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CHAPTER 3

International Criminal Law

A. EXTRADITION AND MUTUAL LEGAL ASSISTANCE

1. Extradition Treaties

See Chapter 4 for Acting Legal Adviser Richard Visek's December 2017 testimony before the Senate Foreign Relations Committee on the extradition treaties with Kosovo and Serbia that were transmitted to the Senate in January 2017 for advice and consent.

2. *United States v. Microsoft*

On December 6, 2017, the United States filed its brief in *United States v. Microsoft*, No. 17-2, in the Supreme Court of the United States. The U.S. government obtained a warrant requiring Microsoft to disclose email information for an account based on probable cause to believe the account was being used to further illegal drug activity. Microsoft complied in part, but refused to disclose the contents of emails which it had "migrat[ed]" to a datacenter in Ireland. The lower court denied Microsoft's motion to quash. On July 14, 2016, the court of appeals reversed, reasoning that the warrant was issued pursuant to Section 2703 of the Electronic Communications Privacy Act, which does not apply extraterritorially. The petition for rehearing en banc was denied on January 24, 2017, and the U.S. petition for certiorari, filed June 23, 2017, was granted October 16, 2017. The following excerpts comprise the summary of the U.S. argument in its December 6, 2017 Supreme Court brief.*

* Editor's note: On March 23, 2018, Congress passed and the President signed the Clarifying Lawful Overseas Use of Data Act (CLOUD Act), resolving the main issue in the *Microsoft* appeal. The United States notified the Supreme Court that the legislation renders the case moot. On April 17, 2018, the Supreme Court issued a per curiam opinion, vacating the judgment on review, remanding to the Court of Appeals with instructions to vacate and direct the District Court to dismiss the case as moot.

* * * *

Under 18 U.S.C. 2703, the government may compel a U.S. service provider to disclose electronic communications within its control, regardless of whether the provider stores those communications in the United States or abroad.

A. Applying Section 2703 to require the disclosure of data stored abroad does not violate the presumption against extraterritoriality. Even where that presumption is un rebutted, a court must examine whether “the conduct relevant to the statute’s focus occurred in the United States.” *RJR Nabisco, Inc. v. European Cmty.*, 136 S. Ct. 2090, 2101 (2016). The focus turns on the acts that the statutory provision “seeks to regulate” and the parties or interests that it “seeks to protect.” *Morrison v. National Austl. Bank Ltd.*, 561 U.S. 247, 267 (2010) (brackets, citation, and internal quotation marks omitted). The focus inquiry is provision-specific; the focus of Section 2703 need not be the same as other provisions of the [Stored Communications Act or] SCA or the [Electronic Communications Privacy Act of 1986 or] ECPA. See *RJR Nabisco*, 136 S. Ct. at 2103, 2106.

The focus of Section 2703 is on domestic conduct: the disclosure of electronic records to the government in the United States. Congress captioned that provision “Required disclosure of customer communications or records.” Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001 (Patriot Act), Pub. L. No. 107-56, Tit. II, § 212(b), 115 Stat. 284-285 (emphasis omitted). Section 2703’s text accordingly describes the multiple mechanisms by which the government can “require the disclosure” of electronic records. 18 U.S.C. 2703(a); see 18 U.S.C. 2703(b) (“governmental entity may require a provider * * * to disclose”); 18 U.S.C. 2703(c) (“governmental entity may require a provider * * * to disclose”). The legislative history underscores that Congress sought to regulate providers’ disclosure of electronic information to the government, not providers’ storage of that information. And because any disclosure to the government occurs in the United States, such disclosure involves a permissible domestic application of Section 2703.

The court of appeals took a different view, concluding that the “focus” of the SCA is “user privacy.” Pet. App. 43a. Even if that were correct, any invasion of privacy occurs in the United States. Microsoft does not invade a user’s privacy when it transfers data from an Irish server to a U.S. server, or vice versa. A user has no right under the SCA to have his data stored in one location or another, or even to know where it is stored. Instead, any invasion of privacy occurs only when Microsoft divulges a user’s communications to the government and the government examines those communications for evidence of a crime.

B. The conclusion that a Section 2703 warrant compels U.S. providers to disclose foreign-stored data comports with common-law principles that were well established when Congress enacted the SCA. Courts have long held that “[t]he test for the production of documents is control, not location.” *Marc Rich & Co. v. United States*, 707 F.2d 663, 667 (2d Cir.), cert. denied, 463 U.S. 1215 (1983). Thus, a subpoena recipient in the United States is required to disclose requested records regardless of whether the recipient has chosen to store those records abroad. See *id.* at 667-668.

The same rule applies to Section 2703 warrants. Although those devices are warrants in the sense that they require the government to demonstrate probable cause under oath before a neutral magistrate judge and state with particularity the items to be searched, they are executed like subpoenas. Rather than authorizing law enforcement officers to physically enter private premises, a Section 2703 warrant authorizes the government to “require the disclosure by a provider of electronic communications.” 18 U.S.C. 2703(a); see 18 U.S.C. 2703(b) and (c). In practice, then, the statutory requirement to disclose records pursuant to a Section 2703 warrant operates like the execution of a subpoena: The government serves a demand for records on a person who controls the potential evidence. Just as a subpoena requires the recipient to produce material stored abroad that is within the recipient’s control, so too does a Section 2703 warrant. Congress did not incongruously grant the government access to less information when it employs a Section 2703 warrant than when it employs Section 2703’s other disclosure mechanisms.

C. A more restrictive reading of Section 2703 would undermine an important tool for law enforcement and introduce arbitrariness to the statutory scheme. Because Microsoft gives dispositive weight to the location of data, a provider could move all information about U.S. subscribers beyond the reach of U.S. law enforcement simply by building its servers outside the United States. Or it could follow other major providers, such as Google, which move data all over the world, sometimes breaking it into “shards” so that different portions of a single email account may be stored in multiple countries at any one moment. Even though such providers can access information from their offices in the United States, Microsoft’s data-location theory would erect an insurmountable barrier to U.S. law enforcement’s securing of critical evidence.

D. In response, Microsoft argues that its theory is necessary to avoid international discord. That concern is overstated. Many other countries construe their laws to authorize compelling domestic entities to produce foreign-stored evidence, even if they place varying restrictions on the use of that power. Indeed, the United States is a party to a treaty that requires parties to have the power to compel service providers within their territory to produce data under the providers’ control for law enforcement purposes. And to the extent Microsoft worries that it will be subject to conflicting legal regimes at home and abroad, that situation has not often arisen and can be addressed through existing mechanisms if it does. In any event, it provides no basis for overriding the best reading of the statutory scheme.

* * * *

3. Law Enforcement Memorandum of Understanding with Cuba

On January 16, 2017, the United States and Cuba signed a bilateral Law Enforcement Memorandum of Understanding to deepen law enforcement cooperation and information sharing. See State Department media note, available at <https://2009-2017.state.gov/r/pa/prs/ps/2017/01/267007.htm>. As summarized in the media note:

Under this memorandum, the United States and Cuba will continue the Law Enforcement Dialogue process, which includes technical exchanges on specific law enforcement issues of mutual concern such as counternarcotics, money laundering, fraud and human smuggling, and counterterrorism.

4. Universal Jurisdiction

Emily Pierce, Counselor for the U.S. Mission to the United Nations, delivered remarks on October 10, 2017 at a Sixth Committee Meeting on “The Scope and Application of the Principle of Universal Jurisdiction.” Ms. Pierce’s remarks are excerpted below and available at <https://usun.state.gov/remarks/8019>.

* * * *

We greatly appreciate the Sixth Committee’s continued interest in this important item. We thank the Secretary-General for his reports, which have usefully summarized the submissions made by states on this topic.

Despite the importance of this issue and its long history as part of international law relating to piracy, the United States reiterates its view that basic questions remain about how jurisdiction should be exercised in relation to universal crimes and states’ views and practices related to the topic.

We have engaged in lengthy, thoughtful discussions on a variety of important topics regarding universal jurisdiction, including its definition, the scope of the principle, as well as its application, in the years since the Committee took up this issue. The submissions made by states to date, the work of the Working Group in this Committee, and the Secretary-General’s reports have been extremely useful in helping us to identify differences of opinion among States as well as points of consensus on this issue. In the Working Group, we are looking forward to hearing the views of other delegations on the possibilities for further progress on this issue, including whether there are new, practical approaches to tackling our work.

The United States continues to analyze the contributions of other states and organizations. We welcome this Committee’s continued consideration of this issue and the input of more states about their own practice. We look forward to exploring these issues in as practical a manner as possible.

* * * *

B. INTERNATIONAL CRIMES

1. Terrorism

a. *Determination of Countries Not Fully Cooperating with U.S. Antiterrorism Efforts*

On May 1, 2017, Secretary Tillerson issued his determination and certification, pursuant to, *inter alia*, section 40A of the Arms Export Control Act (22 U.S.C. § 2781), that certain countries “are not cooperating fully with United States antiterrorism efforts.” 82 Fed. Reg. 24,424 (May 26, 2017). The countries are: Eritrea, Iran, Democratic People's Republic of Korea, Syria, and Venezuela.

b. State Sponsors of Terrorism

See Chapter 16 for discussion of the Secretary of State's 2017 designation of the Democratic People's Republic of Korea ("DPRK") as a State Sponsor of Terrorism ("SST").

c. Country reports on terrorism

On July 19, 2017, the Department of State released the 2016 Country Reports on Terrorism. See State Department media note, available at <https://www.state.gov/r/pa/prs/ps/2017/07/272684.htm>. The annual report is submitted to Congress pursuant to 22 U.S.C. § 2656f, which requires the Department to provide Congress a full and complete annual report on terrorism for those countries and groups meeting the criteria set forth in the legislation. The report covers the 2016 calendar year and provides policy-related assessments; country-by-country breakdowns of foreign government counterterrorism cooperation; and information on state sponsors of terrorism, terrorist safe havens, foreign terrorist organizations, and the global challenge of chemical, biological, radiological, and nuclear terrorism. The report is available at www.state.gov/j/ct. On the day the report was released, Acting Coordinator for Counterterrorism Justin Siberell delivered remarks on key aspects of the report, which are available at <https://www.state.gov/r/pa/prs/ps/2017/07/272694.htm>, and excerpted below.

* * * *

Terrorist attacks and fatalities from terrorism declined globally in 2016 from levels seen in 2015, and at the end of my remarks I will summarize a few of the topline statistics that are included as an appendix to the yearly report.

ISIS remained the most capable terrorist organization globally in 2016, directing and inspiring terror cells, networks, and individuals around the world, even as it faced increased military pressure in Iraq and Syria and suffered considerable territorial losses ... through the year. ...

We also faced a resilient al-Qaida and an Iranian regime that remained the leading state sponsor of terrorism.

The international community strengthened cooperation in a number of areas, including by expanding information-sharing related to terrorist identities to prevent terrorist travel, strengthening border and aviation security, and putting increased resources into efforts to counter radicalization to violence and terrorist recruitment.

As you all are aware, ISIS lost considerable territory it controlled in Iraq and Syria through 2016, and the report provides detailed assessment of that progress. Iraqi Security Forces supported by the coalition delivered a series of defeats on ISIS through 2016, beginning with the liberation of Ramadi in February, the recapture of Fallujah in June, and the seizure of the Qayyarah Air Base in northern Iraq in July, and finally the launch of the broad offensive in

Nineveh in October that led to Iraqi Security Force penetration deep into eastern Mosul by the end of the year.

As you know, the Iraqi Security Forces completed the liberation of eastern Mosul in January, and earlier this month the Iraqi Government announced the liberation of all of Mosul from ISIS after one of the most complex urban combat operations since World War II. This is a critical milestone in the global fight against ISIS and underscores the success of the international effort led by the Iraqi Security Forces.

In Syria, the border between Syria and Turkey was fully cleared of ISIS presence in 2016. Syrian Democratic Forces supported by coalition efforts liberated a number of cities and towns used by ISIS as transit and facilitation hubs for foreign terrorist fighters and ISIS external plotting efforts, including Manbij and Jarabulus. These operations set the stage for the operation to isolate and liberate Raqqa, which, as you know, is currently underway.

ISIS has relied heavily upon foreign terrorist fighters but was unable to sustain a sufficient inward flow of new foreign terrorist fighter recruits in 2016 to compensate for battlefield losses. While the sustained military campaign and ISIS' loss of territory and resources are key factors in that, governments around the world enacted a number of reforms and improved border security measures to make it much more difficult for foreign terrorist fighters to transit to and from Iraq and Syria.

As a result of its loss of territory and foreign terrorist fighters, attacks outside ISIS territorial strongholds in Iraq and Syria were an increasingly important part of ISIS' 2016 terrorism campaign. ISIS dispatched operatives from Iraq and Syria to conduct attacks but also worked aggressively to inspire and encourage attacks by its followers to demonstrate continued strength and relevance. ISIS directed its followers to attack in their home countries rather than attempt to travel to the conflict zone, which itself is an acknowledgement of the more difficult environment faced by aspiring foreign terrorist fighters to access the conflict area.

Another feature of the terrorism landscape in 2016—and this is a continuation of what we saw in 2014 and 2015—is the exploitation by terrorist groups of ungoverned territory and conflict zones to establish safe havens from which to expand their reach. In 2016 ISIS established a presence in the Libyan coastal city of Sirte, from which it was expelled as a result of a concerted ground campaign by Libyan forces with U.S. air support.

