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CHAPTER 9

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

A. DIPLOMATIC RELATIONS

1. Yemen

On February 10, 2015, in a press statement available at <http://www.state.gov/r/pa/prs/ps/2015/02/237374.htm>, the U.S. Department of State announced that it had suspended embassy operations in Sana'a, Yemen. Excerpts follow from the press statement.

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Due to the uncertain security situation in Sana'a, the Department of State has decided to suspend our embassy operations and our embassy staff have been temporarily relocated out of Sana'a. Recent unilateral actions disrupted the political transition process in Yemen, creating the risk that renewed violence would threaten Yemenis and the diplomatic community in Sana'a.

The United States remains firmly committed to supporting all Yemenis who continue to work toward a peaceful, prosperous, and unified Yemen. We will explore options for a return to Sana'a when the situation on the ground improves.

Our Ambassador and Embassy staff will continue to engage Yemenis and the international community to support Yemen's political transition process, consistent with the Gulf Cooperation Council Initiative, the outcomes of the National Dialogue Conference, UN Security Council resolutions and Yemeni law. We will also continue to protect the American people, and we will not hesitate to act in Yemen to do so.

Having worked bravely and tirelessly to bring about a political transition in Yemen, the Yemeni people have reason to expect to see this process resume with meaningful public timelines for finishing a new Yemeni constitution, holding a referendum on this constitution, and launching national elections.

We reiterate the call of the United Nations Security Council for immediate release of President Hadi, Prime Minister Bahah, and members of the Yemeni cabinet. An inclusive political process cannot resume with members of the country's leadership under house arrest.

The future of Yemen should be determined by the Yemeni people. All Yemenis have both a right and responsibility to participate in this process peacefully.

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2. Somalia

As discussed in *Digest 2013* at 251-55, the United States recognized the government of Somalia in 2013. On September 8, 2015, the Department of State announced the commencement of operations by the U.S. Mission to Somalia in a press statement, available at <http://www.state.gov/r/pa/prs/ps/2015/09/246680.htm>. The press statement explains further:

The new mission reflects a continuation of U.S. efforts to normalize the U.S.-Somalia bilateral relationship since recognizing the Federal Government of Somalia on January 17, 2013. The United States Mission to Somalia is based within the United States Embassy in Nairobi, Kenya, and will be headed by a Chargé d'Affaires until the President appoints, and Senate confirms, the next U.S. Ambassador to Somalia. The launch of the U.S. Mission to Somalia is the next step towards reestablishing a diplomatic presence by the United States in Somalia as announced by Secretary Kerry on May 5 during his historic visit to Mogadishu. U.S. officials will continue to travel to Somalia to conduct official business as security conditions permit.

After confirmation by the Senate, the ambassador to Somalia would serve in the U.S. Embassy in Nairobi, Kenya until security conditions permit reopening the U.S. Embassy in Mogadishu. As referenced in the September 8, 2014 press statement quoted above, Secretary Kerry visited Mogadishu on May 5, 2015. His remarks in Mogadishu are excerpted below and available in full at <http://www.state.gov/secretary/remarks/2015/05/241902.htm>.

* * * *

...[M]ore than 20 years ago, the United States was forced to pull back from this country. And now we're returning in collaboration with our international community and with high hopes mixed, obviously, with ongoing concerns.

My brief visit confirms what diplomats have been telling me: The people here are both resilient and determined to reclaim their future from the terrorists and the militias who've been attempting to steal it. ...

So I'm here today because Somalia is making progress in its mission to turn things around. Three years have passed since a new provisional constitution was adopted and a parliament was sworn in. With help from AMISOM, the UN mission here, the United Nations has contributed significantly to this progress. Somali forces have pushed al-Shabaab out of major population centers. A determined international effort has put virtually all of Somalia's pirates out of business. New life has returned to the streets of Mogadishu, and fresh hope to the people of all the country. I want to acknowledge particularly the remarkable commitment and sacrifice of the nations and countries that make up a part of AMISOM, particularly Kenya, Burundi, Ethiopia, Uganda, Djibouti, and previously Sierra Leone. It is really a great statement about the leadership of African nations stepping up to deal with African problems.

The question now is how quickly and completely the next steps of governing will be taken. The Somali Government has put forward a blueprint for the country's development as a unified and federal state. It is working with the new regional administration to enhance stability and sow the seeds of prosperity in every part of Somalia. That includes finding the right balance of authority and responsibility between the national, the regional, and the local levels. And we look forward to seeing progress soon on an integration process between the regional forces into the Somali National Army so that we can broaden our security assistance to those forces.

The government is also working towards finalizing and holding democratic elections in 2016. The president, the prime minister, and the regional leaders affirmed to me today that they are committed to making progress on these issues and ensuring that there is a broad consensus on exactly how the constitutional review and the elections are going to proceed. And in addition, he also committed to me today that the mandate will not be extended beyond 2016, that the government will keep the schedule of Vision 2016 and avoid delays, that they will appoint the members of the national independent electoral commission and the boundaries and federation commission by next week. He committed that they will work with parliament to pass the political parties law by next month, and committed to move forward with the integration of the National Army. So I am confident that the leaders came together today from the regions and the federal government to affirm solidly their determination to work cooperatively with the international community and to move the reform process of governance of Somalia forward.

We all have a stake in what happens here in Somalia. The world cannot afford to have places on the map that are essentially ungoverned. We learned in 2001 what happens when that is the case, and we have seen on a continued basis with splinter groups how they are determined to try to do injury to innocent people and to whole nations by operating out of ungoverned spaces. And so Somalia's return to effective government is an historic opportunity for everybody to push back against extremism and to empower people in a whole country to be able to live the promise of their nation.

In recognition of the progress made and the promise to come, I'm pleased to announce that the United States will begin the process of establishing the premises for a diplomatic mission in Mogadishu. And while we do not yet have a fixed timeline for reopening the embassy, we are immediately beginning the process of upgrading our diplomatic representation. And I look forward, as does the President, to the day when both the United States and Somalia have full-fledged missions in each other's capital city again. And I look forward as well to the time when we can say, and all the world will be able to see and to measure, that this country is fully united, combining regional strengths with national purpose, able to welcome its refugees home, and secure in a new Somalia that occupies an honored place on the regional and global stage for generations to come.

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3. Cuba

As discussed in *Digest 2014* at 336, the United States announced at the end of 2014 that it would begin the process of restoring diplomatic relations with Cuba. In January 2015, representatives of the United States and Cuba initiated talks to re-establish diplomatic relations. The first round of talks was held in Havana. On February 27, the State Department hosted the second round of talks in Washington, DC. See notice to the press, available at <http://www.state.gov/r/pa/prs/ps/2015/02/237896.htm>. A third round was held in Havana and a fourth round in Washington. See special briefing on the ongoing discussions with Cuba, May 19, 2015, available at <http://www.state.gov/r/pa/prs/ps/2015/05/242613.htm>. Each round of talks was led by Assistant Secretary of State for Western Hemisphere Affairs Roberta S. Jacobson on behalf of the United States and by Josefina Vidal, General Director of the U.S. Division of the Ministry of Foreign Affairs, on behalf of Cuba. Additional discussions on reopening embassies occurred regularly along with other frequent communications during the first half of 2015 to determine how embassies would operate, including access to diplomatic facilities, travel of diplomats, and the level of staffing. See Background Briefing on Re-establishment of Diplomatic Relations With Cuba, a special briefing with a senior State Department official on July 1, 2015, available at <http://www.state.gov/r/pa/prs/ps/2015/07/244549.htm>.

On July 1, 2015, Secretary Kerry and President Obama announced that the governments of the United States and Cuba had reached an agreement to re-establish diplomatic relations and reopen embassies. An exchange of letters by the presidents of the two countries set diplomatic relations to resume on July 20, 2015. The letters from each president are available at www.state.gov/s/l/c8183.htm. The June 30, 2015 letter from President Obama to President Castro includes the following:

I am pleased to confirm, following high-level discussions between our two governments, and in accordance with international law and practice, that the United States of America and the Republic of Cuba have decided to re-establish diplomatic relations and permanent diplomatic missions in our respective countries on July 20, 2015. ...

In making this decision, the United States is encouraged by the reciprocal intention to develop respectful and cooperative relations between our two peoples and governments consistent with the Purposes and Principles enshrined in the Charter of the United Nations, including those related to sovereign equality of States, settlement of international disputes by peaceful means, respect for the territorial integrity and political independence of States, respect for equal rights and self-determination of peoples, non-interference in the internal affairs of States, and promotion and encouragement of respect for human rights and fundamental freedoms for all.

The United States and Cuba are each parties to the Vienna Convention on Diplomatic Relations, signed at Vienna on April 18, 1961, and the Vienna Convention on Consular Relations, signed at Vienna on April 24, 1963. I am pleased to confirm the understanding of the United States that these agreements will apply to diplomatic and consular relations between our two countries.

The July 1, 2015 letter from President Castro to President Obama (in Spanish) includes similar commitments to the UN Charter and the Vienna Conventions.

President Obama's July 1st remarks on the reestablishment of diplomatic relations with Cuba and the reopening of the U.S. Embassy in Havana are excerpted below. Daily Comp. Pres. Docs. 2015 DCPD No. 00474, pp. 1-3 (July 1, 2015).

* * * *

More than 54 years ago, at the height of the cold war, the United States closed its Embassy in Havana. Today I can announce that the United States has agreed to formally reestablish diplomatic relations with the Republic of Cuba and reopen Embassies in our respective countries. This is a historic step forward in our efforts to normalize relations with the Cuban Government and people and begin a new chapter with our neighbors in the Americas.

When the United States shuttered our Embassy in 1961, I don't think anyone expected that it would be more than half a century before it reopened. After all, our nations are separated by only 90 miles, and there are deep bonds of family and friendship between our people. But there have been very real, profound differences between our Governments, and sometimes, we allow ourselves to be trapped by a certain way of doing things.

For the United States, that meant clinging to a policy that was not working. Instead of supporting democracy and opportunity for the Cuban people, our efforts to isolate Cuba, despite good intentions, increasingly had the opposite effect: cementing the status quo and isolating the United States from our neighbors in this hemisphere. The progress that we mark today is yet another demonstration that we don't have to be imprisoned by the past. When something isn't working, we can and will change.

Last December, I announced that the United States and Cuba had decided to take steps to normalize our relationship. As part of that effort, President Raúl Castro and I directed our teams to negotiate the reestablishment of Embassies. Since then, our State Department has worked hard with their Cuban counterparts to achieve that goal. And later this summer, Secretary Kerry will travel to Havana formally to proudly raise the American flag over our Embassy once more.

This is not merely symbolic. With this change, we will be able to substantially increase our contacts with the Cuban people. We'll have more personnel at our Embassy, and our diplomats will have the ability to engage more broadly across the island. That will include the Cuban Government, civil society, and ordinary Cubans who are reaching for a better life.

On issues of common interest, like counterterrorism, disaster response, and development, we will find new ways to cooperate with Cuba. And I've been clear that we will also continue to have some very serious differences. That will include America's enduring support for universal

values like freedom of speech and assembly and the ability to access information. And we will not hesitate to speak out when we see actions that contradict those values.

