

**UNITED STATES MISSION  
ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE**

**No. 2017/23**

**Note Verbale**

The Mission of the United States of America to the Organization for Security and Cooperation in Europe presents its compliments to all of the other Delegations and Permanent Missions to the OSCE, the Forum for Security Cooperation, and the Conflict Prevention Center, and has the honor to submit the United States of America's completed response, valid as of April 13, 2017 to the questionnaire on the Code of Conduct on Politico-Military Aspects of Security in accordance with Forum for Security Cooperation Decision 2/09.

The Mission of the United States of America to the Organization for Security and Cooperation in Europe avails itself of this opportunity to renew to all Delegations and Permanent Missions to the OSCE and the Conflict Prevention Center, the assurances of its highest consideration.

U.S. Mission to the OSCE  
Vienna, April 13, 2017

To all Permanent Delegations and Missions to the OSCE  
The Conflict Prevention Center

Vienna

## **Section I: Inter-state Elements**

### **1. Account of measures to prevent and combat terrorism**

***1.1: To which agreements and arrangements (universal, regional, sub-regional, and bilateral) related to preventing and combating terrorism is your State a party?***

The United States is a party to the following multilateral instruments currently in force related to States' responsibilities for preventing and combating terrorism:

- The Charter of the United Nations (1945);
- Convention on Offenses and Certain Other Acts Committed on Board Aircraft (Tokyo Convention, 1963);
- Convention for the Suppression of Unlawful Seizure of Aircraft (Hague Convention, 1970);
- Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Montreal Convention, 1971);
- Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons (1973);
- Convention on the Physical Protection of Nuclear Material (1979) and the Amendment to the Convention on the Physical Protection of Nuclear Material (2005). Once the 2005 Amendment entered into force on May 8, 2016, the convention was renamed the Convention on the Physical Protection of Nuclear Material and Nuclear Facilities);
- International Convention Against the Taking of Hostages (1979);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (1988);
- Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (1988);
- Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (1988);
- Convention on the Marking of Plastic Explosives for the Purpose of Identification (1991);
- International Convention for the Suppression of Terrorist Bombings (1997);
- International Convention for the Suppression of the Financing of Terrorism (1999);
- International Convention for the Suppression of Acts of Nuclear Terrorism (2005);
- Protocol of 2005 to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation; and
- Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf.

The United States is also party to the 1971 Organization of American States (OAS) Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion That Are of International Significance and the 2002 Inter-American Convention Against Terrorism.

The United States has signed, but not yet ratified, two other multilateral instruments related to counterterrorism (CT):

- Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation (2010); and
- Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft (2010).

In addition, the United States supports a broad range of international and national efforts to prevent and combat terrorist activities. These efforts are guided by, *inter alia*, the United Nations Global Counter Terrorism Strategy adopted by the General Assembly on September 8, 2006; applicable United Nations Security Council Resolutions (UNSCRs); the U.S. National Security Strategy; and the U.S. National Strategy to Combat Weapons of Mass Destruction.

In the aftermath of September 11, 2001, the United States, in accordance with the inherent right of individual and collective self-defense, collaborated with partner nations to take military action to prevent and deter further attacks on the United States and took actions to help counter the threat posed by international terrorism, including by deterring States from supporting, harboring, or acting in complicity with international terrorist groups.

The United States also actively participates in a number of bilateral and multilateral law-enforcement and CT agreements and arrangements for information sharing and cooperation. In connection with these efforts, coalition partners are also reviewing and improving domestic legislation in support of international conventions.

The United States has engaged in extensive bilateral and multilateral diplomatic and partnership activity to support U.S. efforts to counter terrorism and weapons of mass destruction (WMD) proliferation. Some of these fora and initiatives include:

The Global Coalition to Defeat Islamic State of Iraq and Syria (ISIS): The United States is leading a coalition of 68 nations to defeat ISIS. As part of the U.S. strategy and building on broader diplomatic efforts, there are multiple priorities, including: cut off ISIS's access to financing and funds; expose ISIS's true nature; support military operations, capacity building, and training; and address associated humanitarian relief and stabilization.

White House Summit to Counter Violent Extremism (CVE): Convened in February 2015, this event provided a venue for government, private sector, and civil society leaders to join forces around the efforts to undermine violent extremist ideology. The CVE Summit concluded with a Leaders' Summit to Counter ISIL and Violent Extremism on the margins of the United Nations General Assembly in late September 2015.

