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CHAPTER 3

International Criminal Law

A. EXTRADITION AND MUTUAL LEGAL ASSISTANCE

1. Extradition Treaties

On July 26, 2018, the U.S. extradition treaties with the Republic of Kosovo and the Republic of Serbia received the U.S. Senate's advice and consent to ratification. In each case, the resolution of ratification includes a declaration to the effect that the treaty is self-executing. Treaty Doc. 115-1, 115-2. The treaty with Kosovo is available at <https://www.state.gov/kosovo-19-613>. The treaty with Serbia is available at <https://www.state.gov/serbia-19-423>.*

2. Extradition of Former President Martinelli

On June 11, 2018, the State Department announced in a media note, available at <https://www.state.gov/extradition-to-panama-of-former-president-martinelli/>, that the United States had extradited to Panama the former president of Panama, Ricardo Martinelli. The extradition was completed in accordance with the extradition treaty between the United States of America and the Republic of Panama. The former president was arrested in Miami on June 12, 2017, based on an extradition request from the Panamanian government, to face criminal prosecution.

* Editor's note: The treaty with Serbia entered into force on April 23, 2019 after the parties exchanged instruments of ratification at Belgrade. The treaty with Kosovo entered into force June 13, 2019 after exchange of instruments of ratification at Pristina.

3. Extradition of Russian Arms Dealers from Hungary

On November 27, 2018, the State Department issued a press statement on the U.S. request to Hungary for the extradition of two suspected Russian arms dealers. The statement, available at <https://www.state.gov/hungary-lyubishin-extradition/>, follows.

The United States requested the extradition of two suspected Russian arms dealers, Vladimir Lyubishin Sr. and Vladimir Lyubishin Jr., pursuant to the U.S.-Hungary Extradition Treaty. Hungary denied the U.S. request and instead extradited the suspects to Russia, where it is unclear whether they will face trial.

The United States is disappointed in the Hungarian government's decision to extradite the Lyubishins to Russia. The United States had a strong case, built in cooperation with members of Hungarian law enforcement. Hungary is a partner and friend of the United States, but this decision raises questions about Hungary's commitment to law enforcement cooperation. This decision is not consistent with our law enforcement partnership, undercuts the work that our agencies had done together to build this case, and will make citizens in the United States, Hungary, and the world less safe.

4. Extradition of Meng Wanzhou

On December 21, 2018, the State Department issued a press statement on the arrest in Canada of a Chinese national in response to a U.S. request under the U.S.-Canada extradition treaty. The statement follows and is available at <https://www.state.gov/canadas-legitimate-arrest-of-huawei-cfo-meng-wanzhou/>.

Canada, a country governed by the rule of law, is conducting a fair, unbiased, and transparent legal proceeding with respect to Ms. Meng Wanzhou, the Chief Financial Officer of Huawei. Canada respects its international legal commitments by honoring its extradition treaty with the United States. We share Canada's commitment to the rule of law as fundamental to all free societies, and we will defend and uphold this principle. We also express our deep concern for the Chinese Government's detention of two Canadians earlier this month and call for their immediate release.

5. Universal Jurisdiction

Julian Simcock, Deputy Legal Adviser for the U.S. Mission to the United Nations, delivered remarks on October 9, 2018 at a meeting of the Sixth Committee on the scope and application of the principle of universal jurisdiction. His remarks are excerpted below and available at <https://usun.usmission.gov/remarks-at-a-meeting-of-the-sixth-committee-on-agenda-item-87-scope-and-application-of-the-principle-of-universal-jurisdiction/>.

* * * *

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

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

We have engaged in lengthy, thoughtful discussions on a variety of important topics regarding universal jurisdiction, including its definition, the scope of the principle, as well as its application, in the years since the Committee took up this issue. The submissions made by states to date, the work of the Working Group in this Committee, and the Secretary-General's reports have been extremely useful in helping us to identify differences of opinion among states as well as points of consensus on this issue. We remain interested in further exploring issues related to the practical application of universal jurisdiction.

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

* * * *

B. INTERNATIONAL CRIMES

1. Terrorism

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

On May 5, 2018, Secretary Pompeo issued his determination and certification, pursuant to, *inter alia*, section 40A of the Arms Export Control Act (22 U.S.C. § 2781), that certain countries "are not cooperating fully with United States antiterrorism efforts." 83 Fed. Reg. 23,988 (May 23, 2018). The countries are: Eritrea, Iran, Democratic People's Republic of Korea, Syria, and Venezuela.

b. Country Reports on Terrorism

On September 19, 2018, the Department of State released the 2017 Country Reports on Terrorism. The annual report is submitted to Congress pursuant to 22 U.S.C. § 2656f, which requires the Department to provide Congress a full and complete annual report on terrorism for those countries and groups meeting the criteria set forth in the legislation. The report covers the 2017 calendar year and provides policy-related

assessments; country-by-country breakdowns of foreign government counterterrorism cooperation; and information on state sponsors of terrorism, terrorist safe havens, foreign terrorist organizations, and the global challenge of chemical, biological, radiological, and nuclear terrorism. The report is available at <https://www.state.gov/reports/country-reports-on-terrorism-2017/>. On September 19, 2018, Ambassador-at-Large and Coordinator for Counterterrorism Nathan A. Sales provided a briefing on key aspects of the report, which is available at <https://www.state.gov/coordinator-for-counterterrorism-nathan-a-sales-on-the-release-of-the-country-reports-on-terrorism-2017/>, and excerpted below.

* * * *

... Country Reports on Terrorism is an important document laying out the United States Government's assessment of recent counterterrorism trends and highlighting some of the efforts that we and our partners have taken to combat groups like ISIS, al-Qaida, Iran-backed threats, and other terrorist groups of global reach.

Let me start with some numbers. The report includes a statistical annex that was prepared by the National Consortium for the Study of Terrorism and Responses to Terrorism just down the street at the University of Maryland. The annex notes that the total number of terrorist attacks worldwide in 2017 decreased by 23 percent. Similarly, the total deaths due to terrorist attacks decreased by 27 percent. Both of those are compared to the numbers for 2016.

While numerous countries saw a decline in terrorist violence between 2016 and 2017, this overall trend was largely due to dramatically fewer attacks and deaths in Iraq. Although terrorist attacks took place in 100 countries in 2017, they were concentrated geographically. Fifty-nine percent of all attacks took place in five countries. Those are Afghanistan, India, Iraq, Pakistan, and the Philippines. Similarly, 70 percent of all deaths due to terrorist attacks took place in five countries, and those are Afghanistan, Iraq, Nigeria, Somalia, and Syria.

The report notes a number of major strides that the United States and our international partners made to defeat and degrade terrorist organizations in 2017. We worked with allies and partners around the world to expand information sharing, improve aviation security, enhance law enforcement and rule of law capacities, and to counter terrorist radicalization with a focus on preventing recruitment and recidivism.

In December 2017, the U.S. drafted UN Security Council Resolution 2396, was adopted unanimously with 66 co-sponsors. UNSCR 2396 requires member-states to collect and use biometrics and traveler data, including passenger name record data, to identify and disrupt terrorist travel and to develop watch lists or databases of known and suspected terrorists. We continue to engage foreign partners to conclude bilateral arrangements for the exchange of identity information on known and suspected terrorists. This is pursuant to Homeland Security Presidential Directive 6, or HSPD-6.

Since 2007, the CT Bureau and the FBI's Terrorist Screening Center have signed 71 of these arrangements with foreign partners, and they're helping to identify, track, and deter the travel of known and suspected terrorists.

2017 saw the United States and a global coalition accomplish major efforts against ISIS. Ninety-nine percent of the territory ISIS once held in Iraq and Syria has now been liberated. Approximately 50 percent of those gains were achieved since January of 2017. Similarly, more than 7.7 million people have been liberated from ISIS' brutal rule—approximately 4.5 million in Iraq and 3.2 million in Syria. Of those 7.7 million people, an estimated 5 million have been liberated since 2017.

We increased pressure on al-Qaida to prevent its resurgence. We're working closely with our allies to counter al-Qaida's ability to recruit, raise money, travel, and plot. In May of this year, the State Department expanded the terrorist designation of an al-Qaida affiliate in Syria. We also designated al-Qaida's Mali branch earlier this month, on September 5th, and we have led efforts at the UN Security Council to designate numerous organizations and individuals affiliated with al-Qaida.

Despite these many successes, the terrorist landscape grew more complex in 2017. ISIS, al-Qaida, and their affiliates have proven to be resilient, determined, and adaptable. They have adjusted to heightened counterterrorism pressure in Iraq, Syria, Somalia, and elsewhere. Foreign terrorist fighters are heading home from the war zone in Iraq and Syria or traveling to third countries to join ISIS branches there. We also are experiencing an increase in attacks by homegrown terrorists—that is, people who have been inspired by ISIS but have never set foot in Syria or Iraq. We've seen ISIS-directed or ISIS-inspired attacks outside the war zone on soft targets and in public spaces like hotels, tourist resorts, and cultural sites. We've seen this trend in places as far afield as Bamako, Barcelona, Berlin, London, Marawi, New York City, Ouagadougou, and many others.

Iran remains the world's leading state sponsor of terrorism and is responsible for intensifying multiple conflicts and undermining U.S. interests in Syria, in Yemen, in Iraq, in Bahrain, in Afghanistan, and in Lebanon, using a number of proxies and other instruments such as Lebanese Hizballah and the Islamic Revolutionary Guard Corp's Quds Force. The threats posed by Iran's support for terrorism are not confined to the Middle East; they are truly global. Since 2012 alone, Hizballah has conducted a successful attack in Bulgaria that killed six, it has undertaken two separate plots in Cyprus, and it has developed large caches of military equipment and explosives in Kuwait, Nigeria, and Bolivia while sending terrorist operatives to Peru and Thailand.

On June 30th of this year, German authorities arrested an Iranian official for his role in a terrorist plot to bomb a political rally in Paris. Authorities in Belgium and France also made arrests in connection with this Iranian-supported terrorist plot.

* * * *

c. United Nations

On October 3, 2018, Emily Pierce, Counselor to the U.S. Mission to the United Nations delivered remarks at a meeting of the Sixth Committee on "Agenda Item 109: Measures to Eliminate International Terrorism." Her remarks are excerpted below and available at <https://usun.usmission.gov/remarks-at-a-meeting-of-the-sixth-committee-on-agenda-item-109-measures-to-eliminate-international-terrorism/>.

* * * *

The United States reiterates both its firm condemnation of terrorism in all its forms and manifestations as well as our commitment to the common fight to end terrorism. All acts of terrorism—by whomever committed—are criminal, inhumane and unjustifiable, regardless of motivation. The United States is committed to using all of our tools to end terrorism, including through our efforts with the Global Coalition to Defeat ISIS. Given the often transnational nature of modern terrorist groups, it is clear that an unwavering and united effort by the international community is required if we are to succeed in fully preventing and countering terrorism. In this respect, we recognize the United Nations’ critical role in mobilizing the international community, building capacity, and facilitating technical assistance to Member States in implementation of the United Nations Global Counter-Terrorism Strategy and relevant resolutions, as well as the UN Plan of Action to Prevent Violent Extremism.

We note the 6th biannual review of the UN Global Counter-Terrorism Strategy last June. The Strategy’s four pillars—including on addressing the conditions conducive to the spread of terrorism and upholding human rights and the rule of law—remain as valid and relevant today as when the Strategy was adopted 12 years ago. The GCTS, and the General Assembly’s biennial review resolutions, notwithstanding several serious flaws that the United States hopes will be rectified in future resolutions, have given the Secretariat the guidance it needs to help Member States implement the Strategy. This includes preventing violent extremism, PVE, and supporting the Secretary-General’s High Level Action Group to mainstream PVE across the UN system, implementation of the recommendations laid out in the UN’s PVE Plan of Action, as well as other efforts to help Member States adopt a whole-of-society approach to countering terrorism and violent extremism.

A major success and addition to the global counterterrorism framework was the Security Council’s unanimous adoption of Resolution 2396 in December 2017, which updated Resolution 2178 and provided greater focus on measures to address returning and relocating foreign terrorist fighters, FTFs, and transnational terrorist groups. Resolution 2396 built on 2178 by creating new international obligations and highlighting other actions to strengthen border security and information sharing, strengthen judicial measures and international cooperation, ensure appropriate prosecution, rehabilitation, and reintegration of FTFs and their accompanying family members, and strengthen Member States’ cooperation, including with the private sector, to protect public spaces and soft targets. The resolution rightly reiterates the ongoing terrorist threat against soft targets and, in doing so, complements ongoing efforts to better protect critical infrastructure under UN Security Council resolution 2341. Of key importance are 2396’s new obligations concerning Passenger Name Record, PNR, data, Advanced Passenger Information, API, biometrics, and watchlists—all vital counterterrorism tools. As part of our efforts to address ISIS operations outside of Iraq and Syria, we must also pursue the goal of UN Security Council resolution 2309 to elevate aviation security standards globally to ensure countries are less susceptible to the threat of terrorism. These efforts must include countering insider threat and deploying next-generation screening technologies.

One important aspect of the Security Council’s work in recent years is that Member States are increasingly adopting the ‘whole-of-government’ approach to countering terrorism. Recent resolutions underscore the importance of having all elements of government, including

ministries of finance, justice, interior and security, and information and communications, work together to prevent and counter terrorism and violent extremism.

