

ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION



**EXTRATERRITORIAL APPLICATION OF NATIONAL LEGISLATION:
SANCTIONS IMPOSED AGAINST THIRD PARTIES**

Prepared by:

**The AALCO Secretariat
29-C, Rizal Marg,
Diplomatic Enclave,
Chanakyapuri
New Delhi - 110021
(INDIA)**

CONTENTS

	Page Nos
I. Introduction	1-5
A. Background	
B. Deliberations at the Forty-Seventh Annual Session of AALCO (New Delhi (Headquarters) Session, New Delhi, 2008)	
II. AALCO's Work Programme on the Extraterritorial Application of National Legislation: Sanctions Imposed Against Third Parties	5-7
III. Current Developments: Imposition of Sanctions against AALCO Member States	7-9
IV. Consideration of the Resolution on the "Necessity of Ending the Economic, Commercial and Financial Embargo Imposed by the United States of America against Cuba", at the Sixty-Third Session of the United Nations General Assembly	9-14
V. Consideration of the Report submitted by the UN Secretary-General on the "Human Rights and Unilateral Coercive Measures" at the Ninth Session of the UN Human Rights Council	15
VI. Consideration of the Ministerial Declaration Adopted by the Thirty-Second Annual Meeting of the Ministers of Foreign Affairs of Group of 77 (New York, 26 September 2008)	15
VII. Consideration of Aspects related to the Agenda item at the Fifteenth Ministerial Conference of the Non-Aligned Movement held in Tehran, Islamic Republic of Iran held on 29-30 July 2008	16-18
VIII. Comments and Observations of the AALCO Secretariat	19-20
IX. Annexure – Resolution Adopted by the General Assembly on the Agenda Item	21-22
A. Resolution on the "Necessity of Ending the Economic, Commercial and Financial Embargo imposed by the United States of America against Cuba"	

EXTRATERRITORIAL APPLICATION OF NATIONAL LEGISLATION: SANCTIONS IMPOSED AGAINST THIRD PARTIES

I. INTRODUCTION

A. Background

1. The agenda item entitled, “Extraterritorial Application of National Legislation: Sanctions Imposed Against Third Parties” was placed first on the provisional agenda of the Thirty-Sixth Session at Tehran, 1997, following a reference made by the Government of Islamic Republic of Iran.

2. Thereafter the item had been considered at the successive sessions of the Organization.¹ It was considered as a deliberated agenda item at the Forty-Seventh Session of the Organization (New Delhi (HQ), 2008) and a resolution RES/47/S 6² was adopted at the Session which directed the Secretariat “to continue to study legal implications related to the Extraterritorial Application of National Legislation: Sanctions Imposed against Third Parties and the executive orders imposing sanctions against target States”. The Resolution also urged upon Member States to provide relevant information and materials to the Secretariat relating to national legislation and related information on this subject.

3. The Secretariat in preparation of the study on this agenda item relies largely upon the materials and other relevant information furnished by the AALCO Member States. Such information provides useful inputs and facilitates the Secretariat in examining and drawing appropriate conclusions on the impact and legality of such extraterritorial application of national legislation, with special reference to sanctions imposed against third parties. The Secretariat acknowledges with gratitude the comments and observations in this regard received from the State of Kuwait, Republic of Korea, Republic of Mauritius and Japan.³ In this regard, the Secretariat reiterates its request to the Member States to provide it with relevant legislation and other related information on this topic.

¹ It was considered last at the Forty-Seventh Session (HQ, New Delhi, 2008) of the Organization as a deliberated item.

² For the full text of Resolution see AALCO, Report of the Forty-Seventh Session (30 June-4 July 2008, New Delhi (HQ), India).

³ The text of the views and comments received from these Member States have been reproduced in the Secretariat doc. AALCO/45/HEADQUARTERS SESSION (NEW DELHI)/2006/SD/S 6 and Yearbook of AALCO, Vol. III (2005), pp. 802-807.

B. Deliberations at the Forty-Seventh Annual Session of AALCO (30 June-4 July 2008, (HQ), New Delhi)

4. At the Forty-Third Session, held in Bali, Republic of Indonesia (2004) this item was considered as a deliberated agenda item while at the Forty-Fourth Session, held in Nairobi, Republic of Kenya (2005), Forty-Fifth Golden Jubilee Session (New Delhi, India, 2006), and at the Forty-Sixth Session (Cape Town, Republic of South Africa, 2007) the item was considered as a non-deliberated one. In the Forty-Seventh Session (New Delhi (HQ), India, 2008), the agenda item was deliberated at the Session and mandated the Organization to continue to study the legal implications of extraterritorial application of national legislation: sanctions imposed against third parties.

5. At the Forty-Seventh Session 2008 held at the Headquarters (New Delhi, 2008), during the deliberations of the agenda item, a delegation expressed that in an era of rapid and unprecedented changes, the world needed peace, security and stability, which could be strengthened through the collective responsibility of countries and also through, *inter alia*, respect for sovereignty, rejection of interference in the internal affairs of other States, refraining from compulsion and intimidation, as well as the creation of an enabling environment for replacing conflict and unequal relations with dialogue and negotiations. Further, his delegation was of the view that the unilateral sanctions and extraterritorial measures against other countries were not admissible under international law and flagrantly constituted a direct interference with the ability of the third States to cooperate with others and carried out their foreign trade. From legal point of view, that delegation noted that, it violated various principles of international law, *inter alia*, non-interference in internal affairs, sovereign equality, freedom of trade, and peaceful settlement of disputes, and presented a serious threat to world peace and security. This fact had been repeatedly reflected in the numerous resolutions of the different organs of the international community, particularly in the resolutions adopted by the UN General Assembly and ECOSOC.

6. The delegation further highlighted that the unilateral sanctions were in contradiction with the Charter of the United Nations. Article 2, Paragraph 4 obliges all UN Members to refrain in their international relations from the threat or use of force. The notion of "force" encompassed all aspects including military, economic forces and other forms. His country was of the view that such coercive measures had a serious adverse impact on the overall economic, commercial, political, social and cultural life of the targeted countries.