- Global Community Engagement and Resilience Fund (GCERF): The GCERF is a public-private partnership that supports community-level initiatives to strengthen resilience to terrorist radicalization and recruitment. The GCERF funds projects by local non-governmental organizations (NGOs) in Bangladesh, Mali, Nigeria, Kosovo, and Kenya, and has made approximately 20 such grants. To date, the GCERF has received \$35 million in funding and pledges from Australia, the European Union (EU), France, Japan, New Zealand, Norway, Qatar, Switzerland, the United Kingdom, and the United States. Additionally, the GCERF has launched a public-private partnership program that provides co-financing and technical expertise to companies investing in prevention projects.
  - Strong Cities Network (SCN): The SCN is the first global network of municipal officials and community groups focused on building resilience to, and preventing, terrorist radicalization and recruitment. The SCN currently has 90 member cities, including Beirut, Los Angeles, Mombasa, Paris, and Peshawar. The SCN features city exchanges, training workshops, and online resources. During 2016, the SCN trained more than 300 practitioners; supported the creation of ten city CVE action plans; and organized more than 20 city-to-city visits and longer exchanges. In 2017, sub-regional training activities are expected to reach more than 600 practitioners.
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- CVE City Exchange: Launched in 2011, the Department of State and the Department of Homeland Security (DHS) have collaborated on ten city exchanges between U.S. and Western European cities, with additional exchanges to include cities from East and West Africa, South and Southeast Asia, the Western Balkans, and Western Europe. This program enhances our foreign and domestic partners' ability to develop structures, enhance capabilities, and build resilience for communities that are vulnerable to radicalization to violence. As a direct result of a two-way exchange with Columbus (Ohio) in 2014, the number of foreign terrorist fighter departures from Vilvoorde (Belgium) to foreign conflict zones significantly dropped after the city made changes to its community engagement efforts.
  - Hedayah: Launched in late 2012, Hedayah is the Abu Dhabi-based international CVE training, dialogue, and research center. Hedayah has trained hundreds of law enforcement, government officials, and community leaders in community-oriented policing, counter-messaging, education, and other CVE approaches. With U.S. and other donor support, Hedayah is expanding its counter-ISIS messaging training and its technical assistance to governments on national CVE action plans; Hedayah has been substantially involved in the development or implementation of five such plans.
  - East Africa CVE Center and Counter-Messaging Hub: Started in 2016, the Center provides a platform for the regional Intergovernmental Authority on Development and for its Member States and other organizations to conduct training, research, and counter-messaging for government officials and civil society groups from Kenya, Somalia, and other East African countries.
  - The Global Counterterrorism Forum (GCTF): Since its launch in September 2011, the GCTF has contributed more than \$300 million to support national and regional efforts to strengthen civilian institutions to counter terrorism and violent extremism. This forum includes support for the development and implementation of GCTF framework documents at both the regional and country levels. The United Nations (UN) is a close partner of, and participant in, the GCTF and its activities. The GCTF serves as a mechanism for furthering the implementation of the universally accepted UN Global Counter-Terrorism Strategy and, more broadly, to complement and reinforce existing multilateral CT efforts, starting with those of the UN. The GCTF also partners with a wide range of regional multilateral organizations, including the Council of Europe, the Organization for Security and Cooperation in Europe (OSCE), the African Union (AU), and the Inter-Governmental Authority on Development (IGAD). The GCTF is working with partners around the globe to change how States – particularly those emerging from authoritarian rule – respond to the challenges of terrorism and violent extremism. The GCTF, with its 30 founding members, regularly convenes CT policymakers and practitioners, as well as experts from the UN and other multilateral and regional bodies, to identify urgent CT needs, devise solutions, and mobilize expertise and resources to address such needs and enhance global cooperation. With its primary focus on CVE and strengthening civilian criminal justice and other rule of law institutions that deal with terrorism, the GCTF aims to diminish terrorist recruitment and increase countries' capacity for dealing with terrorist threats within their borders and regions. In the past year, the GCTF launched two new initiatives. The "Protection of Soft Targets in a Counterterrorism Context Initiative," co-led by the United States and Turkey, seeks to raise awareness, identify challenges, leverage expertise and experiences, and develop new good practices on the protection of potential soft targets. The "Dialogue on Countering Foreign Terrorist Fighters and Radicalization to Violence in Central Asia" seeks to assist Central Asian States in addressing the challenge of countering foreign terrorist fighters and in implementing "The Hague—Marrakech Memorandum on Good Practices for a More Effective Response to the FTF Phenomenon," focusing on the Central Asia region.
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- The United Nations (UN): Sustained and strategic engagement at the UN on CT facilitates the United States' ability to create strategic partnerships and coalitions, to reinforce existing and establish additional global standards and norms, and to build the political will and capacities abroad that are needed to deter and respond to terrorism. In this regard, an important priority in 2016 was to support the UN Secretary-General's Plan of Action to Prevent Violent Extremism (PVE) and to encourage Member States to implement its 71 recommendations along seven key areas. A core recommendation of the PVE Plan is for Member States to consider developing national and regional PVE Action Plans, which the United States will continue to support, such that States can advise UN entities and other donors to initiate capacity-building assistance projects where they are needed.
  - The General Assembly continued to be engaged in facilitating international consensus to counter terrorism. In addition to other annual CT-related resolutions, the United States joined other Member States in reaffirming the UN Global Counter-Terrorism Strategy and discussed key trends in terrorism during its biennial review of the Strategy. The UN Global CT Strategy addresses drivers of the spread of terrorism to prevent and combat terrorism, to build States' capacity and strengthen the UN's role, and to advance human rights and rule of law. In that vein, the Human Rights Council convened a panel at its thirty-first session in March 2016 to discuss the human rights dimensions of preventing and countering violent extremism and adopted a resolution on the "Protection of Human Rights and Fundamental Freedoms While Countering Terrorism" in September 2016.
  - The United States actively engaged in discussions within the UN Security Council (UNSC) on a number of resolutions in 2016, including: UNSCR 2309 on aviation security, which called upon States to require that airlines operating in their territories provide advanced passenger information; UNSCR 2322 on improving mutual legal assistance regimes among UN Member States, including on sharing digital evidence; and UNSCRs 2325 and 2331, which focused on countering the threat of weapons of mass destruction and trafficking in persons, respectively, with a nexus to terrorism and terrorist financing.
  - In 2016, the United States continued to work closely with the UNSC 1267/1989/2253 ISIL (Da'esh) and Al-Qaida Sanctions Committee and its Monitoring Team by proposing listings and de-listings, providing amendments, engaging the Committee's Ombudsperson in reviewing de-listing requests, and providing input to the Committee to enhance its procedures and implementation of sanctions measures. The United States also assisted the Monitoring Team with information for its research and reports. There are 258 individuals and 75 entities on the Committee's sanctions list. In 2016, 20 individuals and one entity were added to the list. The Committee also worked to ensure the integrity of the list by conducting regular reviews and by endeavoring to remove those individuals and entities that no longer met the criteria for listing. Six individuals were de-listed, of which three individuals were de-listed following the submission of a petition through the Office of the Ombudsperson. In addition, one entity was delisted. The Committee also approved amendments to the existing sanctions list entries of 23 individuals and one entity.
  - Organization for Security and Cooperation in Europe (OSCE): The OSCE, enabled by U.S. support, promoted practical scenario-based multi-stakeholder seminars to enhance interagency and whole-of-society collaboration and to develop good practices to share at regional, national, and community levels. Seminars (in September 2016 in Durres, Albania, and in March 2016 in Jahorina, Bosnia and Herzegovina) helped build interagency coordination, promote whole-of-society collaboration, implement national CVE strategies, and develop action plans. The OSCE also adopted an Advance Passenger Information decision and a declaration on strengthening OSCE efforts to prevent and counter terrorism at its December 2016 Ministerial in Hamburg.
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- North Atlantic Treaty Organization (NATO): NATO's CT efforts focus on improving awareness of the threat, developing response capabilities, and enhancing engagement with partner countries and organizations. All NATO Allies participate in the Global Coalition to Counter ISIS. At the 2016 NATO Summit in Warsaw, Allied leaders agreed that NATO as an institution would provide direct Airborne Warning and Control System support to the Coalition's efforts; provide training and capacity-building support inside Iraq, while continuing to train hundreds of Iraqi officers in Jordan; provide logistical and intelligence support to EU naval forces conducting anti-trafficking operations in the Mediterranean; and Allies reaffirmed their commitment to provide training and capacity building support for Libya upon request and when conditions permit. In February 2016, NATO announced an initiative to create a NATO Istanbul Cooperation Initiative (ICI) Regional Centre in Kuwait City. This Center, which opened in January 2017, will serve as a hub for NATO's practical cooperation with Kuwait and other ICI partners (Bahrain, Qatar, and the United Arab Emirates), as well as with Saudi Arabia and Oman. NATO's CT efforts focus on improving awareness of the threat, developing response capabilities, and enhancing engagement with partner countries and organizations. In 2015, the North Atlantic Council and working-level NATO committees hosted representatives from the UN, GCTF co-chairs Turkey and the United States, and NGOs for discussions on the foreign terrorist fighter threat and lessons learned in countering violent extremism. The NATO Headquarters' Intelligence Unit now benefits from increased information sharing between member services and the Alliance, and produces analytical reports relating to terrorism and its links with other transnational threats.
  - Asia-Pacific Economic Cooperation (APEC): In 2016, APEC continued to implement its comprehensive Consolidated Counterterrorism and Secure Trade Strategy. The Strategy, adopted in 2011, endorsed the principles of security, efficiency, and resilience, and advocated for risk-based approaches to security challenges across its four cross-cutting areas of supply chains, travel, finance, and infrastructure. The United States sponsored a follow-on workshop that built on the lessons learned from a 2015 workshop that highlighted the threat that foreign terrorist fighter travel poses to the Asia-Pacific region and that explained why advance passenger information and passenger name record (API/PNR) systems are effective at helping mitigate that threat. In particular, the follow-on workshop illustrated how API/PNR data can improve the effectiveness of domestic terrorist watchlists.
  - Organization of American States' Inter-American Committee against Terrorism (OAS/CICTE): The OAS's Inter-American Committee Against Terrorism (CICTE) bolsters CT partnerships, cooperation, and information-sharing in the Western Hemisphere through promoting CT policies, training, and capacity building. In 2016, CICTE focused programs and activities on cyber and supply chain security as part of the OAS's long-standing work on critical infrastructure security and resilience. The 16th CICTE Regular Session took place in February 2016 in Washington, DC. The meeting brought together high-level experts and authorities from the region to discuss the use of the Internet for terrorist and criminal purposes, critical cyber-security considerations for the development of the economy and a digital society, and confidence-building measures in cyberspace.
  - The Proliferation Security Initiative (PSI): Since it was launched in 2003, 105 States have endorsed the PSI Statement of Interdiction Principles, expressing their commitment to stop trafficking of WMD, their delivery systems, and related materials to and from States and non-State actors of proliferation concern. Participants work to establish a more coordinated and effective basis through which to impede and stop WMD, their delivery systems, and related items. PSI-endorsing countries commit (1) to interdict transfers to and from States and non-State actors of proliferation concern to the extent of their capabilities and legal authorities; (2) to develop procedures to facilitate the exchange of information with other countries; (3) to
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strengthen national legal authorities to facilitate interdiction; and (4) to take specific actions in support of interdiction efforts. ([www.state.gov/t/isn/c10390.htm](http://www.state.gov/t/isn/c10390.htm)).

