

of particular interest to Pacific Island states, such as those relating to climate change, trade and economic development, infrastructure, and security.<sup>35</sup>

#### INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW

##### *President Biden Issues Memorandum Requiring Assurances from Recipients of U.S. Military Aid and the State and Defense Departments Certify Israel's Compliance*

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Under pressure from members of Congress and the public concerned with civilian casualties and famine during Israel's military action in Gaza, President Joseph R. Biden, Jr., issued on February 8, 2024, a National Security Memorandum on safeguards and accountability with respect to defense articles and services (NSM-20).<sup>1</sup> NSM-20 does not create new obligations on the use of U.S.-provided defense articles. Instead, it establishes a transparency regime for the evaluation of recipient countries' compliance with existing legal obligations. It requires countries receiving U.S. arms to provide assurances that those arms are being used in accordance with international humanitarian law and that the recipient countries are not impeding U.S. humanitarian assistance in areas of armed conflict in which those weapons are being used. It also requires the secretaries of state and defense to report to Congress their assessments of those assurances. NSM-20 continues a series of initiatives by the Biden administration seeking to mitigate civilian harm in armed conflict.<sup>2</sup> The administration submitted its first NSM-20 report on May 10, concluding that Israel's (and other countries') assurances were "credible and reliable" despite "circumstances . . . that raise serious concerns."<sup>3</sup> While the president has repeatedly warned Israel about causing civilian harm in Gaza and paused one arms shipment,<sup>4</sup> he has not wavered in his support of Israel's use of force.<sup>5</sup> The United States has recently

<sup>35</sup> See White House Press Release, Fact Sheet: Enhancing the U.S.-Pacific Islands Partnership (Sept. 25, 2023), at <https://www.whitehouse.gov/briefing-room/statements-releases/2023/09/25/fact-sheet-enhancing-the-u-s-pacific-islands-partnership> [<https://perma.cc/KTE3-E5RQ>].

<sup>1</sup> See White House Press Release, National Security Memorandum on Safeguards and Accountability with Respect to Transferred Defense Articles and Defense Services (Feb. 8, 2024), at <https://www.whitehouse.gov/briefing-room/presidential-actions/2024/02/08/national-security-memorandum-on-safeguards-and-accountability-with-respect-to-transferred-defense-articles-and-defense-services> [<https://perma.cc/9BT4-H3H2>] [hereinafter NSM-20].

<sup>2</sup> See Jacob Katz Cogan, Contemporary Practice of the United States, 117 AJIL 330, 352 (2023) [hereinafter Cogan, Contemporary Practice]; Jacob Katz Cogan, Contemporary Practice of the United States, 117 AJIL 500, 501 (2023); Missy Ryan, *Biden Administration Will Track Civilian Deaths from U.S.-Supplied Arms*, WASH. POST (Sept. 13, 2023), at <https://www.washingtonpost.com/national-security/2023/09/13/state-department-chirg-civilian-deaths>.

<sup>3</sup> Report to Congress Under Section 2 of the National Security Memorandum on Safeguards and Accountability with Respect to Transferred Defense Articles and Defense Services (NSM-20) (May 2024), at <https://www.justsecurity.org/wp-content/uploads/2024/05/Report-to-Congress-under-Section-2-of-the-National-Security-Memorandum-on-Safeguards-and-Accountability-with-Respect-to-Transferred-Defense.pdf> [<https://perma.cc/4HQ4-NT5A>] [hereinafter NSM-20 Report].

<sup>4</sup> See Peter Baker, *Biden Puts Arms Shipment to Israel on Hold Amid Dispute Over Rafah Attack*, N.Y. TIMES (May 7, 2024), at <https://www.nytimes.com/2024/05/07/us/politics/israel-biden-arms.html>.

