



Foreign Affairs

Proposed amendments to the *Autonomous Sanctions Regulations 2011* (Cth): a proposed new autonomous sanctions framework for Afghanistan

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Introduction

Australian Red Cross, the International Committee of the Red Cross (ICRC) and the International Federation of Red Cross and Red Crescent Societies (IFRC) welcome the opportunity to share our views with the Australian Department of Foreign Affairs and Trade (DFAT) regarding its public consultation on a potential new autonomous sanctions framework for Afghanistan.

We recommend the inclusion of a well-framed humanitarian exemption in Australia's sanctions frameworks, including with respect to potential autonomous sanctions for Afghanistan, in order to be effective and to capture intended targets while avoiding unintended consequences for impartial humanitarian organisations engaging in exclusively humanitarian activities.

Such an exemption is also necessary to align with the humanitarian exemption to the United Nations (UN) Security Council sanctions regime 1988 (Taliban) and 1267 (Al Qaeda/ISIS) introduced through the UNSC resolutions 2615 (2021), 2664 (2022), 2761 (2024) and implemented in Australia by operation of section 2B of the *Charter of the United Nations Act 1945* (Cth). The absence of harmonisation between potential new autonomous sanctions for Afghanistan and applicable UN sanctions may undermine the effect of the humanitarian exemption adopted by the UN Security Council, elevate risks of prosecutions for humanitarian personnel and may increase overcompliance/derisking policies by the private sector due to inconsistent legal frameworks.

About us

The International Red Cross and Red Crescent Movement (**Movement**) is a worldwide humanitarian network which is guided at all times and in all places by its [Fundamental Principles](#), including humanity, impartiality, neutrality and independence. The Movement has three components: ICRC and the IFRC and 191 National Red Cross or Red Crescent Societies (including Australian Red Cross). Our work is based on the Geneva Conventions of 1949, their Additional Protocols of 1977, the [Statutes of the Movement](#) and the resolutions of the International Conferences of the Red Cross and Red Crescent.

Australian Red Cross has been a critical part of Australian life since 1914, mandated by its [Royal Charter](#) as an auxiliary to the public authorities in the humanitarian field, including during emergencies and armed conflict. Its mission is to prevent and alleviate vulnerability, including by promoting respect for international humanitarian law (IHL) in Australia.

The ICRC's exclusively humanitarian mission is to protect the lives and dignity of victims of armed conflict and other situations of violence and to provide them with assistance. The ICRC endeavours to prevent suffering by promoting and strengthening IHL and universal humanitarian principles.

The IFRC is the global network of the 191 National Red Cross and Red Crescent Societies, which includes Australian Red Cross. The IFRC's mission is to bring relief to all disaster-affected people, including victims of armed conflicts and internal strife, and support its members in carrying out and strengthening their humanitarian work.

Recommendation

To ensure that Australia's sanctions regime is implemented in conformity with IHL¹ and humanitarian principles,² Australian Red Cross, the ICRC and IFRC recommend adopting a well-framed humanitarian exemption in Australia's autonomous sanctions framework that is consistent with the formulation of United Nations Security Council Resolution (UNSCR) 2664 (2022).³

As previously detailed,⁴ Australian Red Cross, the ICRC and IFRC have observed that sanctions measures have had unintended adverse consequences for humanitarian action.⁵ Humanitarian organisations trying to deliver assistance in sanctions-affected areas have had to navigate a patchwork of regimes from different jurisdictions, undertake extensive due diligence processes, comply with donor/funding requirements and navigate a risk-averse private and banking sector. An increasing and dangerous politicisation of neutral and impartial humanitarian action adds to this challenge. Certain prohibitions established under sanctions regimes impact humanitarian actors due to the possibility of indirect interaction with sanctioned entities and individuals.