However, I strongly believe that the best way for America to support our values is through engagement. That's why we've already taken steps to allow for greater travel, people-to-people, and commercial ties between the United States and Cuba. And we will continue to do so going forward.

* * * *

Americans and Cubans alike are ready to move forward. I believe it's time for Congress to do the same. And I've called on Congress to take steps to lift the embargo that prevents Americans from traveling or doing business in Cuba. We've already seen Members from both parties begin that work. After all, why should Washington stand in the way of our own people?

Yes, there are those who want to turn back the clock and double down on a policy of isolation. But it's long past time for us to realize that this approach doesn't work. It hasn't worked for 50 years. It shuts America out of Cuba's future, and it only makes life worse for the Cuban people.

So I'd ask Congress to listen to the Cuban people. Listen to the American people. Listen to the words of a proud Cuban American, Carlos Gutierrez, who recently came out against the policy of the past, saying, "I wonder if the Cubans who have to stand in line for the most basic necessities for hours in the hot Havana sun feel that this approach is helpful to them."

* * * *

In January of 1961, the year I was born, when President Eisenhower announced the termination of our relations with Cuba, he said: It is my hope and my conviction that it is "in the not-too-distant future it will be possible for the historic friendship between us once again to find its reflection in normal relations of every sort." Well, it took a while, but I believe that time has come. And a better future lies ahead.

* * * *

Secretary Kerry's July 1 remarks are excerpted below and available at <http://www.state.gov/secretary/remarks/2015/07/244542.htm>.

* * * *

Good afternoon, everybody. Thank you for your patience. In Washington a few moments ago, [President Obama announced](#) that we had reached an agreement to formally re-establish diplomatic relations with the Republic of Cuba and that we will reopen embassies in our respective countries.

Later this summer, as the President announced, I will travel to Cuba to personally take part in the formal reopening of our United States Embassy in Havana. This will mark the resumption of embassy operations after a period of 54 years. It will also be the first visit by a Secretary of State to Cuba since 1945. The reopening of our embassy, I will tell you, is an

important step on the road to restoring fully normal relations between the United States and Cuba. Coming a quarter of a century after the end of the Cold War, it recognizes the reality of the changed circumstances, and it will serve to meet a number of practical needs.

The United States and Cuba continue to have sharp differences over democracy, human rights, and related issues, but we also have identified areas for cooperation that include law enforcement, safe transportation, emergency response, environmental protection, telecommunications, and migration. The resumption of full embassy activities will help us engage the Cuban Government more often and at a higher level, and it will also allow our diplomats to interact more frequently, and frankly more broadly and effectively, with the Cuban people. In addition, we will better be able to assist Americans who travel to the island nation in order to visit family members or for other purposes.

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On July 6, 2015, the State Department issued a fact sheet on the re-establishment of diplomatic relations with Cuba. The fact sheet is excerpted below and available at <http://www.state.gov/r/pa/prs/ps/2015/07/244623.htm>.

* * * *

...The U.S. Department of State ... notified Congress of its intent to convert the U.S. Interests Section in Havana, Cuba to U.S. Embassy Havana, effective on [July 20, 2015]. These are important steps in implementing the new direction in U.S.-Cuba relations announced by President Obama on December 17, 2014.

On July 1, the U.S. and Cuban Interests Sections exchanged presidential letters declaring mutual intent to re-establish diplomatic relations and re-open embassies on July 20, 2015. President Obama affirmed that the two governments had agreed to develop “respectful and cooperative” relations based on international principles, including the promotion and encouragement of respect for human rights and fundamental freedoms for all.

The U.S. Embassy will continue to perform the existing functions of the U.S. Interests Section, including consular services, operation of a political and economic section, implementation of a public diplomacy program, and will continue to promote respect for human rights. The U.S. Embassy will allow the United States to more effectively promote our interests and values and increase engagement with the Cuban people.

The U.S. Embassy in Havana will operate like other embassies in restrictive societies around the world, and will operate in sync with our values and the President’s policy. Diplomats will be able to meet and exchange opinions with both government and nongovernment entities. Chief of Mission Jeffrey DeLaurentis will be the senior-most official in the new embassy and will serve as Charge d’Affaires ad interim.

Normalizing relations is a long, complex process that will require continued interaction and dialogue between our two governments, based on mutual respect. We will have areas of cooperation with the Cubans, and we will continue to have differences. Where we have differences, deeper engagement via diplomatic relations will allow us to articulate those differences clearly, directly, and when appropriate, publicly. Throughout our diplomatic

engagement, the United States will remain focused on empowering the Cuban people and supporting the emergence of a democratic, prosperous, and stable Cuba.

The embargo on Cuba is still in place and legislative action is required to lift it. Additionally, rules for travel to Cuba by U.S. citizens remain in effect. The U.S. Department of the Treasury's Office of Foreign Assets Control will continue to administer the regulations that provide general licenses for the 12 categories of authorized travel to Cuba.

The Administration has no plans to alter current migration policy, including the Cuban Adjustment Act. The United States continues to support safe, legal and orderly migration from Cuba to the United States and the full implementation of the existing migration accords with Cuba.

* * * *

In accordance with the July 1 announcement and the letters exchanged by the governments, on July 20, 2015 all of the employees of the U.S. Interests Section in Havana were re-accredited as employees of the U.S. Embassy. The chief of mission was upgraded to charge d'affaires, and the agreement of the two governments relating to conditions of operation for the embassies took effect, including greater freedom for U.S. diplomats to travel throughout Cuba. See background briefing available at <http://www.state.gov/r/pa/prs/ps/2015/07/245049.htm>.

Also on July 20, 2015, the agreement between the United States and Switzerland, under which the Swiss served as protecting power for the United States for more than 50 years, terminated as a result of the restoration of diplomatic relations between the United States and Cuba. The termination of the agreement was accomplished via an exchange of notes. The United States and Cuba also terminated the 1977 agreement relating to the establishment of interests sections of the United States and Cuba via an exchange of notes initiated by the United States on July 20, 2015. The notes are available at www.state.gov/s/l/c8183.htm.

On August 14, 2015, Secretary Kerry officiated at the ceremony raising the U.S. flag at the U.S. Embassy in Havana, Cuba. His remarks on the occasion are excerpted below and available at <http://www.state.gov/secretary/remarks/2015/08/246121.htm>.

* * * *

...[T]hank you for joining us at this truly historic moment as we prepare to raise the United States flag here at our embassy in Havana, symbolizing the re-establishment of diplomatic relations after 54 years. This is also the first time that a United States Secretary of State has been to Cuba since 1945.

* * * *

My friends, we are gathered here today because our leaders—President Obama and President Castro—made a courageous decision to stop being the prisoners of history and to focus

on the opportunities of today and tomorrow. This doesn't mean that we should or will forget the past; how could we, after all? At least for my generation, the images are indelible.

In 1959, Fidel Castro came to the United States and was greeted by enthusiastic crowds. Returning the next year for the UN General Assembly, he was embraced by then-Soviet Premier Nikita Khrushchev. In 1961, the Bay of Pigs tragedy unfolded with President Kennedy accepting responsibility. And in October 1962, the missile crisis arose—13 days that pushed us to the very threshold of nuclear war. I was a student then, and I can still remember the taut faces of our leaders, the grim map showing the movement of opposing ships, the approaching deadline, and that peculiar word—quarantine. We were unsettled and uncertain about the future because we didn't know when closing our eyes at night what we would find when we woke up.

In that frozen environment, diplomatic ties between Washington and this capital city were strained, then stretched thin, then severed. In late 1960, the U.S. ambassador left Havana. Early the following January, Cuba demanded a big cut in the size of our diplomatic mission, and President Eisenhower then decided he had no choice but to shut the embassy down.

Most of the U.S. staff departed quickly, but a few stayed behind to hand the keys over to our Swiss colleagues, who would serve diligently and honorably as our protecting power for more than 50 years. I just met with the Foreign Minister Didier Burkhalter, and we're grateful to Switzerland always for their service and their help.

* * * *

... U.S. policy is not the anvil on which Cuba's future will be forged. Decades of good intentions aside, the policies of the past have not led to a democratic transition in Cuba. It would be equally unrealistic to expect normalizing relations to have, in a short term, a transformational impact. After all, Cuba's future is for Cubans to shape. Responsibility for the nature and quality of governance and accountability rests, as it should, not with any outside entity; but solely within the citizens of this country.

But the leaders in Havana—and the Cuban people—should also know that the United States will always remain a champion of democratic principles and reforms. Like many other governments in and outside this hemisphere, we will continue to urge the Cuban Government to fulfill its obligations under the UN and inter-American human rights covenants—obligations shared by the United States and every other country in the Americas.

And indeed, we remain convinced the people of Cuba would be best served by genuine democracy, where people are free to choose their leaders, express their ideas, practice their faith; where the commitment to economic and social justice is realized more fully; where institutions are answerable to those they serve; and where civil society is independent and allowed to flourish.

Let me be clear: The establishment of normal diplomatic relations is not something that one government does as a favor to another; it is something that two countries do together when the citizens of both will benefit. And in this case, the reopening of our embassies is important on two levels: People-to-people and government-to-government.

First, we believe it's helpful for the people of our nations to learn more about each other, to meet each other. That is why we are encouraged that travel from the United States to Cuba has already increased by 35 percent since January and is continuing to go up. We are encouraged that more and more U.S. companies are exploring commercial ventures here that would create opportunities for Cuba's own rising number of entrepreneurs, and we are encouraged that U.S.

firms are interested in helping Cuba expand its telecommunications and internet links, and that the government here recently pledged to create dozens of new and more affordable Wi-Fi hotspots.

We also want to acknowledge the special role that the Cuban American community is playing in establishing a new relationship between our countries. And in fact, we have with us this morning representatives from that community, some of whom were born here and others who were born in the United States. With their strong ties of culture and family, they can contribute much to the spirit of bilateral cooperation and progress that we are seeking to create, just as they have contributed much to their communities in their adopted land.

The restoration of diplomatic ties will also make it easier for our governments to engage. After all, we are neighbors, and neighbors will always have much to discuss in such areas as civil aviation, migration policy, disaster preparedness, protecting marine environment, global climate change, and other tougher and more complicated issues. Having normal relations makes it easier for us to talk, and talk can deepen understanding even when we know full well we will not see eye to eye on everything.

We are all aware that notwithstanding President Obama's new policy, the overall U.S. embargo on trade with Cuba remains in place and can only be lifted by congressional action—a step that we strongly favor. ... For now, the President has taken steps to ease restrictions on remittances, on exports and imports to help Cuban private entrepreneurs, on telecommunications, on family travel, but we want to go further. The goal of all of these changes is to help Cubans connect to the world and to improve their lives. And just as we are doing our part, we urge the Cuban Government to make it less difficult for their citizens to start businesses, to engage in trade, access information online. The embargo has always been something of a two-way street – both sides need to remove restrictions that have been holding Cubans back.

