



**Save the Children**



AUSTRALIAN  
COUNCIL  
FOR  
INTERNATIONAL  
DEVELOPMENT

9 October 2025

**Parliamentary Joint Committee on  
Intelligence and Security  
Parliament House, Canberra 2600**

Dear PJCIS Committee members,

**URGENT: Humanitarian exemption reform opportunity**

We write as a matter of urgency regarding the upcoming inquiry into the *Criminal Code Amendment (State Sponsors of Terrorism) Bill 2025*.

While the amendment has been introduced today to list the Iranian Revolutionary Guard Corps as a terrorist entity, it presents a critical and time-sensitive opportunity to implement humanitarian exemptions that are essential to allow the Australian Government to effectively deliver against its humanitarian intent in complex, conflict contexts.

Australian non-governmental organisations (ANGOs) operate in challenging settings to provide urgent humanitarian assistance in accordance with internationally recognised principles of neutrality and impartiality. In doing so, ANGOs must navigate Australia's complex and interlinked counter-terrorism financing (CTF) and sanctions regimes, without adequate transparency and guidance.

ANGOs implement robust due diligence and risk mitigation processes for assessing and monitoring funds, and program delivery, with multiple ANGOs having received accreditation with the Australian Government's Australian NGO Cooperation Program (ANCP). Australia is out of step with other OECD nations who simultaneously uphold strong counter terrorism and sanctions regimes while also creating space for legitimate humanitarian aid to be delivered through the creation of a humanitarian exemption.

**Immediate Legislative Opportunity**

The introduction of amendments to the Criminal Code creates an ideal window to incorporate the humanitarian exemptions we have been proposing for some time and about which we have written to both the Attorney-General and the Minister for Foreign Affairs. Rather than requiring a separate legislative process, the humanitarian exemptions can be included alongside the other Criminal Code amendments. This would have a transformative impact on Australia's humanitarian program.

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## Summary of Required Reforms

Our proposal, which has been extensively socialised with the Government, calls for a uniform humanitarian exemption across Australia's sanctions and counter-terrorism financing regimes, consistent with UN Security Council Resolutions 2664 and 2761. Such exemptions are already in place in a number of like-minded countries including the United Kingdom, the United States, Canada and the European Union. We have attached to this letter a copy of legal advice provided by Corrs Chamber Wessgarth, which has been shared with the aforementioned Minister's offices and departments.

## Alignment with Government Commitments

This requested amendment aligns with:

- The Government's stated commitment to ensuring Australia's humanitarian intent is not impeded including through the recent Declaration for the Protection of Humanitarian Personnel led globally by the Minister for Foreign Affairs, Senator the Hon Penny Wong, which explicitly states:

*“Allow and facilitate access for humanitarian personnel and their assets, including appropriate security and communications equipment that enables humanitarian activities, in accordance with international law and taking into account domestic law. This includes streamlining bureaucratic and administrative processes that may unduly delay or impede the provision of humanitarian assistance, such as necessary and appropriate visa and customs clearances, and by implementing legal and practical measures, such as humanitarian exemptions to sanctions and counter-terrorism measures.”*

- Recommendation 5 of the *Inquiry into the review of the operation of the amendments made by the Autonomous Sanctions Amendment (Magnitsky-style and Other Thematic Sanctions) Act 2021* calling for exemptions "from all sanctions measures."
- Australia's obligation to implement UN Security Council Resolution 2664.

## Urgent Action Required

We urge you to ensure that the Committee actively considers the inclusion of humanitarian exemptions in the Criminal Code amendments currently before the Parliament. We also request that PJCIS works with the Government to ensure parallel amendments to the Charter Sanctions Regime and Autonomous Sanctions Regime are prepared as a package for immediate introduction. This would enable Australian funds to flow to complex contexts and increase the capacity to deliver high impact, lifesaving humanitarian work.

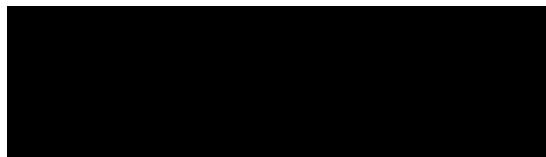
Humanitarian agencies understand the important role counter terrorism measures play in keeping communities safe. At the same time, a balance is required to allow principled and

exclusively humanitarian activities to be carried out in places where the civilian populations, including tens of thousands of children, suffer greatly. Obligations under international humanitarian law relating to impartial assistance and access must and can co-exist with counter terrorism protections with the implementation of clear humanitarian exemptions.

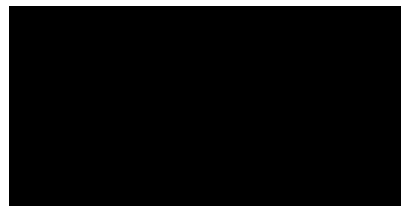
The pressing need for such exemptions has been identified over many years, with recent examples such as the earthquake in Afghanistan, among others, bringing focus to this urgency. The legislative framework exists, the international precedents are numerous, and the parliamentary opportunity is immediate.

We stand ready to provide evidence to this Committee on the need for this urgent reform, including providing examples of the humanitarian consequences of the lack of exemptions.

With regards,



**Matthew Maury, CEO  
Australian Council for International  
Development**



**Mat Tinkler, CEO  
Save the Children Australia**

# Reform proposal for a humanitarian exemption to Australia's sanctions and counter-terrorism financing regimes

## Executive summary

- 1 Australian non-governmental organisations (**ANGOs**) operate in challenging settings to provide urgent humanitarian assistance in accordance with internationally recognised principles of neutrality and impartiality. In doing so, ANGOs must navigate Australia's complex and interlinked counter-terrorism financing (**CTF**) and sanctions regimes, without adequate transparency and guidance.
- 2 ANGOs implement robust due diligence and risk mitigation processes for assessing and monitoring funds, and program delivery, with multiple ANGOs including Oxfam Australia, CARE Australia and Save the Children Australia having received accreditation with the Australian Government's Australian NGO Cooperation Program (**ANCP**). Despite this, the strict application of the CTF and sanctions regimes to the humanitarian sector under Australian law is impeding humanitarian intent and delivery. As discussed in this paper, this approach fails to keep pace with global developments.
- 3 The current implementation of Australia's sanctions and CTF regimes poses a number of risks and challenges to ANGOs, including:
  - a. liability risks for ANGOs' office bearers, whereby ANGO Board members and other office holders (who often undertake such positions on a voluntary basis) are exposed to individual criminal and civil liability, in the course of exercising their role consistently with the organisational purpose of delivering neutral and impartial humanitarian assistance;
  - b. liability risks for decision-makers within Government when approving humanitarian funding;
  - c. uncertainty and risk of unintended non-compliance with the conflicting and overlapping regimes which are difficult to navigate and have a chilling effect on principled humanitarian action;
  - d. limited defences and exemptions available in the event that humanitarian activities were to be undertaken and gave rise to a contravention of Australia's CTF and sanctions regimes; and
  - e. over-compliance and de-risking by partners, including funders and other entities such as financial institutions which are integral to the delivery of humanitarian assistance.
- 4 These challenges inhibit the timely provision of humanitarian aid by ANGOs and call for reform. The solution lies in the introduction of a standing and uniform humanitarian carve-out that will remove the risks associated with the conduct of principled humanitarian activities.
- 5 This solution has been endorsed by the United Nations (**UN**) Security Council (**UNSC**), which by Resolution 2664 of December 2022 mandated the implementation by UN Member States of a cross-cutting humanitarian exemption to asset freezes under the UN sanctions regimes (**UN humanitarian exemption**). The resolution protects qualifying humanitarian actors and their humanitarian activities from current and future financial prohibitions established by the UN

sanctions regimes. A number of Australia's peer jurisdictions, including the United States, United Kingdom, European Union and Canada, have by now implemented the UN humanitarian exemption in their domestic laws and some have extended its application to their autonomous sanctions and CTF regimes as well. Most recently, the Joint Standing Committee on Foreign Affairs, Defence and Trade recommended that the Australian Government include a standing exemption from all sanctions measures for legitimate humanitarian assistance.

