

## **Cuba**

Cuba's position on the issue of international terrorism in general is based on an ethical principle, that of unequivocal condemnation of all acts, methods and practices of terrorism in all its forms and manifestations, wherever and by whomever committed and irrespective of the motives, and outright condemnation of acts or actions, irrespective of their instigators or perpetrators, intended to encourage, support, finance or cover up any terrorist act, method or practice.

Cuba considers that all terrorist acts and actions affect the life, health, property safety of innocent people, violate the sovereignty and territorial integrity of States, jeopardize the functioning and stability of national institutions, cause serious damage to the production infrastructure and economic activity of States and further destabilize the international situation by creating new hotbeds of tension and, on occasion, triggering international conflicts.

Cuba does not possess and has no intention of possessing weapons of mass destruction of any kind. The possession of such weapons has never been part of its national defense strategy.

In Cuba, all nuclear, chemical and biological programmes have always been conducted strictly for peaceful purposes and their benefits used to promote the wellbeing and socio-economic development of the Cuban people. All such programmes are subject to ongoing strict monitoring by the competent national authorities and to verification by the competent international bodies. As a State party to the Biological Weapons Convention, the Chemical Weapons Convention, the Treaty on the Non-proliferation of Nuclear Weapons (Non-Proliferation Treaty) and the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco) and as a member country of the Organization for the Prohibition of Chemical Weapons, the International Atomic Energy Agency (IAEA) and the Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (OPANAL), Cuba has an effective, predictable and reliable system for implementing its international obligations at the national level.

### **Paragraph 1**

*Decides* that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;

### **Biological sphere**

In Cuba, work and activities with biological agents, equipment and technology that may be relevant to the Biological Weapons Convention are carried out almost exclusively by the State sector. The cooperative sector, whose ownership regime is recognized expressly in the constitution and which operates Entomophagous and Entomopathogenic Research Centres, is the only exception. While, administratively speaking, the Centres belong to cooperatives, they adhere to the methodological instructions issued by State regulatory institutions, such as the Plant Health Agency and the National Biosafety Centre. It should be pointed out that even in the system of free zones and industrial parks, the introduction of products whose import or export is banned, suspended or restricted by current legislation is prohibited.

In Decree-Law No. 190/1999 on biosafety, in chapter II entitled "Competence.

Section 1", subparagraph (k) of article 4 on the functions of the Ministry of Science, Technology and the Environment reproduces article I of the Biological Weapons Convention when it establishes that the Ministry must take any necessary measures to prohibit, prevent and control the development, production, stockpiling, acquisition or retention of biological agents and toxins, whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes, as well as weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.

Accordingly, resolution No. 2/2004 on rules for accounting and control of biological material, equipment and related technology, in article 3 of its chapter I on objectives, scope and basic definitions, clearly prohibits in the national territory the conduct of activities related to the development, production, stockpiling, acquisition, retention, use or transfer of:

(a) Microbial or other biological agents or toxins, whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes;

(b) Weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.

## Paragraph 2

*Decides also* that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them; Cuba has up-to-date counter-terrorism legislation.

It is a party to the 12 United Nations multilateral instruments on combating international terrorism, which have been incorporated into and expanded upon in national legislation through the adoption by the National Assembly of People's Power on 20 December 2001 of Act No. 93 against acts of terrorism. This Act, inter alia, penalizes illegal trafficking in certain military equipment, materiel or dual-use technologies.

Existing legislative measures ensure the prosecution of any person who participates in any way in or provides support for the commission of terrorist acts and characterize all acts of terrorism as serious crimes, providing very severe penalties consistent with the seriousness of the crime.

