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## CHAPTER 9

### Diplomatic Relations, Succession, Continuity of States, and Other Statehood Issues

#### A. DIPLOMATIC RELATIONS

##### 1. Somalia

As discussed in *Digest 2013* at 251-55, the United States recognized the government of Somalia in 2013. As discussed in *Digest 2015* at 338-40, the U.S. Mission to Somalia, based within the United States Embassy in Nairobi, Kenya, commenced operations in 2015. In 2016, the new U.S. ambassador to Somalia was sworn in. *Digest 2016* at 361-63. On February 8, 2017, the United States congratulated Somalia on the conclusion of its electoral process in a State Department press statement, which follows, and is available at <https://www.state.gov/r/pa/prs/ps/2017/02/267498.htm>.

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The United States congratulates the people of Somalia on the successful conclusion of their national electoral process. We congratulate Mr. Mohamed Abdullahi Mohamed on his selection as the next President of the Federal Government of Somalia and look forward to working closely with him and a new government. We commend the Somali Security Forces and the African Union Mission in Somalia for their efforts over the past six months to allow the electoral process to unfold in a relatively safe and secure environment.

This transition represents an important step forward for the country. We commend the thousands of Somalis from across the country, including youth and women, who were able to vote in greater numbers than in the 2012 elections, but regret the numerous credible reports of irregularities in the electoral process. We encourage Somalia's new administration to take credible steps to stamp out corruption and to establish strong electoral institutions to enable a free and fair one person one vote poll in 2020.

The United States looks forward to the timely formation of a new government, and to working in partnership with the President and new government to advance reconciliation, drought relief, security, and build the strong institutions to deliver good governance and development for the Somali people.

\* \* \* \*

## 2. Cuba

As discussed in *Digest 2014* at 336, and *Digest 2015* at 340-47, the United States and Cuba restored diplomatic relations after extensive discussions and an exchange of letters by the countries' presidents.

On September 19, 2017, the United States and Cuba held the sixth meeting of their Bilateral Commission, which had last met in December 2016. The State Department issued a media note regarding the meeting on September 20, 2017, which is available at <https://www.state.gov/r/pa/prs/ps/2017/09/274281.htm>. The media note summarizes the meeting as follows:

The meeting provided an opportunity to discuss the incidents affecting diplomatic personnel at the U.S. Embassy in Havana. The United States reiterated its deep concern for the safety and security of the U.S. Embassy community in Havana and the urgent need to identify the cause of these incidents and to ensure they cease. The delegations also reviewed the Administration's priorities and areas for engagement in the interests of the United States and the Cuban people, including human rights; implementation of the Migration Accords; and protecting the national security and public health and safety of the United States.

On September 29, 2017, the State Department announced that it had ordered the departure of non-emergency personnel assigned to the U.S. Embassy in Havana, Cuba, due to attacks on embassy employees. See Secretary Tillerson's September 29, 2017 statement, available at <https://www.state.gov/secretary/20172018tillerson/remarks/2017/09/274514.htm>. Secretary Tillerson explained that over the course of several months, 21 embassy employees had "exhibited a range of physical symptoms, including ear complaints, hearing loss, dizziness, headache, fatigue, cognitive issues, and difficulty sleeping," as a result of injuries from attacks. He indicated that the U.S. government was unable to determine the cause or source of these attacks. The transcript of a September 29, 2017 special briefing on the departure of U.S. personnel from Cuba, which is available at <https://www.state.gov/r/pa/prs/ps/2017/09/274518.htm>, is excerpted below.

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\* \* \* \*

**SENIOR STATE DEPARTMENT OFFICIAL ONE:** ... On September 29th, the Department ordered the departure of nonemergency personnel assigned to the U.S. embassy in Havana, as well as all family members. Over the past several months, at least 21 U.S. embassy employees have been targeted in specific attacks. The health, safety, and well-being of our embassy community are our greatest concerns. Investigations into the attacks are ongoing, as investigators have been unable to determine who or what is causing these attacks.

Until the Government of Cuba can assure the safety of U.S. Government personnel in Cuba, our embassy will be reduced to emergency personnel so as to minimize the number of U.S. Government personnel at risk of exposure. The remaining personnel will carry out core diplomatic and consular functions, including providing emergency assistance to U.S. citizens in Cuba. Routine visa operations are suspended indefinitely. Short-term travel by U.S. Government officials to Cuba will also be limited to those involved with the ongoing investigation or who have a need to travel related to the U.S. national security or crucial embassy operations. The United States will not send official delegations to Cuba or conduct bilateral meetings in Cuba for the time being. Meetings may continue in the United States.

The Department will issue a Travel Warning for U.S. citizens not to travel to Cuba, and informing them of our decision to draw down our diplomatic staff. The Travel Warning will note that over the past several months, numerous U.S. embassy employees have been targeted in specific attacks. These employees have suffered significant injuries as a consequence of these attacks. Affected individuals have exhibited a range of physical symptoms, including ear complaints, hearing loss, dizziness, tinnitus, balance problems, visual complaints, headache, fatigue, cognitive issues, and difficulty sleeping.

The governments of the United States and Cuba have not yet identified the responsible party, but the Government of Cuba is responsible for taking all appropriate steps to prevent attacks on our diplomatic personnel in Cuba. Because our personnel's safety is at risk and we are unable to identify the source of the attacks, we believe that U.S. citizens may also be at risk and warn them not to travel to Cuba. The Travel Warning will advise U.S. travelers the reduction of staffing at the embassy would impact its ability to offer many routine services to U.S. citizens. Emergency services will still be provided.

I want to stress that the decision to reduce our diplomatic presence in Havana was made to ensure the safety of our personnel. We maintain diplomatic relations with Cuba and our work in Cuba continues to be guided by the national security and foreign policy interests of the United States. We are continuing our investigation into the attacks and the ... Cuban Government has told us they will continue their efforts as well. We acknowledge the efforts the Cuban Government has made to investigate and its cooperation in facilitating the U.S. investigation, but we have members of our embassy community who have suffered physical harm due to these ongoing attacks in Havana, most recently in late August. The Cuban Government is obligated under the Vienna Convention to take all appropriate steps to protect our diplomats in Cuba.

\* \* \* \*

**SENIOR STATE DEPARTMENT OFFICIAL ONE:** We have not ruled out the possibility of a third country as a part of the investigation, but that investigation continues and will continue irrespective of the ordered departure. We will continue to investigate ...these attacks and to get to the bottom of them.

With regard to the threat to American citizens, ... there's no more important mission for the State Department or a U.S. embassy overseas than to protect and advise Americans on potential threats to their safety, health, and well-being. The fact that some of these attacks have occurred in hotels where American citizens could be at and that we have no way of advising American citizens on how they could mitigate such attacks, we felt we must warn them on not to travel to Cuba until we understand and know more about the source and means and ways to mitigate these attacks that are occurring.

\* \* \* \*

**SENIOR STATE DEPARTMENT OFFICIAL ONE:** The ordered departure will result in more than half of the embassy footprint being reduced. ...

\* \* \* \*

**SENIOR STATE DEPARTMENT OFFICIAL ONE:** The staff who were affected at hotels were temporary duty staff at the embassy. I will let my colleague answer as to whether we have any staff resident at the hotel. I do think there are times when people are arriving and leaving that they may be out of living quarters, that they might be in the hotel, so I don't want to say definitively people don't live there, because there's transition periods. But there have been attacks at the hotel. They have ... involved our U.S. personnel, and that's what I know.

**SENIOR STATE DEPARTMENT OFFICIAL TWO:** I would just add we're not aware of any hotel staff or other individuals who have been attacked or suffered these systems beyond the U.S. Government personnel at the hotel. And in terms of our Cuban staff at the embassy, we're not aware of any incidents involving them or attacks involving them. The victims that we're aware of are the 21 U.S. Government personnel.

