

long counterterrorism strategy in West Africa.⁴¹ The United States is now looking to move its operations elsewhere in the region and is reconsidering its approach.⁴²

*New Compact of Free Association Agreements with Micronesia, the Marshall Islands, and Palau
Approved by Congress*

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Congress recently enacted legislation approving and funding agreements between the United States and Micronesia, the Marshall Islands, and Palau that update the Compacts of Free Association (COFAs) that have governed relations between the United States and the three Freely Associated States (FAS) since their independence.¹ The legislation appropriates \$7.1 billion over twenty years, including \$3.3 billion to Micronesia, \$2.3 billion to the Marshall Islands, and \$889 million to Palau.² The legislation also restores federal benefits for FAS citizens living in the United States³ and expands benefits for FAS veterans of the U.S. armed forces.⁴ The new agreements and implementing legislation maintain and reinforce U.S. influence in the Pacific at a time when the United States is facing increasing Chinese competition in the region.

Following World War II, the one thousand islands and atolls in the western Pacific Ocean that are now Micronesia, the Marshall Islands, Palau, and the Northern Mariana Islands (NMI) comprised the Trust Territory of the Pacific Islands (TTPI), administered by the United States as part of the UN international trusteeship system. From the mid-1960s, the Congress of Micronesia (a name that referred to the entirety of the trust territory, not just the islands that would later comprise the country of Micronesia) considered the future status of the TTPI and recommended either free association with the United States or full

<https://www.consilium.europa.eu/en/press/press-releases/2024/05/27/eumpm-niger-council-decides-not-to-extend-the-mandate-of-the-mission> [<https://perma.cc/S2J4-Y65X>].

⁴¹ See Eric Schmitt & Ruth Maclean, *U.S. Confronts Failures as Terrorism Spreads in West Africa*, N.Y. TIMES (June 7, 2024), at <https://www.nytimes.com/2024/06/07/us/politics/us-terrorism-west-africa.html>.

⁴² See Eric Schmitt, *U.S. and Niger Announce Withdrawal of American Personnel by September*, N.Y. TIMES (May 19, 2024), at <https://www.nytimes.com/2024/05/19/us/politics/us-niger-military-withdrawal.html>; Schmitt & Maclean, *supra* note 41.

¹ See Compact of Free Association Amendments Act of 2024, Pub. L. 118–42, Div. G, Tit. II (2024) [hereinafter COFA Amendments Act]. The approved agreements included updated COFAs and subsidiary agreements. See, e.g., Agreement Between the Government of the Republic of Palau and the Government of the United States of America Resulting from the 2023 Compact of Free Association Section 432 Review (May 22, 2023), at <https://www.palau.gov/wp-content/uploads/Compact-Agreement-Pending-US-Congressional-Approval.pdf> [<https://perma.cc/9AHA-UE6P>]; Agreement Between the Government of the United States of America and the Government of the Federated States of Micronesia to Amend the Compact of Free Association, as Amended (May 23, 2023), at <https://jcrp.gov.fm/wp-content/uploads/2023/08/SIGNED-FSM-Compact-Amendments.pdf> [<https://perma.cc/YMT2-ZB7V>]; Agreement Between the Government of the United States of America and the Government of the Republic of the Marshall Islands to Amend the Compact of Free Association, as Amended (Oct. 16, 2023), at <https://www.state.gov/wp-content/uploads/2024/07/24-501.2-Marshall-Islands-Regional-Issues-to-Amend-1.pdf> [<https://perma.cc/AA3A-B8NJ>].

² See U.S. Dep't of State Press Release, *On the Enactment of Compact-Related Legislation* (Mar. 9, 2024), at <https://www.state.gov/on-the-enactment-of-compact-related-legislation> [<https://perma.cc/8TSY-XQS9>]; U.S. Dep't of the Interior Press Release, *Interior Department Applauds Renewed Economic Assistance for Compacts of Free Association* (Mar. 11, 2024), at <https://www.doi.gov/pressreleases/interior-department-applauds-renewed-economic-assistance-compacts-free-association> [<https://perma.cc/QHH3-6T58>].