In our view, standing and well-framed humanitarian exemptions are the most appropriate and efficient way to safeguard humanitarian action from the unintended consequences of sanctions. We recommend

¹ Under IHL, during armed conflict, impartial humanitarian organisations have the right to offer their services to carry out humanitarian activities, especially when basic needs of the population are not being met (Arts 3 and 9/9/9/10 common to the Geneva Conventions of 1949, establishing the so-called 'right of humanitarian initiative'). While impartial humanitarian activities are generally subject to the consent of the parties to the conflict concerned, such consent cannot be arbitrarily or unlawfully denied (Geneva Conventions, Arts 9/9/9/10; Fourth Geneva Convention, Art. 59; Additional Protocol I, Art. 70 (1); Additional Protocol II, Art. 18). Once impartial humanitarian relief schemes have been agreed, parties to the armed conflict, as well as all States that are not a party, are expected to allow and facilitate the rapid and unimpeded passage of humanitarian relief, subject to a right of control (Fourth Geneva Convention, Art. 23; Additional Protocol I, Art. 70; ICRC Customary International Humanitarian Law Study, rule 55).

² Both the Movement and the Australian Government have committed to upholding the key principles of humanity, neutrality, impartiality and independence in humanitarian work. See the [Declaration for the Protection of Humanitarian Personnel](#) (2025) and DFAT, '[Australia's Humanitarian Assistance](#)', accessed 17 October 2025.

³ [UNSCR 2664 \(2022\)](#) provides a legally binding carve-out for humanitarian organisations, including the ICRC, IFRC and National Societies such as Australian Red Cross, from all UN "asset freeze" sanctions. It makes clear that prohibitions on providing any form of economic benefit, directly or indirectly, to listed individuals and entities (including many non-state armed groups in armed conflicts), do not apply to activities related to "humanitarian assistance and other activities that support basic human needs". It is understood that UNSCR 2664 is given effect in Australia's sanctions regime via s 2B of the Charter of the *United Nations Act 1945* (Cth).

⁴ See our submissions to: Senate Standing Committees on Foreign Affairs, Defence and Trade [Inquiry into Australia's Sanctions Regime](#) (2024); DFAT [Review of Australia's legal framework for autonomous sanctions](#) (2023); Senate Standing Committee on Foreign Affairs Defence and Trade [Inquiry into Defence Trade Controls Amendment Bill 2023](#); and Parliamentary Joint Committee on Intelligence and Security [Review of the Defence Amendment \(Safeguarding Australia's Military Secrets\) Bill 2023](#).

⁵ UNSCR 2664 provides for a legally binding humanitarian carve-out for humanitarian organisations, including the ICRC, IFRC and National Societies (such as Australian Red Cross), from the "asset freeze" portion of all UN sanctions regimes. Prohibitions on providing any form of economic benefit, directly or indirectly, to listed individuals and entities (including many non-state armed groups in armed conflicts), now no longer apply to activities related to "humanitarian assistance and other activities that support basic human needs". See, S/RES/2664 (2022). It is understood that UNSCR 2664 is implemented into Australia's United Nations Sanctions regime via section 2B of the *Charter of the United Nations Act 1945* (Cth).

that these humanitarian exemptions apply across all types of sanctions, including asset freezes, arms embargoes, and trade restrictions.

Such exemptions would also help to address over-compliance and de-risking practices while fostering a culture of support for principled humanitarian action. Our experiences both preceding and following the implementation of a humanitarian exemption to Australia's UN-mandated sanctions against the Taliban demonstrate the effectiveness of this approach.⁶

Introducing a humanitarian exemption for the Australian autonomous sanctions regime is necessary to ensure consistency and alignment with the UNSC sanctions regime, which already contains a humanitarian exemption under UN Security Council Resolution 2664 (2022). The introduction of a humanitarian exemption in the proposed autonomous sanctions regime for Afghanistan would avoid its contradiction with UNSC sanctions regimes 1988 and 1267 applicable in the same country. This approach has been adopted by the European Union in relation to its autonomous sanctions applicable in Afghanistan (Sanction regime against Human Rights violations and abuses as well as the so-called UN/EU mixed sanctions regime against the Taliban) in order to ensure that the UN humanitarian exemptions included in UNSC resolutions 2615 and 2664/2761 continue to produce their full legal effects.

