

NOMINATIONS

WEDNESDAY, JANUARY 12, 2022

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

The committee met, pursuant to notice, at 9:23 a.m., in Room SD-G50, Dirksen Senate Office Building, Hon. Robert Menendez presiding.

Present: Senators Menendez [presiding], Cardin, Shaheen, Coons, Murphy, Kaine, Markey, Merkley, Booker, Van Hollen, Risch, Rubio, Johnson, Romney, Paul, Young, and Hagerty.

Also Present: Senator Casey.

OPENING STATEMENT OF HON. ROBERT MENENDEZ, U.S. SENATOR FROM NEW JERSEY

The CHAIRMAN. This hearing of the Senate Foreign Relations Committee will now come to order.

We are here today to consider nominations for four important positions: Sarah Cleveland to be the State Department Legal Adviser, James O'Brien to be the Coordinator for Sanctions Policy, Dr. Beth Van Schaack to be Ambassador-at-Large for Global Criminal Justice, and George Tsunis to be the Ambassador for Greece.

Congratulations to each of you. We appreciate your willingness and that of your family, because we recognize that this is a sacrifice by families as well, to serve your country in this capacity.

I know that there are various colleagues who are looking to make introductions of our nominees before the committee.

I understand that Senator Coons is seeking to introduce Ms. Cleveland, Senator Booker will be introducing Dr. Van Schaack, and Senators Casey and Paul will be introducing Mr. Tsunis.

So we will start with—I understand Senator Casey is joining us virtually?

Senator CASEY. That is correct.

The CHAIRMAN. Senator Casey, the floor is yours.

STATEMENT OF HON. ROBERT P. CASEY, JR., U.S. SENATOR FROM PENNSYLVANIA

Senator CASEY. Chairman Menendez, thank you for this opportunity. I want to thank you and Ranking Member Risch and members of the Senate Foreign Relations Committee for this opportunity and to appear before you in this format to support George Tsunis' nomination to be the next Ambassador to Greece.

I have known George for over 15 years. He has friends on both sides of the aisle in the United States Senate, and I want to thank him for his willingness to serve.

I also want to thank, as Chairman Menendez made reference to, his family: George's wife, Olga, his two daughters, Eleni and Yanna, and his son, James. Families make it possible for an American to serve our nation abroad and we are grateful for the contribution that they make.

Let me start with the role of Ambassador to Greece. As the committee members know better than I, this is a vital diplomatic position for the United States government.

As Russia continues its unprecedented aggression against Ukraine and other democratic neighbors and Iranian threats in the Middle East grow, the position of Ambassador to Greece has become even more important to U.S. national security and regional stability in Europe and the Middle East.

This Ambassador serves to promote the thriving U.S.-Greek economic partnership and both of our nations' democratic values and respect for human rights.

George is prepared to take on these responsibilities and these challenges, and strengthen our relationship with Greece. His legal and business acumen and strong commitment to public service make him well qualified to serve as Ambassador.

He has practiced law in New York, rising to be a partner in New York's largest real estate, municipal law, and commercial litigation firm. In 2005, he left his firm to start his very successful company, Chartwell Hotels.

George has grown Chartwell into a leader, operating hotels across the East Coast and mid-Atlantic. I know personally in Pennsylvania George has developed four hotels from ground-up construction, creating hundreds of construction jobs and permanent hospitality jobs.

Every job, especially in places like Williamsport, Pennsylvania—Lycoming County, in the north central part of our state—every single job is important to those communities, and that community also rehabilitated the historic 1913 First National Bank, returning this Williamsport landmark to commercial use.

He has also been very active in the Chamber of Commerce in Lycoming County. In addition to his private sector leadership, George has also served his community, whether it is as a lawyer for the New York City Council, work he has done in the town of Huntingdon's Environmental Open Space Committee, the Dix Water District, serving as an advisor here in the Senate to the Senate Banking Committee, and chairman of the Battery Park City Authority.

Again, in service of the people of Pennsylvania, George founded a scholarship for promising students at the Pennsylvania College of Technology, one of our premier institutions in the state, and he remains active in his support for Lycoming County communities and philanthropic organizations.

