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thousand years ago, but who did not understand why it was printed on the mentioned website which did not have a religious purpose, and why accompanied by another stating that *“the future of Cuba is now”* with the image of the Cuban national flag; and the dissertation of doctor Manuel Hevia Frasquieri, Researcher and Expert at the *Centro de Estudios de la Seguridad del Estado* [Center for Studies on State Security], who discussed the subject of his research in an expert piece entitled *“La USAID, arma clave de la Guerra Sucia”* [“USAID, key weapon in the Dirty War”], performing a detailed analysis of the missions of this United States government dependency with seemingly altruistic purposes and ratifying everything attributed to this official agency in the statement of facts regarding its actions against Cuba, as an instrument of its Government’s interventionist policies, and the monetary funds destined to said end, pointing out that USAID is sending information communications equipment that can go undetected by the national authorities to specific sectors it means to influence, and that in recent times these agencies’ links with “private contractors” and “NGO”s have increased, as a way of obtaining payments from funds approved in the budget. -----

The Court likewise analyzed the testimony offered during the oral proceedings, which consisted of the statement of witness [REDACTED], member of the Cuban Jewish community, who said that he met defendant through other United States citizens he knows at the “Bet Shalom” synagogue located at the Plaza de la Revolución in Havana, and defendant told him that his purpose in Cuba was to develop a project that would improve communications between all of the Jewish communities in the country and guarantee Internet access, for which reason defendant gave him several items, including the “BGAN” and the “BlackBerry” cellular telephones, which defendant personally installed later, configuring a wireless satellite

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communication network, that defendant also told him that his project was called “*Para la Isla*” and had a website, and that, during a trip to Santiago de Cuba, he was able to confirm that the synagogue in said city had similar equipment, also provided by defendant, which was corroborated by witnesses [REDACTED] and [REDACTED] regarding the account of what occurred at the “Bet Shalom” synagogue in Havana; the deposition of witness [REDACTED], sister of [REDACTED], leader of the Hebrew community in Santiago de Cuba, the latter of whom did not attend the oral proceedings because she was out of the country, and [REDACTED]’s statements on the way and means in which defendant made delivery at the synagogue in Santiago de Cuba, to which

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she belongs, of several pieces of digital communication and information storage equipment, including a “BGAN,” and installed a wireless network, saying it was part of a project through the board of the Cuban Hebrew community, which similarity in defendant’s actions confirms that they responded to a preconceived plan; the statements of [REDACTED] and [REDACTED] [REDACTED] president and member, respectively, of the Camagüey Hebrew Community, in which Pernas explains that they became aware of the forthcoming visit of defendant **PHILLIP GROSS** through an e-mail message sent by a United States citizen they both knew, and both stating that said visit took place at the synagogue in said city on the date mentioned in the statement of facts, that the inmate brought with him satellite communications equipment like the “BGAN”, connected it and tried unsuccessfully to establish communication with the exterior, and returned months later, leaving the wireless network properly installed at the synagogue, a

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manual in Spanish on the operation of said equipment, and telling them that they would learn how to use it little by little; the statement of [REDACTED] a taxi driver who on several occasions provided her services to defendant and stated she did not know that he engaged in subversive activities; the deposition of witness [REDACTED] who stated that, as a freemason, he met U.S. citizens [REDACTED] and [REDACTED] in Cuba between the years two thousand and two thousand one, and that he met [REDACTED] through them during a trip he made to the United States by their invitation, and that they later saw each other again in Cuba and participated in meetings of the Masonic lodges until defendant **ALAN PHILLIP GROSS** visited the Grand Lodge of Cuba on behalf of [REDACTED], bringing him a video camera and some medications, and the witness added that while he was in the United States he accompanied [REDACTED] to the headquarters of the National Security Council, which is located at the White House itself, and to the United States Department of State, where he met with high level officials such as [REDACTED], [REDACTED], Undersecretary of State and [REDACTED], Executive Director of the "*Center for a Free Cuba*," who openly expressed to him the need to put an end to the Cuban revolutionary process and create the conditions for a political transition in Cuba, learning also through [REDACTED], [REDACTED] and [REDACTED] that in that country they were plotting to install wireless computer networks in the Masonic lodges in Cuba to facilitate the introduction of political information that could go undetected by the Cuban State and that USAID would assume the financing for said project, adding that he later learned through [REDACTED] himself that a friend of the foundation had been detained, which he associated with **ALAN P. GROSS** and that as payment for recruiting persons who would be trained in the handling of the information communications technologies that would be delivered

