

HPG REPORT

# Safeguarding humanitarian action beyond financial sanctions

The impact of trade sanctions and export controls

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# Acronyms

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<b>BIS</b>	Bureau of Industry and Security
<b>CCD</b>	consumer communications device
<b>CT</b>	counter-terrorism
<b>DBT</b>	Department for Business and Trade
<b>DPRK</b>	Democratic People's Republic of Korea
<b>ECJU</b>	Export Controls Joint Unit
<b>ECOWAS</b>	Economic Community of West African States
<b>EU</b>	European Union
<b>ICAO</b>	International Civil Aviation Organization
<b>ICRC</b>	International Committee of the Red Cross
<b>IFRC</b>	International Federation of Red Cross and Red Crescent Societies
<b>IHL</b>	international humanitarian law
<b>IT</b>	information technology
<b>NGO</b>	non-governmental organisation
<b>OFAC</b>	Office of Foreign Assets Control
<b>UNSC</b>	United Nations Security Council

# Executive summary

Humanitarian organisations often operate in contexts where sanctions have been imposed. While contemporary sanctions aim to be ‘targeted’ only for the persons and entities whose behaviour they aim to change, they continue to adversely impact humanitarian operations.

Important progress has been made in reducing the challenges that financial sanctions pose to humanitarian action. However, restrictions in trade sanctions, as well as export-control measures, also impact the ability of humanitarian actors to respond. These measures have received very limited attention. This report aims to begin to fill this gap by mapping restrictions in trade sanctions and export controls; explaining how they impact humanitarian response; and outlining some measures that humanitarian organisations and actors that impose these measures can take to minimise and mitigate this adverse impact.

While both trade sanctions and export controls restrict the export of goods and services, there are significant differences between them. They are set out in different regulatory instruments and are often implemented by different government departments.

Safeguards for humanitarian action in financial sanctions are distinct from those that may exist in trade sanctions. There is rarely correspondence between the two. For the most part, trade sanctions and exports controls do not include exceptions, but instead require specific licences for the exports of the restricted goods.

The adverse impact of trade sanctions and export controls on humanitarian action falls into two broad categories: impact on humanitarian organisations’ internal administrative and support processes; and impact on their operations.

The trade sanctions and export restrictions that have the greatest impact on organisations’ internal administrative and support processes are those applicable to IT equipment and related software. Most significant among these, because of the dominance of United States (US) companies in these sectors, are US measures. These require licences for the export of products with more than 25% US-origin content, which is lowered to 10% for exports to certain destinations.

A wide range of goods and equipment necessary for humanitarian operations fall within the scope of prohibitions in trade sanctions or export controls. The restrictions can affect most areas of humanitarian response, including specialised goods for programmes, as well as supplies to cover general communications, energy and transport needs.

Many aspects of the rules regulating trade sanctions and export controls are extremely technical, such as the initial classification of items to determine whether particular goods fall within the scope of trade

sanctions and export controls. Humanitarian organisations are unlikely to be able to do this without external legal assistance. Other aspects are unclear, including how they apply to goods that are already in-country, or how the rules apply to the disposal of goods and equipment at the end of the project cycle.

As they become increasingly familiar with these types of restrictions, humanitarian organisations have adopted a number of measures to mitigate their adverse effects.

In particular, careful procurement practices enable humanitarian organisations to operate efficiently within the limits of applicable trade sanctions and export controls. For example, purchasing non-US-origin goods, if they exist, or selecting equipment that falls just below the threshold of dual-use goods and therefore does not need a licence.

Some humanitarian organisations require suppliers to obtain licences. This can be efficient as suppliers know the precise specification of items and are likely to have gone through the application process in the past.

In some cases, and particularly for IT equipment and software, no alternatives exist and organisations must obtain licences. Due to the technicality of trade sanctions and export controls, humanitarian organisations need expensive, external, specialist legal advice to determine whether a licence is necessary and to file an accurate application.

The licence review process can be slow and may require licences from multiple states: the organisation's home state; the state of 'origin' of the goods for any US-content goods; and the state where the goods are located. These licences are additional to any that might be required under financial sanctions.

### Recommendations

Trade sanctions and export controls should include an express safeguard for humanitarian action. Ideally, this should be an exception that excludes goods and services necessary for humanitarian action from the scope of prohibitions without the need for a licence. As a minimum, there should be an exemption expressly foreseeing the possibility to apply for licences.

Greater use should be made of general licences rather than the current practice of requiring humanitarian actors to apply for specific licences, which contains multiple inefficiencies.

Government departments responsible for implementing trade sanctions and export controls should follow the approach adopted for financial sanctions, and issue clear and user-friendly guidance, 'explainers' and frequently asked questions.

Humanitarian organisations should develop comprehensive internal operating procedures for managing exports of restricted goods and services. These should identify measures to be taken at every step of the process.

Existing humanitarian communities of practice working on financial sanctions should also systematically address trade sanctions and export controls – sharing good practices, lessons learned, and concrete examples of their adverse impacts.

Humanitarian actors should establish a dedicated dialogue with the departments responsible for trade sanctions and export controls, ideally facilitated by the departments responsible for financial sanctions with whom they already have a relationship.

States must develop internally coherent approaches that address the different measures adversely impacting humanitarian operations. This will help solve the disconnect at national level and internationally between sanctions, counter-terrorism measures, trade sanctions and export controls, and ensure they include safeguards to allow principled humanitarian action.

# 1 Introduction

Sanctions are a tool of foreign policy to influence the behaviour of states, groups or individuals. They are frequently imposed to exert pressure to end conflicts or to promote compliance with international humanitarian law (IHL). It is therefore not surprising that humanitarian organisations often operate in contexts where sanctions have been imposed. Recent examples include Afghanistan, Gaza, Russia, Syria, the occupied territories of Ukraine and Yemen.

Contemporary sanctions aim to be ‘smart’ and to have negative consequences only for the persons and entities whose behaviour they aim to change, and not for civilian populations or humanitarian action. Despite this, sanctions continue to have ‘unintended consequences’ that affect the ability of humanitarian organisations to operate as foreseen by IHL and in accordance with humanitarian principles.

It is financial sanctions that have the most significant adverse impact on humanitarian action. They prohibit making funds or assets available directly or indirectly to persons or entities designated under the sanctions. Without adequate safeguards, incidental payments made during humanitarian operations can fall within the scope of the prohibitions.

Following a decade of engagement, important progress has been made in reducing the challenges that financial sanctions pose to humanitarian action. United Nations Security Council (UNSC) Resolution 2664, adopted in December 2022, established a cross-cutting exception applicable to all existing and future UN financial sanctions. It excludes from the prohibitions the provision, processing or payment of funds, other financial assets, or economic resources, and the provision of goods and services necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs. The exception applies to the activities of a broad, but not unlimited, list of humanitarian actors.<sup>1</sup>

While UNSC Resolution 2664 has yet to be fully implemented by all United Nations (UN) member states, many, including Canada, European Union (EU) member states and the United Kingdom (UK), have transposed the exception into national frameworks for implementing UN sanctions. To a varying degree, these and other states, including the United States (US), have also included similar safeguards for humanitarian action in their autonomous sanctions regimes (NRC, 2025).

Although positive, this is not the end of the endeavour. Even when sanctions regimes do include safeguards, these often do not apply to all humanitarian actors responding. In particular, local actors are frequently excluded if they are not UN implementing partners or, in the case of EU sanctions, funded

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<sup>1</sup> The exception in UNSC Resolution 2664 only applied for a two-year period in the case of ISIL/Al-Qaida sanctions. UNSC Resolution 2761 (2024) extended this indefinitely, bringing this UN sanctions regime in line with the others.

by European institutional donors. This undermines the donors' own commitments to strengthen the role of local actors in the delivery of aid (known as the 'localisation of aid'). Nor do the safeguards cover other important aspects of response, including peacebuilding and immediate post-conflict reconstruction activities. Moreover, the safeguards that exist do not provide sufficient assurance to the financial sector, which continues to de-risk transactions for non-profit organisations working in high-risk environments.<sup>2</sup>

Beyond financial sanctions, other types of restrictions in sanctions, as well as export-control measures, may also impact the ability of humanitarian actors to respond, including, most notably, restrictions on the export of particular goods and services.<sup>3</sup> For example, it was export restrictions that posed some of the greatest hurdles to the Syria and Türkiye earthquake response in 2023. Equipment necessary to assess the damage and repair critical infrastructure was included on lists of dual-use items – goods and technology that can be used for civilian and military purposes whose export requires authorisation – or was otherwise subject to export restrictions. This made it necessary to obtain export licences, slowing down the response.

