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## **Effectiveness of Humanitarian Exceptions to Sanctions: Lessons from the Syria Earthquake**

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### **Author**

Dr. Erica Moret, Senior Researcher, Sanctions and Sustainable Peace Hub, Geneva Graduate Institute & Policy Director, Polisync – Swiss Centre for International Policy Engagement

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### **Executive Summary**

The adoption of several humanitarian carveouts under several Syria-related autonomous sanctions regimes – in response to February 2023’s devastating earthquake – has been strongly welcomed by the humanitarian community. The exceptions adopted by the United States (US), European Union (EU), United Kingdom (UK), and Switzerland are designed to facilitate transactions in relation to relief efforts and the purchase of oil and petroleum-related products in Syria, particularly by humanitarian actors. They differ in terms of scope of activities authorized, breadth of actors covered, and their duration. This article seeks to map the main characteristics of each exception and assesses them in terms of benefits, ongoing challenges, and areas for potential improvement to inform future sanctions policies. It is based on 12 anonymized consultations and a series of additional consultations of over 20 non-governmental organizations (NGOs) via focal points of umbrella NGO organizations and other public bodies conducted between March-May 2023 with humanitarian and development actors,<sup>i</sup> banks and other financial institutions, and government representatives, operating in or on affected areas in Syria.

### *Advantages*

- The carveouts have played a vital role in alleviating some relief efforts with the positive psychological impact playing a particularly notable role, especially in relation to financial transactions.
- The exceptions represent an impressive feat of collaboration between licensing authorities, NGOs, and other stakeholders, which has allowed for the creation of the emergency carveouts in a comparatively short period of time while also leaving feedback channels open. Accompanying guidance has also been useful.
- The Swiss exception, which exempts humanitarian actors who receive Swiss funding from the ban on providing - directly or indirectly - assets or economic resources to sanctioned persons, entities, or businesses to facilitate humanitarian work, is widely seen as the most beneficial thanks to its open-ended time frame and needs-based approach, permitting a wider range of relief-related activities.
- The European Union's (EU) exemption, which allows access to goods, services, and coverage of all types of humanitarian assistance (not only relating to earthquake relief), is seen as the most gain in terms of its coverage of a broad range of actors.<sup>ii</sup>
- U.S. General License (GL) 23's inclusion of non-U.S. actors is seen as highly beneficial compared to earlier GLs. Clarifying guidance provided by the U.S. Treasury on permissible transactions by non-U.S. non-governmental organizations (NGOs) and about sending personal remittances has been widely welcomed. Its engagement with stakeholders was also described as especially responsive and constructive. NGOs also commended the 2023 U.S. De-risking Strategy<sup>iii</sup> as well as recent U.S. Treasury appointments and outreach focusing on the reduction of the chilling effect of sanctions.
- Some banks commended the breadth and clarity of GL 23 in terms of reassurance to the financial sector that some earthquake relief-related Syria transactions are permissible. NGOs operating in Government of Syria (GoS)-controlled areas noted that the process for financial transfers had become smoother since the earthquake.
- The UK's two GLs seeking to facilitate transactions in relation to relief efforts and the purchase of petroleum were celebrated in marking a precedent given there were no similar carveouts for UK Syrian sanctions regime prior to the earthquake. They represented close engagement with NGOs and banks via the UK trisector group (a longstanding forum bringing together government, banks, and NGOs), demonstrating the high value of these types of regular exchanges.

### *Shortcomings*

- The six-month duration of the U.S., EU, and UK exceptions has not been enough time to effectively conduct all necessary relief efforts, according to humanitarians and development actors. Many relief operations (such as rebuilding hospitals and replacing complex medical equipment) will take years to complete because permits and specialist machinery replacements are difficult to secure in the six-month window.<sup>iv</sup> NGOs call for all exceptions described here to receive an extension, and for those whose renewal has

already been approved to be set on an unlimited basis with the option of a renewal clause to serve as reassurance to governments due to the long-term nature of required relief efforts.

- Although relatively fast compared to the adoption of earlier emergency exceptions, the speed (ranging from a few days to a few weeks) was too slow to allow for all types of aid to be delivered within the “immediate 72-hour window that is critical to saving lives.”<sup>v</sup>
- Under U.S. GL23, various restrictions on transactions still apply when dealing with designated entities, including companies owned or controlled by the Syrian Government, which has complicated the work of some humanitarian organizations.
- Banks raised fears that sanctions penalties might be imposed retrospectively despite GL23, and that six months does not provide enough time or financial incentives to resume Syrian banking operations.
- NGOs in GoS-controlled areas have already largely adapted their operating models to avoid U.S. sanctions exposure. Furthermore, few UK-funded NGOs operate in these parts of Syria. These factors signify that the impact of U.S. and UK carveouts in this part of Syria could be more modest than expected.
- New exemptions required in relation to the earthquake highlight the insufficient nature of the current ad-hoc exception (SL/ derogation etc.) process, especially in relation to time constraints. This underlines the importance of broad, non-time-bound, standing exemptions across as many sanctions regimes as possible, where ad-hoc exemptions could play a complementary, but secondary, role.
- United Nations Security Council Resolution (UNSCR) 2664, which creates a humanitarian exemption across all UN asset freezes, applies to some activities in northwest Syria where designated terrorist groups operate. Domestic adoption of the resolution in those member states that have not yet enforced it remains vital. Some ongoing challenges regarding partnership funds (e.g., required payments to official bodies, including de-facto authorities) are highlighted by NGOs.

A series of additional challenges continue, possibly warranting further attention to improve the efficacy of the exceptions:

- Continued financial sector de-risking, the lack of a functioning banking system in Syria, insufficient financial incentives or guarantees for resuming banking operations in Syria, and widespread destruction of *hawala* networks<sup>vi</sup> in earthquake zones continue to represent major constraints to fund transfers even after the granting of new carveouts.
- Export controls, particularly those of the U.S. which are the most expansive, have not featured GLs. Instead, ad-hoc Special Licenses (SLs) must still be sought through a process that is time-consuming and insufficient for allowing access to specialist equipment. This includes excavation machines and sophisticated medical equipment, which require replacement following earthquake damage. Furthermore, derogations under EU export restrictions do not seem to be applicable to some dual-use goods required for the earthquake response, where further clarity would be welcomed by NGOs.

- NGOs described ongoing donor over-compliance, such as through restrictive donor agreements, with continued reluctance to fund some exempted activities, particularly regarding anything going beyond immediate life-saving assistance (e.g., rebuilding of schools in GoS-controlled areas).
- More widely, NGOs expressed hope that the broader categories of humanitarian actors could be incorporated into other (current and future) exemptions. So, the definition of “humanitarian actors” should be broader than just UN agencies and member state-funded organizations.

In sum, NGOs highlight that the adoption of new carveouts in relation to the earthquake represents a tacit acknowledgment by sanctioning authorities of the insufficient nature of ad-hoc exceptions (e.g., derogations and SLs) and the value of standing exceptions (e.g., exemptions and GLs), particularly in contexts requiring emergency humanitarian responses. NGOs hope that lessons learned encourage and speed up the uptake of more exemptions across sanctions regimes in relation to any future emergency situations in other heavily sanctioned jurisdictions.

**Policy recommendations for improving earthquake-related exceptions.**

*U.S., EU, and UK*

1. Extend current exemptions for a longer duration than the current six-month timeline, ideally following Switzerland’s model in adopting an open-ended exemption. In the U.S. context, this could follow the precedent of other GLs that have been open-ended.<sup>vii</sup> Renewals could take place on an automatic basis with the optional inclusion of a renew clause.
2. Assist stakeholders with clear guidance on the collection of evidence to use as reassurance to legislative authorities that exemptions are not being used to support diversion or evasion by the targets of sanctions.
3. Address gaps in current humanitarian exceptions that continue to limit transactions and activities of humanitarian and development actors, including ongoing difficulties interacting with the GoS (under U.S. sanctions) and coverage of the full range of equipment required for the earthquake response (including under export controls and criminal laws).
4. Consider flexibility regarding the scope of activities needed to effectively respond to challenges linked to the earthquake, including difficulties rebuilding and rehabilitating critical infrastructure and several hundred thousand homes<sup>viii</sup> in the six-month timeframe.
5. Support raising awareness across sectors about exemptions and how they work as well as proactively providing guarantees to the private and banking sectors, including addressing de-risking and overcompliance. This could be done by gathering and disseminating use-case scenarios and best-practice, which could be shared with the financial and private sectors.
6. Consider harmonizing language used across exemptions by different competent authorities.

