

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

DRAFT

**GUIDING PRINCIPLES ON SANCTIONS, COMPLIANCE AND HUMAN  
RIGHTS**

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## **I. Preface**

1. The world faces an enormous expansion in the use of unilateral sanctions, both primary and secondary. Similar trends are reported with regards to the extraterritorial application of jurisdiction via sanctions, civil and criminal penalties, including those against third country nationals, resulting in the overwhelming growth of de-risking policies and over-compliance with unilateral sanctions. Foreign companies subject to secondary sanctions can be blocked from doing business in or with the sanctioning State, be banned from using its financial markets or be prohibited from transactions involving its currency, while foreign individuals targeted with such measures could be refused entry to the sanctioning country and have any assets there frozen.

2. Secondary sanctions, civil and criminal penalties for circumvention of sanctions' regimes oblige States, businesses, humanitarian organizations and individuals to look for alternative ways to procure necessary goods and services that results in rising costs, delays in delivery, growing risks of corruption and other types of transboundary crimes, and endangers the status of humanitarian organizations and humanitarian deliveries even when it comes to the implementation of the UN Security Council humanitarian carve-outs. Over-compliance exacerbates this harm, while extraterritorial enforcement expands the geographic scope and consequently the number of individuals, whose rights are affected around the world.

3. Legal uncertainty around the scope and legal status of the sanctions regulations, which are often based on “clarifications”, Q&As and other recommendatory instruments, framing incompatible conduct with vague wording like “red flags”, “expectations” and other restrictive terms, as well as the seriousness of liability imposed, “frozen” accounts, civil and criminal penalties and reputational costs create a feeling of fear and result in “zero risk” or de-risking policies, encouraging businesses to break contracts in violation of their terms and leaving markets and regions, without any assessment of their humanitarian and human rights impact.

4. De-risking policies and over-compliance become widespread, and challenge international law and human rights, including the right to development. Secondary sanctions and over-compliance affect all areas of human rights of every individual and constitute serious impediments to the delivery of humanitarian aid even in the most critical situations and even under explicit humanitarian provisions of the UN Security Council resolutions. People in vulnerable situations, including women, children, persons with disabilities, the poorest, migrants and the elderly, among others, are affected the most.

5. States bear primary responsibility for the **promotion and protection** of human rights within their national territories as well as territories under their jurisdictions and control. They are also under obligation to make sure that their domestic and foreign policy, national legislations as well as activities of other stakeholders acting in their territory or otherwise under their jurisdiction or control do not affect human rights also extraterritorially.

6. These Guiding Principles are based on the Charter of the United Nations, fundamental principles of international law, the International Bill of Human Rights, **generally recognized principles and norms of international law**, international customary rules of humanity, **with due account of the general principles of law recognized by all nations** (ex injuria jus non oritur, bona fide, etc.) and seek to draw from and expand on the Guiding Principles on Business and Human Rights 2011<sup>1</sup>, the Articles on responsibility of States for international wrongful acts<sup>2</sup> 2001, the Draft articles on responsibility of international organizations 2011<sup>3</sup> **implementing the United Nations “Protect, Respect and Remedy” Framework**, calls for cooperation, humanity, solidarity and inclusion of the “Our Common Agenda” report of the UN Secretary General, 2021<sup>4</sup>, principles of humanitarian work set forth in the UN General Assembly resolution 46/182<sup>5</sup>, as well as GA Resolutions 2131 of 21 December 1965, 2625 of 24 October 1970, 3281 of 12 December 1974, 38/197

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<sup>1</sup> [https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinessshr\\_en.pdf](https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinessshr_en.pdf)

<sup>2</sup> [https://legal.un.org/ilc/texts/instruments/english/commentaries/9\\_6\\_2001.pdf](https://legal.un.org/ilc/texts/instruments/english/commentaries/9_6_2001.pdf)

