Nos. 26-0157; 26-0153
(Consolidated for Briefing & Oral Argument)

IN THE SUPREME COURT OF TEXAS

SAN PATRICIO COUNTY APPRAISAL DISTRICT,

Petitioner,

v.

GUNVOR USA LLC AND DEVON GAS SERVICES, L.P.,
AS AGENT FOR GLENCORE, LTD.,

Respondents.

On Petition for Review from the Thirteenth Court of Appeals
at Corpus Christi & Edinburg, Texas

BRIEF OF AMICI CURIAE CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA, AMERICAN PETROLEUM INSTITUTE, AMERICAN FUEL & PETROLEUM MANUFACTURERS, NATIONAL ASSOCIATION OF MANUFACTURERS, AND CENTER FOR LIQUEFIED NATURAL GAS

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INTERESTS OF AMICI CURIAE

The Chamber of Commerce of the United States of America ("Chamber") is the world's largest business organization. As the nation's leading advocate for business, the Chamber represents companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. To that end, the Chamber regularly files amicus curiae briefs in cases, like this one, that raise issues of concern to the nation's business community.

The American Petroleum Institute ("API") is a nationwide, non-profit trade association that represents approximately 600 companies involved in every aspect of the petroleum and natural-gas industry. Its members range from the largest integrated companies to the smallest independent oil and gas producers. API's members include producers, refiners, suppliers, marketers, pipeline operators, and marine transporters, as well as service and supply companies that support the industry. API is also the worldwide leading body for establishing standards that govern the oil and natural-gas industry.

The American Fuel & Petrochemical Manufacturers is the leading trade association for the U.S. refining and petrochemical industries, and its members produce most of the refined petroleum products and petrochemicals manufactured in the United States.

The Center for Liquefied Natural Gas (CLNG) advocates for public policies that advance the use of liquefied natural gas (LNG) in the United States, and its export internationally. CLNG represents the full LNG value chain, including LNG export facilities in the United States, shippers, and multinational developers, providing it with unique insight into the ways in which the vast potential of this abundant and versatile fuel can be fully realized.

The National Association of Manufacturers (NAM) is the largest manufacturing association in the United States, representing small and large manufacturers in all fifty states and in every industrial sector. Manufacturing employs nearly 13 million people, contributes $2.96 trillion to the economy annually, has the largest economic impact of any major sector, and accounts for over half of all private-sector research and development in the nation, fostering the innovation that is vital for this economic ecosystem to thrive. The NAM is the voice of the manufacturing community and leading advocate for a policy agenda that helps manufacturers compete in the global economy and create jobs across the United States.

Amici have a direct interest in this litigation. The question of whether the U.S. Constitution allows localities to tax goods in export transit is one of extraordinary importance for amici, which represent a broad coalition of major business and energy organizations engaged in export commerce in Texas and throughout the country. Amici respectfully present this brief for the Court's consideration.[1]

[1] No counsel for a party authored this brief in whole or in part, and no counsel for a party made a monetary contribution intended to fund the preparation or submission of this brief. No person or entity other than amici curiae, their members, and their counsel made a monetary contribution to this brief's preparation or submission. Amici paid for the preparation of this brief.

INTRODUCTION

This case presents a critically important issue for America's business community: whether the U.S. Constitution's Import-Export Clause prohibits burdensome local taxation of goods in export transit. This Court's interpretation of the clause's protections carries enormous implications for the economies of both Texas and the entire nation.

This Court has long held that the Import-Export Clause imposes a "bright-line immunity" from taxation for goods that are in the "stream of export." *Va. Indonesia Co. v. Harris Cnty. Appraisal Dist.*, 910 S.W.2d 905, 912 (Tex. 1995) (*VICO*). That ruling correctly follows the Clause's original meaning, as well as an unbroken line of U.S. Supreme Court precedent dating back to the 1800s. This precedent includes cases with highly similar facts, such as *Carson Petroleum Co. v. Vial*, 279 U.S. 95 (1929), which held that a tax on oil in storage tanks awaiting export vessels violated the Clause. Rulings since *VICO* only confirm its correctness: the U.S. Supreme Court has cited *VICO* approvingly, confirming that it "has never upheld a state tax assessed directly on goods in import or export transit." *United States v. Int'l Bus. Machs. Corp.*, 517 U.S. 843, 862 (1996) (*IBM*).

