

Translated from Spanish

Response of Cuba to note LA/COD/11/1 from the United Nations Office of Legal Affairs on measures to eliminate international terrorism

3 June 2019

In the new national Constitution, adopted by referendum on 24 February 2019 following a process of constitutional reform and broad popular consultation, the commitment of Cuba to the fight against terrorism was elevated to constitutional status. Article 16(l) of chapter II, which is dedicated to international relations, states that: the Republic of Cuba ... “rejects and condemns terrorism in all its forms and manifestations, in particular State terrorism”.

This decision reaffirms the long-standing rejection and condemnation by Cuba of all acts, methods and practices of terrorism in all its forms and manifestations, including when States are directly or indirectly involved, by whomever, against whomsoever and wherever committed, regardless of motivation.

In a fair decision taken in 2015, our country, which has been the victim of hundreds of terrorist acts that have claimed the lives of 3,478 persons and incapacitated another 2,099, was removed from the list of State sponsors of international terrorism, a unilateral mechanism in which it should never have been included.

Terrorism continues to be a serious challenge facing the international community. We would therefore like to reiterate that it is the duty of the United Nations to take the leading role in international counter-terrorism efforts.

International cooperation is essential to combating terrorism. While double standards and selectivity in addressing it prevail, this scourge cannot be eradicated. It is unacceptable that while some terrorist acts are condemned, political and economic interests mean that others are covered up, tolerated, encouraged, justified or manipulated.

Certain States' harmful practice of financing, supporting or promoting subversive acts of regime change and messages of intolerance and hate towards other peoples, cultures, religions or political systems, through means including modern information and communications technologies, are in violation of the Charter of the United Nations and international law. These practices should also be targeted as we combat terrorism, and they should be condemned by the international community.

Measures taken at the international level:

Last year, Cuba joined one of the anti-terrorism initiatives that has garnered the most international support, by signing the Code of Conduct towards Achieving a World Free of Terrorism, on 28 September 2018 at United Nations Headquarters.

Our country remains committed to the implementation of the United Nations Global Counter-Terrorism Strategy, especially its four pillars, and in this spirit it continues to take action and participate in reviews of the Strategy.

Cuba believes that the United Nations Global Counter-Terrorism Strategy is a critical instrument in the international struggle against this scourge, a struggle in which the General Assembly must continue to play a central role. Cuba took part in the sixth biennial review of the Strategy, on 26 and 27 June 2018; and in the United Nations High-level Conference of Heads of Counter-Terrorism

Agencies of Member States, with the theme of “Strengthening international cooperation to combat the evolving threat of terrorism”, held in New York on 28 and 29 June 2018.

The Secretary-General’s Plan of Action to Prevent Violent Extremism is a contribution that complements, but can never be a substitute for, the United Nations Global Counter-Terrorism Strategy.

Cuba supported the proposal by the Secretary-General that led in 2017 to a new counter-terrorism structure for the United Nations, and to the establishment Office of Counter-Terrorism.

We continue to believe that this Office should focus on more effective implementation of the United Nations Global Counter-Terrorism Strategy, without prejudice to the central implementing role of Member States. Its actions must be based on full respect for the principles enshrined in the Charter of the United Nations and in international law, particularly respect for sovereign equality and non-interference and non-intervention in the internal affairs of States. Under no circumstances may it constitute a mechanism for the monitoring of States.

The new structure should promote international cooperation to effectively prevent and combat terrorism in all its forms and manifestations by facilitating balanced and comprehensive implementation of the four pillars of the United Nations Global Counter-Terrorism Strategy.

Cuba has provided a response to note OCT/2017-11218 from the United Nations Office of Counter-Terrorism concerning General Assembly resolution 70/291, entitled “The United Nations Global Counter-Terrorism Strategy Review”.

As a State party to 18 international instruments on terrorism, Cuba has implemented legal and institutional measures aimed at effectively tackling this scourge. Cuba strictly complies with its obligations under Security Council resolutions 1267 (1999), 1373 (2001), 1540 (2004), 1988 (2011), 1989 (2011) and 2253 (2015) and has submitted, in accordance with the established timelines, the information requested on the measures taken to implement these resolutions.