These other types of restrictions have received very limited attention. The current normative framework has not been mapped out, identifying the types of restrictions that adversely impact humanitarian response, and determining which safeguards, if any, exist for humanitarian action.

Equally significantly, the creation of a community of practice and its systematic engagement with government departments involved in designing, adopting and implementing financial sanctions, was key to securing the adoption of safeguards. To date, there has been very limited discussion among humanitarian actors with regard to other types of restrictions in sanctions and export controls, and almost no engagement on this issue with the bodies that impose these measures internationally (e.g. the UNSC, the EU), or with the government entities that implement and enforce them domestically (usually departments of commerce or trade).

There is rarely one single factor that challenges humanitarian response. In most contexts, humanitarian organisations must navigate a number of different restrictions. These include prohibitions in sanctions or export controls, requirements and restrictions in funding agreements, criminal counter-terrorism (CT) measures, as well as similar and other restrictions imposed by host states. In addition, commercial actors whose services are necessary for humanitarian response, including financial institutions, insurers and suppliers, frequently take risk-averse positions.

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2 The continuing challenges to financial access faced by humanitarian actors in contexts regulated by sanctions or counterterrorism measures have been addressed by a series of international dialogues convened by ODI Global's Humanitarian Policy Group (see <https://odi.org/en/about/our-work/easing-the-financial-access-challenges-faced-by-humanitarian-actors-in-contexts-regulated-by-sanctions-or-counterterrorism-measures/>).

3 This report focuses on the impact of trade sanctions and export controls on humanitarian action. These measures can also have a broader impact on the situation of the affected country. See, for example, Cervi (2024).

Therefore, an essential first step in navigating this complex regulatory environment is to break down the restrictions to understand precisely which ones apply to a particular operation; what they prohibit or require; and whether any safeguards exist for humanitarian action. Only with this clarity can organisations comply with applicable measures, avoid over-compliance, adopt internal practices to better navigate the rules, and identify the areas where policy change is required or desirable.

This report and the consultations that informed it contribute to providing such clarity by addressing restrictions in trade sanctions and export controls and how they can impact humanitarian response. They also aim to initiate a dialogue within the humanitarian community to exchange insights, experience and best practice. The consultations and the report constitute a first step towards enabling a more consistent exchange between humanitarian actors and relevant state authorities.

Key aspects of trade sanctions and export controls are presented in this report in a general manner. The report does not aim to exhaustively present the approach adopted by particular actors or in relation to specific contexts. It does occasionally refer to them to illustrate possible approaches.

This report builds upon a series of international dialogues convened by ODI Global's Humanitarian Policy Group on the continuing challenges to financial access faced by humanitarian actors in contexts regulated by sanctions or CT measures. These dialogues identified, among other things, the incoherence between financial flows, where financial sanctions for the most part now include safeguards for humanitarian action, and the flow of goods, where trade sanctions and export controls do not include corresponding safeguards.<sup>4</sup>

The report is written on the basis of a desk study; interviews with representatives of international humanitarian organisations and states held from April to October 2025; and a hybrid consultation in June 2025. It reflects the trade sanctions and export control landscape in December 2025.

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<sup>4</sup> International dialogues convened by ODI Global's Humanitarian Policy Group; see <https://odi.org/en/about/our-work/easing-the-financial-access-challenges-faced-by-humanitarian-actors-in-contexts-regulated-by-sanctions-or-counterterrorism-measures/>.

## 2 Navigating complexity: understanding trade sanctions and export controls

This report addresses restrictions on exporting goods and services into countries or territories where humanitarian operations are being conducted.<sup>5</sup> These restrictions are found in two principal types of measure: trade sanctions and export controls. While both types of measure restrict exports, there are significant differences between them.

Restrictions in sanctions are set out in regulatory instruments separate from export controls, and may be implemented by government departments other than those responsible for export controls. Their objectives and concerns often also diverge. At times, this leads to apparent policy inconsistencies or incongruities in the approaches of different parts of the same government. For example, in relation to Syria, while US financial sanctions included broad exemptions for humanitarian action, until August 2025, US export controls still required humanitarian organisations to obtain licences for exports of goods containing more than 10% US content other than food and medicine, due to Department of Commerce concerns about loss of control over these items.

Restrictions in financial sanctions only apply to designated persons and entities. Trade sanctions prohibit sending the relevant goods and services to particular countries or territories, regardless of who actually receives the goods. While restrictions in trade sanctions apply to exports to *particular* countries or territories, export controls generally apply to exports of controlled items to *all* destinations. What is restricted may vary depending on the destination.

The prohibitions in trade sanctions and export controls cover all ways of providing these goods and services, including direct or indirect export, supply, sale or transfer. All these modalities are referred to as ‘exports’ in the present report.

### 2.1 Trade sanctions

#### 2.1.1 Types of restriction

For the most part, since the 1990s, the international community no longer adopts comprehensive sanctions that preclude all exports to and transactions with specific countries. ‘For the most part’, as there are exceptions: the UNSC sanctions on the Democratic People’s Republic of Korea (DPRK)

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5 At times, the host states where humanitarian operations are being conducted, and into whose territory the goods and services are being exported, also impose restrictions that humanitarian actors must comply with. These may prohibit the entry of particular types of goods and technology including software. These are a different set of restrictions, not addressed in this report.

remain extremely broad; the US maintains comprehensive sanctions on Cuba, DPRK, Iran and the Ukrainian occupied territories; and in the early 2020s, the Economic Community of West African States (ECOWAS) temporarily adopted sanctions suspending *all* commercial transactions with Niger and Mali.

Instead, restrictions in trade sanctions are now typically targeted, focusing on particular goods, or sectors of the economy of the targeted state or territory. The most common types of restriction that can impact humanitarian response include:

- **Arms embargoes.** Although framed in slightly different terms in various sanctions regimes, these restrict the provision of arms and related matériel, including weapons and ammunition; military vehicles and equipment; paramilitary equipment and spare parts; and technical advice, assistance or training related to the use of such items. Some sanction regimes also cover equipment that might be used for internal repression, which covers additional types of vehicle, and restraining, vision and protective equipment. In certain contexts, humanitarian actors need some of these items for their own protection.
- **Sectoral sanctions.** These limit engagement with particular industries or sectors of the economy of the targeted state or territory by restricting exports and imports of goods and services. Sectoral sanctions are not intended to target all economic activity. They most often target the defence, energy, chemical, transport, finance and technology sectors, with the objective of weakening industrial capacity in these fields. It can also be other industries, usually those that provide a significant source of revenue, such as precious metals, minerals or lumber, or that contribute to the behaviour that the sanctions aim to stop, such as the media. These types of sanction can impact humanitarian actors as they may need to purchase restricted goods for their operations in health and hygiene, for example, or because they impede financial transactions.
- **Luxury goods.** Items falling within the prohibition to export luxury goods vary, but there have been sanctions regimes that adopted very broad approaches prohibiting the export of electronic items, vehicles and office equipment. These are goods that humanitarian actors require for their operations.

There is no single generic term for these types of sanctions. Instead, they are usually described by reference to the types of restriction they impose – for example, arms embargoes or sectoral sanctions. For the sake of simplicity, this report uses the expression ‘trade sanctions’ to refer to all these measures.

### 2.1.2 Who adopts and implements trade sanctions?

A number of different actors adopt trade sanctions – including the UNSC, other inter-governmental organisations such as the EU, as well as states autonomously. Sanctions adopted by the UNSC are binding on all UN member states. They must give effect to the sanctions in domestic law and are responsible for enforcing them.

