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## CHAPTER 19

### Arms Control, Disarmament, and Nonproliferation

#### A. GENERAL

On April 11, 2016, the State Department released the unclassified version of its report to Congress on Adherence to and Compliance with Arms Control, Nonproliferation, and Disarmament Agreements and Commitments, submitted pursuant to Section 403 of the Arms Control and Disarmament Act, as amended, 22 U.S.C. § 2593a. The report contains four parts. Part I addresses U.S. compliance with arms control, nonproliferation, and disarmament agreements and commitments. Part II discusses compliance by Russia and other Soviet successor states with treaties and agreements the United States concluded bilaterally with the Soviet Union or its successor states. Part III assesses compliance by other countries that are parties to multilateral agreements. Part IV covers other countries' adherence to international commitments, such as the Missile Technology Control Regime ("MTCR"). And Part V covers other countries' adherence to certain unilateral commitments. The 2016 report primarily covers the period from January 1, 2015 through December 31, 2015. The report is available at <https://www.state.gov/t/avc/rls/rpt/2016/255651.htm>.

#### B. NONPROLIFERATION

##### 1. Overview

On March 17, 2016, U.S. Undersecretary of State for Arms Control and International Security Rose Gottemoeller testified before the Senate Foreign Relations Committee on the U.S. nuclear agenda. Her remarks are excerpted below and available at <http://2009-2017.state.gov/t/us/2016/254831.htm>.

\* \* \* \*

We've taken steps to verifiably reduce the number of nuclear weapons that are deployed against us, as we continue to maintain a safe, secure and effective arsenal for as long as nuclear weapons exist.

I am glad to tell you that the New START Treaty, with the bipartisan support of this body, is providing predictability about the Russian nuclear arsenal at a time of continuing crisis and very poor relations with Moscow. The Treaty is thus manifestly in the interest of U.S. national security.

In this hearing, I will not further focus on arms reductions, but on the steps we have taken to protect against the further spread of nuclear weapons and the threat of nuclear terrorism.

Among those steps has been turning the Proliferation Security Initiative and the Global Initiative to Combat Nuclear Terrorism into durable international institutions—increasing their membership and enhancing coordination to stop shipments of WMD and related items, as well as helping partner nations prevent dangerous nuclear materials from falling into the hands of criminals or terrorists. We have also helped to strengthen the International Atomic Energy Agency's (IAEA) safeguards system to ensure nuclear programs around the world are purely peaceful.

And earlier this year, the IAEA confirmed that Iran had completed its nuclear commitments to reach "Implementation Day" of [the] Joint Comprehensive Plan of Action (JCPOA) reached between the P5+1, the European Union, and Iran, closing off all of Iran's pathways to acquire enough fissile material for a nuclear weapon. As it is fully implemented, the agreement is healing a major wound in the global nonproliferation regime.

Yet the prospect of nuclear terrorism presents a very different challenge from proliferation by other countries. Terrorists do not make commitments, other than to destruction, and the black markets and smuggling networks that could link them with nuclear materials are not bound by recognized rules, norms, or borders. Given the destruction that terrorists could unleash with only one weapon, nuclear terrorism is the greatest threat to our national security.

In order to marshal unprecedented attention and efforts to address this threat, the Administration initiated the Nuclear Security Summit process in 2010, bringing together leaders from 50+ countries and four international organizations. The fourth and final of these Summits will be held March 31 and April 1 in Washington, D.C.

Through these Summits, the international community has strengthened the international organizations, institutions and multilateral legal instruments that make up the global nuclear security architecture.

Summit participants have also pledged to work together in building capabilities to prevent, detect, and respond to radiological and nuclear smuggling threats. We all recognize the urgent imperative of collective action to find, arrest, and prosecute nuclear smugglers and their networks, and recover any dangerous nuclear or radioactive materials that remain out of regulatory control.

At the 2016 Summit, leaders will highlight the accomplishments that have been made and commit to the further expansion and strengthening of the global nuclear security architecture.

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## 2. Non-Proliferation Treaty (“NPT”)

### a. P5 Conference

On September 14 -15, 2016, the five NPT nuclear weapons states met at the Seventh P5 Conference in Washington, DC to review their progress on disarmament and nonproliferation pursuant to the NPT. See September 13, 2016 State Department media note, available at <http://2009-2017.state.gov/r/pa/prs/ps/2016/09/261795.htm>. On September 15, 2016, the governments of the five nuclear weapons states issued a joint statement, excerpted below and available at <http://2009-2017.state.gov/r/pa/prs/ps/2016/09/261994.htm>.

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1. The P5 reaffirmed the ongoing relevance of all provisions of the Action Plan adopted by consensus at the 2010 NPT Review Conference that remains an indispensable roadmap for the implementation of all the three pillars of the NPT. The P5 took stock of the 2015 NPT Review Conference and discussed ways to enhance prospects for the 2020 NPT Review Cycle. The P5 look forward to working with all States Parties to the NPT to ensure a positive outcome to the 2020 NPT Review Cycle.
2. The P5 recognized the considerable progress made together through the P5 process since the first such conference in 2009 and reaffirmed the value of this format for fostering dialogue, transparency, and cooperation among Nuclear Weapons States (NWS) and with international partners. The development of a common reporting framework for the 2015 NPT Review cycle, the work of the Comprehensive Nuclear-Test-Ban Treaty (CTBT) Experts Group, and the publishing of a Glossary of Key Nuclear Terms provide a sound foundation for further cooperative work. They resolved to continue working together through the P5 process to make further progress during the 2020 NPT Review Cycle.
3. The P5 reaffirmed that the NPT remains the cornerstone of the international nuclear nonproliferation regime, a framework for expanding the peaceful uses of nuclear energy amongst States Parties to the Treaty, and the foundation for the collective pursuit of nuclear disarmament. The P5 committed to working together and with other States Parties to strengthen in a balanced and effective manner each of the NPT’s mutually reinforcing pillars—disarmament, nonproliferation, and the peaceful uses of nuclear energy. The P5 reaffirmed that the preservation of the integrity of the NPT, achieving its universality and its strict implementation are essential to regional and international peace and security.
4. At their 2016 Conference, the P5 reaffirmed the shared goal of and commitment to nuclear disarmament and general and complete disarmament, as referenced in the preamble and provided for in Article VI of the NPT. ... The P5 all reaffirmed the importance of full compliance with existing, legally-binding arms control, nonproliferation, and disarmament agreements and obligations as an essential element of international peace and security.
5. The P5 expressed their deep concern with efforts to pursue approaches to nuclear disarmament that disregard the global strategic context. Such efforts will threaten the consensus-

based approach that has served for decades to strengthen the NPT regime and enhance the Treaty's contribution to international security and may negatively affect the prospects for consensus at future NPT Review Conferences. The P5 reiterated a call upon all members of the international community to engage in an open and constructive dialogue on nuclear disarmament, international security, and stability issues that is inclusive of all states and focused on practical measures leading to a world without nuclear weapons and other weapons of mass destruction.

6. The P5 reiterated their full support for the United Nations' disarmament machinery, including the Conference on Disarmament (CD), and the Disarmament Commission. While noting their disappointment at the long-standing lack of consensus on a Program of Work in the CD, the P5 acknowledged creative efforts to find a compromise during the 2016 session and discussed a number of proposals towards that end. In this regard, the P5 reaffirm their support and readiness to explore all of the options to get the CD back to work, taking into account all previous proposals and agreements amongst themselves and bearing in mind the 2010 NPT Action Plan.

7. The P5 reaffirmed that, as stated in UN Security Council Resolution 1887 (2009), the proliferation of weapons of mass destruction and their means of delivery constitutes a threat to international peace and security. They reaffirmed that all NPT States Parties must ensure strict compliance with their nonproliferation obligations under the NPT. The P5 remained deeply concerned by the challenge that non-compliance by States Parties poses to the integrity of the NPT and emphasize the role of the UN Security Council in determining if such situations constitute a threat to international peace and security. The P5 emphasized the Security Council's primary responsibility in addressing such threats. The P5 reiterated the importance of seeking peaceful and diplomatic solutions to the challenges facing the non-proliferation regime. They also noted the need to further strengthen the International Atomic Energy Agency (IAEA) safeguards system, including the universalization of the Additional Protocol.

8. They strongly condemned the January 6 and September 9, 2016 nuclear tests, and the continued ballistic missile tests and ballistic missile launches carried out by the Democratic People's Republic of Korea, in violation of its obligations pursuant to relevant UN Security Council resolutions and in contravention of its commitments under the September 19, 2005 Joint Statement of the Six-Party Talks. The P5 recalled the press statement of the UN Security Council on September 9, 2016. The P5 reiterated the importance of maintaining peace and stability on the Korean Peninsula and in North-East Asia at large. The P5 reaffirmed their commitment to the full implementation of the 2005 Joint Statement of the Six-Party Talks, and urged the DPRK to respond to diplomatic efforts aimed at the eventual resumption of the Six-Party Talks and achieving complete, verifiable, and irreversible denuclearization of the Korean Peninsula in a peaceful manner. They stressed the importance of working to reduce tensions in the Korean Peninsula.

9. They also welcomed and reaffirmed their commitment to the full implementation of the Joint Comprehensive Plan of Action (JCPOA) endorsed by the UN Security Council Resolution 2231. Successful implementation of this JCPOA will ensure that Iran's nuclear program is and remains exclusively peaceful and will enable Iran to fully enjoy its right to nuclear energy for peaceful purposes as recognized in the relevant articles of the NPT in line with its obligations therein. They called for full implementation of all commitments pursuant to the JCPOA. They expressed their strong support for the IAEA's essential and independent role.

10. The P5 noted that global stocks of nuclear weapons are now at their lowest point in over half a century as the result of unprecedented efforts on the part of nuclear weapon states. They further underlined the need to pursue further efforts in the sphere of nuclear disarmament and general and complete disarmament in accordance with the Preamble and Article VI of the NPT and in a way that promotes international security and stability and taking into account all factors that could affect strategic stability.

11. The P5 discussed global strategic stability and their respective nuclear doctrines. In their shared effort to strengthen international peace and security and to address further prospects for nuclear disarmament, they stressed their readiness to engage in frank and constructive dialogue that takes into account all factors that could affect global strategic stability. The P5 also decided to seek enhanced international understanding of the role of nuclear weapons in the overall international security environment.

12. The P5 noted that 2016 marks twenty years since the opening for signature of the CTBT, and reiterated their commitment in the 2010 NPT Review Conference Final Document to promote and take concrete steps toward early entry into force and universalization of the Treaty. They called upon all states to uphold national moratoria on conducting nuclear weapon test explosion or any other nuclear explosion pending entry-into-force of the CTBT. The P5 reviewed efforts to build and maintain the International Monitoring System (IMS), supported by the International Data Centre (IDC), as well as a strong On-site Inspection (OSI) regime.

13. The P5 reviewed various areas of cooperation and reaffirmed their shared commitment to broaden and deepen dialogue and cooperation. The P5 decided to undertake further activities on the Glossary of Key Nuclear Terms. The P5 also reaffirmed the value of continuing regular meetings of technical experts to promote completion of the CTBT's verification regime and enhance its effectiveness. The P5 also decided to support and encourage dialogue among academic experts and scientists on mutually agreed issues related to international security and stability, nuclear non-proliferation, nuclear disarmament and peaceful uses of nuclear energy. The P5 decided to pursue further interaction and dialogue with non-nuclear weapon States in various multilateral formats. They shared further information on their respective bilateral and multilateral experiences in verification and resolved to continue such exchanges.

14. The P5 reiterated their common understanding of the severe consequences of use of nuclear weapons. They underscored their resolve to prevent such an occurrence from happening. They further reaffirmed their commitment to existing security assurances regarding the use, or threat of use, of nuclear weapons and recalled their statements on negative and positive security assurances as noted in UN Security Council Resolution 984 (1995), and as revised since then. The P5 intend to continue to exchange views on the issue.

15. The P5 reaffirmed the protocols to existing Nuclear-Weapon-Free-Zone treaties as an important mechanism for providing legally binding negative security assurances and recalled their signature of the Protocol to the Central Asia Nuclear Weapon Free Zone Treaty in 2014 and their readiness to sign the protocol to the Southeast Asia Nuclear-Weapon-Free Zone at the soonest possible time. They reiterated the importance of the 1995 NPT Review Conference Resolution on the Middle East and underlined their readiness to undertake efforts, including with states in the region, aimed at its implementation. The P5 underscored the need for renewed engagement among the states in the region in order to convene an initial conference on a Middle East Zone free of all weapons of mass destruction and their means of delivery.

16. The P5 underscored their commitment to prevent nuclear terrorism and their support for measures to strengthen overall nuclear security. They recalled the series of Nuclear Security

Summits. Welcoming the entry into force of the Amendment to the Convention on the Physical Protection of Nuclear Material in May 2016, they renewed their support to the universalization of the Convention on the Physical Protection of Nuclear Material and Nuclear Facilities as well as of the International Convention for the Suppression of Acts of Nuclear Terrorism. They reaffirmed their support for relevant international organizations such as the United Nations, IAEA, and INTERPOL as well as international initiatives such as the Global Initiative to Combat Nuclear Terrorism. They also further reaffirmed the central role of the IAEA in international cooperation in the area of nuclear security and expressed support for the international conference on nuclear security to be held in Vienna on December 5-9, 2016.

17. The P5 remain steadfast in their commitment to broaden access of NPT States Parties to peaceful uses of nuclear energy, and they reiterated the right of NPT States Parties to pursue the peaceful use of nuclear energy without discrimination and in conformity with their nonproliferation obligations and highest standards of nuclear safety and security. The P5 noted their extensive support for international cooperation, both bilaterally and multilaterally, on peaceful use, including the IAEA Technical Cooperation Program and multiple initiatives to strengthen IAEA programs in these areas as appropriate. They welcomed the progress in establishing the IAEA low-enriched uranium (LEU) bank in Kazakhstan and expressed their continuing support for the IAEA LEU Reserve in Angarsk (Russia), the American Assured Fuel Supply, and the UK Assurance of Supply of Enrichment Services. They affirmed that these initiatives pave the way for the assured access to nuclear fuel, which promote sustainable development and energy security and benefit all NPT States Parties.

18. The P5 welcomed France's plans to host the next Conference in 2017.

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**b. Litigation Involving Alleged NPT Breach**

As discussed in *Digest 2015* at 816-19, the district court granted the U.S. motion to dismiss a case brought by the Republic of the Marshall Islands alleging that the United States has breached its obligations under Article VI of the NPT. *Republic of the Marshall Islands v. United States*, No. 4:14-cv-01885-JSW (N.D. Cal.). On October 5, 2016, the International Court of Justice issued its judgment on the preliminary objections in *Obligations Concerning Negotiations Relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament* (Marshall Islands v. United Kingdom). The ICJ upheld the objection to jurisdiction by the United Kingdom on the grounds that there was an absence of any dispute. The United States did not participate.

**3. Peaceful Uses Initiative**

On June 1, 2016, the State Department issued a fact sheet describing U.S. support for the UN Sustainable Development Goals through the IAEA Peaceful Uses Initiative. The fact sheet is excerpted below and available at <http://2009-2017.state.gov/t/isn/rls/fs/2016/258437.htm>.



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The International Atomic Energy Agency (IAEA) established the Peaceful Uses Initiative (PUI) in 2010 with the help of the United States to raise extra-budgetary contributions to support Agency activities that promote peaceful uses of nuclear energy.

The PUI supports implementation of Article IV of the Nuclear Non-Proliferation Treaty (NPT). This provision requires NPT States Parties that are “in a position to do so” to “cooperate in contributing alone or together with other States or international organizations to the further development of the applications of nuclear energy for peaceful purposes.”

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Since 2010, the PUI has provided the IAEA with additional flexibility and resources for high priority IAEA Member State projects. These projects support international development in areas that include human health, water resource management, food security, environmental issues, nuclear power infrastructure development, and nuclear safety and security. The list of countries having benefited from PUI-supported IAEA projects has grown to more than 150 states worldwide.

U.S. PUI support contributes to the fulfillment of several of the SDGs. Examples include:

- **Zero Hunger (SDG 2):** U.S. PUI funds have helped IAEA efforts to improve food safety and quality, agricultural productivity, and capacities to combat animal diseases.
- **Good Health and Well-Being (SDG 3):** U.S. PUI funds have aided IAEA efforts to enhance human health education and training, infant and child nutrition, national capacities to combat cancer and Ebola, and nuclear medicine services.
- **Clean Water (SDG 6):** U.S. PUI funds have helped IAEA efforts to develop sustainable water resources using isotope hydrology and small-scale irrigation technologies.
- **Affordable and Clean Energy (SDG 7):** U.S. PUI funds have aided IAEA efforts to assist in nuclear power planning, infrastructure development, and nuclear safety.
- **Industry, Innovation and Infrastructure (SDG 9):** U.S. PUI funds have helped IAEA efforts to advance the development and application of radiation technologies.
- **Climate Action (SDG 13):** U.S. PUI funds have aided IAEA efforts to assess impacts of climate change on polar and mountainous regions and on marine ecosystem management.
- **Life below Water (SDG 14):** U.S. PUI funds have helped IAEA efforts to promote seafood safety, actions against ocean acidification, and assessments of radionuclides in the marine environment and of the impact of the Fukushima accident.
- **Life on Land (SDG 15):** U.S. PUI funds have aided IAEA efforts to enhance soil fertility management practices and the sustainable development of uranium resources.

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#### 4. Nuclear Security

##### a. *Nuclear security treaties*

On May 8, 2016, the amendment to the Convention on the Physical Protection of Nuclear Material (“CPPNM”) entered into force, following the deposit of the instrument of ratification by Nicaragua 30 days earlier, on April 8, 2016, bringing the total to the requisite 102 States Parties. See IAEA statement, available at <https://www.iaea.org/newscenter/news/key-nuclear-security-agreement-to-enter-into-force-on-8-may>. On May 9, 2016, the State Department issued a press statement hailing the entry into force of the amendment to the CPPNM. The statement is excerpted below and available at <http://2009-2017.state.gov/r/pa/prs/ps/2016/05/257047.htm>.

