

BUSINESS MEETING

THURSDAY, JANUARY 28, 2016

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The committee met, pursuant to notice, at 10:06 a.m. in Room S-116, The Capitol, Hon. Bob Corker, chairman of the committee, presiding.

Present: Senators Corker [presiding], Risch, Johnson, Flake, Gardner, Perdue, Barrasso, Cardin, Menendez, Udall, Murphy, Kaine, and Markey.

OPENING STATEMENT OF HON. BOB CORKER, U.S. SENATOR FROM TENNESSEE

The CHAIRMAN. I am going to go ahead and call the meeting to order.

I was just telling Senator Cardin I think we have had an incredibly productive period of time, and I am really glad to see the subcommittees working in the way that they should. We have a very substantial piece of legislation that we will talk about later that has come out of that process. So I appreciate the way all of our staff members and many committee members have worked together. And I am look forward to a very successful meeting.

I do want to welcome Charlotte here, Chris' daughter observing how the Senate functions. Chris Lynch has been chief of staff to Senator Cardin.

And when Senator Shaheen gets here, we will wish her a happy birthday. I do not know how happy they are at our age.

[Laughter.]

The CHAIRMAN. On the agenda today, we have five pieces of legislation, two nominations, and three promotions on the Foreign Service list. We will consider the nominations for the Ambassador to Burma; the Representative of the U.S. to the IAEA, to the Vienna office of the U.N., with rank of Ambassador; as well as multiple Foreign Service lists.

I want to thank my colleagues, as I just did, for helping the committee work through nominees and these lists in an appropriate fashion.

We will also consider S. Res. 347, a resolution honoring the memory and legacy of Anita Ashok Datar and condemning the terrorist attack in Bamako, Mali on November 20th, 2015. I would like to thank Senator Booker for drafting and introducing this resolution and the many cosponsors, including Ranking Member Cardin. Ms. Datar was a committed and professional development expert and

had devoted her career to serving others. We all mourn her loss and the opportunity and enthusiasm she brought to bear against the scourge of poverty.

Also on the agenda today is S. 2426, a bill that would direct the Secretary of State to develop a strategy to obtain observer status for Taiwan in the International Criminal Police Organization, and for other purposes. We thank Senator Gardner and Senator Cardin for bringing this bipartisan bill to the committee to help provide Taiwan with the observer status at INTERPOL as an important step towards ensuring that Taiwan can be a productive participant in the international system and can reap the benefits of increased safety and security that INTERPOL membership helps provide. Taiwan is an important and active ally of ours in the fight against human trafficking, and supporting membership in INTERPOL will empower Taipei to continue playing a valuable role in the effort to end modern slavery across the globe.

The third piece of legislation we will consider is S. 1882, the Nepal Recovery Act. I would like to thank Senator Cardin, along with Senator Kirk, for their efforts through this legislation to highlight the recovery and reconstruction needs of Nepal following the devastating earthquake last spring. This legislation represents the best of our bipartisan tradition in this committee and truly goes to the heart of our authorizing and oversight responsibilities. Members of our staff traveled to Nepal earlier this month to assess the earthquake damage, and witnessed firsthand the potency of U.S. assistance. I am pleased that we were able to support this legislation.

Next on the agenda is H.R. 1493, the Protect and Preserve International Cultural Property Act. This bill is designed to deny ISIS any funding stream from the sale of looted antiquities by establishing more effective U.S. import restrictions on looted property. There is widespread concern that ISIS may be trafficking in such antiquities. I think everyone is aware of that. This response to the problem has been a long time coming, and I appreciate everybody's perseverance.

The legislation is also designed to protect and preserve the cultural heritage of the Syrian people for a time when they finally have a responsible and democratically elected government.

I want to thank Senator Cardin, Senator Perdue, Senator Casey, Senator Grassley, and our House colleagues, Chairman Royce and the sponsor of the bill, Representative Engel for working with us to create a manager's amendment we will consider today. This again is I think a breakthrough of bipartisanship. I also know this is something that Representative Engel has really pushed for. I know his chairman worked with him, as with us, to make this happen. I know this legislation is particularly important for Senator Perdue. We are glad that today we are going to be able approve it, I hope by voice vote.

Lastly, we will consider H.R. 757, the North Korea Sanctions and Enforcement Act of 2015. I would like to thank Senators Gardner and Menendez for their efforts to focus attention on the threat posed by North Korea and their unwillingness to work with Senator Cardin and myself to develop a bipartisan Senate bill. There has been a lot of attention on North Korea in the weeks following

North Korea's fourth nuclear test, but Senators Gardner and Menendez demonstrated leadership on North Korea long before those recent events. So thank you both.

Thanks to their hard work and preparation, this committee was well prepared to take immediate action in response to North Korea's most recent provocation. The product of that leadership is the bipartisan bill before the committee today. I am heartened that this bill will set a precedent and put in place strong mandatory sanctions, and that it will establish for the first time a statutory framework for sanctions in response to North Korea's cyber threats.

I am also pleased that this bill goes beyond sanctions. In addition, it establishes a more robust policy framework, including tools to improve enforcement. It also shines a brighter spotlight on North Korea's abhorrent human rights record such as their forced labor practices. We know all too well that in past decades, the United States' North Korea policy—under both Republican and Democratic administrations—has been an abject failure there. And while there is no silver bullet solution, it is clear that Congress must play a more proactive role in providing more robust policy tools to the executive branch to confront the threat.

I want to thank Senator Cardin and his staff for working with our team on this important bipartisan legislation, for the constructive contributions and discussions we have had with Senators Shaheen, Markey, and Flake, and for all their contributions to producing the manager's amendment we will consider this morning. This was truly an all-hands-on-deck bipartisan committee effort to ensure a piece of legislation of which this committee can be proud of today.

And before I recognize Senator Cardin, I want to recognize Carolyn Leddy on our staff who has spent an incredible amount of time in the region, has been raising the alarm bells about North Korea for some time, and I want to thank you her for her diligence, and also to Frank Polly. I want to thank them, and all of the others here who worked on this bill, for their assistance in putting this together.

