

US terrorist designation of Ansar Allah: Risk alert and humanitarian impact

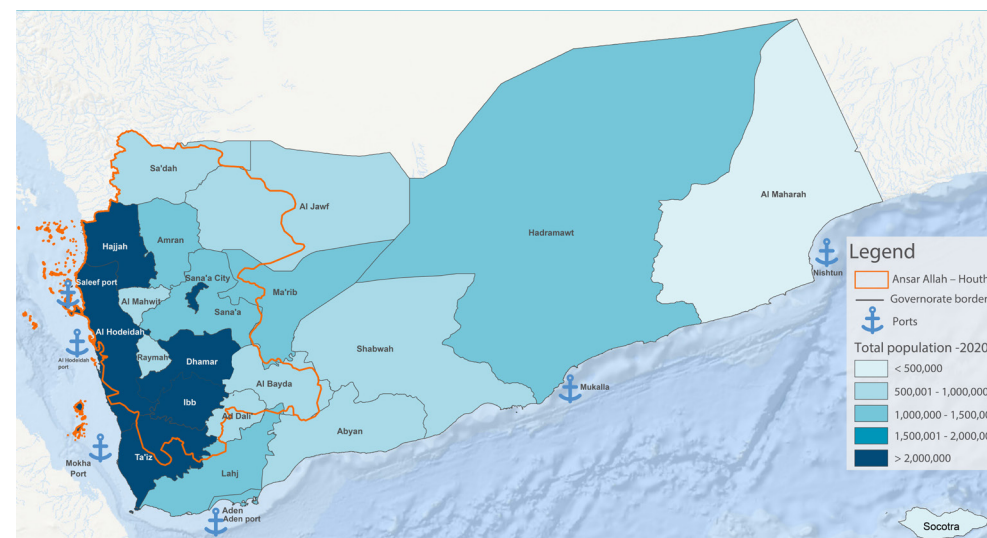
Designating Ansar Allah as a Foreign Terrorist Organization and a Specially Designated Global Terrorist risks:

- **Significantly increasing food prices in a country where an estimated 16.2 million people** (54% of the population) **are already facing high levels of acute food insecurity** (IPC Phase 3 or above).
 - The number of people facing food insecurity is expected to rise in the coming six months (IPC 3/12/2020). A designation could further accelerate this process.
 - The majority of people facing high levels of acute food insecurity live in Ansar Allah controlled areas.
- **Intensifying conflict over stable frontlines that could displace up to 900,000 people.**
 - Yemeni officials and other Yemeni political actors in support of the designation believe the move could add leverage to negotiations. However, there is a high risk the designation will increase humanitarian suffering and trigger an escalation in conflict.
- **Reducing aid funding** and increasing the cost and time it takes to deliver aid in a country where 80% of people rely on humanitarian assistance
- **Causing the business sector, especially importers and financial institutions, to withdraw from, or further limit their engagement with Yemen,** narrowing the pipeline of hard currency which Yemen relies on to keep essential food, fuel and medicine flowing
- **Hampering peace efforts** through both formal and informal (Track II) channels.

Waivers and authorisations are essential to help mitigate against the humanitarian impact of a designation. Lessons learned from previous cases have showed the importance of their timeliness. However, issuing, understanding, and implementing the exemptions will take time. Given the speed at which this legislation is being introduced, and the complexities of the operating environment in Yemen, it is extremely unlikely that waivers and authorisations will be broad enough, or introduced quickly enough, to prevent disruptions to humanitarian operations or the banking systems, supply chains and transport networks that humanitarian actors and ordinary Yemenis rely on. There are no authorisations which can protect humanitarian actors from prosecution under the material support clauses of the Criminal Code and the Immigration and Nationality Act.