- 6 ANGOs have been advocating to establish a humanitarian carve-out in Australian legislation with successive governments. However, the recent conflicts and humanitarian crises in Afghanistan, Syria and Gaza, among others, have brought renewed focus to the urgency for reform, as the current implementation of sanctions and CTF regulation has significantly limited ANGOs' funding and ability to respond.
- 7 This paper is a proposal for the implementation of the UN humanitarian exemption and its application to the Australian sanctions and CTF regimes to provide regulatory certainty for the work of ANGOs in responding to global humanitarian crises.
- 8 The paper proceeds as follows:
- a. **Part 1** explains the scope and application of the humanitarian exemption in Resolution 2664 adopted by the UNSC in December 2022 and extended by Resolution 2761 adopted in December 2024, and Australia's response to these Resolutions.
  - b. **Part 2** provides an overview of the challenges faced by ANGOs under the current legislative framework.
  - c. **Part 3** includes a reform proposal and sets out the principles that could inform the implementation of a humanitarian carve-out in the *Criminal Code Act 1995* (Cth) (**Criminal Code**), the *Charter of the United Nations Act 1945* (Cth) (**Charter Act**) and regulations made under the Charter Act (together, **Charter Sanctions regime**), and the *Autonomous Sanctions Act 2011* (Cth) (**Autonomous Sanctions Act**) and its implementing legislation (**Autonomous Sanctions regime**), having regard to solutions that have been implemented in certain peer jurisdictions.

## 1 Background to a humanitarian exemption

### 1.1 Resolution 2664 and Resolution 2761

- 9 In December 2022, the UNSC adopted Resolution 2664, which provides a cross-cutting humanitarian exemption to asset freezes under all UN sanctions regimes to safeguard the timely and effective conduct of humanitarian activities. The UN humanitarian exemption provides that any financial transactions or provision of resources and services necessary for the timely delivery of humanitarian assistance and other support to basic human needs by certain organisations 'are permitted and not a violation of the asset freeze' measures imposed by various UNSC sanctions regimes. The exemption was to apply for a period of two years to the 1267 counter-terrorism regime until 9 December 2024 unless extended following review and decision by the 1267 Sanctions Committee. On 6 December 2024, the UNSC unanimously adopted at its 9802<sup>nd</sup> meeting, Resolution 2761 extending the application of the humanitarian exemption to the 1267 counter-terrorism regime under Resolution 2664 indefinitely.<sup>1</sup>

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<sup>1</sup> *United Nations Security Council Resolution 2761 (2024)*, S/RES/2761. Resolution 2761 largely reiterates the language contained in Resolution 2664, but there are some subtle additions. There is greater emphasis on monitoring and reporting, and a new requirement that briefings by the emergency relief coordinator should also include information on 'the impact on beneficiaries of humanitarian activities' (at [3]). There is now a call for humanitarian actors to 'use reasonable efforts to *eliminate* or in any event minimize' the accrual of benefits to designated actors (at [4]), where under Resolution 2664 there was a call for humanitarian organisations to 'use reasonable efforts to minimize' the accrual of benefits.

- 10 The UN humanitarian exemption was a significant milestone in the application of UNSC sanctions and a shift in policy designed to enable the provision of humanitarian aid by introducing an unequivocal standing humanitarian carve-out for humanitarian actors and their activities.<sup>2</sup> However, the resolution did not resolve all obstacles faced by humanitarian organisations, as it requires implementation by UN Member States and does not apply directly in the context of the UN Member States' autonomous sanctions regimes and CTF legislation. It also does not (yet) apply permanently to the UN's CTF sanctions. Further, the resolution is limited in its application to the UN System organisations, humanitarian organisations having observer status with the UN General Assembly and their members, organisations participating in the UN Humanitarian Response Plans, Refugee Response Plans and other UN appeals, or OCHA-coordinated humanitarian clusters, as well as their employees, grantees, subsidiaries or implementing parties when acting in those capacities, which excludes other important humanitarian actors not falling within one of these categories.
- 11 Since Resolution 2664 was passed, the European Union (**EU**) and certain UN Member States, including the United Kingdom (**UK**), the United States (**US**) and Canada, have taken steps to implement the UN humanitarian exemption and adopt humanitarian carve-outs in their autonomous sanctions regimes and CTF legislation.

## 1.2 Australia's response

- 12 Australia is required to implement binding UNSC resolutions in domestic law under art 25 of the Charter of the United Nations.<sup>3</sup> The Department of Foreign Affairs and Trade (**DFAT**) has previously offered a limited acknowledgment of the direct application of UNSC decisions to Australian law by operation of section 2B of the Charter Act.<sup>4</sup> However, the UN humanitarian exemption has not been legislated in the Charter Sanctions regime, and it has no application in respect of Australia's domestic CTF measures (enacted in the Criminal Code) or the Autonomous Sanctions regime.
- 13 On 12 December 2024, the Australian Sanctions Office updated its Sanctions Compliance Toolkit, where it provided a case study about when it would be appropriate for a humanitarian organisation to apply for a sanctions permit:<sup>5</sup>

### **Case study: Humanitarian aid**

*A humanitarian organisation plans to deliver essential medical supplies and food aid to civilians in a war-torn country that is subject to sanctions. The intention of the activity is to alleviate human suffering and prevent a humanitarian crisis.*

*Despite thorough planning and strict sanctions compliance procedures, the activity attracts unavoidable risks. For example, despite the organisation's efforts to ensure that aid reaches the intended recipients, there is a possibility that the supplies might be diverted by local authorities or armed groups, thus inadvertently providing support to sanctioned persons or entities (**Activity A**).*

*For Activity A, as the organisation does not intend to provide supplies directly to sanctioned persons or entities, nor is there a clear likelihood of this occurring*

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<sup>2</sup> United Nations Security Council Resolution 2664 (2022), S/RES/2664 [1].

<sup>3</sup> United Nations, *Charter of the United Nations*, 1 UNTS XVI, 24 October 1945 ('**UN Charter**').

<sup>4</sup> Department of Foreign Affairs and Trade, 'The Taliban Sanctions Regime' (Web Page) <<https://www.dfat.gov.au/international-relations/security/sanctions/sanctions-regimes/Pages/the-taliban-sanctions-regime>>. Following passage of a standing humanitarian exemption in respect of sanctions imposed in Afghanistan against the Taliban (UNSC Resolution 2615), DFAT eventually published a disclaimer on its 'The Taliban sanctions regime' that: '[p]ending amendment of the Charter of the United Nations (Sanctions – the Taliban) Regulation 2013 to reflect the humanitarian exemption, Australia is implementing the exemption immediately relying on section 2B of the Charter of the United Nations Act 1945. Accordingly, assistance or activities covered by OP1 of resolution 2615 do not constitute an offence under Australian sanctions laws.'

<sup>5</sup> Australian Sanctions Office, 'Sanctions Compliance Toolkit' (Guidance Note, 12 December 2024) 17–18 <https://www.dfat.gov.au/sites/default/files/guidance-note-sanctions-compliance-toolkit.pdf>.

*unintentionally, a sanctions permit is not the appropriate tool to manage the compliance risk. Rather, the organisation must take reasonable precautions and exercise due diligence to avoid the risk of the supplies being diverted.*

*However, the same humanitarian organisation may be aware of a real risk of contravening sanctions as part of its plans to deliver aid. For example, in some conflict zones, access to affected civilian populations might be controlled by sanctioned groups or authorities. To deliver aid effectively, the organisation might need to negotiate or make concessions to these groups, which would result in a sanctions contravention. Additionally, the organisation might need to make payments or financial transactions to facilitate the purchase and delivery of essential supplies (**Activity B**).*

*In this example, the organisation may apply for a permit for Activity B, whilst also taking reasonable precautions and exercising due diligence to avoid unintentional contraventions resulting from Activity A.*

*For Activity B, in considering the permit application the Minister may conclude that a sanctions permit is ‘in the national interest’ because, amongst other considerations, the delivery of aid demonstrates Australia’s commitment to promoting regional stability and its ethical responsibility to address humanitarian crises.*

*The authorisations in any permit for Activity B are likely to be highly specific and may be subject to conditions. For example, the organisation may be authorised to only deliver a particular volume of a type of good to a specific location or end user. Any diversion of the supplies to an alternative and unauthorised end user may result in a contravention irrespective of the existence of the permit.*

- 14 The case study distinguishes between two sets of circumstances. Where there is a possibility of inadvertent supply to sanctioned persons or entities (for e.g. supplies may be diverted by local authorities or armed groups) but there is no intention to directly provide sanctioned supplies and no clear likelihood of the inadvertent supply occurring, reasonable precautions and due diligence are the most appropriate tool to manage the compliance risk. In contrast, where there is a ‘real risk’ of contravention because the delivery of aid required negotiation with or the making of concessions to sanctioned persons or entities, it is recommended that the organisation apply for a permit while also taking reasonable precautions and exercising due diligence to avoid unintentional contraventions.
- 15 The recommendation is helpful in that it recognises that demonstrating ‘Australia’s commitment to promoting regional stability and its ethical responsibility to address humanitarian crises’ may be in Australia’s interest even in circumstances that require negotiating or making concessions to sanctions entities or groups. However, given the consideration of permit applications takes a minimum of three months, the need to apply for a permit would likely hinder the provision of timely humanitarian assistance, especially during times of humanitarian crises.
- 16 In March 2025, the Joint Standing Committee on Foreign Affairs, Defence and Trade (the **Committee**) released recommendations from its inquiry into the *Autonomous Sanctions Amendment (Magnitsky-style and Other Thematic Sanctions) Act 2021*. As part of its report, the Committee recommended that the Australian Government, in consultation with the humanitarian sector, amend the Act to include a standing exemption from all sanctions measures for legitimate humanitarian assistance, consistent with Resolution 2664.<sup>6</sup>

**Recommendation 5:** *The Committee recommends that the Australian Government, in consultation with the humanitarian sector, amends the Autonomous Sanctions Act*

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<sup>6</sup> Joint Standing Committee on Foreign Affairs, Defence and Trade, Australia’s thematic sanctions framework: A legislated review of the operation of the Autonomous Sanctions Amendment (Magnitsky-style and other Thematic Sanctions) Act 2021 [1.72] at ix.

