

September 1993

International Reaction to the Cuban Democracy Act

Gabriel M. Wilner

Follow this and additional works at: <https://scholarship.law.ufl.edu/fjil>

Recommended Citation

Wilner, Gabriel M. (1993) "International Reaction to the Cuban Democracy Act," *Florida Journal of International Law*: Vol. 8: Iss. 3, Article 4.

Available at: <https://scholarship.law.ufl.edu/fjil/vol8/iss3/4>

This Article is brought to you for free and open access by UF Law Scholarship Repository. It has been accepted for inclusion in Florida Journal of International Law by an authorized editor of UF Law Scholarship Repository. For more information, please contact kaleita@law.ufl.edu.

INTERNATIONAL REACTION TO THE CUBAN DEMOCRACY ACT

*Gabriel M. Wilner**

The bilateral relations between Cuba and the United States, in principle, only involve the interests of the two countries. In fact, since President Fidel Castro's seizure of power in Cuba, both countries have tried to enlist large parts of the international community in their struggles with each other.

Ties between Cuba and the United States are evidently very strong; they have endured thirty years of hostile words and deeds between the governments and sometimes between sections of the populations. The United States continues to enlarge the scope of its policy of economically isolating Cuba despite its own international political isolation on the subject. Cuba continues to complain about its economic isolation although it appears to be free to trade with the entire world, except for the United States.

In 1992, relations between Cuba and the United States were once again the focus of legislative action in the United States. The first provision of the Cuban Democracy Act of 1992 (the Act)¹ lists a series of findings condemning Cuba's present government and its leader.² The second provision sets out the policy to be carried out by the United States in order to promote the "peaceful transition to democracy and a resumption of economic growth . . . through the careful application of sanctions . . ."³

The Act calls for the United States Government to enlist the cooperation of other countries by informing them that the United States will take into account their willingness to cooperate with the United States in carrying out its policy. In particular, the United States believes that European and its other allies should cooperate with the United States in its policy, especially in view of the assistance the United States provided during the transition from Communist regimes in Eastern Europe. Further, the Act provides that the United States will oppose any assistance to Cuba from any of the former Soviet Union states and indeed from any other country.

Trade sanctions are provided not only against Cuba but also against

* Thomas Kirbo Professor of International Law, University of Georgia School of Law. The author would like to express his appreciation to G. Porter Elliott (J.D. 1996) for his research assistance on this article.

1. 102 P.L. 484, Title XVII, §§ 1702-1712 [hereinafter *Cuban Democracy Act*].

2. *Id.* § 1702.

3. *Id.* § 1703.

“countries assisting Cuba.”⁴ Sanctions are placed on vessels of any nation which engages in trade with Cuba.⁵ Foreign subsidiaries of corporations which are incorporated and which operate in the United States are placed in the same situation as their U.S. parent companies; the draconian limitations on the latter’s ability to trade with Cuba now extend to subsidiaries which were created under the laws of another country.⁶

The Act supplements already existing legislation that clearly reaches companies abroad that are controlled by U.S. corporations. A U.S. subsidiary in Mexico or Canada or Britain or France has always had to apply for an export license in the United States if it wished to sell to Cuba. In practice, under the new legislation, the company will not receive the license.

The usual justification for applying U.S. law to actions of U.S.-owned foreign corporations is that, under the nationality principle of jurisdiction in international law, the United States can apply its regulatory legislation to U.S.-owned foreign corporations.⁷ United States regulatory legislation is an expression of a particular public policy on foreign affairs; to the extent that another country shares that policy, the other country will usually not complain about the application of U.S. law to the activities of companies which were created and have their seat within its borders. When U.S. foreign public policy on the particular matter is not shared by the other country, there will be a clash of policies and the other country will protest that the United States is applying its legislative public policy extraterritorially. This has been the case with the U.S. legislation imposing an embargo on trade with Cuba by U.S.-owned companies. The Act has met with even greater resentment and protest worldwide because it emphasizes the role of the foreign-based subsidiaries of U.S. corporations in the enforcement of the U.S. embargo on trade with Cuba.

