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لجنة حقوق الإنسان

الدورة الحادية والستون

البند ٩ من جدول الأعمال

مسألة انتهاك حقوق الإنسان والحريات الأساسية في أي جزء من العالم

مذكرة مؤرخة ١٨ نيسان/أبريل ٢٠٠٥ موجهة إلى مفوضية الأمم المتحدة السامية
لحقوق الإنسان من البعثة الدائمة لكوبا لدى مكتب الأمم المتحدة في جنيف

تقدم البعثة الدائمة لكوبا لدى مكتب الأمم المتحدة والمنظمات الدولية التي يوجد مقرها في سويسرا
أطيب تحياتها إلى أمانة لجنة حقوق الإنسان في مفوضية الأمم المتحدة السامية لحقوق الإنسان، وبالإشارة إلى المذكرة رقم
٩٠ التي وجهتها البعثة إلى المفوضية في ١٤ آذار/مارس ٢٠٠٥، تتشرف بأن تحيل إليها طيه الصيغة الإنكليزية لنص
الوثيقة المعنونة "كوبا وحقوق الإنسان" (الجزء الرابع)*.

وترجو البعثة الدائمة لكوبا التفضل بإدراج نص الوثيقة المذكورة كوثيقة رسمية من وثائق الدورة الحادية
والستين للجنة حقوق الإنسان في إطار البند ٩ من جدول أعمالها. كما ترحو التفضل بتعميم الوثيقة على جميع
الإجراءات الخاصة التابعة للجنة حقوق الإنسان وإتاحتها لمن يرغب في الاطلاع عليها في الموقع الذي أقامته
المفوضية على الإنترنت من أجل الدورة الحادية والستين للجنة حقوق الإنسان.

* المرفق مستنسخ بالإنكليزية فقط.

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Index

Cuba

and Human Rights

(IV)

**US BLOCKADE ON CUBA:
MASSIVE AND SYSTEMATIC
VIOLATION OF
THE CUBAN PEOPLE'S
HUMAN RIGHTS**

2005

CONTENTS

TABLE OF CONTENTS	4
CHAPTER 1: NEW MEASURES THAT INTENSIFY THE GENOCIDAL ECONOMIC, COMMERCIAL AND FINANCIAL BLOCKADE IMPOSED ON THE CUBAN PEOPLE	6
Further extraterritorial harassment	9
Repercussions on healthcare	10
<i>REPERCUSSIONS ON THE EDUCATION OF THE CUBAN PEOPLE</i>	11
<i>IMPACT ON CUBA'S FOREIGN TRADE</i>	11
Violations of Human Rights by the Blockade and the Further Measures Introduced in 2004	13
Appendix:	
Losses and damage to the Cuban economy caused by U.S.. blockade (cumulative, to 2003)	16
CHAPTER 2: POLITICAL MANIPULATION OF THE BILATERAL ARRANGEMENTS ON MIGRATION BY SUCCESSIVE AMERICAN ADMINISTRATIONS, RESORTED TO BY PRESIDENT BUSH TO THE DETRIMENT OF CUBAN FAMILIES, TOGETHER WITH BANNING THE SMALL NUMBER OF ACADEMIC, CULTURAL AND EDUCATIONAL EXCHANGES UNDERWAY BETWEEN THE AMERICAN AND CUBAN PEOPLES	17
Emigration by Cubans to the United States before 1959	17
Manipulation of migration arrangements as a weapon against the Cuban Revolution	18
Distortion and exaggeration in American propaganda about Cuban emigration to the United States	19
Operation Peter Pan	19
Theft of doctors and professionals during the 1960s	20
The Cuban Adjustment Act	21
Migration crises and bilateral accords	22
Cuba's unwavering intention and commitment to promote legal and orderly migration. Its commitment to combating illegal trafficking in persons	23
Cuban families: victims of and hostages to the Bush administration's imperialist designs. The measures announced on May 6, 2004 and their impact on personal relations and mutual help within Cuban families	24

TABLE OF CONTENTS

FIRST PART. - THE REDOUBLING OF THE GEORGE W. BUSH ADMINISTRATION'S HOSTILE POLICIES AND AGGRESSION TOWARDS THE CUBAN PEOPLE: A SERIOUS THREAT TO THE CUBAN PEOPLE'S HUMAN RIGHTS

Chapter 1: The US government's hostility and aggression towards Cuba have reached dimensions unprecedented in the relationship between two states that are not at war.

Chapter 2: A new imperialist programme for subjugating the Cuban nation and recolonising the country.

Chapter 3: "Good" terrorists, "bad" terrorists?

Chapter 4: The human rights of 5 young Cuban anti-terrorist activists, wrongly imprisoned in the United States, and those of their families, are grossly violated for spurious political motivations.

Chapter 5: The United States steps up the recruitment, financing and use of mercenaries in its attempts to undermine the right to self-determination of the Cuban people.

Chapter 6: US media attacks on Cuba.

SECOND PART. - ANTI CUBAN MANOEUVRES IN THE HUMAN RIGHTS SPHERE: INVENTING A SPURIOUS PRETEXT TO JUSTIFY THE PERPETUATION OF THE UNITED STATES' POLICY OF HOSTILITY, BLOCKADE AND AGGRESSION TOWARDS THE CUBAN PEOPLE.

Chapter 1: In spite of the disapproval of the world's peoples and many governments, the United States, as part of its anti-Cuban policy, repeatedly manipulates the work of the commission on human rights.

Chapter 2: The intergovernmental processes of the United Nations human rights machinery have been hijacked by the United States and its close allies to use as tools for applying pressure to impose their policies of world domination.

Chapter 3: In spite of the unfair anti-Cuban manoeuvre imposed on the CHR, Cuba continues to honour its commitment to cooperate with all non-discriminatory mechanisms in the human rights field.

THIRD PART. - CUBA FACES UP TO ADVERSITY AND EXTERNAL CHALLENGES AND CONTINUES TO BUILD A MORE DEMOCRATIC, FAIR, PARTICIPATIVE, EQUAL SOCIETY BASED ON SOLIDARITY.

Chapter 1: The democratic system sovereignly chosen by the Cuban people.

Chapter 2: Guarantees provided by Cuban domestic civil and political rights legislation.

Chapter 3: A year when much was achieved, in spite of adversity and challenges.

Chapter 4: Education: Revolution within the Revolution. Education, culture and sport for all Cubans.

Chapter 5: An ever more efficient, accessible health system adapted to the needs of every Cuban man, woman and child.

Chapter 6: Making prisons into real centres for re-education and human improvement.

Chapter 7: Full employment and guaranteed social assistance and security for all.

FOURTH PART. - US BLOCKADE ON CUBA: GROSS AND SYSTEMATIC VIOLATION OF THE CUBAN PEOPLE'S HUMAN RIGHTS.

Chapter 1: New measures which step up the genocidal economic, trade and financial blockade on the Cuban people.

Chapter 2: Political manipulation on bilateral immigration relations at the hands of successive US administrations. President Bush attacks Cuban families and disallows already scarce academic, cultural and educational exchange between the US and Cuban peoples.

FIFTH PART. - GUANTÁNAMO: A MORAL AND LEGAL BLACK HOLE

Chapter 1: A veritable "legal and moral black hole" in the area illegally occupied by the Guantanamo US Naval Base.

CHAPTER 1: NEW MEASURES THAT INTENSIFY THE GENOCIDAL ECONOMIC, COMMERCIAL AND FINANCIAL BLOCKADE IMPOSED ON THE CUBAN PEOPLE

For over 40 years, the Cuban people have suffered an economic, commercial and financial blockade designed to crush their resistance and make it renounce its right to sovereignty and independence. The George W. Bush administration has taken this genocidal policy towards the Cuban nation to unprecedented extremes.

The demand to end this policy, reiterated by an overwhelming majority of the UN member states by means of similar resolutions year in, year out at the UN General Assembly, confronts behavior by the US authorities that is openly contemptuous of international law.

The policy seeks not merely to suppress the Cuban people and damage its relations with other nations, but also ignores or restricts essential freedoms - some constitutional - of the American people.

Last year will go down in history as one of the most notable for the hostility and irrationality with which the criminal blockade against Cuba has been applied. The new measures planned and carried out by Washington during the year add to and elaborate on the framework of laws and regulations that have formed and escalated the blockade for over 40 years.

There is absolutely no rule of international law that justifies blockade in peacetime. Since the 1909 London Naval Conference, it has been a defined principle of international law that a blockade is an act of war and its use is accordingly restricted to the belligerents. The US Trading With the Enemy Act allows the President to impose emergency economic measures, but only during wartime or in response to an obvious threat to national security.

Various regional and multilateral accords condemn such acts as prejudicial to peace and to international security. In accordance with Article II(c) of the Geneva Convention on the Prevention and Punishment of the Crime of Genocide (December 9, 1948), the blockade maintained against Cuba amounts to an act of genocide.

The complete baselessness of the widely differing explanations employed by successive US administrations for over 40 years as pretexts for their economic war on Cuba has been demonstrated by certain of their own official documents, declassified in 1991.¹ These include testimony and irrefutable proof that these hostilities predated any measure adopted by the Revolutionary Government from 1959 onwards.

The representatives of the Batista dictatorship fled to the United States with \$424 million stolen from the Republic's funds. This sum was deposited in American banks and has never been returned to the Cuban people. Worse, in 1959, just five weeks after the people's victory, America rejected a request from the new authorities for a modest loan to maintain the stability of the domestic currency.

The Cuban revolutionary government adopted a series of legitimate measures designed to recover the nation's wealth and place it at the service of the people. The reaction of the United States was prompt and aggressive. On July 8, 1959, in retaliation for the adoption of the Cuban Agrarian Reform Law, the US Congress granted the president wider powers for suspending foreign aid to any country that expropriated US assets.

