

**NOMINATION HEARINGS OF THE
115TH CONGRESS—FIRST SESSION**

HEARINGS

BEFORE THE

**COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE**

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

—
JANUARY 3, 2017 TO JANUARY 3, 2018
—

Printed for the use of the Committee on Foreign Relations



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NOMINATIONS

WEDNESDAY, OCTOBER 18, 2017

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

The committee met, pursuant to notice, at 2:00 p.m. in Room SD-419, Dirksen Senate Office Building, Hon. Johnny Isakson, presiding.

Present: Senators Isakson [presiding], Gardner, Young, Shaheen, Murphy, and Kaine.

OPENING STATEMENT OF HON. JOHNNY ISAKSON, U.S. SENATOR FROM GEORGIA

Senator ISAKSON. I call this meeting of the Senate Foreign Relations Committee hearing together.

And we welcome our testimony today from those who are here to give it.

And I want to welcome Jeanne Shaheen, who will be serving as my co-chair of this hearing.

I appreciate the other members that are here and that will come.

This is a very important hearing, particularly the people in front of us because we are talking about all of you, and we are going to give you a chance to talk about yourself. But it is important to the country as well because you have been nominated for positions that are extremely important to represent the United States of America as principal legal adviser to the U.S. Department of State on legal matters, U.S. economic, political, and security interests of international economic policies that mandate open markets, and ensuring safety and security of our diplomats in 275 United States posts.

Our first nominee today is Thomas L. Carter of South Carolina, next to my home State of Georgia. We welcome you, Mr. Carter. He will be representing the United States on the Council of the International Civil Aviation Organization with the rank of Ambassador. A tremendous post. And Mr. Carter has tremendous experience as a pilot in the military, a pilot commercially, and a private pilot as well. And we welcome you here and your family that are here today.

Ms. Jennifer Newstead has been nominated for Legal Adviser of the Department of State. Ms. Newstead is a partner in the law firm of Davis Polk and Wardwell where she has a global practice representing clients in cross-border regulatory enforcement and litigation matters. It sounds like you are well qualified for the State Department.

Ms. Newstead previously served as General Counsel of the Office of Management and Budget, Principal Deputy Assistant Attorney General in the Justice Department Office of Legal Policy, and Associate Counsel to the President. She also clerked for Justice William Breyer, United States Supreme Court, and is a graduate of Yale University and Harvard University, two pretty well known schools in the Northeast that do not just let you out easy.

Ms. Manisha Singh is nominated to be Assistant Secretary of State for Business Affairs and Economic Affairs. Ms. Singh is Chief Counsel and Senior Policy Advisor to the U.S. Senator Dan Sullivan. Is Dan here? I will make sure and introduce him when he gets here. Dan is a tremendous member of the United States Senate representing the State of Alaska, and she worked with him. She worked with a fine Senator, and she must have done a fine job because he is pretty temperamental about stuff like this. I will call on him when he gets here for sure, I promise.

She earned an LLM in international legal studies from American University College of Law and a juris doctorate from the University of Florida College of Law and bachelors of administration from the University of Miami.

Mr. Michael Evanoff is nominated to be Assistant Secretary for Diplomatic Security. Mr. Evanoff is Vice President of Asset Protection and Security in international stores of Walmart stores, a position he has held since 2014. And if anybody has had experience in security in retail, it would be somebody representing Walmart. He has already told me that he helped them open a store in Nigeria, a place if any of you have ever been, you understand how important security is. Nigeria is a place you really need to have security. So we welcome you being here today and look forward to hearing your testimony.

Mr. Evanoff is Vice President of Asset Protection and Security at International Walmart stores, and he has held that position for the last 5 years.

Previously he served as Chief Security Office at Coca-Cola, an Atlanta company which I am very proud of, in Switzerland and Greece and a Special Agent in the Bureau of Diplomatic Security from 1985 to 2011, holding senior posts with the Overseas Security Advisory Council, NATO Office of Security position, the State Department, and details of eight United States missions overseas.

He also was a diplomatic security officer for the United States European Command in Germany.

It is a pleasure for me to recognize my ranking member, who will co-chair this hearing with me, Ms. Jeanne Shaheen from New Hampshire, for any remarks you may have.

**STATEMENT OF HON. JEANNE SHAHEEN,
U.S. SENATOR FROM NEW HAMPSHIRE**

Senator SHAHEEN. Just to thank all of you for your willingness to serve. Congratulations on your nominations, and we look forward to hearing from you.

Thank you, Mr. Chairman.

Senator ISAKSON. In the introduction, I have pretty much introduced all of you and your backgrounds. So I am going to leave the rest of it for you to say about yourself except to tell you the fol-

lowing. You will have up to 5 minutes to tell us your story. Your prepared remarks will be submitted for the record and made permanent, as will any responses you have to make today. We thank you for your willingness to serve your country.

After your opening testimony, we will open it the floor for the members of the committee to ask any questions that they might have.

We will start with you, Mr. Carter. Welcome.

And by the way, please introduce any family members that are here or acknowledge them if they are here.

STATEMENT OF THOMAS CARTER, OF SOUTH CAROLINA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA ON THE COUNCIL OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

Mr. CARTER. Yes, sir. Well, I am very honored today to have Ms. Mary Graham from Charleston, South Carolina, joining me here and the leading lady of my life.

Chairman Isakson, Ranking Member Shaheen, and members of the committee, it is truly an honor for me to appear before you today as President Trump's nominee for United States Representative to the Council of the International Civil Aviation Organization, or ICAO as it is commonly known. I am very grateful to the President, Secretary Tillerson, and Ambassador Haley for their confidence and support. And I must admit that I have attended many hearings like this over the years, but it is truly humbling to finally be the nominee at the table.

Mr. Chairman, since its creation at the Chicago Convention in 1944, ICAO has been a critical partner of the United States in efforts to promote the development of our crucial aviation industry and keep pace with the evolution of its safety and security requirements. Throughout its existence, ICAO has served as an effective forum in which the nations of the world can find common approaches to complex aviation challenges, such as emerging technologies, airspace management and air navigation, and environmental issues including aircraft noise and engine emissions.

Unfortunately, over the past decades, we have witnessed an increase in terrorism, cyber attacks, and the rapid spread of pandemic disease, all of which have emerged to threaten civil aviation. ICAO is working to mitigate these threats but it can and must do more. ICAO's member states look to the United States for leadership on these and other aviation-related issues, and if confirmed, I will reinforce that leadership to promote American national security and strengthen aviation safety.

Certainly, if anyone ever nominated for this position could fully appreciate the value of such a concept, I hope that it might be me. My life of 65 years has been a unique combination of military and civilian flying, key positions dealing with national security policy, and private sector experience relating to aviation-related products.

I had the incredible experience as an Air Force pilot to command heavy jets internationally while flying both numerous peacetime humanitarian missions, as well as into an active combat zone with dozens of paratroopers aboard. Later, when realizing my Air Force

Reserve flying career might be coming to an end, I signed on to USAirways where I flew three separate aircraft types and eventually upgraded to captain of the Boeing 737.

Interspersed with this flying, I had the incredible experience to serve Republican Leader Bob Dole as a staffer dealing with national security issues. Those Senate years were absolutely some of the most rewarding of my life, and I coordinated critically important issues between the Senate leadership, Armed Services, Appropriations, and yes, this very committee chaired by Senator Pell.

In my most recent work, I was very active with the major associations dealing with international and domestic aviation issues and, due to my personal flying experiences mentioned earlier, was frequently sought out for expertise on policy positions.

All of this to say is that, if confirmed by this committee, I hope that my life's work has prepared me to represent this great country and all of you in a very dignified and knowledgeable manner.

Mr. Chairman, thank you for this opportunity to answer any questions your committee members might have. Thank you.

[Mr. Carter's prepared statement follows:]

PREPARED STATEMENT OF THOMAS L. CARTER

Chairman Isakson, Ranking Member Shaheen and members of the committee, it's truly an honor for me to appear before you today as President Trump's nominee for United States Representative to the Council of the International Civil Aviation Organization or ICAO as it's commonly known. I'm very grateful to the President, Secretary Tillerson, and Ambassador Haley for their confidence and support, and I must admit that I've attended many hearings like this over the years but it's truly humbling to be an actual nominee.

I'm accompanied today by some very significant people to me personally and none is more important than the leading lady in life, Mary Graham, of Charleston, SC. I also have three other particularly dear friends from my Senate days of old who, although we're evenly divided between Democrats and Republicans, we have remained close friends and confidants for over 30 years. They're very special to me so I'd like to introduce Ann Sauer, Charlie Smith and Jane Mattias. They, along with Mary, are my most reliable friends and advisors.

Since its creation at the Chicago Convention in 1944, ICAO has been a critical partner of the United States in efforts to promote the development of this crucial industry and keep pace with the evolution of its safety and security requirements. Throughout its existence, ICAO has served as an effective forum in which the nations of the world can find common approaches to complex aviation challenges, such as emerging technologies, airspace management and air navigation, and environmental issues including aircraft noise and engine emissions. Over the past decades, we have witnessed an increase in terrorism, cyberattacks, and the rapid spread of pandemic disease, all of which have emerged to threaten civil aviation and our national safety and security. ICAO is working to mitigate these threats but it can and must do more. ICAO's member states look to the United States for leadership on these and other aviation related issues, and if confirmed, I will reinforce that leadership to promote American national security, strengthen aviation safety and security, and enhance protections for travelers.

ICAO's breadth and purpose is best illustrated through the preamble written to establish the ICAO during the Chicago Convention of late 1944, the member states quoted "it is desirable to avoid friction and to promote that co-operation between nations and peoples upon which the peace of the world depends."

Certainly, if anyone ever nominated for this position could fully appreciate the value of such a concept, I hope that it might be me. My life of 65 years has been a unique combination of military and civilian flying, key positions dealing with national security policy and private sector experience relating to aviation-related products and capabilities.

I had the incredible experience as an Air Force pilot to command heavy jets internationally while flying both numerous peacetime humanitarian missions as well as into an active combat zone with dozens of paratroopers aboard. My special operations experience included dropping Delta Team members from altitudes in excess

of 20,000 feet and Navy Seals in the water at night off the coast of foreign countries. These were some of the most important flights of my aviation career. Later, when realizing that my Air Force Reserve flying career might be coming to an end, I signed on to USAirways where I flew three separate aircraft types and eventually upgraded to Captain on the Boeing 737.

Interspersed with this flying, I also had the incredible experience to have served Republican Leader Bob Dole as a staffer dealing with national security issues. Those Senate years were absolutely some of my most rewarding of my life as I coordinated critically important issues between the leadership, Armed Services, Appropriations and yes, this very committee, then lead by Senator Pell.

Ironically, I then lead Chairman Pell, Ranking Member Helms and many other of your committee members to the Persian Gulf one month after Saddam Hussein invaded Kuwait in August of 1990 as a Deputy Assistant Secretary of Defense. Getting off a helicopter in the middle of the afternoon in the Saudi desert where the temperature was 125 degrees is forever seared into my memory, and I would add, the soles of the penny loafers I was wearing as well.

In my most recent work in the private sector, I was very active with the major associations dealing with international and domestic aviation issues and due to my personal flying experiences mentioned earlier, was frequently sought out for expertise on policy positions.

All of this is to say that, if confirmed by this committee, I hope that my life's work since leaving Memphis, Tennessee in 1975 as a first-generation high school and college graduate has prepared me to represent this great country and all of you in a dignified and knowledgeable manner.

Mr. Chairman, thank you for this opportunity to answer any questions your committee members might have of me.

Senator ISAKSON. Thank you, Mr. Carter.
Ms. Newstead?

STATEMENT OF JENNIFER GILLIAN NEWSTEAD, OF NEW YORK, TO BE LEGAL ADVISER OF THE DEPARTMENT OF STATE

Ms. NEWSTEAD. Well, thank you, Chairman Isakson and Ranking Member Shaheen and members of the committee. It is an honor to appear before you as the President's nominee to serve as Legal Adviser to the Department of State. I want to thank President Trump and Secretary Tillerson for their confidence in me.

Several members of my family are here today: my husband, Alexander Mishkin; our children, Henry and Charlotte Mishkin, of whom we are both very proud.

Senator ISAKSON. A good looking group. [Laughter.]

Ms. NEWSTEAD. Thank you, Mr. Chair.

And my parents, Dr. Gillian Maclaine Newstead and Dr. Graham Newstead, and my sister, Dr. Caroline Maclaine, are all here as well.

As a personal introduction, I was born on an Army base where my father was stationed as a doctor during the Vietnam War. My mother has spent her medical career pioneering new technologies to diagnose cancer in women. And though I am the first lawyer in my family, I am actually the third generation of women to pursue a professional career. My grandmother, who was born in 1914, was also a doctor. So my family's example has inspired me to seek out opportunities for public service throughout my career.

If confirmed, it would be my honor to lead the team of more than 250 career lawyers and professionals who make up the Office of the Legal Adviser, a group that is deservedly recognized as the most talented collection of international lawyers in the world. The mission of the office is simple but critical: to provide rigorous and ob-

jective legal advice to the Secretary of State and other officials as they carry out the foreign policy of the United States.

The office also plays a unique role, supporting the Department's mission to promote our values, the rule of law, and respect for human rights and democracy around the world.

In the 23 years since I graduated from Yale Law School, I have served as a law clerk to two distinguished jurists, Judge Laurence Silberman and Justice Steven Breyer, and in senior positions at the Department of Justice and in the White House Counsel's Office. I also served, as you mentioned, Mr. Chairman, as General Counsel of the Office of Management and Budget where I worked closely with the general counsels of agencies across the government on a range of initiatives impacting national security and foreign policy. Through that role, I gained insight into the broad scope of the State Department's operations and worked on treaty issues and humanitarian relief efforts. And in my 20 years of practice at a global law firm, I have acted as a counselor, a litigator, and a negotiator on a range of international issues. If confirmed, those experiences should serve me well in carrying out the Legal Adviser's role in the negotiation and ratification of treaties and international agreements and in representing the United States before international tribunals.

But most importantly, each of these roles has strengthened my conviction that a lawyer advising a critical function of government must have an unwavering commitment to integrity and independence. The most effective lawyers are pragmatic problem-solvers who identify the range of lawful options available to policymakers. But at the same time, a lawyer must be willing to speak hard truths and identify limits where law and circumstances require.

If confirmed, I would seek at all times to act with fidelity to the Constitution and the rule of law, and I would also be guided by the wisdom, articulated by one of my mentors, that the demands of honor have special application to government service.

I thank you for your consideration, and I look forward to answering your questions.

[Ms. Newstead's prepared statement follows:]

PREPARED STATEMENT OF JENNIFER GILLIAN NEWSTEAD

Chairman Isakson, Ranking Member Shaheen, and members of the committee, it is an honor to appear before you as the President's nominee to serve as Legal Adviser to the Department of State. I thank President Trump and Secretary Tillerson for their confidence in me. I would also like to thank the members of the committee and their staff for the courtesies you have shown me since my nomination.

Several members of my family are here today: my husband, Alexander Mishkin; and our children, Henry and Charlotte Mishkin, of whom we are both very proud. Also with us are my parents, Dr. Gillian Maclaine Newstead and Dr. Graham Newstead, and my sister, Dr. Caroline Maclaine.

I am privileged to come from a family that instilled in me respect for public service. I was born on an Army base at Fort Dix, New Jersey, where my father was stationed during the Vietnam War. My mother, a naturalized citizen, came to the United States from the United Kingdom and has spent her career developing new technologies to diagnose and treat cancer in women.

Though the first lawyer in my family, I am actually the third generation of women to have pursued a professional career. My grandmother, born in 1914, was also a doctor who treated patients injured in bombing raids in World War II. A pioneer for her time, who sought no such recognition, she exemplified the values of hard work, personal responsibility, and strength in adversity. My family's example has inspired me to seek out opportunities for public service throughout my career.

If confirmed, it would be my honor to lead the team of more than 250 career lawyers and professionals who make up the Office of the Legal Adviser—a group that is deservedly recognized as the most talented collection of international lawyers in the world. The mission of the office is simple, but critical: to provide rigorous and objective legal advice to the Secretary of State, other Department officials, and policymakers across the Federal government as they formulate and implement the foreign policy of the United States.

The Office of the Legal Adviser provides counsel and represents the United States on a broad array of issues affecting our vital national interests. These include counterterrorism and nuclear non-proliferation; economic sanctions and law enforcement efforts; the protection of U.S. citizens abroad; expanding U.S. trade and investment and promoting U.S. businesses overseas. The office also plays a unique role supporting the Department's critical mission to promote our values, the rule of law, and respect for human rights and democracy around the world.

On a personal note, the career path that led me here today began more than thirty years ago, when I first had the privilege of serving in the State Department as an intern. I was assigned to a delegation in Vienna negotiating confidence and security-building measures to support the reduction of conventional armed forces in Europe. The experience left an indelible impression of the dedication and skill of the foreign service officers and civil servants who perform critical missions every day on behalf of the United States.

That early experience also shaped my path in the law, and my desire to combine an international legal practice with opportunities for public service. In the 23 years since I graduated from Yale Law School, I have served as a law clerk to two distinguished jurists, Judge Laurence Silberman and Justice Stephen Breyer; in senior positions at the Department of Justice and the White House Counsel's Office; and as General Counsel of the Office of Management and Budget.

I joined the Justice Department several months before the terrorist attacks of September 11, 2001. In the aftermath of those terrible events, I worked with a dedicated team of attorneys at the Department, and with the bi-partisan staff of the Senate Judiciary Committee, to develop legislation to modernize longstanding law enforcement tools to better equip our government to fight terrorism.

In the White House Counsel's Office and as General Counsel of OMB, I worked closely with the General Counsels of agencies across the government, including the Departments of Defense, State and the Treasury, on a range of initiatives impacting our national security and international relations. In leading the legal function at OMB, I gained insight into the broad scope of the State Department's operations, and worked on regulatory issues involving treaty implementation and humanitarian efforts such as the President's Emergency Plan for AIDS Relief.

In my twenty years of private practice at a global law firm, I have acted as a counselor, litigator and negotiator on a range of international issues. I have advised clients on compliance with U.S. laws aimed at preventing corruption and money laundering; imposing economic sanctions; and protecting the integrity of the financial markets. If confirmed, those experiences should serve me well in carrying out the Legal Adviser's role in the negotiation and ratification of treaties and international agreements, and in representing the United States before international tribunals.

Most importantly, each of these roles has strengthened my conviction that a lawyer advising a critical function of government must have an unwavering commitment to integrity and independence. The lawyer's role is always to provide her client with the highest-quality advice. The most effective lawyers are pragmatic problem-solvers, who identify the range of lawful options available to policymakers.

At the same time, a lawyer must be willing to speak hard truths and identify limits where law and circumstances require. A lawyer must also be prepared to provide her best judgment on the wisdom of proposed actions, as well as their legality.

If confirmed, I would at all times seek to act with integrity, independence, and fidelity to the Constitution and the rule of law. I would also be guided by the wisdom, articulated by one of my mentors, that the demands of honor have special application to government service.

Thank you for your consideration. I look forward to your questions.

Senator ISAKSON. Thank you, Ms. Newstead.
Ms. Singh?

STATEMENT OF MANISHA SINGH, OF FLORIDA, TO BE ASSISTANT SECRETARY OF STATE, ECONOMIC AND BUSINESS AFFAIRS

Ms. SINGH. Chairman Isakson, Ranking Member Shaheen, and members of the committee, thank you for your time today. I am humbled and grateful to be considered to serve as the Assistant Secretary of State for Economic and Business Affairs.

