

The logo for the Norwegian Refugee Council, consisting of the letters 'NRC' in white on an orange square background.

NORWEGIAN
REFUGEE COUNCIL

TOOLKIT

FOR PRINCIPLED
HUMANITARIAN ACTION

The background of the entire page is a photograph of a densely packed, multi-story residential building complex built on a hillside. The buildings are mostly light-colored (beige or tan) and have many windows. The perspective is from an elevated position looking down into the complex. The sky is a pale, hazy blue.

TOOLKIT FOR PRINCIPLED HUMANITARIAN ACTION

MANAGING SANCTIONS AND COUNTERTERRORISM RISKS



Funded by
the European Union



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Federal Department of Foreign Affairs FDFA



NORWEGIAN
REFUGEE COUNCIL

ACKNOWLEDGEMENTS

This toolkit was produced with the financial assistance of the European Union and the Swiss Federal Department of Foreign Affairs. The toolkit benefits from the contributions of staff from various international non-governmental organisations and other international organisations, United Nations agencies, and donor governments. The Norwegian Refugee Council would like to thank those who contributed their time and expertise to this work.

The Norwegian Refugee Council is an independent humanitarian organisation helping people forced to flee.

For further information, please contact nrcgeneva.policy@nrc.no

© NRC, 2024

Cover photo: © Richard Ashton/NRC

Layout & design: BakOS DESIGN

Disclaimer: The contents of this document should not be regarded as reflecting the position of the European Union or the Swiss Federal Department of Foreign Affairs. The document does not necessarily reflect the position or views of the Norwegian Refugee Council. The document should not be regarded in any way as the provision of legal advice by the Norwegian Refugee Council.

TABLE OF CONTENTS

1. Acronyms	5
2. Key terms and definitions	6
3. Introduction to the toolkit	9
3.1 What are the toolkit's objectives?	9
3.2 Methodology and approach	11
3.3 The tension between sanctions, counterterrorism measures and principled humanitarian action	11
4. Sanctions, counterterrorism measures and principled humanitarian action	12
4.1 The importance of understanding the difference between sanctions and counterterrorism measures	12
4.2 Sanctions	13
4.3 Counterterrorism measures	19
Deep dive I: Host countries' counterterrorism measures	22
4.4 Which sanctions and counterterrorism measures should my organisation comply with?	25
5. Risks and impact on humanitarian operations	27
5.1 Risk categories and operational impacts	28
5.2 What are the legal risks for humanitarian organisations and their staff?	30
5.3 Case study: Tax payments to designated groups	31
Deep dive II: Engagement with designated entities	32
Deep dive III: Bank derisking	33
Deep dive IV: Impact on cash and voucher programming	37
6. Sanctions and counterterrorism clauses in grant and partnership agreements	38
6.1 Where are sanctions and counterterrorism clauses found?	38
6.2 Understanding sanctions and/or counterterrorism clauses	39
6.3 Screening of staff, partner staff, contractors and final beneficiaries	43
Deep dive V: Screening of final beneficiaries	45

7. Sanctions, counterterrorism and risk management frameworks	48
7.1 What is risk management?	48
7.2 Components of a risk management framework	49
7.3 Internal controls and risk management	53
8. Tools	63
Tool 1: Template touch point tool: How to identify ways in which programming interacts with applicable sanctions and counterterrorism measures	64
Tool 2: Cheat sheet: Differences and commonalities between sanctions and counterterrorism measures	66
Tool 3: Examples of humanitarian safeguards in sanctions, counterterrorism measures and donor clauses	70
Tool 4: Checklist on good and bad practices for humanitarian safeguards.....	74
Tool 5: Risk categories and operational impacts.....	76
Tool 6: Checklist for establishing a national tri-sector working group.....	78
Tool 7: Examples of sanctions/counterterrorism clauses in donor agreements.....	81
Tool 8: Reviewing sanctions and counterterrorism clauses in donor agreements.....	85
Tool 9: Go/no-go checklist in relation to sanctions and counterterrorism measures	87
Tool 10: Criteria for calculating risk impact and likelihood	30
Tool 11: Example risk matrix	91
Tool 12: Example sanctions/counterterrorism policy	92
Tool 13: Example engagement policy with non-state armed groups and de facto authorities considering sanctions and counterterrorism risks	95
Tool 14: Partnership assessment checklist	98
Tool 15: Monitoring and Evaluation (M&E) minimum standards.....	106
9. Resources	112
9.1 Publications	112
9.2 Sample of official sanction guidance	115

1

ACRONYMS

AML: Anti-money laundering	NRC: Norwegian Refugee Council
BHA: USAID's Bureau for Humanitarian Assistance	NSAG: Non-state armed group
CTF: Counterterrorism financing	OCHA: UN Office for the Coordination of Humanitarian Affairs
CaLP: The Cash and Learning Partnership	OFAC: US Office of Foreign Assets Control
CVA: Cash and voucher assistance	OFSI: UK Office of Financial Sanctions Implementation
DRC: Democratic Republic of Congo	PSEA: Preventing Sexual Exploitation and Abuse
ECOWAS: Economic Community of West African States	PVS: Partner Vetting System
ERC: Emergency Relief Coordinator	UK: United Kingdom
EU: European Union	UN: United Nations
FATF: Financial Action Task Force	UNSC: United Nations Security Council
FCDO: Foreign, Commonwealth & Development Office	UNSCR: United Nations Security Council resolution
FTO: Foreign Terrorist Organization (US)	US: United States
IHL: International humanitarian law	USAID: United States Agency for International Development
IS: Islamic State	SCP: Sanction Compliance Program
MSF: Médecins Sans Frontières	SDGT: Specially Designated Global Terrorist (US)
MVTS: Money value transfer service	SOP: Standard operating procedure
NGO: Non-governmental organisation	WASH: Water, sanitation and hygiene
NPO: Non-profit organisation	

2

KEY TERMS AND DEFINITIONS

Globally accepted definitions do not necessarily exist for the terms below, and humanitarian organisations use some of them differently. Those given here are for the purpose of this toolkit only.

Access

Humanitarian organisations' ability to reach affected populations and conduct humanitarian operations, and the ability of affected populations to access assistance.

Aid diversion

Any event, including fraud, corruption, bribery, theft, money laundering and other misuse of funds, that prevents funds being directed to its intended recipients. Anti-aid diversion policies and practices refer to measures taken to ensure that humanitarian assistance reaches the intended beneficiaries.

Chilling effect

The impact of laws or measures that do not actually prohibit behaviour, but whose effect de facto inhibits or discourages lawful activities. Sanctions and counterterrorism measures can have a chilling effect. These measures are often complicated to navigate, which can lead stakeholders, including humanitarian organisations or the private sector, to self-censor and refrain from permissible activities from fear of violating the restrictions.

Code of conduct

A set of principles adopted by an organisation designed to maintain standards of behaviour.

Counterterrorism measures

International, regional, national laws and policies, or donor provisions related to counterterrorism. They include sanctions adopted for counterterrorism purposes as well as criminal laws.

Derisking

When the private sector or financial institutions terminate or restrict financial services to avoid rather than manage risk. Bank derisking is driven by risk aversion, concerns about reputation and profitability, and requirements to comply with sanctions, anti-money laundering (AML) and terrorism financing obligations.

Designated person or entity

A person or entity such as an armed group or company against which targeted sanctions have been imposed.

Dual use items

Goods, software or technology that can be used for both civilian and military applications.

Due diligence

The implementation of organisational policies, controls and processes designed to identify and assess the impact of activities and relationships on humanitarian work throughout the project cycle.

Fraud

A deception practised to secure unfair or unlawful gain.

Humanitarian safeguard or carve-out

Non-legal terms that refer to the various approaches to exclude activities or organisations from restrictions that legal provisions impose to protect principled humanitarian action. Confusingly, international entities such as the United Nations (UN) and the European Union (EU) and individual countries do not use the terms consistently. More important than the terminology, however, is understanding how different safeguards operate and what, if anything, international humanitarian organisations must do to benefit from them.

As far as sanctions are concerned, there are two principal approaches:

- Excluding activities and/or stakeholders from the prohibitions altogether. This type of safeguard applies automatically, and humanitarian organisations do not have to do anything to benefit from it. We call these “**exemptions**” in this toolkit, but they are also referred to in other ways, such as “general licenses” in the United States (US).



© Dixon Odur/NRC

- Requiring humanitarian organisations to apply to be excluded from prohibitions. We call these “**derogations**”, but in the US they are referred to as “specific licenses” and in the United Kingdom (UK) as “Treasury licences”.

As far as criminal counterterrorism measures are concerned, safeguards usually take the form of “**exceptions**” to the offences.

Incidental benefits —————

This term is often used in relation to humanitarian exemptions. In this context, “incidental benefits” refers to payments, transactions or transfer of resources that are necessary to conduct humanitarian activities but may benefit designated entities. These typically include payment of taxes to a designated group, or the use of a supplier owned by a designated individual for humanitarian activities. Humanitarian exemptions in sanctions authorise such transactions if they meet certain criteria. However, these payments may still be forbidden under other autonomous sanctions that do not have a similar exemption,

or under the counterterrorism legislation of a host or donor country.

Monitoring —————

The continuous and systematic oversight of the implementation of an activity to measure the achievement of objectives using allocated funds.

Overcompliance —————

When humanitarian organisations, banks or private sector entities operate in a way that is more restrictive than sanctions provisions or counterterrorism measures demand.

Proscribed terrorist group —————

A group that has been listed as ‘terrorist’ by a country for the purpose of its domestic criminal counterterrorism law. It is also possible for the group to be simultaneously designated under sanctions.

Residual risk —————

The risk that remains after efforts to manage or mitigate it.

Risk

The effect of uncertainty on an organisation's objectives.

Risk management

The processes involved in identifying, assessing and mitigating risks, including actions to anticipate or respond to them, and monitoring and reviewing progress.

Risk transfer

The shifting of risk from one entity to another. Risk transfer can occur between donors and humanitarian organisations, and between international organisations and local implementing partners.

Restrictive measures

The expression the EU uses to refer to sanctions.

Sanctions

Foreign policy measures that may be adopted internationally, or by regional organisations and/or individual countries. They are intended to influence the behaviour of other countries, groups, or individuals without recourse to armed force. They can include different types of restrictions, including financial sanctions, prohibitions on the purchase of commodities or the import of certain goods, and travel restrictions for designated individuals.

Screening

Process by which an organisation conducts checks to ensure that anyone who receives a payment or a resource, including staff, prospective staff, contractors, and staff of partner organisations, does not appear on lists of individuals or entities designated under sanctions or proscribed groups under counterterrorism measures.

Vetting

Screening and vetting are often used interchangeably, but they are not the same thing. Humanitarian organisations carry out screening, while vetting requires them to provide information on individuals and entities to a donor, which carries out their own checks. Vetting is also sometimes used more broadly to refer to due diligence measures.

3

INTRODUCTION TO THE TOOLKIT

The four principles of humanity, impartiality, neutrality and independence are the foundations of humanitarian action.¹ Organisations are guided by them in their work to ensure that those most in need receive assistance and protection. They are fundamental to humanitarian organisations' work and enable them to gain and maintain the acceptance of communities and parties to conflicts, which helps to facilitate access and ensure the safety of staff and project participants.

National and international counterterrorism measures have become increasingly common since 2001, and sanctions have been imposed ever more frequently in recent years. Humanitarian organisations are concerned about the impact of these measures on their ability to operate in line with the humanitarian principles and international law, including international humanitarian law (IHL).

Humanitarian organisations themselves are not usually the target of these measures, but they can still pose risks for principled humanitarian action. They create challenges at all stages of the project cycle and may impede access, operational efficiency and the safety and security of staff and beneficiaries. The risk aversion of some donor countries further complicates the challenges.

Private entities that provide services necessary for humanitarian action, such as financial institutions, tech companies, insurers, freight companies and commodity providers, must also comply with sanctions and counterterrorism measures. To minimise the risk of liability, many have significantly restricted the services they are willing to offer to humanitarian organisations, particularly for operations in countries they perceive as high risk. These practices, also known as derisking, often have a significant impact on humanitarian organisations' capacity to operate in many cases.

The impact of sanctions and counterterrorism measures on principled humanitarian action has been extensively documented, and important progress has been made in recent years to address some of the challenges involved. There have been significant changes to policy and legislation designed to protect principled humanitarian action, but the situation is constantly evolving as new tensions arise.

3.1 WHAT ARE THE TOOLKIT'S OBJECTIVES?

This toolkit is intended to raise awareness of the risks that sanctions and counterterrorism measures pose so that humanitarian organisations can identify and mitigate them, and to make risk management approaches and tools accessible to a broad range of staff for use in their day-to-day work.

It is designed for use by a wide variety of staff from headquarters to the field, ranging from those responsible for programme implementation or partnerships with donors, to those with operational, risk management or advocacy and policy responsibilities.

¹ International Committee of the Red Cross, [Code of Conduct](#) for the International Red Cross and Red Crescent Movement and Non-Governmental Organizations (NGOs) in Disaster Relief.



It has four objectives:

- 1 To contribute to a granular understanding of what sanctions and counterterrorism measures are, how they can affect principled humanitarian action and the measures in place to protect such action.
- 2 To highlight risks related to sanctions and counterterrorism measures that humanitarian organisations may need to manage, and to clarify some common misconceptions about them.
- 3 To provide practices and tools to help humanitarian organisations manage risks related to sanctions and counterterrorism measures.
- 4 To encourage organisations to mainstream consideration of sanctions and counterterrorism-related risks throughout the project management cycle while avoiding overcompliance.

This is the third edition of the toolkit, which was originally published in 2015.² It updates the 2020 edition and expands its coverage to include risks related to sanctions in addition to counterterrorism measures, reflecting changes and shifts in the policy landscape.³ It offers more details and nuance than previous iterations, building on greater knowledge across the sector. It summarises the situation as of August 2024.

The toolkit is not exhaustive or prescriptive, and it is not intended to provide specific legal guidance. It is therefore recommended that humanitarian organisations seek their own legal advice on sanctions and counterterrorism issues. The toolkit also does not aim to provide details of evidence on the impact of sanctions and counterterrorism measures on principled humanitarian action or people in need. It does not take a position on the legitimacy or effectiveness of such measures, beyond the need for adequate safeguards to ensure that principled humanitarian assistance reaches those in most need.

² Norwegian Refugee Council, [Risk management toolkit in relation to counterterrorism measures](#), 2015.

³ Norwegian Refugee Council, [Toolkit for principled humanitarian action: Managing counterterrorism risks](#), 2020.

3.2 METHODOLOGY AND APPROACH

The development of this toolkit since 2015 has been informed by extensive engagement with representatives of governments, the private and financial sectors, national and international non-governmental organisations (NGOs) and UN agencies. Information has been gathered via interviews, training sessions, workshops and roundtables in countries including Afghanistan, Burkina Faso, Iraq, Kenya, Lebanon, Mali, Niger, Nigeria, Palestine, Senegal and Somalia, and this has been complemented with desk research. A steering committee of Norwegian Refugee Council (NRC) staff has also provided guidance and comments.

Information that is not publicly available has been anonymised.

3.3 THE TENSION BETWEEN SANCTIONS, COUNTERTERRORISM MEASURES AND PRINCIPLED HUMANITARIAN ACTION

Humanitarian organisations are committed to ensuring that assistance based on need alone reaches its intended beneficiaries, but sanctions and counterterrorism measures can impede their capacity to operate in accordance with the humanitarian principles.

Tensions may arise between sanctions, counterterrorism measures and respect for international law. They result from concerns about the humanitarian impact of sanctions and counterterrorism measures, including their potential to restrict access to essential goods and services for civilians. The measures also have the potential to exclude certain beneficiaries and people in need, in contradiction of the humanitarian principles and the principle of non-discrimination, which is clearly protected under international law, including IHL.

Humanitarian organisations have well-developed policies and procedures that cover security, human resources, finance and administration to ensure that assistance reaches its intended beneficiaries. They have increasingly invested significant funds and resources in professional risk management and compliance mechanisms to ensure that robust controls are in place.

Despite these efforts, it is impossible to eliminate all risks in the complex environments in which humanitarians work. This toolkit focuses on helping organisations identify, manage and address risks related to sanctions and counterterrorism measures while recognising that residual risks will remain. Once mitigation measures are in place, organisations can assess whether the residual risks are outweighed by the expected humanitarian outcomes of a proposed activity.

4

SANCTIONS, COUNTERTERRORISM MEASURES AND PRINCIPLED HUMANITARIAN ACTION

This section develops your knowledge of the nature of sanctions and counterterrorism measures. By the end of it, you will be able to understand:

→ The similarities and differences between sanctions and other counterterrorism measures.

→ Their origins, the types of restriction they impose relevant to humanitarian actors and the safeguards that exist to protect humanitarian action.

→ Which sanctions and other counterterrorism measures should your organisation consider.

4.1 THE IMPORTANCE OF UNDERSTANDING THE DIFFERENCE BETWEEN SANCTIONS AND COUNTERTERRORISM MEASURES

Sanctions and counterterrorism measures are two different instruments. Both can have similar impacts on principled humanitarian action, but understanding the differences helps organisations to identify and assess the risks involved, design balanced risk management processes, avoid overcompliance and unnecessary self-censorship, and engage in more precise advocacy for necessary changes.

Sanctions and counterterrorism measures may, for example, share the same objectives, such as stemming the flow of financing for terrorism, in which case some of the restrictions they impose can also be similar. Financial sanctions prohibit making funds or economic resources available, directly or indirectly, to designated organisations or individuals. This can have the same effect as counterterrorism measures that prohibit the financing of terrorist activities and/or assistance to proscribed terrorist groups.

There are, however, important differences in terms of their origin, their goals, their targets, the nature of their prohibitions, the risks they pose to humanitarian work, and the types of

safeguards – if any - that protect humanitarian action.

First, not all sanctions are related to counterterrorism. Sanctions can also form part of efforts to prevent violations of international law, punish repression, restore democratically-elected leaders, and/or promote human rights, compliance with IHL and disarmament.

Second, sanctions and counterterrorism measures also impose different types of restrictions. Sanctions may restrict the import or purchase of certain goods and commodities, such as fuel, while counterterrorism measures may include criminal laws that forbid a wider range of activities, such as travelling to receive terrorist training, travelling to locations under the control of designated groups, and incitement of terrorism. Counterterrorism measures may also include local curfews, bans on the use of certain vehicles, bans on certain economic activities and/or the imposition of military or no-go zones.

Finally, some of the impacts of sanctions and counterterrorism measures on humanitarian operations may be similar, but the risks associated with them differ. Sanctions implementation tends to be overseen by specific bodies – such as the Office of Foreign Assets Control (OFAC) in the US, or the Office of

Financial Sanctions Implementation (OFSI) in the UK – and violations mostly result in administrative penalties, such as fines which can be significant. Counterterrorism laws are enforced by prosecuting authorities, and non-compliance could lead to criminal liability.

4.2 SANCTIONS

4.2.1 What are sanctions?

Sanctions are foreign policy measures that may be adopted internationally by the UN Security Council (UNSC), or by regional organisations such as the EU or the Economic Community of West African States (ECOWAS) and/or individual countries. They are intended to influence the behaviour of other countries, groups or individuals without recourse to armed force.

States or bodies adopt sanctions for a variety of purposes. “Geographical” sanctions usually form part of efforts to respond to unfolding crises in countries such as Niger, Sudan, Syria or Ukraine. Others pursue “thematic” objectives such as protecting human rights, preventing the proliferation of weapons of mass destruction, or countering terrorism. These thematic sanctions are sometimes referred to as “horizontal” sanctions. The motivation for their imposition may vary, but their impact on humanitarian action and the risks they pose are often similar.

4.2.2 Who imposes sanctions?

At the international level, the UNSC, acting under chapter VII of the UN Charter, adopts sanctions that are binding on all member states, which must incorporate them into national law and enforce them.

At the regional level, the EU for example implements UN sanctions but can also adopt its own autonomous sanctions, which it calls “restrictive measures”. These are directly binding on its 27 member states and any person or entity under their jurisdiction. Member states are responsible for the enforcement of

sanctions and can issue relevant authorisations to allow certain transactions.

At the national level, individual countries – such as the US, the UK but many others too - adopt autonomous sanctions, which have become significantly more numerous than UN sanctions in recent years. Host countries where humanitarian organisations operate may also adopt and enforce their own sanctions. Ethiopia, Mali and Sudan have adopted autonomous sanction lists for counterterrorism purposes since 2021, for example.

Counterterrorism sanctions

There are several sanctions regimes intended to counter the financing of terrorism, adopted by the UN, regional bodies and individual countries:

- The UN’s main counterterrorism sanctions fall under the regime that targets individuals and groups associated with al-Qaeda and the Islamic State (IS) group. Sometimes referred to as the “1267 regime”, the designated groups include Jama’at Nusrat ul-Islam wa al-Muslimin, operating in the Sahel; IS West Africa Province; and IS in Iraq and the Levant – Khorasan, which operates in Afghanistan. Other geographical UN sanctions can incorporate counterterrorism objectives, such as those targeting the Taliban in Afghanistan and al-Shabaab in Somalia.
- Regional organisations such as the EU and countries such as the UK and US implement independent sanctions with counterterrorism aims. There is no global list of groups and individuals designated under counterterrorism sanctions and designations vary between countries. The US maintains a list of ‘Specially Designated Global Terrorists’ that includes Ansar Allah, also known as the Houthi movement, and Hamas, among others.⁴ The EU’s global list of terrorist individuals and groups includes various Palestinian groups, Hezbollah’s military wing, the Kurdistan Workers Party and the Liberation Tigers of Tamil Eelam.⁵

⁴ [Executive Order 13224](#), United States Department of State, Bureau of Counterterrorism.

⁵ European Union, Council Common Position of 27 December 2001 on the application of specific measures to combat terrorism, ([2001/931/CFSP](#)).

4.2.3 How do sanctions work?

States impose sanctions as part of efforts to bring about changes in behaviour or policies. Measures may include:

- Embargoes on the provision of weapons or equipment that might be used for internal repression
- Restrictions on the export of other goods
- Travel bans
- Financial sanctions that freeze funds and assets and prohibit making them available directly or indirectly to designated individuals or entities

In terms of the risk they pose to principled humanitarian action, financial sanctions and bans on the import or export of certain goods such as fuel or IT equipment are the most problematic.

Financial sanctions only apply to the people or entities whose behaviour or policies they are intended to change. These are referred to as “listed”, “designated” or “targeted” people or groups and typically include ministries, ministers or other high-ranking officials, companies, non-state armed groups (NSAGs) or their leaders which may also act as de facto authorities, as well as other entities or individuals who support the behaviour or policies the sanctions are trying to modify.

Once adopted by governments, sanctions become part of national law. This means their obligations must be respected by every entity - individuals, organisations, companies- that fall under the jurisdiction of the State or organisation that imposes them. This includes humanitarian organisations and staff. Sanctions jurisdictions frequently overlap, which creates a complex legal environment that can be challenging to navigate. ([See Tool 1](#)).

‘Targeted’ vs. ‘comprehensive’ sanctions

While in the 1990s the UN imposed extensive sanctions targeting whole countries and their economies, UN sanctions – but also others, such as the EU - have since become more targeted, focusing primarily on individuals, such as leaders of NSAGs or specific entities. “Targeted” or “smart” sanctions are intended to only affect leadership figures whose behaviour they aim to change. Experience has, however, shown they can have far reaching effects for both civilians and humanitarian organisations that seeks to assist them.

‘Comprehensive sanctions’ is a term often used to describe US sanctions on Cuba, Syria, Iran or North Korea for example, where bans apply to most economic activity including financial transactions, exports, and imports, with entire countries or regions. Colloquially, the term is also often used when referring to broad and cumulative sectoral sanctions that prohibit trade for certain sectors. When applied broadly to sectors that underpin a country’s economy, such sanctions may have an indiscriminate effect on the civilian population.

‘Primary’ vs. ‘secondary’ sanctions

Most sanctions are ‘primary’ sanctions, meaning they are only applicable to entities under the jurisdiction of states that adopt them. However, some countries, particularly the US, have introduced “secondary sanctions” that create legal liability for entities that do not otherwise fall under their jurisdiction. In the case of the US, these effectively compel individuals and entities in third countries to conform with its sanctions or risk exclusion from US financial markets.

4.2.4 How do sanctions adversely impact humanitarian assistance?

Sanctions can affect principled humanitarian action in a number of ways. Financial sanctions tend to have the greatest impact on humanitarian organisations.

Humanitarian organisations often operate in countries or areas where sanctioned individuals or entities have de facto control over people in need – as in Myanmar and Syria – or may own companies and service providers or monopolise an economic sector. To be able to deliver aid, organisations may have to make payments such as taxes to sanctioned entities or pay for services or goods from companies designated under financial sanctions.

Sanctions on ministries, institutions, ministers or de facto authorities also complicate humanitarian organisations' collaboration with these entities. Unless explicit humanitarian safeguards are in place in the law, organisations may fall foul of sanctions if they transfer financial or material resources to these designated individuals or ministries, whether directly or indirectly. Sanctions do not, however, prevent other forms of engagement with designated parties, including de facto authorities, such as signing memorandums of understanding or negotiating humanitarian access ([See Deep Dive 1](#)).

Sanctions can also impose restrictions on the type of goods or materials that can be exported to a country, which can include items that humanitarian organisations require for their programmes, be they in agriculture, health or water, sanitation and hygiene (WASH). They may also prevent humanitarian staff using software they need for their daily operations.

Banks and financial institutions are often the most concerned about sanctions violations because they potentially face heavy fines and other penalties. This leads them to take an extremely risk-averse approach to providing financial services that might involve a country, group or individual designated under sanctions. This risk aversion is referred to as bank derisking, and it can have a significant effect on humanitarian organisations and their operations ([See Deep Dive 2](#)).

CASE STUDY:

Impact of EU sanctions on humanitarian programmes in Syria

A telecommunications company in Syria was designated under sanctions adopted by the EU and several other countries. Over time, however, the company became the only reliable telecommunications provider in parts of Syria where an international humanitarian organisation operated, meaning that by 2021 the organisation had to rely on a sanctioned entity to provide internet access for its staff and ensure the safe and efficient delivery of assistance.

EU sanctions at the time allowed organisations to apply for authorisation to use sanctioned suppliers – referred to as a 'derogation'. One humanitarian organisation applied to several 'national competent authorities' from relevant European states, asking for permission to contract with the company concerned, explaining the services' necessity for its humanitarian programmes and that in the circumstances it had no other option. The application process was complex and time-consuming. Authorisations ultimately took several months to obtain, in some instances up to a year, far too long to be useful in an emergency response situation.

After the earthquakes that struck north-west Syria in 2023, the EU introduced a humanitarian exemption to its sanctions on the country which authorises humanitarian payments to designated individuals or entities without having to seek prior permission. At the time of writing this toolkit, the exemption is valid until 1 June 2025.



© Karl Schembri/NRC

4.2.5 How can humanitarian action be protected from the effects of sanctions?

Sanctions do not prohibit humanitarian action, but the restrictions they impose can prohibit certain activities or transactions necessary for humanitarian operations. This means that humanitarian organisations do not need an exemption or an explicit authorisation to work in any sanctioned environment. However humanitarian exemptions are important because they allow organisations to contract services from a designated company and to reassure risk-averse banks to conduct transfers to contexts under sanctions or authorise payments to designated entities, including NSAGs and de facto authorities when needed for humanitarian operations.

Thanks to a decade of sustained advocacy by humanitarian organisations which highlighted the challenges that sanctions pose to their work and principles, states and international organisations are increasingly including a range of safeguards to protect principled humanitarian action. The types of safeguards vary across the different sanction regimes.

What are humanitarian safeguards?

“Safeguards” or “carve-outs” are generic terms for provisions that exclude humanitarian organisations and their staff from restrictions in sanctions regimes. Humanitarian safeguards carve out a space for principled humanitarian action, allowing humanitarian activities to be conducted by legitimate humanitarian organisations without the risk of violating sanctions.

