

**WRITTEN DECLARATION BY CETIM FOR THE 23RD SESSION
OF THE HUMAN RIGHTS COUNCIL**

**FOR THE IMMEDIATE AND UNCONDITIONAL LIFTING OF THE EMBARGO
AGAINST CUBA¹**

1. For over twenty years, the US embargo against Cuba has been condemned by an ever larger, and now overwhelming, majority of Member States of the United Nations General Assembly. In spite of the United Nations' repeated injunctions,² and in spite of accession to power of President Barack Obama, the embargo continues to be imposed by the isolated but stubborn will of the US government. In the 21st vote of the General Assembly in 2012, 188 of 193 States declared the necessity to lift the blockade against Cuba³.

Extraterritorial application of US laws

2. Imposed in February 1962, the US embargo was reinforced in July 1963 and May 1964. It was very slightly relaxed through the migration agreements in the 1970s and through a degree of tolerance of exceptions to the ban on the export of US produced food (1998). It was then tightened up in October 1992 by the *Cuban Democracy Act*. This act, known as the Torricelli act, aimed to curb the development of the Cuban economy's new driving forces at the beginning of the "special period" by preventing the inflow of funds and goods, through i) strict limitation of currency transfers by families in exile, ii) a ban on entry into US ports of any ship that had anchored in a Cuban port ii) sanctions against companies doing business with Cuba, even when under the jurisdiction of a third party state. The embargo was further tightened by the *Cuban Liberty and Democratic Solidarity Act* ("Helms-Burton law") of March 1996, which aimed to harden "international" sanctions against Cuba. Although slightly relaxed during Obama's first term of office, (in March/April 2009, US citizens of Cuban origin were allowed to visit the island and to transfer funds up to a certain limit provided these were not destined for bank accounts of members of the communist party or popular movements), the major provisions of the embargo remain in force.

The harmful economic effects of the embargo

3. Official Cuban sources estimate the direct economic damage inflicted on Cuba by the US embargo since it began at more than 104 billion dollars⁴. While the embargo damages all Cuban economic sectors, above all, and aside from the negative effects on exports, it impedes the current driving forces of the economy, first of which is tourism, foreign direct investment and to a certain extent as well, currency transfers. For example, institutes for the promotion of these investments in Cuba have received proposals for cooperation from US groups, not one of which has so far been able to be taken forward – not even in the pharmaceutical and biotechnology industry where Cuba offers strong attractive potential (for example, the country holds more than 600 patents in the biotechnology sector⁵).

¹ This declaration was written in collaboration with Rémy Herrera, researcher at CNRS, Paris.

² See among others, Resolutions 47/19 of 24 November 1992, 56/9 of 27 November 2001 and 67/4 of 13 November 2012 of the UN General Assembly.

³ Over the last ten years, two of four countries voted against, while between one and three countries abstained. The countries concerned were: USA, Israel, Federation of Micronesia, Marshall Islands and Palau.

⁴ Cf. Rapport du Secrétaire général de l'ONU, A/67/181, p. 7, du 25 juillet 2012.

⁵ Cf. R. Herrera, « Tourisme et développement dans les Caraïbes », *Mondes en développement*, vol. 40, n° 157, 47-66, 2012, Bruxelles.

4. In Cuba, the embargo penalizes activities in the following sectors: banking and finance, insurance, petroleum and chemical industries, construction, infrastructure and transport, shipbuilding, agriculture and fishing, electronics and information technology. With regard to exports, dynamism in this sector, in products such as nickel, tobacco, fishery products, sugar, or is hampered by lack of access to international markets.⁶

The negative social effects of the embargo

5. The relaxing of restrictions relating to food products and medicines by the US government have remained sporadic and in no way alter the fact that in practice Cuba is the victim of a *de facto* embargo in these areas. The decreased availability of these kinds of products exacerbates the population's hardship and represents a permanent threat to their food security, nutritional balance and health status. It has to be acknowledged that a humanitarian disaster – which appears to be the implicit aim of this embargo – has only been avoided by the Cuban state's determination to maintain, as whatever cost, the pillars of its social model, which guarantees to all, despite real shortages, basic food supplies at modest prices, free meals in crèches, schools, hospitals, old people's homes... It is a reaffirmation of the priority accorded by the government to human development and it explains the excellent health and education statistical indicators in Cuba – despite extremely limited budgetary resources and multiple problems. However, the pursuit of social progress in Cuba is threatened by the reality of the continuing embargo.