*United States*

7. Provide assurance that activities currently covered under GL23 will not be retrospectively targeted by sanctions-related penalties.
8. Consider conducting outreach to partners and donors in third countries to raise awareness about providing earthquake-related support in Syria, within the bounds of licensing frameworks, without fearing repercussions from USG.
9. Consideration by the U.S. Department of Commerce’s Bureau of Industry and Security (BIS) in the

introduction of GLs under the export control regime relating to Syria to expedite and simplify the export of critical items required for earthquake response and speed up the provision of SLs when still required.

10. Issuance of guidance by BIS to humanitarian and development organizations to provide clarity and reassurance on Syria-related export control requirements and exceptions processes as well as the provision of points of contact to allow rapid consideration of emergency export license reviews. This could also include a list of export control classification numbers for common disaster relief machinery and related goods to be regularly updated through consultations with humanitarian stakeholders.

## 2023 Earthquake-related Humanitarian Exemptions Issued for Syria

	<b>U.S.</b>	<b>UK</b>	<b>EU</b>	<b>Switzerland</b>
Instruments	General License (23) of Feb. 9, 2023, “Compliance Communique” Feb. 21, 2023.	General Trade License: earthquake relief efforts in Syria and Turkey (General Trade License) in exercise of powers conferred by regulation 62 (Trade licenses) of the Syria (Sanctions) (EU Exit) Regulations 2019 (“the Regulations”).  General License regarding the asset freeze (OFSI General License INT/2023/2711256)	Waiver embedded in regulations of Feb. 23, 2023.	Waiver embedded in regulations of March 10, 2023.
Political statements	GL is “Not a change in policy toward the Assad regime.”	“UK remains committed to holding the Assad regime accountable, including through comprehensive sanctions ... UK sanctions will continue to target the Assad regime and its backers.”	EEAS spokesperson on March 5, 2023: “exemptions were temporary measures and related to a specific aspect and had nothing to do with normalizing ties between European countries and Assad.”	The Federal Council “relaxed” some of its sanctions against Syria.
What’s authorized	1. All <u>transactions</u> related to “earthquake relief efforts” involving the Syrian government,	1. <u>Transactions</u> :  a.) UK financial institutions can <u>process and</u>	1. Processing <u>financial transactions</u> to make funds available to	1. Process <u>financial transactions</u> through which assets/economy

	<p>political subdivisions, and agencies (including the Syrian Central Bank and NGOs/entities affiliated to the GoS).</p> <p>2. U.S. financial institutions can process payments as needed.</p> <p>3. The export or supply of services related to transactions is authorized. (It does not cover exports of U.S.-origin goods or goods based in the U.S. to Syria.)</p> <p>4. <u>Import into Syria of heating fuel and diesel</u> so long as the transactions only involve GoS as spelled out above (not blocked/designated persons) – Compliance Communique Feb. 21.</p>	<p><u>provide funds</u> “or economic resources... Where such transactions involve designated persons, including as beneficiaries, for example “where this is necessary for relief efforts. e.g., designated persons are part of supply chains, procurement.”</p> <p>b.) Includes export of relevant items. The License seeks to “facilitate <u>provision of goods and services</u> necessary to ensure the timely delivery of relevant assistance.”</p> <p>2. <u>Oil</u>: Trade License allows for the</p> <p>a.) Purchase of petroleum products originating in Syria/ from a person connected with Syria</p> <p>b.) Their supply to Turkey</p> <p>c.) Related financial services/ funds for both of the above</p> <p>If “exclusively for the purposes of facilitating humanitarian assistance in relation to earthquake relief</p>	<p>designated persons under the EU sanctions program.</p> <p>2. <u>Release /use of frozen assets</u> if for the “sole purpose of providing humanitarian relief in Syria... or to deliver assistance in accordance with the Syrian Humanitarian Response Plan.”</p> <p>3. <u>Purchase of crude oil or petroleum products</u> originating in Syria [It is understood this is a <u>clarification of an existing derogation</u> for NGOs to purchase fuel from sanctioned entities such as SADCOP].</p> <p>4. NGOs can access goods and services including offered by those whose funds are frozen e.g., Syriatel.</p>	<p>c resources are made available to sanctioned individuals.</p> <p>2. The <u>purchase and/or transport of petroleum products</u> originating in Syria.</p>
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		efforts in Syria and Turkey,” e.g., “NGOs can purchase fuel in Syria and then transport it across the border in their vehicles or in generators.”		
Who is covered	Wide range of actors: Any U.S. national or third-country persons/entities.	UK and non-UK humanitarian organizations in Syria, e.g., UN entities, humanitarian organizations with observer status with the UN General Assembly, INGOs participating in UN Humanitarian Response Plans, and in general any NGO carrying out “relief activities in Syria.”	EU and non-EU funded humanitarian organizations in Syria, e.g., UN entities, IOs, humanitarian organizations with observer status with the GA, EU’s specialized agencies.	Originally only Swiss-funded entities operating in Syria but later the Swiss Federal Council extended the measure (for six months) to “organizations covered by the EU’s humanitarian exemption” (a much wider set of actors).
Bans that remain in place explicitly referred to in the License/Waiver	<p>GL23 does not authorize transactions involving:</p> <ol style="list-style-type: none"> <li>1. Designated individuals/entities under the U.S.-Syria sanctions regulations (SDN list)</li> <li>2. Entities owned or controlled by the Syrian government</li> <li>3. Those acting directly or indirectly for on behalf of the GoS</li> <li>4. Designated terrorist groups</li> </ol> <p>Goods restricted</p>	No use of frozen assets or of funds owned, held, or controlled by a UK designated persons (except for funds controlled by specific financial institutions including Syrian Central Bank): “Funds or economic resources used must not be from funds or economic resources that are owned, held or controlled by a Designated Person.”	Does not apply to some dual use goods covered under EU export restrictions that could be required in the earthquake response.	

	under U.S. export controls.			
Scope	<p>The examples offered point to a relatively broad scope. Examples of earthquake “relief efforts” include:</p> <ol style="list-style-type: none"> <li>1. Removing rubble from collapsed buildings</li> <li>2. Stabilizing damaged buildings</li> <li>3. Stabilizing or repairing roads and other critical infrastructure damaged in the earthquake</li> <li>4. Remediation of pollution or environmental damage</li> <li>5. Repairing or rebuilding damaged hospitals and schools in earthquake-affected areas</li> <li>6. Building safety inspections</li> </ol>	<p>GLs aim to limit the range of activities, but there is no definition of “relief efforts.”</p> <p>Transactions license covers activities: “To ensure the timely delivery of such assistance or to support such activities related to the earthquake relief efforts in Syria and Turkey.”</p> <p>Trade (petroleum) License: If “<u>exclusively</u> for the purposes of facilitating humanitarian assistance in relation to earthquake relief efforts in Syria and Turkey.”</p> <p>Subject to due diligence conditions: Financial institutions to register activity with the UK govt.</p>	<p>Broad scope.</p> <p>Activities allowed are aiming:</p> <ol style="list-style-type: none"> <li>1. “To ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs.”</li> <li>2. The exemption applies where funds or “economic resources are necessary for the sole purpose of providing humanitarian relief in Syria or assistance to the civilian population in Syria.”</li> </ol> <p>The earthquake is <u>only referred to in the preambular paragraphs</u> of the regulations: “The Feb. 6, 2023, earthquake further increases the suffering of the Syrian population.”</p>	<p>Broad scope.</p> <p>Exemption applies to: “The provision of assistance to the civilian population in Syria”.</p> <p>No linkage to the earthquake</p>
Timeframe	<p>Valid until Aug. 8, 2023.</p> <p>“Projects exceeding 180 days do not fall within the scope of GL23.”</p>	<p>Transactions-related license valid until Aug. 15, 2023</p> <p>Trade License (Petroleum) valid until Aug. 31, 2023.</p>	<p>Valid until Aug. 25, 2023.</p> <p>“Initial period of six months.”</p>	Open ended
What’s	1. Previous GLs	No GL existed before	Authorizations	It does away



different	<p>covered specific actors e.g., U.S. government, international organizations (UN), and INGOs. GL23 applies to virtually anyone in the world sending funds to Syria in support of earthquake relief efforts.</p> <p>2. Financial institutions are not obliged to conduct due diligence, but instead rely on the sender of funds regarding compliance.</p>	under the UK Syria sanctions regulations.	(derogations) by member states for the relevant activities were required in the past. These are no longer needed while the waiver is valid.	<p>with previously needed relevant authorizations.</p> <p>Given the lack of reference to time limits, the adjustment can be understood to amount to a de-facto form of sanctions easing.</p>
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\*This table is based on input from a sanctions expert working on mediation and conflict resolution in May 2023.

