



Program on International  
Law and Armed Conflict

HARVARD LAW SCHOOL

# An Interpretive Note for U.N. Member States on Security Council Resolution 2664 (2022)

**RADHIKA KAPOOR,  
DUSTIN A. LEWIS,  
AND NAZ K. MODIRZADEH**

March 2023

## EXECUTIVE SUMMARY

In adopting resolution 2664 (2022) on December 9, 2022, the United Nations Security Council made a decision that represents a landmark shift. In short, all the Council's asset freezes are now subject to a humanitarian-related "carve-out." Moreover, the "carve-out" adopted in resolution 2664 (2022) will apply with respect to any new Security Council sanctions regimes absent a Council decision to the contrary.

The resolution warrants close attention from U.N. Member States. That is not only due to the resolution's consequential character. It is also because the core obligations arising from it are notably complex and raise correspondingly intricate issues concerning interpretation and implementation. In this interpretive note, we seek to support U.N. Member States' initial efforts to understand and implement certain key aspects of the resolution, especially the humanitarian-related "carve-out" at its center.

The Security Council adopted resolution 2664 (2022) against the backdrop of over a decade of multilateral policy debate on how to conceptualize and harmonize the normative relations between humanitarian values and security concerns. Those relations have proven significant, not least with respect to numerous contemporary armed conflicts, other emergencies, and other politically sensitive situations affected by restrictive measures. States have recognized how, with respect to such situations, those responsible for delivering humanitarian assistance rely on a complex ecosystem of funds, goods, and services, some of which are provided by humanitarian bodies while others are provided by external individuals or entities. The system encompasses, for example, supply-chain administration, banking services, transfers of goods, legal advice, and medical training. The application of certain restrictive measures, including asset freezes in at least some contexts, has contributed to diminished or complete lack of access by humanitarian actors to people in need. It has also led to adverse impacts on the scope, amount, and quality of humanitarian assistance and other activities that support basic human needs.

The Security Council has now set out a legally binding position on a core aspect of these issues. U.N. Member States are now obliged to permit the following conduct and not to consider it a violation of the asset freezes imposed by the Council or its Sanctions Committees: the provision, processing or payment of funds, other financial assets, or economic resources, or the provision of goods and services necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs by the actors specified by the Council in the resolution or by other actors that a Sanctions Committee may subsequently add within and with respect to its mandate. In other words, the U.N. principal organ conferred with the responsibility for the maintenance of international peace and security has decided that the provision of funds or of goods and services necessary to assist activities that support basic human needs by certain actors is permitted and is not a violation of the Security Council's asset freezes. Notably, in making that decision, the Security Council eschewed a "zero-tolerance" approach to addressing the risk that the provision of funds or of goods and services

necessary to assist activities that support basic human needs — or those activities themselves — might result in the accrual of benefits to designated individuals and entities. Instead, the Council elevated humanitarian assistance and activities supporting basic human needs above such restrictive security rationales.

The notably wide range of actors implicated by the decision include:

- The people in affected situations who are in need of humanitarian assistance or of other forms of support in relation to their basic needs;
- The Council-specified individuals and entities, and others who may be added subsequently by a Sanctions Committee, that are involved in the delivery of humanitarian assistance or in activities that support the basic needs of people in need and that, in undertaking those efforts, rely in part on the provision of funds or of goods and services;
- The individuals and entities — such as banks and other financial institutions, suppliers of goods, and providers of services — whose support, whether in the form of funds, goods, or services, is necessary to undertake the indicated humanitarian activities by a specified actor or an actor added by a Sanctions Committee;
- All U.N. Member States, who are now obliged to permit the provision of those funds and those goods and services and not consider them a violation of any of the Security Council's asset freezes;
- The Security Council's Sanctions Committees directed to support and monitor the implementation of the resolution; and
- Other U.N.-system actors, such as the U.N. Emergency Relief Coordinator and the Secretary-General, requested to support certain aspects related to the implementation of the resolution.

Due in part to the extensive range of implicated actors and situations, it will take ongoing action by U.N. Member States and many others to make this policy shift a reality in line with the Council's express intention to provide clarity to ensure the continuation of humanitarian activities.

U.N. Member States bear principal responsibility for carrying out the legal mandate entailed in resolution 2664 (2022). As a minimum, U.N. Member States will need to review and, as relevant, make adjustments to their national legal systems and any multi-State legal arrangements to which they belong, such as a regional organization. Further, members of the Security Council will need to evaluate the implications of the resolution with respect to each of the affected sanctions regimes and take the action warranted to address those implications. Such undertakings might include, for example, action in relation to the authority of Sanctions Committees to issue Implementation Assistance Notices and to add appropriate others to the set of actors who may rely on a certain aspect of the resolution. Further, U.N. Member States may take action to support those responsible for the briefings (the U.N. Emergency Relief Coordinator) and the report (the Secretary-General) requested by the Security Council.

## **CREDITS**

### **About HLS PILAC**

The Harvard Law School Program on International Law and Armed Conflict (HLS PILAC) researches critical challenges facing the various fields of public international law related to armed conflict. Its mode is critical, independent, and rigorous. HLS PILAC's methodology fuses traditional public international law research with targeted analysis of changing security environments.

### **About the Authors**

Radhika Kapoor is a Program Fellow at HLS PILAC. Dustin A. Lewis is the Research Director of HLS PILAC. And Naz K. Modirzadeh is the Founding Director of HLS PILAC and a Professor of Practice at Harvard Law School.

### **Acknowledgments**

HLS PILAC expresses its gratitude for the generous financial support provided by the Swiss Federal Department of Foreign Affairs. The authors gratefully acknowledge Pablo Arrocha Olabuenaga for providing critical comments, as well as the following Harvard Law School students, all of whom were HLS PILAC Research Assistants at the time of their contribution, for contributing to the preparation of Annexes to this interpretive note: Sandy Alkoutami (with respect to Annex 2), Arnaaz Ameer (with respect to Annexes 1–3), and Alex Trivella (with respect to Annex 2).

### **Disclaimers**

The views and opinions reflected in this note are those solely of the authors, and the authors alone are responsible for any errors. The views expressed in this note should not be taken, in any way, to reflect an official opinion of the Swiss Federal Department of Foreign Affairs.

### **License**

Creative Commons Attribution-NonCommercial-ShareAlike 4.0 International license (CC BY-NC-SA 4.0).

### **Web**

This interpretive note is available free of charge at <https://pilac.law.harvard.edu>.

### **Correspondence**

Correspondence concerning this interpretive note may be sent to [pilac@law.harvard.edu](mailto:pilac@law.harvard.edu).

# CONTENTS

<b>EXECUTIVE SUMMARY .....</b>	<b>i</b>
<b>CREDITS .....</b>	<b>iii</b>
<b>1. INTRODUCTION.....</b>	<b>1</b>
1.1. OBJECTIVES .....	2
1.2. TARGET AUDIENCES.....	3
1.3. METHODS.....	3
1.4. SHORTHAND .....	4
1.5. CAVEATS .....	4
1.6. STRUCTURE .....	5
<b>2. CERTAIN CONTEXTUAL ELEMENTS CONCERNING THE ADOPTION OF RESOLUTION 2664 (2022) .....</b>	<b>7</b>
2.1. SANCTIONS REGIMES.....	7
2.2. RATIONALE FOR AND VIEWS REGARDING THE “CARVE-OUT” .....	7
2.3. CONCEPTUALLY SIMILAR PROVISIONS IN PREVIOUS SECURITY COUNCIL PRACTICE.....	11
<b>3. CERTAIN LEGAL AND RELATED ASPECTS CONCERNING RESOLUTION 2664 (2022) .....</b>	<b>14</b>
3.1. LEGAL BASIS, CHARACTER, AND EFFECTS OF SECURITY COUNCIL ACTION .....	14
3.2. RESOLUTION 2664 (2022).....	15
3.3. KEY ACTIONS ON THE PART OF U.N. MEMBER STATES CONCERNING THE IMPLEMENTATION OF RESOLUTION 2664 (2022).....	16
<b>4. THE SCOPE OF THE “CARVE-OUT” ADOPTED IN RESOLUTION 2664 (2022) .....</b>	<b>21</b>
4.1. MATERIAL SCOPE .....	21
4.2. PERSONAL SCOPE.....	30
4.3. TEMPORAL SCOPE.....	33
4.4. GEOGRAPHICAL SCOPE .....	37
4.5. SUMMARY OF THE SCOPE OF THE “CARVE-OUT” .....	38
<b>5. CERTAIN BENEFITS- OR DIVERSION-RELATED ISSUES AS MAY PERTAIN TO DESIGNATED INDIVIDUALS OR ENTITIES CONCERNING RESOLUTION 2664 (2022) AND OTHER POTENTIALLY RELEVANT AREAS OF SECURITY COUNCIL ACTION .....</b>	<b>40</b>
5.1. TERMINOLOGY OF RESOLUTION 2664 (2022).....	40
5.2. INTERPRETIVE ASPECTS.....	41
5.3. INITIAL CONSIDERATIONS FOR U.N. MEMBER STATES.....	42

<b>6. IMPLEMENTATION OF CERTAIN ASPECTS OF RESOLUTION 2664 (2022) AS RELATES TO SECURITY COUNCIL SANCTIONS COMMITTEES .....</b>	<b>45</b>
6.1. AUTHORITY OF SECURITY COUNCIL-ESTABLISHED SANCTIONS COMMITTEES TO ADD APPROPRIATE OTHERS .....	46
6.2. DIRECTIONS TO SECURITY COUNCIL-ESTABLISHED SANCTIONS COMMITTEES TO ASSIST MEMBER STATES IN UNDERSTANDING AND IMPLEMENTING THE “CARVE-OUT,” AS WELL TO MONITOR THE IMPLEMENTATION OF THE “CARVE-OUT” .....	48
6.3. ABILITY OF SECURITY COUNCIL-ESTABLISHED SANCTIONS COMMITTEES TO ENGAGE WITH MEMBER STATES CONCERNING CERTAIN MATTERS .....	51
6.4. ROLE OF THE 1267/1989/2253 SANCTIONS COMMITTEE AND COOPERATION WITH THAT COMMITTEE AND ITS ANALYTICAL SUPPORT AND SANCTIONS MONITORING TEAM .....	53
<b>7. BRIEFING ON THE DELIVERY OF HUMANITARIAN ASSISTANCE AND OTHER ACTIVITIES THAT SUPPORT BASIC HUMAN NEEDS PROVIDED CONSISTENT WITH RESOLUTION 2664 (2022) .....</b>	<b>56</b>
7.1. REQUEST OF THE U.N. EMERGENCY RELIEF COORDINATOR TO BRIEF OR ARRANGE A BRIEFING .....	56
7.2. REQUEST OF “RELEVANT PROVIDERS” TO ASSIST THE U.N. EMERGENCY RELIEF COORDINATOR BY PROVIDING RELEVANT INFORMATION .....	60
<b>8. REPORTING ON UNINTENDED ADVERSE HUMANITARIAN CONSEQUENCES OF SECURITY COUNCIL SANCTIONS MEASURES AS WELL AS MEASURES SUI GENERIS TO PARTICULAR SANCTIONS REGIMES .....</b>	<b>62</b>
8.1. REQUEST OF THE SECRETARY-GENERAL .....	62
<b>9. CONCLUSION.....</b>	<b>65</b>
9.1. SUMMARY.....	65
9.2. OPPORTUNITY TO CHAMPION THE HUMANITARIAN IMPERATIVE .....	66
<b>ANNEXES.....</b>	<b>67</b>
ANNEX 1: CURRENTLY APPLICABLE SECURITY COUNCIL-DECIDED SANCTIONS REGIMES .....	68
ANNEX 2: REPORTS ISSUED IN RELATION TO HUMANITARIAN ASSISTANCE UNDER THE SOMALIA SANCTIONS REGIME .....	84
ANNEX 3: IMPLEMENTATION ASSISTANCE NOTICES ISSUED BY CURRENTLY OPERATING SANCTIONS COMMITTEES.....	86

## 1. INTRODUCTION

On December 9, 2022, the United Nations Security Council adopted resolution 2664 (2022), laying down a limited, standing humanitarian-related “carve-out”<sup>1</sup> from Council-decided asset freezes.<sup>2</sup> Fifty-three States co-sponsored resolution 2664 (2022),<sup>3</sup> which was adopted by a vote of 14 in favor to none against, with one member abstaining.<sup>4</sup> With the adoption of resolution 2664 (2022), all the current Security Council sanctions regimes that entail asset freezes are now subject to a humanitarian-related “carve-out.” Resolution 2664 (2022) expressly superseded two other similar “carve-outs,” which applied to asset freezes under the Somalia sanctions regime and the Haiti sanctions regime, respectively.<sup>5</sup> A limited pre-existing humanitarian-related “carve-out” remains in effect in respect of the 1988 sanctions regime at least as pertains to Afghanistan.<sup>6</sup>

Among the steps that U.N. Member States must take to implement resolution 2664 (2022) is the interpretation of certain key aspects of the document. Members of the Security Council need to take certain additional interpretive steps, not least in their role as members of the Council’s Sanctions Committees. Further, in resolution 2664 (2022), the Security Council has made requests of certain other actors, including specified U.N.-system actors, such as the U.N. Secretary-General

---

<sup>1</sup> On the use of the term “carve-out” rather than alternative formulations including “exemption,” “exception,” and “derogation” see Dustin Lewis & Naz Modirzadeh, *The U.N. Security Council Adopts a Standing Humanitarian “Carve-Out”*, LAWFARE (Dec. 13, 2022), <https://www.lawfareblog.com/un-security-council-adopts-standing-humanitarian-carve-out>.

<sup>2</sup> UNSCR 2664 (2022), OP 1. See below Section 4.1.3 (i): Asset Freezes With Respect to Which the “Carve-out” Applies.

<sup>3</sup> Albania, Andorra, Australia, Austria, Bahamas, Belgium, Brazil, Bulgaria, Canada, Chile, Croatia, Cyprus, Czechia, Denmark, Dominican Republic, Ecuador, Estonia, Fiji, Finland, France, Georgia, Germany, Greece, Guinea, Guyana, Hungary, Iceland, Ireland, Ireland, Italy, Latvia, Lesotho, Liechtenstein, Luxembourg, Malta, Marshall Islands, Montenegro, Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Moldova, Romania, Samoa, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland, and the United States. See U.N. Security Council, Albania, Andorra, Australia, Austria, Bahamas, Belgium, Brazil, Bulgaria, Canada, Chile, Croatia, Cyprus, Czechia, Denmark, Dominican Republic, Ecuador, Estonia, Fiji, Finland, France, Georgia, Germany, Greece, Guinea, Guyana, Hungary, Iceland, Ireland, Ireland, Italy, Latvia, Lesotho, Liechtenstein, Luxembourg, Malta, Marshall Islands, Montenegro, Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Moldova, Romania, Samoa, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland, and United States of America: draft resolution, S/2022/925 (Dec. 9, 2022).

<sup>4</sup> U.N. SCOR, 77th Sess., 9214th mtg. at 4, U.N. Doc. S/PV.9214 (Dec. 9, 2022).

<sup>5</sup> UNSCR 2664 (2022), OP 4. See also UNSCR 2607 (2021), OP 37; UNSCR 2653 (2022), OP 10. See below Section 2.3: Conceptually Similar Provisions in Previous Security Council Practice.

<sup>6</sup> UNSCR 2664 (2022), OP 4. See also UNSCR 2615 (2021), OP 1. See further note 85.

and the U.N. Emergency Relief Coordinator (ERC), as well as actors relying on the “carve-out” to deliver humanitarian assistance or perform other activities that support basic human needs, or to provide funds or goods and services to support those activities. Alongside taking interpretive steps, a U.N. Member State must take measures to carry out the decisions entailed in resolution 2664 (2022) and to otherwise fulfill its applicable obligations under the U.N. Charter as relates to the resolution. Such measures may include, for example, a State reviewing and, as relevant, adjusting its national legal system — as well as seeking to adjust any multi-State legal arrangements (such as a regional organization) to which it belongs — to bring the framework into conformity with the relevant aspects of resolution 2664 (2022), including the “carve-out” adopted therein.<sup>7</sup> Such measures may also or separately include taking action in relation to Security Council Sanctions Committees, as well as supporting efforts by (other) relevant U.N.-system actors and providers relying on the “carve-out” to carry out effectively the tasks requested of them in the resolution.

### ***1.1. Objectives***

An understanding of the character, structure, and content of resolution 2664 (2022) as a whole may assist U.N. Member States in implementing the “carve-out” adopted therein and other relevant aspects of the document. While U.N. Member States might otherwise initially focus only on the paragraph laying out the “carve-out,” in our view, a good-faith effort to implement the “carve-out” necessarily requires an understanding of its wider context and corresponding obligations and recommendations. In this interpretive note, we aim to identify certain key information and provide provisional analysis for U.N. Member States as may pertain to the implementation of resolution 2664 (2022).

In a preambular paragraph, the Security Council expressly noted that the “intention” of resolution 2664 (2022) is “to provide clarity to ensure the continuation of humanitarian activities in the future.”<sup>8</sup> Consistent with that intention, we seek here to provide information and analysis with a view to safeguarding and promoting the continuation of humanitarian activities, in particular as those activities may pertain to contexts in which Council-decided asset freezes are relevant. We also aim to identify certain other contexts, themes, and issues that may be implicated by

---

<sup>7</sup> See *below* Section 3.3: Key Actions on the Part of U.N. Member States Concerning the Implementation of Resolution 2664 (2022).

<sup>8</sup> UNSCR 2664 (2022), preamble.

the decisions and recommendations — and the rationales underlying them — entailed in resolution 2664 (2022).

In our efforts to meet these objectives, we structure much of our analysis along three axes. For each relevant issue or theme, we first excerpt verbatim the relevant portion(s) of resolution 2664 (2022). For each issue or theme, we identify key interpretive aspects — that is, certain notions entailed in the terminology that States will need to interpret and understand (and, in certain cases, formulate a view on) to implement resolution 2664 (2022). Next, we set out certain initial considerations that U.N. Member States may bear in mind with a view to supporting efforts to implement resolution 2664 (2022) systematically, in accordance with international law, and consistent with the Security Council’s intention.

### ***1.2. Target Audiences***

The primary target audience of this interpretive note encompasses:

- U.N. Member States, in particular the people tasked by such a State — across and within all its relevant organs — with interpreting and implementing resolution 2664 (2022); and
- Security Council Sanctions Committees and associated actors, in particular the people and entities tasked with supporting a relevant aspect of such a Sanction Committee’s mandate with respect to the implementation of resolution 2664 (2022).

The secondary target audience encompasses certain other relevant stakeholders — such as salient U.N.-system actors as well as (other) humanitarian providers and their partners — whose tasks may involve aspects related to the implementation of resolution 2664 (2022).

### ***1.3. Methods***

In developing this note, we used the following methods. We examined resolution 2664 (2022) and the context in which it was negotiated, as well as other potentially relevant practice of the Security Council. We analyzed sources of international and national law. We evaluated governmental policy. We reviewed academic and policy literature. And we consulted informally with government legal and policy advisers.

### ***1.4. Shorthand***

In setting out the range of transactions and activities permitted under the “carve-out” and the types of individuals and entities that may be involved therein, the Security Council employed several complex formulations in operative paragraph 1 (OP 1) of resolution 2664 (2022). For ease of reference and for conceptual clarity, we use the following formulations as shorthand throughout this interpretive note:

- To refer to “the provision, processing or payment of funds, other financial assets, or economic resources, or the provision of goods and services”<sup>9</sup>, we use the term “facilitative conduct”;
- To refer to action to “ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs”<sup>10</sup>, we use the term “fulfillment activities”; and
- To refer to the two sets of actors described by the Security Council, we use two terms. First, to refer to “the United Nations, including its Programmes, Funds and Other Entities and Bodies, as well as its Specialized Agencies and Related Organizations, international organizations, humanitarian organizations having observer status with the United Nations General Assembly and members of those humanitarian organizations, or bilaterally or multilaterally funded non-governmental organizations participating in the United Nations Humanitarian Response Plans, Refugee Response Plans, other United Nations appeals, or OCHA-coordinated humanitarian ‘clusters,’ or their employees, grantees, subsidiaries, or implementing partners while and to the extent that they are acting in those capacities”<sup>11</sup>, we use the term “specified actors.” And, second, to refer to “appropriate others [...] added by any individual Committees established by th[e Security] Council”<sup>12</sup>, we use the term “appropriate others.”

### ***1.5. Caveats***

Research for this interpretive note was conducted primarily in English. In this interpretive note, we seek to identify certain key legal implications related to the

---

<sup>9</sup> Ibid., at OP 1.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

Security Council’s adoption of a standing humanitarian-related “carve-out” in resolution 2664 (2022) and outline select initial considerations for States related to that “carve-out.” We do not claim to exhaustively identify potentially relevant legal and practical implications of the resolution, especially as may relate to complexities in carrying out the Council’s decisions with respect to the diverse range of national legal systems. At the time of publication, fewer than three months have passed since the adoption of resolution 2664 (2022), and relevant State practice is therefore limited.<sup>13</sup> As such, our research is not — and, indeed, could not have been — informed by comprehensive practice concerning the implementation of the “carve-out.”

### ***1.6. Structure***

In addition to this introduction (section 1), we have organized this note into nine sections. In section 2, we explain certain contextual elements concerning the adoption of resolution 2664 (2022) by sketching the Security Council’s sanctions regimes, setting out the Council’s stated rationale for the adoption of the “carve-out,” and identifying conceptually similar provisions in previous Security Council practice.

In section 3, we briefly evaluate certain legal aspects concerning resolution 2664 (2022), with a focus on its status, character, and effects. We discuss select aspects related to the obligatory and recommendatory portions of the resolution. And we formulate what we characterize as three overarching categories of key legal implications arising from the resolution: a comprehensive review of all measures in a State; adjustment of any measures as warranted to implement the Security Council’s decision(s) concerning the “carve-out”; and communication of the State’s obligations, interpretations, and actions in connection with the “carve-out” to a range of relevant actors.

In section 4, we examine aspects concerning the scope of the “carve-out” adopted in resolution 2664 (2022). In particular, we evaluate the material, personal, temporal, and geographical scope of the “carve-out.”

In section 5, we briefly discuss certain normative relations between humanitarian values and security rationales entailed in resolution 2664 (2022) by examining

---

<sup>13</sup> *But see, e.g., Treasury Implements Historic Humanitarian Sanctions Exceptions*, U.S. DEPT. OF TREASURY (Dec. 20, 2022), <https://home.treasury.gov/news/press-releases/jy1175>; *Publication of Humanitarian-related Regulatory Amendments and Associated Frequently Asked Questions*, U.S. DEPT. OF TREASURY (Dec. 20, 2022), <https://home.treasury.gov/policy-issues/financial-sanctions/recent-actions/20221220>.

terminology concerning certain benefits- or diversion-related issues as may pertain to designated individuals or entities. We also raise certain considerations relevant to identifying and addressing potential conflicts that may arise with respect to previous Security Council resolutions.

In section 6, we evaluate four elements related to Security Council Sanctions Committees concerning the implementation of certain aspects of resolution 2664 (2022): (i) the authority of Sanctions Committees to add appropriate others to the set of actors who may undertake fulfillment activities as set out in the “carve-out”; (ii) directions to Sanctions Committees to assist Member States in properly understanding and fully implementing the “carve-out,” including by issuing Implementation Assistance Notices; (iii) the ability of Sanctions Committees to engage with Member States to ensure the effective implementation of the Council’s decisions; and (iv) the role of the 1267/1989/2253 Sanctions Committee in particular in monitoring implementation of the “carve-out” and cooperation by U.N. Member States with that Committee and its Monitoring Team.

In section 7, we discuss certain elements concerning briefings related to resolution 2664 (2022). In particular, we examine the request of the ERC to brief or arrange a briefing for each relevant Committee on the delivery of humanitarian assistance and other activities that support basic human needs provided consistent with the resolution and the request of relevant providers to assist the ERC by providing relevant information.

In section 8, we examine the request of the Secretary-General to report on unintended adverse humanitarian consequences of Security Council sanctions measures as well as on those measures that are *sui generis* to particular sanctions regimes.

In section 9, we conclude.

We attach three annexes to this interpretive note. Annex 1 summarizes the fifteen sanctions regimes currently maintained by the Security Council and its Sanctions Committees. Annex 2 catalogues humanitarian reports issued in relation to the implementation of the humanitarian “carve-out” to the Somalia sanctions regime.<sup>14</sup> And Annex 3 catalogues Implementation Assistance Notices (IANs)

---

<sup>14</sup> The Committee charged with administering this sanctions regime was earlier known as the “Security Council Committee pursuant to resolution 751 (1992) and 1907 (2009) concerning Somalia and Eritrea” and then as the “Security Council Committee pursuant to resolution 751 (1992) concerning Somalia”. Currently, the Committee is known as the “Security Council Committee pursuant to resolution 751 (1992) concerning Al-Shabaab”. See *Security Council Committee pursuant to resolution 751 (1992) concerning Al-Shabaab*, U.N. SEC. COUNCIL, <https://www.un.org/securitycouncil/sanctions/751>.

previously issued by Sanctions Committees to guide States on the implementation of various Security Council decisions on sanctions measures.

## 2. CERTAIN CONTEXTUAL ELEMENTS CONCERNING THE ADOPTION OF RESOLUTION 2664 (2022)

In this section, we explain certain contextual elements concerning the adoption of resolution 2664 (2022). In particular, we sketch the Security Council's sanctions regimes; set out the Council's rationale for the adoption of the "carve-out"; and identify certain conceptually similar provisions in previous Security Council practice.

### 2.1. *Sanctions Regimes*

The Security Council currently maintains fifteen sanctions regimes: the 1636 sanctions regime; the 1988 sanctions regime; and those sanctions regimes pertaining to: the Central African Republic; the Democratic People's Republic of Korea; the Democratic Republic of Congo; Guinea-Bissau; Haiti; Iraq; ISIL (Da'esh) and Al-Qaida; Libya; Mali; Somalia; South Sudan; Sudan; and Yemen.<sup>15</sup> Each of those regimes is administered by a Sanctions Committee. Fourteen of those sanctions regimes include asset freezes.<sup>16</sup> (Other sanctions measures include arms embargoes, travel bans, and bans on the sale of certain items.<sup>17</sup>)

### 2.2. *Rationale For and Views Regarding the "Carve-out"*

Based partly on an established evidentiary base,<sup>18</sup> States and other international actors have recognized an array of adverse consequences that have arisen with respect to certain restrictive measures, including certain sanctions measures decided by the Security Council, on the provision of humanitarian assistance and on other

---

<sup>15</sup> See Annex 1: Currently Applicable Security Council-Decided Sanctions Regimes; U.N. Department of Political and Peacebuilding Affairs (DPPA), Subsidiary Organs of the United Nations Security Council (Nov. 6, 2022).

