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EXTRATERRITORIAL APPLICATION OF NATIONAL LEGISLATION: SANCTIONS IMPOSED AGAINST THIRD PARTIES

I. INTRODUCTION

A. Background

1. The Agenda item of the Asian African Legal Consultative Organization (AALCO) titled “Extraterritorial Application of National Legislation: Sanctions Imposed Against Third Parties” was placed first on the provisional agenda of the Thirty-Sixth Session at Tehran, 1997, following a reference made by the Government of Islamic Republic of Iran.

2. Thereafter the item had been considered at the successive sessions of the Organization.¹ It was considered as a non-deliberated agenda item at the Forty-Fifth Golden Jubilee Session of the Organization (New Delhi, 2006) and a resolution RES/45/S 6² was adopted at the Session which directed the Secretariat “to continue to study legal implications related to the Extraterritorial Application of National Legislation: Sanctions Imposed against Third Parties and the executive orders imposing sanctions against target States”. The Resolution also urged upon Member States to provide relevant information and materials to the Secretariat relating to national legislation and related information on this subject.

3. The Secretariat in preparation of the study on this agenda item relies largely upon the materials and other relevant information furnished by the AALCO Member States. Such information provides useful inputs and facilitates the Secretariat in examining and drawing appropriate conclusions on the impact and legality of such extraterritorial application of national legislation, with special reference to sanctions imposed against third parties. The Secretariat acknowledges with gratitude the comments and observations in this regard received from the State of Kuwait, Republic of Korea, Republic of Mauritius and Japan.³ In this regard, the Secretariat reiterates its request to the Member States to provide it with relevant legislation and other related information on this topic.

B. AALCO Secretariat Comments and Observations

¹ It was considered last at the Forty-Third Session (Bali, 2003) of the Organization as a deliberated item.

² For the full text of Resolution see AALCO, *Report of the Forty-Fifth Session* (3-8 April 2006, New Delhi, India).

³ The text of the views and comments received from these Member States have been reproduced in the Secretariat doc. AALCO/45/HEADQUARTERS SESSION (NEW DELHI)/2006/SD/S 6 and *Year Book of AALCO*, Vol. III (2005), pp. 802-807.

4. It is distressing to note that the target of sanctions imposed by the United States of America happens to be developing countries, from Asia and Africa. Many of AALCO Member States have been and are prime targets of such unilateral imposition of sanctions having extraterritorial effects. These practices tend to have a very demoralizing effect on the innocent people of those countries who feel alienated and discriminated against in the fields of trade and economic relations particularly.

5. Extraterritorial measures, besides being infirm in law are also bad as an instrument of foreign policy. Unlike multilateral sanctions enforced by the Security Council, extraterritorial measures are inherently ineffective in a global society as target States often are able to find new investors and entities, other than those from the sanctioning State, to carry out their business activities.

6. It may also be noted that extraterritorial application of national legislation having effects on third Parties, poses a serious challenge to the efforts of the international community to establish an equitable multilateral, non-discriminatory, rule based trading system and question the very basis of the primacy of international law. It is imperative that all States must reject promulgation and application of this form of dubious legislation.

7. The unilateral sanctions are increasingly at odds with the evolving principles and rules of international economic and social cooperation that are embodied in the UN Charter and constituent treaties of multilateral trade and financial institutions. The extra territorial measures are irreconcilable with basic norms and principles of international law and inconsistent with the objectives of the multilateral trading system.

8. The States should reject application of such unilateral measures as tools for political or economic pressure against any country, because of the negative effects on the realization of all human rights of vast sector of their populations, inter alia, children, women, the elderly, and disabled and ill people; reaffirmed, in the context, the right of peoples to self-determination, by virtue of which they freely determined their political status and freely pursued their economic, social and cultural development.⁴

9. AALCO as an inter-governmental organization has been seriously studying the implications of the “Extraterritorial Application of National Legislation: Sanctions Imposed Against Third Parties”, since 1997. The Secretariat studies on the agenda item and the deliberations at successive sessions of the Organization affirm that such legislations apart from being at variance with the various rules and principles of international law and disrupts economic cooperation and commercial relations of the target states with other states. Therefore, it is the duty of free and independent states to continue to oppose the illegal extra-territorial application of national legislations of other states.

⁴ In a resolution on Human Rights and Unilateral Coercive Measures, the Commission on Human Rights, “condemned the continued unilateral application and enforcement by certain powers of such measures as tools of political or economic pressures against any country, particularly developing countries, to prevent those countries from exercising their right to decide their own political, economic and social systems, and rejected all attempts to introduce unilateral coercive measures”, Press Release, HR/CN/1109, Commission on Human Rights Concludes Sixty-Session after Adopting 86 Resolutions, 16 Decisions, 4 Statements by Chairman (E/CN.4/2005/L.8), dated 22/04/2005.

C. Issues for Focused Consideration at the Forty-Sixth Session of AALCO

- **Extraterritorial application of national legislation having effects on third parties are detrimental to the efforts of the international community to establish an equitable multilateral, non-discriminatory, rule based trading system and question the very basis of the primacy of international law.**
- **Extraterritorial effects of any unilateral legislative, administrative and economic measures, policies and practices of a coercive nature act against the development process and enhancement of human rights in developing countries and create obstacles to the full realization of all human rights.**

II. AALCO'S WORK PROGRAMME ON THE EXTRATERRITORIAL APPLICATION OF NATIONAL LEGISLATION: SANCTIONS IMPOSED AGAINST THIRD PARTIES

10. The Government of Islamic Republic of Iran while referring the item submitted an Explanatory Note that enumerated four major reasons for the inclusion of this item on the agenda of the AALCO, namely: (i) that the limits of the exception to the principle of extraterritorial jurisdiction was not well established; (ii) that the practice of States indicates that they oppose the extraterritorial application of national legislation; (iii) that extraterritorial measures violate a number of principles of international law; and (iv) that extraterritorial measures affect trade and economic cooperation between developed and developing countries and also interrupt cooperation among developing countries. The Explanatory Note had furthermore *inter alia* requested the AALCO "to carry out an in-depth study concerning the legality of such unilateral measures, taking into consideration the positions and reactions of various governments, including the positions of its Member States".

11. Accordingly, a preliminary study prepared by the Secretariat was considered at the Thirty-Sixth Session (Tehran, 1997) of the AALCO which had pointed out that in the claims and counter claims that arose in exercise of extraterritorial jurisdiction involved the following principles: (i) principles concerning jurisdiction; (ii) sovereignty-in particular economic sovereignty – and non-interference in internal affairs of a State; (iii) genuine or substantial link between the State and the activity regulated; (iv) public policy and national interest; (v) lack of agreed prohibitions restricting State's right to extend its jurisdiction; (vi) reciprocity or retaliation; and (vii) promoting respect for rule of law. Notwithstanding the national interests of the enacting State, grave concern had been expressed on the promulgation and application of national legislation whose extraterritorial aspects affect the sovereignty of other States.

