One-Year Follow-up Response of the United States of America to Priority Recommendations of the Committee on the Elimination of Racial Discrimination in its Concluding Observations on the Combined Seventh to Ninth Periodic Reports of the United States of America

1. Pursuant to the Committee's request, the United States provides the following information pertaining to the Committee's recommendations in paragraphs 17 (a) and (b), 18, and 22 of its Concluding Observations adopted on August 26, 2014, focusing to the extent possible on measures taken subsequent to the Committee's recommendations.

Recommendation 17(a) & (b) (Police use of force): The Committee urges the State party to:

(a) Ensure that each allegation of excessive use of force by law enforcement officials is promptly and effectively investigated; that the alleged perpetrators are prosecuted and, if convicted, punished with appropriate sanctions; that investigations are re-opened when new evidence becomes available; and that victims or their families are provided with adequate compensation.

2. U.S. federal, state, and local authorities take vigilant action to prevent use of excessive force by law enforcement officials and to hold accountable persons responsible for such use of force. It must be recognized that law enforcement officers have challenging and often dangerous jobs and that the vast majority of their interactions with civilians involve appropriate conduct. However, when there is improper conduct, the U.S. Department of Justice (DOJ) has criminal jurisdiction to investigate and prosecute use of excessive force by federal, state, and local officials that violates the U.S. Constitution or federal law. Successful prosecution of any case, including consideration of re-opening a case for prosecution, is dependent on the availability of evidence to support conviction beyond a reasonable doubt. DOJ also has civil jurisdiction to address state and local law enforcement patterns and practices that violate the Constitution or federal law, including the use of excessive force.

3. Federal Prosecutions: In the last six years, DOJ has brought criminal charges against more than 350 law enforcement officials. The following are recent examples of federal prosecutions involving the alleged use of excessive force by police against members of racial or ethnic minorities:

- On March 27, 2015, a federal grand jury indicted a Madison, Alabama, police officer for using unreasonable force against a man he was attempting to question. The indictment charged that the officer injured the victim, a man of South Asian descent, by slamming him into the ground.
- On June 18, 2015, DOJ charged a Miami Dade Police Detective with making traffic stops of three motorists, some of whom were Hispanic, to steal their money and property, in violation of the Fourth Amendment to the U.S. Constitution. The FBI is investigating the case with assistance from the Homestead, Florida Police Department.

4. State-Level Prosecutions: The following are recent examples of prosecutions at the state or local level involving the alleged use of excessive force by police against members of racial or ethnic minorities:

- Johnnie Riley, a former police officer with the Prince George's County Police Department in Maryland, was convicted of shooting Calvin Kyle, an African-American man, in the back in September 2012, after Kyle fled from a police car while handcuffed. In November 2014, the Prince George's County Circuit Court sentenced Riley to five years in prison.
- Michael Slager, a police officer in North Charleston, South Carolina, was indicted on June 8, 2015, by a Charleston County grand jury on a murder charge in the shooting death of Walter Scott, an African-American man.
- Ray Tensing, a former police officer for the University of Cincinnati in Cincinnati, Ohio, was indicted on July 29, 2015, by a Hamilton County grand jury on a murder charge in the shooting death of an African-American man, Samuel DuBose.

5. Effective Remedies: In addition to bringing criminal prosecutions, the DOJ Civil Rights Division continues to institute civil suits for equitable and declaratory relief pursuant to the pattern or practice of police misconduct provision of 42 U.S.C. § 14141. DOJ has opened more than 20 investigations of discriminatory policing and/or excessive force in the last six years and has reached 19 agreements with state or local law enforcement agencies, working toward long-term solutions in those jurisdictions.

Recent cases include:

- On March 4, 2015, DOJ issued a 100-page report finding that the Ferguson, Missouri, Police Department had engaged in a pattern or practice of excessive force and discriminatory policing, among other violations. DOJ's Civil Rights Division is negotiating an agreement for reform with the City, with the goal of focusing the Ferguson Police Department on public safety and constitutional policing.
- On May 8, 2015, following the death of Freddie Gray, DOJ announced the opening of a civil pattern or practice investigation into the Baltimore, Maryland, Police Department, focusing on the use of force; stops, searches and arrests; and whether there is a pattern of discriminatory policing. DOJ's Office of Community Oriented Policing Services (COPS) and Community Relations Service (CRS) will provide technical assistance to Baltimore to promote changes and improvements even as the investigation proceeds.
- Based on a two-year civil rights investigation that found a pattern and practice of unreasonable and unnecessary use of force by the Cleveland (Ohio) Division of Police, on May 26, 2015, DOJ announced an agreement with the City of Cleveland that requires sweeping changes to ensure community-oriented, bias-free, and transparent policing, including establishment of a Community Police Commission representative of the City's diverse communities, training for police officers, federal monitoring, and other requirements.