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Yesterday, the global community took a significant step forward in protecting the world’s nuclear material and preventing nuclear terrorism with the entry into force of the 2005 Amendment to the Convention on the Physical Protection of Nuclear Material (CPPNM).

This Amendment strengthens the CPPNM by adding requirements for states party to the treaty to protect nuclear facilities and nuclear material in domestic use, storage, and transport—not just international transit. The Amendment also legally requires the 102 signatory states to maintain even stronger standards of nuclear security than did the original CPPNM.

Entry into force of the Amendment strengthens the global nuclear security architecture, which enables states to continue to safely and securely pursue peaceful uses of nuclear technology. We commend the International Atomic Energy Agency (IAEA) for its role as depositary for the Convention. We will continue to work with the IAEA to universalize the amended CPPNM, which now becomes known as the Convention on the Physical Protection of Nuclear Material and Nuclear Facilities (CPP).

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##### b. *Threat of nuclear terrorism*

On March 24, 2016, the State Department issued as a media note the joint statement of the Global Initiative To Combat Nuclear Terrorism (“GICNT”) regarding the contributions of the GICNT to enhancing nuclear security. The joint statement is excerpted below and available at <http://2009-2017.state.gov/r/pa/prs/ps/2016/03/255126.htm>.

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Since 2006, the Global Initiative to Combat Nuclear Terrorism (GICNT) has grown into a partnership of 86 nations and 5 official observers committed to strengthening global capacity to prevent, detect, and respond to nuclear terrorism. The GICNT continues to make valuable contributions to nuclear security, and has held nearly 80 multilateral activities that have demonstrated the GICNT's unique ability to bring together policy, technical, and operational experts to share models and best practices and enhance partners' capabilities to address difficult and emerging nuclear security challenges. We, the Co-Chairs of the GICNT (Russia and the United States), the past and present Implementation and Assessment Group (IAG) Coordinators (Spain, the Republic of Korea, and the Netherlands), leaders of the three IAG Working Groups (Morocco, Finland and Australia), and the Special Advisor to the IAG Coordinator for planning the GICNT's Tenth Anniversary Event in 2016 (United Kingdom), wish to inform the states in attendance at the 2016 U.S. Nuclear Security Summit, as well as states who are members of other international organizations and initiatives with nuclear security-related mandates, on progress made by the GICNT since the Nuclear Security Summit hosted by the Netherlands in The Hague in March 2014.

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At the annual IAG Meeting hosted by the Republic of Korea in July 2014, partners discussed the GICNT's Statement of Principles and developed proposed topics and themes for incorporation into the GICNT's strategic planning to build upon past work and address new or continuing nuclear security challenges. Partners' feedback contributed significantly to the development of the GICNT strategy for 2015-2017, and identified potential new focus areas, such as addressing challenges related to sustainability of expertise and promoting the exchange of best practices on legal and regulatory frameworks, for further consideration.

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The **Nuclear Detection Working Group (NDWG)** completed its Developing a Nuclear Detection Architecture series, which focuses on addressing challenges inherent to successful implementation and enhancement of national nuclear detection architectures. ...

The NDWG also developed the "Exercise Playbook"—a collection of realistic scenarios that illustrates key nuclear detection challenges. The "Exercise Playbook" is now available on the GIIP as a tool for helping partners to organize national-level exercises to promote practical implementation of nuclear detection best practices. The "Exercise Playbook" will also be utilized for developing future NDWG activities and may be further refined and updated over time to meet partners' evolving priorities and integrate other key nuclear security issues.

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The **Nuclear Forensics Working Group (NFWG)** completed Exchanging Nuclear Forensics Information: Benefits, Challenges and Resources, a GICNT best practices document that aims to increase awareness of the benefits and challenges of exchanging nuclear forensics information associated with a nuclear security event and identifies potential mechanisms for enabling information exchange. ...

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The **Response and Mitigation Working Group** (RMWG) completed *Fundamentals for Establishing and Maintaining a Nuclear Security Response Framework: A GICNT Best Practice Guide*, which provides a strategic-level reference and key considerations for the development of a national response framework for preparing to respond to and mitigate the impacts of a radiological or nuclear terrorism incident. ...

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In February 2016, the United Arab Emirates hosted the Nuclear Detection and Response Exercise “Falcon.” This 3-day workshop and tabletop exercise focused on key aspects of nuclear detection and response intended to promote and enhance interagency national coordination, regional cooperation, and information sharing. Building on the recommendations made at the 2015 Plenary Meeting, this exercise promoted key fundamentals of exercise design, implementation, and self-assessment, and identified and promoted a regional approach to addressing key nuclear security challenges.

**Looking forward**, the GICNT leadership remains committed to working with GICNT partner nations to develop and implement practical activities, such as experts meetings, workshops, exercises, and senior-level policy dialogues, that promote capacity-building across the areas of nuclear detection, forensics, and response and mitigation and to explore potential new areas of work that would benefit from GICNT focus. The GICNT leadership also remains fully committed to working with its five official observers to ensure that GICNT activities continue to complement and support their programs of work.

As the GICNT celebrates its 10<sup>th</sup> Anniversary since being launched by the United States and Russia in 2006, the Netherlands has agreed to host a High Level Anniversary Meeting in The Hague (Netherlands) on 15-16 June 2016. The aim is to provide a retrospective view, demonstrating the unique contributions of the GICNT to nuclear security since 2006, while also facilitating a forward-looking view and discussion, identifying nuclear security challenges over the next decade (2016-2026), and the actions GICNT may take to address these challenges.

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On June 16, 2016, the State Department issued as a media note the chairman’s summary at the GICNT 10<sup>th</sup> anniversary meeting. The media note is available at <http://2009-2017.state.gov/r/pa/prs/ps/2016/06/258593.htm>. Under Secretary of State Gottemoeller, and Mr. Mikhail Ulyanov of the Russian Federation Ministry of Foreign Affairs served as the U.S. and Russian Co-Chair representatives at the meeting, reading messages from President Barack Obama and President Vladimir Putin, respectively, to the GICNT partners.

## 5. UN Security Council Resolution 1540

In June, the UN Security Council held open consultations on the comprehensive review of the 1540 Committee. Ambassador Power addressed the session on June 20, 2016. Ambassador Power’s remarks are excerpted below and available at <http://2009-2017->

[usun.state.gov/remarks/7342](https://usun.state.gov/remarks/7342). On June 22, 2016, Ambassador Michele J. Sison, U.S. Deputy Representative to the UN, delivered remarks at the consultations, available at <https://2009-2017-usun.state.gov/remarks/7351>.

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When the Security Council adopted resolution 1540 in 2004, the use of sarin in 1995 by the Aum Shinrikyo cult and the September 11 attacks had already showed the world—again—that terrorists were willing to cause mass casualties, while the revelations about the A.Q. Khan network reminded us that criminals seek to profit from WMD proliferation. This confluence of events, among others, prompted the Security Council to develop a regime to close serious gaps in international law and practice through resolution 1540. Since 2004, the resolution has become a foundational instrument in the global nonproliferation architecture.

States on every continent have taken new measures to prohibit proliferation activities, secure WMD-related materials domestically, and adopt measures to prevent illicit trafficking in such items across borders. More than 40 international and regional organizations have incorporated elements of resolution 1540 into their daily work. Since 2004, in large part because of resolution 1540, the international community has provided funding, technical assistance, and capacity-building to states that need it most to implement their obligations.

Through the Committee's efforts, for the first time the world started to have a comprehensive understanding of what all states were doing to prevent WMD proliferation. The Committee also has helped states directly by identifying where gaps existed in national nonproliferation legal frameworks and in developing action plans to close them. Nonetheless—and I really want to stress this—the threat posed by the proliferation of weapons of mass destruction and their means of delivery has evolved in significant and dangerous ways: state and non-state actors are now using chemical weapons in the Middle East; nuclear and radioactive material has been stolen or appeared for sale on the black market; the bright promise of synthetic biology also comes with attendant perils; and the increasing availability of drones has the potential means of delivering biological, chemical, and radiological materials. This is a radically changed environment. We must take this into account as we devise new ways to revamp resolution 1540.

While most countries have taken many steps to implement their obligations under the resolution, persistent and important gaps remain. To start, we need to underscore the importance of resolution 1540 in the fight against WMD proliferation, especially where it involves terrorists, criminals, other non-state actors, and all of those who facilitate their dangerous endeavors. And here, I'd like to propose that we think about these negotiations in a new way by stretching our imaginations. Let us imagine a WMD attack in any one of our cities and use our consideration of such a notional horror to pinpoint the steps we must take now to prevent such an attack from ever happening. We have to stay one step ahead of those who seek new ways to proliferate the worst weapons and use them to kill people. Even states that have already taken measures to fulfill their resolution 1540 obligations cannot rest easy: committed proliferators will find new tactics to test even our best efforts. This means that we will need the 1540 Committee long after its current mandate expires in 2021, and we will need to commit ourselves to being dynamic, creative, and visionary. We also believe that the 1540 Committee should focus its efforts on where it can have

the most impact. This means analyzing trends and threats with the input of relevant bodies and focusing on obligations with persistently low levels of implementation, such as biosecurity, chemical security, countering proliferation finance, and controlling means of delivery. It also means greater attention by the Committee on specific regions that exhibit relatively low levels of implementation, including Africa, Latin America, and Southeast Asia.

The Committee should also support existing entities that investigate the non-state actors who are involved in WMD production and use, especially in light of information regarding ISIL's use of chemical weapons. We must ensure that the long arm of justice will be empowered to put proliferators, criminals, and terrorists behind bars. During these open consultations, the United States plans to present proposals to reenergize and improve efforts to implement resolution 1540. We have distributed a non-paper with concrete proposals and welcome your feedback. We also intend to listen and to learn. We believe that these open consultations give every relevant stakeholder a chance to have meaningful input into the recommendations that will come out of this Comprehensive Review. We greatly appreciate that the 1540 Committee has made an effort to include voices from civil society, academia, and the business community, as well as government regulators, parliamentarians, and diplomats. The Committee has used new media tools to reach out to new audiences, and it has even sought more youthful voices through a student essay contest. We need this creative and inclusive approach to tackle this global problem together.

We look forward to working with all of you during these consultations and in the coming months to thoroughly evaluate what more can be done to improve 1540. The measure of our impact is not what happens here in New York but in what we succeed in preventing in the real world. Let us keep that real world foremost in our minds in these critical negotiations.

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Ambassador Sison delivered further remarks on the comprehensive review of 1540 on August 23, 2016 at a Security Council open debate on nonproliferation. Her remarks are excerpted below and available at <http://2009-2017-usun.state.gov/remarks/7405>.

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Since 2004, Resolution 1540 has become the foundation of our global, non-state actor counter-proliferation architecture. It has helped prevent WMD proliferation and the abuse of legitimate trade and scientific cooperation for such purposes.

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While most countries have taken many steps to implement their obligations under the resolution, persistent and important gaps remain.

The United States has strongly supported a robust 2nd Comprehensive Review of UN Security Council Resolution 1540, due for completion at the end of this year. We greatly appreciate Spain's leadership throughout the review. We believe that 1540 is of fundamental importance to international security. In fact, the United States has taken the lead in looking for

ways to revitalize the resolution's framework. In our view, it is important for all countries to engage in this effort.

We have been an active participant throughout the Comprehensive Review, submitting 25 proposals during the 1540 Open Consultations in June. We believe these proposals will strengthen 1540 in the areas of implementation, assistance, cooperation, and outreach. For example, we have urged the 1540 Committee to share more openly the information that Member States provide about non-proliferation efforts; we also want to see the committee improve its communication plan to make the information more accessible to governments and to the public. This is especially relevant in today's discussion because we hope that with our combined efforts, we can work to make 1540 an even better vehicle for clamping down on evolving non-state actors and WMD threats.

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Finally, we fully understand the desire to do everything we can to combat the spread of chemical and biological weapons. But we believe proposals that call for the establishment of a new convention on the suppression of chemical and biological terrorism are misleading and are founded on the false premise that there are legal gaps in the existing international framework to combat the use of chemical and biological weapons by non-state actors.

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## 6. Country-Specific Issues

### a. *Democratic People's Republic of Korea ("DPRK" or "North Korea")*

See Chapter 16 for discussion of new UN Security Council resolutions and sanctions in 2016 regarding North Korea. On January 6, 2016, Secretary Kerry issued a press statement reacting to the most recent nuclear test conducted by North Korea. His statement is excerpted below and available at <http://2009-2017.state.gov/secretary/remarks/2016/01/250994.htm>.

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The United States and nations around the world have unequivocally condemned North Korea's latest nuclear test. This highly provocative act poses a grave threat to international peace and security and blatantly violates multiple U.N. Security Council resolutions.

As I am reiterating today in conversations with my counterparts overseas, the U.S. is committed to defending the American people and honoring our security commitments to our allies in the region. We do not and will not accept North Korea as a nuclear armed state, and actions such as this latest test only strengthen our resolve. We will continue to work closely with our partners on the U.N. Security Council and in the Six-Party Talks to take appropriate action.

We call on the North to end these provocations and choose a better path. North Korea will only achieve the security and development it claims to seek by living up to its international obligations and commitments.

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Ambassador Samantha Power, U.S. Permanent Representative to the United Nations, also issued a statement on January 6, 2016 on the North Korean nuclear test. Ambassador Power's statement is excerpted below and available at <http://2009-2017-usun.state.gov/remarks/7079>.

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Today, the UN Security Council met to discuss the nuclear test carried out by North Korea—a highly provocative act that poses a grave threat to international peace and security. The test constitutes yet another violation of the DPRK's obligations under multiple Security Council resolutions, contravenes the DPRK's commitments under the September 2005 Joint Statement of the Six-Party Talks, and increases the risk of the proliferation of weapons of mass destruction.

North Korea is the only country in the world that has tested a nuclear weapon in the 21st century—not once, but, with yesterday's test, four times. It is also the only country in the world that routinely threatens other UN member states with nuclear attacks. And the test is just the latest of a series of violations we have witnessed in recent months, including artillery barrages and landmine attacks. These actions threaten the security of all of our nations.

The international community must impose real consequences for the regime's destabilizing actions, and respond with steadily increasing pressure. The Security Council has a key role to play in holding North Korea accountable by imposing a tough, comprehensive, and credible package of new sanctions, and by ensuring rigorous enforcement of the resolutions it has already adopted. The Security Council's commitment today to impose "further significant measures" in a new resolution marks an important step in that process.

North Korea has increasingly isolated itself and impoverished its people through its reckless pursuit of weapons of mass destruction. The United States remains fully committed to the peaceful denuclearization of the Korean peninsula. We will take all actions necessary to protect our security, defend our allies, and promote regional stability.

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On February 6, 2016, North Korea conducted a missile launch in violation of UN Security Council resolutions. Secretary Kerry condemned the missile launch in a February 6 statement, available at <http://2009-2017.state.gov/secretary/remarks/2016/02/252236.htm>, in which he said:

This is the second time in just over a month that the D.P.R.K. has chosen to conduct a major provocation, threatening not only the security of the Korean peninsula, but that of the region and the United States as well. We reaffirm our ironclad commitment to the defense of our allies, including the Republic of Korea and Japan. We will continue to work with our partners and members of the UN Security Council on significant measures to hold the D.P.R.K. to account.



The Security Council held consultations on February 7, 2016 regarding the missile launch by North Korea. Ambassador Power delivered remarks along with Ambassador Yoshikawa of Japan and Ambassador Oh of South Korea. Their remarks are available at <http://2009-2017-usun.state.gov/remarks/7121>, and Ambassador Power's remarks are excerpted below.

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North Korea's launch yesterday using proscribed ballistic missile technology undermines regional stability and violates the DPRK's obligations under four separate Security Council resolutions, demonstrating yet again that the DPRK will continue to escalate tensions in the absence of a strong and forceful response from the international community.

The accelerated development of North Korea's nuclear and ballistic missile program poses a serious threat to international peace and security—to the peace and security not just of North Korea's neighbors, but the peace and security of the entire world.

Pyongyang claims it launched what it called a "peaceful earth observation satellite," but nobody is fooled: so-called space launch vehicles are the same technology as ballistic missiles, which are expressly prohibited by multiple Security Council resolutions.

Now some of you may be hearing the terms "provocative acts" and "provocations." These are almost euphemisms, I think, that have come to be used in the context of North Korea's advancing of its nuclear weapons program. But what North Korea is doing with each of these acts—these illegal acts—with each of these launches, is the launches themselves are advancing North Korea's capacity to advance its nuclear weapons program. They are not merely "provocations."

With each one of these actions, the DPRK moves one step closer to its declared goal of developing nuclear-tipped intercontinental ballistic missiles, and we cannot and will not allow this to happen.

We have been engaging in discussions with Security Council members on the appropriate response to the nuclear test that North Korea carried out now more than a month ago. These discussions are ongoing and it is clear that the Security Council must take decisive action, and to do so with urgency.

President Obama spoke with President Xi on Friday and in that call they agreed on the importance of a strong and united international response to North Korea's illegal actions—including through an impactful UN Security Council resolution.

Each of these provocations, each of these illegal actions, requires a robust response. Because of the DPRK's decisions and actions, we will ensure that the Security Council imposes serious consequences. DPRK's latest transgressions require our response to be even firmer.

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Further UN Security Council consultations on North Korea took place on August 3, 2016, one day after North Korea launched another ballistic missile. Ambassador Power and fellow Ambassadors Koro Bessho of Japan and Oh Joon of the Republic of

Korea addressed the press regarding the consultations. Their remarks are available at <http://2009-2017-usun.state.gov/remarks/7396> and Ambassador Power's remarks are excerpted below.

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...[S]ince that the last time we met here to discuss North Korea's actions in late June, North Korea has launched ballistic missiles on other occasions: on July 9 from a submarine, and two more on July 19.

And I just want to flag the rhetoric that accompanied the July 19 launch, which was extremely alarming, even by DPRK standards. The North Korean official news agency said those launches simulated pre-emptive nuclear strikes on South Korean ports and airfields hosting a U.S. presence, and that they were launched at the direct, personal order of Kim Jong Un.

