

## United Nations in Syria input to the call of the UN Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights

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Since the start of the conflict in Syria in 2011, various States and regional entities adopted different sets of unilateral coercive measures (UCM) for Syria, which were already preceded by other unilateral US sanctions. The latest post-2011 UCMs were led by the US and the EU, followed by the League of Arab States, Turkey, Japan, Canada, Denmark, Australia and Switzerland. In addition, the UN in two UNSCR in 2015 added sanctions related to the prohibition on trade in antiquities and on the Islamic State group. The current UCMs on Syria have been described as one of the strictest and most complex collective sanctions regimes in recent history<sup>1</sup>.

The literature as well as online articles on impacts of UCMs on the politics, economy and social landscape in Syria is broad and ranges from relating everything that happens in Syria in a direct or indirect way to the UCMs, to taking a more limited stance of recognizing the certain direct effects that UCMs have and their more limited contribution to other dynamics in Syria. In almost all sources, from a human rights, humanitarian, and early recovery and resilience perspectives, there is a broad agreement that UCMs do have unintended humanitarian effects, and that a share of those directly and negatively impact the people living in Syria through the negative effects on finding vendors that are willing to engage with the humanitarian actors on the ground, delivery setbacks, and payment channels difficulties and delays.<sup>2</sup>

**The objective of this input, which represents a response to the Call for input from intergovernmental organizations to a UN report on “Secondary sanctions, civil and criminal penalties for circumvention of sanctions regimes, and over-compliance with sanctions”, is to present the challenges, which can be categorized as unintended effects of UCMs, that the UN on the ground in Syria has been facing. They can broadly be categorized as one of the following:**

- **Chilling and de-risking effects in procurement and reluctance of vendors to participate in UN procurement, as well as delays in delivery of good and services**
- **Chilling and de-risking effects of financial transfers and delays in processing payments**

Generally, all sanctions regimes permit the continued trade in essential goods such as food and medicine and allow for humanitarian activities in Syria through a system of general exemptions. However, these exemptions or general licenses are of limited use when vendors and financial intermediaries are either not aware of them or are reluctant to use them on account of the seemingly complicated, complex, and overlapping sanctions regimes. A delivery and/or payment delay of several months and more on account of difficulties navigating the complexities of sanctions regimes by vendors and financial institutions have

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<sup>1</sup> [https://impact-csrd.org/reports/Invisible\\_Sanctions\\_IMPACT\\_EN.pdf](https://impact-csrd.org/reports/Invisible_Sanctions_IMPACT_EN.pdf)

<sup>2</sup> <https://www.arab-reform.net/publication/punishing-the-regime-protecting-syrians-the-dilemma-of-sanctions-on-syria/> ; [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) ; [https://www.cartercenter.org/resources/pdfs/peace/conflict\\_resolution/syria-conflict/syria-unintended-consequences-aita-12-20.pdf](https://www.cartercenter.org/resources/pdfs/peace/conflict_resolution/syria-conflict/syria-unintended-consequences-aita-12-20.pdf) ; [https://www.voltairenet.org/IMG/pdf/Humanitarian\\_Impact\\_of\\_Syria-Related\\_Unilateral\\_Restrictive\\_Measures.pdf](https://www.voltairenet.org/IMG/pdf/Humanitarian_Impact_of_Syria-Related_Unilateral_Restrictive_Measures.pdf) ; <https://www.tandfonline.com/doi/abs/10.1080/09662839.2014.893427>

relevant consequences in the response to the dire humanitarian needs on the ground, not to mention where the goods and/or services cannot be procured at all, leading to a forced closing of a humanitarian line of assistance. The examples below are by no means exhaustive but are intended to illustrate the challenging environment and real-life consequences of UCMs that the UN in Syria has to face.

### **1. Chilling and de-risking effects in procurement and reluctance of vendors to participate in UN procurement, as well as delays in delivery of good and services**