12. The preliminary study had pointed out that while a growing number of other States had applied their national laws and regulations on extraterritorial basis, fora such as the General Assembly of the United Nations, the Group of 77, the Organization of Islamic Conference, the Inter-American Juridical Organization and the European Economic Community, had, in various ways expressed concern about promulgation and application of laws with extraterritorial effects, as they affected sovereignty of other States, the legitimate interests of entities and persons under their jurisdiction and the freedom of trade and navigation.

13. Further, the preliminary study apart from referring to some recent instances of extraterritorial application of national laws (without resolving the other questions, including the question of economic counter measures), had furnished an overview of the limits imposed by international law on the extraterritorial application of national laws, and *inter alia* spelt out the response of the international community to such actions. The study also drew attention to the opinion of such bodies, as the Inter-American Juridical Organization, the juridical body of the Organization of American States⁵ and the International Chamber of Commerce.⁶

14. The Secretariat study had also shown that the topic touched upon the political, legal, economic and trade aspects of inter-State relations. It recalled in this regard that the AALCO Secretariat study on the “Elements of Legal Instruments on Friendly and Good-Neighbourly Relations Between the States of Asia, Africa and the Pacific” had *inter alia* listed 34 norms and principles of international law, conducive to the promotion of friendly and good neighbourly relations. Some of these principles enumerated *inter alia* were: (i) independence and state sovereignty; (ii) territorial integrity and inviolability of frontiers; (iii) legal equality of States; (iv) non-intervention, overt or covert; (v) non-use of force; (vi) peaceful settlement of disputes; (vii) peaceful coexistence; and (viii) mutual cooperation.⁷

15. The Secretariat study had pointed out that the UN Declaration on the Establishment of a New International Economic Order⁸ and the Programme of Action on the Establishment of a New International Economic Order⁹ adopted by the Sixth Special Session of the General Assembly, the Charter of Economic Rights and Duties of States, 1974¹⁰, the United Nations Convention on the Law of the Sea, 1982 and several other international instruments retain many of the traditional aspects of sovereignty. These instruments also reaffirmed principles of economic sovereignty wherein rights and interests of States in the permanent sovereignty of their natural resources would be protected.

16. The study had submitted that it might, perhaps, be necessary to delimit the scope of inquiry into the issue of extraterritorial application of national legislation in determining the parameters of the future work of the Organization on this item. It had asked for consideration to be given to the question, as to whether it should be a broad survey of questions of extraterritorial application of municipal legislation examining the relationship and limits between the public and private international law on the one hand, and the interplay between international law and municipal law on the other. It had recalled in this regard that, at the 44th Session of the International Law Commission (1992), the Planning Group of the Enlarged Bureau of the Commission had established a working group on the long-term programme to consider topics to be recommended to the

⁵ For details see *International Legal Materials*, Vol. 35 (1996), p. 1322.

⁶ Dieter Lange and Gary Borne (eds.), *The Extraterritorial Application of National Laws* (ICC Publishing S.A. 1987).

⁷ The Secretariat Study on “Elements of a Legal Instrument on Friendly and Good Neighbourly Relations Between States of Asia, Africa and the Pacific” was prepared in 1987 and is reprinted in *AALCC Combined Reports of the Twenty-sixth to Thirtieth Sessions* (New Delhi, 1992), p. 192.

⁸ Resolution 3201 of May 1, 1974, Sixth Special Session.

⁹ Resolution 3202 of May 1, 1974, Sixth Special Session.

¹⁰ Resolution 3281, 29th Session.

General Assembly for inclusion in the programme of work of the Commission and one of the topics included in the open-selected lists was the Extraterritorial Application of National Legislation.

17. An outline on the topic “Extraterritorial Application of National Legislation” prepared by a Member of the Commission had *inter alia* suggested, “it appears quite clear that a study of the subject of Extraterritorial Application of National Laws by the International Law Commission would be important and timely. There is an ample body of State practice, case law, national study on international treaties, and a variety of scholarly studies and suggestions. Such a study could be free of any ideological overtones and may be welcomed by States of all persuasions.”¹¹ However, this topic has not till date been taken up by the International Law Commission.

18. The Secretariat study had proposed that in determining the scope of the future work on this subject, the Organization should bear in mind the request of the Government of the Islamic Republic of Iran to carry out a comprehensive study concerning the legality of such unilateral measures¹² i.e. sanctions imposed against third Parties, “taking into consideration the position and reactions of various governments, including the position of its Member States”. The study also proposed that in considering the future work of the Secretariat on this item, Member States could consider sharing their experiences with the Secretariat on this matter.

19. The agenda item had been considered at the Thirty-Sixth (Tehran, 1997); Thirty-Seventh (New Delhi, 1998); Thirty-Eighth (Accra, 1999); Thirty-Ninth (Cairo, 2000); Fortieth (HQ, 2001); Forty-First (Abuja, 2002); and Forty-Third (Bali, 2004) Annual Sessions of the Organization. The essence of the discussions at the successive Sessions was that the promulgation of extraterritorial measures was violative of the core principles of territorial integrity and political independence enshrined in the UN Charter. It therefore hindered peaceful and economic relation between States.

¹¹ See A/CN.4/454, p.71.

¹² For Details of the Secretariat Study, AALCO: Report of the Seminar on the Extra-Territorial Application of National Legislation: Sanctions Imposed Against Third Parties, Tehran, Islamic Republic of Iran, 25-26 January 1998.

III. CURRENT DEVELOPMENTS: IMPOSITION OR EXTENSION OF SANCTIONS BY THE UNITED STATES OF AMERICA, PARTICULARLY AGAINST AALCO MEMBER STATES

A. Extension of Sanctions against Myanmar by United States of America

20. On 18 May 2006, the Government of United States of America issued a notice on continuation of the national emergency with respect to Myanmar, extend the sanctions for a further period of one year, under the Burmese Freedom and Democracy Act, 2003.¹³ The alleged reason set out for the sanctions was that the Myanmar Government had committed large-scale repression of and violence against the democratic opposition in its country.

21. It may be recalled that United States first imposed the sanctions against Myanmar in September 1996 by issuing an Executive Order 13047 on 20 May 1997, certifying under the authority of the Foreign Operations, Export Financing, and Related Programs Act, 1997 and the International Emergency Economic Powers Act. This Executive Order prohibits “U.S. persons” from making new investments in Myanmar and facilitation of new investment in Myanmar by foreign persons.

