***Bolivarian Republic of Venezuela***

***Ministry of Popular Power for Foreign Relations***

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***Response to the questionnaire on the study of unilateral coercive measures, their notion, characteristics, legal status and objects of unilateral sanctions, in response to the Note Verbal from the Office of the United Nations High Commissioner for Human Rights (OHCHR) S / N dated 11/24/2020***

**1. From the perspective of your Government, under what circumstances is the application of unilateral sanctions / measures legal under international law? What kind of activity could be classified as illegal unilateral coercive measures? Please specify. What definition can be proposed for the identification of unilateral coercive measures?**

The Bolivarian Republic of Venezuela recognizes the Charter of the United Nations as a fundamental norm of international law to regulate relations between States and guarantee the prevalence of peaceful relations, based on the provisions of its articles 1 and 2. In this sense, no State is empowered to use any type of measure, including, but not exclusively, economic or political measures, or to promote them, in order to coerce another State to obtain from it the subordination of the exercise of its sovereign rights.

The only body that has competence and legitimacy to impose sanctions on the States is the United Nations Security Council (UNSC), in accordance with the provisions of Chapter VII of the United Nations Charter; it is worth saying that UNSC has not imposed any sanction on Venezuela. In this way, the unilateral coercive measures applied to Venezuela are considered illegal because they lack a legal basis.

It can be proposed as a definition to identify unilateral coercive measures, such as those that do not come from the United Nations Security Council, that is, that are imposed by a State in abuse of its financial capacity with the purpose of coercing the will of a country and promote a regime change in satisfaction of their own interests, without respecting the right to self-determination of that country, while limiting its economic capacity and violating the human rights of its inhabitants.

**2. What is your government's position on the legal status and legality (in international law) of unilateral sanctions without or beyond the authorization of the UN Security Council? What is your position on the legal status and legality of unilateral sanctions as countermeasures against unilateral sanctions of another party? What is your position on the legal status and legality of physical means (eg, locks) or cyber media to enforce unilateral sanctions?**

In the Charter of the United Nations, Chapter VII, there are the legal bases for the imposition of sanctions in three cases: when there are “acts of aggression”, “ breaches of the peace” and “threats to the peace”, which is a criterion accepted and shared by the Bolivarian Republic of Venezuela, as a subscriber state to the United Nations Charter.

None of the above conditions are met in the case of Venezuela.

Through the evolution of international law, its principles, concepts and institutions, it has sought to regulate the actions of States in the world sphere, in order to preserve peace, institutional framework, the legality of actions and, above all, respect to fundamental aspects such as independence and non-intervention in internal affairs.

However, it has been witnessed once and again how the great world powers have attacked the international legal order, imposing unilateral measures and sanctions that violate the principles of independence, equal rights, and the self-determination of peoples, by use of these mechanisms as methods of political pressure, unfounded in false legality.

The Bolivarian Republic of Venezuela considers that any unilateral sanction against the Venezuelan State represents a flagrant violation of the Constitution of the Bolivarian Republic of Venezuela, and the principles established in it regarding the governance of international relations, contained in Article 152, which indicates that the international relations of the Republic respond “… to the principles of sovereignty, independence, equality among States, self-determination and non-intervention in internal affairs, peaceful solution of international conflicts, cooperation, respect for human rights and solidarity between peoples ... ”.

Likewise, it is important to note that the Charter of the United Nations, in its article 2, numeral 4, refers to the fact that in terms of international relations, the member states of the UN will refrain from resorting to the threat or use of force against the territorial security or political independence of any State, considering the Bolivarian Republic of Venezuela that any unilateral and extraterritorial sanction, flagrantly violates said provision.

It is important to highlight that the aforementioned Charter in its Chapter V, in relation to the Security Council, indicates that the Security Council is in charge of maintaining international peace and security, acting in accordance with the stipulations contained in the aforementioned instrument, therefore which for the Bolivarian Republic of Venezuela, said body is the only one empowered to impose measures or sanctions.

In the same regard, Chapter VII of the above-mentioned instrument, in order to avoid damage among the countries of the international community, regulates the manner in which action should be taken in the event of threats to the peace, breaches of the peace or acts of aggression, delegating the authority to the UN Security Council so that before making recommendations or issuing measures, it proceeds to request the parties the provisional measures they deem necessary. Visualizing in this way, the little interventionist spirit that should govern international relations.

