Chinese Below

Preliminary findings of the visit to the People's Republic of China by the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights Prof. Dr. Alena Douhan

Beijing, 17 May 2024 – As the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, I have conducted an official country visit to People's Republic of China (China) from 6 to 17 May 2024 to collect and verify information in a spirit of comprehensiveness, independence and impartiality, as well as to gather first-hand accounts and factual input on the negative impact of unilateral sanctions, means of their enforcement and over-compliance with sanctions on the enjoyment of human rights in China, including its institutions, entities, and population in general. This statement contains my preliminary findings following this visit. A final country visit report will be presented at the 57th Session of the UN Human Rights Council in September 2024.

I wish to warmly thank all my interlocutors for their availability to meet and to exchange with me. All submissions and input will be thoroughly consulted and analysed, in view of the preparation of the final report.

My appreciation is extended to the Government of the People's Republic of China, its Ministries and other institutions for facilitating this visit and arranging official meetings in Beijing as well as in Shenzhen, Urumqi, Shihezi, Changji, and Hotan.

I also met non-governmental representatives, including NGOs, associations, academic institutions, research centers, and businesses, and held consultations with members of the diplomatic community.

Nature and scope of imposed unilateral coercive measures

China has been subjected to unilateral sanctions and means of their enforcement by a number of countries starting from 2017 and onwards with the mounting pressure by the United States of America on Chinese technological companies and the imposition of export controls, the designation of companies' officials and the launch of criminal investigations. These measures have been further expanded to add Magnitsky-type sanctions and restrictions targeting Chinese officials, entrepreneurs, businesses and other entities related to the Xinjiang Uygur Autonomous Region and Hong Kong SAR. During this period, since 2017, Chinese nationals, entities and businesses have also been targeted and designated for alleged circumvention of unilateral sanctions regimes and restrictions which have been imposed on third countries.

In 2017, the United States imposed ban on imports and the use of Chinese technology equipment, and increased pressure by adopting a series of unilateral measures, including under the National Emergencies Act 1976, the International Emergency Economic Powers Act 1977 and the more recent Countering American's Adversaries Through Sanctions Act 2017, and by significantly expanding the list of designated individuals and entities mainly under the Office of Foreign Asset Control's (OFAC) Specially Designated Nationals and Blocked Persons (SDN) list, the Non-SDN Chinese Military Industrial Complex (CMIC) list, as well as the Entity List of the U.S. Bureau of Industry and Security.

OFAC's SDN designations result in comprehensive financial restrictions by blocking financial transactions with and by any designated individual or entity. A significant number of SDN designations are a result of secondary sanctions imposed on Chinese nationals and entities because of their alleged violations or circumvention of primary sanctions against other countries, mainly Russia, DPRK, and Iran. On the other hand, the SDN designations with regards to primary sanctions against Chinese individuals or entities are based, among others, on the Global Magnitsky Human Rights Accountability Act, the Uygur Human Rights Policy Act of 2020, the Uygur Forced Labor Prevention Act of 2021, the Hong Kong Autonomy Act of 2020 and the Executive Order 13936 of July 2020.

The Non-SDN CMIC designations are based on the Executive Order 13959 adopted in November 2020 in response to the perceived threat by China's military and intelligence activities. They have a limited financial scope banning mainly transactions in securities of an entity "determined to be a Communist Chinese military company".

More than 600 individuals and entities are listed under these sanctions regimes, covering different sectors such as technology, construction, trade, aeronautics and aerospace, energy, finance and banking sector, shipping and shipbuilding, telecommunications and others.

Furthermore, the Entity List of the U.S. Bureau of Industry and Security compiles foreign entities that are deemed "national security concern" and subjects them to export restrictions and licensing requirements for certain technologies and goods, even if these items have been entirely produced outside the U.S., containing no U.S. content, as long as they are made using U.S. tools or software. Currently, the U.S. Entity List includes more than 700 Chinese entities in technology, microelectronics, precision machinery, aeronautic and aerospace sectors, as well as a number of research and scientific institutions.

European Union sanctions against China have been of a limited scope targeting primarily certain individuals under the EU Global Human Rights Sanctions Regime related to Xinjiang. However, since 2023, following the outbreak of the conflict in Ukraine, the EU impose sanctions on certain

Chinese companies, including due to their alleged support to Russia's military. With the most recent 13th sanctions package against Russia, in February 2024, the EU included four Chinese companies in its sanctions list, and to impose on them export restrictions on dual-use goods and technology.

Under its Global Human Rights sanctions regime, the UK has sanctioned Chinese government officials and companies regarding Xinjiang, while in February 2024, decided to sanction several Chinese companies for alleged support to Russia's military.

Finally, Canada, under its Special Economic Measures Regulations, has imposed sanctions on four Chinese officials and one entity related to Xinjiang.

Economic impact

China represents a particular case with regards to the impact of unilateral sanctions and means of their enforcement, given its strong and diverse economy and its growing global economic outreach. With a nominal GDP of over USD 18 trillion, China ranks 2nd globally, while it represents one of the world's fastest growing economies for the last 15 years. China also has a solid and diverse domestic market and demonstrates an ever-expanding economic activity at a regional and international levels.

However, during my visit I received information about significant drop in businesses' turnovers due to either the direct sanctions-induced restrictions or due to foreign business counterparts' over-compliance out of fear of secondary sanctions against them. Business representatives described the swift loss of the totality of overseas markets, mainly in the U.S. and Canada, and a significant decrease of commercial transactions with European partners.

In Xinjiang Uygur Autonomous Region, the sectors most affected include, among others, the textile industry, cotton and other agricultural products, as well as new technologies and energies, such as polycrystalline silicon and material for the photovoltaic industry.

It is worth noting that according to reports, the few Chinese polysilicon businesses who are designated by the U.S. provided almost half of the global supply of polycrystalline silicon used for solar power energy around the world, while Xinjiang cotton production, which is also under sanctions, represents 90% of the domestic and more than 20% of the overall global production. The same global market share of 20% applies to the production of tomatoes and tomato products, whose import has been also banned by the U.S.

Similarly, I received information about challenges faced by sanctioned Chinese companies to receive high-tech supplies, access funds, as well as

experience interruptions of joint programs with foreign business counterparts thus undermining their business development. Imposing and enforcing unilateral sanctions, even in a so-called "targeted" manner, does not prevent negative spill-over effects and broader reputational damage, stigmatizing and putting on the spotlight whole economic sectors, with consequent implications for the lives and the social protection of people employed therein. In the particular case of Xinjiang, it was reported that due to the risk of sanctions and seizures for any nexus with Xinjiang and consequent reputational damage not only foreign but also Chinese businesses from other regions may hesitate to participate in supply chains that involve entities in Xinjiang, and this out of fear of sanctions.

