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Negative impact of unilateral coercive measures on the enjoyment of human rights

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Alena Douhan, submitted in accordance with Assembly resolution [73/167](#) and Human Rights Council resolution [27/21](#).

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Report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Alena Douhan

Negative impact of unilateral coercive measures on the enjoyment of human rights in the coronavirus disease pandemic

Summary

In the present report, the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Alena Douhan, offers an overview and assessment of the impact of unilateral sanctions on the enjoyment of human rights in the course of the coronavirus disease (COVID-19) pandemic, reveals the most affected rights of the targeted population and most vulnerable population groups, and provides an assessment of the effectiveness and sufficiency of humanitarian exemptions and humanitarian aid.

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I. Introduction

1. The coronavirus disease (COVID-19) pandemic constitutes a global challenge to the world community and the whole system of human rights, including the rights to life, to personal security, to health and to food. It also challenges the ability of States and international organizations to work together in the spirit of multilateralism, cooperation and solidarity to guarantee that no one is left behind and deprived of medical help, especially the most vulnerable, including persons with disabilities and older persons, who are at much higher risk when contracting the disease. COVID-19 is threatening to overwhelm public health-care systems and is having devastating impacts across the world in all spheres of life.

2. First reported in December 2019, the World Health Organization (WHO) designated it as a pandemic on 11 March 2020.¹ As of 6 July 2020, the number of reported cases had grown to 11.302 million in 216 countries and territories, and deaths had risen to 531,806.² Most countries had shortages of medical items,³ creating a reliance on international trade to fight the disease. However, items were difficult to secure as the global scramble for supplies drove prices higher⁴ and as normal shipping was disrupted.⁵

3. The obstacles to obtaining medicines and supplies through standard trade channels made the challenge of fighting COVID-19 particularly severe for countries targeted by unilateral sanctions that already inhibited their participation in the international trading system.

4. The present report contains an overview and assessment of the impact of unilateral sanctions on the enjoyment of human rights in the course of the COVID-19 pandemic, the most affected rights and population groups and the effectiveness and sufficiency of humanitarian exemptions. For that purpose, on 6 May 2020, the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Alena Douhan, communicated with all States, as well as with international organizations, non-governmental organizations (NGOs) and civil society, calling for submissions to identify the main spheres of concern. The Special Rapporteur received responses from Belarus, Cuba, Iran (Islamic Republic of), Namibia, the Russian Federation, Switzerland, the Syrian Arab Republic, Venezuela (Bolivarian Republic of) and the European Union. Responses were also received from international organizations and civil society actors.⁶ The Special Rapporteur expresses her gratitude to all respondents.

II. General response to unilateral sanctions in the course of the coronavirus disease pandemic

5. The devastating effects of unilateral sanctions and the need for solidarity and full respect for all human rights have been generally recognized from the very

¹ World Health Organization (WHO), “Archive: WHO timeline – COVID-19”, 27 April 2020.

² WHO, “WHO Coronavirus Disease (COVID-19) Dashboard”, available at www.who.int.

³ United Nations, UN News, “UN leads bid to help 135 countries get vital COVID-19 medical kit, amid severe global shortages”, 28 April 2020.

⁴ Alvaro Espitia, Nadia Rocha and Michele Ruta, “Trade and COVID-19 guidance note: trade in critical COVID-19 products”, World Bank Group, 27 March 2020.

⁵ United Nations, “UN leads bid to help 135 countries get vital COVID-19 medical kit”.

⁶ Office of the United Nations High Commissioner for Human Rights (OHCHR), “Call for submissions: UCM-Study on impact of unilateral sanctions on human rights during the state of emergency amid COVID-19 pandemic”, available at www.ohchr.org/EN/Issues/UCM/Pages/call-covid.aspx.

beginning of the pandemic by the United Nations and other international organizations.

6. In that regard, the United Nations High Commissioner for Human Rights, in her statement of 24 March, called for the easing or suspension sanctions, which was followed by the Secretary-General's 26 March appeal to waive sanctions. The Special Rapporteur issued a public statement on 3 April, urging the lifting of all unilateral sanctions that obstruct the humanitarian responses of sanctioned States, in order to enable their health-care systems to fight the COVID-19 pandemic and save lives.

7. On 2 April, the General Assembly adopted its resolution [74/270](#) on global solidarity to fight the coronavirus disease 2019 (COVID-19), which recognized the need for multilateral cooperation, unity and solidarity.

8. On 3 April, the European Union issued a declaration stressing that sanctions should not impede the delivery of essential equipment and supplies necessary to fight the coronavirus and limit its spread worldwide. On the same day, the Group of 77 and China issued a statement calling upon the international community to adopt urgent and effective measures to eliminate the use of unilateral coercive economic measures against developing countries, which undermine the capacity of States to respond efficiently to the pandemic.

9. As indicated in the United Nations policy brief entitled "COVID-19 and human rights: we are all in this together" of April 2020, it is important to "recognize the exceptional circumstances and to waive those sanctions that can undermine [a] country's capacity to respond to the pandemic".

10. On 30 April, a group of Special Rapporteurs issued a public statement calling on the United States of America to lift its economic and financial embargo against Cuba, which is obstructing humanitarian responses to help the country's health-care system fight the COVID-19 pandemic.

11. On 1 May, the Special Rapporteur issued a COVID-19 human rights guidance note, calling, *inter alia*, for any sanctions impeding the trade in or delivery of essential humanitarian goods and commodities to be lifted or at least suspended, and for the whole scope of unilateral sanctions to be reviewed and minimized in order to enable sanctioned States to ensure the effective protection of their populations during COVID-19, to repair their economies and to guarantee the well-being of their people in the aftermath of the pandemic.

12. On 24 April, the President of the International Federation of Red Cross and Red Crescent Societies cited the need for global solidarity and stressed that humanitarian aid must be able to flow into countries without such barriers as sanctions, as procedures for humanitarian exemptions from sanctions "are often lengthy and costly".⁷

13. On 4 May, the Heads of States and Governments of the Movement of Non-Aligned Countries adopted a declaration expressing their strong condemnation of unilateral coercive measures and urging their elimination to ensure the effectiveness of national responses to the COVID-19 pandemic. Other statements aligned with those mentioned above have been made by Human Rights Watch⁸ and numerous other NGOs.⁹ United Nations organs and other members of the

⁷ International Federation of Red Cross and Red Crescent Societies, "'COVID-19 a wake-up call to international community: urgent need for global solidarity to prevent poverty and food insecurity around the world,' says IFRC President", 24 April 2020.

⁸ Human Rights Watch, "US: ease sanctions on Iran in COVID-19 crisis – ensure access to essential resources", 6 April 2020.

⁹ Available at www.liftsanctionssavelives.org.

Inter-Agency Standing Committee created the COVID-19 Global Humanitarian Response Plan on 25 March to ensure the most effective response to the direct and indirect humanitarian consequences of the pandemic, with a particular focus on aiding the most vulnerable countries and groups.¹⁰

III. Development of sanctions regimes in the course of the pandemic

A. General overview

14. Although many countries impose unilateral sanctions, the present report is focused on those of the United States, the European Union and the United Kingdom of Great Britain and Northern Ireland post-Brexit, as the magnitude of their economic power and their extensive trade relations and financial integration with the rest of the world give them considerable coercive leverage when using sanctions to achieve foreign policy objectives.

15. The United States imposes broad trade embargoes as well as targeted sanctions that typically involve financial restrictions against entities and individuals. Since the COVID-19 pandemic began, the United States has broadened its use and threats of sanctions, for example by considering new types of sanctions in connection with an effort to accuse China of the spread of the disease, such as the lifting of China's sovereign immunity.¹¹

16. The United States enforces its sanctions extraterritorially, thus foreign entities and individuals dealing with sanctioned countries can face United States penalties if the United States claims jurisdiction over an element of the transaction, such as the use of United States dollars.

17. Actors from countries targeted by United States sanctions are prevented from using online services. In particular, the Zoom service agreement specifies that the service cannot be used by subjects registered in Cuba, the Democratic People's Republic of Korea, Iran (Islamic Republic of) and other States targeted in accordance with United States legislation, even to establish virtual meetings and webinars involving, inter alia, education and training for doctors or to implement telemedicine services.

