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# Safeguarding Humanitarian Action from the Unintended Effects of Sanctions: Resolution 2664 and the 1267 ISIL/al-Qaida Regime

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## Executive Summary

Resolution 2664, adopted by the UN Security Council on December 9, 2022, created a clear and well-defined humanitarian carve-out for UN sanctions. The application of the carve-out to the 1267 ISIL/al-Qaida regime was particularly important given that it applies across multiple countries, including some of the world's most challenging humanitarian contexts.

While the resolution created a clear humanitarian carve-out across UN sanctions regimes, it is limited to asset-freeze measures and specified categories of humanitarian organizations. It requires these organizations to minimize any benefits to sanctioned actors and mandates annual briefings by the UN emergency relief coordinator to improve transparency and monitoring. Additionally, unless it is extended by the Security Council, the resolution's carve-out for the 1267 ISIL/al-Qaida regime expires on December 10, 2024.

Despite having been adopted relatively recently, the resolution has already had a positive impact on humanitarian operations, including by facilitating their access to financial and other private sector services. Although some states were concerned that the carve-out would be abused and result in the diversion of aid to listed individuals and entities, there has been no reported evidence of this. The resolution does, however, require further implementation, socialization, and operationalization to realize its full potential.

In order to maintain the resolution's positive impact on humanitarian operations, including in situations impacted by the 1267 ISIL/al-Qaida regime, and to realize the full potential of Resolution 2664 in safeguarding humanitarian action, this paper offers the following recommendations:

- Security Council members should decide a standing application of the humanitarian carve-out for the 1267 ISIL/al-Qaida sanctions regime in December 2024.
- Humanitarian actors should continue to provide member states evidence of the positive humanitarian impact of Resolution 2664.
- Humanitarian actors should continue to share information with member states and donors about their due-diligence and risk-mitigation practices and any instances of incidental benefits going to listed individuals or entities.
- All stakeholders should ensure that discussions around Resolution 2664 and the carve-out for the 1267 ISIL/al-Qaida regime are fact- and evidence-based.
- Member states should fully implement Resolution 2664 in a harmonized manner and pursue efforts to socialize and operationalize it.
- All stakeholders should pursue and strengthen cross-sector engagement.

## Introduction

On December 9, 2022, the UN Security Council adopted Resolution 2664, which provided for a cross-cutting humanitarian carve-out to asset freezes in all current and future UN sanctions regimes.<sup>1</sup> This landmark decision represented a major shift in the UN Security Council’s approach. It recognized that UN sanctions regimes could have a detrimental impact on humanitarian action and sent a clear political signal that principled humanitarian action should be safeguarded through humanitarian carve-outs in UN sanctions regimes—including the 1267 ISIL/al-Qaida regime. The application of the carve-out to the 1267 ISIL/al-Qaida regime was particularly important given the far-reaching impact of that regime. It applies across multiple countries, including some of the world’s most challenging humanitarian contexts such as Syria, Afghanistan, Yemen, and the Sahel that are collectively home to approximately 100 million people who depend on humanitarian assistance.<sup>2</sup>

Resolution 2664 sent a clear political signal that principled humanitarian action should be safeguarded through humanitarian carve-outs in UN sanctions regimes.

This groundbreaking resolution was the result of years of consistent advocacy by humanitarian organizations, civil society, and other actors that presented a growing body of evidence of the negative impact of sanctions on principled humanitarian action and brought forth concrete, actionable solutions.<sup>3</sup> It was also made possible by the strong leadership of several UN Security Council members, with the negotiation of the resolution led by Ireland and the United States in late 2022.<sup>4</sup>

Resolution 2664 created a clear and well-defined

humanitarian carve-out for UN sanctions regimes. It affirmed that financial transactions or the provision of goods and services necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs carried out by specified humanitarian actors “are permitted and not a violation of the asset freeze” measures imposed by the Security Council.<sup>5</sup>

The resolution did not, however, create a “blanket” humanitarian carve-out across UN sanctions regimes. It applies only to asset-freeze measures and specified categories of humanitarian organizations.<sup>6</sup> It requests these organizations to use reasonable efforts to minimize the accrual of any benefits to sanctioned actors. It also requests more information sharing on the resource transfers it permits through annual briefings by the emergency relief coordinator to UN sanctions committees. Its applicability to the 1267 ISIL/al-Qaida regime is time-bound; it will cease to apply to that regime on December 10, 2024, unless the Security Council decides to extend its application beyond that date.

Just a couple years prior, the adoption of such a resolution—and its application to the 1267 ISIL/al-Qaida regime—was unimaginable. Nonetheless, the Security Council united behind the idea that humanitarian action should be safeguarded in all of its sanctions regimes and adopted the resolution with fourteen positive votes, no negative votes, and one abstention. Since then, many member states and the European Union (EU) have taken important steps to implement the resolution. Some have also adopted humanitarian carve-outs in many of

1 UN Security Council Resolution 2664 (December 9, 2022), UN Doc. S/RES/2664.

2 UN Office for the Coordination of Humanitarian Affairs (OCHA), “2024 Global Humanitarian Overview,” December 11, 2023; International Crisis Group, “10 Challenges for the UN in 2024–2025,” September 10, 2024.

3 See, for example: Alice Debarre, “Making Sanctions Smarter: Safeguarding Humanitarian Action,” International Peace Institute, December 2019; UN Security Council, *Letter Dated February 21, 2019 from the Panel of Experts Established Pursuant to Resolution 1874 (2009) Addressed to the President of the Security Council*, UN Doc. S/2019/171, March 5, 2019; Norwegian Refugee Council, “Principles under Pressure,” June 2018; Stuart Gordon and Sherine El Taraboulsi-McCarthy, “Counter-Terrorism, Bank De-risking and Humanitarian Response: A Path Forward,” Humanitarian Policy Group, August 2018; Claude Bruderlein, “Coping with the Humanitarian Impact of Sanctions: An OCHA Perspective,” OCHA, December 1998.

4 Prior to the negotiation of the resolution, Ireland had prioritized the protection of the humanitarian space both before and during its 2021–2022 Security Council term, and the United States had completed a major review of its sanctions policy in mid-2022.

5 UN Security Council Resolution 2664, para. 1.6; Interview with UN official, May 2024.

6 These include “the United Nations, including its programmes, funds and other entities and bodies, as well as its specialized agencies and related organizations, international organizations, humanitarian organizations having observer status with the United Nations General Assembly and members of those humanitarian organizations, or bilaterally or multilaterally funded non-governmental organizations participating in the United Nations humanitarian response plans, refugee response plans, other United Nations appeals, or OCHA-coordinated humanitarian ‘clusters,’ or their employees, grantees, subsidiaries, or implementing partners while and to the extent that they are acting in those capacities.” UN Security Council Resolution 2664, para. 1.