70% of Yemen's 30.5 million people live in areas controlled by Ansar Allah: An FTO designation would have a much greater impact on Yemeni civilians than FTO designations introduced in other contexts. Most of Yemen's population, its largest seaport, and the headquarters of all its major banks are in areas under exclusive Ansar Allah control. It will be virtually impossible to avoid engaging with the de-facto authorities in a way that is not criminalised by the designation. Day to day transactions, such as buying food or fuel, paying staff salaries, or transferring money to pay for commercial or humanitarian operations are likely to fall foul of the material support provisions, which carry penalties of up to 20 years in prison. Previous FTO designations have only been applied to non-state actors that controlled comparatively small areas of territory (such as Al Nusra in North West Syria, Al Shabab in southern Somalia, or Hamas in Gaza).

Yemen: Population density - Ansar Allah-controlled areas



Source: ISWN Middle East Conflict Map; OCHA Yemen Population Estimates 2020

CONTEXTUAL INFORMATION

On 11 January 2021, the US Secretary of State announced that the US Congress will be notified about the intention to designate Ansar Allah as a Foreign Terrorist Organization (FTO) and a Specially Designated Global Terrorist (SDGT), along with individual designations of three Ansar Allah leaders. The designation entails that anyone in the US or abroad suspected of providing support or resources to the armed group could be prosecuted under federal laws (HRW 10/12/2020).

DESIGNATION	LEGISLATION	IMPLICATIONS IF ANSAR ALLAH IS DESIGNATED	EXEMPTIONS
Foreign Terrorist Organization	Section 219 of the Immigration and Nationality Act, managed by the Department of State's Bureau of Counterterrorism and the US Criminal Code (18 USC 2339B)	Whoever is found to provide material support or resources (including training or expert advice) to Ansar Allah could face up to 20 years in prison	There is no exemption that can be issued for offences under the material support clause
Specially Designated Global Terrorist	Executive Order 13224, managed by the US Treasury's Office of Foreign Assets Control (OFAC)	Whoever is found to provide funds, goods, or services to or for the benefit of Ansar Allah could face civil and criminal penalties	OFAC can issue waivers to organisations and/or individuals

Source: US Department of Treasury

Note: The term 'whoever' includes "corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals" (Federation of American Scientists)

The Office of Foreign Assets Control (OFAC) can issue two types of licences:

- a general licence which applies for a class of persons without the need to apply for a specific licence in order to carry out a particular type of transaction
- a specific licence which is issued by OFAC to a particular person or entity, authorising a particular transaction in response to a written licence application (US Department of Treasury)

The Immigration and Nationality Act gives the Secretary of State the power to designate entities as FTOs. The criminal offence of providing material support to designated entities falls under section 2339B of the US Code which can be applied to anyone (including non-US citizens) (Cornell Law School). Under this section, authorisations can only be issued in relation to the freezing of assets associated with an FTO status. There is no authorisation that can allow someone to breach the prohibition on material assistance. Even OFAC licences do not protect agencies from prosecution under the material support offence. Non-US citizens found to have committed a criminal offence under the material support section, can only be prosecuted if they came into US territorial jurisdiction.

The Department of Justice can also directly inform humanitarian organisations that they will not prioritise prosecutions of crimes under the material support clause for any benevolent work and good faith efforts they carry out. This only applies if transactions with an FTO or someone linked to it happen accidentally or unknowingly. Waivers and licences are important and necessary. However, they will not be sufficient to address the risk of the legal exposure of humanitarian organisations operating in a context like Yemen, with a pervasive presence of entities designated as FTOs (Mackintosh and Duplat 07/2013).

After being notified of the Secretary's intention to designate a terrorist group, the US Congress has seven days to review the designation. After this period, and in the absence of any Congressional action to block the designation, the designation is published in the Federal Register and comes into effect. The organisation that has been designated as an FTO may also seek judicial review within 30 days of the designation being published in the Federal Register (U.S Department of State accessed 11/01/2021). Currently, the US Congress is not scheduled to sit until the end of the current administration mandate on 19 January. An ad hoc sitting could and should be required to put the Ansar Allah designation on the agenda for discussion.

