

Table of Contents

| | |
|--|---------------------|
| CHAPTER 19 | 765 |
| Arms Control, Disarmament, and Nonproliferation | 765 |
| A. GENERAL | 765 |
| B. NONPROLIFERATION | 765 |
| 1. Non-Proliferation Treaty: Preparatory Committee for the 2020 Review Conference..... | 765 |
| 2. Convention on Supplementary Compensation for Nuclear Damage: <i>Cooper v. TEPCO</i> | 770 |
| 3. Nuclear-Weapon-Free Zones | 774 |
| 4. Nuclear Security..... | 775 |
| 5. Hague Code of Conduct..... | 780 |
| 6. UN Security Council Resolution 1540 | 780 |
| 7. Country-Specific Issues | 781 |
| a. <i>Democratic People’s Republic of Korea (“DPRK” or “North Korea”)</i> | 781 |
| b. <i>Iran</i> | 786 |
| c. <i>Kazakhstan</i> | 788 |
| d. <i>Norway</i> | 788 |
| C. ARMS CONTROL AND DISARMAMENT | 789 |
| 1. United Nations | 789 |
| a. <i>Disarmament Commission</i> | 789 |
| b. <i>Treaty Banning Nuclear Weapons</i> | 791 |
| c. <i>First Committee</i> | 793 |
| 2. International Partnership for Nuclear Disarmament Verification..... | 797 |
| 3. New START Treaty..... | 799 |
| 4. INF Treaty..... | 799 |

| | |
|---|----------------------------|
| D. CHEMICAL AND BIOLOGICAL WEAPONS | <u>800</u> |
| 1. Chemical Weapons in Syria..... | <u>800</u> |
| 2. Biological Weapons Convention | <u>809</u> |
| E. ARMS TRADE TREATY | <u>810</u> |
| Cross References | <u>812</u> |

CHAPTER 19

Arms Control, Disarmament, and Nonproliferation

A. GENERAL

On April 14, 2017, 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 2017 report primarily covers the period from January 1, 2016 through December 31, 2016. The report is available at <https://www.state.gov/t/avc/rls/rpt/2017/270330.htm>.

B. NONPROLIFERATION

1. Non-Proliferation Treaty: Preparatory Committee for the 2020 Review Conference

Ambassador Robert A. Wood, Permanent Representative of the United States to the Conference on Disarmament, delivered a statement for the United States at the first session of the preparatory committee for the 2020 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons in Vienna, on May 2, 2017. Ambassador Wood's statement follows and is also available at <https://vienna.usmission.gov/u-s-statement-to-the-2017-npt-preparatory-committee/>.

* * * *

I am honored to speak on behalf of the United States as we begin preparations for the 10th NPT Review Conference, which will mark the 50th anniversary of the Treaty's entry into force in 1970. This is an opportunity to recall the incalculable benefits that derive from the NPT, to celebrate all we have accomplished, and to rededicate ourselves to the tough, practical steps we must take to preserve and expand these benefits for generations to come. The NPT stands out as a remarkably successful example of states coming together to advance their shared interests.

In 1963, President Kennedy warned of the prospect that, by the end of the 1970s, as many as 25 countries might develop nuclear weapons. It is hard to imagine that we could have avoided any further use of nuclear weapons if this had come to pass. Instead, thanks to concerted international nonproliferation efforts, the vast majority of states have forsworn and deeply oppose the spread of nuclear weapons. This is a remarkable achievement that benefits the security of all states and has helped pave the way for remarkable progress on disarmament and on peaceful uses of nuclear energy.

...The Cold War arms race ended decades ago. The U.S. nuclear warhead stockpile has fallen more than 85% since the height of the Cold War. The United States ended production of fissile material for weapons and removed hundreds of tons of fissile material from weapons programs. I doubt that this would have been possible had proliferation continued unchecked.

Unfortunately, in recent years, security conditions have grown worse, with renewed tensions and growing nuclear stockpiles in some regions. Non-compliance with nonproliferation and arms reduction agreements have put at risk the progress that has been made and undermined confidence in future progress. We cannot simply wish these problems away, but we can work to ameliorate or resolve them and lay the groundwork for enduring progress once conditions permit.

The nuclear nonproliferation regime built around the NPT has made possible the nuclear cooperation and commerce that provide clean, reliable energy for hundreds of millions of people. All NPT Parties benefit from the peaceful uses of nuclear science and technology to meet sustainable development needs in areas as diverse as energy, health, agriculture, industry, and natural resource management. These gains were possible only because we have put in place international safeguards, export controls, and other measures that provide confidence in the safe, secure and peaceful uses of nuclear energy.

...The International Atomic Energy Agency plays a key part in helping us realize the practical benefits of the NPT, and the United States is the leading supporter of the IAEA's work across the board, including the Technical Cooperation Program. We exceeded our initial pledge of \$50 million to the Peaceful Uses Initiative by 2015, and are on track to contribute another \$50 million by 2020.

I am pleased to announce a U.S. pledge of €1 million to support the IAEA's project to renovate its Nuclear Applications Laboratories, in addition to the nearly €9.9 million we have provided to date. This ReNuAL project aims to renew the infrastructure needed to sustain the IAEA's programs for peaceful uses of nuclear energy. We also urge other IAEA Member States to join us in meeting this year's ReNuAL Plus fundraising goals.

Despite these accomplishments, ... the record on nonproliferation remains incomplete and vulnerable. We must remain vigilant for any signs of nuclear weapons ambitions. It is time to recognize the Additional Protocol as the *de facto* standard for assuring that states are meeting

their NPT safeguards obligations, and to reaffirm our shared responsibility to respond to cases of non-compliance that put at risk the benefits we derive from the NPT.

Over the last fifteen years we have redoubled our efforts to prevent terrorists from acquiring the means to launch a nuclear attack, to protect nuclear material from theft and nuclear facilities from sabotage. It is the responsibility of all states pursuing nuclear energy to adhere to international instruments and standards for nuclear security. But it is also a collective responsibility to establish high standards and ensure that states are in a position to meet those standards, in part by supporting the IAEA nuclear security program.

As a long-term goal, we must continue to work toward universal adherence to the NPT, even though we have no illusions that this can be achieved quickly. In several regions, the path to this goal depends on addressing longstanding security challenges. We remain ready to work with the states of the Middle East to support practical steps toward the goal of a zone free of weapons of mass destruction and delivery systems, but fundamentally this goal depends on the willingness of the regional states to engage one another directly.

...Today, our world faces no greater security challenge than that posed by North Korea. The DPRK has resumed its reprocessing activities, admitted enriching uranium for nuclear weapons, and carried out five nuclear tests and many ballistic missile launches, in open defiance of multiple UN Security Council resolutions. Well-intentioned diplomatic efforts over the last 20 years to halt the DPRK's proscribed programs have failed. Its stated objective is to be able to attack U.S. and allied cities with nuclear weapons. The threat of a North Korean nuclear attack on Seoul, or Tokyo is real, and it is only a matter of time before the DPRK develops the capability to strike the U.S. mainland. As Secretary Tillerson stated at the UN Security Council, "it is time for us to retake control of the situation." Our goal is not regime change. The DPRK, for its own sake, must abandon its nuclear and missile programs if it wants to achieve the security, economic development, and international recognition that it seeks. The time has come for all of us to put new pressure on North Korea to change course, and we must all do our share. We must demonstrate our resolve by implementing all UN Security Council obligations and impose increased diplomatic and economic pressures on the North Korean regime. We are all at risk, and we must all act resolutely to answer this challenge. If we fail, permitting North Korea's violations of and announced withdrawal from the NPT and its escalating provocations to plunge the region and perhaps the world into crisis, everything else we do and say here in Vienna will matter little by comparison. Therefore, determining how to mitigate the nuclear threat from North Korea should be the central issue in our discussions during this PrepCom.

Since the DPRK announced its withdrawal from the NPT, three Review Conferences have been unable to reach consensus on the need to hold a withdrawing state accountable for any violations while it was a Party. The right to withdraw is woven into the fabric of the NPT, but a withdrawing State remains responsible for any unresolved noncompliance prior to its withdrawal. Allowing States Parties to violate the Treaty and then withdraw without consequence if caught in a violation ignores this basic principle of international law. To vigorously enforce this principle is not to curtail the right but rather to vindicate the interests of the remaining NPT Parties and preserve the integrity of the Treaty itself. We must also ensure that a withdrawing state cannot escape its obligations to other Parties not to misuse the fruits of peaceful nuclear cooperation.

...The NPT has given all of us enormous benefits over nearly five decades. Despite our differences, we all recognize that the Treaty serves our individual and shared national security and development interests. Through genuine dialogue, we can build on areas of longstanding

consensus, identify new areas where consensus should be possible, and set aside proposals that cannot achieve consensus. Recalling our common interests is the best way to rebuild the culture of consensus building and consensus-based decision making that served us so well over the decades. Abandoning consensus might yield an illusion of progress, but not its reality, and even that illusion would quickly dissipate. Given the benefits the NPT has provided to date, and the important shared interests it protects, we owe the future much better than that.

* * * *

On May 8, 2017, Ambassador Wood delivered a statement in a meeting at the NPT Preparatory Committee on regional issues. That statement is excerpted below and available at <https://geneva.usmission.gov/2017/05/09/u-s-statement-to-the-npt-preparatory-committee-cluster-2-regional-issues/>.

* * * *

The United States reaffirms the critical role of the NPT in enhancing the security of all States Parties and promoting regional security and stability. We welcome the opportunity to discuss several regional proliferation and compliance challenges that jeopardize our collective security.

...Foremost among these is North Korea's destabilizing and unlawful pursuit of nuclear weapons and advanced delivery systems, which pose an increasingly dangerous threat to international peace and security and an explicit threat to the national security of the United States and our allies. The North Korea we confront today operates far beyond the boundaries of international law and nonproliferation norms: In 2016, the DPRK resumed its spent fuel reprocessing activities, admitted to enriching uranium for nuclear weapons, and carried out two nuclear tests and over 30 ballistic missile launches—all in open defiance of multiple UN Security Council resolutions and with the stated objective of being able to attack U.S. and allied cities with nuclear weapons. We cannot allow these developments to pass without increasing the consequences for the Kim Jong-Un regime and its enablers. We must impose and fully implement more punitive and consequential measures to compel the DPRK to change course. The DPRK must be held to account.

We are exploring the full range of diplomatic, security and economic options to address the North Korean threat and our actions must be commensurate with the growing magnitude of North Korea's violations of its obligations. It is the obligation of every country here today to implement both the spirit and the letter of the multiple resolutions unanimously adopted by the UN Security Council. We must all do our share, and we call on all countries, to compel the DPRK to make the strategic decision to abandon its unlawful weapons programs and cease the provocations that so imperil international peace and security in the region. As Secretary Tillerson noted two weeks ago at the UN, China's role is particularly important. We hope China will alter its strategic thinking and partner with us in this endeavor to demonstrate to the DPRK that it stands alone in its pursuit of weapons of mass destruction. This is essential if we are to convince North Korea to change course and engage seriously on denuclearization efforts that lead to the abandonment of all its nuclear weapons and existing nuclear programs, a return to the NPT and IAEA safeguards, and full compliance with its nonproliferation obligations.

The United States will not accept North Korea as a nuclear-armed state. North Korea must comply with its international obligations and commitments or face the consequences. The only path to a secure, economically-prosperous future for North Korea is for it to abandon its WMD programs.

...The United States is currently undertaking a review of our policies regarding Iran, including its destabilizing activities in the Middle East and the Joint Comprehensive Plan of Action. While that review is underway, we remain committed to ensuring strict and rigorous implementation of Iran's nuclear commitments under the JCPOA, and will continue to fulfill our own commitments. Given Iran's troubling history of noncompliance—with the NPT, with IAEA nuclear safeguards, and with multiple, legally-binding U.N. Security Council resolutions—and its past undeclared nuclear activities and nuclear weapons program, thorough IAEA verification remains absolutely essential to providing the international community with confidence that Iran's nuclear program is and remains exclusively peaceful, and that no undeclared nuclear activities or activities potentially related to weaponization are occurring anywhere in Iran.

To enable the IAEA to provide such assurance, Iran must strictly adhere to all commitments and technical measures under the deal and the international community must be prepared to respond to any violations of Iran's commitments. Any new and credible concerns of undeclared nuclear activities can and must be pursued by the IAEA, which must use all of its authorities to monitor Iran's compliance with all portions of the Joint Comprehensive Plan of Action. The United States will also continue to hold Iran accountable for its other destabilizing activities in the region, including missile development and support for terrorism.

...Nearly six years have passed since the IAEA Board of Governors found Syria to be in noncompliance with its safeguards agreement for constructing an undeclared plutonium production reactor at Dair Alzour with the assistance of North Korea. Since then, the Asad regime has refused to cooperate with the IAEA to remedy its noncompliance, instead prosecuting a brutal campaign of violence against the Syrian people. The Syrian regime's callous disregard for international legal obligations related to weapons of mass destruction became additionally, and tragically, clear in April 2017, with its use of prohibited nerve gas upon civilians in the town of Khan Shaykoun—presenting the international community with new challenges in deterring the use of weapons of mass destruction and ensuring compliance with nonproliferation obligations. Syria's unresolved nuclear noncompliance is no trivial matter either, despite claims to the contrary by the regime and its patrons and apologists, and should be a matter of urgent concern to all NPT States Party. We call on Syria to cooperate fully and urgently with the IAEA and to provide it with access to all locations, materials, and persons necessary to verify the peaceful nature of its nuclear program.

...The United States supports the long-term goal of a Middle East free of weapons of mass destruction and delivery systems, alongside a comprehensive and durable regional peace. However, we are cognizant of the political and security realities that continue to impede progress on such a zone, including the lack of trust among the regional states, ongoing conflict and noncompliance in the region, the horrific use of chemical weapons by Syria and non-state actors, and the non-recognition of Israel by many states in the region.

We believe progress is possible, but only through inclusive dialogue aimed at building confidence and addressing the legitimate concerns of all regional states. Misguided attempts to coerce an outcome, or to hold the NPT review process hostage, indicate a misunderstanding of the function and purpose of weapons-free zones. Such efforts will fail, as they have in the past, and betray political objectives unrelated to the pursuit of a safer and more secure Middle East.

A weapons of mass destruction-free zone must emanate exclusively from the regional states and be based on arrangements freely arrived at, as has been the case in every other such zone. Unfortunately, the region is still far from achieving the essential conditions for such a zone: a comprehensive and durable peace and full compliance with all arms control, nonproliferation, and disarmament obligations—and too far even from establishing the prerequisites for meaningful dialogue, such as mutual recognition, direct relationships, confidence, and trust. Anyone who wishes to see a WMD-free zone come into existence should work to reduce regional tensions and build trust, beginning with establishing direct dialogue among all the affected parties.