### Box 1. Key terminology

- **Diversion of aid** describes instances where aid does not reach the intended recipients due to interference, theft, or damage by an external entity, including aid used by sham organizations, which are not protected by the humanitarian carve-out in Resolution 2664. The resolution specifically refers to diversion, requesting humanitarian actors that benefit from the carve-out to use reasonable efforts to minimize it.
- **Incidental benefits** describes benefits that can go to a range of local actors and that arise from unavoidable and predictable operational costs in the normal conduct of humanitarian operations. This term is not specifically used in Resolution 2664 but is often used in discussions on sanctions and humanitarian action.
- **Accrual of benefits** encompasses both diversion of aid and incidental benefits. It is used in Resolution 2664, which requests humanitarian actors that benefit from the carve-out to undertake reasonable efforts to minimize the accrual of any benefits prohibited by sanctions.

their autonomous (non-UN) sanctions regimes. Despite having been adopted relatively recently, the resolution has already had a positive impact on humanitarian operations. Although some states were concerned that the carve-out would be abused and result in the diversion of aid to listed individuals and entities, there has been no reported evidence of this. The resolution does, however, require further implementation, socialization, and operationalization to realize its full potential.

This issue brief highlights the progress made in implementing Resolution 2664, the positive impact it has already had on humanitarian operations despite its relatively recent adoption, its potential to have an even greater positive impact as it becomes better implemented and understood, and the challenges that persist for humanitarian actors. This brief then provides recommendations for realizing the resolution's full potential, starting with the extension of the application of the humanitarian carve-out to the 1267 ISIL/al-Qaida regime.

## Progress Following the Adoption of Resolution 2664

This section looks at (1) the wave of implementation and other positive measures put in place since

the adoption of Resolution 2664, (2) the resolution's positive impact on humanitarian operations, (3) the resolution's creation of an expanded space for dialogue on addressing challenges, and (4) the absence of any reported evidence that the resolution has led to aid diversion or a significant increase in incidental benefits to listed entities (see Box 1).

### A Wave of Implementation and Other Positive Measures

Because it is legally binding, Resolution 2664 requires member states to transpose the humanitarian carve-out it created into their national frameworks for implementing UN sanctions. Significant steps have been taken on this front. Several states, such as the US and the UK, as well as the EU, swiftly adopted measures to implement the resolution, with many others following.<sup>7</sup>

Resolution 2664 also triggered a wave of measures taken by states and the EU beyond what it legally requires. It has notably led to the adoption of humanitarian carve-outs in non-UN sanctions regimes, also called autonomous sanctions regimes. This ensures that these regimes are consistent with UN regimes and do not undermine the effectiveness of Resolution 2664 in situations where both UN and

<sup>7</sup> For the US measures, see: US Department of the Treasury, *Addition of General Licenses to OFAC Sanctions Regulations for Certain Transactions of Nongovernmental Organizations and Related to Agricultural Commodities, Medicine, Medical Devices, Replacement Parts and Components, or Software Updates for Medical Devices*, December 21, 2022; US Department of the Treasury, *Addition of General Licenses for the Official Business of the United States Government and Certain International Organizations and Entities and Updates to the 50 Percent Rule Interpretive in OFAC Sanctions Regulations*, December 21, 2022. For the UK measures, see: UK Parliament, *The Sanctions (Humanitarian Exception) (Amendment) Regulations 2023*, February 9, 2023. This was accompanied by an explanatory memorandum. Note that as of writing, the UK has not introduced a horizontal carve-out on the model of Resolution 2664 in its autonomous sanctions. For the EU measures, see: European Council, *Council Regulation (EU) 2023/331 of 14 February 2023 Amending Certain Council Regulations Concerning Restrictive Measures in Order to Insert Provisions on a Humanitarian Carve-out*, February 14, 2023. For an overview of measures taken by states and regional organizations to implement Resolution 2264, see: Dustin A. Lewis, Radhika Kapoor, and Naz K. Modirzadeh, "Resolution 2664 (2022) and Counterterrorism Measures: An Analytical Frame for States," Harvard Law School Program on International Law and Armed Conflict, March 2024, pp. 69–75. It is harder to assess the status of implementation in countries that do not have national implementation laws for UN sanctions, which include many countries in the Global South.

autonomous regimes apply. The US now has what it calls general licenses that apply across most US sanctions regimes, including its Sudan sanctions regime and those under which Hamas and the Houthis are designated.<sup>8</sup> The UK also adopted a humanitarian carve-out in its counterterrorism sanctions regime for humanitarian activities in relation to the conflict in Israel and the Occupied Palestinian Territory.<sup>9</sup> The EU has adopted humanitarian carve-outs in thirty-four of its forty-one sanctions regimes, including the EU framework on restrictive measures to combat terrorism.<sup>10</sup> The EU example also highlights the value of the resolution as a blueprint, as thirty-one of these carve-outs exactly replicate the resolution's language.

Resolution 2664 has therefore set a new global standard for safeguarding humanitarian action when imposing sanctions. It has catalyzed the adoption of humanitarian carve-outs in autonomous sanctions regimes and provided impetus to the idea that humanitarian carve-outs should be the norm in sanctions regimes.

In addition to these changes to legal frameworks, measures have been taken to help ensure the humanitarian carve-outs adopted are known, understood, and operationalized. In the UN, the sanctions committees for Libya, the Democratic People's Republic of Korea (DPRK), al-Shabaab,

Several states, such as the US and the UK, as well as the EU, swiftly adopted measures to implement Resolution 2664, with many others following.

the Democratic Republic of the Congo (DRC), the Central African Republic, and South Sudan have all issued implementation assistance notices to give guidance to member states on how to apply Resolution 2664 to their respective sanctions regimes.<sup>11</sup> The US has issued FAQs and factsheets to explain the scope of its general licenses and provide guidance for financial institutions, and the EU published an FAQ for the humanitarian carve-out in its Syria sanctions regime.<sup>12</sup> Some humanitarian organizations have also planned webinars on Resolution 2664 for their staff and partner organizations and are integrating it into capacity-building and training activities.<sup>13</sup> These types of guidance and socialization measures help ensure all relevant stakeholders understand what humanitarian carve-outs allow. This can limit de-risking behavior, by which private sector actors restrict or even refuse to provide services to humanitarian organizations due to the perceived risk of providing them with services in contexts in which sanctions apply.

Another positive measure is the US decision to announce new sanctions against the Houthis that would take effect only thirty days later to “ensure robust humanitarian carve-outs are in place” and allow the US government to reach out to stakeholders that are crucial to facilitating humanitarian assistance.<sup>14</sup> This was aimed at addressing concerns

<sup>8</sup> See footnote 7.

<sup>9</sup> Office of Financial Sanctions Implementation, *General Licence: Israel, the Occupied Palestinian Territories, and Lebanon: Humanitarian Activity*, INT/2023/3749168, November 14, 2023.

<sup>10</sup> European Council, *Council Decision (CFSP) 2024/628 of 19 February 2024 Amending Common Position 2001/931/CFSP on the Application of Specific Measures to Combat Terrorism*, February 20, 2024. Note that this humanitarian carve-out is time-limited to twelve months.