18. With respect to the Islamic Republic of Iran, calls for the easing of sanctions for humanitarian reasons during the COVID-19 crisis have come from numerous domestic and foreign political leaders. Among developments since February 2020, the Special Rapporteur notes that the Office of Foreign Assets Control of the United States Department of the Treasury issued a general licence that authorized financial transactions involving the central bank of the Islamic Republic of Iran for shipments of items related to COVID-19, such as medicines and equipment.¹²

19. The Special Rapporteur notes with concern that the United States continued enforcement actions against various individuals in connection with alleged violations

¹⁰ Office for the Coordination of Humanitarian Affairs, *Global Humanitarian Response Plan: COVID-19* (Geneva, 2020).

¹¹ Jeff Mason, Matt Spetalnick and Humeyra Pamuk, "Trump threatens new tariffs on China in retaliation for coronavirus", Reuters, 30 April 2020.

¹² United States of America, Department of the Treasury, General License No. 8, authorizing certain humanitarian trade transactions involving the Central Bank of Iran, 27 February 2020.

of sanctions against the Islamic Republic of Iran.¹³ The same concern is expressed regarding the opposition of the United States to the effort of the Islamic Republic of Iran to obtain a \$5 billion loan from the International Monetary Fund for use in fighting COVID-19¹⁴ and issuing a fact sheet entitled “Iran: COVID-19 disinformation fact sheet” containing a detailed list of what it referred to as facts relating to the country’s the mishandling of the COVID-19 crisis.

20. Furthermore, the Special Rapporteur notes that, on 5 June 2020, the United States removed Iranian producers of material used in treating COVID-19 from sanctions it had imposed on the country’s manufacturing and industrial sectors in January 2020, by redefining the manufacturing sector to exclude them; but the material covered was “solely for use in Iran and not for export from Iran”.¹⁵ Part of the country’s response to United States sanctions has been for companies to increase their production capacity for certain medical items that they have exported, creating a dilemma for them: either limit production to what is necessary for the domestic market or produce enough to meet humanitarian needs abroad and be subject to the United States sanctions.

21. The United States trade embargo against Cuba has not been eased since the start of the COVID-19 crisis. Among the resulting situations, the Special Rapporteur transmitted a joint urgent appeal to the Government of the United States and issued a joint press release, calling for the lifting of the embargo and expressing concerns that equipment donated to fight the disease by the Chinese entrepreneur, Jack Ma, could not reach Cuba as the United States company hired to transport the shipment declined at the last minute on the grounds that United States regulations blocked it from fulfilling the contract.¹⁶

22. The Special Rapporteur notes with concern the reports that Swiss companies IMT Medical and Acutronic Medical Systems could not ship medical equipment to Cuba after being acquired by a United States company.¹⁷

23. The extraterritorial enforcement of United States sanctions resulted in private and public sector banks in Switzerland suspending money transfers to Cuba, preventing some Swiss humanitarian organizations from collaborating with Cuban medical entities.¹⁸

24. The Special Rapporteur expresses her concern that Cuba was unable to participate in a virtual summit meeting on Zoom of leaders of the Organization of

¹³ United States, Department of State, “New sanctions under the Iran, North Korea, and Syria Nonproliferation Act (INKSNA)”, press statement by Michael R. Pompeo, Secretary of State, 25 February 2020; Spencer S. Hsu, “US seizes millions, disrupts purchase of oil tanker in move targeting Iran’s elite Quds Force”, *Washington Post*, 1 May 2020; United States, Department of State, “Sanctions on entities trading in or transporting Iranian petrochemicals”, fact sheet, 18 March 2020; United States, Department of State, “Treasury designates IRGC-Qods Force front company and owner”, press release, 1 May 2020.

¹⁴ Abubakr Al-Shamahi, “Can the IMF overcome US roadblocks to give aid to Iran?”, Al Jazeera, 17 April 2020; Ian Talley and Benoit Faucon, “U.S. to block Iran’s request to IMF for \$5 billion loan to fight coronavirus”, *Wall Street Journal*, 7 April 2020.

¹⁵ United States, Department of the Treasury, Resource Center, “Office of Foreign Assets Control FAQs: Iran sanctions – Executive Order (E.O.) 13902 on imposing sanctions with respect to additional sectors of Iran”.

¹⁶ OHCHR, “US must lift its Cuba embargo to save lives amid COVID-19 crisis, say UN experts”, 30 April 2020; Yisell Rodríguez Milán, “La historia no contada de cómo un avión con suministros médicos desde China no ha podido entrar a Cuba”, *Granma*, 1 April 2020.

¹⁷ Walkiria Juanes Sánchez and Ronald Suárez Rivas, “U.S. company buys ventilator supplier and cancels shipments to Cuba citing blockade”, *Granma*, 13 April 2020.

¹⁸ Europe – Third World Centre (CETIM), “Economic sanctions and COVID-19 pandemic”, 11 May 2020.

African, Caribbean and Pacific States on 3 June 2020 to discuss the COVID-19 pandemic.¹⁹

25. The Special Rapporteur notes with concern that the United States called on other States not to accept humanitarian help from Cuba, including teams of Cuban doctors who have been sent to other countries to aid their response to COVID-19 and for which Cuba receives funds that may offset some of the impact of the United States sanctions.²⁰

26. With regard to sanctions against the Bolivarian Republic of Venezuela, the Special Rapporteur notes that since the COVID-19 pandemic began, the Office of Foreign Assets Control has blocked the United States assets of five foreign owners and operators of ships that reportedly transported Venezuelan oil. They include the Swiss trading arm of the Russian company Rosneft and four companies based in Greece and the Marshall Islands that are registered ship owners.²¹

27. The Special Rapporteur notes with concern that, in June 2020, it was reported that the Office of Foreign Assets Control was “preparing to add as many as 50 tankers to its blacklist” for working with the State-run oil sector of the Bolivarian Republic of Venezuela, “expanding an effort to choke off fuel trade between Iran and Venezuela”.²²

28. Regarding sanctions against other countries, the Special Rapporteur welcomes news that two banks in Zimbabwe were removed from the United States sanctions list on 21 May 2020, allowing them to access foreign credit; it was postulated locally that the move would help Zimbabwe fight the pandemic, although the lifting of sanctions was not specifically linked to that purpose.²³

29. The Special Rapporteur expresses concern that, on 17 June 2020, the Caesar Syria Civilian Protection Act entered into force, supplementing existing United States sanctions against the Syrian Arab Republic by targeting entities and individuals that facilitate the acquisition by the Government of the Syrian Arab Republic of goods, services or technologies that support its military activities, its aviation industry or its oil and gas industries. The act codifies a general licence for humanitarian activity by NGOs.²⁴

30. Unilateral sanctions imposed by the European Union usually consist of arms embargoes against sanctioned countries that can entail a wide range of dual-use items but do not target entire economic sectors, and measures against entities and individuals that typically take the form of financial sanctions, such as asset freezes and travel restrictions.²⁵

31. The Special Rapporteur notes that, on 11 May 2020, the European Commission issued a guidance note to facilitate the shipment of coronavirus-related humanitarian aid to countries that are subject to European Union sanctions. It outlined four principles: (a) European Union sanctions shall not impede the supply of humanitarian

¹⁹ “Bloqueo de EE.UU. impide a Cuba participar en foro multilateral; Capturados en Venezuela 57 mercenarios; Protestas por racismo en EE. UU.; Bolsonaro bloquea fondos para lucha contra la COVID-19”, *Granma*, 5 June 2020.

²⁰ Peter Kornbluh, “Covid-19: Cuba deserves relief from US sanctions”, *The Nation*, 31 March 2020.

²¹ “U.S. sanctions four shipping companies and ships over Venezuelan oil”, *The Maritime Executive*, 2 June 2020.

²² Ian Talley and Bradley Hope, “U.S. sets plan to expand sanctions on tankers, in bid to pressure Venezuela”, *Wall Street Journal*, 9 June 2020.

²³ Columbus Mavhunga, “Zimbabwe welcomes removal of its banks from US sanctions list”, *Voice of America*, 22 May 2020.

²⁴ See www.state.gov/caesar-syria-civilian-protection-act/.

²⁵ Council of the European Union, “EU Restrictive Measures”, fact sheet, 29 April 2014.

aid; (b) European Union sanctions should have humanitarian exceptions, and in the case of COVID-19, restricted activities not covered by the exceptions may be allowed; (c) it is up to humanitarian operators to show that their aid is aligned with the exceptions; and (d) each European Union member State should have a contact point for derogations and cooperate in the COVID-19 context.²⁶

32. The United Kingdom, which will apply European Union sanctions until the end of 2020, is widely expected to keep its unilateral sanctions aligned with those of the European Union after that date. The country's current policy with respect to financial sanctions is to prioritize urgent and humanitarian cases in processing licence applications.²⁷

33. The Office of Financial Sanctions Implementation of the United Kingdom is becoming more vigorous in acting against companies that violate European Union sanctions and imposed its largest-ever fine in March 2020.²⁸

34. The Special Rapporteur expresses her concern about allegations that the Bank of England blocked the access of the Bolivarian Republic of Venezuela to nearly \$1 billion in gold that it kept at the bank but wanted to use in the fight against COVID-19.

