

# **THE US EMBARGO AGAINST CUBA**

ITS IMPACT ON ECONOMIC  
AND SOCIAL RIGHTS

**AMNESTY  
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# INTRODUCTION

**“The embargo on Cuba is the most comprehensive set of US sanctions on any country, including the other countries designated by the US government to be state sponsors of terrorism”.**

United States Government Accountability Office<sup>1</sup>

For nearly half a century, the USA has unilaterally imposed an economic, commercial, and financial embargo against Cuba. The severity and the scope of the sanctions have varied, depending on political developments in Cuba, the USA and the rest of the world.

The continuous imposition of the embargo has provoked frequent and intense debates in international forums. The UN General Assembly has repeatedly condemned the US embargo as contrary to the Charter of the United Nations and international law. On 29 October 2008 the UN General Assembly passed a resolution reiterating for the 17th time its call on the USA to end its embargo against Cuba.<sup>2</sup> That resolution was adopted with 185 votes in favour, three against and two abstentions.<sup>3</sup> The Inter-American Commission on Human Rights has also reiterated its position regarding “the impact of such sanctions on the human rights of the Cuban people and, therefore, insists that the embargo be lifted.”<sup>4</sup>

The international community has denounced the US embargo because it violates international law, and on moral, political and economic grounds. Since Barack Obama took office as President of the USA in January 2009, there has been an intense debate and numerous calls at the national and international level for lifting the US embargo against Cuba. Unfortunately, within this debate there is hardly any mention of the negative impact of the embargo on the human rights of Cubans.

This document reiterates previous Amnesty International recommendations calling for the lifting of the US embargo.<sup>5</sup> The organization bases its recommendations on the negative impact of the embargo on the economic and social rights of the Cuban population, affecting in particular the most vulnerable sectors of society. The document highlights the detrimental impact of the US embargo on the efforts by UN agencies and programmes supporting the Cuban government in the progressive realization of economic and social rights. In this report, Amnesty International focuses on the right to health by highlighting how the trade and financial sanctions affect the provision of health care in Cuba.<sup>6</sup> The restrictions imposed on

trade and financing, with their extra-territorial aspects, severely limit Cuba's capacity to import medicines, medical equipment and the latest technologies, some of which are essential for treating life-threatening diseases and maintaining Cuba's public health programmes.

Amnesty International has been unable to document at first hand the effects of the embargo on the enjoyment of these rights due to the organization's lack of access to Cuba.<sup>7</sup> The information in this report is based mostly on reports from UN agencies and programmes operating in Cuba, included in the reports of the UN Secretary-General that have been submitted to the UN General Assembly on a yearly basis since 1994. Reports on the human rights situation in Cuba from other UN sources, the Inter-American Commission on Human Rights, development agencies working in Cuba and human rights organizations have also been considered in order to assess the impact of the embargo on the economic and social rights of Cubans.

The imposition of the embargo does not exempt the Cuban government from its obligations to respect, protect and fulfil the human rights of all Cubans. While the embargo affects the Cuban government's capacity to progressively realize some economic, social and cultural rights, the government must provide the greatest protection of these rights as far as available resources allow. In doing so, it must not discriminate on any grounds and it must prioritize the most vulnerable members of society.

The embargo legislation contains provisions for "democracy building" in Cuba which include the allocation of significant amounts of aid and support for Cuban NGOs and individuals opposing the government. The strengthening of the embargo with the Helms-Burton Act in 1996 prompted the Cuban authorities to respond with harsh legislation which has ultimately been used to condemn prisoners of conscience to long prison terms. The Cuban authorities portray non-violent political dissidents and human rights activists as foreign sympathizers supporting US policy against Cuba. The embargo has helped to undermine the enjoyment of key civil and political rights in Cuba by fuelling a climate in which fundamental rights such as freedom of association, expression and assembly are routinely denied.

Although the Cuban government is primarily responsible for respecting, protecting and fulfilling human rights in Cuba, there is growing international recognition that in imposing sanctions, such as trade embargoes, states must take into account the effects that these sanctions may have on the enjoyment of economic, social and cultural rights in the country affected.<sup>8</sup> Amnesty International believes that the impact of the embargo on the human rights of Cubans has received insufficient attention from the US government.

There is no formal mechanism within the US government to monitor the impact of the embargo on economic and social rights in Cuba. Every year since 1999, the US Department of State has published reports on the human rights situation in most countries. These reports are largely limited to the civil, political and labour rights recognized under the Universal Declaration of Human Rights (UDHR) but do not monitor the enjoyment of economic, social and cultural rights in Cuba – also recognized under the UDHR and a number of other human rights instruments – and the impact the US embargo has on their realization.

# PROVISIONS AND SCOPE OF THE EMBARGO

The USA imposed the first economic sanctions against Cuba in 1960 by completely stopping sugar cane imports from Cuba. This was in response to Cuba's nationalization of foreign property and businesses, the majority owned by US nationals.<sup>9</sup> Since then, the US government has consolidated and extended the scope of the sanctions against Cuba. The original trade embargo has broadened into a more comprehensive set of economic, financial and commercial sanctions which rest principally on the following statutes and regulations:

- Trading With the Enemy Act of 1917, section 5(b);
- Foreign Assistance Act of 1961, section 620(a);
- Cuba Assets Control Regulations of 1963;
- Cuban Democracy Act of 1992, also known as the Torricelli Act;
- Cuban Liberty and Democratic Solidarity (Libertad) Act of 1996, (Helms-Burton Act);
- The Trade Sanctions Reform and Export Enhancement Act of 2000.

## TRADING WITH THE ENEMY ACT OF 1917

The Trading with the Enemy Act (TWEA) gave the President of the USA the authority to impose economic sanctions against foreign nations by prohibiting, limiting or regulating trade and financial transactions with hostile countries in times of war. In 1933, the US Congress amended section 5(b) of the Act, granting the President authority to impose comprehensive embargoes against foreign countries during "the time of war or during any other period of national emergency declared by the President".<sup>10</sup> Based on the provision of "national emergency", President Dwight D. Eisenhower suspended trade with Cuba, a few days after his administration broke diplomatic relations with the country on 3 January 1961.

The TWEA prohibits any type of trade or financial transaction, including those related to travel, transportation or business, in times of war or when a national emergency has been declared in relation to a specific country. In practice, these prohibitions impose a ban on among other things, travel to and from Cuba, commerce and remittances.