³ See COFA Amendments Acts, *supra* note 1, § 209(f).

⁴ See *id.*, § 209(a).

independence. One of the TTPI's six districts, the NMI, voted instead to become a commonwealth of the United States and was administratively separated from the rest of the territory.⁵ At an April 1978 meeting in Hilo, Hawaii, representatives from the TTPI's remaining districts and the United States agreed on a "Statement of Agreed Principles of Free Association" that established guidelines for the negotiation of the territory's future political status.⁶ A constitutional referendum in July of that year that would have established upon independence a single political entity to succeed the TTPI was rejected by voters in the Marshall Islands and Palau districts and led to their partition. Negotiations between the now three TTPI entities and the United States led to the signing of COFAs and related agreements in 1982 (Micronesia), 1983 (the Marshall Islands), and 1986 (Palau).⁷ The COFAs with the Marshall Islands and Micronesia entered into force in 1986, subsequent to congressional approval.⁸ But the COFA with Palau would not go into force until 1994 despite Congress's approval eight years earlier.⁹ The Palauan constitution forbade nuclear weapons in Palauan jurisdiction absent approval by a 75 percent majority vote in a referendum,¹⁰ and the United States insisted that it be granted permission as a prerequisite to Palau's independence.¹¹

The COFAs codified a bargain between the United States and the Freely Associated States. The United States provided the FAS with financial grants (including for current account operations, energy production, health and medical programs, education, and roads), program assistance (including for the services, without charge, of the U.S. Weather Service, the U.S. Postal Service, and the U.S. Federal Aviation Administration), trade benefits (including duty-free treatment, with some exceptions, for articles imported from Palau to the United States), national security and defense, and the right of FAS citizens to live and work in the United States. In exchange, the FAS granted the United States—across the strategically critical corridor that spans the Pacific from the Hawaiian Archipelago to Japan, the Philippines, and Taiwan—military operating rights, the right to establish and use defense sites, and the right to deny territorial access to foreign militaries.¹² The United States has missiles and early warning radars in Palau, has an ICBM testing and military space operations

⁵ See Pub. L. 94-241, 90 Stat. 263 (Mar. 24, 1976).

⁶ UN Dep't of Political Affairs, The Trust Territory of the Pacific Islands (Micronesia): Political and Constitutional Development (Decolonization No. 44; Apr. 1993), at https://www.un.org/dppa/decolonization/sites/www.un.org.dppa.decolonization/files/decon_num_44.pdf [<https://perma.cc/KNP3-69NB>]; Bernard Weinraub, *U.S. and Micronesia Trust Area Agree on Basis for Independence*, N.Y. TIMES, Apr. 21, 1978, at A10; Statement of Agreed Principles for Free Association, reprinted in 72 AJIL 882-83 (1978).

⁷ For a discussion of these negotiations, see Arthur John Armstrong, *The Negotiations for the Future Political Status of Micronesia*, 74 AJIL 689 (1980), and Arthur John Armstrong & Howard Loomis Hills, *The Negotiations for the Future Political Status of Micronesia (1980-1984)*, 78 AJIL 484 (1984).

⁸ See Compact of Free Association Act of 1985, Pub. L. 99-239, 99 Stat. 1770 (Jan. 14, 1986).

⁹ See Pub. L. 99-658, Sec. 101, 100 Stat. 3672, 3673 (Nov. 14, 1986); Pub. L. 101-219, Sec. 101, 103 Stat. 1870, 1870 (Dec. 12, 1989).

¹⁰ See Const. of Palau, Art. II, Sec. 3; *id.*, Art. XIII, Sec. 6.

¹¹ See Jon Hinck, *The Republic of Palau and the United States: Self-Determination Becomes the Price of Free Association*, 78 CAL. L. REV. 915 (1990).