I want to express my gratitude to President Trump and Secretary Tillerson for the confidence and trust they have placed in me.

I am particularly honored to appear before this committee. I had the privilege of being on the staff for several years.

I want to thank my friends for being here today. My family was not able to make it here for the hearing, but they are watching from home and I would like to tell you about them. My parents both grew up in small rural villages in India. Neither set of my grandparents were able to read or write. My mom and dad knew that an education was the key to moving forward. We moved from India to Florida where my father earned a Ph.D. at the University of Florida. I was 2 years old when I came here. My parents impressed on me and my sister how lucky we were to be immigrants to this great country. Here in America, a young girl could grow up to be anything she wanted. Never have I believed this more than as I sit before you today.

If confirmed, I would be the first woman installed to lead this bureau. I have experience there, previously managing a division as a Deputy Assistant Secretary. It is composed of over 200 talented men and women in Washington, as well as economic officers posted all over the world.

In an era of global competition, we have to make sure that U.S. companies have every opportunity to succeed. The bureau plays a key role in a healthy American economy by ensuring a level playing field for our companies. We have to make sure that economic resources are fully employed as carrots and sticks in the interest of American stability and prosperity.

I would utilize both my government and private sector experience to successfully lead this bureau. My legislative service has afforded me the privilege of hearing the concerns of everyday Americans. If confirmed, I will work to make sure that everyone in the bureau is proud to be a member of my team and to make sure that we put the interests of the American people first.

I thank you again, and I am happy to answer any questions you may have.

[Ms. Singh's prepared statement follows:]

PREPARED STATEMENT OF MANISHA SINGH

Chairman Isakson, Ranking Member Shaheen and members of the committee, thank you for your time today. I am humbled and grateful to be considered to serve as the next Assistant Secretary of State for Economic and Business Affairs.

I want to express my gratitude to President Trump and Secretary Tillerson for the confidence and trust they have placed in me to take on this important role.

I am particularly honored to appear before this committee—I had the privilege of being on the staff for several years.

I want to thank my friends for being here today. My family was not able to make it to the hearing, but they are watching from home, and I'd like to tell you about

them. My parents both grew up in small rural villages in India. Neither set of my grandparents were able to read or write. My mom and dad knew that an education was the key to moving forward. We moved from India to Florida where my father completed a PhD at the University of Florida. I was two years old when I came here. My parents impressed on me and my sister how lucky we were to be immigrants to this great country. Here in America, a young girl could grow up to be anything she wanted.

My parents still live in Florida and my sister lives with her husband and their daughters in northern Georgia. I'd like to say the same thing to my nieces as my parents always said to me. Here in America, a young girl can grow up to be anything she wants. Never have I believed this more than as I sit before you today.

If confirmed, I would be the first woman installed to lead the Bureau of Economic and Business Affairs. I have experience in the bureau, previously managing a division as a Deputy Assistant Secretary. It's composed of over 200 talented men and women in Washington as well as economic officers posted in every U.S. mission around the world.

In an era of global competition, we have to fight unfair practices and make sure that U.S. businesses have every opportunity to succeed. If confirmed, I would ensure that small and medium size enterprises, women and minority-owned businesses are a particular focus of our work. The bureau plays a key role in a healthy American economy by ensuring a level-playing field for our companies and by encouraging foreign investors to create good jobs here in America.

If confirmed, I would work closely with my counterparts to use our full range of instruments to partner with those who work with us and to enact serious consequences against global bad actors. We must make sure that economic resources are fully employed as carrots and sticks in the interest of American prosperity and stability.

I would utilize both my government and private sector experience to lead successfully. In the private sector, it was my job to understand the real life consequences of government decisions.

My legislative service has afforded me the privilege of hearing the concerns of every day Americans. If confirmed, I will work to make sure that everyone in the bureau is proud to be a member of my team and to make sure that we put the interests of the American people first.

I thank you again, and I would be happy to answer any questions you may have.

Senator ISAKSON. Thank you very much.

Mr. Evanoff.

STATEMENT OF MICHAEL T. EVANOFF, OF ARKANSAS, TO BE ASSISTANT SECRETARY OF STATE, DIPLOMATIC SECURITY

Mr. EVANOFF. Chairman Isakson, Ranking Member Shaheen, and members of the committee, I am honored to appear before you today as President Trump's nominee to the Department of State's Assistant Secretary for the Bureau of Diplomatic Security. I am grateful for the confidence that the President and Secretary Tillerson have placed in me, and I am humbled by the designation of becoming the only second DS special agent in the bureau's 101-year history to come through the ranks and to be nominated to serve as Assistant Secretary.

As a former senior DS Agent for 26 years, I want to thank you for your continuing unwavering support for both the Department and the Diplomatic Security. I am very proud to be associated with the outstanding men and women who labor tirelessly to protect America's diplomatic facilities, critical information, and most importantly, American lives. They also conduct extensive, important investigations necessary to keep our country safe.

I first want to thank my wife Kate, my soul mate Kate, my son Luke, who could not be with us today because he would tear the place apart if he was here. He is 2 and a half. I would also like to introduce to you my sister-in-law Karen Evanoff; and my niece, Olivia Evanoff; and my nephew, Tommy Evanoff. I would also like

to introduce my brother-in-law, Raunt DeWinter; and his son Mack DeWinter; and my great mother-in-law, Eleanor Milner; and her friend and partner, John Casey. They all came down from North Carolina and Groton, Connecticut.

My thoughts today, though, are also with my parents, Walter and Lyle Evanoff, who first showed me the value of law enforcement service through their distinguished careers as police officers right here in the District of Columbia. So I want to thank them and know that I am with them on this special day.

I first joined Diplomatic Security 32 years ago in 1985 in the wake of the Beirut bombings and the subsequent approval of Admiral Bobby Inman's recommendations calling for the creation of a more robust and professional Diplomatic Security Service for the Department of State. The Inman report identified the need for increased funding for stronger overseas embassies and consulates and led to additional hiring of special agents, security engineers, couriers, and other key positions. Thanks in large part, Chairman, to the work of this Senate committee right here, the recommendations were formally authorized by Congress 1 year later to form the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

In the 3 decades since my hiring as part of the Inman tranche of DS special agents, I have served in eight overseas postings, four of which were designated as high threat. Among other things, I established the first DS liaison position for a U.S. military regional command and managed the largest spy case and damage assessment in NATO history. I also helped designing the post-9/11 informant walk-in program at our embassy in Islamabad that contributed to the capture of Khalid Sheik Muhammad.

My work with the Department, combined with my private sector experience leading international security programs for two Fortune 100 companies, has given me a unique perspective on DS's inherent strengths and challenges, as well as future security changes that may be necessary to ensure the continued conduct of American diplomacy in a safe and effective manner.

With support and continued guidance from members of this committee and Congress as a whole, one of my goals will be to enable stronger and more effective collaboration with our colleagues throughout the Department, the military, the IC community, and this body here. This enhanced collaboration needs to be both strategic and operational, and we need to establish key performance indicators to measure the value of the work with our partners in protecting our people and facilities worldwide.

In a world of rapid technological innovation and constantly evolving cyber and terrorism threats, the appropriate sharing of actionable security information also needs to remain a top priority for DS. If confirmed, I intend to closely monitor our operational and strategic planning objectives with the Department and with the intelligence community when it comes to opening and maintaining posts in high threat and potentially hostile environments. There need to be clear goals and objectives if we are to consistently and successfully operate in hostile environments with little or ineffective host government support.

I will also put special focus on continued overhaul and refinement of security training for the Department of State employees.

This includes intensified specialized training for all DS agents and the ongoing expansion of the Foreign Affairs Counter Threat, FACT, course for all government employees working overseas under the Chief of Mission authority. It also includes the completion of the Department's Foreign Affairs Security Training Center, FASTC, at Fort Pickett, Virginia.

Finally, if confirmed, I also hope to strengthen the organization's morale. Everyone in DS, whether part of the Foreign Service, the Civil Service, or a contractor, deserves to be recognized for the vital role they play on a daily basis. There needs to be a broader recognition and appreciation for the fact that we are one team with one mission.

Thank you for your time and consideration, and I am happy to answer any questions that you might have.

[Mr. Evanoff's prepared statement follows:]

PREPARED STATEMENT OF MICHAEL T. EVANOFF

Senator Isakson, Senator Shaheen, and members of the committee. I am honored to appear before you today as President Trump's nominee to be the Department of State's Assistant Secretary for the Bureau of Diplomatic Security and am very grateful for the confidence that the President and Secretary Tillerson have placed in me.

First, as a former senior DS Agent for 26 years, I want to thank you for your continued unwavering support for both the Department and Diplomatic Security. I am very proud to be associated with the outstanding men and women who labor tirelessly to protect America's diplomatic facilities, critical information, and, most importantly, American lives. They also conduct extensive, important investigations necessary to keep our country safe.

At any given time, there are thousands of Americans living overseas under the authority of the Chief of Mission or otherwise representing American interests. Those men, women and children deserve no less than the full commitment of the U.S. Government to do everything in our power to ensure they can live and operate safely. If I am fortunate enough to be confirmed, it will be my mission to honor that commitment every day.

I want to thank my wife Kate, my son Luke, and my extended family for their love and support, and for allowing me to rejoin an institution that I love. My thoughts today are also with the memory of my parents, Walter and Lyle, who first showed me the value of law enforcement service through their distinguished careers as police officers right here in the District of Columbia.

Finally, I want to thank the President and Secretary Tillerson for the confidence they have placed in me to lead DS in an increasingly complex and dangerous world. I am humbled and proud by the designation of becoming only the second DS Special Agent in the Bureau's 101-year history to come up through the ranks and be nominated to serve as Assistant Secretary.

I first joined Diplomatic Security 32 years ago, in 1985, in the wake of the Beirut bombings and the subsequent approval of Admiral Bobby Inman's recommendations calling for the creation of a more robust and professional Diplomatic Security Service for the Department of State. The Inman report identified the need for increased funding for stronger overseas embassies and consulates, and led to additional hiring for more Special Agents, Security Engineers, Couriers and other key positions. Thanks in large part to the work of this Senate committee, the report's recommendations were formally authorized by Congress one year later in the form of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

In the three decades since my hiring as part of the first "Inman" tranche of DS Special Agents, I have served in eight overseas postings, four of which were designated as High Threat at the time. Among other things, I established the first DS liaison position with a U.S. military regional command, managed the largest Russian spy case and damage assessment in NATO history, and designed a post-9/11 informant "walk-in" program at our Islamabad embassy that contributed to the capture of Khalid Sheik Muhammad.

My work with the Department combined with my private sector experience leading international security programs for two Fortune 100 companies has given me a unique perspective on DS's inherent strengths and challenges, as well as future

security changes that may be necessary to ensure the continued conduct of American diplomacy in a safe and effective manner.

If confirmed, I will ensure DS does its part to support the implementation of the Department's policy priorities while always remaining cognizant of our obligations to the American taxpayer. With support and continued guidance from members of this committee and Congress as a whole, one of my top goals will be to enable stronger and more effective collaboration with our colleagues throughout the Department, the military, and the intelligence community. This enhanced collaboration needs to be both strategic and operational, and we need establish key performance indicators to measure the value of our work with our partners in protecting our people and facilities worldwide.

In a world of rapid technological innovation and constantly evolving threats, the appropriate sharing of actionable security information also needs to remain a top priority for DS. If confirmed, I intend to closely monitor our operational and strategic planning objectives with the Department and the intelligence community when it comes to opening and maintaining posts in high threat and potentially hostile environments. There need to be clear goals and objectives if we are to consistently and successfully operate in hostile environments with little or ineffective host-government support.

I will also put special focus on the continued overhaul and refinement of security training for Department of State employees. This includes intensive specialized training for all DS agents and the on-going expansion of the Foreign Affairs Counter Threat (FACT) course for all employees working overseas under the authority of the Chief of Mission. It also includes the completion of the Department's Foreign Affairs Security Training Center (FASTC) at Fort Pickett, Virginia. Once fully up and running, this state-of-the-art facility will allow DS to provide more efficient and effective hard skills training—such firearms, explosives, antiterrorism driving techniques, and defensive tactics—for roughly 10,000 students annually.

Finally, if confirmed, I also hope to strengthen our organization's morale. Everyone in DS—whether part of the Foreign Service, the Civil Service, or a contractor—deserves to be recognized for the vital role they play on a daily basis. There needs to be a broader recognition and appreciation of the fact that we are one team with one mission.

To be considered to lead DS at this moment is the most rewarding professional opportunity of my career. If confirmed, I look forward to undertaking this responsibility and collaborating closely with the members of this committee in the months and years ahead.

Thank you for your time and consideration. I am happy to answer any questions you may have.

Senator ISAKSON. Thank you, Mr. Evanoff.

We will open the floor for 5-minute questions, and I am going to open real quickly.

Mr. Evanoff, you mentioned Fort Pickett.

Mr. EVANOFF. Yes, sir.

Senator ISAKSON. As a good Senator and a good politician, I cannot help but tell you there are two great facilities in Georgia called FLETC, the Federal Law Enforcement Training Center, and the Guardian Center outside of Perry, Georgia, which are two outstanding situational training areas for law enforcement antiterrorism activities, military activities, and the like. So when you are looking at Fort Pickett and all the others, also do not forget those two. They are great facilities.

Mr. EVANOFF. Absolutely, sir. I was trained at FLETC in Georgia. So I know exactly what they provide.

Senator ISAKSON. Thank you very much.

Mr. EVANOFF. Thank you, sir.

Senator ISAKSON. Mr. Carter, I am scared to death with what North Korea is doing. You and I had a conversation yesterday that scared me worse last night when I started thinking about our conversation. I had not thought about where those missiles are going between the time Kim Jong-un launches them and they fall in the South China Sea or wherever.

Will your representation on this organization of civil aviation have some voice in bringing about requirements on countries to notify civil aviation on any use of intercontinental ballistic missiles or other missiles that might be done on a testing basis?

Mr. CARTER. Mr. Chairman, this is probably one of the most sensitive top issues that is going to be handled at the council starting on the 30th of October, this month. Launching ballistic missiles into international airspace is absolutely unacceptable. It is an enormous risk to civil aviation. As a person who commanded multi-engine jets, the worst thing I can think of is to be sitting at altitude and see a ballistic missile come through your airspace. And through my research in preparation for this, it is clear that one of these ballistic missile launches did, indeed, go through the flight path of an international flight. You are supposed to issue notices to airmen anytime you are doing any type of missile testing like that in international airspace.

So I know that the mission at ICAO is working closely with the council members to deal with this issue, and they have made it a priority for the 30 October meeting. And if confirmed, I guarantee you this will be one of my top priorities and I will certainly work with you and this committee to make sure that this is being dealt with.

Senator ISAKSON. Well, thank you. That is of the utmost importance. I had not thought about that risk until we talked yesterday, but it is obviously huge and a big one.

Mr. CARTER. Yes, sir.

Senator ISAKSON. Ms. Singh, you are going to be an advisor on economic affairs. Is that not correct?

Ms. SINGH. Yes, Senator.

Senator ISAKSON. I think soft power is the most powerful tool the United States has to win friends and influence enemies around the world and certainly far better than fighting wars all the time, if you can help it.

The Millennium Challenge Corporation and other things like that have proven that good investment in foreign countries to be our friends and helping them to develop and subscribe themselves to a better way they treat their workers and better ways for them to interact with people. Are you going to promote the Millennium Challenge Corporation in your work, or will it be a part of your work at the State Department?

Ms. SINGH. Yes, absolutely, sir. The Millennium Challenge Corporation—the Economic Bureau is the link at the State Department for the MCC. And I very much believe, as you have said, that good governance, transparency in governments all around the world is of great benefit to us. I think we cannot underemphasize at all the emphasis of soft power and diplomacy to prevent conflicts. It is very much in the American interest to build up institutions such as the MCC. And I commit to you that it will be a priority of mine, if confirmed for this position, Senator.

Senator ISAKSON. Well, I think it is critically important, and I think your experience and the conversation we had yesterday encourages me of the high priority you have given to that.

The gentleman I talked about in your introduction is here now, Dan Sullivan. Senator Sullivan came and wanted to be a part of

this hearing because you work with him now. He is a big fan of yours, and I am going to let him say anything he wants to say, as long as it does not take longer than a minute and 26 seconds. [Laughter.]

**STATEMENT OF HON. DAN SULLIVAN,
U.S. SENATOR FROM ALASKA**

Senator SULLIVAN. Thank you, Mr. Chairman, and I just want to thank the committee for an opportunity to say a few words about Manisha Singh. I think she is extremely well qualified for this position, given her vast amounts of experience.

I will just tell you a little story, Mr. Chairman. I was a marine who was coming off active duty 11 years ago. I spent a year and a half in the Middle East, and I came back and was nominated for the Assistant Secretary position that Manisha Singh is getting ready to take, if confirmed, which I am confident she will be. And when I got back, there was a Foreign Relations Committee staffer who was actually helping me prepare for my hearing, just like this hearing, 11 years ago, and it was Manisha Singh. So this is kind of karma, good karma, I would say. And then she later became my Deputy Assistant Secretary of State in charge of all trade and economic issues. So enormously important back then, maybe even more important now. So she is an expert in that area. I am sure you will get good answers from your questions about that.

And then later I had the honor of having Manisha work for me in the Senate. Right now she does as a counselor and top foreign policy official. So I think she is very well qualified.

I want to thank the President and Secretary Tillerson for the great nomination, and she will do a great job for the country. And I just wanted to thank you for the opportunity to say a few words on this committee.

Senator ISAKSON. I would never turn Ms. Singh down for any request that she makes to talk about you. [Laughter.]

Senator ISAKSON. My ranking member, Ms. Shaheen.

Senator SHAHEEN. Thank you, Mr. Chairman.

Mr. Carter, again congratulations on your nomination, and I am delighted to know that you have agreed to be considered for this post.

In October of 2016, the International Civil Aviation Organization agreed on international carbon dioxide emission standards for aircraft beginning in 2020 and also on a system for offsetting future carbon dioxide emissions from aviation. Both U.S. airlines and the aircraft manufacturers were part of and agreed to those negotiations' resulting agreements, and the emission standards would be implemented by the U.S. Environmental Protection Agency regulations issued under the Clean Air Act.

So if confirmed, will the United States continue to proceed with actions to implement these standards?

Mr. CARTER. Well, Senator, it is always great to see you again. And I think this is a terribly important issue that you brought up because as you well know, there some EU legislation in 2012. The 2013 assembly basically outlined all of these market-based measure requirements.

So in 2016, as you stated, CORSIA, was supported. The Carbon Offsetting Reduction Scheme, was supported by the United States and all the other nations. Once again, as I just said earlier about North Korea, the standards and recommended procedures for implementing CORSIA are going to be considered by the council that is meeting on the 30th of October, this month. So basically all the nations on the council, including the United States, in 2016 approved CORSIA. Now they will be approving the actual standards and the procedures. And certainly, if confirmed, I will keep your committee and the staff that I discussed this with, Josh and those guys, completely up to speed on this because it is very, very important. And of course, as you know, Airlines for America, IATA, everyone is supporting this right now. So, yes, ma'am.

Senator SHAHEEN. It is still not clear to me. Are you saying that you will continue to take the position on the part of the United States to support these standards?

Mr. CARTER. Well, the administration itself, as I understand it—obviously, I have not been able to talk to people, but the administration has not taken a formal position yet. But as soon as I do hear about that, I will get back to you. But as of right now, I do not see why we will not be taking the standards and recommended procedures seriously.

