

## **REPORT BY CUBA**

On Resolution 64/6 of the United Nations  
General Assembly  
“Necessity of ending the economic, commercial  
and financial embargo imposed by the United  
States against Cuba”.

July 2010

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## INTRODUCTION

The historical conflict that has characterized US-Cuban relations for more than 200 years has its genesis in the desire of the various US governments to control Cuba's destiny and the permanent determination of Cubans to defend their right to be a free and independent sovereign nation.

This desire reached its maximum expression with the triumph of the Cuban Revolution in 1959. Since that time, successive US governments have used the same policy instruments, with different nuances, to destroy the Cuban Revolution. The economic, commercial and financial embargo (<http://www.cubavsbloqueo.cu/Default.aspx?tabid=97>), subversion and psychological and propaganda warfare have been the permanent instruments of a policy systematically directed to such effect.

Because of its nature, the US embargo against Cuba qualifies as **genocide** by virtue of Section c of Article II of the Geneva Convention of 1948 on the Prevention and Punishment of the Crime of Genocide (<http://www.cubavsbloqueo.cu/Default.aspx?tabid=972>) and as an **act of economic war** according to the stipulations of the declaration regarding Maritime War adopted by the 1909 London Naval Conference (<http://www.cubavsbloqueo.cu/Default.aspx?tabid=973>). The embargo continues having a markedly extra-territorial nature while the unilateral sanctions against Cuba have an extended effect outside of US territory on companies and citizens from third countries.

Strictly speaking, not even a new Democratic government in the US, presumably in the mood for a philosophy for change, has meant any essential change in the embargo policy.

Cuba still cannot freely export and import products and services to or from the United States; it cannot use the US dollar in its international transactions or have accounts in that currency in third country banks if it is a national or Cuban company; nor can it have access to loans from American banks, their affiliates in third countries and international institutions such as the World Bank, the IMF or the Inter-American Development Bank.

The Torricelli and Helms-Burton Acts in force and their extra-territorial applications continue to discourage Cuban trade with subsidiaries of US companies in third countries, as well as threaten and apply sanctions on businessmen who wish to invest in Cuba, at the same time as they make the maritime transport of goods between Cuba and third countries difficult and more expensive, by prohibiting vessels that have stopped in Cuban ports or transported goods on behalf of Cuba from entering US ports for 6 months or preventing access by vessels with Cuba crews even though they have been sailing under the flags of third countries.

Also, the current American government, in violation of elementary international norms, continues to use political subversion as a weapon in its confrontation with Cuba. With the aim of promoting subversive programs, a total of 40 million dollars was approved for the 2009 and 2010 fiscal years.

From October 28, 2009, when the United Nations General Assembly passed Resolution 64/6, until today, the principal actions of the embargo against Cuba have been kept in place and reinforced, manifested by greater economic sanctions and persecution of business activities and Cuban financial transactions.

The direct economic toll on the people of Cuba due to the application of the economic, commercial and financial embargo of the US against Cuba until December 2009, at current prices, calculated very conservatively, reaches a figure that surpasses **100 thousand 154 million dollars**.

This amount would increase to **239 thousand 533 million dollars** if the calculations were made taking the inflation rate of US retail prices as a base, using the CPI Calculator of the U.S. Department of Labor, Bureau of Labor Statistics (<http://www.bls.gov>).

If we take into consideration that the value of the dollar, measured in terms of the gold prices on the international financial market has been decreasing by more than 30 times since 1961 when the gold price was set at \$35.00 per Troy ounce until the close of 2009, when it surpassed the thousand dollar mark, total repercussions on the Cuban economy would be to the order of **751 thousand 363 million dollars**.<sup>1</sup>

## **CHAPTER I. THE ADMINISTRATION OF PRESIDENT BARACK OBAMA: CONTINUED POLICY OF THE ECONOMIC, COMMERCIAL AND FINANCIAL EMBARGO AGAINST CUBA**

On March 28, 2009, US Vice President Joseph Biden, in the framework of the Summit of Progressive Leaders in Chile, made a press statement that the government of that country would not lift the embargo on Cuba. On April 7<sup>th</sup> of the same year, Robert Wood, the State Department spokesperson declared at a press conference: "I think that we have been very clear that we do not consider this is the right time to lift the embargo".

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<sup>1</sup> To obtain this figure, the series of total repercussions from the embargo since 1961 were used and the annual totals in dollars each year were determined. Gold prices in force on the world market at the close of each year, taken from the statistical series published on the website USA Gold (<http://www.unagold.com>) were used. To determine the number of times the dollar lost value in terms of gold, we divided the price of gold at the close of 2009 between the prices each year, and it was established that the dollar has depreciated 31.1 times since 1971 up to 2009.

On April 19, 2009, David Axelrod, Obama's advisor, replied in an interview on CBS-TV when asked if the White House had any thoughts about lifting the "embargo": "...we are far from that".

That same day, President Obama's economic advisor Lawrence Summers declared on an NBC-TV interview when referring to the lifting of the embargo: "That is not something for tomorrow and it will depend on what Cuba is going to do, Cuba knows what it should be doing for some time now, and it depends on them in terms of their policies, their democratization and all the steps they might take (...) it is a topic that will be decided on the basis of Cuba's conduct".

It is evident then that the US government does not harbour any intention of producing a change in its policy towards Cuba, or of complying with the reiterated resolutions of the United Nations General Assembly that ask the government of that country to put an end to the economic, commercial and financial embargo against Cuba. On the contrary, the US government continues holding on to unacceptable interfering conditions and demands as a condition for a change of policy towards Cuba.

Despite having considerable support in Congress, the press, public opinion and the business sector, that transcended any preceding consensus in American society regarding policy towards Cuba, something that would have allowed him to act with a high level of autonomy, President Obama has stayed well below the expectations created by his speech about the claims from different sectors in American society and the international community, as well as his prerogatives to change significant policy aspects, even without intervention from Congress.

By virtue of those prerogatives and if such political will for that were to exist, President Obama would have had sufficient authority to significantly make the embargo against Cuba more flexible. In that sense, and without the need for mediating congressional approval, the President would have been able to issue a broad range of permits to authorize the following measures:

Substantially expand travel by Americans and foreigners residing in the US by a broad interpretation of the 12 categories for travel established by law<sup>2</sup> (for example, expansion of educational travel, permits to participate in professional conferences, academic, scientific, student, cultural, sports, religious exchanges and authorization of humanitarian projects, just to name a few).

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<sup>2</sup> These categories are: travel for official government business, foreign governments or international organizations; family travel; educational travel; religious; for public presentations, sports competitions and exhibitions; travel for activities in support of the Cuban people; for humanitarian projects; trips for private foundation, research institute or educational activities; travel for export, import or transmission of information or informative materials activities; and travel for activities relating to the export of agricultural products.

- Eliminate limits on travel associated expenses such as accommodations, food and local transportation that Americans and Cubans residing in the US can make when they visit Cuba (Americans, including Cuban-Americans, after the amendment to the Budget Act for the 2009 fiscal year, cannot spend more than the limit set for travel expenses abroad for US government officials, today set at 179 USD per day).
- Eliminate the prohibition on use of credit and debit cards, personal cheques, travellers' cheques, issued by both US and third country banks.
- Broaden the list of US airports authorized to operate charter flights to Cuba (at the present time, there are only three approved: Miami, New York and Los Angeles).
- Permit ferry service between the US and Cuba.
- Authorize all US travel agencies to organize trips to Cuba, or make the requisites and procedures in force more flexible so that travel agencies may obtain the necessary permits for this activity (today there are some 150 agencies authorized to do so, via specific licences).
- Authorize travellers visiting Cuba to buy Cuban products and take them to the US for personal use or as gifts, and eliminate the limit on their value (up to the present time they can only take information materials, including art objects).
- Eliminate the prohibition on Cuban companies to participate in the transportation of US visitors to and from Cuba, or Cuban visitors to and from the US.
- Permit certain bank relations, such as correspondent banks and the opening of accounts by Cuban entities in US banks to facilitate agricultural exports.
- Eliminate the prohibition that prevents vessels transporting agricultural products to Cuba from carrying goods in our country even though their destination may be a third country.
- Expand the list of products that may be exported to Cuba to include, for example, insecticides, pesticides, herbicides, agricultural equipment and even wooden furniture and objects manufactured with materials having animal or vegetal origins.
- Permit broader forms of collaboration in the development, marketing and supply of medicines and biomedical products originating in Cuba.
- Authorize the importing of medicines and medical products of Cuban origin and the payments corresponding to the Cuban exporters.

- ☑ Authorize the export of medicines and medical equipment that may be used in the manufacture of Cuban biotechnological products.
- ☑ Instruct US representatives in international financial institutions not to block the authorization of loans or other financial facilities to Cuba.
- ☑ Loosen up or eliminate the prohibition on using the dollar for Cuba's international transactions.
- ☑ Permit foreign subsidiaries of US companies to carry out certain transactions with Cuba, such as financial services, insurance, services and investments (The Torricelli Act prohibits commerce in goods but not the mentioned transactions).
- ☑ Lift the two prohibitions established in the Torricelli Act regarding vessels: the one forbidding entry to US ports for 180 days by vessels from third countries that have carried goods to Cuba; and the one making it impossible for vessels carrying goods or passengers to or from Cuba to enter US ports (the Torricelli Act and regulations for its implementation authorize the president to issue licences for that).
- ☑ Exclude Cuba from the list of states sponsoring international terrorism. This list was first published in 1982 under the Reagan administration and has remained in effect until today. It involves the application of certain sanctions<sup>3</sup>.

### **1.1 Principal measures to continue the embargo adopted by the US government**

Last **September 11, 2009**, President Obama, taking shelter under a historical relic such as the 1917 Trading with the Enemy Act, considered as one of the guiding laws for the embargo policy, notified the Secretaries of State and the Treasury that it was of "national interest" to maintain economic sanctions against Cuba.

On **November 15, 2009**, the DPA news agency printed an article affirming that the Mozilla Corporation that manufactures the Firefox Internet navigator, excluded Cuba and other sanctioned country users from participating in a programming competition.