Safeguards take two main forms. The first, known as an “exemption”, excludes transactions or goods necessary for humanitarian action from the prohibitions altogether. This is the most protective model, as adopted under UN Security Council resolution (UNSCR) 2664 of 2022 and increasingly replicated since by several key countries.

The other approach requires humanitarian organisations to apply for authorisation in advance of carrying out a relevant transaction. The EU refers to such authorisations as “derogations”, the US as “specific licenses” and the UK as “Treasury licences”. The process of applying for authorisation varies. Under EU sanctions, applications are made to relevant

member states, a procedure that humanitarian organisations have long criticised as lengthy, cumbersome and unsuitable for emergency responses. Some EU member states have also admitted challenges in navigating the complexity of the bloc's regulations. In a positive development, the EU has gradually moved away from the derogation system since 2023 and toward humanitarian exemptions.

For examples of humanitarian carve-outs in sanctions, counterterrorism and donor clauses, see [Tool 3](#). For a checklist of good practices for protective humanitarian carve-outs, see [Tool 4](#).

UN Security Council resolution 2664

The most significant development in UN financial sanctions was the adoption of the landmark UNSCR 2664 in December 2022. It represented a major policy shift on humanitarian exemptions that has far-reaching implications for efforts to protect principled humanitarian action.

What does UNSCR 2664 do?

The resolution introduces a standing humanitarian exemption in all existing UN financial sanctions regimes. It also applies to all future UN sanction regimes unless the UNSC expressly decides otherwise. There is only one exception. UNSCR 2664 does not cover the sanctions imposed on members of the Taliban in Afghanistan, because there is a separate exemption, UNSCR 2615, that applies.

Which types of sanction does UNSCR 2664 apply to?

The exemption only applies to financial sanctions adopted by the UNSC. It does not cover other types of restriction in UN sanctions that may affect humanitarian action, such as import bans on certain commodities. Nor does it automatically apply to autonomous sanctions adopted by regional organisations such as the EU or countries such as the UK or US, though it does set an important precedent and model. It does not cover counterterrorism measures that pose challenges for principled humanitarian action, such as the US material support statute.

Which activities does UNSCR 2664 cover?

The exemption allows specific categories of organisations to provide funds or assets directly or indirectly to designated individuals or entities if they are necessary to ensure the timely delivery of humanitarian assistance or support other activities that address basic human needs.

Which categories of organisations are covered?

The exemption applies to:

- The UN, “including its programmes, funds and other entities and bodies, as well as its specialized agencies and related organizations”
- Humanitarian organisations that have observer status with the UN General Assembly and members of those organisations
- Bilaterally or multilaterally funded NGOs working on UN humanitarian response plans, refugee response plans and other UN appeals, or participating in the cluster system overseen by the UN Office for the Coordination of Humanitarian Affairs (OCHA)
- The “employees, grantees, subsidiaries, or implementing partners of the above-mentioned actors, while and to the extent that they are acting in those capacities”.

How long will the exemption last?

The exemption has no time limit, except as it applies to the “1267” sanctions regime on al-Qaeda and the IS group. This part of the exemption is valid for only two years, expiring in December 2024, after which the UNSC will decide whether to extend it and for how long.

How should states give effect to the resolution?

The exemption in UNSCR 2664 is immediately binding on UN member states. Most countries and the EU have given effect to UNSCR 2664's provisions in their national laws that govern the implementation of UN sanctions. In addition, many countries have gone a step further and included similar safeguards in their own ‘autonomous’ financial sanctions.

❓ What is the reporting requirement in UNSCR 2664?

The resolution requires the Emergency Relief Coordinator (ERC) to brief the relevant UN sanctions committees every 12 months on behalf of the humanitarian community. It requests information on the following topics:

- “The delivery of humanitarian assistance and other activities that support basic human needs (...)
- Any available information regarding the provision, processing or payment of funds, other financial assets or economic resources to, or for the benefit of, designated individuals or entities, any diversion of funds or economic resources by the same
- Risk management and due diligence processes in place
- Any obstacles to the provision of such assistance or to the implementation of the resolution”

To support the annual ERC briefings, which are oral and confidential, OCHA collects information from humanitarian organisations. No written submissions or reports are published on the content of the briefings. Unlike UN agencies, NGOs have no legal obligation to report, but they are encouraged to provide information to ensure ongoing support for the resolution from UNSC member states.

❓ What are ‘incidental benefits’, and how do they differ from aid diversion?

As part of the UNSCR 2664 reporting requirement, the ERC is requested to provide information on funds and/or resources provided to designated individuals or entities. These are known as ‘incidental benefits’ and might include the payment of taxes to a designated group, or the use of a supplier owned by a designated individual for humanitarian activities. UNSCR 2664 permits such transactions if the individual or entity is on a UN sanctions list and if they are essential to humanitarian action or meeting people’s basic needs. These payments may, however, still be

forbidden under other autonomous sanctions that do not have a similar exemption, or under the counterterrorism legislation of a host or donor country.

The ERC is also required to report on incidents of aid diversion, which is a distinct and separate issue from incidental benefits. It refers to instances when assistance does not reach the intended recipients as a result of interference, fraud, theft or damage by a government, local authority, armed group, or any other actors. Aid diversion can occur regardless and independent of humanitarian exemptions in sanctions regimes, which do not legitimise or authorise it or make it lawful.

Timeline of main developments on humanitarian safeguards in sanctions

2010: UNSCR 1916: After drought in Somalia, UNSC adopts a humanitarian exemption in its financial sanctions on the country.⁶ It is the first humanitarian exemption of its kind.

2016: EU member states adopt a humanitarian exemption to authorise humanitarian organisations they fund to purchase Syrian fuel.

2021: UNSCR 2615: UNSC adopts a humanitarian exemption in UN sanctions that apply to members of the Taliban, to facilitate aid delivery in Afghanistan.

2022: UNSCR 2664: UNSC adopts a cross-cutting humanitarian exemption applicable to all past and future UN financial sanctions. The US adopts a series of general licenses shortly afterwards that give effect to and extend the exemption to most US sanctions programs.

2023: Most sanctioning entities adopt temporary humanitarian exemptions in their autonomous sanctions on Syria, prompted by the February earthquakes in the country.

2024: The EU adopts humanitarian exemptions in almost all its financial sanctions, and the US includes general licenses in its Yemen sanctions.

⁶ United Nations, Security Council Resolution 1916, [S/RES/1916 \(2010\)](#).

Where to find guidance in relation to sanctions?

Recognising that it is difficult for organisations to understand the restrictions and safeguards, some sanctioning entities have started to issue guidance for all those involved in humanitarian responses, including donors and private sector entities. Because rules and interpretations differ, this guidance applies to specific jurisdictions. There is no globally harmonised guidance available. For a sample of relevant country guidance, see the [Resource section](#).

4.3 COUNTERTERRORISM MEASURES

Counterterrorism measures are intended to prevent and suppress terrorist activities, including the commissioning of specific acts such as hostage taking, and support for terrorist organisations or individuals.

4.3.1 What are counterterrorism measures?

🔍 What is terrorism?

There is no universally agreed definition of terrorism, but the UNSC describes it in UNSCR 1566 of 2004 as “criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organisation to do or to abstain from doing any act”.⁷

🔍 Who are ‘terrorist’ organisations?

Countries take different approaches to defining terrorism based on their legal systems. Some, such as Australia, the UK and the US, have issued lists of proscribed terrorist groups. These are different to those compiled for the purpose of sanctions (designated persons or designated entities), and the groups listed can be but are not necessarily the same.

Other countries, such as Burkina Faso, France and Switzerland, do not have lists of proscribed groups. Rather, for the purpose of terrorist offences, it is up to judges to determine the “terrorist” nature of an organisation.

SDGT vs. FTO designation in the US

There are two different categories of terrorist designation in the US. These can illustrate the differences and implications of counter-terrorism designations.

US designation as **Specially Designated Global Terrorists (SDGT)** is aimed at cutting sources of finances for a designated individual or a group. It can be used to designate not just terrorist groups but also those who provide support or finance to them or are ‘associated’ with them. It would be a breach of the sanction regulations related to this designation for US persons to provide financial support to the designated entity. Banks and financial institutions must also freeze any assets that the entity has in the US.

‘**Foreign Terrorist Organizations (FTO)**’ is a separate designation that triggers different legal implications, including the application of the US material support statute (see below). This means that those who are found to be providing ‘material support’ to FTOs can be convicted of a crime if it is proven that they knew they were assisting a terrorist organisation.

In the US, a terrorist group can be designated under either or both designations – all FTOs are also designated as SDGT, but many SDGT entities have not been designated as FTOs. For example, the Houthis in Yemen were listed both as a FTO and as SDGT until February 2021, when the Biden administration revoked both designations on humanitarian grounds. In February 2024, the US re-designated the Houthis as SDGTs amidst the group’s attacks on shipping in the Red Sea. The humanitarian community has consistently raised alarm over the serious risk of civilian harm of a further FTO designation, as it would effectively criminalise certain transactions necessary to facilitate life-saving humanitarian aid and exacerbate the chilling effect on commercial imports, remittances, and financial services.⁸

⁷ United Nations, Security Council Resolution 1566 (2004), [S/RES/1566 \(2004\)](#).

⁸ See for example, [NGO statement](#) from February 2024 available at: Action Against Hunger et al., NGO Statement on Humanitarian Impacts of Potential U.S. FTO Designation in Yemen, February 2024.

❓ Which measures are commonly used to combat terrorism?

Counterterrorism measures often take the form of laws that criminalise a range of activities which financially, materially or morally support terrorism. Some offences, such as the financing of terrorism, derive directly from international law, while individual countries define others independently.⁹

Countries may also adopt military, policy or administrative measures intended to counter terrorism. A growing number resort to measures such as preventive detention, curfews, territorial bans and movement restrictions.¹⁰ Some are codified in laws, but others are far less transparent and so are more complex to identify and track. The absence of an internationally recognised definition of terrorism allows countries very broad scope, including the ability to factor in their own political, security and military objectives.

Many countries have adopted anti-money laundering (AML) and counterterrorism financing (CTF) frameworks. These measures impose obligations on financial institutions and other businesses, such as customer due diligence and the reporting of suspicious transactions. In some Sahel countries, non-profit organisations fall into the category of entities subject to more stringent AML/CTF measures.

❓ Who adopts counterterrorism measures?

Counterterrorism measures can be adopted at the international level and/or via domestic laws. Donors also often incorporate counterterrorism clauses in the grant agreements they sign with their partners, which in some cases go beyond the requirements laid out in legislation ([see Section 6](#)).

International level

The UN has taken centre stage in the adoption of global counterterrorism measures since 2001. It has done so through a series of conventions and UNSC resolutions that require UN member states to adopt laws and measures to prevent and suppress the financing of terrorist acts, and other forms of support for terrorism, such as the financing of foreign fighters and the glorification of terrorist acts. The resolutions are binding on all member states, which must bring them into their 'domestic' (national) legal systems.

Examples of obligations related to the financing of terrorism include:

- UNSCR 1373 of 2001 requires UN member states to prohibit “their nationals or any persons and entities within their territories from making funds and assets available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in terrorist acts”.
- UNSCR 2462 of 2019 requires member states to “ensure that their domestic laws and regulations establish serious criminal offenses sufficient to provide the ability to prosecute and to penalize in a manner duly reflecting the seriousness of the offense the wilful provision or collection of funds, financial assets or economic resources or financial or other related services, directly or indirectly, with the intention that the funds should be used, or in the knowledge that they are to be used for the benefit of terrorist organizations or individual terrorists for any purpose, including but not limited to recruitment, training, or travel, even in the absence of a link to a specific terrorist act”.

⁹ These are not the only types of criminal counterterrorism measures. Numerous treaties exist that require states to criminalise particular acts and to prosecute or extradite persons suspected of having committed the crimes. They are not of immediate relevance to humanitarian action.

¹⁰ For a definition and examples of policy and administrative measures, see 55th regular session of the Human Rights Council Report, [A/HRC/55/48](#), §47.

Regional level

Some regional organisations have adopted specific measures to combat terrorism, including its financing, with a view to harmonising criminal and administrative frameworks among their member states. The measures may be binding for member states of the relevant organisation. Some are directly applicable while others require transposition into national law. The EU's Directive 2017/54 on combating terrorism, for example, provides a common definition of terrorism offences and requires member states to adapt their domestic frameworks accordingly.¹¹

Other regional organisations have adopted common counterterrorism frameworks, especially in criminal law. The African Union adopted the African Model Anti-terrorism Law of 2011, which serves as a guide for the implementation of international obligations in domestic law. The West African Economic and Monetary Union (also known by its French acronym UEMOA) adopted a directive and model law on the financing of terrorism in 2015.

Domestic level

Countries take different approaches to giving effect to international or regional obligations in their domestic laws. Most have adopted specific counterterrorism legislation which is enforced by judicial institutions, while others adopted additional and broad counterterrorism legislation or policies, examples of which are discussed below.

CASE STUDY:

The US material support statute

In the aftermath of the September 2001 attacks, the US adopted legislation that criminalised the provision of “material support” for proscribed terrorist groups. The material support statute uses an extremely broad definition that includes the provision of any property or service, lodging, training, expert advice or assistance, personnel and transport, but not medicine or religious materials.¹³

This has for long created obstacles to legitimate humanitarian activities that fall within the scope of such a wide definition. The statute can be applied to organisations and individuals regardless of where an alleged crime had been committed, the nationality of the perpetrator or the source of the funds involved. For details about how the US material support statute has been used in strategic litigation against humanitarian organisations, see Section 6.

❓ How do counterterrorism measures impede principled humanitarian action?

Counterterrorism measures can pose similar challenges to humanitarian action as sanctions, but with additional impacts. Groups proscribed under counterterrorism measures are often parties to conflicts and may have control over civilian populations in severe need. These include al-Qaeda in the Arab Peninsula in Yemen, IS group affiliates in Syria and the Sahel region, Boko Haram in Nigeria and Hamas in the Gaza Strip.

Sanctions prohibit making financial resources or other assets available to listed entities and individuals, but counterterrorism measures may also prohibit other forms of support and often have vague language that can be interpreted extremely broadly. There is a risk of humanitarian activities or organisations falling within the scope of the restrictions.

¹¹ Article 11 of the EU Directive foresees that “Member States shall take the necessary measures to ensure that providing or collecting funds, by any means, directly or indirectly, with the intention that they be used, or in the knowledge that they are to be used, in full or in part, to commit, or to contribute to the commission of [terrorist acts] is punishable as a criminal offence when committed intentionally”.

¹² [U.S. Code § 2339A](#) - Providing material support to terrorists.

CASE STUDY:

UK Counterterrorism and Border Security Act

Countries have taken different approaches to criminalising travel in relation to terrorist activities. Some have adopted extremely broad prohibitions that go beyond what is required by the UNSC. The UK, for example, passed a law in 2019 that makes it an offence for UK nationals and residents to enter or remain in a designated country or part of a country. It was designed to make it easier to prosecute “foreign fighters” who travelled abroad to fight with groups designated as terrorist and then returned to the UK.

As initially tabled the law did not include an exemption for humanitarian workers who may need to enter such areas. This exposed staff engaged in legitimate activities to the risk of arrest and criminal charges on their return to the UK. Such an outcome could have had a major impact on their organisation, given the resources, cost and possible reputational damage involved. It could also have meant that people in need in designated areas would be deprived of assistance.

After lobbying by humanitarian organisations, the law was adopted with an exemption that allows travel to designated areas for “providing aid of a humanitarian nature”. Shortly after the UK law was adopted, the Dutch government tabled a similar bill, which also includes an exemption for humanitarian organisations and journalists for the offence related to presence in areas controlled by terrorist groups.

DEEP DIVE I: HOST COUNTRIES’ COUNTERTERRORISM MEASURES

Many host governments in countries where NGOs operate have adopted counterterrorism measures in laws, policies and practices which span criminal, military, policing and administrative frameworks. Examples include preventive detention, curfews, other movement restrictions and market closures. Bans on trade and cash transfers may also be imposed.¹³ These measures tend to compound the vulnerabilities caused by existing conflicts and have a significant negative impact on civilian populations as well as on principled humanitarian action.

Autonomous terrorist listings

A growing number of host countries have adopted their own terrorist listings in recent years, sometimes invoking the provisions of UNSCR 1373. Such practices may impede principled humanitarian action when adopted by countries affected by major crises, such as in the case of Israel’s listing of Palestinian entities, as well as in Ethiopia or Sudan.¹⁴

Under IHL humanitarian organisations can engage with all parties to a conflict, including designated groups, but it is common that they limit their contact for fear of threats, prosecution and host countries accusing them of supporting terrorists. This may mean that people living in areas controlled by designated groups only have limited access to assistance, undermining the humanitarian principle of impartiality. It may also mean that parties to a conflict view organisations as legitimate targets, as was the case when IS’s official global

¹³ Ben Saul, Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, [A/HRC/55/48, 2024](#), §§46-50.

¹⁴ Ethiopia: Between 2021 and 2022, the Tigray People’s Liberation Front (TPLF) was designated as a proscribed terrorist organisation in Ethiopia, according to a resolution adopted by the House of Peoples Representatives; [Al Jazeera, Ethiopia to designate TPLF, OLF-Shene as ‘terror’ groups](#), 1 May 2021; Sudan: The Technical Committee for Implementing UNSC Resolutions 1373/1267 adopted in January 2024 an administrative act to designate some entities and individuals as terrorists, including the « Rapid Support Forces » (RSF); Sudan Republic, Technical Committee for Implementing UNSC Resolutions 1373/1267, Designation of terrorist entities and individuals pursuant to the Council of Ministers’ Resolution No. 359, January 2024.

weekly online magazine ran a series of articles in mid-2020 accusing aid workers of aiding the Nigerian government in its fight against the Islamic State of West Africa Province (ISWAP),¹⁵ creating major risks to the safety of staff and the communities they work with.

Shrinking humanitarian space

Several host countries have adopted “NGO laws”, which sometimes invoke national security concerns to restrict or control the activities of humanitarian organisations by using CTF and AML measures that involve burdensome registration requirements and limitations on foreign funding.¹⁶ Such laws may also empower governments to approve projects and oversee the selection of suppliers and beneficiaries.

Measures that affect civilians’ access to basic goods and services

Some domestic counterterrorism measures have restricted people’s access to basic services and livelihoods, heightening their vulnerabilities. Movement restrictions and bans on trade, fishing and farming enforced in the fight against Boko Haram around the Lake Chad basin have had a dire impact on local livelihoods and worsened food insecurity already aggravated by years of conflict.

Extra legal barriers in Iraq means that individuals with close family members suspected of affiliation with the IS group have been unable to acquire civil documentation for themselves or their relatives, effectively denying them basic rights such as freedom of movement, education or healthcare.¹⁷

Measures that affect principled humanitarian action

Domestic counterterrorism measures can hinder the delivery of essential aid by imposing numerous constraints on access, logistics, operations, programmes and the mobility of humanitarian personnel. Local restrictions typically seek to regulate the ways organisations work, the type of assistance they can provide and even to whom they can provide it. This undermines the humanitarian principles and operational independence, and diverts limited resources to compliance with administrative, security or bureaucratic requirements.

Local authorities in some regions of the Sahel, for example, imposed bans on cash assistance and items they deemed “dual use”, such as fuel or fertiliser. Other measures involve humanitarian organisations having to obtain permission in advance to travel to certain areas. Counterterrorism laws, policies and practices have also led to the de facto and, in some cases, deliberate neglect of populations in need, especially those who reside in areas controlled by armed or designated terrorist groups or who are suspected to support them, undermining the humanitarian principles of neutrality and impartiality in the response.

Intimidation, harassment and investigation of humanitarian personnel

In many settings, authorities and sometimes local people become increasingly suspicious that humanitarian assistance is benefitting NSAGs, whether deliberately or not. Humanitarian organisations risk suspension or expulsion over allegations of supporting designated groups.¹⁸ Staff members, especially local personnel, are increasingly subject to intimidation, arrest, questioning and at times detention.

¹⁵ The International NGO Safety Organisation, [A Declaration of Global Intent?](#) The Relevance of Islamic State’s Al-Naba Editorial on 13 August, 6 August 2020; Kunle Adebajo, Islamic State Accuses Aid Workers Of Espionage, Spreading ‘Blasphemous Beliefs’, [HumAngle Media](#), 20 August 2020; Bridget Johnson, IS declares humanitarian aid workers are legitimate targets, [Homeland Security Today](#), 18 August 2020; ; Bailey Oedewaldt, Aid Workers Increasingly Targeted by Extremist Groups, [The International Affairs Review](#), 12 January 2021.

¹⁶ Baba Ahmed, Mali govt bans aid groups receiving funds from France, [AP News](#), 22 November 2022.

¹⁷ Protection Consortium of Iraq, [“Where should we go?”](#) Durable solutions for remaining IDPs in Iraq, May 2024.

¹⁸ [The Guardian](#), Nigerian army orders closure of aid agency for ‘aiding terrorism’, 20 September 2019.



4.3.2 How can humanitarian action be protected?

As with sanctions, the challenges that counterterrorism measures pose to humanitarian action can be mitigated by including safeguards in the instruments and laws. These have only been introduced for counterterrorism measures in recent years, however, and there are far fewer than for sanctions.

Humanitarian safeguards in international counterterrorism law

UNSCR 2642 adopted in 2019 demands that member states ensure all measures taken to counter terrorism comply with their obligations under international law, including IHL, international human rights law and refugee law.

It also urges them “when designing and applying measures to counter the financing of terrorism, to take into account the potential effect of those measures on exclusively humanitarian activities, including medical activities, that are carried out by impartial humanitarian actors in a manner consistent with international humanitarian law”. The

exact scope of these obligations is unclear, especially for the requirement to “take into account” the potential effects of counterterrorism measures, and many countries have not yet given effect to it.¹⁹

Humanitarian safeguards in domestic counterterrorism laws

Some countries and regional organisations have adopted safeguards for humanitarian action in their counterterrorism measures in recent years. One way of doing so is by excluding certain activities from the scope of application of specific criminal offences. More protective, but less frequent, are humanitarian safeguards that have a broad scope and apply to the law in its entirety, as in Chad.

In some countries, humanitarian assistance is not specifically covered by a humanitarian exception in the relevant criminal law, but judicial authorities have issued guidance for judges and prosecutors to protect humanitarian activities and personnel. Internal guidance from the UK’s Crown Prosecution Service in 2022, for example, states that “counterterrorism legislation is not intended to hinder humanitarian, development or peacebuilding”.²⁰

¹⁹ For a detailed analysis, see Dustin Lewis and Naz Modirzadeh, *Taking into Account the Potential Effects of Counterterrorism Measures on Humanitarian and Medical Activities: Elements of an Analytical Framework for States Grounded in Respect for International Law*, Harvard Law School Program on International Law and Armed Conflict, May 2021.

²⁰ The Crown Prosecution Service, *Humanitarian, Development and Peacebuilding Work Overseas – Legal Guidance*, 2022.

Examples of humanitarian safeguards in domestic counterterrorism laws

Humanitarian safeguards in domestic counterterrorism legislation can have different forms and scope:

- Safeguards applicable to an offence of financing of terrorism: Ethiopia's Anti-Terrorism Act states that "a humanitarian aid given by organizations engaged in humanitarian activities or a support made by a person who has legal duty to support other is not punishable for the support made only to undertake function and duty".²¹ Canada Criminal Code also provides that terrorist financing offences "do not apply to a person who carries out any of the acts (...) 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".²²
- Safeguards applicable to an offence of "association" with terrorist organisations: Australia's Criminal Code stipulates that such an offence "does not apply if the association is only for the purpose of providing aid of a humanitarian nature".²³
- Safeguard applicable to a counterterrorism legislation as a whole: Chad's 2020 law on the repression of terrorist acts includes a general clause that safeguards IHL, and another that excludes humanitarian activities from all crimes under the law. It specifies: "The exclusively humanitarian and impartial activities conducted by neutral and impartial humanitarian organizations are excluded from the scope of application of this law."²⁴
- Safeguard applicable to a terrorist designation: A US bill proposed to designate the Wagner Group as a foreign terrorist organisation includes a clause in the "material support" provision that excludes "activities and support directly related to humanitarian assistance or peacebuilding activities".²⁵ The bill had not become law as of 2024, but it establishes a good precedent for protecting humanitarian activities from the US material support statute.

For more examples of humanitarian safeguards in counterterrorism measures, see [Tool 3](#).

4.4 WHICH SANCTIONS AND COUNTERTERRORISM MEASURES SHOULD MY ORGANISATION CONSIDER?

Humanitarian organisations and their staff should consider sanctions and counterterrorism measures adopted by several countries and regional organisations.

Some are **directly** applicable, including those adopted by:

- ✓ The country where the organisation is registered.
- ✓ The country or countries where it operates.

Additionally:

- ✓ Staff must comply with sanctions and counterterrorism measures adopted by their country of nationality. These do not, however, apply to their organisation as a whole.
- ✓ US sanctions apply to all transactions conducted in the formal banking system in US dollars. This is because use of US financial system creates a so-called 'US nexus' - it creates a link to the US which brings a transaction within the scope of US primary sanctions. A US nexus can be created in some other situations, depending on the sanctions program, for example, if an entity has a parent company in the US. Organisations should take advice from US lawyers.

UN sanctions are adopted through UNSC resolutions that are binding on UN member states. Each country is required to adapt its legislation to comply with the resolutions.

Importantly, all sanctions and counterterrorism measures adopted by a country or any international or regional body of which it is a member are applicable. A Spanish organisation operating in Myanmar, for example, is bound to comply with all Spanish and EU sanctions

²¹ Ethiopia, Prevention and Suppression of Terrorism Crimes Proclamation (2020).

²² Canada Criminal Code, Section 83.03.

²³ Australia Criminal Code. [Section 80.1AA](#) Treason—assisting enemy to engage in armed conflict.

²⁴ Chad Law No. [003/PR/2020](#) on the suppression of acts of terrorism in the Republic of Chad.

²⁵ Text - S.416 - 118th Congress (2023-2024): [HARM Act, S.416](#), 118th Cong. (2023).

– including sanctions related to other contexts or issues (e.g. Iran or human rights) - and not only those imposed on Myanmar.

Sanctions and counterterrorism measures adopted by other countries may become applicable indirectly through grant agreements. Most donors require recipients of their funds to comply with those they have adopted or are subject to, even if the organisation concerned is not under the jurisdiction of the donor country.

In such cases, compliance with the measures is required as a contractual obligation. Failure to do comply is a violation of the contract, but unless the measures are directly applicable it does not constitute a violation of the sanctions or counterterrorism measures themselves.

Example: Applicable law for NRC operations in the Democratic Republic of the Congo

NRC, as a Norwegian organisation, is primarily bound by Norwegian law, including Norway’s sanctions legislation, which gives force to UN and most EU sanctions. When NRC runs programmes in the Democratic Republic of Congo (DRC), it is also bound by the laws of the country. If NRC’s projects in the DRC are funded by the UK’s Foreign, Commonwealth & Development Office (FCDO), the organisation is also bound to abide by all UK financial sanctions by virtue of the grant agreements it signed with the FCDO.

FACTORS IMPACTING THE LAWS APPLICABLE TO AN NGO



Registered country

Where an organisation is registered will determine the legal framework which they are subject to.

E.g. a French NGO registered in France is subject to French law even when operating in another country.



Grant agreements

Donors often include clauses in grant agreements to ensure organisations comply with their counterterrorism/sanctions laws.



Staff nationality

An individual may be subject to the laws of their country of origin.

E.g. A UK citizen is subject to UK counterterrorism laws such as the UK Terrorism Act in every country they are working/ living in.



Domestic Law

Organisation’s must abide by the law of the country they are operating in which includes domestic counterterrorism laws and sanctions.