* * * *

Also on August 14, 2015, Secretary Kerry met in Havana with Cuban Foreign Minister Bruno Eduardo Rodriguez Parrilla. The two leaders addressed, and answered questions from, the press after their meeting. The transcript of their press availability is available at <http://www.state.gov/secretary/remarks/2015/08/246133.htm>.

On September 11, 2015, the United States and Cuba held the inaugural session of their bilateral commission. As described in a September 11, 2015 State Department media note, available at <http://www.state.gov/r/pa/prs/ps/2015/09/246844.htm>, the talks provided an opportunity for the governments of the two countries to agree on “concrete steps to continue on the path toward normalized relations.” The media note explains further:

The group discussed a preliminary timeline through the end of this year for engagements on key topics including human rights, combating trafficking in persons, claims, migration, counter-narcotics, regulatory issues, environmental cooperation, civil aviation, telecommunications and the internet, and direct mail.

The bilateral commission met for the second time in November. See November 10, 2015 media note, available at <http://www.state.gov/r/pa/prs/ps/2015/11/249401.htm>. As described in the media note, the meeting “provided an opportunity to review progress on shared priorities, including regulatory issues, telecommunications, claims, environmental protection, human trafficking, human rights, migration, and law enforcement.”

B. STATUS ISSUES

1. Ukraine

The United States continued its support in 2015 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. For discussion of the U.S. support for attempts to maintain a cease-fire in eastern Ukraine, see Chapter 17. For U.S. statements on Ukraine at the Human Rights Council, see Chapter 6. And for discussion of targeted sanctions implemented by the United States in response to Russian actions in Ukraine, see Chapter 16.

On February 13, 2015, the Group of Seven (“G7”) leaders issued a joint statement on the situation in Ukraine. Daily Comp. Pres. Docs. 2015 DCPD No. 00101. The Joint Statement by the leaders of Canada, France, Germany, Italy, Japan, the United Kingdom, the United States, the President of the European Council and the President of the European Commission, welcomes the February 12, 2015 “Package of Measures for the Implementation of the Minsk Agreements,” and again condemns Russian occupation of Crimea.

After the International Atomic Energy Agency (“IAEA”) presented its draft annual report for 2014, the Russian delegation objected to the report’s identification of a facility in Sevastopol, Crimea as within the jurisdiction of Ukraine. On June 8, 2015, at the IAEA Board of Governors Meeting, Ambassador Laura Kennedy delivered the statement for the United States, which, excerpted below, included rejection of Russia’s assertions regarding facilities in Crimea. The United States also delivered a note verbale from its permanent mission in Vienna to the IAEA on June 10, 2015, repeating the points below and asking that the note verbale be circulated as an IAEA information circular (“INFCIRC”) and that the Secretariat also circulate as an INFCIRC its explanation, delivered by the IAEA Office of Legal Affairs on June 10, regarding the ongoing application of Ukraine’s safeguards agreement to Crimea. The Secretariat duly circulated the U.S. note verbale as INFCIRC/882, available at <https://www.iaea.org/sites/default/files/infcirc882.pdf>. The IAEA received and circulated similar communications from Ukraine, the United Kingdom, Germany, France,

Canada, Australia, and others. The annual report was adopted without any change to the annex that listed facilities in Crimea as being within Ukraine.

* * * *

Madam Chair, I take the floor again to reject the statement made by our Russian colleague. As in the case of the Safeguards Implementation Report (SIR), the Secretariat has acted completely correctly, and in accordance with international law and UNGA resolution 68/262. The IAEA did not take any action to recognize a change in Crimea's status despite Russian occupation and attempted illegal annexation. Ukraine's safeguards agreement continues to apply to Crimea, as an integral part of Ukraine's territory, and as it did throughout 2014. Specifically, the IAEA listed the Sevastopol Research Reaction as a Ukrainian facility.

We regret Russia's occupation and attempted annexation of Crimea. We continue to call for an end to Russia's occupation of Crimea, which would allow IAEA all appropriate access under Ukraine's safeguards agreement.

In accordance with UNGA resolution 68/262, and as the Secretariat has made clear, Ukraine's safeguards agreement continues to apply to Crimea, which is an integral part of Ukraine. It would be inappropriate, and contrary to international law and UNGA resolution 68/262, for the IAEA to undertake any activities in Crimea under Russia's safeguards agreements.

* * * *

On June 11, 2015, Ambassador Samantha Power, U.S. Permanent Representative to the UN, delivered remarks at the October Palace in Kyiv, Ukraine. Her remarks are excerpted below and available in full at <http://usun.state.gov/remarks/6562>.

* * * *

The message of the United States throughout this Moscow-manufactured conflict—and the message you heard from President Obama and other world leaders at last week's meeting of the G7—has never wavered: if Russia continues to disregard the sovereignty and territorial integrity of Ukraine; and if Russia continues to violate the rules upon which international peace and security rest—then the United States will continue to raise the costs on Russia. And we will continue to rally other countries to do the same, reminding them that their silence or inaction in the face of Russian aggression will not placate Moscow, it will only embolden it.

* * * *

Now, if the Maidan of 2013 and 2014 was about claiming your right to a genuinely democratic government, the task before you in 2015 and beyond is implementing the reforms

needed to achieve Ukraine's transformation. It is about moving from demanding change to actually making change. This is my second point: you are still living in the revolution, and delivering on its promise will require all the resilience, smarts, and compassion you can muster.

Given the powerful interests that benefited from the corrupt system, achieving a full transformation was always going to be an uphill battle. And that was before Russian troops occupied Crimea, something the Kremlin denied at the time, but has since admitted; and it was before Russia began training, arming, bankrolling, and fighting alongside its separatist proxies in eastern Ukraine, something the Kremlin continues to deny. Suddenly, the Ukrainian people faced a battle on two fronts: combating corruption and overhauling broken institutions on the inside; while simultaneously defending against aggression and destabilization from the outside.

* * * *

2. Guyana-Venezuela Boundary Dispute

On October 5, 2015, U.S. Ambassador to Guyana Perry Holloway addressed questions from the press about the boundary dispute between Venezuela and Guyana.

Ambassador Holloway answered, in part:

We do maintain our position, as we've been very clear in the past, that any efforts to address the boundary dispute should be through peaceful means and consistent with international law. ...It is important that all parties—both sides—should avoid any actions that would complicate the on-going efforts to reach a diplomatic solution. ... We were also pleased to learn that Presidents Granger and Maduro met at the UN, along with Secretary General Ban, and we encourage them to continue that dialogue. ...Now, you asked specifically about the 1899 arbitration? The land boundary between Guyana and Venezuela was decided by an arbitral award in 1899—that's a fact—and duly implemented by both parties. It was only several decades later that Venezuela stated its intention to challenge the validity of that award and the land boundary. We call on all parties to continue to respect the 1899 arbitral ruling and boundary unless or until a competent legal body decides otherwise or both parties agree on something else. ...

3. Central African Republic

On September 3, 2015, the United States commended the decision of the transitional constitutional court of the Central African Republic to uphold the elections ineligibility clause in the transitional national charter that precludes current and former senior transitional government members from running in the presidential and legislative elections scheduled for October and November 2015. The U.S. press statement is available at <http://www.state.gov/r/pa/prs/ps/2015/09/246617.htm>, and also includes the following:

We commend the court for its decision, which upholds the rule of law and provides a clear signal to the people of CAR that political authority in their country is bound by the tenets of the interim constitution, not arbitrary decisions. We call upon all members of the transitional government, past and future, to respect the court's ruling.

The United States further commends the constitutional court for its strong rulings in January and July in favor of including refugees in the elections, an important decision that seeks to ensure that the elections are representative and that CAR's future is inclusive of its entire population. We call upon the transitional government, including those in charge of elections preparations, to reinforce the spirit of the decision by redoubling efforts to organize and expand elections preparations.

4. Kosovo

On February 6, 2015, Ambassador David Pressman, Alternate Representative to the UN for Special Political Affairs, addressed a UN Security Council Meeting on UNMIK. His remarks are excerpted below and available at <http://usun.state.gov/remarks/6364>.

* * * *

Thank you, Mr. President, and thank you Special Representative Zarif for your briefing. We welcome Foreign Ministers Thaçi and Dačić back to the Council. I commend both countries for their continued dedication to the normalization of relations. We particularly welcome Kosovo's continuing integration into the community of states as demonstrated by its participation in regional meetings and fora in recent months and, specifically, we congratulate Kosovo on its recognition by the International Olympic Committee and look forward to seeing Kosovo's athletes competing under the Kosovo flag in Rio de Janeiro in 2016.

The United States welcomes the successful formation of a government in Kosovo in December 2014. Although this process took time, it represents the first democratic transition of political authority resulting from free and fair elections across the entirety of Kosovo's territory. This coalition government, and the process that led to its formation, demonstrated the resilience and vitality of Kosovo's democratic and political institutions. The United States appreciates the leadership of President Jahjaga in helping to facilitate the political dialogue that led to government formation in accordance with Kosovo's constitution.

The new government, which includes representatives of minority communities, has been tested over the last month by violent protests and by the separation from government service yesterday of the Minister for Communities and Returns. The importance of a fully representative, fully participatory and multi-ethnic government and parliament cannot be understated. With respect to the protests, let's be clear: All citizens have the democratic right to protest, but violence is illegal and it's unacceptable. We condemn all acts of vandalism to public and private

property and the intimidation of journalists and TV crews. All citizens of Kosovo should exercise their democratic rights and they should do so legally and responsibly.

We encourage the new government to move quickly to address the socio-economic challenges in the country. Economic growth and new employment opportunities will demonstrate to the citizens of Kosovo, regardless of ethnicity, that they have a prosperous and free future at home, stemming the tide of migration out of the country. We additionally encourage efforts by Kosovo to undertake those measures necessary to encourage the return of those displaced both internally and outside of Kosovo as a result of the conflict, including by adjudicating property claims and enforcing court decisions. We will continue to urge Serbia, Kosovo, and all states in the region to increase cooperation at their shared borders. Such cooperation will advance the rule of law, increase security, counter criminal activity, including smuggling and trafficking in persons.

We again condemn the actions of those who seek to oppose the work of building inclusive democracy in Kosovo by committing acts of violence or by sowing tensions, mistrust, and fear between communities. The use of violence against religious pilgrims, as we unfortunately saw in Gjakove/Djakovica on Orthodox Christmas, is clearly unacceptable. All sides must guarantee freedom of movement for local populations. To this end, KFOR and EULEX continue to exercise indispensable roles in facilitating a safe and secure environment.

The United States notes the visit of Prime Minister Vučić to Kosovo in January and the cooperation of Kosovo authorities to provide protection. This act was another step toward the normalization of relations. The EU-facilitated Kosovo-Serbia Dialogue and implementation of the April 2013 agreement continue to be critical elements of building a strong, inclusive and multi-ethnic democracy in Kosovo. We welcome the forthcoming high-level meetings in Brussels next week and hope that the session on Monday will lead to concrete progress that will directly benefit the citizens of both countries.

The United States commends Serbia and Kosovo for your work, as well, on combatting foreign terrorist fighters, as demonstrated by your attendance at the first ministerial-level plenary session of the counter-ISIL coalition in December in Brussels. Kosovo's dedication to this effort is also apparent in the recent work to arrest and prosecute foreign terrorist fighters in Kosovo and by the introduction of a law to criminalize participation in such activity.