A number of unilateral sanctions against Cuba aimed at wrecking its economy followed in quick succession. Abolition of Cuba's sugar quota (July 1960) was succeeded by banning of aid to Cuba, the launching of a trade blockade (Section 620/a of the Foreign Assistance Act of 1961), and refusal by US firms on instructions from Washington to refine the Russian oil Cuba was obliged to import following the banning of sales of fuel to Cuban purchasers imposed on American suppliers.

¹ Foreign Relations of the United States, Cuba, Volume VI, 1958-1960, Department of State, U.S. Government Printing Office, 1991.

On February 3, 1962, President Kennedy issued Presidential Proclamation 3447, imposing a total blockade on trade with Cuba and instructed the Treasury Secretary to apply the ban on exports to Cuba. The Proclamation historically marked the public institutionalization of sanctions against Cuba, which, as we have seen, had started a lot earlier.

As early as April 6, 1960, a report by Department of State official I. D. Mallory, declassified in 1991, highlighted the purpose of the economic pressures being applied, by saying: "... the majority of Cubans support Castro ... there is no effective political opposition ... the only foreseeable means of alienating internal support is through disenchantment and disaffection based on economic dissatisfaction and hardship. Every possible means should be undertaken promptly to weaken the economic life of Cuba ... A line of action that makes the greatest inroads in denying money and supplies to Cuba, to decrease monetary and real wages, to bring about hunger, desperation and the overthrow of the government."²

This document does not attempt a comprehensive historical analysis of the various stages in Washington's genocidal policy of blockade against Cuba. An appreciation of the criminal nature, petty motives and disastrous consequences of this policy for the exercise of the Cuban people's human rights can be gleaned from just a few notes on the way it has operated in recent months.

The more significant events marking the escalation in the economic war on Cuba, between the summer of 2003 and the end of last year, include the following:

On September 30, 2003, the US Treasury's Office of Foreign Assets Control (OFAC) issued a regulation banning the publication of scientific articles originating in nations subject to US sanctions, Cuba among them. Following strong pressures from the American scientific and Academic community, on April 5, 2004 the measure was withdrawn.

On February 9, 2004, in Miami, Florida, US Treasury Secretary John Snow announced a new extraterritorial measure in the form of the immediate confiscation by OFAC of the assets within US jurisdiction of ten firms "owned or controlled by the government of Cuba or Cuban nationals", specializing in promotion of travel to Cuba and the sending of gifts. The list included concerns organized and located in Argentina, the Bahamas, Canada, Chile, the Netherlands and the United Kingdom.

On February 26, 2004, President George W Bush signed Presidential Proclamation 7757 restricting departures from US territory of vessels bound for Cuba. The implementing regulations issued by the US Coastguard Service on July 8, 2004 openly state that the aim is "to improve the way the embargo on the Cuban government is applied". Penalties for infractions range from fines of up to \$25,000 or 5 years' imprisonment, or both, and confiscation of the vessel involved.

Washington has brought heavy pressure to bear on banks in third countries, to persuade them to hamper or block Cuba's financial operations. The Swiss bank UBS was fined \$100 million for accepting transactions originating in Cuba.

On May 6, 2004, President George W. Bush approved in its entirety a report by the so-called Commission for Assistance to a Free Cuba. This included some 450 recommendations and proposals for new measures designed to overthrow the Cuban Revolution and install a puppet regime under total US control.

On June 30, 2004, regulations enforcing and tightening the measures announced on May 6 came into force.

The economic, financial and commercial embargo that ten US administrations have maintained and intensified against Cuba form part of a larger policy of hostility and aggression towards the very existence of the Cuban nation as a sovereign and independent entity built by Cubans for Cubans.

² Department of State: Foreign Relations of United States, Volume VI, 1991, p. 886>

Among the milestones in the process of tightening the blockade and extending its scope was the passing in 1992 of the 'Torricelli Act', conceived with the cynical and criminal intent of delivering the final and fatal blow to Cuba's economy.

This legislation abruptly cut off Cuba's trade in medicines and food with the subsidiaries of US firms in third countries, at a time when 85% of Cuban foreign trade had disappeared with the disintegration of the socialist camp in Central and Eastern Europe and the Soviet Union. It also imposed severe bans on navigation to and from Cuba, thereby institutionalizing with force of law provisions that are clearly extraterritorial.

The criminal intention of undermining the Cuban people's rights as regards healthcare and food supply was quite clear. In 1991, Cuba's imports from subsidiaries of US concerns totaled \$718 million, of which 91% was represented by food and medicines.

In 1996, the Helms-Burton Act was passed. Among other aspects, this legislation: firmed up and filled in the details of the existing mechanisms

designed to eliminate the last vestiges of economic, trading and financial links between US firms and Cuba; increased the number and scope of the extraterritorial measures, with the aim of tracking down any transaction or business that might benefit the Cuban economy; imposed persecution and sanctions on foreign investors in Cuba; authorized the funding of hostile, subversive and aggressive actions against the Cuban people, via a program designed to destroy a constitutional system chosen by the Cuban people, and to impose a 'change of regime' that would ensure the achievement of the US power basic aim of dominating the Cuban nation.

Since that time, a whole series of new actions and measures of hostility and aggression have appeared in quick succession, in attempts to close up every possible loophole in the wall of sanctions erected by the blockade.

According to figures updated in 2004 by the National Statistical Office of the Republic of Cuba, 69% of the resident population was born after 1959, so that about seven out of ten Cubans have been born and have lived under the unilateral coercive regime of sanctions deriving from the US blockade.

A preliminary financial evaluation of the direct effects suffered by the Cuban population of the application of this genocidal measure for over 40 years indicates a loss of over 79,325.200.000 dollars - an average of 1,803 billion dollars a year. This conservative figure does not include the 54 billion dollars attributable to direct damage to economic and social objectives from acts of sabotage and terrorism incited, organized and funded from the United States. (See the appendix).

Neither does it reflect the value of goods not produced due to the restrictions, or the losses arising from the onerous conditions imposed on Cuba in respect of banking and international debt financing for investment and business. Had Cuba been able to access funding at similar levels and on the same average terms as those applying to other nations in the region at a similar stage of economic development, Cuba's economy would be marked by a much faster rate of growth and of improvement in the living standards of the population - a direct expression of the exercise of economic, social and cultural rights and the right to develop.

Without the annual drain on resources caused by the US blockade, the additional funds would have had a multiplier effect on living standards and the population's exercise of its economic, social and cultural rights. For example, just an extra \$127.6 million a year would provide 1.2 million children of between 7 and 15 years with a liter of milk every day. Currently, a liter a day at subsidized prices can only be provided until age 7. An extra \$51.8 million would be enough to double the quota of chicken presently distributed monthly to all Cubans via the ration-book system. One billion a year would have been sufficient to fund the construction of 100,000 new homes annually, nation-wide. Within 5 years, 2.5 million Cubans (nearly a quarter of the population) could have been adequately housed.

It would be impossible for the Bush administration to maintain its policy of hostility, blockade and aggression towards Cuba in the context of the presumed need to promote and protect human rights in the country.

How could a government responsible for the most appalling, premeditated aggression towards policies and programs designed to promote economic development, well-being, security and right to life of Cubans lay claim to the title of defender of the human rights of the Cuban people?

The Bush administration has greatly increased the severity of the blockade imposed on Cuba. At the end of last year, US senators and congressmen publicly reported that OFAC employed five times as many agents to identify and investigate infractions of the Cuba blockade laws than it assigned to tracing the finances of Al-Qaeda.

Between 1990 and 2003, whereas OFAC launched 93 inquiries relating to international terrorism, it initiated 10,683 under the procedures aimed at preventing Americans from exercising their right to visit Cuba. On the basis of the 93 terrorism-related cases, OFAC fined the offenders a total of \$9,425; the fines imposed on US citizens who went to Cuba without a Treasury Department permit totaled \$8 million.

In a report dated February 9, 2004, OFAC expresses its satisfaction at the fact that its Civil Penalties Division had at that time a list of 200 actions relating to infractions of the blockade on Cuba and that most of these had resulted in the imposition of fines. It further announced that between October 10 and November 30, 2003, it had notified 348 new criminal actions arising from activities of this kind.

The tourist-sector revenues lost to the Cuban economy because of these abusive measures amounted to between \$93 and 104 million, not counting the damage - as yet unquantified - caused by the actions of the US authorities in third countries since June 30, 2004, designed to discourage travel to Cuba.

Further extraterritorial harassment

In maintaining their unilateral policies of economic coercion, the US authorities adopt the pretext that every nation has the right to choose its trading partners. However, in the case of the blockade imposed on Cuba, it is clear that the application of this policy goes far beyond the simple rejection of a trading partner.

The report of the 'Commission for Assistance to a Free Cuba' recommended "strict application" of the sanctions identified in Part IV of the Helms-Burton Act, which bans the granting of visas to enter the United States to foreign investors in Cuba. Indeed, it proposed increasing the level of funding and personnel deployed in enforcing these provisions of the Law mentioned.

The report calls on the American authorities to perform a detailed evaluation to determine whether the application of Part III of the Helms-Burton Act could hasten the downfall of the Cuban Revolution. In practice, it recommended holding trials in US courts of third-nation entrepreneurs who conducted business with Cuba. So far, international pressures have resulted in this idea being shelved, regularly every six months.

Another aspect of the new measures is country-by-country review, with a view to imposing sanctions on a selective basis and dividing the international community in its rejection of the extraterritorial measures adopted under the Helms-Burton Act.