7. Another delegation stated that her country strongly rejected and refused any form of extraterritorial application of any kind of national legislation, either in the form of legislative acts or executive orders, whose effect had an impact on the sovereignty of other States and the legitimate interest of their entities and individuals in violation of norms of international law. Promulgation of domestic laws having extraterritorial effect could violate the core principles of territorial sovereignty and political integrity and therefore constituted a violation of cardinal principles of international law.

8. Her delegation observed that in international community, State was the highest source of authority. Thus, States were sovereign, equal and have the same rights and obligations in international community. This principle was clearly enshrined in Article 2 paragraph (1) of the Charter of the United Nations.

9. Against the backdrop, her delegation maintained the position that the promulgation or application by any State of any law affecting the sovereignty of other States should be rejected. Apart from violating the principle of sovereignty and territorial integrity, the exercise of the extraterritorial application of national legislation could pose a serious challenge to the efforts of the international community to establish an equitable, multilateral, non-discriminatory, rule-based trading system and questioned the very basis of the primacy of international law.

10. Therefore, her country was of the view that the use of unilateral coercive economic measures adversely affected the economy and development efforts of developing countries in particular and had a general negative impact on international economic cooperation and on worldwide efforts to move towards a non-discriminatory and open multilateral trading system.

11. Another delegation stated that the continued extraterritorial application of national legislation by certain countries as well as unilateral imposition of targeted sanctions against sovereign foreign nations and their citizens seriously undermined the primacy of the rule of law in the governance of inter-state relations. Such actions were also a blatant disregard of the strictures of the Charter of the United Nations and international law and ignored the repeated condemnation of the UN General Assembly through its resolutions.

12. It was also emphasized that the extraterritorial measures disregard agreed dispute settlement mechanisms, be it for the maintenance of international peace and security as enshrined in Chapter VII of the Charter of the UN, or for trade and economic purposes in the World Trade Organization ('WTO') Agreements. In that regard, the humanitarian hardships of innocent civilians caused by unilateral targeted sanctions, by executive orders or otherwise should also not be forgotten.

13. One delegation stated that all countries should develop friendly relations on the basis of the UN Charter and equality, and all countries have the right to make independent decisions on its political, economic and social system and development path. His country always stood for resolving international conflicts through dialogue and cooperation, and opposed all forms of hegemony and power politics and any move of imposing sanctions against others by abusing domestic legislation.

14. Another delegation stated that the issue had been drawing growing concern of the international community daily due to the negative nature, consequences and the number of countries suffering had increased.

15. The delegation drew the attention that application of unilateral sanctions by the individual country to other countries brought serious negative consequences in their

efforts to establish an equitable international order and to international peace and security. Therefore, he emphasized that it was imperative and urgent to find a legal mechanism that could check, question and ask accountability for all forms of sanctions and executive orders imposed by an individual country applying its national legislation to the third parties especially to other countries.

16. Another delegation explained that his country considered that the economic policy of the United States toward Cuba was a matter of bilateral nature. However, his country shared concerns that the two US legislations enacted in 1996 and 1992 respectively could cause the extraterritorial application of domestic law, not allowed under international law, in the event that they affect the economic activities of the companies and nationals of third countries. From that standpoint, his country had consistently voted in favor of the UN General Assembly resolutions which took up such concerns. On the other hand, his country had also a deep interest in the situation relating to human rights and democracy in Cuba and appealed to find the ways to improve the situation.

17. One delegation stated that his country had been experiencing this problem as a target State. All those sanctions and the executive orders were not only illegal and contrary to international law but also pre-empted by federal legislations. He further explained that under the foreign commerce clause of the Constitution of the United States, which constituted an impermissible intrusion into an area reserved for the federal government, and these local measures were an impermissible usurpation of federal authority under the Supremacy Clause of the Constitution of the United States of America.

18. Thus, his delegation was of the belief that the agenda should be studied not only in the area of international law but also with the constitutional law approach, because these laws were local measures which has effects on the sovereignty of other States by USA. Therefore, the delegate emphasized to study the agenda item following a Constitutional law approach.

19. Another delegation observed that any imposition of sanctions should be done in accordance with the rule of law as well as the principles of the Charter of the United Nations. Such sanctions should be used only when all other remedies as provided for in the Charter have been exhausted, and no other option existed for bringing a recalcitrant State into line. In the imposition of sanctions, proper care should be taken that they should be reasonable and proportionate and not unfairly prejudicial in their scope, and should be lifted as soon as the objectives were achieved. They should be non-selective with a clear purpose and targeted to mitigate their humanitarian effects. Furthermore, care must be taken to ensure that sanctions does not cripple the economy and infrastructure thus precipitating poverty, bearing in mind the debilitating effect sanctions had on the most vulnerable of communities and people within a society.

II. AALCO'S WORK PROGRAMME ON THE EXTRATERRITORIAL APPLICATION OF NATIONAL LEGISLATION: SANCTIONS IMPOSED AGAINST THIRD PARTIES

20. The Government of Islamic Republic of Iran while referring the item submitted an Explanatory Note that enumerated four major reasons for the inclusion of this item on the agenda of the AALCO, namely: (i) that the limits of the exception to the principle of extraterritorial jurisdiction was not well established; (ii) that the practice of States indicates that they oppose the extraterritorial application of national legislation; (iii) that extraterritorial measures violate a number of principles of international law; and (iv) that extraterritorial measures affect trade and economic cooperation between developed and developing countries and also interrupt cooperation among developing countries. The Explanatory Note had furthermore *inter alia* requested the AALCO “to carry out an indepth study concerning the legality of such unilateral measures, taking into consideration the positions and reactions of various governments, including the positions of its Member States”.

21. Accordingly, a preliminary study prepared by the Secretariat was considered at the Thirty-Sixth Session (Tehran, 1997) of the AALCO which had pointed out that in the claims and counter claims that arose in exercise of extraterritorial jurisdiction involved the following principles: (i) principles concerning jurisdiction; (ii) sovereignty-in-particular economic sovereignty – and non-interference in internal affairs of a State; (iii) genuine or substantial link between the State and the activity regulated; (iv) public policy and national interest; (v) lack of agreed prohibitions restricting State's right to extend its jurisdiction; (vi) reciprocity or retaliation; and (vii) promoting respect for rule of law.

22. Notwithstanding the national interests of the enacting State, grave concern had been expressed on the promulgation and application of national legislation whose extraterritorial aspects affect the sovereignty of other States.

