



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/Sub.2/2003/NGO/38
17 July 2003

ENGLISH, FRENCH AND
SPANISH ONLY

COMMISSION ON HUMAN RIGHTS
Sub-Commission on the Promotion
and Protection of Human Rights
Fifty-fifth session
Item 4 of the provisional agenda

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Written statement* submitted by Europe-Third World Centre (CETIM),
a non-governmental organisations in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 July 2003]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

The effects of the US embargo against Cuba and the reasons of the urgent need to lift it

1. The US embargo against Cuba is condemned by an ever larger and by now overwhelming majority of states members of the United Nations General Assembly. However, it continues to be imposed by the US government's isolated but stubborn will, in spite of the United Nations repeated injunctions, notably its resolution 56/9 of the 7th of November 2001. The purpose of this expose is to denounce this embargo in the strongest terms for the violation of law it represents, and for its total lack of legitimacy. These measures of arbitrary constraint are tantamount to a US undeclared act of war against Cuba; their devastating economic and social effects deny the people to exercise their basic human rights, and are unbearable for them. They directly subject the people to the maximum of suffering and infringe upon the physical and moral integrity of the whole population, and in the first place of the children, of the elderly and of women. In this respect, they can be seen as a *crime against humanity*¹.

The votes of the United Nations General Assembly on the "*necessity to lift the blockade against Cuba*"

	<i>For</i>	<i>Against</i>	<i>Countries against the embargo lifting</i>
1992	59	2	USA, Israel
1993	88	4	USA, Israel, Albania, Paraguay
1994	101	2	USA, Israel
1995	117	3	USA, Israel, Uzbekistan
1996	138	3	USA, Israel, Uzbekistan
1997	143	3	USA, Israel, Uzbekistan
1998	157	2	USA, Israel
1999	155	2	USA, Israel
2000	167	3	USA, Israel, Marshall Islands
2001	167	3	USA, Israel, Marshall Islands
2002	173	3	USA, Israel, Marshall Islands

Note : in 2002, four countries abstained from voting : Ethiopia, Nicaragua, Malawi, Uzbekistan.

2. Imposed since 1962, the US embargo has been 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 the by hitting the inflow of funds and goods by i) the strict limitations of the transfers of foreign currencies by the families in exile, ii) the six-months ban to enter US harbours of all ships that had anchored in a Cuban port, iii) sanctions against firms doing commerce with the island even though under the

¹ About the historical context see: Herrera, R. (dir.) (2003), *Cuba révolutionnaire*, L'Harmattan, FTM, Paris.

jurisdiction of a third state. The embargo was systematized by the *Cuban Liberty and Democracy Solidarity Act* ("*Helms Burton Law*") of March 1996, aimed to harden the "international" sanctions against Cuba. Its Title I generalizes the ban to import 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 enterprising, Title II fixes the modalities of a transition to a "*post-Castro*" power, as well as the nature of the relationship to have with the United States. Title III grants the US tribunals the right to judge demands for damage and interest made by a civil and moral person of US nationality that considers having been injured by the loss of property in Cuba due to nationalization, and claims compensation from the users or beneficiaries of this property. At the request of the old owners, any national (and family) of a third state, having made transactions with these users or beneficiaries, can be sued in the United States. The sanctions incurred are set out in Title IV, which provides, *inter alia*, the refusal of the State Department to give US entrance visas to these individuals and their families.

3. The normative content of this embargo - specially the *extraterritoriality* of its rules, which intend to impose on the international community unilateral sanctions by the United States, or the denial of the right of nationalization, through the concept of "*traffic*" - is a violation of the spirit and letter of the United Nations Charter and of the Organization of American States, and 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 a foreign states - as recognized in the jurisprudence of the International Court of Justice. It is opposed to the Cuban people's rights to auto-determination and to development. It also contradicts strongly the freedom of trade, navigation, and movement of capital, all that the United States paradoxically claims everywhere else in the world. This embargo is moreover illegitimate and immoral because it attacks the social benefits realized by Cuba since years and imperils their successes - recognized by many international independent observers (in particular those of the WHO, UNESCO, UNICEF and many NGO). They are its public systems of education, research, health or culture, in plain exercise of human rights. Furthermore, the threat that this coercive operation poses for US nationals and for foreigners extends the practical impact of the embargo to domains completely or partially excluded from the texts, such as food, medicines or medical equipment and exchanges of scientific information.

The harmful economic effects of the embargo

4. From an official Cuban source², the direct economic damages caused to Cuba by the US embargo since its institution would exceed 70 billion dollars. The damages include: i) the loss of earnings due to the obstacles to the development of services and exportations

² Cuba's Report to the United Nations Secretary-General on the UN's General Assembly Resolution 56/9 (November 2002), "The necessity to lift the blockade applied on Cuba".

(tourism, air transport, sugar, nickel; ii) the losses registered as a result of the geographic reorientation of the commercial flows, (additional costs of freight, stocking and commercialization at the purchasing of the goods...); iii) the impact of the limitation imposed on the growth of the national production of goods and services (limited access to technologies, lack of access to spare parts and hence early retirement of equipment, forced restructuring of firms, serious difficulties sustained by the sectors of sugar, electricity, transportation, agriculture...); iv) the monetary and financial restrictions (impossibility to renegotiate the external debt, interdiction of access to the dollar, unfavourable impact of the variation of the exchange rates on trade, "risk-country", additional cost of financing due to US opposition to the integration of Cuba into the international financial institutions...); v) the pernicious effects of the incentive to emigration, including illegal emigration (loss of human resources and talents generated by the Cuban educational system...); vi) social damages affecting the population (concerning food, health, education, culture, sport...).

