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CHAPTER 13

Environment and Other Transnational Scientific Issues

A. LAND AND AIR POLLUTION AND RELATED ISSUES

1. Climate Change

The United States continued to participate in international climate change negotiations and meetings, including the 24th session of the Conference of the Parties (“COP-24”) to the UN Framework Convention on Climate Change (“UNFCCC”) held in Katowice, Poland from December 2-14, 2018. A November 29, 2018 State Department media note, available at <https://www.state.gov/u-s-delegation-to-the-24th-session-of-the-conference-of-the-parties-to-the-un-framework-convention-on-climate-change/>, identifies key members of the U.S. delegation and reaffirms the U.S. decision to withdraw from the Paris Agreement. The media note explains further:

The United States is participating in ongoing negotiations, including those related to the Paris Agreement, in order to ensure a level playing field that benefits and protects U.S. interests.

During the Conference, the U.S. delegation will share successful strategies in growing the economy while providing affordable, abundant, and secure energy to Americans, promoting jobs, protecting the environment, and reducing emissions. U.S. energy-related CO₂ emissions have fallen by 14 percent since 2005, even as the U.S. economy has grown by 19.4 percent. This world-leading achievement has been possible because of innovation and entrepreneurship that has led to the development and commercialization of innovative technologies across the entire U.S. energy portfolio.

Judith G. Garber, Principal Deputy Assistant Secretary of State for the Bureau of Oceans and International Environmental and Scientific Affairs, delivered the U.S. national statement at COP-24 on December 12, 2018. Her remarks are excerpted below and available at https://pl.usembassy.gov/us_statement_cop24/. The outcome of COP-24 is discussed in a December 15, 2018 media note available at <https://www.state.gov/outcome-of-the-24th-session-of-the-conference-of-the-parties-cop24-to-the-un-framework-convention-on-climate-change-unfccc/>.

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The United States supports a balanced approach that promotes economic growth, improves energy security, and protects the environment.

The U.S. record of accomplishment and leadership is clear: Our energy-related CO₂ emissions have fallen by 14 percent since 2005, even as our economy has grown by over 19 percent.

As President Trump announced last year, the United States intends to withdraw from the Paris Agreement, absent the identification of terms that are more favorable to the American people. He also made clear that the United States will continue to be a leader in clean energy, innovation, and emissions reduction. Our National Security Strategy declares “The United States will remain a global leader in reducing traditional pollution, as well as greenhouse gases, while expanding our economy. This achievement, which can serve as a model to other countries, flows from innovation, technology breakthroughs, and energy efficiency gains, not from onerous regulation.”

The global climate conversation needs to embrace not only aspiration but today’s reality. The U.S. approach incorporates the realities of the global energy mix and uses all energy sources and technologies as cleanly and efficiently as possible, including fossil fuels, nuclear energy, and renewable energy.

This diverse energy portfolio is possible thanks to early stage research and development and private sector finance and innovation.

A quarter of our energy-sector CO₂ reduction has come from utilizing natural gas. The U.S. natural gas boom is the result of years of U.S. innovation and R&D investment. General Electric, the U.S. National Laboratories, and American entrepreneurs all played a role in perfecting the extraction techniques that unleashed America’s natural gas revolution.

R&D and operational experience are bringing down the cost of Carbon Capture, Utilization, and Storage or CCUS. One hybrid coal and gas power plant in Texas captures more than 90 percent of the emissions from its flue gas stream. CCUS enhances our energy security and economic development and preserves the environment.

The United States is home to the world’s largest nuclear power industry. Thanks to significant investment by the U.S. Department of Energy and the private sector, the first Small Modular Reactors will be operational by the mid-2020s. They will be flexible, scalable, easier to finance, and capable of powering remote areas and micro-grids.

In 2017, the United States exported more advanced energy technology than any other country in the world. The United States is also the world’s largest oil and gas producer and the second largest producer of renewable energy.

In 2018, the United States announced new R&D funding in nuclear, solar, marine, and fossil energy. We are making significant progress in Smart Grids, advanced storage technologies, wind, and hydropower.