¹² On the strategic importance of the Compacts, see Deputy Assistant Secretary of Defense Dr. Siddharth Mohandas, National Security Implications of the Compacts of Free Association, U.S. House Committee on Natural Resources, Indo-Pacific Task Force (July 18, 2023), at https://naturalresources.house.gov/uploadedfiles/testimony_mohandas.pdf.

range in the Marshall Islands, and conducts military exercises in Micronesia.¹³ In 2023, COFA funds reportedly accounted for about 20–30 percent of the Marshall Islands' and Palau's annual government revenue.¹⁴

The original COFAs' financial grants, which provided considerable monetary support for the three newly independent states (\$690 million to the Marshall Islands, \$1.54 billion to Micronesia, and \$574 million to Palau),¹⁵ were made either as lump sums or on a periodic basis, with the latest payments sunseting fifteen years after the Compacts' entry into force. (The COFAs' other provisions, including those relating to defense, were not time limited.) Thus, if the grants were to continue beyond that initial period, the COFAs would need to be updated. To this end, amendments to the COFAs with Micronesia and the Marshall Islands (the Amended COFAs) were concluded in 2003¹⁶ and entered into force the following year following congressional approval.¹⁷ And a Compact Review Agreement (CRA) with Palau was signed in 2010 and entered into force in 2018,¹⁸ after a long delay in Congress due to budgetary rules in the Republican-controlled House of Representatives that required spending offsets.¹⁹ Temporary extensions covered the gaps between the expiration of the financial grants in the original COFAs and the entering into force of the Amended COFAs and the CRA.²⁰

The economic assistance provisions of the Amended COFAs expired at end of the 2023 fiscal year, and those of the CRA were set to expire at the end of the 2024 fiscal year. With these dates approaching, the United States and the FAS sought to extend the COFAs' financial assistance provisions a second time. Agreements were signed with Palau and Micronesia on May 22 and 23, 2023, respectively, and with the Marshall Islands on

¹³ See Three FAS Leaders to U.S. Senate Signed Letter (Feb. 6, 2024), at <https://gov.fm/index.php/component/content/article/27-fsm-pio/news-and-updates/773-three-fas-leaders-to-us-senate-signed-letter?Itemid=177> [<https://perma.cc/WAU9-R3N6>]; Doug Cameron, *The U.S. Military's Race to Save a Crucial Missile Test Site from the Sea*, WALL ST. J. (June 11, 2024), at <https://www.wsj.com/us-news/climate-environment/marshall-islands-climate-change-d1a7f437>.

¹⁴ See Helen Davidson, *Pacific Island Leaders Warn US Failure to Pass Funding Bill Opens Door to China*, GUARDIAN (Feb. 15, 2024), at <https://www.theguardian.com/world/2024/feb/16/pacific-islands-us-funding-bill-china-relationship-joe-biden>.

¹⁵ See CONG. RES. SERV., THE COMPACTS OF FREE ASSOCIATION (Apr. 25, 2024), at <https://crsreports.congress.gov/product/pdf/IF/IF12194>.

¹⁶ See Agreement Between the United States of America and the Marshall Islands Amending the Agreement of June 25, 1983, Concerning the Compact of Free Association, as Amended, TIAS 04-501 (Apr. 30, 2003); Agreement Between the United States of America and Micronesia Amending the Compact of Free Association of October 1, 1982, as Amended, TIAS 04-625 (May 14, 2003).

¹⁷ Compact of Free Association Amendments Act of 2003, Pub. L. 108–188, 117 Stat. 2719 (Dec. 17, 2003).

¹⁸ See Agreement Between the Government of the United States of America and the Government of the Republic of Palau Following the Compact of Free Association Section 432 Review, TIAS 18-919.2 (2010); Agreement Between the Government of the United States of America and the Government of the Republic of Palau to Amend the Agreement Between the Government of the United States of America and the Government of the Republic of Palau Following the Compact of Free Association Section 432 Review, TIAS 18-919.2 (2018). The 2010 agreement (as it would be modified in 2018) was approved by Congress in 2017. See National Defense Authorization Act for Fiscal Year 2018, § 1259C, Pub. L. 115-91, 131 Stat. 1283, 1687 (Dec. 12, 2017).

