

January 22, 2024

The Honorable Xavier Becerra  
Secretary  
U.S. Department of Health & Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

The Honorable Merrick Garland  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530

Dear Secretary Becerra and Attorney General Garland,

I write regarding the administration's proposed ban on menthol cigarettes, and the profit opportunities such a ban would create for terrorist organizations.

It has long been settled that "Hezbollah, Hamas, al Qaeda, and other terrorist organizations have profited from trafficking in illegal cigarettes or counterfeit cigarette tax stamps."<sup>1</sup> Terrorist organizations, working with cartels, profit from black market cigarettes and use those profits to finance their terrorist activities. In May 2022, the Food and Drug Administration (FDA) published a proposed rule prohibiting the use of menthol cigarettes. As the proposal itself notes, the "removal of menthol cigarettes from the marketplace could result in some people seeking menthol cigarettes through the illicit trade market." While the FDA assumes that the increase in cigarette trafficking would be "modest," the Obama administration's 2015 interagency report concluded that cigarette smuggling is "a low risk, high-reward criminal activity; traffickers can make millions, with little risk of detection or harsh punishments."<sup>2</sup>

The FDA's proposed rule to ban menthol cigarettes would allow terrorist organizations such as Hezbollah to rake in millions from black market menthol cigarettes and use the profits to finance their terrorist activities, and therefore represents a national security threat to the United States. Please answer the following questions as soon as practicable, but no later than Monday, March 5:

- (1) Did the FDA consult with the Department of Justice and its component law enforcement agencies before issuing the proposed rule?
- (2) Has the Department of Justice assessed the potential impact of the proposed menthol cigarette ban on the illicit cigarette market?
- (3) Has the Department of Justice assessed the potential impact of the proposed menthol cigarette ban on the activities of international terrorist organizations?

Thank you for your prompt attention to this important matter.

Sincerely,



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Tom Cotton  
United States Senator

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<sup>1</sup> *Prevent All Cigarette Trafficking Act of 2009*, Pub. L. 111-154, 15 U.S.C. § 375 note.

<sup>2</sup> *The Global Illicit Trade in Tobacco: A Threat to National Security* (Dec. 2015), available from <https://2009-2017.state.gov/documents/organization/250513.pdf>.