<sup>16</sup> See *ibid.*

<sup>17</sup> See Annex 1: Currently Applicable Security Council-Decided Sanctions Regimes.

<sup>18</sup> See, e.g., Lindsay Hamsik & Lissette Almanza, *Detrimental Impacts: How Counter-Terror Measures Impede Humanitarian Action*, INTERACTION (Apr. 2021), <https://www.interaction.org/wp-content/uploads/2021/04/Detrimental-Impacts-CT-Measures-Humanitarian-Action-InterAction-April-2021.pdf>; Jessica S. Burniske & Naz K. Modirzadeh, *Pilot Empirical Survey Study on the Impact of Counterterrorism Measures on Humanitarian Action*, HARV. L. SCH. PROGRAM ON INT'L L. & ARMED CONFLICT (Mar. 2017), <https://perma.cc/7DL7-L6AV>.

activities that support basic human needs.<sup>19</sup> Those adverse consequences have included impairment of access to persons in need and impediments to delivering assistance to such persons, as well as operational, financial, security, legal, and reputational risks for individuals and entities engaged in carrying out those activities.<sup>20</sup> Researchers have documented, for example, how asset freezes applied under certain sanctions regimes have impeded — such as through restrictions or prohibitions on payment of tolls — the ability of humanitarian providers to pursue practical measures to secure access to those in need.<sup>21</sup> In sum, with respect to certain contexts where restrictive measures are applicable, such measures may contribute to diminished or complete lack of access by providers to people in need or to adverse impacts upon the scope, amount, and quality of humanitarian, medical, and other related goods and services provided to those people.<sup>22</sup>

As mentioned above, in a preambular paragraph, the Security Council noted that the “intention” of resolution 2664 (2022) “is to provide clarity to ensure the continuation of humanitarian activities.”<sup>23</sup> Further, in other preambular paragraphs, the Security Council:

“*B[ore] in mind* the importance of assessing potential humanitarian impacts prior to a Council decision to establish a sanctions regime”;

“*Recall[ed]* the need for Member States to ensure that all measures taken by them to implement sanctions, including in the context of counter-terrorism, comply with their obligations under international law, including international humanitarian law, international human

---

<sup>19</sup> See, e.g., *Safeguarding the Space for Principled Humanitarian Action in Counterterrorism Contexts*, INT’L PEACE INST. (May 23, 2018), <https://www.ipinst.org/2018/05/poc-counterterrorism-contexts#11>; U.N. SCOR, 77th Sess., 8962d mtg. at 2, U.N. Doc. S/PV. 8962 (Feb. 7, 2022) (statement by Under-Secretary-General for Political Affairs: “United Nations sanctions are no longer the blunt instrument they once were. Since the 1990s, they have undergone considerable changes to minimize their possible adverse consequences on civilian populations and third States. The most-applied targeted measures include standardized humanitarian and other exemptions.”); U.N. SCOR, 69th Sess., 7323d mtg. U.N. Doc. S/PV.7323 (Nov. 25, 2014).

<sup>20</sup> See, e.g., Hamsik & Almanza, *supra* note 18, at 3.

<sup>21</sup> Emanuela-Chiara Gillard, *Recommendations for Reducing Tensions in the Interplay Between Sanctions, Counterterrorism Measures and Humanitarian Action*, CHATHAM HOUSE 2 (Aug. 2017), [https://www.chathamhouse.org/sites/default/files/publications/research/CHHJ5596\\_NSAG\\_iv\\_research\\_paper\\_1708\\_WEB.pdf](https://www.chathamhouse.org/sites/default/files/publications/research/CHHJ5596_NSAG_iv_research_paper_1708_WEB.pdf); *International Humanitarian Law and The Challenges of Contemporary Armed Conflicts*, ICRC 20 (Dec. 2015), <https://www.icrc.org/en/document/international-humanitarian-law-and-challenges-contemporary-armed-conflicts>.

<sup>22</sup> See, e.g., *ibid.*, at 20–1.

<sup>23</sup> UNSCR 2664 (2022), preamble.

rights law and international refugee law, as applicable, and not[ed], in this regard, the rules of international humanitarian law, as applicable, regarding respect for, and the protection of, humanitarian personnel and consignments for humanitarian relief operations and the non-punishment of any person for carrying out medical activities compatible with medical ethics”;

“*Emphasiz[ed]* that such measures [that is, all measures taken by Member States to implement sanctions] are not intended to have adverse humanitarian consequences for civilian populations nor adverse consequences for humanitarian activities or those carrying them out, and not[ed] that humanitarian and basic human needs differ depending on the specific context”;

“*Express[ed]* its readiness to review, adjust and terminate, when appropriate, its sanctions regimes taking into account the evolution of the situation on the ground and the need to minimize unintended adverse humanitarian effects”; and

“*Underlin[ed]* that sanctions measures are intended to be temporary”.<sup>24</sup>

In OP 1 of resolution 2664 (2022), the Security Council:

“*Decide[d]* 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 [specified actors or appropriate others] are permitted and are not a violation of the asset freezes imposed by this Council or its Sanctions Committees”.<sup>25</sup>

As noted above, 53 States co-sponsored resolution 2664 (2022), which was eventually adopted by a vote of 14 in favor to none against, with one member abstaining. In the view of the representative for Ireland, a co-penholder alongside the United States, the strong support for the resolution reflected “that the commitment to protecting the humanitarian space is a global concern.”<sup>26</sup> The representative

---

<sup>24</sup> Ibid.

<sup>25</sup> Ibid., at OP 1.

<sup>26</sup> U.N. SCOR, 77th Sess., 9214th mtg. at 3, U.N. Doc. S/PV.9214 (Dec. 9, 2022).

cited consistent reporting by humanitarian actors that “sanctions can impede [the] work [of those actors]” and stated that the resolution represented “decisive action in response to [...] appeals by humanitarians worldwide” and “safeguards humanitarian action to assist [people in need] in contexts in which the Council has also had to impose sanctions.”<sup>27</sup> The representative for Ireland also commended “all Council members for their engagement on this important file and the humanitarian community for its long-term advocacy and technical support for this effort.”<sup>28</sup> Albania’s representative similarly called attention to the resolution as an example of the “Security Council [...] be[ing] responsive to the concerns and issues raised by State and non-State representatives.”<sup>29</sup> The representative for the United States, who introduced the text, called it a “landmark [...] resolution [...] which will save lives.”<sup>30</sup> The resolution’s (potentially) lifesaving power was also emphasized by the representative for the United Arab Emirates.<sup>31</sup> That representative called on members of the Council to cast affirmative votes in order to “help humanitarian partners reach the world’s most vulnerable, regardless of where they live, who they live with and who controls their territory.”<sup>32</sup> In terms of the impetus driving the resolution, the representative for the United States emphasized that “the humanitarian community [had] asked [...] for [it].”<sup>33</sup> In a subsequent statement after the adoption of the resolution, the representative for the United States confirmed that her country had “implement[ed] Resolution 2664 to ease the delivery of humanitarian aid across a number of U.S. sanctions programs while ensuring the aid is not diverted or abused by malicious actors.”<sup>34</sup> And, in the view of Brazil, the “carve-out” would permit humanitarian providers to perform necessary activities in “more predictable conditions.”<sup>35</sup>

Even while commending the adoption of resolution 2664 (2022), some States expressed certain concerns. For example, both China and Russia drew attention to

---

<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid., at 7.

<sup>30</sup> Ibid., at 2. The representative repeated that the resolution would “save innocent lives all around the world.” Ibid.

<sup>31</sup> Ibid., at 7.

<sup>32</sup> Ibid., at 2.

<sup>33</sup> Ibid., at 3.

<sup>34</sup> *Statement by Ambassador Linda Thomas-Greenfield on Improving Humanitarian Aid Delivery by Expanding Authorizations Across U.S. Sanctions Programs*, U.S. MISSION TO U.N. (Dec. 20, 2022), <https://usun.usmission.gov/statement-by-ambassador-linda-thomas-greenfield-on-improving-humanitarian-aid-delivery-by-expanding-authorizations-across-u-s-sanctions-programs/>.

<sup>35</sup> U.N. Doc. S/PV.9214, *supra* note 26, at 4.

the continued potential impediments to humanitarian action posed by unilateral sanctions.<sup>36</sup> China expressed the “hope that the countries concerned will uphold the spirit of humanity embodied in the just-adopted resolution 2664 (2022) and stop imposing unilateral sanctions outside of the Council’s sanctions framework as soon as possible.”<sup>37</sup> Russia also characterized the scope of the “carve-out” as “limited.”<sup>38</sup> In particular, the representative for the United Arab Emirates highlighted the arguably limited personal scope of the “carve-out” in resolution 2664 (2022), explaining that “some genuine humanitarian organizations may be left out.”<sup>39</sup> That representative also underlined the need to regularly review the implementation of the “carve-out” to ensure the continuity of humanitarian action.

India, the then-president of the Council, was the sole abstention.<sup>40</sup> In a statement, India’s representative expressed concerns about “terrorist groups taking full advantage of such humanitarian carve-outs.”<sup>41</sup>

### ***2.3. Conceptually Similar Provisions in Previous Security Council Practice***

In resolution 2664 (2022), the Security Council decided, for the first time, to adopt a humanitarian-related “carve-out” applicable across all asset freezes maintained by the Security Council.<sup>42</sup> Previous humanitarian-related “carve-outs” adopted by the Council include those with respect to asset freezes under the Somalia sanctions regime, the Haiti sanctions regime, and the 1988 sanctions regime as pertains to Afghanistan.

---

<sup>36</sup> *Ibid.*, at 6.

<sup>37</sup> *Ibid.*

<sup>38</sup> *Ibid.*

<sup>39</sup> *Ibid.*, at 7.

<sup>40</sup> *Ibid.*, at 4.

<sup>41</sup> *EOV by Ambassador Ruchira Kamboj: Permanent Representative of India to the UN, PERMANENT MISSION OF INDIA TO U.N.* (Dec. 9, 2022), <https://pminewyork.gov.in/IndiaatUNSC?id=NDg3OA,,> On the Security Council’s eschewal of that “zero-tolerance” rationale toward the accrual of benefits to designated individuals and entities, presumably including those designated as “terrorists,” *see below* Section 5: Certain Benefits- or Diversion-Related Issues As May Pertain to Designated Individuals or Entities Concerning Resolution 2664 (2022) and Other Potentially Relevant Areas of Security Council Action.

<sup>42</sup> *See below* Section 4.1.3 (i): Asset Freezes With Respect to Which the “Carve-out” Applies.

### 2.3.1. *With Respect to the Somalia Sanctions Regime*

In respect of asset freezes under the Somalia sanctions regime,<sup>43</sup> the Security Council initially adopted a time-limited, but renewable, humanitarian-related “carve-out” in OP 5 of resolution 1916 (2010):

“[F]or a period of twelve months from the date of this resolution, and without prejudice to humanitarian assistance programmes conducted elsewhere, the obligations imposed on Member States in paragraph 3 of resolution 1844 (2008) shall not apply to the payment of funds, other financial assets or economic resources necessary to ensure the timely delivery of urgently needed humanitarian assistance in Somalia, by the United Nations, its specialized agencies or programmes, humanitarian organizations having observer status with the United Nations General Assembly that provide humanitarian assistance, or their implementing partners”.<sup>44</sup>

The Council replaced that time-limited “carve-out” with an indefinite “carve-out” laid down in OP 22 of resolution 2551 (2020), which the Council reaffirmed in OP 37 of resolution 2607 (2021):

“[W]ithout prejudice to humanitarian assistance programmes conducted elsewhere, the measures imposed by paragraph 3 of its resolution 1844 (2008) shall not apply to the payment of funds, other financial assets or economic resources necessary to ensure the timely delivery of urgently needed humanitarian assistance in Somalia, by the United Nations, its specialised agencies or programmes, humanitarian organisations having observer status with the United Nations General Assembly that provide humanitarian assistance, and their implementing partners including bilaterally or multilaterally funded non-governmental organisations participating in the United Nations Humanitarian Response Plan for Somalia”.<sup>45</sup>

With the adoption of resolution 2664 (2022), the Security Council “clarifie[d] [...] that paragraph 1 [of resolution 2664 (2022)] shall supersede and replace” the “carve-out” in respect of asset freezes under the Somalia sanctions regime that had been reaffirmed in OP 37 of resolution 2607 (2021).<sup>46</sup>

---

<sup>43</sup> See above fn 14.

<sup>44</sup> UNSCR 1916 (2010), OP 5. See also UNSCR 1844 (2008), OP 3.

<sup>45</sup> UNSCR 2607 (2021), OP 37. See also UNSCR 2551 (2020), OP 22.

<sup>46</sup> UNSCR 2664 (2022), OP 4.

### 2.3.2. *With Respect to the Haiti Sanctions Regime*

The Security Council adopted a humanitarian-related “carve-out” in respect of asset freezes under the Haiti sanctions regime in the same resolution wherein the Council decided the relevant asset freezes. According to OP 10 of resolution 2653 (2022):

“[W]ithout prejudice to humanitarian assistance programmes conducted elsewhere, the measures imposed by paragraph 6 of [resolution 2653 (2022)] shall not apply to the payment of funds, other financial assets or economic resources necessary to ensure the timely delivery of urgently needed humanitarian assistance or to support other activities that support basic human needs in Haiti, by the United Nations, its specialised agencies or programmes, humanitarian organisations having observer status with the United Nations General Assembly that provide humanitarian assistance, and their implementing partners including bilaterally or multilaterally funded non-governmental organisations participating in the United Nations Humanitarian Response Plan for Haiti”.<sup>47</sup>

With the adoption of resolution 2664 (2022), the Security Council “clarifie[d] [...] that [OP 1 of resolution 2664 (2022)] shall supersede and replace” the “carve-out” laid down in OP 10 of resolution 2653 (2022).<sup>48</sup>

### 2.3.3. *With Respect to the 1988 Sanctions Regime At Least as Pertains to Afghanistan*

About a year before adopting resolution 2664 (2022), in resolution 2615 (2021) the Council adopted a somewhat similar humanitarian-related “carve-out” in respect of the 1988 sanctions regime at least as pertains to Afghanistan.<sup>49</sup> In particular, pursuant to the “carve-out” laid down in OP 1 of resolution 2615 (2021):

- “[H]umanitarian assistance and other activities that support basic human needs in Afghanistan are not a violation of” the asset freeze applicable with

---

<sup>47</sup> UNSCR 2653 (2022), OP 10. *See also* *ibid.*, OP 6.

<sup>48</sup> UNSCR 2664 (2022), OP 4.

<sup>49</sup> UNSCR 2615 (2021), OP 1 (“*Decides* that humanitarian assistance and other activities that support basic human needs in Afghanistan are not a violation of paragraph 1 (a) of resolution 2255 (2015), and that 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”).

respect to individuals and entities designated prior to the date of adoption of Resolution 1988 (2011) as the Taliban, as well as other individuals, groups, undertakings, and entities associated with the Taliban in constituting a threat to the peace, stability, and security of Afghanistan as designated by the Committee established pursuant to resolution 1988 (2011);<sup>50</sup> and

- “[T]he 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.”<sup>51</sup>

In OP 4 of resolution 2664 (2022), the Security Council “clarifie[d] [...] that paragraph 1 of [...] resolution 2615 (2021) shall remain in effect.”<sup>52</sup>

### 3. CERTAIN LEGAL AND RELATED ASPECTS CONCERNING RESOLUTION 2664 (2022)

#### *3.1. Legal Basis, Character, and Effects of Security Council Action*

Under the U.N. Charter, U.N. Member States agree to “accept and carry out” the decisions of the Council “in accordance with the [...] Charter.”<sup>53</sup> Pursuant to the U.N. Charter, “[i]n the event of a conflict between the obligations of the Members of the United Nations under the [...] Charter and their obligations under any other international agreement, their obligations under the [...] Charter shall prevail.”<sup>54</sup> Binding decisions and non-binding recommendations may occur side-by-side in the same Security Council resolution.<sup>55</sup> With regard to a Security Council recommendation, U.N. Member States retain discretion whether or not to act, yet they must exercise that discretion in good faith and consider the recommendation in

---

<sup>50</sup> Ibid. See also UNSCR 2255 (2015), OP 1(a).

<sup>51</sup> UNSCR 2615 (2021), OP 1. See also UNSCR 2255 (2015), OP 1(a).

<sup>52</sup> UNSCR 2664 (2022), OP 4. See note 85.

<sup>53</sup> U.N. Charter, art. 25.

<sup>54</sup> U.N. Charter, art. 103.

<sup>55</sup> Munir Akram & Syed Haider Shah, *The Legislative Powers of the United Nations Security Council*, in *TOWARDS WORLD CONSTITUTIONALISM: ISSUES IN THE LEGAL ORDERING OF THE WORLD COMMUNITY* (Ronald St John Macdonald et al. eds., 2005); Anne Peters, *Ch.V The Security Council, Functions and Powers, Article 25*, in *1 THE CHARTER OF THE UNITED NATIONS: A COMMENTARY* 793 (Bruno Simma et al. eds., 2012).

that sense.<sup>56</sup> At least according to the International Court of Justice, whether a resolution or a part thereof is binding or recommendatory depends on “the terms of the resolution [...], the discussions leading to it, the Charter provisions invoked and [...] all circumstances that might assist in determining the legal consequences of the resolution.”<sup>57</sup>

### 3.2. Resolution 2664 (2022)

In adopting resolution 2664 (2022), the Security Council expressly:

“Act[ed] under Chapter VII of the Charter of the United Nations”;<sup>58</sup>

“Decide[d] 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 [specified actors or appropriate others] are permitted and are not a violation of the asset freezes imposed by th[e Security] Council or its Sanctions Committees”;<sup>59</sup>

“Decide[d] that the provisions introduced by paragraph 1 [of resolution 2664] will apply to the 1267/1989/2253 ISIL (Da’esh) and Al-Qaida sanctions regime for a period of two years from the date of adoption of [...] resolution [2664 (2022)]”;<sup>60</sup>

“Decide[d] that paragraph 1 of [...] resolution [2664 (2022)] shall apply with respect to all future asset freezes imposed or renewed by th[e Security] Council in the absence of an explicit decision by th[e

---

<sup>56</sup> Ibid. (citing Jochen A. Frowein, *Implementation of Security Council Resolutions Taken under Chapter VII in Germany*, in UNITED NATIONS SANCTIONS AND INTERNATIONAL LAW 253, 263 (Vera Gowlland-Debbas ed., 2001)).

<sup>57</sup> Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, 1971 I.C.J. Rep. 16, ¶ 114 (June 21). See also Peters, *supra* note 55; *Security Council Action Under Chapter VII: Myths And Realities*, SEC. COUNCIL REP. 4 (Jun. 23, 2008), <https://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Research%20Report%20Chapter%20VII%2023%20June%2008.pdf>.

<sup>58</sup> UNSCR 2664 (2022), preamble.

<sup>59</sup> Ibid., at OP 1.

<sup>60</sup> Ibid., at OP 2.

Security] Council to the contrary”;<sup>61</sup> and

“*Decide[d]* to remain seized of this matter.”<sup>62</sup>

In light of the Council’s express use of the term “[*d*]ecide[*d*]” in those provisions and invocation of Chapter VII, coupled with the discussions leading to the adoption of resolution 2664 (2022), U.N. Member States, are, in our view, obliged under the U.N. Charter to accept and carry out at least the Council’s decisions concerning:<sup>63</sup>

- The adoption of the “carve-out” and its application with respect to the indicated sanctions regimes (with no expiry date);<sup>64</sup>
- The application of the “carve-out” to the 1267/1989/2253 ISIL (Daesh) and Al-Qaida sanctions regime for a period of two years as from December 9, 2022;<sup>65</sup> and
- The application of the “carve-out” with respect to all future asset freezes imposed or renewed by the Security Council in the absence of an explicit decision by the Council to the contrary.<sup>66</sup>

### ***3.3. Key Actions on the Part of U.N. Member States Concerning the Implementation of Resolution 2664 (2022)***

The analysis in this section is meant to consolidate some of the key findings from sections 4 through 8 and summarize the actions a U.N. Member State may or must take with respect to implementation of resolution 2664 (2022). From our perspective, those actions may be viewed as falling under three overarching categories: review, adjustment, and communication.

#### *3.3.1. Conducting a Comprehensive Review of All Relevant Measures*

First, a State must conduct a comprehensive review of all potentially relevant elements of the State’s national legal order — and any multi-State legal arrangement

---

<sup>61</sup> Ibid., at OP 4.

<sup>62</sup> Ibid., at OP 8.

<sup>63</sup> See MICHAEL WOOD & ERAN STHOEGER, *THE U.N. SECURITY COUNCIL AND INTERNATIONAL LAW* 36 (2022); SEC. COUNCIL REP., *supra* note 57, at 4.

<sup>64</sup> UNSCR 2664 (2022), OP 1.

<sup>65</sup> Ibid., at OP 2.

<sup>66</sup> Ibid., at OP 4.

to which the State belongs — involved in the carrying out of the asset freezes implicated by the “carve-out.”<sup>67</sup> From our perspective, such a review would necessarily entail a careful examination of all potential impediments to the following conduct, which the “carve-out” expressly obliges U.N. Member States to permit and not to consider a violation of a relevant Security Council-decided asset freeze: 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 actors specified by the Security Council or subsequently added by a Sanctions Committee.<sup>68</sup> Relevant measures may include those that seek expressly to implement Security Council-decided asset freezes as well as those that may not expressly reference Security Council-decided asset freezes but, in effect, are otherwise involved in the carrying out of Security Council-decided asset freezes. Notably, domestic measures involved — expressly or impliedly — in the carrying out of Security Council-decided asset freezes may span a range of thematic matters in domestic law and policy. Depending on the State’s domestic, regional, and international arrangements, the State must review all potentially implicated measures, including any salient legislative, executive, judicial, administrative, or regulatory measures related to (among other aspects):

- The establishment and implementation of relevant criminal offenses, civil penalties, or administrative sanctions;
- The regulation of financial transactions, including directions to financial institutions and other relevant portions of the private sector potentially implicated by relevant asset freezes;<sup>69</sup>
- The acquisition and regulation of relevant private property;

---

<sup>67</sup> See below Section 4.1.3 (i): Asset Freezes With Respect to Which the “Carve-out” Applies.

<sup>68</sup> For analysis on the precise scope of the “carve-out,” see below Section 4: The Scope of the “Carve-Out” Adopted in Resolution 2664 (2022).

<sup>69</sup> See, e.g., U.N. Security Council, Letter dated 3 June 2020 from the Chair of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism and the Chair of the Security Council Committee pursuant to resolutions 1267 (1999), 1989 (2011) and 2253 (2015) concerning Islamic State in Iraq and the Levant (Da’esh), Al-Qaida and associated individuals, groups, undertakings and entities addressed to the President of the Security Council, Enclosure I: Counter-Terrorism Committee Executive Directorate/Analytical Support and Sanctions Monitoring Team pursuant to resolutions 1526 (2004) and 2253 (2015) concerning Islamic State in Iraq and the Levant (ISIL) (Da’esh), Al-Qaida and the Taliban and associated individuals and entities, Questionnaire regarding measures adopted by Member States to disrupt terrorism financing, at 29, S/2020/493 (Jun. 3, 2020) (“4. What is the mechanism under which freezing actions undertaken by financial institutions or the private sector are stated to national authorities?”).

- The regulation of the provision of goods and services pertaining to humanitarian assistance and other activities that support basic human needs; and
- The establishment and implementation of humanitarian-related programs and policies, including, for instance, as may pertain to funding, goods, or services agreements concerning humanitarian assistance and other activities that support basic human needs.<sup>70</sup>

### 3.3.2. *Adjusting Any Measures That Pose Impediments to Conduct Permitted By the “Carve-out”*

In resolution 2664 (2022), the Security Council did not provide a basis for States or other international actors to invoke, respectively, their own national legal systems or regional or international regulations or commitments as a potential reason for *not* permitting the conduct that falls under the “carve-out.” Once it has identified potentially implicated national or international measures through a comprehensive review, a U.N. Member State is obliged to make necessary adjustments with respect to those measures. The State is required to amend, revoke, or otherwise adjust all potentially implicated measures, whether the measures are of a legislative, executive, judicial, administrative, or regulatory character. The State may adjust those measures through an amendment, a revocation, a nullification, or another relevant modality. In sum, the State will need to ensure the absence of any domestic measures that may impede or obstruct facilitative conduct necessary for fulfillment activities by specified actors or appropriate others. The State may also need to undertake new measures aimed at ensuring that the relevant portions of the Security Council’s decision(s) are carried out.

From our perspective, it is imperative for a State to ensure — in carrying out those adjustments — that all salient agents and organs acting on its behalf are fully apprised about the State’s obligations under resolution 2664 (2022) and the measures that the State needs to undertake to implement those obligations. Those measures may implicate any relevant exercise of governmental authority, irrespective of whether that exercise is of a legislative, executive, judicial, administrative, or regulatory character. For example, a State may need to engage with regulatory authorities charged with financial-related functions (among others) to ensure the

---

<sup>70</sup> See, e.g., Kate Mackintosh & Patrick Duplat, *Study of the Impact of Donor Counter-Terrorism Measures on Principled Humanitarian Action*, U.N. OFF. FOR COORDINATION HUMANITARIAN AFFAIRS & NOR. REFUGEE COUNCIL (Jul. 2013).

nullification of any relevant measures that pose impediments (for instance, regarding access to banking services) to facilitative conduct necessary for fulfillment activities by specified actors or appropriate others.

### 3.3.3. *Communicating the State’s Obligations, Interpretations, and Actions Related to Implementation of Resolution 2664 (2022)*

In addition to and alongside reviewing and adjusting all relevant measures with a view to accepting and carrying out the Council’s decision(s) concerning the “carve-out” adopted in resolution 2664 (2022), it is imperative, in our view, for a U.N. Member State to communicate with and apprise a range of relevant actors of its obligations, interpretations, and actions related to implementation of resolution 2664 (2022). In particular, it may be prudent for States to engage with actors that perform certain functions relevant to monitoring or evaluating the implementation of Security Council-decided asset freezes.<sup>71</sup> A State may apprise those actors of the State’s interpretation of its obligations under OP 1 of resolution 2664 (2022) to permit facilitative conduct<sup>72</sup> necessary for fulfillment activities<sup>73</sup> by specified actors and appropriate others<sup>74</sup> and not to consider that conduct a violation of the asset freezes imposed by the Security Council or its Sanctions Committees.<sup>75</sup> Indeed, it

---

<sup>71</sup> See, e.g., Financial Action Task Force (FATF), *The FATF Recommendations*, ¶ 6 (2022); *Good Practices Memorandum for the Implementation of Countering the Financing of Terrorism Measures While Safeguarding Civic Space*, GLOBAL COUNTERTERRORISM FORUM (Sept. 2021), <https://www.thegctf.org/About-us/GCTF-framework-documents>.

