



The Women's Forum on Afghanistan has formulated these recommendations with the assistance of Barnett R. Rubin on technical aspects.

Recommendations for Updating the Sanctions Regime against the Taliban/Acting Authorities in Afghanistan

The sanctions regime of the United Nations Security Council targeting the Afghan Taliban has undergone periodic modification since it was first imposed in 1999 under UNSCR 1267. It was originally enacted as a counter-terrorist measure against al Qaida and the Taliban. Later narcotics production and trafficking and other illicit activities were added to the list of sanctioned activities. At that time the Taliban was a largely unrecognized claimant to be the government of Afghanistan and did not hold the country's U.N. seat.

In 2011, to support efforts at political negotiation to end the war, in UNSCR 1988 (updated as UNSCR 2255 2015) the Security Council separated the Taliban from the al Qaida list of sanctioned persons and entities and defined the goal of sanctions against the former as enhancing the peace, stability, and security of Afghanistan. The Security Council mandated enforcement in partnership with the Afghan Government and the High Peace Council. At that time the Islamic Republic of Afghanistan, which the UN had helped to found, was a respected member of the UN and was universally recognized.

Since the collapse of the Islamic Republic, the seizure of power by the Taliban, and the enactment by the latter of a set of draconian measures, including the effacing of women from society through a system amounting to gender apartheid, neither the criteria used by the Sanctions Committee of the Security Council to designate persons and entities for sanctioning nor the mechanisms implemented by the Monitoring Committee have been updated to reflect the new realities.

Despite the prominence of gender discrimination in international denunciations of the Taliban, including in resolutions by multiple U.N. bodies, the resolutions defining the criteria for sanctions do not mention it. Though multiple U.N. resolutions and statements both before and after UNSCR 1325 (2000) have emphasized the essential role of women's participation and leadership in peacemaking and peace building, the guidance for the monitoring committee does not include violations of the rights of women among threats to peace stability, and security. Though Afghanistan is now ruled by the unrecognized Taliban acting authorities, the procedures for imposing and monitoring sanctions still include participation by the "Afghan Government"

and the "High Peace Council," neither of which any longer exists. Annex 1 compiles all references to those entities in UNSCR 2255 (2015).

The Security Council should pass a new resolution explicitly including the enactment and enforcement of measures of gender discrimination amounting to gender apartheid as reasons for imposing sanctions on entities and individuals in Afghanistan. Recognizing the obstacles to passing a new resolution posed by differences among the permanent members of the Security Council, especially over sanctions imposed by the United States on assets of Afghanistan's Central Bank, the Sanctions and Monitoring Committees, taking into account UNSCR 1325 and related resolutions and statements, should consider acts of gender discrimination amounting to gender apartheid as threats to the peace, stability, and security of Afghanistan.

In any new resolution, all clauses referring to the Government of Afghanistan, High Peace Council, or related entities should be revised to reflect current realities. As appropriate in each case, the clauses could be deleted, amended to refer to the "acting authorities," or amended to authorize an appropriate body to undertake the function called for.

Annex 1

References to the role of the Afghan government in the sanctions regime against the Taliban in UNSCR 2255 (December 21, 2015):

Preamble

Welcoming the establishment of a **National Focal Point in Afghanistan** as a means to enhance engagement and coordination with the Committee established in paragraph 35 of resolution 1988 (“the Committee”) and underscoring the importance of close cooperation between the **Government of Afghanistan** and the Committee and encouraging further efforts in this regard.

Recognizing that the security situation in Afghanistan has evolved and that some members of the Taliban have reconciled with the **Government of Afghanistan**, have rejected the terrorist ideology of Al-Qaida and its followers, and support a peaceful resolution to the continuing conflict in Afghanistan,

Reiterating its firm commitment to support the **Government of Afghanistan** in its efforts to advance the peace and reconciliation process, including by the **High Peace Council** and the implementation of the Afghanistan Peace and Reconciliation Programme, in line with the Kabul Communiqué and the Bonn Conference Conclusions, and within the framework of the Afghan Constitution and application of the procedures introduced by the Security Council in its resolutions 1988 (2011), 2082 (2012), and 2160 (2014), as well as other relevant resolutions of the Council,

Welcoming the decision taken by some members of the Taliban to reconcile with the Government of Afghanistan, to have no links to international terrorist organizations, including Al-Qaida, to respect the constitution, including its human rights provisions, notably the rights of women, and to support a peaceful resolution to the continuing conflict in Afghanistan, and urging all those individuals, groups, undertakings and entities associated with the Taliban in constituting a threat to the peace, stability and security of Afghanistan, to accept the **Government of Afghanistan’s** offer of reconciliation,