<sup>11</sup> UN Security Council, “Security Council Committee Established Pursuant to Resolution 1718 (2006), Implementation Assistance Notice No. 7: Guidelines for Obtaining Carve-outs to Deliver Humanitarian Assistance to the Democratic People's Republic of Korea,” June 2, 2023; UN Security Council, “Security Council Committee Established Pursuant to Resolution 1970 (2011) concerning Libya, Implementation Assistance Notice #7: Guidance to Member States on the Application of the Humanitarian Carve-out Established by Resolution 2664 (2022) to the Asset Freeze Established under Resolution 1970 (2011),” December 4, 2023; UN Security Council, “Security Council Committee Established Pursuant to Resolution 2713 (2023) concerning al-Shabaab, Implementation Assistance Notice #4: Guidance to Member States on the Application of the Humanitarian Carve-out Established by Resolution 2664 (2022) to the Asset Freeze Established under Resolution 1844 (2008),” February 6, 2024; UN Security Council, “Security Council Committee Established Pursuant to Resolution 1533 (2004) concerning the Democratic Republic of Congo, Implementation Assistance Notice #1: Guidance to Member States on the Application of the Humanitarian Carve-out Established by Resolution 2664 (2022) to the Asset Freeze Established under Resolution 1596 (2005),” February 29, 2024; UN Security Council, “Security Council Committee Established Pursuant to Resolution 2127 (2013) concerning the Central African Republic, Implementation Assistance Notice #2: Guidance to Member States on the Application of the Humanitarian Carve-out Established by Resolution 2664 (2022) to the Asset Freeze Established under Resolution 2127 (2013),” March 14, 2024; UN Security Council, “Security Council Committee Established Pursuant to Resolution 1591 (2005) concerning South Sudan, Implementation Assistance Notice #1: Guidance to Member States on the Application of the Humanitarian Carve-out Established by Resolution 2664 (2022) to the Asset Freeze Established under Resolution 2206 (2015),” March 1, 2024. IANs have not been developed for the ISIL/al-Qaida, Iraq, Sudan, 1636 (2005 Beirut bombing), Taliban, Guinea-Bissau, Yemen, and Haiti sanctions regimes.

<sup>12</sup> For the US guidance, see: Office of Foreign Asset Control, “Supplemental Guidance for the Provision of Humanitarian Assistance,” February 23, 2023. For the EU guidance, see: European Commission, “Frequently Asked Questions: Humanitarian Carve-out in the EU Syria Sanctions Regime following the February 2023 Earthquakes in Türkiye and Syria,” 2023.

<sup>13</sup> Humanitarian representative, “Advances in and Challenges to the Implementation of UNSC Resolution 2264,” IPI roundtable, February 2024.

<sup>14</sup> US Department of State Office of the Spokesperson, “Department Press Briefing,” January 17, 2024.

from humanitarian actors that such sanctions would hinder the delivery of humanitarian assistance to the people of Yemen.<sup>15</sup> This thirty-day period was deemed critical for humanitarian and private sector actors to prepare and adjust, thereby minimizing any adverse effects on aid operations.<sup>16</sup>

## Positive Impacts for Humanitarian Operations on the Ground

Resolution 2664 has already had a positive impact on humanitarian operations in environments impacted by sanctions, including in contexts in which the 1267 ISIL/al-Qaida regime applies, such as Syria, Yemen, Afghanistan, and the Sahel.<sup>17</sup>

It can be difficult to concretely demonstrate the positive impacts. One challenge is that the resolution is still relatively new. It will take time for it to be fully understood by the broad range of actors involved and for decades of de-risking practices and the “chilling effect” of sanctions to be reversed (see Box 2). According to one humanitarian organ-

ization, the humanitarian exemption adopted in the Somalia sanctions regime in 2010 has only recently resulted in the intended behavioral changes and practices by relevant actors.<sup>18</sup> Another difficulty is that it is resource-intensive and challenging for humanitarian organizations to collect data on the resolution’s positive impact, not least because staff in the field continue to encounter challenges related to other restrictive measures that do not contain humanitarian carve-outs, such as counterterrorism and anti-money laundering frameworks.

Nonetheless, humanitarian actors have already reported positive impacts following the adoption of the resolution. They have reported a decrease in the investigation, delay, or rejection of their transactions by financial institutions and an increased willingness among private sector actors to work with and provide services to them.<sup>19</sup> Resolution 2664 has helped reduce overcompliance and de-risking by private sector actors, as they can now be involved in humanitarian activities without risk of

### Box 2. Challenges facing humanitarian actors prior to Resolution 2664

Prior to the adoption of Resolution 2664, humanitarian actors faced several challenges related to UN sanctions, notably asset freezes.<sup>20</sup> These included overcompliance and de-risking by private sector actors such as financial institutions and suppliers to avoid potential liability or fines, as well as reputational damage. This led to restrictions on receiving and transferring funds, the freezing or closing of accounts, limited supplier options, and higher procurement costs, causing humanitarian programs to be delayed, scaled back, or even closed. Donors were also including increasingly restrictive clauses in their funding agreements, often imposing extensive reporting and other requirements. This led to time-consuming and onerous obligations for humanitarian actors and challenged their ability to work in a neutral and impartial manner. Finally, there was a “chilling effect” whereby humanitarian actors would err on the side of caution, sometimes self-regulating beyond what was legally or contractually required and deciding not to engage in particular areas or implement particular activities. Resolution 2664 helped address these challenges by providing legal clarity and protection for humanitarian actors, donors, and private sector actors.

15 See, for example: Ellen Knickmeyer, Matthew Lee, and Amer Madhani, “US Pledges New Sanctions over Houthi Attacks Will Minimize Harm to Yemen’s Hungry Millions,” Associated Press, January 2, 2024; International Rescue Committee, “24 Million Yemenis at Catastrophic Humanitarian Risk following New U.S. Terrorist Designations of Ansar Allah, Warns IRC,” Press Release, January 11, 2021; William Worley, “UK Mulls Blacklisting Houthis as Humanitarians Predict Fallout,” Devox, March 15, 2022.

16 Humanitarian representative, “Maintaining the Momentum on UNSC Resolution 2664 and Its Humanitarian Carve-Out for the UN ISIL and al-Qaida Sanctions Regime,” IPI roundtable, June 6, 2024.

17 Note that for the UN sanctions regime applicable to the Taliban, a humanitarian carve-out was introduced prior to Resolution 2664 in Resolution 2615 (2021). Resolution 2664 emphasized that the humanitarian carve-out in Resolution 2615 would remain in effect and not be superseded by the one in Resolution 2664. However, the language of the two carve-outs is similar.

