



The Insular Cases and the Doctrine of Unincorporated Territory and Their Effects on the Civil Rights of Puerto Rico Residents

General Overview Memorandum – Part II Economic Perspectives

**Puerto Rico Advisory Committee to the United States Commission on Civil Rights
November 2024**

I. Introduction

On September 14, 2023, the Puerto Rico Advisory Committee held a virtual briefing to receive testimony on economic perspectives concerning the Insular Cases and the Doctrine of Unincorporated Territory and their effects on the civil rights of Puerto Rico residents. This was a continuation of the in-person briefing held on May 10, 2023, which resulted in the Committee’s first memorandum.¹ This memorandum is the second and final part of the “General Overview” phase of this study.²

The Committee plans to continue organizing briefings to receive input on the following subtopics approved in July 2022: (1) voting rights/lack of political representation, (2) racial/national discrimination, and (3) access to public programs. The Committee will publish memoranda on these subtopics throughout its term, culminating in a final report with the recommendations developed by the Committee.

This memorandum is organized to share the main findings identified in the testimony directly described by the panelists and includes external sources where necessary. It begins with historical context, and the final sections focus on recommendations shared in the testimony along with the Committee’s preliminary recommendations regarding the “General Overview” phase. The Committee’s final recommendations will be included in the final report of this study.

¹ Puerto Rico Advisory Committee to the United States Commission on Civil Rights. “Los Casos Insulares y la Doctrina del Territorio No Incorporado y sus efectos en los derechos civiles de los residentes de Puerto Rico.” February 2024. United States Commission on Civil Rights. https://www.usccr.gov/files/2024-02/spanish_pr-ac_memo-1.pdf (accessed on February 12, 2024); Due to its focus on economic issues, this memorandum includes the testimony from Dr. Iyari Río González, who participated in the in-person briefing in May 2023.

² Records of the meetings and transcripts can be found in Appendix A and B.

Public briefing before the Puerto Rico Advisory Committee to the United States Commission on Civil Rights, May 10, 2023, (in-person), Transcript (from now on referred to as “Transcript 1”).

Public briefing before the Puerto Rico Advisory Committee to the United States Commission on Civil Rights, September 14, 2023, (virtual briefing), Transcript (from now on referred to as “Transcript 2”).

In the first memorandum, The Committee summarized significant testimony highlighting a colonial relationship between the United States government and Puerto Rico based on the Insular Cases and the complex challenges faced by the Island’s population.³ Testimony analyzed for this memorandum reiterated similar arguments.

The Committee listened to testimony establishing that the colonial relation between Puerto Rico and the United States has prevented Puerto from developing its economic growth and fully exercising fundamental rights of the population, such as the right to work, access to food, and quality services in health, housing, and education.⁴ From the perspective of panelist Carlos Díaz Olivo, Professor at the University of Puerto Rico School of Law in Río Piedras, this equates to Puerto Rican residents being treated as property, which he claims goes against the very ideals and foundations on which the United States was established.⁵

For this memorandum, the Committee analyzed perspectives on Puerto Rico’s economic situation, considering the Uniformity Clause. The Uniformity Clause requires certain taxes imposed by Congress to be uniform across the United States.⁶ In *Downes v. Bidwell*, the Supreme Court ruled that the Uniformity Clause did not apply to Puerto Rico because the Island was not considered part of the “United States.”⁷ This designation has affected the fiscal and tax relationship between Puerto Rico and the United States to this day.

II. Historical Context

Puerto Rico has experienced erratic economic growth since becoming a United States territory.⁸ Both the Foraker Act of 1900 and the Jones Act of 1917 granted the United States government access to Puerto Rico’s sugar industry, agriculture, and ports.⁹ However, the Great Depression caused a drop in the gross natural product and per capita income although the sugar industry activity increased during the early 1930s.¹⁰

In the 1940s, the “Manos a la Obra” economic project aimed to modernize Puerto Rico’s economy through industrialization and job growth, integrating the local economy with the United States economy through foreign investment and different types of incentives.¹¹ Shortly after, the United States Congress passed Public Law 600, which established a legislature in Puerto Rico and authorized the Island to adopt its first Constitution.¹² As part

³ Puerto Rico Advisory Committee to the United States Commission on Civil Rights. “Los Casos Insulares y la Doctrina del Territorio No Incorporado y sus efectos en los derechos civiles de los residentes de Puerto Rico.” February 2024. United States Commission on Civil Rights. https://www.usccr.gov/files/2024-02/spanish_pr-ac_memo-1.pdf (accessed on February 12, 2024).

⁴ Ríos González Testimony, Transcript 1, p. 137, 14 – p. 137, 25.

⁵ Díaz Olivo Testimony, Transcript 2, p. 13, 14. Atty. Díaz Olivo argues that the 13th Amendment of the Constitution, which prohibits slavery, does not apply to Puerto Rico because residents are treated as property of the United States. *See*: Transcript 2, p. 11-15.

⁶ U.S. Const. art. I, sec. 8, cl. 1; *See also*: Government Accountability Office. “U.S. Insular Areas, Applicability of Relevant Provisions of the U.S. Constitution.” June 1991. <https://www.gao.gov/assets/hrd-91-18.pdf> (accessed on March 20, 2024).

⁷ *Downes v. Bidwell*, 182 U.S. 244 (1901); *See also*: Government Accountability Office. “U.S. Insular Areas, Applicability of Relevant Provisions of the U.S. Constitution.” June 1991. <https://www.gao.gov/assets/hrd-91-18.pdf> (accessed on March 20, 2024).

⁸ Caraballo Cueto Testimony, Transcript 2, p. 3.

⁹ Foraker Act, Pub. L. No. 56-191, ch. 191, 31 Stat. 77 (1900), (codified as amended in scattered sections of 48 U.S.C. § 731); Jones-Shafroth Act, Pub. L. No. 64-368, 39 Stat. 951 (1917), codified as amended in U.S.C. 48 § 731–751; *See also*: Ríos González Testimony, Transcript 1, p. 138, 9 – p. 139, 15.

¹⁰ Ríos González Testimony, Transcript 1, p. 139, 24- p. 140, 24.

¹¹ Ríos González Testimony, Transcript 1, p. 141, 13 – p. 142, 8; *See also*: Ruiz Toro, Juan. “Puerto Rico’s Operation Bootstrap.” Brown University Library. <https://library.brown.edu/create/modernlatinamerica/chapters/chapter-12-strategies-for-economic-development/puerto-ricos-operation-bootstrap/> (accessed on February 20, 2024).

¹² Puerto Rico Federal Relations Act. Pub. L. No. 81-600, 64 Stat. 319 (1950).

of this process, Congress acknowledged Puerto Rico’s authority to create its own local laws and tax policies, and since then, Puerto Rico has enacted its income tax laws.¹³

Puerto Rico continued to industrialize its economy in the post-war decades and had one of the highest economic growth rates globally between 1955 and 1980, positioning the island among the top 14 economies worldwide in terms of per capita income growth, but its weakness lay in not developing the rest of its economic sectors and not linking the multinational manufacturing sector with its local manufacturing sectors.¹⁴

Throughout Puerto Rico’s history, tax incentives have been used to stimulate the economy. One of these incentives, Section 936,¹⁵ which had a significant impact in the late 20th century, will be discussed in more detail in Finding I of this memorandum.

