

**PEOPLE’S PROVINCIAL COURT OF HAVANA**  
**COURTROOM FOR CRIMES AGAINST STATE SECURITY**

**SENTENCE No. TWO OF THE YEAR 2011**

**PRESIDENT:** Armando Torres Aguirre

**JUDGES:** Elizabeth Ruiz Pérez

Angel García Leyva

Gil Amado Payne Hernández

Pelagio Cortina Lescalles

Given in Havana on March 11, 2011.

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A CubaNews translation.  
Edited by Walter Lippmann.

Public hearing held at the Courtroom for Crimes Against State Security of the People’s Provincial Court of Havana, Case Number **ONE OF 2011**, for a crime of **ACTS AGAINST THE INDEPENDENCE OR THE TERRITORIAL INTEGRITY OF THE STATE** imputed to defendant **ALAN PHILLIP GROSS**, American citizen, born in New York, United States of America, with passport number 208021249; son of Fred and Evelyn, aged 61, married, holder of a university degree in Sociological Sciences and Health, employed as Executive Director and Senior Partner of “*Joint Business Development Center, Limited Liability Company*”, known by its English acronym JBDC, LLC, located at 5530 Wisconsin Avenue, Suite 1015, Chevy Chase, Maryland, United States of America, and with legal residence at 10812 Peeble Brook LN, Potomac M, Maryland, MD 20854, USA; who was issued a precautionary remedy of PREVENTIVE DETENTION for this Cause and represented by appointed counsel in the person of MSc. Armanda Nuris Piñero Sierra.-----  
Specialist Humberto González Figueroa acted as the Prosecutor.-----  
Judge Dr. Armando Torres Aguirre acted as the Deponent.-----

**FIRST CONCLUSION:** It has been demonstrated that defendant **ALAN PHILLIP GROSS**, currently remanded in custody, owner of “Joint Business Development Center” (JBDC), located at 5530 Wisconsin Avenue, Suite 1015, Chevy Chase, Maryland, United States of America, was contacted –at an imprecise date prior to the month of June of the year 2004– by fellow countryman **March Wachtenheim**, whom he knew to be the Director of the Project “*Cuba Development Initiative*” of the Pan American Development Foundation (PADF), an

entity funded by the Government of the United States of America through the United States Agency for International Development (USAID) which uses part of this money to carry out programs against the Cuban State with the aim, among others, of destroying the Revolution and therefore our national independence, and gave him a number of items, including a video camera, to be delivered to **José Manuel Collera Vento**, Cuban citizen and member of the “Cuban Masonic Lodge”. Defendant accepted the request and fulfilled his assignment following his arrival in Havana on June 26, 2004 in exchange for an approximate amount of USD \$400.00 from PADF’s funds that he received when he went back to the United States a few days later.

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Later on, at an indeterminate date in early 2007, defendant **ALAN PHILLIP GROSS** was contacted again in the United States by **Marc Wachtenheim**, who still held the same position in the Pan American Development Foundation, and asked this time to buy high-tech communications equipment and bring them to Cuba, a request that defendant accepted without any reservation. Being an expert on the said technology, defendant purchased a “Smart” satellite cell phone fitted with a “T-mobile” card, a “DELL” laptop computer, and a BGAN<sup>1</sup> satellite Internet system, model number 1201, which on that year has just started to have coverage over the Cuban geographical area and even allowed Internet access through Inmarsat satellites, a provider of easy and fast solutions for global telephone services suitable to build state-of-the-art small-to-medium wireless data networks capable of facilitating e-mail, file and video exchanges, so advanced that they link directly with the satellites without using the national connection channels and are therefore almost impossible to detect. For this service he received from **Marc Wachtenheim** the amount of USD \$5,500.00 coming from the Pan American Development Foundation (PADF).

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Meanwhile, on the same year 2007 defendant **ALAN PHILLIP GROSS** presented PADF with a Project that he called “*Information and Communications Technology for Cuba: an Experimental Project*”, a technical proposal that also contained truly political content and was aimed at providing Internet access to what he described as “pro-

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<sup>1</sup> As written in the original (T.N.)

*democracy groups*” using satellite communication means such as the BGAN<sup>2</sup> system that he intended to introduce in Cuba through multiple conduits such as tourism, humanitarian missions, and diplomatic pouches to, according to his plans, “break the blockade to access to information” and “the blockade and strict surveillance over communications between existing pro-democracy groups in Cuba”, while the truth is that our country has been technologically and economically prevented from developing society-oriented computer science, including large-scale access to digital networks, by the well-known far-reaching blockade imposed to Cuba and maintained by successive United States governments themselves. Nevertheless, **Marc Wachtenheim** turned down the proposal, so defendant’s Project ended up stored in one of his flash drives.

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After this, when in 2008 defendant **ALLAN PHILLIP GROSS** heard that the USAID contractor Development Alternative, Inc. (DAI), a company based on Wisconsin Avenue, Chevy Chase, Maryland, United States of America, was seeking bids for the devise and execution of a heavily funded counterrevolutionary Project for Cuba called “*Cuba democracy program*”, he contacted American citizen **John Mc Carthy**<sup>3</sup>, DAI’s Senior Specialist in Development, in order to join the Project and, should he be selected, receive the salary he would be paid for its implementation.

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DAI’s Program was sponsored by USAID, an institution that serves the interests of the U.S. special services disguised as a development relief agency and also has among its objectives bringing down the Socialist Revolution to restore capitalism in Cuba, for which it is funding a number of programs and subsidizing a wide range of anti-Cuban organizations and centers, and had bid solicitations that year through the Bureau of the Assistant Administrator for Latin America and the Caribbean allegedly intended to “*expand the reach and impact of independent civil society in Cuba and thus accelerate the peaceful transition to democracy*” arguing as a legal basis sections 109 and 202 of the Cuban Liberty and Democratic Solidarity Act of 1996, known as the “Helms-Burton Act”, and Clause g) of section 1705 of the Cuban

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<sup>2</sup> Idem (T.N.)

<sup>3</sup> Idem (T.N.)

Democracy Act of 1992, known as the “Torricelli Act”, both notorious pieces of legislation that reveal the aggressive and interfering nature of the said programs, designed to have a negative impact on the Cuban civil society, its socialist political system and, therefore, its autonomy as a nation, the reason that they have given considerable sums of money –over sixty-five million dollars between the years 1996 and 2008– to more than twenty-five U.S. organizations in support of what they refer to as “*Cuba’s transition to democracy*”.

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By realizing these plans, the United States Agency for International Development (USAID) expected to set the scene for the dissemination of misinformation about the reality of life in Cuba, in such ways that the relevant Cuban State authority would have been unable to detect the source, with the main purpose of influencing as sensitive sectors of society as religious individuals, youths, black people, women and social strata they consider as marginal in order to bring discredit upon the revolutionary Government and spread discontent to facilitate the promotion of civil disobedience acts or riots, which would give them an opportunity to propagate an image of social and political chaos in, and let their Government scheme against, our country with the ultimate goal of destroying the Revolution in detriment of the constitutional stability the Cuban people are entitled to have.

