

CUBA

Definition and Prosecution of Terrorist Acts

The Law Against Acts of Terrorism establishes that terrorist activity constitutes criminal behavior. These offenses are largely based on the guidelines set by international conventions and protocols relating to terrorism. The Law provides penalties both for offenses committed in and outside of Cuban territory. Additionally, all preparatory acts, attempts, and consummated acts of terrorism are punishable under this law. This also includes provisions regarding acts committed with explosives or deadly devices, chemical or biological agents and other means or substances; the taking of hostages; acts against internationally protected persons; acts against the safety of maritime navigation, civil aviation and airports. Finally, the Law punishes terrorist acts committed through the use of information technology. There are other relevant laws. Law No. 988 defines and sets penalties for new modalities of terrorism, including attacks against national leaders, sabotage and destruction of national assets with the intent to create social unrest. Law No. 1226 defines and sets penalties for the offense of air or maritime piracy, including hijacking or diversion of vessels or aircraft.

Weapons Control and Proliferation Prevention

International trade and the importing and exporting of arms and explosives may be carried out by State entities only with authorization of the Ministry of the Interior of Cuba (MININT). Should arms and explosives reach the borders of Cuba without the authorization of MININT, they will be immediately seized and remain in the custody of the customs services. "Anyone who manufactures, provides, sells, transports, sends, introduces into the country or possesses, anywhere or in any form, weapons, ammunition, inflammable substances, plastic explosives or explosive or lethal devices among other things, may be sentenced to imprisonment and even the death penalty." Chapter X, Articles 211 and 213 of the Penal Code also criminalizes the illegal carrying and possession of firearms and explosives. Additionally Decree-Law No. 52/82 on arms and ammunition regulates the manufacture, sale, possession, acquisition, storage and transport of arms and explosives in Cuba.

Cuba also has significant legislation in place to prevent the illicit use of chemical and nuclear weapons. There are a number of existing laws which prohibit the acquisition and or use of chemical substances. Resolution 35/98 (CITMA) creates the Executive Centre of the National Authority on the Prohibition of Chemical Weapons. Decree-Law 202/99 (24/12/99) prohibits the development production, stockpiling and use of chemical weapons and their destruction. Decree-Law No. 107/88 and 154/94 regulate the control of industrial explosives, munitions, and toxic chemical substances. Resolution No. 268/90 and 181/95 prohibits the entry into the country of certain pesticides and chemicals. Resolution No. 159/95 establishes reporting and prior consent procedures with respect to industrial chemicals. Resolution No. 87/99 establishes requirements for the transport, storage and destruction of dangerous substances. Finally, Resolution No. 53/2000 completes the listing of hazardous waste mentioned in CITMA, while Resolution No. 67/96 establishes regulations for controlling precursors of chemical substances.

With regard to nuclear safety, Cuba has been a member of the International Atomic Energy Agency (IAEA) since 1957. Cuba has signed the IAEA safeguard agreements for each of its nuclear facilities. Decree No. 208 (24/5/96) lays out the general provisions governing the National System for Accounting and Control of Nuclear Materials (SNCC). Resolution No. 1/96, creates the National Nuclear Safety Centre to oversee the implementation of SNCC. Decree-Law No. 207 (14/2/2000) sets out the basic legal rules for the proper use of nuclear energy.

Laws Pertaining To Biology

Cuba's Decree-law No. 190 of Biological Safety defines biological agents as "viable micro-organisms and their products thereof, prions and other organisms that cause or may cause diseases to man, animals and plants." It regulates "the use, research, test, production, import and export of biological agents" as well as "the releases into the environment of biological agents, organisms and fragments with genetic information, the actions to guarantee the fulfillment of international agreements assumed by the Cuban State regarding biological safety or related to it, the prevention of accidents that may happen, and the adoption of measures to protect the environment and in particular the population, the workers, animals and plants, from negative effects that may be caused by the activities related to biological agents."