22. Further, the sanctions covered by this resolution continue to include a ban on all products of Myanmar that are imported directly or indirectly into the United States. This ban applies to:

- Merchandise intended for commercial and personal use, including gifts or informational materials;
- Merchandise landed, but not entered for consumption, in the US (e.g., goods placed in a foreign trade zone or bonded warehouse); and
- Imports for transshipment or in-transit movements of products of Burma intended or destined for a third country.

23. Reacting to the extension Myanmar sharply criticized the imposition of sanctions in *toto* and said that the sanctions imposed on Myanmar by some western countries were impeding the government’s efforts to improve the country’s human rights situation.¹⁴ He further added that the flow of private investment to developing countries was unpredictable, very selective and discriminatory. As a consequence, States capacity for full realization of human rights had been further weakened. He further pointed out that, as if adding insult to injury, there had been artificial impediments placed on the path to development, such as unilateral sanctions imposed on them.

B. Sanctions imposed against Thailand by United States of America

¹³ Details stated herein are drawn from the Official website of the Office of the President of United States of America: <http://whitehouse.gov/news/releases/2006/05/20060518-16.html>.

¹⁴ Details stated herein are drawn from: www.myanmar.com/myanmartimes/MyanmarTimes17-323/n002.htm.

24. The United States Government had imposed sanctions against Thailand in the form of cutting military assistance for about twenty four million dollars in response to the military coup. The United States Department of State Spokesperson had said that the cut involved military education and training, peacekeeping operations and counter-terrorism.¹⁵

C. Sanctions Imposed against certain Chinese Firms by United States of America

25. The U.S. Department of Treasury had imposed sanctions against four Chinese companies for alleged reason that they sent missile parts and dual use components to Iran on 13 June 2006.¹⁶ The Companies were designated under Executive Order 13382 (2005), issued by the US President on 29 June 2005, aimed at financially isolating proliferators of weapons of mass destruction (WMD), their supporters and those contributing to the development of missiles capable of delivering WMD.

26. Under the Executive Order, it prohibited all transactions between the designees and any U.S. person and froze any assets the designees may have under the U.S. Jurisdiction.

27. On 25 August 2006, U.S. Department of Treasury had further designated Great Wall Airlines Company Ltd, a cargo airline jointly owned by China and Singaporean firms, as an entity that had provided support to proliferators of WMD. But interestingly, the Department did not give specific reasons for its designation for imposing the sanctions.¹⁷

D. Expansion of Sanctions imposed against Government of the Republic of Sudan by United States of America

28. On 27 April 2006, the US President issued a new Executive Order 13412 broadening the authority of Executive Order 13067 of 1997 to designate persons, including both Government of Sudan and non-Government of Sudan officials as “Specially Designated Nationals (SDNs)”. This Order was based on the UN Security Council Resolution 1672 of 25 April 2006.

29. On 13 October 2006, the President signed a new Act called “The Darfur Peace and Accountability Act”, which imposes sanctions against persons responsible for genocide, war crimes, and crimes against humanity; supports measures for the protection of civilians and humanitarian operations; and supports peace efforts in the Darfur region of Sudan.¹⁸

¹⁵ Details stated herein are drawn from: <http://news.bbc.co.uk/2/hi/asia-pacific/5390284.stm>.

¹⁶ The four Chinese companies designated are Beijing Alite Technologies Company Ltd; LIMMT Economic and Trade Company Ltd; China Great Wall Industry Corporation and China National Precision Machinery Import/Export Corporation. Details stated herein are drawn from: <http://usinfo.state.gov/xarchives/display.html?p=washfile-english&y=2006&m=June&x=0060613155945ajesrom5.230129e-03>.

¹⁷ See, <http://usinfo.state.gov/xarchives/display.html?p=washfile-english&y=2006&m=August&x=20060828170426bpuh0.2782251>.

¹⁸ Press Release by the Office of the Press Secretary, White House, U.S., on 13 October 2006, available at <http://www.whitehouse.gov/news/releases/2006/10/20061013-15.html>.

30. In relation to this Act, the President issued an Executive Order,¹⁹ blocking all property and interests in property of the Government of Sudan that were in the United States, that came within the US, or that are or come within the possession or control of U.S. persons, including their overseas branches, and U.S. persons from engaging in any transactions involving such property or interests in property. It also prohibited all transactions by U.S. persons relating to Sudan's petroleum or petrochemical industries.

31. Meanwhile, the Office of Free Assets Control (OFAC) had also issued an interpretive guidance to assist US persons in complying with the provisions of Executive Order (EO) 13412 and it describes the prohibitions of EO and discusses transshipments and financial transactions in Sudan.²⁰

E. Additional Sanctions imposed against the Government of Syrian Arab Republic by United States of America

32. On 26 April 2006, the US President signed a new Executive Order 13399,²¹ against the Government of Syria, taking additional steps with respect to the national emergency declared on the basis of EO 13338. The EO empowers to block the property of persons connected with terrorist acts in Lebanon. However, no persons have been specifically designated under this EO, but this order authorizes the Secretary of Treasury to take such action.²²

F. Extension of Sanctions imposed against Islamic Republic of Iran by United States of America

33. On 4 August 2006, the US President signed into a law which extends the Iran and Libya Sanctions until 29 September 2006.²³

¹⁹ Executive Order No. 13412.

²⁰ Details stated herein are drawn from: <http://www.treas.gov/offices/enforcement/ofac/actions/20061117.shtml>.

²¹ The Executive Order is available on website: <http://www.treas.gov/offices/enforcement/ofac/legal/eo/13399.pdf>.

²² The Executive Order is available on website: <http://www.treas.gov/offices/enforcement/ofac/actions/20060426.shtml>.

²³ Press Release issued from the Office of the Press Secretary, White House, US dated 4 August 2006.

IV. CONSIDERATION OF THE AGENDA ITEM AT THE FORTY-THIRD SESSION OF THE ORGANIZATION (21-25, JUNE 2004, BALI, REPUBLIC OF INDONESIA)

34. At the Forty-Third Session, held in Bali, Republic of Indonesia (2004) this item was considered as a deliberated agenda item while at the Forty-Fourth Session, held in Nairobi, Republic of Kenya (2005) and at the Forty-Fifth Golden Jubilee Session (New Delhi, 2006), the item was considered as a non-deliberated one. The Forty-Fifth Session mandated the Organization to continue to study the legal implications of extra-territorial application of national legislation: sanctions imposed against third parties.