The global financial crisis between 2006 and 2009 was complex and multi-causal. Locally, Puerto Rico experienced a more severe crisis due to global economic stressors and other challenges, such as changes in key economic incentives and federal spending, including the closure of the Roosevelt Roads Naval Base and its economic consequences, which had been the pillars of the local economy strategy.¹⁶ Although these issues fall outside the scope of the testimony for this memorandum, it is important to acknowledge their impact.

Puerto Rico’s recession began in 2006, and the economy contracted every fiscal year from 2007 to 2011.¹⁷ During that period, the gross domestic product, which measures both residents’ and non-residents’ income, was approximately \$95 billion.¹⁸ The gross national product, which only measures resident income, was approximately \$65 billion.¹⁹ The gap between these amounts was larger than in other similarly sized economies with the presence of foreign multinational corporations.²⁰ Furthermore, in fiscal year 2009, Puerto Rico reached its highest fiscal deficit at \$2.9 billion, leading to an increase in Puerto Rico’s public debt.²¹

At the onset of the economic crisis, the Puerto Rican government implemented austerity measures through Law 7 of 2009 and Law 66 of 2014, resulting in public employee layoffs, pension system reforms, and other negative effects on workers.²² Additionally, the Puerto Rican government attempted to reactivate the economy by offering more tax incentives through Laws 20 and 22 of 2012 (later consolidated into Law 60 in 2019) to attract investment

¹³ Lowry, Sean. “Tax Policy and U.S. Territories: Overview and Issues for Congress.” Updated on October 7, 2016. Congressional Research Service. <https://crsreports.congress.gov/product/pdf/R/R44651> (accessed on March 10, 2024).

¹⁴ Caraballo Cueto Testimony, Transcript 2, p. 3; *See also*: Caraballo-Cueto, José. “El impacto económico del cambio en el estatus político de Puerto Rico.” May 2023.

https://www.researchgate.net/publication/370602961_Impacto_economico_de_cambiar_el_estatus_de_Puerto_Rico (accessed on October 18, 2023).

¹⁵ 26 U.S.C. § 936 (Repealed).

¹⁶ Hispanic Federation. “La crisis económica de Puerto Rico: Panorama general y recomendaciones para la acción.” October 1, 2015. <https://www.hispanicfederation.org/es/report/puerto-ricos-economic-crisis-overview-and-recommendations-for-action/> (accessed on August 16, 2024); *See also*: Pub.L. 108-87 §8132(a).

¹⁷ Government Accountability Office. “Puerto Rico - Information on How Statehood Would Potentially Affect Selected Federal Programs and Revenue Sources.” March 2014. <https://www.gao.gov/products/gao-14-31> (accessed on April 15, 2024).

¹⁸ *Ibid*.

¹⁹ *Ibid*.

²⁰ *Ibid*.

²¹ *Ibid*.

²² P.R. Act 7-2009, 1326, “*Special Law Declaring a State of Fiscal Emergency and Establishing an Integral Plan of Fiscal Stabilization to Save the Credit of Puerto Rico*”; *See also*: P.R. Act 66-2014, 1922, “*Special Law of Fiscal and Operational Sustainability of the Government of the Freely Associated State of Puerto Rico*”; *See also*: Ríos González Testimony, Transcript 1, p. 144, 2 – p. 145, 5.

to the Island and increase employment, but these efforts had minimal impact on the local economy and have been criticized of benefiting wealthy foreign investors.²³ It is argued that those interests have been prioritized over the long-term stability and growth of the local economy, as well as the political and constitutional rights of Puerto Rican residents.²⁴

The economic crisis and the insurmountable public debt led the United States Congress to pass the PROMESA Act, resulting in the creation of the Fiscal Oversight and Management Board, which has led to further cuts affecting public services and has raised important questions about Congress' authority to take action on local issues in Puerto Rico.²⁵ Currently, the White House has expressed support for strengthening Puerto Rico's economy.²⁶ For instance, in a 2023 statement, the White House described Puerto Rico as an attractive location for corporate investment and for expanding American competitiveness.²⁷ Among several efforts, it was mentioned that the White House Task Force on Puerto Rico aims to achieve the following economic goals: 1) Developing the workforce, 2) Enhancing infrastructure, energy, and resilience capacity, 3) strengthening a diversified economy, and 4) improving governance and information.²⁸

III. Preliminary Findings

FINDING I – Section 936 (now repealed) was an example of how tax policy has historically benefited certain economic sectors at the expense of sustainable economic development in Puerto Rico.

Historical Context of the Incentive

Panelist Dr. Iyari Ríos González, President of the Puerto Rico Economists Association, shared with the Committee that during the 1970s, the United States government sought to stimulate Puerto Rico's economy by amending the Internal Revenue Code to include section 936.²⁹ Dr. Ríos González explained that this allowed American corporations with operations in Puerto Rico to repatriate tax-free profits earned in the country.³⁰ "Despite such changes," Dr. Ríos González emphasized, "There was no strengthening of the labor market in the following

²³ P.R. Act 20-2012, "Act to Strengthen Export Services"; See also: P.R. Act 22-2012, 3657, "Individual Investors Act"; See also: P.R. Act 60-2019, 1635, "Puerto Rico Incentives Code"; See also: Caraballo Cueto Testimony, Transcript 2, p. 32; See also: Acevedo, Nicole. "Do Puerto Rico tax breaks displace locals to benefit the wealthy? Here are 5 things to know." September 13, 2023, NBC News. <https://www.nbcnews.com/news/latino/tax-breaks-puerto-rico-wealthy-displacement-five-things-to-know-rcna104683> (accessed on November 18th, 2023).

²⁴ Córdova, Andrés L. "Congress can't dodge Puerto Rico's status in tax debate." November 14, 2017. The Hill. <https://thehill.com/opinion/energy-environment/360370-congress-cant-dodge-puerto-ricos-status-in-tax-debate/> (accessed on October 3, 2023).

²⁵ Puerto Rico Oversight, Management, and Economic Stability Act, Pub. L. No. 114-187, 130 Stat. 549, codified at 48 U.S.C. §§ 2101-2241; See also: Ríos González Testimony, Transcript 1, p. 147, 7-23; See also: Puerto Rico Advisory Committee to the United States Commission on Civil Rights. "Los Casos Insulares y la Doctrina del Territorio No Incorporado y sus efectos en los derechos civiles de los residentes de Puerto Rico". February 2024. United States Commission on Civil Rights. https://www.usccr.gov/files/2024-02/spanish_pr-ac_memo-1.pdf (accessed on April 1, 2024).

²⁶ Villeta Trigo Testimony, Transcript 2, p. 9.

²⁷ The White House. "FACT SHEET: Biden-Harris Administration Steadfast in Support of Puerto Rico's Renewal." The White House Briefing Room. <https://www.whitehouse.gov/briefing-room/statements-releases/2023/06/26/fact-sheet-biden-harris-administration-steadfast-in-support-of-puerto-ricos-renewal/> (consulted on February 26, 2024).

²⁸ Ibid.

²⁹ 26 U.S.C. § 936 (Repealed); See also: Ríos González Testimony, Transcript 1, p. 142, 9 – p. 143, 5.