On 5 December 2016, following the submission of Cuba's national report, the Security Council Committee established pursuant to resolution 1540 (2004) published the approved implementation matrix for the country. In the period 2017-2018, the national Working Group updated the information on the set of legislative, administrative and institutional measures designed to ensure that no terrorist acts, in any of their forms or manifestations, are committed on Cuban territory, including measures to prevent terrorists from acquiring weapons of mass destruction, their means of delivery and materials and technologies related to their manufacture. In March 2019 Cuba submitted another national report on the implementation of Security Council resolution 1540 (2004).

In compliance with Security Council resolutions 1267 (1999), 1989 (2011), 1988 (2011) and 2253 (2015), the Ministry of Foreign Affairs of Cuba routinely informs the Ministry of the Interior, Cuban consulates and embassies and other relevant authorities, of the updates to the sanctions lists for Islamic State in Iraq and the Levant (Daesh), Al-Qaida and associated individuals, groups, undertakings and entities, in order to enable them to comply with the relevant measures set out in the above-mentioned resolutions.

In the period 2013–2015, Cuba was the first Latin American country to be evaluated by the Financial Action Task Force of Latin America (GAFILAT) as part of the fourth round of mutual evaluations conducted by the Financial Action Task Force (FATF), and it has continued to participate in the regular follow-up mechanism.

As part of this mechanism, Cuba submitted follow-up reports in 2017 and 2018, both adopted by the GAFILAT plenary, which recognized dedication and discipline in the country's fulfilment of its commitments. In July 2019, Cuba will submit its third follow-up report to the GAFILAT plenary.

Cuba committed to an action plan with the Financial Action Task Force in 2013. In 2014, the plenary of the Financial Action Task Force recognized the commitment of Cuba and its institutional capacity to prevent money-laundering and the financing of terrorism, and announced its inclusion in the network of jurisdictions that combat those scourges.

In June 2015, after a successful evaluation and on-site visit, Cuba was formally admitted to the Egmont Group, and became a part of its global network of financial intelligence units.

In 2017, the General Customs Administration of the Republic of Cuba and the United Nations Office on Drugs and Crime (UNODC) signed a memorandum of understanding for the implementation of the Global Container Control Programme. This is an initiative of UNODC and the World Customs Organization for the effective control of containers at borders; it is aimed at strengthening the level of port and airport security against all activity that is illegal or associated with transnational organized crime.

As a member of the Movement of Non-Aligned Countries, Cuba continues to participate actively in the Movement's discussions and contribute to its statements concerning international terrorism. In addition, Cuba endorses the statements regarding terrorism been issued by regional coordination and integration groups, such as the Community of Latin American and Caribbean States, the Bolivarian Alliance for the Peoples of Our America – Peoples' Trade Agreement, and the Association of Caribbean States.

Within the context of the United Nations, Cuba has actively participated in and continues to follow with deep interest and commitment the discussions about a future general convention on terrorism. Cuba believes that it is imperative to adopt a comprehensive convention that will address the deficiencies and omissions of the current legal framework and support consistent and joint international action against this scourge, which would contribute to advancing the implementation of the Global Strategy and, in general, the progress of the international community in combating this scourge. In Cuba's view, the convention must establish a clear and precise definition of the crime of international terrorism that covers all its dimensions, including State terrorism.

Measures taken at the national level:

The decision to give constitutional status to the nation's commitment to combating terrorism by including it in article 16(1) of the new Constitution of the Republic reaffirms the long-standing position held by Cuba and establishes the rejection and condemnation of terrorism in all its forms and manifestations, including State terrorism, as a principle of its foreign policy.

Cuba has implemented legislative, institutional, administrative and other measures aimed at preventing and suppressing all terrorist acts and activities, and other measures directly or indirectly connected thereto, including those related to the financing of terrorism, border protection and surveillance, arms trafficking, judicial cooperation, adherence to international legal instruments on the prevention and suppression of international terrorism and the adoption of counter-terrorism legislation.

