



# General Assembly

Distr.: General  
11 January 2012

Original: English

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## Human Rights Council

Nineteenth session

Agenda items 2 and 3

**Annual report of the United Nations High Commissioner  
for Human Rights and reports of the Office of the  
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**

## **Thematic study of the Office of the United Nations High Commissioner for Human Rights on the impact of unilateral coercive measures on the enjoyment of human rights, including recommendations on actions aimed at ending such measures\***

### *Summary*

The present document constitutes a thematic study on the impact of unilateral coercive measures on the enjoyment of human rights, including recommendations on actions aimed at ending such measures, as requested by the Human Rights Council in its resolution 15/24.

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\* Late submission.

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## I. Introduction – scope and objective of the study

1. In its resolution 15/24, the Human Rights Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to prepare a thematic study on the impact of unilateral coercive measures on the enjoyment of human rights, including recommendations on actions aimed at ending such measures, taking into account all previous reports, resolutions and relevant information available to the United Nations system in that regard, and to present the study to the Council. The present document contains a thematic study pursuant to this resolution.

## II. The notion of unilateral coercive measures

2. It is widely acknowledged that the term “unilateral coercive measures” is difficult to define. Unilateral coercive measures often refer to economic measures taken by one State to compel a change in policy of another State.<sup>1</sup> The most widely used forms of economic pressure are trade sanctions in the form of embargoes and/or boycotts, and the interruption of financial and investment flows between sender and target countries.<sup>2</sup> While embargoes are often understood as trade sanctions aimed at preventing exports to a target country, boycotts are measures seeking to refuse imports from a target country.<sup>3</sup> However, frequently the combination of import and export restrictions is also referred to as a trade embargo.<sup>4</sup>

3. More recently, so-called “smart” or “targeted” sanctions, such as asset freezing and travel bans, have been employed by States in order to influence individuals who are perceived to be in a position to decide on a political action in a particular State.<sup>5</sup>

4. The prevailing definition requires a separate assessment as to whether and to what extent a specific form of unilateral coercive measures may be unlawful in the light of various legal standards. At the same time, it follows that unilateral coercive measures, regardless of their legality under a particular body of international law, may negatively impact human rights in various ways. Chapters III and IV are thus devoted to the issue of the legality of unilateral coercive measures and to their impact on the enjoyment of human rights, respectively.

<sup>1</sup> See Andreas F. Lowenfeld, *International Economic Law* (Oxford, Oxford University Press, 2002), p. 698.

<sup>2</sup> See Margaret P. Doxey, *International Sanctions in Contemporary Perspective*, 2nd ed. (Basingstoke, Palgrave Macmillan, 1996).

<sup>3</sup> Cf. Christopher C. Joyner, “Boycott”, *Max Planck Encyclopedia of Public International Law* (Oxford University Press, 2011). Available from [www.mpepil.com](http://www.mpepil.com).

<sup>4</sup> Cf. Lowenfeld, *International Economic Law*, p. 733; Omer Y. Elagab, “Coercive economic measures against developing countries”, *International and Comparative Law Quarterly*, vol. 41 (1998), pp. 682-694.

<sup>5</sup> See George A. Lopez and David Cortright, “Financial sanctions: the key to a ‘smart’ sanctions strategy”, *Die Friedens-Warte*, vol. 72, No. 4 (1997), p. 327; Gary C. Hufbauer and Barbara Oegg, “Targeted sanctions: a policy alternative?”, *Law and Policy in International Business*, vol. 32 (2000-2001), pp. 11-20; Iain Cameron, “UN targeted sanctions, legal safeguards and the European Convention on Human Rights”, *Nordic Journal of International Law*, vol. 72, No. 2 (2003), pp. 159-214.

### III. The question of the legality of unilateral coercive measures under international law

5. Whether unilateral coercive measures are legal or illegal under public international law cannot be easily answered in general. Much depends upon the specific form of coercive measures, on the applicable treaty law, if any, and on customary international law rules relevant to the assessment of coercive measures, as well as on potential grounds for precluding the wrongfulness of such measures. Consistent with resolution 15/24 of the Human Rights Council, the main focus in the present report, in terms of the legality of unilateral coercive measures, is the issue of the extent to which negative human rights impacts of unilateral coercive measures may render such measures unlawful.