The incoming Secretary of State appointed by the new administration can reverse the designation by executive order. Any delay in reversing the designation or in issuing broad licences to humanitarian organisations and companies will result in increased and more severe humanitarian needs. During this period, companies and humanitarian organisations will face complex and unclear compliance processes, delaying the delivery of assistance and slowing Yemen's economy.

HUMANITARIAN IMPLICATIONS

Impact on humanitarian response

The provision of licences from the department of Treasury or authorisations issued by the Department of State, regardless of how broad they could be, will not be enough to mitigate the impact of the designation.

Even though special waivers may be issued, these do not authorise economic transactions of any nature. They only provide a way of avoiding prosecution if, despite all efforts to avoid it, such a transaction takes place. The need to prove that compliance measures have been put in place to avoid interaction with the FTO will result in costly and time-consuming processes that delay the delivery of assistance to people in need.

The possibility of humanitarian organisations having to apply for an exemption to operate without the risk of violating the counter-terrorism measures interferes with the humanitarian principle of impartiality, resulting in another state deciding whether aid can be provided or not to a specific group of people – in this case the population living in areas controlled by Ansar Allah. This is a worrying politisation of humanitarian aid (International Peace Institute 12/2019). The uncertainty over what activities are permitted under waivers and authorisations, and who these exemptions apply to (US based organisations, non-US based organisations?) makes humanitarian programming extremely challenging, affecting the reliability and reputation of humanitarian organisations and eroding trust with beneficiaries.

US legislation exempts the provision of medicine and religious materials from its prohibition on material support (Mackintosh and Duplat 07/2013), although this can be confusing as provision of medicine might only include handing out drugs and not applying medical expertise. The prohibition of humanitarian assistance to any individual in need is contrary to medical ethics and to fundamental international human rights and humanitarian law.

A number of donors, including Australia, Canada, and the US, insert specific counterterrorism clauses in all levels of funding agreements. Most of these clauses require that obligations are passed on to any implementing partners, contractors, or sub-grantees by the primary grant recipient, as well as requiring donors to be notified when a transaction is found to be linked to a designated terrorist entity. This practice could undermine the neutrality, real or perceived, of humanitarian actors in Yemen.

Operating in areas where the de-facto authority has been designated as an FTO can lead to reduced trust and information-sharing among humanitarian workers and more self-censorship. There may also be reduced trust between the humanitarian community and the designated terrorist group, who might perceive aid and its recipients as being partial (NRC 12/2015).

Even if an organisation is working in Yemen without US funding but receives funding from the US for work in other countries, the organisation can still be liable for prosecution under an FTO designation (Mackintosh and Duplat 07/2013).

Impact on humanitarian needs

80% of the Yemeni population is in need of humanitarian assistance. The designation will have a direct impact on humanitarian needs. Unlike most other groups designated as terrorist organisations, Ansar Allah controls the most populated area of Yemen (up to 70% of the population), including the capital Sana'a and Al Hodeidah port – one of the country's two major seaports. It is practically impossible to operate in this area without interacting with the de-facto authorities. Ansar Allah maintains control of all goods entering northern areas, and applies taxes on goods imported through other ports and trucked to the north.

The humanitarian situation in Yemen will likely deteriorate due to the designation. Food insecurity levels will increase significantly, and in the medium and long term an increased number of households will likely face Crisis (IPC Phase 3) levels of food security or above. Should assistance be halted altogether, worse food security outcomes are expected – especially in already vulnerable areas in the north. Commercial imports would also likely decrease and households will face reduced purchasing power due to decreases in aid, remittances and private sector activity. The humanitarian situation in Yemen worsened in 2020 as a result of drastically reduced funding, which led to cuts in the response, particularly affecting healthcare and reducing food distributions.

The designation also risks triggering new escalations in conflict. The Stockholm Agreement of December 2018 helped to reduce the intensity of conflict. New conflict, particularly an all-out offensive on Marib would trigger large-scale displacement, especially from areas where access to aid and services is reduced and towards areas where organisations can continue to operate. ACAPS estimated that a large scale conflict in Marib city could displace between 450,000 to 900,000 people. Actual displacement could be many times higher if we see similar offensives in other frontlines like Al Hodeidah, Hajjah, Taiz and Al Dhale'e. Renewed large-scale conflict could also draw in new local and regional actors, undermining prospects for a stable peace.

