



Security Council

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Letter dated 30 December 2021 from the Chair of the Security Council Committee pursuant to resolutions [1267 \(1999\)](#), [1989 \(2011\)](#) and [2253 \(2015\)](#) concerning Islamic State in Iraq and the Levant (Da'esh), Al-Qaida and associated individuals, groups, undertakings and entities addressed to the President of the Security Council

I have the honour to transmit herewith the report of the Analytical Support and Sanctions Monitoring Team pursuant to Security Council resolutions [1526 \(2004\)](#) and [2253 \(2015\)](#) concerning Islamic State in Iraq and the Levant (ISIL) (Da'esh), Al-Qaida and the Taliban and associated individuals and entities regarding assets freeze exemptions procedures, which was submitted to the Security Council Committee pursuant to resolutions [1267 \(1999\)](#), [1989 \(2011\)](#) and [2253 \(2015\)](#) concerning Islamic State in Iraq and the Levant (Da'esh), Al-Qaida and associated individuals, groups, undertakings and entities in accordance with paragraph 2 of resolution [2560 \(2020\)](#).

I should be grateful if the present letter and the report were brought to the attention of the members of the Security Council and issued as a document of the Council.

(Signed) Trine **Heimerback**
Chair

Security Council Committee pursuant to resolutions
[1267 \(1999\)](#), [1989 \(2011\)](#) and [2253 \(2015\)](#) concerning
Islamic State in Iraq and the Levant (Da'esh), Al-Qaida
and associated individuals, groups, undertakings and entities



Report of the Analytical Support and Sanctions Monitoring Team regarding assets freeze exemption procedures pursuant to Security Council resolution 2560 (2020)

[Original: English]

I. Introduction

1. The Security Council, in its resolution 2560 (2020), requested that the Analytical Support and Sanctions Monitoring Team study the basic and extraordinary exemption procedures set out in paragraphs 81 (a) and (b) of its resolution 2368 (2017) and provide recommendations, within nine months of the adoption of the resolution on 29 December 2020, to the Security Council Committee pursuant to resolutions 1267 (1999), 1989 (2011) and 2253 (2015) concerning Islamic State in Iraq and the Levant (ISIL) (Da'esh), Al-Qaida and associated individuals, groups, undertakings and entities to determine whether or not it was necessary to update the procedures for those exemptions. The present report, which also contains recommendations, is submitted to the Committee in fulfilment of that request.

II. Methodology

2. The Monitoring Team's analysis of the assets freeze exemption process is based on:

(a) Security Council resolutions containing assets freeze requirements and measures regarding exemptions to those requirements;

(b) Committee guidelines for the conduct of its work, most recently amended on 5 September 2018;

(c) Monitoring Team reporting on the assets freeze exemption process, the implementation of assets freeze measures and related Security Council measures;

(d) A review of assets freeze exemption requests submitted to the Committee since 2003;

(e) Responses from 36 Member States to a questionnaire issued by the Team regarding the assets freeze exemption process.

3. On 14 April 2021, the Monitoring Team emailed a questionnaire to a subset of 58 Member States, seeking input for the present report; the full text of the questionnaire is provided in annex I. A list of the Member States that received the questionnaire and a list of those that responded to it are contained in annex II.

4. In the questionnaire the Committee requested information on Member State implementation of assets freeze measures under resolution 2368 (2017) and related resolutions, and on whether exemptions to those measures had been sought. The group of Member States that received the questionnaire comprised:

(a) All members of the Committee;

(b) Member States identified as designating States of individuals, groups, undertakings and entities listed on the ISIL (Da'esh) and Al-Qaida sanctions list;

(c) Member States identified as the country of nationality, country of residence or area of activity of an individual or entity listed on the ISIL (Da'esh) and Al-Qaida sanctions list.

5. Although States were initially given two months to respond, the Monitoring Team, with the support of the Secretariat, followed up several times regarding participation in the questionnaire and continued to accept responses until September 2021.
6. Some of the analysis necessitated the review of paper-based archives dating back to 2003, many of which had not been digitized. The Monitoring Team noted instances in which records appeared to be missing or incomplete or in which Member States might not have supplied detailed information to accompany exemption requests at the time of submission. On balance, such gaps were not assessed as having a material impact on the analysis presented in the present report.
7. The Monitoring Team acknowledges the work carried out by its predecessors to examine the issue, in particular in 2011 when the Team was similarly tasked with studying the Committee's procedures for granting exemptions and with providing recommendations on how the Committee could improve the process (see resolution [1989 \(2011\)](#), para. 57).
8. Finally, it should be noted that the present report concerns assets freeze exemptions and related information limited to the sanctions regime pursuant to resolution [1267 \(1999\)](#). It is important for the Committee to be aware that any changes to the exemption process, including definitions and timetables for the consideration of exemption requests and reporting requests of Member States, may have an impact on other sanctions programmes, in particular those under the purview of the Security Council Committee established pursuant to resolution [1988 \(2011\)](#).

III. Security Council measures concerning assets freezes and exemptions

9. Assets freeze measures allowing for humanitarian exemptions were expressed initially by the Security Council in its resolution [1267 \(1999\)](#) and subsequently in other resolutions. In its resolution [1267 \(1999\)](#) the Council required that Member States freeze funds and other financial resources, including funds derived or generated from property owned or controlled directly or indirectly by the Taliban, except as may be authorized by the Committee on a case-by-case basis on the grounds of humanitarian need.
10. The Security Council built on this premise in subsequent resolutions, with additional requirements and governance regarding the exemption process:
 - (a) Resolution [1333 \(2000\)](#). The Council expanded the scope of the assets freeze to include Al-Qaida and directed the Committee to establish a list, based on information provided by States and regional organizations, of the individuals and entities designated as being associated with Usama bin Laden, including those in the Al-Qaida organization. It required for the first time that Member States freeze without delay funds and other financial assets belonging to Al-Qaida and other listed individuals;
 - (b) Resolution [1390 \(2002\)](#). The Council requested the Committee to update regularly the sanctions list and requested all States to report to the Committee, no later than 90 days from the date of adoption of the resolution, and thereafter according to a timetable to be proposed by the Committee, on the steps that they had taken to implement the sanctions measures;
 - (c) Resolution [1452 \(2002\)](#). The Council introduced the definition of basic expenses and the requirement that the Committee make a decision regarding basic exemption requests within 48 hours. No time frame was established for determining

exemption requests for extraordinary expenses. The Council also decided that States might allow for the accrual or payment of interest to frozen funds as well as payments due under contracts, agreements or obligations that had arisen prior to an individual or entity becoming subject to sanctions. It further decided that the Committee should maintain and regularly update a list of States that have notified the Committee of their intention to apply the provisions of the resolution to allow for exemptions to the assets freeze and ceased the exception contained in paragraph 4 (b) of resolution [1267 \(1999\)](#) authorized by the Committee on a case-by-case basis on the grounds of humanitarian need;