- Bank transfers to International Consultants have caused a problem with individuals receiving or having access to their payments for work - this has impacted citizens of UK, Europe, and Afghanistan. This has hindered the ability to timely secure international expertise to work in Syria.
- Long delays in the arrival of financial transfers to contractors affects the interest of bidders to work with the UN in Syria.
- De-risking performed by potential international vendors and suppliers who prefer not to be involved in any contracts within Syria – which impacted implementation by limiting the opportunities and competitive process for the procurement cases. For example, after signing the contract for Euphrates Dam spare parts, the winner intended to contract with a Russian agent as a representative of the manufacturer, but the agent withdrew from the agreement citing the Caesar act, with the winner trying to look for another one, but was not successful, forcing the concerned organisation to terminate the contract.
- De-risking performed by some international banks towards issuing bank guarantees for the benefit of UN contractors, because the ultimate destination, Syria, disregarding the fact that transaction is exempted. The procurement for supply equipment for the electricity network was repeated for three times with no available bidders due to the sanction, since no bidder could offer the bank guarantee to cover the requested warranty, given that no bank could offer this bond.
- There is a negative impact on ability to import particular supplies, including issues related to licenses/derogations. There is naturally considerable interest in medical/COVID-19 supplies and related equipment but also chlorine (given organisations are only able to import this in small quantities) and seeds and inputs which can only be purchased in Syria through the General Organisation for Seed Multiplication a public entity linked to the Ministry of Agriculture and Agrarian Reform, and which is not itself sanctioned but the bank that it uses is.
- Despite securing funding from a donor to rehabilitate a water pumping station in rural Aleppo, the concerned UN organisation was unable to import the needed spare parts to complete the project. Tenders were unsuccessfully launched three times for the internationally manufactured parts. Potential bidders refrained from applying as they were unable to open the required banking securities to cover required warranties for Syria. The project was eventually abandoned despite the impact it could have had in terms of providing drinking and irrigation water to vulnerable and conflict-affected rural communities.
- UN organisations face challenges procuring essential IT equipment and services to guarantee both the effectiveness and the security of its operations. These tools and services are essential to the basic operability of an organization (examples include but not limited to inability to procure software like Adobe, Veeam/Veritas Backup and Recovery Solutions, VMware cloud computing and virtualization, special arrangement with UN HQ needed for Microsoft and Symantec, major delays in procuring products like cellphones and computers, and again only being able to use Cisco Telecom through a special arrangement with UN HQ).
- Due to its nature and origin of manufacturing, some UN organisations are routinely not able to procure several essential parts, including, for the example, for the recent rehabilitation of a power

plant, the MOOG Servo Valve (a dual-use item made by an American company), as well as other parts in the control system of the plant (partially made by American companies), which affected efficiency of rehabilitation works of the power plant

- Despite securing funding from a donor to partially rehabilitate the Euphrates Hydroelectric Power Plant, located in Tabqa, in SDF-controlled Raqqa governorate, the project had to eventually be cancelled due to the inability to import spare parts. The partial rehabilitation would have benefitted roughly 5 million Syrians living on both sides of the Euphrates, providing the needed power to run water pumping systems for both safe drinking water and irrigation for rural communities in rural Aleppo, Raqqa and Al Hassakeh.
- In 2019, a UN organisation had a contract with an international supplier based in Dubai for the provision of ICT Equipment to 30 Municipalities. The container was prevented from being shipped to Syria by sea, so we had to re-award the case to a local supplier, causing delays.
- Due to lengthy processes for obtaining the exemption, suppliers also prefer to ignore/de-prioritize procurement requisitions they receive from the UN in Syria. One particular example was during the global shortage of COVID-19 supplies and equipment, when suppliers gave priority to countries that are not under sanctions, a situation that resulted in difficulties for the UN in Syria to procure even the COVID-19 test kits. The UN initiated tenders for personal protective equipment (PPE) in April 2020. Non-responsive bidders approached by the UN declined to submit offers due to fear of violating sanctions, despite assurances that that would not be the case. A vendor in Lebanon eventually supplied the equipment in October 2020 and local companies provided PPE for health workers, partially filling gaps. Although the delay was also related to the global shortage of PPE at the peak of the pandemic, the longer timeframe meant that the needs of frontline workers were not adequately and timely met.
- The response rate to international tenders is becoming increasingly low due to the limited number of companies willing to do business in Syria. For example, offers received for wheelchairs and for crushers used for debris removal came only from on country companies. Other European and American companies are not participating in international bids. In general, payment delays and the administrative burden resulted in some suppliers refusing to extend their contracts and less bidders applying to procurement requests.
- For food procurement, relevant UN organisations are struggling to get performance bonds from banks (local procurement). The banks in Syria are not issuing any performance bonds in USD (limited USD) and banks outside Syria are not willing to issue any performance bonds for companies in Syria because of sanctions; this situation worsened with the implementation of the Caesar Act.
- A UN organisation received container seals in Beirut purchased from Denmark; however, the supplier was not able to pay the transporter to take it onwards from Beirut to Syria due the sanctions application.
- In August 2021, a UN organisation placed an order for four ultra-cold chain units for Syria, which could accommodate vaccines at ultra-low temperatures (suitable for mRNA vaccines such as Pfizer's) produced by a US supplier. These four units would have significantly strengthened the country's overall cold chain system beyond the COVID-19 vaccines, including for routine vaccination. The order was placed in September 2021, but a month later, for fear of breaching US sanctions against Syria, the supplier informed the organisation that they were not able to sell the four units to Syria. The organisation had to opt for an alternative model by a manufacturer in Luxembourg, which could only be delivered two months later, thus delaying the first round of vaccine distribution in Syria. This contributed to other logistical challenges hindering COVID-19

vaccine roll-out in Syria, where only 4% of the population has been fully vaccinated as of November 2021.