6. DOJ is also working proactively to prevent such incidents through training of police officers and helping to strengthen police-community relations. For example, in addition to opening civil and criminal investigations after the August 2014 shooting of Michael Brown in Ferguson, Missouri, DOJ sent mediators from CRS to create a dialogue between police, city officials, and residents to reduce tension in the community. DOJ has created a Collaborative Reform Initiative for Technical Assistance, which responds to requests from law enforcement for proactive, non-adversarial, and cost-effective technical assistance for agencies with significant law enforcement-related issues. Such assistance is currently being provided to police departments in Saint Louis County, Missouri; Fayetteville, North Carolina; and Salinas, California.

7. Effective remedies are also provided at the state level. The following are recent examples of compensation or other remedies for incidents involving members of racial or ethnic minorities:

- In October 2014, a jury in Colorado awarded $4.65 million to the family of Marvin Booker, who died after being shocked by an electronic control weapon and placed in a sleeper hold by Denver jail officers.
- In November 2014, the City of Cleveland, Ohio, agreed to pay $1.5 million each to the families of Timothy Russell and Malissa Williams, who died after a car chase during which police fired more than 100 shots at Russell's vehicle.
- In December 2014, a jury in California awarded $8 million to the family of Darren Burley, who died 12 days after a struggle with Los Angeles County Sheriff's deputies. The deputies acknowledged that they had punched Burley, used a stun gun on him, and used their body weight in order to handcuff him during an arrest.
- In May 2015, the City of Chicago, Illinois created a $5.5 million "reparations fund" for victims, most of whom were African-American or Hispanic, of police torture or physical abuse by former Chicago Police Commander Jon Burge or his subordinates between 1972 and 1991.
- In July 2015, New York City agreed to a $5.9 million settlement with the family of Eric Garner, who died after being placed in a chokehold during an arrest by Staten Island police officers in July 2014.

(b) Intensify its efforts to prevent the excessive use of force by law enforcement officials by ensuring compliance with the 1990 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and ensure that the new Customs and Border Protection directive on the use of force is applied and enforced in practice.

8. Use of excessive force by law enforcement officials has increasingly become an issue of widespread public focus and concern in the United States in the face of a number of highly publicized recent incidents. Authorities at all levels have intensified their efforts to prevent such conduct through numerous mechanisms, including revised use of force policies; increased capacity for crisis intervention with specially-trained personnel; enhanced early warning systems to identify gaps in policy, training and supervision; increased community oversight; use of new types of equipment; and expedited investigations of misconduct complaints. In March 2015,

President Obama's Task Force on 21st Century Policing released a report with approximately 60 recommendations, and in May 2015, a $20 million Body-Worn Camera Pilot Partnership Program was announced. The efforts being undertaken include a number of methods addressed in the 1990 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and U.S. government policies on use of force by law enforcement officials are fully consistent with the Basic Principles and with the UN Code of Conduct for Law Enforcement Officials.

9. In addition, in December 2014, DOJ announced an updated policy on profiling applicable to all law enforcement activity under federal supervision. This policy instructs that law enforcement officers may not consider race, ethnicity, national origin, gender, gender identity, religion, or sexual orientation to any degree when making routine or spontaneous law enforcement decisions, unless the characteristics apply to a suspect's description.

10. There have also been recent legislative and policy efforts at the state and local levels to address and curb use of excessive force and discriminatory policing. The following are examples of such efforts:

- On April 19, 2015, the California Attorney General announced the development of an independently certified implicit-bias training program for law enforcement officers. The initiative aims to expose and alter subconscious prejudices that contribute to race discrimination in community law enforcement. Since 2014, numerous city-level law enforcement agencies around the country, including police departments in Dallas, Philadelphia, St. Louis, Chicago, and Los Angeles, have introduced implicit-bias education as part of officer training.
- On July 10, 2015, Rhode Island adopted the Comprehensive Community-Police Relationship Act. The new law combats discriminatory police practices through the imposition of monitoring and reporting requirements and search restrictions. Among its provisions are requirements that police departments record data on race at traffic stops and each compile an annual report for the Rhode Island Department of Transportation detailing that police department's responses to evidence of disparate enforcement.