35. At the Forty-Third Session 2004, during the time of deliberations of the Agenda item, a delegation emphasized that the issuing of the so-called Syrian Accountability Law by the United States of America was for the sake of the aggressive State of Israel. By issuing the said law, imposed sanctions against Syria allegedly on false grounds. He stressed that the extraterritorial application of this law lacked legal grounds and was outside its jurisdiction. It was a unilateral law and the USA tried to harm that country by imposing sanctions against the international law. He called upon all the AALCO Member States to condemn that law as it was against the UN Charter and the international legitimacy.

36. Another delegation was of the view that for ensuring collective peace at times multilateral sanctions may be imposed. However, he stressed that the unilateral imposition of sanctions affected international peace and security.

37. A delegation expressed its grave concern over the continued application of unilateral extraterritorial coercive measures whose effect had an impact on the sovereignty of other States and the legitimate interest of their entities and individuals in violation of norms of international law. Promulgation of domestic laws having extraterritorial effect may violate the core principles of territorial sovereignty and political integrity and therefore constituted a violation of cardinal principles of international law. Such measures also posed serious obstacles to trade and economic cooperation among States. For that reasons, it maintained that promulgation or application by any State of any law affecting the sovereignty of other States should be rejected. The delegation said that all unilateral extraterritorial laws that imposed coercive economic measures contrary to international law on corporations and nationals of other States should be repealed and called upon all States not to recognize and to reject unilateral extraterritorial coercive economic measures illegitimately imposed by any State against third parties.

38. Another delegation observed that in an era of rapid and unprecedented changes, the world needed peace, security and stability, which could be strengthened through the collective responsibility of countries and also through, inter alia, respect for sovereignty, rejection of interference in the internal affairs of other States, refraining from compulsion and intimidation, as well as the creation of an enabling environment for replacing conflict and unequal relations with dialogue and negotiations. Coercive economic measures as a means of political and economic compulsion, in particular through the enactment of extraterritorial legislation, were not only against the well-recognized provisions and principles of international law and the Charter of the United Nations, but also threatened the basic fabric of international peace, security and stability and violated the sovereignty

of States. They also impeded and constrained settlement of disputes through the promotion of mutual dialogue understanding and peaceful means.

39. It observed that unilateral measures with extraterritorial effects have different forms and manifestations. In the course of past two decades, they had been imposed against almost 80 countries, mostly from developing world. The form and applying method of such measures have changed with the passage of time, but their nature had remained unchanged. The delegation noted with regret that the initiators of these unlawful measures seemed to be even more reluctant to abide by the rule of international law by revising their previous decisions. The delegation was of the view, unilateral sanctions and extraterritorial measures sanctions against other countries were inadmissible under international law and flagrantly constituted a direct interference with the ability of the third States to cooperate with others and carry out their foreign trade. From the legal point of view, it violated various principles of international law, *inter alia*, non-interference in internal affairs, sovereign equality, freedom of trade, and peaceful settlement of disputes, and presented a serious threat to world peace and security, the fact has been repeatedly reflected in the numerous resolutions of the different organs of the international community, particularly in the resolutions adopted by the UN General Assembly and ECOSOC. The delegation stated that such coercive measures had a serious adverse impact on the overall economic, commercial, political, social and cultural life of the targeted countries.

40. Another delegation stated that Extraterritorial Application of National Legislations contradicted several norms and principles of contemporary international law. Enumerating the experience of her country she said it had been the target of such laws either in the form of Public Law, Executive Orders or as a law of a State in a country. These laws were intended to stop the sovereign rights of a targeted State from obtaining rights that were legally entitled to it under the Doctrine of Sovereignty. These legislations were imposition of political pressures on it and had been used as a means of achieving policy objectives. Sanctions were blunt weapons and only worsened members of the population of the country against whom they were imposed. Further, it observed that said sanction was a prohibition or restriction and was inconsistent with Article XI:1 of the GATT. Unilateral sanctions could not be justified under Article XXI (c) "obligations under the United Nations Charter". Unilateral sanctions were against WTO provisions. It blocked the free flow of international trade and was contrary to the concept and practice of Free Trade Area Agreements.

V. FOURTEENTH SUMMIT OF NON-ALIGNED MOVEMENT (NAM) AND ITS CONCERN ON EXTRATERRITORIAL MEASURES AGAINST NAM COUNTRIES

41. The Heads of State or Government of the Movement of Non-Aligned Countries met in Cuba from 15-16 September 2006 to address the existing, new and emerging global issues of collective concern, with a view to generate the necessary responses and initiatives thereof. In this regard, they reaffirmed and underscored the Movement's abiding faith in and strong commitment to its founding principles, ideals and purposes, particularly in establishing a peaceful and prosperous world, as well as a just and equitable world order.²⁴

42. The Conference final document condemns the extra territorial application of national laws against the NAM countries.²⁵ The Conference asked its Members to refrain from recognizing, adopting or implementing extraterritorial or unilateral coercive measures or laws, including unilateral economic sanctions, other intimidating measures, and arbitrary travel restrictions, that seek to exert pressure on Non-Aligned countries – threatening their sovereignty and independence, and their freedom of trade and investment – and prevent them from exercising their right to decide, by their own free will, their own political, economic and social systems, where they constitute flagrant violations of the UN Charter, international law, the multilateral trading system, as well as the norms and principles governing friendly relations among States; and in this regard, oppose and condemn these measures or laws and their continued application, persevere with efforts to effectively reverse them and urge other States to do likewise, as called for by the General Assembly and other UN organs; and request States applying these measures or laws to revoke them fully and immediately.

43. The Conference also reiterated its strong concern at the growing resort to unilateralism and unilaterally imposed measures that undermined the UN Charter and international law, and further reiterated its commitment to promote, preserve and strengthen multilateralism and the multilateral decision making process through the UN, by strictly adhering to its Charter and international law, with the aim of creating a just and equitable world order and global democratic governance, and not one based on monopoly by the powerful few.

44. It opposed unilateralism and unilaterally imposed measures by certain States – which could lead to the erosion and violation of the UN Charter and international law, the use and threat of use of force, and pressure and coercive measures – as a means to achieving their national policy objectives.

45. The Conference also opposed the attempts through the imposition or prolongation of sanctions or their extension by the Security Council against any State under the pretext or with the aim of achieving the political objectives of one or a few States, rather than in the general interest of the international community.

46. The Summit expressed deep concern over the imposition of unilateral sanctions against the NAM States, particularly against Syrian Arab Republic. The Summit considered the so-called “Syria Accountability Act” as contrary to international law and a

²⁴ Final Document, NAM 2006/Doc.1/Rev.3. This document is available at <http://www.cubanoal.cu/ingles/>.

²⁵ The details are drawn out from the Final Document of NAM.

violation of the purposes and principles of the UN Charter. They called on the Government of the United States to declare that Act as null and void, and further called on the two countries to dialogue based on respect and mutual interest for the best of the two nations and the peoples.