6. As a preliminary matter, it is helpful to distinguish between broad general economic sanctions used between States and the more recent so-called smart or targeted sanctions aimed at individuals,<sup>6</sup> because different sets of legal rules are implicated by their imposition.

#### A. General coercive measures

7. A potential unlawfulness of general economic sanctions can have various sources. International humanitarian law as well as human rights treaties may contain limitations on the imposition of economic sanctions.

##### 1. Treaty law

###### *Human rights and international humanitarian law treaties*

8. Human rights and international humanitarian law treaties may be implicated in cases of unilateral coercive measures affecting basic human rights or the civilian population at large. Examples of specific human rights and international humanitarian law treaty norms limiting the use of unilateral coercive measures will be discussed in more detail in chapter IV.

9. In the field of human rights law, the rights most relevant to assessing the legality of economic measures seem to be the right to life,<sup>7</sup> the right to an adequate standard of living, including food, clothing, housing and medical care,<sup>8</sup> the right to freedom from hunger,<sup>9</sup> and the right to health.<sup>10</sup>

10. In the field of international humanitarian law, the prohibition against the starvation of a civilian population as a method of warfare is among the most relevant provisions.<sup>11</sup> In

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<sup>6</sup> See sources in footnote 5 above.

<sup>7</sup> Universal Declaration of Human Rights, art. 3; International Covenant on Civil and Political Rights, art. 6, para. 1.

<sup>8</sup> Universal Declaration of Human Rights, art. 25, para. 1; International Covenant on Economic, Social and Cultural Rights, art. 11, para. 1.

<sup>9</sup> International Covenant on Economic, Social and Cultural Rights, art. 11, para. 2.

<sup>10</sup> *Ibid.*, art. 12, para. 1; Committee on Economic, Social and Cultural Rights, general comment No. 8 (1997) on the relationship between economic sanctions and respect for economic, social and cultural rights, para. 3.

<sup>11</sup> Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), art. 54; Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), art. 14.

addition, the obligation to permit the free passage of all consignments of essential foodstuffs as well as medical supplies<sup>12</sup> and the prohibition of collective punishment already contained in the 1907 Regulations concerning the Laws and Customs of War on Land<sup>13</sup> are crucial for the evaluation of economic coercive measures.

11. In considering the negative impacts of sanctions, the Committee on Economic, Social and Cultural Rights concluded that human rights must be taken fully into account when designing an appropriate sanctions regime, that effective monitoring should be undertaken throughout the period that sanctions are in force, and that the external entity imposing the sanctions has an obligation to take steps, individually and through international assistance and cooperation, especially economic and technical in order to respond to any disproportionate suffering experienced by vulnerable groups within the targeted country.<sup>14</sup>

## 2. Customary international law and general principles

12. In addition to treaty law obligations, the imposition of unilateral coercive measures may infringe rules of general international law comprising both customary international law and general principles of law.

### (a) *Trade relations among States as sovereign decisions*

13. The starting point for any analysis of the interruption of trade relations between States, as the most widely used form of unilateral coercive measures in practice, is the question whether and, if so, to what extent States may be obligated to conduct and to continue trade relations with each other.

14. As confirmed by the International Court of Justice, the prevailing view appears to be that, in the absence of explicit treaty obligations, States are still considered to be free as to whether to maintain trade relations or not.<sup>15</sup> Thus, their politically or otherwise motivated sovereign decisions to stop such relations as such cannot be considered unlawful.<sup>16</sup>

### (b) *Non-intervention*

15. While economic coercive measures are not likely to fall under the notion of the use of force, non-intervention appears to be a more appropriate test for assessing their lawfulness. The principle of non-intervention focuses on the intensity of the interference and the purposes pursued by the action. In particular, many countries in Latin America appear to adhere to a broad notion of unlawful intervention.<sup>17</sup> Within the United Nations more broadly, a growing movement can be ascertained in which numerous Member States have expressed their view that unilateral coercive measures of an economic character may constitute unlawful interferences.

