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## CHAPTER 19

### Arms Control, Disarmament, and Nonproliferation

#### A. GENERAL

##### Compliance Report

The State Department announced in a June 23, 2020 media note, available at <https://2017-2021.state.gov/submission-to-congress-of-the-report-on-adherence-to-and-compliance-with-arms-control-nonproliferation-and-disarmament-agreements-and-commitments-compliance-report/>, that it had submitted to Congress the unclassified version of the 2020 Report on Adherence to and Compliance with Arms Control, Nonproliferation, and Disarmament Agreements and Commitments (“the Compliance Report”). The report is submitted annually, pursuant to Section 403 of the Arms Control and Disarmament Act, as amended, 22 U.S.C. § 2593a. The State Department previously announced the submission of the executive summary of the report in an April 15, 2020 media note, available at <https://2017-2021.state.gov/submission-to-congress-of-the-executive-summary-of-the-report-on-adherence-to-and-compliance-with-arms-control-nonproliferation-and-disarmament-agreements-and-commitments-compliance-report/>. The report addresses U.S. compliance with and adherence to arms control, nonproliferation, and disarmament agreements and commitments, other States’ compliance with and adherence to arms control, nonproliferation, and disarmament agreements and commitments pertaining to nuclear issues, other States’ adherence to missile commitments and assurances, and other States’ compliance with and adherence to arms control, nonproliferation, and disarmament agreements and commitments

pertaining to chemical issues, biological issues, and conventional issues. The 2020 report primarily covers the period from January 1, 2019 through December 31, 2019. The report is available at <https://www.state.gov/2020-adherence-to-and-compliance-with-arms-control-nonproliferation-and-disarmament-agreements-and-commitments-compliance-report-2/>.

## **B. NONPROLIFERATION**

### **1. Non-Proliferation Treaty**

On February 26, 2020, Acting Deputy Permanent U.S. Representative to the UN Cherith Norman Chalet delivered remarks at a UN Security Council briefing on the Nuclear Non-Proliferation Treaty (“NPT”). Her remarks are excerpted below and available at <https://usun.usmission.gov/remarks-at-a-un-security-council-briefing-on-the-nuclear-non-proliferation-treaty/>. The remarks include references to the “IAEA,” the International Atomic Energy Agency, which plays a role in NPT implementation.

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The Security Council tackles some of the greatest challenges to international peace and security, and among them is the prevention of further proliferation of nuclear weapons. As we approach the 50th anniversary of the entry into force of the NPT, we look forward to celebrating this historic occasion together here at the UN on March 5th. Over nearly five decades, the NPT has proven to be critical to the maintenance of international peace and security. It has made us all the more secure by constraining the spread of nuclear weapons. And it has thereby both enabled global peaceful use of nuclear energy and helped to create conditions conducive to progress on nuclear disarmament.

Fifty years ago, few would have dared to predict that we would be here today, celebrating the success of this Treaty. Prior to the NPT, the United States expressed dire concerns over a possible “snowball effect” of cascading proliferation, which would increase the world’s nuclear weapons stockpiles and undermine confidence in the ability of nonproliferation policies to prevent such a dangerous sequence. Yet in a demonstration of remarkable diplomatic resolve, the international community joined together against this collective threat, reflecting a rare consensus during a time of Cold War polarization. Our efforts culminated in the successful negotiation of this vital treaty, and its subsequent entry into force.

There has been unwavering international consensus about the indispensable role of the Treaty to collective peace and security. The NPT has succeeded for half a century precisely because it serves the fundamental and widely recognized common interest of curbing the proliferation of the world’s most dangerous weapons. We have also seen enormous disarmament progress, in part because the NPT helped curtail the emergence of new nuclear powers. Thanks to the easing of the Cold War tensions, and the success of the NPT-based proliferation regime in impeding the spread of nuclear weapons, it has been possible to reduce the nuclear arsenals of

both the United States and Russia to levels not seen since the 1950s. The U.S. stockpile today has been reduced to less than one eighth of its Cold War peak.

We must also recognize that advancing toward the ultimate goal of a world without nuclear weapons must take into account the global security environment. We cannot overlook the actions of those states that are expanding and modernizing their nuclear stockpiles, as well as developing exotic delivery systems, threatening their neighbors, and violating their arms control obligations. These states have caused a deterioration in global security conditions. To address the security challenges that impede disarmament progress, the United States, with more than 40 international partners, have launched a pathbreaking new initiative called, “Creating an Environment for Nuclear Disarmament,” or CEND. The CEND Working Group has met twice already and will meet again in April. The Working Group seeks to foster constructive dialogue on identifying these disarmament challenges, and on exploring ways to ameliorate underlying conditions in the global security environment, so as to pursue further progress toward—and indeed, ultimately—the achievement of nuclear disarmament. In this respect, as well as its emphasis on dialogue and diplomatic engagement with all relevant parties, the CEND initiative stands in stark contrast to the Treaty on the Prohibition of Nuclear Weapons or Ban Treaty. The Ban Treaty deliberately ignores the security challenges that continue to make nuclear deterrence necessary, and will not eliminate a single nuclear warhead, nor make any nation more secure. In fact, when reviewing the text of the Ban Treaty, it is difficult to avoid the conclusion that its drafters sought to give greater legal weight to their document at the expense of the NPT. This is unfortunate.

As we turn toward the 2020 NPT Review Conference, the United States seeks a positive outcome from that meeting that reflects consensus on as broad a basis as possible. We believe consensus is possible if the NPT Parties focus on the big picture, emphasize our common interests, and avoid insisting on divisive positions that cannot command consensus. To strengthen the NPT and the nonproliferation regime, states must support the universalization of the IAEA Additional Protocol, an important tool that gives the IAEA the ability to verify the peaceful use of all nuclear material in states with IAEA comprehensive safeguards agreements. These agreements, in combination with the Additional Protocol, have become the de facto international standard in nuclear safeguards. Moreover, nuclear supplier states should make the adoption of the Additional Protocol by recipient states a requirement for nuclear exports.

States must also be united in the goal of the final, fully verified denuclearization of North Korea. We must remain committed to a secure, peaceful, and bright future for North Korea if it fulfills its obligations. And we must remain united in our determination that Iran never acquire a path to nuclear weapons. The 2020 NPT Review Conference will provide us an opportunity to highlight how the NPT and the broader nuclear nonproliferation regime have made possible thriving international cooperation on peaceful uses of nuclear energy, science, and technology, and we aim to build on that success. We are optimistic that the NPT will remain at the vital center of international security, yet this outcome is far from guaranteed. We must continue to preserve and strengthen the NPT so that, 50 years from now, our successors may mark the hundredth anniversary of the Treaty as an enduring accomplishment that continues to promote international security and prosperity.

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On April 27, 2020, the State Department issued a media note expressing U.S. support for the decision to postpone the 2020 NPT Review Conference (“RevCon”) due to the COVID-19 pandemic. The media note is available at <https://2017-2021.state.gov/postponement-of-2020-treaty-on-the-non-proliferation-of-nuclear-weapons-npt-review-conference-revcon/> and excerpted below.

The United States fully supports Ambassador Zlauvinen in his role as President-designate of the NPT Review Conference and backs his proposal and the subsequent decision of NPT Parties to postpone the NPT RevCon in light of the ongoing COVID-19 pandemic.

The NPT remains the cornerstone of international efforts to prevent the spread of nuclear weapons and the foundation for international cooperation on peaceful uses of nuclear energy and for progress on nuclear disarmament. The United States continues to seek a positive NPT RevCon outcome in which states reaffirm their commitment to the NPT, recognize its enduring shared benefits, and recommit to preserving and strengthening the nuclear nonproliferation regime. The United States will continue to work constructively with other NPT Parties to maintain and strengthen the Treaty, including at the RevCon when conditions allow it to be held.

On March 10, 2020, the State Department released as a media note the joint statement by the foreign ministers of China, France, Russia, the United Kingdom, and the United States on the fiftieth anniversary of the Treaty on the Non-Proliferation of Nuclear Weapons. The media note is available at <https://2017-2021.state.gov/joint-statement-by-the-foreign-ministers-of-china-france-russia-the-united-kingdom-and-the-united-states-on-the-fiftieth-anniversary-of-the-treaty-on-the-non-proliferation-of-nuclear-weapons/>. The joint statement follows.

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On March 5, 1970, the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) entered into force. Today, 50 years later, we celebrate the immeasurable contributions this landmark treaty has made to the security and prosperity of the nations and peoples of the world. We reaffirm our commitment to the NPT in all its aspects.

The NPT has provided the essential foundation for international efforts to stem the looming threat—then and now—that nuclear weapons would proliferate across the globe. In so doing, it has served the interests of all its Parties.

We also celebrate the astonishingly diverse benefits of the peaceful uses of the atom, whether for electricity, medicine, agriculture, or industry. We reiterate our strong support for broadening access to the benefits of nuclear energy and its applications for peaceful purpose. This boon to humanity thrives because the NPT, and the nuclear nonproliferation regime built

around the Treaty, has helped provide confidence that nuclear programs are and will remain entirely peaceful.

The International Atomic Energy Agency (IAEA) plays a critical role in NPT implementation, both to promote the fullest possible cooperation on the peaceful uses of nuclear energy, and to apply safeguards and verify that nuclear programs are entirely peaceful. An IAEA comprehensive safeguards agreement together with an Additional Protocol provide credible assurances of the absence of undeclared nuclear activities and should become the universal standard for verifying the fulfillment of NPT obligations. We pledge our full and continued support to the IAEA and urge others to do the same.