Somalia, Yemen, northeastern Nigeria, portions of the Sinai Peninsula, the Afghanistan-Pakistan border regions, and portions of the Philippines, among other places, are examples of such safe-haven environments.

Turning to al-Qaida, al-Qaida and its regional affiliates exploited the absence of credible and effective state institutions in a number of states and regions to remain a significant worldwide threat despite sustained pressure by the United States and its partners. Al-Qaida in the Arabian Peninsula remained a significant threat to Yemen, the Gulf region, and the United States despite a number of key leadership losses as the ongoing conflict in Yemen hindered U.S. and partnered efforts to counter the group.

...[A]l-Nusra Front, al-Qaida's affiliate in Syria, continued to exploit ongoing armed conflict to maintain a territorial safe haven in parts of northwestern Syria. And al-Shabaab continued to conduct asymmetric attacks throughout Somalia and parts of Kenya despite weakened leadership and increasing defections. The establishment of a new government in Somalia and its efforts along with the international community to extend governance while maintaining security force pressure on al-Shabaab is an important recent development in Somalia.

Al-Qaida in the Islamic Maghreb and its affiliates in Mali have shifted their operational emphasis from holding territory to perpetrating attacks against government and civilian targets, including hotels in Burkina Faso, Mali, and Cote d'Ivoire, as well as UN peacekeeping forces in northern Mali.

And then finally, al-Qaida in the Indian subcontinent continue to operate in South Asia, which the ... al-Qaida Core has historically exploited for safe haven, and claim several attacks targeting religious minorities, police, secular bloggers, and publishers in Bangladesh.

In Afghanistan, al-Qaida suffered continued losses, including through the death of senior leader Faruq al-Qahtani, who was killed in a U.S. operation in Kunar, Afghanistan in October 2016.

Attacks by homegrown lone offenders continued in 2016, particularly in public spaces and other soft targets. Examples of this include the attack in Nice in July, in which a Tunisian national drove a truck into a Bastille Day festivities parade, killing 86; in Germany, an ISIS-claimed truck attack killed 12 in a crowded Christmas market in Berlin in December; and of course, in the United States, Omar Mateen killed 49 in an attack on the Pulse nightclub in Orlando.

While ISIS continued to receive most of the headlines and remains a top focus for U.S. and international CT efforts, Iran remained the foremost state sponsor of terrorism globally. As explained in the report, Iran continues to provide support to Hizballah, Palestinian terrorist groups in Gaza, and various groups in Syria, Iraq, and throughout the Middle East. Iran employed the Quds Force of its Islamic Revolutionary Guard Corps to implement foreign policy goals, provide cover for intelligence operations, and create instability in the Middle East. The Quds Force is Iran's primary mechanism for cultivating and supporting terrorists outside of Iran. Iran has acknowledged the involvement of the Quds Force in conflicts in Iraq and Syria.

In 2016, Iran remained the primary source of funding for Hizballah and coordinated closely with Hizballah in its efforts to create instability in the Middle East. Hizballah is a designated foreign terrorist organization, and Iran has trained thousands of its fighters at camps in Iran. Hizballah has contributed significant numbers of its fighters to support the Assad regime in Syria and carried out several attacks against Israeli Defense Forces in 2016 along the Lebanese border with Israel.

Iran continued to support Iraqi militant groups, including designated foreign terrorist organization Kata'ib Hizballah, and it has provided weapons, funding, and training to Bahraini militant groups that have conducted attacks on Bahraini security forces. In January 2016, Bahraini security officials dismantled a terrorist cell linked to the Quds Force that was planning to carry out a series of bombings throughout the country.

Iran remained unwilling to bring to justice senior al-Qaida members it continued to detain and has refused to publicly identify the members in its custody. Since at least 2009, Iran has allowed al-Qaida facilitators to operate a core facilitation pipeline through the country, enabling al-Qaida to move funds and fighters to South Asia and Syria.

Now that's a rundown of the major trends and findings as contained in the report. You'll find a lot more details in the individual country sections and then the accompanying statistical annex. And just a few words about the statistical annex which is appended to the report, and it is prepared by the University of Maryland's National Consortium for the Study of Terrorism and Responses to Terrorism, known as START, by the acronym START.

As I noted at the top of the briefing, the total number of terrorist attacks in 2016 decreased by 9 percent, and total deaths due to terrorist attacks decreased by 13 percent

compared to 2015. This was largely due to fewer attacks and deaths from terrorist attacks in Afghanistan, Syria, Nigeria, Pakistan, and Yemen. At the same time, there was an increase in terrorist attacks and total deaths in several countries, including Iraq, Somalia, and Turkey. ISIS was responsible for more attacks and deaths than any other perpetrator group in 2016. In 2015, it was the Taliban that was responsible for more attacks and deaths.

And although terrorist attacks took place in 104 countries in 2016, they were heavily concentrated geographically, as they have been for the past several years. Fifty-five percent of all attacks took place in Iraq, Afghanistan, India, Pakistan, and the Philippines, and 75 percent of all deaths due to terrorist attacks took place in Iraq, Afghanistan, Syria, Nigeria, and Pakistan.

All of these statistics and more are in the annex, as I said, that is appended to the report. And while I cite these statistics which are compiled by the University of Maryland and they are not a U.S. Government product, I must emphasize that numbers alone do not provide the full context, ... a point we make consistently when the numbers ... fall and rise from year to year in the report.

* * * *

d. ECJ determination regarding Hamas

On July 27, 2017, the State Department issued a media note welcoming the July 26 decision by the European Court of Justice to keep Hamas on the European Union's list of terrorist organizations. See media note available at <https://www.state.gov/r/pa/prs/ps/2017/07/272877.htm>.

e. UN

On December 21, 2017, the UN Security Council adopted two resolutions on the threat to international peace and security posed by terrorist acts. Resolution 2395 updates, strengthens, and renews the mandate of the Counterterrorism Executive Directorate ("CTED"). Ambassador Michele J. Sison, U.S. Deputy Permanent Representative to the UN, delivered remarks after the adoption of Resolution 2395, which are excerpted below and available at <https://usun.state.gov/remarks/8234>.

* * * *

Mr. President, this Council and the international community have found common cause in our fight against terrorism, but we are continually reminded of how much more we have to do. In 2017, terrorists have targeted villagers in the Sahel and worshippers in the Sinai. And, here, in this great world city of New York, we've twice seen the dangers posed by self-radicalized individuals. But the world is adapting, and we're getting better at fighting terrorism. In the Middle East, the Defeat-ISIS Coalition has liberated almost all of the territory of the so-called

Islamic State. And later today, the Security Council will adopt a landmark resolution to give us new tools to counter the threat posed by foreign terrorist fighters.

Here at the United Nations, this has been a remarkable year of change and reform. This year has seen some of the greatest changes to the UN counterterrorism architecture in over a decade. Under the Secretary-General's leadership, the UN has taken important first steps toward streamlining, elevating, and focusing its counterterrorism efforts with the establishment of the new UN Office of Counterterrorism. To further these reform efforts, today the Security Council has adopted a resolution to update and strengthen the mandate of the Counterterrorism Executive Directorate.

Established by the Security Council thirteen years ago, CTED has grown to become a critical counterterrorism body. In 2017, CTED again showed its great value. CTED experts have visited more than twenty countries to assess their implementation of counterterrorism resolutions, held many important briefings and open meetings, and engaged outside experts from governments, civil society, academia, and the private sector. CTED now has new leadership. We warmly welcome Michele Coninx and applaud her vision for a strong, dynamic CTED.

The overarching goal of the resolution adopted today—which will renew CTED's mandate for another four years—was to strengthen CTED even further. Today, more than ever before, we need a CTED that is agile and able to respond to new threats. I would highlight three goals of today's important resolutions.

First, this resolution aimed to help CTED focus squarely on its core mandate of visiting Member States to assess their implementation of counterterrorism resolutions. We hope it will foster even better CTED assessment reports built around actionable recommendations to counter terrorism. If we strengthen CTED's ability to carry out this core mandate, we can better ensure CTED's recommendations are acted on throughout the UN system and beyond.

Our second goal was to strengthen CTED's role as an early warning system for the Security Council and its Counterterrorism Committee. CTED can help the Counterterrorism Committee identify and assess cutting-edge counterterrorism events, trends, and threats. This requires broad engagement—and not just with Member States, but also civil society, academia, and the private sector. We also must look to media, cultural, and religious leaders, with an emphasis on women, youth, and locally-focused organizations.

And, third, this resolution aims to establish firmly CTED's place in the reformed UN counterterrorism architecture. Our goal was to promote a close and cooperative relationship with the new UN Office of Counterterrorism. For example, we want to see CTED's assessments and recommendations directly inform the technical assistance and capacity building efforts undertaken by other parts of the UN.

In addition to advancing these goals, the resolution adopted today recognizes one of the greatest lessons we've learned in the fight against terrorism. After many years of experience, the international community has come to recognize that effective counterterrorism strategies must be comprehensive and balanced strategies, which prioritize all four pillars of the UN's Global Counterterrorism Strategy. In practice, this means counterterrorism efforts must be multi-faceted, tailored to local conditions, and take into account ethnic and religious minorities. Successful counterterrorism efforts must simultaneously focus on strengthening criminal justice systems, tackling terrorist financing, bolstering civil aviation security, and protecting soft targets and critical infrastructure.

And just as terrorists target, exploit, and recruit women, we must respond by integrating gender as a cross-cutting issue throughout our counterterrorism efforts. That's why this mandate calls for CTED to integrate a gender perspective in its work, and, for the first time in a CTED mandate, also focuses on the impact of terrorism on children.

Now, one of the most essential elements of a balanced counterterrorism strategy is countering violent extremism. The prevention and countering of violent extremism has now become a core component of effective counterterrorism strategies worldwide. Today's resolution acknowledges the importance of this preventive work. It also brings us closer to an "all-of-UN" counterterrorism effort that includes critical prevention elements whenever and wherever appropriate.

The United States is also encouraged that CTED's mandate now reflects the reality that we will never defeat terrorism without respecting human rights. Heavy-handed counterterrorism responses and repression are gifts to terrorists. Putting human rights at the core of our counterterrorism efforts doesn't weaken our response to terrorism—it strengthens it. For this reason, we encourage CTED to ensure that respect for human rights is integrated throughout its work.

We thank our colleagues at CTED and in the Council for their hard work and shared commitment in the struggle against terrorism.

* * * *

Also on December 21, 2017, Secretary Tillerson issued a press statement on the adoption of UN Security Council Resolution 2396 on foreign terrorist fighters. That statement is excerpted below and available at <https://www.state.gov/secretary/20172018tillerson/remarks/2017/12/276749.htm>.

* * * *

Today, the United Nations Security Council unanimously adopted a new resolution that will help Member States detect and counter the threat posed by foreign terrorist fighters (FTFs), especially those returning from the conflict zone in Iraq and Syria. Resolution 2396 is particularly timely, given the collapse of ISIS's false caliphate and its continuing efforts to commit terrorist attacks around the world.

Building on the positive legacy of UN Security Council Resolution (UNSCR) 2178, which was adopted in 2014 and obliged all states to criminalize FTF-related activities, the Security Council today directed members to take additional steps to address the terrorist threat as it has evolved over the last three years.

Working with our partners, the United States led the negotiation of this new set of international obligations and commitments. UNSCR 2396 requires all UN members to use Passenger Name Record (PNR) data and Advanced Passenger Information (API) to stop terrorist travel. It also requires members to collect biometric data and develop watchlists of known and suspected terrorists, including foreign terrorist fighters. In addition, the new resolution calls for stricter aviation security standards and urges UN members to share counterterrorism information with each other.

These tools—which the United States has been using for years and which have now been embraced by the international community—will be critical in preventing the movement of ISIS fighters and other terrorists across the globe.

The successful adoption of UNSCR 2396 demonstrates the United States’ unwavering commitment to the complete defeat of ISIS. It also shows that the Security Council—along with the 66 countries that co-sponsored the resolution—remains firmly, unquestionably united in the face of the common threat of transnational terrorism. We look forward to working with countries, UN bodies, civil society, and the private sector to implement this groundbreaking resolution.

* * * *

f. U.S. actions against terrorist groups

(1) U.S. targeted sanctions implementing UN Security Council resolutions

See Chapter 16.A.4.b.

(2) Foreign terrorist organizations

(i) New designations

In 2017, the Secretary of State designated one^{**} additional organization and its associated aliases as a Foreign Terrorist Organization (“FTO”) under § 219 of the Immigration and Nationality Act: Hizbul Mujahideen, also known as HM and other aliases, 82 Fed. Reg. 39,150 (Aug. 17, 2017).

