

Guidance

SOLUTIONS PROPOSAL TO ADDRESS THE NEGATIVE IMPACT OF COUNTERTERRORISM AND SANCTIONS ON HUMANITARIAN ACTION

Results Group 3 on Collective Advocacy

April 2021

Endorsed by IASC Operational Policy and Advocacy Group
(OPAG)

IASC Results Group 3 on Collective Advocacy
Solutions Proposal To Address the Negative Impact of Counterterrorism and Sanctions on
Humanitarian Action¹
April 2021

Background

For over twenty years, Member States, including through UN Security Council resolutions, have adopted measures aimed at combating armed groups, including groups designated as terrorist by the Security Council. This has resulted in a complex web of barriers to and restrictive measures on humanitarian action in armed conflict and post-conflict settings where such groups² are present. Some sanctions regimes adopted at regional and national levels, and not related to terrorism, generate similar hurdles for humanitarian organisations (e.g. sanctions regimes targeting a Government, such as the US and EU sanctions in relation to Syria, or UN sanctions in relation to the Democratic People's Republic of Korea (DPRK)).

As complex humanitarian emergencies have increasingly occurred in countries affected by sanctions and counterterrorism measures (Syria, Iraq, Somalia, Nigeria, Yemen, Afghanistan, DPRK, Venezuela), humanitarian organisations are struggling to stay and deliver, and provide services according to humanitarian principles, despite the obligation for Member States to facilitate humanitarian access.³

A concerted effort is required among the humanitarian community and beyond to address the toll these measures are exacting on humanitarian action. This should include:

- better documenting and awareness-raising of the humanitarian and human rights impacts felt;
- showcasing the strength of existing due diligence systems;
- and proactively engaging in an outcome-based dialogue with Member States, advocating for the necessary legal, policy and operational changes to guarantee humanitarian access is facilitated in line with international obligations.

In this context, the Principals of the [Inter-Agency Standing Committee](#) (IASC) at their [5 December 2019 meeting](#) requested inter alia the IASC Results Group (RG) 3 on Collective Advocacy to take forward the action of i) engaging proactively in open and sustained dialogue with Member States to raise awareness on concerns and work toward practical solutions, including in Security Council resolutions, donor agreements and domestic legislation; ii) advocating for standing humanitarian exemptions in counterterrorism measures.

¹ Save the Children has been the penholder of this IASC solutions proposal in close cooperation with the other co-chairs, OCHA and InterAction. Any questions should be addressed to David Andres Vinas – David.andresvinas@savethechildren.org.

² The UN Security Council has the authority to decide UN terrorism sanctions. Current designation as terrorist entities by the Council and included in its sanctions' regime encompasses only Al-Qaida, ISIL, and affiliated groups and individuals. The term "terrorist group" is used in the present document does not represent a recognition of any designation of a group as terrorist by a State or a regional or international organisation.

³ The four Geneva Conventions of 1949 and their First and Second Additional Protocols of 1977 provide the legal framework on humanitarian access and defines States' obligation to facilitate humanitarian access. The International Human Rights framework is also applicable in humanitarian settings, for example, art 22(1) of Convention on the Rights of the Child, and States obligations under the International Convention on Economic Social and Cultural Rights to ensure the minimum essential levels of all economic, social, and cultural rights at all times.

Purpose

This document responds to the IASC Principals' request and intends to explore potential solutions to address the negative impact of counterterrorism and sanctions on humanitarian action and facilitate a discussion among members of the RG3 subgroup on counterterrorism (COTER). The intention is to help the group prioritise, develop a joint understanding of available options and serve as a basis to develop a work plan with concrete activities to operationalise prioritised solutions.

Scope

The document prioritises political and technical solutions at the NY level with a focus on the UN Security Council, as well as some solutions applicable at Geneva level and capital level with a focus on Washington, DC and, to a lesser extent, the European Union (EU).