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by USAID, they had given him two hundred and fifty dollars every month and a medal awarded by the Congressional Republican Committee, which witness eventually revealed himself as agent "Gerardo" of the Cuban State security agencies; the presentation of witness [REDACTED] [REDACTED] who alleged that in the year two thousand five, through the First Secretary for Press and Culture of the United States Interests Section in Havana, he met [REDACTED], who worked as Director of the "Cuba Program" of the "Pan-American Foundation for Development (FUPAD)" with headquarters in Washington, with whom he communicated by e-mail and requested information on the current situation in Cuba, satellite receiver coverage in wards and cities, disguising techniques, and the material and technological needs to increase their individual use in the country, and that on April twenty-five, two thousand eight sent him a satellite communications equipment identified as "BGAN," through which he communicated with [REDACTED] until it broke down and an individual named [REDACTED] who served as liaison with [REDACTED] told him that the person who would replace the equipment was named **ALAN PHILLIP GROSS** and that he had been detained in Havana for having made a series of careless mistakes, indicating that he had received money and material and technological resources for his work with FUPAD, this witness revealed himself as agent "Daniel" of Cuban State security; and the statement of Carlos Remis Chong, Examining Magistrate of the case, who ratified what was stated in his conclusive report included in the Preliminary Case File and who provided a detailed explanation of the main efforts carried out during the investigative phase, the participation of defendant

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in the incidents he is charged with, reiterated the existing links between the DAI and USAID and between defendant and [REDACTED] and other known enemies of the Cuban Revolution who belong to these agencies, as well as their projects to incite a change towards capitalism in the political system of Cuba.-----

The Court also took into account the free statement of defendant **ALAN PHILLIP GROSS**, who recognized that on the basis of a confidentiality agreement, he prepared a project for Development Alternatives Incorporated that envisaged installing wireless networks in Cuba, which group used him without warning him of the possible legal in this country, where he introduced the equipment necessary for its execution himself and by using third parties, and installed said networks at the synagogues in Havana, Camagüey and Santiago de Cuba and that, as part of the project, he had previously created a website on "Google" named "Para la Isla. Net"; nevertheless, defendant, for his own convenience, proved evasive with regard to the true nature of the accusations against him, stating he was unaware of the political content of the project and that the one recovered from the flash memory seized from him was a distant version from that approved by DAI, when in reality it is a single project with very precise, fundamentally political, objectives, which is confirmed by the aforementioned warnings placed at the foot of every page, as well as his reports to [REDACTED], subcontracts administrator of the named entity, and to [REDACTED] from the United States Office of Foreign Assets Control, previously recovered and analyzed, since it is evident in the actions and content of the recovered project [that] they hardly differ at all from the actions of inmate **PHILLIP GROSS** in the execution of the "*Para la Isla*" Project which was finally approved, nor do the information

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communications equipment he purchased to that end or the measures he used to deploy the media introduced into Cuba, which are consonant with the revealed document he entitled: "*How to communicate securely in repressive environments,*" explaining that it was "*aimed at political activists who operate in non-permissive environments and those who support their work,*" in which he detailed a complete work methodology to be applied to those ends and which he denied recognizing, but that the Court, for reasons previously stated, understood was prepared by him and that the truth is that his part of the plan was to create a technological infrastructure for information communications, separate from the Cuban authorities, to reach the objectives of these U.S. governmental agencies against Cuba described in the statement of facts, not the direct recruitment of counterrevolutionaries because his labor profile is not one of direct provocation of subversion, but that he undoubtedly tried to contribute effectively to those ends through his work, and dismiss as too tenuous to be believable the argument that he used third parties, from whom he hid his true intentions, to bring him cellular telephones and parts of the equipment for configuration of the wireless networks, only to appear viable to Cuban Customs officials, when said equipment was smaller than what he brought personally, like laptops and BGANs, which defendant even tried to cover up by alleging that on one occasion he paid a customs tax for importing a BGAN, when it can be seen from the passenger customs declaration for that trip, that he did not declare the equipment for what it was, falsely alleging that he did not do so because the equipment is nothing more than a MODEM, when in reality it is a satellite receiving station whose importation is prohibited without prior authorization from the competent authorities; defendant also claimed that the phrase: "*if not now, when,*" found on the web page he created, refers to the maxim of Rabbi Hillel contained in the Pirke Avot Talmud, but it is obvious that he

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used it with political ends, and that phrase was accompanied by another proclaiming that *“the future of Cuba is now,”* all under a backdrop of the Cuban national flag, in a clear subliminal incitation to subversion against the political, economic, and social order of Cuba. -----

