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**High Commissioner and the Secretary-General
Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Summary of the biennial Human Rights Council panel discussion on unilateral coercive measures and human rights

Report of the Office of the United Nations High Commissioner for Human Rights

Summary

The present report, submitted pursuant to Human Rights Council resolution 27/21 and its corrigendum, contains a summary of the Council's biennial panel discussion on unilateral coercive measures and human rights, held on 16 September 2021, at the Council's forty-eighth session.



I. Introduction

1. In its resolution 27/21 and its corrigendum, the Human Rights Council decided to organize a biennial panel discussion on the issue of unilateral coercive measures and human rights, with the participation of Member States, relevant United Nations bodies, agencies and other relevant stakeholders, and requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to prepare and submit a report on the panel discussion to the Human Rights Council.
2. OHCHR submits the present report to the Human Rights Council pursuant to that request.
3. The latest biennial panel discussion was held on 16 September 2021, at the forty-eighth session of the Human Rights Council, and continued to serve as a platform for the exchange of views and experiences, with the objective of raising awareness among the relevant actors of the negative impact of unilateral coercive measures on the enjoyment of human rights.¹
4. The discussion focused on unilateral coercive measures, secondary sanctions and overcompliance by public and private entities that resulted in the extraterritorial expansion of sanctioning States' jurisdiction.
5. Among other issues, participants in the panel discussion considered the following: (a) the intended extraterritorial jurisdiction in the context of the application and enforcement of unilateral coercive measures, and the overcompliance that could occur as a consequence; (b) follow-up to and update of the recommendations of previous Council-mandated panels and workshops, held in 2013, 2014, 2015, 2017 and 2019, and the research-based progress report of the Human Rights Council Advisory Committee;² (c) awareness-raising about the negative impact of unilateral coercive measures on the enjoyment of human rights.³
6. The panel was chaired by the President of the Human Rights Council, Nazhat Shameem Khan. Opening remarks were delivered by the United Nations High Commissioner for Human Rights, Michelle Bachelet, and the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Alena Douhan. The panellists were: Associate Professor of International Law at Allameh Tabataba'i University and Secretary-General of the Iranian Association for United Nations Studies (Islamic Republic of Iran), Pouria Askary; Ignacio Ellacuría Chair in Social Ethics and Professor of Philosophy and Law at Loyola University Chicago (United States of America), Joy Gordon; Professor of International Law at Ghent University (Belgium), Tom Ruys; and Professor of Jurisprudence at Wuhan University School of Law (China), Zhang Wanhong.

II. Opening of the panel discussion

7. In her opening remarks, the High Commissioner for Human Rights stated that unilateral sanctions had the potential to create severe and undue suffering among individuals who had neither perpetrated crimes nor otherwise bore responsibility for improper conduct. The Security Council was empowered, under the Charter of the United Nations, to authorize the measures necessary to maintain international peace and security, which included sanctions involving, for example, financial or commodity restrictions, travel bans and arms embargoes, whether deployed against States, armed groups or individuals. At the same time, an increasing number of States, individually and collectively, had resorted to various forms

¹ The recorded webcast of the discussion is available at <https://media.un.org/en/asset/k1a/k1alx0pvsa>, the speakers' statements at <https://hrcmeetings.ohchr.org/HRCSessions/RegularSessions/48session/Pages/Statements.aspx?SessionId=46&MeetingDate=16/09/2021%2000:00:00> and the concept note at <https://hrcmeetings.ohchr.org/HRCSessions/RegularSessions/48session/Pages/Panel-discussions.aspx>.

² A/HRC/28/74.

³ See also A/HRC/48/59 and A/HRC/48/59/Corr.1, Human Rights Council resolution 40/3 and General Assembly resolutions 73/167, 74/154 and 75/181.

of sanctions, which could align with or depart from the values promoted and protected by the Charter.

8. When sanctions targeted an entire country, or addressed entire economic sectors, it was the most vulnerable people in that country – those who were the least protected – who were likely to be worst harmed. Perversely, the intended targets could benefit from sanctions regimes, through profiteering from the economic distortions and incentives that they introduced. Moreover, punitive restrictions on banks and financial institutions, including those based in third countries, routinely led to overcompliance out of abundance of institutional caution. In some cases, it was difficult to import even basic food items, health-care equipment and other forms of humanitarian aid into sanctioned countries, despite the existence of applicable exemptions. Fearing penalties, third-country banks refused to transfer funds, required onerous certification for each transfer, or created additional costs and delays that impeded assistance and reduced effectiveness.

9. In March 2020, less than two weeks after the global coronavirus disease (COVID-19) pandemic had been declared, the High Commissioner had called for the easing of sanctions to enable medical systems to fight COVID-19 and limit the global contagion,⁴ and to ensure access for millions of people in targeted countries to essential medical equipment and treatment. Continued sanctions risked causing more suffering and death and wider contagion around the world. It had long been clear that obstacles to the import of vital medical supplies, including overcompliance with sanctions by financial institutions, created long-lasting harm to most vulnerable communities. The people of targeted countries in no way responsible for the policies triggering the sanctions and, to varying degrees, had already been living in a precarious situation for prolonged periods through no fault of their own. Sanctions regimes that constrained the actions of third parties were also problematic when overbroad, affecting individuals and economic actors other than those directly responsible for human rights violations. Individuals and corporate entities subject to such sanctions often had scant legal process prior to being brought under such regimes, and frequently had little if any effective recourse to any mechanism to appeal liabilities or penalties applied against them. Such procedures might violate a number of fundamental principles of due process.