- The Global Initiative to Combat Nuclear Terrorism is an international partnership of 86 nations and five official observers committed to strengthening global capacity to prevent, detect, and respond to acts of nuclear terrorism. ([www.gicnt.org](http://www.gicnt.org)).
- The U.S. Export Control and related Border Security (EXBS) program – provides training, donates equipment, and facilitates exchange of best practices to help other governments establish sustainable national capabilities to detect, interdict, investigate, and prosecute illicit transfers of WMD, WMD-related items, and conventional arms.
- The U.S. Conventional Weapons Destruction (CWD) Program assists governments with reducing their stockpiles of excess or at-risk conventional weapons and munitions and securing retained stocks, combating illicit proliferation to terrorists. (<http://www.state.gov/t/pm/wra>).
- G8 Action Plan to Enhance Transport Security and Control of MANPADS. (<https://2001-2009.state.gov/t/pm/rls/othr/misc/82050.htm>).
- Wassenaar Arrangement initiatives to strengthen controls over MANPADS, resulting in the endorsement of such controls by more than 95 countries from 4 multilateral organizations (the Wassenaar Arrangement, OSCE, APEC, and OAS). ([www.wassenaar.org](http://www.wassenaar.org)).
- World Customs Organization SAFE Framework.
- International Maritime Organization International Ship and Port Security (ISPS) Code.
- The U.S.-Russia Arrangement on Cooperation in Enhancing Control of MANPADS. (<http://www.fas.org/asmp/campaigns/MANPADS/Statefactsheet24feb05.htm>).
- Numerous training and capacity-building programs including countering cash couriers, breaking terrorist abuse of charities, law enforcement training, border security, cyber security, critical infrastructure protection, as well as supporting civil society initiatives to empower women's roles in countering violent extremism and radicalization that lead to terrorism - via regional multilateral bodies such as the OSCE, OAS, APEC, ARF, and NATO.

***1.2: What national legislation has been adopted in your State to implement the above-mentioned agreements and arrangements?***

The United States has enacted domestic legislation to criminalize acts covered by the Conventions and Protocols, to assert U.S. jurisdiction over such acts, and to impose appropriate penalties for the commission of such acts.

Twenty-four bills and Joint Resolutions related to the attack of September 11, 2001, have been enacted into law, including:

- USA PATRIOT ACT of 2001 (Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism) as extended and amended by the USA Patriot Improvement and Reauthorization Act of 2005, and three additional provisions approved May 26, 2011;
  - Air Transportation Safety and System Stabilization Act;
  - Terrorist Bombings Convention Implementation Act of 2002;
  - Suppression of the Financing of Terrorism Convention Implementation Act of 2002;
  - Bioterrorism Response Act of 2001;
  - Agricultural Bioterrorism Protection Act of 2002;
  - Enhanced Border Security and Visa Entry Reform Act of 2002;
  - Intelligence Reform and Terrorism Prevention Act of 2004; and
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- A joint resolution to authorize the use of United States Armed Forces against those responsible for the recent attacks launched against the United States (2001).

In addition, the “Uniting and Strengthening America by Fulfilling Rights and Ensuring Effective Discipline Over Monitoring Act of 2015,” or the “USA FREEDOM Act of 2015,” was passed by the Senate on June 2, 2015, and signed into law by the President on the same day. The bill contained implementing legislation for the:

- 2005 Amendment to the Convention on the Physical Protection of Nuclear Material
- International Convention for the Suppression of Acts of Nuclear Terrorism (2005);
- Protocol of 2005 to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation; and
- Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf.

For further information about U.S. legislation initiatives, please visit:

<http://thomas.loc.gov/home/terrorleg.htm>.

***1.3:*** *What are the roles and missions of military, paramilitary and security forces and the police in preventing and combating terrorism in your State?*

The National Counterterrorism Center (NCTC) was established by Presidential Executive Order (E.O.) 13354 in August 2004, and is responsible for leading U.S. efforts to combat terrorism at home and abroad by analyzing the threat, sharing information with partners, and integrating all instruments of national power to ensure unity of effort.

The Department of Homeland Security (DHS) was created in January 2003 to protect the nation against threats, including terrorist attacks, to the U.S. homeland. DHS analyzes threats, guards U.S. borders and airports, protects critical infrastructure, and coordinates the national response in emergencies. DHS includes, inter alia, the following major components:

- The Directorate for National Protection and Programs, which works to advance the Department's risk reduction mission;
  - The Office of Intelligence and Analysis, which is responsible for assessing current and future threats to the United States through the use of multi-source intelligence;
  - The Office of Operations Coordination, which is responsible for monitoring the security of the United States on a daily basis and for coordinating activities within DHS and with governors, Homeland Security Advisors, law enforcement partners, and critical infrastructure operators in all 50 States;
  - The Federal Law Enforcement Training Center, which provides standardized, career-long training to enforcement professionals;
  - The Domestic Nuclear Detection Office, which works to enhance the nuclear detection efforts of Federal, State, territorial, tribal, and local governments, among others, and to ensure a coordinated response to such threats;
  - U.S. Customs and Border Protections (CBP), which is responsible for protecting U.S. borders from the infiltration of terrorists and terrorist weapons while facilitating the flow of legitimate trade and travel;
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- U.S. Immigration and Customs Enforcement (ICE), which is responsible for identifying and shutting down vulnerabilities to U.S. border, economic, transportation, and information security;
- The U.S. Coast Guard, which protects the public, environment, and U.S. interests in U.S. ports and waterways, along the coast and on international waters;
- The Federal Emergency Management Agency (FEMA), which prepares the United States for hazards and manages response and recovery efforts following any national incident; and
- The U.S. Secret Service, which protects the President and other high-level officials and investigates counterfeiting and other financial crimes, including computer-based attacks on U.S. financial, banking, and telecommunications infrastructure.

For further information on DHS, please review: <http://www.dhs.gov>.

The Federal Bureau of Investigation (FBI) is the lead U.S. law enforcement agency for investigating acts of domestic and international terrorism. The FBI relies on a vast array of partnerships across the United States and around the world to disrupt and defeat terrorists. For example, Joint Terrorism Task Forces (JTTFs) are teams of state and local law enforcement officers, FBI Agents, and other Federal agents and personnel who work shoulder-to-shoulder to investigate and prevent acts of terrorism. The Secretary of Defense may support the Attorney General (usually through the FBI) during an emergency situation involving WMD, including situations involving terrorism. Information on FBI activities can be found at: <http://www.fbi.gov/about-us/investigate/terrorism>.

The National Guard, along with the Naval Militia, is part of the organized militia reserved to the states by the Constitution of the United States under Article 1, Section 8. In peacetime, the National Guard is commanded by the governor of each respective state or territory. When ordered to active Federal duty or called into Federal service for emergencies, units of the National Guard are under the control of the appropriate Department of Defense (DoD) component. The National Guard supports homeland security and homeland defense at the state and Federal levels through a variety of critical roles. For specific functions and roles of the National Guard in preventing and combating terrorism, please visit: <http://www.nationalguard.mil/Features/2011/Homeland-Defense>.

U.S. Northern Command (USNORTHCOM) was established on October 1, 2002, to provide command and control of DoD homeland defense efforts and to coordinate defense support of civil authorities within its assigned Area of Responsibility (AOR). USNORTHCOM anticipates and conducts homeland defense and civil support operations to defend, protect, and secure the United States and its interests. USNORTHCOM's geographic AOR for the conduct of normal operations includes the air, land, and sea approaches to North America, the surrounding water out to approximately 500 nautical miles, the Gulf of Mexico, the Straits of Florida; and the Caribbean region inclusive of the U.S. Virgin Islands, British Virgin Islands, Puerto Rico, the Bahamas, and Turks and Caicos Islands. USNORTHCOM plans, organizes, and executes homeland defense and civil support missions, but has few assigned forces. USNORTHCOM is allocated forces whenever necessary to execute missions, as ordered by the President and Secretary of Defense. For more information on USNORTHCOM's role in preventing and combating terrorism, please visit: [www.northcom.mil](http://www.northcom.mil).