\* \* \* \*

**SENIOR STATE DEPARTMENT OFFICIAL TWO:** There was a careful analysis of both the risk and the estimate of what would be needed to reduce that risk, and one of the measures that was considered prudent was to considerably ... reduce the number of people present, thereby reducing the ... individuals who could be subject to these attacks. And so this was seen as a major step towards addressing some of our vulnerabilities and reducing our exposure.

\* \* \* \*

**SENIOR STATE DEPARTMENT OFFICIAL TWO:** As I mentioned, we continue to investigate the attacks in Havana. At this stage, we still do not have definitive answers on source or cause of the attacks. I don't want to get into speculating about types of technology or research or get into the details of our investigation at this point, so can't go into that details.

\* \* \* \*

On October 3, 2017, the Department of State informed the Government of Cuba that it was requiring the departure of 15 Cuban officials from the Cuban embassy in Washington, D.C. due to Cuba's failure to protect U.S. diplomats in accordance with its obligations under the Vienna Convention. October 3, 2017 Press Statement by Secretary Tillerson, available at <https://www.state.gov/secretary/20172018tillerson/remarks/2017/10/274570.htm>. Secretary Tillerson's statement also includes the following:

...This order will ensure equity in our respective diplomatic operations.

On September 29, the Department ordered the departure of non-emergency personnel assigned to the U.S. Embassy in Havana, as well as all family members. Until the Government of Cuba can ensure the safety of our diplomats in Cuba, our embassy will be reduced to emergency personnel to minimize the number of diplomats at risk of exposure to harm.

We continue to maintain diplomatic relations with Cuba, and will continue to cooperate with Cuba as we pursue the investigation into these attacks.

The State Department also provided a special briefing on October 3, 2017 on the required departure of the personnel from the Cuban embassy in the United States, available at <https://www.state.gov/r/pa/prs/ps/2017/10/274572.htm>.

The President issued the National Security Presidential Memorandum entitled "Strengthening the Policy of the United States Toward Cuba" on 82 Fed. Reg. 48,875 (Oct. 20, 2017). Excerpts follow from the memorandum.

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\* \* \* \*

#### Section 1. Purpose.

The United States recognizes the need for more freedom and democracy, improved respect for human rights, and increased free enterprise in Cuba. The Cuban people have long suffered under a Communist regime that suppresses their legitimate aspirations for freedom and prosperity and fails to respect their essential human dignity.

My Administration's policy will be guided by the national security and foreign policy interests of the United States, as well as solidarity with the Cuban people. I will seek to promote a stable, prosperous, and free country for the Cuban people. To that end, we must channel funds toward the Cuban people and away from a regime that has failed to meet the most basic requirements of a free and just society.

...

The initial actions set forth in this memorandum, including restricting certain financial transactions and travel, encourage the Cuban government to address these abuses. My Administration will continue to evaluate its policies so as to improve human rights, encourage the rule of law, foster free markets and free enterprise, and promote democracy in Cuba.

## Sec. 2. Policy.

It shall be the policy of the executive branch to:

(a) End economic practices that disproportionately benefit the Cuban government or its military, intelligence, or security agencies or personnel at the expense of the Cuban people.

(b) Ensure adherence to the statutory ban on tourism to Cuba.

(c) Support the economic embargo of Cuba described in section 4(7) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (the embargo), including by opposing measures that call for an end to the embargo at the United Nations and other international forums and through regular reporting on whether the conditions of a transition government exist in Cuba.

(d) Amplify efforts to support the Cuban people through the expansion of internet services, free press, free enterprise, free association, and lawful travel.

(e) Not reinstate the “Wet Foot, Dry Foot” policy, which encouraged untold thousands of Cuban nationals to risk their lives to travel unlawfully to the United States.

(f) Ensure that engagement between the United States and Cuba advances the interests of the United States and the Cuban people. These interests include: advancing Cuban human rights; encouraging the growth of a Cuban private sector independent of government control; enforcing final orders of removal against Cuban nationals in the United States; protecting the national security and public health and safety of the United States, including through proper engagement on criminal cases and working to ensure the return of fugitives from American justice living in Cuba or being harbored by the Cuban government; supporting United States agriculture and protecting plant and animal health; advancing the understanding of the United States regarding scientific and environmental challenges; and facilitating safe civil aviation.

## Sec. 3. Implementation.

The heads of departments and agencies shall begin to implement the policy set forth in section 2 of this memorandum as follows:

(a) Within 30 days of the date of this memorandum, the Secretary of the Treasury and the Secretary of Commerce, as appropriate and in coordination with the Secretary of State and the Secretary of Transportation, shall initiate a process to adjust current regulations regarding transactions with Cuba.

(i) As part of the regulatory changes described in this subsection, the Secretary of State shall identify the entities or subentities, as appropriate, that are under the control of, or act for or on behalf of, the Cuban military, intelligence, or security services or personnel (such as Grupo de Administracion Empresarial S.A. (GAESA), its affiliates, subsidiaries, and successors), and publish a list of those identified entities and subentities with which direct financial transactions would disproportionately benefit such services or personnel at the expense of the Cuban people or private enterprise in Cuba.

(ii) Except as provided in subsection (a)(iii) of this section, the regulatory changes described in this subsection shall prohibit direct financial transactions with those entities or subentities on the list published pursuant to subsection (a)(i) of this section.

(iii) The regulatory changes shall not prohibit transactions that the Secretary of the Treasury or the Secretary of Commerce, in coordination with the Secretary of State, determines are consistent with the policy set forth in section 2 of this memorandum and:

(A) concern Federal Government operations, including Naval Station Guantanamo Bay and the United States mission in Havana;

(B) support programs to build democracy in Cuba;  
(C) concern air and sea operations that support permissible travel, cargo, or trade;  
(D) support the acquisition of visas for permissible travel;  
(E) support the expansion of direct telecommunications and internet access for the Cuban people;

(F) support the sale of agricultural commodities, medicines, and medical devices sold to Cuba consistent with the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7201 et seq.) and the Cuban Democracy Act of 2002 (22 U.S.C. 6001 et seq.);

(G) relate to sending, processing, or receiving authorized remittances;

(H) otherwise further the national security or foreign policy interests of the United States;

or

(I) are required by law.

(b) Within 30 days of the date of this memorandum, the Secretary of the Treasury, in coordination with the Secretary of State, shall initiate a process to adjust current regulations to ensure adherence to the statutory ban on tourism to Cuba.

(i) The amended regulations shall require that educational travel be for legitimate educational purposes. Except for educational travel that was permitted by regulation in effect on January 27, 2011, all educational travel shall be under the auspices of an organization subject to the jurisdiction of the United States, and all such travelers must be accompanied by a representative of the sponsoring organization.

(ii) The regulations shall further require that those traveling for the permissible purposes of non academic education or to provide support for the Cuban people:

(A) engage in a full-time schedule of activities that enhance contact with the Cuban people, support civil society in Cuba, or promote the Cuban people's independence from Cuban authorities; and

(B) meaningfully interact with individuals in Cuba.

(iii) The regulations shall continue to provide that every person engaging in travel to Cuba shall keep full and accurate records of all transactions related to authorized travel, regardless of whether they were effected pursuant to license or otherwise, and such records shall be available for examination by the Department of the Treasury for at least 5 years after the date they occur.

(iv) The Secretary of State, the Secretary of the Treasury, the Secretary of Commerce, and the Secretary of Transportation shall review their agency's enforcement of all categories of permissible travel within 90 days of the date the regulations described in this subsection are finalized to ensure such enforcement accords with the policies outlined in section 2 of this memorandum.

(c) The Secretary of the Treasury shall regularly audit travel to Cuba to ensure that travelers are complying with relevant statutes and regulations. The Secretary of the Treasury shall request that the Inspector General of the Department of the Treasury inspect the activities taken by the Department of the Treasury to implement this audit requirement. The Inspector General of the Department of the Treasury shall provide a report to the President, through the Secretary of the Treasury, summarizing the results of that inspection within 180 days of the adjustment of current regulations described in subsection (b) of this section and annually thereafter.