In sum, the United States will continue to engage our many partner countries and allies around the world to reduce emissions, to continue to adapt to climate change, and to respond to natural disasters. We will also work with other countries to develop and deploy a broad array of technologies, as we continue to promote economic growth, improve energy security, and protect the environment.

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The December 15, 2018 media note (cited *supra*) regarding the outcome of COP-24 also includes the following:

The United States takes note of the negotiated outcome and appreciates the hard work of our negotiators. The outcome took a significant step toward holding our economic competitors accountable for reporting their emissions in a manner consistent with standards the United States has met since 1992. The United States is not taking on any burdens or financial pledges in support of the Paris Agreement and will not allow climate agreements to be used as a vehicle to redistribute wealth. We will work with our many partner countries to innovate and deploy a broad array of technologies that promote economic growth, improve energy security, and protect the environment.

2. Proposed Global Pact for the Environment

On May 10, 2018, Minister Counselor for the U.S. Mission to the UN Mark Simonoff delivered the U.S. explanation of vote on a UN General Assembly resolution entitled “Towards a Global Pact for the Environment.” U.N. Doc. A/RES/72/277. The resolution established an ad hoc open-ended working group to, *inter alia*, discuss options to address possible gaps in international environmental law and environment-related instruments, as appropriate, and if deemed necessary, the scope, parameters and feasibility of an international instrument, with a view to making recommendations to the General Assembly. Mr. Simonoff’s remarks are excerpted below and available at <https://usun.usmission.gov/explanation-of-vote-on-a-un-general-assembly-resolution-entitled-towards-a-global-pact-for-the-environment-a-72-l-51/>.

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The United States regrets that we must call a vote and vote against this resolution. To date, there has been no transparent, open discussion among member states about the need for or purpose of a new international environmental instrument. The United States opposes a resolution that—already in its title—purports to prejudge movement towards a “Global Pact for the Environment”

when the concept remains ambiguous, and member states have not yet considered the merits of such a proposal or how it would contribute to the existing international environmental regime.

The United States has engaged constructively in the negotiation of this resolution. In fact, in the spirit of compromise, we have been willing to support the establishment of an open-ended working group to examine whether there are gaps in the existing environmental system and, if so, possible options for addressing those gaps. However, the United States cannot support the title or any language in operative paragraph 2 that would prejudice the working group's discussions or presume—before particular international environmental challenges have even been identified—that a new international instrument would be the most appropriate solution. We also cannot accept language in preambular paragraph 7 of this resolution indicating that environmental challenges need to be addressed in a “comprehensive” manner; in fact, such language ignores that many of the most successful environmental agreements, such as the Montreal Protocol or CITES, are narrowly tailored to address specific environmental problems. Our concerns on these points were not addressed sufficiently or taken into account.

One of our fundamental interests throughout this process has been to ensure that this proposal does not disrupt or distract from the continuing implementation of existing international environmental agreements, and we believe many delegations share our concerns in this regard. As a result, going forward, we understand operative paragraph 9 as recognizing that nothing in this process or any outcome thereof should impact the rights and obligations of Parties under existing agreements. At the same time, given that some of the proponents of a “Global Pact” have suggested it should include a reexamination of certain environmental principles, such as the Rio Principles referenced in preambular paragraph 4, the United States cannot support language reaffirming these principles in this context.

The United States has therefore called a vote on this resolution and will vote against it, and we urge other member states to do so as well. The United States believes that consensus on this resolution could have been achieved if appropriate consideration had been given to member states' legitimate concerns. We are unaware of any successful environmental negotiation that was initiated by vote over the objections of member states on a truncated schedule, and we regret that further time was not allocated to achieve agreement on a path forward or for member states to engage in productive debate. We will now look ahead to a discussion with other member states of the substantive merits of this proposal in the open-ended working group.

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3. Environmental Cooperation Agreement

On November 30, 2018, the United States, Mexico, and Canada concluded a trilateral agreement on environmental cooperation. See November 30, 2018 media note, available at <https://www.state.gov/united-states-mexico-and-canada-conclude-successful-negotiations-on-a-trilateral-agreement-on-environmental-cooperation/>. The agreement takes effect when the U.S.-Mexico-Canada trade agreement (“USMCA”) enters into force and would replace the North American Agreement on Environmental Cooperation (“NAAEC”) that was a companion to the NAFTA. See Chapter 11 for discussion of the USMCA and NAFTA. The trilateral environmental Council created under the NAAEC continues under the new ECA. The text of the ECA is available at

<https://www.epa.gov/international-cooperation/commission-environmental-cooperation-cec>.