## Introduction

Approximately nine million Syrians lived in the areas impacted by the devastating earthquakes of Feb. 6, 2023,<sup>ix</sup> a country already suffering insurmountable pressures due to 13 years of armed conflict, infrastructural damage, corruption and mismanagement, and large-scale displacement. The earthquake occurred in parts of the country under the control of the Government of Syria (GoS) but also in areas in the northwest of the country under the control of several authorities, including Kurdish forces and Turkish-backed groups as well as designated Islamic terrorist groups, like Hayat Tahrir al-Sham (HTS). While the international community mobilized quickly to pledge funds and provide life-saving assistance,<sup>x</sup> the overall international response to the earthquake was widely criticized for being too slow and insufficient due to a combination of physical, political, and logistical barriers.<sup>xi</sup>

A series of humanitarian carveouts, or exceptions, to international sanctions regimes were adopted shortly after the earthquakes, which seek to facilitate relief efforts, mainly relating to the earthquake.<sup>xii</sup> The U.S. was the first to announce GL 23 and others, including the EU, the UK, and Switzerland, followed suite days and weeks later. Such moves were vital given that Syria is under one of the world’s strictest and most complex multi-layered contemporary international sanctions regimes in the world, imposed for a range of objectives that include cessation of

hostilities; countering terrorism; addressing human rights abuses and chemical weapons attacks against Syrian civilians; tackling breaches of international humanitarian law (IHL), and the protection of Syria’s cultural heritage.

The main humanitarian carveouts adopted following the Syrian earthquake (namely those of the U.S., EU, Switzerland, and UK) are reviewed in this study. They’re based on 12 anonymized interviews (online and in-person) with individuals working in or on Syria and carried out between March 15–April 29, 2023. The interviews include humanitarian and development actors from NGOs and UN bodies, banking executives, government officials involved in drafting the exceptions, and representatives of two NGO networks, who – in turn – sought the views of over 20 NGO representatives, stemming from broader consultations. The study also touches on the implications of UNSCR 2664 in northwest Syria.

## United States

### *Advantages*

- Facilitates some NGO fund transfers destined for Syria (e.g., from the U.S. to Turkey)
- Provides clarity and reassurance
- Gives additional comfort regarding any gaps in earlier GLs
- Positive psychological impact
- Reflects responsiveness to feedback from NGOs
- Easier to send personal remittances
- Seen by some international banks as broader and clearer, with fewer reporting requirements compared with earlier GLs

The U.S. Department of Treasury’s Office of Foreign Assets Control (OFAC) issued Syria GL 23 on Feb. 9, 2023 for 180 days,<sup>xiii</sup> which authorizes all transactions with the GoS related to “earthquake relief efforts in Syria that would otherwise be prohibited by the Syrian Sanctions Regulations (SYSR) 31 CFR part 542 (SySR), except for a number of transactions types.<sup>xiv</sup> It expands on pre-existing GLs<sup>xv</sup> that authorize humanitarian assistance and related transactions under the SySR for international organizations (IOs), NGOs and the US Government. While transactions with the GoS are allowed on an exceptional basis under GL 23,<sup>xvi</sup> those with blocked persons or entities on the Specially Designated Persons (SDN) list are still not permitted.<sup>xvii</sup> Furthermore, GL23 does not authorize transactions prohibited by 31 CFR § 542.208, which prohibit “importation into the United States of petroleum or petroleum products of Syrian origin”.<sup>xviii</sup> Additional guidance issued in a related Compliance Communiqué on Feb. 21, 2023,<sup>xix</sup> states that the license “permits, among other things, all fundraising for earthquake relief in Syria”, encompassing “the processing or transfer of funds on behalf of third-country persons to or from Syria in support of the transactions” for earthquake relief.

### *Strengths*

The creation of GL 23 was strongly welcomed by the humanitarian community. In the words of one NGO representative based in Damascus, “GL23 serves to provide more clarity, thus playing a positive psychological effect in reassuring organizations involved in humanitarian assistance in Syria”.<sup>xx</sup> Others commended its coverage of a broad range of transactions and the fact that the FAQ note, issued in February 2023, was “useful, and especially positive, in reflecting responsiveness to feedback from NGOs by the US Treasury”.<sup>xxi</sup> The intention to continue engaging in close consultation with relevant stakeholders was also highlighted by the U.S. government. “The Department of the Treasury will continue to monitor the situation in Syria

and engage with key humanitarian and disaster assistance stakeholders, including NGOs, IOs, and key partners and allies, to understand emerging challenges they may face in delivery of services”.<sup>xxii</sup> Others noted benefits that had been observed regarding the sending of remittances to Syria, with some Syrians based outside the country noting that the process for sending funds to family and friends had become easier and faster since the license was introduced.

One development actor also highlighted that GL23 had also been positive in reassuring NGOs in third countries that they could provide support to Syria in relation to the earthquake without fearing repercussions from U.S. sanctions, with one respondent suggesting it “seems that NGOs around the world can now send money to Syria. This is excellent and different to earlier licenses that applied more narrowly to NGOs with US links, in particular”. In parallel, some U.S. stakeholders, including in U.S. Congress and in the NGO community, have questioned why GL23 was needed when the other broad GLs had already been adopted in 2020. One U.S. official explained this, by the fact that the December 2022 humanitarian GLs were “almost too general, in the sense that Treasury still needed to issue the Syria GL in order for banks to take notice of what was allowed”. As such, GL23 was intended to provide additional comfort and to cover gaps that had been identified in previous licenses, according to the same official.

Respondents were hopeful that the license would provide reassurance to financial institutions, particularly in light of the wording of the associated press release, which stated that “U.S. and intermediary financial institutions should have what they need in GL 23 to immediately process all earthquake relief transactions”.<sup>xxiv</sup> One executive of a Swiss bank opined that GL23 was “broader and clearer” than previous GLs, “with less reporting requirements”, which was helping to facilitate banks' compliance obligations.<sup>xxv</sup> One IO operating in Syria relayed that transactions came through more quickly around the time of the creation of the GL, but “much of the positive impact is actually likely to be linked to the exchange rate that the government of Syria enacted”, which preceded the date whereby the U.S. government changed the GL.<sup>xxvi</sup> Various humanitarian organizations delivering cross-border aid to Syria also noted that the timeframe to receive funds had decreased since the introduction of GL23, where transfers from the U.S. to Turkey (destined for Syria) had started to take one week instead of two. An improvement for international procurements and imports to Syria could also be expected (including in relation to the commitment on the expedition of licenses stated in the Communique of Feb. 21), according to some NGOs. On the other hand, any benefits were expected to be “extremely temporary” in light of the six-month duration of the GL.

### *Ongoing challenges*

A number of shortcomings were highlighted by NGOs in the hope that GL23 and any related carveouts could be renewed and fine-tuned to meet existing and evolving needs, described below.

*Insufficient duration:* GL 23 is time limited to 180 days and the possibility of renewal is not mentioned in communications by OFAC. This timeframe is seen as “wholly insufficient” by humanitarian actors, with one IO representative operating in Syria stating, “It is not possible to repair damaged schools in six months. And what should we do about those projects that go over the 180-day duration? What if a project takes 181 days?”

*Ambiguity on engagement with the Government of Syria:* GL23 has a particular definition of the “Government of Syria” in 31 CFR § 542.305(a), to which transactions are now permitted in relation to the earthquake response. The definition refers to: “The state and the Government of the Syrian Arab Republic, as well as any political subdivision, agency, or instrumentality thereof,

including the Central Bank of Syria”. GL23 does not, however, authorize transactions that involve entities owned 50% or more by the GoS (such as state-owned entities), or any entity controlled by the GoS.<sup>xxviii</sup> Interviews suggest that what falls under each of these categories (including those on the SDN list) continues to be a source of considerable confusion for NGOs.