**1.4:** Provide any additional relevant information on national efforts to prevent and combat terrorism, e.g., those pertaining, *inter alia*, to:

**-- Financing of terrorism;**

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The U.S. Government has multiple authorities to counter the financing of terrorism. Under Section 219 of the Immigration and Nationality Act (INA), the Secretary of State has authority to designate an organization meeting certain statutory criteria as a Foreign Terrorist Organization (FTO). Any U.S. financial institution that becomes aware that it has possession of or control over funds in which a designated FTO or its agent has an interest must retain possession of or control over the funds and report the funds to the Office of Foreign Assets Control of the U.S. Department of the Treasury, and it is unlawful for a person in the United States or subject to the jurisdiction of the United States to knowingly provide "material support or resources" to or receive military-type training from or on behalf of a designated FTO. Representatives and members of a designated FTO, if they are aliens, are inadmissible to and, in certain circumstances removable from, the United States. To review the list of currently designated FTOs, please visit: <https://www.state.gov/j/ct/rls/other/des/123085.htm>.

The Department of State and the Department of Treasury share authority to designate individuals and entities under E.O. 13224. As a result of a designation under E.O. 13224, all property and interests in property of the designated individual or entity subject to U.S. jurisdiction are blocked and U.S. persons are generally prohibited from engaging in any transactions with the designated individual or entity. The United States implements its obligations under the UNSC 1267/1989/2253 ISIL (Da'esh) and Al-Qaida Sanctions Regime primarily through making designations under E.O. 13224. To review the consolidated list of all Department of State and Department of Treasury designations, please visit: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>.

To review the latest "Terrorist Assets Report to the Congress on Assets in the United States of Terrorist Countries and International Terrorism Program Designees," please visit: <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/terror.aspx>.

The United States also has mechanisms to take action against "State Sponsors of Terrorism." Designation of a country as a "State Sponsor of Terrorism" is carried out pursuant to three separate statutes. The legal standard for designation, which was harmonized by a 1989 law, is that the Secretary of State must determine that "the government of that country has repeatedly provided support for acts of international terrorism." Wide-ranging restrictions are imposed on States designated as State Sponsors of Terrorism. There are three States (Iran, Syria, and Sudan) currently designated as State Sponsors of Terrorism. For example, those countries that are designated as State Sponsors of Terrorism are prohibited under Section 40 of the Arms Export Control Act (AECA), as amended (22 U.S.C. 2781), from receiving exports of defense articles and defense services.

In addition, section 40A of the ACEA also prohibits the sale or license for export of defense articles and defense services to countries that the President determines and certifies to the U.S. Congress as not fully cooperating with U.S. antiterrorism efforts. Unlike State Sponsor of Terrorism designations, these determinations are made annually. Eritrea, Iran, North Korea, Syria, and Venezuela are currently determined to be not fully cooperating with U.S. antiterrorism efforts.

The United States has also worked to implement effectively the recommendations set out by the Financial Action Task Force (FATF), which is an inter-governmental, international policy-making body that sets standards and promotes the effective implementation of legal, regulatory, and operational measures for combating money laundering, terrorist financing, and other related threats to the integrity of the international financial system. To review the United States' 2016 FATF Mutual Evaluation, please visit: <http://www.fatf-gafi.org/countries/u-z/unitedstates/documents/mer-united-states-2016.html>.

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**-- Border controls:**

The U.S. Department of State works to disrupt terrorist networks through a variety of initiatives that enhance U.S. and our foreign partners' ability to detect terrorists and secure borders. Bilateral terrorism screening information sharing arrangements negotiated pursuant to Homeland Security Presidential Directive 6 (HSPD-6) strengthen our screening capabilities, while the Terrorist Interdiction Program (TIP)/Personal Identification Secure Comparison and Evaluation System (PISCES) provides partner countries border security assistance to limit terrorist mobility. In addition, the Department of State's Anti-Terrorism Assistance (ATA) program, which serves as the U.S. Government's premier CT capacity-building program for foreign law enforcement agencies in a wide range of areas, helps partner nations to detect and deter terrorist operations across borders and regions. ATA currently has active partnerships with more than 50 countries. The Department of State's Regional Strategic Initiative (RSI) establishes programs to build regional cooperation for constraining terrorist activities. Because terrorist groups often use porous borders and/or ungoverned areas between countries, bilateral responses to terrorism are insufficient. The Department of State created the RSI in order to encourage overseas missions to think about CT regionally, rather than solely bilaterally. RSI operates in key terrorist theaters of operation to assess the threat collectively, pool resources, and devise collaborative strategies, action plans, and policy recommendations. The Department of State has established eight RSI regions around the world.

In addition, the Department of State's Export Control and Related Border Security (EXBS) program provides assistance to more than 60 countries in developing their export control and border security capabilities designed to prevent WMD proliferation and destabilizing accumulations of conventional weapons. The EXBS program is active in countries that possess, produce, or supply sensitive items and materials, as well as countries through which such items are likely to transit. Drawing on the expertise of U.S. Government agencies, foreign government experts, the private sector, and academic community, EXBS provides training on detection, inspection, interdiction, and disposal of export-controlled items and donates state-of-the-art detection and inspection equipment to partner governments.

DHS has the primary responsibility for securing the United States from criminal or terrorist exploitation. Within the DHS, U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) are central to this mission.

CBP is the single, unified border enforcement agency of the United States charged with securing U.S. borders while simultaneously facilitating the flow of legitimate trade and travel. CBP has developed numerous initiatives to meet these twin goals, including the Western Hemisphere Travel Initiative, the Global Entry program, the Immigration Advisory Program, the Carrier Liaison Group, the Container Security Initiative/Secure Freight Initiative, and the Customs-Trade Partnership Against Terrorism. A summary of CBP actions and programs can be found at: <http://www.cbp.gov/newsroom/fact-sheets>.

ICE is responsible for identifying, investigating, and dismantling vulnerabilities regarding the nation's border, economic, transportation, and infrastructure security. As such, ICE is charged with the investigation and enforcement of more than 400 Federal statutes within the United States, in the interest of protecting the United States and upholding public safety by targeting the people, money, and materials that support terrorist and criminal activity. Examples include:

- Travel document security (i.e., passports);
  - Container and supply chain security;
  - Security of radioactive sources;
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- Legal cooperation, including extradition; and
- Eliminating safe havens and shelter for terrorists and terrorist organizations.

For more information on ICE programs, please visit: <http://www.ice.gov/jttf/>.

***-- The Internet and other information networks for terrorist purposes;***

The United States has approved a Comprehensive National Cyber Initiative, a National Strategy for Cyber Security, and a National Strategy for Trusted Identities in Cyberspace. Work on other national strategies addressing specific aspects of cyber security, including the use of the Internet for terrorist purposes or CVE online, is ongoing, including through the 2016 “Department of State and USAID Joint Strategy on Countering Violent Extremism”. The 2011 “Strategic Implementation Plan for Empowering Local Partners to Prevent Violent Extremism in the United States” (updated in 2016) established a White House-led Interagency Working Group to Counter Online Radicalization to Violence in 2012 that has been largely superseded by other interagency efforts to counter ISIS and other terrorists. An International Strategy for Cyberspace was released in May 2011, and the United States has been engaging international partners in both bilateral and multilateral fora on the issues involved in addressing illegal activity on the Internet while protecting human rights such as freedom of expression, as well as the free flow of information, and a free and open Internet.

Under 18 U.S.C. 842(p), Distribution of Information Relating to Explosives, Destructive Devices, and Weapons of Mass Destruction, the United States can prosecute individuals who distribute bomb-making information (via the Internet or other method) knowing or intending that the information would be used for a Federal crime of violence such as a terrorist attack. U.S. law enforcement does not seek to compel the removal of internet content unless it clearly violates U.S. law (for example, child pornography), and content that promotes an ideology or belief does not typically constitute a violation of U.S. law. The removal of content that does not violate U.S. law is at the discretion of internet and social media companies. U.S. efforts to counter terrorists’ communications online focus on creative and voluntary partnerships with key stakeholders such as civil society and communities, as well as the private sector. Private companies may choose voluntarily to remove terrorist websites or social media accounts with content that violates their user service agreements and have been proactively and aggressively addressing terrorist content on their platforms. In line with our views that alternative viewpoints are often a more effective response to objectionable speech (that does not violate U.S. law) than suppression of that speech, we also counter violent extremists’ propaganda on the Internet by contesting terrorist narratives and worldviews through competitive or alternative messages.

