

REPORT BY CUBA

On Resolution 69/5 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.”

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INTRODUCTION

On December 17, 2014, a new chapter was opened in the relations between Cuba and the United States marked by the return of the three Cuban anti-terrorist fighters who remained unfairly imprisoned in that country, the announcement of the decision to re-establish diplomatic relations between the two countries and by President Barack Obama's acknowledgement that his policy towards Cuba, including the blockade is obsolete and must be eliminated. In his State of the Union Speech of January 20, 2015, the President urged Congress to "begin the work of ending the embargo."

As part of the changes in US policy towards Cuba, President Obama announced several measures directed towards modifying the application of some aspects of the blockade. On January 16, 2015, amendments to the regulations of the Departments of the Treasury and Commerce went into effect, which indeed constitute a step in the right direction but are limited and insufficient in the face of the magnitude and scope of the blockade laws for Cuba and the rest of the world, laws which remain in force and are being rigorously applied.

This Report presents a brief synthesis of the repercussions from the application of the blockade from April of 2014 until April of 2015; a period during which despite the announcements made on December 17, we can clearly see how the unjust and cruel blockade policy is still in existence.

Last September 5, 2014, three months prior to the historic announcement of December, President Obama renewed sanctions against Cuba under the Trading with the Enemy Act of 1917, a foundation for the laws and regulations that make up the blockade against Cuba, alleging the interests of foreign policy.

Despite the new scenario, the period has seen a toughening of the blockade in its financial and extraterritorial dimension, which can be seen in the imposition of million-dollar fines on banks and financial institutions as the result of the persecution of Cuban international financial transactions. The exclusion of Cuba from the spurious list of State sponsors of international terrorism on May 29, 2015, a list on which it should never have been included, does not affect the rest of the laws and regulations that compose the blockade, continuing the financial siege against Cuba.

Cuba is still being prevented from freely exporting and importing products and services to and from the US, it cannot use the US dollar in its international financial transactions nor can it hold accounts in that currency in banks of third countries. Nor is Cuba permitted to have access to credit in US banks, their branches in third countries and international financial institutions such as the World Bank, the International Monetary Fund (IMF) or the Inter-American Development Bank (IDB). Consequently, the country's normal development in all spheres of economic, social and cultural life is still being seriously impeded.

Many of the limitations being imposed by the blockade against Cuba could disappear should the US President apply with determination the ample executive faculties he has for those purposes, even if the total dismantling of that policy does require Congressional approval.

This Report explains the limited scope of the measures recently adopted by the US Executive and the broad spectrum of actions that it could undertake towards the elimination of the blockade. Moreover, many examples are presented of the economic and social repercussions caused by the blockade during the indicated period.

Thus it is to be noted that the economic damage on the Cuban people due to the application of the economic, commercial and financial blockade of the United States against Cuba, considering the depreciation of the dollar in regards to the price of gold on the international market, amounts to 833.755 billion dollars, in spite of the reduced price of gold as compared to the previous period. At current prices, during all these years, the blockade has caused damages for over 121.192 billion dollars.

Finally, the US government has decided to undertake talks despite the fact that for years the Cuban government has expressed its willingness to dialogue on the basis of mutual respect, observance of the principles of International law and the Charter of the United Nations, and respectful talks about the differences existing between the two countries. In this new context, it is essential to respect the 23 resolutions adopted by the overwhelming majority of the international community at the United Nations General Assembly asking to put an end to the economic, commercial and financial blockade of the US against Cuba. The blockade against Cuba should never have existed and it must cease to exist once and for all.

I. CONTINUITY OF THE BLOCKADE POLICY

1.1. Blockade Laws in Force

In spite of the measures announced by President Barack Obama on December 17, 2014, and his declared willingness to engage in a debate in Congress in order to lift the blockade, the laws and regulations supporting this policy continue to be in force and are being applied rigorously by US government agencies, especially by the Departments of the Treasury and Commerce and in particular by the Office of Foreign Assets Control (OFAC).

The principal laws of Congress and the administrative provisions that establish the blockade policy are:

- Trading with the Enemy Act of 1917 (TWEA): Its Section 5 (b) delegated on the Chief Executive the possibility of applying economic sanctions in times of war or in any other time of national emergency and it prohibited trade with the enemy or allies of the enemy during wars. In 1977, the International Emergency Economic Powers Act restricted the powers of the President to impose new sanctions in times of

national emergency situations. Nevertheless, TWEA continued to be applied to Cuba even when the White House has never declared a state of national emergency in regards to Cuba. Since 1959, the successive US presidents have renewed the application of TWEA to Cuba. Under this legislation, the oldest of its type, the US adopted the Cuban Assets Control Regulations (CACR) in 1963, by virtue of which US nationals or persons subject to US jurisdiction are prohibited from carrying out financial transactions with Cuba, Cuban assets were frozen, and importing goods of Cuban origin to the US was prohibited, along with other further restrictions. Cuba is the only country affected by this legislation. President Obama renewed the sanctions against Cuba for one more year through TWEA on September 5, 2014.

- Foreign Assistance Act (1961): This authorizes the President of the United States to establish and maintain a total “embargo” on trade with Cuba and prohibits the authorization of any aid to the Cuban government. It establishes that US government funds destined for international aid and sent to international organizations may not be used for any programs related to Cuba. It prohibits granting any aid foreseen under this act or any other benefit covered by any other law to Cuba until the President should determine that Cuba has carried out actions directed towards returning to US citizens and firms no less than 50% of the value or just compensation for the properties nationalized by the Cuban government after the triumph of the Revolution.
- Presidential Proclamation 3447: Issued on February 3, 1962 by President John F. Kennedy, it decreed the total “embargo” of trade between the US and Cuba in compliance with Section 620 (a) of the Foreign Assistance Act.
- Cuban Assets Control Regulations of the Department of the Treasury (1963): Stipulated the freezing of all Cuban assets in the US, the prohibition of all financial and commercial transactions unless they should be approved by a license, prohibition of Cuban exports to the US, prohibition for any natural person or legal entity in the US or third countries from carrying out transactions in US dollars with Cuba, etc.
- Export Administration Act (1979): Section 2401 (b) (1) “National Security Controls”, “Policy Toward Individual Countries”, established the Trade Control List in which the US President maintains a number of countries for which special export controls could be set up due to national security considerations. Cuba is included on this list.
- Export Administration Regulations (EAR, 1979): Established the basis for the general control of articles and activities subject to EAR control, in agreement with the sanctions imposed by the US government. They establish a general policy of denying exports and re-exports to Cuba.
- Cuban Democracy Act or the Torricelli Act (1992): Prohibits the subsidiaries of US firms in third countries from trading in goods with Cuba or Cuban nationals. It

forbids third country ships landing in any Cuban port from entering US territory for 180 days, other than those having a license from the Secretary of the Treasury.

- Cuban Liberty and Democratic Solidarity Act or the Helms-Burton Act (1996): Codified the provisions of the blockade, broadening its extraterritorial scope and limiting Presidential prerogatives to suspend this policy. However, the text of the law establishes that the President preserves his prerogatives to authorize transactions with Cuba via the issuance of licenses.
- Section 211 of the Consolidated and Emergency Supplemental Appropriations Act for the fiscal year 1999: Prohibits registering in the US any trademarks associated with nationalized properties as well as the acknowledgement by US courts of the rights of Cuban firms over such trademarks.
- Trade Sanctions Reform and Export Enhancement Act (2000): Authorized the export of agricultural products to Cuba on the condition of cash payments, in advance and without any US financing. It prohibited travel to Cuba by US citizens for tourism purposes, setting up 12 categories for authorized visits.

1.2. President Barack Obama's Executive Measures and their Limitations

In his announcement on December 17, 2014, President Barack Obama acknowledged the failure of the policy towards Cuba and he promised to engage in a debate in Congress in order to lift the blockade. Corresponding to this approach, the President announced several measures directed at modifying the application of several aspects of the blockade. On January 16, the amendments to the regulations of the Departments of the Treasury and Commerce entered into effect to implement the President's decision. Although they are a positive step, these measures are limited.

On the subject of travel, the 12 categories of US citizens authorized to visit Cuba may do so under a general license, and travelers are no longer subject to limits on their spending in the country and they may use their credit and debit cards. Nevertheless, the prohibition on trips for tourism purposes remains as well as the continued restrictions on people-to-people educational exchanges which maintain the obligation of travelling in groups with a strictly followed schedule of activities.

In the area of telecommunications, the export of products and services to Cuba has been authorized as well as funding for the creation of infrastructure facilities. Its principal limitation is the requirement of paying in cash and in advance, even when foreign or US banks based outside of the United States are now able to provide financing for these purchases. This is incongruous with international trade practices where this type of payment is not used and companies provide loans to the buyer in order to ensure the sale of their products and services. The possibility of carrying out these operations becomes more complicated because of the banks being worried

about making transactions related to Cuba due to the policy of financial harassment applied under the government of President Obama.

In terms of commerce, the list of US products that may be exported to Cuba as of the new measures, without needing to request the authorization of the US Department of Commerce, is reduced to telecommunications products and services, construction materials and equipment and tools used in the non-State sector of the economy, including agricultural activity. The sale to Cuba of other US products and services is forbidden unless they should be authorized by the Department of Commerce via the approval of specific licenses, which expire in a certain length of time. Payment terms continue being discriminatory if they are compared to international commercial practices, since it is forbidden to use the dollar as the currency for payment and credits cannot be received in order to buy the authorized products and services. Both of these limitations could be eliminated via executive measures without the necessity of going to Congress.