We encourage the regional states to assume responsibility for advancing this goal and to pursue constructive avenues for doing so. For our part, the United States is prepared to support direct, regional dialogue based on the principles of consensus and mutual respect. We stand ready and willing to work with the UK and Russia to support such a regional process, as the opportunity arises.

...We also remain concerned by the growing number of nuclear weapons and their delivery systems throughout South Asia, and continue to encourage all states with nuclear weapons to exercise restraint regarding nuclear and missile capabilities. We do not believe that these weapons enhance regional or global security. Moreover, we believe that a more stable and economically integrated region would help enormously in laying a sustainable foundation for regional and global peace and security, as well as for future progress on nuclear disarmament, nonproliferation, and confidence building measures. At the same time, we welcome the steps that states have taken to bolster global nonproliferation efforts, including by harmonizing with, adhering to, and joining export control regimes and supporting efforts to prevent the acquisition and use of weapons of mass destruction by non-state actors.

* * * *

2. Convention on Supplementary Compensation for Nuclear Damage: *Cooper v. TEPCO*

As discussed in *Digest 2016* at 186-91, the United States filed an *amicus* brief in the U.S. Court of Appeals for the Ninth Circuit in *Cooper v. TEPCO*, No. 15-56424, a case brought by U.S. service members who allege that they were exposed to radiation during the humanitarian operation in response to the earthquake, tsunami, and ensuing meltdown at the Fukushima-Daiichi nuclear power plant in Japan, operated by TEPCO. After the United States filed its brief, in which it discussed the Convention on Supplementary Compensation for Nuclear Damage (“CSC”), the parties filed supplemental response briefs (and General Electric or “GE” filed an *amicus* brief) on the question of whether the CSC affects courts’ jurisdiction over claims arising over nuclear accidents that occurred prior to its entry into force. On June 22, 2017, the Ninth Circuit issued its opinion in the case. Excerpts follow (with footnotes omitted) from the Court’s discussion of the CSC, concluding that it does not deprive courts of jurisdiction over claims based on incidents that occurred prior to its entry into force. Other sections of the opinion are excerpted in Chapter 5.

* * * *

The CSC is an attempt to create “a worldwide liability regime” for dealing with nuclear accidents. Convention on Supplementary Compensation for Nuclear Damage, Preamble, opened for signature Sept. 29, 1997, S. Treaty Doc. No. 107-21 (2002) [hereinafter CSC]. One of the main goals of such a regime is to control the nuclear energy industry’s liability exposure, thus ensuring the continuing viability of the industry, while at the same time ensuring compensation for victims of nuclear accidents. Prior to the CSC, there were two major conventions addressing liability for nuclear accidents: the Paris Convention on Third Party Liability in the Field of Nuclear Energy of July 1960 and the Vienna Convention on Civil Liability for Nuclear Damage of May 1963. Both of these conventions included a number of provisions aimed at compensating victims of nuclear accidents while keeping the nuclear energy industry viable, such as imposing strict liability on operators of nuclear installations, requiring those operators to maintain insurance in certain amounts, permitting countries to cap the liability of nuclear installation operators, requiring countries to fund compensation for nuclear damage should private insurance be inadequate, and centralizing jurisdiction over claims arising out of nuclear incidents in the country where the nuclear incident occurred. Vienna Convention on Civil Liability for Nuclear Damage arts. II, V, VII, XI, May 21, 1963, 1063 U.N.T.S. 266; Paris Convention on Third Party Liability in the Field of Nuclear Energy arts. 6–7, 10, 13, 15, July 29, 1960, 956 U.N.T.S. 251. The United States was not a party to either of these “conventions, but enacted similar measures in the Price-Anderson Nuclear Industries Indemnity Act of 1957. See 42 U.S.C. § 2210.

To join the CSC, a country must be a party to the Vienna or Paris Conventions or have laws (such as the Price-Anderson Act) that meet the requirements set forth in the CSC’s annex. The CSC builds upon these prior conventions and national laws by creating an international supplementary compensation fund for victims of nuclear incidents. Under the CSC, contracting countries are required to ensure the availability of a certain amount of funds to compensate victims of a nuclear incident that occurs within their territories. CSC art. III. Beyond that amount, the contracting countries will contribute to a supplemental compensation fund. *Id.* Like the Paris and Vienna Conventions, the CSC also provides that “jurisdiction over actions concerning nuclear damage from a nuclear incident shall lie only with the courts of the Contracting Party within which the nuclear incident occurs.” *Id.* art. XIII(1).

The CSC was set to enter into force ninety days after “the date on which at least 5 States with a minimum of 400,000 units of installed nuclear capacity” ratified it. CSC art. XX(1). The CSC opened for signature on September 29, 1997, at which time the United States signed it. See Int’l Atomic Energy Agency, Status Report on the Convention on Supplementary Compensation for Nuclear Damage (2016). The United States ratified the CSC in May 2008, *id.*, but it was not until Japan signed and ratified the CSC on January 15, 2015, almost four years after the FNPP incident, that there were enough parties to put the CSC into effect. Ninety days later on April 15, 2015, the CSC entered into force, almost two-and-a-half years after Plaintiffs first filed this suit. *Id.*

TEPCO and GE do not argue that the entirety of the CSC applies to the FNPP incident. Rather, they acknowledge the general principle that “[u]nless a different intention appears from the treaty or is otherwise established, its provisions do not bind a party in relation to any act or fact which took place or any situation which ceased to exist before the date of the entry into force of the treaty with respect to that party.” Vienna Convention on the Law of Treaties art. 28, May

23, 1969, 1155 U.N.T.S. 331. Based on this principle, TEPCO and GE accept that the CSC's supplemental fund is unavailable for nuclear incidents occurring before the CSC's entry into force, including the FNPP incident. ... TEPCO and GE maintain, however, that Article XIII's mandate that "jurisdiction over actions concerning nuclear damage from a nuclear incident shall lie only with the courts of the Contracting Party within which the nuclear incident occurs" applies to cases pending before the CSC entered into force.

This is so, TEPCO and GE argue, because jurisdictional provisions are not subject to limits on retroactive application. In support of this contention, TEPCO and GE cite a long list of cases explaining that jurisdictional provisions do not retroactively alter substantive rights, but only alter where plaintiffs can go to obtain prospective relief. Accordingly, TEPCO and GE argue that jurisdiction-stripping provisions such as the one at issue here presumptively apply to pending cases. ... TEPCO and GE also argue that the same principle applies to jurisdictional provisions in treaties. ... In short, because the courts of Japan are undisputedly open to Plaintiffs, and because Article XIII makes no reservation as to pending cases, TEPCO and GE argue that the CSC strips us of jurisdiction over Plaintiffs' claims.

We find this argument plausible, but ultimately unpersuasive. Although jurisdictional provisions can and often do apply to cases already pending when those provisions go into effect, it is not true that we always apply new jurisdictional provisions to pending cases. Rather, we look at the jurisdiction-stripping provision in the context of the statute or treaty at issue, applying normal canons of construction, to determine if the provision should apply to pending cases. ...

Applying normal rules of construction to Article XIII, we do not believe that it strips U.S. courts of jurisdiction over claims arising out of nuclear incidents that occurred prior to the CSC's entry into force. Two things bring us to this conclusion. First, starting with Article XIII's text, we find it informative that the CSC gives exclusive jurisdiction to "the courts of the Contracting Party within which the nuclear incident occurs." CSC art. XIII(1) (emphasis added). The use of the present tense suggests that the provision applies to future nuclear incidents and does not include past incidents. One would expect the drafters to have used the past tense had they intended to alter jurisdiction over claims arising out of nuclear incidents that occurred before the CSC's entry into force. Other paragraphs within Article XIII also use the present tense, similarly indicating that Article XIII refers only to claims arising out of future nuclear incidents. See *id.* art. XIII(2) ("Where a nuclear incident *occurs* within the area of the exclusive economic zone of a Contracting Party[,] ... jurisdiction over actions concerning nuclear damage from that nuclear incident shall, for the purposes of this Convention, lie only with the courts of that Party." (emphasis added)); *id.* art. XIII(3) ("Where a nuclear incident *does not occur* within the territory of any Contracting Party[,] ... jurisdiction over actions concerning nuclear damage from the nuclear incident shall lie only with the courts of the Installation State." (emphasis added)).

Second, the CSC's overall framework also supports our conclusion that Article XIII does not apply to claims arising out of nuclear incidents that precede the CSC's entry into force because we view the promise of exclusive jurisdiction as a quid pro quo for establishing a compensation fund. To accept TEPCO and GE's argument that the CSC's jurisdictional provision applies to the current case, we would have to view Article XIII as a stand-alone provision, independent of the CSC's remaining provisions, to centralize jurisdiction over nuclear damage claims in a single country. We cannot fairly construe the CSC in this manner. Article XIII is but one component of the compensation scheme created in the CSC. The CSC's title—The Convention on Supplementary Compensation for Nuclear Damage—suggests what the remainder of the document makes clear: the CSC is, first and foremost, concerned with creating

an international backstop for funding claims by victims of nuclear incidents. The “Purpose and Application” section reinforces that “[t]he purpose of this Convention is to supplement the system of compensation provided pursuant to” the Vienna and Paris Conventions and national laws such as the Price-Anderson Act. CSC art. II(1). To carry out its goal, the CSC creates what the CSC itself refers to as a “system,” *id.* art. II(2), or a “worldwide liability regime,” *id.*, Preamble. Nothing in the CSC suggests that one component of that system, such as the jurisdictional provision at issue here, would apply when the entire system does not. The jurisdictional provision is not independent of the compensation scheme, but is part of the mechanism for effectuating that scheme.

Other provisions of the CSC confirm our reading that Article XIII is not an independent agreement to centralize litigation from a nuclear accident in a single country, but a mechanism for administering the supplemental compensation fund. A country whose courts have jurisdiction under Article XIII obtains certain rights and responsibilities. Specifically, “the Contracting party whose courts have jurisdiction shall inform the other Contracting Parties of a nuclear incident as soon as it appears that” domestic funds may be insufficient to compensate victims. *Id.* art. VI. Once domestic funds are exhausted, “the Contracting Party whose courts have jurisdiction shall request the other Contracting Parties to make available” the supplemental compensation fund, and “the Contracting Party whose courts have jurisdiction” has “exclusive competence to disburse such funds.” *Id.* art. VII(1); see also *id.* art. X(1) (“The system of disbursement by which the [supplemental funds] are to be made available and the system of apportionment thereof shall be that of the Contracting Party whose courts have jurisdiction.”). “The Contracting party whose courts have jurisdiction” may also exercise certain rights of recourse under the CSC. *Id.* art. IX(3). Article XIII is more than just an agreement to centralize jurisdiction in one country; it is integral to the CSC’s overall “system” for implementing the supplemental fund.

Our interpretation of Article XIII also finds support in a letter from Secretary of State Colin Powell submitting the CSC to President George W. Bush. That letter provides an article-by-article explanation of the CSC. It explains that the CSC “requires that all claims resulting from a covered nuclear incident be adjudicated in a single forum.” Letter of Submittal for the Convention on Supplementary Compensation for Nuclear Damage at VII, Aug. 7, 2001, S. Treaty Doc. No. 107-21 [hereinafter Letter of Submittal] (emphasis added). It further provides that “after the United States deposits its instrument of ratification to the CSC, the effect of Article XIII will be to remove jurisdiction from all U.S. Federal and State courts over cases concerning nuclear damage from a nuclear incident covered by the CSC except to the extent provided in the CSC.” *Id.* at XV; see also *id.* at XIV (“Article XIII determines which Party’s courts shall have jurisdiction over claims brought under the CSC...”). In our view, the phrases “covered nuclear incident” and “nuclear incident covered by the CSC” most logically refer to nuclear incidents subject to all of the CSC’s terms, and in particular to nuclear incidents that are eligible for the supplemental compensation fund. Thus, the United States’ view at the time of ratification appears to be that Article XIII applies only to nuclear incidents occurring after the CSC’s entry into force. That is also the view that the United States expresses in its amicus brief. We owe deference to this view. ...

The CSC’s text, structure, and ratification history dictate that Article XIII’s jurisdiction-stripping provision applies only to claims arising out of nuclear incidents occurring after the CSC’s entry into force. We conclude, therefore, that the CSC does not strip us of jurisdiction over Plaintiffs’ claims.

* * * *

3. Nuclear-Weapon-Free Zones

On October 27, 2017, Ambassador Wood delivered the explanation of vote on behalf of the United States, the United Kingdom, and France at a First Committee discussion on a draft resolution on “Nuclear-Weapon-Free Southern Hemisphere and Adjacent Areas.” The statement is excerpted below and available at <https://usun.state.gov/remarks/8079>.

* * * *

Mr. Chairman, I am speaking on behalf of the United Kingdom, France, and the United States with regards to draft resolution L.28, “Nuclear-weapon-free southern hemisphere and adjacent areas.”

We would like to emphasize the importance we attach to the development, where appropriate, of internationally recognized nuclear-weapon-free-zones. Such zones can be an important contribution to regional and global security, provided that they are established as set out in the 1999 UNDC guidelines. In particular, they must be freely arrived at by all States of the region concerned; verified *inter alia* through comprehensive safeguards applied by the International Atomic Energy Agency; and concluded in consultation with the Nuclear-Weapon States.

We continue to believe that it is contradictory to propose the establishment of a nuclear-weapon-free zone that would be composed largely of the high seas, while simultaneously claiming that it would be fully consistent with applicable principles and rules of international law, including those of the United Nations Convention on the Law of the Sea, relating to the freedom of the high seas and the right of passage through maritime space. It appears to us that the real goal of this draft resolution is the establishment of a nuclear-weapon-free zone covering the high seas. We do not believe that this ambiguity has been sufficiently clarified.

Finally, we note that this year’s resolution welcomes the adoption of the text of the Treaty on the Prohibition of Nuclear Weapons. Neither we nor any nuclear weapons state or nuclear weapon possessing state participated in the negotiation of this Treaty, which we oppose. For these reasons, we voted against the draft resolution.

* * * *

On October 27, 2017, Ambassador Wood delivered the U.S. explanation of position on a draft resolution in the First Committee entitled, “Establishment of a Nuclear-Weapon-Free Zone in the Region of the Middle East.” That statement follows and is available at <https://usun.state.gov/remarks/8072>.