47. The Summit further called on NAM States to continue promoting the rejection of and the adoption of concrete actions against the enforcement of unilateral coercive economic measures at the several multilateral fora where NAM and G-77 are involved.

48. Further in its Final Declaration,²⁶ the Principles, which were adopted, are as follows:

- Refraining by all countries from exerting pressure or coercion on other countries, including resorting to aggression or other acts involving the use of direct or indirect force, and the application and/or promotion of any coercive unilateral measure that goes against International Law or is in any way incompatible with it, for the purpose of coercing any other State to subordinate its sovereign rights, or to gain any benefit whatsoever.
- Promotion of pacific settlement of disputes and abjuring, under any circumstances, from taking part in coalitions, agreements or any other kind of unilateral coercive initiative in violation of the principles of International Law and the Charter of the United Nations.

VI. CONSIDERATION OF THE RESOLUTION ON THE “NECESSITY OF ENDING THE ECONOMIC, COMMERCIAL AND FINANCIAL EMBARGO IMPOSED BY THE UNITED STATES OF AMERICA AGAINST CUBA” AT THE SIXTY-FIRST SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY

49. On 8 November 2006, the United Nations General Assembly overwhelmingly called on the United States to end its commercial, economic and financial embargoes against Cuba that began more than 46 years ago²⁷ vide resolution A/RES/61/11. It was adopted in a straight fifteenth year in a row with a recorded vote of 183 in favour to 4 against and with 1 abstention.²⁸ Like last year, the General Assembly urged the States to

²⁶ Declaration on the Purposes and Principles and the Role of the Non-Aligned Movement in the Present International Juncture.

²⁷ *UN Press Release*, “General Assembly Overwhelmingly Supports End to United States Embargo on Cuba; Cuba’s Foreign Minister Calls Blockade ‘Longest and Cruellest’ in History”, UNGA/10529 dated 8 November 2006.

²⁸ The States which spoke to lift the United States embargo against Cuba were the representatives of **South Africa** (on behalf of the “Group of 77” developing countries and China), Saint Lucia (on behalf of the Caribbean Community (CARICOM)), Brazil (on behalf of the Southern Common Market (MERCOSUR)), Mexico, Vietnam, **People’s Republic of China, Republic of Indonesia, Syria, India, Iran, Malaysia**, Namibia, **United Republic of Tanzania**, Russia Federation, **Sudan**, Bolivia, **Myanmar**, Zimbabwe, Belarus, Lesotho, **Libya**, Zambia, Lao People’s Democratic Republic and **Egypt**. The States that voted against were, United States of America, Israel, Marshall Islands and Palau and the abstention State was Federated States of Micronesia. The names of AALCO Member States are indicated in bold.

refrain from promulgating and applying laws and measures not conforming with their obligations to reaffirm freedom to trade and navigation.²⁹

50. Prior to taking action on the text, Australia's delegate submitted a first-ever amendment,³⁰ which would have added an operative paragraph noting that such laws and measures "were motivated by valid concerns about the continued lack of democracy and political freedom in Cuba".³¹ Cuba's delegation immediately tabled a "no action motion" to suppress the amendment and this was adopted by a recorded vote of 126 in favour to 51 against, with 5 abstentions (Kiribati, Liechtenstein, Samoa, Switzerland, Tonga).

51. Following AALCO Member States expressed their concerns to lift the sanctions on Cuba. A summary of their statements is reproduced below:

52. The **Delegate of South Africa**, spoke on behalf of the "Group of 77" developing countries and China, and said that the Group, at the Second South Summit held in 2005 in Qatar, had condemned the use of economic coercive measures designed to prevent countries from exercising the right to decide their own political, economic and social systems and had called for all countries not to recognize the embargo against Cuba, which had had a negative impact on the well-being of that country's people.

53. Believing that constructive dialogue could foster mutual trust and understanding, as well as engender harmony and peaceful coexistence, the Group viewed that the continued imposition of the embargo as a violation of the principles of sovereign equality of States and non-intervention in the domestic affairs of a country. Further, he insisted the need to respect international law in international relations had remained steadfast at the United Nations, where more Member States were supporting a resolution opposing the United States embargo. This was evidenced by the votes in favour of the text, which had grown from 59 in 1992 to 182 in 2005. The Group of 77 and China would support this year's draft resolution against the embargo.

54. On the issue of amendment, the **South African Delegate** said that the Group of 77 rejected all use of unilateral measures and economic sanctions as a severe threat to international trade and investment. Such measures also contravened the UN Charter. The amendment introduced by Australia was not acceptable, since it asked Cuba, and other developing countries, to abdicate their responsibility of defining democracy for themselves, or what constituted political freedom. Adopting the amendment would not be a win-win situation; it would be a "lose-lose" situation.

55. The **Delegate of the People's Republic of China** associating himself with the statement made on behalf of the Group 77 and China, said that it was regrettable that, in the age of globalization, that the embargo against Cuba was still in place. Having normal economic and commercial ties among countries was in the interest of all and was not a

²⁹ The Assembly had before it a report by the Secretary-General on the "Necessity of ending the economic, commercial and financial embargo imposed by the United States against Cuba", (Doc. A/61/132), for which 98 Governments have submitted their responses.

³⁰ A/61/L.19.

³¹ The additional provision would have had the Assembly call on the Cuban Government to release, unconditionally, all political prisoners, cooperate fully with international human rights bodies, respect the Universal Declaration of Human Rights and comply fully with its obligations under all human rights treaties to which it was a party.

favour given from one country to another. He suggested that dialogue on an equal footing was the best way to resolve any difference also.

56. He observed that, for more than 40 years, the embargo and sanctions against Cuba have been carried out under the pretext of “promoting democracy, freedom and human rights in Cuba”, but the reality was that the practice of attempting to force another country to give up its independently chosen path of development, even to overthrow its Government, through embargo and sanctions, was a violation of the UN Charter and the basic norms governing contemporary international relations. That kind of practice had nothing to do with promoting democracy and freedom.

57. Furthermore, he said that the embargo was extraterritorial in nature and, therefore, violated international law and international trade rules. It also ran counter to the principle of trade liberalization. The blockade had also seriously obstructed and constrained the efforts of the Cuban people to eradicate poverty, improve their living standard, and achieve economic and social development. Not only had the embargo harmed the interests of Cuba and other countries, but, it also went against the principles of democracy, freedom, rule of law and human rights, thus completely defeating the policy goals claimed by the country concerned.