6. Pressure is exerted by the US Department of State and the Treasury on foreign suppliers to Cuba. These pressures relate to the whole range of supplies for the health sector (medicines for pregnant women, radiological and laboratory supplies and equipment, operation tables, surgical and anesthetic equipment, artificial respirators, dialysis equipment, defibrillators, diverse pharmaceutical products...) and it goes as far as preventing supplies of infant food and equipment for pediatric intensive care units.⁷ Production capacities for vaccines developed in Cuba, are hampered by frequent lack of spare parts and essential imported components, as well as water treatment centers. Shortages of medicines that are not produced in Cuba complicate the prompt and complete implementation of treatment protocols for breast cancer, leukemia, cardiovascular and renal disease, or AIDS, for example. Furthermore, US attacks on the free movement of scientific personnel and knowledge has resulted, in practice, in the inclusion in the embargo of whole domains that are formally excluded by the law. In this way, even the most promising opportunities for development cooperation with other countries, on a firm foundation of solidarity, are blocked.⁸

7. Finally the embargo contradicts the principles of promotion and protection of human rights to which the people of the USA and the rest of the world aspire. And how will the damage to the people of the United States themselves, caused by the cruel and shameful measures of Abraham Lincoln's heirs ever be forgotten? One example suffices: in 1985, thanks to research directed by Dr Campa's team, the laboratories of the Finlay Institute in Havana, discovered the first effective vaccine against meningitis B. In 1989, after the results were verified by a group of foreign experts (including US Americans) a vaccination campaign of the population aged 3 months to 24 years was launched in the whole country. Since then, millions of doses

⁶ R. Herrera, « Where is the Cuban Economy Heading? », *International Journal of Political Economy*, vol. 34, n° 4, pp. 3-11, New York, 2005.

⁷ See: American Association of World Health (1997), *The Impact of the US Embargo on Health and Nutrition in Cuba*, The Association, Washington D.C.

⁸ R. Herrera, « Cuba : Résistance, mode d'emploi », *Afrique Asie*, janvier 2007, Paris.

have been administered in Latin America, notably in Brazil – where they were sent free of charge when the embargo forbade the signing of any contracts. Fifteen or so countries (from Russia to South Korea) used it during renewed outbreaks of the epidemic. This vaccine was awarded the gold medal of the Intellectual Property Organization in 1993 and was patented (*Va-MenGOC-BC®*). Its commercialization was foreseen by a foreign company but over a period of two years, negotiations with the Anglo-American company Smith-Kline-Beecham were impeded by the Treasury. In this space of time, more than 500 people, mainly children, died in the USA as a consequence of meningitis of the meningococcal B group. The intervention of prominent scientists, politicians and honest citizens in the USA, exerting the required pressure to obtain authorization for importation, was finally accepted “for health reasons in the interests of the USA”. Thus and for the first time, a vaccine discovered and developed in a country of the South was administered in a country of the North.⁹

An inhuman and intolerable embargo

8. The normative content of this embargo – especially the extraterritorial nature of its rules, which means to impose unilateral US sanctions on the international community, or the denial of the right to nationalization, through the legal concept of « *traffic* » is a violation of the letter and spirit of the United Nations Charter. The embargo is also a violation of international humanitarian rights and international human rights. It violates the principle of sovereignty of States, upheld by jurisprudence of the International Court of Justice to freely choose their political, economic, social and cultural system.¹⁰ It is also an intolerable violation of the right of the Cuban people to self determination, given that the embargo deprives them of their own means of subsistence and economic and social development.

9. Furthermore, the embargo directly contradicts freedom of trade, navigation and movement of capital, a right that the USA claims everywhere else in the world.

10. To crown it all and paradoxically, by maintaining the threat of sanctions by its Office of Foreign Assets Control (OFAC), the US government puts its European partners in a very uncomfortable situation of permanent submission to its overwhelming power, sacrificing the interests of their own businesses, while it appropriates arbitrarily, and for itself alone, the right to lift the ban on export of US goods to Cuba on a case by case basis – notably in the area of agricultural and pharmaceutical products. It is understandable that this situation is intolerable from the point of view of the interests of European companies and of those employees whose salaries depend on their activities.

11. The US embargo against Cuba is illegal, illegitimate and inhuman. The measures of constraint listed above constitute *an undeclared act of war* by the US against Cuba, the social and economic effects of which prevent the full enjoyment of the human rights of the Cuban people. They clearly aim to cause maximum suffering and to harm the physical and moral integrity of an entire population, especially the most vulnerable (amongst whom children and old people). In this respect, they may constitute *a crime against humanity*.¹¹ It is for this rea-

⁹ See: R. Herrera (dir.), *Cuba révolutionnaire – Économie et planification*, L'Harmattan, 2006, Paris.

¹⁰ See for example: « Case concerning the military and paramilitary activities in and against Nicaragua » (Nicaragua v. United States of America), Judgment of 27 June 1986.

¹¹ The expression used by Ramsey Clark, former US Attorney General, at the commemoration of the 50th anniversary of the Universal Declaration of Human Rights, http://fr.wikipedia.org/wiki/Embargo_des_%C3%89tats-Unis_contre_Cuba.

son and for all those mentioned above, that we demand the immediate and unconditional cessation of this intolerable embargo.

12. Given the proliferation of unilateral coercive measures in flagrant violation of international law in force, a l'instar of the case presented in this declaration, we urge the Human Rights Council to create a new mechanism of special procedures (Special Rapporteur or Working Group) with the mandate to investigate the impact of the unilateral, coercive measures affecting the enjoyment of human rights and to propose measures, including compensation to the victims, to put an end to this kind of practice.
