

CONTEMPORARY PRACTICE OF THE UNITED STATES RELATING TO INTERNATIONAL LAW

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GENERAL INTERNATIONAL AND U.S. FOREIGN RELATIONS LAW

President Trump Begins Second Term by Withdrawing the United States from International Agreements and Institutions and Contravening U.S. International Legal Obligations

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President Donald J. Trump began his second term by withdrawing the United States from international agreements and institutions, targeting international organizations, undermining U.S. commitments to international law, ordering a review of U.S. participation in all international institutions and treaties, and making comments and taking actions that contravene fundamental tenets of the international legal system. Many of these acts reinstated decisions that President Trump took over the course of his first term that had been reversed by President Joseph R. Biden, Jr.¹ and so were not unanticipated or novel, but others were more radical versions of prior policies and some were entirely new. Cumulatively, they denote an “America First” program that, more intensely than before, questions, ignores, weakens, and undercuts, without compunction or hesitation, existing international processes, understandings, rules, institutions, and multilateral frameworks, including security commitments and alliances, that have helped maintain the global order for decades.²

Within hours of President Trump’s inauguration, the White House announced the United States’ withdrawal from the World Health Organization (WHO), the Paris Agreement, and the Organisation for Economic Co-operation and Development (OECD)’s tax agreement.³

¹ On the reversal by President Biden of some, though not all, of President Trump’s first term decisions that relate to international law, see Kristen E. Eichensehr, *Contemporary Practice of the United States*, 115 AJIL 309, 323 (2021). The contemporary practice reviewed in this story covers the first eight weeks of the new administration, until approximately the middle of March 2025.

² See America First Policy Directive to the Secretary of State, Exec. Order 14150, 90 Fed. Reg. 8337 (Jan. 20, 2025).

³ See *Withdrawing the United States from the World Health Organization*, Exec. Order 14155, 90 Fed. Reg. 8361 (Jan. 20, 2025) [hereinafter WHO Executive Order]; *The Organization for Economic Co-operation and Development (OECD) Global Tax Deal (Global Tax Deal)*, 90 Fed. Reg. 8483 (Jan. 20, 2025) [hereinafter OECD Memorandum]; *Putting America First in International Environmental Agreements*, Exec. Order 14162, 90 Fed. Reg. 8455 (Jan. 20, 2025) [hereinafter International Environmental Agreements Executive Order]. In 2021, the United States made a political commitment to endorse the OECD’s Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy (OECD agreement), but the United States has not entered into any binding international agreement related to the OECD agreement, nor has the United States implemented any part of it through domestic legislation. See Jacob Katz Cogan, *Contemporary Practice of the United States*, 116 AJIL 858, 863 (2022). The president’s memorandum on the OECD agreement thus represents a withdrawal of that political commitment. But it is more than that. The memorandum also seeks to undermine the agreement by directing the secretary of the treasury to “investigate whether any foreign countries are not in compliance with any tax treaty with the United States or have any tax rules in place, or are likely to put tax rules in place, that are extraterritorial or disproportionately affect American companies.” OECD Memorandum, *supra* note 3. Following such investigation, the memorandum indicates that the United States may impose “protective measures” on the offending country. *Id.* A separate memorandum clarified that protective measures could include those available pursuant to Section 891 of the Internal Revenue Code. See America First Trade Policy, Sec. 2(j), 90 Fed. Reg. 8471 (Jan. 20, 2025); 26 U.S.C. § 891. Though the OECD agreement has not been incorporated into U.S. law, the Internal Revenue Service (IRS) issued two notices related to it during the Biden administration. See IRS Notice 2023-80, 2023-52 IRB 1583 (Dec. 26, 2023); IRS Notice 2025-4, 2025-3 IRB 419 (Jan. 13, 2025). U.S. businesses have indicated their support for Amount B, the simplified transfer pricing method that is part of the OECD Agreement’s Pillar One, and they have asked the IRS to encourage other jurisdictions to adopt it. See Caleb Harshberger & Lauren Vella, *Business Groups Press Treasury for Optional, Expanded Amount B*, BLOOMBERG TAX (Mar. 7, 2025), at <https://www.bloomberglaw.com/product/>

The moves were not unexpected, as the president had taken the same actions regarding the WHO and the Paris Agreement during his first term in office,⁴ and Republican elected officials had decried the OECD agreement since it was first announced in 2021.⁵ The withdrawals, if and when effective,⁶ will end U.S. commitments and obligations, including to the recently adopted amendments to the International Health Regulations, which the United States was instrumental in developing, as well as to the U.S. nationally determined contribution for reducing greenhouse gases that the Biden administration submitted at the end of 2024.⁷ The withdrawals will end, as well, U.S. input (at least formally) in ongoing negotiations in all three fora, such as those at the WHO for a pandemic agreement (scheduled for completion in May 2025), those in the conference of the parties of the UN Framework Convention on Climate Change in regards to the Paris Agreement, and those at the OECD related to the global tax agreement.⁸ The withdrawals and related provisions of the president's announcements will end, too, U.S. involvement in the regular work of these organizations pertaining to the

tax.bloombergtaxnews/daily-tax-report/XBVPDJUK000000; Caleb Harshberger & Lauren Vella, *Global Tax Upheaval Stalls Adoption of New Transfer Pricing Plan*, BLOOMBERG TAX (Mar. 14, 2025), at <https://www.bloomberglaw.com/product/tax/bloombergtaxnews/daily-tax-report-international/BN%2000000191-6c3d-d65e-af9b-ecffa35e0003>.

⁴ See Jean Galbraith, *Contemporary Practice of the United States*, 114 AJIL 124, 132 (2020); Jean Galbraith, *Contemporary Practice of the United States*, 114 AJIL 757, 765 (2020); Kristina Daugirdas & Julian Davis Mortenson, *Contemporary Practice of the United States*, 111 AJIL 1014, 1036 (2017).

⁵ See Cogan, *supra* note 3, at 867.

⁶ The secretary-general of the United Nations, in his role as depositary, indicated that U.S. withdrawal from the Paris Agreement “shall take effect” after a year, in accordance with Article 28 of the agreement. Article 28 provides that withdrawal will be effective “upon expiry of one year from the date of receipt by the Depositary of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal.” See UN Doc. C.N.71.2025.TREATIES-XXVII.7.d (Jan. 27, 2025) (depositary notification). President Trump’s executive order announcing the U.S. withdrawal indicated, without explanation, that the “United States will consider its withdrawal [from the Paris Agreement] . . . to be effective immediately upon [the] provision of notification.” International Environmental Agreements Executive Order, *supra* note 3, Sec. 3(a). The secretary-general stated that U.S. withdrawal from the WHO Constitution “would take effect” after a year, “pursuant to the provisions of the Joint Resolution of the Congress of the United States to which the acceptance of the Constitution of the World Health Organization by the United States of America is subject.” UN Doc. C.N.68.2025.TREATIES-IX.1 (Jan. 23, 2025) (depositary notification). The use of the conditional “would” (in contrast to the definitive “shall” employed in the Paris Agreement depositary notification) reflects the terms of the United States’ acceptance of WHO Constitution. U.S. acceptance of the WHO Constitution, which does not contain a withdrawal provision, was done in accordance with a joint resolution of Congress. The resolution provided that (1) “the United States reserves its right to withdraw from the Organization on a one-year notice” so long as (2) “the financial obligations of the United States to the Organization shall be met in full for the Organization’s current fiscal year.” Pub. L. 643, § 4, 80th Cong., 2d Sess., 62 Stat. 441 (June 14, 1948); see also 62 Stat. 2792 (1948) (statement by President Harry Truman that, with regard to his deposit of U.S. acceptance of the WHO Constitution, he was “acting pursuant to the authority granted by the joint resolution of the Congress . . . and subject to the provisions of that joint resolution”). President Trump impliedly acknowledged that withdrawal from the WHO would not be immediate. See WHO Executive Order, *supra* note 3, Sec. 4 (directing the secretary of state to “cease [U.S. participation in certain specified] negotiations” at the WHO “[w]hile withdrawal is in progress”). President Trump did not specify, however, when he considered withdrawal would become effective. His directive to “pause the future transfer of any United States Government funds, support, or resources to the WHO” may have the effect of delaying withdrawal if that pause prevents the United States from “[meeting] in full” its “financial obligations” to the organization, as required by the joint resolution for withdrawal to be effective. *Id.*, Sec. 2(d)(i).

⁷ See Jacob Katz Cogan, *Contemporary Practice of the United States*, 118 AJIL 717, 723 (2024); United States, *Nationally Determined Contribution – Reducing Greenhouse Gases in the United States: A 2035 Emissions Target* (Dec. 19, 2024), at <https://unfccc.int/sites/default/files/2024-12/United%20States%202035%20NDC.pdf> [<https://perma.cc/G35L-LKMC>].