Likewise, the Bolivarian Republic of Venezuela is of the opinion that all unilateral sanctions, regardless of the way in which they are applied, be it physical means or cybernetic means, represent a clear violation of the provisions of the UN Charter, and the means developed in said instrument for the solution of disputes between States. The UN Charter, in its article 33, expressly states that the peaceful means of dispute resolution are: negotiation, investigation, mediation, conciliation, arbitration, judicial solution, appeals to entities, regional agreements or any other peaceful means; processes ignored and not applied in the Venezuelan case.

On the other hand, in relation to the definition of what are considered as unilateral coercive measures, they are those that consist of economic sanctions such as embargoes, economic restrictions, among other methods; as well as those considered as political sanctions that affect the sovereignty of the States and that impact on the enjoyment of the human rights of citizens, which is why it is essential that International Organizations consider expanding the definition of measures unilateral coercive measures, and their impact to the detriment of the population of the affected States, due to the fact that they are used in countless opportunities, as in the Venezuelan case, as a legal instrument devoid of legality, because they violate the guiding principles of relations between countries.

**3. What is your government's position on the legal status and legality of (a) unilateral sectoral sanctions and (b) unilateral sanctions against legal persons (natural and legal persons)? Can the latter be classified as a criminal sanction / civil sanction / administrative sanction / collective sanction / any other qualification?**

All unilateral coercive measures are a violation of International Law, and the principles established in the Charter of the United Nations. It is worth noting that these measures represent a crime against humanity. In response to this, and in defense of Human Rights, the Bolivarian Republic of Venezuela submitted a referral (complaint) to the International Criminal Court in order to make the United States respond for the damage and suffering it has caused in the population from Venezuela.

The referral is based on article 14 of the Rome Statute, and the situation caused by the unilateral coercive measures (UCM) applied by the United States government against the Bolivarian Republic of Venezuela, therefore the referral was presented to the Prosecutor of the International Criminal Court (ICC) on February 13. Venezuela for the Prosecutor's Office to investigate the commission of some of the crimes established in the Statute, and determine whether one or more persons should be charged for such crimes.

The complaint filed with the ICC Prosecutor's Office indicates that the unilateral coercive measures (UCM) imposed by the US against Venezuela, since at least 2014, constitute a Crime Against Humanity, provided for in Article 7 of the Rome Statute.

Venezuela denounced that the MCU comprise all the elements of the crime against humanity, in the terms provided in the Rome Statute, namely:

to. "... an attack ..." (not military). An attack is a line of conduct that implies the multiple commission of the acts referred to in paragraph I of article 7 of the Statute.

b. "... generalized or systematic ..." (not necessarily directed at a specific group and spread over time).

c. "... against a civilian population ...".

d. "... in accordance with the policy of a State or an organization ..." (as the North American Government has effectively executed it, through laws, decrees, executive decisions, regulations, threats and other multiform actions).

The Bolivarian Republic of Venezuela believes that any sanction to be imposed on a certain State must exhaust all the methods or processes established by international law for that purpose, also respecting the sovereignty and integrity of the affected State, and avoiding the extraterritoriality of decisions. that do not comply with the due legality or that are emanated from organizations or institutions that have not been expressly recognized by the Republic previously.

In addition, it can be highlighted that the sanctions imposed in the case of Venezuela do not correspond to any of the classifications included in the doctrine of international law, as they are illegal and have a highly political component, which affect and violate human rights of the Venezuelan population, by preventing access to free international trade to satisfy internal needs.

The unilateral coercive measures imposed on Venezuela can be classified as sectoral sanctions and sanctions on individuals (specially designated persons and entities) and have been applied progressively since 2014. Similarly, the so-called secondary sanctions have been applied in Venezuela, targeting individuals or companies that are involved in commercial, financial transactions or any type, with a sanctioned entity.

Among them, there are various measures such as: commercial restrictions, the prohibition of importing and exporting, entry and transit restrictions in certain individuals who are members of the national public powers, among others.

The existence of these secondary sanctions, as a consequence, reinforces the over-compliance of the sanctions, as no public or private entity, individual or collective, wants to be sanctioned for being related to an entity that is under the UCM regime. All these measures affect the enjoyment of the human rights of the Venezuelan people indiscriminately, to a greater or lesser extent, at the same time that they violate the right to development of the Venezuelan State, mainly attacking the national economy through financial and commercial persecution.