35. The Special Rapporteur notes with concern that, on 16 June 2020, an appeals court ruling in the United Kingdom legitimized the extraterritorial enforcement of United States sanctions as a factor in assessing non-United States contract compliance within the United Kingdom.²⁹

36. It has been asserted in some statements that targeted sanctions do not have any impact on the humanitarian situation in the country.³⁰ However, their impact on the human rights of targeted individuals and owners and workers of targeted organizations remains unchanged.

B. Types of unilateral sanctions applied in the course of the pandemic and their impact on targeted countries

37. It is reported that the sanctions against the Bolivarian Republic of Venezuela, notably the broad sectoral sanctions by the United States, as well as financial sanctions and travel restrictions by the United States and the European Union, affect the entire range of human rights in the country and harm its ability to deal with emergency situations, such as COVID-19. Restrictions on the country's ability to buy foreign fuel and other supplies for an adequate national infrastructure have limited the general preparedness of the health system to respond to crises. The curtailment of telecommunications services, including subscription television, has impeded freedom of expression and the right to information.

²⁶ European Commission, "Commission guidance note on the provision of humanitarian aid to fight the COVID-19 pandemic in certain environments subject to EU restrictive measures", document C (2020) 3179 (Brussels, 2020).

²⁷ United Kingdom of Great Britain and Northern Ireland, Her Majesty's Treasury, Office of Financial Sanctions Implementation, *Financial Sanctions: Guidance* (London, 2020).

²⁸ United Kingdom, Her Majesty's Treasury, Office of Financial Sanctions Implementation, "Imposition of monetary penalty – Standard Chartered Bank" (London, 2020).

²⁹ Royal Courts of Justice, England and Wales Court of Appeal, *Lamesa Investments Limited v. Cynergy Bank Limited*, Appeal No. A4/2019/2463, Case No. 1236/5/7/15, Judgment, 30 June 2020.

³⁰ Human Rights Watch, "Venezuela: urgent aid needed to combat Covid-19 – water shortages in hospitals heighten risk in country, region", 26 May 2020.

38. Other sanctioned countries are similarly affected. Cuba has been unable to pay for foreign medical equipment as the shippers' banks reject its payments. As for the equipment itself, the purchasing entity MediCuba has been rebuffed by more than 60 United States companies that either did not respond or stated that they could not do business with Cuba.

39. Financial sanctions also prevented a United States-based aid provider from supplying funds for drilling water wells for paediatric hospitals in the Democratic People's Republic of Korea. It was also reported that a United States NGO operating in the Sudan was unable to effect wire transfers necessary for its work, even after the sanctions involved were lifted.

40. Sectoral sanctions of the United States against the Syrian Arab Republic, notably those affecting banking, transportation, oil, electricity, telecommunications and other technologies, are said to have hindered the country's ability to deal with the pandemic.

41. It is noted that social security, working and mobility rights are negatively affected in such sanctioned countries as the Russian Federation. Visa and financial restrictions deny people the opportunity to engage in professional duties and exchanges abroad, while cybersanctions affect freedom of expression and exchanges of information that can harm national responses to ensure the rights to life and health during emergency situations such as the COVID-19 pandemic. The denial of videoconference services based in sanctioning countries to targeted countries, such as Belarus and Cuba, have impeded their participation.

42. Efforts to bypass the financial obstacles to assisting the Islamic Republic of Iran have themselves encountered obstacles and threats. A barter-like system called the Instrument in Support of Trade Exchanges was launched by France, Germany and the United Kingdom, and was joined by Belgium, Denmark, Finland, the Netherlands, Norway and Sweden; a large number of United States legislators reportedly support the imposition of sanctions on entities that use the Instrument to trade with the Islamic Republic of Iran. Another project, the Swiss Humanitarian Trade Arrangement, created by the Governments of Switzerland and the United States, requires dissuasively extensive reporting requirements. Both programmes became operational just as the COVID-19 crisis developed, and each has reported only one transaction for medical items.

IV. Effects of sanctions on the enjoyment of human rights in targeted States

43. In the zero draft of a proposed General Assembly omnibus resolution on the comprehensive and coordinated response to the COVID-19 pandemic, the General Assembly "calls upon all Member States to explore ways to eliminate any impediment to the delivery and access of humanitarian assistance, including by the application of humanitarian exemptions to sanctions where they have negative impact on the capacity of States to respond efficiently, specifically in the acquisition of medical equipment and supplies to adequately treat their populations in the face of the COVID-19 pandemic".

44. The Special Rapporteur refers to the above-mentioned general understanding that unilateral sanctions can have negative humanitarian effects and that there is a need for solidarity, cooperation, adherence to the rule of law and observance of human rights from both targeting and targeted States, as well as intergovernmental and non-governmental organizations.

45. The negative humanitarian effects of sanctions against States had been recognized by the United Nations already in 2000, despite their undoubted legality when made by the Security Council under Chapter VII of the Charter of the United Nations. Since then, the Security Council has sought to apply sanctions restrictively to minimize the negative humanitarian effects.

46. The Special Rapporteur notes that the Charter of the United Nations does not provide for any possibility of sanctions without the authorization of the Security Council. At the same time, the world community is witnessing the expansive application of unilateral sanctions by States and international organizations, quite often without or beyond the authorization of the Security Council. As reflected in the report of the Special Rapporteur to the Human Rights Council (A/HRC/45/7), States and regional organizations are applying not only targeted but also sectoral or blanket sanctions more and more frequently and are imposing economic, financial and trade embargoes, as well as restrictions on transportation, shipments, bank transfers and cyberservices, enforced by secondary sanctions and followed by an increasing level of overcompliance, which affect the enjoyment of human rights of the targeted populations.

47. The Special Rapporteur underscores that, in the course of the COVID-19 pandemic, unilateral sanctions affect the same human rights that are affected in other periods. As noted by a number of respondents (Russian Federation, Syrian Arab Republic, Venezuela (Bolivarian Republic of) and a group of NGOs representing Sudanese doctors), their effects, however, are exacerbated due to the deteriorating economic situations in the targeted countries, the impossibility of buying or delivering necessary equipment, food or medication and the increasing level of overcompliance, when banks and organizations refuse to deal with targeted State entities out of fear of violating sanctions regimes, even if specific entities are not listed.

A. Human rights affected by unilateral sanctions in the course of the pandemic

48. It has been generally recognized and confirmed by all respondents that the right to health is the one most affected in the course of the COVID-19 pandemic. The Special Rapporteur notes that the highest attainable standard of physical and mental health guaranteed by article 12 of the International Covenant on Economic, Social and Cultural Rights includes, inter alia, the reduction of infant mortality; the healthy development of the child; the prevention, treatment and control of epidemic, endemic, occupational and other diseases; and the creation of conditions that would ensure access to all medical services and medical attention in the event of sickness. In paragraph 12 of its general comment No. 14 (2000) on the right to the highest attainable standard of health, the Committee on Economic, Social and Cultural Rights refers to the availability of health facilities, goods and services, including physical, economic and information accessibility, based on non-discriminatory criteria, acceptability and quality as integral elements of that right.