The report also calls for action to "neutralize Cuban government front companies by establishing a Cuban Asset Targeting Group, comprised of appropriate law enforcement authorities, to investigate and identify new ways in which hard currency is moved in and out of Cuba".

Before announcing these new anti-Cuba measures, the Bush administration looked into ways of interfering in Cuba's relations with international banking institutions, with a view to blocking funds derived from the tourist industry, dollar-shop sales and other services, which Cuba deposits with foreign banks. Such funds, which are entirely legitimate, are used directly (among other purposes) for the purchase of fuel, food, medical equipment and medicines.

The impact of these measures has been felt, because of their extraterritorial nature, in every sphere of the nation's economic life. The following are among the more recent examples of events that amply demonstrate this:

-Importation of a quadruple animal vaccine from a Dutch firm (Intervet) was suspended when the U.S. government warned the supplier of the risk it was running by selling to Cuba. The vaccine includes 10%

or more of an antigen made in the USA. The Intervet directors were told that if they went on with the sales, they could be heavily fined or, worse, forced to close their U.S. branch operations.

- In 2002, Cuba reported how the Zurich branch of Xerox had refused to renew the lease on a photocopier at the Cuban embassy in Switzerland³. This absurd example of the extraterritorial application of the blockade rules was repeated in October 2003, this time involving a branch of the firm in Paraguay, which refused to sell a photocopier to the Cuban embassy there. The local representatives of Ricoh also cited the restrictions imposed by the US blockade and similarly refused to sell to the embassy.

- If this latter example seems ridiculous, what happened on 10th May 2004 in the Irish Republic defies description. On that date, Hitachi Printing Solutions Europe refused to sell a simple printer cartridge to the Cuban embassy there.

- The US Treasury Department fined the US biotechnology-sector concern Chiron Corporation \$168,500 solely because one of its European subsidiaries sold Cuba two types of vaccines for Cuban children in the period 1999-2002. That was the largest fine paid by a US-based firm last year.

- As revealed in Cuba's report to the UN Secretary General in 2003⁴, the Cuban health service has been unable to buy sources of Ir-192 radioactive isotopes used in radiation therapy on malignant tumors, following the acquisition by Varian Medical Systems of the brachytherapy-equipment business operated by the Canadian firm MDS Nordions, which supplied such equipment to Cuba.

In responding to this problem, the equipment needed was sought in Europe and one of the devices mentioned was purchased from the Dutch firm Nucletron. After the order had been placed and accepted, the management of the supplier firm announced that it was unable to deliver the computer coupled to the device, because it was of U.S. manufacture and the US government had banned its export to Cuba.

Repercussions on healthcare

Cuba's national health service has been a prime target of the US blockade ever since the Revolution.

In many cases the repercussions have been dramatic, not only because of the human suffering of patients and their relatives, but also because of the frustration felt by medical personnel when prevented from saving a life or relieving pain. (See Cuba's report to the UN Secretary General - Document A/59/302 of the UN General Assembly).

The following are some of the more recent cases illustrating the effects of this inhuman, genocidal policy on the public health sector:

- Care of children with cancer is one of the areas most severely affected by the restrictions. Purchases of cytostatic drugs - vital to the survival of these patients - have been significantly curtailed, following the acquisition by US transnationals of the pharmaceutical laboratories with which Cuba had supply agreements.

An example of such cases is the problems in obtaining isotope I-125 for treating children with cancer of the eye.

- Another problem affecting cancer patients arises from the lack of internal (bone) prostheses for tumor treatments that avoid amputation. For example, following successful, state-of-the-art chemotherapy on bone tumors, where the patient has responded well and conservational surgery is possible, i.e. removing the diseased bone but leaving the limb, Cuban surgeons have been unable to adopt this approach

³ Report of the Secretary General "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba"; A/57/264, July 26, 2002.

⁴ Report of the Secretary General "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba"; A/58/287, August 18, 2003.

because of the non-availability of the relevant extensible prostheses. These lengthen as the child grows, so that the patient can keep the leg with an internal prosthesis, and avoid the emotional trauma that results from an amputation, especially during adolescence.

- Growing problems caused by the blockade in the clinical-laboratory, microbiology and similar diagnostic fields reflect domination (70%) by US firms of the manufacture of diagnostic equipment and reagents. For example Beckman-Coulter, Dade-Behring, Abbott and Bayer all ban sales of their technologies - some unique of their kind worldwide - to Cuba.

- There have been problems in obtaining diagnostic aids for detecting certain emerging diseases, which are often deadly. Examples include:

- The continuing inability of the Pedro Kourí Institute of Tropical Medicine to obtain the ThermoScript RT-PCR System kit for detecting the corona virus that causes Severe Acute Respiratory Syndrome (SARS), made by the U.S. firm INVITROGEN.
- Restrictions imposed by the Center for Disease Control (CDC) in Atlanta, Georgia, coupled with refusal by the laboratories belonging to the U.S. companies Focus Technologies and Panbio, which manufacture diagnostic kits for detecting IgM and IgG antibodies, have complicated detection of encephalitis in cases of West Nile Virus and Avian Influenza.
- Cuban children are unable to benefit either from the new type of inhalers for asthma crises; Washington denies them this right.

- The UN's Global Fund to Fight AIDS, Tuberculosis and Malaria is funding a program of cooperation with Cuba that envisages the acquisition of anti-retroviral drugs for HIV/AIDS sufferers in Cuba.

The Global Fund proposed arranging the purchase of these drugs via UNICEF and the International Dispensary Association (IDA), on the basis of the preferential prices applied by these agencies.

However, the US firm Abbott refused to supply two of the products needed for treating the victims (Ritonavir and Lopinavir+Ritonavir), claiming that due to the US economic sanctions, its government does not allow the supply of products to Cuba. The result was that drugs costing \$49,700 when bought from Abbott had to be sourced outside the United States at a cost of \$280,400 (nearly six times as much).

Repercussions on the education of the Cuban people

The repercussions of 45 years of blockade on the Cuban educational, cultural, sporting and academic fields have been substantial. Intensification of this policy during the last decade has had a significant impact on their development and has deprived the Cuban and American peoples of open interchange in these areas.

In the educational sector, restrictions and other difficulties in purchasing teaching materials are accompanied by increasing problems caused by the blockade as regards provision for children with special educational needs, calling for more complex equipment, which in some cases enables the defect concerned to be remedied.

To quote a single example, that of the situation at the Abel Santamaría special school, where 150 blind or partially-sighted boys and girls struggle against the limitations their condition imposes on their lives: to learn to read and write and acquire the knowledge needed to lead a useful life, every child must have a Braille machine - a requirement that, despite every effort, the Cuban government has been unable to meet, due to the restrictions imposed by the blockade.

The problems relating to the purchase of these machines persist. The current price in the United States of a Perkins-brand Braille machine is around \$700; because of the blockade, Cuba has been obliged to source these elsewhere at much higher prices (up to \$1,000). Difficulties persist also in obtaining braille paper, essential for this teaching activity.

Impact on Cuba's foreign trade

The arbitrary regulations and legislation that implement this pernicious policy towards our country continue to affect our economic development, causing substantial losses. In 2003 alone, Cuba incurred extra expense to the tune of \$308.4 million on goods purchased at prices above those prevailing under normal conditions, largely because of differences in the terms of financing and the inevitably higher operational expense - freight rates, insurance and other transportation costs - resulting from the US siege on Cuba's foreign trade.

Similarly, Cuban export business suffered substantial losses in 2003, in terms of exports that, but for the blockade, could have been made to the United States. The total under this heading amounted to \$457 million.

By restricting the Cuban people's access to information, knowledge and dealings in goods and services, Washington is contravening agreements reached by the international community - notably the spirit and letter of the recent Declaration of Principles of the World Summit on the Information Society. According to paragraph 46 of this document "States are strongly urged to take steps with a view to the avoidance of, and refrain from, any unnce of, and refrain from, any unnce with international law and the Charter of the United Nations that impedes the full achievement of economic and social development by the population of the affected countries, and that hinders the well-being of their population."

Washington maintains its severe restrictions on sales of food and medicines to Cuba ⁵.

Food sales to Cuba have been subjected to complicated rules and procedures that have placed tremendous difficulties in their path. US firms seeking licenses to sell to Cuba are confronted with long-winded bureaucratic processes. At the same time, the rules oblige Cuba: to pay cash for such supplies; not to be able to access financial credits (even private-sector credit is disallowed); to effect the relevant transactions through banks in third countries; and to use other currencies, thereby incurring additional banking costs. Cuban vessels are banned from participating in the related transportation.

This situation has become even more complex following an announcement by the US Treasury Department in a press release in February, that Cuba must pay for the goods before the vessel is loaded at the American port of departure. This diverges from the standard procedure of payment against shipping documents and transfer of title to the goods to the Cuban purchaser following receipt of the payment in cash by the US exporter. To date, there have been no reported cases of delay in complying with this arrangement.

The new rule represents an escalation designed to hinder sales of food, already subject to numerous restrictions. Apparently, it could result in goods destined for the Cuban population being held up in US territory under orders of the American courts without legal foundation issued against the Republic of Cuba. Also, the regulation ignores the wishes of the US Congress, which has authorized sales to Cuba.

Despite the reputation of American suppliers for efficiency and product quality, the new measure introduces an element of great uncertainty in purchases from the United States, by threatening the direct supply of food to the Cuban population, including our children, as well as purchases of raw materials used in producing other food products.

Cuba's food importing company (ALIMPORT) has confirmed that it will honor its existing contractual commitments and is prepared to continue buying in the American market provided the terms offered are consistent with normal international trading practice. Similarly, it has confirmed its confidence in the farmers, businessmen, carriers, dock workers, congressmen and others who, over these last three years, have shown their willingness to develop mutually beneficial trade relations.