18 Humanitarian representative, “Maintaining the Momentum on UNSC Resolution 2664,” June 6, 2024.

19 International Peace Institute, “Safeguarding Humanitarian Action in UN Counterterrorism Regimes: The Impact and Implementation of Resolution 2664,” December 2023; Humanitarian representative, “Advances in and Challenges to the Implementation of UNSC Resolution 2264,” February 2024; Sophie Huvé, Guillemette Moulin, and Tristan Ferraro, “Unblocking Aid: The EU’s 2023 Shift in Sanctions Policy to Safeguard Humanitarian Efforts,” ICRC Humanitarian Law and Policy Blog, January 23, 2024.

20 Debarre, “Making Sanctions Smarter”; Alice Debarre, “Safeguarding Humanitarian Action in Sanctions Regimes,” International Peace Institute, June 2019.

breaching UN sanctions. It explicitly covers “the provision, processing, or payment of funds, other financial assets, or economic resources” necessary to ensure the implementation of humanitarian activities. When private sector actors remain reticent, it is also easier for humanitarian actors to convince them they can work with them. Some major financial institutions have begun to review and adapt their internal policies to integrate humanitarian carve-outs.<sup>21</sup>

In Libya and northwest Syria, for example, humanitarian carve-outs have facilitated humanitarian actors’ access to the banking system, with money-transfer companies that had previously refused to provide them services now accepting to do so.<sup>22</sup> In Afghanistan, humanitarian actors have been able to move away from the informal hawala system and transfer limited funds through the formal banking system, though challenges remain.<sup>23</sup> In Yemen, one organization was able to swiftly secure the release of blocked payments by explaining the humanitarian carve-outs to the bank’s compliance chief.<sup>24</sup> In the months following the adoption of Resolution 2664, the Norwegian Refugee Council witnessed a 40 percent decrease in investigations of their payments by banks.<sup>25</sup> This can partially be attributed to the increased legal certainty and comfort the resolution provided to financial institutions.

However, progress on de-risking by banks can be volatile. Following the initial decrease, the Norwegian Refugee Council reported that de-risking practices had spiked by 300 percent as of

November 2023—likely a combination of the external environment and the practices of some correspondent banking channels.<sup>26</sup> Nonetheless, the overall positive impacts can be expected to grow as the private sector becomes more familiar with the resolution.

Beyond financial institutions, the presence of humanitarian carve-outs in sanctions regimes applicable in Afghanistan has reassured suppliers of items necessary for the implementation of humanitarian programs.<sup>27</sup> This has also been the case in Yemen, where one humanitarian organization reports that it

Humanitarian actors have already reported positive impacts following the adoption of the Resolution 2664.

is easier to contract with medicine suppliers and to find transporters that will bring the medicine where it needs to go.<sup>28</sup> Concretely, this has given

humanitarian actors a wider choice of suppliers and transporters, which helps bring down operational costs and allows more humanitarian aid to go directly to the people affected by the crisis.

Resolution 2664 is also increasing donors’ willingness to fund projects in areas where listed entities operate.<sup>29</sup> This has been reported, for example, in projects in Sudan, Afghanistan, and areas controlled by the March 23 Movement (M23) in the DRC.<sup>30</sup> In the Sahel, one organization reported being able to sign a funding agreement for humanitarian assistance activities, which would have been unthinkable without a humanitarian carve-out.<sup>31</sup> Some humanitarian actors have also reported that some donors are showing more leniency in the sanctions-related clauses they impose in their funding agreements.<sup>32</sup> For example, some development donors have agreed to waive the requirement for humanitarian organiza-

21 Interview with humanitarian representative, June 2024.

22 International Peace Institute, “Safeguarding Humanitarian Action in UN Counterterrorism Regimes”; Humanitarian representative, “Maintaining the Momentum on UNSC Resolution 2664,” June 6, 2024.

23 Hawala is a money transfer system outside of the conventional banking system. Money is transferred via a network of hawala brokers and is difficult to detect. Interview with humanitarian representative, January 2024; European Humanitarian Forum, “One Year After UNSCR 2664: Where Do We Stand on Sanctions, and Where to Next?,” March 19, 2024.

24 Interview with humanitarian representative, April 2024.

25 There were also improvements after the adoption of humanitarian carve-outs in sanctions regimes in Syria and Afghanistan. Humanitarian representative, “Maintaining the Momentum on UNSC Resolution 2664,” June 6, 2024.

26 Ibid.

27 Humanitarian representative, “Maintaining the Momentum on UNSC Resolution 2664,” June 6, 2024.

28 Interview with humanitarian representative, April 2024.

29 Huvé, Moulin, and Ferraro, “Unblocking Aid.”

30 International Peace Institute, “Safeguarding Humanitarian Action in UN Counterterrorism Regimes”; Humanitarian representative, “Advances in and Challenges to the Implementation of UNSC Resolution 2264,” February 2024; Interview with humanitarian representative, April 2024.

31 Interview with humanitarian representative, April 2024.

32 European Humanitarian Forum, “One Year after UNSCR 2664”; Interview with humanitarian representative, April 2024.

tions to screen the final beneficiaries of programs, which is not something humanitarian organizations can agree to as it would be inconsistent with humanitarian principles.<sup>33</sup> However, this increased leniency is not being reported across the board, and in some cases humanitarian organizations are still reporting challenges with donors.

Resolution 2664 has also made it easier for humanitarian actors to work in territories controlled by entities listed under sanctions regimes, notably by providing legal protection to humanitarian teams on the ground.<sup>34</sup> In contexts like the DRC, the Sahel, Somalia, Syria, Yemen, and elsewhere, humanitarian organizations work in areas where they must sometimes engage with listed individuals and entities to access people in need and deliver aid effectively. In some of these contexts, listed entities control territory, institutions, and services, performing quasi-state functions. Although such engagement is foreseen and protected by international humanitarian law (IHL), humanitarian organizations were previously concerned that it could violate UN sanctions. Resolution 2664 clarified that it does not, which enables humanitarian actors to engage, if necessary, with these entities to deliver humanitarian assistance to populations under their control or conduct activities that support their basic needs. It also significantly reduces the time and resources humanitarian actors must spend on understanding UN sanctions regimes and on contingency planning when new UN sanctions regimes or listings are adopted.

In Yemen, humanitarian organizations report being able to distribute humanitarian goods such as medical and demining equipment to institutions under the responsibility of listed entities.<sup>35</sup> Humanitarian carve-outs have also enabled the rehabilitation of water and electricity infrastructure

in Yemen.<sup>36</sup> Similarly, in the DRC, humanitarian organizations can run programs in areas controlled by the M23, which is listed under UN sanctions, including providing support to health structures and facilitating the transfer of medicine between areas controlled by the government and those controlled by the M23.<sup>37</sup> In northern Mali, another organization reported being able to provide humanitarian assistance to populations living in areas controlled by the Jama'at Nusrat al-Islam wal-Muslimin (JNIM).<sup>38</sup>

In Afghanistan, the humanitarian carve-out created by Resolution 2615 in December 2021 was already starting to have a positive impact when Resolution 2664 was passed a year later. For example, it made possible the International Committee of the Red Cross's (ICRC) massive hospital resilience program, which supported thirty-three hospitals serving 26 million people across the country.<sup>39</sup> This humanitarian carve-out was subsequently confirmed in Resolution 2664.<sup>40</sup>

## An Expanded Space for Dialogue on Addressing Challenges

The adoption of Resolution 2664 has improved the dynamics of discussions around sanctions and humanitarian action between states, the private sector, and humanitarian actors. Prior to the adoption of the resolution, there was uncertainty as to whether certain actions, such as the provision of banking or other services to humanitarian organizations operating in environments impacted by sanctions, would violate asset-freeze measures. The legal clarity brought by the resolution has increased the comfort levels of actors across all sectors to engage in contexts in which sanctions apply.<sup>41</sup> This,

The adoption of Resolution 2664 has improved the dynamics of discussions around sanctions and humanitarian action between states, the private sector, and humanitarian actors.