Furthermore, authorizations to import Cuban goods and services produced by the non-State sector exclude key items in the Cuban economy such as tobacco. By not taking into account the State sector of the economy, other Cuban goods and services of known international prestige such as rum, nickel, biotechnological products and medical and educational services are also left off the list. Along with that, tariffs that would be applicable to Cuban products, in the event that they would be able to enter US territory, would be the highest on the Harmonized Tariff Schedule of the Department of the Treasury due to the fact that only Cuba and the Democratic People's Republic of Korea are at the most restrictive level of importation levies to the US and they do not possess most-favored-nation treatment.

Likewise, the modifications to the regulations on maritime transportation that allow ships involved in humanitarian trade with Cuba to enter US ports sooner than the 180 days are impracticable. It is very unlikely that ships carrying commercial cargo to a country would limit themselves to just transporting foods, medicines, medical equipment and other exports authorized by the US International practice indicates that shipping contracts do not limit themselves to shipping only one kind of product.

Similarly, the changes in the financial sphere are limited to facilitating the processing of authorized transactions in the area of travel, exports and remittances. Even though the new regulations would allow the opening of correspondent US bank accounts in Cuban financial institutions, there would be no reciprocity for Cuban banks by establishing for them the obligation of obtaining a license in order to open accounts in US banks.

President Barack Obama's decision to exclude Cuba from the list of State sponsors of international terrorism constituted an act of historical justice for the Cuban people. However, the presidential decision does not involve a respite from the economic, commercial and financial blockade against Cuba. Most of the laws and regulations that established the policy of economic asphyxiation were issued before 1982 when Cuba was designated as a State sponsor of terrorism and therefore the sanctions and

restrictions imposed by that classification were already a part of the blockade against the Island. This has been acknowledged, even by officials of the US government itself, as in the case of Jeff Rathke, Director of the Office of Press Relations of the Department of State who said, “So the lifting of the state sponsor of terrorism designation does not lift the embargo, just to put that kind of bluntly.”¹

All this reaffirms that the US President possesses broad executive powers to substantially modify the application of the blockade regulations, even further than what has been done so far.

Even though the measures adopted by the US government in January of 2015 are a step forward in the modification of the application of some aspects of the blockade, so that they may be implemented and give results it is essential to adjust the regulations to Cuba’s real conditions and to the practices of international commerce. Unless other aspects of the blockade are modified, such as access to credit, the possibility of importing and exporting under normal conditions from and to the US, authorization of the use of the dollar, and the end to the financial persecution of Cuba’s international transactions, the economic siege to which Cuba continues to be submitted by the blockade laws and regulations will not substantially change.

1.3. Prerogatives of the US President to continue amending the application of the blockade without the necessity of going to Congress

Although the US Congress is the body empowered to revoke the laws supporting the blockade policy against Cuba and to decree its demise, this act could be preceded by the dismantling of the immense majority of the restrictions composing it via executive actions.

When President William Clinton signed the Helms-Burton Act on March 12, 1996, the blockade against Cuba was codified into law along with the bundle of executive orders that sustain it. Nevertheless, that same law preserved the broad powers of the President, via the issuance of licenses to allow different transactions prohibited by the blockade.

Next, some of the various executive prerogatives are listed that are available to the US President to modify the implementation of the blockade policy against Cuba:

1. To authorize the use of the US dollar in Cuba’s international transactions
2. To consent that these transactions be carried out through the US banking system

¹ Rathke, Jeff, Director of the Office of Press Relations of the Department of State, “Daily State Department Briefing”, May 29, 2015, Washington D.C., US.

3. To make it possible for Cuban entities (banks, firms, etc.) to open correspondent accounts in US banks
4. To instruct US representatives in international financial institutions to not obstruct the granting of loans or other financial facilities to Cuba
5. To turn around the policy of financial persecution against Cuba
6. To authorize Cuban aircraft and ships to transport travelers, cargo and mail between the two countries
7. To authorize direct exports of US products to Cuba
8. To permit Cuba to import from third countries products that contain more than 10% of US components
9. To allow imports into the US of Cuban services or products which constitute exportable items for the Cuban economy such as tobacco, rum, biotechnological products including products that are manufactured in third countries and which contain Cuban raw materials such as nickel or sugar
10. To authorize US firms to make investments in Cuba
11. To eliminate the limit on the value of Cuban products American travelers visiting Cuba may import for their personal use or as gifts
12. To authorize US citizens to receive medical treatment in Cuba
13. To permit the granting of credits, loans and financing in general to Cuba in order to acquire products on the US market (with the exception of agricultural products, which are prohibited by law)

These actions show that substantial modification of the scaffolding holding up the blockade is possible if the President uses his ample executive powers. This could be the procedure to be followed in order to dismantle a large part of the economic, financial and commercial restrictions that the US government maintains against Cuba.

There are just four aspects of the blockade that the President of the United States cannot act upon because they require the action of Congress for them to be eliminated or changed, since they are regulated by law. They are:

1. The prohibition on US subsidiaries in third countries from trading products with Cuba (Torricelli Act).
2. The prohibition on carrying out transactions with US properties that were nationalized in Cuba (Helms-Burton Act).

3. Preventing American citizens from traveling to Cuba as tourists (Trade Sanctions Reform and Export Enhancement Act of 2000).
4. The obligation to pay in cash and in advance for purchases of agricultural products by Cuba in the US (Trade Sanctions Reform and Export Enhancement Act of 2000).

Besides these aspects that may not be modified by the President, Congress could pass new laws that would strengthen the blockade regulations against Cuba or it could block dismantling it. This has been demonstrated by recent attempts by a group of congressmen to promote legislative initiatives directed to reverse the President's measures and to reinforce the economic siege imposed on Cuba.

The process towards normalization of bilateral Cuba-US relations necessarily needs to start with the lifting of the blockade, which is the greatest obstacle for Cuba's economic, commercial and financial relations with the US and the rest of the world, and for the development of all the potential of the Cuban economy.

1.4. Principal Blockade Measures Applied after December 17, 2014

After December 17, 2014, the blockade against Cuba has remained in force as shown by the following examples of the repercussions caused by this policy on Cuban and third party entities:

- The US firm *Gen Tech Scientific* refused to sell Agilent Gas 5975C chromatographs that are used for biochemical, pharmaceutical and medical research and diagnostics, alleging the prohibition of sales to Cuba imposed by the Department of State. This answer was provided just a few days after the announcement of the decision to re-establish Cuba-US relations.
- On January 28, 2015, it became known that the US firm *PayPal* froze Brian and Jan Ficht's account: the Canadian horticulturalists that had used the account to pay for a three-week trip to the Island to learn about urban agriculture.

On February 11, 2015, it became known that the subsidiary of the *Santander* Bank in Mexico had refused to execute a transfer of 68,290 Euros issued by the Banco Central de Cuba to pay its membership fees to the Center for Latin American Monetary Studies (CEMLA for its acronym in Spanish).

- On February 26, 2015 the US firm *PayPal* refused a transfer of 90 Euros issued by the Solidarity with Cuba Group in Germany, *Cuba-Hilfe-Dortmund*, on account of the blockade regulations.

On March 12, 2015, *Commerzbank* of Germany agreed with the Departments of the Treasury and Justice, the Federal Reserve, the New York State Department of Financial Services, the Office of the District Attorney of the South District of New York

and the Office of the District Attorney of Manhattan to a payment of a fine for 1.71 billion dollars, for violations of the regulations against Iran, Sudan, Myanmar and Cuba. According to the OFAC report, between September of 2005 and December of 2007, *Commerzbank* processed 56 transactions related with Cuba for a total of 2,283,456 dollars.

As the result of said fine and due to the cessation of operations with Cuba 50,000 pounds sterling and 53,000 Swiss francs in Cuban funds have been frozen in that bank, unable to be converted into Euros or to carry out payments with them.

Due to the blockade laws, this bank has not found a channel to transfer these resources to other accounts in European banks, because the latter have refused to do business with Cuba. This situation has affected the country in that it did not have the capacity of foreign payments during the last nine months.

- On March 25, 2015, OFAC imposed a fine of 7,658,300 dollars on the US firm *PayPal* for violating regulations against Cuba and other sanctions programs. According to the OFAC report, between December of 2010 and September of 2013, *PayPal* processed 98 transactions that involved goods of Cuban origin or of Cuban national interest for a total of 19,344 dollars.
- On March 26, 2015 it became known that funds transferred from Cuba to finance the current expenses of its embassies in Kiribati, Equatorial Guinea and Kazakhstan were refused by several banks due to the blockade regulations against Cuba.
- On June 1, 2015, the US firm *Sigma-Aldrich*, one of the world leaders in chemical and biochemical products, refused to provide the Cuban firm *Quimimpex* with essential chemical products for the development of the Cuban chemical industry. *Sigma-Aldrich* alleged it was unable to provide neither products, services nor technical information because Cuba is a sanctioned country to which goods, technologies or services cannot be exported, re-exported, sold or supplied, directly or indirectly, from the United States or by any person of the United States, regardless of their location.
- On June 2, 2015, *Columbiana Boiler Company, LLC*, a US firm specialized in manufacturing pressurized containers refused to supply the Cuban firm *Quimimpex* with the necessary cylinders to package the chlorine used in purifying the water in aqueduct systems; they indicated that they were not allowed to send products to Cuba. In their answer, they indicated that in spite of having contacted the Department of Commerce, they had still not received any authorization to send these products to the Island.
- In June of 2015, the Japanese branch of the US shopping chain *Costco Wholesale* informed that it was suspending the membership of an official of the Cuban Embassy in Japan, invoking US law to execute the absurd action.

