

Mandates of the Special Rapporteur on the rights of persons with disabilities; and the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights of persons with disabilities; and Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, pursuant to Human Rights Council resolutions 35/6 and 36/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **Executive Order 13846 (E.O.) of August 6, 2018, "Reimposing Certain Sanctions With Respect to Iran"**, targeting the Islamic Republic of Iran (hereinafter "Iran").

According to the information received:

On 20 July 2015, the Joint Comprehensive Plan of Action, agreed to by People's Republic of China, the French Republic, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, United States of America and Federal Republic of Germany, was adopted through United Nations Security Council Resolution 2231. On 8 May 2018, the United States announced that it would be withdrawing

On 6 August 2018, the White House issued Executive Order 13846 (E.O.) of August 6, 2018, "Reimposing Certain Sanctions With Respect to Iran". The E.O. re-applies secondary sanctions to the Government of Iran's purchase or acquisition of U.S. bank notes or precious metals; Iran's trade in gold or precious metals; the direct or indirect sale, supply, or transfer to or from Iran of graphite, raw or semifinished materials such as aluminum and steel, coal, and software for integrating industrial processes; Iran's automotive sector; transactions related to the purchase or sale of Iranian rials, or the maintenance of significant funds or accounts outside the territory of Iran denominated in the Iranian rial; and the purchase, subscription to, or facilitation of the issuance of Iranian sovereign debt. These sanctions target both US and non-US citizens and businesses.

The Joint Comprehensive Plan of Action (JCPOA) was adopted through Security Council Resolution 2231, which unambiguously intended to make the agreement binding upon all States. The United States has elected to unilaterally withdraw from the agreement, despite the International Atomic Energy Agency noting that Iran remains in compliance with its obligations, and despite the protests of the European Union, including France, Germany and the United Kingdom.

The sanctions regime contains a humanitarian exemption permitting the sale of agricultural commodities, food, medicine, or medical devices (including assistive devices) to Iran.¹ Despite this, it is expected that restrictions for major medical companies to engage in medical sales to Iran will further increase. This respond to the difficulties arising from effecting international payments, and from over-compliance by financial institutions and international medical vendors. This is particularly problematic for patients requiring specialized treatments and assistive devices, including for persons with thalassemia, cancer, hemophilia, multiple sclerosis and kidney diseases.

It is also reported that the effect of these sanctions will exacerbate the rise in inflation, and devaluation of the rial, making the basics of life, including food and medicine, prohibitively expensive, particularly for groups in vulnerable situation.

The serious issues arising from the wrongful withdrawal from an international agreement aimed at peace and security, followed by the unilateral imposition of coercive measure without clear purpose or cause, leading to serious violations of the enjoyment of human rights by the people of Iran, cause us serious concern.

In connection to the above information, the measures applied on Iran may be considered as conflicting with the principles recognized in the 1965 Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty, the 1970 Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations and the 1981 Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States.

The extraterritorial reach of these secondary sanctions targeting non-US persons and businesses raises serious issues regarding their legality, since it is widely considered that extraterritorial application of sanctions violates international law. We would like to call your Government's attention to the fact that unilateral measures should not be extended without a reasonable and sufficiently justified basis, as well as an evaluation of their efficacy and impact. By seeking to prevent any person or company in the world from transacting with Iran in the above-mentioned sectors, the E.O. appears to cause material harm to the economy of Iran, and thereby the enjoyment of human rights of Iranians, without cause or justification.

We note that the European Union statement "deeply regrets" the re-imposition of sanctions by the United States, and notes that preserving the JCPOA is a matter of respecting international agreement and international security. The unilateral withdrawal from the JCPOA and the imposition of economic sanctions while all parties were in full compliance with the agreement appears to be a threat to international peace and security.

¹ https://www.treasury.gov/resource-center/sanctions/Programs/Documents/iran_guidance_med.pdf

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please indicate on what legal basis the United States chose to unilaterally withdraw from the JCPOA and to re-impose sanctions on Iran, contrary to the wishes of all other parties to the agreement, and in contravention to international law.
3. Please indicate what measures your Excellency's Government has taken to ensure that the unilateral sanctions are legitimate, reasonable, necessary and proportionate (in light of allegations to the contrary by all other parties to the JCPOA), and in accordance with national and international human rights law and standards.
4. Please indicate what measures are being taken to address the disproportionate impact of the unilateral sanctions on particular populations groups, such as persons with disabilities, older persons, ill persons, and pregnant women, which are expected to face the most serious challenges due to potential exacerbated shortages of medicines, medical equipment and related articles.
5. Noting the existing published guidance which aims to provide assurance that the sale of agricultural commodities, food, medicine, or medical devices to Iran are not sanctionable (unless involving sanctioned Iranian individuals, organizations or financial institutions), please indicate what measures are being taken to address the "chilling effect" which continues to cause over-compliance by the international financial sector, and by multinational medical vendors in particular, to address the demonstrated unavailability of certain medicines, and assistive devices, or the prohibitive rise in their costs.
6. Please indicate what measures are being taken to address the serious rise in poverty, and decline in purchasing power, which is causing poor Iranians to be unable to afford adequate food, housing, healthcare or other human rights, as a result of the economic consequences arising from these unilateral coercive measures.