<sup>3</sup> [https://legal.un.org/ilc/texts/instruments/english/draft\\_articles/9\\_11\\_2011.pdf](https://legal.un.org/ilc/texts/instruments/english/draft_articles/9_11_2011.pdf)

<sup>4</sup> Our Common agenda. Report of the Secretary general 2021, [https://www.un.org/en/content/common-agenda-report/assets/pdf/Common\\_Agenda\\_Report\\_English.pdf](https://www.un.org/en/content/common-agenda-report/assets/pdf/Common_Agenda_Report_English.pdf)

<sup>5</sup> Strengthening of the coordination of humanitarian emergency Assistance of the United Nations, resolution 46/182 of 19.12.1991 <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/582/70/IMG/NR058270.pdf?OpenElement>

of 20 December 1983, 69/180 of 18.12.2014 and GA Resolution 70/1 of 25 September 2015 (Sustainable Development Goals).

These Guiding Principles shall not in any way be interpreted or read as a direct or implicit recognition of **legality of legitimacy** of any form of unilateral coercive measures, compliance or over-compliance with such measures.

## II. Objectives

7. The Guiding Principles on sanctions, compliance and human rights (hereinafter the Guiding Principles) are developed to establish the guidelines and benchmarks for States, international organizations and businesses to avoid and /or minimize over-compliance and to ensure promotion and protection of human rights and fulfill obligations under international law.

8. To achieve this main objective the Guiding Principles set forth the minimum standards of human rights precaution and protection in the course of implementation of sanctions of the UN Security Council, principles and rules of businesses' behavior in a sanctions compliance strategy

9. To protect the most vulnerable groups of people the Guiding Principles set forth the fundamental requirements for all concerned businesses for complete elimination of any adverse impact of their compliance policies on essential goods, including medicines and food, as well as on critical infrastructure and other related services. The Guiding Principles define the minimal standards of behavior of States and regional organizations of registration and/or functioning of such businesses.

## III. Glossary

**Sanctions of the UN Security Council** – enforcement measures taken upon decision of the UN Security Council taken under Chapter VII of the UN Charter.

**Unilateral coercive measures** – any type of measures or activity applied by States, groups of States or regional organizations without or beyond authorization of the UN Security Council, not in conformity with international obligations of the sanctioning actor or the illegality of which is not excluded on grounds of the law of international responsibility, regardless of the announced purpose or objective. Such measures or activities include but are not limited to economic, financial, political or any other sort of State-oriented or targeted measures applied to another State or an individual, company or other non-governmental entity, in order to induce a change in policy or behavior, to obtain from a State the subordination of the exercise of its sovereign rights, to secure advantages of any kind, or to signal, coerce or punish. Examples include trade sanctions in the form of embargoes and the interruption of financial and investment flows between sender and target countries, and targeted sanctions such as asset freezes and travel bans against individuals or companies.

**Unilateral sanctions** – measures taken by a state, group of States, regional organization unilaterally without authorization of the UN Security Council without prejudice to their legality or illegality. Unilateral sanctions may comply with international law if they are implemented as retorsions responding to unfriendly acts but not violating international obligations or as counter-measures against a State responsible for an internationally wrongful act in full conformity with the law of international responsibility. The vast majority of unilateral sanctions do not comply with criteria of retorsions or countermeasures and therefore qualify as unilateral coercive measures. Therefore, all Unilateral Coercive Measures are Unilateral Sanctions, but not all Unilateral Sanctions are Unilateral Coercive Measures.

**Secondary sanctions** – unilateral sanctions imposed against individuals or entities who allegedly violate or circumvent sanctions regimes as a means of enforcement of primary sanctions. Particular reference is made to secondary sanctions imposed against third-country individuals or entities, who may engage in what is perceived to be an unauthorized activity involving the targeted by sanctions country and its entities.

**Due diligence** – principle of international law, providing for the obligations of States to take all measures necessary to ensure that their activity as well as activity under their jurisdiction and control does not violate international obligations and fundamental human rights.