We are seeing results. Combined with intense military pressure from the United States alongside the Defeat-ISIS coalition, Member States' implementation of Security Council resolution 2178—aimed at stemming the flow of FTFs—made a tremendous impact on the ground in Syria and Iraq, where 99 percent of the territory ISIS once held, and 7.7 million people once under ISIS' brutal rule, have now been liberated. The United States now has information sharing arrangements with over 70 international partners to help identify, track, and deter known and suspected terrorists. We can all stand to learn from each other on these gains, but there is much more work that can be done to fully implement Resolution 2178 and Resolution 2396 as FTFs seek to return to their home countries and relocate elsewhere.

From international legal cooperation, to critical infrastructure security and resilience, to countering terrorist narratives, the UN can play a meaningful role in addressing new challenges that arise in the fight against terrorism. We express our firm support for these UN efforts, as well as those of the Global Counterterrorism Forum, GCTF, and other multilateral bodies, civil society, the private sector and non-governmental organizations, and regional and subregional organizations that work to develop practical tools to further the implementation of the UN counterterrorism framework. We call for continued coordination among UN entities and with external partners, including the GCTF and its related initiatives and platforms such as the International Institute for Justice and the Rule of Law and Hedayah, which advance practical implementation of the UN Global Counter-Terrorism Strategy through training, capacity building, and grant-making for community-based preventing and countering violent extremism projects. In this regard, we welcome the close cooperation and partnership between the UN and the GCTF and the Joint UN-GCTF Ministerial Statement endorsed on September 26th at the GCTF Ministerial.

We also welcome the General Assembly's decision to bring greater coherence to the UN's role in countering terrorism and violent extremism by approving the creation of the UN Office of Counterterrorism. The United States was among the strongest advocates for this overdue reform, and we look forward to UNOCT's leadership in making the UN CT work efficient.

We encourage continued close coordination between the UN Office of Counter-Terrorism and CTED, and welcome their joint report in response to UN Security Council resolution 2395 to improve coordination between the two entities, so that country assessments can serve as the basis for technical assistance and capacity-building. Furthermore, efforts to counter terrorism that come at the expense of human rights and the rule of law are counterproductive and often feed the bankrupt narrative of terrorists. For these reasons, CTED and the UNOCT must pursue a balanced approach to implementing the UN Global Counter-Terrorism Strategy and the recommendations of the Secretary-General's Plan of Action to Prevent Violent Extremism that recognizes the importance of preventing violent extremism, respecting human rights and the rule of law. UN counterterrorism efforts benefit from engagement with a wide range of actors, including youth; families; women; religious, cultural, and educational leaders; and other elements of civil society—in addition to governments and the private sector.

Domestically, we continue to engage and raise community awareness of violent extremism or radicalization to terrorism and recruitment dynamics, as well as provide community leaders tools and resources to work on prevention efforts. One continuing area of work is state and local intervention services for individuals headed down a path toward violent

extremism or radicalization to terrorism before a crime is committed. We look forward to continued exchanges on these issues with our international partners.

We continue to emphasize the importance of countering the use of the Internet for terrorist purposes, while respecting human rights such as freedom of expression and recognizing that the Internet is but one tool used by terrorists. While taking appropriate law enforcement action against criminal activities online, we have also worked to strengthen and expand our ongoing voluntary collaboration and partnerships with private technology companies, who counter terrorist content online by enforcing their terms of service. We applaud the efforts being made by the industry-led Global Internet Forum to Counter Terrorism and UN-affiliated Tech Against Terrorism in this regard. As Member States continue to work together to implement the UN Global Counter Terrorism Strategy and resolutions such as UNSCR 2354 on countering terrorist narratives, we must seek to build long-term resilience to terrorist messages through partnerships with youth to cultivate critical thinking skills and online public safety awareness through education. Yet the problem cannot be solved by governments and private companies alone, and we are seeking ways to involve civil society, academia, and community leaders in developing a long-term comprehensive solution.

To help achieve this long-term and comprehensive vision, we need all Member States to better assist and sufficiently resource UN system actors and other relevant implementers in order to deliver needed technical assistance and generate more effective solutions. To do our part, we are pleased to note that we continue to make voluntary contributions to the UNODC Terrorism Prevention Branch, UNDP, INTERPOL, and UNICRI for development of research, capacity-building assistance, and training. We encourage other interested Member States to help share the burden of helping the UN implement the Global Counter-Terrorism Strategy, both by helping it improve its own work and its efforts to assist Member States. These include preventing and countering violent extremism, and implementing relevant UN Security Council resolutions, including resolution 2396.

Beyond the UN, we should also continue to partner with local communities and key civil society organizations. They will often be among the most effective in countering terrorist lies.

Focusing now on treaty developments, we recognize the great success of the United Nations, thanks in large part to the work of this Committee, in developing 18 universal instruments that establish a thorough legal framework for countering terrorism. The achievements on this front are noteworthy. We have witnessed a dramatic increase in the number of states that have become party to these important counterterrorism conventions. For example, there are 188 parties to the Terrorist Financing Convention.

The United States recognizes that while the accomplishments of the international community in developing a robust legal counterterrorism regime are significant, there remains much work to be done to make this regime fully serve its purpose. The 18 universal counterterrorism instruments are only effective if they are widely ratified and implemented. In this regard, we fully support efforts to promote ratification and implementation of these instruments. We draw particular attention to the six instruments concluded since 2005—the 2005 International Convention for the Suppression of Acts of Nuclear Terrorism, Nuclear Terrorism Convention; the 2005 Amendment to the Convention on the Physical Protection of Nuclear Material, CPPNM Amendment; the 2005 Protocols to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, SUA Protocols; the 2010 Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation; and the 2010 Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft.

While the work of the international community began with the negotiation and conclusion of those instruments, that work will only be completed when those instruments are widely ratified and fully implemented.

And as we move forward with our collective efforts to ratify and implement these instruments, the United States remains willing to work with other states to build upon and enhance the counterterrorism framework. Concerning the Comprehensive Convention on International Terrorism, we will listen carefully to the statements of other delegates at this session. We would highlight in this regard that it is critical that the United Nations send united, unambiguous signals when it comes to terrorism, otherwise we risk some of the progress that we have made.

* * * *

d. *Global Coalition to Defeat ISIS*

On February 13, 2018, the United States concluded a joint statement with other members of the Global Coalition to Defeat ISIS. The Joint Statement was released as a State Department media note, available in full at <https://www.state.gov/joint-statement-of-guiding-principles-from-the-global-coalition-to-defeat-isis/>. The February 13, 2018 Joint Statement of the Global Coalition is excerpted below.

* * * *

We, the Foreign Ministers and principals of the Global Coalition, have come together in Kuwait City united in our determination to defeat ISIS/Da'esh through a focused, sustained, multifaceted effort. We know our enemy: ISIS/Da'esh is intrinsically malevolent, celebrates cruelty, systematically violates international law and regularly commits gross abuses of human rights. Yet three and a half years into this effort, ISIS/Da'esh stands undeniably degraded—it has lost its territorial hold in Iraq and only a few pockets of land remain under its control in Syria. Its leadership, on-line presence and global networks are under pressure. But our work is not done. ISIS/Da'esh remains a serious threat to the stability of the region and to our common security. Enduring defeat will come when ISIS/Da'esh no longer has safe havens from which to operate; when it no longer poses a threat to our homelands; and when it can no longer convey its ideology of hate globally. Recognizing that we are at an inflection point, where we must sustain attention to Iraq and Syria to secure our significant gains, while simultaneously adapting our footing to curb ISIS/Daesh's global ambitions, we offer these Guiding Principles as our vision for the future of this Coalition.

Ultimately to achieve a full and enduring defeat of ISIS/Da'esh, the Coalition will fully eliminate ISIS/Da'esh as a territorial threat in Iraq and Syria and stabilize liberated communities in an inclusive manner. We will mobilize Coalition members and external partners, using a whole-of-government approach, to disrupt ISIS/Da'esh networks and its branches and affiliates, including possible new manifestations and variants, and deny its freedom of movement, safe havens, and access to resources in accordance with and in support of UNSCR 2396. We will

combat ISIS/Da'esh's ideology to prevent its reemergence, recruitment, and expansion. We will support local voices that offer an alternative vision to ISIS/Da'esh's propaganda, and we will redouble our efforts to deny ISIS/Da'esh space to exploit social media and the Internet. We will work to consolidate our gains to date and prevent a re-emergence of ISIS/Da'esh by supporting Iraqi-led political and security sector reforms, and, through UNSCR 2254, committing to reach a political solution in Syria, thus helping to address root causes for the appearance of ISIS/Da'esh.

Our approach rests on a number of key pillars. First, we see this Coalition as a mobilizing and coordinating mechanism nested in a much larger diplomatic, military and counterterrorism ecosystem, in accordance with the principles of international law, including the Charter of the United Nations, and relevant Security Council Resolutions. Second, we recognize nations bear primary responsibility for defending their homelands against ISIS/Da'esh; our Coalition must work by, with, and through our partners. Third, membership in this Coalition is voluntary, as are the contributions each of us makes to this effort. Fourth and finally, we agree there is no single approach to the defeat of ISIS/Da'esh—each one is tailored to address the unique nature of the threat in a given country or region—importantly, most approaches to ISIS/Da'esh globally will not mirror our efforts in Iraq and Syria, where Coalition-led military action has been central. That said, we agree there is great utility in sustaining collaboration and unity of purpose across the Coalition against ISIS/Da'esh and ISIS-related threats on a global scale.

At the heart of our collaboration are the Coalition's Working Groups, and each one has a unique path forward.

The Counter-Finance Working Group (CIFG) focuses on identifying and disrupting ISIS/Da'esh's ability to generate revenue and access the regional and international financial systems. ...

The Foreign Terrorist Fighter Working Group (FTF WG) focuses on supporting and encouraging preventive, counter-terrorism-related information sharing through appropriate bilateral and collective law enforcement channels (such as Interpol), rehabilitation/reintegration, law enforcement and legal/criminal justice actions to mitigate the FTF threat (including FTF and their families returning, relocating and resurfacing). ...

The Communications Working Group seeks to contest the information space in which ISIS/Da'esh operates and to ensure that the contraction of the group's territory is followed by its ideological defeat. ...

The Working Group on Stabilization plays a central role coordinating and promoting international stabilization efforts in Iraq and, where possible, in Syria. Successful IDP return is essential to consolidate the military defeat of ISIS/Da'esh. ... [T]he Police Training Sub Group will strengthen its focus on "blue training" and support the Iraqi government's efforts to restructure the Federal police and create a civilian police force that represents and is trusted by all citizens in Iraq. In Syria, the Working Group on Stabilization will coordinate and promote stabilization efforts with the aim of strengthening credible, inclusive and non-sectarian governance, in accordance with and in support of UNSCR 2254.

The defense aspects of the Coalition also will continue to evolve as the nature of the threat changes and the Coalition increasingly focuses on ISIS/Da'esh networks and branches. As with the Coalition's Foreign Ministers, Defense Ministries also will continue to coordinate regularly on how best to address the threat. The Coalition will pursue its military commitment in Iraq and Syria, and the existing Coalition Force Command in Tampa will continue to support the efforts in the region, in order to secure and stabilize the liberated areas to help retain our significant successes against ISIS/Da'esh to date.

Across lines of effort, we will work to ensure women and women's organizations are fully and actively engaged and included in peacebuilding and stabilization efforts, in accordance with UNSCR 2242, and will seek to ensure our policies and practices are gender-informed and guided by international legal frameworks.

The Global Coalition to Defeat ISIS/Da'esh was founded in September 2014 based on the worldwide concern over ISIS/Da'esh and the threat it poses to international peace and security. The Coalition has made enormous progress since then, but our work is not done. Looking ahead, we recognize the need to remain alert to the inevitable evolution of the ISIS/Da'esh threat, and to flexibly adapt our response, including through existing multilateral and regional counterterrorism and CVE institutions. We will revisit these Guiding Principles as appropriate. We recognize that the Coalition and its Working Groups serve to focus the international community's attention on countering the global/transnational threat of ISIS/Da'esh. With that in mind, the Coalition should look to share its expertise into international counterterrorism efforts wherever possible, with an eye to a time in the future when the international community is confident it has the tools to address and neutralize ISIS/Da'esh and ISIS-related threats.

* * * *

e. U.S. actions against terrorist groups

(1) Overview

On February 27, 2018, the State Department issued a fact sheet providing answers to frequently asked questions about terrorism designations. The fact sheet is excerpted below and available at <https://www.state.gov/terrorism-designations-faqs/>.

Designations as Foreign Terrorist Organizations ("FTOs") are discussed *infra*. See Chapter 16.A.8.b. for further discussion of designations under E.O. 13224.

* * * *

1. What are the different types of terrorism designations for groups and individuals?

There are two main authorities for terrorism designations of groups and individuals. Groups can be designated as *Foreign Terrorist Organizations* under the Immigration and Nationality Act. Under Executive Order (E.O.) 13224, a wider range of entities, including terrorist groups, individuals acting as part of a terrorist organization, and other entities such as financiers and front companies, can be designated as *Specially Designated Global Terrorists* (SDGTs).