While the obvious thrust of the U.S. embargo on trade with Cuba is aimed at U.S. companies and their subsidiaries abroad, the effect is that the U.S. legislation is operating more than a primary boycott. At least one type of secondary boycott is provided for in the Act itself. Section 1706(b)(1) of the Act prevents any vessel, which has engaged in the trade of goods or services with Cuba, from entering U.S. ports within six months of such trade unless a license has been issued by the Secretary of the Treasury.⁸ Effectively, this rule denies foreign shipping companies, with no ties to the United States, the right to trade in the United States if they do business in Cuba. It is true that, unlike the Arab League countries’ boycott of Israel, this

4. *Id.* § 1704(b).

5. *Id.* § 1706(b)(1).

6. *Id.* § 1706(a)(1).

7. *See, e.g.*, The Case of the S.S. Lotus (Fr. v. Turk.), 1927 P.C.I.J. (Ser. A) No. 10.

8. Cuban Democracy Act, *supra* note 1, § 1706(b)(1).

refusal to permit third country trade is temporary. The offending shipping line can atone for having engaged in trade with Cuba if it desists from doing so for at least 180 days.⁹

In a useful article,¹⁰ Professor Andrew Zimbalist, an economist, describes how the embargo or boycott of Cuba has a direct effect on the trade of corporations that have no U.S. connection. First, he recounts instances in which non-U.S. companies have been prevented from selling their goods in the United States if the goods contained some Cuban inputs. In one such instance, according to Professor Zimbalist's account, Cruesot Loire, a French corporation, canceled its contract to build factories for the manufacturing of hardboard in Cuba. The cancellation occurred because the United States refused to admit the French corporation's manufactured steel, which contained Cuban nickel that had been sold to Cruesot Loire in exchange for its promise to build the factories in Cuba.¹¹

Professor Zimbalist next reports that non-U.S. owned companies that operate outside the United States are prohibited from selling to Cuba goods containing more than twenty percent of inputs from the United States or goods "based on a U.S. technological design."¹² In principle, goods that contain between ten and twenty percent of inputs from the United States can be licensed; however, this was not the case with Alpha-Laval, a Swedish company. Alpha-Laval was not permitted to export sugar filtration equipment to Cuba in 1991 because one of the inputs originated in the United States.¹³ Zimbalist further writes that foreign owned banks which operate exclusively outside the United States are forbidden by the U.S. government to either maintain Cuban accounts denominated in U.S. dollars or to conduct commercial transactions in U.S. dollars with Cuba.¹⁴

More informal, but nonetheless powerful pressures against trading with Cuba that are legitimated by U.S. legislation often have the effect of persuading non-U.S.-owned companies operating exclusively outside the United States to not trade with Cuba. In his article, Zimbalist mentions a speech at the 1991 session of the United Nations General Assembly by the Cuban permanent representative to the U.N. In that speech, the Cuban representative indicated that U.S. pressure had impaired trade and investment transactions not involving the U.S. market by non-U.S. companies in twenty-seven (then recent) cases.¹⁵ All of this occurred before the passage of the

9. *Id.*

10. Andrew Zimbalist, *Dateline Cuba: Hanging on in Havana*, 92 FOREIGN POLICY 151, 158-60 (Sept. 1993).

11. *Id.*

12. *Id.* at 158.

13. See Zimbalist, *supra* note 10.

14. *Id.*

15. *Id.*

Act. European companies appear to have been successfully pressured by the U.S. government. By way of contrast, Professor Zimbalist describes a joint venture investment in Cuba by Mexican businessmen with respect to whom the persuasive powers of the U.S. Ambassador to Mexico were not successful.¹⁶

The account of cases in Professor Zimbalist's article helps explain the often strong criticism of U.S. policy regarding trade with Cuba; policy which existed even before the enactment of the Act. Quite clearly, existing U.S. legislation and policy on trade with Cuba affects not only Cuba's economy, but also the freedom of governments and private enterprises of other countries in the various regions of the world who wish to trade both with the United States and with Cuba.