In addition to giving effect to UN sanctions for EU member states, the EU can also adopt autonomous sanctions. With regard to both UN and EU sanctions, it is EU member states that are responsible for implementing and enforcing the sanctions, and for issuing relevant authorisations. The same holds true for autonomous sanctions adopted by states.

The government department responsible for giving effect to trade sanctions, including receiving applications for licences, varies from state to state. Frequently, departments of commerce, finance, or foreign affairs play this role.

### 2.1.3 Safeguards for humanitarian action

#### Box 1 Safeguards for humanitarian action

Safeguards – or carve-outs – for humanitarian action take two principal forms. Although terminology is not always consistent, the essence is the same.

**Exceptions** exclude certain transactions from the restrictions from the outset. This is what UNSC Resolution 2664 does in respect of financial sanctions. Activities that fall within the scope of the exception in the resolution are automatically permitted. There is no need to apply for any authorisation or licence.

**Exemptions** authorise activities that would otherwise fall within the scope of the restrictions. Exemptions can be general, applying to a range of actors carrying out particular activities, or specific.

General exemptions usually take the form of general licences, issued by individual states. Humanitarian actors whose activities fall within the scope of a general licence are automatically covered by it. No action is required from them to benefit from the safeguard.

In situations where general licences have not been adopted, or where the activities of a particular actor are not covered by an existing general licence, they must apply for a specific licence. These are also sometimes referred to as ‘authorisations’, ‘derogations’ or ‘permits’.

Safeguards for humanitarian action in financial sanctions are completely distinct from those that may exist in trade sanctions. There is rarely correspondence between the two. While all financial sanctions adopted by the UNSC include exceptions for humanitarian action – as do many autonomous financial sanctions adopted by the EU, the UK and the US – for the most part safeguards in trade sanctions are far more limited, and when they do exist, they tend to require application for specific licences.

Practice on the inclusion of safeguards for humanitarian action in trade sanctions is inconsistent, even for the same type of restriction – e.g. arms embargoes – adopted by the same entity.

For example, some UNSC arms embargoes include an exception that excludes protective clothing for UN personnel and humanitarian and development workers, as well as non-lethal military equipment intended solely for humanitarian or protective use.<sup>6</sup> Other UNSC sanction regimes with similar restrictions do not include such an exception;<sup>7</sup> while the arms embargo imposed on the Houthis in Yemen foresees the possibility of applying to the Sanctions Committee for case-by case authorisation, if the export of the goods is necessary to facilitate the work of the UN and other humanitarian organisations in Yemen.<sup>8</sup>

At present, UNSC trade sanctions principally take the form of arms embargoes. The most significant UNSC trade sanctions currently in force are those relating to DPRK. These require an application to be made to the Sanctions Committee, that may, on a case-by-case basis, exempt any activity from the restrictions if it is necessary to facilitate the work of international and non-governmental organisations (NGOs) carrying out assistance and relief activities for the benefit of the civilian population in the DPRK.<sup>9</sup>

The approach in EU autonomous trade sanctions is similarly inconsistent. When it comes to restrictions on exports of items that may be used for internal repression, some sanctions regimes include exceptions for protective clothing for use by UN, humanitarian and development personnel,

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6 UNSC Resolution 2713 (2023) (Somalia sanctions); UNSC Resolution 1546 (2004) (Iraq sanctions); UNSC Resolution 1807 (2008) (DRC sanctions); UNSC Resolution 1970 (2011) OP 9 (Libya sanctions); UNSC Resolution 2428 (2018) OP 5 (South Sudan sanctions); and UNSC Resolution 2752 (2024) (Haiti sanctions).

7 UNSC Resolutions 1556 and 1591 (Sudan sanctions); UNSC Resolution 1988 (2011) (Afghanistan sanctions); UNSC Resolution 2734 (2024) (ISIL/AI Qaeda sanctions); and UNSC Resolution 2752 (2024) (CAR sanctions). Arguably, the ISIL/AI-Qaida, Afghanistan and Central African Republic sanctions prohibit making weapons available to particular persons or groups rather than bringing them into the country. Humanitarian actors would not be making the items available to such persons, so it is not so evident that an exception is required.

8 UNSC Resolution 2511 (2020) OP 3. The Libya sanctions also foresee this possibility for non-lethal military equipment intended solely for humanitarian or protective use UNSC Resolution 1970 (2011) OP 9(c).

9 UNSC Resolution 2397 (2017) OP 25.

for example, and the possibility of applying for a licence for the export of other equipment, if intended solely for humanitarian or protective use.<sup>10</sup> Other regimes do not include the exception, but instead foresee the possibility of applying for a licence if the equipment is intended solely for protective use.<sup>11</sup>

This approach appears to be unwarrantedly inconsistent. ‘Unwarranted’ because it is unclear whether EU member states intended to take a more stringent approach in certain cases; whether this inconsistency is unintentional; or whether it reflects the ‘age’ of the sanctions, with older measures not having been updated to align with the approach in more recent sanctions.

The same holds true for other EU trade sanctions. There is little consistency across similar types of restriction in different sanctions regimes, and even sanctions targeting the same sector in the same sanctions regime – for example, the targeted state’s financial sector (see Box 2) – adopt different approaches.

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- <sup>10</sup> See, for example, Council Regulation (EC) No 765/2006 of 18 May 2006 concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine, Article 1a; Council Regulation (EU) 2016/44 of 18 January 2016 concerning restrictive measures in view of the situation in Libya and repealing Regulation (EU) No 204/2011, Article 3; Myanmar Council Regulation (EU) No 401/2013 of 2 May 2013 concerning restrictive measures in view of the situation in Myanmar/Burma and repealing Regulation (EC) No 194/2008, Articles 2, 3 and 4; in similar but not identical vein, Council Regulation (EU) 2024/1485 of 27 May 2024 concerning restrictive measures in view of the situation in Russia, Article 2; and Council Decision 2011/101/CFSP of 15 February 2011 concerning restrictive measures in view of the situation in Zimbabwe, Article 3.
- <sup>11</sup> See, for example, Council Regulation (EU) No 359/2011 of 12 April 2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Iran, Article 1a. These sanctions only allow a licence to be issued for items for protective use of representatives of the EU and its member states. Council Regulation (EU) No 36/2012 of 18 January 2012 concerning restrictive measures in view of the situation in Syria and repealing Regulation (EU) No 442/2011, Article 2. This derogation is broader in scope and covers goods intended for ‘food, agricultural, medical or other humanitarian purposes, of for the benefit of personnel of the UN, and the EU and its Member States’. Council Regulation (EU) 2017/2063 of 13 November 2017 concerning restrictive measures in view of the situation in Venezuela, Article 4, is similarly broad, and also covers demining operations.

## Box 2 EU sectoral sanctions against Russia's financial sector

Some restrictions include exceptions when the prohibited activities are necessary for humanitarian response. This is the case, for example, for the prohibition to use the Central Bank of Russia's system for transferring financial messages (i.e. the equivalent of SWIFT, the Society for Worldwide Interbank Financial Telecommunications).<sup>i</sup> The prohibition on bringing banknotes denominated in EU member state currencies into Russia includes an exception when this is necessary for, among other things, the official purposes of international organisations in Russia 'enjoying immunities in accordance with international law' (European Commission, 2022), as well as for civil society groups that directly promote democracy, human rights or the rule of law in Russia and that receive public funding from the Union, or EU member states and partner countries. However, there is *no* safeguard for humanitarian actors that do not benefit from immunities.<sup>ii</sup> By contrast, the prohibitions on providing Russian persons a range of services, including construction, engineering and legal advisory services, allows member states to issue *authorisations* when the provision of such services is necessary for humanitarian purposes.

<sup>i</sup> Council Regulation (EU) No 833/2014 of 31 July 2014, concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, Article 5ac.

<sup>ii</sup> Ibid., Article 5i.

A further restriction in EU sanctions that can have consequences for humanitarian action is the prohibition on exports of luxury goods. By way of example, in the EU Russia sanctions these are defined very broadly and include basic office equipment and goods necessary for humanitarian response. At present the prohibition has an exception for goods necessary for the official purposes of international organisations enjoying immunities in accordance with international law. This covers humanitarian actors like UN agencies, the International Committee of the Red Cross (ICRC) and the International Federation of Red Cross and Red Crescent National Societies (IFRC), but there is no safeguard for NGOs or Red Cross Red Crescent National Societies, whose operations can also be affected.<sup>12</sup>

Again, the difference of approach in the various types of restriction appears unwarranted. Even more significant than the inconsistency of approach is the fact that some restrictions contain no safeguards whatsoever for humanitarian actors that do not benefit from immunities under international law.