**Compliance** – scope of measures taken by states, regional organizations, banks, businesses and other institutions and individuals to implement requirements of sanctions. This provision shall not in any way be interpreted or read as a direct or implicit recognition of legality of legitimacy of any form of unilateral coercive measures, compliance with UCMs or any other means of enforcement of UCMs, and shall not affect and/ or undermine compliance policies aimed against money laundering, terrorism financing and other legal purposes.

**Over-compliance:** Going beyond compliance with, often to minimize the risk of penalties for inadvertent violations, to avoid reputational risks that can arise from dealing with a sanctioned country or because the complexity of sanctions make effective compliance too costly. An example is a company that stops all business with a sanctioned country, including humanitarian operations that may be covered by humanitarian exemptions; or banks decide to block transactions with a country under unilateral sanctions, its nationals and companies.

**Zero-risk policy:** A policy of complete disengagement and interruption of any activity with a state, entity or individual under sanctions or under the risk of sanctions, which is adopted by a company or other entity out of fear of possible negative repercussions. A conduct which often bypasses more thorough and often costly due diligence procedures.

**Humanitarian carve-outs:** Exceptions, exemptions and derogations that are specified in unilateral sanctions programs in order to facilitate the continued flow of goods and services of a humanitarian nature. They are often characterized by complex and vague wordings, as well as costly or lengthy approval procedures that deter their use, undermine their effectiveness, while at the same time may exacerbate over-compliance and de-risking.

**Businesses (business enterprises):** banks and other financial institutions, local, national and transnational corporations, state owned or privately held, family owned or public listed.

#### **IV. Scope of application**

10. States, groups of states and regional organizations, their organs and institutions should apply the Guiding Principles, also when acting to implement sanctions of the UN Security Council, in order to avoid the occurrence of unlawful unilateral coercive measures, or over-compliance, and to mitigate negative effects of any sanctions and similar restrictive measures – both those already imposed as well as those planned to be imposed – on human rights of individuals and people.

10<sup>1</sup>. The Guiding Principles apply to all business enterprises, including transnational corporations regardless of their scale, economic sector, place of operation, place of incorporation and headquarters, corporate structure, and applicable jurisdiction.

10<sup>2</sup>. The Guiding Principles are applicable to the United Nations and its organs, agencies, other international intergovernmental organizations and nongovernmental organizations, donors, humanitarian organizations and missions.

11. Nothing in these Guiding Principles should be read as limiting or undermining any legal obligations a State may have undertaken or be subject to under international law with regards to human rights.

Under no condition can sanctions hinder States in their implementation of the **Bill of Human Rights**, as well as provisions of other international human rights treaties and relevant international instruments, which they have accepted as obligations, customary norms of human rights and international humanitarian law.

12. These Guiding Principles should be understood as a coherent document and should be read, individually or in aggregate, in terms of their objectives, enhancing standards and practices with regards to business and human rights so as to achieve tangible results for affected individuals and communities, and thereby to also contribute to international and national efforts towards sustainable development, protecting human dignity and safeguarding humanity, and the strengthening of international solidarity and cooperation.

#### **V. Principles**

## ***General human rights-based approach in avoiding over-compliance***

### *13. Humanity*

13.1 Principle of humanity shall prevail over any consideration of internal or foreign policy of States and international organizations and business policies of private actors.

13.2 All actors shall respect and treat all persons, individually and in community with others, with due respect to their fundamental human rights and with dignity, without discrimination or distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

13.3 No “good intentions” or “common goods policy” can justify violation of human rights and the principle of humanity.

13.4 Businesses shall ensure incorporation of the principles of humanity and non-discrimination in their external and internal documents and policies with specific reference to humanitarian exemptions/carve-outs and requirement of human rights impact assessment to avoid overcompliance and negative impacts of human rights.