II. THE BLOCKADE VIOLATES THE RIGHTS OF THE CUBAN PEOPLE: REPERCUSSIONS ON THE MOST VULNERABLE SOCIAL SECTORS

“The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.”²

The blockade continues to be an absurd policy that is morally unsustainable; that, as the President of the United States has acknowledged, has not served the purpose of breaking down the decision of the Cuban people to choose their political system and control their future. In this chapter, we shall show a summary of the repercussions on the rights of Cubans in the most vital sectors of the country.

2.1. The Right to Health and Food

Since the triumph of the Revolution in 1959, the Cuban people’s right to health and food has been a top priority as part of the essence of the Cuban Revolution, proof of which can be seen in the results achieved throughout these years, by attaining internationally recognized indicators. Even during the most challenging economic times, the revolutionary government invested substantial financial, material and human resources in order to ensure the sustainability of essential health and food services. This has been hampered by the genocidal economic, financial and commercial blockade of the US against Cuba.

In the **Public Health Sector**, monetary repercussions accumulated since the start of the blockade total 2.541 billion dollars, while during the period being analyzed by this Report repercussions have amounted to 76,897,734 dollars. Nonetheless, it is difficult to calculate the humanitarian impact of the blockade if one takes into account the persons and families affected by this unjust policy, despite the colossal efforts of doctors, specialists, technicians and other professionals devoted to saving lives.

These repercussions are specifically manifest in the need to acquire reagents, spare parts for diagnostic and treatment equipment, instruments and other consumables in markets that are geographically distant. Add to this the fact that intermediaries must be used, thereby unnecessarily increasing costs in the sector and often delaying the treatment of patients.

Also because of the blockade, the rights of US citizens are being violated because their possibilities to come to Cuba to receive excellent lower cost medical services are being limited. Moreover, sometimes US citizens find it difficult to enroll as self-funded students in undergraduate or postgraduate courses in Cuban medical universities.

² Declaration on the Right to Development. Article 1, Paragraph 1.

These difficulties also affect citizens from other countries and have repercussions on the Cuban economy. For patient care in Cuba and academic services alone, Cuba has been unable to earn 27,645,000 dollars in the period being covered by this Report.

Next, a number of examples are provided of the repercussions caused by the blockade on the right to health of the Cuban people:

- The Frank País International Orthopedic Complex reports that it is limited in its ability to acquire prostheses for wrist and hand joints for patients suffering from rheumatoid arthritis, since the market for this type of prosthesis is dominated by US firms such as *Small Bone Innovation, Inc.* (SBI). The SBI branch in Europe refused to supply this product to Cuba. Due to this obstacle, patients requiring these prostheses must travel abroad or undergo palliative operations to treat their conditions; this implies that they may not solve their health problems and increased costs.
- The International Center of Neurological Restoration (CIREN for its acronym in Spanish) reports that according to the Good Clinical Practice guide, Botulinum Toxin is the preferred treatment for spasticity, a symptom present in over 80% of patients with neurological conditions. Today Botulin Toxin is the indicated medicine for treating more than 50 diseases. CIREN cannot buy Botulinum Toxin under the brand name of *Botox* directly from the US. To do so, Cuba must go through a third country, thereby increasing the cost from 200 to 500 dollars. Despite the fact that companies producing Botulinum Toxin have multiplied in the world and that on the international market there are brands available such as *Neurobloc*, *Xeomen*, and *Dysport*, *Botox* remains the highest quality toxin.
- The Dr. Rafael Estrada Institute of Neurology and Neurosurgery informs that during the period being analyzed by this Report, its Neurobiology Department dealt with being refused the sale of the *CanAg NSE EIA* lab kit by the US firm *Fujirebio Diagnostics Inc.* This kit is used to detect the neuron specific enolase protein in serum and in the cerebrospinal fluid, an element that can be used as a diagnostic and prognosis marker in cases of ischemic types of cerebrovascular diseases, which are high in the ranking of the morbid-mortality rate in Cuba.

Furthermore, the abovementioned institute has also not been able to acquire electromyography equipment from the Canadian firm *XLTEK* because the US company *Natus Medical Inc.* bought that firm. This resulted in the impossibility of carrying out certain practices such as the evaluation of electrical activity in the skeletal muscles of patients with neuromuscular conditions; is one of the most frequent clinical assessments done in the aforesaid institute's patient care services.

- The Institute of Hematology and Immunology cannot monitor the effects of the Methotrexate (MTX) drug applied for the treatment of leukemia and other lymph proliferative syndromes, due to the fact that the institute has not been able to access diagnostics systems such as *ARK Methotrexate Assay* produced by the firm *ARK*

Diagnostics, Inc. of California. Since this firm is American, it may not do business with Cuba.

- The National Electro-Medicine Center reports difficulties in acquiring parts and replacements for the Philips brand equipment existing in Cuba since there is no direct online messenger service for “eparts.philips.com” between the US and Cuba, functioning via FedEx; getting parts to Cuba is very expensive and slow. Today the parts must be sent to Europe and then to Cuba, even though their origin in most cases is the US.

This Center also stresses that most of the medical imaging equipment is controlled by or includes in their make-up computers based on the Windows XP 64-bit operating system, which requires activation by Microsoft prior to 30 days after being installed. Due to the fact, that none of the activation options are available in Cuba, a great number of technical setbacks are encountered and this affects service and prolongs the waiting time for patients.

- Because of the lack of necessary technological equipment due to the obstacles imposed by the blockade, the National Center for Genetic Medicine has had to send samples to foreign labs in order to diagnose genetic diseases and this has incurred costs for shipping and doing the analyses.

An example of this was the refusal by the firm *Applied Biosystems* of Cuba’s request to buy a Genetic Analyzer. With the absence of this equipment, research activity and services at the aforementioned Center’s Molecular Biology Lab were affected since they were not able to do clinical studies such as hereditary breast cancer, familial adenomatous polyposis, Hereditary nonpolyposis colorectal cancer, von Hippel-Lindau disease, Wilson’s disease, Cystic Fibrosis, Gaucher’s disease, classic galactosemia, mitochondrial diseases, retinitis pigmentosa associated with chromosome X and Usher’s syndrome, just to name a few. As a consequence of this situation, samples have to be sent to other countries for diagnostics.

Since 2008, this lab has been using the free CLC Sequence Viewer program developed by *CLCbio* of Denmark, a leading company in the development of bio-informatics programs. This application allows the analysis of changes produced on the protein level by different DNA mutations, to do restriction analysis, sequence alignment and building phylogenetic trees, among many options that are important for molecular diagnostics work. In October of 2013, the US company *Qiagen* acquired *CLCbio* and since that time it hasn’t been possible to access program updates and so the Cuban institution has had limited access to the new incorporated features and the updating of restriction enzymes data bases.

In January of 2015, a new request was made to access program updating but the answer received was that the US blockade against Cuba prevented providing technical support services and software licenses.

- Repercussions caused by the blockade for the William Soler Pediatric Cardio Center were toughened up when in April of 2007 they were placed in the category of “rejected hospital” by OFAC, accompanied by conditions imposed on sales of products that require previous licenses. Since that time, the firms *NuMED*, *AGA Medical* and *Boston Scientific* were unable to continue supplying the devices that are used in diagnostic and treatment processes via interventional catheterization; which forces the hospital to submit children to open-heart cardiac surgery with greater risks of complications and mortality and increased costs.

This institution also cannot have the best quality biological materials for cardiac implants that come from the US, such as biological cardiac valves. This has forced the Center to sometimes use mechanical valves that entail anti-coagulation, thereby posing greater risk and leading to other possible complications for the patients.

Moreover, the Center does not have access to the percutaneous gastrostomy sets manufactured in the US, necessary for some very malnourished patients without the possibility of proper feeding via oral methods. By not having this product, the institution is forced to have patients undergo surgical gastrostomies.

- Because of the blockade, the Institute for Cardiology and Cardiovascular Surgery does not have cables or electrode extractor sets for pace-makers or for implantable automatic defibrillators made by the American firm *Cook*. Not having this equipment forces the institution to do surgery with extra-corporeal circulation in order to extract the electrodes, thereby increasing the risk of complications for patients.
- The MEDICUBA firm indicates that because of the blockade, brachytherapy equipment for cancer treatment cannot function normally because it doesn't have the Iridium-192 radioactive isotope whose chief supplier in the world is the American firm *Mallinckrodt Pharmaceuticals*.

The **Foods Sector** is still one of the areas most affected by the US blockade policy. Obstacles put in place for Cuban companies importing foods from international markets including American producers, continue violating the Cuban people's right to food.

