

Breaking the Chains: Understanding the Impact of Secondary Sanctions and Overcompliance with Sanctions

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

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THE RECENT TRENDS

- **Expanding Scope:** The expansion in primary sanctions has significantly boosted secondary sanctions use, leading to a global trend of overcompliance. Entities fear secondary and even tertiary sanctions, complicating international trade engagements.
- **Legality and Extraterritoriality:** Secondary sanctions, especially extraterritorial ones, pose legal ambiguities. The uncertain legal status and enforcement clarity push entities towards overcompliance to avoid potential penalties.
- **Global Impact:** Overcompliance hinders the operations of NGOs in humanitarian efforts and impedes individuals' access to their finances, impacting the targeted countries and infringing upon the fundamental rights of non-targeted individuals, including the rights to housing, employment, education, and health.

THE HIDDEN COST

- Companies often decide to halt all business with a sanctioned country, entity or individual, or with a country in which specific entities or individuals are sanctioned, even while the primary sanctions regimes allow certain activities or provide for humanitarian exemptions, including in the process of implementing Security Council sanctions.
- Fear of secondary sanctions leads to overcautious behavior by businesses, limiting essential goods and services to sanctioned countries. This excessive de-risking by banks and other financial actors impedes the flow of humanitarian goods and services permitted under unilateral sanctions.
- Example: The Swedish company Mölnlycke halted exports to Iran, including vital bandages for epidermolysis bullosa (EB) patients, due to banking and financial transaction issues after the US reimposed sanctions in 2018. This decision, influenced by the inability to conduct financial transactions, led to increased suffering and fatalities among EB patients, causing severe impact on their rights to health and life.

THE CAUSES AND CONSEQUENCES OF OVERCOMPLIANCE

- Complex and unclear sanctions regimes, the financial sector's de-risking policies, rapid changes in sanctions, extraterritorial enforcement, fear of severe penalties and prohibitive costs of due diligence. These factors lead entities to adopt overly cautious practices to avoid potential legal and financial repercussions.
 - Overcompliance with sanctions severely impacts human rights, limiting access to healthcare, food, and water, and hindering economic and social development. It especially harms vulnerable groups and restricts NGOs' ability to deliver humanitarian aid. States and individuals also face challenges in fulfilling legal and financial obligations, affecting a wide range of rights and services essential for a decent standard of living.
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RECOMMENDATIONS

- **States** should employ various strategies, including legislative, regulatory, and financial incentives, to significantly reduce or eliminate overcompliance with unilateral sanctions, thereby mitigating associated risks.
- **Sanctioning States** are advised to consult with businesses to pinpoint and reform sanction regime elements that inadvertently foster overcompliance, ensuring all enforcement actions align with international law and consider entities' capabilities, especially those of humanitarian organizations.
- **Companies** are encouraged to conduct thorough human rights due diligence, actively seeking to adjust any business practices that may exacerbate the adverse effects of sanctions compliance on human rights. This includes dialogues with governments to refine sanctions and align with human rights obligations.
- **Banks** should participate in initiatives to create guiding principles on secondary sanctions, overcompliance, and human rights, collaborating with entities such as the Special Rapporteur, OHCHR, and the Financial Action Task Force.

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[Secondary sanctions, civil and criminal penalties for circumvention of sanctions regimes and overcompliance with sanctions](#)