³⁰ Ríos González Testimony, Transcript 1, p. 142, 9 – p. 143, 5.

decades. It also facilitated the out-flows of investments and eroded the tax base of the government causing the undermining of the ability of the public sector to generate enough income that would allow it to offer essential services for the population.”³¹

Since 1948, Puerto Rico has adjusted its fiscal policies through the Industrial Incentives Act of 1948, and since then, the American subsidiaries in Puerto Rico have been partially or fully exempt from taxes in both Puerto Rico and the United States.³² With the implementation of the Revenue Act of 1921, the United States government provided tax exemptions to multinational American corporations for income generated in Puerto Rico.³³ Since the 1940s, Puerto Rico has used tax incentives as a central element in economic development and promoted them as a tool to strengthen economic growth and employment.³⁴ According to a 1976 report by the Senate Finance Committee, the year when Section 936 was implemented as part of the Tax Reform Act of 1976, the Committee believed this change “would help American possessions attract job-producing investments from U.S. corporations while, at the same time, allowing these corporations to bring back to the United States the profits from these investments if they could not be reinvested productively in the possession.”³⁵

Puerto Rico was considered a safe destination for corporations due to its ties with the United States and because business operations were approved by the United States Treasury.³⁶ According to a 1993 Government Accountability Office report, corporations were also drawn to Puerto Rico due to its high-quality workforce, adequate transportation, and communication systems, along with a skilled and productive labor force.³⁷ As panelist Attorney Carlos Díaz Olivo explained, “...the fact that we do not pay federal taxes does not negate that this was not designed to exempt us from federal taxes but rather to benefit American capital, allowing it to move freely and have a zone within the United States, under the American flag, but free from taxation..”³⁸

Benefits to corporations

Section 936 operated from 1976 when it was implemented until 1996 when its gradual phase-out began. During this time, Puerto Rico’s economy grew by only 2.5% annually, while the United States economy grew by 3%

³¹ Ríos González Testimony, Transcript 1, p. 142, 9 – p. 143, 5.

³² Industrial Incentives Act of 1948, Act Num. 184 of May 13, 1948; *See also*: U.S. Government Accountability Office. “Tax Policy: Puerto Rico and the Section 936 Tax Credit.” GGD-93-109. July 9th, 1993. <https://www.gao.gov/assets/ggd-93-109.pdf> (accessed on March 15, 2024).

³³ Revenue Act of 1921: P.L. 67-98, 42 Stat. 227, November 23, 1921. [Washington, D.C.]; *See also*: Suárez Serrato, Juan Carlos. “Unintended Consequences of Eliminating Tax Havens.” July 2018, amended in December 2019. National Bureau of Economic Research. https://www.nber.org/system/files/working_papers/w24850/w24850.pdf (accessed on April 9, 2024).

³⁴ MacEwan, Arthur. “The Effect of 936.” Brandeis University. [https://www.finance.senate.gov/imo/media/doc/Arthur%20MacEwan%20and%20J.%20Tomas%20Hexner%20\(Submission%206\).pdf](https://www.finance.senate.gov/imo/media/doc/Arthur%20MacEwan%20and%20J.%20Tomas%20Hexner%20(Submission%206).pdf) (accessed on March 15, 2024).

³⁵ U.S. Senate Committee on Finance. “Tax Reform Act of 1976, Report of the Committee on Finance, United States Senate on H.R. 10612.” Calendar No. 891. 94th Congress, 2d Session. Report No. 94-938. <https://www.finance.senate.gov/imo/media/doc/tax6.pdf> (accessed on April 5, 2024).

³⁶ Suárez Serrato, Juan Carlos. “Unintended Consequences of Eliminating Tax Havens.” July 2018, amended in December 2019. National Bureau of Economic Research. https://www.nber.org/system/files/working_papers/w24850/w24850.pdf (accessed on April 9, 2024).

³⁷ U.S. Government Accountability Office. “Tax Policy: Puerto Rico and the Section 936 Tax Credit”. GGD-93-109. July 9th, 1993. <https://www.gao.gov/assets/ggd-93-109.pdf> (accessed on March 15th, 2024).

³⁸ Díaz Olivo Testimony, Transcript 2, p. 24.

annually.³⁹ Section 936 generated significant profits for United States corporations with subsidiaries in Puerto Rico, but the same level of benefits was not observed for residents.⁴⁰ For example, in 1989, American corporate subsidiaries in Puerto Rico earned \$2.6 billion in profits.⁴¹ The increase in corporate profits led to a rise in bank deposits in Puerto Rico, but these funds were not used to support local economic development or establish practices that would benefit local business activity.⁴²

Most of the corporations that benefited from the incentive were in the manufacturing and electronic sectors.⁴³ To this day, manufacturing accounts for more than 40% of Puerto Rico's Gross Domestic Product.⁴⁴ The incentives were so attractive to the manufacturing sector that Puerto Rico's Gross National Product grew more than fourfold between 1947 and the era of Section 936.⁴⁵ This dependence on the incentives made Puerto Rico more vulnerable to a recession if the tax incentives were ever terminated.⁴⁶

Termination of the incentive and the negative effects on Puerto Rico's economy

In the 1990s, when the federal government considered eliminating Section 936, there was significant opposition from officials in Puerto Rico.⁴⁷ During this decade, the United States government began a phase-out period for Section 936 and a transition away from this economic model.⁴⁸ Section 936 was repealed in 1996 as part of the Small Business Jobs Protection Act, and the phase-out process lasted 10 years.⁴⁹ However, the crisis began after this phase-out period, and employment in Puerto Rico continued to grow until the crisis of 2006 began.⁵⁰ The reduction in Puerto Rico's attractiveness as a safe location for corporations also led to decreased employment and

³⁹ MacEwan, Arthur. "The Effect of 936." Brandeis University.

[https://www.finance.senate.gov/imo/media/doc/Arthur%20MacEwan%20and%20J.%20Tomas%20Hexner%20\(Submission%206\).pdf](https://www.finance.senate.gov/imo/media/doc/Arthur%20MacEwan%20and%20J.%20Tomas%20Hexner%20(Submission%206).pdf) (accessed on March 15, 2024).

⁴⁰ Ibid.

⁴¹ U.S. Government Accountability Office. "Tax Policy: Puerto Rico and the Section 936 Tax Credit." GGD-93-109. July 9, 1993. <https://www.gao.gov/assets/ggd-93-109.pdf> (accessed on March 15, 2024); *See also*: Act 184 of May 13, 1948, amended.

⁴² MacEwan, Arthur. "The Effect of 936." Brandeis University.

[https://www.finance.senate.gov/imo/media/doc/Arthur%20MacEwan%20and%20J.%20Tomas%20Hexner%20\(Submission%206\).pdf](https://www.finance.senate.gov/imo/media/doc/Arthur%20MacEwan%20and%20J.%20Tomas%20Hexner%20(Submission%206).pdf) (accessed on March 15, 2024).

⁴³ Suárez Serrato, Juan Carlos. "Unintended Consequences of Eliminating Tax Havens." July 2018, amended in December 2019. National Bureau of Economic Research. https://www.nber.org/system/files/working_papers/w24850/w24850.pdf (accessed on April 9, 2024); *See also*: Díaz Olivo Testimony, Transcript 2, p. 24.

⁴⁴ The World Bank. "Manufacturing, value added (% of GDP) - Puerto Rico."