(d) The Secretary of the Treasury shall adjust the Department of the Treasury's current regulation defining the term "prohibited officials of the Government of Cuba" so that, for purposes of title 31, part 515 of the Code of Federal Regulations, it includes Ministers and Vice-Ministers, members of the Council of State and the Council of Ministers; members and employees of the National Assembly of People's Power; members of any provincial assembly; local sector chiefs of the Committees for the Defense of the Revolution; Director Generals and sub-Director Generals and higher of all Cuban ministries and state agencies; employees of the Ministry of the Interior (MININT); employees of the Ministry of Defense (MINFAR); secretaries and first secretaries of the Confederation of Labor of Cuba (CTC) and its component unions; chief editors, editors, and deputy editors of Cuban state-run media organizations and programs, including newspapers, television, and radio; and members and employees of the Supreme Court (Tribuno Supremo Nacional).

(e) The Secretary of State and the Representative of the United States to the United Nations shall oppose efforts at the United Nations or (with respect to the Secretary of State) any other international forum to lift the embargo until a transition government in Cuba, as described in section 205 of the LIBERTAD Act, exists.

(f) The Secretary of State, in coordination with the Attorney General, shall provide a report to the President assessing whether and to what degree the Cuban government has satisfied the requirements of a transition government as described in section 205(a) of the LIBERTAD Act, taking into account the additional factors listed in section 205(b) of that Act. This report shall include a review of human rights abuses committed against the Cuban people, such as unlawful detentions, arbitrary arrests, and inhumane treatment.

(g) The Attorney General shall, within 90 days of the date of this memorandum, issue a report to the President on issues related to fugitives from American justice living in Cuba or being harbored by the Cuban government.

(h) The Secretary of State and the Administrator of the United States Agency for International Development shall review all democracy development programs of the Federal Government in Cuba to ensure that they align with the criteria set forth in section 109(a) of the LIBERTAD Act.

(i) The Secretary of State shall convene a task force, composed of relevant departments and agencies, including the Office of Cuba Broadcasting, and appropriate non-governmental organizations and private-sector entities, to examine the technological challenges and opportunities for expanding internet access in Cuba, including through Federal Government support of programs and activities that encourage freedom of expression through independent media and internet freedom so that the Cuban people can enjoy the free and unregulated flow of information.

(j) The Secretary of State and the Secretary of Homeland Security shall continue to discourage dangerous, unlawful migration that puts Cuban and American lives at risk. The Secretary of Defense shall continue to provide support, as necessary, to the Department of State and the Department of Homeland Security in carrying out the duties regarding interdiction of migrants.

(k) The Secretary of State, in coordination with the Secretary of the Treasury, the Secretary of Defense, the Attorney General, the Secretary of Commerce, and the Secretary of Homeland Security, shall annually report to the President regarding the engagement of the United States with Cuba to ensure that engagement is advancing the interests of the United States.

(l) All activities conducted pursuant to subsections (a) through (k) of this section shall be carried out in a manner that furthers the interests of the United States, including by appropriately protecting sensitive sources, methods, and operations of the Federal Government.

Sec. 4. Earlier Presidential Actions.

(a) This memorandum supersedes and replaces both National Security Presidential Directive-52 of June 28, 2007, U.S. Policy toward Cuba, and Presidential Policy Directive-43 of October 14, 2016, United States-Cuba Normalization.

(b) This memorandum does not affect either Executive Order 12807 of May 24, 1992, Interdiction of Illegal Aliens, or Executive Order 13276 of November 15, 2002, Delegation of Responsibilities Concerning Undocumented Aliens Interdicted or Intercepted in the Caribbean Region.

\* \* \* \*

### 3. Russia

See Chapter 10 for discussion of the U.S. determination in 2017 to restrict access to multiple facilities leased or owned by the Government of the Russian Federation.

### 4. Libya

For background on the political transition in Libya, see *Digest 2016* at 374-78. On July 28, 2017, the State Department issued a press statement regarding the Libyan Dialogue and Joint Declaration. The statement is available at <https://www.state.gov/r/pa/prs/ps/2017/07/272916.htm>, and includes the following:

The United States remains committed to working with Libya and our international partners to help resolve the political conflict and advance peace and long-term stability in Libya.

While the Libyan people must lead the process of achieving political reconciliation in their country, the international community plays an important role in supporting those efforts.

In this regard, we welcome the Joint Declaration from the July 25, meeting between Libyan Prime Minister Fayez al-Sarraj and General Khalifa Haftar, hosted outside of Paris by French President Emmanuel Macron. We call on all Libyans to support political dialogue and adhere to a cease-fire, as stated in the Joint Declaration.

The United States also welcomes new UN Special Representative of the Secretary-General for Libya Ghassan Salamé as the head of the UN Support Mission in Libya, UNSMIL, which plays a critical role in advancing lasting peace and stability. We look forward to working with him to help Libyans reach a political solution.

On September 22, 2017, the State Department issued a press statement expressing U.S. support for the UN Action Plan for Libya. The statement is available at <https://www.state.gov/r/pa/prs/ps/2017/09/274402.htm>, and appears below.

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The United States welcomes the September 20 United Nations (UN) announcement of an action plan to advance political reconciliation in Libya and help the Libyan people achieve lasting peace and security.

We applaud the vigorous outreach by UN Special Representative of the Secretary-General (SRSG) for Libya Ghassan Salamé to Libyan leaders and call on all Libyans to support and engage in his mediation efforts. The Libyan Political Agreement (LPA) remains the framework for a political solution to the conflict throughout the transition period. In this regard, we strongly support UN facilitation as the Libyan people carry out this critical transition, specifically by seeking to negotiate mutually-agreed limited amendments to the LPA, adopt a new constitution, and prepare for national elections.

The United States will not support individuals who seek to circumvent the UN-led political process.

The United States remains committed to working with Libya, the UN, and our international partners to help advance political reconciliation, defeat terrorism, and promote a more stable future for the Libyan people.

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## 5. Kenya

Kenya held a presidential election on August 8, 2017 but Kenya's supreme court nullified the election in September based on a challenge brought by the opposition candidate. In October, several ambassadors to Kenya, including U.S. Ambassador Robert F. Godec, issued two joint statements in advance of the second election. The October 2, 2017 joint statement is available at <https://ke.usembassy.gov/statement-ambassadors-high-commissioners-kenya-advance-new-presidential-election/> and the October 23, 2017 joint statement is available at <https://ke.usembassy.gov/statement-ambassadors-high-commissioners-advance-kenyas-new-presidential-election/>. On November 28, 2017, the State Department issued a press statement regarding the presidential election in Kenya, which is excerpted below and available at <https://www.state.gov/r/pa/prs/ps/2017/11/276007.htm>.

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The United States congratulates the people of Kenya on the conclusion of the presidential election process, as well as President Uhuru Kenyatta and Deputy President William Ruto on their inauguration for a second term. The United States and Kenya have been steadfast partners for decades, working together to strengthen security, build mutual prosperity, address regional challenges, and to advance development and good governance.

Even as we look forward to strengthening and renewing the bilateral partnership in the years ahead, we are deeply concerned by the ongoing political tensions in Kenya. We urge security forces to refrain from the use of unnecessary force against citizens exercising their democratic rights.

As part of the process of addressing these tensions and strengthening institutions, we urge Kenyans to join together to hold an immediate, sustained, and open national conversation to heal divisions between communities. We encourage all Kenyans to come together at this critical moment and to work together peacefully and uphold the constitution.

As friends, we will continue to work with all Kenyans committed to building democracy, advancing prosperity, and strengthening security.

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## **B. STATUS ISSUES**

### **1. Hong Kong**

On June 7, 2017, the State Department issued a fact sheet reviewing key developments in Hong Kong. The fact sheet is excerpted below and available at <https://www.state.gov/p/eap/rls/2017/271611.htm>.

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In light of ongoing public interest in matters related to Hong Kong, the State Department prepared this review of key current developments and progress made in U.S.-Hong Kong relations.

This assessment is current as of March 2017.