(ii) Amendments of FTO designations

During 2017, the Secretary of State amended the designations of several FTOs to include additional aliases. The designation of al-Qa’ida in the Arabian Peninsula was amended to include the additional aliases Sons of Abyan, Sons of Hadramawt, Sons of Hadramawt Committee, Civil Council of Hadramawt, and National Hadramawt Council. 82 Fed. Reg. 28,731 (June 23, 2017). The State Department amended the designation of Hizballah to add other aliases: Lebanese Hizballah, Lebanese Hezbollah, LH; Foreign Relations Department, FRD; External Security Organization, ESO, Foreign Action Unit, Hizballah ESO, Hizballah International, Special Operations Branch, External Services Organization, and External Security Organization of Hezbollah. 82 Fed. Reg. 28,730 (June 23, 2017). The State Department determined that the designation of Abdallah Azzam Brigade

^{**} Editor’s note: Some designation determinations made in 2017 were not published in the Federal Register until 2018: (1) ISIS-West Africa (ISIS-WA) and aliases, 83 Fed. Reg. 8730 (Feb. 28, 2018); (2) ISIS-Bangladesh and aliases, 83 Fed. Reg. 8729 (Feb. 28, 2018); and (3) ISIS-Philippines and aliases, 83 Fed. Reg. 8730 (Feb. 28, 2018).

should be amended to include the additional aliases, Marwan Hadid Brigades, also known as Marwan Hadid Brigade, 82 Fed. Reg. 50,928 (Nov. 2, 2017).

(iii) *Reviews of FTO designations*

During 2017, the Secretary of State continued to review designations of entities as FTOs consistent with the procedures for reviewing and revoking FTO designations in § 219(a) of the Immigration and Nationality Act, as amended by the Intelligence Reform and Terrorism Prevention Act of 2004 (“IRTPA”), Pub. L. No. 108-458, 118 Stat. 3638. See *Digest 2005* at 113–16 and *Digest 2008* at 101–3 for additional details on the IRTPA amendments and review procedures.

The Secretary reviewed each FTO individually and determined that the circumstances that were the basis for the designations of the following FTOs have not changed in such a manner as to warrant revocation of the designations and the national security of the United States did not warrant revocation: Haqqani Network, 82 Fed. Reg. 50,727 (Nov. 1, 2017); Jaish-e-Mohammed, 82 Fed. Reg. 50,728 (Nov. 1, 2017); Islamic Jihad Union, 82 Fed. Reg. 50,728 (Nov. 1, 2017); Abdallah Azzam Brigade, 82 Fed. Reg. 50,927 (Nov. 2, 2017); Islamic Resistance Movement (Hamas and other aliases), 82 Fed. Reg. 52,764 (Nov. 14, 2017).

The Secretary determined that the circumstances that were the basis for the designation of the Abu Nidal Organization as a foreign terrorist organization have changed in such a manner as to warrant revocation of the designation and revoked the designation. 82 Fed. Reg. 25,654 (Jun. 2, 2017).

(3) *Rewards for Justice Program*

On May 10, 2017, the State Department announced a reward offer of up to \$10 million for information leading to the identification or location of Muhammad al-Jawlani, leader of the al-Nusrah Front (“ANF”) terrorist group. See media note, available at <https://www.state.gov/r/pa/prs/ps/2017/05/270779.htm>. This was the first Rewards for Justice offer for a leader of ANF, which is the Syrian branch of al-Qaida. The media note summarizes al-Jawlani’s background as follows:

In April 2013, al-Jawlani pledged allegiance to al-Qaida and its leader Ayman al-Zawahiri after he had a public falling out with ISIS. In July 2016, in a video posted online, al-Jawlani praised al-Qaida and al-Zawahiri and claimed the ANF was changing its name to Jabhat Fath Al Sham (“Conquest of the Levant Front”).

In May 2013, the U.S. Department of State, under the authority of Executive Order (E.O.) 13224, named al-Jawlani a Specially Designated Global Terrorist, blocking all his property and interests in property subject to U.S. jurisdiction and prohibiting U.S. persons from dealing with him. On July 24, 2013, the UN Security Council ISIL (Da’esh) and al-Qaida Sanctions Committee placed al-Jawlani on its list of sanctioned terrorists, making him subject to an international asset freeze, travel ban, and arms embargo.

Under al-Jawlani's leadership, ANF has carried out multiple terrorist attacks throughout Syria, often targeting civilians. In April 2015, ANF reportedly kidnapped, and later released, approximately 300 Kurdish civilians from a checkpoint in Syria. In June 2015, ANF claimed responsibility for the massacre of 20 residents in the Druze village Qalb Lawzeh in Idlib province, Syria.

In January 2017, ANF merged with several other hardline opposition groups to form Hayat Tahrir al-Sham (HTS). ANF remains al-Qaida's affiliate in Syria. Jawlani is not the leader of HTS, but remains the leader of ANF, which is at the core of HTS.

For background on the Rewards for Justice program, more information about those for whom reward offers have been made, and the program's enhancements under the USA PATRIOT Act, see the Rewards for Justice website, www.rewardsforjustice.net, and Digest 2001 at 932-34.

2. Narcotics

a. Majors list process

(1) International Narcotics Control Strategy Report

In March 2017, the Department of State submitted the 2017 International Narcotics Control Strategy Report ("INCSR"), an annual report to Congress required by § 489 of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. § 2291h(a). The report describes the efforts of foreign governments to address all aspects of the international drug trade in calendar year 2015. Volume 1 of the report covers drug and chemical control activities and Volume 2 covers money laundering and financial crimes. The full text of the 2017 INCSR is available at <https://www.state.gov/j/inl/rls/nrcrpt/2017/>.

(2) Major drug transit or illicit drug producing countries

On September 13, 2017, the White House issued Presidential Determination 2017-12 "Memorandum for the Secretary of State: Presidential Determination on Major Drug Transit or Major Illicit Drug Producing Countries for Fiscal Year 2018." 82 Fed. Reg. 45,413 (Sep. 28, 2017). In this year's determination, the President named 22 countries: Afghanistan, The Bahamas, Belize, Bolivia, Burma, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, India, Jamaica, Laos, Mexico, Nicaragua, Pakistan, Panama, Peru, and Venezuela, as countries meeting the definition of a major drug transit or major illicit drug producing country. A country's presence on the "Majors List" is not necessarily an adverse reflection of its government's counternarcotics efforts or level of cooperation with the United States. The President determined that Bolivia and Venezuela "failed demonstrably" during the last twelve months to make sufficient or meaningful efforts to adhere to their obligations under international counternarcotics agreements. The notice in the Federal

Register explained that Colombia had been seriously considered for designation as for failing demonstrably to adhere to its obligations, “due to the extraordinary growth of coca cultivation and cocaine production over the past 3 years, including record cultivation during the last 12 months.” However, Colombia was not designated according to the notice, because “the Colombian National Police and Armed Forces are close law enforcement and security partners of the United States in the Western Hemisphere, they are improving interdiction efforts, and have restarted some eradication that they had significantly curtailed beginning in 2013.” Simultaneously, the President determined that support for programs to aid the people of Venezuela is vital to the national interests of the United States, thus ensuring that such U.S. assistance would not be restricted during fiscal year 2018 by virtue of § 706(3) of the Foreign Relations Authorization Act, Fiscal Year 2003, Pub. L. No. 107-228, 116 Stat. 1424.

b. *Interdiction assistance*

In 2017 the President of the United States again certified, with respect to Colombia (Daily Comp. Pres. Docs., 2017 DCPD No. 00490, p. 1, Jul. 21, 2017), that (1) interdiction of aircraft reasonably suspected to be primarily engaged in illicit drug trafficking in that country’s airspace is necessary because of the extraordinary threat posed by illicit drug trafficking to the national security of that country; and (2) the country has appropriate procedures in place to protect against innocent loss of life in the air and on the ground in connection with such interdiction, which shall at a minimum include effective means to identify and warn an aircraft before the use of force is directed against the aircraft. President Trump made his determination pursuant to § 1012 of the National Defense Authorization Act for Fiscal Year 1995, as amended, 22 U.S.C. §§ 2291–4. For background on § 1012, see *Digest 2008* at 114.

c. *UN*

On February 21, 2017, Luis E. Arreaga, Principal Deputy Assistant Secretary of State for the Bureau of International Narcotics and Law Enforcement Affairs, delivered remarks at the Bangkok III Conference in Washington, DC. His remarks are excerpted below and available at <https://www.state.gov/j/inl/rls/rm/2017/268033.htm>.

* * * *

As we begin our discussions, I think all of us can agree that the challenges posed by psychoactive substances require urgent attention from the international community, and that this forum provides a unique opportunity to work collectively to address these challenges. It is our sincere hope that at the end of this conference we have broad agreement on recommendations that our governments can consider for formal endorsement at the 60th Session of the Commission on Narcotic Drugs (CND) in Vienna next month.

Transnational criminal organizations dealing with illicit drugs are relying increasingly on synthetic products to harm our societies. They operate complex supply and distribution networks that cross multiple international boundaries. As a result the challenges they pose to the agencies responsible for countering these criminal organizations require that we redouble our efforts to work collectively. We need to work together to track and control the precursor chemicals used to manufacture drugs such as heroin, the synthetic opioid fentanyl, and methamphetamine. We need work together tackle new psychoactive substances (NPS), including fentanyl analogues, which are being produced and brought to market much faster than our traditional methods to evaluate and control them.

We recognize that we are making some progress. Tools created by the INCB, such as Pre-Export Notification Online (PEN Online) and the Precursors Incident Communication System (PICS), have been critical in this regard. The United States has used these tools to shed light on the evolving threat posed by new methamphetamine precursor chemicals.

Not surprisingly, traffickers have adapted by seeking alternate shipping methods, and by developing new chemicals to circumvent international controls, monitoring, and surveillance.

Ladies and gentlemen we are confronting a dynamic challenge that requires similarly dynamic responses and cooperation.

In this connection, the United States will introduce a resolution for consideration at the 60th CND that advocates for increased international coordination and collaboration to address the problems posed by precursor chemicals.

We are confronting a national crisis which is already spreading to other countries, as is the case with our neighbor to the north, Canada. The Centers for Disease Control estimate that nearly 20,000 people died from overdose deaths involving heroin or fentanyl in 2015. This means that we had average of 91 overdose deaths involving opioids per day.

At this juncture, I would like to invite you to attend a side event hosted by the United States, Mexico, and Canada where you will have an opportunity to learn about the impact of fentanyl and its precursors in our countries.

While fentanyl itself is internationally controlled under the Single Convention, ANPP and NPP, the two most prevalent precursor chemicals used to illicitly manufacture fentanyl, are not controlled by any international drug convention. We need to control these precursors. In March, members of the Commission on Narcotic Drugs will have the opportunity to decide whether to control these fentanyl precursor chemicals—ANPP and NPP—under the 1988 Convention, and heed the recommendation of the International Narcotics Control Board to do so. If approved, this would be a critical measure to prevent the fentanyl threat from crossing other borders. We would greatly appreciate your country's support for this initiative at the CND next month.

The UN reports that more than 700 new substances have emerged over the last five years, and what we know about these substances is disconcerting and challenging because the international architecture set up to treat drug abuse and control the spread of those substances has not kept pace. We must adapt and use all the tools at our disposal.

This was endorsed by the 2016 UN General Assembly Special Session on the World Drug Problem (UNGASS). We think we should focus on four measures:

First, as with all substance abuse disorders, education, prevention, and treatment are the first lines of defense. In the United States, we support primary prevention to reduce the number of first time users, with an emphasis on young people.

Second, early warning and information sharing help us prepare for emerging NPS trends. The UNODC Global Synthetics Monitoring, Analysis Reporting and Trends (SMART) program

includes forensics and a database of legal approaches. The INCB's Project ION—International Operations on NPS—allows member states to share operational information on NPS trafficking and work together to dismantle these networks. We urge countries to provide information on new substances to UNODC and the INCB to make these tools as robust as possible.

Third, we need to develop flexible domestic systems that can handle the influx of NPS entering the market. In the United States, we have legislation that allows for criminal action against traffickers of drugs that are analogues of scheduled substances, because they have the same psychotropic effect but potentially a different chemical composition. We also have the ability to schedule substances on an emergency basis. On this note, the United States would like to highlight China's success in accelerating their processes for domestic control of NPS and synthetic opioids. China domestically controlled 116 NPS in 2015, and just last week, announced the domestic control of four harmful fentanyl analogues, including carfentanil, after only a four month domestic review process. Efforts such as these, exhibiting efficiency and flexibility, are worth emulating by the international community to handle the influx of NPS entering the market.

Fourth, we should expand the use of the treaty-based international scheduling tools to bolster our defenses against the most prevalent and dangerous substances. We believe that UNGASS strengthened the relevancy and role that the Conventions have in addressing global drug issues.

Madam Chairperson, decades of our mutual experience battling the drug problem have shown that voluntary international cooperation is vitally important. I think you will agree that inside our countries, public health, justice, and law enforcement agencies need to work closely together. At the regional level, organizations such as ASEAN, the Organization of American States, the EU, and the Paris Pact play critical roles in fostering cross-border coordination and information sharing. Globally, the INCB, UNODC, and the CND have the mandate to bring all countries together and to establish universal standards on issues such as chemical control and NPS.

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On March 13, 2017, William R. Brownfield, Assistant Secretary of State for the Bureau of International Narcotics and Law Enforcement Affairs, delivered remarks at the 60th Session of the Commission on Narcotic Drugs ("CND") in Vienna, Austria. His remarks are excerpted below and available at <https://www.state.gov/j/inl/rls/rm/2017/269232.htm>.