Member countries of the European Community (EC) and the Community itself sought to dissuade President Bush from signing the Act after it had been adopted by Congress. An EC Commission statement, as reported in *Reuters*, read:

Although the EC is fully supportive of a peaceful transition to democracy in Cuba, it cannot accept that the U.S. unilaterally determines and restricts EC economic and commercial relations with any foreign nation which has not been collectively determined by the United Nations Security Council as a threat to peace or order.¹⁷

The article in *Reuters* further reported that the EC Commission considered that U.S. action which affected business carried on outside the territory of the United States "would violate general principles of international law and the sovereignty of independent nations."¹⁸

The Act was signed by President Bush on October 23, 1992, and protest continued from the EC Commission. It was reported on October 28, 1992 that the Commission considered the extraterritorial application of U.S. law "unacceptable and incompatible with the type of rules that should be regulating international trade."¹⁹ In another report on the same day, it was stated that the Commission was examining the Act to determine whether complaints should be raised before GATT or the OECD.²⁰ On October 29, 1992 the Commission issued a communique, reported by *Agence Europe*, stating that the United States had chosen an inadequate way to promote

16. *Id.*

17. *EC Warns Bush Not to Ban U.S. Subsidiaries' Cuba Sales*, *Reuters*, Oct. 8, 1992, available in LEXIS, News Library, Reuapb File.

18. *Id.*

19. *Bush's Signing of Cuba Embargo Law May Trigger GATT Complaint*, *BNA Daily Report For Executives*, Oct. 28, 1992, available in LEXIS, News Library, Drexec File.

20. *Action Threat over Cuba Trade Bar*, *FIN. TIMES*, Oct. 28, 1992, at 3.

democracy in Cuba, namely, "the extraterritorial extension of the American trade law to exports between the European Community and Cuba" ²¹

The European Communities Parliament opposed the Act from the very beginning. In a December 18, 1992 resolution, the EC Parliament urged the U.S. Congress to repeal the Act. ²² It was reported that the EC Parliament considered that the isolation of a state, an isolation which had not been ruled a threat to international peace by the United Nations, did not contribute to democratization. ²³ A September 16, 1993 resolution called on the EC and its member states not to comply with the Act. ²⁴ The resolution asked the EC Commission to "take the necessary legislative steps — following the example of Canada and the United Kingdom — to ensure that European companies and companies established in the Community can carry out normal trading relations with Cuba." ²⁵

While the European Community institutions had already been highly critical of the Act, the EC member states were not able to reach a common position on a resolution that Cuba brought to the floor of the 1992 session of the U.N. General Assembly; ²⁶ some members abstained while others voted for the Cuban sponsored resolution. It was reported that while Europe had considered the U.S. trade embargo as a bilateral matter, it saw implications regarding its own trade within the Act. The EC's objections were said to be legal and economic in nature. Their opposition to the Act was not an indication of approval of the present Cuban political system. ²⁷

The negative reaction to the Act in some individual countries that are staunch political allies of the United States was strong. The United Kingdom invoked its Protection of Trading Interests Act to preempt the prohibition placed by the Act on U.K.-based subsidiaries of U.S. companies from trading with Cuba. ²⁸ The Canadian government, even before the U.S. statute became effective, ordered Canadian subsidiaries of U.S. companies to ignore

21. *Commission Officially Regrets Extension of the Embargo on Cuba to European Subsidiaries of US Firms*, Agence Europe, Oct. 29, 1992, available in LEXIS, World Library, Txtlne File.

22. *See EP Asks that Clinton Administration Renounce Cuban Democracy Act*, Agence Europe, Dec. 19, 1992, available in LEXIS, World Library, Txtlne File.

23. *Id.*

24. *See EC Parliament Calls on EC Members to Ignore U.S. Law Extending Cuba Embargo*, INT'L TRADE REP., Sept. 22, 1993, at 1573.

