

The public policy of sanctions compliance: A need for collective and coordinated international action

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Abstract

This paper sets out to explain the challenges of aligning sanctions compliance efforts with the delivery of humanitarian aid into highly sanctioned environments. It highlights that while the policy of sanctioning authorities is to encourage and permit humanitarian activity, there remain significant obstacles to achieving this objective. The paper offers insights into the key areas of complexity and the most urgent aspects requiring clarification. It expressly illustrates that striking the correct balance between the delivery of critical humanitarian responses and the application of United Nations and unilateral sanctions will necessitate some realignment. The paper concludes by highlighting the need for governments and sanctioning authorities to adopt a forward-leaning approach, and by stressing the necessity of collective and coordinated international action.

Keywords: sanctions, unilateral measures, counterterrorism, licensing, risk management, humanitarian aid, reconstruction.

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Recent years have seen an unprecedented growth in the use of sanctions, along with increased innovation in the types of sanctions applied.¹ Most notable is the rise in economic and trade restrictions which tackle a breadth of global concerns, including human rights abuses, conflict, cyber threats, corruption, terrorism and the spread of weapons of mass destruction. The growing prominence of financial sanctions has further generated enhanced scrutiny of their unintended impact, particularly in respect to how sanctions impact the delivery of humanitarian aid.

Whilst not a new issue, a re-energized “unintended consequences” debate has been triggered by the complexity of modern-day protracted conflicts, such as in Syria, and a range of new concerns, including the Taliban’s move into government leadership in Afghanistan. Further, the COVID-19 pandemic has raised questions regarding the extent to which sanctions may inhibit emergency responses to the global health crisis.²

The urgency of the COVID-19 situation resulted in a renewed effort by sanctions authorities to increase public messaging on the critical importance of supporting humanitarian activities. In turn, authorities have taken a number of steps in this regard, including the issuance of clarifying guidance that sets out the range of humanitarian and medical exceptions in place and, in some instances, new licenses to facilitate speedy COVID support.³ Yet despite such efforts, the challenges of aligning sanctions implementation with humanitarian delivery remain.

The humanitarian–sanctions nexus

By way of context, the international community is facing multiple humanitarian emergencies across a range of sanctioned environments. The humanitarian–sanctions nexus is most obvious in jurisdictions and territories such as Syria,

1 For a detailed overview of sanctions targets and numbers, see the *Sanctions by the Numbers* newsletter produced by the Center for a New American Security, available at: www.cnas.org/sanctions-by-the-numbers (all internet references were accessed in December 2021).

2 During March and April 2020 there were numerous instances of countries writing to United Nations (UN) Secretary-General António Guterres calling for “complete and immediate” sanctions lifting. See, for instance, “COVID-19 and Sanctions: Letter of 18 Governments to the UN Secretary-General”, 18 April 2020, available at: www.uspeacecouncil.org/4955-2/. Beyond the actual lifting of sanctions, calls have also focused on the need for “sanctions relief”, including from UN High Commissioner for Human Rights Michelle Bachelet and UN Special Rapporteur on the Right to Food Hilal Elver. See UN Office of the High Commissioner for Human Rights, “Bachelet Calls for Easing of Sanctions to Enable Medical Systems to Fight COVID-19 and Limit Global Contagion”, 24 March 2020, available at: www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25744&LangID=E.

3 For example, in the context of COVID-19, both the United States and European Commission issued a series of publications in respect of exemptions and licenses. See, for example, US Department of the Treasury, “Provision of Humanitarian Assistance and Trade to Combat COVID-19”, fact sheet, 16 April 2020 (updated 17 June 2021), available at: https://home.treasury.gov/system/files/126/covid19_factsheet_20200416.pdf; European Commission, “Sanctions: Commission Issues Additional Guidance on Providing COVID-19-Related Humanitarian Aid in Sanctioned Environments”, August 2021, available at https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/210813-humanitarian-aid-guidance-note-statement_en.pdf.