10. Challenges also persisted in the context of United Nations counter-terrorism sanctions. Despite significant reforms, counter-terrorism sanctions often had a negative impact on human rights, including disruption of humanitarian action and infringement of the rights of those affected by travel bans, asset-freezing or confiscation of property without sufficient basis or possibility for review. With a view to mitigating their impact on principled humanitarian work, some States had excluded the activities of impartial humanitarian organizations from the scope of anti-terrorism legislation, and had provided humanitarian exemptions to otherwise prohibited travel to areas that were under the influence of groups designated as terrorist. Such flexibility was important to facilitate the reconciliation of competing policy objectives.

11. A growing number of countries were applying sanctions to an increasing range of targets for an expanding number of reasons, including with a view to securing greater respect for human rights and fostering accountability. However, human rights could not be adequately protected, and indeed were profoundly undermined, if the sanctions themselves and the means of enforcing them violated human rights.

12. In considering the negative impacts of sanctions, the Committee on Economic, Social and Cultural Rights concluded that: (a) human rights should be taken fully into account when designing sanctions regimes; (b) effective monitoring should be undertaken throughout the period that sanctions were in force; and (c) external entities imposing sanctions had an obligation to take steps, individually and through international assistance, to respond to any disproportionate suffering experienced by people living in vulnerable situations in targeted countries.

13. While there was a place for asset bans, visa restrictions and other measures, as part of a wider package of accountability measures, against individuals who were credibly accused of perpetrating severe human rights violations, sanctions targeting entire countries or sectors

⁴ See <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25744&LangID=E>.

of economic activity should be avoided. The High Commissioner concluded by calling upon sanctioning countries, in the light of their own experience and that of others, to reassess and critically re-evaluate their use of unilateral sanctions to avoid their adverse effect on human rights. She also called upon the authorities of countries subjected to sanctions to provide transparent information, accept offers of necessary humanitarian assistance, prioritize the needs and rights of vulnerable people and take measures to guarantee that national and international organizations were able to carry out essential humanitarian work.

14. The Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, in her opening remarks, stated that the global community faced a large expansion of the scope, grounds, purposes, targets, means and mechanisms of unilateral coercive measures. Their negative humanitarian effects had been enormously exacerbated by their extraterritorial application, the expanding use of secondary sanctions, and civil and criminal penalties against those who cooperated with States, companies and individuals targeted by primary sanctions. The Caesar Syria Civilian Protection Act, of the United States, was a clear example of such extraterritorial application. The Act provided for the imposition of sanctions on third countries, companies or individuals that dealt with the Government of the Syrian Arab Republic, its central bank or listed persons, preventing, *inter alia*, reconstruction projects in a country already severely affected by military conflict.

15. In view of enormous penalties that banks and private companies potentially faced, they preferred to adopt zero-risk policies, resulting in growing over-compliance, affecting individuals in targeted societies, nationals and companies of other States, civil society and humanitarian organizations. Owing to the interdependence of the banking system, banks around the world either avoided bank transfers involving targeted countries or made the transfer process lengthy and costly. Such de-risking policies impeded transactions, raised their costs and resulted in the freezing of funds. Private businesses in targeted countries reported unwillingness among suppliers to interact with them directly, meaning that they were required to use multiple intermediaries, adding time and costs.

16. Humanitarian organizations reported that humanitarian exemptions were complex and inconsistent. The use of intermediaries by non-governmental organizations (NGOs) had the potential effect of halving the funding initially allocated for humanitarian purposes. Furthermore, banks' de-risking policies increasingly drove humanitarian actors to use informal payment channels or cash, creating security risks, making the funding harder to trace and increasing the risk of extortion and misuse or diversion of funds to finance terrorism, thus undermining one of the central aims of sanctions. Humanitarian organizations also reported a growing reluctance among donors from sanctioning States to provide humanitarian aid or money to deliver to the countries targeted, for fear of being listed.

17. The Special Rapporteur recalled that the United Nations had criticized the extraterritorial application of unilateral measures back in 1948, when the League of Arab States had sought to implement a secondary boycott of Israel and had conditioned trade with third-State companies on their refusing to trade with Israel. There was therefore general consensus about the illegality of the application of extraterritorial sanctions, including among States imposing sanctions. The European Union had expressed that concern in multiple statements and in a study produced in 2020 upon the request of the European Parliament.⁵

18. Unilateral sanctions, together with secondary sanctions, civil and criminal penalties and overcompliance, affected people in targeted countries, but also in third States. They prevented the delivery of essential goods such as food, medicine, medical equipment, spare parts and equipment for maintaining critical infrastructure, and rendered even narrowly formulated humanitarian exemptions ineffective. Humanitarian organizations reported in particular that they could not deliver humanitarian aid, sell essential goods and equipment or proceed with bank transfers or the delivery of goods because of private businesses were reluctant to provide financing. States and private businesses alike sought to shift responsibility to other interlocutors. The Special Rapporteur reminded all Member States and private enterprises of their obligation under international law to act in accordance with the

⁵ European Parliament, *Extraterritorial Sanctions on Trade and Investments and European Responses* (Brussels, European Union, 2020).

due diligence standards recognized by the International Court of Justice in the 1949 *Corfu Channel* case,⁶ and with the Guiding Principles on Business and Human Rights. States were therefore obliged to take all the measures necessary to guarantee that the activities of private businesses under their jurisdiction or control did not violate human rights. Businesses were similarly obliged to engage in responsible behaviour to ensure respect for human rights.