The San Patricio County Appraisal District's personal property tax, which would affect millions of barrels of foreign-destined oil passing through tank farms and awaiting loading on tankers headed overseas, violates the Import-Export Clause because this oil is already in the stream of export. The District argues that the U.S. Supreme Court abandoned the stream-of-export doctrine in *Michelin Tire Corp. v. Wages*, 423 U.S. 276 (1976), and that this Court should instead look to *Michelin*'s policy factors, or to taxation tests under the Commerce Clause or state law. *See* Pet. Br. at 11-13. The Court should reject this argument, just as it did in *VICO*. *Michelin* and its progeny did not disturb the bright-line prohibition against taxing goods in the stream of export, such as Respondents' oil here.

The District's position would have devastating consequences for Texas' energy and other exports, as well as the State's and the nation's overall economy. Texas ports handle over 90% of U.S. energy exports, providing a massive contribution to the State's and America's economy. Export staging infrastructure—such as Respondents' tank farms—is an unavoidable part of exportation, necessary for transporting oil from pipelines into export vessels. Similar staging infrastructure is likewise a necessary part of export transit for many other goods. The District's position would thus render a vast array and the majority of exports subject to local taxation. It would decrease the economic competitiveness of Texas business, and discourage companies from using Texas ports, compared with ports in other States that properly respect the Import-Export Clause's protections. The Court should affirm the judgments of the court of appeals.

Argument

I. The District's Tax is Unconstitutional.

A. The Stream-of-Export Doctrine Governs Whether State Taxation of Exports Violates the Import-Export Clause.

1. The Stream-of-Export Doctrine is the Longstanding Controlling Test under the Precedent of the U.S. Supreme Court and this Court.

The U.S. Constitution's Import-Export Clause provides that "[n]o State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection Laws." U.S. Const. art. I, § 10, cl. 2. The U.S. Supreme Court has long held that the Clause prohibits States and localities from taxing goods in the stream of export—goods that "have been shipped, or entered with a common carrier for transportation to another State, or have been started upon such transportation in a continuous route or journey." *Coe v. Errol*, 116 U.S. 517, 527 (1886). In other words, the Import-Export Clause prohibits state and local taxation once "the goods beg[i]n their movement to a precommitted foreign destination." *VICO*, 910 S.W.2d at 912. This Court surveyed the doctrine and its history in depth in *VICO*, holding that "the long-standing rule that a tax on goods in the export stream of commerce violates the import-export clause" remains the governing test. *Id*. at 911-12.

The stream-of-export doctrine provides a "bright-line immunity for goods in the stream of export." *Id*. at 911; *see Kosydar v. Nat'l Cash Reg. Co.*, 417 U.S. 62, 71 (1974) (stream-of-export doctrine "is an instance … where … simplicity has its virtues"). This immunity applies to all taxes on goods in the stream of export, even if they do not discriminate against exports or commerce from other States. Indeed, the U.S. Supreme Court cited *VICO* approvingly in remarking that "Import–Export Clause cases have not upheld the validity of generally applicable, nondiscriminatory taxes that fall on imports or exports in transit." *IBM*, 517 U.S. at 862; *see A.G. Spalding & Bros. v. Edwards*, 262 U.S. 66, 69 (1923) ("Articles in course of transportation cannot be taxed" under the Import-Export

Clause, even if "the law under which the tax was imposed was a general law touching all sales of the class, and not aimed specially at exports").