Furthermore, in our connected world with advanced technological companies developing comprehensive integration frameworks responding to real everyday life needs in the economic, political and social spheres, the decision to impose sanctions and financial and technological restrictions may ultimately lead to severe disruptions with potential catastrophic real life consequences until the moment of readjustment and recovery.

Sanctions imposed on other countries have resulted in economic and financial disruptions between those countries' businesses and Chinese counterparts, including difficulties process payments in U.S. dollars. Similarly, sanctions on other countries have reportedly lowered the risk appetite of Chinese businesses who invest in these countries out of fear of secondary sanctions, with consequent negative ramifications for both the Chinese side as well as the countries who were to receive these investments.

Observed human rights impact

Pressures on critical economic sectors undoubtedly affects the human rights and lives of the general population, independently on the grounds on which such pressures are exerted. Radical changes in the economic activities of enterprises with the rapid loss of global markets, and prior to any business readjustment and adaptation, have resulted in layoffs thus adversely affecting people's right to work with serious socio-economic implications. I received information about enterprises employing thousands of people, which were forced to undergo in short period of time significant cuts in their workforce, in some cases of more than 50%, or small and medium enterprises getting bankrupt.

While certain advanced technology and high-tech industries may have managed to absorb such shocks, others with labor-intensive production faced more challenges to readjust and re-recruit part of the lost workforce. Those most likely to be affected are persons in vulnerable situations, including those in informal employment, older workers with less skills and productive capacity, as well as women employed in certain sectors of the economy.

The designations of subsidiaries of bigger business groups have adversely impacted the whole network of businesses belonging to these groups, both inside and outside China, thus having a cross-border and international spill-over effect on the lives of people in other countries and regions. In the same way, designations of advanced technology companies, aside from the economic repercussions, they have forced foreign researchers and qualified personnel to leave China with adverse impact on their own career development and lives.

Furthermore, given that China's social security system is a contributions-based one, any employment-related adverse impact of sanctions will ultimately affect the entitlements and contributions of concerned workers regarding the social protection schemes.

With regards to access to justice and due process, I have received information about the serious difficulties faced by designated Chinese nationals and entities to appeal their inclusion in the sanctions, in particular the U.S. lists, and to ultimately secure their removal from them. Such a process may be extremely long and costly, not to mention the prolonged reputational damage due to the visibility of the case. Only few Chinese businesses have had the financial and human resources to formally appeal their designation before the U.S. courts, but their cases have been pending for several years, without much hope for a positive outcome.

According to the reported information, there is also lack of transparency and the concerned entity may not be provided with evidence of its designation, which raises questions about due process and fair trial guarantees. One of the targeted entities has reportedly submitted more than 10,000 pages of documents with data concerning its personnel to challenge the allegations of forced labour, but it was deemed insufficient.

Drawing from my discussions with various interlocutors, I have also observed a certain impact of unilateral sanctions on the right to education and academic/scientific cooperation affecting the Chinese academic and scientific community. In the name of national security concerns, a number of Chinese academic institutions and research centers are placed in sanctions lists for alleged military use of advanced scientific research, including in microelectronics, supercomputing and artificial intelligence. A direct consequence is the restrictions imposed on researchers, faculty as well as students to engage with foreign academic institutions, including for studies, exchange programs, or participation in joint research projects. It has been reported that such practices have been extended to a broad range of scientific disciplines not strictly limited to those potentially linked to national defense and military applications, often resulting in arbitrary assessments of Chinese students' and scholars' general background as a criterion for collaboration, enrolment or even visa issuance, lengthy interrogation, search of all

information from their phones and computers, cancellation of already granted visas.

In May 2020 Presidential Proclamation 10043 has been issued to suspend and limit entry of certain Chinese nationals with F or J visas to study or conduct research in the U.S, citing national security concerns. Since then, information indicates that a number of academic exchanges and programs between Chinese and U.S. academic institutions have been discontinued and the educational aspirations of a number of Chinese students have been adversely impacted, thus negatively affecting their employment opportunities and perspectives, as well as the broader academic and scientific cooperation between these two countries. Similar trends have been also reported with regards to academic and scientific cooperation between Chinese and European academic and research institutions. I was informed about the discontinuation of foreign scholarship programs for Chinese students and scholars, and the suspension of collaboration with the Chinese Scholarship Council which every year grants an average of around 30,000 scholarships for research and studies in foreign countries.

Although difficult to assess the broader international humanitarian consequences of unilateral sanctions against China, given also the size of its economic and global outreach, the potential damage of the capabilities of Chinese entities and businesses involved in international development and humanitarian projects may have negative spill-over effects on disadvantaged populations in other countries beneficiaries of such projects. I have received preliminary information about the discontinuation of new technology projects led by Chinese enterprises and implemented in countries in Africa, such as on agricultural irrigation systems and new energies, including due to payment disruptions, following the designation of these entities.

China's response to these measures

During my visit I received preliminary information about the Government's framework to respond to unilateral sanctions imposed and enforced by foreign countries and to mitigate their impact.

Relevant laws include the *Foreign Investment Law* of 2019, the *Export Control Law* of 2020, the *Law on Countering Foreign Sanctions* of 2021, and the *Foreign Trade Law* of 2022. All these laws provide for China's response to foreign unilateral coercive measures through its own actions in the form of reciprocal or countermeasures. A number of other legal acts refer to the possibility to apply counter-sanctions in response to measures taken in specific subject areas.

Article 12 of the *Law on Countering Foreign Sanctions* of 2021 offers the opportunity to any Chinese individual or entity whose rights are violated by the enforcement of "*discriminatory restrictions… by any foreign country*" to

seek redress and compensation before the national courts of China. The Ministry of Commerce maintains an "unreliable entities list" enabling the adoption of countermeasures against all those undertaking discriminatory actions and policies against Chinese entities and nationals.

I have also been informed about measures taken by the Government to mitigate the negative impact of unilateral sanctions for businesses and human rights. Measures cited include efforts to use legal means in international adjudication in public and private law, relevant support and guidance in such legal cases as well as some legal assistance at the domestic level for the companies and individuals the rights of which have been affected by unilateral sanctions and their enforcement, a number of administrative and operational measures including tax cuts and subsidies for companies, subsidies, vocational training and reorientation programs provided to concerned individuals, as well as support for relocation to seek new job opportunities.

Assessment of legality

In view of the complexity of primary and secondary unilateral sanctions imposed against sectors of economy, nationals and companies of China and the growing compliance and over-compliance by Chinese or third country companies, the current assessment reflects only a few relevant aspects.