The solutions proposed in this document focus mainly on addressing the immediate impact for affected populations and humanitarian organisations working to protect and assist them. However, there are equally concerning long-term and systemic effects and that will still require attention from the humanitarian community. For example, the stigmatisation of populations living in areas where such measures apply, the negative impact on the realisation of the Grand Bargain, or the more general question of the systemic impact on the relevance and efficiency of international humanitarian law.

Structure

The solutions presented in this document are organised around three groups: design, implementation and evaluation/follow up. This reflects the same structure used in the [2006 report](#) of the Informal Working Group on General Issues of sanctions. For each solution, the document presents the pros and cons of each option, existing practice, a possible language formulation and a suggested way forward.

Terminology

This document will use UN Security Council terminology, given its focus:

- “*Humanitarian exceptions*” is the term used to refer to standing carve-outs, safeguarding humanitarian action without requiring further action by humanitarian actors;
- “*Humanitarian exemptions*” is used to refer to licenses or derogations where a humanitarian actor requires permission from a third party to be exempt from counterterrorism provisions or sanctions; such permission could be issued by a sanctions committee of the UN Security Council, a regional organisation or a Member State.

Different authorities (e.g. the EU, the US or other governments) use different terms, so messaging will need to be adjusted to reflect the terminology used by the relevant target.

Design-focused Solutions

1. ***The UNSC adopts a Chapter VII resolution effectively repealing elements of earlier resolutions and requiring states to exclude activities of impartial humanitarian organisations, including associated transactions and operations, from the scope of sanctions and measures criminalising terrorism and related acts (e.g. support to terrorism, the financing of terrorism, travelling or attempting to travel in certain areas where groups labelled as ‘terrorist’ have influence, etc.).***

- Existing practice:⁴
 - Humanitarian exception in the 2017 EU counterterrorism directive;
 - Limited safeguards in the New Zealand criminal law on support to terrorism where humanitarian activities may be invoked as a reasonable excuse;
 - Humanitarian exception in the Swiss criminal law on support to terrorism;
 - Limited humanitarian exception in the Philippines criminal law to prevent, prohibit and penalise terrorism.
- Possible formulation:
 - Decides that sanctions adopted by the Security Council shall not apply to, and request Member States to exclude from the scope of sanctions adopted at regional or domestic levels, as well as laws criminalising terrorism and related acts, the activities of impartial humanitarian organisations, including UN Agencies, organisations having permanent observer status at the General Assembly, and their implementing partners, that are for the provision of humanitarian activities, as well as associated transactions and operations.
- Pros: Most effective and broad reaching solution provided that States effectively interpret and implement such an exception in a way that is not overly restrictive.
- Cons: Politically contested for now; also risk that States adopt restrictive interpretations of the scope of the exception by imposing official national definitions of terms such as ‘humanitarian action’, ‘impartial humanitarian organisation’, etc.
- Suggestion: Continue to advocate for this solution to the Security Council as preferred humanitarian ask and end goal of our collective work, explicitly requesting Member States to include humanitarian exceptions in counterterrorism measures and sanctions regimes adopted at regional and domestic level. Stress this does not equate to providing *carte blanche* to humanitarian organisations and renouncing any oversight. Propose in parallel less politically contested solutions discussed below.

2. [As long as option 1 remains contested at the UNSC, suggest the following:] **The UNSC adopts broad standing humanitarian exceptions on the model of the exception mentioned in point (1) above in specific sanctions regimes.**

- Existing practice: see above, option 1
- Possible formulation: Decides that these measures [i.e. restrictive measures in a particular UN sanctions regime] shall not apply to the activities of impartial humanitarian organisations, including UN Agencies, organisations having permanent observer status at the General Assembly, and their implementing partners, that are for the provision of humanitarian assistance, as well as associated transactions and operations.
- Pros: A less contested ask for inclusion in sanctions regimes that are less politically sensitive, it would create a precedent of a standing exception to all sanctions in a given regime benefiting all humanitarian organisations – there is no example of this in any existing or past UN sanctions regimes.
- Cons: Challenging in politically sensitive sanctions regimes (e.g. 1267 sanctions regime for ISIL (Da’esh) and Al-Qaida). In less politically sensitive regimes (e.g. DRC, CAR), more difficult to provide

⁴ Existing practice is not necessarily good practice as some of the examples provide only partial humanitarian exceptions (e.g. New Zealand) and in other cases the legislation might include interesting provisions on humanitarian access exceptions but important human rights shortcomings (e.g. Switzerland and Philippines) such as broad and vague definition of acts of terrorism.