Population movements from north to south will likely trigger tensions among displaced and host populations over access to resources and jobs. Displaced people, especially those in IDP sites, are likely to be the first to re-displace because of reduced access to assets and livelihoods (Fews Net 30/12/2020).

The designation will very likely impact access to the floating storage and offloading unit, referred to as the FSO Safer oil tank, located off the west coast of Yemen in the Red Sea. In November 2020, Ansar Allah agreed to allow a UN mission to inspect and secure the

abandoned tanker. The designation could prompt Ansar Allah to withdraw the approval and use the potential risk of a disaster as a bargaining chip. The deteriorating conditions of the FSO Safer risks an explosion and/or an oil spill causing an environmental disaster. An explosion of the tanker could destroy the livelihoods of 670,000 people through damage to fisheries, marine resources, coastal industries and port closures. Import operations through Al Hodeidah and Saleef ports would be affected. Clean-up operations costs could amount to USD 20 billion. The event of a fire on the FSO Safer tank will likely cause high levels of air pollution affecting 6.2 million people in Yemen and 350,000 in the Kingdom of Saudi Arabia, posing significant health problems to vulnerable people. Particles released by a fire could settle on crops in 200km² of agricultural land in Yemen and KSA. Around 185,000 farmers could lose a whole season's worth of produce, costing USD 4 million (ACAPS 18/11/2020).

TRADE AND FINANCIAL IMPLICATIONS

Imports

There seems to be little preparation in regards to licences for the private sector (International Crisis Group 13/01/2021). This could have a significant impact on traders, including a reduction in imports, as importers and foreign banks reassess the risk of doing business with Yemen. This could be mitigated by the fact that Yemen has a diverse range of trading partners. However, it is hard to predict whether sufficient providers will continue to operate (Fews Net 30/12/2020). The legal repercussions of the designation for anyone who maintains relations with Ansar Allah will act as a serious deterrent and could scare off insurance and shipping companies. Considering the high dependence of Yemen on imported food (90% of total food requirements), any reduction in imports could cause a disruption to the food supply chain, particularly driving shortages or significant price hikes and higher levels of food insecurity (ACAPS 16/12/2020).

The designation will undoubtedly build upon pre-existing difficulties faced by businesses located in Sana'a, deterring any businesses from using their real addresses when importing. As such, business in the south will have to play an intermediary role in order for items to reach the north. Such monopoly and control given to businesses in the south, acting as a 'middle-man' for imports to the north, will certainly increase delays, and costs involved in the transportation of goods to Sana'a. Simultaneously, additional pressure will be exerted on KSA for imports to Ansar-Allah held-territory which could lead to the scarcity of US dollars, deteriorating the exchange rate in the north.

Fuel

Imports of fuel through Al Hodeidah port will likely be affected by the designation as it is impossible to avoid interaction with Ansar Allah. Further escalations in the ongoing series of fuel crises experienced in northern Yemen since 2019 should be expected. Shortages of fuel can have a significant impact on water distribution for consumption and agriculture, private and public transportation, and power generators, affecting hospitals and other services (ACAPS 31/12/2020).

The latest fuel crisis in June 2020 deeply affected northern governorates, triggering sharp increases in the price of petrol on the black market in the north and kilometre-long queues. The designation will make it more difficult for fuel vendors to operate in the north. The difficulties in purchasing fuel could motivate Ansar Allah to search for alternative routes, authorising and placing increased influence on black-market actors to supply fuel. In the meantime, Ansar Allah could use the adverse effect of the designation on increased commodities' prices to deflect blame for fuel crises away from itself towards the international community (Ansar Allah has been regularly accused of manipulating fuel crises in the past for political gain).