Reiterating the need to ensure that the present sanctions regime contributes effectively to ongoing efforts to combat the insurgency and support the **Government of Afghanistan’s** work to advance reconciliation in order to bring about peace, stability, and security in Afghanistan,

Taking note of the **Government of Afghanistan’s** request that the Security Council support reconciliation, including by removing names from the United Nations sanctions lists for those who reconcile and have ceased to engage in or support activities that threaten the peace, stability and security of Afghanistan,

Welcoming the briefings by the **Afghan National Security Advisor and the High Peace Council** to the Committee in March 2015 as a sign of close, ongoing cooperation between the Committee and the **Government of Afghanistan** and encouraging further close cooperation in this regard,

Stressing the central and impartial role that the United Nations continues to play in promoting peace, stability and security in Afghanistan, and expressing its appreciation and strong support for the ongoing efforts of the Secretary-General and his Special Representative for Afghanistan to assist the **High Peace Council's** peace and reconciliation efforts,

Recognizing the threats that the Taliban, illegal armed groups and criminals involved in narcotics trade, and illicit exploitation of natural resources, continue to pose to the security and stability of Afghanistan and urges the **Government of Afghanistan** with the support of the international community to continue to address these threats,

Measures

1. (b) Prevent the entry into or transit through their territories of these individuals, provided that nothing in this paragraph shall oblige any State to deny entry or require the departure from its territories of its own nationals and this paragraph shall not apply where entry or transit is necessary for the fulfilment of a judicial process or the Committee determines on a case-by-case basis only that entry or transit is justified, including where this directly relates to supporting efforts by **the Government of Afghanistan** to promote reconciliation;
15. Encourages Member States to exchange information expeditiously with other Member States, in particular the **Government of Afghanistan** and States of origin, destination, and transit, and with the Committee, when they detect the travel of listed individuals;
19. Underlines the importance of a comprehensive political process in Afghanistan to support peace and reconciliation among all Afghans, invites the **Government of Afghanistan**, in close coordination with the **High Peace Council**, to submit for the Committee's consideration the names of listed individuals for whom it confirms travel to such specified location or locations is necessary to participate in meetings in support of peace and reconciliation, and requires such submissions to include, to the extent possible, the following information:
 21. Requests the **Government of Afghanistan**, through the Monitoring Team, to provide to the Committee, for its consideration and review, a report on each individual's travel under a granted exemption, promptly upon the exemption's expiration, and encourages relevant Member States to provide information to the Committee, as appropriate, on any instances of non-compliance;
 23. Encourages all Member States, in particular the **Government of Afghanistan**, to submit to the Committee for inclusion on the List names of individuals, groups, undertakings and entities participating, by any means, in the financing or support of acts or activities described in paragraph 2 above;

29. Strongly urges Member States, when considering the proposal of a new listing, to consult with the **Government of Afghanistan** on the listing prior to submission to the Committee to ensure coordination with the Government of Afghanistan's peace and reconciliation efforts, and encourages all Member States considering the proposal of a new listing to seek advice from UNAMA, where appropriate;

30. Decides that the Committee shall, after publication but within three working days after a name is added to the List, notify the **Government of Afghanistan, the Permanent Mission of Afghanistan**, and the Permanent Mission of the State(s) where the individual or entity is believed to be located and, in the case of non-Afghan individuals or entities, the State(s) of which the person is believed to be a national; and further decides that the relevant Member State(s) shall take all possible measures, in accordance with their domestic laws and practices, to notify or inform in a timely manner the listed individual or entity of the listing and to include with this notification the narrative summary of reasons for listing, a description of the effects of listing, as provided in the relevant resolutions, the Committee's procedures for considering delisting requests, and the provisions of resolution 1452 (2002), as amended by resolution 1735 (2006), regarding available exemptions;

Delisting

31. Directs the Committee to remove expeditiously individuals and entities on a case-by-case basis that no longer meet the listing criteria outlined in paragraph 2 above, and requests that the Committee give due regard to requests for removal of individuals who have reconciled, in accordance with the 20 July 2010 Kabul Conference Communiqué on dialogue for all those who renounce violence, have no links to international terrorist organizations, including Al-Qaida, respect the constitution, including its human rights provisions, notably the rights of women, and are willing to join in building a peaceful Afghanistan, and as further elaborated in the principles and outcomes of the 5 December 2011 Bonn Conference Conclusions supported by the **Government of Afghanistan** and the international community;

32. Strongly urges Member States to consult with **the Government of Afghanistan** on their delisting requests prior to submission to the Committee, to ensure coordination with the **Government of Afghanistan's** peace and reconciliation efforts;