* * * *

At the first meeting of the Commission since last year's landmark United Nations General Assembly Special Session on the World Drug Problem (UNGASS), I reiterate the commitments we made there and urge that we focus on implementing them. We recognize the need for comprehensive, balanced approaches to drug policy and seek to advance the implementation of the UNGASS outcomes while re-affirming this Commission's primary role in international drug control matters. The 2009 Political Declaration called for a review, and that is what we accomplished at the 2016 UNGASS. So our focus here and for 2019 needs to be on the practical implementation of more than 100 recommendations agreed to at UNGASS.

My government is acutely focused on advancing implementation of the UNGASS outcome document through practical and operational measures to address the challenges related to the world drug problem. One of the most serious is the ongoing opioid crisis impacting our communities.

According to the most recent data from our Centers for Disease Control and Prevention, in the United States alone, more than 33,000 people died from overdoses involving prescription or illicit opioids in 2015. Of these 33,000, 60 percent—or nearly 20,000 overdose deaths—involved heroin or synthetic opioids, including fentanyl. The presence of fentanyl in toxicology screenings, in fact, is so difficult to detect that we fear these numbers are actually an underestimation. The reality for us is that drug overdose has exceeded any other form of injury-related death, including traffic accidents. This dramatic increase in drug overdose fatalities is not simply a U.S. problem: according to the 2016 report from the International Narcotics Control Board (INCB), the overdose situation in other countries has reached “crisis levels.”

One way we can curb this trend is to increase regulations on the two most prevalent precursor chemicals used to produce illicit fentanyl, ANPP and NPP. As many of you know, the United States requested to add ANPP and NPP to the international control regime under the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. The INCB conducted a scientific review, using information submitted by UN Member States, and recommended international control of these chemicals. We applaud the INCB’s rapid response. It demonstrates that the treaties are able to respond nimbly to today’s challenges.

International control of these chemicals will not prohibit their use in the legitimate market. They will only require increased regulation. My own United States has a legitimate industry for fentanyl as a medication. We have already placed these chemicals under domestic controls and have not seen an impact on legitimate industry use.

International control of these chemicals is an important prevention measure as well. We protect the public health and safety of our citizens by denying traffickers new markets and by preventing this epidemic from spreading to new territories.

Colleagues, we urge you to vote in support of this measure when it comes up for decision in the Plenary on Thursday afternoon.

Ladies and gentlemen, in 2015, the government of China took an unprecedented step and controlled 116 new psychoactive substances (NPS). And just last month, China announced the domestic control of four harmful fentanyl analogues, including carfentanil, a particularly dangerous veterinary form of fentanyl. My government applauds China’s leadership in this field. China’s action and the INCB’s rapid response to the request to control fentanyl pre-cursors are models of how to respond efficiently and flexibly to the influx of NPS on the market.

Finally, the United States is pleased to present two resolutions for consideration during this Commission. First, as follow-on from UNGASS, we offer a resolution seeking greater coordination across the UN system as we implement UNGASS outcomes. Second, as follow-on from the INCB’s conference in February on precursors and new psychoactive substances, we are advocating for increased cooperation on precursor chemicals. We look forward to discussing these texts with you in the course of this week.

I thank you, Madam Chairwoman. We look forward to a productive and successful Diamond Jubilee Commission on Narcotic Drugs.

* * * *

On March 16, 2017, after the UN Commission on Narcotic Drugs voted to add fentanyl precursors to the international control regime under the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, as proposed by the United States, Kara McDonald, Office Director for the State Department's Office of Policy, Planning and Coordination in the Bureau of International Narcotics and Law Enforcement Affairs, provided the following intervention on behalf of the United States. Her remarks are also available at <https://www.state.gov/j/inl/rls/rm/2017/268488.htm>.

* * * *

I want to express the gratitude of my government for this show of solidarity and support in voting to internationally control precursor chemicals to fentanyl. Let there be no mistake—this vote today will save lives. This is a profound example of how international action can positively impact the lives of our citizens.

Adding these precursor chemicals to the 1988 Convention will make it more difficult for traffickers to access them for illicit purposes, because they will now be subject to increased regulation by UN Member States.

The United States believes this action, as it takes effect, is an important tool in controlling the flow of fentanyl.

We note that the time between my government making this request to the UN Secretary General, to today's historic vote, was an unprecedented four months. My government congratulates the INCB for this record and looks forward to this serving as a precedent as we tackle the NPS crisis.

My delegation thanks the INCB, the UNODC Secretariat, and the member states for your support on this issue, and looks forward to our continued collaboration.

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3. Trafficking in Persons

a. Trafficking in Persons report

In June 2017, the Department of State released the 2017 Trafficking in Persons Report pursuant to § 110(b)(1) of the Trafficking Victims Protection Act of 2000 ("TVPA"), Div. A, Pub. L. No. 106-386, 114 Stat. 1464, as amended, 22 U.S.C. § 7107. The report covers the period April 2016 through March 2017 and evaluates the anti-trafficking efforts of countries around the world. Through the report, the Department determines the ranking of countries as Tier 1, Tier 2, Tier 2 Watch List, or Tier 3 based on an assessment of their efforts with regard to the minimum standards for the elimination of trafficking in persons as set out by the TVPA, as amended. The 2017 report lists 23 countries as Tier 3 countries, making them subject to certain restrictions on assistance in the absence of a Presidential national interest waiver. For details on the Department of State's methodology for designating states in the report, see *Digest 2008* at 115–17. The report

is available at <https://www.state.gov/j/tip/rls/tiprpt/2017/index.htm>. Chapter 6 in this *Digest* discusses the determinations relating to child soldiers.

On June 27, 2017, Secretary Tillerson and Susan Coppedge, Ambassador-at-Large for the Office to Monitor and Combat Trafficking in Persons, delivered remarks at the 2017 ceremony announcing the release of the 2017 Trafficking in Persons Report. Secretary Tillerson's remarks are excerpted below and available at <https://www.state.gov/secretary/20172018tillerson/remarks/2017/06/272205.htm>.

* * * *

I think before I get to some of my prepared remarks, ... since this was my first one of these to review and sign off on and make the report, I thought it useful to go back and read the original reason why we do this. This is the Victims of Trafficking and Violence Protection Act of 2000, and that's really where this all began. And I think it is useful to remind us why we're here this morning, why we're gathered in this room, and what the United States Government and the people of the United States were really trying to express in this area.

And I think if you go back to the preamble to this act, I think it really sums it up well. It says, "The purpose of this act is to combat trafficking in persons, a contemporary manifestation of slavery, whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect the victims." ... I want to read just one more line: "As the 21st century begins, the degrading institution of slavery continues throughout the world."

That is why we are here this morning. It then ... goes on to require that the State Department prepare this annual report to make an assessment of how governments around the world are taking action to address this. And I think it's really through actions what this act motivated and what the State Department is doing as it meets its obligation, is we're identifying first where the problems are: how do the problems manifest themselves—because they continue to evolve and take on new characteristics; how do we then work with governments to cause them to put in place laws that allow them to then pursue those who participate in these various forms of human trafficking; how do we encourage governments to enforce those laws and actually begin to hold people accountable; and lastly, how do we create the conditions where the victims or the potential victims of human trafficking are able to come forward in a non-threatening way and help us understand better how this is occurring.

And it's really the results of what we do that matter. ...

Human trafficking is as old as humankind. Regrettably, it's been with us for centuries and centuries. But in the expression of this act, as I read that one line to you, it is our hope that the 21st century will be the last century of human trafficking, and that's what we are all committed to. ...

Regrettably, our challenge is enormous. Today, globally, it's estimated that there are 20 million victims of human trafficking. So, clearly, we have a lot of work to do and governments around the world have a lot of work to do.

So let me now make a few comments on the report and why it's so important. Obviously, ... our failure to act in this area has so many other negative impacts around the world: it breeds corruption; it undermines rule of law; it erodes the core values that underpin a civil society.

Transnational criminal networks also ... are partly enabled by participating in human trafficking activities as well.

When state actors or nonstate actors use human trafficking, it can become a threat to our national security.

North Korea, for instance, depends on forced labor to generate illicit sources of revenue in industries including construction, mining, and food processing. An estimated fifty to eighty thousand North Korean citizens are working overseas as forced laborers, primarily in Russia and China, many of them working 20 hours a day. Their pay does not come to them directly. It goes to the Government of Korea, which confiscates most of that, obviously.

The North Korean regime receives hundreds of millions of dollars per year from the fruits of forced labor. Responsible nations simply cannot allow this to go on, and we continue to call on any nation that is hosting workers from North Korea in a forced labor arrangement to send those people home. Responsible nations also must take further action. China was downgraded to Tier Three status in this year's report in part because it has not taken serious steps to end its own complicity in trafficking—including forced laborers from North Korea that are located in China.

American consumers and businesses must also recognize they may have an unwitting connection to human trafficking. Supply chains creating many products that Americans enjoy may be utilizing forced labor. The State Department does engage with businesses to alert them to these situations so that they can take actions on their own to ensure that they are not in any way complicit.

Most tragically, human trafficking preys on the most vulnerable, young children, boys and girls, separating them from their families, often to be exploited, forced into prostitution or sex slavery.

The State Department's 2017 Trafficking in Persons Report exposes human trafficking networks and holds their operators and their accomplices accountable.

The focus of this year's report is governments' responsibilities under the Palermo Protocol to criminalize human trafficking in all its forms and to prosecute offenders. We urge the 17 countries that are not a party to the international Protocol to Prevent, Suppress, and Punish Trafficking in Persons to reconsider their position and to join the other countries who have made that commitment.

The 2017 TIP Report also emphasizes governments must put forward tougher anti-corruption laws and enforce them, so that traffickers do not get a free pass for those who choose to turn a blind eye.

Importantly, nations must educate law enforcement partners on how to identify and respond to those who dishonorably wear the law enforcement uniform or the military uniform by allowing trafficking to flourish. The most devastating examples are police officers and those who we rely upon to protect us, that they become complicit through bribery, by actually working in brothels themselves, or obstructing investigations for their own profit. Complicity and corruption that allows human trafficking from law enforcement officials must end.

We know shutting down these networks is challenging. But these challenges cannot serve as an excuse for inaction.

The 2017 TIP Report also recognizes those governments making progress. We want to give them credit for what they are doing. Last year, governments reported more than 9,000 convictions of human-trafficking crimes worldwide, up from past years.

Just to mention a few highlights:

Last July, the president of Afghanistan ordered an investigation into institutionalized sexual abuse of children by police officers, including punishment for perpetrators. In January, a new law was enacted criminalizing *bacha baazi*, a practice that exploits boys for social and sexual entertainment. The government continues to investigate, prosecute, and convict traffickers—including complicit government officials.

In the Ukraine—a country that has been on the Watch List for years—the office of the prosecutor general issued directives to improve investigations of trafficking, and increased efforts to root out complicity, including convictions of police officers. A teacher at a government-run school, a government-run boarding school for orphans, has been arrested for trying to sell a child. And officials are now on notice that complicity in trafficking will be met with strict punishment.

In the Philippines, increased efforts to combat trafficking have led to the investigation of more than 500 trafficking cases and the arrest of 272 suspects—an 80 percent increase from 2015.

Given the scale of the problem, though, all of these countries, and many more, have much to do. But it is important to note their progress and encourage their continued commitment.

As with other forms of illicit crime, human trafficking is becoming more nuanced and more difficult to identify. Much of these activities are going underground and they're going online.

The State Department is committed to continuing to develop with other U.S. agencies, as well as our partners abroad, new approaches to follow these activities wherever they go and to train law enforcement to help them improve their technologies to investigate and prosecute these crimes.

To that end, I am pleased to highlight a State Department initiative announced earlier this year.

The Program to End Modern Slavery will increase funding for prosecution, protection, and prevention efforts to reduce the occurrence of modern slavery wherever it is most prevalent. The program is the result of the important support of Congress, especially from Chairman Corker, and other leaders committed to bringing more people out from under what is a crime against basic human rights.

The Program to End Modern Slavery will fund transformational programs but also set about to raise commitments of \$1.5 billion in support from other governments and private donors, while developing the capacity of foreign governments and civil society to work to end modern slavery in their own countries.

As we reflect on this year's reports and the state of human trafficking the world over, we recognize those dedicated individuals who have committed their lives—and in some cases put their lives at risk—in pursuit of ending modern slavery. For many victims, theirs is the first face of hope they see after weeks or even years of fear and pain.

The 2017 TIP Report Heroes will be recognized formally in just a few minutes, but I want to thank them and express my own admiration for their courage, leadership, sacrifice, and devotion to ending human trafficking. ...

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Ambassador Coppedge also provided a briefing on the 2017 TIP Report on June 27, 2017, available at <https://www.state.gov/r/pa/prs/ps/2017/06/272212.htm>. In her

briefing, Ambassador Coppedge summarized the statistics in the 2017 TIP Report as follows:

Of the 187 countries assessed under the minimum standards, 36 countries were placed on Tier One, 80 on Tier Two, 45 were placed on the Tier Two Watch List, and 23 countries were on Tier Three. In all, there were 21 downgrades, meaning a country moved down a level, and 27 upgrades.

b. Presidential determination

Consistent with § 110(c) of the Trafficking Victims Protection Act, as amended, 22 U.S.C. § 7107, the President annually submits to Congress notification of one of four specified determinations with respect to “each foreign country whose government, according to [the annual Trafficking in Persons report]—(A) does not comply with the minimum standards for the elimination of trafficking; and (B) is not making significant efforts to bring itself into compliance.” The four determination options are set forth in § 110(d)(1)–(4).