The designation is also likely to trigger further de-risking measures by international banks and financial institutions. Correspondent banks will likely reduce or require more stringent compliance and safeguards for doing business in Yemen and, as a result, transaction costs for local banks will increase significantly, restricting access to foreign currency. Importers rely on the private banking sector for foreign currency, so increased costs of executing transactions will translate into higher commodity prices.

Additionally, some arguments have been put forward that Yemen's economy is in a sense already protected from the most serious economic effects of a designation, given the extent to which many informal financial service providers are "off the radar". Formal ones have already ringfenced their Yemen operations with major safeguards, while enduring the additional costs and challenges imposed by Yemen's detachment from the international economy through ongoing de-risking. While some of this is true, the designation will likely further the damage and costs already being experienced by these actors in Yemen, perhaps escalating risk to the point of unviability. In addition, the impact of the designation will likely set back significantly ongoing efforts to address some of the already devastating impacts of financial de-risking that have affected Yemenis for the last few years.

Increased economic warfare

Since the Central Bank of Yemen (CBY) split into Sana'a and Aden-based branches in 2016, both institutions have been competing for control over foreign currency. The designation will certainly intensify the polarisation between the Aden and Sana'a branches, as the move may influence a number of financial services providers (FSPs) to relocate their headquarters to Aden in order to ensure continued financial relationships with INGOs and international banks. In turn, this will give CBY Aden supervision over aid funds into Yemen as opposed to CBY Sana'a. The response by Ansar Allah to these moves, as has been shown in the past, will likely be severe and could lead to a situation where financial access for aid actors seeking to programme in the north is frozen or denied.

The Government of Yemen and Saudi Arabia may use the designations to implement new policies designed to increase economic pressure on Ansar Allah and Ansar Allah aligned business interests. As has been seen in contexts such as North West Syria (NWS), the impact of US designations on trade and businesses in areas controlled by the designated party is also dependent on the actions of other actors and states through which these relationships are facilitated. In NWS most trade and imports come through Turkey, which largely protects Turkish businesses invested in the economy there. In Yemen, the main actors through which most business run their imports are Saudi Arabia, UAE, and Oman. The impact of the designation on traders and businesses is likely to be leveraged by Saudi Arabia, in particular towards its own political goals. The impact of this remains to be seen but should be followed closely. Given its neutral position on the conflict, Oman may be more likely to implement restrictions on traders to reduce any liability or risk it may face – having already been accused on a number of occasions of being the conduit through which Ansar Allah received dual-use items and parts for weapons.

Although it is difficult to predict how exactly these dynamics will play out, there are a number of financial-related risks that aid actors should be aware of following the implementation of the designation.

Correspondent banks terminating accounts with INGOs

Since the split of the CBY headquarters into two separate branches, direct wire transfers from Western banks into Yemen have not been possible. This has increased reliance on correspondent banks in countries where Yemeni commercial banks hold accounts. For a long time, correspondent bank relationships have been declining in Yemen, given the low level of application of international standards for anti-money laundering and combatting terrorism by a number of banks in the country. With the upcoming FTO designation, correspondent banks are predicted to terminate contracts as Financial Service Providers become increasingly more risk-averse. This will hamper the humanitarian response, which depends heavily on correspondent banks to wire funds into Yemen. The actual wording of

the designation must be specific to ensure clarity on what constitutes compliance with the parameters within the sanctions, in order to not completely deter correspondent banks from interacting with Yemeni FSPs.

UN agencies are bound to specific security resolutions relating to anti-terrorism laws. If the International Bank of Yemen (IBY) is found to be engaging in terrorist-related activities under the new FTO, UN agencies will be obliged to close accounts accordingly. If this happens, UN agencies would have to open a new account with another bank – an extremely long and tedious process because of the due diligence processes that are involved. In reality, a very limited number of banks in Yemen reach the international standards required for anti-money laundering and counterterrorism laws and regulations, so finding replacement banks will prove very difficult. There would certainly be an interim period between UN agencies closing IBY accounts and creating new bank accounts, which would cause delays to the humanitarian response.