III. Summary of the proceedings

A. Contributions of panellists

19. Mr. Ruys stated that the past 20 years had seen a consistent increase in sanctions, especially extraterritorial sanctions, with major repercussions for the enjoyment of human rights around the globe. The United States, for its part, regarded extraterritoriality as an effective force multiplier to increase the impact of unilateral sanctions. Nonetheless, such practice raised fundamental legal concerns.

20. First, extraterritorial unilateral sanctions often went beyond what was permitted under international law on jurisdiction. An example was the practice by the United States of applying sanctions regulations not only to United States companies, but also to foreign companies owned or controlled by United States companies. A second example concerned the application of United States sanctions to any transactions conducted in United States dollars, including those between foreign entities and foreign financial institutions with no relevant nexus with the United States. Given its dominant place in global trade, the weaponization of the United States dollar had a far-reaching impact around the globe, and merited the specific attention – and disapproval – of the Human Rights Council, also to prevent others from following suit.

21. Second, extraterritorial sanctions often contravened international trade law, including World Trade Organization law. A case in point were so-called “access restrictions”, as a result of which foreign companies that traded with certain countries would lose access to the sanctioning State. Such secondary sanctions also undermined the political and economic sovereignty of third countries and sat uneasily with the principle of non-intervention. Furthermore, given the potentially crippling effect on the economy of the target of the primary sanctions, secondary sanctions could have adverse humanitarian consequences and negatively affect human rights, including the right to development, even though sanctions regimes often provided for humanitarian exemptions. Indeed, the exposure to potentially enormous penalties and the complexity of the regulatory framework had contributed to a practice of widespread overcompliance, whereby companies simply cut off all transactions and avoided trading with targets of primary sanctions.

22. Both the General Assembly, in its resolution 75/181, and the Human Rights Council, in its resolution 46/5, called upon all States to take administrative or legislative measures to counteract the extraterritorial application or effects of unilateral coercive measures. For the time being, however, such efforts had remained largely futile. While the European Union’s blocking statute,⁷ which was currently under revision, formally prohibited European Union companies from complying with certain extraterritorial sanctions instruments imposed by the United States, it had remained ineffectual. A more concerted and multilateral effort was pivotal to a more effective response to counteract unlawful unilateral sanctions.

23. In the 1990s, the growing awareness of the adverse humanitarian consequences of economic sanctions triggered a trend towards more targeted sanctions at the level of the Security Council. However, the current trend of increasing adoption of ever more far-reaching extraterritorial and secondary sanctions by individual States, outside of the United Nations context, with little regard for the impact on normal economic operators or the civilian population, again revealed the bluntness of sanctions as a foreign policy tool. He concluded

⁶ International Court of Justice, *Corfu Channel case*, Judgment, 9 April 1949, *I.C.J. Reports 1949*, p. 4.

⁷ Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extraterritorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom.

that, while it was clear that unilateral sanctions would not vanish in the near future, the Human Rights Council had an important role to play in exposing and countering the gravest excesses of such sanctions policies.

24. Mr. Askary stated that the principle of non-intervention in internal affairs served as an extra test for assessing the legitimacy of the unilateral sanctions. Overcompliance with secondary sanctions resulted in unlawful intervention in the domestic affairs of third States. He mentioned the Islamic Republic of Iran as an example of a targeted country.

25. Unilateral coercive measures were usually not legally justified, but rather were used as a form of foreign policy to achieve national and international interests. The main question for the panel discussion therefore related to the legality of policies of coercion by sanctioning countries and tolerance towards the practice of exerting pressure on sanctioned and third countries. Legally speaking, coercion in the form of unilateral coercive measures with a negative impact on human rights was not permissible, because such measures usually affected the capacity of sanctioned States to fulfil their human rights obligations and prevented them from exercising their right to decide, of their own free will, their own political, economic and social systems.

26. He stressed that the outbreak of the COVID-19 pandemic showed that sanctioned States were unable to fulfil their international human rights obligations as a result of the burden of sanctions imposed on them. Under the principle of non-intervention, however, unilateral coercive measures that had a negative impact on the capacity of the targeted States to implement their international human rights obligations were prohibited.

27. He noted that unilateral coercive measures today also included secondary sanctions, which resulted in unlawful intervention in the domestic affairs of third States. Non-compliance by third-State actors would result in financial penalties and loss of access to the capital and financial markets of the sanctioning State. The extraterritorial application of unilateral coercive measures therefore enforced the jurisdictional power of the sanctioning State over third-State companies and persons and over humanitarian organizations, and undermined the capacity of third States to express an independent political viewpoint that was contrary to the sanctioning State's foreign policy.