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On October 27, 2015, the EU and Kosovo signed a Stabilization and Association Agreement ("SAA"), which was welcomed by the U.S. State Department in an October 28, 2015 press statement, available at <http://www.state.gov/r/pa/prs/ps/2015/10/248938.htm>. The press statement calls the signing of the agreement a "major milestone on Kosovo's path toward Euro-Atlantic integration." The statement goes on to say:

We welcome this strong sign of Europe's continued commitment to Kosovo and congratulate the leadership and people of Kosovo for their hard work in achieving this goal. The SAA will bring tangible benefits to all in Kosovo, and we look forward to its rapid approval by the Kosovo Assembly.

5. Bosnia and Herzegovina

Ambassador Pressman delivered remarks at a UN Security Council Debate on Bosnia and Herzegovina on November 10, 2015. His remarks, excerpted below and available at <http://usun.state.gov/remarks/6970>, urged continued implementation of the Dayton Accords.

* * * *

High Representative Inzko, we again reiterate our strong support for your mandate under Dayton as the final authority regarding the interpretation of the civilian implementation of the Peace Agreement. The United States joins members of this Council and the EU Foreign Affairs Council in our continued support for the EUFOR mandate, and would also like to commend the continuing work of NATO through NATO Headquarters Sarajevo.

The United States fully backs the EUFOR ALTHEA mission, and we are pleased that today the Security Council has adopted a resolution that renews all authorities—each and every one—and carries forward all prior Council actions on EUFOR, the Office of the High Representative, and NATO. We know that many in Bosnia and Herzegovina depend on the Dayton institutions and the Peace Agreement to ensure that their rights are protected. The presence of EUFOR, as well as of the Office of the High Representative and NATO, provide reassurances that this trust is well founded and has the backing of the international community.

We look forward to the day when Bosnia and Herzegovina meets the objectives and conditions established by the Peace Implementation Council for the closure of the Office of the High Representative, but that day has not arrived. Again, that day has not come, and the Security Council has reaffirmed that today. We encourage Bosnia and Herzegovina's leaders, and all members of the international community, to support the actions and reforms necessary to reach that milestone.

As the High Representative has noted, the adoption of the reform agenda in Bosnia and Herzegovina is a good step toward that future, and it must not be allowed to falter. The United States strongly supports the EU's initiative to advance quickly these important economic and social reforms, and we also continue to support Euro-Atlantic integration, as it is a cornerstone for security and stability in a previously troubled region.

This year, we marked 20 years since some 8,000 people were slaughtered in the mountains of eastern Bosnia and Herzegovina. Those who perpetrated that genocide must be held accountable. And we continue to be disturbed by statements made by some political leaders and groups that deny a genocide ever took place.

But let's be very clear, the escalating and divisive rhetoric coming out of Republika Srpska is very troubling, and in particular from Republika Srpska President Dodik, and it threatens both Dayton and the stability of Bosnia and Herzegovina. In recent months, words and rhetoric have regrettably turned into action, with the passage in the Republika Srpska National Assembly of a referendum law directly challenging the Office of the High Representative and state level institutions.

As the High Representative warned the Security Council in his September letter and again in his briefing to us just this morning, this proposed referendum may represent the most serious challenge to the Peace Agreement in the last 20 years; it threatens to disrupt the

achievements of the international community and the people of Bosnia and Herzegovina since the end of the war. This referendum is dangerous, it is anti-Dayton, and it must not go forward. We hope constructive dialogue, including through the Structured Dialogue on Justice, will prevail, but no one should harbor any doubt as to the United States' commitment and dedication to both Dayton and Bosnia and Herzegovina—a Bosnia and Herzegovina that is whole and at peace.

Bosnia and Herzegovina is at a critical juncture. Twenty years after the signing of the Dayton Agreement, Bosnia and Herzegovina has transitioned from war to peace. But we all know that peace is fragile, and peace must constantly be nurtured by all who participate in the democratic sphere.

Mr. President, two paths lay before the country—one of stagnation and division, and one of prosperity and greater integration with Europe. The international community must support Bosnia and Herzegovina as it pursues the reforms necessary for a successful and stable future.

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6. Georgia

On March 17, 2015, the Department of State issued a press statement, available at <http://www.state.gov/r/pa/prs/ps/2015/03/239383.htm>, on the intended signing of an agreement between the *de facto* leaders in Georgia's South Ossetia region and the Russian Federation. As mentioned in the press statement, the Russian Federation purported to enter into a similar agreement with the breakaway region of Abkhazia in 2014. See *Digest 2014* at 130.

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The United States' position on South Ossetia and Abkhazia remains clear: these regions are integral parts of Georgia, and we continue to support Georgia's independence, its sovereignty, and its territorial integrity.

The United States does not recognize the legitimacy of any so-called "treaty" between the *de facto* leaders of Georgia's breakaway region of South Ossetia and the Russian Federation. Neither this agreement nor the one signed between Russia and the *de facto* leaders in Abkhazia in November 2014 constitutes a valid international agreement.

Russia should fulfill all of its obligations under the 2008 ceasefire agreement, withdraw its forces to pre-conflict positions, reverse its recognition of the Georgian regions of South Ossetia and Abkhazia as independent states, and provide free access for humanitarian assistance to these regions.

We continue to support the Geneva International Discussions as a means to achieving concrete progress on security and humanitarian issues that continue to impact the communities on the ground in Georgia. In this regard, we are concerned by reports that the signing of this so-called agreement may coincide with the current round of Geneva Discussions on the conflict in Georgia. The United States calls on all participants to seize the opportunity to make progress in this and future rounds.

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7. Libya

The United States participated in and supported a UN-sponsored effort in 2015 to broker a political resolution in Libya to create a “Government of National Accord” and foster peace and stability.* On February 6, 2015, the Governments of France, Germany, Italy, Spain, the United Kingdom, and the United States issued a joint statement on Libya, excerpted below and available as a State Department media note at <http://www.state.gov/r/pa/prs/ps/2015/02/237282.htm>.

* * * *

The governments of France, Germany, Italy, Spain, the United Kingdom, and the United States strongly condemn all acts of violence within Libya, including the February 3 attack carried out by forces operating under the Alshuruq Operation in the Oil Crescent area. These attacks undermine the efforts of Libyans who are working to bring peace and stability to the country through the UN-led negotiations. We share the UN’s assessment that these attacks constituted a major break in the public pledges made by the main commanders to refrain from actions that could harm the political process. There can be no military solution to Libya’s problems.

We call on all Libyan parties to participate constructively in the UN-led dialogue in order to reach rapidly a sustainable ceasefire and a national unity government. We are encouraged by the progress made in that direction so far and call on all concerned parties to strengthen their effort for this process, which is crucial to Libya’s future.

The only people who ultimately benefit from continued fighting over Libya’s oil terminals and cities are terrorists. We are concerned by the growing presence of terrorist organizations in Libya, and by the attacks on the Corinthia last week and on the Mabrook oil field earlier this week.

We remain deeply concerned about the economic impact of the political and security crisis on Libya’s future prosperity. In light of low oil production and prices, Libya faces a budget deficit that has the potential to consume all of its financial assets if the situation does not stabilize. These challenges can only be addressed through political dialogue that can facilitate ways to address this crisis and protect those independent government institutions whose role is to safeguard Libya’s resources for the good of all Libyans.

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* Editor’s note: In 2014, the U.S. Embassy in Tripoli, Libya suspended operations due to ongoing fighting and security risks around the embassy. Core embassy staff, including the Ambassador, relocated to the U.S. Embassy in Malta. In 2015, the Ambassador and core embassy staff relocated to the U.S. Embassy in Tunisia.

The same six governments issued another joint statement on Libya on February 17, 2015, which is available at <http://www.state.gov/r/pa/prs/ps/2015/02/237550.htm>, and excerpted below.

* * * *

The governments of France, Italy, Germany, Spain, the United Kingdom and the United States strongly condemn all acts of terrorism in Libya. The heinous murder of twenty-one Egyptian citizens in Libya by ISIL-affiliated terrorists once again underscores the urgent need for a political resolution to the conflict in Libya, the continuation of which only benefits terrorist groups, including ISIL. Terrorism affects all Libyans, and no one faction can confront alone the challenges facing Libya. The United Nations-led process to establish a national unity government provides the best hope for Libyans to address the terrorist threat and to confront the violence and instability that impedes Libya's political transition and development. The international community is prepared to fully support a unity government in addressing Libya's current challenges.

Special Representative to the Secretary General Bernardino Leon will convene meetings in the coming days to build further Libyan support for a national unity government. We commend those parties that have so far participated in the talks and note the statements of support by the House of Representatives and Misratan Municipal Council and others for this process. We strongly encourage all parties, including individuals associated with the former General National Congress (GNC), to seize this opportunity to join the UN process in the coming days in a constructive spirit of reconciliation if they hope to shape Libya's political future. The urgency of the terrorist threat demands swift progress in the political process, based on clear timelines.

Those who seek to impede this process and Libya's democratic transition, four years after the revolution, will not be allowed to condemn Libya to chaos and extremism. They will be held by accountable by the Libyan people and the international community for their actions.

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The foreign ministers of the six governments issued a joint statement on Libya on April 12, 2015, at the resumption of the political dialogue brokered by the UN. The April 12 statement, which is available at <http://www.state.gov/r/pa/prs/ps/2015/04/240598.htm>, appears below.

* * * *

Foreign Ministers Fabius, Steinmeier, Gentiloni, García-Margallo, Secretary of State for Foreign and Commonwealth Affairs Hammond, and Secretary of State Kerry welcome the resumption of the Libyan political dialogue under the auspices of Special Representative of the Secretary-General (SRSG) Bernardino Leon in Morocco April 15 and the next meeting of the political parties in Algeria April 13. We strongly urge all participants to the dialogue to negotiate in good

faith and use this opportunity to finalize agreements on the formation of a National Unity Government and make arrangements for an unconditional ceasefire. Only through compromise can Libya move toward a more secure, stable, and prosperous future.

We urge all parties to stop the fighting and expect Libya's leaders to fully support SRSG Bernardino Leon and to engage in the UN-facilitated political dialogue. In particular, we call for the immediate cessation of airstrikes and ground offensives. Such provocations undermine the UN talks and threaten chances for reconciliation. We reaffirm that those who threaten the peace, stability or security of Libya, or undermine the successful completion of its political transition may be designated by the UN sanctions committee. Now is the time for all groups in Libya to move forward in a spirit of compromise. Further delay in reaching a political agreement only deepens the schisms in Libyan society and emboldens those who seek to profit from the ongoing conflict.

The growing threat of terrorism in Libya is of grave concern to the international community. Extremists use the lack of order to their advantage, causing further suffering and bloodshed both inside and outside Libya. We urge the parties to the UN-facilitated dialogue to come together and form a united front both to confront terrorists and to address the root of the problem in a coherent manner, including by offering a vision of a peaceful, stable, and prosperous Libya and by providing essential services to the Libyan people. The international community is prepared to fully support a unity government in addressing Libya's challenges.