Greater consistency between the two regimes would make it easier for organisations to navigate and ensure compliance with sanctions obligations. Further, a humanitarian exemption for autonomous sanctions relating to Afghanistan would also be consistent with [UN Security Council Resolution 2615 \(2021\)](#), which confirms that "humanitarian assistance and other activities that support basic needs in Afghanistan" are not in violation of [UN Security Council Resolution 2255 \(2015\)](#). A humanitarian exemption would also be consistent with paragraphs 21.2.c and 21.2.d of the recently adopted [Declaration for the Protection of Humanitarian Personnel](#), developed under Australia's leadership.

The proposed amendments to the Autonomous Sanctions Regulations 2011 (Cth) to insert an arms embargo on Afghanistan and a ban on arms-related services to Afghanistan may have unintended adverse consequences for the humanitarian activities of the Movement. In particular:

- Targeted financial sanctions: If targeted financial sanctions are imposed on persons holding a leadership role in an Afghan government body or other entity, the restrictions in sanctions would only apply to the designated individual and not the entity they head. Consequently, engaging in routine interaction with that entity would not be prohibited simply because a designated individual holds a leadership role, although due diligence would need to be undertaken to ensure the designated person would not receive the benefit of funds provided to that entity.
- Arms embargo: The Movement may need to utilise protective equipment for personnel operating in the region that falls within the scope of the definition of military equipment.
- Arms-related services: The Movement plays an important global role in providing IHL training, which may include IHL training to military and non-state armed groups and general IHL dissemination.⁷ This training may relate to the appropriate use of weapons in armed conflict, raising concerns that this could be regarded as an arms-related service on a broad interpretation

⁶ See the case study on UN-mandated sanctions in Afghanistan and subsequent humanitarian exemption set out in submissions to Senate Standing Committees on Foreign Affairs, Defence and Trade [Inquiry into Australia's Sanctions Regime](#) (2024).

of the Regulations. In addition, Movement personnel may help to facilitate the clearance of landmines and/ or use of technology to identify deep buried bombs.

In view of this, we recommend that the arms embargo include an exception allowing exports of arms or related matériel used by humanitarian actors for their protection or humanitarian activities.⁸

The proposed amendment also foresees the possibility of imposing financial sanctions on persons designated under the additional criteria.

As noted above, we recommend that, like all financial sanctions, this should be accompanied by a humanitarian exemption that is consistent with the approach adopted in United Nations Security Council Resolution (UNSCR) 2664 (2022). As a minimum it should cover:

- the same range of activities: the provision, processing or payment of funds, other financial assets, or economic resources, or the provision of goods and services necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs;
- the same range of actors carrying out these activities, which include the ICRC, the IFRC, and National Red Cross and Red Crescent Societies.

Conclusion

The inclusion of a well-framed and standing humanitarian exemption in the Australian autonomous sanctions regime is the only way to align it with UN sanctions applicable notably in Afghanistan and would safeguard humanitarian action and preserve the integrity and purpose of IHL while not impeding the objectives of sanctions legislation and regulations.

Australian Red Cross, the ICRC and the IFRC respectfully share this submission for DFAT's consideration, and we thank you again for the opportunity to engage on this issue.

⁸ A number of UN Security Council arms embargos include such exemptions. See for example UNSC Resolution 2713 (2023) (Somalia sanctions); UNSC Resolution 1546 (2004) (Iraq sanctions); UNSC Resolution 1807 (2008) (DRC sanctions); UNSC Resolution 1970 (2011) OP 9 (Libya sanctions); UNSC Resolution 2428 (2018) OP 5 (South Sudan sanctions); and UNSC Resolution 2752 (2024) (Haiti sanctions).