So with that, Senator Cardin, I look forward to your comments. Thank you for the tremendous work that you and your staff did to putting this legislation before us today. Thank you very much.

**STATEMENT OF HON. BENJAMIN L. CARDIN,
U.S. SENATOR FROM MARYLAND**

Senator CARDIN. Mr. Chairman, thank you.

This is a very important business meeting. We have five important legislative actions to take in the business meeting. We have two very important nominations, plus a Foreign Service officer list for committee consideration.

You went through a long list thanking members of our committee and other members of the United States Senate, and I join you in that. But at the end, you mentioned something that I think our committee needs to underscore and that is the way in which, through your leadership and the staffs of both the majority and minority have worked together so that we can speak with a united

voice. And that is when the United States is its strongest on foreign policy issues, when we can speak as a united voice.

And on North Korea, I just might point out we are not only going to speak as a united voice, we are going to be able to bring the House and the Senate together, Democrats and Republicans, the administration and Congress to make it clear we will not tolerate the type of activities that are taking place in North Korea. And it is true with all the bills that have come forward.

And I know that we sometimes go through these business meetings very quickly and that is good. I am not complaining. I am not trying to keep people here for a long time. But the amount of work that went into this meeting was hours and hours of discussions to make sure we got it right. And I just really want to thank you for your leadership and the professionalism with which you have led this committee and all of our staffs who have been able to harmonize some very difficult issues so that we could have a relatively brief business meeting today on a very important agenda.

Let me first start with the North Korea bill. I want to thank Senator Gardner and Senator Menendez. Their leadership on this, as you pointed out, was critically important. It sends a strong message to North Korea of the unity that we have been able to display. It is the correct response to North Korea's recent nuclear test that violated international commitments. It responds to the cyber hack we saw for Sony and North Korea's activities in the cyber area and their severe human rights abuses. They could be the worst country in the world on human rights issues, the way that they are starving their own people and the way that they torture their own people.

I want to make one thing clear on this legislation. This is not a bill aimed against the people of North Korea. In fact, it is a bill aimed to help the people of North Korea. Their government uses the resources of their country in nefarious activities rather than taking care of the needs of their own people, and I think this bill underscores the importance of respect for the people of North Korea.

The sanctions are directed against specific entities that violate U.S. law and United Nations Security Council resolutions. Let me just give you one example of how this bill will help in dealing with taking action against North Korea.

Tough sanctions have worked with North Korea when they were applied in the past. In 2005, the U.S. designated Banco Delta Asia, BDA, as a money laundering concern for facilitating North Korea's illicit activities and banned all U.S. financial institutions from dealing with the Macao bank. North Korea was shunned by the international financial system due to the cumulative effects of the action. Two dozen financial institutions, including Chinese ones, voluntarily cut back or terminated their business with North Korea. Both North Korea and China moderated their positions because of sanctions we imposed. But over time, we have seen an erosion of that.

The bill that is before us will take corrective actions to limit North Korea's ability to conduct financial transactions.

The bill we have strengthens the House bill. It strengthens it by including requirements for the administration to take investigative

actions. It strengthens it in regards to North Korea's illegal cyber activities and strengthens it in regard to taking action against North Korea's human rights violations. It recognizes the appropriate role between Congress and the administration and creates the policy environment where the global community can join us, with U.S. leadership, against North Korea.

The second bill let me just talk about briefly, is Nepal. I am pleased that Senator Kirk and I have worked together on this bipartisan bill. We are joined by Senators Markey, Feinstein, Gillibrand, and others. There were two devastating earthquakes last year in Nepal. 9,000 people killed, 26,000 injured, 800,000 people's homes were destroyed, \$5 billion in damage to a country where \$5 billion is their lifeblood of their economy. So this is an appropriate response for the United States to provide assistance, plus accountability, and to work with the international community with U.S. leadership to respond to an international humanitarian crisis. So I am pleased this bill is on our markup, and I thank you for that.

You also mentioned Senator Engel's bill in regards to the Protect and Preserve International Cultural Property. You are absolutely correct. This bill is very much targeted at what is happening in Syria where we are not only seeing their antiquities being destroyed, which is part of their culture and their history and future, but they're also being illicitly trafficked by the ISIL forces for financing of their terrorist activities. And this bill has the right response to take action against them.

On the Taiwan INTERPOL bill, I want to thank my chairman, Senator Gardner, on the subcommittee that I am the ranking member of for his work on recognizing that Taiwan is a critically important strategic partner of the United States both economically and for national security and makes common sense that they have observer status in INTERPOL, and the U.S. should be working in that direction. And this bill passed, by the way, the House of Representatives by a 392 to 0 vote. So it is a bill I hope we can move quickly.

You mentioned the resolution for Anita Datar. Let me point out that she was a loving mother, daughter, and sister, and lived in Takoma Park, Maryland. So people in Maryland have particular reason to mourn her loss. She was a humanitarian serving as the senior director of a field program for a USAID contractor in Mali. She was one of 19 victims that were killed in the terrorist attack on November 20th, 2015 at the Radisson Hotel in Mali. So it is appropriate that this resolution be passed. And I thank Senator Booker for his leadership on that.

And then lastly, Senator Corker, thank you again for expediting our nominations. You have done an incredibly effective job in moving nominations through our committee, and I say that every time I can. I only wish that this was copied by the actions on the floor of the United States Senate. And I just need to point out that there are vacancies that have gone on for years because of the inaction on the floor of the United States Senate where the majority has allowed one Senator in many cases to block floor consideration of critically important nominations. That has got to end. It is not just our committee that is moving nominations. There are other committees that have acted in a timely way and those nominations are

not being taken up on the floor either. And I know that you have been fighting. I have been with you when you have talked to individual Senators to try to get them moving. I thank you for that. Your leadership has been very much recognized.

And I thank you for including the two nominations today and the Foreign Service list. But I can tell you we are going to continue to raise these issues on the floor of the United States Senate.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

I know many of you want to speak to the various individual pieces of legislation. If we could maybe do that when we address those each in turn, that would be great. So what I would like to do is first consider the three Foreign Service list confirmations. I support the appointments and promotions, and we would like to thank these officers for their service. Senator Cardin, do you have any comments?