(d) Resolution [1455 \(2003\)](#). The Council called upon all States to submit an updated report to the Committee, no later than 90 days from the adoption of the resolution, on all steps taken to implement assets freeze measures and all related investigations and enforcement actions, including a comprehensive summary of the frozen assets of listed individuals and entities within Member State territories, unless doing so would compromise investigations or enforcement actions;

(e) Resolution [1526 \(2004\)](#). The Council requested all States that had not yet done so to submit to the Committee by 31 March 2004 the updated reports called for in paragraph 6 of resolution [1455 \(2003\)](#);

(f) Resolution [1735 \(2006\)](#). The Council extended the Committee's review period for exemptions for basic expenses to three working days, reiterated that the Committee must make a negative decision¹ on notifications submitted pursuant to paragraph 1 (a) of resolution [1452 \(2002\)](#) and encouraged States that submit exemption requests to report in a timely way on the use of such funds, with a view to preventing them from being used to finance terrorism;

(g) Resolution [1989 \(2011\)](#). The Council encouraged Member States to make use of the exemption provisions set out in paragraphs 1 and 2 of resolution [1452 \(2002\)](#), as amended by resolution [1735 \(2006\)](#), and directed the Committee to review the procedures for exemptions as set out in the Committee's guidelines in order to facilitate their use by Member States and to continue to ensure that exemptions be granted expeditiously and transparently;

(h) Resolution [2083 \(2012\)](#). The Council again encouraged Member States to make use of the exemption provisions and authorized the focal point mechanism established pursuant to resolution [1730 \(2006\)](#) to receive exemption requests for consideration by the Committee. The addition of the focal point to the exemption process was intended to enhance fairness and transparency;

(i) Resolution [2161 \(2014\)](#). The Council set forth conditions for the use of frozen assets in cases of exemptions to the travel ban;

(j) Resolution [2253 \(2015\)](#). The Council called upon Member States to submit an updated report, no later than 120 days from the date of adoption of the resolution, regarding their implementation of assets freeze and related measures;

(k) Resolution [2368 \(2017\)](#). The Council set out the measures under which the Committee currently operates, as expressed in paragraphs 10, 81 (a) (on basic expenses) and 81 (b) (on extraordinary expenses). It also extended the review period for the consideration of extraordinary exemptions to the assets freeze from three to five days.

¹ A negative decision is one that all 15 members of the Committee oppose; a positive decision requires the support of all 15 members.

IV. Reporting of assets freeze actions by Member States

11. Analysis of the assets freeze exemption process is predicated on an understanding of how Member States are and have been implementing assets freeze measures. The Monitoring Team has noted in several recent reports and recommendations that Member States are not obliged to inform the Committee when assets freeze actions are taken pursuant to resolution 2368 (2017) and related resolutions (see S/2021/68, paras. 98 and 99; and S/2020/53, paras. 98–101). As noted above, the Council, in its resolutions 1455 (2003) and 2253 (2015), called upon States to submit reports to the Committee on all steps taken to implement assets freeze measures, unless doing so would compromise an investigation or enforcement action.

12. Those reports provided important information regarding the implementation of assets freeze measures between July 2003, when the first report was submitted pursuant to resolution 1455 (2003), and approximately December 2012, when the Monitoring Team submitted its thirteenth report (see S/2012/968). Between 2003 and 2012, the Committee received reports from 157 Member States, mostly between 2003 and 2005. In its report of November 2007, the Team stated that approximately \$85 million remained frozen by 36 Member States under the sanctions regime pursuant to resolution 1267 (1999) (see S/2007/677, para. 57).² That report was the last in which a monetary total of assets frozen was reported.

13. In some of its reports from that period the Monitoring Team highlighted challenges associated with persuading States that had not yet reported to provide information pursuant to resolution 1455 (2003). Reporting fatigue among Member States was cited as a factor (see S/2012/968, annex III, para. 5). It was noted in another report that requests for implementation reports applied to all States but had proven unpopular with many because of the administrative burdens that they imposed (see S/2007/677, para. 63).

14. In paragraph 17 of its resolution 1617 (2005), the Security Council called upon the Committee to provide it with an updated written assessment of actions taken by Member States to implement the assets freeze measures, among others (see S/2006/1046). It also called upon Member States to use a checklist, provided as an annex to the resolution, to report to the Committee on specific actions taken regarding assets freeze and other measures. The Monitoring Team noted in subsequent reports that the adoption of the checklist was not widespread among Member States. In total, 62 checklists had been received as of December 2012 (see S/2012/968, annex III, para. 5).

V. Assets freeze exemption process

15. Assets freeze exemption requests are received and processed by the Committee in two ways:

(a) A Member State may write to the Committee, informing it of its intention to authorize access to assets by listed parties for basic expenses or its intention to authorize the release of such funds in the case of extraordinary expenses:

(i) Exemption requests for basic expenses according to paragraph 81 (a) of resolution 2368 (2017) are approved within three working days in the absence

² The Analytical Support and Sanctions Monitoring Team reported an estimated \$85 million in frozen assets, which was lower than the \$91.4 million reported in its sixth report: “The reduction reflects the action of one State’s discovery that assets it had reported frozen did not in fact belong to a listed party, and the deduction of Taliban assets that had been frozen but were later released to the Afghan Government”.

of a negative decision. Because the Committee operates primarily by consensus, this means that notifications regarding basic expenses are considered approved unless opposed by all members of the Committee;

(ii) The Committee's guidelines allow for the possibility, in the case of insufficient information, of not applying the three-day window, because the Committee, through the Secretariat, will immediately acknowledge receipt of the notification, except in instances in which the information provided is insufficient, in which case the Secretariat will declare that a decision cannot be made until such information is provided. Neither the relevant resolutions nor the guidelines contain specifications on the length of time within which additional information must be received, or how to address the status of requests should the information not be forthcoming;

(iii) In the case of exemption requests from Member States for extraordinary expenses, it is stated in paragraph 81 (b) of resolution 2368 (2017) that the Committee will approve them within five working days. Nevertheless, in such cases the Committee requires a positive decision, i.e. approval by the entire Committee. Exemptions for extraordinary expenses are therefore denied if a single Committee member objects. The guidelines contain no information regarding instances in which information received in support of an extraordinary exemption request is insufficient;

