### ARMS EMBARGO: EXPLANATION OF TERMS

Approved by the Al-Qaida Sanctions Committee on 24 February 2015

### Objective of the arms embargo

1. The arms embargo, established by paragraph 2 of Security Council resolution 1390 (2002) and reiterated in subsequent resolutions, including paragraph 1 (c) of resolution 2161 (2014), obliges Member States to:

Prevent the direct or indirect supply, sale or transfer, to these [the listed] individuals, groups, undertakings and entities from their territories or by their nationals outside their territories, or using their flag vessels or aircraft, of arms and related materiel of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned and technical advice, assistance, or training related to military activities.

#### Scope of Member State obligations

2. All Member States of the United Nations are required to implement sanctions measures on arms and related materiel and services against those individuals, groups, undertakings and entities that have been designated on the Al-Qaida Sanctions List by the Al-Qaida Sanctions Committee. Member States are required to implement these measures - commonly referred by the Al-Qaida Sanctions Committee as the "arms embargo" - against listed individuals and entities wherever they may be located.

3. The obligation of Member States to implement the Al-Qaida arms embargo means that they have to prevent the direct or indirect supply, sale or transfer of arms and related materiel, and technical advice, assistance, or training related to military activities:

- (i) To listed individuals and entities from their territories;
- (ii) To listed individuals and entities by their nationals outside their territories;
- (iii) To listed individuals and entities through the use of their flag vessels or aircraft.

4. Member States are required to stop any supply or sale or transfer of arms and related materiel and services to listed individuals and entities. This should be understood as an obligation to prevent listed individuals and entities from obtaining arms, or related materiel or services of all types and in any way, including through:

- (i) intermediaries;
- (ii) brokers or other third parties;
- (iii) a non-listed individual who is acting for or on behalf of a listed individual or a listed entity;
- (iv) a non-listed entity that it is controlled by or acting for or on behalf of a listed individual or a listed entity.

5. Since the overall aim of the embargo is to deny access to listed individuals and entities to any type of arms and related materiel, Member States should adopt a broad interpretation of the term "arms embargo" to include arms brokers, exports, imports, transhipments and the provision of all these to listed individuals and entities so as to allow the fullest implementation possible. This would limit the means available to the listed individuals and entities who might try to use improvised or unconventional methods to circumvent the embargo against them.

6. In order to prevent both direct and indirect supply, sale and transfer of arms and related materiel and services of all types to listed individuals or entities, Member States are encouraged to create mechanisms to ensure that intermediaries and third parties are prevented from acquiring or transferring arms, and related materiel and/or services to, or under the name, on the behalf or in support of, listed individuals or entities.

7. Member States are further encouraged to take action against and submit proposals to the Al-Qaida Sanctions Committee for designation on the Al-Qaida Sanctions List of those who provide any arms and related materiel of all types to listed individuals or entities. Member States are encouraged to inform the Monitoring Team of all actions taken to implement the "arms embargo".

8. The Security Council has not limited the Al-Qaida arms embargo to the geographical delimitation of the territories of Member States, but broadened the obligation of Member States with respect to implementation of the embargo based on their legal authority over their nationals abroad and their flag vessels and aircraft in accordance with international law.

## No exemptions apply

9. The Al-Qaida "arms embargo" has no exemptions. When the arms embargo was first imposed under resolution 1333 (2000), it applied only to transfers to the territory of Afghanistan under Taliban control, and included an exemption for humanitarian or protective use. This exemption was removed, however, when the Al-Qaida arms embargo was modified by resolution 1390 (2002) to apply to all individuals and entities designated on the previous Consolidated List. There are currently no exemptions to the Al-Qaida arms embargo in terms of its application to the individuals and entities designated on the Al-Qaida Sanctions List.

### Explanations of terminology

### Arms and related materiel of all types

10. The embargo is defined in broad terms, as indicated by the illustrative list in paragraph 2 of resolution 1390 (2002), as reiterated in paragraph 1 (c) of resolution 2161 (2014): "… arms and related materiel of all types including weapons and ammunition,

military vehicles and equipment, paramilitary equipment, and spare parts for all of these".

## Services related to the arms embargo

11. The Al-Qaida "arms embargo" has an important additional component. It includes an embargo on the provision of "*technical advice, assistance, or training related to military activities*", which, without exception, must be denied to those designated on the Al-Qaida Sanctions List. This includes preventing any listed individual from participating in any training designed to teach military skills.

12. Since the overall aim of the embargo is to deny access by listed individuals and entities to any type of *"technical advice, assistance, or training related to military activities"*, Member States are encouraged to take action against the provision of any such services, and submit to the Al-Qaida Sanctions Committee relevant proposals for designation on the Al-Qaida Sanctions List. These can be of those who conduct, direct or provide such technical advice, assistance, or training to or for listed individuals or entities as well as those who receive themselves such advice, assistance or training from listed individuals or entities.

13. Therefore, Member States are further encouraged to submit to the Al-Qaida Sanctions Committee for listing those who recruit individuals to Al-Qaida or listed affiliates as this is akin to supplying technical advice, assistance, or training. Particular attention should be paid to indoctrination designed to recruit and train suicide bombers.

14. In order that the full scope of the Al-Qaida arms embargo on training and technical assistance is covered comprehensively, Member States should also prevent listed individuals and entities from having access to, establishing or maintaining military or terrorist training facilities inside their borders.

15. Member States are encouraged to inform the Monitoring Team on all actions taken to implement the arms embargo relating to any such services provided to listed individuals or entities.

# Improvised explosive devices (IED)

16. Additionally, in order to prevent Al-Qaida and its associates accessing all types of explosives including raw materials and components that could be used to manufacture improvised explosive devices or unconventional weapons to conduct attacks, paragraph 14 of resolution 2161 (2014) obliges Member States to "(...) undertake appropriate measures to promote the exercise of vigilance by their nationals, persons subject to their jurisdiction and firms incorporated in their territory or subject to their jurisdiction that are involved in the production, sale, supply, purchase, transfer and storage of such materials, including through the issuance of good practices".

17. The purpose of the obligation is "to prevent Al-Qaida and other individuals, groups, undertakings and entities associated with it from obtaining, handling, storing, using or seeking access to all types of explosives, whether military, civilian or improvised explosives, as well as to raw materials and components that can be used to manufacture improvised explosive devices or unconventional weapons, including (but not limited to) chemical components, detonating cord, or poisons (...)".

18. In paragraph 17 of resolution 2178 (2014) the Security Council also *urges Member* States, in this context, to act cooperatively when taking national measures to prevent terrorists from exploiting technology, communications and resources, including audio and video, to incite support for terrorist acts, while respecting human rights and fundamental freedoms and in compliance with other obligations under international law.

19. Member States are also encouraged to inform private companies (e.g. mining, chemical and agribusiness) about the risks of the potential misuse of such raw materials.

20. Member States are encouraged "to share information, establish partnerships, and develop national strategies and capabilities to counter improvised explosive devices".