B. PROTECTION OF MARINE ENVIRONMENT AND MARINE CONSERVATION

1. Fishing Regulation and Agreements

On October 1, 2018, the State Department announced in a media note, available at <https://www.state.gov/u-s-signs-agreement-to-prevent-unregulated-commercial-fishing-on-the-high-seas-of-the-central-arctic-ocean/>, that it had signed an agreement to prevent unregulated commercial fishing on the high seas of the central Arctic Ocean. The media note is excerpted below. For background on the agreement, see *Digest 2015* at 582-84.

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...This is the first multilateral agreement of its kind to take a legally binding, precautionary approach to protect an area from commercial fishing before that fishing has begun. ...

Ice has traditionally covered the high seas of the central Arctic Ocean year-round. Recently, the melting of Arctic sea ice has left large areas of the high seas uncovered for much of the year. As a result, commercial fisheries in the central Arctic Ocean may become viable in areas where such activity was previously not possible. Prior to this agreement, no legally binding international agreement existed to manage potential fishing in the high seas of this region.

In 2009, the United States closed the U.S. Exclusive Economic Zone (EEZ) north of Alaska to commercial fishing until such time as domestic fisheries managers have sufficient information about the ecosystem to allow fishing to proceed on a well-regulated basis. U.S. stakeholders, including the Alaska-based fishing industry, have been concerned foreign fishing vessels could begin fishing here in the foreseeable future. At a time when U.S. vessels cannot fish within the U.S. EEZ, the United States has negotiated this new fisheries agreement for the central Arctic Ocean that reduces the chance that foreign vessels will fish just beyond the U.S. EEZ.

Initial negotiations among the five coastal parties of the central Arctic Ocean—Canada, Denmark (for Greenland and the Faroe Islands), Norway, Russia, and the United States—resulted in the non-legally binding Oslo Declaration signed on July 16, 2015. The Oslo Declaration recognized other governments may have an interest in potential Arctic fisheries. In December 2015 ten parties, including the five Oslo Declaration signatories, as well as China, Iceland, Japan, the Republic of Korea, and the European Union, entered into negotiations towards a legally-binding agreement. The negotiations toward this legally binding agreement concluded November 30, 2017.

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2. Whaling

At its 67th Meeting, September 10-14, 2018 in Florianópolis, Brazil, the International Whaling Commission (“IWC”) provided for automatic renewal of aboriginal subsistence whaling catch limits under certain circumstances. The United States published its 2019 quota for bowhead whales that it has assigned to the Alaska Eskimo Whaling Commission (“AEWC”) in the Federal Register on December 28, 2018 in accordance with the outcome of the 67th Meeting. 83 Fed. Reg. 67,237.

3. Our Ocean Conference

At the conclusion of the Our Ocean 2018 conference in Bali, Indonesia, the United States described commitments made at the conference in an October 30, 2018 media note, available at <https://www.state.gov/u-s-commitments-at-our-ocean-2018/>. The commitments are:

to strengthen sustainable management of marine resources; prevent plastic and other debris from entering the ocean; support research and observation of ocean ecosystems; and foster partnerships promoting maritime security and a sustainable blue economy.

Additional details about the 2018 conference are available at ourocean2018.org.