*Continued restrictions on sanctioned persons:* GL23 does not cover counterterrorism (CT) measures (e.g., those listed under the U.S. Global Terrorist Program, which are administered by the U.S. Department of State) and does not allow transactions that involve sanctioned persons on the SDN list. This presents problems for those in supply chains that are still unable to carry out transactions to certain central actors to send critical goods to Syria that may be required for the earthquake response. In the words of one NGO representative, “GL23 allows us to engage with the GoS, as defined in 542.305, but not with SDNs. This means we still cannot make use of Syriatel, Cham Wings or Syria Air. U.S. GLs issued in December 2022 include a GL in respect of their Global Terrorist Sanctions Regulations, which applies to humanitarian assistance provided in areas of northwest Syria controlled by HTS.<sup>xxix</sup> A key challenge, according to some humanitarians, has been that these GLs (including GL23) do not allow for the transfer of partnership funds to the de-facto authorities in the northwest of the country, even though other types of payments are now permitted. According to one development actor, “Let’s say you’re a big U.S. NGO and want to implement a project for internally displaced persons (IDPs) in northwest Syria, you would need the de-facto authorities to provide you with official documentation, but you would not be able to transfer funds to (or through) them in order to implement the project, as this is not covered under a GL. This is a key limitation of the transverse GLs adopted in December 2022 after UNSCR 2664, including their CT sanctions”.

*Material support statutes continue to pose risks to humanitarian action:* The U.S.’s Material Support Statutes<sup>xxx</sup> are not covered by GLs. The statutes – which have an extraterritorial reach – define as offenses, punishable by fines or imprisonment (or both) the provision of material support to terrorists and terrorist organizations (e.g. HTS), according to the following definitions:

- “(1) the term “material support or resources” means any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (1 or more individuals who may be or include oneself), and transportation, except medicine or religious materials;
- (2) the term “training” means instruction or teaching designed to impart a specific skill, as opposed to general knowledge; and
- (3) the term “expert advice or assistance” means advice or assistance derived from scientific, technical or other specialized knowledge”.<sup>xxxi</sup>

The statutes are seen by some to pose major risks for companies and banks, which could be involved in supply chains of critical goods, services, and payment channels relating to earthquake relief efforts, especially those subject to U.S. jurisdiction. According to one development actor, “It’s hard to get banks to contribute to humanitarian transactions, or for companies to support critical trade for fear of the material support statutes. It’s a major impediment of any effectiveness of any GL linked to sanctions. We see it a great deal in Syria and in Afghanistan too. It’s been a big issue since the earthquake.” While further research is warranted to document cases where humanitarian assistance may have been impeded by these laws, NGOs raised some concern that the benefits of GL23 in northwest Syria could be dampened by U.S. material support statutes, as well as the UK’s CT Act of 2000.

*Clarity on relief-related activities:* The U.S. and its partners have a long-standing policy against supporting reconstruction activities in Syria, in the absence of “genuine, comprehensive, and

enduring reforms and progress on the political process.”<sup>xxxii</sup> Furthermore, U.S. secondary (or extraterritorial) sanctions, adopted through the Caesar Syria Civilian Protection Act of December 2019, authorizes “punishment of any government or private entity considered to aid the regime or groups and entities connected to it, or considered to contribute to the reconstruction of Syria.”<sup>xxxiii</sup> OFAC’s Compliance Communiqué affirms that GL23 permits the “erecting temporary shelter, removing rubble from collapsed buildings, stabilizing damaged buildings, repairing roads and other critical infrastructure damaged in the earthquake and repairing or rebuilding damaged hospitals and schools in earthquake-affected areas.”<sup>xxxiv</sup> It goes on to add that GL23 does not allow US persons to engage in long-term reconstruction efforts in Syria, whereby “Projects exceeding 180 days do not fall within the scope of GL 23.”<sup>xxxv</sup> FAQ 938<sup>xxxvi</sup> also cites that permissible relief efforts include “restoration of health facilities”; “rehabilitation of local schools”; “refurbishment of mills, silos, and bakeries”; “rehabilitation and restoration of conflict-damaged water systems, sanitation, and hygiene infrastructure”, and “rehabilitation of irrigation pumps and canals”.<sup>xxxvii</sup> Understanding what exactly each of these concepts (rebuilding, rehabilitation, restoration, refurbishment etc.) remains a source of confusion,<sup>xxxviii</sup> uncertainty and concern for humanitarian operators that fear falling afoul of U.S. sanctions.<sup>xxxix</sup>

*Pre-existing adaptations lessen the impact of GL 23:* According to some NGOs, GL 23 was not expected to alter much in GoS-controlled areas due to two key reasons. First, other GLs that were in place already provided similar levels of coverage. Second, as NGOs in this part of Syria did not generally receive funds from the U.S. (due to long-standing restrictions). In the words of one NGO representative operating in GoS-controlled areas, “All organizations in this region deliberately avoid having any links with the U.S. Government. They avoid having branches in the US or any board members that hold U.S. citizenship, to overcome any obstacles related to procurement or subcontracting processes linked to U.S. sanctions.” According to one NGO representative in Damascus: “GL23 is mainly made to reassure people that they can send contributions to Syria, such as remittances or donations from foundations.” A development actor consulted for this study shared a similar view: “GL23 doesn’t change anything too major for humanitarians; it’s really just a clarification, albeit a welcome one”. Another IO representative argued that the biggest positive related to the broader scope of actors covered.

*Derisking continues to present barriers to formal financing channels:* According to consulted NGOs and banks, financial institutions are continuing to avoid Syria in light of continued compliance risks (perceived or real), cumbersome due diligence requirements, and limited financial returns. Furthermore, *hawala* still remains the main, or sometimes only, means of transferring funds to Syria, especially from Turkey, and these channels had also suffered considerably in recent months as many *hawaladars* and their networks had been decimated through the earthquakes.<sup>xl</sup> One correspondent bank with the ability to support humanitarian payments to Syria, relayed “If we were to receive a request from a North American or European donor to support humanitarian activities in Syria, then we would consider the request, but we would need additional and explicit reassurances – going above and beyond GL23 – that we would not be penalized for such activities.”

NGOs operating in GoS-controlled areas noted that the process for financial transfers had become smoother since the earthquake (yet some thought this was mainly due to the GoS improving certain aspects of the payments process). While some originator or home banks in Europe noted that their risk appetite had increased regarding interaction with Syria – and that they found GL 23 more accessible than earlier licenses – IO and NGOs representatives said that procurement and banking channels had not improved for many NGOs, though this had scope for improving over time, on the condition that the GL was extended beyond the six-month timeframe. A specialist on the Syrian economy argued that “GL23 risks not making a difference

for the Syrian people as companies and banks are too afraid that sanctions will be used retrospectively so they remain too cautious to commence or resume activities”. To remedy this trend, various actors highlighted that continued and stepped-up outreach across a broader range of financial and private sector actors could be beneficial. Openness to such outreach on the part of U.S. authorities, as noted in the U.S. Treasury’s De-risking Strategy, would be essential in making progress towards alleviating some of these constraints.

*Export controls lack standing exemptions:* Syria is under one of the U.S.’s strictest export control regimes (alongside Cuba, Iran, and the Democratic Peoples’ Republic of Korea [DPRK or North Korea]),<sup>xlii</sup> which applies to goods of U.S. origin, as well as those from elsewhere in the world that contain 10% of content from a U.S. origin (typically calculated in relation to the value of the product in question and its constituent parts).<sup>xliii</sup> This signifies that the U.S. authority responsible for administering the controls, BIS,<sup>xliiii</sup> “serves as a gatekeeper for the myriad of products, software, and technology necessary to provide disaster response”.<sup>xliv</sup> According to one recent report on the earthquake response, this includes “[g]oods needed for project implementation in the areas of water, sanitation and hygiene (WASH), power supply, agriculture, and reconstruction of schools and hospitals [that] fall under the category of controlled dual-use goods”.<sup>xlv</sup>

**U.S. Department of Commerce’s Bureau of Industry and Security (BIS) licenses:**

U.S. export licenses to Syria are subject to a general policy of denial<sup>xlvi</sup> under § 746.9(c)(1) unless waived under the Syrian Accountability Act waiver authority. Despite the centrality of goods that fall under export controls that have been needed for earthquake relief efforts in Syria, there are only five pre-existing and highly limited license exceptions that apply to Syria exports from the U.S.<sup>xlvii</sup> These are less relevant to the current response and include areas relating to the media, some software exports, civil aircraft in transit, U.S. government personnel, and personal baggage.<sup>xlviii</sup> This signifies that NGOs and UN agencies typically need to apply to BIS for export licenses on an ad-hoc basis (in the form of SLs). Section 5(b) of the Syria Accountability Act permits the U.S. President to waive export controls following the submission of a report to U.S. Congress outlining that doing so would be in the U.S. national security interest. Only activities and exports authorized under Section 5(b) waivers can be authorized by BIS via a SL, which include items that are relevant to the earthquake response:

- Medicines that are described on the Commerce Control List, including vaccines, certain pain killers, and medical devices
- Telecommunications equipment and associated computers, software, and technology
- Items in support of United Nations operations in Syria
- Items necessary for the support of the Syrian people, including those related to: water supply and sanitation; agricultural production and food processing; power generation; oil and gas production; construction and engineering; transportation, and educational infrastructure.<sup>xlix</sup>

Equipment and goods falling under this list can be exported to Syria but only with a BIS SL in place.