49. While recognizing that the economies of targeted States could already be or were in critical situations, the Special Rapporteur insists that unilateral sanctions further hinder the ability of targeted countries to fight the pandemic. Some targeted countries face an insufficiency of medical personnel who migrated to more stable States (Bolivarian Republic of Venezuela)³¹ and shortages of the medications and medical equipment necessary for the diagnosis and treatment of COVID-19 and other

³¹ Human Rights Watch, “Venezuela: urgent aid needed to combat Covid-19”.

diseases, including oxygen supplies and ventilators (Cuba, Iran (Islamic Republic of), Sudan, Venezuela (Bolivarian Republic of)), protective kits (Cuba),³² spare parts, software (Cuba, Sudan,³³ Syrian Arab Republic³⁴), fuel, electricity, drinking water and water for sanitation (Syrian Arab Republic, Venezuela (Bolivarian Republic of)).³⁵

50. United Nations reports contain references to the existence of a crisis in the health-care system of the Bolivarian Republic of Venezuela since 2014.³⁶ Today, owing to the economic crisis and ever-tightening economic, financial, trade and transportation sanctions, Human Rights Watch reports that disinfectants, including soap, are “virtually non-existent” in Venezuelan hospitals. Moreover, shortages of water for drinking, hygienic and sanitary purposes make washing hands, the prophylactic means recommended by WHO, impossible.³⁷

51. Due to the imposed restrictive measures, the Syrian Arab Republic has only been able to perform 100 COVID-19 tests per day since the beginning of the pandemic, which is insufficient for assessing the progression of the disease. The country is suffering from the absence of medicine, protective kits, medical equipment and software.³⁸ Measures affecting the electricity sector result in extensive damage to other spheres, including health, food and education. To be able to guarantee minimal standards of health protection, Cuba earmarked 27.5 per cent of its budget for the health sphere in 2020.³⁹ OHCHR Sudan reports that only 33 per cent of health facilities offer the complete basic health-care package, and 30 per cent are absolutely non-functional.⁴⁰

52. Restricted access to the foreign dollar reserves needed to import medicine and medical equipment, and the impossibility of using frozen bank assets or making bank transfers are named as being among the very strong impediments to exercising the right to health in Iran (Islamic Republic of), the Syrian Arab Republic, Venezuela (Bolivarian Republic of) and other targeted States.⁴¹ Delays and the increasing costs of bank transfers and deliveries result in rising prices for medical equipment, food and other essential goods, in particular in the Bolivarian Republic of Venezuela.⁴² A group of NGOs representing Sudanese doctors has reported that the cost of oxygen cylinders “skyrocketed from \$55 to \$110” in the Sudan.

³² Letter dated 6 April 2020 from Cuba.

³³ Sudan Doctors’ Union, Sudanese Doctors Union, Sudanese Doctors Union of Ireland, Sudanese American Physicians Association, Sudanese Doctors’ Association in Qatar, Sudanese Australasian Medical Professionals Association.

³⁴ Letter dated 2 April 2020 from New Humanity.

³⁵ Note No. 100/20 dated 15 June 2020 from the Permanent Mission of the Syrian Arab Republic in Geneva.

³⁶ See, for example, OHCHR, *Human Rights Violations in the Bolivarian Republic of Venezuela: A Downward Spiral With no End in Sight* (June 2018), pp. 39–45.

³⁷ WHO, “Infection prevention and control during health care when coronavirus disease (COVID-19) is suspected or confirmed: interim guidance”, 29 June 2020; WHO, “Critical preparedness, readiness and response actions for COVID-19: interim guidance” 24 June 2020; Human Rights Watch, “Venezuela: urgent aid needed to combat Covid-19”; Note verbale No. 0116 dated 29 May 2020 from the Permanent Mission of the Bolivarian Republic of Venezuela in Geneva.

³⁸ Note No. 100/20 dated 15 June 2020 from the Permanent Mission of the Syrian Arab Republic in Geneva.

³⁹ Note No. 252/2020 from the Permanent Mission of Cuba in Switzerland.

⁴⁰ Submission by OHCHR Sudan, 15 June 2020.

⁴¹ Joint Submission by Center for Economic and Policy Research, Charity and Security Network, and American Friends Service Committee, 15 June 2020; Note No. 100/20 dated 15 June 2020 from the Permanent Mission of the Syrian Arab Republic in Geneva.

⁴² Note verbale No. 0116 dated 29 May 2020 from the Permanent Mission of the Bolivarian Republic of Venezuela in Geneva.

53. Some medical equipment and medicine are reported (Cuba, Iran (Islamic Republic of), Sudan and Syrian Arab Republic, among others) not to be available for purchase at all because of the absence of financial resources, the refusal of manufacturers to engage in transactions with targeted States and companies, the reluctance of banks to permit bank transfers or the enormous extension of transfer terms, as well as the unwillingness of other companies to be involved in transactions because of the fear of secondary sanctions even when companies in targeted countries are not included on sanctions lists (overcompliance).

54. It has been reported that, owing to the sanctions imposed by the United States, Cuba was unable to buy pulmonary ventilators needed to fight COVID-19 from the manufacturer, as it was acquired by a company in the United States, which immediately suspended all commercial relations with Cuba. The Islamic Republic of Iran is referring to impediments in buying anaesthetic, respiratory, ophthalmological, cardiac, endoscopy and other pharmaceutical equipment; ventilators, CT scanners and dialysis, continuous renal replacement therapy, extracorporeal membrane oxygenation, digital radiology, electroshock, reverse transcriptase polymerase chain reaction, video laryngoscope and portable sonography equipment, tests, protective kits and advanced wound dressings.⁴³

55. Sixteen transfers from the Banitsmo bank in Panama that were to be used for humanitarian purposes in the Bolivarian Republic of Venezuela have reportedly been blocked.⁴⁴ Moreover, the time to process bank transfers from or to the Bolivarian Republic of Venezuela increased from 2 to 45 days, as bank fees rose from 0.5 to 10 per cent.⁴⁵

56. In April 2020, banks in Switzerland blocked donation transfers to Cuba made by the Swiss organizations MediCuba-Suiza and Asociación Suiza-Cuba to fight the pandemic.⁴⁶ Targeted countries, including Cuba, Iran (Islamic Republic of), the Sudan and the Syrian Arab Republic, uniformly report that it is impossible to buy medical equipment for the treatment of COVID-19 and other illnesses.

57. The right to health has also been impeded by the interruption of electricity, which prevents the normal functioning of hospitals (Iran (Islamic Republic of), Venezuela (Bolivarian Republic of)), and the absence of fuel, which prevents people from being able to get to hospitals and prevents ambulances from being used.⁴⁷

58. The economic nature of the majority of unilateral sanctions, especially those that are enacted for the purpose of “imposing maximum pressure”, results in the violation of the right to food (Iran (Islamic Republic of), Sudan, Syrian Arab Republic, Venezuela (Bolivarian Republic of)), as stated by the majority of respondents concerning the targeted States; that situation is already occurring now in the countries that depend on food imports because unilateral sanctions disrupt existing food supply chains (Sudan, Syrian Arab Republic⁴⁸ and Venezuela (Bolivarian Republic of)) or it will occur in the future owing to the insufficiency of agricultural production and transportation (Bolivarian Republic of Venezuela).⁴⁹ The rise in

⁴³ Responses and comments from the Islamic Republic of Iran, dated 15 June 2020.

⁴⁴ Joint Submission by Center for Economic and Policy Research, Charity and Security Network, and American Friends Service Committee.

⁴⁵ Note verbale No. 0116 dated 29 May 2020 from the Permanent Mission of the Bolivarian Republic of Venezuela in Geneva.

⁴⁶ Note No. 252/2020 from the Permanent Mission of Cuba in Switzerland.

⁴⁷ Human Rights Watch, “Venezuela: urgent aid needed to combat Covid-19”.

⁴⁸ Note No. 100/20 dated 15 June 2020 from the Permanent Mission of the Syrian Arab Republic in Geneva; Submission by OHCHR Sudan.

⁴⁹ Note verbale No. 0116 dated 29 May 2020 from the Permanent Mission of the Bolivarian Republic of Venezuela in Geneva.

transportation, banking and other costs and the decline in imports are reportedly resulting in increasing prices for food (Syrian Arab Republic). As reported by OHCHR Sudan, economic sanctions keep prices for food very high even in the harvest season.⁵⁰

59. The prohibition of discrimination constitutes an integral part of the exercise of the right to health (general comment No. 14, para. 12) and the right to life. The statement of the President of the Human Rights Council of 29 May 2020 (A/HRC/PRST/43/1) expresses deep concern that the COVID-19 pandemic perpetuates and exacerbates existing inequalities, but unfortunately does not address the fact that existing and operational unilateral sanctions, which are imposed against about 20 per cent of States Members of the United Nations, currently exacerbate even more the aforementioned calamities and thus discriminate against populations of targeted countries.

60. It has been reported by numerous respondents (Belarus, Iran (Islamic Republic of), Namibia, Sudan, Syrian Arab Republic, Venezuela (Bolivarian Republic of) and a number of NGOs) that deteriorating economic situations are badly affecting the exercise of economic and labour rights, including the right to an adequate standard of living and the right to work (International Covenant on Economic, Social and Cultural Rights, arts. 6 and 11).⁵¹

61. Access to information plays an important role in the fight against pandemics,⁵² including information concerning symptoms, diagnostics and means of treatment.⁵³ The Special Rapporteur, however, notes that the world community is mostly focusing on the obligation of States to guarantee access to information in the country, while measures preventing citizens of targeted States from accessing COVID-19-related and other vital information remain out of sight.