<sup>72</sup> Recall that we employ the term “facilitative conduct” to refer to “the provision, processing or payment of funds, other financial assets, or economic resources, or the provision of goods and services” under OP 1 of resolution 2664 (2022). See above Section 1.4: Shorthand. See also UNSCR 2664 (2022), OP 1.

<sup>73</sup> Recall that we employ the term “fulfillment activities” to refer to action related “to the timely delivery of humanitarian assistance or to support other activities that support basic human needs” under OP 1 of resolution 2664 (2022). See above Section 1.4: Shorthand. See also UNSCR 2664 (2022), OP 1.

<sup>74</sup> Recall that we employ the terms “specified actors” and “appropriate others” to refer to “the United Nations, including its Programmes, Funds and Other Entities and Bodies, as well as its Specialized Agencies and Related Organizations, international organizations, humanitarian or organizations having observer status with the United Nations General Assembly and members of those humanitarian organizations, or bilaterally or multilaterally funded non-governmental organizations participating in the United Nations Humanitarian Response Plans, Refugee Response Plans, other United Nations appeals, or OCHA-coordinated humanitarian ‘clusters,’ or their employees, grantees, subsidiaries, or implementing partners while and to the extent that they are acting in those capacities” and “appropriate others as added by any individual Committees established by this Council within and with respect to their respective mandates” respectively under OP 1 of resolution 2664 (2022). See above Section 1.4: Shorthand. See also UNSCR 2664 (2022), OP 1.

<sup>75</sup> Ibid.

may be important for a State to document, publicize, and convey these elements to other States;<sup>76</sup> the Security Council and its Sanctions Committees;<sup>77</sup> certain other U.N.-system actors;<sup>78</sup> certain other intergovernmental bodies;<sup>79</sup> and other stakeholders, as relevant. A U.N. Member State may choose to exercise a measure of urgency in communicating its interpretations related to resolution 2664 (2022) to bodies tasked with administering, monitoring, or evaluating compliance with relevant restrictive measures, with a view to enabling those interpretations to be accurately reflected, to the extent warranted, in any reports, briefings, notices, engagements, or assessments carried out by those bodies.<sup>80</sup>

---

<sup>76</sup> U.N. Member States may seek to engage on these matters with all other States, including Security Council Member States.

<sup>77</sup> For example, Sanctions Committees sometimes offer definitions of key terms employed in Security Council decisions. *See, e.g.*, Security Council Committee pursuant to resolution 751 (1992) concerning Somalia, Implementation Assistance Notice No. 3: Summary of the Improvised Explosive Device (IED) components ban and regulations in place for exportation of explosive materials to Somalia, at 1 (defining “IED components”) (Aug. 3, 2020), [https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/ian\\_3\\_english\\_final\\_3\\_august.pdf](https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/ian_3_english_final_3_august.pdf) [hereinafter Somalia IAN No. 3]. It may be of value for U.N. Member States to keep those Committees apprised of States’ views and approaches in connection with the formulation of key terms used in OP 1 of resolution 2664 (2022), such as the term “are permitted” as well as the terms “the timely delivery of humanitarian assistance” and “support other activities that support basic human needs”. *See below* Section 4.1.3 (iv): Potential Implications of the Term “Are Permitted”; Section 4.1.3 (iii): Fulfillment Activities That Fall Under the “Carve-out.”

<sup>78</sup> Two sets of actors may be potentially relevant here. The first set concerns U.N.-system actors such as the General Assembly, the Secretary-General, the Office for the Coordination of Humanitarian Affairs (OCHA), and other potentially relevant Security Council Committees. The second concerns actors involved in overseeing, monitoring, or assessing States’ compliance with certain decisions of the Security Council, such as the Counter-Terrorism Committee (CTC), the Counter-Terrorism Committee Executive Directorate (CTED), and the U.N. Office of Counter-Terrorism. For example, the CTED routinely assesses States’ compliance with Security Council decisions concerning counter-terrorism, including the obligation to criminalize various forms of “support” to terrorism. It may be beneficial for a State to apprise those actors, as necessary, of the State’s interpretation of its obligations under OP 1 of resolution 2664 (2022) to permit facilitative conduct necessary for fulfillment activities by specified actors and appropriate others and not to consider that conduct a violation of Council-decided asset freezes.

<sup>79</sup> For example, certain intergovernmental bodies, such as the FATF and the Global Counterterrorism Forum, assume functions relevant to monitoring or evaluating the implementation of asset freezes. *See above* fn 71. A State may seek to ensure that those bodies are sufficiently well-apprised of the State’s interpretation of its obligations under OP 1 of resolution 2664 (2022) to permit facilitative conduct necessary for fulfillment activities by specified actors and appropriate others and not to consider that conduct a violation of Council-decided asset freezes.

<sup>80</sup> *See above* fn 78.

## 4. THE SCOPE OF THE “CARVE-OUT” ADOPTED IN RESOLUTION 2664 (2022)

In this section, we examine certain aspects concerning the scope of the “carve-out” adopted in resolution 2664 (2022). In particular, we evaluate the material, personal, temporal, and geographical scope of the “carve-out.” The material scope of application (also known as the scope of application *ratione materiae*) indicates the features and characteristics of the subject-matter covered by the “carve-out.” Second, the personal scope of application (also known as the scope of application *ratione personae*) delineates the actors who are required to carry out the “carve-out” and the actors who may rely on it. Third, the temporal scope of application (also known as the scope of application *ratione temporis*) sets out when the “carve-out” is applicable, including when the period of application — for all or a portion of the “carve-out” — begins and ends. And fourth, the geographical scope of application (also known as the scope of application *ratione loci*) delimits the areas with respect to which the “carve-out” is applicable.

### 4.1. Material Scope

#### 4.1.1. Terminology of Resolution 2664 (2022)

In OP 1 of resolution 2664 (2022), the Security Council:

“Decide[d] that without prejudice to the obligations imposed on Member States to freeze the funds and other financial assets or economic resources of individuals, groups, undertakings, and entities designated by this Council or its Sanctions Committees, the provision, processing or payment of funds, other financial assets, or economic resources, or the provision of goods and services necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs by [specified actors and appropriate others] are permitted and are not a violation of the asset freezes imposed by this Council or its Sanctions Committees”.<sup>81</sup>

In OP 2 of resolution 2664 (2022), the Security Council:

---

<sup>81</sup> UNSCR 2664 (2022), OP 1.

“*Decide[d]* that the provisions introduced by paragraph 1 above will apply to the 1267/1989/2253 ISIL (Da’esh) and Al-Qaida sanctions regime for a period of two years from the date of adoption of this resolution”.<sup>82</sup>

In OP 4 of resolution 2664 (2022), the Security Council:

“*Emphasize[d]* that where paragraph 1 of [...] resolution [2664 (2022)] conflicts with its previous resolutions, paragraph 1 shall supersede such previous resolutions to the extent of such conflict, clarify[d] in that regard that paragraph 1 shall supersede and replace paragraph 37 of its resolution 2607 (2021) and paragraph 10 of its resolution 2653 (2022), but that paragraph 1 of its resolution 2615 (2021) shall remain in effect, and decide[d] that paragraph 1 of [...] resolution [2664 (2022)] 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”.<sup>83</sup>

#### 4.1.2. *Interpretive Aspects*

From our perspective, at least the following aspects may be of relevance for a U.N. Member State in formulating an interpretation of the material scope of the “carve-out” in resolution 2664 (2022):

1. The terminology concerning the “without prejudice to the obligations imposed on Member States to freeze the funds and other financial assets or

---

<sup>82</sup> Ibid., at OP 2.

<sup>83</sup> Ibid., at OP 4. For reference, in OP 37 of resolution 2607 (2021), the Security Council “[r]eaffirm[ed] that without prejudice to humanitarian assistance programmes conducted elsewhere, the measures imposed by paragraph 3 of its resolution 1844 (2008) shall not apply to the payment of funds, other financial assets or economic resources necessary to ensure the timely delivery of urgently needed humanitarian assistance in Somalia, by the United Nations, its specialised agencies or programmes, humanitarian organisations having observer status with the United Nations General Assembly that provide humanitarian assistance, and their implementing partners including bilaterally or multilaterally funded non-governmental organisations participating in the United Nations Humanitarian Response Plan for Somalia”; and, in paragraph 10 of resolution 2653 (2022), the Security Council “[d]ecide[d] that without prejudice to humanitarian assistance programmes conducted elsewhere, the measures imposed by paragraph 6 of [...] resolution 2653 shall not apply to the payment of funds, other financial assets or economic resources necessary to ensure the timely delivery of urgently needed humanitarian assistance or to support other activities that support basic human needs in Haiti, by the United Nations, its specialised agencies or programmes, humanitarian organisations having observer status with the United Nations General Assembly that provide humanitarian assistance, and their implementing partners including bilaterally or multilaterally funded non-governmental organisations participating in the United Nations Humanitarian Response Plan for Haiti”.

economic resources of individuals, groups, undertakings, and entities designated by this Council or its Sanctions Committees” clause;

2. The terminology concerning “the provision, processing or payment of funds, other financial assets, or economic resources”;
3. The terminology concerning “the provision of goods and services”;
4. The terminology concerning action “to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs”;
5. The terminology concerning the forms of facilitative conduct and corresponding fulfillment activities that “are permitted”;
6. The terminology concerning the forms of facilitative conduct and corresponding fulfillment activities that “are not a violation of the asset freezes imposed by th[e Security] Council or its Sanctions Committees”;
7. The terminology concerning the application of the “provisions introduced by paragraph 1 [of resolution 2664 (2022)] to the 1267/1989/2253 ISIL (Daesh) and Al-Qaida sanctions regime”;
8. The terminology concerning the supersedence and replacement of OP 37 of resolution 2607 (2021) and OP 10 of resolution 2653 (2022); and
9. The terminology concerning the continued effect of OP 1 of resolution 2615 (2021).

#### 4.1.3. *Initial Considerations for U.N. Member States*

In interpreting the aforementioned provisions concerning the material scope of the “carve-out,” a U.N. Member State may bear in mind the following elements.

##### i) Asset Freezes With Respect to Which the “Carve-out” Applies

As of the time of writing this note, “asset freezes imposed by th[e Security] Council or its Sanctions Committees” include those applicable under the 1636 sanctions regime; the 1988 sanctions regime; and those sanctions regimes pertaining to: the Central African Republic; the Democratic People’s Republic of Korea; the Democratic Republic of Congo; Haiti; Iraq; ISIL (Daesh) and Al-Qaida; Libya; Mali; Somalia; South Sudan; Sudan; and Yemen.<sup>84</sup> Accordingly, asset freezes under all those

---

<sup>84</sup> See Annex 1: Currently Applicable Security Council-Decided Sanctions Regimes; U.N. DPPA, *supra* note 15. Recall that similar “carve-outs” applicable to asset freezes under the Somalia sanctions [Footnote continued on next page]

sanctions regimes arguably fall under the material scope of the “carve-out.”<sup>85</sup>

“[A]ll future asset freezes imposed or renewed” by the Security Council will also fall under the “carve-out” unless and until the Council expressly decides to preclude such application.<sup>86</sup> Future asset freezes to which the “carve-out” will apply may be adopted by the Security Council under a new sanctions regime (which may be administered by a corresponding new Sanctions Committee established by the Council) or under an existing sanctions regime (for example, a new asset freeze decided by the Council or a Sanctions Committee in respect of one of the fifteen sanctions regimes currently maintained by the Security Council).

#### ii) Facilitative Conduct That Falls Under the “Carve-Out”

At least according to a literal reading of the terminology of resolution 2664 (2022), two sets of facilitative conduct — when necessary for fulfillment activities by a specified actor or an appropriate other — fall under the “carve-out.” The first set concerns “the provision, processing or payment of funds, other financial assets, or economic resources”. And the second set concerns “the provision of goods and services”.

In interpreting these provisions, a State may apply a presumption against redundancy to give effect to every clause and word of OP 1 of resolution 2664 (2022) and thereby avoid a construction that could imply that a portion of the terminology

---

regime and the Haiti sanctions regime respectively were expressly superseded by OP 1 of resolution 2664 (2022). UNSCR 2664 (2022), OP 4. *See also* UNSCR 2607 (2021), OP 37; UNSCR 2653 (2022), OP 10. *See above* Section 2.3: Conceptually Similar Provisions in Previous Security Council Practice. <sup>85</sup> In resolution 2615 (2021), the Security Council decided that “humanitarian assistance and other activities that support basic human needs in Afghanistan” would not be a violation of certain asset freezes applied under the resolution 1988 (2011) sanctions regime. UNSCR 2615 (2021), OP 1. *See also* UNSCR 2255 (2015), OP 1 (a). Recall that, in resolution 2664 (2022), the Security Council decided that OP 1 of resolution 2615 (2021) “shall remain in effect”. UNSCR 2664 (2022), OP 4. *See above* Section 2.3: Conceptually Similar Provisions in Previous Security Council Practice. From the perspective of the authors of this interpretive note, two “carve-outs” are arguably co-applicable in respect of asset freezes under the resolution 1988 (2011) sanctions regime. First, the “carve-out” in OP 1 of resolution 2615 (2021) remains in effect and therefore continues to apply. *See* notes 50–51 and corresponding text. Second, the “carve-out” in OP 1 of resolution 2664 (2022) arguably applies in relation to all *other* salient situations — that is, to all situations: (i) that concern the asset freezes under the resolution 1988 (2011) sanctions regime, (ii) that are not covered by the “carve-out” in OP 1 of resolution 2615, and (iii) that may implicate facilitative conduct necessary for fulfillment activities by a specified actor or an appropriate other. It may be noted that this view reflects an updated understanding on the part of two of the three authors of this note of the scope(s) of application of those “carve-outs,” particularly in respect of asset freezes under the resolution 1988 (2011) sanctions regime. *See* Lewis & Modirzadeh, *supra* note 1.

<sup>86</sup> UNSCR 2664 (2022), OP 4.

employed by the Security Council was superfluous.<sup>87</sup> Such an approach would require the interpreting State to give a meaning to the terminology concerning “the provision of goods and services” that is not redundant to the meaning given to the terminology concerning “the provision, processing or payment of funds, other financial assets, or economic resources”. From our perspective, a State may make the following interpretations in line with such an approach.

First, in the context of OP 1 of resolution 2664 (2022), “the provision, processing or payment of funds, other financial assets, or economic resources” may be interpreted to mean the following:

Any action related to the provision, processing or payment of funds, other financial assets, or economic resources necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs by a specified actor or an appropriate other.<sup>88</sup>

For example, such actions may include the payment of funds by an individual or entity, such as a private financial institution, to a specified actor or an appropriate other, provided that that payment is necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs by that specified actor or that appropriate other.

To avoid reading the terms in resolution 2664 (2022) redundantly, the terminology concerning “the provision of goods and services” may be given a meaning that encompasses actions other than those falling within “the provision, processing or payment of funds, other financial assets, or economic resources”. In other words, by deciding to include within the scope of permitted conduct both “the provision, processing or payment of funds, other financial assets, or economic resources” *and* “the provision of goods and services”, the Council arguably adopted a wide approach in order to provide, as stated in a preambular paragraph of resolution 2664 (2022), “clarity to ensure the continuation of humanitarian activities in the future.”<sup>89</sup>

In line with such an approach, the term “the provision of goods and services”

---

<sup>87</sup> Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), *supra* note 57, at ¶ 113.

<sup>88</sup> On considerations for States in relation to the meaning and import of the terminology concerning “the timely delivery of humanitarian assistance” and “support [to] other activities that support basic human needs”, *see below* Section 4.1.3 (iii): Fulfillment Activities That Fall Under the “Carve-out.”

<sup>89</sup> UNSCR 2664 (2022), preamble.

may be interpreted to mean the following:

*With respect to the provision of goods:* All actions related to the supply of tangible or movable property, such as articles of trade or items of merchandise, or other things that have value, whether tangible or not<sup>90</sup> — other than such action as falls under “the provision, processing or payment of funds, other financial assets, or economic resources” — necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs by a specified actor or an appropriate other.

For example, such actions may include the provision of medical supplies, fuel, or computer hardware by a foreign-registered private company to a specified actor or an appropriate other, provided that such in-kind provision is necessary to ensure the timely delivery of humanitarian assistance or to support other activities by that specified actor or that appropriate other.

*With respect to the provision of services:* The performance of some useful act or series of acts — other than such action as falls under “the provision, processing or payment of funds, other financial assets, or economic resources” — necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs by a specified actor or an appropriate other.<sup>91</sup>

For example, such actions may include the provision of legal services by a law firm or medical training by hospital with respect to a specified actor or an appropriate other, provided that those services or that training is necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs by that specified actor or that appropriate other.

In sum, the “carve-out” permits the facilitative conduct when it is necessary for fulfillment activities by a specified actor or an appropriate other. From our perspective, the terminology suggests that, to fall under the “carve-out,” the facilitative conduct must be necessary *either* (i) to ensure the timely delivery of humanitarian assistance by a specified actor or an appropriate other *or* (ii) to support other activities that support basic human needs by a specified actor or an appropriate other. In

---

<sup>90</sup> Derived from GOODS, Black’s Law Dictionary (11th ed. 2019).

<sup>91</sup> Derived from SERVICE, Black’s Law Dictionary (11th ed. 2019). This formulation denotes an intangible commodity in the form of human effort (such as labor, skill, or advice). *Ibid.*

other words, the facilitative conduct does not need to be necessary for both (i) and (ii). Further in this connection, the term “timely” — as a qualifier — applies only with respect to action to ensure the delivery of humanitarian assistance. Thus, to fall under the “carve-out” with respect to action “to support other activities that support basic human needs”, while the facilitative conduct must be “necessary” with respect to such “support”, that “support” need not necessarily be “timely”.

### iii) Fulfillment Activities That Fall Under the “Carve-out”

Aside from stating that “humanitarian and basic human needs differ depending on [...] context,”<sup>92</sup> in resolution 2664 (2022), the Security Council did not define the terms “the timely delivery of humanitarian assistance” and “support other activities that support basic human needs”. Notably, nothing in the text of this portion of resolution 2664 (2022) requires that the scope and content of those terms be grounded in any specific rules, principles, or provisions of international law. Nevertheless, at least from our perspective, relevant international-law instruments and rules, including from the fields of international human rights law (IHRL) and international humanitarian law (IHL), may be useful for U.N. Member States in understanding and formulating at least aspects of principled and systematic approaches regarding the content and scope of those terms.

With respect to legally grounded approaches, the term “basic human needs” may be interpreted to include, at a minimum, elements necessary for achieving and maintaining “a standard of living adequate for the health and well-being of [one]self and of [one’s] family.”<sup>93</sup> Covered activities may then include, at a minimum, activities necessary and incidental to the provision of items, such as food, water, hygiene supplies, clothing, and shelter, as well as the provision of services, such as those pertaining to medical care, sanitation, and maternity healthcare.<sup>94</sup> Additional actions pertaining to respecting and protecting recognized human rights may also be included within the ambit of the fulfillment activities under the “carve-out,” including, for example, actions related to ensuring access to a safe and healthy

---

<sup>92</sup> UNSCR 2664 (2022), preamble.

<sup>93</sup> See, e.g., G.A. Res. 217 (III) A, Universal Declaration of Human Rights art. 25 (1) (Dec. 10, 1948) [hereinafter UDHR]; International Covenant on Economic, Social and Cultural Rights art. 11 (1), Dec. 16, 1966, 993 U.N.T.S. 3 [hereinafter ICESCR].

<sup>94</sup> See, e.g., *ibid.* See also ICESCR, art. 12 (2) (d); U.N. Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12), ¶ 1, E/C.12/2000/4 (Aug. 11, 2000).

environment,<sup>95</sup> social security in case of lack of livelihood,<sup>96</sup> and safe and healthy conditions of work.<sup>97</sup> Actions pertaining to the realization of rights that are “essential for realizing other human rights”<sup>98</sup> may be particularly relevant in this connection, for example those in relation to securing access to education,<sup>99</sup> legal representation,<sup>100</sup> and gainful employment.<sup>101</sup> Further, in the wake or midst of conflict or disaster, fulfillment activities may include not only those aimed at ensuring, for affected persons, access to essential items and services such as food, water, clothing, shelter, and healthcare,<sup>102</sup> but also those aimed at remedying other adverse consequences brought about during the conflict or disaster, including but not limited to “unequal access to assistance; discrimination in aid provision; enforced relocation; sexual and gender-based violence; loss of documentation; recruitment of children into fighting forces; unsafe or involuntary return or resettlement; and issues of property restitution.”<sup>103</sup> Particularly in situations qualifying as armed conflicts, fulfillment activities may arguably encompass all types of activities aimed at protecting or assisting individuals who are not, or no longer, participating in hostilities.<sup>104</sup> For instance, all activities associated with the “official business” of an entity engaged in those protection and assistance activities may be included therein.<sup>105</sup> At a

---

<sup>95</sup> See, e.g., G.A. Res. 76/L.75, The human right to a clean, healthy and sustainable environment, ¶ 1 (Jul. 26, 2022). See also *Treasury Implements Historic Humanitarian Sanctions Exceptions*, U.S. DEPT. OF TREASURY, <https://home.treasury.gov/news/press-releases/jy1175> (Dec. 20, 2022) (issuing general licenses to implement resolution 2664 (2022) that permit “certain humanitarian transactions in support of [...] activities, such as [...] environmental protection”).

<sup>96</sup> See, e.g., UDHR, art. 25 (1).

<sup>97</sup> See, e.g., ICESCR, art. 7 (b), (d).

<sup>98</sup> U.N. CESCR, General Comment No. 18: The Right to Work (Art. 6), ¶ 1, E/C.12/GC/18 (Feb. 6, 2006).

<sup>99</sup> See, e.g., ICESCR, art. 13 (1)–(2); U.N. CESCR, General Comment No. 13: The Right to Education (Art. 13), E/C.12/1999/10 (Dec. 8, 1999).

<sup>100</sup> See, e.g., International Covenant on Civil and Political Rights art. 14 (3) (d), Dec. 16, 1966, 999 U.N.T.S. 171; U.N. Human Rights Committee, General Comment No. 32: Article 14: Right to equality before courts and tribunals and to a fair trial, ¶ 34 (Aug. 23, 2007).

<sup>101</sup> See, e.g., ICESCR, art. 6 (1).

<sup>102</sup> See *above* fn 94. See also Treas. Reg. § 536.514 (2022) (“Activities to support humanitarian projects to meet basic human needs, including disaster, drought, or flood relief”).

<sup>103</sup> *Protecting Persons Affected By Natural Disasters: IASC Operational Guidelines on Human Rights and Natural Disasters*, OCHA INTER-AGENCY STANDING COMMITTEE (Jun. 2006), [https://www.brookings.edu/wp-content/uploads/2016/06/11\\_natural\\_disasters.pdf](https://www.brookings.edu/wp-content/uploads/2016/06/11_natural_disasters.pdf). See also *The right to housing in disasters, conflict and post-conflict settings*, U.N. OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, <https://www.ohchr.org/en/special-procedures/sr-housing/right-housing-disasters-conflict-and-post-conflict-settings>.

<sup>104</sup> See, e.g., *What We Do*, ICRC, <https://www.icrc.org/en/what-we-do>.

<sup>105</sup> See, e.g., *ibid*; *Treasury Implements Historic Humanitarian Sanctions Exceptions*, U.S. DEPT. OF TREASURY, <https://home.treasury.gov/news/press-releases/jy1175>. [Footnote continued on next page]

minimum, in situations qualifying as armed conflicts, those terms may be interpreted to include activities permitted and, in certain cases, mandated by IHL. Those activities may pertain to ensuring, for people who are not, or are no longer, actively participating in hostilities and whose needs are unmet, certain essential supplies (such as food, water, medical supplies, shelter, and bedding) and objects necessary for religious worship;<sup>106</sup> allowing the passage of, protecting and facilitating the distribution of, and receiving certain humanitarian consignments;<sup>107</sup> and the provision of medical care for the wounded and sick.<sup>108</sup>

#### iv) Potential Implications of the Term “Are Permitted”

In OP 1 of resolution 2664 (2022), the Security Council “[d]ecided” that the indicated forms of facilitative conduct necessary for fulfillment activities by a specified actor or an appropriate other “are permitted and are not a violation of the asset freezes imposed by th[e] Council or its Sanctions Committees”.<sup>109</sup> An interpretive aspect concerns whether — and, if so, the extent to which — the term “are permitted” represents a standalone obligation broader than the obligation not to consider such conduct a violation of Council-decided asset freezes. How a U.N. Member State interprets this issue may entail significant consequences.

---

TREASURY, (Dec. 20, 2022) <https://home.treasury.gov/news/press-releases/jy1175> (“[G]eneral licenses (GLs) to ease the delivery of humanitarian aid and ensure a baseline of authorizations for the provision of humanitarian support across many sanctions programs [in line with resolution 2664 (2022)] [...] provide authorizations in the following four categories [including the] *official business of certain international organizations and entities*, such as the United Nations or the International Red Cross”) (emphasis supplied).

<sup>106</sup> See, e.g., Geneva Convention relative to the Protection of Civilian Persons in Time of War art. 23 (¶ 1), Aug. 12, 1949, 75 U.N.T.S. 287 [hereinafter GC-IV]; Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts art. 69 (1), Dec. 12, 1977, 1125 U.N.T.S. 3 [hereinafter AP-I]; Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts art. 18(2), Dec. 12, 1977, 1125 U.N.T.S. 609. See also ICRC, COMMENTARY ON THE THIRD GENEVA CONVENTION: CONVENTION (III) RELATIVE TO THE TREATMENT OF PRISONERS OF WAR ¶ 859 (2020) (“‘Assistance activities’ refers to all activities, services and the delivery of goods carried out primarily in the fields of health, water, habitat (the creation of a sustainable living environment) and economic security (defined by the ICRC as ‘the condition of an individual, household or community that is able to cover its essential needs and unavoidable expenditures in a sustainable manner, according to its cultural standards’), which seek to ensure that persons caught up in an armed conflict can survive and live in dignity.”).

<sup>107</sup> GC-IV, art. 23, 59 (¶ 3); Geneva Convention Relative to the Treatment of Prisoners of War art. 72, Aug. 12, 1949, 75 U.N.T.S. 135; AP-I, art. 70(1)–(4), 81 (1).

<sup>108</sup> See, e.g., GCs I–IV, art. 3; ICRC, *supra* note 106, at ¶ 786.

<sup>109</sup> UNSCR 2664 (2022), OP 1.