#### **Key Findings**

- The United States has longstanding economic and cultural interests in Hong Kong. Cooperation between the U.S. Government and the Hong Kong Government (HKG) remains broad, effective, and mutually beneficial.
- Certain actions by the Chinese Central Government this year appeared inconsistent with China's commitment in the Basic Law to allow Hong Kong to exercise a high degree of autonomy.
- However, Hong Kong generally maintains a high degree of autonomy under the "one country, two systems" framework, more than sufficient to justify continued special treatment by the United States for bilateral agreements and programs.

### **Progress in U.S.-Hong Kong Relations**

U.S.-Hong Kong relations are fundamentally based upon the continued maintenance of the “one country, two systems” framework, as established in the Basic Law of the Hong Kong Special Administrative Region (SAR) of the People’s Republic of China (PRC), as enacted by the National People’s Congress of the PRC. The United States-Hong Kong Policy Act of 1992, as amended, establishes the authority of the U.S. government to treat Hong Kong as a non-sovereign entity distinct from China for the purposes of U.S. domestic law based on the principles of the 1984 Sino-British Joint Declaration.

Hong Kong’s strong traditions of rule of law, as displayed by its highly independent judiciary, low levels of corruption, and high standards for public health and safety, have continued to make Hong Kong a preferred platform for U.S. businesses, as well as an important base for U.S. investments and business activity in the Asia-Pacific region writ large. Hong Kong was ranked the world’s freest economy for the twenty-third consecutive year according to the 2017 Heritage Foundation Index of Economic Freedom.

More than 1,400 U.S. firms operate in Hong Kong, drawn in part by Hong Kong’s openness, transparency, and strong rule of law. Hong Kong also continues to be a valuable trading partner, with U.S.-Hong Kong two-way trade totaling \$42 billion in 2016. Last year, the United States’ single largest bilateral trade surplus was with Hong Kong, at \$28 billion. Hong Kong in turn counted the United States as its second-largest trading partner after Mainland China. In 2016, Hong Kong was the United States’ fifth-largest export market for beef, seventh-largest export market for agricultural goods more generally, and ninth-largest export market for manufactured goods and services.

An estimated 85,000 U.S. citizens live in Hong Kong. Nearly 1.3 million U.S. citizens visited or transited Hong Kong in 2016. On average approximately 127,000 Hong Kong residents visit the United States each year.

*Law enforcement cooperation:* The United States and Hong Kong continue to have valuable and successful law enforcement cooperation, and U.S. law enforcement agencies maintain particularly strong relations with Hong Kong Customs authorities. However, there are opportunities for improvement in bilateral cooperation. For example, Hong Kong has not yet enacted certain laws that would improve identification of high-risk travelers or enable full implementation of recommendations and standards in United Nations Security Council resolutions on counterterrorism.

The United States continues to provide proactive information regarding drug couriers and drug shipments (predominantly cocaine) entering Hong Kong, which generated multiple arrests and seizures of significant quantities of illegal narcotics by Hong Kong Customs authorities. The United States also has recently assisted in the identification of several drug trafficking organization cells operating in Hong Kong and East Asia that could impact the United States. Hong Kong remains a good partner for fugitive surrender and sharing of evidence in criminal cases.

*U.S. Navy activities:* With approval from the Central Government, Hong Kong received six port calls from nine total U.S. Navy ships between March 2016 and March 2017, and engagement between U.S. military forces and the Hong Kong Disciplined Services continues unfettered. The Central Government denied one port visit request for a group of ships comprising one aircraft carrier and four escort ships in the first half of 2016, which was the first port visit denial since 2007. However, it did not impact the approval of other port visits. The Central Government gave no official reason for the denial beyond the visit being “inconvenient.”

*Trade and finance:* Hong Kong participates separately from Mainland China in a range of multilateral organizations and agreements, including the Asia-Pacific Economic Cooperation (APEC) forum, the World Trade Organization (WTO), the Financial Action Task Force, and the Financial Stability Board, with trade and economic policy objectives that generally align with our own. Hong Kong also joined the Asia Infrastructure Investment Bank in March 2017.

The United States recognizes Hong Kong as a separate customs territory. There are more than a dozen U.S.-Hong Kong bilateral agreements currently in force. Hong Kong's legal requirement for Central Government "sovereign assent" for certain forms of international liaison has at times hindered timely cooperation, but the issue has not arisen recently.

The United States and Hong Kong concluded one arrangement related to cooperation on financial regulations in the past year. In January 2017, the U.S. Securities and Exchange Commission and the Hong Kong Securities and Futures Commission signed a Memorandum of Understanding (MOU) regarding mutual assistance in the supervision and oversight of regulated entities that operate on a cross-border basis in the United States and Hong Kong.

*Export controls:* The United States cooperates closely with Hong Kong on strategic trade control and counter-proliferation initiatives. The Hong Kong government is obligated to implement United Nations sanctions measures adopted by the Central Government, and it acts to detain and investigate suspect controlled shipments. The U.S. Department of Commerce has raised concerns about diversion, and the U.S. and Hong Kong governments have taken steps together to tighten licensing requirements. As part of a longstanding annual dialogue on strategic trade controls, the United States and Hong Kong continue to hold joint seminars for industry groups, publish due diligence guidance to raise industry awareness about the risks inherent in transshipments, and cooperate on ongoing enforcement investigations. Additionally, the U.S. and Hong Kong governments hold annual counterproliferation meetings, most recently in December 2016, which focus on counterproliferation efforts and cooperation, proliferation finance, best practices in licensing and enforcement, and discussions of regional proliferation threats.

*Cultural, Scientific and Academic Exchanges:* The United States enjoys excellent academic, cultural, educational, and scientific exchanges with the people and government of Hong Kong. U.S. and Hong Kong educational institutions hold extensive regular exchanges, including short-term visits by U.S. faculty, summer programs for students, and multi-year exchanges of faculty and staff. Hong Kong ranks 21<sup>st</sup> (and 4<sup>th</sup> on a per capita basis) as a source of foreign students in the United States. Hong Kong also hosts more than 1,500 American students each year, including 48 American undergraduate students in the most recent year under the Department of State's Gilman Scholarship program.

Eighteen Hong Kong residents were selected as Fulbright students and scholars in fiscal years 2016 and 2017 combined, and Hong Kong hosted 24 U.S. Fulbright students and scholars and three Fulbright specialists over the same period. In fiscal years 2016 and 2017 combined, some 22 Hong Kong residents were selected to participate in the State Department's International Visitor Leadership Program. One Hong Kong scholar was selected to participate in the Study of U.S. Institutes (SUSI) for Scholars in 2016.

### **Other Matters Affecting U.S. Interests in Hong Kong**

Hong Kong's highly developed rule of law, independent judiciary, and respect for individual rights are fundamental to its way of life, as well as its economic prosperity, and are made possible by Hong Kong's high degree of autonomy. Several high profile court cases over the past year, including the conviction of a former Chief Executive on corruption-related charges, demonstrated that Hong Kong's judiciary remains highly independent and professional.

The Central Government publicly and frequently reiterated its commitment to the “one country, two systems” framework over the past year, and it has continued to adopt positive measures to support Hong Kong’s economic growth in ways that are consistent with that framework, such as the December 2016 opening of the Hong Kong-Shenzhen Stock Connect trading link.

However, certain other actions by the Central Government appear to be inconsistent with its stated commitments to Hong Kong’s high degree of autonomy. On November 7, 2016, the Standing Committee of the National People’s Congress (NPCSC) issued an interpretation of Basic Law Article 104, which requires all Hong Kong government officials, when assuming office, to swear to uphold the Basic Law and swear allegiance to the “Hong Kong Special Administrative Region of the People’s Republic of China.” The NPCSC had full legal authority to issue its interpretation, but it did so while the Court of First Instance was still considering HKG judicial review petitions filed against two legislators-elect, on the grounds that the pair had incorrectly taken their oaths of office. On November 9, 2016, a judge ruled in favor of the HKG to disqualify the legislators-elect, noting that he would have reached the same decision even if the NPCSC had not issued its interpretation two days prior. In Hong Kong, prominent legal scholars, the Bar Association, and the Law Society all characterized the interpretation as unnecessary and voiced concern that the preemptive issuance of the interpretation might cause reputational harm to Hong Kong’s court system. The NPCSC interpretation was only the fifth such action since the Hong Kong SAR’s inception in 1997, but the first such interpretation issued while a relevant case was pending before the Hong Kong courts.