Afghanistan, Iran, North Korea, Yemen, Venezuela, Gaza and Myanmar.⁴ However, the challenges faced extend well beyond these highly sanctioned jurisdictions and impact an array of other locations where sanctions and conflict are a factor. Further compounding the situation is the evolving designated terrorist dimension, which presents a different type of sanctions implementation challenge.

The combined effect of comprehensive, unilateral sanctions plus terrorist and security concerns has created immense hurdles for those engaged in supporting humanitarian efforts. For instance, analysis conducted by Damascus-based international non-governmental organizations (INGOs) on the operational impact of sanctions in Syria is illustrative of the significant challenges encountered when seeking to make transfers into highly sanctioned jurisdictions. For Syria alone, during 2020, 12% of requested humanitarian transfers were rejected outright by international banking institutions. Of those processed, 12% were unsuccessful and 32% faced severe delays ranging from three to ten months.⁵ With regard to Iran, dialogue hosted by the Association of Certified Anti-Money Laundering Specialists (ACAMS) International Sanctions Compliance Task Force found that the figure of outright transfer rejections can be expected to be significantly higher than that of Syria.⁶

Yet, perhaps nowhere in recent years has the humanitarian–sanctions nexus become so striking as in Afghanistan, where following the Taliban’s takeover, large swathes of the country’s international reserves, including banking sector deposits and central bank resources, were frozen. The immobilizing effect of this has driven Afghanistan’s financial and bank payment systems into disarray, with runs on banks, withdrawal restrictions, liquidity shortages and predictions of a wholesale banking sector collapse.⁷ Beyond the shattering socio-economic impact, humanitarian actors immediately encountered major delays in making and receiving payments. International correspondent banking relationships were paused, and for those wire transfer that did reach Afghanistan, the lack of in-country liquidity resulted in an inability to cash out.

Delayed or rejected humanitarian payments have real-life consequences for humanitarian operations. These include an inability to pay employees, programme suspensions or interruptions, and heightened security risks for humanitarian

4 In order for a situation to be considered an “armed conflict” under international law, a number of conditions must first be met. The author recognizes that some of the cases highlighted (i.e., Venezuela and North Korea) will not necessarily meet these conditions. However, the inclusion of such examples offers important lessons learned regarding sanctions and equally offers further context on the extent of humanitarian emergencies occurring across a range of sanctioned environments.

5 Damascus-Based INGOs, *Understanding the Operational Impacts of Sanctions on Syria II: Damascus-Based INGOs and Bank De-Risking*, April 2021.

6 For further information on the ACAMS International Sanctions Compliance Task Force humanitarian workstream, see ACAMS Sanctions Space, “ACAMS International Sanctions Compliance Task Force: Humanitarian-Sanctions Technical Dialogue Forum”, 1 March 2021, available at: www.acams.org/en/media/document/16941.

7 United Nations Development Program, *The Afghan Banking and Financial System Situation Report*, policy brief, 22 November 2021, available at: www.af.undp.org/content/afghanistan/en/home/library/knowledge-products/Policy-brief-banking-crisis.html.

employees due to an inability to meet in-country financial obligations.⁸ Moreover, the challenges encountered are not solely confined to the actual transfer of funds and can impact an array of wider aspects, such as the ability to procure and move critical goods, secure insurance and access essential infrastructure (e.g. cloud computing, software upgrades and internet access) for humanitarian operations in highly sanctioned jurisdictions. The growing compliance use of internet protocol tracking can further be expected to result in many humanitarian operations within highly sanctioned jurisdictions being denied access to digital products and services.⁹

For humanitarian operations, it is important to note that sanctions are not only triggered by financial transactions, but can also come into play with the provision of services or the delivery of goods, even if no payments are involved. This is particularly relevant for the application of US sanctions, whereby humanitarian operators will need to consider a plethora of potential financial and non-financial “trigger” points, including the use of US dollar payments, the involvement of a US correspondent bank, the involvement of a US person (such as a US insurer, transporter/logistics provider, or manufacturer), and export authorization, which may be relevant depending on the item, the destination, the end use and/or the end user.