In 1977, Congress again amended the TWEA by limiting the President's powers to impose sanctions the Act provides for during time of war only.<sup>11</sup> However, Congress permitted the temporary continuation of presidential authority to maintain economic sanctions on countries as a result of a "national emergency" declared by the President before 1 July 1977. In addition, the President may "extend the exercise of such authorities for one-year periods

upon a determination for each such extension that the exercise of such authorities with respect to such country for another year is in the national interest of the United States.”<sup>12</sup>

Since 1978, all US presidents issued memorandums or presidential determinations extending under the TWEA, for one year at a time, the situation of “national emergency” with respect to Cuba on the grounds that it is “in the national interest of the United States”.<sup>13</sup> In September 2008, President George W. Bush issued a determination “continu[ing] for 1 year, until September 14, 2009, the exercise of those authorities with respect to Cuba as implemented by the Cuban Assets Control Regulations, 31 C.F.R. Part 515.”<sup>14</sup>

Cuba is the only country that faces economic and trade sanctions from the USA under the provisions of the TWEA.<sup>15</sup> In September 2009, President Barack Obama faces the option of issuing a determination that would continue the “national emergency” for another year under the TWEA with respect to Cuba or simply letting it expire.

### **THE 1961 FOREIGN ASSISTANCE ACT, SECTION 620(A)**

In 1961, the US Congress approved the Foreign Assistance Act, which forbids any assistance to all communist countries, including Cuba, and to any other country which gave assistance to Cuba. It also authorizes the US President to “establish and maintain a total embargo upon all trade between the United States and Cuba”.<sup>16</sup>

On 3 February 1962, acting under the authority of the Foreign Assistance Act, President John F. Kennedy suspended all trade with Cuba. He imposed, by Presidential Proclamation 3447, an embargo on all trade with Cuba, prohibiting the “importation into the United States of all goods of Cuban origin and goods imported from or through Cuba” and “all exports from the United States to Cuba”.<sup>17</sup> President Kennedy directed the Secretary of the Treasury to implement the prohibition of all imports from Cuba and the Secretary of Commerce to impose the embargo on all exports to Cuba. The proclamation does not contain time limits or conditions for the lifting of the embargo and is still in effect, although since then the embargo has been written into law and expanded by regulations and new legislation (see below).

### **THE 1963 CUBAN ASSETS CONTROLS REGULATIONS**

In 1963, the US government issued the Cuban Assets Controls Regulations (CACR) under section 5(b) of the Trading With the Enemy Act of 1917. The stated goal of the sanctions is to “isolate the Cuban government economically and deprive it of U.S. dollars.”<sup>18</sup> The sanctions froze all Cuban assets in the USA and mandated the US Treasury Department to regulate all commercial transactions with Cuba, including authorized travel to Cuba by US nationals.<sup>19</sup> Although the regulations do not ban travel itself, freedom of movement between the USA and Cuba has been limited because all transactions related to travel to Cuba are restricted. These include, for example, food, hotel accommodation, transportation, items for personal use by travellers, and the sale of aeroplane tickets in the USA. The CACR has been modified over the last four decades; travel restrictions were eased under the presidency of

Jimmy Carter and then tightened again under the presidency of George W. Bush.

Furthermore, the CACR prohibited the direct or indirect export of US products, services and technology to Cuba.

The Treasury's Department Office of Foreign Assets Control still remains in charge of interpreting and implementing the provisions of the embargo through a set of regulations. The CACR also provides for criminal penalties for violation of the sanctions, ranging up to 10 years in prison, corporate fines of up to US\$1 million and individual fines of up to US\$250,000. Civil penalties of up to US\$55,000 can also be imposed.<sup>20</sup>

### **THE 1992 CUBAN DEMOCRACY ACT (TORRICELLI ACT)**

In 1992, President George H. Bush signed the Cuban Democracy Act (the Torricelli Act) into law, forbidding subsidiaries of US companies from trading with Cuba, US nationals from travelling to Cuba and remittances being sent to the country. One of the stated goals of the Cuban Democracy Act (CDA) was to "seek a peaceful transition to democracy and a resumption of economic growth in Cuba through the careful application of sanctions directed at the Castro government and support for the Cuban people".<sup>21</sup>

The CDA seeks to "encourage the governments of other countries that conduct trade with Cuba to restrict their trade and credit relations."<sup>22</sup> It also tries to limit international co-operation towards Cuba by imposing "sanctions on any country that provides assistance to Cuba", including ending US assistance for those countries and by disqualifying them from benefiting from any programme of reduction or forgiveness of debt owed to the USA.

The CDA states that exports of medicines and medical supplies, equipment and instruments shall not be restricted. However, these products may be exported to Cuba, from the USA or US subsidiaries based in another country "only if the President determines that the United States Government is able to verify, by onsite inspections and other appropriate means, that the exported item is to be used for the purposes for which it was intended and only for the use and benefit of the Cuban people."<sup>23</sup> This requirement does not apply to donations of medicines for humanitarian purposes to NGOs in Cuba. However, by imposing on-site verifications, the CDA makes the export of medicines and medical supplies to Cuba virtually impossible. According to the US Department of Commerce, "under the CDA, the on-site monitoring requirement applies to all sales, and also applies to all donations of medical equipment, instruments and supplies. Monitoring also applies to donations of medicines except to nongovernmental organizations for humanitarian purposes."<sup>24</sup> In addition, a special licence must be obtained from the US government prior to the export of any of these goods and "export license applications for most goods are subject to a policy of denial, although some specific goods are subject to case-by-case review".<sup>25</sup> The government of the USA was certainly not able to carry out the on-site inspections and therefore the burden fell on the exporters, making them subject to severe sanctions as included in the CACR if the procedures were not followed (see above).

The tightening of the embargo through the CDA provides for humanitarian assistance by allowing the donation from individuals or US NGOs of medicines to Cuban NGOs only for

humanitarian purposes. However, the CDA places conditions that food, medicine and medical supplies for humanitarian purposes can only be made available to Cuba when the government of Cuba has changed through free and fair elections.<sup>26</sup>

The CDA made it impossible for foreign subsidiaries of US companies to trade with Cuba. Other provisions of the CDA include a 180-day prohibition from loading or unloading in US territory of any vessel that had entered Cuba to trade goods or services. In an attempt to restrict the government of Cuba from gaining access to US currency, the CDA limited remittances to Cuba only to finance the travel of Cubans to the USA.

### **THE 1996 CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY (LIBERTAD) ACT (HELMS-BURTON ACT)**

In 1996, the US Congress approved new legislation aiming at strengthening the enforcement of the US embargo against Cuba. In March 1996, President Bill Clinton signed into law the Cuban Liberty and Democratic Solidarity (Libertad) Act, most commonly known as the Helms-Burton Act. This act further wrote into law the sanctions against Cuba. In particular, it sought to “strengthen international sanctions against the Castro government”, and to “plan for support of a transition government leading to a democratically elected government in Cuba.”<sup>27</sup>

The Helms-Burton Act is divided into four titles. Title I: “Strengthening international sanctions against the Castro government” aims, among other things, at cutting Cuba’s economic assistance and trading relationships with third countries, and opposing Cuba’s membership in international financial institutions by instructing US executive directors in each institution to oppose the admission of Cuba as a member. In fact, Cuba is barred from membership of the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guarantee Agency and the Inter-American Development Bank.<sup>28</sup> Any loan or assistance provided by any of these institutions to the government of Cuba will result in the withholding of the same amount by the US Secretary of Treasury from payment to that institution.