* * * *

Senior officials of the Governments of China, France, Germany, Italy, the Russian Federation, Spain, the United Kingdom, the United States of America as well as of the European Union met on June 10, 2015 in Berlin with the Libyan delegates to the UN-led Political Dialogue and the Special Representative of the UN Secretary-General (SRSG), Bernardino León. The June 10, 2015 joint communiqué resulting from the meeting is excerpted below and available at <http://www.state.gov/r/pa/prs/ps/2015/06/243331.htm>.

* * * *

The Libyan people deserve peace, stability and prosperity. Yet, Libya is facing new threats to the sovereignty and the integrity of the country:

- Fratricidal armed conflicts lead to severe suffering of the civilian population, to a deteriorating humanitarian situation, to a high incidence of violations of human rights and humanitarian law, to the displacement of large numbers of persons, to the depletion of state resources, and to the imminent risk of Libya's economic and financial breakdown.
- Terrorist groups, as designated by the UN Security Council, are seeking to take root in a divided Libya and threaten the security of the whole region
- War and instability in Libya and other regions are contributing to ever-increasing numbers of refugees, preyed upon by criminal networks, including human traffickers and migrant smugglers who prosper on the back of Libyan division, at the expense of peace

and security in and the economic potential of the country and lead to continuing loss of migrants' lives at sea.

In the face of these threats, all participants to the meeting renewed their strong commitment to the sovereignty, independence, territorial integrity and national unity of Libya, while recalling the UNSC statement of 23 July 2014 and the UNSC resolutions 2174 (2014), 2213 (2015), 2214 (2015).

The Governments and the EU expressed their unequivocal support for the Libyan political dialogue led by SRSF León and to his proposals to reach a compromise. They praised the continued commitment of the Libyan negotiators to the UNSMIL dialogue process and clearly articulated their conviction that an inclusive political settlement is the only sustainable solution to Libya's political crisis. They reiterated that Libya's challenges can be best and most sustainably addressed by a unified Libya in partnership with the international community.

The Governments and the EU paid tribute to the dedication and the efforts of all participants of the Political Dialogue and of the other tracks of the peace process. They welcomed the broad support that the political process enjoys among the Libyan people, and of the manifold contributions of Libyan civil society to the process. They praised in particular the important initiatives undertaken by a number of municipalities to forge local ceasefires, exchange prisoners, release prison inmates, and allow for the return of internally displaced persons.

The Governments and the EU called on the Libyan leaders to grasp the opportunity to reconvene on an urgent basis under UN auspices in good faith so as to agree now on a Political Agreement which provides for a general ceasefire, for inclusive political institutions, including a Government of National Accord (GNA), and for interim security arrangements. They urged all Libyan parties to overcome the remaining obstacles to an agreement, to create a conducive environment for a lasting and inclusive solution to the current conflicts, to immediately cease all hostilities and to prevent all actions that may disturb the political process. At the same time, they underlined their resolve to elaborate appropriate measures against those who threaten Libya's peace, stability or security, or obstruct or undermine the successful completion of its political transition.

The Governments and the EU reiterated their firm commitment to work with a united and peaceful Libya in a spirit of partnership. They reaffirmed that an inclusive Libyan Government of National Accord would create the conditions for partnerships in many areas, and that the international community stands ready to provide significant support to a GNA in agreed areas of cooperation, including, upon request by the GNA and under its primary responsibility, contributing to interim security arrangements, support in the fight against terrorism and organized crime, and working together on irregular migration in a manner that respects Libyan sovereignty and the rights of the affected persons while at the same time undertaking firm efforts to strengthen Libya's institutions and help foster Libya's social and economic recovery.

The senior officials also met with representatives of Algeria, Chad, Egypt, Morocco, Niger, Sudan and Tunisia and welcomed their efforts and support for the process led by Bernardino León. They also welcomed similar efforts by the African Union and others.

The six governments (France, Germany, Italy, Spain, the United Kingdom, and the United States) issued another joint statement on June 30, 2015, which follows, and is available at <http://www.state.gov/r/pa/prs/ps/2015/06/244516.htm>.

* * * *

The Governments of France, Germany, Italy, Spain, the United Kingdom, and the United States, express our deep concern about the ongoing violence within Libya, and the expansion of terrorism in Libya. We recognize that the Libyan people want peace and stability.

We welcome the recent round of talks of the UN political dialogue in Skhirat, Morocco. We reiterate our full support to the UN Special Representative of the Secretary General (SRSG) Bernardino León. We urge all Libyan parties to sign in the coming days the political agreement presented by the UN. We consider this document a thoughtful, well-balanced basis for agreement that meets the urgent expectations of Libyan people and secures the unity of Libya. We reiterate that there is no military solution to this crisis and we underline that the economic and humanitarian situation is worsening every day. We stand ready to support the implementation of this agreement in order to help ensure that a Government of National Accord and all the new institutions function effectively.

We welcome the peace initiatives developing in parts of Libya, particularly in the West, including local-level ceasefires, prisoner exchanges, and the return of internally displaced persons. These are important developments, and a powerful example of the determination of the Libyan people to find peaceful solutions to the ongoing insecurity. Alongside the UN process, these initiatives need the support of all Libyans throughout that country. We strongly condemn all attempts to undermine UN process or local peace initiatives, in particular through the threat of violence.

We call on all Libyan decision makers to show in this crucial moment responsibility, leadership and courage. The international community stands ready to provide significant humanitarian, economic and security assistance to a united Libya as soon as the new government is agreed. Equally, the international community stands ready to hold accountable through sanctions those who threaten Libya's peace, stability and security.

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On September 22, 2015 Secretary of State John Kerry issued a press statement on the finalization of the Libyan political dialogue. The press statement, available at <http://www.state.gov/secretary/remarks/2015/09/247191.htm>, follows:

Last night, after almost a year of intensive negotiations, Special Representative of the UN Secretary General Bernardino Leon presented the final text of the proposed Libya political framework to establish a new Government of National

Accord in Libya. The final document represents the intense efforts of all Libyan parties to reach a solution that is durable, inclusive, and representative.

I urge all parties to come together quickly after the Eid holiday to approve this final text and to agree on the names of the leaders of the new government as soon as possible.

An urgent need exists for Libya, and its friends and partners in the international community, to address its critical humanitarian, economic, and security challenges. The new Government of National Accord will give Libyans the chance to unify their country and begin the hard work of restoring peace and security for the benefit of all Libyans.

A larger group of governments, represented by their foreign ministers, agreed to a joint statement on Libya issued on October 19, 2015. The October 19 joint statement urges the Libyan parties to approve the agreement brokered by the UN through the Libyan Political Dialogue. The joint statement appears below and is also available at <http://www.state.gov/r/pa/prs/ps/2015/10/248330.htm>.

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The Foreign Ministers of Algeria, France, Germany, Italy, Morocco, Qatar, Spain, Tunisia, Turkey, the United Arab Emirates, the United Kingdom, and the United States, and the EU High Representative for Foreign Affairs call upon all parties to the Libyan Political Dialogue to immediately approve the political agreement brokered by UN Special Representative Leon following the meetings of the parties in Skhirat and Geneva.

The parties to the dialogue face a stark choice. They can delay approval of the text and annexes beyond October 20 or attempt to make further amendments, and put at risk the stability of the country. To secure Libya's future, we urge the Libyan parties to immediately approve the hard fought political compromise set forth in the political agreement, which will provide a period of stability to the country until a new constitution can be agreed. New elections can then be held which will finally give Libya a fully representative, inclusive, and democratic parliament whose legitimacy is acknowledged across the country and the world.

The Libyan people have made it clear that they want an end to instability in their country, instability which has led to the loss of lives, allowed terrorism to grow, and severely damaged the economy of the country. The international community stands ready to support the Libyan people and the leaders they choose.

The international community looks forward to working with the Government of National Accord, at their request, in supporting the fight against terrorism, particularly ISIL and Ansar Al-Sharia, and in helping Libya face up to its many challenges.

We urge all participants in the dialogue to seize the opportunity to end this instability by approving, and faithfully implementing, the political agreement without introducing further amendments.

* * * *

The group of governments joined together again on November 27 to issue a statement welcoming support for formation of a Government of National Accord. The November 27, 2015 joint statement appears below and is available at <http://www.state.gov/r/pa/prs/ps/2015/11/250130.htm>.

* * * *

The Governments of Algeria, France, Germany, Italy, Morocco, Spain, Tunisia, the United Arab Emirates, the United Kingdom and the United States welcome the statement of support for a Government of National Accord in Libya signed by the majority of House of Representatives (HoR) members on November 24 and note that a majority of General National Congress (GNC) members in Tripoli also stand firmly in support of a Government of National Accord.

We strongly encourage all parties to form a Government of National Accord. Only a Government of National Accord can begin the difficult work of establishing effective, legitimate governance, restoring stability, and preserving the unity of the country, as expected by all Libyans.

We commend the courage of these HoR and GNC members who face intimidation by hardliners on both sides seeking to frustrate progress towards a GNA. We admire their determination to build a united Libya which will be able to combat instability, extremism and terrorism. We remind those attempting to impede progress that they will be held to account by the Libyan people and by the international community for their actions.

The Governments of Algeria, France, Germany, Italy, Morocco, Spain, Tunisia, the United Arab Emirates, the United Kingdom and the United States confirm our full support for the UN process led by Special Representative of the Secretary General Martin Kobler as he works to facilitate Libya's political transition.

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On December 13, 2015, Italy and the United States co-chaired a ministerial meeting on Libya in Rome. The Libya Joint Communiqué resulting from the meeting (the "Rome Communiqué") was joined by Algeria, China, Egypt, France, Germany, Italy, Jordan, Morocco, Russia, Qatar, Saudi Arabia, Spain, Tunisia, Turkey, the United Arab Emirates, the United Kingdom, the United States, the European Union, the United Nations, the League of Arab States, and the African Union. The December 13, 2015 Libya Joint Communiqué follows and is also available as a State Department media note at <http://www.state.gov/r/pa/prs/ps/2015/12/250593.htm>.

* * * *

We affirm our full support for the Libyan people in maintaining the unity of Libya and its institutions that function for the benefit of the whole Country. A Government of National Accord based in the capital Tripoli is urgently needed to provide Libya the means to maintain

governance, promote stability and economic development. We stand with all Libyans who have demanded the swift formation of a Government of National Accord based upon the Skhirat Agreement, including representatives of the majority members of the House of Representatives and General National Congress, Independents, Municipalities, political parties, and civil society who convened in Tunis on December 10-11. We welcome the announcement that the Libya political dialogue members will sign the political agreement in Skhirat on December 16. We encourage all political actors to sign this final agreement on December 16 and call on all Libyans to unite behind the Libya Political Agreement and the Government of National Accord.

We reiterate our strong commitment to Libya's sovereignty, territorial integrity, and social cohesion, and reject any foreign interference in Libya. We stand behind the Libyan people's efforts to transform Libya into a secure, democratic, prosperous and unified state, where all its people can be reconciled, State authority and the rule of law are restored.