33 Humanitarian representative, "Maintaining the Momentum on UNSC Resolution 2664," June 6, 2024.

34 Huvé, Moulin, and Ferraro, "Unblocking Aid."

35 Interview with humanitarian representative, April 2024.

36 Humanitarian representative, "Maintaining the Momentum on UNSC Resolution 2664," June 6, 2024.

37 Interview with humanitarian representative, April 2024.

38 Interview with humanitarian representative, October 2024.

39 ICRC, "Afghanistan: A Health-care System on Life Support," August 30, 2022; Humanitarian representative, "Maintaining the Momentum on UNSC Resolution 2664," June 6, 2024.

40 UN Security Council Resolution 2664, para. 4.

41 International Peace Institute, "Safeguarding Humanitarian Action in UN Sanctions and Counterterrorism Regimes"; Alice Debarre, "One Year On: Where Do We Stand on the Milestone Humanitarian 'Carve-out' in UN Sanctions Regimes?" *IPI Global Observatory*, December 15, 2023.

in turn, has helped to build understanding between the sectors and has enabled more open discussions on the challenges sanctions can pose for humanitarian action and how to reach people in need in these complicated contexts.

States and humanitarian actors have also continued and undertaken new efforts to reach out to the private sector, notably financial institutions, to socialize the new humanitarian carve-outs and work toward better cross-sectoral understanding. For example, trisector working groups that bring together the state, humanitarian actors, and the private sector are active in the UK, the US, France, Norway, and the Netherlands, and new ones are being set up in Switzerland and Germany.<sup>42</sup> These have been found to enable pragmatic discussions on addressing the challenges sanctions can pose for humanitarian action.<sup>43</sup>

Humanitarian organizations, states, and UN sanctions experts have reported seeing no evidence that the humanitarian carveout has led to aid diversion or a significant increase in incidental benefits to listed entities.

The legal clarity provided by the resolution has also led to a more transparent and productive dialogue on how to meet humanitarian needs in a way that avoids or minimizes the accrual of any benefits by sanctioned individuals or entities.<sup>44</sup> Previously, the culture within the humanitarian sector on the question of accrual had been “don’t ask, don’t tell.” Now, humanitarian organizations can work together with the private sector, states, and donors to minimize such accrual, including by discussing and strengthening risk-management and due-diligence processes as requested by the resolution.

### The Absence of Reported Evidence that Resolution 2664 Has Led to Aid Diversion or a Significant Increase in Incidental Benefits to Listed Entities

During the negotiations on Resolution 2664, some states expressed the concern that a cross-cutting

humanitarian carve-out would be abused and lead to the diversion of aid to listed entities such as ISIL and al-Qaida. It was for this reason that the Security Council decided that the resolution’s carve-out would apply to the ISIL/al-Qaida regime for an initial two-year period rather than having a standing carve-out. As we approach the end of that period, there is clear and mounting evidence of the positive impact of Resolution 2664 on the delivery of humanitarian assistance, and there is no reported evidence it has led to aid diversion or a significant increase in incidental benefits to listed entities.

The resolution acknowledges that humanitarian action can sometimes unavoidably lead to incidental benefits to designated individuals or entities. Humanitarian organizations face the challenge of delivering vital humanitarian assistance

in environments where such individuals or entities are present. This could entail supporting medical or other public service facilities under the control of such entities or paying taxes and administrative fees to operate. However, this is distinct from aid diversion, which occurs when aid does not reach the intended recipients due to interference, theft, or damage by an external entity, including sham aid organizations, which are not protected by the humanitarian carve-out in Resolution 2664.

Humanitarian organizations, states, and UN sanctions experts have reported seeing no evidence that the humanitarian carve-out has led to aid diversion or a significant increase in incidental benefits to listed entities. It is therefore important for states and other stakeholders to ensure that the burden of proof does not lay too heavily on humanitarian actors to show positive impact, as well as to bear in mind that the feared negative impacts have not happened.

42 See: Erica Moret, “The Developing Role of National Tri-sector Groups in Addressing Financial Derisking,” Norwegian Refugee Council, January 2024.

43 International Peace Institute, “Safeguarding Humanitarian Action in UN Counterterrorism Regimes”; Private sector representative, “Advances in and Challenges to the Implementation of UNSC Resolution 2264,” February 2024.

44 Humanitarian representative, “Advances in and Challenges to the Implementation of UNSC Resolution 2264,” February 2024.



## Resolution 2664 Requires Further Implementation and Is Not a Panacea

Although Resolution 2664 is already having a positive impact, humanitarian actors continue to face challenges operating in environments where UN sanctions apply. These challenges include continued de-risking by the private sector, donors' reticence to fund programs or their inclusion of stringent sanctions compliance requirements in funding agreements (sometimes beyond what is legally required), and a continued "chilling effect" on humanitarians.<sup>45</sup>

There are several reasons for these continued challenges. First, Resolution 2664 has yet to be fully implemented by all member states at the normative, policy, and operational levels.<sup>46</sup> Second, there is insufficient awareness and understanding of Resolution 2664, including among private sector actors whose services are necessary for a humanitarian response. In Afghanistan, for example, humanitarian actors have struggled to access services such as international money transfers despite the presence of humanitarian carve-outs.<sup>47</sup> These difficulties can result from private sector actors' lack of awareness of these carve-outs or their precise scope.<sup>48</sup> Continued efforts are required to reach all private sector actors whose services are needed to deliver humanitarian assistance, including suppliers, transporters, and insurance companies, which have typically not been brought into the conversation.