States also take different approaches in their autonomous trade sanctions. A single state may adopt different approaches depending on the context. This is a reflection of the fact that different foreign policy considerations underlie each sanctions regime. For example, the prohibitions on exports of

<sup>12</sup> Council Regulation (EU) No 833/2014 of 31 July 2014, concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, Article 5n.

particular goods and services in Canada's *Special Economic Measures (Syria) Regulations* include an exception when they are made available by certain organisations for 'safeguarding human life, disaster relief, democratization, stabilization or providing food, medicine or medical supplies or equipment'.<sup>13</sup> However, the restrictions on exports to Crimea and the other regions of Ukraine occupied by Russia include neither exceptions, nor the possibility of applying for authorisation to export goods to the areas when necessary to carry out humanitarian operations.<sup>14</sup>

UK trade sanctions treat exports of items necessary for humanitarian action like any other export and usually require a licence from the Export Controls Joint Unit (ECJU) within the Department for Business and Trade (DBT).<sup>15</sup>

Licences can be general or specific. General licences are exemptions that allow all actors that fall within their scope to carry out an otherwise prohibited activity. Specific licences are required when no general licences exist. They must be applied for, and if granted, permit the applicants to carry out specific activities that would otherwise be prohibited. To date, the UK's DBT has only issued a general licence for humanitarian action on one occasion: in June 2023, to allow the purchase of petroleum products to facilitate response to the earthquake in Syria and Türkiye.<sup>16</sup>

As far as the US is concerned, for the most part, restrictions on exports take the form of export controls rather than restrictions in sanctions, and, consequently, are administered by the Department of Commerce. But there are exceptions; for example, it is OFAC, the Office for Foreign Asset Control in the Department of Treasury, that issues licences authorising exports under the Iranian Transactions and Sanctions Regulations.<sup>17</sup>

## 2.2 Export controls

### 2.2.1 Types of restriction

Export controls restrict the transfer of sensitive goods and technology, including software. They usually cover military or dual-use goods and technology, as well as related technical assistance, but they can be broader in scope. The US, for example, has imposed restrictions on exports of *all* US-origin goods to

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13 Canada, *Special Economic Measures (Syria) Regulations*, Section 3.2. The actors that benefit from this exception are international organisations with diplomatic status; UN agencies; components of the International Red Cross and Red Crescent Movement; and NGOs that have entered into a grant or contribution agreement with the Department of Foreign Affairs and International Trade or the Canadian International Development Agency.

14 Canada, *Special Economic Measures (Ukraine) Regulations*, Sections 4.1 and 4.2.

15 See, for example, the Russia (Sanctions) (EU Exit) Regulations 2019 (UK Government, 2019) and the Myanmar (Sanctions) Regulations 2021 (UK Government, 2021).

16 UK, DBT, *General Trade Licence Syria Sanctions - Earthquake Relief Efforts in Syria*, June 2023

17 31 CFR Part 560—Iranian Transactions and Sanctions Regulations § 560.530.

certain countries or territories, with the exception of food and medicine. ‘US-origin’ also covers foreign-made goods that incorporate more than 25% US-origin content. For certain destinations – Cuba, the DPRK, Iran and, until August 2025, Syria – this is lowered to 10% US-origin content.

The objective of sanctions is to change the behaviour of states or groups. While at times export controls also have this aim, as well as preventing the proliferation of certain types of weapons, one primary objective of export controls is to protect the national interests of the states that adopt them, for example, by preventing adversaries from acquiring sensitive technology or other sophisticated items. This difference has consequences for the safeguards that may be provided to the humanitarian sector. States may be willing to adopt safeguards in sanctions even though this might mean that the actors whose behaviour they are trying to change obtain some benefit. There are additional concerns for goods covered by export controls, including the risk that the goods or technology may be misappropriated.

As a result, it is less likely that export controls will include exceptions for goods used by humanitarian actors from the scope of the prohibitions. Instead, in the majority of cases, specific licences are required to export such goods and services. When considering applications for specific licences, the measures that a humanitarian organisation will adopt to retain control over the goods, and to dispose of or repatriate them at the end of the project, are among the factors that are taken into account.

Export controls often cover not just the goods and technology, but also the provision of related services. For example, the restrictions in EU regulations on dual-use goods also cover ‘brokering’. There have been instances when banks have considered that transferring funds that humanitarian actors will use to purchase dual-use goods falls within the prohibition on brokering. As the dual-use regulations lack exceptions similar to UNSC Resolution 2664, the banks have refused to process these transfers.

### 2.2.2 Who adopts and implements export controls?

The UNSC does not adopt export controls. The EU does and, as in the case of sanctions, it is member states that give effect to them by adopting necessary legislation, enforcing compliance and issuing licences. States, including EU member states, may also adopt export control measures unilaterally.

Again, the government department responsible for enforcing export controls, including reviewing applications for licences, varies from state to state. In the UK for example, the ECJU in the DBT is responsible for both trade sanctions and export controls. In the US, the Bureau of Industry and Security (BIS) within the Department of Commerce is responsible for implementing export controls and for reviewing licence applications. In Canada, it is the Strategic Export Controls Bureau, within Global Affairs Canada.

### 2.2.3 Safeguards for humanitarian action

EU export controls on dual-use goods and technology do not include exceptions for items intended for humanitarian action. Like exports intended for other purposes, it is necessary to apply for specific licences authorising the export.<sup>18</sup>

US export controls do not apply to food and medicines – but do apply to medical equipment. In addition, a number of ‘license exceptions’ allow certain goods to be exported to specific destinations.<sup>19</sup> Of particular relevance to humanitarian action are a number of ‘licence exceptions’ that apply to exports of certain goods to specific locations, including ‘gift parcels and humanitarian donations’, (GFT); ‘consumer communications devices’ (CCD); and ‘medical devices’ (MED). Licence exceptions do exist for all contexts. Whether an exception exists, and which goods it covers, depends on the destination. If no such applicable licence exception exists, the export of other items subject to Export Administration Regulations requires a BIS licence. BIS has not issued general licences for humanitarian response, but in situations where emergency response was necessary – like the 2023 Syria and Türkiye earthquake – it expedited the review process for specific licences.

In some states, where the same export requires authorisation as a matter of sanctions and of export controls, only a single application for a licence is required. This is the case, for example, in the UK and in the US in relation to Iran sanctions.<sup>20</sup>

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18 Regulation (EU) 2021/821 of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items.

19 15 CFR §740.

20 See ‘Overlap between trade sanctions and strategic export controls’ at [www.gov.uk/guidance/current-arms-embargoes-and-other-restrictions#overlap-between-trade-sanctions-and-strategic-export-controls](http://www.gov.uk/guidance/current-arms-embargoes-and-other-restrictions#overlap-between-trade-sanctions-and-strategic-export-controls).

# 3 The impact of trade sanctions and export controls on humanitarian action

The adverse impact of trade sanctions and export controls on humanitarian action falls into two broad categories: impact on humanitarian organisations' internal administrative and support processes; and impact on their operations.

While the sector is now well aware of the challenges posed by financial sanctions, organisations often first come across these types of restrictions only once a problem occurs: goods are stuck at the border, software is switched off, or a company transporting the goods enquires whether the relevant licences have been obtained.

## 3.1 Adverse impact on internal administrative and support processes

### 3.1.1 Types of adverse impact

The types of trade sanctions and export restrictions that have the greatest impact on organisations' internal administrative and support processes are those applicable to IT equipment such as computers, servers, Wi-Fi routers and videoconferencing equipment, and related software. Most significant among these, because of the dominance of US companies in these sectors, are the measures adopted by the US that bring foreign-made products with more than 25% US-origin content (and even less in certain contexts) within the scope of the restrictions.

