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# **BUSINESS MEETING**

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*Tuesday, November 10, 2015*

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UNITED STATES SENATE  
COMMITTEE ON FOREIGN RELATIONS  
114<sup>TH</sup> Congress, First Session

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U.S. SENATE  
COMMITTEE ON FOREIGN RELATIONS  
WASHINGTON, D.C.

1           The committee met, pursuant to notice, at 9:47 a.m., in Room S-116, Capitol  
2 Building, Hon. Bob Corker, chairman of the committee, presiding.

3           Present: Senators Corker [presiding], Risch, Johnson, Flake, Gardner, Perdue,  
4 Isakson, Barrasso, Cardin, Boxer, Menendez, Shaheen, Coons, Murphy, Kaine, and  
5 Markey.

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

6           **THE CHAIRMAN.** I will call the meeting to order and thank everybody for being  
7 here. And we do not have enough people here to begin the voting process, but in order  
8 to move it along I thought we would start, and I will certainly listen to any comments  
9 that people have. So the meeting will come to order.

10           We have a number of items on the agenda today, including four pieces of  
11 legislation, 11 nominations, and eight treaties. I am pleased we are moving forward on  
12 two resolutions, the Foreign Aid Transparency and Accountability Act of 2015, and the  
13 International Megan's Law. The International Megan's Law will formalize and enforce  
14 existing efforts to protect children and minors from sexual predators traveling abroad.

1 This is also important to help our efforts to end sexual exploitation and other forms of  
2 modern slavery.

3 We will consider several nominations today, including the undersecretary of  
4 State of Political Affairs and many important ambassadors. I want to thank my  
5 colleagues for helping the committee work through the nominees in an appropriate  
6 fashion.

7 Lastly, we will consider eight tax treaties. These conventions and protocols  
8 include bilateral treaties with Switzerland, Hungary, Luxembourg, Chile, Poland, Spain,  
9 and multilateral OECD mutual assistance protocols. Switzerland, Hungary, and  
10 Luxembourg have been approved twice by this committee, first in the 112th Congress  
11 and again last April when this committee approved three treaties by voice along with  
12 the Chile and the OECD treaties.

13 This committee approved the Spain and Poland treaties last July, also by voice  
14 vote. The protocol with Japan was received earlier this year. These treaties will  
15 eliminate the uncertainty of double taxation for U.S. companies doing business in these  
16 countries. They also facilitate trade and investment and provide U.S. investors with  
17 greater certainty about their tax burden abroad.

18 With that, I would like to recognize the distinguished ranking member for any  
19 comments. Senator Cardin?

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

1           **SENATOR CARDIN.** Well, Mr. Chairman, first thank you for scheduling this business  
2 meeting and for including so many important issues, both laws, resolutions and  
3 nominees that we will act on. I want to thank you for allowing the Foreign Aid  
4 Transparency Act that has been sponsored by Senator Rubio and I to be on today's  
5 agenda. I think this is a win for the development community and a win for American  
6 taxpayers.

7           When the U.S. signed up for the International Aid Transparency initiative in  
8 2011, we committed to make U.S. aid transparent by December 2015. The U.S. is not  
9 close to meeting its commitments by that deadline, but I think this bill will help us  
10 advance America's strong policy towards transparency globally by taking care of  
11 business at home first on U.S. foreign assistance.

12           I also want to thank you for adding to today's agenda the Blumenthal-Ayotte  
13 Stand with Israel resolution. This resolution reaffirms our commitment to stand with  
14 Israel and support Israel's right to self-defense. Over the past month we have seen a  
15 new wave of violence, including stabbings, car rammings, and shootings targeted at  
16 Israeli citizens. Critically, this resolution rejects any moral equivalence between Israeli  
17 security personnel taking action to protect its citizens and the senseless violence  
18 targeted against Israeli citizens. We applaud Prime Minister Netanyahu and Jordanian  
19 King Abdullah for their commitment to maintaining the status quo on the Temple

1 Mount and for embracing Secretary of State Kerry's proposal to install surveillance  
2 cameras at the Temple Mount.

3 The resolution urges the Israelis and Palestinians to return to the negotiating  
4 table immediately. We all know what the two-state solution looks like. Now more than  
5 ever we need leadership and political will to get there, so I am proud to co-sponsor that  
6 resolution, and I am glad to see that we will be acting on that.

7 I also want to join you in supporting the Megan's Law that would make this  
8 global. I think that the chairman's mark adds some important protections, and I know  
9 Senator Markey had an amendment that was added to it. And I thank all those who  
10 have worked to make this law one that will clearly establish U.S. international  
11 leadership on sexual predators. I also thank you for including Senator Johnson's  
12 resolution dealing with atrocities committed by ISIL.

13 As you pointed out, there are eight tax treaties that are on today's markup. All of  
14 these advance the U.S. commitment against double taxation, and the right of privacy,  
15 and confidentiality of taxpayer information with the compliance with our tax laws.

16 And then lastly, thank you for including a lot of our critical nominees. Eleven  
17 were included. Thank you for including Tom Shannon, a very important position  
18 within the State Department. I do want to mention specifically Roberta Jacobson as the  
19 ambassador to Mexico. Her significant policy management and interagency expertise  
20 both domestically and overseas makes Mrs. Jacobson uniquely qualified to serve as our

1 ambassador. My understanding is that the government of Mexico is highly  
2 complimentary of Mrs. Jacobson's nomination, is eager to get her into place, and I agree  
3 with that. Mexico is our closest neighbor to the south, and it is important that we have  
4 a confirmed ambassador there.

5 So we have a robust agenda, and I think we might have a quorum.

6 **THE CHAIRMAN.** We do.

7 **SENATOR CARDIN.** Then I will end my comments.

8 **THE CHAIRMAN.** Well, thank you for those outstanding comments. First, I would  
9 like to consider the eight tax treaties on the agenda.

10 Since 1973, the Senate has moved 109 tax treaties and tax treaty protocols. Until  
11 the 112th Congress, no tax treaty has required a cloture vote. Every tax treaty since  
12 1991, for a total of 53, has moved by UC on the Senate floor. The treaties we are  
13 considering today continue the longstanding provision and practice of those previous  
14 treaties. It is time to move these treaties forward to the full Senate for a vote where I  
15 expect they will receive broad bipartisan support. Do you have any additional  
16 comments?

17 **SENATOR CARDIN.** I concur.

18 **THE CHAIRMAN.** Is there any member that would like to be recognized to speak on  
19 the treaties?

20 [No response.]

1           **THE CHAIRMAN.** No further discussion, I would entertain a motion to approve them  
2 by voice vote en bloc.

3           **SENATOR JOHNSON.** So moved.

4           **THE CHAIRMAN.** Is there a second?

5           **SENATOR CARDIN.** Second.

6           **THE CHAIRMAN.** So moved and seconded. The question is on the motion to  
7 approve eight tax treaties.

8           All those in favor, say aye.

9           [A chorus of ayes.]

10          **THE CHAIRMAN.** Opposed?