The U.S. Supreme Court has already applied the stream-of-export doctrine in the specific context of oil exports. In *Carson Petroleum*, on facts directly analogous to those here, the U.S. Supreme Court held that oil in a storage tank awaiting the arrival of an export vessel was in the stream of export, and therefore immune from taxation. 279 U.S. at 109. And in *Richfield Oil Corp. v. State Board of Equalization*, 329 U.S. 69 (1946), the Court held that a state could not impose a sales tax on oil delivered from storage tanks to a vessel in harbor for export abroad. 329 U.S. at 71, 82-83. *Richfield* rejected the precise argument that the District raises here—that the Clause should be interpreted only to "prevent discriminatory taxes and not to preclude the levy of general taxes applicable alike to all goods." *Id.* at 76. Rather, the relevant inquiry is whether a "foreign destination is plain," and thus whether the oil is committed to exportation and "would [not] be diverted to domestic use." *Id.* at 83.

This stream-of-export doctrine follows from the original meaning of the Import-Export Clause. The Articles of Confederation left the central government without recourse to prevent States from inhibiting commerce between themselves and foreign nations, including aggressive taxation by port states of their neighbors. Such taxation, as James Madison explained, was a source of great discontent for States lacking good ports, which he compared to "Cask[s] tapped both ends" and "patient[s] bleeding at both Arms." 3 M. Farrand, The Records of the Federal Convention of 1787, at 542 (1911) (Farrand).

The Clause's "function" of preventing discriminatory taxation, however, "was only a phase of a larger design." *Richfield*, 329 U.S. at 77. The Framers adopted the Import-Export Clause in conjunction with the Export Clause, which provides that "No Tax or Duty shall be laid on Articles exported from any State." *Id.* (quoting U.S. Const. art. I, § 9, cl. 5); *see* Walter Hellerstein, *Michelin Tire Corp. v. Wages: Enhanced State Power to Tax Imports*, 1976 Sup. Ct. Rev. 99, 132 (1976) (arguing that the Import-Export Clause's prohibition against states taxing exports was part of a "larger design" with the Export Clause that "effected a more extensive limitation upon the states' power to tax exports than was accomplished with respect to imports").

That Clause prohibits Congress from taxing exports. So, while the Framers intended imports to be a major source of revenue for the federal government, they imposed “broad bans on taxation of exports” from any source. *IBM*, 517 U.S. at 852; *see also Brown v. Maryland*, 25 U.S. 419, 445 (1827); (“The States are forbidden to lay a duty on exports, and the United States are forbidden to lay a tax or duty on articles exported from any State. There is some diversity in language, but none is perceivable in the act which is prohibited.”); Alexander Hamilton, *Federalist No. 12*, in *The Federalist Papers*, ed. Clinton Rossiter, New York: New American Library, 1961; *Almy v. California*, 65 U.S. 169, 173 (1860) (“If the tax was laid on the gold or silver exported, every one would see that it was repugnant to the Constitution of the United States….”).

Indeed, the Framers specifically considered and rejected an alternative version of the Clause that would have “prohibit[ed] the States ‘from taxing the produce of other States exported from their harbours.’” *Richfield*, 329 U.S. at 77 (quoting 2 Farrand at 361). Instead, the “language adopted was supported by Madison ‘as preventing all State imposts,’” whether or not discriminatory. *Id*. (quoting 2 Farrand at 442). Thus, “[i]t would entail a substantial revision of the Import-Export

Clause to substitute for the prohibition against 'any' tax a prohibition against 'any discriminatory' tax," *id.* at 76, violating both the plain text and the original meaning of the Clause.

As in *VICO*, this Court should continue to apply the stream-of-export doctrine, in line with precedent and the plain text and original meaning of the Import-Export Clause. *See Mitschke v. Borromeo*, 645 S.W.3d 251, 263 (Tex. 2022) ("Adherence to precedent remains the touchstone of a neutral legal system that provides stability and reliability. Departures from precedent must be carefully considered and should be rare.").