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Meanwhile, and in order to achieve his aim of playing an active role in the abovementioned “*Cuba democracy program*” and the offered pay of more than USD \$250,000, defendant **ALAN PHILLIP GROSS** also submitted to Development Alternative Inc. (DAI) personal references and a *curriculum vitae* describing his experience in the use of advanced communications technology in many countries, which earned him the contract and thus a chance to carry out his plans in accordance with the above-named *Program*. Then, on October 30, 2008, defendant **PHILLIP GROSS** arranged with DAI manager **Samuel L. Williams** the signing of a non-disclosure agreement given the secrecy surrounding the implementation of the Project in Cuba.

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The Project that defendant **ALAN GROSS** designed and called “*Para La Isla*” contained essentially the same ideas he had outlined for his previous attempt with **Marc Wachtenheim** with the title “*Information*”

*and Communications Technology for Cuba: an Experimental Project*”, as it was in line with DAI’s already ongoing “Program” based on the use of portable devices, cell phones and hi-fi satellite wireless gear to provide, using his own words, “*unrestricted*” communications capability for “*democratic activists*” and “*other participants*” that “*cannot be monitored*”, in order to, quoting from his proposal, “*contribute to the promotion of a just and democratic government*” in Cuba.

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Defendant **ALAN PHILLIP GROSS** repeatedly expressed in the documents he drafted for the said Project his intentions and those of his sponsors of contributing to a “*peaceful transition in Cuba*”, a goal enshrined in the interests of the agencies involved as nothing but a means to overthrow the Cuban socialist Revolution and thus threaten our national sovereignty. To this end, he opened a website in “Google”, which had a one-year duration and expired February 12, 2010, that he called “*Para La Isla. Net*”<sup>4</sup> and included features like an encyclopedia and the possibility to send and receive e-mails and videos. In addition to the name he chose for the website, its homepage bore the slogans, “*If not now, when?*” and “*Cuba’s future is now*”, all with the Cuban national flag against the backdrop in an obvious subliminal incitement to subversion against Cuba’s political, economic and social order.

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Later on, defendant **ALAN PHILLIP GROSS** used to funds provided by Development Alternative Inc. (DAI), amounting to more than USD \$60,000, to buy sixty-three state-of-the-art devices and their accessories that he planned to smuggle in Cuba to install three computer networks with satellite Internet access in the western, central and eastern regions, specifically in the cities of Havana, Camagüey, and Santiago. To this end, he came into contact in New York, United States, with **Williams Recant**, American citizen and member of a U.S.-based Jewish organization, and told him, without giving him any details, of his plans to take part in a project called “For Cuba”. **Recant** recommended defendant to contact **William Miller Espinosa**, a Cuban citizen and member of the Cuban Jewish community, and informed him about Jewish groups that traveled regularly to Cuba, whom he thought of using to introduce equipment for his project in the country whenever possible. To this end he sought, and was granted, a travel license from the Office of Foreign Assets Control (OFAC) of the U.S. Treasury

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<sup>4</sup> Idem (T.N.)

Department and another from the U.S. Commerce Department to export equipment to Cuba, emphasizing in his applications the need for discretion about his contracts and his intention to avoid any risks at all costs, as well as the fact that all his work would only involve “nongovernmental groups”.

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Once he had secured the necessary logistics and in order to get the dividends for the service that his Project would do the Development Alternative Inc. as befitted his attempts to undermine Cuban national independence, defendant **ALAN PHILLIP GROSS** made his first trip to Cuba on March 30, 2009, bringing with him and passing through Havana’s “José Martí” International Airport Customs without being detected all the equipment and communications devices he needed to build an IT network. He contacted the aforementioned **William Miller Espinosa** at the synagogue of the Jewish community in Havana at 263 I Street and 13, Plaza de la Revolución Municipality, where he took and assembled the equipment using the BGAN<sup>5</sup> to set up the WiFi, and told **Miller Espinosa** that he just wanted “*to improve communication between Jewish communities*” to conceal the true aims of the USAID-backed DAI’s Program. Thus defendant used the installed capability to communicate with several individuals, including DAI Subcontracts Manager **John Herzog**.

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During that visit to Cuba, defendant **ALAN PHILLIP GROSS** also devoted himself to training Havana’s Jewish community members **Jeiro Montaigne Babani** and **Fernando Cheong Cisnar** in the use of the equipment without revealing its real purpose and made connectivity tests in the surrounding area to set up various wireless access points to provide Internet connection to as many synagogue visitors as possible, whether or not they were members, in order to make sure that one day these modern-day satellite communications equipment could be used by subversive elements, who were the real recipients of the “Program”.

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Upon his return to the United States on April 6, 2009 and as previously

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<sup>5</sup> Idem (T.N.)

agreed, defendant **ALAN GROSS** sent **John Herzog** a report of his work in our country. Not only was he the person in charge of receiving them after every trip, they also served as written evidence to justify the salaries **Gross** would be paid for the execution of the “*Project*”.

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In his report, defendant **ALAN PHILLIP GROSS** told **John Herzog** about the website “*Para la Isla. Net*”<sup>6</sup> that he had opened to give users of his wireless networks Internet access and how he had proselytized them so they would use his website to set up e-mail accounts rather than do it through Gmail, Yahoo or Hotmail, which would basically allow him to keep track of their correspondence. Moreover, he told **Herzog** that he had warned them against the use of their own names in the e-mail accounts they would create, obviously to make their identification even more problematic for Cuban authorities.

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His persistent illegal activities and efforts to prevent Cuban customs officers from detecting the satellite communications gear that he was trying to introduce into the country and thwarting the plans he was already carrying out, defendant **ALAN PHILLIP GROSS** contacted American Jewish community member **Suzane**<sup>7</sup> **Andisman**, who was going to travel to Cuba with a religious group, and asked her to bring with her some communications equipment as part of her luggage. Unaware of defendant’s true plans, she agreed to his request. **Gross** flew to Havana on April 25, 2009 carrying a BGAN<sup>8</sup> satellite terminal and a laptop computer, whereas **Suzane**<sup>9</sup> **Andisman** arrived in Cuba the following day with the rest of the equipment needed to set up a network. Both citizens, who traveled through Havana’s “José Martí” International Airport, met at the Parque Central Hotel in the capital city, where defendant **PHILLIP GROSS** picked up the equipment that **Andisman** had brought for him.

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Then defendant **ALAN PHILLIP GROSS** proceeded to take the said equipment to Santiago de Cuba, where he contacted local Jewish community leader **Eugenia Farín Levy**, whom he presented with the

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<sup>6</sup> Idem (T.N.)

<sup>7</sup> Idem (T.N.)

<sup>8</sup> Idem (T.N.)

<sup>9</sup> Idem (T.N.)

devices, making her think that it was a “*donation to improve communication between Jewish communities*”, right before he installed them in the premises of the city’s Jewish community at 253 Corona St. between the streets Habana and Maceo, from where he tried to make it work, albeit unsuccessfully, since a connection element of the BGAN<sup>10</sup> system was damaged. He decided to leave the said equipment there, returned to Havana and then to the United States of America on May 4.

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After this trip and like he had done in previous ones, defendant **PHILLIP GROSS** sent his DAI sponsors a thorough report of his activities in Cuba, underlining among other details the identity and social function of the person he met in Santiago de Cuba, as well as the population of that province and its geographical distribution.-----  
Persisting in his illegal activity, defendant **ALAN PHILLIP GROSS** organized his third trip to Cuba to keep on introducing IT gear underhandedly and setting up wireless data networks with the abovementioned aim. In order to avoid detection by the Cuban customs, he contacted in advance from his office in the United States an American citizen named **Richard Klein**, another Jewish community member who would also travel to Cuba with a religious group, and asked him to carry some equipment in his luggage. **Richard Klein** accepted without knowing defendant’s true plans and traveled to Cuba with the said gear on June 4, 2009, whereas defendant arrived on the same day but on a separate flight to avoid drawing attention from the customs officers at Havana’s “José Martí” International Airport.