We remain committed under the NPT to the pursuit of good faith negotiations on effective measures related to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control. We support the ultimate goal of a world without nuclear weapons with undiminished security for all. By helping to ease international tensions and create conditions of stability, security and trust among nations, the NPT has made a vital contribution to nuclear disarmament. The NPT continues to help create conditions that would be essential for further progress on nuclear disarmament.

The success of the NPT was not foreordained, nor is its future success guaranteed. It depends on our concerted and sustained efforts to ensure compliance, to promote universalization, to ensure effective safeguards, and to respond to ongoing and emerging proliferation challenges, wherever they occur. Even at the height of the Cold War, our predecessors made this wise investment in our shared security and prosperity. Today, we pledge our unstinting commitment to preserving and deepening this legacy for future generations.

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On May 11, 2020, the State Department spokesperson issued a statement on the 25th anniversary of the decision in 1995 by States Parties to the NPT to extend the treaty indefinitely, 25 years after its entry into force in 1970. The statement, available at <https://2017-2021.state.gov/25th-anniversary-of-the-extension-of-the-non-proliferation-treaty/>, includes the following:

The NPT entered into force in 1970 with an initial duration of 25 years. The 1995 NPT Review and Extension Conference therefore faced two choices: whether the Treaty should be extended, and if so whether it should be for a finite period or indefinitely.

Wisely, NPT Parties decided to extend the Treaty indefinitely, ensuring that the foundation for efforts to stem the spread of nuclear weapons would remain in place. Today, twenty-five years later, we celebrate the wisdom of that decision. Fifty years after it entered into force, the NPT continues to provide a reliable basis for verified nonproliferation assurances that enable international cooperation on peaceful uses of nuclear energy and on efforts towards nuclear arms control and disarmament.

## 2. Country-Specific Issues

### a. *Iran*

In a statement at the March 11, 2020 IAEA Board of Governors meeting on the “NPT Safeguards Agreement in the Islamic Republic of Iran” agenda item, excerpted below and available at <https://vienna.usmission.gov/iaea-bog-u-s-on-implementation-of-npt-safeguards-in-iran/>, the United States addressed the IAEA’s efforts to clarify information relating to the correctness and completeness of Iran’s declarations under its NPT-required comprehensive safeguards agreement as well as its Additional Protocol, including Iran’s refusal to provide the Agency with required access under its Additional Protocol to two undeclared locations.

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We note with significant concern the Director General’s report before us on safeguards implementation in Iran. It is unfortunate that such a report, the first of its kind issued to the Board since 2015, is now once again necessary, but Iran’s refusal to address vital safeguards questions require such a response. We fully support the Secretariat’s pursuit of the critical safeguards questions noted in the report, consistent with the Agency’s longstanding safeguards practice. In the face of Iran’s refusal to cooperate, it is clear Iran has left the Director General no option but to bring these urgent issues to the Board’s attention. A core responsibility we have as members of the Board is to review and respond to information reported to the Secretariat commensurate with its significance. And the information in the report before us today is very significant. It should trouble all of us.

As we learned from the Deputy Director General’s technical briefing, the issues outlined in the safeguards report are in addition to the Agency’s unresolved effort, now well over a year long, to determine the origin of chemically processed uranium particles detected at an undeclared location in Iran. Altogether, these four issues paint a deeply worrying picture of Iran’s safeguards implementation. The nature of the safeguards issues reported to us, and Iran’s lack of response and cooperation with the Agency over many months now, raise very serious concerns regarding Iran’s compliance with its safeguards obligations.

Perhaps most disturbingly, Iran’s own official statements leave no question that it has chosen to directly reject the Agency’s requests for clarifications and access related to possible undeclared nuclear material and nuclear-related activities in Iran, which were made in accordance with the terms of Iran’s safeguards agreement and Additional Protocol. The Secretariat has explicitly invoked specific provisions of these agreements, making clear Iran’s obligations to provide such clarifications and access. Iran’s refusal to cooperate with the IAEA on these matters raises very serious concerns about its compliance with its safeguards obligations—and potentially also with Article III of the NPT.

Especially in circumstances such as those reported by the Director General, we must act to ensure the continued integrity of the global safeguards system, and the Board of Governors thus has a special responsibility to uphold and defend the Agency and its professional and



independent administration of safeguards. In light of the serious issues reported to us, the Board should state unequivocally today that Iran must resolve these concerns immediately.

...Let us examine the three very serious issues brought to the Board's attention in the Director General's safeguards report, which are in addition to the Agency's ongoing efforts – and Iran's apparently continuing refusal to provide adequate explanations – regarding the detection of uranium particles at an undeclared location. Compounding our deep and growing concerns, the Director General has reported that Iran has refused all substantive engagement with the Agency on the three issues noted in the safeguards report since they were first raised in letters to Iran in July and August of last year, almost eight months ago. The refusal of a Member State to provide any substantive engagement whatsoever with the IAEA on questions relating to the possible existence of undeclared nuclear material, while at the same time refusing repeated requests for access as it reportedly takes actions consistent with sanitization, is absolutely unprecedented. Even for Iran, which has a long and truly infamous history of obstructing the Agency, its total refusal to cooperate on these issues is a new low.

First, Iran has refused to address the Agency's questions regarding possible undeclared natural uranium at a location that has been heavily sanitized. In the Agency's assessment, the nuclear material in question may potentially be uranium metal. Any refusal to cooperate with the IAEA on questions of possible undeclared nuclear material would be of serious proliferation concern. But given the potential for use of uranium metal in nuclear weapons research and development activities, the presence of even small quantities of undeclared uranium metal in Iran today would raise even more worrying questions. Iran must immediately cooperate with the Agency to resolve the Agency's questions regarding the possible existence of such nuclear material in Iran today. And should such material exist, Iran must place it under Agency safeguards without further delay.

Second, Iran has refused the Agency access to a specified location for the purposes of assuring the absence of undeclared nuclear material and activities, specifically, activities potentially related to uranium conversion. And third, the Director General has reported that Iran has refused access to yet another specified location with a possible connection to undeclared nuclear material or activities. If Iran has nothing to hide, then it should have no concerns with providing such access. However, it seems clear from Iran's own statements that it has no intention of substantively addressing – much less resolving – the Agency's concerns. Alarmingly, from Iran's reported actions to apparently sanitize locations, it seems that Iran still has much to hide.

It is widely recognized that Iran had a nuclear weapons program until 2003. The matter now before us is whether there is undeclared nuclear material or activity in Iran today. Rather than respond in a timely way to the Agency's requests, Iran has belatedly released a public response that dismisses the Agency's basis for requesting access. Iran's failure to address the IAEA's concerns strikes at the heart of the Agency's essential verification role and Iran's safeguards obligations, and potentially also Iran's compliance with the NPT. The seriousness of Iran's refusal to clarify these matters cannot be overstated.

Iran's safeguards obligations relevant to these matters are clear – any such nuclear fuel cycle-related activities must be declared to the IAEA, and Iran must provide the IAEA with clarifications regarding its declarations upon request by the Agency. If Iran has any legitimate concerns regarding the Agency's request, it may make those known to the Agency. However, over the course of many months now, Iran has apparently conveyed no legitimate concerns, and

instead has taken issue with the IAEA's very authority to carry out such access. Iran's official statements in response to the Agency's requests are as disturbing as they are outrageous.

In an attempt to justify its lack of cooperation, Iran has questioned the adequacy of the information provided by the Agency in connection with its questions. The argument lacks all merit. The Secretariat has reported to us that this information was subject to an "extensive and rigorous corroboration process," consistent with the standard safeguards practices followed in all states with safeguards agreements in force. The Secretariat has made clear that in the matters before us such information includes open source information, commercial satellite imagery, and information provided to the Agency by Iran itself.

We have full faith and confidence that the Agency is undertaking this work with the care and professionalism that it requires, and we reject any attempt to call into question or undermine the Agency's integrity. Given the Secretariat's rigorous review process and the seriousness and commitment with which the Agency conducts its important work, we can all be sure of the adequacy of the information that it has presented. Iran has been caught in so many lies about its nuclear program over the years, its claim today that it has somehow been framed is ludicrous – and is firmly and uncontestably rebutted by this Board's long experience with and deep knowledge of the credibility, professionalism, and integrity of this Agency. The only way for Iran to resolve the Agency's concerns is to provide the Agency with the information and access that it seeks – and that Iran is obliged to provide.

In response to each of these matters, alarming in isolation but profoundly troubling in combination, Iran has argued that they are somehow off limits to the IAEA because they involve "past activities." The Secretariat has stated clearly that each issue pertains to questions relating to the possibility of undeclared nuclear material and activities in Iran today, and that nuclear material has no expiration date. The Secretariat has a responsibility to pursue such questions, as it does in all states under safeguards. However, the reason that Iran receives the level of attention that it does from the Agency is because Iran sits virtually alone in its past safeguards noncompliance and current noncooperation regarding potential undeclared nuclear material and activities.

The IAEA has the authority to access any location in Iran to resolve a question relating to the correctness and completeness of Iran's declarations or to resolve an inconsistency regarding the same. In light of the new information being reported to the Board, we should recall the IAEA's fundamental responsibility to pursue any concern regarding possible undeclared nuclear material or safeguards-relevant activities in all states under IAEA safeguards, and its responsibility to bring sufficiently serious concerns arising from these efforts to the attention of the Board. This is what now has occurred. We have full faith and confidence that the Agency and its highly skilled and professional inspectors will continue to do so appropriately.