We commend the efforts by the neighboring countries, the African Union, the League of Arab States, and the European Union to contribute to achieving these goals.

A Government of National Accord is essential to address, in partnership with the international community, the country's critical humanitarian, economic, and security challenges, including ISIL and other extremist groups and criminal organizations engaged in all forms of smuggling and trafficking, including in human beings. We convey our sympathy to the families of those who lost their lives during the conflict in Libya. We express our determination, working together with the Government of National Accord, to defeat ISIL affiliates in Libya and eliminate the threat they pose to Libyan and international security. We reiterate our full support for the implementation of UNSCR 2213 and other relevant Resolutions to address threats to Libya's peace, security, and stability. Those responsible for violence and those who obstruct and undermine Libya's democratic transition must be held strictly accountable.

We fully recognize and support the Libya Political Agreement and the institutions validated by it, and pledge our support for a Government of National Accord as the sole legitimate government of Libya. We will cease official contacts with individuals claiming to be part of institutions which are not validated by the Libya Political Agreement. We stand by Libya's national economic institutions, including the Central Bank of Libya (CBL), National Oil Company (NOC), and the Libyan Investment Authority (LIA), which must function under the stewardship of a Government of National Accord charged with preserving and protecting Libya's resources for the sole benefit of all its people.

We stand ready to support the implementation of the political agreement and underline our firm commitment to providing the Government of National Accord with full political backing and technical, economic, security and counter-terrorism assistance, as requested.

We call on all parties to accept an immediate, comprehensive ceasefire in all parts of Libya. We reaffirm our pledges of humanitarian assistance to Libyans in need. Safe passage of humanitarian assistance should be enabled to address the humanitarian crisis, particularly in Benghazi.

We fully support the efforts of Special Representative of the United Nations Secretary-General Martin Kobler to facilitate the Libyan Dialogue Process and appreciate the work of the United Nations Support Mission in Libya in this regard.

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On December 17, 2015, the year-long UN-brokered dialogue finally concluded in Morocco with the signing of the Libyan Political Agreement, mapping a transition to a unified Libyan Government of National Accord. Secretary Kerry's press statement welcoming the signing of the Agreement is available at <http://www.state.gov/secretary/remarks/2015/12/250760.htm>, and includes the following:

All Libyans have a role to play as the political transition continues. I urge all Libyans to support this final agreement and to unite behind the Government of National Accord.

Libya needs this unified government to address its critical humanitarian, economic, and security challenges. As we made clear at the December 13 meeting in Rome that I co-chaired with Italian Foreign Minister Gentiloni, the United States and the international community are ready to support the implementation of the Political Agreement and to provide full backing for the unified government, as well as technical, economic, security, and counterterrorism assistance.

On December 23, 2015, Ambassador Power provided the U.S. explanation of vote at the adoption of UN Security Council Resolution 2259 on Libya. As Ambassador Power says in her remarks, excerpted below and available at <http://usun.state.gov/remarks/7074>, the resolution approves the agreed plan for a political transition in Libya.

* * * *

Today's unanimous vote welcomes an important and historic step taken by the Libyan people. Over the last year, with the tireless facilitation and support of the UN Support Mission in Libya, a broad array of members of the Libyan Political Dialogue have worked together to build an inclusive and representative government to lead the country forward in its transition. This diverse group included members of the House of Representatives and the General National Congress, women, civil society members, leaders of municipalities and political parties, and independents. Through today's resolution, the Council affirms their courageous efforts, and welcomes the signing of the Libyan Political Agreement in Skhirat, Morocco, on December 17th.

With this resolution, the Council sends a clear message that the Government of National Accord will become the sole legitimate government of Libya, as set forth in the agreement. The United States urges all Libyans to unite behind the Libyan Political Agreement, and to take advantage of the opportunity presented by the formation of the GNA by working together toward peace, stability, and the rule of law. As Special Representative Kobler has noted, "the door will remain open to those who wish to join on the road to peace." For those who reject the path set forward by the Libyan Political Agreement—who seek to undermine the Libyan people's hope for peace—the United States will seek to work with the international community to hold them accountable.

After so much turmoil, this agreement offers Libya a chance, a chance to reclaim the opportunities first made possible by the February 17th, 2011, revolution. We all know that the new GNA will have no shortage of challenges in the days ahead—but the Libyan people will not face them alone. The United States and other Member States will work closely with the GNA and its leadership to ensure the full implementation of the Libyan Political Agreement, and to provide support to the GNA as it begins to serve and protect the Libyan people. As the GNA works to improve security, we will work closely with it to defeat ISIL affiliates in Libya and eliminate the threat they pose to all of our collective security.

Through this resolution, we recognize the Libyan people's enormous accomplishment in forging this agreement. We look forward to working together to see it through and we thank Special Representative Kobler and the UNSMIL team for their heroic dedication to the mission, and to all of the Libyans from all parts of the country who worked tirelessly to make this agreement possible.

* * * *

C. EXECUTIVE BRANCH AUTHORITY OVER FOREIGN STATE RECOGNITION

On June 8, 2015 the U.S. Supreme Court issued its second opinion in the *Zivotofsky* case. *Zivotofsky v. Secretary of State*, No. 13-628. In 2012, the Supreme Court held that the case did not present a nonjusticiable political question and remanded it to the D.C. Circuit Court of Appeals. The Supreme Court directed the court of appeals to determine the constitutionality of a law requiring the Department of State to record "Israel" as the place of birth in the U.S. passport of a U.S. citizen born in Jerusalem upon request of that citizen. The Supreme Court's 2015 opinion affirms the court of appeals decision that the law is unconstitutional because it infringes on the executive branch's exclusive recognition power. For prior developments in the case, see *Digest 2006* at 530-47, *Digest 2007* at 437-43, *Digest 2008* at 447-54, *Digest 2009* at 303-10, *Digest 2011* at 278-82, *Digest 2012* at 283-86, *Digest 2013* at 259-69, and *Digest 2014* at 354-68. Excerpts follow from the opinion of the U.S. Supreme Court.

* * * *

A delicate subject lies in the background of this case. That subject is Jerusalem. Questions touching upon the history of the ancient city and its present legal and international status are among the most difficult and complex in international affairs. In our constitutional system these matters are committed to the Legislature and the Executive, not the Judiciary. As a result, in this opinion the Court does no more, and must do no more, than note the existence of international debate and tensions respecting Jerusalem. Those matters are for Congress and the President to discuss and consider as they seek to shape the Nation's foreign policies.

The Court addresses two questions to resolve the interbranch dispute now before it. First, it must determine whether the President has the exclusive power to grant formal recognition to a foreign sovereign. Second, if he has that power, the Court must determine whether Congress can command the President and his Secretary of State to issue a formal statement that contradicts the

earlier recognition. The statement in question here is a congressional mandate that allows a United States citizen born in Jerusalem to direct the President and Secretary of State, when issuing his passport, to state that his place of birth is “Israel.”

I

A

* * * *

In 2002, Congress passed the Act at issue here, the Foreign Relations Authorization Act, Fiscal Year 2003, 116 Stat. 1350. Section 214 of the Act is titled “United States Policy with Respect to Jerusalem as the Capital of Israel.” *Id.*, at 1365. The subsection that lies at the heart of this case, §214(d), addresses passports. That subsection seeks to override the FAM by allowing citizens born in Jerusalem to list their place of birth as “Israel.” Titled “Record of Place of Birth as Israel for Passport Purposes,” §214(d) states “[f]or purposes of the registration of birth, certification of nationality, or issuance of a passport of a United States citizen born in the city of Jerusalem, the Secretary shall, upon the request of the citizen or the citizen’s legal guardian, record the place of birth as Israel.” *Id.*, at 1366.

When he signed the Act into law, President George W. Bush issued a statement declaring his position that §214 would, “if construed as mandatory rather than advisory, impermissibly interfere with the President’s constitutional authority to formulate the position of the United States, speak for the Nation in international affairs, and determine the terms on which recognition is given to foreign states.” Statement on Signing the Foreign Relations Authorization Act, Fiscal Year 2003, Public Papers of the Presidents, George W. Bush, Vol. 2, Sept. 30, 2002, p. 1698 (2005). The President concluded, “U. S. policy regarding Jerusalem has not changed.” *Ibid.*

* * * *

II

In considering claims of Presidential power this Court refers to Justice Jackson’s familiar tripartite framework from *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U. S. 579, 635–638 (1952) (concurring opinion). The framework divides exercises of Presidential power into three categories: First, when “the President acts pursuant to an express or implied authorization of Congress, his authority is at its maximum, for it includes all that he possesses in his own right plus all that Congress can delegate.” *Id.*, at 635. Second, “in absence of either a congressional grant or denial of authority” there is a “zone of twilight in which he and Congress may have concurrent authority,” and where “congressional inertia, indifference or quiescence may” invite the exercise of executive power. *Id.*, at 637. Finally, when “the President takes measures incompatible with the expressed or implied will of Congress . . . he can rely only upon his own constitutional powers minus any constitutional powers of Congress over the matter.” *Ibid.* To succeed in this third category, the President’s asserted power must be both “exclusive” and “conclusive” on the issue. *Id.*, at 637–638.

In this case the Secretary contends that §214(d) infringes on the President’s exclusive recognition power by “requiring the President to contradict his recognition position regarding Jerusalem in official communications with foreign sovereigns.” Brief for Respondent 48. In so doing the Secretary acknowledges the President’s power is “at its lowest ebb.” *Youngstown*, 343

U. S., at 637. Because the President's refusal to implement §214(d) falls into Justice Jackson's third category, his claim must be "scrutinized with caution," and he may rely solely on powers the Constitution grants to him alone. *Id.*, at 638.

To determine whether the President possesses the exclusive power of recognition the Court examines the Constitution's text and structure, as well as precedent and history bearing on the question.

A

Recognition is a "formal acknowledgement" that a particular "entity possesses the qualifications for statehood" or "that a particular regime is the effective government of a state." Restatement (Third) of Foreign Relations Law of the United States §203, Comment *a*, p. 84 (1986). It may also involve the determination of a state's territorial bounds. See 2 M. Whiteman, Digest of International Law §1, p. 1 (1963) (Whiteman) ("[S]tates may recognize or decline to recognize territory as belonging to, or under the sovereignty of, or having been acquired or lost by, other states"). Recognition is often effected by an express "written or oral declaration." 1 J. Moore, Digest of International Law §27, p. 73 (1906) (Moore). It may also be implied—for example, by concluding a bilateral treaty or by sending or receiving diplomatic agents. *Ibid.*; I. Brownlie, Principles of Public International Law 93 (7th ed. 2008) (Brownlie).