Article 10 of Act No. 93 against acts of terrorism states that "any person who manufactures, supplies, sells, transports, sends, introduces into the country or possesses, in any form or place, weapons, munitions or flammable, asphyxiating or toxic materials, substances or devices, plastic explosives or any other type or kind of explosives, chemical or biological agents or any other elements from the research, design or combination thereof products of the kind described can be derived, or any other similar substance or explosive or lethal device, shall be liable to a term of imprisonment of 10 to 30 years, life imprisonment or the death penalty"

## Biological sphere

Articles 10 and 11 of chapter I of Act No. 93 duly define crimes involving the use of biological agents and punish them with the requisite severity. Article 5 stipulates that both preparatory acts and attempts and acts brought to completion are punishable.

Decree-Law No. 190 of 28 January 1999 on biosafety regulates the use, research, testing, production, import and export of biological agents and their products, organisms and fragments thereof containing genetic information, the release of any of the foregoing into the environment and all activities related to compliance with international commitments on biosafety to which Cuba is a party.

CITMA resolution No. 42/99 of 5 April 1999, giving the official list of biological agents affecting humans, animals and plants, establishes the official classification of biological agents into risk groups.

CITMA resolution No. 8/2000 of 17 January 2000, establishing general biosafety rules for facilities that handle biological agents and their products, organisms and fragments thereof containing genetic information, is intended to organize biosafety within such facilities. It establishes an official classification of such facilities into four basic levels, according to the risk group to which the agents being handled belong. CITMA resolution No. 76/2000 of 30 June 2000, on rules for granting biosafety authorizations, establishes a classification system for biosafety authorizations based on the risks posed by the various activities subject to control and sets forth the procedure for requesting and obtaining such authorizations.

CITMA resolution No. 103/2002 of 3 October 2002, on rules for the establishment of biosafety requirements and procedures in facilities where biological agents, organisms and fragments thereof containing genetic information are handled, establishes technical and administrative biosafety requirements and **7 S/AC.44/2004/(02)/50** procedures for facilities where biological agents are used. Basically, it stipulates requirements for the design of the facility, appropriate personnel practices and safety equipment for working with micro-organisms, toxins and invertebrates. CITMA resolution No. 112/2003 of 22 September 2003, on rules for establishing biosafety requirements and procedures in facilities where animals and plants posing biological risks are used, establishes requirements for design, appropriate practices and safety equipment for facilities working with plants and animals inoculated with biological agents, and transgenic or exotic plants and animals. CITMA resolution No. 2/2004 of 8 January 2004, on rules for accounting and control of biological material, equipment and related technology, establishes rules on the State System of Accounting for and Control of Biological Material, equipment and technology.

### Paragraph 3

*Decides also* that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical or biological weapons and their means of delivery, including by establishing appropriate controls over related materials, and to this end shall:

- (a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;
- (b) Develop and maintain appropriate effective physical protection measures;
- (c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;
- (d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment, such

as financing and transporting that would contribute to proliferation, as well as establishing end-user controls, and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;

#### Biological sphere

With reference to subparagraph (a)

CITMA resolution No. 2/2004, on rules for accounting and control of biological material, equipment and related technology sets up the State system of accounting and control, whose objectives include establishing an internal control mechanism for biological agents, equipment and related technology.

These rules provide for the creation by the national authority of an internal safeguard register covering a wide range of activities, including: production of vaccines for human and veterinary use, production of biological pesticides and fertilizers and activities of facilities that work with biological agents listed in the schedule annexed to the rules or use equipment mentioned therein, facilities whose security level is III or IV and facilities that carry out genetic engineering. One feature of these rules is that they make it mandatory for Cuba to make the final declaration on confidence-building measures, which it has been making on a completely voluntary basis since 1992.

They establish a system of registers and reports designed to show the history of a stock of a listed agent or a piece of equipment from the moment it enters a facility until it reaches its final destination, **9S/AC.44/2004/(02)/50** including both its internal and its external transfer. They require facilities to record information on, inter alia, the entry of agents and equipment, their receipt within the facility, the place where they will be located, their envisaged use, quantities and transfers, if these occur. For unlisted agents, a simpler control mechanism is established which must indicate, at a minimum, the type of material and its amount, location and use. The rules also provide for the preparation of a yearly inventory of agents and equipment. On this basis, semi-annual reports must be sent to the national authority, containing the inventory and data from the registers. These internal mechanisms are supplemented by inspections and safety clearances. Inspections fulfill the goal of verifying that the system is operating correctly in the facility, while safety clearances add a further level of control by requiring that all activities related to the use and transfer of agents and equipment be duly authorized.