Some in the Board have offered their judgment that the matters before us supposedly present little "proliferation risk" – and this in spite of Iran's refusal to cooperate, which prevents us from understanding the true scope of the matters. However, even small amounts of undeclared nuclear material raise serious questions about the correctness and completeness of Iran's declarations, and Iran's refusal to cooperate and its sanitization activities raise questions about whether larger amounts of nuclear material or additional nuclear-related activities may also still be unaccounted for. Moreover, the refusal of a state to cooperate with the IAEA to address questions related to possible undeclared nuclear material – in any quantity – risks undermining the international safeguards regime more broadly. The significance of the proliferation risk

before us can only be assessed once the facts become clear, but the significance of ignoring evidence of this sort would be unquestionably grave.

Iran has a long history of deception, and it is the role of the Board to ensure that Iran's actions do not distract from the Agency's vital verification efforts. Iran's past pursuit of nuclear weapons – and its well-documented efforts to preserve and conceal information from its prior nuclear weapons work – underscores the seriousness with which the international community must view these pressing matters. A country with a history of pursuing nuclear weapons cannot be allowed to evade the IAEA's legitimate questions regarding potential undeclared nuclear material. As a Board of Governors, we should speak with one voice today in underscoring that Iran must comply fully with its nuclear safeguards obligations without further delay, and it must immediately provide the IAEA nothing short of full cooperation. Any further delay, denial, or deception by Iran that inhibits the IAEA's essential safeguards verification work would require that the Board appropriately escalate this issue.

...Timely reporting on the pressing issues raised today is essential for the Board to accurately assess Iran's implementation of its safeguards obligations. We request that the Director General's report be made public, consistent with the Board's longstanding practice, so that the international community may understand the serious and urgent nature of the issues under discussion. The Board should continue following this closely and with serious concern. We request that the Board be kept fully apprised on this matter until the Director General can confirm that Iran has satisfactorily resolved the Agency's concerns regarding Iran's safeguards obligations.

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On June 19, 2020, the IAEA Board of Governors adopted a resolution calling on Iran to cooperate with the Agency's ongoing safeguards investigations. The United States issued an explanation of vote in Vienna on the resolution, available at <https://vienna.usmission.gov/u-s-on-the-iran-safeguards-resolution/>. The State Department's press statement on the resolution is available at <https://2017-2021.state.gov/iaea-board-of-governors-adopts-resolution-calls-on-iran-to-cooperate-without-further-delay/> and includes the following:

Iran's denial of access to IAEA inspectors and refusal to cooperate with the IAEA's investigation is deeply troubling and raises serious questions about what Iran is trying to hide. Over the past months, Iran has not only continued its nuclear escalation and extortion, but it has also stonewalled the IAEA. These actions are unacceptable and underscore the continued threat posed by Iran's nuclear program to international peace and security.

Iran has so far shown no intention of curtailing the ongoing expansion of its nuclear program and for months has refused to provide the answers and access required for the IAEA to conduct its critical verification work. As the IAEA Board made clear today, Iran must immediately comply with its IAEA safeguards obligations and provide the IAEA nothing short of full cooperation. If Iran fails to

cooperate, the international community must be prepared to take further action.

The U.S. statement at the June 18, 2020 IAEA Board of Governors meeting on the “NPT Safeguards Agreement in the Islamic Republic of Iran” agenda item is excerpted below and available at <https://vienna.usmission.gov/iaea-bog-u-s-on-npt-safeguards-agreement-in-iran/>.

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We thank the Director General, the Deputy DG for Safeguards, and their staff for this critical report on safeguards implementation in Iran. Continued timely and factual reporting such as this is essential for the Board to accurately assess Iran’s implementation of its safeguards obligations.

In March, Board members spoke clearly and firmly on this important issue. Compliance with international obligations to provide information and access to the IAEA is at the core of the global safeguards regime, and an overwhelming majority of us voiced strong support for the IAEA and called on Iran to cooperate fully and without further delay with its legally binding safeguards obligations, including by providing the access required under its Additional Protocol.

At the time of the March report, Iran had been refusing for over a month to allow the IAEA to carry out access that Iran is obligated to provide. Board members made clear this was unacceptable, but in the three months that have since passed, Iran has still not cooperated with the IAEA. To the contrary, Iran has raised unfounded questions about the legal basis for the Agency’s requests and suggested that matters of possible undeclared nuclear material and activities are somehow not urgent, significant, or compelling. Accepting such claims would undercut the entire global safeguards regime and the international assurances regarding non-diversion of nuclear material that it provides, assurances on which every one of us in this room relies.

It has now been nearly one year since the IAEA first sought clarifications from Iran about possible undeclared nuclear material and activities at these three locations, and Iran has denied the IAEA access for over four months to two of these locations. With this new report, we now better understand the IAEA’s questions related to each of these locations and the seriousness of the outstanding issues.

We now know the Agency is seeking clarification about the possible presence in Iran of a uranium metal disc with indications of drilling and hydriding. The Agency believes this disc was at one time present at a location that later underwent significant sanitization. This revelation is particularly concerning given the potential for use of uranium metal in nuclear weapons research and development activities, and we note with concern that some such R&D requires only small quantities of uranium metal.

We also know now that the Agency’s questions related to a second location involve indications of possible processing and conversion of uranium ore into oxide and fluoride compounds, a necessary step to produce the feed material for a gas centrifuge uranium enrichment plant of the type Iran built originally in secret at Natanz. If undeclared nuclear material was previously present at this facility, where is it today? Could it be the source of the

chemically processed uranium particles the IAEA found in samples taken at yet another location, as the IAEA reported last year?

Finally, related to the third location, past preparation for the use of neutron detection equipment at this locale has led the IAEA to raise questions about “the possible use and storage of nuclear material.” Such questions, in combination with past high explosives testing at the site, raise deeply troubling questions about possible nuclear weapons-related work at the location in the past and possible nuclear material that may remain undeclared to this day.

For all three locations, the Agency reports indications of sanitization or demolition. In one case, these sanitization activities occurred from July 2019 onward, immediately after the IAEA reportedly questioned Iran about the detection of particles of chemically processed uranium at the separate location reported earlier.

As we consider the unanswered questions and access denials detailed in the Director General’s report, it is important to note the significance of the Agency’s finding of uranium particles, the source of which the IAEA is still trying to discern. It has now been nearly a year since analysis of environmental samples revealed their presence, and seven months since this issue was brought to this Board’s attention in a special session in November. This finding of unexplained uranium means that inspectors are pursuing the previously mentioned additional access and questions regarding credible indications of possible hidden nuclear material in Iran in the context of having already found physical evidence that such nuclear material may exist today. Until resolved, therefore, this issue is a current and compelling safeguards concern. Iran’s claims dismissing the proliferation risk before us are as transparently false as they are self-interested.

Iran has posited that if it agrees to provide the IAEA with the required clarifications and access, such cooperation will only lead to further questions, even if nothing is found. First, as I have just underscored, something has already been found—the traces of still unexplained chemically-processed uranium. Second, Iran’s claim ignores the IAEA’s mandate to follow the facts where they lead in order to ensure all nuclear material is declared and in peaceful uses. Doing less would mean an end to the practical effectiveness of the global safeguards regime. The IAEA’s long record of effective professionalism in pursuing such cases is clear and there for all to see, which makes Iran’s attempts to imply that the Agency is acting somehow inappropriately all the more transparently misleading.

So, let me reiterate a few key facts that Iran cannot wish away: the Director General has reported to the Board that there are no less than four undeclared locations in Iran at which undeclared nuclear material has potentially been present and at which undeclared activities have possibly occurred. The IAEA has tirelessly sought Iran’s cooperation, but Tehran continues to stonewall the investigation. In the Director General’s own words, “this is adversely affecting the Agency’s ability to clarify and resolve the questions, and thereby to provide credible assurance of the absence of undeclared nuclear material and activities at these locations in Iran.”

...What was concerning and unprecedented in March has become a truly alarming threat to the integrity of the safeguards regime today. Iran’s refusal to cooperate cannot be allowed to stand unanswered. The Board must respond.

These issues are central to Iran’s current safeguards obligations and have direct relevance to potential undeclared nuclear materials and activities in Iran today. For the sake of the safeguards regime, the Board cannot simply look the other way and allow Iran or any other state to dictate whether and how it will comply with its safeguards obligations.

Without verified answers from Iran, the IAEA cannot determine whether nuclear material may remain undeclared and unaccounted for, and if so, how much, where the material may be today, and how it is being used. The IAEA's questions regarding possible undeclared uranium metal that has undergone processing, possible undeclared fuel cycle activities that could produce feed material for a uranium enrichment plant, and indications of possible use and storage of nuclear material at a high explosives test site are all clear proliferation concerns. Ignoring such critical safeguards-related questions in Iran would undermine the implementation of safeguards everywhere. For those who seek a comprehensive, stable, and enduring diplomatic solution to the Iran nuclear issue, resolving such questions and establishing continued IAEA confirmation that Iran is truly meeting its NPT and safeguards obligations is absolutely essential.