4. Sea Turtle Conservation and Shrimp Imports

The Department of State makes annual certifications related to conservation of sea turtles, consistent with § 609 of Public Law 101-162, 16 U.S.C. § 1537, which prohibits imports of shrimp and shrimp products harvested with methods that may adversely affect sea turtles. On June 8, 2018, the Department of State certified 39 nations and one economy as having adequate measures in place to protect sea turtles during the course of commercial shrimp fishing, and granted determinations for nine fisheries as having adequate measures in place to protect sea turtles during the course of commercial shrimp fishing, permitting the importation of wild-caught shrimp to the United States under Section 609 of Public Law 101-162. See June 8, 2018 State Department media note, available at <https://www.state.gov/department-of-state-promotes-protection-of-sea-turtles-by-certifying-shrimp-harvesting-nations-and-economies/>. As elaborated in the media note:

Six of the world’s seven species of marine turtles are considered endangered or threatened under the Endangered Species Act. The United States Government is currently providing technology and capacity-building assistance to other nations, in the hope they can contribute to the recovery of sea turtle species and become certified under Section 609. The United States also encourages enactment of

similar legislation by other nations to prevent the importation of shrimp harvested in a manner harmful to protected sea turtles.

Section 609 prohibits the importation of wild-caught shrimp and products from shrimp harvested in ways that may adversely affect sea turtles unless the Department of State certifies to Congress that (1) the government or authorities of the harvesting nation or economy has adopted a regulatory program comparable to that of the United States to reduce the incidental taking of sea turtles in its shrimp trawl fisheries, such as through the use of turtle excluder devices (“TEDs”), or (2) the particular fishing environment of the harvesting nation or economy does not pose a danger to sea turtles. If properly designed, built, installed, used, and maintained, TEDs allow 97% of sea turtles to escape the shrimp net without appreciable loss of shrimp.

See also 83 Fed. Reg. 22,739 (May 16, 2018); and information on United States government sea turtle conservation efforts, available at <http://www.nmfs.noaa.gov/pr/species/turtles/>.

C. OTHER ISSUES

1. Biodiversity

In 2017, the UN General Assembly convened an intergovernmental conference to elaborate the text of an international legally binding instrument under the UN Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (“BBNJ”). U.S. views regarding such an instrument are discussed in *Digest 2011* at 438-39 and *Digest 2016* at 560-68. The United States participated in the first session of the intergovernmental conference, held September 4-17, 2018. Evan Bloom led the U.S. delegation and delivered the following statement on behalf of the United States.

* * * *

The United States supports the sustainable use, management, and conservation of the ocean and its resources. We are working to ensure the ocean is clean, safe, and productive. We recognize that a healthy and productive marine environment is fundamental to supporting the blue economy.

We are pleased to be participating in this conference and are hopeful that we can make progress toward our goal of conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction.

We believe that a new BBNJ agreement should result in meaningful, science-based conservation and sustainable use of BBNJ and should promote research and development—which benefit all people.

We must ensure that a new agreement is consistent with the existing LOS regime, which is so important to all States. And we must ensure it does not undermine or duplicate existing relevant instruments, frameworks, or bodies, or their respective mandates. We all share that objective, and this is clearly reflected in Resolution 72/249.

We welcome, in particular, discussions on the topics of area-based management tools and environmental impact assessments, and how a new agreement could be used to enhance the conservation and sustainable use of BBNJ.

The difficult question before us is how to do this in a meaningful way without undermining the beneficial work of existing relevant instruments, frameworks, and bodies.

Regarding marine genetic resources, there are a number of difficult questions before us. We continue to have concerns about whether a benefit sharing regime can be successfully negotiated. The many references to Common Heritage of Mankind that we have heard so far make us wonder whether we are getting closer to any sort of workable compromise. At the very least, such a regime must promote and not stifle or impede exploration, science, innovation, and entrepreneurship. It must not undermine the existing intellectual property rights regime. And it must be consistent with the Law of the Sea Convention.

We also want to stress the importance of an eventual agreement meeting the legitimate needs of all States. We must not negotiate an agreement that might be acceptable to a majority but that leaves States with key interests out of the picture.

Furthermore, we believe the only way to achieve a strong, broadly-supported agreement is to negotiate text. We have all spent many days in general discussions of the issues. Now we are embarking on a new phase. The intergovernmental conference must move beyond general discussions to work on specific textual proposals, negotiated by delegations line-by-line.

We are ready to work hard with all delegations to find common ground and negotiate a balanced agreement that advances our shared goals of conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction.