<sup>5</sup> See Jacob Katz Cogan, Contemporary Practice of the United States, 118 AJIL 338, 361 (2024).

appropriated billions of dollars of military assistance for Israel, continued (with that one exception) to transfer weapons, and authorized new arms sales.<sup>6</sup>

Israel's military incursion in Gaza, and the resulting humanitarian crisis, has spurred support in Congress, primarily among Democrats, for measures to ensure greater oversight of the operational use of U.S.-origin weapons.<sup>7</sup> As early as November 2023, members of Congress called for limits and conditions on military aid to Israel.<sup>8</sup> Senator Chris Van Hollen led a letter with twenty-five senators from the Democratic caucus asking President Biden "to inform [them] about what specific mechanisms [he is] putting in place to ensure that Israeli military operations conducted inside Gaza are carried out in accordance with international humanitarian law and to ensure that any U.S.-provided equipment is used in a manner consistent with U.S. law."<sup>9</sup> Since then, Senator Van Hollen has persistently urged the Biden administration to take action addressing the humanitarian crisis in Gaza. On February 1, 2024, the senator led another letter signed by twenty-four other senators urging the administration to work with Israeli officials "to significantly increase the amount of assistance entering Gaza."<sup>10</sup> Less than a week later, Senator Van Hollen with eighteen colleagues filed an amendment to the then-pending supplemental appropriations bill that included billions of dollars of military aid to Israel.<sup>11</sup> The amendment would have mandated that U.S. weapons provided under the supplemental were "used in accordance with international law, including international humanitarian law and the law of armed conflict, and United States law" and that the president obtain assurances "that the recipient country will cooperate fully with any United States efforts and United States-supported international efforts to provide humanitarian assistance to civilians in an area of conflict where United States defense articles or defense services are being used."<sup>12</sup> The amendment would also have required the president to provide a report to Congress that "assess[es] . . . whether [U.S.-provided] defense articles or defense services have been used in a manner consistent with international law, including

<sup>6</sup> See, e.g., Nancy A. Youssef & Jared Malsin, *Biden Moves Forward on \$1 Billion in New Arms for Israel*, WALL ST. J. (May 14, 2024), at <https://www.wsj.com/politics/national-security/biden-moves-forward-on-1-billion-in-new-arms-for-israel-844b761c>.

<sup>7</sup> There has long been congressional concern over civilian casualties caused by the U.S. armed forces and by foreign forces using U.S.-transferred weapons. See, e.g., Cogan, *Contemporary Practice*, *supra* note 2, at 352; Letter of Senators Warren, Sanders, and Lee to Secretary of Defense Lloyd J. Austin III (May 14, 2023), at <https://www.warren.senate.gov/imo/media/doc/Letter%20to%20DoD%20and%20DoS%20on%20Weapons%20Use%20Monitoring%20and%20Civilian%20Harm.pdf> [<https://perma.cc/T8NS-YDKA>].

<sup>8</sup> See Karoun Demirjian, *As Congress Weighs Aid to Israel, Some Democrats Want Strings Attached*, N.Y. TIMES (Nov. 29, 2023), at <https://www.nytimes.com/2023/11/29/us/politics/israel-aid-senate.html>.

<sup>9</sup> Letter from Senator Chris Van Hollen and Twenty-Five Additional Senators to President Joseph R. Biden, Jr. (Nov. 8, 2023), at [https://www.vanhollen.senate.gov/imo/media/doc/letter\\_to\\_president\\_biden\\_on\\_gaza.pdf](https://www.vanhollen.senate.gov/imo/media/doc/letter_to_president_biden_on_gaza.pdf) [<https://perma.cc/8L7U-TXBJ>].

<sup>10</sup> Letter from Senator Chris Van Hollen and Twenty-Four Additional Senators to President Joseph R. Biden, Jr. (Feb. 1, 2024), at [https://www.murphy.senate.gov/imo/media/doc/gaza\\_humanitarian\\_aid\\_letter.pdf](https://www.murphy.senate.gov/imo/media/doc/gaza_humanitarian_aid_letter.pdf) [<https://perma.cc/GLE6-B3MK>].

