



**Input of the South Centre to the Report of the Secretary-General on the Implementation of UN General Assembly Resolution 69/5 dated 28 October 2014 on the Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba**

On 28 October 2014, the United Nations General Assembly approved by an overwhelming vote of 188-2 a resolution (Resolution 69/5<sup>1</sup>) reiterating its long-standing call upon all States to refrain from promulgating and applying unilateral economic and trade measures by one State against another that affect the free flow of international trade, referring in particular to the United States' 1996 "Helms-Burton Act", whose application has had extraterritorial effects that affect that sovereignty of other States, the legitimate interests of persons under their jurisdiction and the freedom of trade and navigation.

The resolution also requested the UN Secretary-General to prepare a "report on the implementation of the present resolution in the light of the purposes and principles of the Charter and international law and to submit it to the General Assembly at its seventieth session."<sup>2</sup>

This input by the South Centre is prepared in response to such request as a contribution to the report of the Secretary-General, in order to highlight the perspectives of developing countries, as expressed through their multilateral institutions, with respect to the imposition of unilateral economic and trade measures by one State against another, particularly by the United States of America against Cuba.

The South Centre is the intergovernmental organization of developing countries that helps developing countries to combine their efforts and expertise to promote their common interests in the international arena. The South Centre undertakes research on various international policy areas that are relevant to the promotion of the development interests of developing countries.

Developing countries have long stressed that the international law principles relating to the sovereign equality of States, non-intervention and non-interference in their internal affairs, and the freedom of international trade and navigation, are key principles that ensure the development and maintenance of a rules-based multilateral regime that is conducive to peace and the development of developing countries.

In this vein, developing countries have been united in calling for the need to eliminate the unilateral application of economic and trade measures by one States against another than affect the ability of the latter state to enjoy the benefits of unhampered international commerce and navigation.

The implementation of the US Helms-Burton Act of 1996 constitute such a measure that affects Cuba directly, hampers its ability to conduct international trade, and also adversely affects the ability of third-party States from engaging in unhampered international trade with Cuba. The Act's extra-territorial effect on third-party States has long been recognized, making it more difficult for

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1 See [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/69/5](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/69/5)

2 UN General Assembly Resolution 69/5, para. 4

persons and business entities from third-party States from engaging in normal business and trade relations with Cuban persons and business entities. The European Union, for example, in the framework of the EU's Common Commercial Policy, has "firmly and continuously opposed such extraterritorial measures."<sup>3</sup> The EU stressed that "[w]hile recognizing the decision by the US Government to lift restrictions on remittances and family travel to Cuba, we cannot accept that unilaterally imposed measures impede our economic and commercial relations with Cuba."<sup>4</sup>

The Helms-Burton Act of 1996 therefore has extraterritorial effects that extend beyond US territorial jurisdiction and has severely impacted on the economic and social development and economic growth of Cuba. The Foreign Minister of Cuba in 2014 presented his country's estimate that the accumulated economic damages of the blockade against Cuba imposed by the United States has amounted to US\$1.1 trillion.

Recently, the US on 29 May 2015 dropped Cuba from the US list of state sponsors of terrorism. This is an important step towards restoring normal relations between the two countries, and is to be welcomed. However, so far there has not been the lifting of the embargo and of other sanctions imposed by the US on Cuba. We hope that in the near future, this measure will be taken as part of the process of normalization of diplomatic and economic relations between the two countries.

Developing countries have frequently called, both through their votes in the General Assembly and through their various multilateral institutions such as the Group of 77 and the Non-Aligned Movement, upon all States to refrain from promulgating and applying such unilateral laws and measures and to request States that have and which continue to apply such laws and measures to repeal or invalidate them as soon as possible.

