

Review of the legal framework for autonomous sanctions

CARE Australia submission to the Australian Sanctions Office (DFAT)

Feb. 2023

"...we're in dire need of immediate support in the form of financial assistance to make sure that those who are out in the cold are able to find warmth, those who are hungry are able to eat, and children who are already suffering from malnutrition are able to survive. Obviously, our priority, at this point, is the people of Southeast Türkiye and Northwest Syria, who have been hit the hardest."

- Sherine Ibrahim, Country Director of CARE Türkiye.

Executive summary

CARE Australia as part of the CARE International confederation, delivers against our humanitarian mandate in fragile contexts. CARE operates in the following countries where UN Security Council (UNSC) and Australian autonomous sanctions are presentⁱ:

- Democratic Republic of the Congo
- Iraq
- Lebanon
- Mali
- Somalia
- South Sudan
- Sudan
- Afghanistan
- Yemen
- Myanmar
- Russia/Ukraine
- Zimbabwe
- Libya
- Syria

Our global experience as CARE, shows that sanctions regimes have unintended negative consequences for principled humanitarian action. Humanitarian exemptions should create certainty for sanctioning authorities, as well as humanitarian actors. The passage of UNSCR 2664 establishes a strong universal standard for the Australian government to embed within its existing national sanctions regime. As such, CARE Australia recommends the implementation of a standing exemption for specified humanitarian activities and actors, moving away from a case-by-case (or permit-based) approach. The Australian Government must ensure that there is an overarching humanitarian exemption framework that covers both UN and Australia's Autonomous sanctions.

1. Introduction - the most vulnerable pay the price of sanctions

With operations in both Southeast Türkiye and Northwest Syria, CARE is scaling up its response to meet the needs of those affected by one of the most destructive and wide-reaching earthquakes to impact the region in recent times. The Australian Government has provided response funding to the Red Cross movement, search and rescue teams and the UN. However, it has only activated the Australian Humanitarian Partnership (AHP) in Türkiye.

We understand that this lack of engagement was due to the bureaucratic obstacles arising from existing sanctions which have ultimately prevented ANGOs and their local partners in Northwest Syria from delivering assistance on the ground. The AHP was designed as a rapid response mechanism for such disasters. Without an effective process of humanitarian exemptions to sanctions, the mechanism is rendered inoperable where and when humanitarian needs are greatest.

For the Department of Foreign Affairs and Trade (DFAT) to pivot to the UN system by default due to sanctions, does not fairly weigh the associated transaction costs and capacity to assess needs in the aftermath of a disaster such as the recent earthquake. In the instance of Northwest Syria, it is clear that decision-making over humanitarian funding allocations should be assessed based on proximity to and trust built with affected communities and assessing standing programmes which can be scaled up to meet increased needs. We know cross-line and cross-border operations and supply chains are unreliable and

limited in scope, and that access limitations remain an acute challenge in Northwest Syria. Yet, sanctions prevent timely aid from reaching the affected areas.

The current situation is illustrative of the broader challenge. Without humanitarian exemptions to sanctions, decision-making at DFAT will continue to be driven by compliance with an outdated regulatory framework. The passage of UNSCR 2664 establishes a strong universal standard for the Australian government to embed within its existing national sanctions regimeⁱⁱ. Whilst UNSCR 2664 only applies to sanctions adopted by the UN Security Council, the considerations under international law including humanitarian law which led to it, prompt the Australian government to consider an exemption under its own Autonomous sanctions regimeⁱⁱⁱ.

Due to the present policy, regulatory complexities and absence of a humanitarian exemption, Australia is lagging behind its humanitarian donor peers who have issued temporary humanitarian exemptions to sanctions for the earthquake response^{iv}. Whilst the present submission is towards a review of Australia's Autonomous sanctions regime, CARE Australia believes that the Australian Government must ensure that there is an overarching humanitarian exemption framework that covers both UN and Australia's Autonomous sanctions^v.

2. Sanctions inhibiting the delivery of aid

CARE Australia as part of the CARE International confederation, delivers against our humanitarian mandate in fragile contexts. By virtue of our proximity to countries and regions that face acute, urgent humanitarian emergencies, we are also brought into contact with individuals and entities subject to both UN and autonomous sanctions^{vi}. CARE neither advocates for or against sanctions as a tool utilised to further state policy, economic or political objectives. To do so would put CARE's adherence to the humanitarian principles of independence and neutrality squarely at risk. It is this independence and neutrality which allows us access and acceptance in the fragile contexts where people need us the most.

Our global experience as CARE, shows that sanctions regimes have unintended negative consequences for principled humanitarian action. This is also evidenced by a growing body of literature amongst our peers^{vii}. International humanitarian actors, including CARE, face significant consequences from regulatory uncertainty. We rely on funding from different jurisdictions and therefore contend with multiple layers of sanctions and differing criteria for exemptions to access crucial funding to deliver on-the-ground assistance. Common negative impacts on humanitarian operations include:

a. Pre-emptive financial de-risking practices

Without humanitarian exemptions and adequate guidance, the commercial banking sector often restricts or refuses to provide services to humanitarian organisations. This is the result of a blanket risk assessment of the 'high risk environments' in which we work, resulting in an inability for humanitarian organisations to transfer funds to support programmes (staff payment, procurement, cash assistance etc.). Banking services are often barred due to simple commercial considerations, with costs of risk management too high for the commercial dividend received. Risk management procedures would be simplified and associated costs reduced through a standing humanitarian exemption enacted by the Australian Government, coupled with guidance to communicate to the relevant stakeholders that a humanitarian exemption is in place, how this exemption works and who is covered.^{viii} This would also provide the confidence and regulatory certainty to the commercial banking sector to allow greater financial access to humanitarian organisations.

b. Bureaucratic impediments through a lack of administrative, legal and procedural clarity

A lack of definitional clarity and procedural certainty leads to different interpretations of how and to what extent sanctions apply, resulting in humanitarian operations being paused, delayed or suspended. This can be particularly costly to communities that depend on speedy delivery of humanitarian assistance, which would result in more lives saved and greater humanitarian impact. Navigating the current Australian sanctions regimes in order to provide assistance absorbs significant staff time and organisational resourcing, despite existing due diligence procedures

required as a recipient of Australian government humanitarian funding. These scarce resources could otherwise be spent on more effective implementation of humanitarian action. A standing and clear humanitarian exemption will result in a more focussed application of national sanctions legislation, as well as anti-money laundering (AML) and counter-terror financing (CTF) laws and policy, which at present inadvertently curtail legitimate humanitarian interventions. This will also reduce the risk of fines or prosecution for genuine humanitarian relief. Further, CARE Australia believes that a humanitarian exemption will ultimately strengthen existing risk mitigation and due diligence measures of NGOs around compliance with sanctions and AML/CTF laws, because they will have greater clarity regarding their obligations.