Any unlateral sanctions taken without or beyond authorization of the UN Security Council, and which cannot be qualified as retortions (unfriendly but legal under international law) or wrongfulness of which is not excluded as countermeasures in accordance with law of international responsibility, are illegal. Application of secondary sanctions to Chinese companies, civil and criminal charges for (alleged) circumvention of sanctions regimes against third countries, individuals or entities is also illegal under international law as a means of enforcement of illegal unilateral coercive measures. Secondary sanctions also constitute violation of the prohibition of punishments for acts, which did not constitute crimes at the moment of their committing.

Introduction and increase of trade tariffs in bilateral relations as well as formulation of investment policies is a sovereign right of every state and does not constitute unilateral coercive measures as long as they conform with obligations of states under their membership in WTO, investment protection, and other types of bilateral and multilateral treaties. Any disputes about the legality of these measures shall be settled via peaceful settlement of international disputes and in accordance with the law of international responsibility.

Unilateral targeted sanctions as a punitive action violate, at the very least, obligations arising from universal and regional human rights instruments, many of which have a peremptory character, including procedural

guarantees, the presumption of innocence, due process, access to justice and right to remedy. Reference to their non-criminal nature is not valid due to the high level of penalties equivalent or sometimes higher than punishment in criminal cases. In the case of accusations of committing a crime, as e.g. "committing malicious cyber activity" against the third state, criminal case shall be started with full respect to the standards of due process observance of the standards of the burden of proof to avoid impunity from one side and prevent any violation of human rights and reputational risks of the alleged suspects. Such references do not provide for any legal ground to impose unilateral sanctions.

Designation of individuals under the Global Magnitsky Act and Global Human Rights Act constitutes an attempt of sanctioning states to expand their jurisdiction, deprives designated individuals of the right to fair trial and undermines the presumption of innocence.

The idea of the presumption of legality of unilateral sanctions, "rebuttable presumption" of the wrongdoing ("presumption of guilt") of companies with any nexus to Xinjiang or designated entities, including those, recruiting persons belonging to minorities in China or being involved in the designated sectors of economy and putting a burden of proof of compliance to business actors worldwide, violate fundamental principles of international law, provisions of the UN General Assembly and UN Human Rights Council resolutions, and constitute an attempt to supplement the legal standards with a so-called "rule-based order". I recall that under international law states bear the burden of proof of illegality of any activity taken within their jurisdiction as well as extraterritorially.

It thus follows that unilateral sanctions against China do not conform with a broad number of international legal norms, are introduced to apply pressure on the state, cannot be justified as countermeasures under the law of international responsibility, and therefore can be qualified as unilateral coercive measures.

Conclusions

Unilateral sanctions against China, Chinese companies or individuals neither conform with international law nor correspond to the criteria of collective countermeasures of art. 48(1b) of the Draft articles on responsibility of states for internationally wrongful acts and constitute therefore unilateral coercive measures. In view of the illegality of primary sanctions, means of their enforcement including secondary sanctions, civil and criminal charges for (alleged) circumvention of sanctions regimes are equally illegal. While recognizing the freedom of states to take measures for the protection of all types of security, their intention to develop, gain or maintain relative advantage in any economic sector, including high-tech and new technologies, I underline that real or perceived national interests and

priorities in any area do not create any legal ground for the imposition of unilateral sanctions. Instead, any adopted unilateral measures shall be first and foremost in conformity with international legal obligations.

Primary unilateral sanctions, secondary sanctions, threats with sanctions, de-risking policies and over-compliance with sanctions have negative humanitarian impact on labour and social rights of individuals from the industries affected by unilateral sanctions or designated companies, their right to decent life and freedom from poverty, as well as right to education, right to benefit from the outcomes of academic research, prohibition of discrimination on the grounds of nationality or ethnic origin, and access to justice. They also affect exterritorialy third country workers of the Chinese companies, branches and affiliated companies in China and abroad, markets of developing countries after the withdrawal of Chinese companies and investments, or people dependent on humanitarian and development assistance from China including via the Belt and Road initiative, Confucius institutes and other initiatives.

Sanctions against individuals and companies affect freedom of movement, economic rights as well as the presumption of innocence and the right to a fair trial.

Sanctions against broad sectors of economy in Xinjiang Uygur Autonomous Region coupled with sanctions against large companies and enforced via the so-called “Xinjiang Supply Chain Business Advisory”, being a non-binding document of unclear status, but used at the same time by U.S. authorities as a binding rule, introduce the presumption of guilty (high risk) of existence of any nexus to Xinjiang at any stage of supply chain, affect the overall economy of the region, result in disruptions of industrial and trade relations, adversely affect all those involved in the supply chains with a link to this region, even outside China, including third country employees, and consequently result in rising unemployment, particularly affecting the most vulnerable.

Extensive means of enforcement of primary sanctions regulations, introduction of the concept of rebuttable presumption of the use of forced labour in the case of any nexus to Xingang including recruitment of persons belonging to minorities from the region, non-transparency, high costs, length and non-inefficacy of de-listing and administrative proceedings result in growing fear and over-compliance with the U.S. sanctions’ regimes by any entity and business, both inside and outside China, that raises unemployment, undermines development rises risks of poverty, in particular in less developed areas of China, and in areas with dominant presence of minorities, such as in specific parts of the Xinjiang Uygur Autonomous Region.

Using so called unverified lists makes the status of listed entities and individuals even more uncertain, undermining their activities and the possibility to protect their rights.

Designation of companies in the sphere of new technologies and new energy material, including polysilicon, batteries, electric vehicles, solar panels, wind-energy, hampers development of these industries and the opportunity of other countries to benefit from the relevant scientific progress and its applications in these specific spheres, with potentially broader environmental implications.

Designation of Chinese universities and research institutions, adoption of the U.S. President proclamation 10043 with the imposed visa and travel restrictions negatively affects the rights of Chinese students and academic professionals to education, hampers their participation in international academic cooperation, innovation, and imposes conditionalities on academic freedom and on the right to benefit from results of scientific research. Reported cases of lengthy interrogation at the border with the control of content of phones and computer information interferes with the right to privacy. The reported suspension of research grants and internships by third countries or those jointly or individually financed by Chinese scholarship institutions, "advice" to and consequent reluctance of foreign academic institutions and scholars to cooperate with Chinese universities, academics or professionals, all constitute discrimination on the grounds of nationality.

I am seriously concerned about the introduction of the presumption of legality of unilateral sanctions, as well as the rebuttable presumption of guilt of entities and individuals under sanctions, as contrary to international law, and principles of responsibility for wrongful acts at the international and national levels, including the presumption of innocence being a peremptory norm of international law. States shall not shift burden of proof of legality of their activity to the individuals/entities under sanctions. The burden of proof of illegality of acts or omissions of the entities and individuals under sanctions lies with the states and only if the existence of state jurisdiction is properly grounded.