⁸ See, e.g., WHO Executive Order, *supra* note 3, Sec. 4. The United States remains a party to the UN Framework Convention on Climate Change.

contribution and exchange of information and expertise, such as through the collaboration of Centers for Disease Control and Prevention (CDC) staff with WHO officials and colleagues from other national health offices and the support given by U.S. government-funded scientists to reports developed by the Intergovernmental Panel on Climate Change.⁹ The president's actions will also end U.S. participation in institutional governance bodies, including membership on the boards of the WHO and the Fund for Responding to Loss and Damage.¹⁰ U.S. departure from the WHO will end U.S. financial contributions to the organization, which in recent years have amounted to between ten and fifteen percent of the WHO's budget.¹¹ U.S. contributions to global climate financing will also end.¹² Renunciation of the U.S. commitment to the OECD tax agreement will, among other things, renew a clash, which was paused during the Biden administration, between the United States and Canada, France, India, and other countries over digital services taxes.¹³ Together, these withdrawals will undermine global health, including U.S. health security, decrease U.S. contributions to climate change mitigation, and create uncertainty regarding international tax.

These initial actions were prelude to a broader assault on international law and organizations. A subsequent executive order targeted three United Nations (UN) bodies: the UN Human Rights Council (HRC), the UN Educational, Scientific, and Cultural Organization (UNESCO), and the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA).¹⁴ U.S. participation in and funding of the Human Rights Council was terminated, and seeking election to that body in the future was ruled out.¹⁵ U.S. funding for UNRWA, which comprises a significant portion of that organization's budget, was cut off.¹⁶ And a review of U.S. membership in UNESCO, including an "evaluation of

⁹ See Mike Stobbe, *CDC Ordered to Stop Working with WHO Immediately, Upending Expectations of an Extended Withdrawal*, AP (Jan. 27, 2025), at <https://apnews.com/article/cdc-who-trump-548cf18b1c409c7d22e17311ccdfef1f6>; William J. Broad, *Trump's W.H.O. Exit Throws Smallpox Defenses Into Upheaval*, N.Y. TIMES (Feb. 12, 2025), at <https://www.nytimes.com/2025/02/12/health/smallpox-who-cdc-bioweapons.html>; Scott Dance, *How Trump Could Be Derailing a Major Global Climate Report*, WASH. POST (Feb. 23, 2025), at <https://www.washingtonpost.com/climate-environment/2025/02/22/trump-federal-scientists-climate-work-ipcc/>; Lawrence O. Gostin & Benjamin Mason Meier, *A World Less Safe and Secure*, SCIENCE (Jan. 22, 2025), at <https://www.science.org/doi/10.1126/science.adw1554>.

¹⁰ On the U.S. withdrawal from the board of the Fund for Responding to Loss and Damage, see Chico Harlan, *Trump Just Reversed Course on Two Key U.S. Climate Pledges*, WASH. POST (Mar. 8, 2025), at <https://www.washingtonpost.com/climate-environment/2025/03/08/trump-climate-finance-funds>. The United States agreed to the creation of a loss and damage fund at the twenty-seventh Conference of the Parties of the UNFCCC. See Jacob Katz Cogan, *Contemporary Practice of the United States*, 117 AJIL 330, 331 (2023).

¹¹ See World Health Organization, Contributors: United States of America, at <https://open.who.int/2024-25/contributors/contributor?name=United%20States%20of%20America> [<https://perma.cc/TLS5-BZVQ>] (updated through Feb. 2025).

¹² See Harlan, *supra* note 10.

¹³ See *Defending American Companies and Innovators from Overseas Extortion and Unfair Fines and Penalties*, 90 Fed. Reg. 10685 (Feb. 21, 2025); Nandita Bose, David Lawder & Steve Holland, *Trump Orders Trade Chief to Revive Tariff Retaliation Against Digital Taxes*, REUTERS (Feb. 21, 2025), at <https://www.reuters.com/world/us/trump-says-he-will-impose-retaliatory-tariffs-digital-taxes-may-come-friday-2025-02-21>.

¹⁴ See *Withdrawing the United States from and Ending Funding to Certain United Nations Organizations and Reviewing United States Support to All International Organizations*, Exec. Order 14199, 90 Fed. Reg. 9275 (Feb. 4, 2025) [hereinafter IO Executive Order].

¹⁵ See *id.*, Secs. 2(a), 3(a).

¹⁶ See *id.*, Sec. 3(a); Adam Rasgon & Robert Jimison, *Congress Seeks to Bar Funding for U.N. Agency for Palestinians*, N.Y. TIMES (Mar. 20, 2024), at <https://www.nytimes.com/2024/03/20/world/middleeast/unrwa-senate-gaza.html>.

how and if UNESCO supports United States interests,” was directed.¹⁷ The president’s order expressed concern that these institutions “act[ed] contrary to the interests of the United States,” “propogat[ed] anti-Semitism,” and “demonstrat[ed] anti-Israel sentiment.”¹⁸ As with the moves against the WHO and the Paris Agreement, the actions against the three organizations were expected, since they reprised those President Trump undertook years before.¹⁹ Their immediate effect was mostly negligible. In March 2024, Congress prohibited U.S. funding of UNRWA through March 31, 2025, which the Biden administration had already previously paused,²⁰ and the United States is not currently a member of the Human Rights Council, the Biden administration having decided not to run for a second consecutive three-year term in the October 2024 elections.²¹ A decision on UNESCO membership awaits a report by the secretary of state. Even though these acts did not have direct consequences, the targeting of organizations that focus on human rights and human welfare was not for show. It signaled a disregard for humanitarian work and the plight of the needy, the sick, and the vulnerable that was reflected as well, and more severely, in the president’s pausing, and then the cancellation, of billions of dollars of U.S. foreign assistance and the dismantling of the U.S. Agency for International Development (USAID), which will harm and take the lives of many.²²

¹⁷ See IO Executive Order, *supra* note 14, Sec. 2(b).

¹⁸ *Id.*, Sec. 1.

¹⁹ The United States announced its withdrawal from UNESCO in 2017, terminated UNRWA funding in 2018, did not seek election in the 2018 HRC elections, and withheld funding from the HRC. See Jean Galbraith, *Contemporary Practice of the United States*, 112 AJIL 94, 107 (2018); Jean Galbraith, *Contemporary Practice of the United States*, 112 AJIL 734, 745 (2018); Edward Wong, *U.S. to End Funding to U.N. Agency That Helps Palestinian Refugees*, N.Y. TIMES (Aug. 31, 2018), at <https://www.nytimes.com/2018/08/31/us/politics/trump-unrwa-palestinians.html>. The United States restored funding to UNRWA in 2021, was elected to the Human Rights Council in 2021, and rejoined UNESCO in 2023. See Pranshu Verma & Rick Gladstone, *Reversing Trump, Biden Restores Aid to Palestinians*, N.Y. TIMES (Apr. 7, 2021), at <https://www.nytimes.com/2021/04/07/world/middleeast/biden-aid-palestinians.html>; Rick Gladstone, *U.S. Regains Seat at U.N. Human Rights Council, 3 Years After Quitting*, N.Y. TIMES (Oct. 14, 2021), at <https://www.nytimes.com/2021/10/14/world/un-us-human-rights-council.html>; Aurelien Breeden, *U.S. Will Rejoin UNESCO in July, Agency Says*, N.Y. TIMES (June 12, 2023), at <https://www.nytimes.com/2023/06/12/world/europe/us-china-unesco.html>. The United States first joined UNESCO at its founding. It withdrew from the organization in 1984 and rejoined in 2003. See U.S. Dep’t of State Press Release, *About the U.S. and UNESCO* (Sept. 29, 2011), at <https://2009-2017.state.gov/p/io/unesco/usunesco/index.htm> [<https://perma.cc/2BCB-VCA2>]. The George W. Bush administration voted against the resolution establishing the HRC in 2006, did not seek election to it, and withheld funding. Under the Obama administration, the United States was elected to the Council in 2009, 2012, and 2016. See CONG. RES. SERV., *THE UNITED NATIONS HUMAN RIGHTS COUNCIL: BACKGROUND AND POLICY ISSUES* (Jan. 26, 2022).

²⁰ See Pub. L. 118-47, Tit. III, Div. G, § 301, 138 Stat. 460, 858 (Mar. 23, 2024); Michael Crowley, *Frozen U.S. Spending for U.N. in Gaza Is Minimal, State Dept. Says*, N.Y. TIMES (Jan. 30, 2024), at <https://www.nytimes.com/2024/01/30/us/politics/aid-gaza-israel.html>.

²¹ See Matthew Lee, *US Opts Out of Running for Reelection on UN Human Rights Council*, AP (Sept. 30, 2024), at <https://apnews.com/article/us-un-human-rights-council-dafc1b0484cab70d0661460c163f7bba>.