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Once in Cuba, defendant **ALAN PHILLIP GROSS** picked up the infocommunications equipment brought by **Richard Klein** –which also included a BGAN<sup>11</sup> system that could be used to assemble another satellite communications network similar to the two previous ones– and traveled by road to Camagüey with all these items. There he contacted provincial Jewish community leader **Daniel Pernas Levy**, whom he told that it was a donation from the Jewish community in the United States to improve communication among Cuban Jewish communities, still hiding his true plans. With **Pernas**’s consent, defendant installed the equipment in the premises of the local synagogue, located at 365

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<sup>10</sup> Idem (T.N.)

<sup>11</sup> Idem (T.N.)



Andrés López Sánchez St. between the streets Agüero and Capdevila, in the city of Camagüey, and thus set up a wireless satellite communications network that he tested for connectivity until he linked up with the Internet. After this he returned to Havana and flew to the United States May 18.

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Upon arriving in the United States, defendant **PHILLIP GROSS** submitted to his DAI sponsors, as instructed and in order to receive payment for his job, a detailed report of what he had done to take all the equipment to the cities of Santiago de Cuba and Camagüey without being detected by the Cuban authorities, describing his work in unequivocal terms as very risky and, among other things, warning that if the communication network he was setting up were found by the Cuban authorities *“the equipment would be confiscated and its users arrested”*.  
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At this point, still imbued with his plans to establish underground wireless communications networks to facilitate data transmission and reception from and to Cuba as well as among individuals opposed to the revolutionary process, defendant **ALAN PHILLIP GROSS** wrote at an imprecise date an extensive document that he passworded “Joint9” and stored with others in his “Kingston” flash drive in June 2009 with the title *“How to communicate securely in repressive environments”*, directed, in his own words, *“to political activists who operate in non-permissive environments and those who support their work”* and containing a whole methodology to be applied with such aims through advanced IT technologies like cell phones, digital cameras, computers, flash drives, e-mail, websites, IP packages, blogs and cybercafés, and providing both how-to instructions and tips regarding the most reliable programs and techniques. Defendant concluded that he had gathered related information, including “his and other colleagues’ personal experience” to develop this document, the content of which is totally consistent with both the efforts defendant **PHILLIP GROSS** made to implement his Project *“Para la Isla”* and the infocommunications equipment he purchased to that end and the precautions he took to deploy them in Cuba.  
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Defendant **ALAN GROSS** traveled again to Cuba from July 22 to 30 and from November 24 until December 3, the day of his arrest. He

went to Havana, Santiago de Cuba and Camagüey, the cities where he had set up web-based satellite networks for counterrevolutionary purposes, in order to choose and train more users in the operation and upkeep of the systems, following to the letter the guidelines of his contract with DAI concerning the report he had to submit after each trip to secure his compensation, which upon the Project's completion was to be USD \$258,264.00. That sum and his activities demonstrate the lucrative, conspiratorial, and covert nature of his actions to put up a technological infrastructure almost impossible to detect by the Cuban authorities and conducive to the ultimate goal of the abovementioned American agencies and of the U.S. government itself: to undermine Cuba's constitutional order and cripple the State's independence.

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In November 2009, while defendant **PHILLIP GROSS** was still in the United States of America, he received a phone call from **Akram Elias**, an American citizen and former Grand Officer of the Washington Masonic Lodge who is noted for his distinct opposition to the Cuban political system. **Elias** had called defendant on **John McCarthy's** recommendation because of his interest in DAI's "*Cuba democracy program*", so they agreed to meet and talk in a café near his office. In this meeting **Elias** said that he had thought of installing defendant's system in Cuban Masonic lodges, and they decided to meet in Havana in December that year to talk further on the occasion of a visit that **Akram Elias** would make to Cuba.

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On December 2, 2009, defendant **ALAN PHILLIP GROSS** and the said American citizen **Akram Elias** arranged to meet at the "Hotel Nacional de Cuba" and picked up where they had left in Washington with a view to extending the former's Project to Cuban Masonic lodges. They agreed to meet again and put the idea into final form, but this meeting never took place because in the evening of December 3 defendant **ALAN PHILLIP GROSS** was arrested by the Cuban authorities and found in possession of two flash drives –one a "Micro Center" and the other a "Kingston"– with most of the documents related to defendant's projects against the Cuban State.

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On every trip he made to smuggle infocommunications equipment in the country, either by himself or using third persons, defendant **ALAN**

**P. GROSS** traveled to Cuba on a tourist visa, so he was compelled to declare what he carried to the Cuban customs officers. However, he failed to do so, deciding instead to introducing them into the country in secret to assemble the aforesaid wireless satellite communication networks and select or train people in their operation and upkeep. Following his arrest, the authorities in charge of the investigation made a search of the three places where he had installed the said wireless networks and seized three Hughes 9201 BGAN<sup>12</sup> systems and their cards, leads and batteries; three laptop computers (two Apple and one MACBOOK) with their AC supply lines and transformers; three Routers (one Workgroup Switch Linksys; one Cisco Linksys with its own AC supply line and transformer, model LS120V-15 ALE; and a wireless Ruckus, model Zone Director 1000, also fitted with its AC supply line and transformer); thirteen 8320 Blackberry<sup>13</sup> cell phones with their hands-free devices, earphones, battery chargers, SIM and microSD cards; six Wester<sup>14</sup> Digital external hard drives with their connecting cables; two Polycom multi-conference intercoms; two Logitech web cameras; a Radio Saack<sup>15</sup> radio-frequency modulators; fourteen Ruckus wireless transmitters or access points, all with their networking cables, power supply lines and transformers; ten Apple iPod devices; a Clarisys Internet protocol telephone with its USB cable; a 2-Gb “Kingston” flash drive; a Magic Jack modem with USB port; a pair of Logitech earphones with built-in microphone; a Clarisys telephone with a phone line No. 202-280-7647; a Cisco router with its supply line and transformer; a Linksys wireless switch with its supply line and transformer; a Cisco Linksys router with its supply line and transformer; a mobile telephone charger with its connecting cable; a Linksys switch with its supply line and transformer; a Logitech mouse; a green Eddier<sup>16</sup> Bauer compass; a Corning Data CP 0520 transformer with a Belkin F5U 404-BLK connection equipment fitted with four USB ports; a Clarisys IP telephone with its connecting cable; six AC adapters; four Wonpro AC adapters; two flash drives (one “Kingston and one “Micro Center”; a router with its supply line and transformer; and a white adapter cable with two USB ports.

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Defendant **ALAN PHILLIP GROSS**, 61, whose personal details have been expressly described above, is a Sociology graduate from the

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<sup>12</sup> Idem (T.N.)

<sup>13</sup> Idem (T.N.)

<sup>14</sup> Idem (T.N.)

<sup>15</sup> Idem (T.N.)

<sup>16</sup> Idem (T.N.)