In **December of that same year**, it was learned that the Assistant Secretary of State for Western Hemisphere Affairs Arturo Valenzuela sent a letter to Senator

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<sup>3</sup> Among the sanctions being applied to a State sponsoring terrorism, according to the list drawn up by the US, are: the prohibition on financial transactions without a permit, the prohibition on financial and direct technical aid by the US government, the prohibition on exports of certain goods such as heavy industrial products, high tech equipment, and products having dual usage, the prohibition on transfer of munitions, and the prohibition on granting temporary visas to nationals of the country without special decision of the Secretary of State.

George LeMieux (R-FL) in which he underlined that the State Department is continuing to apply sanctions contemplated in Title IV of the Helms-Burton Act.

On **January 21, 2010**, the Federal Communications Commission (or FCC) released a Public Warning —as per instructions received on the 12<sup>th</sup> of the same month from the State Department— announcing that Cuba will remain on the FCC Exclusion List and that the entity will continue working closely with the State Department on the application of the communications policy towards Cuba, in spite of new procedures to apply for licences with the aim of providing telecommunications services to Cuba, investments in the Cuban infrastructure associated to such services would not be permitted.

On **January 28, 2010**, the softlibre.barrapunto.com website informed that SourceForge, a central for the development of software that controls and manages various free software projects, blocked access to countries on which the United States applies unilateral economic sanctions, among them Cuba. The website affirms that this decision violates two of the premises of the Open Source initiative (OSI), an organization dedicated to the promotion of free software: non-discrimination against persons or groups and non-discrimination against areas of activity.

Reaffirming the continuity of the embargo, on **February 24<sup>th</sup> of this year**, President Obama renewed Presidential proclamation 6867, entitled “Continuation of the National Emergency regarding Cuba and the Emergency Authority on the Regulation for Anchoring and the Movement of Vessels” adopted in 1996, as well as Proclamation 7757 of 2004 which extended the scope of the national emergency around Cuba in order to prevent entry of US recreational vessels in Cuban waters, as a way of tightening the economic embargo.

Last **March 8, 2010**, the Treasury Department Office for Foreign Assets Control (OFAC) announced new regulations on internet services for Cuba.

A legal framework is established so that US companies and their subsidiaries abroad may offer certain internet services to individuals in Cuba, something that was not previously expressly allowed. These services include instant messenger, chat, E-mail, social interaction networks, navigation, setting up blogs and the exchange of photos and videos.

The measure does not constitute loosening up the embargo against Cuba. The OFAC document leaves it quite clear that it does not authorize:

- Direct or indirect export of internet services for senior level government of Cuba or Party officials.
- Direct or indirect export of services to connect to the internet or transmission installations for telecommunications (such as satellite connections or lines for that purpose).

- Direct or indirect export of server services that are not for supplying personal communications and services to register domains (for example, extensions: net, edu, gov, etc).
- The use of internet services for commercial purposes.

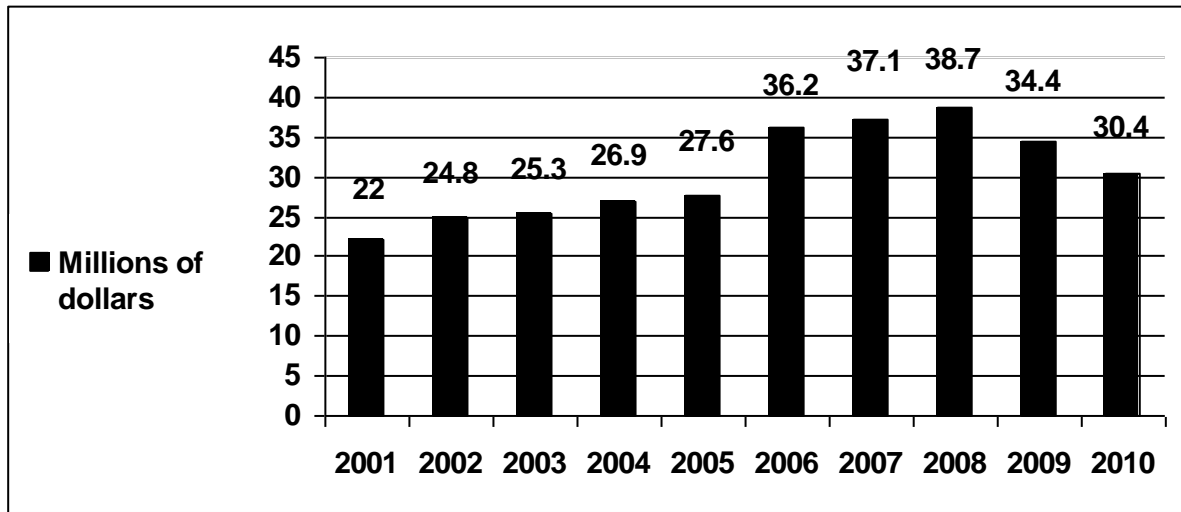
The subversive purposes of these measures have been openly recognized by US government officials.

All of the above reaffirms the political nature with which the US government handles the subject of communications with Cuba. This sphere also has not seen the loosening up of the embargo policy, nor is there any intention of developing normal communications with Cuba. As in other areas, the main interest is still the establishing of channels that facilitate their subversive work. This regulation is also applied to other countries on which the US has imposed economic sanctions. On the one hand, it would like to prevent our country from receiving benefits coming from such activities and, on the other, it is trying to directly influence individuals as part of their subversive designs against the country.

Likewise and with similar subversive purposes, Cuba has had to confront radio electronic aggression from US territory. Counter to International Law, the US weekly broadcasts more than two thousand hours of airtime, by 30 different frequencies, using 19 radio and TV stations. These broadcasts create damaging interference for our national services and they call for violence and assassination, encouraging emigration and the desertion of our professionals and technicians, facts about the Cuban reality are falsified and distorted and destruction of legitimately established constitutional order, voted in by the Cuban people, is promoted.

The following chart shows the funds allotted by the different administrations for the radio electronic warfare against Cuba.

**Funds allotted by the US government for radio and TV broadcasts against Cuba**





A January 2009 report from the US Government Auditor Office (GAO) explicitly acknowledged that the program of radio and TV broadcasts by the US government against Cuba constitutes a violation of international norms and internal legislation.

## **1.2 Extra-territorial application of the embargo**

The extra-territorial nature of the embargo has continued to be strengthened. Sanctions and extra-territorial persecution against citizens, institutions and companies of third countries that establish or simply plan on establishing economic, commercial, financial or scientific-technical relations with Cuba, thus taking on the right to decide about matters which are the attributes of the sovereignty of other States.

The continued process of mergers and mega-mergers of international enterprises, such as strategic alliances on a world scale in which the US is very much a participant, have continued to negatively impact on Cuba and with the toughening of the negative extra-territorial effect of the embargo being facilitated, as the international economic space in which Cuba can operate is being reduced.

The following are the main guidelines on which the extra-territorial policy is based:

- US subsidiaries in third countries are forbidden to have any kind of transaction with enterprises in Cuba.
- Enterprises from third countries are forbidden to export products of Cuban origin or products that have a component of Cuban origin to the US.
- Enterprises from third countries are forbidden to sell goods or services to Cuba, whose technology contains more than 10% of US components, even though their owner may be nationals of those countries.
- Vessels carrying products from or to Cuba, regardless of their country of registration, are forbidden to enter US ports.
- Third country banks are forbidden to open accounts in US dollars for Cuban juridical or natural persons or to carry out financial transactions in said currency with Cuban entities or persons.
- Third country businessmen are penalized for making investments or carrying out business with Cuba; they will be denied visas to enter the US (denial will extend to their families), and they will even be subject to legal suits before US courts in the event that operations with Cuba are related to properties associated with US claims, or that having been born in Cuba, citizenship was acquired at a later date.

As irrefutable evidence of the extra-territorial scope of the embargo, we can also indicate the following examples of repercussions that involve companies in third countries or those that are headquartered in them:

- On **May 15, 2009**, OFAC refused the application presented by the Banco Popular Español on March 16, 2009 to free funds blocked for a transfer from Madrid to Moscow, carried out by Cubana de Aviación in December of 2008, for a total of 107 thousand 770.95 Euros.
- On **September 25, 2009**, the branch of the Mexican bank with Spanish capital BANCOMER informed Taino Tours, the Mexican enterprise with Cuban capital, that OFAC had confiscated a transfer of \$ 25,000 from the DAMOJH S.A de C.V. Airline for payment of a charter flight. According to embargo regulations, the Treasury Department is authorized to inspect transactions in dollars being made in Mexican banks.
- **The Society for Worldwide Interbank Financial Telecommunication SCRL (SWIFT)**,<sup>4</sup> informed the Banco Central de Cuba (BCC) that the new version of the SWIFT Alliance Access (SAA), Release 7.0 which must be used mandatorily in order to access the network from March 31, 2012, will not be available to Cuba because it contains US technologies and components subject to the restrictions of the economic embargo.
- **The Lemery company** of Mexico was bought by the Israeli transnational TEVA, which has US capital, therefore Cuba could not continue buying cytostatic Dactinomicine, a medicine that is very useful for the treatment of sarcomas (malignant neoplasty in the conjunctive tissues, either bones, cartilage or blood vessels). Using this product would increase the survival rate of patients for more than 70% of the cases.
- In **November of 2009** Cuba had a contract for delivery of rotary machinery for bottling alcoholic beverages from the Brazilian company HUHTAMAKI, a company that has had long-standing contact with Cuba. The equipment was valued at 82 thousand 970.3 dollars and its anticipated productivity was 5000 units per hour, bottling rum in 60 ml bottles. At the delivery date, a communication was received informing that HUHTAMAKI had been bought by the American DIXIE TOGA S.A., a subsidiary of the Bemis Company Inc. group, and so the contract was void due to the embargo policy against Cuba. The repercussions of this contract amounted to \$480,000, since from December when start-up of the machinery was estimated, until March of this year, it was calculated that 1 million 920 thousand units (60 ml bottles) could not be produced at a price of approximately 0.25 dollars per unit.

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<sup>4</sup> SWIFT is a network to transmit banking information which is based in Belgium; it consists of a body of equipment and circuits controlled by that Society and distributed world-wide, providing users with access to its services. .