11. With regard to the Department of Homeland Security (DHS) U.S. Customs and Border Protection (CBP) policy on use of force, DHS and CBP enforce strict standards of conduct applicable to all employees, whether they are on- or off-duty, investigate deaths resulting from use of force, and follow up on civil rights and civil liberties-related complaints. CBP has conducted comprehensive reviews of its use of force policies and practices, and continues actively to monitor and enforce those policies. On May 30, 2014, CBP released its current use of force handbook, along with an earlier Police Executive Research Forum report on use of force. Earlier, in 2010, CBP created a Use of Force Reporting System, which electronically tracks all lethal and non-lethal uses of force by agents and officers. On December 9, 2014, DHS also established a CBP Integrity Advisory Panel as a subcommittee of the Homeland Security Advisory Council, tasked with benchmarking CBP's progress in response to CBP use of force reviews and a report by the DHS Office of Inspector General, as well as identifying best practices from federal, state, local, and tribal law enforcement on incident prevention and transparency pertaining to incident response and discipline.

Recommendation 18 (Immigration policy):

The Committee calls upon the State party to ensure that the rights of non-citizens are fully guaranteed in law and in practice, including inter alia by:

(a) Abolishing "Operation Streamline" and dealing with any breaches of immigration law through civil, rather than criminal immigration system.

12. Operation Streamline is a law enforcement initiative aimed at deterring the increase in illegal crossings on the U.S. Southwest border by prosecuting certain non-citizens under 8 U.S.C. § 1325 ("improper entry by alien"). Most of those prosecuted had attempted to re-enter the United States without inspection after previously being ordered excluded or removed. The goal of Operation Streamline is to reduce rates of alien re-entry recidivism. The United States is committed to making sure that this type of enforcement activity is conducted in a manner consistent with U.S. human rights obligations.

13. Individuals subject to Operation Streamline are entitled to and afforded due process in all criminal proceedings under the U.S. Constitution and laws, including rights provided to all

criminal defendants, and consistent with applicable international obligations. Each Streamline prosecution is conducted openly in federal court, with the benefit of legal representation; a thorough, transcribed plea dialogue and rights discussion; a right to demand a trial to make the government prove each element of each allegation beyond a reasonable doubt; a right to be heard at sentencing; and access to courts for higher-level review.

14. As of December 2014, only the Tucson, Del Rio, and Laredo sectors participate in Operation Streamline; the Yuma, El Paso, and Rio Grande Valley sectors discontinued using Operation Streamline between 2013 and 2014. However, U.S. Attorney's Offices in these sectors continue to prosecute misdemeanor cases under 8 U.S.C. § 1325.

(b) Undertaking thorough and individualized assessments for decisions concerning detention and deportation and guaranteeing access to legal representation in all immigration-related matters.

15. Decisions concerning detention and deportation are made on the basis of individualized assessments in light of the totality of the circumstances, and the United States provides avenues for relief and favorable discretion, consistent with U.S. international obligations. For example, in determining whether a removable non-citizen who is not subject to mandatory detention should be released, DHS and the DOJ Executive Office for Immigration Review undertake individualized assessments, considering factors that bear on whether the person is a flight risk or danger to the community, such as family, community ties, health, and criminal record.

16. On November 20, 2014, President Obama announced executive actions within his authority in order to improve the U.S. immigration system. In part, these actions are designed to prioritize removals of individuals who threaten U.S. national security, public safety, and border security, while allowing for the provision of temporary relief from removal on a discretionary and individualized basis to certain persons who have been in the United States for an extended period and meet certain guidelines for consideration, including national security and criminal background checks. Specifically, the reforms sought to: (1) expand the population eligible for consideration under Deferred Action for Childhood Arrivals (DACA) to people of any current age who had entered the United States before the age of 16 and had lived in the United States

continuously since January 1, 2010; (2) extend the period of deferred action and work authorization under DACA from two years to three years; (3) allow parents of U.S. citizens and lawful permanent residents to request deferred action and employment authorization for three years under a new initiative, Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA), provided they have lived in the United States continuously since January 1, 2010, are not enforcement priorities, and pass required background checks; (4) focus enforcement priorities on the removal of national security, border security, and public safety threats; (5) implement a new Priority Enforcement Program in order to focus enforcement resources on those threats; (6) shift resources to the border; (7) modernize, improve, and streamline the legal immigration system; and (8) promote citizenship education and public awareness for lawful permanent residents.