58. On amendment, the **Delegate of People’s Republic of China** pointed out that the contents of the amendment were not new to the Assembly; it distorted the spirit of the draft resolution at hand. That resolution reflected the overwhelming view of the international community on the United States embargo against Cuba. He, therefore, favoured the motion not to take action on the amendment

59. The **Delegate of Republic of Indonesia** associated himself with the statement made on behalf of the Group of 77 and China, and thanked the Secretary-General for a comprehensive document, which included statements by Member States unanimously opposing the unilateral and extraterritorial embargo against Cuba. Further, he mentioned that Indonesia had had a long-standing position against the embargo, which, he said, had been based on the fact that the application of unilateral and extraterritorial economic and financial embargoes violated the principles of the United Nations Charter and international law.

60. The principles of non-intervention must be respected and upheld, he said, adding that the embargo presented a major impediment to the right of development of sovereign States and their people. The right to development was a basic human, economic and cultural right, and the embargo was an obstacle to the call for achieving the global development agenda, as embodied in the Millennium Summit outcome document. Continuing the embargo would only maintain high tensions between neighbouring countries and fail to lay the foundations for a more peaceful coexistence.

61. The **Delegate of Syrian Arab Republic** said that the embargo imposed on Cuba for more than 45 years had established a precedent for the unilateral behaviour of States outside the framework of international law. Cuba’s people had a right to freely select their political, economic, social and cultural systems, and in accordance with international law. The support of 182 States to the related resolution adopted during the Assembly’s last session had been a clear indication of the international community’s

determination to end the embargo. That had also emphasized the need to respect the political, economic and social systems every country selected as its own.

62. Noting calls for removal of the embargo by the Non-Aligned Movement and by the Group of 77 and China, he said the United States had taken no steps in the last 15 years to satisfy the international community's desires. It had "intentionally and stubbornly" continued its mistaken position of disregarding a legitimate request of the international community. Further, it had imposed new measures to tighten the embargo, with policies that directly threatened the stability of the region and constituted a threat to international peace and security. The Security Council should act in accordance with its mandate and take all necessary steps to end the embargo, the economic sanctions and the aggressive policies of the United States against a neighbouring country and against other States.

63. The **Delegate of India**, aligning himself with the statement made on behalf of the Group of 77 and China, said that the embargo was having a negative impact on Cuban efforts to eradicate poverty and promote socio-economic development, and it hindered the full enjoyment of human rights. In addition, the embargo had also negatively affected the right to food, medical care and social services. He pointed out the American Association for the World Health had concluded that the embargo had caused a significant rise in suffering in patients having to do without essential drugs or doctors, or medical equipment. The negative impact of the embargo in the educational sector was also linked to trade restrictions, which prevented the purchase of needed inputs at more competitive prices. Cuba's access to markets, capital, technology and investment had also been limited.

64. He said that such constraints were not in conformity with multilateral trading regimes and could not be justified, including in terms of essential security interests. In a normal situation, Cuba and the United States would be natural economic partners, benefiting mutually from trade. India, one of the largest democracies in the world, had consistently opposed any unilateral measures by countries, which impinged on the sovereignty of another country, and he shared the view of the Assembly that sanctions, irrespective of their purpose, have to comply with the customary international law principle of non-intervention and proportionality. He called on the international community to redouble its efforts to have an environment free from sanctions and embargoes.

65. The **Delegate of Islamic Republic of Iran** said that unilateral coercive economic policies and measures should be regarded as major impediments for the international community in pursuing its common causes and interests. The adoption of 14 consecutive Assembly resolutions had been the reaction of the international community to the embargo imposed by the United States against Cuba. Resorting to embargo as a tool to achieve political objectives undermined the collective efforts of the Member States for achieving economic growth and sustainable development.

66. He recalled that the Johannesburg Plan of Implementation called upon States to refrain any unilateral measure, which contravened international law and the United Nations Charter, and impeded the economic and social development of the population of the affected countries. In September 2006, the Summit of the Non-Aligned Movement, held in Cuba, had called upon the United States to put an end to the economic,

commercial and financial embargo against Cuba, which, in addition to being unilateral and contrary to the United Nations Charter and international law, was causing huge material losses and economic damage to the people of Cuba.

67. The **Delegate of Malaysia**, reaffirming his delegation's commitment to the principles of international law and its solidarity with the Cuban people, urged the United States to look beyond the confines of vested interests and change its policy from one of isolation of its smaller neighbour, to that of dialogue. Aligning itself with the statement made on behalf of the Group of 77 and China, his delegation rejected the use of unilateral measures by one Member State to affect political change in another. Laws, such as the Toricelli and the Helms-Burton Acts, had limited Cuba's access to markets, capital, technology and investment. His Government remained fundamentally opposed to the illegal nature of those laws and the embargo, which were used to exert pressure on Cuba to change its political and economic orientation.

68. The **Delegate of United Republic of Tanzania** joined with other Member States in calling for the lifting of the economic, commercial and financial embargo unilaterally imposed against Cuba by the United States. The country had endured the embargo valiantly but at a forbidding cost. The blockade had been particularly damaging to the Cuban population, in particular the women, children and the elderly. Like many countries, his concern was that the sanctions imposed under the Helms-Burton Act exceeded the jurisdiction of national legislation and encroached on the sovereignty of other States that dealt with Cuba. He, therefore, deemed the Act as incompatible with the principle of the sovereign equality of States.

69. He went on to say that the embargo was a "systematic collective punishment in violation of human rights and international law". It ran counter to all prevailing moral and ethnical values as innocent people suffered. Its extraterritorial nature continued to cause considerable damage to Cuba, as well as to third countries, which were prevented from taking full advantage of the opportunities offered by the Cuban economy. He, thus, supported the draft resolution to end the embargo, and he called on the United States to end the blockade and normalize relations with Cuba. That might prove to be the most constructive way of reconciling decades-old differences with positive spin-off to the region and the world, he suggested.

70. The **Delegate of the Republic of Sudan** said that the Cuban people had been suffering for some 40 years. The embargo amounted to a supreme contravention of the principles of the UN Charter, as well as the rule of law and sovereignty of States. The Assembly's action today had shown that the international community rejected the persistence of the embargo and its support for the choice of peoples to choose their own political and socio-economic systems. The embargo had been tightened over the past few years, and its unjust nature had now been heightened by Draconian measures to deter trade with Cuba. The Sudan would call on the people of Cuba to continue to resist the measure. He had voted in favour of the resolution.

71. The **Delegate of Myanmar** said he rejected all unilateral and coercive measures. Washington's embargo was aimed at destroying the political and socio-economic well being of the Cuban people. Moreover, the measure was "inhumane," particularly because it severely affected the women and children of Cuba. Myanmar had joined the international community in calling on the United States to end its disastrous blockade.