Title I also reaffirms the provisions of the CDA, in particular its extra-territorial aspects, including the imposition of penalties on foreign companies doing business in Cuba.

Title II of the Act: “Assistance to a free and independent Cuba” establishes the steps for the “termination of the US embargo against Cuba”. These include a presidential determination, in consultation with Congress, suspending certain provisions of law such as section 620(a) of the Foreign Assistance Act of 1961, the Cuban Democracy Act of 1992, and the regulations prohibiting transactions with Cuba. Other provisions of the law defining the US embargo can be suspended once a democratically elected government is in place in Cuba. Sections 205 and 206 of this title provide the requirements for determining a Cuban transition government and a democratic government. One of those requirements is the return to US nationals of property nationalized by the Cuban government after 1 January 1959.

This title also defines what US policy would be “towards a transition government and a democratically elected government”. Under the title’s provisions, the US government will

provide its assistance - economic, food, medicine, medical supplies and equipment - to a transition government in Cuba and to the people of Cuba. It will also encourage other countries to do the same. Furthermore, Title II, section 202(iii) states: “only after a transition government in Cuba is in power, freedom of individuals to travel to visit their relatives without any restrictions shall be permitted”.

Title III of the Helms-Burton Act: “Protection of property rights of United States Nationals” provides for compensation and allows US nationals to sue foreign companies deemed to have gained from investments in property (the Act uses the term “traffic in property”) that belonged to US nationals prior to its nationalization by the Cuban government. This provision is allegedly aimed at preventing foreign investment in Cuba. The enforcement of Title III has been suspended since the Helms-Burton Act was approved by Congress. President Bill Clinton first suspended for six months the possibility of launching legal actions against foreign companies. Since then, US presidents, including Barack Obama, have issued a waiver postponing the enforcement of Title III for six months at a time.

Title IV: “Exclusion of certain aliens” provides for the exclusion or expulsion from the USA of those who “traffic in confiscated property”, including executives and employees - and their family members - from foreign companies that invest in Cuba in properties that belonged to US nationals before their nationalization by the Cuban government.

#### **THE 2000 TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT ACT**

In October 2000 the US Congress passed the Trade Sanctions Reform and Export Enhancement Act (TSRA), which started to relax the enforcement of the economic and trade embargo and allowed the sale of agricultural goods and medicine to Cuba for humanitarian reasons. Since 2002, the USA has been the major supplier of food and agricultural products to Cuba. From 2005, US regulations required these exports to be on a cash-in-advance basis with full payment before the products were shipped to Cuba, and the transactions had to be made through banks in a third country. In 2008, Cuba imported more than US\$700 million worth of food and agricultural products from the USA. In March 2009, the US government eased these restrictions, allowing Cuba to continue buying food and agricultural products and pay after shipment.

Under the TSRA, exports of food and agricultural products to Cuba remain regulated by the Department of Commerce and require a licence for export or re-export. The export of medicines and medical supplies continues to be severely limited. Although the TSRA contemplates the export of medicine, this legislation does not supersede the Cuban Democracy Act of 1992 and therefore the necessity of a presidential certificate through on-site verifications remains in force.

#### **INITIATIVES FOR EASING OR LIFTING THE EMBARGO**

Over the past few years, Democrat and Republican members of Congress have introduced several bills to the US Senate and House of Representatives aimed at easing or lifting the

embargo. No action has been taken on any of them in Congress and some did not pass examination by different committees at the House or Representatives or the Senate. Opposition to the US embargo continues to grow as many see financial opportunities for trading with Cuba. The agro-industry successfully lobbied the US Congress to ease restrictions on the export of their products to Cuba with the adoption of the TSRA. On the first session of the 111th Congress, convened on 6 January 2009, there are currently five bills promoting greater commercial and trade openness towards Cuba. These bills are:

- The Promoting American Agricultural and Medical Exports to Cuba Act of 2009, reintroduced in the Senate (S.1089) and House of Representatives (H.R. 1531) in 2009. It was first introduced in 2007;
- The Cuba Reconciliation Act (H.R. 188) which aims at lifting the trade embargo on Cuba and repealing the Cuban Democracy Act of 1992 and the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996;
- The United States-Cuba Trade Normalization Act of 2009 (H.R. 2272) which amends the Foreign Assistance Act of 1961 to lift the embargo on trade with Cuba;
- The Free Trade with Cuba Act (H.R. 1530);
- The Freedom to Travel to Cuba Act introduced in the Senate (S. 428) and House of Representatives (H.R. 874).

# ECONOMIC AND SOCIAL RIGHTS

**“The negative impact of the embargo is pervasive in the social, economic and environmental dimensions of human development in Cuba, severely affecting the most vulnerable socio-economic groups of the Cuban population.”**

Office of the Resident Co-ordinator of the United Nations system for operational activities for development, July 2008.<sup>29</sup>

International law, including human rights law, provides limits to the imposition of sanctions.<sup>30</sup> There is growing recognition that in imposing sanctions, such as trade embargoes, states must take into account the effects that these sanctions may have on the enjoyment of economic, social and cultural rights in the country affected, must effectively monitor its consequences on the realization of these rights and take steps to address any adverse impact on the population of the affected state.

This recognition stems directly from the obligation of states under the UN Charter to promote human rights.<sup>31</sup> It is also derived from Article 2 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which requires states parties to “take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant...” In this report, Amnesty International focuses on the impact of the US embargo on the right to health.

The USA signed, in October 1977, but has not yet ratified the ICESCR. As such, while not legally bound by its provisions, it is obliged to not defeat the purpose of the Covenant. According to article 18 of the 1969 Vienna Convention on the Law of Treaties, signed on 24 April 1970 by the USA, “a State is obliged to refrain from acts which would defeat the object and purpose of a treaty when: (a) it has signed the treaty or has exchanged instruments constituting the treaty subject to ratification, acceptance or approval, until it shall have made its intention clear not to become a party to the treaty.”