“evidence of impact” to justify exception, given that in general these regimes have less impact on humanitarian operations.

- Suggestion: Analyse the calendar of upcoming sanctions renewals; if there is enough evidence, initiate advocacy for a broad exception in less politically sensitive regimes (e.g. CAR, DRC). Continue to advocate for a standing humanitarian exception as the most effective solution to mitigate the impact of most problematic UN sanctions regimes, notably the 1267 sanctions regime.

3. *[As long as option 1 remains contested, in parallel to option 2, suggest the following]: **The UNSC adopts case by case humanitarian exceptions / exemptions with limited scope, in specific sanctions regimes as appropriate.***

- Existing practice:
 - *Exception in the Somalia sanctions regime* – while limited to the UN, the ICRC and implementing partners, it covers a vast majority of humanitarian organisations in Somalia, including all organisations participating in UN coordination mechanisms; likewise, while limited to financial and economic sanctions in the Somalia sanctions regime, these are the sanctions that are by far the most problematic from a humanitarian perspective.
 - *Exception in the now terminated UN sanctions regime targeting the Taliban in Afghanistan* – op. 11 and op. 12 of Security Council Resolution 1333 (2000), which provide that the Sanctions Committee shall maintain a list of humanitarian organisations, including but not limited to the ICRC and UN Agencies, which conduct humanitarian activities in Afghanistan and exempt them from the flight ban to and from Taliban-controlled areas in Afghanistan.
 - *Exemption in the DPRK sanctions regime* – in the specific case of broad embargoes, such as the one established by the UN Security Council on the DPRK, case-by-case exemptions granted by the Sanctions Committee can be an imperfect solution, assuming a smooth application process, especially while humanitarian exceptions remain politically contested. However, any mechanism by which humanitarian organisations are obliged to ask permission to third entities to operate in a context of armed conflict raises operational, security/perception and IHL issues, so it is not a preferred option.
 - *Outcome report of the 2014 High Level Review of UN Sanctions* – recommended inter alia the inclusion of standing humanitarian exceptions in all relevant UN sanctions regimes.
- Pros: Less politically contested ask provided humanitarian actors can make the case. Several Member States in a listening mode (e.g. UK on Yemen sanctions regime renewal in 2020, France looking at a Somalia-like exception in regimes for which it acts as penholder in 2021 – i.e. CAR, DRC and Mali). A clear precedent that would arguably constitute a positive step in all regimes exists with the Somalia sanctions regime.
- Cons: Risk of providing insufficient reassurances for NGOs or the private sector to address the 'chilling effect'. Risk of ending up with inappropriate exemptions that create an ineffective additional layer of bureaucracy in situations where UN sanctions do not have significant consequences on the humanitarian response (e.g. Yemen sanctions regime exemption). Risk of providing Sanctions Committees with the discretionary power to decide, which humanitarian organisations should benefit from exceptions / exemptions beyond UN Agencies and the ICRC (as was the case in the Afghanistan-Taliban regime).
- Suggestion: Proceed as suggested under option 2 and, if Security Council members are unwilling to consider the adoption of broad standing exceptions in identified regimes, suggest limited exceptions

/ exemptions where it may make sense, preferably on the model of the exception in the Somalia sanctions regime, to achieve gradual progress.