Legal consequences follow formal recognition. Recognized sovereigns may sue in United States courts, see *Guaranty Trust Co. v. United States*, 304 U. S. 126, 137 (1938), and may benefit from sovereign immunity when they are sued, see *National City Bank of N. Y. v. Republic of China*, 348 U. S. 356, 358–359 (1955). The actions of a recognized sovereign committed within its own territory also receive deference in domestic courts under the act of state doctrine. See *Oetjen v. Central Leather Co.*, 246 U. S. 297, 302–303 (1918). Recognition at international law, furthermore, is a precondition of regular diplomatic relations. 1 Moore §27, at 72. Recognition is thus "useful, even necessary," to the existence of a state. *Ibid.*

Despite the importance of the recognition power in foreign relations, the Constitution does not use the term "recognition," either in Article II or elsewhere. The Secretary asserts that the President exercises the recognition power based on the Reception Clause, which directs that the President "shall receive Ambassadors and other public Ministers." Art. II, §3. As Zivotofsky notes, the Reception Clause received little attention at the Constitutional Convention. See Reinstein, Recognition: A Case Study on the Original Understanding of Executive Power, 45 U. Rich. L. Rev. 801, 860–862 (2011). In fact, during the ratification debates, Alexander Hamilton claimed that the power to receive ambassadors was "more a matter of dignity than of authority," a ministerial duty largely "without consequence." The Federalist No. 69, p. 420 (C. Rossiter ed. 1961).

At the time of the founding, however, prominent international scholars suggested that receiving an ambassador was tantamount to recognizing the sovereignty of the sending state. See E. de Vattel, The Law of Nations §78, p. 461 (1758) (J. Chitty ed. 1853) ("[E]very state, truly possessed of sovereignty, has a right to send ambassadors" and "to contest their right in this instance" is equivalent to "contesting their sovereign dignity"); see also 2 C. van Bynkershoek, On Questions of Public Law 156–157 (1737) (T. Frank ed. 1930) ("Among writers on public law it is usually agreed that only a sovereign power has a right to send ambassadors"); 2 H. Grotius, On the Law of War and Peace 440–441 (1625) (F. Kelsey ed. 1925) (discussing the duty to admit ambassadors of sovereign powers). It is a logical and proper inference, then, that a Clause directing the President alone to receive ambassadors would be understood to acknowledge his power to recognize other nations.

This in fact occurred early in the Nation's history when President Washington recognized the French Revolutionary Government by receiving its ambassador. See A. Hamilton, *Pacificus* No. 1, in *The Letters of Pacificus and Helvidius* 5, 13–14 (1845) (reprint 1976) (President “acknowledged the republic of France, by the reception of its minister”). After this incident the import of the Reception Clause became clear—causing Hamilton to change his earlier view. He wrote that the Reception Clause “includes th[e power] of judging, in the case of a revolution of government in a foreign country, whether the new rulers are competent organs of the national will, and ought to be recognised, or not.” See *id.*, at 12; see also 3 J. Story, *Commentaries on the Constitution of the United States* §1560, p. 416 (1833) (“If the executive receives an ambassador, or other minister, as the representative of a new nation . . . it is an acknowledgment of the sovereign authority *de facto* of such new nation, or party”). As a result, the Reception Clause provides support, although not the sole authority, for the President's power to recognize other nations.

The inference that the President exercises the recognition power is further supported by his additional Article II powers. It is for the President, “by and with the Advice and Consent of the Senate,” to “make Treaties, provided two thirds of the Senators present concur.” Art. II, §2, cl. 2. In addition, “he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors” as well as “other public Ministers and Consuls.” *Ibid.*

As a matter of constitutional structure, these additional powers give the President control over recognition decisions. At international law, recognition may be effected by different means, but each means is dependent upon Presidential power. In addition to receiving an ambassador, recognition may occur on “the conclusion of a bilateral treaty,” or the “formal initiation of diplomatic relations,” including the dispatch of an ambassador. Brownlie 93; see also 1 Moore §27, at 73. The President has the sole power to negotiate treaties, see *United States v. Curtiss-Wright Export Corp.*, 299 U. S. 304, 319 (1936), and the Senate may not conclude or ratify a treaty without Presidential action. The President, too, nominates the Nation's ambassadors and dispatches other diplomatic agents. Congress may not send an ambassador without his involvement. Beyond that, the President himself has the power to open diplomatic channels simply by engaging in direct diplomacy with foreign heads of state and their ministers. The Constitution thus assigns the President means to effect recognition on his own initiative. Congress, by contrast, has no constitutional power that would enable it to initiate diplomatic relations with a foreign nation. Because these specific Clauses confer the recognition power on the President, the Court need not consider whether or to what extent the Vesting Clause, which provides that the “executive Power” shall be vested in the President, provides further support for the President's action here. Art. II, §1, cl. 1.

The text and structure of the Constitution grant the President the power to recognize foreign nations and governments. The question then becomes whether that power is exclusive. The various ways in which the President may unilaterally effect recognition—and the lack of any similar power vested in Congress—suggest that it is. So, too, do functional considerations. Put simply, the Nation must have a single policy regarding which governments are legitimate in the eyes of the United States and which are not. Foreign countries need to know, before entering into diplomatic relations or commerce with the United States, whether their ambassadors will be received; whether their officials will be immune from suit in federal court; and whether they may initiate lawsuits here to vindicate their rights. These assurances cannot be equivocal.

Recognition is a topic on which the Nation must “speak . . . with one voice.” *American Ins. Assn. v. Garamendi*, 539 U. S. 396, 424 (2003) (quoting *Crosby v. National Foreign Trade*

Council, 530 U. S. 363, 381 (2000)). That voice must be the President's. Between the two political branches, only the Executive has the characteristic of unity at all times. And with unity comes the ability to exercise, to a greater degree, "[d]ecision, activity, secrecy, and dispatch." The Federalist No. 70, p. 424 (A. Hamilton). The President is capable, in ways Congress is not, of engaging in the delicate and often secret diplomatic contacts that may lead to a decision on recognition. See, e.g., *United States v. Pink*, 315 U. S. 203, 229 (1942). He is also better positioned to take the decisive, unequivocal action necessary to recognize other states at international law. 1 Oppenheim's International Law §50, p. 169 (R. Jennings & A. Watts eds., 9th ed. 1992) (act of recognition must "leave no doubt as to the intention to grant it"). These qualities explain why the Framers listed the traditional avenues of recognition—receiving ambassadors, making treaties, and sending ambassadors—as among the President's Article II powers.

As described in more detail below, the President since the founding has exercised this unilateral power to recognize new states—and the Court has endorsed the practice. See *Banco Nacional de Cuba v. Sabbatino*, 376 U. S. 398, 410 (1964); *Pink*, *supra*, at 229; *Williams v. Suffolk Ins. Co.*, 13 Pet. 415, 420 (1839). Texts and treatises on international law treat the President's word as the final word on recognition. See, e.g., Restatement (Third) of Foreign Relations Law §204, at 89 ("Under the Constitution of the United States the President has exclusive authority to recognize or not to recognize a foreign state or government"); see also L. Henkin, *Foreign Affairs and the U. S. Constitution* 43 (2d ed. 1996) ("It is no longer questioned that the President does not merely perform the ceremony of receiving foreign ambassadors but also determines whether the United States should recognize or refuse to recognize a foreign government"). In light of this authority all six judges who considered this case in the Court of Appeals agreed that the President holds the exclusive recognition power. See 725 F. 3d, at 214 ("[W]e conclude that the President exclusively holds the power to determine whether to recognize a foreign sovereign"); *Zivotofsky*, 571 F. 3d, at 1231 ("That this power belongs solely to the President has been clear from the earliest days of the Republic"); *id.*, at 1240 (Edwards, J., concurring) ("The Executive has exclusive and unreviewable authority to recognize foreign sovereigns").

It remains true, of course, that many decisions affecting foreign relations—including decisions that may determine the course of our relations with recognized countries—require congressional action. Congress may "regulate Commerce with foreign Nations," "establish an uniform Rule of Naturalization," "define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations," "declare War," "grant Letters of Marque and Reprisal," and "make Rules for the Government and Regulation of the land and naval Forces." U. S. Const., Art. I, §8. In addition, the President cannot make a treaty or appoint an ambassador without the approval of the Senate. Art. II, §2, cl. 2. The President, furthermore, could not build an American Embassy abroad without congressional appropriation of the necessary funds. Art. I, §8, cl. 1. Under basic separation-of-powers principles, it is for the Congress to enact the laws, including "all Laws which shall be necessary and proper for carrying into Execution" the powers of the Federal Government. §8, cl. 18.

In foreign affairs, as in the domestic realm, the Constitution "enjoins upon its branches separateness but interdependence, autonomy but reciprocity." *Youngstown*, 343 U. S., at 635 (Jackson, J., concurring). Although the President alone effects the formal act of recognition, Congress' powers, and its central role in making laws, give it substantial authority regarding many of the policy determinations that precede and follow the act of recognition itself. If

Congress disagrees with the President's recognition policy, there may be consequences. Formal recognition may seem a hollow act if it is not accompanied by the dispatch of an ambassador, the easing of trade restrictions, and the conclusion of treaties. And those decisions require action by the Senate or the whole Congress.

In practice, then, the President's recognition determination is just one part of a political process that may require Congress to make laws. The President's exclusive recognition power encompasses the authority to acknowledge, in a formal sense, the legitimacy of other states and governments, including their territorial bounds. Albeit limited, the exclusive recognition power is essential to the conduct of Presidential duties. The formal act of recognition is an executive power that Congress may not qualify. If the President is to be effective in negotiations over a formal recognition determination, it must be evident to his counterparts abroad that he speaks for the Nation on that precise question.

A clear rule that the formal power to recognize a foreign government subsists in the President therefore serves a necessary purpose in diplomatic relations. All this, of course, underscores that Congress has an important role in other aspects of foreign policy, and the President may be bound by any number of laws Congress enacts. In this way ambition counters ambition, ensuring that the democratic will of the people is observed and respected in foreign affairs as in the domestic realm. See *The Federalist* No. 51, p. 322 (J. Madison).

B

No single precedent resolves the question whether the President has exclusive recognition authority and, if so, how far that power extends. In part that is because, until today, the political branches have resolved their disputes over questions of recognition. The relevant cases, though providing important instruction, address the division of recognition power between the Federal Government and the States, see, e.g., *Pink*, 315 U. S. 203, or between the courts and the political branches, see, e.g., *Banco Nacional de Cuba*, 376 U. S., at 410—not between the President and Congress. As the parties acknowledge, some isolated statements in those cases lend support to the position that Congress has a role in the recognition process. In the end, however, a fair reading of the cases shows that the President's role in the recognition process is both central and exclusive.

* * * *

The Secretary now urges the Court to define the executive power over foreign relations in even broader terms. He contends that under the Court's precedent the President has "exclusive authority to conduct diplomatic relations," along with "the bulk of foreign-affairs powers." Brief for Respondent 18, 16. In support of his submission that the President has broad, undefined powers over foreign affairs, the Secretary quotes *United States v. Curtiss-Wright Export Corp.*, which described the President as "the sole organ of the federal government in the field of international relations." 299 U. S., at 320. This Court declines to acknowledge that unbounded power. A formulation broader than the rule that the President alone determines what nations to formally recognize as legitimate—and that he consequently controls his statements on matters of recognition—presents different issues and is unnecessary to the resolution of this case.