The positive outcome of the already incredibly restricted financial service delivery environment with which humanitarian actors engage in Yemen is its simplicity. Only a small number of banking relationships exist that serve the majority of aid actors. On one hand, and as mentioned above, should these relationships be affected, the entire response will be threatened. On the other hand, ensuring that these relationships are protected should be relatively easily addressed by the appropriate provisions in any designation language. The same logic applies to the relatively small number of major importers who manage the vast majority of basic food imports to Yemen.

Interruption to cash flows

The designation will impact all internal and external cash flows into Yemen, as the headquarters of all FSPs used by aid agencies are in Ansar Allah-held territory. In preparation for the designation, many aid agencies have already relocated large sums of money into Aden. Such relocations are not sustainable for long-term planning however. INGOs will find it difficult to wire money to Aden from correspondent banks that do not want to face sanctions.

Additional financial and administrative burdens on Yemeni banks through de-risking

Of most concern to aid actors is the increased burden on banks' compliance mechanisms, which will impact Yemenis' access to finance, systems, and remittances from abroad. Financial de-risking will presumably result in obstruction of bank transfers, preventing organisations from paying bills. Local staff may not be able to access salaries because of extensive checks that banks will conduct before accepting transfers. Significant de-risking by banks because of the FTO will further motivate humanitarian actors to work through informal payment channels or to use cash. Not only will this increase security risks for humanitarian actors, it will also increase the risk of funds being diverted away from humanitarian operations.

Overall, the FTO designation of Ansar Allah will further complicate the operational environment as correspondent banks and aid agencies become more risk-averse as a result of ambiguous parameters that are expected to be set by the US administration to comply with sanctions. Ansar Allah's complete control over Sana'a, both politically and economically, has left little room for humanitarians to compromise – as has been seen in previous contexts where actors were designated as FTOs. For example, following the designation of Hezbollah as an FTO by the US administration in 1997, UN agencies were still able to deliver humanitarian assistance through coordinating with 'liaison officers' who acted as communication channels between the UN and Hezbollah officials. UN agencies also only delivered aid to areas in South Lebanon that were less influenced by the group. These strategies will not succeed in Yemen because of Ansar Allah's undisputed control over all aid operations through the Supreme Council for the Management and Coordination of Humanitarian Affairs, and Ansar Allah's complete economic and political influence over all areas under its control.

PEACE EFFORTS AND CONFLICT DYNAMICS

Proponents of the designation, in particular Yemeni officials and their allies have argued that the designation could have a positive impact on the peace process and conflict dynamics, largely through the increasing leverage this will apply on Ansar Allah to engage in negotiations towards a sustainable peace agreement. While much of the details around the designation remain to be seen, this approach seems to be misinformed. Firstly, it appears that efforts to inform US decision-makers about the potential impact of the designation on humanitarian programming have been disregarded, along with ensuring the importance of keeping humanitarian aid neutral and depoliticised. Second, the logic behind this position is misguided in its assessment of the impact the designation will have on Ansar Allah, which already appears to be leveraging the designation in domestic messaging to its advantage.

Finding a mediated political solution to the conflict could also become increasingly challenging. The designation does not directly implicate the prohibition of talks with Ansar Allah in regards to seeking a resolution to the conflict; however, the Office of the Special Envoy will find mediation tasks harder to carry out. A resolution to the conflict that does not envision the participation of the de-facto authorities of northern Yemen seems unlikely to succeed.

Track II diplomacy

The FTO designation will also undoubtedly negatively impact Track II peacemaking efforts carried out by mediators with various civil society groups. An adverse outcome of this impact would see the further omission of women's organisations, political groups, youth moments, and civil society organisations from national peace processes. It is worth noting that Track II diplomacy can help maintain and strengthen lines of communication on issues critical to wider peace processes. Not only will this designation actively hinder peacebuilding organisations from embarking on local mediation, but it will also reduce the willingness of Ansar Allah to accept mediation if it is, for example, a US based organisation funding the conflict resolution mechanism. Organisations will also lose credibility with Ansar Allah if they are US-funded, and are perceived as entering into mediation with biases. The effectiveness of multi-track diplomacy is at risk with the upcoming FTO, thwarting the opportunity to use 'bottom-up' approaches in advancing national-level peace processes.