Senator SHAHEEN. Thank you.

Mr. CARTER. Yes, ma'am.

Senator SHAHEEN. Ms. Newstead, first of all, again thank you for agreeing to be considered for this nomination. You clearly have the experience and credentials to do an excellent job.

As you know, the position of Legal Counsel in the State Department carries a very heavy burden in terms of the issues which confront you. And I want to begin with asking you about a question that I asked another nominee for a high State Department post about, and I was not adequately satisfied with the answer that I heard and that has to do with impoundment.

As I am sure you are aware, the Senate appropriations committee that deals with the State Department's budget recently passed out a budget that was much more generous than that recommended by the administration. And there has been some speculation as to whether the administration would try to just not spend that money if it came to the Department.

So can you tell me whether you think the Department could legally do that, or are you under obligation, if the Congress has passed a budget, to spend the money as directed by Congress?

Ms. NEWSTEAD. Well, Senator, thank you for that question. I would be happy to address it.

In general, Senator, of course, when Congress passes legislation that is enacted through the President's signature, there is a duty to spend those funds in accordance with the terms that Congress has specified.

I am, of course, aware, Senator, as you know, about the federal statute that provides specific situations in which the administration can notify Congress either of a need to delay or possibly a proposal to not spend funds as appropriated. And there are specific situations and standards that the statute lays out and notification procedures to the Congress. So if I am confirmed, it will be my in-

tention, Senator, to apply the law as written by the Congress, including with respect to that statute.

Senator SHAHEEN. And I am sure you are aware of the court that determined that Congress does have the responsibility to pass the budget and that agencies have a requirement to spend those dollars.

Ms. NEWSTEAD. Yes, I am. Thank you, Senator.

Senator SHAHEEN. I am out of time, Mr. Chairman.

Senator ISAKSON. Senator Young?

Senator YOUNG. Thank you, Chairman.

I want to congratulate all of our nominees.

Ms. Newstead, thanks so much for the meeting yesterday. You will not be surprised, based on our meeting, that I have a number of follow-up questions pertaining to the situation in Yemen. I explained to you my interest in the situation surrounds the largest humanitarian crisis in the world. Our relationship with Saudi Arabia, I believe, creates a real opportunity for the United States to alleviate suffering in Yemen and also stabilize the region.

I want to get some moral and legal clarity about a number of different matters. So I am going to go very quickly here. I ask that you provide clear and concise—concise—responses to my questions, please.

On July 18, I convened a subcommittee hearing on the four famines. I gave you a transcript of that hearing. Have you had an opportunity to review that?

Ms. NEWSTEAD. I have. Thank you, Senator.

Senator YOUNG. So you are familiar with many of the facts associated with this horrific situation.

I asked about the Saudi-led coalition's pattern of impeding humanitarian assistance. I asked this question of Executive Director of the World Food Programme, David Beasley. He said the United Nations—he indicated, quote, I think it is an abhorrent activity and a violation of not just humanitarian international laws. Morally it is just a terrible thing.

Now, section 620(i) of the Foreign Assistance Act prohibits the provision of security assistance or assistance under the Arms Export Control Act, quote, to any country when it is made known to the President that the government of such country prohibits or otherwise restricts, directly or indirectly, the transport or delivery of U.S. humanitarian assistance. Do you agree that is what the statute plainly states?

Ms. NEWSTEAD. It sounds like a correct summary to me. Yes, sir.

Senator YOUNG. Thank you.

Based on your preparation for this position and for this hearing and based on the facts you have reviewed, is it your professional, your personal, your legal judgment that Saudi Arabia has prohibited or otherwise restricted, directly or indirectly, the transport or delivery of U.S. humanitarian assistance? Yes or no, please.

Ms. NEWSTEAD. Well, Senator, if I may, just before I answer that question directly, I did appreciate our conversation yesterday, and I have had an opportunity to look initially at the materials you—

Senator YOUNG. I am going to give you 10 seconds, please. Yes or no.

Ms. NEWSTEAD [continuing]. Well, Senator, in order to be able to give you a legal judgment on that, I would need to spend time consulting with the Department's experts on both the facts and legal—

Senator YOUNG. You will not be providing a personal opinion. We will pivot to the Department of State, please. You are nominated to serve as the principal Legal Adviser to the Department of State on all legal matters, domestic and international. Based on your work with the Department to prepare for this position and this hearing, what is the Department of State's current view on this question?

Ms. NEWSTEAD [continuing]. Well, Senator, I am aware that the Department has responded to some inquiries that you made before, but I believe there is more information that should be provided. And I can tell you, Senator, that if I am confirmed, I would make it a priority to study the issue and consult with the Department in order to provide additional information to you.

Senator YOUNG. So it is well known and broadly understood by those who immerse themselves in the facts that the Saudi-led coalition has deliberately and precisely bombed U.S.-funded cranes that were supposed to be delivered to the major port of Hodeidah. That port was to receive humanitarian supplies, again, in part funded by U.S. taxpayers. The Saudi-led coalition also bombed a World Food Programme warehouse I mentioned to you yesterday in Hodeidah. The Saudi-led coalition continues to delay shipments going into Hodeidah for days that would end up going to vulnerable Yemenis, which has created the largest humanitarian crisis in the world or certainly exacerbated it. And according to the UN, the Saudi-led coalition continues to delay commercial vessels going into Yemen's Red Sea port.

So in light of these facts, assuming they are correct, how can you or the Department—would you defend a judgment that there would be no violation of the Foreign Assistance Act?

Ms. NEWSTEAD. Well, Senator, I think with the facts that you have identified and the facts that we discussed yesterday, they certainly raise a very meaningful question in my mind whether the responsibilities under that provision have been triggered. And let me explain, if I could, Senator, because I believe as we discussed, what that statute provides is that if the President or the Secretary become aware or it is made known to them that a recipient of federal foreign assistance is essentially delaying or obstructing the delivery of assistance, then there is an obligation to prohibit providing further assistance to that government. And as we discussed, an exception that the President can find it in the national interest to waive that, in which case notification to the committee is required. And, Senator, in our discussion, we discussed many factors which would suggest—

Senator YOUNG. Let me interject respectfully because my time is running out. I commend you. You do seem to have a command of other provisions of the law, indicating that the President can, under certain circumstances, waive. They would have to notify Congress. Is there any evidence the President has notified Congress?

Ms. NEWSTEAD [continuing]. Well, Senator, that is one of the questions I have been trying to look into since we discussed this yesterday. I am not aware that a notification has been made. And I agree with you from our discussion yesterday that that raises an implication as to what determination has the Department made. So I certainly, Senator, can commit to follow up on this question and try to get back to you with more information.

Senator YOUNG. Okay.

Well, I am a little over my time. I thank the chairman for his indulgence.

I will be submitting some more fulsome questions for you to answer on the record, also one pertaining to violation of Customary International Humanitarian Law rule 55. I for one am going to need clear and unambiguous responses to these questions from you and the Department before we vote on your confirmation on the floor. Thank you so much, and I am sorry for the rush.

Thank you, Mr. Chairman.

Senator ISAKSON. Thank you, Senator.

I want to keep the committee open for a few more minutes for a couple of follow-up questions. I have one. I think there may be another one or two. So if it is okay with you all. We have six votes coming up beginning at 3 o'clock. So we will have to adjourn by then. I know you all want to get to your markup as soon as we can in the next week or so. So we will make sure we get this finished today.

But I have a question. Mr. Evanoff, back when the Benghazi attack took place and we had the tragic loss of the U.S. Ambassador and two CIA personnel and other personnel representing the United States of America, Secretary Clinton, then Secretary of State, and President Obama had an accountability review board that reviewed everything that was done in Benghazi for security and protection and backup, et cetera and ended up making recommendations that we were \$2.2 billion short having enough security improvements in our embassies around the world to truly protect our individuals on duty.

Have you seen that report?

Mr. EVANOFF. I have.

Senator ISAKSON. Do you know if anything is being done post-Benghazi in the Department to build up and beef up the security diplomatically and ambassador-wise around the world?

Mr. EVANOFF. Sir, it is an excellent question. I thank you for the question.

Yes, having been in the private sector at that time, I too was a little concerned about what was happening to the Department security-wise. So when I was given this opportunity, the first thing I read was the unclassified ARB report, but also I read the best practices report that came out of it and also what DS has done. And two major things have really struck me and something I wish I had when I was in Pakistan in 9/11, during that time.

One is that we have a high threat post division now that focuses on the 32 posts that need assistance at any given time. We did not have that back in 2001. That gives us a 911 call to allow the division to answer anything that the RSO would want or need for that

high threat posting. So there is dedicated people that would go and help them for that.

The second thing is that we put together an operations planning group where we look at why we are going into a country that has hostile intention before we even get there. Why do we even need to be there at that point? Can we build the security around it? So we made it transparent, and we allowed all stakeholders to come around the table and give their thoughts and views on why we should go to country X and why we need the national security agenda to make that. If there is a risk, there should be a reward. If there is no reward and you have a high risk, then that venue will capture it.

So those two things are the most important ones I have seen, to include also the training centers that will open up in Virginia. So I believe those three things is what we did not have when I was there.

Senator ISAKSON. We always want to have our country in a position to protect those who represent us diplomatically around the world. And what happened in Benghazi was something we should react to and make sure it does not happen again to the maximum extent possible.

Ms. Shaheen, do you have a question?

Senator SHAHEEN. I do. Thank you, Mr. Chairman.

I want to follow up, Mr. Evanoff, because one of the things that we have seen recently is the Russians have harassed our embassy officials who are stationed in Russia. Do you have strategies for how you think we could respond to those kinds of activities on the part of a host country?

Mr. EVANOFF. Senator, it is a good question, and I thank you for it.

We have seen this to the point where Russian intelligence services have broken into our residences in Moscow. They have actually poisoned our pets. They have harassed, left nasty notes.

I look at it this way not to lower ourselves to that. But I know that the FBI monitors this here domestically, and we do not do anything at all to them like that. That is not who we are. But at that point, I think it should be known more publicly that this is happening. Before it used to be a closed secret that our diplomats get harassed in Moscow and St. Pete and nobody really knew about that except the Foreign Service families themselves. If this became transparent and the general public knew that there are hostile intelligence services going into our residences on diplomatic grounds, then I believe we would get more pressure from Russia to back off. I think we have got to shine the light on this situation more.

Senator SHAHEEN. And so is that something that you would expect the Secretary of State to do, or who would do that, shining the light?

Mr. EVANOFF. Sure. I think the Secretary has already demonstrated that with Cuba, the fact that we identified 15 people to leave, what they have done to us in Havana, then we will then push them out of Washington, D.C. I think this Secretary has an appetite to bring it to Secretary Lavrov and tell him to cut that out, that this is something that is not something that a first-rate

country should do to another country like that. I do believe the Secretary has the ability and would want to do that.

Senator SHAHEEN. Thank you.

Ms. Newstead, President Trump has used language on multiple occasions that threaten North Korea with the use of military force. Specific legislative authority to use military force against North Korea has not been enacted. In your opinion, does the President have the authority to use military force to prevent North Korea from advancing its nuclear weapons program without a North Korean attack?

Ms. NEWSTEAD. Well, Senator, thank you for that important question.

It is my view the law generally provides the President may act to defend the United States, and that includes in some circumstances acting preemptively when there is an imminent threat, military threat for example. That is certainly one scenario that could arise in the case of North Korea.

So in answer to your question, I would say my starting point would be to consider those authorities, those constitutional authorities, and as a matter of international law.

Senator SHAHEEN. Ms. Singh, finally, I had the opportunity, when I was Governor, to take several trade missions overseas, and one of the biggest helps to us was the commercial service within the Department of State in terms of identifying partners to do business with and helping us. So can you talk about how you would approach that role of economic statecraft and how you would coordinate with the Department of Commerce in working with businesses abroad who want to improve their bottom line?

Ms. SINGH. Thank you, Senator. That is such an important issue right now because, as you know, we need to provide American companies with every opportunity to succeed and prosper globally. And I have been lucky to be able to take part in the trade missions such as the one you are mentioning when you were Governor. I think it is critically important that we continue these.

I would closely with my counterparts at the Department of Commerce to identify markets not only in which our companies are doing well, but in which our companies are having problems. If there is a particular country where their companies are able to come into the United States and invest freely and our companies are suffering from regulatory barriers or restrictive approval processes that are prohibiting them from prospering in those markets, I would work with my counterparts at the Department of Commerce to take trade missions which would involve speaking to commercial officials in these governments at the highest levels, introducing them to our companies, and saying our companies are having difficulty getting through your approval process, what can we do to help them.

And then I would also find partners that might be interested in partnering with our companies over there. In the cases of joint ventures, sometimes it is easiest to navigate commercial markets when you are doing so with a company who knows the landscape there.

I thank you for that question. I think it is critically important.

Senator SHAHEEN. Me too. Thank you.

Thank you, Mr. Chair.

Senator ISAKSON. It is a good thing we are dealing with diplomacy because I have a diplomatic challenge. Mr. Young would be next to be called on in a second round, but Mr. Kaine has arrived and he has not asked any questions yet. So I tell you what I am going to do, with the concurrence of everybody in the room up here—and if any of you all have an opinion, you can let me know—I am going to recognize Senator Kaine for 5 minutes and then go to Senator Young for another 5 minutes. And if my timing is right, that will put us right at the time we got to get out of here to go vote anyway. Does that sound all right with you?

Senator ISAKSON. Senator Kaine?

Senator Kaine. Thank you, Mr. Chair. Very diplomatic.

So I appreciate you all and thank you for your service and congratulations on your nominations by the President.

If I can start with Mr. Evanoff, I understand, before I came in, you talked a little bit about the FASTC facility under construction. I look forward to working with you on that.

I wanted to talk to you about the FASTC. It was responsive to one of the ARB, accountability review board, recommendations following Benghazi. There were 29 recommendations. 26 have been closed out. And the outstanding recommendations are ongoing upgrades in construction to embassy facilities. Talk a little bit about, to the extent you understand it, the Department's timeline for completing these last three ARB recommendations so that they can be closed out as well.

Mr. EVANOFF. Thank you, Senator, for that question.

I am told that basically out of the three, both of them have been—two of them have been closed. One is still hanging because it belongs into the classified realm. And of course, I have not had access to that. But I am pretty much sure we are going to be closing that out very soon.

Senator Kaine. Well, that is something, should you be confirmed, that I would want to come back to you on. I have been worried about the overall budget cuts to the State Department as they might impact this most important function. I mean, of all the folks at the State Department, you are the one they should get a life insurance policy on because I think it is really, really critical that folks be protected, especially given the increases, as you are describing, whether it is Cuba or Russia—the increases in some of the security challenges our folks face. So I want to reach back out to you about the last three.

Mr. EVANOFF. I would welcome that, Senator. Thank you.

Senator Kaine. Thank you for that.

To Ms. Singh, congratulations to you. And I wanted to ask you a question about cyber. Is the Bureau of Economic and Business Affairs in an appropriate position right now, do you think, to advance State Department equities around cyber threats in consultation with other departments in the interagency process? Is this where some of sort of the interagency work—is your department where this would take place?

Ms. SINGH. Well, thank you, Senator.

I think you might be referring to the Secretary's plans for reorganization—

Senator Kaine. Yes.

Ms. SINGH [continuing]. In which it has been indicated that the cyber function will be moved to the Economic and Business Affairs Bureau.

And I would answer your question to say I think that it is. There are complementary capabilities within the bureau currently. For instance, as you may know, the International Telecommunications Office is managed by the Bureau of Economic and Business Affairs. We have a very strong component that deals with international telecommunications issues. Cyber fits hand in hand with that. We deal with Internet issues, commercial issues. Many of those functions already exist within the bureau. I think adding cyber would be very complementary, and we would make sure to keep cybersecurity at the highest level of the utmost importance.

Senator KAINE. Can you see organizationally—if that is added within your section, are there additional resources or kinds of personnel that you would need that you do not currently have?

Ms. SINGH. Well, Senator, speaking from outside the department, I think I would have to reevaluate that if I was confirmed for the position. But at this time, it is my understanding that positions are being reallocated from the Cybersecurity Office to combine in the Bureau of Economic Affairs. And we might have to create a separate section to look at where those capabilities would best fit. And I would review the existing resources, what could be reallocated and reprogrammed specifically devoted to a new cyber office. If I felt that the resources were insufficient, I would certainly consult with the bureau staff to figure out what we needed, whether it is personnel, monetary resources, or other sorts of things. And I would certainly request that from the Secretary.

Senator KAINE. Thank you for that.

Ms. Newstead, one of my passions on this committee is the question of authorized use of military force, to sort of follow up a little bit on Senator Shaheen. I am on the Armed Services Committee too. And it is interesting that the authority over AUMF questions is in this committee, and often we are talking about sort of the issues that pertain to it more in the Armed Services Committee. Senator Shaheen and I serve on both.

One of the things that has been frustrating—and I just really want your commitment to cooperation—is in this administration, we have heard over and over again from key officials, Secretary Mattis, General Dunford, we would really like to work with Congress on a new authorization. But anytime there is any draft of anything put on the table, no, we like what we have just fine. So there is sort of lip service paid to the idea we would like to cooperate on a new authorization after 16 years, but when it gets down to any proposal, instead of saying, well, could you adjust this or that, instead what we hear from the administration is, well, we like what we have just fine. And then we are not really given a response.

I am going to continue to push this committee to tackle this issue. And I would like to be able to have a dialogue with both State, DOD, the White House about if we put proposals on the table, what is good, what is bad. In the what is bad category, you could make it more acceptable to at least the administration. It is

our prerogative ultimately, but it would be more acceptable if you did the following.

Would you commit to having that kind of back-and-forth dialogue and giving us your best advice on behalf of the administration on these questions?

Ms. NEWSTEAD. Senator, I would be happy to commit to that. I am aware of the work that you and other members of the committee have done on this issue, and I certainly would be eager to be helpful on behalf of the Department, if confirmed.

Senator KAINE. All right. Thank you.

Thank you, Mr. Chair.

Senator ISAKSON. Senator Young?

Senator YOUNG. Well, thank you, Mr. Chairman, for a second round here.

I do not think I will have to go quite as quickly this go-around, Ms. Newstead. But let me turn to something I had mentioned I was curious about, and it pertains to Customary International Humanitarian Law rule 55, which says the parties to the conflict must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without any adverse distinctions, subject to the right of control. That is it in its entirety.

On June 28, at my direction, my staff asked the Department of State whether the Saudi refusal to permit the delivery of U.S.-funded cranes to the port of Hodeidah constitute a violation of this rule. What is your personal professional answer to this question?

Ms. NEWSTEAD. Well, Senator, first of all, I appreciate the opportunity to speak to that, and it is an important point. We did discuss it briefly.

I certainly agree with you that it is extremely important that we promote compliance with the law of armed conflict by the Saudi-led coalition in Yemen for all the reasons that you have identified, sir, and at the prior hearing as well.

I do think that the standard that you described raises many of the same questions as we were talking about in our prior round in relation to the Foreign Assistance Act. And I would only say that it would be my expectation, if confirmed, that I would be able to dig into this issue with the benefit of more consultation with the Department to be more specific in talking to you about the ways in which those standards are implicated here.

Senator YOUNG. I guess your answer would be the same as it relates to Saudi Arabia's compliance or noncompliance based on the same fact pattern. I am referring to in Yemen compliance with article 14 of the Additional Protocol 2 of the Geneva Conventions.