Iran has defended its intransigence by claiming the information on which the IAEA relies is insufficient. The Director General's report and the follow-on technical briefing leave no question the Agency has sufficient grounds to seek clarifications from Iran about the correctness and completeness of Iran's declaration and, where needed, access to specified locations.

The Secretariat has made every possible effort, even in a very challenging time, to allow Iran to make the right choice. Instead, Iran has refused to cooperate, and we now face the unprecedented scenario of a state denying access it is obligated to provide under its Additional Protocol. We firmly believe that the Secretariat's approach in this matter is above reproach, and that Director General Grossi and his team deserve the full support of this Board.

We shared our respective views in our national capacities in March, and Iran clearly feels it can continue to dismiss our individual voices. It is time now for us to speak formally and with one voice as the Board of Governors, making clear that making clear that Iran's refusal to comply with its safeguards obligations and decision to deny access to the Agency are unacceptable. The resolution tabled by France, Germany, and the United Kingdom is a balanced and fair reaction to Iran's alarming refusal to comply with its legal obligations under its Comprehensive Safeguards Agreement and its Additional Protocol. While we firmly believe the text could be strengthened to underscore the essential nature of the IAEA's outstanding requests, the United States accepts and fully supports this resolution and urges all other Board members to do the same.

We again thank the Director General and the Safeguards Department for their continued professionalism in undertaking their responsibilities in Iran. We request that the Secretariat continue to provide the Board timely reporting on this issue. In the interest of transparency and consistent with the Board's past practice, we ask that GOV/2020/30 and GOV/2020/15 be made public.

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The United States also delivered a statement related to Iran safeguards at the September 2020 IAEA Board meeting, which is available at <https://vienna.usmission.gov/iaea-bog-us-on-npt-safeguards-in-iran/>. The U.S. statement under the agenda item relating to the Joint Comprehensive Plan of Action with Iran ("JCPOA") at the November 2020 Board meeting also addressed safeguards-related issues and is available at <https://vienna.usmission.gov/iaea-bog-u-s-on-verification-and-monitoring-in-iran-2/>.

**b. United Kingdom**

In a June 17, 2020 State Department media note, the United States announced the conclusion of an agreement with the United Kingdom on technology safeguards associated with U.S. participation in space launches from the UK (“U.S.-UK Technology Safeguards Agreement” (“TSA”)). The media note, available at <https://2017-2021.state.gov/u-s-uk-technology-safeguards-agreement/>, also states:

This Agreement, upon entry into force, establishes the technical safeguards to support U.S. space launches from the UK while ensuring the proper handling of sensitive technology consistent with our long-standing partnership and roles as founding members of the Missile Technology Control Regime (MTCR).

On December 31, 2020, the Agreement between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland for Cooperation in Peaceful Uses of Nuclear Energy, (“U.S.-UK 123 agreement”) signed at Washington, May 4, 2018, entered into force. The full text of the agreement is available at <https://www.state.gov/united-kingdom-20-1231>.

**c. Bulgaria**

On October 23, 2020, the United States and Bulgaria signed a Memorandum of Understanding Concerning Strategic Civil Nuclear Cooperation (“NCMOU”). See *Digest 2019* at 667 discussing previous NCMOUs, which are non-binding bilateral political arrangements, less formal than a 123 agreement. As explained in the October 23, 2020 State Department media note announcing the Bulgaria NCMOU, which is available at <https://2017-2021.state.gov/u-s-bulgaria-sign-nuclear-cooperation-memorandum-of-understanding/>:

Nuclear Cooperation MOUs are diplomatic mechanisms that strengthen and expand strategic ties between the United States and a partner country by providing a framework for cooperation on civil nuclear issues and for engagement between experts from government, industry, national laboratories, and academic institutions.

**d. Slovenia**

On December 8, 2020, the United States and Slovenia signed an NCMOU. See State Department media note, available at <https://2017-2021.state.gov/u-s-slovenia-sign-nuclear-cooperation-memorandum-of-understanding/>.

**e. Poland**

In October 2020, the United States and Poland signed the Agreement between the Government of the United States of America and the Government of the Republic of Poland on Cooperation Towards the Developments of a Civil Nuclear Power Program and the Civil Nuclear Power Sector in the Republic of Poland, signed at Upper Marlboro on October 19, 2020 and at Warsaw on October 22, 2020.\* The agreement is available at <https://www.state.gov/wp-content/uploads/2021/05/21-224-Poland-Nuclear-Energy.pdf>.

**f. Romania**

In December 2020, the United States and Romania signed the Agreement between the Government of the United States of America and the Government of Romania on Cooperation Towards the Cernavoda Nuclear Power Projects and the Civil Nuclear Power Sector in Romania, signed at Upper Marlboro on December 4, 2020 and at Bucharest on December 9, 2020.

**C. ARMS CONTROL AND DISARMAMENT****1. United Nations****a. Treaty banning nuclear weapons**

On November 12, 2020, Assistant Secretary for International Security and Nonproliferation Christopher Ford addressed a conference on nuclear weapons and international law, sponsored by the New York Bar Association. His remarks are excerpted below and available at <https://2017-2021.state.gov/disarmament-law-and-morality-a-critique/index.html>.

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I'd like to offer some thoughts, first on the Treaty on the Prohibition of Nuclear Weapons—a.k.a. the “Ban Treaty”—and then on International Humanitarian Law (IHL) issues related to the possession and use of nuclear weaponry.

The “Ban” Treaty

For the many countries that directly or indirectly rely upon nuclear weapons for security, the TPNW is a simple issue: we will not join it, we already consider it to be a failed treaty, and upon its entry into force, it will not bind us. These states have also repeatedly and consistently signaled their rejection of a potential ban on nuclear weapons, and of the idea that there is any

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\* Editor's note: The agreement with Poland entered into force February 24, 2021.



hint of *opinio juris* in the non-use of such weapons since World War II—messages which should make clear that no customary international legal norm against nuclear weapons is emerging.

These many nuclear weapons-reliant states oppose the “Ban” not because we oppose disarmament, for we do not. Rather, we oppose the TPNW because it will not achieve its ends, it approaches its objectives in a counterproductive way, it could damage other institutions critical to international peace and security, and it might even be strategically destabilizing. I’ve addressed the TPNW in a couple of public speeches—once when [on the National Security Council staff](#) and [once as Assistant Secretary of State](#)—so I won’t go over all these points now.

What I would like to do, however, is stress two points about the “Ban” here today: (1) the moral implications of the likely selectivity of the Treaty’s impact; and (2) the crisis-instability and nuclear-use incentives that might persist, or worsen, in a world without nuclear weapons.

The TPNW is the result of a campaign of civil-society activism and grass roots pressure upon national legislatures and elected representatives, pushing them toward Treaty ratification or accession. Civil society activism is a well-established and entirely legitimate way to seek social change, of course, but in this context, the problem is obvious: [nuclear weapons possessors that lack a free press and use draconian tools of political oppression to suppress disfavored political activism in civil society are highly resistant – and arguably even immune – to such pressures.](#)

To the degree that it succeeds in influencing the legislators and politicians that it targets, the “Ban” approach thus has the potential to bring about nuclear disarmament only for those free, democratic societies that actually listen to their citizens’ concerns. Surely, however, it can hardly be a moral imperative to create a world in which dictators such as Vladimir Putin, Xi Jinping, and Kim Jong Un are the only leaders left with nuclear weapons.

But things get even worse. For the sake of argument, even if the TPNW were actually to persuade all current possessors to eliminate their nuclear weapons, the world it would thus create would still not obviously be a more desirable one. A world in which all nuclear weapons had been dismantled—but in which states still knew how to build them and still confronted conflicts, tensions, and rivalries in the international security environment—might well be a world more unstable and likely to see nuclear weapon use even than today’s world.

Such a world would give every technology-holder not merely a powerful incentive to engage in a “reconstitution race” to build nuclear weapons in any major military crisis with another technology-holder, but in fact also give an incentive for that country to use such weapons preemptively if it succeeded in reconstituting before its adversary. And that’s even without factoring in the ways in which eliminating nuclear deterrence might remove major powers’ disincentives to engage in conventional war in the first place, thus making more likely the conflicts that could trigger reconstitution racing.

So assuming that the objective is not to achieve “disarmament” at any cost but rather to strengthen international peace and security and prevent human suffering as effectively as possible, the situation is more complicated than TPNW advocacy would have one believe.

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On December 15, 2020, the North Atlantic Council issued a statement as the Treaty on the Prohibition of Nuclear Weapons entered into force. That statement, in which the United State joined, is available at [https://www.nato.int/cps/en/natohq/news\\_180087.htm](https://www.nato.int/cps/en/natohq/news_180087.htm) and includes the following:

We do not accept any argument that the ban treaty reflects or in any way contributes to the development of customary international law. The ban treaty will not change the legal obligations of our countries with respect to nuclear weapons. We call on our partners and all other countries to reflect realistically on the ban treaty's impact on international peace and security, including on the NPT, and join us in working to improve collective security through tangible and verifiable measures that can reduce strategic risks and enable real progress on nuclear disarmament.

**b. First Committee**

On October 9, 2020, Ambassador Robert Wood, the U.S. Permanent Representative to the Conference on Disarmament, U.S. Special Representative for Biological and Toxin Weapons Convention ("BWC") Issues and U.S. Commissioner for the New START Treaty's Bilateral Consultative Commission ("BCC"), delivered the U.S. statement at the UN First Committee general debate. His statement follows.