17. DAPA and the modifications to DACA were challenged in federal court, leading to issuance of a preliminary injunction in February 2015 that temporarily blocked implementation of these two policies (but did not affect the original 2012 DACA policy). Despite the legal setback to two of these initiatives, the Obama Administration has taken tangible steps forward on its other immigration initiatives. For example, DHS has already implemented a regulation to provide work authorization for spouses of certain skilled workers on a pathway to citizenship and a policy memo clarifying standards for intracompany transfers for foreign workers. As co-chair of the interagency Task Force on New Americans, DHS' U.S. Citizenship and Immigration Services (USCIS) is working with federal, state and local stakeholders to strengthen the federal government's immigrant integration efforts by making them more strategic and deliberate. In April 2015, the Task Force issued a report, *Strengthening Communities by Welcoming All Residents: A Federal Strategic Action Plan on Immigrant & Refugee Integration*, which included a series of recommendations that USCIS and interagency partners are working to implement. USCIS launched one of these initiatives, the Citizenship Public Awareness Initiative, on July 6, 2015. In July 2015, the Administration also released a report entitled *Modernizing and Streamlining Our Legal Immigration System for the 21st Century*, which includes new actions that federal agencies will undertake to improve the visa experience for families, workers, and people in need of humanitarian relief.

18. In November 2014, President Obama also announced his intention to focus immigration enforcement resources on criminals and persons who represent threats to our security and safety. DHS Secretary Jeh Johnson issued new department-wide enforcement and removal priorities directing the agency to focus its resources appropriately and effectively on individuals who pose the greatest risk to public safety, border security, and national security. Under this policy, the top priorities are on national security threats, convicted felons, gang members, and recent border crossers. Secondary priorities include those convicted of significant or multiple misdemeanors and those who are not apprehended at the border, but who entered or reentered the United States unlawfully after January 1, 2014. The third priority encompasses those who are non-criminals but who have failed to abide by a final order of removal issued on or after January 1, 2014. Individuals who do not fall into any of the priorities announced by Secretary Johnson will generally not be priorities for detention or removal.

19. Many procedural protections for individuals are provided in proceedings before an immigration judge, including the requirement that immigration judges advise individuals of their right to be represented at no expense to the government, and notify them of and provide them with a list of free legal services providers. Immigration judges must also advise individuals that they have a right to examine, and object to, the evidence against them; present evidence on their own behalf; cross-examine government witnesses; and appeal an adverse decision. Additionally, immigration judges cannot accept an admission of removability from individuals who are younger than 18 or who are incompetent to represent themselves, unless these individuals are accompanied by a qualified representative.

20. To promote access to legal representation, DOJ offers the Legal Orientation Program to detained individuals, and the Legal Orientation Program for Custodians of Unaccompanied Alien Children (including a national call center). These programs work with nonprofit organizations to explain immigration court procedures and basic legal information to detained individuals, and to inform custodians about their role and responsibilities to unaccompanied children in their care who are in removal proceedings. These providers also facilitate *pro bono* representation in removal proceedings and administrative appeals before the Board of Immigration Appeals. DOJ has also taken additional steps to encourage *pro bono* legal representation of respondents,

including unaccompanied children, in removal proceedings, by implementing programs such as issuing guidance to immigration judges regarding facilitating *pro bono* representation; creating a Model Hearing Program for *pro bono* representatives; establishing Self-Help Legal Centers at Immigration Courts; establishing juvenile dockets in all 58 Immigration Courts across the country to expedite immigration proceedings involving juveniles; issuing guidance to immigration judges on how to handle cases involving unaccompanied children; and, in the fall of 2014, establishing, with the Corporation for National and Community Service, the "justice AmeriCorps" grants initiative to improve court efficiencies in facilitating representation of unaccompanied children and identifying potential trafficking victims. Additionally, DOJ continues to implement its nationwide policy to provide enhanced procedural safeguards to detained individuals in immigration proceedings who may be mentally incompetent to represent themselves. These safeguards include: competency hearings; independent psychiatric or psychological examinations; and, for individuals deemed mentally incompetent to represent themselves, provision of qualified representatives. DOJ is also moving forward with regulatory initiatives that it initially proposed on September 17, 2014, related to *Separate Appearances for Custody and Bond Proceedings* and a *List of Pro Bono Legal Service Providers for Aliens in Immigration Proceedings*, and considering draft regulations for public comment that would streamline the process for legitimate entities to get approval to offer low-cost or pro-bono legal services and represent people in immigration court proceedings. Both initiatives, once promulgated as final rules, are expected to encourage legal representation of individuals in immigration proceedings.