University of Maryland who earned a Master's Degree of social work from "Virginia Commonwealth University School of Social Work", where he has also been an associate professor. He was a member of Maryland's "Bethesda Jewish Federation" and the BBYO, and has been senior partner or manager of various U.S. companies. At the time of these events he owned "Joint Business Development Center, LLC", a company based in Maryland, United States. He has traveled to more than fifty countries in Africa, Europe, Asia and America, and has been hired by several USAID-funded institutions to install "VSAT" communications systems in countries like Iraq, Afghanistan and Pakistan and also sold these systems to military bases of the United States Army's National Guard, some of which have been deployed in the abovementioned countries. On one occasion he was directly hired by USAID to develop an economic feasibility study on the Israeli-Palestinian border while both countries were at war. In the 1990s, after the collapse of the socialist bloc in Eastern Europe, he was hired by some companies, enterprises and "Non-governmental Organizations (NGOs)" to carry out feasibility, economic and project studies to foster transition to capitalism. His behavior as a member of American society has been steadily acceptable and he has no criminal record in the Republic of Cuba.

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**SECOND CONCLUSION:** This Court has acted in the conviction that its ruling is based on proven facts supported by the vast documentary evidence recorded in the Preliminary Inquiry File; by the reports of the IT equipment that were introduced into Cuba by the defendant and seized from **William Miller Espinosa** at the Patronato synagogue in Havana and **Eugenia Farín Levy** at the Patronato synagogue in Santiago de Cuba, as well as some equipment seized from **David Pernas Levy** that defendant smuggled in the country and installed at the Patronato synagogue in the city of Camagüey, as clearly indicated on pages 5 to 7, 24 to 28, and 182 of the said Preliminary Inquiry File; by the arrest warrant issued for defendant **ALAN PHILLIP GROSS** stating the date, time, place and reasons for such arrest; by the search warrant issued against said defendant in the evening of December 3, 2009 –the day of his arrest– stating the seizure of, among other items, two flash drives (one "Kingston" and one "Micro Center") subsequently scanned by the police; and by the Report of personal belongings returned to defendant **ALAN GROSS**, described on pages 8 to 14 and 767 to 768, that bore no relation to the charges brought against him. Reference is also made in the court proceedings to defendant's passport No. 208021249 showing on pages 49 to 52 the dates of his

arrivals to and departures from Cuba; the receipts issued by the staff of the various hotels in Havana, Santiago de Cuba and Camagüey where defendant **PHILLIP GROSS** the dates of which match those stated in the fact-finding report of his activities in Cuba (on pages 66, 144, 146, 147, 153, 343 and 345); the Certificate issued by the Legal Advisor of Havana's car rental Agencia Cubacar stating that from June 7 to 11, 2009 defendant rented a car from the said agency's office at Hotel Presidente in our capital city that he gave back in Santiago de Cuba (page 142); the Certificate issued by the Director of the Cuban Ministry of Information Technology and Communications' Agencia de Control y Supervisión (ACS)<sup>17</sup> as proof that defendant **ALAN PHILLIP GROSS** never applied for a permit to set up satellite communications stations in Cuba (page 167); the Certificate issued by the Ministry of Justice's Registro Central de Sancionados<sup>18</sup> stating that defendant has no criminal record in the Republic of Cuba (page 113); the Report of Inspection of the "Kingston" flash drive seized from defendant the day of his arrest and five documents retrieved from it, as well as their official translation by Cuba's Equipo de Servicio de Traducción e Intérpretes<sup>19</sup> (Translation & Interpretation Service Teams, or ESTI), where defendant's intentions are exposed. Despite the defense attorney's objections to the way in which these documents were handled on grounds that "mirror" back-up copies should have been made in the presence of both defendant and a notary public to make sure that their content was not tampered with and all the parties involved in the trial had access to them –founding her arguments on doctrine and her own interpretation of Article 236 of the Criminal Procedural Law– the Court admitted the exhibits introduced by the prosecution because there are no provisions in the said legislation about the retrieval of digital material from this kind of hardware as an action ultimately contingent on the administrative methodological regulations of the chain of custody, which was not broken, since the serial numbers of the seized flash drives were not recorded but both devices were sealed in front of defendant **ALAN GROSS**, from whose evidentiary proceedings a report in English language was issued that he signed (page 23, Volume 1 of the Preliminary Inquiry File) before they were sent to the Central Criminal Laboratory for analysis and then returned in a duly sealed envelope to the Criminal Investigator in charge of the case, who opened the envelope in the presence of witnesses and prosecutors and showed defendant the retrieved documents, most of which he acknowledged to be his own and even

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<sup>17</sup> Control and Supervision Agency (T.N.)

<sup>18</sup> Central Register of Convicted Persons (T.N.)

<sup>19</sup> As written in the original (T.N.)

discussed in greater detail (as evidenced by both the videotape exhibited in court to the trial judges and the relevant entries on pages 258 to 267, Volume 2, of the File, an English copy of which was also signed by defendant) with the exception of the one titled “How to communicate securely in repressive environments”, although it had been stored in his “Kingston” flash drive with the password “Joint9”, which partially matches the name of his company: “Joint Business Development Center”, so the Court ruled on the basis of logical deductive reasoning that he had drafted the said document. In this connection, the unquestionable conclusion must be that the “Kingston” flash drive scanned by the experts was the one seized from defendant and their findings are therefore reliable, taking into account that they also covered the content of the documents and the obvious fact that the one titled *“Information and Communications Technology for Cuba: an Experimental Project”* is a detailed Project that served as the basis for the document subsequently approved by DAI, given the similarities underscored in the thorough reports that defendant submitted to this entity about the status of certain stages of his ongoing program *“Para la Isla”* and its furtive character, shown by a graduated scale of the likelihood and level of risk that the technological components used to put it into practice were detected and the notation at the bottom of each page with the warnings that *“All the information contained on this page is highly confidential and must not be disclosed or reproduced for distribution without the express consent in writing of JBDC LLC. Failure to fulfill this condition could cause irreparable harm to certain parties on the island”* and that “Government control over access to information by and communication among pro-democracy groups has made a great impact on the island’s ability to make well-founded decisions and with the efficient use of current information and communication technology the possibility that social change would come about on the island and the possibility of supporting it would increase sooner rather than later” to explain the need to set up these IT networks and how related equipment would be brought to and spread across Cuba via trips of U.S. groups. Defendant’s Project also included reporting after each of his five scheduled visits with a view to receiving payment for the various stages of execution and monitoring the activity of the “voters” in these networks, their regular contacts with each other and the information they accessed. Defendant’s awareness of these goals is confirmed by a Letter he sent to Mr. Antonio Cabral at the Office of Foreign Assets Control describing his activities as part of USAID’s *“Cuba Program”*<sup>20</sup>; his signature in the extremely confidential Non-disclosure Agreement between Joint Business Development Center

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<sup>20</sup> Idem (T.N.)