72. The **Delegate of Libyan Arab Jamahiriya** said he had voted in favour of the resolution because he believed that the imposition of sanctions was not the right means to resolve bilateral differences. All discussion between countries should take place on equal footing under the Charter and embody the norms of international law. The resolution sent the message that no progress could be made to establish peace without international cooperation anchored in mutual respect, regardless of a country's size, economic strength and development level.

73. He reaffirmed Libya's opposition to sanctions and expressed concern that those measures only deepened human suffering, contrary to the principles of the Charter. The people of Cuba, particularly women, children and elderly, had suffered from the unfair embargo. Hopefully, the resolution would contribute to the elimination of the embargo, and he called on the United States to resolve its differences with Cuba by peaceful means.

74. The **Delegate of Arab Republic of Egypt** said that his delegation had voted to take no action on the amendment introduced by Australia because it believed that the human rights situation of countries should be taken up in a non-confrontational and non-selective manner, and within the competence of the Human Rights Council. The efforts of the delegation that had presented the amendment would have been better served by presenting a separate amendment in the Assembly and the Security Council on ways to alleviate the grave humanitarian situation in the Occupied Palestinian Territory, and end human rights violations being perpetrated – at this very minute – against the Palestinian people by Israel.

VII. CONSIDERATION OF THE RESOLUTION ON THE “HUMAN RIGHTS AND UNILATERAL COERCIVE MEASURES” AT THE SIXTY-FIRST SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY

75. On 19 December 2006, the UN General Assembly adopted a resolution which outrightly rejects the use of coercive measures as a tool for political or economic pressure against any nation for impeding the complete fulfillment of its citizens' human rights.³² The draft resolution was submitted by Cuba and it was adopted by a recorded vote of 131 in favour of 54 against with no abstention. The resolution expressed the concern with regard to the extraterritorial effects of those measures, because they create new obstacles to the full enjoyment of all human rights by the peoples of other countries. Further, it urged all nations to abstain from adopting or implementing unilateral coercive measures that impede the full enjoyment of all people to the right to food, medical attention and necessary social services.

76. Prior to this resolution brought before the General Assembly Plenary, this was extensively debated in the Third Committee³³ and a report was submitted by Secretary-General to the General Assembly.³⁴ This report contains the responses submitted by Cuba, Libyan Arab Jamahiriya and Trinidad and Tobago.

77. Libya, one of the AALCO Member States, in its response recalled that the World Conference on Human Rights called upon States to refrain from any unilateral measure that impede the full enjoyment by citizens of their human rights such as the right to an adequate standard of living, including health, food and social services. The Government also recalled that the General Assembly requested States not to use economic sanctions to put pressure on any other States, as they constituted violations of the sovereignty of States. Further, the Government called on States to refrain from using unilateral coercive measures, which have an impact on economic relations among countries and violate international law and human rights law in particular. It called on all States not to ask for unilateral coercive measures and not to allow their implementation as the Libyan Arab Jamahiriya was among the countries that suffered from such measures which hindered the enjoyment of civil and political rights, and economic, social and cultural rights, as well as the right to development.

78. The UN Human Rights Council also passed a resolution requesting the UN Secretary-General to bring this Agenda to the attention of all States and to seek their views and information on the implications and negative effects of unilateral coercive measures on their populations, and to submit a report thereon to the Council at its Fourth Session.³⁵

³² *UN Press Release*, General Assembly Adopts 46 Third Committee Texts on Human Rights Issues, Refugees, Self-Determination, Racism, Social Development, GA/10562 dated 19 December 2006.

³³ Agenda Item 67 (b) of Sixty First Session dated 7 December 2006.

³⁴ A/61/287. As per the General Assembly Resolution 60/155 dated 17 August 2006, in which the Assembly requested the Secretary-General to bring the resolution to the attention of all Member States, to continue to collect their views and information on the implications and negative effects of unilateral coercive measures on their populations and to submit an analytical report thereon to the Assembly at its Sixty-first session, highlighting the practical and preventive measures in that respect.

³⁵ A/HRC/2/L.14 dated 2 October 2006.

VIII. ANNEXURE

RESOLUTIONS ADOPTED BY THE GENERAL ASSEMBLY ON THE AGENDA ITEM

A. 61/11. Resolution on “Necessity of Ending the Economic, Commercial and Financial Embargo Imposed by the United States of America against Cuba”

The General Assembly,

Determined to encourage strict compliance with the purposes and principles enshrined in the Charter of the United Nations,

Reaffirming, among other principles, the sovereign equality of States, non-intervention and non-interference in their internal affairs and freedom of international trade and navigation, which are also enshrined in many international legal instruments,

Recalling the statements of the Heads of State or Government at the Ibero-American Summits concerning the need to eliminate unilateral application of economic and trade measures by one State against another that affect the free flow of international trade,

Concerned at the continued promulgation and application by Member States of laws and regulations, such as that promulgated on 12 March 1996 known as the “Helms-Burton Act”, the extraterritorial effects of which affect the sovereignty of other States, the legitimate interests of entities or persons under their jurisdiction and the freedom of trade and navigation,

Taking note of declarations and resolutions of different intergovernmental forums, bodies and Governments that express the rejection by the international community and public opinion of the promulgation and application of measures of the kind referred to above,

Recalling its resolutions 47/19 of 24 November 1992, 48/16 of 3 November 1993, 49/9 of 26 October 1994, 50/10 of 2 November 1995, 51/17 of 12 November 1996, 52/10 of 5 November 1997, 53/4 of 14 October 1998, 54/21 of 9 November 1999, 55/20 of 9 November 2000, 56/9 of 27 November 2001, 57/11 of 12 November 2002, 58/7 of 4 November 2003, 59/11 of 28 October 2004 and 60/12 of 8 November 2005,

Concerned that, since the adoption of its resolutions 47/19, 48/16, 49/9, 50/10, 51/17, 52/10, 53/4, 54/21, 55/20, 56/9, 57/11, 58/7, 59/11 and 60/12, further measures of that nature aimed at strengthening and extending the economic, commercial and financial embargo against Cuba continue to be promulgated and applied, and concerned also at the adverse effects of such measures on the Cuban people and on Cuban nationals living in other countries,

1. *Takes note* of the report of the Secretary-General on the implementation of resolution 60/12³⁶;
2. *Reiterates its call upon* all States to refrain from promulgating and applying laws and measures of the kind referred to in the preamble to the present resolution, in conformity with their obligations under the Charter of the United Nations and international law, which, inter alia, reaffirm the freedom of trade and navigation;
3. *Once again urges* States that have and continue to apply such laws and measures to take the necessary steps to repeal or invalidate them as soon as possible in accordance with their legal regime;

³⁶ A/61/132.

4. *Requests* the Secretary-General, in consultation with the appropriate organs and agencies of the United Nations system, to prepare a report on the implementation of the present resolution in the light of the purposes and principles of the Charter and international law and to submit it to the General Assembly at its sixty-second session;
5. *Decides* to include in the provisional agenda of its sixty-second session the item entitled “Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba”.