(b) A listed individual or entity may submit a request for an exemption to the assets freeze to the Committee through to the focal point mechanism established pursuant to resolution 1730 (2006), provided that the request has first been submitted for the consideration of the State of residence. The procedure and timetable for the consideration of exemption requests submitted through the focal point are distinct from those of requests submitted pursuant to paragraphs 81 (a) and (b) of resolution 2368 (2017). In brief, cases submitted through the focal point are subject to the decision-making rules of the Committee described under section 4 (a), (b), (e), (j) and (k) of the guidelines. This has the unintended consequence of establishing a different process for exemption requests brought by the focal point.³ Exemption requests through the focal point mechanism represent a small fraction of the total number of exemption requests, as described below.⁴

A. Definitions of basic and extraordinary expenses

16. Basic expenses are defined in paragraph 1 (a) of resolution 1452 (2002), as amended by paragraph 15 of resolution 1735 (2006) and paragraph 81 (a) of resolution 2368 (2017), as well as section 11 (d) of the Committee's guidelines as including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums and public utility charges, or payment of reasonable professional fees and reimbursement of incurred expenses associated with

³ The Committee's guidelines for general decision-making provide that, according to paragraphs 4 (a), (b), (e), (j) and (k), decisions are subject to a "no objection" procedure of five full working days and the possibility of a six-month followed by a three-month hold. Since the Committee ensures that no matter is left pending for a period longer than is provided for by a relevant resolution (see para. 4 (j)), the general procedure above does not apply to the exemptions set out in paragraph 81 of resolution 2368 (2017).

⁴ It should be noted that there appears to be a typographical error in paragraph 10 of resolution 2368 (2017). The paragraph refers, *inter alia*, to the focal point mechanism governing assets freeze and travel ban exemptions that is described in paragraph 82 of the resolution and not, as stated in paragraph 10, in paragraph 81. Previous resolutions containing similar language referenced the equivalent of paragraph 82 (see paras. 8 and 37 of resolution 2083 (2012), paras. 9 and 62 of resolution 2161 (2014) and paras. 10, 75 and 76 of resolution 2253 (2015)).

the provision of legal services or fees or service charges for the routine holding or maintenance of frozen funds or other financial assets or economic resources, after notification by the relevant State or States to the Committee.

17. Extraordinary expenses are defined in paragraph 75 (b) of resolution [2253 \(2015\)](#) and reiterated in 81 (b) of resolution [2368 \(2017\)](#) as being those other than basic expenses.

B. Application form for exemption requests

18. The Committee website contains a template that is available to Member States seeking exemptions to an assets freeze.⁵ It explains briefly the process described above and prompts Member States to provide information regarding the nature and purpose of the payment, whether for basic or extraordinary expenses, as well as bank account information, the start date of the payment, the payment frequency, the number of instalments and the form of payment. Although the template provides a guide for Member States that submit exemption requests to the Committee, its use is not widespread, and the information requested in the form is not mandated.

VI. Monitoring Team reporting on the assets freeze exemption process

19. In reports dating back to 2003 the Monitoring Team regularly provided detailed information on the assets freeze exemption process, including compliance challenges and recommendations for improving the process and the sharing of information with the Committee. Key highlights of the reports include the following:

(a) As of January 2006, the Committee had received 29 requests for exemptions involving 23 individuals and two entities, 25 of which were approved. The Team noted in its fourth report that, while there were 345 individuals on the sanctions list, requests under resolution [1452 \(2002\)](#) had been made for just 23 persons and by only eight States. Even assuming that the whereabouts of a large number of listed persons remained unknown, it appeared that many States had ignored the resolution and simply allowed basic expenses for the listed persons. Therefore, while listed persons were clearly entitled to basic necessities such as food and shelter, the Team recommended that the Committee do more to emphasize the obligatory nature of the requirement in the resolution for reporting and approval (see [S/2006/154](#), para. 57);

(b) It is worth noting that, in August 2006, the Committee transmitted to the Security Council the outcome of its consideration of the recommendations made by the Team in its fourth report. With respect to the Team's recommendations regarding the definition of assets freezing, the location in which frozen funds should be held, as well as the procedure for notifying the Committee following the freezing of bank accounts, the Committee felt that such issues rested within the purview of national determination. However, the Committee did not exclude the possibility of revisiting the subject in the future (see [S/2006/635](#), para. 10);

(c) In its fifth report, the Team noted an increase in exemption requests but highlighted continuing challenges on expanding the use of the exemption measures to other Member States. It also noted that the 48-hour window for considering requests by the Committee was too short (see [S/2006/750](#), para. 58);

⁵ See www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/template_for_assets_freeze_exemption_request_-_e.pdf.

(d) The Team noted in its sixth report that some States bluntly conceded that they had unfrozen assets for fear that their requests would be denied or delayed (see [S/2007/132](#), para. 48);

(e) In 2009, the Team recommended that, rather than maintain a system that was consistently ignored or observed only by States that were likely to be among the more scrupulous in terms of overall implementation, the Council should consider reviewing resolution [1452 \(2002\)](#) to oblige States to seek agreement from the Committee before allowing an exemption for extraordinary expenses, as at present, but otherwise permit States to decide themselves what is appropriate by national standards to allow for basic expenses (see [S/2009/245](#), para. 71). This view was reiterated in subsequent reports by the Team, although it was not acted upon by the Committee;

(f) In 2012, the Team noted in its twelfth report that, in paragraph 57 of resolution [1989 \(2011\)](#), it was directed to review Committee procedures for granting exemptions to the assets freeze and provide recommendations for how the Committee could improve the process for granting such exemptions (see [S/2011/728](#), para. 18). The review, submitted in November 2011 pursuant to resolution [1989 \(2011\)](#), described the “essential dilemma” faced by the Council as both recognizing the need for exemptions for approved expenditure and being reluctant to give Member States carte blanche to decide independently what may be authorized: “The result is a system that is more honoured in the breach than the observance, satisfying neither the demand for a proper and effective procedure for granting exemptions, nor for a rigorous implementation of the sanctions measures”;

(g) In later reports the Team similarly lamented the lack of compliance with the exemption process. In its seventeenth report, issued in June 2015, it acknowledged that, while not all listed individuals would have an exemption application associated with their listing, in cases in which the locations are known it was difficult to understand how they could operate without any exempted finances. The Team asked how they would eat, pay for accommodation or, if they owned property, cover utility expenses alone. Under such circumstances, a legitimate question to ask was whether the State of residence was properly and fully implementing the Al-Qaida sanctions obligation. If the State of residence was allowing expenditure in breach of the assets freeze, that could constitute a breach of the obligations under the Al-Qaida sanctions regime (see [S/2015/441](#), paras. 55 and 56).