(JBDC, the company he owns) and Development Alternatives Incorporated (DAI), also retrieved and openly reviewed (re pages 187 to 257 and 668 to 751); the Report of the Cuban Ministry of Foreign Affairs' Information Division including the full text of the markedly interfering speech delivered by USAID official Adolfo A. Franco posted in the Internet and the said Ministry's Certificate stating the content of the programs designed by both institutions, the funds USAID has allocated to PADF and the said U.S. agency's intentions to interfere in our country's affairs (pages 282 to 297); a document issued by the Legal Advisor of the Cuban Customs describing the steps to import BGAN<sup>21</sup> systems and the requisite authorization or permit of installation, use and operation from MIC's ACS (pages 337 to 341); the Certificates issued by the Cuban Immigration Authority stating the dates when U.S. citizens **Akram Elias**, **Suzanne Andisman** and **Richard Klein** arrived in and departed from Cuba, all of which match the case history. As declared in the report, the last two individuals were the ones who brought to Cuba in defendant's stead –at his request and unaware of his real plans– part of the equipment for the wireless networks defendant set up (pages 355, 359 and 363); the License that the U.S. Treasury Department granted defendant **ALAN GROSS** and a copy in Spanish translated by ESTI (pages 752 to 759); USAID's 2008 Cuba Program in the original English version and a copy in Spanish translated by ESTI, describing the whole doctrine that this federal entity has developed for Cuba and making it clear that its prime goal is to overthrow the socialist State endorsed by the Cuban Constitution and restore capitalism in our country, a clear interfering attitude in violation of the Cuban State's sovereignty (pages 1132 to 1313); the personal files of U.S. citizens **John Mc Carthy**<sup>22</sup>, **Marc Wachtenheim**, **Akram Elias** and **John Herzog**, all of them related to U.S. government agencies (pages 1370 to 1377); the photograph of a table itemizing the gear defendant **ALAN PHILLIP GROSS** introduced surreptitiously into Cuba (pages 1392 to 1461); a Certificate issued by the Legal Affairs Division of the Cuban Customs stating that the Customs Declaration signed by defendant **PHILLIP GROSS** is a mandatory document any passenger has to fill to import other people's items and products and that the acting customs inspector failed to retain the article defendant declared as a MODEM and instructed him to pay ordinary import duties in CADECA<sup>23</sup> instead, adding that defendant never stated in his Customs Declaration that he was in fact importing satellite equipment, otherwise subject to retention under Resolution No. 10 of 2006 issued

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<sup>21</sup> Idem (T.N.)

<sup>22</sup> Idem (T.N.)

<sup>23</sup> Cuba's foreign exchange office (T.N.)

by MIC; a document listing the statutes of JBDC LLC, the title deed to the said company, and a statement of profits and losses together with an estimate of the deficit incurred in these lines and the company's venture capital in 2008; a sworn statement from defendant's wife **Judith Gross**, of February 23 of this year, in which she explains the situation of her family, provides details on the presentation of a lawsuit against DAI, and apologizes for any harm her husband's activity might have done to the Cuban people; and a sworn statement from attorney-at-law Stephen I. Glover, a partner of the Washington, D.C.-based Gibson Dunn firm, offering details about the common use in the United States of non-disclosure agreements, like the one defendant **ALAN GROSS**' company signed with DAI, to prevent trade secrets from being revealed to third parties and competitors, unlike this case, since **PHILLIP GROSS**' contract with DAI was not related to any business deal, as evidenced by the notation at the bottom of each page the abovementioned warning that the Project was highly confidential and that "irreparable harm" could be caused to certain parties if it were disclosed, which proves defendant was aware of its political and subversive nature against Cuba. Other documents were also appraised that do credit to defendant's proper social behavior in his society (pages 51 to 84 of the case file).

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This Court also took into account the convincing material evidence gathered and documented in the preparatory stage of this criminal process and presented during the oral proceedings by the appointed experts, who ratified without exception all the reports produced by the investigation, including the expert report of the graphologist about defendant **PHILLIP GROSS**' handwritten documents that reveal traits of his personality, described by specialist Marlene López Capote; authentication analyses of both defendant's passport No. 208021249 and texts in English that he wrote and signed describing some of his activities and purposes on Cuban soil, which match his account of the facts, his links with USAID, and his own admission that the agency's Cuba policy is wrong (pages 106 to 110 and 305 to 314); the computer expert's report about the technical condition and data use and retrieval capability presented by specialist Ramsés Dupuy Mercader, which prove that except for the BGAM<sup>24</sup> terminal deployed in Santiago de Cuba all the reportedly seized IT equipment –namely three BGAN<sup>25</sup> systems, microcomputers, "BlackBerry" and "Clarisys" cell phones with

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<sup>24</sup> As written in the original (T.N.)

<sup>25</sup> Idem (T.N.)



their chargers, switches, wireless routers, webcams, Ipods<sup>26</sup> and other accessories— are fit for use and furnished with a whole range of functions that include GPS, photographic camera, advanced data-transfer optimizing packet switching, and e-mail and Internet service through a single connection, all of which are leading-edge technology for equipment directly connectable to a satellite that makes it possible to assemble a hi-fi network and difficult to detect the transmission and reception of e-mail messages, data and video files. Included therein were text formats that mentioned USAID, pictures showing steps to set up wireless communications networks with last-generation means, password-protected files related to the Project that defendant designed and called “Para la Isla”, and his personal CV, which listed the countries where he had worked. The computer expert’s data-retrieval work on the “Kingston” flash drive seized from defendant upon his arrest found five “Word” documents authored by defendant **ALAN PHILLIP GROSS** and **E. Kelly Hard** at the behest of the organizations “JBDC”, “A. P. Gross & Company, Inc.” and “BAE SYSTEM”, and mentioning **John Herzog**, **Mr. Antonio Cabral**, “USAID” and “DAI”. Another inspection made by the computer expert on the operational status, fitness for use and data-retrieval capability of this and the other “Micro Center” flash drive also seized from defendant allowed the retrieval of folders with documents originally written in English and subsequently attached to the Preliminary Inquiry File together with a Spanish translation, already mentioned in this report as documentary evidence (pages 184 and 185, 435 to 666, and 771 to 1105); the expert opinion about the deployment and unsupervised use of BGAN<sup>27</sup> terminals, wireless WiFi networks and accessories and their integration into personal networks not authorized to operate in our national territory, presented by Eng. Moises Cortes Escobar, a senior specialist on Control and Regulation from MIC who pointed out that the abovementioned individuals imported and activated these networks without the requisite authorization in violation of the current legislation, adding that as a result of the well-known blockade imposed on Cuba and kept in place by successive U.S. governments our country has had limited access to the state-of-the-art technology we would need to further develop computer science and thus make digital networks more accessible and stressing the fact that wireless satellite communications are hard to detect because they connect directly to the satellites and can therefore operate outside domestic channels (pages 322 to 333). His conclusion was seconded by Legal Advisors Zenaida Marrero Ponce de León and Carmen María de los Reyes Ramos, from MIC and

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<sup>26</sup> Idem (T.N.)