<sup>11</sup> See Office of Senator Chris Van Hollen Press Release, Van Hollen, Durbin, Kaine, Schatz & Colleagues File Amendment Requiring the Use of U.S. Supplemental Aid Comply with U.S., International Law (Feb. 7, 2024), at <https://www.vanhollen.senate.gov/news/press-releases/van-hollen-durbin-kaine-schatz-and-colleagues-file-amendment-requiring-the-use-of-us-supplemental-aid-comply-with-us-international-law> [<https://perma.cc/Z6VX-E7TY>]; S. Amdt. 1389, 118th Cong., 2d Sess., 170 CONG. REC. S454 (Feb. 7, 2024) [hereinafter Van Hollen Amendment]. The supplemental appropriations bill, absent the amendment, was subsequently enacted as Public Law 118-50 (Apr. 24, 2024).

<sup>12</sup> Van Hollen Amendment, *supra* note 11.

international humanitarian law and the law of armed conflict, United States law, . . . the standards contained in . . . [the] ‘United States Conventional Arms Transfer Policy,’ and ‘United States practices and mechanisms for minimizing civilian casualties.’”<sup>13</sup> The amendment prompted the White House to create its own initiative—NSM-20—in conjunction with Senator Van Hollen.<sup>14</sup>

NSM-20 established a mechanism to monitor whether transferred U.S. defense articles are used in accordance with civilian-protective rules, policies, and practices. NSM-20 requires the secretary of state to secure “credible and reliable written assurances” from foreign governments that receive defense articles<sup>15</sup> funded with congressional appropriations that they: (1) “will use any such defense articles in accordance with international humanitarian law and, as applicable, other international law”; and (2) “will facilitate and not arbitrarily deny, restrict, or otherwise impede, directly or indirectly, the transport or delivery of United States humanitarian assistance and United States Government-supported international efforts to provide humanitarian assistance” in “any area of armed conflict” where those articles are used.<sup>16</sup> Such assurances must be provided prior to the provision of defense articles or, for those already receiving defense articles, within forty-five days of the issuance of NSM-20 by recipient countries currently engaged in an active armed conflict and within 180 days by those who are not so engaged.<sup>17</sup> If the assurances are not provided, the transfer of defense articles “shall be paused until the required assurances are obtained.”<sup>18</sup>

If the secretary of state or secretary of defense deems the recipient country’s assurances not credible or reliable, then the secretary “shall report to the President . . . within 45 days of such assessment and shall indicate appropriate next steps to be taken to assess and remediate the situation.”<sup>19</sup> Potential remedies could range from “refreshing the assurances” to “suspending any further transfers.”<sup>20</sup> Several exceptions are written into NSM-20. The requirements do

<sup>13</sup> *Id.*

<sup>14</sup> See Office of Senator Chris Van Hollen Press Release, *Alongside Biden Administration, Van Hollen Announces National Security Memorandum to Ensure U.S. Security Assistance Is Used in Line with International Law* (Feb. 8, 2024), at <https://www.vanhollen.senate.gov/news/press-releases/alongside-biden-administration-van-hollen-announces-national-security-memorandum-to-ensure-us-security-assistance-is-used-in-line-with-international-law> [<https://perma.cc/THR6-HJ3U>] [hereinafter Van Hollen Announces NSM]; Jennifer Haberkorn, *Behind Biden’s Decision to Link Humanitarian Conditions with Military Aid*, POLITICO (Feb. 15, 2024), at <https://www.politico.com/news/2024/02/15/behind-bidens-decision-to-demand-humanitarian-conditions-on-military-aid-00141782>.

<sup>15</sup> NSM-20, *supra* note 1, Sec. 1(a). A “defense article,” for purposes of NSM-20, is “any weapon, weapons system, munition, aircraft, vessel, boat, or other implement of war; any property, installation, commodity, material, equipment, supply, or goods used for the purposes of making military sales; any machinery, facility, tool, material, supply, or other item necessary for the manufacture, production, processing, repair, servicing, storage, construction, transportation, operation, or use of any article listed in this paragraph, and any component or part” of any item listed above. *Id.*, Sec. 3 (incorporating the definition under the Arms Export Control Act, 22 U.S.C. § 2794(3)). NSM-20 also applies to the provision of defense services that either the secretary of state or secretary of defense “determines to be appropriate.” *Id.*, Sec. 1(e). A “defense service” is “any service, test, inspection, repair, training, publication, technical or other assistance, or defense information . . . used for the purposes of making military sales.” *Id.*, Sec. 3 (incorporating the definition under the Arms Export Control Act, 22 U.S.C. § 2794(4)). In the text, I will refer only to defense articles and not defense services.