**4. What steps has your government taken to implement the UN Security Council sanctions? Does your government take complementary measures beyond Security Council sanctions? Please specify.**

The Bolivarian Republic of Venezuela has not been sanctioned by the UN Security Council, due to the failure of all attempts by imperial powers such as the United States of America.

**5. What is the opinion of your Government on the extraterritorial application of unilateral sanctions (their existence, cases, forms, admissibility and legality)? Please specify.**

The imposition of illegal and progressive UCM by a country or a group of countries is not a problem of a specific country, it is a problem of all countries alike, since they have extraterritorial implications and flagrantly attack political sovereignty, territorial integrity, the legal equality of States, the peaceful resolution of disputes, multilateralism, as well as the principles and foundations on which the existing international system based on existing norms has been built aimed at guaranteeing peaceful coexistence of nations.

Venezuela opposes the extraterritorial application of unilateral measures. The Bolivarian Government considers that these actions are in violation of the most elementary principles of International Law, and also affect the quality of life of the Venezuelan people.

In addition, the effects of the sanctions applied to a State against third parties, who are prevented from having relations with the sanctioned or certain agents of that State. These effects apply not only to citizens or companies of that State, but also to natural and legal persons of another State.

It is worth noting that extraterritorial effects are rejected by the majority of the international community, including the European Union, which has planned to apply retaliation measures in case they are used against European companies.

It can be remembered that, in 2018, Trump introduced extraterritorial sanctions, with negative consequences for companies from third countries, including European ones.

**6. Is there a legal basis from your government's perspective for individuals or entities that violate the rules of a unilateral sanctions regime to be subject to sanctions (secondary sanctions)? What is your government's position on the legal status and legality of secondary sanctions in international law (a) when the targets are citizens or national entities, and (b) when the targets are extraterritorial? What rules apply to third-state nationals with regard to the application of secondary sanctions?**

The Bolivarian Republic of Venezuela, in accordance with the ideas developed previously, considers first that any sanctioning regime for a State must be in accordance to the international legal order, and its own instruments for the matter such as the United Nations Charter, and implemented by competent bodies for such cases as the Security Council, among others, always in faithful compliance and respect for the guiding principles of international relations.

Therefore, any sanction imposed by a State, whether against natural or legal persons of another, that does not comply with the corresponding legal procedures, that seeks to be applied extraterritorially, and that also violates the human rights of an entire population, must be branded as illegal and appealed by the entire international community.

No sanction should be extraterritorial, and less if it does not comply with the provisions of the legal systems of the countries. In the Venezuelan case, the sanctions imposed are erroneously argued in false legal concepts and in violation of national sovereignty, and of national determination, so that consequently it cannot be seen in any way with any correspondence of legality.

**7. What is the position of your Government with regard to excessive compliance with the sanctions resulting from extraterritorial application? Please specify. How does your government deal with this "excess of compliance"?**

The Government of the Bolivarian Republic of Venezuela has identified the serious existence of an excess of compliance with the unilateral coercive measures that are applied against the country, having this negative effect greater than that which is publicly declared. This excess of compliance by the international financial sector has affected the activity of the Venezuelan State in all areas of competence.

In addition, since August 2019, the United States of America formalized the imposition of so-called "secondary sanctions" against any person who has a commercial relationship with the Bolivarian Republic of Venezuela. This measure has fueled the well-known "excess compliance" of the international private sector by making it difficult to purchase goods or contract services required by the country. Added to this phenomenon is a marked increase in import costs, given the restrictions on "free trade" and the consequent complexity of logistics.

Since August 2017, when unilateral financial coercive measures were enacted against Venezuela, the Republic has faced an international financial blockade, to which various international financial institutions joined (due to pressure from the Treasury Department or due to excessive compliance), freezing or closing accounts of the Venezuelan State, preventing those blocked resources to be used to purchase food and medicine.

**8. Who, from the perspective of your government, can be considered targets of unilateral sanctions? Please specify. What rights of those affected by unilateral sanctions are injured?**

The Bolivarian Republic of Venezuela recognizes the inalienable, indivisible and interdependent nature of all Human Rights, which is recognized in the National Constitution approved in 1999 with the arrival of the Bolivarian Revolution.

The International Community and the Human Rights Council also recognize the universal, indivisible, interdependent and interrelated nature of all human rights, taking into account the right to development as a universal and inalienable right and as an integral part of all human rights.