2. What is the difference between an FTO and E.O. 13224 designation?

There are several differences between these two designation authorities. For example, while both FTO and E.O. 13224 designations trigger an asset freeze, the FTO designation imposes immigration restrictions on members of the organization simply by virtue of their membership, whereas E.O. 13224 restricts travel for persons who meet the criteria contained within the order. In addition, the FTO designation triggers a criminal prohibition on knowingly providing material support or resources to the designated organization. Another difference is that only E.O. 13224 designations provide the Department of the Treasury the derivative authority to designate

additional individuals or entities providing support to already designated individuals or entities.

3. **What are the consequences of FTO and E.O. 13224 designations?**

Executive Order:

- With limited exceptions set forth in the Order, or as authorized by the Treasury Department's Office of Foreign Assets Control (OFAC), all property and interests in property of designated individuals or entities that are in the United States or that come within the United States, or that come within the possession or control of U.S. persons, are blocked.
- With limited exceptions set forth in the Order, or as authorized by OFAC, any transaction or dealing by U.S. persons or within the United States in property or interests in property blocked pursuant to the Order is prohibited. This includes, but is not limited to, making or receiving any contribution of funds, goods, or services to or for the benefit of designated individuals or entities.
- Any transaction by any U.S. person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions in the Order, is prohibited. Any conspiracy formed to violate any of the prohibitions is also prohibited.
- Civil and criminal penalties may be assessed for violations.

Foreign Terrorist Organization:

- It is a crime for a person in the United States or subject to the jurisdiction of the United States to knowingly provide "material support or resources" to or receive military-type training from or on behalf of a designated FTO.
- Representatives and members of a designated FTO, if they are aliens, are inadmissible to and, in certain circumstances removable from, the United States.
- Except as authorized by the Secretary of the Treasury, any U.S. financial institution that becomes aware that it has possession of or control over funds in which an FTO or its agent has an interest must retain possession of or control over the funds and report the funds to Treasury.

4. **Who can designate FTOs and SDGTs?**

The Department of State is authorized to designate FTOs and SDGTs, while the Department of the Treasury has the authority to designate only SDGTs. Both departments pursue these designations in cooperation with the Department of Justice.

All of the Department of State's designations can be found [at <https://www.state.gov/j/ct/list/index.htm>]. Additionally, all State Department FTO and E.O. designations can also be found on the Treasury Department's OFAC website.

5. **What are the criteria for designation?**

The Secretary of State designates **Foreign Terrorist Organizations** in accordance with section 219 of the Immigration and Nationality Act. The legal criteria for designating a group as a Foreign Terrorist Organization are:

- The organization must be a foreign organization;
- The organization engages in terrorist activity or terrorism or retains the capability and intent to engage in terrorist activity or terrorism; and
- The terrorist activity or terrorism of the organization threatens the security of United States nationals or the national security of the United States.

Under **Executive Order 13224**, the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, may designate foreign individuals or entities that he

determines have committed, or pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States. In addition, the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, may designate individuals or entities that are determined:

- To be owned or controlled by, or act for or on behalf of an individual or entity listed in the Annex to the Order or by or for persons determined to be subject to the Order;
- To assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, acts of terrorism or individuals or entities designated in or under the Order; or
- To be otherwise associated with certain individuals or entities designated in or under the Order.

6. **What makes you decide to designate or not designate a group or entity?**

At the Department of State, the Bureau of Counterterrorism, in consultation with other bureaus, identifies and evaluates possible individuals or organizations for designation. Other Departments also recommend designation targets.

7. **How does the process work?**

For **Foreign Terrorist Organizations**, once an organization is identified, we prepare a detailed administrative record, which is a compilation of information, typically including both classified and open source information, demonstrating that the statutory criteria for designation have been satisfied.

- If the Secretary of State, in consultation with the Attorney General and the Secretary of the Treasury, decides to make the designation, Congress is notified of the Secretary's intent to designate the organization seven days before the designation is published in the Federal Register, as section 219 of the Immigration and Nationality Act requires.
- Upon the expiration of the seven-day waiting period, and in the absence of Congressional action to object to the designation, notice of the designation is published in the *Federal Register*, at which point the designation takes effect.

We also prepare an administrative record for **Specially Designated Global Terrorists**.

Once it is completed and the Secretary of State or the Secretary of the Treasury designates an individual or entity, the assets of the individual or entity in the United States or in the possession or control of U.S. persons are frozen and OFAC takes appropriate action, including notification of the blocking order to U.S. financial institutions, directing them to block the assets of the designated individual or entity.

- Notice of the designation is also published in the *Federal Register*. OFAC also adds the individual or entity to its list of Specially Designated Nationals, by identifying such individuals or entities as Specially Designated Global Terrorists, and posts a notice of this addition on the OFAC website.
- A designation remains in effect until the designation is revoked or the Executive Order lapses or is terminated in accordance with U.S. law.

8. **What's the significance of the State Department designating a terrorist group as opposed to the Department of the Treasury?**

- The Departments of State and the Treasury have different authorities under E.O. 13224 to designate SDGTs. An individual who is designated under State's E.O. 13224 authority has committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

- Treasury is able to designate under E.O. 13224 using authorities that allow for the designation of individuals or entities that are determined to be owned or controlled by, or act for or on behalf of an individual or entity listed in the Annex to the Order or by or for persons determined to be subject to the Order; to assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, acts of terrorism or individuals or entities designated in or under the Order; or to be otherwise associated with certain individuals or entities designated in or under the Order.

* * * *

(2) *Foreign Terrorist Organizations*

(i) *New Designations*

In 2018, the Secretary of State designated six additional organizations and their associated aliases as Foreign Terrorist Organizations (“FTOs”) under § 219 of the Immigration and Nationality Act: (1) ISIS-West Africa (ISIS-WA) and aliases, 83 Fed. Reg. 8730 (Feb. 28, 2018); (2) ISIS-Bangladesh and aliases, 83 Fed. Reg. 8729 (Feb. 28, 2018); (3) ISIS-Philippines and aliases, 83 Fed. Reg. 8730 (Feb. 28, 2018); (4) ISIS in the Greater Sahara (ISIS-GS) and aliases, 83 Fed. Reg. 23,987 (May 23, 2018); (5) al-Ashtar Brigades (AAB) and alias, 83 Fed. Reg. 32,179 (July 11, 2018); (6) Jama’at Nusrat al-Islam wal-Muslimin (“JNIM”) and aliases, 83 Fed. Reg. 45,298 (Sep. 6, 2018).

In a May 16, 2018 State Department media note, the Department spokesperson provided further background on the designation of ISIS in the Greater Sahara. Excerpts follow from the note, which is available at <https://www.state.gov/state-department-terrorist-designations-of-isis-in-the-greater-sahara-isis-gs-and-adnan-abu-walid-al-sahrawi/>.

ISIS-GS emerged when Adnan Abu Walid al-Sahrawi and his followers split from Al-Mourabitoun, an al-Qa’ida splinter group and U.S.-designated FTO and SDGT. Al-Sahrawi first pledged allegiance to ISIS in May 2015, and in October 2016, ISIS acknowledged it received a pledge of allegiance from the group under al-Sahrawi. ISIS-GS is primarily based in Mali operating along the Mali-Niger border and has claimed responsibility for several attacks under al-Sahrawi’s leadership, including the October 4, 2017 attack on a joint U.S.-Nigerien patrol in the region of Tongo Tongo, Niger, which killed four U.S. soldiers and five Nigerien soldiers.

A July 10, 2018 State Department media note, available at <https://www.state.gov/state-department-terrorist-designation-of-al-ashtar-brigades-aab/>, provides additional information about the designation of AAB:

Established in 2013, AAB is an Iran-backed terrorist organization aimed at overthrowing the Bahraini government. AAB has claimed responsibility for numerous terrorist attacks against police and security targets in Bahrain. In March 2014, AAB conducted a bomb attack that killed two local police officers

and an officer from the United Arab Emirates. In January 2017, AAB shot and killed a local police officer. AAB has also called for violence against the Bahraini, British, Saudi Arabian, and U.S. governments on social media.

In January 2018, AAB formally adopted Iran's Islamic Revolutionary Guard Corps (IRGC) branding and reaffirmed its loyalty to Tehran to reflect its role in an Iranian network of state and non-state actors that operates against the United States and its allies in the region. Additionally, AAB members have received weapons and explosives from Iran, training at IRGC-funded camps in Iraq, and senior AAB members have taken refuge in Iran to evade prosecution by Bahraini authorities.

A September 5, 2018 State Department media note, available at <https://www.state.gov/state-department-terrorist-designation-of-jamaat-nusrat-al-islam-wal-muslimin-jnim/>, includes the following about JNIM (which was simultaneously designated pursuant to E.O. 13224 as an SDGT):

JNIM has described itself as al-Qaida's official branch in Mali, and it has claimed responsibility for numerous attacks and kidnappings since it was formed in March 2017. JNIM carried out the June 2017 attack at a resort frequented by Westerners outside of Bamako, Mali; several deadly attacks on Malian troops; and the large-scale coordinated attacks in Ouagadougou, Burkina Faso, on March 2, 2018. JNIM is led by Iyad ag Ghaly, a U.S.-designated SDGT.

(ii) *Amendments of FTO Designations*

During 2018, the State Department amended the designations of several FTOs to include additional aliases.

The designation of Lashkar-e-Tayyiba was amended to include the following aliases: Tehreek-e-Azadi-e-Kashmir, Kashmir Freedom Movement, Tehreek Azadi Jammu and Kashmir, Tehreek-e- Azadi Jammu and Kashmir, TAJK, Movement for Freedom of Kashmir, Tehrik-i-Azadi-i Kashmir, Tehreek-e-Azadi-e-Jammu and Kashmir, Milli Muslim League, Milli Muslim League Pakistan, and MML. 83 Fed. Reg. 14,539 (Apr. 4, 2018). On April 2, the Department issued a media note regarding the amendment to the designation of Lashkar-e-Tayyiba. The note is excerpted below and available at <https://www.state.gov/amendments-to-the-terrorist-designation-of-lashkar-e-tayyiba/>.

Formed in the 1980s, LeT was responsible for the November 2008 terrorist attacks in Mumbai, India that killed 166 people, including six Americans, and has killed dozens of Indian security forces and civilians in recent years. LeT continues to operate freely within Pakistan, holding public rallies, raising funds, and plotting and training for terrorist attacks. The Department of State designated LeT as an FTO and SDGT on December 26, 2001. Its leader, Hafiz Muhammad Saeed, is also designated as an SDGT.

To avoid sanctions, LeT has repeatedly changed its name over the years. In January 2017, LeT began operating under the name Tehreek-e-Azadi-e-Kashmir. LeT has engaged in terrorist activities under this name, including inciting terrorism, as well as recruiting and fundraising. In August 2017, LeT chief Hafiz Saeed created the MML to serve as a political front for the group. LeT members make up MML's leadership and the so-called party openly displays Saeed's likeness in its election banners and literature.

The designation of Al-Nusrah Front was amended to include additional aliases: Hay'at Tahrir al- Sham, Hay'et Tahrir al- Sham, Hayat Tahrir al- Sham, HTS, Assembly for the Liberation of Syria, also known as Assembly for Liberation of the Levant, also known as Liberation of al-Sham Commission, also known as Liberation of the Levant Organisation, also known as Tahrir al-Sham, also known as Tahrir al-Sham Hay'at. 83 Fed. Reg. 25,497 (June 1, 2018). A State Department media note, released on May 31, 2018, explains the amendment to the designation of al-Nusrah Front. That media note is available at <https://www.state.gov/amendments-to-the-terrorist-designations-of-al-nusrah-front/>, and excerpted below.

In January 2017, al-Nusrah Front launched the creation of HTS as a vehicle to advance its position in the Syrian uprising and to further its own goals as an al-Qa'ida affiliate. Since January 2017, the group has continued to operate through HTS in pursuit of these objectives.

The Coordinator for Counterterrorism, Ambassador Nathan A. Sales, noted that "today's designation serves notice that the United States is not fooled by this al-Qa'ida affiliate's attempt to rebrand itself. Whatever name Nusrah chooses, we will continue to deny it the resources it seeks to further its violent cause."

(iii) *Reviews of FTO Designations*

During 2018, the Secretary of State continued to review designations of entities as FTOs consistent with the procedures for reviewing and revoking FTO designations in § 219(a) of the Immigration and Nationality Act, as amended by the Intelligence Reform and Terrorism Prevention Act of 2004 ("IRTPA"), Pub. L. No. 108-458, 118 Stat. 3638. See *Digest 2005* at 113–16 and *Digest 2008* at 101–3 for additional details on the IRTPA amendments and review procedures.

The Secretary reviewed each FTO individually and determined that the circumstances that were the basis for the designations of the following FTOs have not changed in such a manner as to warrant revocation of the designations and that the national security of the United States does not warrant revocation: al-Shabaab, 83 Fed. Reg. 35,308 (July 25, 2018); Abu Sayyaf, 83 Fed. Reg. 41,140 (Aug. 17, 2018); Boko Haram, 83 Fed. Reg. 41,140 (Aug. 17, 2018); and Hizballah, 83 Fed. Reg. 56,894 (Nov. 14, 2018).