<https://data.worldbank.org/indicator/NV.IND.MANF.ZS?locations=PR> (consulted on February 20, 2024); *See also*: Rivera-Robles Testimony, Transcript 2, p. 18-19.

⁴⁵ Rivera-Robles Testimony, Transcript 2, p. 18-19; *See also*: U.S. Government Accountability Office. "Tax Policy: Puerto Rico and the Section 936 Tax Credit." GGD-93-109. July 9, 1993. <https://www.gao.gov/assets/ggd-93-109.pdf> (accessed on March 15, 2024).

⁴⁶ Greenberg, Scott, Ekins, Gavin. "Tax Policy Helped Create Puerto Rico's Fiscal Crisis." June 30, 2015. Tax Foundation. (<https://taxfoundation.org/blog/tax-policy-helped-create-puerto-rico-fiscal-crisis/>) (accessed on April 9, 2024).

⁴⁷ MacEwan, Arthur. "The Effect of 936." Brandeis University.

[https://www.finance.senate.gov/imo/media/doc/Arthur%20MacEwan%20and%20J.%20Tomas%20Hexner%20\(Submission%206\).pdf](https://www.finance.senate.gov/imo/media/doc/Arthur%20MacEwan%20and%20J.%20Tomas%20Hexner%20(Submission%206).pdf) (accessed on March 15, 2024).

⁴⁸ Ríos González Testimony, Transcript 1, p. 143, 6-24.

⁴⁹ Pub.L. 104-188. Small Business Job Protection Act of 1996; *See also*: Suárez Serrato, Juan Carlos. "Unintended Consequences of Eliminating Tax Havens." July 2018, amended in December 2019. National Bureau of Economic Research. https://www.nber.org/system/files/working_papers/w24850/w24850.pdf (accessed on April 9, 2024).

⁵⁰ Suárez Serrato, Juan Carlos. "Unintended Consequences of Eliminating Tax Havens." July 2018, amended in December 2019. National Bureau of Economic Research. https://www.nber.org/system/files/working_papers/w24850/w24850.pdf (accessed on April 9, 2024).

investments.⁵¹ As panelist Dr. Ríos González explained, there was not an alternative plan, and the economic crisis in Puerto Rico began soon after the incentive ended.⁵² Dr. Ríos González emphasized, “Instead, it was believed that market forces combined with neoliberal and austerity policies would create the right conditions to overcome the crisis, promote economic growth, and improve the quality of life for families. The material reality of the country shows the opposite.”⁵³ With no strong corporate presence in Puerto Rico to fill the void left by departing corporations, the economy began to contract.⁵⁴

Even after the repeal of Section 936, some corporations were able to obtain "Controlled Foreign Corporation" status, which allowed them to avoid paying federal taxes if they continued the practice of not repatriating profits to their United States headquarters.⁵⁵ Corporations with this status are considered foreign for the purpose of being exempted from federal taxes.⁵⁶ This practice fundamentally contradicts the purpose of the Uniformity Clause. Controlled Foreign Corporation status applies to the foreign subsidiaries of corporations headquartered in the United States and they can defer taxes on foreign income, including those generated in Puerto Rico.⁵⁷

Employment in the manufacturing sector began to decline during this period and was taken as evidence that the termination of the incentive was causing the economy to weaken.⁵⁸ Panelist Kenneth Rivera-Robles, CPA and Former President of the Puerto Rico Chamber of Commerce, explained that a Government Accountability Office analysis of Section 936 did not take into account the multiplier effect the termination of the incentive would have on Puerto Rico’s workforce. Mr. Rivera-Robles mentioned that essential employees who worked at corporations benefiting from the incentive were not considered.⁵⁹ After Section 936 ended, Puerto Rico lost between 80,000-90,000 jobs, and capital investment decreased by between 10% and 18.7%.⁶⁰

Additionally, panelist Rivera-Robles explained that another unforeseen consequence of the termination of Section 936 was that corporations did not return to their United States headquarters, but instead relocated to other countries in Asia and Europe.⁶¹ As Puerto Rico’s tax rate increased following the termination of the incentive,

⁵¹ Suárez Serrato, Juan Carlos. “Unintended Consequences of Eliminating Tax Havens.” July 2018, amended in December 2019. National Bureau of Economic Research. https://www.nber.org/system/files/working_papers/w24850/w24850.pdf (accessed on April 9, 2024).

⁵² Ríos González Testimony, Transcript 1, p. 143, 6-24.

⁵³ Ibid.

⁵⁴ Greenberg, Scott, Ekins, Gavin. “Tax Policy Helped Create Puerto Rico’s Fiscal Crisis.” June 30, 2015. Tax Foundation. <https://taxfoundation.org/blog/tax-policy-helped-create-puerto-rico-fiscal-crisis/> (accessed on April 9, 2024).

⁵⁵ 26 USC § 957; *See also*: MacEwan, Arthur. “The Effect of 936.” Brandeis University. [https://www.finance.senate.gov/imo/media/doc/Arthur%20MacEwan%20and%20J.%20Tomas%20Hexner%20\(Submission%206\).pdf](https://www.finance.senate.gov/imo/media/doc/Arthur%20MacEwan%20and%20J.%20Tomas%20Hexner%20(Submission%206).pdf) (accessed on March 15, 2024).

⁵⁶ Córdova, Andrés L. “Congress can’t dodge Puerto Rico’s status in tax debate.” November 14, 2017. The Hill. <https://thehill.com/opinion/energy-environment/360370-congress-cant-dodge-puerto-ricos-status-in-tax-debate/> (accessed on October 3rd, 2023).

⁵⁷ Government Accountability Office. “Puerto Rico - Information on How Statehood Would Potentially Affect Selected Federal Programs and Revenue Sources.” March 2014. <https://www.gao.gov/products/gao-14-31> (accessed on April 15, 2024).

⁵⁸ MacEwan, Arthur. “The Effect of 936.” Brandeis University. [https://www.finance.senate.gov/imo/media/doc/Arthur%20MacEwan%20and%20J.%20Tomas%20Hexner%20\(Submission%206\).pdf](https://www.finance.senate.gov/imo/media/doc/Arthur%20MacEwan%20and%20J.%20Tomas%20Hexner%20(Submission%206).pdf) (accessed on March 15, 2024).

⁵⁹ Rivera-Robles Testimony, Transcript 2, p. 16; *See also*: U.S. Government Accountability Office. “Tax Policy: Puerto Rico and the Section 936 Tax Credit.” GGD-93-109. July 9, 1993. <https://www.gao.gov/assets/ggd-93-109.pdf> (accessed on March 15, 2024).

⁶⁰ Rivera-Robles Testimony, PowerPoint Presentation.

⁶¹ Rivera-Robles Testimony, Transcript 2, p. 16.

corporations decided not only to leave Puerto Rico but also the United States entirely.⁶² Corporations became subject to the same taxes as any foreign subsidiary.⁶³ The government has attempted to revive economic growth with new incentives and additional federal funding, but so far results have been minimal.⁶⁴ Since 2006, the only time Puerto Rico’s economy has grown has been when there was a massive influx of federal funds, which by their nature are not recurrent, and once those funds were exhausted, the economy declined.⁶⁵

FINDING II – Due to its status as a territory, Puerto Rico has faced a confusing and quite different tax system compared to the states.