- **The English company AMETEK** cancelled the purchase order by Procurement Customer Services of the International Atomic Energy Agency (IAEA) to sell Cuba a Digital Signals Processor (DSP) in the framework of the ARCAL RLA2013 project of biomonitoring, destined for the Centre for Technological Applications and Nuclear Development (CEADEN) of the Nuclear Agency of Cuba. AMETEK argued that it could not send this equipment to Cuba because it was covered by the embargo laws. Said equipment was destined for the technique of X-Ray Fluorescence (FRX) with the aim of replacing the Canberra multi-channel analyzer (Series 30) acquired in IAEA in 1983, which presents many problems due to the length of time it has been in use and it was envisaged that it would be used to measure the concentrations of heavy metals in biomonitoring atmospheric pollution in Havana.
- **On December 8, 2009**, the Cuban company Construimport applied to import 15 excavators matts 20 rear loaders and 4 motorized levelers for an estimated value of 5 million 500 thousand dollars from the Japanese firm “Komatsu Brasil Int” via the Brazilian Enterprise SURIMPEX. Komatsu Ltd., a company that for many years was the leader in the Cuban market for its construction equipment, answered that the Enterprise is a subsidiary of Komatsu Latin America established under US norms and therefore could not make sales to Cuba.
- **SIEMENS of Mexico** declined to participate in the offer of spare parts for the electric arch oven of the Cuban company Antillana de Acero, which at a certain time had supplied the Mexican company Fuch acquired by Siemens. Due to embargo regulations, that company refused to comply with its obligations with Cuba and the required elements had to be acquired in a European country at a higher price and with a longer delivery period.
- **During 2009** we were looking for an offer for technological equipment for a 3-line continuous casting machinery for the steel company ACINOX in the province of Las Tunas that would allow us to increase production levels from 250,000 tons of steel a year to 300,000 tons. When the manufacturer SVAI, in Linz, Austria, one of the leading companies in this field in the world, was contacted, it answered in June 2009 that due to the fact that its home-office and owner, Siemens AG, trades on the New York Stock Exchange, they are obliged to comply with the embargo against Cuba.
- Supplying parts and spare parts for civilian aircraft Bandeirante EMB-110, operated by the Cuban airline Aerocaribbean, S.A. and manufactured by the Brazilian aeronautical consortium EMBRAER was denied. As a result of the embargo its possible acquisition was processed by intermediaries with a subsequent increase in financial cost of between 20 and 40% of its sale price.

- The US State Department refused the export permit to the British company Pascall Electronics Limited, subcontracted by the Canadian Intelcan Technosystems Inc. to supply equipment required for the modification (Dopplerization) of the MRL-5 Meteorological Radar in Camagüey. Pascall Electronics Limited was acquired in 2005 by the American consortium of the Defence and Space EMRISE Co.
- A bank in an Asian country communicated that it would be taking away the credit cards from officials of the Cuban embassy in that country in compliance with the embargo. It was informed that no bank in the country was willing to transfer payments to Cuba, a procedure that was normal at that time.
- A European bank that was acting as correspondent in Euros of another Asian bank did not accept payment instructions made by a Cuban bank and informed that it would not work with Cuba because it was included on the list of countries sponsoring terrorism, a list well known to be drawn up by the US State Department.

### **1.3 Continued harassment and sanctions against individuals and American and third country companies**

The Obama government has kept the embargo measures conceived under the Bush Plan in force, such as the persecution of Cuban commercial and financial operations abroad and the imposition of administrative fines and penalties on companies and individuals violating its regulations, among others.

The continuing policy of sanctions against American companies, their subsidiaries and third country companies has, in the first place, an immediate effect on the cancellation of operations or the breaking off of commercial links by the fined companies. It also has a deterrent effect on other companies and individuals who might eventually carry out commercial and financial operations with Cuba, and in the particular case of banks, it involves the breaking off of ties with Cuba or that Cuban transactions have to be made under more precarious conditions.

Sanctions on subsidiaries of American companies abroad and on third country companies also confirm the persistence of the extra-territorial nature of the embargo against Cuba.

In 2009, OFAC fined 7 entities for violating the embargo against Cuba for a total of \$315,503. The total amount of fines applied to individuals and entities was \$340,678 dollars. In the first half of 2010, fines on companies totalled 2 million 221 thousand 671 dollars. OFAC applied other million dollar fines not just because of commerce with Cuba, but with other countries by virtue of unilateral coercive measures.

Some examples of sanctions applied to US companies and those in third countries follow:

### **Harassment and sanctions on third country companies**

- On **August 24, 2009**, OFAC fined the banking group with head offices in Australia, Australia and New Zealand Bank Group, Ltd., for a total of 5 million 750 thousand dollars for getting involved in financial transactions related to Cuba and Sudan.
- **December 16, 2009**, OFAC fined the Credit Suisse Bank 536 million dollars for violating provisions of the embargo and carrying out financial transactions with several countries sanctioned by the United States, among which was Cuba. In our case, it is proposed that the Credit Suisse made 32 electronic transactions for \$323,648 through banking institutions based in the US.
- **March 19, 2010**, that same Office imposed a criminal fine on the Swedish subsidiary of the chemical company Innospec Inc. with home offices in Delaware, for 2 million 200 thousand dollars for selling an additive for gasoline to Cuba.

### **Harassment and sanctions on US individuals and companies**

- On **May 12, 2009** the Securities Exchange Commission (SEC) sent a letter to INTEL asking it for information about its business with countries subject to unilateral sanctions, among them Cuba. The origin of this request was an article by the AP news agency printed on May 2nd stating that computers in Cuba were using Celaron processors, manufactured by this company.
- On **May 29, 2009**, OFAC informed that Liberty International Holdings Inc. was fined \$ 35,211 for having participated as insurer for a business linked to the Cuban government. An individual was also fined \$ 1,175 for buying Cuban cigars on the Internet.
- On **July 1st, 2009**, Philips Electronics of North America Corporation, based in New York, was fined \$ 128,750 because an employee travelled to Cuba without a permit for the sale of some medical equipment for a foreign affiliate.

- On **July 31, 2009**, an individual was fined \$ 15,000 for getting involved in financial transactions with Cuba. Also, MGE UPS Systems Inc., known as American Power Conversion Corporation was fined \$ 10,341 for having sold electrical regulators destined for Cuba and First Incentive Travel, Inc. was fined \$ 8,250 for providing travel services to USA citizens.
- On **March 30, 2010** the Huffington Post informed that the FBI interrogated at least 10 members of the *Venceremos* Brigade for having travelled to Cuba. According to statements made by the Brigade's lawyer, Michael Warren, this could have been part of a new directive from the Department of Justice.
- On **April 1st, 2010** it was learned that OFAC refused a licence to the Yacht Club of Sarasota, Florida to take part in the Sarasota-Havana Regata.
- On **April 23 of that same year**, OFAC published that the Florida company LD Telecommunications Inc. was fined \$ 21,671 for transferring funds related to telecommunications services to Cuba.

## **CHAPTER II. REPERCUSSIONS OF THE EMBARGO ON THE MOST SENSITIVE SOCIAL SECTORS**

### **2.1 Repercussions on health and food**

The sectors of **public health** and **food** have been prioritized objectives of the embargo policy.

#### **PUBLIC HEALTH**

Between May 2009 and April 2010 repercussions on the public health sector totalled 15 million 200 thousand dollars.

The economic toll is due basically to the necessity of acquiring medicines, reactivates, spare parts for medical equipment, instruments and other consumables in far away markets and on many occasions with the use of intermediaries, thus increasing the prices.

Added to the above is the suffering and desperation that this situation caused on patients and their families, seeing that they cannot count on having the best medicine for an illness and on many occasions, at the moment it is needed, in order to save a life. This pain can never receive be given a dollar value.

Among the many examples describing the damage caused in the sphere of health during the period referred to, we include the following:

- The **Institute of Oncology and Radiobiology** cannot use Radioactive Iodine plates for the treatment of children and adults suffering from retinoblastoma (congenital tumors growing on the retina) since they cannot acquire these since they can only be bought in the US. This technology is mostly used for the treatment of children since it permits treatment of the tumor on the retina, saving vision in the affected eye and the appearance of the face. Faced with this shortage, the only alternative is to remove the eye and in some cases both eyes, a procedure which, besides being invasive, carries with it severe limitations for the lives of the patients.
- This institute has approximately 1600 patients per year who are affected by the impossibility of acquiring the refills for Philips Tomography. Of these patients, 250 face serious difficulties in the planning of their radiotherapies. Not having this technology means that the imprecision rate of the treatment increases from 3 to 5 % and the radiotherapy services are adversely affected since the limits and forms of the tumors cannot be precisely determined.
- Cuba has no access to Temozolamide (Temodar), specific cytostatic medicine for use in tumors of the central nervous system (gliomas and astrocytomas). This disease affects approximately 250 patients every year, and of these around 30 are children. Use of this medicine would significantly increase survival and quality of life for the patients, since the medicine has very few adverse effects and can be relatively easily administered in comparison with other medicines.
- Cuba is denied the right to acquire non-ionic iodine contrast, a product that has a bearing on the quality of imaging studies of patients with tumors. Use of this medicine would increase the efficacy of diagnoses and there would be no risk of allergic reactions to the contrast which on occasion has very serious results.
- Cuban hospitals are deprived of the possibility of obtaining the reactive SILANE, sold by Sigma, which is used to adhere histological sections to slides for special techniques in immunohistochemistry and hybridization. Without this reactive one cannot process malignant tumors and other infectious diseases, something that prevents the application of modern techniques that are necessary for diagnosis, prognosis and treatment of these diseases.
- The **Hermanos Ameijeiras Hospital**, in Havana, cannot make tomographic studies on more than 5,000 patients, particularly the Angio-TAC, something that is vital for the study of cerebrovascular diseases due to the non-compliance of Phillips in supplying the spare parts for two tomographs.

- Cuba is also prevented from acquiring consumables and medicines related to organ and tissue transplants. Medicines such as cyclosporine and tacrolimus that prevent rejection by the transplanted organ or tissue cannot be bought by our country.

Cuban children continue to be the innocent victims of the US embargo policy against Cuba.