As outlined in Chapter 2, the export or re-export of these goods and technology to certain countries or territories requires BIS licences. In practice it can be difficult for the US government to determine whether US-origin products have been brought into the countries or territories in question without the necessary authorisations. However, geo-localisation features on software enable the providers to determine that it is being used in the restricted locations. In some instances, providers have informed organisations that services would be suspended unless they obtained the necessary BIS licences authorising use of the software in those locations. In other cases, access to the software was simply cut off. Driven by concerns that they would face fines for use of their products in these locations, it is the software providers that are, in practice, enforcing US export controls.<sup>21</sup>

These problems can be avoided by purchasing equipment and software that does not have US-origin content, but it is extremely difficult, if not impossible, to find technology such as laptops, and mobile phones and software that does not have *some* US-origin content. This means that humanitarian organisations must obtain BIS licences for the equipment and software on which they rely for internal

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<sup>21</sup> In 2023 Microsoft was fined by US regulators for unauthorised use of its products in Ukraine, Russia, Cuba, Iran, and Syria (see <https://home.treasury.gov/news/press-releases/jy1394>).

communications, financial transactions, including staff payroll, payments to suppliers, and recruitment. Obtaining these licences is time consuming. While applying for OFAC licences in relation to financial sanctions is relatively straightforward, applications for BIS licences are far more technical and usually require costly external legal advice. BIS licences are usually time-limited, which requires the process to be repeated periodically.

All organisations that are exporting relevant US goods must obtain the necessary licences from BIS, even those that do not have a US presence. Such organisations, including smaller ones with limited in-house legal expertise, are likely to find navigating the licencing process even more complicated.

Applying for BIS licences may also require making a ‘voluntary disclosure’ of past unauthorised use. This is an even more complex process than applying for the licence, and while organisations are unlikely to be fined by BIS, the process can entail significant legal costs. Moreover, the fact an organisation exported restricted goods without relevant licence remains on BIS records and may adversely impact future licence applications.

Although a licence is necessary to export the goods, it is not a guarantee that software providers will provide their services to locations they consider ‘high risk’ from a sanctions and export control perspective. Some have done so, while others have outright refused to allow their services to be accessed in certain locations – even though the necessary licence had been obtained. This may leave humanitarian organisations without access to crucial software as alternative, non-US products, do not always exist.

At times, the problems are of a more technical nature. For example, there have been instances when geo-blocking features on software set by the manufacturer have been inaccurate and prevented services from being accessed from locations in the vicinity of but not within the restricted areas. This occurred in Syria and, more recently, in Ukraine where inaccurate geo-blocking prevented access to online video communications services not just in Russia-occupied territories but also in other parts of Ukraine, well outside the scope of the export control restrictions.

The most stringent US restrictions apply only to exports to a small number of contexts. However, exports of IT equipment and software can also fall within the scope of different restrictions of broader application. For example, laptops might include elements that fall within the definition of ‘encryption technology’ bringing the items within the scope of EU and UK export restrictions applicable to dual-use items.

### 3.1.2 Mitigating measures and good practice

To the extent feasible, humanitarian actors have sought to avoid having to obtain licences by purchasing IT equipment and software that do not have US-origin content. While such options do exist for mobile phones, computers and related hardware, it is difficult, if not impossible, to find the necessary software that does not have some US-origin content.

When applying for licences for IT hardware, humanitarian organisations with more experience have developed processes that take into account the unpredictable nature of their operations – crises or natural disasters can occur unexpectedly requiring a rapid scale-up of operations in contexts subject to restrictions. For example, some organisations apply for licences for more equipment (phones, laptops, etc) than they immediately require, to cover unforeseen needs. As BIS licences are generally valid for a number of years, others request licences for general categories of equipment to address the risk that specific models listed in the licences are discontinued during the validity of the BIS licence.

## 3.2 Adverse impact on operations

### 3.2.1 Types of adverse impact

The problems outlined above are also relevant to actual operations. IT equipment and software is necessary not just for administrative aspects of the work of humanitarian organisations but also for their operations.

In addition, a wide range of goods and equipment necessary for humanitarian activities can also fall within the scope of prohibitions in trade sanctions or export controls. The restrictions can affect most sectors of humanitarian response, including:

- **Water, sanitation and hygiene:** restrictions can cover equipment such as water pumps, spare parts for the systems, disinfectants, and even items included in hygiene kits.
- **Health:** although medicines are usually exempted, medical equipment including electronic devices, equipment necessary for vaccine and drug cold chains, personal protective equipment, disinfectants, and material necessary for forensics frequently fall within the restrictions.
- **Shelter:** restrictions can cover equipment necessary for earthquake response, including rubble-removal machinery, devices to assess the structural integrity of buildings, and equipment for winterising homes and for connecting them to the electricity grid.
- **Agriculture:** restrictions can cover equipment, spare parts, irrigation pipes and systems and fertilisers.
- **Aviation:** organisations conducting air operations are required by law to periodically replace particular airplane and helicopter parts. These components can be very specialised, and at times available only from the producers of the aircraft, but such purchases may fall within prohibitions on acquiring technology from certain countries. UN agencies that charter aircraft for peacekeeping and humanitarian operations have been impacted in additional ways. Many of these aircraft are leased from Russia. Russia is responsible for ensuring the aircraft meets the International Civil Aviation Organization (ICAO) safety standards, but sanctions restricting exports of the necessary parts to Russia make this impossible, resulting in aircraft being grounded.

Restrictions can also cover supplies relevant to *all* operations such as solar panels, generators, vehicles, and fuel; communication and related equipment such as satellite phones, navigation devices, routers

and mobile phone repair kits, which are particularly important in the aftermath of earthquakes. Restrictions that affect electricity-generating and distribution systems also impact operations to support hospitals, schools and water systems.

Humanitarian organisations need to determine whether the goods they require for their operations fall within the scope of the restrictions and, if so, in the absence of any alternatives, apply for the necessary licences.

Trade sanctions can also have a knock-on effect for humanitarian operations. For example, their mere existence has led companies to stop operating in certain contexts they perceive as high risk. This wariness often goes well beyond the actual scope of restrictions and leads commercial actors to cease exporting or refrain from bidding for humanitarian contracts in relation to such contexts. This risk aversion can reduce supply and drive up prices, including for local procurement by humanitarian actors.

### **3.2.2 Challenges in understanding and complying with applicable rules**

Participants in the consultations identified a number of recurring and unresolved challenges they faced in understanding and applying the rules regulating trade sanctions and export controls.

#### **Determining which restrictions apply**

Humanitarian groups are now familiar with financial sanctions, but often discover trade restrictions the hard way, when shipments stall or software is disabled.

Even organisations familiar with trade sanctions and export controls sometimes fail to appreciate the breadth of their application, particularly their extra-territorial reach, which can appear counter-intuitive. An organisation must comply with the regulations adopted by its state of nationality, which might require obtaining an export licence for goods located in a third country, even when there is no other direct link with that state. Additional restrictions may arise by virtue of the origin of the goods. These apply irrespective of where the goods are actually located.

This means that the same transaction might require licences from a number of states: the state of registration/nationality of the organisation; the state of ‘origin’ of the goods, in the case of goods that have US-origin contents; and also the state where the goods are located. These licences are additional to any that might be required under financial sanctions.

#### **Particular aspects of the rules are unclear**

Certain aspects of the rules lack clarity, a number of which were raised during consultations, as follows.

#### **Classification of items**

Determining whether particular goods fall within the scope of trade sanctions and export controls

(identifying their ‘classification number’ in the controlled-items lists) is an extremely technical process, and something that humanitarian organisations are unlikely to be able to do without external legal assistance.

### **Goods already in country**

It is unclear how trade sanctions and export controls apply to restricted items that are already *in the country of operations*. Frequently it is difficult to determine whether necessary licences had been obtained for the original export. Legal advice on this specific question has been inconsistent.

### **Which state issues the licence**

Some questions are specific to EU measures. One difficulty is determining to which member state licence applications should be made. The rules state that it should be the member state where the exporter is based, but it can be unclear who counts as the exporter. For example, if a supplier applies for a licence on behalf of a humanitarian organisation and physically ships the goods, is the supplier considered the exporter, or is it the humanitarian organisation that has retained the supplier?