The Committee on Economic, Social and Cultural Rights has noted that the obligation of

states to protect “at least the core content of the economic, social and cultural rights” of the affected people in the state targeted by sanctions derives from the Charter of the United Nations to promote respect for all human rights.<sup>32</sup>

For the past 14 years, the UN Secretary-General has documented the negative impact of the US embargo on Cuba. In her last report to the Human Rights Council, the Personal Representative of the United Nations High Commissioner for Human Rights on the situation of human rights in Cuba described the effects of the embargo on the economic, social and cultural rights of the Cuban people as “disastrous”.<sup>33</sup>

“The adverse consequences of economic sanctions on the enjoyment of human rights”, a study prepared by Marc Bossuyt for the Sub-Commission on the Promotion and Protection of Human Rights, concluded that the US embargo violates human rights law in two distinct ways. Firstly, “the fact that the United States is the major regional economic power and the main source of new medicines and technologies means that Cuba is subject to deprivations that impinge on its citizens’ human rights.” Secondly, by passing legislation that “tries to force third-party countries into embargoing Cuba as well” – the 1992 Torricelli Act – the US government attempted to turn “a unilateral embargo into a multilateral embargo through coercive measures, the only effect of which will be to deepen further the suffering of the Cuban people and increase the violation of their human rights”.<sup>34</sup>

The imposition of the embargo does not exempt the Cuban government from its obligations to respect, protect and fulfil human rights. While the embargo affects the capacity of the Cuban government to progressively work towards the realization of some economic, social and cultural rights, the government must provide the greatest protection of these rights, to the maximum of its available resources. In doing so, it must not discriminate and it must prioritize the most vulnerable groups in society.<sup>35</sup>

According to the UN Development Programme, Cuba has already achieved three out of eight Millennium Development Goals (universal primary education, promoting gender equality and empowering women, and reducing child mortality) and is on track to achieve the five other goals by 2015 or is very likely to do so.<sup>36</sup> In spite of Cuba’s achievements, the US embargo has been a significant factor in hindering further progress on meeting the MDGs, particularly in further reducing infant and maternal mortality rates.<sup>37</sup>

The US Government Accountability Office reported that in 2006, US medical and pharmaceutical exports to Cuba amounted to US\$120,000 (0.04 % of total exports to Cuba). Exports of licensed humanitarian items, including donated medicine and medical products, amounted to US\$6.9 million (1.98% of total exports to Cuba).<sup>38</sup> After the passing of the 2000 Trade Sanctions Reform and Export Enhancement Act, which eased exports of agricultural products and medicine to Cuba, the total US exports to Cuba from 2001 to 2008 increased from US\$7.2 million to US\$711 million, according to the figures from the US Census Bureau. The Department of Commerce authorizes the use of License Exception Agricultural Commodities for exports of agricultural products to Cuba. The process for obtaining these licences has been speeded up and can be issued within 14 days. However, exports of medicine and medical devices to Cuba are not eligible for License Exception Agricultural Commodities and continue to be subject to the requirements provided for in the Cuban Democracy Act, the most constraining of all being the requirement of on-site verification.

Although the easing of exports of agricultural products has a positive impact in addressing food shortages and contributes towards the realization of the right to food for Cubans, the export of medicines and medical equipment continues to be severely limited and has a detrimental impact on the progressive realization of the right to the highest attainable standard of health.

The Department of Commerce, in its 2008 Report on Foreign Policy-Based Export Controls, clearly states the restrictions in exporting goods and medicines to Cuba:

*“The Department generally denies license applications for exports or reexports to Cuba. However, the Department considers applications for the following on a case-by-case basis:*

- *exports from foreign countries of non-strategic, foreign-made products containing 20 percent or less U.S.-origin parts, components, or materials, provided the exporter is not a U.S.-owned or controlled foreign firm in a third country;*

*The Department reviews applications for exports of donated and commercially supplied medicine or medical devices to Cuba on a case-by-case basis, pursuant to the provisions of Section 6004 of the Cuban Democracy Act of 1992.”<sup>39</sup>*

The table below summarizes the values of exports to Cuba of medical and pharmaceutical products from 2004 to 2008 as provided by the US Census Bureau.<sup>40</sup>

Table 1. US medicinal and pharmaceutical exports to Cuba from 2004 to 2008 (in US dollars)

Categories	Value 2004	Value 2005	Value 2006	Value 2007	Value 2008
Laboratory testing instruments	30,000	8,000	7,000	0	0
Medicinal equipment	468,000	396,000	753,000	366,000	295,000
Pharmaceutical preparations	1,298,000	1,747,000	2,111,000	1,862,000	940,000
Combined percentage of total US exports to Cuba	0.44 %	0.58%	0.84%	0.49%	0.17%

Source: US Census Bureau, Foreign Trade Statistics (www.census.gov)<sup>41</sup>

Donations of medicine and medical equipment also face restrictions from the US authorities. An export licence is required even when the donation fulfils a humanitarian purpose. For instance, in June 2007, officials at the Maine-Quebec (Canada) border stopped and pushed back a shipment of medical donations for Cuba. The medicines had been collected by the Quebec-Cuba Friendship Caravan and were to be transported to Cuba by the 18<sup>th</sup> Caravan of the Pastors for Peace Organization.<sup>42</sup> In previous years, US officials stopped the Caravan while crossing the border into Mexico from where the final shipment was to take place and confiscated medicines and medical material.<sup>43</sup>

## IMPACT ON THE RIGHT TO HEALTH

**“The restrictions imposed by the embargo help to deprive Cuba of vital access to medicines, new scientific and medical technology, food, chemical water treatment and electricity.”**

Personal Representative of the High Commissioner for Human Rights, 26 January 2007.<sup>44</sup>

Article 12(1) of the ICESCR acknowledges that the right to health embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, such as food and nutrition, housing, access to safe drinking water and adequate sanitation, safe and healthy working conditions, and a healthy environment. Article 12.2 further declares that “the steps to be taken... shall include those necessary for... [among others] the creation of conditions which would assure to all medical service and medical attention in the event of sickness.” The right to health is not limited to the right to, but does include, health care. Article 25 of the UDHR recognizes the right of “everyone... to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services...”

The negative impact of the US embargo on the Cuban health care system and on the right to health of Cubans during the 1990s has been documented in a 1997 report by the American Association for World Health (AAWH).<sup>45</sup> The 300-page document is still the most comprehensive study on the issue. Based on a fact-finding mission to Cuba, the AAWH identified that the embargo contributed particularly to malnutrition affecting especially women and children, poor water quality, lack of access to medicines and medical supplies, and limited the exchange of medical and scientific information due to travel restrictions and currency regulations. The AAWH found that “a humanitarian catastrophe has been averted only because the Cuban government has maintained a high level of budgetary support for a health care system designed to deliver primary and preventive health care to all of its citizens... Even so, the U.S. embargo of food and the de facto embargo on medical supplies has wreaked havoc with the island's model primary health care system.”<sup>46</sup>

During the first three decades of the embargo, the export of medicines was allowed for “humanitarian” reasons only. In 1992, with the passage of the CDA, the sales of medicines were exempt from the embargo. However, access to medicines became virtually impossible for Cuba. Every export of medicine required that “the President of the USA certify, through on-site inspections approved by the President, that all components of a shipment of medical products to Cuba were used for the purpose intended.”<sup>47</sup> The tightening of the US embargo during the 1990s exacerbated the economic crisis in Cuba as the country had lost the

economic support from the Soviet Union.<sup>48</sup> This affected the capacity of the Cuban health system to deliver to the population the same standards of health care as before the economic crisis.