* * * *

Mr. Chairman, my delegation is pleased to once again join consensus on draft resolution L1, “Establishment of a nuclear weapon-free zone in the region of the Middle East.” We support the important goals of this resolution and the consensus-based spirit in which it was pursued this year. We note, however, that, as it pertains to preambular paragraph 8 of the resolution, we do not consider the Treaty on the Prohibition of Nuclear Weapons to constitute an “initiative leading to general and complete disarmament.”

* * * *

4. Nuclear Security

The Global Initiative to Combat Nuclear Terrorism (“GICNT”) held its 10th senior-level plenary gathering in Tokyo, Japan, June 1-2, 2017. See June 2, 2017 press release of the Bureau of International Security and Nonproliferation, available at <https://www.state.gov/t/isn/rls/other/2017/271536.htm>. The joint statement of the co-chairs of the plenary meeting is excerpted below (and was part of the June 2, 2017 press release).

* * * *

The GICNT welcomed Paraguay and Nigeria as new partners. The GICNT has now grown into a partnership of 88 nations and 5 official observers, and commemorated its 10th anniversary last year, demonstrating its durability as an institution committed to strengthening global capacity to prevent, detect, and respond to nuclear terrorism. This Plenary Meeting further highlighted the progress that GICNT and its partner nations have made in upholding and furthering its principles. It also provided a valuable forum for dialogue on important policy challenges identified through the successful implementation of GICNT activities since its last Plenary Meeting in 2015 in Helsinki, Finland.

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Strengthening National Political Commitments to Combatting Nuclear Terrorism

Partners gave national statements highlighting their contributions to strengthening nuclear security and shared national priorities and recommendations for the GICNT’s 2017-2019 program of work. These and prior recommendations made by partner nations played an important role in informing plans for the GICNT’s new two year program of work. Several partner nations made voluntary commitments to organize or host future GICNT events, while others committed to national actions that further promote national or international capacity-building in areas related to the GICNT Statement of Principles. National statements will be made available on the Global Initiative Information Portal (GIIP) and/or the GICNT.org public website.

Plenary Reviews Outcomes of 2015-2017 Activities

The Plenary recognized the leadership of countries that hosted and organized GICNT activities over the past two years and reviewed key outcomes:

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- Together with Canada and the United Nations Office on Drugs and Crime, the Slovak Republic hosted the “Vigilant Marmot” workshop on January 24-26, 2017, in Bratislava to address challenges in adopting and updating national nuclear security legal frameworks.

- The European Commission’s Joint Research Centre hosted the “Magic Maggiore” workshop on March 28-30, 2017, in Ispra, Italy, to raise awareness and build commitment for technical reachback in national nuclear detection architectures.

- Together with the United Kingdom, Bulgaria hosted the “Sentinel” workshop on May 17-19, 2017, to promote the importance of national-level nuclear security exercise programs for sustaining nuclear security capabilities.

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Mid-Year IAG Meeting, New Delhi, India

The IAG Coordinator thanked India for hosting the February 2017 Mid-Year IAG Meeting, which reviewed GICNT progress, solicited input from partner nations on plans and priorities for 2017-2019, and identified gaps and challenges in need of sustained GICNT focus. Presentations given at concurrent meetings of the three Working Groups highlighted important policy issues and promoted discussion on future work. The IAG Meeting also included three cross-disciplinary seminars on legal frameworks, radioactive source security, and sustainability to advance the 10th Anniversary Meeting’s recommendations.

Legal Frameworks, Radioactive Source Security, and Sustainability

The IAG Coordinator thanked Argentina, Canada, and the United Kingdom for their contributions to the three cross-disciplinary panel discussions at the Mid-Year IAG Meeting. He invited those nations to present outcomes and share recommendations for future work.

- Argentina noted the expanding use of radioactive sources in medicine, research, and industry and the need for increased international engagement that focuses on radioactive source security during each stage of the source’s lifecycle. Securing radioactive sources and responding to known or suspected thefts requires cooperation among a diverse group of stakeholders. The GICNT could bring together these groups to strengthen coordination, exchange best practices, and promote the importance of radiological source security as part of a comprehensive nuclear security regime.

- Canada stressed that national legal frameworks form the foundation for effective and sustainable approaches to nuclear security. The GICNT’s “Vigilant Marmot” and “Glowing Tulip” (March 2015 in the Netherlands) workshops played important roles in facilitating cross-disciplinary dialogue among legal practitioners, law enforcement, policymakers, and technical experts on implementation of international legal instruments and related criminalization penalties that help countries deter, prosecute, and adjudicate illicit acts involving nuclear and other radioactive materials. The GICNT could build upon these outcomes and develop more practical workshops and exercises to support partner nations’ efforts to adopt, modify, and strengthen national nuclear security legal frameworks and address implementation challenges.

- The United Kingdom underscored the need to build sustainability into national nuclear security frameworks and highlighted the value of the GICNT’s “Sentinel” workshop in promoting sustainability through national nuclear security exercise programs. Other GICNT activities that have facilitated cross-disciplinary dialogue on integrating scientific and technical expert advice into national frameworks have also highlighted important sustainability challenges including, for example, maintaining technical capabilities and knowledge management. The

GICNT could continue work in these areas, provide models for countries to address these and other national sustainability challenges, and help build political will to address these challenges.

Each presenter made specific recommendations for future GICNT work and noted that they had co-drafted non-papers to inform discussions on potential future activities. These non-papers describe ongoing efforts of the GICNT's official observer organizations, underscore the need for close collaboration to ensure efforts remain complementary, and reinforce the importance of other national and multilateral work in this field.

Working Group Plans and Priorities

Partner nations at the Plenary recognized the valuable contributions of the GICNT Working Groups and commended the Working Group Chairs for promoting collaboration within these important fields, and between their experts. By participating in Working Group activities, technical and policy experts from different levels of government continue to meet and work together with their counterparts from around the world to discuss shared challenges in the fields of nuclear detection, nuclear forensics, and response and mitigation. Finland, Australia, and Morocco, as Chairs of the Nuclear Detection, Nuclear Forensics, and Response and Mitigation Working Groups, respectively, presented their proposed work plans for 2017-2019, emphasizing how they build strategically upon work plans discussed and endorsed at the 2015 Plenary Meeting and how they address challenges identified during GICNT events held over the past two years.

- The NDWG will continue to organize workshops and exercises that address relevant authorities, regulations, plans, and processes that enable countries to detect and secure nuclear and other radioactive material out of regulatory control (MORC); address challenges and mitigating strategies for scaling and sustaining nuclear detection architectures; and improve partners' capacity to implement a coordinated government approach to detecting and investigating illicit trafficking of MORC.

- The NFWG will further develop and pilot the nuclear forensics self-assessment tool to help countries evaluate their nuclear forensics capabilities; organize regional exercises on nuclear forensics fundamentals for policymakers to promote implementation of GICNT guidance and build on the outcomes from previous nuclear forensics activities; and support multilateral exercises that address challenges in exchanging nuclear forensics information to support national-level investigations and prosecutions.

- The RMWG will continue activities identified in its National Frameworks Series to promote comprehensive national approaches to responding to nuclear security events; engage partner nations in testing national capabilities through Radiological Emergency Management Exercises (REMEX); support activities focusing on radiological source security, recovery and consequence management, and requesting and receiving international assistance; and support incorporating public messaging themes across a variety of GICNT work.

All three Working Group Chairs expressed support for promoting collaboration between Working Group experts; to include supporting REMEX-style exercises that can help partner nations strengthen national-level coordination and mechanisms for bilateral, regional, and international cooperation. In addition, the Chairs suggested coordination between the Working Groups to further develop the GICNT's "Exercise Playbook" and promote it as a tool for countries to organize national-level, scenario-based discussions and exercises.

Discussion on GICNT Event Outcomes and Products

The United Kingdom and Finland encouraged partners to host and organize future activities under the auspices of GICNT and described the process for proposing new GICNT

activities. Both indicated that each GICNT activity should produce a product with tangible outcomes that could be used to inform relevant national-level stakeholders of lessons learned. They described “take-home” exercises, or abridged versions of larger multilateral activities that the GICNT Working Groups developed, which are available on the GIIP. Both reported on the outcomes of the regionally-focused “Olympus” and “Falcon” exercises, and highlighted the development of a “take-home exercise” based on these exercises to ensure that the GICNT work benefits the global partnership. Romania and Hungary then shared national experiences in hosting and participating in GICNT workshops and exercises. Both countries highlighted how they shared key outcomes among relevant national stakeholders and leveraged lessons learned to make improvements to national-level capabilities and protocols for bilateral and multilateral cooperation.

Outgoing IAG Coordinator’s Message to the Plenary

The Netherlands IAG Coordinator, Ambassador Kees Nederlof, emphasized the continued value of the GICNT in promoting practical implementation of nuclear security guidance and best practices and providing a forum for strengthening political commitments to combat nuclear terrorism. He recommended that the GICNT adopt thematic focuses on radioactive source security, sustainability, and legal frameworks and more fully integrate these priorities into future GICNT activities. The IAG Coordinator also recommended maintaining the GICNT’s current structure and supporting implementation of the Working Group Work Plans for 2017-2019 to draw from the GICNT’s existing body of expertise. In addition, he noted the challenges of communicating information to senior leaders during a nuclear security situation and suggested future GICNT activities address these challenges to help partner nations prepare effectively to support the decision-making processes.

The Co-Chairs thanked the Netherlands for its leadership in advancing the GICNT’s efforts over the past two years, including hosting the highly successful 10th Anniversary Meeting. The Co-Chairs also expressed deep appreciation to the outgoing Nuclear Detection, Nuclear Forensics, and Response and Mitigation Working Group Chairs from Finland, Australia, and Morocco, for their contributions to the GICNT.

Endorsement of New IAG Coordinators

The Co-Chairs introduced the Republic of Finland as the candidate for the next two-year IAG Coordinator term. The Co-Chairs highlighted Finland’s contributions to the GICNT by hosting the 2015 Plenary Meeting, Chairing the NDWG from 2015-2017, and hosting the “Northern Lights” exercise in 2015 and the NDWG experts meeting in 2016.

The Co-Chairs introduced the Kingdom of Morocco as the candidate for IAG Coordinator for 2019-2021, noting that endorsement of Morocco’s candidacy will help ensure long-term stability in the GICNT leadership team and better position the GICNT for strategic planning and coordination with other organizations. The Co-Chairs highlighted Morocco’s contributions to the GICNT as one of the original founding partners and host of the first GICNT Plenary, Chair of the RMWG since 2011, and host of several other prominent GICNT activities.

The Plenary endorsed Finland as IAG Coordinator for the term 2017-2019 and Morocco for the term 2019-2021 by consensus.

Announcement on 2019 Plenary Meeting

The Argentine Republic announced it would host the GICNT’s next Plenary Meeting in 2019. Argentina also committed to lead outreach to countries that have not yet joined the GICNT—particularly in Latin America and Africa—by sharing their experience on the benefits of joining. The Co-Chairs thanked Argentina for its contributions to the GICNT and its

leadership in agreeing to host the 2019 Plenary. Reflecting on the recommendations made during the 10th Anniversary High Level Meeting with respect to broadening engagement, they also noted that outreach by the Plenary Host to countries that are not yet partners would be valuable in promoting the GICNT mission.

Partner Nations Look Forward to 2017-2019 IAG Term

Finland, in its capacity as the newly-endorsed IAG Coordinator, announced the appointment of Argentina as the new RMWG Chair and the United Kingdom as the new NDWG Chair. The IAG Coordinator, in consultation with the Co-Chairs, will appoint a new Chair for the NFWG as soon as possible. Morocco and the Netherlands will support implementation of the GICNT's 2017-2019 program of work as Special Advisors to the IAG Coordinator.

Building on the proposals made by the former IAG Coordinator and partners' feedback during the Plenary, the incoming IAG Coordinator, Ambassador Jari Luoto of Finland, presented his vision for a two-year strategy for advancing the GICNT's mission. The incoming IAG Coordinator recognized the value of continuing the strategic direction of the GICNT and strengthening implementation of proposals made in Helsinki and The Hague. These include holding practical activities that strategically promote capacity building, maintaining support for the three Working Groups as the foundation for the GICNT work, and promoting regional approaches to nuclear security. He also recommended a sustained focus on cross-disciplinary activities and developing a systematic way to improve sharing information and lessons learned and more virtual engagements to promote new opportunities for partner nations to engage through the GIIP. In addition, he expressed support for the recommendation for GICNT to adopt thematic focuses on radioactive source security, sustainability, and legal frameworks and welcomed that the Working Groups built these elements into their Work Plans for 2017-2019. To advance these efforts, Ambassador Luoto agreed to host the next IAG Meeting in Helsinki in June 2018 and invited all participants to attend.

The Co-Chairs expressed their support for the recommendations made by the outgoing and incoming IAG Coordinators and thanked all partner nations for their contributions to discussions during the Plenary. The Co-Chairs also thanked the hosts of all GICNT activities that have informed plans and priorities for 2017-2019. The Co-Chairs committed to helping implement these priorities and underscored their shared view on the importance of the GICNT as a forum for strengthening national political commitments to combatting nuclear terrorism. To this end, the Co-Chairs thank and wish to recognize the countries that have committed to host activities that will support implementation of the GICNT's program of work over the next two years, including Argentina, Finland, Hungary, Mexico, Romania, Tajikistan, and the United Kingdom. The Co-Chairs also welcome announcements made by China and Morocco that they are positively considering hosting GICNT events in the future, and appreciate the many other partner nations and official observers that committed to attend and contribute to GICNT activities over the next two years.

The Co-Chairs look forward to working further with the IAG Coordinator, the Working Group Chairs, the Special Advisors, and all GICNT partners to support these and other activities that partner nations agree to host and support, focusing on developing tangible outcomes for the next Plenary Meeting in Argentina in 2019.

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5. Hague Code of Conduct

On June 5, 2017, the State Department issued a statement recognizing the 15th anniversary of the Hague Code of Conduct against Ballistic Missile Proliferation (“HCOC”). The statement, available at <https://www.state.gov/r/pa/prs/ps/2017/06/271593.htm>, includes the following:

The United States...applauds the Code’s 15-year record of promoting transparency and confidence building measures as well as generating a broad international predisposition against ballistic missile proliferation.

Since it was launched in The Hague in 2002, subscription to the Code has grown to include 138 countries and has contributed significantly to international nonproliferation efforts.

The U.S. government looks forward to continuing our close cooperation with all Subscribing States to promote ballistic missile nonproliferation and encourages all countries that have not yet done so to subscribe to the Code.

6. UN Security Council Resolution 1540

On June 28, 2017, Amy Tachco, Political Coordinator for the U.S. Mission to the United Nations, addressed a UN Security Council briefing on non-proliferation of weapons of mass destruction. Ms. Tachco’s remarks are excerpted below and available at <https://usun.state.gov/remarks/7884>.