23. The preliminary study had pointed out that while a growing number of other States had applied their national laws and regulations on extraterritorial basis, fora such as the General Assembly of the United Nations, the Group of 77, the Organization of Islamic Conference, the Inter-American Juridical Organization and the European Economic Community, had, in various ways expressed concern about promulgation and application of laws with extraterritorial effects, as they affected sovereignty of other States, the legitimate interests of entities and persons under their jurisdiction and the freedom of trade and navigation. Further, the preliminary study apart from referring to some recent instances of extraterritorial application of national laws (without resolving the other questions, including the question of economic counter measures), had furnished an overview of the limits imposed by international law on the extraterritorial application of national laws, and *inter alia* spelt out the response of the international community to such actions. The study also drew attention to the opinion of such bodies, as the Inter-American Juridical Organization, the juridical body of the Organization of American States⁴ and the International Chamber of Commerce.⁵

⁴ For details see International Legal Materials, Vol. 35 (1996), p. 1322.

24. The Secretariat study had also shown that the topic touched upon the political, legal, economic and trade aspects of inter-state relations. It recalled in this regard that the AALCO Secretariat study on the “Elements of Legal Instruments on Friendly and Good-Neighbourly Relations Between the States of Asia, Africa and the Pacific” had *inter alia* listed 34 norms and principles of international law, conducive to the promotion of friendly and good neighbourly relations. Some of these principles enumerated *inter alia* were: (i) independence and state sovereignty; (ii) territorial integrity and inviolability of frontiers; (iii) legal equality of States; (iv) non-intervention, overt or covert; (v) non-use of force; (vi) peaceful settlement of disputes; (vii) peaceful coexistence; and (viii) mutual cooperation.⁶

25. The Secretariat study had pointed out that the UN Declaration on the Establishment of a New International Economic Order⁷ and the Programme of Action on the Establishment of a New International Economic Order⁸ adopted by the Sixth Special Session of the General Assembly, the Charter of Economic Rights and Duties of States, 1974⁹, the United Nations Convention on the Law of the Sea, 1982 and several other international instruments retain many of the traditional aspects of sovereignty. These instruments also reaffirmed principles of economic sovereignty wherein rights and interests of States in the permanent sovereignty of their natural resources would be protected.

26. The study had submitted that it might, perhaps, be necessary to delimit the scope of inquiry into the issue of extraterritorial application of national legislation in determining the parameters of the future work of the Organization on this item. It had asked for consideration to be given to the question, as to whether it should be a broad survey of questions of extraterritorial application of municipal legislation examining the relationship and limits between the public and private international law on the one hand, and the interplay between international law and municipal law on the other. It had recalled in this regard that, at the forty-fourth Session of the International Law Commission (1992), the Planning Group of the Enlarged Bureau of the Commission had established a working group on the long-term programme to consider topics to be recommended to the An outline on the topic “Extraterritorial Application of National Legislation” prepared by a Member of the Commission had *inter alia* suggested, “it appears quite clear that a study of the subject of Extraterritorial Application of National Laws by the International Law Commission would be important and timely. There is an ample body of State practice, case law, national study on international treaties, and a variety of scholarly studies and suggestions. Such a study could be free of any ideological

⁵ Dieter Lange and Gary Borne (eds.), *The Extraterritorial Application of National Laws* (ICC Publishing S.A. 1987).

⁶ The Secretariat Study on “Elements of a Legal Instrument on Friendly and Good Neighbourly Relations Between States of Asia, Africa and the Pacific” was prepared in 1987 and is reprinted in AALCC Combined Reports of the Twenty-Sixth to Thirtieth Sessions (New Delhi, 1992), p. 192.

⁷ Resolution 3201 of May 1, 1974, Sixth Special Session.

⁸ Resolution 3202 of May 1, 1974, Sixth Special Session.

⁹ Resolution 3281, 29th Session.

overtones and may be welcomed by States of all persuasions.¹⁰ However, this topic has not till date been taken up by the International Law Commission.

27. The Secretariat study had proposed that in determining the scope of the future work on this subject, the Organization should bear in mind the request of the Government of the Islamic Republic of Iran to carry out a comprehensive study concerning the legality of such unilateral measures¹¹ i.e. sanctions imposed against third Parties, “taking into consideration the position and reactions of various governments, including the position of its Member States”. The study also proposed that in considering the future work of the Secretariat on this item, Member States could consider sharing their experiences with the Secretariat on this matter.

28. The agenda item had been considered at the Thirty-Sixth (Tehran, 1997); Thirty-Seventh (New Delhi, 1998); Thirty-Eighth (Accra, 1999); Thirty-Ninth (Cairo, 2000); Fortieth (HQ, 2001); Forty-First (Abuja, 2002); Forty-Third (Bali, 2004) and Forty-Seventh (New Delhi (HQ), 2008) Annual Sessions of the Organization. The essence of the discussions at the successive Sessions was that the promulgation of extraterritorial measures was violative of the core principles of territorial integrity and political independence enshrined in the UN Charter. It therefore hindered peaceful and economic relation between States.

III. CURRENT DEVELOPMENTS: IMPOSITION OF SANCTIONS AGAINST AALCO MEMBER STATES

29. This section of the report covers the recent sanctions imposed against the AALCO Member States between the Forty-Seventh (2008) Session and Forty-Eighth (2009) Session.

A. Imposition of Sanctions against Myanmar by the United States of America

30. It may be recalled that the United States of America first imposed the sanctions against Myanmar in September 1996 by issuing an Executive Order 13047 on 20 May 1997, certifying under the authority of the Foreign Operations, Export Financing, and Related Programs Act, 1997 and the International Emergency Economic Powers Act. This Executive Order prohibits “U.S. persons” from making new investments in Myanmar and facilitation of new investment in Myanmar by foreign persons.

31. On July 29, 2008, the President of the United States of America signed in to law, the Tom Lantos Block Burmese JADE (Junta’s Anti-Democratic Efforts) Act of 2008 (Public Law 110-286) (JADE Act) which, among other things, imposes mandatory blocking sanctions on certain categories of persons enumerated in the JADE Act (as

¹⁰ See A/CN.4/454, p.71.