The Resident Coordinator for the Operational Activities for Development of the United Nations System reported in the UN Secretary-General's 2008 report on the impact of the US embargo:

*“Goods, services or technologies produced by the United States or covered by United States patents or containing any element produced or patented by the United States are not available to Cuba. This includes medicines, medical equipment and other products under the category of humanitarian assistance, even when such products are purchased through multilateral cooperation.”<sup>49</sup>*

The CDA contains provisions for its enforcement outside the USA, resulting in severe limitations to Cuba's access to an international supply of medicines and medical equipment. Furthermore, the expansion of US pharmaceutical companies in the last three decades has limited the number of companies able to export their products to Cuba without facing penalties from the US government. The Helms-Burton Act penalizes non-US companies and nationals for trading with Cuba. Although commercial opportunities are available to Cuba throughout the rest of the Americas, Europe, Asia, and elsewhere, the Helms-Burton Act has an inhibiting effect on non-US medical companies, therefore limiting Cuba's access to medicines, medical equipment and technologies. In the health care sector in particular, Cubans are denied the latest generation of equipment and medicine, available in some cases only from US companies or at prohibitively high prices through third countries.<sup>50</sup> For instance, the World Health Organization reported “lack of diagnostic materials and equipment, replacement parts, surgical supplies and drugs hinders the operations of emergency services and care for patients in serious condition. The resources for treating patients who need this type of care, adults and children alike, are limited. In the case of patients with psychiatric disorders, state-of-the-art drugs are unavailable.”<sup>51</sup>

The Committee on Economic, Social and Cultural Rights has recommended that economic sanctions should not restrict the supply of medicines and medical equipment to another state. General Comment No. 14 on the right to the highest attainable standards of health says that “[s]tates parties should refrain at all times from imposing embargoes or similar measures restricting the supply of another State with adequate medicines and medical equipment. Restrictions on such goods should never be used as an instrument of political and economic pressure.”<sup>52</sup>

The provision of health care has also suffered from the limitations and restrictions imposed by the embargo on the procurement of basic and specialized medical equipment and chemical components needed for the production of generic medicines.

In July 2004, a US biotechnology firm based in California settled a civil penalty with the Office of Foreign Asset Control (OFAC) for a total of US\$168,500. The firm had voluntarily disclosed to OFAC the shipment of three vaccines for infants and children between 1999 and 2002 from its factories in Germany and Italy while the company held a licence to export only one vaccine through UNICEF, the UN Children's Fund.<sup>53</sup> According to Medical Education

Cooperation with Cuba, a US-based NGO promoting medical exchanges with Cuba, the vaccines included those for polio, haemophilic influenza, flu, rabies and a vaccine for measles, mumps and rubella.<sup>54</sup>

In November 2005, the Bureau of Industry and Security, Department of Commerce imposed a civil penalty of US\$ 37,500 on a company based in Massachusetts specialized in medical equipment for, among other things, “attempting to export and conspiring to export [in 2000] X ray film processors to Cuba via Canada without the required license and with knowledge that a violation would occur”.<sup>55</sup>

UNICEF reported that Cuba was unable to import nutritional products destined for children and for consumption at schools, hospitals and day care centres. This had an adverse effect on the health and nutritional status of the population and is believed to be a contributing factor in the high prevalence of iron deficiency anaemia which in 2007 affected 37.5 per cent of children under three years old.<sup>56</sup> Children’s health was also put at risk by a decision from syringe suppliers to cancel an order for 3 million disposable syringes by UNICEF’s Global Alliance for Vaccines and Immunization when it became known that the units were destined for the implementation of the programme in Cuba.

The number of children suffering from heart conditions who are waiting for appropriate treatment at a paediatric hospital has increased after Cuba was unable to buy from the US-based companies the necessary medical equipment for their treatment. The companies allegedly refused to negotiate with Cuba because of the restrictions set by the US embargo.<sup>57</sup> The World Health Organization reported that “lack of access to products manufactured by United States companies such as St. Jude Medical, Boston Scientific and Amplatzer prevents the provision of proper care to seriously ill patients who need a pacemaker, St. Jude prosthetic valves or septal occluders, forcing their treatment with alternative, riskier surgical techniques”.<sup>58</sup>

Scarcity of medication and equipment has also affected treatment for children being treated at the National Institute of Oncology and Radiology. According to UNICEF “it has been impossible to purchase a positron emission tomography/computerized tomography (PET/CT) scanner, a state-of-the-art piece of medical equipment needed for treatment that is made by only three manufacturers worldwide, all unauthorized to negotiate with Cuba.”<sup>59</sup>

Programmes to prevent and fight HIV/AIDS have also suffered from the embargo even when these are implemented by UN agencies. In 2006, the purchase of antiretroviral drugs by UNICEF in support of the Global Fund to Fight AIDS, Tuberculosis and Malaria was delayed, because major suppliers to UNICEF could not offer their products for the implementation of the Fund programmes in Cuba due to the US embargo. According to UN reports, transactions with more distant suppliers resulted in an increase in prices and delays in procurement of antiretrovirals.<sup>60</sup>

In August 2007, media reports revealed that the US Treasury Department had refused to renew a licence to health organization Population Services International (PSI) to export condoms to Cuba for distribution to groups at high risk of contracting HIV infection.<sup>61</sup>

Although Cuba produces its own antiretrovirals, there is a considerable delay between the

marketing of a new antiretroviral and the production of the generic version. During this period, access to new drugs could be life-saving for many Cubans living with HIV/AIDS. However, Cuba cannot import the latest antiretrovirals from the USA or from other countries due to patent restrictions. The Joint United Nations Programme on HIV/AIDS reported in 2008 that “Abbott was prevented from selling two drugs for AIDS treatment — Ritonavir and Liponavir + Ritonavir — resulting in a sixfold increase in price to acquire them from another manufacturer. Similarly, Gilead replied that it could not supply the antiretroviral drug Tenofovir because to do so it would require an export licence from the United States.”<sup>62</sup>

The UN Development Programme (UNDP) reported delays in acquiring equipment to measure viral load and flow cytometers to determine CD4 cell count, due to difficulties imposed by the embargo in the purchasing process.<sup>63</sup>

The increase in the costs for purchasing the necessary medicine or medical materials is hampering the implementation of UN development projects and programmes. The repercussions of these difficulties are ultimately felt by the intended beneficiaries of these programmes, who face long delays before having access to adequate medicine or treatment.