*2011 to provide a standing exemption from all sanctions measures for legitimate humanitarian assistance, consistent with the approach taken in United Nations Security Council Resolution 2664 (2022).*

17 In its support of this recommendation, the Committee stated it:<sup>7</sup>

*“is persuaded by the merits of a legislated carveout through which legitimate humanitarian organisations are permitted to operate without violating Australia’s sanctions regimes. The Committee does not consider sanctions permits to be an effective or efficient substitute for a standing exemption of this kind. The Committee also notes recent developments within the UNSC that establish a humanitarian exemption for all UNSC-imposed sanctions regimes. The Committee therefore recommends that the Australian Government, in consultation with the humanitarian sector, legislates a humanitarian exemption based on UNSC Resolution 2664.”*

18 It is important to emphasise that the Committee expressly noted that permits are neither effective nor efficient substitutes for a standing exemption and acknowledged the importance of allowing humanitarian organisations to operate without risking contravention of sanctions regimes.<sup>8</sup>

## 2 Problems and challenges faced by ANGOS

### 2.1 Australia’s CTF and Autonomous Sanctions regimes are falling behind international practice

19 The absence of a uniform humanitarian exemption across Australia’s sanctions and CTF regimes places Australia in misstep with its international peers. The UK, US, EU and Canada have all legislated humanitarian exemptions. For example, by the end of 2023, 27 of the EU’s 39 sanctions regimes at the time (giving effect to UN and autonomous sanctions) included a humanitarian carve-out based on the UN humanitarian exemption.<sup>9</sup> The UK, US and EU have also published detailed guidance which assists the clear and targeted implementation of humanitarian exemptions.<sup>10</sup> The UK described the importance of a uniform humanitarian exemption in the *Explanatory Memorandum to its Sanctions (Humanitarian Exception) (Amendment) Regulations 2023* in the following terms:

*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.<sup>11</sup>*

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<sup>7</sup> Joint Standing Committee on Foreign Affairs, Defence and Trade, Australia’s thematic sanctions framework: A legislated review of the operation of the Autonomous Sanctions Amendment (Magnitsky-style and other Thematic Sanctions) Act 2021 [1.66] 18.

<sup>8</sup> Joint Standing Committee on Foreign Affairs, Defence and Trade, Australia’s thematic sanctions framework: A legislated review of the operation of the Autonomous Sanctions Amendment (Magnitsky-style and other Thematic Sanctions) Act 2021 [1.66] 18.

<sup>9</sup> Sophie Huvé, Guillemette Moulin and Tristan Ferraro, ‘Unblocking aid: the EU’s 2023 shift in sanctions policy to safeguard humanitarian efforts’, *ICRC Humanitarian Law & Policy Blog* (23 January 2024) (Web Page) <<https://blogs.icrc.org/law-and-policy/2024/01/23/unblocking-aid-eu-2023-sanctions-policy-humanitarian-efforts/>>.

<sup>10</sup> See ‘Guidance – UK sanctions’, GOV.UK (Web Page) <<https://www.gov.uk/guidance/uk-sanctions>>; US Department of the Treasury, ‘Guidance for Non-Governmental Organizations (NGO)/Non-Profit Organizations’ (Web Page) <<https://home.treasury.gov/guidance-for-non-governmental-organizations-ngo-non-profit-organizations>>; OFAC, ‘Compliance Communiqué – Guidance for the Provision of Humanitarian Assistance to the Palestinian People’ (14 November 2023) <<https://ofac.treasury.gov/media/932311/download?inline>>; European Commission, ‘Humanitarian Assistance in Environments Subject to EU Sanctions’ (Web Page) <[https://finance.ec.europa.eu/eu-and-world/sanctions-restrictive-measures/humanitarian-assistance-environments-subject-eu-sanctions\\_en](https://finance.ec.europa.eu/eu-and-world/sanctions-restrictive-measures/humanitarian-assistance-environments-subject-eu-sanctions_en)>.

<sup>11</sup> Explanatory Memorandum, *Sanctions (Humanitarian Exception) (Amendment) Regulations 2023*, [7.2] <[https://www.legislation.gov.uk/uksi/2023/121/pdfs/uksi20230121\\_en.pdf](https://www.legislation.gov.uk/uksi/2023/121/pdfs/uksi20230121_en.pdf)>.



- 20 In a report on 'Australia's sanctions regimes' published in February 2025, the Senate Foreign Affairs, Defence and Trade References Committee made the following recommendation:

***Recommendation 2*** - *The committee recommends that, in circumstances where foreign policy objectives allow, the Australian Government, while continuing to make its own judgments concerning the imposition of sanctions, prioritise the alignment of sanctions with allies to maximise effectiveness and place greater emphasis on imposing such sanctions promptly.*

- 21 While the recommendation was made in the context of sanction *application*, the need for greater alignment with Australia's allies remains equally relevant in the context to sanction *exemptions*.
- 22 A uniform humanitarian exception ensures that both sanctioning authorities and humanitarian actors have certainty regarding the scope of proscribed conduct in the context of principled humanitarian action. From the perspective of DFAT, the absence of a humanitarian exemption and associated aversion to funding humanitarian assistance in sanctioned areas and conflicts mean that DFAT is out of step with its peer donors, many of whom continue to directly fund the global federations of the ANGOS.
- 23 The inconsistencies between Australia and its peers contribute to the challenges for ANGOS wanting to provide for or deliver humanitarian assistance in regions where authorities are subject to sanctions and CTF measures. Despite the exemptions provided to their international counterparts, ANGOS' access to and provision of either international or domestic funding or assistance may still contravene Australia's sanctions and CTF regimes. In effect, ANGOS are unable to help some of the hardest to reach beneficiaries in the worst humanitarian contexts because Australian aid cannot be delivered through ANGOS or their partners.

## **2.2 Overly broad definitions of proscribed conduct which encompass humanitarian assistance**

- 24 The current drafting of the CTF offence provisions under the Charter Sanctions regime and the Criminal Code is broad and often unqualified. As a result, humanitarian activities undertaken by ANGOS may be captured under these definitions, exposing them to the risk of incurring civil and criminal liabilities.
- 25 The Criminal Code prohibits getting funds to, from or for a terrorist organisation, providing support or resources to a terrorist organisation where this assists engagement in a terrorist activity, associating with a terrorist organisation which supports the organisation to exist or expand, and providing, collecting, or making funds available to a terrorist organisation or person where the funds may be used to facilitate or engage in a terrorist act. The Charter Sanctions regime prohibits directly or indirectly making an asset available to a proscribed person or entity, or dealing with a freezable asset.
- 26 In this context, the definitions of 'funds' and 'support or resources' under the Criminal Code, and 'asset' under the Charter Act, are sufficiently broad to encompass multiple modes of humanitarian assistance, including (for example) the direct transfer of administrative visa processing fees to enable entry of humanitarian aid workers, delivery or funding of goods (including life-critical items such as medicine or foodstuffs), and indirect funding of such fees and goods through international delivery partners. Further, the interpretation of 'assisting the engagement in a terrorist activity' remains ambiguous and risks an outcome or interpretation whereby proscribed assistance may extend to the delivery of humanitarian assistance to individuals associated with a terrorist organisation – even where impartiality, humanity, neutrality and independence under international humanitarian law require that humanitarian organisations deliver humanitarian assistance without discrimination.