2. Neither *Michelin* nor *Washington Stevedoring* Overruled the Stream of Export Doctrine.

The District contends that this Court should not apply the stream-of-export doctrine because the U.S. Supreme Court purportedly abandoned it in *Michelin Tire Corp. v. Wages*, 423 U.S. 276 (1976) and *Department of Revenue of the State of Washington v. Association of Washington Stevedoring Cos.*, 435 U.S. 734 (1978), replacing it with a multi-factor policy test focusing on whether the tax is discriminatory and has a "nexus" to the State. *See* Pet. Br. 11-15, 27-28. The District is mistaken: far from overruling the stream-of-export doctrine, both cases expressly preserved it.

Michelin held that "a nondiscriminatory ad valorem property tax which is also imposed on *imported* goods that are *no longer in import transit*" did not violate the Import-Export Clause. 423 U.S. at 278, 286 (emphasis added). The Court overruled its prior test for taxes on imports under the Clause, the so-called "original package doctrine." *Id.* at 296, 301. It adopted a new three-factor policy test instead. *Id.* at 285-86. But it expressly declined to hold that this policy test applies to goods in transit, noting that the Clause could "prohibit[] the assessment of even nondiscriminatory property taxes on goods which are merely in transit through the State when the tax is assessed." *Id.* at 290; *see also id.* at 302. Indeed, despite arguing at length that this Court should uphold its taxes because they are nondiscriminatory, even the District concedes that "the *Michelin* court suggested that the Import-Export Clause would invalidate application of a nondiscriminatory property tax to goods still in import or export transit." Pet. Br. at 17. *Michelin* thus does not overrule the stream-of-export doctrine, the governing test for determining when a good is in export transit and thus immune from state and local taxation. *See* pp. 6-8, *supra*.

Washington Stevedoring likewise does not overrule the stream of export doctrine. Applying *Michelin*'s policy test, that case upheld a state tax assessed against compensation received by stevedoring companies for services performed. *Washington Stevedoring*, 435 U.S. at 752-55. But the case did not involve the stream-of-export doctrine because the tax was not on exported goods: it fell "upon a service distinct from the goods and their value." *Id.* at 756-57. The Court again expressly did not overrule the stream-of-export doctrine, stating "[w]e do not reach the question of the applicability of the *Michelin* approach when a State directly taxes imports or exports in transit." *Id*. at 757 n.23.

This Court considered this issue at length in *VICO*, agreeing that "neither *Michelin* nor its progeny have altered the fundamental rule that goods in the export stream of commerce are exempt from taxation." 910 S.W.2d at 910; *see id.* at 912. Because the Import-Export Clause imposes a bright-line prohibition on taxes of goods in the stream of export, "it is unnecessary to analyze whether the tax impinges upon the *Michelin* policies." *Id.* This Court explained that "[a]lthough the *Michelin* court rejected the original package doctrine, it did not overrule *Coe v. Errol* or any of the stream of export cases, and the two doctrines are different enough that the rejection of one does not, of itself, signify the demise of the other." *Id*. at 910-11. The original-package doctrine, this Court reasoned, turned on "whether the goods' original packaging remained intact," a test that "tended to produce superficial and disparate results." *Id*. By contrast, the "stream of export doctrine has been much narrower," carefully defining when goods are in transit for export. *Id*. Indeed, according to this Court, "[a]bandoning the original package doctrine 'brought import tax immunity into alignment with export tax immunity" under the stream-of-export test. *Id*.

Other courts have likewise concluded that the stream-of-export doctrine remains governing law following *Michelin* and *Washington Stevedoring*. *See*, *e.g.*, *La. Land & Expl. Co. v. Pilot Petroleum Corp.*, 900 F.2d 816, 819-21 (5th Cir. 1990) (recognizing that "*Richfield* has never been overruled by the United States Supreme Court" and holding the state's tax unconstitutional as applied against oil in transit for export); *Dulles Duty Free, LLC v. County of Loudoun*, 83 S.E.2d 54, 61 (Va. 2017) ("[T]he Supreme Court has not overruled *Richfield Oil*…."); *Coast Pac.*

Trading, Inc. v. State of Wash., Dep't of Revenue, 105 Wash.2d 912, 918 (1986) (en banc) ("*Michelin* and *Stevedoring* have not overruled decisions that struck down taxes levied directly on goods that had reached the export stream.").