Ms. NEWSTEAD. Yes, Senator. In order to give you a legal view that would really take account of all the factors, legal and factual and otherwise, I would want to have the opportunity to study that and consult more with the Department. But again, I can certainly say that I understand and agree with your focus on the issue.

Senator YOUNG. So if I do not appear frustrated, I am a bit frustrated. It took almost 3 months after my staff asked that question pertaining both to Customary International Humanitarian Law rule 55 and article 14 of the Additional Protocol 2 of the Geneva Conventions—3 months for me to get an answer. And the answer

that we received was, quote, the Department of State is not able to provide Senator Young with an advisory legal opinion. Unquote.

As a member of the Department of State's oversight committee and based on Congress' Article I constitutional authorities, what do you think? Do you believe that is an acceptable answer?

Ms. NEWSTEAD. Well, Senator, of course, I was not part of the discussions in the Department, as you know. But I would say that it would be my hope that if I am confirmed, we could provide answers to you more quickly. And while I would certainly want to consult on where the Department's practices have been in terms of any limits the Department feels it needs to maintain, I would also seek to engage with you and your staff closely in discussing the legal standards and issues. And I know from our discussion yesterday, you had a number of particular questions about implications of what the Department had and had not done. It would be my expectation to work as closely with you as I could on those issues.

Senator YOUNG. Well, I do not think it is acceptable. Period. But thank you.

Let me lastly return to one final matter. Will you please tell me how you define the term "assistance" in the Foreign Assistance Act, specifically telling me whether the definition of security assistance as defined in 22 U.S.C. 2304 applies to section 2378-1? If you would like me to say those numbers again, I am happy to. That is why I gave you the hearing transcript so you could familiarize yourself. And you seem quite conversant in the law. So I am impressed with that.

Ms. NEWSTEAD. Thank you, Senator.

Well, the definition, as I understand it, Senator, is quite broad under the act. It is a question of law that, if possible, I would prefer to come back to you on with the benefit of more consideration. But I believe that the stated principle is quite broad, and its application to the facts here, as I said, is something that I would like, if possible, to have the opportunity to discuss with the Department.

Senator YOUNG. I believe it is broad as well. And so I will just provide that and some other written questions to you for your response. Thank you so much.

Ms. NEWSTEAD. Thank you, Senator.

Senator YOUNG. I yield back.

Senator ISAKSON. Thank you, Senator.

Thank you for your attendance today. Congratulations on your nomination. To your siblings, mothers, fathers, significant others that all came, thank you all for coming. Kids. Do not forget the kids. That is right.

And I want to thank the members for being here.

We will report to the committee soon. You will be hearing shortly on a markup and hopefully a vote on the floor shortly after that. We appreciate your commitment to the country and your willingness to accept this nomination.

We stand adjourned.

[Whereupon, at 3:00 p.m., the hearing was adjourned.]

Additional Material Submitted for the Record

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD
SUBMITTED TO THOMAS L. CARTER BY SENATOR BENJAMIN L. CARDIN

Question 1. What important actions have you taken in your career to date to promote human rights and democracy? What has been the impact of your actions?

Answer. Throughout my career, I have demonstrated a commitment to defending and promoting human rights and democracy. Specifically, I have personally commanded United States Air Force C-141s on numerous international humanitarian missions throughout the world in support of U.S. objectives towards creating stability and saving lives. I've also flown in support of deploying U.S. forces in many other engagements wherein the United States leadership felt it necessary to defend democratic peoples in their respective countries. I was decorated for flying into an active combat zone in October 1983 inserting the 82nd Airborne Division into Grenada to rescue U.S. students endangered there.

Further, I had the honor of monitoring Ukraine's very first parliamentary elections in 2006. It was truly an inspiration to see the Ukrainian's enthusiasm when we introduced ourselves as Americans, and to also watch entire voting locations work for over 24 hours straight to count the many paper ballots. These unique people really inspired me to continue my own polling manager duties back in South Carolina.

Question 2. What will you do to promote, mentor, and support your staff that come from diverse backgrounds and underrepresented groups in the Foreign Service?

- What steps will you take to ensure each of the representatives to ICAO foster an environment that is diverse and inclusive?

Answer. USICAO is a small mission with only five employees, and one supervisor other than myself. I will share my strong commitment to equal opportunity and to ensuring that each and every employee is treated with respect and dignity, and will maintain an open door policy to ensure that all in the mission know that they can reach out to me.

Question 3. Do you commit to bring to the committee's attention (and the State Department Inspector General) any change in policy or U.S. actions that you suspect may be influenced by any of the President's business or financial interests, or the business or financial interests of any senior White House staff?

Answer. I commit to comply with all relevant federal ethics laws, regulations, and rules, and to raise concerns that I may have through appropriate channels.

Question 4. Do you commit to inform the committee if you have any reason to suspect that a foreign government, head of state, or foreign-controlled entity is taking any action in order to benefit any of the President's business or financial interests, or the interests of senior White House staff?

Answer. I commit to comply with all relevant federal ethics laws, regulations, and rules, and to raise concerns that I may have through appropriate channels.

Question 5. Do you or do any members of your immediate family have any financial interests in any country abroad?

Answer. Neither I nor any members of my immediate family have any financial interests in any country abroad.

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD
SUBMITTED TO JENNIFER NEWSTEAD BY SENATOR BENJAMIN L. CARDIN

Question 1. What are the most important actions you have taken in your career to date to promote human rights and democracy? What has been the impact of your actions?

Answer. Over the course of my career, I have worked in various capacities on issues relating to the promotion of human rights and democracy. Beginning in college and law school and continuing during my prior government service, I have devoted time to pro bono and other legal matters relating to combating violence against women. While serving as a Deputy Assistant Attorney General in the Office of Legal Policy at the Department of Justice in 2001, I worked on policy and regulatory actions relating to the implementation of the Trafficking Victims Protection

Act of 2000 (TVPA), including the issuance of regulations in July 2001 providing protections for and assistance to human trafficking victims as their cases were investigated and prosecuted. Those regulatory actions, which DOJ issued jointly with the Department of State shortly after the release of the State Department's first Trafficking in Persons Report in July 2001, were part of the first wave of efforts to implement the TVPA, which were a priority of the Justice Department during my tenure there. In the years since my time at DOJ, there have been further legislative and regulatory enforcement efforts on these critical issues, and today those efforts, and the State Department's annual TIP Report, remains a principal diplomatic tool to engage foreign governments on human trafficking issues.

During my time as General Counsel of OMB, I had the opportunity to work on various legal issues which impacted humanitarian assistance efforts, including implementation of the President's Emergency Plan for AIDS Relief. In private practice, I have worked on pro bono matters on various issues relating to orders of protection for victims of domestic violence, resentencing of criminal defendants, and promotion of civics education.

If confirmed as Legal Adviser, it would be my privilege to support the Department's ongoing efforts to promote human rights and democracy.

Question 2. What will you do to promote, mentor and support your staff that come from diverse backgrounds and underrepresented groups in the Foreign Service?

Answer. I recognize the important efforts within the State Department to promote a workforce that reflects the diversity of the American people. Like the rest of the Department, the Office of the Legal Adviser should foster an atmosphere of diversity and inclusion. If confirmed, I will take seriously the role of mentor to the employees in the office and will be personally committed to supporting the goals of diversity and inclusion.

Question 3. What steps will you take to ensure each of the supervisors at the Office of the Legal Adviser are fostering an environment that is diverse and inclusive?

Answer. I am firmly committed to equal employment opportunity principles. If confirmed, I will work with the supervisors in the Office to foster a work environment that recognizes the contributions of all employees and will encourage all supervisors to take available courses on equal employment opportunity principles, diversity, and related issues and to promote an atmosphere of transparency by providing opportunities to all employees. I will also urge supervisors to underscore the importance of valuing and respecting diversity when they mentor junior colleagues.

Question 4. Do you commit to bring to the committee's attention (and the State Department Inspector General) any change in policy or U.S. actions that you suspect may be influenced by any of the President's business or financial interests, or the business or financial interests of any senior White House staff?

Answer. If confirmed, I commit to comply with all relevant federal ethics laws, regulations, and rules, to exercise leadership within the Department to promote compliance with those laws and rules and to raise concerns that I may have through appropriate channels.

Question 5. Do you commit to inform the committee if you have any reason to suspect that a foreign government, head of state, or foreign-controlled entity is taking any action in order to benefit any of the President's business or financial interests, or the interests of senior White House staff?

Answer. If confirmed, I commit to comply with all relevant federal ethics laws, regulations, and rules, to exercise leadership within the Department to promote compliance with those laws and rules, and to raise concerns that I may have through appropriate channels.

Question 6. Do you or do any members of your immediate family have any financial interests in any country abroad?

Answer. No.

Question 7. What legal frameworks govern the U.S. use of lethal force abroad, including through the use of armed drones? How should the U.S. determine if it is in an armed conflict such that international humanitarian law applies?

Answer. There is no legal question that is more consequential, or more serious, than the question of when and under what circumstances the United States may use force. If confirmed, I will be committed to providing the best possible legal advice to the Secretary and the U.S. Government concerning these legal questions.

With respect to your first question, I generally understand that the President's principal current domestic law authorities to use military force abroad include his constitutional powers as Commander in Chief and Chief Executive, the Authorization for Use of Military Force of 2001, and the Authorization for Use of Military

Force against Iraq Resolution of 2002. In addition to considering domestic legal issues, if confirmed I would also want to give careful consideration to whether any proposed use of military force abroad would be consistent with applicable international law, including the body of international law that governs the resort to the use of force (the *jus ad bellum*) and the law governing the conduct of hostilities (the law of armed conflict, international humanitarian law, or *jus in bello*).

With respect to your second question, the Geneva Conventions of 1949 essentially refer to two categories of conflict: "cases of declared war or any other armed conflict which may arise between two or more of the High Contracting Parties" (sometimes referred to as international armed conflicts) and conflicts "not of an international character." The question of whether an armed conflict exists in any particular situation is highly fact-dependent, and the applicable standards under international law will vary depending on the category of conflict. If confirmed, when assessing whether any particular situation constitutes an armed conflict, I would take into account the jurisprudence of U.S. courts, including the U.S. Supreme Court, as well as the legal positions articulated by the United States in the past. I would also want to consider, as appropriate to the circumstances, the practice and statements of other States, international tribunals, and qualified commentators on international law.

Finally, if confirmed, I would also expect to consult with my colleagues in the Office of the Legal Adviser as well as with my counterparts in other U.S. Government departments and agencies, including the Department of Justice's Office of Legal Counsel, on these issues, including whenever the United States is faced with the need to consider the use of force, whether through the use of armed drones or otherwise.

Question 8. Should the U.S. accept the conclusion of the U.N. Human Rights Committee that the International Covenant on Civil and Political Rights applies extra-territorially? If not, what international law applies to U.S. officials and forces operating abroad outside of armed conflict situations? More specifically, what international law applies to U.S. drone strikes conducted outside of armed conflict situations?

Answer. The International Covenant on Civil and Political Rights (ICCPR) contains express language setting forth the territorial scope of its application. Article 2(1) of the ICCPR states that each State Party undertakes obligations with respect to "individuals within its territory and subject to its jurisdiction." I understand that the United States' position is that the ICCPR applies only to individuals who are both within the territory of a State Party and within that State Party's jurisdiction. The United States has stated that this position is based on the text of the treaty, an application of longstanding international legal principles of treaty interpretation, and the treaty's negotiating history.

I understand that the Human Rights Committee has expressed a contrary view that a State Party's ICCPR obligations should apply not only to individuals who are within its territory, but also to individuals located outside its territory who are subject to its jurisdiction under certain circumstances. I also understand that the observations, recommendations and general comments adopted by the Human Rights Committee are not binding on the States Parties and do not represent authoritative interpretation of State Party obligations.

As your question suggests, I recognize that there are divergent views among the U.N. Human Rights Committee, human rights organizations, and among governments, on international law questions related to ongoing counter-terrorism operations against groups like Al Qaeda and ISIS, and that a key point of potential divergence is on the question of whether the United States or one of its Coalition Partners is or is not operating in the context of an ongoing armed conflict when it takes a particular military action. If confirmed, I will consult my colleagues at the Department of State and my counterparts in other U.S. Government departments and agencies to ensure that I provide the best possible legal advice to the Department and to the U.S. Government concerning the international obligations of the United States applicable to U.S. officials and forces involved in counter-terrorism operations abroad, including by ensuring that the United States determines whether a particular action falls inside or outside of armed conflict situations.

Question 9. Do you support U.S. ratification of Protocols I and II to the Geneva Conventions of 1949? If not, why not?

Answer. I am aware that President Reagan submitted Additional Protocol II to the Geneva Conventions of 1949, which would establish additional treaty obligations in relation to armed conflicts not of an international character, to the Senate for advice and consent to ratification in 1987, and that President Obama, following an interagency review, urged the Senate to act on that Protocol in 2011. I am also aware that the United States has historically had significant concerns with several

aspects of Additional Protocol I to the Geneva Conventions of 1949, which establishes additional treaty obligations in relation armed conflicts of an international nature. For these reasons, President Reagan informed the Senate in 1987 of his decision not to submit that Protocol to the Senate, and no subsequent President has sought the Senate's advice and consent to the Protocol.

I have not yet had the opportunity to form a considered legal view with respect to these matters, and if confirmed I would consult my colleagues at the Department of State and my counterparts in other U.S. Government departments and agencies, including the Department of Defense, before providing advice to policymakers. Given the strong support that Additional Protocol II has received from Presidents in both parties for the past thirty years, and given the predominance of current non-international conflicts of the sort that are the subject of Additional Protocol II, if confirmed I would make it a priority to review the current administration's views on the ratification of Additional Protocol II with any necessary reservations, understandings and declarations. If confirmed, I would look forward to engaging with my counterparts in other U.S. Government departments and agencies and with interested Members of this committee and staff on this topic.

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD
SUBMITTED TO JENNIFER NEWSTEAD BY SENATOR MARCO RUBIO

Question 1. In *Sokolow v. PLO*, the Second Circuit surprisingly held that it was unconstitutional to apply the Anti-Terrorism Act in the exact fact pattern that the statute was designed to address: American citizens murdered by terrorists in this case, Palestinian terrorists-acting overseas. *Sokolow* plaintiffs include Florida constituents Mr. Oz Joseph Guetta and his mother, Ms. Varda Guetta, and other American victims of Palestinian terrorism. In June 2017, the U.S. Supreme Court asked for the administration's views on this case. It is clearly a vital U.S. national security interest to combat international terrorism in all its forms. If confirmed, do you commit to supporting the Anti-Terrorism Act statute as written by Congress? If confirmed, do you commit to following up with me both to explain what the State Department's view is on *Sokolow v. PLO*, and to ensure that the State Department expeditiously provides its view on the matter to the Solicitor General?

Answer. I sympathize deeply with the injuries suffered by the Guetta family, and other families participating in this case, and condemn the acts of terrorism that caused their injuries. I share your concern and commitment to combating international terrorism and protecting American citizens abroad. I also recognize the important purpose of the Antiterrorism Act in providing a federal forum for U.S. victims of international terrorism.

If confirmed, I would be committed to providing the best possible legal advice to the Secretary and our policymakers, including with respect to defending the integrity of the Antiterrorism Act and applying that statute as written by Congress and in light of relevant judicial decisions. I understand that on June 26, the Supreme Court asked for the views of the U.S. Government on the petition for certiorari in *Sokolow v. Palestine Liberation Organization*, No. 16-1071 (S. Ct.), which seeks review of the decision by the U.S. Court of Appeals for the Second Circuit holding that the District Court lacked personal jurisdiction over the defendants. The Office of the Solicitor General at the Department of Justice has the lead in developing, with inputs from other interested agencies, U.S. Government views on the petition. Upon filing, this will become the view of record for the U.S. Government. If confirmed, I will ensure that the State Department continues to provide its views on this case and all other cases implicating State Department equities to the Solicitor General as expeditiously as possible, and remains in close and effective coordination with the Department of Justice on such matters. If confirmed, I would also welcome the opportunity to follow up with your office on this matter, consistent with my professional responsibilities when providing legal advice to the Secretary of State.

Question 2. The Foreign Corrupt Practices Act is an important tool to combat corruption abroad. It holds American businesses accountable for aiding the most oppressive regimes in the world from plundering their people's wealth. Ms. Newstead, you've advised clients on complying with the Foreign Corrupt Practices Act. Is the FCPA effective? Are there areas where it can be improved? What could Congress do to tighten it?

Answer. As your question reflects, the Foreign Corrupt Practices Act (FCPA) is a powerful tool for combatting corruption abroad, and its vigorous enforcement over several decades has substantially contributed to reducing corrupt activities and in-

creasing domestic anti-corruption enforcement by other countries. As Congress recognized when it passed the Foreign Corrupt Practices Act (FCPA), corruption imposes enormous costs both at home and abroad, leading to market inefficiencies and instability and an unfair playing field for honest businesses. Even more fundamentally, corrupt activities alienate citizens from their political leaders and institutions, and undermine political stability and economic development. By enacting a strong foreign bribery statute, Congress sought to help U.S. companies resist corrupt demands and to hold them accountable when they failed to do so, while also addressing the destructive foreign policy ramifications of transnational bribery.

Enforcement of the FCPA has been effective by many objective measures, including the deterrent effect of the sheer number of resolutions reached by the Department of Justice (DOJ) and Securities and Exchange Commission (SEC) with companies subject to FCPA enforcement, and the significant fines paid by many of those companies. Perhaps more important, the statute has been effective in encouraging U.S. and global businesses to adopt vigorous compliance regimes and internal controls designed to deter and prevent corrupt activities.

Although the responsibility for enforcing the FCPA rests with the DOJ and SEC, I understand that the Department of State plays an important complementary role in working to address corruption abroad and to level the playing field for U.S. businesses. In particular, the Department of State has focused on the implementation of international commitments relating to anti-corruption, including through its leadership role during the negotiation of the Organization for Economic Cooperation and Development (OECD) Anti-Bribery Convention, which effectively "internationalized" the FCPA by requiring all parties to pass their own similar transnational bribery statutes; and by participating in the Working Group on Bribery, which is responsible for monitoring the implementation and enforcement of the Convention by its parties.

The FCPA is an important and effective tool for combating corruption abroad, but it can be particularly effective as one piece of an ever-increasing global network of transnational bribery statutes enforced with an emphasis on international cooperation, as recently demonstrated by the landmark global settlements reached with Odebrecht and VimpelCom. Congress can therefore help support the effective enforcement of the FCPA by supporting the Department of State's global anti-corruption and good governance promotion efforts, but we ultimately defer to DOJ as the U.S. Government's lead enforcement agency regarding the need for any legislative reforms to the FCPA.

Question 3. In March 2010, the Government of Macau revoked the air operating certificate of an American-owned airline-Viva Macau-on baseless grounds, which essentially destroyed the value of the company. There is strong evidence that the revocation was motivated by the desire of Chinese state-owned enterprises to remove competition from the market. For the last seven years, the State Department, Commerce Department and to a lesser extent USTR have been requested to take action. For the last four years, the Viva Macau expropriation case has been in the hands of the Legal Advisor. Are you familiar with the case? If so, do you believe it was inappropriate or illegal for China to expropriate an American-owned company? If confirmed, do you commit to examining the case?

Answer. In my current position as a nominee, I have not had the opportunity to familiarize myself with the details of this particular matter. But, it is my understanding that the Department's review of the Viva Macau espousal request has been completed and that the investors' representative is being informed of the Department's decision. I also understand that a telephone briefing has been offered to Senate staff concerning the case?. If confirmed, I commit that I will examine this matter closely, and will ensure that all requests for espousal before my office are considered carefully.