Categorization of corporations as foreign

It is important to note that corporations established in Puerto Rico are considered foreign under the United States Internal Revenue Code, as domestic corporations are those created under the laws of the United States.⁶⁶ This creates a dichotomy, as both the owner and the corporation are treated as foreign, even though the owner is a United States citizen.⁶⁷ The classification of “foreign” can present certain challenges for Puerto Rican corporations, as seen with the Global Intangible Low-Taxed Income (GILTI, a provision of the Tax Cuts and Jobs Act of 2017), which calculates foreign corporations’ income to ensure a minimum contribution to the United States government.⁶⁸ This automatically places corporations established in Puerto Rico at a disadvantage.⁶⁹

Myth Regarding Federal Contributions

Panelist Rivera-Robles emphasized the erroneous stereotype that Puerto Rico does not pay federal taxes.⁷⁰ On the contrary, under the Internal Revenue Service, employers in Puerto Rico, and thus employees, are subject to taxes required by the Federal Insurance Contributions Act (FICA), taxes on Social Insurance and Medicare, and the Federal Unemployment Tax Act (FUTA).⁷¹ Employers are required to withhold, report, and pay employment taxes on wages paid.⁷² Most residents of Puerto Rico do not have to pay federal income taxes if their only income is generated in Puerto Rico, but they do have to pay federal income taxes if they have income from sources outside

⁶² Rivera-Robles Testimony, Transcript 2, p. 16; *See also*: Suárez Serrato, Juan Carlos. “Economic Effects of Repealing the US Possessions Corporation Tax Credit.” July 9th, 2020. National Bureau of Economic Research. <https://www.nber.org/reporter-2020-02/economic-effects-repealing-us-possessions-corporation-tax-credit> (accessed on March 15, 2024).

⁶³ Greenberg, Scott, Ekins, Gavin. “Tax Policy Helped Create Puerto Rico’s Fiscal Crisis.” June 30, 2015. Tax Foundation. <https://taxfoundation.org/blog/tax-policy-helped-create-puerto-rico-fiscal-crisis/> (accessed on April 9, 2024).

⁶⁴ Caraballo Cueto Testimony, Transcript 2, p. 3.

⁶⁵ Caraballo Cueto Testimony, Transcript 2, p. 32.

⁶⁶ 26 U.S.C. § 7701 (a)(4); *See also*: 26 U.S.C. § 7701 (a)(5); *See also*: Rivera-Robles Testimony. Transcript 2, p. 14-15.

⁶⁷ Rivera-Robles Testimony. Transcript 2, p. 14-15; Lowry, Sean. “Tax Policy and U.S. Territories: Overview and Issues for Congress.” Updated on October 7, 2016. Congressional Research Service. <https://crsreports.congress.gov/product/pdf/R/R44651> (accessed on March 10, 2024).

⁶⁸ Tax Cuts and Jobs Act of 2017, P.L. 115-97 § 951 A; *See also*: “Global Intangible Low-Taxed Income (GILTI).” Tax Foundation. <https://taxfoundation.org/taxedu/glossary/global-intangible-low-tax-income-gilti/> (accessed on March 10, 2024).

⁶⁹ Rivera-Robles Testimony, Transcript 2, p. 17.

⁷⁰ Rivera-Robles Testimony, Transcript 2, p. 16.

⁷¹ Internal Revenue Service. “Topic no. 903, U.S. employment tax in Puerto Rico.” Tax Topics, Internal Revenue Service. Date of most recent review or update: February 29, 2024. <https://www.irs.gov/taxtopics/tc903> (accessed on April 1, 2024).

⁷² *Ibid*.

of Puerto Rico.⁷³ Families eligible for the Child Tax Credit are required to file a federal income tax return.⁷⁴ According to Mr. Rivera-Robles, the fact that most Puerto Rican residents do not pay federal income taxes has been used as an excuse for unequal tax treatment.⁷⁵ He remarked, "...we did not ask for this. This was something the United States decided over 100 years ago to make United States companies have a cheaper place to invest. That is the situation we were given."⁷⁶

Even in the 2022 *United States v. Vaello Madero* case, the lack of federal income tax contributions was the reason it was concluded that the Supplemental Security Income (SSI) program could not be applied to Puerto Rico, limiting a critical resource for many people living in poverty and with disabilities.⁷⁷ The SSI is funded through a combination of contributions, including federal income taxes paid by most United States residents, but not by employer contributions paid by most residents of Puerto Rico.⁷⁸ "So, the reasoning given is that if he does not pay income tax, he can't expect to have the same benefits as other people," commented panelist Rivera-Robles.⁷⁹ Additionally, any changes to the tax rate must be revenue-neutral, because if Puerto Rico were integrated into the federal system, it would have to coexist with both federal and Puerto Rican tax rates.⁸⁰

Challenges in Accessing Tax Credits

As part of the Inflation Reduction Act of 2022, a series of energy credits was established for United States citizens to make environmentally efficient home upgrades.⁸¹ However, since most Puerto Rican residents do not file federal tax returns, accessing this credit has been difficult.⁸² This lack of clarity led the Center for American Progress, along with more than twenty other organizations, to submit a letter to the United States Treasury

⁷³ Internal Revenue Service. "Topic no. 901, Is a person with income from Puerto Rico required to file a U.S. federal income tax return?" Tax Topics, Internal Revenue Service. Date of most recent review or update: March 11, 2024. <https://www.irs.gov/taxtopics/tc901> (accessed on April 1, 2024).

⁷⁴ Ibid.

⁷⁵ Rivera-Robles Testimony, Transcript 2, p. 17-18.

⁷⁶ Ibid.

⁷⁷ *United States v. Vaello Madero*, 596 U.S. ____ (2022); See also: Rivera-Robles Testimony. Transcript 2, p. 17; See also: Puerto Rico Advisory Committee to the United States Commission on Civil Rights. "Los Casos Insulares y la Doctrina del Territorio No Incorporado y sus efectos en los derechos civiles de los residentes de Puerto Rico." February 2024. United States Commission on Civil Rights. https://www.usccr.gov/files/2024-02/spanish_pr-ac_memo-1.pdf (accessed on April 1, 2024).

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⁷⁸ Social Security Administration. "Supplemental Security Income (SSI) Overview." 2024 Edition. Understanding SSI. <https://www.ssa.gov/ssi/text-over-ussi.htm> (accessed on April 1, 2024); *Committee note*: See Espacios Abiertos. "Aportación federal del Crédito por Trabajo en Puerto Rico: avances, retos y oportunidades." April 2024. https://drive.google.com/file/d/1JHgdgXXYPsmBms8Dw_JZHDxwARgdhSF3/view?pli=1 (accessed on August 23, 2024) where data on per capita net transfers to states and Puerto Rico. A total of 25 states has a negative per capita transfer balance (receiving more federal funds than they are paid on taxes) and 7 (Connecticut, Indiana, South Carolina, Alaska, Minnesota, Kentucky and North Dakota) have a deficit greater than that of Puerto Rico.

⁷⁹ Rivera-Robles Testimony. Transcript 2, p. 17.

⁸⁰ Rivera-Robles Testimony. Transcript 2, p. 19.

⁸¹ Inflation Reduction Act of 2022, P.L. No: 117-169; See also: Internal Revenue Service. "Inflation Reduction Act of 2022." Date of most recent review or update: April 12, 2024. <https://www.irs.gov/inflation-reduction-act-of-2022> (accessed on April 13, 2024); See also: Rivera-Robles Testimony. Transcript 2, p. 17.