Thus, as *VICO* held, "[i]n light of the fact that the United States Supreme Court has not overruled *Coe v. Errol* or any of its progeny," "the long-standing rule that a tax on goods in the export stream of commerce violates the import-export clause" continues to govern. 910 S.W.2d at 911-12 (citing *Rodriguez de Quijas v. Shearson/Am. Express, Inc.*, 490 U.S. 477, 484 (1989)). Indeed, when "a precedent of [the U.S. Supreme] Court has direct application in a case," as *Carson Petroleum* and the other stream-of-export cases do here, courts "should follow the case which directly controls, leaving to [the U.S. Supreme] Court the prerogative of overruling its own decisions." *Mallory v. Norfolk S. Ry. Co.*, 600 U.S. 122, 136 (2023); *see Rodriguez*, 490 U.S. at 484; *Thurston Motor Lines, Inc. v. Jordan K. Rand, Ltd.*, 460 U.S. 533, 535 (1983) (per curiam) ("Needless to say, only this Court may overrule one of its precedents."). "This is true even if the lower court thinks the precedent is in tension with 'some other line of decisions.'" *Mallory*, 600 U.S. at 136 (quoting *Rodriguez*, 490 U.S.

at 484) (rejecting argument that a U.S. Supreme Court case had been "implicitly overruled").

Nothing since *VICO*'s issuance undermines its analysis. To the contrary, the U.S. Supreme Court approvingly cited *VICO* in its most recent consideration of the issue after *Michelin*. *See IBM*, 517 U.S. at 862. Further, *IBM* criticized *Michelin*'s policy test as contrary to the original meaning of the Import-Export Clause. *See id*. at 858 (criticizing *Michelin*'s "peculiar definitional analysis" that "entirely bypassed the etymological inquiry into the proper meaning of the terms … and instead created a regime in which those terms are conclusions to be drawn from an examination" of policy factors); *see also* Hellerstein, *Enhanced State Power to Tax Imports*, *supra*, at 131 (discussing *Michelin*'s failure to grapple with *Kosydar*'s having "emphatically reaffirmed the settled [stream of export] doctrine" just two terms prior) (internal quotations omitted). There is thus no basis to apply *Michelin*'s policy test to a tax on goods in the stream of export, to which the U.S. Supreme Court has repeatedly refused to extend the test. As in *VICO*, this Court should decline to depart from the stream-of-export doctrine.

B. The District's Tax Violates the Import-Export Clause because it is a Duty on Crude Oil that is in the Stream of Export.

The District's tax here violates the Import-Export Clause because it is a direct tax on goods that are in the stream of export.

The District does not and cannot dispute that it is directly taxing the goods themselves; the tax at issue lies against "tangible personal property." Tex. Tax Code § 21.02(a)(1). Unlike in *Washington Stevedoring*, where the tax was levied against the labor rather than the goods, the tax here is levied directly against Respondents' barrels of oil. Such a tax definitionally satisfies the stream-of-export doctrine's requirement that the tax be levied on the goods. *See La. Land*, 900 F.2d at 821; *Brown*, 25 U.S. at 444 ("All must perceive, that a tax on the sale of an article… is a tax on the article itself."). Indeed, *VICO* held that an analogous personal property tax was a tax on the goods under the stream-of-export doctrine. *See* 910 S.W.2d at 910, 915.

The District argues that this doctrine does not apply because the oil is not in the stream of export, but the District is incorrect. *VICO* held that "it is clear that [the] goods entered the export stream of commerce when they were shipped from the vendors to the export packer's facility …

because, at that point, the goods began their movement to a precommitted foreign destination." *Id.* at 912; *see* p. 7, *supra.*

The oil here satisfies this standard. As Respondents' brief explains, they "acquired the crude oil from Permian Basin producers in Texas and New Mexico for the sole purpose of filling *preexisting* purchase orders that required delivery of the crude oil by vessel to countries overseas." Resp't Br. at 13-14 (emphasis in original). The oil was then transported via pipeline from the Permian Basin to the Corpus Christi export terminals for loading onto vessels, all of which were bound for foreign destinations. *Id.* at 14.

