

Checklist on good and bad practices for humanitarian safeguards

TOOL 4

This tool is relevant for stakeholders involved in the drafting of humanitarian safeguards in sanctions regimes or counterterrorism measures.

Good practices	Bad practices
<ul style="list-style-type: none"> ✓ Short, clear and simple language with few qualifiers. 	<ul style="list-style-type: none"> ✗ Lengthy, complex or unclear language. ✗ Additional criteria reducing the scope of the exemption.
<ul style="list-style-type: none"> ✓ Binding language – for example inserted into the operative paragraph of a resolution, directive or law. 	<ul style="list-style-type: none"> ✗ Non-binding language – for example when inserted in the preamble of a resolution, directive or law.
<ul style="list-style-type: none"> ✓ Transverse / cross-cutting humanitarian exemptions that are applicable to all sanctions issued by the authority 	<ul style="list-style-type: none"> ✗ Case by case humanitarian exemptions in sanctions. ✗ Clauses that require humanitarian actors to apply for a specific authorisation beforehand to conduct otherwise prohibited activities. <p style="margin-top: 10px;"><i>Example: "By way of derogation from Article (x), the competent authorities of may authorise the making available of certain resources, under such conditions as they deem appropriate (..) to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs".</i></p>
<ul style="list-style-type: none"> ✓ Authorises a wide range of transactions, covering all kind of transfer of funds and resources necessary for the delivery of humanitarian assistance. <p style="margin-top: 10px;">Example: permits the "the provision, processing or payment of funds, other financial assets, or economic resources, or the provision of goods and services."</p>	<ul style="list-style-type: none"> ✗ Authorises only some transactions or dealings. <p style="margin-top: 10px;"><i>Example: "does not authorize funds transfers [...] 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, payment of taxes, import, duties."</i></p>
<ul style="list-style-type: none"> ✓ Covers the widest possible range of activities in support of civilians needs. <p style="margin-top: 10px;">Example: "Decides that humanitarian assistance and other activities that support basic human needs are not a violation of paragraph [x]."</p>	<ul style="list-style-type: none"> ✗ Covers a narrow scope of strictly humanitarian activities. <p style="margin-top: 10px;">Example: "The prohibition (...) shall not apply to (...) exclusively humanitarian purposes."</p>

Good practices	Bad practices
<p>✓ Applies to humanitarian activities notwithstanding the category of actors, or:</p> <p>Example: [the prohibition] “shall not apply to the processing and payment of funds, other financial assets or economic resources, and the provision of goods and services necessary to ensure the timely delivery of humanitarian assistance and other activities that support basic human needs in Afghanistan or to support such activities.”</p> <p>✓ Or at least covers the widest range of humanitarian actors and explicitly applies to private sector actors (such as financial institutions) involved in supporting humanitarian response.</p> <p>“The authorization in paragraph (a) of this general license includes the processing or transfer of funds on behalf of third-country persons to or from Syria in support of the transactions authorized by paragraph (a) of this general license. U.S. financial institutions and U.S. registered money transmitters may rely on the originator of a funds transfer with regard to compliance with paragraph (a) of this general license, provided that the financial institution does not know or have reason to know that the funds transfer is not in compliance with paragraph (a) of this general license.”</p>	<p>✗ Applies to narrow categories or list of humanitarian actors.</p> <p>✗ Creates a ‘white list’ of authorised humanitarian actors.</p> <p>✗ Only applies to local humanitarian actors when working as implementing partners of an international organisation.</p> <p>✗ Not mentioning that financial institutions or private sector entities may rely on the safeguard.</p> <p>Example: [the prohibition shall not apply to:] <i>“organisations and agencies which are pillar-assessed by the [European] Union and with which the Union has signed a financial framework partnership agreement on the basis of which the organisations and agencies act as humanitarian partners of the Union.”</i></p>
<p>✓ Permanent safeguards / no time restrictions.</p> <p>Example: [the exemption]: “shall apply with respect to all future asset freezes imposed or renewed by this Council in the absence of an explicit decision by this Council to the contrary.”</p>	<p>✗ Time-bound and/ or with periodical renewal.</p> <p>Example: The prohibitions set out in Article (x) shall not apply until 1 June 2025.</p>
<p>✓ No specification with regards to where or whom the assistance should be provided.</p>	<p>✗ Covers only activities in a specific territory, in response to a specific crisis or in support of a specific population.</p> <p>Example: <i>“(…) activities necessary to provide humanitarian assistance, other activities that support basic human needs and facilitate the timely provision of that assistance or those activities in relation to the conflict in Israel and the Occupied Palestinian Territories (….) The humanitarian assistance (….) must solely relate to the conflict in Israel and the Occupied Palestinian Territories.”</i></p>
<p>✓ No obligations to report by humanitarian actors.</p>	<p>✗ Cumbersome reporting requirements or ex-post notification on the use of the exemption.</p> <p>Example: <i>“Provide information: - Details of the Relevant person; - Details of the Relevant activities; - Total value of funds, economic resources, goods... (Total amount); Reporting every six months.”</i></p> <p>Example: <i>“NGOs who engage in conduct pursuant to this general license must submit reports on a quarterly basis, providing information including, but not limited to, a detailed description of the services exported or reexported to Iran, any Iranian NGOs, Government of Iran entities, Iranian financial institutions, or other Iranian persons involved in the activities; the dollar amounts of any transfers to Iran; and the beneficiaries of those transfers.”</i></p>