¹⁹ See Gaynor Dumat-ol Daleno, *Palau's Patience Tested by U.S. Congress' Funding Delays*, PACIFIC DAILY NEWS (July 9, 2016), at https://www.guampdn.com/news/local/palau-patience-tested-by-u-s-congress-funding-delays/article_42c8896b-070d-5223-9e2b-af108ba63949.html; Cleo Paskal, *US Congress' COFA Delay Jeopardizes a Key Element of the "Free and Open Indo-Pacific"*, DIPLOMAT (Feb. 8, 2024), at <https://thediplomat.com/2024/02/us-congress-cofa-delay-jeopardizes-a-key-element-of-the-free-and-open-indo-pacific>.

²⁰ See, e.g., Department of the Interior and Related Agencies Appropriations Act, 2001, Pub. L. 106-291, 114 Stat. 922, 938 (Oct. 11, 2000); Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010, Pub. L. 111-88, 123 Stat. 2904, 2931 (Oct. 30, 2009).

October 16, 2023.²¹ Temporary extensions again continued funding for Micronesia and the Marshall Islands until legislation approving the three revised COFAs and related agreements—the Compact of Free Association Amendments Act—was signed by President Joseph R. Biden, Jr., on March 9, 2024.²²

In accordance with the revised COFAs, the act appropriated billions of dollars for the FAS and extended certain benefits to FAS citizens. The money will provide “support for basic public service delivery, such as health and education, improve infrastructure, and bolster the health of the Compact trust funds previously established.”²³ The act also allocated \$700 million to a Marshall Islands trust fund for uncompensated environmental and health damage caused by the U.S. nuclear atmospheric tests over Bikini and Enewetak atolls between 1946 and 1958.²⁴ Additionally, the legislation broadened eligibility for federal benefits for FAS citizens. Since 1996, FAS citizens living in the United States were ineligible for certain federal programs.²⁵ Access to those benefits, including Supplemental Nutrition Assistance Program, Temporary Assistance for Needy Families, and Supplemental Security Income, has now been restored.²⁶ The new law also increased benefits for FAS veterans of the U.S. armed forces.²⁷

China’s increasing efforts to extend its influence in the Pacific provided urgency to the negotiation and adoption of the COFA extensions. They have also led more generally to a

²¹ See U.S. Dep’t of State Press Release, Secretary Blinken Witnesses the Signing of the U.S.-Palau 2023 Agreement Following the Compact of Free Association Section 432 Review (May 22, 2023), at <https://www.state.gov/secretary-blinken-witnesses-the-signing-of-the-u-s-palau-2023-agreement-following-the-compact-of-free-association-section-432-review> [<https://perma.cc/PYY8-99YX>]; U.S. Dep’t of State Press Release, Signing of the U.S.-FSM Compact of Free Association-Related Agreements (May 23, 2023), at <https://www.state.gov/signing-of-the-u-s-fsm-compact-of-free-association-related-agreements> [<https://perma.cc/SQ37-UUVB>]; U.S. Dep’t of State Press Release, The United States and the Republic of the Marshall Islands Sign Three Compact of Free Association-Related Agreement (Oct. 17, 2023), at <https://www.state.gov/the-united-states-and-the-republic-of-the-marshall-islands-sign-three-compact-of-free-association-related-agreement> [<https://perma.cc/3JCV-C8FX>]. The agreement with the Marshall Islands took longer to conclude than those with Micronesia and Palau due to negotiations regarding compensation for damages from U.S. nuclear testing. See Statement of the Honorable Kenneth A. Kedi Speaker of the Nitijela (Parliament) and Member, Compact Negotiations Committee Appearing on Behalf of the President of the Republic of the Marshall Islands to the U.S. House of Representatives Committee on Natural Resources Indo-Pacific Task Force (July 18, 2023), at https://naturalresources.house.gov/uploadedfiles/testimony_kedi.pdf [<https://perma.cc/MM3S-SSRQ>].

²² See Pub. L. 118-15, § 2101, 137 Stat. 71, 81 (Sept. 30, 2023); Pub. L. 118-22, § 101, 137 Stat. 112, 114 (Nov. 17, 2023); Pub. L. 118-35, § 201, 138 Stat. 3, 7 (Jan. 19, 2024).