<sup>27</sup> Idem (T.N.)

the Cuban Customs, respectively, who cited the current legal standards that govern this subject and especially the ones violated by defendant. The former emphasized that all computer networks must be registered with the Internet Environment Provider Register and underscored that the “BGAN”<sup>28</sup> are on the list of equipment that must be approved by MIC’s ACS prior to their import in accordance with the abovementioned Resolution No. 10 of 2006 issued by the Minister of Information Technology and Communications, which was confirmed by the Court, particularly in light of the latter’s statements as to the fact that this equipment is essentially a satellite receiving station (pages 117 to 140). Also heard was a deposition by Daniel Motola Pedrosa, an expert of the Havana synagogue library staff, who explained that the phrase “*If not now, when*” found in defendant’s website dates back to more than 2,000 years ago and comes from a maxim of the Rabbi Hillel that appears in Chapter One of Verse 14 of the Talmud Pirke Avot but he did not understand why it was placed on a website of a non-religious project or why it was accompanied by the phrase, “*The future of Cuba is now*” and the Cuban national flag; and a lecture given by Dr. Manuel Havia Frasieri, a Researcher and Expert with Centro de Estudios de la Seguridad del Estado<sup>29</sup>, who talked about a topic he covered in his expert’s report “La USAID, arma clave de la Guerra Sucia” (USAID, a key weapon in a dirty war) and described in detail the apparently altruistic missions undertaken by this office of the U.S. government as confirmation of the facts of this case regarding USAID’s actions against Cuba in its capacity as a tool of the U.S. government’s interfering policies and the funds allocated to this effect. He said that USAID is furnishing certain sectors –in the hope of having influence over them– with IT equipment likely to go undetected by the national authorities and remarked that in the last few years the figures “private contractor” and “NGO” have been reinforced in these agencies as a way to benefit from the budgets approved for that purpose.

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Likewise, the Court heard the testimony given by witness William Miller Espinosa, member of the Cuban Jewish community, who held that defendant was introduced to him by other Americans he knows from the “Bet Shalom” synagogue, located in Havana’s Plaza de la Revolución Municipality, and told him that his intention was to develop a project that would improve communication among, and Internet access by, Cuban Jewish communities, and to that end gave him some

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<sup>28</sup> Idem (T.N.)

<sup>29</sup> State Security Study Center (T.N.)

devices that included the “BGAN”<sup>30</sup> and the “BlackBerry” cell phones, which defendant himself installed later on to set up a wireless satellite communications network. He testified that defendant also told him that the name of his project was “Para la Isla” and had a website, and he could confirm in a trip to Santiago de Cuba that defendant had set up a similar system in the local synagogue, as corroborated by witnesses Jeiro Montagne Babani and Fernando Cheong Cisnar. Also heard were depositions by witness Enma Farín Levy –sister of Santiago de Cuba Jewish community leader Eugenia Farín Levy, who was not in Cuba and could not attend the trial– who described how defendant delivered some communications and data storage devices to her synagogue in Santiago de Cuba, including a “BGAN”<sup>31</sup>, and installed a wireless network as part of what he called a project arranged with the Gran Patronato synagogue in Havana, which confirmed, when checked against defendant’s past similar activity, that he had a preconceived plan in mind; David Pernas Levy and Diana María Barrero Basalt, president and member of the Camagüey Jewish community respectively, who said that they had heard about defendant **PHILLIP GROSS**’ visit in an e-mail received from an American citizen of their acquaintance, and that he had visited their synagogue on the date established in the report, carrying with him communications equipment like the “BGAN”<sup>32</sup>, which he set up and tried, albeit to no avail, to contact with the outside world, and that he had come again to their building months later and this time installed the wireless network correctly and left them an instruction manual in Spanish, telling them they would learn little by little to operate the equipment; Bárbara María Miró Zamora, a taxi driver defendant used several times, who said to be unaware of his subversive activity; Jose Manuel Collera Vento, who testified that between 2000 and 2002, in his capacity as Freemason, he met in Cuba the U.S. citizens **Curtin Winsor** and **Akram Elias**, who in turn introduced him to **Marc Wachtenheim** on a trip he made to the United States at their invitation, and then they met in Cuba again and went together to meetings in Masonic lodges, until the day that defendant **ALAN PHILLIP GROSS** visited the Gran Logia de Cuba at the instance of **Wachtenheim** carrying a video camera and some medicines. He testified further that while in the United States he visited with **Marc Wachtenheim** the headquarters of the National Security Council at the White House and the U.S. State Department and was received by high officials such as **Douglas Mcfears**<sup>33</sup>, Assistant

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<sup>30</sup> As written in the original (T.N.)

<sup>31</sup> Idem (T.N.)

<sup>32</sup> Idem (T.N.)

<sup>33</sup> Idem (T.N.)

Secretary of State **Otto Reich**, and “*Center for a Free Cuba*” executive director **Frank Calzon**, who told him straightforwardly of the need to put an end to the Cuban revolutionary process and lay the foundations of a political transition in the island, where they had USAID-funded plans underway –as he learned from **Wachtenheim, Winsor and Akram**– to set up wireless computer networks at Masonic lodges in order to send political information undetectable by the Cuban State, and later on received news from **Marc Wachtenheim** himself of the arrest of a foundation member that he assumed was **ALAN P. GROSS**. Collera also said he was paid USD \$250.00 every month as payment to recruit Cubans who would be trained in the use of IT technology provided by USAID and awarded a medal by the Republican Committee of the Congress, and went on to reveal himself as Cuban State security agent “Gerardo”. Furthermore, the Court heard witness Raúl Antonio Capote Fernández, who said that in 2005 the First Secretary of Press and Culture of the U.S. Interests Section introduced him to **Marc Wachtenheim**, at the time Director of the “Cuba Program” at the Washington-based “Pan American Development Foundation” (PADF), who subsequently sent him e-mails requesting information about current Cuban issues, the coverage of satellite receivers in cities and neighborhoods and ways to conceal them, and the needs in terms of materials and technologies to increase their use by Cuban citizens, as well as a “BGAN”<sup>34</sup> satellite communications equipment on April 25, 2008 that he used to contact **Wachtenheim** until it broke down and an individual named René Greenwald, who was his liaison with **Marc Wachtenheim**, told Capote that the person he should see for a replacement was **ALAN PHILLIP GROSS**, who had been detained in Havana after committing a series of careless errors. Capote testified that he received money and technological supplies for his work for PADF, and also revealed himself as Cuban State security agent “Daniel”; a deposition by Carlos Remis Chong, the criminal investigator in charge of this case, who ratified what his conclusions in his final report –attached to the Preliminary Inquiry File– and gave a detailed explanation of the main steps of his investigation, defendant’s part in the crimes imputed to him, the links between DAI and USAID as well as between defendant and **Marc Wachtenheim** and other notorious enemies of the Cuban Revolution who work for these agencies and their projects, intended to change the Cuban political system for capitalism.

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<sup>34</sup> Idem (T.N.)

The Court also took into consideration the testimony freely provided by defendant **ALAN PHILLIP GROSS**, who admitted to having signed a non-disclosure agreement under which he developed a project for Development Alternatives Incorporated that envisaged the setting-up of wireless networks in Cuba, but DAI used him without warning him of the legal consequences that could result from such activities in this country, where he brought the equipment required to do so and used third persons to install the said networks in the Havana, Camagüey and Santiago de Cuba synagogues and, as part of and before he started his project, he opened a website In “Google” that he called “Para la Isla. Net”<sup>35</sup>. However, defendant appeared evasive regarding the true import of the charges laid against him, as was his right to testify in a way that served his case, and claimed that he was not aware of the real political content of his project and that the project approved by DAI and actually carried out by him was different from that described in the proposal found on his flash drive, although in reality it is all part of a single project with specific and fundamentally political goals, which are clear in the aforesaid warnings that he put on each page and his reports to both DAI Subcontracts Manager **John Herzog** and **Antonio Cabral** from the United States Office of Foreign Assets Control, already recovered and studied before being attached to the proceedings, and defendant’s actions, the IT equipment he purchased and the steps he took to deploy them in Cuba differed hardly at all from the “*Para la Isla*” project proposal, which agrees with the uncovered document “*How to communicate securely in repressive environments*” that according to him was directed to “*political activists who operate in non-permissive environments and those who support their work*” and contained a whole methodology to be applied with such aims but he denied writing, although the Court concluded for the reasons explained herein that he did indeed write the document and that what is certain is that his part of the plan was to set up IT technological infrastructure without the Cuban authorities noticing for the purpose of advancing the U.S. government’s goals toward Cuba as described in the account of the facts, not the direct recruitment of counterrevolutionary elements, since his professional profile is not consistent with the organization of subversive provocations, although his activities were no doubt an attempt to make an effective contribution to such goals. The Court also deemed insubstantial, and therefore hardly credible, that defendant used third parties, from whom he concealed his real intentions, to pass through Customs some cell phones and devices needed to assemble