⁸² Rivera-Robles Testimony. Transcript 2, p. 17.

demanding that the Treasury clarify the eligibility criteria for Puerto Rico so that the territory can benefit equally with the states under this law.⁸³

FINDING III – A change of political status would be one factor among others in creating a sustainable economy in Puerto Rico.

Panelist Dr. José Caraballo Cueto, Associate Professor at the Graduate School of Business Administration at the University of Puerto Rico, Río Piedras Campus, focused his presentation to the Committee on a study he conducted with Dr. Massimiliano La Marca on how a change in Puerto Rico’s political status would affect the island’s economy.⁸⁴ He used 2017 as the reference year for his study, as the economy had been inflated during post-Hurricane María reconstruction beyond its normal structure.⁸⁵ As part of the study, economic and historical data were also evaluated from former colonies turned states of the United States, particularly Nex Mexico, Hawaii, and Alaska, as well as those that gained independence from 1960 onward.⁸⁶ The study does not seek to promote any specific option and is limited to analyzing the economic impact of each option.⁸⁷ The main points identified in his study are described below:

Statehood

If there were a political change toward statehood, Dr. Caraballo-Cueto offers two scenarios:

- a. Parity in federal programs and federal income taxes are offset by local taxes. This would be the ideal scenario under this political change.⁸⁸ Additionally, in this scenario, the manufacturing sector remains indifferent to the change in political status, whereas other sectors, such as services and tourism, increase.⁸⁹ Furthermore, there would be more security for tourism under statehood, as happened in Hawaii, and there would be more investments in sectors such as finance, insurance, and real estate.⁹⁰
- b. Local taxes are reduced to accommodate federal taxes, but this would imply a deep austerity in Puerto Rico to avoid a fiscal deficit. This scenario would be disastrous for the local economy, as there would be a massive loss of jobs affecting the government and other sectors. Funds from federal programs would not compensate for the difference.⁹¹

With the implementation of federal income taxes, Dr. Caraballo Cueto’s analysis indicates that in 2011, Puerto Rico residents would have paid \$1.9 million at the individual level for people earning \$50,000 or more annually,

⁸³ Center for American Progress. “CAP Leads Letter to Treasury on Puerto Rico’s Eligibility for Critical Inflation Reduction Act Investments.” June 7, 2023. <https://www.americanprogress.org/article/cap-leads-letter-to-treasury-on-puerto-ricos-eligibility-for-critical-inflation-reduction-act-investments/> (accessed on March 20, 2024).

⁸⁴ Caraballo-Cueto, José. “El impacto económico del cambio en el estatus político de Puerto Rico.” May 2023. https://www.researchgate.net/publication/370602961_Impacto_economico_de_cambiar_el_estatus_de_Puerto_Rico (accessed on October 18, 2023); *See also*: Appendix C.

⁸⁵ Caraballo Cueto Testimony, Transcript 2, p. 5.

⁸⁶ Caraballo Cueto Testimony, Transcript 2, p. 3.

⁸⁷ Caraballo Cueto Testimony, Transcript 2, p. 5.

⁸⁸ Caraballo Cueto Testimony, Transcript 2, p. 25.

⁸⁹ Caraballo Cueto Testimony, Transcript 2, p. 6.

⁹⁰ Caraballo Cueto Testimony, Transcript 2, p. 33.

⁹¹ Caraballo Cueto Testimony, Transcript 2, p. 25.

and at the corporate level, \$758 million in taxes would have been paid by businesses with a gross revenue of over \$50 million.⁹² However, it would be very difficult for the Puerto Rican government to make room for federal taxes due to the limitations it faces from its debt.⁹³

Dr. Caraballo Cueto explains that “the Jones Act of 1920 and federal regulations on foreign trade and migration will not change if the economy moves towards statehood. Thus, without changes in productive sectors, it would be difficult to observe positive effects from statehood based only on additional federal funds.”⁹⁴ Additionally, upon becoming a state, federal income taxes would apply to corporations, which presents the possibility that American and foreign corporations may relocate to lower-taxed areas.⁹⁵

Also, Dr. Caraballo Cueto’s study confirms that under statehood, Puerto Rico would receive federal funding through programs such as Supplemental Security Income (SSI), Medicaid, Medicare, and the Supplemental Nutrition Assistance Program (SNAP).⁹⁶ Dr. Caraballo Cueto offers examples of the impact these programs would have had on the Puerto Rican residents’ incomes:

- SSI – It is estimated that had SSI been available in 2016, the projected income for the eligible population would have been \$2.6 billion, and the number of people with incomes between 51% and 99% of the poverty threshold would have decreased by more than 200,000.⁹⁷
- SNAP – Parity in the SNAP program would have represented over \$242 million in additional income for eligible Puerto Rican residents. Access to both programs (SSI and SNAP) would have reduced Puerto Rico’s poverty level by 14 percentage points.⁹⁸
- Medicare – With full access to Medicare benefits, hospitals would receive higher payments for their services, and the patients would be automatically enrolled in Medicare Part B, allowing them to participate in savings programs.⁹⁹

⁹² Caraballo-Cueto, José. “El impacto económico del cambio en el estatus político de Puerto Rico.” May 2023. https://www.researchgate.net/publication/370602961_Impacto_economico_de_cambiar_el_estatus_de_Puerto_Rico (accessed on October 18, 2023).

⁹³ Ibid.

⁹⁴ Caraballo Cueto Testimony, Transcript 2, p. 6.

⁹⁵ Government Accountability Office. “Puerto Rico - Information on How Statehood Would Potentially Affect Selected Federal Programs and Revenue Sources.” March 2014. <https://www.gao.gov/products/gao-14-31> (accessed on April 15, 2024).

⁹⁶ Caraballo-Cueto, José. “El impacto económico del cambio en el estatus político de Puerto Rico.” May 2023. https://www.researchgate.net/publication/370602961_Impacto_economico_de_cambiar_el_estatus_de_Puerto_Rico (accessed on October 18, 2023).

⁹⁷ Caraballo-Cueto, José. “El impacto económico del cambio en el estatus político de Puerto Rico.” May 2023. https://www.researchgate.net/publication/370602961_Impacto_economico_de_cambiar_el_estatus_de_Puerto_Rico (accessed on October 18, 2023). *See also:* Torres, Rosanna. “Impact of the Supplemental Security Income in Puerto Rico.” Center for a New Economy. June 25, 2020. <https://grupocne.org/2020/06/25/impact-of-the-ssi-in-puerto-rico/> (accessed on August 23, 2024). Using 2018 Census data, the analysis calculates the total income for eligible individuals would have been \$2.6 billion.

⁹⁸ Caraballo-Cueto, José. “El impacto económico del cambio en el estatus político de Puerto Rico.” May 2023. https://www.researchgate.net/publication/370602961_Impacto_economico_de_cambiar_el_estatus_de_Puerto_Rico (accessed on October 18, 2023); *See also:* United States Department of Agriculture, Food and Nutrition Service. “Update to Feasibility Study on Implementing SNAP in Puerto Rico, Final Report.” July 2022. prod.azureedge.us/sites/default/files/resource-files/PRSNAP-Feasibility-Report.pdf (accessed on August 23, 2024) where they conclude that SNAP benefits would increase to \$4.5 billion in 2031.