Adoption and enforcement of countering defamation and disinformation legislation, coupled with threatening and stigmatizing statements and rhetoric against targeted states, entities and individuals, result in arbitrary enforcement and designation, undermine the flow and exchange of information and freedom of expression, while, due to heightened fear and over-compliance, prevent access to legal assistance, external audit and cooperation due to the fear of reputational risks and consequent legal implications also for counter-partners and legal professionals in the sanctioning countries.

Uncertain and extensive compliance requirements, non-transparency of decision-making on designations and seizure of property by the U.S.

customs, lengthy, expensive and inefficient process of appeals for de-listing or administrative processes in the U.S., making any mechanisms unaffordable for small and media businesses, challenges to get access to any form of protection in other sanctioning and third countries, non-transparency and non-disclosure of information used as a ground for designation, unwillingness of legal professionals in the sanctioning countries to represent cases of companies and individuals affected by unilateral sanctions, constitutes violation of the access to justice and right to remedy as safeguards of all other categories of human rights.

Proceedings to challenge the imposed sanctions and designation are lengthy – in some cases taking more than 3 years – and thus a formal submission of a case before the courts of sanctioning countries does not prevent the humanitarian impact (primarily in the area employment and social security), adversely affecting the rights of those they allegedly intend to protect. Requests to provide detailed information about every employee recruited by the company results in disclosure of their personal information and might constitute violation of their right to privacy.

I also recall that eradication of poverty and enabling the decent life for people constitutes an inalienable element of suppression of international terrorism in accordance with the UN Global counter-terrorism strategy, that is especially important in a view of the series of terrorist attacks taken place in China and especially in Xinjian region before 2016.

Administrative, legislative and economic measures taken by China, including development of legislation, mechanisms of financial support, trainings and re-training, taxation holidays, establishment of new working places, redirecting sales for the domestic market, provision of financial and legal assistance helped China to mitigate to substantial extend negative humanitarian impact of unilateral sanctions and over-compliance with the latter but did not eliminate this impact completely.

Absence of a devastating humanitarian impact, however, shall not be used as a grounds for introduction or justification or legitimization of unilateral sanctions, means of their enforcement or over-compliance. The mere fact of violation of international law by unilateral coercive measures is a sufficient ground giving rise to responsibility of states in accordance with international law.

Recommendations

I recall that according to the UN Charter, states should observe principles and norms of international law, including principles of sovereign equality, non-intervention in the domestic affairs of states, promotion and protection of human rights, obligation to engage in structural dialogue to settle any disputes in accordance with the principles and norms of international law,

including the principle of humanity, to cooperate in good faith, as well as other treaty and customary norms of international law, including international trade and investment protection agreement, agreements on mutual enforcement of judicial decisions.

I call therefore on sanctioning parties to lift and suspend all unilateral sanctions applied to China, Chinese nationals and companies without authorization of the UN Security Council, and the use of which cannot be justified as normal business activity in the form of retortions or countermeasures in accordance with international law. No good intentions, or references to the need to protect national foreign, economic or technology interests can be used as grounds for or justification of unilateral sanctions, as contrary to international law and ultimately resulting in human rights violations.

I also reiterate the illegality of the extraterritorial application of unilateral sanctions and call to avoid using secondary sanctions for circumvention of sanctions regimes against third states or their nationals and companies; to lift those already imposed and to revoke criminal and civil charges for circumvention of unilateral sanctions regimes.

I request states to take all necessary legislative, institutional and administrative measures to eliminate or mitigate cases of over-compliance and ensure that activity of businesses under their jurisdiction and control does not violate human rights extraterritorially. Non-fulfillment of this obligation itself constitutes violation of relevant human rights and can be used as a ground for responsibility of relevant States for violations of human rights treaty obligations.

I also call banks, businesses and other entities to avoid over-compliance with unilateral sanctions as being contrary to their obligation to promote and protect human rights and to avoid discrimination of any kind.

I urge states to cease the practice of adopting sanctions-related non-binding interpretative documents, which nevertheless are often treated as laws by national organs and courts of sanctioning states and which exacerbate uncertainty and confusion, thus resulting in widespread over-compliance.

I urge all states to lift sanctions imposed on academic institutions as well as any other limitations in the academic area as constituting discrimination on the grounds of nationality, violating the right to education, academic freedom as well as right of everyone to benefit from the outcome of academic research.

Without any prejudice to the legality of unilateral sanctions, sanctioning states are obliged to provide without any discrimination access to judicial protection of all human rights affected by unilateral sanctions, means of their enforcement and over-compliance, including economic, social and cultural

rights, including via affordable, fast, clear and transparent procedures with unimpeded access to legal assistance.

Countries shall not adopt and apply counter-defamation and disinformation legislation, engage in hate speech and reputational risk campaigns, review and revoke relevant legislation and act in accordance with the principle of due diligence to ensure that such campaigns against sanctioning countries, their entities and individuals as well as their own nationals and nationals of the third countries are not distributed via media, including social media. Any limitations on the access to information and freedom of expression can only be imposed in strict conformity with art. 19–20 of the ICCPR.

Measures undertaken on security concerns and national trade policies as well as those taken for the purposes to protect essential domestic interests and development can only be taken if they are aligned with international obligations of the states including those emanating from their membership in the WTO, investment, double taxation, trade, economic and other types of international agreements.

States are to settle their disputes by peaceful means, including via the Appellate body of the WTO dispute settlement mechanism. I urge states not to prevent the appointment of the new members of the Appellate body to restart its functioning as an authorized dispute settlement mechanism in trade area.

While welcoming adoption of the anti-sanctions and "blocking" legislation developed by China as further steps towards minimization of over-compliance and protection of the rights of Chinese entities and individuals, I call the Government of the People's Republic of China:

- to further develop and to expand the possibility of protection of rights of domestic producers so that they do not engage in over-compliance;

- to make sure that counter-sanctions shall only be applied in full conformity with standards of counter-measures in response to the violation of international obligations by a perpetrator and only to entities or individuals, activity of which is attributable to governments.

- to take all necessary measures to avoid or minimize discriminatory labor policies of businesses operating on its territory due to the fear of possible repercussions of unilateral primary and secondary sanctions, over-compliance and to support employees especially of national minorities groups in the use of all possible and available means of protection of their rights including via labor tribunals if they face discrimination in labor issues.

I call on states affected by unilateral sanctions to cooperate on the development of uniform counter-sanction legislation aimed to ensure that measures taken are in conformity with international law, and to promote and protect interests and rights of businesses and human rights against any possible enforcement of primary sanctions from the side of third states,

including via the provision of legal advice, but also enabling individuals, whose human rights are affected by implementation of unilateral sanctions and over-compliance to protect their rights at the national level.