²² See, e.g., *Reevaluating and Realigning United States Foreign Aid*, Exec. Order 14169, 90 Fed. Reg. 8619 (Jan. 20, 2025); Ellen Knickmeyer, *Secretary of State Rubio Says Purge of USAID Programs Complete, with 83% of Agency’s Programs Gone*, AP (Mar. 10, 2025), at <https://apnews.com/article/trump-musk-rubio-usaid-foreign-aid-bf442d62af67918a6fc5ee839074601>; note 77 *infra*; Stephanie Nolen, *Tuberculosis Resurgent as Trump Funding Cut Disrupts Treatment Globally*, N.Y. TIMES (Mar. 11, 2025), at <https://www.nytimes.com/2025/03/11/health/tuberculosis-kenya-us-cuts.html>; Aaron Ross, Tim Cocks & Vivianne Wandera, *Kenya HIV Patients Live in Fear as US Aid Freeze Strands Drugs in Warehouse*, REUTERS (Mar. 11, 2025), at <https://www.reuters.com/business/healthcare-pharmaceuticals/kenya-hiv-patients-live-fear-us-aid-freeze-strand-drugs-warehouse-2025-03-11>. The cancellation of USAID contracts, the termination of USAID employees, and the dismantling of the agency itself are subject to litigation. See, e.g., Annie Gowen & Justin Jouvenal, *Judge Says Trump Must Pay Past Aid Bills But Can Cancel Future Contracts*, WASH. POST (Mar. 11, 2025), at <https://www.washingtonpost.com/>

In addition to these UN entities, the president took aim at the International Criminal Court (ICC), another recurring target. He authorized sanctions, as he did in 2020,²³ against those investigating and prosecuting “protected persons,” including citizens of the United States and those of U.S. allies that have not consented to the court’s jurisdiction.²⁴ The president’s order highlighted the court’s recent issuance of arrest warrants for Israeli Prime Minister Benjamin Netanyahu and Israel’s former minister of defense, Yoav Gallant, indicating that the warrants “set a dangerous precedent . . . [that] directly endanger[] current and former United States personnel.”²⁵ The order did not explain why, if the ICC’s assertion of jurisdiction over the nationals of non-state parties was “illegitimate” (the word used in the president’s order) in the absence of a Security Council referral, sanctions would not be imposed on ICC personnel for investigating and prosecuting citizens of all non-state parties (including Russia). In this regard, the United States’ inconsistency regarding the ICC’s jurisdiction has been consistent, as President Biden lauded the arrest warrant issued for Russian President Vladimir Putin, a citizen of a non-state party, and encouraged cooperation with that prosecution but criticized the ICC prosecutor’s applications for arrest warrants for Prime Minister Netanyahu and Defense Minister Gallant.²⁶ President Biden, however, did not endorse imposing sanctions on the court.²⁷ The only person specifically designated for sanctions by President Trump’s order was ICC Prosecutor Karim A.A. Khan, though others can be named later by the secretary of state.²⁸ A bill is pending in Congress that would codify the sanctions.²⁹

Other actions signaled U.S. indifference to a broad range of international obligations. President Trump issued a proclamation on “Guaranteeing the States Protection Against Invasion” that prohibited asylum applications at the southern border and an executive order on “Realigning the United States Refugee Admissions Program” that suspended the entry of

[nation/2025/03/11/usaaid-foreign-funding-suspension-unlawful](https://www.washingtonpost.com/dc-md-va/2025/03/18/maryland-judge-blocks-doge/); Steve Thompson, *Maryland Judge Orders DOGE to Stop Efforts to Dismantle USAID*, WASH. POST (Mar. 19, 2025), at https://www.washingtonpost.com/dc-md-va/2025/03/18/maryland-judge-blocks-doge; *AIDS Vaccine Coalition v. U.S. Dep’t of State*, No. 1:25-cv-00402 (D.D.C.); *Global Health Council v. Trump*, No. 1:25-cv-00402 (D.D.C.); *J. Does 1-26 v. Musk*, No. 8:25-cv-00462 (D. Md.).

²³ See Jean Galbraith, *Contemporary Practice of the United States*, 114 AJIL 757, 775 (2020); Kristen Eichensehr, *Contemporary Practice of the United States*, 115 AJIL 115, 138 (2021).

²⁴ See *Imposing Sanctions on the International Criminal Court*, Exec. Order 14203, 90 Fed. Reg. 9369 (Feb. 6, 2025) [hereinafter ICC Sanctions Executive Order].

²⁵ See *id.*, pmb1.

²⁶ See Jacob Katz Cogan, *Contemporary Practice of the United States*, 118 AJIL 533, 561 (2024); Jacob Katz Cogan, *Contemporary Practice of the United States*, 117 AJIL 330, 362–63 (2023).

²⁷ President Biden revoked President Trump’s 2020 executive order authorizing ICC sanctions. See Kristen Eichensehr, *Contemporary Practice of the United States*, 115 AJIL 714, 729 (2021). The Biden administration also opposed an ICC sanctions bill that was introduced following the prosecutor’s application for arrest warrants for Prime Minister Netanyahu and Defense Minister Gallant. See Cogan, *supra* note 26, at 564. Upon taking office in January 2025, President Trump revoked President Biden’s executive order that revoked President Trump’s prior order. See *Initial Rescissions of Harmful Executive Orders and Actions*, Exec. Order 14148, Sec. 2(dd), 90 Fed. Reg. 8237 (Jan. 20, 2025) (revoking Executive Order 14022). This revocation of a revocation did not have the effect, however, of reviving the 2020 ICC sanctions.

²⁸ See ICC Sanctions Executive Order, *supra* note 24, Sec. 1(a), Annex.

²⁹ See *Illegitimate Court Counteraction Act*, H.R. 23, 119th Cong., 1st Sess. (2025). The House of Representatives passed the bill, but it was blocked in the Senate. See Robert Jimison, *Democrats Block Bill to Impose Sanctions on International Criminal Court Officials*, N.Y. TIMES (Jan. 28, 2025), at <https://www.nytimes.com/2025/01/28/us/politics/democrats-icc-sanctions.html>.

refugees globally.³⁰ All previously scheduled asylum appointments were cancelled, stranding in Mexico tens of thousands of migrants who were adhering to the requirements of the restrictive asylum regulations issued by the Biden administration.³¹ Thousands of refugees whose applications were in process, including some who had flights scheduled, were also left in limbo.³² These orders were broader than those from President Trump's first term, as they applied to everyone at the border and everyone in the refugee process rather than to specific groups.³³ President Trump has shut down programs—humanitarian parole and temporary protected status—that have provided safe haven to more than a million people from Cuba, Haiti, Nicaragua, and Venezuela, removing their legal status in the United States.³⁴ He has sought to significantly increase deportations. To this end, the administration has entered into agreements with Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Panama, and Venezuela to take deportees.³⁵ Arrangements with other countries, including Colombia, Ecuador, Guatemala, India, and Peru have also been reported.³⁶ The push to remove migrants from

³⁰ See *Guaranteeing the States Protection Against Invasion*, Proclamation 10888, Sec. 2, 90 Fed. Reg. 8333 (Jan. 20, 2025); *Realigning the United States Refugee Admissions Program*, Exec. Order 14163, 90 Fed. Reg. 8459 (Jan. 20, 2025). These actions are being challenged in court. See *Refugee and Immigrant Center for Education and Legal Services v. Noem*, No. 1:25-cv-00306 (D.D.C.); *Pacito v. Trump*, No. 2:25-cv-00255 (W.D. Wash.); *U.S. Conference of Catholic Bishops v. Department of State*, No. 1:25-cv-00465 (D.D.C.). The federal judge in *Pacito* issued a preliminary injunction enjoining the enforcement or implementation of the executive order suspending the U.S. Refugee Admissions Program. See *Findings of Fact, Conclusions of Law, and Order Issuing Preliminary Injunction*, *Pacito v. Trump*, No. 2:25-cv-00255 (W.D. Wash., Feb. 28, 2025). The administration said it could take months to comply with the judge's order. See David Nakamura, *Trump Administration Says It Could Take Months to Resume Refugee Admissions*, WASH. POST (Mar. 11, 2025), at <https://www.washingtonpost.com/immigration/2025/03/11/trump-refugees-resettlement-judge-immigration>.

³¹ See Patrick J. McDonnell, *Disappointment at Border as Trump Cancels Immigration Program*, L.A. TIMES (Jan. 20, 2025), at <https://www.latimes.com/world-nation/story/2025-01-20/disappointment-at-border-as-trump-cancels-immigration-program>. On the Biden administration's rules regulating asylum at the southern border, see Jacob Katz Cogan, *Contemporary Practice of the United States*, 117 AJIL 500, 528 (2023); and Jacob Katz Cogan, *Contemporary Practice of the United States*, 118 AJIL 717, 745 (2024).