(3) *Rewards for Justice Program*

On March 8, 2018, the State Department announced in a media note, available at <https://www.state.gov/rewards-for-justice-reward-offer-for-information-on-tehrik-e-taliban-pakistan-and-factions-key-leaders/>, that the Rewards for Justice Program is offering rewards for information leading to the identification or location of three leaders of Tehrik-e-Taliban Pakistan (“TTP”) and its affiliates. The media note provides the following background on the three leaders:

Maulana Fazlullah is the leader of the TTP, a terrorist organization that has claimed responsibility for numerous terrorist acts against Pakistani and U.S. interests, including the failed attempt by Faisal Shahzad to detonate an explosive device in New York City’s Times Square on May 1, 2010. Under his leadership, the TTP has also claimed responsibility for the December 16, 2014, attack on a school in Peshawar, Pakistan in which gunmen killed 148 people, including 132 students. Fazlullah also is responsible for the June 2012, beheading of 17 Pakistani soldiers, and the October 9, 2012, shooting of Pakistani schoolgirl Malala Yousafzai. In 2015, the Department designated Fazlullah as a Specially Designated Global Terrorist under Executive Order 13224, which freezes all of his assets based in the United States or in possession or control of U.S. persons.

Abdul Wali is the leader of Jamaat ul-Ahrar (JUA), a militant faction affiliated with TTP. Under Wali’s leadership, JUA has staged multiple attacks in the region targeting civilians, religious minorities, military personnel, and law enforcement, and was responsible for the killing of two Pakistani employees of the U.S. Consulate in Peshawar in early March 2016.

Mangal Bagh is the leader of Lashkar-e-Islam, a militant faction affiliated with TTP. Under his leadership, Lel operatives have attacked NATO convoys. His group generates revenue from drug trafficking, smuggling, kidnapping, and collection of “taxes” on transit trade between Pakistan and Afghanistan. In September 2007, the Government of Pakistan announced a reward offer of about \$60,000 for the capture of, or information leading to the arrest of, Mangal Bagh.

On October 18, 2018, a State Department media note available at <https://www.state.gov/rewards-for-justice-reward-offer-for-information-on-al-qaida-in-the-arabian-peninsula-aqap-key-leaders/> announced a reward offer and an increase in the previous reward offer relating to certain leaders of Al-Qa’ida in the Arabian Peninsula (“AQAP”). The media note includes the following on the two leaders:

Qasim al-Rimi was named emir of AQAP in June 2015. The following month, he swore allegiance to al-Qa’ida leader Ayman al-Zawairi and called for renewed attacks against the United States. Born in Yemen in 1978, he trained terrorists at an al-Qa’ida camp in Afghanistan in the 1990s. Al-Rimi subsequently returned to

Yemen and became an AQAP military commander. He was sentenced to five years in prison in 2005 after being convicted in Yemen of plotting to assassinate the U.S. Ambassador to Yemen, and escaped from a Yemeni prison in 2006. Al-Rimi is linked to the September 2008 attack on the U.S. Embassy in Sana'a that left 10 Yemeni guards, four civilians, and six terrorists dead, and the December 2009 attempted suicide bombing by "underwear bomber" Umar Farouq Abdulmutallab aboard a U.S.-bound airliner. The government of Saudi Arabia placed al-Rimi on its list of most wanted terrorist suspects on February 3, 2009. In May 2010, the Department of State designated al-Rimi as a Specially Designated Global Terrorist (SDGT) under Executive Order (E.O.) 13224. ... In May 2010, al-Rimi was added to the United Nations (UN) 1267 Sanctions Committee's Consolidated List of individuals associated with al Qa'ida/ISIL.

In a May 7, 2017 video, he urged supporters living in Western countries to conduct "easy and simple" attacks and praised Omar Mateen, who killed 49 people in a June 2016 mass shooting at a nightclub in Orlando Florida.

Khalid al-Batarfi is a senior member of AQAP in Yemen's Hadramaut Governorate and a former member of AQAP's shura council. Born in Saudi Arabia, in 1999 he traveled to Afghanistan, where he trained at al-Qa'ida's al-Farouq camp. In 2001, he fought alongside the Taliban against U.S. forces and the Northern Alliance. In 2010, al-Batarfi joined AQAP in Yemen, led AQAP fighters in taking over Yemen's Abyan Province, and was named AQAP's emir of Abyan. Following the death of AQAP leader Nasir Al-Wuhayshi in a June 2016 U.S. military strike, he issued a statement warning that al-Qa'ida would destroy the U.S. economy and attack other U.S. interests. After the United States announced that it would recognize Jerusalem as the capital of Israel, al-Batarfi appeared in an AQAP video in January 2018 threatening the United States and Jews. On January 23, 2018, the U.S. Department of State designated al-Batarfi as an SDGT under E.O. 13224.

On November 13, 2018, the State Department announced reward offers (up to \$5 million each) for information on leaders of Hamas and Hizballah. See media note, available at <https://www.state.gov/rewards-for-justice-reward-offer-for-information-on-hamas-and-hizballah-key-leaders/>. The following leaders were identified in the media note:

Salih al-Aruri is a deputy of the political bureau of the terrorist organization Hamas and one of the founders of the Izzedine al-Qassam Brigades, Hamas's military wing. Aruri is currently living freely in Lebanon, where he reportedly is working with Qasem Soleimani, leader of the Iranian Islamic Revolutionary Guard Corps' Quds Force. Aruri funded and directed Hamas military operations in the West Bank and has been linked to several terrorist attacks, hijackings, and kidnappings. In 2014, al-Aruri announced Hamas's responsibility for the June 12, 2014 terrorist attack that kidnapped and killed three Israeli teenagers in the West Bank, including dual U.S.-Israeli citizen Naftali Fraenkel. He publicly praised

the murders as a “heroic operation.” In September 2015, the U.S. Department of the Treasury designated al-Aruri as a Specially Designated Global Terrorist (SDGT) pursuant to Executive Order 13224.

Khalil Yusif Mahmoud Harb is a close adviser to Secretary General Hassan Nasrallah, leader of the Lebanese Hizballah terrorist group, and has served as the group’s chief military liaison to Iran and to Palestinian terrorist organizations. Harb has commanded and supervised Lebanese Hizballah’s military operations in the Palestinian territories and in several countries throughout the Middle East. In August 2013, the U.S. Department of the Treasury designated Harb as a Specially Designated Global Terrorist pursuant to Executive Order 13224. In May 2015, Saudi officials designated Harb as a terrorist and accused him of commanding Hizballah’s “central military unit” and of being responsible for Hizballah’s activities in Yemen.

Haytham ‘Ali Tabataba’i is a key Hizballah military leader who has commanded Hizballah’s special forces in both Syria and Yemen. Tabataba’i’s actions in Syria and Yemen are part of a larger Hizballah effort to provide training, materiel, and personnel in support of its destabilizing regional activities. In October 2016, the Department of State designated Tabataba’i as a Specially Designated Global Terrorist pursuant to Executive Order 13224.

On November 25, 2018, the State Department announced a reward offer of up to \$5 million for information on the 2008 Mumbai attack. See media note, available at <https://www.state.gov/rewards-for-justice-reward-offer-for-information-on-the-2008-mumbai-attack/>. Excerpts follow from the media note.

From November 26 to 29, 2008, ten individuals associated with the terrorist group Lashkar e-Tayyiba (LeT) carried out a series of coordinated assaults against multiple targets in Mumbai, India. The attack resulted in the deaths of 166 people, including six Americans.

The United States is committed to working with our international partners to identify and bring to justice those responsible for the 2008 Mumbai attack. Today’s announcement marks the third RFJ reward offer seeking information on the perpetrators of the Mumbai attack. In April 2012, the Department of State announced reward offers for information that brings to justice LeT founder Hafiz Mohammad Saeed and Hafiz Abdul Rahman Makki, another senior LeT leader.

In December 2001, the Department of State designated LeT as a Foreign Terrorist Organization (FTO) in accordance with section 219 of the Immigration and Nationality Act, as amended. FTO designations play a critical role in our fight against terrorism and are an effective means of curtailing support for terrorist activities and pressuring groups to get out of the terrorism business. In May 2005, the United Nations (UN) 1267 Sanctions Committee added LeT to the Consolidated UN Security Council Sanctions List.

More information about these reward offers is available on the Rewards for Justice website at www.rewardsforjustice.net.

2. Narcotics

a. Majors List Process

(1) International Narcotics Control Strategy Report

In March 2018, the Department of State submitted the 2018 International Narcotics Control Strategy Report (“INCSR”), an annual report to Congress required by § 489 of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. § 2291h(a). The report describes the efforts of foreign governments to address all aspects of the international drug trade in calendar year 2017. Volume 1 of the report covers drug and chemical control activities and Volume 2 covers money laundering and financial crimes. The full text of the 2018 INCSR is available at <https://www.state.gov/2018-international-narcotics-control-strategy-report/>.

(2) Major Drug Transit or Illicit Drug Producing Countries

On September 11, 2018, the White House issued Presidential Determination 2018-12 “Memorandum for the Secretary of State: Presidential Determination on Major Drug Transit or Major Illicit Drug Producing Countries for Fiscal Year 2019.” 83 Fed. Reg. 50,239 (Oct. 4, 2018). In this year’s determination, the President named 22 countries: Afghanistan, The Bahamas, Belize, Bolivia, Burma, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, India, Jamaica, Laos, Mexico, Nicaragua, Pakistan, Panama, Peru, and Venezuela as countries meeting the definition of a major drug transit or major illicit drug producing country. A country’s presence on the “Majors List” is not necessarily an adverse reflection of its government’s counternarcotics efforts or level of cooperation with the United States. The President determined that Bolivia and Venezuela “failed demonstrably” during the last twelve months to make sufficient or meaningful efforts to adhere to their obligations under international counternarcotics agreements. Simultaneously, the President determined that support for programs to aid the people of Venezuela is vital to the national interests of the United States, thus ensuring that such U.S. assistance would not be restricted during fiscal year 2019 by virtue of § 706(3) of the Foreign Relations Authorization Act, Fiscal Year 2003, Pub. L. No. 107-228, 116 Stat. 1424.

b. Interdiction Assistance

On July 20, 2018 the President of the United States again certified, with respect to Colombia (Daily Comp. Pres. Docs., 2018 DCPD No. 00498, p. 1, July 20, 2018), that (1) interdiction of aircraft reasonably suspected to be primarily engaged in illicit drug

trafficking in that country's airspace is necessary because of the extraordinary threat posed by illicit drug trafficking to the national security of that country; and (2) the country has appropriate procedures in place to protect against innocent loss of life in the air and on the ground in connection with such interdiction, which shall at a minimum include effective means to identify and warn an aircraft before the use of force is directed against the aircraft. President Trump made his determination pursuant to § 1012 of the National Defense Authorization Act for Fiscal Year 1995, as amended, 22 U.S.C. §§ 2291–4. For background on § 1012, see *Digest 2008* at 114.

c. U.S. Participation in Multilateral Actions

(1) UN Commission on Narcotic Drugs

The United States sent a delegation to the 61st UN Commission on Narcotic Drugs (“CND”), held from March 12 to 16, 2018 in Vienna, Austria. See March 12, 2018 State Department media note, available at <https://www.state.gov/united-states-to-seek-international-progress-on-combating-the-opioid-crisis-at-61st-un-commission-on-narcotic-drugs/>. At the CND, the United States advocated for international control of carfentanil, and sponsored a resolution aimed on the global response to the opioid crisis. *Id.* The United States also sponsored a side event on “New Methods of Synthetic Drug Trafficking.” *Id.*

On March 13, 2018, James A. Walsh, Head of the U.S. Delegation to the CND and Deputy Assistant Secretary of State for International Narcotics and Law Enforcement Affairs, delivered the U.S. statement at the CND. Mr. Walsh’s remarks are excerpted below and available at <https://www.state.gov/u-s-statement-to-the-61st-session-of-the-commission-on-narcotic-drugs/>.

* * * *

Now more than ever, our work in the Commission is vital to protecting the health and security of all our citizens. The world drug problem is ever-evolving and changing. Today, we are in the midst of a new drug trafficking paradigm where international criminal organizations trafficking in drugs are evading international controls by creating synthetic drugs—new psychoactive substances (or NPS)—that are mirror images of controlled substances. The UN Office on Drugs and Crime’s Global Synthetics: Monitoring, Analysis, Reporting, and Trends (SMART) program March 2018 update reports that these criminal organizations are producing at least one of these new substances every week, with SMART identifying 70 new substances in 2016 alone.

In this new paradigm, traffickers are also exploiting the online market through open and dark net sites, and then trafficking these substances through the international mail and express consignment shipments. ...

The dramatic increase in the misuse of synthetic drugs, particularly synthetic opioids—like carfentanil—is plaguing many of our countries. According to UNODC’s 2017 World Drug Report, opioid misuse remains high in Southwest Asia and Eastern Europe, and has been

expanding in Western Europe and others parts of North America. An estimated 190,000 deaths globally are attributed to drug use disorders, mostly among people using opioids.

Fighting this plague is also exacting a grisly human toll among many of our law enforcement colleagues. ...