I urge International Labour Organization to include in its agenda the issue of the assessment of the negative impact of unilateral sanctions and over-compliance with sanctions to economic and social rights, including labor rights worldwide, and to monitor impact of sanctions imposed against China and Chinese entities and individuals to the protection of labour rights, including those of persons belonging to minorities.

I call on the UN Human rights treaty bodies, especially the Committee on the Elimination of all forms of Racial Discrimination and the Committee on Economic, Social and Cultural Rights to start reviewing sanctions' related cases as regards violations of human rights affected by unilateral sanctions within their reports and via individual submissions with due account of the objective impossibility of petitioners to exhaust domestic remedies. I also call the Human Rights Committee to address the impediments in the exercise of the right to fair trial, presumption of innocence, access to justice and right to remedies when human rights are affected by unilateral sanctions, means of their enforcement and over-compliance.

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单方面强制性措施对享受人权的不良影响问题特别报告员埃琳娜·窦涵教授访问中华人民共和国初步调查结果

2024 年 5 月 17 日，北京——作为单方面强制性措施对享受人权的不良影响问题特别报告员，我于 2024 年 5 月 6 日至 17 日对中华人民共和国（中国）进行了正式国别访问，本着全面、独立和公正的精神收集和核实信息，并就单方面制裁、其执行手段和过度遵守制裁对中国包括其机构、实体和一般民众享有人权的不良影响收集第一手资料和事实投入。本声明包含我此次访问后得出的初步调查结果。最终的国别访问报告将于 2024 年 9 月召开的联合国人权理事会第 57 届会议上提交。

我衷心感谢所有对话者愿意与我会面和交流。在编制最终报告时，我们将充分参考和分析所有提交的材料和意见。

我感谢中华人民共和国政府及其各部委和其他机构为此次访问提供便利，并在北京以及深圳、乌鲁木齐、石河子、昌吉和和田安排了正式会议。

我还会见了非政府代表，包括非政府组织、协会、学术机构、研究中心和企业等，并与外交界人士进行了磋商。

单方面强制性措施的性质和范围

自 2017 年起，随着美利坚合众国对中国科技公司施加越来越大的压力，对中国实施出口管制、指认公司官员并展开刑事调查，中国遭受了一些国家的单方面制裁及其执行手段的影响。这些措施的范围进一步扩大，增加了马格尼茨基式制裁和限制措施，针对与新疆维吾尔自治区和香港特别行政区相关的中国官员、企业家、企业和其他实体。在此期间，自 2017 年以来，中国公民、实体和企业也因涉嫌规避对第三国实施的单方面制裁制度和限制而成为目标和指认对象。

2017 年，美国对中国技术设备的进口和使用实施了禁令，并加大施压力度，采取了一系列单方面措施，包括根据《1976 年国家紧急状态法》、《1977 年国际紧急经济权力法》和最近的《2017 年通过制裁打击美国对手法》实施的单方面措施，并显著扩大了被指认的个人和实体名单，主要被列于美国财政部外国资产控制办公室（OFAC）发布的特别指定国民和被封锁人员（SDN）名单、非 SDN 中国军工复合体（CMIC）名单以及美国工业和安全局的实体名单。

OFAC 的 SDN 指认通过阻止与以及由任何被指认的个人或实体进行金融交易，导致全面的金融限制。相当数量的 SDN 指认是对中国公民和实体实施二级制裁的结果，因为他们涉嫌违反或规避针对其他国家（主要是俄罗斯、朝鲜和伊朗）的一级制裁。另一方面，针对中国个人或实体的一级制裁的 SDN 指认，主要基于《全球马格尼茨基人权问责法》、《2020 年维吾尔人权政策法》、《2021 年维吾尔强迫劳动预防法》、《2020 年香港自治法》以及 2020 年 7 月的第 13936 号行政命令。

非 SDN 中国军工复合体的指认基于 2020 年 11 月通过旨在应对中国军事和情报活动威胁的第 13959 号行政命令。它们对金融范围进行了限制，主要禁止“被认定为中共军事公司”的实体的证券交易。

600 多个个人和实体被列入这些制裁制度，涉及技术、建筑、贸易、航空航天、能源、金融和银行业、航运和造船、电信等不同部门。

此外，美国工业和安全局的《实体清单》汇集了被视为“国家安全关切”的外国实体，并对它们的某些技术和商品实施出口限制和许可证要求，即使这些物品完全在美国境外生产，不含美国内容，只要它们是使用美国工具或软件制造的。目前，《美国实体清单》包括技术、微电子、精密机械、航空和航天领域的 700 多个中国实体，以及一些研究和科学机构。

欧盟对中国的制裁范围有限，主要针对欧盟全球人权制裁制度下与新疆有关的某些个人。不过，自 2023 年乌克兰冲突爆发后，欧盟对某些中国公司实施了制裁，原因包括这些公司涉嫌为俄罗斯提供军事支持。2024 年 2 月，欧盟发布了针对俄罗斯的最新第 13 个一揽子制裁措施，将四家中国公司列入制裁名单，并对其实施军民两用物品和技术的出口限制。

根据其全球人权制裁制度，联合王国已就新疆问题制裁了中国政府官员和公司，并于 2024 年 2 月决定制裁几家涉嫌为俄罗斯提供军事支持的中国公司。

最后，加拿大根据其《特别经济措施条例》，对与新疆有关的四名中国官员和一个实体实施了制裁。

经济影响

鉴于中国强大而多样化的经济及其不断扩大的全球经济影响力，就单方面制裁及其执行手段的影响而言，中国是一个特殊的案例。中国的名义 GDP 超过 18 万亿美元，全球排名第二，是过去 15 年中世界上增长最快的经济体之一。中国还拥有稳固而多样化的国内市场，并在区域和国际层面展现出不断扩张的经济活动。

不过，在我访问期间，我得到的信息表明，由于直接制裁引起的限制，或者由于外国商业同行因害怕自身受到二级制裁而过度遵守制裁，企业的营业额大幅下降。据企业代表描述，整个海外市场（主要是美国和加拿大）迅速丧失，与欧洲合作伙伴的商业交易大幅减少。

在新疆维吾尔自治区，受影响最大的行业，除其他外，包括纺织业、棉花和其他农产品，以及新技术和能源，如多晶硅和光伏产业材料。

值得注意的是，据报告，被美国指认的几家中国多晶硅企业提供了全球太阳能多晶硅供应量的近一半，而同样受到制裁的新疆棉花产量占国内的 90%，占全球总产量的 20%以上。西红柿和西红柿制品产量在全球范围内所占份额也达到 20%，美国也禁止进口西红柿和西红柿制品。