4. Existing safeguards and exemption process at present

4.1 Current due diligence and risk mitigation measures

To fulfil our humanitarian mandate we cannot operate in a zero risk environment. Over the past decades ANGOs and our international confederations have worked to comply with and navigate the sanctions and AML/CTF regulations of various donor countries. This is important not only from a compliance perspective but also to ensure that taxpayer funds reach the intended recipients of aid and do-no-harm in the process. To note, CARE Australia as an ANGO active in humanitarian response globally is:

- a registered charity under the Charity Act 2013 and required to comply with the external conduct standards of the Australian Charities and Not-for-profits Commission (ACNC) and with Australian law around money laundering, financing of terrorism and international sanctions;
- required to maintain organisation-wide policies, systems and practices for managing financial risk (including terrorism financing) and assessment of implementing partners to be eligible for ANCP accreditation and donor funding through DFAT^x.

At a global-level, CARE, like other comparable humanitarian organisations, have invested in establishing robust due diligence and risk mitigation systems. This has been achieved through investing in people and processes including in finance, legal and supply chain/procurement. Capacity building for staff and partners is complemented with subscription-based risk management tools (inc. vetting), regular internal/external audit procedures and regular review and learning exercises to strengthen systems. Additional safeguards include whistleblowing/complaint mechanisms and dedicated technical functions that oversee risks. For instance, for applicants for humanitarian exemptions under EU law, information is requested on internal sanctions compliance procedures, including measures taken to avoid the risk of diversion of funds or items^x (*see Annex 1 - Comparative analysis of various sanctions regimes which apply a humanitarian exemption*). These systems have evolved to allow our teams to understand new sanctions and maintain the readiness of our internal safeguards to ensure programme continuity and compliance.

4.2 Current exemption process in Australia

At present, in order to deliver humanitarian assistance in contexts where sanctioned entities are present, as CARE Australia we are required to provide a submission for an indicative assessment through PAX from the DFAT Sanctions Office. This includes a detailed control plan to manage ongoing risks associated with sanctions compliance. Based upon the above process a decision is made by the Minister for Foreign Affairs. At present we understand there to be only individual or case-by-case exemptions, rather than a humanitarian sector-wide and standing exemption. Such a process is cumbersome and time consuming. The current indicative assessment process for otherwise sanctionable conduct through the PAX system, is not fit-for-purpose for humanitarian actors undertaking humanitarian activities. It requires considerable resources and time to apply for permits under each relevant regime, which would otherwise be spent on providing swift and efficient humanitarian assistance. It also fails to recognise that the provision of humanitarian assistance should not be sanctioned. The additional burdens placed on humanitarian actors also have the effect of:

- (a) prohibiting the involvement of local staff and NGOs who do not have sufficient resources to follow an onerous permit system; and
- (b) deterring financial institutions and donors from providing crucial funding and support to humanitarian actors because of the administrative requirements placed on them to either seek a permit themselves, or supply sufficient information to those applying for a permit.

International practice varies from applying a standing exemption across all humanitarian activities and specified humanitarian actors, to implementing a case-by-case approach. However, the adoption of UNSC Resolutions 2615 and 2664 has been translated into the introduction of standing exemptions in respect of humanitarian activities and specified actors in various jurisdictions ([see Annex 1](#)).

Significant uncertainty remains and without formal regulatory changes, humanitarian organisations will continue to face both financial de-risking and continued bureaucratic impediments. Humanitarian exemptions should create certainty for sanctioning authorities, as well as humanitarian actors. As such, CARE Australia recommends the implementation of a standing exemption for specified humanitarian activities and actors, moving away from a case-by-case (or permit-based) approach.

4.3 Towards greater certainty for humanitarian exemption

Humanitarian exemptions are broadly understood as instruments which “carve out a space in sanctions and counterterrorism regimes for forms of principled humanitarian action, allowing humanitarian actors to deliver their services without the risk of contravening those regimes.”^{xi} There are several approaches taken by jurisdictions applying humanitarian exemptions:

1. a standing exemption applying to all organisations and actors in a particular sector;
2. a standing exemption applying to humanitarian activities (accompanied by a definition of a such activities); or
3. an individual or case-by-case exemption applying to specific actors for activities within an area subject to sanctions.

International practice demonstrates the incorporation of activity-based and subject-based exemptions, either applied cumulatively ([see Annex 1 - eg. the United Kingdom](#)) or as separate exemptions to ensure the broadest possible scope ([see Annex 1 - eg. the United States](#)).

The Australian Government has included a proposal in its [Issues Paper](#) to this review proposing a subject-based exemption to the autonomous sanctions regime which would apply to: (a) international organisations with diplomatic status, for example, the International Red Cross or Red Crescent, or United Nations agencies; or (b) persons or entities accredited by the department under the Australian NGO Cooperation Program with whom the department has entered into a grant or partnership agreement. The subject-based exemption proposed by the Issues Paper is significantly narrower than accepted international practice. The concern is that such a limited subject-based exemption will frustrate the purpose of the humanitarian exemption by preventing financial institutions and local partners from providing necessary support to the humanitarian activities of covered organisations or accredited persons and entities.

The humanitarian exemption needs to extend beyond just the partners and organisations receiving funding from the Australian Government, who are considered ‘verified’ by departmental due diligence processes. To ensure practical efficacy, the exemption must extend to third parties, such as financial institutions, donors and local partners, who might not have active grantee or partnership agreements with the Australian Government, but nonetheless are critical for the provision of humanitarian assistance.

4.4 Implementing a humanitarian exemption

The Australian Government should work towards simplification of humanitarian exemptions and predictability for humanitarian actors, banks and companies involved in the mechanics of delivering aid. There are various ways in which a standing humanitarian exemption can be implemented. These approaches include issuing general licences (or permits)^{xii}, incorporating derogations into sanctions regulations and drafting sanctions regulations to include humanitarian carve-outs^{xiii}.

CARE Australia argues that permit systems for 'sanctionable conduct' should not be applied to humanitarian actors and their activities. Rather, a standing humanitarian exemption would mean that humanitarian activities undertaken by humanitarian actors fall outside the scope of 'sanctionable conduct' and are recognised exceptions to the bureaucratic processes required for other permissions where conduct is otherwise sanctionable.

Our comparative review of various jurisdictions suggests that international practice is adopting standing exemptions, implementing them through clearly defined legislative instruments and accompanying guidance. For example, the UK, US and EU have published detailed guidance which assists the clear and targeted implementation of humanitarian exemptions across jurisdictions^{xiv}. These measures ensure that both sanctioning authorities and humanitarian actors have certainty regarding the scope of humanitarian exemptions and that counter-terrorism and sanctions offence provisions still apply to conduct which fails to meet the criteria of the humanitarian exemptions. Standing humanitarian exemptions are the most straightforward solution, allowing relevant organisations to undertake covered humanitarian assistance without need for a separate permit or licence.