VII. Exemption requests: data from 2003 to present

20. The Monitoring Team reviewed all available data regarding assets freeze exemption requests from 2003, shortly before the Team was established pursuant to resolution [1526 \(2004\)](#), to the present (see figures I and II) and noted the following:

(a) From 2003 to August 2021, there were 202 requests for exemptions to the assets freeze, including 4 requests through the focal point mechanism.⁶ The requests concerned exemptions for approximately 80 individuals and six entities, although it should be noted that some exemption requests were submitted more than once for the same individual or entity;

(b) The requests were made by a total of 15 Member States. A list of those Member States is provided in confidential annex IV (not attached). Most exemption

⁶ The total includes one exemption request submitted in 2004 on behalf of an individual who was later designated pursuant to resolution [1988 \(2011\)](#); the individual was subsequently delisted. Between 2003 and 2011, there were no other known cases of exemptions submitted for individuals subsequently listed under resolution [1988 \(2011\)](#).

requests were submitted between 2004 and 2010, with an average of approximately 22 requests annually. Requests between 2011 and 2021 fell to an average of just under four annually. In some cases, for instance in 2013 and 2017, only one request was submitted. There was a modest increase in 2019, with 10 exemption requests submitted;

(c) There were 175 exemption requests for basic expenses, including 2 made through the focal point; 154 were approved, including 1 of the requests submitted through the focal point; 13 were denied; 6 were withdrawn; and 2 are listed as being on hold or suspended, 1 of which was submitted by the focal point in 2020;

(d) There were 27 exemption requests for extraordinary expenses or for expenses that were initially submitted as basic and resubmitted as extraordinary; 17 were approved. In most cases, the approved extraordinary expenses were for payments of court fines, travel by family members and purchases of either property or vehicles. Denied requests were mostly for unspecified expenditure, private education for children, loans to purchase homes and children's wedding expenses;

(e) Of the 202 requests, 117 were categorized as recurring, although in some cases it was not possible to determine with accuracy the frequency of the recurring payment;

(f) Of the approximately 80 individuals and six entities for which the Committee processed exemption requests, 52 were subsequently delisted;

(g) A total of 30 individuals who are currently listed would appear to be receiving recurring payments on the basis of exemption requests submitted between 2004 and 2021. No currently listed entity has been reported to the Committee as receiving recurring payments. The 30 individuals amount to just over 10 per cent of the current pool of 260 listed individuals.⁷ A list of the individuals by designation code is provided in confidential annex V (not attached);

(h) Recurring payments range from \$50 per month (typically associated with individuals reported to be in custody) to \$13,000 per month. There are currently nine cases of individuals who would appear to be receiving \$5,000 or more per month;

(i) Because Member States are not required or requested to provide regular updates on the status of exemptions to the assets freeze, it is not possible to know whether the 30 individuals that are currently listed are continuing to receive funds in this manner. There are three cases of listed individuals who are subject to assets freeze exemptions and were deported from one country to another. No information exists regarding the current status of the exemptions approved by the Committee following the deportations;

(j) It is difficult to determine the total value of both recurring and lump sum assets freeze exemptions because of incomplete information provided by Member States and the possibility of currency fluctuations over time. On the basis of available information, it would appear that lump sum or non-recurring exemptions amount to a total of approximately \$4.2 million.

⁷ The total is current as at 12 September 2021.

Figure I
Assets freeze exemption requests, by year (2003–2021)

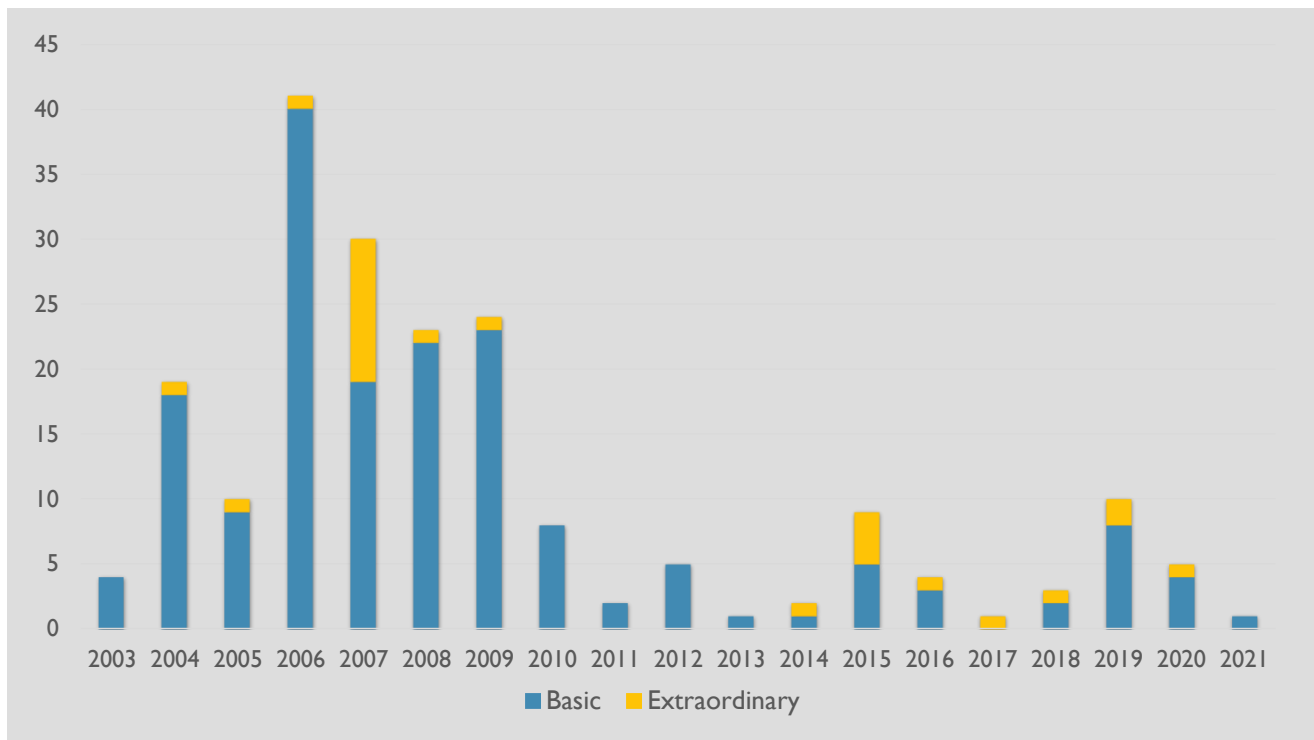
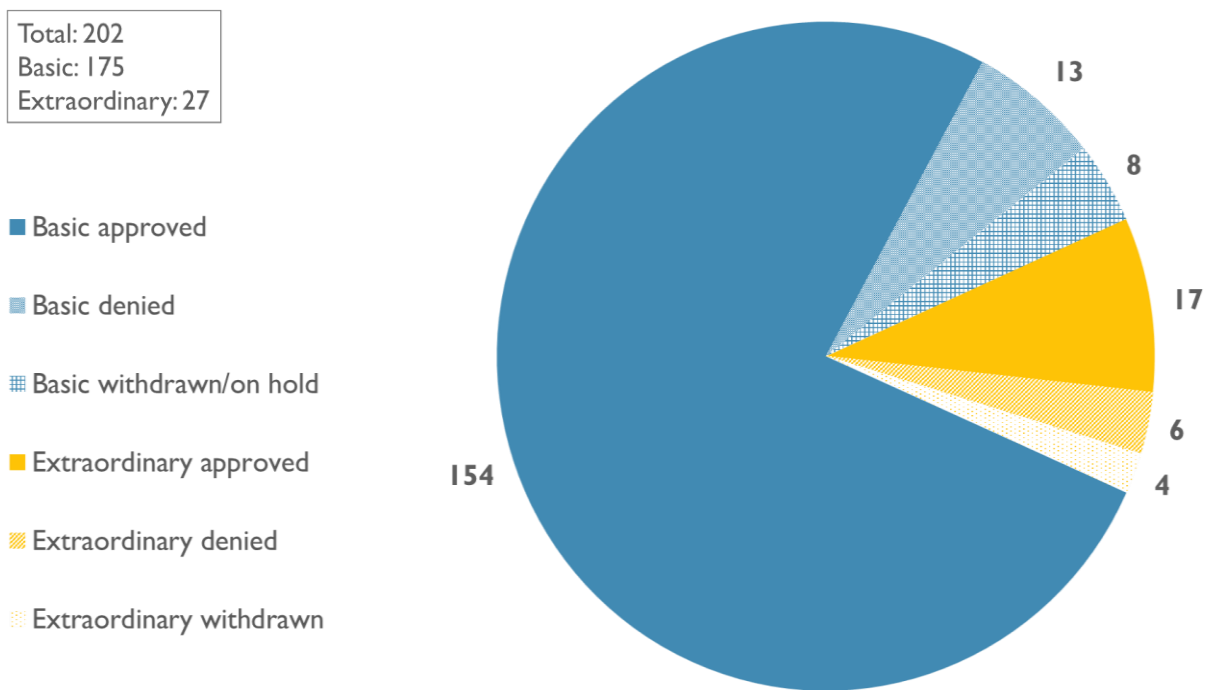


