

SECURITY COUNCIL COMMITTEE ESTABLISHED 9 December 2008
PURSUANT TO RESOLUTION 1267 (1999)
CONCERNING AL-QAIDA AND THE TALIBAN
AND ASSOCIATED INDIVIDUALS AND ENTITIES

TRAVEL BAN : EXPLANATION OF TERMS

1. Background

On 16 January 2002, by resolution 1390 (2002), the Security Council decided to impose a travel ban on Usama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals associated with them as designated by the 1267 Committee on its Consolidated List. There is no expiry date for the travel ban sanction measure which has been reiterated in subsequent Security Council resolutions concerning the 1267 regime, most recently in paragraph 1 (b) of resolution 1822 (2008), adopted on 30 June 2008.

The travel ban measure requires all United Nations Member States to:

“Prevent the entry into or the 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 fulfillment of a judicial process or the Committee established pursuant to resolution 1267 (1999) (“the Committee”) determines on a case-by-case basis only that entry or transit is justified”.

2. Objective of the travel ban

The Al-Qaida/Taliban travel ban measure is intended to limit the mobility of listed individuals. As with the other two measures referred to in paragraph 1 of resolution 1822 (2008), 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 lookout 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 and national obligations, which may include, but are not limited to, cancelling visas and entry permits or refusing to issue any visa/permit for listed individuals.

3. Member State obligations regarding the travel ban

All Member States of the United Nations are required to implement the Al-Qaida/Taliban travel ban sanction measure against all individuals designated on the Consolidated List by the 1267 Committee, (available at: <http://www.un.org/sc/committees/1267/consolist.shtml>). The travel ban measure applies to all listed individuals wherever they may be located. The responsibility to implement the travel ban measure lies with the State(s) of entry and/or transit.

The travel ban measure requires States to:

- Prevent the entry into their territories of the listed individuals, and
- Prevent the transit through their territories of the listed individuals unless one of the three exemption provisions apply (explained in paragraph 4 below).

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.

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.

4. Exemptions allowed under the travel ban

There are 3 types of exemption to the travel ban measure and they are described in paragraph 1(b) of resolution 1822 (2008) itself:

(i) Entry into or departure of its own nationals

There is no obligation under the Al-Qaida/Taliban 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.

(ii) Where entry or transit is necessary for the fulfillment of a judicial process

There is no obligation to arrest or prosecute listed individuals on the basis of their designation on the Consolidated List by the 1267 Committee. However, if there are reasonable grounds to suspect that a listed individual has committed an offence punishable under national legislation, the competent national authority may take the appropriate measures to allow entry or transit of that listed individual into national territory to ensure his/ her presence for the purposes of the fulfillment of a judicial process.

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.

Note: Member States are not required to report to the 1267 Committee the entry into or transit through their territory of a listed individual when exercising their rights under exemptions (i) and (ii) above but any information on the entry into or transit through their territory of any listed individual under these exemptions can be of interest to the Committee, and States are invited to inform the Committee accordingly.

(iii) Where the 1267 Committee determines on a case-by-case basis only that entry or transit is justified

In November 2002, the 1267 Committee adopted a mechanism to consider requests for exemptions from the Al-Qaida/Taliban travel ban measure (see Section 4, paragraph (m) of the Committee's Guidelines). On 2 September 2008, the Committee approved specific procedures in this regard (see 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.

In summary, under this third exemption provision, it is possible for listed individuals to apply for a travel ban exemption for necessary travel such as for medical treatment 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. Except in cases of emergency, the travel can only take place after formal approval by the 1267 Committee.

In cases of emergency, the Committee will determine whether the travel is justified within the provisions of paragraph 1 (b) of resolution 1822 (2008) within 24 hours once notified of the name of the listed individual traveler and the other details set out in Section 11, paragraph (j) of the Committee's Guidelines.

The Committee's decisions on all requests for exemptions are reached by consensus of its Members on a case-by-case basis, in accordance with its Guidelines.

All proposed uses of funds or other financial assets or economic resources in connection with the travel may only be provided by the Committee in accordance with paragraph 1 of resolution 1452 (2002), as modified by paragraph 15 of resolution 1735 (2006). The procedures for making a request under resolution 1452 (2002) can be found in Section 10 of the Committee's Guidelines, available at: http://www.un.org/sc/committees/1267/pdf/1267_guidelines.pdf.

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