¹¹ For Details of the Secretariat Study, AALCO: Report of the Seminar on the Extra-Territorial Application of National Legislation: Sanctions Imposed Against Third Parties, Tehran, Islamic Republic of Iran, 25-26 January 1998.

described in the next section), prohibits the importation of jadeite and rubies mined or extracted from Myanmar (and of articles of jewelry containing such jadeite and rubies), and establishes conditions for the importation of jadeite and rubies mined or extracted from a country other than Myanmar (and of articles of jewelry containing such jadeite and rubies).¹²

B. Imposition of Banking Sanctions against the Islamic Republic of Iran by the United States of America

32. On November 10, 2008, the U.S. Treasury Department amended the Iranian Transactions Regulations (ITR), by strengthening the U.S. embargo against Iran by prohibiting U.S. financial institutions from engaging in “U-turn” transactions. U-turn transactions are U.S. dollar transactions involving Iran that are cleared through a U.S. bank. This amendment is intended to prohibit transfers designed to “dollarize” transactions through the U.S. financial system for the direct or indirect benefit of Iranian banks or other persons in Iran or the Government of Iran.¹³

33. Prior to this amendment, Section 560.516 of the ITR authorized U.S. depository institutions to process transfers of funds to or from Iran, or for the direct or indirect benefit of persons in Iran or the Government of Iran, if (a) the transaction did not involve the debiting or crediting of an Iranian account (that is, an account of a person located in Iran, or of the Government of Iran maintained on the books of a United States depository institution), (b) the transaction did not involve a person or entity identified by OFAC as a Specially Designated National or Blocked Person; and (c) each of the originating and beneficiary banks of the transaction were third-country banks.

34. According to the Regulations, Criminal penalties for violations of the Iranian Transactions Regulations may result in a fine up to \$1,000,000, and natural persons may be imprisoned for up to 20 years. Civil penalties, which are not to exceed the greater of \$250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed may also be imposed administratively.

C. Termination of a part of Economic Sanctions against Democratic People’s Republic of Korea by the United States of America

35. It may be recalled that in the year 1950, the United States of America imposed restrictive regulation under Trading with the Enemy Act against Democratic People’s Republic of Korea.

36. On 26 June 2008, the U.S. President signed Proclamation 8271, terminating the application of the Trading with the Enemy Act (“TWEA”) with respect to North Korea, effective on 27 June 2008.¹⁴ The Foreign Assets Control Regulations, to the extent they were promulgated under TWEA authority, are therefore no longer in force with respect to

¹² <http://www.ustreas.gov/offices/enforcement/ofac/programs/burma/burma.pdf>

¹³ <http://www.ustreas.gov/offices/enforcement/ofac/programs/iran/iran.pdf>

¹⁴ <http://www.ustreas.gov/offices/enforcement/ofac/programs/nkorea/nkorea.pdf>

North Korea. This action is largely symbolic, as most of TWEA-based sanctions were lifted in 2000.

37. The termination of the application of TWEA removed the requirement for licenses on all imports from the DPRK, but certain imports continued to be banned under other legal authorities.

IV. CONSIDERATION OF THE RESOLUTION ON THE “NECESSITY OF ENDING THE ECONOMIC, COMMERCIAL AND FINANCIAL EMBARGO IMPOSED BY THE UNITED STATES OF AMERICA AGAINST CUBA”, AT THE SIXTY-SECOND SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY

38. On 29 October 2008, the General Assembly voted overwhelmingly in favour of ending the 46 year old United States economic, trade embargo against Cuba, marked the seventeenth year in a row that the 192 Member body, the UN has urged the lifting of the stiff sanctions imposed on the Caribbean island in 1962.¹⁵ The draft resolution was submitted by Cuba and it was adopted by a recorded vote of 185 in favour to 3 against with 2 abstentions.¹⁶

39. The Assembly adopted the resolution expressing its concern at the continued promulgation and application by Member States of laws and regulations, such as that promulgated on 12 March 1996 known as the “Helms-Burton Act”, the extraterritorial effects of which affect the sovereignty of other States, the legitimate interests of entities or persons under their jurisdiction and the freedom of trade and navigation,

40. Further, the resolution urging an end to the trade embargo on Cuba, which, among other things, called on all States to refrain from promulgating laws in breach of freedom of trade and navigation, and urged Governments that had such laws and measures to repeal, or invalidate them. It also requested the Secretary-General to report on the text’s implementation at the Assembly’s next session.

A. Statements of AALCO Member States:

41. The delegation of the **Arab Republic of Egypt**, speaking on behalf of the **Non-Aligned Movement**, said his delegation stood against the embargo against Cuba, and did not support the recognition, adoption or implementation of such extraterritorial or unilateral coercive measures or laws. Such measures included unilateral economic sanctions, arbitrary travel restrictions and other “intimidating” measures, which sought to pressure Non-Aligned Countries by threatening their sovereignty and independence, freedom of trade, and right to decide on their own political, economic and social systems.

¹⁵ UN Press Release, “For Seventeenth Consecutive Year, General Assembly Overwhelmingly Calls for End to United States Economic, Trade Embargo Against Cuba”, GA/10772 dated 29 October 2008.

¹⁶ A/RES/63/7 dated 11 December 2008.

42. Because such measures or laws were “flagrant violations” of the Charter, international law and the multilateral trading system, the Non-Aligned Movement opposed and condemned those measures and their continued application. Therefore, he urged other States to take action to reverse or fully revoke such laws.

43. Stating continued imposition of such laws hindering the well-being of the Cuban population and its full realization of their human rights, he supported the claim of affected States to compensation for damages of such measures. He also called on the United States Government to end the economic, commercial and financial embargo, since it was a unilateral action taken against international law, the United Nations Charter and the principle of “neighbourliness”, which has caused substantial material losses and economic damages.

44. He also expressed concern about the widening of the extraterritorial nature of the embargo against Cuba, and rejected the reinforcement of such measures aiming to tighten the embargo. In conclusion, he called for strict compliance with various General Assembly resolutions related to the embargo.