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<sup>35</sup> Idem (T.N.)

the wireless networks only to speed up the arrangements, since those equipment were smaller than the ones he himself was carrying, like laptop computers and BGANS, something defendant even tried to use as an excuse on grounds that he had once paid an import tax for a BGAN<sup>36</sup>, albeit he deceitfully described the gear in the Customs Declaration he signed then as nothing but a MODEM and not as the satellite receiving station that it really was that needs an import license from the relevant authority. Likewise, defendant argued that the phrase “*If not now, when*” in his website is a maxim by Rabbi Hillel from the Talmud Pirke Avot, but he obviously used it for political purposes and totally out of context in a non-religious website that bears the Cuban national flag and another phrase alongside that reads, “*The future of Cuba is now*”, in an obvious subliminal incitement to subversion against Cuba’s political, economic and social order.

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**THIRD CONCLUSION:** That the Prosecutor maintained and raised his Provisional Conclusions to Final, as recorded on pages 3 to 27 of this criminal case.

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**FOURTH CONCLUSION:** That the Defense Attorney objected to the basic points of the accusation, especially concerning the definition of the crime attributed to her client, and changed her Provisional Conclusions, recorded on pages 43 to 50, for those recorded on pages 153 to 162 of the proceedings, arguing that the appropriate law for charging defendant is Article 11 of Law No. 88 of February 16, 1999, “Protection of the National Independence and the Economy of Cuba”, by virtue of the doctrinally recognized principle of legal specialties. Furthermore, by changing her provisional conclusions, she also modified the sentence petition she had drafted and claimed that defendant should be fined and credited with time served in preventive custody –under clause 3 of Article 35 of the Penal Code– and released forthwith.

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**FIRST LEGAL REASON:** That the facts declared proven constitute a crime that concerns **ACTS AGAINST THE INDEPENDENCE OR THE**

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<sup>36</sup> Idem (T.N.)

**TERRITORIAL INTEGRITY OF THE STATE**, defined in and punished by article 91 of the Penal Code, inasmuch as defendant **ALAN PHILLIP GROSS** acted in the interest of the government of the United States of America and designed for the U.S. government agency and USAID contractor Development Alternatives Inc. (DAI) a Cuba-oriented project of a political and counterrevolutionary nature called "*Para la Isla*" following a bid for solicitations launched by the said entity with a view to deploying technological infrastructure across the country using last-generation wireless networks for direct satellite communications, very hard to detect by the Cuban authorities, not only to facilitate the broadcast and reception of data both to and from other countries and inside Cuba among individuals opposed to the revolutionary process but also to have an impact on the Cuban civil society and its socialist political system by spreading through these networks distorted information about the reality of life in Cuba, with the main intention of exerting negative influence on certain sensitive social sectors, bringing discredit to the revolutionary Government and promoting a level of discontent that would pave the way for acts of civil disobedience and therefore contribute to the U.S. government's anti-Cuban maneuvers to destroy the Revolution and damage the independence and integrity of the Cuban State. In order to achieve these objectives, defendant stealthily brought in the country the IT equipment and means required to install the said underground networks, which he set up in the Havana, Santiago de Cuba and Camagüey synagogues and trained users in their operation and upkeep. The Court finds against the defense attorney's arguments and holds that the proven facts classify under article 11 of Law No. 88 "On the Protection of the National Independence and the Economy of Cuba" of February 16, 1999, taking into account that from the very moment that this counterrevolutionary project was developed and set in motion defendant's actions went beyond the scope of the crimes defined in the said legislation.

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**SECOND LEGAL CONCLUSION:** That defendant **ALAN PHILLIP GROSS** is hereby held accountable for a crime of **ACTS AGAINST THE INDEPENDENCE OR THE TERRITORIAL INTEGRITY OF THE STATE** that he personally committed, as laid down in article 18, clauses I and II, item a) of the Penal Code.

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**THIRD LEGAL CONCLUSION:** That the perpetration of this crime combines with an aggravating factor that fits under article 53, item b) of the said Penal Code since defendant's illegal activity was markedly

motivated by financial gain, taking into account that even if his Company was hired under a cloak of assumed lawfulness to develop and carry out a counterrevolutionary project that involved deploying in Cuba technological infrastructure using last-generation wireless networks for direct satellite communications very hard to detect by the Cuban authorities, his plan would have been impossible to achieve under a simple, apparently legitimate contract protected by a non-disclosure agreement and without affecting third parties, as defendant claimed, and by virtue of which he was paid tens of thousands of U.S. dollars; on the contrary, such a business transaction is illegal because of its aims of interference in the internal affairs of another sovereign State. On the other hand, there are no attenuating factors to be considered under article 52, item ch) of the aforesaid legislation, since despite the fact that defendant cooperated with the Cuban authorities through his statements in the investigative phase, his help to elucidate the facts was neither sustained nor fully effective, as he was evasive during his subsequent testimony, changed his story before the judges, and tried to distort certain points of fact that were eventually established without his help.

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**FOURTH LEGAL CONCLUSION:** That although criminal responsibility entails the civil obligation to repair or compensate for damages caused thereby, defendant is not held liable for any.

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**FIFTH LEGAL CONCLUSION:** That to make sure that the punishment fits the crime, the Court took into account the provisions of articles 27 and 47 and the aggravating circumstances laid down in article 53 item b) of the Penal Code, as well as the fact that defendant is over 60 years old; therefore, the provisions of article 17 clause II of the said legislation are applicable. Similarly, the Court noted that defendant's act present a high degree of social danger at a time when imperialist government "private contractors" are increasingly employed in new forms of mercenary action aimed at deriving benefit from the budget headings allocated to subversive activity in certain countries, so much so in Cuba's particular situation as a victim of permanent harassment from, and other gruesome measures imposed by, successive U.S. governments to destroy the Revolution; therefore, defendant's activity is not justified by their apparent legality in the United States, given the interfering nature of such "legality", as they violate the most basic norms and principles of International Law and the Constitution of the



International Communications Union, which recognizes the right of all States to regulate this field of technology, and because he knew that such a supposed legality would dissolve in Cuba, as can be inferred from his usual surreptitious ways at the service of the vile causes that his Government champions. It is therefore necessary to pass a custodial sentence, lesser than the one requested by the Prosecution but sufficiently long that it has the desired effect pursued by the legislator that establishes our substantive criminal Law, and mainly that of general prevention in order to secure the constitutional stability, independence and integrity of the Cuban State, these being the reasons that we find as follows.