11          [No response.]

12          **THE CHAIRMAN.** The ayes have it. The treaties are agreed to.

13          And now, I would like to ask the committee to proceed en bloc to a voice vote on  
14 consideration of the 11 nominations before the committee.

15          **SENATOR MENENDEZ.** Mr. Chairman?

16          **THE CHAIRMAN.** Yes, sir?

17          **SENATOR MENENDEZ.** Mr. Chairman, I would have to object to that. I would like  
18 the nomination of Roberta Jacobson to be excluded from the en bloc, and when it is  
19 appropriate I want to speak to the nomination.

20          **THE CHAIRMAN.** Okay. Very good.

1           **SENATOR ISAKSON.** Mr. Chairman?

2           **THE CHAIRMAN.** We will do that. Yes, sir?

3           **SENATOR ISAKSON.** I would also like to vote separately on Ms. Jacobson as well.

4           **THE CHAIRMAN.** Okay. All right.

5           **SENATOR ISAKSON.** I will speak to that at the appropriate time.

6           **THE CHAIRMAN.** Ron the same and —

7           **SENATOR SHAHEEN.** Mr. Chairman?

8           **THE CHAIRMAN.** Senator Shaheen?

9           **SENATOR SHAHEEN.** I do not know if this comment is appropriate now or after we  
10 do the vote, but I just have to again raise the concern that Gayle Smith, who has been  
11 nominated to head USAID, even though she has moved through this committee, she is  
12 still being held up on the floor. And I appreciate the chair and ranking member's efforts  
13 to move this nomination.

14           But the fact is we have got a refugee crisis in the world, and the lead agency  
15 responsible to try and help those refugees does not have the leadership it needs at this  
16 time of crisis. And I think it is — it is just unacceptable that we have got one person, not  
17 even related to the issue of Gayle Smith and USAID, who is holding this up because he  
18 has a problem with the Obama Administration.

19           Again, I think that is not the way we can reassure people in this country that we  
20 should run the government. And I would hope that everybody on this committee



1 would do everything possible to try and get that hold lifted so we can move this  
2 nomination.

3 **SENATOR CARDIN.** Mr. Chairman?

4 **THE CHAIRMAN.** Yes, sir? Senator Cardin?

5 **SENATOR CARDIN.** Mr. Chairman, let me just underscore Senator Shaheen's point.  
6 There are now 18 Senate Foreign Relations Committee nominations pending on the  
7 Senate floor that have received unanimous support in this committee. And I want to  
8 compliment the chairman. The chairman has moved these nominations properly, given  
9 fair hearings and consideration by the full committee, and cannot obviously control the  
10 Senate floor.

11 It is difficult to predict how we can move issues on the Senate floor, and I  
12 understand that. But Senator McConnell does control how we consider nominations on  
13 the Senate floor, and we have 18 nominations, including Gayle Smith, which is critically  
14 important for the Syrian refugee issue as well as many other issues that we are  
15 confronting on the global side. I think, though, that we should move forward now, and  
16 I would ask that we take the 10 nominations en bloc and then get to the Roberta  
17 Jacobson nomination.

18 **THE CHAIRMAN.** That is what we will do. I think that is what the committee  
19 consensus is. I do want to just briefly say on Gayle Smith, we have attempted multiple  
20 solutions —

1           **SENATOR SHAHEEN.** Yes. No, and I appreciate it.

2           **THE CHAIRMAN.** — and it is has been sort of a moving target. But we are  
3 continuing to work on that and hope that very soon we will come to some kind of  
4 resolve. But believe me, it is a — it is a multiple days each week effort, and hopefully  
5 we will get there at some point soon. So I am sympathetic to your comment.

6           So what I would like to do is move the other nominations en bloc. That would be  
7 Linda Etim, assistant administrator of USAID; Mr. Mark Sievers, ambassador to Oman;  
8 Ms. Elisabeth Millard, ambassador to Tajikstan; Mr. Kenneth Ward to the U.S.  
9 Representative of the Organization for the Prohibition of Chemical Weapons; the  
10 Honorable Deborah R. Malac to be ambassador to Uganda; Ms. Lisa Peterson to be  
11 ambassador to Swaziland; Mr. Dean Pittman to be ambassador to Mozambique; Mr.  
12 Peter Bodde to be ambassador to Libya; Mr. Don Morton to be executive vice president  
13 of the Overseas Private Investment Corporation; and the Honorable Thomas Shannon  
14 to be undersecretary of State for Political Affairs. And I want to thank everybody for  
15 cooperating and adding him to the agenda.

16           If we could — with all these — these are — I would love to have a motion to vote  
17 on those 10 en bloc.

18           **SENATOR CARDIN.** I so move.

19           **THE CHAIRMAN.** A second?

20           **SENATOR JOHNSON.** Second.

1           **THE CHAIRMAN.** All in favor, say aye.

2           [A chorus of ayes.]

3           **THE CHAIRMAN.** All opposed?

4           [No response.]

5           **THE CHAIRMAN.** The ayes have it, and now we will move to the nomination of  
6 Roberta Jacobson to be ambassador to Mexico. And I know that there are some people  
7 that want to make comments, and with that, I will move quickly to Senator Menendez.

8           **SENATOR MENENDEZ.** Thank you, Mr. Chairman. Mr. Chairman, for the 10 years  
9 that I have served on the Senate Foreign Relations Committee, I have taken the role of  
10 advise and consent of State Department nominees very seriously, whether it was a  
11 nominee for Secretary of State or a nominee to represent the United States at one of the  
12 most distant outposts. From one end of the spectrum to the other, I have delved into  
13 the individual's views, experience, as well as their willingness to be open, direct,  
14 truthful, and consultative as critical elements of whether they would earn my support  
15 and my vote for confirmation.

16           I carried the same standard whether I was simply a member of the committee or  
17 its past chairman. And even where I disagree with a nominee's views, especially if they  
18 were just espousing the views of the Administration, I would often support them if the  
19 other elements I considered important were present. In the case of Ms. Jacobson, I

1 cannot in good conscience support her nomination to such a critical post, and let me  
2 state why for the record.

3         When I met Ms. Jacobson for her present position of assistant secretary of State, I  
4 stressed the importance to me of consultation and openness to questions and requests  
5 for information. She acknowledged the importance of such and committed to doing so.

6         At her nomination hearing for assistant secretary of State for the Western Hemisphere,  
7 which I chaired, I raised the question of underfunding of the Western Hemisphere  
8 accounts as well as the IDB, the only regional bank that did not get an increase at the  
9 time, and of authoritarian trends in the Western Hemisphere, and asked what she  
10 would do to reverse those trends as the assistant secretary. I did so recognize that as  
11 the deputy assistant secretary for the Western Hemisphere, she would have had a role  
12 in these issues, but obviously not with the same authority. And while I was not  
13 convinced by her answers, both in terms of openness or in terms of substance, I was  
14 willing to give her the benefit of the doubt.