In the case of export control regulations, certain items involving US-origin parts (such as computers, medical equipment and water sanitization equipment) may be subject to US export regulation, even if located outside of the US and possessed by non-US persons.¹⁰ For US-embargoed destinations, there is a *de minimis* US content threshold; in the case of Iran, for example, it is 10%, meaning that any foreign-made good which has over 10% US-origin components will become subject to US export requirements.

Overall, the nature of prohibitions, the licensing framework, the export control requirements and associated due diligence, and the risk management expectations involved are enormously complex and difficult to understand. For both private sector operators and humanitarian actors alike, navigating sanctions compliance often involves costly legal analysis and in many scenarios acts as an impediment to the smooth and rapid delivery of humanitarian aid.¹¹

In seeking solutions to these challenges, it must be recognized that the wide-scale lifting of sanctions is unlikely to happen anytime soon, and that sanctions will remain a tool of choice for many Western governments who view their use as a critical component in protecting international law and defending

8 Based on feedback received during the ACAMS International Sanctions Compliance Task Force: Humanitarian-Sanctions Technical Dialogue Forum meetings. For further information on the Dialogue Forum, see ACAMS Sanctions Space, above note 6.

9 For further information on the relevant digital technology issues, see Ashley Campbell, *How to Navigate the Digital and Technology Landscape*, Sanctions Masterclass Series Follow-Up Briefing Paper, ACAMS Sanctions Space, April 2021, available at: www.acams.org/en/media/document/19051.

10 *Ibid.*

11 For further detail, see Justine Walker, *Humanitarian Impact of Syria-Related Unilateral Restrictive Measures*, National Agenda for the Future of Syria, 16 May 2016, available at: www.voltairenet.org/IMG/pdf/Humanitarian_Impact_of_Syria-Related_Unilateral_Restrictive_Measures.pdf.

against threats to international peace and security. As such, the debate here and now urgently needs to focus on addressing the obstacles that impede the effective use of humanitarian exemptions.

Humanitarian sanctions exemptions: Why is there a problem?

Sanctions frameworks, in most instances, do make specific allowances to permit activities in the context of humanitarian work. Even in the most stringent of scenarios, such as Iran and Syria, a wide number of exceptions and licenses permit the movement of humanitarian goods and medicines. Yet, despite the policy aim of not interrupting the export of medicines, foodstuffs or other critical humanitarian services, a major problem persists in terms of how exceptions frameworks are implemented and practically applied. The reasons for this are multifaceted but can be narrowed down to a number of common themes.

Firstly, the frameworks for implementing sanctions exceptions and licenses are highly technical and often require extensive expertise. What is and isn't permitted without requiring a license and/or prior authorization varies considerably across those countries imposing sanctions and across the different sanctions regimes. Often, banks, exporters and humanitarian actors need to consult multiple differing sets of legislation. This creates delays and confusion, and often leads to a lack of consistency in understanding and impacts pragmatic decision-making. The interrelating prohibitions, licensing frameworks, export control requirements and associated risk management expectations present a dizzying maze of regulations, and those responsible for compliance matters must now deal with a massive "grey area", in that individual decisions are often open to wide-ranging interpretations.

Secondly, central to decision-making are considerations around the amount of due diligence necessary to mitigate against the risk of a sanctions violation occurring. Exact levels of due diligence are not set out in legislation, but instead are determined by a range of factors including type of project, delivery partners, likely exposure to a designated actor and so forth. Often a first step in the due diligence process is the need to ensure that you are not engaging—directly or indirectly—with any sanctioned person or entity. For highly sanctioned jurisdictions, managing due diligence expectations can be fraught with challenges and uncertainties.¹²

Thirdly, concepts of ownership and control present a further component of the due diligence process. This is because obligations often extend beyond those individuals or groups directly identified as being subject to sanctions. In its most basic form, the sanctions restriction prohibits the making available of funds (generally

12 For expectations on due diligence, including the legal thresholds of surrounding "ownership and control" considerations, see Justine Walker, *Risk Management Principles Guide for Sending Humanitarian Funds into Syria and Similar High-Risk Jurisdictions*, ACAMS, May 2020, available at: www.acams.org/en/media/document/10691.

meaning cash and finance in any form) or economic resources (generally meaning assets of any kind, such as vehicles) directly or indirectly to a listed person/entity. Examples of indirect exposure could include the purchasing of equipment required for humanitarian purposes from a non-listed company which is ultimately owned by an individual or entity on the sanctions list, or renting a building for humanitarian operations from a company which is ultimately owned by a sanctioned individual. Managing indirect sanctions exposure is probably one of the hardest aspects to resolve, and the risks for humanitarian actors in undertaking such due diligence should not be underestimated.