62. The impact of unilateral sanctions on the access to information in the course of the COVID-19 pandemic is twofold. Services and software cannot be used for commercial Internet services or connectivity, for example,⁵⁴ even for non-commercial activity, as the result of service agreements (as concerns those living in the Democratic People's Republic of Korea, Iran (Islamic Republic of), the Syrian Arab Republic and Crimea) or through legislation of the United States,⁵⁵ even for contacts and coordination among doctors to exchange their experiences on symptoms, diagnostics and means of treatment.⁵⁶ While in the non-COVID period, access to information may also be impeded by visa and travel restrictions,⁵⁷ the establishment of open access to online platforms has appeared to be vital in the course of the

⁵⁰ Submission by OHCHR Sudan.

⁵¹ Note No. 02-16/721 dated 17 June 2020 from the Permanent Mission of Belarus in Geneva.

⁵² OHCHR, "COVID-19: Governments must promote and protect access to and free flow of information during pandemic – international experts", 19 March 2020.

⁵³ WHO, "Access to COVID-19 tools (ACT) accelerator: a global collaboration to accelerate the development, production and equitable access to new COVID-19 diagnostics, therapeutics and vaccines", 24 April 2020.

⁵⁴ United States, Office of Foreign Assets Control, Executive Order 13685 blocking property of certain persons and prohibiting certain transactions with respect to the Crimea region of Ukraine: General License No. 9 – exportation of certain services and software incident to Internet-based communications authorized (19 December 2014), para. (d).

⁵⁵ Paragraph 12 of the Zoom terms of service, effective 13 April 2020.

⁵⁶ United States, Executive Order 13606 blocking the property and suspending entry into the United States of certain persons with respect to grave human rights abuses by the Governments of Iran and Syria via information technology (22 April 2012).

⁵⁷ Note No. 02-16/721 dated 17 June 2020 from the Permanent Mission of Belarus in Geneva.

pandemic. The same restrictions refer to the prohibition of the export of technology, necessary, *inter alia*, for CT scanners and ventilators.⁵⁸

63. The use of cyberplatforms, in particular, Zoom – as proposed by the United Nations Development Programme for official purposes – has been prevented for other countries, as well. As a result, the United Nations Secretariat had to invest in the development of a special United Nations platform. Some countries (in particular, Belarus) negotiated access permission on a bilateral basis.⁵⁹ It has been reported that citizens of the Islamic Republic of Iran cannot get access to information on COVID-19 and its symptoms, even from the Government, due to Google’s censorship of AC19 (an application developed by the Islamic Republic of Iran).⁶⁰ Doctors in the country could not access medical databases (PubMed) after their server had been transferred to Google.⁶¹ The Bolivarian Republic of Venezuela refers to impeded access to information on television due to the cessation of operation of DirecTV Venezuela, which represented 43 per cent of the market, because of the sanctions imposed by the United States in May 2020.⁶²

64. Another impediment to the access to information is the insufficient access of individuals to information about sanctions – being listed, mechanisms of getting licences, humanitarian exemptions and humanitarian aid – as they are not transparent enough. That traditionally results in overcompliance by private actors even if sanctioning States have not imposed specific sanctions.

65. Violations of the right to education are cited in Iran (Islamic Republic of), the Sudan and Venezuela (Bolivarian Republic of) because of the impossibility of using online platforms for educational purposes, and in the long term, with a view to the deteriorating economic situation. OHCHR Sudan reported that unilateral sanctions in the course of COVID-19 are very probably affecting school enrolment and increasing the school dropout rate.⁶³

66. Aligned with the above-mentioned statements of United Nations and WHO officials, Cuba, Iran (Islamic Republic of), Namibia, the Russian Federation, the Syrian Arab Republic and Venezuela (Bolivarian Republic of) responded that the impossibility of gaining access to proper medicine, medical care, food, electricity and fuel results in the violation of the right to life of those who are infected by COVID-19, as well as those who cannot get medical help and medication while suffering from other diseases or who are malnourished or unable to get to hospitals because of the absence of money or fuel or for other reasons;⁶⁴ this is a clear violation of paragraph 7 of general comment No. 36 (2019) of the Human Rights Committee on the right to life,⁶⁵ requesting States to respect and ensure the right to life against “reasonably foreseeable threats and life-threatening situations that can result in loss of life”.

67. The Special Rapporteur admits that general comment No. 36 does not refer to the impact of unilateral sanctions on the enjoyment of the right to life. At the same time, the above-mentioned reasons hinder the ability of States “to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity”, including “the prevalence of life-

⁵⁸ Note No. 100/20 dated 15 June 2020 from the Permanent Mission of the Syrian Arab Republic in Geneva.

⁵⁹ Note No. 02-16/721 dated 17 June 2020 from the Permanent Mission of Belarus in Geneva.

⁶⁰ Letter dated 12 March 2020 from the Islamic Republic of Iran.

⁶¹ Responses and comments dated 15 June 2020 from the Islamic Republic of Iran.

⁶² Note verbale No. 0116 dated 29 May 2020 from the Permanent Mission of the Bolivarian Republic of Venezuela in Geneva.

⁶³ Submission by OHCHR Sudan.

⁶⁴ Letter dated 6 April 2020 from Cuba.

⁶⁵ This is a comment to article 6 of the International Covenant on Civil and Political Rights.

threatening diseases, ... widespread hunger and malnutrition and extreme poverty and homelessness” and “to ensure access without delay ... to essential goods and services such as food, water, shelter, health care, electricity and sanitation” (general comment No. 36, para. 26). The right to life is also reported to be violated by visa restrictions, when specific types of medical care can only be found in the targeting country.⁶⁶

68. It should be taken into account that other categories of rights are also affected. In practice, making access to medicine, water, food, soap, tests and protective kits unavailable for the populations of targeted countries, especially for those who are the most vulnerable, makes them expect the possibility of death; it has been alleged that it constitutes torture while violating article 7 of the International Covenant on Civil and Political Rights, the aim of which is “to protect both the dignity and the physical and mental integrity of the individual”, including the prohibition of acts “that cause mental suffering to the victim”.⁶⁷ The Islamic Republic of Iran refers to the pain and psychological depression suffered by other patients with chronic diseases because sanctions prevent the Government from buying necessary pain relief medicine and equipment.⁶⁸

69. As a result, some targeted countries seek to qualify the application of unilateral sanctions in the course of the pandemic as a crime against humanity by “using food and pharmaceuticals as weapons against civilians” (Iran (Islamic Republic of), Venezuela (Bolivarian Republic of)) or genocide (Cuba, Syrian Arab Republic), in violation of the principles of non-intervention into the domestic affairs of States and of sovereign equality (Iran (Islamic Republic of), Syrian Arab Republic).

70. Other categories of human rights affected by the introduction of targeted sanctions remain relevant in the course of the pandemic, as well. The Special Rapporteur recalls that the right to a fair trial, including the standards of due process, is violated by introducing targeted sanctions, insofar as no court hearings take place and individuals are thus prevented from being able to protect themselves.⁶⁹

71. It has also been generally reported (Cuba, Iran (Islamic Republic of), Sudan, Syrian Arab Republic, Venezuela (Bolivarian Republic of)) that economic hardships exacerbated by the application of unilateral sanctions and the pandemic impede not only individual but also collective rights, including the right to development. The Special Rapporteur agrees that the insufficiency of resources reportedly increases rather than decreases governmental control and provides fertile ground for corruption.⁷⁰

B. Most vulnerable population groups affected by the pandemic

72. The Special Rapporteur notes that the COVID-19 pandemic, as an emergency situation, has affected mostly those who are already the most vulnerable, quite often because of the absence of necessary financial resources.⁷¹ Responses received from States and other entities demonstrate the negative humanitarian impact on all

⁶⁶ Note No. 02-16/721 dated 17 June 2020 from the Permanent Mission of Belarus in Geneva.

⁶⁷ General comment No. 20 (1992) of the Human Rights Committee on article 7 of the International Covenant on Civil and Political Rights (prohibition of torture, or other cruel, inhuman or degrading treatment or punishment), paras. 2 and 5.

⁶⁸ Responses and comments dated 15 June 2020 from the Islamic Republic of Iran.

⁶⁹ Parliamentary Assembly of the Council of Europe resolution 1597 (2008), para. 5.1; Peter Wallensteen and Carina Staibano, eds., *International Sanctions: Between Words and Wars in the Global System* (London, Routledge, 2005).

⁷⁰ Joint Submission by Center for Economic and Policy Research, Charity and Security Network, and American Friends Service Committee.