15         As the assistant secretary of State for the Western Hemisphere, I found her not to  
16 be the advocate she promised to be for the region and against the authoritarianism that  
17 has only grown in the hemisphere. And I found her, even more importantly, not to be  
18 all that consultative or forthcoming as to informational requests. Information coming  
19 from her came only after constant questioning and repeated information requests. In  
20 essence, she was not the open, direct, and consultative leader I had expected.

1           By way of example of these concerns are her responses in a hearing I held as  
2 chairman on human rights in Venezuela on May 8th of 2014. In a question I posed,  
3 which I am going to read from the record, I asked, "Madam Secretary, President Obama  
4 has determined that Venezuela has failed to meet its obligation under international  
5 narcotics agreements. The Treasury Department has designated members of the  
6 Venezuelan government and military as kingpins. And the drugs flowing out of  
7 Venezuela have debilitating effects on levels of violence, governance, and the rule of  
8 law in Central America and the Caribbean. Given the widespread signs of collusion  
9 between drug trafficking and the Venezuelan government, does the situation in  
10 Venezuela constitute a national security threat to the United States?"

11           Her answers all hedged and were only basic. It took a series of follow-up  
12 questions to pierce through her answers and finally get to the conclusion that, yes, it  
13 was a national security threat, something, by the way, the President had made a  
14 determination on.

15           Furthermore, I specifically asked whether she had been asked by the Venezuelan  
16 civil society not to have us pursue sanctions for human rights abuses in Venezuela as  
17 we were contemplating pursuing sanctions legislatively, and her answer was yes. And I  
18 pursued her on this because she had said so in answer to the questions of other  
19 members, and I knew that was not the case, and I wanted to give her the opportunity to  
20 clarify the record.

1 She doubled down on her answer, and soon after the hearing closed, social  
2 media exploded in Venezuela by civil society groups condemning the statement and  
3 vehemently saying it was not true. She subsequently asked me to change her answer,  
4 which I allowed her to do for the record, but the damage had been done.

5 Subsequently, at her July 15th, 2015 nomination hearing for U.S. ambassador to  
6 Mexico, I pursued a line of questioning as to why the United States did not request  
7 extradition of Joachim Gomez, known as El Chapo, until two years after he was  
8 captured in February of 2013. She evasively said that I had to go to the Justice  
9 Department to get an answer, but upon further questioning acknowledged that the  
10 State Department and its lawyers are involved in the extradition process. This from the  
11 person who is in charge of the Western Hemisphere and the nominee to be the  
12 ambassador to Mexico.

13 I also revisited the question of whether we considered Venezuela a national  
14 security threat, especially in light of new information we had. And she said it was not a  
15 national security threat, totally opposite of what she — what she had told me a year  
16 before.

17 I further pursued the issue of human rights sanctions in Venezuela, and I want to  
18 read from the transcript. "You know, when I have individuals who are brought before  
19 the committee for the advise and consent of the Senate, I take it very seriously." This is  
20 me speaking at the hearing. "And one of the elements I take very seriously is I am

1 going to get fair, honest, transparent answers to my questions so that I can make  
2 judgments on the issues I am called upon as a U.S. senator and as a senior member of  
3 this committee to make judgments on.

4 In the hearing on Venezuela, I asked you whether or not the opposition of  
5 Venezuela, as you had stated, was actually opposed to us pursuing sanctions. And I  
6 would parenthetically note for the committee this was particularly important because at  
7 the time the committee was considering sanctions legislation on Venezuela. Your  
8 answer to me at that time was the opposition elements engaged in the current dialogue  
9 had suggested we refrain from sanctions against individuals guilty of human rights  
10 violations.

11 Now, that was not the case, and you ultimately made it very difficult for me at a  
12 moment when I was trying to understand what would be the consequences. I thought  
13 that the sanctions that ultimately the President signed were the right ones, but you  
14 created a doubt, a doubt that should not have been there because then I heard a chorus  
15 of voices from the opposition in Venezuela who said, no, we never said that.

16 So if I am going to look to advise of consent and vote affirmatively for someone, I  
17 need honest, open, and transparent answers, and I do not feel that I got that from you at  
18 the time."

19 Finally, Mr. Chairman, I also have serious concerns that the nominee, who has  
20 admitted that she weighed in on the Trafficking in Persons Report, was influential in

1 having Cuba removed from its Tier 3 designation without any appropriate justification.

2 I think the members of this committee know how passionate I am about the integrity of  
3 the TIP Report, and the general sentiment that exists on the committee among all  
4 members that this year's TIP Report was politicized.

5 So, Mr. Chairman, Mexico is one of the most important bilateral relationships we  
6 have, not only in the Western Hemisphere, but in the world. The U.S. ambassador to  
7 Mexico plays an instrumental role in helping to forge any stronger partnership between  
8 our two nations, and the decision we make on this nomination is consequently one of  
9 the most important we face.

10 From expansive trade and economic issues, to amnesty issues, to immigration,  
11 drug trafficking, and human rights, we need someone who will be open, honest,  
12 transparent, and consultative with us as we in the Senate continue to formulate policies  
13 and views to our neighbor in the south. I do not have that experience with this  
14 nominee, nor the belief that having given her previous opportunities to assuage my  
15 concerns, that she will do so.

16 For these reason and other examples which I will not belabor the committee  
17 with, I will be voting no.

18 **THE CHAIRMAN.** Well, thank you for those comments, well thought out. And I do  
19 want to say I thank the entire committee for everyone's concern about the TIP Report



1 that has been expressed, and I think there will be certainly changes in the State  
2 Department in the future regarding that. Senator Boxer?

3 **SENATOR BOXER.** Thank you so much, Mr. Chairman. Roberta Jacobson is a well-  
4 respected career civil servant. She is the current Assistant Secretary for Western  
5 Hemisphere Affairs. And at a time when there is so much criticism that ambassadors  
6 are selected because of their political connections, I think we should support her.

7 If you go back to her career, it actually started with Ronald Reagan. She worked  
8 at the State Department as a younger woman. She worked for George Herbert Walker  
9 Bush, President Clinton, George W. Bush, and now President Obama. It seems to me  
10 this is someone that we ought to look toward with favor.

11 In her three-decade career she was worked tirelessly, and has extensive  
12 experience working in the Western Hemisphere, five years as the director of Mexican  
13 Affairs. That was during the George W. Bush time. And I want to point out this, just as  
14 I think it would make us proud to see the first woman to serve as ambassador to  
15 Mexico. I think that would show Mexico the way on equality.

16 And I think that her nomination, and I listened to my colleague, friend. You  
17 know, it is tied up over personal differences, and I do not think — what we want here is  
18 someone, whoever they work for, whichever Administration it is, if they are a diplomat  
19 to carry out the views of whether it is the Reagan Administration, Bush, Clinton, here.  
20 That is what they are supposed to do.

1 I also want to point out that coming from California, where we are 40 million  
2 strong almost, our ties to Mexico are so important. And the economic ties, and the  
3 problems we have with drug trafficking, all of this needs a strong person who has  
4 credibility because she is not political.