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Regarding the First Committee's mandate to address disarmament and international security issues, China is undergoing a crash nuclear weapons build-up completely unconstrained by any arms control limits, with potentially deadlier consequences for the world than COVID-19 – all the while refusing to engage in constructive dialogue. For far too long, China has pretended to be a hero of multilateralism, supposedly deserving a "free pass" in the First Committee from international scrutiny of its irresponsible and aggressive nuclear arms build-up. Mr. Chairman, those days are over.

... Russia has long used the UN and other multilateral bodies to launder its bad international behavior. This is especially discouraging, given that the Soviet Union arguably suffered more than any other nation during the Second World War, the "Great Patriotic War", which gave rise to the UN Charter and this institution in the hope of preventing States from employing brute force as their policy choice of first resort. Not so with Russia, it seems. Ask Russia's neighbors for details. In outer space, Russia has twice in recent years tested space-based weapons while at the same time claiming it seeks to prevent the weaponization of space through both legally binding arms control and through its No First Placement resolution in this body. International security is put at risk by failing to challenge Russia's serial noncompliance with its arms control obligations and commitments.

In addition to developing and deploying nuclear weapons that are unconstrained by the New START Treaty, such as exotic nuclear delivery systems and new nonstrategic nuclear weapons, which runs counter to the goal of disarmament, Russia continues to undermine the international security frameworks to which it has agreed. It is a serial violator of its arms control, disarmament, nonproliferation, and European security obligations and commitments. As the United States has documented in our annual compliance reports, Russia has failed to comply with its obligations under not only the now-defunct Intermediate-Range Nuclear Forces Treaty,

but also the Treaty on Open Skies, the Treaty on Conventional Armed Forces in Europe, and the Chemical Weapons Convention, in addition to undertaking activities that raise concerns about its compliance with the nuclear weapons Threshold Test Ban Treaty.

Secretary Pompeo has condemned Russia's aggressive and destabilizing behavior in Europe, the Middle East, and around the world. This week, Germany made public the Organization for the Prohibition of Chemical Weapons Technical Assistance Visit report confirming Aleksei Navalny was poisoned by a nerve agent of the Novichok group. The United States has full confidence in the OPCW's findings, which now have independently confirmed the chemical analysis from German, French and Swedish certified laboratories. The United States and our allies and partners have agreed that the Russian Government must provide a full accounting for the poisoning of Alexei Navalny; and reiterate that any use of chemical weapons, anywhere, at any time, by anyone, under any circumstances is unacceptable and contravenes the very international norms and standards that all responsible nations seek to uphold and defend.

Further, we call on Russia, who now has requested OPCW assistance to be completely transparent regarding such events; and cooperate fully with the Organization without delay, obfuscation and misinformation from the facts. The poisoning of Alexsei Navalny was a deliberate heinous act – tragically one we have seen before with the attempted assassination of Sergey and Yulia Skripal in Salisbury, UK, in March 2018. While Russia conveniently has requested assistance; it is nearly indefensible to argue that anyone else other than Russia could have taken this action against Mr. Navalny. We condemn such actions; and call on Russia to fulfill its obligations under the Chemical Weapons Convention by completely declaring and destroying its chemical weapons program under international verification.

There can be no impunity for the use of chemical weapons. This is critical not only for the viability of our arms control and nonproliferation framework but for international security more generally.

Regarding the New START Treaty, we continue to engage bi-laterally on the way forward on an agreement that addresses all nuclear warheads. While the New START Treaty limits strategic ranged warheads and delivery systems it does nothing to address the thousands of battlefield and theatre ranged systems where Russia continues to build, develop and field nuclear weapons. This dangerous and growing stockpile must be addressed by the members of this body.

While the United States has certified Russia's compliance with New START to the U.S. Congress every year since entry into force, Russia has during this same period invested heavily in novel nuclear delivery systems and nuclear weapons that are not constrained by New START. An arms control treaty that Russia complies with, but which allows it to work to gain competitive military advantage undercuts the fundamental purpose of the agreement. Such deficiencies need to be addressed.

... the United States has made concerted efforts over the years to reduce the role of nuclear weapons in international affairs and to negotiate reductions in the number of nuclear weapons. In this regard, we commemorate the 50th anniversary of the Nuclear Non-Proliferation Treaty's entry into force and we look forward to the Review Conference, unfortunately postponed by COVID-19. Negotiated during the height of the Cold War, the NPT remains the cornerstone of international efforts to prevent the spread of nuclear weapons. The Treaty also remains essential to promoting the peaceful uses of nuclear energy for human health and development. Moreover the NPT's Article VI makes clear that each NPT Party has an obligation

“to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control.”

The United States has for some time called for a new era of arms control. Why a new era? The reason is clear: The bilateral Cold-War approach to arms control that only constrains the United States and the Russian Federation, while important, is no longer sufficient to address current geopolitical security challenges. A new era must begin with cooperation among the three largest nuclear powers on earth, to build a strong foundation for a future treaty that addresses all nuclear weapons and is rigorously verifiable. Such a treaty is essential to that goal we seek of a world without nuclear weapons.

Without such a treaty, our generation is facing the menacing prospect of a new nuclear arms race among the three largest nuclear powers in the present era, triggered by the continuing actions of China and Russia. With Beijing’s overall number of nuclear warheads in its current stockpile, its ever-larger and more sophisticated delivery systems, and its plans to more than double the number of warheads it possesses in this decade, China has indeed emerged as the third largest nuclear power on earth, completely unconstrained by any nuclear arms control agreement. And similar to China, the Russian Federation is engaged in a massive expansion of its nuclear capabilities and the introduction of new exotic delivery systems that also threaten to ignite a new – trilateral – nuclear arms race.

In stark contrast, while the United States has invested in life extension programs and other sustainment activities, we have yet to take the strategic decision to match ongoing Russian and Chinese nuclear build-ups. Instead, and because we value peace, predictability, and stability, we have continued to sound the alarm about this potentially destabilizing development for international security, and come before you today to seek your assistance in addressing it. If we do not get that assistance we will have to take, unilaterally or in concert with allies, whatever steps are necessary to protect our national security interests.

...preventing a trilateral nuclear arms race among the three largest nuclear powers represents a central war and peace issue of our time. Should such a race begin, its scale and intensity could very likely dwarf the bilateral arms race of the Cold War – with potentially dangerous consequences for the peace and security of the entire world. Fortunately, such a trilateral arms race is entirely avoidable.

Every UN Member State, every member of this Committee, has a right, a responsibility, and an existential interest to be heard on this issue. Our three nations should be openly called upon to engage one another on trilateral arms control and lead the way for the eventual elimination of all nuclear weapons. The United States, the Russian Federation, and China need only to embrace a responsible course and take nuclear arms control to the next level without further delay. For its part, the United States stands ready. We must prevent a new arms race and avoid conflict, which is in the interests of all nations. An historic negotiating table is waiting, and it has three chairs around it. It is time for Washington, Moscow, and Beijing to sit down with one another, engage in good faith, and reduce nuclear risks rather than heighten them.

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## 2. MTCR

On July 24, 2020, the State Department announced in a press statement, available at <https://2017-2021.state.gov/trump-administration-approves-updated-unmanned-aerial-system-uas-export-policy/>, that the Trump administration updated the U.S. export policy for unmanned aerial systems (“UAS”). Excerpts follow from the press statement.

...With this revision, the U.S. government will invoke its national discretion on the implementation of the Missile Technology Control Regime (MTCR)’s ‘strong presumption of denial’ for transfers of Category I systems to treat a carefully selected subset of MTCR Category I UAS with maximum airspeed less than 800 kilometers per hour as Category II.

All proposed transfers affected by this change will continue to be subject to the same rigorous review criteria outlined in the United States’ UAS Export Policy, the Conventional Arms Transfer Policy, and the Arms Export Control Act, as well as the specific nonproliferation criteria identified in the MTCR Guidelines. This policy change modernizes our approach to implementing our MTCR commitments to reflect current technological realities and helps our allies and partners meet their urgent national security and commercial requirements.

As discussed in *Digest 2019* at 673-76, the United States has been pressing for reform of the Missile Technology Control Regime (“MTCR”). On July 24, 2020, Dr. Ford addressed the Hudson Institute regarding the new U.S. policy on unmanned aerial systems (“UAS”) under the MTCR. His remarks are excerpted below and available at <https://2017-2021.state.gov/The-New-U.S.-Policy-on-UAS-Exports-Under-the-MTCR>.

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... [W]hat I’d like today is to let you know how [U.S. efforts to reform the MTCR] ha[ve] been developing since [February 2019].

The ...1980s-era technological benchmark built into the MTCR Guidelines—which urge a “strong presumption of denial” for exports of “Category I” systems, which are defined as unmanned craft capable of carrying a payload of at least 500 kilograms to a range of at least 300 kilometers — has not held up well. Advances in unmanned aerial systems (UAS), have led to a great explosion in the capabilities and beneficial uses of UAS that technically meet this Category I definition, but which *don’t* present the kind of nuclear weapon delivery threat that the MTCR was established to help forestall. As applied to many UAS, in other words, the MTCR is in danger of becoming out of date.

With respect to *actual* missiles and rockets, or the sort of high performance cruise missile that one might actually use to deliver a nuclear weapon, of course, we had—and *have*—no quarrel with the MTCR standard. Quite to the contrary: we still believe that a strong presumption of denial for transfers of such systems makes eminent sense.