<sup>12</sup> Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention), art. 23, first paragraph.

<sup>13</sup> Convention on land warfare, annex, art. 50.

<sup>14</sup> General comment No. 8, paras. 12-14.

<sup>15</sup> International Court of Justice, *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Merits, Judgment of 27 June 1986, ICJ Reports 1986, p. 14, para. 276.

<sup>16</sup> Christoph Ohler, "Unilateral Trade Measures", *Max Planck Encyclopedia of Public International Law* (Oxford University Press, 2011), para. 14. Available from [www.mpepil.com](http://www.mpepil.com).

<sup>17</sup> Cf. Convention on Rights and Duties of States, art. 8; Charter of the Organization of American States, art. 19.

16. Since the 1960s, the non-intervention principle has repeatedly figured in General Assembly resolutions,<sup>18</sup> culminating in the 1965 Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty,<sup>19</sup> the 1970 Declaration on Friendly Relations<sup>20</sup> and the 1981 Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States,<sup>21</sup> with a particular emphasis on economic measures.

17. While it is accepted that General Assembly resolutions as such cannot create binding legal obligations, they may be declaratory of existing customary international law or contribute to its emergence.<sup>22</sup>

18. The difficulty lies, however, less in accepting the non-intervention principle as a principle of international law.<sup>23</sup> Rather, it has proven difficult to agree on the precise definition of what constitutes “intervention” and, in particular, whether economic coercive measures fall under the core of the customary international law principle of non-intervention.

19. What can be deduced from the above-mentioned resolutions and from the Court’s judgment in the *Nicaragua* case<sup>24</sup> is that two elements are crucial for assessing to what extent measures, including economic ones, may contravene the principle of non-intervention: coercion and the intention to change the policy of the target State where the latter choice should be a free one.<sup>25</sup>

<sup>18</sup> Already in 1957 the General Assembly, in its resolution A/1236 (XII) on peaceful and neighbourly relations among States, referred to “non-intervention in one another’s internal affairs” as one of the bases for relations between States. See also the Charter of Economic Rights and Duties of States (resolution 3281 (XXIX)); Declaration on the Establishment of the New International Economic Order (resolution 3201 (S-VI)); and resolutions 31/91 (1976 Declaration), 32/153, 33/74, 34/101 and 35/159 on non-interference in the internal affairs of States; 39/210, 40/185, 41/165, 42/173, 44/215, 46/210 and 48/168 on economic measures as a means of political and economic coercion against developing countries; and 52/181, 54/200, 56/179, 58/198, 60/185 and 62/183 on unilateral economic measures as a means of political and economic coercion against developing countries.

<sup>19</sup> General Assembly resolution A/2131 (XX) (1965 Declaration).

<sup>20</sup> Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations (General Assembly resolution 2625 (XXV)).

<sup>21</sup> General Assembly resolution 36/103 (1981 Declaration).

<sup>22</sup> Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion of 8 July 1996, ICJ Reports (1996) 226, paras. 70-71.

<sup>23</sup> International Court of Justice, *Military and Paramilitary Activities* (footnote 15 above), para. 202 (“The principle of non-intervention involves the right of every sovereign State to conduct its affairs without outside interference [...] the Court considers that it is part and parcel of customary international law.”).

<sup>24</sup> *Ibid.*, para. 205 (“the principle forbids all States or groups of States to intervene directly or indirectly in internal or external affairs of other States. A prohibited intervention must accordingly be one bearing on matters in which each State is permitted, by the principle of State sovereignty, to decide freely. One of these is the choice of a political, economic, social and cultural system, and the formulation of foreign policy. Intervention is wrongful when it uses methods of coercion in regard to such choices, which must remain free ones.”) Nevertheless, on the facts in this case, the International Court of Justice upheld the economic coercive measures applied, namely the imposition of a unilateral trade embargo, drastic reduction of the sugar import quota, and cessation of economic aid, while taking issue with the military support afforded to an insurgent group (*ibid.*, paras. 239 to 245).