28. Ms. Gordon stated that she had been conducting research and publishing for many years on the humanitarian impact of sanctions, extraterritoriality and, more recently, overcompliance and the chilling effect of unilateral sanctions. She had primarily considered the latter two areas in the context of sanctions imposed by the United States, which, despite the use of the language of "targeted sanctions", had arguably been the most extensive and indiscriminately damaging to the population as a whole, and to people living in vulnerable situations in particular, both directly and indirectly. First, although the sanctions might be initiated unilaterally, in many ways they functioned as global measures; for example, when measures imposed by the United States blocked access for targeted countries to global institutions, such as the World Bank and the International Monetary Fund, or to certain goods produced only in the United States, including software, technology and pharmaceuticals. A further example concerned the United States financial system, given that the United States dollar was the world's reserve currency, that most of the world's financial transactions took place through United States financial institutions and that for key commodities, such as oil, international transactions were made in dollars. Additionally, banks and other private actors were threatened with exclusion from the United States financial system. While the blacklisting of individuals, companies and foundations supposedly targeted only individual wrongdoers and spared the civilian population, in practice the impact could be sectoral, indiscriminate and broad-based.

29. She stressed that the impact of such policies was magnified in the practice of overcompliance. That practice often entailed de-risking policies, whereby a bank, shipping company, insurance company and so forth would withdraw from a market altogether rather than risk severe penalties by the United States Government, often through the Treasury Department's Office of Foreign Assets Control.

30. Overcompliance was driven by two conditions: the uncertainty of the due diligence requirements, and the severity of the penalties. A private actor must take measures to reduce the risk of facilitating transactions by targeted persons or companies, but what exactly that

entailed was not fully explicit. At the same time, if a bank made an error in that regard, it might find itself paying billions of dollars in penalties and might even be suspended from the United States financial system. The advantage of that arrangement for the sanctioning State was that it wielded extraordinary discretion. Those two conditions, in combination, drove the commercial decision to withdraw altogether from markets that were, or were perceived to be, high-risk, and they had triggered a significant reduction in banking services. Many of those markets were in the global South. The International Monetary Fund reported that there had been extensive loss of correspondent bank relations in Africa, Arab States, Latin America and elsewhere.

31. In conclusion, she stated that to address the problem of overcompliance, sanctions should operate with transparency and consistency. That would change the calculus of banks and other private actors who saw no choice but to withdraw altogether from a country or a region. However, that would imply a considerable reduction in the vast discretion wielded by sanctioning countries. Such practices severely, extensively and indiscriminately affected the ability of humanitarian organizations to receive funds and undertake their operations, created significant barriers and costs for families dependent upon remittances and worsened the conditions of foreign investment and the economic development of low-income countries.

32. Mr. Zhang said that the international community did not recognize the legitimacy of unilateral coercive measures as they violated the purposes and principles of the Charter of the United Nations and undermined the independence of national laws. They also severely disrupted the international political and economic order and prevented the establishment of a fair global governance system.

33. In the context of the COVID-19 pandemic, sanctions had sparked economic, development and humanitarian crises and violated people's basic rights to subsistence and development. In particular, the rights of vulnerable groups, such as women, children, persons with disabilities and older persons, had been disproportionately affected. Regarding the effect of sanctions imposed on the Bolivarian Republic of Venezuela, the Islamic Republic of Iran and Cuba, he took the view that sanctioning countries had abused their power, exacerbating the problems caused by poverty and the COVID-19 pandemic. He concluded by encouraging the Human Rights Council and the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights to keep advocating the lifting of all unilateral sanctions.

B. Interactive discussion

34. During the subsequent interactive discussion, representatives of the following States and observers made statements: Azerbaijan (on behalf of the Movement of Non-Aligned Countries), Belarus, Bolivia (Plurinational State of), Cuba, China, Indonesia, Iran (Islamic Republic of), Malaysia, Niger, Qatar, Russian Federation, South Africa, Syrian Arab Republic, Venezuela (Bolivarian Republic of) and Zimbabwe, and European Union.

35. Representatives of the following non-governmental organizations also made statements: Beijing Crafts Council, Centre for China and Globalization, Charitable Institute for Protecting Social Victims, Organization for Defending Victims of Violence, Sikh Human Rights Group and World Evangelical Alliance.

36. Azerbaijan, speaking on behalf of the Movement of Non-Aligned Countries, reiterated that unilateral coercive measures impeded the enjoyment of human rights and violated the Charter of the United Nations, and the rules and principles of international law. At the Eighteenth Summit Conference of Heads of State or Government of Non-Aligned Countries, held in Baku in 2019, participants emphasized their objection to all unilateral coercive measures, including those used as tools for political or economic and financial pressure against any country. The extraterritorial character of such measures affected not only on targeted countries, but also third countries. The Movement of Non-Aligned Countries called upon all States not to impose unilateral coercive measures and to refrain from the extraterritorial application of domestic laws that contradicted the principles of the Charter of the United Nations and impeded the full implementation of international human rights instruments. Such measures also hampered the development of least developed and

developing countries, at a great cost of the human rights of the poorest groups and of those people living in vulnerable situations. To conclude, the Movement of Non-Aligned Countries reiterated the importance of strengthening international cooperation, which was necessary to address the negative impact of unilateral coercive measures on human rights.