*50th plenary meeting
8 November 2006*

B. 61/170. Resolution on “Human Rights and Unilateral Coercive Measures”

The General Assembly,

Recalling all its previous resolutions on this subject, the most recent of which was resolution 60/155 of 16 December 2005, and Commission on Human Rights resolution 2005/14 of 14 April 2005,³⁷

Reaffirming the pertinent principles and provisions contained in the Charter of Economic Rights and Duties of States proclaimed by the General Assembly in its resolution 3281 (XXIX) of 12 December 1974, in particular article 32 thereof, in which it declared that no State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights,

Taking note of the report of the Secretary-General,³⁸ submitted pursuant to Commission on Human Rights resolution 1999/21 of 23 April 1999,³⁹ and the reports of the Secretary-General on the implementation of resolutions 52/120 of 12 December 1997⁴⁰ and 55/110 of 4 December 2000,⁴¹

Recognizing the universal, indivisible, interdependent and interrelated character of all human rights, and, in this regard, reaffirming the right to development as an integral part of all human rights,

Recalling that the World Conference on Human Rights, held at Vienna from 14 to 25 June 1993, called upon States to refrain from any unilateral coercive measure not in accordance with international law and the Charter of the United Nations that creates obstacles to trade relations among States and impedes the full realization of all human rights,⁴²

Bearing in mind all the references to this question in the Copenhagen Declaration on Social Development adopted by the World Summit for Social Development on 12 March 1995,⁴³ the Beijing Declaration and Platform for Action adopted by the Fourth World Conference on Women on 15 September 1995,⁴⁴ the Istanbul Declaration on Human Settlements and the Habitat Agenda adopted by the second United Nations Conference on Human Settlements (Habitat II) on 14 June 1996,⁴⁵ and their five-year reviews,

Expressing its concern about the negative impact of unilateral coercive measures on international relations, trade, investment and cooperation,

³⁷ See *Official Records of the Economic and Social Council, 2005, Supplement No. 3* and corrigendum (E/2005/23 and Corr.1), chap. II, sect. A.

³⁸ E/CN.4/2000/46 and Add.1.

³⁹ See *Official Records of the Economic and Social Council, 1999, Supplement No. 3* (E/1999/23), chap. II, sect. A.

⁴⁰ A/53/293 and Add.1.

⁴¹ A/56/207 and Add.1.

⁴² See A/CONF.157/24 (Part I), chap. III, sect. 1, para. 31.

⁴³ *Report of the World Summit for Social Development, Copenhagen, 6-12 March 1995* (United Nations publication, Sales No. E.96.IV.8), chap. I, resolution 1, annex I.

⁴⁴ *Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995* (United Nations publication, Sales No. E.96.IV.13), chap. I, resolution 1, annexes I and II.

⁴⁵ *Report of the United Nations Conference on Human Settlements (Habitat II), Istanbul, 3-14 June 1996* (United Nations publication, Sales No. E.97.IV.6), chap. I, resolution 1, annexes I and II.

Expressing its grave concern that, in some countries, the situation of children is adversely affected by unilateral coercive measures not in accordance with international law and the Charter that create obstacles to trade relations among States, impede the full realization of social and economic development and hinder the well-being of the population in the affected countries, with particular consequences for women and children, including adolescents,

Deeply concerned that, despite the recommendations adopted on this question by the General Assembly and recent major United Nations conferences, and contrary to general international law and the Charter, unilateral coercive measures continue to be promulgated and implemented with all their negative implications for the social humanitarian activities and economic and social development of developing countries, including their extraterritorial effects, thereby creating additional obstacles to the full enjoyment of all human rights by peoples and individuals under the jurisdiction of other States,

Bearing in mind all the extraterritorial effects of any unilateral legislative, administrative and economic measures, policies and practices of a coercive nature against the development process and the enhancement of human rights in developing countries, which create obstacles to the full realization of all human rights,

Noting the continuing efforts of the open-ended Working Group on the Right to Development of the Commission on Human Rights, and reaffirming in particular its criteria, according to which unilateral coercive measures are one of the obstacles to the implementation of the Declaration on the Right to Development,⁴⁶

1. *Urges* all States to refrain from adopting or implementing any unilateral measures not in accordance with international law and the Charter of the United Nations, in particular those of a coercive nature with all their extraterritorial effects, which create obstacles to trade relations among States, thus impeding the full realization of the rights set forth in the Universal Declaration of Human Rights⁴⁷ and other international human rights instruments, in particular the right of individuals and peoples to development;
2. *Also urges* all States to take steps to avoid and to refrain from adopting any unilateral measures not in accordance with international law and the Charter that impede the full achievement of economic and social development by the population of the affected countries, in particular children and women, that hinder their well-being and that create obstacles to the full enjoyment of their human rights, including the right of everyone to a standard of living adequate for their health and well-being and their right to food, medical care and the necessary social services, as well as to ensure that food and medicine are not used as tools for political pressure;
3. *Invites* all States to consider adopting administrative or legislative measures, as appropriate, to counteract the extraterritorial applications or effects of unilateral coercive measures;
4. *Rejects* unilateral coercive measures with all their extraterritorial effects as tools for political or economic pressure against any country, in particular against developing countries, because of their negative effects on the realization of all the human rights of vast sectors of their populations, in particular children, women and the elderly;
5. *Calls upon* Member States that have initiated such measures to commit themselves to their obligations and responsibilities arising from the international human rights instruments to which they are party by revoking such measures at the earliest possible time;
6. *Reaffirms*, in this context, the right of all peoples to self-determination, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development;

⁴⁶ Resolution 41/128, annex.

⁴⁷ Resolution 217 A (III).

7. *Urges* the Human Rights Council to take fully into account the negative impact of unilateral coercive measures, including the enactment of national laws and their extraterritorial application, in its task concerning the implementation of the right to development;
8. *Requests* the United Nations High Commissioner for Human Rights, in discharging her functions relating to the promotion, realization and protection of the right to development and bearing in mind the continuing impact of unilateral coercive measures on the population of developing countries, to give priority to the present resolution in her annual report to the General Assembly;
9. *Requests* the Secretary-General to bring the present resolution to the attention of all Member States, to continue to collect their views and information on the implications and negative effects of unilateral coercive measures on their populations and to submit an analytical report thereon to the General Assembly at its sixty-second session, while reiterating once again the need to highlight the practical and preventive measures in this respect;
10. *Decides* to examine the question on a priority basis at its sixty-second session under the sub-item entitled “Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms”.

*81st Plenary Meeting
19 December 2006.*