And then last night, as you know, we confirmed North Korea launched two more ballistic missiles. The first missile failed. The second flew further than any other North Korean missile had flown this year, landing within ... 250 kilometers of Japan's west coast. I think my Japanese and Korean colleagues can speak movingly about what this means to and for the region and for the people in their countries, and I just want to stress the necessity of a strong and swift response from the Security Council. And a reminder that this missile landed incredibly closely to Japan, and this program and its continued advancement poses a threat that goes well beyond any particular country.

And that is what the Security Council has enshrined, most recently in March in Resolution 2270. These actions are a challenge to peace and security. They're a challenge to the founding instruments of the United Nations, which emphasize the importance of peace and security. And so we are going to continue to push for the full implementation of Resolution 2270. You all know we that did not expect an overnight result with a resolution that ambitious and that complex. And I will state here what I stated back at the time of the unanimous passage of that resolution, which is implementation and enforcement are everything. And enforcement means not only making sure that we crack down on anybody who is sanctions busting and evading, but also that when you get violations of our resolutions that the Council stands together on behalf of its own words and on behalf of international peace and security.

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Ambassador Power also addressed the media alongside the ambassadors for Japan and the Republic of Korea on September 6, 2016, following further Security Council consultations on North Korea in response to additional ballistic missile launches. Their remarks are available at <http://2009-2017-usun.state.gov/remarks/7414>, and Ambassador Power's are excerpted below.

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...The United States, along with our Japanese and Korean colleagues, called these urgent consultations today to discuss the DPRK's most recent provocation: three medium-range ballistic missiles, launched nearly simultaneously, flying approximately 1,000 kilometers down-range and hitting within 300 kilometers of Japan's coast.

More importantly, we called these consultations because with each test, each violation of UN Security Council resolutions—and there have been 22 of them so far this year—the DPRK demonstrates further advancement of its ballistic missile program. This launch, which I would note took place while China was hosting the G-20 Summit, once again shows the DPRK's blatant disregard for its international obligations and its willingness to provoke and to threaten the international community with impunity.

The DPRK's missile tests help it to threaten the territory of even more countries in the region, whether through its land-based missiles or now via its recently tested submarine-launched ballistic missiles.

Once the DPRK has the capability to do so, we know what they intend to do with these missile systems, because they have told us. They are explicit: they intend to arm the systems with nuclear weapons. Kim Jong Un said this himself yesterday, according to the DPRK's official news agency.

In the face of this continuing threat, we stand united with our stalwart allies, the Republic of Korea and Japan. Our partnership with the ROK and Japan goes far beyond cooperation on the DPRK threat; we work constructively on a host of global issues, and we will continue to do so.

The Security Council must remain unequivocal and united in condemnation of these tests, and we must take action to enforce the words we put on paper—to enforce our resolutions.

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On September 9, 2016, Secretary Kerry issued a press statement on North Korea's latest nuclear test. The statement is excerpted below and available at <http://2009-2017.state.gov/secretary/remarks/2016/09/261710.htm>.

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The United States and nations around the world have condemned North Korea's September 9 nuclear test as a grave threat to regional security and to international peace and security. This action is as destabilizing as it is unlawful, flagrantly violating multiple UN Security Council Resolutions and the D.P.R.K.'s own commitments.

We remain committed to defending the American people and honoring our security commitments to our allies in the region. We are prepared to take whatever measures are necessary to ensure our alliances continue to defend against this growing threat to international peace and security. The United States remains steadfast in our defense commitments to our allies in the region, using all the capabilities at our disposal, including our extended deterrence commitments.

The United States intends to work with UN Security Council partners to take robust steps in response to this provocation. We expect our Six Party Partners to take necessary steps to ensure the D.P.R.K. regime understands there are consequences to its unlawful and dangerous actions.

The D.P.R.K.'s repeated and willful violations of its obligations under UN Security Council Resolutions, its belligerent and erratic threats, and web of illicit activities around the world indicate it has no interest in participating in global affairs as a responsible member of the international community.

We remain open to credible and authentic talks aimed at full and verifiable denuclearization of the D.P.R.K.. Sadly, the D.P.R.K. has chosen a different path and made clear it would not be a credible negotiating partner. North Korea will only achieve the security and development it claims to seek by living up to its international obligations and commitments.

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**b. Iran**

*(1) Joint Comprehensive Plan of Action*

In 2015, Iran and the P5+1 (the United States, China, France, Russia, and the UK, plus Germany), in coordination with the EU, reached an understanding on a Joint Comprehensive Plan of Action ("JCPOA") to address concerns over Iran's nuclear program. See *Digest 2015* at 833-50; see also discussion of sanctions actions taken pursuant to the JCPOA in Chapter 16.

January 16, 2016 was "Implementation Day" under the JCPOA. Secretary Kerry delivered remarks on the significance of Implementation Day on January 16, 2016, which are available at <http://2009-2017.state.gov/secretary/remarks/2016/01/251336.htm>, and excerpted below.

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This evening, we are really reminded once again of diplomacy's power to tackle significant challenges. And thanks to years of hard work and committed dialogue, we have made vital breakthroughs related to both the nuclear negotiation and a separate long-term diplomatic effort. I'm very happy to say that as we speak, we have received confirmation that five Americans who had been unjustly detained in Iran have been released from custody. And they should be on their way home to their families before long—shortly.

The President will have more to say about their release later. But I can tell you one thing: While the two tracks of negotiations were not directly related—and they were not—there is no question that the pace and the progress of the humanitarian talks accelerated in light of the relationships forged and the diplomatic channels unlocked over the course of the nuclear talks. And certainly in the time since we reached an agreement last July, there was a significant pickup in that dialogue.

We have also reached a critical and auspicious milestone on the nuclear issue as well. Today, more than four years after I first traveled to Oman at the request of President Obama to discreetly explore whether the kind of nuclear talks that we ultimately entered into with Iran were even possible, after more than two and a half years of intense multilateral negotiations, the International Atomic Energy Agency has now verified that Iran has honored its commitments to alter—and in fact, dismantle—much of its nuclear program in compliance with the agreement that we reached last July.

I want to thank the IAEA and Director Amano for their significant efforts in this regard, and I know that he will go tomorrow to Tehran to begin the process of the full implementation.

To get to this point, ladies and gentlemen, Iran has undertaken significant steps that many ... people doubted would ever come to pass. And that should be recognized, even though the full measure of this achievement can only be realized by assuring continued full compliance in the coming years. In return for the steps that Iran has taken, the United States and the EU will immediately lift nuclear-related sanctions, expanding the horizon of opportunity for the Iranian people. And I have even tonight, before coming over here, signed a number of documents over those sanctions that the State Department has jurisdiction over in order to effect that lifting.

In the words of the agreement itself, today—January 16th, 2016—we have reached implementation day. Today marks the moment that the Iran nuclear agreement transitions from an ambitious set of promises on paper to measurable action in progress. Today, as a result of the actions taken since last July, the United States, our friends and allies in the Middle East, and the entire world are safer because the threat of a nuclear weapon has been reduced. Today we can confidently say that each of the pathways that Iran had toward enough fissile material for a nuclear weapon has been verifiably closed down.

That begins with the uranium path. Before the negotiations began, Iran was adding rapidly and without constraint to its stockpile of enriched uranium. As it committed to do back in July, Iran has now reduced that stockpile to less than 300 kilograms, sending the rest of it out on a ship which has gone to Russia to be processed there. That means that their current level of enriched uranium is 2 percent of what it was before we completed the agreement, and the rest is shipped out of the country.

Iran has also removed a full two thirds of its centrifuges from nuclear facilities, along with the infrastructure that supported them. They've literally taken it out, dismantled, stored. That includes nearly all of its advanced centrifuges. And the removed hardware is sealed up under around-the-clock monitoring by the IAEA. Iran has now ended all uranium enrichment at its Fordow facility, disconnected all related centrifuges, and removed all fissile material from the site.

The second path open to Iran was the plutonium path. Before we sat down at the negotiating table, Iran's heavy water reactor at Arak had the potential—when and if it became operational—to produce enough weapons-grade plutonium annually to fuel two nuclear weapons. Iran has now begun the process of modifying the entire Arak reactor so that it will only be used for peaceful purposes. It has removed the reactor's core and filled it with cement, ensuring that it can be never used again.

Finally, the third path—the most troubling path, in many respects—was the potential for Iran to pursue enough fissile material for a weapon covertly, using a facility not publicly declared. Now, before the talks started the IAEA did not have assured access to investigate locations at which undeclared nuclear activities might be carried out. It also lacked the ability to track uranium as it was mined, milled, and then turned into yellowcake. Today, the IAEA has put

in place every one of the extensive transparency and verification measures called for in the agreement. That means in addition to the 24/7 monitoring of all of Iran's declared facilities, the IAEA now has visibility and accountability of the entire supply chain that supports Iran's nuclear program, from start to finish—from uranium mines and mills to centrifuge manufacturing and operation.

So today, Iran would need far more than one covert facility in order to try to break out. It would need to develop an entire covert supply chain, from start to finish—which experts around the world agree is not possible without early detection.

As I said, the steps that Iran has taken to fully implement the nuclear agreement have fundamentally altered the country's nuclear program. Two years ago we assessed that Iran's breakout time, the amount of time it took to go from producing fissile—enriched uranium to have enough for one bomb—that amount of time has gone from two to three months, where it was; now, today we are confident that—based on the reductions in its stockpile, reductions in its centrifuges—it would take Iran at least a year to try to break out of the agreement, kick out the inspectors, accumulate the amount of fissile material needed for a single bomb.

And if Iran ever did decide to do that, because of the steps that are in this agreement, we would know it almost immediately, and we would have enough time to respond accordingly.

Let me underscore: Verification remains, as it always has been, the backbone of this agreement. We welcome that Iran has followed through on the promises that it made. It has kept its word. And we will continue to do the same. But we will also remain vigilant in verifying Iran's compliance every hour of every day in the years ahead.

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Secretary Kerry's official confirmation of the IAEA's verification of Iranian actions pursuant to the JCPOA was issued as a press statement on January 16, 2016, available at <http://2009-2017.state.gov/secretary/remarks/2016/01/251332.htm>, and states:

I hereby confirm that the International Atomic Energy Agency has verified that Iran has fully implemented its required commitments as specified in Sections 15.1-15.11 of Annex V of the Joint Comprehensive Plan of Action (JCPOA). The U.S. sanctions-related commitments described in Sections 17.1-17.5 of Annex V of the JCPOA are now in effect.

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Ambassador Power also issued a statement on Implementation Day, describing the significance with respect to UN Security Council resolutions on Iran. Her statement is excerpted below and available at <http://2009-2017-usun.state.gov/remarks/7098>.

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With the arrival of “Implementation Day,” the provisions of the seven current Iran-related Security Council resolutions terminate, and the binding UN provisions imposed in UNSC Resolution 2231 enter into force. All UN Member States will be required to comply with these measures, which include restrictions on certain nuclear-related transfers, restrictions on conventional arms and ballistic missile-related activities, continued UN designations imposing asset freezes and travel bans, and cargo inspection provisions. These provisions will be in place for many years to come.

Going forward, the United States will continue working with international partners to make sure that Resolution 2231 is fully enforced. We will continue to intercept and seize Iranian arms exports in accordance with international law. We will continue to identify and obstruct shipments to Iran of prohibited ballistic missile-related items. And we will continue to hold Iran accountable for violations of UN Security Council resolutions.

The United States appreciates the international community’s collective efforts to make this day possible. We extend particular thanks to the International Atomic Energy Agency and its inspectors for their tireless work, and we call on them to ensure that Iran continues to fulfill its commitments under the JCPOA.

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On July 18, 2016, Ambassador Power addressed the Security Council after a briefing on Iran and implementation of Resolution 2231. Her remarks are excerpted below and available at <https://2009-2017-usun.state.gov/remarks/7374>.

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It has been one year since the United States, France, the United Kingdom, Germany, China, Russia, and the EU concluded a deal with Iran to ensure that Iran’s nuclear program is, and will remain, a peaceful one. Despite a long history of deep mistrust on both sides, commitments have been kept. Despite dire predictions to the contrary, the deal has held. That is a truly significant achievement. ...

The United States acknowledges and welcomes Iran’s swift implementation of this historic deal, which has produced real, tangible change; change that, without question, has improved international peace and security, which is the primary purpose of this Council. We also recognize that negotiating this deal—and implementing it—has required overcoming great skepticism in some Iranian quarters. The world is safer because of this deal.

It has been six months since the IAEA’s verification that Iran completed its key nuclear-related commitments under the deal, and since the simultaneous lifting of UN, EU, and U.S. nuclear-related sanctions. While Member State implementation of JCPOA commitments is a subject for the Joint Commission rather than this Council, let me be clear that the United States, our P5+1 partners, and the EU have thus far fully and unequivocally implemented all our commitments under this deal, by lifting nuclear-related sanctions specified in the deal, and by providing clear and timely guidance to government and private sector partners about engagement with Iran that is now permitted.

Consistent with the terms of the deal, and directly resulting from the choices its leaders have made, the economic burden on the Iranian people has been eased. And the United States will continue to implement its commitments, in good faith and without exception, under the JCPOA.

Yet while it is undeniable that the deal has led to significant, verifiable progress in rolling back Iran's nuclear program, it is also true that Iran and other Member States have at times taken actions that, while not violations of the JCPOA, are inconsistent with Resolution 2231. The report released today by the Secretary-General documents a number of such actions. These include Iran's repeated ballistic missile launches, which this Council called upon Iran not to undertake. The report states that these launches have the "potential to increase tensions in the region." Iran does not hide these launches. The report also notes violations by Iran of Resolution 2231, such as arms transfers to other parts of the region, some of which have been interdicted. And the Secretary-General's report documents violations of asset freezes and travel restrictions applicable to Iranian entities designated by this Council, such as the participation of Iran's Defense Industries Organization in an arms exhibition in Iraq.

No one—and in that I would include UN Member States, the Security Council, and the Secretariat—should turn a blind eye to such actions. As we have said all along of this resolution—implementation is everything.

That means that when the resolution is violated, or actions are taken that are inconsistent with it, those actions must be documented and condemned. And it means that all Member States—especially the members of this Council, and the P5+1 countries, and Iran, who negotiated the deal—must do their part in implementing the resolution. That is why the United States commends the actions of the Royal Australian Navy and the French Navy, which intercepted and confiscated Iranian arms shipments on February 27, and March 20, respectively—and as the U.S. Navy did on March 28. And it means that this Council and the international community must call out Member States when they do not fulfill their responsibilities under this resolution.

The United States disagrees strongly with elements of this report, including that its content goes beyond the appropriate scope. We understand that Iran also disagrees strongly with parts of the report. For our part, while some have argued that, to be balanced, the report should give Iran a chance to express complaints about sanctions relief under the deal, the Security Council did not mandate the Secretariat to report on issues unrelated to implementation of Annex B of Resolution 2231. It was instead the Joint Commission that was carefully designed by the JCPOA participants to discuss and resolve any such implementation issues, and that is the appropriate channel to raise such concerns.

The United States has fully implemented all of our sanctions-related commitments under the deal—and we've responded to questions about them both through the Joint Commission and through extensive bilateral engagement with Iran. Even beyond fulfilling our JCPOA commitments, the United States has engaged with governments, businesses, and banks around the world that have questions about our changed sanctions environment.

To be clear: the deal has not resolved all of our differences with Iran. We continue to be profoundly concerned about human rights abuses that Iran commits against its own people, and about the instability Iran continues to fuel through its destabilizing activities in the region, including repeated threats against Israel.



But we are undoubtedly in a better place to address these and other challenges without the threat of a nuclear-armed Iran. And the lines of communication we developed with Iran over the course of our negotiations have already proven useful to engaging in other areas of vital interest, as occurred in January, when Iran detained ten U.S. sailors and two U.S. Naval vessels in the Persian Gulf. The sailors were released in less than a day—in no small part because Secretary Kerry and Foreign Minister Zarif are able to work constructively. Iran has joined the ISSG, which is trying to resolve the horrific conflict in Syria—a goal that would be impossible without all the countries that are involved in the conflict in Syria at the table.

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On December 21, 2016, the Joint Commission established under the JCPOA transmitted to the IAEA the decisions endorsed by the Joint Commission during 2016. The Joint Commission's decisions were disseminated as an information circular by the IAEA. INFCIRC/907. As explained in the information circular, the Joint Commission's decisions provide clarifications for Iran's implementation of its nuclear-related commitments under the JCPOA.

(2) *Ballistic Missile Program*

On March 11, 2016, Ambassador Power delivered a statement expressing U.S. concern about recent Iranian ballistic missile launches. The statement, available at <https://2009-2017-usun.state.gov/remarks/7181>, includes the following:

UN Security Council Resolution 2231 calls upon Iran not to undertake any launches of ballistic missiles designed to be capable of delivering a nuclear weapon. We will raise these dangerous launches directly at Council consultations, which we have called for, on Monday. These launches underscore the need to work with partners around the world to slow and degrade Iran's missile program. We will therefore continue to insist on full implementation of Resolution 2231, which expressly prohibits third-party support to Iran's ballistic missile program, as we also consider our appropriate national response.

**c. *India***

On February 4, 2016, India presented its instrument of ratification of the Convention on Supplementary Compensation for Nuclear Damage ("CSC") to the IAEA. See February 4, 2016 IAEA press release, available at <https://www.iaea.org/newscenter/news/india-joins-convention-supplementary-compensation-nuclear-damage>. The IAEA describes the CSC as follows:

The CSC was adopted on 12 September 1997, together with the Protocol to Amend the Vienna Convention on Civil Liability for Nuclear Damage, and entered into force on 15 April 2015. It aims at increasing the amount of compensation available in the event of a nuclear incident through public funds to be made available by the Contracting Parties on the basis of their installed nuclear capacity and UN rate of assessment. It also aims at establishing treaty relations among States that belong to the Vienna Convention on Civil Liability for Nuclear Damage, the Paris Convention on Third Party Liability in the Field of Nuclear Energy or neither of them, while leaving intact the 1988 Joint Protocol that establishes treaty relations among States that belong to the Vienna Convention or the Paris Convention.