5 I hope — I do not know what the votes are. I have not done my own count, but I  
6 sure hope we can get her moving forward today. Thank you.

7 **THE CHAIRMAN.** Are there any comments?

8 **SENATOR ISAKSON.** Yes.

9 **THE CHAIRMAN.** Yes, Senator Isakson?

10 **SENATOR ISAKSON.** Mr. Chairman, I will brief because I respect the committee's  
11 time. I informed the Administration on three separate occasions in the last month that I  
12 would be reluctant to let Ms. Jacobson to move forward. And I have not gotten an  
13 answer one way or another out of the Justice Department as to why they have not spent  
14 the money necessary to compensate the Iran hostages from 1979.

15 Senator Cardin, Senator Menendez, Senator Corker, and others know how hard  
16 we have worked on that legislation. It is my understanding with their effort and money  
17 already deposited and being held by the Justice Department, that compensation could  
18 be made to those 43 surviving hostages that are American.

19 Last week was the 36th anniversary of them being captured and held for 444  
20 brutal days in Tehran, Iran. We are this close to seeing to it they are compensated, and I

1 am going to follow through on my — I do not like to call it a threat — my objection to  
2 the Administration until they can get on board and help us to see to it the compensation  
3 takes place.

4 **THE CHAIRMAN.** I appreciate Senator Isakson saying that. I do not know of  
5 anybody who has worked harder to bring justice to these people. And I think we are  
6 very close —

7 **SENATOR ISAKSON.** Thank you.

8 **THE CHAIRMAN.** But, you know, obviously we have got House and Senate issues.  
9 We have had some blue slip issues. But hopefully in light of all that has happened with  
10 the Iran agreement and where we are today, we are going to get this resolved soon.  
11 And, again, nobody has been more diligent, more thoughtful, and more persistent, and  
12 I thank you for those efforts. And I understand why you are voting the way you are  
13 today.

14 I do strongly support Roberta. I realize the vote may be close today, but I believe  
15 she is highly qualified, and do appreciate the fact that a career officer is being  
16 nominated for this position. Senator Flake?

17 **SENATOR FLAKE.** I just want to say from an Arizonan, I think we need an  
18 ambassador to Mexico. We have waited long enough. We have tremendous, you  
19 know, ties to the country, trade, and commerce, and we need what she will bring to  
20 bear. And I have dealt with her over the years, and I have found her to be nothing but

1 professional. And she is a top notch Foreign Service officer, so I am very pleased to  
2 support her nomination.

3 **THE CHAIRMAN.** Very good. Senator Cardin?

4 **SENATOR CARDIN.** First, I deeply respect Senator Menendez. I do not think there is  
5 a member of the United States Senate who is more knowledgeable on our hemisphere  
6 than Senator Menendez, so I deeply respect his views. I know his passion on these  
7 issues. He and I share a common objective in regard to human rights advancements, so  
8 I do not want anything I say to compromise my deep respect and admiration for  
9 Senator Menendez's leadership on these issues. We do differ on certain policies in our  
10 hemisphere, Cuba being one in particular where we have just a different view on the  
11 issues.

12 In regards to Roberta Jacobson, I would just give you my observations of a  
13 person who has devoted her career to public service. As a member of the United States  
14 Senate and as a member of this committee, now as ranking Democrat on this committee,  
15 I have found her to be always open, always straightforward, and I have had no  
16 problems in consultation in getting the information that I need. So I just really want to  
17 put that on the record because I do believe she is a career diplomat who takes her  
18 responsibilities very seriously.

19 I do not know of a person who is more qualified to be ambassador to Mexico.  
20 She knows this hemisphere. She knows the countries that surround Mexico. She served

1 in Peru. She served in Mexico. She served as assistant secretary for this hemisphere.  
2 She is a person imminently qualified. She is a person who is deeply respected by the  
3 people of Mexico. I mean, if we are talking about who is going to be our representative  
4 down there, it is good to have a person who has the credibility of the host country.

5 So I would just urge the members of this committee to allow us to have a  
6 confirmed ambassador. I think Senator Flake's point is very well taken. This is our  
7 neighbor, Mexico. We need to have a confirmed ambassador of Mexico. She is  
8 knowledgeable on the trade issues. She is knowledgeable on the human rights issues.  
9 She is knowledgeable on the economic issues. She is knowledgeable on the drug  
10 trafficking issues. And we need a confirmed ambassador in this position to represent  
11 U.S. interests.

12 **THE CHAIRMAN.** Are we ready to vote? The nomination before us is that of Roberta  
13 Jacobson to be ambassador to Mexico. Is there a motion to approve her?

14 **SENATOR BOXER.** So moved.

15 **THE CHAIRMAN.** Is there a second?

16 **SENATOR CARDIN.** Second.

17 **THE CHAIRMAN.** Moved and seconded. I know it is a roll call vote, so if the clerk  
18 will call the roll, I would appreciate it.

19 **THE CLERK:** Mr. Risch?

20 **SENATOR RISCH.** No.

1           **THE CLERK:** Mr. Rubio?

2           **THE CHAIRMAN.** No by proxy.

3           **THE CLERK:** Mr. Johnson?

4           **SENATOR JOHNSON.** No.

5           **THE CLERK:** Mr. Flake?

6           **SENATOR FLAKE.** Yes.

7           **THE CLERK:** Mr. Gardner?

8           **SENATOR GARDNER.** Yes.

9           **THE CLERK:** Mr. Perdue?

10          **SENATOR PERDUE.** No.

11          **THE CLERK:** Mr. Isakson?

12          **SENATOR ISAKSON.** No.

13          **THE CLERK:** Mr. Paul?

14          **THE CHAIRMAN.** Yes by proxy.

15          **THE CLERK:** Mr. Barrasso?

16          **SENATOR BARRASSO.** No.

17          **THE CLERK:** Mr. Cardin?

18          **SENATOR CARDIN.** Aye.

19          **THE CLERK:** Mrs. Boxer?

20          **SENATOR BOXER.** Yes.

1           **THE CLERK:** Mr. Menendez?

2           **SENATOR MENENDEZ.** No.

3           **THE CLERK:** Mrs. Shaheen?

4           **SENATOR SHAHEEN.** Aye.

5           **THE CLERK:** Mr. Coons?

6           **SENATOR COONS.** Aye.

7           **THE CLERK:** Mr. Udall?

8           **SENATOR CARDIN.** Aye by proxy.

9           **THE CLERK:** Mr. Murphy?

10          **SENATOR MURPHY.** Aye.

11          **THE CLERK:** Mr. Kaine?

12          **SENATOR KAINE.** Aye.

13          **THE CLERK:** Mr. Markey?

14          **SENATOR MARKEY.** Aye.

15          **THE CLERK:** Mr. Chairman?

16          **THE CHAIRMAN.** Aye.

17          **THE CLERK:** Mr. Chairman, the yeas are 12, the noes are seven.

18          **THE CHAIRMAN.** So she will be recommended to the Senate — the full Senate along  
19 with the other 10 nominees. I want to thank everybody for their thoughtful comments  
20 in moving these along.