The impact of economic sanctions on health and health services is not limited to difficulties in the supply of medicine. Health and health services depend on functioning water and sanitation infrastructure, on electricity and other functioning equipment such as X-ray facilities or refrigerators to store vaccines. The financial burden and commercial barriers have led to shortages or intermittent availability of drugs, medicines, equipment and spare parts. It has also hindered the renovation of hospitals, clinics and care centres for the elderly.<sup>64</sup>

# RECOMMENDATIONS

The US President has the authority to lift the embargo, with Congressional approval, only if certain conditions are met within Cuba, namely that a transitional government is in place and that a democratic process is established. However, the President can also send a clear message to Congress on the necessity of adopting a new approach towards Cuba in line with the foreign policy of his administration and in compliance with 17 successive resolutions from the UN General Assembly calling for the lifting of the embargo, and similar calls from the Inter-American Commission on Human Rights. The economic, trade and financial sanctions against Cuba, compounded by the lack of measures from the US government to monitor and alleviate the negative impact of the embargo on the Cuban population, are defeating the purpose of the provisions of the ICESCR, in particular with regards to advancing the rights of the Covenant through international co-operation. The US government is also acting contrary to the Charter of the United Nations by restricting the direct import of medicine and medical equipment and supplies, and by imposing those restrictions on companies operating in third countries.

On these grounds, Amnesty International is calling on President Barack Obama:

- Not to extend beyond September 2009 the status of “national emergency” with regards to Cuba under the Trading With the Enemy Act, or to issue a Presidential Proclamation stating the Termination of the Exercise of Authorities Under the Trading With the Enemy Act With Respect to Cuba.
- To instruct the US Treasury Department and other relevant agencies enforcing export restrictions to Cuba to allow all UN agencies operating in Cuba immediate and unrestricted access to the US market and financial institutions and further ensure that exports and transfers of materials, equipment and other resources can be achieved without undue restrictions.
- To establish, pending the total lifting of the embargo, an independent mechanism for the monitoring of the impact of remaining sanctions and ensure that steps are taken to limit to the minimum the sanctions’ impact on the right to health in Cuba.

The lifting of the embargo will require the US Congress to enact new legislation repealing the Cuban Democracy Act of 1992 and the Cuba Liberty and Solidarity (Libertad) Act of 1996. Amnesty International calls on the US Congress:

- To take, without further delay, the necessary steps towards lifting the economic, financial and trade embargo against Cuba. This can be achieved within the current Congress session by adopting the bills already introduced in the House of Representatives and the Senate aimed at that purpose.

# ENDNOTES

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<sup>1</sup> United States Government Accountability Office, *Economic Sanctions, Agencies Face Competing Priorities in Enforcing the U.S. Embargo on Cuba*, November 2007.

<sup>2</sup> UN General Assembly, Resolution 63/7, Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba, A/RES/63/7.

<sup>3</sup> The United States, Israel and Palau voted against the resolution; Marshall Islands and the Federated States of Micronesia abstained. UN General Assembly, *For seventeenth consecutive year, General Assembly overwhelmingly calls for end to United States economic, trade embargo against Cuba*, <http://www.un.org/News/Press/docs/2008/ga10772.doc.htm>, accessed 5 April 2009.

<sup>4</sup> Inter-American Commission on Human Rights, 2008 Annual Report, Status of Human Rights in Cuba, Chapter IV, para 154, OEA/Ser.L/V/II.134, Doc. 5 rev. 1, 25 February 2009, [http://www.cidh.oas.org/annualrep/2008eng/Chap4.c.eng.htm#\\_ftnref12](http://www.cidh.oas.org/annualrep/2008eng/Chap4.c.eng.htm#_ftnref12), accessed 5 April 2009.

<sup>5</sup> Amnesty International has repeatedly called on the US government to lift its embargo against Cuba. See for example: *Cuba: "Essential measures"? Human rights crackdown in the name of security* (Index: AMR 25/017/2003), 3 June 2003; *Cuba: 71 prisoners of conscience continue to be imprisoned for expressing their ideas* (Index: AMR 25/005/2005), 18 March 2005; *Cuba: fundamental freedoms still under attack* (Index: AMR 25/001/2006), 17 March 2006; *New Cuban leadership can improve human rights*, 19 February 2008; *Cuba: Submission to the UN Universal Periodic Review: Fourth session of the UPR Working Group of the Human Rights Council, February 2009* (Index: AMR 25/002/2008), 8 September 2008.

<sup>6</sup> This right is enshrined in various international human rights treaties as well as the UDHR. Article 12(1) of the ICESCR states: "The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health."

Article 12(2) of the ICESCR states: "The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

- a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
- b) The improvement of all aspects of environmental and industrial hygiene;
- c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
- d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness."

<sup>7</sup> Amnesty International last visit to Cuba took place in 1988. Ever since, Amnesty International's repeated requests for an authorization to visit Cuba have been denied by the Cuban government.

<sup>8</sup> A full account of Amnesty International concerns on respect for human rights can be found in: *Amnesty International Report 2009, State of the World's Human Rights* (<http://report2009.amnesty.org/en/regions/americas/cuba>); *Cuba: Amnesty International Submission to the Universal Periodic Review: Fourth Session of the UPR Working Group of the Human Rights Council*,

February 2009 (AI Index: AMR 25/002/2008).

<sup>9</sup> In the late 1950s, US interests owned, among other things, 25 per cent of Cuba's land (75 per cent of all arable land), 50 per cent of the sugar industry (Cuba was the world's third largest sugar producer), and 90 per cent of the transportation and electrical services. Source: US Department of Agriculture, *Cuba's Food and Agriculture Situation Report*, March 2008, <http://www.fas.usda.gov/itp/cuba/CubaSituation0308.pdf>.

<sup>10</sup> Trading With the Enemy Act of 1917. US Code, Title 50, Appendix – War and National Defense, (ACT OCT. 6, 1917, CH. 106, 40 STAT. 411). Available at: <http://uscode.house.gov/pdf/2001/2001usc50a.pdf>

<sup>11</sup> Trading With the Enemy Act of 1917. US Code, Title 50, Appendix – War and National Defense, (ACT OCT. 6, 1917, CH. 106, 40 STAT. 411).

<sup>12</sup> Trading With the Enemy Act of 1917. US Code, Title 50, Appendix – War and National Defense, (ACT OCT. 6, 1917, CH. 106, 40 STAT. 411).

<sup>13</sup> Presidential Determination No. 2008–27 of September 12, 2008, Federal Register Vol. 73, No. 181, September 17, 2008. "Continuation of the Exercise of Certain Authorities Under the Trading With the Enemy Act". Available at: <http://frwebgate2.access.gpo.gov/cgi-bin/TEXTgate.cgi?WAISdocID=R4hn0F/0/1/0&WAIAction=retrieve>.

<sup>14</sup> Presidential Determination No. 2008–27 of September 12, 2008, Federal Register Vol. 73, No. 181, September 17, 2008. "Continuation of the Exercise of Certain Authorities Under the Trading With the Enemy Act".

<sup>15</sup> In June 2008, President George W. Bush terminated his authority under the TWEA with regards to North Korea. See Presidential Proclamation 8271--Termination of the Exercise of Authorities Under the Trading With the Enemy Act With Respect to North Korea, available at: <http://frwebgate2.access.gpo.gov/cgi-bin/TEXTgate.cgi?WAISdocID=R4hn0F/1/1/0&WAIAction=retrieve>.