Senator CARDIN. No, thank you.

The CHAIRMAN. Is there any member who wishes to be recognized to speak regarding the Foreign Service list? [No response.]

Senator CARDIN. I move them.

The CHAIRMAN. If there is no further discussion on these, I would entertain a motion to approve them en bloc, as modified, by voice vote.

Senator CARDIN. So moved.

The CHAIRMAN. Is there a second?

Senator KAINE. Second.

The CHAIRMAN. So moved and seconded.

The question is on the motion to approve the three Foreign Service list en bloc. All those in favor, say aye. [Chorus of ayes.]

The CHAIRMAN. Opposed?

[No response.]

The CHAIRMAN. With that, the ayes have it, and the appointments and promotions are agreed to.

I would now like to ask the committee to pursue en bloc by voice vote in consideration of the two nominations before the committee, Ms. Laura Holgate to be the Representative for the U.S. to the IAEA, with the rank of Ambassador, and to be Representative of the U.S. in the Vienna Office of the U.N., with the rank of Ambassador; and the Honorable Scot Alan Marciel to be Ambassador to Burma. I want to thank these nominees for their willingness to serve in these positions.

Senator Cardin, do you have any comments on these nominees?

Senator CARDIN. No.

The CHAIRMAN. Is there any other member who wishes to speak at this time? Senator Gardner?

Senator GARDNER. Thank you, Mr. Chairman. I just want to say a few words about the Marciel nomination and United States policy for Burma.

Burma held historic elections last November. It is currently in the midst of a very sensitive political transition period between the military and democratic rule. With the new parliament due to be formed in April, U.S. policies need to help that transition. The United States still maintains a limited set of sanctions on Burma,

sanctions many believe have helped to incentivize the democratic transition in that country.

On December 1, Mr. Marciel testified before this committee that he does not foresee any planned changes in the U.S. sanctions policy. I received those assurances in private as well. Yet, on December 7th, the Treasury Department, in consultation with the State Department, announced they will be relaxing some of the sanctions on Burma. I consider this extremely regretful.

But coming from the State Department, from the lack of transparency—and I have subsequently sought and received written assurances from the State Department that U.S. sanctions policy toward Burma has not changed and that Congress will be fully consulted in the future regarding any change. With that, I intend to support Mr. Marciel.

The CHAIRMAN. Okay. I know that Senator Rubio would like to be recorded no for the nomination of Laura Holgate.

If there is no further discussion on these nominations, I would entertain a motion.

Senator BARRASSO. I would also like to be recorded as no.

The CHAIRMAN. Okay. Senator Barrasso, a no. Anyone else? Senator Risch would also like to be recorded as no, and we will do that.

If there is no further discussion on these nominations, I would entertain a motion to approve them by voice vote en bloc.

Senator CARDIN. So moved.

Senator MENENDEZ. Second.

The CHAIRMAN. Seconded, Menendez.

The question is on the motion to approve the nominations. All those in favor, say aye. [Chorus of ayes.]

The CHAIRMAN. All opposed? [No response.]

The CHAIRMAN. With that, the ayes have it. The nominations are recommended to the full Senate.

Senator CARDIN. Mr. Chairman, so I understand, the negatives were in regard to Holgate, not Marciel.

The CHAIRMAN. That is correct. Thank you for clarifying that.

Next we will consider S. Res. 347, honoring the memory and legacy Anita Datar and condemning the terrorist attack in Mali.

Senator Cardin, you have made comments. Do you have additional comments?

Senator CARDIN. No.

Senator MENENDEZ. Mr. Chairman?

The CHAIRMAN. Yes, Senator Menendez.

Senator MENENDEZ. Very briefly, I want to commend my colleague, Senator Booker, for recognizing the life of Anita Ashok Datar, who was a native of New Jersey, a former student at Mount Olive High School in Flanders, New Jersey, a graduate of Rutgers University, and a brilliant soul who spent much of her life making others' lives brighter. She was a dedicated servant. She spent her life working to advance public health in dangerous places. And it is a reminder, as we share our condolences with her family, however, that the tragedy that took place there is faced by all of those whose purpose in serving others takes them into dangerous places. And so we applaud her memory and her commitment.

The CHAIRMAN. Thank you for those comments.

If there is no further discussion on the resolution, I would entertain a motion to approve it by voice vote.

Senator KAINE. So moved.

The CHAIRMAN. Is there a second?

Senator MENENDEZ. Second.

The CHAIRMAN. It is so moved and seconded.

The question is on the motion to approve S. Res. 347. All those in favor, say aye. [Chorus of ayes.]

The CHAIRMAN. Opposed? [No response.]

The CHAIRMAN. With that, the ayes have it. The resolution is approved.

Next we will consider S. 2426, to direct the Secretary of State to develop a strategy to obtain observer status for Taiwan in the International Criminal Police Organization.

Senator Cardin, do you have additional comments?

Senator CARDIN. I have already spoken to this. I support it.

The CHAIRMAN. Would anyone else like to speak?

Senator GARDNER. Mr. Chairman, I would ask unanimous consent that Senators Shaheen and Boxer be added as cosponsors.

The CHAIRMAN. Without objection.

Senator GARDNER. I want to thank Senator Cardin for working on this, as well as cosponsors of the bill. It is an important step forward for Taiwan. They had full membership in INTERPOL starting in 1964 until 1984 when the Peoples Republic of China applied for membership. Non-membership, of course, has been a step backward for Taiwan and kept them from participating in this important forum. And I hope this is a strong message to Taiwan that we are acting on their behalf.

The CHAIRMAN. Thank you. Thanks for your leadership on this.

Any other comments?

[No response.]

The CHAIRMAN. If there is no further discussion, I would entertain a motion to approve it by voice vote.

Senator MENENDEZ. So moved.

The CHAIRMAN. Is there a second?

Senator CARDIN. Second.

The CHAIRMAN. It is so moved and seconded.

The question is on the motion to approve S. 2426. All those in favor, say aye.

[Chorus of ayes.]

The CHAIRMAN. Opposed?