²³ U.S. Dep’t of the Interior Press Release, Interior Department Applauds Renewed Economic Assistance for Compacts of Free Association (Mar. 11, 2024), at <https://www.doi.gov/oia/press/Interior-Department-Applauds-Renewed-Economic-Assistance-for-Compacts-of-Free-Association> [<https://perma.cc/635Y-X4ZX>].

²⁴ See Giff Johnson, *RMI Signs 20-Year Compact*, MARSH. IS. J. (Oct. 19, 2023), at <https://marshallislandsjournal.com/rmi-signs-20-year-compact>; David Brunnstrom, *Marshall Islands Seeks More U.S. Nuclear Legacy Funds to Settle Strategic Deal*, REUTERS (July 13, 2023), at <https://www.reuters.com/world/marshall-islands-seek-more-us-nuclear-legacy-funds-settle-strategic-deal-2023-07-13>; Pete McKenzie, *\$59 Million, Gone: How Bikini Atoll Leaders Blew Through U.S. Trust Fund*, N.Y. TIMES (May 3, 2023), at <https://www.nytimes.com/2023/05/03/world/asia/bikini-atoll-resettlement-fund.html>.

²⁵ See Personal Responsibility and Work Opportunity Reconciliation Act of 1996, § 402(a), 110 Stat. 2105, 2262 (Aug. 22, 1996) (codified at 8 U.S.C. § 1612). Medicaid eligibility for FAS citizens was restored in 2020. See Consolidated Appropriations Act, 2021, Pub. L. 116–260, Div. CC, § 208(a), 134 Stat. 1182, 2985 (Dec. 27, 2020) (codified at 8 U.S.C. § 1612(b)(2)(G)).

²⁶ See COFA Amendments Acts, *supra* note 1, § 209(f); Office of Senator Mazie Hirono Press Release, Hirono Secures Reinstatement of Federal Benefits for COFA Citizens, Over \$307 Million for Hawaii in Federal Spending Bill (Mar. 8, 2024), at <https://www.hirono.senate.gov/news/press-releases/hirono-secures-reinstatement-of-federal-benefits-for-cofa-citizens-over-307-million-for-hawaii-in-federal-spending-bill> [<https://perma.cc/YU4R-3WUN>].

²⁷ See COFA Amendments Acts, *supra* note 1, § 209(a).

greater prioritization of U.S. engagement with Pacific Island states.²⁸ President Biden's Indo-Pacific Strategy warned that "[t]he PRC is combining its economic, diplomatic, military, and technological might as it pursues a sphere of influence in the Indo-Pacific and seeks to become the world's most influential power. The PRC's coercion and aggression . . . is most acute in the Indo-Pacific."²⁹ It also described "negotiations on our Compacts of Free Association with the Freely Associated States as the bedrock of the U.S. role in the Pacific."³⁰ Kurt Campbell, at his confirmation hearing to be deputy secretary of state in December 2023, emphasized that "[i]f we don't get [the COFA funding approved] you can expect that literally the next day Chinese diplomats—military and other folks—will be on the plane . . . trying to secure a better deal for China."³¹ In addition to negotiating and signing the COFA extensions, President Biden has announced other steps to enhance the United States' relationship with Pacific island states, including establishing a U.S.-Pacific Partnership and an annual U.S.-Pacific Islands Forum Summit,³² recognizing the Cook Islands and Niue as independent states,³³ opening or planning to open embassies in Solomon Islands, Tonga, Vanuatu, and Kiribati,³⁴ and supporting initiatives and programs

²⁸ See, e.g., Kirsty Needham & Yimou Lee, *Taiwan Loses Ally Nauru, Accuses China of Post-election Ploy*, REUTERS (Jan. 15, 2024), at <https://www.reuters.com/world/asia-pacific/taiwan-loses-first-ally-post-election-nauru-goes-over-china-2024-01-15>; Mackenzie Smith, "It Is Baseless" - Marshalls President, Facing Ouster, Blames Chinese Influence, RNZ (Nov. 9, 2018), at <https://www.rnz.co.nz/international/pacific-news/375519/it-is-baseless-marshalls-president-facing-ouster-blames-chinese-influence>; Kate Lyons, "Palau Against China!": The Tiny Island Standing Up to a Giant, GUARDIAN (Sept. 8, 2018), at <https://www.theguardian.com/global-development/2018/sep/08/palau-against-china-the-tiny-island-defying-the-worlds-biggest-country>.