On September 30, 2017, the President issued a memorandum for the Secretary of State, “Presidential Determination With Respect to Foreign Governments’ Efforts Regarding Trafficking in Persons.” 82 Fed. Reg. 50,047 (Oct. 27, 2017). The President’s memorandum conveys determinations concerning the countries that the 2017 Trafficking in Persons Report lists as Tier 3 countries. See Chapter 3.B.3.a. *supra* for discussion of the 2017 report.

4. Money Laundering

Effective December 8, 2017, U.S. financial institutions were prohibited from opening or maintaining a correspondent account for, or on behalf of, Bank of Dandong Co., Ltd. (“Bank of Dandong”) as a financial institution of primary money laundering concern pursuant to Section 311 of the USA PATRIOT Act (Section 311). Covered U.S. financial institutions are required to take reasonable steps not to process transactions for the correspondent account of a foreign banking institution in the United States if such a transaction involves Bank of Dandong and to apply special due diligence to their foreign correspondent accounts that is reasonably designed to guard against their use to process transactions involving Bank of Dandong. 82 Fed. Reg. 51,758 (Nov. 8, 2017). The Department of the Treasury’s Financial Crimes Enforcement Network (“FinCEN”) found reasonable grounds for concluding that Bank of Dandong is a financial institution of primary money laundering concern due to its use to evade international sanctions on North Korea. Excerpts follow from FinCen’s findings, published in the Federal Register.

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...Increasing U.S. and international sanctions on North Korea have caused most banks worldwide to sever their ties with North Korean banks, impeding North Korea's ability to gain direct access to the global financial system. As a result, North Korea uses front companies and banks outside North Korea to conduct financial transactions, including transactions in support of its WMD and conventional weapons programs. For example, as of mid-February 2016, North Korea was using bank accounts under false names and conducting financial transactions through banks located in China, Hong Kong, and various Southeast Asian countries. The primary bank in China was Bank of Dandong.

In early 2016, accounts at Bank of Dandong were used to facilitate millions of dollars of transactions on behalf of companies involved in the procurement of ballistic missile technology. This includes facilitating financial activity for North Korean entities designated by the United States and listed by the United Nations (UN) for WMD proliferation, as well as for front companies acting on their behalf.

Bank of Dandong has, for example, facilitated financial activity for Korea Mining Development Trading Corporation (KOMID), a U.S.- and UN- designated entity. As of early 2016, a front company for KOMID maintained multiple bank accounts with Bank of Dandong. The President blocked KOMID by listing it in the Annex of Executive Order 13382 in 2005, and the Office of Foreign Assets Control (OFAC) designated KOMID pursuant to Executive Order 13687 in January 2015 for being North Korea's primary arms dealer and its main exporter of goods and equipment related to ballistic missiles and conventional weapons.

FinCEN is concerned that Bank of Dandong uses the U.S. financial system to facilitate financial activity for Korea Kwangson Banking Corporation (KKBC) and KOMID, as well as other entities connected to North Korea's WMD and ballistic missile programs. KKBC is a U.S.- and UN-designated North Korean bank that has provided financial services in support of WMD proliferators. For example, based on FinCEN's analysis of financial transactional data provided to FinCEN by U.S. financial institutions pursuant to the BSA as well as other information available to the agency, FinCEN assesses that at least 17 percent of Bank of Dandong customer transactions conducted through the Bank of Dandong's U.S. correspondent accounts from May 2012 to May 2015 were conducted by companies that have transacted with, or on behalf of, U.S.- and UN-sanctioned North Korean entities, including designated North Korean financial institutions and WMD proliferators. In addition, U.S. banks have identified a substantial amount of suspicious activity processed by Bank of Dandong, including: (i) Transactions that have no apparent economic, lawful, or business purpose and may be tied to sanctions evasion; (ii) transactions that have a possible North Korean nexus and include activity between unidentified companies and individuals and behavior indicative of shell company activity; and (iii) transactions that include transfers from offshore accounts with apparent shell companies that are domiciled in jurisdictions known for their financial secrecy and banking in another country.

FinCEN is also concerned that, until recently, an entity designated by OFAC for its ties to North Korea's WMD proliferation maintained an ownership stake in Bank of Dandong. Specifically, this entity, Dandong Hongxiang Industrial Development Co. Ltd. (DHID), maintained a minority ownership interest in Bank of Dandong until December 2016. The United States designated DHID in 2016 for acting for, or on behalf of, KKBC. KKBC maintained a direct relationship with Bank of Dandong since approximately 2013. FinCEN believes that DHID's ownership stake in Bank of Dandong allowed DHID to access the U.S. financial system through the bank. Based on FinCEN's analysis of financial transactional data provided to

FinCEN by U.S. financial institutions pursuant to the BSA, Bank of Dandong processed approximately \$56 million through U.S. banks for DHID between October 2012 and December 2014. Even though DHID may no longer maintain an ownership stake in Bank of Dandong, FinCEN is concerned that the close relationship between the two entities helped establish Bank of Dandong as a prime conduit for North Korean activity.

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5. Organized Crime

a. *UN General Assembly High-Level Debate on the UN Convention against Transnational Organized Crime*

On June 19, 2017, Daniel Foote, Deputy Assistant Secretary of State for the Bureau of International Narcotics and Law Enforcement Affairs, delivered remarks at the UN General Assembly High-Level Debate on the Implementation of the UN Convention against Transnational Organized Crime (“UNTOC”). His remarks are excerpted below and available at <https://www.state.gov/j/inl/rls/rm/2017/272024.htm>.

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President Trump identified combating transnational crime as one of his administration’s top priorities. He issued Executive Order 13773 in February to direct the U.S. government to substantially improve cooperation to aggressively dismantle these criminal groups. Secretary of State Tillerson is helping lead this process and has elevated transnational organized crime as a top diplomatic U.S. priority. We are working to ensure that U.S. efforts to carry out this executive order complement our support to UNODC assistance programs and U.S. law enforcement cooperation under the UNTOC.

The UNTOC is not just a roster of political commitments or obligations. Instead, it requires all parties to criminalize acts like conspiracy, obstruction of justice, and money laundering, and gives authorities the standards they need to find and prosecute criminals globally.

Since 2005, the United States has relied on the UNTOC over 500 times to provide or request international legal cooperation with nearly 70 countries. The UNTOC has helped us request or answer requests from more than 30 countries to extradite over 200 charged or convicted members of organized criminal groups.

We have been asked today to evaluate the implementation of the UNTOC. In our view, this treaty’s performance can and should not be evaluated by whether it helps achieve the Sustainable Development Goals—as important as they are—or whether States Parties create a new review mechanism.

Instead, we measure the impact of the UNTOC by its practical results and service to member states. We measure impact by the number of times governments have actually used the Convention as a basis for mutual legal assistance or extradition.

We are committed to debating new ideas to promote the UNTOC through its Conference of Parties (COP), the treaty's governing body. But we are convinced this treaty's success is linked to the empowerment of our experts who use it on a daily basis.

We are also supporting law enforcement experts at the multilateral level. That is why the United States sponsored a resolution last year at the UNTOC COP to enhance support for experts who facilitate international cooperation, known as "central authorities."

The success of the UNTOC is tied not to the work of diplomats in Vienna and New York, but rather to that of investigators and prosecutors in cities like Palermo, who desperately need to obtain bank records, evidence, and testimony from Switzerland, and fugitives from Spain and the United States....

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That is the focus we will bring to Vienna. We encourage all Parties to send their experts to Vienna to help bring this Convention to life.

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b. Sanctions Program

See Chapter 16 for a discussion of sanctions related to transnational organized crime.

6. Corruption

On November 7, 2017, James A. Walsh, Acting Principal Deputy Assistant Secretary of State for the Bureau of International Narcotics and Law Enforcement Affairs, delivered opening remarks for the United States at the 7th Conference of States Parties to the UN Convention Against Corruption in Vienna, Austria. His remarks are excerpted below and available at <https://www.state.gov/j/inl/rls/rm/2017/275361.htm>.

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Madam President, distinguished delegates, and members of the Secretariat, it is a pleasure to welcome Guatemala as the incoming President of the Conference of States Parties to the United Nations Convention against Corruption. We commend the efforts of the Government of Guatemala under President Morales to support the fight against corruption and impunity undertaken by the Attorney General. Anti-corruption efforts are essential to all our governments' work to improve prosperity, enhance security, and promote good governance, and to our broader mission here in Vienna today.

Fourteen years ago, the international community joined together to sign a transformational document: a global legal framework for preventing and combating corruption. Since 2005, States Parties have met seven times to improve how we implement the Convention,

and today, we have much to show for it. Our frameworks, laws, and policies—and related international cooperation—are undoubtedly better today compared to 2005. However, our job is not finished.

The UNCAC provides us a common basis to take all the necessary steps to prevent and combat corruption if we have enough political will and use the treaty effectively. Whether we seek to prevent, criminalize, investigate, or prosecute corruption, or to recover and return stolen assets, this Convention remains the comprehensive global legal framework for fighting corruption. Where there might be any questions about how this Convention can work in practice, we should use the COSP and its working groups to share ideas and help each other. That is why we are all here.

Our own commitment to the UNCAC remains resolute. The United States continues to aggressively tackle corruption and its corrosive effect on security and prosperity. Domestically, our Department of Justice has continued robust enforcement of the Foreign Corrupt Practices Act (FCPA). In 2016, the United States had a record year for enforcement of the FCPA against corporate defendants, to include final enforcement actions against 28 multinational companies. In December 2016, for example, Odebrecht and Braskem—which paid over \$788 million in bribes to government officials across the globe—entered into the largest-ever global corporate resolution with Brazil, Switzerland, and the United States. International cooperation is instrumental in helping to investigate and prosecute these and many other corruption cases. In addition, we remain committed to targeting ill-gotten gains. Through international cooperation and our Kleptocracy Asset Recovery Initiative, we have seized or frozen over \$3 billion in corruption-related proceeds since 2010, having returned more than \$150 million to date with another \$30 million in process.

Abroad, anti-corruption technical assistance and capacity building remains a significant component of our foreign policy and foreign assistance. We have worked with partner countries to create a culture of integrity to prevent corruption and mitigate risk against corruption, develop consequence to corruption through laws and law enforcement, and strengthen civil society and oversight bodies. We continue to support UNODC and other international organizations that provide technical assistance to countries seeking to recover stolen assets.

We care deeply about technical assistance, so that is why my delegation has sponsored a related resolution at this COSP, with the principal goals of promoting transparency and information sharing. We look forward to working with you all to refine the text.

As we implement the UNCAC, we must also draw on all sectors of society to fight corruption, including civil society organizations and the private sector. We have nothing to hide—and much to gain—from their engagement with us in the COSP and its subsidiary bodies. We encourage all States Parties to engage more actively with civil society, including as part of the Review Mechanism and when formulating technical assistance programs related to the UNCAC.

We are cognizant that good-faith efforts by the United States or any single country will never be enough: we all must work together to adopt and enforce international standards of integrity, accountability, and transparency. As such, the United States looks forward to having our policies and practices reviewed under the second cycle of the UNCAC Review Mechanism in 2018.

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C. INTERNATIONAL, HYBRID, AND OTHER TRIBUNALS**1. International Criminal Court****a. *Assembly of States Parties***

On December 8, 2017, Acting Legal Adviser Richard Visek delivered the statement on behalf of the United States at the 16th session of the Assembly of States Parties of the International Criminal Court. That statement follows and is available at https://asp.icc-cpi.int/iccdocs/asp_docs/ASP16/ASP-16-USA.pdf.

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The United States strongly supports justice and accountability for war crimes, crimes against humanity, and genocide, including through support of domestic accountability efforts. We appreciate the efforts of the ICC and the Parties to the Rome Statute to pursue these objectives. At the same time, recent developments in connection with a request by the Office of the Prosecutor to open an investigation into the situation in Afghanistan raise serious and fundamental concerns that we wish to register today.

The United States rejects any assertion of ICC jurisdiction over nationals of States that are not parties to the Rome Statute, absent a UN Security Council referral or the consent of that State. Dating back to the 1990s, the United States has consistently objected to any exercise of jurisdiction by the ICC over U.S. personnel. We affirm this continuing position of the United States Government, and object to the request by the Office of the Prosecutor for authorization from the Court to pursue an investigation of alleged actions by U.S. personnel in the context of the conflict in Afghanistan. As the United States has previously stated, we will regard as illegitimate any attempt by the Court to assert the ICC's jurisdiction over American citizens.

I'd like to briefly elaborate on some of the concerns of the United States.

As an initial matter, and as we have consistently emphasized, the United States is not a party to the Rome Statute and has not consented to any assertion of ICC jurisdiction, nor has the Security Council taken action under Chapter VII of the UN Charter to establish jurisdiction over U.S. personnel. It is a fundamental principle of international law that a treaty is binding only on its parties and that it does not create obligations for non-parties without their consent. The Rome Statute cannot be interpreted as disposing of rights of the United States as a non-Party without U.S. consent.

The United States respects the decision of those nations that have chosen to join the ICC, and in turn, we expect that our decision not to join and not to place our citizens under the court's jurisdiction will also be respected.

