

**SECURITY COUNCIL COMMITTEE ESTABLISHED
PURSUANT TO RESOLUTION 1267 (1999) CONCERNING
AL-QAIDA AND THE TALIBAN AND ASSOCIATED
INDIVIDUALS AND ENTITIES**

Explanation of Terms: Arms Embargo

The 192 Member States of the United Nations are required to implement the Al-Qaida/Taliban arms embargo against Al-Qaida, Usama bin Laden, the Taliban and other individuals, groups, undertakings and entities associated with them who have been designated on the Consolidated List by the 1267 Sanctions Committee. Member States are required to implement the Al-Qaida/Taliban arms embargo only against these listed individuals and entities and the provision on the Al-Qaida/Taliban arms embargo itself defines the scope of States responsibilities on how to implement it.

The Al-Qaida/Taliban arms embargo, established in paragraph 2 of resolution 1390 (2002) and reiterated in subsequent resolutions, provides as follows:

- (c) Prevent the direct or indirect supply, sale or transfer, to these individuals, groups, undertakings and entities from their territories or by their nationals outside their territories, or using their flag vessels or aircraft, of arms and related materiel of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned and technical advice, assistance, or training related to military activities.

1. What is the obligation of Member States?

The obligation on Member States can be detailed by the following:

- prevent the direct or indirect supply, sale or transfer
- of arms and related materiel of all types, including [but not limited to]:
 - o weapons and ammunition
 - o military vehicles and equipment
 - o paramilitary equipment
 - o spare parts for the aforementioned
- and technical advice, assistance, or training related to military activities
- from their territories or by their nationals outside their territories, or using their flag vessels or aircraft
- to those individuals, groups, undertakings and entities who have been designated on the Consolidated List by the 1267 Sanctions Committee.

2. What does “Prevent the direct or indirect supply, sale or transfer of arms and related materiel of all types” mean? (Scope of embargo)

Member States are required to stop any supply or sale or transfer of arms to the listed individuals and entities. This should be understood as an obligation to prevent the listed individuals and entities from obtaining arms or related materiel of any sort.

The embargo is defined in broad terms, as indicated by the illustrative list in paragraph 2 of resolution 1390: arms and related materiel of all types including weapons and ammunitions, military vehicles and equipment, paramilitary equipment, and spare parts for all of these.

In addition, the arms embargo has an additional component which regularly appears to be forgotten. It includes the provision of technical advice, assistance, or training related to military activities that, without exception, have to be denied to those designated on the Consolidated List by the 1267 Sanctions Committee. This includes preventing any listed individuals from participating in any training whose aim is to teach or learn techniques and activities related to military activities.

Since the overall aim of the embargo is to deny access to the listed individuals and entities to any type of arms and related materiel, advice/assistance/training, States should adopt a broad interpretation of the embargo’s scope to include arms brokers, exports, imports, transshipments and the provision of all these to the listed individuals and entities so as to allow the fullest implementation possible. This would limit the means available to the listed individuals and entities who would try to use improvised or unconventional methods to circumvent the embargo against them.

3. What does “from their territories or by their nationals outside their territories, or using their flag vessels or aircraft” mean?

The obligation of the Member States to implement the Al-Qaida/Taliban arms embargo means that they have to prevent the direct or indirect supply, sale or transfer of arms and related materiel, and technical advice, assistance, or training related to military activities

- to the listed individuals and entities from their territories;
- to the listed individuals and entities by their nationals outside their territories;
- to the listed individuals and entities through the use of their flag vessels or aircrafts

The Security Council did not therefore limit the Al-Qaida/Taliban arms embargo to the geographical delimitation of the territories of Member States, but rather broadened the obligation of Member States with respect to implementation of the embargo based on their legal authority over their nationals abroad and their flag vessels and aircrafts in accordance with international law.

4. Are there any exemptions to the Al-Qaida/Taliban arms embargo?

When the Arms Embargo was first imposed under resolution 1333 (2000), it applied only to transfers to the territory of Afghanistan under Taliban control, and included an exemption for humanitarian or protective use. This exemption was removed, however, when the Al-Qaida/Taliban arms embargo was modified in resolution 1390 (2002) to apply to all individuals and entities designated on the Consolidated List by the 1267 Sanctions Committee. There are currently no exemptions to the Al-Qaida/Taliban arms embargo in terms of its application to the individuals and entities designated on the Consolidated List

5. What is not covered under the Al-Qaida/Taliban arms embargo?

Other Sanction regimes have prohibited the re-transfer of arms legitimately sold to Government forces from falling into other hands (e.g. resolution 1011 of 1995 on Rwanda). The Security Council has also decided in some cases that a reporting process is required of all exports and imports of arms by States (e.g. resolution 1171 of 1998 on Rwanda). Such provisions have not been included for the Al-Qaida/Taliban arms embargo.

The reasons why such provisions were not relevant/necessary for the Al-Qaida/Taliban arms embargo is because ALL supply, sales and transfers to the listed individuals and entities are prohibited under the Al-Qaida/Taliban sanctions regime. Hence, no re-transfer, howsoever obtained, would be allowed to the listed individuals and entities. For the same reason, no reporting process on the export/import to the listed individuals and entities is necessary.