The difficulty came with less capable varieties of UAS, in connection with which the presumption of denial has had the effect of largely shutting MTCR partners out of an important and growing UAS market. Since *non*-MTCR partners remain free to sell whatever they wish, however, this was not only a net loss for those countries responsible enough to join the MTCR, but also a net loss for the cause of nonproliferation — as the market for such non-threatening UAS was effectively ceded to the *least* proliferation-responsible international players, who don't worry about things such as MTCR standards.

This is why, in March 2018, the United States proposed an adjustment to MTCR controls that would carve out a subset of Category I UAS, based on their maximum airspeed, for treatment *as if* they were Category II systems — thus making these slower, less-threatening systems no longer subject to the “strong presumption of denial.” This reform proposal would have protected what needed to be protected in that important regime, while yet allowing a degree of relaxation for transfers of lower-threat systems in order to permit all of humanity to take better advantage of the myriad ways in which UAS are increasingly used in both governmental and private sector applications.

For more than two years, therefore, we have been promoting this reform initiative in MTCR fora. We have also repeatedly made technical changes and various other adjustments to our reform proposal in response to issues raised and ideas suggested by other MTCR partners.

Nevertheless, the MTCR is a consensus-based organization, in which even a single country can hold things up indefinitely. We are pleased that many of our partners *have* supported our reform proposal, but thanks to foot-dragging by some, it is not yet possible to amend the MTCR controls by consensus.

We will still keep promoting this reform proposal, for we still feel it represents the right way to update the MTCR regime in the face of technological change and thus save it from obsolescence, while yet preserving what is most important in it and protecting nonproliferation equities.

... While we'll still keep pushing MTCR reform, therefore, we are now announcing a modest adjustment to U.S. national policy as to when the “strong presumption of denial” can be overcome in exporting slower, and thus less threatening, UAS.

The key to the new U.S. policy lies in remembering that a presumption can sometimes be rebutted. A “presumption of denial” is *not* a prohibition, and it has always been permissible to make Category I transfers *when there is a compelling reason to overcome the presumption* and such a step is well justified in terms of the nonproliferation factors specified in the MTCR Guidelines.

We are all familiar with this idea in other contexts; presumptions are used in lots of policy areas. ...

“Rebuttability,” if you will, is thus inherent in the concept of a presumption. ...

...And so, with our new policy on Category I UAS exports, the United States is now setting forth a careful and balanced approach, *within the MTCR Guidelines*, that for the first time offers a clear explication of certain circumstances in which the “strong presumption of denial” can be overcome.

This new U.S. policy largely tracks the basic structure of the reform initiative we proposed for the MTCR a couple of years ago, except that we are implementing the MTCR's “strong presumption of denial” within the national discretion permitted us in the MTCR Guidelines.

Under this new policy, the “strong presumption of denial” for MTCR Category I UAS transfers will be overcome for a subset of unmanned aerial systems with a maximum airspeed of less than 800 kilometers per hour. ...

Our new approach will merely mean that we will deal with lower-threat, lower-speed UAS more flexibly, as if they were Category II systems.

I should also emphasize that this new policy does *not* mean that we will subject transfers of these slower, lower-threat systems to a strong presumption of *approval*; all we are doing is exempting them from the strong presumption of *denial*. There will be no presumption of approval, and all proposals will be evaluated on their own merits.

Nothing will change, moreover, in the strict U.S. standards that today go into deciding whether or not a transfer should occur. We will continue to approach each transfer on a case-by-case basis as a whole-of-government decision that takes into account all relevant factors and policies, including U.S. national security, nonproliferation, and foreign policy objectives, as well as the recipient country’s capability and willingness to effectively and responsibly use and safeguard U.S.-origin technology.

We will continue our extensive assessments of the risk of controlled items falling into the hands of unauthorized end-users, irresponsible actors, state adversaries, and terrorists. We will continue to evaluate all transfers against the MTCR Guidelines, and to require appropriate end-use and end-user certifications and end-use monitoring. All military UAS transfers will continue to be subject to State Department-led assessments under the Conventional Arms Transfer Policy, as well as to Defense Department-led assessments of technology security, as applicable. And all *civil* UAS exports will continue to be subject to the Export Administration Regulations.

The United States will continue to abide by its MTCR commitments, including those related to pre-notifying Category I transfers. We will also continue to promote responsible standards of behavior in UAS export and use, such as in the “Joint Declaration for the Export and Subsequent Use of Armed or Strike-Enabled [Unmanned Aerial Vehicles]” and we’ll seek to develop further international standards for the export and use of armed UAS.

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### **3. New START Treaty**

No sessions of the Bilateral Consultative Commission under the New START Treaty were convened in 2020, due to the COVID-19 pandemic. Further information on the Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, also known as the New START Treaty, is available at <https://www.state.gov/new-start/>.

### **4. Open Skies Treaty**

On May 21, 2020, the State Department announced, in a press statement from Secretary Pompeo, available at <https://2017-2021.state.gov/on-the-treaty-on-open-skies/index.html>, that the United States would submit notice of its decision to withdraw from the Treaty on Open Skies the next day. The press statement is excerpted below.

See Chapter 4 for the notification to the treaty depositaries and other States Parties of the U.S. decision to withdraw.

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Tomorrow, the United States will submit notice of its decision to withdraw from the Treaty on Open Skies to the Treaty Depositaries and to all other States Parties to the Treaty. Effective six months from tomorrow, the United States will no longer be a party to the Treaty. We may, however, reconsider our withdrawal should Russia return to full compliance with the Treaty.

...[T]he United States must take a clear-eyed look at any agreement through the prism of today's reality and assess whether such agreement remains in the U.S. interest. After careful consideration, including input from Allies and key partners, it has become abundantly clear that it is no longer in America's interest to remain a party to the Treaty on Open Skies.

At its core, the Treaty was designed to provide all signatories an increased level of transparency and mutual understanding and cooperation, regardless of their size. Russia's implementation and violation of Open Skies, however, has undermined this central confidence-building function of the Treaty—and has, in fact, fueled distrust and threats to our national security—making continued U.S. participation untenable.

While the United States along with our Allies and partners that are States Parties to the Treaty have lived up to our commitments and obligations under the Treaty, Russia has flagrantly and continuously violated the Treaty in various ways for years. This is not a story exclusive to just the Treaty on Open Skies, unfortunately, for Russia has been a serial violator of many of its arms control obligations and commitments. Despite the Open Skies Treaty's aspiration to build confidence and trust by demonstrating through unrestricted overflights that no party has anything to hide, Russia has consistently acted as if it were free to turn its obligations off and on at will, unlawfully denying or restricting Open Skies observation flights whenever it desires.

Russia has refused access to observation flights within a 10-kilometer corridor along its border with the Russian-occupied Georgian regions of Abkhazia and South Ossetia, thereby attempting to advance false Russian claims that these occupied territories are independent states. Russia's designation of an Open Skies refueling airfield in Crimea, Ukraine, is similarly an attempt to advance its claim of purported annexation of the peninsula, which the United States does not and will never accept. Russia has also illegally placed a restriction on flight distance over Kaliningrad, despite the fact that this enclave has become the location of a significant military build-up that Russian officials have suggested includes short-range nuclear-tipped missiles targeting NATO. In 2019, Russia unjustifiably denied a shared United States and Canada observation flight over a large Russian military exercise.

These problems, moreover, follow on years of *different* Russian violations of the Treaty at various points since the Treaty entered into force, such as Russia's violation, up until 2017, of improperly declaring *force majeure* to impose airspace restrictions related to VIP ground movements. These periodic and shifting violations highlight Russia's willingness for many years now, to restrict or deny overflights whenever it desires. This strikes at the heart of the Treaty's confidence-building purpose.



The problems raised by Russia's selective implementation of Open Skies, moreover, go beyond just violating the Treaty's provisions themselves. Its approach to Treaty implementation has fatally undermined the very intent of the Treaty as a confidence- and trust-building measure, for far from allowing Open Skies to contribute—as it was intended to do—to building regional trust and goodwill, Moscow has increasingly used Open Skies as a tool to facilitate military coercion. Moscow appears to use Open Skies imagery in support of an aggressive new Russian doctrine of targeting critical infrastructure in the United States and Europe with precision-guided conventional munitions. Rather than using the Open Skies Treaty as a mechanism for improving trust and confidence through military transparency, Russia has, therefore, *weaponized* the Treaty by making it into a tool of intimidation and threat.

To those who suggest the United States respond with reciprocal steps of our own analogous to Russia's own provocative actions and violations, we say: doing that would only further undermine the core purpose of the Treaty, and create further tension and distrust between the United States and Russia. We will not contribute to further weaponizing and poisoning with distrust a Treaty that was intended to build confidence. The Open Skies Treaty was meant to contribute to international security, but it has been twisted and perverted in its implementation and now serves Russian purposes inimical to that security.

We understand that many of our Allies and partners in Europe still find value in the Treaty, and we are grateful for the thoughtful feedback they have offered us during the course of our review of these questions. If not for the value they place on the OST, we would likely have exited long ago. We are not willing, however, to perpetuate the Treaty's current problems of Russian-engendered threat and distrust simply in order to maintain an empty façade of cooperation with Moscow.