The two legislators-elect in question, Yau Wai-ching and Sixtus Leung of the Youngspiration political party, unsuccessfully appealed their disqualification in the High Court; the Court of Final Appeals is scheduled to hear their second appeal in August 2017. In December 2016, the HKG filed judicial review petitions against four additional pro-democracy legislators, alleging that the ways in which they took their respective oaths of office were illegal under the NPCSC Basic Law interpretation and demanding that the four be disqualified from serving the remainder of their four-year legislative terms. The Court of First Instance heard the cases in March 2017, but a verdict has not yet been released.

From October-December 2015, five men working in Hong Kong’s publishing industry disappeared from Hong Kong, Thailand, and Mainland China in what appears to be the most serious breach of the “one country, two systems” policy since 1997. The British Foreign Secretary noted that the disappearances constituted a “serious breach” of the 1984 Sino-British Joint Declaration. In July 2016, Causeway Bay Books manager Lam Wing-kee alleged that he was detained by Mainland authorities in Mainland China for delivering books illegally to the Mainland. Lam also discussed the alleged abduction from Hong Kong of his colleague Lee Bo, a dual citizen of Hong Kong and the United Kingdom. Although Lee later denied he was abducted from Hong Kong, Lam’s statements confirmed for many observers that the Central Government had bypassed Hong Kong law enforcement agencies to pursue an individual inside Hong Kong for political reasons in contravention of the Basic Law. The Hong Kong government said it would engage Central Government authorities to improve the notification mechanism governing cross-border cases.

In January 2017, Mainland billionaire Xiao Jianhua departed Hong Kong for Mainland China under mysterious circumstances. Hong Kong authorities confirmed that they received a request for assistance from Xiao's family to locate Xiao, and then later reported that the family withdrew the request. Some facts of Xiao's case are still unknown, but the case has raised concerns among observers due to some possible parallels to the booksellers' cases.

The Hong Kong judiciary also continues to adjudicate cases related to the 2014 "Occupy Central" protests. Recent sentences fell within the judiciary's sentencing guidelines:

- In May 2016, the District Court found pro-democracy activist Ken Tsang guilty of resisting arrest and assaulting a police officer, and sentenced him to five weeks imprisonment, which he began serving in March 2017.
- In July 2016, a Hong Kong court convicted three "Occupy Central" student leaders of illegal assembly, with the sentences ranging from 80 hours of community service to three weeks in prison.
- In February 2017, the District Court convicted seven police officers of assaulting Ken Tsang during his arrest, with each receiving two-year jail sentences.

In late March 2017, the police arrested and formally charged nine other "Occupy Central" activists with offenses that include creating a public nuisance, inciting a public nuisance, and inciting others to incite a public nuisance. Two currently seated Legislative Council members are among the accused. On the same day, the police also forcibly retired and arrested a former police superintendent for violent actions taken during Occupy-related protests in 2014.

Hong Kong courts also continue to review cases related to the February 2016 Lunar New Year riots in the Mong Kok neighborhood, during which more than 120 people, including 90 police officers, suffered injuries. Police arrested more than 60 people and charged over 30 people with rioting. In December 2016, two men were found guilty of assaulting police and received three-month prison sentences. Other cases related to the riots await hearings, including the cases against activists Ray Wong and Edward Leung, co-conveners of the localist group Hong Kong Indigenous.

*Development of Hong Kong democratic institutions:* In September 2016, Hong Kong residents elected representatives to the 70-member Legislative Council, whose members serve a four-year term. A record 2.2 million Hong Kong residents voted, or over 58 percent of eligible voters, and the election was conducted in a manner consistent with the Basic Law. Pro-establishment candidates won 40 of 70 Legislative Council seats, while pan-democratic candidates won 30, a three-seat increase over the 27 seats the opposition camp held from 2012 to 2016. The structure of Hong Kong's Legislative Council elections favors the maintenance of an establishment majority through a complex mix of "functional" constituencies representing certain sectors by trade or by profession, along with more standard "geographic" constituencies elected by popular vote.

The government's Electoral Affairs Committee received approximately 1,200 petitions about election misconduct following the conclusion of the Legislative Council elections. The highest profile petitions sought judicial review of the disqualification, prior to the election, of two pro-independence candidates. The disqualified candidates contend that a new, hastily inserted requirement in the registration process, which required prospective candidates to sign a Confirmation Form that included a pledge that Hong Kong is an inalienable part of the People's Republic of China, was not instituted in accordance with Hong Kong law. The petitioners also argued that they were illegally disqualified from standing for election despite signing the form and fulfilling all other candidate requirements. These cases are still pending in the courts.

In December 2017, roughly 106,000 Hong Kong residents across a variety of sectors elected the approximately 1,200 members of the Chief Executive Election Committee. These committee members represented industrial, commercial, financial, professional, labor, social service, religious, grassroots, and political sectors. Many sub-sectors chose their committee members through elections within their respective professional memberships, although some other members were elected unopposed, especially from the industrial, commercial, and financial sectors.

In March 2017, the Chief Executive Election Committee members, via secret ballot, chose former Chief Secretary for Administration Carrie Lam to serve as Hong Kong's next leader, starting July 1. Lam earned 777 votes, former Financial Secretary John Tsang earned 365 votes, and retired judge Woo Kwok-hing earned 21 votes. Tsang had topped public popularity polls in the lead-up to the election, but the Central Government tapped Lam as its favored candidate. The disparity between public popularity and popularity within the Election Committee elicited public dissatisfaction about the Chief Executive election system, prescribed by the Basic Law and Annex I thereto, under which few Hong Kong residents are able to directly participate in choosing their top leader. The outcome also focused public attention on the Central Government's various efforts to influence the voting outcome, and led to increased public concern about the Central Government's degree of commitment to Hong Kong's autonomy.

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## 2. Ukraine

The United States continued its support in 2017 for Ukraine's sovereignty, political independence, unity, and territorial integrity within its internationally recognized borders. The United States maintained the position affirmed in UN General Assembly Resolution 68/262 (2014) that Crimea and all of eastern Ukraine remain part of Ukraine. See *Digest 2014* at 345-46 for discussion of Resolution 68/262.

On March 16, 2017, the third anniversary of the illegitimate referendum on Crimea orchestrated by Russia, the State Department issued a press statement reaffirming the commitment of the United States to Ukrainian sovereignty and territorial integrity. The press statement follows and is available at <https://www.state.gov/r/pa/prs/ps/2017/03/268482.htm>.

Three years ago, Russia seized and occupied Crimea. Russia then staged an illegitimate referendum in which residents of Crimea were compelled to vote while heavily armed foreign forces occupied their land. The United States does not recognize Russia's "referendum" of March 16, 2014, nor its attempted annexation of Crimea and continued violation of international law. We once again reaffirm our commitment to Ukraine's sovereignty and territorial integrity.

Over the past three years, Russian occupation "authorities" in Crimea have engaged in a campaign to suppress dissent. In Russian-occupied Crimea, human rights monitors have documented enforced disappearances, extrajudicial killings, torture and punitive psychiatric hospitalizations. Crimean Tatars, ethnic Ukrainians, pro-Ukrainian activists, and independent journalists have been subjected to politically motivated prosecution and face ongoing repression.

Russian occupation “authorities” have silenced and forced the closure of nongovernmental organizations and independent media and have consistently denied international observers access to the peninsula. We call on Russia to cease its attempts to suppress freedom of expression, peaceful assembly, association, and religion.