Increased conflict

The designation has the potential to trigger a non-compliance attitude by Ansar Allah, insensitivity to pressures from the international community, and a large-scale re-escalation of conflict. Ansar Allah might be less likely to agree to any ceasefire or terms imposed by the Government of Yemen and the Saudi-led coalition, especially in the short term.

In the worst case scenario the decision could also trigger a final offensive by Ansar Allah to take control of Marib. Humanitarian needs resulting from fighting and consequent mass displacement would drastically increase, compounded by reduced access and response capacity (ACAPS 31/12/2020).

The humanitarian impact of the terrorist designation could be used by Ansar Allah to try to bolster its legitimacy among the population and further divide Yemeni society. The decision to move forward with the designation by the US government was partly motivated by the intention to isolate Ansar Allah and guarantee a political process of unification free from regional interference. However, the possibility of Ansar Allah becoming more dependent on Iran and/or seeking other allies in the region cannot be ruled out (*The Washington Post* 27/11/2020) – as opposed to a regional isolation intended by the designation which prohibits all kinds of support to the group.

LESSONS LEARNT

There have been other cases where counterterrorism measures have been applied in contexts with an ongoing humanitarian crisis. The most prominent examples of the impact of such measures on humanitarian action have been in Somalia, Gaza and North West Syria.

Somalia

Counterterrorism measures and sanctions applied since 2008 hindered humanitarian action in Somalia, creating a climate of distrust in which humanitarian practitioners were not perceived to be impartial or independent. At an operational level, the measures considerably curtailed US funding, and USAID stopped processing grants to UN agencies and NGOs because of concerns about contravening US laws, resulting in a number of American NGOs stopping operations in southern Somalia.

The East African country has faced repeated humanitarian crises in the last two decades. In July 2011, famine was declared in some areas of southern Somalia, affecting an estimated 750,000 people. Several of these areas were under the de-facto authority of Al-Shabaab, an entity that was listed as a terrorist organisation by the US in 2008 and subjected to sanctions by the UN and a number of states. Lack of humanitarian access and difficulties in delivering assistance largely contributed to increasing humanitarian needs. In March 2010, the UN Security Council introduced a humanitarian exemption to the sanctions 'for the delivery of urgently needed humanitarian assistance in Somalia'. The same exemption was also implemented by EU resolutions in the same year. The US only issued a broad licence to the Department of State and USAID in July 2011, when famine was declared in Somalia (Mackintosh and Duplat 07/2013). These exemptions allowed more flexibility to humanitarian organisations to operate in Al Shabaab-controlled areas, however the delays in their introduction caused a substantial decrease in humanitarian operations which likely contributed to the extreme levels of food insecurity in the country in 2011.

Gaza

When Hamas came to power in Gaza in 2007, counter-terrorism measures – with the specific policy of 'no contact' put in place by the US and Canada – contributed to creating a system where humanitarian programmes are designed to circumvent local authorities, instead of being based on actual needs, which inevitably results in gaps and inefficiencies in the delivery of aid. Entire groups have had to be excluded from USAID-funded projects on the basis of geographic locations considered to be under the control of Hamas. Another impact of counterterrorism laws has been the diminishing role of Palestinian NGOs in the humanitarian system in Gaza and the near impossibility of transitioning from humanitarian to development

assistance, because of the limited range of activities that can be implemented and the limited ability to hand over projects to government departments. Israel also used the specter of terrorism to detain a national NGO staff member without providing public evidence, despite the fact that investigations by international NGOs and donors found no evidence of diversion (ABC 13/02/2020). When Hamas came to power in the Gaza Strip in June 2007, the group had already been listed as an FTO by the US and it was subject to sanctions by countries such as Australia, Canada, and Japan and by the EU, who were also major donors to the humanitarian response. As in the case of Yemen, the designated terrorist entity in the Gaza Strip is the de-facto local authority, which makes the real or perceived risk of interacting with them more difficult to avoid (Mackintosh and Duplat 07/2013).