21. On June 24, 2015, DHS Secretary Johnson announced a substantial change in the Department's detention practices with respect to families with children apprehended at the border. The new approach recognizes that, once a family has established initial eligibility for asylum or other relief under U.S. law, long-term detention of the family is an inefficient use of DHS resources and should be discontinued. Building on additional reforms announced on May 13, 2015, regarding the operation of family detention facilities, Secretary Johnson announced that families who are successful in stating a case of credible or reasonable fear of persecution in their home countries will generally be released on an appropriate monetary bond or other appropriate condition of release and that these credible or reasonable fear interviews will take

place within a reasonable time frame. Additionally, bond criteria will be to set at a level that is reasonable and realistic, taking into account the family's ability to pay, risk of flight, and public safety. DHS is effectively transitioning the facilities into processing centers at which DHS can release those found eligible to apply for relief or protection within an average of approximately 20 days under reasonable conditions designed to achieve their appearance in immigration proceedings. DHS is also setting up a federal advisory committee of outside experts, in the fields of detention management, public health, children and family services, and mental health, to advise DHS concerning family detention facilities, and is working with non-governmental organizations to ensure that families are provided with adequate access to legal services and other appropriate social services while in DHS custody.

(c) Reviewing its laws and regulations in order to protect all migrant workers from exploitative and abusive working conditions, including by raising the minimum age for harvesting and hazardous work in agriculture under the Fair Labor Standards Act in line with international labour standards, and ensuring effective oversight of labour conditions.

22. The protection of migrant workers is vital to the United States, and we are committed to ensuring that all such workers in the United States receive the protections to which they are entitled under our Constitution and laws, consistent with applicable international obligations.

23. As previously reported to the Committee, U.S. laws that apply to migrant workers prohibit discrimination in employment on the bases of race, color, national origin (ethnicity), sex (including pregnancy, sex stereotyping, and gender identity), religion, age, disability, or genetic information (including family medical history). In addition, the Equal Employment Opportunity Commission (EEOC) recently held that federal law protects workers from discrimination on the basis of sexual orientation. Under U.S. law, most migrant workers also have the right to advocate as a group for better pay or working conditions, with or without the assistance of a labor organization, and to bargain collectively through representatives of their own choosing. Migrant workers, including most agricultural workers, are entitled to a minimum wage for hours worked. Safety laws require safeguards to prevent worker injury. Environmental laws prescribe how certain chemicals must be handled in the workplace.

24. U.S. federal labor and employment laws generally apply to all workers located in the United States, regardless of immigration status. When investigating violations, U.S. labor enforcement agencies do not ask about the immigration status of the workers in question. The EEOC, the National Labor Relations Board (NLRB), and the Department of Labor (DOL) also combat employer efforts to discover the immigration status of workers during litigation in order to prevent employers from threatening deportation or otherwise intimidating the charging parties or witnesses.

25. Temporary foreign workers brought into the United States in accordance with the Immigration and Nationality Act also acquire protection under the visa programs under which they are admitted. For instance, foreign workers performing agricultural labor or services of a temporary or seasonal nature (H-2A visa) must: (1) be paid the higher of the federal or state minimum wage, the adverse effect wage rate, the local prevailing wage, or the agreed-upon collective bargaining rate; (2) receive a copy of the work contract; and (3) receive a guaranteed offer to work or be paid for a total number of hours equal to at least 75 percent of the work period specified in the contract. Federal agencies conduct outreach to migrant communities about their rights under U.S. laws, often in concert with civil and human rights groups that provide assistance to these communities. Agencies make materials available in offices and on-line in a variety of languages, and provide language assistance to those who need it to protect their rights.