- **The “William Soler” Pediatric Cardio-centre** was included in the year 2007 by the US Treasury Department into the category of “Rejected Hospital” and so it has conditions placed on it for the sale of products and the acquisition of these is refused unless they comply with the demands placed on them. This situation has involved an endless number of repercussions on carrying out different surgical techniques due to not being able to acquire certain materials suitable for children on the American market, such as better quality vesical and tracheal probes, catheters and stents, etc.
- Cuban children are denied the use of the Amplatzer device which is manufactured in the US, made from special materials to avoid organic rejection. This device is used for the percutaneous closure of the intra-auricular communication (closure of the defective opening between the aorta and pulmonary arteries, a procedure known as interventionist catheterism) avoiding open heart surgery which besides being risky requires intensive care and a three week recovery period.

4 new cases of children waiting for operations have been added to the list from previous years:

1. María Fernanda Vidal, 5 years old, Havana, HC<sup>5</sup> 680347.
2. Cyntia Soto Aponte, 3 years old, Havana, HC 668739
3. Mayuli Pérez Ulboa, 8 years old, Ciego de Avila, HC 691064
4. Lianet D. Alvarez, 5 years old, Camaguey, HC 04110975335

- The American company **ABBOT** is forbidden to sell Cuba the medicine called Sevofluorane, a general inhaled anaesthesia agent, having rapid induction thus making it ideal and the best product for anaesthesia induction for children, and at the same time, an excellent myocardial protection agent for episodes of ischemia in patients who have been anaesthetized for revascularization. Other generic medicines having inferior quality and adverse effects on the patient such as Levosimendan are manufactured by the same company and so also cannot be acquired by Cuba.

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<sup>5</sup> Medical History.

## FOOD

During the period we are analyzing, conditions under which Cuba had to make fundamental purchases of foods from American companies remained onerous and difficult.

The US government continues to set up obstacles for such purchases and there has been no action made to carry out these sales in accordance with the norms, channels and regular practices of international commerce.

In June 2009, the US International Trade Commission published a report on the agricultural sales to Cuba where it was recognized that among the factors limiting commerce between the two countries were: the difficult payment conditions for Cuban importers; additional warehousing costs or extended stay costs affecting Alimport due to bureaucratic roadblocks; the complicated and slow process of obtaining licences for the exporters who need to travel to Cuba; travel restrictions on Cuban negotiators; penalization by US laws of the foreign vessels that dock in Cuban ports and purchases made by the Cuban government from certain countries for geopolitical reasons. The Commission supposes that an eventual lifting of financial restrictions and bans on travel by Americans would cause an increase in US agricultural sales to Cuba that would be between 924 million dollars and one thousand 200 million dollars, something that would signify between 49% and 64% of the total agricultural purchases by Cuba.

The following examples illustrate the situation:

- **ALIMPORT**, the company which imports foods, had repercussions to the effect of 102 million 900 thousand dollars because of “Risk Country”, banking and financial costs dealing with payment instruments. If the funds had been available, we might have acquired 337,000 tons of wheat or 451,000 tons of corn or 109,000 tons of chicken at average prices in 2008.
- According to information from the US Department of Agriculture Service of Economic Research, in 2009 this country imported more than 3 million 82 thousand TM of raw sugar, of which 1 million 370 thousand TM was under quota. Since Cuba didn't have access to the preferential and futures market of New York, during the period we are analyzing it had repercussions of close to 49 million USD, taking into account the current volumes of production and exports of our country.
- Without access to the US market, **The Union of Beverages and Soft Drinks** is forced to import the aging barrels for rum from European markets; for this purpose it had to spend an additional \$ 284,700.

- The impossibility of access to the US market for Cuban rum, especially the leading brand of Havana Club, means that no less than 2 million 200 thousand crates of rum have not been sold which, calculated at the average invoiced price for Havana Club International in 2009, represents an economic repercussion of 87 million 300 thousand dollars.
- The embargo adversely affected **rice production**, delaying receiving fertilizers and pesticides in time for the planting of this cereal, and this signified that 6,000 hectares were not sown in the cold campaign of 2009-2010 with a repercussion of 24,700 tons of wet rice, representing 12,400 tons less for consumption. Importing that same amount meant that the country had to spend 7 million 500 thousand dollars
- **Pork production** has been adversely affected for approximately 23 million 400 thousand dollars due to geographic relocation of its commerce, transportation, lack of external funding, and the oft-repeated increase in insurance because of risks involved in doing business with Cuba.
- Added to the damages for various activities in the agricultural sector due to restrictions on access to the US as the receiving market for its exports as well as supplier and the move towards other distant and less competitive markets, the impossibility of access to cutting-edge technologies for this sector has had unfavourable repercussions on yield and general efficiency of same and along with that, decreased availability of products for the population's consumption.

## 2.2 The toll on academic, scientific, cultural and sports exchanges

The education, culture and sports sectors have been and continue to be severely affected by the embargo.

In fact, the US government is not interested in promoting free contact between the two countries. It is the very US government which prevents its citizens from visiting Cuba and it hasn't even re-established the levels of academic exchange that used to exist before 2004 between Cuban and American institutions.

Despite the fact that the US government has authorized licences to some American artistic and scientific groups to participate in events in Cuba and has approved a greater number of visas to Cuban artists and academics as part of its new plan for influence over Cuba, it has not changed the prohibition on academic, scientific and cultural exchanges decreed by the Bush administration in 2004, therefore such authorizations are completely arbitrary and selective.

## EDUCATION

Despite efforts made by the Cuban government to guarantee quality education for all, the effects of the embargo translate into daily shortages affecting the processes of learning, research and scientific work of students and professors in general.

Some examples follow:

- In the period being analyzed, the total amount of Cuban imports in this sector was reduced to 18 million 200 thousand dollars, of this 10 percent was destined to pay freight. If Cuba had had access to the US market it would have only dedicated 3.7 % to the payment of freight and so would have been able to acquire OFFSET paper to print all the textbooks necessary for each education level, all the geometry sets for mathematics courses at the primary and special education levels, and 150,000 sets of markers for acrylic blackboards required for computer education in the entire country for one school year.
- Cuba has not been able to acquire the necessary equipment to set up 60 therapeutic classrooms for children with motor disabilities since it cannot access the US market and must use markets that are farther away and more expensive. The cost of these classrooms is around 14,000 Euros on the European market; however in the United States that cost would not exceed \$ 8,000.
- In the period being analyzed, the **Higher Education** sector has suffered losses of 3 million 546 thousand 692 dollars; this includes repercussions on production and services, no access to American technology, relocation of markets and their monetary-financial consequences.
- The University of Havana has seen its service to professors and students limited in their access to the internet because it is done from a site in Cuba. This happens, for example, with the updating of software such as the Sun Microsystem JAVA.
- Applied Biosystems refuses to sell Cuba equipment for DNA sequencing along with machines for Polymerase Chain Reaction (PCR) that are needed in molecular biology labs. To acquire any of these devices they have to resort to intermediaries, and that increases the prices and means a loss in research time.

## CULTURE

The embargo policy continues to prevent the American and Cuban people from enjoying the best artistic, literary and cultural expressions of both nations.

During the period being analyzed repercussions on the culture sector reaches 10 million 575 thousand dollars, basically including incomes that have not been earned for exports of goods and services, relocation to other markets, additional freight and insurance charges and monetary-financial repercussions.

- The **Cuban Institute for Cinematographic Art and Industry (ICAIC)** is unable to participate in the American Film Market and NAPTE, despite the quality of Cuban products. The embargo also prevents ICAIC from linking with American companies that provide commercial publicity in sectors such as airlines, tourism, art, culture and sports, and so the Institute has suffered repercussions of \$ 720,000.
- **Arts Education** is severely affected by the limitations for acquiring consumables and materials necessary for the study of different artistic disciplines such as oil and acrylic paints and brushes for the visual arts, musical instruments, and others.
- Since 2002, a bilateral agreement has been signed with the US National Council for Research in the Social Sciences by virtue of which the project for the preservation of the Ernest Hemingway Residence-Museum would be supported with materials and consumables for the digitalization of correspondence and documents in the Hemingway Collection. The Treasury Department did not authorize the transfer of funds to Cuba that is necessary to put this project into practice.

## SPORTS

Cuban sports has suffered serious repercussions caused by application of the embargo.

- For the third consecutive year, Cuba continues to be unable to buy Liquid Chromatography equipment, connected to Mass Spectrometry (LC/MS/MS/), which is essential for anti-doping controls. The US government prohibits American companies and subsidiaries in third countries from selling it to Cuba.

- UCS INC did not answer requests for offers made by the Cuban company CONSUMIMPORT for the purchase of sports articles for the development of baseball. Faced with no answer, the Cuban company has been forced to use an intermediary and make the purchase on a third market, with the subsequent increase in costs reaching \$ 3,000 for one operation.

Also, the US government prevented the participation of numerous American scientists, artists and academics at meetings and events held on the island, by not granting them permits to travel to Cuba. Among these, we describe the following:

- Thirty American specialists who would have participated in the XX International Orthopedics and Traumatology Congress held on September 21 to 26, 2009.
- Representatives from the National Oceanic and Atmospheric Administration to participate in the Workshop on Maritime Conservation ColacMar Cuba 2009.
- The sponsors of the New York Philharmonic which had to cancel its concert in Cuba in October of 2009.
- A substantial representation of Americans to Cuban cultural events such as Festival Jazz Plaza, the Festival of New Latin American Film last December and the Biennale of Havana.
- Various American scientists who had wanted to participate in the III International Symposium on Mechanical Ventilation and Blood Gases, in the province of Villa Clara, April 22 to 24, 2010.

## **CHAPTER III. REPERCUSSIONS ON THE FOREIGN SECTOR OF THE ECONOMY**

### **3.1 Repercussions on Foreign Trade**

Repercussions registered from April 2009 until March 2010 by foreign commerce enterprises total 155 million 500 thousand dollars, lower by almost 87 million dollars, about 36 %, as compared to 242 million 400 thousand dollars registered in the same period of 2008-2009, due to the reduction in world trade and commercial loans because of the world crisis. However this does not mean that the impact of the embargo on the foreign sector has been reduced in its intensity and its persistence; quite the contrary.

The principal repercussions on foreign trade depend on the following factors:

- The impossibility of access to the US market forces us to use intermediaries with the subsequent rise in the cost of goods, freight and insurance charges increase because we must use more distant markets such as Asia and because income from exports of goods and services are no longer being earned.
- The increase in the cost of funding for the so-called risk country associated with the US embargo.
- Prohibition on the use of the dollar and the necessity of using other currencies, thus causing an increase in costs due to rates of exchange and their fluctuations.
- Other repercussions due to additional costs for operations via banks in third countries, banking commissions and types of payment instruments.