This can make relying on safeguards even more complicated. There have been instances when customs authorities blocked an export because the paperwork did not show that the supplier was exporting the goods on behalf of an organisation whose activities were covered by an exception. Documentation should indicate when an export is being carried out on behalf of an entity that benefits from such an exception.

Similarly, it is unclear whether a licence is necessary for goods that are simply transiting through EU territory and, if so, to which member state the licence application should be made if the exporter is not registered in an EU state.

### **Rules on brokering of dual-use items**

Another area of uncertainty relates to the EU rules on dual-use items. They cover not just the export of these goods but also ancillary services, including ‘brokering’. There have been instances when banks have refused to transfer funds that would have been used to purchase dual-use items in the country of operations, because they considered that to be ‘brokering’, which requires a licence. (The exceptions in financial sanctions allowing the processing of funds necessary for humanitarian action do not apply to the restrictions under dual-use regulations.)

### **The absence of any safeguards can lead to overcompliance**

The absence of any safeguard in a number of measures leads to lack of clarity and over-compliance. Questions have arisen as to the scope of some of the prohibitions. Without guidance in this regard, or the possibility to apply for a licence, which would allow the authorities responsible for the implementation of the measures to indicate how they interpret the restrictions, organisations have been uncertain as to whether they can continue to carry out particular activities. For example, some organisations are concerned that the prohibition on providing training in arms embargoes covers any

type of military training – including, for example, on IHL. While some of the states that have adopted arms embargoes have indicated that the prohibition is limited to training on the use of the restricted items, this position is not formally recorded, so the lack of clarity persists.

Equally significantly, commercial actors that have been unwilling, for legal or reputational reasons, to engage in particular contexts have been able to ‘hide’ behind the lack of clarity, and the lack of avenues for obtaining it. This was the case, for example, in relation to the Afghanistan arms embargo. The providers of airspace safety infrastructure and technology necessary for the safety of aviation in Kabul airport have claimed that these fall under the restrictions in the UN arms embargo. As the resolution imposing the embargo does not specify which goods are covered, and provides no mechanism for applying for a licence that could clarify this, nor, if needed, an opportunity to obtain a licence in view of the clear humanitarian value of safety in aviation, the issue has been blocked, while aviation safety has steadily deteriorated.

#### **The licence review process can be slow**

The licence application and review process is often time-consuming. Even when organisations know which licences they need, it can be difficult to obtain them in time to be able to implement projects. This is particularly problematic for projects that have short time frames. When grants only last six or nine months, delays in obtaining licences and the knock-on effects on procurement may render implementation impossible.

Some states prioritise applications from humanitarian organisations in the immediate aftermath of particular events, such as earthquakes. For example, following the 2023 earthquake in Syria and Türkiye, BIS processed applications from humanitarian organisations within 5–10 business days. However, there is no ‘standard’ expedited process and approvals can often take several months. While longer-term programmes may be able to accommodate these time frames, shorter grants cannot. Other states have indicated that it is possible to expedite the review of licence applications. The applications should explain the context and the urgency.

#### **Disposal of items**

It is often unclear how export restrictions apply to goods and equipment at the end of the project cycle. Some restrictions extend to re-exporting the items from the country of operation or to any transfer of ownership, even within the same country. As a result, it may not be possible to donate items to local authorities, implementing partners or employees, as is sometimes done. Some licences require the items to be brought back to the ‘home country’. It is unclear whether a new licence is required to bring the items back to the organisation’s headquarters or to another country where it operates. It is also unclear how proof of disposal can be demonstrated.

In addition, while frequently it is suppliers that are required to obtain export licences for restricted items, contracts rarely address disposals. Instead, humanitarian organisations end up having to do this.

In practice, there may be circumstances when obtaining the necessary licences for bringing restricted goods out of countries of operation may be difficult, as when offices need to be evacuated at short notice.

‘Disposal’ is a step that is frequently overlooked but needs to be included in internal processes.

#### Reputational risks

Humanitarian organisations must take into account the reputational risks that trade sanctions and export controls can pose. These are particularly significant for ‘federated’ organisations. While restrictions adopted by one state might not be legally binding on other members of a federation, the use of products restricted under another member’s regulations could nonetheless damage the reputation of the entire federated organisation if it became known. At times this has led to organisations consciously over-complying, either by refraining from carrying out exports that would be permissible or by applying for licences that are not strictly necessary as a matter of law.

### 3.2.3 Mitigating measures and good practice

As they have become increasingly familiar with these types of restriction, humanitarian organisations have adopted a number of measures to mitigate their adverse effects.

#### Procurement practices

Careful procurement practices enable humanitarian organisations to operate efficiently within the limits of applicable trade sanctions and export controls.

Although humanitarian organisations must comply with trade sanctions and export controls adopted by their state of nationality or the state where the goods are located, they may be able to avoid restrictions based on the ‘origin’ of the goods. US rules are particularly onerous, covering a wide range of products that include even small percentages of US-origin goods. To reduce compliance burdens, organisations choose non-US-origin goods, when alternatives exist.

Dual-use goods restrictions usually apply to goods that meet particular technical thresholds, in terms of power, size or capacity. The need to obtain licences can be avoided by purchasing items just below these thresholds, that can nonetheless serve the same purpose, yet are not subject to the restrictions.

Many organisations try to source locally in the countries where they operate as much as they can and where it is cost efficient to do so. This is possible for certain basic goods that are produced locally, but also, depending on the context, for relatively specialised items such as vaccines, syringes and other small medical equipment, or items needed for solar power.

However, for many goods, it is more cost effective to centralise procurement and hold the goods in regional warehouses to be immediately available when and where needed. Inevitably, this does not remove the burden of sanctions and export-control compliance.

### Requiring suppliers to apply for licences

Some humanitarian organisations require suppliers to obtain licences, by including a clause to this effect in the request for proposals and contracts, stating where responsibility lies.

This approach can be efficient because suppliers know the precise specification of items and are likely to have more experience with the licence application process. This seems to be the case for suppliers of very specific equipment, such as that used for demining operations (see Box 3).

Moreover, requiring suppliers to obtain licences may also provide some (symbolic) solace to organisations concerned that applying for a licence could be considered or be perceived as an implicit waiver of their privileges and immunities.

However, this approach has its downsides. Less experienced commercial actors applying for licences might not be aware of the existence of relevant exemptions. This can be the case for goods not ordinarily subject to restrictions. For example, the exporter from the EU to Russia of a vehicle that ‘unexpectedly’ fell under the EU’s luxury goods sanctions was not aware of the safeguard granted to humanitarian organisations, and the export was blocked.

Requiring suppliers to obtain the licences can significantly raise their prices. More importantly, knowing how complex and time-consuming the licencing process is, it has dissuaded some suppliers from even bidding at all.

### Obtaining licences

In some cases, and particularly for IT equipment and software, humanitarian organisations must obtain the necessary licences themselves.

Trade sanctions and export controls are far more technical in nature than financial sanctions. Once it has been determined which sanctions or export controls are applicable, it can be difficult to determine whether a particular item falls within the scope of the restrictions. It is unlikely that a humanitarian organisation will manage to determine whether it is necessary to file a licence application without external legal advice – at least the first time. Applications that inaccurately identify the goods in question must be amended and refiled – increasing legal costs and the length of the application process.

As a result, humanitarian organisations almost inevitably need to seek external specialist legal advice, which can be extremely expensive. Some law firms, however, provide pro bono or discounted services, typically on a bilateral basis rather than to the sector as a whole, possibly due to concerns about professional liability and legal privilege.

Creating a community of practice could allow organisations to share the general gist of the advice and internal good practices to facilitate the granting of licences.

### Box 3 The experience of humanitarian demining organisations

Organisations that conduct operations requiring goods on military and/or dual-use control lists have the greatest experience navigating the system. These include demining organisations that need to export explosives and detonators.

Over time, they have learned to manage the process efficiently. They understand the need for export licences and potentially other authorisations; have developed detailed internal operating procedures that regulate the range of issues that need to be addressed, such as chain of ownership and end-of-project disposal; and have extensive experience in completing the necessary paperwork accurately. This ensures that they can receive authorisations within a timeframe that allows them to conduct operations as planned. This might require submitting applications for licences well ahead of the planned exports. Licence applications are often handled by the companies that provide the equipment.