### *14 Humanitarian assistance*

14.1 Humanitarian **access** and humanitarian relief shall be granted in any circumstances for all those in need without any discrimination or distinction in accordance with principles of humanitarian assistance: humanity, neutrality, impartiality, and independence.

Any reprisals for humanitarian work and/or assistance are prohibited.

14.2 The UN Security Council resolutions, including those relevant to humanitarian action, shall be implemented *bona fide*, with due respect to the Charter of the United **National**, in particular its article 25, ~~and to the competence of the UN Security Council~~. All **stakeholders** are under obligation to implement fully and to the maximum extent possible norms of international humanitarian law, as well as other existing or future humanitarian resolutions and provisions of resolutions of the UN Security Council, including humanitarian provisions of the UN Security Council resolution 2664(2022).

14.3 People in States affected by unilateral sanctions, and in the absence of sanctions of the UN Security Council, shall enjoy humanitarian assistance regimes not less favourable than the one proposed for countries under sanctions of the UN Security Council. They shall fully benefit from the principle of humanity and access to humanitarian aid and assistance.

### *15 Inherent and equal nature of all human rights*

15.1 All fundamental human rights, freedoms, and dignity inherent enshrined in the **International Bill of Rights** (*acquis* of the international community) are to be fully respected and protected while implementing UN Security Council enforcement measures under Chapter VII of the UN Charter, or in the course of unilateral **activity**.

15.2 No human right and no one shall be excluded from the scope of International Bill of Rights independently of the aims of sanctions policy and its implementation.

15.3 All public and private actors should prioritize human rights while implementing sanctions and/or formulating compliance policies.

### *16 Precautionary principle*

16.1 All stakeholders shall take all necessary precautionary measures and ongoing monitoring on humanitarian impact while prescribing and implementing any measures and actions within the UN Security Council's sanctions frameworks, or while acting unilaterally.

16.2 Lack of full scientific certainty about specific negative humanitarian impact shall not be used as a reason/grounds for ignoring humanitarian concerns and not taking all measures necessary to avoid or minimize over-compliance and consequent negative humanitarian impact (*humanitarian precautionary principle*).

16.3 No reference to the "unintended" character of humanitarian impact can be used to legalize, legitimize or justify the use of primary or secondary unilateral coercive measures, implementation of the above measures, or failure to take all measures necessary to avoid or minimize over-compliance with such measures.

16.4 Sanctions' policies and their implementation shall not affect critical infrastructure and critical services in their broader context, including but not limited to water and energy supply, sanitation, food, health, transportation, agriculture, connectivity as being contrary to the humanity and precautionary approach *per se*.

### *17 Non-discrimination*

17.1 **Business** shall take all appropriate measures to elaborate, monitor and implement **the** compliance policy aligned to human rights-based approach on non-discriminatory basis also extraterritorially.

17.2 **This** approach shall concern all operational processes, all levels of decision-making, **an** products and services.

### *18 Proportionality*

18.1 All measures undertaken by **any actor** with regards to UN Security Council sanctions' compliance policy must be interpreted in a narrow manner (*stricto sensu*) and proportionately, i.e. such measures must be necessary and suitable to achieve



the desired purpose, and must not impose a burden on an individual or a community that is excessive in relation to the sought objective.

18.2 Any means of pressure can only be taken by States or international organizations in the course of counter-measures to other subjects of international law in full compliance with standards of the law of international responsibility, and must be proportionate to the injury suffered, taking into account the gravity of the international wrongful act and the rights in question being limited to non-performance for the time being of international obligations with no effect to the obligations for the protection of human rights.

### *19. Access to information and focal points*

19.1 All sanctioning actors shall create enabling environments and maintain open channels for communication on human rights and humanitarian aspects relevant to sanctions and their implementation (establishment of focal points with adequate financial and human resources).


19.2 Access to information, including all types of communication services, is an indispensable element and a mediator of the complex of human rights. No sanction shall interfere with the right to information.