The Global Engagement Center (GEC) is an interagency coordinating body within the Department of State which applies a data-science driven approach to countering foreign state and non-state propaganda and disinformation. The GEC, in coordination with the interagency, also identifies and cultivates a network of partners whose voices resonate with at-risk populations. The GEC conducts on-the-ground training sessions to enable these partners to develop their own content and disseminate it through their distribution networks. The GEC and its partners inject factual content about terrorist organizations into the information space to counter radicalization to violence and recruitment. The Department of State established the GEC in 2016, replacing the Counterterrorism Strategic Communications Center (CSCC), which was established in 2011.

**2. Stationing of armed forces on foreign territory**

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***2.1:*** *Provide information on stationing of your States armed forces on the territory of other participating States in accordance with freely negotiated agreements as well as in accordance with international law.*

The United States continues to deploy forces in many locations throughout the world, both bilaterally and within an alliance context. The United States is a party to multilateral and bilateral status of forces agreements (SOFAs) with more than 100 nations, each freely entered into by the host nations.

The United States has continued to play a key role in the Partnership for Peace (PfP) program. The Agreement Among the States Parties to the North Atlantic Treaty and the other States Participating in the Partnership for Peace regarding the Status of their Forces (the PfP SOFA opened for signature in Brussels June 19, 1995) provides status protections and authorizations that enable the forces of countries participating in the PfP program to be stationed on the territories of other participating States, and to join in combined exercises and training. Other agreements to be specially noted include the SOFAs under the Dayton Peace Accords between NATO and Bosnia and Herzegovina, which contain provisions prescribing the status of NATO personnel who are supporting the ongoing peacekeeping missions in Bosnia and Herzegovina. In regard to Kosovo, the NATO-led Kosovo Force (KFOR) was established by UNSCR 1244 to provide, inter alia, for the establishment of a safe and secure environment in Kosovo. The United Nations Mission in Kosovo (UNMIK), created pursuant to Resolution 1244 to provide an interim administration for Kosovo, promulgated UNMIK Regulation 2000/47, prescribing the status and privileges and immunities of KFOR and its personnel.

Kosovo declared independence on February 17, 2008. In its Declaration of Independence, Kosovo reaffirmed "that NATO retains the full capabilities of KFOR in Kosovo." Kosovo has also committed to respect the responsibilities and authorities of the international military presence pursuant to UNSCR 1244 and the Ahtisaari Plan, including the status, privileges, and immunities currently provided to KFOR under UNMIK Regulation 2000/47.

The United States has entered into a number of additional SOFAs to enable the presence of U.S. forces in many locations and to facilitate their activities in the continuing armed conflict against al-Qaida, the Taliban, and associated forces. These agreements are consistent with the agreements noted above.

SOFAs are critical to the success of all manner of combined activities, including training, peacekeeping, and humanitarian assistance. They commonly address such issues as the right to wear uniforms and bear arms, legal jurisdiction over visiting forces, exemption from customs and taxes, provision for the use of military camps and training areas, and liability for and payment of claims.

### **3. Implementation of other international commitments related to the Code of Conduct**

***3.1:*** *Provide information on how your State ensures that commitments in the field of arms control, disarmament and confidence- and security-building as an element of indivisible security are implemented in good faith.*

Robust verification, compliance, and implementation are essential to maintaining and strengthening the integrity of arms control, nonproliferation, and disarmament regimes. In this regard, the Department of State's Bureau of Arms Control, Verification and Compliance (AVC) leads the Department of State in many matters related to the implementation of certain international arms control, nonproliferation, and disarmament agreements and commitments. For nonproliferation treaties such as the Nuclear Non-

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Proliferation Treaty (NPT) and nuclear weapon free zone (NWFZ) treaties and their protocols, and for nonproliferation regimes such as the Nuclear Suppliers Group (NSG), the Missile Technology Control Regime (MTCR), the Australia Group, and the Wassenaar Arrangement, the Bureau of International Security and Nonproliferation (ISN) is the Department of State's lead. These two bureaus (i.e., AVC and ISN) share responsibilities that include staffing and managing treaty implementation commissions and review conferences, creating negotiation and implementation policy for agreements and commitments, and developing policy for future arms control, nonproliferation, and disarmament arrangements.

AVC also ensures that appropriate verification requirements and capabilities are fully considered and properly integrated throughout the development, negotiation, and implementation of most arms control, nonproliferation, and disarmament agreements and commitments and ensures that other countries' compliance is carefully watched, rigorously assessed, appropriately reported, and resolutely enforced. ISN has similar responsibilities for the NPT, for which much of the compliance is undertaken via our work with the International Atomic Energy Agency (IAEA), and nonproliferation regimes. AVC and ISN are also responsible for preparing and vetting multiple reports to Congress, such as the President's annual report to Congress on "Adherence to and Compliance with Arms Control, Nonproliferation, and Disarmament Agreements and Commitments." AVC is further required to prepare verifiability assessments on proposals and agreements, and to report about these assessments to Congress as required.

DoD commitments to arms control are outlined in DoD Directive 2060.1. It is DoD policy that all DoD activities shall be fully compliant with arms control agreements to which the United States is a party. The Under Secretary of Defense for Acquisition, Technology, and Logistics oversees implementation of, and provides guidance through appropriate chains of command for, planning and execution throughout the DoD to ensure that all DoD activities fully comply with arms control agreements. The Under Secretary of Defense for Policy develops and coordinates DoD policies and positions on arms control implementation and/or compliance issues and represents the Secretary of Defense with coordinated DoD views in discussions, negotiations, meetings, and other interactions with representatives of foreign governments on issues concerning DoD implementation of, and compliance with, arms control agreements.

The Department of Justice formally established the National Security Division (NSD) in 2006 under the USA Patriot Act to foster improved coordination among prosecutors, law enforcement agencies, and the intelligence community, and to strengthen the effectiveness of the U.S. Government's CT efforts.

***3.2: Provide information on how your State pursues arms control, disarmament and confidence- and security-building measures with a view to enhancing security and stability in the OSCE area.***

AVC has responsibility for the negotiation and implementation of existing and prospective arms control agreements and security arrangements concerning conventional arms control agreements in the OSCE area, in particular: the Treaty on Conventional Armed Forces in Europe (CFE), the Vienna Document 2011 Confidence- and Security-Building Measures (CSBMs), the Treaty on Open Skies, and arms control elements of the Dayton Peace Accords. The Bureau also provides policy direction and administrative support to the Chief Arms Control Delegate in the U.S. Mission to the OSCE; support and personnel to NATO committees, including the NATO High-Level Task Force (HLTF) and the Verification Coordinating Committee; and for the promotion of CSBMs in regions of the world beyond Europe in connection with OSCE efforts to advance wider sharing of OSCE norms, principles, and commitments with Mediterranean and Asian partners.

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Additionally, the Department of State's Bureau of Political-Military Affairs (PM) contributes to implementation of a variety of arms control, disarmament, and confidence- and security-building measures in the OSCE area through assistance programs designed to demilitarize surplus, destabilizing, and excess conventional arms and ammunition at the request of OSCE participating States.

DoD makes certain that negotiations take place on the basis of accurate information about U.S. military forces to ensure that agreements are equitable and contain practical measures for enhancing military security in the OSCE area.

## **Section II: Intra-State elements**

### **1. National planning and decision-making process**

***1.1: What is the national planning and decision-making process in determining/approving military posture and defence expenditures in your State?***

National planning and decision-making in determining military posture begin at the highest level of the U.S. Government. The President signs the U.S. National Security Strategy (NSS), which expresses the President's vision and outlines goals that seek to enhance the security of the United States. The Secretary of Defense then uses the NSS to write the U.S. National Defense Strategy (NDS), which provides guidance on the DoD's goals and strategies for achieving the objectives in the NSS. The National Military Strategy (NMS), signed by the Chairman of the Joint Chiefs of Staff, supports the NSS, implements the NDS, and provides strategic guidance and military objectives for the Armed Services.

The U.S. Congress has power over the military budget, and it also has the power to enact legislation imposing substantive restrictions on the size and composition of U.S. military forces, consistent with the President's constitutional authorities.

Appropriations for U.S. military forces are determined through the legislative process and by executive branch implementation of U.S. laws. Early each year, the President submits a budget proposal that recommends the amounts of funds to be spent for particular military purposes. Congress then develops legislation that may or may not be consistent with the President's recommendations.

