

## **TRAVEL BAN: EXPLANATION OF TERMS**

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

### ***Objective of the travel ban***

1. The travel ban as set out in paragraph 1 (b) of Security Council resolution 2161 (2014), obliges Member States to:

*Prevent the entry into or transit through their territories of these [the listed] 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 [Al-Qaida Sanctions] Committee determines on a case-by-case basis only that entry or transit is justified.*

2. The purpose of the travel ban is to limit the mobility of listed individuals. As with the other two measures referred to in paragraph 1 of resolution 2161 (2014) and as reiterated in paragraph 31 of resolution 2161 (2014), it is preventive in nature and not reliant upon criminal standards established under national law. Member States are encouraged to add the names of the listed individuals to their visa watch lists and national watch lists to ensure effective implementation of the travel ban. Member States are also encouraged to take other relevant measures in accordance with their international obligations and national laws and regulations, which may include, but are not limited to, cancelling visas and entry permits or refusing to issue any visa/permit for listed individuals.

3. In paragraph 6 of resolution 2161 (2014) the Security Council confirms that the assets freeze outlined in paragraph 1 (a) of resolution 2161 (2014) also applies to funds, financial assets or economic resources that may be made available, directly or indirectly, to or for the benefit of listed individuals in connection with their travel, including costs incurred with respect to transportation and lodging.

### ***Scope of Member State obligations***

4. All Member States of the United Nations are required to implement the travel ban against all individuals on the Al-Qaida Sanctions List maintained by the Al-Qaida Sanctions Committee. The travel ban applies to all listed individuals wherever they may be located. The responsibility to implement the travel ban lies with the State(s) of entry and/or transit.

5. The travel ban requires States to:
  - (i) Prevent the entry into their territories of the listed individuals, and
  - (ii) Prevent the transit through their territories of the listed individuals unless one of the exceptions or exemption provisions apply (explained in the sections on ***Exceptions*** and ***Exemptions***).

6. The obligation to prevent the entry of listed individuals into their territories **applies in all circumstances**, regardless of the method of entry, the point of entry or the nature of the travel documents used, if any, and despite any permissions or visas issued by the State in accordance with its national regulations.

7. The obligation to prevent the transit through a Member State's territory **applies to any passage** through the territory of a Member State, however brief, even if the listed individual has travel documents, permissions and/or transit visas as required by the State in accordance with its national regulations and is able to demonstrate that he/she will continue his/her journey to another State.

8. In paragraph 16 of resolution 2161 (2014), the Security Council *urges* all Member States, in their implementation of the measures set out in paragraph 1 of resolution 2161 (2014), to ensure that fraudulent, counterfeit, stolen and lost passports and other travel documents are invalidated and removed from circulation, in accordance with domestic laws and practices, as soon as possible, and to share information on those documents with other Member States through the INTERPOL database.

9. In paragraph 17 of resolution 2161 (2014), the Security Council *encourages* Member States to share, in accordance with their domestic laws and practices, with the private sector information in their national databases related to fraudulent, counterfeit, stolen and lost identity or travel documents pertaining to their own jurisdictions, and, if a listed party is found to be using a false identity including to secure credit or fraudulent travel documents, to provide the [Al-Qaida Sanctions] Committee with information in this regard.

10. In paragraph 18 of resolution 2161 (2014), the Security Council *encourages* Member States that issue travel documents to listed individuals to note, as appropriate, that the bearer is subject to the travel ban and corresponding exemption procedures.

11. In order to enhance the implementation of the travel ban, in paragraph 34 of resolution 2161 (2014) the Security Council *encourages* Member States to submit, where available and in accordance with their national legislation, photographs and other biometric data on individuals for inclusion in INTERPOL-United Nations Security Council Special Notices.

12. To strengthen the implementation of the travel ban, Member States are *requested* to include the Al-Qaida Sanctions List and the related travel ban sanctions measures in their national guidelines for inadmissible persons, in accordance with their national legislation.

13. Member States can contribute to the effective implementation of the travel ban by requesting their aviation authorities to inform the relevant institutions, such as the International Civil Aviation Organization and the International Air Transport Association, that not being subject to the travel ban, by virtue of not being listed or being

subject to an exemption or an exception, is a necessary entry requirement for an individual. In particular, such information could be added to the International Air Transport Association's automated Travel Information Manual (TIMATIC) database that catalogues these requirements. Furthermore, Advanced Passenger Information (API) and Passenger Name Record (PNR) systems can serve as a useful tool to implement the travel ban against listed individuals.

14. In addition, paragraph 9 of resolution 2178 (2014) *calls upon* Member States to:
- (i) Require that airlines operating in their territories provide advance passenger information to the appropriate national authorities in order to detect the departure from their territories, or attempted entry into or transit through their territories, by means of civil aircraft, of individuals designated by the Al-Qaida Sanctions Committee; and to
  - (ii) Report any such departure from their territories, or such attempted entry into or transit through their territories, of such individuals to the Al-Qaida Sanctions Committee, as well as sharing this information with the State of residence or nationality, as appropriate and in accordance with domestic law and international obligations.

15. Similarly paragraph 20 of resolution 2161 (2014), the Security Council also *encourages* Member States to exchange information expeditiously with other Member States, in particular states of origin, destination and transit, when they detect the travel of individuals on the Al-Qaida Sanctions List.

### ***Exceptions***

16. There are two types of exceptions to the travel ban and they are described in paragraph 1 (b) of resolution 2161 (2014):

- (i) Entry of Member States' own nationals,
- (ii) Where entry or transit is necessary for the fulfilment of a judicial process

17. There is no obligation under the Al-Qaida travel ban for a Member State to deny entry into or require the departure from its territories of its own nationals, including those who hold dual nationality.