37. The European Union emphasized the key principles and features of sanctions that it imposed, in order to foster greater understanding of them and underscore their legitimacy and lawfulness. Sanctions were not punitive in nature, but were intended to facilitate a change in policy or activity, as they targeted the countries, and entities and individuals, responsible for the malign behaviour in question.

38. The European Union considered sanctions to be a foreign and security policy tool for upholding respect for human rights and the principles of international law. Its sanctions were in full conformity with the obligations of the European Union and its member States under international law. Where persons or entities were targeted by sanctions, human rights were fully respected, as required by European Union treaties and the Charter of Fundamental Rights of the European Union. Sanctions imposed by the European Union, including sectoral economic measures, were always targeted and decided on a case-by-case basis.

39. The European Union did not impose full trade embargoes. Its sanctions were based on specific listing criteria, required legally robust evidence, and were accompanied by corresponding reasoning. Designated persons and entities could provide observations and requests to be delisted, and could challenge the measures before the Court of Justice of the European Union. In addition, the European Union reviewed sanctions regimes and designations on a regular basis, either annually or on a six-monthly basis.

40. Sanctions imposed by the European Union had no extraterritorial application. They did not create obligations for non-European Union operators, unless their business was conducted at least partly within the European Union. In order not to impede the delivery of humanitarian assistance and humanitarian activities, the European Union had established a system of exceptions to its sanctions, which was consistent with the system of exceptions operated under United Nations sanctions. Indeed, food and medicines were never targeted by European Union sanctions. Furthermore, to avoid the risk of overcompliance and to increase awareness of its targeted sanctions, the European Union was taking various measures to support implementation.

41. The Bolivarian Republic of Venezuela endorsed the statement delivered on behalf of the Movement of Non-Aligned Countries. It stated that unilateral coercive measures had catastrophic consequences in the affected countries, generating serious long-term and far-reaching economic, social and humanitarian problems, and reiterated the call upon States to cease their application. Some countries ignored such calls and continued to impose unilateral coercive measures, which violated international law and human rights and the norms and principles governing peaceful and friendly relations between States and constituted crimes against humanity. It rejected the enactment of illegal legislation with extraterritorial effect, which entailed serious interference in the internal affairs of States and their sovereignty. Various developing countries suffered from the imposition of such measures.

42. The Bolivarian Republic of Venezuela also emphasized that the economic and financial blockade resulting from unilateral coercive measures represented a unilateral act of coercion that contradicted the most elementary principles of international law and the legal regime defining economic and commercial exchange between countries. It stressed the importance of multilateralism, cooperation and solidarity among countries, and urged a rejection of such measures against any State and a recognition of their consequences on human rights, including the right to development, and the obstacle that they represented for international trade relations, peace, security and the well-being of humanity.

43. The Islamic Republic of Iran stressed that a human rights-centred perspective should be streamlined into any discussion regarding unilateral coercive measures. Political motivations should not justify any human suffering or human rights violations. The Islamic Republic of Iran deplored the tendency to resort to the arbitrary application of unilateral sanction in the name of human rights principles, since unilateral sanctions were inherently antithetical to human rights. On the contrary, they were designed to exact political concessions from the governing system of the targeted country, exposing their population to

constant suffering. Coercive extraterritorial application of domestic law and unilateral sanctions imposed by certain States undermined the national jurisdictions of targeted countries. Third States were also obliged to comply with those sanctions, disregarding the general principles of international law on State jurisdiction. Such was the case where the European Union complied with coercive measures taken by the United States against targeted countries. The Islamic Republic of Iran called upon all stakeholders, including the United Nations human rights mechanisms, to report on the illegality of unilateral coercive measures and their negative implications on human rights.

44. Cuba reiterated its denunciation of the economic, commercial and financial blockade by the United States as the most severe and prolonged system of unilateral sanctions ever applied. It constituted a flagrant violation of the rights of the Cuban people and a major obstacle to Cuban economic and social development.

45. The blockade affected all sectors. The accumulated damages of almost six decades of application of the policy amounted to more than 147.85 billion dollars. In the context of the COVID-19 pandemic, the former Administration in the United States tightened the blockade to unprecedented levels, with 243 measures of economic war imposed, the last of which was to include Cuba in its list of State sponsors of terrorism. Those measures affected the country's capacity to obtain essential medical equipment and supplies, food and fuel, its use of international currency, the ability to send remittances, the tourism sector and family trips, and the operation of consulates and embassies, all with absurd reasons given in justification. Cuba had suffered defamation of its international medical collaboration and the manipulation of religious freedoms and liberties, as part of the lines of attack against its Government. Despite the difficulties arising from the pandemic and the effects of the blockade and the "anti-Cuban policy", Cuba reiterated its commitment to defending and promoting all and everyone's human rights.

46. The Syrian Arab Republic stated that unilateral coercive measures were unlawful under international law. Where countries of origin exceeded their legal jurisdiction in violation of the principle of territoriality, they were violating the basic principle according to which States should exercise their sovereign jurisdiction, without extending it extraterritorially. Under these circumstances, public and private institutions found themselves forced to make decisions and to adopt policies under threat and pressure from the countries imposing the measures. Overcompliance had a devastating impact on the work of the humanitarian organizations and their projects, despite their emergency nature. That impact was exacerbated by the ambiguity of the coercive measures that targeted the Syrian Arab Republic, especially the so-called "humanitarian exemptions", which either did not exist or were not applicable. It therefore welcomed and endorsed the initiative by the Special Rapporteur to create a global database on the impact of unilateral coercive measures.

