



**Contribution of the South Centre to the Report of the Secretary-General on the Implementation of UN General Assembly Resolution A/RES/74/7 dated 12 November 2019 on the “Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba”**

The United Nations (UN) General Assembly adopted by an overwhelming majority the resolution “Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba” (document A/74/L.6). 187 Member States voted in favor, three against and two abstained. The vote was held on 7 November 2019 at the UN headquarters in New York. It was preceded by UN members’ submissions, starting on Tuesday, 5 November. The State of Palestine, speaking on behalf of the Group of 77 and China, condemned the embargo and regretted that the US had strengthened it under the current US administration.

It was the 28<sup>th</sup> consecutive year of adoption of a Resolution on the US embargo against the Republic of Cuba, which is rooted in the Cold War. Tensions between the US and Cuba only eased when the Obama administration established diplomatic relations with Cuba, modifying several aspects of the embargo such as lifting some travel restrictions. These policies contrast with the measures implemented by US President Donald Trump since 2017, which have aggravated the socio-economic effects of the arbitrary and unjust blockade imposed on Cuba. For example, international fuel shipments to the island have been seriously jeopardized and consular services were scaled down. The activation of Title III of the Helms-Burton Act significantly scaled up the aggression against the Cuban people. The embargo has continued to create economic hardship with humanitarian impacts for the people of Cuba; the country’s socio-economic reforms have also been hampered.<sup>1</sup>

The referred to UN resolution reiterated and reflected the content of previous resolutions, reports and declarations adopted by the UN and other intergovernmental forums and bodies rejecting the use of unilateral coercive measures such as “trade sanctions in the form of embargoes and, the interruption of financial and investment flows between sender and target countries”,<sup>2</sup> as in the case of the US embargo on Cuba<sup>3</sup>. Such measures have had negative impacts on the full enjoyment of all human rights of people of the countries concerned, particularly on the most vulnerable groups including women, elderly and children. They have also adversely impacted on the ability of the countries under sanctions to contribute to international development cooperation, an area in which Cuba has demonstrated over the years a strong

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<sup>1</sup> UN News, “Cuba: UN Members overwhelmingly support end of US embargo, as Brazil backs Washington”, 7 November 2019. Available from <https://news.un.org/en/story/2019/11/1050891>.

<sup>2</sup> Human rights and unilateral coercive measures. A detailed explanation by the Office of the High Commissioner on Human Rights at <http://www.ohchr.org/EN/NewsEvents/Seminars/Pages/WorkshopCoerciveMeasures.aspx>.

<sup>3</sup> A/71/91 - Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba - Report of the Secretary-General, 21 July 2016

engagement.<sup>4</sup>

In light of the concerns expressed above, the UN General Assembly resolution A/RES/74/7, in paragraph 2, “[r]eiterates its call upon all States to refrain from promulgating and applying laws and measures of the kind referred to in the preamble to the present resolution, in conformity with their obligations under the Charter of the United Nations and international law, which, inter alia, reaffirm the freedom of trade and navigation.”

Paragraph 4 of the resolution also requested the Secretary-General of the United Nations, in consultation with the appropriate organs and agencies of the United Nations system, 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 fifth session”. Over the years, the UN Secretary-General’s annual report has become an important vehicle for highlighting the adverse impact of the US embargo on Cuba and calling for its end.

In this regard, the Human Rights Council Special Rapporteur on the negative repercussions of the unilateral coercive measures on the enjoyment of human rights, Idriss Jazairy, also denounced, on 6 May 2019, the US blockade against Cuba. The Special Rapporteur emphasized that the use of economic sanctions for political ends violates human rights and the norms of international conduct; he also stated that the extraterritorial application of unilateral sanctions is clearly in violation of International Law.<sup>5</sup>

This input by the South Centre is prepared in response to such a request as a contribution to the report of the Secretary-General as per resolution A/RES/74/7, with respect to the imposition of unilateral economic, financial and trade measures against Cuba, in violation of basic principles of the UN Charter.

The South Centre is the intergovernmental organization of developing countries established in 1995 pursuant to the 1995 Agreement to Establish the South Centre deposited with the United Nations following the recommendations of the report *The Challenge to the South*. The report was prepared by the South Commission and its outcomes were considered by the General Assembly in its resolution 46/155<sup>6</sup>. The South Centre holds Observer Status at the General Assembly and currently has 54 developing country member States, including Cuba. The Centre supports developing countries in their efforts to achieve the Sustainable Development Goals and by promoting their common interests in the international arena. The South Centre undertakes policy-oriented research on various international areas with a view to contribute to strengthening the UN system and of multilateralism. It joins the international community in condemning unilateral coercive measures, which impinge on the principles of self-determination and international cooperation.