- 27 The Attorney-General's Department (**AGD**) has adopted a policy position whereby prosecution of CTF offences in respect of Hamas would require the AGD's consent and this is unlikely to be granted where conduct included humanitarian purposes, such as accessing or paying for food, medicine, education or fuel provided by Hamas as the de facto authority in Gaza.<sup>12</sup> However, this policy position is limited to Hamas, does not extend to the Charter Act and highlights the risks faced by ANGOs where a uniform position in respect of humanitarian assistance is not taken.
- 28 Further, the offence provisions under the Charter Act are largely unqualified, capturing a broad range of conduct that may not be aligned with the objects of the CTF measures. The offences for dealing with freezable assets and giving an asset to a proscribed person or entity are strict liability offences. There is also no requirement for the conduct to be 'for the benefit of the proscribed person or entity',<sup>13</sup> or to 'help the organisation engage in a [sanctioned] activity'<sup>14</sup> before an offence will arise. While the Charter Act recognises a defence where an organisation can demonstrate it exercised reasonable precautions and due diligence to avoid contravention, this defence may not be available in numerous scenarios in which humanitarian organisations are required to operate, and where engagement with a listed or proscribed entity is required to deliver aid (such as the payment of taxes and fees to listed entities).
- 29 Similar issues arise in respect of the application of the Autonomous Sanctions regime. The absence of a humanitarian exemption applicable to the proscription of various goods and services which are necessary for the delivery of humanitarian assistance (such as the purchase of fuel)<sup>15</sup> exposes ANGOs to contraventions in the performance of their humanitarian functions.
- 2.3 Current exemptions and defences are not sufficient in a humanitarian context**
- 30 Australia's sanctions and CTF regimes each have different defences and exemptions applicable to their various offence provisions. However, these are not designed to facilitate principled humanitarian action and, in practice, impede the work required to be undertaken by ANGOs in response to humanitarian crises. ANGOs have observed the following key obstacles.
- 31 *First*, ANGOs wishing to apply for a sanctions permit to undertake a humanitarian activity that may otherwise be prohibited by an Australian sanctions law are subject to stringent criteria and must follow a lengthy and administratively burdensome application process in the Australian sanctions portal, Pax.<sup>16</sup> The indicative assessment process required by Pax is complex and resource intensive, and the approval process lacks transparency and the certainty required for humanitarian actors. The system does not provide for the efficiency or the urgency necessary in humanitarian emergencies and creates unnecessarily high barriers to ANGOs seeking exemptions to facilitate the implementation of humanitarian programs.
- 32 Other jurisdictions have in place processes that facilitate urgent humanitarian response in unforeseen circumstances. This is a critical requirement of any humanitarian exemption process. For example, three days after the onset of the earthquakes in Syria and Türkiye 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

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<sup>12</sup> Attorney-General's Department, 'Policy Guideline issued by the Attorney-General – consent to prosecution considerations – Hamas' (Web Page) <<https://www.ag.gov.au/national-security/publications/policy-guideline-issued-attorney-general-consent-prosecution-considerations-hamas>>.

<sup>13</sup> Cf *Autonomous Sanctions Regulations 2011* (Cth) s 4(1)(c)(iii), in relation to 'sanctioned supply'.

<sup>14</sup> Cf *Criminal Code 1995* (Cth) s 102.7(1)(a), (2)(a), in relation to providing support to a terrorist organisation.

<sup>15</sup> For example, to avoid this risk of contravention, ANGOs operating in Syria to provide support in the aftermath of the 6 February 2023 earthquake were faced with the choice of risking contravention of the Autonomous Sanctions regime in respect of Syria, or incurring the significant operational and financial burden of purchasing fuel outside of Syria and transporting it into Syria for use by humanitarian aid vehicles and generators.

<sup>16</sup> This process is only available in respect of the Charter and Autonomous Sanctions regimes and is not available for humanitarian assistance which may attract the application of CTF offence provisions under the Criminal Code.

relief.<sup>17</sup> The swiftness of the US response to the humanitarian crisis enabled humanitarian actors to respond to the urgent need in a timely and appropriate manner without risk of contravening the US sanctions.

- 33 In the Australian context, the requirements of the Pax system have also anecdotally had the effect of:
- a. hindering the involvement of local staff and NGOs who do not have sufficient resources to follow an onerous permit system;
  - b. exposing humanitarian workers to on-the-ground risks, due to a perception from local authorities and/or communities that they are too closely aligned with permitting authorities; and
  - c. 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 actors applying for a permit.
- 34 *Second*, even where a defence is available to organisations that can demonstrate that they have undertaken reasonable precautions and due diligence, such a defence has limited applicability in cases where a listed or proscribed entity is the de facto government in the area where humanitarian aid is to be delivered. In such situations, any administrative payments for government-managed services and goods (e.g. for visa payments, maintenance of post boxes, or use of public services) may amount to contravening conduct.
- 2.4 Overlapping regimes increase risks to ANGOS**
- 35 Challenges facing ANGOs are compounded in circumstances where different sanctions regimes and CTF measures apply to the same region and/or entity or individual, exposing ANGOs to differing standards of compliance and risk in the performance of their humanitarian activities. In the absence of a universal humanitarian exemption, humanitarian actors may be exempt under one regime but risk penalties for contravening another regime.
- 36 By way of example:
- a. Australia implements sanctions against Iran, North Korea and Syria under both the Charter Sanctions regime and Autonomous Sanctions regime. Humanitarian actors operating in these areas may be exempt from the application of UN sanctions by operation of s 2B of the Charter Act. However, in the absence of a directly applicable humanitarian exemption, humanitarian operations in the same areas will still contravene the Autonomous Sanctions regime.
  - b. In the context of the Gaza conflict, Hamas is both a proscribed entity for the purpose of the Charter Sanctions regime and a regulated terrorist organisation for the purpose of the Criminal Code's CTF offences. ANGOs seeking to deliver humanitarian assistance to Gaza, including to hospitals which may be administered by the Hamas administration, risk contravening both regimes, although again differences apply. For example, the Charter Act offences are strict liability offences, whereas in respect of the Criminal Code offences, different physical and fault elements apply to each terrorist offence. The two regimes also entail different conditions in terms of any prosecution. Contravention of Division 102 of the Criminal Code in respect of Hamas requires consent of the AGD to prosecute (which is unlikely to be granted where the contravention was for the purpose of

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<sup>17</sup> 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>>.

delivering humanitarian aid).<sup>18</sup> No such consent is required in respect of the other CTF offences in the Criminal Code, or the Charter Act and Autonomous Sanctions regime offences.

- 37 The persisting regulatory uncertainty undermines ANGOs' ability to deliver humanitarian aid and has a chilling effect on their partners and donors, DFAT and other financial institutions facilitating funding and transfers necessary to implement humanitarian assistance. These actors seek to 'de-risk' by choosing over-compliance and halting the funding or delivery of humanitarian assistance to avoid potential contravention.

### 3 Proposal for reform: Humanitarian exemption across all regimes

- 38 The UN humanitarian exemption plays a critical role in safeguarding principled humanitarian action within the UN sanctions regimes – but it does not remedy obstacles facing humanitarian actors operating in contexts where the Autonomous Sanctions regime and other CTF measures also apply. The challenges faced by ANGOs call for the implementation of the UN humanitarian exemption in the Charter Sanctions regime and its extension to the Autonomous Sanctions regime and the Criminal Code – in other words, the implementation of an overarching humanitarian exemption framework that will apply uniformly to any humanitarian activity that meets the relevant criteria.

- 39 The ANGOs propose that the humanitarian exemption be incorporated into Australia's sanctions and CTF regimes in accordance with the following principles:

- a. The humanitarian exemptions should be universal.

The universal exemption should apply to defined humanitarian activities and actors (as described below at b). Such an exemption would reduce the administrative burden necessitated by any form of permit or licencing system. It would also ensure that qualifying humanitarian actors are exempt without exception when delivering humanitarian relief consistent with the UN Charter<sup>19</sup> and customary international humanitarian law.<sup>20</sup>

Should a universal exemption not be provided for, then the ANGOs propose that a general permit be issued. The process for issuing general permits should be coordinated and streamlined to facilitate timely humanitarian response and avoid the bureaucratic processes required for case-specific permits.

Whether it be legislated or the subject of a permitting system, a humanitarian exemption should have the effect of excluding the wrongfulness of humanitarian activities undertaken by humanitarian actors, which should therefore fall outside the scope of proscribed conduct.

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<sup>18</sup> The Prosecution Policy of the Commonwealth, which underpins all of the decisions made by the CDPP throughout the prosecution process, provides that 'it must be evident from the facts of the case, and all the surrounding circumstances, that the prosecution would be in the public interest': CDPP, 'Prosecution Policy of the Commonwealth: Guidelines for the Making of Decisions in the Prosecution Process' (Guidelines, 19 July 2021) <<https://www.cdpp.gov.au/system/files/Prosecution%20Policy%20of%20the%20Commonwealth%20as%20updated%2019%20July%202021.pdf>>.

<sup>19</sup> UN Charter art 1(3).

<sup>20</sup> ICRC – Customary International Humanitarian Law Database, Rule 55 (Web Page) <<https://ihl-databases.icrc.org/en/customary-ihl/v1/rule55>>.

- b. The humanitarian exemption should be both subject- and activity-based – i.e. it should apply to approved or qualifying humanitarian actors (**subject-based exemption**), and to identified and defined humanitarian activities (**activity-based exemption**).