19.3 States and international and regional organizations shall provide transparency, timeliness, adequacy of all information on matters related to sanctions, and free and non-discriminatory character of access thereto. Access to IT-platforms shall be guaranteed by operator.

19.4 Focal points shall provide detailed information, clarification and advisory services free of charge and in a timely manner regarding licensing, the scope of humanitarian carve-outs and relevant procedural matters, including administrative and legal procedures for de-listing of designated individuals and entities.

### ***Foundational principles for States and regional organizations***

#### *20 Rule of law*

20.1 Any unilateral measures can only be taken by States ~~and~~ international organizations in the course of implementation of resolutions of the UN Security Council adopted under Chapter VII of the UN Charter or if they do not violate their international obligations (retorsions) or their wrongfulness is excluded under international law in the course of counter-measures in full conformity with rules of the law of international responsibility. All other unilateral means of pressure constitute unilateral coercive measures and are illegal under international law. 

20.2 Secondary sanctions, civil and criminal penalties for circumvention of primary unilateral sanctions regimes as well as any other mechanism for sanctions`

implementation do not form any legal basis to circumvent peremptory norms of public international law as well as other customary or treaty obligation.

20.3 States are under obligation to refrain from implementing unilateral coercive measures imposed by third States and organizations and are obliged to ensure that businesses under their jurisdiction and/ or control do not comply and/or over-comply with such unilateral coercive measures as a part of the rule of law standards.

All necessary legislative and administrative measures are welcomed to ensure law-abiding policy aimed at avoiding overcompliance with sanctions.

20.4 Accountability and redress for violations of human rights perpetrated in the context and as a result of sanctions` policies form an indispensable part of the rule of law.

20.5 Sanctions, secondary sanctions and over-compliance should not constitute obstacles to the administration of justice and to judicial procedures, nor should impede access to justice and redress, in general.

## *21 Legal certainty*

21.1 States and relevant regional organizations shall provide for a legal certainty in scope and methods for compliance policy of companies within their jurisdiction or control.

21.2 Requirements for compliance policy of companies must be clear, certain and foreseeable, accessible, and adopted in the form of the legally binding document.

21.3 Interpretation of sanctions compliance requirements shall take place in good faith. All sanctions regulations shall be interpreted in the narrowest possible way. Humanitarian exemptions and relevant notions and terminology shall, on the contrary, be interpreted in the broadest possible manner, with due account to the principle of humanity.

## *22 Jurisdiction and effective measures*

22.1 States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises while adopting and implementing sanctions. This includes their obligation to take all appropriate and necessary steps to prevent, investigate, punish and redress such violations through effective policies, legislation, regulations and adjudication.

22.2 States shall implement due diligence approach to ensure that businesses acting under their jurisdiction or control do not over-comply and do not violate human rights including extraterritorially.

22.3 States are obliged to take all measures necessary to protect businesses under their jurisdictions and/ or control against any means of enforcement from the side of sanctioning countries, including through the means of diplomatic protection and international adjudication to prevent or minimize over-compliance.

22.4 Extraterritorial application of secondary sanctions and national jurisdiction to enforce primary sanctions regimes is illegal under international law, being a violating the principle of sovereign equality of states, the principle of non-intervention in the internal affairs of States, bilateral and multilateral treaty obligations, including international trade, friendship and commerce treaties, international investment agreements,).

Secondary sanctions, civil and criminal penalties cannot be used as a ground for extension of jurisdiction of sanctioning States over third States, their nationals and companies, as well as their own companies and nationals, due to the illegality of primary unilateral coercive measures.

### ***Operational principles for States and regional organizations***

#### *23 Burden of proof*

23.1 States and regional organizations shall bear the burden of proof in sanctions compliance procedures.

#### *24 Humanitarian exemptions and deliveries*

24.1 Humanitarian exemptions shall be formulated in a clear, transparent and precise manner.

24.2 States, international regional organizations shall appoint focal points on humanitarian exemptions, empowering them to provide prompt, comprehensive and no-cost consultation on mechanisms and procedures.