The District argues that the oil cannot be in the stream of export because (1) the oil came from the ground in Texas; and (2) some amount of oil is constantly present in Texas as part of the export process. Pet. Br. at 17-24. These arguments are red herrings. They do not address the governing standard for the stream-of-export doctrine, instead relying on inapposite cases, several of which do not involve the Import-Export Clause at all.

First, the fact that much of the exported oil was produced in Texas is irrelevant to whether the oil was in the stream of export. Goods need not cross a state line before entering the stream of foreign export. *See Richfield*, 329 U.S. at 71 (holding that oil was in transit for export despite being produced, sold, and shipped within California). Indeed, the Framers rejected a version of the Clause that would have limited it to goods shipped from another State, instead broadly prohibiting *any* duties on exports. *See* pp. 10-11, *supra*. Rather, the test for whether goods have entered the stream of export is whether they have begun "their movement to a precommitted foreign destination." *VICO*, 910 S.W.2d at 912-13. Whether the oil was produced in Texas, New Mexico, or both says nothing about whether the oil had begun moving to a precommitted foreign destination when the tax was assessed. It had.

For similar reasons, the District errs in invoking *In re Appeals of Various Applicants from a Decision of Division of Property Valuation of State for Tax Year 2009 Pursuant to K.S.A. 74-2438*, 298 Kan. 439 (2013) and *U.S. Steel Mining Co. v. Helton*, 631 S.E.2d 559 (W. Va. 2005). *In re Appeals* did not rule on an Import-Export Clause claim at all; rather, it considered the U.S. Constitution's Commerce Clause and Due Process Clause, which involve very different tests than the stream-of-export doctrine. 298 Kan. at 440. And in *Helton*, the coal at issue had not yet "begun its movement or transit from the preparation plant toward a final destination" when the tax was assessed, and had therefore not yet entered the stream of export. 631 S.E.2d at 565. Because neither case addressed taxes on goods in export transit under the Import-Export Clause, they are inapposite.

The District is similarly mistaken when it relies on *Diamond Shamrock Refining and Marketing Company v. Nueces County Appraisal District*, 876 S.W.2d 298 (Tex. 1994) and *Exxon Corp. v. San Patricio County Appraisal District*, 822 S.W.2d 269 (Tex. App.—Corpus Christi–Edinburg 1991, writ denied), for the notion that the oil is taxable because some oil is "constantly present in substantial quantities" in tank farms in San Patricio County. Pet. Br. 19-24. Again, this Court rejected this same argument in *VICO*, holding that the Import-Export Clause barred taxation of goods stored at an export facility, even though "some quantity of goods [were] present at the export packer's facility year-round." 910 S.W.2d at 907. The Court found *Diamond Shamrock* inapposite because it involved "oil imported from a foreign country directly into Texas, the state of its final destination." *Id*. at 910. It explained that "[i]t is one thing to tax property that has come to rest within the state; it is quite another to tax property that is merely passing through on its way to its final foreign destination." *Id.* at 914-15; *see Diamond Shamrock,* 876 S.W.2d at 299 ("[W]e do not decide whether oil passing through Texas on its way to a foreign country … is taxable under the Import-Export Clause.").