*Subject-based exemption*

- i. The Australian Government has foreshadowed the possibility of introducing a humanitarian exemption in the Autonomous Sanctions regime that would extend to international organisations with diplomatic status, UN agencies and ANCP accredited persons or entities.<sup>21</sup> While this would be welcome, to ensure efficient delivery of humanitarian relief, the exemption should extend to other involved parties such as financial institutions, donors and local partners of the abovementioned humanitarian actors. These entities may not have active grant or partnership agreements with the Australian Government but are nonetheless indispensable to the provision of humanitarian assistance.

*Activity-based exemption*

- ii. An activity-based exemption applied to defined humanitarian activities is also required to provide certainty for entities that are covered under the Subject-based exemption. The activity-based exemption should extend to 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 by these entities. This should include funding of costs which are necessary and incident to humanitarian assistance, such as administrative fees and taxes. In practice, exempt humanitarian activities should extend to all activities ordinarily carried out under humanitarian response plans 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 the host State, local authorities, or communities. Broad activity-based exemptions should ensure that humanitarian actors can continue to implement the full range of humanitarian activities and programs.
- c. Examples of humanitarian exemptions implemented by the US, UK, EU, and Canada which apply broad activity-based carve-outs for the humanitarian sector are set out in the enclosed **Schedule** and include the following:
- iii. The US has adopted general licenses which exempt transactions that are “*ordinarily incident and necessary*” to non-commercial activities by a non-governmental organization that are “*designed to directly benefit the civilian population*” and which fall in one of the specified categories, including “*activities to support humanitarian projects to meet basic human needs*”;<sup>22</sup>
- iv. The UK and EU have adopted humanitarian exemptions which implement Resolution 2664 (and its extension under Resolution 2761) and exempt the making available of funds or economic resources necessary “*to ensure the timely delivery of humanitarian assistance or to support other activities that support*

<sup>21</sup> Department of Foreign Affairs and Trade, ‘Issues Paper: Review of Australia’s Autonomous Sanctions Framework’ (Issues Paper) 22 <<https://www.dfat.gov.au/sites/default/files/issues-paper-review-of-australias-autonomous-sanctions-framework.pdf>>.

<sup>22</sup> [31 CFR § 594.516 \(2024\)](#) and [§ 594.520 \(2024\)](#). See Schedule for full text of provision.

*basic human needs*” where such assistance and other activities are carried out by qualifying humanitarian organisations;<sup>23</sup>

- v. The Canadian Criminal Code provides that “[offence provisions] *do not apply to a person who carries out any of the acts referred to in those subsections for the sole purpose of carrying out humanitarian assistance activities conducted under the auspices of impartial humanitarian organizations in accordance with international law while using reasonable efforts to minimize any benefit to terrorist groups*”.<sup>24</sup>
- d. The humanitarian exemption should apply to all UN sanctions regimes implemented by Australia, including the CTF sanctions under the Charter Act, as well as the Autonomous Sanctions Act to ensure its uniform implementation.
- e. In respect of the Criminal Code, the humanitarian exemption should be applied as an offence-specific carve-out or defence to the offence provisions under sections 102.6-102.8 and 103.1-103.2 of the Criminal Code.<sup>25</sup>
- f. Implementation of the humanitarian exemption should be accompanied by clear, authoritative guidance which sets out the Australian Government’s expectations for when and in what circumstances the humanitarian exemption will apply. This guidance should also be communicated by the Australian Government to the Australian commercial banking sector and to AUSTRAC for inclusion in their guidance to financial institutions, which will assist with addressing financial de-risking practices. Any such communication should provide guidance to donors, banks and other funding entities, as well as AUSTRAC, to remove uncertainty as to how the exemption works, and which entities are covered.<sup>26</sup>

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<sup>23</sup> See e.g. [Sanctions \(Humanitarian Exception\) \(Amendment\) Regulations 2023 \(entry into force 9 Feb 2023\)](#) and [Council Regulation \(EU\) 2023/720 of 31 March 2023](#). See Schedule for full text of provisions.

<sup>24</sup> [Criminal Code \(R.S.C., 1985, c. C-46\), Part II.1, ss 83.03\(4\)](#). See Schedule for full text of provision.

<sup>25</sup> See Attorney-General’s Department, ‘A Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers’ (September 2011) <<https://www.ag.gov.au/sites/default/files/2020-03/A%20Guide%20to%20Framing%20Cth%20Offences.pdf>>.

<sup>26</sup> See, e.g., OFAC, ‘Risk Matrix for Charities Disbursing Funds or Resources to Grantees’ (Web Document) <[https://home.treasury.gov/system/files/126/charity\\_risk\\_matrix.pdf](https://home.treasury.gov/system/files/126/charity_risk_matrix.pdf)>; OFAC, ‘FAQ 884: Do Non-U.S. Persons, Including Nongovernmental Organizations (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 Authorized under the Syrian Sanctions Regulations (SySR)?’ (Web Page) <<https://home.treasury.gov/policy-issues/financial-sanctions/faqs/884>>.



# Schedule

## Comparative analysis of international practice implementing humanitarian exemptions to sanctions and CTF regimes

Country / organisation	Type of exemption	Source of exemption	Text of exemption
United Nations Security Council	Activity-based and subject-based	<a href="#">UNSC Resolution 2664 (9 Dec 2022)</a>	Acting under Chapter VII of the Charter of the United Nations,  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 <b>necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs</b> 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, are permitted and are not a violation of the asset freezes imposed by this Council or its Sanctions Committees;
		<a href="#">UNSC Resolution 2761 (6 December 2024)</a>	Acting under Chapter VII of the Charter of the United Nations,  1. <b>Decides that the provisions introduced by paragraph 1 of resolution 2664 (2022) shall continue to apply to the 1267/1989/2253 ISIL (Da’esh) and Al-Qaida sanctions regime</b> and reiterates the importance of monitoring the implementation of these provisions consistent with resolution 2664 (2022);
United States	Activity-based	<a href="#">31 CFR § 594.516 (2024)</a>	<i>[This legislation implemented a humanitarian exemption under various US sanctions regimes including by amending the Narcotics Trafficking Sanctions Regulations, Weapons of</i>

## Comparative analysis of international practice implementing humanitarian exemptions to sanctions and CTF regimes

Country / organisation	Type of exemption	Source of exemption	Text of exemption
		and <a href="#">§ 594.520</a> (2024)	<p><i>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. See <a href="#">Federal Register (vol 87, no 224) 78484 (21 Dec 2022)</a>. See also the <a href="#">OFAC Supplemental Guidance for the Provision of Humanitarian Assistance (27 February 2023)</a> which sets out and describes the General Licenses enacted to create a humanitarian carve-out in respect of US Sanctions regimes.]</i></p> <p>a) Except as provided in paragraph (c) of this section, all transactions prohibited by this part that are <b>ordinarily incident and necessary to the activities described in paragraph (b)</b> of this section <b>by a nongovernmental organization</b> are authorized, provided that the nongovernmental organization is not a person whose property or interests in property are blocked pursuant to this part.</p> <p>b) The activities referenced in paragraph (a) of this section are <b>non-commercial activities designed to directly benefit the civilian population</b> that fall into one of the following categories:</p> <ol style="list-style-type: none"> <li>1) <b>Activities to support humanitarian projects to meet basic human needs</b>, 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;</li> <li>2) Activities to support democracy building, including activities to support rule of law, citizen participation, government accountability and transparency, human rights</li> </ol>



Comparative analysis of international practice implementing humanitarian exemptions to sanctions and CTF regimes			
Country / organisation	Type of exemption	Source of exemption	Text of exemption
			<p>and fundamental freedoms, access to information, and civil society development projects;</p> <p>3) Activities to support education, including combating illiteracy, increasing access to education, international exchanges, and assisting education reform projects;</p> <p>4) Activities to support non-commercial development projects directly benefiting civilians, including those related to health, food security, and water and sanitation;</p> <p>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</p> <p>6) Activities to support disarmament, demobilization, and reintegration (DDR) programs and peacebuilding, conflict prevention, and conflict resolution programs.</p> <p>c) This section does not authorize funds transfers initiated or processed with knowledge or reason to know that the intended beneficiary of such transfers is a person blocked pursuant to this part, <b>other than for the purpose of effecting the payment of taxes, fees, or import duties, or the purchase or receipt of permits, licenses, or public utility services.</b></p> <p>d) Specific licenses may be issued on a case-by-case basis to authorize nongovernmental or other entities to engage in other activities designed to directly benefit the civilian population, including support for the removal of landmines and economic development projects directly benefiting the civilian population.</p>
United States	Subject-based	<a href="#">31 CFR § 594.519 (2024)</a>	<p><i>[This legislation implemented a subject based humanitarian exemption under various US sanctions regimes, including by amending 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 Sanctions Regulations, Magnitsky Act Regulations, Global Terrorism Sanctions Regulations, Terrorism List Government Sanctions Regulations, Foreign Terrorist</i></p>