1           **SENATOR CARDIN.** Mr. Chairman, if I might, I just want to underscore the point you  
2 made with Senator Isakson. There has been no stronger member for the justice in  
3 regards to compensation for the Iran hostages. And I just join you in looking for a way  
4 that we can get this to the finish line. We strongly support this. There are a couple of  
5 opportunities we think are coming up, and I am strongly supportive of any effort we  
6 can to get Senator Isakson's bill to the finish line.

7           **SENATOR ISAKSON.** Thank you very much.

8           **THE CHAIRMAN.** Very good. Next we will consider two resolutions en bloc by voice  
9 vote. The first resolution is S. Res. 310, and calls upon the President to condemn the  
10 ongoing sexual violence against women and children, Yazidi, Christian, and Shabak,  
11 Turkmen, and other religious communities by the Islamic State of Iraq and Syria  
12 militants, and to urge the prosecution and perpetrators of these complicit — those  
13 complicit in these crimes. I want to thank Senator Johnson for bringing this resolution  
14 to the committee.

15           The second resolution expresses the sense of the Senate in support of Israel and  
16 condemnation of Palestinian terror attacks. This resolution has 46 co-sponsors. I want  
17 to thank Senator Ayotte and Senator Blumenthal for working on this. Senator Cardin, I  
18 know you made some comments earlier. Do you want to make additional comments?

19           **SENATOR CARDIN.** I would just urge the members to support the resolutions.

20           **THE CHAIRMAN.** Does anyone want to speak —



1           **SENATOR JOHNSON.** Mr. Chairman, I want to thank you for including the resolution  
2 in the markup. I want to thank my co-sponsors, Senator Murphy, Senator Rubio,  
3 Senator Ayotte, and Senator Kirk. You have already described the resolution  
4 adequately.

5           I do want to point out, I am not sure whether anybody else on this committee  
6 met with Bazi, the young Yazidi woman who came here to describe her horrors.  
7 Probably the thing that made the greatest impression on me is she described the hope  
8 she felt when she was first captured, knowing the U.S. was going to come to save her,  
9 then as the days and weeks went by, less and less hope. Finally she began, you know,  
10 some suicide attempts. So this is — you know, what is happening in the Islamic State is  
11 beyond brutal, and this is a small measure. This is the least we can do, so I certainly  
12 urge support.

13           And then a little off subject, but I was just in Guatemala and Honduras, and I am  
14 so supportive of what, you know, some of your efforts and this committee's efforts in  
15 terms of combating and battling against human trafficking. We visited a shelter for  
16 victims of sexual abuse and sex trafficking, and, you know, we talk about them as  
17 victims. In my mind, I think of young women like Bazi, like, I believe, was in her early  
18 20s.

19           In Honduras it was not — it was not — or in Guatemala it was not young  
20 women. They were little girls.

1           **THE CHAIRMAN.** Yes.

2           **SENATOR JOHNSON.** This was a — this was a shelter for little girls. The youngest  
3 was 11. The oldest was probably 16. The average age may be around 14. There were  
4 cribs. So this is — this is beyond brutal. This is beyond barbaric.

5           And so, again, this is what we — this is what we are battling. This is the evil we  
6 are battling in this world. This is the least we can do. And so, I certainly urge support  
7 for this resolution, but I also urge support for, you know, the type of actions we need to  
8 support President Obama's stated goal of defeating — degrading and ultimately  
9 defeating ISIS. The sooner the better to purge this world of that — of that barbarity.  
10 Thank you.

11          **THE CHAIRMAN.** Well, thank you for those heartfelt comments. Senator Kaine?

12          And let me, if could, and for your leadership on this with Senator Murphy and  
13 others. And I just — 27 million people today as we are sitting here enslaved, more than  
14 any time in the history of the world. So this committee I think has a tremendous  
15 opportunity as we move forward over the next six weeks to ensure that the bill we pass  
16 out of here has funding. I think that is going to be the case, but I cannot thank everyone  
17 on this committee enough for caring as compassionately as Senator Johnson just laid out  
18 in their concerns about people who are enslaved and dealing with these types of issues.

19          Senator Kaine?

1           **SENATOR KAINE.** Thank you. Mr. Chair, I am going to support both of these  
2 resolutions, in fact, all four that are before us today. This is productive committee: four  
3 resolutions, eight treaties, 11 nominations. It was productive under the previous chair.

4           Since one of these resolutions does deal with the Islamic State, and I know we are  
5 going to move into a separate session about it later, I just want to put sort of on the table  
6 it is the Marine Corps birthday. Veterans Day is tomorrow.

7           Senator Flake and I have a bipartisan resolution dealing with an authorization for  
8 military action against the Islamic State, the perpetrator of these horrible sex crimes,  
9 covered by the S. Res. that Senator Johnson has introduced. We have had it on the table  
10 for five months now. The war is now 15 months old. The President sent us an  
11 authorization nine months ago.

12           It is my sincere hope that the hearing that we are about to go into where we will  
13 in a classified setting get into the legal authority question, might give us some insight  
14 or, you know, creative thinking about the way we can move forward and do what I  
15 think we might do and what I know what would be appreciated. Whether folks, you  
16 know, believe it is constitutionally required or not, I know it would be appreciated by  
17 our troops, our allies, and it would be understood by our adversaries as a strong  
18 statement of congressional opposition. So many of these atrocities are just so beyond  
19 the pale. You know, in a world that produces one atrocity after the next, they are just  
20 beyond the pale, and I worry about our silence on that score.

1 I would just like to — I will hand out to colleagues a group of 35 House  
2 members, bipartisan, has recently written a letter to the Speaker saying it is really time  
3 with the mutating nature of this threat, the number of countries involved, the U.S.  
4 taxpayer expenditure that is now including of people serving in combat, it is time for us  
5 to kind of grapple with it. And I just would like to distribute that to colleagues.

6 **THE CHAIRMAN.** Sure.

7 **SENATOR KAINE.** And I will look forward to further discussion at the next hearing  
8 that we will have.

9 **SENATOR CARDIN.** Mr. Chairman?

10 **THE CHAIRMAN.** Thank you for your consistency and Senator Flake's. And I assure  
11 you since sometimes I do not ask questions at these. I let others go first. The first  
12 question I am going to ask is, you know, do we have the legal authorities necessary to  
13 move ahead, and I am sure that will be a theme this morning. So thank you for  
14 bringing that up. Senator Cardin?

15 **SENATOR CARDIN.** Mr. Chairman, I just want to thank Senator Johnson for this  
16 resolution. I think it is a very important resolution for us to act on. What ISIS is doing  
17 are crimes against humanity. We have talked about this several times in our committee,  
18 about holding accountable those who commit these atrocities. These are atrocities that  
19 demand international action, and I am proud to see that this committee is going to on  
20 record with this resolution.

1           **THE CHAIRMAN.** Senator Murphy?

2           **SENATOR MURPHY.** Thank you, Mr. Chairman.