<sup>16</sup> Foreign Assistance Act of 1961, Sec. 620.

<sup>17</sup> Presidential Proclamation 3447, *Embargo on All Trade With Cuba*, 3 February 1962. Available at John T. Woolley and Gerhard Peters, *The American Presidency Project* [online]. Santa Barbara, CA: University of California (hosted), Gerhard Peters (database), <http://www.presidency.ucsb.edu/ws/?pid=58824>; US International Trade Commission, *The Economic Impact of US Sanctions With Respect to Cuba*, 2001, pages 2-4.

<sup>18</sup> US Department of the Treasury, Office of Foreign Assets Control, *What you need to know about the US embargo. An overview of the Cuban Assets Control Regulations, Title 31 Part 515 of the US Code of Federal Regulations*, in <http://www.treas.gov/offices/enforcement/ofac/programs/cuba/cuba.pdf>, accessed 23 January 2009.

<sup>19</sup> US Department of the Treasury, Office of Foreign Assets Control, *What you need to know about the US embargo. An overview of the Cuban Assets Control Regulations, Title 31 Part 515 of the US Code of Federal Regulations*, in <http://www.treas.gov/offices/enforcement/ofac/programs/cuba/cuba.pdf>, accessed 23 January 2009.

<sup>20</sup> US Department of the Treasury, Office of Foreign Assets Control, *What you need to know about the US*

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embargo. An overview of the Cuban Assets Control Regulations, Title 31 Part 515 of the US Code of Federal Regulations. For a list of penalties imposed to individuals and companies travelling to or doing business with Cuba see: OFAC Civil Penalties Enforcement Information, available at: <http://www.treas.gov/offices/enforcement/ofac/civpen/>.

<sup>21</sup> US Department of the Treasury, *Cuban Democracy Act (CDA), United States Code, Title 22, Foreign Regulations and Intercourse, Chapter 69*, <http://www.treas.gov/offices/enforcement/ofac/legal/statutes/cda.pdf>, accessed 26 January 2009.

<sup>22</sup> Cuba Democracy Act, section 6003.

<sup>23</sup> Section 6004 of the Cuba Democracy Act [(CDA), 22 USC Sec. 6004] provides:

*"Sec. 6004. Support for Cuban people*

*(a) Provisions of law affected*

*The provisions of this section apply notwithstanding any other provision of law, including section 2370(a) of this title, and notwithstanding the exercise of authorities, before October 23, 1992, under section 5(b) of the Trading With the Enemy Act [12 U.S.C. 95a, 50 U.S.C. App. 5(b)], the International Emergency Economic Powers Act [50 U.S.C. 1701 et seq.], or the Export Administration Act of 1979 [50 U.S.C. App. 2401 et seq.].*

*(b) Donations of food*

*Nothing in this or any other Act shall prohibit donations of food to nongovernmental organizations or individuals in Cuba.*

*(c) Exports of medicines and medical supplies*

*Exports of medicines or medical supplies, instruments, or equipment to Cuba shall not be restricted -*  
*(1) except to the extent such restrictions would be permitted under section 5(m) of the Export Administration Act of 1979 [50 U.S.C. App. 2404(m)] or section 203(b)(2) of the International Emergency Economic Powers Act [50 U.S.C. 1702(b)(2)];*  
*(2) except in a case in which there is a reasonable likelihood that the item to be exported will be used for purposes of torture or other human rights abuses;*  
*(3) except in a case in which there is a reasonable likelihood that the item to be exported will be reexported; and*  
*(4) except in a case in which the item to be exported could be used in the production of any biotechnological product.*

*(d) Requirements for certain exports*

*(1) Onsite verifications*

*(A) Subject to subparagraph (B), an export may be made under subsection (c) of this section only if the President determines that the United States Government is able to verify, by onsite inspections and other appropriate means, that the exported item is to be used for the purposes for which it was intended and only for the use and benefit of the Cuban people.*  
*(B) Subparagraph (A) does not apply to donations to nongovernmental organizations in Cuba of medicines for humanitarian purposes."*

Available at: <http://uscode.house.gov/download/pls/22C69.txt>, accessed 27 January 2009.

<sup>24</sup> See: Bureau of Industry and Security, US Department of Commerce, Guidelines on Sales and Donations of Medicines and Medical Equipment to Cuba. Available at: <http://www.bis.doc.gov/policiesandregulations/medsht.htm>.

<sup>25</sup> See: Bureau of Industry and Security, US Department of Commerce, *Guidelines on Sales and Donations of Medicines and Medical Equipment to Cuba*.

<sup>26</sup> Section 6006 of the Cuba Democracy Act [(CDA), 22 USC Sec. 6006, Policy toward a transitional Cuban Government] provides:

*“Sec. 6006. Policy toward a transitional Cuban Government*

*Food, medicine, and medical supplies for humanitarian purposes should be made available for Cuba under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] and the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.] if the President determines and certifies to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate that the government in power in Cuba -*

*(1) has made a public commitment to hold free and fair elections for a new government within 6 months and is proceeding to implement that decision;*

*(2) has made a public commitment to respect, and is respecting, internationally recognized human rights and basic democratic freedoms; and*

*(3) is not providing weapons or funds to any group, in any other country, that seeks the violent overthrow of the government of that country.”*

Available at: <http://uscode.house.gov/download/pls/22C69.txt>, accessed 27 January 2009.

<sup>27</sup> Cuba Liberty and Democratic Solidarity (Libertad) Act of 1996, One Hundred Fourth Congress of the United States of America.

<sup>28</sup> Cuba voluntarily withdrew from membership of the World Bank on 14 November 1960. At the same time, Cuba automatically ceased to be a member of the International Finance Corporation (IFC). (See *Cuba Withdraws From IBRD and IFC*, available at: <http://go.worldbank.org/35E31GBU50>). Currently, the World Bank Group is composed by the International Bank for Reconstruction and Development (IBRD), the International Development Association (IDA), the International Finance Corporation (IFC), the Multilateral Investment Guarantee Agency, and the International Centre for the Settlement of Investment Disputes. The United States opposes Cuba's membership of the IBRD, IFC and IDA, which is required in order to become a member of the World Bank.

<sup>29</sup> Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba, Report of the Secretary-General, A/63/93, 1 August 2008, p. 83.

<sup>30</sup> For an analysis of these limitations, see “The adverse consequences of economic sanctions on the enjoyment of human rights”, a working paper submitted by Marc Bossuyt to the Sub-Commission on the Promotion and Protection of Human Rights, E/CN.4/Sub.2/2000/33.

<sup>31</sup> See articles 1, 55 and 56 of the UN Charter.

<sup>32</sup> See General Comment No. 8 of the Committee on Economic, Social and Cultural Rights, *The relationship between economic sanctions and respect for economic, social and cultural rights*, particularly paragraphs 7 and 8.

<sup>33</sup> See A/HRC/4/12, paragraph 7.