E.g. The domestic laws in Lebanon, Afghanistan, Nigeria.

5

RISKS AND IMPACT ON HUMANITARIAN OPERATIONS

This section helps you to identify both the similar and distinct risks that sanctions and counterterrorism measures can create for principled humanitarian action. This will help organisations to identify and manage the risks that these measures present as well as adopt mitigation measures. By the end of it, you will be familiar with:

→ The types of risk that sanctions and counterterrorism measures pose for principled humanitarian action

→ How sanctions and counterterrorism measures relate to NGOs' negotiations with NSAGs and de facto authorities

→ Private and financial sector derisking and its impact on humanitarian action

→ How sanctions and counterterrorism measures affect cash programming

The impact of sanctions and counterterrorism measures on humanitarian action has been extensively documented over the years. Evidence has been compiled in a series of reports and academic papers, including those by the International Review of the Red Cross and Voluntary Organisations in Cooperation in Emergencies (VOICE), a network of European NGOs.²⁶ See the [Resources](#) section for more publications.

The purpose of this section is not to demonstrate the impact of counterterrorism and sanctions, but rather to help organisations make informed risk management decisions. It includes “deep dives” that make up a comprehensive study of some of the most frequent dilemmas organisations face in doing so.

²⁶ Emma O’Leary, Politics and principles: The impact of counterterrorism measures and sanctions on principled humanitarian action, [International Review of the Red Cross](#), No. 916-917, February 2022; [VOICE](#), Adding to the evidence: the impacts of sanctions and restrictive measures on humanitarian action, March 2021.

5.1 RISK CATEGORIES AND OPERATIONAL IMPACTS

Risk category	Operational impact
CRIMINAL AND CIVIL LIABILITY	
	<p>Investigation and prosecution under counterterrorism laws: Some countries' broad definition of prohibited support for terrorist groups or acts of terrorism in their domestic legislation poses a risk for humanitarian organisations and their staff, who could face investigation and prosecution if their activities are deemed to fall within the scope of the crime. Local staff may be particularly exposed to risks under the host country's counterterrorism legislation.</p>
	<p>Civil liability: In some countries such as the US, organisations may also face civil liability under laws such as the Anti-Terrorism Act if it can be argued that their activities (even unintentionally) assisted in the commission of acts of terrorism.²⁷</p>
SANCTIONS VIOLATION	
	<p>Liability for sanctions violation: Humanitarian organisations and their staff may be held accountable for violating sanctions, which is most likely to result in fines or civil penalties. A growing number of countries and sanctioning bodies, however, have introduced measures to punish violation or circumvention of sanctions more severely. For example, the EU adopted a directive on the criminalisation of sanctions violation in 2024.</p>
OPERATIONAL	
	<p>Chilling effect: Overlapping sanctions and counterterrorism measures can create a complex operating environment with the resulting uncertainty about which measures apply and what restrictions they impose producing a chilling effect. Humanitarian organisations and indeed the private sector may self-censor and operate in ways that are more restrictive than necessary for fear of violation.</p>
	<p>Delays in negotiating terms of grant agreements: The inclusion of sanctions and/or counterterrorism clauses in grant agreements can delay humanitarian activities while organisations negotiate with donors to avoid problematic requirements or seek clarity about wording. Some specific requirements, including screening and/or vetting procedures, may also delay the provision of assistance.</p>
	<p>Delays in obtaining specific authorisations: If humanitarian exemptions are not in place, the process of applying for licences or derogations for specific activities otherwise prohibited can be time-consuming. For example, obtaining an export licence or a specific authorisation to conduct a transaction necessary for humanitarian activities.</p>
	<p>Delays caused by private and financial sector derisking: Banks may refuse, or take longer than expected, to provide transfers to locations perceived as high risk to minimise their own exposure to accusations of facilitating the financing of terrorism. Other private sector actors, such as insurance companies and suppliers, may also refuse to offer services to humanitarian organisations for fear of violating sanctions.</p>
	<p>Increased costs: Large international organisations may have to invest hundreds of thousands of dollars in screening software, human resources and legal counsel to ensure their operations comply with overlapping sanctions and counterterrorism measures. Donors do not always cover such costs, and many local organisations are unable to afford them.</p>
	<p>Establishing a bad precedent and weakening collective redlines: This can occur when one organisation accepts a sanctions or counterterrorism clause in a grant agreement that others deem unacceptable. Some organisations may not accept such clauses and instead continue to negotiate more acceptable terms, but their leverage and ability to do so is weakened if others have already accepted the problematic requirements.</p>

²⁷ See for example, Charity and Security Network, U.S. Supreme Court Hears Anti-Terrorism Act Case Against Twitter: [Implications for Civil Society Could Be Significant](#), March 2023.

Lower quality and relevance of response: Compliance with donor sanctions and counterterrorism requirements may push organisations to choose activities perceived as lower risk even if they are less appropriate and effective, for example replacing cash with in-kind assistance to avoid beneficiary vetting requirements from the donor.

Unintended risk transfer to staff: The wording of counterterrorism clauses in grant agreements can be opaque, vague and difficult to interpret, and it is not uncommon for humanitarian organisations to accept them without fully understanding the requirements. Staff tasked with implementing a project under a grant agreement may not have been involved in negotiating it, but they shoulder the burden of complying, and organisations often fail to provide the necessary guidance or support on how to do so.

Unintended risk transfer to local partners: International organisations often pass on donor sanctions and counterterrorism requirements to local partners in “flow-down clauses” without ensuring that the partners understand what they entail or that they have the resources and capacity to comply. Local partners may accept requirements without clear understanding of legal obligations that may be impossible for them to adhere to and that place their staff at risk as a result.

FINANCIAL

Loss of funding and donor disallowances: Some organisations have refused donor funding because they were unwilling to accept the terms of sanctions or counterterrorism clauses. Expenditure may also be disallowed under a contract if an organisation does not comply with all donor regulations.

REPUTATIONAL

Compromised humanitarian principles: Engaging with NSAGs regardless of whether they are designated under sanctions or proscribed under counterterrorism measures is key to gaining and maintaining access to people in need. Engagement also helps to establish consent and acceptance for humanitarian organisations’ activities. Counterterrorism measures can create uncertainty for organisations about whether contact with designated NSAGs is permissible.

Some organisations refrain from engaging with such groups as a result, which risks fuelling negative perceptions of their impartiality and neutrality, which in turn puts their staff and beneficiaries at risk.

Other organisations do engage, but do not provide their staff with support and guidance on doing so. This can create a “don’t ask, don’t tell” approach in which field-based staff engage with NSAGs without the knowledge of senior management and feel unable to openly discuss dilemmas and risks.

SECURITY

Compromised staff safety: In order to minimise exposure to the risk of violating applicable sanctions and counterterrorism measures, organisations may choose not to operate in certain areas, such as those controlled by designated or proscribed NSAGs, regardless of the humanitarian needs there. Similar problems can also arise if de facto authorities are designated under sanctions. This compromises the impartiality of the response, and leaves affected people without assistance simply because of their location. If operations are not perceived as impartial, it can also put staff safety at risk.



© Karl Schembri/NRC

5.2 WHAT ARE THE LEGAL RISKS FOR HUMANITARIAN ORGANISATIONS AND THEIR STAFF?

Given the broad definition of some criminal counterterrorism offences, humanitarian organisations and their personnel may, in some case, face risks of prosecution. While risks exist and it is important to identify and manage those, it is also crucial not to overstate the risks, which could encourage overcompliance.

Some humanitarian organisations have faced legal cases:

- Several NGOs operating with US funding have been investigated by US authorities over a potential breach of United States Agency for International Development (USAID) certification on the basis of having provided “training and expert advice or assistance” to proscribed terrorist groups in programmes funded by other donors ([See Section 6](#)).
- Host authorities have suspended or terminated humanitarian organisations’ operations on suspicion or accusation of supporting the activities of proscribed groups. In specific contexts, NGOs have been dissolved by a judicial or governmental decision ([See Deep Dive II](#)).

- There are also rare cases of civil society organisations being proscribed as a terrorist entity under states’ counterterrorism laws.

There have also been several cases where humanitarian personnel have faced criminal prosecution under domestic counterterrorism laws. Though not frequent, they act as a major deterrent. Broad definition and terminology on what constitutes ‘support to terrorism’ can offer ample grounds for authorities to reclassify humanitarian activities as criminal offenses under domestic legislation. Offences may include the indirect financing of terrorism and broad forms of association with designated groups as well as material support laws.

Authorities in Cameroon arrested and detained five members of Médecins Sans Frontières (MSF) in 2022 when they were transporting an injured person, officially for being “involved in an operation to exfiltrate a terrorist”. A military tribunal acquitted all five in January 2023, but only after they had spent several months in prison.²⁸

Healthcare workers have also reported fearing legal risks in some settings because they are obliged to report certain types of injury, such as gunshot wounds, to the authorities. Doing so may be contrary to medical ethics, but failure to do so may result in prosecution.²⁹

²⁸ Médecins Sans Frontières, Four months on, an ongoing nightmare for MSF colleagues detained in South-West Cameroon, [28 April 2022](#); VOA, UN Says.

²⁹ Leonard Rubinstein et al., [The Criminalization of Health Care, Safeguarding Health in Conflict](#), Johns Hopkins University and University of Essex, June 2018.

5.3 CASE STUDY: TAX PAYMENTS TO DESIGNATED GROUPS

NGO X is a UK-based international humanitarian organisation that runs large-scale programmes in areas affected by conflict. This includes an area controlled by a group designated under the UN's sanctions against al-Qaeda and the IS group. There are no international staff based in the area because of access and security concerns, so operations are managed remotely.

NGO X put out a tender for the provision of trucked water in the area. The process was administered remotely as per the organisation's standard operating procedures. After the tender process, one of the bidders claimed that local contractors had to pay five per cent tax to the de facto authorities.

NGO X's field coordinator based in the area confirmed this was the case. This was the first time the remote management team had been informed that field staff were aware of the tax.

No current or previous tender bids had mentioned it and they were very detailed, so it appeared that the tax, which amounted to thousands of dollars, had been included in bid documents in a way that obscured it from the organisation.

The payment of tax to a designated group clearly raised concerns. A report was provided to NGO X's remote management team, which immediately suspended the signing of new contracts until the matter could be fully considered. The organisation also made an initial declaration to its donors and sought legal advice on sanctions and counterterrorism compliance.

Legal counsel advised that the humanitarian exemption in UNSCR 2664 covered the payment of taxes to the group and protected the organisation from violating sanctions, but that it could still be liable under UK counterterrorism law because no explicit safeguard existed.

NGO X decided to raise the issue with OCHA, asking it to intercede with the local authorities to seek a waiver that would exempt humanitarian organisations from paying the tax for services that contributed to the provision of relief. The engagement, which was undertaken with other affected organisations, was successful and a waiver was granted.

NGO X then engaged the donor that funded the project in discussions about risk sharing. The donor agreed that the payments in question did not constitute significant irregularities but chose to classify the costs as non-eligible and subject to repayment.

The incident sheds light on the challenges inherent in providing aid in areas controlled by designated terrorist groups, and in managing operations remotely. It also shows that internal checks and balances can help to mitigate issues that may arise from remote management, and that coordination and collaboration among humanitarian organisations and donors is essential to find solutions.

DEEP DIVE II: ENGAGEMENT WITH DESIGNATED ENTITIES

The misperception that contact with members of groups designated under sanctions or members of proscribed groups is prohibited can lead humanitarian organisations to self-restrict their engagement unnecessarily.

There are no counterterrorism measures or sanctions that prohibit contact with designated groups for the purpose of coordinating humanitarian action. Such a prohibition would be inconsistent with IHL and the humanitarian principles. The UNSC and the UN Secretary General have explicitly underlined that humanitarian organisations must be able to engage with all parties to a conflict, irrespective of any sanctions or designations.³⁰

Sanctions do not prohibit contact with sanctioned entities. Financial sanctions prohibit making funds or resources available directly or indirectly to designated individuals and groups, but they do not prevent contact with them. As such, humanitarian organisations may be prevented from handing over assets to a designated entity, such as the ownership of a completed WASH project, but can coordinate assistance and project implementation with the entity if relevant.

European Commission guidance on the delivery of humanitarian assistance in such circumstances states that “EU sanctions do not establish a no-contact policy”, nor do they prohibit “liaising with designated persons”. It also states that “it is not prohibited to meet with a designated person to discuss practicalities of the delivery of humanitarian aid to people in need located in areas under its control. However, that person must not, inter alia, receive funds, goods, trainings or other services or knowledge from which it can draw financial benefits”.³¹

Some counterterrorism laws include crimes that relate to meetings with proscribed groups, but most do not prohibit such meetings for the purpose of discussing humanitarian action. At the time of writing, the only known prohibition on contact with a designated group arises from a donor policy related to a specific setting. It applies to organisations that operate in Gaza and receive funding from USAID. The notice was issued first in 2006 and prohibits contact with entities controlled by ‘designated terrorist organizations’.³²

The US material support statute prevents other types of engagement with designated groups beyond that necessary to coordinate humanitarian action, such as providing training. It does not prohibit engagement for the purposes of delivering aid ([See Section 6](#)).

Despite there being no legal prohibitions on engaging with groups or entities listed under sanctions or counterterrorism measures, the broad and vague language of counterterrorism measures and lack of an explicit humanitarian exemption often leave aid workers fearing that humanitarian negotiations with NSAGs or designated de facto authorities to access populations in need could be criminalised unless there is a relevant humanitarian exemption. In several contexts, legal ambiguity, combined with a climate of suspicion of aid work, intimidation or arrests have resulted in risk aversion by NGOs, with organisations refraining from negotiating access with armed groups or their proxies for fear of criminal consequences, effectively leaving communities in need unattended.

³⁰ See for example: United Nations Security Council [S/2009/277](#), para. 45 (2009); SG Report 2022 ([S/2022/381](#)); Security Council Declaration ([S/PRST/2013/2](#))

³¹ European Commission, [Commission Guidance Note](#): on the provision of humanitarian aid in compliance with EU restrictive measures (sanctions), June 2022, p.10, p.11.

³² See [Emanuela-Chiara Gillard](#), IHL and the humanitarian impact of counterterrorism measures and sanctions Unintended ill effects of well-intended measures, Chatham House, September 2021, p.56.



© Ingebjørg Kårstad/NRC

DEEP DIVE III: BANK DERISKING

Bank derisking is a form of overcompliance that occurs when banks restrict or end business relationships with certain clients to avoid, rather than manage, risk. As the number of sanctions and AML and CTF measures has increased, so have derisking practices, driven mostly by banks' own compliance requirements and concern about major financial and reputational risks and profitability.

Banks may refuse to offer services, such as accounts or funds transfers, to organisations or locations perceived as high risk to avoid potential fines or other repercussions. There are very few incentives for banks to provide services for humanitarian organisations, given that they are widely considered to be high-risk, low-profit customers.

Humanitarian organisations often do not receive any information from financial institutions, on why a transfer has been delayed

or blocked and on which banks are involved in a particular transaction. When an international transfer is made, the sending and receiving banks may not use the same payment system, in which case they must rely on a network of correspondent banks to execute the payment. The correspondent bank may block a payment if they feel the destination country is high risk, or if there is not enough detailed information on the transfer.

Humanitarian organisations have no direct communication with the correspondent banks to provide further information or to establish a relationship. As much as a third of donor funds for the response to the Syria crisis were held in limbo for months in 2018 because of delays in the correspondent banking system.³³

Financial sector derisking practices have a significant impact on humanitarian operations. Extensive investments in time, resources and

³³ Alice Robinson et al., [The impact of bank de-risking on the humanitarian response to the Syrian crisis](#), Humanitarian Policy Group, August 2018.



© Ahmed Omer/NRC

training are required to track and investigate payments, which delays programmes and increases costs. When financial channels to a country are severely restricted, organisations may resort to riskier methods to get funds in, such as carrying cash.

Delays in salary payments also have significant implications for local staff, many of whom are the sole breadwinners for extended families. Vendors who are not paid promptly become reluctant to do further business with organisations, and in some cases have threatened staff.

Tri-sector working groups as spaces for dialogue

A number of ‘national tri-sector groups’ have been set up in recent years to bring representatives from governments, financial institutions and the NGO community together to find policy solutions to derisking and reduce obstacles to the provision of aid.

National tri-sector groups tend to be most successful when a variety of stakeholders are represented, including the private sector, organisations with diverse mandates and a range of government ministries. They play an essential role in building trust and understanding between the sectors and putting solutions into practice. They can also act as an important interlocutor for FATF assessment teams during their national risk assessments as well as for sustained advocacy efforts on improving the taskforce’s methodology and guidance (see below).

Humanitarian organisations should seek involvement in national tri-sector groups to ensure their operational realities are highlighted in discussions. For a checklist on best practices when establishing such a group, see [Tool 6](#).

FATF

FATF is an inter-governmental body responsible for setting standards and regulations to combat the financing of terrorism and money laundering. It develops recommendations for governments regarding how to regulate counterterrorist financing, including specific recommendations on regulating the non-profit sector.³⁴ Its recommendations are non-binding, but non-compliance may result in “black-listing” or “grey-listing”. This can limit a state’s access to international financial markets and investments, giving governments a strong incentive to comply with FATF recommendations.

FATF recommendation 8

FATF recommendation 8 provides guidance for countries on how to assess and manage the risk of non-profit organisations (NPOs) being exploited for the financing of terrorism. In 2001, FATF identified NPOs as “particularly vulnerable” to exploitation which resulted in banks becoming increasingly cautious in their dealings with NPOs. The recommendation has since undergone several revisions, and now directs governments to take a more nuanced and risk-based approach when developing

³⁴ The Financial Action Task Force Recommendations, as amended in 2023, are available at: <https://tinyurl.com/2anj27c9>.

counterterrorist financing measures to avoid the disruption of legitimate non-profit activities.

FATF published new amendments to recommendation 8 and updated its best practices paper in 2023.³⁵ Its guidance now recognises the diversity of the non-profit sector and the robust risk management mechanisms non-profit organisations implement.

FATF – black-listing and grey-listing

FATF assesses countries every five years on their compliance with its standards. If found to be non-compliant they can be subject to additional monitoring, known as grey-listing, or told to take action to tighten their counterterrorist financing measures, known as black-listing. It can be more difficult for humanitarian organisations operating in a FATF-listed countries to transfer funds.

Misuse of FATF regulations

In some contexts, FATF standards have been used by governments to disproportionately target NPOs, limiting their access to financial services and creating bureaucratic procedures that curtail the activities of civil society. NPOs may have difficulty opening bank accounts, have limits placed on cash withdrawals and face burdensome reporting requirements. Countries can justify such restrictions as the implementation of FATF recommendation 8. The overregulation of NPOs has forced some to reduce or cease programming in certain countries.

NPOs are encouraged to engage with FATF during their national risk assessments to ensure that a risk-based approach is applied to the non-profit sector and that any unintended adverse impacts of countries' implementation of its recommendations are considered. The [NPO Coalition](#), an umbrella group of civil society organisations formed to advocate with FATF, provides guidance on how to engage with the FATF to raise awareness of financial access issues during national assessments.³⁶

CASE STUDY:

Bank derisking impacts in Afghanistan

Afghanistan suffered severe exclusion from the international financial sector after the Taliban's, a sanctioned group, takeover of the country in August 2021. Concern about violating sanctions targeting Taliban members and their connections to the Afghan Central Bank led to widespread financial sector derisking. Coupled with AML concerns and the freezing of Afghanistan's international assets, humanitarian organisations were unable to transfer funds at the scale and speed needed to address the needs in the country. Without access to the formal banking sector, the humanitarian response relied on the UN flying cash into Kabul.

As a result of intense lobbying and dialogue between member states, humanitarian organisations and banks, the UNSC adopted resolution 2615 in December 2021.³⁷ It authorised the processing and payment of funds necessary to ensure the timely delivery of aid, paving the way for financial institutions to resume transfers into the country and providing vital reassurance that they and humanitarian organisations could operate in Afghanistan without concerns about violating UN sanctions. The number of organisations experiencing difficulties in transferring funds has dropped significantly since its adoption.

³⁵ Financial Action Task Force, Best Practices on Combating the Abuse of Non-Profit Organisations, November 2023, available at: <https://tinyurl.com/yc3wxfjy>.

³⁶ Global NPO Coalition on FATF, available at: <http://www.fatfplatform.org>.

³⁷ United Nation, Security Council Resolution 2615, [S/RES/2615 \(2021\)](https://www.un.org/press/en/2021/res2615.html).



عزیزی بانک
Azizi Bank

A

Queue Number **A347**

Service Name: Cash Services

Counter 1, 2, 3, 4, 5, 6

Wait in line 327

Please Wait a moment!

6/2/2022 8:54:22 AM

DEEP DIVE IV: IMPACT ON CASH AND VOUCHER PROGRAMMING

Cash and voucher assistance (CVA) tends to be the type of programming most affected by sanctions and counterterrorism measures. Some donors, host countries and financial institutions have sought to impose specific limitations on its use, despite research showing that CVA is more effective and no riskier than other forms of aid.³⁸

Donor policies: Donors have in some cases increased scrutiny of their partners' risk management policies and procedures when CVA is used in a setting where sanctions or counterterrorism measures apply. This tendency toward risk aversion was reflected in a decision by what was then the UK's Department for International Development in April 2019 to pause its support for CVA in north-east Syria as a precautionary measure over concerns about the risk of diversion.

Some development donors include additional clauses in grant agreements that require implementing partners to screen people who receive CVA, a requirement that is incompatible with the humanitarian principles and represents a red line for humanitarian organisations.³⁹ In some cases, humanitarian organisations switch from cash-based to in-kind assistance if donors refuse to fund CVA activities in certain areas owing to aid diversion concerns, or to avoid breaching humanitarian principles. This is despite CVA being a more effective and efficient form of aid and donors' commitments to increase its use.⁴⁰

Host country restrictions: Authorities in countries where humanitarian organisations operate may impose restrictions on CVA to combat the financing of terrorism. In 2019, Nigeria introduced additional controls on case transfers to regions where NSAG operated by suspending them for several months and then imposing a requirement for weekly advance notifications and approvals, ceilings and restrictions on destinations and recipients. CVA was also banned in regions of Burkina Faso under NSAG control in 2023, despite their hosting many internally displaced people.⁴¹

The Cash and Learning Partnership ([CaLP](#)) provides technical and policy support for the CVA community of practice and cash working groups to develop shared risk registers informed by national regulations and practices.

³⁸ Ruth McCormack et al., [State of the worlds cash report](#), Cash and Learning Partnership, February 2018.

³⁹ Inter-Agency Standing Committee Task Force 3 on Preserving Humanitarian Space, [Policy Paper](#) Considerations On Screening/Vetting Persons In Need Of Humanitarian Assistance In Counter Terrorism/Sanctions Contexts, (2023).

⁴⁰ Inter-Agency Standing Committee, [Increase the use and coordination of cash-based programming](#), 2021.

⁴¹ Arrêté 1124/ MATDS/ R-SCHL/ G/ CAB pris par le gouverneur du Sahel du 22 novembre portant sur l'arrêt de toutes les modalités de distributions du Cash dans la région du Sahel et prenant effet au 1er janvier 2023.

6

SANCTIONS AND COUNTERTERRORISM CLAUSES IN GRANT AND PARTNERSHIP AGREEMENTS

Sanctions and counterterrorism clauses are becoming increasingly common in grant and partnership agreements. They are intended to ensure that donors' funds are not used in violation of measures they have adopted or must comply with. Such clauses can, however, present significant challenges for humanitarian organisations. This section develops your understanding of these clauses. By the end of it, you will be able to:

→ Identify potentially problematic wording on sanctions and counterterrorism clauses in grant agreements

→ Know-how to engage donors in discussing such clauses

→ Develop an internal decision-making process to decide whether and how to proceed with funding opportunities that pose risks related to sanctions and counterterrorism measures

6.1 WHERE ARE SANCTIONS AND COUNTERTERRORISM CLAUSES FOUND?

Sanctions and counterterrorism clauses are found in the following types of grant and partnership agreements:

- Agreements between a donor, including countries and international bodies such as the UN or the EU, and a humanitarian organisation
- Humanitarian pooled fund agreements
- Agreements between humanitarian organisations, in which:
 - An organisation is the recipient of bilateral funds from a donor that requires it to include or “flow-down” sanctions and/or counterterrorism clauses in all sub-agreements linked to the funding of the project. In some cases, even if a bilateral agreement does not stipulate that the grantee must include such clauses in sub-agreements, it may still be responsible if a sub-grantee violates them.

- An organisation has a policy of including sanctions and/or counterterrorism clauses in its sub-agreements, usually reflected in its templates. Most UN agencies, for example, include such clauses in their standard templates for partnership agreements, and they are also common in consortium agreements.

- Commercial or service contracts between a donor country or multilateral institution and a humanitarian organisation
- Contracts between a private donor and a humanitarian organisation

Donors may adopt a standard clause that they insert into all contracts, or they may adapt clauses or include additional requirements depending on the area of operation, programme or recipient of funds.

Sanctions and/or counterterrorism clauses are sometimes inserted in the sections of grant agreements that cover anti-bribery, anti-fraud and anti-corruption measures, but they can also appear in the general conditions or the special conditions. Donors do not always inform partners when they change the wording of sanctions and/or counterterrorism clauses or introduce new ones.

Parties to grant agreements must comply with all clauses of the agreements and apply them in good faith, making it vital that organisations review drafts thoroughly before signing to ensure they are fully aware of the requirements, even if they have entered into agreements with the same donor in the past. A thorough review helps to ensure that any problematic language is identified and gives the organisation an opportunity to seek clarity, renegotiate wording if necessary and make a considered decision about whether to sign the agreement if the language cannot be changed.

Sanctions and/or counterterrorism requirements do not only appear in grant agreements. They can also arise in pre-contract negotiations. USAID's Bureau for Humanitarian Assistance's emergency application guidelines, for example, require agencies to conduct risk assessments and adopt mitigation strategies for diversion.

BHA requires more detailed analysis and mitigation strategies in environments that it identifies as high risk "due to the presence of groups and individuals sanctioned by the US government". USAID's certifications and assurances must also be signed and submitted with proposals. Such documents also form part of agreements with donors and must be considered in decision-making processes.

Counterterrorism and sanctions clauses can include provisions that dictate operating requirements, processes or additional information that recipients must provide. Under new contractual provisions introduced during 2024, USAID recipients are required to submit a biannual report if they become aware that any activity funded under a USAID award involves a transaction with, or the provision of resources or support for sanctioned entities, including any transactions covered under a specific or general license. The report must include information on the type, amount and circumstances of such transactions. Recipients must also report on any diversions of funds, supplies, or services under the award by sanctioned individuals or entities.

Recipients of USAID funding in certain countries may also be required to provide details of potential partners, subcontractors

and key employees for vetting by USAID. The 'Partner Vetting System' has raised concerns in the humanitarian community about its impact on operations and principled action.⁴²

The table in [Tool 7](#) provides examples of some current or recent sanctions and/or counterterrorism clauses in agreements with donors, country-based pooled funds, NGO downstream partnerships and development donor grants. They show that the content and scope of the clauses varies significantly. They are provided as examples and should not be considered best practice, nor as being compatible with principled humanitarian action.

Sanctions and/or counterterrorism clauses may include vague language, making it difficult for organisations to understand what they are committing to. Confusion about the nature of liabilities if the clauses are breached may also arise.

Clauses may also include requirements that are incompatible with principled humanitarian action, such as a requirement to screen and potentially exclude final beneficiaries of assistance.

6.2 UNDERSTANDING SANCTIONS AND/OR COUNTERTERRORISM CLAUSES

6.2.1 Definitions and scope of terminology

Sanctions and/or counterterrorism clauses in partnership agreements may use expressions such as:

- "Employ all reasonable efforts to ensure" or "apply the highest reasonable standard of diligence to ensure" that funds or assets do not reach persons or entities designated under sanctions or proscribed groups. This means an organisation may be considered to have violated the agreement if funds or assistance are diverted and the required standard of due diligence has not been applied. The specific wording used will determine the degree of care required.