Fourthly, for sanctions compliance professionals, even what constitutes “humanitarian assistance” and thus falls within scope of an available permission or license may be open to interpretation. This is further compounded by the fact that often, competent authorities from different jurisdictions may form a different view on how the same permissions should be applied. In short, even competent authorities can have varying opinions on what constitutes “humanitarian assistance”. This is especially notable in the European Union (EU) sanctions context, where different EU competent authorities may adopt differing interpretations on how to apply the same regulation – for instance, on whether a license may or may not be required.

Impact of the chilling effect

Where an activity is clearly permitted, there is often a fear that goods or payments may be diverted or could somehow benefit a sanctioned individual or entity – for instance, food distribution programmes which contract with suppliers that are designated, or payments to suppliers that will need to utilize sanctioned government bank accounts. This fear has created a “chilling effect”, or as some describe it, “over-compliance”. The worry for international banks, humanitarian actors and other private sector actors is that somehow a technical sanctions violation could occur, in which the actual activity is permitted but a violation occurs due to wider implementation factors.¹³

The chilling effect is further compounded by uncertainty over new or proposed sanctions regimes. A salient example of this complexity was the 2020 introduction of the Caesar Syria Civilian Protection Act¹⁴ in the United States, which was passed into law as part of the National Defense Authorization Act. The Caesar Syria Civilian Protection Act, which is named after an individual who documented torture against civilians by Bashar Al-Assad’s government, works by targeting foreign companies and individuals who engage in significant transactions involving the Syrian government and linked industries where

13 Justine Walker, *Navigating Humanitarian Exceptions*, ACAMS Sanctions Compliance Occasional Paper, April 2020, available at: www.acams.org/en/media/document/10686.

14 US Department of State, “Caesar Syria Civilian Protection Act”, fact sheet, 17 June 2020, available at: <http://2017-2021.state.gov/caesar-syria-civilian-protection-act/index.html>.

government influence may represent a heightened concern, such as fuel and construction.

While taking some comfort from the fact that humanitarian operations are not the intended targets of so-called “Caesar sanctions”, NGOs still found themselves significantly impacted. For example, upon the introduction of the Caesar sanctions legislation, exporters largely stopped sending goods into Syria, leaving NGOs without access to crucial goods that they relied on for their day-to-day operations. Similarly, regional banks became more reluctant to process certain transfers and closed Syrian-linked bank accounts. Much of this was driven by the fear of “secondary sanctions” and challenges over how to determine the scope of “significant transactions” (i.e., transactions that are considered materially sufficient to trigger a violation).¹⁵

Licensing frameworks: Breadth of coverage and incorporation of “humanitarian-plus” activities

Humanitarian actors also must attend to projects involving “humanitarian-plus”-type activities – i.e., activities that extend beyond a tightly defined conception of humanitarian assistance. Whether such activities are termed “development”, “early recovery” or “humanitarian-plus”, the essence is the need to ensure that systems and infrastructure function. For instance, ensuring that medical facilities can operate may require connections to the electrical grid, which could in turn involve elements of infrastructure repair. Equally, water, sanitization and housing projects are often dependent on repairing, installing or building some element of local infrastructure. Moreover, in contexts like Afghanistan, there is widespread agreement that humanitarian assistance alone will not be enough to avert a major humanitarian crisis, and as such donor humanitarian programmes often extend into wider activities, such as livelihoods and development assistance.¹⁶

For Syria, construction and reconstruction associated with humanitarian activities raise two key questions: (1) to what extent will/do sanctions carve out the necessary exceptions to permit (re)construction that primarily benefits the civilian population in need, and (2) how can this be done in a manner that avoids rewarding or strengthening the perpetrators responsible for conflict-related harm and human rights violations? Beyond Syria, the unfolding situation in Afghanistan further illustrates the paramount importance of ensuring that licensing frameworks are both sufficiently broad and provide clarity of application.