²⁹ White House, Indo-Pacific Strategy of the United States, at 10 (Feb. 2022), at <https://www.whitehouse.gov/wp-content/uploads/2022/02/U.S.-Indo-Pacific-Strategy.pdf> [<https://perma.cc/QVJ9-MUF7>] [hereinafter Indo-Pacific Strategy]; see also White House, Pacific Partnership Strategy of the United States, at 8 (Sept. 2022), at <https://www.whitehouse.gov/wp-content/uploads/2022/09/Pacific-Partnership-Strategy.pdf> [<https://perma.cc/A4YD-4BXJ>].

³⁰ Indo-Pacific Strategy, *supra* note 29, at 5.

³¹ Nomination Hearing of Kurt Campbell to Be Deputy Secretary of State, at 1:14:30 (Dec. 7, 2023), at <https://www.foreign.senate.gov/hearings/nominations-12-07-2023>.

³² See White House Press Release, Declaration on U.S.-Pacific Partnership (Sept. 29, 2022), at <https://www.whitehouse.gov/briefing-room/statements-releases/2022/09/29/declaration-on-u-s-pacific-partnership> [<https://perma.cc/N75J-VWLH>]; White House Press Release, U.S.-Pacific Islands Forum Leaders Statement on Reaffirming U.S.-Pacific Partnership (Sept. 25, 2023), at <https://www.whitehouse.gov/briefing-room/statements-releases/2023/09/25/u-s-pacific-islands-forum-leaders-statement-on-reaffirming-u-s-pacific-partnership> [<https://perma.cc/7EN5-DL9U>].

³³ See White House Press Release, Statement by President Biden on the Recognition of the Cook Islands and the Establishment of Diplomatic Relations (Sept. 25, 2023), at <https://www.whitehouse.gov/briefing-room/statements-releases/2023/09/25/statement-by-president-biden-on-the-recognition-of-the-cook-islands-and-the-establishment-of-diplomatic-relations> [<https://perma.cc/2M9N-8LZ4>]; White House Press Release, Statement by President Biden on the Recognition of Niue and the Establishment of Diplomatic Relations (Sept. 25, 2023), at <https://www.whitehouse.gov/briefing-room/statements-releases/2023/09/25/statement-by-president-biden-on-the-recognition-of-niue-and-the-establishment-of-diplomatic-relations> [<https://perma.cc/K9T2-GEUW>].

³⁴ See U.S. Dep't of State Press Release, Opening of the U.S. Embassy in Honiara, Solomon Islands (Feb. 1, 2023), at <https://www.state.gov/opening-of-the-u-s-embassy-in-honiara-solomon-islands> [<https://perma.cc/U7V5-TAQS>]; U.S. Dep't of State Press Release, Tonga Embassy Opening (May 9, 2023), at <https://www.state.gov/tonga-embassy-opening> [<https://perma.cc/74QR-DAA7>]; U.S. Dep't of State Press Release, Intent to Open U.S. Embassy Port Vila, Republic of Vanuatu (Mar. 31, 2023), at <https://www.state.gov/intent-to-open-u-s-embassy-port-vila-republic-of-vanuatu> [<https://perma.cc/KW3H-F3LD>]; Matthew Lee, *US Eyes Massive Ramp-up in Diplomatic Personnel and Spending at New Pacific Island Embassies*, ASSOCIATED PRESS (July 13, 2023), at <https://apnews.com/article/us-tonga-kiribati-vanuatu-solomon-islands-0d32ea1c21ecc4dbbc1288ce6c3b77d3>.

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

INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW

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

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

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

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

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

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

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

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