Crimea is a part of Ukraine. The United States again condemns the Russian occupation of Crimea and calls for its immediate end. Our Crimea-related sanctions will remain in place until Russia returns control of the peninsula to Ukraine.

On April 23, 2017, the State Department issued a readout of a call on that day by Secretary of State Rex Tillerson with Ukrainian President Petro Poroshenko to discuss relations with Russia. The readout is available at <https://www.state.gov/r/pa/prs/ps/2017/04/270398.htm> and includes the following:

Secretary Tillerson phoned Ukrainian President Petro Poroshenko today to discuss his recent trip to Moscow and his message to the Russian leadership that, although the United States is interested in improving relations with Russia, Russia’s actions in eastern Ukraine remain an obstacle. The Secretary emphasized the importance of Ukraine’s continued progress on reform and combating corruption.

The Secretary accepted condolences from President Poroshenko on the death today of a U.S. member of the Organization for Security and Cooperation in Europe (OSCE) Special Monitoring Mission (SMM). The leaders agreed that the OSCE SMM has played a vital role in its role of monitoring the Minsk agreements designed to bring peace to eastern Ukraine, and that this tragic incident makes clear the need for all sides—and particularly the Russian-led separatist forces—to implement their commitments under the Minsk Agreements immediately.

Secretary Tillerson reiterated the United States’ firm commitment to Ukraine’s sovereignty and territorial integrity and confirmed that sanctions will remain in place until Russia returns control of the Crimean peninsula to Ukraine and fully implements its commitments in the Minsk agreements.

On December 7, 2017, Secretary Tillerson delivered remarks at an OSCE ministerial plenary session in which he emphasized the importance of the Minsk commitments. Secretary Tillerson’s remarks are excerpted below and available at <https://www.state.gov/secretary/20172018tillerson/remarks/2017/12/276319.htm>.

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Thank you for the opportunity to address this body. The OSCE is an indispensable pillar of our common security architecture that bolsters peace and stability in Europe and Eurasia. Of all the challenges confronting the OSCE today, none is more important or vexing than the situation in Ukraine. The United States is committed to Ukraine's sovereignty, independence, and territorial integrity within its internationally recognized borders. We call for full implementation of the Minsk agreements. We will never accept Russia's occupation and attempted annexation of Crimea. Crimea-related sanctions will remain in place until Russia returns full control of the peninsula to Ukraine.

In eastern Ukraine, we join our European partners in maintaining sanctions until Russia withdraws its forces from the Donbass and meets its Minsk commitments. While Ukraine is taking steps to abide by these agreements—and it must continue to do so—Russia is not. More civilians were killed in 2017 than in 2016. In November, ceasefire violations in Donetsk and Luhansk were up 60 percent. We should be clear about the source of this violence: Russia is arming, leading, training, and fighting alongside anti-government forces. We call on Russia and its proxies to end its harassment, intimidation, and its attacks on the OSCE Special Monitoring Mission. We honor the sacrifice of Joseph Stone, an American paramedic killed in April while on patrol, and commend the bravery and commitment of the SMM monitors serving in the field today. We call on all the OSCE to implement and abide by the organization's principles. We must respect the right of every state to choose its own political future. Where protection for human rights is weak, stability becomes even more difficult to maintain and democratic and economic progress is stalled, if not put under threat.

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### **3. Georgia**

On April 7, 2017, the State Department issued a statement condemning as illegitimate the elections and referendum held in the territories of South Ossetia and Abkhazia in Georgia. The statement, available at <https://www.state.gov/r/pa/prs/ps/2017/04/269629.htm>, follows:

The United States condemns the decision to hold a referendum on April 9 regarding the amendment of South Ossetia's constitutional name to the Republic of South Ossetia-Alania. We also condemn and do not recognize the results of the illegitimate elections conducted in Abkhazia on March 12 and March 26 or the election planned for April 9 in South Ossetia.

These illegitimate elections and referenda are being conducted in Georgian territory without the consent of the government of Georgia. The United States fully supports the territorial integrity of Georgia and its sovereignty within its internationally recognized borders. Our position on Abkhazia and South Ossetia is clear and consistent. These regions are integral parts of Georgia.

On August 9, 2017, the State Department issued a further statement urging Russia to respect Georgia's sovereignty and territorial integrity. The statement is available at <https://www.state.gov/r/pa/prs/ps/2017/08/273312.htm>, and includes the following:

The United States views the visit of President Putin to the Russian occupied Georgian territory of Abkhazia as inappropriate and inconsistent with the principles underlying the Geneva International Discussions, to which Russia is a party. The United States fully supports Georgia's sovereignty and territorial integrity within its internationally recognized borders and rejects Russia's recognition of Abkhazia and South Ossetia. The United States urges Russia to withdraw its forces to pre-war positions per the 2008 ceasefire agreement and reverse its recognition of the Georgian regions of Abkhazia and South Ossetia.

#### **4. Spain**

On October 27, 2017, the State Department issued a press statement in support of Spain's territorial integrity in response to the movement for Catalanian independence. The statement is available at <https://www.state.gov/r/pa/prs/ps/2017/10/275136.htm> and includes the following:

The United States enjoys a great friendship and an enduring partnership with our NATO Ally Spain. Our two countries cooperate closely to advance our shared security and economic priorities. Catalonia is an integral part of Spain, and the United States supports the Spanish government's constitutional measures to keep Spain strong and united.

#### **5. Iraq**

On September 29, 2017, Secretary Tillerson issued a statement on the Kurdistan Regional Government's unilateral referendum on the status of Kurdistan, held on September 25. The statement is available at <https://www.state.gov/secretary/20172018tillerson/remarks/2017/09/274522.htm>, and appears below.

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The United States does not recognize the Kurdistan Regional Government's unilateral referendum held on Monday.

The vote and the results lack legitimacy and we continue to support a united, federal, democratic and prosperous Iraq.

We remain concerned about the potential negative consequences of this unilateral step. Prior to the vote, we worked with both the KRG and the central government in Baghdad to pursue a more productive framework and to promote stability and prosperity for the people of the Kurdistan region. These aspirations, ultimately, cannot be advanced through unilateral measures such as this referendum.

We urge calm and an end to vocal recriminations and threats of reciprocal actions. We urge Iraqi Kurdish authorities to respect the constitutionally-mandated role of the central government and we call upon the central government to reject threats or even allusion to possible use of force. The United States asks all parties, including Iraq's neighbors, to reject unilateral actions and the use of force.

The fight against ISIS/ Daesh is not over, and extremist groups are seeking to exploit instability and discord. We urge our Iraqi partners to remain focused on defeating ISIS/Daesh.

We encourage all sides to engage constructively in a dialogue to improve the future of all Iraqis.

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## 6. Zimbabwe

On November 21, 2017, the State Department issued a press statement by Secretary Tillerson marking the historic transition in Zimbabwe. Secretary Tillerson's statement is excerpted below and available at

<https://www.state.gov/secretary/20172018tillerson/remarks/2017/11/275839.htm>.

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With the resignation of Robert Mugabe, today marks an historic moment for Zimbabwe. We congratulate all Zimbabweans who raised their voices and stated peacefully and clearly that the time for change was overdue. Zimbabwe has an extraordinary opportunity to set itself on a new path.

The United States strongly supports a peaceful, democratic, and prosperous Zimbabwe. As events unfold, we continue to call on all parties to exercise restraint and respect constitutional and civilian order.

We urge Zimbabwe's leaders to implement much-needed political and economic reforms for a more stable and promising future for the Zimbabwean people. We will continue to support the people of Zimbabwe as these reforms move forward.

Whatever short-term arrangements the government may establish, the path forward must lead to free and fair elections. The people of Zimbabwe must choose their own leaders.