Figure II
Assets freeze exemption requests



VIII. Member State responses to the questionnaire

21. The following is a summary of Member State responses to the questionnaire circulated in April 2021, broken down by topic:

(a) Assets freeze requirements incorporated into national legislation: all Member States that responded reported that assets freeze requirements had been incorporated into their national legislation by means of orders, regulations or other mechanisms that established the requirement to implement assets freezing in accordance with Security Council mandates;

(b) Requests submitted for basic and extraordinary expense exemptions: of the 36 Member States that responded, only 10 reported submitting exemption requests for basic expenses and only 3 reported doing so for extraordinary expenses. In some cases, the Member State replied that no exemption requests had been submitted in the past five years, implying that records for such requests dating back beyond five years were difficult to obtain. In other cases, Member States replied that they simply did not know whether such requests had been submitted (as noted above, Monitoring Team records indicate that 15 Member States have communicated with the Committee regarding exemptions to the assets freeze);

(c) Use of the form for submissions: one Member State reported using the form for submissions, although several reported using it as a reference for a note verbale that was submitted to the Committee;

(d) Exemption measures incorporated into national regulations: only one Member State clearly stated that assets freeze exemption measures had not been incorporated into national legislation; in two cases Member State responses were not clearly expressed. All other responding States reported some mechanism expressed in national regulations or other measures giving effect to the exemption process;

(e) Definitions of basic and extraordinary expenses:

(i) A large majority of responding States reported that national definitions of basic expenses mirrored the definition contained in resolution [1452 \(2002\)](#); no Member State reported variations in the language;

(ii) Five Member States highlighted the issue of education expenses and suggested that the definition of basic expenses be modified to include education expenses and/or living expenses associated with education. One Member State in this context also referred to the issue of expenses for individuals with special needs;

(iii) One Member State suggested that the definition state more clearly that the list of items considered basic should be considered “non-exhaustive” and that other expenses could also be considered basic if they were similar in nature;

(iv) One Member State highlighted the issue of recurring exemptions and stated that it was “critical for the Committee to be notified by the Member State ... about ongoing payments and about any decision taken to end these payments and reasons why”;

(v) One Member State suggested that instalment payments be understood as recurring financial commitments, provided that they were incurred prior to the listing;

(vi) Other examples of expenses that Member States suggested should be considered basic included holiday expenses, travel related to medical treatment, costs associated with private transportation, professional fees and legal services;

(vii) With respect to extraordinary expenses, several States noted that their working definition was effectively “anything other than basic” expenses;

(viii) There were 10 responding States that suggested that further clarification or revision of the definition of “extraordinary” would be helpful. They noted that the existing definition lacked sufficient detail and was “hazy”. One suggested that a “discretionary margin” be added to adapt extraordinary expenses to national systems responsible for the implementation of sanctions under resolution 1267 (1999) and related resolutions. Another State suggested that guidance on what scenarios met the threshold would be helpful;

(f) Exemption procedure for basic expenses:

(i) A majority of responding Member States did not seek changes to the existing process governing exemptions for basic expenses to the assets freeze;

(ii) Four Member States replied that they would recommend changes to the process for obtaining exemptions for basic expenses (the other States either did not seek amendments to the process or stated that they did not apply to them). One Member State recommended adding additional time prior to the Committee’s consideration of the request in order to determine whether the request was basic or extraordinary in nature by following up with the requesting Member State as necessary. That State further recommended that the Committee provide clear criteria on whether the request might be granted or rejected in order to avoid “subjective and complex disputes on a decision” and that the Committee establish a “transparent and accountable system” available to any Member State concerning the decision-making process;

(iii) One Member State recommended that the State be given the authority to disburse the requested sum to the listed individual on a case-by-case basis and to notify the Committee of such information;