Other sanctions-related restrictions can affect their work. For example, in addition to equipment to remove unexploded ordnance, demining organisations require specialised heavy-duty vehicles to transport it. The manufacturer of the one of most popular and affordable such vehicles has been designated under EU/UK Russia financial sanctions. As these sanctions do not include humanitarian exceptions, it has been impossible to acquire spare parts directly from the manufacturer, forcing them to acquire them at far higher prices from suppliers with stockpiles, until supplies eventually ran out.

Similarly, the prohibition of transit via Russian territory of dual-use goods has made the journeys of some organisations to third states where their programmes are implemented far longer and more expensive.

#### Internal processes

Some humanitarian organisations have developed comprehensive internal operating procedures for managing exports of restricted goods and services. These identify measures that must be taken at every step of the process, from the elaboration of project proposals and budgets and the development of requests for proposals – clearly indicating where responsibility for obtaining licences lies – to contracts with suppliers. Operating procedures are also necessary to regulate the use of software by the organisation, and to track the goods in question to minimise the risk of losses or diversion, and to record any such losses. Procedures regulating the disposal of equipment at the end of projects are also necessary.

In addition to clearly allocating responsibilities within organisations, such robust standard operating procedures that contribute to minimising risk are important factor for regulators when considering licence applications.

### Other practices

Other workarounds may be possible when licences are required but cannot be obtained, including because of time constraints. These need to be developed on a case-by-case basis depending on the precise nature of the problem.

For example, when a bank refused to transfer funds intended for the purchase of solar panels classified as dual-use items because it considered that this amounted to brokering, the organisation addressed the issue by reallocating budgets lines and using the funds for different purposes. This allayed the bank's concerns about brokering and allowed the project to proceed.

# 4 Concluding reflections and recommendations

As stated at the outset, the present study and report are the beginning of a reflection and engagement on the impact of trade sanctions and export controls on humanitarian action. Nonetheless, it is possible to draw some concluding reflections and make some general recommendations.

The restrictions affect *all* humanitarian actors. However, because individual states have significant leeway in how to implement them, what is still required and what exists already differs from country to country.

## 4.1 The regulatory framework

### 4.1.1 Need for express safeguards

Ideally, all restrictions in trade sanctions and export controls should include an express safeguard for humanitarian action. In the best case, this should be an exception that excludes goods and services necessary for humanitarian action from the scope of prohibitions without the need for a licence. The exception should be at least as broad in the scope of activities and actors as the one for financial sanctions in UNSC Resolution 2664 – while recognising that even this is not perfect.

Although this is the desired outcome, the adoption of UNSC Resolution 2664 was the result of over a decade of focused engagement between humanitarian actors and states. The conversation on the impact of other types of restrictions is only beginning. While it builds upon the experience of the engagement in relation to financial sanctions, it is likely to require progressive steps – as was the case for financial sanctions.

Accordingly, as a first step, all restrictions should include some form of express safeguard for humanitarian action. As a minimum, this could take the form of an exemption or derogation foreseeing the possibility to apply for licences or authorisation.

### 4.1.2 Need for greater consistency

As noted in Chapter 2 above, there is massive inconsistency in the approach to safeguards for humanitarian action in trade sanctions, even for the same type of restriction adopted by the same entity.

Some divergence may be justified as restrictions have different objectives, and concerns about including safeguards vary depending on the type of restricted good and its destination.

Nonetheless this lack of consistency contributes to confusion about the rules, and fuels commercial actors' risk aversion. As some of it appears unwarranted, efforts should be made to enhance consistency of approach. Ideally, this should occur from the moment new measures are adopted. Periodic reviews – that must be conducted, for example, for EU and UK sanctions – are a further opportunity to harmonise sanctions.

#### 4.1.3 Caution about ancillary obligations

In some countries, safeguards in financial sanctions have been accompanied by onerous reporting obligations that require humanitarian actors to report to relevant regulatory bodies on how they have made use of safeguards.

Similar reporting requirements should only be introduced in relation to safeguards in trade sanctions and export controls if they serve a clear policy purpose. If adopted, they should be as light as possible. For example, reporting should be required annually rather than on every occasion that the exception or licence is relied upon.

### 4.2 The licensing process

There are two principal types of licence: general and specific ones. For the most part, states have resorted to specific licences – requiring individual applications by humanitarian actors. This is an inefficient approach, both for humanitarian actors and also for regulators, who are obliged to review a multitude of very similar applications, leading to delays and backlogs in processing and consequently on programme implementation.

#### 4.2.1 General licences

Greater use should be made of general licences.<sup>22</sup> To do this, it is important to understand what drives states' reluctance to do so. The limited feedback received during the interviews for this report suggests that the relevant government departments either consider the current approach of requiring specific licences adequate; or consider it necessary to ensure that applicants have sufficient measures in place to retain control over the goods.

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22 This was also a key recommendation made in the strategy engagements conducted for the UK's 2025 cross-government review of sanctions: '...Changes in approach to implementation, such as a significant increase in general licence use [...] would allow compliance professionals to refocus resource away from administrative process onto tackling more complex compliance issues.' (UK Government, 2025)

As far as US export controls are concerned, the system of licence exceptions should be simplified. As a minimum, the ‘gift parcels and humanitarian donations (GFT)’ licence exception should apply to *all* contexts, and to all humanitarian organisations responding, not just US charitable organisations, as is currently the case.<sup>23</sup>

In similar vein, in view of the challenges posed by restrictions on the exports of IT hardware and software, consideration should be given to establishing a new licence exception modelled on the existing ‘consumer communications devices (CCD)’ one to cover basic consumer IT hardware and software necessary for the operations of humanitarian organisations.<sup>24</sup> To address BIS’s concerns about end users, the licence exception could be limited to items that remain in the control of the organisations. This licence exception should apply to exports to all contexts and cover all humanitarian organisations.

#### **4.2.2 Specific licences**

In the absence of general licences, humanitarian actors must apply for specific licences. As discussed, the process for applying is complicated and the review process slow. In view of this, at times some states have prioritised the review of applications when humanitarian organisations need to react to unforeseen events such as earthquakes.

Recognising that the current system needs improvement, some states are striving to prioritise applications by humanitarian actors more generally, while others are working on improving the licence application system.

Similarly, in an effort to reduce the administrative burden when the same transaction is regulated by trade sanctions and export controls, some states have indicated that a single application and licence is sufficient for both purposes.

These initiatives can be helpful. Good practice should be shared with counterparts in other states, and the dialogue between the humanitarian sector and relevant government departments should specifically address the questions of what measures by humanitarians could facilitate the application review process.

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<sup>23</sup> 15 CFR § 740.12.

<sup>24</sup> 15 CFR § 740.19.

## 4.3 Guidance

In recent years, some government departments responsible for implementing financial sanctions have become very good at issuing clear and user-friendly guidance, ‘explainers’ and frequently asked questions.<sup>25</sup> These have been general or specific, explaining how the measures apply to a particular context or a particular response – e.g. the Covid-19 response, or response to a natural disaster.

Generally speaking, the same outreach has not occurred in relation to trade sanctions or export controls, even though these are even more technical and difficult to navigate compared to financial sanctions. All too frequently, organisations are directed to extremely complicated webpages.

Government departments responsible for implementing trade sanctions and export controls should follow the approach adopted for financial sanctions, and engage in clear and user-friendly public messaging, including in response to particular crises, explaining what falls within the scope of prohibitions and what is permitted. This is extremely important, both for humanitarian actors and for the commercial actors whose services they require.<sup>26</sup>

One extremely helpful example in this regard is the Syria-related guidance issued by the UK in December 2025 (FCDO, 2025). This is particularly useful as it brings together and explains the restrictions and safeguards under all relevant measures: sanctions, CT laws, and export controls. The practice should be replicated for all contexts subject to complex regulatory requirements.