同样，我也了解到，受制裁的中国公司在接收高科技供应、获得资金方面面临的挑战，以及与外国商业同行的合作项目中断从而影响了他们的业务发展的经历。实施和执行单方面制裁，即使是所谓的“有针对性的”制裁，也无法避免负面的溢出效应和更广泛的声誉损害，使整个经济部门蒙羞并成为焦点，进而影响到其中就业人员的生活和社会保障。就新疆的具体情况而言，据报道，由于与新疆有任何关联都面临制裁和扣押以及随之而来的声誉受损的风险，不仅是外国企业，其他地区的中国企业也可能因为害怕制裁而在参与涉及新疆实体的供应链时犹豫不决。

此外，在我们这个互联的世界里，先进的技术公司正在开发全面的整合框架，以应对经济、政治和社会领域实际的日常生活需求，在重新调整和恢复之前，实施制裁以及金融和技术限制的决定最终可能会导致严重的混乱，对实际生活造成潜在的灾难性后果。

对其他国家实施的制裁导致这些国家的企业与中国同行之间的经济和金融活动中断，包括难以处理美元支付。同样，据报告，对其他国家的制裁也降低了在这些国家进行投资的中国企业的风险偏好，因为他们担心会受到二级制裁，从而对中方和接收这些投资的国家都造成了负面影响。

观察到的人权影响

对关键经济部门施加的压力无疑会影响到普罗大众的人权和生活，这与施加压力的理由无关。在任何商业调整和适应之前，随着全球市场的迅速丧失，企业经济活动急剧变化，造成了裁员，从而对人们的工作权利产生了不利影响，带来了严重的社会经济影响。我收到的信息表明，雇用数千人的企业被迫在短期内大幅裁员，有的裁员幅度超过 50%，有的中小型企业被迫破产。

虽然某些先进技术和高科技行业可能设法吸收了这些冲击，但其他劳动密集型生产行业在重新调整和重新招聘部分流失劳动力方面面临更多挑战。最有可能受到影响的是那些处于弱势地位的人，包括处于非正规就业中的人、技能和生产能力较低的老年工人以及在某些经济部门就业的妇女。

对大型企业集团子公司的指认，对这些集团在中国境内外的整个业务网络产生了不利影响，从而对其他国家和地区人民的生活产生了跨境和国际溢出效应。同样，对先进技术公司的指认，除了经济影响外，还迫使外国研究人员和高素质人才离开中国，对他们自身的职业发展和生活造成不利影响。

此外，鉴于中国的社会保障制度是一个以缴费为基础的制度，任何与就业有关的制裁不利影响最终都会影响到相关工人在社会保障计划方面的权益和缴费。

在诉诸司法和正当程序方面，我收到的资料表明，被指认的中国公民和实体在对其被列入制裁名单，特别是美国制裁名单提出上诉，并最终确保将其从名单中删除方面面临严重困难。这一过程可能极其漫长且代价高昂，更不用说由于案件的能见度而造成的长期声誉损害。只有少数中国企业有财力和人力资源正式在美国法院正式对其指认提出上诉，但他们的案件已悬而未决数年之久，对取得积极结果不抱太大希望。

根据所报告的信息，还存在缺乏透明度的问题，相关实体可能不会被提供其被指认的证据，这引发了关于正当程序和公平审判保障的问题。据报告，其中一个目标实体提交了 10,000 多页文件，其中载有关于其人员的数据，以质疑强迫劳动的指控，但被认为不够充分。

根据我与不同对话者的讨论，我也观察到单方面制裁对受教育权和学术/科学合作产生了一定的影响，影响了中国的学术和科学界。以国家安全关切为名，一些中国学术机构和研究中心因涉嫌将微电子、超级计算和人工智能等先进科研用于军事用途而被列入制裁名单。其直接后果是限制研究人员、教师和学生与外国学术机构接触，包括学习、交流项目或参与联合研究项目。据报告，这种做法已扩展到广泛的科学学科，而不严格局限于那些可能与国防和军事应用有关的学科，其结果往往是任意评估中国学生和学者的一般背景，将其作为合作、入学甚至发放签证的标准，并对其进行长时间盘问，搜查其手机和电脑中的所有信息，取消已发放的签证。

2020 年 5 月，美国发布了第 10043 号总统令，以国家安全关切为由，暂停并限制某些持有 F 或 J 签证的中国公民赴美学习或从事研究。此后，有信息表明，中国和美国学术机构之间的一些学术交流和项目已经中断，一些中国学生的教育愿望受到不利影响，从而对他们的就业机会和前景以及两国之间更广泛的学术和科学合作产生了负面影响。据报告，中国和欧洲学术和研究机构之间的学术和科学合作也出现了类似的趋势。我了解到，面向中国学生和学者的外国奖学金项目已经停止，与中国国家留学基金管理委员会的合作也已中止，该委员会每年平均为在外国进行研究和学习的学生和学者发放约 30,000 份奖学金。

虽然很难评估对中国的单方面制裁所带来的更广泛的国际人道主义后果，但考虑到中国的经济规模和全球影响力，参与国际发展和人道主义项目的中国实体和企业的能力可能会受到损害，这可能会对这些项目的其他受益国的弱势群体产生负面的溢出效应。我收到的初步信息显示，由中国企业主导并在非洲国家实施的农业灌溉系统和新能源等新技术项目在这些实体被指认后因付款中断等原因而中断。

中国对这些措施的应对

在我访问期间，我收到了关于政府应对外国施加和实施的单方面制裁并减轻其影响的框架的初步信息。

相关法律包括2019年的《外商投资法》、2020年的《出口管制法》、2021年的《反外国制裁法》和2022年的《对外贸易法》。所有这些法律规定了中国通过其自身行动以对等或反制措施的形式来应对外国的单方面强制性措施。一些其他法案也提到了针对特定主题领域所采取的措施实施反制裁的可能性。

2021年的《反外国制裁法》第12条规定，任何中国个人或实体的权利受到“外国国家对……歧视性限制措施”的侵犯，都有机会向中国国家法院寻求补救和赔偿。商务部有一份“不可靠实体清单”，可以对所有对中国实体和国民采取歧视性行动和政策的实体采取反制措施。

我还了解到政府为减轻单方面制裁对企业和人权的负面影响而采取的措施。所提到的措施包括在公法和私法的国际裁决中努力使用法律手段，在此类法律案件中提供相关支持和指导，以及在国内层面为权利受到单方面制裁及其执行影响的公司和个人提供一些法律援助，并采取一些行政和运作措施，包括为公司减税和提供补贴，为有关个人提供补贴、职业培训和重新定位方案，以及支持重新安置以寻求新的工作机会。