Additionally, we are concerned about any ICC determination—as required by the Rome Statute's core principle of complementarity—on, for example, the genuineness of U.S. legal proceedings without United States consent. The principle of complementarity fundamentally limits the ICC's exercise of jurisdiction to those cases in which a State is genuinely unwilling or unable to comply with its duties, such as those under the Geneva Conventions, to investigate and prosecute war crimes, genocide, and crimes against humanity. Just as we have not consented to

jurisdiction over our personnel, we have not consented to the ICC's evaluation of our own accountability efforts.

In raising these concerns, we are at the same time committed to accountability.

The United States has undertaken numerous, vigorous efforts to determine whether its personnel have violated the law and, where there have been violations, has taken appropriate actions to hold its personnel accountable. The United States is deeply committed to complying with law, and has a robust system of investigation, accountability and transparency that is among the best in the world. Indeed, we note the irony that in seeking permission to investigate the actions of U.S. personnel, the Prosecutor appears to have relied heavily upon information from investigations that the United States Government itself decided to make public. We question whether pursuing this investigation will make other countries less willing or able to engage in similar examinations of their own actions and to be transparent about the results. Furthermore, our efforts to hold ourselves to the highest standards of accountability and public transparency must not be misunderstood as an invitation for the ICC to review those efforts.

By intervening at this meeting, we are expressing our long standing, continuing, and principled objections. We registered these objections throughout the course of the negotiations in the 1990s. We registered these objections following the entry into force of the Rome Statute. And we repeat these objections today. Further, we have long believed and stated that justice is most effective when it is delivered at the local level. In this regard, we don't believe that moving to open an investigation by the ICC would serve the interests of either peace or justice in Afghanistan.

The United States stands as a strong ally in the fight to end impunity. Earlier this week, we joined many of you in commemorating the accomplishments of the International Criminal Tribunal for the Former Yugoslavia, an institution we have supported since day one as an important way to help ensure justice for the victims of atrocities committed during the Balkans conflict. Our support for such efforts dates back to Nuremberg and Tokyo. We were one of the most vocal supporters for the creation of tribunals to try those most responsible for atrocities committed in Rwanda and Sierra Leone. And we continue to support a number of hybrid, regional, and domestic efforts to ensure accountability for atrocity crimes, from Guatemala to Syria to Kosovo to South Sudan. The International Criminal Court can play an important role alongside these efforts by exercising its power judiciously within the limits of international law.

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b. General Assembly

On October 30, 2017, U.S. Special Adviser Carlos Trujillo delivered remarks at a meeting of the Sixth Committee on the Report of the International Criminal Court on its activities from August 2016 through July 2017. Mr. Trujillo's remarks are excerpted below and available at <https://usun.state.gov/remarks/8061>.

* * * *

The United States remains deeply committed to accountability for atrocity crimes, and we continue to support myriad international, regional, hybrid, and domestic mechanisms that work in pursuit of this goal. Among these options, we have long believed and stated that justice is most effective when it is delivered at the local level. We would call on the ICC and states to respect genuine domestic efforts to promote justice for atrocity crimes.

As we look across the landscape of international justice, we see countries taking on this important task, and the United States welcomes the progress they have made. In the Central African Republic, personnel have been appointed to the Special Criminal Court to begin the work of ending impunity for mass atrocities in that country. Since May of this year, the Head International Prosecutor as well as national and international magistrates, prosecutors, and investigators have been named. We are also encouraged by the work of the Kosovo Specialist Chambers, which continues to ready itself for any indictments from the Specialist Prosecutor's Office. In the last year a roster of judges was selected, along with a President of the Court, and the judges convened and adopted rules of procedure and evidence.

In addition to these positive steps in domestic systems, the United States is pleased to see advancements in a number of regional and hybrid efforts to end impunity for atrocity crimes. For example, in November of last year the Extraordinary Chambers in the Courts of Cambodia upheld the convictions of Nuon Chea and Khieu Samphan for crimes against humanity, finally bringing a measure of justice for the victims of murder, persecution, and other inhumane acts in Cambodia decades ago. In South Sudan, the African Union is working with the South Sudanese government to prepare for judicial processes of accountability, taking steps to establish a hybrid court to prosecute those responsible for atrocities committed in that country. For institutions like these, there is still much work to be done, but every step forward is a welcome one.

In this vein, the United States has supported building a foundation for accountability through documentation of atrocities that can help domestic courts deliver justice. In Iraq, for example, the United States supported UN Security Council Resolution 2379, adopted last month, requesting the Secretary-General to establish an investigative team composed of international and Iraqi experts, headed by a Special Adviser, to support Iraqi domestic efforts to hold ISIS accountable by collecting, preserving, and storing evidence in Iraq of acts that may amount to genocide, crimes against humanity, and war crimes. Information gathered by the team could be used by Iraq, and, with the approval of the Security Council, other Member States in whose territory ISIS has committed acts that may amount to genocide, war crimes, and crimes against humanity may request the team to collect evidence of such acts.

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The United States has also for years supported Syrian NGOs documenting human rights abuses and international humanitarian law violations in Syria, as well as the Independent International Commission of Inquiry (COI) established in 2011 by the UN Human Rights Council with a mandate to investigate all human rights violations in Syria. The United States has also strongly supported the call for accountability in numerous UN Security Council resolutions and supported the OPCW-UN Joint Investigative Mechanism (JIM) to investigate chemical weapons attacks. In the past year, we have supported the international community in taking efforts one step further with the International, Impartial, and Independent Mechanism (IIIM) for Syria, established through a United Nations General Assembly resolution in December 2016. Its mandate is to consolidate and analyze evidence of violations of international humanitarian law and abuses and violations of human rights law, including evidence generated by the COI, NGOs,

and others, and to prepare files in order to facilitate fair and independent criminal proceedings in appropriate fora. This can be an important step forward to support investigations and prosecutions of perpetrators of atrocities in Syria.

As these and other efforts demonstrate, it is through multiple institutions and mechanisms that the international community can fight to end impunity for those crimes that shock our common conscience.

As the United States considers these issues and how they relate to the ICC moving forward, I would recall that we have serious concerns with respect to the crime of aggression amendments, which we believe contain dangerous ambiguities regarding basic issues such as which states and what conduct would be covered by the amendments. As we have said consistently, we believe that such issues should be clarified before any decision is taken by ICC States Parties to activate the amendments. Taking concrete steps to do so will help ensure that states are able to join together when necessary to take action to prevent atrocities and safeguard collective security.

In closing, so long as minorities in Burma are persecuted and murdered, so long as civilians are attacked with chemical weapons in Syria, so long as South Sudanese children are abducted and forced into combat, so long as people are being tortured and disappeared in Burundi, states cannot stand idly by. Those who are responsible for atrocities must face consequences for their actions in accordance with international law. The United States will continue our work toward that end, steadfast in our commitment to pursue justice for the world's worst crimes.

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c. *Libya*

On May 8, 2017, U.S. Deputy Legal Adviser Stephen Townley delivered remarks at a UN Security Council briefing on the situation in Libya. Mr. Townley's remarks are excerpted below and available at <https://usun.state.gov/remarks/7792>.

* * * *

Thank you, Mr. President. Thank you, Madam Prosecutor, for the briefing on your office's efforts to pursue accountability for atrocity crimes committed in Libya.

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The United States remains dedicated to pursuing accountability for violations and abuses committed during the 2011 revolution. In this regard, we appreciate the continued efforts to bring Saif Qadhafi, accused of helping orchestrate the murder and persecution of hundreds of civilians, to justice. We urge all relevant Libyan actors to facilitate the transfer of Saif Qadhafi to The Hague so he may stand trial for his alleged crimes against humanity. We welcome the continued reports of Libya's cooperation with the Prosecutor, consistent with this Council's calls for such cooperation and Libya's obligations under resolution 1970.

We have also taken note of the Court's recent decision to lift the seal on an arrest warrant for al-Tuhamy Mohamed Khaled, who is accused of being responsible for war crimes and crimes against humanity in Libya. We stress the importance of working to ensure accountability for such atrocity crimes, which would send a vital deterrent signal in the midst of ongoing violence that those who commit atrocity crimes in Libya will ultimately face justice.

The United States remains committed to supporting the Libyan people as they struggle for peace, prosperity, and democratic governance. Accountability for crimes in Libya will be key to an enduring success in this endeavor. We look forward to continued collaboration with this Council to realize a better future for all Libyans.

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On August 18, 2017, the State Department released as a media note the joint statement of the governments of France, the United Kingdom, and the United States regarding the ICC Arrest Warrant for Major Mahmoud al-Werfalli in Libya. The joint statement follows and the media note is available at <https://www.state.gov/r/pa/prs/ps/2017/08/273542.htm>.

* * * *

The governments of France, the United Kingdom, and the United States welcome the announcement on August 17 by the Libya National Army (LNA) that it will investigate reports of unlawful killings in Benghazi. We note that the LNA has recognized the arrest warrant by the International Criminal Court prosecutor for a member of the LNA, Major al-Werfalli, and are encouraged by the LNA's decision to suspend Major al-Werfalli pending an investigation. We call on the LNA to ensure that the investigation is carried out fully and fairly; and those responsible for the unlawful killings are held to account.

We are monitoring ongoing acts of conflict in Libya closely. Those suspected of committing, ordering, or failing to prevent unlawful killings and torture on all sides must be fully investigated and held accountable, as appropriate. We will continue our efforts at the international level to pursue appropriate action against those who are complicit in violations of international human rights law or international humanitarian law, whatever their affiliation. We consider that it is in Libya's interest to be able to rely on unified security forces responsible for the country's security and acting within the framework of Libya's laws and respecting international law.

The governments of France, the United Kingdom, and the United States also reaffirm their support for the Government of National Accord. We underscore the importance of the United Nations' central role in facilitating Libyan-led political dialogue, welcome the appointment of the new Special Representative of the Secretary-General Ghassan Salamé, and look forward to supporting his efforts to facilitate a political solution in Libya.

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Ambassador Michele J. Sison, U.S. Deputy Permanent Representative to the United Nations, delivered remarks at a UN Security Council briefing on the situation in Libya on November 8, 2017. Those remarks are excerpted below and available at <https://usun.state.gov/remarks/8095>.

* * * *

Thank you, Mr. President. Madam Prosecutor, thank you for the update on your office's work pursuant to Security Council Resolution 1970.

Six years ago, this Council referred the situation in Libya to the ICC in the context of appalling violations of human rights that were perpetrated during the 2011 revolution. The ICC has charged Saif Al-Islam Qadhafi with murder and persecution committed during the 2011 revolution, and we have called on all relevant Libyan actors to facilitate his transfer to the Court. We also note the ICC's arrest warrant for Tuhamy Mohamed Khaled and emphasize the need to bring to justice those involved in horrific acts committed by the Internal Security Agency against perceived opponents of the Qadhafi regime. All those responsible for crimes committed during the 2011 revolution must be held to account.

Today, much has changed in Libya. The country is not free from horrific acts of violence. We continue to call for the respect of human rights in Libya. We note with deep concern the recent airstrike in Derna, a city that remains in need of immediate and unfettered humanitarian access. We also strongly condemn the deplorable acts in al-Abyar, where on October 26th the bodies of 36 men who were shot to death were discovered.

The insecurity in the country highlights the urgent need to find a solution to the political crisis in Libya. National political reconciliation is key to ending the violent unrest that continues to plague the country. To that end, we welcome the steps that have been taken in line with the UN Action Plan that was announced in September, and we reiterate our full support for Special Representative of the Secretary-General Ghassan Salamé's leadership of ongoing mediation efforts. As delegations from the House of Representatives and the State Council negotiate amendments to the Libyan Political Agreement, we encourage all Libyan parties to support the UN political process and work together in the spirit of compromise and toward a common goal of a more peaceful and prosperous Libya.

We also call for those who are responsible for human rights violations and abuses or violations of international humanitarian law to be held accountable. They cannot act with impunity. To that end, we stress that the al-Abyar summary killings, as well as other reports of unlawful killings in Benghazi, must be fully investigated by the authorities on the ground. We have also noted the ICC accusations against Major al-Werfalli of war crimes in relation to the killing of 33 people in Benghazi. We are deeply concerned by allegations that al-Werfalli has carried out additional killings in Ajdabiya despite the ongoing investigation into his activities, as well as reports that al-Werfalli has returned to active duty despite the charges against him. The United States urges the relevant Libyan authorities to ensure that al-Werfalli is brought to justice in accordance with international law.

Mr. President, Madam Prosecutor, before closing, I would be remiss not to convey the United States' position with respect to recent developments related to the situation in Afghanistan. The United States believes that any ICC investigation or other activity concerning U.S. personnel is wholly unwarranted and unjustified. The United States is deeply committed to

complying with international law and has a robust national system of investigation, accountability, and transparency that is among the best in the world. The United States has a longstanding and continuing objection in principle to any ICC assertion of jurisdiction over U.S. personnel. More generally, we do not believe that an ICC investigation would serve the interests of either peace or justice in Afghanistan.

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d. Sudan

On June 8, 2017, Ambassador Sison delivered remarks at a UN Security Council briefing on Sudan and the ICC. Those remarks are excerpted below and available at <https://usun.state.gov/remarks/7838>.