Make no mistake: Russia alone bears responsibility for these developments, and for the continued erosion of the arms control architecture. We remain committed to effective arms control that advances U.S., Ally, and partner security, that is verifiable and enforceable, and that includes partners that comply responsibly with their obligations. But we cannot remain in arms control agreements that are violated by the other side, and that are actively being used not to support but rather to undermine international peace and security. As noted, we may be willing to reconsider this decision if Russia demonstrates a return to full compliance with this confidence-building Treaty, but without such a change of course from the Kremlin, our path will lead to withdrawal in six months' time.

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On May 21, 2020, Special Presidential Envoy for Arms Control Marshall Billingslea and Assistant Secretary Ford gave a telephonic briefing addressing the withdrawal. The transcript of their briefing is available at <https://2017-2021.state.gov/special-presidential-envoy-for-arms-control-marshall-billingslea-and-assistant-secretary-for-international-security-and-nonproliferation-dr-christopher-a-ford//index.html>.

On July 6, 2020, at the Open Skies Conference of the States Parties in Vienna, Austria, virtual remarks were given by Thomas DiNanno, Senior Bureau Official and Deputy Assistant Secretary for Defense Policy, Emerging Threats, and Outreach, Bureau of Arms Control, Verification, and Compliance. Mr. DiNanno's remarks are available at

<https://2017-2021.state.gov/united-states-withdrawal-from-the-treaty-on-open-skies/index.html>.

On November 22, 2020, the State Department issued a press statement announcing that U.S. withdrawal had taken effect. The November press statement is available at <https://2017-2021.state.gov/treaty-on-open-skies//index.html>, and states:

On May 22, 2020, the United States exercised its right pursuant to paragraph 2 of Article XV of the Treaty on Open Skies by providing notice to the Treaty Depositaries and to all States Parties of its decision to withdraw from the Treaty, effective six months from the notification date. Six months having elapsed, the U.S. withdrawal took effect on November 22, 2020, and the United States is no longer a State Party to the Treaty on Open Skies.

## **D. CHEMICAL AND BIOLOGICAL WEAPONS**

### **1. Chemical Weapons in Syria**

#### ***a. OPCW Investigation and Identification Team report on incidents in Ltamenah***

On April 8, 2020, in a press statement by Secretary Pompeo, the United States announced its agreement with report of the Organization for the Prohibition of Chemical Weapons (“OPCW”) Investigation and Identification Team (“IIT”) attributing three instances of chemical weapons use to the Assad regime. The incidents involve the aerial bombs containing sarin dropped by the Syrian Arab Air Force in Ltamenah on March 24 and 30, 2017, and a cylinder containing chlorine dropped on the Ltamenah hospital on March 25, 2017. The press statement is excerpted below and available at <https://2017-2021.state.gov/report-of-the-opcw-investigation-and-identification-team-regarding-incidents-in-ltamenah-the-syrian-arab-republic-on-24-25-and-30-march-2017/>.

Despite Syria’s accession to the Chemical Weapons Convention in 2013, the Assad regime has repeatedly used chemical weapons attacks every year since then to retain its grip on power. The OPCW-UN Joint Investigative Mechanism previously confirmed that the Assad regime used chemical weapons on multiple occasions, and now, the IIT report is the latest in a large and growing body of evidence that the Assad regime uses chemical weapons attacks in Syria as part of a deliberate campaign of violence against the Syrian people.

The United States shares the OPCW’s conclusions and assesses that the Syrian regime retains sufficient chemicals—specifically sarin and chlorine—and expertise from its traditional chemical weapons (CW) program to use sarin, to produce and deploy chlorine munitions, and to develop new CW. The Syrian military also has a variety of chemical-capable munitions—including grenades,

aerial bombs, and improvised munitions—that it can use with little to no warning. The United States condemns the use of chemical weapons as reported by the OPCW IIT and demands that the Syrian Arab Republic immediately cease all development, stockpiling, and use of chemical weapons.

**b. *Accountability at the UN***

On June 2, 2020, U.S. Permanent Representative to the UN Ambassador Kelly Craft delivered remarks at the UN Security Council briefing on Syria’s use of chemical weapons. Ambassador Craft’s remarks are excerpted below and available at <https://usun.usmission.gov/remarks-at-a-un-security-council-briefing-on-syria-chemical-weapons-via-vtc/>.

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Last month, when we gathered to discuss this issue, we were briefed by OPCW Director-General Fernando Arias and IIT Coordinator Santiago Onate. They provided the Council with an important overview of the IIT’s first report, which explicitly attributed responsibility to the Assad regime for three chemical weapons attacks in Syria in March 2017. They did not come here to politicize the findings of the report, nor to take sides. They were here to provide the facts, and the facts are clear: the Assad regime dropped sarin and chlorine in Ltamenah, Syria, three times during that month, including once on a hospital.

The presentation from the briefers and the full report received by this Council give a detailed account of these events. Crucially, they reveal the integrity and impartiality of the OPCW in its efforts to get at the truth of how these attacks were carried out, and they rule out other possible explanations. The Council has what it needs to advance the discussion on addressing Syria’s continued use of chemical weapons, and to hold the Assad regime to account.

Unfortunately, Russia and China—in an act of political theater—chose not to participate in last month’s meeting. But they didn’t just refrain from participating; they publicly attacked the credibility of the IIT in an attempt to undermine the technical and professional work of the OPCW. This choice made clear that neither country has a credible way to question the facts that are outlined in the report.

I’ve said it before, but today I’ll say it again—no amount of disinformation from Assad or his enablers can hide or obstruct the facts that the Assad regime used chemical weapons in March 2017, and that it will revert to the use of chemical weapons if it believes these weapons can serve its strategic objectives. It is time for Russia to end its efforts to shield the Assad regime from accountability.

We call on the Council to speak with one voice to condemn the use of chemical weapons and work towards ensuring the Assad regime is held to account. Such continued defiance of Syria’s obligations under Resolution 2118 cannot be ignored, as the use of chemical weapons by

any state presents an unacceptable security threat to all states. The Members of this Council must not remain silent. The United States certainly will not.

This month, we begin the rollout of a number of accountability actions contained in the Caesar Syria Civilian Protection Act of 2019, which passed with significant bipartisan support in the U.S. Congress. The law gives the United States strong new sanctions authorities to disrupt transactions that benefit the Assad regime and support the regime's brutal atrocities, like those presented in the IIT report. We intend to use those authorities as part of our broader effort to hold the regime and its enablers accountable.

We ask other members of the Council to join us in the effort to deny the Assad regime the financial resources it uses to fuel its campaigns of violence and of destruction—campaigns that have resulted in hundreds of thousands of civilian deaths.

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**c. *OPCW Executive Council decision condemning Syria's use of chemical weapons***

On July 9, 2020, the United States applauded the OPCW Executive Council's adoption of a decision condemning Syria's use of chemical weapons in a State Department media note, available at <https://2017-2021.state.gov/united-states-applauds-organization-for-the-prohibition-of-chemical-weapons-condemnation-of-syrian-regime-use-of-chemical-weapons/>. The media note further states:

Today's decision sets out clear measures for the Syrian government to take, among them: the declaration of facilities where chemical weapons used in the Ltamenah attacks were developed, produced, stockpiled, and stored for delivery; the declaration of its remaining chemical weapons stockpile and production facilities; and the resolution of the outstanding issues with its initial declaration. The Syrian regime's failure to fulfill these measures will result in a recommendation to the OPCW's full body, the Conference of States Parties, to take further action.

**d. *Anniversary of Attack in Ghouta***

On August 21, 2020, the State Department issued a press statement on the anniversary of the Assad regime's chemical weapons attack in Ghouta. The press statement is available at <https://2017-2021.state.gov/anniversary-of-assads-brutal-chemical-weapons-attack-on-ghouta/> and excerpted below.

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...In the early morning hours of August 21, 2013, in the Damascus suburbs of Ghouta, the Assad regime killed more than 1,400 Syrians, many of them children, with the chemical agent sarin.

The United States estimates—conservatively—that the Assad regime has used chemical weapons on its own people at least 50 times since the conflict began. On this day we remember and honor all of the victims of Assad’s chemical weapons attacks.

The United States remains determined to drive chemical weapons use to zero and hold the Assad regime accountable for the Ghouta attacks and the many other heinous acts it has perpetrated against the Syrian people, some of which rise to the level of war crimes and crimes against humanity.

The United States and other responsible nations took unprecedented action last month at the Organization for the Prohibition of Chemical Weapons (OPCW) by adopting a decision condemning Syria for its possession and use of chemical weapons and setting out measures Syria must take. Any failure by Syria to fulfill these measures by the deadline set will result in a recommendation to the OPCW’s full body, the Conference of States Parties, to take further action.

In addition, various authorities including Executive Order 13894 and the Caesar Syria Civilian Protection Act allow us to level travel restrictions and financial sanctions against those who enable the Assad regime to commit its litany of atrocities, including its use of chemical weapons. Yesterday, for example, we announced sanctions against six more of Assad’s financial, political, and military advisors. These are just some of the steps the United States is taking to promote accountability for the Assad regime and its enablers.

On this sobering day, we urge the international community to advance efforts to hold the Assad regime accountable for its heinous acts and to rid the world of the scourge of chemical weapons once and for all.

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**e. *September 10 Security Council briefing***

On September 10, 2020, Acting Deputy Permanent Representative to the UN Cherith Norman Chalet addressed the UN Security Council at a briefing on Syria’s use of chemical weapons. Her remarks are excerpted below and available at

<https://usun.usmission.gov/remarks-at-a-un-security-council-briefing-on-syria-chemical-weapons-via-vtc-2/>.

