

Big News Recently for International Aid Organizations

03.09.23 | Linda J. Rosenthal, JD



The world's aid organizations face enormous challenges. Among the most difficult in recent years has been coping with the complex sanctions regimes, imposed by the United Nations and its member states, to thwart financing and other support of terrorists groups and activities.

"Whilst sanctions are not intended to have adverse humanitarian consequences for civilian populations, aid agencies have argued for years that they do just this...." according to a London aid expert.

So it was big news a few months ago when the United Nations Security Council, on December 9, 2022, "adopted a cross-cutting exception for humanitarian action in UN sanctions." Soon after, the United States – which, along with Ireland, had introduced the measure before the world body – became the first member state to take the necessary next step and implement this resolution. On December 20, 2022, the U.S. Treasury Department, Office of Foreign Assets Control, announced "historic humanitarian sanctions exceptions."

This is a welcome and game-changing development, according to U.S. Secretary of State Antony J. Blinken, in a press statement in connection with the December 9th Security Council Resolution 2664 .” That measure is “... the culmination of a decade of engagement between humanitarian organizations and states to find ways of avoiding the adverse impact of sanctions on the most vulnerable: people relying on humanitarian action for survival.”

Secretary Blinken added that the delivery of aid globally “is more important than ever as the world faces unprecedented levels of humanitarian need, with some 339 million people in need of humanitarian aid and nearly 50 million people on the verge of famine.”

Key History

The background to these important developments as well as the key particulars are presented in several helpful documents from the U.S. government:

- [UN Security Council Adopts Resolution Establishing Humanitarian Carveout across UN Sanctions Regimes](#) (December 9, 2022) Press Statement, Antony J. Blinken, Secretary of State, U.S. Department of State.
- [Treasury Implements Historic Humanitarian Sanctions Exceptions](#) (December 20, 2022) Press Release, U.S. Treasury, Office of Foreign Assets Control (OFAC)
- [Publication of Humanitarian-related Regulatory Amendments and Associated Frequently Asked Questions](#) (December 20, 2022) OFAC
- [Supplemental Guidance for the Provision of Humanitarian Assistance](#) (February 27, 2023) OFAC

In October 2021, “Treasury published a [comprehensive review](#) of its economic and financial sanctions programs which found, among other things, that while sanctions remain an essential and effective policy tool, they also must be carefully calibrated to help address their impact on the flow of legitimate humanitarian aid to those in need.” As a result of that study, the federal government recommended “... implementing or streamlining, where possible and appropriate, [humanitarian authorizations across sanctions programs](#), noting that the United States must lead global efforts to systematically address the challenges associated with conducting humanitarian activities.”

Subsequently, the United States and Ireland [worked together to develop](#) Security Council Resolution 2664 and shepherd it through the United Nations with many co-sponsors and overwhelming support. The measure created a “carveout from the asset freeze provisions of UN sanctions programs.”

Secretary of State Blinken described this landmark Security Council Resolution as “... a critical step to [enabling the unimpeded delivery](#) of food, medicine, and humanitarian aid, while upholding robust sanctions – critical to driving [the] foreign policy goals” of the United States.” It sends “... a clear message that sanctions will not impede the delivery of critical humanitarian assistance by reputable humanitarian organizations.” Secretary Blinken explained, too, that UNSCR 2664 includes safeguards “against abuse and evasion by sanctioned persons and entities....” including reporting requirements.

Secretary Blinken emphasized that, while UNSCR 2664 “... is a significant reform to UN targeted sanctions,” a “key to its success” is “[consistent implementation by Member States](#).” The U.S. government had pledged last September to “incorporate humanitarian authorizations across” domestic sanctions programs.

Once the U.N. [Security Council acted on December 9, 2022](#), adopting UNSCR 2664, the United States Treasury Department [quickly took those promised steps](#) to add “... authorizations across U.S. sanctions programs that did not previously have humanitarian exceptions, implementing a new baseline set of authorizations across OFAC-administered programs.”

More specifically, the Office of Foreign Assets Control (OFAC), “[...issued or amended general 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.”

The New General Licenses

The Treasury Department's [December 20, 2022, press release](#) explains the scope of the new authorizations. "The GLs being issued or amended today provide authorizations in the following four categories:

- the official business of the U.S. government;
- the official business of certain international organizations and entities, such as the United Nations or the International Red Cross;
- certain humanitarian transactions in support of nongovernmental organizations' (NGOs') activities, such as disaster relief, health services, and activities to support democracy, education, environmental protection, and peacebuilding; and
- the provision of agricultural commodities, medicine, and medical devices, as well as replacement parts and components and software updates for medical devices, for personal, non-commercial use."

The [Frequently Asked Questions document](#) issued that same day add more detail, hoping to clear up certain expected confusion.

The February 27, 2023 [Supplemental Guidance](#) ("2023 Fact Sheet"), while adding significant additional information, "...does not have the force of law, and does not supersede the actual legal provisions cited."

This [2023 Fact Sheet](#) explains that the December 2022 GLs implement UNSCR 2664 "to add authorizations across U.S. sanctions programs that did not previously have humanitarian exceptions, implementing a new baseline set of authorizations across OFAC-administered programs." These new or amended GLs are "in line with the Treasury's 2021 Sanctions Review" and "this action reinforces Treasury's work to limit the unintended impact of sanctions by providing greater consistency and clarity across U.S. sanctions programs to help legitimate humanitarian assistance and related trade reach at-risk populations through transparent financial channels."

The Office of Foreign Assets Control will evaluate, on a case-by-case basis, specific license requests that may fall outside of the particular authorizations in the four new General Licenses; see [OFAC's License Application Page](#) for additional details.

Conclusion

Deputy Secretary of the Treasury Wally Adeyemo also [emphasized the significance and importance](#) of this action in issuing new humanitarian exceptions to the sanctions program: "We're proud to be the first country to issue authorizations and guidance to implement it across our sanctions programs...[They] reflect the United States' commitment to ensuring that humanitarian assistance and related trade continues to reach at-risk populations through legitimate and transparent channels, while maintaining the effective use of targeted sanctions, which remain an essential foreign policy tool. The provision of humanitarian support to alleviate the suffering of vulnerable populations is central to our American values."

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