合法性评估

鉴于对中华人民共和国经济部门、国民和公司实施的一级和二级单方面制裁的复杂性，以及中国或第三国公司越来越多地遵守和过度遵守制裁，目前的评估仅反映了几个相关方面。

任何未经或超越联合国安理会授权进行的单方面制裁，不能被定性为报复（不友好但根据国际法是合法的）的或者根据国际责任法不排除作为反措施的不法性的，都属非法。根据国际法，对中国公司实施二级制裁，因（涉嫌）规避对第三国、个人或实体的制裁制度而提出的民事和刑事指控，作为执行非法单方面强制性措施的手段，也是非法的。二级制裁也违反了禁止对实施时不构成犯罪的行为进行惩罚的规定。

在双边关系中引入和提高贸易关税以及制定投资政策是每个国家的主权权利，只要这些措施符合各国在世贸组织成员资格、投资保护以及其他类型的双边和多边条约下的义务，就不构成单方面强制性措施。有关这些措施合法性的任何争议应通过和平解决国际争端的方式并根据国际责任法加以解决。

作为惩罚行动的单方面针对性制裁至少违反了世界和区域人权文书规定的义务，其中许多义务具有强制性，包括程序保障、无罪推定、正当程序、诉诸司法和获得补救的权利。由于惩罚程度很高，相等同于或有时高于刑事案件中的处罚，因此提及其非刑事性质是无效的。在指控第三国实施犯罪的情况下，如指控“实施恶意网络活动”，刑事案件的启动应充分尊重正当程序的标准，遵守举证责任的标准，以避免一方有罪不罚，并防止对被指控嫌疑人造成任何人权侵犯和声誉风险。这些提法没有为实施单方面制裁提供任何法律依据。

根据《全球马格尼茨基法》和《全球人权法》指认个人，是制裁国企图扩大其管辖权，剥夺了被指认个人获得公平审判的权利，破坏了无罪推定原则。

单方面制裁的合法性推定，对与新疆或指定实体有任何关系的公司的不法行为（“有罪推定”）的“可反驳推定”，包括那些招聘中国少数民族人员或参与指定经济部门的公司，以及将合规的举证责任推给全球商业行为体，违反了国际法的基本原则、联合国大会的规定和联合国人权决议，是试图用所谓的“基于规则的秩序”来补充法律标准。我记得，根据国际法，国家对其法域内以及域外的任何活动的非法性负有举证责任。

因此，对中华人民共和国的单方面制裁不符合大量国际法律规范，是为了向该国施压而实施的，不能被认为是国际责任法规定的反措施，因此可以定性为单方面强制措施。

结论

针对中国、中国公司或个人的单方面制裁既不符合国际法，也不符合《国家对国际不法行为的责任条款草案》第 48(1b)条关于集体反措施的标准，因此构成单方面强制性措施。鉴于一级制裁的非法性，包括二级制裁在内的执行制裁的手段，以及对（指称的）规避制裁制度的民事和刑事指控同样是非法的。我承认各国有采取措施保护各种安全的自由，也认可各国在任何经济部门，包括高科技和新技术领域，发展、获得或保持相对优势的意图，但我强调，在任何领域真正的或认为的国家利益和优先事项都不能成为实施单方面制裁的法律依据。相反，所采取的任何单方面措施都应首先符合国际法律义务。

一级单方面制裁、二级制裁、制裁威胁、去风险政策和过度遵守制裁对受单边制裁影响的行业或指定公司的个人的劳动和社会权利、他/她们享有体面生活和免于贫困的权利、受教育的权利、受益于学术研究成果的权利、禁止基于国籍或种族的歧视以及司法救助产生了负面的人道主义影响。这些方面还影响到中国公司、分支机构和关联公司在中国和国外的域外第三国劳动者，中国公司和投资撤出后的发展中国家市场，或依赖中国人道主义和发展援助（包括通过“一带一路”倡议、孔子学院和其他倡议提供的这些援助）的人民。

对个人和公司的制裁影响到行动自由、经济权利以及无罪推定和公正审判权。

对新疆维吾尔自治区广大经济部门的制裁，加上对大公司的制裁，并通过所谓的《新疆供应链工商咨询公报》（这是一个地位不明的非约束性文件，但同时被美国当局用作具有约束力的规则）来执行，带来了在供应链的任何阶段与新疆存在任何联系的有罪推定（高风险），影响该地区的整体经济，导致工业和贸易关系被破坏，对供应链中所有与该地区有联系的人，甚至是中国以外的人，包括第三国雇员都产生了不利影响，并因此导致失业率上升，特别是影响到最弱势的群体。

一级制裁条例的执行手段广泛，引入了可反驳推定的概念，即在与新疆有任何关联的情况下使用强迫劳动，包括从该地区招募少数民族人员，除名和行政程序不透明、成本高、时间长且无效，导致任何实体和企业在中国境内外对美国制裁制度的恐惧和过度遵守。这会增加失业率、破坏发展、增加贫困风险，尤其是在中国欠发达地区和少数民族聚居区，如新疆维吾尔自治区的一些特定地区。

使用所谓的未经核实的名单会使名单上的实体和个人的地位更加不确定，从而破坏他/她们的活动和保护其权利的可能性。

指定新技术和新能源材料（包括多晶硅、电池、电动汽车、太阳能电池板、风能）领域的公司，阻碍了这些行业的发展和其他国家从相关科学进步及其在这些特定领域的应用中获益的机会，并可能对环境产生更广泛的影响。

指定中国大学和研究机构、通过美国总统第 10043 号公告以及强制实行的签证和旅行限制，对中国学生和学术专业人员的受教育权产生了负面影响，阻碍了他/她们参与国际学术合作和创新，并对学术自由和受益于科研成果的权利施加了条件限制。据报道，在边境进行的长时间盘问以及对手机和电脑信息内容的控制干涉了隐私权。据报道，第三国或中国奖学金机构联合或单独资助的研究基金和实习机会被中止，外国学术机构和学者被“建议”并因此不愿与中国高校、学术界或专业人士合作，所有这些都构成了基于国籍的歧视。

我严重关切对单方面制裁合法性的推定以及对受制裁实体和个人的可反驳有罪推定这两个概念的引入，因为这违反了国际法以及国际和国家两级对不法行为的责任原则，包括作为国际法强制性规范的无罪推定。各国不得将其活动合法性的举证责任转移到受制裁的个人/实体。受制裁的实体和个人的作为或不作为的非法性的举证责任在于国家，而且只有在国家管辖权存在的情况下才有适当的依据。

反诽谤和反虚假信息立法的通过和执行，加上针对目标国家、实体和个人的威胁性和污名化言论，导致任意执行和制定，破坏信息的流动和交流以及表达自由，同时，由于担心声誉风险以及由此对制裁国的反制伙伴和法律专业人员造成的法律影响，加深的恐惧和过度遵守阻碍了获得法律援助、外部审计和合作。