3           **THE CHAIRMAN.** Thank you.

4           **SENATOR MURPHY.** I just want to add my thanks for bringing the Johnson  
5 resolution before us today. Happy to work with him. I am sorry I did not catch the  
6 ranking member's opening comments that may have been relevant to the second  
7 resolution that we are considering.

8           I would just note that my understanding is that this was added at about 7:00 last  
9 night so that when a lot of us reviewed the business we were going to take up yesterday  
10 at the end of the day, we did not get to take a look at this resolution. And, you know,  
11 the words that we use when we are talking about violence in the Middle East is as  
12 important as it gets here.

13           And so, you have been imminently fair and accommodating of minority and the  
14 rank and file members, and so this is anomaly, but my hope is that we would in the  
15 future get a little bit more time because I frankly think this resolution can be better. I  
16 am going to support it today.

17           I will give you a for instance that it is incredibly important that we state in this  
18 resolution that we are rejecting the moral equivalency of terrorist attacks versus Israeli  
19 security personnel, just sticking up and standing up against that violence. But it  
20 probably would not hurt for this committee to be on record as condemning the taking of

1 innocent life, whether it be Israeli or Palestinian. I think there is some — there are some  
2 additions to this resolution that had we had some more time, we could have made it  
3 better.

4 I am happy to support it and move it to the floor, but I just wanted to ask for  
5 your accommodation in the future of giving us a little bit more time to talk about these  
6 things.

7 **THE CHAIRMAN.** I appreciate you bringing that up, and, you know, in a way this  
8 was an accommodation of sorts. I know they were trying to pass this on the floor today,  
9 and this was Senator Blumenthal and Ayotte jointly pushing this. And I just felt like it  
10 was much better for it come to our committee and for us to continue to have our  
11 jurisdiction on these matters.

12 And I agree with you, by the way, there is some language in here that could be  
13 better, and I might add it is possible that — I know close of business comes at the end of  
14 the day today, but it is possible that some of those changes might even be agreed to.  
15 We want to try to work with Kelly and Blumenthal before it goes to the floor, so I think  
16 they would be open to that.

17 **SENATOR MURPHY.** Thank you, Mr. Chairman.

18 **THE CHAIRMAN.** Thank you very much. Okay. Gosh, I appreciate the interest and  
19 seriousness with which we are conducting our business.

1 I would like to have a motion to approve both of these resolutions en bloc if one  
2 exists.

3 **SENATOR CARDIN.** So moved.

4 **THE CHAIRMAN.** Second?

5 **SENATOR JOHNSON.** Second.

6 **THE CHAIRMAN.** All those in favor, say aye.

7 [A chorus of ayes.]

8 **THE CHAIRMAN.** All opposed?

9 [No response.]

10 **THE CHAIRMAN.** The ayes have it.

11 So I think that is it. So those passed and will move to the floor.

12 Next we will consider S. 2184, Foreign Aid Transparency and Accountability Act  
13 of 2015. I want to thank the original creators of this bill, Senator Rubio and Cardin,  
14 along with Congressman Ted Poe and the House Foreign Affairs Committee. This bill  
15 establishes in law regulations from State and USAID and applies them to 22 agencies  
16 that administer U.S. foreign development and economic assistance programs.

17 I am recommending some technical changes along with a sense of the Senate  
18 section which is intended to maximize efficiency between State and USAID. Senator  
19 Cardin, do you have any additional comments?

1           **SENATOR CARDIN.** I commented on the bill in the opening statement. Thank you for  
2 advancing this bill.

3           **THE CHAIRMAN.** Anyone else like to speak to this legislation? Senator Coons?

4           **SENATOR COONS.** I will just briefly as a co-sponsor thank you for moving this on  
5 today's agenda, and just say I appreciate the work of the co-sponsors to make sure that  
6 we continue to emphasize to the American people that we are insisting on measurable  
7 outcomes, transparency, and impacts in our foreign aid investments.

8           **SENATOR MARKEY.** Mr. Chairman?

9           **THE CHAIRMAN.** Yes, sir.

10          **SENATOR MARKEY.** If I may, I would also say that while this has been non-security,  
11 I think we should also think about talking about more transparency in our security  
12 spending as well so that everyone in the country, including this committee, can  
13 understand better what is going on. And I think the more that we focus on that, we  
14 might get at really the heart of what is in the soul of people all across America right  
15 now. So more transparency in that I think it would be a good discussion for this  
16 committee to be taken at some point. But with that, I support the resolution.

17          **THE CHAIRMAN.** Thank you so much. I would entertain a motion that we consider  
18 the substitute amendment by voice vote.

19          **SENATOR CARDIN.** So moved.

20          **THE CHAIRMAN.** Second?



1           **SENATOR JOHNSON.** Second.

2           **THE CHAIRMAN.** It has been moved and seconded.

3           The question is the motion to approve the substitute amendment.

4           All those in favor, say aye.

5           [A chorus of ayes.]

6           **THE CHAIRMAN.** Opposed?

7           [No response.]

8           **THE CHAIRMAN.** With that, the ayes have it, and the substitute amendment is  
9 agreed to.

10          Are there any further amendments?

11          [No response.]

12          **THE CHAIRMAN.** Hearing none, is there a motion to approve the legislation, as  
13 amended?

14          **SENATOR CARDIN.** So moved.

15          **THE CHAIRMAN.** Second?

16          **SENATOR JOHNSON.** Second.

17          **THE CHAIRMAN.** So moved and seconded.

18          The question is to approve S. 2184, the Foreign Aid and Transparency — Foreign  
19 Aid Transparency and Accountability Act of 2015, as amended.

20          All in favor, say aye.

1 [A chorus of ayes.]

2 **THE CHAIRMAN.** Opposed?

3 [No response.]

4 **THE CHAIRMAN.** With that, the ayes have it, and the legislation is amended and  
5 agreed to.

6 Lastly, we will consider H.R. 515, International Megan's Law to Prevent Demand  
7 for Child Sex Trafficking.

8 We want to thank the co-sponsors of this legislation, Representative Chris Smith,  
9 Senator Shelby, Senator Mikulski, for bringing this bill before the committee. I also  
10 want to thank Senator Cardin, Senator Johnson, Senator Markey, Senator Barrasso, and  
11 their staff for working with us on this bill. The substitute amendment before the  
12 committee was produced through extensive consultations with the interested executive  
13 departments, the bill sponsors, the Judiciary, and Homeland Security Committee staff.

14 Senator Cardin, do you have any comments on this legislation?

15 **SENATOR CARDIN.** Again, I commented about this in my opening comments, and I  
16 urge colleagues to support the bill.

17 **THE CHAIRMAN.** Anyone else want to speak to it?

18 [No response.]

1           **THE CHAIRMAN.** Okay. I am going to ask unanimous consent to take up the revised  
2 manager's amendment to the substitute circulated just before this meeting, which  
3 ensures the improvements from Senator Markey are directly included.