[No response.]

The CHAIRMAN. With that, the ayes have it, and the legislation is approved.

Next we will consider S. 1882, the Nepal Recovery Act.

Senator Cardin, do you have any additional comments you would like to make?

Senator CARDIN. I do have a first degree amendment that has been suggested by the appropriators that I, at the appropriate time, would want to offer.

The CHAIRMAN. Would anyone else like to speak to this legislation? [No response.]

The CHAIRMAN. If there is no further discussion, I would entertain a motion to consider the manager's amendment by voice vote.

Senator Kaine. So moved.

The Chairman. Thank you.

Is there a second?

Senator Cardin. Second.

The Chairman. It is so moved and seconded.

The question is on the motion to approve the manager's amendment. All in favor, say aye. [Chorus of ayes.]

The Chairman. Opposed?

[No response.]

The Chairman. With that, the ayes have it, and the manager's amendment is agreed to.

Now, I would entertain a motion that we consider the Cardin substitute amendment, as amended by the manager's amendment.

Senator Cardin. So moved.

The Chairman. Is there a second?

Senator Kaine. Second.

The Chairman. It is so moved and seconded.

The question is on the motion to approve the substitute amendment, as amended. All those in favor, say aye. [Chorus of ayes.]

The Chairman. Opposed?

[No response.]

The Chairman. With that, the ayes have it. The substitute amendment is agreed to.

Are there any further amendments?

[No response.]

The Chairman. Hearing none, is there a motion to approve the legislation, as amended?

Senator Cardin. So moved.

The Chairman. Thank you.

Is there a second?

Senator Kaine. Second.

The Chairman. Thank you. So moved and seconded.

The question is on the motion to approve S. 1882, as amended. All in favor, say aye. [Chorus of ayes.]

The Chairman. Opposed?

[No response.]

The Chairman. With that, the ayes have it, and the legislation, as amended, is agreed to.

Next we will consider H.R. 1493, the Protect and Preserve International Cultural Property Act.

Senator Cardin, any additional comment?

Senator Cardin. I have already commented. I urge support.

The Chairman. Would anyone else like to speak to this legislation?

Senator Perdue. Just briefly. I would like to recognize Senator Casey as an original cosponsor here in the Senate. This bill an emergency import restriction on archeological and ethnological material that has been removed since the beginning of the conflict in 2011 from Syria. A similar emergency import restriction act was placed on such items from Iraq in 2003 and is urgently needed here in Syria. We have seen ISIS do this across the Levant and it has targeted cultural property for destruction. It is their second leading source of income for ISIS.

This legislation also includes a sense of Congress that the President should create an interagency committee to better coordinate efforts among the agencies of the executive branch and institutions such as the Smithsonian who work to preserve and protect international cultural properties. Since World War II, the U.S. has led the international effort to protect and preserve cultural property during times of conflict and crisis, and this should be no different.

The bill also chips away at ISIS' ability to profit from its looting of history.

I would like to thank you again for this timely bill included on the agenda today.

And finally, I ask unanimous consent to submit for the record a statement from Senator Grassley, our other leading cosponsor.

The CHAIRMAN. Without objection.

[The prepared statement of Senator Grassley follows:]

PREPARED STATEMENT OF HON CHARLES E. GRASSLEY, U.S. SENATOR FROM IOWA

Chairman Corker, Ranking Member Cardin, members of the committee, I'd like to thank this Committee for taking up the "Protect and Preserve International Cultural Property Act." This bill is critically important to ensure that the Administration has the authority to impose import restrictions on antiquities from Syria, which is a key source of funding for the Islamic State of Iraq and Syria (ISIS).

I joined Senator Casey and Senator Perdue to introduce a Senate companion to the House bill that would place trade restrictions against the importation of looted archeological and ethnological materials. It's a similar measure to one that I won enactment of in 2003 when Iraq's antiquities were being looted.

The brutal and barbaric acts carried out by ISIS are beyond comprehension. The senseless and inhumane brutality these individuals carried out against innocents is truly shocking and disgraceful. ISIS has executed thousands, including women and children. Many more have been kidnapped, enslaved, abused and raped.

ISIS is also destroying and selling the archeological heritage that has survived for thousands of years. It's reprehensible that there are people engaged in a black market to buy these artifacts, thereby underwriting this brutal Islamist militant group.

The chaos and disorder in Syria and Iraq has opened the door to opportunists who wish to enrich themselves in dealing with stolen and looted antiquities. The least we can do, here in Congress, is shut down the U.S. market for these artifacts. Americans should not be underwriting brutality.

We need to put an end to the destruction and looting of irreplaceable artifacts and historical records like those from the Mosul Museum, Nineveh, and Nimrud. These objects are a material record of humanity.

We need to destroy ISIS rather than support its funding. This bill will help by restricting the import of items to the United States. It's a small but important step in hampering the ability of ISIS terrorists to profit from the sale of looted antiquities.

I strongly support this bill and encourage members of this committee to support it as well. Thank you.

The CHAIRMAN. Thanks for the comments.

And I want to thank everybody for working through a couple of tricky issues to make sure this had the intended—the consequences were as intended. I know there were a few things that constituencies had concerns with. We were able to work through those. So thank you for your leadership.

I would entertain a motion to consider the substitute amendment by voice vote.

Senator CARDIN. So moved.

The CHAIRMAN. Thank you.

Is there a second?

Senator KAINE. Second.

The CHAIRMAN. Thank you. It is so moved and seconded.

The question is on the motion to approve the substitute amendment. All those in favor, say aye. [Chorus of ayes.]

The CHAIRMAN. Opposed?

[No response.]

The CHAIRMAN. With that, the ayes have it. The substitute amendment is agreed to.

Are there any further amendments?

[No response.]

The CHAIRMAN. Hearing none, is there a motion to approve the legislation, as amended?

Senator PERDUE. So moved.

The CHAIRMAN. Thank you.

Is there a second?

Senator CARDIN. Second.

The CHAIRMAN. Thank you. So moved and seconded.

The question is on the motion to approve H.R. 1493, as amended. All in favor, say aye. [Chorus of ayes.]