<sup>25</sup> See also Maziar Jamnejad and Michael Wood, “The principle of non-intervention”, *Leiden Journal of International Law*, vol. 22 (2009), p. 371.

20. Where States are economically fully dependent on other States, economic measures may reach an intensity of coercive quality. At the same time, in order to be regarded as intervention the measures must be aimed at influencing the sovereign will of another State in an undue fashion.<sup>26</sup> Thus, where unilateral coercive measures intend to induce compliance with international legal obligations, such as non-use of force or human rights, they are less likely to infringe the principle than when they are directed against the legitimate sovereign political decision-making of a State.

(c) *Customary human rights and international humanitarian law norms*

21. Many of the human rights and international humanitarian law norms mentioned above are likely to constitute norms of customary international law. Fundamental humanitarian law provisions are widely regarded as customary international law.<sup>27</sup> Although the blanket qualification of human rights law in general as customary law has been more controversial,<sup>28</sup> it appears that those basic provisions that are in issue in the case of economic embargoes do have a customary international law character. In addition, there may be strong and convincing arguments to consider core provisions of humanitarian law, as well as the most basic human rights, as having received the status of non-derogable, peremptory norms in the sense of *jus cogens* obligations.<sup>29</sup>

### 3. Potential preclusion of wrongfulness of coercive measures

(a) *Countermeasures*

22. Under the customary international law principles of State responsibility as codified in the International Law Commission articles on State responsibility,<sup>30</sup> otherwise unlawful acts may be exceptionally justified as countermeasures.<sup>31</sup> Countermeasures are permitted under certain restrictive circumstances: they may be taken only against a responsible State to induce it to comply with its obligations to cease the internationally wrongful conduct, if it is continuing.<sup>32</sup> Where human rights or other obligations owed to the international community as a whole (obligations *erga omnes*) are concerned, any State may take lawful measures against the State that breached the said *erga omnes* obligation to ensure cessation

<sup>26</sup> Cf. Derek Bowett, "Economic coercion and reprisals by States", *Virginia Journal of International Law*, vol. 13, No. 1 (Fall 1972), p. 5 ("Measures not illegal per se may become illegal only upon proof of an improper motive or purpose.").

<sup>27</sup> See International Court of Justice, *Military and Paramilitary Activities* (footnote 15 above), p. 113; Theodor Meron, *Human Rights and Humanitarian Norms as Customary Law* (Clarendon Press, 1989).

<sup>28</sup> See Louis Henkin, "Human Rights", in *Encyclopedia of Public International Law*, vol. 2, Rudolf Bernhardt, ed., 2nd ed. (Amsterdam, Elsevier, 1995), p. 887. See also, however, the critical view by Bruno Simma and Philip Alston, "The sources of human rights law: custom, jus cogens, and general principles", *Australian Year Book of International Law*, vol. 12 (1992), p. 90, suggesting general principles of law as a more adequate source of unwritten general international law.

<sup>29</sup> See the report of the International Law Commission on the work of its thirty-second session (*Official Records of the General Assembly, Thirty-fifth Session, Supplement No. 10 (A/35/10)*, vol. II, part two, p. 46, stating that "some of the [rules of humanitarian law] are, in the opinion of the Commission, rules which impose obligations of *jus cogens*...". See also Theodor Meron, "On a hierarchy of international human rights", *American Journal of International Law*, vol. 80 (1986), p. 1.

<sup>30</sup> Draft articles on the responsibility of States for internationally wrongful acts, *Official Records of the General Assembly, Fifty-sixth session, Supplement No. 10 (A/56/10)*, chap. IV, para. 76.

<sup>31</sup> *Ibid.*, art. 22 on countermeasures in respect of an internationally wrongful act.