45. The delegation of the **Republic of Sudan** stressed that the Assembly was debating the embargo against Cuba, and said there was a growing awareness in the international community that such unilateral measures and other “unjustifiable” sanctions must be rejected. Noting the long-standing suffering of the Cuban people, which cries out to the international community for actions against “unfair” sanctions which threaten international legitimacy, he said that such unilateral measures severely impacted people by depriving them of basic needs.

46. Further, as a country also suffering from the impact of the embargo, and on behalf of other States adversely affected, Sudan expressed full solidarity with Cuba and called on all States to stand “against this policy of hegemony”. He also urged the international community to reaffirm the Charter’s humanitarian principles by rejecting the embargo and similar unilateral measures. Such repudiation would send an important message about the international community’s attitude towards the unjust use of force.

47. The delegation of the **Republic of South Africa** said that the year 2009 would mark the fiftieth anniversary of the Cuban revolution. Yet, three years after that victory, Cuba was hit by a commercial, economic and financial embargo imposed by the United States; meaning that Cubans had known no life other than one under coercive measures. Throughout the unilateral embargo, Cubans had responded by “extending a hand of friendship” to other peoples around the world, and it was not unusual to find Cuban doctors and nurses throughout Latin America, he said.

48. Cuba’s work in the areas of health, education and biotechnology was internationally recognized, and through bilateral cooperation projects, Cuba had assisted developing countries, including his own, in addressing skills shortages. More importantly, Cuba had supported struggles for freedom around the world, and Southern Africa recognized Cuba’s contribution to the sub region. Cuba’s role in South Africa’s

own liberation history had been recognized this year in celebration of the anniversary of the battle of Cuito Cuanavale, a decisive turning point in the struggle against apartheid.

49. South Africa consistently opposed all aspects of the embargo, he said, explaining that his country was committed to working towards a better world for all. Achievement of peaceful coexistence among nations required adherence by all to the rule of law and respect for territorial integrity. South Africa had repeatedly expressed its opposition to all aspects of the embargo and believed that constructive dialogue could foster mutual trust. Expressing South Africa's firm opposition to coercive economic measures as a means of exerting pressure on developing countries, he said his delegation would join the majority in supporting the draft resolution, as such a "relentless and unilateral action" had caused untold suffering to Cubans.

50. The delegation of the **People's Republic of China** said that the embargo had an extensive impact on Cuba, particularly by compromising the right to survival and development of vulnerable groups, such as women and children, which had, in turn, evoked "broad sympathy" and drawn equally broad attention to the matter.

51. Though the Assembly had adopted a resolution annually for the past 16 years, by an overwhelming majority, to repeal or invalidate all laws and measures with extraterritorial effect compromising the sovereignty of other States and affecting their freedom of trade and navigation, he said the long-term economic, commercial and financial embargo against Cuba still remained in place. Here, he stressed the importance of dialogue, communication and harmonious coexistence as the mainstream of international relations, along with mutual respect and equality among countries.

52. Not only did it harm the interests of Cuba and other affected countries, the embargo also contravened the principles of democracy, freedom, the rule of law and human rights. Attempting to force another country to give up its right to decide its path of development — even to "overthrow its Government" — constituted a serious violation of the purposes of the Charter. The extraterritorial nature of the sanctions violated international law, as well as the principle of trade liberalization. The measures also stood in the way of the Cuban people in achieving their Millennium Development Goals, in areas such as the eradication of poverty, improvement of living standards, and pursuit of economic and social development.

53. He also highlighted the worsening problems of hunger and malnutrition, resulting from the current global food crisis, which made the embargo and sanctions more "unreasonable" than ever. In closing, he said, the Chinese Government supported the resolution submitted by Cuba, and requested the ending of the embargo at an early date, through dialogue versus confrontation, and engagement and exchanges in lieu of the sanctions.

54. The delegation of the **Islamic Republic of Iran** said that the resolution, supported by 184 votes last year, clearly reflected the global community's position on the United States' embargo against Cuba. The embargo ran counter to principles of international

law governing States' relations and the spirit of the Charter, which called for friendly relations among nations. Such measures adversely impacted Cubans' human rights, and hampered Government efforts to achieve the Millennium Development Goals and therefore, to eradicate poverty and promote health.

55. Citing paragraphs 101 and 102 of the 2002 Johannesburg Plan of Implementation to support an open global economic system, he said resorting to unjustifiable coercive measures against other States on the basis of "political observations" was not acceptable. The extraterritorial application of such internal laws as the Helms-Burton Act created an "antagonistic environment" and affected world security. The blockade violated internationally agreed principles, such as non-intervention in internal affairs, and his delegation had repeatedly stressed that such coercive policies be regarded as major impediments to pursuing common interests. The Assembly's adoption of 17 resolutions was a wise reaction to such unacceptable measures. In closing, he sincerely hoped that States that continued to apply unilateral coercive measures would take steps to repeal them at the earliest opportunity.

56. The delegation of **India** noted that though it was the seventeenth year the General Assembly was debating the 46-year-old economic, commercial and financial embargo imposed on Cuba, its resolutions on the matter remained unimplemented in contravention of world opinion, and the embargo, particularly its extraterritorial aspects, continued to remain in force. In particular, he said, domestic United States laws such as the Cuba Democracy Act of 1992 and the Helms-Burton Act of 1996 had enhanced the extraterritorial reach of the embargo, encompassing foreign companies, as well as foreign subsidiaries of United States companies doing business with Cuba or Cuban entities.

57. India backed the international community's categorical rejection of such domestic laws, which had extraterritorial impact, because they adversely affected the Cuban people and the country's development efforts. Further, the embargo seriously affected the implementation of the United Nations projects and programmes in Cuba, including travel of United Nations staff.

58. Despite the embargo, the United States continued to be a major source of imports for Cuba, insofar as permitted by the United States Trade Sanctions Reform and Export Enhancement Act of 2000, he observed. That only served to confirm the potential for trade, commerce and investment between the two countries. The embargo also had significant detrimental impact on United States trade and business opportunities, he said, adding that various efforts in the United States to relax or lift the ban indicated the substantial interest, particularly in the business sector, for unhindered access to the Cuban market or contact with the Caribbean island nation.

59. The delegation of the **United Republic of Tanzania**, said that the Assembly had, for years, called for an end to the embargo against Cuba, and today, for the seventeenth time, his country would join others to appeal for its lifting. Aligning himself with the Group of 77 developing countries and China, and the Non-Aligned Movement, he said

the Secretary-General's report clearly showed that the global community did not support the embargo against Cuba.

