

Why Lift the Blockade against Cuba?

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The U.S. embargo against Cuba has been condemned by a growing number, by now an overwhelming majority, of member states of the United Nations General Assembly. However, it remains in force by the U.S. government's isolated but stubborn will, in spite of repeated UN injunctions, notably its resolution 56/9 of November 27, 2001. The purpose of this exposé is to denounce this embargo in the strongest terms as a violation of law, and for its total lack of legitimacy. These measures of arbitrary constraint are tantamount to an undeclared act of war by the United States against Cuba; their devastating economic and social effects deny the Cuban people the ability to exercise their basic human rights, and are unbearable for them. They directly subject the people to extreme suffering and infringe upon the physical and moral integrity of the whole population, inflicting the greatest harm on children, the elderly, and women. In this respect, the embargo can be seen as a crime against humanity. Imposed since 1962, the U.S. embargo was reinforced in October 1992 by the "Cuban Democracy Act" (or Torricelli Law), which aimed to restrain the development of the Cuban economy's new driving forces by restricting the inflow of funds and goods to Cuba by:

- (1) strictly limiting the transfers of foreign currencies by Cuban families in exile,
- (2) banning from U.S. harbors for six months all ships that had anchored in a Cuban port, and
- (3) imposing sanctions against firms doing commerce with the island even if under the jurisdiction of a third state.

The embargo was further systematized by the "Cuban Liberty and Democracy Solidarity Act" (Helms-Burton Law) of March 1996, which aimed to harden the "international" sanctions against Cuba. Its Title I generalizes the ban on importing Cuban goods, demanding, for example, that exporters give proof that no Cuban sugar has been integrated in their products, as was already the case with nickel. It

conditions the authorization of currency transfers to the creation on the island of a private sector including employment of salaried staff. Still more ambitious, Title II defines the form of a transition to a "post-Castro" power, and specifies the nature of its relationship with the United States. Title III grants U.S. tribunals the right to judge claims for damages made by a person of U.S. nationality injured by the loss of property in Cuba due to nationalization, and to demand compensation from the users or beneficiaries of this property. At the request of the old owners, nationals of a third state, who have done business with these users or beneficiaries, can be sued in the United States. The sanctions incurred are set out in Title IV, which permits, among other things, the State Department to refuse U.S. entrance visas to the current owners.

Table 1: U.N. General Assembly Votes on Lifting the Blockade			
	For	Against	Countries Voting Against
1992	59	2	United States, Israel
1993	88	4	United States, Israel, Albania, Paraguay
1994	101	2	United States, Israel
1995	117	3	United States, Israel, Uzbekistan
1996	138	3	United States, Israel, Uzbekistan
1997	143	3	United States, Israel, Uzbekistan
1998	157	2	United States, Israel
1999	155	2	United States, Israel
2000	167	3	United States, Israel, Marshall Islands
2001	167	3	United States, Israel, Marshall Islands
2002	173	3	United States, Israel, Marshall Islands
2003*	179	3	United States, Israel, Marshall Islands
* In 2003, Morocco and Micronesia abstained from voting.			

The normative content of this embargo -specially the extraterritoriality of its rules, which seek to impose on the international community unilateral sanctions by the United States, or the denial of the right of nationalization -is a violation of the spirit and letter of the United Nations Charter and the Organization of American States, as well as of the very fundamentals of international law. This excessive extension of the territorial jurisdiction of the United States is contrary to the principle of national sovereignty and to that of non-intervention in the internal choices of foreign states -as recognized in the jurisprudence of the International Court of Justice. The embargo opposes the Cuban people's rights to self-

determination and to development. It also forcefully contradicts the freedom of trade, navigation, and movement of capital -all of which the United States paradoxically advocates everywhere else in the world. This embargo is moreover illegitimate and immoral because it attacks the social benefits realized by Cuba in recent years and imperils their success -recognized by many independent international observers (in particular those of the WHO, UNESCO, UNICEF, and many other non-governmental organizations). These successes include the public systems of education, research, health, and culture. Furthermore, the threat that this coercive operation poses for U.S. nationals and foreigners extends the practical impact of the embargo to areas completely or partially excluded from the statutes, such as food, medicines or medical equipment, and the exchange of scientific information.