<sup>32</sup> *Ibid.*, art. 49 on the object and limits of countermeasures.

of the breach and reparation in the interest of the injured State or of the beneficiaries of the obligation breached.<sup>33</sup>

23. Where the above criteria are fulfilled, unilateral coercive measures may be justified as a temporary measure. However, countermeasures must not affect the prohibition on the use of force, obligations for the protection of fundamental human rights, obligations of a humanitarian character prohibiting reprisals and other obligations under peremptory norms of general international law.<sup>34</sup> They also must be proportional.<sup>35</sup> The proportionality of the countermeasure is a crucial element in assessing the legality of a specific measure.

(b) *Authorization by the United Nations*

24. According to Chapter VII of the Charter of the United Nations, the Security Council may impose forcible or non-forcible measures in situations that constitute at least a threat to international peace and security.<sup>36</sup> The preferred non-forcible measures adopted by the Security Council in the past were economic sanctions.<sup>37</sup> States Members of the United Nations must implement such binding resolutions.<sup>38</sup> This Charter-based obligation also overrides other obligations under international law. Although the wording of Article 103 of the Charter appears to be limited to other treaty obligations, the priority of the Charter obligations is generally regarded to apply also vis-à-vis custom and other obligations under general international law.<sup>39</sup>

25. Thus, coercive measures taken by States not unilaterally, but on the basis of a United Nations Chapter VII resolution may be legally justified even if they contravened treaty obligations or customary international law rules per se, unless such contraventions amounted to breaches of peremptory norms (*jus cogens*).

## B. Specific coercive measures

26. Human rights concerns as well as the humanitarian implications of general economic sanctions have led the Security Council, and also States when imposing unilateral coercive measures, to increasingly adopt so-called targeted or smart sanctions, which are aimed at avoiding the indiscriminate effects of general economic sanctions by specifically targeting individuals considered to be crucial to the policy decisions that are meant to be influenced by the coercive measures.<sup>40</sup>

27. While many human rights and international humanitarian law issues stemming from the indiscriminate effect of general economic measures can be avoided by the adoption of “targeted” sanctions, some novel human rights issues arise in this context. Coercive measures, such as the freezing of bank accounts of individual terror suspects or targeted regime leaders, may infringe upon their right to a fair trial if they have no or only inadequate possibilities to challenge such determinations,<sup>41</sup> as well as their rights to privacy

<sup>33</sup> Ibid., art. 54 on measures taken by States other than an injured State.

<sup>34</sup> Ibid., art. 50, para. 1, on obligations not affected by countermeasures.

<sup>35</sup> Ibid., art. 51 on proportionality.

<sup>36</sup> Charter of the United Nations, Art. 39.

<sup>37</sup> Ibid., Art. 41.

<sup>38</sup> Ibid., Art. 25.

<sup>39</sup> Rudolf Bernhardt, “Article 103”, in Bruno Simma, ed., *The Charter of the United Nations: A Commentary*, vol. I, 2nd ed. (Oxford, Oxford University Press, 2002), para. 21.

<sup>40</sup> See para. 3 above.

<sup>41</sup> See for example the European Court of Justice, Kadi Case, Joined Cases C-402/05 P and C-415/05 P, *Yassin Abdullah Kadi and Al Barakaat International Foundation v. Council and Commission*,

and to property.<sup>42</sup> In fact, the targeted effect of such “individualized” sanctions may be more likely to violate such individual rights than the more diffuse general trade sanctions.

#### IV. The impact of unilateral coercive measures on human rights

28. The question of how to assess the harmful effects of unilateral coercive measures, in particular those of a general nature targeting the economy as a whole, rather than particular individuals, on human rights is a difficult one as evidenced by the empirical analysis of economic sanctions undertaken by Hufbauer and Schott.<sup>43</sup>

29. Some guidance may be drawn from the replies by Governments expressing their views on the implications and negative impacts of unilateral coercive measures on their populations in response to a note verbale sent out by OHCHR,<sup>44</sup> and reflected in annual reports of the Secretary-General to the General Assembly.