Here, as in *VICO*, the goods have not "come to rest" within Texas as their "final destination." 910 S.W.2d at 911, 914-15. It therefore does not matter whether some oil is "constantly present in substantial quantities," Pet. Br. at 19; the question is whether the oil has begun its movement to a precommitted foreign destination, *see* p. 7, *supra.* It has: the oil was transported via common-carrier pipeline from the Permian Basin to the export staging tanks for the sole purpose of fulfilling pre-existing purchase orders to ship it abroad. *See* p. 18, *supra.* Because the oil cannot be transported in a single pipeline directly from the wellhead to the vessel, sufficient quantities must accumulate in the export tank in order to efficiently load a tanker. As *VICO* explained, "[i]f … a stoppage is due to the necessities of the journey or for the purpose of safety and convenience in the course of the movement, continuity of transit is not interrupted, and the goods remain immune from taxation throughout the stoppage"; delays due "to a necessary change in the mode of transportation do not affect the continuity of transit." 910 S.W.2d at 912; *see Richfield*, 329 U.S. at 82-83 (holding that the oil was in the export stream upon delivery to the vessel, notwithstanding that the vessel remained temporarily in the port, because the certainty of its foreign destination was plain); *Carson Petroleum*, 279 U.S. at 105-06 ("There has been a liberal construction of what is continuity of the journey, in cases where the court finds from the circumstances that export trade has been actually intended and carried through."). The temporary holding of oil in the export tanks in order to load it onto the export vessel is a necessary part of the exportation process and therefore does not remove the oil from the stream of export. *See* p. 21, *infra*.

Exxon is even farther afield than *Diamond Shamrock*. That case considered "situs" for taxation under Texas law; the Import-Export Clause was not at issue. The parties stipulated that all of the oil was to be transported, refined, or sold within the State of Texas, 822 S.W.2d at 272, and the court addressed which Texas county was the proper taxing authority under Texas law, *id.* at 271. *Exxon*'s ruling on Texas law has no relevance to whether a tax violates the U.S. Constitution's Import-Export Clause under the stream-of-export doctrine.

Because the District's tax falls on goods that are in the stream of export, the tax is unconstitutional under the Import-Export Clause.

II. Upholding the District's Tax Would Significantly Harm Texas' and the Entire Nation's Economy.

In addition to contravening precedent of both the U.S. and Texas Supreme Courts, the District's tax would significantly harm both Texas' and the entire nation's economy.

Texas is responsible for the vast majority of the nation's energy exports, and demand is growing. In 2024, Texas ports collectively accounted for 91 percent of all United States crude oil exports by value. *See* U.S. Census Bureau, *USA Trade Online, Port-Level Exports of Crude Oil, Sum of Total Exports Value* (showing that Texas ports were responsible for $109 billion of the Nation's $119 billion in crude export value), *available at* https://usatradeonline.census.gov/buildReport. And 61 percent of the export value ($67 billion) comes from the Port of Corpus Christi, making it the single largest point of export for crude oil in the country. *Id.* The Port of Corpus Christi is in the San Patricio County Appraisal District and is the port from which the crude oil at issue in this case is exported.

Recent years have seen tremendous growth in the volume of crude exports. From 2015 to 2024, United States crude oil exports increased to nearly 1.5 billion barrels annually. U.S. Energy Information Admin., U.S. Exports of Crude Oil (Thousands Barrels), https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=MCREXUS1&f=A. During this period, the total volume of United States petroleum product exports more than doubled from 1.73 billion to 3.92 billion barrels annually. U.S. Energy Information Admin., U.S. Exports of Crude Oil and Petroleum Products (Thousands Barrels), https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=MTTEXUS1&f=A.

In 2024, the United States was the world's largest LNG exporter, and Texas's three existing LNG export terminals handled about 31% of all United States LNG exports. U.S. Energy Info. Admin., Texas, Analysis (last updated Aug. 21, 2025), https://www.eia.gov/states/tx/analysis. Indeed, a recent study by S&P Global, supported by amicus the U.S. Chamber, projects that United States LNG is on track to become the Nation's second-largest net export industry by 2031. *See* S&P Global, *Price and Economic Impacts of an Accelerating Export Industry: A U.S. LNG Impact Study—Phase 4*, at 17 (July 2026), https://www.spglobal.com/content/dam/spglobal/global-assets/en/special-reports/lng-study/US_LNG_Impact_Study_Phase_4_Summary_Presentation.pdf. The study projects that the industry will contribute approximately $1.4 trillion to U.S. gross domestic product and support roughly 555,000 jobs annually through 2040, and that more than $1 trillion in investment across the supply chain is at stake over that period. *Id.* at 20.

