

UNCLASSIFIED ANNEX: REPORT ON THE LEGAL AND POLICY FRAMEWORKS FOR
THE UNITED STATES' USE OF MILITARY FORCE AND RELATED NATIONAL
SECURITY OPERATIONS

This report is provided in accordance with Section 1264(a) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2018 (Pub. L. No. 115-91), as amended by Section 1261 of the NDAA for FY 2020 (Pub. L. No. 116-92), codified at 50 U.S.C. § 1549(a). It constitutes the calendar year 2021 annual report on changes to the legal and policy frameworks from the preceding calendar year for the United States' use of military force and related national security operations. President Obama issued the "Report on the Legal and Policy Frameworks Guiding the United States' Use of Military Force and Related National Security Operations" on December 5, 2016. Pursuant to Section 1264, as amended, former President Trump submitted reports on March 12, 2018, and October 16, 2020, and President Biden submitted a report on March 1, 2021. Consistent with Section 1264(c) of the NDAA for FY 2018, as amended (50 U.S.C. § 1549(c)), this report contains a classified annex.

On February 19, 2021, President Biden submitted a notification in accordance with Section 1264(b) of the NDAA for FY 2018, as amended (50 U.S.C. § 1549(b)), describing a change to the legal and policy frameworks for the United States' use of military force and related national security operations. The classified annex contains additional information about that change.

Countries in Which the United States Used Military Force

In 2021, the United States used military force in the following countries: Afghanistan, Iraq, Syria, and Somalia.

2001 Authorization for Use of Military Force (2001 AUMF)

Foreign Forces, Irregular Forces, Groups, or Individuals for Which a Determination Has Been Made That Force Could Legally Be Used Under the Authorization for Use of Military Force, Pub. L. No. 107-40, 115 Stat. 224 (2001): No change.

Criteria for Designating a Foreign Force, Irregular Force, Group, or Individual as Lawfully Targetable, as a High-Value Target, and as Formally or Functionally a Member of a Group Covered Under the 2001 AUMF: No change.

Application of Key Domestic and International Legal Principles to Key Theaters

Afghanistan: As directed by President Biden, U.S. forces withdrew from Afghanistan completely by August 31, 2021. The withdrawal of U.S. forces from Afghanistan did not change the legal and policy frameworks for the use of military force in Afghanistan. Although the United States is prepared to use force against al-Qa'ida, ISIS, and other terrorist threats in Afghanistan, if necessary, utilizing U.S. forces and assets based outside Afghanistan, the United States has not done so since the withdrawal of U.S. forces. The United States continues to monitor terrorist groups located in Afghanistan.

Iraq: The July 26, 2021, Joint Statement on the U.S.-Iraq Strategic Dialogue reported “that the [U.S.-Iraq] security relationship will fully transition to a training, advising, assisting, and intelligence-sharing role in Iraq by December 31, 2021. The United States intends to continue its support for the [Iraqi Security Forces], including the Peshmerga, to build their capacity to deal with future threats.”¹ In mid-December 2021, the Government of Iraq and the U.S. Government announced that this transition was complete. The transition did not end the armed conflict against al-Qa’ida and associated forces, including against ISIS, and the legal and policy frameworks for the use of military force in Iraq did not change.

¹ Available at <https://www.state.gov/joint-statement-on-the-u-s-iraq-strategic-dialogue-2/>.