In interpreting these provisions, a State may apply a presumption against redundancy to give effect to every clause and word of OP 1 of resolution 2664 (2022) and thereby avoid a construction that could imply that a portion of the terminology employed by the Security Council was superfluous. Such an approach would require the interpreting State to give a meaning to the terminology concerning the term “are permitted” that is not redundant to the meaning given to the terminology concerning “are not a violation of the asset freezes imposed by th[e] Council or its Sanctions Committees”. Under one such approach, a State may formulate a view that the term “are permitted” denotes an obligation “not to impede” the indicated forms of facilitative conduct necessary for fulfillment activities by a specified actor or an appropriate other. A State might interpret such a legal requirement “not to impede” as entailing both positive and negative obligations.<sup>110</sup>

v) Potential Implications of the “Without Prejudice” Clause

OP 1 of resolution 2664 (2022) contains a “without prejudice” clause. From our perspective, that clause plausibly gives rise to two obligations on U.N. Member States. First, to the extent that an individual or entity designated under a Council sanctions regime is involved in action related to facilitative conduct necessary for fulfillment activities by a specified actor or an appropriate other, U.N. Member States are arguably obliged to unfreeze the funds and other financial assets or economic resources of that designee to the extent that such an unfreezing is required for that action to be undertaken. Second, U.N. Member States are arguably obliged not to consider that action a violation of a Council-imposed asset freeze.

## ***4.2. Personal Scope***

### *4.2.1. Terminology of Resolution 2664 (2022)*

In OP 1 of resolution 2664 (2022), the Security Council:

*“Decide[d] that without prejudice to the obligations imposed on Member States to freeze the funds and other financial assets or economic resources of individuals, groups, undertakings, and entities*

---

<sup>110</sup> As regards the potential that this interpretation of OP 1 may reflect a conflict between OP 1 and any other resolution previously adopted by the Security Council, *see below* Section 5.3 (ii): Addressing Potential Conflicts With Previous Security Council Resolutions.

designated by this Council or its Sanctions Committees, the provision, processing or payment of funds, other financial assets, or economic resources, or the provision of goods and services necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs by the United Nations, including its Programmes, Funds and Other Entities and Bodies, as well as its Specialized Agencies and Related Organizations, international organizations, humanitarian organizations having observer status with the United Nations General Assembly and members of those humanitarian organizations, or bilaterally or multilaterally funded non-governmental organizations participating in the United Nations Humanitarian Response Plans, Refugee Response Plans, other United Nations appeals, or OCHA-coordinated humanitarian ‘clusters,’ or their employees, grantees, subsidiaries, or implementing partners while and to the extent that they are acting in those capacities, or by appropriate others as added by any individual Committees established by this Council within and with respect to their respective mandates, are permitted and are not a violation of the asset freezes imposed by this Council or its Sanctions Committees”.<sup>111</sup>

#### *4.2.2. Interpretive Aspects*

From our perspective, the following aspects may be of relevance for a U.N. Member State in formulating an interpretation of the personal scope of the “carve-out” in resolution 2664 (2022):

1. The addressees of the “are permitted and are not a violation of the asset freezes imposed by th[e Security] Council or its Sanctions Committees” provision; and
2. The actors who may rely on the “carve-out” because they are involved in an aspect of the facilitative conduct or the fulfillment activities.

#### *4.2.3. Initial Considerations for U.N. Member States*

In interpreting the aforementioned clauses in connection with the personal scope of the “carve-out,” a U.N. Member State may bear in mind the following elements.

---

<sup>111</sup> UNSCR 2664 (2022), OP 1.

i) Principal Addressees of the “Carve-out”

The principal addressees of the “carve-out” are U.N. Member States. Pursuant to and in accordance with their obligations under the U.N. Charter, those States are obliged to accept and carry out the Council’s decision in OP 1 of resolution 2664 (2022), including to permit the indicated forms of facilitative conduct necessary for fulfillment activities by a specified actor or an appropriate other and to not consider that conduct or those activities a violation of the asset freezes imposed by the Security Council or its Sanctions Committees.<sup>112</sup>

ii) Actors Who May Rely On the “Carve-out”

As noted above, the material scope of the “carve-out” encompasses facilitative conduct — in particular, the provision, processing or payment of funds, other financial assets, or economic resources, or the provision of goods and services — necessary for fulfillment activities by specified actors or appropriate others.<sup>113</sup> From our perspective, the following two sets of actors may rely on the “carve-out.”

One of those sets of actors encompasses the individuals and/or entities whose actions relate to *the provision, processing or payment of funds, other financial assets, or economic resources, or the provision of goods and services* necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs by the specified actors or appropriate others. This set of actors is not expressly delimited in OP 1 of resolution 2664 (2022). From our perspective, any individual or entity involved in actions related to such facilitative conduct<sup>114</sup> may rely on the “carve-out,” including individuals (such as an unaffiliated donor to a relevant humanitarian-services body) and entities (such as a State, an international organization, a financial institution, a commercial entity, or a non-governmental organization (NGO)).

The other set of actors who may rely on the “carve-out” comprise the actors referred to by the Security Council as those *involved in ensuring the timely delivery of humanitarian assistance or in supporting other activities that support basic human*

---

<sup>112</sup> See above Section 3.2: Resolution 2664 (2022).

<sup>113</sup> See above Section 4.1: Material Scope.

<sup>114</sup> That is, any individual or entity involved in *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 specified actors or appropriate others.

*needs*. The Security Council expressly referred to those actors in the following terms:

- “[T]he United Nations, including its Programmes, Funds and Other Entities and Bodies, as well as its Specialized Agencies and Related Organizations, international organizations, humanitarian organizations having observer status with the United Nations General Assembly and members of those humanitarian organizations, or bilaterally or multilaterally funded non-governmental organizations participating in the United Nations Humanitarian Response Plans, Refugee Response Plans, other United Nations appeals, or OCHA-coordinated humanitarian ‘clusters,’ or their employees, grantees, subsidiaries, or implementing partners while and to the extent that they are acting in those capacities”; or
- “[A]ppropriate others as added by any individual Committees established by th[e Security] Council within and with respect to their respective mandates”.

From our perspective, then, any specified actor or appropriate other may rely on the “carve-out” to the extent that facilitative conduct is necessary with respect to the carrying out of timely delivery of humanitarian assistance or other activities that support basic human needs by that specified actor or appropriate other.

### iii) Appropriate Others Added by Sanctions Committees

According to resolution 2664 (2022), among the actors who may rely on the “carve-out” are “appropriate others as added by any individual Committees established by th[e Security] Council within and with respect to their respective mandates”.<sup>115</sup> The Security Council did not prescribe expressly a specific timeline or inclusion criteria with respect to the preparation of lists of appropriate others.<sup>116</sup>

## 4.3. Temporal Scope

### 4.3.1. Terminology of Resolution 2664 (2022)

In OP 1 of resolution 2664 (2022), the Security Council:

---

<sup>115</sup> UNSCR 2664 (2022), OP 1.

<sup>116</sup> See below Section 6.1: Authority of Security Council-established Sanctions Committees to Add Appropriate Others.

“*Decide[d]* 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 [specified actors or appropriate others], are permitted and are not a violation of the asset freezes imposed by this Council or its Sanctions Committees”.<sup>117</sup>

In OP 4 of resolution 2664 (2022), the Security Council:

“*Emphasize[d]* that where paragraph 1 of [...] resolution [2664 (2022)] conflicts with its previous resolutions, paragraph 1 shall supersede such previous resolutions to the extent of such conflict, clarify[d] in that regard that paragraph 1 shall supersede and replace paragraph 37 of its resolution 2607 (2021) and paragraph 10 of its resolution 2653 (2022), but that paragraph 1 of its resolution 2615 (2021) shall remain in effect, and decide[d] that paragraph 1 of [...] resolution [2664 (2022)] 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”.<sup>118</sup>

In OP 2 of resolution 2664 (2022), the Security Council:

“*Decide[d]* that the provisions introduced by paragraph 1 above will apply to the 1267/1989/2253 ISIL (Da’esh) and Al-Qaida sanctions regime for a period of two years from the date of adoption of [...] resolution [2664 (2022)], and expresse[d] its intent to make a decision on the extension of its application to that regime prior to the date on which its application to that regime would otherwise expire”.<sup>119</sup>

#### 4.3.2. *Interpretive Aspects*

From our perspective, the following aspects may be of relevance for a U.N. Member State in formulating an interpretation of the temporal scope of those portions of resolution 2664 (2022):

1. The date of commencement of the application of the “carve-out”;
2. The relevant date(s) concerning the application of the “carve-out” with

---

<sup>117</sup> UNSCR 2664 (2022), OP 1.

<sup>118</sup> *Ibid.*, at OP 4.

<sup>119</sup> *Ibid.*, at OP 2.

- respect to future asset freezes imposed or renewed by the Security Council;
3. The date of the supersedence and replacement of OP 37 of resolution 2607 (2021) and OP 10 of resolution 2653 (2022) by OP 1 of resolution 2664 (2022); and
  4. The date(s) and time period(s) concerning the application of the “carve-out” to the 1267/1989/2253 ISIL (Da’esh) and Al-Qaida sanctions regime.

#### 4.3.3. *Initial Considerations for U.N. Member States*

In interpreting the aforementioned clauses in connection with the temporal scope of the “carve-out,” a U.N. Member State may bear in mind the following elements.

- i) Period of Application of the “Carve-Out” In General to Sanctions Regimes Entailing Asset Freezes

From our understanding, in line with previous Security Council practice, it appears that the date of adoption of resolution 2664 (2022) — December 9, 2022 — is the date as from which the “carve-out” applies to sanctions regimes that entail asset freezes.<sup>120</sup>

Temporally, the “carve-out” may be characterized as “standing” except with respect to the 1267/1989/2253 ISIL (Da’esh) and Al-Qaida sanctions regime.<sup>121</sup> That is, the “carve-out” does not — with the exception of asset freezes under the 1267/1989/2253 ISIL (Da’esh) and Al-Qaida sanctions regime — have a Council-mandated expiry date and will remain in effect absent a subsequent Security Council decision to the contrary.<sup>122</sup> In particular, according to OP 4 of resolution 2664 (2022), the “carve-out” “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.”<sup>123</sup> Consistent with a literal reading of the terminology, with respect to all asset freezes imposed or renewed by the Security Council subsequent to the adoption of resolution 2664 (2022) on December 9, 2022, in the absence of an explicit decision by the Security Council to the contrary, facilitative conduct necessary for fulfillment activities by specified actors or appropriate others — as well as such fulfillment activities — will be permitted and will not be a violation of the

---

<sup>120</sup> *Ibid.*, at OP 1.

<sup>121</sup> *Ibid.*, at OP 1, 2.

<sup>122</sup> *See ibid.*, at OP 1.

<sup>123</sup> *Ibid.*, at OP 4.

asset freezes imposed by the Security Council or its Sanctions Committees.<sup>124</sup>

Future asset freezes to which the “carve-out” will apply may be adopted under fresh sanctions regimes (administered, for example, by newly established Sanctions Committees) or under existing sanctions regimes (for example, new asset freezes decided by the Council or a Sanctions Committee in respect of one of the fifteen sanctions regimes currently maintained by the Security Council). From our perspective, the “carve-out” will be automatically subsumed within and applicable with respect to all such future asset freezes.<sup>125</sup> In other words, facilitative conduct necessary for fulfillment activities by specified actors or appropriate others — as well as such fulfillment activities — will be permitted and will not be a violation of the asset freezes imposed by the Security Council or its Sanctions Committees even in the absence of express language referencing resolution 2664 (2022) in future resolutions, in Committee decisions, or in other relevant documents adopted in relation to those asset freezes.

ii) Period of Application of the “Carve-Out” to Asset Freezes  
Under the ISIL (Da’esh) and Al-Qaida Sanctions Regime

With respect to the 1267/1989/2253 ISIL (Da’esh) and Al-Qaida sanctions regime, the “carve-out” is applicable for an initial period of two years from the date of adoption of the resolution, that is, through December 8, 2024.<sup>126</sup> The Council has expressed its intent to decide, prior to that expiry date, whether to further extend the application of the “carve-out” to the 1267/1989/2253 ISIL (Da’esh) and Al-Qaida sanctions regime.<sup>127</sup> The Council did not expressly state whether that extension would apply in perpetuity, or for a subsequent two-year period, or for a different time period altogether. With over 300 designated individuals and entities, the 1267/1989/2253 ISIL (Da’esh) and Al-Qaida sanctions regime is currently the largest sanctions regime maintained by the Council.<sup>128</sup> As documented by scholarly and policy analyses, asset freezes under this regime have posed impediments to the

---

<sup>124</sup> Ibid., at OP 1, 4. *See also* *ibid.*, at OP 2 (“Decides that the provisions introduced by paragraph 1 above will apply to the 1267/1989/2253 ISIL (Da’esh) and Al-Qaida sanctions regime for a period of two years from the date of adoption of this resolution, and expresses its intent to make a decision on the extension of its application to that regime prior to the date on which its application to that regime would otherwise expire”).

<sup>125</sup> Ibid., at OP 4.

<sup>126</sup> Ibid., at OP 2.

<sup>127</sup> Ibid.

<sup>128</sup> *See* U.N. DPPA, *supra* note 15, at 5.

delivery of humanitarian assistance and the provision of activities in support of human needs.<sup>129</sup> States may consider the desirability of extending the “carve-out” to the 1267/1989/2253 ISIL (Da’esh) and Al-Qaida sanctions regime and the time period of such a potential extension.

iii) Relevant Dates for Supersession of Certain  
Decisions by OP 1 of Resolution 2664 (2022)

According to a literal reading of the terminology employed, the date of adoption of resolution 2664 (2022) — December 9, 2022 — is the date as from which OP 1 of resolution 2664 (2022) supersedes and replaces OP 37 of resolution 2607 (2021) and OP 10 of resolution 2653 (2022).<sup>130</sup>

#### **4.4. Geographical Scope**

##### *4.4.1. Terminology of Resolution 2664 (2022)*

In OP 1 of resolution 2664 (2022), the Security Council:

“*Decide[d]* 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 [specified actors or appropriate others], are permitted and are not a violation of the asset freezes imposed by this Council or its Sanctions Committees”.<sup>131</sup>

---

<sup>129</sup> See, e.g., Agathe Sarfati, *An Unfinished Agenda: Carving Out Space for Humanitarian Action in the UN Security Council’s Counterterrorism Resolutions and Related Sanctions*, INT’L PEACE INST. 4–5 (Mar. 2022), <https://www.ipinst.org/wp-content/uploads/2022/03/Humanitarian-Action-in-UN-Sanctions-Regimes-PDF.pdf> (Asset freezes under the ISIL (Da’esh) and Al-Qaida sanctions regime “directly impact[] humanitarian activities, as [they] can deter financial intermediaries and donors from making funds available to humanitarian actors in territories controlled by listed entities or can lead humanitarian organizations themselves to restrict their operations for fear of violating sanctions.”); Gillard, *supra* note 21, at 10.

<sup>130</sup> UNSCR 2664 (2022), OP 4. See *above* Section 2.3: Conceptually Similar Provisions in Previous Security Council Practice.

<sup>131</sup> UNSCR 2664 (2022), OP 1.

#### *4.4.2. Interpretive Aspects*

From our perspective, the geographical areas with respect to which the “carve-out” is applicable may be of relevance for a U.N. Member State in formulating an interpretation of the geographical scope of that portion of resolution 2664 (2022).

#### *4.4.3. Initial Considerations for U.N. Member States*

In interpreting the aforementioned provisions concerning the geographical scope of the “carve-out,” a U.N. Member State may bear in mind that facilitative conduct necessary for fulfillment activities by specified actors or appropriate others is permitted and is not a violation of the asset freezes imposed by the Security Council or its Sanctions Committees in relation, at least from our perspective, to all geographical areas in respect of which a U.N. Member State purports to exercise jurisdiction.<sup>132</sup>

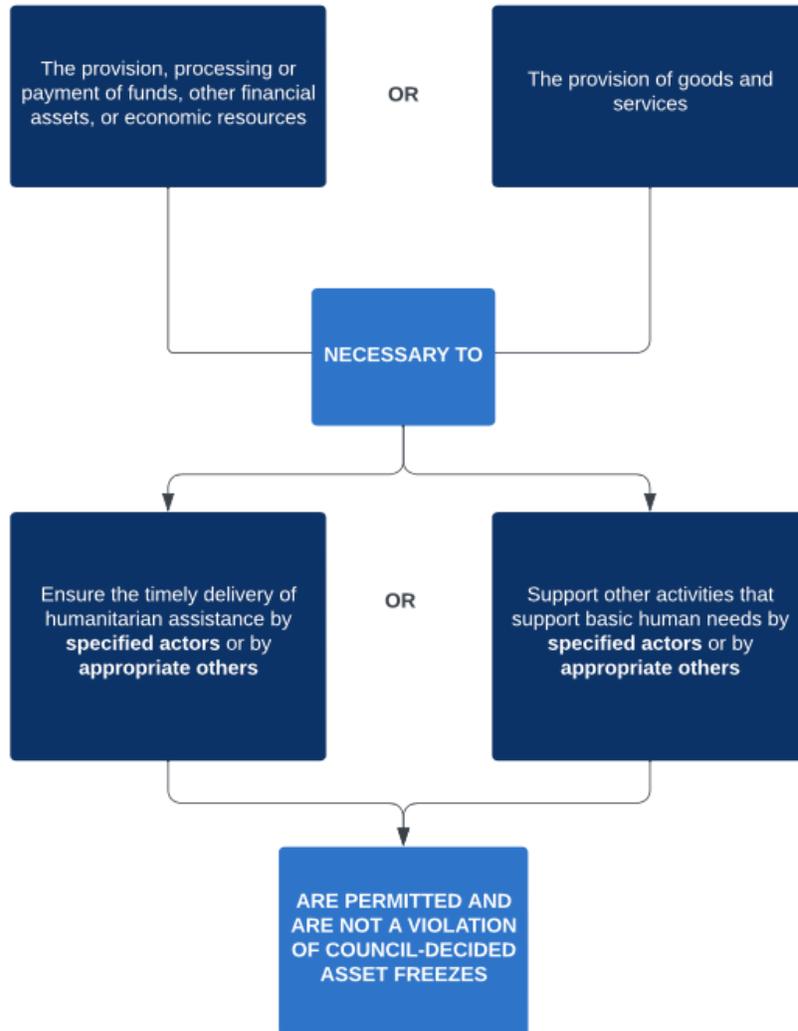
#### ***4.5. Summary of the Scope of the “Carve-out”***

In sum, with respect to the scope of the “carve-out,” U.N. Member States are obliged to permit the following and not consider it a violation of a Council asset freeze: facilitative conduct (irrespective of who is involved in that conduct and irrespective of where that conduct is undertaken) necessary for fulfillment activities (irrespective of where such activities are undertaken) by a specified actor or an appropriate other. Absent a Security Council decision to the contrary, that obligation applies on a standing basis with respect to asset freezes under all current and future Security Council sanctions regimes with one exception. The exception is that the obligation applies with respect to the 1267/1989/2253 ISIL (Daesh) and Al-Qaida sanctions regime through December 8, 2024 (pending a possible extension by the Council).

---

<sup>132</sup> See above fn 85.

Figure 1: Facilitative conduct necessary for fulfillment activities by specified actors or appropriate others “carved out” under OP 1 of resolution 2664 (2022):



## **5. CERTAIN BENEFITS- OR DIVERSION-RELATED ISSUES AS MAY PERTAIN TO DESIGNATED INDIVIDUALS OR ENTITIES CONCERNING RESOLUTION 2664 (2022) AND OTHER POTENTIALLY RELEVANT AREAS OF SECURITY COUNCIL ACTION**

In this section, we briefly discuss certain normative relations between humanitarian values and security rationales entailed in resolution 2664 (2022). We do so by examining terminology in resolution 2664 (2022) concerning certain benefits- or diversion-related issues as may pertain to designated individuals or entities. We also raise certain considerations with respect to identifying and addressing potential conflicts that may arise with respect to previous Security Council resolutions.

### ***5.1. Terminology of Resolution 2664 (2022)***

In OP 1 of resolution 2664 (2022), the Security Council:

*“Decide[d] that without prejudice to the obligations imposed on Member States to freeze the funds and other financial assets or economic resources of individuals, groups, undertakings, and entities designated by this Council or its Sanctions Committees, the provision, processing or payment of funds, other financial assets, or economic resources, or the provision of goods and services necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs by [specified actors or appropriate others], are permitted and are not a violation of the asset freezes imposed by this Council or its Sanctions Committees”.*<sup>133</sup>

In OP 3 of resolution 2664 (2022), the Security Council:

*“Request[ed] that providers relying on paragraph 1 use reasonable efforts to minimize the accrual of any benefits prohibited by sanctions, whether as a result of direct or indirect provision or diversion, to individuals or entities designated by th[e Security] Council or any of its Committees, including by strengthening risk management and due diligence strategies and processes”.*<sup>134</sup>

---

<sup>133</sup> UNSCR 2664 (2022), OP 1.

<sup>134</sup> *Ibid.*, at OP 3.

In OP 4 of resolution 2664 (2022), the Security Council:

*“Emphasize[d] that where paragraph 1 of [...] resolution [2664 (2022)] conflicts with its previous resolutions, paragraph 1 shall supersede such previous resolutions to the extent of such conflict”*.<sup>135</sup>

In OP 5 of resolution 2664 (2022), the Security Council:

*“Request[ed] the United Nations Emergency Relief Coordinator (ERC) to brief or arrange a briefing for each relevant Committee within its mandate 11 months from the date of adoption of [...] resolution [2664 (2022)] and every 12 months afterwards on the delivery of humanitarian assistance and other activities that support basic human needs provided consistent with [...] resolution [2664 (2022)], including on 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, and any obstacles to the provision of such assistance or to the implementation of [...] resolution [2664 (2022)]”*.<sup>136</sup>

In OP 6 of resolution 2664 (2022), the Security Council:

*“[F]urther direct[ed] [the Committees established by the Security Council with respect to sanctions implementation], assisted by their respective panels of experts, to monitor the implementation of paragraph 1 of [...] resolution [2664 (2022)], including any risk of diversion”*.<sup>137</sup>

## **5.2. Interpretive Aspects**

From our perspective, the following aspects may be of relevance for a U.N. Member State in formulating an interpretation of the portions of resolution 2664 (2022) concerning benefits- or diversion-related issues as may pertain to designated individuals or entities:

---

<sup>135</sup> Ibid., at OP 4.

<sup>136</sup> Ibid., at OP 5.

<sup>137</sup> Ibid., at OP 6.

1. The content and addressees of the terminology concerning the request to providers relying on OP 1 of resolution 2664 (2022) to “use reasonable efforts to minimize the accrual of any benefits prohibited by sanctions, whether as a result of direct or indirect provision or diversion, to individuals or entities designated by th[e Security] Council or any of its Committees, including by strengthening risk management and due diligence strategies and processes”;
2. The content of the notion entailed in the terminology concerning “the accrual of any benefits prohibited by sanctions, whether as a result of direct or indirect provision or diversion, to individuals or entities designated by” the Security Council or any of its Committees;
3. The content of the notion entailed in the terminology concerning “the provision, processing or payment of funds, other financial assets or economic resources to, or for the benefit of, designated individuals or entities”;
4. The content of the notion entailed in the terminology concerning “any diversion of funds or economic resources” in relation to designated individuals or entities; and
5. The content of the notion entailed in the terminology concerning “any risk of diversion”.

### ***5.3. Initial Considerations for U.N. Member States***

In interpreting the content and the addressees of the notions entailed in the terminology of resolution 2664 (2022) concerning benefits- or diversion-related issues as may pertain to designated individuals or entities, a U.N. Member State may bear in mind the following elements.

- i) Certain Normative Relations Between Humanitarian Values and Security Rationales in Resolution 2664 (2022) As Relates to Benefits- or Diversion-Related Issues

In “[*r*equest[ing]]” that providers relying on the “carve-out” “use reasonable efforts to minimize the accrual of any benefits prohibited by sanctions” to those designated under relevant sanctions regimes,<sup>138</sup> the Council apparently accepted, at least implicitly, the possibility of accrual of certain benefits to designated entities or individuals, “whether as a result of direct or indirect provision or diversion”.<sup>139</sup> The

---

<sup>138</sup> Ibid., at OP 3.

<sup>139</sup> Ibid.

Council did not, for example, request providers to “prevent” the accrual of any benefits to designated entities or individuals. Nor did it request providers to take “all possible measures” to minimize the accrual of such benefits. The Council also did not “*decide[]*” that Member States are required to ensure that providers take the aforementioned steps. Rather, the Council framed this undertaking as a “*request[]*” of providers relying on the “carve-out.”<sup>140</sup> Similarly, in “[*r*]equest[ing]” the ERC to brief relevant Committees on “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,”<sup>141</sup> the Council apparently accepted, at least implicitly, the possibility of accrual of certain benefits to designated entities or individuals. Along the same lines, in “[*r*]equest[ing]” the ERC to brief relevant Committees on, among other subjects, “any diversion of funds or economic resources” in connection with the implementation of the “carve-out”<sup>142</sup> and in “*direct[ing]*” those Committees to monitor the implementation of the “carve-out,” “including any risk of diversion,”<sup>143</sup> the Council also apparently accepted, at least implicitly, the possibility of diversion of funds or economic resources due to “the provision, processing or payment of funds, other financial assets or economic resources” permitted by virtue of the “carve-out.”<sup>144</sup>

In adopting these portions of resolution 2664 (2022), the Security Council apparently recognized that the facilitative conduct permitted by the “carve-out” when necessary for fulfillment activities by specified actors or appropriate others — and, perhaps, those activities themselves — carry a risk of the accrual of benefits to or diversion to designated individuals or entities. From our perspective, in doing so the Security Council replaced a “zero-tolerance” approach<sup>145</sup> to the accrual of benefits or diversion of assets or resources to designated individuals or entities with the normative position that such risks are instead to be addressed through a reasonable-efforts-based approach grounded in risk-mitigation and due diligence.<sup>146</sup>

---

<sup>140</sup> See also Peters, *supra* note 55, at 792–3.

<sup>141</sup> UNSCR 2664 (2022), OP 5.

<sup>142</sup> *Ibid.*

<sup>143</sup> *Ibid.*, at OP 6.

<sup>144</sup> *Ibid.*, at OP 5.

<sup>145</sup> See Dustin A. Lewis et al., *Advancing Humanitarian Commitments In Connection With Countering Terrorism*, HARV. L. SCH. PROGRAM ON INT’L L. & ARMED CONFLICT 48 (Dec. 2021), <http://blogs.harvard.edu/pilac/files/2021/12/Advancing-Humanitarian-Commitments.pdf>.