On Feb. 17, 2023, BIS announced the expedition of its license applications for Syria,<sup>1</sup> but not the creation of a GL (in contrast to actions taken by OFAC). According to interviews, BIS SLs are insufficient in the Syrian earthquake case, in light of the slow speed with which they are issued (which formerly took up to a month but was rapidly improved to around five days). Also problematic are the cumbersome, time-consuming and resource-intensive assessments required by organizations wishing to seek a license, which may entail the need for prohibitively expensive legal advice and expertise, leading to delays in the provision of critical assistance. According to a recent *Just Security* publication, “[t]hose implementing USAID-funded (and other) assistance have encountered delays in bringing equipment to Syria necessary to carry out their work,”<sup>li</sup> which includes “construction equipment, water pumps, and power supplies”. Another example was given by a development actor working in the GoS-controlled area of Syria, who relayed that “irrigation pumping stations used in a project to support irrigation for villages, which were

damaged in the earthquake, require access spare parts that are prohibited under export controls”. The interviewee went on to add that equipment required to repair “earthquake damaged dams and irrigation networks are not allowed under the U.S. export controls, particularly in light of the fact that much of the earthquake response equipment uses materials that contain 10% U.S. manufactured materials or dual-purpose materials.”

## European Union

### *Advantages*

- Facilitates transactions
- Allows actors to make economic funds available to listed persons and entities where required for relief efforts
- Permits broader access to goods and services delivered by sanctioned companies without an authorization
- A very wide range of organizations and individuals can benefit from the exemption
- Valid for all types of humanitarian assistance, not only that which relates directly to earthquake relief
- Positive steps in creating a point of contact on derogations on dual-use goods

On Feb. 23, 2023, the European Council took the decision to adopt a humanitarian amendment, applicable for a period of six months. The amendment waives the need for humanitarian organizations to obtain prior permission from EU member states’ national competent authorities “to make transfers or provide goods and services intended for humanitarian purposes to listed persons and entities”.<sup>lii</sup> Council Resolution (EU) 2023/407<sup>liii</sup> and Council Decision (CFSP) 2023/408<sup>liv</sup> serve to clarify the implementation of the already existing exemption on the purchase and transport of petroleum products in Syria and the provision of associated financing or financial assistance, provided that the certain conditions are met, including that “the activities concerned are for the sole purpose of providing humanitarian relief in Syria or assistance to the civilian population in Syria” and do not breach any of the prohibitions laid down in the Decision.<sup>lv</sup>

### *Strengths*

The EU exemption relating to the Syrian earthquake has been welcomed by the humanitarian community and commended for the fact that it facilitates transactions and allows for actors to make economic funds available to listed persons and entities (going a step further than the U.S.’s GL 23 and allowing for dealings with a larger number of blocked persons). It also appears to allow for broader access to goods and services delivered by sanctioned companies without an authorization (including the likes of Syriatel). Another cited positive is that a very wide range of organizations and individuals that can benefit from the exemption, including UN entities, Ios, and NGOs with observer status. This goes beyond the former definition of what falls under the banner of organizations able to benefit from the carveout. Different from the U.S. GL, the EU waiver is valid for all types of humanitarian assistance, not only that which relates directly to earthquake relief.

### *Ongoing challenges*

In the views of some humanitarians, the period of over two weeks in adopting the EU exemption hindered a swift emergency response to the earthquake (within the critical three-day window). Its short duration of six months was also a cause for concern (as with GL23) in “not

allowing for sufficient time to properly carry out an adequate earthquake response”. Nevertheless, the wording in the Council regulations issued on Feb. 23 and later restated in the FAQ released by the European Commission in mid-May that refers to “initial period of six months,” has provided hope to NGOs that it will be renewed. Another shortcoming is that it does not cover dual-use goods, like that described (above) in relation to U.S. export controls (see box below). NGOs with EU funding cited difficulties accessing certain goods required for the earthquake response that fall under the dual-use banner, including large generators and water pipes (though acknowledged that hindered access could also relate to factors such as over-compliance and other logistical bottlenecks). Like in the U.S., the process for obtaining an ad-hoc exception (derogations) for dual-use goods from the EU, is deemed to be cumbersome and described as “very complex and time-consuming”. NGOs acknowledged the benefits of the clarification on an identified point of entry to make requests for derogations for dual-use goods in the EU, contained in the EU FAQ released on May 17.

### **EU export controls**

EU regulations incorporate bans on specific exports from the EU to Syria.<sup>lvi</sup> They share some similarities with U.S. measures, but they are not as broad in their global reach given the absence of the 10% rule. EU sectoral restrictions entail the prohibition to import, export or purchase goods in Syria or supply or use them there or provide certain services.<sup>lvii</sup> In the case of Syria the EU imposes restrictions on:

- “Fuel purchase, that might be needed for local transportation
- Jet fuel export, that might be needed for evacuations
- Construction of new power plants for electricity production
- Provision of banking services, that might be needed for transferring funds for humanitarian operations
- Export of chemicals, that might be needed as raw materials for certain products, such as disinfectants<sup>lviii</sup>
- Software and communications that could be used for the monitoring of civilian population

Derogations must be sought to allow for exports to Syria on some restricted items, but this does not appear to cover goods such as items required for power plants or support of electricity production, which could be required for the rehabilitation of damaged plants and does not apply to all types of software, communications equipment (which could be used for surveillance of civilians) and other dual-use items with potential military applications.

## **Switzerland**

### ***Advantages***

- Open-ended timeframe
- Broad coverage
- Not limited to the earthquake response
- Based on a needs-based approach
- Clarification of wording
- Significantly broadens the scope of permitted interactions with sanctioned individuals and entities in the frame of humanitarian activities without having to request derogations
- Have helped NGOs save time and resources

On March 3, 2023, Switzerland’s Federal Council amended some of its sanctions against Syria in order to ease the delivery of humanitarian aid.<sup>lix</sup> This came in the form of a wide and open-ended exemption, which exempted humanitarian actors that receive funding from the Confederation from the ban on providing - directly or indirectly - assets or economic resources to sanctioned



persons, entities or businesses in order to facilitate their humanitarian work.<sup>lx</sup> This was supplemented with a temporary humanitarian exemption on March 10, 2023,<sup>lxi</sup> which extended the measure for six months to organizations covered by the EU's humanitarian exemption. It serves to cover the gap for entities that fall under Swiss sanctions jurisdiction, but do not receive funding from the Confederation.<sup>lxii</sup> The Swiss (like the U.S. and EU) exemption covers transactions and purchase of oil. It is considered the most generous of all (as compared to the U.S., EU, and UK carveouts), and is also open-ended. However, it is thought that should the EU revoke its waiver, the Swiss would follow suit, according to consultations.

### *Strengths*

The Swiss exemption has been highly commended by NGOs, UN agencies, and banks. According to one NGO network making use of Swiss funds, their members view the exemption and its unlimited timeframe as “extremely positive”, particularly from a humanitarian delivery perspective. It is also seen as helpful in that, in the same as the EU exemption does, it is not limited to the earthquake response, whereby the only reference to the dire events of Feb. 6 is in an associated press release is to “facilitate humanitarian activities in Syria, including the response to the earthquake of Feb. 6, 2023”.<sup>lxiii</sup> One consulted development actor also noted that “Switzerland already implemented sanctions in a principled way before the earthquake – already financing early recovery in sanctioned areas and making use of a needs-based approach, which is becoming increasingly unusual among major donors”. Like the EU context, NGOs made the point that the issuing of the exemption constituted a subtle acknowledgment of the complexity of the derogation processes.

Humanitarian actors also celebrated text modifications, which helps to clarify the former “subject to interpretation” wording regarding authorization to directly purchase crude oil derivatives from listed companies without the need to ask for a derogation. Furthermore, the modifications are notable in the view of humanitarians in that they significantly broaden the scope of permitted interactions with sanctioned individuals and entities in the frame of humanitarian activities without having to request derogations. A representative from one Swiss NGO relayed a “very positive experience” in relation to Switzerland’s new exemptions, and provided an example of how her organization’s work had been eased: “We need to buy fuel for the generator and heating system in our office. We already had an exemption that covered buying fuel but didn’t cover the fact that the company (SADCORP) is state-owned and under sanctions and that payments needed to take place via a sanctioned bank (the Commercial Bank of Syria). The new exemptions save us significant time and funds”.<sup>lxiv</sup>

### *Ongoing challenges*

Some confusion remained as to whether in-kind contributions were still permitted, given the change of wording in Article 3 from “receiving *contributions* from the Confederation” to “receiving *funding* from the Confederation”. NGOs in receipt of Swiss funding relayed that they were seeking guidance on the implications in the change of wording and to consider if in-kind contributions are still permitted.