India's declarations to the CSC are available at [https://www.iaea.org/Publications/Documents/Conventions/supcomp\\_reserv.pdf](https://www.iaea.org/Publications/Documents/Conventions/supcomp_reserv.pdf) and include a declaration that its national laws comply with the annex to the CSC.

U.S. Secretary of Energy Ernest Moniz issued a statement responding to India's joining the CSC on February 4, which is available at <https://vienna.usmission.gov/a-statement-from-u-s-secretary-of-energy-ernest-moniz-on-india-joining-the-convention-on-supplementary-compensation-for-nuclear-damage-csc/>:

India's membership in the ...[CSC] is a crucial step toward facilitating the growth of safe, civilian nuclear energy in the world's second most populous country. In addition, India's membership is a major step towards the global liability regime called for by the IAEA's Nuclear Safety Action Plan to provide prompt compensation in the event of an accident and to establish a legal framework for commercial arrangements.

I welcome India to the CSC and look forward to their deployment of civil nuclear energy technologies to help provide reliable, low-cost power to millions of Indians. These efforts will help spur a low-carbon economy to combat climate change. Additionally, we are eager to work with India, and all CSC member countries, to facilitate the use of advanced nuclear technologies developed in the United States.

On June 1, India joined the Hague Code of Conduct against Ballistic Missile Proliferation ("HCOC"). See June 2, 2016 State Department media note, available at <http://2009-2017.state.gov/r/pa/prs/ps/2016/06/257907.htm>. The United States welcomed India as the 138<sup>th</sup> Subscribing State to the HCOC and repeated its call for countries not yet a party to join. The media note describes the HCOC as follows:

The HCOC is a voluntary mechanism that has built a broad international predisposition against ballistic missile proliferation and promotes transparency and confidence building, including through the Subscribing States' commitment to submit pre-launch notifications and annual declarations of their relevant

policies. India's subscription reinforces its support for international missile nonproliferation and will help increase transparency and strengthen security.

Later in June, India joined the Missile Technology Control Regime ("MTCR"). See June 27, 2016 State Department media note, available at <http://2009-2017.state.gov/r/pa/prs/ps/2016/06/259112.htm>. The media note describes the MTCR and the value in India's joining:

The MTCR is an informal and voluntary association of countries that seek to reduce the global missile proliferation threat, primarily by controlling exports of rocket and unmanned aerial vehicle systems capable of delivering weapons of mass destruction (WMD), and related equipment and technology. India possesses substantial missile-relevant technology and has excellent nonproliferation and export control credentials. Its accession bolsters substantially the Regime's effectiveness and objectives.

**d. Ukraine**

On January 19, 2016, Assistant Secretary of State Frank A. Rose participated in a ceremony reestablishing the Nuclear Risk Reduction Center ("NRRC") secure communication link between the governments of the United States and Ukraine. See January 19, 2016 State Department media note, available at <http://2009-2017.state.gov/r/pa/prs/ps/2016/01/251423.htm>. Excerpts follow from the media note providing background on the reestablishment of the link.

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... This new 24/7 secure link is all the more important at a time when Russia has occupied sovereign Ukrainian territory. And it further signifies the U.S. commitment to Ukraine's success; Ukraine's aspirations are our aspirations and today's event further cements an already durable and growing partnership.

This link will support the implementation of certain notification requirements of arms control and confidence building agreements and commitments. Initially, the United States and Ukraine will exchange notifications related to the Intermediate-Range Nuclear Forces (INF) Treaty, however, the NRRC plans to use the link for additional notification requirements for other arms control and confidence-building agreements and commitments. The link can be used to transmit communications other than those expressly provided for under the proposed NRRC agreement—for example, to quickly and securely send messages of vital national importance in times of crisis.

The reestablishment of the NRRC-to-NRRC link has required a good deal of technical legwork. First, information technology specialists from the U.S. NRRC installed new hardware including encryption devices and software for the link in the Ukrainian Verification Department of the General Staff of the Armed Forces of Ukraine. Second, the team tested the equipment and provided training to ten Ukrainian military personnel. And our work is not yet complete. Over the next two years, our team will provide training to the Ukrainian NRRC for any technical staff or other users who may require it.

This is just one element of our larger investment in the security and success of Ukraine. A secure, direct bilateral link with Ukraine is extremely valuable to both parties, especially in today's fast-moving and saturated information environment.

We are proud of the role the NRRC-to-NRRC relationship plays in the United States' arms control agenda to support our mutual interests in the global security environment. We look forward to continued cooperation in our efforts to enhance strategic stability through secure information exchange.

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On April 7, 2016, Deputy Secretary of State Antony J. Blinken addressed the Innovation Forum Workshop at Stanford University on the topic of "The Hunt for Weapons of Mass Destruction." His remarks, excerpted below and available at <http://2009-2017.state.gov/s/d/2016d/255745.htm>, touched on the history of Ukraine forsaking its nuclear weapons.

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...when the Soviet Union dissolved, it left three successor states with nuclear weapons: Ukraine, Belarus, and Kazakhstan. And one of the great achievements of the Clinton administration in the early days was to get those countries to give up the nuclear weapons they inherited when the Soviet Union dissolved.

In the case of Ukraine, the reason we were able to do that is because Ukraine got a guarantee from the United States, the United Kingdom, and Russia to protect its territorial integrity and sovereignty. So if that agreement has been literally and figuratively torn apart by Russia's actions in Ukraine, what is that going to do for us as we're trying to convince other countries like North Korea to give up their weapons and that would understandably look for some basic security assurances. That is why it matters so much.

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**e. Norway**

On June 14, 2016, President Obama submitted to Congress for its review an Agreement for Cooperation between the Government of the United States of America and the Government of the Kingdom of Norway Concerning Peaceful Uses of Nuclear Energy. See June 14, 2016 State Department media note, available at <http://2009->

[2017.state.gov/r/pa/prs/ps/2016/06/258485.htm](http://2017.state.gov/r/pa/prs/ps/2016/06/258485.htm). Excerpts follow from the June 14 media note.

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Upon entry into force, following the statutorily required Congressional review, the Agreement (also called a 123 Agreement after the relevant section of the U.S. Atomic Energy Act) will establish the legal framework for the United States to engage in civil nuclear cooperation with Norway under agreed nonproliferation conditions.

This Agreement reflects the strength and breadth of the long-standing and strategic U.S.-Norway relationship. The Agreement will establish a firm foundation for mutually beneficial cooperation in civil nuclear energy in conformity with the highest standards of safety, security, and nonproliferation.

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## C. ARMS CONTROL AND DISARMAMENT

### 1. United Nations

#### a. *Disarmament Commission*

On April 4, 2016, U.S. Representative John A. Bravaco delivered remarks at the 2016 session of the UN Disarmament Commission. His remarks are excerpted below and available at <http://2009-2017-usun.state.gov/remarks/7215>.

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...[O]ur bilateral nuclear reduction efforts with the Russian Federation are an essential part of our comprehensive, full-spectrum approach to nuclear disarmament. The U.S. stockpile today is 85 percent lower than the Cold War high. Three years ago, in June 2013 in Berlin, President Obama stated the U.S. willingness to negotiate with Russia a reduction of up to one-third of our deployed strategic weapons from the level established in the New START Treaty. That offer is still on the table. Progress requires a willing partner and a conducive strategic environment.

In the multilateral realm, most recently at the Conference on Disarmament (CD), we have proposed a creative compromise to begin long-delayed negotiations on a global treaty banning the production of fissile material for use in nuclear weapons or other nuclear explosive devices. In any such CD negotiation, all issues would be on the table for discussion, and all national equities would be protected by the principle of consensus. An in-force Fissile Material Treaty and Comprehensive Nuclear-Test-Ban Treaty will impose quantitative and qualitative caps on nuclear weapon stockpiles, which in turn will help to set the foundation for the world without

nuclear weapons that all of us seek to establish. In making our latest fissile material proposal in the CD, we earnestly tried to take the stated concerns of all CD Member States into account. Our proposal has received strong support from many CD Member States, and also remains on the table.

Mr. Chairman, in pursuing nuclear disarmament, the United States embraces a realistic and practical approach. We can never separate disarmament from the global security environment or strategic stability considerations, or divorce it from our security commitments to friends and allies. Progress on nuclear disarmament will not be made by ignoring the security imperative of retaining a safe, secure, and effective nuclear deterrent for as long as nuclear weapons exist.

In seeking to build support for realistic and practical measures for nuclear disarmament, it is clear that more genuine dialogue between the nuclear-weapon States and non-nuclear-weapon States is needed.

This is one reason why in Prague in December 2014, Under Secretary of State Rose Gottemoeller announced a new initiative by the United States to form an International Partnership for Nuclear Disarmament Verification. The Partnership is composed of both nuclear-weapon States and non-nuclear-weapon States, and is being implemented in collaboration with the Nuclear Threat Initiative (NTI).

The Partnership builds on prior efforts, such as the U.K.-Norway Initiative, which began in 2007 by seeking practical solutions to future arms control and disarmament technical challenges. We thank both nations for their pioneering efforts in this exciting work.

The Partnership aims to build capacity in the field of nuclear disarmament verification, for without such capacity global nuclear disarmament will never be achieved. The Partnership is also furthering understanding of the complexities inherent in nuclear disarmament verification and monitoring. For example, under the New START Treaty, inspection activities are focused on delivery vehicles. But in a future agreement, we are likely to be focused on individual warheads, which is a new and difficult challenge. The Partnership offers international leadership by facilitating technical progress to address the challenges of nuclear disarmament verification.

Mr. Chairman, in March 2015, the Partners agreed to establish three working groups: one on monitoring and verification objectives; one on on-site inspections; and one examining technical challenges and solutions. The Partnership's three working groups met for the first time in Geneva in February to continue their work. In Geneva, more than 80 experts from 20 countries participated in the working group discussions. The working groups developed a simple scenario involving the dismantlement of a notional nuclear weapon, the related inspection of that dismantlement by a team of experts representing the interests of all participating States, and the related technologies that could support such an inspection. This scenario allows the three working groups to coordinate and focus their efforts and develop common understandings of the challenges and potential solutions associated with nuclear disarmament verification. The working groups' Terms of Reference, which provide the framework for these groups to continue to pursue their technical discussions and work, are posted in their entirety on the State Department's and NTI's websites.

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Mr. Chairman, in the end, our ability to make headway in this body will depend on how prepared delegations are to exhibit flexibility and practice compromise. Given past disappointments here, we are under no illusions about the challenges before us. We simply need

to keep trying and to try harder. The Disarmament Commission is an important element of the UN's existing multilateral disarmament machinery and is worthy of such efforts. The United States pledges to do all that it can to help find a viable way forward for the work of this Commission.

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**b. First Committee**

The UN General Assembly's First Committee adopted a resolution in October 2016, entitled "Taking forward multilateral nuclear disarmament negotiations." The resolution was subsequently adopted by the General Assembly on December 23, 2016. U.N. Doc. A/RES/71/258. The United States voted against the resolution. On October 14, 2016, during the First Committee's thematic discussion on nuclear weapons, Ambassador Robert Wood, U.S. Permanent Representative to the Conference on Disarmament, explained the U.S. position on the resolution, which proposes negotiations on a treaty to ban nuclear weapons. Ambassador Wood's remarks are excerpted below and available at <https://geneva.usmission.gov/2016/10/18/ambassador-wood-remarks-at-u-n-general-assembly-first-committee-thematic-discussion-on-nuclear-weapons/>.

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On April 5, 2009, in Prague, President Obama stated the U.S. commitment "to seek the peace and security of a world without nuclear weapons" and to take concrete steps to that end. The United States remains as committed as ever to this goal and to making progress on nuclear disarmament. We have made tremendous progress in reducing the number of nuclear weapons over the last 50 years. Though some are dissatisfied with the pace of disarmament, we remain convinced that the pragmatic and consensus-based approach that has successfully brought us to this point remains the right one going forward.

Today, some states believe the time has come to abandon this pragmatic and consensus-based approach and instead pursue a radically different path that would simply declare a ban on nuclear weapons. We must evaluate this new approach using the same criteria that we apply to our current one. Will it improve global security and stability or undermine it? Will it build a coalition for disarmament or fracture the international community? Will it lead to real reductions in nuclear weapons or be a treaty for political, not practical effect? How can such an approach be verified? The United States has carefully applied these questions to the ban treaty concept and it fails to successfully meet the necessary criteria for success on four counts.

First, a treaty banning nuclear weapons will not lead to any further reductions because it will not include the states that possess nuclear weapons. Advocates of a ban treaty say it is open to all, but how can a state that relies on nuclear weapons for its security possibly join a negotiation meant to stigmatize and eliminate them.

Second, a ban treaty would undermine existing nonproliferation and disarmament regimes. It risks creating an unbridgeable divide between states, polarizing the political environment on nuclear disarmament, and effectively limiting any future prospect for achieving consensus, whether in the NPT review process, the UN, or the CD. This deepening divide could

impact other aspects of the NPT, including strengthening cooperation in the peaceful applications of nuclear energy or ideas to reinforce the nonproliferation pillar, contributing to the growing tendency to treat the treaty's three pillars as competing priorities rather than reinforcing interests. Rejecting security considerations related to nuclear weapons leaves no room for discussion on "effective measures" needed to sustain nuclear disarmament progress, thereby discouraging, not promoting, needed dialogue.

Third, verification regimes are one of the key components of successful nuclear disarmament and nonproliferation agreements. The ability to verify provides the confidence needed to make further reductions while maintaining regional and global security. The United States is working actively to address the very real challenges of verifying future arms control agreements including through the International Partnership for Nuclear Disarmament Verification, which includes both nuclear weapon states and non-nuclear weapon states. One thing that is clear today, however, is that we have not overcome the challenges or built the capacity needed to effectively verify a treaty banning all nuclear weapons.

Finally, a ban treaty runs the risk of undermining regional security. We cannot deny the reality that nuclear weapons continue to play a role in maintaining peace and stability in some parts of the world. We ignore that reality at our peril. This could further foster uncertainty in regions as states are forced to reevaluate their security environment. It is unrealistic to ask non-nuclear weapon states and nuclear weapon states alike to reject their current security arrangements without addressing the underlying security concerns that led them to seek such arrangements in the first place.

Some make a false assertion of a "legal gap" in implementation of the NPT; in crafting the Art VI obligation for "good faith negotiations," negotiators recognized they could not prescribe the modalities for eliminating nuclear weapons, given the need to account for prevailing security conditions. Successive agreements or unilateral steps to reduce nuclear arsenals and reliance on them have proven the wisdom of this approach.

The current challenge to nuclear disarmament is not a lack of legal instruments. The challenges to disarmament are a result of the political and security realities we presently face. The United States is ready to take additional steps including bilateral reductions with Russia and a treaty ending production of fissile material for use in nuclear weapons. Unfortunately, some states are currently unwilling to engage in further nuclear reductions, and others are increasing their arsenals. At the same time, violations of international norms and existing agreements are creating a more uncertain security environment and making the conditions for further reductions more difficult to achieve. A ban treaty will do nothing to address these underlying challenges.

For all of these reasons, the United States will vote "no" on any resolution establishing nuclear weapons ban treaty negotiations, and will not participate in the negotiations. We urge all others to do the same.

The world's nuclear weapons arsenals did not appear overnight and they will not be drawn down overnight. We cannot lose sight of the fact that while we might disagree on process, we all agree on the goal: the peace and security of a world without nuclear weapons. In this spirit, let us all rededicate ourselves to doing the hard work together to create the conditions to make real nuclear disarmament possible.

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Ambassador Wood also delivered remarks at the 71st Session of the General Assembly First Committee thematic discussion on other weapons of mass destruction on October 18, 2016. Ambassador Wood's remarks are excerpted below and available at <http://2009-2017-usun.state.gov/remarks/7494>.

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Mr. Chairman, colleagues, at the heart of the Chemical Weapons Convention, the CWC, is a solemn conviction: for the sake of all mankind, to exclude completely the possibility of the use of chemical weapons through the implementation of the Convention. This commitment is coupled with the equally important pledge not to tolerate possession and use of such heinous weapons, be it by State or Non-State Actors. Use of chemical weapons by anyone, anywhere is a threat to all of us, and calls for a swift response. Inaction is unacceptable.

In August of 2013, the Asad regime in Syria launched a deadly chemical weapons attack with a nerve agent on the opposition-held suburbs of Damascus, killing over 1,000 people and injuring thousands more. Despite the overwhelming evidence of its continued use of chemical weapons, the regime continues to deny any involvement. Since its accession to the CWC following that horrific attack three years ago, the international community has collectively sought a full and accurate declaration by Syria of its chemical weapons program and its complete and verifiable destruction.

This past August, the Organization for the Prohibition of Chemical Weapons-United Nations Joint Investigative Mechanism, JIM, established by UNSCR 2235, released its report finding that the Syrian military was responsible for two instances of confirmed CW use in Syria and that the so-called "Islamic State of Iraq and the Levant" or ISIL was responsible for one additional instance. The attacks attributed to the Syrian military involved barrel bombs dropped from helicopters that released toxic substances—most likely chlorine—in the opposition-controlled areas of Talmenes and Sarmin. The OPCW-UN JIM, an independent and expert international body, has drawn the same conclusions that the United States reached long ago: that the Syrian regime has systematically and repeatedly used chemical weapons against its people. It is now impossible to deny that the Syrian regime has repeatedly used toxic industrial chemicals as weapons in violation of the CWC and UN Security Council Resolution 2118.

Mr. Chairman, our course of action is clear. The international community must stand together to preserve the integrity and viability of the CWC and the international laws, norms, and standards against the use of chemical weapons. We must collectively condemn in the strongest possible terms the use of chemical weapons by the Syrian regime and ISIL and hold the perpetrators of such heinous attacks to account through all available mechanisms, including appropriate action in the OPCW and the United Nations Security Council. In parallel, we must insist that the Syrian regime address outstanding concerns about its chemical weapons declaration, which the OPCW has attempted for more than two long years to clarify without success due to the intransigence of the Syrian regime.