<sup>146</sup> See Michael Wood, *The Interpretation of Security Council Resolutions, Revisited*, 20 MAX PLANCK YRBK U.N. L. ONLINE 1, 4 (2017) (“The aim of interpretation should be [...] to give effect to the intention of the Council as expressed by the words used by the Council in the light of the surrounding circumstances.”).

ii) Addressing Potential Conflicts With Previous Security Council Resolutions

In addition to its implications with respect to asset freezes imposed by the Security Council, the normative position set out by the Council concerning the relations between humanitarian values and security rationales might entail implications with respect to certain other Security Council resolutions. That reasoning rests on the fact that, in adopting resolution 2664 (2022), the Security Council emphasized that where OP 1 of that resolution conflicts with its previous resolutions, OP 1 of resolution 2664 (2022) supersedes such previous resolutions to the extent of such conflict.<sup>147</sup> Notably, the Security Council did not limit the application of a conflict with respect to resolutions pertaining to sanctions regimes.<sup>148</sup> At least in theory, “previous [conflicting] resolutions” may include all resolutions of the Council that entail obligations in conflict with the obligation to “permit[.]” facilitative conduct necessary for fulfillment activities by specified actors and appropriate others. It may therefore be argued that the normative position set out in OP 1 supersedes any previous resolutions to the extent that those previous resolutions conflict with that normative position.

In that connection, a U.N. Member State is arguably required to form a view on whether other Council-decided measures — that is, measures other than asset freezes — may be interpreted as conflicting with the Council’s position set out in OP 1 of resolution 2664 (2022) on the normative relations between humanitarian values and security rationales. It may be recalled, for example, that in the resolution 1373 (2001) line of counterterrorism-related resolutions, the Security Council decided that all States shall:

“Prohibit their nationals or any persons and entities within their territories from *making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit* of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and

---

<sup>147</sup> UNSCR 2664 (2022), OP 4.

<sup>148</sup> In OP 4 of UNSCR 2664 (2022), the Security Council emphasized “that where paragraph 1 of this resolution conflicts *with its previous resolutions*, paragraph 1 shall supersede such previous resolutions to the extent of such conflict”. *Ibid.* (emphasis supplied). At least a literal reading of the formulation would apparently encompass *all* previous resolutions of the Council as may relate to such a potential conflict, not only those resolutions that pertain to relevant sanctions regimes.

entities acting on behalf of or at the direction of such persons”.<sup>149</sup>

If the reasoning regarding a normative conflict as set out above is adopted, U.N. Member States arguably need to evaluate what aspects of their implementation of resolution 1373 (2001) et seq. — and any other potentially relevant Security Council resolutions — may be implicated by resolution 2664 (2022). Where a conflict exists between its interpretations of and corresponding measures implementing previous Security Council resolutions and its interpretations of and corresponding measures implementing resolution 2664 (2022), a State needs to take action to bring the former into alignment with the latter. That is because OP 1 of resolution 2664 (2022) supersedes such resolutions to the extent that those previous resolutions represent a conflict with it.<sup>150</sup> Further, a State may need to convey its approaches regarding these aspects to relevant U.N. entities, which may include the Council’s Counter-Terrorism Committee and the Counter-Terrorism Committee Executive Directorate. The State may also need to share its views with other entities whose mandates entail aspects related to the carrying out of previous Security Council resolutions that may pose such a conflict with resolution 2664 (2022), for example the Financial Action Task Force and its regional bodies.<sup>151</sup>

## **6. IMPLEMENTATION OF CERTAIN ASPECTS OF RESOLUTION 2664 (2022) AS RELATES TO SECURITY COUNCIL SANCTIONS COMMITTEES**

In this section, we evaluate four elements related to implementation of certain aspects of resolution 2664 (2022) as relates to Sanctions Committees: (i) the authority of Sanctions Committees to add appropriate others; (ii) directions to Sanctions Committees to assist Member States in properly understanding and fully implementing the “carve-out”; (iii) the ability of Sanctions Committees to engage with Member States to ensure the effective implementation of the Council’s decisions; and (iv) the role of the 1267/1989/2253 Sanctions Committee in monitoring implementation of the “carve-out” and cooperation with that Committee and its Monitoring Team.

---

<sup>149</sup> UNSCR 1373 (2001), OP 1 (d) (emphasis supplied); UNSCR 2462 (2019), OP 3.

<sup>150</sup> UNSCR 2664 (2022), OP 4.

<sup>151</sup> See, e.g., Financial Action Task Force (FATF), *The FATF Recommendations*, ¶ 6 (2022).

## ***6.1. Authority of Security Council-established Sanctions Committees to Add Appropriate Others***

### *6.1.1. Terminology of Resolution 2664 (2022)*

In OP 1 of resolution 2664 (2022), the Security Council:

“*Decide[d]* 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 [specified actors], or by appropriate others as added by any individual Committees established by this Council within and with respect to their respective mandates, are permitted and are not a violation of the asset freezes imposed by this Council or its Sanctions Committees”.<sup>152</sup>

### *6.1.2. Interpretive Aspects*

From our perspective, the following aspects may be of relevance for a U.N. Member State in formulating an interpretation of the portion of resolution 2664 (2022) concerning the authority of Security Council-established Sanctions Committees to add appropriate others “within and with respect to their respective mandates”:

1. The character of that authority;
2. The content of the notion entailed in the terminology concerning “appropriate others as added by any individual Committees established by th[e] Council” and any criteria pertaining to the construction and application of that notion; and
3. The content of the terminology concerning any individual Security Council-established Committees adding appropriate others “within and with respect to their respective mandates”.

### *6.1.3. Initial Considerations for U.N. Member States*

In interpreting the aforementioned provisions concerning the Security Council Committees’ authority to add appropriate others, a U.N. Member State may bear in mind the following elements.

---

<sup>152</sup> UNSCR 2664 (2022), OP 1.

i) The Character of the Authority to Add Appropriate Others

As noted above, the material scope of the “carve-out” encompasses certain forms of facilitative conduct necessary for fulfillment activities by specified actors or appropriate others. According to the Security Council, those specified actors and appropriate others comprise:

- *With respect to specified actors*: “[T]he United Nations, including its Programmes, Funds and Other Entities and Bodies, as well as its Specialized Agencies and Related Organizations, international organizations, humanitarian organizations having observer status with the United Nations General Assembly and members of those humanitarian organizations, or bilaterally or multilaterally funded non-governmental organizations participating in the United Nations Humanitarian Response Plans, Refugee Response Plans, other United Nations appeals, or OCHA-coordinated humanitarian ‘clusters,’ or their employees, grantees, subsidiaries, or implementing partners while and to the extent that they are acting in those capacities”;
- *With respect to appropriate others*: “[A]ppropriate others as added by any individual Committees established by th[e Security] Council within and with respect to their respective mandates”.

In setting out the authority to potentially add such appropriate others, the Security Council did not prescribe a specific timeline for the preparation of such lists. Nor did the Council “*direct*” any Committee to add individuals or entities to such a list. It appears, then, that Committees retain discretion in terms of whether to prepare such lists.

ii) The Content of Lists of Appropriate Others

The Security Council did not expressly prescribe any inclusion criteria for the preparation of lists of appropriate others. It appears, then, that Committees retain discretion, within and with respect to their respective mandates, in terms of whether to add individuals and entities to such lists. From our perspective, at least one element that a Committee may — and, arguably, ought to — consider in exercising such discretion is whether adding an individual or entity to an appropriate others list would help “to ensure the continuation of humanitarian activities” in contexts where asset freezes administered by that Committee are relevant.<sup>153</sup>

---

<sup>153</sup> *Ibid.*, at preamble.

**6.2. Directions to Security Council-established  
Sanctions Committees to Assist Member States in  
Understanding and Implementing the “Carve-out,”  
As Well to Monitor the Implementation of the “Carve-out”**

*6.2.1. Terminology of Resolution 2664 (2022)*

In OP 6 of resolution 2664 (2022), the Security Council:

*“Direct[ed] the Committees established by this Council with respect to sanctions implementation to assist Member States in properly understanding and fully implementing paragraph 1 of [...] resolution [2664 (2022)] by issuing Implementation Assistance Notices to provide further guidance to give full effect to paragraph 1 that takes into account the unique context of the sanctions falling under their respective mandates, and further direct[ed] these Committees, assisted by their respective panels of experts, to monitor the implementation of paragraph 1 of [...] resolution [2664 (2022)], including any risk of diversion”.*<sup>154</sup>

*6.2.2. Interpretive Aspects*

From our perspective, the following aspects may be of relevance for a U.N. Member State in formulating an interpretation of the portion of resolution 2664 (2022) concerning directions to Sanctions Committees to assist Member States in properly understanding and fully implementing, as well as to monitor the implementation of, the “carve-out”:

1. The content of the notion entailed in the terminology concerning “issuing Implementation Assistance Notices to provide further guidance to give full effect to paragraph 1 that takes into account the unique context of the sanctions falling under their respective mandates”; and
2. The content of the notion entailed in the terminology concerning “to monitor the implementation of paragraph 1 of [...] resolution [2664 (2022)], including any risk of diversion”.

---

<sup>154</sup> Ibid., at OP 6.

### 6.2.3. *Initial Considerations for U.N. Member States*

In interpreting the aforementioned provisions concerning the Security Council's directions to Sanctions Committees to assist States in understanding and implementing the “carve-out,” as well to monitor the implementation of the “carve-out,” a U.N. Member State may bear in mind the following elements.

#### i) The Direction to Sanctions Committees Concerning the Issuance of Implementation Assistance Notices

In resolution 2664 (2022), the Security Council “[d]irect[ed] [Sanctions Committees] to assist Member States in properly understanding and fully implementing paragraph 1 of [resolution 2664 (2022)] by issuing Implementation Assistance Notices to provide further guidance to give full effect to paragraph 1 that takes into account the unique context of the sanctions falling under their respective mandates”.<sup>155</sup> Currently, there are fourteen Sanctions Committees that administer asset freezes with respect to which the “carve-out” applies.<sup>156</sup> (Additional Committees may be established to administer future asset freezes imposed by the Council.<sup>157</sup>) All those Sanctions Committees have been directed to issue IANs. To help States understand aspects of the relevant context, in Annex 3, we include a catalogue of current IANs.<sup>158</sup>

A review of previous IANs issued by Sanctions Committees suggests that a core purpose of an IAN is to apprise States of “the necessary steps to ensure full and effective implementation” of a relevant Security Council decision.<sup>159</sup> With respect to OP 1 of resolution 2664 (2022), a U.N. Member State may need to take different steps in relation to each sanctions regime to “give full effect to” OP 1, given the

---

<sup>155</sup> Ibid.

<sup>156</sup> See *above* Section 4.1.3 (i): Asset Freezes With Respect to Which the “Carve-out” Applies.

<sup>157</sup> See UNSCR 2664 (2022), OP 4.

<sup>158</sup> See Annex 3: Implementation Assistance Notices Previously Issued by Currently Operating Sanctions Committees.

<sup>159</sup> See, e.g., Security Council Committee pursuant to resolution 751 (1992) concerning Somalia, Implementation Assistance Notice No. 2 updated on 31 May 2022, at 2 (“Rationale”) (May 31, 2022), [https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/2022\\_ian2\\_clean\\_6june2022.pdf](https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/2022_ian2_clean_6june2022.pdf) [hereinafter Somalia IAN No. 2]; Security Council Committee pursuant to resolution 751 (1992) Implementation Assistance Notice No. 1: Recommendations on interdiction of charcoal from Somalia by Member States pursuant to Security Council resolutions 2036 (2012), 2060 (2012), 2111 (2013) and 2182 (2014), at 2 (“Implementation measures”) (Feb. 12, 2019), [https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/implementation\\_assistance\\_notice\\_1\\_clean\\_as\\_of\\_12\\_february\\_2019.pdf](https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/implementation_assistance_notice_1_clean_as_of_12_february_2019.pdf) [hereinafter Somalia IAN No. 1].

“unique context of [the different Security Council] sanctions”.<sup>160</sup> An IAN may play a significant role in that connection, perhaps especially to the extent that it authoritatively sets out relevant aspects from the viewpoint of the relevant Sanctions Committee with respect to the relevant sanctions regime.

From our perspective, an IAN may set out at least the following elements:

- Relevant background on the relations between the application of asset freezes and the forms of facilitative conduct necessary for fulfillment activities by specified actors and appropriate others, which “takes into account the unique context of the sanctions falling under their respective mandates”;<sup>161</sup>
- The material, personal, temporal, and geographical scope of the “carve-out” as pertains to the relevant sanctions regime;<sup>162</sup>
- Key implications for States, including steps necessary to implement the core obligation — namely, to permit the indicated forms of facilitative conduct necessary for fulfillment activities by specified actors or appropriate others and not to consider that conduct a violation of asset freezes under the relevant sanctions regime — entailed in OP 1 of resolution 2664 (2022), particularly in the “unique context” of the respective sanctions regime;<sup>163</sup> and
- The relevant roles and functions of Sanctions Committees and their respective panels of experts, including in relation to monitoring the implementation of the “carve-out.”<sup>164</sup>

---

<sup>160</sup> See UNSCR 2664 (2022), OP 6.

<sup>161</sup> Somalia IAN No. 3, *supra* note 77, at 1 (“Background”); Somalia IAN No. 2, *supra* note 159, at 2 (“Background”). Over the past several decades, extensive policy and scholarly efforts have researched, analyzed, and documented the potentially adverse consequences of restrictive measures, including asset freezes, on the integrity of principled humanitarian action. See, e.g., Hamsik & Almanza, *supra* note 18; Burniske & Modirzadeh, *supra* note 18. It may be beneficial to summarize key aspects of that literature in the IAN. For example, the potentially detrimental impacts of restrictive measures, including asset freezes, on humanitarian assistance and other activities that support basic human needs, including operational, financial, security, legal, and reputational effects. See, e.g., Hamsik & Almanza, *supra* note 18, at 3. There may be diminished or complete lack of access by providers to people in need or adverse impacts upon the scope, amount, or quality of humanitarian and medical services provided in contexts where restrictive measures, including asset freezes, are applicable. See, e.g., ICRC, *supra* note 21, at 20–1.

<sup>162</sup> See *above* Section 4: The Scope of the “Carve-Out” Adopted In Resolution 2664 (2022).

<sup>163</sup> UNSCR 2664 (2022), OP 6. See, e.g., Security Council Committee Established Pursuant To Resolution 1970 (2011) Concerning Libya, Implementation Assistance Notice # 3, at 3 (“Disposal of prohibited materiel”) (Aug. 18, 2016), [https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/1970\\_ian3.pdf](https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/1970_ian3.pdf); Somalia IAN No. 1, *supra* note 159, at 2 (“Implementation measures”); Somalia IAN No. 3, *supra* note 77, at 3 (“Procedures related to the exercise of vigilance and sharing of information”).

<sup>164</sup> See, e.g., Somalia IAN No. 1, *supra* note 159, at 5 (“Monitoring”).

- ii) The Monitoring of the Implementation of the “Carve-out” by Sanctions Committees

The Security Council “*direct[ed]*” Sanctions Committees, assisted by their respective panels of experts, to monitor the implementation of the “carve-out,” including “any risk of diversion”.<sup>165</sup> With respect to this aspect, the normative position reflected in the Council’s approach to the relations between humanitarian values and security rationales may be borne in mind.<sup>166</sup>

### ***6.3. Ability of Security Council-established Sanctions Committees to Engage with Member States Concerning Certain Matters***

#### *6.3.1. Terminology of Resolution 2664 (2022)*

In OP 5 of resolution 2664 (2022), the Security Council:

“*[R]ecall[ed]* the Committees’ ability to engage with Member States to ensure the effective implementation of th[e Security] Council’s decisions, including by requesting additional information from such Member States, including with respect to providers under their jurisdiction, as needed to support such implementation”.<sup>167</sup>

#### *6.3.2. Interpretive Aspects*

From our perspective, the following aspects may be of relevance for a U.N. Member State in formulating an interpretation of the portion of resolution 2664 (2022) concerning each relevant Committee’s ability to engage with Member States to ensure the effective implementation of the Security Council’s decisions:

1. Which Committees are considered relevant in respect of the terminology concerning “the Committees’ ability to engage with Member States”;
2. The character and potential scope of a request for additional information from a U.N. Member State as needed to support implementation of the

---

<sup>165</sup> UNSCR 2664 (2022), OP 1, 6.

<sup>166</sup> See *above* Section 5.3 (i): Certain Normative Relations Between Humanitarian Values and Security Rationales in Resolution 2664 (2022) As Relates to Benefits- or Diversion-Related Issues.

<sup>167</sup> UNSCR 2664 (2022), OP 5.

Security Council’s decisions; and

3. The content of the notion entailed in the terminology concerning “providers under” a U.N. Member State’s jurisdiction.

### 6.3.3. *Initial Considerations for U.N. Member States*

In interpreting the aforementioned portions of resolution 2664 (2022) concerning each relevant Committee’s ability to engage with U.N. Member States to ensure the effective implementation of the Security Council’s decisions, a U.N. Member State may bear in mind the following elements.

#### i) The Relevant Sanctions Committees

In resolution 2664 (2022), the Council emphasized the ability of Security Council Committees to “engage with Member States to ensure the effective implementation of this Council’s decisions”.<sup>168</sup> In our view, the range of Committees referred to herein includes Committees established by the Council that assume functions related to monitoring or evaluating the implementation of relevant Security Council decisions. In the context of the implementation of OP 1 of resolution 2664 (2022), the Security Council has assigned this role to “Committees established by th[e] Council with respect to sanctions implementation”.<sup>169</sup>

#### ii) The Scope of Information Requested from Member States, Including As Relates to “Providers”

The Security Council recalled Sanctions Committees’ “ability to engage with Member States to ensure the effective implementation of th[e] Council’s decisions, including by requesting additional information from such Member States, including with respect to providers under their jurisdiction, as needed to support such implementation”.<sup>170</sup> From our perspective, such additional information may be interpreted as principally concerning action related to the Council’s decision to oblige U.N. Member States to permit the following conduct and not consider it a violation of a Council asset freeze: facilitative conduct necessary for fulfillment activities by a specified actor or an appropriate other, as laid down in OP 1 of resolution 2664 (2022). Notably, only

---

<sup>168</sup> Ibid.

<sup>169</sup> Ibid., at OP 6.

<sup>170</sup> Ibid., at OP 5.

such information that is “needed to support” implementation of the Council’s decision may be requested from U.N. Member States by a Sanctions Committee in this connection. A request for information made in connection with resolution 2664 (2022) may therefore encompass information that pertains, for example, to obstacles faced by providers in delivering humanitarian assistance and supporting other activities that support basic human needs in accordance with the “carve-out.”

In our view, the notion of “providers under [a U.N. Member State’s] jurisdiction” may be interpreted to encompass any of the individuals and entities that may rely on the “carve-out,”<sup>171</sup> provided that the relevant conduct of such an individual or entity falls within a geographical area in respect of which the State purports to exercise jurisdiction.<sup>172</sup>

#### ***6.4. Role of the 1267/1989/2253 Sanctions Committee and Cooperation with That Committee and Its Analytical Support and Sanctions Monitoring Team***

##### *6.4.1. Terminology of Resolution 2664 (2022)*

In OP 2 of resolution 2664 (2022), the Security Council:

*“[E]mphasize[d] the role of the 1267/1989/2253 Sanctions Committee in monitoring the implementation of paragraph 1 of [...] resolution [2664 (2022)] as per paragraph 6, call[ed] upon all States to cooperate fully with that Committee and its Analytical Support and Sanctions Monitoring Team established pursuant to resolution 1526 (2004) in the fulfillment of its tasks, including supplying such information as may be required by that Committee in that respect, and emphasize[d] the importance of this Council’s consideration of any information, including that provided by the Committee or Monitoring Team, regarding implementation of the measures imposed by resolution 1267 (1999) and other relevant resolutions, including possible violations thereof, as well as briefings received from the United Nations Emergency Relief Coordinator (ERC) as per paragraph 5 of [...] resolution [2664 (2022)].”*<sup>173</sup>

---

<sup>171</sup> See above Section 4.2.3 (ii): Actors Who May Rely On the “Carve-out.”

<sup>172</sup> See above Section 4.4: Geographical Scope.

<sup>173</sup> UNSCR 2664 (2022), OP 2.

In OP 6 of resolution 2664 (2022), the Security Council:

“*[D]irect[ed]* the Committees established by this Council with respect to sanctions implementation to assist Member States in properly understanding and fully implementing paragraph 1 of [...] resolution [2664 (2022)] by issuing Implementation Assistance Notices to provide further guidance to give full effect to paragraph 1 that takes into account the unique context of the sanctions falling under their respective mandates, and *further direct[ed]* these Committees, assisted by their respective panels of experts, to monitor the implementation of paragraph 1 of [...] resolution [2664 (2022)], including any risk of diversion”.<sup>174</sup>

#### 6.4.2. *Interpretive Aspects*

From our perspective, the following aspects may be of relevance for a U.N. Member State in formulating an interpretation of the portions of resolution 2664 (2022) concerning the role of the 1267/1989/2253 Sanctions Committee as may relate to resolution 2664 (2022) and the call therein by the Security Council upon all States to cooperate fully with that Committee and its Analytical Support and Sanctions Monitoring Team in the fulfillment of its tasks:

1. The role of the 1267/1989/2253 Sanctions Committee in monitoring the implementation of OP 1 of resolution 2664 (2022) as per OP 6 of the resolution;
2. The content of the notion entailed in the terminology concerning “to cooperate fully with that Committee and its Analytical Support and Sanctions Monitoring Team established pursuant to resolution 1526 (2004) in the fulfillment of its tasks, including supplying such information as may be required by that Committee in that respect”; and
3. The structure and content of the relations between the Security Council’s consideration of, on the one hand, any information, including that provided by the 1267/1989/2253 Sanctions Committee or Monitoring Team, regarding implementation of the measures imposed by resolution 1267 (1999) and other relevant resolutions, including possible violations thereof, and, on the other hand, briefings received from the ERC as per OP 5 of resolution 2664.

---

<sup>174</sup> *Ibid.*, at OP 6.

### 6.4.3. *Initial Considerations for U.N. Member States*

In interpreting the aforementioned provisions concerning the role and functions of the 1267/1989/2253 Sanctions Committee with respect to implementation of resolution 2664 (2022), a U.N. Member State may bear in mind the following elements.

#### i) The Monitoring Role of the 1267/1989/2253 Sanctions Committee

In resolution 2664 (2022), the Security Council “*emphasize[d]* the role of the 1267/1989/2253 Sanctions Committee in monitoring the implementation of paragraph 1 of [...] resolution [2664 (2022)] as per paragraph 6”. In OP 6 of resolution 2664 (2022), the Security Council did not distinguish the role of the 1267/1989/2253 Sanctions Committee in monitoring the implementation of OP 1 from the role of any other Sanctions Committee established by the Council with respect to sanctions implementation. Thus, at least under a literal reading of resolution 2664 (2022), the role of the 1267/1989/2253 Sanctions Committee in monitoring the implementation of OP 1 of that resolution is the same as the role of those other Sanctions Committees in monitoring the implementation of that paragraph.<sup>175</sup>

#### ii) Cooperating With and Supplying Information to the 1267/1989/2253 Sanctions Committee and Its Analytical Support and Sanctions Monitoring Team

In resolution 2664 (2022), the Security Council “*emphasize[d]* the role of the 1267/1989/2253 Sanctions Committee in monitoring the implementation of paragraph 1 of th[at] resolution [...] [and] *call[ed] upon* all States to cooperate fully with that Committee and its Analytical Support and Sanctions Monitoring Team [...] in the fulfillment of its tasks, including supplying such information as may be required by that Committee in that respect”.<sup>176</sup> From our perspective, consistent with OPs 1 and 6 of resolution 2664 (2022), those tasks may be interpreted as principally concerning: (i) the 1267/1989/2253 Sanctions Committee’s authority to add appropriate “within and with respect to [its] mandate[.]”<sup>177</sup>; (ii) its efforts to assist Member States in properly understanding and fully implementing the “carve-out”;

---

<sup>175</sup> See *above* Section 6.2.3 (ii): The Monitoring of the Implementation of the “Carve-out” by Sanctions Committees.

<sup>176</sup> UNSCR 2664 (2022), OP 2.

<sup>177</sup> *Ibid.*, at OP 1.

and (iii) its ability to engage with U.N. Member States to ensure the effective implementation of the Council's decisions.<sup>178</sup> If construed along similar lines, the relevant tasks of the Analytical Support and Sanctions Monitoring Team may be interpreted as principally concerning the Team's efforts to support the Committee in exercising those three sets of functions.

## **7. BRIEFING ON THE DELIVERY OF HUMANITARIAN ASSISTANCE AND OTHER ACTIVITIES THAT SUPPORT BASIC HUMAN NEEDS PROVIDED CONSISTENT WITH RESOLUTION 2664 (2022)**

In this section, we discuss certain elements related to briefings concerning resolution 2664 (2022). In particular, we evaluate the request of the ERC to brief or arrange a briefing for each relevant Committee on the delivery of humanitarian assistance and other activities that support basic human needs provided consistent with the resolution and the request of relevant providers to assist the ERC by providing relevant information.

### ***7.1. Request of the U.N. Emergency Relief Coordinator to Brief or Arrange a Briefing***

#### *7.1.1. Terminology of Resolution 2664 (2022)*

In OP 5 of resolution 2664 (2022), the Security Council:

*“Request[ed] the United Nations Emergency Relief Coordinator (ERC) to brief or arrange a briefing for each relevant Committee within its mandate 11 months from the date of adoption of [...] resolution [2664 (2022)] and every 12 months afterwards on the delivery of humanitarian assistance and other activities that support basic human needs provided consistent with [...] resolution [2664 (2022)], including on any available information regarding the provision,*

---

<sup>178</sup> See above Section 6.1: Authority of Security Council-established Sanctions Committees to Add Appropriate Others; Section 6.2: Directions to Security Council-established Sanctions Committees to Assist Member States in Understanding and Implementing the “Carve-out”, As Well to Monitor the Implementation of, the “Carve-out”; Section 6.3: Ability of Security Council-established Sanctions Committees to Engage with Member States Concerning Certain Matters.

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, and any obstacles to the provision of such assistance or to the implementation of [...] resolution [2664 (2022)], *further request[ed]* relevant providers to assist the ERC in the preparation of such briefings by providing information relevant thereto as expeditiously as is feasible and, in any case, within 60 days of any request from the ERC, also *emphasize[d]* the importance, in the process of preparing its briefing, of the ERC's consideration of any information provided by the 1267/1989/2253 Sanctions Committee or its Monitoring Team, acting within its mandate, regarding implementation of the measures imposed by resolution 1267 (1999) and other relevant resolutions, including possible violations thereof".<sup>179</sup>

In OP 2 of resolution 2664 (2022), the Security Council:

*"[E]mphasize[d]* the importance of this Council's consideration of any information, including [...] briefings received from the United Nations Emergency Relief Coordinator (ERC) as per paragraph 5 of [...] resolution [2664 (2022)]".<sup>180</sup>

### 7.1.2. *Interpretive Aspects*

From our perspective, the following aspects may be of relevance for a U.N. Member State in formulating an interpretation of the portion of resolution 2664 (2022) concerning the request of the ERC:

1. Which Committees are considered relevant in respect of the terminology concerning "the United Nations Emergency Relief Coordinator (ERC) to brief or arrange a briefing for each relevant Committee within its mandate";
2. The material scope of the briefings provided or arranged by the ERC;
3. Who may perform the briefings; and
4. The relations between the ERC, on the one hand, and the 1267/1989/2253 Sanctions Committee and its Monitoring Team, on the other hand.