The CHAIRMAN. Opposed?

[No response.]

The CHAIRMAN. With that, the ayes have it, and the legislation, as amended, is agreed to.

Lastly, we will consider H.R. 757, the North Korea Sanctions Enforcement Act of 2015. This is a very significant piece of legislation that very soon, I believe, is going to become law and is going to have an impact on what is happening in North Korea and in the region.

I want to thank everyone who has been involved in this. So many on the committee have. It is a major piece of legislation.

Senator Cardin, would you like to make additional comments?

Senator CARDIN. I have already commented about it, but I just really want to underscore what the chairman said and particularly thank Senator Menendez and Gardner and other members of our committee.

But we all share the same objective. But it was tricky because there are always going to be different views between an administration and the Congress on how sanctions are imposed and to listen to their concerns and to respond, where there was legitimate reason to respond, but to remain firm where we think it is congressional prerogative.

I just want to compliment the chairman. I want to compliment Senator Menendez and Gardner for bringing us to this moment where we have a bill that I am very confident will not only pass the United States Senate but will be signed into law by the President.

The CHAIRMAN. Senator Gardner I am sure would like to make comments. Again, thanks for your tremendous leadership on this, with the tremendous leadership of Senator Menendez, the best in reaching bipartisan consensus that will affect something in a major way. We thank you. And I am sure you have some comments.

Senator GARDNER. Thank you, Mr. Chairman. Would you like me to comment now or wait till we do the substitute amendment? I am happy to do it now or wait.

The CHAIRMAN. Why do you not go ahead and comment?

Senator GARDNER. Thank you. I can recall when I assumed the position as chairman of the committee, we talked both about North Korea and the serious concern that we have about its growing threat to its neighbors, to the United States homeland, and to global security we agreed that we could not ignore it.

This past August, I had the opportunity to visit South Korea and to speak directly with South Korean President Park. We agreed that the status quo with regard to North Korea was no longer sustainable or responsible.

In October, I presented Senate bill 2144, the North Korean Sanctions and Policy Enhancement. I want to thank Senators Rubio and Risch, Perdue, and Isakson for cosponsoring the legislation and thank you, Senator Cardin, and Senator Menendez for the encouragement and invaluable support to make this today a reality because we have taken the final step today in changing our policy toward North Korea.

On January 6th, 2016, our worst fears were realized when North Korea followed through with its fourth nuclear test. North Korea has claimed it was a hydrogen test, a bomb vastly more powerful than previous tests. Regardless of whether that is true, it represents still a significant advancement in North Korea's nuclear weapons capability.

And we also know North Korea continues to advance its ballistic missile program. In fact, yesterday it was on the news that they were perhaps preparing for yet additional tests.

Admiral Bill Gortney, the head of U.S. NORTHCOM, the Northern Command, based at Peterson Air Force Base in Colorado publicly stated on several occasions that North Korea may have already developed the ability to miniaturize a nuclear warhead mounted on their own intercontinental ballistic missile called the KNO8 and shoot it at the homeland. Admiral Gortney has reiterated those fears to me privately on numerous occasions as well, including his belief that the current conditions on the peninsula perhaps are as unstable as they have been since they have been since the armistice.

North Korea continues to grossly abuse the rights of its own people. There are 200,000 men, women, and children in North Korea's vast prison systems. In fact, the United Nations Commission of Inquiry in 2014 found that North Korea's actions constituted a crime against humanity.

Moreover, we have seen North Korean cyber capabilities grow into an asymmetric threat that North Korea has utilized against its neighbors, South Korea and Japan, as well as the United States, as evidenced by the Sony Pictures hack in November of 2014. According to a November 2015 report by the center for Strategic and International Studies, North Korea is emerging as a significant actor in cyberspace with both its military and clandestine organization gaining the ability to conduct cyber operations.

All of these developments represent a failure of U.S. policy of strategic patience toward North Korea. It is time to change course, and this legislation before us will do just that. Following the overwhelming vote 418 to 2 vote in the House of Representatives on their version of this bill 2 weeks ago, I wanted to again thank the

chairman for moving forward with such a substitute out of our committee.

The Gardner-Menendez substitute before us today represents a slightly modified version of our legislation, Senate bill 2144. In particular, the legislation mandates not simply authorizes, the President to impose sanctions against persons that materially contribute to North Korea's nuclear ballistic missile development, import luxury goods into North Korea, enable a censorship on human rights abuses, engage in money laundering and manufacture of counterfeit goods and narcotics trafficking, engage in activities undermining cybersecurity, have supplied, sold, or transferred to or from North Korea precious metals or raw metals, including aluminum, steel, and coal for the benefit of North Korea's regime and its illicit activities. I would note the mandatory sanctions on North Korea's cyber activities and mandatory sanctions on the minerals are unique to the Senate legislation.

This bill codifies Executive Orders 13687 and 13694 regarding cybersecurity as they apply to North Korea, which were enacted last year in the wake of the Sony Pictures hack and other cyber instances. It is also a unique feature of the Senate bill.

Lastly, the mandatory sanctions on cyber violators will break new ground for Congress if enacted and signed into law. We need to look for every way to deprive Pyongyang of income to build its weapons program, strengthen its cyber capabilities, and abuse its own people.

We must also send a strong message to China, North Korea's diplomatic protector and largest trading partner, that the United States will use every economic tool at its disposal to stop Pyongyang.

I urge my colleagues to support the Gardner-Menendez substitute.

The CHAIRMAN. I would imagine Senator Menendez would like to make a comment, and I hope that he will.

Senator MENENDEZ. Thank you, Mr. Chairman.

I am pleased to see that the committee remains vigilant with respect to the threat that North Korea presents to our national security interests and the security interests of our friends and allies, whether that threat is conventional, nuclear, or cyber. And that is exactly what I had in mind when I introduced bipartisan legislation last July with Senator Graham and again in this session. And I want to thank you, Mr. Chairman, and Senator Cardin for recognizing the need and the expediency, as well as the work you put into it. And I want to thank Senator Gardner as the subcommittee chair for working with me to come along to a piece of legislation that is meaningful at the end of the day and not just a message piece.

