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Statement of Mark A. Simonoff
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UN General Assembly Sixth Committee – October 22, 2012
Status of the Protocols Additional to the Geneva Conventions of 1949 and Relating to the
Protection of Victims of Armed Conflicts
Agenda Item 80

Thank you, Mr. Chairman. We welcome the opportunity to provide our views on this agenda item.

The United States has a deep and abiding commitment to international humanitarian law, which we often also refer to as the law of war or the law of armed conflict. The U.S. Armed Forces, and the U.S. civilians who accompany them, operate every day in some of the world's most dangerous places. The United States continues to work very hard to ensure that we conduct all aspects of armed conflict – including detention operations – in a manner consistent not just with the applicable laws of war, but also with the U.S. Constitution and laws of the United States. As President Obama reaffirmed in his 2009 Nobel Prize Address, “Where force is necessary, we have a moral and strategic interest in binding ourselves to certain rules of conduct. . . . [T]he United States of America must remain a standard bearer in the conduct of war. That is what makes us different from those whom we fight. That is a source of our strength.”

Since the last discussion of this agenda item in this Committee two years ago, the United States has taken significant steps in connection with Additional Protocols I and II to the Geneva Conventions of 1949.

First, the United States concluded, following an extensive interagency review, that U.S. military practice is already consistent with the provisions of Additional Protocol II. On March 7, 2011, the U.S. Administration informed the Chair and Ranking Member of the Foreign Relations Committee of the U.S. Senate that the Administration intended to seek Senate advice and consent to ratification of Additional Protocol II, and it urged the Senate to act as soon as practicable on this Protocol. Additional Protocol II is currently pending on the calendar of the Senate.

Second, although the United States continues to have significant concerns with many aspects of Additional Protocol I, Article 75 of that Protocol sets forth fundamental guarantees for persons in the hands of opposing forces in an international armed conflict, and it is an important provision in the international legal framework. Article 75 is consistent with current U.S. policies and practice, and it is a provision that the United States has historically supported. Our adherence to the principles stated in that article is also an important safeguard against the

mistreatment of captured U.S. military personnel. Therefore, on March 7, 2011, the United States announced that the U.S. Government has chosen out of a sense of legal obligation to treat the principles set forth in Article 75 as applicable to any individual it detains in an international armed conflict, and that it expects all other nations to adhere to these principles as well.

We consider these steps to be significant. They reflect our national commitment to furthering the goals that the Geneva Conventions of 1949 were intended to advance. We look forward to continuing to work with the International Committee of the Red Cross, with the United Nations, and with our other partners around the world in those endeavors.

Thank you.