In addition to written guidance, being able to engage directly with the departments implementing sanctions is extremely helpful. While they cannot provide specific legal advice, they can provide direction on sanctions, whether licences are required and how long an application process is likely to take. Some states’ departments responsible for financial sanctions have been forthcoming in this way, but until now their counterparts responsible for trade sanctions and export controls have been far less helpful.<sup>27</sup>

## 4.4 Internal policies and procedures

Humanitarian organisations should develop comprehensive internal operating procedures for managing exports of restricted goods and services. These should identify measures to be taken at every step of the

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<sup>25</sup> See, for example, [www.gov.uk/guidance/uk-financial-sanctions-guidance](http://www.gov.uk/guidance/uk-financial-sanctions-guidance), and <https://ofac.treasury.gov/media/931341/download?inline>; <https://ofac.treasury.gov/faqs>.

<sup>26</sup> The UK’s 2025 *Cross-government Review of Sanctions Implementation and Enforcement* recognised the need for clearer, more accessible and targeted guidance. The UK committed to elaborating additional guidance and conducting a comprehensive update of its sanctions webpages to make them clearer and better structured.

<sup>27</sup> The EU has established a Sanctions Helpdesk. It offers personalised help to companies performing sanctions due diligence checks. It also manages a website with sanctions-related information, event news, tips, lessons learned, and training events. Its focus is supporting small and medium-sized enterprises. [https://eu-sanctions-compliance-helpdesk.europa.eu/about-us\\_en](https://eu-sanctions-compliance-helpdesk.europa.eu/about-us_en)

process, from project proposals and budgets, to requests for proposals that clearly assign responsibility for obtaining licences, to contracts with suppliers. Operating procedures should also regulate software use by the organisation, track IT equipment and other restricted goods, record any losses or diversion should they occur, and address how equipment will be dealt with at the end of projects.

Such comprehensive standard operating procedures should be accompanied by practical and user-friendly materials accessible to all staff. These can include procurement checklists and flowcharts to identify which items are likely to require licences in which locations and the procedures for applying for them.

#### **4.5 Humanitarian communities of practice**

Humanitarian organisations have established communities of practice that have helped them navigate financial sanctions and that have been instrumental in elaborating common policy and advocacy positions. Particularly active groups exist in the Netherlands, the UK and the US, and in relation to EU and UNSC sanctions in Brussels and New York respectively.

To date, the engagement on trade sanctions and export controls has not been systematic. Instead, it has occurred principally in a reactive manner when a particular restriction is causing problems, for example the restrictions in UK post-Brexit sanctions on the purchase of petroleum products in Syria.

Recognising that in the past year there have been significant staff cuts in many organisations, existing communities of practice should also engage on trade sanctions and export controls. This can be an opportunity to share existing good practice and lessons learned in understanding measures and adopting relevant internal practices that facilitate the licence application processes. This could lead to the elaboration of model internal practices.

The profile of humanitarian personnel that can contribute to conversations on trade sanctions and export controls is different to that of those who follow financial sanctions. While legal advisers are relevant to both areas, it is important to include staff from supply chain management and engineers in discussions on trade sanctions and export controls.

The community of practice would also provide an opportunity to develop a common platform for raising concerns with the actors that impose and implement the restrictions.

Concrete examples of the adverse impact of sanctions and export controls are key to making progress in raising awareness of the problems, and to launching a conversation with relevant government departments to find solutions. Communities of practice play an important role in collecting and sharing such instances in an anonymised manner that does not expose particular organisations to allegations of violations of the measures.

An important dimension of a sanctions policy is monitoring unintended effects. Awareness of these effects is essential to being able to take corrective measures that are relevant and effective. As far as the impact of financial sanctions on humanitarian action is concerned, the actors that impose sanctions – UNSC, EU and individual states – have essentially relied on humanitarian actors to highlight these issues.

Over the years, some of the larger international humanitarian organisations have become adept at tracking the adverse impact of financial sanctions. To date, the same capacity has not been developed in relation to trade sanctions and export controls. Being able to provide accurate accounts in relation to such a technical area requires technical knowledge, resources and time.

## 4.6 Engagement with relevant government departments

In the past decade, systematic dialogue with the government departments responsible for adopting and implementing financial sanctions was key to understanding mutual concerns and positions, and ultimately to the adoption of safeguards for humanitarian action.

To date, engagement with the government departments responsible for trade sanctions and export controls has been far more limited. In some contexts, trisector working groups exist that bring together humanitarian organisations, government departments and financial institutions, with the aim of addressing bank de-risking. Some of these groups have invited representatives of the departments responsible for implementing trade sanctions to their meetings but, in view of the focus, the discussions have not been of direct relevance to these departments.

A similar dedicated dialogue should also be established with the departments responsible for trade sanctions and export controls, possibly facilitated by the departments responsible for financial sanctions with whom humanitarian actors already have a relationship. The objective would be similar – to promote greater mutual understanding. On the one hand, understanding of how humanitarian actors operate, how such measures are currently impacting their operations, and of the range of measures they take that would avoid undermining the policy objectives of trade sanctions and export controls. On their side, government departments could explain the objectives of trade sanctions and export controls and their concerns about granting safeguards – which, as noted in the Introduction, can be different to those for financial sanctions – and what would facilitate granting of general or specific licences.<sup>28</sup>

While there is no doubt as to the value of engagement, states' willingness to participate in such dialogue varies. Some states, like Canada, are proactively reaching out to certain sectors to help them understand the requirements and processes to apply for licences. This has occurred for the aerospace sector and for university and research institutions, which might not be aware of the restrictions on the export of technology and on knowledge-sharing. Although less significant in terms of size and risks, similar outreach should also be conducted with the humanitarian sector.

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<sup>28</sup> The need for enhanced outreach was also acknowledged in the UK's *Cross-government Review of Sanctions*, and the UK committed to increasing engagement with sectors less familiar with sanctions compliance.

Other states have been far more reluctant to engage. It is indicative that despite introductions and encouragement from their counterparts in ministries of foreign affairs, the UK and US departments responsible for trade sanctions and export controls were not available to participate in interviews for the present study. The UK DBT replied to written questions via the UK Foreign, Commonwealth and Development Office.

#### **4.7 Engagement with commercial actors**

Engagement with the financial sector was also crucial in making progress in relation to financial sanctions. Frequently, even when specific transactions were permitted, banks avoided making them for a variety of reasons – including the high cost of due diligence or reputational concerns. The same kind of risk aversion exists among commercial actors in relation to trade sanctions and export controls.

While there is value in outreach to these companies, the private sector is very diverse, and the reasons for reluctance to operate in sanctioned contexts vary widely. Broad engagement with commercial actors is therefore unlikely to be effective. Instead, dialogue should be more targeted – either by sector (for example, IT and software providers) or by specific geographic contexts.

#### **4.8 Enhancing whole-of-government approaches to sanctions and export controls**

In addition to engaging with the humanitarian sector, more engagement between the different government departments responsible for implementing and enforcing different types of sanctions and export controls, as well as those who follow and fund humanitarian action, would also be helpful. At present there seems to be limited familiarity between departments with the nature of the restrictions adopted by their counterparts and approach to humanitarian action.

Enhancing such engagement, including at working level, would also play an important role in the elaboration and implementation of coherent whole-of-government approaches.

#### **4.9 Need for a coherent legal framework**

The present report focuses on trade sanctions and export controls, but as stated at the outset, there are a number of different measures that adversely impact humanitarian operations in a particular context. In addition to financial sanctions, there are also criminal CT measures. At present, there is a lack of policy and legislative coherence at national level between sanctions and CT measures, and internationally between the measures adopted by different states.

Conduct that is not prohibited or does not benefit from an exception under one body of law, may nonetheless violate other rules, which do not include similar safeguards for humanitarian action. These problems are particularly acute in states that give effect to criminal CT measures by criminalising types

of support to proscribed groups. These prohibitions may cover similar types of support as sanctions, but they frequently do not include exceptions for when the conduct is necessary for humanitarian action. The effect of this is to essentially nullify the safeguards in the sanctions.

States must develop internally coherent approaches. Some states have resolved this by including exceptions to their criminal CT measures. Others have yet to do so. This disconnect in legal regimes is one of the key contemporary challenges (Spencer and Alderson, 2024).

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