⁵ See the report of the Secretary General "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba"; A/58/287, August 18, 2003, pp.22-27.

On top of all this, Cuba is banned from sales of any kind to American entrepreneurs interested in buying Cuban products, thereby ruling out the possibility of creating sources of income that would support expanded operations.

Food purchases have been made possible through enormous efforts by firms in both countries to complete the processes of negotiation, agreement and implementation of such operations, and owes nothing to the attitude of the US authorities. The President himself went on record to clarify that the blockade would continue regardless of the food sales, and indeed that the existing measures of economic coercion and sanction were being intensified.

Violations of Human Rights by the Blockade and the Further Measures Introduced in 2004

The most serious and significant impact of the policy of sanctions against Cuba and of the recent measures to tighten the blockade are the threat these pose to the exercise by the Cuban people of its *right to self-determination*.

In furthering its plans for subjugating the nation, the Bush administration has no hesitation in flagrantly violating the constitutional right of American citizens to travel at will to a country with which the United States is not at war - at least, not so declared publicly. This right is also enshrined in Article 12 of the International Covenants on Civil and Political Rights, which is legally binding on the United States as a party to this international accord. Worse still, Washington is riding roughshod over the right of Cubans living in America to visit relatives in their country of origin.

In this connection, in its Resolution XXI (document A/59/503/Add.2) "Respect for the right to universal freedom of travel and the vital importance of family reunification" passed in December 2004, the UN General Assembly called on "all States to guarantee the universally recognized freedom of travel to all foreign nationals legally residing in their territory".

According to the same resolution, all states should "allow the free flow of financial remittances by foreign nationals residing in their territory to their relatives in the country of origin".

In this document, the General Assembly also calls on all nations to refrain from enacting, and to repeal, if it already exists, legislation "intended as a coercive measure that discriminates against individuals or groups of legal migrants by adversely affecting family reunification and the right to send financial remittances to relatives in the country of origin".

The recent restrictions on educational and academic exchange visits between American citizens and institutions and their Cuban counterparts violate a significant number of the Cuban and American peoples' rights as enumerated in the Universal Declaration of Human Rights.

The rights thus violated include that of freedom of opinion and expression (Article 19 of the 1948 Universal Declaration of Human Rights and of the International Covenant on Civil and Political Rights) under which every individual has the right, with border restrictions, to seek, research and receive information and opinions and "the benefits to be derived from encouraging and developing international contact and cooperation in the scientific and cultural fields" (Artículo 15.4 of the International Covenant on Civil and Political Rights).

By virtue of the measures introduced on May 6, the Bush administration is acting in open contravention of Article V of the UNESCO declaration of November 4, 1996, on the principles of international cultural cooperation, which recognizes that "cultural co-operation is a right and a duty for all peoples and all nations, which should share with one another their knowledge and skills."

The new measures of blockade and of real, total economic war not only increase the obstacles that successive US administrations' anti-Cuba policies have placed in the way of the Cuban people's full exercise of its *right to development*, enshrined in the corresponding declaration of the UN General Assembly (Resolution 41/128 of December 4, 1986) and reaffirmed by consensus in the Declaration and Programme of Action of the 1993 World Conference on Human Rights. It also constitutes a criminal violation of Article 1.2, common to both international accords on human rights, which establishes that "in no case may a people be deprived of its own means of subsistence."

Although for the moment the anti-Cuba measures applied by Washington since June 30 do not include further reduction of the already-modest sums that a US-resident Cuban are permitted to send to his or her relatives back home - an example of discrimination, since among all the legal immigrant communities in America, the rule applies only to Cubans - they will involve significant restriction on the classes of relatives entitled to receive these.

Article 16 of the Declaration and Article 23 of the Covenant both recognize that "the family is the natural and fundamental group unit of society and is entitled to protection by society and the State." The 1995 World Summit on Social Development (Copenhagen), in Paragraph 80 of its action program reaffirmed this precept and went further, stating that "in different cultural, political and social systems, various forms of the family exist."

The mouthpieces of the Bush administration, in stepping up their aggression towards the Cuban people, are seeking to deny Cuban families their identity, by rejecting the inclusion in these of kin that have traditionally been an integral and inseparable part of this basic entity of Cuban society.

In blatant contravention of various articles of the Universal Declaration of Human Rights, specifically 19, 20 and 21, which underwrite *freedom of opinion and association* and "the right to take part in the government of his country", Cubans resident in the United States are prohibited from sending money or parcels to relatives in Cuba who are "government officials or members of the Communist Party". Illustrations of the supreme irrationality of this rule include the possible case of an elderly person living in Cuba who is constrained to renounce his or her political rights in order to be able to continue receiving remittances from a son or daughter resident in the United States.

The escalation of the economic war on Cuba will further the aims of those anxious to provoke a crisis - real or artificial - that will serve as a pretext for US military intervention.

In intensifying its threat of military action against the Cuban people - an option it has not rejected and which on the contrary has been alluded to as a possibility in public statements on various occasions by certain of the Bush administration's spokespersons and representatives of the Cuban-American terrorist mafia in the US Congress - the United States is violating the *sacred right of the peoples*, both American and Cuban, *to peace*.

By Resolution 39/11 of November 12, 1984, Declaration on the Right of Peoples to Peace, the UN General Assembly solemnly declared that "the preservation of the rights of peoples to peace and the promotion of its implementation constitute a fundamental obligation of each State."

The same Bush administration that cynically fabricates and imposes, using blackmail and other pressures, a spurious text at the Commission on Human Rights in Geneva with the bogus aim of "promoting the human rights of the Cuban people", has clearly shown its true colors with the new anti-Cuba measures announced on May 6, 2004, as bearing the sole, historic and premeditated responsibility for violating the human rights of the people of Cuba.

The initiation of further anti-Cuba tactics as from June 30, 2004 marked a new qualitative stage in Washington's policy of hostility, blockade, aggression and large-scale, flagrant, premeditated and systematic contravention of the Cuban people's human rights, significantly compounding acts tantamount to crimes of genocide under Article II(b) of the Convention on the Prevention and Punishment of the Crime of Genocide. This sub-article of the Convention defines as crimes of genocide acts of "causing serious bodily or mental harm" committed with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group.

As a fitting expression of the humanist vocation of the Cuban people, while Washington persisted in its campaign to undermine the well-being and health of the people of Cuba, on June 21, 2004 Cuba's President Fidel Castro publicly offered the US government free medical treatment for 3,000 of America's poor - the same number as the deaths in the attacks on the twin-towers in New York in September 2001 - over five years.

Cuba is confident that an overwhelming majority of governments world-wide will - as do decent and honest peoples and individuals the world over - continue to recognize the vital importance of opposing the

maintenance of an illegal policy of unilateral hostility and aggression which undermines the very foundations of multilateralism.

The Cuban people also expect most of the world's governments to act consistently in opposing the spurious maneuver engineered by the US administration year after year at the Commission on Human Rights. There is little sense in opposing the blockade at the UN General Assembly and then supporting attempted manipulation at Geneva by which Washington seeks to create a pretext for maintaining and intensifying its policy of sanctions and aggression against Cuba.

APPENDIX

LOSSES AND DAMAGE TO THE CUBAN ECONOMY CAUSED BY U.S. BLOCKADE

(cumulative, to 2003)

Losses caused by:

Millions

INCOME NOT EARNED FOR EXPORTS AND SERVICES	\$36,225.4
LOSSES ARISING FROM GEOGRAPHIC RELOCATION OF TRADE	\$18,049.7
IMPACT ON PRODUCTION AND SERVICES	\$2,847.5
TECHNOLOGICAL SANCTIONS	\$8,265.4
IMPACT ON SERVICES TO THE POPULATION	\$1,546.3
MONETARY AND FINANCIAL IMPACT	\$8,348.5
INCITING EMIGRATION AND BRAIN DRAIN	\$4,042.4
TOTAL IMPACT OF U.S. BLOCKADE	\$79,325.2

CHAPTER 2: POLITICAL MANIPULATION OF THE BILATERAL ARRANGEMENTS ON MIGRATION BY SUCCESSIVE AMERICAN ADMINISTRATIONS, RESORTED TO BY PRESIDENT BUSH TO THE DETRIMENT OF CUBAN FAMILIES, TOGETHER WITH BANNING THE SMALL NUMBER OF ACADEMIC, CULTURAL AND EDUCATIONAL EXCHANGES UNDERWAY BETWEEN THE AMERICAN AND CUBAN PEOPLES

Emigration by Cubans to the United States before 1959

Cuba's revolutionary triumph marked a discontinuity in the pattern of migration between Cuba and the United States, reflecting an early decision by Washington to manipulate the migration issue as a basis for destabilization of and aggression towards the process of transformation undertaken by the Cuban people.

Migration from Cuba to America started much earlier than the 1959 Revolution: it dates from the Spanish colonial days of the 19th century.

By 1870, Cuban immigrants in the United States totaled nearly 12,000, of whom 4,500 had settled in New York, 3,000 in New Orleans and 2,000 in Key West. Both economic and political motives were behind these movements. The flow increased after 1860, as deteriorating relations with Spain caused politically-motivated departures to predominate.

1869 marked the start of one of the most significant periods of emigration from Cuba to the United States, with Key West as the focal point. The exodus included hundreds of tobacco-industry workers and entrepreneurs. Reasons varied: access to modern tobacco-processing techniques; promotion of investment in the principal market (the United States); and uncertainty about Cuba's future after years of economic, political and social crisis - a situation that was exacerbated by the outbreak of the Ten Years' War against Spanish dominion.