Economic Harms of the Embargo

According to Cuba's Report to the United Nations Secretary-General on the U.N.'s General Assembly Resolution 56/9 (2002), the direct economic damages to Cuba's economy, caused by the U.S. embargo since its institution, would exceed seventy billion dollars. The damages include:

- (1) the loss of earnings due to the obstacles to the development of services and export (tourism, air transport, sugar, nickel);
- (2) losses registered as a result of the geographic reorientation of the commercial flows (additional costs of freight, stocking, marketing, and purchasing of the commodities);
- (3) the limits imposed on the growth of the national production of goods and services (due to limited access to technologies, lack of access to spare parts and hence early retirement of equipment, forced restructuring of firms, and serious difficulties sustained by the sectors of sugar, electricity, transportation, and agriculture);
- (4) monetary and financial restrictions (the impossibility of renegotiating the external debt, interdiction of access to the U.S. dollar, unfavourable impact of the variation of exchange rates on trade, risk-country rating, and

additional costs of financing due to U.S. opposition to the integration of Cuba into the international financial institutions);

(5) the pernicious effects of the incentive to emigration, including illegal emigration (the loss of human resources and talents generated by the Cuban educational system); and

(6) social damages affecting the population (concerning food, health, education, culture, and sports).

In addition to negatively affecting all these sectors, the embargo directly impedes - aside from export - the driving forces of the Cuban economic recovery, the strongest of which are tourism, foreign direct investments (FDI), and currency transfers.

Many European subsidiaries of U.S. firms have recently broken off negotiations for the management of hotels because their lawyers anticipated that the contracts would be sanctioned under the provisions of the Helms-Burton law. In addition, the purchase by U.S. groups of European cruise lines, which moored their vessels in Cuba, was cancelled in 2002-2003. The obstacles imposed by the United States, in violation of the Chicago Convention on International Civil Aviation, on the sale or the rental of planes, to the supply of kerosene and to access to new technologies (such as e-reservations and radio location), will lead to a loss of \$150 million in 2003.

The impact on FDI is also very unfavourable. The institutes that promote FDI in Cuba received proposals for more than five hundred projects in cooperation with U.S. companies, but none of them could be realized - not even in the pharmaceutical and biotechnological industry, where Cuba has a very attractive potential.

Transfers of currency from the United States are limited to less than US\$100 a month per family, and some European banks have had to reduce their commitments under pressure from the United States, that let them know indemnities would be required if loans were maintained. In Cuba, the embargo penalizes the activities of a range of sectors throughout the economy: banking and

finance, insurance, petroleum, chemical products, construction, infrastructures and transportation, shipyards, agriculture and fishing, electronics and computing, as well as the export sectors where U.S. owned enterprises prevailed before 1959, such as sugar, whose recovery is impeded by its exclusion from the international commodities exchange in New York.

Social Harms of the Embargo

The U.S. government's announcements intimating that it would favour the relaxation of the restrictions concerning foodstuffs and medicines are not credible and cannot obscure the fact that Cuba has been the victim of a de facto embargo in these areas. The reduction of the availability of these types of goods exacerbates the privation of the population and constantly threatens its dietary security, its nutritional stability, and its health. A humanitarian tragedy -which seems to be the implicit objective of the embargo -has been avoided only thanks to the will of the Cuban state to maintain at all costs the pillars of its social model, which guarantees to everyone, among other things, staple foods at modest prices and the free provision of food in nurseries, schools, hospitals, and homes for the elderly. That is the reaffirmation of the priority given by the authorities to human development, which explains the established excellence of the statistical indicators of Cuba concerning health, education, research, and culture, and this despite the extremely limited budgets and the numerous problems resulting from the disappearance of the Soviet bloc.

However, the continuation of the social progress in Cuba is impaired by the effective extension of the embargo. According to the American Association of World Health, the pressures exerted by the U.S. State Department and Department of Commerce on the suppliers of Cuba have affected the availability of a wide range of goods necessary for healthcare (including medicines destined to pregnant women, laboratory products, radiology equipment, operating tables and surgical equipment, anaesthetics, defibrillators, artificial breathing apparatuses, dialysis apparatuses, and pharmaceutical stocks) and went as far as to prevent the free supply of food for newborns and equipment for paediatric intensive care units. Cuba's capacity to produce vaccines it has developed is hampered by the frequent lack of spare parts and essential components that have to be imported, as well as water treatment centres. This embargo inflicts an unjustified suffering of the Cuban

people. The resulting shortages of many medicines not produced in Cuba complicate the immediate and complete implementation of treatment protocols for breast cancer, leukaemia, cardiovascular and kidney diseases, as well as treatment of HIV. Moreover, the U.S. authority's infringements on individual freedom of movement and scientific knowledge -restrictions on travel of U.S. researchers, the disrespect of bilateral agreements on Cuban researcher's visas, refusals to grant software licenses or to satisfy the orders from Cuban libraries for books, reviews, or electronic media of specialized scientific literature - have in fact extended the embargo to areas formally excluded from it by law. One of the most potentially fruitful opportunities to develop humanitarian cooperation on a basis of solidarity between nations is therefore blocked.

The embargo is also in contradiction with the principles of the promotion and protection of human rights, which the people of the United States desire for themselves and for the rest of the world.

For all these reasons, this unacceptable embargo has to cease immediately.

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