30. The scope of Human Rights Council resolution 15/24 is confined to the impact of unilateral coercive measures on human rights. Multilateral measures such as those authorized by the United Nations under Chapter VII of the Charter or by the European Union, for example, are ipso facto excluded from the ambit of the present study. A key analytical challenge comes from the fact that countries are sometimes the target of both unilateral and multilateral sanctions, making the distinction of impacts difficult to assess.<sup>45</sup>

31. What is clear is that unilateral coercive measures encompass a range of actions, including trade embargoes, financial restrictions, acquisition of property, freezing of assets, visa restrictions, and withholding of vital medical supplies and spare parts for various machineries. The measures in question often extend extraterritorial application of domestic rules, adversely affecting the interests of third States and their nationals.

32. Unilateral coercive measures in the form of economic sanctions can have far-reaching implications for the human rights of the general population of target States.<sup>46</sup> The

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European Court of Justice, 3 September 2008, 47 ILM 923 (2008), paras. 348 and 349, where the Court held that the applicants’ rights of defence as well as their right to an effective legal remedy had in fact been infringed.

<sup>42</sup> Ibid., para. 370. The European Court of Justice held that in the circumstances of the case, the imposition of the restrictive measures constituted an unjustified restriction of the right to property.

<sup>43</sup> G. Hufbauer and J. Schott, *Economic Sanctions Reconsidered: History and Current Policy* (Institute for International Economics, 1985), pp. 32-33.

<sup>44</sup> Annual report of the Secretary-General on human rights and unilateral coercive measures (A/66/272), para. 2.

<sup>45</sup> An article published by a group of medical researchers found “strong evidence that the Gulf war and trade sanctions caused a threefold increase in mortality among Iraqi children under five years of age”. The group estimated that an excess of more than 46,900 children died between January and August 1991. (Alberto Ascherio et. al., “Effect of the Gulf war on infant and child mortality in Iraq”, *The New England Journal of Medicine*, vol. 327, No. 13 (1992), pp. 931 and 933-934). See also the background paper on the human rights impact of the economic sanctions on Iraq, prepared by OHCHR for the meeting of the Executive Committee on Humanitarian Affairs, 5 September 2000, para. 6.

<sup>46</sup> The economic measures applied by the United States of America against Cuba have spanned over half a century (A/66/272, p. 7). Cuba maintains that these measures have devastating effects on all Cuban citizens irrespective of their age, race, sex, religion or social standing (ibid., pp. 7-10). See also Marc Bossuyt, “The adverse consequences of economic sanctions on the enjoyment of human rights”, working paper prepared for the Commission on Human Rights, Sub-Commission on the Promotion and Protection of Human Rights (E/CN.4/Sub.2/2000/33). The paper concluded that the United States embargo on Cuba affects human rights in two distinct ways. First, “the fact that the United States is the major regional economic power and the main source of new medicines and technologies means

primary victims of these measures are often the most vulnerable classes, including women, children, the infirm and older persons, as well as the poor. These groups suffer more acutely as a result of denial of access to life-saving equipment and medications, basic food products and educational equipment. Others are prevented from joining the job market. Thus it has been observed, “under sanctions, the middle class is eliminated, the poor get poorer, and the rich get richer” as do those “who take control of smuggling and the black market. The Government and elite can actually benefit economically from sanctions, owing to this monopoly on illegal trade” (E/CN.4/Sub.2/2000/33, para. 50). This seems to indicate that unilateral coercive measures often have negative impacts that appear to disproportionately affect the poor and the vulnerable, the very persons for whom human rights principles seek to provide particular safeguards.

33. Further, there are several factors to be considered when assessing the impact of unilateral coercive measures on human rights in any given country. To begin with, the volume and type of trade/finance affected must be looked at very closely. This is because restrictions on capital flow and international trade can, in various ways and at different levels, reduce national income in the target State. This may exacerbate social problems such as unemployment. In addition, the extent of the economic linkage between the sender State and the target State should be scrutinized, as it has a direct connection with the gravity of the impact. Finding alternative suppliers of essential goods that are subjected to sanctions could prove to be costly and slow. Meanwhile, the population may be adversely affected by a lack of medication and other basic needs. Unilateral coercive measures tend to have an impact on the basic needs of the people, and thus on the enjoyment of their most basic human rights. When negative impacts affect the poor, weak and vulnerable, their lack of resilience and social protection can exacerbate the impacts further.