---

<sup>179</sup> UNSCR 2664 (2022), OP 5.

<sup>180</sup> *Ibid.*, at OP 2.

### 7.1.3. *Initial Considerations for U.N. Member States*

In interpreting the aforementioned provisions concerning the request of the U.N. Emergency Relief Coordinator to provide or arrange certain briefings, a U.N. Member State may bear in mind the following elements.

#### i) Background on the U.N. Emergency Relief Coordinator

The office of the Emergency Relief Coordinator was established by the U.N. General Assembly in resolution 46/182 (1991), whereby the Assembly sought to “strengthen[] [...] the coordination of emergency humanitarian assistance of the United Nations system”.<sup>181</sup> In an annex to that resolution, the General Assembly stated that a “high-level official (emergency relief coordinator) would be designated by the Secretary-General to work closely with and with direct access to him, in cooperation with the relevant organizations and entities of the system dealing with humanitarian assistance and in full respect of their mandates”.<sup>182</sup> The ERC functions under “the aegis of the General Assembly and [...] the direction of the Secretary-General”.<sup>183</sup> The ERC is currently the senior-most U.N. official dedicated to humanitarian affairs and serves as a focal point on humanitarian affairs for governments, intergovernmental organizations, and NGOs.<sup>184</sup> Notably, the ERC’s responsibilities have included “report[ing] to the Security Council [...] on the delivery of humanitarian assistance in Somalia and on any impediments to the delivery of humanitarian assistance in Somalia”.<sup>185</sup>

#### ii) Who May Brief Each Relevant Committee

The Security Council “[r]equest[ed] the United Nations Emergency Relief Coordinator (ERC) to brief or arrange a briefing for each relevant Committee”.<sup>186</sup> From our perspective, this provision may be interpreted as the Security Council

---

<sup>181</sup> G.A. Res. 48/182, ¶ 1 (Dec. 19, 1991). Note that the same resolution established the Office for the Coordination of Humanitarian Affairs (OCHA).

<sup>182</sup> *Ibid.*, annex, ¶ 34.

<sup>183</sup> *Ibid.*, annex, ¶ 35.

<sup>184</sup> *The Emergency Relief Coordinator*, INTER-AGENCY STANDING COMM., <https://interagencystandingcommittee.org/emergency-relief-coordinator>.

<sup>185</sup> UNSCR 2607 (2021), OP 43; *see also, e.g.*, UNSCR 2662 (2022), OP 47 (d); UNSCR 2551 (2020), OP 36; UNSCR 2444 (2018), OP 49.

<sup>186</sup> UNSCR 2664 (2022), OP 5.

anticipating that those briefings may be delivered either by the ERC or by another individual instructed, directed, or otherwise engaged by the ERC to do so.

iii) “Each Relevant Committee” to be Briefed

In resolution 2664 (2022), the Security Council “*request[ed]*” the ERC to provide or arrange briefings for “each relevant Committee” by November 9, 2023 and every 12 months thereafter on the delivery of humanitarian assistance and other activities that support human needs provided in accordance with the terms of the resolution.<sup>187</sup> In line with the direction of the Security Council laid down in OP 6 of resolution 2664 (2022), from our perspective, each relevant Committee may be interpreted as including all the Committees established by the Security Council with respect to sanctions implementation.<sup>188</sup>

iv) The Scope of the Requested Briefings

The Security Council expressly requested the ERC to address the following aspects in briefings provided or arranged by the ERC on the delivery of humanitarian assistance and other activities that support basic human needs provided consistent with resolution 2664 (2022):

- “[A]ny 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”;
- “[A]ny diversion of funds or economic resources by the same”;
- “[R]isk management and due diligence processes in place”; and
- “[A]ny obstacles to the provision of such assistance or to the implementation of [...] resolution [2664 (2022)]”.<sup>189</sup>

---

<sup>187</sup> Ibid.

<sup>188</sup> In OP 6 of resolution 2664 (2022), the Security Council directed “*the Committees established by th[e] Council with respect to sanctions implementation*” to take certain action with respect to Member States. UNSCR 2664 (2022), OP 6 (emphasis supplied). The Council did not expressly address that direction only to the Committees established by the Council with respect to implementation of asset freezes. See also Annex 1: Currently Applicable Security Council-Decided Sanctions Regimes.

<sup>189</sup> UNSCR 2664 (2022), OP 5.

- v) Relations Between the U.N. Emergency Relief Coordinator and the 1267/1989/2253 Sanctions Committee or Its Monitoring Team

In resolution 2664 (2022), the Council emphasized the importance of the ERC’s consideration, in preparing his briefings, of “any information provided by the 1267/1989/2253 Sanctions Committee or its Monitoring Team [...] regarding implementation of the measures imposed by resolution 1267 (1999) and other relevant resolutions, including possible violations thereof.”<sup>190</sup>

## ***7.2. Request of “Relevant Providers” to Assist the U.N. Emergency Relief Coordinator by Providing Relevant Information***

### *7.2.1. Terminology of Resolution 2664 (2022)*

In OP 5 of resolution 2664 (2022), the Security Council:

“[F]urther request[ed] relevant providers to assist the ERC in the preparation of such briefings by providing information relevant thereto as expeditiously as is feasible and, in any case, within 60 days of any request from the ERC”.<sup>191</sup>

### *7.2.2. Interpretive Aspects*

From our perspective, the following aspects may be of relevance for a U.N. Member State in formulating an interpretation of that portion of resolution 2664 (2022) concerning the request of relevant providers to assist the ERC by providing relevant information:

1. Which “providers” may be considered “relevant” in respect of the terminology concerning “relevant providers to assist the ERC in the preparation of such briefings by providing information relevant thereto”; and
2. What kind of information may fall within the scope of such a request.

---

<sup>190</sup> Ibid.

<sup>191</sup> Ibid.

### 7.2.3. *Initial Considerations for U.N. Member States*

In formulating an interpretation of the portion of resolution 2664 (2022) concerning the request of “relevant providers” to assist the ERC by providing relevant information, a U.N. Member State may bear in mind the following elements.

First, from our perspective, the term “relevant providers” may be interpreted as encompassing any individual or entity who seeks to rely on or has relied on the “carve-out.”<sup>192</sup> Second, “information relevant” to the ERC in the preparation of his requested briefings may be interpreted as encompassing any information that relates to one or more aspects of the requested briefings.<sup>193</sup> The Security Council formulated that request in terms of briefings “on the delivery of humanitarian assistance and other activities that support basic human needs provided consistent with [...] resolution [2664 (2022)], including on 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, and any obstacles to the provision of such assistance or to the implementation of [...] resolution [2664 (2022)].”<sup>194</sup>

Third, as noted above,<sup>195</sup> in adopting the “carve-out,” the Security Council decided in part to permit certain conduct that is currently impeded by a range of domestic measures involved in the implementation of asset freezes under Council-decided sanctions regimes. From our perspective, it is possible that, at least at the time of the ERC’s first several requests to “relevant providers” to share relevant information, numerous States might not have completed the process of comprehensively reviewing and adjusting domestic measures to remove any impediments to conduct permitted by the “carve-out.”<sup>196</sup> As a consequence, “relevant providers” requested to share information with the ERC may risk reporting on their own violations of an array of domestic measures that are inconsistent with resolution 2664 (2022), potentially including criminal laws and other proscriptions and restrictions. The ERC may consider developing mechanisms to protect the identity of “relevant providers” in this connection, for instance by ensuring that those

---

<sup>192</sup> See above Section 4.2.3 (ii): Actors Who May Rely On the “Carve-out.”

<sup>193</sup> See above Section 7.1.3 (iv): The Scope of the Requested Briefings.

<sup>194</sup> UNSCR 2664 (2022), OP 5.

<sup>195</sup> See above Section 2.2: Rationale For and Views Regarding the “Carve-out.”

<sup>196</sup> See above Section 3.3.1: Conducting a Comprehensive Review of All Relevant Measures”; Section 3.3.2: Adjusting Any Measures That Pose Impediments to Conduct Permitted By the “Carve-out.”

providers are not named or otherwise identifiable in briefings delivered or arranged by the ERC. U.N. Member States may seek to engage with the ERC on this matter with due urgency.

## **8. REPORTING ON UNINTENDED ADVERSE HUMANITARIAN CONSEQUENCES OF SECURITY COUNCIL SANCTIONS MEASURES AS WELL AS MEASURES SUI GENERIS TO PARTICULAR SANCTIONS REGIMES**

In this section, we examine the request of the Secretary-General to report on unintended adverse humanitarian consequences of Security Council sanctions measures as well as those measures that are sui generis to particular sanctions regimes.

### ***8.1. Request of the Secretary-General***

#### *8.1.1. Terminology of Resolution 2664 (2022)*

In OP 7 of resolution 2664 (2022), the Security Council:

*“Request[ed] that the Secretary-General issue a written report on unintended adverse humanitarian consequences of Security Council sanctions measures, including travel ban and arms embargo measures, as well as those measures that are sui generis to particular sanctions regimes, within 9 months of the adoption of [...] resolution [2664 (2022)], requests that such report contain recommendations on ways to minimize and mitigate such unintended adverse consequences including via the promulgation of additional standing exemptions to such measures, and expresses its intent to consider further steps as necessary, taking into account the Secretary-General’s report and recommendations, to further minimize and mitigate such unintended adverse consequences”*.<sup>197</sup>

---

<sup>197</sup> UNSCR 2664 (2022), OP 7.

### 8.1.2. *Interpretive Aspects*

From our perspective, the following aspects may be of relevance for a U.N. Member State in formulating an interpretation of that portion of resolution 2664 (2022) concerning the request of the Secretary-General to issue a written report:

1. The content of the notion entailed in the terminology concerning “unintended adverse humanitarian consequences of Security Council sanctions measures, including travel ban and arms embargo measures”;
2. The content of the notion entailed in the terminology concerning “unintended adverse humanitarian consequences of [...] measures that are sui generis to particular sanctions regimes”;
3. The content of the notion entailed in the terminology concerning “recommendations on ways to minimize and mitigate such unintended adverse consequences including via the promulgation of additional standing exemptions to such measures”; and
4. The content of the notion entailed in the terminology concerning the Security Council’s “intent to consider further steps as necessary [...] to further minimize and mitigate such unintended adverse consequences”.

#### 8.1.3. *Initial Considerations for U.N. Member States*

In interpreting the aforementioned provisions concerning the Security Council’s request of the Secretary-General to report on unintended adverse humanitarian consequences of certain measures, a U.N. Member State may bear in mind the following elements.

##### i) Measures to be Addressed in the Requested Report

In resolution 2664 (2022), the Security Council “[r]equest[ed]” that the Secretary-General issue a written report on unintended consequences of certain measures.<sup>198</sup> Notably, while the scope of application of the “carve-out” in OP 1 of resolution 2664 (2022) is limited to asset freezes under Council sanctions regimes,<sup>199</sup> the scope of the written report requested of the Secretary-General extends to “sanctions measures, including travel ban and arms embargo measures, as well as those measures that are sui generis to particular sanctions regimes.”<sup>200</sup> Those measures

---

<sup>198</sup> Ibid.

<sup>199</sup> UNSCR 2664 (2022), OP 1. See above Section 4.1.3 (i): Asset Freezes With Respect to Which the “Carve-out” Applies.

<sup>200</sup> UNSCR 2664 (2022), OP 7.

likely include — but are not limited to — measures decided under all sanctions regimes currently maintained by the Security Council, in particular those under the 1636 sanctions regime; the 1988 sanctions regime; and those pertaining to: the Central African Republic; the Democratic People’s Republic of Korea; the Democratic Republic of Congo; Guinea-Bissau; Haiti; Iraq; ISIL (Da’esh) and Al-Qaida; Libya; Mali; Somalia; South Sudan; Sudan; and Yemen.<sup>201</sup>

ii) Timeline for the Issuance of the Requested Report

The Secretary-General has been requested to issue the requested written report within nine months of the adoption of resolution 2664 (2022), that is, on or before September 9, 2023.

iii) The Need to Understand and Minimize Unintended Adverse Humanitarian Consequences of Sanctions

From our perspective, the Security Council underlined in resolution 2664 (2022) the need to understand and minimize unintended adverse humanitarian consequences of sanctions. With respect to understanding unintended adverse humanitarian consequences, the Council expressly requested the Secretary-General to address, in his written report, unintended adverse humanitarian consequences of Security Council sanctions measures, including travel ban and arms embargo measures, and of measures that are *sui generis* to particular sanctions regimes.

With respect to minimizing unintended adverse humanitarian consequences, the Council expressly requested the Secretary-General to include, in his written report, recommendations on ways to minimize and mitigate such unintended adverse consequences including via the promulgation of additional standing exemptions to such measures.<sup>202</sup> Notably, in preambular paragraphs, the Security Council “[*bore*] in mind the importance of assessing potential humanitarian impacts prior to a Council decision to establish a sanctions regime” and “[*e*]xpress[ed] its readiness to review, adjust and terminate, when appropriate, [Security Council] sanctions regimes taking into account the evolution of the situation on the ground and the need to minimize unintended adverse humanitarian effects”.<sup>203</sup>

In OP 7 of resolution 2664 (2022), the Security Council also “express[ed] its

---

<sup>201</sup> See Annex 1: Currently Applicable Security Council-Decided Sanctions Regimes; U.N. DPPA, *supra* note 15.

<sup>202</sup> UNSCR 2664 (2022), OP 7.

<sup>203</sup> *Ibid.*, at preamble.

intent to consider further steps as necessary, taking into account the Secretary-General's report and recommendations, to further minimize and mitigate [...] unintended adverse consequences [of sanctions]".<sup>204</sup> From our perspective, and particularly in light of the Council's express intention to provide clarity to ensure the continuation of humanitarian activities,<sup>205</sup> this provision may be interpreted as the Security Council anticipating the consideration of steps — potentially including future Security Council decisions — to address “adverse humanitarian consequences of Security Council sanctions measures, including travel ban and arms embargo measures, as well as those measures that are sui generis to particular sanctions regimes”, as identified in the Secretary-General's report.<sup>206</sup> Those steps may entail, for example, “the promulgation of additional standing exemptions” that cover sanctions measures that are not currently included within the scope of application of the “carve-out” in OP 1 of resolution 2664 (2022), such as travel bans and arms embargoes.<sup>207</sup>

## 9. CONCLUSION

### 9.1. Summary

In adopting resolution 2664 (2022), the Security Council elevated the humanitarian imperative above certain restrictive security rationales, at least in respect of asset freezes under Council-decided sanctions regimes. Despite the complexity of certain formulations employed by the Council in resolution 2664 (2022), it is clear that all U.N. Member States are now obliged to permit facilitative conduct necessary for fulfillment activities by specified actors or appropriate others and not to consider that conduct or those activities a violation of asset freezes imposed by the Council or its Sanctions Committees. To accept and carry out the Council's decision(s) in that connection, a U.N. Member State needs to comprehensively review all potentially relevant elements of the State's national legal order and any multi-State legal arrangement to which the State belongs — and then amend, revoke, or otherwise adjust those measures to the extent necessary. Notably, States may not invoke their own national legal systems or regional or international regulations or commitments as a potential reason for not implementing the “carve-out.”

---

<sup>204</sup> *Ibid.*, at OP 7.

<sup>205</sup> *Ibid.*, at preamble.

<sup>206</sup> *Ibid.*, at OP 7.

<sup>207</sup> *See ibid.* *See above* Section 4: The Scope of the “Carve-out” Adopted in Resolution 2664 (2022).

## ***9.2. Opportunity to Champion the Humanitarian Imperative***

From our perspective, the adoption of resolution 2664 (2022) presents for States a significant opportunity to take decisive action to champion the humanitarian imperative and promote the integrity of principled humanitarian action. The potential for such action lies partly in the power and prerogative of U.N. Member States to interpret and apply key terms and notions related to the implementation of the “carve-out.” The delivery of urgent and lifesaving aid to those in need is at stake. In developing systematic and principled approaches to those matters, States may bear in mind the Security Council’s stated intention to ensure the continuation of humanitarian activities in the future as well as the Council’s eschewal of a “zero-tolerance” approach to the accrual of benefits to designated individuals and entities. Relevant stakeholders, including salient U.N.-system actors as well as (other) humanitarian providers and their partners, may wish to pay close attention to how States address those matters. Ultimately, the ability to make the policy shift entailed in the humanitarian-related “carve-out” in resolution 2664 (2022) a reality rests, by and large, with the principal addressees of that “carve-out”: U.N. Member States.

## **ANNEXES**

We attach three annexes to this interpretive note. Annex 1 summarizes the fifteen sanctions regimes currently maintained by the Security Council and its Sanctions Committees. Annex 2 catalogues humanitarian reports issued in relation to the implementation of the humanitarian “carve-out” to the Somalia sanctions regime. And Annex 3 catalogues Implementation Assistance Notices previously issued by Sanctions Committees to guide States on the implementation of various Security Council decisions on sanctions measures.

***Annex 1: Currently Applicable Security Council-Decided Sanctions Regimes***

No.	(Unofficial) Title of Sanctions Regime	Security Council Committee Charged with Administering Sanctions Measures	Monitoring Body	Measures	Designation/Listing Criteria	Number of Listed Individuals/Entities (as of December 31, 2022)	Exemptions/“Carve-Outs”, if Any
1.	1636 Sanctions Regime	The Security Council Committee established pursuant to resolution 1636 (2005) concerning Lebanon (1636 Sanctions Committee)	N/A	Travel bans, asset freezes <sup>208</sup>	The Independent Investigation Commission or the government of Lebanon conducts investigations to designate individuals suspected of involvement in the February 14, 2005 terrorist bombing in Beirut, Lebanon. These are registered by the Lebanon Sanctions Committee as designated individuals.	Unknown <sup>209</sup>	<b>Travel bans:</b> Exemptions are extended on the grounds of humanitarian need, including religious obligations, or where the Committee concludes that an exemption would further the objectives of the resolution. <sup>210</sup> <b>Asset freeze:</b> Exemptions are extended to basic expenses, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges, or exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services, or fees or service charges for routine holding or maintenance of frozen funds or other financial assets or economic resources. <sup>211</sup> Further, since the adoption of resolution 2664 (2022), a humanitarian-related “carve-out” indefinitely applies to asset freezes under this regime. <sup>212</sup>
2.	1988 Sanctions Regime	The Security Council Committee established	Analytical Support and Sanctions	Assets freeze; <sup>213</sup> travel	Prior designations as the Taliban; <sup>215</sup> participating in the financing, planning, facilitating of activities by, on	135 individuals and 5 entities on the sanctions list	<b>Assets freeze:</b> Exemptions for basic expenses and extraordinary expenses. <sup>218</sup> Further, since the adoption of resolution

<sup>208</sup> UNSCR 1636 (2005).<sup>209</sup> No annual reports have been produced and there have been no press releases since 2006. The last report of the Commission (the eighth report of the International Independent Investigation Commission) was released in 2007. U.N. Security Council, Letter dated 12 July 2007 from the Secretary-General addressed to the President of the Security Council, S/2007/424 (Jul. 12, 2007).<sup>210</sup> UNSCR 1636 (2005), annex, ¶ 2 (i).<sup>211</sup> *Ibid.*, at ¶ 2 (ii).<sup>212</sup> UNSCR 2664 (2022), OP 1.<sup>213</sup> UNSCR 2255 (2015).<sup>215</sup> UNSCR 2611 (2021).<sup>218</sup> UNSCR 2255 (2015), OP 17, 18, 22(a).

		pursuant to resolution 1988 (2011) (1988 Sanctions Committee)	Monitoring Team pursuant to resolutions 1526 (2004) and 2253 (2015) concerning ISIL (Da'esh), Al-Qaida and the Taliban and associated individuals and entities	ban; <sup>214</sup> arms embargo	behalf of, or in support of: supplying, selling or transferring arms and related materiel to; recruiting for; or otherwise supporting acts or activities of, those designated and other individuals, groups, entities associated with the Taliban in constituting a threat to the peace, stability and security of Afghanistan <sup>216</sup>	of the Committee at the end of the reporting period (January 1–December 31, 2022). <sup>217</sup>	2615 (2021), a humanitarian-related “carve-out” applies to asset freezes under this regime at least in relation to Afghanistan. <sup>219</sup>  <b>Travel ban:</b> Exemptions for entry or transit necessary for the fulfillment of a judicial process; where an individual travels to their country of nationality; cases where the Committee decides that entry or transit is justified, including cases which support efforts by the government of Afghanistan to promote reconciliation. <sup>220</sup>
3.	Central African Republic (CAR) Sanctions Regime	The Security Council Committee established pursuant to resolution 2127 (2013) concerning the Central African Republic (CAR Sanctions Committee)	N/A	Arms embargo; <sup>221</sup> travel ban; <sup>222</sup> assets freeze <sup>223</sup>	Engaging in acts undermining the peace, stability or security of the CAR; <sup>224</sup> violating the arms embargo or criminal networks in the CAR; <sup>225</sup> being involved in planning or directing acts violating IHRL or IHL including targeting civilians and civilian objects; <sup>226</sup> planning, directing or committing acts involving gender-based violence; <sup>227</sup> recruiting or using children in armed conflict in the CAR; <sup>228</sup> supporting armed groups or criminal networks through the illicit	At the end of the reporting period (January 1–December 31, 2022), there were 14 individuals and one entity on the sanctions list of the Committee. <sup>232</sup>	<b>Arms embargo:</b> Exemptions for supplies brought into the CAR by Chadian or Sudanese forces solely for their use in international patrols of the tripartite force established on May 23, 2011, as approved in advance by the Committee; supplies of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance or training, as approved in advance by the Committee; supplies of arms and other related lethal equipment to the CAR security forces, intended solely for use in the process of security sector reform as

<sup>214</sup> Ibid.

<sup>216</sup> UNSCR 1988 (2011); UNSCR 2255 (2015); UNSCR 2611 (2021).

<sup>217</sup> U.N. Security Council, Letter dated 16 December 2022 from the Chair of the Security Council Committee established pursuant to resolution 1988 (2011) addressed to the President of the Security Council, S/2022/969 (Dec. 31, 2022).

<sup>219</sup> UNSCR 2615 (2021), OP 1.

<sup>220</sup> UNSCR 2255 (2015), OP 1(b), 19–21, 22(b).

<sup>221</sup> UNSCR 2588 (2021); UNSCR 2399 (2018); UNSCR 2488 (2019).

<sup>222</sup> UNSCR 2399 (2018); UNSCR 2588 (2021).

<sup>223</sup> UNSCR 2399 (2018); UNSCR 2588 (2021).

<sup>224</sup> UNSCR 2399 (2018), OP 20.

<sup>225</sup> Ibid., at OP 21 (a).

<sup>226</sup> Ibid., at OP 21 (b).

<sup>227</sup> Ibid., at OP 21 (c).

<sup>228</sup> Ibid., at OP 21 (d).

<sup>232</sup> U.N. Security Council, Letter dated 15 December 2022 from the Chair of the Security Council Committee established pursuant to resolution 2127 (2013) concerning the Central African Republic addressed to the President of the Security Council, S/2022/987 (Dec. 31, 2022).

					<p>exploitation or trade of natural resources;<sup>229</sup> being involved in or planning attacks against U.N. missions of international security persons including MINUSCA and others;<sup>230</sup> leading or providing support to any entity that the Committee has sanctioned<sup>231</sup></p>		<p>approved in advance by the Committee; other sales or supply of arms and related materiel, or provision of assistance or personnel, as approved in advance by the Committee; supplies of non-lethal equipment and provision of assistance, including training, to security forces, intended solely for support for or use in the CAR's process of security sector reform, after advanced notice to the Committee; supplies of small arms and other related equipment intended solely for use in international-led patrols providing security in the Sangha River Tri-national Protected Area to combat poaching, the smuggling of ivory and arms, after advanced notice to the Committee; supplies intended solely for MINUSCA and the European Union training missions deployed in the CAR, or French forces and other Member States forces providing training and assistance; protective clothing temporarily exported to the CAR by U.N. personnel, representatives of the media and humanitarian and development workers for their personal use.<sup>233</sup></p> <p><b>Travel ban:</b> Exemptions on humanitarian grounds, including religious obligation; entry or transit necessary for the fulfillment of a judicial process; travel determined by the Committee to further the objectives of peace and national reconciliation in the CAR and stability in the region.<sup>234</sup></p> <p><b>Asset freeze:</b> Exemptions for basic expenses, legal services, or extraordinary expenses approved by the Committee; assets determined by relevant States to be the subject of a judicial, administrative or arbitration lien or judgement; or</p>
--	--	--	--	--	---	--	--

<sup>229</sup> Ibid., at OP 21 (e).

<sup>230</sup> Ibid., at OP 21 (g).

<sup>231</sup> Ibid., at OP 21 (h).

<sup>233</sup> UNSCR 2588 (2021), OP 1 (a–i); UNSCR 2399 (2018), OP 2 (as renewed by UNSCR 2588 (2021), OP 3); UNSCR 2488 (2019), OP 5 (as renewed by UNSCR 2588 (2021), OP 3).