* * * *

In the context of the evolving threats posed by proliferation of weapons of mass destruction, today’s debate reminds us of the importance of fully implementation of Security Council Resolution 1540. The United States is committed to assisting states and international organizations in their efforts to prevent non-state actors from developing and acquiring nuclear, chemical, or biological weapons and their delivery systems. We also align ourselves today with the statement to be made by Spain on behalf of the Group of Friends of Resolution 1540.

Despite progress made over the past 13 years, significant gaps remain in the implementation of the resolution’s obligations, particularly in the areas of chemical and biological security and controlling means of delivery. We must work smarter as we move forward. The report last year of the 1540 Comprehensive Review and UN Security Council Resolution 2325 adopted in December provided guidance on how to achieve future progress. Today I am going to touch on a few of these challenges and discuss ways we might overcome them.

Recently, we have seen the horror of chemical weapons attacks by states and non-state actors in the Middle East, particularly in Syria. Even more shocking is the confirmed use of the deadly nerve agent VX in Malaysia. These trends are unsettling and alarming, which is why the

Committee must work to hold states more accountable for preventing the use and spread of chemical weapons and ensuring effective control over such materials.

As part of our commitment to stopping chemical weapons use, we need to work together to help states in promoting best practices in chemical security to detect and prevent the misuse of chemicals. Moreover, the Comprehensive Review and Resolution 2325 called for increased assistance through matchmaking and dialogue. The exchange of expertise and assistance is extremely valuable to states, the Committee and the global nonproliferation regime.

While 1540 is aimed at deterring non-state actors, its obligations are binding on Member States. Therefore, it is troubling that the Syrian regime has continued to use chemical weapons. We call on all Member States who oppose the use of chemical weapons to urge Bashar al-Assad to cooperate with the OPCW and cease using chemicals as weapons. President Trump was clear on this this week. Moreover, Syria's continued use of chemical weapons will only increase the risk that elements of their CW program could fall into the wrong hands.

The Committee must also continue to work towards strengthening the global nuclear security architecture and increase cooperation among international organizations, such as the IAEA and INTERPOL. We must help states build their capacity to secure nuclear and other radioactive materials, convert research reactors from highly enriched uranium to low enriched uranium, and address critical gaps to counter the smuggling of nuclear and other radioactive materials.

The Comprehensive Review and 2325 also highlighted the need for states to establish effective control over materials that could be used for weapons of mass destruction, including through development of national control lists to monitor production and movement of such materials.

To prevent illicit trade in weapons of mass destruction-related materials, the United States is providing training and technical assistance, as well as detection, inspection, and interdiction equipment, to border and customs authorities around the world.

Last year's report and Resolution 2325 also recommended that the Committee give stronger consideration to the evolving nature of the risk of proliferation and the rapid advances in science and technology. Such developments could lower the barriers to development of weapons of mass destruction making mitigation of these risks even more complex and challenging.

The United States is eager to work with others ensure that we strengthen key obligations under Resolution 1540. The 1540 Committee and Resolution 2325 are key tools in stemming the spread of weapons of mass destruction and helping to maintain international peace and security.

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7. Country-Specific Issues

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

See Chapter 16 for discussion of sanctions in 2017 regarding North Korea. On April 28, 2017, Secretary Tillerson delivered remarks at a UN Security Council ministerial session on the DPRK. His remarks are excerpted below and available at <https://www.state.gov/secretary/20172018tillerson/remarks/2017/04/270544.htm>.

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According to UN Security Council Resolution 2321, a stated objective of this council is North Korea's abandonment of its nuclear weapons and ballistic missile programs.

For the past 20 years, well-intentioned diplomatic efforts to halt these programs have failed. It is only by first dismantling them that there can be peace, stability, and economic prosperity for all of Northeast Asia.

With each successive detonation and missile test, North Korea pushes Northeast Asia and the world closer to instability and broader conflict.

The threat of a North Korean nuclear attack on Seoul, or Tokyo, is real.

And it is likely only a matter of time before North Korea develops the capability to strike the U.S. mainland.

Indeed, the D.P.R.K. has repeatedly claimed it plans to conduct such a strike. Given that rhetoric, the United States cannot idly stand by. Nor can other members of this council who are within striking distance of North Korean missiles.

Having for years displayed a pattern of behavior that defies multiple UN Security Council resolutions, including 2321 and 2270, and erodes global progress on nuclear nonproliferation, there is no reason to think that North Korea will change its behavior under the current multilateral sanctions framework.

For too long, the international community has been reactive in addressing North Korea. Those days must come to an end.

Failing to act now on the most pressing security issue in the world may bring catastrophic consequences.

We have said this before and it bears repeating: the policy of strategic patience is over. Additional patience will only mean acceptance of a nuclear North Korea.

The more we bide our time, the sooner we will run out of it.

In light of the growing threat, the time has come for all of us to put new pressure on North Korea to abandon its dangerous path.

I urge this council to act before North Korea does.

We must work together to adopt a new approach and impose increased diplomatic and economic pressures on the North Korean regime.

The new campaign the United States is embarking on is driven by our own national security considerations, and it is welcomed by many nations who are concerned for their own security and question why North Korea clings to nuclear capabilities for which it has no need.

Our goal is not regime change. Nor do we desire to threaten the North Korean people or destabilize the Asia Pacific region. Over the years, we have withdrawn our own nuclear weapons from South Korea and offered aid to North Korea as proof of our intent to de-escalate the situation and normalize relations. Since 1995, the United States has provided over \$1.3 billion dollars in aid to North Korea, and we look forward to resuming our contributions once the D.P.R.K. begins to dismantle its nuclear weapons and missile technology programs.

The D.P.R.K., for its own sake, must dismantle its nuclear and missile programs if it wants to achieve the security, economic development, and international recognition that it seeks. North Korea must understand that respect will never follow recklessness. North Korea must take concrete steps to reduce the threat that its illegal weapons programs pose to the United States and our allies before we can even consider talks.

I propose all nations take these three actions beginning today:

First, we call on UN member-states to fully implement the commitments they have made regarding North Korea. This includes all measures required in Resolutions 2321 and 2270.

Those nations which have not fully enforced these resolutions fully discredit this body.

Second, we call on countries to suspend or downgrade diplomatic relations with North Korea. North Korea exploits its diplomatic privileges to fund its illicit nuclear and missile technology programs, and constraining its diplomatic activity will cut off a flow of needed resources. In light of North Korea's recent actions, normal relations with the D.P.R.K. are simply not acceptable.

Third, we must increase North Korea's financial isolation. We must levy new sanctions on D.P.R.K. entities and individuals supporting its weapons and missile programs, and tighten those that are already in place. The United States also would much prefer countries and people in question to own up to their lapses and correct their behavior themselves, but we will not hesitate to sanction third-country entities and individuals supporting the D.P.R.K.'s illegal activities.

We must bring maximum economic pressure by severing trade relationships that directly fund the D.P.R.K.'s nuclear and missile program. I call on the international community to suspend the flow of North Korean guest workers and to impose bans on North Korean imports, especially coal.

We must all do our share, but China accounting for 90 percent of North Korean trade, China alone has economic leverage over Pyongyang that is unique, and its role is therefore particularly important. The U.S. and China have held very productive exchanges on this issue, and we look forward to further actions that build on what China has already done.

Lastly, as we have said before, all options for responding to future provocation must remain on the table. Diplomatic and financial levers of power will be backed up by a willingness to counteract North Korean aggression with military action if necessary. We much prefer a negotiated solution to this problem. But we are committed to defending ourselves and our allies against North Korean aggression.

This new pressure campaign will be swiftly implemented and painful to North Korean interest.

I realize some nations for which a relationship with North Korea has been in some ways a net positive may be disinclined to implement the measures of pressure on North Korea.

But the catastrophic effects of a North Korean nuclear strike outweigh any economic benefits. We must be willing to face the hard truths and make hard choices right now to prevent disastrous outcomes in the future.

Business as usual is not an option.

There is also a moral dimension to this problem. Countries must know by now that helping the North Korean regime means enabling cruelty and suffering.

North Korea feeds billions of dollars into a nuclear program it does not need while its own people starve.

The regime's pursuit of nuclear weapons does not serve its own national security or the well-being of a people trapped in tyranny.

* * * *

We ask the members of this council and all other partners to implement a new strategy to denuclearize North Korea.

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On July 4, 2017, Secretary Tillerson issued another press statement condemning North Korea, this time for the launch of an intercontinental ballistic missile (“ICBM”). His July 4 statement is excerpted below and available at <https://www.state.gov/secretary/20172018tillerson/remarks/2017/07/272340.htm>.

* * * *

The United States strongly condemns North Korea’s launch of an intercontinental ballistic missile. Testing an ICBM represents a new escalation of the threat to the United States, our allies and partners, the region, and the world.

Global action is required to stop a global threat. Any country that hosts North Korean guest workers, provides any economic or military benefits, or fails to fully implement UN Security Council resolutions is aiding and abetting a dangerous regime. All nations should publicly demonstrate to North Korea that there are consequences to their pursuit of nuclear weapons. We intend to bring North Korea’s provocative action before the UN Security Council and enact stronger measures to hold the DPRK accountable.

The United States seeks only the peaceful denuclearization of the Korean Peninsula and the end of threatening actions by North Korea. As we, along with others, have made clear, we will never accept a nuclear-armed North Korea.

The President and his national security team are continuing to assess the situation in close coordination with our allies and partners.

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On July 28, 2017, Secretary Tillerson provided a statement on the latest DPRK provocation, the launch of a second ICBM in the course of one month. Secretary Tillerson’s statement, condemning North Korea’s violations of multiple UN Security Council resolutions, is excerpted below and available at <https://www.state.gov/secretary/20172018tillerson/remarks/2017/07/272936.htm>.

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All nations should take a strong public stance against North Korea, by maintaining and strengthening UN sanctions to ensure North Korea will face consequences for its relentless pursuit of nuclear weapons and the means to deliver them.

As the principal economic enablers of North Korea’s nuclear weapon and ballistic missile development program, China and Russia bear unique and special responsibility for this growing threat to regional and global stability.

The United States seeks the peaceful denuclearization of the Korean Peninsula and the end to belligerent actions by North Korea. As we and others have made clear, we will never

accept a nuclear-armed North Korea nor abandon our commitment to our allies and partners in the region.

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Ambassador Nikki Haley delivered remarks following the adoption of a UN Security Council statement condemning North Korea's latest ballistic missile launch on August 29, 2017. Her statement is excerpted below and available at <https://usun.state.gov/remarks/7951>.

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Once again, all 15 members of the Security Council have spoken in unison. All of us: The United States, Japan, China, Russia, Europeans, Africans, South Americans. We are all together.

And what are we saying? We are all denouncing North Korea's outrageous act against another UN Member State, Japan. We are all demanding North Korea stop any further missile launches. We are all demanding North Korea abandon its nuclear weapons.

North Korea has violated every single Security Council resolution, and violated international law. We are all calling on every nation to strictly, fully, and immediately implement all Security Council sanctions on North Korea.

The world is united against North Korea. There is no doubt about that. It is time for the North Korean regime to recognize the danger they are putting themselves in. The United States will not allow their lawlessness to continue. And the rest of the world is with us.

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On November 28, 2017, Secretary Tillerson issued a further press statement on the latest missile launch by the DPRK. The statement, available at <https://www.state.gov/secretary/20172018tillerson/remarks/2017/11/276019.htm>, follows.

* * * *

The United States strongly condemns North Korea's launch of what is likely an intercontinental ballistic missile into the Sea of Japan, indiscriminately threatening its neighbors, the region and global stability.

The D.P.R.K.'s relentless pursuit of nuclear weapons and the means to deliver them must be reversed. Together the international community must continue to send a unified message to North Korea that the D.P.R.K. must abandon its WMD programs. All nations must continue strong economic and diplomatic measures. In addition to implementing all existing UN sanctions, the international community must take additional measures to enhance maritime

security, including the right to interdict maritime traffic transporting goods to and from the D.P.R.K.

The United States, in partnership with Canada, will convene a meeting of the United Nations Command Sending States to include the Republic of Korea and Japan and other key affected countries to discuss how the global community can counter North Korea's threat to international peace.

Diplomatic options remain viable and open, for now. The United States remains committed to finding a peaceful path to denuclearization and to ending belligerent actions by North Korea.

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b. Iran

On April 18, 2017, Secretary Tillerson issued a press statement relaying the State Department's certification to Congress that Iran was fully implementing its commitments under the Joint Comprehensive Plan of Action ("JCPOA"). The statement, available at <https://www.state.gov/secretary/20172018tillerson/remarks/2017/04/270315.htm>, also advises of concerns about Iran's continued support for terrorism and the commencement of an interagency review of the JCPOA. A letter from the State Department to U.S. House Speaker Paul Ryan^{*} is provided as part of the press statement and states:

This letter certifies that the conditions of Section 135(d)(6) of the Atomic Energy Act of 1954 (AEA), as amended, including as amended by the Iran Nuclear Agreement Review Act of 2015 (Public Law 114-17), enacted May 22, 2015, are met as of April 18, 2017.

Notwithstanding, Iran remains a leading state sponsor of terror through many platforms and methods. President Donald J. Trump has directed a National Security Council-led interagency review of the [JCPOA] that will evaluate whether suspension of sanctions related to Iran pursuant to the JCPOA is vital to the national security interests of the United States. When the interagency review is completed, the administration looks forward to working with Congress on this issue.

On July 28, 2017, the State Department issued, as a media note, the joint statement by France, Germany, the United Kingdom, and the United States, condemning Iran's launch of a Simorgh space launch vehicle on July 27 as inconsistent with UN Security Council resolution 2231. The media note, available at <https://www.state.gov/r/pa/prs/ps/2017/07/272934.htm>, further states:

^{*} Editor's note: Identical letters went to other appropriate congressional committees and leadership.

This resolution calls upon Iran to not undertake any activity related to ballistic missiles designed to be capable of delivering nuclear weapons, including launches using such technology like this launch. Space launch vehicles use technologies that are closely related to those of ballistic missiles development, in particular to those of Intercontinental Ballistic Missiles.

This step follows missile launches into Syria on 18 June and the test of a medium range ballistic missile on 4 July.

Iran's program to develop ballistic missiles continues to be inconsistent with UNSCR 2231 and has a destabilizing impact in the region. We call on Iran not to conduct any further ballistic missile launches and related activities. We are writing to the UN Secretary General with our concerns. The governments of France, Germany and the United Kingdom are discussing these issues bilaterally with Iran and are raising their concerns.