5. If it affects negatively all the sectors³, the embargo directly impedes - besides the exportations - the driving forces of the Cuban economic recovery, at the top of which are tourism, foreign direct investments (FDI) and currency transfers. Many European subsidiaries of US firms had recently to break 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 buy-out by US groups of European cruising societies, which moored their vessels in Cuba, cancelled the projects in 2002-03. The obstacles imposed by the United States, in violation of the Chicago Convention on civil aviation, to the sale or the rental of planes, to the supply of kerosene and to access to new technologies (e-reservation, radio-localization), will lead to a loss of 150 million dollars in 2003. The impact on the FDI is also very unfavourable. The institutes of promotion of FDI in Cuba received more than 500 projects of cooperation from US companies, but none of them could be realized - not even in the pharmaceutical and biotechnological industry, where Cuba has a very attractive potential. The transfer of currencies from the United States is limited (less than 100 dollars a month per family) and some European banks had to restrain their commitment under the pressure of the US which let them know that indemnities would be required if the credits were maintained. In Cuba, the embargo penalizes the activities of the bank and finance, insurance, petrol, chemical products, construction, infrastructures and transports, shipyard, agriculture and fishing, electronics and computing..., but also for the export sectors (where the US property prevailed before 1959), such as those of sugar, whose recovery is impeded by the interdiction of access to the first international stock exchange of raw materials (New York), of nickel, tobacco, rum.

The harmful social effects of the embargo

6. The US government's announcements intimating that it would be favourable to the

³ Herrera, R. "Une Résistance en Amérique Latine, Recherches internationales (Paris, will be published in September 2003).

relaxation of the restrictions concerning foodstuffs and medicines went unheeded and cannot hide that Cuba has been the victim of a *de facto* embargo in these domains. 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 others, a staple food for a modest price and a free consumption in the crèches, schools, hospitals, and homes for the elderly. That is the reaffirmation of the priority given by the authorities to the human development, which explains the established excellence of the statistical indicators of Cuba concerning health, education, research, culture... and this despite the extremely limited budgetary resources 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.

7. The pressures exerted by the US Departments of State and Trade on the suppliers of Cuba have concerned a wide range of goods necessary for the health sector (medicines destined for pregnant women, laboratory products, radiology equipment, operating tables and surgery equipment, anaesthetics, defibrillators, artificial breathing apparatuses, dialysis apparatuses, pharmaceutical stocks...) and went as far as to prevent the free supply of food for new-born babies and of equipment for unities of paediatric intensive care⁴. The production capacities of vaccines conceived by Cuba are hampered by the frequent lack of spare parts and of essential components that have to be imported, as well as water treatment centres. This embargo provokes today an unjustified suffering of the Cuban people. The shortages affecting many medicines, which are not produced in Cuba, complicate the immediate and complete implementation of the procedures of treatment of breast cancer, leukaemia, cardiovascular or kidney diseases, and HIV for example. Moreover, the US authority's infringements on individual freedom of movement and scientific knowledge... (restrictions on travel of US researchers, the disrespect of bilateral agreements on Cuban researcher's visas, refusal to grant software licences or to satisfy the orders from Cuban libraries of books, magazines, diskettes or CD-Rom of specialized scientific literature...) have in fact led to the extension of the embargo to areas formally excluded from it by the law. One of the most fruitful opportunities to develop cooperation between nations on a solidary and humanist basis is therefore blocked.

8. The embargo is also in contradiction with the principles of the promotion and protection of human rights, which are desired by the US people for themselves and for the rest of the world.

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

4 American Association of World Health (1997), *The Impact of the US Embargo on Health and Nutrition in Cuba*, The Association, Washington.

5 *Commentary for the Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights* subsection d. at p. 18, last edited April 11, 2003.

6 *Id.* at subsection d.

7 *Id.* at subsections a.-i. on pp. 20-21.

8 Mary Robinson, *The Ways a 'Business Leaders Initiative on Human Rights' Might Add Value*, May 7, 2003 (Brussels, Belgium).

9 Principles 1 and 2 of UN Global Compact available at

[http://www.unglobalcompact.org/content/AbouttheGC/The Nine Principles/prin1 & prin 2. htm](http://www.unglobalcompact.org/content/AbouttheGC/TheNinePrinciples/prin1&prin2.htm).

10 See OECD Watch, Review of National Contact Points: June 2002-June 2003 available at

[http://208.55.15.210/OECD-Watch-June 2003.htm](http://208.55.15.210/OECD-Watch-June-2003.htm), Oliver Williams, *Major US Companies doubt Global Compact credentials*, Business Day, April 22, 2003 available at <http://www.bdfm.co.za/cgi-bin/pp-print.pl>, and CALIFORNIA GLOBAL CORPORATE ACCOUNTABILITY PROJECT, BEYOND GOOD DEEDS: CASE STUDIES AND A NEW POLICY AGENDA FOR CORPORATE ACCOUNTABILITY 5-7 (2002).

11 BEYOND GOOD DEEDS: CASE STUDIES AND A NEW POLICY AGENDA FOR CORPORATE ACCOUNTABILITY at pp. 23-44.

12 Juan Forero, *Rights Groups Overseas Fight U.S. Concerns in U.S. Court*, N.Y. TIMES, June 26, 2003, at A3.

13 *Id.*

14 *Id.*

15 *Id.*