



**Submission brief to the Standing Committee on Foreign Affairs & International Development
regarding Canada's Sanctions Regime**

Respectfully submitted by Mennonite Central Committee Canada

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Mennonite Central Committee (MCC) works in complex contexts, such as Afghanistan, Democratic People’s Republic of Korea (DPRK), Lebanon, Myanmar, and Syria. Many of these contexts have the greatest needs for humanitarian and peace work, but our ability to engage with and work in these countries has been hindered by both Canada’s sanctions policies and global sanctions. Even with internal risk mitigation and screening policies to ensure compliance, sanctions create significant barriers for humanitarian organizations, like MCC, to provide impartial, life-saving aid to those in need. Most importantly, the heaviest impacts of sanctions are often felt by already vulnerable populations, like women and girls, and not the politically or economically powerful that they are meant to pressure. This conflicts with Canada’s international policy objectives around supporting vulnerable women and girls.

Given our experience engaging in sanctioned countries, MCC offers the following recommendations:

- 1. Ensure that the impact of sanctions on ordinary people and especially the most vulnerable people in targeted countries is well understood and researched to mitigate the risk of unintended harm.**

We encourage a careful and holistic examination of the impacts that proposed sanctions will have on ordinary citizens, people facing vulnerabilities and the humanitarian organizations who work with them. Sanctions impact the human rights of populations in targeted countries, including through limiting access to clean water, employment, and medical care, impacting the development of the entire country. Sanctions delay or disallow humanitarian assistance from reaching those in need and have unintended effects on already vulnerable populations. Canada’s Feminist International Assistance Policy (FIAP) promotes an equitable approach to humanitarian assistance. The FIAP applies to sanctioned countries. However, the effects of sanctions are borne especially by women and girls, and others who may have less access to resources.¹ Those who rely more heavily on humanitarian assistance or bear the weight of domestic labour experience greater hardship when external aid or basic goods are not available.

As the use of economic sanctions as a foreign policy tool continues to grow, Canada should study both the intended and unintended humanitarian impacts of sanctions to better target sanctions and avoid use of broad state-based economic sanctions and design sanctions to address regulatory ambiguity that can lead to private sector “de-risking” as discussed below in section three. Canada should refrain from using sanctions where they cause significant harm to ordinary people, and specifically vulnerable populations.

¹ OHCHR. <https://www.ohchr.org/en/press-releases/2021/12/unilateral-sanctions-hurt-all-especially-women-children-and-other-vulnerable>

2. Implement United Nations humanitarian carveouts across Canadian sanctions regimes through exempting food, medicine, medical supplies, education, healthcare, and equipment from sanctions.

United Nations (UN) Security Council Resolution 2664, adopted in late 2022, notes that Member States should ensure that their sanctions and domestic criminal laws are applied in a manner consistent with their obligations under international humanitarian law, international human rights law, and international refugee law. Sanctions, including in the context of counterterrorism, should not come at the expense of these international obligations. Further, the UN Security Council specifically notes the impact of sanctions on humanitarian activities: “when designing and applying measures to counter the financing of terrorism, to take into account the potential effect of those measures on exclusively humanitarian activities, including medical activities, that are carried out by impartial humanitarian actors in a manner consistent with international humanitarian law.”²

Sanctions and exemptions should be compliant with International Humanitarian Law and coordinated with other UN member nations to avoid complicating the regulatory environment that NGOs work in while trying to provide neutral and impartial humanitarian assistance. The United States (US) also has explicit carve-outs in their sanctions for essential items like food, medicine, and disaster relief; implementing these exemptions into Canadian sanctions law would align Canada with other global sanctions regimes and UN recommendations. Canada is one of the only countries that prohibits knowledge transfer completely in heavily sanctioned contexts (specifically Democratic People's Republic of Korea, DPRK), rather than just a prohibition on knowledge that could be dual use. This has created significant challenges for humanitarian programming responding to the needs of vulnerable civilian populations.

An example of these current challenges can be found in MCC’s humanitarian work in DPRK, which, depending on the humanitarian items being provided, requires MCC to seek out authorizations from Special Economic Measures Act (SEMA) and Export and Import Controls (ECOD) within Canada, as well as U.S. Office of Foreign Assets Control (OFAC), U.S. Bureau of Industry and Security (BIS), and UN 1718 Committee licenses. For example, SEMA permits require the inclusion of canned meat and vitamins, while U.S. OFAC and BIS fully exempt food and medicine. The administrative burden of applying for multiple processes with varying requirements combined with the sequencing issues around the lining up of required permits and licenses can paralyze and significantly delay NGO efforts to engage in humanitarian programming in already challenging contexts. Even when all permits have been determined and applied for, the time delays in approvals can further paralyze and delay work, contributing to uncertainty and continued challenges in delivering aid and programming to those who need it the most.

² UNSCR 2664. <http://unscr.com/en/resolutions/2664>

Additionally, ECOD defines technology under the scope of the Export and Import Permits Act (EIPA) as encompassing all forms of knowledge exchange, whether virtual, face-to-face, academic articles, or even notes taken during exchanges. Consequently, any transfers of such technology, including virtual training sessions, require export permits. This prohibition of knowledge transfer delayed a training project with DPRK scientists seeking to address food security issues through agricultural practices for more than a year, when all the other necessary U.S. OFAC licenses to carry out this programming had already been obtained.