⁴² Charity and Security Network, [USAID's Partner Vetting System](#), February 2016.



© Ingebjørg Kårstad/NRC

- An organisation is prohibited from providing “material support” whether “directly or indirectly” to designated individuals or entities or proscribed groups and those “associated with” them. Such terminology is problematic because of the broad definition of material support and the potential impact on capacity for an impartial response. It is also problematic because it requires organisations to determine who is “associated”, including relatives of members of such entities or communities where they are active.
- An organisation must comply with sanctions frameworks and is prohibited from making funds or economic resources available to “designated persons” or “entities”. In some cases the applicable sanctions list is clearly stated – “UN sanctions”, “US sanctions”, “EU sanctions” – but in others donors may use unclear language such as “international sanctions”. Ideally such clauses should also make clear that the prohibition does not apply to payments permitted by relevant humanitarian exceptions.

Agreements may have references to ‘knowledge’ and ‘intent’

- If humanitarian assistance is diverted to a person or entity designated under sanctions or a proscribed group, the grant recipient may not be aware and is very unlikely to have intended it to happen. Sanctions and/or counterterrorism clauses may indicate whether “knowledge” or “intent” are required and the impact this might have on the organisation’s liability in the event of diversion.

Agreements may have flow-down clauses or implications

- Humanitarian organisations can include sanctions and/or counterterrorism clauses in their subcontracts to ensure that implementing or consortium partners comply with their donors’ requirements. This also means that one donor’s sanctions and/or counterterrorism clause may flow down to or across many organisations and subcontractors.

Agreements may have references to or implications for screening

- To ensure that funds or other assets are not made available to designated individuals or entities or proscribed groups, sanctions and/or counterterrorism clauses sometimes require recipient organisations to ensure their staff, contractors and the staff of implementing partners are not designated.
- Some donors, especially non-humanitarian ones, may also require the names of potential beneficiaries. This is unacceptable and compromises adherence to the humanitarian principles (see [Section 6.3](#)).

6.2.2 Processes for understanding and addressing sanctions and/or counterterrorism clauses

Humanitarian organisations must understand the implications of a grant agreement before they sign it, and should use a systematic process to identify and try to address any concerns. There is no one correct approach to take, but the following serves as guidance.

- 1 Organisations should develop and implement procedures to review grant agreements, even if they have previously worked with the same donor. Donors may change clauses without giving notice of having done so. Management, policy, legal and other departments should review the whole agreement as necessary (see [Tool 8](#)).
- 2 Internal codes of conduct and anti-corruption, risk management and other policies should be consulted to ensure sanctions and/or counterterrorism language in a grant agreement is consistent with them.
- 3 Before entering into negotiations with a donor on a partnership agreement, organisations should establish a position on which terms would be acceptable and which would constitute a breach of their policies and values.
- 4 Consult other humanitarian organisations that receive funds from the same donor.

5 Organisations could consider asking the donor for its own interpretation of the clauses and the consequences of violating them, acknowledging that the donor's interpretation is likely to be the most restrictive.

6 Organisations should consider whether additional resources are needed to meet their obligations under a new agreement. They should ensure they are able to provide clear guidance and the necessary resources to staff responsible for implementation. If additional resources will be required, they should consider asking the donor to cover any related costs.

7 Organisations can use [Tool 9](#) to help decide whether a particular funding opportunity should be pursued.

8 Collective advocacy and the adoption of common positions among humanitarian organisations are always extremely helpful to push back against problematic requirements in funding agreements. This could include asking the donor to make explicit references to humanitarian exemptions.

9 Organisations should recall that it may be possible to negotiate sanctions and/or counterterrorism clauses with donors, but if particular sanctions or counterterrorism measures also apply directly to an organisation by virtue of its nationality or because they have been adopted by a host country, it will have to comply with them in their entirety regardless of what it may have committed to in a funding agreement.

False Claims Act proceedings before the US courts

A series of proceedings were brought in the US between 2015 and 2019 against humanitarian and peacebuilding recipients of US government funds under the False Claims Act.⁴³ The act enables third parties to bring cases to court if they can show that false statements have been made to obtain US government funds.

In all the cases the basis for the claim was the certification clause which organisations that apply for USAID funding must sign. The version signed by the respondents required them to certify that they had not – to their knowledge – provided material support or resources to any individual or entity involved in acts of terrorism over the previous ten years.⁴⁴ The certification was extremely broad in terms of timeframe and activities and in scope given USAID's definition of material support.⁴⁵ It applied not only to activities funded by the US government but also any other sources of funding.

The cases were part of strategic litigation brought by the same plaintiff, the Zionist Advocacy Center, that had a clear political dimension.⁴⁶ The plaintiff claimed the recipients of USAID funding had violated the certification and in doing so misled the US government. None of the cases reached the merits stage before a court. The first, against Norwegian People's Aid, was settled by NPA paying the US authorities just over \$2 million for an unintentional breach of the clause, and the courts accepted the Department of Justice's motion to dismiss the others.⁴⁷

The challenges lay in the USAID certification that formed the basis of the claims. It was problematic because of the breadth of the prohibited support; the lack of clarity as to who should not be receiving the support; the period it covers; and the source of the funds with which support must not be provided. In the wake of the litigation, humanitarian organisations advocated with USAID to amend the certification clause, and some of the more problematic aspects were modified. The "look back" period was shortened from ten to three years and the vague and overly broad reference to those to whom funds should not be made available was replaced by a reference to people or groups designated under US terrorism related sanctions (both SDGTs and FTOs) and any UN sanctions (whether related to terrorism or not).⁴⁸

The source of funds from which the material support must not be provided, however, remains extremely broad. This means that a humanitarian organisation which carried out an activity funded by a different donor in the three years before signing the USAID certification that did not include similarly broad restrictions, or that had a different list of designated entities from those of the US, could by virtue of entirely permissible activities nonetheless be violating the certification and exposing itself to the risk of proceedings under the False Claims Act.

There remains a risk that similar claims being made in the future, bearing serious concerns, particularly because any claims brought to the government must be investigated.

⁴³ [United States False Claims Act](#), 123 31 U.S.C. §§ 3729 to 3733.

⁴⁴ USAID, Certifications, Assurances, Representations, and Other Statements of the Recipient: A Mandatory Reference for ADS Chapter 303, Partial Revision 06/07/2018, Certification Regarding Terrorist Financing, Implementing Executive Order 13224.

⁴⁵ The definition of 'material support or resources' is based on the US Anti-terrorism (Effective Death Penalty) Act as amended and covers 'currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation and other physical assets, except medicine or religious materials'.

⁴⁶ Ben Parker, [A Q&A with the pro-Israel lawyer rattling NGOs on counter-terror compliance](#), The New Humanitarian, 25 September 2018.

⁴⁷ Norwegian People's Aid, [Norwegian People's Aid reaches a settlement with the U.S. government](#), April 2018.

⁴⁸ USAID, Certifications, Assurances, Representations, and Other Statements of the Recipient, [Partial Revision 05/18/2020](#), Part I.4, 2020.



© Faisal Naeem/NRC

6.3 SCREENING OF STAFF, PARTNER STAFF, CONTRACTORS AND FINAL BENEFICIARIES

Screening is a process by which an organisation conducts checks that anyone who receives a payment or a resource, including staff, prospective staff, contractors, and staff of partner organisations, does not appear on lists of individuals or entities designated under sanctions or proscribed groups under counterterrorism measures.

The sanctions and counterterrorism measures applicable include those which the organisation's country of registration has adopted, those of the country in which it conducts operations, and any others it may have undertaken to comply with in a funding agreement.

Screening can be done manually by checking against relevant lists adopted by the UN, EU and individual countries, or by using commercial services that check names against several lists at once. Organisations tend to perform periodic checks on some staff, depending on their grade, and on contractors and suppliers depending on the value of the transactions involved, as part of due diligence measures.

Screening vs vetting

The terms screening and vetting are often used interchangeably, but they are not the same thing. Humanitarian organisations carry out screening, but vetting requires them to provide information and identity documents for individuals and entities to a donor, which then carries out its own checks. Only a small minority of donors require vetting, and they only tend to do so for certain high-risk settings.

Applications for certain US government funding for operations in settings such as Afghanistan, Iraq, Lebanon, Syria, Palestine, Pakistan or Yemen for example, require partner vetting. This involves providing the personal information of "key individuals" in the organisation applying for funds, including principal officers of its governing board, directors and officers and other staff members responsible for managing the funded programme. In some cases, vetting has also included final beneficiaries who receive more than a certain amount of assistance or participate in training activities. Vetting raises privacy and data protection concerns. It can also undermine perceptions of a humanitarian organisation's independence, and its neutrality if the donor is a party to a conflict.



DEEP DIVE V: SCREENING OF FINAL BENEFICIARIES

In some cases, donors may require organisations to check whether final beneficiaries of programmes are designated under sanctions. This can be stated expressly in the grant agreement – which at times specifically requires grantees to perform screening – or it can be indicated by vague language about ensuring that no assistance or funds are made available to designated individuals.

Screening final beneficiaries is a red line for humanitarian organisations, and most donors to humanitarian activities accept this. The 2021 model grant agreement of the Directorate-General for European Civil Protection and Humanitarian Aid Operations, for example, states:

EU restrictive measures in humanitarian aid

“*The beneficiaries must ensure that the EU grant does not benefit any affiliated entities, associated partners, subcontractors or recipients of financial support to third parties that are subject to restrictive measures adopted under Article 29 of the Treaty on the European Union or Article 215 of the Treaty on the Functioning of the EU. The need to ensure the respect for EU restrictive measures must not however impede the effective delivery of humanitarian assistance to persons in need in accordance with the humanitarian principles and international humanitarian law. Persons in need must therefore not be vetted.*”

Requirements to screen final beneficiaries are, however, increasingly common in grant agreements with development donors, which tend to impose more stringent sanctions and counterterrorism measures than their humanitarian counterparts. Sometimes this is because they are development banks, which require adherence to financial regulators’ AML and CTF requirements. Development donors that are government agencies should not impose conditions that are incompatible with the

country’s obligations under international law, including IHL.

Negotiating the removal of clauses that require the screening of final beneficiaries from funding agreements with development donors has proved extremely difficult. Arguments based on their incompatibility with the humanitarian principles have been dismissed, because they do not consider that they fund humanitarian operations.

As a matter of law, the institutional funding stream is irrelevant to screening requirements. The stark division between humanitarian and development funding is artificial, and the difference between activities is increasingly blurred, partly reflecting the shift towards nexus programming which seeks to achieve sustainable across humanitarian, development and peacebuilding interventions.⁴⁹ Funding for nexus programming has created opportunities for humanitarian organisations to engage in longer-term projects that focus on resilience and early recovery, particularly in settings where development donors do not have access or have suspended bilateral assistance. It has also created challenges, however, because of grant conditions that undermine the humanitarian principles.

Development donors should exchange best practices on how to navigate sanctions and counterterrorism requirements, including in fragile settings where activities address the basic needs of vulnerable people. They should include specific provisions in funding agreements that lift the requirement for beneficiary screening requirements to be lifted if the funded activities address humanitarian or basic needs. Approaches to doing so should be standardised and case-by-case approaches should be avoided.

⁴⁹ See for example: Filipa Guinote, [A humanitarian-development nexus that works](#), Humanitarian Law and Policy, 21 June 2018.

What do humanitarian exemptions mean for requirements to screen final beneficiaries?

Requirements to screen final beneficiaries are a way for donors to ensure they comply with the prohibition on making funds or resources available to designated persons.

Exemptions provide additional grounds for resisting donor requirements to screen, and therefore potentially exclude, final beneficiaries. The exemption in UNSCR 2664, for example, allows funds or resources to be made available to designated individuals and entities when it is necessary for humanitarian assistance or activities that address basic human needs.

Consequently, when organisations that fall within the scope of the exemption conduct such projects and programmes there should be no need to screen the final beneficiaries.

UNSCR 2664 does not define what constitutes activities that address basic human needs, but these are contextual and clearly different and additional to humanitarian assistance and can include activities covered by development donors in fragile settings.

Why are requirements to screen final beneficiaries incompatible with principled humanitarian action?

- Designation of an individual under sanctions does not deprive that person of the protection and assistance afforded to them under IHL. Donor requirements to exclude designated individuals from beneficiary lists are incompatible with IHL, including the principles of impartiality and non-discrimination.
- The purpose of screening requirements is to ensure compliance with sanctions and counterterrorism measures. Sanctions, however, allow designated individuals access to food, shelter and basic services such as healthcare. This is a clear indication that

sanctions should not deprive them of essential goods and services.

- The same also holds true when basic goods and services are provided in the form of humanitarian assistance. Guidance issued by the European Commission in 2022 on the provision of such assistance in compliance with EU sanctions restates the well-established and consistent position that they do not prohibit its provision to those deemed to need it:

3.13. Persons in need (final beneficiaries)

“Actions with humanitarian purposes are intended to provide assistance to persons in need or, according to international humanitarian law, to protected persons in an armed conflict. According to international humanitarian law, persons in need are always entitled to receive humanitarian aid. Hence, they should not be vetted. This means that Humanitarian Operators can provide humanitarian aid in any form (including cash assistance) to persons in need without having to verify whether they are designated persons or not.”⁵⁰

- Sanctions and most counterterrorism measures prohibit making funds or assets available to designated individuals, but they do not cover training. Requirements to screen and potentially exclude participants in training programmes go beyond their scope.
- The screening of final beneficiaries is not only incompatible with the humanitarian principles, particularly impartiality, but also needs-based responses.⁵¹ It can lead organisations to respond selectively, potentially withholding assistance from people who have been identified as in need based on comprehensive and systematic assessments and vulnerability criteria generally defined by clusters and sectors in line with international standards.

⁵⁰ Directorate-General for Financial Stability, Financial Services and Capital Markets Union, Sanctions: [Commission guidance note](#) on the provision of humanitarian aid in compliance with EU restrictive measures, European Commission, 2022.

⁵¹ In its [Best Practice paper on Recommendation 8](#), the FATF reminds that ‘any sanctions screening should be targeted and proportionate and should not result in the undue exclusion of beneficiaries’. Moreover, FATF added that “in humanitarian aid, development, and peacebuilding settings, the identification of beneficiaries would jeopardise principles of neutrality and impartiality, could endanger the safety and security of program recipients and exclude vulnerable people from the assistance that they need”.

- It also raises issues of perception and acceptance. By requiring the exclusion of beneficiaries for political or security reasons, it can harm communities' perception and acceptance of humanitarian organisations by giving the impression that they are aligned with certain donor countries. This in turn can undermine the safety and security of the organisation's staff and its humanitarian access.
- The bureaucratic procedures sometimes associated with screening can delay operations and the timely delivery of assistance.

CASE STUDY:

Advocacy and principled partnership conditions

Donor country D introduced a revised version of its global partnership agreement with a new sanctions clause but did not tell its partner NGO Z about the new language. The organisation discovered it when its internal focal point at headquarters reviewed the agreement and was concerned that the clause could be interpreted as a requirement to screen final beneficiaries, a red line under its internal sanctions and counterterrorism policy.

The focal point notified senior managers immediately about the new clause and the need to decide whether to sign the agreement and continue the organisation's partnership with the donor.

NGO Z sought input from its legal adviser, who determined that signing the agreement and complying with the new clause would require it to cross its red line. It shared the legal opinion with the donor and asked for the wording of the clause to be adjusted so it did not undermine its adherence to the humanitarian principles. It also contacted other humanitarian organisations to raise awareness of the new clause, and they in turn raised their concerns with the donor.

The donor's lawyers reviewed the NGOs' feedback but said there was no further room to negotiate. They suggested NGO Z could, if interested, attach a clarifying statement to the

agreement to indicate that although it had signed the legally binding document, it did not agree that it was obliged to screen final beneficiaries. Such a statement would not, however, be legally binding and the NGO could still be held accountable for not adhering to all clauses in the partnership agreement should any issues arise.

The donor also noted that other organisations had raised concerns about the clause, but this had not prevented them from signing the agreement.

NGO Z decided it was not in a position to sign the agreement because doing so would cross its red line. It also decided to discontinue its partnership with the donor on the same basis.

This example illustrates the difficulties organisations face in advocating against the language of sanctions and/or counterterrorism clauses in grant and partnership agreements, even when they try to negotiate a change collectively. It also illustrates the importance of having an internal sanctions and counterterrorism policy with clearly defined red lines, a vital tool to guide decision making when dilemmas arise.

7 SANCTIONS, COUNTERTERRORISM AND RISK MANAGEMENT FRAMEWORKS

This section explores practical aspects of risk management and steps your organisation can take to strengthen risk management policies and practices, while maintaining a principled approach. It endeavours to make risk management approaches accessible and understandable to a broad range of staff, including those who are field-based and responsible for programme implementation.

7.1 WHAT IS RISK MANAGEMENT?

Risk management is a process to help staff systematically think through what risks may arise in specific contexts and what can be done to mitigate these. It addresses the question of what organisations can do to make sure that as those most in need are assisted as much as possible in a principled manner, despite challenging contexts, by identifying, monitoring and tackling key risk factors.

Definitions:

- **Risk:** Uncertainty, whether positive or negative, that may affect the outcome of an activity or the achievement of an objective.
- **Risk management:** a cycle of identifying and assessing risks, assigning ownership of them, taking action to anticipate and mitigate them, and monitoring and reporting progress.

Why use a risk management framework?

Owing to the nature of the environments they work in, staff of humanitarian organisations constantly manage risk. Where this is done in an ad-hoc manner there may be gaps and inconsistencies in the way risks are identified and managed. In order to prevent this, organisations should consider adopting a framework to establish clear processes for identifying and managing risks. Sanctions and counterterrorism issues should feature strongly within this framework. The key components of a risk management framework are outlined in this section. Where an organisation does not have a clear risk management approach in place staff and teams can still apply these risk management processes to the contexts they work in to address possible sanctions and counterterrorism issues.

RISK	Operational	▶	Inability to achieve objectives	DESCRIPTION
	Security	▶	Violence or crime	
	Safety	▶	Accident or illness	
	Fiduciary	▶	Misuse of resources, including fraud, bribery and theft	
	Information	▶	Data loss, breaches or misuse	
	Legal/compliance	▶	Violation of laws and regulations	
	Reputational	▶	Damage to integrity or credibility	
	Operational	▶	Inability to achieve objectives	
	Ethical	▶	Insufficient application of the humanitarian principles and duty of care, lack of adherence to organisational values and mandate	

7.2 COMPONENTS OF A RISK MANAGEMENT FRAMEWORK

Risk management has four main components:

- 1 Identification
- 2 Assessment
- 3 Monitoring
- 4 Reporting



1 Identification

Risks can be grouped into two main categories, external and internal, and many subcategories. A SWOT analysis can be used to identify risks, with strengths and weaknesses focusing on internal sources of risk and opportunities and threats focusing on external ones.

Organisations should try to identify all risks, including those associated with sanctions and counterterrorism measures. Once identified, these should be added to an internal [risk register](#), which should be reviewed and updated regularly to account for any changes in context or environment.⁵²

2 Assessment

Once an organisation has identified and classified its risks in a register, it needs to assess them. This tends to be done by assigning each risk a numerical value, often on a scale of one to five, for its likelihood, impact and sometimes an organisation's vulnerability to it. The values are then combined to establish an overall score for each risk.

There are various ways of assessing risks objectively. The table in [Tool 10: Criteria for calculating risk](#) shows some criteria for evaluating risk impact and likelihood values. The overall scores for each risk can then be put into [Tool 11: Risk matrix](#) to create a concise visualisation of the risk assessment.

Establishing a score for residual risk allows an organisation to assess whether the risks are outweighed by the expected humanitarian outcomes of the activity involved. This assessment can be made using programme criticality tools, such as this one used by the UN.⁵³ The outcome of this assessment can vary depending on an organisation's risk appetite, or willingness to accept risk, and its risk tolerance, or capacity to accept risk.⁵⁴

⁵² Humanitarian Outcomes, [Risk register tool](#), February 2016.

⁵³ United Nations, [What is programme criticality?](#)

⁵⁴ International Council of Voluntary Agencies, [Risk and humanitarian culture: An ICVA briefing paper](#), January 2020.

Risk mitigation and programme criticality

Once an organisation has identified and put risk mitigation measures into place for a particular risk—for example, sanctions and counterterrorism measures—it must then assess whether there are any associated residual risks that it is unable to mitigate. After identifying these residual risks, the organisation must then assess them against its own risk appetite, or willingness to accept risk. One way to assess whether a particular risk might be outweighed by the importance of the activity involved is through a programme criticality framework.

A programme criticality framework is an approach to inform decision making around an organisation's level of acceptable risk, particularly risks that remain after an organisation has put risk mitigation measures into place. It can provide a structured process to decision making that evaluates the balance of implementing an activity against the residual risks faced. A programme criticality framework should use a set of guiding principles and a systematic, structured approach to decision making to ensure that activities involving an organisation's personnel, assets, reputation, security, etc., can be balanced against various risks. Programme criticality frameworks can also help an organisation weigh residual risks against commitments to humanitarian principles, particularly those guiding who

the organisation assists, and the principles of humanity and impartiality.

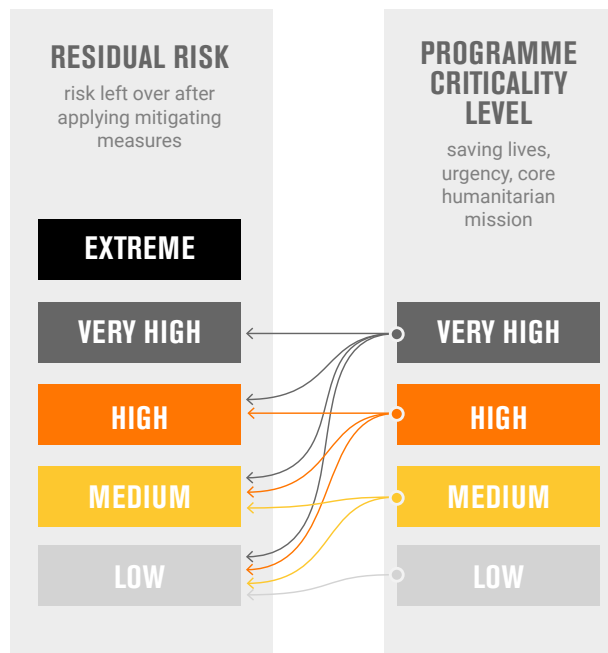
In the current context, many donors are pushing implementing organisations to programme in very difficult areas while also maintaining a no-risk expectation. In most of the humanitarian contexts where humanitarian organisations operate today, these two expectations are increasingly at odds and have forced practitioners to try and develop more systematic approaches to navigating these dilemmas. If an organisation has already implemented all the risk mitigation measures it deems feasible, but it is left with residual sanctions and counterterrorism risks, the next step could be for the organisation to develop a programme criticality framework.

3

Monitoring

Approaches to monitoring risk vary, but organisations tend to do so every quarter or trimester. They may also carry out ad-hoc monitoring if a specific trigger occurs. Risks related to specific programmes should be monitored throughout the programme cycle and discussed at programme review meetings.

		RISK MATRIX					
		IMPACT					
		Negligible	Minor	Moderate	Severe	Critical	
LIKELIHOOD	Certain/ Imminent	5	M	H	VH	E	E
	Highly likely	4	M	H	VH	VH	E
	Likely	3	L	M	H	VH	VH
	Possible	2	L	M	M	H	H
	Unlikely	1	L	L	L	M	M



BALANCING RISK AND PROGRAMME CRITICALITY LEVEL

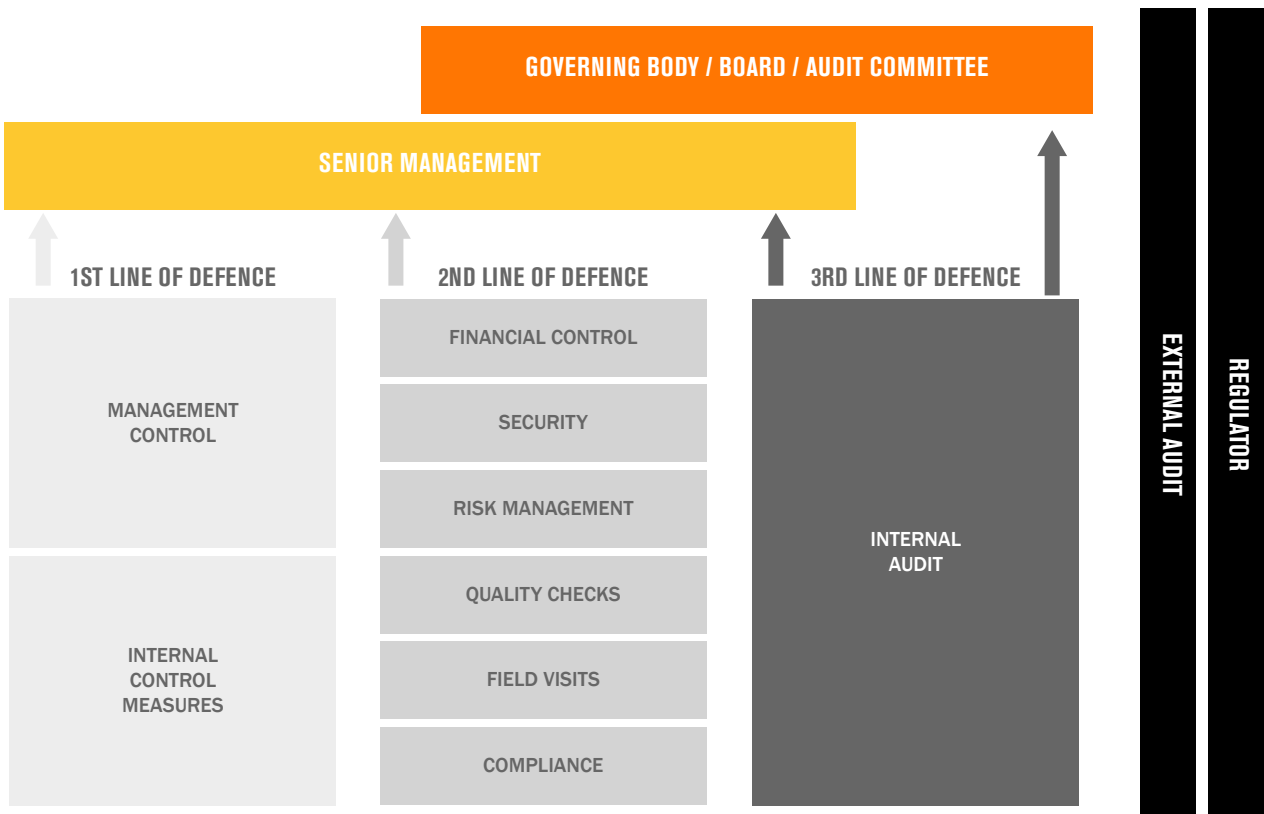
4

Reporting

Reporting on risk management should form part of the wider reporting processes that cover an organisation’s overall direction, effectiveness, supervision and accountability.

- ➔ **Direction:** providing leadership, setting strategy and establishing clarity about what an organisation aims to achieve and how.
- ➔ **Effectiveness:** making good use of financial and other resources to achieve the desired humanitarian outcomes.

- ➔ **Supervision:** establishing and overseeing controls and risk management and monitoring performance to ensure an organisation is achieving its goals, adjusting where necessary and learning from mistakes.
- ➔ **Accountability:** reporting to on what the organisation is doing and how, including reporting to donors.



Three lines of defence model

The “three lines of defence” model is an example of a governance model of which risk management is a key component. Management control and internal control measures make up the first line of defence; the various risk control and oversight functions established by management make up the second; and independent assurance makes up the third. Each of the three lines of defence plays a distinct role in an organisation’s wider governance framework.