³² See Yonette Joseph, *Trump's Suspension of Refugee Admissions Puts Afghans at Risk, Advocate Says*, N.Y. TIMES (Jan. 20, 2025), at <https://www.nytimes.com/2025/01/20/world/asia/refugees-afghanistan-trump.html>; Hamed Aleaziz, *Groups Sue Over Trump's Pause on Refugee Admissions*, N.Y. TIMES (Feb. 10, 2025), at <https://www.nytimes.com/2025/02/10/us/politics/refugee-lawsuit-trump.html>.

³³ See Jean Galbraith, *Contemporary Practice of the United States*, 113 AJIL 376, 377 (2019); Jean Galbraith, *Contemporary Practice of the United States*, 113 AJIL 812, 833 (2019); Jean Galbraith, *Contemporary Practice of the United States*, 114 AJIL 494, 504 (2020).

³⁴ See *Protecting the American People Against Invasion*, Sec. 16(a), (b), Exec. Order 14159, 90 Fed. Reg. 8443 (Jan. 20, 2025); *Securing Our Borders*, Sec. 7(b), Exec. Order 14165, Exec. Order 14165 (Jan. 20, 2025); *Vacatur of 2025 Temporary Protected Status Decision for Venezuela*, 90 Fed. Reg. 8805 (Feb. 3, 2025); *Termination of the October 3, 2023 Designation of Venezuela for Temporary Protected Status*, 90 Fed. Reg. 9040 (Feb. 5, 2025); *Partial Vacatur of 2024 Temporary Protected Status Decision for Haiti*, 90 Fed. Reg. 10511 (Feb. 24, 2025); *Termination of Parole Processes for Cubans, Haitians, Nicaraguans, and Venezuelans*, 90 Fed. Reg. 13611 (Mar. 25, 2025); see also Michelle Hackman, *They Thought They Came to the U.S. Legally. Now They're at Risk for Deportation*, N.Y. TIMES (Mar. 17, 2025), at <https://www.wsj.com/politics/policy/trump-deportation-biden-immigration-program-a4e7a729>.

³⁵ See María Verza & Megan Janetsky, *The US Lines Up Latin American Cooperation for Migrant Deportations*, AP (Feb. 26, 2025), at <https://apnews.com/article/deportees-migrants-trump-latin-america-mexico-panama-27320f15ad6c316f242eae53e45f19c8>; Annie Correal & David Bolaños, *Trump Deportees Arrived in "Visible Distress," Costa Rica's Ombudsman Says*, N.Y. TIMES (Feb. 21, 2025), at <https://www.nytimes.com/2025/02/21/us/politics/trump-deportations-costa-rica-migrants.html>.

³⁶ See Muzaffar Chishti & Colleen Putzel-Kavanaugh, *Trump Administration Bends U.S. Government in Extraordinary Ways Towards Aim of Mass Deportations*, MIGRATION POL'Y INST. (Feb. 27, 2025), at <https://www.migrationpolicy.org/article/trump-immigration-mass-deportation-priority>.

the United States has extended to the administration's resort to the Alien Enemies Act.³⁷ Many of these actions effectively repudiate U.S. commitments under the 1967 Protocol Relating to the Status of Refugees.³⁸

By executive order, President Trump "cease[d] [the] initiation of any new [Foreign Corrupt Practices Act] investigations or enforcement actions" for a period of 180 days, calling into question U.S. compliance with the OECD Anti-Bribery Convention and the UN Convention Against Corruption (UNCAC).³⁹ This decision, which had not been taken during President Trump's first term, signaled to foreign governments and the international business community that the United States no longer views anti-corruption as a foreign policy priority, reversing a bipartisan consensus that goes back decades.⁴⁰ Of note, the executive order claims that ceasing the enforcement of the FCPA—a criminal statute governing foreign commerce—"impedes the United States' foreign policy objectives and therefore implicates the President's Article II authority over foreign affairs."⁴¹ In other words, President Trump claims the right not to enforce criminal statutes if they involve extraterritorial activity on constitutional grounds, a potentially dramatic expansion of the preclusive effects of the president's Article II powers over foreign affairs.

As he did during his first term, President Trump threatened and imposed tariffs regardless of U.S. obligations under applicable trade agreements.⁴² He increased duties worldwide on

³⁷ See *Invocation of the Alien Enemies Act Regarding the Invasion of the United States by Tren De Aragua*, Proclamation 10903, 90 Fed. Reg. 13033 (Mar. 14, 2025); Tim Balk, *Judge Blocks Deportations of Venezuelans Under Wartime Law*, N.Y. TIMES (Mar. 15, 2025), at <https://www.nytimes.com/2025/03/15/us/politics/trump-alien-enemies-act-deportations-venezuelans.html>; J.G.G. v. Trump, No. 1:25-cv-00766 (D.D.C.).

³⁸ See Protocol Relating to the Status of Refugees, Art. 1(1), *entered into force* Oct. 4, 1967, 606 UNTS 267 (incorporating Articles 2 to 34 inclusive of the Convention Relating to the Status of Refugees, *entered into force* Apr. 22, 1954, 189 UNTS 137 [hereinafter Refugee Convention]). Closing the border to asylum seekers runs afoul of Articles 31(1) and 33 of Refugee Convention. The deportation of refugees lawfully in the United States pursuant to the Alien Enemies Act amounts to expulsion, contrary to Articles 32 and 33 of the convention.

³⁹ See Pausing Foreign Corrupt Practices Act Enforcement to Further American Economic and National Security, Exec. Order 14209, 90 Fed. Reg. 9587 (Feb. 10, 2025) [hereinafter FCPA Order]. Both the OECD Anti-Bribery Convention and the UNCAC require parties to criminalize the bribery of foreign public officials. The OECD Convention makes clear that "[i]nvestigation and prosecution [of that crime] . . . shall not be influenced by considerations of national economic interest, the potential effect upon relations with another State or the identity of the natural or legal persons involved." Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, Arts. 1, 5, *entered into force* Feb. 15, 1999, 2802 UNTS 225. The UNCAC requires state parties "to ensure that any discretionary legal powers under its domestic law relating to the prosecution of persons for offences established in accordance with this Convention are exercised to maximize the effectiveness of law enforcement measures in respect of those offences and with due regard to the need to deter the commission of such offences." UN Convention Against Corruption, Arts. 16(1), 30, *entered into force* Dec. 14, 2005, 2349 UNTS 41.

⁴⁰ The FCPA executive order, like other actions described here, including those regarding the Paris Agreement and the firing of top military lawyers, have domestic parallels in the United States and so should not be seen in isolation. The actions also signal to foreign governments what the United States views as permissible. See, e.g., David Gelles, Lisa Friedman & Brad Plumer, "Full on Fight Club": How Trump Is Crushing U.S. Climate Policy, N.Y. TIMES (Mar. 2, 2025), at <https://www.nytimes.com/2025/03/02/climate/trump-us-climate-policy-changes.html>; Glenn Thrush & Alan Feuer, *Justice Dept. Moving to Downsize Units Investigating Fraud and Corruption*, N.Y. TIMES (Mar. 12, 2025), at <https://www.nytimes.com/2025/03/12/us/politics/justice-dept-fraud-corruption.html>; Charlie Savage, *Trump Team Tightens Control Over Government Lawyers Who Might Say "No,"* N.Y. TIMES (Feb. 27, 2025), at <https://www.nytimes.com/2025/02/27/us/politics/trump-government-lawyers.html>.

⁴¹ FCPA Order, *supra* note 39, Sec. 1.

⁴² See Jean Galbraith, *Contemporary Practice of the United States*, 112 AJIL 295, 315 (2018); Kristina Daugirdas & Julian Davis Mortenson, *Contemporary Practice of the United States*, 111 AJIL 1014, 1045 (2017).

imports of steel and aluminum, drawing on his finding from his first term under Section 232 of the Trade Expansion Act⁴³ that such imports threaten U.S. national security.⁴⁴ President Biden had rolled back these duties on many countries.⁴⁵ He declined, however, to find that steel and aluminum imports no longer constituted a threat to national security, relieving President Trump from having to task the Commerce Department with initiating a new investigation.⁴⁶ In the first weeks of his second term, President Trump also targeted Canada, China, and Mexico for tariffs, citing their failure to take sufficient actions to prevent the entry of illicit drugs into the United States, particularly fentanyl,⁴⁷ and he threatened tariffs against Colombia if it did not allow U.S. military aircraft carrying migrants to land there.⁴⁸ These tariffs or threats thereof rest on the International Emergency Economic Powers Act, a statute that—unlike the statutes on which President Trump relied during his first term—allows the immediate imposition of tariffs without any administrative process following a presidential declaration of an emergency.⁴⁹ Canada, China, and the European Union (but not yet Mexico) responded to these actions with retaliatory tariffs.⁵⁰ More broadly, President

⁴³ See 19 U.S.C. § 1862.