With reference to subparagraph (b)

CITMA resolution No. 2/2004 requires the person in charge of registered facilities to take the necessary measures to regulate access to biological material, equipment and technology and to related information.

The specialist or official responsible for accounting and control in the facility must, in addition to other duties, monitor access by personnel authorized to work with biological materials, equipment and technology and by personnel who will have access to related information. When clearance is sought for the use of agents and equipment, the information submitted must include a description of the situation in the facility with regard to security and physical protection.

With reference to subparagraph (c)

With regard to border controls, a list of agents and equipment is being drawn up in conjunction with the national customs service for inclusion in the harmonized product classification system. Once this work is concluded, the national customs service will verify that each listed agent or piece of equipment has the corresponding authorization.

With reference to subparagraph (d)

The State System of Accounting and Control established under CITMA resolution No. 2/2004 makes it mandatory to obtain safety clearances for activities related to transfers of material and equipment, whether national or international. The import and export of agents and equipment must be authorized in advance by the national authority, which issues such authorization either together with or independently of the biosafety licence, as appropriate

#### Paragraph 6

*Recognizes* the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;

#### Biological sphere

CITMA resolution No. 2/2004 on rules for accounting for and control of biological agents, equipment and related technology, lists the biological agents and equipment that are subject to control and special authorization.

#### Paragraph 7

*Recognizes* that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a 12 S/AC.44/2004/(02)/50 position to do so to offer assistance as appropriate in response to specific requests from the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions;

#### Biological sphere

Cuba, through the CITMA National Biosafety Centre, is prepared to contribute to exchanges of experience in the implementation of the Biological Weapons Convention by means of courses, seminars, workshops and other activities, basically in the Latin American and Caribbean region.

#### Paragraph 8

*Calls upon* all States:

- (a) To promote the universal adoption and full implementation and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;
- (b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;
- (c) To renew and fulfill their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;
- (d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

In the sphere of the Biological Weapons Convention, Cuba has participated regularly since 1992 in the annual exchange of information on the confidence-building measures agreed upon at the Third Review Conference of the Parties to that Convention. As reported above, through CITMA resolution No. 2/2004 establishing rules for accounting and control of biological material, equipment and related technology, Cuba's provision of the final declaration in the context of confidence building measures has become mandatory.

Cuba is a party to the following multi-lateral agreements:

- Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, ratified in 1966;
- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, ratified on 21 April 1976.

-In addition, in 1994 Cuba ratified the Convention on Biological Diversity and in September 2002 it became a party to the Cartagena Protocol on Biosafety.

In addition, other national legislative measures or rules adopted in the chemical and biological spheres but not included in the information provided under paragraphs 1, 2, 3 and 6 are described below.

#### Biological sphere

– CITMA resolution No. 67/96 establishing the National Biosafety Centre to organize, direct, execute, supervise and monitor the National Biosafety System and to organize, direct and monitor measures for complying with the obligations undertaken by the country as a party to international legal instruments in this field. As the regulatory body, the Centre works to develop legal instruments and technical standards which will help to establish and supplement measures to ensure biological safety in the country.

#### **15 S/AC.44/2004/(02)/50**

The following activities have been undertaken to strengthen implementation of the Biological Weapons Convention:

- Implementation of a biosafety strategy which includes the issue of safeguards;
- Organization of conferences and seminars for both the industrial sector and central State organs. A national workshop on the Biological Weapons Convention will be held in November 2004.
- Inclusion of the issue in all basic and post-graduate courses and the various options of the master's degree in biosafety