I have believed in the course of following North Korea in two guiding principles.

One is that, first, effective deterrence needs leadership, and nuclear missile tests, cyber attacks highlight the continuing threat that North Korea poses to the U.S. and our friends and allies in the region. And I believe we need to see more action to energize a strategy to continue to promote decisive U.S. leadership and a broad international coalition to bring pressure on the regime.

And second, strategic patience has a place, but not without strategic focus. A strategic approach to security and stability on the Korean peninsula should include the effective sanctions that we are calling for in this legislation, diplomatic pressure, and military countermeasures, the full range of American instruments of power to keep it focused on the threat that North Korea presents.

And I think the legislation we are about to take up is the most meaningful response to North Korea's most recent nuclear test. I believe we are taking a strong step towards addressing the threat that North Korea poses. We are certainly sending a strong message to the regime that has displayed little faith in the resolve to respond to provocations, whether nuclear, conventional, or cyber.

And I am pleased to note, as has been noted here, that this is a true bipartisan effort at the end of the day, particularly as it relates to foreign policy. When we can speak with one voice, when we are undivided in purpose and commitment, we send the strongest message in the world both multilaterally and as it relates in this case to a country for which we are concerned about their violation of international will and international order and security. That is the most powerful statement we can make.

I will close by saying, as has been noted, the provisions of our legislation build upon the good work that the House did to target not only banned and illicit activities but also Pyongyang's trade in minerals and precious metals which is a key source of hard currency for the regime and a signal to North Korea's trade partners that support, whether economic or otherwise, a regime that oppresses its people, threatens its neighbors, violates international will will come at significant cost.

And at the same time, I believe that it is incredibly important to offer America's hand to those who suffer under this regime's abuse. American and other humanitarian organizations who seek to improve the situation for North Koreans should not and under the provisions included in this bill will come afoul of this improved sanctions regime.

I think this is an incredibly strong measure, and I thank the committee's leadership, as well as Senator Gardner, for coming together in what is a truly strong bipartisan response.

The CHAIRMAN. Any other comments? Anyone else want to speak to this? [No response.]

The CHAIRMAN. Again, this is a very, very strong piece of legislation. It does build off of the House.

And just for committee members to know, it is my sense that if it passes out of committee today, which I think it will, it is going to be on the floor the week after next. It will probably be the last piece of legislation we take up during this work period.

We have been in communication, obviously, with the administration, both with our U.N. Ambassador but also with our Security Council leader. And I know they are continuing to work through the Security Council itself to impose sanctions. I do not know where that goes.

But I am really proud that our committee is going to pass this piece of legislation today, I think overwhelmingly. I also think it will pass the floor overwhelmingly. We will then be able to work with the House to cause this to become law. And again, I cannot

thank the members of this committee enough for their leadership, especially Senator Gardner, Senator Menendez, Senator Cardin, and others.

So with that, if there is no further discussion, I would entertain a motion to consider the manager's amendment by voice vote.

Senator CARDIN. So moved.

The CHAIRMAN. Thank you.

Is there a second?

Senator KAINE. Second.

The CHAIRMAN. It is so moved and seconded.

The question is on the motion to approve the manager's amendment. All in favor, say aye.

[Chorus of ayes.]

The CHAIRMAN. Opposed?

[No response.]

The CHAIRMAN. With that, the ayes have it. The manager's amendment is agreed to.

Now I would entertain a motion that we consider the Gardner-Menendez substitute amendment in light of the discussion about it, as amended by the manager's amendment.

Senator GARDNER. So moved.

Senator MENENDEZ. Second.

The CHAIRMAN. So moved and seconded.

The question is on the motion to approve the substitute amendment, as amended. All those in favor, say aye. [

Chorus of ayes.]

The CHAIRMAN. Opposed?

[No response.]

The CHAIRMAN. And with that, the ayes have it. The substitute amendment is agreed to.

Are there any further amendments?

Senator MARKEY. Mr. Chairman?

The CHAIRMAN. Yes, sir.

Senator MARKEY. Thank you, Mr. Chairman. I want to thank you and Senator Cardin and Senator Menendez and Senator Gardner for their tremendous work on this bill. And I want to thank you for inclusion of my provision to ensure that anyone who participates in or facilitates North Korea's trade in conventional weapons is subject to sanctions under this act.

I also commend the committee for acting decisively and in a bipartisan way to strengthen sanctions against North Korea.

Although the U.N. Security Council strengthened its arms embargo on North Korea following the 2009 nuclear test, gaps remain, including a lack of enforcement by some member states, particularly China. This amendment helps close those gaps by imposing sanctions on anyone who trades in weapons with North Korea. Doing so will help disrupt Pyongyang's arms trade which, according to U.N. reports, remains one of the country's most profitable revenue sources.

I also appreciate my colleagues' willingness to explore the second amendment of mine which would require the Treasury Department to determine whether North Korea was of primary money laundering concern on an annual basis rather than only once. It would also provide Congress with additional information regarding the

special measures that Treasury applies as a result of that designation and the reasons for selecting those measures.

While my staff was unable to fully resolve the concerns raised with this amendment, I look forward to continuing to work with you, Mr. Chairman, and the other Senators about a way to include it before we reach the floor. It is important to remember that sanctions are not in and of themselves the goal, but rather it is the goal to bring North Korea to the disarmament negotiations. And I think that the language which I suggested, which I hope that we can work together to try to include before the floor, can be included.

Mr. Chairman, I also have an amendment at the desk, Markey number 3, which I would like to offer and to subsequently withdraw. That amendment directs the Securities and Exchange Commission to issue regulations requiring the securities issuers to annually disclose their investments in North Korea and to disclose any other activities that could subject them to sanctions under this act.

In 2004, the Congress created the SEC's Office of Global Security Risk to seek disclosure from companies doing business with sanctioned countries, including those on the list of state sponsors of terrorism.