Regarding bio-safety, Resolution No. 67/96 sets up the National Biosafety Centre (CNSB) to develop legal instruments and technical standards in order to organize, direct, execute, supervise and monitor the National Biosafety System. It is part of the Ministry of Science, Technology, and the Environment (CITMA) which, as a Central State Agency, is responsible under Law 81, on the Environment for proposing and implementing national policy in the area of biological safety. Also, pursuant to Cuba's obligations under the Biological Weapons Convention, CITMA develops, adopts, and monitors "necessary measures to prohibit, prevent and control the development, production, storage, acquisition or retention of biological agents and toxins, be it as it may be their origin or way of production, of types and in quantities not justified for preventive, protection and other peaceful purposes, weapons, equipment or vectors aimed at using those agents or toxins with hostile purposes or in a war"

Resolution No. 42/99 requires the classification into risk groups of biological agents and toxins affecting human, animal and plant health. The Ministry should "establish classifications regarding the organisms that are released into the environment taking into account their origin and the risk they pose for human health and the environment, the biological agents that affect the man, animals and plants and their distribution in risk groups, [and] the facilities that use biological agents and their products, organisms and their products with genetic information."

In addition, the Ministry is to "establish proper procedures in the transfer, handling and use of organisms that may have negative effects for the conservation and sustainable use of biological diversity, particularly agriculture products." Transport, export, and import of biological agents are also regulated by the Ministry, and require authorizations.

Resolution No. 8 establishes principles for organizing biosafety in facilities. Possession, development and use of biological agents is limited to legitimate scientific research and medical uses. These activities are subject to approval and control by the Ministry of Science, Technology and Environment in conjunction with other relevant government bodies and agencies. Resolution No. 76 lays down requirements for submitting applications and for the granting of licenses and permits relating to biosafety.

Decree-Law No. 190 also imposes security conditions for entities and facilities where biological agents or equipment is located or used. It defines facilities as "laboratories that carry out biotechnological activities namely: diagnosis, research, production and teaching. It also includes rooms and areas where biological risk is present." Facilities require authorization for their activities, which the Ministry of Science, Technology and Environment can revoke. Facilities are also subject to inspection and can be closed if they do not conform to safety standards and are deemed dangerous.

The same law also establishes a framework for cooperation among different government bodies and agencies. This includes sharing of information, training of staff, regulation, inspection. "The Ministry of Science, Technology and Environment will propose to competent Bodies and Agencies the conditions and requirements of knowledge, including the establishment, of official courses on this subject." The personnel that work in facilities requiring a high level of biological safety for the risk they pose should receive these. Law No. 190 further provides for the creation of a National Plan for Emergencies in Article 17 and addresses "dangerous biological wastes" in Articles 15 and 16.

Money Laundering – Prevention and Prosecution

Article 25.1 and 2 of Law No. 93, “Law Against Acts of Terrorism,” prohibits anyone from providing funds for acts of terrorism, and establishes the penalty for violators at imprisonment from ten to thirty years. Articles 135, 215, 218, 228, 229 and 230 of the Law on Penal Procedures establish the obligation to confiscate any property instrumental to or resulting from the offense. Cuban banks have the authority to take preventive measures to block and freeze funds that have been used for the financing of terrorism, irrespective of the nationality or domicile of the individual holding those funds. Article 8 of Law No. 93 grants authority to the pre-trial Judge, the government attorney or the court to issue an order for the preventive attachment or freezing of funds and other financial assets, property or economic resources. ,

Cuban banking procedures place strict guidelines on banks and financial institutions. Resolution No. 91 provides for the application of “Guidelines for members of the national banking system relating to the detection and prevention of movements of illicit capital.” The guidelines lay down a uniform set of rules that allow for the banking sector to take concerted efforts to prevent the improper use of banking services. All members of the National Banking System must comply with the guidelines implemented by the Auditor General. Non-compliance or failure to follow suitable policies and procedures for dealing with money laundering is relevant to whether the licenses granted for conducting banking and financial activities in Cuba should be maintained or revoked. Resolution No. 27 provides for creation of the Central Risk Information Office (CIR), which compiles and processes information on suspected or actual instances of money laundering. The Resolution further stipulates that all banks and financial institutions must report such information to CIR on a monthly basis.

Information Sharing

Memorandums of understanding on cooperation in combating terrorist acts, organized crime, illicit drug trafficking, and similar matters of mutual interest are being concluded between the Cuban Ministry of Interior and analogous bodies from other nations. Cuba is a party to the memorandum of understanding on mutual assistance and cooperation between the forensic laboratories of the Caribbean, a primary focus of which is the exchange of information. Information sharing is also taking place as a result of Cuba’s continued cooperation with the International Criminal Police Organization (Interpol). Interpol maintains an office in Havana, which operates through the National Revolutionary Police Department in the Ministry of the Interior. This office has enacted procedures for handling reports on international criminals wanted by Interpol. It is through this office that other nations can request and receive information on persons suspected of having committed or are in the course of committing terrorist acts or other offenses of international scope. With regard to the exchange of evidence and information between foreign courts, the Law on Penal Procedure (Article 38 ff.) states that “judges, government attorneys and courts shall assist each other in implementing the necessary procedures for the compilation of files and the preparation of criminal cases.”