Clearly, this international problem requires a smart, strategic, and coordinated international response, and our decisions here at the CND matter. We must work as an international community to curb this new paradigm in drug trafficking—lives depend upon it. We must work together to identify innovative options to curb the rapid proliferation of these new synthetic drugs. Some of the most dangerous substances in this category are synthetic opioids. Synthetic opioids are fueling thousands of deaths in many of our countries because they are incredibly lethal and difficult to detect.

One of the most dangerous synthetic opioids being trafficked in international criminal markets is carfentanil, which is 10,000 times more potent than morphine. It is an elephant tranquilizer, not approved for use in humans, that has made its way into the illicit drug market, and is being used, sometimes unknowingly. To hinder criminal access to carfentanil and reduce its presence in the illicit drug market, the United States requested that it be controlled under the UN Single Convention on Narcotic Drugs—the 1961 Convention. The World Health Organization’s (WHO) Expert Committee on Drug Dependence (ECDD) reviewed this request and concluded that carfentanil should be controlled under Schedules I and IV and we urge the Commission to vote in favor of this request this week. ...

The United States has also sponsored a resolution this week aimed at enhancing international cooperation to address the threats presented by synthetic drugs, particularly these deadly synthetic opioids. The resolution promotes and amplifies existing tools within UNODC and the INCB to increase information sharing and data collection and analysis that can facilitate real-time cooperation among experts in the field to disrupt the illicit supply of synthetic drugs, and the chemicals used to produce them. The information derived through these efforts can then be used by the WHO to accelerate reviews of substances for international control. Currently, the international community is controlling these substances at a rate of about ten a year. We have to do better. The ideas offered in this resolution—increased information sharing and international cooperation—present options for us to more aggressively attack this threat together. We look forward to discussing the text with you this week, and hope we can mobilize a strategic and coordinated response to this challenge.

Another option to curb this threat is to generate a better understanding of the new drug trafficking pattern whereby synthetic drugs are being sold online and trafficked through express consignment shipments and the mail. To explore this new pattern, the United States sponsored a side event on “New Methods of Synthetic Drug Trafficking” with expert panel presentations on challenges and experiences related to synthetic drugs being sold and trafficked through this method. Through this event, we highlighted the new paradigm, whereby dangerous and deadly synthetic drugs, such as carfentanil, can easily arrive anywhere with an internet connection and international delivery services. With synthetic drugs being so potent, a small amount can be easily shipped and often has higher profit margins than other narcotics.

When you combine these new modalities with a large supply of heroin being trafficked into your country by sophisticated transnational criminal organizations, along with an increase in demand fueled by an excess of prescriptions pills, you have a crisis; a crisis where thousands of my fellow Americans are dying annually. In 2016, nearly 64,000 people died from drug

overdoses in the United States. Of these 64,000, over two-thirds, died from overdoses involving prescription or illicit opioids, including fentanyl. And we are not alone here.

This new trafficking pattern shows that we are all vulnerable. ...

In thinking proactively, we should prioritize life-saving efforts to address this international crisis beyond the 2019 High-Level Ministerial Segment of the 62nd CND. The “beyond 2019” drug-policy trajectory must focus on this “new reality.” In the 2016 outcome document from the UN General Assembly Special Session on the World Drug Problem (UNGASS), we highlighted the rapid proliferation of synthetic drugs, or NPS, as one of these new realities to be prioritized. The outcome document represents the latest international consensus that reaffirms the Commission’s primary role in international drug policy. On the road to 2019 and beyond, we want the Commission implementing the operational recommendations in the outcome document to promote a society free of drug abuse, with an acute focus on working together to address the new realities of “today’s” world drug problem.

* * * *

(2) G7

On June 13, 2018, Mr. Walsh delivered the opening remarks at a G7+ expert group meeting on "Innovative Responses to the Challenges Posed by Synthetic Drugs." His remarks are excerpted below and available at <https://www.state.gov/opening-remarks-at-the-g7-expert-group-meeting-on-innovative-responses-to-the-challenges-posed-by-synthetic-drugs/>.

* * * *

...This meeting is quite timely as we examine the commitments made a few months ago in Vienna during the 61st UN Commission on Narcotic Drugs (CND), where the international community unanimously adopted a resolution to mobilize a strategic response to the international challenges posed by synthetic opioids and voted to place additional, dangerous synthetic drugs under international control.

In the CND resolution, countries acknowledged their grave concerns about the new components of the world drug problem, whereby deadly synthetic drugs are rapidly manufactured, sold online, and distributed through the international mail or express consignment shipping services. There are more than 800 new known synthetic drugs, with approximately one new substance being created each week. Of these, INCB reports that they have identified 77 dangerous fentanyl analogues with no known medical use that are not controlled internationally, and are showing up in world drug markets. Yet, we are scheduling them at a rate of around 10 to 12 a year. We are not keeping pace, and we have to do better. Lives are at stake.

Traffickers are innovative and nimble, and can easily adapt and shift methodologies to evade national and international controls. In fact, we learned from the UN Office on Drugs and Crime (UNODC) that traffickers have developed new psychoactive substances (NPS) or new synthetic drugs that can mirror every major type of drug. These mirror images are not controlled within the international framework and therefore allow traffickers to evade law enforcement

detection. It is clear that our responses have to be more innovative, more nimble, and more adaptable if we want to out-pace these criminals. We are grateful that Canada convened these great minds here today to start thinking about creative solutions that will effectively mobilize the international response we committed to during the CND in March.

Our global authorities on the international threats posed by synthetic drugs—including UNODC, the International Narcotics Control Board (INCB), and the World Health Organization (WHO)—report that synthetic opioids are some of the most dangerous and profitable substances in the criminal markets. These drugs are fueling thousands of deaths because they are incredibly lethal and difficult to detect. For some, a dose as small as a few grains of sand can be fatal. According to UNODC’s 2017 World Drug Report, opioid misuse remains high in Southwest Asia and Eastern Europe, and it has been expanding in Western Europe and others parts of North America. An estimated 190,000 deaths globally are attributed to drug use disorders, mostly among people using opioids.

This trend certainly is manifesting itself in the United States and is fueling a drug crisis of devastating proportions. ...

For example, in February 2018, the Department of Justice, through its Drug Enforcement Administration, known as DEA, invoked its emergency temporary scheduling authorities to domestically control “fentanyl-related substances,” not already scheduled, as a class. Under this authority, the Department of Justice can prosecute anyone who possesses, imports, distributes, or manufactures any illicit fentanyl-related substance in the same way as other substances controlled in Schedule I of the Controlled Substances Act. My Justice Department and DEA colleagues are here today and will talk in greater detail about this temporary scheduling process as a possible tool for other countries to use to enhance controls on synthetic drugs.

Additionally, the United States is working diligently to curb demand for these dangerous drugs. As part of President Trump’s response to the opioid crisis, he directed the government to reduce the misuse of opioids through a variety of interventions, including through prescription drug monitoring programs, state-level legislation on prescription drug access, prescribing guidelines for the medical community, increased access to substance use disorder and recovery services, and educational programs to increase awareness on the dangers associated with the misuse of synthetic opioids. The United States is devoting more than \$4 billion to this effort.

On behalf of the United States, I look forward to sharing information learned from U.S. experiences in responding to these dangerous new threats; my colleagues from across the U.S. government and I are also eager to learn from each of you about your best practices and lessons learned. While we can each do more in our national frameworks to address these challenges, we also can do more together to increase vital voluntary cooperation through information sharing efforts.

Luckily for us, our international organization partners already support existing mechanisms that can facilitate this voluntary cooperation. The UNODC, the INCB, WHO, and regional bodies, such as the OAS’ Inter-American Drug Abuse Control Commission (CICAD) and the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), support information sharing platforms. These platforms not only inform us about new and emerging threats, but they also yield essential data needed to inform the treaty-mandated scientific reviews undertaken by WHO to generate scheduling recommendations to the CND. If our shared objective is to enhance international control of synthetic drugs, then we must collectively prioritize efforts to provide WHO with more data to inform its scientific reviews that assess a substance’s abuse potential and harms associated with its use.

These platforms can generate this needed data through information sharing among our expert practitioners working together to dismantle international illicit supply chains. The platforms also generate critical information on the misuse of certain drugs. For example, information derived from these portals helped us learn that fentanyl precursor chemicals are used to illicitly manufacture fentanyl.

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(3) *UN Global Call to Action on the World Drug Problem*

On September 24, 2018, the United States was among 31 countries hosting a high-level event at the UN to announce the “Global Call to Action on the World Drug Problem.” The non-binding document reaffirms commitments to existing principles and the work of the CND and UNODC and calls on the CND and Member States to take actions to address the world drug problem. The Global Call to Action on the World Drug Problem is available at <https://usun.usmission.gov/global-call-to-action-on-the-world-drug-problem/> and below.

* * * *

We, the undersigned Member States of the United Nations, reaffirm our commitment to effectively address and counter the world drug problem. We reaffirm our commitment to implement the Single Convention on Narcotic Drugs, the Convention on Psychotropic Substances, the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, and the United Nations Convention against Transnational Organized Crime.

We reaffirm our Joint Commitment to effectively addressing and countering the world drug problem, the outcome of the UN General Assembly’s 2016 Special Session on the World Drug Problem, which addressed new realities and was built on the foundation of the 2009 Political Declaration and Plan of Action.

We reaffirm our commitment to the work of the Commission on Narcotic Drugs (CND) as the policymaking body of the United Nations with prime responsibility for drug control matters, and our support and appreciation for the efforts of the United Nations, in particular the UN Secretary General, and the UN Office on Drugs and Crime (UNODC) as the leading entity of the UN system on international drug control policy, and further reaffirms the treaty-mandated roles of the International Narcotics Control Board (INCB) and the World Health Organization (WHO). We reaffirm our determination to tackle the world drug problem in full conformity with international law, including the purposes and principles of the Charter of the United Nations and the Universal Declaration of Human Rights, with full respect for the sovereignty and territorial integrity of States. We recognize the world drug problem presents evolving challenges, including newly emerging synthetic drugs, which we commit to address and counter through a comprehensive, scientific evidence-based approach, and we note the links between drug trafficking, corruption, and other forms of organized crime, and, in some cases, terrorism.

We recognize the need for the international drug-control system to adequately respond to dangerous emerging synthetic drugs in a timely manner, and we encourage the CND to act urgently to accelerate the scheduling rate of these dangerous drugs.

We further pledge to develop national action plans based on a four-pronged strategy:

(1) reduce demand for illicit drugs through education, awareness, and prevention of abuse; (2) expand treatment efforts to save lives and promote recovery; (3) strengthen international cooperation across judicial, law enforcement, and health sectors; and (4) cut off the supply of illicit drugs by stopping their production, whether through cultivation or manufacture, and flow across borders.

We encourage the CND and each signatory Member State to provide updates on progress made, lessons learned, and best practices at the Sixty-Second Session of the CND in March 2019.

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3. Trafficking in Persons

a. Trafficking in Persons Report

In June 2018, the Department of State released the 2018 Trafficking in Persons Report pursuant to § 110(b)(1) of the Trafficking Victims Protection Act of 2000 (“TVPA”), Div. A, Pub. L. No. 106-386, 114 Stat. 1464, as amended, 22 U.S.C. § 7107. The report covers the period April 2017 through March 2018 and evaluates the anti-trafficking efforts of countries around the world. Through the report, the Department determines the ranking of countries as Tier 1, Tier 2, Tier 2 Watch List, or Tier 3 based on an assessment of their efforts with regard to the minimum standards for the elimination of trafficking in persons as set out by the TVPA, as amended. The 2018 report lists 22 countries as Tier 3 countries, making them subject to certain restrictions on assistance in the absence of a Presidential national interest waiver. For details on the Department of State’s methodology for designating states in the report, see *Digest 2008* at 115–17. The report is available at <https://www.state.gov/trafficking-in-persons-report-2018/>. Chapter 6 in this *Digest* discusses the determinations relating to child soldiers.

On June 28, 2018, Secretary Pompeo delivered remarks at the 2018 ceremony announcing the release of the 2018 Trafficking in Persons Report. Secretary Pompeo’s remarks are excerpted below and available at <https://www.state.gov/remarks-at-the-2018-trafficking-in-persons-report-launch-ceremony/>. Prior to Secretary Pompeo’s remarks, a senior State Department official provided a briefing on the 2018 Trafficking in Persons Report, which is available at <https://www.state.gov/senior-state-department-official-on-the-2018-trafficking-in-persons-tip-report/>, and not excerpted herein.

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... [W]e're thankful for the work of the United States Advisory Council on Human Trafficking. This March, President Trump appointed nine members to this advisory council. Each member is a survivor of human trafficking, representing many different backgrounds, experiences, and it advises the Trump administration on federal anti-trafficking policies and programs.

The council also serves as a model, one that we hope other governments will consider creating as well. It gives survivors a meaningful seat at the table to help guide the creation of anti-trafficking policies and ensure governments adopt a victim-centered approach to resolving this.

* * * *

Every year our report focuses on a specific thing. This year's TIP Report highlights the critical work of local communities to stop traffickers and provide support to victims. Human trafficking is a global problem, but it's a local one too. Human trafficking can be found in a favorite restaurant, a hotel, downtown, a farm, or in their neighbor's home.

* * * *

If we're going to win this fight, national governments must empower local communities to proactively identify human trafficking and develop local solutions to address it.