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD
SUBMITTED TO JENNIFER NEWSTEAD BY SENATOR TODD YOUNG

Question 1. Ms. Newstead, are you aware of the following facts?:

- The Saudi-led coalition deliberately and precisely bombed the cranes at the port of Hodeidah that were used to offload humanitarian supplies.
- The Saudi-led coalition bombed a World Food Programme warehouse in Hodeidah.
- Despite the establishment of the U.N. Verification and Inspection Mechanism for Yemen (UNVIM) created to obviate the need for Saudi-led coalition inspec-

tions, the Saudi-led coalition continues to delay shipments going into Hodeidah for days. The United Nations Office for Project Services (UNOPS) can provide monthly data confirming this fact.

- In January, when the World Food Programme tried to deliver the four USAID-funded cranes to Hodeidah to offload humanitarian supplies to replace the capacity destroyed by the Saudi-led coalition, the Saudis would not permit the replacement cranes to be delivered, literally forcing the vessel carrying the cranes to turn around.
- The Saudi-led coalition has diverted, on several occasions, vessels to ports they or their allies' control, more concerned about who control the port than which Yemenis most need the aid.
- On June 27, the World Food Programme asked the Saudis again for permission to deliver the four cranes. The Saudis continue to be unresponsive on the cranes.
- When asked why they won't permit the delivery of the cranes, Saudi officials consistently cite the fact that the Houthis control the port as a leading excuse.

Answer. I have reviewed the factual statements set forth above. Although as a nominee, I have not had the opportunity to consult with experts on the facts of this situation within the Department, I appreciate your raising these specific concerns and have read reports that reflect concerns about the grave humanitarian situation in Yemen. I agree that this situation warrants a strong response by the United States, including a focus on concrete actions which can be taken to alleviate the suffering.

I understand that the Department is committed to helping alleviate these conditions and to reaching a political resolution between the parties. Secretary Tillerson stated on October 22 during his joint press conference with Saudi FM al-Jubeir in Riyadh that he had discussed the Yemen conflict with Saudi counterparts during his meetings in Riyadh. I understand the Department continues to actively work on this issue, and will also be providing its official views on the factual and legal issues raised by your question in a letter to be conveyed separately alongside these QFR responses. I also understand that the Department also stands ready to brief you further on the issues you raise in this question.

If confirmed, I will work with my colleagues to ensure that we are considering all available tools to support policies to help improve the situation in Yemen. I commit to consulting with the Department's experts to ensure that I and my legal team can, based on a complete understanding of the available facts, provide legal advice to policymakers concerning courses of action to alleviate the humanitarian situation in Yemen, including on the question of whether activities by the Saudi-led Coalition are inconsistent with any provision of applicable domestic or international law. As I mentioned during the hearing, I would also welcome the opportunity to engage with interested Members of this committee and staff to discuss these issues, mindful of my professional responsibilities regarding legal advice to the Secretary of State.

Question 2. On October 19, the Acting Director of USAID's Office of Food For Peace, Mr. Matthew Nims, testified that the Saudi-led coalition is using food as a weapon of war in Yemen. Please review the transcript of my exchange with Mr. Nims on October 19 and provide your response.

Answer. I have reviewed the transcript of your exchange with Mr. Matthew Nims. Although I have not had an opportunity to consult with the experts at the State Department about these issues, I share your concerns about the grave humanitarian situation in Yemen, and I appreciate how important the port of Hudaydah is to mitigating that situation. I understand the Department is committed to helping alleviate the humanitarian situation in Yemen as well. If confirmed, I will work with my colleagues to ensure that we are considering all available tools to support policies to help improve this situation.

If confirmed, I commit to consulting with experts in the Department of State and other departments and agencies in order to ensure that I and my legal team can, based on a complete understanding of the available facts, provide legal advice to policymakers concerning courses of action to alleviate the situation in Yemen, including on the question of whether activities by the Saudi-led Coalition are inconsistent with any provision of applicable domestic or international law. I believe that it is critically important to promote compliance with the law of armed conflict by members of the Saudi-led coalition and by all of our partners, and if confirmed I will be a strong advocate for this view within the Department and with colleagues in other agencies.

Question 3. Section 620-i of the Foreign Assistance Act (22 U.S. Code § 2378-1(a)) states the following: "No assistance shall be furnished under this chapter or the Arms Export Control Act [22 U.S.C. 2751 et seq.] to any country when it is made

known to the President that the Government of such country prohibits or otherwise restricts, directly or indirectly, the transport or delivery of United States humanitarian assistance." If the facts above are correct, would it be your professional, personal, and legal judgment that Saudi Arabia has "prohibited or otherwise restrict[ed], directly or indirectly, the transport or delivery of United States humanitarian assistance"? Please provide a detailed justification for your answer.

Answer. As noted in my answer to the previous questions, I am very concerned about the grave humanitarian situation in Yemen. I share your concern that this situation warrants a strong response by the United States, including a focus on concrete actions which can be taken to alleviate the suffering.

As your question indicates, the ultimate determination whether this provision of the Foreign Assistance Act has been triggered is a highly fact-specific inquiry. As a nominee I have not had the opportunity to consider the full range of classified and unclassified information available to the Department on this issue, or to consider how the Department has previously interpreted and applied Section 620I. Based only on the facts listed above, which include descriptions of actions which have to date prevented delivery of the four replacement cranes to Hudaydah, and the plain language of the provision, it is my judgment that there is a substantial question whether the responsible parties have "prohibited" or "restricted" the delivery of United States humanitarian assistance under the statute. If confirmed as Legal Adviser, I would want to consider additional information before reaching a final legal view and providing advice to policymakers on this issue. Relevant considerations could include, among other things, whether legitimate concerns exist regarding the control of the Hudaydah port by the Houthis and related security risks, or risks that delivery of aid through the port would be compromised. It would also be relevant in my view to consider the broader circumstances involving the provision of U.S. foreign assistance to Yemen, such as whether the act of preventing delivery of the cranes has effectively prevented the delivery of all U.S. foreign assistance to address the crisis, or whether other means of delivering such aid are operating; and the role of the Saudi Government in such efforts.

Finally, I would wish to consider the reasoning of any prior interpretations by the Office of the Legal Adviser on the application of Section 620I, to ensure that any conclusions reached by the Office on the application of the statute in this circumstance is consistent with the interpretations that the Office has provided to the provision over time. This is particularly relevant here because, based on my limited research to date, there do not appear to be prior judicial decisions providing guidance on the interpretation or application of Section 620I.

If confirmed, I would make it a priority to study this issue in greater depth. I would consult with relevant U.S. Government and non-governmental experts in order to provide legal guidance to State Department decision-makers on the legal standard under section 620I of the Foreign Assistance Act of 1961 (FAA) as they continue, in this context, to assess the application of that standard to the facts before them.

As I mentioned during the hearing, I would also welcome the opportunity to engage with interested Members of this committee and staff to discuss these issues, mindful of my professional responsibilities regarding legal advice to the Secretary of State.

Question 4. If Saudi Arabia has restricted directly or indirectly the transport or delivery of U.S. assistance, do you believe this statute would require-absent a Presidential determination that an exception is the national security interest of the United States-that no U.S. assistance shall be furnished under this chapter or the Arms Export Control Act [22 U.S.C. 2751 et seq.] to Saudi Arabia?

Answer. Section 620I prohibits provision of assistance under the FAA or the Arms Export Control Act (AECA) to a country when it is made known to the President (or the Secretary, under delegated authority) that the Government of such country prohibits or otherwise restricts, directly or indirectly, the transport or delivery of U.S. humanitarian assistance. If Saudi Arabia has directly or indirectly restricted the transport or delivery of U.S. humanitarian assistance, absent a determination under the statute, then U.S. assistance under the Foreign Assistance Act or the Arms Export Control Act would be restricted under this provision. As you have noted, the provision includes a waiver authority by which assistance may be provided to the country under such circumstances if there is a determination that to do so is in the national interest, and that determination is notified to the appropriate Congressional committees.

Question 5. If confirmed, do you commit to ensuring within 30 days that your office provides a determination to the Secretary of State whether Saudi Arabia has

prohibited or otherwise restricted, directly or indirectly, the transport or delivery of United States humanitarian assistance to Yemen?

Answer. Yes, if confirmed, I commit to working with the staff of the Office of the Legal Adviser and consulting with relevant experts across the Department and the U.S. Government, in order to provide views to the Secretary of State or other decision makers within the Department on that question within 30 days.

Question 6. If confirmed, do you commit to doing all that you can within 45 days to encourage the Department of State to provide its determination to the President and the Senate Committee on Foreign Relations—consistent with 22 U.S. Code § 2378-1—whether Saudi Arabia has prohibited or otherwise restricted, directly or indirectly, the transport or delivery of United States humanitarian assistance in Yemen?

Answer. Yes, if confirmed, I commit to working with the staff of the Office of the Legal Adviser and decision makers within the Department to encourage the Department to convey its official views on this question to the committee within 45 days.

Question 7. If Saudi Arabia has not allowed or facilitated the rapid and unimpeded passage of humanitarian relief for civilians through the port of Hodeidah due to the fact that they or their allies do not control the port, do you believe that would be a violation of, or be inconsistent with, Rule 55 of Customary International Humanitarian Law?

Answer. It is critically important in my view to promote compliance with the law of armed conflict by members of the Saudi-led coalition and by all of our partners. If confirmed, I will be a strong proponent of this view within the Department and with colleagues in other departments and agencies, as well as an advocate for the rule of law and respect for international law.

The starting point for my analysis in response to this question would be to consider the status of the Rule 55 of the International Committee of the Red Cross's (ICRC) Study on Customary International Law as a source of authority under international law. Although, as a nominee, I have not had the opportunity to consult with the Department on this important legal issue, I am aware that the Department of State, through its former Legal Adviser, John Bellinger, and the Department of Defense, through its prior General Counsel, William J. Haynes, have in the past raised concerns about the substance and underlying methodology of this study, which were initially set forth in a 2006 letter to the ICRC on this topic.

If confirmed, I would make it a priority to engage with my colleagues in the Office of the Legal Adviser on these important issues. As I mentioned during the hearing I would also welcome the opportunity to engage with interested Members of this committee and staff to discuss these issues, mindful of my professional responsibilities regarding legal advice to the Secretary of State.

Question 8. Article 14 of the Additional Protocol Two of the Geneva Conventions says the following: "Starvation of civilians as a method of combat is prohibited. It is therefore prohibited to attack, destroy, remove or render useless, for that purpose, objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works." If Saudi Arabia has attacked, destroyed, removed, or rendered useless objects indispensable to the survival of the civilian population, including objects to help prevent starvation, would that represent a violation of Article 14 by Saudi Arabia?

Answer. As mentioned in my answer to your previous question, I believe that it is critically important to promote compliance with the law of armed conflict by members of the Saudi-led coalition and by all of our partners, and if confirmed I will be a strong proponent of this view within the Department and with colleagues in other departments and agencies, as well as an advocate for the rule of law and respect for international law.

If confirmed, I commit to working with experts in the Department of State and other Departments in order to assess relevant facts and law and provide legal guidance to U.S. Government officials on issues related to the ongoing conflict in Yemen, including the possible application of Article 14 of Additional Protocol II to the Saudi-led coalition's actions. In the situation posed by your question, I would generally agree that if Saudi Arabia or any other state which is a party to Articles 14 of Additional Protocol II has taken actions in an armed conflict to which its Additional Protocol II obligations apply, to "destroy, remove or render useless for that purpose [i.e., for the purpose of starvation of civilians] objects indispensable to the survival of the civilian population," that state would be in violation of its obligations under that provision. In order to reach a legal conclusion whether any violation of these principles has occurred in relation to the situation in Yemen, I would, if confirmed, un-

dertake a thorough legal analysis with benefit of the full information available to the Department and the opportunity to consult with my colleagues in the Department on these issues. If confirmed, I would also welcome the opportunity to engage with you and interested Members of this committee and staff to discuss these issues, mindful of my professional responsibilities regarding legal advice to the Secretary of State.

Question 9. In a September 26, 2017, hearing, I asked Ms. Kaidanow whether she was willing to foreclose the possibility that Saudi Arabia has committed human rights violations in Yemen. She responded, "No, in fact, I think the Saudis themselves have—have indicated that in the past, that they have done some things that they find problematic, and that they are trying to address some of those issues." If Saudi Arabia has engaged "in a consistent pattern of gross violations of internationally recognized human rights", what prohibitions would be applied with respect to U.S. assistance to Saudi Arabia under 22 U.S.C. 2304?

Answer. I understand that Section 502B of the FAA (22 U.S.C. 2304) restricts security assistance, as defined in subsection (d)(2) for purposes of that provision, to any country the Government of which engages in a consistent pattern of gross violations of internationally recognized human rights. If Saudi Arabia or any other country has engaged in conduct within the terms of that statute, security assistance to that country would be restricted by the statute.

As I mentioned during my hearing last week, the Office of the Legal Adviser plays a unique role supporting the Department's mission to promote our values, the rule of law, and respect for human rights and democracy around the world. In my view it is critically important to promote compliance with the law of armed conflict by members of the Saudi-led coalition and by all of our partners, and if confirmed I will be a strong proponent of this view within the Department and with colleagues in other departments and agencies, as well as an advocate for the rule of law and respect for international law.

If confirmed, as I mentioned during the hearing I would also welcome the opportunity to engage with you and interested members of this committee and staff to discuss these issues, mindful of my professional responsibilities regarding legal advice to the Secretary of State.

Question 10. If confirmed, do you commit to ensuring within 30 days that your office provides a determination to the Secretary of State whether Saudi Arabia has engaged "in a consistent pattern of gross violations of internationally recognized human rights" and whether the provisions under 22 U.S.C. 2304 have been triggered?

Answer. Yes, if confirmed, I commit to working with the staff of the Office of the Legal Adviser and consulting with relevant experts across the Department and the U.S. Government in order to provide views to the Secretary of State or other decision makers within the Department on these questions within 30 days.

As I mentioned during my hearing last week, the Office of the Legal Adviser plays a unique role supporting the Department's mission to promote our values, the rule of law, and respect for human rights and democracy around the world. In my view it is critically important to promote compliance with the law of armed conflict by members of the Saudi-led coalition and by all of our partners, and if confirmed I will be a strong proponent of this view within the Department and with colleagues in other departments and agencies, as well as an advocate for the rule of law and respect for international law.

Question 11. If confirmed, do you commit to doing all that you can within 45 days to encourage the Department of State to provide this 22 U.S.C. 2304 determination with respect to Saudi Arabia's actions in Yemen to the Senate Committee on Foreign Relations?

Answer. Yes, if confirmed, I commit to working with the staff of the Office of the Legal Adviser and decision makers within the Department to encourage the Department to convey its official views on this question to the committee within 45 days.

As I mentioned during my hearing last week, the Office of the Legal Adviser plays a unique role supporting the Department's mission to promote our values, the rule of law, and respect for human rights and democracy around the world. In my view it is critically important to promote compliance with the law of armed conflict by members of the Saudi-led coalition and by all of our partners, and if confirmed I will be a strong proponent of this view within the Department and with colleagues in other departments and agencies, as well as an advocate for the rule of law and respect for international law.

Question 12. If confirmed, do you commit to ensuring your office within 45 days examines whether Saudi Arabia has committed potential violations in Yemen of any

end-use agreements concerning the use of U.S. origin military equipment provided to Saudi Arabia pursuant to the Arms Export Control Act?

Answer. Yes, if confirmed, I commit to working with the staff of the Office of the Legal Adviser and experts in the Department of State and other Departments to examine both the law and facts relevant to end-use agreements concerning use of U.S. origin military equipment provided to Saudi Arabia pursuant to the Arms Export Control Act in relation to the situation in Yemen within 45 days.

Question 13. If violations are found, do you commit to doing all you can to encourage the Department of State to ensure the Senate Foreign Relations Committee is notified promptly in writing regarding those violations?

Answer. If confirmed, I commit to working with experts in the Department of State and other Departments in order to provide legal advice on issues related to compliance with end-use agreements concerning use of U.S. origin military equipment provided to Saudi Arabia pursuant to the Arms Export Control Act and to do all I can to encourage the Department to provide appropriate information to the committee, including in accordance with provisions regarding reporting to Congress under section 3 of the Arms Export Control Act.

Question 14. How do you define the term "assistance" in 22 U.S.C. 2378-1 and does the definition for "security assistance" as defined in 22 U.S.C. 2304 apply to "assistance" in Section 2378-1?

Answer. I understand that the term "assistance" is not defined in section 620I of the FAA (22 U.S.C. 2378-1), although, as I mentioned at my hearing, that term is susceptible to a broad reading. I have not had the benefit of consultations with the Department to understand how this term has been interpreted and applied over time. In contrast, by its terms, section 502B(d) defines "security assistance" only for purposes of section 502B.

If confirmed, I would make it a priority to study this issue further in order to provide legal guidance to State Department decision-makers on these issues. As I mentioned during my hearing, I would also welcome the opportunity to engage with interested members of this committee and staff to discuss these issues, mindful of my professional responsibilities regarding legal advice to the Secretary of State.

Question 15. If confirmed, do you commit to maintaining an open and regular line of communication with me and my office and doing all you can to ensure the Department of State provides timely and responsive answers to my office on questions related to your responsibilities? If there is a good faith delay in responding, do you commit to keeping my office updated?

Answer. If confirmed, I can assure you that, working with my colleagues in the Office of the Legal Adviser and other colleagues at the Department of State, I would strive to ensure that the Department provides timely and responsive answers to questions raised by you or your staff related to my responsibilities, mindful of my professional responsibilities regarding legal advice to the Secretary of State. I also commit to working with my colleagues at the Department to ensure that your office is kept updated on the status of any outstanding questions from you or your staff. I thank you for your attention to matters of enormous importance to the Department and to the U.S. Government as a whole, and I will welcome the opportunity to consult on these matters with you if I am confirmed.

Follow-up Questions Submitted to Ms. Newstead by Senator Young

Question 1. In your responses to my questions for the record, you wrote the following:

Based only on the facts listed above, which include descriptions of actions which have to date prevented delivery of the four replacement cranes to Hudaydah, and the plain language of the provision, it is my judgment that there is a substantial question whether the responsible parties have "prohibited" or "restricted" the delivery of United States humanitarian assistance under the statute. If confirmed as Legal Adviser, I would want to consider additional information before reaching a final legal view and providing advice to policymakers on this issue. Relevant considerations could include, among other things, whether legitimate concerns exist regarding the control of the Hudaydah port by the Houthis and related security risks, or risks that delivery of aid through the port would be compromised.

This response raises several questions. If confirmed, regarding your comment on "related security risks". I encourage you to examine the logic of an argument that says the Houthis would destroy cranes in a port they control and that are being used to facilitate the delivery of food and medicine for people in areas they control.

I believe the only material security risk to the cranes would be another attack on the port by the Saudi-led coalition.

You write that "risks that delivery of aid through the port would be compromised" would be a relevant consideration. Are you aware of the following testimony by Mr. Matthew Nims, the acting director of the Office of Food for Peace at the United States Agency for International Development on July 18? He said the following (emphasis added):

First off, the U.S. Government and USAID and particular in my office, you know, takes any allegations of the diversion of humanitarian activities very seriously. And this is paramount in all of our operations. You know, this humanitarian need as we—this humanitarian need is really been held off by our continued operations that are been crucial through the ports as well as our partners. In this situation we have taken this very seriously, we have investigated this through our partners, we've investigated this to a degree on our own and we have had no evidence of any large scale humanitarian diversions occurring at the port at all. We are able to say this because of the integrity of our partners and because of the methods that they use as well as our own methods of third-party monitoring and other systems that we employ to ensure that this food gets to where it's supposed to go.