<sup>34</sup> Bossuyt, Marc: *The Adverse Consequences of Economic Sanctions on the Enjoyment of Human Rights, Working Paper prepared for the Commission On Human Rights, Sub-Commission on the Promotion and*

*Protection of Human Rights*. UN Doc. E/CN.4/Sub.2/2000/33, Geneva: UN Economic and Social Council, 21 June 2000, para 98-100.

<sup>35</sup> See General Comment No. 8 of the Committee on Economic, Social and Cultural Rights, *The relationship between economic sanctions and respect for economic, social and cultural rights*, particularly paragraphs 10 and 14.

<sup>36</sup> UN Development Programme, MDG Monitor, [http://www.mdgmonitor.org/country\\_progress.cfm?c=CUB&cd=192#](http://www.mdgmonitor.org/country_progress.cfm?c=CUB&cd=192#), accessed 5 February 2009. Cuba is likely or on track to achieve the remaining of the Millennium Development Goals, namely: eradicate extreme poverty and hunger; improve maternal health; combat HIV/Aids, malaria and other diseases; ensure environmental sustainability; and develop a global partnership for development.

<sup>37</sup> See UNICEF, Background on Cuba, available at: <http://www.unicef.org/infobycountry/cuba.html>.

<sup>38</sup> Figures taken from United States Government Accountability Office, *Economic Sanctions, Agencies Face Competing Priorities in Enforcing the U.S. Embargo on Cuba*, November 2007; Table 6, Composition of U.S. exports to Cuba in 2006, p. 30. The report is available at: <http://www.gao.gov/new.items/d0880.pdf>.

<sup>39</sup> US Department of Commerce, Bureau of Industry and Security, 2008 Report on Foreign Policy-Based Export Controls, p. 34. Available at: <http://www.bis.doc.gov/news/2008/2008-fpr.pdf>.

<sup>40</sup> As a point of comparison, in 2008 the USA exported to Syria US\$5,225,000 worth of medicinal equipment and to Burma US\$1,176,000, both countries facing sanctions by the US government. In the Caribbean region, in 2008, the Dominican Republic imported US\$202,790,000 and Haiti US\$4,293,000 of medicinal equipment.

<sup>41</sup> Adapted from *U.S. Exports to Cuba from 2004 to 2008 By 5-digit End-Use Code*, <http://www.census.gov/foreign-trade/statistics/product/enduse/exports/c2390.html>.

<sup>42</sup> Latin American and Caribbean Economic System, *Follow up report on the application of the Helms-Burton law, 2007-2008*, p. 5.

<sup>43</sup> See for example Pastors for Peace website: <http://www.ifconews.org/>.

<sup>44</sup> Human Rights Council, Situation of Human Rights in Cuba, Report submitted by the Personal Representative of the High Commissioner for Human Rights, Christine Chanet, A/HRC/4/12, para 7, 26 January 2007.

<sup>45</sup> American Association for World Health, *Denial of Food and Medicine: The Impact of the U.S. Embargo on Health & Nutrition in Cuba*, March 1997. Available at: <http://www.medicc.org/resources/documents/embargo/The%20impact%20of%20the%20U.S.%20Embargo%20on%20Health%20&%20Nutrition%20in%20Cuba.pdf>

<sup>46</sup> American Association for World Health, *Denial of Food and Medicine: The Impact of the U.S. Embargo on Health & Nutrition in Cuba*, March 1997, p. i.

<sup>47</sup> Kirkpatrick, Anthony F. "Role of the USA in shortage of food and medicine in Cuba". *The Lancet*, 1996, Vol. 348, p. 1489-91.

<sup>48</sup> See for example: American Association for World Health, *Denial of Food and Medicine: The Impact of the U.S. Embargo on Health & Nutrition in Cuba*, March 1997. Available at:

<http://www.medicc.org/resources/documents/embargo/The%20impact%20of%20the%20U.S.%20Embargo%20on%20Health%20&%20Nutrition%20in%20Cuba.pdf>.

<sup>49</sup> Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba, Report of the Secretary-General, A/63/93, 1 August 2008, p. 83.

<sup>50</sup> Reported by the Economic Commission for Latin America and the Caribbean, in *Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba*, Report of the Secretary-General, A/63/93, 1 August 2008, p. 85.

<sup>51</sup> Report from the World Health Organization in *Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba*, Report of the Secretary-General, A/63/93, 1 August 2008, p. 110, para 3.

<sup>52</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 14. The right to the highest attainable standard of health E/C.12/2000/4, 11 August 2000, para 41.

<sup>53</sup> See OFAC Civil Penalties Enforcement Information, Archive of 2004 Enforcement Information, available at: <http://www.treas.gov/offices/enforcement/ofac/civpen/penalties/06042004.pdf>; and Silber, Judy. "Chiron fined for exports to Cuba". *Contra Costa Times*, 9 July 2004, cited in Richard Garfield, "Health care in Cuba and the manipulation of humanitarian imperatives", *The Lancet*, 11 September 2004, Vol. 364, p. 1007.

<sup>54</sup> See Medical Education Cooperation with Cuba, *Medicc Review*, "Washington Fines US Company for Selling Children's Vaccines to Cuba", Vol. 6, No. 1, 2004. Available at: [http://www.medicc.org/publications/medicc\\_review/1004/pages/headlines\\_in\\_cuban\\_health4.html](http://www.medicc.org/publications/medicc_review/1004/pages/headlines_in_cuban_health4.html).

<sup>55</sup> United States Government Accountability Office, *Economic Sanctions, Agencies Face Competing Priorities in Enforcing the U.S. Embargo on Cuba*, November 2007, p. 51.

<sup>56</sup> *Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba*, Report of the Secretary-General, A/63/93, 1 August 2008, p. 95.

<sup>57</sup> Report by UNICEF in *Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba*, Report of the Secretary-General, A/63/93, 1 August 2008, p. 94, para 4.

<sup>58</sup> Report by the World Health Organization in *Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba*, Report of the Secretary-General, A/63/93, 1 August 2008, p. 110, para 3.

<sup>59</sup> Report by UNICEF in *Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba*, Report of the Secretary-General, A/63/93, 1 August 2008, p. 94, para 4.

<sup>60</sup> *Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba*, Report of the Secretary-General, A/61/132, 8 August 2006, p. 73.

<sup>61</sup> Latin American and Caribbean Economic System, *Follow up report on the application of the Helms-Burton law, 2007-2008*, p. 5.

<sup>62</sup> *Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba*, Report of the Secretary-General, A/62/92, 3 August 2007, p. 89.

<sup>63</sup> Report by the UNDP in *Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba*, Report of the Secretary-General, A/63/93, 1 August 2008, p. 102, para. 10.

<sup>64</sup> Report by UNFPA, the UN Population Fund, in *Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba*, Report of the Secretary-General, A/63/93, 1 August 2008, p. 109.

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