## **United Kingdom**

### ***Advantages***

- Could set a new precedent: no similar carveouts under UK sanctions prior to the earthquake

- Broader range of transactions is now possible
- Marks a successful outcome of the UK Trisector group in light of regular feedback and exchanges between government, banks, and NGOs

The UK imposes autonomous sanctions against Syrian targets which are similar to those of the EU.<sup>lxv</sup> The UK issued two exemptions (GLs) in February 2023, building on existing humanitarian provisions, “to further facilitate humanitarian relief efforts in Syria following [the] earthquakes... [and] strengthen the timely and effective delivery of relief efforts by removing the need for individual license applications”.<sup>lxvi</sup> The two GLs are the following:

1. The Export Control Joint Unit (ECJU) published a temporary General Licence for the purposes of facilitating humanitarian assistance in relation to earthquake relief efforts in Syria and Turkey. The licence came into force on Feb. 15, 2023, and expires after six months. It “permits the acquisition, supply or delivery of petroleum products and provision of related financial services or funds under regulations 37(1), 38(1) and 40(1)(b) and (c) of The Syria (Sanctions) (EU Exit) Regulations 2019”.<sup>lxvii</sup> There are notification and record-keeping requirements attached to the licence.

2. On Feb. 15, 2023, the UK’s Office of Financial Sanctions Implementation (OFSI) issued General Licence INT/2023/2711256 under Regulation 61 of the Syria (Sanctions) (EU Exit) Regulations 2019 (“The Syria Regulations”) pertaining to humanitarian activity in relation to earthquake relief efforts in Syria and Turkey. It authorises any act which would otherwise breach the prohibitions in Regulations 11-15 and 16(1)(a) and (b) of the Syria Regulations is exempt from those prohibitions.<sup>lxix</sup> includes the provision, processing and payment of funds, or economic resources, and the provision of goods and services necessary to ensure the timely delivery of such assistance or to support such activities.

### *Strengths*

Releasing GLs was a significant step given that there were no such types of global carveouts for the Syrian sanctions program that the UK implements prior to the earthquake. As such, the two licenses marked a precedent. According to humanitarian and development actors, the OFSI GLs’ coverage of transactions has been deemed to be “very significant,” even though the list of permitted financial institutions in Syria was restricted to a somewhat limited number of entities and frozen assets are explicitly not allowed to be used (different from the EU waiver). Like feedback on the U.S., the UK authorities relied on their engagement with NGOs and the private sector via their Trisector group in order to design their licenses. Such engagement underlines good practices that must be maintained and strengthened.

### *Ongoing challenges*

The GLs are limited to six months. Furthermore, the GLs were adopted nine days after the earthquake, and following this clarity on the GLs took over a week to come into force, according to UK banks and NGOs. Its impact in GoS-controlled areas is also deemed to be somewhat limited (like in the case of US GL 23) as not many UK-funded NGOs were operating there due to pre-existing restrictions, with the exception of a small number of organizations.

## **Relevance of UNSCR 2664**

The UN has a CT sanctions regime on non-state armed groups (NSAGs) operating in non-Government controlled areas of Syria, under the 1267/1989/2253 ISIL (Da'esh) and Al Qaida sanctions regimes (which includes the group, HTS operating in northwest Syria).<sup>lxx</sup> This includes asset freezes, travel bans, and an arms embargo. In adopting UNSCR 2664 (2022), from Dec. 9, 2023 (for two years), the Security Council expressly creates a landmark standing humanitarian carveout applicable to its asset freezes across 14 sanctions regimes,<sup>lxxi</sup> including the aforementioned CT regime.<sup>lxxii</sup> The scope of UNSCR 2664 covers a narrow set of categories of actors (UN, multilateral organizations, NGOs involved in implementing Humanitarian Response Plans (HRP), Refugee Response Plans, other United Nations appeals, or OCHA-coordinated humanitarian clusters).

Humanitarian actors operating in northwest Syria highlighted the importance of domestic implementation of the resolution and suggested that adoption to date had faced some difficulties regarding payments of partnership funds under U.S. sanctions. Other consulted NGOs said that the resolution will be particularly relevant to member state implementation when dealings with HTS (or its civilian arm, the Syrian Salvation Government) come into question. The CALP Network emphasized that change was expected to be slow “as it depends on banks, from commercial and correspondent banks, plus payment aggregators to decide how to implement this new Resolution and licenses. Commercial banks are under no obligation to work in contexts covered by the carve-out and could decide that the compliance costs and risks lack economic sense”.<sup>lxxiii</sup>

## Conclusion

The adoption of humanitarian carveouts under the Syria-related autonomous sanctions regimes of the U.S., EU, UK, and Switzerland in response to the February 2023 earthquake was commended by the humanitarian community. The carveouts have played a vital role in facilitating some relief efforts with the positive psychological impact on payment transfers playing an important role. The exceptions represent an impressive feat of collaboration between licensing authorities, NGOs and other stakeholders, which has allowed for the creation of the emergency carveouts in a comparatively short period of time. While they share similar objectives, they vary in terms of their breadth, durations and scope of activities and actors covered. NGOs operating in Government of Syria (GoS)-controlled areas noted that the process for financial transfers had become smoother since the earthquake and they also serve a useful precedent in demonstrating limitations to the use of ad-hoc exceptions. Renewal of any time-bound exceptions is highlighted as vital by humanitarian actors, as six months is not an adequate timeframe for the bulk of relief efforts. Banks, alongside humanitarian and development actors, highlighted several areas where the carveouts could be fine-tuned to heighten efficiency, while also emphasizing the value in regular dialogue with financial institutions and NGOs. This includes in relation to the exemptions themselves, as well as in relation to financial sector de-risking, export control licenses and donor over-compliance. NGOs also shared their hope that lessons would be learned to encourage and speed up the uptake of more exemptions across sanctions regimes in relation to any future emergency situations in other heavily sanctioned jurisdictions.

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<sup>i</sup> The author conducted 12 semi-structured interviews online and in person. In turn, two umbrella organisations representing wider NGO groupings carried out consultations with their members on behalf of this project (with over 20 collective responses). The paper was reviewed by several expert practitioners and all efforts were made to triangulate findings. Any errors that remain therein remain the responsibility of the author.

<sup>ii</sup> The representative of one NGO made the point that harmonization is important as under the current carveouts.