An example application of this model could relate to a specific sanctions or counterterrorism measure, such as the screening of suppliers or employees, that would be implemented by staff in field offices. The process would require oversight from management as the first line of defence. As a second line of defence, compliance staff at the country or regional level would conduct spot checks and review implementation. The third line of defence is the organisation’s internal audit team, which provides overall assurance to global management on the effectiveness of internal control procedures through regular audits.

STATE'S SANCTIONS COMPLIANCE PROGRAMMES

The US Office of Foreign Assets Control (OFAC), part of the US Treasury Department, is primarily responsible for the implementation and supervision of the US sanctions programmes. Its Framework for OFAC Compliance Commitments strongly encourages organisations bound by sanctions regimes “to employ a risk-based approach to sanctions compliance by developing, implementing and routinely updating a sanctions compliance program (SCP)”.⁵⁵ The existence and effectiveness of such a programme is identified as a factor in any enforcement proceedings OFAC takes against organisations that may have violated sanctions and can reduce the amount of any fine imposed.⁵⁶

OFAC states that an effective SCP should have five elements, all of which overlap considerably with the components of a risk management framework:

- ➔ **Management commitment:** Senior management should give compliance functions sufficient resources, authority and autonomy to manage sanctions risks and promote a culture of compliance in which the seriousness of sanctions breaches is recognised.
- ➔ **Risk assessment:** Organisations should conduct frequent risk assessments in relation to sanctions, particularly as part of due diligence processes related to third parties, and develop a methodology to identify, analyse and address the risks they face.
- ➔ **Internal controls:** Organisations should have clear written policies and procedures in relation to counterterrorism-related compliance, which adequately address identified risks, and which are communicated to all staff and enforced through internal and external audits.
- ➔ **Testing and auditing:** Organisations should regularly test internal control procedures to ensure they are effective and identify weaknesses or deficiencies that need to be addressed.

- ➔ **Training:** There should be a training programme for employees and other stakeholders, such as partners and suppliers.

The UK's Office of Financial Sanctions Implementation (OFSI), within the UK Treasury Department, performs a similar role. OFSI advises organisations to UK charities and similar organisations to implement a strong sanctions compliance programme proportionate to the risks faced.⁵⁷

This should include:

- “communicating compliance expectations with partners, subsidiaries, and affiliates in line with local regulations
- developing, implementing, and adhering to written, standardised operational compliance policies, procedures, standards of conduct, and safeguards
- implementing compliance programmes, which should specify that engagement in sanctionable conduct may result in immediate termination of business or employment, or alternatively, confirm the adoption of controls to mitigate associated risks
- protecting employees that disclose illicit behaviour from retaliation and establish a confidential mechanism for reporting suspected, actual illicit or sanctionable activity”

OFSI's compliance and enforcement model has four elements:⁵⁸

- Promote compliance by publicising financial sanctions.
- Enable compliance by providing guidance and alerts to organisations to help them fulfil compliance responsibilities effectively.
- Respond to non-compliance consistently, proportionately, transparently and effectively.
- Change organisations' behaviour through compliance and enforcement action, which will take account of measures being taken to improve future compliance.

⁵⁵ OFAC, [A Framework for OFAC Compliance Commitments](#).

⁵⁶ Legal Information Institute, [CFR Appendix A](#) to Part 501 - economic sanctions enforcement guidelines.

⁵⁷ United Kingdom Office for Financial Sanctions Implementation, [Financial sanctions guidance for charities and NGOs](#).

⁵⁸ United Kingdom Office for Financial Sanctions Implementation, [Financial sanctions enforcement and monetary penalties guidance](#).

7.3 INTERNAL CONTROLS AND RISK MANAGEMENT

Internal controls are key elements of risk management frameworks. They include processes to assess, mitigate and monitor risks. Organisations can embed internal controls throughout the programme cycle and as part of its overall governance structures and reporting systems.

Internal control systems can be characterised as follows:

- ➔ **Preventive:** measures such as anti-diversion policies to ensure aid reaches its intended beneficiaries
- ➔ **Corrective:** measures such as internal checks to establish whether sanctions and counterterrorism-related risks have arisen during the programme cycle
- ➔ **Directive:** measures such as sanctions and counterterrorism policies that give staff clear guidance and establish red lines in relation to sanctions and counterterrorism risks
- ➔ **Detective:** monitoring measures such as spot checks to review whether staff have complied with sanctions and counterterrorism requirements

The following section examines various internal controls and approaches to the management of risks associated with sanctions and counterterrorism measures. It includes the following components:

- 1 Sanctions and counterterrorism policies
- 2 Policies for engagement with NSAG
- 3 Due diligence
- 4 Human resource policies
- 5 Anti-diversion policies
- 6 Monitoring and evaluation

DEVELOPING A SANCTIONS AND COUNTERTERRORISM POLICY

Sanctions and counterterrorism policies are intended to ensure that staff comply with relevant sanctions and counterterrorism measures while maintaining adherence to the humanitarian principles. They can articulate an organisation's mandate, and reiterate its commitment to the humanitarian principles, IHL and other laws and measures. They may include an overview of the measures the organisation has put in place to address concerns about the diversion of humanitarian assistance, including to persons and entities designated under sanctions or groups proscribed under counterterrorism measures. See [Tool 12](#): Example sanctions and counterterrorism policy.





© Karl Schembri/NRC

❓ Who is responsible for developing a sanctions/counterterrorism policy?

- A member of senior management should be the focal point for managing this undertaking
- Departments at headquarters and the field level should be tasked with providing inputs to the draft policy and reviewing it
- Inputs from a legal adviser should be sought

❓ What is included in a sanctions/counterterrorism policy?

- The principles and mandate to which the organisation is committed
- An overview of the laws that bind the organisation, which may include IHL, domestic laws in the countries where it is registered and operates, sanctions laws and counterterrorism measures
- The principles and commitments of staff members, such as ethical behaviour and anti-diversion

- An overview of the measures the organisation has in place to provide principled humanitarian assistance, such as robust project cycle management (PCM), codes of conduct with oversight mechanisms, anti-corruption procedures, financial and procurement controls and procedures for the selection of partners and staff
- A statement of red lines that if crossed would constitute a breach of the policy

❓ How are sanctions/counterterrorism policies developed and implemented?

- The policy should be developed in a consultative, collaborative process to ensure it addresses the main issues that staff confront and guarantees buy in and acceptance among staff members
- A robust roll-out plan should be established, which includes awareness raising and staff training on how to adhere to the policy
- Staff should be provided with written guidance on the policy in an accompanying explanatory note that gives further detail of due diligence procedures, relevant handbooks and SOPs

- Focal points to whom staff can turn with questions or to seek advice when dilemmas arise should be identified
- Control and oversight mechanisms, such as a reporting mechanism for violation of the policy, should be developed

❓ How often are sanctions/counterterrorism policies revised?

- Authoritative statements of principles and ethics, signed and endorsed by senior management, should generally not be revised
- Other policy elements may need to be revised as sanctions and counterterrorism measures evolve and their impact on principled humanitarian action changes

DEVELOPING AN NSAG ENGAGEMENT POLICY

NSAGs are present in most contemporary armed conflicts. In some contexts, NSAGs are designated for the purpose of sanctions by the UN, the EU or by host or donor states, or proscribed under criminal counterterrorism measures. Humanitarian organisations may engage with NSAGs, regardless of whether they are designated or proscribed, for various purposes, including to negotiate access to populations in need of assistance.

To manage risks related to engagement with NSAGs who may be designated or proscribed, some humanitarian organisations have developed policies for NSAG engagement that consider sanctions and counterterrorism measures. These policies can help avoid the transfer of risk onto field-based staff by ensuring that staff have clear organisational guidance and support when engaging with these groups.

NSAG engagement policies should consider three sources of sanctions and counterterrorism measures: sanctions adopted by the organisation's state of registration and the host state, counterterrorism measures adopted by

these states; and any sanctions and counterterrorism clauses in grant agreements. See [Tool 8](#).

This content was developed in collaboration with Geneva Call. Geneva Call is a humanitarian organisation working to improve the protection of civilians in armed conflict. Geneva Call engages NSAGs to encourage them to comply with the rules of war. More information about the organisation's work can be found [here](#).⁵⁹

Developing an NSAG engagement policy that considers sanctions and counterterrorism issues:

❓ Rationale and internal considerations

- What is the purpose of the organisation's engagement with NSAGs? For example, an organisation that delivers humanitarian assistance may be concerned about indirect terrorist financing or violation of sanctions regimes, while an organisation working to promote IHL may be more concerned about broad prohibitions in material support laws.
- How does the organisation safeguard the humanitarian principles in its engagement with NSAGs? How might the principles be challenged during engagement with NSAGs? For example, is there a risk to the organisation's independence through potential interference in beneficiary selection?
- What are the red lines in the engagement? Under what conditions would the organisation consider discontinuing engagement?
- What are the possible reputational risks for the organisation engaging with NSAGs? How can these risks be mitigated and managed?
- Do internal policies and procedures account for risks to staff emanating from national and international legislation? What are the potential consequences if the organisation engages with an NSAG that is designated under a sanctions programme or proscribed

⁵⁹ Geneva Call, Our mission, www.genevacall.org

as terrorist by the host government, on both its operations and its staff? What are the consequences if the organisation does not engage?

- Does the organisation track which staff members are negotiating with NSAGs? How does the organisation document negotiations processes? How is relevant data and information stored and protected?

🔍 Sanctions/counterterrorism clauses in grant agreements

- Do the organisation's grant agreements include clauses that prohibit using funds for NSAG engagement for general or specific purposes? Do relevant donors require due diligence steps during such engagement? If necessary, clarification or guidance should be sought internally. Refer to [Tool 8](#) for more guidance on reviewing such clauses in grant agreements.

🔍 Sanctions

- Is the NSAG designated under UN or EU sanctions or by individual states, such as the US⁶⁰ or by the host state? Are high profile members or leaders of the NSAG designated under any of these regimes? It must also be whether the group or its members are designated under sanctions regimes that are not necessarily counterterrorism-related, as regardless of their objectives, sanctions can impact the broader legal and policy environment for a humanitarian organisation's engagement.⁶¹
- If the answer to any of the above questions is yes:
 - What is the scope of the sanctions/counterterrorism measures and how may they impact the organisation's operations? Sanction regimes do not prohibit contact with designated persons or entities, but financial sanctions may require that organisations ensure that funds or assets are not made available to these groups.

- Are there any safeguards in the sanction regime or is there a possibility to apply for a license? Exemptions normally require approval by the authority in charge of implementing the sanctions.
- What are the consequences for violating sanctions regimes for the organisation and for staff members?
- If staff members have questions about relevant sanctions regimes, who should they approach internally for support and guidance?

🔍 Criminal counterterrorism measures

- Is the NSAG proscribed under the counterterrorism measures of states, such as the US or by the host state.⁶²
- Has the organisation identified and mapped how the organisation and staff could be impacted by criminal counterterrorism measures? Local staff members may be particularly exposed to risks related to host-country counterterrorism measures. The following elements should be considered in such a mapping:
 - The national legislation of the host state, the state of registration of the organisation, the states of nationality of staff, donor states and third states with broad extraterritorial offences.
 - The jurisdictional links required. For example, is there a requirement for a link of nationality of staff, or of registration of the organisation?
 - The typical offences that could lead to the potential criminal responsibility of staff, include the following: prohibition of indirect financing of terrorism, material support laws, designated area offences that prohibit presence in areas of designated terrorist activity and the prohibition of broad forms of association with proscribed groups.

⁶⁰ United States Department of the Treasury, Office of Foreign Assets Control - [Sanctions programs and information](#).

⁶¹ Emanuela-Chiara Gillard, [Recommendations](#) for reducing tensions in the interplay between sanctions counterterrorism measures and humanitarian action, Chatham House, August 2017.

⁶² United States Department of the Treasury, Office of Foreign Assets Control - [Sanctions programs and information](#).

DUE DILIGENCE

Due diligence encompasses a range of activities undertaken to ensure that humanitarian assistance reaches affected populations. When entering into an agreement or contract with another party, such as an implementing partner, due diligence includes assessing the robustness of its systems and its ability to carry out the relevant activities within the limits of an organisation's acceptable level of risk.

Due diligence can involve both internal and external-facing policies and measures designed to obtain assurance of a potential partner's capacity and capability to deliver assistance and to comply with donor requirements, including those related to sanctions and counterterrorism. Reviewing a potential partner's policies, systems, processes and past performance can lead to a more informed partnership that identifies, accounts for, and takes the appropriate measures to mitigate risks. [Tool 14: Partnership assessment checklist](#) could help guide an organisation's decision on whether to pursue a potential partnership.

Conducting due diligence with prospective partners:

❓ What is the purpose of conducting partner due diligence?

- Explore opportunities for working together and identify areas for cooperation in the delivery humanitarian programs
- Ensure a possible partner organisation has effective systems and operational procedures in place
- Understand the acceptability and reputation of partner with communities and local authorities
- Assess whether a potential partner poses a financial, reputational or programmatic risk to an organisation's operations and/or a protection risk for beneficiaries
- Confirm that the partner is not listed in any excluded party list due to linkages with criminal or political activity, terrorism or diversion of funds

- Confirm that the partner has the internal capacity to comply with all clauses influencing and included in any possible agreement, including those related to sanctions and counterterrorism

❓ What areas could a partner due diligence assessment cover?

- Areas covered in a due diligence assessment will vary based on the specific situation, needs and context. Some of the domains to consider reviewing in a partnership due diligence assessment include:
 - Basic background and history
 - Mission and values
 - Governance
 - External engagement, influence, and reputation
 - Organisational capacity
 - Operational capacity
 - Financial capacity
 - Logistical capacity

❓ What can an organisation examine to determine if a prospective partner's values are in line with its own?

- Human resources policies and codes of conduct
- Preventing Sexual Exploitation and Abuse (PSEA), criminal, and unethical activity policies
- Corruption and conflict of interest policies
- Sanctions and counterterrorism policies and procedures
- Stated commitments to the humanitarian principles and a do-no-harm approach

❓ How can an organisation implement due diligence policies and practices?

- Organisations can conduct due diligence assessments with the prospective partner by collecting information directly
- Organisations can collect information from other sources (e.g. other organisations that work with the prospective partner)
- Organisations can request a prospective partner to complete a self-assessment; this should be used in tandem with the organisation's own due diligence assessment

HUMAN RESOURCES POLICIES

Humanitarian organisations should ensure they institute human resources policies, including transparent and fair recruitment protocols, and communicate these clearly to staff. Human resources policies are a key part of organisation-wide risk management approaches and, as such, can help mitigate sanctions and counterterrorism-related risks and reassure donors. Human resources policies include rules for recruiting, training, appraising, remunerating, disciplining and dismissing staff. Humanitarian organisations frequently include them in staff contracts as a legally binding set of obligations that both parties are expected to observe.

Codes of conduct are another important element of human resources policies. Codes of conduct establish standards of behaviour for an organisation and its staff. They commonly reflect a commitment to the humanitarian principles, mitigating the likelihood of compromising them.

Codes of conduct are non-binding, but they are often included in staff contracts, in which case they become a set of obligations that must be observed. Some organisations provide training and written guidance to staff on how to put their codes of conduct into practice. Codes of conduct may also include control and oversight mechanisms, such as disciplinary proceedings and whistle-blowing facilities.

Reviewing and developing human resources policies:

❓ What should be considered when reviewing or developing human resources policies?

- **Recruitment:** Does the human resources policy and the recruitment procedures it governs ensure the most suitable and best-qualified candidates are selected, having undergone reference and employment verification and other checks?
- **Staff development:** Does the human resources policy stipulate a plan to develop staff members' skills and improve the knowledge they require to do their job and progress in the organisation?
- **Discipline:** Does the policy establish clear procedures and rules for censuring staff members who violate the organisation's rules and regulations?
- **Appraisals:** Does the policy detail how and how often such assessments take place?
- **Duty of care:** what steps does the organisation take to ensure the health, safety and wellbeing of staff.

❓ Who is responsible for human resources policies?

- Senior management, in consultation with the human resources department, is responsible for developing, reviewing and ensuring implementation of human resources policies
- The legal department should also be consulted during their development

❓ What should an organisation consider when implementing human resource policies?

- How to recruit, dismiss, remunerate, train and appraise staff
- How to develop a staff member's skills for their role
- How to discipline staff members for violations of the organisation's policies

-
- ❓ How can an organisation implement human resources policies?
- Human resources policies should be clearly communicated to all staff
 - Relevant training should be available to staff
 - A confidential complaints or feedback mechanism should be put in place

-
- ❓ How often are human resources policies revised?
- There is no set schedule for doing so, but many organisations revise their human resources policies periodically or during a change in the organisation's circumstances

ANTI-DIVERSION POLICIES

Humanitarian organisations have anti-diversion policies to mitigate the likelihood of assistance being diverted from affected populations. They may include:

- Measures to limit the likelihood of fraud and corruption
- Procedures to regulate financial management
- Guidance on access negotiations
- Measures to reinforce an organisation's policies in areas such as training, information sharing, disciplinary investigations and monitoring

Reviewing and developing anti-diversion policies and practices:

-
- ❓ What should a review include?
- There are no standardised anti-diversion policies, but they tend to address:
 - **Embezzlement:** The misappropriation of goods or funds for financial or personal gain
 - **Fraud:** Deception, for example by falsifying records to exaggerate the number of staff employed or beneficiaries covered by a project, to result in financial or personal gain

- **Corruption:** Dishonest or fraudulent conduct by those in power, typically involving bribery; the aim of anti-corruption policies, including those on whistleblowers, is to ensure staff act ethically
- **Money laundering:** The concealment of the origin of money obtained from criminal, terrorist or other illegal activities
- **Access:** The methods by which an organisation engages with armed groups and negotiates humanitarian access

❓ Who is responsible for developing and reviewing anti-diversion policies and practices?

- Overall responsibility lies with senior management, which should assign responsibility to the relevant departments for implementing practices related to staff training, producing written guidance and carrying out control mechanisms such as audits
- Field staff have a key role to play in the development of anti-diversion policies and practices, and should be consulted to ensure they are relevant and realistic
- The legal department should also be consulted

❓ What content should an anti-diversion policy include?

- A statement of principles and definition of terms
- Procedures for preventing diversion: standardising and maintaining bank records; standardising accounting practices, such as account codes and donor codes; classifying costs, for example as direct or indirect; ensuring internal controls, including the segregation of duties between staff responsible for procurement, finance, disbursing cash, payroll and liquidations; and financial reporting requirements

❓ How are anti-diversion policies and practices implemented?

- All staff should receive training on the organisation's anti-diversion policies



© Maisam Shafiq/NRC

- All staff should receive written guidance on implementation
 - Control and oversight mechanisms, such as audits, spot checks and regular reports, should be put into place
-
- ❓ How often are anti-diversion policies and practices revised?
- There is no set schedule for doing so, but many organisations revise their anti-diversion policies every few years or if they are found to no longer be fit for purpose

MONITORING AND EVALUATION (M&E) FRAMEWORKS

Counterterrorism and M&E

M&E serves two purposes for humanitarian organisations. It provides the basis for learning and programme improvement, and it establishes evidence to meet internal and donor-related documentation and reporting requirements.

Humanitarian organisations should pursue three M&E strategies to mitigate sanctions and counterterrorism related risks:

- ➔ Implement the best M&E system possible in the given context
- ➔ Ensure transparency regarding the quality of M&E feasible
- ➔ Take considered programme criticality decisions where M&E evidence is absent or weak

Sanctions and counterterrorism risks often arise in situations where humanitarian access is already constrained because of the presence of armed groups that can be sanctioned or proscribed. In situations of constrained access M&E processes may be imperfect and there is a risk that some data may not be accurate. An accurate assessment of the quality of M&E processes helps to determine how successful an organisation has been in using them to mitigate the risk that resources are diverted to DTGs.

A tool such as Tool 15: M&E minimum standards can help measure the quality of M&E processes objectively. The minimum standards also provide a concrete way of communicating M&E risks to donors to ensure that all parties are aware of them before a project is implemented.

M&E quality is an important consideration during programme criticality decision making. If the M&E minimum standards in Tool 10 indicate that M&E processes will be weak, management should take a programme criticality decision to weigh the potential humanitarian results of the intervention against the associated obstacles and risks, in this case to decide whether it is worth implementing the project if little or no data on its outcomes will be available.

Developing and implementing M&E systems:

❓ Do all projects have the following elements of an M&E system?

- **Results framework:** This is a cause-and-effect explanation of a project that predicts how activities and inputs will contribute to the objectives of the intervention. It should include indicators the project will measure to test key assumptions.
 - **Indicator matrix and monitoring tools:** The former defines each indicator and stipulates how and when it will be measured. The latter are the questionnaires or other tools used to collect monitoring data.
 - **Monitoring:** The use of the tools and methods described in the indicator matrix to collect and analyse data and determine performance.
 - **M&E information management:** A system to ensure M&E data is maintained and accessible. Such a system may include a results database where indicator performance is tracked; a filing system for reports, distribution lists, photographs and other documents; and a case management database to track beneficiary engagement. An information management system can support an organisation's assertion that it knows who received assistance.
- **Evaluation plan:** Evaluations look at a programme's longer-term outcomes and impact. All programmes should have an evaluation plan, including a timeframe for evaluations, and their scope, purpose and funding sources.
 - **Staff:** M&E requires enumerators to conduct interviews and collect data among the targeted communities; analysts to convert the raw monitoring data into indicator results and set them in a meaningful context; and management to be accountable for reporting requirements and use of the indicator results to improve programme design. Enumerators and analysts may be dedicated M&E staff or drawn from programme teams.

❓ What strategies exist to mitigate concerns about M&E quality in areas where sanctions and counterterrorism risks are a concern?

- **Contribution analysis:** If it is not possible to measure certain high-level indicators directly, a set of testable logical statements could be developed that demonstrate the programme's contribution to them. If, for example, an organisation purchases tents and distributes them to people who do not have shelter, and those people use the tents, it can reasonably conclude that the tents have made a positive contribution to protecting the recipients from the elements. Contribution analysis requires a carefully thought-out results framework. Read more about contribution analysis [here](#).⁶³
- **Triangulation:** Using various sources of data about the same indicator reduces the risk of poor quality and potentially misleading data. Photographs of aid distributions help to triangulate beneficiary lists, for example, and focus groups can be used to triangulate outcome indicator surveys.
- **Sample size and randomisation:** The careful selection of respondents can produce data and analysis that can be extrapolated to apply to all beneficiaries. Samples need to be sufficiently large, and all beneficiaries must have an equal chance of being included in them. Investing in rigorous and robust

⁶³ BetterEvaluation, [Contribution analysis](#).

sampling methods will greatly increase the quality of M&E data. Read more about sampling [here](#).⁶⁴

- **Mobile data capture:** If enumerators capture data on a mobile device rather than on paper, records can be time, date and location stamped. This information allows supervisors to confirm that sampling methods were properly implemented and identify other data quality issues. There is also less risk of transcription errors or manipulation because the data-entry step from paper to digital is eliminated. [KoBoToolbox](#) is a mobile data capture platform in use among some humanitarian organisations and offers many data capture tutorials.⁶⁵
- **Supervision:** Remotely managed programmes require more supervision, particularly to ensure M&E quality. Supervisors are needed to oversee data collection, clean data and ensure reporting and results make sense. This means investing in more staff hours and more dedicated staff to review reports and data from the field.
- **Feedback mechanism:** This provides a way for beneficiaries to submit independent comments on programme performance. Feedback mechanisms are difficult to put in place in areas where access is constrained, but when they can be implemented, they are a powerful way of learning about programme quality and triangulating M&E results. Read more about this in this [paper from ALNAP](#).⁶⁶

- **“Independent” monitoring:** Bias is always a concern, and a genuinely objective assessment of project performance can be useful. True independence, however, can be difficult to achieve, particularly in areas where access is constrained. Focusing on independence or engaging independent monitors may simply exchange one set of biases that are easier to anticipate for another that is harder to quantify.

PCM and counterterrorism risks

PCM guidelines can form one component of a risk management framework for addressing counterterrorism issues, helping organisations to identify, evaluate and mitigate potential risks effectively throughout the different PCM phases.

This practical guide to [PCM and counterterrorism risks](#) draws on content from this toolkit.⁶⁷ It outlines the origin and impact of counterterrorism measures and proposes actions for humanitarian organisations to consider throughout the programme cycle to help identify, manage, and mitigate counterterrorism-related risks.

⁶⁴ Better Evaluation, [Sampling](#).

⁶⁵ KoBoToolbox, [Powerful tools for data collection](#).

⁶⁶ ALNAP, [What makes feedback mechanisms work?](#)

⁶⁷ Norwegian Refugee Council, [Practical guide: Project cycle management and counterterrorism risks](#), March 2020.

8 TOOLS

Tool 1: Template touch point tool: How to identify ways in which programming interacts with applicable sanctions and counterterrorism measures.....	64
Tool 2: Cheat sheet: Differences and commonalities between sanctions and counterterrorism measures.....	66
Tool 3: Examples of humanitarian safeguards in sanctions, counterterrorism measures and donor clauses.....	70
Tool 4: Checklist on good and bad practices for humanitarian safeguards.....	74
Tool 5: Risk categories and operational impacts.....	76
Tool 6: Checklist for establishing a national tri-sector working group.....	78
Tool 7: Examples of sanctions/counterterrorism clauses in donor agreements.....	81
Tool 8: Reviewing sanctions and counterterrorism clauses in donor agreements.....	84
Tool 9: Go/no-go checklist in relation to sanctions and counterterrorism measures.....	86
Tool 10: Criteria for calculating risk impact and likelihood.....	89
Tool 11: Example risk matrix.....	90
Tool 12: Example sanctions/counterterrorism policy.....	91
Tool 13: Example engagement policy with non-state armed groups and de facto authorities considering sanctions and counterterrorism risks.....	94
Tool 14: Partnership assessment checklist.....	97
Tool 15: Monitoring and Evaluation (M&E) minimum standards.....	105

Template touch point tool: How to identify ways in which programming interacts with applicable sanctions and counterterrorism measures

TOOL 1

REMINDER: Which sanctions and counterterrorism measures should my organisation consider?

Humanitarian organisations should take into account:

- ✓ United Nations (UN) sanctions
- ✓ Sanctions or counterterrorism measures adopted by the country where the organisation's head office is registered
- ✓ Sanctions or counterterrorism measures adopted by the country or countries where it operates

In addition:

- ✓ Staff must also consider with the sanctions and counterterrorism measures adopted by their country of nationality. These do not, however, apply to their organisation as a whole.
- ✓ Transactions in the formal banking sector conducted in United States (US) dollars must comply with US sanctions.
- ✓ Other sanctions or counterterrorism measures may also become applicable indirectly through funding agreements. Donors frequently require the recipient of their funds to comply with the sanctions or counterterrorism measures they have adopted or are subject to, even if the organisation is not under the jurisdiction of the donor country.

TEMPLATE TOUCH POINT TOOL:

This tool allows organisations to analyse how humanitarian operations interact with applicable sanctions and counterterrorism measures. It provides a template for an organisation to identify touch points between sanctions, counterterrorism measures and programming, analyse the risks, identify mitigating measures, and document the organisation's decision on whether to proceed with an action or not. The categories and examples below are not exhaustive and the template can be adapted based on your organisation's operations and programmes.

There are nine main types of 'touch points' that are most common for organisations to consider:

- ❶ Taxes and social security payments
- ❷ Visa and registration costs
- ❸ Allowances, stipends, per diems and transportation costs
- ❹ Utilities
- ❺ Programme/IT software
- ❻ Procurement
- ❼ Cash payments to beneficiaries and community groups
- ❽ Payments to Money Transfer Service Providers
- ❾ Coordination

When to use this tool

You can use this tool to map touch points in a country of operation, for specific projects or activities. It can be used when developing a new project or as a risk management tool which is frequently updated. It can also be used to evaluate the impact of existing sanctions and counterterrorism measures or in anticipation of regulatory changes - e.g. anticipated sanctions designations or counterterrorism proscription. The examples included in this template are for illustrative purposes only and should not be construed as legal advice.