The ultimate method the Australian Government decides upon to introduce a humanitarian exemption to Australia's Autonomous sanctions regime must reduce the administrative burden, risk and uncertainty for humanitarian actors. In the absence of a clear-cut standing exemption, the Australian Autonomous sanctions regime might benefit from having mechanisms embedded to allow DFAT to pause, manage or alter sanctions as necessary in order to respond to humanitarian crises. CARE Australia recommends that DFAT collaborate with Australian humanitarian organisations in developing and issuing a formal guidance note that will provide practical direction on how to comply with Australia's autonomous sanctions when providing humanitarian assistance.

5. Operational realities in Afghanistan - A case study

The capacity of CARE to operate in Afghanistan has been severely curtailed by the December 24 2022 decision of the de facto authorities to ban women from working for NGOs in the country. Whilst some of our work has resumed with bans lifted for the health and nutrition sectors, further approvals for women to work in additional sectors are still sought. Without women working in our teams we are unable to reach the millions of children, women and men in need of our assistance. International sanctions create an additional layer of operational complexity for humanitarian frontliners in Afghanistan (and other contexts).

CARE notes that our ability to operate in Afghanistan was greatly improved, along with our peer agencies, with the adoption of the humanitarian exemption included in UNSCR 2615^{xv}. This followed a period of high uncertainty for the humanitarian sector following the Taliban takeover of the country and its institutions and the impact of both UN and autonomous sanctions. This uncertainty remains with some donors freezing support to humanitarian partners, with others continuing support in line with emerging humanitarian exemption practice^{xvi}. For instance, while Australia has not yet amended the Taliban Regulation to reflect the humanitarian exemption, it is implementing the exemption immediately relying on section 2B of the UN Charter Act^{xvii}.

Despite the collapse of the financial and banking sector in Afghanistan, with the humanitarian exemption in place, funds are able to be transferred via correspondent banks to support programming in-country. UNSCR 2615 on Afghanistan can be seen as a precursor to the broader humanitarian exemptions outlined under UNSCR 2664^{xviii}. As per UNSCR 2664, "the timely delivery of humanitarian assistance or to support other activities that support basic human needs", are permitted and covered by the overarching humanitarian exemption. This allows humanitarian actors to not only address immediate humanitarian needs but also to tackle the root causes as well as reduce the overall humanitarian caseload. Broad activity-based exemptions, which extend the traditional understanding of humanitarian assistance to other forms of assistance required to meet emergency needs, ensure that organisations can continue to implement the full range of activities and programs required. This also ensures that private actors required to support these activities are not excluded from the scope of humanitarian exemptions. For example, the activity-based

exemption in UNSC Resolution 2664 explicitly references the use of funding, financial assets and economic resources as being linked to the delivery of humanitarian assistance.^{xix}

This is important in the context of Afghanistan where the Taliban as the de facto authorities exercise effective control over the entire country and its institutions of state. Administrative and operational realities dictate that, for instance, effective Memorandums of Understanding (MoUs) and payment of withholding tax must be concluded or entered into with relevant line ministries.

The Australian Government should avoid adding additional and complex regulatory requirements when considering the development of an overarching framework to support humanitarian exemptions under both the UN and its own autonomous sanctions. The associated regulatory framework and donor risk management processes should be broad-based enough to ensure that necessary and ordinarily incident costs such as administrative fees and taxes are covered^{xx}. Further, the Australian Government should issue guidance on sanctions to its humanitarian partners which raise awareness of the exemption under UNSCR 2664 and similarly clarify its scope and application, including under its own Autonomous sanctions regime.

6. Conclusion and recommendations

Contextual complexities mirror the number of fragile contexts in which we work. No legislative or regulatory amendment will account for all the scenarios that humanitarians navigate in the delivery of aid.

A clear and unequivocal humanitarian exemption will provide the consistency in language and terminology used in grant agreements to allow for adequate legal protection for humanitarians to get on with the job. This will provide a framework by which humanitarian action can continue to provide crucial humanitarian assistance in areas subject to sanctions or in which designated entities operate.

DFAT as both donor and manager of Australia's sanctions regime should outline a due diligence and risk mitigation process, which is not too burdensome so as to become yet another impediment to the timely and efficient delivery of humanitarian assistance. The current case-by-case approach to humanitarian exemptions deprives vulnerable populations of the timely aid they are entitled to. Together with ANGOs and the humanitarian community, DFAT can strike a balance between sanctions compliance and unencumbered humanitarian delivery. Without doing so we will be unable to deliver lifesaving programmes, with vulnerable people bearing the true cost of sanctions regimes rather than their intended targets.

An important policy consideration in reforming the autonomous sanctions framework is to ensure uniformity with the UN sanctions regimes as they are implemented in Australia^{xxi}. CARE Australia urges DFAT to develop a specific humanitarian exemption that can align practice across both the UN and Autonomous sanctions regimes, to achieve clarity for humanitarian actors. The following recommendations outline how this can be achieved:

A formal humanitarian exemption should be enacted under relevant legislation including in the high-level machinery provisions of the Autonomous Sanctions Act 2011 and:

- reflect the strong universal standard set for all UN member states in UNSCR 2664 which establishes a standing humanitarian exemption in the context of all UN sanctions regimes;
- should clearly cover all humanitarian activities ordinarily carried out under humanitarian response plans (HRPs) and other UN coordinated appeals such as flash appeals or specific refugee response plans, as well as other activities that support basic human needs, such as support to the delivery of basic services normally carried out by host State, local authorities, or communities.

The associated overarching regulatory instruments and processes required for this humanitarian exemption should:

- enhance administrative, legal and procedural clarity and predictability through harmonisation of definitions and processes across Australian Government entities;

- outline a broad activity-based exemption across all Autonomous sanctions to be consistent with international practice;
- apply to a broader range of identified organisations and actors, reflecting the approach adopted in UNSCR 2664;
- institute a specific fast-track procedure for validation of the humanitarian exemption in sanctioned jurisdictions for broadly-defined humanitarian programmes;
- waive the indicative assessment process under PAX for exempt humanitarian organisations;
- be clearly communicated to the Australian commercial banking sector and to AUSTRAC for inclusion in their guidance to financial institutions.

In order to minimise the impact of sanctions on humanitarian organisations, DFAT in its donor and aid administration function should:

- formalise concurrent risk management principles and processes for grant holders, taking into account humanitarian exemptions to enhance effectiveness and efficiency in ongoing humanitarian operations;
- regularly assess and report on the impact of current sanctions on humanitarian organisations, in addition to those that are newly imposed;
- collaborate with Australian humanitarian organisations to develop and issue a guidance note providing practical direction on how to comply with Australian autonomous sanctions when providing humanitarian aid.