Nevertheless, Cuba has one of the most far-reaching programs for social protection in the world; it has guaranteed the eradication of hunger at the same time as it maintains the population's food security as a strategic priority of the country. This may be seen with higher prevalence in the Cuban educational system where food is available for the special education, primary and secondary schools, and educational efforts are made to promote healthy nutritionally balanced diets.

This achievement was recognized for the second time by the Food and Agriculture Organization of the United Nations (FAO) at the 39th Session of its General Conference held in Rome, Italy in June of 2015. Cuba was lauded as one of the few

developing countries that have reached the millennium development goal pertaining to this matter prior to the term agreed of 2015.

According to the Ministry of the Foods Industry and the Ministry of Agriculture for the Republic of Cuba, the total amount of repercussions on the food sector due to the blockade is conservatively estimated at 592,269,000 dollars. This figure is due to the relocating of markets for importing consumables for the foods industry, with the resulting higher costs for the additional expenses of maritime shipping and the types of burdensome exchange rates due to the prohibition of using the US dollar in commercial transactions, among other reasons.

As the following examples show, because of its special nature this sector has been one of the principal objectives of the blockade policy:

- The Cuban rice industry showed repercussions in the period for 3,306,900 dollars when their production levels decreased due to the impossibility of acquiring parts, spare parts, accessories and technological equipment on the American market, having better quality and prices than those on other markets.
- In 2014 seed importations from distant markets like Europe and Japan, basically for potatoes and garden vegetables, represented a repercussion of 1,175,900 dollars, just because of the shipping costs. The blockade measures prevent acquiring these products on the American market and this also brings with it delays in the planting schedules for some important crops.
- Likewise, pork production was affected in the period for 6,572,400 dollars since it was necessary to buy pig feed in third countries at higher prices than those in the American market. Also the impossibility of having access to the US market has limited access to advanced technologies for pig breeding, production systems and the distribution of food, medicines and other consumables.
- The Cuban poultry sector was also affected for 23,000 dollars because it wasn't able to administer vaccines to the flocks in order to prevent losses due to Gumboro Disease while the US government prohibition is kept on direct sales to Cuba for the producers of vaccines, medicines and diagnostic kits for the prevention and fighting against avian diseases.

2.2. The Right to Education, Sports and Culture

The Constitution of the Republic of Cuba endorses the inalienable right of Cubans to education, sports and culture as a fundamental principle of the Revolution. However, the economic, commercial and financial blockade imposed by the US significantly attacks this right of the Cuban people.

If indeed the achievements of the Cuban Revolution in these spheres and its contribution to the well-being of other peoples in the world have been internationally

acknowledged, it is just as certain that these have been adversely affected in quality and breadth by the blockade policy.

The principal repercussions reported in the **Education Sector** are determined by the payment of hefty tariffs for shipping products acquired in far-off markets, the lack or insufficiency of some teaching means and resources for academic and research purposes due to their higher costs in other markets, limited access to scientific information and the informatics tools needed to produce educational multimedia productions and the obstacles for receiving payments for professional services that are provided abroad, etc.

Next we shall give an overview of examples of repercussions in this sector:

- Transportation of containers with consumables for education from distant markets alone cost the Ministry of Education 1,942,800 dollars. Buying and transporting these goods from the southern US would notably reduce the freight costs, reducing the amount spent by some 39.72%.

In order to have a more precise idea about the social significance of the losses in this area, it is enough to state that with this amount of money we could have acquired much needed didactic tools for 162 daycare centers. Due to the adverse effects described above, we were able to only supply these materials to 60 daycare centers.

- The National Center for Agricultural/Livestock Health (CENSA for its acronym in Spanish) reported losses due to higher prices for contracting in third countries for between 30% and 45% above the price on the world market for reagents produced by the firms *Promega, Sigma, Invitrogen, Giagen, Hyclone, Alconox, Agdia*, all American, and of mandatory use in the labs of this institution.
- The University of Havana is unable to access protein purification equipment needed by the Center for Protein Studies because these are only supplied by the US company *General Electric*.
- On two occasions the International Atomic Energy Agency (IAEA) has found it impossible to buy the equipment needed for the execution of the Internet Reactor-Laboratory Project (IRL) executed by the Higher Institute of Technologies and Applied Sciences (INTEC for its acronym in Spanish) because that equipment contains more than 10% of US components.
- Cuban sites do not have access to the satellite images (LANDSAT) that appear on US servers, essential to obtain space information in real time of Cuban territory and this creates obstacles for the development of scientific and teaching activities.

The commercial and financial blockade imposed against Cuba also imposes severe adverse effects on the development of **Sports** in Cuba.

Next, some examples are described of the repercussions caused by the blockade in this sector:

- Cuban sports institutions are prevented from acquiring implements, equipment and sports apparel on the US market, such as *Multimarc* practice mats for pole vaulting and high jumping and spring boards for artistic gymnastics, special *Canondale* bicycles, electronic measuring equipment for track and field and others.
- The Cuban team of Pinar del Río, Champions of the Caribbean Baseball Series of February 2015 and Frederick Cepeda, MVP of the event, were not able to collect their prizes due to restrictions imposed by the blockade. Nor could the Cuban athletes who won prizes at the World Relay Championship and the Indoor World Cup for the same discipline held in 2014 because the bank used by the International Federation of the sport belongs to the US and has frozen the funds. The amount of the prizes totals 190,000 dollars.
- For the National Baseball Series of Cuba thousands of Japanese *Mizuno* balls were bought at 9.50 dollars each. However, the Japanese balls could have been replaced by *Wilson* balls at 5.80 dollars each. Cuban attempts to acquire this piece of equipment in Costa Rica were unsuccessful. The manufacturers alleged that they couldn't do business with Cuba since the balls were being manufactured by them for the US brand.
- Between June and September of 2014, 4 visits by American sports figures were cancelled; they were interested in competing with Cuban athletes but their licenses were refused by OFAC.
- In order to guarantee the sustainable development of Cuban sport in the area of Sports Medicine and to attain the maximum levels of health and sports performance in active and retired athletes the Institute of Sports Medicine needs a technological support that is mostly manufactured in the US. Circumstances imposed by the blockade prevent or make it difficult for the Institute to acquire the following products:
 - Reagents and Reference Substances for work in the Anti-doping Lab and the spare parts necessary to repair the high pressure liquid chromatograph (HPLC), a mass spectrometer and a gas chromatograph with NPD detector from the American firm Agilent Technologies.
 - Spare parts for repairing isotope ratio mass spectrometry equipment used for the detection of synthetic endogenous steroids, made by the German firm Finnigan, a subsidiary of the Austin, Texas firm Termo Quest.
 - Monoclonal antibodies for determining human erythropoietin, only manufactured by American firms, as well as nutrients and restorers for athletes; because they are bought in third countries, their cost becomes considerably greater.

Despite the great achievements the country has had in the **Sector of Culture**, we cannot ignore the impact and limitations created by the blockade in this sector. Just in the period being analyzed said policy has caused losses for 24,727,300 dollars in that sector.

The basic materials for artistic education are some of the most costly educational materials in the world. The blockade has been characterized by imposing constant difficulties on obtaining teaching means, instruments and the essential materials to ensure artistic education in Cuba. Musical instruments, oil paints, acrylic paints and brushes for visual artists, slippers and costumes for ballet and dance students, and others, are on the list of means and materials that the blockade attempts to keep from the students of the arts in Cuba.

The American market could also be the principal source of supplies of a considerable group of raw materials, materials, tools and equipment with which artists, artisans, restorers and designers work in their efforts to salvage our national heritage. The impossibility of acquiring these products in the US forces Cuban institutions to spend more money in order to purchase them in other markets, including higher prices and more costly freight charges.

The blockade also causes limitations to the academic exchanges and the participation of Cuban artists at competitions and events in the US, it prohibits drawing up Cultural Agreements between homologous teaching institutions of both countries that would make possible the cultural development and artistic creation of the Cuban people. In addition, when Cuban cultural personalities are invited to cultural events, they are often not able to attend because of delayed or refused US visas. The blockade also prevents US institutions and readers from subscribing to and being free to obtain Cuban publications of interest for universities and cultural and scientific institutions.

Next we shall describe some examples of the blockade's repercussions on the development of Cuban culture:

- Because they cannot directly contact US wholesale firms distributing digital music and because they must use intermediary firms, has brought about decreased commercial margins for the *Servicio de Distribución Mayorista de Música Digital "Soy Cubano"*, belonging to the firm ARTEX S.A. The repercussions on this account have reached 50,000 dollars.
- If products could be bought on the US market, the resulting savings would benefit the country's cultural development as seen by the following examples:
 - On the US market, Vandoren 10 Sax ZZ Reed #2.5 saxophones cost 249 dollars while the Selmer SAS280R La Voix II Saxophone - Clear Lacquer, costs 250.06 dollars. Today Cuba acquires each piece in third countries at the cost of 356 dollars. Being able to ensure saxophones bought in the US for

each of the 334 students using this instrument in Cuba would be a saving of 35,000 dollars.

- In the US, a Yamaha MG16 Mixing Board 16 CH piano costs approximately 1,100 dollars. Today Cuba buys lower quality EBT GP-160 W pianos for 4,442 dollars each. If we consider that we need 40 pianos to satisfy the current enrollment of piano students, the repercussions caused by the blockade total around 133,700 dollars.