Cooperation with other States in regard to biological and nuclear materials is based on Cuba’s international treaty commitments. Cuba is a party to the Convention on Biological and Toxin Weapons 1972, and the Convention on Biological Diversity 1992. Cuba is also currently in the process of ratifying the Cartagena Protocol on Biosafety 2000. Within the framework of the Convention on Biological Weapons, Cuba has participated since 1992 in data exchanges by submitting confidence-building forms every year. Cuba also maintains international commitments with regard to nuclear technology and development. Since 1992, yearly safeguard inspections have been conducted by IAEA inspectors as well as by inspectors from the national Nuclear Safety Centre (CNSN). In all cases, the inspections conducted by both IAEA and CNSN have not shown any deviation from the Agreements. Additionally, in March 1995, Cuba signed the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean, in which Latin America and the Caribbean are declared to be free from nuclear weapons.

BIBLIOGRAPHY OF CUBAN LEGISLATION

Definition and Prosecution of Terrorist Acts

1. "The Law Against Acts of Terrorism"
2. Cuban Penal Code, Chapter X, Articles 211, 213 – Criminalizes the Illegal Carrying and Possession of Arms and Explosives.
3. Decree-Law No. 52/82 – Regulates Manufacture, Sale, Possession, Acquisition, Storage, and Transport of Arms and Explosives.
4. Decree-Law No. 202/99 (24/12/99) – Prohibits the Development, Production, Stockpiling and Use of Chemical Weapons.
5. Decree-Law No. 107/88 154/94 – Regulate Control of Industrial Explosives.
6. Decree-Law No. 207 (14/2/2000) – Legal Rules for Proper Use of Nuclear Energy.
7. Decree-Law No. 190 – Biosafety.
8. Law No. 426 – Offenses that Intrinsically Constitute Terrorist Acts.
9. Law No. 62 – Terrorist Offenses.
10. Law No. 923 – Offenses of Destruction.
11. Law No. 988 – Defined and Set New Modalities of Terrorism.
12. Law No. 1226 – Defined and Set Penalties for the Offense of Air or Maritime Piracy.
13. Law No. 1246 – Offense Relating to Disclosure of Confidential Information.
14. Law No. 21 – Established the New Penal Code.

Weapons Control

1. Resolution No. 87/99 – Transport, Storage and Destruction of Dangerous Substances.
2. Resolution No. 53/2000 – Completes the Listing of Hazardous Waste.
3. Resolution No. 67/96 – Establishes Regulations for Controlling Precursors of Chemical Substances
4. Decree-Law No. 208 (24/5/96) – General Provisions Governing the National System for Accounting and Control of Nuclear Materials.
5. Resolution No. 1/96 – Created National Nuclear Safety Center.

Laws Pertaining To Biology

1. Law No. 81 – Implementation of National Policy in the Area of Biological Safety.
2. Resolution No. 268/90 and 181/95 – Prohibit Entry of Pesticides and other Materials.
3. Resolution No. 76 – Granting of Licenses and Permits Relating to Biosafety.
4. Resolucion No 42/99
5. Resolucion No 8/2000
6. Decreto-Ley 190 de la Suguridad Biologica, 28 Jan 1999
7. Resolucion No 67/96, 7 October 1996
8. Decreto-Ley No. 137
9. Resolucion No 366/90, 27 June 1990
10. Decreto No. 169, 17 April 1992
11. Resolucion No 346/86, 20 September 1986
12. Background Document on Compliance, BWC/CONF.V/3/Add. 7, November 2001

Money Laundering – Prevention and Prosecution

1. Articles 135, 215, 218, 228, 229 and 230 – Obligation to Confiscate Any Property Instrumental to or Resulting From the Offense.
2. Law No. 93, Articles 25.1 and 25.2 – Prohibits Funds for Acts of Terrorism.
3. Law No. 93, Article 8 – Preventive Attachment or Freezing of Funds.
4. Resolution No. 91 – Guidelines For National Banking System.
5. Resolution No. 27 – Creation of the Central Risk Information Office (CIR).

Information Sharing

1. Decision No. V-63 – Accession to International Conventions Aimed at Combating Terrorism.