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The need to bring justice to the victims of atrocities in Darfur is overwhelming. For over a decade, Darfur has been synonymous with suffering and unchecked impunity. In responding to a rebellion, the government launched what became a brutal campaign against the Fur, Massalit, and Zaghawa populations. As time went on, the conflict in Darfur grew into a staggering crisis, with thousands murdered, hundreds of thousands deliberately deprived of the basic means of survival, and millions displaced from their homes. Many of us will never forget the first shocking reports of Janjaweed militia on horses and camels, storming into villages to kill, rape, torture, and burn.

The ICC has examined and charged a horrific list of crimes in Sudan: genocide by killing; genocide by causing serious bodily or mental harm; genocide by deliberately inflicting conditions of life calculated to bring about the physical destruction of targeted groups; crimes against humanity of torture, murder, and rape; and war crimes including pillaging and deliberate attacks on peacekeepers.

For years, the conflict continued—even expanding into other parts of Sudan. During that time, we have consistently supported efforts to provide justice and accountability for crimes committed in Darfur and to finally break the cycle of impunity. At the same time, recognizing that the people of Darfur yearned for fewer bombings, less bloodshed, less conflict, and greater stability and safety, we also have focused on seeing an end to the conflict. Through bilateral engagement, we identified concrete steps to make tangible improvements in the lives of ordinary Sudanese and have seen results.

The Government of Sudan has taken meaningful positive steps with respect to the conflict, including committing to a unilateral cessation of hostilities, and while some violence persists, we have not seen government military offensives in this period as we have every year since these conflicts began. The Government of Sudan has also worked closely with our own to begin to address regional conflicts, improve humanitarian access, combat the threat of terrorism, and eliminate the threat of the Lord's Resistance Army. There is certainly more progress to be made on these fronts, but these are welcome steps towards a better future. Indeed, we now see the possibility of long-term progress that we hope will lead to more respect for human rights, more accountability, more rule of law, and more justice for Sudanese victims.

But as we see encouraging signs of a new approach to addressing the longstanding conflict and hope that further engagement will spur additional progress, we must also be clear: we must neither forget the victims nor the perpetrators of the crimes in Darfur. We cannot simply turn our backs on the victims of genocide who were forced from their homes and left to die of thirst or starvation, or on the thousands of women and girls who suffered brutal sexual violence, or on those who were targeted on the basis of their ethnic identity. There will be no stable and lasting peace in Sudan without justice for the many victims of crimes related to the conflict.

As Ambassador Nikki Haley has said here in this Council: “In case after case, human rights violations and abuses are not merely the incidental byproduct of conflict. They are the trigger for conflict.” If we do not address the victimization that has occurred and the magnitude of the violations and abuses inflicted, any peace will be hollow and easy to shatter by those seeking revenge for themselves, their loved ones, and their communities.

In the years since the conflict in Darfur began, we have seen inspiring examples of accountability across the globe, where those leaders who targeted their own citizens in order to maintain a stranglehold on power have been forced to face justice. Former Ivoirian President Laurent Gbagbo is now in court in The Hague, while Charles Taylor and Hissène Habré are serving lengthy prison sentences. Beyond Africa, senior former Khmer Rouge officials in Cambodia have been sentenced for war crimes and crimes against humanity, and leaders responsible for Dirty War-era crimes in Latin America and atrocity crimes in the former Yugoslavia have also been held to account.

The Council should not let Sudan be an exception. Having referred the situation in Darfur to the ICC over ten years ago, we must continue to demand Sudan’s compliance with this Council’s decisions. While victims have not yet seen justice, and refugees and internally displaced persons continue to struggle years after the conflict began, it is unacceptable that President Bashir still travels and receives a warm welcome from certain quarters of the world – and unacceptable that none of the Sudanese officials with outstanding arrest warrants have been brought to justice.

Thus, as we pursue more engagement with Sudan and greater relief and protection for the survivors of the conflict, we must also recommit to supporting accountability to bring a just and lasting peace to the people of Darfur.

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Ambassador Sison again addressed the UN Security Council at a further briefing on Sudan in December 2017. Those remarks from December 12, 2017 are excerpted below and available at <https://usun.state.gov/remarks/8213>.

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Thank you, Mr. President, and thank you, Madam Prosecutor, for your briefing. We agree with you that victims in Darfur need justice.

Since the beginning of the conflict in Darfur, more than 300,000 people have been killed and 4.7 million others have been affected, including more than 2 million people who were, and remain, internally displaced. In the past, both Sudanese government forces and their allied

militias have engaged in widespread and systematic killing, raping, and torturing of civilians. Perpetrators have burned villages and have blocked humanitarian aid from reaching populations in desperate need. Some rebel groups have conducted similar brutal attacks.

More than 12 years ago, this Council—alarmed by the atrocities taking place in Darfur—referred the situation to the International Criminal Court in order to bring to justice those responsible for such atrocities and to end the climate of impunity in Sudan. The United States has continued efforts to help end the conflict and improve conditions for the people of Darfur. This focus on the safety and security of Darfuri civilians was a key component of the Five-Track Engagement Plan, a framework launched in June 2016 under which the U.S. government offered to Sudan the revocation of certain economic sanctions if Sudan made progress in a number of areas. Under this process, we asked Sudan to maintain a cessation of hostilities in internal conflict areas such as Darfur and to improve humanitarian access.

We note that in 2017, the Government of Sudan has refrained from military offensives and stopped aerial bombardments in Darfur and that it has taken meaningful steps to expand humanitarian access. The armed opposition in Darfur, with the exception of one party, also reciprocated by announcing its own unilateral cessations of hostilities. However, much more progress is needed.

While Darfur has not experienced the same levels of violence in 2017 as in years past, lasting peace remains elusive, the human rights situation continues to be volatile, humanitarian needs remain high, and accountability remains nonexistent. Those responsible for human rights violations and abuses and attacks on civilians should be held accountable, including security forces using excessive force against civilians, such as in Kalma camp in September 2017, or members of armed militias who perpetrate atrocities against civilians in Darfur. We note in November 2017, the arrest by the Sudanese government of former Janjaweed commander, Musa Hilal, who is subject to UN sanctions for his commission of atrocities in Darfur, following clashes between the Sudanese security forces and armed militia loyal to Hilal.

We are concerned about reports of civilian fatalities, including the killing of women and children, that occurred during these clashes. We call on the Sudanese government to allow the UN, humanitarian organizations, and the media to access the area where the clashes took place so they can investigate the reports and provide assistance to those in need.

We also call on the government to investigate promptly and credibly any allegations against Hilal, in accordance with Sudan's human rights commitments and obligations, and to hold Hilal to account if he is found to have committed atrocities.

We note that the International Criminal Court has investigated allegations of atrocities committed by all sides and charged Sudanese government officials, militia leaders, and certain armed opposition members for crimes, including genocide; the crimes against humanity of torture, murder, and rape; and war crimes, including pillaging and deliberate attacks on peacekeepers.

We have noted for many years that it is unacceptable that the suspects in the Darfur situation remain at large and have not been brought to justice. In particular, we have expressed disappointment that Sudanese President Omar al-Bashir continues to travel to countries around the world. Receiving President Bashir on these visits has served only to burnish his image, diminish the seriousness of the charges against him, and dismiss the tremendous suffering of the victims. We must stand with the victims, no matter how powerful those who inflict abuses on them might be.

Other leaders who have targeted their own citizens—including former Ivoirian President Laurent Gbagbo, former Liberian President Charles Taylor, and former Khmer Rouge leaders Nuon Chea and Khieu Samphan—have been called to answer for their alleged crimes. Moving forward, we will continue to use the tools at our disposal to press Sudan to improve its human rights practices and to promote justice for the people of Darfur.

A Sudan that adheres to the rule of law, respects human rights, and breaks the cycle of impunity is one that will enjoy a sustainable peace and prosperity. We look forward to the day when Sudan is a valued contributor to regional security and stability.

Finally, I would be remiss if I did not reiterate the U.S. position with respect to recent developments related to the situation in Afghanistan, which is different from this situation in a number of respects. As we said in this Council in November, and as we reiterated at the Assembly of States Parties meeting last week, we continue to have serious concerns about, and a longstanding, principled objection to, any ICC investigation or other activity concerning U.S. personnel.

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2. International Criminal Tribunals for the Former Yugoslavia and Rwanda and the Mechanism for International Criminal Tribunals

a. General

On June 7, 2017, Ambassador Sison addressed a UN Security Council briefing on the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda. Those remarks are excerpted below and available at <https://usun.state.gov/remarks/7831>.

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As we look toward December and the anticipated closure of the International Criminal Tribunal for the former Yugoslavia and merging of essential functions with the Mechanism for International Criminal Tribunals, the United States wishes to underscore that it remains as committed to the work of the Tribunal as we were when it was established nearly a quarter century ago.

Completion of the Tribunal's mandate is essential. We applaud the completion of trial proceedings in the Ratko Mladic case, and look forward to the delivery of the judgment later this year.

While we can never undo the horrors of war, bringing cases to their conclusions—as was done last year when former Republika Srpska President Radovan Karadžić was found guilty and sentenced to 40 years in prison for genocide, crimes against humanity, and violations of the laws and customs of war—goes a long way toward closing a dark chapter of history and creating a legacy of showing would-be perpetrators of atrocities elsewhere in the world that they cannot act with impunity. The United States has consistently emphasized that the Tribunal and the Mechanism establish facts through judicial process. This process is critical to counter those who

seek to distort facts, revise history, engage in genocide denialism, or rewrite reality.

The United States continues to be greatly concerned about the detrimental impact of increasingly divisive political speech in the region on the pursuit of justice for war crimes committed in the former Yugoslavia. Such inflammatory rhetoric harms regional cooperation among the states of the former Yugoslavia, which is essential to promoting accountability for war crimes. In this regard, the United States would like to express our sincere appreciation for the contribution of these Tribunals, including the Office of the Prosecutor, to developing a historical record of the facts, to counter those who seek to deny the nature of the widespread crimes, including genocide, that took place. The kinds of hateful ideologies that led to these horrific acts persist to this day, and together we must continue our efforts to relegate them to the past.

The United States also remains concerned that three arrest warrants for individuals charged with contempt of court in relation to witness intimidation in the case of Vojislav Šešelj have remained unexecuted in Serbia for nearly two and a half years. Cooperation with the Tribunal is an ongoing, binding obligation. The United States calls on Serbia to execute these arrests without further delay, and we look to the newly appointed Serbian War Crimes Prosecutor to play a constructive role in that process. The Council should be unified in the message to Serbia that failure to fully cooperate with the Tribunal in accordance with its statutes and the resolutions of this Council compromises the core functions of the international justice system and must be addressed with appropriate urgency.

The United States commends the ongoing work of the prosecutor's office to reshape the fugitive tracking program, so that the eight remaining fugitives from the International Criminal Tribunal for Rwanda may be swiftly located, arrested, and brought to justice. We are happy to see these changes. This effort is not window dressing; the restructuring that has been done appears capable of having a significant impact on tracking efforts, both by improving information sharing and placing a renewed emphasis on timely and effective intelligence and analysis. We remain committed to the apprehension of the remaining fugitives and look forward to engaging with the two new task forces – focused on Africa and Europe – in this effort. We call on all states, especially those in the Great Lakes region, to cooperate with efforts to apprehend these fugitives. To that end, the United States continues to offer a reward of up to \$5 million dollars for information leading to the arrest or transfer of these eight men.

With regard to management and the transition, the United States appreciates the careful planning and ongoing work of both the Tribunal for the Former Yugoslavia and Mechanism Registrars to navigate complicated issues during this period of transition for both institutions. We are happy to hear of the significant progress made to downsize offices, and reduce costs as the Tribunal looks to close at the end of the year.

We also noted the ICTY's concerns about staff attrition, and we thank them for their considerable efforts to retain core staff, including by providing training and making other accommodations, and urge them to continue these initiatives. We are grateful for the personal and professional sacrifices the staff of both tribunals have made.

In addition, we are glad to hear that the four audit reports of the Mechanism issued by the UN Office of Internal Oversight Services during the reporting period found satisfactory management and controls and that the Mechanism is striving to take necessary actions where recommendations for improvement were made. The United States remains deeply concerned that the Mechanism's casework is being severely impaired due to the situation of Judge Akay. We continue to emphasize the need for this matter to be resolved fairly and expeditiously.

The mandate of the Tribunal may be nearing an end, but its work to end impunity and promote justice will be enduring. Even more, the work of the Mechanism and Tribunal reminds us daily of the critical need to seek accountability where atrocities against civilians have so far been met with impunity – places like Syria and South Sudan.

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On December 6, 2017, Ambassador Sison delivered remarks at a UN Security Council briefing on the International Tribunal for the Former Yugoslavia and International Criminal Tribunal for Rwanda. Those remarks are excerpted below and available at <https://usun.state.gov/remarks/8200>.

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Today is an especially momentous occasion as we reflect on the most recent report and, more importantly, on the closing of the International Criminal Tribunal for the former Yugoslavia at the end of the month. The United States thanks President Meron, President Agius, and Prosecutor Brammertz – indeed all those who have served at the ICTY or supported it through their work in government, NGOs, or UN institutions over the past 23 years. In addition, we note our special gratitude and respect for the many victims who participated in proceedings and kept faith in the international community’s commitment to justice.

The ICTY was the first international tribunal since Nuremberg and Tokyo to investigate and prosecute allegations of war crimes, crimes against humanity, and genocide. As the vanguard of modern international justice, it established key precedents in international criminal law, setting the stage for and guiding the work of subsequent tribunals established to investigate and prosecute atrocities in Rwanda, Sierra Leone, Cambodia, and elsewhere.