## Comparative analysis of international practice implementing humanitarian exemptions to sanctions and CTF regimes

Country / organisation	Type of exemption	Source of exemption	Text of exemption
			<p><i>Organisations Sanctions regulations and Foreign Narcotics Kingpin Sanctions Regulations. See <a href="#">Federal Register (vol 87, no 224) 78470 (21 Dec 2022)</a>.]</i></p> <p>a) Except as provided in paragraph (b) of this section, all transactions prohibited by this part that are for <b>the conduct of the official business of the following entities</b> by employees, grantees, or contractors thereof are authorized:</p> <ol style="list-style-type: none"> <li>1) The United Nations, including its Programmes, Funds, and Other Entities and Bodies, as well as its Specialized Agencies and Related Organizations;</li> <li>2) The International Centre for Settlement of Investment Disputes (ICSID) and the Multilateral Investment Guarantee Agency (MIGA);</li> <li>3) The African Development Bank Group, the Asian Development Bank, the European Bank for Reconstruction and Development, and the Inter-American Development Bank Group (IDB Group), including any fund entity administered or established by any of the foregoing; and</li> <li>4) The International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies; and</li> <li>5) The Global Fund to Fight AIDS, Tuberculosis, and Malaria, and Gavi, the Vaccine Alliance.</li> </ol> <p>b) This section does not authorize funds transfers initiated or processed with knowledge or reason to know that the intended beneficiary of such transfers is a person blocked pursuant to this part, <b>other than for the purpose of effecting the payment of taxes, fees, or import duties, or the purchase or receipt of permits, licenses, or public utility services.</b></p> <p><b>Burma Sanctions Regulations</b> – all of the above actors and:</p> <ol style="list-style-type: none"> <li>(e) International Development Law Organization (IDLO);</li> <li>(f) The Association of Southeast Asian Nations (ASEAN);</li> </ol>

## Comparative analysis of international practice implementing humanitarian exemptions to sanctions and CTF regimes

Country / organisation	Type of exemption	Source of exemption	Text of exemption
			<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><b>Darfur, Somalia, South Sudan Sanctions Regulations</b> – all of the above actors and (5) The Intergovernmental Authority on Development (IGAD);</p> <p><b>DRC Sanctions Regulations § 547.511</b> – all of the above actors and (e) The Extractive Industries Transparency Initiative (EITI)</p> <p><b>Lebanon, Yemen, Syria Sanctions Regulations § 549.511</b> – all of the above actors and (5) The Arab Monetary Fund and the Islamic Development Bank</p> <p><b>Somalia Sanctions Regulations § 551.511</b>– all of the above and (f) The Intergovernmental Authority on Development (IGAD).</p> <p><b>Venezuela Sanctions Regulations § 591.510</b></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>

Comparative analysis of international practice implementing humanitarian exemptions to sanctions and CTF regimes			
Country / organisation	Type of exemption	Source of exemption	Text of exemption
			<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> <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"> <li>(1) IMF (International Monetary Fund)</li> <li>(2) FAO (UN Food and Agriculture Organization)</li> <li>(3) IOM (International Organization for Migration)</li> <li>(4) OCHA (UN Office for the Coordination of Humanitarian Affairs)</li> <li>(5) OHCHR (UN Office of the United Nations High Commissioner for Human Rights)</li> <li>(6) UN Habitat</li> <li>(7) UNDP (UN Development Program)</li> <li>(8) UNFPA (UN Population Fund)</li> <li>(9) UNHCR (Office of the UN High Commissioner for Refugees)</li> <li>(10) UNICEF (UN Children's Fund)</li> <li>(11) WFP (World Food Program)</li> </ul> <p>(12) The World Health Organization (WHO), including the Pan-American Health Organization (PAHO)</p>
United States	Activity-based	<a href="#">31 CFR § 594.507 (2017)</a>	<p><b>Authorization of emergency medical services.</b></p> <p>The provision of nonscheduled emergency medical services in the United States to persons whose property or interests in property are blocked pursuant to § 594.201(a) is authorized, provided that all receipt of payment for such services must be specifically licensed.</p>

Comparative analysis of international practice implementing humanitarian exemptions to sanctions and CTF regimes			
Country / organisation	Type of exemption	Source of exemption	Text of exemption
United States	Activity-based and subject-based	<a href="#">31 CFR § 594.515 (2024)</a>	<p><b>In-kind donations of medicine, medical devices, and medical services.</b></p> <p>a) Effective July 6, 2006, nongovernmental organizations that are U.S. persons are <b>authorized to provide in-kind donations of medicine, medical devices, and medical services to the Palestinian Authority Ministry of Health</b>, provided that such donations are strictly for distribution in the West Bank or Gaza and not intended for resale, and provided further that no payment pursuant to this license may involve a debit to an account of the Palestinian Authority on the books of a U.S. financial institution or to any account blocked pursuant to this part...</p>
United States	Activity-based	<a href="#">31 CFR § 594.521 (2024)</a>	<p><b>Transactions related to the provision of agricultural commodities, medicine, medical devices, replacement parts and components, or software updates for personal, non-commercial use.</b></p> <p>a) All transactions prohibited by this part that are related to <b>the provision, directly or indirectly, of agricultural commodities, medicine, medical devices, replacement parts and components for medical devices, or software updates for medical devices to an individual whose property and interests in property are blocked pursuant to this part</b> are authorized, provided the items are in quantities consistent with personal, non-commercial use.</p> <p>b) For the purposes of this section, agricultural commodities, medicine, and medical devices are defined as follows:</p> <ol style="list-style-type: none"> <li>1) Agricultural commodities. For the purposes of this section, agricultural commodities are: <ol style="list-style-type: none"> <li>i. Products that fall within the term “agricultural commodity” as defined in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602); and</li> <li>ii. That are intended for ultimate use as: <ol style="list-style-type: none"> <li>A. Food for humans (including raw, processed, and packaged foods; live animals; vitamins and minerals; food additives or</li> </ol> </li> </ol> </li> </ol>

## Comparative analysis of international practice implementing humanitarian exemptions to sanctions and CTF regimes

Country / organisation	Type of exemption	Source of exemption	Text of exemption
			<p>supplements; and bottled drinking water) or animals (including animal feeds);</p> <p>B. Seeds for food crops;</p> <p>C. Fertilizers or organic fertilizers; or</p> <p>D. Reproductive materials (such as live animals, fertilized eggs, embryos, and semen) for the production of food animals.</p> <p>2) Medicine. For the purposes of this section, medicine is an item that falls within the definition of the term “drug” in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).</p> <p>3) Medical devices. For the purposes of this section, a medical device is an item that falls within the definition of “device” in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).</p>
<b>United Kingdom</b>	Activity-based and subject-based	<a href="#">Sanctions (Humanitarian Exception) (Amendment) Regulations 2023 (entry into force 9 Feb 2023)</a>	<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. The below extract is taken from the amendment to the North Korean sanctions, noting that the language of the exemption as contained in the Regulations is the same for each regime other than the numbering of the regulations referred to at sub-section (1).]</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 <b>necessary</b>—</p> <p style="padding-left: 40px;">(a) <b>to ensure the timely delivery of humanitarian assistance</b>, or</p> <p style="padding-left: 40px;">(b) <b>to support other activities that support basic human needs</b>,</p> <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—</p>

## Comparative analysis of international practice implementing humanitarian exemptions to sanctions and CTF regimes

Country / organisation	Type of exemption	Source of exemption	Text of exemption
			<p>(a) the United Nations, including its—</p> <ul style="list-style-type: none"> <li>(i) programmes and funds,</li> <li>(ii) other entities and bodies, and</li> <li>(iii) specialised agencies and related organisations,</li> </ul> <p>(b) international organisations,</p> <p>(c) humanitarian organisations having observer status with the United Nations General Assembly and members of those humanitarian organisations,</p> <p>(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,</p> <p>(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,</p> <p>(f) any other persons authorised by the Committee for the purposes of resolution 2664.</p> <p>(3) Condition B is that P <b>believes that carrying out the relevant activity is so necessary and there is no reasonable cause for P to suspect otherwise.</b></p> <p>(4) For the purposes of this regulation—</p> <p>“relevant activity” means any activity which would, in the absence of this regulation, contravene the prohibitions in regulations 13 to 17;</p> <p>“resolution 2664” means resolution 2664 (2022) adopted by the Security Council on 9th December 2022.”</p>