Nonetheless, despite it being legally permissible, some private sector actors may decide not to engage with humanitarian actors in contexts in which sanctions apply due to the heavy bureaucratic burden and possible reputational risks.<sup>49</sup>

Beyond building awareness of Resolution 2664, there is therefore a need to reflect on possible reassurances and incentives for private sector actors to work in these contexts. For example, states can provide "safe harbors" or "letters of comfort" guaranteeing financial institutions that if they engage in certain activities with humanitarian actors, they will not be pursued, and if they inadvertently violate sanctions, they will face reduced penalties. States could also consider providing financial incentives to support humanitarian payment channels or a system that would provide credit points for supporting such channels, which could help address reputational concerns.<sup>50</sup>

There is also insufficient understanding, including within member states, of the precise scope of Resolution 2664, and what it allows, and the distinction between aid diversion and incidental benefits. Narratives presenting humanitarian carve-outs as increasing the risk of aid diversion to terrorist entities risk jeopardizing progress made on safeguarding humanitarian action in contexts in which sanctions apply. They can also create risks, including reputational risks, for humanitarian actors and otherwise negatively impact their work, such as by leading to decreased funding. Increased understanding of the difference between aid diversion and incidental benefits is needed, as well as the range of measures taken by humanitarian actors to minimize any accrual of benefits to listed individuals or entities.

Third, although there has been progress, continued dialogue on risk mitigation, risk management, and risk sharing is needed, especially between humanitarian actors and their donors. Some humanitarian actors report that Resolution 2664 has not yet led to the expected changes in contractual clauses, leading to a lack of consistency between the resolution and donor

45 This includes, for example, enhanced reporting, including the sharing of sensitive information on persons in need of assistance and the screening or vetting of partners and sometimes beneficiaries against sanctions lists.

46 Sanctions and humanitarian experts, "Advances in and Challenges to the Implementation of UNSC Resolution 2264," February 2024; State representative, "One Year after UNSCR 2664," March 19, 2024.

47 UN Security Council, *Fourteenth Report of the Analytical Support and Sanctions Monitoring Team*, UN Doc. S/2023/370, June 1, 2023, p. 12; Erica Moret, "Barriers to Afghanistan's Critical Private Sector Recovery," Norwegian Refugee Council, March 2023; Office of the UN High Commissioner for Human Rights, "Afghanistan: UN Experts Call on US Government to Unblock Foreign Assets of Central Bank to Ease Humanitarian Impact," Press Release, April 25, 2022.

48 Emanuela-Chiara Gillard, "Humanitarian Exceptions, a Turning Point in UN Sanctions," Chatham House, December 21, 2022.

49 Private sector representative, "Advances in and Challenges to the Implementation of UNSC Resolution 2264," February 2024; Sophie Huvé, "A New Code of Conduct: Taking Sanctions Reform Further to Advance Humanitarianism," Wilton Park, September 13, 2023.

50 Ibid.

approaches.<sup>51</sup> Further engagement would help ensure donors are fully aware of the due-diligence and risk-mitigation measures humanitarian organizations are implementing. It would also avoid disproportionate policies and practices that may prevent humanitarian organizations from delivering assistance in line with humanitarian principles or unnecessarily diverting time and resources away from humanitarian work.

Fourth, the time-bound nature of the humanitarian carve-out for the 1267 ISIL/al-Qaida regime introduces legal uncertainty and unpredictability that hinders progress in ensuring humanitarian action is safeguarded in contexts in which UN sanctions apply. This time limit decreases the legal comfort the resolution was meant to provide humanitarian, private sector, and other actors to work in these contexts. Predictability is especially important in contexts of protracted crises, where humanitarian organizations need to plan for longer-term projects. The uncertainty of whether the humanitarian carve-out will continue to exist for the 1267 ISIL/al-Qaida regime beyond December 2024 also discourages stakeholders, including sanctions enforcement authorities, to undertake the wholesale transformation in policy and practice required to fully operationalize Resolution 2664.

Finally, many of the challenges that humanitarian actors still face are deeply intertwined with issues beyond the scope of Resolution 2664. For example, de-risking by the private sector is also caused by laws and policies to combat money laundering and the financing of terrorism that do not contain humanitarian carve-outs.<sup>52</sup> A cross-cutting humanitarian carve-out in UN financial sanctions therefore helps address only one of several causes of de-risking.

The application of the humanitarian carve-out to the 1267 ISIL/al-Qaida sanctions regime is the most consequential component of Resolution 2664.

## A Standing Application of the Humanitarian Carve-out for the 1267 ISIL/al-Qaida Sanctions Regime

The application of the humanitarian carve-out to the 1267 ISIL/al-Qaida sanctions regime is the most consequential component of Resolution 2664 in terms of its scale of impact and operational benefits. The ISIL/al-Qaida sanctions regime applies to over 260 individuals and almost 90 entities in thirty countries, including some of the world's most challenging humanitarian contexts.<sup>53</sup> Humanitarian organizations operate in almost all these countries and have to engage with individuals and entities listed under the ISIL/al-Qaida regime, some of which control territory, to conduct their activities.<sup>54</sup> If the humanitarian carve-out in Resolution 2664 were to cease to apply to the 1267 ISIL/al-Qaida regime, the scope and positive impact of the resolution would be drastically diminished.

In the absence of evidence that Resolution 2664 has been abused in the two years since its adoption and in the face of mounting evidence of its positive impact, there appears to be no sound basis for ending the application of the carve-out to the ISIL/al-Qaida regime or continuing to limit its duration. Given that there is no such limit on the carve-out's application to the other UN sanctions regimes, a decision by the Security Council on its standing application to the ISIL/al-Qaida regime would simply harmonize the application of the carve-out across all UN sanctions regimes.

Renewing the carve-out would provide legal clarity, predictability, and reassurance, which would help

51 Humanitarian representative, "Advances in and Challenges to the Implementation of UNSC Resolution 2264," February 2024; European Humanitarian Forum, "One Year after UNSCR 2664," March 19, 2024. For example, the general licenses adopted by the US do not apply to its foreign terrorist organization sanctions regimes. Under US material support statutes 18 USC § 2339A and § 2339B, humanitarian actors could be criminally prosecuted for providing even incidental "material support" to individuals and entities designated as foreign terrorist organizations. See: Caroline Crystal, "Landmark UN Humanitarian Sanctions Carve-out Is a Massive Win but Needs More Support," Carnegie Endowment for International Peace, March 20, 2023; Naureen Chowdhury Fink, "Mind the Gap: UNSC Counterterrorism, Sanctions, and Humanitarian Action," *IPI Global Observatory*, December 1, 2022.

52 Private sector representative, "Advances in and Challenges to the Implementation of UNSC Resolution 2264," February 2024; Norwegian Refugee Council, "Life and Death: NGO Access to Financial Services in Afghanistan," January 2022; Sue E. Eckert, Kay Guinane, and Andrea Hall, "Financial Access for U.S. Nonprofits, Charity & Security Network," February 2017; Charity Finance Group, "Impact of Money Laundering and Counter-Terrorism Regulations on Charities," March 2018; World Bank and Association of Certified Anti-Money Laundering Specialists (ACAMS), "Stakeholder Dialogue on De-Risking: Financial Access for Nonprofit Organizations," June 2018.