25. *Id.*

26. G.A. Res. 19, U.N. GAOR, 47th Sess., Supp. No. 19 at 18, U.N. Doc. A/47/L.20/Rev. 1 (1992).

27. *EC Fails to Agree on Position on Cuban UN Resolution*, Inter Press Service, Nov. 23, 1992, available in LEXIS, News Library, Inpres File.

28. The Trade Minister announced on October 19, 1995 that directions under the Protection of Trading Interest Act, 1980 had been issued to prohibit U.K.-incorporated subsidiaries from complying with the U.S. statute. *US Restricts Foreign Trade with Cuba*, Bus. L. Brief, November, 1992, available LEXIS World Library, BLB File.

the legislation on grounds of its extraterritorial reach.²⁹ The Canadian government considered the Act's extraterritorial reach unacceptably intrusive and harmful to Canadian trading interests.³⁰ Mexico and other Latin American countries also expressed their dissatisfaction with the tightening of the U.S. economic blockade of Cuba.

Upon hearing all the protests from foreign states — and most prominently from the European Community and the U.S.'s NAFTA partners — political figures in the United States were both astonished and incensed. President Bush, who signed the Act, reportedly said, "I'm not going to let others prop up Castro with aid or some sweetheart trade deal."³¹ A concurrent resolution was introduced in Congress in February 1993 calling on the United States to seek U.N. Security Council support for an international embargo against Cuba.³² Representative Robert Torricelli, the sponsor of the Act, was reported to have said: "Every effort was made to see that the embargo has no extraterritorial effect."³³ He added that the new legislation would be applied only against the offices in the United States of foreign subsidiaries of U.S. companies.³⁴

Barely a month after President Bush's signing of the Act, a measure of the international community's disapproval was taken at the U.N. General Assembly. A Cuban sponsored resolution under the agenda item entitled, "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba," was adopted by a vote of 59 to 3 with 71 abstentions.³⁵ The resolution invokes the principles of the U.N. Charter and reaffirms basic principles of co-existence in international law. In particular, the resolution addresses national regulations which have extraterritorial effect and which affect the sovereignty of other countries, the legitimate interests of entities under their jurisdiction, and which also affect freedom of trade and navigation. The resolution's last preambular paragraph specifically refers to such measures which have been adopted recently, "aimed at strengthening and extending the economic,

29. The blocking order was issued October 9, 1992. *Bush Signs Bill that Contains Provision to Strengthen Embargo Against Cuba*, BNA Daily Report for Executives, Oct. 26, 1992, available in LEXIS, News Library, Drexec File.

30. *Id.*

31. *Bush Signs Bill that Tightens Embargo on Cuba*, Reuter European Community Report, Oct. 25, 1992, available in LEXIS, News Library, Reuec File.

32. *International Embargo Against Cuba Urged in Joint Resoluton*, INT'L TRADE REP. 262 (Feb. 17, 1993).

33. *UN Votes Against US on Embargo of Cuba*, CHI. TRIB., Nov. 25, 1992, at 1.

34. *Id.*

35. G.A. Res. 19, *supra* note 26. See the Annex to this article for the text of the resolution.

commercial and financial embargo against Cuba”³⁶

The 1992 U.N. General Assembly resolution calls upon states not to adopt the type of laws and measures described in the preamble and reminds them of their obligations under the U.N. Charter, international law and under conventions on the freedom of trade and navigation. The resolution urges states which have enacted laws or taken other measures to strengthen and extend the embargo against Cuba to adhere to their international obligations and repeal or invalidate such laws or measures.

The restrained tone of the resolution was necessary to attract the votes of many countries which were not particularly sympathetic to the political and economic policies of the Cuban regime, but which were resentful of United States’ assertions of legislative jurisdiction and power over their economic and commercial relations with Cuba. The resolution does not address the question of the legitimacy under international law of the unilateral United States embargo against Cuba. There is no mention of the United States in the body of the resolution, much less any reference to the Act.