4. [While advocating for humanitarian exceptions as per option 1, option 2 or, when deemed pertinent, option 3, also suggest the following:] **The UNSC adopts language requesting Member States to adopt concrete measures to operationalise the humanitarian language from resolutions [2462 \(2019\)](#) and [2482 \(2019\)](#) in every counterterrorism and sanctions resolution.** Such concrete measures may include:
- systematic reporting by CTED and panels of experts on national practices “to take into account the potential effect of [counterterrorism] measures on exclusively humanitarian activities”;
 - systematic human rights and humanitarian impact assessments when new counterterrorism measures and sanctions are being considered;
 - systematic reporting of overcompliance by the private sector & practical measures to address it;
 - establishing national-level structures for tripartite engagement between law enforcement agencies, humanitarian organisations and the private sector to discuss mutually acceptable due diligences and reassurances;
 - requiring the provision of clarity on the national implementation of sanctions and counterterrorism measures as they intersect with principled humanitarian action, including clarity on existing prohibitions and available exceptions / exemptions, to provide certainty on how humanitarian action can proceed within the law;
 - ensuring the non-criminalisation of all humanitarian action and the provision of medical care in line with medical ethics through explicit provisions in national counterterrorism laws, for example, the inclusion of ‘international humanitarian law saving clauses’ to ensure laws are interpreted in conformity with international obligations.
- **Existing practice:**
 - Security Council resolution 2286 (2016) on the protection of medical care in conflict;
 - A/RES/72/133 on the strengthening of the UN coordination of humanitarian assistance;
 - A/RES/72/284 on the UN Global Counter-Terrorism Strategy review.
 - **Pros:** Politically more realistic, the Security Council resolution on Prosecution, Rehabilitation and Reintegration vetoed by the US in August 2020 included similar language to 2462 and 2482, resolution 2286 recalls the principle of non-criminalisation of medical care in armed conflict; may lead to short or mid-term concrete progress on specific initiatives. A small change to provisions of 2462 and 2482 from “take into account” to “mitigate” “the potential effects of counterterrorism measures on exclusively humanitarian activities” could be a significant step forward in creating a carve out.
 - **Cons:** Progress would likely be incremental; States may adopt a piecemeal approach focusing on limited measures without addressing more fundamental issues.
 - **Suggestion:** Advocate for the systematic reiteration of language in resolutions 2462 and 2482 in all counterterrorism resolutions, and relevant sanctions regimes as a minimum; suggest stronger language that includes concrete mitigation measures such as the ones above.
5. **Member States include humanitarian exemptions / exceptions in counterterrorism legislation and sanctions regimes adopted at national and regional levels – as per option 2 or option 3, in this order of preference.**
- **Existing practices:** see options 2 and 3

- Possible formulation: see options 2 and 3
- Pros: Change is more likely to occur at national or EU level than at the Security Council. Given that many of the counterterrorism measures and sanctions regimes affecting humanitarian action have been imposed at national / regional level (e.g. US, EU, UK), the adoption by key like-minded donors of an express exception for humanitarian action in their domestic counterterrorism legislation, as well as domestic and regional sanctions regimes, is crucial to increase protection of humanitarian action and contribute to making the case for action at global level.
- Cons: An express exception for humanitarian action in counterterror legislation or in politically sensitive sanctions regimes is likely to remain politically contested in the immediate term or be limited in nature (e.g. the EU sanctions regime applicable to Syria). States are also reluctant to adopt broad exceptions for UN Security Council (or EU) sanctions when those are not included in the original sanctions regime. Narrower safeguards as per option 3 are either similarly difficult to obtain (e.g. exceptions on the model of the Somalia sanctions regime) or potentially less effective (the UK, the US and the EU already provide for exceptions limited in scope, as well as licensing possibilities for humanitarian operations in sanctioned countries).
- Suggestion: Continue to push for opportunities at national level (e.g. US & France), regional (e.g. revision of new EU sanctions regimes) and multilateral level (e.g. Global Counter-Terrorism Strategy review, Human Rights Council (HRC) and other General Assembly resolutions on terrorism and human rights) building on the clear statement from the Secretary General in the UN Global Counter-Terrorism Strategy;⁵ analyse where new opportunities might be possible in particular to encourage EU Member States to transpose to national legislation the humanitarian exception defined by EU Counterterrorism Directive 2017/541.