47. Malaysia endorsed the statement delivered on behalf of the Movement of Non-Aligned Countries. It expressed concern about the adverse effects of unilateral coercive measures on human rights and the humanitarian situation, not only in targeted States, but also in third countries. It said that the extraterritorial application of laws and regulations imposing unilateral coercive measures, and the increase in overcompliance, was a matter of concern under international law. Sanctions, including targeted sanctions, might not result in the intended outcome, but rather have far-reaching negative consequences. Innocent citizens and people living in vulnerable situations were among those who suffered the most. In addition, sanctions had the potential to cripple the economy of the wider region, undermining efforts to achieve the 2030 Agenda that had already been impaired by the COVID-19 pandemic. In conclusion, Malaysia stressed that humanitarian and human rights consequences should always be prioritized by States.

48. Qatar asserted that unilateral coercive measures lacked legitimacy, as they violated the Charter of the United Nations, international law, human rights and the principles governing sovereignty and peaceful relations between States. Given their widespread use, there was a need to focus on challenges regarding issues of jurisdiction and the extraterritoriality of coercive measures, which affected States' liability and accountability for actions that undermined human rights, including beyond their borders. However, those issues should not prevent the creation of mechanisms for reparation and victims' compensation or action to prevent the recurrence of such violations.

49. The Russian Federation stressed that unilateral coercive measures undermined the efforts of States to resolve crisis situations and violated basic human rights and freedoms that were universally recognized under international law. As the COVID-19 pandemic continued, sanctions exacerbated an already dire situation, further harming States and the rights of their citizens. Such measures were particularly devastating in conflict situations, when they impeded the supply of COVID-19 vaccines, diagnostic and treatment equipment, and so on. Humanitarian exemptions were insufficient and ineffective. Despite those circumstances, Western countries were reluctant to reconsider their positions and unlawful approaches, disregarding the appeals by the Secretary-General and the High Commissioner for Human Rights to suspend sanctions on supplies of medicine, equipment and food, and their related financial transactions, as was necessary to combat COVID-19. The appeal by the President of the Russian Federation to create “green corridors” in international trade, free of sanctions and other artificial barriers, had also been disregarded. Western countries ignored the impact of unlawful restrictions on human rights, which represented not only a politicization of humanitarian issues, but also an attempt to use the pandemic to punish States regarded as controversial. It was regrettable that the number and scope of unilateral coercive measures had increased considerably, and that their use extended to all areas of public life, including sports and culture: for example, the United States had imposed sanctions against Akhmat football club. The application of unilateral sanctions as means to achieve political goals aggravated confrontation between States. Conversely, political and diplomatic efforts within the framework of a depoliticized dialogue and strict observance of the norms of international law constituted a more effective approach.

50. Belarus endorsed the statement by the Russian Federation, and reiterated that unilateral coercive measures were an unlawful instrument under international law. Moreover, they impeded countries’ collective achievement of the Sustainable Development Goals by 2030. In that connection, not only affected States, but also international organizations and the private sector should be involved in efforts to support countries affected by sanctions to achieve the Sustainable Development Goals. The International Labour Organization should respond to the phenomenon of unilateral coercive measures, since they directly affected the rights of workers, which it sought to protect and defend.

51. China stated that unilateral coercive measures adopted by the United States and other Western countries under their domestic laws were used to suppress the legitimate Governments of the countries concerned, incite “colour revolutions” and subvert regimes. Such measures violated international law and the basic principles of equal sovereignty and non-interference in international relations. As the COVID-19 pandemic continued, the international community urgently needed to be united and to cooperate to address current challenges. Several countries had even intensified unilateral sanctions, in the name of the protection of freedom and democracy, but contributing to weakening countries’ efforts to address the pandemic. Such measures undermined international cooperation in fighting the pandemic and deprived countries of their legitimate rights to medical treatment and vaccines. Furthermore, they directly endangered the right to life and health of the people of the affected countries, especially those people living in vulnerable situations; undermined worker’s rights, as was the case in Xinjiang Uighur Autonomous Region; and led to humanitarian disasters. China urged the United States and the other countries concerned to immediately and completely abolish unilateral coercive measures, and to take urgent action to eradicate their negative impact on human rights. The international community should jointly oppose any interference in the internal affairs of other countries, promote the equality of all countries, and promote the development of the international order and global governance system in a more equitable direction.

52. Indonesia reaffirmed its opposition to unilateral coercive measures as a tool for exerting political or economic pressure, especially against least developed and developing countries. Such measures continued to constitute an obstacle to the full realization of States’ right to economic and social development. They affected the work of humanitarian actors and the human rights of the population of targeted States, with a disproportionate impact on poor people and the most vulnerable groups, especially in the face of the COVID-19 pandemic. The imposition of such measures had a debilitating impact on the already vulnerable health sector of targeted States. It strongly subscribed to the view that humanitarian concerns should always be taken into account by States when deciding on the

application or implementation of any unilateral measures. States must seek multilateralism and mitigate the negative effects of unilateral coercive measures.