Condemnation by the General Assembly of the entire U.S. policy on Cuba would certainly have been preferable from the Cuban government’s point of view. In fact, the title of the General Assembly agenda item under which the resolution was debated and adopted carried the broad scope preferred by Cuba in that it referred to the necessity of ending the specific embargo itself. Nevertheless, the substantive content of the 1992 resolution only addresses the exacerbation of the U.S. embargo and focuses on the extraterritorial nature of the new U.S. legislative measures.

The 1993 and 1994 resolutions of the U.N. General Assembly³⁷ carried the same title, namely, “Necessity of ending the economic, commercial and financial embargo imposed by the United States of America.” These resolutions reflected the strong criticism of the United States for applying its national law to corporations created and operating in other countries (including subsidiaries of U.S. companies) as well as to activities originating outside its territory. In addition, the resolutions also reflected the more general criticism of the embargo itself and its effects on the Cuban people.

The November 3, 1993 Resolution of the U.N. General Assembly³⁸ contains a preambular paragraph which reflects a statement made by the Heads of State and Government at the July 1993, third Ibero-American

36. *Id.* G.A. Res. 16, U.N. GAOR, 48th Sess., Supp. No. 16 at 15, U.N. Doc. A/48/L.14/Rev. 1 (1993), and G.A. Res. 9, U.N. GAOR, 49th Sess., Supp. No. 9 at 8, U.N. Doc. A/49/L. 9 (1994).

37. G.A. Res. 48/16 (1993) and G.A. Res. 49/9 (1994). See the Annex to this article for the text of the resolutions.

38. *Id.* (referring to G.A. Res. 16).

Summit; the statement concerned "the need to eliminate the unilateral application of economic and trade measures by one State against another for political purposes."³⁹ The resolution further reflects the General Assembly's concern "about the adverse effects of those measures on the Cuban population."⁴⁰ The language of the 1993 resolution, as mirrored in the 1992 resolution, urges states to not adopt laws which would strengthen or expand the embargo against Cuba and it "[o]nce again urges States that have such laws or measures to take the necessary steps to repeal or invalidate them in accordance with their legal regime"⁴¹

The General Assembly resolution of October 26, 1994⁴² on the U.S. embargo on Cuba repeats the preambular paragraphs of the 1992 and 1993 resolutions, both of which were specifically invoked, on basic rules of international law. The 1994 resolution refers to statements made by the Heads of State and Government at the 1993 and 1994 Ibero-American Summits, "concerning the need to eliminate the unilateral application of economic and trade measures by one State against another which affect the free flow of international trade."⁴³ Evidently, the 1994 statements of the Heads of State and Government focused on the consequences of politically inspired unilateral application of measures by one country against another. The 1994 resolution also noted Decision 356 of the Twentieth Council of the Latin American Economic System held in Mexico City, in which the ministers "called for the lifting of the economic, commercial and financial embargo against Cuba."⁴⁴

The 1994 General Assembly resolution expresses concern about the adverse effects the embargo's strengthening has had on the Cuban people as well as "on Cuban nationals living in other countries." The operative portions of the resolution reiterate the call on States not to strengthen embargoes and to repeal them where they exist, again without mentioning specific names of States or of measures they have taken.

Neither the United Nations General Assembly nor Latin American regional organizations appear ready to abandon their protests of the U.S. economic embargo on Cuba. However, their protests continue to be somewhat muted because of general disapproval in the international community of the human rights situation in Cuba. Nevertheless, the votes in the General Assembly have moved in the direction of favoring the annual Cuban sponsored resolution. In 1994, 101 U.N. members voted for the

39. *Id.*

40. *Id.*

41. *Id.* at para. 3.

42. G.A. Res. 9, *supra* note 37, at 11.

43. *Id.*

44. *Id.*

Wilner: International Reaction to the Cuban Democracy Act

resolution, 48 countries abstained and only the United States and Israel voted against.⁴⁵ Only half of the members of the OECD abstained, the other half voted in favor. Significantly, both Canada and Mexico voted for the resolution.⁴⁶

The international opposition to the Cuban Democracy Act appears generally united against what is considered an attempt by the United States to impose its will, perhaps its obsession, on the rest of the international community to get rid of the Castro regime by attempting to widen the application of its own punitive economic measures against Cuba. The United States appears to accomplish this when it applies its law to foreign companies operating abroad whose ties with U.S. corporations are economic and not legal. The extraterritorial application of U.S. law is generally resented and particularly so, it appears, by other members of the OECD, many of whom have adopted blocking legislation to stop such application of U.S. law in areas such as antitrust and U.S. export embargoes against particular countries.