On October 13, 2017, Secretary Tillerson sent a letter to Congress regarding the administration's review of Iran policy and the JCPOA. That congressional correspondence follows.

* * * *

As you know, President Donald J. Trump has long maintained that the Joint Comprehensive Plan of Action (JCPOA) is a bad deal for the United States. As I reported to you in July, Iran has repeatedly tested the boundaries of the deal—twice exceeding the cap on its heavy water stocks, and also pushing the number of advanced centrifuges it may operate. Outside the narrow parameters of the nuclear deal, moreover, Iran has not moderated, but rather accelerated its malign activities in the region and beyond, in ways that threaten our interests and our allies.

Upon entering office, the President directed his national security team to undertake a comprehensive review of our Iran strategy and of the JCPOA's place within that strategy. Our review is now complete, and he has now approved a new U.S. strategy on Iran that will include concerted efforts, with our allies, to:

- Address the threat of the Iranian regime's destabilizing activities in the broader Middle East, including giving various forms of support to militant proxies and terrorists;
- Rebuild our regional alliances and bolster our allies' capacity to encourage a more stable balance of power in the region;
- Draw attention to the malignant role played by the Islamic Revolutionary Guard Corps (IRGC), both inside and outside Iran, including the use of Iran's wealth to sustain the IRGC's bloody and destabilizing proxy wars and support for terrorism;
- Counter the Iranian regime's proliferation of missiles and advanced conventional weapons that threaten Iran's neighbors, global trade, and freedom of navigation;
- Communicate clearly with the Iranian people that their legitimate aspirations are impeded by the actions of unaccountable regime elements whose greed, corruption, and disregard for human rights have led them to abandon their responsibility to provide for the Iranian people; and

- Deny the Iranian regime all paths to a nuclear weapon.

Given all of the regime's malign activities outside the scope of the deal, it is clear that Iran continues to undermine the expectation set out in the JCPOA that the deal would positively contribute to regional and international peace and security.

However, the JCPOA itself is also flawed, most notably because key restrictions sunset over time, eventually leaving Iran free to openly pursue industrial-scale uranium enrichment. This would allow Tehran to decrease the amount of time it would need to make enough fissile material for a nuclear weapon, should it choose to violate its commitments under the Non-Proliferation Treaty and do so.

Based on these considerations, this Administration has concluded following our comprehensive review that the sanctions relief Iran received as part of the deal is not proportionate to the specific, limited-duration measures Iran took with respect to terminating its illicit nuclear program. Accordingly, I am unable to certify that the condition in Section 135(d)(6)(A)(iv)(I) of the Atomic Energy Act of 1954 (AEA), as amended, including as amended by the Iran Nuclear Agreement Review Act (INARA) of 2015 (Public Law 114-17) is met as of October 15, 2017.

This conclusion does not mean that it is impossible to fix the flaws of the JCPOA or that it is time for us to leave the deal. Rather than take up legislation under the procedures set forth in Section 135(e) of the AEA, the President has requested that Congress instead work with the Administration to directly address the JCPOA's flaws by amending and strengthening the relevant portions of the AEA, as added by INARA, while we continue to hold Iran accountable for its current commitments. We should work together toward a solution that prevents the emergence of a nuclear-armed Iran and prevents Iran from further developing intercontinental ballistic missiles that undermine regional and international peace and security.

It is only right that we face the Iranian threat as Americans united across the political spectrum and across the branches of our government. This Administration will not allow a singular focus on Iran's nuclear program to blind us to, or distract us from addressing, the regime's many other malign activities, especially its ongoing role in fomenting and perpetuating regional conflicts. We look forward to working with Congress, as well as our allies and partners, to address the full range of Iran's malign activities.

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c. *Kazakhstan*

As discussed in *Digest 2015* at 822, the Agreement Continuing the International Science and Technology Center ("ISTC") was signed on December 9, 2015, relocating the ISTC from Russia to Kazakhstan and broadening the scope of ISTC activities. On December 14, 2017, the final instrument of ratification of the Agreement was deposited with the ISTC Secretariat, bringing the Agreement into force in accordance with its terms.

d. *Norway*

On January 19, 2017, the 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, signed at Washington on June 11, 2016, entered into

force. For background on the Agreement (called a 123 Agreement, in reference to the section of the U.S. Atomic Energy Act), see *Digest 2016* at 892-93.

C. ARMS CONTROL AND DISARMAMENT

1. United Nations

a. *Disarmament Commission*

On April 3, 2017, U.S. Representative John A. Bravaco delivered remarks at the 2017 session of the UN Disarmament Commission. His remarks are excerpted below and available at <https://www.state.gov/t/avc/rls/269464.htm>.

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...[T]his year's UNDC session straddles two other multilateral events relevant to our own work: The nuclear ban treaty negotiations, which just ended its first meeting last week here in New York, and the Nuclear Non-Proliferation Treaty's (NPT) first Preparatory Committee (PrepCom) meeting for the 2020 NPT Review Conference (RevCon), which begins on May 2. At this opportune moment, please allow me to explain the U.S. position toward both of these processes.

Nuclear Ban Treaty Negotiations:

2016 Open-Ended Working Group (OEWG) on nuclear disarmament:

The 2016 Open-Ended Working Group (OEWG) on nuclear disarmament, which did not operate by consensus, produced a final report that predictably included language calling for a nuclear weapons ban treaty. Countries leading the Humanitarian Impact of Nuclear Weapons (HINW) initiative used this language as the basis for a resolution (UNGAR 71/258) at the 2016 First Committee to launch negotiations for a nuclear weapons ban treaty, which began on March 27. Importantly, the OEWG report, the UNGA resolution, and now the negotiations themselves have all been opposed by a significant number of states, including both nuclear and non-nuclear weapon states. The element of consensus that underpins successful disarmament initiatives is entirely lacking. We opposed the report and note that many other countries joined us in opposition to this ill-conceived endeavor.

...A ban treaty will come at enormous cost to the NPT political process without securing the elimination of a single nuclear warhead or improving the security of any state; it risks deepening the divide between states, polarizing the political environment on nuclear disarmament, and further complicating future prospects for achieving consensus, whether in the NPT review process, the UN, or the Conference on Disarmament.

Moreover, a ban treaty ignores the essential connection between disarmament and international security conditions, a connection that is acknowledged in the NPT's preamble and in consensus decisions of its review conferences. By doing so, it seeks to delegitimize the extended deterrence relationships on which many of our allies rely. For these reasons, the United

States opposed the OEWG, opposed the ban treaty resolution, and will not participate in ban treaty negotiations.

The NPT and the upcoming PrepCom

...The NPT remains the cornerstone of the global nuclear non-proliferation regime. Without the nonproliferation guarantees that it was designed to help ensure, it will be impossible to achieve the disarmament goals that remain our long-term objective. We look forward to the first PrepCom meeting for the 2020 RevCon. ...

As the 2020 review process gets under way, there is a clear need to restore balance to the NPT dialogue. The United States is in the midst of a review, the purpose of which is to consider those approaches to best achieve that outcome in support of enhancing national security. We urge all NPT Parties to reject the false divisions over the best way to proceed on disarmament and the Middle East, so that they do not hamper consensus during this NPT review cycle. Together, we must engage in a respectful dialogue, requiring that we not only defend and explain our own points of view, but also genuinely listen to the points of view of others. Indeed, there is much discussion and listening needed from all Parties in seeking to advance our common interests, including on cases of noncompliance, expanding nuclear arsenals in some countries, the difficult international security environment, achieving conditions that facilitate progress on disarmament, and applying nuclear energy to meet sustainable development goals.

Consensus

It is unfortunate that in recent years, some have suggested that multilateral arms control, disarmament, and nonproliferation can be pursued without the consensus of all participants. The abandonment by some States and many NGOs of the consensus approach in this field because it is “too difficult” or “taking too long” is a major source of the division that we are facing today, has been counterproductive to making real progress on disarmament, and should be rejected. We should take up once again the culture of consensus-building and consensus decision-making that has yielded far more successes over the last 50 years than disappointments and will do so again—if we are patient and persistent.

2017 UNDC Agenda

...[T]his year, we are set to conclude work on the Commission’s current triennial issue cycle, which has focused since 2015 on two long-standing agenda items: In Working Group I (WG I), “Recommendations for achieving the objective of nuclear disarmament and non-proliferation of nuclear weapons,” and in Working Group II (WG II), “Practical confidence-building measures [CBMs] in the field of conventional weapons.” We thank our colleagues from Kazakhstan and Morocco, respectively, for their effective Chairmanships of these working groups over the last two years, and will continue to work actively with the representatives of Bulgaria and Venezuela, also respectively, as they assume these posts in this critical, final year of our present agenda.

Last year, both Working Group Chairs drafted non-papers for our ongoing consideration. Our deliberations on the topics before us have been frank and useful. From the U.S. perspective, and because of a number of ongoing or forthcoming national policy reviews, some of the language in the existing non-papers will need to be altered or removed so that we can arrive at a consensus outcome in three weeks’ time. While this will not be an easy task, if we work together, and are modest in our ambitions, this Commission can yield a positive result.

Outer Space TCBMs

...[T]he United States was pleased that UNGA Resolution 71/82, which conveyed the UNDC’s annual report to the UNGA, also contained a provision encouraging the Commission to

hold informal consultations at the 2017 session on the practical implementation of transparency and confidence-building measures in outer space activities. We are prepared to engage substantively in these discussions, and encourage others to do the same.

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b. *Treaty Banning Nuclear Weapons*

As discussed in *Digest 2016*, the United States voted against a UN resolution inviting negotiations on a treaty to ban nuclear weapons. Negotiations proceeded and the treaty was adopted by the UN General Assembly on July 7, 2017. The permanent representatives to the UN of the United States, the United Kingdom, and France provided a joint press statement upon adoption of the treaty, which appears below. The joint statement is available at <https://usun.state.gov/remarks/7892>.

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France, the United Kingdom and the United States have not taken part in the negotiation of the treaty on the prohibition of nuclear weapons. We do not intend to sign, ratify or ever become party to it. Therefore, there will be no change in the legal obligations on our countries with respect to nuclear weapons. For example, we would not accept any claim that this treaty reflects or in any way contributes to the development of customary international law. Importantly, other states possessing nuclear weapons and almost all other states relying on nuclear deterrence have also not taken part in the negotiations.

This initiative clearly disregards the realities of the international security environment. Accession to the ban treaty is incompatible with the policy of nuclear deterrence, which has been essential to keeping the peace in Europe and North Asia for over 70 years. A purported ban on nuclear weapons that does not address the security concerns that continue to make nuclear deterrence necessary cannot result in the elimination of a single nuclear weapon and will not enhance any country's security, nor international peace and security. It will do the exact opposite by creating even more divisions at a time when the world needs to remain united in the face of growing threats, including those from the DPRK's ongoing proliferation efforts. This treaty offers no solution to the grave threat posed by North Korea's nuclear program, nor does it address other security challenges that make nuclear deterrence necessary. A ban treaty also risks undermining the existing international security architecture which contributes to the maintenance of international peace and security.

We reiterate in this regard our continued commitment to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and reaffirm our determination to safeguard and further promote its authority, universality and effectiveness. Working towards the shared goal of nuclear disarmament and general and complete disarmament must be done in a way that promotes international peace and security, and strategic stability, based on the principle of increased and undiminished security for all.

We all share a common responsibility to protect and strengthen our collective security system in order to further promote international peace, stability and security.

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On July 7, 2017, the State Department issued a press statement on the conclusion of the negotiations at the UN of a treaty to ban nuclear weapons. That statement follows and is available at <https://www.state.gov/r/pa/prs/ps/2017/07/272429.htm>.

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Negotiations on a treaty purporting to ban nuclear weapons concluded in New York on July 7. The United States did not participate in these negotiations and will not support the treaty. Over many years and under various Administrations, we have made clear our willingness to work together with all states to improve international security and reduce the risk of nuclear war. However, this proposed treaty—which ignores the current security challenges that make nuclear deterrence necessary—will not result in the elimination of a single nuclear weapon, nor will it enhance the security of any state. No state that possesses nuclear weapons participated in these negotiations, and no U.S. ally that relies on extended nuclear deterrence supported the final text.

The United States is fully committed to responsible nonproliferation and disarmament efforts and to the Nuclear Non-Proliferation Treaty. We remain on track to meet the central limits of the New START Treaty when they take effect in February 2018, which will cap U.S. and Russian nuclear forces at their lowest levels since the 1950s.

Nuclear disarmament cannot take place in a vacuum. It would require a transformation of the international security environment, consensus-based approaches that include states that possess nuclear weapons as well as those that do not, rigorous verification, and swift and sure enforcement against any potential violation. We call on all states to join us in intensifying our efforts to address the real security challenges the international community would need to overcome in order to make this possible, beginning with the threat to international peace and security presented by North Korea's nuclear and ballistic missile programs, its continuing provocations, and its disregard for numerous UN Security Council resolutions. The proposed treaty produced by the nuclear weapons ban negotiations fails in all of these respects, and will do nothing to advance real-world efforts to make the world a safer place. At best it is a distraction from those efforts. At worst, it will deepen political divisions, undermine alliance relationships that help make the world more secure, and make it harder for the international community to work together in devising and implementing effective measures that will let us meet these challenges together.

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Further statements by the United States and its allies regarding the nuclear weapons ban treaty include: a September 2017 statement released by NATO when the treaty opened for signature, available at https://www.nato.int/cps/en/natohq/news_146954.htm; and an address to the

Carnegie Endowment for International Peace on August 22, 2017 by National Security Council Senior Director Chris Ford, available at <http://carnegieendowment.org/2017/08/22/briefing-on-nuclear-ban-treaty-by-nsc-senior-director-christopher-ford-event-5675>. At several subsequent discussions of nonproliferation at the UN in 2017, the United States, the United Kingdom, and France issued joint statements explaining their negative votes on resolutions welcoming the nuclear weapons ban treaty. Such statements are available at <https://usun.state.gov/remarks/8077> and <https://usun.state.gov/remarks/8075>.

c. First Committee

On October 12, 2017, Ambassador Wood addressed the UN First Committee’s thematic discussion on nuclear weapons. His statement follows and is available at <https://www.state.gov/t/avc/rls/274867.htm>.