⁷¹ Note verbale No. 0116 dated 29 May 2020 from the Permanent Mission of the Bolivarian Republic of Venezuela in Geneva.

categories of individuals who are designated as vulnerable by the Committee on Economic, Social and Cultural Rights in paragraphs 21–26 of its general comment No. 14: women, children (Bolivarian Republic of Venezuela),⁷² older persons and persons with disabilities, as well as migrants, refugees (Iran (Islamic Republic of), Sudan, Venezuela (Bolivarian Republic of)), people in detention (Bolivarian Republic of Venezuela),⁷³ people from overcrowded low-income regions or self-employed workers (Iran (Islamic Republic of), Venezuela (Bolivarian Republic of))⁷⁴ and those who are unemployed⁷⁵ or homeless (Namibia).

73. It is well documented that existing migrations and refugee flows arising from political, social, economic or other crises can be intensified by sanctions against the countries that the migrants or refugees are fleeing, as has occurred with the flight of millions of Venezuelans into Colombia⁷⁶ and the return of hundreds of thousands of Afghans from the Islamic Republic of Iran.⁷⁷ The COVID-19 pandemic has been particularly severe in both of those targeted States, contributing to the migrations.⁷⁸ The human rights of the people fleeing Iran (Islamic Republic of) and Venezuela (Bolivarian Republic of) are not necessarily assured when they cross into other countries; many Venezuelans who fled to Colombia had no access to health care, and the worsening of the COVID-19 crisis in Colombia has resulted in some returning to the Bolivarian Republic of Venezuela.⁷⁹

74. The Special Rapporteur notes that, in view of the main emphasis on the distribution of resources for the treatment of COVID-19 patients and the severe shortages of supplies and medicine, as well as restrictions on shipments because of the unilateral sanctions, people with chronic diseases appeared to be among the most vulnerable, with reportedly increasing death rates in Iran (Islamic Republic of), the Sudan⁸⁰ and Venezuela (Bolivarian Republic of),⁸¹ especially among those in need of dialysis, transplants or other complex medical treatment.

75. The life and health of nationals of the targeted countries who had been abroad at the onset of the pandemic also appeared to be endangered because sanctions imposed on transport companies prevented their repatriation or caused them to be placed in unfavourable conditions.⁸² Limitations imposed on air transport in the

⁷² Group of NGOs representing Sudanese doctors, Iran (Islamic Republic of), Namibia, Syrian Arab Republic and Venezuela (Bolivarian Republic of).

⁷³ Human Rights Watch, “Venezuela: urgent aid needed to combat Covid-19”.

⁷⁴ Ibid.; Note verbale No. 0116 dated 29 May 2020 from the Permanent Mission of the Bolivarian Republic of Venezuela in Geneva; Letter from Maat for Peace, Development and Human Rights.

⁷⁵ Note No. 02-16/721 dated 17 June 2020 from the Permanent Mission of Belarus in Geneva.

⁷⁶ Stephanie Nebehay, “Venezuela exodus set to top 5 million as long-term needs grow, officials say” Reuters, 23 October 2019.

⁷⁷ Frud Bezhan, “Afghanistan, the ‘unintended casualty’ of U.S. sanctions on Iran”, Radio Free Europe/Radio Liberty, 14 August 2018; International Organization for Migration (IOM), “Return of undocumented Afghans: weekly situation report, 8–14 March 2020”, ReliefWeb, 19 March 2020; Radio Free Europe/Radio Liberty, “Over 400,000 Afghans returned home From Iran, Pakistan, says migration organisation”, 31 October 2019.

⁷⁸ Kouros Ziabari, “COVID-19 has forced Afghan refugees in Iran to flee back to Afghanistan”, Responsible Statecraft, 20 April 2020.

⁷⁹ Norwegian Refugee Council, “Covid-19 forces migrants and refugees back to crisis-ridden Venezuela”, 7 April 2020.

⁸⁰ Sudan Doctors’ Union, Sudanese Doctors Union, Sudanese Doctors Union of Ireland, Sudanese American Physicians Association, Sudanese Doctors’ Association in Qatar, Sudanese Australasian Medical Professionals Association.

⁸¹ Note verbale No. 0116 dated 29 May 2020 from the Permanent Mission of the Bolivarian Republic of Venezuela to the United Nations Office and other international organizations in Geneva.

⁸² Ibid.

Syrian Arab Republic prevented planes from landing in European airports to bring back Syrian citizens who were stranded abroad.⁸³

76. Children are named as one of the most affected categories of the population by Iran (Islamic Republic of), Namibia, the Sudan, the Syrian Arab Republic and Venezuela (Bolivarian Republic of).

77. The vulnerability of women in the course of the pandemic has been repeatedly acknowledged by the United Nations and other international organizations from the point of view of gender-based violence,⁸⁴ which is often exacerbated by water supply problems.⁸⁵ It has been reported, however, that, owing to the exacerbated economic problems caused by unilateral sanctions in the course of the pandemic, the economic and labour rights of women have been increasingly affected, as they are more frequently involved in informal work or self-employment and bear high risks of discrimination in the labour sphere.⁸⁶ The Strategic Initiative for Women in the Horn of Africa has reported that the situation is establishing fertile ground for human trafficking and increasing levels of poverty and inequality among women.

C. Human rights of individuals from third countries

78. The Special Rapporteur notes that third-country nationals can be affected by unilateral sanctions both directly and indirectly. Direct effects concern the situations of labour migrants and refugees in the targeted countries, who appeared to be among the most vulnerable in the face of the deteriorating economic and health crisis. The International Organization for Migration reported on the return of more than 350,000 Afghans who had already been settled in the Islamic Republic of Iran for years between January and June 2020.⁸⁷ United States sanctions are repeatedly cited as the main reason for the deteriorating economic situation in the Islamic Republic of Iran and the return of the Afghans.⁸⁸

79. Another tendency noted in the course of the pandemic is the impact of unilateral sanctions on the rights of citizens of third States that also face economic disruptions. For example, United States sanctions against the Bolivarian Republic of Venezuela reduced its shipments of oil and oil products under special conditions to other Caribbean States within the PetroCaribe agreement.⁸⁹ The other 17 countries, mainly developing nations, would use the discounted oil or sell it onward at market prices, with the resulting financial gains being used to develop their health systems, as well as education and other strategic sectors of society, while the Bolivarian Republic of Venezuela would obtain supplies such as food and medicine from them.

80. Namibia refers to the burden of non-targeted States that provide aid and share their resources with the targeted ones since the economies of the latter are undermined

⁸³ Note No. 100/20 dated 15 June 2020 from the Permanent Mission of the Syrian Arab Republic in Geneva.

⁸⁴ United Nations Population Fund, "Gender equality and addressing gender-based violence (GBV) and coronavirus disease (COVID-19) prevention, protection and response", 23 March 2020.

⁸⁵ Submission by OHCHR Sudan.

⁸⁶ Inputs received from the Strategic Initiative for Women in the Horn of Africa Network, a regional network of women's rights organizations on the Sudan.

⁸⁷ IOM, "Return of undocumented Afghans: weekly situation report, 21–27 June 2020", ReliefWeb, 2 July 2020.

⁸⁸ Stefanie Glinsk, "US-Iran tensions fuel Afghan returns", New Humanitarian, 6 February 2020; Nabila Ashrafi, "Numbers spike of Afghan migrants returning from Iran: IOM", Tolo News, 27 November 2019, edited 27 November 2019.

⁸⁹ Note verbale No. 0116 dated 29 May 2020 from the Permanent Mission of the Bolivarian Republic of Venezuela in Geneva.

by sanctions.⁹⁰ Cuba refers to the impossibility of third-country nationals using medical-pharmaceutical products and medical treatments developed in Cuba during the pandemic because United States sanctions have created impediments.⁹¹

81. It has also been reported that the rights of third-country nationals are affected by secondary sanctions. In addition to humanitarian institutions, companies and banks that want to retain access to the world economy refrain from delivering humanitarian aid because of the risk of severe penalties, such as criminal prosecution, extensive jail terms or significant fines.⁹² The Syrian Arab Republic reports that even the United Nations humanitarian agencies have to take into account the unilateral sanctions of the United States and the European Union when delivering humanitarian aid to the country.⁹³ Human rights protection organizations refer to repeated violations of rights or reprisals towards individuals and organizations involved in financing or delivering humanitarian goods.