North West Syria

In Idlib province, the impact of the designation of Al Nusra (who later changed its name in Hayat Tahrir al-Sham (HTS)) that had been listed a Foreign Terrorist Organisation in May 2014 is narrowing the humanitarian space in the province by reducing available options for NGOs to deliver cash and education programmes without risking violating counter-terrorism measures. Donors are sometimes requiring NGOs to suspend programmes inside the region to avoid falling foul of US federal laws. The HTS aligned Syrian Salvation Government (SSG) has issued regulations over the informal money transfer systems (IMTS) or hawalas, requiring that all agencies register with the Public Monetary Authority (PMA) under the control of the SSG. Several NGOs have been warned by donors not to use any hawala agents that have registered with the PMA, however this is becoming increasingly difficult as more agencies comply with the de-facto authorities regulations, leaving less options for the NGOs to transfer money. Education programmes are also affected in NWS due to the limitations that the designation imposes in dealing with local authorities through the formal school system.

INFORMATION GAPS AND NEEDS

The study of the impact of counterterrorism measures in different contexts, as briefly outlined above, has shown at least one common point: **the 'chilling effect' measures have had on humanitarian operations in countries where entities were listed as FTOs**. This was mostly because of a lack of clarity regarding what humanitarian organisations were allowed to do, as definitions and language used in sanctions and licences are often unclear. There is a need to better document the impact of counterterrorism laws and policies, in order to increase decision makers' awareness of the humanitarian implications of FTO designations and also develop guidance to avoid confusion among humanitarian actors.

This brings up **the importance of clear lines of communication going forward between aid actors and US Treasury in mitigating the negative impacts of the designation**. As has been seen in Syria regarding recent allowances on different sanctions and designations imposed there on dual use items in the context of the COVID-19 outbreak, positive ad-hoc actions can be taken through good communication between aid actors and the US Government as issues arise. It is imperative to ensure that any drastic impact is mitigated, potentially through a formal mechanism, which will strengthen these communication channels.

Despite the examples of similar cases where terrorist designations were applied to entities that have or had control of certain areas within a country, the possible outcomes and reactions of all parties and different sectors are very difficult to predict. The impact of counterterrorism measures on humanitarian response can be used to estimate the potential impact that organisations' reduced capacity to deliver assistance will have on the severity of humanitarian needs.

ACAPS is not competent to provide legal advice. This note aims to collate the latest information on how a designation may work and its potential impact on Yemen, drawing from published sources, the views of humanitarian organisations operating in Yemen and lessons from other contexts. There is a high risk that ACAPS has made errors relating to the the complex US counterterrorism legal environment. Organisations must seek advice from qualified legal experts to understand their risk.

METHODOLOGY

This short note is based on a secondary data review of media outlets, humanitarian organisations' statements, and the official US Department of State website. It also includes inputs shared with ACAPS by experts in the humanitarian and finance fields in Yemen.

ACAPS assessment of food prices significantly increasing is based on analysis we conducted on the impact of the non-renewal of the Saudi subsidy for food imports in June 2020 (ACAPS 9/06/2020). We noted that the end of Saudi support, worth around USD 2 billion over two years, could see the Yemeni riyal plummet from around 590 YER to the USD in December 2019, to 1,000 YER by the end of 2020. Towards the end of 2020, in parts of Government of Yemen-controlled southern governorates the YER reached very close to YER 1,000 to the USD, though it closed the year at a lower level. The designation could further reduce the availability of hard currency from aid, business investment and remittances, putting similar downward pressure on the riyal. Because of Yemen's huge reliance on imports, currency decreases are almost wholly passed on to Yemenis as higher food prices (ACAPS 16 December 2020).

ACAPS assessment of potential displacement due to renewed conflict is based on detailed risk mapping in December 2020 of the impact of large-scale conflict in Marib (ACAPS 31 December 2020).