* * * *

On November 30, 2018, Angela Palazzolo, Advisor for the U.S. Mission to the UN, delivered the explanation of position for the United States on a resolution in the Second Committee of the UN General Assembly on the Convention on Biological Diversity. The U.S. explanation of position follows and is available at

<https://usun.usmission.gov/explanation-of-position-on-a-second-committee-resolution-on-the-convention-on-biological-diversity/>.

* * * *

The United States is pleased to join consensus on the resolution: Implementation of the Convention on Biological Diversity and its contribution to sustainable development. We would like to clarify several points regarding the resolution.

The United States dissociates from OP6, which calls for a summit on biodiversity in 2020. As the resolution states that the summit will be convened within existing resources, the United States expects that as plans for this summit develop that any budgetary impacts of this

high level event beyond existing resources will be fully taken into account in consultation with member states in the appropriate fora.

Though CBD Parties at the High Level Session of the UN Biodiversity Conference in Sharm El-Sheikh, Egypt, invited the General Assembly to convene a summit on biodiversity, the timing of such—at the very end of a two-year preparatory process—means as a practical matter that a summit will have no meaningful impact on the development of the post-2020 global biodiversity framework expected to be adopted at the Conference.

Moreover, since there has been no discussion about the outcomes expected or to develop any sense of the duration or extent or character of such a summit, it is impossible to determine how realistic it is to expect that it could be accomplished within existing resources, and we have serious concerns that it would likely be very costly. Finally, we refer you to our national statement delivered on November 8, which addresses our concerns regarding the 2030 Agenda for Sustainable Development, the Addis Ababa Action Agenda, the Paris Agreement, and the characterization of trade, technology transfer, and inclusive economic growth.

* * * *

2. Sustainable Development

The November 8, 2018 U.S. statement, referenced in Ms. Palazzolo’s remarks above, is excerpted below and available at <https://usun.usmission.gov/general-explanation-of-position-on-second-committee-agenda-items-for-action/>. Courtney Nemroff, Deputy U.S. Representative to ECOSOC, delivered the statement as a general explanation of position at the UN Second Committee.

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We take this opportunity to make important points of clarification on some of the language we see reflected across multiple resolutions. We underscore that the resolutions, and many of the outcome documents referenced therein, including the 2030 Agenda for Sustainable Development and the Addis Ababa Action Agenda, are non-binding documents that do not create rights or obligations under international law.

We understand references in resolutions to “internationally agreed development goals” to refer to the 2030 Agenda for Sustainable Development; the United States’ position is articulated in the Explanation of Position on that document. The U.S. supports the spirit of the 2030 Agenda for Sustainable Development as a framework for development and will continue to be a global leader in sustainable development through our policies, partnerships, innovations, and calls to action. We applaud the call for shared responsibility, including national responsibility, in the 2030 Agenda and emphasize that all countries have a role to play in achieving its vision. However, the 2030 Agenda recognizes that each country must work toward implementation in accordance with its own national policies and priorities.

The United States also underscores that paragraph 18 of the 2030 Agenda calls for countries to implement the Agenda in a manner that is consistent with the rights and obligations of States under international law. We also highlight our mutual recognition in paragraph 58 that 2030 Agenda implementation must respect and be without prejudice to the independent mandates

of other processes and institutions, including negotiations, and does not prejudge or serve as precedent for decisions and actions underway in other forums. For example, this Agenda does not represent a commitment to provide new market access for goods or services. This Agenda also does not interpret or alter any WTO agreement or decision, including the Agreement on Trade-Related Aspects of Intellectual Property.

We take this opportunity to make important points of clarification regarding the reaffirmation of the Addis Ababa Action Agenda. Specifically, we note that much of the trade-related language in the Addis outcome document has been overtaken by events since July 2015; therefore, it is immaterial, and our reaffirmation of the outcome document has no standing for ongoing work and negotiations that involve trade.

The United States notes that the U.S. Administration announced its intention to withdraw from the Paris Agreement as soon as it is eligible to do so, consistent with the terms of the Agreement, unless suitable terms for re-engagement are identified. Therefore, the Paris Agreement and climate change language in those negotiations is without prejudice to U.S. positions. We affirm our support for promoting economic growth and improving energy security while protecting the environment.