In 2008, however, President Bush removed North Korea from that list. As a result, the Securities and Exchange Commission stopped requiring securities issuers to disclose investments in North Korea. This lack of disclosure may lead Americans to unknowingly invest in companies that do business with North Korea. As noted by a 2003 report from the House Appropriations Committee, American investors may be unwittingly investing in companies with ties to countries that sponsor terrorism and countries linked to human rights violations. These associations can negatively affect the value of an investment, exposing unwitting investors to financial risk.

The prospect of American companies investing in North Korea is quite real. As a "New York Times" story reported on January 13th, just last week, one American company, Firebird Management, has publicly declared its intention to invest in North Korea's oil industry. A hedge fund manager told the "Times" that North Korea could be a lucrative market for investors, owing to its young, highly disciplined, and literate population and its strong military industrial complex.

This amendment will not impose any burden on companies that do not invest in North Korea. For those companies that do, Americans deserve at least to know who they are. Without this requirement, Americans may unwittingly be supporting a country that abuses its citizens, threatens U.S. national security, and violates U.S. law.

Unfortunately, due to the limited time available for discussion prior to this meeting, we were unable to fully resolve concerns about this amendment. Nevertheless, I look forward to continued conversations. And I am preparing an amendment for the floor to protect our American citizens from financial risk arising out of opaque investments in North Korea. And I ask unanimous consent to withdraw the amendment, but I look forward to working with you, Mr. Chairman, and the others so that we can include appro-

priate language so that the American public knows who amongst American companies are, in fact, investing in North Korea.

The CHAIRMAN. Well, I want to thank you for the way you have constructively worked with us. I know you have an amendment that is already a part of this bill. I know you want to discuss other ideas with us, and as always, we look forward to those discussions. But I do want to thank you again for being so constructive as we moved to this bill today.

I know you have had a lot of interest in this issue. You have expressed that interest in committee hearings, not just on North Korea, but on China and other matters. And I want to thank you for bringing your point of view to our committee.

Senator CARDIN. If I might, I also want to thank Senator Markey. I do not know of a Member of the Senate who has more experience and has been a greater leader on nuclear nonproliferation than Senator Markey. And he, as you pointed out, has raised it with many countries, and here with North Korea, your leadership is going to be critically important as this bill moves forward. And then in the other areas you referred to, including human rights and conventional weapons, it is very important that we have a very clear policy, and your expertise will help us. And I thank you for the cooperative way in which we are trying to work to make sure we get this done.

The CHAIRMAN. Did you want to say something else?

Senator MARKEY. I was just going to say I think that the best way to punish them is to give the American people the ability to participate in it as well, and the more that they can have transparent access to the information about which American companies are investing, the more we can actually invest the American people in this issue as well. So we create kind of a conversation online across the country about this issue and which companies are cooperating. This has to be I think an effort which we reach down further into the American public so that they are better educated about the long-term list of Korea's activities.

But I thank you, Mr. Chairman.

The CHAIRMAN. Thank you, and thanks for withdrawing those amendments. And without objection, they are.

Are there any other amendments that someone would want to consider?

[No response.]

The CHAIRMAN. Hearing none, is there a motion to approve the legislation, as amended?

Senator CARDIN. So moved.

Senator BARRASSO. Second.

The CHAIRMAN. It is so moved and seconded.

The question is on the motion to approve H.R. 757, as amended. All in favor, say aye.

[Chorus of ayes.]

The CHAIRMAN. All opposed?

[No response.]

The CHAIRMAN. With that, the ayes have it, and the legislation, as amended, is agreed to.

And that completes the committee's business.

I ask unanimous consent that the record be held open for 5 business days and that staff be authorized to make technical and conforming changes and members statements. Without objection, so ordered.

Senator Kaine. Mr. Chairman, I have a question that is kind of tangential to one of the pieces of legislation that we dealt with, the H.R. 1493 about the international cultural property protection that deals with ISIL. And I just wanted a kind of status check on this last week.

Last week, the Leader rule 14'ed to the floor a military operation against ISIL filed by Senator Graham. And I was just curious what the committee's—either what the majority's posture is with respect to that on the floor and whether the committee intends to take it up. As you know, there is a bipartisan authorization that has been pending before the committee since June.

The CHAIRMAN. Well, consistency is something I like a lot.

[Laughter.]

The CHAIRMAN. Thank you so much for bringing that up.

[Laughter.]

The CHAIRMAN. And as you know, I am of the belief that the President already has the authority to do what he is doing as he believes. Every witness that the administration has sent to this committee says that they believe the 2001 authorization for the use of military force gives them the ability to do what they are doing both in Syria and in Iraq. So I think they have the freedom to conduct this war in every possible way they believe.

I appreciate the tremendous leadership that you and Senator Flake have shown on this issue.

As I think it has been clearly stated, I do not think the Majority Leader had any intention of elevating the discussion beyond this committee. When members ask the Leader to Rule 14 a bill, he just does it as a courtesy. In many cases, he is even unaware personally that that is happening. It is just a perfunctory thing. So I do not think that step changed the debate in any way.

What he said in his public comments—and these are not my comments, but I am just reciting them—is that should the President come forth with a strategy that he believes is one that is going to defeat ISIS and should the President come forth with a proposed authorization that he does not believe will tie the hands of the next administration, the Majority Leader would consider it.

That does not mean that his view has to be our committee's posture. And if the committee would like to talk further about this, both openly or privately, I am more than glad to do it. I think you know I drafted a possible authorization for the use of military force and talked to you about it some time ago.

Again, I believe that the President has that authority now, but I know there are concerns by some that while they believe that President Obama, from their perspective, might not be doing everything he needs to do against ISIS, the next President might wish to do more. So there are people within our committee who want to limit the next President's ability to conduct operations. There are other people who feel like he already has the authority he needs, like I do. Right now, by the way, the authority he has is that he

can do anything he wishes as commander in chief to try to defeat this enemy.

I know Senator Menendez had a productive hearing on these issues before the majority shifted, if you will.

But I do not think that Senator McConnell's recent efforts were in any way intended to change the status of these discussions. I think he was really clear the next day that he would continue look to this committee on these issues. If those conditions were met by the President, he said, would look to this committee to deal with the question.

I do not know if there are any additional comments.

Senator KAINE. Might I respond? If there are other comments, I would love to respond briefly.