From March 2009 and in the first months of 2010, directives from President Obama or measures deriving from legislative initiatives introduced in laws approved by the US Congress were announced and implemented; these referred to matters of interest to trade and like issues.

Nevertheless, what was approved did not modify any legislative provision related to the embargo against Cuba. It just meant, basically, a loosening up of some restrictions and not providing funds at the request of the US government for application to the measures adopted under the 2000 The Trade Sanctions Reform And Export Enhancement Act (TSRA) and the extreme measures adopted by the Bush administration.

In the case of modifications on travel regulations for US businessmen in the agricultural sector by granting a general licence, its impact was reduced by the establishment of determinate informative requirements for businessmen, as well as because of the need to adapt to a daily expense in Cuba that was not previously strictly controlled.

Under this general licence, US businessmen must hand over to OFAC two written reports, one 14 days before travelling and the other one 14 days after having returned from the trip. The first report will identify the manufacturer or supplier and the activities to be engaged in. The second report will describe the commercial activities, persons with whom meetings were held and expenses while in Cuba.

Thus these loosening-up measures, in the context of the numerous and strict conditions in existence for the sales of agricultural and health sector products in Cuba, are very limited and clearly insufficient.

In 2009 no purchases were made in the US for products linked to the health sector, such as non-expendable medical equipment and products, given that their sale continues to be conditioned by a series of “in situ” controls and checking requirements that make any negotiation or carrying out of eventual purchases virtually impossible.

Some examples of repercussions of the embargo on foreign trade follow:

- **CONSUMIMPORT**, whose main imports are destined for the health, education and sports sectors, carried out systematic work on the possible subsidiary US firms that manufactured top quality electrical, sports and office articles, who were requested for offers and never answered. Among these, Cooper Wiring Devices (electrical equipment), Office Furniture USA (office articles), and UCS INC (sports equipment) were already mentioned. Consequently, it had to move its purchases to third markets and at times use intermediaries for repercussions of 1 million 900 thousand dollars including the additional costs calculated in the case of sports articles.
- **CUBACONTROL**, an enterprise that imports and provides commercial supervision services for products that are imported and exported to and from Cuba respectively, cannot participate in countries where it is represented as itself in the local market sector related to the US. It can neither charge in dollars for the services it provides abroad to third parties, nor transfer US dollars for sales remitted by its agents.
- **METALCUBA** made a request for an offer for U-beams and galvanized tubes from the subsidiary company of the US ASIF ENTERPRISES, but never received a reply. It also requested an offer from IPESA, based in Mexico with US participation, also without receiving any answer.

### 3.2 Repercussions on Foreign Investment

Even when foreign investment in Cuba is conceived as a complement to national efforts and follows a framework of high selectivity associated with projects of national interest having a significant economic and social impact, the embargo imposed by the US government on the Island brings with it serious consequences, due to some of the following factors:

- Not having access to the cutting-edge technology of US enterprises.
- Not having access to the US market for imports of consumables and the exports by Joint Enterprises with foreign capital in Cuba.
- Not having access to funding coming from US Banks for the development of projects with Direct Foreign Investment in the country.
- The application of sanctions and pressure on foreign enterprises, something which sets up obstacles for the establishment of joint business ventures with Cuba and shows the extra-territorial nature of the embargo.

According to the Report on World Investments in 2009 published by the United Nations Conference on Trade and Development (UNCTAD), the US maintained its position as the number one country to receive and issue direct foreign investment. (DFI).

In Latin America and the Caribbean the IED entry flow in 2008 increased 13 %, reaching 144 thousand million dollars in spite of the global crisis. Growth among sub-regions behaved differently: there was an increase of 29% in South America and a decrease of 6% in Central America and the Caribbean, a region directly affected by the slow-down of the American economy.

To determine the estimated investment flow that Cuba might have received if the embargo did not exist, we started with the analysis of the 2000 to 2008 period, considering in the first place the accumulated investment flow received by some Central American and Caribbean countries in the different sectors of their economies and those from the United States. Thus, we summarized countries having economies that were comparable to Cuba and with similar characteristics in terms of geographical, climatic and socio-cultural conditions, developing countries or those having intermediate development.

Within the group of Central American and Caribbean countries having similar characteristics to Cuba, we selected Costa Rica, Honduras and the Dominican Republic and, as part of the countries which, like Cuba, are considered Intermediate Development Countries (IDC) according to classification by the Latin American Integration Association (ALADI), Peru, Colombia and Uruguay were chosen.

In the following Table, the total foreign investment flow and those from the United States are shown, received by countries mentioned above between the years 2000 and 2008.

Countries	Total accumulated flow IED incomes in millions of dollars (1)	Accumulated capital flow from the US in millions of dollars (2)	% of participation of investments from the US out of total investments (2/1)
Costa Rica	6 902	3 948	57%
Honduras	4 057	1 752	43%
Dominican Rep.	8 750	3 594	41%
Colombia	25 839	6 465	25%
Peru	6 107	947	16%
Uruguay	2 087	785	38%

Source: Regional panorama of direct foreign investment in Latin America and the Caribbean. Economic Commission for Latin America and the Caribbean (ECLAC), 2008.

From these elements one can assume that Cuba could have received DFI flows coming from the US equivalent to those they receive from a select group of countries.

Knowing that the average percentage of investment from the US is 37% of the total IED of the six selected countries, in the analyzed period Cuba could have received approximately 2,251 million dollars from that country if the embargo were not in place.

If only the countries that, according to ALADI, are classified among Intermediate Development Countries are considered, Cuba would have received approximately 26% of the total DFI flow, equivalent to one thousand 602 million dollars.

If we were to only consider the countries in Central America and the Caribbean who have characteristics similar to Cuba, the Island would have received 47 % of the total flow received, or, 2 thousand 900 million dollars between the years 2000 and 2008.

In the Oil Sector, US companies with advanced technology for deep water oil exploration, such as EXXON MOBIL (ranking No. 2 in the Fortune Global 500), CHEVRON (No. 6), CONOCO PHILLIPS (No.10), VALERO ENERGY (No. 49) and MARATHON OIL (No. 108) cannot invest in the Island because of the Helms Burton Act restrictions.

Tourism continues to be one of the main driving forces of the Cuban economy, thus it needs to continue developing with opportunities of participation by foreign investors in the hotel and non-hotel infrastructure, and the construction of golf courses, among other activities, projects that are out of the reach of American hotel enterprises who invest massively in the Caribbean.

A clear example can be seen in the market for golf courses. There are more than 81 million golf aficionados world-wide according to figures from the International Association of Travel Agents and Golf Courses (IATO) who play on average 6.3 times a month. The United States is the country with the greatest number of golfers, 29 million of them, and it has the most golf courses. Because of the embargo, no US company can invest in this area on the Island.

In terms of hotel management, of the 14 international hotel chains operating in Cuba, not one of them is American and the country cannot have any US hotel chains such as the Sheraton, Hilton, Marriot Holiday Inn franchises which are present throughout the Caribbean; almost all of them are part of the ten greatest hotel chains in the world.

In the agro-food industry, Cuba annually imports from the US large amounts of foods. If embargo restrictions were not in place, mixed capital enterprises could be formed in order to develop the production of various products on the Island, as well as the logistical activities of storage, benefits, post-harvest treatment and distribution, reanimation of the foods sector and the generation of new employment sources, among other advantages.

### 3.3 Financial and Banking Repercussions

In the period being analyzed the Cuban banking and financial sector continues being permanently submitted to a policy of hostility and isolation by the US government that was manifested by placing impediments on obtaining external funding, on the introduction of obstacles for any financial operation and the creating of delays and cancellations for commercial-financial negotiations, even in their final phases.

Every year, the embargo reduces the possibility of using correspondent banks, making transactions more complicated, besides those already well-known limitations on the use of the dollar as payment; this has forced the banking and financial system to explore new ways or alternatives to be able to continue doing financial operations with banks abroad.

Repercussions of a general nature for Cuban banks and financial institutions in this period were:

- Additional payments in order to effectuate payments in currencies different from those contracted (US dollars); this implies assuming risks because of the type of exchange rate, making operations doubly expensive in these cases.
- The impossibility of opening accounts in Swiss Francs in some of the top-ranking Swiss Banks.
- The necessity of keeping minimal balances in Cuban accounts abroad before the risk of an embargo.
- The impossibility of making payments to beneficiaries of letters of credit in their terms of domicile, having to do so through banks in another region, thus making it more expensive.
- Making sales or funding operations using less than advantageous terms, before the impossibility of a variety of offers willing to negotiate with Cuba.
- Placing 100 % collateral to confirm non-financed letters of credit, with subsequent freezing of funds from the moment of their issue.
- The impossibility of processing remittances coming from collaborators, Latin American students and Cuban communities from Central and South America, due to the strong influence of the United States of that region's banks.
- Pressure on procedures of external loans that have repercussions on increasing the financial costs of operations and force Cuban banks into structuring funding with foreign institutions, to establish mechanisms that will suitably oppose the restrictions deriving from the embargo and the credit evaluation of the country, authorized by qualifying agencies that answer to the interests of American capital.

- Cuban banks cannot access specialized financial information sites such as Reuters, considered to be one of the most complete sources. Even though other alternatives are used, this has negative effects on the market information and analysis services used by banks in the Cuban system and usually used by many clients.

### **3.4 Section 211 of the US Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 and new aggressions on the subject of patents and brands**

On April 6, 2010 a federal judge in the district of Wilmington, Delaware ruled in favour of Bacardi marketing Havana Club rum in the United States, whose renewal of trademark registration by its legitimate owner, the Cuban/French Enterprise Havana Club International, had been denied by the Patent and Trademark Office of the United States in August 2006, under Section 211. The French company Pernod Ricard announced it would be appealing the decision before the Federal Appeals Court of the Third Circuit.

Section 211, approved by the US Congress in October of 1998 within the US Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1998, has the purpose of making it impossible to register and renew certain Cuban brands of recognized international fame, as in the case of the HAVANA CLUB brand name, with the aim of usurping them.