34. Long-term unilateral coercive measures may result in social problems and raise humanitarian concerns in relation to the most vulnerable segments of society. Accounts from target States maintain that unilateral coercive measures can adversely affect their job markets, impacting rights governed by article 6 of the International Covenant on Economic, Social and Cultural Rights.

35. Unilateral coercive measures that impinge on the provision of an adequate standard of living, including medical care, food, clothing and housing, would have an impact on the implementation of article 25, paragraph 1, of the Universal Declaration of Human Rights, and of articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights.

36. Women appear to be disproportionately affected by the impact of unilateral coercive measures, which hinders the implementation of article 2 of the Convention on the Elimination of All Forms of Discrimination against Women. Likewise, persons with disabilities appear to be disproportionately affected, which hampers the implementation of article 1 of the Convention on the Rights of Persons with Disabilities.

37. Some States view unilateral coercive measures as infringing the right to self-determination, basing their claim on Articles 1, paragraph 2, and 55 of the Charter of the United Nations. Finally, these States note that unilateral coercive measures can also have the impact of the deprivation of one’s means of subsistence, and can constitute an obstacle to the realization of the right to development.

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that Cuba is subject to deprivations that impinge on its citizens’ human rights” (paras. 98-99). Second, it found that, by trying to force other countries into embargoing Cuba as well, the Government of the United States is attempting to turn a unilateral embargo into a multilateral embargo through coercive measures. The paper concluded that the effect of these sanctions will be “to deepen further the suffering of the Cuban people and increase the violation of their human rights” (para. 100).

38. The High Commissioner for Human Rights notes that even carefully targeted sanctions imposed to end gross human rights violations, as part of a wider diplomatic effort and preferably in a multilateral framework, must be subject to stringent conditions.<sup>47</sup> They must be imposed no longer than necessary, be proportional and be subject to appropriate human rights safeguards, including human rights impact assessments and monitoring conducted by independent experts. In particular, the positive impact that sanctions imposed with the objective of protecting human rights can be reasonably expected to have must outweigh the negative impact, taking into account the views of the population suffering under the human rights violations that gave rise to the sanctions and the impact on the most vulnerable parts of society. In this context, it has to be borne in mind that targeted sanctions aimed at applying pressure on specific decision-makers bearing responsibility for the human rights situation typically have a less harmful impact on the population as a whole than measures targeting the economy as a whole.

## V. Recommendations

39. **The actions of States in the international arena must be consistent with customary international law principles and the Charter of the United Nations as also interpreted by the International Court of Justice.**

40. **States must refrain from adopting unilateral coercive measures that breach their human rights obligations under treaty or customary international law.**

41. **All States Members of the United Nations should avoid the application of any coercive measures having negative effects on human rights, particularly on the most vulnerable. Where such measures are imposed, explicit safeguards to protect human rights are imperative.**

42. **States are urged to adopt measures ensuring that essential supplies, such as medicines and food, are not used as tools for political pressure, and that under no circumstances should people be deprived of their basic means of survival. These considerations should also apply in the case of an armed conflict, in accordance with international humanitarian law. As overly broad coercive measures may breach the most basic human rights, every effort must be made to limit such measures.**

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<sup>47</sup> See Committee on Economic, Social and Cultural Rights, general comment No. 8, para. 1: “The Committee does not in any way call into question the necessity for the imposition of sanctions in appropriate cases in accordance with Chapter VII of the Charter of the United Nations or other applicable international law. But those provisions of the Charter that relate to human rights (Articles 1, 55 and 56) must still be considered to be fully applicable in such cases.” See also the report of the Special Rapporteur on the right to food on his mission to Madagascar (A/HRC/19/59/Add.4, para. 51), in which the Special Rapporteur takes the position that sanctions, even where otherwise legitimate, must comply with human rights, protect the essential core of economic, social and cultural rights, and include relevant humanitarian exceptions and procedural safeguards.