CARE Australia supports women around the globe to save lives, defeat poverty and achieve social justice. We work in partnership with local communities to provide equal opportunities for women that they have long been denied: the ability to earn an income, gain access to their fair share of resources, to lead and participate in decisions that affect their lives, and to be able to withstand the increasing impacts of climate disasters and other crises. As CARE Australia, we have built strong, long-term relationships with partners who work in their own communities in the South-East Asia and Pacific regions and we know that this is where we can be most effective. CARE Australia manages all programs and activities of the CARE International confederation in Cambodia, Laos, Myanmar, Papua New Guinea, Timor-Leste, Vanuatu and Vietnam. In addition, CARE Australia undertakes development assistance and disaster response activities in partnership with local organisations in Tuvalu, Kiribati, Fiji, Solomon Islands, Tonga and Samoa.

Submitted on 24 February 2023 to the Australian Sanctions Office (DFAT).

Annex 1 - Comparative analysis of various sanctions regimes which apply a humanitarian exemption

Comparative analysis of international practice implementing humanitarian-exemptions to sanctions regimes				
Country / organisation	Type of exemption	Source of exemption	Text of exemption	
1	United Nations Security Council	Activity-based and subject-based	UNSC Resolution 2664 (9 Dec 2022)	<p>Acting under Chapter VII of the Charter of the United Nations,</p> <p>1. Decides that without prejudice to the obligations imposed on Member States to freeze the funds and other financial assets or economic resources of individuals, groups, undertakings, and entities designated by this Council or its Sanctions Committees, 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 [activity-based] by the United Nations, including its Programmes, Funds and Other Entities and Bodies, as well as its Specialized Agencies and Related Organizations, international organizations, humanitarian organizations having observer status with the United Nations General Assembly and members of those humanitarian organizations, or bilaterally or multilaterally funded non-governmental organizations participating in the United Nations Humanitarian Response Plans, Refugee Response Plans, other United Nations appeals, or OCHA-coordinated humanitarian "clusters," or their employees, grantees, subsidiaries, or implementing partners while and to the extent that they are acting in those capacities, or by appropriate others as added by any individual Committees established by this Council within and with respect to their respective mandates, [subject-based] are permitted and are not a violation of the asset freezes imposed by this Council or its Sanctions Committees;</p>
2	United States	Activity-based	Federal Register (vol 87, no 224) 78484 (21 Dec 2022)	<p>SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is amending its regulations in multiple sanctions programs to add general licenses authorizing certain transactions of nongovernmental organizations and certain transactions related to the provision of agricultural commodities, medicine, medical devices, replacement parts and components, or software updates.</p> <p>DATES: This rule is effective December 21, 2022.</p> <p><i>[The following activity-based exemptions amend the Narcotics Trafficking Sanctions Regulations, Weapons of Mass Destruction Trade Control Regulations, Weapons of Mass Destruction Proliferators Sanctions Regulations, Cyber-related Sanctions Regulations, Foreign Interference in US Elections Sanctions Regulations, Global Magnitsky Sanctions Regulations, Magnitsky Act Sanctions Regulations, Transnational Criminal Organisations Sanctions Regulations, Global Terrorism Sanctions Regulations, Foreign Terrorist Organisations Sanctions Regulations, Foreign Narcotics Kingpin Sanctions Regulations, Illicit Drug Trade Sanctions Regulations, and the Sanctions Regulations separately applied to Zimbabwe, Darfur, Democratic Republic of the Congo, Belarus, Lebanon, Somalia, Yemen, Central African Republic, Mali, South Sudan, Iran, Syria, Libya, Iraq, Nicaragua, Hong Kong and the Western Balkans.]</i></p> <p>(a) Except as provided in paragraph (c) of this section, all transactions prohibited by this part that are ordinarily incident and necessary to the activities described in paragraph (b) of this section by a nongovernmental organization are authorized, provided that the nongovernmental organization is not a specially designated narcotics trafficker.</p> <p>(b) The activities referenced in paragraph (a) of this section are non-commercial activities designed to directly benefit the civilian population that fall into one of the following categories:</p> <ol style="list-style-type: none"> (1) Activities to support humanitarian projects to meet basic human needs, including disaster, drought, or flood relief; food, nutrition, or medicine distribution; the provision of health services; assistance for vulnerable or displaced populations, including individuals with disabilities and the elderly; and environmental programs; (2) Activities to support democracy building, including activities to support rule of law, citizen participation, government accountability and transparency, human rights and fundamental freedoms, access to information, and civil society development projects; (3) Activities to support education, including combating illiteracy, increasing access to education, international exchanges, and assisting education reform projects; (4) Activities to support non-commercial development projects directly benefiting civilians, including those related to health, food security, and water and sanitation; (5) Activities to support environmental and natural resource protection, including the preservation and protection of threatened or endangered species, responsible and transparent management of natural resources, and the remediation of pollution or other environmental damage; and (6) Activities to support disarmament, demobilization, and reintegration (DDR) programs and peacebuilding, conflict prevention, and conflict resolution programs.
3	United States	Subject-based	Federal Register (vol 87, no 224) 78470 (21 Dec 2022)	<p>SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is amending its regulations in multiple sanctions programs to add, amend, or update general licenses authorizing official business of the United States government and official business of certain international organizations and entities, and update an interpretation explaining that the property and interests in property of an entity are blocked if one or more blocked persons own, whether individually or in the aggregate, directly or indirectly, a 50 percent or greater interest in the entity. Additionally, OFAC is updating the authority citation of several CFR parts to consolidate or shorten citations to conform to Federal Register requirements.</p> <p>DATES: This rule is effective December 21, 2022.</p> <p><i>[The following subject-based exemptions amend the North Korea, Zimbabwe, Syria, Belarus, Mali, Iran, Iraq, Nicaragua, Hong Kong, Narcotics Trafficking Sanctions Regulations, Weapons of Mass Destruction Trade Control Regulations, Foreign Interference in US Elections, Global Magnitsky</i></p>

Comparative analysis of international practice implementing humanitarian-exemptions to sanctions regimes