(iv) One Member State recommended that the timeline for review of the request be extended and that the “relevant United Nations body” review the validity of the request;

(v) One Member State reported that it had “opted out of this procedure in 2009 due to concerns regarding timeliness and the potential effect on an individual’s human rights”;

(g) Exemption procedure for extraordinary expenses:

(i) A majority of responding Member States did not seek changes to the existing process governing exemptions for extraordinary expenses to the assets freeze;

(ii) Four Member States, however, did seek some modification of the current procedures. One noted again that further clarification on what constituted “extraordinary” was needed. One suggested that the timetable for review be extended and that the “relevant United Nations body” review the validity of the request;

(iii) Two States recommended that the full consensus of the Committee should not be required to make a decision and that either a simple majority or a super majority (11 Member States approving) should suffice;

(h) Timetable for exemption requests under national laws and regulations:

(i) There were 12 Member States that reported that they maintained laws, regulations or related measures in national law concerning decisions on requests for exemptions to assets freezes. The majority mirrored the timetables expressed

in resolution 2368 (2017) and related resolutions. Several, however, specified different timelines;

(ii) One Member State reported taking 15 days to decide on exemption requests for basic expenses and 30 for extraordinary requests; another State reported that, if the request did not receive a response within 15 days, it was considered rejected. One Member State reported that a period of 30 days was taken as a general rule in such cases;

(i) Review of exemption request prior to submission:

(i) Member States were asked whether there was an established mechanism under which they were able to review exemption requests by listed individuals and entities and decide whether to submit them to the Committee. A total of 22 Member States reported some measures in place for such reviews;

(ii) Member States reported that such requests “should be grounded”, otherwise they were not sent to the Committee; in other cases, the requests were initially reviewed by national police or similar bodies. Two Member States cited reviews by an assets freeze committee or national financial intelligence units;

(j) Appeals process for denied exemption requests: approximately half of the responding States reported some type of appeals process related to accessing frozen assets. Several Member States gave details of such a procedure within national legislation or regulations, while others reported a more ad hoc process;

(k) Mechanism for monitoring and reporting on the use of funds:

(i) There were 18 Member States that reported having in place mechanisms for monitoring the use of funds released to listed individuals or entities through the exemption process. Most of the mechanisms took the form of a licensing or permitting system under which the listed party may use the funds only for permitted purposes. Some States noted that monitoring occurred on a case-by-case basis; others reported that the authorities responsible for the implementation of assets freeze measures reviewed expense receipts and were mandated to report to financial intelligence units in cases of non-compliance;

(ii) No Member State reported sharing information with the Committee regarding its efforts to monitor the use of funds released under assets freeze exemptions. One State explicitly rejected the suggestion that it should do so, noting that such a requirement could prove burdensome;

(l) Mechanism for rescinding exemptions: 17 Member States reported that they did not have a mechanism or process for rescinding exemptions to the assets freeze; 18 States did report having in place such a mechanism. Some States in the latter category described a licensing or permitting system under which permits might be revoked should circumstances change. One State reported that “previously granted exemptions can be rescinded only pursuant to an explicit decision to that effect taken by the concerned United Nations entity”;

(m) Additional information:

(i) A total of 10 Member States offered additional observations; several asserted that the current system was working as intended and that no challenges had been identified;

(ii) One State observed that there was insufficient information regarding the freezing of “other economic resources”;

(iii) One State suggested that it would be useful to envision changes to the definition and scope of basic and extraordinary expenses that would be

applicable to all United Nations sanctions regimes, including national measures established under resolution [1373 \(2001\)](#), in order to ensure the consistent implementation of sanctions measures;

(iv) One Member State identified a number of challenges, including the following: practical challenges related to vehicles that are subject to freeze actions; the lack of guidance on whether freezing applies to the assets and economic resources that belong to a natural person who is the official of a legal entity, and how that relates to the rights of partners not subject to the assets freeze; and the extent to which the death of a listed person should be considered grounds for delisting;

(v) One Member State requested technical assistance regarding methods and best practices for requests involving humanitarian exemptions.

IX. Monitoring Team recommendations

22. The recommendations below are offered for the Committee's consideration. As appropriate, the Monitoring Team notes where the recommendations may require amendments to existing Security Council measures (recommendations 1–4) and where they would fall under the Committee's decision-making authority (recommendations 5–10). The recommendations fall under the following categories:

(a) Exemption requests for basic expenses: these are currently presented to the Committee on the basis of the presumption of approval. As noted above, there is a significant gap between the number of exemption requests submitted to the Committee and the number of listed individuals potentially subject to exemptions to the assets freeze, suggesting that this measure is not being implemented effectively. The Team recommends that the Committee consider seeking from the Council a revision of the procedures governing assets freeze exemptions:

- **Recommendation 1.** Request Member States that are subject to approved exemption requests for basic expenses or that receive them from the Committee in the future to report to the Committee annually on the status of those requests, including, in the case of recurring exemptions, the amount of such exemptions;
- **Recommendation 2.** Call upon Member States that are subject to approved exemption requests to monitor the disbursement and use of funds and confirm that the exemption continues to fall within the letter and spirit of the assets freeze exemption;

(b) Exemption requests for extraordinary expenses: these represent a small portion of the requests submitted to the Committee, but are usually for greater sums of money and require additional deliberation on the part of the Committee. The Team recommends that the Committee consider seeking from the Council a revision to the current exemption measures for extraordinary expenses:

- **Recommendation 3.** Establish a review period of up to several weeks upon receipt of an exemption request for extraordinary expenses, within which the Committee could seek additional information from the Member State or focal point submitting the request. This would give the Committee the opportunity to assess the merits of the exemption request before the five-day window for consideration opens and potentially avoid situations in which the request is rejected because it cannot be fully considered in the existing window of five working days;

(c) Clarification and alignment of the focal point process: as noted in paragraph 15 (b), the procedure and timetable for consideration of an exemption

request submitted through the focal point are distinct from those of requests submitted pursuant to paragraphs 81 (a) and (b) of resolution 2368 (2017):

- **Recommendation 4.** Consider amending paragraph 82 of resolution 2368 (2017) to close the gap in how exemption requests are processed by the Committee when submitted by Member States and when submitted through the focal point process. Clarify that focal point requests are subject to the same decision-making by the Committee with respect to timing as requests submitted by Member States (i.e. negative decisions for basic expense exemptions, positive decisions for extraordinary expense exemptions and no holds for either, as explained in paragraph 15 and in recommendation 5). Paragraph 82 should clarify that the focal point will submit the request for the consideration of the State of residence as well as to any other Member State where assets subject to the exemption request are held. In addition, the focal point should be requested to include the recommendations of all concerned Member States when submitting a request to the Committee for a decision;