6. *The UNSC / Member States adopt White Lists*

- Existing practice:
 - Exception in the Somalia sanctions regime
 - Resolution 1333, op. 12, on Afghanistan
 - Exception in the EU sanctions regime applicable to Syria for the purchase of fuel in Syria – benefitting humanitarian organisations funded by the EU / EU Member States, other humanitarian organisation can apply for an exemption.
- Suggested formulation: see the exception in the Somalia sanctions regime; possibility to extend the scope to not only financial and economic sanctions, but all sanctions within a given sanctions regime.
- Pros: It can reassure Member States that only a subset of organisations benefit from humanitarian safeguards. A list of organisations can also mitigate the risk of States providing restrictive interpretations of broader exception such as those suggested under option 1 and 2 (e.g. States determining unilaterally what ‘humanitarian action’ or ‘impartial humanitarian organisations’ are). In extreme cases, where humanitarian operations are close to impossible due to sanctions or counterterrorism measures, reducing the pool of organisations benefitting from an exception / exemption can be the only option that the Security Council or States are willing to envision (see e.g. the case of cross-border operations in Syria, authorising only UN Agencies and implementing partners as the only way aid to get in on a significant scale).

⁵ See activities of the UN system in implementing the United Nations Global Counter-Terrorism Strategy [A/75/729](#) (paragraph 38).

- **Cons:** White Lists effectively already exist given the special protection granted by international norms to UN Agencies and the ICRC / IFRC. Expanding it to cover other humanitarian organisations could give States or relevant Security Council sanctions Committees the power to decide who is authorised to operate in a given context, risking further politicising discussions on humanitarian access; risk excluding many humanitarian actors, particularly local agencies.
- **Suggestion:** Avoid prioritising White Lists as a solution and push back against States considering it as a solution across the board. Consider the benefits of White Lists on a case by case basis, for example, a White List in a localised context where limited humanitarian actors operate, with provisos for local humanitarian actors, could be an effective solution.

Implementation-focused Solutions

1. ***Dialogue between Member States, multilateral organisations, financial institutions, UN Agencies and humanitarian NGOs on counterterrorism and sanctions issues at different levels improves and, in some cases, is institutionalised.***
 - **Pros:** Multiparty dialogue at both national and international level has proved effective to improve the understanding of the needs and concerns of each party, for example, leading to a revision of Financial Action Task Force (FATF) recommendation 8 or the Tripartite dialogue in the UK. In some cases, such dialogue has allowed for ad hoc solutions to context-specific issues – e.g. the resumption of remittances to Somalia by Barclays.
 - **Cons:** This is often not translated into improvements on the ground. For example, most Member States have largely failed to implement revised recommendation 8 of FATF. The risk of being instrumentalised also requires careful attention. When dialogue at national level has been effective, solutions have often been context-specific, informal, targeted and temporary.
 - **Suggestion:** Advocate for regular multiparty dialogue alongside broader policy solutions, continue to engage where those efforts exist – especially FATF, map existing initiatives at different levels and consider the value of advocating to institutionalise some of them.
2. ***Policymakers and Security Council sanctions Committees improve the legal guidance to clarify the intention driving, and the consequences of, existing counterterrorism and sanctions measures as they intersect with humanitarian action, and provide reassurances in that regard to Member States, regulators, humanitarian actors and the private sector.***
 - **Existing practices:**
 - Outcome report of the 2014 High Level Review of UN Sanctions – recommended inter alia the development of implementation guidance by Security Council sanctions Committees;
 - OFAC online FAQ on the non-prosecution of unintentional payments and incidental cases of in-kind aid diversion to Al-Shabaab in the context of the provision of humanitarian assistance by US and US-funded organisations;⁶
 - Letters of comfort provided by the EU to financial institutions in some cases;
 - EU⁷ and OFAC guidance on exception available under their sanctions regimes, published in 2020.

⁶ See US Treasury [FAQ](#) on Somalia Sanctions (points 131 and 132).

⁷ See European Commission [Guidance Note](#) on the provision of humanitarian aid to fight the COVID-19 pandemic in certain environments subject to EU restrictive measures.