The United States reiterates our views on the Sendai Framework for Disaster Risk Reduction from the U.S. Explanation of Position delivered in 2015. We have been a strong supporter of disaster risk-reduction initiatives designed to reduce loss of life and the social and economic impacts of disasters. This assistance helps recipients build a culture of preparedness, promote greater resilience, and achieve self-reliance.

With respect to the New Urban Agenda, the United States believes that each Member State has the sovereign right to determine how it conducts trade with other countries and that this includes restricting trade in certain circumstances. Economic sanctions, whether unilateral or multilateral, can be a successful means of achieving foreign policy objectives. In cases where the United States has applied sanctions, they have been used with specific objectives in mind, including as a means to promote a return to rule of law or democratic systems, to respect human rights and fundamental freedoms, or to prevent threats to international security. We are within our rights to utilize our trade and commercial policy as tools to achieve noble objectives. Targeted economic sanctions can be an appropriate, effective, and legitimate alternative to the use of force.

The United States enjoys strong and growing trade relationships across the globe. We welcome efforts to bolster those relationships, increase economic cooperation, and drive prosperity to all of our peoples through free, fair, and reciprocal trade. However, as President Trump stated to the General Assembly on September 25, the United States will act in its sovereign interest, including on trade matters. This means that we do not take our trade policy direction from the United Nations.

It is our view that the United Nations must respect the independent mandates of other processes and institutions, including trade negotiations, and must not involve itself in decisions and actions in other forums, including at the World Trade Organization. The UN is not the appropriate venue for these discussions, and there should be no expectation or misconception that the United States would heed decisions made by the Economic and Social Council or the General Assembly on these issues. This includes calls that undermine incentives for innovation, such as technology transfer that is not voluntary and on mutually agreed terms.

The United States also notes that the term “inclusive growth” appears throughout many of the resolutions. Part of the problem with placing inclusive growth at the forefront of economic discussions is that the term itself is vaguely defined and applied freely to economic discussions, with little consideration for the trade-offs between higher levels of sustainable, supply-led economic growth and a more equitable distribution of resources of that growth. The United States recognizes the importance of studying inequality and improving the measurements of income and consumption across populations; however, we want to ensure that any work or goal related to inclusivity remain grounded in evidence and proven best practices.

And finally, it is our intention that this statement applies to action on all agenda items in the Second Committee. We request that this statement be made part of the official record of the meeting. Thank you.

* * * *

3. Wildlife Trafficking

On October 10, 2018, the State Department issued its report to Congress in accordance with the Eliminate, Neutralize, and Disrupt (“END”) Wildlife Trafficking Act (P.L. 114-231). The Act requires the Secretary of State, in consultation with the Secretary of the Interior and the Secretary of Commerce, to report on “focus countries” and “countries of concern.” The report is available at <https://www.state.gov/remarks-and-releases-bureau-of-oceans-and-international-environmental-and-scientific-affairs/2018-end-wildlife-trafficking-report/> and excerpted below.

* * * *

Wildlife trafficking remains a serious transnational crime that threatens security, economic prosperity, the rule of law, long-standing conservation efforts, and human health. President Trump, in Executive Order 13773 calling for a comprehensive and decisive approach to dismantle organized crime syndicates, specifically recognized the connection between wildlife trafficking and transnational organized criminal networks.

The Task Force on Wildlife Trafficking (Task Force), co-chaired by the Secretary of State, the Secretary of the Interior, and the Attorney General, brings together 17 federal departments and agencies to implement the National Strategy for Combating Wildlife Trafficking (the “National Strategy”). The U. S. government’s three-pronged approach to combating wildlife trafficking—strengthening law enforcement, reducing demand, and building international cooperation—deprives criminals of a key source of financing, reducing the criminal threat posed to U.S. citizens.

The Task Force’s work to combat wildlife trafficking is making a difference on the ground at home and worldwide. The Task Force ensures that efforts and activities are better coordinated across the U.S. government; efficiencies are identified and exploited, redundancies eliminated, and resources used more strategically; our international outreach continues to expand; and new areas of work are identified as a result of improved coordination with the intelligence community. Working in partnership with the private sector, local communities, and

non-governmental organizations (NGO), the United States has led the way globally, securing agreements and commitments from governments and stakeholders at all levels to take urgent action. Highlights of Task Force efforts are included in the separate Strategic Review, as called for in Sec. 301(d) of the END Wildlife Trafficking Act.