**THIRD WHEREAS:** That the Prosecutor maintained and raised as Definitive his Preliminary Conclusions which appear at pages three through twenty-seven of the judicial docket. -----

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33 **FOURTH WHEREAS:** That Counsel for the Defense maintained her disagreement with the prosecutorial accusation in its essence, substituting her Preliminary Conclusions that appear at pages forty-three through fifty, for those appearing at pages one hundred fifty-three through one hundred sixty-two of the judicial docket, specifically as pertains to the judicial classification of the indictment, and opposes that sought by the Prosecution, considering that it amounts to preferential application of the criminal offense set forth in article eleven of Act number eighty-eight of February sixteen, nineteen ninety-nine, the “Act for the Protection of the National Independence and Economy of Cuba,” under the principle of specialty recognized in legal doctrine; additionally, in modifying her preliminary conclusions, she altered the requested petition for sanction in the sense that, based on the modification of the legal classification she seeks, a fine should be imposed on defendant in an amount calculated with the time of preventive imprisonment he has served, pursuant to the provisions of subsection three of Penal Code article thirty-five, for which she requests his immediate freedom. -----

**FIRST THEREFORE:** That the facts that are declared proven constitute a crime of

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**ACTS AGAINST THE INDEPENDENCE OR TERRITORIAL INTEGRITY OF THE STATE** envisaged and sanctioned at article ninety-one of the Penal Code, as, pursuant to same, defendant **ALAN PHILLIP GROSS** in the interests of the government of the United States of America, prepared for Development Alternatives Inc. (DAI), a governmental agency of said country working as contactor for the United States Agency for International Development (USAID), a project for Cuba with counterrevolutionary political content, named "*Para la Isla,*" in response to an announcement issued to that end by said entity, with the objective of creating a technological infrastructure of state of the art wireless networks with direct satellite communications and therefore very difficult to detect by Cuban authorities, to be spread throughout the country and, in addition to facilitating the transmission and reception of materials to and from abroad and within the country among elements opposed to the revolutionary process, would allow them to impact on Cuban civil society and its socialist political system through the dissemination of distorted information on Cuban reality, with the primary interest of exerting negative influence on certain sensitive sectors of society, discrediting the revolutionary Government and promoting discontent that would set the conditions for the promotion of acts of civil disobedience and so facilitate the maneuvers of the United States Government against Cuba, aimed at destroying its Revolution, injuring the independence and integrity of the Cuban State, and in order to execute said project, defendant introduced surreptitiously into Cuba the information communications equipment and media necessary to establish said clandestine networks, which he installed at the synagogues of Havana, Santiago de Cuba and Camagüey, selecting and training personnel for its handling and care. Learned defense counsel is not correct in considering that the facts proven constitute a violation of article eleven of Law number eighty-

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eight of February sixteen, nineteen hundred ninety-nine—for the Protection of the National Independence and Economy of Cuba—, as the actions of defendant, from the creation to the implementation of the counterrevolutionary project, went beyond the postulates set forth in the actions that typify said offense. -----

**SECOND THEREFORE:** That defendant **ALAN PHILLIP GROSS** is criminally responsible as author of the crime of **ACTS AGAINST THE INDEPENDENCE OR TERRITORIAL INTEGRITY OF THE STATE**, having personally executed it, pursuant to the provisions of article eighteen sections first and second, subsection a) of the Penal Code.-----

**THIRD THEREFORE:** That the aggravating circumstance envisaged in article fifty-three, subsection b) of said Penal Code was present in the commission of this act, as defendant's motive for perpetrating his illegal acts was patently lucrative, considering the fact that although his Company was contracted under a veil of apparent legality to prepare and execute a counterrevolutionary project for establishing in Cuba of a technological infrastructure with state of the art wireless networks

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with direct satellite communication and therefore very difficult to detect by the authorities, this would not materialize under a mere valid contract with legitimate purposes that would not affect third parties and was covered by confidentiality clauses, as defendant held, and by virtue of which he collected tens of thousands of U.S. dollars, but rather the illegitimacy of said judicial transaction manifests through its interventionist effects on the internal affairs of another sovereign State. On the other hand, the mitigating circumstance envisaged in article fifty-two,

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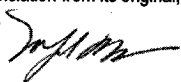


subsection ch) of said legal code does not apply, inasmuch as although defendant cooperated with the Cuban authorities by providing several statements during the investigatory phase, his clarifying conduct was neither sustained nor fully effective, as he later acted evasively, distorting his statements before the judges by recognizing some matters while attempting to manipulate other details that constituted essential elements of the accusation and which were duly proven notwithstanding his statements. -----

**FOURTH THEREFORE:** That criminal responsibility carries for its author the civil obligation to repair the material damage caused or indemnify for the damages caused, which does not proceed in this case, not being recoverable at law based on the acts he committed.