60. He was seriously concerned at the embargo's effects on the economic, social and human development of Cuba, particularly as it impacted the most vulnerable groups, who had also suffered most from the devastating recent hurricanes Gustav and Ike. Further, he was seriously concerned about the measure's impact on United Nations projects in Cuba, particularly at a time when the world sought to achieve the Millennium Development Goals. Ending the embargo should be seen on moral and humanitarian grounds, as it would help alleviate suffering, and promote development, peace and security.

61. Further, "the Assembly cannot afford to remain indifferent to the people of Cuba," he stressed, explaining that there was a need for dialogue between the United States and Cuba. In addition, approaches, other than passing resolutions, should be explored to end the embargo. In closing, he reiterated his country's sympathy with Cuba, and would join others in calling for an end to the embargo.

On the Action on Draft Resolution

62. The delegation of **Indonesia** recognized the importance of adopting the draft resolution, and aligned herself with the Group of 77 developing countries and China, and the Non-Aligned Movement. Indonesia had voted in favour of the draft resolution, and strongly believed that actions outlined in the draft ran counter to the Charter principles, and the rights to life, well-being and development. Fully agreeing with the global community on the issue, she urged an end to the economic, commercial and financial embargo against Cuba.

63. Next, the delegation of Myanmar, recalling the Five Principles of Peaceful Coexistence; a cornerstone of Myanmar's foreign policy; said it was his country's belief that peace, security and stability could be promoted only through mutual respect, peaceful coexistence and non-interference in the internal affairs of other countries. The Cuban embargo, which went against the purposes and principles of the United Nations Charter, also violated the fundamental principle of sovereignty, equality and the rights of all nations to development, as well as international law.

64. He called on the United States to heed the call from the international community and immediately end its embargo against Cuba. As the unilateral measures did not promote peace and stability in the region, and had severe negative impacts on the social, political and economic development of the Cuban people, Myanmar had voted in favour of the resolution calling for the embargo's end.

65. The delegation of **Syrian Arab Republic** said that, despite the Assembly's past appeals over 16 years, the United States had not taken any measures to meet its wishes. It had persisted in its "erroneous position", and had introduced new measures to

tighten the blockade against the sovereign State of Cuba, in direct threat to regional stability.

66. He called for ending “antagonistic American policies against its neighbours”, and an end to all forms of blockades imposed by the United States, both against Cuba, and his own country. As such, he had voted in favour of the resolution. It was striking to note Israel’s anomalous vote against the overwhelming majority, which included it in an isolated minority of the global community.

67. Consecutive American policies had violated international law, he said, and history would not “turn a blind eye” to the military invasion of States, the changing of Governments by force, the arming of aggressors and the imposition of unjust blockades. The question was: were such erroneous American practices in line with the noble principles of the United States’ founding fathers, including Abraham Lincoln? That answer could only be given by American officials.

68. The delegation of **Uganda** said that his country opposed the embargo and had consistently voted in favour of the resolution. The embargo was unjustified and had had an adverse impact on the Cuban people for far too long. Uganda did not support unilateral measures with extraterritorial application, which it believed were inconsistent with the United Nations Charter, international law and humanitarian law.

69. The delegation of the **Antigua and Barbuda**, speaking on behalf of the “**Group of 77**” developing countries and **China**, said that his delegation had repeatedly condemned the use of coercive measures preventing countries from deciding their own economic, political and social systems. He called on all nations to not recognize unilateral extraterritorial laws that imposed sanctions on other States and foreign companies.

70. The Group of 77 also recognized that the embargo continued to cause economic and financial damage against Cubans, and reiterated its call for the United States to end the measures. The promulgation of such acts undermined the United Nations Charter and international law, and severely threatened the freedom of trade and investment. He urged the United States to effect change with Cuba by ending the embargo.

71. His delegation was committed to working towards a better world, in which all nations would coexist peacefully, he said, which required adherence to the rule of law, including international law. The embargo contravened international law, international humanitarian law and the norms governing peaceful State relations.

72. The replacement of the embargo with diplomatic dialogue and cooperation would promote meaningful exchange among countries. As the embargo had impacted lives of Cubans, the overwhelming majority of States were here today to end the embargo. In closing, he said the Group of 77 would again support the resolution.

V. CONSIDERATION OF THE REPORT SUBMITTED BY THE UN SECRETARY-GENERAL ON THE “HUMAN RIGHTS AND UNILATERAL COERCIVE MEASURES” AT THE NINTH SESSION OF THE UN HUMAN RIGHTS COUNCIL

73. The United Nations Secretary-General submitted a report in accordance with Human Rights Council resolution 6/7, in which the Council requested the Secretary-General to seek the views and information of Member States on the implications and negative effects of unilateral coercive measures on their populations and to report thereon to the Council.¹⁷

74. In pursuant to the resolution, on 15 April 2008, the Secretary-General had sent a note verbale to Member States seeking their views and information. As at 30 June 2008, the Office of the United Nations High Commissioner for Human Rights had received responses, from the Governments of Albania, Algeria, Belarus, Cuba, Ecuador, Iraq and Venezuela (Bolivarian Republic of).

75. One of the Member States of AALCO, the Government of Iraq reported that it had not taken any unilateral coercive measures against other States that might have a negative impact on the right to life, development and food. The Government further stated that unilateral coercive measures can reach a point where affected States declare war or take preventive economic measures.

VI. CONSIDERATION OF THE MINISTERIAL DECLARATION ADOPTED BY THE THIRTY-SECOND ANNUAL MEETING OF THE MINISTERS OF FOREIGN AFFAIRS OF GROUP OF 77 (NEW YORK, 26 SEPTEMBER 2008)

76. The Ministers of Foreign Affairs of the Group of 77 and China met in New York, at the United Nations Headquarters, on 26 September 2008 on the occasion of their Thirty-second Annual Meeting. The Ministers reviewed the progress of the world economy and the challenges in economic development and social progress of developing countries, and adopted a Declaration.