- Another impact is visible through less value for money (higher prices on the local vs. the international market – which is often not accessible) and lower quality of goods and services, thus exposing the UN to higher risks as some vendors are unable to provide guarantees by the international financial institutions on the currency of the purchases.
- Considering that a majority of containers in circulation today belong to companies based in countries that are imposing sanctions on Syria (especially the US), there are less containers available to bring goods into the country, thus affecting:
  - **Time:** as the availability of containers is reduced, goods sit at factories waiting for empty containers eligible to be sent to Syria.
  - **Cost:** scarcity brings higher costs. Furthermore, the eligible containers are often only available in different locations to the cargo to be delivered, generating extra costs for the container to be brought where the goods are.
  - **Readiness of items in country for distribution to beneficiaries:** on account of the above, we have seen an impact on our pipeline and stocks which affects distribution of assistance.

As a result, some UN organisations are obliged to take the following actions to mitigate the impact of the sanctions:

- Pay hefty extra fees (from 10 to 15% of the shipping costs) to book cargo on eligible containers.
- Work with extremely extended lead-times in sourcing goods to ensure availability of items to support our beneficiaries.
- Increase usage of local storage for goods to ensure availability in country.

## 2. Chilling and de-risking effects of financial transfers and delays in processing payments

- Bank de-risking measures often generate delayed or declined bank transfers which mean that programmes cannot go ahead or only partially so, an example being from December 2019 when the UN procured tools and raw materials from a Jordanian supplier but was unable to complete the payment in USD through the normal banking channels and had to make the transfer in Jordan through the UN office there.
- Long delays in the arrival of financial transfers to contractors due to follow-up, auditing and investigation of all details and demand for many support documents. This investigation is made by the sender bank and the beneficiary bank and even the intermediary bank because the payment is going to a beneficiary in Syria. Even if the contractor is foreign, but the service is done in Syria, banks often refuse transfers, leading to the need to seek a solution via another bank account for the contractor in another country, creating long delays in paying.
- The UN in Syria has faced cases where payments have been rejected three times (citing OFAC) for one local contractor being paid in USD account abroad.
- Restrictions are being applied by banks when processing payments to Syria-based suppliers: even when providing all documentation connecting goods to humanitarian assistance (UN contracts, purchase orders, customs clearance documents, etc.), banks (including intermediary banks) are asking an over-burdening number of questions, confirmations and other proof of the legality of the business and often refusing to release the payments or taking an extensive amount of time to

do so. In addition, when the same supplier sends a new invoice, the same process starts from zero, deeply impacting on the UN ability to deliver, reputation and the supplier's financial health as it takes them a long time to be paid.

- Payments to some UN international staff is being withheld by their banks due to the fact that they are working inside Syria.
- For cash assistance, lack of liquidity was observed in banks and money transfer companies, as impacted by coercive measures.
- There are also direct effects for the within UN transfers. In the last quarter of 2021, some UN organisations experienced delays in receiving funds from Headquarters due to queries from New York-based banks on sanctions against Syria. Between the time of submission of the requests and the time funds were released, it took on average 18 days compared to only 3 days previously. As a results, several activities and life-saving interventions had to be postponed.
- Following the additional restrictions placed on the Central Bank of Syria, bank liquidity challenges have impacted partner implementation and caused significant delays where planned programmes were not completed within the allocated timeframe, especially in northeast Syria. The local banks reported liquidity challenges and temporary controls were introduced on cash withdrawal amounts. Some suppliers declined bank transfers and preferred cash which exacerbated the situation.

To mitigate these liquidity challenges, UN organisations extended project implementation/liquidation periods to enable partners settle commitments over a longer period.

- A UN implementing partner, a local member of a global non-governmental organization, has not been able to receive its core funds from the global budget for the last three years due to international banks' refusal to transfer money to its Syria account, seriously undermining its capacity to provide life-saving reproductive health services to Syrian women. The total due is more than USD 400,000.

Finally, there is also a negative impact on **programme design**. This could include examples of where programmes have been adapted in ways that limit the risks of delays in delivering aid, but that would have to come at the expense of prioritizing a needs-based response or delivering the most sustainable or cost-effective response (e.g. agencies are refraining from implementing projects which may provide a more durable solution out of concerns that it is incompatible with sanctions, such as water trucking versus the rehabilitation of a water treatment plant that would reach an entire community, or the capacity building of technical staff to maintain key water and sanitation services, such as boreholes and sewage plants). As mentioned in the examples above, the UN's inability to procure needed spare parts and equipment to rehabilitate critical essential services in the WASH and energy sectors, for example, limits the ability to respond to humanitarian needs at scale and/or in a sustainable way. This also limits the UN and other humanitarian actors' capacity to reach high numbers of beneficiaries in vulnerable areas. Rural areas are particularly affected in this regard, given the difficulty of reaching out with alternative services to large numbers of small-scale and widely spread-out settlements.