As we have every year, the report also points out which countries are improving ... their efforts to tackle the crime and which countries are making it easier to carry it out. I'm glad to say we have ... progress to report.

In Estonia, the government implemented a new law that will help victims come forward and get the support that the victims need to recover.

The Government of Argentina convicted officials complicit in trafficking crimes, established additional legal protection for victims, and bolstered efforts to train frontline responders.

In Bahrain, the government worked to hold local traffickers criminally accountable and developed a mechanism to get victims needed shelter.

The Government of Cyprus bolstered efforts to convict traffickers and improve protections for victims as well.

We saw some positive movements across entire regions as well. Of the 48 African countries included in the report, 14 received upgrades—meaning we observed a strong trend of increased efforts to improve their overall response. Despite significant security threats, migration challenges, other financial constraints, and other obstacles, the region improved significantly. We commend those countries taking action, but we also will never shy away from pointing out countries that need to step up.

We read the horrific accounts of human trafficking and abuse of African migrants, refugees, and asylum-seekers in Libya, resulting in modern-day slave markets. We've engaged the Libyan Government of National Accord to bring the perpetrators to justice, including complicit government officials. We welcome its commitment to doing so and look forward to seeing real action.

In Southeast Asia, Burma's armed forces and others in the Rakhine State dislocated hundreds of thousands of Rohingya and members of other ethnic groups, many of whom were exploited through the region as a result. Some in the Burmese military also recruited child soldiers and subjected adults and children from ethnic minority groups to forced labor.

We see the tragic examples of forced labor in North Korea as well. Untold number of North Korean citizens are subjected to forced labor overseas by their own government, in many cases with the tacit approval of host governments.

And in Iran, trafficking victims are punished—the victims are punished—for acts they are forced to commit. For example, sex trafficking victims may face the death penalty for committing adultery. This is a horrible perversion of justice by a corrupt regime.

We take these stories to heart. We use them as fuel to motivate us to action as we work together to end human trafficking once and for all.

You'll see from today's report that there remains a great deal of work left to do. The world should know that we will not stop until human trafficking is a thing of the past.

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b. Presidential Determination

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

On November 29, 2018, the President issued a memorandum for the Secretary of State, “Presidential Determination With Respect to the Efforts of Foreign Governments Regarding Trafficking in Persons.” 83 Fed. Reg. 65,281 (Dec. 20, 2018). The President’s memorandum conveys determinations concerning the countries that the 2018 Trafficking in Persons Report lists as Tier 3 countries. See Chapter 3.B.3.a., *supra*, for discussion of the 2018 report.

c. UN General Assembly

On September 24, 2018, Deputy Secretary of State John J. Sullivan delivered remarks at the UN General Assembly at a side event on human trafficking entitled, “Stepping up Action to End Forced Labor, Modern Slavery, and Human Trafficking.” Deputy Secretary Sullivan’s remarks are excerpted below and available at <https://www.state.gov/remarks-on-stepping-up-action-to-end-forced-labor-modern-slavery-and-human-trafficking/>.

* * * *

Today, there are an estimated 25 million victims of forced labor around the world—a quarter of whom are children. Behind those victims is a massive industry that nets about \$150 billion in annual profits. Coordinated and sophisticated, it operates under the nose of each of our governments. The Call to Action recognized that we all share a responsibility to fight back and the United States remains determined to do our part.

At the event last year, I was proud to announce a \$25 million grant from U.S. Department of State to the Global Fund to End Modern Slavery to produce a substantial reduction in the prevalence of modern slavery around the world. The Global Fund is now in the process of awarding its first round of sub-grants totaling almost \$16 million to organizations combating sex and labor trafficking in India, Vietnam, and the Philippines.

The United States is proud of the outstanding work enabled by our initial grant—and now we want to do more.

So, today, I'm pleased to announce that we are working with our Congress to make a second \$25 million available to the Global Fund to End Modern Slavery as well as to the University of Georgia Research Foundation to work toward our mutual aim of ending modern slavery through transformative programs, innovative research methodologies, and the exchange of good practices. In addition, the U.S. Congress has made another \$25 million available for the Department's Program to End Modern Slavery in the coming year—bringing our total investment for this important program to \$75 million.

It's our hope that this will inspire other governments and private donors to contribute their own resources—as the United Kingdom has done—toward the shared goal of eradicating modern slavery in all its forms.

These funds are a continuation of the United States' efforts under this Administration's leadership to end human trafficking.

The U.S. government is also seeking new ways to leverage input from human trafficking survivors when crafting our laws and strategies.

In March, President Trump appointed nine members to the United States Advisory Council on Human Trafficking, an entity comprised entirely of survivor leaders.

At the State Department, we're taking new strides to integrate survivor input into our anti-trafficking policies and programs.

Our Office to Monitor and Combat Trafficking in Persons is developing a groundbreaking initiative that will incorporate input from survivor consultants to help us enhance our programs, while also compensating them for their expertise.

This initiative is a tremendous opportunity to heighten our effectiveness and refocus our work on the harsh realities of trafficking that only survivors can fully understand. More broadly, it is a part of our effort within the Department to open up a new chapter in our work on trafficking.

The Administration has also nominated a new leader to help us write that chapter. We are hopeful the U.S. Senate will soon confirm Mr. John Richmond as the State Department's new Ambassador-at-Large to Monitor and Combat Trafficking in Persons.

Let me close with one final announcement—this one in concert with the governments of Australia, Canada, New Zealand, and the United Kingdom. It is with great pride that the United States joins with these nations today in introducing a set of core principles to guide government action to combat human trafficking in global supply chains.

These principles outline key action in four areas critical to preventing forced labor in global supply chains: Government procurement, private sector cooperation, responsible

recruitment, and harmonization of laws and policies. We hope that these principles will serve as a mechanism for sharing the most promising practices between all of our governments.

However, we need to keep in mind that this responsibility does not rest solely on government. Effectively combating trafficking in supply chains requires strategic cooperation with civil society and most importantly, the business community. Fortunately, there are already many promising efforts underway in the private sector to discourage forced labor, and the principles we're releasing are intended to complement those efforts.

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4. Organized Crime

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

5. Corruption

On May 23, 2018, Deputy Assistant Secretary Walsh delivered remarks at a UN General Assembly high-level segment on corruption. His remarks are excerpted below and available at <https://www.state.gov/participation-in-the-un-general-assembly-high-level-segment-with-interventions-from-member-states/>.

* * * *

Fifteen years ago, the international community joined together to sign a transformational document: a global legal framework for preventing and combating corruption. Since 2003, States Parties have implemented the Convention and today, we have much to show for it. Our frameworks, laws, and policies—and related international cooperation—are undoubtedly better today compared to 2003. However, our job is not finished.

The UNCAC provides us a common basis to take the necessary steps to prevent and combat corruption *if* we have enough political will and use the treaty effectively. In our collective efforts to prevent, criminalize, investigate, and prosecute corruption, and recover and return stolen assets, this Convention remains the comprehensive, global, legal framework for fighting corruption.

Our own commitment to the UNCAC remains resolute. The United States continues to aggressively address corruption and its corrosive effect on global security and prosperity. Our Department of Justice continues robust enforcement of our long-standing foreign anti-bribery statute, the Foreign Corrupt Practices Act (FCPA). In 2017, the United States had the greatest number of individual prosecutions, convictions, and guilty pleas for FCPA cases ever. States Parties' commitment to criminalize foreign bribery under the UNCAC is critical to global economic prosperity. Corruption undermines sustainable economic growth, and bribery contributes to a risky investment climate. But, when these standards are enforced, individuals are much less likely to request bribes. We have seen that prohibitions against bribes over time increase overseas competitiveness and improve national reputations. We call upon all States

Parties to implement the Convention in this regard to collectively advance economic growth and security.

International cooperation, through bilateral frameworks and facilitated under UNCAC, is instrumental to investigating and prosecuting complex corruption cases. More and more cases and evidence cross borders. We remain committed to targeting ill-gotten gains and holding kleptocrats accountable, consistent with the Treaty. Through international cooperation and our Kleptocracy Asset Recovery Initiative, the United States has seized or frozen over \$3.5 billion in corruption-related proceeds since 2010. The Department of Justice has returned more than \$150 million in confiscated assets to date with another \$30 million in process. We have also partnered closely with other governments to ensure that recovered proceeds of crime are returned in a manner that furthers the goals of transparency and oversight at all stages in the asset recovery process.

Additionally, in December 2017, President Trump announced financial sanctions and visa restrictions under the authority of a new Executive Order (E.O. 13818) and the Global Magnitsky Human Rights Accountability Act. These measures give the U.S. federal government new authority to impose targeted punitive measures on those who engage in public corruption, as well as serious human rights abuse. So far, the United States has sanctioned 13 individuals and 39 affiliates under this authority.

We also remain committed to having transparent and accountable systems in place to prevent corruption before it starts. In the last year, the U.S. Office of Government Ethics (OGE) updated and modernized the regulations governing executive branch ethics education programs, restrictions on the acceptance of gifts by executive branch officials, and procedures for tracking high-level officials' compliance with their agreements to avoid potential conflicts of interest. Our government has also embarked on a campaign to inform the public on ethics laws and the tools they can use to better hold government accountable.

Abroad, anti-corruption technical assistance and capacity building remains a significant component of our foreign policy. In our previous financial year, the U.S. Department of State and the U.S. Agency for International Development (USAID) provided approximately \$117 million in foreign assistance to fight corruption. We have worked with partner countries to (1) create a culture of integrity to prevent corruption, (2) mitigate risks of corruption, (3) develop consequences of corruption through laws and law enforcement, and (4) strengthen civil society and oversight bodies. Our foreign assistance programs: build transparent, accountable institutions; support legislative reforms consistent with UNCAC; develop capacity of law enforcement, anticorruption authorities, and prosecutors to manage complex corruption cases; and support specialized units and anticorruption courts to enforce anticorruption laws.

As we implement the UNCAC, we must work with all sectors of society to fight corruption, including civil society and the private sector. We must continue to support their engagement in the Conference of States Parties to the Convention and its subsidiary bodies. We encourage all States Parties to engage more actively with civil society and to be accountable to their citizens by publishing their full final UNCAC reports online. These reports are incredibly useful tools to inform technical assistance programs related to implementation of the UNCAC.

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

Mechanism over the next year. I wish you much success as we work together to strengthen implementation of this important Convention.

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C. INTERNATIONAL TRIBUNALS AND OTHER ACCOUNTABILITY MECHANISMS

1. International Criminal Court

a. *General*

On September 10, 2018, the Trump administration announced a new U.S. policy regarding the International Criminal Court (“ICC”). National Security Adviser John Bolton laid out the new policy in remarks entitled “Protecting American Constitutionalism and Sovereignty from International Threats,” delivered to the Federalist Society on September 10. The White House released a fact sheet concurrently with the speech, which appears below and is available at <https://www.whitehouse.gov/briefings-statements/protecting-american-constitutionalism-sovereignty-international-criminal-court/>.

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- The International Criminal Court (ICC) is an international court established in July 2002, upon the entry into force of a multilateral treaty known as the Rome Statute.
- Though the United States originally signed the Statute in 2000, the Senate failed to ratify it.
- In May 2002, President George W. Bush authorized then-Under Secretary of State John Bolton to “unsign” it based on the United States’ view that it was fundamentally illegitimate.
 - The United States’ view was grounded in concerns over the broad, unaccountable powers granted to the ICC and its Chief Prosecutor by the Rome Statute, powers that posed a significant threat to United States sovereignty and our constitutional protections.
- The United States is not a party to the Rome Statute and has consistently voiced its strong objections to any assertion of ICC jurisdiction over American personnel.
 - The United States is not an outlier—more than 70 nations, representing two-thirds of the world’s population and over 70% of the world’s armed forces, are not parties.
 - Some of our closest allies, including Israel, have pointed out the ICC’s flawed approach as constraining liberal, democratic nations in exercising their right of self-defense.
- It is a fundamental principle of international law that a treaty is binding only on its parties, and that it does not create obligations for non-parties without their consent.

- The Rome Statute cannot dispose of rights of the United States as a non-Party without United States consent.

PROTECTING UNITED STATES SERVICE MEMBERS: The Trump Administration will use any means necessary to protect our citizens, and those of our allies, from unjust prosecution by the ICC.

- On November 3, 2017, the Chief Prosecutor of the ICC released a statement regarding her request to begin an investigation into the situation in the Islamic Republic of Afghanistan.
- The Chief Prosecutor indicated this investigation would focus on Afghan National Security Forces, the Taliban, and the Haqqani network, alongside war crimes allegedly committed by United States service members and intelligence professionals during the war in Afghanistan since May 1, 2003.
- If the ICC formally proceeds with opening an investigation, the Trump Administration will consider the following steps:
 - We will negotiate even more binding, bilateral agreements to prohibit nations from surrendering United States persons to the ICC.
 - To the extent permitted by United States law, we will ban ICC judges and prosecutors from entering the United States, sanction their funds in the United States financial system, and, prosecute them in the United States criminal system.
 - We will consider taking steps in the United Nations Security Council to constrain the Court's sweeping powers, including to ensure that the ICC does not exercise jurisdiction over Americans and the nationals of our allies that have not ratified the Rome Statute.
- This Administration will fight back to protect American constitutionalism, our sovereignty, and our citizens. As always, in every decision we make, we will put the interests of the American People first.