⁴⁴ The increases stemmed from a combination of measures, including the ending of exemptions and the raising of rates. See *Adjusting Imports of Steel into the United States*, Proclamation 10896, 90 Fed. Reg. 9817 (Feb. 10, 2025); *Adjusting Imports of Aluminum into the United States*, Proclamation 10895, 90 Fed. Reg. 9807 (Feb. 10, 2025).

⁴⁵ President Biden added, increased, and maintained other tariffs, under Section 301, from President Trump's first term. See Jacob Katz Cogan, *Contemporary Practice of the United States*, 118 AJIL 717, 727 (2024).

⁴⁶ 19 U.S.C. § 1862(b).

⁴⁷ See *Imposing Duties to Address the Flow of Illicit Drugs Across Our Northern Border*, Exec. Order 14193, 90 Fed. Reg. 9113 (Feb. 1, 2025); *Imposing Duties to Address the Situation at Our Southern Border*, Exec. Order, 14194, 90 Fed. Reg. 9117 (Feb. 1, 2025); *Amendment to Duties to Address the Flow of Illicit Drugs Across Our Northern Border*, Exec. Order 14226, 90 Fed. Reg. 11369 (Mar. 2, 2025); *Amendment to Duties to Address the Situation at Our Southern Border*, Exec. Order 14227, 90 Fed. Reg. 11371 (Mar. 2, 2025); *Amendment to Duties to Address the Flow of Illicit Drugs Across Our Northern Border*, Exec. Order 14231, 90 Fed. Reg. 11785 (Mar. 6, 2025); *Imposing Duties to Address the Synthetic Opioid Supply Chain in the People's Republic of China*, Exec. Order 14195, 90 Fed. Reg. 9121 (Feb. 1, 2025); *Amendment to Duties Addressing the Synthetic Opioid Supply Chain in the People's Republic of China*, Exec. Order 14200, 90 Fed. Reg. 9277 (Feb. 5, 2025); *Further Amendment to Duties Addressing the Synthetic Opioid Supply Chain in the People's Republic of China*, Exec. Order 14228, 90 Fed. Reg. 11463 (Mar. 3, 2025). Some of the announced tariffs were delayed or subsequently altered by exemptions. See Alan Rappeport, *Trump Bows to Economic Reality with Tariff Delays and Exemptions*, N.Y. TIMES (Mar. 7, 2025), at <https://www.nytimes.com/2025/03/07/us/politics/trump-tariff-delays.html>. On the Biden administration's response to international fentanyl trafficking, see Jacob Katz Cogan, *Contemporary Practice of the United States*, 118 AJIL 168, 183 (2024).

⁴⁸ See Genevieve Glatsky, Simon Romero & Annie Correal, *Colombia Agrees to Accept Deportation Flights After Trump Threatens Tariffs*, N.Y. TIMES (Jan. 26, 2025), at <https://www.nytimes.com/2025/01/26/world/americas/colombia-us-deportation-flights.html>.

⁴⁹ See 50 U.S.C. § 1701 *et seq.*

⁵⁰ See Ellen Francis, Maham Javaid & Terrence McCoy, *E.U., Canada Retaliate Against Trump's Tariffs as Trade War Escalates*, WASH. POST (Mar. 12, 2025), at <https://www.washingtonpost.com/world/2025/03/12/europe-tariff-retaliation-trump/>; Gavin Bade, Vipal Monga & Santiago Pérez, *Trump Pares Back Canada, Mexico Tariffs in Latest Whipsaw on Trade*, WALL ST. J. (Mar. 6, 2025), at <https://www.wsj.com/economy/trade/trump-pares-back-canada-mexico-tariffs-in-latest-whipsaw-on-trade-5eb75f88>; Hannah Miao & Liza Lin, *China Sets Strong Growth Target as It Hits Back at U.S. Tariffs*, WALL ST. J. (Mar. 4, 2025), at <https://www.wsj.com/economy/trade/china-retaliatory-tariffs-37b727b9>. Canada and China have also initiated disputes at the World Trade Organization (WTO), though these, like those brought against the United States during President Trump's first term, will not lead to much, due to the nonfunctioning of the Appellate Body. See *Request for Consultations by China, United States – Additional Tariff Measures on Goods from China*, WTO Doc. WT/DS633/1 – G/L/1561 (Feb. 5, 2025); *Request for Consultations by Canada, United States – Additional Import Duties on Goods from Canada*, WTO Doc. WT/DS634/1 – G/L/1562 – G/TFA/D/5/1 (Mar. 5, 2025); *Request for Consultations by Canada, United States – Additional Import Duties on*

Trump ordered a review of all U.S. trade relationships on the basis of “reciprocity,” which the administration defined extensively to include foreign government subsidies, value-added taxes, “burdensome” regulations, and exchange-rate manipulation.⁵¹ In the *2025 Trade Policy Agenda and 2024 Annual Report*, issued by the new administration, the Office of the U.S. Trade Representative indicated that “the United States will continue to look for new avenues to make the WTO more relevant and viable in light of the realities of today,” but it also commented that “patience wears thin.”⁵² President Trump, during his first term, had called for WTO reform, including of its dispute settlement system, a position that President Biden fundamentally maintained.⁵³

In keeping with Secretary of Defense Pete Hegseth’s avowed skepticism for the laws of war,⁵⁴ his focus on “lethality,” and his desire to restore a “warrior ethos,”⁵⁵ the administration took a series of actions that will reduce operational constraints on combatants, both U.S. and foreign, and will thus likely increase civilian casualties. Among the administration’s first Defense Department (DoD) directives was the drafting of a plan, subsequently approved,⁵⁶ to defund and abolish the Civilian Protection Center of Excellence, a

Steel and Aluminium Articles from Canada, WTO Doc. WT/DS635/1 – G/L/1563 (Mar. 13, 2025). The United States accepted the requests to enter into consultations, but it noted that the “actions cited [by Canada and China] . . . are issues of national security not susceptible to review or capable of resolution by WTO dispute settlement.” Communication from the United States, United States – Additional Tariff Measures on Goods from China, WTO Doc. WT/DS633/3 (Mar. 18, 2025); Communication from the United States, United States – Additional Import Duties on Goods from Canada, WTO Doc. WT/DS634/2 (Mar. 18, 2025); Communication from the United States, United States – Additional Import Duties on Steel and Aluminium Articles from Canada, WTO Doc. WT/DS635/3 (Mar. 25, 2025). The European Union has made a request to join the consultations in “United States – Additional Import Duties on Steel and Aluminium Articles from Canada.” See WTO Doc. WT/DS635/2 (Mar. 21, 2025).

⁵¹ See Reciprocal Trade and Tariffs, 90 Fed. Reg. 9837 (Feb. 13, 2025). The concern was also raised in President Trump’s first term. See Omnibus Report on Significant Trade Deficits, Sec. 2, Exec. Order 13786, 82 Fed. Reg. 16721 (Mar. 31, 2017). As he had done during his first term as well, President Trump also directed a review of all trade agreements. See note 76 *infra*.

⁵² U.S. Trade Representative, 2025 Trade Policy Agenda and 2024 Annual Report of the President of the United States on the Trade Agreements Program 9 (Mar. 2025), at <https://ustr.gov/sites/default/files/files/reports/2025/2025%20Trade%20Policy%20Agenda%20WTO%20at%2030%20and%202024%20Annual%20Report%2002282025%20-%20FINAL.pdf> [<https://perma.cc/4H48-LRKS>].

⁵³ See Jean Galbraith, Contemporary Practice of the United States, 114 AJIL 494, 518 (2020); Yuka Hayashi, *U.S. Seeks to Fix WTO’s Broken Trade Dispute Process*, WALL ST. J. (July 11, 2022), at <https://www.wsj.com/articles/u-s-seeks-to-fix-wtos-broken-trade-dispute-process-11657540800>.

⁵⁴ In his 2024 book, *The War on Warriors: Behind the Betrayal of the Men Who Keep Us Free*, Secretary Hegseth disparaged the rules of engagement that he operated under while a soldier, called into question the Geneva Conventions, criticized Biden administration changes to the DoD *Law of War Manual*, and advocated for “more lethality, less lawyers.” PETE HEGSETH, *THE WAR ON WARRIORS: BEHIND THE BETRAYAL OF THE MEN WHO KEEP US FREE* 155, 162–63, 181, 183 (2024); Jacob Katz Cogan, Contemporary Practice of the United States, 118 AJIL 168, 178 (2024). “Modern warfighters fight lawyers as much as we fight bad guys,” he wrote. HEGSETH, *supra* note 54, at 175. In the book, he also used a derogatory term for JAG officers, *see id.* at 162, to suggest, as he stated during his confirmation hearing when pressed about the term’s meaning, that those officers put their “own priorities in front of the war fighters, their promotions, their medals, in front of having the backs of those making the tough calls on the front lines.” Kate Kelly, *Hegseth Spars with Senator Over What He Meant by Slang Term*, N.Y. TIMES (Jan. 14, 2025), at <https://www.nytimes.com/2025/01/14/us/politics/hegseth-jagoff-confirmation-hearing.html>.