Through its work, the ICTY has created a legacy of the greatest importance. It has established a factual and depoliticized record of the crimes committed during the war. We applaud the ICTY’s record, which includes indicting 161 individuals, and holding accountable senior political and military leaders for their roles in crimes committed during the war in the Balkans.

We especially highlight the recent verdict in the case of Ratko Mladic as an important step toward holding to account those individuals responsible for the tremendous suffering of the people of Bosnia and Herzegovina. Among other crimes, Mladic was found guilty of genocide in Srebrenica in 1995, crimes against humanity and persecution across the country, terrorizing the population of Sarajevo, and taking UN peacekeepers hostage. We hope this decision can provide some sense of justice and closure to victims and their families.

The United States has been a steadfast supporter of the ICTY, and we encourage all states to respect its rulings. Countries cannot pick and choose on matters of justice. Our commitment to supporting justice and reconciliation in the Balkans continues as the Tribunal’s remaining functions shift to the Mechanism for International Criminal Tribunals or MICT.

The primary focus of attention now moves to national jurisdictions and we call on all countries in the region to reinvigorate cooperation to resolve remaining cases. However, on the specific issue of the two surviving individuals charged with contempt of court in relation to witness intimidation in the case of Vojislav Šešelj, the United States applauds the order of President Agius transferring this case to the MICT. We call on the government of Serbia to cooperate with the MICT and execute the arrest warrants, and underscore the government's obligation to do so.

The United States commends the MICT for its progress during the reporting period. We appreciate the continued focus on the expeditious completion of trials and appeals. We also note with satisfaction that following the issuance of three audit reports during the reporting period, the MICT has either implemented, or is in the process of implementing, all recommendations. We are encouraged by the priorities identified by the President and the Prosecutor, and applaud the progress made in restructuring and refocusing the Fugitives and Investigations unit in order to apprehend the eight remaining ICTR fugitives.

The United States is firmly committed to the continuing efforts to locate and arrest the eight remaining ICTR fugitives. Three of the fugitives will be tried by the MICT and five others will be transferred to Rwanda. We continue to offer a reward of up to \$5 million dollars each for information leading to the arrest or transfer of these eight men, and stand ready to engage with the new task forces. We likewise call on all states and relevant law enforcement agencies in Europe and Africa to cooperate with efforts to apprehend these fugitives. They have escaped justice for too long. With a refocused tracking unit, and with the renewed cooperation of the international community and law enforcement agencies, their arrest is possible.

The MICT's efforts to increase public access to judicial records and translate International Criminal Tribunal for Rwanda trial judgments into Kinyarawanda, as well as the responsiveness by the Prosecutor to requests for assistance by national judicial authorities, are important initiatives that will ensure the ICTR has an enduring and broad impact. Similarly, the trainings for domestic prosecutors from East Africa conducted by the prosecutor will contribute to building the capacity of national jurisdictions to investigate and prosecute atrocity crimes. While the ICTY may be closing its doors, it leaves behind a legacy of justice, a robust body of international case law, and a hope among victims of atrocities that perpetrators, even the most senior military and political leaders of a country, can be held accountable. It also established a truthful, historical record that can both assist with regional reconciliation efforts and ensure crimes cannot be legitimately denied. The same can be said of the Rwanda Tribunal. The pursuit of justice for conflict-related atrocities is not over.

In the Balkans there are many hundreds of cases currently in the hands of national authorities in the region. In Rwanda and surrounding countries, fugitives remain at large. We call on these governments to credibly investigate and prosecute these cases, as appropriate, cooperating with one another and the MICT to that end. The United States will continue its support and congratulates the forward-looking efforts of the MICT to play a role in these processes, including through capacity building support.

As the ICTY has shown, when we work together, we can achieve a measure of justice and accountability for the world's most horrific atrocities.

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b. *International Criminal Tribunal for the Former Yugoslavia*

On December 4, 2017, Acting Legal Adviser Richard Visek delivered remarks at an event in New York commemorating the closure of the International Criminal Tribunal for the former Yugoslavia. His remarks are excerpted below and available at <https://usun.state.gov/remarks/8205>

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The Tribunal and all those who worked to make it a success should feel proud today. Its list of accomplishments is impressive. Since the Tribunal opened in 1993, it has indicted 161 senior leaders of regional governments, militaries, and paramilitaries for their roles in atrocities committed during the Balkan wars of the 1990s. Every indictment, every trial, every sentence was another step in ensuring a measure of justice for the victims of those crimes.

I also want to emphasize that each of these cases focused on determining the guilt or innocence of the accused. Fairness and impartiality have been the bedrock of the ICTY. Its verdicts DO NOT imply that a community or country is collectively responsible for the crimes committed by an individual.

The United States has supported the Tribunal since its inception, and we are proud that the ICTY stands as a milestone in modern international justice as the first international tribunal since Nuremberg and Tokyo to investigate and prosecute allegations of war crimes, crimes against humanity, and genocide. The Tribunal established key precedents in international criminal and humanitarian law and guided the work of later tribunals created to investigate and prosecute atrocities in Rwanda, Sierra Leone, Cambodia, and elsewhere. One of the Tribunal's pioneering achievements is its prosecution of wartime sexual violence. More than one third of those convicted by ICTY have been found guilty of crimes involving sexual violence. ICTY also played an important role as a recorder of history. Adjudicated facts established by ICTY proceedings serve as an important means of fighting against impunity and revisionism in the former Yugoslavia. I would also like to emphasize that, although the ICTY is closing, the pursuit of justice in the Balkans continues. The Tribunal has encouraged judiciaries in the former Yugoslavia to continue their work of trying those responsible for committing war crimes during the 1990s. We urge national authorities to cooperate with each other, and with the Mechanism for International Criminal Tribunals to resolve remaining cases in their jurisdictions.

With the ICTY, we showed the world that we aim to hold accountable those who commit atrocities. So today, let us not only commemorate the Tribunal, but join voices to warn perpetrators of the gravest crimes that we will hold them accountable for their actions.

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Secretary of State Rex W. Tillerson also issued a statement on December 21, 2017 on the closing of the ICTY. That statement follows and is available at <https://www.state.gov/secretary/20172018tillerson/remarks/2017/12/276745.htm>.

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The United States congratulates the International Criminal Tribunal for the former Yugoslavia (ICTY), which will close its doors on December 31, 2017, on its many achievements. Since the inception of the ICTY in 1993, the United States has steadfastly supported the Tribunal's work. We applaud the Tribunal's record, which includes indicting 161 senior leaders of regional governments, militaries, and paramilitaries for their roles in atrocities committed during the Balkan wars of the 1990s.

While we recognize the ICTY's contributions to justice and reconciliation in the Balkans, we also believe there are lessons to learn from its experiences. We must work to deliver justice for victims efficiently and cost-effectively, while also prioritizing forums closer to where the crimes occurred, and with greater inclusion of victims in the process.

The pursuit of justice in the Balkans is not over. We call on national authorities to resolve remaining cases in their jurisdictions and to cooperate with one another and the UN Mechanism for International Criminal Tribunals to that end. The ICTY demonstrated that we can hold accountable those who commit the gravest of offenses. As it closes its doors, we also give notice to perpetrators of atrocities anywhere in the world that the United States remains committed to seeking accountability for their crimes.

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c. UN Mechanism for International Criminal Tribunals ("MICT")

On October 18, 2017 U.S. Special Advisor Carlos Trujillo delivered remarks at a General Assembly meeting on the report of the International Tribunal for Former Yugoslavia since 1991 and the International Residual Mechanism for Criminal Tribunals. Mr. Trujillo's remarks follow and are available at <https://usun.state.gov/remarks/8046>.

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As we look to the near horizon in December and see the coming closure of the International Criminal Tribunal for the former Yugoslavia, the United States again extends its sincere appreciation to President Meron, President Agius, and Prosecutor Brammertz for their ongoing work to achieve justice for victims of the vicious atrocities committed in the former Yugoslavia.

It is especially important to be here today participating in this debate, as we continue to face conflicts where serious crimes have been committed. We must continue to find ways to support accountability for perpetrators of atrocities, and justice for the victims.

As we look to the closure of the ICTY in December, we remain as committed as ever to the Tribunal, the independence of its work, and the successful transfer of functions to the Mechanism for International Criminal Tribunals. The United States wishes to underscore that while the ICTY is successfully concluding its mandate, there remains much to do in the pursuit

of justice and reconciliation. We must now turn our focus on fulfilling national-level obligations to resolve remaining war crimes cases, and we remain willing to support these efforts.

We applaud the ICTY for maintaining its completion schedule, on track to deliver judgements by the end of November in its two remaining substantive cases. With respect to the upcoming appeal judgment in the Prlić case against six former high-ranking officials from Herceg-Bosna, we support the independence of the Tribunal to reach its decision.

For the case against Ratko Mladić, charged with 11 counts of genocide, crimes against humanity, and violations of the laws and customs of war, we see it as a fitting bookend to the work of the Tribunal, and yet another example for the world to see that eventually those alleged to be responsible for atrocities will face justice.

Both of these cases, like all others, involve questions of individual criminality, and should not be seen as trials of any one country.

The United States also commends the work, under the leadership of the President of the ICTY, to hold legacy and closing events that can help ensure a long-lasting impact, particularly in ongoing efforts at justice and reconciliation.

The United States remains concerned about the divisive nature of some statements by some individuals in the region, which negatively impacts cooperation in the pursuit of justice for war crimes committed in the former Yugoslavia. This is particularly true when individuals deny or seek to revise the true record of crimes established by the ICTY. We should strive to depoliticize the historical record, which can help prevent a repetition of such widespread atrocities and create the space for technical experts to meet, share information, and work together in various fora to resolve remaining cases.

The United States also remains concerned about the government of Serbia's failure to execute the arrest warrants for the two surviving individuals charged with contempt of court in relation to witness intimidation in the case of Vojislav Šešelj. We continue to encourage Serbia to fulfill its obligations.

The International Residual Mechanism for Criminal Tribunals has also made notable progress since we last convened here. From an administrative perspective, staff moved into new premises in Arusha, Tanzania. Substantively, we recognize the continued focus on the expeditious completion of trials and appeals.

The United States applauds the MICT's efforts to assist national jurisdictions, such as by processing requests to question detained persons and protected witnesses. We understand that during the reporting period, the Office of the Prosecutor also answered 11 requests from member states and one international organization regarding Rwanda, and 239 requests for assistance from eight Member States and three international organizations in regards to the former Yugoslavia. In addition, it conducted capacity-building activities with national authorities from Africa, Europe, and Latin America. We are impressed with the range of assistance being provided while the MICT simultaneously remains guided by the Security Council's direction to remain a small and efficient structure.

The Office of the Prosecutor continues efforts to locate and arrest eight remaining fugitives, three of whom will be tried by the MICT – Félicien Kabuga, Protais Mpiranya, and Augustin Bizimana; and five of whom will be transferred to Rwanda – Fulgence Kayishema, Charles Sikubwabo, Aloys Ndimbati, Pheneas Munyarugarama, and Charles Ryandikayo. To that end, we appreciate the Prosecutor's review of tracking efforts and the development of updated and concrete strategies for apprehending the remaining fugitives. This includes development of two task forces, one focused on Africa, and the other on Europe, bringing

together key national law enforcement authorities, as well as INTERPOL. We commend the Prosecutor for undertaking this much-needed restructuring of the tracking team to ensure it has the capacity to conduct the range of investigative activities needed to succeed in its mission.

The United States remains equally committed to these efforts. We continue to offer a reward of up to \$5 million each for information leading to the arrest or transfer of these eight men, and stand ready to engage with the new task forces. We likewise call on all states, especially those in the Great Lakes region, to cooperate with efforts to apprehend these fugitives.

Finally, I want to again highlight two of my earlier points. First, while the ICTY is successfully concluding its mandate, the pursuit of justice and reconciliation remain priorities. We now focus our attention on national-level obligations to resolve remaining war crimes cases. Second, the work of both the MICT and ICTY remind us that in the face of horrific atrocities, we can work together to hold perpetrators accountable and achieve a measure of justice for victims.

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Cross References

Agreements on Preventing and Combating Serious Crime, **Ch. 1.B.5.**

Extradition Treaties with Serbia and Kosovo, **Ch. 4.A.1.**

Extradition case of Arias Leiva, **Ch. 4.B.3.**

Children (child trafficking), **Ch. 6.C.**

Children in Armed Conflict, **Ch. 6.C.2.**

Protecting Human Rights While Countering Terrorism, **Ch. 6.M.2.**

ILC's Work at its 69th Session: Crimes Against Humanity, **Ch. 7.C.1.**

Relations with Cuba, **Ch. 9.A.2.**

Maritime security and law enforcement, **Ch. 12.A.5.**

Wildlife trafficking, **Ch. 13.C.1.**

North Korea as State Sponsor of Terrorism, **Ch. 16.A.5.a.**

Terrorism sanctions, **Ch. 16.A.6.**

Transnational crime sanctions, **Ch. 16.A.10.**

Conflict avoidance and atrocity prevention, **Ch. 17.C.**

Counterterrorism operations, **Ch. 18.A.**

Global Initiative to Combat Nuclear Terrorism, **Ch. 19.B.4**