53 See: ISIL (Da'esh)/al-Qaida Sanctions Committee, "Narrative Reasons for Listing," UN Security Council.

54 The UN has humanitarian response plans in twelve of those countries, including Syria, Afghanistan, Yemen, and the Sahel, covering almost 110 million people in need.

to address some of the challenges and support further implementation and operationalization of Resolution 2664. It would reduce operational complexities for humanitarian actors, who could better plan for the longer term and operate free from the fear of violating UN sanctions down the line. It would also give private sector actors the certainty they need to invest in the bigger changes to policy and practice required, further engage with humanitarian actors, and reduce de-risking. It would provide member states with the certainty and consistency needed to appropriately legislate and implement the resolution. All of this would be further enabled should the carve-out be a standing one.

Making it a standing carve-out would also be a clear signal that humanitarian norms and principles apply in every context, including counterterrorism contexts, and would ensure they do not fall prey to future politicized negotiations around the renewal of the carve-out. The adoption of Resolution 2664 contributed to mitigating the underlying tensions between sanctions, international humanitarian law, and humanitarian action.<sup>55</sup> The continued application of the humanitarian carve-out to the 1267 ISIL/al-Qaida regime would help ensure member states comply with their obligations under IHL where it applies. The rules of IHL foresee the obligation to allow and facilitate humanitarian activities undertaken by impartial humanitarian organizations and to protect humanitarian personnel. IHL applies to both state and non-state parties to armed conflict, regardless of whether they are designated as terrorist entities by states or the Security Council. Maintaining the humanitarian carveout in the 1267 ISIL/al-Qaida regime would help solidify the shift away from the exceptionalism sometimes applied to counterterrorism contexts, which can erode humanitarian norms and standards, and toward the principle that humanitarian action must be equally safeguarded in such contexts.

By contrast, ending the humanitarian carve-out for

the 1267 ISIL/al-Qaida regime would have a hugely detrimental humanitarian impact. The problems faced before Resolution 2664 would resurface in the many contexts where that regime applies. It would likely create a situation even worse than prior to the adoption of Resolution 2664—including beyond countries where the ISIL/al-Qaida regime applies.

First and foremost, it would have a direct impact on humanitarian operations. Humanitarian actors would have to reconsider the scope of their programs where UN sanctions apply, and it would become more challenging, if not impossible, for them to run operations where they have to engage with individuals or entities listed under the ISIL/al-Qaida regime.<sup>56</sup> It would also increase the legal risk for humanitarian staff, which would add to the chilling effect on the humanitarian sector. Smaller humanitarian organizations with more limited capacity to unravel the financial and legal implications would be particularly impacted. It may also lead states to deny access to areas where listed individuals or entities operate if current access authorizations are facilitated by the existence of a humanitarian carve-out. Some humanitarian organizations also worry about challenges in obtaining funding, especially in areas where entities and individuals listed under the ISIL/al-Qaida regime operate.<sup>57</sup>

The expiration of the humanitarian carve-out for the 1267 ISIL/al-Qaida regime would lead to a fragmentation of the legal framework and increased complexity.<sup>58</sup> In certain contexts, such as Afghanistan, Yemen, Iraq, and Libya, overlapping and sometimes conflicting UN sanctions would apply—some to the same actors.<sup>59</sup> This would mean that the humanitarian carve-out would apply to some, but not all, UN sanctions applicable in these contexts. It would create legal uncertainty for states, especially those that have already implemented the humanitarian carve-out for the ISIL/al-Qaida regime. These states would potentially have to backtrack on their national legal frameworks

55 Huvé, Moulin, and Ferraro, “Unblocking Aid.”

56 Humanitarian representative, “Maintaining the Momentum on UNSC Resolution 2664,” June 6, 2024.

57 Humanitarian representative, “Maintaining the Momentum on UNSC Resolution 2664,” June 6, 2024; Interview with humanitarian representative, April 2024.

58 Lewis, Kapoor, and Modirzadeh, “Resolution 2664 (2022) and Counterterrorism Measures,” p. 62.

59 National Consultative Commission on Human Rights, “Avis sur les carve-outs humanitaires dans les régimes de sanction et mesures de lutte contre le terrorisme: Pour une généralisation et une meilleure mise en oeuvre,” A-2024-6, June 20, 2024, p. 15; Humanitarian representative, “Maintaining the Momentum on UNSC Resolution 2664,” June 6, 2024.

related to this regime.<sup>60</sup>

This complexity and uncertainty would not only challenge the further implementation and operationalization of Resolution 2664 but would also lead to further de-risking by the private sector. One humanitarian organization noted that their contract with a supplier for a future water project in Syria was dependent on the presence of the humanitarian carve-out.<sup>61</sup> This de-risking would be compounded by the message the Security Council would be sending by deciding not to extend the carve-out. Such a decision would call into question not only the permanence and reliability of humanitarian carve-outs but also the desire of Security Council members to safeguard humanitarian action, especially in counterterrorism contexts.<sup>62</sup>

Not maintaining this carve-out would therefore undermine the objectives of Resolution 2664 and reverse progress toward a simpler, more coherent sanctions framework at the UN. It would also compromise progress made by states in adopting humanitarian carve-outs in their autonomous sanctions regimes beyond what is strictly required by the resolution.<sup>63</sup> At the end of the day, all of these adverse effects would jeopardize the ability of approximately 100 million people that depend on humanitarian assistance in some of the world's most challenging humanitarian contexts of being able to benefit from life-saving assistance.<sup>64</sup>

Security Council members should decide a standing application of the humanitarian carve-out for the 1267 ISIL/al-Qaida sanctions regime in December 2024.

## Conclusion and Recommendations

Although Resolution 2664 is still relatively new, it has already had a positive impact on the delivery of humanitarian assistance. More time and effort are needed for it to be fully implemented, socialized, and operationalized so that its positive impact

continues to grow. In order to maintain the positive humanitarian impact of the resolution so far, including on the 1267 ISIL/al-Qaida regime, and to realize the full potential of Resolution 2664 in safeguarding humanitarian action, the following recommendations are made:

### **Security Council members should decide a standing application of the humanitarian carve-out for the 1267 ISIL/al-Qaida sanctions regime in December 2024.**

The carve-out has already had a positive impact on humanitarian operations in the many contexts in which the regime applies. Maintaining it would sustain this impact and expand it over time; ending it would have potentially catastrophic humanitarian consequences, jeopardizing the delivery of humanitarian assistance to 100 million people or more.

### **Humanitarian actors should continue to provide member states evidence of the positive humanitarian impact of Resolution 2664, including in**

### **contexts in which the 1267 ISIL/al-Qaida regime applies.**

Resolution 2664 requests the UN emergency relief coordinator to brief sanctions committees annually on the delivery of aid provided consistent with the resolution. Member states have made clear that it is important for humanitarian actors to be able to speak to the benefits of the resolution and show concrete examples of its positive impact.<sup>65</sup> Humanitarian actors should contribute information to the annual briefing of the emergency relief coordinator via the UN Office for the Coordination of Humanitarian Affairs (OCHA), as well as bilaterally in their engagement with member states. While it is increasingly recognized that this type of information is difficult to collect, it will be crucial to maintaining positive momentum on the humanitarian carve-out.