In 2010 it was 8 years since the Organ for Solution of Differences (OSD) of the World Trade Organization (WTO) ratified, in February 2002, that Section 211 infringes on obligations in the subject of national treatment and most favoured nation treatment, established in the Treaty on Trade Related Aspects of Intellectual Property (TRIPS) and the Paris Covenant for Protection of Industrial Property, and requested the US government to raise this measure whose incompatibility was verified according to obligations imposed by the Agreement on the TRIPS.

Since that time, successive US governments have done nothing to comply with their obligations to the WTO agreements and the OSD resolutions, and have limited themselves to repeating that “the US administration is working with Congress to implement the OSD recommendations and resolutions.”

Every month in the OSD of the WTO, many important WTO members express their profound concern about the situation of the prolonged non-compliance by the United States and about the direct consequences on the multi-lateral trade systems and protection of intellectual property.

To allow Bacardi to market rum under the brand name of HAVANA CLUB which is a well-known trademark that identifies its Cuban origin is to encourage the most treacherous of practices in international trade.

On the other hand, in the context of the embargo and political hostility, in 2009 a new risk situation with potential repercussions sprang up, tied in with the intentions of some plaintiffs in legal cases against the Cuban State in US courts to take over Cuban commercial brands and patents as a form of compensation.

It is still impossible to estimate the effects on Cuban companies, owners of commercial brand names and patents in the US, any further than their deterrent effect on potential business.

In February of 2010, the US Patents and Trademarks Registry Office (USPTO) published the transfer of 44 brands and 58 patents belonging to Cuban entities in the name of Nilo Jerez. One of these patents didn't even appear in the procedural request presented to the federal courts, in fact, it wasn't even granted at the time of the request.

At a routine check made on April 12, 2010, on the USPTO website, it was noted that Nilo Jerez continues to be documented as the owner assigned to the registrations of the Cuban institutions CIM, CNIC and DALMER.

From June of this year, the Federal Court of the Eastern District of Virginia, the Federal Court of the District of Columbia and the Federal Court of the Southern District of Florida must make a statement about the absurd demands for compensation presented against Cuba by relatives of the American mercenary Robert Otis Fuller and the Cuban-American Nilo Jerez, who got favourable verdicts for various hundreds of millions at legal trials manipulated politically by anti-Cuban elements fundamentally based in Florida.

Finding it impossible to satisfy their demands with Cuban funds frozen in that country, already ransacked by a long chain of spurious judicial rulings against Cuba, the plaintiffs would like to do it at the cost of an illegal auction of Cuban brands and patents that were duly registered in the United States.

Should decisions in these Courts be produced in favour of the plaintiffs, a very negative precedent for future economic-commercial relations between the two countries would be established. It would also constitute a serious violation of international obligations of the United States of America in the matter of intellectual property.

The US has legally binding obligations by virtue of the international treaties referring to intellectual property, in particular those that derive from the Paris Covenant for the Protection of Industrial Property, the Inter-American Convention for the Protection of Commercial Brands and Trade, and the Agreement on Aspects of Industrial property Related to Trade (ADPIC Agreement) of the World Trade Organization, all of which oblige that country, as State Party, to provide protection for brands and patents of companies and institutions of all countries, including Cuba.

The US government has the complete authority by virtue of its own laws to intervene in judicial processes of this kind that affect their national interests.

The American government has legitimized on several occasions the position of anti-Cuban elements in order to satisfy their demands for compensation at the expense of Cuban goods and assets in that country. It is enough to remember the plunder of more than 170 million dollars of Cuban funds frozen in bank accounts in that country to satisfy the relatives of members of terrorist organizations, aggressors and mercenaries at the service of the US government.

By contrast, until today, more than 5,000 US brands and patents are registered in Cuba, benefiting from the long tradition of respect for reciprocity in matters of intellectual property adopted by the government of Cuba, according to International Law. Among these there are brands and patents registered whose owners are Mars Incorporated, Procter & Gamble, 3M Company, Merc & Co., Wyeth, Pfizer, E.R. Squibb & Sons, Bayer, Warner-Lambert, G.D. Searle and many other important American corporations.

The attempt to appropriate brands and patents of Cuban companies has raised doubts about international agreements on brands and patents and has serious international commercial implications. The power of brands, the sole assets of intellectual property that can remain in force indefinitely, is very well known.

According to international law the US has the responsibility to see that their laws, regulations and judicial and administrative procedures are according to their obligations with the WTO agreements and with international treaties on brands and patents of which it is a State Party.

#### **CHAPTER IV. REPERCUSSIONS OF THE EMBARGO ON OTHER SECTORS OF THE CUBAN ECONOMY**

**Cuban light industry** has also suffered the effects of the embargo. Its repercussions have negative effects on the improvement of the essential needs of the population. In the period being analyzed the losses are calculated at 12 million 891 thousand dollars, from imports of products from more distant markets and the increase in the cost of freight and insurance, added to which is the additional cost of immobilized resources in inventories.

It is impossible for the Suchel Union to buy their raw materials for the manufacture of products like soaps, detergents and creams in the US market, and this had meant additional expenses of 6 million 716 thousand 600 dollars. With this amount we could have produced 7 thousand 348 tons of soap that would be equivalent to 58 million 700 thousand bars of soap for the population.

The Unión Poligráfica had to acquire their consumables in Asian markets, and this represented an additional expense of 1 million 999 thousand dollars. If we had

been able to count on these resources, we would have been able to finance the manufacture of 16 million 700 thousand good quality school notebooks, which accounts for 18% of the notebooks required for one school year.

The **transportation** sector has not escaped the negative effects of the embargo.

The **ARIES S.A** company's basic function is attending to cruise ships and passengers that arrive in the country. Its operative capacity varies in an approximate traffic of 1 million 200 thousand cruise passengers and 1092 landings of cruise ships each year. If the Cuban embargo did not exist, and according to indicators drawn up by the Association for Caribbean and Florida Cruise Ships (FCCA), the earnings for our country would be in the range of 125 million 300 thousand 442 dollars per year.

The **NAVEGACION CARIBE** Company cannot acquire spare parts and other materials necessary for its ships on the American market, and so it has had to seek out European markets with the corresponding increase of freight charges. Between April 2009 and March 2010 the repercussions for this amounted to 525 thousand dollars.

The activity of **Harbour Pilots of Cuba** has been affected by the delay and increased cost generated by repairs to passenger maritime transportation vessels. Such is the case of the vessel Río "Las Casas" that needed to have its propeller engines replaced. Those engines are manufactured in the US and so it was necessary to transport them from the United States to a third country on another continent and from there to Cuba, with the additional cost of freight involved, causing losses of \$ 16,788.

The **Informatics and Communications sector** has also been severely affected by the application of the embargo. In the period being analyzed, around 61 million 240 thousand 430 dollars of income have been lost.

Despite the talks which began in September 2009 between the **Cuban Postal Corporation** and the United States Postal Service, with the intention of returning regular service, the embargo policy continues to prevent the sending of direct mail, bringing with it the corresponding repercussions. Should mail traffic between the two countries increase, it is calculated that Cuba would be benefitted by at least 1 million 500 thousand dollars.

During this period, the **Telecommunications Company of Cuba (ETECSA)** has lost around 52 million 868 thousand dollars due to repercussions on production and services, additional freight charges, repercussions because of not being able to access American technology, etc. Acquisition of equipment and spare parts having US patents and which are essential for the development and maintenance of the Cuban telecommunications companies are acquired on the international market under severe control and supervision measures, as well as at a considerable increase in their value.

The **Cubaelectrónica** Company continues to suffer from the blows of the embargo. No access or no service on the numerous websites is being firmly maintained regardless of the type of site. Cuba is prevented from access to the free services offered on the net. Such is the case of [www.vivalinux.com.ar](http://www.vivalinux.com.ar) from Argentina which stores code-related solutions that are needed by all software developers for their work.

Cuba is forbidden from importing computers manufactured by the major world manufacturers such as INTEL, HEWLETT PACKARD, IBM and MACINTOSH. In order to obtain one of these, the country must pay up to 30 % above the regular price.

The **Cuban National Software Company (DESOFT S.A)** has been seriously affected by application of the embargo. Work links with the Costa Rican company MOVIL MULTIMEDIA and the Spanish company OESIA have been interrupted due to the fear of being fined or of receiving reprisals for doing business with Cuba; this has meant that projects have been paralyzed, bringing with it the corresponding monetary repercussions.

In the **science and technology sector**, crucial for the growth of any country, repercussions remain in effect.

**EMIDICT, the Specialized Importing, Exporting and Distribution Company for Science and Technology** attempted to acquire the electronic components for the ICIMAF and CEADEN institutes from the distributor Farnell, one of the main worldwide distributors for electronic and electric products. This company which is part of the Premier Farnell group, principal distributor of electronic components in the US with branches in more than 40 countries, refused those electronic components that originate in the US. That caused delays in the production of medical equipment for CEADEN and ICIMAF for the national health system and export and forced us to seek other alternatives.

**The Centre for Environmental Engineering of Camagüey (CIAC)**, whose mission is to obtain, apply and spread knowledge for the management of science, technology and the environment, from the execution of research projects, high aggregate value technical scientific services and specialized productions using nuclear and cutting-edge technologies, faces serious difficulties for the publication of scientific results in leading reviews that are printed in the US and the UK.

**In the tourism industry**, the effects of the embargo in 2009 were estimated at one thousand 108 million 900 thousand dollars.

These losses are broken down into one thousand 30 million dollars, just for the income lost as a result of forbidding US citizens from travelling to Cuba; 11 million 500 thousand dollars for American yachts and sailboats that cannot visit

Cuban marinas; 27 million 400 thousand dollars for the increased purchase expenses for freight, prices, higher taxes and interest, greater inventory and immobilization of financial resources, mainly of the *Caracol* chain of stores and the *Comercializadora ITH*, and 40 million for restrictions in electronic business and other online facilities.

Because of the prohibition on trips to Cuba by US citizens, the Cuban tourism industry in 2009 lost one thousand 30 million dollars, starting from the premise that 15 % of Americans who travel to the Caribbean as tourists would have also come to Cuba if the trips were not prohibited.

One can presume, bearing in mind the statistics of the Caribbean Tourism Organization at the end of March 2010, that just like other destinations in the region and as an effect of the crisis, the flow of Americans to Cuba – if one were to eliminate the prohibitions on travel – would also have been affected for around 8 %. Thus, one can estimate that during 2009, approximately 1 million 585 thousand US tourists could have travelled to Cuba.