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## 7. Jerusalem

On December 6, 2017, the President issued Proclamation 9683, “Recognizing Jerusalem as the Capital of the State of Israel and Relocating the United State Embassy to Israel to Jerusalem.” 82 Fed. Reg. 58,331 (Dec. 11, 2017). The Proclamation recognizes Jerusalem as the capital of the State of Israel, acknowledging both Jerusalem’s role as the seat of Israel’s government and the will of the U.S. Congress expressed in the Jerusalem Embassy Act, but does not take a position on final status issues. The specific boundaries of Israeli sovereignty in Jerusalem are subject to final status negotiations between the parties. The Proclamation states that recognition of Jerusalem as Israel’s capital and moving the U.S. Embassy from Tel Aviv to Jerusalem do not reflect a departure from the U.S. commitment to Mid-East peace. For discussion of the Mid-East Peace Process, see Chapter 17. Excerpts follow from the proclamation.

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The foreign policy of the United States is grounded in principled realism, which begins with an honest acknowledgment of plain facts. With respect to the State of Israel, that requires officially recognizing Jerusalem as its capital and relocating the United States Embassy to Israel to Jerusalem as soon as practicable.

The Congress, since the Jerusalem Embassy Act of 1995 (Public Law 104– 45) (the “Act”), has urged the United States to recognize Jerusalem as Israel’s capital and to relocate our Embassy to Israel to that city. The United States Senate reaffirmed the Act in a unanimous vote on June 5, 2017.

Now, 22 years after the Act’s passage, I have determined that it is time for the United States to officially recognize Jerusalem as the capital of Israel. This long overdue recognition of reality is in the best interests of both the United States and the pursuit of peace between Israel and the Palestinians.

Seventy years ago, the United States, under President Truman, recognized the State of Israel. Since then, the State of Israel has made its capital in Jerusalem—the capital the Jewish people established in ancient times. Today, Jerusalem is the seat of Israel’s government—the home of Israel’s parliament, the Knesset; its Supreme Court; the residences of its Prime Minister and President; and the headquarters of many of its government ministries. Jerusalem is where officials of the United States, including the President, meet their Israeli counterparts. It is therefore appropriate for the United States to recognize Jerusalem as Israel’s capital.

I have also determined that the United States will relocate our Embassy to Israel from Tel Aviv to Jerusalem. This action is consistent with the will of the Congress, as expressed in the Act.

Today’s actions—recognizing Jerusalem as Israel’s capital and announcing the relocation of our embassy—do not reflect a departure from the strong commitment of the United States to facilitating a lasting peace agreement. The United States continues to take no position on any final status issues. The specific boundaries of Israeli sovereignty in Jerusalem are subject to final status negotiations between the parties. The United States is not taking a position on boundaries or borders.

Above all, our greatest hope is for peace, including through a two-state solution, if agreed to by both sides. Peace is never beyond the grasp of those who are willing to reach for it. In the meantime, the United States continues to support the status quo at Jerusalem's holy sites, including at the Temple Mount, also known as Haram al Sharif. Jerusalem is today—and must remain—a place where Jews pray at the Western Wall, where Christians walk the Stations of the Cross, and where Muslims worship at Al-Aqsa Mosque.

With today's decision, my Administration reaffirms its longstanding commitment to building a future of peace and security in the Middle East. It is time for all civilized nations and people to respond to disagreement with reasoned debate—not senseless violence—and for young and moderate voices across the Middle East to claim for themselves a bright and beautiful future. Today, let us rededicate ourselves to a path of mutual understanding and respect, rethinking old assumptions and opening our hearts and minds to new possibilities. I ask the leaders of the Middle East—political and religious; Israeli and Palestinian; and Jewish, Christian, and Muslim—to join us in this noble quest for lasting peace.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim that the United States recognizes Jerusalem as the capital of the State of Israel and that the United States Embassy to Israel will be relocated to Jerusalem as soon as practicable.

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Secretary Tillerson issued a press statement on December 6, 2017 regarding the U.S. decision to recognize Jerusalem as Israel's capital and to relocate the U.S. embassy. The press statement, available at <https://www.state.gov/secretary/20172018tillerson/remarks/2017/12/276304.htm>, includes the following:

...[The] decision to recognize Jerusalem as Israel's capital aligns U.S. presence with the reality that Jerusalem is home to Israel's legislature, Supreme Court, President's office, and Prime Minister's office.

...The President decided today, as Congress first urged in the Jerusalem Embassy Act in 1995, and has reaffirmed regularly since, to recognize Jerusalem as the capital of Israel.

The State Department will immediately begin the process to implement this decision by starting the preparations to move the U.S. Embassy from Tel Aviv to Jerusalem.

On December 7, 2017, Acting Assistant Secretary of State for Near East Affairs David Satterfield held a briefing on the U.S. decision to recognize Jerusalem as the capital of Israel. The transcript of the briefing is excerpted below and available at <https://www.state.gov/r/pa/prs/ps/2017/12/276349.htm>.

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**QUESTION:** What country is Jerusalem in?

**AMBASSADOR SATTERFIELD:** The President recognized Jerusalem as the capital of the state of Israel.

**QUESTION:** Does that mean then that the U.S. Government officially recognizes that Jerusalem municipality lies within the state of Israel?

**AMBASSADOR SATTERFIELD:** There has been no change in our policy with respect to consular practice or passport issuance at this time, which is what I think you are raising.

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**QUESTION:** Hi, Assistant Secretary. Could I just put a finer point on it? The President said and you just said that Jerusalem is the capital of Israel. But he also said that the borders are yet ...

**AMBASSADOR SATTERFIELD:** The boundaries of sovereignty.

**QUESTION:** The boundaries of sovereignty.

**AMBASSADOR SATTERFIELD:** Border questions have not been addressed.

**QUESTION:** So what he's—so you're essentially saying that Jerusalem is the capital of Israel, but you're not saying that the entire municipality of Jerusalem falls into that capital?

**AMBASSADOR SATTERFIELD:** I will restate what the President said, which is we recognize Jerusalem as the capital of the state of Israel. We are not changing or taking a position on the boundaries of sovereignty in Jerusalem ... including geographic boundaries. And I will not elaborate beyond that ... except to note a further comment which the President made. Which is that we regard those issues—the specifics, the boundaries of sovereignty, borders—as a matter for permanent status or final status negotiations between the part[ies]. And I think that addresses just about everything that could fall in the basket you're raising.

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**AMBASSADOR SATTERFIELD:** I think the way the President presented it yesterday in his remarks and in the proclamation does a pretty good job of that, which is to say we're acknowledging a reality, something practical; Jerusalem is currently, historically, capital of Israel. That's the decision he announced.

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**QUESTION:** ... So what happens to the Palestinian population of East Jerusalem? Do they now become automatically Israeli citizens, would have full rights, and so on? What happens to 300,000 Palestinians?

**AMBASSADOR SATTERFIELD:** ...[T]he President's proclamation yesterday, his decision, have no impact on those issues. He is recognizing a practical reality. Jerusalem is the capital of Israel. And all of the other aspects—boundaries of sovereignty—we're not taking a position. It's for the sides to resolve.

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**QUESTION:** And can you just explain why now? Why did he make this decision now?

**AMBASSADOR SATTERFIELD:** Because December 4th was the trigger date for the next waiver required under the Jerusalem Act of '95. That was the proximate timing issue. Full stop.

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**AMBASSADOR SATTERFIELD:** The President believes taking this issue—that is the fact of U.S. recognition, acknowledgement of Jerusalem as the capital of Israel—an issue that's been pending out there since '95, since the act was initially passed—was appropriate to make and that it helps in the process to no longer have that issue, which is the U.S. acknowledgement of the simple fact that Jerusalem is the location of the supreme court, the Knesset, the president and the prime minister's residences, that that is a useful clearing of an issue that has been part of, grown as part of, this process for many decades.

**QUESTION:** So it's setting us up for what? To—if you're saying that that gets that out of the way and it's been a reality, how does that set the stage?

**AMBASSADOR SATTERFIELD:** The President and his peace team have been engaged, as you all know, for many months now in discussions with the two parties, with regional states, with other key actors, to try to advance a peace. This is not an easy process; it's a difficult one. But he believes this step assists in that process. I am not going to elaborate on that further.