Once defense authorization and appropriations bills are passed by Congress, the President may sign them, allow them to become law without his signature, or veto them. A Presidential veto can be overridden only by a two-thirds majority in each house of Congress. Once the defense authorization and appropriations bills become law, the President generally implements them through DoD.

All phases of this process are conducted publicly, except for a very limited class of information related to particular programs that are classified in order to protect national security.

***1.2: How does your State ensure that its military capabilities take into account the legitimate security concerns of other States as well as the need to contribute to international security and stability?***

The Department of State seeks to build and sustain a more democratic, secure, and prosperous world composed of well-governed States that respond to the needs of their people, reduce widespread

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poverty, and act responsibly within the international system. The United States and other States are able to address many security concerns through the negotiation of arms control agreements and other security arrangements. The United States also promotes regional stability by building partnership capacity and strengthening partners and allies through security assistance programs.

DoD takes into account the security concerns of other States through the implementation of arms control agreements, and other arrangements that reflect the concerns of their States Parties. In addition, DoD reviews the acquisition of new weapons systems to ensure that their acquisition is consistent with U.S. obligations under arms control agreements. DoD actively manages its military activities and procurements to make sure that the United States is in full compliance with arms control agreements to which it is a Party.

On September 16, 2009, DoD issued Directive 3000.05 to update and establish DoD policy and to assign responsibilities within DoD for planning, training, and preparing to conduct and support stability operations. Stabilization efforts span the conflict continuum, ranging from preventive efforts in fragile states to deliberate efforts during military operations. Stability operations are an integrated civilian and military process applied in fragile and conflict affected areas outside the United States to establish civil security, address drivers of instability, and create conditions for sustainable stability – a condition characterized by local political systems that can peaceably manage conflict and change; effective and accountable institutions that can provide essential services; and societies that respect fundamental human rights and the rule of law. Stabilization efforts vary from place to place, and are frequently partnered with humanitarian assistance. Stabilization efforts often address civil security; rule of law; support to governance and civil society; and economic stabilization and critical infrastructure repair.

DoD coordinates relations with the Department of State's Bureau of Conflict and Stabilization Operations to enhance U.S. institutional capacity to focus on conflict prevention, crisis response, and stabilization activities. The core mission of this Bureau is to advance U.S. national security by driving integrated, civilian-led efforts to prevent, respond to, and stabilize crises in priority States, setting conditions for long-term peace.

The United States actively contributes to international security through its participation in international peacekeeping operations. Recent U.S. involvement in peacekeeping has included missions in: Mali, Central African Republic, Haiti, Democratic Republic of the Congo, Liberia, Tunisia, Israel, and South Sudan. The United States also supports UN peacekeeping operations through capacity-building programs with partner nations that contribute to peacekeeping missions.

In cooperation with the military forces of other nations, the U.S. Armed Forces assist nations to build their defense capacity against threats to stability, including transnational threats such as terrorism and the narcotics trade. Current military operations in Afghanistan and Iraq are examples of how the U.S. Armed Forces engage in activities across the spectrum from peace to conflict.

## **2. Existing structures and processes**

**2.1:** What are the constitutionally established procedures for ensuring democratic political control of military, paramilitary and internal security forces, intelligence services and the police?

Article II, section 1, of the Constitution of the United States provides that "the executive power" is vested in the President. Article II, section 2, further provides, "the President shall be Commander in

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Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States." This provision has been interpreted to mean that the President's authority as Commander in Chief extends to all the military forces of the nation, including the Air Force, the Marine Corps, and the Coast Guard.

Article I, section 1, provides that "all legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives." Article I, section 8 provides that among the powers of the Congress are the powers to lay and collect taxes, to provide for the common defense, to declare war, to raise and support armies, to provide and maintain a navy, to make rules for the government and regulation of the land and naval forces, to provide for calling forth the militia to execute the laws of the union, to suppress insurrections and repel invasions, and to provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States.

Although the President appoints senior civilian and military officials (including the promotion of senior military officers), such appointments are generally subject to the advice and consent of the Senate. For example, Section 113 of title 10, U.S. Code, requires the Secretary of Defense to be a civilian official and requires the President's appointment to be by and with the advice and consent of the Senate.

Also to be considered is review by the judicial branch. Under Article III, section 2, of the Constitution, "the judicial Power shall extend to all Cases ... arising under this Constitution, the Laws of the United States, and ... to Controversies to which the United States shall be a party." In this regard, the Supreme Court of the United States may hear appeals from the U.S. Court of Appeals for the Armed Forces in criminal cases under the Uniform Code of Military Justice (UCMJ). Lawsuits can be brought against the U.S. Government and the U.S. military in Federal district courts, subject to certain limitations (e.g., sovereign immunity). Courts may interpret the U.S. Constitution and duly enacted laws; resolve certain controversies over separation of powers, award money damages, and issue injunctions and writs of habeas corpus.

***2.2: How is the fulfillment of these procedures ensured, and which constitutionally established authorities/institutions are responsible for exercising these procedures?***

Congress has enacted the UCMJ, which empowers the President and the military chain of command to exercise effective discipline over the armed forces. The President has implemented this legislation in the Manual for Courts-Martial, which provides detailed rules on the conduct of judicial and non-judicial proceedings for all of the military departments. The exercise of this disciplinary power is also subject to independent judicial review by a civilian court, subject to the overall supervision of the U.S. Supreme Court.

Of special importance is the Posse Comitatus Act (18 U.S.C. 1385), as implemented by the Secretary of Defense, which provides criminal penalties for anyone who uses the Armed Forces of the United States (active or the reserve components when acting under Federal authority) to conduct civilian law enforcement activities unless otherwise authorized by law to do so. This means that the U.S. Armed Forces ordinarily cannot be used as police to enforce civil laws in the United States. This does not include military law enforcement functions related to military personnel and DoD installations.

The basis and rules for the collection of intelligence and conduct of intelligence operations are clearly prescribed publicly by statute and executive orders. The statutory framework for U.S. intelligence is

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found in the National Security Act of 1947 (50 U.S.C. 401-504), as amended, including significant amendments establishing a new Director of National Intelligence, found in the Intelligence Reform and Terrorism Prevention Act of 2004. The National Security Act of 1947 established the National Security Council and the Central Intelligence Agency, authorizes DoD to conduct certain intelligence activities, and establishes funding rules, accountability to civilian leadership, and congressional oversight. Among other things, the National Security Act requires that certain congressional committees be kept fully and currently informed of U.S. intelligence activities. The key Executive Order in this regard is E.O. 12333, dated December 4, 1981, as amended by E.O. 13355, dated August 27, 2004; and E.O. 13470, dated July 30, 2008. There are also numerous legislative provisions that protect privacy and access to information.

***2.3: What are the roles and missions of military, paramilitary and security forces, and how does your State control that such forces act solely within the constitutional framework?***

The U.S. Armed Forces are at all times subject to the civilian control and authority of the President and the Secretary of Defense. Congress also exercises its legislative authority to regulate the Armed Forces. The exact division of authority between the President and the Congress is a matter of frequent debate, but it is clear that the Armed Forces are at all times subject to the collective authority of the elected and appointed officials of the Executive Branch and the elected officials of the Legislative Branch of the U.S. Government.

The members of the National Guard are under the authority of the governors of their states when not in Federal service. When in Federal service under U.S. law, the members of the National Guard have the same status as members of the regular Armed Forces, for all practical purposes. Members of the reserve forces are subject to the same conditions of service as members of the regular Armed Forces when they are called to active duty. The importance of the reserves and the National Guard has greatly increased, as they have been regularly called up for duty for military installation security, peacekeeping, and other military operations. This is particularly significant in specialized areas such as civil affairs and military policing where the military personnel with these needed skills are concentrated primarily in reserve and National Guard units.