18. There is no obligation to arrest or prosecute listed individuals on the basis of their designation on the Al-Qaida Sanctions List by the Al-Qaida Sanctions Committee. However, the competent national authority may take the appropriate measures to allow entry or transit of that listed individual into national territory to ensure his or her presence for the purposes of the fulfilment of a judicial process.

19. This may include, but would not be limited to, allowing a listed individual to enter the territory of a Member State in relation to judicial proceedings where the listed individual's presence may be necessary for the purposes of identification, testimony or other assistance relevant to the investigation or prosecution of an offence committed by

someone other than that listed individual, or in relation to civil proceedings, and extradition.

20. Member States are not required to consult the Al-Qaida Sanctions Committee about the entry into or transit through their territory of a listed individual under exemptions (i) and (ii) above. However, any information on the entry into or transit through their territory of any listed individual under these exemptions is of interest to the Committee. Therefore, in paragraphs 20 and 65 of resolution 2161 (2014) the Security Council *encourages* all Member States to exchange information expeditiously with other Member States, in particular States of origin, destination and transit, when they detect the travel of individuals on the Al-Qaida Sanctions List, and to submit to the Committee additional information on listed individuals, including updates on their movement, incarceration or other significant events, as such information becomes available. This is crucial to ensuring that the Al-Qaida Sanctions List remains as updated and accurate as possible.

21. In paragraph 6, the Security Council *confirms* that all proposed use of funds or other financial assets or economic resources in connection with travel of listed individuals may only be provided in accordance with the exemption procedures set out in paragraphs 1 and 2 of resolution 1452 (2002), as amended by paragraph 15 of resolution 1735 (2006) and paragraphs 9 and 61 of resolution 2161 (2014). The procedures for making a request under resolution 1452 (2002) can be found in section 11 of the Committee's Guidelines. The Committee's Guidelines can be found at: [http://www.un.org/sc/committees/1267/pdf/1267\\_guidelines.pdf](http://www.un.org/sc/committees/1267/pdf/1267_guidelines.pdf).

### ***Exemptions***

22. Exemptions are granted where *the Al-Qaida Sanctions Committee determines on a case-by-case basis only that entry or transit is justified.*

23. In November 2002, the Al-Qaida Sanctions Committee adopted a mechanism to consider requests for exemptions from the Al-Qaida travel ban. On 2 September 2008, the Committee approved specific procedures for this (see section 12 of the Committee's Guidelines).

24. According to paragraph 9 of resolution 2161 (2014) in combination with section 12 paragraph (o) of the Guidelines of the Committee, it is possible for listed individuals to apply for a travel ban exemption for necessary travel such as medical or humanitarian need, or the performance of religious obligations through the State(s) of destination, the State(s) of transit, the State of nationality, or the State of residence. If no effective central government exists in the country in which the listed individual is located, a United Nations office or agency in that country may submit the request for exemption on his/her behalf.

25. In paragraph 62 (b) of resolution 2161 (2014) the Security Council notes, that the Focal Point mechanism established in resolution 1730 (2006) may also receive requests from listed individuals for exemptions to the travel ban and transmit these to the Committee to determine, on a case-by-case basis and in consultation with States of transit and destination and any other relevant States, whether entry or transit is justified; the Committee shall only agree to exemptions with the agreement of the States of transit and destination and will subsequently notify such individuals of its decision through the Focal Point.

26. Once the Committee has approved a request for exemption from the travel ban, the Chair shall communicate in writing the decision, approved itinerary and timetable to the Permanent Missions to the United Nations of: the State in which the listed individual is resident or believed to be located, the State(s) of which the person is believed to be a national, the State(s) to which the listed individual will be traveling, any transit State, as well as to any United Nations office/agency involved. Unless the Committee otherwise decides, all requests for exemptions and extensions thereto which have been approved by the Committee in accordance with the above procedures shall be posted in the “Exemptions” section of the Committee’s website until expiry of the exemption.

27. Written confirmation of the completion of the travel by the listed individual shall be provided to the Chair within five working days following the expiry of the exemption by the State (or United Nations office/agency involved) in which the listed individual has stated he will be resident after completion of the exempted travel.

28. In paragraph 61 of resolution 2161 (2014) the Security Council *reaffirms* that, in cases in which the Ombudsperson is unable to interview a petitioner in his or her State of residence, the Ombudsperson may request, with the agreement of the petitioner, that the Committee consider granting exemptions to the restrictions on assets freeze and travel ban for the sole purpose of allowing the petitioner to meet travel expenses and travel to another State to be interviewed by the Ombudsperson for a period no longer than necessary to participate in this interview, provided that all States of transit and destination do not object to such travel. The Committee will notify the Ombudsperson of the Committee’s decision in such cases.

29. In paragraph 6, the Security Council confirms that all proposed use of funds or other financial assets or economic resources in connection with travel of listed individuals may only be provided in accordance with the exemption procedures set out in paragraphs 1 and 2 of resolution 1452 (2002), as amended by paragraph 15 of resolution 1735 (2006) and paragraphs 9 and 61 of resolution 2161 (2014). The procedures for making a request under resolution 1452 (2002) can be found in section 11 of the Committee’s Guidelines.

*Designation of national focal points*

30. Paragraph 22 of resolution 2161 (2014) encourages all Member States to designate national focal points in charge of liaising with the Committee and the Monitoring Team on issues related to the implementation of the restrictive measures under paragraph 1 of the same resolution.