Between 1869 and 1900, cigar production based on a Cuban labor force became the main source of income for the Key West community. Tampa was another significant destination for Cuban émigrés, their numbers rising from 720 in 1880 to 5,532 in 1890.

The Cuban immigrant population declined during the second half of the 1890s, as many returned to Cuba to join the fight for independence. The aftermath of the war was characterized by greater integration of the Cuban immigrants -whose numbers were little changed at some 12,000 - into American society.

The dawn of the 20th century was accompanied by a rising trend in emigration - largely to the United States - which culminated during the 1930s. Cuban arrivals on American soil during the 1920s and 30s were mostly workers in search of better jobs, who settled mainly in New York and New Jersey. Like the other immigrants of the area in this period, these were working-class, industrial migrants.

Such departures exceeded 40,000 during the 1920s, encouraged by America's immigration policy of that period. They were followed by another 43,000 in the subsequent decade. In the period 1930-1958, those emigrating to the United States, Venezuela and Mexico totaled 135,000.

Fluctuations in the outflow reflected the domestic situation in the 1940s and 50s, coupled with changes in US immigration policy and a gradual build-up of anti-immigrant sentiment in American society.

During this period, emigrants from Cuba included, as well as workers, those from the small, well-heeled section of the population who could afford to travel and live abroad. The United States was favored by the Cuban bourgeoisie and middle classes as the place to send their children to study, take vacations and invest part of their wealth in setting up small or medium-sized businesses there.

Thus a wide spectrum of interrelations between American and Cuban society became established. The effects of migration and existing kinships combined with other forms of social interchange and much toing and froing of travelers between the two countries, while possible motives for emigration from Cuba became increasingly varied. This was emigration from a backward country to one of the world's most highly developed nations, which, moreover, controlled its economic, political and social life.

By 1958, the officially registered resident Cuban population in the United States including the descendents of Cubans born there numbered around 125,000. Over 50,000 of these stayed in America after the 1959 revolutionary victory.

Prior to January 1959, the level of emigration from Cuba to America (permanent and otherwise) was relatively high compared with the other Central American and Caribbean nations. Between 1950 and 1958, Cubans admitted to the United States as permanent immigrants totaled some 65,200 (more than all the Central American countries put together and 53% of the total from the Caribbean).

The number of temporary visitors was also substantial during this period. The total for 1958 of those traveling to the United States on temporary visas was over 72,600.

Studies indicate that the flow of emigrants to America would have continued to grow anyway, regardless of the Cuban Revolution, given the conditions of stagnation in the sugar industry and other labor-intensive sectors of the economy.

Manipulation of migration arrangements as a weapon against the Cuban Revolution

Manipulation of arrangements for immigration from Cuba has been a significant element of the policy of hostility towards the Cuban people pursued by successive US administrations. Its aims have been: discredit its political, economic and social system; rob it of its human capital; impose conditions of emotional and psychological instability among Cuban families; offer sanctuary and immunity from prosecution to terrorists, annexationists and mercenaries in the service of its anti-Cuba policy; create conditions favoring a mass exodus, to be used to feed propaganda campaigns against Cuba and, as a last resort, to provide a pretext for military intervention.

Before the Revolution, Cubans arriving on American soil were treated entirely without special privileges, like immigrants from any other country. Those landing illegally were invariably deported or imprisoned.

However, in 1959 the US authorities drastically changed their treatment of Cubans arriving, whatever the circumstances. To be accepted, the would-be immigrant had merely to express his or her opposition to the Revolution.

From the early hours of January 1, 1959, there was a veritable stampede of servants of the Fulgencio Batista regime, who had been supported by Washington and had done its bidding, and were now welcomed and guaranteed impunity by the United States. Notorious murderers, henchmen, torturers, embezzlers and thieves, the dregs of humanity that had grown rich on the blood and suffering of the Cuban nation, settled mainly in South Florida. Here they were promptly recruited by the US security forces for the planned mercenary invasion at Playa Girón and to carry out hundreds of terrorist attacks in Cuba.

Not one of the torturers, not one of those responsible for the thousands of extrajudicial executions carried out by the Batista dictatorship, could be extradited to Cuba to stand trial.

A campaign of enticement was mounted to deprive Cuba of its professionals, of qualified personnel in the fields of healthcare, education and the various sectors of industry. The aim was to paralyze the nation by stripping it of its human capital. More than half of the 6,000 doctors in Cuba at the time of the Revolution emigrated to the United States, together with hundreds of skilled and otherwise qualified personnel, persuaded by cynical promises and campaigns of disinformation.

Every Cuban arriving in US territory was accorded 'refugee' status; the Eisenhower administration set up the Cuban Refugee Emergency Center in Miami in December 1960. The term 'refugee' was used indiscriminately and entirely without legal basis, with the aim of discrediting Cuba's image abroad, and without reference to the criteria established by the 1951 Convention relating to the Status of Refugees and the 1967 Protocol.

At the end of 1962, Washington abruptly ended flights and legal departures from Cuba to the United States; together with the effects of its economic war on Cuba waged since the Revolution, these measures proved a strong incentive to illegal emigration.

The same year, President Kennedy signed Public Act 87-510, the Migration and Refugee Assistance Act, which was designed to create the impression that all the Cuban migrants were victims of persecution because of their 'political opinions contrary to the regime'. Cuban emigration to America became an issue of 'national security'. The legislation mentioned included special financial arrangements to support Cuban immigrants. Washington allocated over a billion dollars to the Cuban Refugees Program.

In February 1963, the US authorities stepped up their offensive aimed at inciting illegal departures from Cuba, by imposing further restrictions on legal immigration. Those arriving directly from Cuba - including hijackers of boats and planes and other criminals - were treated as 'refugees' and were granted immediate entry, while Cubans arriving from third countries were treated as foreigners subject to the normal US immigration rules.

The framing and manipulation of migration arrangements for such despicable motives and by such petty means led to a build-up to critical levels of the pressure to emigrate, relieved periodically by illegal exoduses under conditions of considerable risk to the travelers and marked by recurrent migratory cycles.

Many Cubans whose visa applications to visit relatives or emigrate permanently had been turned down flat by the US authorities, were welcomed with open arms, amid much publicity and politicking, when they arrived on American soil by illegal means.

The aim is to deceive world opinion into believing that Cubans are 'fleeing' their country for political reasons and from a socio-economic system that has failed.

Distortion and exaggeration in American propaganda about Cuban emigration to the United States

Cuba does not figure among the top twenty nations of origin of emigrants, but does have a substantial immigrant community in the United States.

Some 1.5 million Cuban nationals, émigrés or children of Cuban émigrés live abroad; of these, around 1.3 million live in the United States, comprising roughly a million born in Cuba and some 300,000 American-born children of Cuban parents.

Despite the detention every year in the United States of thousands of Latin Americans attempting illegal entry, it is the Cuban immigrants - very few in number compared with the rest - that almost always get pride of place in Western press reports.

Out of the 35.2 million Latinos or Hispanics recorded in the Year 2000 US census, those of Mexican origin numbered 20.9 million, Puerto Rican 3.4 million, Central American nearly 2 million, South American 1.4 million and those from the Dominican Republic 0.8 million.

Scant mention is made of the rest of Latin American migration and even less of the poverty, starvation, desperation, corruption and hopelessness that prompt it or the conditions of exploitation and abuse that accompany it. It is only the Cuban immigrants who receive Washington's 'political attention' and are portrayed in the captive media as 'exiles' or 'refugees' in search of a future of 'freedoms'.

This despite the fact that of the 35 million-plus permanent US residents of Latin American or Hispanic origins, less than 1.3 million are of Cuban origin - just 3.5% of that population.

Hypocritically ignored is the fact that Cubans emigrate, like the vast majority of emigrants from underdeveloped countries, to reunite families or for economic reasons - circumstances aggravated by the prolongation and intensification of the US blockade imposed on their nation.

Operation Peter Pan

Washington's obsession with destabilizing the country and destroying the Revolution led in the 1960s to one of the most abhorrent episodes: Operation 'Peter Pan'. This involved tricking 14,000 Cuban children into leaving their homes and transporting them to the United States.

The American secret service fabricated and extensively promulgated the story that the revolutionary government was planning to deprive parents of *patria potestas* as regards the education and care of their children. A criminal operation to transport to America Cuban children, who were forced to travel without their parents, was planned and executed with Washington's support.

Operation Peter Pan was the most important example of the manipulation of children for political ends in the history of the western hemisphere. It was also one of the saddest episodes in the history of Cuban emigration to the United States. Many of the children were sent to children's homes, orphanages and even penal institutions for juvenile delinquents, in 35 states of the Union.

The organizers of this Machiavellian plan succeeded in keeping secret its methods, means and purposes for a long time, concealing from public opinion the details of this ostensibly 'humanitarian' operation, which in reality was one of the most sinister covert operations of psychological warfare undertaken by the US secret service.

Using the illegal services of Radio Swan, a channel owned by the US government, for promotion and propagandizing of the operation, on October 26, 1960, they began the fraudulent broadcasting of fragments of a bogus, never-conceived 'law of *patria potestas*' supposedly promulgated by the Cuban government.

Radio Swan, other stations and the US authorities' captive press kept up this fraudulent propaganda about the possible expropriation of children for several days. Messages carefully designed for their intended effect on Cuban families aroused in some of these the unfounded fear of losing their children.

Monsignor Bryan O. Walsh, Parish Priest at the Sacred Heart (then within the diocese of Miami), a man closely linked to recalcitrant and aggressive elements of the local Cuban-American community, was the visible organizer of the operation.