2.3. The Right to Development

Tourism, transportation, mining, renewable energies, telecommunications and others constitute sectors of the Cuban economy whose development is being hurt by the blockade. In this section we shall deal with some of the cases where the unfair US policy has negative effects on the right to development in Cuba.

In the period on which we are reporting, **Tourism** has continued to suffer severe repercussions in significant areas related to services, operations and logistics that are decisive for this type of economic activity. Adverse effects have totaled 1.506 billion dollars.

Even as the agreements between the governments of Cuba and the US announced by the presidents of both countries last December 17 create favorable conditions for a significant increase in the number of visits by Americans to the Island, it behooves us to emphasize that the blockade maintains the prohibition of tourist travel to Cuba. Measures adopted in this area by the US Executive Branch are directed only towards granting general licenses for the twelve categories of authorized trips, implying that those categories do not require asking for permission to travel.

If the blockade regulations did not exist, Cuba would be able to benefit from the 140 cruise ships that operate on a weekly basis through the Caribbean and whose principal market is American. The Island would be able to make the most of the operational capacity created to receive approximately 1.2 million passengers and to carry out 1,092 cruise ship stop-overs each year; this would generate revenues of 139,882,795 dollars.

In terms of acquiring equipment, parts, spare parts and automotive accessories in distant markets, the *TRANSTUR* tourism transportation group estimates that repercussions total around 207,540 dollars.

Due to the blockade, Cuban hotels may only use the Amadeus booking system, one of the four large Global Distribution Systems (GDS) having international scope. Three of these systems (*Sabre*, *Galileo* and *Worldspan*) originate in the US. Other providers of these services hesitate to do business with Cuban entities fearing fines and of having their sales in the US threatened.

Industry plays a fundamental role in the country's development. During the period analyzed, losses to this branch of the economy are estimated at 73,416,529 dollars, an amount equivalent to the investment program of the Cuban industry for the year 2014. The principal causes for this negative effect are due to the geographical relocation of markets, immobilization of resources in inventories, variations in the exchange rate for foreign commerce and financial operations because of the impossibility to use the US dollar.

Only in the period covered by this Report, the Cuban firm *ACINOX Comercial* suffered losses of 33,494,647 dollars due to the negative effects we have described above. With this amount, they could have acquired 31,628 tons of galvanized steel plates for the program of self-built homes; this would provide coverage for 69,582 houses and benefit 278,328 Cubans if we calculate that there are four persons living in each one.

During the period covered by this Report the *Grupo Empresarial de la Industria Sideromécanica* (GESIME for its acronym in Spanish) reported repercussions of 48,471,438 dollars. With this amount used for additional expenses, it would have been possible to acquire:

- 454,545 1050 aluminum alloy discs to manufacture induction stoves, or
- 7,000 kits of components to manufacture or repair hospital beds, or
- 3,500 kits of components to manufacture or repair intensive therapy beds, or,
- 154 sugar cane harvesters, or
- 15,900 home refrigerators for the population's replacement plan.

The Chinese firm *Ja Solar*, leading solar panel manufacturer, turned down a request for photovoltaic material, alleging that said firm traded on the US Stock Exchange and that any direct relationship with a Cuban company would place them in a compromised position. This purchase was directed to manufacture photovoltaic modules for solar energy fields as part of efforts the country is undertaking to increase the use of renewable energy sources to produce electricity.

The acquisition of *Grupo Flint Iberia S.A* by the US *Goldman Sachs Merchant Banking Division* in alliance with *Koch Equity Development LLC*, brought about that this Group decided to withdraw the distribution of printing ink from the Cuban importing firm *FICUBA S.L*, with no prior warning, thereby putting at risk the printing of the widely-read national newspaper in the country, *Granma*.

The area of Transportation continues to be seriously affected by the policy of economic asphyxiation. During the period being analyzed, repercussions have been at around 520,541,000 dollars.

This is shown by the prohibited access to US ports for international shipbuilders whose ships are being navigated by Cuban crews. Penalties for each day the Cuban crews remain in port total 1,500 dollars; they are also prohibited from setting foot on land and this is a violation of the agreements established by international maritime organizations.

The vessel LPG CASTEL SANT´ELMO cancelled repair services that would have been undertaken at the Cuban shipbuilders *Caribbean Drydock Co. S.A.*, since they would have to go to a US port after the vessel's repairs had been done; the consequence of this action was a loss of around 350,000 dollars.

Civil aeronautics is the transportation sector most affected by the blockade's prohibitions and regulations. During the period we are evaluating, the repercussions on civil aviation are estimated to total 288,386,591 dollars.

Among the limitations imposed by this policy we find the prohibitions on Cuban airline companies to operate in the US, the prevalence of laws prohibiting the acquisition of advanced technology, equipment, parts, spare parts and other aircraft accessories and the limitations Cuban airlines face to fly over US territory via the most direct and economical routes.

Furthermore, *Cubana de Aviación S.A.* cannot participate in the advantages of the computerized Air Reservations distribution systems since most of these are the property of the United States or respond to US interests.

Emergency equipment manufactured by the firm *Air Cruisers Company, LLC*, installed on Cuban aircraft such as toboggans, rafts and life vests, vitally important for looking after and saving human lives, may not be bought nor sent to be checked at the centers outfitted for that purpose on American soil and at approved maintenance stations in the region. These items must be sent to Russia, thereby increasing costs due to freight charges and customs inspections.

In **the area of Mining**, *Moa Nickel S.A.* was adversely affected for 16,299,648 dollars when it was unable to import from *Mexicana de Cobre* the sulfuric acid which is added to the nickel in order to extract greater quantities of it because that firm was acquired by another firm originating in the US.

In **the area of Agriculture**, due to limitations on the availability of chemical and microbiological reagents and radiological bio-protective equipment, the biotechnological lab of the Jorge Dimitrov Institute for Agricultural Research had to partially shut down. As a consequence, they had to relocate a portion of their personnel as well as suspend their production activities and commitments with food producers. Acquiring equipment related to this activity in the US would cost two times less than what it costs when dealing with third countries. The aforementioned situation generated repercussions of 54,760 dollars for the Institute.

In the **sector of communications and informatics**, including **telecommunications**, there were adverse effects recorded in the period that totaled 57,122,900 dollars.

Losses associated with revenues not earned and for the geographical relocation of business of the *Empresa de Telecomunicaciones de Cuba* (ETECSA S.A. for its acronym in Spanish) add up to over 38 million dollars due to the impossibility of accessing leading, high quality brands and/or equipment on the telecommunications market distributed by US entities. For similar reasons, the Cuban firm *Copextel*, dedicated to supplying and repairing telecommunications equipment, suffered losses of 2.5 million dollars.

The blockade continues to be the principal obstacle to development of infrastructure in Cuba that would allow for improved access to the Internet. The US is the worldwide emporium for informatics technologies and it exercises hegemonic control over the network of networks. Because it is subject to the laws of the Federal Communications Commission and the US Department of State, the *Internet Corporation for Assigned Names and Numbers* (ICAN) that provides IP addresses and names to the rest of the world is limited in terms of the services it can provide to Cuba.

Despite visits to Cuba of senior *Google* executives and the marked interest in bringing their products and services into the Cuban market, the blockade still prevents the use of unrestricted services and applications such as *Google Chrome*, *Google Analytics* and *Google Play Store*.

The blockade also affects Cuba's capacities to develop its **water infrastructure**. In order to purchase high density polyethylene to manufacture tubes, Cuba must request loans with one year's amortization at high interest rates due to the influence of the blockade in the perception of risk to the country.

In November of 2014, the Spanish firm *Sterling SIHI S.A* informed the *Grupo BM, Cubahidráulica's* supplier that they were cancelling the request for 15 hydraulic pumps when they learned that Cuba was their destination, stating their reasons as the existence of the blockade.

Chlorine bought from a Colombian firm had to be sent to Cuba through a third country, due to fear of possible sanctions and reprisals. This situation did not only jeopardize the continuity of delivering this vital product for the treatment of drinking water but it also involved increased costs of 120,950 dollars, just for the freight charges.

The Cuban internal commerce system reported losses during the period being analyzed of 80.54 million dollars. Despite national efforts to lessen the impact of the blockade in this sector, growing economic repercussions caused by this policy have limited the possibilities of the population's access to restaurant and food services, hygiene and cleaning products, textile products, footwear, hardware items, toys, perfumes, paint and construction materials.

III. REPERCUSSIONS ON THE FOREIGN SECTOR OF THE CUBAN ECONOMY

3.1. Foreign Commerce and Investments

The repercussions of the blockade in the area of **foreign commerce** during this period total 3,850,916,429 dollars.

The indicator recording the greatest negative effects refers to revenues not earned because of failure to export goods and services; this represents 70% of the total of the repercussions, in other words, 2,698,636,842 dollars.

The indicator recording the most significant percentage increase was the impossibility of accessing the US market, with an increase of 196%. This figure is justified by the immobilization of substantial funds in inventories to cover long transportation periods from distant markets, using intermediaries and the subsequent increase in costs for merchandise, with an increase of 282%, and the increased freight charges and insurance which grew 45%.

The sectors of tourism, transportation and agriculture were the most affected since they respectively concentrated 50%, 13% and 12% of total repercussions on foreign trade.

