

## **Implementation Assistance Notice # 4:**

### **Guidance to Member States on the application of the humanitarian exemption established by resolution 2664 (2022) to the asset freeze established under resolution 1844 (2008)**

This note contains information regarding the implementation of Security Council resolution 2664 (2022) as it applies to the assets freeze measures set out in paragraph 3 of resolution 1844 (2008).

#### **Rationale for the Implementation Assistance Notice:**

1. On 9 December 2022, the Security Council adopted resolution 2664 (2022) under Chapter VII of the UN Charter emphasizing that sanctions measures are not intended to have adverse humanitarian consequences for civilian populations nor adverse consequences for humanitarian activities or those carrying them out while also emphasizing that sanctions are an important tool under the UN Charter in the maintenance and restoration of international peace and security, and recalling the need to ensure that all measures taken by Member States to implement sanctions comply with their obligations under international law, including international humanitarian law, international human rights law and international refugee law, as applicable.<sup>1</sup>
2. The intention of resolution 2664 (2022) is to provide clarity to ensure the continuation of humanitarian activities<sup>2</sup> by providers as specified in its paragraph 1<sup>3</sup> in contexts where the Security Council has imposed an asset freeze in response to threats to international peace and security.
3. In its paragraph 6 of resolution 2664 (2022), the Security Council directed its Sanctions Committees to assist Member States in properly understanding and fully implementing paragraph 1 of the resolution by issuing Implementation Assistance Notices taking into account the unique context of the sanctions falling under their respective mandates and to monitor the implementation of paragraph 1 of that resolution, including any risk of diversion.

#### **Framework of the Implementation Assistance Notice:**

4. Paragraph 1 of resolution 2664 (2022) stipulates that the provision, processing or payment of funds, other financial assets, or economic resources, 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, by providers as specified in the same paragraph, are permitted and are not a violation of the asset freezes imposed by the Security Council or its Sanctions Committees.
5. In the context of the asset freeze established under resolution 1844 (2008), paragraph 4 of resolution 2664 (2022) clarifies that paragraph 1 of that resolution shall supersede and replace paragraph 37 of resolution 2607 (2021) on the humanitarian exemption relating to Somalia.
6. Paragraph 1 of resolution 2664 (2022) does not prejudice the obligations imposed on Member States to freeze the funds and other financial assets or economic resources of individuals, groups, undertakings, and entities designated by the Security Council or the Committee pursuant to resolution 2713 (2023) concerning Al-Shabaab.

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<sup>1</sup> Resolution 2664 (2022), preamble.

<sup>2</sup> *Ibid.* (2022), preamble.

<sup>3</sup> *Ibid.* (2022), paragraph 1.

7. Paragraph 1 of resolution 2664 (2022) applies to existing and all future asset freezes imposed or renewed by the Security Council or the Sanctions Committee unless the Security Council explicitly decides otherwise.<sup>4</sup>

**Activities covered by the resolution:**

8. Paragraph 1 of resolution 2664 (2022) covers the provision, processing or payment of funds, other financial assets, or economic resources, or the provisions of goods and services necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs by the providers as specified in the same paragraph.
9. Resolution 2664 (2022) notes that humanitarian and basic human needs differ depending on the specific context<sup>5</sup>. Under the asset freeze established under resolution 1844 (2008), humanitarian assistance includes but is not limited to the activities stipulated in the United Nations Humanitarian Response Plan for Somalia.
10. In the context of such activities as mentioned in paragraph 8, the provision, processing or payment of funds, other financial assets, or economic resources, 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 by the providers named in paragraph 11 below are permitted and are not a violation of the assets freeze as established under resolution 1844 (2008) including where funds, financial assets or economic resources are made available for the benefit of individuals or entities designated by the Committee pursuant to resolution 2713 (2023) concerning Al-Shabaab or by the Security Council.

**Providers covered by the resolution:**

11. The following providers of the activities stipulated in paragraph 8 above are covered by the humanitarian exemption:
  - 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;<sup>6</sup>
  - 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” in Somalia;
  - the employees, grantees, subsidiaries, or implementing partners of the aforementioned bodies while and to the extent that they are acting in those capacities; and
  - appropriate others as established by the Committee pursuant to resolution 2713 (2023) concerning Al-Shabaab.

**Responsibilities of providers:**

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<sup>4</sup> *Ibid.* (2022), paragraph 4.

<sup>5</sup> *Ibid.* (2022), preamble.

<sup>6</sup> The full list of organizations having observer status with the UN General Assembly is available at <https://www.un.org/en/about-us/intergovernmental-and-other-organizations>.

12. Those providers that rely on paragraph 1 of resolution 2664 (2022) are requested to use reasonable efforts to minimize the accrual of any benefits prohibited by sanctions, whether as a result of direct or indirect provision or diversion, to individuals or entities designated by the Security Council or the Committee pursuant to resolution 2713 (2023) concerning Al-Shabaab. Such reasonable efforts include but are not limited to strengthening risk management and due diligence strategies and processes.<sup>7</sup>

**Implementation and Monitoring of the humanitarian exemption as established by resolution 2664 (2022) by the Sanctions Committee pursuant to resolution 2713 (2023) concerning Al-Shabaab:**

13. The Committee, assisted by its Panels of Experts established pursuant to resolution 2713 (2023), is mandated to monitor the implementation of paragraph 1 of resolution 2664 (2022), including any risk of diversion.<sup>8</sup>

14. The Committee invites Member States to provide any relevant and additional information including the risk of diversion on the implementation of resolution 2664 (2022) if applicable, including with respect to providers under paragraph 11 subject to their jurisdiction.<sup>9</sup>

15. The Committee recommends that providers enumerated in paragraph 11 of this IAN put in place such procedures, strategies, and processes to mitigate the risk of diversion. Providers under paragraph 11 of this IAN may inform the Committee of steps taken to this effect through the Panel of Experts.

16. The United Nations Emergency Relief Coordinator (ERC) is requested to brief the Committee annually, as stipulated in paragraph 5 of resolution 2664 (2022) and in paragraph 30 of resolution 2713 (2023), on the delivery of humanitarian assistance and other activities that support basic human needs provided consistent with the resolution 2664 (2022), including on any available information regarding the provision, processing or payment of funds, other financial assets or economic resources to, or for the benefit of, designated individuals or entities, any diversion of funds or economic resources by the same, risk management and due diligence processes in place, and any obstacles to the provision of such assistance or to the implementation of this resolution. The Committee encourages providers under paragraph 11 of this IAN to assist the ERC in the preparation of such briefings by providing relevant information as expeditiously as is feasible and, in any case, within 60 days of any request from the ERC.

17. This implementation notice may be reviewed or updated periodically, as decided by the Committee.

18. For further clarification or guidance, written communication should be submitted to the Committee through the Committee Secretary, as necessary. The address for the Committee is: [sc-2713-committee@un.org](mailto:sc-2713-committee@un.org).

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<sup>7</sup> Resolution 2664 (2022), paragraph 3.

<sup>8</sup> *Ibid.* (2022), paragraph 6.

<sup>9</sup> *Ibid.* (2022), paragraph 5.