Through the Catholic Welfare Bureau, Father Walsh assembled a staff of helpers and employees whose functions were to visa the young victims of this cruel stratagem, receive them at the airport and distribute them among the various centers set up for the purpose in Florida and elsewhere. In an unprecedented move, the US State Department delegated to a religious authority the power to issue waiver visas, to all Cuban children aged between six and sixteen.

The first five children who traveled by virtue of Operation Peter Pan arrived in Miami at 4.30 p.m. on December 26, 1960, from Pan American Flight No.422.

The experience was a painful one for these children, many still very young; they were obliged to leave their country and their family, to live in many cases in worse conditions. Hundreds of cases of their abuse by the guardians and teachers assigned to them were reported. The testimony of many, now adults, clearly reflect their feelings of loneliness and isolation. Many began to believe that their parents did not love them.

The situation for all of them deteriorated after the 1962 Missile Crisis; Washington closed the door to immigration in a move designed to step up the pressure on Cuba. More than half the children taken out of the country via Operation Peter Pan suffered long years of separation. In some cases, reunion proved simply impossible.

Theft of doctors and professionals during the 1960s

In the years following Cuba's revolutionary victory, the US authorities, as if it were a matter of course, took steps to strip the nation of its doctors, nurses, secondary and primary teachers and other graduate and technical professionals, with the aim of paralyzing the Cuban economy and the nation's basic public services. It promised these people American salaries commensurate with their qualifications - vastly above those prevailing in a recently-independent neo-colony, poor, underdeveloped and severely blockaded.

Of the 6,000 doctors in Cuba in 1959, 3,000 emigrated to the United States.

The Cuban Adjustment Act

One of the clearest expressions of the criminal, immoral and discriminatory immigration policy pursued by the US administration towards Cuba is the 'Cuban Adjustment Act', a judicial monstrosity introduced in 1966. Its calculated aim is to incite illegal emigration from Cuba to the United States. One of a kind in the world, this law offers Cubans who arrive by illegal and otherwise irregular means, privileges not granted to citizens of any other nationality or country.

The preferential treatment accorded to Cuban citizens, to date distinguishing them from all other foreign immigrants, acquired legal status on November 2, 1966, when President Johnson signed the Cuban Adjustment Act. This provides that "any alien who is a native or citizen of Cuba and who has been inspected and admitted or paroled into the United States subsequent to 1 January 1959 and has been physically present in the United States for at least one year, may be adjusted by the Attorney General at his/her discretion and under such regulations as s/he may prescribe for an alien lawfully admitted for permanent residency."

The Act thus establishes that any Cuban who arrives in America, regardless of the means employed, and lives there for two years (later reduced to the present term of *one* year) may apply to the Attorney General (in practice, the immigration service - INS) for permanent US residence.

Under this pernicious legal monstrosity, unlike immigrants from other nations any Cuban who gets to America by whatever means - especially illegal - receives immediate benefits that include official recognition of his or her presence in the country, help with finding a job and access to various social services. Plus the opportunity to secure legal residence almost automatically after the first year.

This facility granted by the Attorney General and applied by the immigration authorities has been employed from the outset to allow entry to every Cuban, with or without a criminal record, who gets to America, and to grant immunity from prosecution to the authors of serious crimes, often committed with the aim of reaching US territory.

Under this legislation, the US authorities systematically manipulate refugee status, granting it automatically to every Cuban who arrives on American soil. The newcomers are treated *prima facie* as refugees if their reasons for emigrating are entirely economic.

Under the Cuban Adjustment Act, the new Cuban immigrant is granted a work permit immediately and automatically, gets legal residence without the need for an Affidavit of Support, obtains a social security number, food and lodging welfare benefits, and adjusts his or her migratory status without the need to return to his or her country of origin to receive the relevant confirmation (as is the case with applicants from other nations), and without the need for lawyers or to incur costs in the process of obtaining permanent residence.

Washington did not confine itself to granting these privileges to Cubans after their arrival in US territory; it incited illegal departures from Cuba by extensive propaganda about the 'benefits' that Cubans attempting illegal emigration to the United States would receive. Their own, official radio and TV services, whose anti-Cuba programming is financed and controlled by the federal authorities, have encouraged illegal emigration from Cuba. They have portrayed brutal, murdering hijackers of boats and aircraft as heroes and conceal the real dangers threatening those who set sail for America in fragile craft.

Opportunistic and criminal application of the Cuban Adjustment Act was among the factors that led to the 'rafters crisis' of August 1994, when over 30,000 Cubans emigrated illegally to the United States. Other influences included: the lack of effective measures to curb illegal emigration and eliminate human smuggling; the US authorities' incitement of and impunity accorded to armed hijackers of vessels and aircraft; minimal compliance with the 1984 bilateral migration accord; and the severe effects of the tightening of the genocidal blockade imposed on Cuba. The latter measures coincided with the abrupt termination of Cuba's economic relations with the now-defunct socialist camp.

In the same year, new migration accords were reached between Cuba and the United States. However, the constant incentive to illegal departure remains, for those wishing to emigrate to America but unable to do so by legal means, given the continued application of the Cuban Adjustment Law and the "wet foot-dry foot" policy -whose effect is that those who reach US territory are not sent back - coupled with the dire economic conditions caused by the blockade.

The instability and fragility of the craft used for the sea crossings and the risks associated with migrant-trafficking operations by sea out of Florida have led to the deaths of hundreds of people and threaten the lives of many more in the future.

The United States will not be able to establish control and discipline on its own coasts while the Cuban Adjustment Act, or anything like it, remains on the statute book, and while it goes on financing and refining radio and TV programs aimed at Cuba and constantly inciting people to leave illegally, as part of a political and psychological war on Cuba.

The criminal policy of manipulating the arrangements on migration and of encouraging illegal emigration from the country was the cause of the appalling case of the loss at sea of the mother of Elián González and the boy's subsequent kidnapping in Miami.

The United States bears the entire responsibility for the large number of deaths over more than three decades, some of children, and of the continuing risk to the lives of those incited to embark on such adventures by a murderous policy totally lacking in ethics or humanity.

Cuba will continue to condemn publicly this 'law of death' and to issue warnings about the serious risks and dangers that it poses as an incitement to illegal emigration by Cubans under seriously vulnerable conditions.

Migration crises and bilateral accords

The inconsistent and arbitrary policies on migration applied to Cuba's detriment by successive US administrations have caused three major migration crises since 1965: at Camarioca in that year, at Mariel in 1980 and the 'rafters crisis' of 1994.

The migration crisis generated in 1980 led to various meetings between Cuba and the United States. These resulted in an agreement for normalization of migration arrangements, which included a Joint Communiqué and Implementation Minutes signed on December 12, 1984. Under the agreement, Cuba accepted the return of 2,746 persons classified by the US authorities as "excludables", while the American side undertook to accept an annual inflow of up to 20,000 prospective legal Cuban immigrants.

Of the 160,000 visas that should have been issued during the eight years in which the agreement was effective, only 11,222, or 7% of the total envisaged, were granted.

The United States defaulted also on its obligation under the accord to forestall hazardous trips from Cuba that put human lives at risk. On the contrary, the US authorities went on encouraging illegal emigration by continuing the practice of granting provisional entry to any Cuban that managed to reach American territory by irregular means.

New bilateral accords on migration were reached in the wake of the 1994 "rafters crisis". This time, the United States undertook "discontinue its practice of granting paroles to all Cuban migrants who reached US territory in irregular ways."

Implementation of the agreements on migration was reviewed at thirteen rounds of migration talks between September 1, 1994 and a point in 2003 when the US authorities unilaterally decided to suspend the dialogue. Cuba drew attention at these meetings to persistent irregularities in US compliance with the accords, offending both their letter and spirit.

The US authorities have continued to apply the "wet foot-dry foot" policy. By virtue of this illegal practice, which runs counter to the letter of the accords mentioned, Cuban migrants who succeed in reaching US territory are granted entry regardless of the means used or acts committed in the attempt. Similarly, the requirement to send back all migrants intercepted at sea has not always been respected.

Since the signing of the joint declaration on May 2, 1995, the American authorities have repatriated over 5,000 illegal Cuban immigrants, including those intercepted at sea by the coastguard service and those illegally entering the US Naval base at Guantanamo (who are sent back from this enclave via the checkpoint on land). Those returning are given a medical examination and are returned to their families, except for fugitives from justice and those with proceedings pending before the courts in relation to some other crime. Cuba has complied strictly with this undertaking and has taken every possible step to facilitate the reinstatement of such persons in Cuban society.

Cuba has often reiterated, at the official meetings in Havana and Washington and in the course of the rounds of talks on migration, its outright rejection of the policy of selectivity in determining the repatriation of illegal migrants. If the US immigration authorities really intended to send these people back - having granted them entry under the pretext of needing medical attention - they could be admitted on a 'provisional parole' basis, which would facilitate any subsequent repatriation. Nonetheless, to date there does not seem to have been a single case of this type where the person concerned has been repatriated, nor have any answers been forthcoming to inquiries and concerns regarding this irregularity.

The practice of not repatriating Cuban emigrants rescued at sea by the US coastguard and transferring them to the naval base in territory at Guantanamo illegally occupied by the United States, amounts to encouragement of further illegal sailings. In some cases, after a more detailed check, the travelers are repatriated on land, but in several others they have never been sent back and await acceptance by the US authorities as refugees, or to be sent to a third country. The allegations by these people that they were being persecuted by the Cuban authorities for political, religious or similar reasons are entirely false, divorced from the real situation and amount to hackneyed pretexts for legitimizing an otherwise clearly illegal and arbitrary proceeding.

An activity that has flourished in response to incitement to illegal emigration is trafficking in or smuggling of illegal emigrants, increasingly and criminally taking advantage of the situation created by the "wet foot-dry foot" policy.