82. The Special Rapporteur underscores the absence of any legal grounds in international law for secondary sanctions, which is aligned with the statement of the High Representative for Foreign Affairs of the European Union of 30 June 2020 on the application of the United States sanctions to European Union companies.⁹⁴

V. Efficacy of humanitarian exemptions

83. The frequent inability of humanitarian exemptions to ensure that unilateral sanctions do not impede the shipment of items essential to fighting COVID-19 to sanctioned countries stems primarily from: (a) the nature of the items, as many supplies may be considered dual-use items; and (b) the requirements set forth in the sanctions themselves for humanitarian exemptions. The notion of humanitarian exemptions, moreover, is fluid: an item that may be needed in a health emergency may not be necessary in a famine or in the aftermath of a devastating cyclone.⁹⁵

84. European Union sanctions against the Syrian Arab Republic, for example, allow humanitarian exemptions for respirators, disinfectants, hand sanitizers or detergents that can be necessary in responding to the pandemic but that may contain chemicals “for which there need to be assurances that they will be used for medical purposes and not to fabricate chemical weapons or conduct internal repression”.⁹⁶

85. It has been reported, however, that authorization can be a costly and lengthy process that is conducted on a case-by-case basis and is generally not aligned with the emergency nature of a crisis such as the COVID-19 pandemic. Even with guidance on compliance, “the process still requires meticulous work to untangle the multiple requirements and diligently follow the procedures, especially when dealing with

⁹⁰ Note No. 2/2 dated 1 June 2020 from Namibia.

⁹¹ Note No. 252/2020 from the Permanent Mission of Cuba in Switzerland.

⁹² Joint submission by Center for Economic and Policy Research, Charity and Security Network, and American Friends Service Committee.

⁹³ Note No. 100/20 dated 15 June 2020 from the Permanent Mission of the Syrian Arab Republic in Geneva.

⁹⁴ Maya Lester, “EU Commission hints at enhanced Blocking Regulation to counter US Nord Stream 2 sanctions”, EU Sanctions, 30 June 2020.

⁹⁵ Grégoire Mallard, Farzan Sabet and Jin Sun, “The humanitarian gap in the global sanctions regime: assessing causes, effects, and solutions,” *Global Governance* vol. 26, No. 1 (April 2020), p. 125; Katie King, Naz K. Modirzadeh and Dustin A. Lewis, “Understanding humanitarian exemptions: UN Security Council sanctions and principled humanitarian action,” (Harvard Law School Program on International Law and Armed Conflict Counterterrorism and Humanitarian Engagement Project, 2016), p. 8.

⁹⁶ European Union External Action, “Syria: EU sanctions are not impeding Syria’s medical response to Covid-19”, 12 May 2020.

highly sanctioned jurisdictions in which various regulations overlap”, according to the International Peace Institute, which notes that COVID-19 has put the procedure under further stress.⁹⁷ General License No. 8, issued by the Department of the Treasury of the United States on 27 February 2020, exempted some humanitarian trade transactions with the Central Bank of the Islamic Republic of Iran but did not exempt some crucial medical devices. Approval of special licence requests can take up to 77 days.⁹⁸

86. A further impediment to humanitarian exemptions is the perception the sanctioning country has of governance in the sanctioned country. The reticence of the United States to ease sanctions against Cuba in response to the COVID-19 pandemic coincided with its claim that the Government of Cuba “alone is responsible for ongoing medical supply shortages” because of its management of the country’s economy.⁹⁹

87. It is frequently stated that the conditions for getting exports approved can be so onerous that exporters are discouraged from seeking permission under humanitarian exemption procedures. The Islamic Republic of Iran, moreover, reportedly considers that sanctioning States deliberately create difficulties to prevent export licences from being granted and that vigorous sanctions enforcement and heavy penalties support that effort by dissuading exporters from seeking permission to export items even when they are covered under the rules governing humanitarian exemptions.

88. Meanwhile, it has been pointed out that the existence of humanitarian exemptions can cause sanctioned countries to become dependent on humanitarian aid, as the sanctions otherwise prevent the development of their economies and infrastructure, making them unable to achieve sustainable growth and keeping them reliant on foreign aid in emergencies.

89. Information from sanctioning countries shows that they generally believe that their processes for humanitarian exemptions are effective and that the needed goods do flow as intended to the sanctioned countries. The Special Rapporteur therefore welcomes the fact that the United States and the European Union both considered it necessary during the COVID-19 pandemic to make the rules governing such exemptions clearer. A fact sheet issued on 16 April 2020 by the Office of Foreign Assets Control regarding exports of humanitarian goods to sanctioned countries¹⁰⁰ compiled, for the first time, the main information about compliance requirements for humanitarian exports in a single document, although one law firm in the United States, Gibson, Dunn and Crutcher, noted that it also highlighted “the significant complexity and compliance resources needed” for authorized humanitarian trade with the Islamic Republic of Iran,¹⁰¹ while another firm, Steptoe and Johnson, remarked that, under certain circumstances, the export of humanitarian goods to the Islamic Republic of Iran could still be subject to the risk of secondary sanctions.¹⁰²

⁹⁷ Agathe Sarfati, “The impact of sanctions on humanitarian response to COVID-19”, International Peace Institute, 27 April 2020.

⁹⁸ Joint Submission by Center for Economic and Policy Research, Charity and Security Network, and American Friends Service Committee.

⁹⁹ Agence France-Presse, “Calls to loosen US sanctions as Cuba battles pandemic”, Radio France Internationale, 14 April 2014.

¹⁰⁰ United States, Department of the Treasury, Office of Foreign Assets Control, “Provision of humanitarian assistance and trade to combat COVID-19”, fact sheet, 16 April 2020.

¹⁰¹ Gibson, Dunn and Crutcher LLP, “Economic and trade sanctions developments in response to COVID-19”, 29 April 2020.

¹⁰² Wendy Wysong and others, “US and EU sanctions policies on humanitarian exports and COVID-19 relief”, Steptoe and Johnson LLP, 6 April 2020.

90. On 20 April 2020, the Office of Foreign Assets Control indicated a potential loosening of enforcement measures to accommodate businesses that face personnel challenges caused by COVID-19.¹⁰³

91. Despite that, vigorous extraterritorial enforcement and substantial penalties have led to excessive compliance. Gibson, Dunn and Crutcher noted that “widespread overcompliance with [the Office of Foreign Assets Control’s] rules both within and outside of the United States has placed a significant practical restraint on humanitarian trade with Iran”.¹⁰⁴ A law firm in France, Cohen Amir-Aslani, concluded that “a main impediment to the implementation of exempted [humanitarian] transactions arises from financial institutions’ behaviour, motivated by fear of sanctions”.¹⁰⁵

VI. Delivery of humanitarian aid

92. It has been noted that, in the cases of Iran (Islamic Republic of) and the Sudan, the delivery of items necessary for addressing the COVID-19 pandemic has been difficult or impossible because the means of transport can remain subject to sanctions even if the items themselves are exempt. It has also been reported that WHO has had difficulty finding transportation for items being sent to the Syrian Arab Republic because of sanctions against transport operators and the high cost of insurance.

93. Regarding economic sanctions imposed by the United States against Cuba, numerous reports have been received about how the sanctions have impeded the efforts of Cuba to fight COVID-19. In March 2020, the Chinese businessman Jack Ma sought to donate 100,000 masks and 10,000 COVID-19 rapid detection kits, along with ventilators, gloves and medical protective suits, to Cuba, but the shipments could not reach their final destination, as the United States company hired to transport the goods declined at the last minute, citing regulations related to the United States blockade against Cuba.¹⁰⁶ The sanctions also reportedly prevented shipments of medical equipment, such as ventilators, from two companies based in Switzerland, IMT Medical and Acutronic Medical Systems, after their acquisition in 2018 by a United States company, Vyaire.¹⁰⁷

VII. Long-term consequences of unilateral sanctions on human rights

94. An emergency situation such as the COVID-19 pandemic reveals how unilateral sanctions are becoming increasingly important relative to sanctions imposed by the Security Council in terms of their negative effects on human rights. The Special Rapporteur underscores that the adverse impact of sanctions on the ability of countries such as Cuba and Venezuela (Bolivarian Republic of) to handle the pandemic, for example, is entirely the result of unilateral sanctions, as neither State is subject to Security Council sanctions. Moreover, the increasing paralysis of the Security

¹⁰³ United States, Department of the Treasury, “The Office of Foreign Assets Control (OFAC) encourages persons to communicate OFAC compliance concerns related to the coronavirus disease 2019 (COVID-19)”, 20 April 2020.

¹⁰⁴ Gibson, Dunn and Crutcher LLP, “Economic and trade sanctions developments”.

¹⁰⁵ Rebecca Guyot and Agustina Paladino, “United States economic sanctions on Iran in the context of COVID-19”, Cohen Amir-Aslani (n.d.).