34. Encourages UNAMA to support and facilitate cooperation between the **Government of Afghanistan** and the Committee to ensure that the Committee has sufficient information to consider delisting requests, and directs the Committee to consider delisting requests in accordance with the following principles, where relevant:

(a) Delisting requests concerning reconciled individuals should, if possible, include a communication from the **High Peace Council** through the **Government of Afghanistan** confirming the reconciled status of the individual according to the reconciliation guidelines, or, in the case of individuals reconciled under the Strengthening Peace Programme, documentation

attesting to their reconciliation under the previous programme, as well as current address and contact information;

(b) Delisting requests concerning individuals who formerly held positions in the Taliban regime prior to 2002 who no longer meet the listing criteria outlined in paragraph 2 of this resolution should, if possible, include a communication from the **Government of Afghanistan** confirming that the individual is not an active supporter of, or participant in, acts that threaten the peace, stability and security of Afghanistan, as well as current address and contact information;

35. Urges the Committee, where appropriate, to invite a representative of the **Government of Afghanistan** to appear before the Committee to discuss the merits of listing or delisting certain individuals, groups, undertakings, and entities, including when a request by the Government of Afghanistan has been put on hold or rejected by the Committee;

36. Requests all Member States, but particularly the Government of Afghanistan, to inform the Committee if they become aware of any information indicating that an individual, group, undertaking or entity that has been delisted should be considered for listing under paragraph 1 of this resolution, and further requests that the **Government of Afghanistan** provide to the Committee an annual report on the status of reportedly reconciled individuals who have been delisted by the Committee in the previous year;

37. Directs the Committee to consider expeditiously any information indicating that a delisted individual has returned to activities set forth in paragraph 2, including by engaging in acts inconsistent with paragraph 31 of this resolution, and requests the **Government of Afghanistan** or other Member States, where appropriate, to submit a request to add that individual's name back on the list;

38. Confirms that the Secretariat shall, as soon as possible after the Committee has made a decision to remove a name from the List, transmit the decision to the **Government of Afghanistan and the Permanent Mission of Afghanistan** for notification, and the Secretariat should also, as soon as possible, notify the Permanent Mission of the State(s) in which the individual or entity is believed to be located and, in the case of non-Afghan individuals or entities, the State(s) of nationality, and recalls its decision that States receiving such notification take measures, in accordance with domestic laws and practices, to notify or inform the concerned individual or entity of the delisting in a timely manner;

Review and maintenance of the List

39. Recognizes that the ongoing conflict in Afghanistan, and the urgency that the **Government of Afghanistan** and the international community attach to a peaceful political solution to the conflict, requires timely and expeditious modifications to the List, including the addition and removal of individuals and entities, urges the Committee to decide on listing and delisting requests in a timely manner, requests the Committee to review each entry on the list on a regular basis, including, as appropriate, by means of reviews of individuals considered to be

reconciled, individuals whose entries lack identifiers, individuals reportedly deceased, and entities reported or confirmed to have ceased to exist, directs the Committee to review and amend its guidelines for such reviews, as appropriate, and requests the Monitoring Team to circulate to the Committee every twelve months a list compiled in consultation with the respective designating States and States of residence, in particular the **Government of Afghanistan**, as well as States of nationality, location or incorporation, where known, of:

(a) Individuals on the List whom the Afghan Government considers to be reconciled along with relevant documentation as outlined in paragraph 34 (a);

Cooperation with the Government of Afghanistan

48. Welcomes periodic briefings from the **Government of Afghanistan** on the content of the list, as well as on the impact of targeted sanctions on deterring threats to the peace, stability and security of Afghanistan, and supporting Afghan-led reconciliation; and underlines that continued and close cooperation between the **Government of Afghanistan** and the Committee will contribute to further enhance efficiency and effectiveness of the regime;

49. Encourages continued cooperation among the Committee, the **Government of Afghanistan**, and UNAMA, including by identifying and providing detailed information regarding individuals and entities participating in the financing or support of acts or activities set forth in paragraph 2 of this resolution, and by inviting UNAMA representatives to address the Committee and further encourages UNAMA within its existing mandate, resources, and capacity to continue to provide logistical support and security assistance to the Monitoring Team for its work in Afghanistan;

50. Welcomes the **Government of Afghanistan's** desire to assist the Committee in the coordination of listing and delisting requests and in the submission of all relevant information to the Committee;

54. Encourages UNAMA to provide assistance to the **High Peace Council**, at its request, to encourage listed individuals to reconcile;