There is also wider opposition to the unilateral U.S. policy of economic, financial and political sanctions against Cuba. This opposition is particularly strong in Latin America, but it also extends to Europe. It is widely viewed that economic sanctions can be imposed on a particular country only on the basis of the United Nations Charter provisions, and of Articles 39 and 41 in particular. While many countries do not approve of the political and economic system in Cuba, it is generally conceded that since the collapse of the Soviet Union, Cuba had ceased to pose a threat to the peace as required for sanctions to be imposed under the U.N. Charter.⁴⁷

Nothing appears to have been said on whether the various unilateral United States measures and activities against Cuba, if taken together, can constitute economic aggression and, as such, be condemned by the General Assembly. The concept of economic aggression is not found in the 1974 General Assembly Resolution on the Definition of Aggression⁴⁸ which confines aggression to instances in which armed force is involved. In the context of whether armed force can be used to respond to economic aggression, it has been suggested that the Charter, and the resolution on aggression itself, can be interpreted so as to recognize the concept of economic aggression.⁴⁹

The Cuban Democracy Act is part of a complex set of policies for the United States which are both domestic and international. The lack of

45. *Id.*

46. *Id.*

47. U.N. CHARTER arts. 39, 41.

48. G.A. Res. 3314, U.N. GAOR, 29th Sess., at 1, U.N. Doc. A/3314 (1975).

49. See Tom J. Farer, *Political and Economic Coercion in Contemporary International Law*, 79 AM. J. INT'L L. 405, 410 (1985).

international support, even from close allies, has not appeared to have effected the United States' policy with respect to Cuba. This policy seems to have a rationale of its own and functions without apparent regard for outside views and pressures.

ANNEX
UNITED NATIONS GENERAL ASSEMBLY RESOLUTIONS

47/19 *Necessity of ending the economic, commercial and financial imposed by the United States of America against Cuba*

Date: 24 November 1992

Meeting: 70

Vote: 59-3-71 (recorded)

Draft: A/47L.20/Rev. 1

The General Assembly,

Determined to encourage strict compliance with the purposes and principles enshrined in the Charter of the United Nations,

Reaffirming, among other principles, the sovereign equality of States, non-intervention and non-interference in their internal affairs, freedom of trade and international navigation, which are also enshrined in many international legal instruments,

Concerned by the promulgation and application by Member States of laws and regulations whose extra-territorial effects affect the sovereignty of other States and the legitimate interests of entities or persons under their jurisdiction, and the freedom of trade and navigation,

Having learned of the recent promulgation of measures of that nature aimed at strengthening and extending the economic, commercial and financial embargo against Cuba,

1. *Calls upon* all States to refrain from promulgating and applying laws and measures of the kind referred to in the preamble to this resolution in conformity with their obligations under the Charter of the United Nations and international law, and with the commitments which they have freely entered into in acceding to international legal instruments which, *inter alia*, reaffirm the freedom of trade and navigation;

2. *Urges* States which have such laws or measures to take the necessary steps to repeal or invalidate them as soon as possible in

accordance with their legal regime;

3. *Requests* the Secretary-General to prepare a report on the implementation of this resolution and to submit it for consideration by the General Assembly at its forty-eighth session;

4. *Decides* to include the item in the provisional agenda of the forty-eighth session.

48/16 *Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba*

Date: 3 November 1993

Meeting: 48

Vote: 88-4-57 (recorded)

Draft: A/48L.14Rev.1

The General Assembly,

Determined to encourage strict compliance with the purposes and principles enshrined in the Charter of the United Nations.