- <sup>iii</sup> U.S. Department of the Treasury (2023) “The Department of the Treasury’s De-risking Strategy”, April, [https://home.treasury.gov/system/files/136/Treasury\\_AMLA\\_23\\_508.pdf](https://home.treasury.gov/system/files/136/Treasury_AMLA_23_508.pdf)
- <sup>iv</sup> Illustrating why the six-month window is not enough, one development actor described how a one month needs assessment is required, followed by some three months for the procurement process, followed by other activities such as training and adoption of relevant software, which goes well beyond 180 days”.
- <sup>v</sup> Charity and Security Network (2023) “OFAC Issues General Licence 23 for Earthquake Relief in Syria”, 10 February, <https://charityandsecurity.org/news/ofac-issues-general-license-23-for-earthquake-relief-in-syria/>
- <sup>vi</sup> According to an interview with one leading humanitarian organization, 16 May 2023.
- <sup>vii</sup> GL11A and GL 22 are open-ended and GL21A was for one year.
- <sup>viii</sup> Daher, Joseph (2023) “The Aftermath of Earthquakes in Syria: The Regime’s Political Instrumentalisation of a Crisis”, European University Institute, Syrian Trajectories Project Report, Issue 04, 27 February, [https://cadmus.eui.eu/bitstream/handle/1814/75404/RSC\\_RP\\_2023\\_04.pdf?sequence=1&isAllowed=y](https://cadmus.eui.eu/bitstream/handle/1814/75404/RSC_RP_2023_04.pdf?sequence=1&isAllowed=y)
- <sup>ix</sup> UN OCHA (2023) “Nearly 9 million people in Syria affected by Türkiye earthquake, UN launches \$400 million funding appeal” <https://www.unocha.org/story/nearly-9-million-people-syria-affected-t%C3%BCrkiye-earthquake-un-launches-400-million-funding>
- <sup>x</sup> European Commission (2023) “EU and international donors’ pledge €7 billion in support of the people in Türkiye and Syria following the recent devastating earthquakes”, 20 March, [https://neighbourhood-enlargement.ec.europa.eu/news/eu-and-international-donors-pledge-eu7-billion-support-people-turkiye-and-syria-following-recent-2023-03-20\\_en#:~:text=Today%2C%20a%20total%20of%20€%20, Kristersson%2C%20for%20the%20Swedish%20Presidency](https://neighbourhood-enlargement.ec.europa.eu/news/eu-and-international-donors-pledge-eu7-billion-support-people-turkiye-and-syria-following-recent-2023-03-20_en#:~:text=Today%2C%20a%20total%20of%20€%20, Kristersson%2C%20for%20the%20Swedish%20Presidency)
- <sup>xi</sup> This included difficulties transporting aid across the only humanitarian corridor authorised under UNSCR 2165 (<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N14/465/91/PDF/N1446591.pdf?OpenElement>) extended in January 2023 under UNSCR 2672 (<https://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/SRES2672.pdf>).
- <sup>xii</sup> Though the EU and Swiss exemptions are for humanitarian assistance and assistance to the civilian population and not exclusively relating to the earthquake.
- <sup>xiii</sup> This is not the first time OFAC releases a GL in the frame of an emerging crisis. GL 21 Authorizing Certain Activities to Respond to the Coronavirus Disease 2019 (COVID-19) was introduced in relation to the COVID-19 pandemic.
- <sup>xiv</sup> See: <https://www.federalregister.gov/documents/2023/03/24/2023-05783/publication-of-syria-web-general-license-23>.
- <sup>xv</sup> 31 C.F.R. Part 569 at § 569.510.
- <sup>xvi</sup> See 542.305, available at: <https://www.ecfr.gov/current/title-31/subtitle-B/chapter-V/part-542/subpart-C/section-542.305>. the only category that is authorized for transactions is “(a) The state and the Government of the Syrian Arab Republic, as well as any political subdivision, agency, or instrumentality thereof, including the Central Bank of Syria”, and the following categories are not covered: “(b) Any entity owned or controlled, directly or indirectly, by the foregoing, including any corporation, partnership, association, or other entity in which the Government of Syria owns a 50 percent or greater interest or a controlling interest, and any entity which is otherwise controlled by that government; (c) Any person that is, or has been, acting or purporting to act, directly or indirectly, for or on behalf of any of the foregoing; and (d) Any other person determined by OFAC to be included within paragraphs (a) through (c) of this section”.
- <sup>xvii</sup> GL 23 does not authorize: “(1) Any transactions prohibited by section 542.208 of the SySR (prohibiting importation into the United States of petroleum or petroleum products of Syrian origin); or (2) Any transactions involving any person whose property and interests in property are blocked pursuant to the SySR, other than persons who meet the definition of the term *Government of Syria*, as defined in section 542.305(a) of the SySR, unless separately authorized” (see: <https://www.federalregister.gov/documents/2023/03/24/2023-05783/publication-of-syria-web-general-license-23>).
- <sup>xviii</sup> See: <https://ofac.treasury.gov/media/931236/download?inline>
- <sup>xix</sup> See: <https://ofac.treasury.gov/media/931236/download?inline>
- <sup>xx</sup> U.S. Department of the Treasury (2023) “Treasury Issues Syria General Licence 23 to Aid in Earthquake Disaster Relief Efforts”, Press Release, 9 February, <https://home.treasury.gov/news/press-releases/jy1261>.
- <sup>xxi</sup> Charity and Security Network (2023) “OFAC Issues General Licence 23 for Earthquake Relief in Syria”, 10 February, <https://charityandsecurity.org/news/ofac-issues-general-license-23-for-earthquake-relief-in-syria/>
- <sup>xxii</sup> U.S. Department of the Treasury (2023) “Treasury Issues Syria General Licence 23 to Aid in Earthquake Disaster Relief Efforts”, Press Release, 9 February, <https://home.treasury.gov/news/press-releases/jy1261>.
- <sup>xxiii</sup> <https://ofac.treasury.gov/media/931236/download?inline>
- <sup>xxiv</sup> U.S. Department of the Treasury (2023) “Treasury Issues Syria General Licence 23 to Aid in Earthquake Disaster Relief Efforts”, Press Release, 9 February, <https://home.treasury.gov/news/press-releases/jy1261>.

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<sup>xxv</sup> Banks are now able to rely on sender information (of those sending funds) in order to process transactions; a move designed to lower compliance demands on banks.

<sup>xxvi</sup> Now around 7000. Before the blackmarket rate was greater, and now it's closer. But the gap applies to remittances and funds coming into the country but not UN operations (e.g. payments for hotels for staff and this has a different exchange rate anyway and continues to be quite low). E.g. around 4000 for the UN.

<sup>xxvii</sup> They noted that their organizations were still required to provide all the same documents, however, including lists of names on the payrolls, vendor names, and all other standard documentation for vetting.

<sup>xxviii</sup> See 31 CFR § 542.305. for more details. <https://ofac.treasury.gov/media/931236/download?inline>

<sup>xxix</sup> See page 21, Part 594: <https://ofac.treasury.gov/media/930151/download?inline>

<sup>xxx</sup> Under 18 U.S.C. § 2339A and § 2339B

<sup>xxxi</sup> Available at: <https://www.govinfo.gov/content/pkg/USCODE-2020-title18/pdf/USCODE-2020-title18-partI-chap113B-sec2339A.pdf>

<sup>xxxii</sup> United States Mission to the United Nations (2023) "Remarks at a UN Security Council Briefing on the Political and Humanitarian Situations in Syria", 27 April, <https://usun.usmission.gov/remarks-at-a-un-security-council-briefing-on-the-political-and-humanitarian-situations-in-syria/>

<sup>xxxiii</sup> This includes any company or individual from around the world that invests funds in Syria's energy, aviation, construction or engineering sectors, as well as persons who lend the regime funds (Section 102 of Congress. "H.R.31 - Caesar Syria Civilian Protection Act of 2019," 3 June 2019, <https://bit.ly/2Wy63QX>).

<sup>xxxiv</sup> U.S. Department of Treasury (2023) "Guidance on Authorized Transactions Related to Earthquake Relief Efforts in Syria", Compliance Communiqué, 21 February, <https://ofac.treasury.gov/media/931236/download?inline>

<sup>xxxv</sup> U.S. Department of Treasury (2023) "Guidance on Authorized Transactions Related to Earthquake Relief Efforts in Syria", Compliance Communiqué, 21 February, <https://ofac.treasury.gov/media/931236/download?inline>

<sup>xxxvi</sup> FAQ 938, available at <https://ofac.treasury.gov/faqs/938>.

<sup>xxxvii</sup> The Syria Earthquake Recovery Needs Assessment provides estimates of damages emanating from the earthquake, including in specific sectors: <https://www.ungeneva.org/en/news-media/news/2023/05/80811/almost-15-billion-needed-earthquake-recovery-syria>

<sup>xxxviii</sup> According to Daher (2023) other challenges include weak "investments and state capacities; shortcomings in Syria's political situation; the absence of a secure and stable economic situation; lack of financial capacity; damaged infrastructure; and shortages of qualified manpower".

<sup>xxxix</sup> Also described by Azar, Nancy (2020) "Navigating Humanitarian Exceptions to Sanctions Against Syria Challenges and Recommendations", Carter Center, October, [https://www.cartercenter.org/resources/pdfs/peace/conflict\\_resolution/syria-conflict/navigating-humanitarian-exceptions-in-syria-oct2020.pdf](https://www.cartercenter.org/resources/pdfs/peace/conflict_resolution/syria-conflict/navigating-humanitarian-exceptions-in-syria-oct2020.pdf)

<sup>xl</sup> According to an interview with one humanitarian actor, 17 May 2023.

<sup>xli</sup> Largely falling under the 2003 Syria Accountability and Lebanese Sovereignty Restoration Act (<https://www.govinfo.gov/content/pkg/PLAW-108publ175/pdf/PLAW-108publ175.pdf>).

<sup>xlii</sup> Alpert, Rachel & Bernstein, Alyssa (2023) "Breaking Down Barriers to Emergency Earthquake Aid in Syria", Just Security, 16 March, <https://www.justsecurity.org/85499/breaking-down-barriers-to-emergency-earthquake-aid-in-syria/>.