George knows intimately the interests of the Greek people and how to represent those interests at the highest levels. He is the son of first-generation Greek immigrants, learning Greek as his first

language and actively participating in the community of St. Paraskevi.

George has become a recognized leader in the Greek-American community. He was a founding trustee of the foremost Greek civic leadership organization in the United States, the Hellenic American Leadership Council, and remains vice president of the board of directors.

He continues to support other nonprofit organizations. His missions revolve around the importance of the U.S.-Greek relationship, including the Hellenic Initiative, Leadership 100, the Greek Orthodox Archdiocese National Coordinating Committee, and so much more.

For his leadership on behalf of the Greek-American community, George has received the St. Paul's Medal, the highest ecclesiastical honor for a layman from the Greek Orthodox Church in America and a member to the Order of St. Andrew the Apostle, the highest honor given to a lay person by his All Holiness Ecumenical Patriarch Bartholomew.

George has extensive leadership experience, and his long commitment to the U.S.-Greek relationship have prepared him well to represent the United States as our next Ambassador to Greece.

I enthusiastically support and recommend his nomination to you and I am honored to have this opportunity today. Thank you.

The CHAIRMAN. Thank you, Senator Casey, for that insightful introduction.

I now turn to a distinguished member of this committee, Senator Paul.

**STATEMENT OF HON. RAND PAUL,
U.S. SENATOR FROM KENTUCKY**

Senator PAUL. Mr. Chairman, Ranking Member, and members of the committee, thank you for allowing me to introduce my friend, George Tsunis, to you and to encourage you to approve him as the U.S. Ambassador to Greece.

I have known George for several years. I know him as a patriot, a civic leader, and an exceptional executive, as well as someone who has exhibited the bipartisanship that I think will help him in negotiating as a diplomat and representing his country.

He has been an important figure in U.S.-Greek relations. He understands the dynamics of the long friendship between our countries. We would be fortunate to have him as our representative to the government of Greece.

George has succeeded in business and is eager to bring that expertise to the public sector. He heads Chartwell Hotels, as you have heard, which is successful across the country.

He also chairs the Battery Park City Authority, which manages a 92-acre development on Manhattan's Lower West Side. He speaks Greek, is a proud American of Greek descent.

George is active in the Orthodox Church, was a founding trustee of the Hellenic American Leadership Council and is a trustee of the Hellenic Initiative, a global humanitarian organization established a decade ago.

George has worked closely with the Greek-American leaders in the United States, knows many of the important players in Greece, and is conversant with the issues they deal with regularly.

He also understands how to operate part of the government—as part of the government in the United States. He served as a legislative attorney for the New York City Council, as counsel for the Dix Hills Water District in New York, and as an aide to a U.S. senator.

In fact, he worked for Senator Alfonse D'Amato, who is here today. Thank you, Senator D'Amato, for being here today to support George's nomination.

George is involved in countless charities that give back to the community, including various hospitals. We are fortunate that George wants to return to government service.

Thank you for considering him for this important role and, thank you, Mr. Chairman, for allowing me to speak on George's behalf.

The CHAIRMAN. Thank you very much, Senator Paul.

Senator Booker, are you ready to introduce Dr. Van Schaack?

**STATEMENT OF HON. CORY BOOKER,
U.S. SENATOR FROM NEW JERSEY**

Senator BOOKER. Yes. Thank you very much, Mr. Chairman.

Mr. Chairman, I have known Dr. Beth Van Schaack for 34 years. She had the unfortunate experience of meeting me when we were both teenagers, and while I was a hunk of undeveloped athletic and intellectual potential, she was an extraordinary standout in her college years.

She was brilliant, wise beyond her years, and someone deeply committed to her classmates. I made the smart decision just to follow her and I followed her to Yale Law School where we continued to develop our friendship, but more importantly to the matter before us, I got to see her tie her intellectual excellence with a commitment for larger issues of justice.

This is someone who has, I have seen, weather very difficult personal challenges overcoming adversity, and yet she continued to devote her life over and over to serving her country and others.