¹⁰⁶ OHCHR, “US must lift its Cuba embargo”; Yisell Rodríguez Milán, “La historia no contada”.

¹⁰⁷ Walkiria Juanes Sánchez and Ronald Suárez Rivas, “U.S. company buys ventilator supplier”.

Council in reaching decisions in recent years¹⁰⁸ has created an incentive for countries or regional organizations to impose sanctions of their own, a situation that is likely to continue.

95. The collapse of the PetroCaribe programme involving Venezuelan oil contributed to the inadequacy of some countries in the region to respond to the COVID-19 pandemic, a problem heightened by the economic impact of the disease in the form of reduced trade, job losses and, in particular, the foundering of the tourism industry on which many of their economies rely. According to the Inter-American Development Bank, the number of vulnerable households (income below the minimum wage) in Caribbean countries roughly doubled in the first six weeks of the crisis.¹⁰⁹ As most countries in the region offer State-funded health services, the financial strain caused by the cost of dealing with the pandemic amid the broader economic damage is likely to affect their ability to invest in health and other essential services for years.

96. The sanctions contained in the Caesar Syria Civilian Protection Act, which the United States imposed on the Syrian Arab Republic during the COVID-19 pandemic, are set to last five years but may be suspended earlier if certain conditions are met. However, the conditions involve time-consuming procedures and may not appreciably shorten the period of the sanctions even if the internal conflict ends, as long as the current Government stays in place. Moreover, by targeting the country's construction sector, the sanctions inhibit repairing and rebuilding where it might already be possible, prolonging the impact of the conflict's damage on the Syrian population. "The sanctions will have a real dampening effect on any reconstruction efforts, in particular serving as a severe disincentive for Gulf or European companies to engage in rebuilding the country", according to an analysis published by the United States Institute of Peace, financed by the Government of the United States.¹¹⁰

97. More broadly, the severe disruptions that the COVID-19 pandemic has caused for international supply chains raises questions about how well or quickly countries will recover from the sharp drop in economic activity resulting from measures taken to combat the disease. The Special Rapporteur thus underscores that, by inhibiting a rebound in trade with sanctioned countries, unilateral sanctions may slow the speed of the recovery period for a much larger number of countries – those directly subject to the sanctions, plus third countries affected by them and their extraterritorial enforcement – thereby negatively affecting human rights on a large scale long after the health emergency ends.

98. The World Bank also notes that recovering from the crisis will require comprehensive policies to restore public services and boost long-term growth,¹¹¹ while the World Trade Organization has said that a recovery from the declines in world trade in 2020 caused by the pandemic will depend in large part on policy responses.¹¹² The Special Rapporteur believes that sanctions could be an impediment in that case, as well.¹¹³

¹⁰⁸ United Nations, "Paralysis constricts Security Council action in 2018, as divisions among permanent membership fuel escalation of global tensions", press release, 10 January 2019.

¹⁰⁹ Diether W. Beuermann and others, "COVID-19: the Caribbean crisis", Inter-American Development Bank, 14 May 2020.

¹¹⁰ Mona Yacoubian, "How will new U.S. sanctions impact Syria's conflict?", United States Institute of Peace, 17 June 2020.

¹¹¹ World Bank, "Countries can take steps now to rebuild from COVID-19", press release, 2 June 2020.

¹¹² World Trade Organization, "Trade set to plunge as COVID-19 pandemic upends global economy", press release, 8 April 2020.

¹¹³ Mohsen Tavakol, "Pressed by sanctions and coronavirus, can Iranian businesses bounce back?", Atlantic Council, 24 June 2020.

99. At the same time, the COVID-19 crisis demonstrated the dangers of relying too heavily on imports of essential goods during global emergencies. Economists expect that many States will attempt to become more self-sufficient in essential and strategic goods and services, not only in the health sector but also in others. The United Nations Conference on Trade and Development envisions that supply chains may become more local in nature,¹¹⁴ and a reduced import dependency can make sanctions less attractive as a coercive foreign policy instrument.

VIII. Conclusions and recommendations

A. Conclusions

100. **The Special Rapporteur acknowledges that the frequency, type, target and scope of application of unilateral sanctions have expanded enormously in the international arena. The COVID-19 pandemic revealed the short-term and long-term impacts of unilateral sanctions on the enjoyment of all categories of civil, economic, social and cultural rights, including the right to life, the right to health, the right to food, the right to access to information, the right to a fair trial, the right to work, the right to an adequate standard of living and the right to development.**

101. **The humanitarian effects of comprehensive, sectoral or blanket unilateral sanctions are much greater than those of sanctions that target individuals. The Special Rapporteur notes, however, that this conclusion shall in no way be interpreted as prejudicing the legality or acceptability of targeted unilateral sanctions as a whole.**

102. **Unilateral sanctions negatively affect the rights of all population groups in targeted States, as well as nationals of third States. Due to the specifics of the COVID-19 emergency, children, women, medical personnel, refugees, migrants, nationals abroad, older persons and people suffering from chronic diseases appear to be the most vulnerable in the pandemic.**

103. **When unilateral sanctions are established and implemented, the nature, timing and intensity of humanitarian emergencies that may arise while the sanctions are in force cannot be anticipated. Consequently, all of the potential negative consequences on human rights that may result from their application during such emergencies cannot be anticipated.**

104. **The Special Rapporteur is forced to admit that, despite the repeated calls for solidarity and cooperation and the lifting, suspension or easing of sanctions in the course of the pandemic, sanctioning States chose to act through the mechanisms of humanitarian exemptions and humanitarian aid. While welcoming all assistance aimed at providing humanitarian relief to those who are affected by the crisis, the Special Rapporteur underscores that humanitarian exemptions were and remain ineffective and inadequate. They also make populations dependent on humanitarian aid, hinder the ability of targeted countries to respond to COVID-19 and prevent their economic recovery in the long term through the development and maintenance of necessary infrastructure; simultaneously, in view of the limited resources, conditions for corruption emerge.**

¹¹⁴ *World Investment Report 2020: International Production Beyond the Pandemic* (United Nations publication, Sales No. E.20.II.D.23), pp. 145–47.

105. The application of unilateral sanctions impedes the ability of targeted countries to implement national response plans and can result in breaches of existing regional and bilateral cooperation or integration mechanisms. The COVID-19 responses of the targeted States have included the development of national capacities; cooperation with United Nations institutions and other intergovernmental and non-governmental organizations and diasporas abroad; and the establishment and enhancement of cooperation with non-sanctioning States.

106. The increasing internationalization of unilateral sanctions, combined in some cases with their complexity and the vigour with which they are enforced, results in overcompliance, which can cause parties to act with restraint in ways that negatively affect their own enjoyment of human rights out of fear of potential penalties.

B. Recommendations

107. Unilateral sanctions without or beyond Security Council authorization should be assessed for their legality under international law. The impact on human rights, including during emergency situations, should be part of such assessments. International cooperation at the bilateral and multilateral levels should be based on the principles of legality and observance of the rule of law in full compliance with obligations arising from the Charter of the United Nations, international humanitarian and human rights law, and other international obligations, especially in the situation of the global challenge created by the pandemic.

108. Humanitarian exemptions should be harmonized among States and should be made clear, transparent and straightforward to allow for immediate or at least more rapid implementation during emergency situations, with a corresponding regime of more lenient enforcement during such situations. They should be forward-looking and anticipate broad categories of international emergencies, such as pandemics, natural disasters and economic crises, so that they require minimal adjustment in order to be effective. Any requests for licensing to purchase medical equipment, its component parts and software, medicine and food should be considered without any delay.

109. Under no circumstances should trade in essential humanitarian goods and commodities, such as medicine, antivirals, medical equipment, its component parts and relevant software, and food, be subject to any form of direct or indirect unilateral economic measure or sanction. Accordingly, any impediment to such trade or to appropriate contracts, financial transactions, transfers of currency or credit documents and transportation that hamper the ability of States to effectively fight the COVID-19 pandemic and that deprive them of vital medical care and access to clean water and food should be lifted or at least suspended until the threat is eliminated.

110. Humanitarian aid in human resources, materials, equipment, cash and of any other kind to combat the pandemic should not be subject to any direct or indirect restriction, including any additional licensing or civil, administrative and criminal charges against individuals and companies involved in the delivery of medical goods and food to sanctioned States. The direction and delivery of humanitarian aid aimed at combating the COVID-19 pandemic should not be considered to be an unfriendly or profit-oriented act.

111. States should not take measures preventing other States from obtaining external aid of any kind, including international loans to combat the pandemic both from other States and from international organizations.