The First South Summit held in Havana, Cuba, in 2000, gathered together the heads of State and Government of more than 100 developing countries. In the Havana Declaration, they stressed that they "firmly reject the imposition of laws and regulations with extraterritorial impact and all other forms of coercive economic measures, including unilateral sanctions against developing countries, and reiterate the urgent need to eliminate them immediately. We emphasize that such actions not only undermine the principles enshrined in the Charter of the United Nations and international law, but also severely threaten the freedom of trade and investment. We, therefore, call on the international community neither to recognize these measures nor apply them."<sup>5</sup>

Five years later, at the Second South Summit held in Doha, Qatar, in 2005, developing country leaders reiterated their opposition to such measures and called on the international community "to adopt urgent and effective measures to eliminate the use of unilateral coercive economic measures against developing countries."<sup>6</sup> Additionally, they also called on the United States to end the embargo against Cuba as follows:

54. We call upon the Government of the United States to put an end to the economic, commercial and financial embargo against Cuba which, in addition to

<sup>3</sup> European Union Explanation of Vote at the 69th United Nations General Assembly Plenary on the Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba [item 40] (a) Report of the Secretary-General (A/69/98) (b) Draft resolution (A/69/L.4), 28 October 2014, New York, at [http://eu-un.europa.eu/articles/fr/article\\_15655\\_fr.htm](http://eu-un.europa.eu/articles/fr/article_15655_fr.htm)

<sup>4</sup> Id.

<sup>5</sup> The Havana Declaration, South Summit (Havana, 2000), para. 48, at [http://www.g77.org/doc/docs/summitfinaldocs\\_english.pdf](http://www.g77.org/doc/docs/summitfinaldocs_english.pdf)

<sup>6</sup> The Doha Declaration, South Summit (Doha, 2005), para. 5, at <http://www.g77.org/southsummit2/doc/Doha%20Declaration%28English%29.pdf>

being unilateral and contrary to the UN Charter and international law, and to the principle of neighborliness, causes huge material losses and economic damage to the people of Cuba. We urge strict compliance with the resolutions 47/19, 48/16, 49/8, 50/10, 51/17, 52/10, 53/4, 54/21, 55/20, 56/9, 57/11, 58/7 and 59/11 of the United Nations General Assembly and express deep concern over the widening of the extra-territorial nature of the embargo against Cuba and over continuous new legislative measures geared to intensify it. We therefore express concern and reject the new measures recently implemented by the US government aimed at tightening the embargo. Those measures constitute a violation of Cuba's sovereignty and a massive violation of the rights of its people.<sup>7</sup>

At its latest sixteenth summit held in Teheran, Iran, in 2012, the heads of State and Government of the member States of the Non-Aligned Movement (NAM) also spoke in the same vein. The Summit Declaration recognized “the serious danger and threats posed by the actions and measures which seek to undermine international law and international legal instruments” and agreed to “refrain from recognising, adopting or implementing extra-territorial or unilateral coercive measures or laws, including unilateral economic sanctions, other intimidating measures, and arbitrary travel restrictions, that seek to exert pressure on Non-Aligned Countries – threatening their sovereignty and independence, and their freedom of trade and investment – and prevent them from exercising their right to decide, by their own free will, their own political, economic and social systems, where such measures or laws constitute flagrant violations of the UN Charter, international law, the multilateral trading system as well as the norms and principles governing friendly relations among States; and in this regard, oppose and condemn these measures or laws and their continued application, persevere with efforts to effectively reverse them and urge other States to do likewise, as called for by the General Assembly and other UN organs; request States applying these measures or laws to revoke them fully and immediately.”<sup>8</sup>

The 2012 NAM Summit Declaration also expressed “deep concern at the imposition of laws and other forms of coercive economic measures, including unilateral sanctions, against developing countries, which violates the Charter of the United Nations and undermines international law and the rules of the World Trade Organization and also severely threaten freedom of trade and investment.”<sup>9</sup> In their Declaration (para 376), the leaders of Non Aligned Movement developing countries also called on the US to cease its embargo on Cuba, as follows:

376. The Heads of State or Government once again reiterated their call to the Government of the United States of America to put an end to the economic, commercial and financial embargo against Cuba which, in addition to being unilateral and contrary to the UN Charter and international law, and to the principle of neighbourliness, is causing huge material losses and economic damage to the people of Cuba. They once again urged strict compliance with resolutions 47/19, 48/16, 49/9, 50/10, 51/17, 52/10, 53/4, 54/21, 55/20, 56/9, 57/11, 58/7, 59/11, 60/12, 61/11, 62/3, 63/7, 64/6, 65/6 and 66/6 of the UN General Assembly. They expressed deep concern over the widening of the extra-territorial nature of the embargo against Cuba and rejected the reinforcement of the measures adopted by the Government of United States, aimed at tightening the embargo, as well as all other recent measures carried out by the Government of

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7 Id., para. 54.

8 Final Document of the XVIth Summit of the Non-Aligned Movement (Teheran, 2012), para. 24.4, at <http://namiran.org/Files/16thSummit/FinalDocument%28NAM2012-Doc.1-Rev.2%29.pdf>

9 Id., para. 468.

the United States against the people of Cuba. They urged the Government of the United States to return the territory now occupied by the Guantanamo Naval Base to Cuban sovereignty, and to put an end to aggressive radio and television transmission against Cuba. They reiterated that those measures constitute a violation of Cuba's sovereignty and a massive violation of the human rights of its people.

Additionally, they reaffirmed that "bearing in mind the UN Charter, economic and financial sanctions always have a negative impact on the rights recognized in the International Covenant on Economic, Social and Cultural Rights in particular the realization of the right to development. They often cause significant disruption in the distribution of food, pharmaceuticals and sanitation supplies, jeopardize the quality of food and the availability of clean drinking water, severely interfere with the functioning of basic health and education systems, and undermine the right to work, and they are serious obstacles to development of the targeted States."<sup>10</sup>

Even more recently, the political leaders of the developing countries again addressed this issue during the Summit of the Heads of State and Government of the Group of 77 and China held in 2014 in Santa Cruz, Bolivia. In their Declaration for a New World Order for Living Well, the G77 leaders made the following statements against such sanctions:<sup>11</sup>

Para 239. We reaffirm our firm rejection of the imposition of laws and regulations with extraterritorial impact and all other forms of coercive economic measures, including unilateral sanctions, against developing countries, and reiterate the urgent need to eliminate them immediately. We emphasize that such actions not only undermine the principles enshrined in the Charter of the United Nations and international law, but also severely threaten the freedom of trade and investment. We therefore call on the international community to adopt urgent and effective measures to eliminate the use of unilateral coercive economic measures against developing countries.

Para 241. We reiterate our call, made at the second South Summit, organized by the Group of 77 and China and held in Doha in 2005, for the Government of the United States of America to put an end to the economic, commercial and financial embargo against Cuba, which, in addition to being unilateral and contrary to the Charter of the United Nations and international law, as well as to the principle of neighbourliness, causes huge material losses and economic damage to the people of Cuba. We urge strict compliance to the relevant resolutions of the General Assembly on this matter. We also take note that in the Havana Declaration, the Heads of State and Government of the Community of the Latin American and Caribbean States reaffirmed their strongest rejection of the implementation of unilateral coercive measures and once again reiterated their solidarity with Cuba, while reaffirming their call upon the Government of the United States to put an end to the economic, commercial and financial blockade imposed on that sisterly nation for more than five decades. They rejected the inclusion of Cuba in the list of States sponsors of terrorism published by the State Department of the United States, and requested that an end be put to that unilateral practice.

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10 Id., para. 574.3

11 Declaration of the Summit of Heads of State and Government of the Group of 77: For a New World Order for Living Well (Santa Cruz, 2014), paras. 239 and 241, at <http://www.g77.org/doc/A-68-948%28E%29.pdf>

The near universality of global opinion against such sanctions is therefore very clear. Their economic and social impacts have been also well-recognized and documented both through academic research and by reputable international agencies. The South Centre therefore joins in the widespread and indeed the overwhelming call for the lifting of the trade embargo and other sanctions against Cuba. We also believe that this would contribute significantly to the normalization process initiated by both countries.