**FIFTH THEREFORE:** That the Court has based its adjustment of the sanction that may be imposed on Penal Code articles twenty-seven and forty-seven, keeping in mind the aggravating factor contained in article fifty-three subsection b) of said Code and the fact that defendant is over sixty years old, for which the adaptation rule of article seventeen subsection two applies. The Court has also weighed the fact that it is dealing with events of high social dangerousness, that the link between “private contractors” and imperialist government agencies has increased in recent times as a novel way of carrying out mercenary activity and benefitting from budget items approved for the promotion of subversion in certain countries, and especially in light of the special conditions of Cuba, which has been victimized by constant harassment and other macabre maneuvers by the successive governments of the United States of America to destroy its Revolution, and that defendant’s actions are not justified by having acted within apparent legality in his country of origin, given the interventionist nature of such “legality,” contrary to the most elementary rules and principles of International Law and the Constitution of

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the International Telecommunications Union, which recognizes the right of all States to regulate this area, and because defendant was aware that such supposed legality faded in Cuba, a fact that can be inferred from the surreptitious manner in which he always acted, at the service of the vile causes promoted by his Government, in this case it is inevitable to impose upon defendant an afflictive punishment that, though less severe than that requested by the Prosecution, is lengthy enough to achieve the effects intended by the legislator when establishing substantive penal law, mainly overall prevention in order to safeguard the constitutional stability, independence and integrity of the Cuban State, for which reasons judgment is rendered as follows.-----

**WE RULE: THAT WE MUST AND DO CONDEMN *ALAN PHILLIP GROSS*** in the name of the people of Cuba as author of a crime of **ACTS AGAINST THE INDEPENDENCE OR TERRITORIAL INTEGRITY OF THE STATE** to **FIFTEEN YEARS OF INCARCERATION**, to be served at a Penitentiary designated by the Ministry of the Interior. Likewise, we impose as **SUPPLEMENTARY PENALTY** the FORFEITURE of the seized goods, that is, convict is to be dispossessed of the goods or objects used or destined to be used in the perpetration of the crime and those deriving directly or indirectly from same, as well as the effects or instruments of the crime that were in possession of third parties who are not liable. -----

Regarding the seized items, forfeiture to the Ministry of Computer Sciences and Communications is ordered for three HUGHES brand BGAN satellite communications terminals, model number 9201, with their corresponding SIM cards, connection cables and batteries; three Laptop-style portable computers, one a MACBOOK and the other two APPLE brand,

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with their feeder cables and current transformers; three routers, one a WORKGROUP SWITCH LINKSYS, one a CISCO LINKSYS model with its feeder cable and transformer model LS120V-15ALE, and another a RUCKUS wireless, model ZONE DIRECTOR 1000, with its cable and current transformer; thirteen BLACKBERRY telephones, model 8320, with their corresponding hands-free cables, earphones and battery chargers, SIM cards and SD micro cards, in addition to their battery chargers; six WESTERN DIGITAL brand external hard drives with their connection cables; two POLYCOM brand multi-conference intercoms; two LOGITECH Webcams; one RADIO SHACK radio frequency modulator; fourteen RUCKUS wireless transmitters or points of access, all with their network and feeder cables and current transformers; ten APPLE I-PODS; one CLARISYS Internet protocol telephone, with its USB connection cable; one green and white two-gigabyte KINGSTON brand flash memory; one MAGIC JACK modem with USB connection; one LOGITECH headset with integrated microphone; one CLARISYS telephone and telephone line 202-280-7647; one CISCO router, with its cable and current transformer; one LINKSYS wireless switch with its cable and current transformer; one CISCO LINKSYS router with its cable and current transformer; one mobile telephone charger with its connection cable; one LINKSYS switch with cable and current transformer; one LOGITECH Mouse; one green EDDIE BAUER compass; one set of LOGITECH headphones with integrated microphone and its connectors; one CORNING DATA CP 0520 current transformer, with BELKIN F5U 404-BLK connection equipment with four USB ports; one CLARISYS IP telephone with its connector cable; six current adapters; four WONPRO power adapters; two flash memories, one

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KINGSTON brand and the other MICRO CENTER brand, black, with four gigabyte capacity; one router with cable and current transformer; and one white cable adapter with two USB ports; one Internet navigation card from the Cuban "Etecsa" company and a black Apple I-POD, serial number 8L904DJ92C7, with rubber case in the same color, apparently in use, with its corresponding earphone and data transmission cables and a nylon pouch containing five telephone SIM cards. -----