⁵⁵ Dep’t of Defense Press Release, Secretary Hegseth’s Message to the Force (Jan. 25, 2025), at <https://www.defense.gov/News/Releases/Release/Article/4040940/secretary-hegseths-message-to-the-force> [<https://perma.cc/448L-ZQCJ>].

⁵⁶ See Alex Horton, Meg Kelly & Dan Lamothe, *Pentagon Moves to Gut Operations Focused on Reducing Civilian Harm*, WASH. POST (Mar. 4, 2025), at <https://www.washingtonpost.com/national-security/2025/03/04/trump-hegseth-pentagon-firings-civilian-harm>.

congressionally mandated office designed to serve as the DoD hub for preventing, mitigating, and responding to civilian harm.⁵⁷ The DoD Instruction on Civilian Harm Mitigation and Response⁵⁸ was to be rescinded as well, and DoD personnel who provide advice on limiting civilian casualties at the Pentagon and combatant commands were to be fired or reassigned.⁵⁹ Separately, Secretary Hegseth fired the judge advocates general (TJAG) of the Army and the Air Force, intensifying concerns previously raised during his confirmation hearing that he would seek to relax the military's rules of engagement.⁶⁰ Secretary Hegseth said that the current TJAGs were not "well-suited," and he would prefer lawyers who "don't exist to attempt to be roadblocks to anything."⁶¹ The firings are reportedly part of a broader overhaul of the JAG Corps designed to retrain military lawyers to "provide more expansive legal advice to commanders to pursue more aggressive tactics and take a more lenient approach in charging soldiers with battlefield crimes."⁶² President Trump, reverting to rules from his first term,⁶³ eliminated the need for high-level authorization of drone strikes and raids by special operation forces in counterterrorism operations and broadened the range of persons who could be targeted, moves that will in all probability increase the number of such operations and raise the risk of attendant civilian harm.⁶⁴ Further signaling the new administration's diminished

⁵⁷ See Meg Kelly, Alex Horton & Missy Ryan, *Trump Moves to Close Pentagon Office Focused on Curbing Civilian Deaths*, WASH. POST (Jan. 23, 2025), at <https://www.washingtonpost.com/national-security/2025/01/23/trump-pentagon-civilian-deaths/>; John Ismay, *U.S. Army Plans to Eliminate Office for Reducing Civilian Harm in War*, N.Y. TIMES (Jan. 23, 2024), at <https://www.nytimes.com/2025/01/23/us/pentagon-civilian-deaths.html>; John Ismay & Azmat Khan, *Hegseth Cuts Pentagon Work on Preventing Civilian Harm*, N.Y. TIMES (Mar. 4, 2025), at <https://www.nytimes.com/2025/03/04/us/politics/hegseth-pentagon-civilian-harm.html>; James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, Pub. L. 117–263, Div. A, Tit. X, § 1082(a)(1), 136 Stat. 2395, 2799 (Dec. 23, 2022). The center was part of the Civilian Harm Mitigation and Response Action Plan, a Defense Department initiative instigated by congressional and public pressure following reports of thousands of civilian deaths during the U.S. "war on terror." See Jacob Katz Cogan, *Contemporary Practice of the United States*, 117 AJIL 330, 352 (2023).

⁵⁸ DoD Instruction 3000.17 – Civilian Harm Mitigation and Response (Dec. 21, 2023), at <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/300017p.pdf> [<https://perma.cc/Y9NB-HA2Y>].

⁵⁹ See Horton, Kelly & Lamothe, *supra* note 56.

⁶⁰ See U.S. Dep't of Defense Press Release, Secretary of Defense Pete Hegseth Statement on General Officer Nominations (Feb. 21, 2025), at <https://www.defense.gov/News/Releases/Release/Article/4074482/secretary-of-defense-pete-hegseth-statement-on-general-officer-nominations> [<https://perma.cc/RL37-2AKL>]; Pete Hegseth Senate Confirmation Hearing (Jan. 14, 2025), at <https://www.rev.com/transcripts/pete-hegseth-senate-confirmation-hearing> [<https://perma.cc/ZW64-YJ8K>]; Greg Jaffe, *In Pursuit of a "Warrior Ethos," Hegseth Targets Military's Top Lawyers*, N.Y. TIMES (Feb. 22, 2025), at <https://www.nytimes.com/2025/02/22/us/politics/hegseth-firings-military-lawyers-jag.html>. Some reports suggested that the judge advocate general of the Navy had also been fired, but that position was already open due to the incumbent's retirement. See Lolita C. Baldor, *Hegseth Says He Fired the Top Military Lawyers Because They Weren't Well Suited for the Jobs*, WASH. POST (Feb. 24, 2025), at https://www.washingtonpost.com/politics/2025/02/24/pentagon-hegseth-firing-chairman-lawyers/3d316770-f311-11ef-acb5-08900d482a27_story.html.

⁶¹ Baldor, *supra* note 60; Sarah Fortinsky, *Hegseth: Fired Military Lawyers Were Potential "Roadblocks" to Trump Orders*, THE HILL (Feb. 24, 2025), at <https://thehill.com/policy/defense/5162069-pentagon-officers-fired>.

⁶² Hugo Lowell, *Pete Hegseth to Overhaul US Military Lawyers in Effort to Relax Rules of War*, GUARDIAN (Mar. 13, 2025), at <https://www.theguardian.com/us-news/2025/mar/13/pete-hegseth-pentagon-lawyers-rules-of-war>.

⁶³ See Charlie Savage, *Trump's Secret Rules for Drone Strikes Outside War Zones Are Disclosed*, N.Y. TIMES (May 1, 2021), at <https://www.nytimes.com/2021/05/01/us/politics/trump-drone-strike-rules.html>.

⁶⁴ See James LaPorta, *Trump Eases Rules on Military Raids and Airstrikes, Expanding Range of Who Can Be Targeted*, CBS NEWS (Feb. 28, 2025), at <https://www.cbsnews.com/news/trump-eases-rules-military-raids-airstrikes-targets/>; Dan Lamothe, *Pentagon Streamlines Clearances on Airstrikes And Raids, Officials Say*, WASH. POST (Feb. 28, 2025), at <https://www.washingtonpost.com/national-security/2025/02/28/trump-pentagon-hegseth-airstrikes-rules/>; Charlie Savage & Eric Schmitt, *Trump Relaxes Limits on Counterterrorism Strikes Outside Conventional War Zones*, N.Y. TIMES (Mar. 1, 2025), at <https://www.nytimes.com/2025/03/01/us/>

commitment to the protection of civilians during armed conflict, National Security Adviser Michael Waltz rescinded President Biden's National Security Memorandum on Safeguards and Accountability with Respect to Transferred Defense Articles and Defense Services, which had required states receiving U.S. arms transfers to provide written assurances that they would use those arms in accordance with international humanitarian law and would facilitate the delivery of U.S. humanitarian assistance in areas of armed conflict where those arms were used.⁶⁵ Altogether, these actions rolled back Biden administration initiatives to mitigate civilian harm and indicated impatience with legal limits on military operations.

The United States, under the new administration, has contravened, or threatened to contravene, core principles and obligations of international law, including those in the UN Charter. President Trump has threatened the sovereignty and territorial integrity of Canada,⁶⁶ Denmark (Greenland),⁶⁷ and Panama (the Panama Canal).⁶⁸ His defense secretary has intimated that the United States would violate the prohibition on the use of force by taking military action in Mexico without consent to counter drug cartels operating there (an idea reportedly floated by the president during his first term).⁶⁹ President Trump has proposed that the United States take over Gaza, remove its population of approximately two million Palestinians, and not allow them to return,⁷⁰ a plan that would breach the

[politics/counterterrorism-drone-strikes.html](https://www.nytimes.com/2025/02/24/us/politics/counterterrorism-drone-strikes.html). On the Biden administration's policy, see Cogan, *supra* note 57, at 357.

⁶⁵ See Meg Kelly, Missy Ryan & Alex Horton, *Trump Repeals Biden Directive Linking U.S. Arms to Human Rights*, WASH. POST (Feb. 24, 2025), at <https://www.washingtonpost.com/national-security/2025/02/24/trump-israel-gaza-us-weapons/>. For background on the memorandum, see Jacob Katz Cogan, *Contemporary Practice of the United States*, 118 AJIL 533, 549 (2024).