<sup>60</sup> Lewis, Kapoor, and Modirzadeh, "Resolution 2664 (2022) and Counterterrorism Measures," p. 62.

<sup>61</sup> Humanitarian representative, "Maintaining the Momentum on UNSC Resolution 2664," June 6, 2024.

<sup>62</sup> National Consultative Commission on Human Rights, "Avis sur les carve-outs humanitaires dans les régimes de sanction et mesures de lutte contre le terrorisme."

<sup>63</sup> Ibid; Interview with humanitarian representative, April 2024.

<sup>64</sup> UN OCHA, "2024 Global Humanitarian Overview"; International Crisis Group, "10 Challenges for the UN in 2024–2025."

<sup>65</sup> Member state representative, "Advances in and Challenges to the Implementation of UNSC Resolution 2264," February 2024; USAID representative, "One Year after UNSCR 2664," March 19, 2024.

**Humanitarian actors should continue to share information with member states and donors about their due-diligence and risk-mitigation practices and any instances of incidental benefits going to listed individuals or entities.**

Resolution 2664 also requests organizations that benefit from the humanitarian carve-out to put in place and report on due-diligence and risk-mitigation measures and to minimize any accrual of benefits to sanctioned entities. Humanitarian actors have decades of experience working in complicated contexts and establishing and implementing such measures to ensure aid is going to the people who need it. The effectiveness of the sector's systems has been recognized by the Financial Action Task Force (FATF), the EU, the US, and several other member states.<sup>66</sup> However, there is a continued misconception that humanitarian actors do not conduct proper due diligence and risk management.

It is therefore important for humanitarian actors to talk about these mechanisms. They can do this via OCHA and the emergency response coordinator's annual briefing, bilateral engagements with member states, existing donor-partner fora, and in other fora such as trisector working groups. Member states, notably donors, must know about the measures in place and be able to defend and advocate for humanitarian budgets and operations.<sup>67</sup> Nurturing the trust and dialogue necessary to continue to build on the aforementioned progress also requires humanitarian actors to continue to develop and showcase their due-diligence and risk-management efforts and to be proactive and transparent to explain the realities on the ground when incidents happen and how they are addressed.<sup>68</sup> This should not, however, lead donors to be overzealous and impose conditions

that would ultimately be counterproductive to Resolution 2664's goal of ensuring the continuation of humanitarian activities.<sup>69</sup>

**All stakeholders should ensure that discussions around Resolution 2664 and the carve-out for the 1267 ISIL/al-Qaida regime are fact- and evidence-based.**

The humanitarian carve-out acknowledges that humanitarian action can sometimes unavoidably lead to incidental benefits for listed individuals and entities and requires humanitarian actors to use reasonable efforts to minimize any accrual of such benefits. Assessments conducted by member states have found that the legitimate humanitarian sector does not present a significant risk for terrorist financing.<sup>70</sup> Since the adoption of Resolution 2664, no humanitarian actors, sanctions experts, or member states have come forward with evidence that it has been abused or resulted in the diversion of aid to listed entities. States and other stakeholders with this type of information should put it forward in discussions around Resolution 2664 and should not leave only the humanitarian sector to point to the resolution's positive impacts.

An increased understanding of the difference between aid diversion and incidental benefits, as well as the range of measures taken by humanitarian actors to minimize any accrual of benefits, is needed to ensure progress on safeguarding humanitarian action in contexts in which sanctions apply. Aid diversion is a broader issue, which humanitarians are committed to continue minimizing (and have successfully minimized in the past).<sup>71</sup> Discussions around Resolution 2664 should not be subsumed by broad—and often vague—narratives around humanitarian assistance being diverted to terrorist groups.

66 Financial Action Task Force, "Protecting Non-profits from Abuse from Terrorist Financing through the Risk-based Implementation of Revised FATF Recommendation 8," November 16, 2023; US Department of the Treasury, "De-Risking Strategy," April 2023; US Department of the Treasury, "National Terrorist Financing Risk Assessment," February 2024; UK HM Treasury and Home Office, "National Risk Assessment of Money Laundering and Terrorist Financing," December 2020; European Commission, "Report on the Assessment of the Risk of Money Laundering and Terrorist Financing Affecting the Internal Market and Relating to Cross-border Activities," October 27, 2022; UN Security Council, "Report of the Secretary-General, Implementation of Security Council Resolution 2664 (2022)," UN Doc. S/2023/658, September 8, 2023, pp. 7–8.

67 USAID and German representatives, "One Year after UNSCR 2664," March 19, 2024.

68 Debarre, "One Year On"; International Peace Institute, "Safeguarding Humanitarian Action in UN Counterterrorism Regimes."

69 Debarre, "One Year On."

70 UN OCHA, "2024 Global Humanitarian Overview"; International Crisis Group, "10 Challenges for the UN in 2024–2025."

71 UN Security Council Resolution 2664, para. 1. On humanitarian efforts in this area, see, for example: UN Security Council, "Security Council Committee Established Pursuant to Resolution 1988 (2011), Fourteenth Report of the Analytical Support and Sanctions Monitoring Team Submitted Pursuant to Resolution 2665 (2022) Concerning the Taliban and Other Associated Individuals and Entities Constituting a Threat to the Peace, Stability, and Security of Afghanistan," UN Doc. S/2023/370, June 1, 2023, p. 19.

**Member states should fully implement Resolution 2664 in a harmonized manner and pursue efforts to socialize and operationalize it.**

Member states have a legal obligation to implement Resolution 2664. They should all give effect to it in their national legal frameworks and, in doing so, ensure that its scope is preserved. In parallel, they should conduct proper outreach to all relevant stakeholders, including private sector actors, donors, and humanitarian actors, to socialize and provide guidance on the humanitarian carve-out and its application.<sup>72</sup> Member states who have already implemented the resolution should also engage other states on this and support them where needed.

Beyond socialization, full operationalization may require states to consider reassurances and incentives for private sector actors that will continue to make choices based on risk and profit. Donors should also ensure they are sharing the risk with humanitarian actors, including by having policies and practices that do not overburden humanitarian

organizations or prevent them from delivering aid in line with humanitarian principles. They should also consider providing funding to cover the costs of complying with sanctions regimes.

**All stakeholders, from the humanitarian and private sectors to relevant government entities, should pursue and strengthen cross-sector engagement.**

Humanitarian actors have emphasized the importance of fora where relevant stakeholders can come together to learn about each other's concerns and challenges, discuss levels of risk and how to reduce and manage it, and find ways to safeguard humanitarian action in sanctioned contexts. All stakeholders should invest more in promoting structures such as trisector working groups and ensuring the right stakeholders participate, including private sector actors beyond financial institutions such as suppliers and insurance and shipping companies, as well as the right government departments.

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<sup>72</sup> Huvé, Moulin, and Ferraro, "Unlocking Aid"; Crystal, "Landmark UN Humanitarian Sanctions Carve-out."

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