Canada should create standing broad humanitarian exemptions that allow aid agencies to do essential lifesaving work and consider broadening this to the inclusion of livelihoods support, education, healthcare, peace, and human rights programming to protect the most vulnerable populations.

3. Mitigate the adverse impact of financial sector de-risking and overcompliance.

A significant obstacle to implementing humanitarian and development programming in heavily sanctioned contexts is financial and private sector “de-risking.” Financial systems are deeply impacted by sanctions and face serious risks if they are found to not be in compliance with sanctions, creating a chilling impact where financial institutions are overly cautious. Even in situations where organizations, like MCC, may have the necessary permissions in place, banking institutions remain reluctant to process payments on behalf of NGOs. Humanitarian agencies are unable to do work if they are unable to move funds efficiently. This overcompliance extends to other service providers and suppliers, deeply impacting humanitarian organizations abilities to secure basic services like travel health coverage for staff travelling to sanctioned contexts, making even basic interactions complicated and costly, even when all sanctions requirements have been fully met.

For example, in the context of Syria, MCC has experienced significant difficulties in moving funds due to financial institutions seeking to avoid the risk of sanctions non-compliance, despite MCC’s careful risk mitigation and screening processes. This de-risking can also impact payments from MCC to neighbouring countries that do not face sanctions, creating a regional impact based on sanctions regimes, even when those sanctions are said to be targeted to certain individuals and entities.

Proactive dialogue led by the Canadian government to clarify the prioritization of humanitarian transactions and promoting proactive communication with key stakeholders including those in the financial sector is critical to reducing overcompliance and de-risking behaviour. This will help to ensure desperately needed humanitarian assistance has a clear pathway through to vulnerable populations. UN Security Council resolution 2664 addresses this issue as well, stating that “the provision, processing or payment of funds, other financial assets, or economic resources, or the provision of goods and services necessary to ensure the timely delivery of humanitarian assistance or to support other activities that support basic human needs... are

permitted and are not a violation of the asset freezes imposed by this Council or its Sanctions Committees".³

4. Prioritize humanitarian requests and improve timeliness for responsiveness while coordinating sanction regimes with other regulatory controls, such as anti-fraud and corruption, counterterrorism laws and export controls, to both reduce the administrative challenges faced by humanitarian organizations and achieve the intended impacts of sanctions.

Humanitarian organizations like MCC already work within numerous regulatory controls, including anti-fraud and corruption, counterterrorism laws, and export controls, all of which limit our ability to work in certain contexts and increase the delay in the delivery of life-saving aid. When sanctions regimes are introduced or changes made, coordinated efforts should be made to ensure that other regulatory regimes align in order to clarify processes and to reduce the already heavy administrative burdens on humanitarian organizations, especially when delays are increased.

Canada can support humanitarian organizations by prioritizing timeliness and effectiveness in supporting organizations in delivering humanitarian programming. This includes coordinating administrative processes between oversight bodies and offering clearer guidance on Canadian sanctions and export controls, as they apply to humanitarian activities, including information on application and enforcement of humanitarian exemptions. An example can be drawn from Afghanistan where, although sanctions carve outs for humanitarian programming already existed, Criminal Code legislation did not allow those carveouts to be implemented, effectively stopping the delivery of humanitarian aid to Afghanistan for over a year after the Taliban take-over.

Thanks to concerted advocacy work, legislative changes to the Criminal Code have changed recently that allow Canadian humanitarian actors to remove risk of criminal prosecution when providing assistance to vulnerable populations in Afghanistan, after over a year of delayed humanitarian response at a time of increased need. We would encourage proactive coordination, with the goal of timeliness, building on this success so that humanitarian assistance does not face similar delays in other contexts when sanctions may be applied.

Conclusion

MCC welcomes this renewed analysis of Canada's sanctions regime. Canada's current sanction laws create barriers for Canadian organizations like MCC to carry out the essential work of providing humanitarian and peacebuilding support. In opposition to the FIAP, sanctions create

³ UNSCR 2664. <http://unscr.com/en/resolutions/2664>

unequitable humanitarian situations, placing great burdens on women, girls, and other marginalized groups. We urge the Canadian government to address these issues.

Summary of Recommendations:

1. Ensure that the impact of sanctions on ordinary people and especially the most vulnerable people in countries targeted by sanctions is well understood and researched to mitigate the risk of unintended harm.
2. Implement United Nations humanitarian carveouts across Canadian sanctions regimes through exempting food, medicine, medical supplies, education, healthcare, and equipment from sanctions.
3. Mitigate the adverse impact of financial sector de-risking and overcompliance.
4. Prioritize humanitarian requests and improve timeliness for responsiveness, while coordinating sanction regimes with other regulatory controls, such as anti-fraud and corruption, counterterrorism laws and export controls, to both reduce the administrative challenges faced by humanitarian organizations and achieve the intended impacts of sanctions.

Mennonite Central Committee (MCC) is a worldwide ministry of Anabaptist churches working alongside communities globally through its humanitarian, development, and peace work. Our work began over 100 years ago, motivated by providing humanitarian assistance to Mennonites in the former Soviet Union. Today MCC supports programming in roughly 45 countries, working through local partnerships to provide water, food, and shelter in times of hunger, disaster, and conflict; development opportunities such as education and income generation opportunities; and working with communities to prevent violence and promote sustainable peace.