Comparative analysis of international practice implementing humanitarian exemptions to sanctions and CTF regimes			
Country / organisation	Type of exemption	Source of exemption	Text of exemption
European Union	Activity-based and subject-based	<a href="#">Council Decision (CFSP) 2023/338 of 14 February 2023</a> and <a href="#">Council Regulation (EU) 2023/720 of 31 March 2023</a> amending certain Council decisions and common positions concerning restrictive measures in order to insert provisions on a humanitarian exemption	<p><b>Council Decision (CFSP) 2023/338 of 14 February 2023</b></p> <p><i>[The below text amends the EU's sanctions regimes applicable to Somalia, CAR, Yemen, Haiti, Iraq and Lebanon.]</i></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 <b>necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs</b> where such assistance and other activities are carried out by:</p> <ul style="list-style-type: none"> <li>a) the United Nations, including its programmes, funds and other entities and bodies, as well as its specialised agencies and related organisations;</li> <li>b) international organisations;</li> <li>c) humanitarian organisations having observer status with the United Nations General Assembly and members of those humanitarian organisations;</li> <li>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);</li> <li>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</li> <li>f) appropriate other actors as determined by the Sanctions Committee.' [subject-based]</li> </ul> <p><b>Council Regulation (EU) 2023/720 of 31 March 2023</b></p> <p><i>[The below text amends the EU's sanctions regimes applicable to North Korea, DRC, Iran, ISIL and Al-Qaeda, Afghanistan, Libya, Mali, South Sudan and Sudan.]</i></p> <p>Paragraphs X and X [of the relevant sanctions regime] shall not apply to the making available of funds or economic resources <b>necessary to ensure the timely delivery of</b></p>



Comparative analysis of international practice implementing humanitarian exemptions to sanctions and CTF regimes			
Country / organisation	Type of exemption	Source of exemption	Text of exemption
			<p><b>humanitarian assistance or to support other activities that support basic human needs</b> where such assistance and other activities are carried out by... <i>[activity-based]</i></p> <p><i>[sub-paragraphs a) to f) of Council Decision (CFSP) 2023/338 are reproduced.]</i></p>
European Union	Activity-based and subject-based	<a href="#">Council Regulation (EU) 2023/2694 of 27 November 2023</a> and <a href="#">Council Decision (CFSP) 2023/2686 of 27 November 2023</a> amending certain Council Regulations concerning restrictive measures in order to insert provisions on humanitarian exceptions	<p><i>[The below text amends the EU's sanctions regimes applicable to Bosnia and Herzegovina, Burundi, Guinea, Lebanon, Myanmar, Nicaragua, Tunisia, Venezuela, Zimbabwe and in relation to cyber-attacks, as reflected in the Council Regulation and the Council Decision.]</i></p> <ol style="list-style-type: none"> <li>Article X and X [of the relevant sanctions regime] shall not apply to the making available of funds or economic resources <b>necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs</b> where such assistance and other activities are carried out by:             <ol style="list-style-type: none"> <li>the United Nations (UN), including its programmes, funds and other entities and bodies, as well as its specialised agencies and related organisations;</li> <li>international organisations;</li> <li>humanitarian organisations having observer status with the UN General Assembly and members of those humanitarian organisations;</li> <li>bilaterally or multilaterally funded non-governmental organisations participating in the UN Humanitarian Response Plans, UN Refugee Response Plans, other UN appeals or humanitarian clusters coordinated by the UN Office for the Coordination of Humanitarian Affairs;</li> <li>organisations and agencies to which the Union has granted the Humanitarian Partnership Certificate or which are certified or recognised by a Member State in accordance with national procedures;</li> <li>Member States' specialised agencies; or</li> <li>the employees, grantees, subsidiaries or implementing partners of the entities referred to in points (a) to (f) while and to the extent that they are acting in those capacities.</li> </ol> </li> </ol>

Comparative analysis of international practice implementing humanitarian exemptions to sanctions and CTF regimes			
Country / organisation	Type of exemption	Source of exemption	Text of exemption
			<p>2. Without prejudice to paragraph 1, and by way of derogation from Article X and X [of the relevant sanctions regime], the competent authorities of the Member States as listed in Annex II may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as they deem appropriate, after having determined that <b>the provision of such funds or economic resources is necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs.</b></p>
European Union	Activity-based and subject-based	<a href="#">Council Decision (CFSP) 2024/385 of 19 January 2024</a> and <a href="#">Council Regulation (EU) 2024/386 of 19 January 2024</a> establishing restrictive measures against those who support, facilitate or enable violent actions by Hamas and the Palestinian Islamic Jihad	<p><b>Council Decision (CFSP) 2024/385</b></p> <p><i>Article 2</i></p> <p>3. All funds, other financial assets and economic resources owned or controlled, directly or indirectly, by natural or legal persons, groups, entities and bodies:</p> <ul style="list-style-type: none"> <li>a) supporting, materially or financially, Hamas, PIJ, any other affiliated group or any cell, affiliate, splinter group or derivative thereof;</li> <li>b) participating in the financing of Hamas, PIJ, any other affiliated group or any cell, affiliate, splinter group or derivative thereof, or in the financing of acts or activities by, in conjunction with, under the name of, on behalf of, or in support of them;</li> <li>c) participating in the planning, preparation or enabling of violent actions by, in conjunction with, under the name of, on behalf of, or in support of Hamas, PIJ, any other affiliated group or any cell, affiliate, splinter group or derivative thereof;</li> <li>d) supplying, selling or transferring arms and related materiel to Hamas, PIJ, any other affiliated group or any cell, affiliate, splinter group or derivative thereof;</li> <li>e) supporting, materially or financially, or implementing actions which undermine or threaten the stability or security of Israel, in conjunction with, under the name of, on behalf of, or in support of Hamas, PIJ, any other affiliated group or any cell, affiliate, splinter group or derivative thereof;</li> <li>f) being involved or complicit in ordering or committing serious violations of international humanitarian law or human rights law on behalf or in the name of</li> </ul>

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Country / organisation	Type of exemption	Source of exemption	Text of exemption
			<p>Hamas, PIJ, any other affiliated group or any cell, affiliate, splinter group or derivate thereof;</p> <p>g) inciting or publicly provoking acts of serious violence by, in conjunction with, under the name of, on behalf of, or in support of Hamas, PIJ, any other affiliated group or any cell, affiliate, splinter group or derivative thereof;</p> <p>h) providing support to natural or legal persons, groups, entities or bodies engaged in activities referred to in points (a) to (g);</p> <p>as listed in the Annex, shall be frozen.</p> <p>4. No funds, other financial assets or economic resources shall be made available, directly or indirectly, to or for the benefit of the natural or legal persons, groups, entities and bodies listed in the Annex.</p> <p>5. By way of derogation from paragraphs 1 and 2, the competent authorities of the Member States may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as they deem appropriate, after having determined that the funds or economic resources concerned are:</p> <p>a) necessary to satisfy the basic needs of the persons listed in the Annex and their dependent family members, including payments for foodstuffs, rent or mortgages, medicines and medical treatment, taxes, insurance premiums, and public utility charges;</p> <p>b) intended exclusively for the payment of reasonable professional fees and the reimbursement of incurred expenses associated with the provision of legal services;</p> <p>c) intended exclusively for the payment of fees or service charges for the routine holding or maintenance of frozen funds or economic resources;</p> <p>d) necessary for extraordinary expenses, provided that the competent authority concerned has notified the competent authorities of the other Member States and the Commission of the grounds on which it considers that a specific authorisation should be granted at least two weeks prior to the authorisation; or</p>

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Country / organisation	Type of exemption	Source of exemption	Text of exemption
			<p>e) to be paid into or from an account of a diplomatic or consular mission or an international organisation enjoying immunities in accordance with international law, insofar as such payments are intended to be used for official purposes of the diplomatic or consular mission or international organisation.</p> <p>...</p> <p>7. Paragraphs 1 and 2 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 <b>necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs</b> where such assistance and other activities are carried out by:</p> <ul style="list-style-type: none"> <li>a) the United Nations, including its programmes, funds and other entities and bodies, as well as its specialised agencies and related organisations;</li> <li>b) international organisations;</li> <li>c) humanitarian organisations having observer status with the United Nations General Assembly and members of those humanitarian organisations;</li> <li>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;</li> <li>e) organisations and agencies to which the Union has granted the Humanitarian Partnership Certificate or which are certified or recognised by a Member State in accordance with national procedures;</li> <li>f) Member States' specialised agencies; or</li> <li>g) the employees, grantees, subsidiaries, or implementing partners of the entities referred to in points (a) to (f) while and to the extent that they are acting in those capacities.</li> </ul> <p>8. Without prejudice to paragraph 7, and by way of derogation from paragraphs 1 and 2, the competent authorities of a Member State may authorise the release of certain frozen</p>