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b. General Assembly

On October 30, 2018, U.S. Public Delegate Margarita Palau-Hernandez delivered an explanation of position at a meeting of the UN General Assembly on Agenda Item 77: Report of the International Criminal Court. Her explanation of position is excerpted below and available at <https://usun.usmission.gov/remarks-at-a-meeting-of-the-sixth-committee-on-agenda-item-77-report-of-the-international-criminal-court/>.

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The United States recently announced a change in its policy regarding the International Criminal Court. The reasons for this change in policy have been made public, including in the speech delivered on September 10 by National Security Advisor John Bolton, and are widely available, so we will not repeat them at length here.

The United States reiterates its continuing and longstanding principled objection to any assertion of ICC jurisdiction over nationals of states that are not parties to the Rome Statute, including the United States and Israel, absent a UN Security Council referral or the consent of such a state. We also wish to reiterate our serious and fundamental concerns with the ICC Prosecutor's proposed investigation of U.S. personnel in the context of the conflict in Afghanistan.

The United States remains a leader in the fight to end impunity and supports justice and accountability for international crimes, including war crimes, crimes against humanity, and genocide. The United States respects the decision of those nations that have chosen to join the ICC, and, in turn, we expect that our decision not to join and not to place our citizens under the court's jurisdiction will also be respected.

Accordingly, the United States dissociates itself from consensus on this resolution.

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c. *Libya*

Mark Simonoff, Minister Counselor for Legal Affairs for the U.S. Mission to the United Nations, delivered remarks at a UN Security Council briefing on the International Criminal Court and Libya on May 9, 2018. His remarks are excerpted below and available at <https://usun.usmission.gov/remarks-at-a-un-security-council-briefing-on-the-international-criminal-court-libya/>.

* * * *

Thank you, Madam President, and thank you, Madam Prosecutor, for briefing on your office's work pursuant to Security Council Resolution 1970 to seek accountability for atrocity crimes committed in Libya.

As we have said many times before in these briefings, those responsible for crimes committed during the 2011 revolution must be held to account. The Security Council unanimously referred the situation in Libya to the International Criminal Court to guarantee that the atrocities of the Qadhafi regime would not go unpunished and that those victims would receive a measure of justice. Today we reiterate our demand for accountability. We have called for Saif Al-Islam Qadhafi to be brought to The Hague to stand trial for crimes against humanity for the murder and persecution of hundreds of civilians in 2011. We note that the International Criminal Court has also issued an arrest warrant for Al-Tuhamy Mohamed Khaled, the former head of Libya's notorious Internal Security Agency, in connection with the alleged torture and other serious crimes against individuals perceived to be enemies of the Qadhafi regime.

Madam President, turning to more recent events, the United States continues to have grave concerns about the human rights situation in Libya. We have noted the International Criminal Court's arrest warrant for Major al-Werfalli, who has been accused of unlawful killings. We remain deeply concerned by these allegations and reiterate our calls for the relevant Libyan authorities to ensure that al-Werfalli is held accountable for his alleged crimes in accordance with international law.

We are also horrified by appalling reports of human trafficking and an alleged slave market in Libya. We commend the Government of National Accord's condemnation of slavery and welcome its ongoing investigation into reports of abuse of migrants. We urge the Government of National Accord to accelerate its efforts to hold those responsible to account and cooperate closely with the UN High Commission for Refugees and the International Organization for Migration to assist migrants and improve their living conditions. The United States supports ongoing efforts to identify and designate individuals and entities who threaten the peace, stability, or security of Libya, including through the commission of serious human rights abuses and violations. In particular, designations of those who engage in migrant smuggling or human traffickers are an important part of the international effort to promote accountability in Libya.

To counter these and other abuses in the long term, Libya must first overcome its political impasse in order to achieve a stable, unified government capable of ending impunity, defeating terrorism, safeguarding the rule of law, and providing security and prosperity for all Libyans. To that end, we continue to support UN Special Representative Salamé as he works to advance political reconciliation and help Libya prepare for free and fair elections in Libya by the end of this year that are both credible and conducted in a peaceful manner. We look forward to continued collaboration with our international partners, including through the work and attention of the Security Council and the Human Rights Council, to achieve a peaceful and prosperous Libya.

In closing, I would reiterate U.S. concerns regarding the ICC's activity with respect to the situation in Afghanistan, including our longstanding and continuing principled objection to any ICC investigation or other activity concerning U.S. personnel absent U.S. consent or a UN Security Council referral.

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Ambassador Jonathan Cohen, U.S. Deputy Permanent Representative to the United Nations, delivered remarks at a UN Security Council briefing on the situation in Libya on November 8, 2018, also expressing support for holding accountable those responsible for atrocities committed in Libya. His statement is excerpted below and available at <https://usun.usmission.gov/remarks-at-a-un-security-council-briefing-on-the-situation-in-libya-5/>.

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Mr. President, seven years ago, the UN Security Council unanimously referred the situation in Libya to the International Criminal Court in the face of the horrific atrocities being committed by the Qadhafi regime. Today, much has changed in Libya, but it's still the case that Libyans are not free from violence, conflict, or instability. ...

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As we've said many times before in these briefings, the human rights situation in Libya is grave, and perpetrators of violence must face justice. Saif Al-Islam Qadhafi and Al-Tuhamy Mohamed Khaled, the former head of Libya's notorious Internal Security Agency, must be held to account for their crimes, including the murder and persecution of hundreds of civilians and alleged torture against individuals perceived to have been enemies of the Qadhafi regime.

We also reiterate our calls for the relevant Libyan authorities to ensure that Major al-Werfalli is held accountable for alleged unlawful killings.

We repeat our warning that those who tamper with security in Tripoli or elsewhere in Libya will be held accountable for their actions. ...

Mr. President, the United States remains deeply concerned about the vulnerability of migrants, refugees, and asylum-seekers in Libya, who are preyed upon by human smugglers and traffickers. Those responsible must be brought to justice. We encourage the Government of National Accord to continue efforts to hold such individuals accountable, including any complicit government officials.

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In looking over the broad landscape of where Libya is today, much work remains to be done to create lasting and stable peace. It's appropriate in today's setting to emphasize the crucial role accountability has in achieving that goal. Terrorists, armed groups, and criminal gangs must not be allowed to act with impunity.

Those responsible for egregious abuses and atrocities must be held accountable, not only to bring victims a measure of justice, but to signal to all future abusers that such crimes will not be tolerated.

The United States is committed to pursuing justice in Libya. We remain a steadfast partner of the Government of National Accord, the UN Security Council, and our international partners in working toward this goal and toward a more peaceful and prosperous Libya.

Mr. President, in closing, I reiterate U.S. concerns regarding the ICC's activity with respect to situations in Afghanistan and the West Bank and Gaza, including our objection to any ICC investigation or other activity concerning U.S. or Israeli personnel.

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d. Sudan

On June 20, 2018, Mr. Simonoff delivered remarks at a UN Security Council briefing by the ICC prosecutor on the situation in Darfur. Mr. Simonoff's remarks are excerpted below and available at <https://usun.usmission.gov/remarks-at-a-un-security-council-briefing-by-the-icc-prosecutor-on-the-situation-in-darfur/>.

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... The United States strongly supports justice and accountability for war crimes, crimes against humanity, and genocide. Although the best way to promote accountability for such atrocities may depend on the circumstances, the United States will always believe that victims, including the victims in Darfur, deserve justice.

Hundreds of thousands of people have been killed during the conflict in Darfur, with more than 2 million remaining internally displaced and 5 million people negatively affected since the onset of the conflict. Although there are now fewer reports of civilian displacement across Darfur, internally displaced persons still cannot safely return home and risk attacks when they leave IDP camps. As the May 21-23 attacks by Sudan's Rapid Support Forces on three separate IDP camps demonstrated, even IDPs who stay within camp boundaries face substantial risks.

The United States is troubled by the resurgence of violence in Jebel Marra in April and May that resulted in injuries and deaths of civilians, including children, the destruction of homes and food, and the displacement of 9,000 people. We also remain concerned by violence, including intercommunal violence, in other areas of Darfur, outside of Jebel Marra, and the lack of access in various parts of Darfur afforded to the African Union-United Nations Hybrid Operation in Darfur. Of particular concern are the increasing reports of a potentially calamitous harvest failure across Sudan in October 2018 because of the ongoing economic and fuel crises, which could potentially contribute to a return to large-scale conflict and conflict-related atrocities as conditions become more unstable and people become desperate for resources.

We call on the Sudanese government to show restraint and to allow UNAMID, the UN Country Team, humanitarian organizations, and the media unfettered access to the areas where violence has taken place and where communities remain vulnerable to violence so that they can investigate these troubling reports, monitor current needs and conditions, and provide assistance to those in need.

Mr. President, it is shameful that sexual violence, including such violence committed by personnel in military attire and RSF uniforms, remains prevalent in Darfur and that the Sudanese government often denies that this violence is taking place despite clear evidence to the contrary. As the UN Special Representative for Sexual Violence in Conflict has noted, conflict-related sexual violence against children has increased recently, and cases of conflict-related sexual violence in Darfur go uninvestigated. This deterioration and the lack of accountability are unacceptable. The culture of impunity that continues to surround these atrocities, in particular those involving sexual violence, must end.

With hopes that peace could return to Darfur, the United States included ceasing military offensives and aerial bombardments in Darfur and the Two Areas as a key component of the Five-Track Engagement Plan we launched with Sudan in June 2016. We are pleased that the Government of Sudan made some progress under this framework, including ceasing military offensives and aerial bombardments during that period. However, much more progress is needed. We are determined to remain engaged as we work to develop a "Phase II" follow-on engagement plan, which will aim for improved respect for human rights and religious freedom, a sustainable end to internal conflicts, and improvement in humanitarian access, among other priority objectives.

Mr. President, to achieve stable and lasting peace in Darfur, justice and accountability are essential. Those responsible for human rights violations and abuses in Darfur, including targeting civilians, must be held accountable. This includes allegations that official security forces use

excessive force against civilians and that members of armed militias perpetrate atrocities against civilians in Darfur.

We welcomed the arrest by the Sudanese government of former Janjaweed commander Musa Hilal, who is subject to UN sanctions for his commission of atrocities in Darfur, following clashes between the Sudanese security forces and armed militia loyal to Hilal. However, we are concerned about the lack of transparency around Hilal's military trial and the charges he faces. We call on the government to investigate promptly and credibly all allegations against Hilal, including those related to atrocities, in accordance with Sudan's human rights commitments and obligations, and to hold Hilal to account if he is found to have committed violations.

The United States has noted for many years that it is unacceptable that the suspects in the Darfur situation have not been brought to justice and remain at large. In particular, we have expressed disappointment that Sudanese President Omar al-Bashir continues to travel around the world. Being received on such visits has served only to diminish the seriousness of the charges against him and to compound the tremendous suffering of the victims.

Regardless of the power wielded by those who are responsible for violations and abuses, we must stand with the victims, as we have in the past. For example, in Cambodia and Sierra Leone where leaders have in the past committed atrocities against their own citizens, they have been called to answer for their alleged crimes.

Moving forward, we will use all appropriate tools at our disposal to press Sudan to improve its human rights practices, to protect fundamental freedoms, and to promote justice for the people of Darfur. A Sudan that adheres to the rule of law, respects human rights, allows unfettered humanitarian access to all populations in need, and breaks the cycle of impunity is one that will enjoy a sustainable peace and will prosper. We look forward to the day when Sudan is a demonstrable proponent of human rights.

In closing, I would reiterate U.S. concerns regarding the ICC's activity with respect to the situation in Afghanistan, which is different from this situation in many respects. We continue to have a longstanding and principled objection to any ICC investigation or other activity concerning U.S. personnel absent U.S. consent or a UN Security Council referral.

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

a. General

On June 6, 2018, Mr. Simonoff delivered remarks at a UN Security Council briefing on the International Residual Mechanism for Criminal Tribunals ("Mechanism"). His remarks are excerpted below and available at <https://usun.usmission.gov/remarks-at-a-un-security-council-briefing-on-the-international-residual-mechanism-for-criminal-tribunals/>.

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The United States would like to begin by recognizing President Meron. He has led the International Residual Mechanism for Criminal Tribunals since 2012, overseeing the assumption of responsibilities from the tribunals for Rwanda and the former Yugoslavia. President Meron's efforts, through his leadership of the Mechanism, have helped ensure that victims of horrific atrocities addressed by the ICTR and ICTY receive meaningful measures of justice, and he has done so while running a lean, efficient operation.

The volume of work that the Mechanism conducts is impressive, given its lean operations. For example, 253 judicial decisions and orders issued in this past reporting period alone, in addition to an ongoing trial in the Stanisić and Simatović case, ongoing appeal proceedings in the Karadžić and Mladić cases, and a preparation for appeals in the Ngirabatware case.

We would also like to recognize the work of Prosecutor Brammertz. In particular, we commend his office's continued efforts in managing trials and appeals cases, as well as the renewed focus on the tracking unit activities to apprehend and locate remaining fugitives. We also appreciate the ongoing efforts to provide assistance to national war crimes prosecutions, encourage regional judicial cooperation, and support reconciliation, all of which build on the legacy of accountability established by the Tribunals.