- Pros: Potentially effective solution to provide reassurances, especially to the private sector, on what level of compliance is expected from them when it comes to doing business with humanitarian actors in humanitarian settings to avoid overcompliance and de-risking.
- Cons: Difficult to achieve at global level; risks becoming politicised, unless it is an automatic reassurance, for example, every time the UN Security Council adopts a sanctions regime. Country level guidance and reassurances might prove insufficient unless key states buy into it, especially the US. Moreover, any clarification of the consequences of existing sanctions and counterterrorism measures as they intersect with humanitarian action is likely to be issued by law enforcement agencies and may turn out to be more restrictive than hoped for. No evidence of private sector respecting such guidance where it exists, e.g. at EU level.
- Suggestion: Spain explored the possibility of replicating the EU comfort letters used in antitrust / competency law by the UN security Council in the context of the counterterrorism / sanctions with Security Council Affairs Division (SCAD) or each sanctions committee providing for a comfort letter to the private sector to avoid de-risking. The idea lost steam because of COVID-19 and an initial lukewarm reception but seems worth revisiting with the clear understanding that any reassurance would need to be automatic. Other options at national and multilateral level to develop more specific recommendations are also worth exploring. In any case, encourage States to prioritise monitoring overcompliance from the private sector and providing negative and positive incentives to stop it.

3. **Donors move from a zero-risk tolerance to a risk-sharing policy in practice this could mean:**

- *renouncing requirements that are directly contrary to humanitarian principles (beneficiary vetting clauses, no-contact policies, etc.),*
- *requiring humanitarian actors to take “all reasonable steps” to mitigate the risk of aid diversion, instead of requiring absolute assurances,*
- *explicitly acknowledging the inevitability of residual risk in complex environments, working with humanitarian actors to adequately address incidents instead of imposing draconian penalties,*
- *articulating clear expectations in terms of due diligence and risk management in consultation with humanitarian organisations, and*
- *financing the costs associated with the extra-steps that they may require.*
- Pros: Negotiating contractual clauses, such as force majeure clauses, with donors and the inclusion of the additional costs of risk management and compliance requirements in high-risk settings in budgets would contribute to sharing risk with donors. Several donors are willing to work with humanitarian organisations on these issues, which are on the agenda of the Good Humanitarian Donorship group.
- Cons: Donor agencies’ margin of manoeuvre within their own administrations is limited – as they are bound by national legislation on conditions imposed on recipients. Donors that implement good practices are reticent to showcase these practices out of concern that it may lead to accusations of not implementing international counterterrorism standards by other States. Negotiating conditionality can always backfire, as it may expose perceived insufficiencies on existing risk management procedures. With each humanitarian organisation negotiating individually and confidentially with donors, negotiations could also lead to differences between humanitarian agencies, especially large humanitarian agencies and local partners.
- Suggestion: Continue to engage donors on this ensuring coordination between partners and clear redlines across the sector (e.g. beneficiary vetting and / or screening even in development grants implemented in humanitarian settings); explore innovative ways of sharing the risk between donors

and humanitarian agencies, starting with more clarity on contractual clauses and obligations, and ensure that any risk management measures, including counter terrorism measures, do not undermine the role played by national and local humanitarian actors.

4. ***Donors agree to scale up technical solutions that ensure principled humanitarian action while complying with counterterrorism / sanctions obligations.***
 - Pros: Offers technical solutions that can work within the current framework without requiring policy changes, shows humanitarian actors can be innovative.
 - Cons: Technical solutions on their own will not suffice to solve the problem, it could be used as a distraction.
 - Suggestion: Continue to present technical solutions to show the humanitarian sector can be innovative and propositional, use that as leverage to push for policy changes.