<sup>xliii</sup> According to Alpert and Bernstein (2023) "U.S. export controls prohibit the export of virtually everything other than food and basic medicine...to Syria".

<sup>xliv</sup> Alpert, Rachel & Bernstein, Alyssa (2023) "Breaking Down Barriers to Emergency Earthquake Aid in Syria", Just Security, 16 March, <https://www.justsecurity.org/85499/breaking-down-barriers-to-emergency-earthquake-aid-in-syria/>.

<sup>xlv</sup> Alpert, Rachel & Bernstein, Alyssa (2023) "Breaking Down Barriers to Emergency Earthquake Aid in Syria", Just Security, 16 March, <https://www.justsecurity.org/85499/breaking-down-barriers-to-emergency-earthquake-aid-in-syria/>.

<sup>xlvi</sup> See <https://www.ecfr.gov/current/title-15/subtitle-B/chapter-VII/subchapter-C/part-746/section-746.9>

<sup>xlvii</sup> U.S. export licences to Syria are "subject to a general policy of denial" under § 746.9(c)(1) unless waived under the Syrian Accountability Act waiver authority.

<sup>xlviii</sup> Alpert, Rachel & Bernstein, Alyssa (2023) "Breaking Down Barriers to Emergency Earthquake Aid in Syria", Just Security, 16 March, <https://www.justsecurity.org/85499/breaking-down-barriers-to-emergency-earthquake-aid-in-syria/>.

<sup>xlix</sup> See <https://www.bis.doc.gov/index.php?id=540>.

<sup>1</sup> BIS (2023) "Commerce Announces Expedited Licensing for Exports to Assist in Earthquake Relief" <https://www.bis.doc.gov/index.php/documents/about-bis/newsroom/press-releases/3224-2022-02-17-bis-press-release-turkiye-syria-earthquake-relief-support/file>

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<sup>li</sup> Alpert, Rachel & Bernstein, Alyssa (2023) “Breaking Down Barriers to Emergency Earthquake Aid in Syria”, Just Security, 16 March, <https://www.justsecurity.org/85499/breaking-down-barriers-to-emergency-earthquake-aid-in-syria/>.

<sup>lii</sup> Council of the EU (2023) “Earthquake in Türkiye and Syria: EU amends restrictive measures in place regarding Syria to facilitate the speedy delivery of humanitarian aid”, 23 February, <https://www.consilium.europa.eu/en/press/press-releases/2023/02/23/earthquake-in-turkiye-and-syria-eu-amends-restrictive-measures-in-place-regarding-syria-to-facilitate-the-speedy-delivery-of-humanitarian-aid/#:~:text=The%20sanctions%20regime%20does%20not,any%20part%20of%20the%20country.>

<sup>liii</sup> Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.LI.2023.056.01.0001.01.ENG&toc=OJ%3AL%3A2023%3A056I%3ATO>

<sup>liv</sup> Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.LI.2023.056.01.0004.01.ENG&toc=OJ%3AL%3A2023%3A056I%3ATO>

<sup>lv</sup> European Commission (2023) “Frequently Asked Questions: Humanitarian Exemption in the Syria Sanctions Regime following the February 2023 Earthquake in Türkiye and Syria”, [https://finance.ec.europa.eu/system/files/2023-05/230516-faqs-humanitarian-exemption-syria\\_en.pdf](https://finance.ec.europa.eu/system/files/2023-05/230516-faqs-humanitarian-exemption-syria_en.pdf)

<sup>lvi</sup> Decision 2013/255/CFSP — restrictive measures against Syria and Regulation (EU) No 36/2012 — restrictive measures in view of the situation in Syria.

<sup>lvii</sup> European Commission (2022) “Commission Guidance Note on the Provision of Humanitarian Aid in Compliance with EU Restrictive Measures (Sanctions)”, 30 June, [https://finance.ec.europa.eu/system/files/2022-07/220630-humanitarian-aid-guidance-note\\_en.pdf](https://finance.ec.europa.eu/system/files/2022-07/220630-humanitarian-aid-guidance-note_en.pdf)

<sup>lviii</sup> European Commission (2022) “Commission Guidance Note on the Provision of Humanitarian Aid in Compliance with EU Restrictive Measures (Sanctions)”, 30 June, [https://finance.ec.europa.eu/system/files/2022-07/220630-humanitarian-aid-guidance-note\\_en.pdf](https://finance.ec.europa.eu/system/files/2022-07/220630-humanitarian-aid-guidance-note_en.pdf)

<sup>lix</sup> Swiss Confederation (2023) “Ordonnance instituant des mesures à l’encontre de la Syrie”, 3 March 2023, <https://www.fedlex.admin.ch/eli/oc/2023/109/fr>

<sup>lx</sup> It states, “Humanitarian actors in receipt of federal funding may now provide money and economic resources directly or indirectly to designated persons, entities and businesses, when necessary to provide humanitarian assistance or support to the civilian population. In the case of humanitarian actors who do not receive federal funding, an exceptional authorisation scheme has been set up to provide economic resources to designated persons, businesses and entities, provided this involves humanitarian activities or the provision of aid to the civilian population in Syria”. <https://www.admin.ch/gov/en/start/documentation/media-releases.msg-id-93462.html>

<sup>lxi</sup> See: <https://www.admin.ch/gov/en/start/documentation/media-releases.msg-id-93638.html>

<sup>lxii</sup> The temporary scope of entities and bodies benefiting from the EU humanitarian exemptions are listed in CR(EU) 2023/407, Article 16a and CD(EU) 2023/408, Article 28a.

<sup>lxiii</sup> Swiss Federal Council (2023) “Swiss government facilitates humanitarian activities in Syria”, 3 March, <https://www.admin.ch/gov/en/start/documentation/media-releases.msg-id-93462.html>

<sup>lxiv</sup> The same interviewee relayed that this development seems to have been planned prior to the earthquake.

<sup>lxv</sup> See <https://www.gov.uk/government/collections/uk-sanctions-on-syria>.

<sup>lxvi</sup> See, <https://www.gov.uk/government/news/uk-takes-steps-to-further-facilitate-aid-flow-into-syria>

<sup>lxvii</sup> UK Department for International Trade, 2023, “General Trade Licence Syria Sanctions - Earthquake Relief Efforts in Syria”, February, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1136680/general-trade-licence-syria-sanctions-earthquake-relief-efforts-in-syria.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1136680/general-trade-licence-syria-sanctions-earthquake-relief-efforts-in-syria.pdf).

<sup>lxviii</sup> <https://www.gov.uk/government/news/uk-takes-steps-to-further-facilitate-aid-flow-into-syria>

<sup>lxix</sup> The licence covers the following actors: “the United Nations, including its programmes, funds and other entities and bodies, and its specialised agencies and related organisations; humanitarian organisations having observer status with the United Nations General Assembly and members of those humanitarian organisations; bilaterally or multilaterally funded non-governmental organisations participating in the United Nations Humanitarian Response Plans, Refugee Response Plans, other United Nations appeals, or humanitarian clusters coordinated by the United Nations Office for the Coordination of Humanitarian Affairs; international organisations carrying out relief activities in Syria; any employee, grantee, subsidiary, or implementing partner of any organisation falling within the above list while and to the extent that they are acting in those capacities”.

<sup>lxx</sup> S/RES/1267 of 15 October 1999, S/RES/1989 of 17 June 2011, and S/RES/2253 of 17 December 2015.

<sup>lxxi</sup> Kapoor, Radhika, Lewis, Dustin A. and Modirzadeh, Naz K. (2023), “An Interpretive Note for U.N. Member States on Security Council Resolution 2664 (2022),” Harvard Law School Program on International Law and Armed Conflict, March, <https://blogs.harvard.edu/pilac/files/2023/03/HLS-PILAC-Res.-2664-Interpretive-Note.pdf>

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<sup>lxxii</sup> The text states that the Security Council “Decide[d] 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 [specified actors or appropriate others] are permitted and are not a violation of the asset freezes imposed by [the Security] Council or its Sanctions Committees” and “Decide[d] that the provisions introduced by paragraph 1 [of resolution 2664] will apply to the 1267/1989/2253 ISIL (Da’esh) and AlQaida sanctions regime for a period of two years from the date of adoption of [...] resolution [2664 (2022)]” (UNSCR 2664 [2022], preamble).

<sup>lxxiii</sup> Crew, Rory (2023) Changes to U.S. and UN economic sanctions may simplify CVA implementation”, CALP Network, 17 January, <https://www.calpnetwork.org/blog/changes-to-us-and-un-economic-sanctions-may-simplify-cva-implementation/>