These energy exports are incredibly important to the American and Texas economies. As of 2023, the natural gas and oil industry supported 8.6 million jobs, representing 4.9% of the nation's total employment. PricewaterhouseCoopers, *Contribution of the Oil and Natural Gas Industry to the US Economy in 2023* (Oct. 2025) at 14, https://www.api.org/-/media/Files/Energy-Economics/API-Studies/2025/The-Oil-and-Gas-Industrys-Contribution-to-the-US-Economy.pdf. The industry also contributed an estimated $2.1 trillion to the United States economy, or 7.4% of the gross domestic product. *Id.* at 13. Texas in particular benefits greatly from the natural gas and oil industry, which supported over 2.5 million jobs in the state (12.4% of its employment) and produced 18.9% of the state's total labor income in 2023. *Id.* at 17, 22, 23.

Altogether, the industry contributed over $567 billion to Texas' economy that year—approximately 22% of the state total. *Id.* These enormous economic benefits will be stymied if localities are permitted to levy burdensome taxes on oil and gas in export transit.

There is no effective way for the business community to export oil and gas—or a multitude of other goods—without using the export staging infrastructure that the District is targeting. Export staging infrastructure is the network of facilities, equipment, and services that prepares goods for movement from domestic production sites to international markets. This infrastructure is essential to the export process because it enables exporters to aggregate goods near the point of export so that they can be shipped abroad.

A decision from this Court upholding taxes on goods that utilize or are held in export staging infrastructure would have significant adverse economic and operational consequences in Texas. Because storing goods in export staging infrastructure is a necessary and unavoidable part of the export process, virtually all exports from Texas would be highly exposed to the risk of burdensome taxes by appraisal districts that include ports. Extra burdensome taxes can impact the prices, making domestic exports from the relevant ports less attractive to foreign buyers compared to those from other ports in the United States or from countries with more competitive tax regimes. Indeed, this Court has previously observed that "businesses will travel to jurisdictions where the cost of doing business is the cheapest." *ETC Mktg., Ltd. v. Harris Cnty. Appraisal Dist.*, 528 S.W.3d 70, 87 (Tex. 2017).

In the case of oil exports, storage bridges the gap between continuous production and the batch-based loading of tankers, helping exporters manage delays, congestion, and changing vessel arrivals without immediately disrupting production. A company that produces oil in Texas that is designated for shipment to a foreign purchaser cannot simply inject the oil directly from the production site to the hold of a vessel. For oil exports, tank farms are among the most important parts of this staging infrastructure. These tanks are typically located near marine loading terminals and allow exporters to receive and hold oil during the export process. Without tank storage as part of the export process, producers would be unable to meet shipping schedules and contractual commitments.

Taxes that act as a de facto trade barrier discourage investment and run counter to Texas' "well-established public policy in favor of the exploration and development of oil and gas." *Barrow-Shaver Res. Co. v. Carrizo Oil & Gas, Inc.*, 590 S.W.3d 471, 495 (Tex. 2019). As discussed above, "[r]obust energy production enriches Texas' fiscal bottom line." *Coastal Oil & Gas Corp. v. Garza Energy Tr.*, 268 S.W.3d 1, 33 (Tex. 2008) (Willett, J., concurring). With geopolitical tensions increasing the volatility of global energy markets, layering additional taxes on oil and gas exports would only exacerbate challenges to energy's availability and affordability.

The importance of export staging infrastructure also extends well beyond the oil and gas industry. Among other things, agricultural exports require silos and warehouses, livestock exports require animal holding areas, and temperature-sensitive goods require cold-storage facilities. Such infrastructure allows exporters to aggregate goods from multiple suppliers, package them appropriately, prepare container loads, and coordinate transportation schedules.

This Court correctly held in *VICO* that the Import-Export Clause prohibits taxes on goods in the stream of export. The Court should reach the same result here and affirm.

CONCLUSION

For these reasons, Amici Curiae respectfully request that the Court affirm the judgments of the court of appeals.

Respectfully submitted,

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