15 The imposition, or threat of imposition, of secondary sanctions related to Iran, North Korea, Syria, etc. has grown considerably over recent years. For an overview of the cross-border legal, regulatory and compliance considerations, see Samantha Sultoon and Justine Walker, *Secondary Sanctions’ Implications and the Transatlantic Relationship*, Atlantic Council, Washington, DC, September 2019, available at: www.atlanticcouncil.org/in-depth-research-reports/issue-brief/secondary-sanctions-implications-and-the-transatlantic-relationship/.

16 See, for example, European Commission, “Afghanistan: Commission Announces €1 Billion Afghan Support Package”, press release, Brussels, 12 October 2021, available at: https://ec.europa.eu/commission/presscorner/detail/en/ip_21_5208.

As the Taliban announced their newly formed government, urgent questions arose regarding the extent to which existing sanctions could potentially be interpreted to target the breadth of Afghanistan's government institutions.¹⁷ Sanctions targeting the Taliban have been in place for two decades and comprise a mixture of United Nations (UN) sanctions and unilateral measures, including those imposed by the United States. Yet, despite such long-standing sanctions, a precise definition of exactly who and what constitutes "the Taliban" has remained elusive. The situation took an even more complex turn when it transpired that the majority of interim government officials, including certain ministers, were subject to UN Security Council sanctions.

The inclusion of designated individuals within the new interim government brought into play critical compliance concepts of "ownership and control" and raised the question of whether "making funds available" to the new interim government would be a breach of sanctions. Specifically, the issue of how to distinguish relationships with ministries from those with sanctioned ministers is key. By virtue of operating in Afghanistan, humanitarian programmes (and other, non-humanitarian activities) will necessitate a degree of government-linked transactions and exposure to designated entities and individuals.¹⁸

Consequently, the international community and sanctioning authorities now face urgent deliberations as to how their licensing frameworks address aspects of designated actor engagement for humanitarian aid delivery within Afghanistan. Certain jurisdictions, such as the UK, took the view that the relevant UN resolutions did not provide an applicable humanitarian derogation, and were therefore unable to grant the required licenses.¹⁹ In comparison, the US framework, which has imposed wider comprehensive sanctions targeting the entire Taliban, moved ahead with the issuance of licenses that would permit certain otherwise prohibited activity.

For Afghanistan, the continuing uncertainty over what is and isn't permitted and the fractured international approach to licensing have posed huge challenges. Essential and comprehensive guidance, supported by competent authorities, on how to address the sanctions-humanitarian nexus for economic activity involving designated actors is urgently required. Specifically, across the spectrum, greater clarification is required on what programmes will fall within the terms of "humanitarian" and/or "permitted activity". The fear for Afghanistan, Syria, Yemen and similar scenarios is that a narrow sanctions licensing definition of what constitutes "humanitarian" or "permitted activity"

17 For an overview of these deliberations, see Justine Walker, *Afghanistan and Risk Managing Permissible Payments: Key Aspects Requiring Clarification and Future Public-Private Dialogue*, Sanctions Rapid Response Briefing Paper, ACAMS International Sanctions Compliance Task Force, 9 September 2021, available at: www.acams.org/en/sanctions-afghanistan-response-paper.

18 See ACAMS, "Sanctions Masterclass: Jurisdiction and Sanctions Regime: Rapid-Fire Update (Afghanistan)", September 2021, available at: www.acams.org/en/training/webinars/sanctions-masterclass-jurisdiction-and-sanctions-regime-rapid-fire-update-afghanistan.

19 See for example, Office of Financial Sanctions Implementation (OFSI), "OFSI Updates Charity Sector Guidance", *OFSI Blog*, 1 November 2021, available at: <https://ofsi.blog.gov.uk/2021/11/01/ofsi-updates-charity-sector-guidance/>.

and “making funds available to a designated actor” could significantly hamper international humanitarian efforts.