Where to get advice and support

The analysis is best done when informed by expertise across operations, legal and risk, and management functions. If your organisation does not have these capacities and resources, then consider doing the analysis collectively with the international non-governmental organisation (INGO) forum or access working group. Alternatively, consider commissioning legal advice from a specialised law firm or seeking pro bono legal advice from networks such as TrustLaw.

TABLE LEGEND:

Type of touch point: *These categories can be adjusted to fit the needs of your operations.*

Amount: *How much is the payment? Include variation of costs if applicable?*

Payment arrangement and frequency: *How are payments made? How often are payments made?*

Relevant entity to whom payment is made: *Who is the recipient of the payment?*

Analysis: *Does the payment involve a designated entity? Are there risks that payments violate applicable laws?]*

Risk rating: *Define your rating, e.g. traffic light or numbers.*

Risk mitigations: *Are there humanitarian carveouts / exemption which cover this payment? What measures could be put in place to mitigate the risk?*

Decision: *Decision of the management. This can then also be included in a 'Note to file' if relevant.*

Red flags: *Are there specific issues to follow-up or pay attention to? E.g. changes to payment modalities or expiration of exemption.*

# / Type of touch point							
Amount	Payment arrangement and frequency	Relevant entity to whom payment is made	Analysis	Risk rating	Risk mitigations	Decision	Red Flags or points of attention
1. Taxes and social security payments (e.g. income tax, supplier withholding tax, pensions, social insurance payments, etc.)							
As per the law, e.g. % of salary.	Bank transfer, monthly	Ministry of Finance	Minister of Finance is listed under United Nations Security Council (UNSC) financial sanctions. Minister also listed under autonomous sanctions of country X.	Select: - Green - Orange - Red	UNSC Resolution 2664 provides an exemption to payments needed for humanitarian activities. However, the exemption has not been translated into the national law of country X, which is a donor to this project.	Allowed, under certain conditions. Monitor payments. Only use donor funds from X country as this state has transposed UNSC Resolution 2664 into national legislation.	Red flag: Any change in payment arrangements that gives rise to concerns that money might be going to designated entities (e.g. organisation had been paying tax to a general account and is now being asked to pay to an account in the name of an individual). Evidence that funds (or asset transfers) are likely to benefit a designated entity directly and personally (e.g. the Minister of Finance).
2. Visa & registration cost (e.g. staff residency permits)							
As per the law, e.g. between 50-400 USD.	Cash, one-off	Ministry of Interior	De facto authorities / Cabinet are designated under country X financial sanctions.	Select: - Green - Orange - Red	Country X sanctions include a humanitarian exemption that authorizes transactions for humanitarian purposes. The exemption, however, expires at the end of the year.	Allow payments pending the condition of the exemption and until expiry at the end of the year.	For attention: Monitor the expiry of the exemption. Document how the exemption applies to the payments or activity. Advocate for renewal of the humanitarian exemption.
3. Allowances & stipends (e.g. Incentives to civil servants, per diem or transportation for schoolteachers)							
X USD a month	Cash without receipts	Individual civil servants, from the Education Ministry (who have not received salaries for a year).	De facto authorities / Cabinet are a proscribed terrorist group under the US Foreign Terrorist Organisation (FTO) designation. FTO designation triggers the application of the US Material Support clause which prohibits the direct/indirect provision of material support to terrorist groups/ individuals.	Select: - Green - Orange - Red	There are no exemptions in the US material support statute. Are there US Office of Foreign Asset Control (OFAC) General Licenses for humanitarian activities? If so, does the License allow stipend support to public or private teachers, healthcare workers for example? Set-up verification of recipients of allowances and / or field visit reports.	Escalate decision to senior management. Seek written guidance from sanctioning country / donor confirming that incentive payments to teachers or health workers are allowed insofar as the payments do not directly benefit a designated person.	Red flag: Changes to the school / institution management that include members of designated / proscribed group (e.g. newly arrived military commander as Director). Red flag: Any credible reasons to believe that local government employees are paying funds to a designated entity or could be compelled to do so.
4. Utilities (e.g. payment of electricity, internet, telecom, water bills for offices or guest houses)							
X USD / month	Monthly payments, by bank transfer or post office.	Bills issued / paid to relevant company	The company is state-owned and the de facto authorities are designated under US financial sanctions.	Select: - Green - Orange - Red	Applicable US General License authorises the payment of public utilities for humanitarian purposes.	Allowed explicitly by the humanitarian exemption.	For attention: Monitor changes in the sanctions landscape.
5. Programme software (e.g. software for online training programmes or human resources platforms)							
5,000 USD	Bank transfer to US company	What country does the software originate from? US company under the authority of the US Bureau of Industry and Security (BIS).	US export control prohibits the use of certain US components in country X under sanction. Export controls require organisations to apply for an export license from the US BIS.	Select: - Green - Orange - Red	Are BIS licenses necessary and can the organisation apply for some?	Consider alternative providers if available. If a BIS license is required, only process payments when the license is secured.	For attention: Monitor duration and expiry of the license and reapply if required. Document the application process for a license to feedback on the experience.

# / Type of touch point							
Amount	Payment arrangement and frequency	Relevant entity to whom payment is made	Analysis	Risk rating	Risk mitigations	Decision	Red Flags or points of attention
6. Procurement (e.g. Purchasing cement from a local company)							
15,000 USD	Paid via Hawala	Local cement company	The owner of the company is designated under European Union (EU) sanction.	Select: - Green - Orange - Red	The EU sanctions offer the options for organisation funded by the EU or its member states to apply for a derogation to purchase and pay goods necessary for humanitarian activities.	Consider an alternative provider if available. Consider using funds from another donor (only relevant if the organisation is not an EU entity). Consider applying for a derogation to the national competent authority in Europe.	For follow-up: Document the application process for License to feedback on the experience. Advocate for a humanitarian exemption in lieu of a case-by-case derogation.
7. Money Transfer Service Provider							
50,000 USD a month	Bank transfer to provider after cash received in location and confirmed by staff.	Central Bank or Ministry of Finance	As per internal procedures relevant screening of suppliers should be undertaken.	Select: - Green - Orange - Red	Ensure selection and screening of suppliers and agents according to organisational standards. i.e. Check they are a regulated provider and request supporting documentation. Payments to suppliers made in arrears.	Allow payment unless supplier is flagged in periodic screening checks.	For attention: Monitor changes to local regulations on providers.
8. Coordination (e.g. signing Memorandums of Understanding (MoU)s with line ministries, project agreements etc.)							
N/A	N/A	E.g. Ministry of higher education	De facto authorities (DFA) cabinet are designated under country X financial sanctions.	Green	Sanctions do not prohibit coordination with designated authorities for the purpose of humanitarian action.	Coordination is allowed and necessary for humanitarian operations. Ensure the Memorandum of Understanding (MoU) or agreement does not include clauses or requirements that would contradict humanitarian principles (e.g. approval of beneficiary list etc.).	Red flag: Monitor changes in requirements and escalate decisions to senior management as necessary, e.g. if de facto authorities request payment for access or other undue conditions.

Cheat sheet: Differences and commonalities between sanctions and counterterrorism measures

TOOL 2

Although their impact and the risk they pose to principled humanitarian action can be similar and frequently overlap, sanctions and counterterrorism measures are different legal instruments. Understanding their nature and the differences between sanctions and counterterrorism measures from a legal perspective can help humanitarians identify, assess and mitigate risks more precisely and advocate appropriately for policy solutions.

This tool intends to summarise in general how sanctions and counterterrorism measures differ, but also what they have in common. For a more detailed and nuanced analysis, refer to [Section 3](#) of the toolkit.

Sanctions	Commonalities between sanctions and counterterrorism measures	Counterterrorism measures
What is the objective of the measure?		
<p>Objectives vary greatly: e.g. ending conflicts, promoting human rights, restoring democracy.</p> <p>Some sanctions are imposed in response to a situation in a specific country: e.g. United States (US) sanctions on Syria. Others are 'horizontal' or 'thematic' and apply across different contexts – e.g.: Weapons of Mass Destruction.</p>	<p>Counterterrorism sanctions aim to prevent funds and assets from going to terrorist groups or individuals.</p> <p>For example: United Nations (UN) sanctions on ISIL, Al Qaeda and affiliates (UN Security Council resolution 1267).</p>	<p>Stemming the flow of funds and other forms of support to terrorist groups and individuals or for the commission of acts of terrorism.</p>
Who adopts the measure?		
<p>International and regional organisations</p> <p>Individual countries (executive power)</p>	<p>International organisations such as the UN</p> <p>Regional organisations such as the European Union (EU)</p> <p>Individual countries</p>	<p>In some contexts, local government bodies (e.g. governors, mayors) adopt counterterrorism measures. In areas under military rule, military authorities may also adopt counterterrorism measures.</p>
Who implements the measure?		
<p>Financial sanctions are typically implemented by departments within Treasury Departments or Ministries of Foreign Affairs– e.g. Office of Foreign Assets Control (OFAC) in the US or Office of Financial Sanctions Implementation (OFSI) in the United Kingdom (UK).</p> <p>Commercial sanctions or trade bans are typically overseen by Trade or Commerce departments – e.g. US Bureau of Industry and Security (BIS).</p>	<p>Law enforcement authorities may prosecute individuals and/or organisations breaching sanctions measures or counterterrorism criminal laws.</p>	<p>Ministry of Justice, Ministry of Interior, police, military.</p>

Sanctions	Commonalities between sanctions and counterterrorism measures	Counterterrorism measures
Where is the measure found?		
Sanctions lists (see for example EU Sanctions Map or US Sanctions programmes)	UNSC resolutions Regional or domestic laws (e.g. EU Directives) Clauses in donor contracts	States penal / criminal codes. Other counterterrorism measures can also be found in military orders, local directives
What does the measure prohibit?		
Import / export restrictions such as the prohibition on imports of goods, 'dual use' items, or the prohibition to purchase certain goods, e.g. Syrian fuel. Travel bans. Embargos on arms or military equipment. Prohibition to provide resources or support' to sanctioned entities.	Prohibition to provide support or resources to terrorist groups or individuals, whether designated under sanctions or proscribed under counterterrorism measures.	Prohibitions vary greatly. Criminal counterterrorism measures typically prohibit carrying out acts of terrorism but can also include, for example, a prohibition to travel for the purpose of terrorism training and apology for terrorism. Other counterterrorism measures may be administrative or military in nature and can include local curfews, bans on the use of cash, the use of certain vehicles, bans on certain economic activities, such as market or trade or the imposition of military or no-go zones.
What are the penalties when the rule is not respected?		
	Administrative penalties, such as disallowances, or fines which can be significant. Civil liabilities are less frequent but exist in some jurisdictions. Criminal liabilities may also exist in some countries (for example EU countries).	Non-compliance with criminal counterterrorism laws could lead to prosecution.
Who is targeted by the measures?		
Entities targeted by sanctions are typically called 'designated' individuals or groups. They can include members of governments such as ministers, companies, or owners/board members of businesses.	ISIS Al Qaeda affiliated groups Non-state armed groups Other terrorist groups	Groups proscribed by the relevant State, e.g. Foreign Terrorist Organisations (FTOs) designated by the US. All authors of terrorist acts.
Who needs to comply with the measure?		
	Any legal or natural person under the jurisdiction of the issuing state or regional organisation (see Tool 1)	
How is humanitarian action protected from the unintended effects of the measure?		
Humanitarian exemptions in UN sanctions or autonomous sanctions. E.g. UN Resolution 2664, UN Resolution 2615 on Afghanistan, OFAC General Licenses, humanitarian exemptions in EU sanctions Import licences or derogations.	Obligations for states to respect international laws and consider the impact on humanitarian activities while designing or implementing sanctions and counterterrorism measures.	Humanitarian safeguards in criminal laws. Strict and precise definitions of offences contribute to protecting humanitarian action. Prosecutorial guidance for law enforcement authorities.

Examples of humanitarian safeguards in sanctions, counterterrorism measures and donor clauses

TOOL 3

Following a decade of advocacy, sanctions and counterterrorism measures increasingly include a range of safeguards to protect principled action. This tool provides you with examples of humanitarian ‘safeguards’ in both sanctions, criminal laws and donor clauses, as well as a checklist of elements to consider to ensure that a humanitarian safeguard is as protective as possible.

A. HUMANITARIAN SAFEGUARDS IN SANCTIONS

United Nations Security Council (UNSC) Resolution 2664 (2022) created a standing humanitarian exemption for all current and future United Nations (UN) asset freeze measures, which countries must transpose in their national laws that give force to UN sanctions. As a welcome step, some countries took a step further and included exemptions in their own ‘autonomous’ sanctions (i.e. sanctions imposed by that country alone). However, in doing so, they often included new criteria or elements of language. As a result, different models of humanitarian exemptions now coexist, some of which are more protective than others.

Example 1: UNSC Resolution 2664 (2022)¹

“Decides that (...) 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:

- *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,*
- *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,*

(...) are permitted and are not a violation of the asset freezes imposed by this Council or its Sanctions Committees.”

¹ UN Security Council, Resolution 2664 adopted on December 9th 2022 ([S/RES/2664](#)).

Example 2: UNSC Resolution 2615 (Afghanistan) (2022)²

“Decides that humanitarian assistance and other activities that support basic human needs in Afghanistan are not a violation” and “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 such assistance or to support such activities are permitted.”

Example 3: United States sanctions, Global Terrorism Sanctions Regulations³

(a) (...) all transactions prohibited by this part that are ordinarily incident and necessary to the activities described in paragraph (b) of this section by a nongovernmental organization are authorized (...)

(b) The activities referenced in paragraph (a) of this section are noncommercial activities designed to directly benefit the civilian population that fall into one of the following categories:

- (1) Activities to support humanitarian projects to meet basic human needs, including disaster, drought, or flood relief; food, nutrition, or medicine distribution; the provision of health services; assistance for vulnerable or displaced populations, including individuals with disabilities and the elderly; and environmental programs;*
- (2) Activities to support democracy building, including activities to support rule of law, citizen participation, government accountability and transparency, human rights and fundamental freedoms, access to information, and civil society development projects;*
- (3) Activities to support education, including combating illiteracy, increasing access to education, international exchanges, and assisting education reform projects;*
- (4) Activities to support non-commercial development projects directly benefiting civilians, including those related to health, food security, and water and sanitation;*
- (5) Activities to support environmental and natural resource protection, including the preservation and protection of threatened or endangered species, responsible and transparent management of natural resources, and the remediation of pollution or other environmental damage; and*
- (6) Activities to support disarmament, demobilization, and reintegration (DDR) programs and peacebuilding, conflict prevention, and conflict resolution programs.*

(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, 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.

(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.

² UN Security Council, Resolution 2615 adopted on December 22th 2021 ([S/RES/2615](#)).

³ Code of Federal Regulation, Title 31, Subtitle B, Chapter V, §594.520§ 594.520: [Authorizing Certain Transactions in Support of Nongovernmental Organizations' Activities](#).

Example 4: Humanitarian exemption in EU restrictive measures⁴

“(...) the prohibitions set out in Article (x)) shall not apply to the making available of funds or economic resources 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:

- (a) the United Nations, including its programmes, funds and other entities and bodies, as well as its specialised agencies and related organisations;*
- (b) international organisations;*
- (c) humanitarian organisations having observer status with the United Nations General Assembly and members of those humanitarian organisations;*
- (d) bilaterally or multilaterally funded non-governmental organisations participating in United Nations Humanitarian Response Plans, United Nations Refugee Response Plans, other United Nations appeals or humanitarian clusters coordinated by the United Nations Office for the Coordination of Humanitarian Affairs;*
- (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;*
- (f) Member States’ specialised agencies; or*
- (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.”*

Example 5: Humanitarian derogation in EU restrictive measures

“(...) by way of derogation from Article (x) 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.”

B. HUMANITARIAN SAFEGUARDS IN CRIMINAL LAWS

A few countries have also adopted safeguards to protect humanitarian action in their criminal laws, including:

Example 1: Chad’s 2020 law on the repression of terrorist acts

“The exclusively humanitarian and impartial activities conducted by neutral and impartial humanitarian organizations are excluded from the scope of application of this law.”

Example 2: Philippine Republic Act No. 11479, 2020

“Humanitarian activities undertaken by the ICRC, the Philippine Red Cross (PRC), and other state-recognized impartial humanitarian partners or organizations in conformity with the International Humanitarian Law (IHL), do not fall within the scope of Section 12 of this Act [i.e. material support to terrorists].”

⁴ [Horizontal approach regarding humanitarian clauses in certain EU regimes of restrictive measures.](#)

Example 3 - Ethiopia's Anti-terrorism Act

“A humanitarian aid given by organizations engaged in humanitarian activities or a support made by a person who has legal duty to support other is not punishable for the support made only to undertake function and duty”.

Example 4: Australia Criminal Code

“This section [associating with a terrorist organisation]- does not apply if: “(...) the association is only for the purpose of providing aid of a humanitarian nature.”

C. HUMANITARIAN SAFEGUARDS IN DONOR CLAUSES

Some donors have also included or referenced existing humanitarian safeguards in their grant agreements.

Example 1: ECHO Model Grant Agreement (2021)⁵

“The beneficiaries must ensure that the EU grant does not benefit any affiliated entities, associated partners, subcontractors or recipients of financial support to third parties that are subject to restrictive measures adopted under Article 29 of the Treaty on the European Union (TEU) or Article 215 of the Treaty on the Functioning of the EU (TFEU). The need to ensure the respect for EU restrictive measures must not however impede the effective delivery of humanitarian assistance to persons in need in accordance with the humanitarian principles and international humanitarian law. Persons in need must therefore not be vetted.”

Example 2: AFD methodological guide for CSOs receiving public funds (2023)⁶

Compliance with [the prohibition to provide funds or economic resources to designated person / groups] is subject to adjustment in two cases:

a. Humanitarian exemption and derogation obtained from the competent authorities

- *a) If the project can claim a humanitarian exemption: if the country where the funding is deployed is covered by a Humanitarian Response Plan (HRP) or a UN flash appeal (OCHA or UNHCR) and the project falls within the areas covered by this HRP or flash appeal, or:*
- *b) If the CSO can claim a derogation obtained from the National Competent Authority on sanctions (ANC) and is able to provide the relevant authorization to the AFD group.*

Example 3: Anonymous

“The need to ensure respect for counter-terrorism legislation and sanctions regulations should not impede the timely delivery of humanitarian assistance or other activities that support basic human needs in accordance with humanitarian principles, international humanitarian law and human rights law. The Partner is therefore not expected to screen end-beneficiaries. The Partner and any Downstream Partners are also not precluded from liaising with designated persons or members of designated entities and proscribed groups to implement the activities funded by this Arrangement”.

⁵ ECHO, [Humanitarian Model Grant Agreement 2021-2027](#).

⁶ <https://tinyurl.com/4rh5ewfc>

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
<p>✓ Short, clear and simple language with few qualifiers.</p>	<p>✗ Lengthy, complex or unclear language.</p> <p>✗ Additional criteria reducing the scope of the exemption.</p>
<p>✓ Binding language – for example inserted into the operative paragraph of a resolution, directive or law.</p>	<p>✗ Non-binding language – for example when inserted in the preamble of a resolution, directive or law.</p>
<p>✓ Transverse / cross-cutting humanitarian exemptions that are applicable to all sanctions issued by the authority</p>	<p>✗ Case by case humanitarian exemptions in sanctions.</p> <p>✗ Clauses that require humanitarian actors to apply for a specific authorisation beforehand to conduct otherwise prohibited activities.</p> <p>Example: <i>“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>
<p>✓ Authorises a wide range of transactions, covering all kind of transfer of funds and resources necessary for the delivery of humanitarian assistance.</p> <p>Example: permits the “the provision, processing or payment of funds, other financial assets, or economic resources, or the provision of goods and services.”</p>	<p>✗ Authorises only some transactions or dealings.</p> <p>Example: <i>“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>
<p>✓ Covers the widest possible range of activities in support of civilians needs.</p> <p>Example: “Decides that humanitarian assistance and other activities that support basic human needs are not a violation of paragraph [x].”</p>	<p>✗ Covers a narrow scope of strictly humanitarian activities.</p> <p>Example: <i>“The prohibition (...) shall not apply to (...) exclusively humanitarian purposes.”</i></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>

Risk categories and operational impacts

TOOL 5

Risk category	Operational impact
Criminal and civil liability related to counterterrorism measures	<p>Investigation and prosecution under counterterrorism laws: Some countries' broad definition of prohibited support for terrorist groups or acts of terrorism in their domestic legislation poses a risk for humanitarian organisations and their staff, who could face investigation and prosecution if their activities are deemed to fall within the scope of the crime. Local staff may be particularly exposed to risks under the host country's counterterrorism legislation.</p> <p>Civil liability: In some countries such as the United States (US), organisations may also face civil liability under laws such as the Anti-Terrorism Act if it can be argued that their activities (even unintentionally) assisted in the commission of acts of terrorism.¹</p>
Civil and criminal liability for sanctions violation	<p>Liability for sanctions violation: Humanitarian organisations and their staff may be held accountable for violating sanctions, which is most likely to result in fines or civil penalties. A growing number of countries and sanctioning bodies, however, have introduced measures to punish violation or circumvention of sanctions more severely. For example, the European Union (EU) adopted a directive on the criminalisation of sanctions violations in 2024.</p>
Operational	<p>Delays in negotiating terms of grant agreements: The inclusion of sanctions and/or counterterrorism clauses in grant agreements can delay humanitarian activities while organisations negotiate with donors to avoid problematic requirements or seek clarity about wording. Some specific requirements, including screening and/or vetting procedures, may also delay the provision of assistance.</p> <p>Delays in obtaining specific authorisations: If humanitarian exemptions are not in place, the process of applying for licences or derogations for specific activities otherwise prohibited can be time-consuming. For example, obtaining an export licence or a specific authorisation to conduct a transaction necessary for humanitarian activities.</p> <p>Delays caused by private and financial sector derisking: Banks may refuse, or take longer than expected, to provide transfers to locations perceived as high risk to minimise their own exposure to accusations of facilitating the financing of terrorism. Other private sector actors, such as insurance companies and suppliers, may also refuse to offer services to humanitarian organisations for fear of violating sanctions.</p> <p>Increased costs: Large international organisations may have to invest hundreds of thousands of dollars in screening software, human resources and legal counsel to ensure their operations comply with overlapping sanctions and counterterrorism measures. Donors do not always cover such costs, and many local organisations are unable to afford them.</p>

¹ See for example: <https://tinyurl.com/4y9mnadp>

Risk category	Operational impact
<p>Operational</p>	<p>Establishing a bad precedent and weakening collective redlines: This can occur when one organisation accepts a sanctions or counterterrorism clause in a grant agreement that others deem unacceptable. Some organisations may not accept such clauses and instead continue to negotiate more acceptable terms, but their leverage and ability to do so is weakened if others have already accepted the problematic requirements.</p> <p>Lower quality and relevance of response: Compliance with donor sanctions and counterterrorism requirements may push organisations to choose activities perceived as lower risk even if they are less appropriate and effective, for example replacing cash with in-kind assistance to avoid beneficiary vetting requirements from the donor.</p> <p>Unintended risk transfer to staff: The wording of counterterrorism clauses in grant agreements can be opaque, vague and difficult to interpret, and it is not uncommon for humanitarian organisations to accept them without fully understanding the requirements. Staff tasked with implementing a project under a grant agreement may not have been involved in negotiating it, but they shoulder the burden of complying, and organisations often fail to provide the necessary guidance or support on how to do so.</p> <p>Unintended risk transfer to local partners: International organisations often pass on donor sanctions and counterterrorism requirements to local partners in “flow-down clauses” without ensuring that the partners understand what they entail or that they have the resources and capacity to comply. Local partners may accept requirements without a clear understanding of legal obligations that may be impossible for them to adhere to and that place their staff at risk as a result.</p>
<p>Financial</p>	<p>Loss of funding and donor disallowances: Some organisations have refused donor funding because they were unwilling to accept the terms of sanctions or counterterrorism clauses. Expenditure may also be disallowed under a contract if an organisation does not comply with all donor regulations.</p>
<p>Reputational</p>	<p>Compromised humanitarian principles: Engaging with ‘non-state armed groups’ (NSAGs) regardless of whether they are designated under sanctions or proscribed under counterterrorism measures is key to gaining and maintaining access to people in need. Engagement also helps to establish consent and acceptance for humanitarian organisations’ activities. Counterterrorism measures can create uncertainty for organisations about whether contact with designated NSAGs is permissible.</p> <p>Some organisations refrain from engaging with such groups as a result, which risks fuelling negative perceptions of their impartiality and neutrality, which in turn puts their staff and beneficiaries at risk.</p> <p>Other organisations do engage but do not provide their staff with support and guidance on doing so. This can create a “don’t ask, don’t tell” approach in which field-based staff engage with NSAGs without the knowledge of senior management and feel unable to openly discuss dilemmas and risks.</p>
<p>Security</p>	<p>Compromised staff safety: To minimise exposure to the risk of violating applicable sanctions and counterterrorism measures, organisations may choose not to operate in certain areas, such as those controlled by designated or proscribed NSAGs, regardless of the humanitarian needs there. Similar problems can also arise if de facto authorities are designated under sanctions. This compromises the impartiality of the response, and leaves affected people without assistance simply because of their location. If operations are not perceived as impartial, it can also put staff safety at risk.</p>

Checklist for establishing a national tri-sector working group

TOOL 6

This checklist is designed to support the setup of tri-sector working groups to address financial sector derisking and other challenges that non-governmental organisation (NGOs) experience arising from sanctions and counterterrorism measures. It is based on findings from the fourth session in the Norwegian Refugee Councils (NRCs) [‘Dialogue series on solutions to bank derisking’](#) that considered the [role of tri-sector working groups](#) in operationalising solutions.

PARTICIPATION

NGOs

1. Do you have NGOs of various sizes represented including large international NGOs, local NGOs, and civil society organisations?

*Ensure organisations of **various sizes** are represented, noting that smaller NGOs often face the greatest bank derisking challenges and have fewer resources to address this.*

2. Do you have NGOs with diverse mandates represented such as humanitarian organisations, human rights organisations, peacebuilding and faith-based organisations?

*Ensure organisations with **diverse mandates** are represented.*

Government

3. Are the following government ministries represented in the group?

- International development
- Foreign affairs
- Finance (including banking regulation)
- Various authorities responsible for sanctions and counterterrorism measures design and implementation
- Prosecution and/or Justice departments

Consider including a range of government ministries to ensure that all government departments with a role in aid, foreign affairs, sanctions and counterterrorism compliance, and finance are present.

Financial institutions

4. Are diverse banks represented in the group including those with less experience working with the NGO sector?
Consider including representatives from the financial sector including those that have less exposure to the NGO sector and those acting as intermediary/ correspondent banks.

Ad hoc

5. If the group is discussing a certain topic, consider including additional participants:
- Development banks
 - Wider private sector beyond financial institutions such as trade partners
 - Networks representing the financial and private sectors
 - FinTech providers
 - Financial Action Task Force (FATF) representatives
 - Financial regulators

RESOURCING

6. Are there **adequate resources** to cover the core functions of the tri-sector group?
Consider applying for independent funding to ensure the secretariat can be resourced.
7. Is the **funding from an independent source** that does not dictate the agenda of the working group meetings?
Consider exploring funding options that allow the working group operational independence.
8. Have representatives from each sector agreed with their institutions the time and resources needed to allow them to dedicate time to the group?
You could ask representatives to establish agreements with their institutions to ensure participants can commit to engaging in the working group recommendations and tasks.