Country / organisation	Type of exemption	Source of exemption	Text of exemption
			<p><i>Sanctions Regulations, Magnitsky Act Regulations, Global Terrorism Sanctions Regulations, Terrorism List Government Sanctions Regulations, Foreign Terrorist Organisations Sanctions regulations and Foreign Narcotics Kingpin Sanctions Regulations.]</i></p> <p>All transactions prohibited by this part that are for the conduct of the official business of the following entities by employees, grantees, or contractors thereof are authorized:</p> <ul style="list-style-type: none"> (a) The United Nations, including its Programmes, Funds, and Other Entities and Bodies, as well as its Specialized Agencies and Related Organizations; (b) The International Centre for Settlement of Investment Disputes (ICSID) and the Multilateral Investment Guarantee Agency (MIGA); (c) The African Development Bank Group, the Asian Development Bank, the European Bank for Reconstruction and Development, and the InterAmerican Development Bank Group (IDB Group), including any fund entity administered or established by any of the foregoing; (d) The International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies; and (e) The Global Fund to Fight AIDS, Tuberculosis, and Malaria, and Gavi, the Vaccine Alliance. <p>Burma Sanctions Regulations – all of the above actors and:</p> <ul style="list-style-type: none"> (e) International Development Law Organization (IDLO); (f) The Association of Southeast Asian Nations (ASEAN); (g) The Colombo Plan; (h) The Consultative Group on International Agricultural Research (CGIAR) System Organization and the International Agricultural Research Centers supported by the CGIAR; (i) The Extractive Industries Transparency Initiative (EITI); <p>Darfur, Somalia, South Sudan Sanctions Regulations – all of the above actors and (5) The Intergovernmental Authority on Development (IGAD);</p> <p>DRC Sanctions Regulations – all of the above actors and (e) The Extractive Industries Transparency Initiative (EITI)</p> <p>Lebanon, Yemen, Syria Sanctions Regulations – all of the above actors and (5) The Arab Monetary Fund and the Islamic Development Bank</p> <p>Somalia Sanctions Regulations – all of the above and (f) The Intergovernmental Authority on Development (IGAD).</p> <p>Venezuela Sanctions Regulations</p> <p>All transactions prohibited by Executive Order (E.O.) 13850, as amended by E.O. 13857 of January 25, 2019, involving Banco Central de Venezuela, or E.O. 13884 involving the Government of Venezuela, that are for the conduct of the official business of the following entities by employees, grantees, or contractors thereof are authorized:</p> <ul style="list-style-type: none"> (a) Corporación Andina de Fomento (CAF) (b) Fondo Latinoamericano de Reservas (c) Inter-American Development Bank (d) International Committee of the Red Cross (e) International Federation of the Red Cross and Red Crescent Societies (f) Organization of American States, and its specialized organizations, other autonomous and decentralized organs, agencies, entities, and dependencies (g) The World Bank Group (also referred to as the World Bank), including the International Bank for Reconstruction and Development (IBRD), International Development Association (IDA), International Finance Corporation (IFC), Multilateral Investment Guarantee Agency (MIGA), and International Centre for Settlement of Investment Disputes (ICSID)

Comparative analysis of international practice implementing humanitarian-exemptions to sanctions regimes			
Country / organisation	Type of exemption	Source of exemption	Text of exemption
			<p>(h) United Nations, including its Programmes and Funds, and its Specialized Agencies and Related Organizations, including those entities specifically listed separately below:</p> <ul style="list-style-type: none"> (1) IMF (International Monetary Fund) (2) FAO (UN Food and Agriculture Organization) (3) IOM (International Organization for Migration) (4) OCHA (UN Office for the Coordination of Humanitarian Affairs) (5) OHCHR (UN Office of the United Nations High Commissioner for Human Rights) (6) UN Habitat (7) UNDP (UN Development Program) (8) UNFPA (UN Population Fund) (9) UNHCR (Office of the UN High Commissioner for Refugees) (10) UNICEF (UN Children's Fund) (11) WFP (World Food Program) (12) The World Health Organization (WHO), including the Pan-American Health Organization (PAHO)
4	United Kingdom	Activity-based Subject-based	<p>Sanctions (Humanitarian Exception) (Amendment) Regulations 2023 (entry into force 9 Feb 2023)</p> <p><i>[The following exemptions amend the Sanctions Regulations applicable to North Korea, DRC, South Sudan, Iran, ISIL and Al-Qaida, CAR, Lebanon, Somalia, Mali, Iraq, Sudan, Yemen, Libya and Haiti]</i></p> <p>(1) The prohibitions in regulations 13 to 17 (asset-freeze etc.) are not contravened by a person ("P") carrying out a relevant activity which is necessary— [activity-based]</p> <ul style="list-style-type: none"> (a) to ensure the timely delivery of humanitarian assistance, or (b) to support other activities that support basic human needs, <p>where Conditions A and B are met.</p> <p>(2) Condition A is that the humanitarian assistance or other activities mentioned in paragraph (1) are carried out by— [subject-based]</p> <ul style="list-style-type: none"> (a) the United Nations, including its— <ul style="list-style-type: none"> (i) programmes and funds, (ii) other entities and bodies, and (iii) specialised agencies and related organisations, (b) international organisations, (c) humanitarian organisations having observer status with the United Nations General Assembly and members of those humanitarian organisations, (d) bilaterally or multilaterally funded non-governmental organisations participating in the United Nations Humanitarian Response Plans, Refugee Response Plans, other United Nations appeals, or humanitarian clusters coordinated by the United Nations Office for the Coordination of Humanitarian Affairs, (e) any grantee, subsidiary, or implementing partner of any organisation falling within sub-paragraphs (a) to (d) while and to the extent that they are acting in those capacities, (f) any other persons authorised by the Committee for the purposes of resolution 2664.

Comparative analysis of international practice implementing humanitarian-exemptions to sanctions regimes			
Country / organisation	Type of exemption	Source of exemption	Text of exemption
			<p>(3) Condition B is that P believes that carrying out the relevant activity is so necessary and there is no reasonable cause for P to suspect otherwise.</p> <p>(4) For the purposes of this regulation— “relevant activity” means any activity which would, in the absence of this regulation, contravene the prohibitions in regulations 13 to 17; “resolution 2664” means resolution 2664 (2022) adopted by the Security Council on 9th December 2022.”</p>
5	European Union	Activity-based Subject-based	<p>Council Decision (CFSP) 2023/338 of 14 February 2023 amending certain Council decisions and common positions concerning restrictive measures in order to insert provisions on a humanitarian exemption, ST/5294/2023/INIT</p> <p>[The below text amends the EU's sanctions regimes applicable to Somalia, CAR, Yemen, Haiti, Iraq and Lebanon.]</p> <p>Paragraphs X and X [of the relevant sanctions regime] shall not apply to the provision, processing or payment of funds, other financial assets or economic resources or to the provision of goods and services which are necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs where such assistance and other activities are carried out by: [activity-based]</p> <ul style="list-style-type: none"> (a) the United Nations, including its programmes, funds and other entities and bodies, as well as its specialised agencies and related organisations; (b) international organisations; (c) humanitarian organisations having observer status with the United Nations General Assembly and members of those humanitarian organisations; (d) bilaterally or multilaterally funded non-governmental organisations participating in the United Nations Humanitarian Response Plans, Refugee Response Plans, other United Nations appeals or humanitarian clusters coordinated by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA); (e) the employees, grantees, subsidiaries, or implementing partners of the entities mentioned in points (a) to (d) while and to the extent that they are acting in those capacities; or (f) appropriate other actors as determined by the Sanctions Committee.' [subject-based]