Mr. Chairman, Hungarian Ambassador Molnar, the distinguished President-designate of the upcoming 8th Review Conference of the Biological Weapons Convention, BWC, presented a Statement on behalf of the Foreign Minister of Hungary, and the Foreign Ministers of the three BWC Depositaries, the Russian Federation, the United Kingdom and my country, the United

States. That statement underscores the importance our governments attach to the BWC and to taking decisions at the upcoming Review Conference to enhance its effectiveness.

The BWC Review Conference takes place at a sobering time. The continuing use of chemical weapons, the stated intentions of non-state actors to obtain BW, and a recent conviction, July 2015, in the UK of an individual attempting to acquire ricin are grim reminders that weapons already condemned by the international community are still used. The many benefits derived from advances in the life sciences also place biological weapon capabilities within reach of more State and non-State actors than ever before. The recent Ebola outbreak reminds us of how destructive disease can be, and of the importance of developing national and international capacity to detect and respond to outbreaks. States Parties should use the upcoming BWC Review Conference to confront these threats by taking stronger action, including through a more effective intersessional program, focusing on practical steps. The United States believes such steps should be taken in the areas of: robust national implementation measures and greater transparency; coordination among States Parties to respond to a suspicious outbreak or biological weapons attack; assessing potential impact on the BWC due to science and technology developments; and promoting and coordinating relevant international cooperation and capacity-building.

Strengthening the BWC in these areas depends on adapting the current intersessional process to include more focused expert work, more oversight of the process, and an ability for appropriate decision-making between Review Conferences. This would require more time and resources, but these extra resources would improve the BWC's ability to counter biological threats.

Mr. Chairman, the United States shares the concerns that have been expressed by other UN Member States regarding the threat of chemical and biological terrorism. These threats are real, and the United States is of the firm view that they should be addressed in the context of the existing international frameworks and the BWC Review Conference in November presents an opportunity to do so.

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## 2. Comprehensive Nuclear Test Ban Treaty

On June 13, 2016, Under Secretary Gottemoeller addressed the ministerial meeting of the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization in Vienna, Austria. Under Secretary Gottemoeller's statement is excerpted below and available at <http://2009-2017.state.gov/t/us/2016/258408.htm>.

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I am honored to be here representing the United States of America, as we commemorate the 20th anniversary of the Comprehensive Nuclear-Test-Ban Treaty (CTBT) and the establishment of the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization.

I would like to begin by reading a statement from President Barack Obama:

I send greetings to all those commemorating the 20th anniversary of the adoption of the Comprehensive Nuclear-Test-Ban Treaty (CTBT), and I am pleased to recognize the important contributions of the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization over the past two decades.

Since the United States signed the CTBT in 1996, we have strengthened the nuclear nonproliferation regime and enhanced the security of our world. Though we have made great progress, the Treaty's full potential has not been fulfilled. We must remain steadfast in our support for the Treaty and for the critical work of the Preparatory Commission.

I am proud of the role the United States has played in negotiating this Treaty, and our continued support for the work of the PrepCom and its Provisional technical Secretariat to prepare for the effective implementation of the treaty. I commend your countries' continued contributions to this cause and urge all members of the PrepCom to make available the political, technical, and financial resources necessary to complete the Treaty's Verification regime.

A legally-binding prohibition on nuclear weapon test explosions or any other nuclear explosions is a meaningful step toward nuclear disarmament—a goal achievable once the CTBT enters into force. I wish you all the best for a successful Ministerial Meeting.

Ladies and Gentlemen, 53 years and 3 days ago, President John F. Kennedy called for a treaty outlawing all nuclear explosive tests. "The conclusion of such a treaty," he said, "would check the spiraling arms race in one of its most dangerous areas... the further spread of nuclear arms."

"Surely this goal," he said, "is sufficiently important to require our steady pursuit, yielding neither to the temptation to give up the whole effort nor the temptation to give up our insistence on vital and responsible safeguards."

Despite global tensions, despite the scientific barriers, despite the political divisiveness, we did not give up. The United States is proud of its role in the negotiation of a comprehensive ban on nuclear explosive testing and we were proud to be the first nation to sign the CTBT after it opened for signature in 1996.

The United States signed the CTBT because we recognized the potential of this Treaty to significantly strengthen the nuclear nonproliferation regime, thereby enhancing the security of our nation and every nation around the world.

As President Obama stated, the full potential of the CTBT remains unfulfilled, but the United States is steadfast in our support for the Treaty and for the critical work of the Preparatory Commission. Our dedication to the Treaty is demonstrated through unmatched monetary and technical support and our clear commitment to ensuring that the verification regime is completed, and functions as intended.

We hope that all of today's statements of support for the Treaty will be transformed into tangible resources. Every Signatory to the Treaty must support the work of the Preparatory Commission to complete the Treaty's verification regime and help enhance the effectiveness of the Provisional Technical Secretariat. We must all work to upgrade the International Data Centre (IDC) and ensure the completion of an effective On-Site Inspection capability.

Despite our clear support for the CTBT, the United States acknowledges that we have not completed our work on ratification and that our delay gives cover to other Annex 2 countries who have also failed to secure ratification of the Treaty.

That is why we are building support for this Treaty, state by state, and sometimes person by person, because we know that a global ban on nuclear explosive testing is good for our country. We are making it clear to the American public that our scientists and military experts agree that the CTBT is verifiable and we do not need to conduct explosive testing in order to maintain a safe, secure and effective nuclear stockpile.

I will not deny that this work is difficult and that we face domestic political obstacles. That does not change that fact that this Treaty is in our national security interest and so it is incumbent upon us to convince those that doubt this fact. We are certain that we have a good case to make. We will continue to make it. We will also continue to look for ways to affirm the political norm against testing nuclear weapons.

As we work through our process, I call upon all Annex 2 States to complete their own ratification processes. I also call upon those States to tell this community about your plans for ratification. Moving forward in a clear and transparent way is what we can all do to honor this anniversary and all the work that went into getting us here.

Ladies and Gentleman, 53 years and 3 days ago, the world was issued a challenge, and today we are closer than ever to bringing a global ban on nuclear explosive testing into force. We cannot and must not give up.

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On September 15, 2016, the Governments of China, France, the Russian Federation, the United Kingdom, and the United States (the NPT Nuclear-Weapons States) issued a joint statement on the CTBT. The joint statement follows, and was released as a State Department media note at <http://2009-2017.state.gov/r/pa/prs/ps/2016/09/261993.htm>.

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Our commitment to nuclear disarmament extends to efforts to bring the Comprehensive Nuclear-Test-Ban Treaty (CTBT) into force at an early date. We welcome that 183 States have signed the treaty and 166 States have ratified the Treaty, including several nuclear weapons States. We pledge to strive for the Treaty's early ratification and prompt entry into force and urge all states that have not done so to sign and ratify the treaty. We take this opportunity to reaffirm our own moratoria on nuclear weapons test explosions or any other nuclear explosions pending the CTBT's entry into force, as such moratoria are an example of responsible international behavior that contributes to international peace and stability, while stressing that such moratoria do not have the same permanent legally binding effect as entry into force. We call on other states to do likewise, recognizing that a nuclear-weapon test explosion or any other nuclear explosion would defeat the object and purpose of the CTBT.

The CTBT constrains the development and qualitative improvement of nuclear weapons and thereby provides an effective disarmament and nonproliferation measure. We further note that our nuclear stockpile maintenance and stewardship programs are consistent with NPT and CTBT objectives. We emphasize the very substantial efforts made in achieving the cessation of the nuclear arms race as called for in Article VI of the NPT and affirm our intention never to engage in such an arms race.

We are working closely with the Preparatory Commission for the CTBT Organization in Vienna on the development of the Treaty's verification regime, including its International Monitoring System, International Data Centre, and On-Site Inspection, while recognizing the high effectiveness and reliability of this regime to date, the Preparatory Commission is currently operating the IMS and IDC, and their respective means of communication, on a testing and provisional basis. We continue to contribute extensively to the development of the Treaty's on-site inspection element, supplying personnel, equipment, and research. This has been in addition to our long-standing efforts to reinforce the organization's detection capability through contributions in-kind, equipment transfers, and expert participation in Working Groups. We also call for all signatories to support efforts to complete the necessary preparation for the effective implementation of the CTBT's verification regime, on its entry into force.

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Secretary Kerry delivered remarks at a UN Security Council meeting on the CTBT on September 23, 2016. His remarks are excerpted below and available at <http://2009-2017-usun.state.gov/remarks/7454>.

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Today, our countries have the opportunity to vote once again to sign onto, to reaffirm the CTBT's promise of a safer, more secure, and more peaceful planet. And the resolution that we have an opportunity to adopt this morning is a strong and necessary statement of our principles and promises as a global community. It reaffirms the de facto norm—I emphasize, a norm—in the world today against nuclear testing. It acknowledges the legitimate interests of states that fully and faithfully renounce nuclear weapons to receive assurances against the use of the threat of the use of nuclear weapons, and that those assurances will be upheld. It reinforces the Nuclear Nonproliferation Treaty and its disarmament goals, and it builds support for the international efforts to strengthen verification and monitoring systems. And it encourages nations to make the necessary preparations for the day when this treaty enters into force.

I want to emphasize, the resolution does not impose a legal prohibition on testing, nor does it compel any government to adopt new reporting requirements. But it does reinforce the core purposes and objectives of the CTBT itself: to diminish our reliance on nuclear devices, to reduce competition among nuclear powers, and to promote responsible disarmament.

Now, let me just add for a moment, next month in Reykjavik, the 30th anniversary of the Gorbachev-Reagan meeting will be celebrated, remembered. And I want everybody to think about where we were. I grew up in a world of hiding under my desk in school and being told to take cover and train for the possibility of a nuclear war, none of which would have done any

good, we know. And I can remember years in the Senate when I wanted to be on the Arms Control Observer Group, with luminaries such as Pat Moynihan and Ted Kennedy and John Warner and Sam Nunn, people who worked a lifetime to move towards responsible efforts here.

And through the years, we watched as the United States and the Soviet Union, the former Soviet Union, engaged in this arms race—tit for tat, each doing something that led the other to feel they had to respond, until we had 50,000 warheads facing at each other, until that moment of Reykjavik, when the two presidents came out and said this is insanity; we have to move in a different direction.

And ever since then, that's exactly what the world has been doing. We've moved in a different direction—from 50,000 warheads, we're now down to about 1,550. And we have proposed to move even further down. And you have brilliant people who spent a lifetime looking at this—a former Secretary of Defense Jim Schlesinger, former Secretary of State Henry Kissinger, Bill Perry, Sam Nunn—people that you wouldn't expect talking about the possibility of a world without nuclear weapons. And most recently, the United States and Iran spent two long years negotiating what everybody thought was the improbable—a nation that hadn't talked to—well, two nations that hadn't talked to each other since 1979 began a conversation in the room right in back of this chamber, the first time I came here for UNGA, and we turned that into a nation actually giving up a nuclear program and making it clear to the world it was willing to move away from the path of a nuclear weapon in order to make the world safer.

So two decades after this process began, there may be some who question the value of pursuing this treaty or investing in its adoption, because the world has changed dramatically. Almost every member of the United Nations has now renounced the option of testing and responsible governments everywhere are committed to reducing the dangers that are posed by nuclear materials and nuclear weapons.

Yet we have been reminded in recent weeks of the absolute necessity of supporting the CTBT. North Korea's latest nuclear test is a challenge to this council's leadership. It is a challenge to the norm that I just articulated. It is a challenge and a direct threat to international stability and peace. It is a dangerous and reckless act of provocation which we have to summon a determined and effective answer to.

Today, this morning, is an affirmation of our willingness to make that clear, to give that answer, to take a step that says we will not lose our commitment, we will remain committed to moving in the direction of ending the threat of nuclear war. Today is also a reminder of the value of the CTBT. The DPRK's actions and our response demonstrate the effectiveness of the International Monitoring system, of the International Data Center, of the broader verification and detection regime. And this entire episode has offered a stark reminder of why the infrastructure of this treaty is so vital and why adopting this resolution is so important.

My friends, our affirmative vote here is a sign of our unwavering commitment to a safer world in which nuclear technology is used solely for peaceful purposes and the risk of nuclear conflict is no more. I can tell you that we are engaged right now in a process in the United States Government with the Senate, where we have many new members who have not been part of this debate, where we're beginning a process of literally explaining and educating what the advances in technology do for us. In today's modern world of virtual capacity and of computerization and artificial intelligence, we don't need to blow up weapons to know what we can do.

We have the ability to do this, and I simply say to all that I can think of few greater gifts that we and our generation could give to the next than an affirmation that we will continue to

move away from the possibilities of nuclear weaponry. Our action today can give people everywhere that a world without nuclear weapons might actually be possible and that we're going to do everything responsible in our capacity to be able to make that day a reality.

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As referenced in Secretary Kerry's remarks, the UN Security Council took up a resolution on the CTBT and adopted resolution 2310 on September 23, 2016. The State Department issued a media note on resolution 2310, excerpted below and available at <http://2009-2017.state.gov/r/pa/prs/ps/2016/09/262343.htm>.

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The Department of State welcomes the adoption today of UN Security Council Resolution 2310 on support for continued moratoria on nuclear explosive testing and broad international support for the Comprehensive Nuclear-Test-Ban Treaty (CTBT), twenty years after the Treaty's opening for signature.

This Resolution is a strong and important statement of international support for the President's agenda to reduce nuclear dangers. It also encourages nations to make the necessary preparations for the day when the CTBT enters into force, and reinforces the Nuclear Non-Proliferation Treaty as a framework for achieving the peace and security of a world without nuclear weapons.

The Resolution does not impose legal prohibitions on testing. It does, however, reinforce the broader objectives of the CTBT itself, namely to diminish reliance on nuclear weapons; to reduce competition among nuclear powers; and to promote responsible nuclear disarmament.

The timeliness and importance of this resolution are underscored by the DPRK's latest nuclear test, a direct threat to international peace and security and a reminder of the value and absolute necessity of the CTBT.

The CTBT's International Monitoring System and International Data Centre rapidly detected the North Korean test, offering a stark reminder of why the infrastructure built to support this treaty is so vital and why passing this resolution is so important.

It is important to note that this Resolution is not a substitute for entry into force of the CTBT, which requires, among other things, ratification by the United States with the advice and consent of the U.S. Senate.

The Administration is committed to working with the Senate to build support for eventual ratification. In the meantime, this clear reaffirmation of the moratoria against nuclear explosive testing and support for the Treaty's verification infrastructure serves the U.S. national security interest.

For the full text of the Resolution or more information on the Comprehensive Nuclear-Test-Ban Treaty, visit [www.state.gov/ctbt](http://www.state.gov/ctbt).

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### 3. International Partnership for Nuclear Disarmament Verification

As discussed in *Digest 2014* at 824-25, and *Digest 2015* at 863-66, the United States advocated for and led the way in establishing the International Partnership for Nuclear Disarmament Verification (“IPNDV”). The IPNDV held plenary sessions in 2016 and its three working groups met in Geneva February 18-19 and 22-23. The State Department’s Bureau of Arms Control, Verification, and Compliance issued a media note about the working group meetings, excerpted below and available at <http://2009-2017.state.gov/t/avc/rls/2016/253944.htm>.

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More than 80 experts from 20 countries participated in the working group meetings discussing a variety of topics related to their work. The working groups focused on a scenario involving the dismantlement of a notional nuclear weapon, the related inspection of that dismantlement by a team consisting of nuclear weapon state and non-nuclear weapon state experts, and the related technologies that could support such an inspection. This scenario allows the three working groups to coordinate their efforts and develop common understandings of the challenges and potential solutions associated with nuclear disarmament verification.

1. Working Group 1 considered verification objectives for the dismantlement phase of the nuclear weapons lifecycle, including the types of information and criteria needed to determine whether those objectives are being met, and the specific areas of expertise and resources required.
2. Working Group 2 identified useful elements, drew lessons from a number of existing on-site inspection regimes, and began to assess the applicability of fundamental on-site inspection principles to possible future nuclear disarmament verification activities. The group began to explore the knowledge and training inspectors might require to do their jobs effectively and to manage on-site inspections to ensure they provide effective verification while meeting national safety, security and non-proliferation requirements.
3. Working Group 3 began to discuss and identify solutions to the technical challenges related to nuclear warhead authentication, and monitored storage and the chain of custody required for monitoring warheads and warhead components. Seven countries provided briefings on 13 technologies, and work commenced to develop a matrix that identifies specific technology that would not reveal sensitive information for use in support of the dismantlement scenario developed by working Group 1.

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On March 21, 2016, Assistant Secretary Frank Rose delivered remarks at an IPNDV roundtable in Washington, D.C. His remarks are available at <http://2009-2017.state.gov/t/avc/rls/254908.htm>.

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In its first year, the Partnership has made significant progress.

Twenty-nine countries plus the European Union have participated so far, bringing to bear a wide range of expertise working to create an effective foundation for nuclear disarmament verification.

At the first IPNDV plenary in March 2015, Partners agreed to establish three working groups: one on monitoring and verification objectives; one on on-site inspections; and one examining technical challenges and solutions associated with verification.

To build on this work, the Partners met in Oslo from November 16-18 for our second Plenary. We heard from leading experts from all over the world on different arms control inspection regimes, the latest research on monitoring and verification, and the technical challenges associated with the verification of nuclear disarmament.

The key results from the Oslo plenary were threefold:

First, we agreed on the near-term scope of work for IPNDV. While there was discussion about the entire lifecycle of nuclear weapons, the Partnership will focus in the near term on monitoring and verification issues associated with warhead dismantlement.

Second, we reached agreement on the Terms of Reference for the three Working Groups.

Third, Partners agreed to hold the third IPNDV Plenary in Japan in June 2016.

The Partnership is not fundamentally about policy; it is about finding technical solutions to the practical challenges associated with monitoring and verifying nuclear disarmament. The agreed Terms of Reference, which are posted in their entirety on the State Department's and NTI's websites, provide the framework for these groups to begin their technical discussions and work.

The three working groups met last month in Geneva, and further refined the scope and process of their work.