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The United States remains committed to the goal of nuclear disarmament, and to seeking to create conditions toward that end. And history makes clear that important progress can be made when security conditions allow. The easing of Cold War rivalries allowed the United States and Russia to make significant steps toward the shared dream of eventual nuclear disarmament after decades in which such movement was impossible. As we look to the future, all States must work together soberly and resolutely to lay the foundations for more such progress as we pursue effective measures relating to nuclear disarmament, as called for in NPT Article VI. While progress is not always rapid, this is out of necessity, not lethargy. Disarmament success is predicated on patience, attention to detail, effective verification, and patient attention to the challenges of effecting the changes in the security environment that are necessary for progress. This last element is critical, considering the crucial role that nuclear deterrence plays in preserving and protecting international peace and security, and the potentially catastrophic consequences were deterrence’s restraining effect to be removed while it still remains necessary.

The “Treaty on the Prohibition of Nuclear Weapons” violates all these tenets. Its obligations are vaguely worded, imprecise, and sometimes internally contradictory, while offering only an empty shell for verification. Worse, it is fundamentally at odds with today’s security challenges. It is not simply an unproductive instrument; it is likely to be a counterproductive one, with the potential to cause lasting harm to the nonproliferation regime and to the cause of disarmament alike.

The ban treaty is based on the premise that addressing crucial international security issues is not necessary for disarmament. Ban treaty proponents would have us believe that we can do away with nuclear deterrence despite—to cite just one example—the danger posed by North Korea’s relentless pursuit of nuclear weapons and associated delivery systems, which stand in flagrant violation of international law.

Furthermore, the Treaty does not contain a credible verification mechanism, demurring on the issue almost entirely. It does run counter to decades of progress in nonproliferation

verification by endorsing the IAEA Comprehensive Safeguards Agreement as its standard for safeguarding nuclear material, without also requiring the essential Additional Protocol. Experience has proven that Comprehensive Safeguards alone are insufficient to detect a covert nuclear program. The drafters' decision to reject the Additional Protocol represents a profound failure of judgment, and is likely to undermine efforts to universalize the Additional Protocol.

Finally, the ban treaty has the potential to do real damage to the NPT in other ways. It exacerbates political tensions on disarmament, dividing states into overly-simplified camps of "nuclear weapons supporters" and "nuclear weapons banners," rather than recognizing shared interests—especially on the challenges involved in creating the conditions that would make possible further disarmament progress. Reinforcing this false dichotomy and worsening the world's polarization on disarmament will make further progress within the institutions that have been vehicles for success, such as the NPT review process, significantly more difficult.

Inspired by the NPT Preamble's acknowledgement of the need to ease international tension and strengthen trust between States in order to facilitate disarmament, the United States stands ready to work with others on effective measures to create improved conditions for nuclear disarmament. To take one example, we continue to work through the International Partnership for Nuclear Disarmament Verification to identify and address the complex challenges associated with nuclear disarmament verification. This work is focused on overcoming technical challenges to make substantive progress when the security conditions improve. We also continue our longstanding work to support and strengthen the global nonproliferation regime against the many challenges it faces today, for who could deny that there can be no way to envision today's nuclear weapons possessors ever putting down such tools without rock-solid assurances that no one else will take them up?

There are no shortcuts to nuclear disarmament. Unrealistic attempts to skip to the finish line have the potential to undermine the institutions and standards we have worked so hard to build. Our collective experience demonstrates that inclusiveness and the search for consensus can lead to progress, while polarization is a recipe for failure. We urge all states to work with us in searching for common solutions to collective problems, pursuing a more secure world.

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On October 16, 2017, Ambassador Wood addressed the UN First Committee thematic discussion on other weapons of mass destruction. His remarks are excerpted below and available at <https://www.state.gov/t/avc/rls/274866.htm>.

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During this year, many Member States have acknowledged the 20th anniversary of the Chemical Weapons Convention (CWC) through events reaffirming the solemn objective enshrined therein: "for the sake of all mankind, to exclude completely the possibility of the use of chemical weapons."

While the courageous work of the women and men of the Organization for the Prohibition of Chemical Weapons has been extraordinary, the harsh reality finds that the CWC and the international norm against the use of chemical weapons remain under assault through the

continued use of chemical weapons by State and non-State actors. Let's be clear, the use of chemical weapons by anyone, anywhere is a threat to all of us, everywhere. Following previous reports by the OPCW-UN Joint Investigative Mechanism (JIM), it is undeniable that the Syrian regime has repeatedly used chemical weapons in violation of the CWC and UN Security Council Resolution 2118. The barbarism did not end there as, on April 4, 2017, the Syrian regime again used sarin gas in an attack on Khan Shaykhun, killing an estimated hundred children, women, and men, and injuring many more. The OPCW Fact-Finding Mission (FFM) concluded indisputably that sarin or a sarin-like substance was used in that attack. All those responsible for such heinous acts must be held accountable.

While the international community awaits the results of the findings of the JIM, the United States strongly supports the JIM's renewal and lauds the highly professional manner in which the JIM and the FFM conduct their work.

This year also saw the use of chemical weapons on February 13 at the Kuala Lumpur International Airport in the assassination of North Korean national Kim Jong-nam. The heinous act of using VX, one of the most dangerous nerve agents in the world, defies all human decency and the norms of the civilized world against the use of chemical weapons. All of those involved in perpetrating this deadly attack must be held accountable.

The events of this past year make it clear that the international community must do more to ensure the integrity and viability of the CWC and to preserve the international laws, norms, and standards against the use of chemical weapons. We must continue to collectively condemn in the strongest possible terms the use of chemical weapons by any State or non-State actor, and to hold all those who would use such weapons accountable. Anything less would be irresponsible.

Biological weapons historically have also been used, and terrorist groups, individuals and states continue to pursue them. The Biological Weapons Convention is our most important tool to prevent the use of disease as a weapon of war. But to do so, it must be implemented effectively. Unfortunately, BWC States Parties squandered the opportunity at the Eighth Review Conference (RevCon) to adopt a stronger intersessional program. Many delegations, including the United States, came to the RevCon with proposals for such a program, and a willingness to find an acceptable way forward. Regrettably, we did not succeed in that objective.

Nonetheless, the United States was reassured by the shared commitment to the Convention, to minimizing risks from weaponized pathogens, and to solidifying the global norm against the use of disease as a weapon. The increase in Treaty membership is also heartening, and we welcome Samoa as the 179th State Party.

Although Parties could not agree on a new work program at the RevCon, they tasked the December Meeting of States Parties (MSP) to reach agreement on a work program. We welcome Chairman-designate Indian Ambassador Gill's efforts to prepare for a successful MSP, which in our view would provide for more focused, expert work on oversight of science and technology, national implementation, capacity building, and preparedness for, and response to, outbreaks of disease. Our cross-regional consultations indicate that many would support such a result as a step forward. We call on all States Parties to support such a work program at the upcoming MSP.

Finally, adequate funding for BWC work is essential. We welcome the recent payment of substantial overdue assessments, but many debts are still outstanding, and these debts in combination with structural financial problems will make it very difficult to pay ISU salaries at the beginning of the year. Both issues need urgent attention.

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On October 23, 2017, Ms. Rachel Hicks delivered the U.S. statement at a UN First Committee thematic discussion on other disarmament measures and international security. Her remarks are excerpted below and available at <https://www.state.gov/t/avc/rls/275061.htm>.

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At this year's First Committee session, the United States is again sponsoring our resolution on "Compliance with non-proliferation, arms limitation and disarmament agreements and commitments." I will take a moment to introduce L.7 under agenda item 99(aa), "General and Complete Disarmament."

Mr. Chairman, there is a broad consensus that compliance with international treaties, agreements, and other obligations and commitments undertaken by UN Member States to prevent the further proliferation of weapons of mass destruction and delivery systems, and to regulate and/or reduce armaments, is a central element of the international security architecture. Without the confidence that countries are honoring their commitments, the deals we make with one another in this field will not be worth the paper on which they are printed. Moreover, the authority and benefits of effective agreements and commitments will be undermined, and the world will become a far more dangerous place, if we fail to hold states accountable for their noncompliance, in accordance with international law.

Which brings me to North Korea's unlawful and dangerous behavior. North Korea's dangerous actions violate multiple UN Security Council resolutions, and collectively they present a security threat not just to Northeast Asia, but to the entire world. Over the last 25 years, North Korea has violated every agreement it made regarding its nuclear weapons program. Instead, North Korea has used its nuclear weapons and ballistic missile development programs to threaten Member States, and leveraged international negotiations and agreements to extort benefits such as oil, food, and money from the international community, continuing its destructive drive toward a nuclear arsenal.

Given North Korea's failure to comply with its disarmament and nonproliferation obligations and its failure to live up to its international commitments, this body must make clear that compliance is essential to international peace and security, through supporting this resolution. L.7 acknowledges the widespread recognition that noncompliance undermines international peace and stability and affirms our determination to use diplomacy to return violators to compliance.

Mr. Chairman, this year's version of the resolution contains only minor technical updates to the text we sponsored in 2014. L.7 is open for co-sponsorship, and we would welcome even more co-sponsors than the 73 that this resolution currently enjoys.

We hope that all nations represented here will join in supporting L.7, as the principle of compliance with treaties, agreements, obligations, and commitments in this field, freely undertaken, is something which should be universally accepted.

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2. 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 convened a joint working group in Geneva on June 28, 2017, at which Ambassador Wood delivered opening remarks. His remarks are excerpted below and available at <https://geneva.usmission.gov/2017/06/28/opening-remarks-to-the-international-partnership-for-nuclear-disarmament-verification-ipndv-joint-working-group-meeting-geneva/>.

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I want to welcome all the partners in attendance here this morning to Geneva. I am thrilled to host another joint working group meeting here at the U.S. Mission. It is appropriate that the final joint working group meetings be held in the same location as the first. These two joint meetings serve as bookends on the hard work all of you have done over the past 18 months, and I am confident that the work you’ll accomplish this week will put the Partnership solidly on the path to completing its initial phase on time this November.

The key factor to enable the negotiation of further reductions in nuclear weapons is the global security situation. While the near-term security situation does not seem likely to enable such reductions, now is the time, without the pressure of a negotiation, to contemplate what verification objectives and measures will be necessary to have confidence in the further reduction of global nuclear stockpiles. Now is the time to bring together experts from both nuclear weapons possessor and non-possessor States to build capacity and identify the challenges associated with verifying compliance with future nuclear weapon reduction agreements. Now is the time to think through the complex solutions required to address those challenges, and begin the hard work of developing procedures and technologies that can implement those solutions.

Fortunately, the importance of verification in future nuclear disarmament efforts is largely unquestioned, and the collective capacity of nations to address verification issues is increasing and will continue to increase through cooperative efforts like the IPNDV. Over the past two years the Partnership has identified many complex technical challenges involved in the multilateral verification of nuclear disarmament, and you all have rolled up your sleeves and focused collaboratively on doing the hard work to overcome them.

In pursuing your work, you have developed a capacity map highlighting the significant scope and breadth of existing verification-related training courses and programs. You have identified key procedures and technologies that will allow future on-site inspections to remain an essential tool for States to have confidence that nuclear disarmament commitments are being carried out. Through the working groups, you have begun to unravel the complexities of nuclear disarmament verification and have identified the critical objectives and issues that States will need to address in order to credibly verify compliance with future disarmament commitments.

Equally important to completing the work of Phase I, this week you will begin to work out in what direction the Partnership will move during the next Phase. These discussions will be critical to maintaining the momentum that the Partnership has built over the last two years.

My staff and I stand ready to assist you throughout the week, and we look forward to hearing about your progress. I wish you all success in your efforts this week in Geneva, and into the future.

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The IPNDV held its fifth plenary meeting in Buenos Aires, Argentina in November 2017 to review the Phase I results of the Partnership's three working groups and discuss a work program for its next two-year Phase II. See November 27, 2017 media note, available at <https://www.state.gov/r/pa/prs/ps/2017/11/275904.htm>. The opening remarks Anita Friedt delivered on November 29, 2017, on behalf of the U.S. delegation, are excerpted below and available at <https://www.state.gov/t/avc/rls/276054.htm>.

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As many of you know, the U.S. Department of State, in collaboration with the Nuclear Threat Initiative, created the Partnership in order to foster collaborative engagement between states both with and without nuclear weapons on the technical challenges associated with verifying nuclear disarmament. This work includes identifying these challenges, and developing potential technologies and procedures to address them.

As the Partnership has discovered throughout its work, these challenges are significant. However, finding mutually understood solutions that ensures future nuclear disarmament can be credibly verified is essential to achieving any potential future reductions.

This plenary marks the conclusion of the Partnership's first phase, which has focused on the monitoring and inspection of a notional nuclear weapon dismantlement process. While Phase I focused on some of the most complicated and technologically challenging aspects of disarmament verification, the work of the IPNDV has enhanced global understanding of the challenges associated with this work, and already presented new avenues toward potential solutions.

Over the next three days, we will receive updates on the Partnership's work over the course of its initial phase, providing the most comprehensive readout to date of the group's accomplishments. This will include briefings from the co-chairs of each individual Working Group, as well as an integrated discussion led by Dr. Lewis Dunn from NTI. Dr. Dunn will bring together the work of the three groups into one, cohesive framework, in order to highlight all of the key policy judgements reached by the Partnership related to verifying nuclear weapons dismantlement.

This meeting will also mark the transition to the next phase of the Partnership, and will determine the scope of our work over the next two years. Phase II will build on and deepen the work of Phase I, expanding the scope from an exclusive focus on dismantlement to addressing verification issues across the wider nuclear disarmament process. Specifically, the Partnership will be able to leverage its experience and expertise to look into issues such as how to verify declarations, data handling requirements across the inspection process, and the use of technologies to enable measurements of Special Nuclear Material and high explosives – all while preventing the disclosure of proliferation sensitive information. These are but a few areas where

the Partnership can add value to the global understanding about verifying nuclear disarmament in the years ahead.

Our meeting this week brings together over 100 experts from 22 countries, featuring both technical experts and policy makers from across the global political spectrum. While we regret the fact that our Russian colleagues have decided not to participate this week, we are very pleased with the contributions to date from both the other four members of the P5, as well as a host of non-nuclear weapon states which have been so actively involved in this process from the beginning. Collectively, we will continue to make real progress on some of the key technical issues related to nuclear disarmament.

Indeed, multilateral progress on nuclear disarmament necessitates robust and meaningful cooperation between those states that possess nuclear weapons and those that do not. To those who contend there is no work being done on this front, the Partnership stands in clear and stark opposition, and it is an important element of the U.S. commitment to Article VI of the NPT. We hope to continue and deepen this cooperation both this week, and throughout Phase II. The Partnership's work towards credible verification is key to creating the conditions for future nuclear disarmament. The work we are doing here this week, and that the Partnership will perform over the next two years, is an important and necessary step toward future progress.

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3. New START Treaty

The Thirteenth Session of the Bilateral Consultative Commission under the New START Treaty was held in Geneva from March 29 to April 11, 2017. See April 12, 2017 State Department media note, available at <https://www.state.gov/r/pa/prs/ps/2017/04/270134.htm>. The 14th BCC session was held in Geneva in October 2017.