The Federal Government agencies involved in protection of the internal security of the United States include, inter alia, the FBI and the U.S. Marshals Service within the Department of Justice; the Secret Service, ICE, and the Coast Guard within DHS (except when the latter is operating as a specialized service under the Navy in time of war or when directed by the President: by statute, the Coast Guard is a military service and branch of the Armed Forces). Each of these agencies is under the authority of the President and cabinet officers appointed by the President with the advice and consent of the Senate. Relevant committees of the Congress exercise oversight of these Federal agencies. In cases where these agencies work in concert with active Armed Forces, it is normal to draw up a memorandum of understanding to provide for respective responsibilities and financial arrangements. In some cases the civilian agencies may request support that the active Armed Forces may provide on a reimbursable basis.

The intelligence services of the United States operate under the direction and oversight of the President and senior officials appointed by the President. They are also subject to congressional intelligence oversight.

State and local police forces are subject to the control of elected executive officials and legislative officials of elected state and local governments, and to the judicial review of the courts.

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Many of the specific statutes that apply to DoD are contained in Title 10 of the United States Code, which prescribes the functions of DoD, its powers, and its key officials. It establishes the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the reserve components and their inter-relationships. Special rules provide for military support to civilian law enforcement agencies (chapter 15), humanitarian and other assistance to foreign countries (chapter 20), DoD intelligence matters (chapter 21), and the UCMJ (chapter 47). Title 10 also includes provisions pertaining to training, pay, procurement, and financial accountability. There are statutory positions such as the General Counsel of the DoD, and the General Counsel of the Departments of the Army, Navy, and Air Force, and the Judge Advocates General of the Departments of the Army, Navy, and Air Force, who ensure provision of proper legal advice, reviews of programs and operations, and oversight. Also of particular importance is DoD Directive 5500.07, "Standards of Conduct," dated November 29, 2007, and the Joint Ethics Regulation (JER) that implements it. These directives apply to all DoD personnel and establish rules to implement the principle of public service as a public trust, and to ensure that U.S. citizens can have complete confidence in the integrity of DoD and its employees. These directives cover the areas of conflicts of interest, political activities, use of benefits, outside employment, financial disclosure, and training. Federal law also has established the Offices of Inspectors General. DoD and the separate Military Departments have independent Inspectors General who conduct inquiries into allegations of fraud, waste, and abuse. Further, the Inspectors General review current organizational matters and provide advice to the civilian and military leadership on whether there are better or more efficient ways to obtain the same or better results. With regard to Standards of Conduct, the United States participates in exchanges with many countries regarding military legal matters. Standards of conduct are part of the discussions during such exchanges. U.S. military personnel continue to meet with military and civilian officials in other countries to discuss military personnel issues and standards of conduct for military and civilian defense personnel. Uniformed legal personnel have visited countries in Eastern Europe, South America, Africa, and Asia to provide lectures and instruction on discrete legal topics.

### **3. Procedures related to different forces personnel**

***3.1:*** *What kind of procedures for recruitment and call-up of personnel for service in your military, paramilitary and internal security forces does your State have?*

Procedures for recruitment for the regular Armed Forces and their reserve and National Guard components are established by statute. Although authority for compulsory recruitment ("the draft") still exists, it has not been exercised since 1973. Since that time all recruitment into the U.S. Armed Forces has been on a voluntary basis. The minimum age for enlistment in the Armed Forces is 18 years, or at age 17 with parental consent. Discrimination in recruiting on grounds of race, religion, gender, sexual orientation, or ethnic origin is prohibited. U.S. law establishes conditions under which the President has the authority to order members of the reserve and National Guard to active duty.

On May 25, 2000, the United Nations General Assembly adopted an Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict that requires States Parties to raise the minimum age for voluntary recruitment into their national armed forces to an age greater than 15 years and commits States Parties to take all feasible measures to ensure that members of their armed forces under age 18 do not take a direct part in hostilities. The Protocol also bars compulsory recruitment below age 18. The United States signed the Optional Protocol on July 5, 2000, and became a party to the Optional Protocol on December 23, 2002. The United States declared at that time that

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the minimum age for voluntary recruitment into the Armed Forces was 17. The United States also provided the following understanding:

"...with respect to Article 1 of the Protocol

(A) the term "feasible measures" means those measures that are practical or practically possible, taking into account all the circumstances ruling at the time, including humanitarian and military considerations;

(B) the phrase "direct part in hostilities"-

(i) means immediate and actual action on the battlefield likely to cause harm to the enemy because there is a direct causal relationship between the activity engaged in and the harm done to the enemy; and (ii) does not mean indirect participation in hostilities, such as gathering and transmitting military information, transporting weapons, munitions, or other supplies, or forward deployment; and

(C) any decision by any military commander, military personnel, or other person responsible for planning, authorizing, or executing military action, including the assignment of military personnel, shall only be judged on the basis of all the relevant circumstances and on the basis of that person's assessment of the information reasonably available to the person at the time the person planned, authorized, or executed the action under review, and shall not be judged on the basis of information that comes to light after the action under review was taken."

**3.2:** *What kind of exemptions or alternatives to military service does your State have?*

As indicated above, no individual has been compelled to enter military service since 1973. Existing statutes authorizing compulsory service provide an exemption from service for persons who have conscientious objections to any military service. They also provide for assignment to noncombatant duties for those who do not object to all military service, but who have conscientious objections to performing combatant duties. Individuals whose conscientious objections crystallize after they have entered military service may be honorably discharged administratively.

**3.3:** *What are the legal and administrative procedures to protect the rights of all forces personnel as well as conscripts?*

The UCMJ provides procedural guarantees for courts-martial that are similar to the rights enjoyed by defendants in the civilian criminal courts, and in some respects exceed civilian standards (e.g., counsel is provided without cost for both trial and appellate proceedings). Both military judges and defense counsel are assigned to separate commands reporting to the Office of their respective Military Department Judge Advocates General (or for Marine Corps defense counsel to the Staff Judge Advocate to the Commandant of the Marine Corps) in Washington, DC, to prevent any inference of command influence on their performance of duty. The court-martial system has an appellate system that allows those convicted of serious offenses to seek review of their cases by the U.S. Court of Appeals for the Armed Forces, whose five civilian members are appointed by the President with the advice and consent of the Senate and provide independent civilian review of the military justice system. In accordance with Federal law, the U.S. Supreme Court may also review convictions by courts-martial to ensure that defendants were not denied any constitutional rights and that the proceedings were not contrary to law.

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Administrative proceedings are conducted in accordance with procedures and standards established by Congress and the President, and Federal courts are available to review claims of unfairness or illegality in such proceedings. Federal statutes guarantee the right of military personnel to file complaints with the Inspector General of their Military Department and with the Inspector General of DoD, and to communicate freely with members of Congress. DoD policies permit military personnel to exercise their religion freely, to participate in certain political activities during non-duty time and in their personal capacity, and to vote in elections on the same basis as other citizens.

Also available to military personnel and their families is an extensive legal assistance program that provides legal advice and services in regard to wills and powers of attorney, matrimonial matters, debt issues, and taxes. This support is especially important to military personnel deploying on overseas missions and to the families who remain behind. Military personnel being deployed on overseas missions receive as part of their deployment processing a review of the documents and legal issues that would be important to them while away from their families. There is also a program to ensure that military personnel are aware of their right to vote, and that assistance is given in applying for and mailing absentee ballots.

#### **4. Implementation of other political norms, principles, decisions and international humanitarian law**

***4.1:** How does your State ensure that International Humanitarian Law and Law of War are made widely available, e.g., through military training programmes and regulations?*

DoD Directive 2311.01E (DoD Law of War Program) provides DoD policies and responsibilities ensuring DoD compliance with the Law of War obligations of the United States. Among other elements, the Directive requires the heads of the DoD components to institute and implement effective programs to prevent violations of the Law of War, including through Law of War training and dissemination. The DoD components have established training and dissemination programs under which (1) all persons entering the U.S. Armed Services receive general training on the Law of War; (2) individuals receive specialized Law of War training commensurate with their duties and responsibilities (e.g., ground combatants, aircrew, naval personnel, military police, religious personnel, and medical personnel); (3) refresher training is provided as appropriate; and (4) Law of War topics are included in exercises and inspections.