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On July 1, 2016, Assistant Secretary Rose addressed the IPNDV plenary in Tokyo, Japan. His remarks are excerpted below and available at <http://2009-2017.state.gov/t/avc/rls/259457.htm>.

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In his remarks in Hiroshima this past May, President Obama spoke about how science, technology, and the human capacity for innovation have yielded life-saving discoveries. Those same developments have, sadly, “also give(n) us an unmatched capacity for destruction.” It is the destructive force of nuclear weapons that informs the President's desire to reduce the role and number of nuclear weapons in a way that promotes international security and stability.

To support these efforts, in December 2014, Under Secretary of State for Arms Control and International Security, Rose Gottemoeller announced that the U.S. government would establish an International Partnership for Nuclear Disarmament Verification (IPNDV) in cooperation with the Nuclear Threat Initiative (NTI). This first of its kind partnership pools technical expertise from Nuclear Weapon States and Non-nuclear Weapon States, creating a cooperative framework focused on building capacity among states in the field of nuclear

disarmament verification. 27 states in total, plus the European Union, are participating in the IPNDV.

First, the Partnership can improve and broaden Partners' understanding of the technical challenges of future nuclear disarmament verification; and second, the Partnership can facilitate progress to address those challenges.

President Obama's vision of a world without nuclear weapons is not one easily reached. Tackling verification challenges is just one component, but a critical component, of making progress in reducing the arsenals of nuclear armed countries. At the Peace Memorial in Hiroshima, President Obama spoke of creating the security conditions so that future generations will be spared the horrors of violent conflict and atomic warfare. To achieve this, it is essential that countries have the ability and the confidence to verify future arms control and disarmament agreements.

This is not new; effective verification is a key feature of any successful arms control agreement. However, the requirements for verification have and will continue to become more demanding as the numbers of weapons decrease and treaties become more complex. For example, the earliest bilateral U.S.-Soviet arms control treaties did not provide for any on-site inspection, let alone the type of intrusive inspection regimes seen today in the New START Treaty. Indeed, just fourteen lines of text in the New START Treaty are devoted to the central limits.

What gives the parties the confidence to meet those levels and what contributes to predictability and stability are all the processes and procedures that make up the more than 350 other pages of the Treaty. As the world draws down to lower numbers of nuclear weapons, it is very likely that future arms control treaties and agreements will need to provide for new and even more intrusive inspection provisions, including access to new types of facilities and new items subject to inspection, such as the nuclear warheads themselves.

So we need to understand the technical challenges we are sure to face in this endeavor. When looking for possible solutions, we know that the Nuclear Weapon States do not have a monopoly on good ideas. Non-nuclear Weapon States bring not only tremendous scientific and technical expertise, but also new ideas and enthusiasm. The Partnership brings together this collective expertise to better understand the challenges, develop possible solutions, and build confidence in the tools and technologies that will enable us to verify nuclear disarmament.

The United States sees this engagement as a long-term investment in building capacity and technical solutions towards nuclear disarmament.

It is in line with the goals of the Nuclear Nonproliferation Treaty (NPT) and the Action Plan from the 2010 NPT Review Conference. Let me stress that the Partnership is not fundamentally about policy; it is about understanding technical challenges and identifying possible solutions to the practical challenges associated with monitoring and verifying nuclear disarmament.

Solutions in this case involve more than just technology. Examining potential inspection procedures and protocols—hallmarks of today's arms control treaties and agreements—and the requisite training to employ them—is another challenge that the Partnership is tasked with confronting.

We understand that not everyone shares the U.S. approach to disarmament. We just have a difference of opinion. We believe there are no short-cuts to reaching a world without nuclear weapons. We also believe that initiatives like the Partnership can help us solve the technical

challenges associated with verification, the essential components of any meaningful bilateral or multilateral nuclear disarmament effort.

In doing so, we can make real and important progress toward our shared disarmament goals, free from the ebbs and flows of the political environment, while opening new lanes of multilateral cooperation to achieve those goals. With a force as destructive as nuclear weapons, all States have an interest to ensure that we have the right tools, technologies and procedures necessary to verify future reductions in nuclear arsenals and eventually their complete elimination.

This is why the work of the Partnership is so important. The IPNDV provides a forum for nuclear weapon states and non-nuclear weapons states that are serious about making tangible progress on disarmament to work together toward that common goal.

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#### 4. New START Treaty

February 5, 2016 was the fifth anniversary of the New START Treaty's entry into force. Secretary Kerry issued a press statement commemorating the anniversary, available at <https://2009-2017.state.gov/secretary/remarks/2016/02/252210.htm>. The Bureau of Arms Control, Verification, and Compliance issued a fact sheet on the anniversary, excerpted below and available at <https://2009-2017.state.gov/t/avc/rls/2016/252206.htm>.

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Since its entry into force (EIF) on February 5, 2011, the New START Treaty has provided for the safety and security of the United States and our Allies, while advancing mutual cooperation, transparency, and stability with the Russian Federation on strategic nuclear arms. New START enables the United States to verify information about Russia's strategic nuclear arsenal through on-site inspections at nuclear weapons facilities and by providing both sides access to each other's strategic nuclear delivery systems, warheads, and facilities. This builds confidence that obligations are being fulfilled, including meeting the Treaty's central limits, when they take effect in 2018.

##### **Key Facts**

Thirty years ago, U.S. and Soviet arsenals totaled more than 20,000 deployed strategic nuclear weapons. The United States and the Russian Federation undertook to each meet New START's central limits of 1,550 deployed warheads, 700 deployed strategic launchers and heavy bombers, and 800 deployed and non-deployed strategic launchers and heavy bombers by February 5, 2018.

Since EIF, the United States and Russia have:

- Sent and received through the Nuclear Risk Reduction Centers more than 10,300 notifications regarding the location, movement, and status of their strategic nuclear forces;

- Performed 10 data exchanges with a full accounting of exactly where weapons systems are located, whether they are out of their deployment or operational bases and gone to maintenance, or have been retired, giving us a comprehensive look into each other's strategic nuclear forces every six months;
- Conducted 180 on-site inspections (each party has an annual quota of 18 inspections); and,
- Completed 13 exhibitions to demonstrate distinguishing features and technical characteristics of new types of strategic offensive arms or demonstrate the results of a conversion of a strategic offensive arm subject to New START.

Further, the United States and Russia continue to meet twice each treaty year within the Treaty's Bilateral Consultative Commission (BCC) to discuss issues related to treaty implementation, with no interruption of work due to other global crises causing friction in the bilateral relationship. Several statements and agreements have been concluded in the BCC to continue the successful implementation of this Treaty. When the New START Treaty limits take effect in February 2018, U.S. and Russian forces will be capped at their lowest level since the 1950s, the first full decade of the nuclear age.

The Treaty also allows us the flexibility to modernize the U.S. nuclear deterrent and ensure its safety, security, and effectiveness without constraining U.S. missile defenses or long-range conventional strike development. For the duration of New START, the U.S. triad of ICBMs, SLBMs, and nuclear-capable heavy bombers will be maintained, keeping all Ohio-class strategic submarines in the force for the near term and "de-MIRVing" all Minuteman III ICBMs to a single warhead each to increase stability in a crisis. The Administration will continue to request funds to sustain and modernize the triad, including: continuing the Minuteman III life extension program; developing new technologies to replace the current fleet of Ohio-class SSBNs; investing to support upgrades to the B-2 stealth bomber; and, funding a new air-launched, long-range cruise missile and long-range bomber.

The successful implementation of New START continues to preserve stability and transparency between the two countries, and serves as a concrete step by both countries in their strategic relationship toward an eventual world without nuclear weapons. We look forward to continuing this important cooperation with the Russian Federation and commemorate our work to this point, while acknowledging the work yet to be done.

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On October 18, 2016, the Bilateral Consultative Commission concluded its 12<sup>th</sup> session under the New START Treaty. See State Department media note, available at <http://2009-2017.state.gov/r/pa/prs/ps/2016/10/263267.htm>. As described in the media note, the sessions allow the U.S. and Russian delegations to "discuss practical issues related to the implementation of the Treaty."

## **5. INF Treaty**

In November 2016, the Special Verification Commission under the INF Treaty held its 30<sup>th</sup> session in Geneva. See State Department November 16, 2016 media note, available at <http://2009-2017.state.gov/r/pa/prs/ps/2016/11/264375.htm>. Delegations from Belarus, Kazakhstan, Russia and Ukraine met with the U.S. delegation to discuss

compliance with the Treaty (the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Elimination of their Intermediate-Range and Shorter-Range Missiles).

## 6. Open Skies Treaty

On June 6, 2016, the Bureau of Arms Control, Verification, and Compliance issued a fact sheet on the Open Skies Treaty, available at <http://2009-2017.state.gov/t/avc/rls/2016/258061.htm>. The fact sheet discusses key facts about the Treaty.

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Since the Treaty entered into force in 2002, the United States has flown nearly three-times as many flights annually over Russia as Russia flies over the United States. The annual Open Skies Treaty flight plans (2002-2016) show 196 bids by the United States over Russia and 71 bids by Russia over the United States. Further, the United States can request copies of the imagery from other State Parties' flights over Russia. Since 2002 there have been over 500 such flights by other States Parties over Russia.

...The Treaty's primary value is its role in building transparency and confidence, not intelligence gathering. Observation flights allow States Parties to avoid surprises in a cooperative way. The bilateral and multilateral engagement of military personnel in planning and executing week-long missions is important to building military-military confidence. The Treaty-mandated coordination that is part of every flight provides a unique opportunity to interact with our Allies and Russia and allows us a first-hand look over Russian territory.

Although the United States has significant imaging capability outside of the Treaty, there are significant parts of Russia best imaged by Treaty aircraft. The Treaty provides valuable information, especially for our Allies and partners that do not have the same imaging capabilities as the U.S.

...The Treaty outlines procedures for certification of sensors, including a range of technical steps necessary to ensure that a sensor/aircraft combination complies with the Treaty imagery resolution limits. The Certifying Party must provide highly detailed technical information on the aircraft and performance characteristics of the sensor/aircraft combination. During certification, the Certifying Party must allow full access to the aircraft and sensor for examination and collection of imagery data over calibration targets. Parties analyze this data to determine and certify the minimum altitude at which a sensor/aircraft combination may be operated during an observation flight.

...The Treaty limits all optical sensors, including electro-optical, to 30 centimeter resolution; a level that allows parties to distinguish between a tank and a truck. The images collected by Russia and others will be of similar quality to those available from commercial imagery sources like Google Earth. However, commercial sources may not have current images of locations of interest to the observing party. The United States and Russia receive identical copies of all imagery obtained during missions, which allows us to verify the source of the

images. U.S. escorts monitor every Russian mission over the United States to ensure the sensor performance is consistent with what was certified.

...The United States flew over the arctic and far-east regions of Russia in April 2016 and the most recent flight over Kaliningrad was by Poland in May 2016. Russia has placed certain altitude restrictions over Moscow; a distance limit of 500 kilometers over Kaliningrad, and refused overflights within 10 kilometers of part of its border with Georgia.

...Since 2002, the [Open Skies Consultative Commission or] OSCC, a consensus organization, has taken 166 decisions to clarify and improve implementation of the Treaty, including four in 2015 directly related to the use of electro-optical sensors on Open Skies aircraft. The 2016 Compliance Report notes that we continue to have serious compliance concerns with several actions taken by Russia, and these issues continue to be raised with Russia in the OSCC, as well as bilaterally.

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## D. CHEMICAL AND BIOLOGICAL WEAPONS

### 1. Chemical Weapons in Syria

On July 12, 2016, Ambassador Kenneth D. Ward, Permanent Representative for the United States to the Organization for the Prohibition of Chemical Weapons (“OPCW”), addressed the Executive Council of the OPCW. Ambassador Ward’s statement, excerpted below and available at <https://www.opcw.org/?id=2623>, primarily focuses on the use of chemical weapons in Syria.

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The greatest challenge this Council has ever faced is the continuing Syrian chemical weapons crisis. In September, it will be three years since the adoption of our historic decision on the destruction of Syrian chemical weapons. Years ago...the entire Syrian chemical weapons stockpile...should have been completely eliminated. Instead, the years since the Council’s decision have been marked by stymied efforts of the Declaration Assessment Team (DAT), tragic findings of CW use by the Fact-Finding Missions, and the necessary establishment of the OPCW-UN Joint Investigative Mechanism. Today, the Council has before it a truly alarming report from the Director-General on his recent consultations with Syria regarding its declaration. This Council must now confront and address the compelling body of evidence indicating that, regrettably, Syria has never truly accepted the obligations or the ideals of the Chemical Weapons Convention (CWC).

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The United States has carefully reviewed the reports of the Secretariat and the DAT. We believe the sampling results obtained by the Secretariat are indicative of production, weaponization, and storage of CW agent by the Syrian military that has never been acknowledged by the Syrian government. We, therefore, remain very concerned that CW agent and associated munitions, subject to declaration and destruction, have been illicitly retained by Syria.

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...The United States has submitted for the consideration of the Council a draft decision that expresses deep concern with the report of the Director-General on consultations with Syrian officials and on the many unresolved issues with the Syrian declaration of its CW program. We urge all members of the Council to support this draft decision, and we will make every effort to achieve its adoption by consensus during this session.

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On August 24, 2016, Ambassador Power delivered a statement on the report of the OPCW-UN Joint Investigative Mechanism ("JIM") on the use of chemical weapons in Syria. Her statement is excerpted below and available at <http://2009-2017-usun.state.gov/remarks/7406>.

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The United States welcomes the submission of the report of the OPCW-UN Joint Investigative Mechanism (JIM) on the use of chemical weapons in Syria. We are reviewing its findings very carefully. The report confirms that the Syrian regime is responsible for the repeated use of chemical weapons in Syria. Such use is a violation of UN Security Council Resolution 2118, a violation of Syria's obligations as a state party to the Chemical Weapons Convention (CWC), and a violation of well-established international standards and norms against chemical weapons use. The report also found that ISIL was responsible for the use of chemical weapons in Syria.

The JIM has been working to determine attribution for nine cases of confirmed chemical weapons use in Syria. The report reflects the JIM's final determination for three, concluding in one case the use of mustard gas by ISIL, and in two cases the use of modified industrial chlorine by the Syrian regime. We expect the JIM to continue its investigation into the remaining confirmed cases, as well as any other confirmed chemical weapons uses referred to the JIM by the OPCW Fact Finding Mission.

Importantly, an independent team of international experts has now confirmed a pattern of use of chemical weapons by the Syrian regime that mirrors numerous other confirmed cases of chemical weapons use across Syria, and countless other allegations of such use, including as recently as several weeks ago. This horrific and continuous use of chemical weapons by Syria represents the greatest challenge to the legitimacy of the CWC since it entered into force, and an affront to a century's worth of efforts to create and enforce an international norm against the use of chemical weapons.

The world has rejected the use of chemical weapons as a barbaric tool, repugnant to the conscience of mankind. In April of last year, members of the Security Council met with Dr. Mohamed Tennari, a Syrian Arab Red Crescent-affiliated physician who dealt with a chlorine attack in March 2015 in the town of Sarmin. He played for the Council the video of his team's attempt to resuscitate children after the gruesome attack. Members of the Security Council cannot claim ignorance of the devastating, inhumane effects of these weapons. Three years after the horrendous chemical weapons attack in the opposition held town of Ghouta, the international community must act to hold accountable those who act in defiance of such fundamental international norms. When anyone—from any government or from any terrorist group—so flagrantly violates the global ban on chemical weapons use without consequences, it sends the signal that impunity reigns and it gravely weakens the counter-proliferation regime from which all of us benefit.

It is essential that the members of the Security Council come together to ensure consequences for those who have used chemical weapons in Syria. It is essential that all state and non-state actors immediately cease any chemical weapons use. We strongly urge all States to support strong and swift action by the Security Council.

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On October 11, 2016, Ambassador Ward again addressed the Executive Council of the OPCW on the issue of chemical weapons use in Syria. OPCW Doc. No. EC-83/NAT.5. His statement is excerpted below and available at <https://www.opcw.org/?id=2625>.

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Today, ...the entirety of my statement is devoted to the gravest challenge that our Convention and this Organisation have ever faced. The future of both will hinge on the actions that this Council takes, or fails to take, at this session.

The common bond at the very heart of the Chemical Weapons Convention is a simply stated, but truly enlightened, conviction. We have all pledged to renounce the possession and use of chemical weapons and, as important, not to tolerate those who possess or use such heinous weapons—be they governments or non-State actors. Indeed, the preamble to our Convention enshrines our shared determination, for the sake of all mankind, to exclude completely the possibility of the use of chemical weapons through the implementation of the Convention.

This session of the Council is confronted with a truly extraordinary and, indeed, unprecedented crisis, as an independent team of international experts has determined that a State Party to the Convention—the Syrian Arab Republic—was responsible for two confirmed uses of chemical weapons against opposition-controlled areas in Syria. The OPCW-UN Joint Investigative Mechanism (JIM) was established in August 2015 by a unanimous decision of the United Nations Security Council, resolution 2235 (2015), to identify those involved in incidents of chemical weapons use in 2014 and 2015 confirmed by the OPCW Fact-Finding Mission.

These attacks by the Syrian military involved barrel bombs dropped from helicopters that released a toxic substance—most likely chlorine—in Talmenes on 21 April 2014, and Sarmin on



16 March 2015. As detailed in the Fact-Finding Mission reports and underscored in the JIM's report, helicopter-delivered, barrel bombs are the all too common signature in confirmed chemical weapons attacks in the spring of 2014 and the spring of 2015. It is now impossible to deny that the Syrian regime has repeatedly and systematically used toxic industrial chemicals in violation of the Chemical Weapons Convention and United Nations Security Council resolution 2118 (2013), and in defiance of this Council's decision of 27 September 2013.

The JIM is now completing its investigation of similar chlorine barrel-bomb attacks occurring in 2014 and 2015, and by the end of this month, the JIM may report additional findings regarding chemical weapons use by the Syrian Arab Republic.