⁶⁶ See Vjosa Isai, *Behind Closed Doors, Trudeau Says Trump Threat to Take Over Canada Is Real*, N.Y. TIMES (Feb. 7, 2025), at <https://www.nytimes.com/2025/02/07/world/canada/trump-canada-trudeau.html>; Matina Stevis-Gridneff, *Trump Intensifies Statehood Threats in Attack on Canada*, N.Y. TIMES (Mar. 11, 2025), at <https://www.nytimes.com/2025/03/11/us/politics/canada-trump-statehood-attacks.html>. Reportedly, President Trump questioned the validity of the treaty demarcating the border between Canada and the United States. See Matina Stevis-Gridneff, *How Trump's "51st State" Canada Talk Came to Be Seen as Deadly Serious*, N.Y. TIMES (Mar. 7, 2025), at <https://www.nytimes.com/2025/03/07/world/canada/trump-trudeau-canada-51st-state.html>.

⁶⁷ See Steven Erlanger & Jeanna Smialek, *Trump Alarms Denmark in an Icy Exchange Over Greenland*, N.Y. TIMES (Jan. 26, 2025), at <https://www.nytimes.com/2025/01/26/world/europe/trump-greenland-denmark.html>; *Full Transcript of President Trump's Speech to Congress*, N.Y. TIMES (Mar. 4, 2025) [hereinafter *Trump Speech to Congress*] ("one way or the other, we're going to get it").

⁶⁸ See David E. Sanger & Lisa Friedman, *Trump's Wish to Control Greenland and Panama Canal: Not a Joke This Time*, N.Y. TIMES (Dec. 23, 2024), at <https://www.nytimes.com/2024/12/23/us/politics/trump-greenland-panama-canal.html>; *Trump Speech to Congress*, *supra* note 67 ("we gave it to Panama, and we're taking it back").

⁶⁹ See José de Córdoba, Santiago Pérez & Vera Bergengruen, *Hegseth Warned of Military Action if Mexico Fails to Meet Trump's Border Demands*, WALL ST. J. (Feb. 28, 2025), at <https://www.wsj.com/politics/policy/trump-mexico-drug-cartel-tariff-hegseth-military-action-5f507ab0>; Eyder Peralta, *Mexico Warns the US Not to "Invade Our Sovereignty" in Fight Against Cartels*, NPR (Feb. 20, 2025), at <https://www.npr.org/2025/02/20/nx-s1-5304248/mexico-warns-the-us-not-to-invade-our-sovereignty-in-fight-against-cartels>; Maggie Haberman, *Trump Proposed Launching Missiles into Mexico to "Destroy the Drug Labs," Esper Says*, N.Y. TIMES (May 5, 2022), at <https://www.nytimes.com/2022/05/05/us/politics/mark-esper-book-trump.html>.

⁷⁰ At a news conference with Prime Minister Netanyahu, President Trump said: "The U.S. will take over the Gaza Strip and we will do a job with it too. We'll own it and [will] level the site and get rid of the destroyed buildings, level it out. Create an economic development that will supply unlimited numbers of jobs and housing for the people of the area. Do a real job, do something different. . . . I do see a long-term ownership position and I see it bringing great stability to that part of the Middle East, and maybe the entire Middle East." *Full Text of Trump and Netanyahu's Explosive News Conference*, MIDDLE EAST EYE (Feb. 5, 2025), at <https://www.middleeasteye.net/news/full-text-trump-and-netanyahus-explosive-news-conference> [<https://perma.cc/N84S-9DFP>]. Asked later if the

prohibitions against the forcible transfer of civilian populations and the forcible annexation of territory.⁷¹ The Trump administration has changed the U.S. position on the Russia-Ukraine war—from denouncing Russia’s invasion as a violation of international law to voting against a General Assembly resolution sponsored by Ukraine and European states that condemned Russia and emphasized the territorial integrity of Ukraine—thereby undermining the prohibitions on aggression and the forcible annexation of territory and possibly portending a realignment toward Russia.⁷² The United States also withheld military and intelligence support for Ukraine, before resuming assistance following Ukraine’s acceding to an administration proposal for a thirty-day ceasefire with Russia and an agreement that the United States and Ukraine would conclude “as soon as possible” a deal to develop Ukraine’s natural resources, including oil, gas, and minerals.⁷³ President Trump, who hinted during his first term that the United

Palestinians could return to Gaza, he said: “No, they wouldn’t. Because they’re going to have much better housing—in other words, I’m talking about building a permanent place for them.” Claire Moses & Shawn McCreesh, *Trump Says Palestinians Will Not Be Allowed to Return to Gaza Under His Proposal*, N.Y. TIMES (Feb. 10, 2025), at <https://www.nytimes.com/2025/02/10/world/middleeast/trump-gaza-us-takeover.html> (quoting President Trump).

⁷¹ For discussion, see Amanda Taub, *What International Law Says About Trump’s Proposal to Remove Palestinians from Gaza*, N.Y. TIMES (Feb. 11, 2025), at <https://www.nytimes.com/2025/02/11/world/middleeast/international-law-trump-gaza.html>.

⁷² See U.S. Mission to the United Nations Press Release, Remarks at a UN General Assembly Emergency Special Session on Ukraine (Feb. 24, 2025), at <https://usun.usmission.gov/remarks-at-a-un-general-assembly-emergency-special-session-on-ukraine> [<https://perma.cc/RZK3-9Y5U>]; Farnaz Fassihi, *U.S. and European Allies Split Sharply at the U.N. Over Ukraine*, N.Y. TIMES (Feb. 24, 2025), at <https://www.nytimes.com/2025/02/24/world/middleeast/us-europe-russia-ukraine-un.html>; GA Res. ES-11/7 (Feb. 24, 2025); UN Press Release, At Three-Year Mark of Russian Federation’s Invasion, General Assembly Upholds Ukraine’s Territorial Integrity, Adopting Two Resolutions, GA/12675 (Feb. 24, 2025), at <https://press.un.org/en/2025/ga12675.doc.htm> [<https://perma.cc/B3V2-6QMR>] [hereinafter GA Russia Resolution Report]. Beyond opposing the General Assembly resolution, the United States proposed an alternative resolution in the Assembly and a resolution in the Security Council that did not denounce Russia’s invasion. The three-paragraph U.S.-proposed General Assembly resolution “[i]mplore[d] a swift end to the conflict and further urge[d] a lasting peace between Ukraine and the Russian Federation.” UN Doc. A/ES-11/L.11 (Feb. 21, 2025). The U.S. representative said that previous resolutions “have failed to stop the war. . . . What we need is a resolution marking the commitment from all UN Member States to bring a durable end to the war.” GA Russia Resolution Report, *supra* note 72. The United States abstained from its own General Assembly resolution after it was amended by European states to include references to “the full-scale invasion of Ukraine by” Russia and the need for a “just, lasting and comprehensive peace between Ukraine and the Russian Federation, in line with the Charter of the United Nations and the principles of sovereign equality and territorial integrity of States.” GA Res. ES-11/8 (Feb. 24, 2025); GA Russia Resolution Report, *supra* note 72. The U.S. resolution in the Council, which was identical to its proposed Assembly resolution, was approved by a vote of ten to zero, with the five European members abstaining. See SC Res. 2774 (Feb. 24, 2025); UN Press Release, With 10 Votes in Favour, 5 Abstentions, Security Council Adopts Resolution 2774 (2025) Mourning Loss of Life, as Russian Federation’s Invasion of Ukraine Enters Fourth Year, SC/16005 (Feb. 24, 2025), at <https://press.un.org/en/2025/sc16005.doc.htm> [<https://perma.cc/U75X-AMUB>]. The United States also watered down a G7 statement marking the third anniversary of Russia’s invasion of Ukraine, objecting to labeling Russia as the “aggressor.” See Steven Erlanger, Matina Stevis-Gridneff & David E. Sanger, *U.S. Objects to Calling Russia “Aggressor” in G7 Statement on Invasion*, N.Y. TIMES (Feb. 20, 2025), at <https://www.nytimes.com/2025/02/20/world/europe/us-g7-russia-ukraine-war.html>. The Department of Justice has also announced that it would no longer support the International Center for the Prosecution of the Crime of Aggression against Ukraine. See Glenn Thrush, *U.S. to Withdraw from Group Investigating Responsibility for Ukraine Invasion*, N.Y. TIMES (Mar. 17, 2025), at <https://www.nytimes.com/2025/03/17/us/politics/trump-ukraine-invasion-accountability.html>. The Biden administration had promoted individual criminal accountability for aggression and atrocity crimes committed by Russians in Ukraine. See Jacob Katz Cogan, *Contemporary Practice of the United States*, 117 AJIL 500, 516 (2023).

⁷³ See Andrew E. Kramer & Alan Rappeport, *Ukraine Supports 30-Day Cease-Fire as U.S. Says It Will Resume Military Aid*, N.Y. TIMES (Mar. 11, 2025), at <https://www.nytimes.com/2025/03/11/world/europe/ukraine-us-saudi-cease-fire-talks.html>.