The economic war imposed on Cuba by the US has directly had effects on the reduced foreign investment flows towards the Island. On the one hand the impossibility of access to the Cuban market by American capital flows and on the other hand, the fear of significant investors in other regions that investments in Cuba would affect their interests in business with the US, continue to slow down greater levels of foreign investment.

If the blockade did not exist, the potential of Cuba to receive greater volumes of foreign investment would increase considerably in spite of a regional market context marked by a slowdown of foreign capital entries. The country has a favorable environment for increased investment flows: the market provided by Cuba due to its geographical position, the potential it has for enlarging its ports and the creation of the special development zone, opening new sectors of the economy, incentives and the education levels of human resources.

The immense majority of prioritized sectors in Cuba are quite interesting for American investors. Also, with the end of the blockade, Cuba would be able to access raw materials, products and services necessary to undertake new public investments or investment with foreign capital. It would also make possible the opening of the US market for exportation of Cuban goods and services.

Lifting the blockade would also have a positive impact on the development of the agro-industrial sector, generation of energy, modernization and enlarging existing hotels and executing research and development projects, etc.

Another important obstacle for the foreign sector of the Cuban economy is made up of the impediments in place to recognize Cuba's brands and patents in the United States. Thus, one of the most significant stumbling blocks has been the validity and application of the well-known Section 211 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999.

13 years ago the Dispute Settlement Body (DSB) of the World Trade Organization (WTO) ratified that this norm violates the obligations dealing with national treatment and most-favored-nation treatment contracted by the US within the framework of the WTO Trade-Related Aspects of Intellectual Property Rights Agreement (TRIPS) and the Paris Convention for the Protection of Industrial Property.

This opinion prevails in the WTO where there is an ever-growing rejection of Section 211 given the serious implications for the multilateral trade system, which the US says it defends. Every month the DSB reiterates that according to International Law, that country has the responsibility of having its laws, regulations and legal procedures comply with their obligations, with WTO agreements and with international treaties on brands and patents to which the US is a party.

The American legislative apparatus has introduced draft bills towards overturning or amending Section 211 as in the case of draft S-757 presented in the Senate last March 17. Like its predecessors, this draft has few real possibilities to become law and will not have any impact on the permanency of Section 211. Nonetheless, and given the fact that the existence of Section 211 may be extended in time, President Obama can work with Congress so that it may be definitively overturned.

By virtue of Section 211 the Cuban entity *Cubaexport* has been refused a specific license during many years to renew the registration of the prestigious *Havana Club* trademark due to political considerations.

Also, covered by this Section and the Terrorism Risk Insurance Act approved in 2002, the intentions of some plaintiffs against the Cuban State in the US to obtain compensation through the appropriation of Cuban trademarks and patents remain in existence.

As for Cuba, it has invariably respected, without the least discrimination, the obligations contracted by virtue of industrial property-oriented international legal instruments, which have guaranteed that over five thousand US trademarks and patents benefit from being registered in the country.

Next we shall provide some examples of how this policy has repercussions on the foreign sector of the Cuban economy:

- The US Premium tobacco market is the most important of its kind in the world (it takes in 65% of the world market). It has been estimated that if Cuba were allowed to export its internationally recognized superior quality tobacco to the US, in the first

year of exportation total sales would reach 50 million units; this translates to losses of 133.4 million dollars due to revenues not earned.

- Honey produced in Cuba is highly appreciated around the world because of its flora rich in taste and color. In this activity, the principal repercussions of the blockade would total 14,279,000 dollars due to the relocation of this activity to European markets.
- In the same vein, the company *Stella, S. A.*, producer of cocoa butter and other byproducts, suffered losses estimated at 320,000 dollars and the company *Cítricos Caribe S.A.* reported repercussions of 915,055 dollars.
- In spite of the possibility of importing agricultural products and food from the US, *Alimport* is dealing with difficulties generated by the burdensome and highly regulated conditions in which purchases have been made since 2001. It is also affected by financial limitations and the loss of logistical opportunities in regards to other markets. The repercussions on this entity were:
 - Impossibility of accessing credits from US entities, multilateral agencies and other similar institutions
 - Financial costs associated with the perception of country risk and expenses related to loans with interests of between 5% and 6% per annum
 - Non-existing relations between Cuban and US banks and the obligation to resort to intermediaries. This situation resulted in expenses of 4 million dollars
 - Impossibility of paying third countries in dollars. Due to this limiting factor and the need to look for alternatives to pay suppliers, the company suffered losses of 6 million dollars
 - Given the impossibility of having financial resources to maintain and increase food purchases in the US, Cuba must locate these in countries where it has liquidity for exportations or credit. This involves distancing from the supply source with the subsequent increased costs for maritime freight charges.
 - Impossibility of exporting Cuban products to the US market resulting from the fact that the fleet making the trip to Cuba returns empty to the US. For that reason, an adverse effect of 28 million dollars is estimated; this would be equivalent to having bought some 52,000 tons of chicken frozen in quarters, representing 49% of the population's basic food basket.
- When the commercial company *Cubazucar* could not access the US market on the New York Futures Exchange, along with not being able to use the dollar as the currency for its transactions, this resulted in economic losses of around 78,593,665 dollars.

- In the case of nickel, one of Cuba's chief exportations of goods, this period saw the US continuing to not be able to import any product totally or partially made with Cuban nickel even if it was manufactured in a third country.

Only one Cuban nickel-exporting firm, *Empresa Comandante "Ernesto Che Guevara"*, exported 17,253.6 tons of Nickel+Cobalt, for gross revenue of 270.2 million dollars. Had the sales been to the US, average price would have been 16,440.61 dollars per ton thereby generating revenues of around 283.7 million dollars. Because it cannot access the American market there was a repercussion of 13.5 million dollars.

3.2. Finances

During the period being analyzed, punitive measures by the US government were intensified in terms of persecuting Cuban assets abroad and in particular, maintaining the prohibition on the use of the US dollar.

Between April of 2014 and March of 2015, several correspondent banks carried out transactions that affected the operability of Cuban banking institutions. It is difficult to assign a number to the monetary losses but the fact that national entities are forced to modify usual channels to receive and make payments creates difficulties, delays and additional costs for commercial operations.

Add to this the historical mega-fine of 8.9 billion dollars applied to the French bank *BNP Paribas* in June of 2014, has had the effect of multiplying the country risk effect that unfairly represents Cuba in the sector. After this fine, many banks and financial institutions having relations with Cuba prefer to avoid getting involved in the complicated labyrinth of regulations and licenses required to handle Cuban international financial transactions.

To provide examples, we shall mention some of the main difficulties that have had an effect on the daily activities of Cuban banking institutions:

- Exchange risk because of the differences in rates of exchange, in the continued impossibility of using the US dollar as currency for making or receiving payments.
- Closing accounts in foreign banks, thereby eliminating correspondent relationships: this has happened in 4 European banks.
- Cancellation of RMA codes³ for the SWIFT⁴-messaging service: this has occurred with 15 entities, of these 11 are European, 2 Latin American, one is from Asia and one from Oceania.

³ Return Merchandise Authorization: used by distributors or corporations for transactions dealing with the return of products due to defects, to subsequently repair or replace them or to provide a credit note for the purchase of another product.

- Refusals to provide banking services; this has been observed in eight entities, of these five are European and three are Latin American.
- Eleven foreign financial institutions and banks refused to confirm and/or notify operations of letters of credit; of these six are European, four Asian and one Latin American.
- Cuban entities must access external financing in extremely burdensome conditions as a result of country risk which is the main element to determine the feasibility and costs of financial operations.
- Impossibility of using the US dollar resulted in increased operational difficulties associated with the existence of bills and travelers' checks using that and other currencies issued by American Express agencies in other countries. Until the present time, it has not been possible to find a satisfactory solution for these difficulties and this has represented a cost of opportunity by not being able to accredit the amounts in the accounts abroad of Cuban banks, with the subsequent repercussions for travelers carrying them.

In summary, during the period being analyzed, repercussions to the Cuban banking system were reported by 38 foreign banks.

IV. THE BLOCKADE VIOLATES INTERNATIONAL LAW. EXTRATERRITORIAL APPLICATIONS

As we have shown in the preceding chapter, persecution of Cuba's international commercial and financial operations continued during the period covered by this report, as well as the harassment and reprisals on third countries for maintaining normal relations with Cuba. The purpose of these actions was to keep imposing US legislation on the rest of the world thereby continuing infringement on the norms of International Law and the principles and purposes of the Charter of the United Nations.

Only between January of 2009 and June of 2015, the blockade has forced 42 US and foreign entities to pay 13,279,148,196 dollars just for doing business with Cuba and other countries.

Even though on May 29, 2015 Cuba was removed from the illegal list of States sponsors of terrorism, where it should never have been, which is a just decision; this does not remove the reticence of banks and financial institutions all over the world to

⁴ Society for Worldwide Interbank Financial Telecommunication: organization in charge of an international financial communications network among banks and other financial entities.

do business with Cuba, nor the fact that Cuba is prohibited from using the US dollar in its international transactions.

In its May 6, 2015 report on funds frozen in 2014 from countries sponsors of international terrorism, OFAC stated that the accumulated amounts belonging to Cuba totaled 270 million dollars.