26. As reported in our 2013 periodic report, DOL has established formal partnerships with foreign embassies and consulates of countries that are major countries of origin for migrant workers. Since 2013, DOL has renewed its partnerships with Costa Rica, the Dominican Republic, El Salvador, Mexico, and Nicaragua, and concluded a new partnership agreement with Belize. The EEOC has entered into similar partnerships, including with Mexico and the Philippines, and the NLRB has such partnerships with Mexico, Ecuador, Colombia, and the Philippines.

27. All workers, regardless of immigration status, are protected from forced labor by the U.S. criminal code, the Thirteenth Amendment to the U.S. Constitution, and the Trafficking Victims

Protection Act (TVPA). Certain victims of trafficking and related crimes, such as forced labor, who assist law enforcement in the investigation or prosecution, and who meet other requirements, may be eligible to receive humanitarian immigration benefits allowing them to remain temporarily in the United States, with the possibility of obtaining permanent residence. Protecting children, in particular, from labor that is unsafe, unhealthy, or detrimental to their education and general wellbeing is a priority and a shared responsibility among the federal government and state and local governments. There are minimum age requirements under federal and state laws. All states have rules regarding the employment of young workers. In addition, some states have separate minimum wage requirements. When federal and state rules differ, the rules that provide the most protection will apply.

28. As reported to the Committee during the August 2014 presentation, in 2011, DOL sought comments on whether to amend and expand the list of agricultural occupations considered too hazardous for the employment of children under age 16. DOL received more than 10,000 comments on the proposed rule. Many were from parents who own or operate farms, who believed that the proposal would limit the ability of their own children to work legally and gain hands-on experience on their farms. Other commenters, including nearly 200 members of Congress and a number of agricultural education instructors, were concerned that the rule would undermine American farming traditions and the preparation of the next generation of farmers and ranchers. Although DOL also received comments supporting the proposed rule, in light of the thousands of comments expressing profound concerns, in April 2012, DOL announced that it would withdraw the proposed rule. This decision to withdraw the rule was based on the Obama Administration's commitment to listening and responding to the comments of Americans in the public comment process.

29. In connection with this decision, DOL affirmed its intention to work to promote the safety and health of children employed as farm workers, including by collaborating with farming organizations to develop educational programs that address hazardous agricultural work practices and conditions. The U.S. government has also intensified efforts to combat unlawful forms of child labor and to protect the greatest number of young agricultural workers. For example, in 2014, the Environmental Protection Agency (EPA) proposed modifications to its Worker

Protection Standard to better protect the nation's two million farm workers and their families from pesticide exposure. The revised standard proposed to afford farm workers, including children, health protections similar to those already enjoyed by workers in other industries, and would generally prohibit children under 16 from handling pesticides. EPA has indicated that it will publish a final rule revising its Worker Protection Standard by fall 2015.

30. Concurrent with President Obama's November 2014 executive actions, an Interagency Working Group for the Consistent Enforcement of Federal Labor, Employment, and Immigration Laws was established. Through this working group, DOL, DHS, DOJ, EEOC, and NLRB put forth a six-month action plan that seeks to enhance coordination in cases where federal responsibilities to enforce labor, employment, and immigration laws may overlap, ensure that workers who cooperate with labor and employment enforcement may continue to do so without fear of retaliation, ensure that unscrupulous parties do not attempt to misuse immigration enforcement or labor laws to thwart worker protections, and ensure the effective enforcement of these laws.

(d) Ratifying ILO Convention No.29 concerning Forced or Compulsory Labour and ILO Convention No.138 concerning Minimum Age for Admission to Employment.

31. The 1998 ILO Declaration on Fundamental Principles and Rights at Work confirms that all ILO Members have an obligation, arising from the very fact of membership in the Organization, to respect, promote, and realize in good faith the principles concerning the fundamental rights that are the subject of the ILO's eight core conventions, including the elimination of all forms of forced or compulsory labor and the effective abolition of child labor. Although the United States has not ratified the majority of those conventions, the United States has demonstrated, in its follow-up reports under the Declaration, that U.S. workers do enjoy the fundamental principles and rights at work.