The *Curtiss-Wright* case does not extend so far as the Secretary suggests. In *Curtiss-Wright*, the Court considered whether a congressional delegation of power to the President was constitutional. Congress had passed a joint resolution giving the President the discretion to prohibit arms sales to certain militant powers in South America. The resolution provided

criminal penalties for violation of those orders. *Id.*, at 311–312. The Court held that the delegation was constitutional, reasoning that Congress may grant the President substantial authority and discretion in the field of foreign affairs. *Id.*, at 315–329. Describing why such broad delegation may be appropriate, the opinion stated:

“In this vast external realm, with its important, complicated, delicate and manifold problems, the President alone has the power to speak or listen as a representative of the nation. He *makes* treaties with the advice and consent of the Senate; but he alone negotiates. Into the field of negotiation the Senate cannot intrude; and Congress itself is powerless to invade it. As Marshall said in his great argument of March 7, 1800, in the House of Representatives, ‘The President is the sole organ of the nation in its external relations, and its sole representative with foreign nations.’ [10 Annals of Cong.] 613. ” *Id.*, at 319.

This description of the President’s exclusive power was not necessary to the holding of *Curtiss-Wright*—which, after all, dealt with congressionally authorized action, not a unilateral Presidential determination. Indeed, *Curtiss-Wright* did not hold that the President is free from Congress’ lawmaking power in the field of international relations. The President does have a unique role in communicating with foreign governments, as then-Congressman John Marshall acknowledged. See 10 Annals of Cong. 613 (1800) (cited in *Curtiss-Wright*, *supra*, at 319). But whether the realm is foreign or domestic, it is still the Legislative Branch, not the Executive Branch, that makes the law.

In a world that is ever more compressed and interdependent, it is essential the congressional role in foreign affairs be understood and respected. For it is Congress that makes laws, and in countless ways its laws will and should shape the Nation’s course. The Executive is not free from the ordinary controls and checks of Congress merely because foreign affairs are at issue. See, e.g., *Medellín v. Texas*, 552 U. S. 491, 523–532 (2008); *Youngstown*, 343 U. S., at 589; *Little v. Barreme*, 2 Cranch 170, 177–179 (1804); Glennon, Two Views of Presidential Foreign Affairs Power: *Little v. Barreme* or *Curtiss-Wright*? 13 Yale J. Int’l L. 5, 19–20 (1988); cf. *Dames & Moore v. Regan*, 453 U. S. 654, 680–681 (1981). It is not for the President alone to determine the whole content of the Nation’s foreign policy.

That said, judicial precedent and historical practice teach that it is for the President alone to make the specific decision of what foreign power he will recognize as legitimate, both for the Nation as a whole and for the purpose of making his own position clear within the context of recognition in discussions and negotiations with foreign nations. Recognition is an act with immediate and powerful significance for international relations, so the President’s position must be clear. Congress cannot require him to contradict his own statement regarding a determination of formal recognition.

Zivotofsky’s contrary arguments are unconvincing. The decisions he relies upon are largely inapposite. This Court’s cases do not hold that the recognition power is shared. *Jones v. United States*, 137 U. S. 202 (1890), and *Boumediene v. Bush*, 553 U. S. 723 (2008), each addressed the status of territories controlled or acquired by the United States—not whether a province ought to be recognized as part of a foreign country. See also *Vermilya-Brown Co. v. Connell*, 335 U.S. 377, 380 (1948) (“[D]etermination of [American] sovereignty over an area is for the legislative and executive departments”). And no one disputes that Congress has a role in determining the status of United States territories. See U. S. Const., Art. IV, §3, cl. 2 (Congress may “dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States”). Other cases describing a shared power address the recognition of Indian tribes—which is, similarly, a distinct issue from the recognition of foreign

countries. See *Cherokee Nation v. Georgia*, 5 Pet. 1 (1831).

To be sure, the Court has mentioned both of the political branches in discussing international recognition, but it has done so primarily in affirming that the Judiciary is not responsible for recognizing foreign nations. See *Oetjen*, 246 U. S., at 302 (“ ‘Who is the sovereign, *de jure* or *de facto*, of a territory is not a judicial, but is a political question, the determination of which by the legislative and executive departments of any government conclusively binds the judges’ ” (quoting *Jones*, *supra*, at 212)); *United States v. Palmer*, 3 Wheat. 610, 643 (1818) (“[T]he courts of the union must view [a] newly constituted government as it is viewed by the legislative and executive departments of the government of the United States”). This is consistent with the fact that Congress, in the ordinary course, does support the President’s recognition policy, for instance by confirming an ambassador to the recognized foreign government. Those cases do not cast doubt on the view that the Executive Branch determines whether the United States will recognize foreign states and governments and their territorial bounds.

C

Having examined the Constitution’s text and this Court’s precedent, it is appropriate to turn to accepted understandings and practice. In separation-of-powers cases this Court has often “put significant weight upon historical practice.” *NLRB v. Noel Canning*, 573 U. S. ___, ___ (2014) (slip op., at 6) (emphasis deleted). Here, history is not all on one side, but on balance it provides strong support for the conclusion that the recognition power is the President’s alone. As Zivotofsky argues, certain historical incidents can be interpreted to support the position that recognition is a shared power. But the weight of historical evidence supports the opposite view, which is that the formal determination of recognition is a power to be exercised only by the President.

* * * *

III

As the power to recognize foreign states resides in the President alone, the question becomes whether §214(d) infringes on the Executive’s consistent decision to withhold recognition with respect to Jerusalem. See *Nixon v. Administrator of General Services*, 433 U. S. 425, 443 (1977) (action unlawful when it “prevents the Executive Branch from accomplishing its constitutionally assigned functions”).

Section 214(d) requires that, in a passport or consular report of birth abroad, “the Secretary shall, upon the request of the citizen or the citizen’s legal guardian, record the place of birth as Israel” for a “United States citizen born in the city of Jerusalem.” 116 Stat. 1366. That is, §214(d) requires the President, through the Secretary, to identify citizens born in Jerusalem who so request as being born in Israel. But according to the President, those citizens were not born in Israel. As a matter of United States policy, neither Israel nor any other country is acknowledged as having sovereignty over Jerusalem. In this way, §214(d) “directly contradicts” the “carefully calibrated and longstanding Executive branch policy of neutrality toward Jerusalem.” 725 F. 3d, at 217, 216.

If the power over recognition is to mean anything, it must mean that the President not only makes the initial, formal recognition determination but also that he may maintain that determination in his and his agent’s statements. This conclusion is a matter of both common sense and necessity. If Congress could command the President to state a recognition position

inconsistent with his own, Congress could override the President's recognition determination. Under international law, recognition may be effected by "written or oral declaration of the recognizing state." 1 Moore §27, at 73. In addition an act of recognition must "leave no doubt as to the intention to grant it." 1 Oppenheim's International Law §50, at 169. Thus, if Congress could alter the President's statements on matters of recognition or force him to contradict them, Congress in effect would exercise the recognition power.

As Justice Jackson wrote in *Youngstown*, when a Presidential power is "exclusive," it "disabl[es] the Congress from acting upon the subject." 343 U. S., at 637–638 (concurring opinion). Here, the subject is quite narrow: The Executive's exclusive power extends no further than his formal recognition determination. But as to that determination, Congress may not enact a law that directly contradicts it. This is not to say Congress may not express its disagreement with the President in myriad ways. For example, it may enact an embargo, decline to confirm an ambassador, or even declare war. But none of these acts would alter the President's recognition decision.

If Congress may not pass a law, speaking in its own voice, that effects formal recognition, then it follows that it may not force the President himself to contradict his earlier statement. That congressional command would not only prevent the Nation from speaking with one voice but also prevent the Executive itself from doing so in conducting foreign relations.

Although the statement required by §214(d) would not itself constitute a formal act of recognition, it is a mandate that the Executive contradict his prior recognition determination in an official document issued by the Secretary of State. See *Urtetiqui v. D'Arcy*, 9 Pet. 692, 699 (1835) (a passport "from its nature and object, is addressed to foreign powers" and "is to be considered . . . in the character of a political document"). As a result, it is unconstitutional. This is all the more clear in light of the longstanding treatment of a passport's place-of-birth section as an official executive statement implicating recognition. See 725 F. 3d, at 224 (Tatel, J., concurring). The Secretary's position on this point has been consistent: He will not place information in the place-of-birth section of a passport that contradicts the President's recognition policy. See 7 FAM §1383. If a citizen objects to the country listed as sovereign over his place of birth, then the Secretary will accommodate him by listing the city or town of birth rather than the country. See *id.*, §1383.6. But the Secretary will not list a sovereign that contradicts the President's recognition policy in a passport. Thus, the Secretary will not list "Israel" in a passport as the country containing Jerusalem.

The flaw in §214(d) is further underscored by the undoubted fact that that the purpose of the statute was to infringe on the recognition power—a power the Court now holds is the sole prerogative of the President. The statute is titled "United States Policy with Respect to Jerusalem as the Capital of Israel." §214, 116 Stat. 1365. The House Conference Report proclaimed that §214 "contains four provisions related to the recognition of Jerusalem as Israel's capital." H. R. Conf. Rep. No. 107–671, p. 123 (2002). And, indeed, observers interpreted §214 as altering United States policy regarding Jerusalem—which led to protests across the region. See *supra*, at 4. From the face of §214, from the legislative history, and from its reception, it is clear that Congress wanted to express its displeasure with the President's policy by, among other things, commanding the Executive to contradict his own, earlier stated position on Jerusalem. This Congress may not do.

It is true, as Zivotofsky notes, that Congress has substantial authority over passports. See *Haig v. Agee*, 453 U. S. 280 (1981); *Zemel v. Rusk*, 381 U. S. 1 (1965); *Kent v. Dulles*, 357 U. S. 116 (1958). The Court does not question the power of Congress to enact passport legislation of

wide scope. In *Kent v. Dulles*, for example, the Court held that if a person's "'liberty'" to travel "is to be regulated" through a passport, "it must be pursuant to the law-making functions of the Congress." See *id.*, at 129. Later cases, such as *Zemel v. Rusk* and *Haig v. Agee*, also proceeded on the assumption that Congress must authorize the grounds on which passports may be approved or denied. See *Zemel, supra*, at 7–13; *Haig, supra*, at 289–306. This is consistent with the extensive lawmaking power the Constitution vests in Congress over the Nation's foreign affairs.

The problem with §214(d), however, lies in how Congress exercised its authority over passports. It was an improper act for Congress to "aggrandiz[e] its power at the expense of another branch" by requiring the President to contradict an earlier recognition determination in an official document issued by the Executive Branch. *Freytag v. Commissioner*, 501 U. S. 868, 878 (1991). To allow Congress to control the President's communication in the context of a formal recognition determination is to allow Congress to exercise that exclusive power itself. As a result, the statute is unconstitutional.

* * * *

Cross References

Somalia, **Chapter 1.C.1.d.**

Yemen, **Chapter 1.C.1.e.**

Evacuation of U.S. citizens in Yemen, **Chapter 2.A.2.**

Libya, **Chapter 3.C.1.f.**

U.S. objections to Palestinian Authority efforts to accede to treaties, **Chapter 4.A.1.**

Nationality of residents of Taiwan (Lin v. U.S.), **Chapter 5.C.3.**

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