<sup>234</sup> UNSCR 2399 (2018), OP 14 (as renewed by UNSCR 2588 (2021), OP 4).

							payment by a person or individual under a contract entered into prior to the listing of such a person or entity. <sup>235</sup> Further, since the adoption of resolution 2664 (2022), a humanitarian-related “carve-out” indefinitely applies to asset freezes under this regime. <sup>236</sup>
4.	Democratic People’s Republic of Korea (DPRK) Sanctions Regime	The Security Council Committee established pursuant to resolution 1718 (2006) (1718 Sanctions Committee (DPRK))	N/A	Arms and related material embargo; <sup>237</sup> non-proliferation of weapons of mass destruction; <sup>238</sup> proliferation networks; <sup>239</sup> interdiction and transportation; <sup>240</sup> provision of bunkering services; <sup>241</sup> assets freeze; <sup>242</sup> disposal of seized items; travel bans; <sup>243</sup> financial measures; <sup>244</sup> obligation to prevent specialized teaching or training of DPRK nationals; obligation to suspend scientific and technical cooperation; <sup>245</sup> coal, minerals and sectoral	Supporting the DPRK’s nuclear or other weapons of mass destruction-related or ballistic-missiles program, <sup>254</sup> including assisting in evading sanctions <sup>255</sup> and/or contributing to the DPRK’s prohibited programs and activities according to Security Council resolutions <sup>256</sup>	At the end of the reporting period (January 1–December 31, 2022), there were 80 individuals and 75 entities on the sanctions list of the Committee. <sup>257</sup>	<p><b>Arms and related material embargo:</b> Exemptions for food or medicine; goods or materials used exclusively for humanitarian or livelihood purposes, which will not be used by DPRK individuals to generate revenue and also not related to any activities prohibited by certain resolutions.<sup>258</sup></p> <p><b>Travel ban:</b> Exemptions on the grounds of humanitarian need, including religious obligations, or where the Committee concludes that an exemption would further the objectives of the resolution.<sup>259</sup></p> <p><b>Asset freeze:</b> Exemptions are extended to basic expenses, extraordinary expenses, or expenses subject to judicial, administrative or arbitral lien or judgement; assets required in connection with the DPRK’s diplomatic missions; and financial transactions with the DPRK Foreign</p>

<sup>235</sup> Ibid., at OP 17 (a–c), 18 and 19 (as renewed by UNSCR 2588 (2021), OP 4).

<sup>236</sup> UNSCR 2664 (2022), OP 1.

<sup>237</sup> UNSCR 2270 (2016).

<sup>238</sup> See *Prohibited Items*, U.N. SEC. COUNCIL, <https://un.org/securitycouncil/sanctions/1718/prohibited-items>.

<sup>239</sup> UNSCR 2270 (2016).

<sup>240</sup> UNSCR 2321 (2016); UNSCR 2397 (2017); UNSCR 2270 (2016); UNSCR 2375 (2017).

<sup>241</sup> UNSCR 1874 (2009).

<sup>242</sup> UNSCR 1718 (2006), OP 8 (d); UNSCR 2270 (2016), OP 32; UNSCR 2371 (2017), OP 26.

<sup>243</sup> UNSCR 1718 (2006); UNSCR 2094 (2013).

<sup>244</sup> UNSCR 1874 (2009), OP 19; UNSCR 2270 (2016), OP 33; UNSCR 2321 (2016); UNSCR 2375 (2017).

<sup>245</sup> UNSCR 2321 (2016).

<sup>254</sup> UNSCR 1718 (2006), OP 8 (d) and (e).

<sup>255</sup> UNSCR 2087 (2013), OP 12.

<sup>256</sup> UNSCR 2094 (2013), OP 27.

<sup>257</sup> U.N. Security Council, Letter Dated 27 December 2022 From The Chair Of The Security Council Committee Established Pursuant To Resolution 1718 (2006) Addressed To The President Of The Security Council, S/2022/1001 (Dec. 31, 2022).

<sup>258</sup> UNSCR 2270 (2016), OP 8 (a)–(b).

<sup>259</sup> UNSCR 1718 (2006), OP 10; UNSCR 2094 (2013), OP 10.

				<p>bans;<sup>246</sup> ban on exports of condensates and natural gas ban to the DPRK; obligation to prohibit the sale of refined petroleum products and crude oil in excess of applicable caps;<sup>247</sup> restriction on the supply, sale, or transfer of crude oil;<sup>248</sup> ban on the export of seafood;<sup>249</sup> ban on export of textiles from the DPRK;<sup>250</sup> ban on DPRK workers abroad;<sup>251</sup> ban on importing statues from the DPRK; ban on selling or supplying aviation fuel, jet fuel and rocket fuel to the DPRK;<sup>252</sup> ban on exporting luxury goods, helicopters, and vessels</p>			<p>Trade Bank or the Korea National Insurance Corporation.<sup>260</sup> Further, since the adoption of resolution 2664 (2022), a humanitarian-related “carve-out” indefinitely applies to asset freezes under this regime.<sup>261</sup></p> <p>As a general rule, the Committee is authorized to make case-by-case exemption decisions in case of proliferation networks;<sup>262</sup> interdiction and transportation;<sup>263</sup> provision of bunkering services;<sup>264</sup> scientific and technical cooperation;<sup>265</sup> coal, minerals, and sectoral bans;<sup>266</sup> ban on all refined petroleum products;<sup>267</sup> restriction on the supply, sale, or transfer of crude oil;<sup>268</sup> seafood ban;<sup>269</sup> ban on export of textiles from the DPRK;<sup>270</sup> ban on DPRK workers abroad;<sup>271</sup> fuel ban;<sup>272</sup> and other bans including bans on statues, new helicopters and vessels.<sup>273</sup></p>
--	--	--	--	--	--	--	---

<sup>246</sup> UNSCR 2371 (2017); UNSCR 2397 (2017).

<sup>247</sup> Ibid.

<sup>248</sup> Ibid.

<sup>249</sup> UNSCR 2371 (2017).

<sup>250</sup> UNSCR 2375 (2017).

<sup>251</sup> Ibid.; UNSCR 2397 (2017).

<sup>252</sup> UNSCR 2270 (2016).

<sup>260</sup> UNSCR 1874 (2009), OP 19; UNSCR 2270 (2016), OP 33; UNSCR 2321 (2016), OP 31–33; UNSCR 2375 (2017), OP 18.

<sup>261</sup> UNSCR 2664 (2022), OP 1.

<sup>262</sup> UNSCR 2270 (2016), OP 13–14.

<sup>263</sup> UNSCR 2321 (2016), OP 8–9, 12; UNSCR 2397 (2017), OP 9, 11–12; UNSCR 2270 (2016), OP 22–23; UNSCR 2375 (2017), OP 6.

<sup>264</sup> UNSCR 1874 (2009), OP 17.

<sup>265</sup> UNSCR 2321 (2016), OP 11.

<sup>266</sup> Ibid., at OP 8; UNSCR 2397 (2017), OP 6.

<sup>267</sup> Ibid., at OP 5.

<sup>268</sup> Ibid., at OP 4.

<sup>269</sup> UNSCR 2371 (2017), OP 9.

<sup>270</sup> UNSCR 2375 (2017), OP 16.

<sup>271</sup> Ibid., at OP 17; UNSCR 2397 (2017), OP 8.

<sup>272</sup> UNSCR 2270 (2016), OP 31.

<sup>273</sup> UNSCR 2321 (2016), OP 29–30; UNSCR 2397 (2017), OP 14.

				to the DPRK <sup>253</sup>			
5.	Democratic Republic of Congo (DRC) Sanctions Regime	The Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of Congo (DRC Sanctions Committee)	N/A	Arms embargo; <sup>274</sup> arms related reporting; <sup>275</sup> travel ban (targeted sanctions); <sup>276</sup> assets freeze; <sup>277</sup> certain transport-related measures; <sup>278</sup> certain customs-related measures <sup>279</sup>	Engaging in or providing support for acts that undermine the peace, stability, or security of the DRC, including violating arms embargo; <sup>280</sup> impeding disarmament and voluntary repatriation or resettlement of combatants; <sup>281</sup> recruiting and using children in armed conflict; <sup>282</sup> contributing to violations of IHL and IHRL in DRC; <sup>283</sup> obstructing humanitarian assistance; <sup>284</sup> involvement in attacks against MONUSCO peacekeepers or U.N. personnel <sup>285</sup> or medical personnel; <sup>286</sup> involvement in use or manufacture or planning attacks involving IEDs <sup>287</sup>	At the end of the reporting period (January 1–December 31, 2022), there were 36 individuals and nine entities on the sanctions list of the Committee. <sup>288</sup>	<p><b>Arms embargo:</b> Exemptions extend to supplies of arms to the DRC government, supplies of arms and related materiel for support of or use by MONUSCO or the AU-Regional Task Force, other supplies of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance and training, as notified in advance to the Committee.<sup>289</sup></p> <p><b>Travel ban:</b> Exemptions extended on humanitarian grounds, including religious obligation; participation in efforts to bring to justice perpetrators of grave violations of IHRL or IHL; entry or transit necessary for the fulfillment of judicial processes; cases determined by the Committee to further the objectives of the Council's resolutions and transit to the individual's state of nationality authorized in advance by the Committee.<sup>290</sup></p> <p><b>Asset freeze:</b> Exemptions permitted for basic expenses, legal services, extraordinary expenses, or assets determined by a relevant state to be the subject of a</p>

<sup>253</sup> UNSCR 2321 (2016); UNSCR 2397 (2017).

<sup>274</sup> UNSCR 2293 (2016).

<sup>275</sup> UNSCR 2667 (2022).

<sup>276</sup> UNSCR 1596 (2005); UNSCR 1649 (2005); UNSCR 1807 (2008); UNSCR 2078 (2012).

<sup>277</sup> UNSCR 1596 (2005); UNSCR 1807 (2008).

<sup>278</sup> UNSCR 1596 (2005), OP 6.

<sup>279</sup> *Ibid.*, at OP 10.

<sup>280</sup> UNSCR 2293 (2016), OP 7 (a).

<sup>281</sup> *Ibid.*, at OP 7 (b), (c).

<sup>282</sup> UNSCR 2293 (2016), OP 7 (d).

<sup>283</sup> *Ibid.*, at OP 7 (e).

<sup>284</sup> *Ibid.*, at OP 7 (f).

<sup>285</sup> UNSCR 2360 (2017), OP 3.

<sup>286</sup> UNSCR 2582 (2021), OP 3.

<sup>287</sup> UNSCR 2641 (2022), OP 3.

<sup>288</sup> U.N. Security Council, Letter Dated 16 December 2022 From The Chair Of The Security Council Committee Established Pursuant To Resolution 1533 (2004) Concerning The Democratic Republic Of The Congo Addressed To The President Of The Security Council, S/2022/971 (Dec. 31, 2022).

<sup>289</sup> UNSCR 2293 (2016), OP 2, 3 (a)–(b).

<sup>290</sup> UNSCR 1596 (2005), OP 13–14; UNSCR 1649 (2005), OP 3; UNSCR 1807 (2008), OP 10; UNSCR 2078 (2012), OP 10.

							judicial, administrative or arbitration lien or judgement. <sup>291</sup> Further, since the adoption of resolution 2664 (2022), a humanitarian-related “carve-out” indefinitely applies to asset freezes under this regime. <sup>292</sup>
6.	Guinea-Bissau Sanctions Regime	The Security Council Committee established pursuant to resolution 2048 (2012) concerning Guinea-Bissau (Guinea-Bissau Sanctions Committee)	N/A	Travel bans <sup>293</sup>	Seeking to prevent the restoration of the constitutional order or taking action that undermines stability in Guinea-Bissau, participating in the coup d'état of April 12, 2012 to undermine the rule of law, curtail the primacy of civilian power and furthering impunity and instability in the country; <sup>294</sup> acting for or on behalf of certain identified individuals. <sup>295</sup>	At the end of the reporting period (January 1–December 31, 2022), there were 10 individuals on the sanctions list of the Committee. <sup>296</sup>	<b>Travel bans:</b> Exemptions allowed for humanitarian and religious needs; for the fulfillment of a judicial process; to further the objectives of peace and national reconciliation in Guinea-Bissau and stability in the region. <sup>297</sup> As a general rule, the Committee authorizes exemptions on a case-by-case basis.
7.	Haiti Sanctions Regime	The Security Council Committee established pursuant to resolution 2653 (2022) concerning Haiti (2653 Sanctions Committee (Haiti))	N/A	Travel ban; <sup>298</sup> assets freeze; <sup>299</sup> targeted arms embargo <sup>300</sup>	Threatening the peace, security, or stability of Haiti; <sup>301</sup> engaging or directly/indirectly supporting criminal activities and violence involving armed groups and criminal networks; <sup>302</sup> illicit trafficking and diversion of arms and related material or related financial flows; <sup>303</sup> supporting or financing an individual or entity sanctioned by the Committee, including through direct/indirect use of proceeds from organized crime, illicit production of drugs, human	At the end of the reporting period (January 1–December 31, 2022), there was one individual subjected to the travel ban, asset freeze and targeted arms embargo. <sup>310</sup>	<b>Travel ban:</b> Exemptions are allowed on a case-by-case basis that such travel is justified on the grounds of humanitarian need, including religious obligation; where entry/transit is necessary for the fulfillment of a judicial process; and where the Committee determines that an exemption would further the objectives of peace and stability in Haiti. <sup>311</sup> <b>Assets freeze:</b> Exemptions extended for basic expenses, extraordinary expenses, or expenses subject to a judicial,

<sup>291</sup> UNSCR 1596 (2005), OP 16; UNSCR 1807 (2008), OP 12.

<sup>292</sup> UNSCR 2664 (2022), OP 1.

<sup>293</sup> UNSCR 2048 (2012).

<sup>294</sup> UNSCR 2048 (2012), OP 6 (a).

<sup>295</sup> Ibid.

<sup>296</sup> U.N. Security Council, Letter dated 23 December 2022 from the Chair of the Security Council Committee established pursuant to resolution 2048 (2012) concerning Guinea-Bissau addressed to the President of the Security Council, S/2022/996 (Dec. 31, 2022).

<sup>297</sup> UNSCR 2048 (2012), OP 5.

<sup>298</sup> UNSCR 2653 (2022).

<sup>299</sup> Ibid.

<sup>300</sup> Ibid., at OP 11.

<sup>301</sup> UNSCR 2653 (2022), OP 15.

<sup>302</sup> Ibid., at OP 16 (a).

<sup>303</sup> Ibid., at OP 16 (b).

<sup>310</sup> U.N. Security Council, Letter dated 23 December 2022 from the Chair of the Security Council Committee established pursuant to resolution 2653 (2022) concerning Haiti addressed to the President of the Security Council, S/2022/1000 (Dec. 31, 2022).

<sup>311</sup> UNSCR 2653 (2022), OP 5.

					trafficking; <sup>304</sup> acting in violation of the arms embargo; <sup>305</sup> violating IHRL; <sup>306</sup> planning or committing sexual violence; <sup>307</sup> obstructing delivery of humanitarian assistance; <sup>308</sup> attacking peacekeeping personnel or premises of U.N. missions <sup>309</sup>		administrative or arbitral lien or judgment. <sup>312</sup> Further, since the adoption of resolution 2664 (2022), a humanitarian-related “carve-out” indefinitely applies to asset freezes under this regime. <sup>313</sup>
8.	Iraq Sanctions Regime	The Security Council Committee established pursuant to resolution 1518 (2003) (1518 Sanctions Committee (Iraq))	N/A	Arms embargo; <sup>314</sup> asset freezes <sup>315</sup>	Assets removed or acquired by Saddam Hussein, senior officials of the former regime, immediate family and entities owned or controlled, directly or indirectly, by them, or funds or other financial assets or economic resources of the previous government of Iraq or its State bodies, corporations, or agencies, located outside Iraq as of the date of the resolution. <sup>316</sup> All States to prevent the sale or supply to Iraq of arms and related material. <sup>317</sup>	At the end of the reporting period (January 1–December 31, 2022), there were 70 individuals and 10 entities on the sanctions list of the Committee. <sup>318</sup>	<b>Arms embargo:</b> Arms or related materials required by the government of Iraq to serve the purposes of resolution 1546 (2004) are exempt from the general arms embargo. <b>Asset freeze:</b> Since the adoption of resolution 2664 (2022), a humanitarian-related “carve-out” indefinitely applies to asset freezes under this regime. <sup>319</sup>
9.	ISIL Da’esh and Al-Qaida Sanctions Regime	Security Council Committee pursuant to resolutions 1267 (1999), 1989 (2011) and 2253 (2015) concerning ISIL (Da’esh), Al-Qaida, and	Analytical Support and Sanctions Monitoring Team pursuant to resolutions 1526 (2004)	Assets freeze; arms embargo; travel ban <sup>321</sup>	Participating in the financing, planning, facilitating, preparing, or perpetrating of acts or activities associated with ISIL (Da’esh) and Al-Qaida; supplying, selling, or transferring arms and related materials; recruiting for or otherwise supporting acts or activities	At the end of the reporting period (January 1–December 31, 2022), there were 255 individuals and 88 entities on the sanctions list of	<b>Asset freeze:</b> Exemptions for basic expenses and extraordinary expenses. <sup>324</sup> Since the adoption of resolution 2664 (2022), a humanitarian-related “carve-out” applies to asset freezes under this regime for an initial period of two years. <sup>325</sup> <b>Travel ban:</b> Exemptions for entry or transit necessary for the fulfillment of a

<sup>304</sup> Ibid., at OP 16 (c).

<sup>305</sup> Ibid., at OP 16 (d).

<sup>306</sup> Ibid., at OP 16 (e).

<sup>307</sup> Ibid., at OP 16 (f).

<sup>308</sup> Ibid., at OP 16 (g).

<sup>309</sup> Ibid., at OP 16 (h).

<sup>312</sup> UNSCR 2653 (2022), OP 7–10.

<sup>313</sup> UNSCR 2664 (2022), OP 1.

<sup>314</sup> UNSCR 1546 (2004).

<sup>315</sup> UNSCR 1483 (2003).

<sup>316</sup> Ibid., at OP 19, 23.

<sup>317</sup> UNSCR 1546 (2004), OP 21.

<sup>318</sup> U.N. Security Council, Letter dated 16 December 2022 from the Chair of the Security Council Committee established pursuant to resolution 1518 (2003) addressed to the President of the Security Council, S/2022/968 (Dec. 31, 2022).

<sup>319</sup> UNSCR 2664 (2022), OP 1.

<sup>321</sup> UNSCR 2610 (2021).

<sup>324</sup> UNSCR 2610 (2021), OP 84 (a)–(b), 85, 86 (a).

<sup>325</sup> UNSCR 2664 (2022), OP 1–2.

		associated individuals, groups, undertakings and entities (ISIL (Da'esh) and Al-Qaeda Sanctions Committee)	and 2253 (2015) concerning ISIL (Da'esh), Al-Qaeda and the Taliban and associated individuals and entities <sup>320</sup>		of, ISIL (Da'esh), Al-Qaeda or affiliates <sup>322</sup>	the Committee. <sup>323</sup>	judicial process or when the committee determines on a case-by-case basis that entry or transit is justified, such as cases of emergency evacuation. <sup>326</sup> In cases when the Ombudsperson is unable to interview a petitioner in his or her state of residence, the Ombudsperson may request, with the agreement of the petitioner, that the Committee consider granting exemptions to the restrictions on assets and travel for the sole purpose of allowing the petitioner to meet travel expenses and travel to another state to be interviewed by the Ombudsperson for a period no longer than necessary to participate in this interview, provided that all States of transit and destination do not object to such travel.
10.	Libya Sanctions Regime	The Security Council Committee established pursuant to resolution 1970 (2011) concerning Libya (Libya Sanctions Committee)	N/A	Arms embargo; <sup>327</sup> travel ban; <sup>328</sup> assets freeze and business restrictions; <sup>329</sup> measures in relation to attempts to illicitly export petroleum <sup>330</sup>	Directing/controlling IHRL or international law violations including against civilians <sup>331</sup> or acting on behalf of entities or individuals doing so; <sup>332</sup> violating the arms embargo; <sup>333</sup> vessels engaged in illicit exports including of crude oil from Libya; <sup>334</sup> involvement in ordering, controlling, or otherwise directing the commission of serious human rights abuses against persons in Libya, including by being involved in or complicit in planning,	At the end of the reporting period (January 1–December 31, 2022), there were 29 individuals and two entities on the sanctions list of the Committee. <sup>342</sup>	<b>Arms embargo:</b> Exemptions for protective clothing, including flak jackets and military helmets, temporarily exported to Libya by U.N. personnel, representatives of the media and humanitarian and development workers and associated personnel, for their personal use only; non-lethal military equipment, and the provision of any technical assistance, training, or financial assistance, when intended solely for security or disarmament

<sup>320</sup> UNSCR 1526 (2004); UNSCR 2253 (2015).

<sup>322</sup> *Ibid.*, at OP 2–4.

<sup>323</sup> U.N. Security Council, Letter dated 15 December 2022 from the Chair of the Security Council Committee pursuant to resolutions 1267 (1999), 1989 (2011) and 2253 (2015) concerning Islamic State in Iraq and the Levant (Da'esh), Al-Qaeda and associated individuals, groups, undertakings and entities addressed to the President of the Security Council, S/2022/963 (Dec. 31, 2022).

<sup>326</sup> UNSCR 2610 (2021), OP 1(b), 86 (b).

<sup>327</sup> UNSCR 1970 (2011); UNSCR 2009 (2011) (modified by UNSCR 2095 (2013) and UNSCR 2174 (2014)).

<sup>328</sup> UNSCR 1970 (2011).

<sup>329</sup> *Ibid.*

<sup>330</sup> UNSCR 2146 (2014) (as updated by UNSCR 2362 (2017)).

<sup>331</sup> UNSCR 1970 (2011), OP 22 (a).

<sup>332</sup> *Ibid.*, at OP 22 (b).

<sup>333</sup> UNSCR 1973 (2011), OP 23; UNSCR 2213 (2015), OP 11 (e).

<sup>334</sup> UNSCR 2146 (2014), OP 11.

<sup>342</sup> U.N. Security Council, Letter dated 13 December 2022 from the Chair of the Security Council Committee established pursuant to resolution 1970 (2011) concerning Libya addressed to the President of the Security Council, S/2022/970 (Dec. 31, 2022).

					<p>commanding, ordering or conducting attacks, in violation of international law, including aerial bombardments, on civilian populations and facilities;<sup>335</sup> attacks by air, land or sea against Libya or Libyan State institutions;<sup>336</sup> supporting armed groups or criminal networks through illicit exploitation of crude oil or natural resources in Libya;<sup>337</sup> acting on behalf or at direction of a listed individual/entity;<sup>338</sup> threatening or coercing Libyan State financial institutions and the Libyan National Oil Company or engaging in misappropriation of Libyan state funds;<sup>339</sup> planning or participating in attacks against U.N. personnel including the panel of experts;<sup>340</sup> planning or committing gender-based violence<sup>341</sup></p>	<p>assistance to the Libyan government.<sup>343</sup></p> <p><b>Travel ban:</b> Exemptions on humanitarian and religious grounds, for the fulfillment of a judicial process, to further the objectives of peace and national reconciliation in Libya and stability in the region.<sup>344</sup></p> <p><b>Asset freezes and business restrictions:</b> Exemptions for basic expenses; extraordinary expenses; judicial, administrative or arbitral lien or judgement; payments due to third parties under contracts entered into prior to a listing; humanitarian needs; fuel, electricity and water for strictly civilian uses; resuming Libyan production and sale of hydrocarbons; establishing, operating, or strengthening institutions of civilian government and civilian public infrastructure; facilitating the resumption of banking sector operations, including to support or facilitate international trade with Libya.<sup>345</sup> Further, since the adoption of resolution 2664 (2022), a humanitarian-related “carve-out” indefinitely applies to asset freezes under this regime.<sup>346</sup></p> <p><b>Measures in relation to attempts to illicitly export petroleum:</b> The Committee may make exceptions as may be necessary and appropriate; States may allow the entry into ports if it is necessary for the purpose of an inspection, in the case of emergency or in the case of return to Libya; the provision of bunkering</p>
--	--	--	--	--	--	--

<sup>335</sup> UNSCR 2174 (2014), OP 4 (a); UNSCR 2213 (2015), OP 11 (a).

<sup>336</sup> UNSCR 2174 (2014), OP 4 (b); UNSCR 2213 (2015), OP 11 (b).

<sup>337</sup> UNSCR 2174 (2014), OP 4 (c); UNSCR 2213 (2015), OP 11 (c).

<sup>338</sup> UNSCR 2174 (2014), OP 4 (c); UNSCR 2213 (2015), OP 11 (f).

<sup>339</sup> UNSCR 2213 (2015), OP 11 (d).

<sup>340</sup> UNSCR 2362 (2017), OP 11.

<sup>341</sup> UNSCR 2441 (2018), OP 11.

<sup>343</sup> UNSCR 1970 (2011), OP 9 (b)–(c); UNSCR 2009 (2011), OP 13 (a) (modified by UNSCR 2095 (2013), OP 10); UNSCR 2174 (2014), OP 8; UNSCR 2009 (2011), OP 13 (b).

<sup>344</sup> UNSCR 1970 (2011), OP 16.

<sup>345</sup> *Ibid.*, at OP 19, 21; UNSCR 2009 (2011), OP 16.

<sup>346</sup> UNSCR 2664 (2022), OP 1.

							services, such as provision of fuel or supplies is allowed if it is necessary for humanitarian purposes, or in the case of return to Libya. <sup>347</sup>
11.	Mali Sanctions Regime	The Security Council Committee established pursuant to resolution 2374 (2017) concerning Mali (Mali Sanctions Committee)	N/A	Travel ban; <sup>348</sup> assets freeze <sup>349</sup>	Threatening the peace, security, stability of Mali; <sup>350</sup> engaging in hostilities in violation of, <sup>351</sup> or actions that obstruct or delay the implementation <sup>352</sup> of the Agreement on Peace and Reconciliation in Mali (2015); financing individuals or entities sanctioned by the Committee including through organized crime proceeds; <sup>353</sup> attacks against U.N. missions or panel of experts, MINUSMA, security personnel or peacekeeping operations; <sup>354</sup> obstructing humanitarian assistance; <sup>355</sup> violating IHL or IHRL including through targeting civilians or civilian objects through violence including sexual violence, enforced disappearances, etc., <sup>356</sup> use or recruitment of child soldiers in violation of international law. <sup>357</sup>	At the end of the reporting period (January 1–December 31, 2022), there were eight individuals on the sanctions list of the Committee, with three subject to the travel ban and five subject to both the assets freeze and the travel ban. <sup>358</sup>	<b>Travel ban:</b> Exemptions as determined by the Committee on a case-by-case basis, on the grounds of humanitarian need, including religious obligation; where entry or transit is necessary for the fulfillment of a judicial process; where the Committee determines on a case-by-case basis that an exemption would further the objectives of peace and national reconciliation in Mali and stability in the region. <sup>359</sup> <b>Assets freeze:</b> Exemptions extended to basic expenses, extraordinary expenses, or judicial, administrative or arbitral lien or judgement; where the Committee determines on a case-by-case basis that an exemption would further the objectives of peace and national reconciliation in Mali and stability in the region. <sup>360</sup> Further, since the adoption of resolution 2664 (2022), a humanitarian-related “carve-out” indefinitely applies to asset freezes under this regime. <sup>361</sup>

<sup>347</sup> UNSCR 2146 (2014), OP 12 (as updated in UNSCR 2362 (2017), OP 2); UNSCR 2146 (2014), OP 10 (b)–(c).

<sup>348</sup> UNSCR 2374 (2017).

<sup>349</sup> *Ibid.*

<sup>350</sup> UNSCR 2374 (2017), OP 8.

<sup>351</sup> *Ibid.*, at OP 8 (a).

<sup>352</sup> *Ibid.*, at OP 8 (b).