Based on this indivisible and interdependent vision of human rights, recognized by International Law, the impact on one of them indisputably affects the others. In this sense, the unilateral coercive measures applied against Venezuela by different countries, mainly the United States and the European Union, affect all human rights, including the right to development.

The unilateral coercive measures imposed by officials and institutions of the United States Government, and by entities and organizations outside of United States territory, directly and indirectly against Venezuela, have produced profound impacts on public finances, the nation's income, international trade, internal economic activity, quality of life and the exercise and enjoyment of human rights of the Venezuelan population, inducing an unprecedented economic crisis. In short, the civilian population is seriously affected, since fundamental rights are diminished, such as that of living in a dignified manner, access to health or adequate food, thus contrary to fundamental international norms or jus cogens.

These measures by the strongest countries lack legality in the light of international law, and constitute open violations of the sovereignty of the States subject to them.

The serious impacts of the sanctions on the economy have been transferred to the 30 million citizens that make up the Venezuelan population, severely and negatively affecting the enjoyment of all human, economic, social, political and cultural rights enshrined in the Universal Declaration of the Constitution of the Bolivarian Republic of Venezuela (1999), in its explanatory memorandum, the preamble and article 19, referring to Human Rights.

The sanctions of the United States have totally violated Article 25 of the Universal Declaration of Human Rights, which states:

Art. 25. 1. Everyone has the right to an adequate standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

As an example, we can mention some human rights that have been affected in a special way by the unilateral coercive measures applied against the Bolivarian Republic of Venezuela, the mention of which should not be considered exhaustive or hierarchical of any of them over the others:

**a) Right to health:**

The right to health is one of the most affected by the imposition of unilateral coercive measures against Venezuela since the blockade in the financial sector caused by them has prevented the acquisition of medical and pharmaceutical supplies and equipment, since the transactions are rejected.

**b) Right to food:**

A significant percentage of the country's food imports originated from States that have maintained a more confrontational policy and have applied the largest number of unilateral economic coercive measures against Venezuela, so the right to food is highly affected by the application of unilateral coercive measures by those countries.

In addition to this, unilateral financial and commercial coercive measures have made it difficult to purchase or exchange food with other States and have caused the country significant losses estimated in 37.04 million USD, among other reasons, due to the operational obstacles that shipping companies and international ports have been imposing, such as the roll-out of cargo destined for Venezuela, the increase in waiting times (going from 45 days in 2017 to 60 days in 2018) and the increase in rates and insurance.

**c) Right to housing:**

The unilateral coercive measures have caused serious damage to policies of the Venezuelan State aimed at meeting social needs such as the right to housing. In this sense, the Great Venezuela Housing Mission, a successful policy of the Venezuelan State that since 2011 has built 3,400,000 homes, benefiting that immense number of families, has been seriously affected by the blockade against the country, making it difficult to acquire and import of materials, equipment and machinery necessary and indispensable for the construction of homes and urban planning at the national level and denying the obtaining of raw material.

**d) Right to sport:**

The right to sports is affected by the impossibility of importing sports equipment and implements. For their part, international payment blocks threaten not to be able to transfer athletes to world competitions, as happened on September 6, 2017, when an international bank prevented the transfer of resources for more than one and a half million dollars to cancel plane tickets, accommodation and other concepts. On that occasion, the Venezuelan government delivered state planes for the transfer.

**e) Right to defense:**

The unilateral coercive measures imposed by the United States of America have prevented and blocked the exercise of administrative or judicial actions before US entities and courts, which constitutes a flagrant violation of the right to defense of the Venezuelan State. It is an irrational situation, contrary to legal logic, since the exercise of the right of defense is an essential and inherent part of the international legal order.

The impossibility of hiring US law firms for the attention of the cases that are heard in North American courts is a palpable demonstration of the affectation of the right of defense of the Bolivarian Republic of Venezuela before that jurisdiction. US law firms have submitted applications aimed at obtaining specific licenses with the Office of Foreign Assets Control (OFAC), without receiving any response.

As mentioned above, this is a non-exhaustive list, as unilateral coercive measures affect all human rights, including the right to development. This impact is palpable by the Venezuelan population who saw their rights guaranteed in the framework of the construction of a democratic and social State of Law and Justice since the arrival of the Bolivarian Government, with preeminence of human rights and who observe how the standard of living and enjoyment have deteriorated.