4. INF Treaty

December 8, 2017 was the 30th anniversary of the signing of the Intermediate-Range Nuclear Forces ("INF") Treaty between the United States and the Soviet Union. A State Department press statement issued on that date outlines the Trump administration strategy regarding the INF Treaty. The statement is excerpted below and available at <https://www.state.gov/r/pa/prs/ps/2017/12/276363.htm>.

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Unfortunately, this pivotal agreement is under threat today. The Russian Federation has taken steps to develop, test, and deploy a ground-launched cruise missile system that can fly to ranges prohibited by the INF Treaty. In 2014, the United States declared the Russian Federation in violation of its obligations under the INF Treaty. Despite repeated U.S. efforts to engage the Russian Federation on this issue, Russian officials have so far refused to discuss the violation in any meaningful way or refute the information provided by the United States.

The United States remains firmly committed to the INF Treaty and continues to seek the Russian Federation's return to compliance. The Administration firmly believes, however, that the United States cannot stand still while the Russian Federation continues to develop military systems in violation of the Treaty. While the United States will continue to pursue a diplomatic solution, we are now pursuing economic and military measures intended to induce the Russian Federation to return to compliance. This includes a review of military concepts and options, including options for conventional, ground-launched, intermediate-range missile systems, which would enable the United States to defend ourselves and our allies, should the Russian Federation not return to compliance. This step will not violate our INF Treaty obligations. We are also prepared to cease such research and development activities if the Russian Federation returns to full and verifiable compliance with its INF Treaty obligations.

The United States does and will continue to abide by its INF Treaty obligations. We call on the Russian Federation to take concrete steps to return to compliance, preserve the INF Treaty, and restore confidence in the role of arms control to manage strategic stability.

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On December 14, 2017, the State Department issued a media note conveying that the delegations from Belarus, Kazakhstan, the Russian Federation, the United States, and Ukraine had concluded the 31st session of the Special Verification Commission in Geneva. The media note, available at <https://www.state.gov/r/pa/prs/ps/2017/12/276613.htm>, also notes that the delegations at the session had commemorated the 30th anniversary of the INF Treaty.

D. CHEMICAL AND BIOLOGICAL WEAPONS

1. Chemical Weapons in Syria

On April 4, 2017, Secretary Tillerson issued a press statement on a recent chemical weapons attack in Syria. His statement follows and is available at <https://www.state.gov/secretary/20172018tillerson/remarks/2017/04/269460.htm>.

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The United States strongly condemns the chemical weapons attack in Idlib province, the third allegation of the use of such weapons in the past month alone. There are reports of dozens dead, including many children. While we continue to monitor the terrible situation, it is clear that this is how Bashar al-Assad operates: with brutal, unabashed barbarism. Those who defend and support him, including Russia and Iran, should have no illusions about Assad or his intentions. Anyone who uses chemical weapons to attack his own people shows a fundamental disregard for human decency and must be held accountable.

It is also clear that this horrific conflict, now in its seventh year, demands a genuine ceasefire and the supporters of the armed combatants in the region need to ensure compliance.

We call upon Russia and Iran, yet again, to exercise their influence over the Syrian regime and to guarantee that this sort of horrific attack never happens again. As the self-proclaimed guarantors to the ceasefire negotiated in Astana, Russia and Iran also bear great moral responsibility for these deaths.

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On June 29, 2017, the State Department issued a media note in support of the OPCW's report by a fact-finding mission ("FFM") confirming that sarin, or a chemical weapon similar to sarin, was used in Khan Shaykhun, Syria on April 4, 2017. The media note, available at <https://www.state.gov/r/pa/prs/ps/2017/06/272289.htm>, goes on to say:

...The FFM's conclusion is based on a wide range of information, including the results of analysis of biomedical samples taken from the victims and the surrounding environment, and extensive witness interviews.

The FFM report will now be conveyed to the OPCW-UN Joint Investigative Mechanism (JIM), the additional independent international expert mechanism established by the UN Security Council, to determine who is responsible for the attack.

The United States strongly supports the FFM and JIM efforts, which have been pursued in an impartial and highly professional manner.

The facts reflect a despicable and highly dangerous record of chemical weapons use by the Assad regime. Through its continued use of chemical weapons and its failure to destroy its chemical weapons program in its entirety, Syria continues to fail to comply with its legal obligations under the Chemical Weapons Convention (CWC) and UN Security Council Resolution 2118.

On October 24, 2017, Ambassador Michele J. Sison, U.S. Deputy Permanent Representative to the United Nations, delivered the U.S explanation of vote on a draft Security Council resolution to extend the mandate of the Joint Investigative Mechanism ("JIM"). That statement is excerpted below and available at <https://usun.state.gov/remarks/8040>. As mentioned by Ambassador Sison, Russia vetoed the resolution. Ambassador Haley's statement on the Russian veto is available at <https://usun.state.gov/remarks/8038> (not excerpted herein). Ambassador Haley delivered a further statement after Russia vetoed a subsequent draft resolution put forward by Japan as a stop-gap measure to allow the JIM to continue. See November 17, 2017 explanation of vote, available at <https://usun.state.gov/remarks/8120>. See also November 16, 2017 explanation of vote, available at <https://usun.state.gov/remarks/8111>.

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Thank you, Mr. President. As I just said before the vote, it is not every day that this Council considers an issue that is so horrific ... as the use of chemical weapons against civilians. And today is an important day on the calendar; it is UN Day on which we the peoples of the United Nations recommit to unite, as the UN Charter preamble states, to maintain international peace and security. We all know there has long been an international norm against the use of chemical weapons because they are so cruel and so indiscriminate as never to be justified.

In one of our rare moments of unity, this Council appropriately condemned chemical weapons attacks in Syria. We even collaborated on creating an independent, impartial body to investigate confirmed cases of chemical weapons use. This body is comprised of internationally recognized, independent experts. It employs professional, scientific means of investigating attacks and identifying those responsible.

And yet ... this body is under attack by the Syrian regime's allies. And the question we must ask ourselves is whether the JIM is being attacked because it has failed in its job to determine the truth in Syria or because its conclusions have been politically inconvenient for some Council members.

We have just voted on a short, simple resolution to extend the mandate of the Joint Investigative Mechanism, also known as the "JIM." We mandated this technical body to investigate chemical weapons attacks on the innocent men, women and children of Syria. Composed of experts from the United Nations and the Organization for the Prohibition of Chemical Weapons, OPCW, the JIM has a simple task: to find out who ordered and carried out the use of these weapons in Syria.

The United States and 10 other members of the Council voted in favor of this resolution today, as it is clear that there is more work to be done—and more chemical weapons attacks to investigate. The JIM has been successful in its work and we want that vital work to continue without interruption in its operations.

We want to know the truth about these attacks, regardless of where it takes us.

The United States deeply regrets that one member of this Council vetoed against this text, putting political considerations over the misery of Syrian civilians who have suffered and died from the use of chemical weapons. The reasons offered fool no one this morning.

We reject this cynicism, and we reaffirm our confidence in these technical experts, men and women who come from many regions, many backgrounds, and many perspectives. They knew their work would be attacked by Syria's allies—yet have carried out their mandate effectively and responsibly.

Claims of JIM partiality just don't survive scrutiny when you consider that all parties have acknowledged that sarin was used in Khan Sheikhoun and, as reported by the OPCW again this week, the Syrian regime itself provided the JIM with samples of evidence that support this conclusion. The JIM has even gone so far as to visit Syria several times to further its investigation—which we had hoped would satisfy the inappropriate demands of some members of this Council.

But it appears it will never be enough for some Council members.

We are not deceived nor deterred, however, and we call on all members of this Council to join us in rejecting these attacks on the JIM. These attacks are not intended to get us closer to the truth; they are intended to hide the truth. They are not designed to get us closer to accountability for chemical weapons use in Syria. They are designed to shield the perpetrators for some of the worst war crimes of our century.

Fortunately, this Council will have more chances to show that it values the truth, and to show its solidarity with the Syrian people. The JIM's mandate expires on November 16, about three weeks from now. This investigative body should be a great symbol of what this Council can do when we work together. It is a symbol of our commitment to justice and accountability, and it is the hope to thousands of suffering and grieving Syrian civilians.

So we call on all Council members not to turn their backs on this hope and to preserve this Council's unity in the face of Syrian chemical weapons attacks.

We call on the Security Council to take up this vital matter once again and vote to extend at that time the mandate of the Joint Investigative Mechanism.

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On October 27, 2017, the State Department issued a statement on the October 26 report of the OPCW-UN JIM regarding chemical weapons use in Khan Shaykhun and Um Housh, Syria. The October 27 statement follows and is available at <https://www.state.gov/r/pa/prs/ps/2017/10/275166.htm>.

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On October 26, 2017, the Organization for the Prohibition of Chemical Weapons-UN Joint Investigative Mechanism (JIM) issued its latest report which concluded that the Assad regime used the chemical weapon sarin in the horrific April 4, 2017 attack that killed scores of people in Khan Shaykhun, Syria. The report also determined that the Islamic State extremist group was responsible for using the chemical weapon sulfur mustard on September 15 and 16, 2016 in Um-Housh, Syria.

This new report confirms unequivocally what the United States and many in the international community have stated publicly for many months—that the Assad regime carried out the heinous April 4 attack killing approximately 100 innocent Syrian civilians, including many children, and injuring hundreds more.

The Security Council must send a clear message that the use of chemical weapons by anyone will not be tolerated, and must fully support the work of the impartial investigators. As Ambassador Haley has emphasized, countries that fail to do so are no better than the dictators or terrorists who use these terrible weapons. By attempting to undermine and eliminate the JIM, Russia has demonstrated once again that it values protecting its ally the Assad regime over stopping the monstrous use of chemical weapons. Syria's blatant disregard for international norms and standards should be met with condemnation and accountability by all members of the international community.

Syria's continued use of chemical weapons and failure to destroy its chemical weapons program in its entirety are clear violations of Syria's obligations under the Chemical Weapons Convention and UN Security Council Resolution 2118. We condemn in the strongest possible terms the use of chemical weapons anywhere, by anyone, under any circumstances and reiterate our commitment that those responsible will be held to account.

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On November 2, 2017, Ambassador Wood provided an explanation of vote on behalf of multiple countries on a draft resolution in the First Committee on implementing the Chemical Weapons Convention. The statement is excerpted below and available at <https://usun.state.gov/remarks/8070>.

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Mr. Chairman, I have asked for the floor on behalf of Albania, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Lithuania, Luxembourg, Malta, Montenegro, Netherlands, New Zealand, Norway, Portugal, the Republic of Korea, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Turkey, Ukraine, and the United Kingdom of Great Britain and Northern Ireland, and my own delegation, the United States of America, to explain our vote on Resolution A/C.1/72/L.26, "Implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction," sponsored by Poland.

Mr. Chairman, our respective countries intend to vote in favor of this resolution as we believe it accurately reflects the objectives and goals of the Chemical Weapons Convention, CWC, and supports the extraordinary work done by the Organization for the Prohibition of Chemical Weapons, OPCW, and the United Nations Joint Investigative Mechanism, JIM, team to attribute responsibility for the use of chemical weapons in Syria. Equally important, this resolution highlights the grave reality of chemical weapons use in Syria and underscores the need to hold those responsible to account. We express our deepest appreciation to the brave women and men of the JIM, the OPCW Fact-Finding Mission, FFM, and the OPCW Declaration Assessment Team, DAT, for their dedication and professionalism in investigating chemical weapons attacks in Syria and seeking to resolve the gaps, inconsistencies, and discrepancies in Syria's declaration.

Mr. Chairman, we believe there is no greater challenge to the CWC than a State Party using chemical weapons in flagrant violation of its legal commitments. The international community must condemn such use and hold those who use chemical weapons accountable. The use of chemical weapons by anyone anywhere is a threat to all of us, everywhere. On October 26, 2017, the JIM released its 7th report which determined that the Syrian Arab Republic used chemical weapons, sarin, on April 4, 2017 in Khan Shaykhoun, Syria. This use of CW by the Syrian regime is reprehensible and violates its obligations under the CWC and UN Security Council Resolution 2118. These findings make clear that Syria has not renounced chemical warfare. These findings further underscore the risks posed by Syria's failure to declare the true magnitude and scope of its chemical weapons program and arsenals. The international community must squarely confront this reality and hold Syria accountable for its continued use of chemical weapons.

We also condemn in the strongest possible terms the use of chemical weapons (sulfur mustard) by the Islamic State in Iraq and the Levant, ISIL, on September 15 and 16, 2016 in Um-Housh, Syria, in flagrant disregard of well-established international standards and norms. The use of chemical weapons by a State or non-state actor is inexcusable; and we demand that the Syrian government and ISIL immediately desist from any further use of chemical weapons.

We fully support the extension of the JIM to continue investigating additional cases of confirmed use or likely use determined by the OPCW FFM, and further support efforts by the OPCW Declaration Assessment Team to address the gaps and discrepancies in Syria's CWC declaration.

Mr. Chairman, the events of this past year, including the continued use of chemical weapons in Syria, and the use of the nerve agent VX in a fatal incident at the Kuala Lumpur International Airport, make it clear that the international community must do more to preserve the integrity and viability of the CWC and the international laws, norms, and standards against the use of chemical weapons.

Any effort to ignore these aforementioned serious issues undermines the work of the international community to date, detracts from the extraordinary efforts undertaken by the OPCW and the UN, and constitutes a grave challenge to the CWC and the entire international legal framework. We must continue to collectively condemn in the strongest possible terms the use of chemical weapons by any State or non-State actor, and to hold all those who would use such weapons accountable. Anything less would be utterly irresponsible.

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On November 8, 2017, the State Department issued as a press statement the joint statement on Syria chemical weapons by UK Foreign Secretary Boris Johnson, French Foreign Minister Jean-Yves Le Drian, Foreign Minister Sigmar Gabriel and Secretary Tillerson. The joint statement follows and is available at <https://www.state.gov/secretary/20172018tillerson/remarks/2017/11/275394.htm>.

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On October 26, the Organization for the Prohibition of Chemical Weapons-United Nations Joint Investigative Mechanism (JIM), a body established by unanimous decision of the United Nations Security Council (UNSC), concluded that the Assad regime is responsible for the use of sarin in Khan Shaykhun on 4 April 2017. We have full trust in the JIM's findings, its professionalism and independence. The Syrian regime violated international law, including the Chemical Weapons Convention. We condemn this heinous act and demand that the Syrian regime immediately cease any and all use of chemical weapons and finally declare to the OPCW all chemical weapons that it possesses.

