

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

REFERENCE:
AL USA 22/2018

5 November 2018

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, pursuant to Human Rights Council resolution 36/10.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning the **Executive Order 13846 of 6 August 2018, "Reimposing Certain Sanctions With Respect to Iran"**, targeting the Islamic Republic of Iran (hereinafter "Iran"). I refer as well to my letter dated 22 August 2018, to your Government on this issue, noting that no reply has been received at this time.

According to the information received:

On 6 August 2018, the White House issued Executive Order (E.O.) 13846 "**Re-imposing Certain Sanctions With Respect to Iran**". On 4 November, this E.O. reapplied unilateral coercive measures to the Iranian Central Bank, as well as to, *inter alia*, trade in oil, petroleum and petrochemical products, which represent over half of Iran's national revenue. 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 IAEA noting that Iran remains in compliance with its obligations.

Uniquely, these sanctions seek to punish countries for complying with a United Nations Security Council resolution.

The sanctions regime contains humanitarian exemptions permitting the sale of agricultural commodities, food, medicine, or medical devices to Iran.^{1 2} Despite this, it has been reported that major medical companies are not engaging in sales to Iran because of the difficulties arising from effecting international payments, and from over-compliance by financial institutions and international medical

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

² https://www.treasury.gov/resource-center/sanctions/Programs/Documents/hum_exp_iran.pdf

vendors. This is particularly problematic for patients requiring specialized treatments, including for thalassemia, cancer, hemophilia, multiple sclerosis and kidney transplants. It has also been indicated that US action will be taken to block the SWIFT technical interbank financial transfer mechanism which will undermine the effectiveness of humanitarian exceptions which may be approved.

It has been reported that the European Union, as well as multiple United Nations Member States have expressed concern since June 2018 that the existing humanitarian exemptions are inadequate.

It is also reported that the effect of these sanctions has been to cause a significant rise in inflation, and a devaluation of the Iranian rial, which has made the basics of life, including food and medicine, prohibitively expensive, particularly for the poor.

On 3 October 2018 the International Court of Justice ruled that any impediments arising from the measures announced on 8 May 2018 to the free exportation to the territory of the Islamic Republic of Iran of (i) medicines and medical devices; (ii) foodstuffs and agricultural commodities; and (iii) spare parts, equipment and associated services (including warranty, maintenance, repair services and inspections) necessary for the safety of civil aviation must be removed, and that any restrictions applying to the payment of such goods or services be also removed.

While I do not wish to prejudge the accuracy of these allegations, the allegations of 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 serious concern.

In connection to the above alleged facts and concerns, 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. I 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, without cause or justification.

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 my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would 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, in contravention to Security Council Resolution 2231, and international law.
3. Please indicate what measures your Excellency's Government has taken to ensure that the unilateral sanctions are 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. Noting the obligations which arise from the 3 October 2018 Order of the International Court of Justice on the "Alleged Violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights," and noting the concerns raised by Member States regarding the sufficiency of 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 these concerns, including those regarding 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, or the prohibitive rise in their costs which is leading to the violations of the right to health.
5. 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.

This communication and any response received from Your Excellency's Government will be made public via the communications reporting [website](#) within 60

days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

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

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