4.1. Repercussions for Cuban entities

- For 15 months the Cuban Interests Section in Washington did not have any banking institution to guarantee its normal functioning and this limited the office's performance and affected consular services for Cubans residing in the US and for US citizens wishing to travel to Cuba.
- Several banking entities in an Asian nation refused to process 181 operations of letters of credit issued by a Cuban bank, totaling 55 million dollars using the argument that Cuba was on the list of states sponsors of terrorism, a list that had been unilaterally and arbitrarily drawn up by the government of the United States. Even though subsequently some of these banks accepted the previously refused documents and in other cases, other banks were found to process them, this resulted in significant delays in the reception of goods by Cuban companies.
- In August of 2014, a transfer from Haiti to the Cuban company *Tecnosime* to pay for technical assistance services provided by that entity had to be made through a correspondent bank in Germany, due to the fact that the Canadian *Bank of Nova Scotia* refused to send it to Cuba. This operation involved increased bank commission costs totaling 18,486 dollars.
- The *Center of Isotopes* (CENTIS for its acronym in Spanish) exports to Ecuador were halted for several months in 2014, resulting in loss of revenue for 80,000 dollars since the client *Medinuclear* didn't have the alternative bank options to make payments to Cuba.
- In July of 2014, the *World Trade Center Association* refused to accept payment for membership of the Cuban Chamber of Commerce in that organization, alleging that it had to request authorization from US authorities.
- In November of 2014, it was learned that the *AIU Insurance Company* refused to ensure the residency of the second Head of Mission of the Cuban Embassy in Japan arguing that the group is part of the American insurance company *AIG*.
- As a result of financial harassment, *Cubana de Aviación S.A.* wasn't able to have a bank process funds from Visa and MasterCard cards on its behalf. For that it continued developing electronic commerce using the services of *AMF Global Items*, incurring high operational and financial costs.

- During the period being analyzed, the Cuban tourist agency *Havanatur* was adversely affected by the closing of the *Havanatur Chile* account by the *Banco Santander* and they were not able to open a new account in any other banks in that country. It also dealt with the refusal of *HSBC* to transfer to Cuba *Havanatur UK* payments and transfer retentions from other banks.
- In November of 2014, the *Bank of Ireland* refused to carry out transfers from the Cuban Embassy to the O2 telephone company saying that it was impossible to make transfers involving Cuba or the Cuban government.
- The Cuban entity *Bufete Internacional* was adversely affected by the impossibility of using the dollar to charge for its services; this resulted in delays for the entity to be paid and inconveniences for their customers who had to look for banks not associated with US banks. As a result, the adverse effect amounted to 60,161 dollars.
- On December 12, 2014, *The New York Times* informed that the *Bank of America* refused to let Cuban scholarship student at Harvard University, Elaine Díaz keep her account open because this violated US sanctions against Cuba.
- As a result of the record fine of 8.9 billion dollars imposed on the French bank *BNP Paribas*, a Cuban entity has had funds of 1 million dollars frozen in that institution pending closing the account in order to have the funds returned to them.

4.2. Repercussions for international cooperation

- On March 19, 2014, the *Doha Bank* refused to receive the transfer sent monthly by the Cuban government to guarantee the sustenance of the medical brigade working in Qatar; which led the Ministry of Health of the Republic of Cuba to find alternatives to send it, thereby creating problems for the work of the health professionals in that country.
- On November 14, 2014, the *Banco Santander* of Madrid refused to act as correspondent bank in the transfer issued to the Embassy of Cuba in Portugal for the sustenance of the Cuban medical brigade in that country.
- On December of 2014, it became known that for approximately one month, Cuba had to pay for the room and board of its doctors called upon to fight Ebola in West Africa due to US sanctions hindering the World Health Organization's (WHO) attempts to pay for the salaries of the medical personnel. This in particular affected the brigade of 165 doctors sent to Sierra Leone.
- Currently a bank in Ethiopia has retained 26,686 dollars corresponding to payment for services rendered by a group of Cuban Technical and Professional Education professionals in the specialty of Electricity, because the transfer was done in US dollars.

- The Angolan government is in arrears in payments to the University of Sancti Spíritus (UNISS for its acronym in Spanish) for its young people studying in Cuba because the transfers were made through third country banks and these allege the risk of sanctions and fines that are applied by the US Department of the Treasury.

4.3. Other extraterritorial repercussions

- In June of 2014, *ING Bank* refused to carry out the transfers of *Cubana de Aviación S.A.* to the Dutch company *Techservice-B.V.* for payment of over-flights by Cuban AN-158 aircraft.
- In July of 2014, the British *Lloyds Bank* prevented the transfer of 7,250 Euros that the Spanish NGO *Sodepaz* had tried to send in order to buy organic sugar produced in Cuba.
- In November of 2014, the Irish *AIB Bank* refused to facilitate travel insurance to Irish residents who wished to travel to Cuba alleging that it could not do these sorts of interchanges with countries sanctioned by OFAC.
- That same month, the *UniCredit Group* (Bank Austria) refused to accept a transfer from the Fund for International Development of the Organization of the Petroleum Exporting Countries (OPEP) to the *Banco Nacional de Cuba* and the *Banco Financiero Internacional*. Due to the OFAC sanctions, the *UniCredit Group* (Bank Austria) explained that it couldn't do the transfers, even in Euros, to avoid being associated with Cuban banking institutions.
- Also in November of 2014, the *Banco BISA* in Bolivia refused to do transfers to Cuba requested by the firm *KARIVET* that imports products originating in Cuba, alleging that it was not authorized to transfer funds to Cuba by virtue of OFAC sanctions.
- On November 13, 2014, OFAC imposed a fine of 2,057,540 dollars on the American *ESCO Corporation* (ESCO) headquartered in Portland, Oregon because between November of 2007 and June of 2011 an ESCO subsidiary had bought briquettes manufactured with Cuban nickel.
- In December of 2014, the *Western Union* branch in Brazil announced that Cuban citizens could not transfer money to Cuba unless they proved their residency in the country from which the remittance was being sent.

V. WORLD OPPOSITION TO THE BLOCKADE

5.1. Opposition in the US

Rejection of the absurd blockade policy has been a constant in several sectors of US society for many years. As of the announcements of December 17, 2014 and the

development of talks between Cuba and the US to establish diplomatic relations, this rejection has grown considerably inside the United States

Polls done by US institutions such as *Bendixen & Amadi*, *Public Policy Polling*, the *International University of Florida*, the *Hearst Corporation*, the *Pew Research Center*, *Associated Press-GfK*, etc. revealed US voter opinion from either party was favorable towards the elimination of the blockade imposed on Cuba. Also, polls of citizens of Cuban origin born in the US showed that, in the main, they too favored the elimination of the commercial barriers imposed against Cuba. Lifting prohibitions on travel to Cuba, the ineffectiveness of the blockade, freeing up trade with Cuba, re-establishing diplomatic relations and others are aspects about which the opinion polls reveal the support prevailing among US citizens.

Many various sectors of US society over the years have supported the lifting of the blockade, and there have been a large number of shows of solidarity with the Cuban people and their Revolution. We present the following examples of opposition to the blockade in the US.

- On September 26, 2014, a petition appeared on the White House blog in favor of the end of the blockade against Cuba in which this policy was described as a “failure” and it affirmed that its implementation essentially harms the Cuban people. It indicates that even though President Obama has accepted its ineffectiveness, he extended this policy for one more year.
- On October 12 2014, *The New York Times* printed an editorial entitled “Time to end the embargo on Cuba?”, asking for the immediate end to the blockade and the re-establishment of diplomatic relations, and it referred to the benefits it would mean for the two countries to eliminate the “embargo” and to increase cultural interchanges, expressing that the US would have much to learn from Cuba and vice versa.
- On October 23, 2014, Rev. Jesse Jackson wrote an article in the *Florida Courier* in which he rejected the blockade and emphasized the work Cuba does in the fight against Ebola and the possible cooperation that the US could establish with Cuba in this matter.
- On December 17, 2014, declarations in favor of the measures announced by President Obama were made by the US Conference of Catholic Bishops, the archbishop of Miami Thomas Werski, the chairman of the National Foreign Trade Council Bill Reinsch, the president of the American Farm Bureau Federation Bob Stallman, as well as renowned American academics and members of the *American Association for the Advance of Science* (AAAS). The president of the US Chamber of Commerce Thomas Donohue welcomed these measures and expressed that his organization would continue applying pressure until the blockade is lifted.
- On December 18, 2014, former Secretary of State Colin Powell stated that it was time to turn the page of history in US-Cuba relations.