53. Zimbabwe endorsed the statement delivered on behalf of the Movement of Non-Aligned Countries. It said that it condemned the use of extraterritorial unilateral coercive measures by certain countries as a foreign policy tool to impede or even deny access to Zimbabwean commercial and financial markets. That practice also had the effect of coercing third States into aligning with the expectations of the countries imposing sanctions. In her report to the Human Rights Council, the Special Rapporteur had emphasized the general consensus in legal doctrine across the world on the illegality of the application of extraterritorial sanctions.⁸ The de facto expansion of extraterritorial jurisdiction frequently resulted in overcompliance by public and private entities, as a way of avoiding possible civil and criminal penalties for inadvertently violating sanctions regimes. Furthermore, the Human Rights Council and the General Assembly had, in relevant resolutions, highlighted the negative impact of extraterritorial unilateral coercive measures on the full realization of human rights. The unilateral sanctions imposed on Zimbabwe had had a significant negative impact on all sectors of its economy, especially the banking and financial service sectors. For example, the branding of the country and its entire financial linkages with the rest of the world as high risk resulted in Zimbabwean banks failing to meet their customers' obligations, owing to the termination of correspondent bank arrangements with international financial institutions in the United States and Europe. Zimbabwe urged the international community to take urgent and effective action to end extraterritorial unilateral coercive measures as a means of political and economic compulsion.

54. The Plurinational State of Bolivia stressed that unilateral coercive measures undermined international law and had a negative impact on human rights, with disproportionate consequences for people living in vulnerable situations, and on the fight against the pandemic. It emphasized the need to discuss how countries in the global North could help countries affected by such measures, to ensure the full enjoyment of human rights. It drew attention to the humanitarian impact of such measures and expressed its solidarity with the people concerned. It concluded by encouraging multilateralism and respect for international law as key tools to foster dialogue and solidarity among countries.

55. South Africa stated that, especially in the context of the COVID-19 pandemic, unilateral coercive measures had a negative impact on human rights, with disproportionate consequences for people living in vulnerable situations, particularly women and children. The African Union had condemned such measures and called for them to be lifted, noting their negative impact on countries' socioeconomic conditions and post-conflict reconstruction and development. South Africa expressed concern about the extraterritorial application of laws and regulations imposing unilateral coercive measures, and about the increase in overcompliance practices, which had a devastating impact on humanitarian operations and aid delivery in targeted countries. It urged States to refrain from shifting the responsibility for overcompliance to private companies. Unilateral coercive measures, and their extraterritorial dimension, prevented the full realization of States' right to development, owing to their negative daily impact on people's livelihoods and on the general humanitarian situation of many countries and to the increased vulnerability of the poor population.

56. The Niger emphasized that unilateral coercive measures had a negative impact on the population concerned and undermined human rights. The international community should do its utmost to comply with United Nations principles and to promote human rights, regardless of religion, nationality or race.

57. The Centre for China and Globalization stated that the majority of the unilateral sanctions did not meet the permitted international rights obligations and standards. Many countries became the target of such measures, and their population suffered extreme shortage of daily necessities and their economic development stagnated. China was no exception, and some Western countries overlooked the achievements of China in terms of poverty relief while blaming China for its policies against minority ethnic groups in Xinjiang Uighur and Tibet Autonomous Regions. However, sanctions hindered the economic development of the

⁸ [A/HRC/48/59](#) and [A/HRC/48/59/Corr.1](#), para. 59.

people of Xinjiang Uighur. It condemned any form of unilateral coercive measures that violated human rights.

58. The World Evangelical Alliance said that unilateral sanctions contributed to widespread impoverishment, increased reliance on humanitarian aid and hampered the ability of Church-based organizations to deliver essential aid. Banks were increasingly reluctant to transfer funds for humanitarian aid to NGOs and local Church-based organizations. The extensive use of unilateral sanctions also had a detrimental impact on the civilian population, especially in countries suffering with war, internal violence, systemic corruption, droughts, flooding and the COVID-19 pandemic. It called upon the United States, the European Union and other Governments to reconsider the extensive use of unilateral coercive measures and to prioritize the well-being of civilians, dialogue and political solutions.

59. The Organization for Defending Victims of Violence expressed deep concern about the impact of the extraterritorial application of unilateral coercive measures on interbank systems and overcompliance by third parties, including unilateral sanctions that led to the limitation of access to life-saving medicine and vaccines for sanctioned populations. It also expressed concern about the disregard shown by sanctioning countries for the repeated resolutions of the Human Rights Council and the General Assembly, and for calls by United Nations authorities for the elimination of unilateral sanctions during the COVID-19 pandemic.⁹ The Organization called upon the panellists to offer recommendations to the international community on how to approach the sanctioning countries that considered themselves above the law, how to strengthen the international rule of law against unilateralism, and how to end the extraterritorial dimension of sanctions. It further urged the panellists to make suggestions to the Council regarding the establishment of a compensation mechanism for human rights violations caused by unilateral coercive measures, and to hold perpetrators accountable.