77. The Ministers, after reviewing the world economic situation, recognized that while some developing countries are making progress, a majority of countries are still confronted by many shared and common problems and great challenges. The international community is challenged by multiple inter-related and mutually reinforcing crises, driven significantly by a severely unbalanced international economic system including a global food crisis, a financial crisis, an energy crisis, a climate crisis and environment crisis as well as a crisis of confidence in some international institutions.

78. The Ministers firmly rejected the imposition of laws and regulations with extraterritorial impact and all other forms of coercive economic measures, including

¹⁷ A/HRC/9/2 dated 17 July 2008.

unilateral sanctions against developing countries, and reiterated the urgent need to eliminate them immediately. They emphasized that such actions not only undermine the principles enshrined in the Charter of the United Nations and international law, but also severely threaten the freedom of trade and investment. They, therefore, called on the international community neither to recognize these measures nor apply them.¹⁸

VII. CONSIDERATION OF ASPECTS RELATED TO THE AGENDA ITEM AT THE FIFTEENTH MINISTERIAL CONFERENCE OF THE NON-ALIGNED MOVEMENT HELD IN TEHRAN, ISLAMIC REPUBLIC OF IRAN HELD ON 29-30 JULY 2008

79. The Fifteenth Ministerial Conference of the Non-Aligned Movement (NAM), entitled "Solidarity for peace and justice", was held in Tehran, the Islamic Republic of Iran, on 29-30 July 2008. The Ministers of the Movement of Non-Aligned Countries reviewed the progress and implementation of the Plan of Action adopted at the 14th Conference of Heads of States or Governments of the Non-Aligned Movement held 15-16 September 2006 in Havana, Cuba. The Ministers reaffirmed and underscored the Movement's abiding faith in and strong commitment to its Founding Principles, ideals and purposes, particularly in establishing a peaceful and prosperous world, a just and equitable world order as well as to the purposes and principles enshrined in the United Nations Charter.

80. The Bureau of the Conference constituted by most of the AALCO Member States and they were: The Chairman (**Islamic Republic of Iran**); Vice-Chairpersons (Africa: Algeria, **Gambia, Libyan Arab Jamahiriya**, Morocco, Namibia, **Nigeria, South Africa** and **Sudan**) and Asia: Afghanistan, **Bangladesh, Iraq, Myanmar**, the Philippines, **Sri Lanka and Syrian Arab Republic**); Rapporteur-General: **Somalia**.

81. The Ministers reaffirmed and underscored the continued relevance and validity of the Movement's principled positions concerning international law,¹⁹ as follows:

82. The Ministers reemphasized that the purposes and principles of the UN Charter and the principles of international law are indispensable in preserving and promoting peace and security, the rule of law, economic development and social progress, and human rights for all. In this context, UN Member States should renew their commitment to defend, preserve and promote the UN Charter and international law, with the aim of making further progress to achieving full respect for international law; and

83. The Ministers remained concerned at the unilateral exercise of extra-territorial criminal and civil jurisdiction of national courts not emanating from international treaties and other obligations arising from international law, including international humanitarian law. In this regard, they condemned the enactment of politically motivated laws at the

¹⁸ Para 21 of the Ministerial Declaration, visit <http://www.g77.org/doc/Declaration2008.htm>

¹⁹ See, Final Document of the 15th NAM Ministerial Conference Meeting, Tehran, Islamic Republic of Iran dated 30th July 2008, NAM 2008/DOC.1/Rev.2.

national level directed against other States, and stressed the negative impact of such measures on the rule of international law as well as on international relations, and called for the cessation of all such measures;

84. The Ministers reiterated the need to eliminate unilateral application of economic and trade measures by one State against another that affect the free flow of international trade. They urged States that have and continue to apply such laws and measures to refrain from promulgating and applying them 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.

85. Recognising the serious danger and threats posed by the actions and measures which seek to undermine international law and international legal instruments, as well as consistent with and guided by the Movement's principled positions thereof, the Ministers agreed to undertake the following measures, among others:

- Identify and pursue measures that may contribute towards achieving a peaceful and prosperous world as well as a just and equitable world order based on the UN Charter and international law;
- Conduct external relations based on the ideals, principles and purposes of the Movement, the UN Charter and international law, as well as the "Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the UN", the "Declaration on the Strengthening of International Security", and the "Declaration on the Enhancement of Effectiveness of the Principles of Refraining from the Threat or Use of Force in International Relations";
- Firmly oppose the unilateral evaluation and certification of the conduct of States as a means of exerting pressure on Non-Aligned Countries and other developing countries;
- Refrain from recognising, adopting or implementing extra-territorial or unilateral coercive measures or laws, including unilateral economic sanctions, other intimidating measures, and arbitrary travel restrictions, that seek to exert pressure on Non-Aligned Countries – threatening their sovereignty and independence, and their freedom of trade and investment – and prevent them from exercising their right to decide, by their own free will, their own political, economic and social systems, where such measures or laws constitute flagrant violations of the UN Charter, international law, the multilateral trading system as well as the norms and principles governing friendly relations among States; and in this regard, oppose and condemn these measures or laws and their continued application, persevere with efforts to effectively reverse them and urge other States to do likewise, as called for by the General Assembly and other UN organs; request States applying these measures or laws to revoke them fully and immediately;
- Support, in accordance with international law, the claim of affected states, including the targeted states, to compensation for the damage incurred as a consequence of the implementation of extraterritorial or unilateral coercive measures or laws;
- Oppose, while reiterating the utmost importance of preserving the delicate balance of rights and obligations of States as stipulated in the various international legally binding instruments to which they are party, the actions by a certain group of States to unilaterally reinterpret, redefine, redraft or apply selectively the provisions of these instruments to conform with their own views and interests and which might affect the rights of their States Parties as defined

therein, and in this context, work towards ensuring that the integrity of these instruments is preserved by their States Parties;

- Oppose all attempts to introduce new concepts of international law aimed at internationalising certain elements contained in the so-called extra-territorial laws of certain States through multilateral agreements.

86. The Movement reiterated its strong concern at the growing resort to unilateralism and unilaterally imposed measures that undermine the UN Charter and international law, and further reiterated its commitment to promoting, preserving and strengthening multilateralism and the multilateral decision making process through the UN, by strictly adhering to its Charter and international law, with the aim of creating a just and equitable world order and global democratic governance, and not one based on monopoly by the powerful few.