SET-UP

9. Is the group convened by a **focal point** that is independent from the government?
Consider asking a think tank or research institute, academic body, or NGO to convene the group to ensure the group maintains a level of operational independence from government decision making.
10. Is every sector represented on the group's **secretariat**?
Ensure that all sectors included in the working group are represented on the secretariat.
11. Is there a clear definition of each **stakeholder's roles and responsibilities**? Are these roles and responsibilities divided between the represented sectors?
Consider developing a term of reference to ensure that all participants are aware of their roles and responsibilities in the group and to encourage active participation.
12. Is there an **accountability mechanism** to ensure that participants from all the sectors represented are actively involved and contribute to sharing challenges, solutions and implementing recommendations?
*Consider establishing **smaller working groups** on specific issues with representatives from different sectors to encourage exchange and accountability between participants.*

APPROACH

13. Does the group's work plan allocate time and resources to build trust between stakeholders?
Ensure there is time for stakeholders to establish trust and a shared understanding of issues and challenges before tackling solutions.
14. Does the group have a method to **share and store information** and knowledge from the group's members?
*Consider creating a **knowledge management system** to ensure institutional knowledge is retained even when individual representatives may change.*
15. Has the group considered ways to encourage all representatives to **actively participate** in the meetings?
Consider holding meetings under Chatham House rules and not recording the meetings. Consider investing in bringing representatives together in-person when possible, to develop trust to encourage all representatives to participate and share the challenges they face.
16. Has the group considered ways to **address knowledge gaps** that may exist within the group on certain topics?
Consider connecting with representatives from other national tri-sector working groups to share conduct, commission or encourage additional research when there are knowledge gaps.
17. Will the group establish ways to **exchange** with other existing tri-sector working groups?
Consider connecting with representatives from other national tri-sector working groups to share knowledge, best practices, and lessons learnt.
18. Is the group discussing ways to **implement recommendations**?
Consider ways to monitor the success and challenges of each recommendation and identify blockages.

Examples of sanctions/counterterrorism clauses in donor agreements

TOOL 7

These clauses are provided as examples of the wording that has appeared in grant agreements. They should not be interpreted as best practice, nor as necessarily being compatible with principled humanitarian action.

EXAMPLES OF CLAUSES FROM HUMANITARIAN DONORS

Example A:

Special Provisions Regarding the Financing of Terrorism

10. The Grantee confirms that, consistent with UN Security Council Resolutions relating to terrorism, including UN Security Council Resolution 1373 (2001) and 1267 (1999) and related resolutions, it is firmly committed to the international fight against terrorism, and in particular, against the financing of terrorism. Similarly, the Grantee recognizes its obligation to comply with any applicable sanctions imposed by the UN Security Council in addition to any other sanctions regime to which it is subject. In addition to complying with any laws to which it is subject, the Grantee will use all reasonable efforts to ensure that the funds transferred to it in accordance with this Grant Confirmation Letter are not used to provide support or assistance to individuals or entities associated with terrorism as designated by any UN Security Council sanctions regime. If, during the term of this Grant Confirmation Letter, the Grantee determines there are credible allegations that funds transferred to it in accordance with this Grant Confirmation Letter have been used to provide support or assistance to individuals or entities associated with terrorism as designated by any UN Security Council sanctions regime, it will as soon as it becomes aware of it inform XX and the contributors and, in consultation with the XX, determine an appropriate response.

Example B

If the recipient becomes aware that any activity funded under this award involves a transaction with, or the provision of resources or support to, any sanctioned individual or entity, including for any transaction covered under a specific license or general license, the recipient must submit a semi-annual report to XXX with a copy to the XXX Officer, itemizing the following information for each transaction:

(1) Payments of funds under this award in the form of taxes, tolls, and fees to, or for the benefit of, sanctioned individuals or entities. For each payment, the recipient will make best efforts to include details about the amount paid, the approximate date and location of the payment, the name of the individual or entity receiving the payment, a description of how such payment facilitated the assistance activities, and remedial steps, if any, taken to address the issue;

(2) Any diversions of funds, supplies, or services, under this award by sanctioned individuals or entities. For each diversion, the recipient will make best efforts to include details about the circumstances of the diversion, the name of the individual or entity causing the diversion, estimated value diverted, the approximate date and location of the diversion, description and intended destination, and remedial steps, if any, taken to address the issue; and

(3) Any relevant additional information the recipient deems appropriate on obstacles to the provision of assistance under this award.

d. If there were no known payments to, or diversions by, a sanctioned individual or entity during the reporting period, the recipient does not need to submit a report for that period under paragraph (c).

e. The recipient must retain records related to any transaction reported under paragraph (c) for at least 5 years after the date of any subject transaction.

f. Any violation of the above will be grounds for unilateral termination of the agreement by XXX.

g. The recipient must include this provision in all subawards and contracts issued under this award.

The recipient is responsible for the submission of any reporting as required under paragraph (c) of this provision.

Example C

The Recipient must obtain the prior written approval of the XXX before providing any assistance made available under this Award to individuals it knows to have been formerly affiliated with Boko Haram or the Islamic State of Iraq and Syria (ISIS)-West Africa, including former fighters, nonfighting members, and individuals who may have been kidnapped by Boko Haram or ISIS-West Africa but held for periods greater than 6 months. Former affiliates do not include civilian populations who only resided in areas that were, at some point in time, controlled by the groups.

EXAMPLES OF CLAUSES FROM DEVELOPMENT DONORS

Example D

The Recipient undertakes

a) to fully comply with anti-money laundering and terrorism financing standards in accordance with the FATF Recommendations, and implement, maintain and, if necessary, improve its internal standards and guidelines (including without limitation in relation to customer due diligence) appropriate to avoid any Sanctionable Practice, act of money laundering or financing of terrorism;

b) as soon as the Recipient or XXX becomes aware of or suspects any Sanctionable Practice, act of money laundering or financing of terrorism, to fully cooperate with XXX and its agents, in determining whether such compliance incident has occurred. In particular, the Recipient shall respond promptly and in reasonable detail to any notice from XXX and shall furnish documentary support for such response upon XXX's request.

Example E

ARTICLE 1. The Partner and XXX are committed to taking appropriate steps to ensure that funds provided under this Agreement are not used to aid, or otherwise support, terrorists or terrorist organisations.

ARTICLE 2. The Partner agrees that it shall use all reasonable efforts to ensure that funds received under this Agreement are not used to engage in, support or promote violence, terrorist activity or related training of any kind and will take all appropriate precautions and institute all procedures necessary to prevent any portion of the funds from being so used.

ARTICLE 3. The Partner shall screen its Implementing Partners to ensure that no such funds, other financial assets and economic resources will be made available, directly or indirectly, to, or for the benefit of, a natural or legal person, group or entity associated with terrorism consistent with European Union's Consolidated list of persons, groups and ties subject to EU financial sanctions.

ARTICLE 4. The Partner shall include in its agreements with its Implementing Partners, contractors and subcontractors a clause requiring that the recipient of Grant funds screens its potential subsequent Implementing Partners, contractors and subcontractors as per Article 3 above and uses all reasonable means to ensure that none of the funds provided under those agreements are used to benefit individuals or entities associated with terrorism.

ARTICLE 5. If, during the course of this Agreement, the Partner discovers any link whatsoever with any organisation or individual associated with terrorism, it must inform XXX immediately. The Cooperation Partner shall provide XXX with an account of all the known facts and shall continuously thereafter consult with XXX on the further handling of the matter.

Example F

Grant beneficiaries and contractors must ensure that there is no detection of subcontractors, natural persons, including participants to workshops and/or trainings and recipients of financial support to third parties, in the lists of XX restrictive measures.

Reviewing sanctions and counterterrorism clauses in donor agreements

TOOL 8

Your organisation must review each grant agreement thoroughly before signing to ensure you are aware of what the agreement contains, regardless of whether you have signed previous agreements with that donor in the past. Donors are not obliged to inform partners when they introduce new language or change the wording of sanctions and counterterrorism clauses. Additionally, sanctions and counterterrorism clauses are not always found in the sections of grant agreements where you might expect them and are sometimes prerequisites for funding inserted in the pre-negotiation or proposal submission phase. A complete review, which might include searching the agreement for relevant terms, helps you ensure that you have identified any problematic language in time to seek clarity from the donor or to try and renegotiate the wording. Additional information on sanctions and counterterrorism compliance for humanitarian organisations may be issued in other documentation from donors but not included in grant agreements, for example, official guidance, FAQs, or interpretation notices.

Questions to consider

The following checklist is not exhaustive, but highlights some of the questions you can consider when reviewing an agreement:

- ✓ Does the agreement refer to international conventions or treaties, United Nations Security Council (UNSC) resolutions, donor policies, domestic or international laws or donor state regulations?
- ✓ Does the sanctions/counterterrorism clause include the terms “intent”, “knowledge”, “knowingly” or “reasonableness”?
- ✓ Does the clause include language that is vague or unclear, such as “associated with” or “directly or indirectly”?
- ✓ Would you be required to screen staff, contractors, partners or beneficiaries against lists of persons or entities designated under sanctions or counterterrorism measures? [Note that this requirement might not be stated expressly but could be inferred from obligations to ensure that funds or assets do not reach designated persons or entities].
- ✓ Does the grant agreement reference relevant humanitarian exemptions or licenses in international, regional, and domestic legislation if they exist?
- ✓ Does the grant agreement require you to report to the donor on any transfers to designated or sanctioned actors, even if permitted by relevant humanitarian exemptions?
- ✓ Would you be required to vet staff, partners or beneficiaries – i.e. share personal information with the donor?
- ✓ Does the agreement include specific requirements or language on the recruitment of staff?

- ✔ Does the sanctions/counterterrorism clause oblige you to incorporate the same clause in any sub-agreements with partners?
- ✔ Would complying with the agreement impede your ability to adhere to the humanitarian principles?
- ✔ Would complying with the sanctions/counterterrorism clause affect your acceptance among affected populations and parties to the conflict?
- ✔ Would you be unable to give staff and partner organisations clear instructions about how to comply with the obligations?

If the answer to any of the questions above is “yes”

1 Clarify the obligations and terms of the partnership agreement

- ✔ Consult internally with your senior management, policy advisers, legal personnel and others.
- ✔ Consult an external legal adviser for an interpretation of the clause.
- ✔ Based on this information, consider developing a note to file outlining an internal interpretation of the clause.
- ✔ Consult other organisations that receive funds from the same donor or partner.
- ✔ Ask the donor or partner for its own interpretation of the clause, the degree of liability inferred and the nature of obligations to ensure compliance, bearing in mind that the donor’s interpretation is likely to be as restrictive as possible.

2 Negotiate the terms of the agreement

As a result of the above consultations, you may choose to negotiate the terms of the partnership agreement. This decision should be agreed upon by your senior management, policy advisers, legal personnel and other relevant departments.

- ✔ Identify areas of potential conflict between the terms of the agreement and your organisation’s policies, operational capacity and humanitarian principles.
- ✔ Reference relevant humanitarian exemptions or licenses in international, regional, and domestic legislation if relevant.
- ✔ Establish a position on which terms of the agreement are acceptable or unacceptable.
- ✔ Clarify the above position with the donor or partner.
- ✔ Share existing or planned risk management policies and practices.

If the answer to any of the initial questions is still “yes” after negotiation, your organisation’s management will have to assess the risks and liability involved for your organisation, your potential partners and sub-contractors and other humanitarian organisations before deciding whether to sign the agreement. The [go/no-go checklist](#) is an additional tool that could help guide any such decision.

Go/no-go checklist in relation to sanctions and counterterrorism measures

TOOL 9

INTRODUCTION

For any decision on funding opportunities, you should consult reference documents, such as a donor’s official guidelines to ensure they do not contradict your organisation’s internal policies or compromise a principled approach.

Specific conditions related to counterterrorism are not always known when responding to a call for proposals from new donors or previously untapped funding mechanisms, but it is important to consider them as early as possible, and certainly before entering into any legal agreement or contract. This will ensure compatibility with internal policies and standards and identify any red lines that might be crossed.

Location:		Donor:	
Funding Mechanism:		Checklist completed by (name, title):	
Signature:		Date:	

Approved donors:

- 1. Is the donor on a list of pre-approved partners and/or have you worked as a partner with this donor before?**

YES NO

If no, seek additional information about the donor to ensure the partnership would not compromise independence or neutrality.

- 2. Has your organisation already worked with this donor on this particular funding mechanism?**

YES NO

If no, seek additional information about the funding mechanism to ensure the partnership would not compromise independence or neutrality.

- 3. Does the funding opportunity require a national government or a specific government entity to be involved in implementation or oversight of your organisation?**

YES NO

If **yes**, consider the authority in question carefully when you answer question 8.

Nature of opportunity:

- 4. Have you reviewed the funding opportunity document and confirmed a strategic and programmatic fit between your organisation's objectives and priorities and the donor's?**

YES NO

If **no**, consider whether the opportunity should be pursued.

- 5. Is the objective of the funding opportunity humanitarian and not political?**

YES NO

If **no**, seek additional information.

- 6. Do you know whether the donor has any sanctions or counterterrorism-related requirements?**

YES NO

If **yes**, ensure these requirements are reviewed by a legal adviser.

If **no**, seek additional information. See [Tool 8](#) on reviewing donor agreements for sanctions and counterterrorism clauses.

- 7. If you answered "yes" to the previous question, are you confident that accepting funds from the donor will not have any negative effects on your organisation's respect, real or perceived, for the humanitarian principles?**

YES NO

If **no**, the opportunity must be dropped.

- 8. Are you confident that accepting the donor's funding and counterterrorism-related requirements will not have any negative effects on your organisation's reputation and acceptance among beneficiaries, host communities and others, or increase protection risks for the civilian population?**

YES NO

If **no**, the opportunity must be dropped.

- 9. Does this funding opportunity ...**

Allow your organisation to provide impartial assistance based on needs alone?

YES NO

Allow your organisation to operate independently and without the imposition of a political agenda, including in the selection of target locations and beneficiaries?

YES NO

Require your organisation to share data or information which goes beyond standard beneficiary intention surveys, and which could be used for security or military purposes?

YES NO

If no to any of the above, the opportunity must be dropped.

Humanitarian access and security:

- 10. Have you conducted a context analysis, including a mapping of stakeholders, and a security risk assessment for the project location?**

YES NO

If no, you should undertake a field visit to identify the main health, safety and security risks, and inform the go/no-go decision. You should record the main risks and mitigation measures in the project document.

- 11. Are you confident there are no groups present in the target area that the donor designates as terrorist?**

YES NO

If no, how will compliance with the donor's requirements be ensured while maintaining a principled approach?

Organisational capacity:

- 12. Does your organisation have the financial management, grant management and project management capacity to implement the project?**

YES NO

If no, ensure the resources required, including human resources, are included in the budget and covered by the donor.

Criteria for calculating risk impact and likelihood

TOOL 10

RISK IMPACT

Descriptor	Score	Impact operations and staff or beneficiaries
INSIGNIFICANT	1	<ul style="list-style-type: none"> • No impact on operations • No impact on staff or beneficiaries • Complaint unlikely • Contractual or criminal risk remote • Remote risk to adherence to humanitarian principles
MINOR	2	<ul style="list-style-type: none"> • Slight impact on operations • Slight impact on staff or beneficiaries • Complaint possible • Contractual or criminal risk possible • Possible risk to adherence to humanitarian principles
MODERATE	3	<ul style="list-style-type: none"> • Some operational disruption • Potential for adverse reputational risk, avoidable with careful handling • Complaint probable • Contractual or criminal risk probable • Probable risk to adherence to humanitarian principles
MAJOR	4	<ul style="list-style-type: none"> • Operations disrupted • Adverse reputational risk unavoidable (local media) • Complaint probable • Contractual or criminal risk probable • Major risk to adherence to humanitarian principles
EXTREME/ CATASTROPHIC	5	<ul style="list-style-type: none"> • Operations interrupted for significant period of time • Major adverse reputational risk unavoidable (national media) • Major contractual or criminal risk expected • Loss of beneficiary confidence • Extensive risk to adherence to humanitarian principles

RISK LIKELIHOOD

Descriptor	Score	Impact operations and staff or beneficiaries
REMOTE	1	May only occur in exceptional circumstances
UNLIKELY	2	Expected to occur in a few circumstances
POSSIBLE	3	Expected to occur in some circumstances
PROBABLE	4	Expected to occur in many circumstances
HIGHLY PROBABLE	5	Expected to occur frequently and in most circumstances

Example risk matrix

TOOL 11

RISK MATRIX

		RISK IMPACT					
		Negligible	Minor	Moderate	Severe	Critical	
		①	②	③	④	⑤	
LIKELIHOOD	Certain/ Imminent	⑤	M	H	VH	E	E
	Highly likely	④	M	H	VH	VH	E
	Likely	③	L	M	H	VH	VH
	Possible	②	L	M	M	H	H
	Unlikely	①	L	L	L	M	M

Example sanctions/counterterrorism policy

TOOL 12

This provides a template sanctions/ counterterrorism policy that organisations can adapt as needed.

1. PURPOSE AND BACKGROUND

As a non-profit non-governmental humanitarian organisation, World Response is committed to acting in a manner consistent with international humanitarian law and to undertaking its activities in accordance with the principles of humanity, impartiality, neutrality and independence. World Response is committed to ensuring that assistance and protection reach those most in need, and to preventing and mitigating the risk of aid diversion.

World Response's mandate means that the organisation sometimes operates in the same area as individuals and entities that states or intergovernmental organisations have designated under sanctions or groups that have been proscribed under counterterrorism measures. Counterterrorism legislation and sanctions in World Response's country of registration, operation and donor states can impose responsibilities and obligations on it and its staff. Non-compliance with these requirements may lead to disallowed costs, termination of grant agreements, determinations of ineligibility for grants, legal action, fines and criminal charges.

This policy sets out the main principles that will allow World Response to deliver assistance and protection to those most in need in accordance with humanitarian principles, while complying with relevant sanctions and counterterrorism legislation and obligations.

2. MAIN PRINCIPLES

Humanitarian principles

World Response remains committed to accountability and transparency and adheres to the principles of humanitarianism and 'do no harm' set out in:

- ✓ The Code of Conduct of the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief
- ✓ The Core Humanitarian Standards
- ✓ The SPHERE Humanitarian Charter and Minimum Standards in Humanitarian Response

World Response will ensure that it does not agree to donor conditions containing counterterrorism or sanctions compliance requirements that prevent the delivery of assistance in line with the humanitarian principles.

General principles

World Response is required to ensure that its funds or other assets are not made available to people or groups designated under United Nations Security Council (UNSC) sanctions. Noting, however, the humanitarian exemption introduced by UNSC Resolution 2664, it may be permitted for World Response to make resources and funds available to these groups and entities when essential and necessary for the timely delivery of humanitarian assistance or to support other activities that support basic human needs.

Some of World Response's donor states have also adopted autonomous sanctions and counterterrorism measures. World Response may have contractual obligations to these donors to comply with these national frameworks. In addition, World Response must follow local laws in the countries in which it operates, including those related to sanctions and counterterrorism legislation. World Response will take all reasonable effort to adhere to these requirements using the controls outlined below. In some instances, donor or host states may have adopted humanitarian exemptions to sanctions and counter-terrorism legislation to facilitate the delivery of assistance.

World Response is committed to preventing and mitigating aid diversion and has put in place appropriate controls to prevent or mitigate the risk of intentional and/or reckless diversion of aid to ensure that assistance and protection reaches the intended beneficiaries.

These controls include:

- ✔ An ethical code of conduct, enforced by clear disciplinary procedures, which is binding on all World Response staff and consultants, and includes obligations to safeguard World Response assets and to act strictly in accordance with humanitarian principles of neutrality and impartiality.
- ✔ Programme cycle management systems that require systematic needs assessments and robust post-distribution monitoring.
- ✔ Anti-corruption procedures that focus on preventing fraud, theft and waste, including the diversion of aid and funds.
- ✔ Internal screening of staff (above grade X), and of contractors and implementing partner organisations with World Response contracts of more than \$X against applicable sanctions lists and lists of proscribed terrorist groups.
- ✔ Mandatory internal requirements to report suspicious transactions involving criminal groups, which would include individuals and groups engaged in acts of terrorism.

Duty of care

World Response is committed to providing clear, relevant guidance and support to staff and partners at all levels on how to best manage and implement programmes and operations in relation to sanctions and counterterrorism measures.

Screening

World Response will screen potential partners, contractors, and vendors above a certain threshold, and candidates for employment and employed staff above a specific grade before entering a partnership or signing an agreement.

In accordance with the humanitarian principles of impartiality and independence, World Response will not screen final beneficiaries, nor will it require partners to do so.

Allegations of misconduct

World Response staff who become aware of information that World Response assets might have been misappropriated via fraud or diversion must immediately report such information to XXX in accordance with the relevant policy.

3. IMPLEMENTATION AND COMPLIANCE

World Response's director and board have overall responsibility for ensuring the organisation manages risk appropriately and activities are undertaken in accordance with World Response's policies and procedures.

4. RELATED DOCUMENTS

- Standard operating procedure: screening
- Data protection policy
- Risk management policy
- Logistics handbook
- Financial handbook
- Policy on engagement with non-state armed groups and de facto authorities

Example engagement policy with non-state armed groups and de facto authorities considering sanctions and counterterrorism risks

TOOL 13

This provides a template policy that can be adapted as needed.

1. PURPOSE AND BACKGROUND

World Response is committed to ensuring that assistance reaches people most in need in line with the humanitarian principles of humanity, neutrality, impartiality, and independence. Engagement with all parties to a conflict is essential to secure and maintain access to people in need.

To provide protection and assistance to those in need, World Response may need to engage with non-state armed groups (NSAGs) and de facto authorities (DFAs) in the course of its operations. This may involve engaging with groups or individuals that have been designated under sanctions adopted by the United Nations, the European Union or individual states, or proscribed under counterterrorism measures.

World Response's engagement with these parties is consistent with the humanitarian principles of humanity, impartiality, neutrality and independence. International humanitarian law (IHL) permits humanitarian organisations to engage with all parties to a conflict.¹ World Response provides assistance to all those in need regardless of the authority in control, without taking sides in the conflict, and acts independently from political, military and economic objectives.

World Response acknowledges that legislation in its countries of registration, operation and donor funding places responsibilities and obligations on the organisation and its staff. World Response will remain compliant with these obligations including applicable sanctions and counterterrorism measures. This engagement policy is complemented by World Response's sanctions and counterterrorism policy.

This policy is intended to set out the main principles that enable World Response to engage with NSAGs and DFAs in accordance with its mandate while complying with relevant legal frameworks. It is also intended to provide guidance to staff who carry out this engagement.

2. KEY TERMS

Engagement: This refers to sustained interactions with parties to a conflict, including NSAGs and DFAs, for humanitarian purposes. This could be done to gain acceptance for humanitarian actors; to preserve humanitarian space; to gain access to people in need; or to promote awareness and respect for international humanitarian law. Interactions can take different forms such as negotiations, dialogue, or training. Engagement does not legitimise the activities of a group.

¹ Article 3 of the Geneva Conventions provides that humanitarian organizations may offer their services to "parties to the conflict", thus entailing engagement with all parties.

Non-state armed group (NSAG): There is no commonly accepted standard definition of an NSAG. IHL refers to ‘organised armed groups’ and outlines certain conditions for a group to qualify as a party to an armed conflict and for the provisions in IHL to be applicable (such as the level of organisation, the level of territorial control, etc). In the OCHA Glossary of Humanitarian Terms, NSAGs are defined as ‘armed actors engaged in conflict and distinct from a governmental force.’

De facto authority (DFA): IHL distinguishes between States that have ratified the Geneva Conventions and “parties to the conflict” which is a broader term encompassing both state and non-state parties. DFAs are not defined in the Geneva Conventions but have been defined as non-state entities which exercise effective authority over some territory, either during a conflict or during times of peace.² DFAs may not be recognised by the international community at large, but in having effective control over a territory or population they must still abide by IHL regardless of their status of international recognition.

3. MAIN PRINCIPLES

Purpose and type of engagement

The purpose of engagement with NSAGs/DFAs is generally to allow World Response to carry out its mandate, which may require the organisation to engage with any party to an armed conflict. In each context, World Response will identify and clarify the specific goal and scope of engaging NSAGs/DFAs in that context and will develop a tailored and context-specific engagement strategy to provide guidance to staff. Such guidance is essential to ensure the protection and safety of staff and partners

The designation of a NSAG/DFA as a ‘terrorist organisation’ or listing under sanctions has no effect on its status as a party to an armed conflict and the applicability of IHL, including the right for impartial humanitarian organisations to engage with all parties to an armed conflict. It should be noted that counterterrorism measures generally do not prohibit dialogue with a designated entity, but they do prohibit making resources or other support available.

Context-specific engagement guidance and sanctions and counterterrorism measures

World Response will provide staff with guidance on NSAG/DFA engagement tailored to the objectives of its operations in each relevant context. The guidance will identify any sanctions and counterterrorism measures relevant to the specific context, including donor requirements. XXX will be responsible for developing the guidance. The guidance should be approved by XXX.

Engagement strategies will include:

- ✔ Identification of who approves the engagement and whether there are any red lines, including identification of the circumstances under which the engagement would be terminated.
- ✔ Identification of suitable entry points for engagement.
- ✔ Identification of points of leverage for engagement and incentives for compliance.
- ✔ Identification of who undertakes the engagement and using what modalities, including whether such engagement should be carried out by local intermediaries, e.g. local community leaders.
- ✔ Identification of coordinated efforts on engagement with the group via Humanitarian Access Working Groups (HAWGs) and existing joint operating procedures (JOPs).
- ✔ Guidance on prioritisation of resources in the context of engagement, including in terms of the level of engagement and how such engagement will be sustained.

² Geneva Academy, Human Rights Obligations of Armed Non-State Actors: An Exploration of the Practice of the UN Human Rights Council, December 2016, P. 26. Available online at: <https://tinyurl.com/mwtxv59j>

- ✓ Guidance on the level of confidentiality of the engagement process and balancing such confidentiality with transparency about the engagement process and its objectives.
- ✓ Identification of the risks of this engagement for staff and for the organisation, including due to the possible reaction of the host state, and identification of risk-mitigation measures.

Sanctions

- ✓ Identification of whether any of the individuals or groups are designated under national or international sanctions regimes.
- ✓ If yes, identification of whether the applicable sanction regimes prohibit making funds or resources available directly or indirectly to the designated groups.
- ✓ If yes, identification of any exemptions or licenses that could be relied upon. If it is necessary to apply for a licence determine whether doing this would lead to delays in response and plan programming accordingly.

Counterterrorism measures

- ✓ Identification of whether the NSAG or DFA are proscribed under any applicable counterterrorism measures. If yes, identification of what the consequent restrictions are.
- ✓ Identification of any other restrictions in counterterrorism measures that might be applicable. These could be under the law of the host state, the states of nationality of staff, or a third state. Appropriate legal advice should be sought for this step.
- ✓ Identification of potential risks of engagements for staff and the organisation and development of risk mitigation measures.

Donor requirements

- ✓ Identification of whether any donor agreements for this context specifically prohibit engagement with NSAGs or designated entities or if they require particular due diligence steps.
- ✓ If the necessary engagement is prohibited, identify whether it is possible to negotiate with the donor.

Legitimacy

As an impartial humanitarian organisation, World Response is aware that engaging with NSAGs/DFAs may be perceived as providing legitimacy to these entities. World Response reaffirms that engagement with NSAGs/DFAs for humanitarian purposes does not affect the legal status of NSAGs/DFAs in accordance with IHL, in particular Common Article 3 to the Geneva Conventions. In addition, such engagement does not constitute an unlawful interference into the internal affairs of a state.