⁹⁹ Caraballo-Cueto, José. “El impacto económico del cambio en el estatus político de Puerto Rico.” May 2023. https://www.researchgate.net/publication/370602961_Impacto_economico_de_cambiar_el_estatus_de_Puerto_Rico (accessed on October 18, 2023).

Panelist Dr. Juan Villeta Trigo, Economist and Professor of Economics of the Economy Department at the University of Puerto Rico, Mayagüez Campus, and President of the Puerto Rican Association of Financial Analysts (APAF), also argued before the Committee that Puerto Rico has lost revenue due to the lack of equality in access to public programs. He shared estimates that stated that if there were access to SSI and parity in SNAP and Medicaid programs, Puerto Rico would have received approximately \$97 million in funds between 2020 and 2032.¹⁰⁰

Incorporated Territory

Dr. Caraballo Cueto's study concludes that the status of the incorporated territory would be the worst of all possible statuses for Puerto Rico's economy because high levels of federal taxes would be imposed on the productive sector, commerce, and the middle and upper classes without parity in federal funding. This status would be even worse than the current unincorporated status.¹⁰¹

Independence

In his analysis of former colonies that gained independence, Dr. Caraballo Cueto explained that they found that sovereignty helped most countries compete to a limited extent, but other growth factors had a greater impact on these countries' economies.¹⁰² Dr. Caraballo Cueto clarifies that free association has different legal implications than independence, but economically it is very similar to independence, with the exception that American citizenship, under free association, would allow for a shared labor market with the United States.¹⁰³

A precaution that should be considered under sovereignty is relying solely on the elimination of trade barriers, most of them imposed by the government of the United States, and the availability of the monetary policy to adjust exchange rates, currently imposed by the Federal Reserve of the United States.¹⁰⁴ This would not be enough to compensate for the loss of federal funds in the economy, which could also increase income inequality, even in the best scenario under independence. Successful sovereignty with competitive trade could be achieved by increasing the following factors: international tourism, private sector participation in foreign trade, and labor participation.¹⁰⁵ Tourism could increase because no tourist visa would be required to visit Puerto Rico from third countries, and there would be more investments in sectors such as service and manufacturing because federal taxes would not apply.¹⁰⁶ In his study, Dr. Caraballo Cueto points out that "Puerto Rico could not only maintain but also improve its industrial development thanks to independence. This would mainly be due to the ability to expand sources of capital and foreign markets while simultaneously facilitating the development of

¹⁰⁰ Villeta Trigo Testimony, Transcript 2, p. 10.

¹⁰¹ Caraballo Cueto Testimony, Transcript 2, p. 25.

¹⁰² Caraballo Cueto Testimony, Transcript 2, p. 5.

¹⁰³ Caraballo Cueto Testimony, Transcript 2, p. 5, 30.

¹⁰⁴ Caraballo Cueto Testimony, Transcript 2, p. 6-7.

¹⁰⁵ Caraballo Cueto Testimony, Transcript 2, p. 7.

¹⁰⁶ Caraballo Cueto Testimony, Transcript 2, p. 33.

entrepreneurial capital.”¹⁰⁷ Additionally, if there were economic reparations for Puerto Rico under independence, this could be more effective and beneficial in the long term if used to strengthen the infrastructure there.¹⁰⁸

A relevant consideration described by Dr. Caraballo Cueto in his study is that under independence, apart from the fact that approximately 41% of Puerto Rican households would lose current access to one or more federal programs, the minimum wage could also be lower than the federal level, factors that may lead to migration from the island.¹⁰⁹ Between 2010 and 2020 alone, Puerto Rico’s population decreased by almost 12%.¹¹⁰ An effective immigration policy would be needed to counteract this.¹¹¹ Even under the independence scenario, an increase in remittances could be observed. Currently, Puerto Rico receives around \$500 million in remittances.¹¹² However, an increase in remittance will not compensate for the significant loss of federal funds.¹¹³

Conclusions of the study

Dr. Caraballo Cueto concludes that there is no clear path to prosperity, but it is evident that the current model under territorial status does not work economically.¹¹⁴ Evidence of this is that since the repeal of Section 936, sustained economic growth has not been generated, except when non-recurring federal funds are flowing into the economy.¹¹⁵ Dr. Caraballo Cueto also warns against economic freedom as this would mean non-intervention by the government.¹¹⁶ On the other hand, better government intervention is needed to create improved conditions and training for entrepreneurs.¹¹⁷ For a jurisdiction with a small local economy like Puerto Rico, an emphasis on exports can be highly beneficial.¹¹⁸

IV. Recommendations from panelists

Throughout the testimony, the Committee heard various perspectives on how Puerto Rico’s economic situation could be improved. Although these ideas are not recommendations formulated by the Committee, it is important

¹⁰⁷ Caraballo-Cueto, José. “El impacto económico del cambio en el estatus político de Puerto Rico.” May 2023. https://www.researchgate.net/publication/370602961_Impacto_economico_de_cambiar_el_estatus_de_Puerto_Rico (accessed on October 18, 2023).

¹⁰⁸ Caraballo Cueto Testimony, Transcript 2, p. 6-7.

¹⁰⁹ Caraballo-Cueto, José. “El impacto económico del cambio en el estatus político de Puerto Rico.” May 2023. https://www.researchgate.net/publication/370602961_Impacto_economico_de_cambiar_el_estatus_de_Puerto_Rico (accessed on October 18, 2023).

¹¹⁰ United States Census Bureau. “Puerto Rico Population Declined 11.8% from 2010 to 2020.” August 25, 2021. <https://www.census.gov/library/stories/state-by-state/puerto-rico-population-change-between-census-decade.html> (accessed on November 1, 2023).

¹¹¹ Caraballo-Cueto, José. “El impacto económico del cambio en el estatus político de Puerto Rico”. May 2023. https://www.researchgate.net/publication/370602961_Impacto_economico_de_cambiar_el_estatus_de_Puerto_Rico (accessed on October 18, 2023).

¹¹² Caraballo Cueto Testimony, Transcript 2, p. 29-30.

¹¹³ Ibid.

¹¹⁴ Caraballo Cueto Testimony, Transcript 2, p. 7.

¹¹⁵ Caraballo Cueto Testimony, Transcript 2, p. 33.

¹¹⁶ Caraballo Cueto Testimony, Transcript 2, p. 34-35.

¹¹⁷ Caraballo Cueto Testimony, Transcript 2, p. 34-35.

¹¹⁸ Ibid.

to integrate them into this document to present the options highlighted by panelists. The Committee does not express itself on the content of these recommendations.