87. Consistent with and guided by the afore-mentioned principled positions and affirming the need to defend, preserve and promote these positions, the Ministers agreed to undertake the following measures:

- Build a common position of G-77 and NAM seeking to strengthen the role of UNCTAD as the UN body in charge of an integrated treatment of trade, development and related matters in the field of finances, technology, investment and sustainable development, particularly in support of its XII Conference.
- Continue promoting the rejection of and the adoption of concrete actions against the enforcement of unilateral coercive economic measures at the several multilateral fora where NAM and G-77 are involved.
- Oppose unilateralism and unilaterally imposed measures by certain States – which can lead to the erosion and violation of the UN Charter and international law, the use and threat of use of force, and pressure and coercive measures – as a means to achieving their national policy objectives.

88. The Ministers reaffirmed that democracy and good governance at the national and international levels, development and respect for all human rights and fundamental freedoms, in particular the right to development, are interdependent and mutually reinforcing. Adoption, for any cause or consideration, of coercive unilateral measures, rules and policies against the developing countries constitute flagrant violations of the basic rights of their populations. It is essential for States to promote efforts to combat extreme poverty and hunger (MDGs 1) as well as foster participation by the poorest members of society in decision-making processes;

89. Finally, the Ministers reaffirmed the objective of making the right to development a reality for everyone as set out in the UN Millennium Declaration, and give due consideration to the negative impact of unilateral economic and financial coercive measures on the realization of the right to development.

VIII. COMMENTS AND OBSERVATIONS OF THE AALCO SECRETARIAT

90. It is distressing to note that the target of sanctions imposed by the United States of America happens to be developing countries, particularly from Asia and Africa. Many of AALCO Member States have been and are prime targets of such unilateral imposition of sanctions having extraterritorial effects. These practices tend to have a very demoralizing effect on the innocent people of those countries who feel alienated and discriminated against in the fields of trade and economic relations particularly.

91. Extraterritorial measures, besides being infirm in law are also bad as an instrument of foreign policy. Unlike multilateral sanctions enforced by the Security Council, extraterritorial measures are inherently ineffective in a global society as target States often are able to find new investors and entities, other than those from the sanctioning State, to carry out their business activities.

92. It may also be noted that extraterritorial application of national legislation having effects on third Parties, poses a serious challenge to the efforts of the international community to establish an equitable multilateral, non-discriminatory, rule based trading system and question the very basis of the primacy of international law. It is imperative that all States must reject promulgation and application of this form of dubious legislation.

93. The unilateral sanctions are increasingly opposed to the principles and rules of international economic and social cooperation that are embodied in the UN Charter and constituent treaties of multilateral trade and financial institutions. The extra territorial measures are irreconcilable with basic norms and principles of international law and inconsistent with the objectives of the multilateral trading system.

94. The States should reject application of such unilateral measures as tools for political or economic pressure against any country, because of the negative effects on the realization of all human rights of vast sector of their populations, inter alia, children, women, the elderly, and disabled and ill people; reaffirmed, in the context, the right of peoples to self-determination, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development.²⁰

95. AALCO has been consistently considering the implications of the “Extraterritorial Application of National Legislation: Sanctions Imposed against Third Parties”, since 1997. The Secretariat studies on the agenda item and the deliberations at successive

²⁰ In a resolution on Human Rights and Unilateral Coercive Measures, the Commission on Human Rights, “condemned the continued unilateral application and enforcement by certain powers of such measures as tools of political or economic pressures against any country, particularly developing countries, to prevent those countries from exercising their right to decide their own political, economic and social systems, and rejected all attempts to introduce unilateral coercive measures”, Press Release, HR/CN/1109, Commission on Human Rights Concludes Sixty-Session after Adopting 86 Resolutions, 16 Decisions, 4 Statements by Chairman (E/CN.4/2005/L.8), dated 22/04/2005.

sessions of the Organization affirm that such legislations apart from being at variance with the various rules and principles of international law and disrupts economic cooperation and commercial relations of the target States with other States. Therefore, it is the duty of free and independent States to continue to oppose the illegal extra-territorial application of national legislations of other States.

Annexure

IX. Resolution adopted by the General Assembly on the agenda Item

[without reference to a Main Committee (A/63/L.4)]

A/RES/63/7 dated 11 December 2008

63/7. Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba

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 or Government at the Ibero-American Summits concerning the need to eliminate unilateral application of economic and trade measures by one State against another that affect the free flow of international trade,

Concerned at the continued promulgation and application by Member States of laws and regulations, such as that promulgated on 12 March 1996 known as the “Helms-Burton Act”, the extraterritorial effects of which affect the sovereignty of other States, the legitimate interests of entities or persons under their jurisdiction and the freedom of trade and navigation,

Taking note of declarations and resolutions of different intergovernmental forums, bodies and Governments that express the rejection by the international community and public opinion of the promulgation and application of measures of the kind referred to above,

Recalling its resolutions 47/19 of 24 November 1992, 48/16 of 3 November 1993, 49/9 of 26 October 1994, 50/10 of 2 November 1995, 51/17 of 12 November 1996, 52/10 of 5 November 1997, 53/4 of 14 October 1998, 54/21 of 9 November 1999, 55/20 of 9 November 2000, 56/9 of 27 November 2001, 57/11 of 12 November 2002, 58/7 of 4 November 2003, 59/11 of 28 October 2004, 60/12 of 8 November 2005, 61/11 of 8 November 2006 and 62/3 of 30 October 2007,

Concerned that, since the adoption of its resolutions 47/19, 48/16, 49/9, 50/10, 51/17, 52/10, 53/4, 54/21, 55/20, 56/9, 57/11, 58/7, 59/11, 60/12, 61/11 and 62/3, 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 at 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 62/3;²¹

2. *Reiterates its call upon* all States to refrain from promulgating and applying laws and measures of the kind referred to in the preamble to the present resolution, in conformity with their obligations under the Charter of the United Nations and international law, which, *inter alia*, reaffirm the freedom of trade and navigation;

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 sixty-fourth session;

5. *Decides* to include in the provisional agenda of its sixty-fourth session the item entitled “Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba”.

33rd plenary meeting 29 October 2008

²¹ A/63/93 and Add.1.