States might quit NATO, has suggested that the North Atlantic Treaty's Article 5 mutual security guarantee might be conditional and not ironclad, undercutting the crux of the alliance precisely when a number of members feel threatened by Russia.⁷⁴

In addition to the specific actions just described that weaken U.S. adherence to international law and U.S. support for international institutions, the president called into question U.S. participation in all treaties and international organizations. He directed the secretary of state to "conduct a review of all international intergovernmental organizations of which the United States is a member and provides any type of funding or other support, and all conventions and treaties to which the United States is a party, to determine which organizations, conventions, and treaties are contrary to the interests of the United States and whether such organizations, conventions, or treaties can be reformed."⁷⁵ Based on this review, the secretary was to "provide recommendations [to the president] as to whether the United States should withdraw from any . . . organizations, conventions, or treaties."⁷⁶ Already the cancellation of \$60 billion in USAID and State Department foreign assistance contracts have severely undermined the work of international organizations, including the International Organization for Migration, the Office of the United Nations High Commissioner for Human Rights, the Office of the United Nations High Commissioner for Refugees, the United Nations Children's Fund, the UN Population Fund, the World Food Programme, and the World Health Organization.⁷⁷

Many of President Trump's actions at the start of his second term reinstated measures taken during his first term or were extensions of those measures. What differs, aside from the concentrated adoption of these policies in a matter of weeks as opposed to years, is not the unilateralism, unpredictability, unreliability, and aggressive transactionalism, nor is it the attacks on allies or the contempt for soft power. Those characteristics marked President Trump's first term,

⁷⁴ See David E. Sanger, *Europe's New Reality: Trump May Not Quit NATO, but He's Already Undercutting It*, N.Y. TIMES (Feb. 20, 2025), at <https://www.nytimes.com/2025/02/20/us/politics/trump-nato.html>; Michelle L. Price, *Trump Casts Doubt on NATO Solidarity, Despite It Aiding the US After Sept. 11*, AP (Mar. 6, 2025), at <https://apnews.com/article/trump-nato-ukraine-c5fef35ca057a31a61cba6f611393999>.

⁷⁵ IO Executive Order, *supra* note 14, Sec. 3(b).

⁷⁶ *Id.* An earlier memorandum had tasked the U.S. Trade Representative with reviewing existing trade agreements. See America First Trade Policy, Secs. 2(d), (f), 90 Fed. Reg. 8471 (Jan. 20, 2025).

⁷⁷ See, e.g., Colum Lynch, *Exclusive: UN Refugee Agency Braces for Thousands of Job Cuts*, DEVEX (Mar. 20, 2025), at <https://www.devex.com/news/exclusive-un-refugee-agency-braces-for-thousands-of-job-cuts-109693>; Emma Farge, *Millions of Lives at Risk from "Brutal" Funding Cuts, UN Refugee Chief Says*, REUTERS (Mar. 20, 2025), at <https://www.reuters.com/world/millions-lives-risk-brutal-funding-cuts-un-refugee-chief-says-2025-03-20>; Colum Lynch, *Scoop: UN Migration Agency Cuts More Jobs, Shuttles Lifesaving Programs*, DEVEX (Mar. 13, 2025), at <https://www.devex.com/news/scoop-un-migration-agency-cuts-more-jobs-shuttles-lifesaving-programs-109639>; UN Press Release, UN Geneva Press Briefing (Mar. 11, 2025), at <https://www.ungeneva.org/en/news-media/press-briefing/2025/03/un-geneva-press-briefing-1> [<https://perma.cc/2273-D67F>]; Stanley Widianto, *Exclusive: UN Slashes Support for Rohingya Refugees in Indonesia Due to U.S. Cuts, Sources Say*, REUTERS (Mar. 6, 2025), at <https://www.reuters.com/world/asia-pacific/un-slashes-support-rohingya-refugees-indonesia-due-us-cuts-sources-say-2025-03-06>; Gerald Imray & Farai Mutsaka, *UN Food Program Closes Its Southern Africa Office in the Wake of Trump Administration Aid Cuts*, AP (Mar. 3, 2025), at <https://apnews.com/article/un-food-program-trump-aid-africa-9eda0a4309af8c5950231c9cd2f4365b>; UN Press Release, *US Cuts Mean "Essential" UN Mental Health Teams in Ukraine Risk Closure* (Mar. 3, 2025), at <https://news.un.org/en/story/2025/03/1160681>; Colum Lynch, *Scoop: UN Migration Agency Sends Out 3,000 Pink Slips in Mass Layoffs*, DEVEX (Feb. 11, 2025), at <https://www.devex.com/news/scoop-un-migration-agency-sends-out-3-000-pink-slips-in-mass-layoffs-109372>; Olivia Le Poidevin, *US Aid Cuts Force UNICEF to Reduce Lebanon Nutrition Programmes, Official Says*, REUTERS (Feb. 28, 2025), at <https://www.reuters.com/world/middle-east/us-aid-cuts-force-unicef-reduce-lebanon-nutrition-programmes-official-says-2025-02-28>.

though, on occasion, in somewhat milder form. Instead, what differs, it seems, from what can be discerned at this early stage, is the possibility of a shift in the Western alliance that championed (however imperfectly and inconsistently) human rights, democracy, law, international institutions, trade, and the sanctity of national territory, with the United States, led by a president unchecked by his own officials or by Congress, abandoning its allegiance to those commitments and those states, and switching sides, aligning with, and adopting some of the characteristics and policies of, the authoritarian states that were once the United States' rivals.

INTERNATIONAL ECONOMIC LAW

The United States Sanctions Georgians Overseeing Crackdown

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The United States has imposed sanctions and visa restrictions on Georgian officials and pro-Russia far-right political activists, including Bidzina Ivanishvili, the founder and honorary chairman of Georgia's ruling party, Georgian Dream.¹ The penalties, first issued in September 2024 and expanded in December, followed the government's enactment of a law requiring the registration of foreign-funded organizations, its violent suppression of those protesting the law's passage, and its crackdown on political opponents following parliamentary elections in October. The unrest stems from fundamental differences between the governing party, which has increasingly sought closer relations with Russia, and the opposition, which has favored deeper ties with the West, including membership in the European Union (EU) and the North Atlantic Treaty Organization (NATO). Since its electoral victory, which was marred by irregularities, the government has passed new laws further expanding its power to stifle opposition and stripping opposition members of parliament of their credentials.

In May 2024, the Georgian parliament adopted, over a presidential veto, a law "On Transparency of Foreign Influence."² The law requires organizations (non-profits,

¹ See U.S. Dep't of the Treasury Press Release, Treasury Sanctions Georgian Officials and Extremists for Serious Human Rights Abuse (Sept. 16, 2024), at <https://home.treasury.gov/news/press-releases/jy2580> [<https://perma.cc/776V-3WVX>] [hereinafter Treasury Department September Sanctions]; U.S. Dep't of State Press Release, Promoting Accountability for Serious Human Rights Abuse and Anti-democratic Actions in Georgia (Sept. 16, 2024), at <https://2021-2025.state.gov/promoting-accountability-for-serious-human-rights-abuse-and-anti-democratic-actions-in-georgia> [<https://perma.cc/GGZ2-5RXC>]; U.S. Dep't of State Press Release, Pursuing Visa Restrictions for Individuals Involved in Undermining Democracy in Georgia (Dec. 12, 2024), at <https://2021-2025.state.gov/pursuing-visa-restrictions-for-individuals-involved-in-undermining-democracy-in-georgia> [<https://perma.cc/7GLW-F5TZ>] [hereinafter December Visa Restrictions]; U.S. Dep't of State Press Release, Sanctioning Georgian Ministry of Internal Affairs Officials Involved in Serious Human Rights Abuses Against Protesters (Dec. 19, 2024), at <https://2021-2025.state.gov/sanctioning-georgian-ministry-of-internal-affairs-officials-involved-in-serious-human-rights-abuses-against-protesters> [<https://perma.cc/G7LK-PV6K>] [hereinafter Sanctioning Georgian Officials]; U.S. Dep't of the Treasury Press Release, Treasury Sanctions Georgian Ministry of Internal Affairs Officials for Brutality Against Protesters, Journalists, and Politicians (Dec. 19, 2024), at <https://home.treasury.gov/news/press-releases/jy2759> [<https://perma.cc/CJG3-UMTU>] [hereinafter Treasury Department December Sanctions]; U.S. Dep't of State Press Release, Sanctioning Georgian Dream Founder Bidzina Ivanishvili (Dec. 27, 2024), at <https://2021-2025.state.gov/sanctioning-georgian-dream-founder-bidzina-ivanishvili> [<https://perma.cc/8R7G-TQRG>] [hereinafter Ivanishvili Sanctions].

² Law of Georgia on Transparency of Foreign Influence (May 28, 2024), at <https://www.matsne.gov.ge/en/document/view/6171895?publication=0> [<https://perma.cc/2UUZ-FGGW>] [hereinafter Foreign Influence