<sup>16</sup> *Id.*, Sec. 1(a).

<sup>17</sup> *Id.*, Sec. 1(c).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*, Sec. 1(b).

<sup>20</sup> *Id.*

not apply to air defense systems, defense articles that “are intended to be used for strictly defensive purposes or are exclusively for non-lethal purposes other than in armed conflict,” or transfers that are for the Defense Department’s operational needs.<sup>21</sup> Additionally, the secretary of state or secretary of defense may waive the requirements in “rare and extraordinary circumstances” justified by national security.<sup>22</sup>

Within ninety days of NSM-20’s issuance, and annually thereafter, the secretaries of state and defense must provide a written report to Congress.<sup>23</sup> The report must include: (1) any new assurances obtained;<sup>24</sup> (2) an assessment of credible reports or allegations of defense articles being used contrary to international law and an outline of the procedures used to make the assessment;<sup>25</sup> (3) an evaluation of credible reports that indicate defense articles have been used contrary to “established best practices for mitigating civilian harm,” and the extent to which efforts to induce civilian harm mitigation best practices have been incorporated into the relevant U.S. security assistance program;<sup>26</sup> (4) an account of any situations where defense articles were not received by the intended recipient country, or were not being used with the intended purposes, and a description of remedies taken in those situations;<sup>27</sup> and (5) an evaluation of whether each recipient country has complied with its assurances, with § 620I of the Foreign Assistance Act (FAA), and with U.S. and international efforts to provide humanitarian assistance in the areas where the recipient country is using defense articles.<sup>28</sup>

NSM-20 did not, the White House emphasized, “impos[e] new standards for military aid.”<sup>29</sup> In practice, the United States has routinely required assurances, and the memorandum does not add to existing legal requirements.<sup>30</sup>

A month after President Biden issued NSM-20, Senator Van Hollen and twelve other senators wrote a letter to the president asking how the administration will “collect and analyze credible reports or allegations to make the assessments and determinations” required by NSM-20.<sup>31</sup> In the letter, Senator Van Hollen noted that, while NSM-20 creates “a novel enforcement mechanism,” if a recipient country violates its assurances, it “does not outline how the administration will determine if a country has violated an assurance and if there is a process in place to track its adherence to them.”<sup>32</sup>

<sup>21</sup> *Id.*, Sec. 1(d).

<sup>22</sup> *Id.*, Sec. (1)(f).

<sup>23</sup> *Id.*, Sec. 2(a).

<sup>24</sup> *Id.*, Sec. 2(a)(i).

<sup>25</sup> *Id.*, Sec. 2(a)(ii)–(iii).

<sup>26</sup> *Id.*, Sec. 2(a)(iv)–(v).

<sup>27</sup> *Id.*, Sec. 2(a)(vi).

<sup>28</sup> *Id.*, Sec. 2(a)(vii).

<sup>29</sup> White House Press Release, Press Briefing by Press Secretary Karine Jean-Pierre and Spokesman for the White House Counsel’s Office Ian Sams (Feb. 9, 2024), at <https://www.whitehouse.gov/briefing-room/press-briefings/2024/02/09/press-briefing-by-press-secretary-karine-jean-pierre-and-spokesman-for-the-white-house-counsels-office-ian-sams-february-9-2024> [<https://perma.cc/ZWA2-BE5V>].

<sup>30</sup> See White House, Report on the Legal and Policy Frameworks Guiding the United States’ Use of Military Force and Related National Security Operations, at 14 (Dec. 2016), at <https://perma.cc/LD5T-433G>.

<sup>31</sup> Letter to Secretary Blinken, Secretary Austin, and Director Haines from Senator Chris Van Hollen and Twelve Other Senators (Mar. 8, 2024), at [https://www.vanhollen.senate.gov/imo/media/doc/nsm\\_implementation\\_letter.pdf](https://www.vanhollen.senate.gov/imo/media/doc/nsm_implementation_letter.pdf) [<https://perma.cc/MSP6-R7HG>].