Cuba has specific legislation to address terrorism. In December 2001, the Cuban Parliament adopted Act No. 93 (the counter-terrorism act), which, in addition to criminalizing acts of international terrorism, establishes penalties for all related acts, including the financing of terrorism. The severity of the penalties set out in the Act is commensurate with the seriousness of the relevant crimes.

Legislative measures in Cuba ensure the prosecution of any person who participates in or in any way supports the commission of terrorist acts. All terrorist acts are codified as serious criminal offences in national legislation, and incur harsh punishments.

Money-laundering and the financing of terrorism have been categorized as criminal offences in Cuban criminal legislation since 1999 and 2001 respectively. On 7 December 2013, the Cuban authorities adopted two major legislative acts to prevent and combat money-laundering and the financing of terrorism.

In compliance with Security Council resolutions 1267 (1999), 1899 (2011), 1988 (2011) and 2253 (2015), the lists of individuals, entities and groups designated by the Security Council are published in the Official Gazette of the Republic, for general information.

Through Decree-Law No. 316 of 7 December 2013 amending the Criminal Code and the counter-terrorism act, the definitions of criminal offences relating to acts of terrorism involving the use of nuclear and radioactive material and ionizing substances were modified, and the range of offences categorized as money-laundering was expanded, in accordance with the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and the United Nations Convention against Transnational Organized Crime.

In 2016 prison sentences of between 1 and 15 years for the offences of financing of terrorism and other acts of terrorism were handed down to seven defendants (four Cubans residing in Miami, Florida, United States of America and three Cubans residing in Cuba) who were members of a terrorist organization based in the United States.

Pursuant to Decree-Law No. 317 of 7 December 2013 on the prevention and detection of transactions related to money-laundering, financing of terrorism, arms proliferation and illicit capital flows, the legislative hierarchy that existed in the country with regard to the identification and freezing, without delay, of assets linked to individuals or terrorist organizations was further developed, in accordance with the relevant resolutions of the Security Council.

The above-mentioned Decree-Law No. 317 established a coordinating committee for preventing and addressing the financing of terrorism and the proliferation of weapons of mass destruction, as well as money-laundering and its predicate offences. The coordinating committee is chaired by the President of the Central Bank of Cuba and is composed of representatives of the Attorney General of the Republic, the Ministries of Justice, Foreign Affairs, the Interior, Finance and Prices and Foreign Trade, as well as the National Customs Service and the National Tax Administration Office. The role of the committee is to identify and assess risks associated with these crimes and coordinate prevention and response policies and actions in Cuba. The entities that comprise it have issued complementary regulations in this area.

In 2016, Cuba updated its National Risk Assessment for the period from 2017 to 2019, a process which included the development of a separate risk assessment for the financing of terrorism and the proliferation of weapons of mass destruction. In 2019, work is under way on the second update to the National Risk Assessment, which will cover the period from 2020 to 2022 and will employ similar methodology.

At the institutional level, Cuba also has the General Directorate for the Investigation of Financial Operations, under the Central Bank of Cuba, which operates as a financial intelligence unit responsible for receiving, investigating and analysing suspicious transaction reports related to financing for terrorism, the proliferation of weapons of mass destruction and money laundering and its predicate offences; as well as establishing coordination and information-sharing links with the competent authorities.

Decree No. 322 of 30 December 2013 governs the functioning and organization of the General Directorate and authorizes it to cooperate with foreign financial intelligence units on the basis of mutual understanding, rationality and reciprocity.

Decree-Law No. 361 of 14 September 2018 establishes that the General Directorate shall report directly to the Minister-President of the Central Bank of Cuba, and operationally and functionally strengthens the internal financial intelligence system.