If confirmed, I encourage your office to not take assertions by the Saudis and others regarding the diversion of humanitarian aid at the port of Hodeidah at face value and instead check with the experts at USAID and the World Food Programme.

Answer: I appreciate your additional perspectives on this question and, if confirmed, I commit, with the benefit of these perspectives, to engaging closely with my colleagues at the Department and at USAID on this important issue. I also believe it is important to take account of the information and perspectives of non-governmental organizations including the World Food Programme, and would do so if confirmed. Finally, I commit to reviewing this issue in depth, if confirmed, and meeting with you within 30 days of my taking up the position of Legal Adviser to share my assessments, consistent with my professional obligations to the Department.

Question 2. You also wrote the following (emphasis added):

*It would also be relevant in my view to consider the broader circumstances involving the provision of U.S. foreign assistance to Yemen, such as whether the act of preventing delivery of the cranes has **effectively** prevented the delivery of **all** U.S. foreign assistance to address the crisis, or whether other means of delivering such aid are operating; and the role of the Saudi Government in such efforts.*

Why is the standard "effectively prevented the delivery of all U.S. foreign assistance?" You wrote, "If Saudi Arabia has directly or indirectly restricted the transport or delivery of U.S. humanitarian assistance, absent a determination under the statute, then U.S. assistance under the Foreign Assistance Act or the Arms Export Control Act would be restricted under this provision." Yet, you then establish a standard of preventing the delivery of "all U.S. foreign assistance?" How do you explain this discrepancy?

Answer: Thank you for the opportunity to address your concern. As indicated in my response to a previous question, and as you note above, the statutory standard is whether the transport or delivery of U.S. humanitarian assistance has been directly or indirectly prohibited or restricted by any government. The statutory language does not include a requirement that "all" foreign assistance be directly or indirectly restricted. In the portion of my answer you identify above, I was addressing one of many possible factual circumstances which, if true, could be relevant to analyzing whether the statutory standard has been met. However, I did not intend to suggest that the statute could only be triggered if there was a determination that "all" humanitarian assistance has been prevented. In my view, the statute itself, in setting the standard for triggering the restriction, does not include a requirement that "all" humanitarian assistance be directly or indirectly restricted.

As indicated in my response to a prior question, an assessment whether the assistance restriction under section 6201 of the Foreign Assistance Act has been triggered is a highly fact-specific inquiry. If confirmed, I would make it a priority to study this issue in greater depth. I commit to reviewing this issue fully, if confirmed, and meeting with you within 30 days of my taking up the position of Legal Adviser to share my assessments, consistent with my professional obligations to the Department.

Question 3. Consistent with your initial responses and your reading of the statute, do you re-affirm that even an indirect Saudi restriction of the transport or delivery

of U.S. assistance would be enough to trigger 22 U.S. Code § 2378-1? Do you agree that the other factors you raised regarding Saudi actions will not change this initial determination and the applicability of 22 U.S. Code § 2378-1, but might inform a subsequent Presidential national security interest exception?

Answer. Yes, I re-affirm, consistent with my initial responses, that section 620I prohibits provision of assistance under the FAA or the Arms Export Control Act (AECA) to a country when it is made known to the President (or the Secretary, under delegated authority) that the Government of such country prohibits or otherwise restricts, directly or indirectly, the transport or delivery of U.S. humanitarian assistance. It is my view that if Saudi Arabia has directly or indirectly restricted the transport or delivery of U.S. humanitarian assistance, then U.S. assistance under the Foreign Assistance Act or the Arms Export Control Act would be restricted under this provision. I also understand that the provision includes a waiver authority by which assistance may be provided to the country under such circumstances if there is a determination that to do so is in the national interest, and that determination is notified to the relevant Congressional committees. I commit to reviewing this issue fully, if confirmed, and meeting with you within 30 days of my taking up the position of Legal Adviser to share my assessments, consistent with my professional obligations to the Department.

Question 4. If the July 18, 2017, testimony by witnesses from USAID and the World Food Programme is accurate, would you agree that the Saudi-led coalition has at least indirectly restricted the transport or delivery of U.S. humanitarian assistance in Yemen?

Answer. As indicated in my responses to previous questions, an assessment of whether the assistance restriction under section 620I of the Foreign Assistance Act has been triggered is a highly fact-specific inquiry. In my view, certain statements made in that hearing would, if accurate, raise a substantial question whether the responsible parties have indirectly restricted the transport or delivery of United States humanitarian assistance under the statute. As a nominee, I have not had the opportunity to consider the full range of classified and unclassified information available to the Department on this issue, or to consider how the Department has previously interpreted and applied Section 620I. If confirmed, I would make it a priority to study this issue in greater depth, and would certainly consider the testimony of the witnesses at the July 18, 2017 hearing as part of that analysis. I commit to reviewing this issue fully, if confirmed, and meeting with you within 30 days of my taking up the position of Legal Adviser to share my assessments, consistent with my professional obligations to the Department.

Additional Follow-Up Question Submitted to Ms. Newstead by Senator Young

Question 1. Thank you for your responses to my follow-up questions for the record that I received on November 7, 2017. I am grateful for your answers. Overall, I believe your answers to my follow-up questions are substantive and responsive. However, there is one sentence in your response that is concerning and that I hope to clarify.

In response to my questions, you wrote the following (emphasis added):

Thank you for the opportunity to address your concern. As indicated in my response to a previous question, and as you note above, the statutory standard is whether the transport or delivery of U.S. humanitarian assistance has been directly or indirectly prohibited or restricted by any government. The statutory language does not include a requirement that "all" foreign assistance be directly or indirectly restricted. In the portion of my answer you identify above, I was addressing one of many possible factual circumstances which, if true, could be relevant to analyzing whether the statutory standard has been met. However, I did not intend to suggest that the statute could only be triggered if there was a determination that "all" humanitarian assistance has been prevented. In my view, the statute itself, in setting the standard for triggering the restriction, does not include a requirement that "all" humanitarian assistance be directly or indirectly restricted.

I am also grateful for this response to my subsequent question:

Yes, I re-affirm, consistent with my initial responses, that section 620I prohibits provision of assistance under the FAA or the Arms Export Control Act (AECA) to a country when it is made known to the President (or the Secretary, under delegated authority) that the Government of such country prohibits or otherwise restricts, directly or indirectly, the transport or delivery of U.S. humanitarian assistance. It is my view that if Saudi Arabia has di-

rectly or indirectly restricted the transport or delivery of U.S. humanitarian assistance, then U.S. assistance under the Foreign Assistance Act or the Arms Export Control Act would be restricted under this provision.

With the exception of the one emphasized sentence above, I view those answers as responsive and reflective of an accurate understanding of what 22 U.S. Code § 2378-1(a) requires. However, your inclusion of that sentence underscores the concern I have raised and strikes me as inconsistent with the rest of your response. Based on your interpretation of the law, you say that even an indirect restriction of the transport or delivery by Saudi Arabia of U.S. humanitarian assistance would restrict the provision of U.S. assistance to Saudi Arabia under the Foreign Assistance Act or the Arms Export Control Act. Yet, you say that if Saudi Arabia were not restricting "all" assistance that "could be relevant to analyzing whether the statutory standard has been met." That is not consistent with a plain reading of the law, and I am not clear how that statement can be reconciled with the remainder of your responses-unless you are referring only to paragraph (b). Again, I recognize that such a consideration might inform a national security exception under paragraph (b), but it is not relevant to paragraph (a).

Pursuant to 22 U.S. Code § 2378-1(a), do you agree that a direct or indirect restriction of the transport or delivery of U.S. humanitarian assistance would trigger paragraph (a) regardless of a number of other considerations, including whether "all" humanitarian assistance were being restricted or not?

Do you agree that a variety of other considerations could inform a national security interest exception under paragraph (b) but are not relevant to paragraph (a)?

Answer: I appreciate the opportunity to address your further questions on this issue. Let me first re-affirm, consistent with my prior responses, that by its terms, section 620I prohibits provision of assistance under the Foreign Assistance Act or the Arms Export Control Act to a country when it is made known to the President (or the Secretary, under delegated authority) that the Government of such country prohibits or otherwise restricts, directly or indirectly, the transport or delivery of U.S. humanitarian assistance. As noted in my prior responses, it is my view that if Saudi Arabia or any other country directly or indirectly prohibits or otherwise restricts the transport or delivery of U.S. humanitarian assistance, then U.S. assistance under the Foreign Assistance Act and the Arms Export Control Act would be restricted under this provision.

With respect to your first question, I do agree that the direct or indirect prohibition or other restriction of the transport or delivery of U.S. humanitarian assistance is the relevant question under subsection (a) of the statute; and that the statute does not require that "all" humanitarian assistance has been restricted before the prohibition in subsection (a) can be triggered. Evidence that the transport or delivery of any amount of U.S. humanitarian assistance had been blocked by a foreign government would be highly relevant in determining whether a direct or indirect prohibition or other restriction has occurred under subsection (a) of the statute. If confirmed, I would wish to consider any such evidence, along with any other relevant facts, and prior interpretations of the Department, in providing advice on the application of the statute. With respect to your second question, I also agree that a variety of considerations could inform the national security interest exception under subsection (b) that would not be relevant to determining whether a direct or indirect prohibition or other restriction exists that would trigger subsection (a).

As noted in my response to your prior questions, an assessment of whether the assistance restriction under section 620I has been triggered is a highly fact-specific inquiry. If confirmed, it would be essential for me to have a full understanding of the relevant facts, including with respect to any classified or unclassified information available to the Department on this issue which I have not had the opportunity to consider as a nominee, before reaching a final view on these statutory questions. I commit to you that, if confirmed, I will review these issues in depth, to engage closely with my colleagues at the Department and USAID on these issues, and to meet with you and your staff to share my assessments and consider your views further, consistent with my professional obligations to the Department.

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD
SUBMITTED TO JENNIFER NEWSTEAD BY SENATOR CHRISTOPHER MURPHY

Question 1. Congressional authorization of new military actions: If confirmed, you will be required to provide advice and recommendations to the President and Secretary of State regarding the legal basis for potential military action. Do you believe there are situations (other than an imminent threat against the United States) in which the President may use military force against a new adversary, including a sovereign foreign government, without Congressional authorization? In what circumstances do you believe the President is required to seek Congressional authorization to use military force?

Answer. There is no legal question that is more consequential, or more serious, than the question of when and under what circumstances the President would be authorized to use military force. If confirmed, I would expect to consult with my colleagues in the Office of the Legal Adviser as well as with my counterparts in other departments and agencies, including the Department of Justice's Office of Legal Counsel, whenever the United States is faced with the need to consider the use of force.

In general terms, I understand that the Office of Legal Counsel has opined that the President has authority pursuant to Article II of the Constitution as Commander in Chief and Chief Executive to take military action that in nature, scope, and duration does not amount to war and that furthers sufficiently important national interests. Whether a particular use of military force would fall within the President's Article II authority, however, would require a fact-specific assessment at the time the use of military force is contemplated. That said, I have great respect for the critical role played by Congress in authorizing the use of military force. While I recognize that there are times when the President may need to resort to force when necessary to confront an attack or the imminent threat of an attack, I believe that the interests of the nation are best served when the President and the Congress act together to provide a clear and unambiguous legal authorization to support the men and women of our military as they defend our national security interests.

In addition to considering domestic legal issues, if confirmed I would also give careful consideration to whether any proposed use of military force would be consistent with applicable international law, including the body of international law that governs the resort to the use of force (the *jus ad bellum*) and the law governing the conduct of hostilities (the law of armed conflict or *jus in bello*).

If confirmed, I would welcome the opportunity to work closely with interested Members of this committee and staff on these important legal issues, consistent with my professional responsibilities when providing legal advice to the Secretary of State.

Question 2. North Korea: The administration has not so subtly hinted that a major conflict with North Korea may be coming—potentially a nuclear conflict. The administration has neither sought authorization from Congress, nor provided the American public with a legal basis for engaging in a potentially catastrophic nuclear conflict with North Korea. Based on the current facts, do you believe the President has the legal authority to initiate the use of military force against North Korea? In your opinion, would the President need congressional authorization to initiate armed conflict against North Korea?

Answer. There is no legal question that is more consequential, or more serious, than the question of when and under what circumstances the President would be authorized to use military force. If confirmed, I would expect to consult with my colleagues in the Office of the Legal Adviser as well as with my counterparts in other U.S. Government departments and agencies, including the Department of Justice's Office of Legal Counsel, on both the domestic and international law issues raised by your question.

In terms of domestic law, I generally understand that the Office of Legal Counsel has opined that the President's power to employ military force abroad in the absence of specific congressional approval derives from his constitutional responsibility as Commander in Chief and Chief Executive for foreign and military affairs. In particular, the President has authority pursuant to Article II of the Constitution to take military action that in nature, scope, and duration does not amount to war and that furthers sufficiently important national interests. A determination whether any particular use of military force, whether with respect to North Korea or otherwise, would fall within the President's Article II authority would require a fact-specific assessment at the time the use of military force is contemplated. In the absence of an immediate military attack, this assessment would necessarily include whether

the United States is under the threat of an imminent armed attack and what measures would be necessary and appropriate to address that threat. That said, I have great respect for the critical role played by Congress in authorizing the use of military force. While I recognize that there are times when the President may need to resort to force when necessary to confront an attack or the imminent threat of an attack, I believe that the interests of the nation are best served when the President and the Congress act together to provide a clear and unambiguous legal authorization to support the men and women of our military as they defend our national security interests.

In addition to considering domestic legal issues, if confirmed I would also want to give careful consideration to whether any proposed use of military force would be consistent with applicable international law, including the body of international law that governs the resort to the use of force (the *ius ad bellum*) and the law governing the conduct of hostilities (the law of armed conflict or *ius in bello*).

If confirmed, I would welcome the opportunity to work closely with interested Members of this committee and staff on these important legal issues, consistent with my professional responsibilities when providing legal advice to the Secretary of State.

Question 3. Legal justification for Syria strikes: On April 6, 2017, the administration launched military strikes against the Syrian regime. Since then, it has provided no legal rationale to justify the use of force under domestic or international law. Do you believe the strikes against the Syrian regime were legally justified? What is your understanding of the legal basis for these strikes under domestic law? Do you believe these strikes were legal under international law?

Answer. I understand that the President provided a report to Congress regarding this use of force in a letter dated April 8, 2017, consistent with the War Powers Resolution. In that letter, the President explained the strikes were taken to degrade the Syrian military's ability to conduct further chemical weapons attacks and to dissuade the Syrian regime from using or proliferating chemical weapons, thereby promoting the stability of the region and averting a worsening of the region's current humanitarian catastrophe. The letter also explained that the President acted in the vital national security and foreign policy interests of the United States, pursuant to his constitutional authority to conduct foreign relations and as Commander in Chief and Chief Executive.

Although, I do not at this time have access to all the information necessary to make any additional assessment of the domestic and international legal basis for the actions beyond what has been identified by the administration to date, if confirmed, I would make it a priority to study this issue further and to consult with my new colleagues at the Department of State and my counterparts in other U.S. Government departments and agencies on this matter. If confirmed, I would welcome the opportunity to work closely with interested Members of this committee and staff on these important legal issues, consistent with my professional responsibilities when providing legal advice to the Secretary of State.

Question 4. Documents related to the Syria strikes: A public interest group, the Democracy Project, has filed a lawsuit against the administration to obtain the legal justification for the administration's strikes against the Syrian regime. As part of those proceedings, the federal District Court for the District of Columbia required the Government, (the Departments of Justice, State, and Defense), to expedite the plaintiff's Freedom of Information Act Requests, concluding: "if production is unduly delayed, both [plaintiff] and the public at large will be 'precluded ... from obtaining in a timely fashion information vital to the current and ongoing debate surrounding the legality of a high-profile government action—namely, military strikes against the Syrian Government. Being closed off from such a debate is itself harm in an open democracy.'" Do you agree there is a legitimate public interest in disclosing the legal rationale for using military force? If confirmed, will you commit to providing this committee with a detailed and timely explanation of the legal justification for the use of military force—including the memo prepared by the Office of Legal Counsel for the purpose of advising the Attorney General regarding the legal bases for the April 6 strike against the Al Shayrat airfield in Syria?

Answer. I do agree that the public has a legitimate interest in understanding the legal rationale for the use by the United States of military force, and that providing such explanations to the extent possible is an important aspect of supporting legitimate public discussion of the issue. I also recognize that sometimes aspects of that rationale may not be able to be publicly disclosed for national security or other legitimate reasons.

With respect to the legal issues concerning the particular use of force in question, if confirmed I would make it a priority to study this issue further and to consult

with my new colleagues at the Department of State and my counterparts in other U.S. Government departments and agencies on this matter. If confirmed, I would welcome the opportunity to work closely with interested Members of this committee and staff on these important legal issues, consistent with my professional responsibilities when providing legal advice to the Secretary of State, and mindful of the particular interests of the Department of Justice concerning the nature of legal advice provided by a component of that Department to the Attorney General.

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD
SUBMITTED TO JENNIFER NEWSTEAD BY SENATOR TIM KAINE

Question 1. On April 6th, President Trump ordered an airstrike on the Shayrat military airbase in Syria. Following the airstrike, Congressman Schiff and I sent a letter to the President asking for the administration's legal justification for the strike (attached). To date, I still have not received a response with the administration's legal justification. Can you please provide me with the legal justification under domestic and international law for the 59 Tomahawk missiles launched on April 6th against targets at the Shayrat airfield in Syria? If unable to answer at this time, will you commit to providing me either a written or in person response within 30 days of being confirmed?

Answer. I understand that the President provided a report to Congress regarding this use of force in a letter dated April 8, 2017, consistent with the War Powers Resolution. In that letter, the President explained the strikes were taken to degrade the Syrian military's ability to conduct further chemical weapons attacks and to dissuade the Syrian regime from using or proliferating chemical weapons, thereby promoting the stability of the region and averting a worsening of the region's current humanitarian catastrophe. The letter also explained that the President acted in the vital national security and foreign policy interests of the United States, pursuant to his constitutional authority to conduct foreign relations and as Commander in Chief and Chief Executive.

Although, I do not at this time have access to all the information necessary to make any additional assessment of the domestic and international legal basis for the actions beyond what has been identified by the administration to date, if confirmed, I would make it a priority to study this issue further and to consult with my new colleagues at the Department of State and my counterparts in other U.S. Government departments and agencies on this matter. If confirmed, I would welcome the opportunity to work closely with interested Members of this committee and staff on these important legal issues, consistent with my professional responsibilities when providing legal advice to the Secretary of State.

Question 2. Thank you for your reply referencing the President's April 8th War Powers notification to Congress. I similarly referenced the President's notification in my letter to the administration that was attached to my original question to you. This letter highlights my concern is that the April 8th War Powers notification does not provide Congress with the information it needs to exercise its constitutional responsibilities nor does it provide a detailed legal analysis or justification for the U.S. strike on Shayrat military airbase in Syria under domestic and international law.

I understand that as a nominee you may not currently have access to all the information necessary to provide an assessment of the domestic and international legal basis for the action that the administration undertook, which is why I asked if you would provide me a detailed or written response within 30 days of being confirmed. In your previous response, you did not commit to doing so. For clarity, will you provide me a detailed or written response within 30 days of being confirmed with the legal analysis and justification for the U.S. strike on Shayrat military airbase in Syria under domestic and international law? A yes or no response is requested.