32. Under U.S. practice, prior to the President's transmitting any ILO convention to the U.S. Senate for advice and consent to ratification, a careful review of the convention is undertaken by the Tripartite Advisory Panel on International Labor Standards (TAPILS), a sub-group of the President's Committee on the ILO comprising representatives from the U.S. government and

from employer and worker organizations. This review considers whether U.S. law and practice, at both the state and federal levels, are in full conformity with the convention's provisions. Because of the issues considered in the review, the review process for each convention is complex, thorough, and often lengthy. The United States ratified ILO Convention 105 on the abolition of forced labor in 1991, and ILO Convention 182 on the worst forms of child labor in 1999.

33. TAPILS began a review of ILO Convention 29 on forced or compulsory labor when it began its review of Convention 105, but decided to concentrate on Convention 105. TAPILS has not completed reviews of either Convention 29 or Convention 138, and neither Convention has been transmitted by the President to the Senate for advice and consent to ratification.

Recommendation 22 (Guantanamo):

The Committee urges the State party to end the system of administrative detention without charge or trial and ensure the closure of the Guantanamo Bay facility without further delay. Recalling its general recommendation No.30 (2004) on non-citizens and general recommendation No.31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, it also calls upon the State party to guarantee the right of detainees to a fair trial in compliance with international human rights standards, and to ensure that any detainee who is not charged and tried is released immediately.

34. We preface this response by noting that the United States is committed, in the interest of promoting dialogue and cooperation, to providing information in response to the Committee's requests to the degree practicable, even where we may not agree that a given request bears directly on obligations under the Convention. The United States continues to have legal authority to detain Guantanamo detainees until the end of hostilities, consistent with U.S. law and applicable international law, but it has elected, as a policy matter, to ensure that it holds individuals no longer than necessary to mitigate the threat they pose.

35. President Obama has repeatedly reaffirmed his commitment to close the Guantanamo Bay detention facility, including during his State of the Union address to Congress on January 20, 2015. He has emphasized that the continued operation of the facility weakens U.S. national security by draining resources, damaging relationships with key allies and partners, and

emboldening violent extremists. The United States is taking all feasible steps to reduce the detainee population at Guantanamo and to close the detention facility in a responsible manner that protects our national security.

36. More than 80 percent of those at one time held at the Guantanamo Bay detention facility have been repatriated or resettled, including all detainees subject to court orders directing their release. Of the 242 detainees at Guantanamo at the beginning of the Obama Administration, 122 have been transferred out of the facility. More detainees were transferred out of the facility in 2014 than in any year since 2009, and the detainee population now stands at its lowest since 2002. Of the 116 who remain at Guantanamo, 53 are designated for transfer, subject to appropriate security and humane treatment conditions. Of the 63 others, ten are currently facing charges, awaiting sentencing, or awaiting possible further appellate review of the sentences, and the remaining 53 are eligible for review by the Periodic Review Board (PRB). The PRB process, which has been underway since October 9, 2013, is a discretionary, administrative interagency process to review whether continued law of war detention of certain detainees at Guantanamo Bay remains necessary to protect against a continuing significant threat to the security of the United States. The PRB has conducted 20 hearings and six six-month file reviews, in which detainees are able to participate with their Personal Representatives and, in some cases with their Private Counsel.

37. The majority of Guantanamo detainees designated for transfer are Yemeni nationals, and in light of the current security situation in Yemen, the United States recognizes the need to identify appropriate resettlement solutions for that population as part of broader transfer efforts.

38. The United States remains of the view that in our efforts to protect our national security, both military commissions and federal courts can, depending on the circumstances of the specific case, provide appropriate processes for criminal prosecution that are both grounded in applicable law and effective. U.S. law currently precludes the transfer of detainees from Guantanamo for prosecution in the United States. All current military commission proceedings at Guantanamo incorporate fundamental procedural guarantees that meet or exceed the fair trial safeguards required by Common Article 3 of the 1949 Geneva Conventions and other applicable law, and

that are further consistent with those in Additional Protocol II to the 1949 Geneva Conventions. A conviction by a military commission is subject to multiple layers of review, including judicial review by federal civilian courts consisting of life-tenured judges.

39. All Guantanamo detainees have the ability to challenge the lawfulness of their detention in U.S. Federal court through a petition for a writ of *habeas corpus*. Detainees have access to independent legal counsel and to appropriate evidence to mount such a challenge. The United States is fully committed to ensuring that individuals we detain in any armed conflict are treated humanely in all circumstances, consistent with applicable U.S. treaty obligations, U.S. domestic law, and U.S. policy.