The United States of America condemns in the strongest possible terms the Syrian regime's use of chemical weapons. We call upon the Secretariat and all States Parties to remain vigilant as new allegations of chemical weapons use in Syria have recently arisen and are now being actively investigated by the OPCW Fact-Finding Mission. The alarming prospects for continued chemical weapons use further underscores the dangers of Syria's refusal to fully declare its chemical weapons programme. As I warned at the July Council session, the United States of America remains very concerned with undeclared activities involving traditional chemical weapons—nerve agent and mustard gas—and their associated munitions. Syria's refusal to adequately address issues raised by the Technical Secretariat makes it impossible for the international community to have confidence that all of these prohibited materials have been declared and destroyed. Now, with the publication of the most recent JIM report, it is clear that Syria also has undeclared stocks of toxic industrial chemicals, associated barrel bombs, and production equipment—which it has used to support and perpetrate chemical weapons attacks.

How should the international community and this Council react to these blatant violations of the Convention and continuing threats to the people of Syria? What actions need to be taken? The international community has established an important legal framework to facilitate action to address this crisis—but renewed international will is urgently required to meet this grave challenge.

The Council will recall that, in September of 2013, in the wake of the horrific nerve agent attack in Ghouta on 21 August, the international community prudently viewed Syria's impending accession to the Chemical Weapons Convention with uneasy hope and cautious circumspection. A robust framework was established by the international community designed, on the one hand, to facilitate the destruction of Syria's chemical weapons programme but, on the other, to address any refusal by Syria to completely renounce possession and use of chemical weapons.

The international legal framework is interconnected, with important roles for both the Executive Council and the United Nations Security Council.

The first element of the international framework is the Chemical Weapons Convention itself, as buttressed by the Executive Council's decision of September 2013, which prohibits the possession and use of chemical weapons and which contains tools to address concerns about compliance with these fundamental prohibitions of the Convention.

The second element of the international framework is United Nations Security Council resolution 2118 (2013) which imposes binding legal obligations on Syria to "cooperate fully with all aspects of the implementation" of the 27 September 2013 Executive Council decision and, further, prohibits the possession and use of chemical weapons by Syria. In resolution 2118 (2013), the United Nations Security Council expressly decided that in the event of noncompliance with that resolution, including any use of chemical weapons by anyone in the

Syrian Arab Republic, to impose measures under Chapter VII of the United Nations Charter. In establishing the JIM, the United Nations Security Council reaffirmed its decision to respond to violations of resolution 2118 (2013) under Chapter VII of the United Nations Charter.

In response to the findings of the JIM and in an effort to deter any future use of chemical weapons in Syria, both the United Nations Security Council and the OPCW Executive Council have essential roles in ensuring that the Syrian Arab Republic and the so-called “Islamic State of Iraq and the Levant” (or ISIL), as well as the individuals involved in these chemical weapons attacks, are all held accountable. As the JIM was established by the United Nations Security Council, it is appropriate that deliberations, now underway, be pursued there with a view to the expeditious adoption by the Security Council of a resolution setting out a strong set of enforcement actions.

However, United Nations Security Council action alone is not sufficient. Since Syria is a State Party to the Convention, the Executive Council must address this compliance crisis at this session—as must the Conference of the States Parties in November. The confirmed use by a State Party is the most serious challenge to the Convention and to the global norm against chemical weapons since the creation of the OPCW in 1997. This Council must act and do so decisively.

The United States of America has formally submitted a draft decision for consideration and adoption of the Council at this session. Let me summarise the key elements of this draft decision.

We must condemn in the strongest possible terms the use of chemical weapons by Syria and ISIL and, further, we must underscore our unwavering conviction that Syria and ISIL, as well as the individuals involved in these attacks, must be held accountable.

We must express grave concern at the failure of Syria to fully declare and destroy its chemical weapons programme and acknowledge the alarming implications of the Secretariat’s unsuccessful efforts, stymied over a two year period by Syrian officials, to verify that Syria has destroyed its chemical agent stockpile of mustard and nerve agent as well as precursor chemicals.

Additional verification measures must also be imposed on Syria. Having been found to have used chlorine as a chemical weapon, Syria is now required under the Convention to declare and destroy all chlorine stocks and any other stocks of toxic chemicals, including toxic industrial chemicals that it possesses for purposes prohibited by Article I of the Convention. Syria must also declare and destroy all associated munitions such as barrel bombs as well as the equipment and facilities used to produce these chemical weapons.

The United States of America will make every effort and work with all members of the Council to achieve a consensus decision. The use of chemical weapons by anyone anywhere is a threat to all of us, and we should respond with collective resolve. However, let me be clear—inaction by this Council is unacceptable to the United States of America as it would severely damage the credibility and effectiveness of this Organisation and the Chemical Weapons Convention and, indeed, the broader framework of arms control and non-proliferation, which benefits us all.

I would also like to underscore with grave concern that, in its third report, the JIM attributed responsibility to ISIL for the chemical weapons attack occurring in the Syrian town of Marea on 21 August 2015. As the Council is aware, the Government of Iraq investigated and confirmed similar chemical weapons attacks during this same time frame in the Kurdistan region of Iraq. ISIL’s repeated use of chemical weapons is in flagrant disregard of the international

norms and standards against such use. The United States of America condemns in the strongest possible terms ISIL's use of chemical weapons, and we have placed a high priority on destroying ISIL's chemical weapons capabilities. At this session, the Council should act decisively to strengthen the OPCW's response to the threat of chemical weapons use by non-State actors and adopt the draft decision presented to the Council at its July session.

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On October 22, 2016, Ambassador Power provided a statement on the Fourth Report of the OPCW-UN JIM. Her statement is excerpted below and available at <https://2009-2017-usun.state.gov/remarks/7502>.

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We welcome the fourth report of the OPCW-UN Joint Investigative Mechanism (JIM) on chemical weapons (CW) use in Syria. We will review its findings carefully. In addition to the previous report's determination on three cases—concluding in one case the use of mustard gas by ISIL, and in two cases the use of modified industrial chlorine as a weapon by the Syrian regime—the latest report confirms yet again what we have known for nearly three years now, that the Syrian regime systematically uses toxic chemicals as weapons in violation of the Chemical Weapons Convention (CWC) and UN Security Council Resolution 2118.

For a second time, an independent team of international experts has reached this conclusion with respect to incidents that the OPCW Fact Finding Mission (FFM) has determined involved or likely involved the use of chemical weapons. These incidents fit a consistent pattern of other confirmed regime uses of chemical weapons across Syria.

The United States supports the JIM's call for accountability for those with effective control in the military units involved in these chemical weapons attacks. Over a hundred years, a global consensus emerged that the use of chemicals as weapons is an abhorrent, barbaric act. Should the international community fail to take action to hold accountable those responsible for confirmed use, we risk lasting damage to this international norm, which is critical to international peace and security. Other actors, seeking to terrorize innocents, will be watching to see how the international community responds at this time.

The United States thanks the members of the JIM for their thorough and credible accounting of chemical weapons use in Syria. We believe strongly that the work of the JIM should continue to shed light on other confirmed cases of CW use, including those recent allegations that have been made within the past two months and which the OPCW FFM is already investigating. It is important to note that, since the JIM's creation, we have seen a drastic decrease in the number of allegations of CW use in Syria, and we hope the OPCW-UN JIM will continue to serve as a deterrent to CW use.

We look forward to working with all members of the Security Council in the coming days on a way forward to continue to deter chemical weapons use, including through extending the instrumental work of the JIM, and ensuring appropriate accountability for the abhorrent use of chemical weapons against the Syrian people.

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On October 28, 2016, the State Department issued a press statement on the Fourth Report of the JIM, which is excerpted below and available at <http://2009-2017.state.gov/r/pa/prs/ps/2016/10/263771.htm>.

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A little over a year ago, the UN Security Council voted unanimously, through Resolution 2235 (2015) to establish the Joint Investigative Mechanism (JIM) to determine attribution of confirmed chemical weapon use in Syria. The JIM, an independent, neutral expert panel conducted a year-long investigation into nine instances of confirmed or likely use of chemicals as weapons in Syria in 2014 and 2015.

The fourth and latest report from the JIM, publicly released today, found that the Syrian Arab Armed Forces used a toxic chemical as a weapon in a third incident, adding to the previous JIM report's finding that the Syrian Arab Armed Forces used toxic chemicals as a weapon in two separate instances, in 2014 and 2015. Additionally, the JIM's third report, released in August 2016, found that Daesh used a chemical as a weapon, specifically mustard gas, in 2015.

In the course of its independent investigation, the JIM conducted hundreds of interviews, pored over thousands of documents, and analyzed forensic evidence. Taken together, the JIM's investigation corroborated what we have known for years: the Assad regime has systematically and repeatedly used chemical weapons against its own people. The Assad regime's abhorrent acts violate Syria's obligations under the Chemical Weapons Convention (CWC) and UN Security Council Resolution 2118 (2013).

The three incidents in which the JIM determined the Assad regime used chemical weapons all share the same terrifying signature—the use of helicopters to drop barrel bombs, filled with toxic chemicals, on civilian populations hundreds of feet below. In April 2015, doctors and first aid workers, who tended to civilians stricken by the effects of inhaling a toxic cloud of chlorine gas, briefed the UN Security Council with heart-wrenching testimonies about this attack and the devastation that has befallen so many civilians in Syria. The third report of the JIM found that Syrian forces had perpetrated this abhorrent attack in Sarmin in 2015, and again it found those forces responsible for a very similar attack in Talmenes in 2014. The fourth report of the JIM, discussed by the UN Security Council today, further names the Syrian Arab Armed Forces as the party to have used weaponized chlorine in Qmenas in 2015.

All those confirmed to have been involved in the use of chemical weapons in Syria must be held accountable. To date, however, a handful of countries continue to shield the Assad regime from the consequences of its own actions, even as evidence mounts of its confirmed use of chemical weapons. The time is now for Syria's regime to face real consequences for its actions. The international community must uphold the strength and legitimacy of international law in the face of the first confirmed uses of chemical weapons by a State Party to the CWC. Inaction is simply not an option. To that end, we are working within the OPCW and the UN Security Council to extend the instrumental work of the JIM and to send a clear message that the use of chemical weapons will not be tolerated.

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On November 17, 2016, the UN Security Council adopted Resolution 2319, renewing the mandate of the JIM for another year. The State Department welcomed the unanimous adoption of Resolution 2319 in a November 18, 2016 press statement, excerpted below and available at <http://2009-2017.state.gov/r/pa/prs/ps/2016/11/264432.htm>.

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Yesterday, the UN Security Council took an important step by renewing the mandate of the JIM—an independent, neutral expert panel—to enable it to build upon its instrumental work to date in identifying the party or parties responsible for the reprehensible use of chemical weapons in Syria. The third and fourth reports of the JIM, released August 24 and October 27, 2016, respectively, found that the Syrian Arab Armed Forces used a toxic chemical, likely chlorine, as a weapon in three separate instances in 2014 and 2015. Additionally, the JIM’s third report found that Da’esh used mustard gas as a chemical weapon in 2015.

The UN Security Council has heard directly from multiple eye-witnesses in Syria who recounted horrific descriptions—the sound of helicopters overhead, the dropping of barrel bombs, and the release of toxic gas leaving hundreds of innocents gasping for air. Even as the JIM continues its work to determine responsibility for CW uses, we must all send a clear message that the use of chemical weapons will be met with serious consequences. Such consequences are necessary to uphold and strengthen international law in the face of multiple confirmed uses of CW by Syria, a State Party to the Chemical Weapons Convention (CWC); they are necessary to deter any state or non-state actor from seeking to use CW; and they, too, are necessary to send a message on behalf of all victims of such deplorable weapons, if we hope to save others in Syria and anyone around world from falling victim to a similar, terrifying fate.

Yesterday’s adoption of UNSCR 2319 (2016) follows a landmark decision, on November 11, by the OPCW Executive Council in the Hague condemning the use of CW in Syria; expressing concern about identified gaps, inconsistencies, and discrepancies in Syria’s declaration to the CWC; and demanding that the Syrian regime comply fully with its obligations under the Convention. The OPCW Executive Council decision also underscores the international community’s resolve to demonstrate consequences for the clear violation of international law embodied in the confirmed multiple uses of CW by the Syrian Arab Armed Forces.

Taken together, these actions by the OPCW Executive Council and the UN Security Council demonstrate that the horrific use of chemical weapons anywhere, at any time, and by anyone will not be tolerated, and those responsible for their use will be held to account.

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Ambassador Power provided the U.S. explanation of vote on the resolution, which is excerpted below and available at <https://2009-2017-usun.state.gov/remarks/7563>.

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...[E]vidence suggests that the JIM is in fact helping to dissuade actors from using chemical weapons. And this is really important—in the 19 months before the JIM was established, there were more than 120 allegations of chemical weapons attacks. But in the 15 months after the JIM began its work, that number has dropped to approximately 35 alleged attacks. Let’s be clear—one chemical weapons attack is one too many, and is completely unacceptable and worthy of our collective condemnation. We also know that there are other likely causes, as the Syrian regime has established a pattern of using chemical weapons when it is struggling using conventional means; Russia’s entry into the war in September 2015 has given Damascus a significant battlefield edge. Perhaps that explains some of the drop in use. But there is no question that perpetrators who know—as they did before August 7, 2015, when the JIM was authorized—that they would never be identified—those perpetrators felt a greater sense of impunity than they must feel now. Even if the JIM makes only a small difference in keeping the parties from using chemical weapons, it would save lives, and help safeguard a crucial global norm, and that is well worth this Council’s full and sustained support.

... [F]inally, there is so much investigative work left for the JIM to complete. The JIM has so far only been able to make attribution in four of the nine cases that were initially selected for investigation. And new potential cases continue to emerge. For example, there were numerous reports on August 10 and September 6 of this year that Assad regime helicopters dropped barrel bombs with toxic chemicals on neighborhoods in eastern Aleppo, sickening dozens of Syrians and killing at least five people. As long as the parties to the conflict in Syria use chemical weapons, and as long as previous cases can still be investigated, this Council needs to determine who is involved—and we need the JIM to do it.

But this Council’s responsibilities don’t end once we know the facts. We already know that the Assad regime and ISIL were involved in chemical attacks. The members of this Council now need to work together to make sure that those who use such gruesome weapons face consequences.

We, of course, have sharp differences in this Council when it comes to the conflict in Syria. That is clear. But the unanimous renewal of this mandate reflects one important principle that we share in common—our unequivocal, collective opposition to the use of chemical weapons. This principle led us to adopt resolution 2118 three years ago requiring Syria, whose regime had just carried out a horrific attack killing at least 1,400 people, to dismantle and destroy its chemical weapons program under international supervision. This principle led us to create the JIM, and it led us now to extend the JIM. And it is on the basis of this principle that we should continue to act to hold parties accountable for using chemical weapons against the Syrian people.

There is very little in the history of the Syrian conflict that the Security Council has been able to agree upon; chemical weapons are one such exception to the general rule of Council division. The fact that we can achieve agreement in this narrow but important domain should motivate us. It should motivate us to work harder to stop the slaughter of civilians by other means, and it should motivate us to achieve the political solution that has long eluded the people of Syria, who continue to be attacked in a savage manner to this very day. I thank you.

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## 2. Chemical Weapons in Libya

On July 22, 2016, Ambassador David Pressman, Alternate Representative to the UN for Special Political Affairs, delivered the U.S. explanation of vote on UN Security Council Resolution 2298 on eliminating chemical weapons in Libya. The explanation of vote is excerpted below and available at <http://2009-2017-usun.state.gov/remarks/7380>.

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... The United States strongly endorses the authorization of Member States to assist in the transfer and destruction of Libya's category two chemical weapons outside of Libya. We are pleased the Security Council was able to respond to the initiative of the Libyan Government of National Accord, working with the Organization for the Prohibition of Chemical Weapons and the international community, to facilitate the transfer and destruction of these chemicals.

It was imperative we act quickly in this instance to remove these chemicals in order to prevent possible capture and use by non-state actors. As such, we appreciate the United Kingdom's approach as penholder in presenting a clean and simple authorization for immediate action to address a threat to international peace and security.

These efforts will help ensure that the chemicals are safely and securely destroyed in a verifiable manner, and we are hopeful all members of the Security Council recognize the importance of undertaking this action in an expedited manner. We look forward to our continued work with the international community to ensure these category two chemical weapons are safely destroyed.

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On September 1, 2016, the State Department issued a statement on the OPCW-coordinated removal of chemical weapons precursors from Libya. The statement is excerpted below and available at <http://2009-2017.state.gov/r/pa/prs/ps/2016/09/261535.htm>.

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Yesterday, the Director-General of the Organization for the Prohibition of Chemical Weapons (OPCW) announced a major milestone in the elimination of Libya's Qadhafi-era chemical weapons-related materials. On August 27, an international maritime operation coordinated by the OPCW and led by Denmark safely removed Libya's remaining chemical weapons precursors as authorized by United Nations Security Council Resolution 2298 and OPCW Executive Council decisions. These chemicals, which are common toxic industrial chemicals several stages from becoming chemical weapons agents, are now secure and will soon be destroyed in an environmentally safe and verifiable manner.

As noted by the White House, a team of international partners has worked to answer the Libyan Government of National Accord's request for assistance to remove these chemicals for destruction outside of Libya in order to eliminate the risk that they could fall into the hands of non-state actors. This very capable team was led by the OPCW, and included Canada, Denmark, Finland, France, Germany, Italy, Libya, Malta, Spain, the United Kingdom, and the United States.

We echo the gratitude expressed by the OPCW for the significant contributions of our generous partners in this endeavor, and we share the sentiment of the Director-General that this "international effort has achieved a major milestone in guaranteeing that these chemicals will not fall into the wrong hands."

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On November 10, 2016, Deputy Assistant Secretary of State Mallory Stewart spoke on a panel at the Center for Strategic and International Studies on the removal of Libyan chemical weapons stockpiles. Her statement provides details on the United States government's role in the chemical weapons removal and destruction operation. A video of the discussion is available at <https://www.csis.org/events/keeping-chemical-weapons-out-hands-terrorists>.