Evaluation & Follow-up focused Solutions

1. ***The humanitarian community builds an evidence-based case to demonstrate how counterterrorism and sanctions hinder principled humanitarian action.***
 - Pros: Continue to build an evidence-based would help shape the conversation, strengthen the case for solutions and undermine the argument that humanitarians are unable to provide enough evidence to back up our claims.
 - Cons: Enough evidence is already available, risk of falling on a trap where we endlessly discuss whether we have enough evidence instead of the substance of the issue or states agreeing to fragmented solutions that apply only when there is evidence of impact – and not across regimes. Risk of enabling states to relinquish their responsibility to collect evidence to ensure counterterrorism / sanctions policies are in line with their obligations under international law.
 - Suggestion: Sensitise field presences on the impact of sanctions and counterterrorism measures and build their capacity to ensure regular monitoring on this impact, for example, through the upcoming Humanitarian Coordinators guidance put together by OCHA. As part of the localisation agenda, encourage major donors, UN agencies and to develop a plan to discuss this risk with implementing partners and provide resources for local partners to better understand, monitor and ultimately address the negative impact. Continue to build on the evidence-case through processes like the RG3 COTER database & the CTED report to negate the argument of not having enough evidence, build on that leverage to push for concrete policy changes. Seek to explore opportunities to brief the Security Council and its organs ahead of sanctions related meetings. Organise briefings to the General Assembly, Security Council, Human Rights Council and select Member States to continue the effort to sensitise about the negative impact of counterterrorism measures and sanctions on principled humanitarian action.
2. ***Negative impact of counterterrorism measures and sanctions before, during, and after the implementation of counterterrorism and sanctions regimes is better understood & addressed.***

In practice this would mean that:

 - all Panels of Experts at UN and State level include a humanitarian expert;
 - all UN Panels of Experts be systematically mandated and appropriately resourced to report regularly on the humanitarian impact of relevant sanctions regimes, as recommended in the outcome report of the 2014 High Level review of UN sanctions;

- OCHA and other humanitarian actors have access to brief sanctions committees when and where relevant on particular issues related to the impact of specific sanctions regimes on humanitarian operations.
 - Pros: Sanctions committees UN Security Council members would have a better understanding of humanitarian concerns when establishing / renewing sanctions regimes or adopting counterterrorism resolutions.
 - Cons: Humanitarian actors could risk being caught in the middle of highly politicised debates, information provided by Panels of Experts could not accurately reflect the concerns of the humanitarian community.
 - Suggestion: Advocate with Security Council members to incorporate humanitarian impact assessments into the work of its sanctions regimes and request panels of experts to include information on the adverse impact of sanctions on humanitarian action in their reports, while ensuring adequate resources and expertise is available & proactively engaging as humanitarian community with Panels of Experts; as immediate step, the Security Council should request sanctions committees to elaborate a mapping exercise of current assessments in the periods pre-, during, and post-sanctions regimes; in case specific issues emerge in relation to the implementation of a given UN sanctions regime and concrete information on these issues can be obtained by the humanitarian community and shared with the relevant Sanctions Committee, advocate for the Committee to ask for a briefing by OCHA and other humanitarian organisations.
3. ***Oversight of Member States' implementation of counterterrorism measures and sanctions regimes improves, and accountability for violations of their obligations under international law increases, by strengthening existing mandates or advocating for the creation of a new one.***
- Pros: increased oversight of States' implementation of counterterrorism and sanctions regimes leading to more attention to violations of obligations under international law, measures to address them and ultimately better compliance.
 - Cons: politically difficult to envision the creation of a new mandate, risk of unintentionally undermining the central role of the ICRC as main authority interpreting compliance with international humanitarian law, of undermining the mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism or contributing to the creation of a politicised mandate or an ineffective one – for example, despite the best efforts of the mandate holders, the shortcomings of the Ombudsperson's of the Security Council's 1267 Committee, created as an oversight mechanism, are well documented.⁸
 - Suggestion: work with the ICRC, the Special Rapporteur and CTED on how to use more effectively their respective mandates mindful of the risks at hand, explore benefits of other avenues (e.g. HRC), and discuss the merits of advocating for a new mandate to play an enhanced watchdog role (e.g. standing and expanded ombudsman similar to UNSCR 1267).

⁸ See for example [A/HRC/16/50](#) (paras. 16-27); [A/HRC/8/13](#) (paras. 45-51); and [A/67/396](#), section III.C, as well as the recent [report](#) of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism to the Human Rights Council terrorism.