24.3 Humanitarian actors shall not bear the burden of proof of the pure humanitarian character of their work, and shall not be hold responsible for any alleged non-compliance or circumvention of unilateral sanctions regimes while performing their humanitarian work.

24.4 Humanitarian resolutions/ provisions of resolutions of the UN Security Council as well as exemptions granted by the UN Security Council subsidiary bodies shall be fully implemented by the Member States of the United Nations.

Member States of the United Nations also bear responsibility for the full implementation of these measures by private actors in their territories or otherwise being under their jurisdiction and/or control.

## *25 Licensing exemptions*

25.1 Delivery of goods, equipment and spare parts of humanitarian (and development)<sup>6</sup> nature, including food, medicine, medical and adaptive equipment, seeds, fertilizers, as well as those necessary for the maintenance of critical infrastructure including water and electricity supply, sanitation, food processing and storage, transportation, shall not be subjected to / conditioned by any requirement, restriction or licensing.

25.2 Humanitarian organizations shall not be requested to receive multiple licenses for a single delivery.

25.3 States and regional organizations are under obligation to ensure that deliveries of humanitarian goods are not prevented by other imposed restrictions including but not limited to prohibition of financial transactions, prohibition to receive payments from countries under sanctions, sanctions on transportation or insurance.

## ***Foundational principles for businesses***

### *26 Unacceptability of over-compliance*

26.1 Business enterprises should respect human rights. Businesses shall refrain from acting in violation of human rights, including extraterritorially, and shall take all necessary measures to eliminate or drastically mitigate any adverse human rights impact while implementing sanctions measures including extraterritorially.

26.2 Businesses shall avoid human rights infringements and mitigate the consequences, if adverse effects on human rights occur due to their actions/ failure to act.

26.3 Any contracts or contractual provisions inciting compliance with unlawful unilateral sanctions and/or encouraging over-compliance, in violation of international law and human rights shall be considered null and void.

26.4. Businesses shall embed responsible anti-over-compliance business conduct (RAoBC) in accordance with the OECD Due Diligence Guidance for Responsible Business Conduct 2018 into their policies and management systems at all sectors of economy.

### *27 Due diligence*

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<sup>6</sup> The Special Rapporteur is advocating for the broad understanding of “goods of humanitarian nature” to include not food and medicine only but all goods necessary for the maintenance, construction and reconstruction of critical infrastructure and services

27.1 Businesses shall undertake due diligence procedures and methods in interpreting and implementing all requirements, exemptions, exceptions and derogations.

27.2 The termination of existing contracts, the refusal of deliveries and the inclusion of sanctions clauses regarding the supply of humanitarian goods and goods necessary for the functioning of critical infrastructure are unacceptable, especially in the cases when the business is a monopolist producer of the critical / essential / life-saving goods and/ or equipment.

### ***Operational principles for businesses***

#### *28 Requirements and criteria for formulating and implementing compliance policies*

28.1 Compliance policies of businesses should be based on the requirements prescribed by law.

28.2 Businesses should have certain policies and processes in place in order to avoid any adverse human rights effects in implementing sanctions.

Businesses shall formulate and include sanctions impact assessment criteria as part of their human rights assessment policies.

28.3 Businesses should avoid general (non-individual) measures, discriminatory and non-transparent practices.

#### *29 Transparency*

29.1 The business policies should be publicly available and communicated internally and externally to all personnel, business partners and other relevant parties.

29.2 Businesses shall implement sanctions in a transparent manner and take all reasonable measures to provide transparency of the relevant rules and procedures while implementing / complying with sanctions.

#### *30 Review*

30.1 Businesses shall provide prompt and full review of the measures undertaken while implementing / complying with sanctions policies.