The feeble response and negligent practices of the US authorities as regards smuggling of Cuban migrants, originated and organized on American soil, facilitates the criminal activities of individuals who profit from these hazardous offences, in clear contravention of international law, the laws of the United States itself and of its migration accords with Cuba. The provisions on trafficking in migrants in these documents reaffirmed support for the resolution of the UN General Assembly in this connection and formalized a commitment by Cuba and the United States to cooperate in taking appropriate and effective action to prevent the illegal transportation of persons to the latter nation.

Cuba's unwavering intention and commitment to promote legal and orderly migration. Its commitment to combating illegal trafficking in persons

On countless occasions, Cuba has provided clear evidence of its unchanging, solemn commitment to the bilateral migration accords, to combating illegal migration, and to suppressing trafficking in migrants.

Cuba put a stop to the diversion of aircraft from the United States to Cuba by imposing severe penalties on the authors of these crimes. It increased the penalties also for trafficking in migrants and can impose sentences of life imprisonment for human smuggling. Since 2000, the Cuban government has reiterated many times its call for a bilateral accord to combat illegal migration and human smuggling; the Americans have not even agreed to discuss these proposals. The Cuban authorities have forestalled dozens of plans and violent attempts to hijack vessels and aircraft, and have thwarted a large number of human-smuggling operations, mostly coordinated by traffickers based in the United States.

The migration accords of September 9, 1994, subsequently complemented by measures adopted as part of their implementation and embodied in the joint declaration of May 2, 1995, have been fully honored and complied with by the Cuban authorities.

Cuba has taken exemplary and effective measures against the traffickers, without support of any kind from the United States. We have arrested some 70 of these criminals; it is paradoxical that the US authorities have been unable to follow suit, despite the public availability of information on the *modus operandi* and movements of these people. Cuba has offered to send those it arrests for trafficking for trial

in the United States, so that all those involved in the relevant operations can be investigated and dealt with accordingly. Our offer has been rejected.

Cuba has taken various steps, including the introduction of stiffer penalties, to combat the traffic in illegal migrants. The relevant measures include Article 348 of the Penal Code, which imposes life imprisonment for human smuggling when involving violence and threat to or loss of human life. A decree law has been passed which authorizes the seizure of vessels owned by those involved in trafficking in migrants, so as to facilitate strict control over private and public-service vessels and the materials used in committing such crimes. Arrangements for surveillance by the relevant authorities have been tightened.

Cuban families: victims of and hostages to the Bush administration's imperialist designs. The measures announced on May 6, 2004 and their impact on personal relations and mutual help within Cuban families

One of the acts of Washington's escalating aggression towards Cuba was an announcement on January 5, 2004, canceling (on the basis of spurious pretexts) the bilateral talks on migration, just three days before the scheduled start of a regular round of these. The bilateral migration accords have enabled some 200,000 Cubans to emigrate to the United States over the last ten years, legally, safely and on an orderly basis.

On May 6, 2004, the US administration announced new measures designed to intensify even further its aggressive policy of hostility towards Cuba.

In a report to President Bush by the 'Commission for Assistance to a Free Cuba', co-chaired by the then Secretary of State Colin Powell, measures were included that directly infringed the rights of migrants and Cuban families, for application as from July 2004. Among these were a reduction in the frequency of visits to Cuba by US-resident Cubans from one per year to one every three years, and limitation of these to immediate family - restrictively defined for the purpose as grandparents, grandchildren, parents, siblings, wives and children - and without allowing exceptions in cases of illness or bereavement. It was also established on a retrospective basis that Cubans who have arrived there recently or have visited Cuba in the last few years must wait three years (from their arrival or last visit, as the case may be) before they can visit again.

On June 22, 2004, the US Department of Trade announced additional restrictions on the sending of parcels to Cuba. Basic personal necessities such as clothes and toiletries, among other things, were banned. These measures will clearly have a direct impact on the recipient families.

The new measures deny to many Cuban émigrés - those not belonging to the classes of relative approved by President Bush - the possibility of visiting their home country.

It is very difficult to estimate the total of remittances from Cuban expatriates in the United States, but it must run to hundreds of millions of dollars. Many Cuban families are set to suffer in their daily lives sudden and arbitrary deprivation of this aid within the family circle. Also, a reduction in Cuba's hard currency receipts will affect the level of resources available for welfare programs designed to benefit children, the elderly, the disabled and those sections of society most in need of protection, among others.

Up to the end of July 2004, nearly a month into application of the new anti-Cuba measures, the US Office of Foreign Assets Control (OFAC) had yet to issue a single permit to a US resident for visiting his or her relatives in Cuba, despite having received over 3,000 applications.

While Washington has made relations between US-resident Cubans and their country of origin increasingly difficult, since 1978 and notably in 1994 the Cuban government has continued to implement a continuous, irreversible process of normalizing and making more flexible its relations with Cuban émigrés who do not participate in the aggression perpetrated on their home country by the US administration. These efforts have been made despite an escalation of US hostility and an upturn in terrorist and similar actions against the Cuban people.

In 1994, 37,000 Cubans resident abroad visited their country of origin; in 2003, the total was nearly 168,000, including 115,000 from the United States.

In 2000, 38,000 Cubans visited relatives in America. Last year, the total was less than 7,000, depressed by the arbitrary restrictions imposed by the US authorities on the granting of visas.

In August 1994, Cuba abolished the requirement for an entry visa for temporary residents abroad, who now total 50,000. These are Cubans living abroad on a temporary basis who have kept their Cuban permanent residence. Last year, 34,000 visited Cuba.

From 1995 onwards, a system of 'Journey Extensions' was operated. It was used last year by over 20,000 Cuban expatriates to visit Cuba, and for 10 years has constituted a mechanism for entry without the need for pre-arrival visa formalities. As from June 1, 2003, Cubans resident abroad no longer need official permission to enter Cuba.

By virtue of a decision of the National Assembly of the People's Power in 1995 approving the Law on Foreign Investment, in the last two years alone Cuba has processed 72 proposals for business or investment by Cubans resident in 12 countries. Of the seven companies operating charter flights to Cuba from the United States, six are owned by Cubans. Over 100 travel agencies, also owned by Cubans, are engaged in organizing trips to Cuba from America, the country of residence of more than 70% of all Cuban émigrés.

At the Third 'Nation and Emigration' Conference, new measures were announced to facilitate the provision of services for and relations with Cubans resident abroad. These are:

- The setting up of a new office, initially under the aegis of the Ministry of Foreign Affairs, to serve Cubans resident abroad, with wider functions and powers than those currently exercised by the Ministry's Division of Consular Affairs and Cuban Residents Abroad.
- The awarding of university grants to the children of Cuban émigrés. In 1994, it was agreed that young foreign-resident Cubans could follow postgraduate courses in Cuba. In 1995, the scheme was extended to first-degree courses but on a fee-paying basis. In 2004, the Cuban government decided to award grants in all such cases, so that the children of Cuban émigrés could attend university here without charge, on the same basis as the young people living in Cuba.
- The setting up of Spanish language and Cuban history and culture summer-school courses designed specifically for the descendants of Cubans resident in other countries. These will be aimed mainly at young people born abroad of Cuban parents, for whom the search for family roots, language, culture and homeland history are a priority.
- The adoption of new measures to speed up customs procedures and make these more secure. The changes include a system of charging luggage by weight, aimed at solving a problem that is currently one of the most frequent causes of inconvenience and complaint.

The following are key aspects to borne in mind when considering the issue of Cuba's position on emigration:

- There are no basic problems between the Cuban state and its expatriates abroad. The process of normalization did not end with the measures described above: it is continuous, irreversible and permanent. Fundamentally, the decisions taken over the last ten years have paved the way for a gradual normalization of 'Nation-Emigration' relations. There is no truth in the claim that the constant aggression of the US government in collusion with a corrupt, ambitious and anti-patriotic clique of US-resident Cubans is "a problem between Cubans".
- The real problem both for Cubans at home and all those who love Cuba (regardless of where they live) and want to see it free and independent, is the attempt by the Bush administration, legacy of an imperialist obsession with dominion over Cuba dating back two centuries, to deny the Cuban people its right to self-determination; to deny it the right, recognized by the UN Charter, to be an independent country and choose, without outside interference, its own model of economic, political and social

development, draw up its own laws and found its own institutions. That, and that alone, is now the real problem.

- The economic blockade and the policy of aggression towards Cuba are now the main obstacle to full normalization of relations between Cuban émigrés and their homeland. That applies not just to the Cubans resident in the United States, but to Cubans living abroad in general, since while the blockade affects primarily their families in Cuba, it also curtails rights of the Cubans resident in the United States and elsewhere. This must be fully understood when considering the affirmation that the priority now for all who regard themselves as Cuban is to oppose this major obstacle to ongoing efforts to diversify and normalize the relations and exchanges between that community and the homeland.
- Cuba understands and respects the fact that differing political ideas about Cuba's present and future coexist in the Cuban community abroad, as well as differing ideological conceptions and religious beliefs.
- Eventually, the blockade and hostility will end; this is no pipe dream but a perfectly realistic possibility. When the sanctions and hostility are things of the past, along with Washington's plans of a 'transition' for Cuba and for US annexation of the island, Cubans will be able to travel legally between the two countries without restriction of any kind, except for the few whose ill-conceived activities damaged their homeland make them unworthy of the privilege. As of now, those wishing to retire to Cuba and have sufficient means for the purpose may do so.
- We see the right to call oneself Cuban as dependent, beyond place of birth, on whether one identifies with the Platt Amendment, the Helms-Burton Act and the report of President Bush's 'Commission for Assistance to a Free Cuba'; or whether one believes in the alternative proposed by our national hero, José Martí: a republic "of all, for the well-being of all".
- The Bush administration:
 - hinders the establishing of a safe, orderly and legal migration flow
 - infringes the rights of its citizens by raising more obstacles to their freedom of travel and
 - prevents international cooperation and educational, cultural and academic exchanges between the Cuban and American peoples.