Focus Countries

Methodology for Determining Focus Countries

The Department of State continued to work closely with the other agencies of the Task Force to employ both qualitative and quantitative information to identify Focus Countries and Countries of Concern, as defined in Section 2 of the Act, using the methodology developed for the 2017 END Act Report. Technical experts and scientists from Task Force agencies established a process to analyze wildlife trafficking information, and gathered a set of relevant and available data. This analysis included evaluation of data drawn from public reporting by U.S. government agencies, international entities such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the International Union for the Conservation of Nature (IUCN), and the UN Office of Drugs and Crime (UNODC), and NGOs such as the Center for Advanced Defense Studies (C4ADS), TRAFFIC, the Environmental Investigation Agency (EIA), and Transparency International. Information from the required national assessments reinforced and augmented our previous findings.

Based on the analysis of interagency experts, the input from outside experts, and the availability, quality, and consistency of data, the Task Force employed the following process to identify Focus Countries:

Range States: The Task Force used information from IUCN and CITES, as well as U.S. experience implementing and enforcing the Endangered Species Act to generate a list of wildlife species that are of high conservation concern and are known to be illegally traded. Experts then used the IUCN Red List and other sources to determine the range states for biologically significant populations of these species.

Seizure Data: The Task Force compiled seizures of trafficked wildlife reported by the U.S. government since 2011, and added seizures that other countries reported to the CITES Secretariat. The seizures were analyzed in a manner that scored countries for being the source country for seized wildlife and wildlife products (and in some cases the transit or final destination if this information was known), but excluded from scoring the countries that successfully made the seizure.

The Task Force considered both seizures of illegal wildlife and wildlife products, as well as a secondary analysis of only those species identified in the range analysis, with countries being scored based on whichever analysis caused them to be ranked highest.

Recognizing that seizure data only capture a small but unknown percentage of all illegal wildlife trade and that much of that trade may not transit through a country with a strong customs enforcement system, the Task Force then considered additional data available for several key species.

Species Specific Data: The Task Force utilized the rankings listed in the 2016 CITES Elephant Trade Information System (ETIS) report of countries that play a significant role as a supplier, transit or consumer country. The Task Force also considered trade and market analyses conducted by NGOs for rhinos, reptiles, birds, and pangolins, representing some of the most trafficked species for which detailed information was available.

Risk and Enabling Criteria: The Task Force further considered risk and enabling criteria, including Transparency International's Perceptions of Corruption Index; countries that are currently subject to CITES trade suspensions; and a Department of State analysis of the global transportation network that sought to identify key nodes and chokepoints for illegal wildlife trade.

Country-Specific Analysis: The above data sets were scored in a weighted manner, which led to a list of countries where further country-specific analysis was needed. Factors such as range states, seizures, and species-specific criteria were weighted more heavily than additional risk and enabling factors.

Task Force agencies, including those at U.S. overseas missions, reviewed the initial analysis and provided additional information that was often only available locally. These country-specific analyses helped to round out the global data, including by providing information on additional species such as felines, primates, and marine species. Agencies also considered the trajectory of wildlife populations and trafficking's impact on that trajectory, government and private sector efforts to prevent illegal trade, and the presence of legal or poorly regulated domestic markets for species threatened by wildlife trafficking. Each U.S. mission located in a 2017 Focus Country completed a detailed assessment specifying available resources, local laws and political commitment, capacity, and areas of weakness. They subsequently created mission strategies to combat wildlife trafficking challenges specific to each Focus Country.

The Task Force further evaluated whether governments had recently taken steps to improve legislation, regulations, and/or enforcement and other trends such that the country is stepping up its efforts to combat the illegal trade in wildlife.