- Also in a CNN interview on US-Cuba relations, the Secretary of Commerce Penny Pritzker expressed that this was the most profound change in policy towards Cuba in her entire life. In regards to trade, she stated that new opportunities were being opened up through telecommunications, the agricultural sector and new private entrepreneurs, but she acknowledged that despite the new announced measures, the embargo was still in place and it had to be lifted.
- On January 7, 2015, a debate was held in Congress in support of the re-establishment of relations between Cuba and the US promoted by Representative Barbara Lee (D-CA). Representatives Barbara Lee, Sam Johnson (D-TX), Kathy Castor (D-FL), Sheila Jackson Lee (D-TX), Gregory Meeks (D-NY), Jared Polis (D-CO), Sam Farr (D-AB), Steve Cohen (D-TN) and Rosa DeLauro (D-CO) supported the President's announcement and acknowledged the failure of the traditional policy. They indicated that the new policy would also bring economic benefits for the US.
- On January 8, 2015, the US Agriculture Coalition for Cuba held a press conference at the National Press Club in favor of lifting the blockade. Secretary of Agriculture Tom Vilsack attended the event. Another participant was Senator Jerry Moran (R-KS) who reiterated that the policy was ineffective and he called on eliminating the blockade in order to stimulate US agricultural exports to Cuba. Senator Amy Klobuchar (D-MN) declared that Cuba represented an opportunity for a new market of 11 million consumers.
- On January 19, 2015, a group of 78 personalities from the business and academic sectors, former government officials, former congressmen, former military and influential figures in favor of changing the policy towards Cuba sent a letter to President Obama to congratulate him on actions. The letter refers to the broad support that these changes have throughout the political spectrum, recognizing the failure of the approach that was maintained for fifty years. They asked the President to work with Congress to update the legislative framework on Cuba in accordance with the realities of the twenty-first century.
- At a joint press conference in the US Congress on February 24, 2015, House Democratic Leader Nancy Pelosi (D-CA), along with a group of Democratic congressmen who travelled to Cuba, agreed that there is "a very strong bipartisan commitment" in Congress in favor of a change in relations that would help consolidate the new policy towards Cuba.
- On March 3, 2015, the president of the US Agriculture Coalition for Cuba Devry Boughner considered that the end to the blockade would be good for US exports to Cuba and would generate opportunities in both countries. She stated that the hope was to establish reciprocal commercial relations.
- On April 1, 2015, a bipartisan group of five former Secretaries of Agriculture made up of Clayton Yeutter, Dan Glyckman, Ann Veneman, Mike Espy and John Block sent a

letter to the chairpersons and minority leaders of the Senate and House of Representatives on the Committees of Agriculture urging to lift the blockade. They indicated that unilateral sanctions result in competitive disadvantages to American exports and business.

- On April 7, 2015, a group of thirteen representatives headed by Karen Bass (D-CA) and Barbara Lee (D-CA) sent a letter to Secretary of State John Kerry urging him to authorize the request to sell the Cuban medical product Heberprot-P in the US
- On April 8, 2015, the president of the US Chamber of Commerce Thomas Donohue, declared in Panama that he felt “optimistic” that Congress would lift the blockade of Cuba before the next presidential elections in 2016. He indicated that the Republican opposition would be defeated prior to the campaign.

In the US Congress, the number of legislators favoring the elimination of the blockade has grown. On the basis of the presidential announcements of December 17, 2014, members of the House of Representatives and Senate members have presented 12 draft bills that show the opposition to the blockade in the US legislative body.

In the majority of cases these draft bills ask directly for the lifting of the blockade or the elimination of the pillars of this policy such as the restrictions regarding travel to Cuba by resident citizens of the United States and trade between the two countries. Of all these, the most important are the following:

- Towards eliminating blockade restrictions as a whole:
 - H.R. 274 or United States-Cuba Normalization Act presented on January 12, 2015.
 - H.R. 735 or Cuba Reconciliation Act, presented on April 2, 2015.
- Towards eliminating trade restrictions:
 - H.R 403 or Free Trade with Cuba Act presented on January 16, 2015.
 - H.R.634 or Export Freedom to Cuba Act, presented on February 2, 2015.
 - S. 491 or the Senate Export Freedom to Cuba Act, presented on February 12, 2015.
 - S. 1543 or Cuba Trade Act presented on June 16, 2015.
- Towards eliminating travel restrictions:
 - H.R.664 or Freedom to Travel to Cuba Act presented on February 2, 2015 and the similar draft in the Senate S. 299, under the same name.

5.2. Opposition by the international community

The obsolete, illegal and morally unsustainable policy of the blockade towards Cuba has provoked strong rejection from the international community. This unanimity of thinking has been manifested in special communiqués and declarations that have been adopted at international and regional forums that ask for an end to the blockade. Next, some examples:

- During the General Debate corresponding to the beginning of the 69th Session of the United Nations General Assembly, 43 Heads of Delegations including 19 Heads of State or Government declared in favor of lifting the blockade.
- On October 28, 2014, the General Assembly approved, for the twenty-third consecutive time, the resolution entitled “Necessity of ending the economic, commercial and financial blockade imposed by the United States of America against Cuba”, 188 votes in favor, 2 against and 3 abstentions.

During the general debate of said resolution, 23 speakers participated, among which 7 representatives of consultation groups and regional and sub-regional organizations stood out: the Group of 77 and China, the Non-Aligned Movement, the Community of Latin American and Caribbean States, the Caribbean Community, the African Group, the Organization of Islamic Cooperation and the Common Market of the South. Another 15 delegations explained their positions against the blockade once the resolution was adopted.

- On September 30, 2014, in New York, the Foreign Ministers of the Group of 77 and China, after their annual meeting held within the framework of the 69th Session of the United Nations General Assembly, rejected in its Ministerial Declaration the application of the blockade against Cuba and the imposition of unilateral coercive measures against developing countries.
- The Fortieth Ordinary Meeting of the Council of the Latin American Economic System (SELA for its acronym in Spanish), meeting in ministerial session in the Bolivarian Republic of Venezuela, approved on November 28, 2014 the Declaration on “The end of the economic, commercial and financial blockade of the US against Cuba.”
- The Twenty-fourth Ibero-American Summit of Heads of State and Government held in Veracruz, Mexico on December 8 and 9, 2014, agreed on a Special Communiqué about the necessity of putting an end to the blockade, including the Helms-Burton Act, reiterating “the most energetic rejection of the application of laws and measures contrary to international law” and urging the US government to put an end to this policy and to comply with the 23 successive resolutions on this matter approved at the United Nations.

- The Third Summit of the Community of Latin American and Caribbean States (CELAC for its acronym in Spanish) held in Belén, Costa Rica on January 28 and 29, 2015, besides reaffirming in its Political Declaration the call on the government of the United States to put an end to the blockade, adopted a Special Communiqué in which it recognizes the announcement made on December 17 and urges President Obama “to take all actions within his executive powers to substantially modify the blockade against Cuba and the United States Congress to initiate, as soon as possible, a discussion on removing it.”
- At the Twenty-fourth Summit of the African Union (AU) held in Addis Ababa, Ethiopia on January 30 and 31, 2015, the Heads of State and Government of the AU adopted a resolution in which they ask for lifting the US blockade against Cuba.
- The Second European Union-CELAC Summit held in Brussels, Belgium on June 10 and 11, 2015 adopted the Declaration of Brussels in which the Heads of State and Government in these two groups, after welcoming with satisfaction the announcement made by the Presidents of the Republic of Cuba and the United States of America Raúl Castro Ruz and Barack Obama about the re-establishing of diplomatic relations, emphasized that they hope that all the necessary steps shall be taken for the prompt end to the blockade. In reference to Resolution A/RES/69/5 of the United Nations General Assembly, they reaffirmed their well-known positions of rejecting the coercive unilateral measures and the application of the extraterritorial provisions of the Helms-Burton Act. They also acknowledged that these measures have caused undue humanitarian consequences for the Cuban people and that they are harming the legitimate development of commercial ties between Cuba, the European Union and other countries.

CONCLUSIONS

In spite of the announcement by the US Executive that an end should be put to the economic, commercial and financial blockade imposed against Cuba, this policy is still intact and continues to cause serious repercussions on the Cuban economy and limits the right to development of the Cuban people. The measures passed up to now by the White House have shown they are limited in scope and how much the US President can still do to substantially modify the application of the blockade by resorting to his executive prerogatives.

The economic damage on the Cuban people due to the application of the economic, commercial and financial blockade of the US against Cuba, considering the depreciation of the dollar in regards to the price of gold on the international market, amounts to 833.755 billion dollars, in spite of the reduced price of gold as compared to the previous period. At current prices, during all these years, the blockade has caused damages for over 121.192 billion dollars.

This figure can never show the pain and hardship that, in spite of all the efforts of the Cuban government, the blockade has caused for the Cuban people. At present, this unjust policy continues to adversely affect all areas of the economic, social and cultural life of the Cuban people, limiting the possibilities of the country to attain sustainable development.

It has been acknowledged that the blockade is not merely a bilateral issue. Its extraterritorial nature, as evidenced by sanctions applied to third parties even after the announcements of December 17, 2014, shows how this policy violates International Law with total impunity and in particular the principle of sovereign equality of States established in the Charter of the United Nations.

In the heart of the General Assembly of the United Nations, on 23 consecutive opportunities, an overwhelming majority of States has recognized that the blockade against Cuba is an absurd, illegal and morally unsustainable policy. Over five decades since its implementation, its nature, spirit and aims are being maintained intact, generating unnecessary hardships and suffering for the Cuban people.

President Obama himself has rightly acknowledged that the out-of-date approach of this policy against Cuba should be ended. Nonetheless, today with the same rigor it has had in the last few decades, the effects of the blockade restrict Cuba's economic possibilities and harm its right to raise the living standard of its people.

The President of the United States should make use of his will and his ample executive prerogatives to empty the blockade of its most substantial contents, being consistent with and respecting the outcry of the international community regarding this policy.

Once again, Cuba and its people trust that they will have the support of the international community in their legitimate claim to put an end to the economic, commercial and financial blockade imposed by the government of the United States.