Availability of reliable payment channels

Beyond definitions and scope, perhaps one of the most challenging aspects is how to structure humanitarian activity and the processing of related funds into and within highly sanctioned jurisdictions. This presents a very real dilemma for both financial institutions and those delivering humanitarian aid. The imposition of sanctions can severely erode the capabilities of the banking industry to facilitate international payments, and the situation is further exacerbated when combined with ongoing conflict.

In Syria, for instance, the collapse of the banking system in non-government-controlled areas, along with US, EU, and other countries’ sanctioning of Syria’s government-owned banks (including Syria’s largest banks), has resulted in a situation where there are limited available channels and safe custodians for funds coming into Syria. The compound effect of sanctions and lack of alternative banks makes it extraordinarily difficult to carry out euro- or US dollar-denominated transactions within Syria, through what remains of the current banking system.²⁰ For NGOs and other actors carrying out humanitarian work in Syria, this has created a financial bottleneck; even where funding and support exists in theory, it’s hard to get the funds into the hands of those carrying out the work on the ground. In Afghanistan, UN agencies report that nearly 90% of NGO partners are facing difficulty bringing money into the country. Problems appear multifaceted and multilayered, with banks de-risking or awaiting sanctions clarifications or finding themselves unable to access liquidity within Afghanistan itself.²¹

Additionally, reduced correspondent banking²² channels for highly sanctioned jurisdictions have clearly impacted the ability of international banks to provide cross-border payment services in support of permissible humanitarian activity. Both banks and humanitarian actors report that the significant reduction of available correspondent bank routings into sanctioned jurisdictions has resulted in a more limited and drawn-out process for the transfer of operational humanitarian funds. Therefore, even if there is a willingness to process humanitarian-related funds, the channels for doing so are either not readily available or may be subject to frequent change. Furthermore, unilateral sanctions

20 See J. Walker, above note 13.

21 ACAMS International Sanctions Compliance Task Force expert-level meetings with humanitarian actors, INGOs and financial institutions: first session held virtually, November 2021; second session held in Washington, DC, November 2021; third session held in London, December 2021.

22 Correspondent banking is the provision of banking services by one bank (the “correspondent bank”) to another bank (the “respondent bank”). Large international banks typically act as correspondents for thousands of other banks around the world. Correspondent banks are most likely to be used by domestic banks to service transactions into and from jurisdictions in which the latter do not have a physical presence. The provision of correspondent banking is viewed as an essential component of the global payment system, especially for cross-border transactions.

regulations may impose extensive restrictions on the opening of new correspondent relationships, or on the provision of banking services. Therefore, for some highly sanctioned jurisdictions, opportunities for creating readily available banking channels are few and far between.²³ For instance, the EU Syria regulations impose a prohibition on Syrian financial institutions opening new branches or subsidiaries in the EU and on establishing new joint ventures or new correspondent banking relationships with EU banks.²⁴ This EU regulation applies to both sanctioned and non-sanctioned Syrian financial institutions. The United States imposes a wider restriction by prohibiting US banks from providing financial services or access to banking services to banks located in Syria.²⁵

As a consequence of the combined impact of legal, sanctions and regulatory requirements and expectations, coupled with the challenging operational risk environment, banks have taken action by exiting correspondent banking relationships and minimizing their overall exposure to many highly sanctioned jurisdictions.

In turn, this has necessitated the movement of humanitarian funds by alternative, non-banking channels. This displacement, whereby payment routings may utilize unregulated transfer agents and/or bulk cash movement, elevates the overall picture of risk. For instance, bulk cash movement is not only a costly option but also increases vulnerabilities to extortion and escalates the overall physical security threat to those moving the cash. Unregulated transfers pose a different set of risks which centre around the ability to ensure end-to-end payment transparency and whether those holding and moving funds may be sanctioned actors and/or are involved in wider criminal activity such as money laundering, drug trafficking or terrorist financing.