<sup>353</sup> *Ibid.*, at OP 8 (c).

<sup>354</sup> *Ibid.*, at OP 8 (d).

<sup>355</sup> *Ibid.*, at OP 8 (e).

<sup>356</sup> *Ibid.*, at OP 8 (f).

<sup>357</sup> *Ibid.*, at OP 8 (g).

<sup>358</sup> U.N. Security Council, Letter dated 19 December 2022 from the Chair of the Security Council Committee established pursuant to resolution 2374 (2017) concerning Mali addressed to the President of the Security Council, S/2022/978 (Dec. 31, 2022).

<sup>359</sup> UNSCR 2374 (2017), OP 2.

<sup>360</sup> *Ibid.*, at OP 5–7.

<sup>361</sup> UNSCR 2664 (2022), OP 1.

12.	Somalia Sanctions Regime	The Security Council Committee pursuant to resolution 751 (1992) concerning Al-Shabaab (Al-Shabaab Sanctions Committee)	N/A	Two types of embargoes — an open-ended general arms embargo and a targeted arms embargo on designated individuals and entities; <sup>362</sup> travel ban; <sup>363</sup> assets freeze <sup>364</sup> , IED components ban; <sup>365</sup> charcoal ban <sup>366</sup>	Certain acts concerning threats to the peace, stability, security, or reconciliation of Somalia, <sup>367</sup> violating the arms embargo, <sup>368</sup> obstructing humanitarian assistance to Somalia, <sup>369</sup> recruiting or using children in armed conflicts, <sup>370</sup> targeting and killing civilians in armed conflict, <sup>371</sup> direct/indirect import of charcoal from Somalia, <sup>372</sup> engaging in non-local commerce via Al-Shabaab ports constituting financial support, <sup>373</sup> misappropriating federal financial resources, <sup>374</sup> planning, directing or committing gender based violence <sup>375</sup>	At the end of the reporting period (January 1–December 31, 2022), there were 19 individuals and one entity on the sanctions list of the Committee. <sup>376</sup>	<b>Arms embargo:</b> Exemptions extend to supplies of non-lethal military equipment intended solely for humanitarian or protective use; supplies of weapons or military equipment and technical assistance for the development of the security forces of the Federal Government of Somalia (FGS) or for the purposes of helping develop other Somali security sector institutions; supplies of weapons or military equipment or the provision of assistance to U.N. personnel, the African Union Mission in Somalia, the E.U. Training Mission in Somalia, Member States or international, regional and sub-regional organisations undertaking measures to suppress acts of piracy and armed robbery at sea off the coast of Somalia at the request of the FGS; supplies of protective clothing, including flak jackets and military helmets, temporarily exported to Somalia or Eritrea by U.N. personnel, representatives of the media and humanitarian and development workers and associated personnel; entry into Somali ports for temporary visits of vessels carrying weapons and military equipment for defensive purposes provided that such items
-----	--------------------------	---	-----	---	--	---	---

<sup>362</sup> UNSCR 2662 (2022).

<sup>363</sup> UNSCR 1844 (2008).

<sup>364</sup> Ibid.; UNSCR 2551 (2020).

<sup>365</sup> UNSCR 2662 (2022).

<sup>366</sup> Ibid.

<sup>367</sup> UNSCR 1844 (2008), OP 8 (a); UNSCR 2002 (2011), OP 1 (a); UNSCR 2060 (2012), OP 1, 3; UNSCR 2093 (2013), OP 43 (a); UNSCR 2662 (2022), OP 26.

<sup>368</sup> UNSCR 1844 (2008), OP 8 (b); UNSCR 2002 (2011), OP 1 (b); UNSCR 2093 (2013), OP 43 (b).

<sup>369</sup> UNSCR 1844 (2008), OP 8 (c); UNSCR 2002 (2011), OP 1 (c); UNSCR 2093 (2013), OP 43 (c).

<sup>370</sup> UNSCR 2002 (2011), OP 1 (d); UNSCR 2093 (2013), OP 43 (d).

<sup>371</sup> UNSCR 2002 (2011), OP 1 (e); UNSCR 2093 (2013), OP 43 (e).

<sup>372</sup> UNSCR 2060 (2012), OP 2 (a).

<sup>373</sup> Ibid., at OP 2 (b).

<sup>374</sup> Ibid., at OP 2 (c); UNSCR 2385 (2017), OP 44.

<sup>375</sup> UNSCR 2444 (2018), OP 50.

<sup>376</sup> U.N. Security Council, Letter dated 20 December 2022 from the Chair of the Security Council Committee pursuant to resolution 751 (1992) concerning Al-Shabaab addressed to the President of the Security Council, S/2022/995 (Dec. 31, 2022).

							<p>remain at all times aboard such vessels.<sup>377</sup></p> <p><b>Travel ban:</b> Exemptions on humanitarian grounds, including religious obligation; to further the objectives of peace and stability in the region; to further the objectives of peace and national reconciliation in Somalia.<sup>378</sup></p> <p><b>Asset freeze:</b> Exemptions extended for basic expenses; for extraordinary expenses; for expenses subject to a judicial, administrative or arbitral lien or judgment.<sup>379</sup> Further, since the adoption of resolution 2664 (2022), a humanitarian-related “carve-out” indefinitely applies to asset freezes under this regime.<sup>380</sup></p>
13.	South Sudan Sanctions Regime	The Security Council Committee established pursuant to resolution 2206 (2015) concerning South Sudan (South Sudan Sanctions Committee)	N/A	Travel ban; <sup>381</sup> asset freeze; <sup>382</sup> arms embargo <sup>383</sup>	Threatening the peace, security, stability of South Sudan; <sup>384</sup> extending the conflict in South Sudan or obstructing reconciliation <sup>385</sup> or undermining transitional agreements or the political process; <sup>386</sup> violating IHRL or IHL; <sup>387</sup> targeting civilians or civilian objects through violence including sexual violence, enforced disappearances, etc.; <sup>388</sup> committing or planning sexual or gender-based violence; <sup>389</sup> using or recruiting children in armed conflict; <sup>390</sup> obstruction of international	At the end of the reporting period (January 1–December 31, 2022), there were eight individuals on the sanctions list of the Committee. <sup>396</sup>	<p><b>Travel ban:</b> Exemptions on humanitarian grounds, including religious obligation; where entry or transit is necessary for the fulfillment of a judicial process; and where the Committee determines that an exemption would further the objectives of peace and national reconciliation in South Sudan and stability in the region.<sup>397</sup></p> <p><b>Asset freeze:</b> Exemptions for basic expenses, extraordinary expenses, and expenses subject to a judicial,</p>

<sup>377</sup> UNSCR 2662 (2022), OP 11, 14, 15, 18, 21.

<sup>378</sup> UNSCR 1844 (2008), OP 2.

<sup>379</sup> *Ibid.*, at OP 4; UNSCR 2551 (2020), OP 22.

<sup>380</sup> UNSCR 2664 (2022), OP 1.

<sup>381</sup> UNSCR 2206 (2015).

<sup>382</sup> *Ibid.*

<sup>383</sup> UNSCR 2428 (2018).

<sup>384</sup> UNSCR 2521 (2020), OP 14.

<sup>385</sup> *Ibid.*, at OP 15 (a).

<sup>386</sup> *Ibid.*, at OP 15 (b).

<sup>387</sup> *Ibid.*, at OP 15 (c).

<sup>388</sup> *Ibid.*, at OP 15 (d).

<sup>389</sup> *Ibid.*, at OP 15 (e).

<sup>390</sup> *Ibid.*, at OP 15 (f).

<sup>396</sup> U.N. Security Council, Letter dated 15 December 2022 from the Chair of the Security Council Committee established pursuant to resolution 2206 (2015) concerning South Sudan addressed to the President of the Security Council, S/2022/965 (Dec. 31, 2022).

<sup>397</sup> UNSCR 2206 (2015), OP 11.

					<p>peacekeeping, diplomatic or humanitarian missions;<sup>391</sup> attacks against U.N. missions, security personnel or peacekeeping operations;<sup>392</sup> acting on behalf of a group designated by the Committee;<sup>393</sup> engaging with armed groups or criminal networks engaged in illicit trade of natural resources;<sup>394</sup> engaging in activities capable of extending the conflict in South Sudan<sup>395</sup></p>		<p>administrative or arbitral lien or judgment.<sup>398</sup> Further, since the adoption of resolution 2664 (2022), a humanitarian-related “carve-out” indefinitely applies to asset freezes under this regime.<sup>399</sup></p> <p><b>Arms embargo:</b> Arms and related materiel, as well as training and assistance, intended solely for support of or use by U.N. personnel or certain U.N. entities; non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance or training, as notified in advance to the Committee; protective clothing, including flak jackets and military helmets, temporarily exported to South Sudan by U.N. personnel, representatives of the media and humanitarian and development workers and associated personnel, for their personal use only; arms and related materiel temporarily exported to South Sudan by the forces of a State which is taking action, in accordance with international law, solely and directly to facilitate the protection or evacuation of its nationals and those for whom it has consular responsibility in South Sudan, as notified to the Committee; arms and related materiel, as well as technical training and assistance, to or in support of the African Union Regional Task Force intended solely for regional operations to counter the Lord’s Resistance Army, as notified in advance to the Committee; arms and related materiel, as well as technical training and assistance, solely in support of the implementation of the terms of the peace agreement, as approved in advance</p>
--	--	--	--	--	---	--	---

<sup>391</sup> Ibid., at OP 15 (g).  
<sup>392</sup> Ibid., at OP 15 (h).  
<sup>393</sup> Ibid., at OP 15 (i).  
<sup>394</sup> Ibid., at OP 15 (j).  
<sup>395</sup> Ibid., at OP 16; UNSCR 2577 (2021), OP 15.  
<sup>398</sup> Ibid., at OP 13–15.  
<sup>399</sup> UNSCR 2664 (2022), OP 1.

							by the Committee; and other sales or supply of arms and related materiel, or provision of assistance or personnel, as approved in advance by the Committee. <sup>400</sup>
14.	Sudan Sanctions Regime	The Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan (Sudan Sanctions Committee)	N/A	Arms embargo; <sup>401</sup> travel ban; <sup>402</sup> assets freeze <sup>403</sup>	Impeding the peace process, constituting a threat to stability in Darfur and the region, committing violations of IHL, IHRL, or committing other atrocities <sup>404</sup>	At the end of the reporting period (January 1–December 31, 2022), there were three individuals on the sanctions list of the Committee. <sup>405</sup>	<p><b>Arms embargo:</b> Exemptions for supplies and related technical training and assistance to monitoring, verification, or peace support operations authorized by the U.N. or operating with the consent of the relevant parties; non-lethal military equipment intended solely for humanitarian or human rights monitoring or protective use; and protective clothing for the personal use of U.N. personnel, human rights monitors, representatives of the media and humanitarian and development workers and associated personnel.<sup>406</sup></p> <p><b>Travel ban:</b> Exemptions on the grounds of humanitarian need, including religious obligations, or when the Committee concludes that an exemption would further the objectives of the Council’s resolutions.<sup>407</sup></p> <p><b>Asset freeze:</b> Exemption allowed for basic expenses, extraordinary expenses, and expenses subject to judicial, administrative or arbitration lien or judgment.<sup>408</sup> Further, since the adoption of resolution 2664 (2022), a humanitarian-related “carve-out” indefinitely applies to asset freezes under this regime.<sup>409</sup></p>

<sup>400</sup> UNSCR 2428 (2018), OP 5.

<sup>401</sup> UNSCR 1591 (2005), UNSCR 1556 (2004).

<sup>402</sup> UNSCR 1591 (2005).

<sup>403</sup> Ibid.

<sup>404</sup> Ibid., at OP 3 (c).

<sup>405</sup> U.N. Security Council, Letter Dated 15 December 2022 From The Chair Of The Security Council Committee Established Pursuant To Resolution 1591 (2005) Concerning The Sudan Addressed To The President Of The Security Council, S/2022/961 (Dec. 31, 2022).

<sup>406</sup> UNSCR 1556 (2004), OP 9; UNSCR 1591 (2005), OP 7 (as updated by UNSCR 1945 (2010), OP 9; UNSCR 2035 (2012), OP 4).

<sup>407</sup> UNSCR 1591 (2005), OP 3 (d).

<sup>408</sup> Ibid., at OP 3 (e).

<sup>409</sup> UNSCR 2664 (2022), OP 1.

15.	Yemen Sanctions Regime	The Security Council Committee established pursuant to resolution 2140 (2014) concerning Yemen (2140 Sanctions Committee (Yemen))	N/A	Assets freeze; <sup>410</sup> targeted arms embargo; <sup>411</sup> travel bans <sup>412</sup>	Supporting acts that threaten the peace, security or stability in Yemen; <sup>413</sup> obstructing the completion of the political transition, under the Gulf Cooperation Council (GCC) Initiative and Implementation Mechanism Agreement; <sup>414</sup> violence or attacks on infrastructure to impede implementation of the final report of the comprehensive National Dialogue Conference; <sup>415</sup> violating IHL or IHRL; <sup>416</sup> violating the targeted arms embargo; <sup>417</sup> obstructing humanitarian assistance to Yemen; <sup>418</sup> engaging in sexual violence in armed conflict, or the recruitment or use of children in armed conflict <sup>419</sup>	At the end of the reporting period (January 1– December 31, 2022), there were 12 individuals and one entity on the sanctions list of the Committee <sup>420</sup>	<p><b>Asset freeze:</b> Exemptions for basic expenses, extraordinary expenses, or judicial, administrative or arbitral lien or judgment.<sup>421</sup> Further, since the adoption of resolution 2664 (2022), a humanitarian-related “carve-out” indefinitely applies to asset freezes under this regime.<sup>422</sup></p> <p><b>Targeted arms embargo:</b> No exemption to the arms embargo; but as a general rule, the committee makes exemption decisions on a case-by-case basis.<sup>423</sup></p> <p><b>Travel ban:</b> Exemptions for humanitarian need, including religious obligation; fulfillment of a judicial process; where an exemption would further the objectives of peace and national reconciliation; and where such entry or transit is required to advance peace and stability.<sup>424</sup></p>
-----	------------------------	---	-----	--	--	---	---

<sup>410</sup> UNSCR 2140 (2014); UNSCR 2511 (2020).

<sup>411</sup> UNSCR 2511 (2020).

<sup>412</sup> UNSCR 2140 (2014); UNSCR 2511 (2020).

<sup>413</sup> UNSCR 2140 (2014), OP 17.

<sup>414</sup> *Ibid.*, at OP 18 (a).

<sup>415</sup> *Ibid.*, at OP 18 (b).

<sup>416</sup> *Ibid.*, at OP 18 (c).

<sup>417</sup> UNSCR 2216 (2015), OP 19.

<sup>418</sup> *Ibid.*

<sup>419</sup> UNSCR 2511 (2020), OP 6.

<sup>420</sup> U.N. Security Council, Letter dated 27 December 2022 from the Chair of the Security Council Committee established pursuant to resolution 2140 (2014) addressed to the President of the Security Council, S/2022/1006 (Dec. 31, 2022).

<sup>421</sup> UNSCR 2140 (2014); UNSCR 2511 (2020), OP 3.

<sup>422</sup> UNSCR 2664 (2022), OP 1.

<sup>423</sup> UNSCR 2511 (2020), OP 3.

<sup>424</sup> UNSCR 2140 (2014), OP 16; UNSCR 2511 (2020), OP 3.

***Annex 2: Reports Issued in Relation to Humanitarian Assistance Under the Somalia Sanctions Regime***

Issuing Authority	Document Symbol	Date	Description
Under Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator	S/2022/766	October 15, 2022	Report on the implementation of the resolution and on any impediments to the delivery of humanitarian assistance in Somalia from September 1, 2021 to August 31, 2022. The report covers delivery of humanitarian assistance to affected people in areas under the control or influence of Al-Shabaab and mitigation measures established to address the risks of the politicization, misuse, and misappropriation of humanitarian assistance.
Under Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator	S/2021/847	October 6, 2021	Report on the implementation of Resolution 2551 (2020) and on any impediments to the delivery of humanitarian assistance in Somalia from September 1, 2020 to August 31, 2021. The report covers delivery of humanitarian assistance to affected people in areas under the control or influence of Al-Shabaab and mitigation measures established to address the risks of the politicization, misuse, and misappropriation of humanitarian assistance.
Under Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator	S/2020/1004	October 15, 2020	Report on the implementation of the resolution and on any impediments to the delivery of humanitarian assistance in Somalia from September 1, 2019 to August 31, 2020. The report covers the delivery of humanitarian assistance to affected persons in areas under the control or influence of Al-Shabaab and mitigation measures established to address the risks of the politicization, misuse, and misappropriation of humanitarian assistance are summarized.
Under Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator	S/2019/799	October 7, 2019	Report on the implementation of the resolution and on any impediments to the delivery of humanitarian assistance in Somalia from September 1, 2018 to August 31, 2019. The report covers the delivery of humanitarian assistance to affected persons in areas under the control or influence of Al-Shabaab and mitigation measures established to address the risks of the politicization, misuse, and misappropriation of humanitarian assistance are summarized.
Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator	S/2018/896	October 8, 2018	Report on the implementation of the resolution and on any impediments to the delivery of humanitarian assistance in Somalia from September 2017 to September 2018. The report covers the delivery of humanitarian assistance to affected persons in areas under the control or influence of Al-Shabaab and mitigation measures established to address the risks of the politicization, misuse, and misappropriation of humanitarian assistance are summarized.
Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator	S/2017/860	December 7, 2017	Report on the implementation of Resolution 2317 (2016) and on any impediments to the delivery of humanitarian assistance in Somalia from September 2016 to September 2017. The report covers the delivery of humanitarian assistance to affected persons in areas under the control or influence of Al-Shabaab and mitigation measures established to address the risks of the politicization, misuse and misappropriation of humanitarian assistance.
Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator	S/2016/827	September 30, 2016	Report on the delivery of humanitarian assistance in Somalia and any impediments thereto from September 2015 to September 2016. The report covers the delivery of humanitarian assistance to affected persons in areas under the control or influence of Al-Shabaab and mitigation measures established to address the risks of the politicization, misuse and misappropriation of humanitarian assistance.
Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator	S/2015/731	September 21, 2015	Report on the delivery of humanitarian assistance in Somalia and impediments thereto from September 2014 to September 2015. The report covers delivery of humanitarian assistance to affected people in areas under the control or influence of Al-Shabaab, constraints to humanitarian access and operational implications, as well as mitigation measures put in place to address the politicization, misuse and misappropriation of humanitarian assistance.
Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator	S/2014/655	September 15, 2014	Report on the delivery of humanitarian assistance in Somalia and on the impediments to the delivery of humanitarian assistance in Somalia from February 2014 to August 2014. The report covers the delivery of humanitarian assistance to affected people in areas under the control, or influence, of Al-Shabaab, constraints to humanitarian access and operational implications, and mitigation

			measures established to address the politicization, misuse and misappropriation of humanitarian assistance.
Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator	S/2014/177	March 11, 2014	First report submitted pursuant to paragraph 23 of Security Council resolution 2111 (2013) on the implementation of the resolution and on any impediments to the delivery of humanitarian assistance in Somalia. The report covers the period from July 2013 to January 2014. It focuses primarily on the delivery of humanitarian assistance to affected populations of the regions of Somalia under the control or in areas of influence of Al-Shabaab. It also outlines constraints to humanitarian access and their operational implications, as well as mitigation measures put in place to address the politicization, misuse and misappropriation of humanitarian assistance. The report is based on information gathered in a survey of relevant humanitarian agencies and clusters active in Somalia and information from the Risk Management Unit in the Office of the United Nations Resident and Humanitarian Coordinator for Somalia.
Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator	S/2013/415	July 12, 2013	Report on the implementation of paragraphs 5, 6 and 7 of Resolution 2060 (2012) and on any impediments to the delivery of humanitarian assistance in Somalia from November 2012 to June 2013. The report covers the regions of Somalia affected by Al-Shabaab, constraints to humanitarian access and their operational implications, and mitigation measures put in place to address the politicization, misuse and misappropriation of humanitarian assistance.
United Nations Resident and Humanitarian Coordinator for Somalia	S/2012/856	November 20, 2012	Report on the implementation of paragraphs 5, 6 and 7 of Resolution 2060 (2012) and on any impediments to the delivery of humanitarian assistance in Somalia from July to October 2012. The report covers the regions of Somalia affected by Al-Shabaab and outlines constraints to humanitarian access and their operational implications, as well as the mitigation measures put in place to address the politicization, misuse and misappropriation of humanitarian assistance.
United Nations Resident and Humanitarian Coordinator for Somalia	S/2012/546	July 16, 2012	Report on the implementation of paragraphs 3 and 4 of Resolution 1972 (2011) and on any impediments to the delivery of humanitarian assistance in Somalia from November 2011 to June 2012. The report covers the regions of Somalia under the control of Al-Shabaab and outlines constraints to humanitarian access and their operational implications, as well as the mitigation measures that have been put in place to address the politicization, misuse, and misappropriation of humanitarian assistance.
United Nations Resident and Humanitarian Coordinator	S/2011/694	November 10, 2011	Report on the implementation of paragraphs 3 and 4 of Resolution 1972 (2011) and on any impediments to the delivery of humanitarian assistance in Somalia from April to November 2011. The report covers the regions of Somalia under the control of Al-Shabaab and outlines constraints to humanitarian access and their operational implications, as well as the mitigation measures that have been put in place to address politicization, misuse, and misappropriation of humanitarian assistance.
United Nations Resident and Humanitarian Coordinator for Somalia	S/2011/125	March 14, 2011	Third report on the implementation of paragraphs 4 and 5 of Resolution 1916 (2010) and on any impediments to the delivery of humanitarian assistance in Somalia from November 2010 to March 2011. The report covers the regions of Somalia under the control of Al-Shabaab and outlines the constraints to humanitarian access and the operational implications, as well as the mitigation measures that have been put in place to address politicization, misuse and misappropriation.
United Nations Resident and Humanitarian Coordinator for Somalia	S/2010/580	November 24, 2010	Second report on the implementation of paragraphs 4 and 5 of Resolution 1916 (2010) and on any impediments to the delivery of humanitarian assistance in Somalia from August to November 2010. The report covers the regions of Somalia under the control of Al-Shabaab and outlines the constraints on humanitarian access and their operational implications, as well as the mitigation measures that have been put in place to address “politicization”, “misuse” and “misappropriation”.
United Nations Resident and Humanitarian Coordinator for Somalia	S/2010/372	July 13, 2010	First report on the implementation of paragraphs 4 and 5 of Resolution 1916 (2010) and on any impediments to the delivery of humanitarian assistance in Somalia from March 2010 to July 2010. The report covers the regions of Somalia under the control of Al-Shabaab, outlining how the humanitarian community operates in Somalia and the role of the Coordinator; the humanitarian situation; impediments to humanitarian aid delivery; and mitigation measures in place to address politicization, misuse and misappropriation.

***Annex 3: Implementation Assistance Notices Issued by Currently Operating Sanctions Committees***

<b>Issuing Committee</b>	<b>Title</b>	<b>Date</b>	<b>Description</b>
Al-Shabaab Sanctions Committee	Implementation Assistance Notice No. 1	Feb. 12, 2019	To provide recommendations on interdiction of charcoal from Somalia by Member States pursuant to Security Council resolutions 2036 (2012), 2060 (2012), 2111 (2013), and 2182 (2014).
	Implementation Assistance Notice No. 2	May 31, 2022 update	To provide a summary of procedural approvals and notification requirements related to the partial lifting of the arms embargo on Somalia.
	Implementation Assistance Notice No. 3	Aug. 3, 2020	To provide a summary of the Improvised Explosive Device (IED) components ban and regulations in place for exportation of explosive materials to Somalia pursuant to Security Council resolution 2498 (2019).
Sudan Sanctions Committee	Implementation Assistance Notice No. 1	Mar. 6, 2017	To assist Member States in their implementation of the travel ban in relation to the Sudan sanctions regime.
DPRK Sanctions Committee	Implementation Assistance Notice No. 1	Nov. 15, 2017	To provide information to assist Member States in carrying out their obligations under Security Council resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017), and 2375 (2017).
	Implementation Assistance Notice No. 2	Apr. 24, 2018	To provide guidelines on the preparation and submission of national implementation reports.
	Implementation Assistance Notice No. 3	Jan. 20, 2017	To provide guidelines for the implementation of certain measures regarding "luxury goods".
	Implementation Assistance Notice No. 4	Jun. 28, 2017	To provide information concerning implementation of OP 8 and OP 27 of resolution 2270 (2016).
	Implementation Assistance Notice No. 5	Jul. 28, 2014	To provide information concerning the M/V Chong Chon Gang incident.
	Implementation Assistance Notice No. 6	Nov. 15, 2017	To provide information concerning diplomatic missions in the Democratic People's Republic of Korea.
	Implementation Assistance Notice No. 7	Nov. 30, 2020	To provide guidelines for obtaining exemptions to deliver humanitarian assistance to the Democratic People's Republic of Korea.
	See also: Fact Sheet on measures imposed by relevant Security Council resolutions	Apr. 17, 2018	To compile measures imposed by the Security Council with respect to the DPRK in Security Council resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017), 2375 (2017), and 2397 (2017). The measures are grouped thematically in order to assist States in their implementation.
Libya Sanctions Committee	Implementation Assistance Notice No. 1	Mar. 7, 2012	To provide information concerning subsidiaries of the Libyan Investment Authority (LIA, a.k.a. Libyan Arab Foreign Investment Company or LAFICO) and the Libyan Africa Investment Portfolio (LAIP).
	Implementation Assistance Notice No. 2	Sep. 11, 2014	To assist Member States in the implementation of the arms embargo on Libya.
	Implementation Assistance Notice No. 3	Aug. 18, 2016	To assist Member States in the implementation of the arms embargo on Libya and focusing particularly on the reporting of detections of attempts or actual violations of the embargo, and the disposal of embargoed material.
	Implementation Assistance Notice No. 4	Dec. 15, 2020	To assist Member States in their implementation of the travel ban in relation to the Libya sanctions regime.
	Implementation Assistance Notice No. 5	Dec. 4, 2018	To provide guidance to Member States on the correct application of the provisions of Security Council resolutions regarding the payment of management fees on frozen assets.
	Implementation Assistance Notice No. 6	Dec. 17, 2018	To provide guidance to Member States on the application of the provisions of Security Council resolutions regarding an asset freeze in relation to the payment of interest and other earnings on frozen assets.
Central African Republic Sanctions Committee	Implementation Assistance Notice No. 1	Oct. 22, 2019	To assist Member States in the implementation of the arms embargo on the Central African Republic.

**Harvard Law School**  
**Program on International Law and Armed Conflict**

[pilac.law.harvard.edu](http://pilac.law.harvard.edu)