On January 5, 2004, the US Interests Section in Havana and the US State Department notified the Ministry of Foreign Affairs and the Cuban Interests Section in Washington that they did not envisage holding a further round of talks on migration “until the Cuban authorities showed a real interest in seriously addressing ‘very important’ aspects for the attainment of an orderly, legal and safe migration flow between both countries.”

In the imperial language of US officialdom, the expression “seriously addressing” means that Cuba must be prepared to make every conceivable unilateral concession and accede to every demand and whim of the American authorities.

This move by Washington is an attempt to distract attention from its infractions of the migration accords, including: cutting back on visas for Cuban citizens who want to visit relatives in the United States; failing to repatriate a number of the illegal Cuban migrants intercepted on the high seas; inciting to illegal emigration and to the perpetration of acts of violence to that end, via radio broadcasts from US territory; and not taking decisive action against traffickers in illegal emigrants and their accomplices.

Their excuses for canceling the round of migration talks are fictitious and absurd. They reveal that the true meaning of this step has more to do with Miami politicking than with America's real interests in terms of national security and migration.

Washington is trying to manipulate reality and conceal the fact that the murderous Cuban Adjustment Act and the irrational "wet foot-dry foot" policy are the real obstacles to normalizing migration between the two

nations; they amount to incitement to illegal immigration and represent the most serious infraction of the migration accords.

The US Treasury Department has announced extension of the application of penalties incurred by American citizens who visit Cuba without a permit or otherwise break the rules. The basic aim is to intimidate potential US visitors who increasingly evade the restrictions and ignore the Treasury's threats. Significantly, before this latest announcement, there was no published scale of fines for these offences.

The main additions and amendments to this anti-Cuba measure are summarized below:

1- Tourism-related transactions / fines:

First trip: \$7,500
Each additional trip: \$ 10,000

2- Business-related transactions:

First trip: \$15,000
Each additional trip: \$ 25,000

3- Unlicensed trips to visit close relations:

First trip: Warning letter
Each additional trip:
. Before receipt of warning: \$1,000
. After receipt of warning: \$4,000

4- Trips without a specific license

Trips whose purpose falls within the classes of activity for which licenses may be issued:

Each trip prior to receipt of Treasury notification \$3,000
Each trip subsequent to receipt of Treasury notification \$10,000

5- Exports (or attempted export) without authorization involving a Cuban interest (including that of any Cuban national)

The fine shall equate to the value of the unauthorized funds to be exported. Further penalties may be incurred in the event of another infraction after incurring the fine.

6- Unauthorized use of credit cards in Cuba:

First trip \$1,000
Each additional trip \$2,000

7- Importation of products of Cuban origin related to infractions of the travel restrictions

Where the total value involved is \$500 or less: \$250
Where the total value involved is over \$500: \$250,
plus the excess over \$500.

B. Services clause: travel, freight and money-transfer services by persons other than authorized 'Service Providers'

1- Remittance services

Prior to receipt of Treasury notification: \$2,000
Subsequent to receipt of Treasury notification: \$15,000

2- Travel services:

Prior to receipt of Treasury notification: \$2,000 plus \$500 per customer served
Subsequent to receipt of Treasury notification: \$15,000 plus \$500 per customer served.

3- Freight services

Prior to receipt of Treasury notification: \$5,000 plus \$500 per customer served.

Subsequent to receipt of Treasury notification: \$25,000 plus \$500 per customer served.

The new restrictions on US citizens and US-resident Cubans as regards sending parcels or remittances or traveling to Cuba, which do not apply to any other immigrant group in America, are a further instance of the way Washington undermines basic human rights that are enshrined in the Universal Declaration of Human Rights itself, as well as in both the relevant international pacts.

In the case of the International Covenant on Civil and Political Rights, these measures are in flagrant violation of Article 12, which defines the bases of freedom to travel, including the right thereto of any citizen whose status within any nation is duly legalized. This principle was reaffirmed by the UN General Assembly, by passing Resolution 57/227 'Respect for the right to universal freedom of travel and the vital importance of family reunification'

The US government is also defaulting on commitments publicly undertaken by its president at the G8 summit at Sea Island, Georgia (USA) following a debate on poverty. The heads of state of the world's most industrialized and richest nations, the United States among them, agreed that the sending of remittances to relatives in émigrés' countries of origin potentially alleviated poverty. As announced by Jim Wilkinson, Deputy National Security Advisor for Communications, the Group undertook to facilitate remittances to poor countries and halve the cost of the relevant transactions.

The new measures introduced by Washington are also illegal: in 2000, the US Congress passed a law that codified all the regulations concerned with restrictions on travel to Cuba and the exceptions to these, depriving the President of the authority to change the rules, since that is the sole prerogative of the legislature that originated them as law.

They are similarly contrary to the views of the majority of Congressmen on both sides of the political divide. Over recent years, amendments to bills on travel to Cuba by US citizens and other US residents aimed at lifting the restrictions have been passed in the House of Representatives and on occasion also in the Senate.

In 2003, there were majorities in both houses in favor of an initiative to deregulate travel to Cuba. However, in an anti-democratic move, the relevant text was deleted from the bill following a threat of veto by President Bush.

Meantime, the Office of Foreign Assets Control (OFAC) issued a form to be completed by all travelers which constitutes another flagrant invasion of the citizen's privacy: one of the details required is the identity card number of the relative to be visited.

Indefinite suspension by the US authorities of the rounds of bilateral migration talks and the new restrictions now in force are designed to add to the difficulties hindering the Cuban people's development, as well as to encourage further migration and engineer incidents to justify canceling the bilateral migration accords. Coupled with the tightening of the criminal economic, trade and financial embargo imposed by Washington on the Cuban people, the ultimate aim is to generate an artificial emigration crisis as a pretext for military action against Cuba.

Under the Helms-Burton Act, since 1996 Washington has been obliged to respond to a further emigration crisis as if it were an act of war against the United States. In this context, in 2003 it hypocritically announced via official channels, that the hijackings of Cuban vessels and aircraft - encouraged by various aspects of Washington's anti-Cuba policy - represented "a serious threat to the national security of the United States". They went so far as to state publicly, in a threatening tone, that they would not tolerate mass exoduses from Cuba.

The measures in place since July 2004 are opposed by the majority of Cuban émigrés and their organizations in the United States. A survey conducted by Miami television's Channel 23 at around the time these were introduced revealed that 65-68% of Cuban expatriates objected to them. Other surveys,

including one by the Univision TV channel put the figure at 75%; all the polls found levels of opposition of over 60%.

On May 20, 2004, a Cuban-American Family Rights Commission was established in Miami, despite the climate of intolerance and violence which pervades that city. On June 21, this coalition of groups opposed to the blockade on Cuba began collecting signatures on a document for sending to the US government as a signal of discontent. The previous day, Cuban émigrés organized two convoys of cars in Miami, with hundreds of members of the Cuban community, as a protest demonstration.

With fascist overtones, annexationists and protectors of terrorists Lincoln Diaz Balart and Ninoska Perez Castellan, respectively Republican congressman and aide to the late leader of the mafia with Cuban roots Jorge Más Canosa, issued threats against the US-resident Cubans demonstrating against the anti-Cuba measures of May 6, to the effect that they could lose their right to residence under the Cuban Adjustment Act.

The draconian measures adopted towards the Cuban people have been criticized also by important elements of the American media and professional and business organizations, including: the daily newspaper The New York Times - which described them as outrageous; the National Lawyers Guild (NLG); the National Council of Churches (NCC); the ATRIP-USA/Engage Alliance formed by the National Foreign Trade Council (NFTC) -; the Association of Travel-Related Industry Professionals (ATRIP); Medical Education Cooperation with Cuba (MEDICC) - an academic program that enrolls students from 115 US universities on courses in Cuba; the Coalition of Americans for Humanitarian Trade With Cuba; the United States Council for International Business; the Emergency Committee for American Trade (ECAT); and Inter-American Dialogue - a forum for analysis and formulation of alternative foreign policies for Latin America.

As an expression of the prevailing sentiments within American society, on September 22, 2004, the House of Representatives voted 225 in favor, 174 against a bipartisan amendment to remove the recently-imposed restrictions on travel to Cuba by Cuban émigrés and reinstate their right to annual visits.

The last-ditch defenders of these criminal measures are the former members of the forces of repression deployed by the ruthless Cuban ex-dictator Fulgencio Batista, as well as the former politicians who profited from the blood and sweat of ordinary Cubans, and the representatives of an unpatriotic bourgeoisie which feathered its nest under the pre-1959 neocolonial regime. The policy is also supported by the Miami-based terrorists and mercenaries who have inflicted so much misery, destruction and death on Cuba's families.

Cuba reaffirms its readiness to continue working towards full normalization of its relations with expatriate Cubans and repeats its undertaking to go on promoting legal and orderly migration by its citizens and everyone who visits or lives in our country. Cuba will maintain its campaign against human smuggling, severely punishing the authors of these criminal activities. Cuba's strict observance of its bilateral migration accords, including those entered into with the United States, will also continue.

Cuba is committed to improving its relations with the United States on questions of migration. While this aim remains frustrated, the Cuban government will fulfill its commitment and duty to condemn the Bush administration's ongoing acts of hostility and manipulation of the migration arrangements between our two nations.