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In 2013, this Council adopted Resolution 2118 welcoming the Framework for Elimination of Syrian Chemical Weapons. That Framework expressed the U.S. and Russian determination to “ensure the destruction of the Syrian chemical weapons program in the soonest and safest manner.” Further, the Framework set the first half of 2014 as the target date for completing elimination of all chemical weapons material and equipment.

Unfortunately, though, since the adoption of Resolution 2118, the Assad regime has used chemical weapons routinely and indiscriminately to instill fear and force any opposing populations to its knees. The regime's use of chemical weapons is well documented and confirmed by the former OPCW-UN Joint Investigative Mechanism and most recently the OPCW's Investigation and Identification Team. The regime's failure to comply with its international obligations related to the use of chemical weapons—including those obligations it undertook when it voluntarily became a party to the Chemical Weapons Convention and those obligations which are binding on Syria under Resolution 2118—poses a direct threat to the Syrian people and the prospect for a political resolution to the conflict in line with UN Security Resolution 2254.

As we have stated previously, the United States expresses its unequivocal condemnation of the use of chemical weapons, in Syria or anywhere else. This Council must act to enforce Resolution 2118—and step up to reinforce the norm against the use of chemical weapons to ensure that those who have used them are held to account.

This is the third opportunity for this Council to discuss the tragic and callous use of chemical weapons by the Assad regime since the OPCW adopted its decision to hold the regime accountable based on the damning findings of the Investigation and Identification Team.

We will continue to shine a light on these horrible events as the conflict in Syria has brought immeasurable suffering to the Syrian people. Over the past ten years, the Syrian people have experienced horrific atrocities, some of which rise to the level of war crimes and crimes against humanity, including the repeated use of chemical weapons. The United States condemns in the strongest possible terms the use of these weapons of mass destruction. This Council cannot tolerate the use of such weapons, and we must ensure that those responsible face serious consequences.

The Assad regime's failure to comply with its international obligations related to the use of chemical weapons poses a direct threat to the international community. Consistent with the OPCW's July decision, the Assad regime must cease its use of chemical weapons and fully cooperate with the OPCW, including its Investigation and Identification Team.

Let's ensure everyone is reminded of the seriousness in what we are discussing today. On August 21, 2013, the Syrian regime launched a horrific chemical attack with the nerve agent sarin on the opposition-controlled suburb of Ghouta in Damascus—leaving more than 1,400 Syrians dead, many of them children. Last month marked the seventh anniversary of this attack, and on that date the world remembered the many lives lost and the need to continue to stand against such cruel disregard for the international norms against the use of chemicals as weapons.

But again, let's remember that these are real people we're talking about. Real women, men, and children. Do you know what Sarin does to a human body? An article in the Atlantic from 2013 laid it out clearly. "The nose runs, the eyes cry, the mouth drools and vomits, and bowels and bladder evacuate themselves... Since sarin has no taste or smell, the person may very well have no idea what's going on. Their chest tightens, vision blurs. If the exposure was great enough, that can progress to convulsions, paralysis, and death within 1 to 10 minutes." A painful, quick, and undignified death. That's what Assad submitted his own people to in 2013.

Since 2013, the Syrian regime has continued to demonstrate blatant disregard for its international obligations by repeatedly carrying out chemical weapons attacks. The OPCW Investigation and Identification Team report, issued on April 8 of this year, concluded that the Syrian Arab Air Force was responsible for carrying out three chemical weapons attacks in late

March 2017, two sarin attacks and one chlorine attack, affecting over 100 people. The attacks took place just days before the attack on the nearby Khan Shaykhun in April 2017 that killed dozens of people. The OPCW-UN Joint Investigative Mechanism found the Assad regime was also responsible for the Khan Shaykhun attack.

The United States remains committed to a sustained campaign of economic and political pressure to deny the Assad regime the revenue and support it uses to bypass a UN-facilitated political settlement to the conflict by committing mass atrocities against the Syrian people. We reject the Assad regime's efforts to use such atrocities to silence its people's calls for reform and change. Last week, we continued our sanctions campaign against Assad's corrupt and brutal regime. These new sanctions memorialize the victims of Assad's chemical weapons attack on Ghouta seven years ago. And we continue to reject any false claim that U.S. sanctions adversely affect humanitarian efforts. We will not stop pressing for accountability and an enduring political solution to the Syrian conflict as called for in Resolution 2254.

Further, we will not stop pressing for Iran to leave Syria. Iran supports the Assad regime as the regime continues to devastate and destroy the lives of hundreds of thousands of its own citizens. Syria is one of many countries, like Lebanon, Yemen, and Saudi Arabia, where Iran sows chaos and devastation through its proliferation of weapons. Iran's destabilizing behavior is one of the reasons why we have chosen to trigger the re-imposition of UN sanctions on Iran. We call on our fellow Security Council members to join us in ensuring that Iran does not have access to even more potent weapons to cause even greater destruction.

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## **2. The Poisoning of Alexei Navalny**

### ***a. U.S. communication with Russian Ambassador***

On September 4, 2020, Deputy Secretary of State Stephen Biegun met with Russian Ambassador Anatoliy Antonov in Washington, D.C. to express U.S. concern about the poisoning of Russian opposition leader Aleksey Navalny by a chemical nerve agent from the "Novichok" group. See State Department Office of the Spokesperson readout, available at <https://2017-2021.state.gov/deputy-secretary-bieguns-meeting-with-russian-ambassador-antonov/index.html>. As summarized in the readout:

[Deputy Secretary Biegun] noted further that the use of this chemical weapon by Russia would be a clear violation of its obligations under the Chemical Weapons Convention. The Deputy Secretary urged Russia to cooperate fully with the international community's investigation into this attack.

### ***b. U.S. statement at the UN***

In her September 10, 2020 remarks at the Security Council, excerpted *supra*, Ambassador Chalet also addressed the Navalny poisoning. The portion of her remarks



addressing Russia is excerpted below (the remarks in full are available at <https://usun.usmission.gov/remarks-at-a-un-security-council-briefing-on-syria-chemical-weapons-via-vtc-2/>).

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Mr. President, I also want to say that we are deeply troubled by the findings released by the German government on September 2. Alexei Navalny's poisoning by a chemical weapon is completely reprehensible, and we condemn this action in the strongest possible terms. Any use of chemical weapons, anywhere, anytime, by anybody, under any circumstances whatsoever, is unacceptable and contravenes the international norms prohibiting the use of such weapons.

Russia has used chemical nerve agents from the "Novichok" group in the past. The Russian people have a right to express their views without fear of retribution of any kind. They should certainly not be subjected to chemical agents. Wherever the evidence leads, we will work with allies and the international community to hold perpetrators accountable, including through restricting funds for malign activities.

We call on Russia to be fully transparent and to bring those responsible to justice. We urge Russia to cooperate fully with the international community's investigation into this latest attack. Those responsible—both those who committed this attack and those who ordered it—must be held accountable.

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**c. G7 Foreign Ministers' Statement**

The foreign ministers of Canada, France, Germany, Italy, Japan, the United Kingdom and the United States of America and the High Representative of the European Union (the G7) issued a joint statement on September 8, 2020 regarding the poisoning of Alexei Navalny. The G7 statement follows and is available as a State Department media note, at <https://2017-2021.state.gov/g7-foreign-ministers-statement-on-the-poisoning-of-alexei-navalny/>.

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We, the G7 foreign ministers of Canada, France, Germany, Italy, Japan, the United Kingdom and the United States of America and the High Representative of the European Union, are united in condemning, in the strongest possible terms, the confirmed poisoning of Alexei Navalny.

Germany has briefed G7 partners on the fact that clinical and toxicological findings by German medical experts and a specialized laboratory of the German armed forces have determined that Mr. Navalny is the victim of an attack with a chemical nerve-agent of the "Novichok" group, a substance developed by Russia. Mr. Navalny is in intensive care in a Berlin



hospital and remains in a serious condition. Our heartfelt thoughts are with his family, and we hope for his full and speedy recovery.

Any use of chemical weapons, anywhere, anytime, by anybody, under any circumstances whatsoever, is unacceptable and contravenes the international norms prohibiting the use of such weapons. We, the G7 foreign ministers, call on Russia to urgently and fully establish transparency on who is responsible for this abhorrent poisoning attack and, bearing in mind Russia's commitments under the Chemical Weapons Convention, to bring the perpetrators to justice.

This attack against opposition leader Navalny is another grave blow against democracy and political plurality in Russia. It constitutes a serious threat to those men and women engaged in defending the political and civil freedoms that Russia herself has committed to guarantee. We call on Russia to fulfill its commitments under the International Covenant on Civil and Political Rights and to guarantee these rights, including the right to freedom of expression, to its citizens.

We will continue to monitor closely how Russia responds to international calls for an explanation of the hideous poisoning of Mr. Navalny. We remain strongly committed to our support for democracy, the rule of law and human rights in Russia and to bolster our support to the Russian civil society.

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**Cross References**

*Withdrawal from Open Skies Treaty*, **Ch. 4.B.3**

*Weapons in Outer Space*, **Ch. 12.B.4**

*Iran sanctions*, **Ch. 16.A.1**

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

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

*Nonproliferation sanctions*, **Ch. 16.A.9**

*Conventional weapons*, **Ch. 18.B**