60. The Sikh Human Rights Group welcomed the efforts by the Special Rapporteur and expressed deep concern about the application of unilateral coercive measures by States and regional organizations, with disregard for Security Council provisions. The Group stressed that these measures constituted a deterioration in the rule of law, and were taken mainly by Western countries. Financial blocking of a State could be considered a crime against humanity. Unilateral coercive measures used during armed conflicts had been regulated at the international level in order to protect the civilian population. However, the regulation tackling economic coercion was poorly implemented. The Group highlighted the necessity to work towards establishing clear and forceful legal limitations to such measures, and to build collective solidarity and constructive dialogue solutions at the global level.

61. The Beijing Crafts Council emphasized that, while science and technology were highly developed, progress in the promotion of the human rights that corresponded to them was still lacking. Unilateral coercive measures constituted obstacles that seriously affected the fairness of world trade, the stability of the international order, and the synergies of mutual learning among different countries. The Beijing Craft Council had held several mutual learning dialogues based on handicrafts, art and cultural relics from various periods to strengthen solidarity and cooperation. Countries should strengthen dialogue based on equality, cooperation and mutual respect.

62. The Charitable Institute for Protecting Social Victims expressed its deep concerns about the continued and systematic violations of people's human rights caused by unilateral coercive measures, despite short-term licences for humanitarian goods. Particularly affected were the rights to life, health, food, medicine and vaccines among the targeted population, and among people living in vulnerable situations, such as people with intellectual and psychosocial disabilities. In the light of the consequences of such measures, especially during the COVID-19 pandemic, it urged the panellists to find solutions to immediately end all

⁹ See, for example, <https://news.un.org/en/story/2020/03/1060092>, <https://foreignpolicy.com/2020/03/24/un-coronavirus-cuba-iran-venezuela-north-korea-zimbabwe-sanctions-pandemic/>, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26155&LangID=E>, <https://www.un.org/press/en/2020/sgsm20024.doc.htm>, A/HRC/39/54 and A/HRC/42/46.

forms of unilateral coercive measures. Their adverse extraterritorial effects should entail the responsibility of the sanctioning State under relevant human rights instruments.

C. Panellists' concluding remarks

63. Mr. Ruys stressed the need for a refinement of the current approaches to unilateral coercive measures, acknowledging that States could regulate their own enterprises pursuant to the principle of nationality. There should be more dialogue between States with respect to the permissibility of sanctions. Further, humanitarian exemptions should be more accessible and the complexity of the existing national legislation should be reduced, so that humanitarian organizations did not suffer indirectly from the effects of such legislation and of unilateral coercive measures. He concluded that, like the Human Rights Council, the International Court of Justice, in a pending case between the Islamic Republic of Iran and the United States, had taken the position that sanctions should not affect medical supplies and equipment, food storage and agricultural commodity.

64. Mr. Askary said that he considered that consensus existed in the international community on the illegality and unlawfulness of unilateral coercive measures, on legal, humanitarian and policy grounds. Cooperation between States, including on lifting sanctions, was pivotal to combating the COVID-19 pandemic. He concluded that the extraterritorial application of national legislation in the form of the imposition of unilateral coercive measures undermined international law. That practice promoted self-interest and unilateralism, impeding the full enjoyment of human rights and breaching the principles of non-intervention, political independence and the sovereignty of States, including in third States. Solutions must therefore be grounded on sovereign equality, the principle of non-intervention, human rights, good faith, cooperation and solidarity among States.

65. Ms. Gordon noted that the consequences of certain decisions taken by the United States Treasury Department were particularly devastating for global South countries, which had lost access to the banking system while trying to comply with due diligence obligations. Ultimately, it was those people living in vulnerable situations who suffered the most from financial exclusion, particularly women, people living in rural areas and people working in the informal sector. The costs and burdens of compliance were substantial for financial institutions in the global South. Meanwhile, the risk to the customer of losing access to banking services, as the bank sought to meet due diligence requirements, was often a burden on the most vulnerable populations. The degree of financial exclusion had worsened considerably in global South regions, affecting women, small and medium-sized businesses, small farmers, refugees and the informal sector. Remittances sent by family members working abroad, which were critical to the economies of many low-income countries, had been reduced, delayed or interrupted, partially because of the United States Treasury Department's sanctions framework. She concluded that, similarly, many non-profit organizations were suffering from the impossibility of gaining access to the financial transactions required for their urgent operations, as a result of the impediments presented by sanctions in which United States unilateral measures played a major role.

66. Mr. Zhang reiterated that unilateral coercive measures were unlawful under international law. He recommended that more attention be paid to the needs of those indirectly affected by them and to people living in vulnerable situations, as many non-profit organizations were also suffering from the impossibility of engaging in financial transactions.

67. The Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights concluded that the application of primary and secondary sanctions, and of civil and criminal penalties, had led to a growing feeling of fear among States, NGOs, donors and individuals. Companies, including banks, were tempted to choose zero-risk policies, resulting in growing overcompliance. For this reason, some States had passed laws to protect their businesses, which was being

actively discussed as part of the review of the European Union's blocking statute that was currently under way. While such laws might help to protect business, they did not help to avoid overcompliance and protect human rights. The United Nations had been established to guarantee the rule of law in relations between States and to protect peace, security and the human rights of individuals. Such fear of the impact of unilateral coercive measures must never prevail over the protection of human rights. She concluded that the issues of overcompliance and the extraterritorial dimension of sanctions should be further discussed in the Human Rights Council.