As noted, the blockade imposed against Cuba has reached new levels under the 1996 Helms-Burton Act of the United States, which is incompatible with the principles of the UN Charter, that call on all States to refrain from promulgating and applying laws and measures that are against international law and the principles of sovereign equality of States, non-intervention and

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<sup>4</sup> See South Centre and Islamic Development Bank, *Developing a National Ecosystem for South-South Cooperation and Triangular Cooperation* (Geneva, 2019).

<sup>5</sup> Office of the United Nations High Commissioner for Human Rights, “US sanctions violate human rights and international code of conduct, UN expert says”, 6 May 2019.

<sup>6</sup> A/RES/46/155. Report of the South Commission available from <https://digitallibrary.un.org/record/136143?ln=en>.

non-interference in their internal affairs and freedom of international trade and navigation. The implementation of such act is a crude manifestation of the exercise of economic and political power in full ignorance of the internationally accepted rules of law.

### **Repercussions on the health sector**

Cuba's report on Resolution 73/8 of the United Nations General Assembly ("Necessity of ending the economic, commercial and financial blockade imposed by the United States of America against Cuba")<sup>7</sup> presented evidence on the repercussions of the blockade, including on sectors having the greatest social impact. The present submission focuses on the obstacles created in respect of access to pharmaceutical products and other medical products and equipment necessary for the realization of the right to health.

The report highlighted how the US measures hinder the acquisition from US companies of technologies, raw materials, reagents, diagnostic means, equipment and spare parts, as well as medicines for the treatment of serious diseases such as cancer. These consumables must be bought in faraway markets, on many occasions via intermediaries, and this necessarily increases the time and cost of delivery.

In the period analyzed, MEDICUBA S.A., the Cuban company exporting and importing medicines, sent out requests to 57 US companies to buy consumables needed for the health system. As of the time of writing of the report, 50 of these companies had not answered and another 3 alleged that, due to the blockade regulations, they were not authorized to sell Cuba any medicines or equipment. The Box below describes some of MEDICUBA's dismissed requests.

#### **Box: Denial of access to medical products and devices**

- The US company PROMEGA CORPORATION, the manufacturer of enzymes and other products for biotechnology and molecular biology, was contacted to buy reagents and consumables used in the diagnosis of genetic diseases. On 16 January 2019, said supplier communicated that "the US Department of the Treasury applies commercial sanctions prohibiting industries with headquarters in that country to sell products and provide technology and/or services to Cuba".
- The US company BRUKER was contacted for the purchase of the spectrophotometer, equipment used in laboratories to quantify substances and micro-organisms. When they received the request, they answered that they cannot do business with Cuba.
- The US company STRYKER was contacted for the purchase of extendible endoprotheses used for treatment of upper and lower limbs, responding to a need of the National Institute of Oncology and Radiobiology (INOR). But as of the time of writing of the referred to report, no answer had been received from the company. Faced with the impossibility to obtain these prostheses, which have greater quality from a functional point of view, INOR had to resort to fixed prostheses for patients who require the extendible ones.

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<sup>7</sup> Cuba's report on Resolution 73/8 of the United Nations General Assembly entitled "Necessity of ending the economic, commercial and financial blockade imposed by the United States of America against Cuba", July 2019, available at <http://misiones.minrex.gob.cu/en/articulo/cubas-report-resolution-738-united-nations-general-assembly-entitled-necessity-ending>.

- Several US enterprises had been contacted for the purchase of new drugs for the treatment of cancer. However, as of the time of writing of the report, no answer had been received. Some examples:

PFIZER Inc.: Cuba requested Crizotinib, a medicine used for lung cancer treatment, Palbociclib used for the treatment of metastatic hormone sensitive breast cancer and Sunitinib, the only existing efficacious medicine in the world for the treatment of advanced or metastatic renal cancer. The “Hermanos Ameijeiras” Hospital on average diagnoses 20 cases of advanced renal cancer a year and these are being deprived of the most effective treatment.

BRISTOL-MYERS SQUIBB: A request of Anti PD-1 antibody for the treatment of metastatic melanoma, lung cancer, Hodgkins lymphoma and other diseases was denied.

GENOMIC HEALTH: Requests of Oncotype DX breast cancer test, a diagnostic test that permits identifying the risk of reoccurrence in patients with early breast cancer, and Oncotype DX colon cancer test, a diagnostic test that permits identifying relapse risk in patients having colon cancer in stages II and III, were denied.