(d) Amendment of Committee guidelines: the Team recommends that the Committee amend its guidelines to align them with the recommendations above, should they be adopted, as well with the existing resolutions and decision-making process:

- **Recommendation 5.** Amend paragraph 4 (d) of the guidelines to clarify the Committee's decision-making process, in particular that the Committee's full consensus is required to object (a "negative decision") to exemption requests for basic expenses (i.e. 15 objections necessary to be rejected) and that its full consensus (a "positive decision") is necessary to approve exemption requests for extraordinary expenses (i.e. 15 approvals are needed, and one objection is sufficient for the exemption request to be rejected). In this context, the guidelines should also make clear that there is no "holds" process with respect to consideration of assets freeze exemptions, as there is for other decisions by the Committee;
- **Recommendation 6.** Amend paragraph 11 (a) of the guidelines to inform Member States that the definition of basic expenses ("necessary for basic expenses, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums and public utility charges, or exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services, or fees or service charges for routine holding or maintenance of frozen funds or other financial assets or economic resources") is not to be considered exhaustive and may include expenses for items such as telecommunications, transportation and private education in cases in which there is no system for public or free schools, and in a manner consistent with national legislation or regulations regarding basic expense exemptions;
- **Recommendation 7.** Amend paragraph 11 of the guidelines to add who is in the scope of the assets freeze exemption, in particular with respect to family members, noting that the exemption applies to the basic needs of natural or legal persons, entities or bodies and dependent family members⁸ of such natural

⁸ In accordance with Directive 2004/38/EC of the European Parliament and of the Council of the European Union of 29 April 2004, family members may be defined as: (a) the spouse; (b) the partner with whom the European Union citizen has contracted a registered partnership, on the basis of the legislation of a member State, if the legislation of the host member State treats registered partnerships as equivalent to marriage and in accordance with the conditions laid down in the relevant legislation of the host member State; (c) the direct descendants who are under the age of 21 or are dependants and those of the spouse or partner as defined in point (b); and (d) the dependent direct relatives in the ascending line and those of the spouse or partner as defined in point (b).

persons, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums and public utility charges;⁹

- The Committee guidelines should also be amended, as appropriate, to align them with the recommended changes to the focal point process as described above in recommendation 4;

(e) Simplification and consolidation of reporting requests of Member States: the Team is sensitive to concerns regarding “reporting fatigue” and the administrative burdens posed by excessive and at times confusing United Nations reporting requirements:

- **Recommendation 8.** Simplify the reporting process regarding the freezing of assets with a single annual report to the Committee that would incorporate the following elements (a proposed template for the report is contained in annex III):
 - o New or continuing actions related to the implementation of assets freeze requirements contained in paragraph 1 (a) of resolution 2368 (2017) and related resolutions;
 - o Information regarding recurring or ongoing exemptions granted under paragraph 81 (a) (for basic expenses) or, if applicable, under paragraph 81 (b) of resolution 2368 (2017);

(f) Support for Secretariat oversight of records and data related to the exemption process: to ensure the effective oversight, record-keeping and maintenance of internal information associated with individuals and entities on the sanctions list, including assets freezing exemptions, it is important that the Committee and Team have access to current and accurate information:

- **Recommendation 9.** Request that the Secretariat establish a centralized system, or enhance existing systems, to manage workflow and information related to the sanctions list, including the tracking and monitoring of information related to the freezing of assets and assets freeze exemptions as well as information pertaining to listed or delisted individuals. Immediate tasks would be to ensure that historical records, if available, are digitized, searchable and accessible in a database. Subsequent responsibilities could include oversight of Member State reporting of actions related to the assets freezing process, including outreach to Member States and the tracking of responses;

(g) Communication with the Security Council Committee established pursuant to resolution 1988 (2011): the legal basis for Council measures under the purview of the Committee is largely aligned with those of the Security Council Committee established pursuant to resolution 1988 (2011). Changes to Committee guidelines involving the Committee may also be relevant to the Security Council Committee established pursuant to resolution 1988 (2011):

- **Recommendation 10.** The Committee may wish to communicate its decisions with the Security Council Committee established pursuant to resolution 1988 (2011) for its consideration.

⁹ See European Union Council Regulation of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses.

Annex I

Questionnaire

The Security Council requests, in resolution [2560 \(2020\)](#), that the Analytical Support and Sanctions Monitoring Team study the basic and extraordinary exemptions procedures set out in paragraphs 81 (a) and (b) of resolution [2368 \(2017\)](#) and provide recommendations, within nine months of the adoption of the resolution on 29 December 2020, to the Security Council Committee pursuant to resolutions [1267 \(1999\)](#), [1989 \(2011\)](#) and [2253 \(2015\)](#) concerning Islamic State in Iraq and the Levant (Da'esh), Al-Qaida and associated individuals, groups, undertakings and entities to determine whether or not updating those exemptions is required. In support of this objective, the Monitoring Team is circulating this questionnaire to Member States meeting the following criteria:

- All members of the Committee
- All Member States identified as designating States of individuals and entities listed under resolution [1267 \(1999\)](#) and related resolutions
- All Member States identified as the country of nationality, country of residence or area of activity of an individual or entity listed under resolution [1267 \(1999\)](#) and related resolutions

Background

Measures regarding exemptions to the assets freeze are contained in paragraphs 81 (a) (basic expenses) and 81 (b) (extraordinary expenses) of resolution [2368 \(2017\)](#). A detailed description of the process for seeking exemptions to the assets freeze is provided on the website of the Committee.¹

Currently, basic expenses are defined under paragraph 1 (a) of resolution [1452 \(2002\)](#), as amended by paragraph 15 of resolution [1735 \(2006\)](#) and paragraph 81 (a) of resolution [2368 \(2017\)](#), as well as in section 11 (d) of the Committee guidelines as including:

Payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges, or ... payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services, or fees or service charges for routine holding or maintenance of frozen funds or other financial assets or economic resources, after notification by the relevant State(s) to the Committee established pursuant to resolution [1267 \(1999\)](#).

The definition of extraordinary expenses is described in paragraph 81 (b) of resolution [2368 \(2017\)](#) as being those “other than basic expenses”.

Exemptions to asset freezing measures for basic expenses are approved within three working days in the absence of a negative decision by the Committee (i.e. the request is approved unless there is an unanimous objection raised by Committee members). Exemptions to asset freezing measures for extraordinary expenses are approved within five working days but may be denied if a single Committee member objects.