<sup>32</sup> *Id.* at 2.

Three days later, Senator Van Hollen and seven other senators sent another letter to President Biden asserting that Israel is not in compliance with the FAA.<sup>33</sup> In January 2024, Senator Van Hollen had asked State Department officials to explain why section 620I of the FAA has not been applied.<sup>34</sup> That section provides: “No assistance shall be furnished . . . to any country when it is made known to the President that the government of such country prohibits or otherwise restricts, directly or indirectly, the transport or delivery of United States humanitarian assistance.”<sup>35</sup> Following up on his January inquiry, Senator Van Hollen asserted that Israel’s interference with U.S. humanitarian operations violated Section 620I.<sup>36</sup> The eight senators “urge[d]” President Biden to make explicit to the Israeli government that failure to “immediately and dramatically” increase “humanitarian access and facilitate safe aid deliveries throughout Gaza will lead to serious consequences.”<sup>37</sup>

Israel submitted assurances on March 20, 2024.<sup>38</sup> Senator Van Hollen released a statement six days later requesting “clarity” on the Biden administration’s assessment of those assurances.<sup>39</sup> Specifically, he wanted to know whether Israel’s written assurances are “credible and reliable” as required by NSM-20.<sup>40</sup> Senator Van Hollen stated that if the Biden administration makes an assessment that Israel “has been and is currently in compliance” with NSM-20, then “their decision is totally detached from the reality on the ground” and “[s]uch a decision would wholly undermine the letter and the spirit behind NSM-20.”<sup>41</sup>

In its NSM-20 report to Congress, the administration presented country-by-country assessments of the assurances provided by Colombia, Iraq, Israel, Kenya, Nigeria, Somalia, and Ukraine, the countries currently engaged in an active armed conflict in which U.S. defense articles are used.<sup>42</sup> The report concluded: “While in some countries there have been circumstances over the reporting period that raise serious concerns, the USG currently assesses the assurances provided by each recipient country to be credible and reliable so as to allow the provision of defense articles covered under NSM-20 to continue.”<sup>43</sup> The bulk of the

<sup>33</sup> Letter to President Biden from Eight Senators on the Enforcement of Section 620I of the Foreign Assistance Act (Mar. 11, 2024), at <https://www.sanders.senate.gov/wp-content/uploads/Letter-to-President-Biden-on-enforcement-of-Section-620I-of-the-Foreign-Assistance-Act3.pdf> [<https://perma.cc/H9TK-BEX2>].

<sup>34</sup> See 170 CONG. REC. S885 (Feb. 12, 2024).

<sup>35</sup> 22 U.S.C. § 2378-1(a).

<sup>36</sup> Letter to President Biden from Eight Senators, *supra* note 33, at 1.

<sup>37</sup> *Id.*

<sup>38</sup> See Karen DeYoung & John Hudson, *U.S. to Review Israeli Assurances It Is Not Violating International Law*, WASH. POST (Mar. 20, 2024), at <https://www.washingtonpost.com/national-security/2024/03/20/israel-gaza-weapons-international-law>.

<sup>39</sup> Office of Senator Chris Van Hollen Press Release, Van Hollen Presses State Department for Clarity on NSM-20 (Mar. 26, 2024), at <https://www.vanhollen.senate.gov/news/press-releases/van-hollen-presses-state-department-for-clarity-on-nsm-20> [<https://perma.cc/J33P-8PDS>].

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> See NSM-20 Report, *supra* note 3, at 1–2.