- The US company BOSTON SCIENTIFIC was requested for the percutaneous aortic valve prosthesis, a method for minimal invasion implantation with which around 60 over-70 patients with degenerative aortic valvulopathies are treated every year. Acquisition of this device would contribute to decreasing the number of deaths in Cuba where the first cause of death is cardiovascular disease. But said company, world leader in the production of these valves, did not answer the request.
- The US company ZIMMER BIOMET was contacted for the purchase of hip, knee and dental prostheses. But the company responded that, because of the blockade, they were not authorized to do business with Cuba.

Other examples showing the obstacles erected by the blockade in the health sphere during the period covered by the report are:

- On November 2018, the German company Isotrak, USA Eckert & Ziegler Reference & Calibration refused to supply MEDICUBA with an initially contracted radioactive source necessary to do quality control on radionucleotides in the diagnosis of cancer. The company declared it was not willing to do business with Cuba as a result of the US restrictions on the island.
- On 26 February 2019, a number of suppliers informed MEDICUBA that they were unable to deliver the contracted pulmonary ventilators due to the fact that the manufacturers, IMT MEDICAL AG and ACUTRONIC, had been bought by Vyaire Medical Inc., a company headquartered in Illinois, USA. The pulmonary ventilators are of utmost importance for the Cuban health system since they are used to mechanically assist patients when spontaneous pulmonary ventilation puts their lives at risk.

- The Pedro Kourí Institute of Tropical Medicine (IPK) received a negative answer from the Universities Federation for Animal Welfare when they requested access to funds for projects offered by the English institution. The Federation expressed that because of the sanctions imposed on Cuba by the United States, they were unable to make financial transactions with the island.
- Cuban health professionals were unable to take part in meetings, scientific events and academic exchanges held in the US. Visa requests by Cuban doctors were refused or issued after the dates of the events.

Source: Cuba's report on Resolution 73/8 of the United Nations General Assembly entitled "Necessity of ending the economic, commercial and financial blockade imposed by the United States of America against Cuba", July 2019

Moreover, the embargo affects the potential contribution of Cuba to address the health problems at a global scale. Cuban scientists – who have received ten gold medals from the World Intellectual Property Organization over twenty six years<sup>8</sup> - have originated a large number of scientific discoveries and biotechnological innovations, including a meningitis vaccine and new cancer treatments. The scientific and technological achievements in this field allowed Cuba to create the “capacity for large-scale production of Cuban and generic drugs for export cheaply to developing countries”.<sup>9</sup> The number of patents obtained internally and in foreign countries, the supply of biotech products to around 50 countries, and a diversity of production and scientific partnerships in developing countries<sup>10</sup> point to the progress that Cuba has made in the biotechnological field as a result of a visionary and consistent policy. While the progress made shows the resilience and scientific competence of Cuban professionals,<sup>11</sup> Cuba's contributions through innovative biotechnology-based treatments are likely to have been greater and benefited more patients around the world, not only in developing countries,<sup>12</sup> if the US blockade would have not systematically denied Cuba access to resources, markets and technology transfer.

## Conclusion

The information above is illustrative of the deleterious impact of the US economic, commercial and financial blockade imposed against Cuba on the health sector, but it equally affects other sectors in finance, industry and foreign trade. It jeopardizes the overall socio-economic development of the country as well as its capacity to engage in international cooperation. After almost six decades since its establishment, this is the most severe and prolonged case of unilateral coercive measures ever applied against any country in contemporary history. The signatory countries of resolution A/RES/74/7 should cooperate to put an end to this unjust denial of Cuba's right to development and self-determination.

<sup>8</sup> See Organización Mundial de la Salud, Organización Panamericana de la Salud, Comisión Europea, *Experiencia cubana en la producción local de medicamentos, transferencia de tecnología y mejoramiento en el acceso a la salud* (WHO, 2015).

<sup>9</sup> H. Yaffe, “The curious case of Cuba's biotech revolution”, in *History of Technology Volume 34*, I. Inkster, ed. (Bloomsbury Academic, 2019), p. 215.

<sup>10</sup> One recent example is the creation of a Cuban-Chinese center on biotechnology innovation in the Province of Hunan. See <http://www.cubadebate.cu/noticias/2020/01/02/concluye-montaje-de-primer-centro-conjunto-de-innovacion-biotecnologica-cuba-china/#.Xlrx05NKjPA>.

<sup>11</sup> H. Yaffe, *op. cit.*, p. 216.

<sup>12</sup> Including patients from the US. See “Why an American went to Cuba for cancer care”, *BBC News*, 20 April 2017, available at <https://www.bbc.com/news/magazine-39640165>.