4           All right. Without objection, then that is what we are taking up. Is there a  
5 motion to approve?

6           **SENATOR CARDIN.** So moved.

7           **THE CHAIRMAN.** Is there a second?

8           **SENATOR JOHNSON.** Second.

9           **THE CHAIRMAN.** So moved and seconded.

10          All in favor, say aye.

11          [A chorus of ayes.]

12          **THE CHAIRMAN.** And with that, the ayes — all opposed.

13          [No response.]

14          **THE CHAIRMAN.** The ayes have it. The amendment is — the bill is agreed to.

15          Okay. I think — are we good? I know that was somewhat confusing. We have a  
16 title amendment —

17          **SENATOR BARRASSO.** Mr. Chairman, that includes my amendment with your  
18 secondary.

19          **THE CHAIRMAN.** That is right. That is right.

20          **SENATOR BARRASSO.** Okay.

1           **THE CHAIRMAN.** Thank you so much for working with us on that. Okay. I need my  
2 staff's assistance here as we move to the —

3           **SENATOR CARDIN.** I just want to acknowledge Senator Barrasso's work. I thought  
4 your addition was a very important one on accountability, so thank you.

5           **SENATOR BARRASSO.** And I appreciate it, Mr. Chairman. You know, when  
6 Congress creates new programs, I think it is important that we provide the safeguards  
7 to protect innocent individuals who are mistakenly targeted. We have seen it with no  
8 fly lists where people mistakenly are included.

9           And I would go as far as to say not just file a complaint, but also be compensated  
10 for expenses. I know there are some issues with the Justice Department with  
11 compensation, but I think this amendment actually strengthens what we are trying to  
12 do here and helps protect innocent individuals wrongfully listed by somebody checking  
13 the wrong box or making a mistake along the process. So thank you.

14           **THE CHAIRMAN.** I think there are numbers of us that had concerns about that. I  
15 think you all did a great job in addressing that. And, you know, while we want to  
16 combat this in every way that we can, we also do not want to citizens unfortunately put  
17 on a list they are not supposed to be on, and having difficulty getting off. That is  
18 correct. So, look, I am sorry we had to walk through this, but —

19           If there is no further discussion, I would like to entertain a motion to consider the  
20 title change amendment by voice vote.

1           **SENATOR CARDIN.** So moved.

2           **THE CHAIRMAN.** Is there a second?

3           **SENATOR BOXER.** Second.

4           **THE CHAIRMAN.** So moved and seconded. The question is to approve the title  
5 amendment.

6           All those in favor, say aye.

7           [A chorus of ayes.]

8           **THE CHAIRMAN.** Opposed?

9           [No response.]

10          **THE CHAIRMAN.** The ayes have it, and the amendment is agreed to.

11          Next, I would like to entertain a motion to consider the manager's amendment by  
12 voice vote.

13          **SENATOR CARDIN.** So moved.

14          **THE CHAIRMAN.** Is there a second?

15          **SENATOR JOHNSON.** Second.

16          **THE CHAIRMAN.** So moved and seconded. The question is on the motion to  
17 approve the manager's amendment.

18          All those in favor, say aye.

19          [A chorus of ayes.]

20          **THE CHAIRMAN.** Opposed?

1 [No response.]

2 **THE CHAIRMAN.** The ayes have it, and the manager's amendment is agreed to.

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

5 [Laughter.]

6 **SENATOR CARDIN.** So moved.

7 **THE CHAIRMAN.** Is there a second?

8 **SENATOR JOHNSON.** Second.

9 **THE CHAIRMAN.** So moved and seconded. The question is on the motion to  
10 approve the substitute amendment, as amended.

11 All those in favor, say aye.

12 [A chorus of ayes.]

13 **THE CHAIRMAN.** Opposed?

14 [No response.]

15 **THE CHAIRMAN.** The ayes have it. The substitute amendment is agreed to.

16 Are there any further amendments?

17 [No response.]

18 **THE CHAIRMAN.** Hearing none, is there a motion to approve the legislation, as  
19 amended?

20 **SENATOR CARDIN.** So moved.

1           **THE CHAIRMAN.** Is there a second?

2           **SENATOR BOXER.** Second.

3           **SENATOR JOHNSON.** Second.

4           **THE CHAIRMAN.** So moved and seconded. The question is on the motion to  
5 approve H.R. 515, as amended.

6           All in favor, say aye.

7           [A chorus of ayes.]

8           **THE CHAIRMAN.** Opposed?

9           [No response.]

10          **THE CHAIRMAN.** With that, the ayes have it. The legislation — as amended — is  
11 agreed to.

12          And that completes the committee's business. I ask unanimous consent — and  
13 this is important — that the record be held open for five business days so that staff be  
14 authorized to make technical and conforming changes and for member statements.  
15 Without objection, so ordered.

[The material referred to above follows:]

**Statement for the Record from Senator Marco Rubio on the  
Nomination of Roberta Jacobson to be Ambassador to Mexico**

16          I have always taken seriously my “advice and consent” role in the  
17 Senate on nominations made by the President. I believe that America must be  
18 represented around the world by the very best ambassadors and that is

1 especially true for the next U.S. Ambassador to Mexico, our second-largest  
2 trading partner.

3 In evaluating nominees to such important positions, I examine several  
4 key factors, including: the nominees' qualifications for their anticipated roles;  
5 the nominees' track records; and their honesty and candor in answering  
6 questions posed to them during the confirmation process.

7 During her confirmation process to be U.S. Ambassador to Mexico,  
8 Roberta Jacobson, the current Assistant Secretary of State for Western  
9 Hemisphere Affairs, refused to provide several documents I requested, and  
10 failed to provide clear answers to questions I asked about specific decisions  
11 she was involved in – or major events that occurred in the Western  
12 Hemisphere – during her tenure.

13 It took three attempts for Jacobson to answer a straightforward  
14 question regarding her role in the extradition process for the most notorious  
15 drug lord in the Western Hemisphere. Ultimately, she admitted that the  
16 Obama Administration did not formally request the extradition of “El Chapo”  
17 Guzman until June 2015 –one year and four months after he had been  
18 arrested and just a month before he escaped from a Mexican prison.

19 On Jacobson's watch, at her bureau's request, the State Department  
20 manipulated Cuba's ranking in its annual “trafficking in persons report” –  
21 sending a chilling signal about the integrity of U.S. human trafficking



1 assessments of a country that investigations have shown to be one of the top  
2 destinations in the Americas for sex tourism.

3 Jacobson misrepresented the views of Venezuela's pro-democracy  
4 movement on human rights sanctions, demonstrated a lack of interest in  
5 seeing the sanctions law fully implemented, and was slow to respond to  
6 abuses committed by the Maduro regime.

7 Since President Obama announced his new Cuba policy on December  
8 17, 2014, Jacobson has testified before Congress on various occasions that  
9 the U.S. would continue to prioritize human rights as part of the  
10 reestablishment of diplomatic relations with Cuba. However, this has not been  
11 the case. In the last eleven months, thousands of Cubans have been  
12 arrested, beaten and jailed for peacefully advocating for democracy. The  
13 number of monthly political arrests has increased by nearly five-fold between  
14 January and October 2015.