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**WE FIND:** That in the name of the people of Cuban **WE MUST CONVICT AND ARE HEREBY CONVICTING ALAN PHILLIP GROSS** as perpetrator of a crime of **ACTS AGAINST THE INDEPENDENCE OR TERRITORIAL INTEGRITY OF THE STATE** by sentencing him to **15 YEARS IN PRISON**, to be served in a Penal Institution designated by the Ministry of the Interior. We also impose as an **ADDITIONAL SENTENCE** the CONFISCATION of the items seized from the convict, based on depriving him from the possessions and items used or intended to be used for the perpetration of the crime as well as those directly or indirectly derived from the said crime and the items or instruments of the crime found in the possession of third unaccountable parties.

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As to the seized items, we stipulate herein their Confiscation in favor of the Ministry of Information Technology and Communications of three HUGHES 9201 BGAN<sup>37</sup> systems and their SIM cards, leads and batteries; three laptop computers (two Apple and one MACBOOK) with their AC supply lines and transformers; three routers (one WORKGROUP SWITCH LINKSYS; one LINKSYS CISCO with its AC supply line and LS120V-15 ALE transformer; and a wireless ZONE DIRECTOR 1000 RUCKUS with its AC supply line and transformer); thirteen 8320 BLACKBERRY cell phones with their hands-free devices, earphones, battery chargers, SIM and microSD cards; six WESTER<sup>38</sup> DIGITAL external hard drives with their connecting cables; two POLYCOM multi-conference intercoms; two LOGITECH web cameras;

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<sup>37</sup> Idem (T.N.)

<sup>38</sup> Idem (T.N.)

a RADIO SAACK<sup>39</sup> radio-frequency modulators; fourteen RUCKU<sup>40</sup> wireless transmitters or access points, all with their networking cables, power supply lines and transformers; ten APPLE I-POD<sup>41</sup> devices; a CLARISYS Internet protocol telephone with its USB cable; a white and green 2-Gb KINGSTON flash drive; a MAGIC JACK modem with USB port; a pair of LOGITECH earphones with built-in microphone; a CLARISYS telephone with a phone line No. 202-280-7647; a CISCO router with its supply line and transformer; a LINKSYS wireless switch with its supply line and transformer; a CISCO LINKSYS router with its supply line and transformer; a mobile telephone charger with its connecting cable; a LINLSYS<sup>42</sup> switch with its supply line and transformer; a LOGITECH mouse; a green EDDIER<sup>43</sup> BAUER compass; a COMING DATA CP 0520 transformer with a BELKIN F5U 404-BLK connection equipment fitted with four USB ports; a CLARISYS IP telephone with its connecting cable; six AC adapters; four WONPRO AC adapters; two black 4-Gb flash drives (one KINGSTON and one MICRO CENTER; a router with its supply line and transformer; and a white adapter cable with two USB ports; an Internet connection card issued by the Cuban Enterprise “ETECSA”, and a seemingly used black APPLE iPod, serial number 8L904DJ92C7, with its black rubber sleeve, earphones and data-transmission cable; and a plastic envelope with five SIM phone cards.

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In like manner, this Court decides to place 115.60 convertible Cuban pesos (CUC); USD \$168.26; a black-faced, metal-watchband SWISS MILITARY watch in good condition; and a red cap and a clip, apparently of Hebrew origin, at the disposal of Judith Gross.

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Furthermore, this Court decides to place the following items at the disposal of the accused Alan Phillip Gross: two holding straps of a black briefcase; one KIRKLAND cloth protector with eight shirts of different colors inside; a gray KIRKLAND case in good condition; a white plastic ONE QUART case with a gray zipper in good condition; two pairs of brown socks; seven pairs of white socks; one pair of white

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<sup>39</sup> Idem (T.N.)

<sup>40</sup> Idem (T.N.)

<sup>41</sup> Idem (T.N.)

<sup>42</sup> Idem (T.N.)

<sup>43</sup> Idem (T.N.)

shoelaces; one pair of black OUTDOOR SOLES slippers; two white pocket handkerchiefs; four medium-sized plastic bags; one used brown belt with a zipper on the inside; one pair of beige EDDIE BANCA shorts; five white T-shirts; one gray T-shirt; one used pair of Beige<sup>44</sup> LAND'S END trousers; a white JBDC CANADA cap; four white underpants; one grey MWH T-shirt; two grey underpants; one pair of brown ROCKPORT shoes; one medium-sized black EAGLE CREEK bag; three small ZIPLOC plastic bags; one medium-sized ZIPLOC plastic bag; one GOODY hairbrush; one tube of what seems to be ointment bearing the name NEOSPORIN; two small plastic bags containing paper napkins; a blue case with several compartments containing what seems to be nine different pills of various sizes; one small cardboard case containing sewing implements; one EAGLE CREEK hand mirror; one black plastic case with a white plastic lid containing sewing needles, one button and some thread; one pair of TRIM nail clippers; one small white LEWING KIT cardboard case containing thread; one white plastic bag containing a small bottle of what seems to be aftershave lotion, two GILLETTE razors and one box of GLIDE dental floss; one plastic bottle of oil; one white AMMENS plastic container containing what seems to be medicated talcum powder; one LISTERINE plastic bottle containing what seems to be antiseptic cologne; one blue raincoat in regular condition; one chain, apparently made of silver, with a charm made in Israel; a small black HANDMADE MUSIC change purse; one ring with five keys; one small package of RENOVA paper napkins; one bottle of PEPCID pills; one music CD of the Cuban quartet ESPERANZA; one blue plastic case for eyeglasses; one pair of what seems to be non-prescription eyeglasses with a brown frame; one gray and black cell phone case; one pair of black FITOVERS sunglasses; one used green two-wheeled SAMSONITE bag with a black folding handle; one used black MEBRINE ORIGINAL briefcase with a black and orange handle; one application form for a plane ticket made out to **Alan Gross**; one SUNUTO compass with its magnifying glass; one bag of candy containing four pieces; two guitar plectrums, one green and the other brown; one black KIRKLAND suitcase in good condition; six one-hundred-dollar bills with the serial numbers HB 20008011 F, FG 15094297 B, HD 07366654 A, HB 64403852 A, FB 73108693 C and HB 37806746 E; one Canon CB-44H battery charger; one Radio Shack alarm clock; one blue Citi digital key ring; one Canon Power Shot A 520 camera with serial number 1029212917 with four rechargeable and two non-rechargeable batteries; one "Airflow" black

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<sup>44</sup> Idem (T.N.)

and gray backpack; fifteen credit cards from different companies made out to **Alan Gross** (two from CITIBANK and one each from THE CONTAINER STORE, RED CARPET CLUB, AVIS PREFERRED, AAA, KASTLE, SOUTHWEST AIRLINES, PRIVILEGE CLUB, AMERICAN EXPRESS, SUBURBAN HOSPITAL DICOVER, GOLD STAR MEMBER, HILTON H. HONORS, and SCOTIABANK).

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As to civil accountability, no pronouncements are in order regarding this case.

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As to the precautionary remedy of PREVENTIVE DETENTION imposed on the accused, let it remain in place and be expunged once this resolution becomes enforceable and executable.

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Let the parties be notified of this resolution and warned of their right to file for an annulment within ten working days following the day after being notified. Let a copy of this sentence be submitted to the Provincial Department of Penal Institutions and other organizations or institutions as needed to enforce the ruling of this Court. Let the time served in Preventive Detention be taken into account for purposes of calculating the length of the prison sentence passed by this Court.-----

***Thus is this our sentence pronounced, ordered and signed.***

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