#### *31 Monitoring*

31.1 Businesses shall take measures to monitor their compliance policies and strategies for abiding human rights and to change them as soon as negative humanitarian impact is identified.

31.2 For this purpose business enterprises should assess the consequences of the measures adopted. Tracking should be based on appropriate qualitative and quantitative indicators, conducted on a systemic basis.

## ***VI. Access to justice***

### *32 Effective access to justice*

32.1 Access to justice, including access to legal services with regards to unilateral sanctions, including sanctions' policy implementation, shall be granted without constraints and timely manner to all persons, natural and legal, in full conformity with the presumption of innocence, in respect of due process and fair trial guarantees, in line with international law.

32.2 Any person shall have a due access to any national or international mechanism of protection of rights against implementation of sanctions, secondary sanctions, over-compliance.

32.3 Access to justice shall not be impeded by any legislative, administrative or operational measures, including impediments to transfer or unfreeze money to cover legal or arbitration fees.

### *33 Legal aid*

33.1 Sanctions policy shall never affect the provision of services that are necessary for the exercise of the right of defense in judicial or any other legal proceedings and the right to an effective legal remedy.

33.2 A legal professional shall enjoy all traditional immunities and guarantees in the course of exercise of their legal services in sanctions, sanctions-related, sanctions circumvention or over-compliance cases. In a view of illegality of unilateral coercive measures, legal consultations shall not be qualified as an assistance in circumvention of sanctions' regimes.

## ***VII Responsibility***

### *34 Inevitability of responsibility*

34.1 All ~~stakeholders~~ can be held responsible for violations of international law and human rights as a result of the adoption, application or enforcement of unilateral coercive measures, compliance with or enforcement of unilateral coercive measures, over-compliance with any form of sanctions.


34.2 Shifting responsibility between international organizations, States and businesses does not provide any ground for excluding such responsibility or liability under international public law, international private law or national law (civil or criminal).

34.3 Provisions of national law of sanctioning States cannot be invoked to avoid responsibility under international law and/or liability for the damages caused.

34.4 Obligation of due diligence is an obligation of action. Therefore, States are obliged under international law to take all necessary legislative, organizational or operational measure to ensure that activity of businesses under their jurisdiction or control does not violate human rights including extraterritorially. Regional organizations shall bear the appropriate obligation in part they operate within their functional competence.

### *35 Complex and divisible character of responsibility*

35.1 Existence of sanctions decisions of international organizations other than UN Security Council does not exclude responsibility of complying or enforcing States in accordance with law of international responsibility.

35.2 A State's failure to act to ensure that businesses under its jurisdiction and control abide by international human rights law and avoid implementing / complying with unilateral coercive measures or exercising over-compliance, which impact human rights negatively, constitutes a violation of the obligation of a state to promote and protect relevant human rights. 

## ***VIII. Remedy***

### *36 Remediation*

36.1 Businesses shall develop and make available complaint mechanisms for the negative impact of compliance with sanctions. This might be put in place as a standalone tool or as an integrated element of the grievance mechanisms of that particular business, sector or territory.

36.2 Adverse impact on human rights and humanitarian action shall be addressed by the business enterprise in a measure compatible with the degree of involvement. Businesses are responsible for putting in place processes to enable the remediation of the adverse impact they cause, to which they contribute to or are directly linked due to their business relationships.

### *37 Adequacy and efficacy*

37.1 States must ensure, through judicial, administrative, legislative or other appropriate means, that when violations of human rights due to overcompliance occur within their territory and/or jurisdiction those affected have access to justice and effective remedy.

### *38. States and businesses cooperation*

38.1 States, international organizations, non-governmental organizations and businesses should cooperate in order to eliminate or drastically reduce over-compliance and any adverse human rights effects caused by such conduct, as well as to implement efficient judicial/administrative remedies.

38.2 All entities cooperate in good faith in order to integrate a human rights-based approach to avoid any sanctions-related impact.