The questions below are put forth by the Monitoring Team in support of our mandated task under resolution [2560 \(2020\)](#) and concern Member State

¹ See www.un.org/securitycouncil/sanctions/1267/exemptions/assetsfreeze.

implementation of asset freezing measures and related exemptions under resolution [1267 \(1999\)](#) and related resolutions.

We request that responses to these requests be provided within 60 days, on or about 15 June 2021.

We further request that Member States email their responses to 1267mt@un.org as either Word or PDF files.

Questions

1. **Is the requirement for freezing assets and other economic resources under resolution [1267 \(1999\)](#) and related resolutions incorporated in some form into your national legislation, regulations, rules or policies?**
 Yes
 No
 If yes, please indicate briefly how the freezing requirements are reflected in your measures
2. **Have you submitted requests to the Committee previously for exemptions to asset freezing measures for basic expenses?**
 Yes
 No
 Do not know
3. **Have you submitted requests to the Committee previously for exemptions to asset freezing measures for extraordinary expenses?**
 Yes
 No
 Do not know
4. **If yes to either of the above questions, have you submitted such exemption requests using the form provided [here](#)?**
5. **Are the measures for seeking exemptions to the assets freeze under resolution [1267 \(1999\)](#) and related resolutions incorporated into national legislation, regulations, rules or policies?**
 Yes
 No
6. **Under your national legislation, regulations, rules, policies or practices, is there an established definition of basic expenses in the context of seeking exemptions to asset freezing measures under resolution [1267 \(1999\)](#)?**
 Yes
 No
 If yes, please provide definition
7. **Under national legislation, rules, regulations or policies, is there an established definition for extraordinary expenses in the context of seeking exemptions to asset freezing measures under resolution [1267 \(1999\)](#)?**
 Yes
 No
 If yes, please provide definition
8. **On the basis of national practices, policies or experience with respect to the implementation of measures under resolution [1267 \(1999\)](#), would you recommend modifications to the existing definition of “basic” expenses as provided in resolution [2368 \(2017\)](#) and referenced above and, if so, how? For example, should the list be amended to include items such as educational or other cost of living expenses?**
9. **On the basis of national practices, policies or experience with respect to the implementation of measures under resolution [1267 \(1999\)](#), would you recommend modifications to the existing definition of “extraordinary”**

expenses as provided in resolution [2368 \(2017\)](#) and referenced above and, if so, how? For example, should there be limitations placed on expenses falling under this category?

10. Do you recommend modifications to the procedure for seeking an exemption for basic expenses (currently decided within three working days after notification and no negative decision by the Committee)?
11. Do you recommend modifications to the procedure for seeking an exemption for extraordinary expenses (currently decided within five working days and full Committee consensus required)?
12. Under national legislation, regulations, rules or policies, is there an established time limit, expressed in working days, within which decisions must be made with respect to granting exemptions to the assets freeze under resolution [1267 \(1999\)](#)?
 Yes
 No
 If yes, please provide time limit/number of days
13. Under national legislation, regulations, rules or policies, is there a mechanism under which you are able to review the exemption request sought by listed individuals and entities and decide whether to submit the exemption request to the Committee?
 Yes
 No
14. Under national legislation, regulations, rules or policies, is there an established mechanism by which applicants can appeal a decision to deny an exemption request, whether for basic or extraordinary expenses.
 Yes
 No
 If yes, please provide details of appeal mechanism
15. Under national legislation, regulations, rules or policies, is there a mechanism for monitoring the use of funds that are subject to assets freeze exemptions on a recurring (e.g. monthly) basis?
16. Have you ever provided a report to the Committee regarding the status of assets freeze exemptions in cases where the exemption is ongoing or recurring at regular (e.g. monthly) intervals?
17. Under national legislation, regulations, rules or policies, is there a mechanism for rescinding or withdrawing previously granted exemptions?
18. Please provide the Monitoring Team with any additional information regarding issues related to the freezing of assets and other economic resources, in particular challenges associated with implementing the measures or exemptions to the measures, or information you would like the Monitoring Team to have as it considers these questions.

Annex II

Member States that received the questionnaire pursuant to Security Council resolution 2560 (2020)

Afghanistan
Algeria
Australia
Bahrain
Belgium
Bosnia and Herzegovina
Canada
China
Egypt
Estonia
Ethiopia
France
Georgia
Germany
India
Indonesia
Iraq
Ireland
Italy
Japan
Jordan
Kazakhstan
Kenya
Kuwait
Libya
Liechtenstein
Malaysia
Mali
Mauritania
Mexico
Morocco
New Zealand
Niger
Nigeria
Norway
Oman
Pakistan
Philippines
Qatar
Russian Federation
Saudi Arabia
Senegal
Singapore
Somalia
Saint Vincent and the Grenadines
Sudan
Switzerland
Syrian Arab Republic
Tajikistan
Tunisia

Turkey
United Arab Emirates
United Kingdom of Great Britain and Northern Ireland
United Republic of Tanzania
United States of America
Uzbekistan
Viet Nam
Yemen

Member States that responded to the questionnaire pursuant to Security Council resolution [2560 \(2020\)](#)

Algeria
Australia
Bahrain
Belgium
Canada
China
Egypt
Estonia
France
Georgia
Germany
India
Indonesia
Ireland
Italy
Kazakhstan
Liechtenstein
Malaysia
Mexico
Morocco
Norway
Pakistan
Philippines
Qatar
Russian Federation
Saudi Arabia
Singapore
Saint Vincent and the Grenadines
Switzerland
Syrian Arab Republic
Tunisia
Turkey
United Kingdom of Great Britain and Northern Ireland
United States of America
Uzbekistan
Viet Nam

Annex III

Proposed template for annual reporting of assets freezing and related actions

Assets freezing actions taken under paragraph 1 (a) of resolution 2368 (2017)	
Member States are requested to provide annually actions taken pursuant to paragraph 1 (a), in which the Security Council requests that states “freeze without delay the funds and other financial assets or economic resources of these individuals, groups, undertakings and entities, including funds derived from property owned or controlled directly or indirectly, by them or by persons acting on their behalf or at their direction”	
Existing funds and assets frozen pursuant to resolution 2368 (2017)	
Funds and assets frozen in the past year pursuant to resolution 2368 (2017)	
Other information	

Recurring assets freeze exemptions granted under paragraph 81 (a) or (b) of resolution 2368 (2017)	
Listed individual/entity name	
Sanctions list reference number	
Purpose of exemption	
Amount and currency	
Frequency of payments	
Recipient or beneficiary of payment	
Means of payment	

Note: This template is not intended to be used for initial applications for exemptions to the assets freeze.