15 The Ladies in White, a civil society group that advocates for the  
16 release of political prisoners by attending Sunday Mass and then peacefully  
17 walking through the streets dressed in white clothing, have seen their  
18 members arrested every single week. The Cuban government has even  
19 engaged in violence against American citizens and Cuban civil society groups  
20 outside of the island, as was witnessed during the attacks at the Summit of  
21 the Americas in Panama.

1           There has been absolutely no improvement in human rights in Cuba  
2 since President Obama’s Cuba policy change was announced. To the contrary,  
3 repression has dramatically increased and has now been dangerously buoyed  
4 by a senior State Department official, who conceded during a recent interview  
5 that “Washington would not first demand human rights progress from  
6 Havana” in exchange for a relaxation of the embargo. This clearly contradicts  
7 Jacobson’s previous testimony about the priority that would be given to  
8 human rights in the new Cuba policy.

9           It is clear that the Obama Administration’s foreign policy around the  
10 world, and specifically in the Western Hemisphere has been short-sighted and  
11 counter-productive. Our allies have been left to question the commitments we  
12 have made to them, while our adversaries have been emboldened to  
13 challenge the U.S. at every step. As the United States’ lead diplomat for the  
14 Western Hemisphere, Roberta Jacobson has played a central role in that  
15 failure.

16           In sum, Ms. Jacobson has refused to be forthcoming with Congress  
17 and has proven to be unprepared to handle significant policy decisions, which  
18 have transpired on her watch. We need an ambassador in Mexico City that  
19 has the trust of Congress for this important post. I do not believe that Ms.  
20 Jacobson is that person and will oppose her confirmation.

**Statement for the Record from Senator Rand Paul on the  
Senate's Ratification of Treaties Under Consideration**

1           Chairman Corker and Ranking Member Cardin, thank you for the  
2           opportunity to discuss the multiple tax treaties that are being considered by  
3           the committee.

4           As you know, I have been a critic of these treaties. Last year when the  
5           committee considered these tax treaties I voiced my objection to them  
6           because of the invasion of privacy these treaties represent. I do not disagree  
7           with many of the beneficial taxation opportunities afforded therein, but these  
8           treaties are an encroachment upon our constitutional rights to privacy.

9           The American right to privacy is perpetually being diminished. Our  
10          government is monitoring your email or cell phone, and they're increasingly  
11          monitoring your bank account records—among the most private of an  
12          individual's possessions. Your bank account is the epitome of who you are as  
13          a private citizen; a bank account tells me where you're shopping, what foods  
14          you like, the medicines you're taking, the doctors you're visiting, and the  
15          places you're traveling. This warrantless compiling of financial data is akin to  
16          NSA's bulk collection of personal information. Tax treaty bulk collection is just  
17          as egregious.

18          At the very least, every American – whether at home or abroad –  
19          deserve the right to the Fourth amendment protections guaranteed by the  
20          Constitution.

1           Many of the previous tax treaties were more focused on information  
2 specific to suspicions of tax fraud while providing that serious allegations of  
3 tax wrongdoing were grounded in evidence. However, the new treaties  
4 demand information under a vague new standard that allows the government  
5 to access personal financial information that “may be relevant.” Government  
6 access to an US citizens bank records, under a much lower and ambiguous  
7 threshold, put innocent Americans at risk of having private information  
8 exploited.

9           Of equal concern, it appears that these treaties may end up being the  
10 tool that implements a domestic law known as the Foreign Accounts Tax  
11 Compliance Act, or FATCA. In short, this bill punishes every single overseas  
12 financial institution with a 30 percent withholding tax unless they send the IRS  
13 the private records of overseas American bank holders – no questions asked,  
14 and no reasonable suspicion or due diligence required.

15           The Democrats passed this egregious law under the false narrative of  
16 catching tax cheats. However, it has led the international community to  
17 simply shut its doors and deny banking services to the 7 million law-abiding,  
18 innocent Americans citizens with bank accounts who work overseas.  
19 Marylouise Serrate, executive director of American Citizens Aboard, noted  
20 recently in the International Business Times, “many (foreign) banks,

1           regardless of inter-government agreements... seem to be taking a decision  
2           that it's just easier not to provide service to American clients.”<sup>1</sup>

3                     The economic consequences to the US may be even greater. Foreign  
4           financial institutions are pushing back and have a message to their domestic  
5           customers: divest in US interests. According to American Citizens Abroad,  
6           nearly \$21 trillion of direct foreign investments that have flowed into the US  
7           are at risk.<sup>2</sup>

8                     The one great flaw in the FATCA legislation is that it is a domestic law  
9           seeking to impose rules upon foreign countries. For the IRS, the obvious  
10          remedy to entice countries to go along with our domestic laws has been to  
11          offer up reciprocal exchanges of private citizen's information.

12                    In other words, to make FATCA function, the US will require US banks  
13          to report on their customers and in return, information retrieved through bulk  
14          collection will be transmitted to foreign governments. Someday your  
15          government may be sending your private bank account information to a  
16          foreign country like Russia. For the American taxpayer, worrying about the tax  
17          bulk collection of financial records is probably more than enough.

18                    I want to make the record clear: I certainly do not condone those  
19          Americans who have not followed the letter of the law. But I can't support a

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<sup>1</sup> Nat Rudarakanchana, *Americans Abroad Can't Bank Smoothly As FATCA Tax Evasion Reform Comes Into Play* (International Business Times, December 20, 2013)

<sup>2</sup> American Citizens Abroad. *Why FATCA is Bad for America – Update*. August 2013

1 law that endangers regular foreign investment and rounds up US citizen's  
2 financial records in pursuit of a few tax cheats. While I want the important  
3 benefits included in the tax treaties to be ratified, I have great concerns with  
4 allowing these treaties to advance if they will embolden FATCA or fail to  
5 provide constitutional privacy protections.

6 I cannot support a treaty that could pave the way for a law that will  
7 permit the IRS to share the information of customers at US banks with foreign  
8 governments; nor can I support a treaty that may facilitate the bulk collection  
9 of private financial information of all US citizens living abroad.

10 But most importantly, I cannot support a treaty that has complete  
11 disregard for the important protections provided by the Fourth Amendment.

12 As these treaties advance in the Senate, I will continue to examine  
13 ways to protect the Fourth Amendment rights of all Americans, to limit the  
14 reach of the "exchange of information" language, and to prevent these  
15 treaties from being utilized as the legal mechanism to implement FATCA.

16 I look forward to continuing to work on this important issue and fight  
17 tax bulk collection.

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18 **SENATOR BOXER.** Well, reserving the right to object, and I will not, would you  
19 repeat everything you just said?

20 [Laughter.]

1           **THE CHAIRMAN.** I would be more than happy to. And with that, without objection,  
2   the committee stands adjourned.

**[Whereupon, at 10:31 a.m., the hearing was adjourned.]**