### 3. Conference of States Parties to the Chemical Weapons Convention

Deputy Assistant Secretary Stewart addressed the Twenty-First Session of the Conference of the States Parties to the Chemical Weapons Convention on November 19, 2016. The statement, excerpted below, touches on use of chemical weapons in Syria, removal of chemical weapons from Libya, and other important topics. OPCW Doc. C-21/NAT.19.

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I am pleased to join you here today to continue our work together to strengthen the implementation of the Chemical Weapons Convention. As events have clearly illustrated since the Conference of States Parties last convened, the Convention and the Organisation for the Prohibition of Chemical Weapons remain as relevant and vital as ever. ...

I must address a number of issues today, but none is more crucial to the future of the Convention than addressing the confirmed use of chemicals as weapons in Syria, and working to deter and prevent State and non-State actors from using such weapons ever again. On November 11, the Executive Council:

- condemned in the strongest possible terms the use of chemical weapons by the Armed Forces of the Syrian government;
- called for accountability for all actors involved in the heinous use of chemical weapons by Syria; and
- imposed additional and necessary stringent verification measures on Syria. In taking its decision, the Council responded responsibly to the findings of the OPCW-United



Nations Joint Investigative Mechanism (JIM), which determined that the Syrian Arab Armed Forces used toxic chemicals as weapons in Syria in three separate attacks in 2014 and 2015. In the same decision, the Council condemned in the strongest possible terms the use of chemical weapons by the so-called “Islamic State of Iraq and the Levant”—also known as “Da’esh”—in one attack in Syria in 2015.

As we all agree, any use of chemical weapons is deeply abhorrent and cause for alarm. The use of chemical weapons by Da’esh is repugnant and an example of the growing threat of non-State actor use of chemical weapons. It underscores the importance for all States Parties to take affirmative steps to counter the threat through the effective implementation of national measures, consistent with obligations under Article VII of the Chemical Weapons Convention.

However, the crucial imperative to address the non-State actor threat should not distract from, nor diminish, the urgent need to address the principal challenge before the international community and this august body: the confirmed use of chemical weapons by Syria—a State Party to the Convention. Syria’s flagrant use of chemicals as weapons is a direct assault on the Convention. For the first time in the history of the Convention, we are facing the confirmed use of chemical weapons by a State Party. We cannot ignore this, and we must redouble our efforts to defend the integrity of our treaty and the international norm it embodies. When any international law is allowed to be blatantly and repeatedly violated with no consequences, all international law is weakened.

Moreover, the Syrian regime’s repeated use of chemical weapons, as reported by the JIM, further underscores the urgency that all States Parties must attach to fully addressing the gaps, inconsistencies, and discrepancies in Syria’s declaration. This is true for a number of reasons.

Firstly, there is already a long list of open issues associated with Syria’s declared chemical weapons programme and the JIM has confirmed Syrian Arab Armed Forces willingness to use chemical weapons. Additionally, the Convention is clear, that any chemical employed for its toxic properties in warfare is defined as a chemical weapon. We must now recognise the need for Syria to fully declare all of the materials and facilities associated with its production and use of chlorine barrel bombs. This requirement is all the more urgent in light of continuing credible reports of the use of chlorine barrel bombs by the Syrian regime, including as recently as this month.

Secondly, the presence of non-State actors in the region, who actively aspire to acquire chemical weapons, makes it even more critical that Syria completely declare and eliminate the remaining elements of its chemical weapons programme. There must be absolute transparency to confirm that nothing is left for anyone to use.

Against this backdrop, the United States commends the personnel of the OPCW Fact-Finding Mission for their courageous work to verify where chemical weapons have been used in Syria. The United States also commends the tireless efforts of the OPCW’s Declaration Assessment Team, which has the daunting task of verifying Syria’s chemical weapons declaration. That task is made all the more challenging in the face of continued dissemblance, delay, and defiance from Damascus.

Amid the alarming news coming out of Syria regarding chemical weapons use, and its sobering implications for the Convention, this past year we were pleased to collaborate with other States Parties and the Technical Secretariat in an effort that resoundingly reaffirmed the possibilities and great promise of the OPCW. I am referring to the removal of the remaining chemical weapons precursors from Libya for destruction. That effort stands as a shining example of what States Parties can accomplish together, transparently and efficiently, when we approach

difficult challenges with ingenuity, goodwill, and determination. On behalf of the United States, I warmly commend the efforts of the Libyan Government, the OPCW Technical Secretariat, and the many States Parties that contributed to this important success.

I am also pleased to report that the United States continues to make steady, measurable progress toward the complete elimination of our own stockpile. We remain fully committed to completing chemical weapons destruction as safely and as quickly as practicable, and consistent with our planned completion date. The United States has, as of 31 October this year, destroyed 24,952 metric tons, nearly 90 percent, of our declared Category 1 chemical weapons. More than 2.33 million munitions and containers have been destroyed, including 100 percent of our binary chemical weapons. With the successful commencement of operations at the Pueblo Chemical Agent-Destruction Pilot Plant on 7 September, United States' efforts to complete destruction of our remaining stockpile gained additional momentum. We look forward to welcoming members of the Executive Council to the United States in April 2017 to visit the Blue Grass Chemical Agent-Destruction Pilot Plant, which constitutes the final phase of the United States' chemical weapons destruction programme.

The United States is pleased again this year to co-sponsor the statement (C-21/NAT.3/Rev.2) highlighting the risks posed to the Convention by central nervous system-acting chemicals in law enforcement scenarios. In connection with such scenarios, these chemicals are often referenced by the misleading term "incapacitating agents". However, as the thirty-three co-sponsors to the statement remind us, central nervous system-acting chemicals cannot be used safely to incapacitate outside of a clinical setting. Instead, these chemicals lend themselves to the potential use as deadly chemical weapons. More specifically, there is growing concern that the development, production, acquisition, and stockpiling of these chemicals for supposed law enforcement purposes could constitute a "backdoor" to the re-emergence of chemical weapons possession and use. We believe this matter warrants further discussion and consideration by all States Parties, and we therefore continue to encourage all delegations that have not yet done so to put their views on this matter on the record. The United States commends Australia and Switzerland for spearheading this initiative. I can firmly state once again that the United States is not developing, producing, stockpiling, or using central nervous system-acting chemicals for law enforcement purposes, nor are we using riot control agents as a method of warfare.

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The OPCW will mark its twentieth anniversary next year. Over the past two decades, the hallmarks of this remarkable Organisation have been innovation, pragmatism, and impeccable credibility. Confronted by a dynamic and increasingly complex international system, the OPCW has risen to every challenge. This Organisation and the Convention that it serves deserve the strong support of all States Parties. Through our collective stewardship we can ensure that the OPCW will continue to play its indispensable and unique role in global security.

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#### 4. Biological Weapons Convention

The United States welcomed the accession of the Republic of Angola to the Biological Weapons Convention (“BWC”) on July 26, 2016 in a July 29, 2016 media note, available at <http://2009-2017.state.gov/t/isn/rls/prsrl/2016/260665.htm>. Angola became the 175th party to the BWC. Also in 2016, Liberia, Nepal and Guinea became States Parties to the BWC.

The foreign ministers of Hungary, the Russian Federation, the United Kingdom, and the United States issued a joint statement on the Biological Weapons Convention Review Conference on October 18, 2016, which is available at <https://2009-2017-usun.state.gov/remarks/7495>. The statement includes the following:

The Foreign Ministers look forward to the Eighth Review Conference of the Convention in November this year agreeing on substantive measures that will significantly strengthen the Convention and contribute in a measurable way to reducing the threat of biological agents being used as weapons. We are committed to work hard and constructively to this end, and we call upon all States Parties to approach the Conference in a similar spirit and come ready to take the necessary decisions to ensure that the Convention serves its purpose in an effective and sustainable manner.

Thomas M. Countryman, Acting Under Secretary of State for Arms Control and International Security, delivered remarks at the Eighth BWC Review in Geneva, Switzerland on November 7, 2016. His statement is excerpted below and available at <http://2009-2017.state.gov/t/us/2016/264154.htm>.

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Our march towards universalization of the Treaty continues. We welcome 12 new States Parties since the last Review Conference. With each accession, our world becomes safer. Still, major challenges remain.

Biological weapons have been used in the past, and there is clear and troubling evidence that terrorist groups, individuals, and states continue to pursue them. Advances in the life sciences and the increasing availability of materials, equipment, and knowledge, have placed biological weapons within reach of more actors than ever before.

This is why we must all make a concerted, sustained effort to support, and fund, and use the impressive array of tools we have developed to counter the threat posed by state and non-state actors.

Together, we can take decisive action to strengthen the Convention’s implementation, to enhance confidence in compliance, to develop capacity to respond to biological weapons use by state and non-state actors, and to enhance international cooperation.

I emphasize first that there is no substitute for effective national implementation, and many States Parties still have much work to do. One in four States Parties has not prohibited development or production of biological weapons in their domestic law; one in three has no prohibition on possession of biological weapons—or transfer of such weapons to others. And, despite the requirements of UN Security Council Resolution 1540 and the Terrorist Bombing Convention, one in eight States Parties has no legislation which criminalizes the use of biological weapons.

The United States has offered ideas to address this implementation deficit in our own Working Papers and in our joint proposal with India concerning Article III.

I stress second that we must acknowledge that some concerns exist about some States Parties' compliance with the Biological Weapons Convention.

In a national working paper, we have proposed ways to strengthen confidence, to improve the confidence-building measures and create a wider set of options for addressing inevitable questions about the operation of the Convention.

And third, while States Parties to the BWC are steadfast in their determination to prevent any use, we still must prepare for this horrific possibility.

One need only look to the OPCW-UN Joint Investigative Mechanism (JIM) Report on the use of chemical weapons by the Asad regime and ISIL to see that some states and non-state actors are still capable of such despicable acts.

This Conference should state unambiguously that use of biological weapons under any circumstance is unacceptable, that allegations of such use should be investigated promptly, and that those responsible for the use of such weapons will be held accountable.

States Parties should also take steps to enhance national and international capabilities to detect, investigate, and respond to the use of such weapons rapidly and effectively. This includes developing practical approaches to coordinate international assistance and response, recognizing it will not always be clear whether an outbreak is deliberate or natural.

In particular, we call upon all States Parties to affirm their willingness to provide access to an investigation team, consistent with safety and domestic legal constraints.

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On November 25, 2016, Ambassador Wood delivered the closing statement for the United States at the Eighth BWC Review Conference. His statement, excerpted below, is available at

[http://www.unog.ch/80256ee600585943.nsf/\(httpPages\)/57a6e253edfb1111c1257f39003ca243?OpenDocument&ExpandSection=9%2C3#\\_Section9](http://www.unog.ch/80256ee600585943.nsf/(httpPages)/57a6e253edfb1111c1257f39003ca243?OpenDocument&ExpandSection=9%2C3#_Section9).

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My delegation regrets that this Conference was unable to reach agreement on a substantive program of post-RevCon work.

We listened closely over the last three weeks, and we were optimistic that it would be possible to reach such an agreement. Many delegations called for a new, stronger intersessional program that would allow for substantive expert work and concrete action. Many delegations supported strengthening the Implementation Support Unit, and taking important steps in a variety

of areas, from S&T to international cooperation to national implementation to taking steps to realize the promise of Article VII for emergency assistance.

We could have done those things. We supported them, and were prepared to accept many things we did not support in the interests of a strong, consensus outcome:

- Some delegations wanted to use the intersessional process to discuss their aspirations for a verification protocol. We don't agree that this is a useful way ahead, but we made clear that we were prepared to engage in a discussion of the full range of proposals for strengthening this Convention.

- One delegation was particularly interested in creating a battalion of mobile biomedical units owned and operated by the BWC. We thought this was neither feasible nor a particularly effective approach, but we were prepared to give it prominence in a new intersessional program.

Our goal was to strengthen BWC States Parties' ability to cooperate and to take effective action together. In the face of arguments about giving MSPs decision-making authority, we again showed flexibility, and suggested that they could make recommendations instead. All we asked was that we hold the next Review Conference sooner than 2021, so we could take action on those recommendations. It was a simple idea: we need to move beyond the status quo if we are to meet the expectations of States Parties.

Mr. Chairman, my delegation has worked tirelessly in pursuit of a meaningful outcome to this Review Conference. When your proposal for a new ISP turned into a thicket of brackets yesterday, we stayed up all night, first talking with other delegates, and then drafting a compromise proposal, based on your text, that we believe nearly every delegation at this Conference could have accepted with only minor refinements. Many of you have seen it. Unfortunately, a few key delegations were unwilling to engage on it during the day.

We have participated in numerous consultations and meetings today to try to find a way ahead. These have been fruitless.

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Mr. Chairman, the document we have just adopted gives us a chance to find a way to move ahead over the next year—if we can reach consensus at the Meeting of States Parties in 2017. I have my doubts. This body—a body established by a treaty that aims to exclude completely the possibility of use of biological weapons by anyone—was unable to reach agreement on the simple principle that people who use biological weapons should be brought to justice.

This is our Convention. We spent the last four years working to promote common understanding and effective action, and this is where we are. I encourage all delegations to think about that over the coming months, and consider seriously how we should proceed.

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On November 30, 2016, the State Department issued a statement on the close of the Eighth BWC Review Conference. The statement is available at <http://2009-2017.state.gov/r/pa/prs/ps/2016/11/264647.htm>, and excerpted below.

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For more than four decades, the Biological Weapons Convention has embodied international will against the use of disease as a weapon. No nation claims that biological weapons are legitimate or admits pursuing them, and we are all safer for it. This norm remains strong, as does the U.S. commitment to work with other nations to combat this threat, despite the less than satisfactory outcome of the Convention's Eighth Review Conference in Geneva last week.

The Conference was unable to reach agreement on a new, more ambitious work-plan for the next five years, a plan that was supported by the United States and the vast majority of other States Parties to the Convention. The United States sought agreement on a work-plan that would allow for more intensive expert work and for taking decisions more often than once every five years—goals we believe are widely shared.

While the United States does not support the need to negotiate a supplementary treaty, during the review conference, U.S. negotiators were supportive of creating a space in the post-RevCon work-plan for discussion of the full range of proposals to strengthen the Convention, which would have allowed proponents of a protocol to make their case.

Although the United States is disappointed that negotiators did not take this opportunity to strengthen the intersessional process, the lack of consensus on a program of work does not damage the international nonproliferation regime. Collaborative work to strengthen biosecurity, nonproliferation, and transparency will continue. For our part, the United States will continue to further strengthen a regime that is rightly credited with making the world a safer place.

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## E. ARMS TRADE TREATY

For background on the Arms Trade Treaty, see *Digest 2015* at 883-84, *Digest 2013* at 710-15, and *Digest 2012* at 674-79. On December 9, 2016, the President transmitted to the Senate for its advice and consent to ratification the Arms Trade Treaty, done at New York on April 2, 2013, and signed by the United States on September 25, 2013. The transmittal includes the report of the Secretary of State with respect to the Treaty, which contains a detailed article-by-article analysis of the Treaty. Excerpts follow from the President's message to the Senate, available at <https://obamawhitehouse.archives.gov/the-press-office/2016/12/09/message-senate-arms-trade-treaty>.

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The Treaty is designed to regulate the international trade in conventional arms—including small arms, tanks, combat aircraft, and warships—and to reduce the risk that international arms transfers will be used to commit atrocities, without impeding the legitimate arms trade. It will contribute to international peace and security, will strengthen the legitimate international trade in

conventional arms, and is fully consistent with rights of U.S. citizens (including those secured by the Second Amendment to the U.S. Constitution). United States national control systems and practices to regulate the international transfer of conventional arms already meet or exceed the requirements of the Treaty, and no further legislation is necessary to comply with the Treaty. A key goal of the Treaty is to persuade other States to adopt national control systems for the international transfer of conventional arms that are closer to our own high standards.

By providing a basis for insisting that other countries improve national control systems for the international transfer of conventional arms, the Treaty will help reduce the risk that international transfers of specific conventional arms and items will be abused to carry out the world's worst crimes, including genocide, crimes against humanity, and war crimes. It will be an important foundational tool in ongoing efforts to prevent the illicit proliferation of conventional weapons around the world, which creates instability and supports some of the world's most violent regimes, terrorists, and criminals. The Treaty commits States Parties to establish and maintain a national system for the international transfer of conventional arms and to implement provisions of the Treaty that establish common international standards for conducting the international trade in conventional arms in a responsible manner. The Treaty is an important first step in bringing other countries up towards our own high national standards that already meet or exceed those of the Treaty.

The Treaty will strengthen our security without undermining legitimate international trade in conventional arms. The Treaty reflects the realities of the global nature of the defense supply chain in today's world. It will benefit U.S. companies by requiring States Parties to apply a common set of standards in regulating the defense trade, which establishes a more level playing field for U.S. industry. Industry also will benefit from the international transparency required by the Treaty, allowing U.S. industry to be better informed in advance of the national regulations of countries with which it is engaged in trade. This will provide U.S. industry with a clearer view of the international trading arena, fostering its ability to make more competitive and responsible business decisions based on more refined strategic analyses of the risks, including risks of possible diversion or potential gaps in accountability for international arms transfers, and the associated mitigation measures to reduce such risks in a given market.

The Treaty explicitly reaffirms the sovereign right of each country to decide for itself, pursuant to its own constitutional and legal system, how to deal with conventional arms that are traded exclusively within its borders. It also recognizes that legitimate purposes and interests exist for both individuals and governments to own, transfer, and use conventional arms. The Treaty is fully consistent with the domestic rights of U.S. citizens, including those guaranteed under the U.S. Constitution.

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### **Cross References**

*ATT transmitted to Senate*, **Chapter 4.A.2.**

*Meshal v. Higgenbotham*, **Chapter 5.A.1.**

*Cooper v. TEPCO (Fukushima nuclear accident)*, **Chapter 5.C.5.**

*Outer space*, **Chapter 12.B.**

*Iran sanctions*, **Chapter 16.A.1.**

*Syria sanctions*, **Chapter 16.A.2.**

*DPRK sanctions*, **Chapter 16.A.5.**

*Export controls*, **Chapter 16.B.**

*Syria*, **Chapter 17.B.2.**

*Conventional weapons*, **Chapter 18.B.**