Comparative analysis of international practice implementing humanitarian-exemptions to sanctions regimes

Country / organisation	Type of exemption	Source of exemption	Text of exemption
6 United Nations Security Council	Activity-based and subject-based	UNSC Resolution 2664 (9 Dec 2022)	<p>Acting under Chapter VII of the Charter of the United Nations,</p> <p>1. Decides that without prejudice to the obligations imposed on Member States to freeze the funds and other financial assets or economic resources of individuals, groups, undertakings, and entities designated by this Council or its Sanctions Committees, 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 [activity-based] by the United Nations, including its Programmes, Funds and Other Entities and Bodies, as well as its Specialized Agencies and Related Organizations, international organizations, humanitarian organizations having observer status with the United Nations General Assembly and members of those humanitarian organizations, or bilaterally or multilaterally funded non-governmental organizations participating in the United Nations Humanitarian Response Plans, Refugee Response Plans, other United Nations appeals, or OCHA-coordinated humanitarian "clusters," or their employees, grantees, subsidiaries, or implementing partners while and to the extent that they are acting in those capacities, or by appropriate others as added by any individual Committees established by this Council within and with respect to their respective mandates, [subject-based] are permitted and are not a violation of the asset freezes imposed by this Council or its Sanctions Committees;</p>
7 United States	Activity-based	Federal Register (vol 87, no 224) 78484 (21 Dec 2022)	<p>SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is amending its regulations in multiple sanctions programs to add general licenses authorizing certain transactions of nongovernmental organizations and certain transactions related to the provision of agricultural commodities, medicine, medical devices, replacement parts and components, or software updates.</p> <p>DATES: This rule is effective December 21, 2022.</p> <p><i>[The following activity-based exemptions amend the Narcotics Trafficking Sanctions Regulations, Weapons of Mass Destruction Trade Control Regulations, Weapons of Mass Destruction Proliferators Sanctions Regulations, Cyber-related Sanctions Regulations, Foreign Interference in US Elections Sanctions Regulations, Global Magnitsky Sanctions Regulations, Magnitsky Act Sanctions Regulations, Transnational Criminal Organisations Sanctions Regulations, Global Terrorism Sanctions Regulations, Foreign Terrorist Organisations Sanctions Regulations, Foreign Narcotics Kingpin Sanctions Regulations, Illicit Drug Trade Sanctions Regulations, and the Sanctions Regulations separately applied to Zimbabwe, Darfur, Democratic Republic of the Congo, Belarus, Lebanon, Somalia, Yemen, Central African Republic, Mali, South Sudan, Iran, Syria, Libya, Iraq, Nicaragua, Hong Kong and the Western Balkans.]</i></p> <p>(a) Except as provided in paragraph (c) of this section, all transactions prohibited by this part that are ordinarily incident and necessary to the activities described in paragraph (b) of this section by a nongovernmental organization are authorized, provided that the nongovernmental organization is not a specially designated narcotics trafficker.</p> <p>(b) The activities referenced in paragraph (a) of this section are non-commercial activities designed to directly benefit the civilian population that fall into one of the following categories:</p> <ol style="list-style-type: none"> (1) Activities to support humanitarian projects to meet basic human needs, including disaster, drought, or flood relief; food, nutrition, or medicine distribution; the provision of health services; assistance for vulnerable or displaced populations, including individuals with disabilities and the elderly; and environmental programs; (2) Activities to support democracy building, including activities to support rule of law, citizen participation, government accountability and transparency, human rights and fundamental freedoms, access to information, and civil society development projects; (3) Activities to support education, including combating illiteracy, increasing access to education, international exchanges, and assisting education reform projects; (4) Activities to support non-commercial development projects directly benefiting civilians, including those related to health, food security, and water and sanitation; (5) Activities to support environmental and natural resource protection, including the preservation and protection of threatened or endangered species, responsible and transparent management of natural resources, and the remediation of pollution or other environmental damage; and (6) Activities to support disarmament, demobilization, and reintegration (DDR) programs and peacebuilding, conflict prevention, and conflict resolution programs.
8 United States	Subject-based	Federal Register (vol 87, no 224) 78470 (21 Dec 2022)	<p>SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is amending its regulations in multiple sanctions programs to add, amend, or update general licenses authorizing official business of the United States government and official business of certain international organizations and entities, and update an interpretation explaining that the property and interests in property of an entity are blocked if one or more blocked persons own, whether individually or in the aggregate, directly or indirectly, a 50 percent or greater interest in the entity. Additionally, OFAC is updating the authority citation of several CFR parts to consolidate or shorten citations to conform to Federal Register requirements.</p> <p>DATES: This rule is effective December 21, 2022.</p> <p><i>[The following subject-based exemptions amend the North Korea, Zimbabwe, Syria, Belarus, Mali, Iran, Iraq, Nicaragua, Hong Kong, Narcotics Trafficking Sanctions Regulations, Weapons of Mass Destruction Trade Control Regulations, Foreign Interference in US Elections, Global Magnitsky</i></p>

Comparative analysis of international practice implementing humanitarian-exemptions to sanctions regimes