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**QUESTION:** And one other question. Do you regard those portions of East Jerusalem that were occupied by Israel in 1967 as occupied territory?

**AMBASSADOR SATTERFIELD:** The decision of the President is to recognize Jerusalem as the capital of the state of Israel. The President has stated that that decision does not touch upon issues of boundaries, of sovereignty, or geographic borders. Full stop.

**QUESTION:** So it is still occupied territory, in your view?

**AMBASSADOR SATTERFIELD:** I have stated what the President's decision does and does not do.

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**AMBASSADOR SATTERFIELD:** ...[T]his decision had no impact on any issue other than the recognition or acknowledgment of Jerusalem as the capital of Israel.

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**AMBASSADOR SATTERFIELD:** ...[F]inal status negotiations are going to deal with those boundaries of sovereignty, border questions that the President spoke to as not addressed by his recognition. The President thought it was the right thing to do for the United States, after all these years, to acknowledge the fact, the reality, that Jerusalem is the seat of government of the state of Israel, the capital of the state of Israel. That's it.

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On December 8, 2017, Ambassador Nikki Haley, U.S. Permanent Representative to the United Nations, delivered a statement at the UN on the decision to recognize Jerusalem and relocate the U.S. Embassy. Excerpts of the statement follow, and the statement is available at <https://usun.state.gov/remarks/8206>.

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It's important to be clear about exactly what the President's decision does. The President has announced that the United States recognizes the obvious—that Jerusalem is the capital of Israel. He has also instructed the State Department to begin the process of relocating the U.S. Embassy from Tel Aviv to Jerusalem. That is what the President has done.

And this is what he has not done: The United States has not taken a position on boundaries or borders. The specific dimensions of sovereignty over Jerusalem are still to be decided by the Israelis and the Palestinians in negotiations. The United States has not advocated changing any of the arrangements at the Temple Mount/Haram al-Sharif. The President specifically called for maintaining the status quo at the holy sites.

Finally, and critically, the United States is not predetermining final status issues. We remain committed to achieving a lasting peace agreement. We support a two-state solution if agreed to by the parties.

Those are the facts of what was said and done this week. Now, there are a few more points that are central to the discussion of this issue.

Israel, like all nations, has the right to determine its capital city. Jerusalem is the home of Israel's parliament, president, prime minister, Supreme Court, and many of its ministries. It is simple common sense that foreign embassies be located there. In virtually every country in the world, U.S. embassies are located in the host country's capital city. Israel should be no different.

The United States took this step in full knowledge that it will raise questions and concerns. Our actions are intended to help advance the cause of peace. We must recognize that peace is advanced, not set back, when all parties are honest with each other. Our actions reflected an honest assessment of reality.

I understand the concern members have in calling this session. Change is hard. But we should never doubt what the truth can do. We should never doubt that when we face the truth, believe in the human spirit, and encourage each other, that peace can happen.

To those who have good faith concerns about the future of peace between the Israelis and the Palestinians, let me again assure you that the President and this administration remain committed to the peace process.

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On December 18, 2017, Ambassador Haley provided the U.S. explanation of vote after the U.S. veto of a draft Security Council resolution on Jerusalem. The explanation of vote follows and is available at <https://usun.state.gov/remarks/8222>.

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I have been the proud Representative of the United States at the United Nations for nearly a year now. This is the first time I have exercised the American right to veto a resolution in the Security Council. The exercise of the veto is not something the United States does often. We have not done it in more than six years. We do it with no joy, but we do it with no reluctance.

The fact that this veto is being done in defense of American sovereignty and in defense of America's role in the Middle East peace process is not a source of embarrassment for us; it should be an embarrassment to the remainder of the Security Council.

As I pointed out when we discussed this topic 10 days ago, I will once again note the features of the President's announcement on Jerusalem that are most relevant here. The President took great care not to prejudge final status negotiations in any way, including the specific boundaries of Israeli sovereignty in Jerusalem. That remains a subject to be negotiated only by the parties. That position is fully in line with the previous Security Council resolutions.

The President was also careful to state that we support the status quo regarding Jerusalem's holy sites, and we support a two-state solution if that's what the parties agree to. Again, these positions are fully consistent with the previous Security Council resolutions.

It is highly regrettable that some are trying to distort the President's position to serve their own agendas.

What is troublesome to some people is not that the United States has harmed the peace process—we have, in fact, done no such thing. Rather, what is troublesome to some people is that the United States had the courage and honesty to recognize a fundamental reality. Jerusalem has been the political, cultural, and spiritual homeland of the Jewish people for thousands of years. They have had no other capital city. But the United States' recognition of the obvious—that Jerusalem is the capital and seat of the modern Israeli government—is too much for some.

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Now today, buried in diplomatic jargon, some presume to tell America where to put our embassy. The United States' has a sovereign right to determine where and whether we establish an embassy. I suspect very few Member States would welcome Security Council pronouncements about their sovereign decisions. And I think of some who should fear it.

It's worth noting that this is not a new American position. Back in 1980, when Jimmy Carter was the American President, the Security Council voted on Resolution 478, which called upon diplomatic missions to relocate from Jerusalem. The United States did not support Resolution 478.

In his remarks, then-Secretary of State Ed Muskie said the following: "The draft resolution before us today is illustrative of a preoccupation which has produced this series of unbalanced and unrealistic texts on Middle East issues."

Specifically, regarding the provision on diplomatic missions in Jerusalem, Secretary Muskie said this: "In our judgment, this provision is not binding. It is without force. And we reject it as a disruptive attempt to dictate to other nations. It does nothing to promote a resolution of the difficult problems facing Israel and its neighbors. It does nothing to advance the cause of peace."

That was in 1980. It is equally true today. The United States will not be told by any country where we can put our embassy.

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Today, for the simple act of deciding where to put our embassy, the United States was forced to defend its sovereignty. The record will reflect that we did so proudly. Today, for acknowledging a basic truth about the capital city of Israel, we are accused of harming peace. The record will reflect that we reject that outrageous claim.

For these reasons, and with the best interests of both the Israeli and the Palestinian people firmly in mind, the United States votes no on this resolution.

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Ambassador Haley delivered a further statement before a UN General Assembly vote on Jerusalem on December 21, 2017, which is excerpted below and available at <https://usun.state.gov/remarks/8232>.

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The arguments about the President's decision to move the American embassy to Jerusalem have already been made. They are by now well known. The decision was in accordance [with] U.S. law dating back to 1995, and its position has been repeatedly endorsed by the American people ever since. The decision does not prejudice any final status issues, including Jerusalem's boundaries. The decision does not preclude a two-state solution, if the parties agree to that. The decision does nothing to harm peace efforts. Rather, the President's decision reflects the will of the American people and our right as a nation to choose the location of our embassy. There is no need to describe it further.

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**Cross References**

*Cuba Migration Policy*, **Ch. 1.B.3.**

*Law Enforcement MOU with Cuba*, **Ch. 3.A.3.**

*Kosovo Extradition Treaty*, **4.A.1.**

*Taiwan (Lin v. U.S.)*, **Ch. 5.C.3.**

*Work of the ILC on succession of states in respect of state responsibility*, **Ch. 7.C.1.**

*Cuba claims talks*, **Ch. 8.A.**

*Libya Claims*, **Ch 8.D.**

*Relations with Russia*, **Ch. 10.D.1.**

*Cuba maritime boundary agreements*, **Ch. 12.A.4.a.**

*Cuba Search and Rescue (SAR) agreement*, **Ch. 12.A.5.a.**

*Cuba oil spills and marine pollution agreement*, **Ch. 13.B.4.**

*Entry into force of the Apostille Convention for the Republic of Kosovo*, **Ch. 15.A.4.**

*Cuba*, **Ch. 16.A.3.**

*Russia sanctions*, **Ch. 16.A.7.**

*Middle East peace process*, **Ch. 17.A.**

*South Sudan*, **Ch. 17.B.5.**

*Montenegro joins NATO*, **Ch. 18.A.2.a.**