Also, Cuban hotels can only use the Amadeus system, one of the four great global distribution systems, GDS international, since three of them —Sabre, Galileo and Worldspan— are US companies. Other intermediary suppliers of these services are unable to associate with Cuban tourist entities for fear of being fined and seeing their sales to the US threatened.

**In civilian aeronautics in Cuba** repercussions from the embargo from May 1st 2009 to April 23, 2010, are estimated at 265 million 830 thousand 210 dollars.

The US world monopoly on the manufacture of commercial planes and their components, spare parts and aircraft, airport and airplane services technology, as well as their participation in manufacturing and an important percentage of shares in other commercial aviation industry consortiums as in Europe, prohibits Cuban airlines from purchasing aircraft, equipment and parts that are not just American but which also come from other aeronautical industries such as the European industries. For those reasons, Cuba must also lease less efficient aircraft under abnormal and unfavourable conditions.

There are regular charter flights operating to and from Cuba, various US airlines such as Miami Air, American Eagles, Gulf Stream, Sky King and others flying from Miami, Los Angeles and New York to several Cuban airports where the Cuban State provides all the facilities for their operations. Nevertheless, the US government does not authorize Cuban airlines to fly in their territory.

On the other hand, while hundreds of American airline flights are daily flying over Cuban air space en route to Central and South America, because of the limitations on flying over US territory from Canada towards the central-eastern area of Cuba

(Cayo Coco, Ciego de Ávila, Camaguey, Holguín and Santiago de Cuba), Cuban aircraft are forced to fly routes that are not direct, at speeds greater than those recommended and during the night in order to adapt to the hours of closure at Canadian airports, with the subsequent additions to flight times of between 14 and 47 minutes, depending upon the destination in Cuba, and increased fuel consumption which all contributes to lesser efficiency and competitiveness of the flights.

Also, Cuban companies dealing in air travel services are affected by not being able to provide, in turn, handling services for passengers, baggage and cargo, on-board catering, fuel sales and services in the navigation area, and the rates for use of airport facilities. Bearing in mind the estimates for US visitors to Cuba, in the period being reported, the losses of income for these reasons ascends to 205 million 484 thousand 638 dollars.

In civil aeronautics, as in all sectors of the economy, the embargo causes over-spending for various reasons.

We had to buy a baggage handling system for the West Hall of Terminal 3 of José Martí International Airport in Havana from a European country at a cost of 3 million 703 thousand 178 dollars. Freight charges from Europe have gone up to 91 thousand 854 dollars and the intermediary's commercial commission for its acquisition was 17 thousand 530 dollars, to which we must add the cost of 2 European experts for 14 days to look after the set-up, installation and start-up.

If we had been able to acquire this equipment directly from the US it would have cost the country 100 thousand 626 dollars less, bearing in mind referential prices for similar or superior quality equipment on the American market, as well as the considerable reductions for expenses for accommodations and transportation for the installation experts and the 5% commission for the intermediary.

With that amount saved we could have acquired a similar baggage carousel to be installed in the East Hall of this Terminal to replace equipment that is in poor condition, thus improving the quality of service provided to the passengers who arrive in Cuba by air.

The embargo measures in this sector are in violation of the Chicago Convention on International Civil Aviation, signed by 190 States including the United States, especially the precepts that state that international air transportation services must be established on a basis of equal opportunities and be done in a healthy and economic fashion, and its Article 44 that establishes among the aims and objectives of the International Civil Aeronautical Organization (ICAO) that the rights of the contracting states be fully respected and avoid discrimination among them.

**In the metal industry** the increase in expenses or losses because of the embargo is 36 million 343 thousand 500 dollars, representing 9.6 % of the 377 million 618 thousand dollars of imports in the period being analyzed.

With this amount, we might have acquired or produced:

- 11,162 diesel engines for the change of engine or repairs for heavy vehicles, or
- 382 4 X4 platform trucks for haulage of goods, or
- 1,953 buses to improve transportation, or
- 12,349 motor-pumps to be used in social works or in agriculture, or
- 103 sugar cane harvesters to improve cutting and hoisting of sugar cane, or
- 3,028 growing houses, 800 m<sup>2</sup> each, to increase food production.

During this period, **The Hotel Engineering Commercial Company** which markets raw materials, components, equipment, furnishings and medical instruments, used 40 containers at a cost of \$156,000, to move cargo imported from Europe and China. If these purchases had been made in the US the transport of that amount of containers would have cost \$36,000, thus saving us \$120,000, allowing us to buy some 250 hydraulic hospital beds or 20 universal centrifuges for 24 tubes for the labs at the Cancer Hospital.

**The ALCUBA** Industrial Group had to spend close to 1 million 274 thousand 700 dollars above what it would have really paid if it could have bought the raw materials for the production of aluminum carpentry for the construction of homes and social works. With that amount we could have bought 700 additional tons of aluminum levers to manufacture 6,375 square metres of carpentry work, equivalent to the amount needed to construct 265 3-bedroom home or 3 400-bed hospitals.

**The Metal-working Industrial Group ACINOX** suffered repercussions in this period for 9 million 70 thousand dollars with which more than 37,300 tons of corrugated bars could have been manufactured, enough to build some 24,800 apartments in multi-family buildings, representing a benefit for more than 99,200 Cubans.

**The metal factory Antillana de Acero** cannot obtain spare parts for the engines of the continuous casting machine of the US-based EMERSON group. They have to be purchased through other suppliers and manufacturers. If we had direct access to the manufacturer, the cost of the replacement parts would have been 10,200 Euros, a price that increases to up to 21,000 Euros because intermediaries are being used.

**The ALCUBA Industrial Group** requested an offer from a branch of Alcoa Brasil to acquire 5 thousand 228.47 tons of 78 and 8-inch aluminum levers to extrude profiles. The company stated: "Since Alcoa is a US company, it is not allowed to do business with Cuba because of the embargo".

**The Cuban nickel industry CUBANIQUEL** has been affected in this period for a value of 101 million 300 thousand dollars.

Because of the prohibition in exports to the US of any product which is totally or partially manufactured with Cuban nickel, even if it was manufactured in a third country, Cuba has lost 75 million 700 thousand dollars.

In this phase, repercussions were as follows:

- Discounts applied to the price because of risk country with an estimated repercussion of \$478 dollars per each ton sold, losing approximately 18 million dollars.
- Increased marketing expenses due to payment of high freight rates, handling, supervision, shipping and sales commission charges for the export of nickel. In the phase being analyzed, we spent approximately 11 million. If we had been able to export to nearby markets, we would have saved 4 million 300 thousand dollars.
- Repercussions on the increased payment cycle from 30 days to 60 days due to the distant markets, with repercussions for postponed income to be received in the year were 53 million 400 thousand dollars.

**Production of oil and natural gas** has also suffered numerous repercussions.

Just because it is impossible to import explosive charges to drill oil wells, in 2009 we lost more than 480 thousand barrels of crude valued at 20 million dollars at the average sale price in 2009.

Drilling charges perforate the covering of the well connecting it to the productive layer, facilitating flow and collecting the oil and increasing production levels.

In 2007, supplies of these charges were made by INNICOR Subsurface Technologies, a Canadian manufacturer that was bought by an American company. In 2008, we managed to get offers from another Canadian company, LRI Perforating Systems Inc, but in October of 2009, just before signing the first contract, the LRI supplier was bought by DMC (Dynamic Materials Corporation) of the United States.

From October 2009, until the closing date for this report, we have been trying to find other ways to buy these products in Germany, Canada and Argentina, but without any luck.

## **CHAPTER V. OPPOSITION TO THE GENOCIDAL POLICY OF THE EMBARGO AGAINST CUBA**

### **5.1 Unprecedented opposition inside the United States**

Opposition to the embargo is also growing significantly in the United States itself.

It is impossible to encapsulate in just a few pages the countless statements and articles by important civilian personalities, the military, legislators, press media, NGOs and academic institutions in the United States that, in the past year, have acknowledged the failure of the embargo policy; supporting draft laws to permit travel by Americans to Cuba and/or the normalization of bilateral relations or calling for the embargo to be lifted.

A short list of the most important and representative people and entities calling for the lifting of the embargo is provided below:

- Former US President James Carter stated on May 6 2009 in the newspaper *Folha de Sao Paulo*, "I would like to see the embargo end right now. There is no reason why the Cuban people should go on suffering ".
- The influential *The New York Times* in an editorial on June 4, 2009, entitled "Obama, Cuba and the OAS" described the embargo as "an anachronism from the Cold War that has been maintained by the Florida politicians (...)" and it added that Mr. Obama has to move forward more and press Congress to lift the embargo.
- The Hemispheric Affairs Council published an article on June 12, 2009 acknowledging the failure of the embargo policy and describing the measures adopted by President Obama as insufficient.
- The CATO Institute published an article on June 16, 2009 that described the US policy towards Cuba as a failure and proposed that Congress and the president lift the embargo.
- On August 7, 2009 George Schultz, Secretary of State under President Ronald Reagan, stated to the Peruvian magazine *Caretas*, that "The decision to keep the embargo doesn't seem too smart to me. I would not negotiate with Castro on that basis. I would simply lift it (...)".
- On September 2, 2009, the NGO Amnesty International published a report entitled "The US embargo against Cuba: Its impact on economic and social

rights”, in which Obama was urged to lift the embargo and to not renew sanctions against Cuba by virtue of the Trading with the Enemy Act.

- The powerful American Federation of Labor-Congress of Industrial Organizations (AFL-CIO), which gathers together more than 50 US trade union organizations approved a resolution at its 26th Constitutional Convention on the 13 to the 17<sup>th</sup> of September 2009, at which, among other things, it urged Congress to approve legislation eliminating the embargo. The organization described the embargo as “the toughest ever maintained by the US against any country in the world”.
- On October 29, 2009, the US Green Party demanded that President Obama put an end to the embargo against Cuba. In its declaration it put forth the argument that the US is continuing to impose severe economic sanctions on the Cuban people, mainly to attract a small percentage of voters in Florida. The National Platform of the Green Party supported the immediate cessation of these sanctions and described this policy of “violations on human rights and an obstacle for the sale of food and medicine to a sovereign nation that signifies no threat whatsoever to the United States.”
- The Star Journal of April 5, 2010 cited statements by Tom Vilsack the Secretary of Agriculture who said he was anxious for expansion of trade with Cuba “as long as it coincides with the values of the US.” He expressed his wish that commercial barriers be eliminated with all countries.
- Former President Bill Clinton, talking with the press on April 17, 2010, at a conference at the University of Miami, expressed that “the embargo” on Cuba had not worked and that he was in favour of lifting the restrictions on Cuba.
- The New York Times, on April 18, 2010 printed an editorial on the Obama policy towards Latin America, pointing out: “(...) We believe that the embargo should be completely lifted”.