2018 Focus Countries

The Department of State, in consultation with the Departments of the Interior and Commerce as well as other agencies of the Task Force, determined that, although we are working to fill them, many of the previously identified information gaps remain. In addition, given the timelines established in the END Act for the completion of the assessments and strategies, there was limited new information to support a new comprehensive analysis. In light of this, the Task Force determined that there was no justification for revising the list of Focus Countries in 2018; the same is true for the Countries of Concern. Each country listed continues to be a "major source of wildlife trafficking products or their derivatives, a major transit point of wildlife trafficking products or their derivatives, or a major consumer of wildlife trafficking products."

This determination is based on our analysis of the statutory criteria in the END Act and does not reflect a positive or negative judgment of the listed countries or indicate that these countries are not working diligently to combat wildlife trafficking. Indeed, the United States has longstanding partnerships with many of these countries with respect to combating wildlife trafficking and recognizes the strong political will that already exists in many of these countries to tackle this problem. The Department of State and other Task Force agencies look forward to continuing close and constructive relationships with these countries as we work collaboratively to combat wildlife trafficking.

2018 Focus Country List (in alphabetical order): Bangladesh, Brazil, Burma, Cambodia, Cameroon, China, Democratic Republic of the Congo, Gabon, India, Indonesia, Kenya, Laos, Madagascar, Malaysia, Mexico, Mozambique, Nigeria, Philippines, Republic of the Congo, South Africa, Tanzania, Thailand, Togo, Uganda, United Arab Emirates, and Vietnam. The 2018 Countries of Concern are Madagascar, Democratic Republic of the Congo, and Laos.

Countries of Concern

Methodology for Identifying Countries of Concern

To identify Countries of Concern as directed by Section 201(b) of the Act, the Department of State, in consultation with the Departments of the Interior and Commerce and other agencies of the Task Force, reviewed publicly available information as well as classified material that indicated the following governments actively engaged in or knowingly profited from the trafficking of endangered or threatened species. A review of classified, NGO, and open source reporting found insufficient evidence to designate new Countries of Concern. The situation in the Countries of Concern designated in 2017 remains largely unchanged. This designation does not indicate all parts of the government are or have been involved, but there are serious concerns that either high-level or systemic government involvement in wildlife trafficking has occurred.

2018 Countries of Concern (in alphabetical order): Democratic Republic of Congo, Laos, and Madagascar.

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4. Columbia River Treaty

The United States and Canada began negotiations to modernize the Columbia River Treaty regime on May 29, 2018, in Washington, D.C. See State Department media note, available at <https://www.state.gov/on-the-opening-of-negotiations-to-modernize-the-columbia-river-treaty-regime/>. The original treaty was concluded in 1964. The May 22, 2018 media note on the negotiations, available at <https://www.state.gov/launching-negotiations-to-modernize-the-columbia-river-treaty-regime/>, explains U.S. objectives in renegotiating the treaty:

As the United States enters these bilateral negotiations with our Canadian counterparts, our key objectives include continued, careful management of flood risk; ensuring a reliable and economical power supply; and better addressing ecosystem concerns. Our objectives are guided by the *U.S. Entity Regional Recommendation for the Future of the Columbia River Treaty after 2024*, a consensus document published in 2013 after years of consultations among the Northwest's Tribes, states, stakeholders, public, and federal agencies.

The second round of negotiations was held in August in British Columbia, Canada. See August 17, 2018 media note available at <https://www.state.gov/conclusion-of-the-second-round-of-negotiations-to-modernize-the-columbia-river-treaty-regime/>. The third round was held in October in Oregon. See October 19, 2018 media note, available at <https://www.state.gov/conclusion-of-the-third-round-of-negotiations-to-modernize-the-columbia-river-treaty-regime/>. The fourth round was held in December in British Columbia. See December 14, 2018 media note, available at <https://www.state.gov/conclusion-of-the-fourth-round-of-negotiations-to-modernize-the-columbia-river-treaty-regime/>.

Cross references

Texas v. New Mexico (*case regarding U.S.-Mexico water convention*), **Ch. 4.C.1**

Center for Biological Diversity (*case involving UNFCCC*), **Ch. 4.C.2**

Human Rights and the Environment, **Ch. 6.F**

WTO proceedings on Tuna and Tuna Products, **Ch. 11.C.2.a**

Keystone XL Pipeline, **Ch. 11.F.4.a**