Answer. Thank you for your follow-up question on this issue, and for your consideration in noting that as a nominee I do not currently have access to all the information necessary to provide a detailed response to your question. If I am confirmed, I would make it a priority to consult with my colleagues at the Department of State and my counterparts in other U.S. Government departments and agencies on this matter and I will commit to engaging with you in detail within 30 days. Additionally, as I mentioned during my hearing and in my response to your earlier QFR, I would also welcome the opportunity to engage with interested Members of this

committee and staff as closely as I could to discuss such legal issues, mindful of my professional responsibilities when I provide legal advice to the Secretary of State.

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD
SUBMITTED TO JENNIFER NEWSTEAD BY SENATOR EDWARD J. MARKEY

Question 1. I believe the President's decision not to certify Iran's compliance with the Joint Comprehensive Plan of Action (JCPOA), without providing any factual or material evidence to warrant a non-certification is extremely reckless. The signal that this move sends to countries like North Korea or other bad actors is the same signal that withdrawing from the Paris Climate Agreement sent. Withdrawing from these agreements because the President doesn't like them undermines our diplomatic efforts across the globe and sends a message that the United States does not uphold its end of the bargain. Undermining these agreements could do untold damage to the National Security of the United States. Is Iran in technical compliance with the negotiated terms of the Joint Comprehensive Plan of Action (JCPOA)? If not, please identify specifically which provisions of the agreement it is violating.

Answer. With regard to your question about Iran's technical compliance with the terms of the JCPOA, I understand that the Secretary recently noted that "IAEA reports continue to indicate and confirm that Iran is in technical compliance of the agreement." I am also aware that the administration has expressed its continued concern that Iran has tried to push the limits in the JCPOA and, in the past, has exceeded some limits, such as those related to heavy water. I also understand that the administration has recently concluded, pursuant to the requirements of the Iran Nuclear Agreement Review Act of 2015 (INARA), that the sanctions relief Iran received as part of the JCPOA is not "proportionate" to the specific, limited-duration measures Iran took with respect to terminating its illicit nuclear program, and therefore was unable to provide a required certification to Congress under INARA on that basis.

If confirmed, I intend to examine this issue closely with my colleagues in the Office of the Legal Adviser and across other U.S. Government departments and agencies, so that I can provide the Secretary with the best possible legal advice on these matters.

Question 2. Can you explain the legal rationale for the President's recent decision not to certify Iran as complying with the terms of the Iran nuclear agreement?

Answer. It is my understanding that the Iran Nuclear Agreement Review Act of 2015 (INARA) requires the President to determine every 90 days whether he is able to certify to Congress that certain statutory criteria related to the Joint Comprehensive Plan of Action (JCPOA) have been met. One of those criteria is that suspension of sanctions with respect to Iran under the agreement is "appropriate and proportionate to the specific and verifiable measures" that Iran has taken with respect to terminating its illicit nuclear program. I understand that the administration recently determined that it was unable to certify compliance with this criteria, because it concluded that the suspension of sanctions pursuant to the JCPOA is not "proportionate" to the specific, limited-duration measures that Iran has taken to date with respect to terminating its illicit nuclear program. If confirmed, I intend to examine this issue closely with my colleagues in the Office of the Legal Adviser and across other U.S. Government departments and agencies, so that I can provide the Secretary with the best possible legal advice on these matters.

Question 3. In your opinion, does the JCPOA provide effective obligations and verification procedures on Iran and safeguards against possible breaches of such obligations? If not, what changes to the JCPOA would provide such assurances?

Answer. I understand that the Secretary of State has made clear that he believes the JCPOA has flaws, and that the administration intends to work closely with Congress to address those concerns, as well as on a broader approach to address malign actions by Iran outside the scope of the JCPOA. The Secretary has also said that while the U.S. Government works to fix the JCPOA, it intends to hold Iran strictly accountable to its existing commitments. I am aware that Department has said that, in that regard, it is essential for the IAEA to continue to monitor and verify Iran's activities to the full extent of its authorities. If confirmed, I would provide my best legal advice to the Secretary and the technical experts in the State Department as they work on ways to address those flaws, including by working with Congress on new legislation.

Question 4. What effect could presidential decertification under U.S. law have on U.S. compliance with obligations owed to Iran and the other five parties to the JCPOA, especially if no party other than the United States has found Iranian violations?

Answer. I understand that the administration's recent determination that a certification to Congress required under the Iran Nuclear Agreement Review Act of 2015 (INARA) cannot be made does not mean that the United States is ending its participation in the JCPOA. It is my understanding that the President and Secretary of State have made clear that the United States is continuing to adhere to its commitments under the JCPOA, and will work with Congress to hold Iran strictly accountable to its commitments. I also understand that the administration is not encouraging Congress to pass legislation to reinstate statutory sanctions at this time, which would make it impossible for the United States to continue implementing the full range of its sanctions relief commitments under the deal. If confirmed, I would provide my best legal advice to the Secretary and the technical experts in the State Department on these issues.

Question 5. Please explain what role your office plays in ensuring that the United States continues to meet its obligations under international agreements even after U.S. foreign policy and national interests are no longer aligned with such agreements.

Answer. The role of the Legal Adviser is to provide rigorous and objective legal advice to the Secretary of State, other Department officials, and policymakers across the Federal Government as they formulate and implement the foreign policy of the United States. Providing advice on the obligations of the United States under international agreements is a critical part of that mission. As I noted during my hearing, the Office of the Legal Adviser also plays a unique role supporting the Department's mission to promote our values, the rule of law, and respect for human rights and democracy around the world. Consistent with this role, the Legal Adviser is specifically responsible for advising on the interpretation and application of treaties and other international agreements to which the United States is a party, including the legal obligations of the United States under such agreements, and assisting Department officials in identifying means of advancing U.S. interests in a manner consistent with U.S. domestic and international legal obligations. If confirmed, I will continue the work of the Legal Adviser's Office to promote respect for international law and the rule of law more generally, and to ensure that our pursuit of U.S. foreign policy and national security objectives are informed by a complete understanding of the obligations of the United States under international agreements.

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD
SUBMITTED TO MANISHA SINGH BY SENATOR BENJAMIN L. CARDIN

Question 1. What are the most important actions you have taken in your career to date to promote human rights and democracy? What has been the impact of your actions?

Answer. During my tenure at the Foreign Relations Committee, one of the most important pieces of legislation I managed was the 2004 renewal of the African Growth and Opportunity Act (AGOA), which passed and was signed into law. AGOA provides unilateral trade preferences for eligible sub-Saharan African countries, with eligibility standards focused on democracy, human rights and the rule of law in addition to market-based economies. This legislation continues to provide a successful means of encouraging AGOA countries to take ownership of their governance, democracy and human rights. Reports evaluating AGOA have shown improvements in human rights and governance, and eligibility provides a strong incentive for AGOA countries to maintain and improve their records. I feel that country ownership is one of the most effective means of sustainable democracy and human rights.

My prior State Department service includes serving as the Deputy Assistant Secretary in the Bureau of International Organization Affairs overseeing the IO human rights portfolio. In this position, I attended meetings of U.N. human rights bodies as the U.S. representative. I worked on matters such as USG supported resolutions that condemned rape as a weapon of war and demanded the release of political prisoners. My contribution was one of maintaining and amplifying the United States as a country that promotes and values human rights.

Question 2. What will you do to promote, mentor and support your staff that come from diverse backgrounds and underrepresented groups in the Foreign Service?

Answer. If confirmed, I will foster a culture of leadership that supports professional development of staff, encourages participation in leadership development programs, and ensures that there are opportunities to apply for career-enhancing positions in the Bureau of Economic and Business Affairs. I will encourage employees to participate in the Department's Employee Affinity Groups, such as The Council for Career Enhancement and Professionalization, Executive Women at State, Blacks in Government (Carl T. Rowan Chapter), Hispanic Employees Council of Foreign Affairs Agencies, and the South Asian-American Employee Association. Employee Affinity Groups promote internal networking and career development. They are also helpful in recruitment, retention, skill development, and training.

Question 3. What steps will you take to ensure each of the supervisors at the Bureau of Economic and Business Affairs are fostering an environment that is diverse and inclusive?

Answer. If confirmed, I will make sure that EB's supervisors appreciate the importance of ensuring a diverse slate of candidates when filling vacancies. I will highlight the importance of supervisors providing mentoring and career development counseling that helps employees develop the skills necessary for advancement. Identifying those with the potential to assume senior leadership positions five to 10 years before they are ready to assume these positions is also important so that supervisors can help them begin preparing for these roles. There is a wealth of diverse talent within the Bureau of Economic and Business Affairs and if I am confirmed I will ensure a deliberate process to cultivate this talent.

Question 4. Do you commit to bring to the committee's attention (and the State Department Inspector General) any change in policy or U.S. actions that you suspect may be influenced by any of the President's business or financial interests, or the business or financial interests of any senior White House staff?

Answer. I commit to comply with all relevant federal ethics laws, regulations, and rules, and to raise concerns that I may have through appropriate channels.

Question 5. Do you commit to inform the committee if you have any reason to suspect that a foreign government, head of state, or foreign-controlled entity is taking any action in order to benefit any of the President's business or financial interests, or the interests of senior White House staff?

Answer. I commit to comply with all relevant federal ethics laws, regulations, and rules, and to raise concerns that I may have through appropriate channels.

Question 6. Do you or do any members of your immediate family have any financial interests in any country abroad?

Answer. Neither I nor any members of my immediate family have any financial interests in any country abroad.

Question 7. The State Department has an important voice in formulating U.S. international economic policy, but is the lead agency in only a few policy areas. Many officials have advocated greater inclusion of international economic issues into decisions on U.S. foreign policy. What is your view on this approach? Will the State Department continue to prioritize the "economic statecraft" agenda of the previous administration, which aimed to elevate economic diplomacy as a central component of U.S. foreign policy?

Answer. Secretary Tillerson has talked about how important the Department's promotion of economic prosperity is for the American people, and for our national security. If confirmed as Assistant Secretary of the Bureau for Economic and Business Affairs (EB), I will work to open markets for U.S. businesses around the world and carry out the mission statement of the Bureau: "Economic Diplomacy for America."

EB strengthens U.S. national security by promoting fair and open foreign markets, advocating for U.S. businesses, and developing policies that support prosperity, stability, and security. EB promotes U.S. businesses, exports, and jobs worldwide and provides economic forecasting and analysis that benefits U.S. policymakers. EB is also responsible for developing and implementing foreign policy-related sanctions adopted to counter threats to national security posed by particular activities and countries. Embassies and economic officers worldwide ensure economics plays its proper role in foreign policy. If confirmed, I am committed to ensuring that economic policy plays an important role the mission of the Department.

Question 8. What is the role of the State Department in formulating and negotiating U.S. positions at the G-8 and G-20 fora?

Answer. The Department of State is a key participant in policy formulation for both the G-7 and G-20 and works closely with the NSC and Treasury in summit preparation and negotiation strategy formulation. The Department's Under Sec-

retary for Economic Growth, Energy, and the Environment (E) has traditionally been the U.S. negotiator in Foreign Affairs Sous-Sherpa meetings for the G-7 with EB coordinating State's input into interagency discussions.

EB advocates for U.S. businesses and American workers by developing policies that support prosperity, stability, and security. These same economic priorities are the foundation for our multilateral negotiations at the G-7 and G-20.

Question 9. Some functions of the Bureau with regard to trade promotion and business advocacy seem to overlap with those of the Department of Commerce and the U.S. Commercial Service. How would you distinguish the difference between activities of the Bureau and other agencies involved in export promotion and support of U.S. interests abroad?

Answer. Along with colleagues across the State Department, EB coordinates and leads the U.S. Government's representation in foreign capitals and at a multitude of international fora to ensure a level playing field for U.S. economic interests. EB ensures that the U.S. business community's perspective is included and reflected in the broader foreign policy decision-making process. U.S. business and industry groups seek EB's and the Department's help with market intelligence to better understand commercial opportunities abroad. In addition, U.S. companies value EB's advocacy not only to promote exports of goods and services, but also to safeguard trillions of dollars of investments in global value chains.

The Foreign Commercial Service has offices in approximately 75 countries, while the State Department, primarily through EB, manages the commercial activities in the remaining diplomatic missions. Together, State and Commerce complement and amplify U.S. Government export promotion efforts overseas.

Question 10. Several major countries, including China, India, Indonesia, and Russia were designated on a "Priority Watch List" by USTR in its latest Special 301 report, which flags serious problems in IP protection and enforcement. On August 18, 2017, USTR also announced a Section 301 investigation into China's protection of U.S. intellectual property rights and forced technology transfer policies. How does the Bureau work to improve the enforcement of IPR in emerging markets like China?

Answer. EB advances U.S. economic interests by promoting intellectual property rights (IPR) around the world in support of 45 million U.S. jobs, more than 50 percent of U.S. exports, and almost 40 percent of U.S. GDP. EB works with U.S. private-sector stakeholders, U.S. Ambassadors, and the interagency to identify IPR challenges, formulate strategies that advance U.S. interests, and engage internationally. The bureau also manages the State Department's contributions to the Special 301 Report to Congress, an annual review of global IP protection and enforcement. EB works with U.S. missions in developing and emerging markets to improve weaknesses in IP enforcement regimes by developing action plans, supporting public awareness campaigns, and raising IP concerns with host governments and civil society, including in China, India, and other large markets. The bureau is also an active participant in the ongoing Section 301 China investigation to ensure the Department's contributions are incorporated in deliberations and in the final report.

Question 11. In early 2017, the United States withdrew from the Trans-Pacific Partnership (TPP), the comprehensive mega-regional trade deal between the United States, Japan, and ten other countries in the Asia-Pacific region. Meanwhile, several TPP members and other countries in the region, including China, are pursuing their own bilateral deals and the Regional Comprehensive Economic Partnership (RCEP), an agreement that is not expected to be as high standard as the TPP. In the absence of the TPP, what should be the strategy to advance U.S. strategic and economic interests in the region?

Answer. By withdrawing from the Trans-Pacific Partnership (TPP), the President sent a clear signal that the United States would take a new approach to trade issues, and paved the way for potential bilateral talks with the remaining TPP countries.

The United States remains actively and vitally engaged in the Asia-Pacific region. President Trump will be travelling to the region in November, including to the APEC Leaders Meetings, to advance a range of economic and national security priorities with our partners.

Question 12. The administration plans to prioritize bilateral trade negotiations over regional or multilateral deals. What does a shift in U.S. trade policy from mega-regional agreements such as the TPP and T-TIP mean for the U.S. ability to shape global rules? What do you believe should be the balance between U.S. regional and multilateral trade efforts?

Answer. The administration's goal is to negotiate trade agreements that benefit all Americans. Vigorous enforcement of existing trade agreements—both bilateral FTAs and multilateral agreements under the WTO—is also critical to maintaining support for free and fair trade. If confirmed, I look forward to working closely with the Office of the U.S. Trade Representative and other agencies to advance U.S. economic interests. I will seek to pursue any opportunity that maximizes benefits for U.S. companies and the American people.

Question 13. What are the Bureau's responsibilities with regard to combating terrorism finance? What successes have been achieved in building international cooperation in this regard?

Answer. EB works closely with the Department of Treasury to oversee a broad range of anti-money laundering and counter terrorism finance activities designed to degrade the funding of terrorist groups around the globe including ISIS. EB co-leads with Treasury a multilateral Global Coalition to Defeat ISIS Counter-ISIS Finance Working Group that brings together 39 countries to identify and counter ISIS' efforts to generate revenue and cut it off from the financial system. EB also coordinates State Department review of and provides foreign policy guidance for proposed Treasury designations of individuals and entities providing support to terrorists or acts of terrorism under Executive Order (E.O.) 13224.

EB also leads, and funds, the Department's engagement with foreign governments on Anti-Money Laundering/Counter Terrorist Financing (AML/CFT) issues through the Financial Action Task Force (FATF) and FATF-style regional bodies which promote implementation of international standards and best practices on countering terror financing. The efforts to counter terrorist finances have helped degrade ISIS's capacities.

Question 14. The United States is signatory to the OECD Anti-Bribery Convention and the United Nations Convention Against Corruption, which focus on preventing and criminalizing corruption and providing cooperation among signatory countries to recover stolen assets. What does the United States do to help countries implement such conventions? Have these efforts been successful?

Answer. The Anti-Bribery Convention has helped build a coalition against foreign bribery, allowing U.S. businesses to better compete in international markets. The United States promotes the commitments of the Convention through the OECD's Working Group on Bribery (WGB), where we have shared best practices such as the U.S. Foreign Corrupt Practices Act, the prohibition of the tax deductibility of bribes, and corporate liability to combat corrupt practices. U.S. implementation of the Foreign Corrupt Practices Act forms the basis of the Convention. Due to active U.S. engagement and leadership, the WGB has become an effective tool for pressuring other major economies to strengthen and enforce their foreign bribery laws. The WGB is especially successful in the anti-corruption area. International organizations call its tough peer review and relentless follow-up requirements the "gold standard" of anti-corruption monitoring.

The State Department leads the interagency in using the United Nations Convention Against Corruption (UNCAC) as leverage to encourage countries to fulfill their international anticorruption commitments. This is done in multilateral forums and bilaterally, using foreign assistance funds in some cases. The funding supports capacity building for anticorruption enforcement and development and implementation of anticorruption policies. Bilateral programs reinforce the Convention through programs and assistance focused on both preventative efforts and enforcement. On asset recovery, EB promotes the UNCAC as the global legal framework. In this context, EB supports capacity building and case coordination efforts through regional and bilateral programs.

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD
SUBMITTED TO MICHAEL T. EVANOFF BY SENATOR BENJAMIN L. CARDIN

Question 1. What are the most important actions you have taken in your career to date to promote human rights and democracy? What has been the impact of your actions?

Answer. The Diplomatic Security Service (DSS) is the law enforcement arm of the Department of State, and as such is charged with investigating illegal passports or visas. Visa and passport fraud is often intertwined with other illegal activities, such as human smuggling, sex trafficking, terrorism, and money laundering.

In the early 1990s, while serving as a new Assistant Regional Security Officer (ARSO) in the Philippines, I was part of a successful DSS/Immigration and Naturalization Service (INS) joint operation that broke a human sex trafficking ring which was using illegal visas. At the time, underage Philippine women were being lured to California and then further into the United States, where they were forced into becoming sex workers. Utilizing our overseas expertise in the Philippines, as well as our Philippine police contacts, we helped arrest the Philippine and American ring leaders. The operation ended a multimillion-dollar operation and freed the women who had been trapped.

If confirmed, I will be strongly committed to maintaining and enhancing DSS's partnership with police agencies around the world to thwart and apprehend criminals and cartels that abuse human rights via transnational crimes.

In terms of promoting democracy, as Director of Security for NATO, from 2007 to 2011, I played a lead role in uncovering a previously undetected Russian Foreign Intelligence Service (SVR) operation. I recommended the expulsion of two Russian NATO Mission Intelligence Officers. President Obama approved my recommendation, which led to the first and only expulsion of Russians from a NATO Partnership for Peace mission.

Question 2. What will you do to promote, mentor and support your staff that come from diverse backgrounds and underrepresented groups in the Foreign Service?

- What steps will you take to ensure each of the supervisors in the Bureau of Diplomatic Security are fostering an environment that's diverse and inclusive?