Country / organisation	Type of exemption	Source of exemption	Text of exemption
			<p><i>Sanctions Regulations, Magnitsky Act Regulations, Global Terrorism Sanctions Regulations, Terrorism List Government Sanctions Regulations, Foreign Terrorist Organisations Sanctions regulations and Foreign Narcotics Kingpin Sanctions Regulations.]</i></p> <p>All transactions prohibited by this part that are for the conduct of the official business of the following entities by employees, grantees, or contractors thereof are authorized:</p> <p>(a) The United Nations, including its Programmes, Funds, and Other Entities and Bodies, as well as its Specialized Agencies and Related Organizations;</p> <p>(b) The International Centre for Settlement of Investment Disputes (ICSID) and the Multilateral Investment Guarantee Agency (MIGA);</p> <p>(c) The African Development Bank Group, the Asian Development Bank, the European Bank for Reconstruction and Development, and the InterAmerican Development Bank Group (IDB Group), including any fund entity administered or established by any of the foregoing;</p> <p>(d) The International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies; and</p> <p>(e) The Global Fund to Fight AIDS, Tuberculosis, and Malaria, and Gavi, the Vaccine Alliance.</p> <p>Burma Sanctions Regulations – all of the above actors and:</p> <p>(e) International Development Law Organization (IDLO);</p> <p>(f) The Association of Southeast Asian Nations (ASEAN);</p> <p>(g) The Colombo Plan;</p> <p>(h) The Consultative Group on International Agricultural Research (CGIAR) System Organization and the International Agricultural Research Centers supported by the CGIAR;</p> <p>(i) The Extractive Industries Transparency Initiative (EITI);</p> <p>Darfur, Somalia, South Sudan Sanctions Regulations – all of the above actors and (5) The Intergovernmental Authority on Development (IGAD);</p> <p>DRC Sanctions Regulations – all of the above actors and (e) The Extractive Industries Transparency Initiative (EITI)</p> <p>Lebanon, Yemen, Syria Sanctions Regulations – all of the above actors and (5) The Arab Monetary Fund and the Islamic Development Bank</p> <p>Somalia Sanctions Regulations – all of the above and (f) The Intergovernmental Authority on Development (IGAD).</p> <p>Venezuela Sanctions Regulations</p> <p>All transactions prohibited by Executive Order (E.O.) 13850, as amended by E.O. 13857 of January 25, 2019, involving Banco Central de Venezuela, or E.O. 13884 involving the Government of Venezuela, that are for the conduct of the official business of the following entities by employees, grantees, or contractors thereof are authorized:</p> <p>(a) Corporación Andina de Fomento (CAF)</p> <p>(b) Fondo Latinoamericano de Reservas</p> <p>(c) Inter-American Development Bank</p> <p>(d) International Committee of the Red Cross</p> <p>(e) International Federation of the Red Cross and Red Crescent Societies</p> <p>(f) Organization of American States, and its specialized organizations, other autonomous and decentralized organs, agencies, entities, and dependencies</p> <p>(g) The World Bank Group (also referred to as the World Bank), including the International Bank for Reconstruction and Development (IBRD), International Development Association (IDA), International Finance Corporation (IFC), Multilateral Investment Guarantee Agency (MIGA), and International Centre for Settlement of Investment Disputes (ICSID)</p>

Comparative analysis of international practice implementing humanitarian-exemptions to sanctions regimes			
Country / organisation	Type of exemption	Source of exemption	Text of exemption
			<p>(h) United Nations, including its Programmes and Funds, and its Specialized Agencies and Related Organizations, including those entities specifically listed separately below:</p> <ul style="list-style-type: none"> (1) IMF (International Monetary Fund) (2) FAO (UN Food and Agriculture Organization) (3) IOM (International Organization for Migration) (4) OCHA (UN Office for the Coordination of Humanitarian Affairs) (5) OHCHR (UN Office of the United Nations High Commissioner for Human Rights) (6) UN Habitat (7) UNDP (UN Development Program) (8) UNFPA (UN Population Fund) (9) UNHCR (Office of the UN High Commissioner for Refugees) (10) UNICEF (UN Children's Fund) (11) WFP (World Food Program) (12) The World Health Organization (WHO), including the Pan-American Health Organization (PAHO)
9	United Kingdom Activity-based Subject-based	Sanctions (Humanitarian Exception) (Amendment) Regulations 2023 (entry into force 9 Feb 2023)	<p>[The following exemptions amend the Sanctions Regulations applicable to North Korea, DRC, South Sudan, Iran, ISIL and Al-Qaida, CAR, Lebanon, Somalia, Mali, Iraq, Sudan, Yemen, Libya and Haiti]</p> <p>(1) The prohibitions in regulations 13 to 17 (asset-freeze etc.) are not contravened by a person ("P") carrying out a relevant activity which is necessary— [activity-based]</p> <ul style="list-style-type: none"> (a) to ensure the timely delivery of humanitarian assistance, or (b) to support other activities that support basic human needs, <p>where Conditions A and B are met.</p> <p>(2) Condition A is that the humanitarian assistance or other activities mentioned in paragraph (1) are carried out by— [subject-based]</p> <ul style="list-style-type: none"> (a) the United Nations, including its— <ul style="list-style-type: none"> (i) programmes and funds, (ii) other entities and bodies, and (iii) specialised agencies and related organisations, (b) international organisations, (c) humanitarian organisations having observer status with the United Nations General Assembly and members of those humanitarian organisations, (d) bilaterally or multilaterally funded non-governmental organisations participating in the United Nations Humanitarian Response Plans, Refugee Response Plans, other United Nations appeals, or humanitarian clusters coordinated by the United Nations Office for the Coordination of Humanitarian Affairs, (e) any grantee, subsidiary, or implementing partner of any organisation falling within sub-paragraphs (a) to (d) while and to the extent that they are acting in those capacities, (f) any other persons authorised by the Committee for the purposes of resolution 2664.

Comparative analysis of international practice implementing humanitarian-exemptions to sanctions regimes			
Country / organisation	Type of exemption	Source of exemption	Text of exemption
			<p>(3) Condition B is that P believes that carrying out the relevant activity is so necessary and there is no reasonable cause for P to suspect otherwise.</p> <p>(4) For the purposes of this regulation— “relevant activity” means any activity which would, in the absence of this regulation, contravene the prohibitions in regulations 13 to 17; “resolution 2664” means resolution 2664 (2022) adopted by the Security Council on 9th December 2022.”</p>
10	European Union	Activity-based Subject-based	<p>Council Decision (CFSP) 2023/338 of 14 February 2023 amending certain Council decisions and common positions concerning restrictive measures in order to insert provisions on a humanitarian exemption, ST/5294/2023/INIT</p> <p>[The below text amends the EU's sanctions regimes applicable to Somalia, CAR, Yemen, Haiti, Iraq and Lebanon.]</p> <p>Paragraphs X and X [of the relevant sanctions regime] shall not apply to the provision, processing or payment of funds, other financial assets or economic resources or to the provision of goods and services which are necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs where such assistance and other activities are carried out by: [activity-based]</p> <ul style="list-style-type: none"> (g) the United Nations, including its programmes, funds and other entities and bodies, as well as its specialised agencies and related organisations; (h) international organisations; (i) humanitarian organisations having observer status with the United Nations General Assembly and members of those humanitarian organisations; (j) bilaterally or multilaterally funded non-governmental organisations participating in the United Nations Humanitarian Response Plans, Refugee Response Plans, other United Nations appeals or humanitarian clusters coordinated by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA); (k) the employees, grantees, subsidiaries, or implementing partners of the entities mentioned in points (a) to (d) while and to the extent that they are acting in those capacities; or (l) appropriate other actors as determined by the Sanctions Committee.' [subject-based]

NOTES

ⁱ <https://www.care-international.org/our-work/where-we-work>

ⁱⁱ <http://unscr.com/en/resolutions/doc/2664>

ⁱⁱⁱ <https://www.chathamhouse.org/2022/12/humanitarian-exceptions-turning-point-un-sanctions>

^{iv} For instance, three days after the onset of the earthquakes on 6 February 2023, the US Treasury issued the 'Syria General License 23', which effectively placed a 180-day pause on US sanctions against Syria for all transactions related to earthquake relief. See US Department of the Treasury, 'Treasury Issues Syria General Licences 23 to Aid in Earthquake Disaster Relief Efforts' (Press Release, 9 February 2023) <<https://home.treasury.gov/news/press-releases/jy1261>>.