<sup>43</sup> *Id.* at 2. Reportedly, the Department of State’s Bureau of Democracy, Human Rights, and Labor and the United States Agency for International Development recommended finding that Israel’s assurances did not satisfy the requirements of NSM-20. See Barak Ravid, *Blinken Report Expected to Criticize Israel, But Say It Isn’t Breaking Weapons Terms*, AXIOS (May 9, 2024), at <https://www.axios.com/2024/05/10/israel-gaza-us-weapons-congress-report-blinken>; Colum Lynch, *USAID Officials Say Israel Breached US Directive on Gaza Aid*, DEVEX (Apr. 26, 2024), at <https://www.devex.com/news/exclusive-usaid-officials-say-israel-breached-us-directive-on-gaza-aid-107545>.

report—fifteen of its forty-six pages—pertained to Israel. The report noted concerns with Israeli compliance with international humanitarian law. It also observed that “Israel has not shared complete information to verify whether U.S. defense articles covered under NSM-20 were specifically used in actions that have been alleged as violations of IHL or IHRL in Gaza, or in the West Bank and East Jerusalem.”<sup>44</sup> Nonetheless, while not drawing conclusions on any particular incident, the report stated that U.S.-provided defense articles were “likely to have been involved in incidents that raise concerns about Israel’s IHL compliance” and also that “it is reasonable to assess that defense articles covered under NSM-20 have been used by Israeli security forces since October 7 in instances inconsistent with its IHL obligations or with established best practices for mitigating civilian harm.”<sup>45</sup> Further, according to the report, the Intelligence Community “assesse[d] that Israel could do more to avoid civilian harm.”<sup>46</sup> The report also noted “numerous reports of civilian harm resulting from IDF operations during the reporting period, which raised serious questions with respect to whether Israel was upholding established best practices for mitigating civilian harm.”<sup>47</sup> The report pointed out that “[w]hile Israel has the knowledge, experience, and tools to implement best practices for mitigating civilian harm in its military operations, the results on the ground, including high levels of civilian casualties, raise substantial questions as to whether the IDF is using them effectively in all cases.”<sup>48</sup> The report found that “[w]hile the USG has had deep concerns during the period since October 7 about action and inaction by Israel that contributed significantly to a lack of sustained and predictable delivery of needed assistance at scale, and the overall level reaching Palestinian civilians—while improved—remains insufficient, [the United States] do[es] not currently assess that the Israeli government is prohibiting or otherwise restricting the transport or delivery of U.S. humanitarian assistance within the meaning of section 620I of the Foreign Assistance Act.”<sup>49</sup>

Commenting on the report, Senator Van Hollen asserted that it “largely fails to meet the mark of what NSM-20 requires.”<sup>50</sup> He stated: “The Administration created a tool to promote accountability but has come up very short in its implementation. When it comes to applying international law and human rights, you can’t cherry-pick the facts and the law. Today’s report also indicates a continuation of a disturbing pattern where the expertise and analyses of those working most closely on these issues at the State Department and at USAID have

<sup>44</sup> NSM-20 Report, *supra* note 3, at 20.

<sup>45</sup> *Id.* at 20, 22.

<sup>46</sup> *Id.* at 22.

<sup>47</sup> *Id.* at 25.

<sup>48</sup> *Id.* at 28.

<sup>49</sup> *Id.* at 31–32. According to Stacy Gilbert, a senior civil military adviser in the State Department’s Bureau of Population, Refugees and Migration who resigned in the wake of the report’s issuance, it was “the opinion of the humanitarian subject matter experts in the state department, and not just in my bureau” that Israel was blocking humanitarian assistance. Julian Borger, *US State Department Falsified Report Absolving Israel on Gaza Aid – Ex-Official*, *GUARDIAN* (May 30, 2024), at <https://www.theguardian.com/world/article/2024/may/30/stacy-gilbert-us-state-department-israel-gaza-aid>.

<sup>50</sup> Office of Senator Chris Van Hollen Press Release, Van Hollen Statement on Administration’s NSM-20 Report (May 10, 2024), at <https://www.vanhollen.senate.gov/news/press-releases/van-hollen-statement-on-administrations-nsm-20-report> [<https://perma.cc/9VXU-JUVP>].

been swept aside to facilitate a predetermined policy outcome based on political convenience.”<sup>51</sup>

*The UN General Assembly Adopts U.S.-Led Resolution on Safe, Secure, and Trustworthy Artificial Intelligence*