Public policy of sanctions compliance: Future priorities, considerations and leadership

Managing the unintended humanitarian consequences of sanctions compliance will require collective vision and leadership. It is also apparent that building the necessary conditions for ensuring effective humanitarian responses within sanctioned jurisdictions will undoubtedly require governments imposing sanctions to be much more forward-leaning in how they approach certain implementation matters.

First, a more defined and consistent position on what is permitted must be taken. Currently, the system is too convoluted, disjointed and open to interpretation. As it is structured now, even seasoned sanctions experts struggle with addressing ambiguities and downstream implementation challenges.

23 Justine Walker, *Examining Viable Banking and Payment Options for the Movement of International Humanitarian Funds into Syria*, National Agenda for the Future of Syria, 2017.

24 See EUR-Lex, "EU Restrictive Measures against Syria", 20 January 2020, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM%3A4336644>.

25 J. Walker, above note 23.

Second, there are a range of standout technical challenges that must urgently be addressed by competent authorities. This includes streamlining regulatory and legal frameworks across sanctions-imposing countries in order to ensure coordination on the scope of humanitarian permissions, and that these cover the full range of necessary activity. For instance, competent authorities should ensure that items used for “basic human needs” can be automatically exported without license. Equally, competent authorities should address key implementation differences between export control regulations and financial sanctions, including the many variations in how different sanctions frameworks are applied to UN bodies versus NGOs and their local private contractors.

Third, of paramount importance is the need for sanctions frameworks to address the fact that humanitarian activity entails much more than the delivery of items covered by current export license exceptions (i.e., food and certain medicines). Sanctioning authorities must advance a new – and clearly messaged – approach when designing sanctions and the exceptions thereto that covers broader essential humanitarian infrastructure for use in highly sanctioned environments. This essential humanitarian infrastructure might include computers for use in local offices, related business software, communications devices, internet and phone access, passenger vehicles and trucks, basic office equipment and supplies, materials and equipment for construction, and emergency/rescue infrastructure.

Fourth, sanctions authorities, donors and humanitarian actors need to further align on how to manage the controversial issue of whether a humanitarian activity could somehow benefit a sanctioned person. It may be unavoidable that during the course of providing humanitarian assistance, economic resources may need to be made available to a designated person. For instance, due to security concerns, humanitarian staff may need to travel on designated internal airlines, goods may need to transit a sanctioned port or airport, fuel for local humanitarian operations may need to be purchased from a designated actor, or payments associated with humanitarian projects may need processing through a sanctioned bank. As such, competent authorities should proactively ensure that licensing frameworks are adaptable and are able to rapidly take account of common scenarios which may entail humanitarian actors’ unavoidable economic engagement with a designated actor.

Finally, an absolute must is ensuring the availability of viable and transparent payment channels. Governments cannot expect to sanction large swathes of a country’s financial system without it having major consequences for legitimate transactions – including humanitarian ones. A collective cross-government international effort needs to be advanced to ensure that meaningful avenues are in place for the speedy processing of humanitarian transactions. This may potentially include greater utilization of special-purpose vehicles which are dedicated to supporting humanitarian transactions. Getting the public policy of sanctions compliance right in terms of payment corridors is critical for international security, stabilization, and humanitarian efforts.

In conclusion, sanctioning countries and others involved in the process of sanctions design and implementation need to work proactively together to solve these problems and ensure that sanctions do not unacceptably impede humanitarian activities. In achieving these goals, the need for dialogue at the international level cannot be underestimated. International bodies, governments, banks, humanitarian actors and other stakeholders should come together to share their experiences, ensure synergies and address the issues highlighted in this paper.

However, there first needs to be strong coordination amongst the relevant authorities within individual governments. The machinery of government must ensure that systems are in place to coordinate across sanctions authorities, regulators, donors, export agencies and foreign service departments. Effective sanctions implementation must be based on a clear understanding of the ways in which individual requirements are implemented, as well as the challenges, effects and emerging good practice. The current complexity of sanctions compliance and the challenges of interpretation, scope and utility for humanitarian operations are all too evident. Collective and coordinated international action is urgently required.