不确定和广泛的遵守要求，美国海关指定和扣押财产的决策不透明，美国除名或行政程序的申诉过程冗长、昂贵且效率低下，使得任何机制对中小企业而言都不可负担，在其他制裁国和第三国获得任何形式的保护的途径收到挑战，作为指定理由的信息不透明和不披露，制裁国的法律专业人士不愿意代理受单方面制裁影响下的公司和个人的案件，这都构成了对司法救助和获得补救权的侵犯，而这两项权利正是所有其他类别人权的保障。

对制裁和指定提出异议的程序耗时很长——在某些情况下超过 3 年，因此，向制裁国法院正式提交案件并不能防止人道主义影响（主要是在就业和社会保障领域），对其据称要保护的人的权利产生不利影响。要求提供公司招聘的每一名员工的详细信息会导致披露其个人信息，并可能构成对其隐私权的侵犯。

我还记得，根据《联合国全球反恐战略》，消除贫困和使人民过上体面生活是打击国际恐怖主义的一个不可分割的要素，鉴于 2016 年之前在中国，特别是在新疆地区发生的一系列恐怖袭击，这一点尤为重要。

中国采取的行政、立法和经济措施，包括制定立法、财政支持机制、培训和再培训、税务优惠、建立新的工作场所、将销售转向国内市场、提供财政和法律援助等，有助于中国在很大程度上减轻了单方面制裁和过度遵守制裁造成的负面人道主义影响，但并没有完全消除这种影响。

然而，不存在破坏性的人道主义影响不应被用作采取单方面制裁、实施制裁的手段或过度遵守的理由或使之合理化和合法化的依据。根据国际法，仅凭单方面强制性措施违反国际法这一事实，就足以说明国家应承担责任。

建议

我提醒各方，根据《联合国宪章》，其有义务遵守国际法的原则和准则，包括主权平等、不干涉国家内政、促进和保护人权的原则，有义务进行结构性对话，以根据国际法的原则和准则（包括人道原则）解决任何争端，并进行真诚合作，以及遵守其他国际法条约和习惯准则，包括国际贸易和投资保护协定、关于相互执行司法裁决的协定。

因此，我呼吁制裁方取消和暂停所有未经联合国安理会授权而对中国、中国公民和中国公司实施的单方面制裁，并且不能以符合国际法的报复或反措施的形式作为使用这些制裁的正常商业活动的理由。任何善意或保护国家外交、经济或技术利益的提法都不能作为单方面制裁的理由或依据，因为这违反国际法，并最终导致侵犯人权。

我还重申域外实施单方面制裁的非法性，并呼吁避免使用二级制裁来规避针对第三国或其国民和公司的制裁制度；取消已经实施的制裁，并撤销对规避单方面制裁制度的刑事和民事指控。

我要求各国采取一切必要的立法、体制和行政措施，消除或减少过度遵守的情况，确保在其管辖和控制下的企业活动不在域外侵犯人权。不履行这一义务本身就构成对相关人权的侵犯，并可作为相关国家对违反人权条约义务承担责任的理由。

我还呼吁银行、企业和其他实体避免过度遵守单方面制裁，因为这有悖于它们促进和保护人权以及避免任何形式歧视的义务。

我敦促各国停止通过与制裁有关的不具约束力的解释性文件的做法，然而这些文件往往被制裁国的国家机关和法院视为法律，加剧了不确定性和混乱，从而导致普遍的过度遵守。

我敦促所有国家取消对学术机构的制裁以及学术领域的任何其他限制，因为这构成了基于国籍的歧视，侵犯了受教育权、学术自由以及每个人从学术研究成果中受益的权利。

在不影响单方面制裁合法性的情况下，制裁国有义务通过可负担的快速、明确和透明的程序，在不受阻碍地获得法律援助的情况下，一视同仁地为受单方面制裁影响的所有人权、制裁的执行手段和过度遵守提供司法保护，这些人权包括经济、社会和文化权利。

各国不得通过和实施反诽谤和虚假信息立法，不得参与仇恨言论和声誉风险运动，应审查和撤销相关立法，并应按照尽职调查原则行事，以确保不通过包括社交媒体在内的媒体传播针对制裁国及其实体和个人以及本国国民和第三国国民的此类运动。只有严格遵守《公民及政治权利国际公约》第 19 至 20 条的规定，才能对获取信息和表达自由施加任何限制。

出于安全考虑和国家贸易政策而采取的措施，以及为保护国内基本利益和发展而采取的措施，只有在符合国家的国际义务的情况下才能采取，包括加入世贸组织、投资、双重征税、贸易、经济和其他类型的国际协定所产生的义务。

各国应以和平手段解决争端，包括通过世贸组织争端解决机制的上诉机构来解决。我敦促各国不要阻止任命上诉机构的新成员，以重启其作为贸易领域经授权的争端解决机制的职能。

我欢迎中国通过其制定的反制裁和“阻断”立法，并认为这是为最大限度地减少过度遵守和保护中国实体和个人的权利而采取的进一步措施：

- 进一步发展和扩大保护国内生产者权利的可能性，使其不会过度遵守；

- 确保只有在完全符合反措施标准的情况下，才能对违反国际义务的行为人实施反制裁，而且只能对其活动归咎于政府的实体或个人实施反措施。

- 采取一切必要措施，避免或最大限度地减少在其领土上经营的企业因担心单方面的一级和二级制裁和过度遵守可能产生的影响而采取歧视性的劳工政策，并支持特别是少数民族群体的雇员利用一切可能和可用的手段保护自己的权利，包括在面临歧视的时候通过劳工法庭。

我呼吁受单方面制裁影响的国家合作制定统一的反制裁立法，以确保所采取的措施符合国际法，并促进和保护企业的利益和权利以及人权，使其免受第三国任何可能实施的一级制裁的影响，包括通过提供法律咨询，但也使其人权受到实施单方面制裁和过度遵守制裁的个人能够在国家一级保护自己的权利。

我敦促国际劳工组织将评估单方面制裁和过度遵守对经济和社会权利（包括全球劳工权利）的负面影响问题纳入其议程，并监测对中国及中国实体和个人实施的制裁对保护劳工权利（包括少数群体劳工权利）的影响。

我呼吁联合国人权条约机构，特别是消除一切形式种族歧视委员会及经济、社会和文化权利委员会，在其报告中并通过个人提交的材料，开始审查与制裁有关的受单方面制裁影响的侵犯人权案件，并适当考虑起诉人客观上不可能用尽国内补救办法的情况。我还呼吁人权事务委员会在人权受到单方面制裁、执行制裁的手段和过度遵守的影响时，解决行使公平审判权、无罪推定权、诉诸司法权和获得补救权方面的障碍。