The JIM also found that ISIS/Daesh was responsible for a sulfur mustard attack on the town of Um Housh in September 2016 on two consecutive days. We also condemn this despicable act, and we are united in our determination to defeat this abhorrent terrorist movement once and for all. We condemn the use of chemical weapons by anyone, anywhere.

We agree that it is vital for the international community to continue to investigate cases where chemical weapons have been used in Syria. We therefore urge the United Nations Security Council to maintain the JIM's investigative capacity. We also call on the OPCW Executive Council to take action in response to the JIM report to send an unequivocal signal that those responsible for the use of chemical weapons will be held accountable.

Sadly, this is not the first report identifying those responsible for the use of chemical weapons in Syria. In 2016, the JIM came to the conclusion that the Syrian regime was responsible for the use of chlorine as a chemical weapon in at least three attacks in 2014 and 2015, and ISIS/Daesh used sulfur mustard once in 2015.

And there is more work for the JIM to do. The OPCW has now reported that a sarin attack “more than likely” took place in Al Lataminah in Syria, just a week before and 15 kilometers from the sarin attack on Khan Shaykhun. The attack it describes bears the hallmarks of the Syrian Regime.

A robust international response is now essential to hold those responsible to account, seek justice for the victims of these abhorrent attacks and to prevent such attacks from happening again. After such a report, the Security Council and all its members have a common responsibility to protect the international non-proliferation regime and live up to their previous commitments.

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Andrea Hall, Senior Director for Weapons of Mass Destruction and Counterproliferation at the U.S. National Security Council, delivered the statement for the United States delegation at the first day of the 22nd Conference of the Parties to the OPCW on November 27, 2017. Her statement follows. OPCW Doc. No. *CS-2017-0745.E* C-22/NAT.7

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It is an honour to join you at the Conference of the States Parties in this twentieth anniversary year of the entry into force of the Chemical Weapons Convention. As we reflect collectively on the many accomplishments that we as States Parties and the Organisation for the Prohibition of Chemical Weapons (OPCW) have made over the years, I am pleased to take this opportunity to salute the tremendous contributions of Director-General Üzümcü, who has provided stalwart and visionary leadership to the OPCW during a period of unprecedented challenges. In this context, I am also pleased to congratulate Ambassador Fernando Arias on his nomination to assume the weighty responsibilities of the Director-General next year. The United States of America looks forward to joining other States Parties in confirming his appointment and supporting his future endeavours as the next Director-General.

Even as we acknowledge the important achievements that we have gained through two decades of implementation of the Convention, we must not be complacent or naïve regarding the challenges we face today. The international community is at a critical juncture in the fight to maintain the international norm against chemical weapons use. I see three issues that have forced us to this precipice—the Assad regime’s continued use of chemical weapons on its own people; the increased interest in and use of chemical weapons by non-State actors; and the growing concern that States are deliberately developing central nervous system (CNS)-acting chemicals for warfare or for other harmful purposes, cloaking these efforts under the guise of non-prohibited purposes such as law enforcement or medical research. I will address each of these

issues. And, I have four recommendations that we in the international community should take to address them.

First, let me start with the threat posed by the continued use of chemical weapons by a State Party to the Chemical Weapons Convention—Syria.

Chemical weapons use by the Syrian Arab Republic remains the most serious violation of the Chemical Weapons Convention in the Convention's twenty-year history, and the greatest modern challenge to the global norm against chemical weapons use. The Syrian regime was found responsible by the OPCW-United Nations Joint Investigative Mechanism (JIM), an independent and impartial international body of experts, for three separate attacks using the toxic chemical chlorine as a chemical weapon in 2014 and 2015, and for the 4 April 2017, sarin attack in Khan Shaykhun, an opposition-held territory, where most of the victims were women and children. And the JIM would likely investigate numerous additional cases if the mandate were extended. The OPCW Fact-Finding Mission (FFM) has in front of it an additional 60 allegations of chemical weapons use in Syria to investigate. Syria's continued use of chemical weapons in blatant contravention of international law presumably continues because the Assad regime believes these weapons have military utility and psychological effect, and that they help the regime make gains in the ongoing civil war in Syria. While the civil war continues, we have seen the real effects on television—Syrian civilians with little to no defence against these abhorrent weapons dying in the streets. Use of chemical weapons is barbaric and must not be tolerated by the international community.

Second, I will turn to the increased interest in and use of chemical weapons by non-State actors.

The threat of non-State actor interest in development, acquisition, and use of chemical weapons is not a new challenge, but the threat is real, and the risks to our collective security are great. The technical pathway to a chemical weapon capability is clearly within the grasp of non-State actors. Non-State actors like ISIS are pursuing and using rudimentary chemical agents, like chlorine and mustard, in improvised explosive devices in Iraq and Syria. ISIS has used industrial chemicals and sulfur mustard in improvised explosive devices, mortars, and rockets in both Iraq and Syria. So far, the JIM has concluded that ISIS was responsible for two chemical weapons attacks using mustard, one in Marea in August 2015, and one in Um-Housh in September 2016. The counter ISIS campaign report detailed continued chemical weapons use in 2016 and 2017 beyond those attributed to ISIS by the JIM. Further, these actors are difficult to deter. While our ISIS-specific sanctions are important to limiting the outside support for these groups, non-State actors will continue to pose threats to international security because they shrug off accountability and the basic tenets of human decency. Chemical weapons terrorism can affect us all, and we must work together to stop it.

Finally, I would like to highlight the threat posed by central nervous system-acting chemicals, or so-called "incapacitants."

CNS-acting chemicals raise a new spectre of chemical weapons re-emergence. Since 2002, there has been a growing interest, evident through academic articles and press pieces, in the utility of these chemicals for law enforcement purposes. When it comes to these chemicals, the aerosolised use is not consistent with the law enforcement exception to the Chemical Weapons Convention as a purpose not prohibited by the Convention. President Trump recently announced that the opioid crisis in the United States of America is a public health emergency. As part of our response, the White House issued safety recommendations for first responders when handling and encountering fentanyl, the most well-known of the CNS-acting chemicals. If our

first responders are at risk when they encounter illicit fentanyl, how can our unsuspecting populations be safe when fentanyl is aerosolised and used as a law enforcement tool? The simple answer is that they cannot. Despite these dangers, countries continue to pursue these chemicals. If we do not seriously confront this issue here in The Hague, we would be turning a blind eye to the threat that CNS-acting chemicals pose to the Chemical Weapons Convention—a threat that will increase, not decrease, over time.

Call to Action

The international community must take action now or risk a reversal of a trend we have worked so hard to establish. We must take every opportunity to deter states from using chemical weapons. If we fail to take action now, non-State actor use will also rise. And, the number of countries pursuing nefarious CNS-acting chemical programmes will rise as well. We have made a commitment to put an end to chemical weapons use, and to fulfil that commitment, I recommend four concrete steps.

Step One: Hold Accountable Those Who Use Chemical Weapons

The international community must continue to take steps to hold the Syrian regime accountable for its chemical weapons use and take additional steps to deter future use. Holding the regime appropriately accountable would require effective United Nations Security Council and OPCW Executive Council action. But accountability cannot occur without appropriate resources. The United States of America has provided millions of dollars to the United Nations and OPCW trust funds set up specifically for the investigation of chemical weapons use in Syria. And we are not alone—the EU, Japan, and a number of other countries have made contributions to these funds, which have facilitated the OPCW and United Nations' ability to continue to investigate chemical weapons use in Syria. The Executive Council demonstrated accountability with the adoption of its 11 November 2016 decision, and it must do so again. While we sought an accountability resolution earlier this year at the United Nations, our efforts were undercut by Syria's ally the Russian Federation, which made a blatant decision to choose politics over human decency and our collective international obligations. The use of the veto has not deterred us, and many countries have enacted national sanctions on entities involved in the use of chlorine as a chemical weapon in Syria in 2014 and 2015, and we will again seek United Nations action on the latest JIM conclusions. We urge every State Party to condemn the use of chemical weapons by Syria and non-State actors. Unified condemnation and action are key to deterring future use and upholding the international norm against chemical weapons use. Everyone here in this room has a responsibility to respond to these atrocious acts.

Step Two: Full and Effective Implementation of Article VII of the Chemical Weapons Convention

The threat of non-State actor development, acquisition, and use of chemical weapons is a complex problem, and the response from the OPCW and States Parties—individually and collectively—must equal the challenge. We must fully and effectively implement our Chemical Weapons Convention Article VII obligations, specifically, comprehensive penal and export control legislation at the national level. This is the best way to ensure that there are no jurisdictions where non-State actors who commit or seek to commit chemical weapons-related crimes may seek safe harbour. Further, like-minded States Parties could share information regarding their relevant national domestic policies and laws. This would serve not only as a confidence-building measure, but would also strengthen the prohibitions in the Convention and provide other stakeholders examples that could shorten their own routes to stronger national policies. Implementation of Article VII helps us deter not only those who would use chemical

weapons but also those who would support them or provide them materials, knowledge, or a safe haven. It might deny terrorists or other non-State actors the tools they need to succeed and drive them away from these heinous weapons.

Step Three: Improve Chemical Defences

The international community should work to improve the defence of those populations most vulnerable to chemical weapons use. I specifically recommend providing support to the NGO medical community and to countries that may be a risk of attack, but are currently inadequately prepared to defend themselves. The establishment of the Rapid Response and Assistance Mission is an excellent step towards providing necessary assistance to States Parties affected by chemical weapons use, but we can do more. We should provide these entities training, defensive equipment, and appropriate medical countermeasures. Indeed, within the U.S. Government, the State Department has committed to providing up to USD 15 million in chemical weapons threat reduction equipment and training to medical personnel and first responders. I know we are not alone in wanting to improve our collective security and defence against chemical weapons use. Furthermore, denying those that would use these weapons their desired effect is, in itself, a deterrent to use.

Step Four: Endorse a CNS-acting Chemical Non-Use Policy Statement

Lastly, I call on States to endorse a non-use policy regarding aerosolisation of CNS-acting chemicals that reiterates the tenets of the Chemical Weapons Convention, to include that we are “determined for the sake of all mankind, to exclude completely the possibility of the use of chemical weapons.” This endorsement would include international support recognising that the aerosolised use of CNS-acting chemicals is not consistent with law enforcement exception to the Chemical Weapons Convention. Together we can preserve the norm against chemical weapons use, but we have to do it now.

On 6 April 2017, President Trump said, “It is in the vital national security interest of the United States to prevent and deter the spread and use of deadly chemical weapons.” I would argue that preventing the spread and use of chemical weapons is also strongly in the international community’s security interest. It is important that the international community take steps now, such as those I have outlined, to improve the chances of deterring future use of chemical weapons.

Mr Chairperson, I request that this statement be considered an official document of the Twenty-Second Session of the Conference of the States Parties and posted on the external server.

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2. Biological Weapons Convention

The United States welcomed Samoa’s accession to the Biological and Toxin Weapons Convention (“BWC”) in a September 29, 2017 State Department media note, available at <https://www.state.gov/r/pa/prs/ps/2017/09/274517.htm>. Samoa deposited its instrument of accession on September 21, 2017, becoming the 179th State Party to the BWC.

On November 1, 2017, Ambassador Wood provided the U.S. explanation of position in the First Committee on a draft resolution on the Biological Weapons Convention. Ambassador Wood’s statement on the BWC is excerpted below and available at <https://usun.state.gov/remarks/8083>.

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I would like to explain the United States' position regarding Resolution A/C.1/72/L.49 on the "Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction."

Mr. Chairman, for over four and a-half decades, the BWC has served as a barrier against the possession and proliferation of biological weapons. Together with the 1925 Geneva Protocol, the BWC has solidified the international norm against the use of disease as weapons.

This is not the resolution we hoped to see. The international processes that support the Biological Weapons Convention are struggling. Last year's Review Conference was unable, for the first time since 2001, to agree on a new program of work. The BWC is even struggling to simply pay its bills. However, Parties have another chance at the upcoming BWC Meeting of States Parties, which is specifically tasked to "seek to make progress on issues of substance and process for the period before the next Review Conference, with a view to reaching consensus on an intersessional process." It seemed to my delegation that, if there was ever a time for the General Assembly to send a clear message of support, this was it. And so we sought more ambitious text that would capture what we believe is broad support among BWC States Parties for a new, more substantive and action-oriented work program. In the interest of consensus, we accepted far less. Nevertheless, we greatly appreciate the efforts of Eighth Review Conference President Amb Molnár in drafting this resolution and skillfully working to reconcile conflicting views.

We also support the efforts of BWC MSP Chairman Indian Ambassador Gill to set the stage for a constructive meeting in December. Since the RevCon, the United States has been working constructively across traditional political boundaries to forge agreement on elements that could comprise a constructive, substantive program of work. We are encouraged by the emerging support for a program that includes expert-level working groups on a balanced set of key issues, including science and technology, national implementation, international cooperation and assistance, and preparedness for and response to outbreaks of disease. Support is also growing for the idea that these groups would prepare factual reports with recommendations to be considered at the annual meetings. We hope that all Parties will approach the MSP in a positive spirit, prepared to agree on such a reasonable and doable program.

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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. Ambassador Wood provided the U.S. explanation of vote in the UN First Committee on a draft resolution on the Arms Trade Treaty on October 31, 2017. That statement follows and is available at <https://usun.state.gov/remarks/8078>.

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Mr. Chairman, my delegation has abstained on draft resolution L.27, "The Arms Trade Treaty."

The United States is conducting standard reviews of various international agreements, including the Arms Trade Treaty, and as such we are not in a position to vote "yes." Our abstention in no way prejudices the outcome of our policy review.

The United States shares the aims of the States Parties to the Arms Trade Treaty. We continue to support efforts to improve international standards for regulating the international trade in conventional arms, and to prevent and eradicate the illicit trade in conventional arms and prevent their diversion. We continue to offer our cooperation and assistance to Member States in order to achieve this objective, including by assisting in the establishment of robust transfer controls and the enhancement of conventional weapons stockpile security and management, in order to contribute to international peace and security. We look forward to continuing our engagement with Member States, both Arms Trade Treaty States Parties and non-States Parties alike, to prevent conventional arms from falling into the wrong hands.

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Cross References

Litigation involving alleged breach of NPT, **Ch. 4.B.2.**

Cooper v. TEPCO, **Ch. 5.C.4.**

Palestinian attempted accession to Law of Sea Convention, **Ch. 12.A.1.**

Disarmament aspects of outer space, **Ch. 12.B.2.**

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

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

North Korea nonproliferation sanctions, **Ch. 16.A.5.c.**