^v Australia implements both UNSC sanctions and autonomous sanctions against Syria. Humanitarian actors operating in these areas will now be exempt from sanctions regimes by the adoption of UNSC Resolution 2664 under section 2B of the Charter of the United Nations Act 1945 (Cth) but only in relation to transactions, dealings and other activities captured by legislation enacting UNSC sanctions. For example, financial or investment services that might otherwise be contrary to the UNSC sanctions regimes will be permitted by the humanitarian exemption where they provide funds to support humanitarian activities. However, the same financial services will be prohibited by the relevant autonomous sanctions regulation, as they are not covered by the UNSC (or presently any other) humanitarian exemption. Humanitarian actors may therefore be exempt under one regulation but risk penalties for contravening another regulation for seeking to deliver the same humanitarian activity in the same geographical region. This result is absurd and undermines humanitarian actors' ability to deliver humanitarian assistance without uncertainty and fear of falling foul of offence provisions related to sanctions regimes.

^{vi} UNSCR 1267 sanctions 89 entities that are active in at least 50 countries. Of these 50 countries, 25 are affected by a humanitarian crisis, including Pakistan, Afghanistan, Iraq, Syria, Libya, Mali, Yemen, Nigeria. Most of the proscribed entities control territories where vulnerable populations are living and where humanitarian INGOs and our local partners are operating. See Private Briefing Paper on Humanitarian Carve-out Across UN Sanction Regimes. November 21 2022.

^{vii} <https://www.interaction.org/wp-content/uploads/2021/04/Detrimental-Impacts-CT-Measures-Humanitarian-Action-InterAction-April-2021.pdf>

^{viii} See, e.g., OFAC 'Risk Matrix for Charities Disbursing Funds or Resources to Grantees'

https://home.treasury.gov/system/files/126/charity_risk_matrix.pdf; and OFAC FAQ 884 'Do non-U.S. persons, including nongovernmental organisations (NGOs) and foreign financial institutions, risk exposure to U.S. secondary sanctions pursuant to the Caesar Syria Civilian Protection Act of 2019 (Caesar Act) for activities that would be authorised under the Syrian Sanctions Regulations (SySR)?' <https://home.treasury.gov/policy-issues/financial-sanctions/faqs/884>.

^{ix} <https://www.dfat.gov.au/sites/default/files/accreditation-guidance-manual-final.pdf>

^x https://finance.ec.europa.eu/system/files/2022-04/eu-restrictive-measures-humanitarian-derogations-factsheet_en.pdf

^{xi} Katie King, Naz K Modirzadeh and Dustin A Lewis, 'Understanding Humanitarian Exemptions: UN Security Council Sanctions and Principled Humanitarian Action' (Harvard Law School Program on International Law on International Law and Armed Conflict Counterterrorism and Humanitarian Engagement Project, 2016) 8

<https://dash.harvard.edu/bitstream/handle/1/29998395/Understanding_Humanitarian_Exemptions_April_2016.pdf?sequence=1>

^{xii} See <https://www.gov.uk/guidance/licences-that-allow-activity-prohibited-by-financial-sanctions> in addition to US sources.

^{xiii} See <https://www.skadden.com/insights/publications/2022/08/eu-and-uk-adopt-further-sanctions>

^{xiv} See GOV.UK 'Guidance – UK sanctions' <https://www.gov.uk/guidance/uk-sanctions>; US Department of the Treasury, 'Guidance for Non-Governmental Organizations (NGO)/Non-Profit Organizations' <https://home.treasury.gov/guidance-for-non-governmental-organizations-ngonon-profit-organizations>; European Commission, 'Humanitarian assistance in environments subject to EU sanctions' https://finance.ec.europa.eu/eu-and-world/sanctions-restrictive-measures/humanitarian-assistance-environments-subject-eu-sanctions_en.

^{xv} See Private Briefing Paper on Humanitarian Carve-out Across UN Sanction Regimes. November 21 2022.

^{xvi} Ten humanitarian organisations have made submissions to Canada's special parliamentary committee on Afghanistan criticising the failure to amend the Canadian law to reflect the humanitarian exemption established by the UNSC. See "Aid shipment to Afghanistan cancelled due to Canadian anti-terrorist law", CBC (online, 10 August 2022)

<<https://www.cbc.ca/news/politics/afghanistan-aid-shipment-canada-taliban-rule-anti-terrorist-law-1.6547686>>.

^{xvii} See DFAT "snapshot The Taliban Sanctions Regime" <<https://www.dfat.gov.au/sites/default/files/sanctions-snapshot-taliban.pdf>>

^{xviii} <https://www.chathamhouse.org/2022/12/humanitarian-exceptions-turning-point-un-sanctions>

^{xix} Domestic sanctions regimes are increasingly following the UNSC's example and adopting the "humanitarian plus" model of broad activity-based exemptions. For example, the UK Sanctions (Humanitarian Exception) (Amendment) Regulations 2023 came into force on 9 February 2023 and have introduced an activity-based exemption to its autonomous sanctions regime to cover "carrying out a relevant activity which is necessary (a) to ensure the timely delivery of humanitarian assistance, or (b) to support other activities that support basic human needs". The Sanctions (Humanitarian Exception) (Amendment) Regulations 2023 s 2.

^{xx} In addition to all transfers and services that are necessary and ordinarily incident to the main covered activities, including the processing of funds, insurance and transportation services. See Private Briefing Paper on Humanitarian Carve-out Across UN Sanction Regimes. November 21 2022.

^{xxi} The UK considered the importance of a uniform humanitarian exemption in the Explanatory Memorandum to its Sanctions (Humanitarian Exception) (Amendment) Regulations 2023, stating: "It is important to ensure that humanitarian activities and other activities that support basic human needs can continue, but humanitarian providers encountered difficulty navigating the individual provisions of different UN sanctions regimes. Feedback from humanitarian providers was that a standardised exception would provide clarity, improve risk analysis and reduce barriers to services such as financial services, particularly for those operating in high-risk jurisdictions." See Explanatory Memorandum [7.2]

https://www.legislation.gov.uk/uksi/2023/121/pdfs/uksiem_20230121_en.pdf