Mandate of the Special Rapporteur on the negative impact of the unilateral coercive measures on the enjoyment of human rights

***"UCM - Study on the notion, characteristics, legal status and targets of unilateral sanctions"***

1. Unilateral Coercive Measures (UCM) are economic measures taken by a state with the aim of compelling a change of policy in another state. These measures can be portrayed in the forms of trade embargoes, asset freezes, or interruption of investment flows. More recently, unilateral coercive measures have been called “targeted” or “smart” sanctions; these even include travel bans in order to influence people with political importance in the targeted states.
2. The State of Mauritius has promulgated the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act (UNSA) in May 2019 to enable Mauritius to implement targeted sanctions, including financial sanctions, arms embargo and travel ban, and other measures imposed by the United Nations Security Council under Chapter VII of the Charter of the United Nations, with a view to address threats to international peace and security, terrorism, the financing of terrorism and proliferation of weapons of mass destruction.
3. The Act has led to the creation of the National Sanctions Committee (NSC) which is vested with the following functions and powers:
4. direct the Secretary for Home Affairs to declare, for the purposes of UNSCR 1373 or any other international obligations, a party as a designated party;
5. be responsible for identifying a party that meet the listing criteria for designation as a listed party on a United Nations Sanctions List;
6. make proposals for the listing of a party as a listed party to the relevant United Nations Sanctions Committee;
7. recommend the Secretary for Home Affairs to request another country to designate a party for the purposes of UNSCR 1373;
8. coordinate and promote effective implementation of the obligations under the UNSCRs in Mauritius;
9. coordinate international cooperation in the cross-border implementation of the UNSCRs between Mauritius and other countries and foreign counterpart agencies;
10. coordinate the development of, review and implement, national policies and activities for the effective implementation of the UNSCRs;
11. approve such guidelines developed by National Sanctions Secretariat; and
12. make recommendations to the Minister for legislative, regulatory and policy reforms for the purposes of this Act.
13. The NSC has also set up two sub-committees to assist it in the discharge of its functions under the Act, namely, a Technical Working Committee and a Restricted Committee. The Technical Working Committee is responsible for the preparation of legal, technical and other related documents. The Restricted Committee is responsible for analysing probable designation cases in Mauritius.
14. The National Sanctions Secretariat (NSSec)has been set up under section 7 of the UNSA 2019 to provide support to the National Sanctions Committee in the administration of the Act. The setting up of a National Sanctions Committee marked a milestone in our fight against terrorism financing and it will leave no stone unturned to prevent such unlawful acts on the Mauritian territory.
15. The NSSecensures that all notices issued by the United Nations Security Council (UNSC) are disseminated to all supervisory and regulatory bodies through the goAML system of the Financial Intelligence Unit and on the websites of the NSSec, the Government Information System and the Government Portal. The NSSec also monitor the United Nations Sanctions lists on a daily basis including weekends and public holidays to ensure that any changes thereto are disseminated within 24 hours of its publication.
16. In addition, the NSSec has:
17. created its website;
18. issued the following documents:
	1. First Notice (To apprise stakeholders of sanctions under UNSA 2019);
	2. Explanatory Note on the implementation of United Nations Sanctions Measures; and
	3. Guidelines on the implementation of Targeted Financial Sanctions
19. designed a workflow for different sections of the law such as the process of declaration of a designated party under section 9 and 10, the procedures for submitting a listing proposal to the UNSC as well as the process for removing of a party from the list of designated parties.
20. worked out draft templates for notices and directions to be issued under the Act;
21. successfully amended section 18(1)(b) of the UN Sanctions Act to ensure effective implementation of same;
22. been continuously monitoring report from reporting persons regarding positive and negative matches; and
23. been assisting reporting persons on queries pertaining to the Act.
24. The NSC also designates parties where there are sufficient reasonable grounds in accordance with sections 9 and 10 of the Act. The Standard Forms 9 and 10 for designation of parties are available on the website of the National Sanctions Secretariat on [*https://nssec.govmu.org*](https://nssec.govmu.org)*.*
25. Section 9 of the UNSA 2019, provides for individuals or entities to be declared as designated party. An extract of section 9 is attached for your information.***(Annex 1)***
26. As per the provisions of the Act, individuals and entities involved in terrorist acts, arms trafficking, proliferation financing, amongst others are being targeted. As per the recommendations of the Financial Action Task Force (FATF), persons involved in AML/CFT should be subject of Financial Prohibitions, Arms Embargo and Travel ban. Any aggrieved party may apply for Judicial Review before the Supreme Court for redress (*Para 15* of Act).
27. Under the present Act, no over-compliance has been noticed as of yet. However, in case of over-compliance, it can be challenged before the designated Judges of the Supreme Court (*para.38* of the Act).
28. Sanctions are initiated by the NCS acting under the provision of a legislative act. Punishment for criminal and civil penalties should be as per conviction by a court of law.

 25 March 2021