- Puerto Rico does not control its fiscal and monetary policies, among other critical aspects of its economy, and for this reason, an institutional change is necessary to overcome the colonial relationship with the United States, supported by the right to self-determination proposed by international law, as the United Nations has outlined in Resolutions 1514(XV) and 1541(XV).¹¹⁹
- Puerto Rico's economy needs to develop its small private sector to take full advantage of opportunities that will arise once the institutional framework changes along with the political status. A change in political status is not in itself a sufficient or instantaneous condition for sustained prosperity but it is a necessary condition for generating sustained economic growth in Puerto Rico.¹²⁰
- The elimination of the Insular Cases would stop the regulation of Puerto Rico and its residents as possessions and would give an immediate economic advantage that would begin to impact Puerto Rico and could more effectively force a decolonization process.¹²¹
- It is proposed to replace more imports with local production, export more, and further develop companies. The current incentive code should be changed, as it is currently very generous and unconditional, to make it more conditional on companies exporting and growing because most of the private sector in Puerto Rico is a small private sector, except for multinationals operating in Puerto Rico.¹²²

V. Preliminary Committee Recommendations on the General Overview of the Project

After analyzing the testimony presented in this “General Overview” phase of the project, the Advisory Committee offers the following preliminary recommendations:

1. The United States Commission on Civil Rights should:

- Promote that all American citizens hold the same rights in all states and territories regarding socio-economic matters;*
- Encourage a space of dialogue with representation from all five territories to highlight the challenges their residents face in socio-economic matters.*

2. The United States Commission on Civil Rights must send this report to and request that the United States Congress and President take the following actions:

- Congress should promote legislation ensuring that all American citizens can exercise their rights on equal conditions;*

¹¹⁹ Ríos González Testimony, Transcript 1, p. 147, 5-20.

¹²⁰ Caraballo Cueto Testimony, Transcript 2, p. 7.

¹²¹ Díaz Olivo Testimony, Transcript 2, p. 31-32.

¹²² Caraballo Cueto Testimony, Transcript 2, p. 33.

b. Request the President of the United States to reestablish the White House Task Force on Puerto Rico with the representation from residents of Puerto Rico to present alternatives for the full recognition of the rights of American citizens residing in Puerto Rico.

3. The United States Commission on Civil Rights should send this report and request the Governor, Resident Commissioner, Legislature and Supreme Court of Puerto Rico take the following actions:

a. Require that all government officials in Puerto Rico incorporate addressing the political status and its relationship with the United States into their public policies.

Conclusion

This memorandum was adopted by a unanimous vote of 6 to 0 at a Committee meeting held on October 30, 2024. There was one Committee Member statement submitted.

Appendix

Documents related to the study of this subject by the Committee can be consulted in the “Memorandum Appendices” folder at the following link:

<https://usccr.app.box.com/folder/249382622004?s=fukc86iegef918ivu53td5rc6uyxpl8e>

- A. Schedule, minutes, and presentation slides
- B. Transcripts
- C. Additional information
- D. Committee Member Statements

- Statement from Member José O. Olmos

JOSE O. OLMOS
Member of the Puerto Rico Advisory Committee to the
United States Commission on Civil Rights

November 13, 2024

Subject: Concurring and partially dissenting statement and inclusion of documents to the second memorandum on Economic Perspectives corresponding to the work related to the study entitled “The Insular Cases and the Doctrine of the Unincorporated Territory and its effects on the civil rights of the residents of Puerto Rico.”

Articles to be included in memorandum number two:¹²³

Caban, Pedro, "PROMESA, Puerto Rico and the American Empire" (2018). Latin American, Caribbean, and US Latino Studies Faculty Scholarship. 33.

https://scholarsarchive.library.albany.edu/lacs_fac_scholar/33

Congressional Research Service, “Vieques, Puerto Rico Naval Training Range Background and Issues,” August 20, 2024, <https://crsreport.congress.gov> RS20458

Cimadevilla, Francisco Javier. "The Imminent Shutdown of Naval Station Roosevelt Roads Will Wreak Economic Havoc Throughout Eastern Puerto Rico." Caribbean Business, 17 July 2003

Dissenting Statement:

By vote of the advisory committee members, it was determined not to include the proposed language submitted by the signatory in the Historical Context section of the memorandum, which related to the economic impact suffered by Puerto Rico as a result of the hasty closure of the operations of the Roosevelt Roads Naval Base located in Ceiba, Puerto Rico.

¹²³ Veá Apéndice C.

This information is pertinent to this report because the speaker, Dr. Caraballo Cueto, replied to our questions about the impact of the closure of the Roosevelt Roads Naval Base on Puerto Rico's economy. His analysis was limited to analyzing the economic impact after Hurricane Maria.

The paragraph proposed to be included in memorandum number two is as follows.

“The economic collapse after 2006 was not only due to the elimination of Section 936, but the closure of Roosevelt Roads Naval Station also contributed to it. ¹²⁴The 2004 House Defense Appropriations Bill included a provision that would close Roosevelt Roads Naval Station, the largest employer in Puerto Rico. Under Section 8132 of the Department of Defense Appropriations Act for Fiscal Year 2004 (PL 108-87), the Secretary of the Navy was directed to close Roosevelt Roads Naval Station no later than six months after its enactment, which occurred on September 30, 2003.¹²⁵

It is important to note the impact that the closure of military operations in Puerto Rico has had on the economy. The closure of Roosevelt Roads Naval Station resulted in the loss of 2,500 civilian jobs and injected 300 million dollars annually into the local economy. The southeastern region of Puerto Rico lost 6,000 jobs. In addition, the Puerto Rico Electric Power Authority lost a customer who paid \$25,000,000 annually on their electric bill. ¹⁶ In 2016, the unemployment rate exceeded 17 percent, and poverty afflicted approximately half of the 77,000 residents of the surrounding communities of Fajardo, Ceiba, and Naguabo.¹²⁶”

Ignoring this information harms the conclusion of our analysis because it limits the assessment of the economic impact of the insular cases by ignoring the actions of the territorial political leadership. The Island's economic activity is undoubtedly impacted by its territorial relationship with the United States. Still, it is primarily directed and managed by the American citizen residents of Puerto Rico, who delegate to their political leadership. As a consequence of their bad decisions, they caused the government to suffer bankruptcy. The closure of the Roosevelt Roads Naval Base, caused by the interests of the Island's political leadership, is a fundamental link in the chain of events that led to the Island's bankruptcy and opened the door for the United States Congress to approve the PROMESA Law.

¹²⁴ Caban, Pedro, "PROMESA, Puerto Rico and the American Empire" (2018). Latin American, Caribbean, and US Latino Studies Faculty Scholarship. 33.

https://scholarsarchive.library.albany.edu/lacs_fac_scholar/33

¹²⁵ Congressional Research Service, "Vieques, Puerto Rico Naval Training Range Background and Issues" August 20, 2024, <https://crsreport.congress.gov> RS20458.

¹²⁶ Cimadevilla, Francisco Javier. "The Imminent Shutdown of Naval Station Roosevelt Roads Will Wreak Economic Havoc Throughout Eastern Puerto Rico." Caribbean Business, 17 July 2003.

**Puerto Rico Advisory Committee to the
United States Commission on Civil Rights**

Term: January 21, 2022, to January 20, 2026

Andrés L. Córdova Phelps, Chair, Puerto Rico Advisory Committee, San Juan

Ramón Barquín, Vice-Chair, San Juan

Ever Padilla-Ruíz, Secretary, San Juan

Frank Arenal, Carolina

Ramón C. Barquín III, Guaynabo

Manuel “Lin” Iglesias-Beléndez, San Juan

Sergio Marxuach, Dorado

José O. Olmos, Guaynabo

Dan Santiago, San Juan

William E. Villafañe Ramos, Bayamon

Puerto Rico Advisory Committee of Puerto Rico to the United States Commission on Civil Rights



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