World Response has the following policies to mitigate the risk of providing legitimacy to NSAGs through its engagements with them:

- Code of conduct for staff
- Sanctions/Counterterrorism policy

Partnership assessment checklist

TOOL 14

INTRODUCTION

This partnership assessment checklist can be used at the country level when considering potential new partnerships, particularly partnerships with an organisation that you have never previously worked with. By encouraging the rating of various elements under each area, and the formalised documentation of each element, the checklist provides a starting point for an organisational assessment and due diligence. The relevance of each element included in the checklist will vary according to your specific situation, needs and the context. It is recommended to use this checklist as a template, adapting it as necessary to ensure adequate focus on the most important aspects related to your specific proposed partnership.

A BASIC DATA

Full name of the organisation and abbreviation:	
Assessment carried out by:	
Address and e-mail of contact person:	
Date of assessment:	
Sources of verification: (meeting, document review, other)	
Existing partnership with this organisation?	
If yes, when did cooperation with this organisation start?	

B SUGGESTED PREREQUISITES WHEN SELECTING NEW PARTNER ORGANISATIONS

Prerequisites	Yes	Comments
The organisation is legally registered in the country		
The organisation has a Management Board		
The organisation produces an annual audited financial statement		
The organisation and its senior management have been screened against counterterrorism lists and you confirm there is no match		

C BACKGROUND AND GOVERNANCE

Type of organisation (NGO, government, research institution, other)	
Year it was founded	
Date of last assessment (for existing partner organisations)	
Date of last external evaluation carried out on this organisation and by whom (for potential new partner organisations)	

Organisational Structure		
Are there organisational by-laws?	YES	NO
Is there a stated mission and vision?	YES	NO
Does the organisation have a constituency/membership base?	YES	NO
Is there an organisational structure/chart?	YES	NO
Board functions		
Are regular board meetings held?	YES	NO
Is documentation from meetings/minutes available?	YES	NO
Are the agenda items relevant to the work of the board?	YES	NO

Your assessment	Weak	Fair	Strong
Comments			

D EXTERNAL ENGAGEMENT AND INFLUENCE

Networks and coordination		
Is the organisation involved in networking with other NGOs, humanitarian organisations or networks?	YES	NO
Does the organisation coordinate its work with other NGOs (local, national, international)?	YES	NO
Is there visible community participation, and does the organisation directly interact with beneficiaries?	YES	NO
Government interaction		
Does the organisation coordinate with the government/authorities?	YES	NO
Does the organisation engage in public processes?	YES	NO
Information and advocacy		
Does the organisation produce information materials regularly?	YES	NO
Does the organisation hold public events for fundraising or other purposes?	YES	NO
Does the organisation work through the media?	YES	NO
Does the organisation use advocacy as a foundation of its work?	YES	NO
Does the organisation perform any lobbying activities?	YES	NO
Counterterrorism policies and procedures		
Does the organisation have and follow counterterrorism policies and procedures that enable it to comply with donor requirements, such as systematic vetting of its implementing partners and suppliers against recognised lists of terrorists?	YES	NO

What influence does the organisation have?	
Who has influence over the organisation?	
Can the potential partner negatively affect your organisation's credibility and legitimacy? What and how significant are the risk factors? How important could the partnership be for your organisation? If criticism has been raised, how has the organisation addressed this?	

Your assessment	Weak	Fair	Strong
Comments			

E PROGRAMMATIC CAPACITY

What is the mission statement of the organisation?	
What are the target group(s)/ beneficiaries of the organisation?	
What is the geographical focus of the organisation?	
What is the programmatic focus of the organisation?	

Does the organisation:

Uphold and abide by the humanitarian principles?	YES	NO
Support the provision of impartial assistance solely based on needs?	YES	NO
Operate independently without the imposition of a political agenda?	YES	NO
Uphold a do-no-harm approach?	YES	NO
Have a long-term plan/strategy in place?	YES	NO
Have a framework for Accountability to Affected Populations?	YES	NO
Have a Code of Conduct?	YES	NO
Have policies and procedures to prevent sexual exploitation and abuse?	YES	NO

Your assessment	Weak	Fair	Strong
Comments			

F OPERATIONAL CAPACITY

What are the organisation's logistics procedures, and which written logistics regulations exist?	
Describe the logistical setup of the organisation.	

Procurement		
--------------------	--	--

Does the organisation have clear procurement regulations?	YES	NO
Does the organisation have a clear policy for segregation of duties and delegation of authority in the procurement process?	YES	NO
Does the organisation have a procurement plan?	YES	NO
Does the organisation have a procurement tracking and reporting system?	YES	NO
Does the organisation maintain a supplier database?	YES	NO

Asset and warehouse management		
---------------------------------------	--	--

Does the organisation have an asset database?	YES	NO
Does the organisation have routines for handing over, write-off, sales and disposals of assets?	YES	NO
Does the organisation have procedures for managing stocks and warehouses?	YES	NO

Drivers and vehicles		
-----------------------------	--	--

Does the organisation have a maintenance program for its vehicles?	YES	NO
Does the organisation have a driving security and safety policy?	YES	NO
Does the organisation have a driver training program?	YES	NO

Your assessment	Weak	Fair	Strong
-----------------	------	------	--------

Comments

--

⑥ FINANCIAL CAPACITY

What donors are currently supporting the organisation's programmatic activities?	
What is the current overall budget for the organisation's activities?	

Accounting system		
Is there a detailed accounting manual?	YES	NO
Does the organisation have the necessary software for accounting?	YES	NO
Are the financial documents properly maintained?	YES	NO
Are costs booked in the accounts in a timely manner?	YES	NO
Can the organisation provide periodic financial reports at the project level?	YES	NO
Financial control		
Does the organisation have its own bank account registered in its own name?	YES	NO
Is the external audit carried out in a timely manner?	YES	NO
Does the organisation comply with audit requirements?	YES	NO
Are the financial records accurate?	YES	NO
Cost effectiveness		
Is the organisation cost conscious/are alternatives considered to minimise costs?	YES	NO
Are quotations or invoices collected before purchases are made?	YES	NO

Your assessment	Weak	Fair	Strong
Comments			

LOGISTICAL CAPACITY

What are the organisation's logistics procedures, and which written logistics regulations exist?	
Describe the logistical setup of the organisation.	

Procurement		
Does the organisation have clear procurement regulations?	YES	NO
Does the organisation have a clear policy for segregation of duties and delegation of authority in the procurement process?	YES	NO
Does the organisation have a procurement plan?	YES	NO
Does the organisation have a procurement tracking and reporting system?	YES	NO
Does the organisation maintain a supplier database?	YES	NO
Asset and warehouse management		
Does the organisation have an asset database?	YES	NO
Does the organisation have routines for handing over, write-off, sales and disposals of assets?	YES	NO
Does the organisation have procedures for managing stocks and warehouses?	YES	NO
Drivers and vehicles		
Does the organisation have a maintenance program for its vehicles?	YES	NO
Does the organisation have a driving security and safety policy?	YES	NO
Does the organisation have a driver training program?	YES	NO

Your assessment	Weak	Fair	Strong
Comments			

OVERALL RATING /SUMMARY	WEAK	FAIR	STRONG
Background and governance			
External engagement and influence			
Programmatic capacity			
Operational capacity			
Financial capacity			
Logistical capacity			

RECOMMENDATIONS BASED ON THE ASSESSMENT	
PLACE/DATE/SIGNATURE OF PERSON WHO CARRIED OUT THE ASSESSMENT:	

Monitoring and Evaluation (M&E) minimum standards

TOOL 15

Your programme teams in access-constrained contexts will often struggle with data quality when measuring results. Two principal data quality concerns in these contexts include data validity and data integrity. Your measurements may be invalid (i.e. available sources of evidence do not represent what you are intending to measure) due to constraints to sources of evidence or your data collection methods. You may also have data integrity concerns as data flows and information management processes are vulnerable to manipulation given the distances involved, staff capacity, security challenges, and other factors. These data quality concerns limit your organisation's ability to confirm deliverables, improve programmes and measure the change your organisation may have contributed to.

They also exacerbate three risks for your organisation:

- ❶ **Reputational/operational:** your organisation's reputation, and its ability to raise funds, negotiate access and advocate, will be undermined if programmes are not delivering value to beneficiaries;
- ❷ **Financial:** your organisation may not have the documentation necessary to meet donor requirements, which could lead to disallowed costs;
- ❸ **Do no harm:** programs could put beneficiaries or staff at risk, increase tensions in communities, or do harm in other ways

Your organisation's staff responsible for programming in access-constrained contexts can use creative methods and sources of evidence to mitigate threats to data quality. The M&E minimum standards is a tool to measure if these efforts are likely to be successful when applied to output indicators. The results allow your organisation to measure confidence in the monitoring data, particularly in areas where direct access is often impossible.

M&E MINIMUM STANDARDS – DOMAINS

These M&E minimum standards divide remote monitoring activities and methods into six domains. The domains complement and compensate for each other. If activities in one domain are impossible, more effort in other domains may compensate. The six domains are:

- ❶ **Triangulation:** Multiple sources of evidence on the same indicator can be used together to give more confidence to any findings. This may include process data such as waybills, goods-received notes or workflow documentation. In many instances, it includes mixing research methods to pose the same question to different people and groups in different ways. For example, your survey about latrine use may be triangulated with a focus group discussion and photos of the latrines. Triangulation mitigates both integrity and validity threats.
- ❷ **Data chain of custody:** How your teams in the field capture and transmit data to project management staff can reduce or increase data-quality vulnerabilities. Mobile data capture can ensure that data is digitally captured, with time, date and location stamped, and tagged with the identity of the person collecting and transmitted it directly and immediately to a secure server. This reduces the opportunity for mistakes or manipulation when data is entered, aggregated, and reported and provides an opportunity for you to conduct data audits and spot-checks. This data can include surveys, distribution documentation, photos, attendance reports and other monitoring processes. Efforts in this domain mitigate data integrity threats.
- ❸ **Population-based surveys and sampling methodologies:** Outcome monitoring processes return to the recipients of assistance to learn how they made use of your organisation's support. Using commonly accepted statistical methods to establish robust sample sizes and methods for including individuals in the sample will ensure that these processes reflect objective reality rather than the opinion of key individuals. The correct use of these methods mitigates data validity and integrity threats.
- ❹ **Beneficiary initiated feedback:** Where feedback handling mechanisms exist and function, they provide a robust accountability control for your organisation's programs. These channels may include email, SMS, WhatsApp, phone calls, and/or complaint boxes. An important element of a feedback system is ensuring that beneficiaries understand their entitlement. Feedback systems that exist on paper, but have not resulted in registered feedback, do not give your programme teams the same confidence. A functioning feedback handling mechanism mitigates validity and integrity threats by serving as an alternative source of evidence and a deterrent to manipulation.
- ❺ **Independence:** Having an independent look at implementation is highly desirable, but very challenging in a remote-management context. In many contexts, your organisation's senior staff and your donors can provide an independent verification of results with ad hoc visits and spot-checks. However, in areas that are difficult to access, this can be quite challenging or even impossible. You could consider contracting local third-party monitoring firms or other 'independent' monitors; however, these monitors must negotiate their access through the same constraints as your organisation and often rely on the same pool of last-mile staff, and the independence of these external monitors cannot be assumed. Independent data collection mitigates data integrity threats.
- ❻ **Documented direct contact with beneficiaries:** Direct contact with beneficiaries may be documented at the moment of handover or service deliver and again during an outcome monitoring process. In some challenging contexts, your distributions may occur quickly and without documentation; or your local partners may engage with beneficiaries but provide only summary reports to your organisation. Your organisation's ability to review the primary data documenting beneficiary engagement mitigates data integrity threats.

SCORING THE M&E MINIMUM STANDARDS

The questions in the table below evaluate an activity against the six domains of the M&E minimum standards and provides a score. The score gives your management a measure of the confidence they can have in the reported output results.

Instructions

Facilitation by your organisation's M&E staff or another group external to the implementation team, if possible, can promote a more reflective and independent assessment. Fill the tool at the activity level. Consider related output and outcome indicators together as one monitoring process. Fill the tool for each different implementation modality. For example, if an food distribution is conducted house-to-house in one location and at a centralized distribution point in another location, fill the tool for each modality. Give each question a 'yes' or 'no'. A 'yes' is awarded only when the method is available or implemented 3/4 of the time or more. Partial points are not possible.

In some cases, the six domains look at different aspects of the same monitoring activity. For example, outcome monitoring may contribute to triangulation, direct contact with beneficiaries and population-based surveys. However, in some contexts an outcome monitoring process may only achieve points in one or two of these domains. For example, if your outcome monitoring relies on direct observation, there may not be points for population-based surveys or documented direct contact with beneficiaries.

When you calculate the score before implementation, you should consider concrete plans and commitments to move forward. The results can inform a programme criticality decision, where your management decides if a programme can move forward or not. The results will also become part of the programme documentation to share with donors, internal management and others.

When the score is calculated after implementation, your team should review the primary data supporting each domain. The score is the measure of confidence your organisation can have that the programme existed. This is an important metric for future audits. Comparing the before and after scores will improve how your teams use the tool in the future.

Minimum Score

A suggested minimum score is 57 for life-saving programming and 84 for other types of programming. Your teams should go beyond the minimum whenever the context allows.

M&E MINIMUM STANDARDS

META data	
Date the tool was completed	
Country	
Sector and activity	
Location	
Completed before or after implementation?	

Remote monitoring approach domain	Value	Explanation	Response (Yes)
Documented direct contact with beneficiaries	20		
Is evidence of outputs documented at the point of delivery or handover to the beneficiary?	13	This is the primary source of verification for the relevant output indicator profile. The objective here is to capture the transaction of providing the good or service. For distributions, this is signed beneficiary lists. For services delivered to groups, it could be signed attendance lists or photos showing all attendees receiving the service.	
Is there documented direct contact with beneficiaries providing evidence of outcomes?	7	This is the primary source of verification for the relevant outcome indicator profile. Most often it will be a population-based outcome survey. However, it may also be key-informant interviews with only a few beneficiaries.	
Documented direct contact with beneficiaries:		Section score:	
Triangulation	20		
Are two independent sources of evidence of the activity available?	12	Registration documentation, distribution photos, post-distribution monitoring (PDM) data, etc. For sources of evidence to be independent of each other, they must have very distinct methods (e.g. photos and registration) or be separated in time (e.g. PDM and registration). A registration and exit interviews conducted at the time of distribution would not be independent. Sources of evidence must demonstrate the scale and the nature of the assistance. For a distribution of 1,000 food baskets, photos would need to show 1,000 people receiving the basket and some images of the basket contents, a registration document would need 1,000 names and the content of the basket, etc.	
Are three independent sources of evidence available?	8		
Triangulation:		Section score:	

Remote monitoring approach domain	Value	Explanation	Response (Yes)
Data chain of custody	20		
Is the data transmitted from the field to the project management team via a mobile data capture platform or deposited directly into a file sharing application controlled by your organisation?	2	The objective is for the data to be transmitted from your field team to the project management team via a secure method as early in the data processing flow as possible.	
Is the data entered into a mobile data capture platform at the point of capture?	14	The point of capture is the interview, the observation, when the photo is taken, etc.	
Data chain of custody:		Section score:	
Population-based surveys and sampling	20		
Is the confidence interval 5 or less and the confidence level 95% or greater?	6		
Is the confidence interval 5 or less and the confidence level 90% or greater?	6		
Are those in the sample randomly selected with an approved randomisation method?	8	Consult internal sampling guidance or external resources and tools.	
Population-based surveys and sampling:		Section score:	
Beneficiary initiated feedback	20		
Are all beneficiaries informed of their entitlement from this specific activity?	7	This may be with posters, radio announcements, or other communication.	
Is there one independent feedback channel?	2	This may be WhatsApp, SMS, calling, complaint boxes, etc. Beneficiaries reaching out to the implementation team with feedback does not count as a channel for this exercise.	

Remote monitoring approach domain	Value	Explanation	Response (Yes)
Are there two independent feedback channels?	3	This may be WhatsApp, SMS, calling, complaint boxes, etc. Beneficiaries reaching out to the implementation team with feedback does not count as a channel for this exercise.	
Does your organisation have a history of receiving feedback from beneficiaries of that partner/team in that location?	8	Has one actionable piece of feedback been formally submitted to your organisation relating to work done by your team in this location?	
Beneficiary initiated feedback:		Section score:	
Independence	70		
Do certain senior managers visit the project location unannounced and at will?	25	'At will' means that access does not require special permissions or approval and that physical access is not overly onerous (e.g. driving less than four hours from a major airport). Senior staff should be those based outside the implementation area.	
Do any senior managers visit the project location unannounced and at will?	25	Are visas or access permission only available for certain individuals? If so, then this is a no.	
Do junior or locally based staff visit the project location unannounced and at will?	3		
Is the data collected by staff who are not on the implementation team? This may be another team, another partner or a contracted monitoring party.	3	Was there a segregation of duties for the M&E data collection so that one team did the implementation and another team collected the data?	
Is the data collected without the involvement of local authorities or the implementation team in the field?	14	Remote management often means that last-mile enumerators must negotiate access through the same gatekeepers as the implementation team or have the implementation team introduce them to beneficiaries. This is a 'yes' only if the data collection is truly independent of local authorities and implementers.	
Independence:		Section score:	
Total score:			

9

RESOURCES

9.1 PUBLICATIONS

Actions Contre la Faim, Médecins du Monde, Handicap International, 2023. *Data collection guidelines on the impact of sanctions and counterterrorism measures.*
<https://tinyurl.com/bdhf2hun>

The Carter Center, 2023. *Effectiveness of Humanitarian Exceptions to Sanctions: Lessons from the Syria Earthquake.*
<https://tinyurl.com/57etb684>

The Cash Learning Partnership (CaLP), 2019. *Cash and Voucher Assistance and Risk in Financial Management and Compliance Briefing Note.* <https://tinyurl.com/mnckes7>

Charity and Security Network, 2017. *Financial Access for US Non-Profits.*
<https://tinyurl.com/mhnd59cy>

Chatham House, 2017. *Recommendations for Reducing Tensions in the Interplay Between Sanctions, Counterterrorism Measures and Humanitarian Action.*
<https://tinyurl.com/4782u8eb>

Chatham House, 2019. *IHL and the humanitarian impact of counterterrorism measures and sanctions. Unintended ill effects of well-intended measures.*
<https://tinyurl.com/2985tves>

European Banking Authority, 2024. *The EBAs Work on Derisking (including links to guidelines and research).* <https://tinyurl.com/2ekzazey>

European Center for Not-for-Profit Law, 2022. *Navigating access to financial services for CSOs.*
<https://tinyurl.com/msr3tyde>

FATF, 2023. *Best Practices on Combating the Abuse of Non-Profit Organisations.*
<https://tinyurl.com/yc3wxfjy>

FATF, 2023. *Protecting non-profits from abuse for terrorist financing through the risk-based implementation of revised FATF Recommendation 8.* <https://tinyurl.com/mwsa723a>

FATF, 2023. *The FATF Recommendations.*
<https://tinyurl.com/2anj27c9>

Geneva Call, 2016. *In their words: Perceptions of armed non-state actors on humanitarian action.*
<https://tinyurl.com/yrvt47be>

Global NPO Coalition on Financial Action Task Force (FATF). *Report Collection.*
<http://fatfplatform.org/reports-3/>

Global Public Policy Institute (GPPi), and Humanitarian Outcomes, 2016. *The effects of insecurity on humanitarian coverage.*
<https://tinyurl.com/4adawurp>

Harvard Law School Program on International Law and Armed Conflict (HLS PILAC), 2024. *Resolution 2664 (2022) and Counterterrorism Measures: An Analytical Frame for States.* <https://tinyurl.com/346btr5e>

Harvard Law School Program on International Law and Armed Conflict, 2023. *An Interpretive Note for U.N. Member States on Security Council Resolution 2664 (2022).*
<https://tinyurl.com/2k3578wm>

Harvard Law School Program on International Law and Armed Conflict (HLS PILAC), 2021. *Taking into Account the Potential Effects of Counterterrorism Measures on Humanitarian and Medical Activities.*
<https://tinyurl.com/5kuwhdx6>

Harvard Law School Program on International Law and Armed Conflict (HLS PILAC), 2017. *Pilot empirical survey study on the impact of counterterrorism measures on humanitarian action.*
<https://tinyurl.com/r53vff7z>

Harvard Law School Program on International Law and Armed Conflict (HLS PILAC), 2016. *Understanding humanitarian exemptions: U.N Security Council Sanctions and Principled Humanitarian Action.* <https://tinyurl.com/2e6fd4xd>

Humanitarian Outcomes, 2016. *What It Takes: Principled pragmatism to enable access and quality humanitarian aid in insecure environment.* <https://tinyurl.com/yn4k4v86>

Humanitarian Outcomes, ODI and Humanitarian Practice Network (HPN), 2016. *Tug of War: Ethical decision-making to enable humanitarian access in high-risk environments.* <https://tinyurl.com/yc8edme5>

Humanitarian Outcomes, and InterAction, 2016. *NGO Risk Management: Principles and Promising Practice.* <https://tinyurl.com/2s3dmyzn>

Humanitarian Outcomes (2014-2016). *Secure Access in Volatile Environments.* <https://tinyurl.com/y98wk9b4>

Humanitarian Policy Group (HPG) and Overseas Development Institute (ODI), 2018. *Counterterrorism, bank de-risking and humanitarian response: a path forward.* <https://tinyurl.com/yc3hxdx7>

Humanitarian Policy Group (HPG) and Overseas Development Institute (ODI), 2013. *Paradoxes of presence: Risk management and aid culture in challenging environments.* <https://tinyurl.com/bddkff82>

Humanitarian Policy Group (HPG) and Overseas Development Institute (ODI), 2018. *The impact of bank de-risking on the humanitarian response to the Syrian crisis.* <https://tinyurl.com/bdeztrdz>

Humanitarian Policy and Conflict Research (HPCR), 2011. *Humanitarian Action under Scrutiny: Criminalizing Humanitarian Engagement.* <https://tinyurl.com/3mu6ffdw>

Inter-Agency Standing Committee (IASC), 2021. *IASC Guidance on the Impact of Sanctions and Counterterrorism Measures on Humanitarian Operations.* <https://tinyurl.com/3t9tmys6>

Inter-Agency Standing Committee (IASC), 2023. *Considerations on Screening/Vetting of Persons in Need of Humanitarian Assistance in Counterterrorism and Sanctions Contexts.* <https://tinyurl.com/5dkynmvd>

International Committee of the Red Cross (ICRC), 2019. *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts – Recommitting to Protection in Armed Conflict.* <https://tinyurl.com/2hxx774a>

InterAction, and Humanitarian Outcomes, 2019. *NGOs & Risk: Managing Uncertainty in Local-International Partnerships.* <https://tinyurl.com/52rsav5e>

International Council of Voluntary Agencies (ICVA), 2020. *Risk and Humanitarian Culture: An ICVA Briefing Paper.* <https://tinyurl.com/4r2f2zzk>

InterAction, 2019. *Resources on NGO Risk Management.* <https://tinyurl.com/45cf59pp>

International Peace Institute, 2023. *Safeguarding Humanitarian Action in UN Sanctions and Counterterrorism Regimes: The Impact and Implementation of Resolution 2664.* <https://tinyurl.com/49cgv2e2>

International Review of the Red Cross, 2022. *Counterterrorism, sanctions and war.* <https://tinyurl.com/37pvv5h9>

International Review of the Red Cross, Emma O’Leary, 2022. *Politics and principles: The impact of counterterrorism measures and sanctions on principled humanitarian action.* <https://tinyurl.com/mr26juyy>

Médecins Sans Frontières, 2014. *Where is everyone? Responding to emergencies in the most difficult places.* <https://tinyurl.com/4cbtw2hw>

Médecins Sans Frontières, 2017. *Perilous terrain. Humanitarian action at risk in Mali.* <https://tinyurl.com/yvvmhhpx>

Médecins Sans Frontières, 2018. *Bridging the Emergency Gap.* <https://tinyurl.com/p28497nn>

The New Humanitarian, 2019. *The creeping criminalisation of humanitarian aid.* <https://tinyurl.com/mw9ckf5d>

NRC, 2018. *Principles under Pressure: the impact of counterterrorism measures and preventing/countering violent extremism on principled humanitarian action.* <https://tinyurl.com/ytkufs5n>

NRC and OCHA, 2017. *Presence and Proximity - To Stay and Deliver, Five Years On'* <https://tinyurl.com/4rfv6u96>

NRC, 2015. *Risk Management Toolkit: In relation to counterterrorism measures.* <https://tinyurl.com/5n6ttbp7>

NRC, 2022. *Dialogue Series on Solutions to Bank Derisking.* <https://tinyurl.com/rw5xnbse>

- *Session 1: Safeguarding humanitarian banking channels: how, why and by whom?* <https://tinyurl.com/3uvz77e9>
- *Session 2: Use of Money or Value Transfer Services by Non-Governmental Organisations* <https://tinyurl.com/2bd95vch>
- *Session 3: Mitigating financial sector derisking through innovation: The role of digital technologies in humanitarian funds transfers* <https://tinyurl.com/2s42s92k>
- *Session 4: The developing role of national tri-sector groups in addressing financial sector derisking* <https://tinyurl.com/br5vnads>

NRC and OCHA, 2013. *Study of the Impact of Donor Counterterrorism Measures on Principled Humanitarian Action.* <https://tinyurl.com/25yydwsj>

NRC, 2021. *Life and Death: NGO access to financial services in Afghanistan.* <https://tinyurl.com/yj35jxm7>

NRC & The Geneva Graduate Institute of International and Development Studies (IHEID) 2022. *Online bibliography, comprising reports, studies, and guidance on sanctions and their intersection with humanitarian action.* <https://tinyurl.com/2s3kdpz6>

OCHA, 2011. *To Stay and Deliver.* <https://tinyurl.com/2s3vfzfi>

OHCHR, Ben Saul, 2024. *A/HRC/55/48: 'Vision and priorities - Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.* <https://tinyurl.com/2rh7h3my>

U4 Anti-Corruption, and Transparency International, 2019. *Managing corruption challenges in humanitarian settings.* <https://tinyurl.com/5fnrr7mk>

VOICE, 2021. *Adding to the evidence: The impacts of sanctions and restrictive measures on humanitarian action.* <https://tinyurl.com/4tst4nxp>

9.2 SAMPLE OF OFFICIAL SANCTION GUIDANCE

The **European Commission** has issued various guidance materials on EU sanctions, which can be found on their general [information page](#). This includes recent [guidance on the provision of humanitarian aid in compliance with EU restrictive measures](#), and guidance on specific countries and frequently asked questions (FAQs) on specific sanctions regimes and links to the [EU-level contact point](#) for humanitarian aid in environments subject to EU sanctions. It has also created an online [EU sanctions map](#), which sets out all of the measures the bloc has adopted and provides links to the legal instruments. The European Commission sanctions [page](#) has general guidance about restrictive measures and sanctions.

In the **United States**, The Office of Foreign Assets Control (OFAC), which is part of the US Department of the Treasury, administers and enforces US financial sanctions. It has issued general and country-specific [guidance](#) for humanitarian organisations. It also publishes [FAQs](#) on various sanctions regimes, and operates a [compliance hotline](#) that prioritises requests related to humanitarian operations.

The **United Kingdom's** Office of Financial Sanctions Implementation (OFSI), which is part of the UK Treasury, has issued similar [guidance](#), including specific [guidance for charities and NGOs](#), country-specific guidance and a limited number of FAQs. In addition, the UK Home Office has issued guidance on [Operating within counterterrorism legislation](#) for organisations or individuals working in a region where proscribed organisations operate.

An overview of the **United Nations** sanctions can be found on the [UN Sanctions App](#) and there is a [fact sheet](#) providing an overview of the UN sanctions and the role of the related sanctions committees.

TOOLKIT

FOR PRINCIPLED
HUMANITARIAN ACTION



NRC

NORWEGIAN
REFUGEE COUNCIL