Within the Federal Congress legislative initiatives have been presented that also have bipartisan support, such as the draft laws about freedom of travel (with 178 and 38 cosponsors in the House of Representatives and the Senate, respectively) and the report circulated by Senator Richard Lugar (R-IN), in which he requests a change in the policy and the end of conditions on Cuba.

On January 8, 2010, the digital site on energy, Platts.com, printed an article reproducing the statements of Robert Dillon, spokesperson of Senator Lisa Murkoswki (R-AK), in which he affirms that the Energy Commission voted some 7 months prior in favour of Project S 1517, presented by Murkoswki in July of 2009

which would permit the participation in oil explorations in the Cuban Exclusive Economic Zone and trips associated with this activity.

On February 23 of this year, Collin Peterson (D-MN), chairman of the House Agricultural Committee, together with another 38 cosponsors, presented the draft law HR 4645, to permit freedom of travel to Cuba, to modify the concept of advance payments and to permit the use of American financial institutions for agricultural sales transactions.

This project has the support of the US Chamber of Commerce and state and federal agricultural associations such as the Agricultural Federation, the Rice Federation, the National Federation of Milk Producers, the National Federation of Corn Producers and the Soya Association of America, among others.

In addition, the different surveys made during this period show that most Americans were in favour of travel by Americans to Cuba and the lifting of the embargo. That kind of support, shown by the following results, has never been so broad-based before.

- On April 10, 2009, CNN published a survey taken between the 3rd and the 5th of that month, according to which 64% of the people interviewed revealed that they were in favour of lifting travel restrictions to Cuba and 71% supported re-establishing diplomatic relations between the two countries.
- On April 24, 2009, the Gallup Poll published the results of a survey carried out between the 20th and 21st of that month, showing that 51% of Americans support the end of the embargo against Cuba and 64% would be in favour of ending travel restrictions to Cuba. Among those who support such policy changes, the majority are Democrats and liberals.
- Between the 23rd and the 27th of April, 2009, Orbitz Worldwide, the second largest Internet travel agency, took a survey of Americans that revealed that 67% of those interviewed would support a policy that would permit Americans to visit Cuba and 72% affirm that "the expansion of travel and tourism to Cuba would have a positive impact on the daily lives of Cubans".
- On March 3rd, 2010, the New Herald revealed the results of a BBC/Harris Interactive poll taken between the 13th and the 15th of January of this year, of 2,050 Americans according to whom 57% proposed that American companies were losing business opportunities in Cuba, among other things, and 63% stated that the Cuban government is not Washington's friend, but neither is it its enemy. 75% of those interviewed assured that relations with Cuba are important; while 44% thought that it is too soon to restore normal relations with Cuba and 38% were not in favour of doing so.

- On April 15th, 2010, Insider Advantage took a poll for the Cuban Business Bureau (CBB) among 401 Americans across the nation and this survey revealed that 58% of those interviewed advocate re-establishing diplomatic relations between Cuba and the US; 61% are in favor of American travel to Cuba and 57% support American companies doing business with Cuba.

## 5.2 International opposition

Growing overwhelming support by the international community towards Cuba and against the embargo is notable.

Many voices have been heard in the world in favour of cessation of this inhuman policy. In the period being dealt with by this Report, numerous statements in favour of its immediate and unconditional lifting were produced.

The following are significant:

- **From July 11 to 16, 2009**, on the occasion of the XV NAM Summit held in Sharm El Sheikh, Egypt, the Heads of State or Government approved a Special Declaration on the need to put an end to the economic, commercial and financial embargo imposed by the United States against Cuba in which, among other matters, “they express their concern over the continuation of that long standing unilateral policy with extra-territorial effects, even after being systematically rejected by the immense majority of States” and they urge putting an immediate end to it.
- **From September 22 to 27, 2009**, on the occasion of the II South America-Africa Summit, the Heads of State and Government of the South American Union of Nations (UNASUR and the African Union), meeting on Margarita Island in the Bolivarian Republic of Venezuela issued a communiqué of solidarity with Cuba against the economic, commercial and financial embargo imposed by the government of the United States of America, including the Helms-Burton Act in which they reiterated “the most energetic rejection..., of the embargo..., as well as of the application of laws and measures counter to International Law such as the Helms-Burton Act” and they urged the government of the United States to put an end to its application.
- **On the 16th and 17th of October, 2009**, at the VII Summit of the Countries of the Bolivarian Alliance for the Peoples of Our America (ALBA), held in Cochabamba, of the Plurinational State of Bolivia, they categorically rejected the embargo imposed against Cuba by the US. The Heads of State or Government of the ALBA member countries reiterated that “the economic, commercial and financial embargo of the United States against the Republic of Cuba should end unconditionally, unilaterally and immediately”.

- **On October 28, 2009**, for the eighteenth consecutive time since 1992, the United Nations General Assembly adopted, with the support of an overwhelming majority of its Member States, by 187 votes in favour of the resolution entitled: “Necessity of ending the economic, commercial and financial embargo imposed by the United States against Cuba” (64/6), in the highest vote ever reached by this resolution in that United Nations body. The General Assembly reiterated categorically the call for discontinuing this illegal and genocidal policy imposed by the government of the United States on the Cuban people.
- **On December 13th and 14th, 2009**, in the Final Declaration of their VIII Summit, the Heads of State and Government of the member countries of the Bolivarian Alliance for the Peoples of Our America – Trade Agreement of the People (ALBA-TCP), meeting in Havana, Cuba, “reiterated, yet once more, their total rejection of the economic, commercial and financial embargo imposed five decades ago by the government of the United States of America against Cuba, calling for its immediate cessation and they reaffirmed their full solidarity with the Cuban people and government.”
- **On the 22<sup>nd</sup> and 23<sup>rd</sup> of February, 2010**, on the occasion of the Unity Summit constituted by the XXI Rio Group Summit and the II Summit of Latin America and the Caribbean on Integration and Development (CALC), the Heads of State or Government of the countries of Latin America and the Caribbean, meeting on the Mayan Riviera (Mexico), adopted a declaration about the necessity of putting an end to the economic, commercial and financial embargo imposed by the United States against Cuba, in which they reiterated “the most energetic rejection of the application of laws and measures counter to International Law such as the Helms-Burton Act,” and they called upon “the government of the United States of America to put an end to the embargo...”
- **On May 18, 2010**, the VI Summit of Latin America and the Caribbean-European Union held in Madrid, Spain, approved a Final Declaration where the Heads of State and Government of both regions agreed to the following: “(...) We firmly reject all coercive measures that have a unilateral nature and extra-territorial effect that are counter to International Law and the generally accepted norms of free trade. We coincide that this type of practice represents a serious threat for multilateralism. In this context, and in reference to Resolution A/RES/64/6 of the General Assembly, we reaffirm our well-known positions on the application of the extra-territorial provisions of the Helms-Burton Act”.

## CONCLUSIONS

The embargo against Cuba remains intact. The complicated thicket of laws and legal provisions governing this policy has not been taken apart. The embargo on Cuba has been the longest and harshest ever applied by the United States during its history against any other country. Even though it was officially passed in 1962, its application began right at the beginning of the triumph of the Cuban Revolution in 1959.

The embargo violates International Law. It is counter to the purposes and principles of the United Nations Charter. It constitutes a transgression on the right to peace, development and security of a sovereign state. In its essence and its aims, it is an act of unilateral aggression and a permanent threat against the stability of a country. It constitutes a flagrant, massive and systematic violation of the rights of an entire people. It is also in violation of the constitutional rights of the American people since it denies them the freedom to travel to Cuba. Moreover, it violates the sovereign rights of many other states because of its extra-territorial nature.

The direct economic damage caused the Cuban people because of the application of the economic, commercial and financial embargo of the United States against Cuba up to December of 2009, at current prices, calculated very conservatively, totals a figure that surpasses **100 thousand 154 million dollars**.

This sum would increase to **239 thousand 533 million dollars**, if the calculation were to be done taking as its basis the inflation of retail prices in the US, using the CPI Calculator of the U.S. Department of Labor, Bureau of Labor Statistics (<http://www.bls.gov>).

If one were to take into consideration that the value of the dollar, measured in terms of the price of gold on the international financial market has been decreasing by more than 30 times since 1961 in that the price of this metal was fixed at \$35.00 per Troy ounce until the close of 2009, when it surpassed the limit of one thousand dollars, the total repercussions on the Cuban economy would be around **751 thousand 363 million dollars**.<sup>6</sup>

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<sup>6</sup> To obtain this figure, the series of total repercussions from the embargo since 1961 were used and the annual totals in dollars each year were determined. Gold prices in force on the world market at the close of each year, taken from the statistical series published on the website USA Gold (<http://www.unagold.com>) were used. To determine the number of times the dollar lost value in terms of gold, we divided the price of gold at the close of 2009 between the prices each year, and it was established that the dollar has depreciated 31.1 times since 1971 up to 2009.

The embargo continues to be an absurd, illegal and morally unsustainable policy which has not fulfilled, nor will it ever fulfill, the purpose of breaking down the patriotic decision of the Cuban people to preserve their sovereignty, independence and the right to self-determination; but it generates shortages and suffering for the population, it limits and sets back the development of the country and seriously harms the Cuban economy. It is the principal obstacle to economic development in Cuba.

The president of the United States has sufficient prerogatives to significantly loosen up the embargo against Cuba, without intervention from Congress. However, he doesn't have the political will to put an end to the embargo.

The embargo is a unilateral measure and must be lifted unilaterally without waiting for any Cuban gesture in exchange. Therefore, the United States should lift it without delay and without excuses.

Once again, Cuba is counting on the support of the international community in its legitimate claim to put an end to the economic, commercial and financial embargo imposed by the government of the United States.