Reaffirming, among other principles, the sovereign equality of States, non-intervention and non-interference in their internal affairs and freedom of trade and international navigation, which are also enshrined in many international legal instruments,

Taking note of the statement of the Heads of State and Government at the third Ibero-American Summit, held in Salvador, Brazil, in July 1993, concerning the need to eliminate the unilateral application of economic and trade measures by one State against another for political purposes,

Concerned about the continued promulgation and application by Member States of laws and regulations whose extraterritorial effects affect the sovereignty of other States and the legitimate interests of entities or persons under their jurisdiction, as well as the freedom of trade and navigation,

Recalling its resolution 47/19 of 24 November 1992,

Having learned that, since the adoption of resolution 47/19, further measures of that nature aimed at strengthening and extending the economic, commercial and financial embargo against Cuba have been

promulgated and applied, and concerned about the adverse effects of those measures on the Cuban population,

1. *Takes note* of the report of the Secretary-General on the implementation of resolution 47/19; 24/
2. *Reiterates* its call to all States to refrain from promulgating and applying laws and measures of the kind referred to in the preamble to the present resolution in conformity with their obligations under the Charter of the United Nations and international law which, *inter alia*, reaffirm the freedom of trade and navigation;
3. *Once again urges* States that have such laws or measures to take the necessary steps to repeal or invalidate them as soon as possible in accordance with their legal regime;
4. *Requests* the Secretary-General, in consultation with the organs and agencies of the United Nations system, to prepare a report on the implementation of the present resolution in the light of the purposes and principles of the Charter and international law, and to submit it to the General Assembly at its forty-ninth session;
5. *Decides* to include the item in the provisional agenda of its forty-ninth session.

49/9 *Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba*

Date: 26 October 1994

Meeting: 45

Vote: 101-2-48 (recorded)

Draft: A/49/L.9

The General Assembly,

Determined to encourage strict compliance with the purposes and principles enshrined in the Charter of the United Nations,

Reaffirming, among other principles, the sovereign equality of States, non-intervention and non-interference in their internal affairs and freedom of international trade and navigation which are also enshrined in many international legal instruments,

Recalling the statements of the heads of State and Government at the

third and fourth Ibero-America Summits, held respectively at Salvador, Brazil, in July 1993 and Cartagena, Colombia, in June 1994, concerning the need to eliminate the unilateral application of economic and trade measures by one State against another which affect the free flow of international trade,

Taking note of Decision 356 adopted on 3 June 1994 by the Twentieth Council of the Latin American Economic System, held at the ministerial level at Mexico City, which called for the lifting of the economic, commercial and financial embargo against Cuba,

Concerned about the continued promulgation and application by Member States of laws and regulations whose extraterritorial effects affect the sovereignty of other States and the legitimate interests of entities or persons under their jurisdiction, as well as the freedom of trade and navigation,

Recalling its resolutions 47/19 of 24 November 1992 and 48/16 of 3 November 1993,

Concerned that, since the adoption of its resolutions 47/19 and 48/16, further measures of that nature aimed at strengthening and extending the economic, commercial and financial embargo against Cuba continue to be promulgated and applied, and *concerned also* about the adverse effects of such measures on the Cuban people and on Cuban nationals living in other countries,

1. *Takes note* of the report of the Secretary-General on the implementation of resolution 48/16; 7/
2. *Reiterates its call* to all States to refrain from promulgating and applying laws and measures of the kind referred to in the preamble to the present resolution in conformity with their obligations under the Charter of the United Nations and international law which, *inter alia*, reaffirm freedom of trade and navigation;
3. *Once again urges* States that have and continue to apply such laws and measures to take the necessary steps to repeal or invalidate them as soon as possible in accordance with their legal regime;
4. *Requests* the Secretary-General, in consultation with the appropriate organs and agencies of the United Nations system, to prepare a report on the implementation of the present resolution in the light of the

purposes and principles of the Charter and international law, and to submit it to the General Assembly at its fiftieth session;

5. *Decides* to include this item in the provisional agenda of its fiftieth session.