It is the case that there are wide views about the President's current legal authority. There are many in this body who believe that the war is illegal. There are some who believe that the 9/11 authorization covers it. But there is a wide variety of opinions on that.

But the President has asked Congress to take this up since September of 2011 and submit an authorization in February, since September of 2014 and submit an authorization in February 2015, nearly a year ago. This committee did act on an authorization—sadly it did not see get floor action for a variety of reasons—about 14 months ago.

But the mere fact that the President says he has the authority has never been enough here. The President says he has the authority on immigration matters, but Members of Congress are suing him about it. And when the President has asked that we have a debate and put Congress' will behind this war and when the head of the Joint Chiefs has asked, I find that those are very compelling.

So I was concerned that there would be an effort to end run the committee on this. It would certainly be my hope that we would take it up. And that may not be the will of the committee, but I am going to keep asking for it because a legal war is a very troubling thing to those of us who believe it is illegal, just but illegal.

But also I am so convinced that if this committee devoted the attention to this that we have devoted to matters like the bill today on North Korean sanctions or the Iran Nuclear Review Act, where we came in with a lot of different positions, but we hammered it out, we were able to reach an accord. And maybe I am still too new to be trusted and my naivete or optimism but I think if we just devoted the time and attention to this matter, we could reach an accord since Congress is overwhelmingly of the belief that the war against ISIL is a just one.

But we will obviously watch it to see if that rule 14 moves. I would certainly hate to see something move like that, even to be taken up on the floor without this committee putting its thumbprints on it because I have got confidence in this committee.

The CHAIRMAN. I just put your concerns at rest. I do not think there was any attempt to bypass the committee, and I think the Leader went out of his way that afternoon to assure people that that is not what his intentions are.

I will have to say I was just in Afghanistan and was in Qatar at the base where we are basically controlling all of the operations that are taking place, from an aerial standpoint, in both Syria and

Iraq. I do not get the sense there is anyone among our military service people who believes anything but that the United States is 1,000 percent behind them in their efforts. I happen to be one of those people that does agree that they have the legal authority to do what they are doing, and I have not seen any indication that us debating this here would in any way change the trajectory of what we are doing on the ground anyway.

I do not believe, however, that they have the authority to go against Assad. If you remember, in a committee meeting that we had with General Martin Dempsey, when we asked the question about whether, if Assad were to barrel bomb, for instance, the Syrian opposition, he had the authority to go against Assad's forces. He said not at that moment. Certainly if they needed such additional authority in Syria, I would be more than glad to take that up, because that would be an initial authorization the Executive Branch currently does not have. I am more than willing to continue discussing such things.

Except for that question about Assad's forces, I see nothing we would do here on ISIS changing the trajectory of what is happening in Syria already, and—I do not see an authorization doing that.—I believe already they have the legal authority;—I agree with their assertions that they do. What I do not want to do is enter into a debate that is really more about the presidential race and people having concerns that maybe a President gets elected who will conduct a war in a more aggressive manner than the current President—and some people are really interested in limiting that. regarding ISIS when, in fact, I think the committee is united regarding the fact that we think this campaign is just. There may be differences relative to our belief regarding the legalities.

But, look, I have to say you are one of our most constructive and consistent members. I thank you for your consistency. I know you feel really strongly about this, and I am glad that we have a committee on which members feel not only the freedom but are empowered to continue to express their views—and where as today, as we have seen, we can successfully pass major pieces of legislation when they are hammered out.

Senator CARDIN. Mr. Chairman, I just want to clarify one point that you said that I think it is important. When the committee took up the authorization for use of military force under Chairman Menendez, what came out of that markup was an authorization that we thought was appropriate for the war against ISIL and was very much aimed at the recommendations of the Obama administration. It also recognized that the next administration may have a different game plan. And that is why we had a requirement that the next Congress would have to take up the authorization for the use of military force with the recommendations of the next administration. So I do not think there has been any effort made here to try to get involved in presidential politics. I mean that sincerely.

The CHAIRMAN. I think it is moving in that direction.

Senator CARDIN. I just want to make that clear. As we looked at it, it was not at all aimed at the politics of the presidential elections, but instead required the next administration to come to Congress as to what Congress should authorize in regards to their game plan on the war against ISIL.

The CHAIRMAN. Thank you. I appreciate that.

And by the way, I did not agree with the authorization because of the limiting factors, but I thought it was a good discussion.

Senator Flake?

Senator FLAKE. I have to leave. I just want to associate myself with the comments that Senator Kaine made, and whether it was the intent of the Leader to bypass the committee, I think that was the effect. It is unfortunate that we are not going to bring something to the floor that has the stamp of the committee or at least attempt to do so.

The CHAIRMAN. Actually, I do not think it was his intent at all. I have had multiple conversations with him, and I can assure you that was not his intent. As a matter of fact, I would guess there are members here that have asked the Leader to Rule 14 things to the floor just to make those items pending, something that they do as a matter of routine, —without even thinking about it. It happens nonstop. So I do not think that what you fear is the case. I do not think that is the end result of the Leader's move, and certainly I have been assured in every way, including in public comments, that that is not the case.

Senator FLAKE. Well, if that is the case, hopefully we will have an amendment process that allows the committee to put its stamp on it when it comes to the floor. That would be nice.

The CHAIRMAN. Again, I do not think there is an intent to move the Graham bill to the floor. Is there any misunderstanding there?

Senator CARDIN. I think you are pretty clear.

The CHAIRMAN. There is no attempt to move it.

Yes, sir.

Senator MENENDEZ. Mr. Chairman, on a different matter, I just wanted to very briefly—members have spent a lot of time in the effort, as we did successfully today on the North Korea bill. But I have been on this committee long enough to know that staff plays an incredibly important role. So I want to thank all the staff for its involvement. Particularly I want to recognize Michael Schiffer from our Democratic staff as one of the significant Asian experts that we have. And I want to thank my office for helping make this possible.

The CHAIRMAN. I agree.

With no further comments, the meeting is adjourned.

[Whereupon, at 11:03 a.m., the hearing was adjourned.]