

De-listing, Unfreezing and providing access to frozen funds or other assets

De-listing

This document seeks to provide guidance to any person or entity enlisted on the so-called United Nations (UN) List or the Domestic Terrorist List as per Section 29E or 29F of ALPA on how to request removal from such list (also called: de-listing), unfreezing and getting access to funds, other assets or economic resources subjected to freezing measures. Section I is relevant for those persons or entities designated and listed by the UN, where section II is relevant for persons or entities designated by the Government of Nepal and enlisted on the Domestic Terrorist List.

I. Designation of UN List

If the designated person or entity no longer meets the designation criteria

If the person or entity is designated under the UN List but no longer meets the designation criteria applicable as per the relevant United Nations Security Council Resolution (UNSCR), then such person or entity may submit a request for de-listing to the relevant UN sanctions Committee by notifying the Ministry of Foreign Affairs (MoFA), which shall subsequently notify the Ministry of Home Affairs (MoHA) to conduct the necessary inquiries.

In such cases the petitioner is requested to make use of the information included below as [Form A].

If the designated person or entity seeks to challenge the designation by sending a de-listing petition to the United Nations Office of the Ombudsperson

Individuals or entities on the UN List can also challenge their designation by submitting a request to MoFA. MoFA shall facilitate the communication to the Office of the Ombudsperson of the Security Council's relevant Committee (1267/1989 and 1988 Committee). [Form B] as included below contains relevant guidance regarding such communication / request.

If a person's or entity's funds or other assets are subject to freezing action in Nepal due to similarity in name as a designated person or entity, or due to a false positive hit with a name on the UN List

Persons or entities may be in the situation that their funds or other assets are subjected to a freezing action due to the fact that there is a similarity in the name of the person or entity with an individuals or entity on the UN List. Furthermore, freezing action may have been taken based on a false positive hit with a name on the list (e.g. based on a single initial a 'hit' was established leading to the freezing action, while applying the full set of initials of the person would not have been constituted a 'hit'). [Form C] as included below contains relevant guidance on how to request the Ministry of Home Affairs (MoHA) for the unfreezing of funds or other assets.

II. Designation under Domestic Terrorist List and Listing made on request of Foreign Country

The name of designated person, group or organization can be removed from the list if:

- i. The person, group or organization no longer meets the designation criteria and MoHA suo-motu decides to delist the person, group or organization
- ii. As per application received from the person, group or organization contesting that they should not be listed, MoHA carries out necessary review of the application and may remove the person from the domestic terrorist list where applicable. The information that should be given by the designated person, group or entity designated under domestic terrorist list for review should provide the details listed in [Form D].
- iii. If the individual or entity is listed due to listing request made by foreign country and was listed in the Domestic Terrorist List, then such individual or entity can provide application along with verifiable documents to MoHA contesting that they should not be on that list. MoHA can request to the foreign country, through MoFA, to conduct review and if foreign country as well as MoHA are satisfied that such person or entity should not be on the stipulated list, such person or entity should be removed from the domestic terrorist list. (The information that should be given by the designated person, group or entity designated as per foreign request for review should provide the details listed in [Form D])
- iv. If the delisted person/group/entities are found listed due to false positive.
- v. If the person/group/entities are not convicted by the court in final hearing.

[Form A:] Information on the format to be used by a person or entity seeking delisting ('Petitioner') from the UN Sanctions List (UN List) through submitting a request to the UN 1267/1989 or 1988 Committee via the Ministry of Foreign Affairs

There is no prescribed format for the request. What is important is to include all the necessary information as described in the Content section below. While it is preferable for the request to be submitted in, or accompanied by a translation into, one of the six official languages of the United Nations (Arabic, Chinese, English, French, Russian or Spanish) requests in other languages will be accepted.

The request may be transmitted by any means which affords a record in writing – post, e-mail, or fax. For requests submitted by post, in case clarification or follow up is required, it would facilitate the process if a return e-mail address or fax number were included or if that is not possible, a phone number through which the Petitioner can be contacted. The request may be sent to the following addresses:

Ministry of Foreign Affairs

INTERNATIONAL ORGANIZATION AND INTERNATIONAL LAW DIVISION

Tel: +977 4200182

E-mail: ioil@mofa.gov.np

CONTENT

A request for delisting due to not, or no longer, meeting the designation criteria should make reference to the relevant entry in the UN List and should include the following information:

1. Identification information for the Petitioner.

In the case of an individual especially:

- a) full name including any middle names or initials, father and grandfather's names as may be applicable, as well as any other names or pseudonyms used by the Petitioner;
- b) date and place of birth;
- c) nationality - if more than one please provide all;
- d) State of current residence; and
- e) any other information which may help to clarify any issues of identity.