It is likewise ordered that citizen Judith Gross will have at her free disposal one hundred and fifteen pesos and sixty cents in freely convertible currency (CUC); one hundred and sixty-eight dollars and twenty-six cents in U.S. currency (USD); a SWISS MILITARY watch with metallic wristband and black face, in good condition; a red cap and a clip, apparently Hebrew. ---

Additionally, it is ordered that the following will be at the free disposal of defendant Alan Phillip Gross: two black briefcase straps; one KIRKLAND garment bag containing eight shirts in different colors; one gray KIRKLAND pouch in good condition; one ONE QUART white plastic case with gray zipper, in good condition; two pairs of brown socks; seven pairs of white socks; one pair of white shoelaces; one pair of black OUTDOOR SOLES flip-flops; two white handkerchiefs; four medium-sized nylon containers; one brown belt with interior zipper, used; one EDDIE BANCA beige pullover; five white pullovers; one gray pullover; one pair of beige LANDS' END pants, in use; one white JBDC CANADA cap; four white underpants; one gray MWH pullover; two gray underpants; one pair of brown ROCKPORT shoes; one medium-sized black EAGLE CREEK bag; three small ZIPLOC nylon bags; one medium ZIPLOC nylon bag; one GOODY hairbrush; one tube of what appears to be ointment with the name NEOSPORIN; two small nylon bags containing disposable napkins; one blue case with several compartments

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containing nine pills that appear to be medications of different sizes; one small cardboard case containing sewing implements; one EAGLE CREEK personal mirror; one black plastic

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case with a white lid containing sewing needles, one button and sewing thread; one TRIM brand nail clipper; one small white LEWING KIT cardboard case with sewing thread; one white plastic bag containing a small jar of what appears to be aftershave; two GILLETTE razors and one container of GLIDE dental floss; one plastic jar containing oil; one white AMMENS plastic container containing talcum powder, apparently medicinal; one plastic bottle apparently containing LISTERINE antiseptic cologne; one blue raincoat in regular condition; one apparently silver chain with a figure made in Israel; one small black HANDMADE MUSIC change purse; one ring with five keys; one small package of RENOVA napkins; one bottle of PEPCID tablets; one CD of the Cuban ESPERANZA quartet; one blue plastic eyeglass case; one pair of eyeglasses apparently natural with brown rims and white lenses; one gray and black case, apparently for a mobile telephone; one pair of FITOVERS shaded eyeglasses; one green SAMSONITE overnight bag, with two wheels and black retractable handle, used; one MEBRINE ORIGINAL black briefcase, with orange and black handle, used; one transportation ticket application guide in the name of **Alan Gross**; one SUNUTO compass with magnifying glass; one package of candy containing four candies; two guitar picks, one green and the other brown; one black KIRKLAND suitcase in good condition; six One Hundred U.S. Dollar bills with serial numbers HB 20008011 F, FG 15094297 B, HD 07366654 A, HB 64403852 A, FB 73108693 C, and HB 37806746 E; one Canon Battery charger, model CB-44H; one Radio Shack

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alarm clock; one blue digital Citi keychain; one Canon Power Shot photographic camera; model A 520, serial number 1029212917, with four rechargeable and two non-rechargeable batteries; one black and gray "Airflow" backpack; fifteen credit cards from different businesses in the name of **Alan Gross** (from THE CONTAINER STORE, RED CARPET CLUB, AVIS PREFERRED, two from CITIBANK, AAA, KASTLE, SOUTHWEST AIRLINES, PRIVILEGE CLUB, AMERICAN EXPRESS, SUBURBAN HOSPITAL DISCOVER, GOLD STAR MEMBER, HILTON H. HONORS, SCOTIABANK).-----

No ruling is made on civil liability as it is not recoverable at law in this case. -----

Regarding the cautionary measure of PROVISIONAL IMPRISONMENT imposed on defendant, it shall remain in effect, and be set aside when instant judgment becomes final and is executed.-----

All parties shall be noticed of instant resolution, as well as of their right to take cassation appeal from same, within ten business days after the day of said notice. Copy of this judgment will be forwarded to the Provincial Department of Penitentiaries and all organisms or institutions necessary to comply with the provisions herein. The period of Provisional Imprisonment served shall be taken into account when calculating the imposed sentence of incarceration. -----

*So be it by this, our judgment, which we hereby pronounce, order, and sign.*-----

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