Although all of the Military Departments have previously published many respected works on the Law of War, which have served as valuable resources for their personnel, DoD published the DoD Law of War Manual in 2015. The purpose of the manual is to provide information on the Law of War to DoD personnel responsible for implementing the Law of War and executing military operations. The manual was the result of a multi-year effort by military and civilian lawyers from across DoD to develop a department-wide resource on the Law of War for military commanders, legal practitioners, and other military and civilian personnel. The manual has been updated twice since 2015 and will continue to be updated periodically. The manual is publicly available at: <http://ogc.osd.mil/>

***4.2:** What has been done to ensure that armed forces personnel are aware of being individually accountable under national and international law for their actions?*

For military personnel and units assigned to participate in peacekeeping and humanitarian operations, for example, units operating with KFOR in Kosovo or with the International Security Assistance Force (ISAF) in Afghanistan, special training is provided in the law of armed conflict rules that are particularly applicable to them. Training standards are coordinated within NATO to ensure that all participating nations are aware of relevant rules and standards. Such training is also practiced in multinational

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training exercises including PfP programs. Rules of engagement and operations plans are regularly reviewed by both national and NATO attorneys to ensure compliance with Member States' international legal obligations. Also of note is the requirement to provide training on human rights standards to all personnel deploying to countries in South and Central America. In addition, rigorous training programs continue for U.S. forces both in and outside the United States. The U.S. Armed Forces have vigorously applied Law of War training and principles during the current war against al-Qaeda, the Taliban, and associated forces. Despite new challenges and changing circumstances, applicable Law of War principles and rules are scrupulously applied. As noted in the January 29, 2009, Statement before the OSCE Permanent Council, steps have been taken to ensure observance of the Law of War by members of the armed forces.

**4.3:** *How does your State ensure that armed forces are not used to limit the peaceful and lawful exercise of human and civil rights by persons as individuals or as representatives of groups nor to deprive them of national, religious, cultural, linguistic or ethnic identity?*

Congress has enacted the UCMJ, which empowers the President and the military chain of command to exercise effective discipline over the Armed Forces. The President has implemented this legislation in the Manual for Courts-Martial, which provides detailed rules on the conduct of judicial and non-judicial proceedings for all of the Military Departments. The exercise of this disciplinary power is also subject to independent judicial review by a civilian court, and subject to the overall supervision of the U.S. Supreme Court.

Of special importance is the Posse Comitatus Act (18 U.S.C. 1385), as implemented by the Secretary of Defense, which provides criminal penalties for anyone who uses the military forces of the United States (active or the reserve components when acting under Federal authority) to conduct civilian law enforcement activities otherwise authorized by law to do so. This means that the U.S. military ordinarily cannot be used as police to enforce civil laws in the United States. This does not include military law enforcement functions related to military personnel and DoD installations.

**4.4:** *What has been done to provide for the individual service member's exercise of his or her civil rights and how does your State ensure that the country's armed forces are politically neutral?*

DoD Directive 1344.10, dated February 19, 2008, provides that members of the Armed Forces on active duty should not engage in partisan political activity. They are encouraged to vote, but may not be candidates for political positions. Members of the Armed Forces on active duty shall not participate in fundraising or campaign activities, rallies, or conventions. The requirements of the Directive are derived from appropriate provisions of the United States Code, including provisions that make certain prohibited conduct criminal offenses. Additionally, Title 10 Section 973 of the United States Code limits or prohibits active members of the Armed Forces from accepting employment and from holding or exercising the functions of a civil office in the U.S. Government.

**4.5:** *How does your State ensure that its defence policy and doctrine are consistent with international law?*

The United States ensures that its defense policy and doctrine are consistent with international law by having DoD policies, programs, orders, and operations reviewed by trained civilian and military lawyers at every level within DoD, from the DoD Office of the General Counsel to the judge advocates who serve in the field with military units. There are both civilian lawyers in each Military Department and military

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lawyers serving with commands at every level. Each Military Service -- Army, Navy, Air Force, Marine Corps -- has senior military lawyers responsible for ensuring that service lawyers are trained and qualified to advise commanders and their staffs.

### **Section III: Public access and contact information**

#### **1. Public access**

**1.1:** *How is the public informed about the provisions of the Code of Conduct?*

The Department of State's Bureau of Arms Control, Verification and Compliance's website provides a link to OSCE activities in the politico-military dimension, from which the public may access information about the Code of Conduct: <http://www.state.gov/t/avc/cca/index.htm>.

The Department of State's Bureau of European and Eurasian Affairs' website also provides a link to the OSCE homepage: <http://www.state.gov/p/eur/rt/osce/index.htm>.

**1.2:** *What additional information related to the Code of Conduct, e.g., replies to the Questionnaire on the Code of Conduct, is made publicly available in your State?*

The Department of State's Bureau of Arms Control, Verification and Compliance's website provides a link to U.S. responses to the Questionnaire and to OSCE activities in the politico-military dimension: <http://www.state.gov/t/avc/cca/c43834.htm>.

**1.3:** *How does your State ensure public access to information related to your State's armed forces?*

Information related to U.S. Armed Forces and defense is available to the public through the following official websites:

- Department of Defense: <http://www.defense.gov>
- Joint Chiefs of Staff: <http://www.jcs.mil>
- United States Army: <http://www.army.mil>
- United States Marines: <http://www.marines.mil>
- United States Navy: <http://www.navy.mil/index.asp>
- United States Air Force: <http://www.af.mil>
- United States Coast Guard: <http://www.uscg.mil>

#### **2. Contact information**

**2.1:** *Provide information on the national point of contact for the implementation of the Code of Conduct.*

The U.S. point of contact for implementation of the Code of Conduct is the Office of Euro-Atlantic Security Affairs, Bureau of Arms Control, Verification and Compliance, U.S. Department of State. For additional information, please visit: <http://www.state.gov/t/avc/cca/index.htm>, or email [AVC-ESA-DL@state.gov](mailto:AVC-ESA-DL@state.gov)

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## **Annex I: Implementation of UNSCR 1325 on Women, Peace, and Security**

The United States strongly supports implementation of UNSCR 1325 on Women, Peace, and Security. The U.S. National Action Plan on Women, Peace, and Security (NAP) and related Executive Order (E.O.) 13595, "Institutionalizing a National Action Plan on Women, Peace, and Security," were released on December 19, 2011. The goal of the NAP is as simple as it is profound: to empower half of the world's population to act as equal partners in preventing conflict and building peace in countries threatened and affected by war, violence, and insecurity. The United States believes that achieving this goal is critical to U.S. national and global security.

The NAP represents a government-wide effort to leverage U.S. diplomatic, defense, and development resources to improve the participation of women in peace and conflict prevention processes, protect women and girls from sexual and gender based violence (SGBV), and help ensure that women have full and equal access to relief and recovery resources. The plan builds upon the goals for gender integration described in the U.S. National Security Strategy and the 2010 Quadrennial Diplomacy and Development Review. The NAP is targeted at meeting the following five high-level objectives:

- **National Integration and Institutionalization:** Through interagency coordination, policy development, enhanced professional training and education, and evaluation, the U.S. Government will institutionalize a gender-responsive approach to its diplomatic, development, and defense-related work in conflict-affected environments.
- **Participation in Peace Processes and Decision-making:** The U.S. Government will improve the prospects for inclusive, just, and sustainable peace by promoting and strengthening women's rights and effective leadership and substantive participation in peace processes, conflict prevention, peacebuilding, transitional processes, and decision-making institutions in conflict-affected environments.
- **Protection from Violence:** The U.S. Government will strengthen its efforts to prevent and protect women and children from harm, exploitation, discrimination, and abuse, including SGBV and trafficking in persons, and to hold perpetrators accountable in conflict-affected environments.
- **Conflict Prevention:** The U.S. Government will promote women's roles in conflict prevention, improve conflict early-warning and response systems through the integration of gender perspectives, and invest in women and girls' health, education, and economic opportunity to create conditions for stable societies and lasting peace.
- **Access to Relief and Recovery:** The U.S. Government will respond to the distinct needs of women and children in conflict-affected disasters and crises, including by providing safe, equitable access to humanitarian assistance.

Above all, the NAP expresses the United States' unqualified commitment to integrating women and girls fully into our diplomatic, security, and development efforts – not simply as beneficiaries, but as agents of peace, reconciliation, development, growth, and stability. For additional information, please visit: <https://www.state.gov/s/gwi/programs>.

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