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Country / organisation	Type of exemption	Source of exemption	Text of exemption
			<p>funds or economic resources, or the making available of certain funds or economic resources, under such conditions as they deem appropriate, after having determined that the provision of such funds or economic resources is necessary <b>to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs.</b></p> <p><b>Council Regulation 2024/386</b></p> <p><i>Article 2</i></p> <ol style="list-style-type: none"> <li>1. All funds and economic resources belonging to, owned, held or controlled by any natural or legal person, group, entity or body as listed in Annex I shall be frozen.</li> <li>2. No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of natural or legal persons, groups, entities or bodies listed in Annex I.</li> <li>3. Annex I shall include natural or legal persons, groups, entities or bodies:.. <ul style="list-style-type: none"> <li>[Subparas (a)-(h) of Article 2(1) of Council Decision (CFSP) 2024/385 are reproduced.]</li> </ul> </li> </ol> <p><i>Article 3</i></p> <ol style="list-style-type: none"> <li>4. By way of derogation from Article 2(1) and (2), the competent authorities may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as they deem appropriate, after having determined that the funds or economic resources concerned are:.. <ul style="list-style-type: none"> <li>[Subparas (a)-(e) of Article 2(3) of Council Decision (CFSP) 2024/385 are reproduced.]</li> </ul> </li> <li>5. The Member State concerned shall inform the other Member States and the Commission of any authorisation granted under paragraph 1 within two weeks of the authorisation.</li> </ol> <p><i>Article 4</i></p> <ol style="list-style-type: none"> <li>1. Article 2(1) and (2) <b>shall not apply to the making available of funds or economic resources necessary to ensure the timely delivery of humanitarian assistance or</b></li> </ol>

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Country / organisation	Type of exemption	Source of exemption	Text of exemption
			<p><b>to support other activities that support basic human needs</b> where such assistance and other activities are carried out by:...</p> <p><i>[Subparas (a)-(g) of Article 2(7) of Council Decision (CFSP) 2024/385 are reproduced.]</i></p> <p>2. Without prejudice to paragraph 1 of this Article, and by way of derogation from Article 2(1) and (2), the competent authorities of a Member State may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as they deem appropriate, after having determined that the provision of such funds or economic resources is necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs.</p>
European Union	Activity-based and subject-based	<a href="#">Council Decision (CFSP) 2024/628 of 19 February 2024</a> amending Common Position 2001/931/CFSP on the application of specific measures to combat terrorism	<p>1. Articles 2 and 3 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:</p> <p>(a) the United Nations (UN), including its programmes, funds and other entities and bodies, as well as its specialised agencies and related organisations;</p> <p>(b) international organisations;</p> <p>(c) humanitarian organisations having observer status with the UN General Assembly and members of those humanitarian organisations;</p> <p>(d) bilaterally or multilaterally funded non-governmental organisations participating in UN Humanitarian Response Plans, UN Refugee Response Plans, other UN appeals or humanitarian clusters coordinated by the UN Office for the Coordination of Humanitarian Affairs;</p> <p>(e) organisations and agencies to which the Union has granted the Humanitarian Partnership Certificate or which are certified or recognised by a Member State in accordance with national procedures;</p>

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Country / organisation	Type of exemption	Source of exemption	Text of exemption
			<p>(f) Member States' specialised agencies;</p> <p>(g) employees, grantees, subsidiaries, or implementing partners of the entities referred to in points (a) to (f) while and to the extent that they are acting in those capacities.</p> <p>2. Without prejudice to paragraph 1 and by way of derogation from Articles 2 and 3, the competent authorities of a Member State may authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as they deem appropriate, after having determined that the provision of such funds or economic resources is necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs.</p> <p>3. In the absence of a negative decision, a request for information or a notification for additional time from the relevant competent authority within five working days of the date of receipt of a request for authorisation under paragraph 2, that authorisation shall be considered granted.</p> <p>4. The Member State concerned shall inform the other Member States and the Commission of any authorisations granted under this Article within four weeks of the granting of such authorisation.</p> <p>5. Paragraphs 1 and 2 shall be reviewed at least every 12 months or at the urgent request of a Member State, the High Representative of the Union for Foreign Affairs and Security Policy, or the Commission following a fundamental change in circumstances.</p> <p>6. Paragraph 1 shall apply until 22 February 2025.</p>
<b>European Union</b>	Activity-based and subject-based	<a href="#">Council Decision (CFSP) 2025/204 of 30 January 2025</a> amending Common Position	<p>(2) On 19 February 2024, the Council adopted Decision (CFSP) 2024/628 <a href="#">(2)</a>, which inserted in Common Position 2001/931/CFSP, for an initial period of 12 months, a humanitarian exemption to asset freeze measures applicable to, and to the restrictions on making funds and economic resources available to, designated persons, groups and entities, for the benefit of actors referred to in United Nations Security Council Resolution 2664 (2022), of organisations and agencies to which the Union has granted the Humanitarian Partnership Certificate, and of organisations and agencies which are certified or recognised by a Member State, or by a specialised agency of a Member State. In addition, Decision (CFSP) 2024/628 introduced a derogation mechanism for those organisations and actors</p>

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Country / organisation	Type of exemption	Source of exemption	Text of exemption
		2001/931/CFSP P on the application of specific measures to combat terrorism	involved in humanitarian activities that cannot benefit from that humanitarian exemption, and a review clause related to those exceptions.  (3) In accordance with Article 3a(5) of Common Position 2001/931/CFSP, the Council has reviewed the exceptions referred to in Article 3a(1) and (2) of that Common Position and concluded that they should be maintained and reviewed at least every 24 months or at the urgent request of a Member State, the High Representative of the Union for Foreign Affairs and Security Policy, or the Commission following a fundamental change in circumstances. <b>The Council has further concluded that the exemption set out in Article 3a(1) should continue to apply until 22 February 2027.</b>
Canada	Activity-based	<a href="#">Criminal Code (R.S.C., 1985, c. C-46), Part II.1, ss 83.01 to 83.04</a> , as amended by <a href="#">Bill C-41, An Act to amend the Criminal Code and to make consequential amendments to other Acts</a> .	<p><b>Providing, making available, etc., property or services for terrorist purposes</b></p> <p><b>83.03 (1)</b> Every person is guilty of an indictable offence and liable to imprisonment for a term of not more than 10 years who, directly or indirectly, wilfully and without lawful justification or excuse, collects property or provides, invites a person to provide or makes available property or financial or other related services, intending that they be used, or knowing that they will be used, in whole or in part, for the purpose of facilitating or carrying out any terrorist activity, or for the purpose of benefiting any person who is facilitating or carrying out such an activity.</p> <p><b>Providing, making available, etc., property or services — use by terrorist group</b></p> <p><b>83.03 (2)</b> Every person is guilty of an indictable offence and liable to imprisonment for a term of not more than 10 years who, directly or indirectly, wilfully and without lawful justification or excuse, collects property or provides, invites a person to provide or makes available property or financial or other related services, knowing that, in whole or part, they will be used by or will benefit a terrorist group.</p> <p><b>Exception — authorization</b></p> <p><b>83.03 (3)</b> Subsection (2) does not apply to a person who carries out any of the acts referred to in that subsection under and in accordance with an authorization granted under section 83.032.</p> <p><b>Exception — humanitarian assistance activities</b></p>



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Country / organisation	Type of exemption	Source of exemption	Text of exemption
			<p><b>83.03 (4)</b> Subsections (1) and (2) do not apply to a person who carries out any of the acts referred to in those subsections for the sole purpose of carrying out humanitarian assistance activities conducted under the auspices of impartial humanitarian organizations in accordance with international law while using reasonable efforts to minimize any benefit to terrorist groups.</p> <p><b>Authorization</b></p> <p><b>83.032 (1)</b> On application, the Public Safety Minister may authorize an eligible person to carry out, in a specified geographic area that is controlled by a terrorist group, a specified activity that would otherwise be prohibited under subsection 83.03(2) — or a specified class of such activities — for any specified purpose from among the following:</p> <ul style="list-style-type: none"> <li>a) providing or supporting the provision of humanitarian assistance, including assistance for the purpose of saving lives or alleviating the suffering of a population that is affected by a crisis or that has immediate and acute needs;</li> <li>b) providing or supporting the provision of health services;</li> <li>c) providing or supporting the provision of education services;</li> <li>d) providing or supporting the provision of programs to assist individuals in earning a livelihood;</li> <li>e) providing or supporting the provision of programs to promote or protect human rights;</li> <li>f) providing or supporting the provision of services related to immigration, including services related to the resettlement of individuals and the safe passage of individuals from one geographic area to another; and</li> <li>g) supporting any operations of a federal minister or a department or agency of the Government of Canada that are conducted for a purpose other than one set out in any of paragraphs (a) to (f).</li> </ul>