Between 2015 and 2018 the General Directorate received 1,517 suspicious transaction reports, leading to the dissemination of 157 financial intelligence reports concerning crimes of money-laundering and its predicate offences, and the financing of terrorism, to the competent authorities. In addition, it sent 231 further reports to the authorities. During this same period it disseminated 19 strategic financial intelligence reports and 29 special reports. Via the Egmont Group's secure network, the General Directorate has received and responded to 31 requests for information, and has made 40 requests. At the national level, it has developed 45 joint financial investigative dossiers with other criminal prosecution authorities.

Acting unprompted, the General Directorate has notified financial intelligence units in the region of its detection of false positive matches with lists of individuals designated by the Security Council.

In addition Cuba has civil, administrative and criminal regulations that empower the authorities to take confiscatory action to combat unlawful acts. Upon a request from the authorities, the General Directorate liaises with the relevant financial institutions to arrange for the freezing of assets.

The legal, administrative and institutional measures adopted by Cuba, in conformity with the international standards to which it is a State party, are aimed at preventing the commission, in Cuban territory, of acts of terrorism in all its manifestations; while also ensuring the investigation and prosecution of the perpetrators of such offences, as well as investigation into incidents related to money-laundering and associated crimes.

When Cuba joined the Financial Action Task Force of Latin America (GAFILAT) in December 2012, the Central Bank of Cuba signed a memorandum of understanding to facilitate cooperation among GAFILAT members. Cuba has also signed 19 agreements on sharing financial intelligence with other countries. As a GAFILAT member, Cuba participates in the GAFILAT asset recovery network.

Cuba has strengthened judicial cooperation with other countries, to which end it has signed 25 agreements on legal assistance in criminal matters, 24 agreements on the transfer of convicts and 11 agreements on extradition. The signing of those agreements illustrates the country's continued willingness to cooperate with all States in this domain. In this way, Cuba has actively cooperated to prevent the perpetration of terrorist acts.

Cuba cooperates and exchanges information with its counterparts in other countries on a regular basis. It has an International Criminal Police Organization (INTERPOL) National Central Bureau that provides and requests information related to individuals or groups of individuals who are wanted for or suspected of committing terrorist acts, belong to terrorist organizations or have committed other associated crimes.

In view of the geographical location of Cuba, which is on the route through the Caribbean of foreign terrorist fighters, the authorities of the Ministry of the Interior have received alerts relating to possible terrorism hotspots in Latin America and the Caribbean from their foreign counterparts, as well as lists of terrorist fighters of Islamic State in Iraq and the Levant who might be passing through

the region, in order to prevent them from travelling through Cuba. In the period from 2017 to 2018, the Cuban authorities conducted 11 investigations of suspicious individuals.

The General Customs Administration of the Republic of Cuba promotes operational and international cooperation in this area. As a member of the World Customs Organization and its intelligence liaison network, the General Customs Administration participates in information exchange, with a focus on the Caribbean region, as well as in global World Customs Organization initiatives and operations aimed at preventing or addressing crimes, with priority given to combating, inter alia, terrorism, drug trafficking and money-laundering.

The General Customs Administration, in partnership with the Ministry of Science, Technology and Environment, the Ministry of the Interior and the International Atomic Energy Agency, implements projects to establish or improve technical and human capacity in support of physical nuclear security at borders, in order to enable timely detection of and response to illicit trafficking in nuclear and radioactive materials at ports and airports, as well as detection of explosives and drugs.

It has also developed national and joint actions to monitor the cross-border movement of cash or other means of payment, having acquired modern technology in order to prevent operations linked to money-laundering and the financing of terrorism. It also participates in regional training events on these crimes that are sponsored by the World Customs Organization and the Financial Action Task Force of Latin America.

Cuba does not possess and has no intention of possessing weapons of mass destruction. The possession of such weapons has never been part of the Cuban national defence strategy. In Cuba, all nuclear, chemical and biological programmes have always been strictly peaceful in nature, and oriented towards the socioeconomic development of the nation's people. All of these programmes are permanently and strictly controlled by the relevant national authorities and are subject to oversight by the competent international bodies.

Cuba reiterates its willingness to cooperate with any State to prevent and combat international terrorism, on the basis of respect for the rules of international law.