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The UN General Assembly has adopted without a vote a U.S.-led resolution “to promote safe, secure and trustworthy artificial intelligence systems to accelerate progress towards the full realization of the 2030 Agenda for Sustainable Development.”<sup>1</sup> Co-sponsored by over 120 member states,<sup>2</sup> the resolution—the Assembly’s first on artificial intelligence (AI)—calls for “inclusive and equitable access to the benefits of digital transformation and . . . artificial intelligence,” emphasizes the respect for human rights in the use of AI, and encourages the promotion of safe, secure, and trustworthy AI, including through domestic regulation.<sup>3</sup> The resolution establishes goals and principles but does not create rules, establish a process for drafting a binding international instrument, or propose any form of international AI governance.<sup>4</sup> Though there are many multilateral initiatives setting out principles concerning AI’s

<sup>51</sup> *Id.*

<sup>1</sup> See GA Res. 78/265, para. 2 (2024) [hereinafter AI Resolution]; U.S. Dep’t of State Press Release, United Nations General Assembly Adopts by Consensus U.S.-Led Resolution on Seizing the Opportunities of Safe, Secure and Trustworthy Artificial Intelligence Systems for Sustainable Development (Mar. 21, 2024), at <https://www.state.gov/united-nations-general-assembly-adopts-by-consensus-u-s-led-resolution-on-seizing-the-opportunities-of-safe-secure-and-trustworthy-artificial-intelligence-systems-for-sustainable-development> [<https://perma.cc/R4S3-M4BV>]. The phrase “safe, secure and trustworthy” used in the resolution’s title and text stems from a recent U.S. executive order. See text at note 6 *infra*. The resolution applies to the non-military domain. See AI Resolution, *supra* note 1, pmb. para. 6. For a discussion of U.S. diplomacy concerning AI in the military domain, see text at notes 45–46 *infra*. In July 2024, the General Assembly adopted without a vote a follow-up resolution sponsored by China and supported by the United States that focused on enhancing international cooperation on artificial intelligence capacity building in developing countries. See GA Res. 78/311 (2024).

<sup>2</sup> See U.S. Mission to the UN Press Release, Remarks by Ambassador Thomas-Greenfield at the UN Security Council Stakeout Following the Adoption of a UNGA Resolution on Artificial Intelligence (Mar. 21, 2024), at <https://usun.usmission.gov/remarks-by-ambassador-thomas-greenfield-at-the-un-security-council-stakeout-following-the-adoption-of-a-unga-resolution-on-artificial-intelligence> [<https://perma.cc/KJZ4-S5K3>] [hereinafter Thomas-Greenfield Remarks]. UN High Commissioner for Human Rights Volker Türk anticipates significant benefits from AI, stating recently: “Unprecedented advances in digital technology, including generative Artificial Intelligence, offer us previously unimaginable opportunities to move forward on the enjoyment of human rights and contribute to rescuing the 2030 Agenda.” Office of the High Commissioner for Human Rights, Human Rights: A Path for Solutions (2024), at <https://www.ohchr.org/sites/default/files/documents/aboutus/hc-visitorstatement-2024.pdf> [<https://perma.cc/UE54-4YGG>].

<sup>3</sup> See AI Resolution, *supra* note 1, paras. 4–6.

<sup>4</sup> The need for, and the form of, international governance of AI is a matter of significant debate, and the topic is being considered by the UN Secretary-General’s AI Advisory Body, which issued an interim report on “Governing AI for Humanity” in December 2023. See United Nations, Interim Report: Governing AI for Humanity (Dec. 2023), [https://www.un.org/sites/un2.un.org/files/ai\\_advisory\\_body\\_interim\\_report.pdf](https://www.un.org/sites/un2.un.org/files/ai_advisory_body_interim_report.pdf) [<https://perma.cc/Q8NC-YVSS>]. There have been many proposals. See Emma Klein & Stewart Patrick, *Envisioning a Global Regime Complex to Govern Artificial Intelligence*, CARNEGIE (Mar. 21, 2024), at <https://carnegieendowment.org/research/2024/03/envisioning-a-global-regime-complex-to-govern-artificial-intelligence?lang=en> [<https://perma.cc/Q4HC-SXWF>].