Annex

In accordance with paragraph 51 of this resolution, the Monitoring Team shall operate under the direction of the Committee and shall have the following responsibilities:

(k) To consult with the Committee, the **Government of Afghanistan**, or any relevant Member States, as appropriate, when identifying individuals or entities that could be added to, or removed from, the List;

(m) To collate, assess, monitor and report on and make recommendations regarding implementation of the measures, including by key **Afghan government institutions** and any capacity assistance requirements; to pursue case studies, as appropriate; and to explore in depth any other relevant issues as directed by the Committee;

t) To consult with the **Government of Afghanistan**, Member States, relevant representatives of the private sector, including financial institutions and relevant non-financial businesses and professions, and with relevant international organizations, including the Financial Action Task Force (FATF) and its regional bodies, to raise awareness of the sanctions and to assist in the implementation of the measures in accordance with FATF Recommendation 6 on asset freezing and its related guidance;

(u) To consult with the **Government of Afghanistan**, Member States, relevant representatives of the private sector and other international organizations, including International Civil Aviation Organization (ICAO), the International Air Transport Association (IATA), the World Customs Organization (WCO), and INTERPOL to raise awareness of and learn about the practical implementation of the travel ban, including the use of advanced passenger information provided by civil aircraft operators to Member States, and assets freeze and to develop recommendations for the strengthening of the implementation of these measures;

(v) To consult with the **Government of Afghanistan**, Member States, international and regional organizations and relevant representatives of the private sector on the threat posed by improvised explosive devices (IEDs) to peace, security and stability in Afghanistan, to raise awareness of the threat and to develop, in line with their responsibilities under annex (a), recommendations for appropriate measures, to counter this threat;

(cc) To gather information, including from the **Government of Afghanistan** and relevant Member States, on travel that takes place under a granted exemption, pursuant to paragraphs 19 and 20, and to report to the Committee, as appropriate;

Measures

19. Underlines the importance of a comprehensive political process in Afghanistan to support peace and reconciliation among all Afghans, invites the **Government of Afghanistan**, in close coordination with the **High Peace Council**, to submit for the Committee's consideration the names of listed individuals for whom it confirms travel to such specified location or locations is necessary to participate in meetings in support of peace and reconciliation, and requires such submissions to include, to the extent possible, the following information:

21. Requests the **Government of Afghanistan**, through the Monitoring Team, to provide to the Committee, for its consideration and review, a report on each individual's travel under a granted exemption, promptly upon the exemption's expiration, and encourages relevant Member States to provide information to the Committee, as appropriate, on any instances of non-compliance;

23. Encourages all Member States, in particular the **Government of Afghanistan**, to submit to the Committee for inclusion on the List names of individuals, groups, undertakings and entities participating, by any means, in the financing or support of acts or activities described in paragraph 2 above;

29. Strongly urges Member States, when considering the proposal of a new listing, to consult with the **Government of Afghanistan** on the listing prior to submission to the Committee to ensure coordination with the Government of Afghanistan's peace and reconciliation efforts, and encourages all Member States considering the proposal of a new listing to seek advice from UNAMA, where appropriate;

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(m) To collate, assess, monitor and report on and make recommendations regarding implementation of the measures, including by key **Afghan government institutions** and any capacity assistance requirements; to pursue case studies, as appropriate; and to explore in depth any other relevant issues as directed by the Committee;

(t) To consult with the **Government of Afghanistan**, Member States, relevant representatives of the private sector, including financial institutions and relevant non-financial businesses and professions, and with relevant international organizations, including the Financial Action Task Force (FATF) and its regional bodies, to raise awareness of the sanctions and to assist in the implementation of the measures in accordance with FATF Recommendation 6 on asset freezing and its related guidance;

(u) To consult with the **Government of Afghanistan**, Member States, relevant representatives of the private sector and other international organizations, including International Civil Aviation Organization (ICAO), the International Air Transport Association (IATA), the World Customs Organization (WCO), and INTERPOL to raise awareness of and learn about the practical implementation of the travel ban, including the use of advanced passenger information provided by civil aircraft operators to Member States, and assets freeze and to develop recommendations for the strengthening of the implementation of these measures;

(v) To consult with the **Government of Afghanistan**, Member States, international and regional organizations and relevant representatives of the private sector on the threat posed by improvised explosive devices (IEDs) to peace, security and stability in Afghanistan, to raise awareness of the threat and to develop, in line with their responsibilities under annex (a), recommendations for appropriate measures, to counter this threat;

(cc) To gather information, including from the **Government of Afghanistan** and relevant Member States, on travel that takes place under a granted exemption, pursuant to paragraphs 19 and 20, and to report to the Committee, as appropriate;