We would appreciate receiving a response within 60 days. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

We intend to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release may indicate that we have been in contact with your Government to clarify the issue/s in question.

Please accept, Excellency, the assurances of our highest consideration.

Catalina Devandas-Aguilar
Special Rapporteur on the rights of persons with disabilities

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

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your Government's attention to the following human rights standards:

We would like to refer your Government to articles 2 (3) and 14 International Covenant on Civil and Political Rights (ICCPR), ratified by the United States of America on 8 June 1992, which state that everyone has the right to an effective remedy, the right to be presumed innocent and the right to a due process.

We would like to also draw the attention of your Government to the Universal Declaration of Human Rights (UDHR). The UDHR has become a source and expression of international customary law and all States, including the United States of America, are obliged to protect and guarantee the rights enshrined therein. Article 25 of the UDHR establishes everyone's right to a standard of living adequate for the health and well-being, including food, medical care and necessary social services, and the right to security in the event of any lack of livelihood in circumstances beyond his/her control.

We would like to remind your Government of article 1 of the Declaration on the Right to Development adopted by the United Nations General Assembly by Resolution 41/128 on 4 December 1986, by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development.

We would like to recall common article 1 of the ICCPR and the International Covenant on Economic, Social and Cultural Rights (ICESCR), which states that all peoples have the right to freely determine their political status and freely pursue their economic, social and cultural development by virtue of the right to self-determination.

We would like to further draw your attention to the ICESCR, signed by your Excellency's Government on 5 October 1977. While the United States of America has not ratified the ICESCR, your Excellency's Government agreed to bind itself in good faith to ensure that nothing is done that would defeat the object and purpose of the international instrument. ICESCR article 12 enshrines the right to physical and mental health; in this connection General Comment No. 14 of the Committee on Economic, Social and Cultural rights further elaborates on this right and refers to States' obligation to ensure the right of access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalized groups (Para.43 (a)). Health facilities, goods and services have to be economically accessible (affordability) and payment for healthcare services has to be based on the principle of equity, ensuring that these services, whether privately or publicly provided, are affordable for all (Para. 12).

We would also like to recall General Comment No. 8 of the same Committee on the relationship between economic sanctions and respect for economic, social and cultural rights where the Committee considers that the provisions of the Covenant, virtually all of which are also reflected in a range of other human rights treaties as well as

the Universal Declaration of Human Rights (UDHR), cannot be considered to be inoperative, or in any way inapplicable, solely because a decision has been taken that considerations of international peace and security warrant the imposition of sanctions. It has been observed that although this General Comment seems to apply to sanctions adopted by the Security Council, it applies equally to unilateral coercive measures (A/HRC/28/74, para. 15).

Furthermore, recalling its position stated in the aforementioned General Comment 8, in its General Comment No. 12, the Committee calls on States to refrain at all times from food embargoes or similar measures which endanger conditions for food production and access to food in other countries.

We would like to additionally bring to your Government's attention the Vienna Declaration and Programme of Action which calls upon States to refrain from any unilateral measures not in accordance with international law and the Charter of the United Nations that creates obstacles to trade relations among states and impedes the full realization of the human rights set forth in the UDHR and other international human rights instruments, in particular the rights of everyone to a standard of living adequate for their health and well-being, including food and medical care, housing and the necessary social services.

We would also like to remind your Government of resolution 27/21 of the Human Rights Council, which *inter alia*, expresses grave concern by the negative impact of unilateral coercive measures on the right to life, the rights to health and medical care, the right to freedom from hunger and the right to an adequate standard of living, food, education, work and housing. It also expresses concern for the disproportionate and indiscriminate human costs of unilateral sanctions and their negative effects on the civilian population, in particular women and children, of targeted States.

In addition, we wish to recall operative paragraph 1 of the same resolution which "Calls upon all States to stop adopting, maintaining or implementing unilateral coercive measures not in accordance with international law, international humanitarian law, the Charter of the United Nations and the norms and principles governing peaceful relations among States, in particular those of a coercive nature with extraterritorial effects, which create obstacles to trade relations among States, thus impeding the full realization of the rights set forth in the Universal Declaration of Human Rights and other international human rights instruments, in particular the right of individuals and peoples to development."