In the case of an entity especially:

- a) full name of the entity including any alternative names used;
- b) if applicable, place and date of incorporation/registration;
- c) State(s) of current operation(s); and
- d) any other information which may help to clarify any issues of identity.

2. A statement of the reasons/ justification for delisting.

This section should be as detailed as possible. The Petitioner should address any specific designating criteria set out in the UN List entry or in the Narrative Summary (if applicable), and why the Petitioner considers such specific designation criterion not met or no longer met. If, in addition, the Petitioner has any information or suspicions as to the basis for his or her inclusion on the list, those should be included along with any explanations, arguments or submissions relating to the same.

3. Where available, copies of any documents or other supporting or explanatory material.
4. If applicable, a description of any court proceedings or litigation of relevance to the delisting request.
5. If applicable, a reference to any previous request for delisting made by the same Petitioner.
6. Where the request is being made by a person acting on behalf of a listed person, a document signed by the Petitioner, authorizing the person to act on his or her behalf.

FURTHER INFORMATION

Should you require assistance or further information please contact the Ministry of Foreign Affairs: *[email address]*

[Form B:] Information on the format to be used by a person or entity seeking delisting ('Petitioner') from the UN Sanctions List (UN List) through submitting a request to the UN Office of the Ombudsperson via the Ministry of Foreign Affairs Guidance for an enlisted individual or proscribed entity (Petitioner) requesting review of the designation.

FORMAT AND TRANSMISSION

There is no prescribed format for the request. What is important is to include all the necessary information as described in the Content section below. While it is preferable for the request to be submitted in, or accompanied by a translation into, one of the six official languages of the United Nations (Arabic, Chinese, English, French, Russian or Spanish) requests in other languages will be accepted.

The request may be transmitted by any means which affords a record in writing – post, e-mail, or fax. For requests submitted by post, in case clarification or follow up is required, it would facilitate the process if a return e-mail address or fax number were included or if that is not possible, a phone number through which the Petitioner can be contacted. The request may be sent to the following addresses:

Office of the Ombudsperson

Room TB-8041D

United Nation

New York, NY 10017

United States of America

Tel: +1 212 963 2671

Fax: +1 212 963 1300/3778

E-mail: ombudsperson@un.org

CONTENT

A request for delisting due to not, or no longer, meeting the designation criteria should make reference to the relevant entry in the UN List and should include the following information:

1. Identification information for the Petitioner.

In the case of an individual especially:

- a) full name including any middle names or initials, father and grandfather's names as may be applicable, as well as any other names or pseudonyms used by the Petitioner;
- b) date and place of birth;

- c) nationality - if more than one please provide all;
- d) State of current residence; and
- e) any other information which may help to clarify any issues of identity.

In the case of an entity especially:

- e) full name of the entity including any alternative names used;
- f) if applicable, place and date of incorporation/registration;
- g) State(s) of current operation(s); and
- h) any other information which may help to clarify any issues of identity.

2. A statement of the reasons/ justification for delisting.

This section should be as detailed as possible. The Petitioner should address any specific designating criteria set out in the UN List entry or in the Narrative Summary (if applicable), and why the Petitioner considers such specific designation criterion not met or no longer met. If, in addition, the Petitioner has any information or suspicions as to the basis for his or her inclusion on the list, those should be included along with any explanations, arguments or submissions relating to the same.

- 3. Where available, copies of any documents or other supporting or explanatory material.
- 4. If applicable, a description of any court proceedings or litigation of relevance to the delisting request.
- 5. If applicable, a reference to any previous request for delisting made by the same Petitioner through the Focal Point or otherwise.
- 6. Where the request is being made by a person acting on behalf of a listed person, a document signed by the Petitioner, authorizing the person to act on his or her behalf.

Note: While resolution 2083 (2012) sets out a procedure for repeat requests, that process will be applicable only to repeat requests to the Ombudsperson. Thus, where a previous request has been made through the Focal Point or otherwise, the request to the Office of the Ombudsperson will be considered as an initial one.

FURTHER INFORMATION

Should you require assistance or further information please contact the Office of the Ombudsperson at: ombudsperson@un.org

[Form C:] Information for request to unfreeze funds or other assets in situations where a person's / entity's funds or other assets are subject to freezing action in Nepal due to a similarity in name as a designated person / entity, or due to a false positive hit with a name on the UN List

FORMAT AND TRANSMISSION

There is no prescribed format for the request. What is important is to include all the necessary information as described in the Content section below. The request may be transmitted by any means which affords a record in writing – hand delivered, post, e-mail, or fax. For requests submitted by post, in case clarification or followup is required, it would facilitate the process if a return e-mail address or fax number were included or if that is not possible, a phone number through which the Petitioner can be contacted. The request may be sent to the following addresses:

Local Administration and provincial coordination section,
Ministry of Home Affairs
Room 305
Singhadurbar, Kathmandu
Tel: + 977 4211266

E-mail: localadmin@moha.gov.np

CONTENT

A request for unfreezing funds or other assets due to a similarity in name and/or other identifiers with a listed person/entity, or due to a false positive hit with a name on the UN list, should make reference to the relevant entry in the UN List and should include the following information:

1. Identification information for the Petitioner.

In the case of an individual especially:

- a) full name including any middle names or initials, father and grandfather's names as may be applicable, as well as any other names or pseudonyms used by the Petitioner;
- b) date and place of birth;
- c) nationality - if more than one please provide all;
- d) State of current residence; and
- e) any other information which may help to clarify any issues of identity.

In the case of an entity especially:

- i) full name of the entity including any alternative names used;
 - j) if applicable, place and date of incorporation/registration;
 - k) State(s) of current operation(s); and
 - l) any other information which may help to clarify any issues of identity.
- 2) A statement of the reasons/ justification for unfreezing funds or other assets. This section should be as detailed as possible reflecting on the Petitioner not meeting all the identified and having different as included in the List. The Petitioner should address any specific designating criteria set out in the Narrative Summary (if applicable) that has led to the freezing action, and where this has led to the confusion or false positive hit.

Where available, copies of any documents or other supporting or explanatory material.

- 3) If applicable, a reference to any previous request for review made by the same Petitioner.
- 4) Where the request is being made by a person acting on behalf of a listed person, a document signed by the Petitioner, authorizing the person to act on his or her behalf.

FURTHER INFORMATION

Should you require assistance or further information please contact the Local Administration and provincial coordination section, Ministry of Home Affairs.

[Form D:] Information for an enlisted individual or entity (Petitioner) requesting review of the designation on the Domestic Terrorist List.

FORMAT AND TRANSMISSION

The format of application as included below may be used for the request. The request may be transmitted by any means which affords a record in writing – hand delivered, post, e-mail, or fax. For requests submitted by post, in case clarification or followup is required, it would facilitate the process if a return e-mail address or fax number were included or if that is not possible, a phone number through which the Petitioner can be contacted. The request may be sent to the following addresses:

Local Administration and provincial coordination section,

Ministry of Home Affairs

Room 305

Singhadurbar, Kathmandu

Tel: + 977 4211266

E-mail: localadmin@moha.gov.np

Format of application for removal of name from list or release of frozen assets

Ministry of Home Affairs
Singhadurbar, Kathmandu.

Dear Sir,

As per the notice dated released by Government of Nepal, Ministry of pursuant to ALPA 2008, my/our name has been included in the sanction list and upon the following attached documents, I/we request for removal from the list and/or to release frozen funds or other assets, due to (select the possible ground):

- I/we no longer meet the designation criteria
- I/we contest the listing
- My/our listing was due to listing request made by a foreign country and leading to listing in the Domestic Terrorist List,
- My/our funds or other assets were subject to freezing action due to false positive.

I/we duly request the removal of my/our name from the list and the release of frozen funds and/or other assets.

Grounds, documents and evidence claiming not to be listed and/or release of frozen funds and/or other assets

-
-
-
-

Applicant

Signature :

Full Name :

Address :

Date :

Additional information:

A request for a review of listing or freezing action should make reference to the relevant entry in the List and should include the following information:

1. Identification information.

In the case of an individual especially:

- a) full name including any middle names or initials, father names and mother's names;
- b) date and place of birth;
- c) nationality - if more than one please provide all;
- d) current address; and
- e) any other information which may help to clarify any issues of identity.

In the case of an entity especially:

- a) full name of the entity including any alternative names used;
 - b) if applicable, place and date of incorporation/registration;
 - c) Location of current operation(s); and
 - d) any other information which may help to clarify any issues of identity.
2. A statement of the reasons/ justification for review ('grounds, documents and evidence claiming not to be listed and/or release of frozen funds and/or other assets'). This section should be as detailed as possible. The Petitioner should address any specific designating criteria set out in the Narrative Summary (if applicable). If, in addition, the Petitioner has any information or suspicions as to the basis for his or her inclusion on the list, those should be included along with any explanations, arguments or submissions relating to the same.
 3. Where available, copies of any documents or other supporting or explanatory material.
 4. If applicable, a description of any court proceedings or litigation of relevance to the review request.
 5. If applicable, a reference to any previous request for review made by the same Petitioner.
 6. Where the request is being made by a person acting on behalf of a listed person, a document signed by the Petitioner, authorizing the person to act on his or her behalf.

FURTHER INFORMATION

Should you require assistance or further information please contact the Local Administration and provincial coordination section, Ministry of Home Affairs.