Answer. Diversity among the senior ranks of Diplomatic Security (DS) has ebbed and flowed over time, and will be one of the factors considered when making assignments to leadership positions. Though perhaps not in the numbers we would hope, the leadership of DS has been made up of a diverse group of men and women from within our ranks that consistently perform admirably and often move on to prestigious positions within the Government or in private industry. Over time, the hiring practices of DS and the Department as a whole have grown to actively seek out a more diverse workforce. With an eye to the future, a Recruitment Unit, comprised of active duty DS Foreign Service members, has been established to spearhead outreach and recruitment to diversity groups. My goal is to recruit a more diverse Foreign Service cadre, and if confirmed, I will work to ensure that this goal is reflected in our future senior leadership.

If confirmed, in keeping with Secretary Tillerson's strong emphasis on diversity, I will ensure all DS supervisors at all of our missions have access to and avail themselves of opportunities to receive regular formal training and regular guidance on EEO principles, diversity, and inclusion to sensitize them to these important issues and maximize diverse talents in our workforce.

Question 3. Do you commit to bring to the committee's attention (and the State Department Inspector General) any change in policy or U.S. actions that you suspect may be influenced by any of the President's business or financial interests, or the business or financial interests of any senior White House staff?

Answer. If confirmed, I commit to comply with all relevant federal ethics laws, regulations, and rules, and to raise concerns that I may have through appropriate channels.

Question 4. Do you commit to inform the committee if you have any reason to suspect that a foreign government, head of state, or foreign-controlled entity is taking any action in order to benefit any of the President's business or financial interests, or the interests of senior White House staff?

Answer. If confirmed, I commit to comply with all relevant federal ethics laws, regulations, and rules, and to raise concerns that I may have through appropriate channels.

Question 5. Do you or do any members of your immediate family have any financial interests in any country abroad?

Answer. No, we do not.

Question 6. Will the DS A/S have independent access to the Secretary of State at any time to discuss security-issues that he deems require the Secretary's immediate attention?

Answer. According to Section 103 of the Department of State Authorities Act, Fiscal Year 2017—"The Assistant Secretary for Diplomatic Security shall report directly to the Secretary, without being required to obtain the approval or concurrence of any other official of the Department, as threats and circumstances require."

If confirmed, I am confident that I will have independent access to the Secretary of State when required.

Question 7. What steps has Diplomatic Security taken to ensure that its positions are filled with persons at the appropriate level of experience?

Answer. The Department of State assigns a grade level to each overseas position. As the Bureau of Diplomatic Security (DS) contemplates assigning agents to Regional Security Officer (RSO) and other positions, it ensures to the maximum extent possible that individuals at certain grade levels are assigned to positions with corresponding grades. Prior to the assignment of any DS employee to a new position, a panel of senior officers reviews his or her qualifications to ensure that the employee is the best possible match for the position.

Question 8. What is State doing to further close the gaps in Diplomatic Security's Language Designated Positions?

Answer. As a 26-year veteran of the Department of State, I have seen firsthand the value of having certain foreign language skills while assigned overseas. While I have been absent from the Department since 2011, it is my understanding that the Department has recently created curricula in various target languages—such as Arabic, for example—designed specifically for Diplomatic Security (DS) personnel assigned to High Threat, High Risk posts overseas.

Question 9. Please discuss any impacts you believe that the Bureau of Overseas Building Operations' transition from the Standard Embassy Design to Design Excellence has had on the security of U.S. embassies. In your view, has the construction of embassies using the Design Excellence approach unnecessarily delayed the move of staff from facilities that do not meet current security standards to new, secure facilities? Please explain your reasoning.

Answer. Whether the Department utilizes Standard Embassy Design or Excellence in Diplomatic Facilities, every diplomatic facility constructed meets the Department's security requirements and those codified in law.

Embassies differ in the size and operational requirements, as well as their security needs. Each new embassy should be designed to meet these operational requirements. If confirmed I will work closely with Overseas Building Operations and ensure that the Department implements a strategy that delivers safe, secure functional facilities as quickly and cost effectively as possible.

Question 10. What steps has State taken to mitigate the risks to costs and schedules associated with the Excellence approach to building new embassies?

Answer. I am not yet aware of the specific management steps the Department may be undertaking concerning cost and schedule of new embassy projects. I do believe that, embassies differ in the size and operational requirements, as well as their security needs. Each new embassy should be designed to meet these operational requirements. Should I be confirmed as the next Assistant Secretary of Diplomatic Security, I will work with Overseas Building Operations to execute projects in the most cost effective, expedient, and risk adverse manner.

Question 11. To what extent do State's facilities have or require waivers and exceptions to security standards? What steps has State taken to address weaknesses in its waivers and exceptions program?

Answer. According to the Department's Foreign Affairs Manual, the Secretary of State may waive statutory collocation and setback requirements should it be determined that it is in the national interest of the United States.

Also, I understand that new facilities must meet all Overseas Security Policy Board security standards whether constructed or acquired by purchase or lease. Every attempt must be made to acquire sites or new facilities that meet, or can be upgraded to meet, physical security standard. If compliance with one or more standards is not possible for a specific building, an exception to this standard may be applied.

The Bureau of Diplomatic Security (DS) is tasked with ensuring the security of American diplomatic missions and personnel. Should I be confirmed as the next Assistant Secretary of Diplomatic Security, I will work tirelessly every day to ensure all those serving overseas under Chief of Mission authority live and work in facilities that are built to the highest standards. In situations where a waiver or exception is needed, I'll ensure DS puts in place the necessary mitigation measures to ensure the Department's personal are safe.

Question 12. How extensively does State rely on temporary facilities that have been in place for extended periods of time? What progress has State made in creating additional guidance relating to temporary facilities? Answer The Department of State has one set of standards in place for its facilities in to ensure proper physical security protection for its personnel. Personnel cannot or should not occupy facilities until they are completed and there is a certification that the standards have been

met or that an appropriate waiver or exception is in place. Where waivers or exceptions are issued, appropriate mitigation strategies also need to be in place.

Question 13. To what extent has State improved its compliance with security standards at overseas residences? Have the standards implemented in July 2014 affected the number of waivers and exceptions requested?

Answer. The Bureau of Diplomatic Security (DS) continually reviews and re-evaluates the physical security posture of our missions. There have been multiple changes to security requirements in response to incidents and DS identifying the changing tactics of our adversaries and newly identified vulnerabilities. Changes to DS's policies are initiated by the bureau in collaboration with OBO and vetted through the Overseas Security Policy Board, and are then reflected in the 12 FAH-5 and 12 FAH-6. If confirmed, I will work to ensure our security standards are continually updated in order to mitigate against evolving threats faced by our residents overseas.

Given my absence from the Department since 2011, I cannot currently comment on the July 2014 standards. However, if confirmed, I look forward to engaging further with the committee on this issue.

Question 14. In your view, do recent incidents affecting U.S. diplomatic personnel at their residences in Cuba demonstrate increased risk that would-be attackers may target personnel at locations they perceive as less secure, including residences? If confirmed, what further steps, if any, would you recommend DS take to ensure diplomatic residences and other potential "soft targets" are secure? Would such steps include implementing GAO recommendations to DS to improve risk management processes in this area?

Answer. I understand the Department has reduced its diplomatic presence in Cuba to ensure the safety of its personnel in response to these health attacks. I also understand, based on public information, that the Department is currently unable to identify the source of the attacks, and believes that U.S. citizens may also be at risk if they travel to Cuba.

In general, the danger from terrorists and criminals operating outside of our facilities is best countered by well-informed individuals who conscientiously follow established personal security practices. I understand the Department makes every effort to facilitate employees' knowledge, including contractors, of best security practices through training, constant communication, and various off-compound security measures. If confirmed, I intend to thoroughly examine all current security practices pertaining to diplomatic residences and other potential "soft targets," and evaluate what additional security measures may be required.

Question 15. What steps has State taken to ensure that posts conduct residential physical security surveys and request security exceptions, when needed, in a timely manner?

Answer. According to the Foreign Affairs Manual (FAM), the Bureau of Diplomatic Security (DS) is responsible for providing a secure environment for the residences of U.S. citizen direct-hire employees and their eligible family members sent abroad to conduct official business for the U.S. Government at Foreign Service posts. The regional security officer (RSO) or post security officer under the direction of the chief of mission, deputy chief of mission, or principal officer, has primary responsibility for inspection and validation of the suitability of housing from a security point of view.

Before a specific house or apartment is leased, a security survey must be conducted. The survey is used to determine whether the dwelling meets, or can be modified to meet Department security standards. The security survey should be a major factor in the decision lease or reject a proposed property. Surveys are required to be updated every five years if property is retained in the housing inventory.

The residential physical security survey is an important tool for the RSO that must be used in order to ensure Department personnel are housed in safe and secure facilities. Should I be confirmed as the next Assistant Secretary of Diplomatic Security, I will work to ensure DS's RSOs complete these surveys on time.

Question 16. To what extent has State adapted its Soft Targets Security Upgrade Program in light of recent public terrorist attacks?

Answer. The Department's Soft Target security upgrade program began in 2003 to provide funding to qualified overseas schools and eligible chartered employee association facilities for physical security upgrades to mitigate terrorism and violent crime. The Overseas Building Operations (OBO), in coordination with the Bureau of Diplomatic Security (DS), evaluates and approves requested upgrades for funding. Typical upgrades include closed circuit TV systems, public address systems, perimeter wall upgrades, DS-approved shatter-resistant window film, and security light-

ing. I understand that the program does not fund upgrades to non-real property items, such as school buses, nor does it provide funding for staff or guards.

The Department also works to proactively share information through its personnel at post, the Overseas Security Advisory Council (OSAC) and Consular Affairs' Directorate of Overseas Citizen's Services. Specifically, the Department disseminates classified threat reporting and assessments to diplomatic posts that allow RSOs and Emergency Action Committee members to make informed decisions about threat mitigation, to include providing information to private American interests. OSAC's Global Support Unit obtains and provides unclassified warnings to private U.S. citizen and business interests, corporations, NGOs, and faith based groups when they are identified as targets in classified threat reporting. Finally, the Department's American Citizen Services Division drafts and disseminates unclassified language for travel warnings, alerts, and emergency messages for use by private U.S. citizens traveling and residing abroad. Language in these products regularly highlights concerns regarding terrorist plots against soft targets.

Should I be confirmed as the next Assistant Secretary of Diplomatic Security, I look forward to working with OBO to leverage the Soft Target Security Upgrade program to counter potential soft target attacks in the future.

Question 17. What efforts is State taking to ensure that U.S. personnel are in compliance with all applicable security training requirements, including mandatory HTSOS and FACT training?

Answer. It is paramount that Department personnel receive the necessary security training prior to arriving at post. The Foreign Affairs Counter Threat course prepares U.S. Government personnel working at U.S. embassies and consulates for situations they may face globally and in potentially volatile regions. I understand the Department will make this course mandatory for all chief of mission personnel serving overseas by January 2019. I am fully supportive of this requirement and, if confirmed, I will work to ensure that every official American receives this training prior to arriving at post.

Question 18. Does State have the capacity to train the number of U.S. personnel required to take Diplomatic Security-provided FACT training?

Answer. Yes, I believe that the Department currently has the capacity to train the personnel required to take this training. I look forward to the completion of construction of the Foreign Affairs Security Training Center at Fort Pickett, Virginia, which should address the rapidly growing student population and future projected training needs.

Question 19. What steps is State taking to reinforce information covered in new arrival briefings with U.S. personnel and their families?

Answer. The Regional Security Officer sends out regular security notices that remind post members of security programs and procedures and ensures that employees are informed of changes in a post's security environment in a timely manner. Posts also conduct regular drills to reinforce emergency planning information provided during new arrival briefings.

Question 20. How much progress has State made ensuring that (1) overseas posts annually update their EAPs and (2) Diplomatic Security comprehensively reviews key EAP sections?

Answer. If confirmed, I will ensure that Emergency Action Plans (EAPs) continue to be created and tracked in the Crisis and Emergency Planning Application. I will ensure Diplomatic Security's Emergency Planning branch consistently monitors which posts are overdue on their EAPs and actively works with the posts and the Department's regional bureaus to ensure comprehensive annual updates to EAPs are finalized in a timely manner.

Question 21. What efforts is Diplomatic Security making to ensure that posts complete and report completion of required crisis and evacuation drills within required time frames?

Answer. Regional Security Officers (RSOs) overseas must record the completion of their drills in a SharePoint site that can be reviewed by their DS desk officers in Washington. The desk officers review drill compliance on a regular basis and work with the RSOs at post to ensure their posts are compliant with their drill requirements and appropriate emergency action officers lead drills and they receive full post participation.

Question 22. What steps is State taking to ensure that overseas posts complete required lessons learned reports following evacuations and submit those reports to State headquarters for analysis?

Answer. It is my understanding that in 2013, the Bureau of Diplomatic Security (DS) created the Operations Planning Unit. The Unit is responsible for creating comprehensive, innovative solutions to complex Bureau-level operational planning requirements. An element of this unit is the Operations Research and Analysis office, which provides global operations research and analysis support to DS while advising the bureau on the conduct and development of After Action Reviews—a version of a lessons learned document. If confirmed, I commit to ensuring that DS develops and promulgates immediate lessons learned from attacks overseas and trend analysis in support of major events planning, Department of Defense (DoD) engagements, and Government Accountability Office (GAO) reports.

Question 23. To what extent is DOD postured with adequate forces and equipment to ensure support to U.S. missions in crisis situations?

Answer. The partnership between the Department of State and the Department of Defense (DOD) to ensure mission security has always been strong. It is my understanding that the relationship has grown significantly stronger in recent years. If confirmed, I will actively work with my DOD colleagues to ensure that mission security continues to stay a top priority.

Question 24. What is the progress of increasing MSG detachments at identified diplomatic facilities? What challenges exist to providing the personnel or support needed for these additional units?

Answer. Since 1948, Marine Security Guards (MSGs) have been a vital part of the protection of personnel, equipment, and classified information overseas. It is my understanding that the Department and the Marine Corps have made significant progress in increasing the size and number of MSG detachments. In my experience, the usual limiting factor to increasing a detachment's size is leasing or building housing that meets the detachment's space requirements and the Department's security standards for a Marine residence.

Question 25. What steps have been taken to ensure that recent State and DOD policy and procedure updates are institutionalized and readily available in future emergencies?

Answer. Having been absent from the Department since 2011, I am not currently in a position to effectively characterize various steps taken to ensure the most recent Department of State and DOD policy and procedure updates are institutionalized and readily available in future emergencies. If confirmed, however, I will ensure that all policy and procedures agreed upon by the Department and DOD are understood and briefed regularly to all DS personnel.

Question 26. Given State's numerous facilities worldwide and extensive use of contractors, what unique information security challenges, if any, does it face? How does it manage its global cybersecurity program?

Answer. The Department strives to maintain acceptably high employee to contractor ratios, at all of its facilities worldwide. In terms of managing the global cybersecurity program, every overseas mission and domestic bureau has a trained Information Systems Security Officer on duty, as well as Foreign Service Regional Cybersecurity Officers assigned overseas for additional subject matter expertise. All embassy systems are connected back to the United States, where cybersecurity analysts monitor the department's networks 24/7 for adversarial activity.

Question 27. Given the rapidly changing nature of technology, how does State assess and address threats to its systems and users from changing cyber threats?

Answer. The Department has a broad array of tools at its disposal to effectively assess and address constantly evolving cyber threats. It is my understanding that within DS, a new Directorate for Cyber and Technology Security (CTS) has been created and its structure builds upon the proven DS global "defense-in-depth" cybersecurity program by unifying the Department's cyber threat intelligence, incident response, and cyber forensics teams to ensure that all matters related to illegal and/or malicious cyber activity are reviewed in a fully coordinated manner. This system expedites reporting to law enforcement and intelligence consumers, delivers expert technical support for counterintelligence and data loss investigations, and ensures swift response on all cybersecurity events.

If confirmed, I will ensure that DS continues to maintain and enhance its core cyber and technology programs.

Question 28. How will the new Directorate for Cyber and Technology Security improve State's capability to address cybersecurity issues?

Answer. Having been absent from the Department since 2011, I am not currently in a position to effectively characterize this new Directorate. However, if confirmed, I commit to keeping with the recent Office of Management and Budget management

reform directives and ensuring that the Directorate for Cyber and Technology Security enables the Bureau of Diplomatic Security (DS) to more fully leverage its advanced technology and operational security expertise and ensure that DS is poised to address cutting-edge security challenges such as insider threats while continuing to maintain a state-of-the-art cybersecurity program to detect, react, and respond to cyber-based threats targeting the Department's networks and information.

Question 29. To what extent, if any, does assigning CISO responsibilities to multiple bureaus increase State's risk for duplication, overlap, or fragmentation of information security responsibilities?

Answer. The Department is uniquely structured with a professional security and law enforcement organization that has developed a mature, robust cybersecurity program over the past three decades. While I have been absent from the Department since 2011, my understanding is that this DS cyber team provides advanced threat analysis, network monitoring, cyber investigation support, penetration testing, vulnerability analysis, and cyber risk assessment, all skills which complement the IT security and system hygiene duties performed by the CISO team. Respective roles and responsibilities are carefully delineated, unambiguous, and periodically reviewed and reaffirmed by the CIO and the Diplomatic Security Assistant Secretary. If confirmed, I am committed to strengthening the Department's cyber security efforts by continuing these periodic reviews in coordination with the CIO.

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD
SUBMITTED TO MICHAEL T. EVANOFF BY SENATOR MARCO RUBIO

Question 1. As you well know, State Department employees work tirelessly around the globe to keep America safe and secure. State Department employees don't get enough credit for the expeditionary diplomatic work they do, often operating in extremely difficult and dangerous conditions to advance America's interests. However, if our diplomats cannot leave the compound, they cannot do the important work necessary to advance American foreign policy.

- How do you balance the security of State Department employees with allowing them the access beyond embassy walls that they need to successfully accomplish America's mission?

Answer. Operating overseas presents unique security challenges. In the face of ever-evolving threats, I believe the Department strives to provide the most secure environment possible for the conduct of America's foreign policy and though there is never a complete guarantee of safety, I believe that the Bureau of Diplomatic Security (DS) makes every effort to ensure all Department of State personnel, including contractors, are aware of potential risks and trained accordingly.

If confirmed, I will ensure that the Diplomatic Security Service continues to make prudent risk management decisions that allow for effective diplomacy while still proving for the safety and security of those we are entrusted to protect.

Question 2. As you well know, State Department employees work tirelessly around the globe to keep America safe and secure. State Department employees don't get enough credit for the expeditionary diplomatic work they do, often operating in extremely difficult and dangerous conditions to advance America's interests. However, if our diplomats cannot leave the compound, they cannot do the important work necessary to advance American foreign policy.

- Do you believe that "expeditionary diplomacy" is the new normal? If so, how can you facilitate it through increasing access for State Department employees beyond the walls of our embassies?

Answer. It is paramount that the Department be able to engage diplomatically on a broad range of issues and fronts. Doing this work requires a diplomatic presence in some of the most difficult and dangerous environments in the world, including active conflict zones. While we must acknowledge the inherent risk of carrying out diplomacy in certain areas, it is important to leverage capabilities provided by the interagency that allows the Department to operate safely in such zones.

If confirmed, I am committed to working within the interagency to ensure that the foreign affairs community has a safe and secure platform to carry out the engagement required to advance our national security interests. While risk can never be completely eliminated from our diplomatic duties, regardless of the threat level, we must always work to mitigate it.