With regard to the future, we urge the Mechanism to continue to implement the recommendations of the Office of Internal Oversight Services, as described in its report issued in March of this year. It is important to note that the OIOS concluded that the Mechanism had "achieved much of what the Security Council envisaged" in Resolution 1966. The Mechanism took advantage of operational innovations to streamline its work further. Implementation of the OIOS recommendations will help the Mechanism become even more efficient and effective at continuing to achieve its mandate. We also welcome the revision of the Code of Professional Conduct for the Judges of the Mechanism to include a disciplinary mechanism.

We encourage the Mechanism to consider proposals to respond to concerns raised by some States about the early release regime. We note that some individuals who have been released early have subsequently denied responsibility for their crimes, and we share the concern that this denial undermines the fight against impunity. We recognize and encourage the practice of consulting with concerned States about the early release regime.

In the former Yugoslavia, we welcome the Prosecutor's report of productive cooperation between Bosnia and Serbia on transferred cases. At the same time, we are concerned about the Prosecutor's report that Croatian authorities are not engaging in a similar way, as well as the report of a breakdown in cooperation between Kosovo and Serbia regarding war crimes prosecutions.

We again highlight that although the ICTY may have closed last December, the pursuit of justice for atrocities related to the conflicts in the former Yugoslavia is not over. There are many hundreds of cases currently in the hands of national authorities in the region, and we call on all of the governments concerned to credibly investigate and prosecute, or otherwise resolve these cases, cooperating with one another and the Mechanism to that end.

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

The United States urges all states to undertake efforts to arrest and surrender the eight remaining fugitives indicted by the ICTR as soon as possible. The United States continues to offer up to \$5 million for information leading to their arrest.

The work of the Mechanism, like that of the Rwanda and former Yugoslavia tribunals previously, reminds us that in the face of terrible atrocities, we can work together to hold perpetrators accountable and to achieve a measure of justice for victims. We look forward to continuing to support the Mechanism and the fight against impunity.

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b. UN General Assembly on the Mechanism

U.S. Public Delegate Palau-Hernandez delivered remarks at a meeting of the UN General Assembly on the Mechanism on October 17, 2018. Her remarks are excerpted below and available at <https://usun.usmission.gov/remarks-at-a-meeting-of-the-sixth-committee-on-agenda-item-130-un-general-assembly-briefing-on-the-un-mechanism-for-international-criminal-tribunals/>.

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With the closure of the International Criminal Tribunal for the former Yugoslavia in December 2017, the United States thanks those who have served at the ICTY for their hard work in providing justice to the victims of atrocities and for their efforts in promoting international criminal accountability. Justice and accountability at the international and national levels remain critically important, particularly in the face of ongoing conflicts where grave crimes have been committed.

The United States commends the Mechanism for smoothly assuming the functions of the ICTY and the ICTR. During the reporting period, the Mechanism functioned without the support of either Tribunal for the first time and did so successfully and efficiently.

The United States recognizes President Meron for his continued leadership of the Mechanism. President Meron has faithfully served the Mechanism and, through his work, has helped ensure justice for victims of atrocities and due process for defendants.

During the reporting period, the Mechanism adopted amendments and polices to increase efficiency and clarity in regard to the procedures of the Mechanism. We are hopeful that the expenditure reduction plan implemented by the Mechanism will further increase its efficiency.

We recognize the efforts of Prosecutor Brammertz, particularly to collect new intelligence and leads on the eight fugitives indicted by the ICTR. Tracking activities have helped develop a clearer picture of the strategies used by the fugitives, and the United States remains hopeful that this will aid in the efforts to locate them.

The United States also commends the Prosecutor's assistance to national jurisdictions in their own prosecution of atrocity crimes. In response to requests from Member States, the Office of the Prosecutor handed over more than 310,000 pages of documentation, which will constitute meaningful assistance for the national prosecution of atrocity crimes. The efforts to increase the capacity within national judiciaries, especially in East Africa and the former Yugoslavia,

promote the justice and accountability the international community is committed to providing. Such efforts encourage sovereign national governments to take action and ensure legitimate and effective prosecution of international crimes and other atrocities.

The Mechanism has been, and should continue to be, supportive of appropriate prosecution by sovereign national governments. Attention to the Mechanism's mandate as a temporary institution is of particular importance in understanding the need to support national systems for justice. The transfer of nine persons to enforcement states to serve their sentences shows the Mechanism's commitment to its mandate.

This October marks the 20th anniversary of the first rewards, of up to \$5 million, that the United States authorized for information leading to the arrest of individuals responsible for war crimes, genocide, and crimes against humanity. In the past 20 years we have paid dozens of rewards totaling millions of dollars to bring those responsible for crimes in the former Yugoslavia and Rwanda to justice. But this pursuit of justice is not over. Eight Rwandans remain at large, and the United States is more committed than ever to ensuring that they are brought to justice. We will continue to offer large rewards for information leading to the arrest of these men and urge all states to remain relentless in their efforts to find, arrest, and surrender these fugitives.

To the victims of these individuals—you are not forgotten.

To these fugitives and those who harbor them—we will not cease our search.

To governments—we emphasize that the adjudicated facts established through the proceedings of these tribunals represent an actual historical record of crimes committed during the conflicts, including genocide. They offer an opportunity for us to reach a shared understanding of what happened and prevent recurrence. None of us gains when individuals or governments seek to falsely revise facts, deny history, politicize tragedy, or portray convicted war criminals as heroes. We must work together to reverse this trend in a spirit of truth and reconciliation and ensure the crimes of perpetrators continue to be publicly rejected.

The United States would like to emphasize its gratitude for those who worked with the ICTR, the ICTY, and the Mechanism, along with those who continue to work with the Mechanism. These efforts show that justice can be achieved when the international community comes together. May those who lost their lives in Rwanda and the former Yugoslavia continue to be remembered and the efforts to attain justice for them continue to remain strong. It is with great pride that we state our continued support of the Mechanism and our continued commitment to accountability for perpetrators and justice for victims of atrocities.

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3. Other Accountability Proceedings and Mechanisms

a. CAR: Domestic Efforts to Promote Justice for Atrocity Crimes

On January 31, 2018, the Department of State issued a press statement hailing the conviction in a domestic criminal court in the Central African Republic of Andjilo Rodrique Ngaibona. The press statement, available at <https://www.state.gov/central-african-republic-conviction-of-andjilo-rodrique-ngaibona/>, identifies the charges on which the leader was convicted as: murder, criminal conspiracy, aggravated robbery, arbitrary detention/kidnapping, and illegal possession of ammunition and weapons. *Id.*

The United States expressed its view of the conviction as “a significant step forward in the Central African Republic’s efforts to combat impunity and ensure accountability.” *Id.* The press statement further states:

We commend President Touadera, the Ministry of Justice, and the members of the Bangui Court of Appeals for demonstrating their commitment to the rule of law and justice for all citizens in the Central African Republic. We recognize and appreciate the courage and risk involved in this effort.

The United States, through more than \$30 million in criminal justice-sector funding from the Department of State’s Bureau of International Narcotics and Law Enforcement, strongly supports the criminal court system. We will continue to work with Central African and international partners to support its criminal justice system.

b. South Sudan

The United States has joined calls for the establishment of an African Union (“AU”) Hybrid Court for South Sudan. In a January 24, 2018 statement at a UN Security Council briefing on the UN Mission in South Sudan (“UNMISS”), available at <https://usun.usmission.gov/remarks-at-a-un-security-council-briefing-on-the-un-mission-in-south-sudan/>, U.S. Permanent Representative to the UN Ambassador Nikki R. Haley said:

At the upcoming AU Summit, we urge the African Union to consider seriously the accountability measures it pledged for those who refuse to pursue peace. The AU can hold these individuals responsible for violating the ceasefire and obstructing the peace process, including through the establishment of the Hybrid Court for South Sudan.

Again, at a subsequent Security Council briefing on UNMISS on September 18, 2018, Ambassador Cohen reiterated the call for an AU Hybrid Court:

There must also be accountability for the crimes of recent years. The establishment and activation of the AU Hybrid Court is long past due. This is an urgent priority; we call on our AU partners to make this court a reality, as called for in the latest agreement [the Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan].

On September 6, 2018, the U.S. Embassy in Juba issued a statement welcoming the conviction by a military court martial in South Sudan of ten South Sudanese government soldiers of rape, sexual assault, looting, and the murder of a foreign journalist in the July 2016 attack on the Juba Terrain residential compound. The statement is available at <https://ss.usembassy.gov/statement-by-u-s-embassy-juba-spokesperson-terrain-hotel-verdict/> and also reiterates the call for the establishment of

an AU Hybrid Court. Excerpts follow from the September 6 statement. See also the statement issued by the U.S. Agency for International Development, available at <https://www.usaid.gov/news-information/press-releases/sep-7-2018-statement-spokesperson-clayton-m-mccleskey-terrain-hotel-verdict>.

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The United States sees today's verdict as an important step toward justice for the perpetrators of violence, including murder and sexual assault, at the Terrain Hotel compound in Juba, South Sudan, on July 11, 2016. We commend, in particular, those who provided testimony for their bravery in facing their attackers.

We urge the Government of South Sudan to continue to pursue accountability for all violent acts committed by its military especially against international assistance workers and journalists. While today's verdict is an important step, human rights violations and abuses and violations of international law continue to take place in South Sudan, as they have for years. We hope that this trial will precipitate additional action by the government to hold those responsible accountable for the violations and abuses being committed in South Sudan. At least 107 aid workers and 13 journalists have been killed trying to help the South Sudanese people or cover the conflict in South Sudan since it started in December 2013.

The United States remains concerned by reports of ongoing violations and abuses of human rights and international humanitarian law committed in South Sudan, including consistent, credible reports of rampant sexual violence. The United States calls on the Government of South Sudan to hold accountable those additional individuals responsible for other violent attacks that have killed tens of thousands and displaced millions in South Sudan. To that end, the Government of South Sudan should move immediately to conclude the Memorandum of Understanding with the African Union on the establishment of the Hybrid Court—which the government agreed to in the August 2015 peace agreement—to deliver accountability for those responsible for human rights violations and abuses, including those that involve sexual and gender-based violence.

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c. *Extraordinary Chambers in the Courts of Cambodia*

On November 16, 2018, the State Department issued a press statement on the conviction of Khmer Rouge leaders Noun Chea and Khieu Samphan in the Extraordinary Chambers in the Courts of Cambodia for crimes against humanity and genocide. The press statement is available at <https://www.state.gov/conviction-of-khmer-rouge-leaders-noun-chea-and-khieu-samphan/>, and includes the following:

In their capacities as Head of State for the Khmer Rouge regime and as the Deputy Chairman of the Communist Party of Kampuchea, Khieu Samphan and Noun Chea, respectively, were charged with genocide against the Cham and the Vietnamese; forced marriages and rape; and crimes committed at the notorious

S-21, Ta Chan, Au Kanseng and Phnom Kraol Security Centers as well as at other forced labor sites. Their crimes were numerous, calculated, and grave. During the terror of the Khmer Rouge regime, nearly one quarter of the Cambodian population was murdered or died from starvation and deprivation. We especially commend the courage of the nearly 63 victims and 114 witnesses who testified, and we hope the truths uncovered through the fair and impartial trial will bring some measure of peace to the millions of victims and their families.

The United States is proud to have supported the efforts to hold these perpetrators of atrocity crimes to account. Let this be a message to other perpetrators of mass atrocities, even those at the highest levels, including former heads of state, that such actions will not be tolerated and they will ultimately be brought to justice.

d. *UN International Impartial and Independent Mechanism*

The State Department issued a press statement on June 14, 2018 announcing additional funding for the UN’s International, Impartial and Independent Mechanism (“IIIM”), among other assistance in Syria. The press statement is available at <https://www.state.gov/funding-for-the-syrian-civil-defense-and-un-international-impartial-and-independent-mechanism/> and excerpted below.

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The President has authorized the United States Agency for International Development and the U.S. Department of State to release approximately \$6.6 million for the continuation of the vital, life-saving operations of the Syrian Civil Defense, more commonly known as the White Helmets, and the UN’s International, Impartial and Independent Mechanism (IIIM).

The United States Government strongly supports the White Helmets who have saved more than 100,000 lives since the conflict began, including victims of Assad’s chemical weapons attacks. These heroic first responders have one of the most dangerous jobs in the world and continue to be deliberately targeted by the Syrian regime and Russian airstrikes. Since 2013, more than 230 of these brave volunteers have been killed while working to save innocent Syrian civilians.

The IIIM’s work is vital to assisting the investigation and prosecution of persons responsible for the most serious crimes under international law committed in Syria since March 2011. Their mandate, collecting and analyzing evidence of violations of international humanitarian law and human rights abuses will help ensure those responsible for these crimes are ultimately held accountable.

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Cross References

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

Wildlife trafficking, **Ch. 13.C.3**

Terrorism sanctions, **Ch. 16.A.8**

Sanctions relating to transnational crime, **Ch. 16.A.12**

Atrocities prevention, **Ch. 17.C**

Use of force issues relating to counterterrorism, **Ch. 18.A.2**

Detention of terrorists, **Ch. 18.C**