After receiving her law degree from Yale, she has been committed to achieving justice, beginning her career working on behalf of victims of human rights abuses. She has served as deputy in the same office that she has now been nominated to lead.

She has been advisor, a valued advisor, to Secretary of State Hillary Clinton, to Secretary of State John Kerry, on ways the United States can prevent and respond to mass atrocities and war crimes.

In 2014, she returned back to Stanford where she is currently the Leah Kaplan Professor in Human Rights, focused on training the next generation of human rights advocates. She has earned a reputation amongst her students and colleagues and peers as one of the preeminent experts in our nation on these pressing issues.

It is an honor for me, one of the great of my time as senator, to be able to not only introduce her but to press upon my colleagues that I think she will be a tremendous addition to our diplomatic corps, not just because of her vast experience, not just because of her intellect and expertise, but because of her character.

It is what I have seen for 34 years, that she has grit, that she has guts, that she has dedication to others, and I think she will be an extraordinary asset to this nation, not to mention the fact that she can still beat me in a 40-yard dash.

Thank you, Mr. Chairman.

Oh, and, Mr. Chairman, a point of privilege, please. I just have to say to my friend, George Tsunis [speaks Greek] and, sir, thank you for standing up [speaks Greek].

The CHAIRMAN. Wow. [Laughter.]

The CHAIRMAN. Forty-yard dash. Okay.

I understand that Senator Coons is here so we recognize him now.

**STATEMENT OF HON. CHRISTOPHER A. COONS,
U.S. SENATOR FROM DELAWARE**

Senator COONS. Thank you, Mr. Chairman. It is my honor to introduce my friend and law school classmate, Sarah Cleveland, nominated by President Biden to serve as Legal Adviser for the State Department.

I want to welcome her family—Roger, Grover, Richard, Electa—who are with her today. I have known her more than 30 years, and I remember most clearly and sharply our working together on international human rights litigation on behalf of refugees being interdicted on the high seas—refugees from Haiti who were fleeing a change of government there and seeking refuge.

She was the legal brains of our team and was brilliant then and is brilliant now. She has been nominated to be the State Department's top lawyer at a critical moment when we need someone with deep experience, great values, and the ability to help give the most relevant and timely advice to the leaders of our State Department and our nation.

If confirmed, she would be the second woman in our nation's history to hold the position of the presidentially-appointed Legal Adviser. She was raised in Alabama, worked as a sales clerk and waitress in Birmingham to pay her way through Brown. Went on to study at Oxford as a Rhodes Scholar and Yale Law School, and to clerk on the Supreme Court for Justice Blackmun.

She has worked in red states and blue states, at home from Texas to New York to South Florida and in far-flung corners of the world from Namibia to Eastern Europe advancing justice, human rights, and national security.

As a result of her nearly 30 years of teaching and practicing international law, she has developed deep expertise. I have a letter I will submit for the record of endorsement of former legal advisers who served in both Republican and Democratic administrations.

Fourteen of her years were spent working for or advising the U.S. government or the judiciary and eight as an independent expert at the request of the U.S. government.

If you do not know Sarah yet, it will soon become clear she cares deeply about democracy, human rights, and the rule of law around the world and is greatly knowledgeable about the threats posed by Russia, China, Iran, and others.

Sarah Cleveland is a dedicated and capable public servant with the intelligence, character, and experience to serve admirably as

the next State Department Legal Adviser. I look forward to supporting her and urge my colleagues to support her confirmation.

Thank you.

The CHAIRMAN. Thank you, Senator Coons.

Let me turn to the nominees, briefly.

Ms. Cleveland, welcome and congratulations on your nomination. You have a stellar legal resume. I have no doubt that your experience including in the Office of the Legal Adviser, or L, as it is well known, will serve you well.

I am pleased to note that you have the strong support of your predecessors. All nine living former legal advisers, six Republicans and three Democrats, have written to Senator Risch and myself endorsing your nomination, and without objection, I will ask that those letters will be included in the record.

[The information referred to is located at the end of this transcript.]

The CHAIRMAN. As you know, the role of Legal Adviser is somewhat unique in our government. If confirmed, you will be the general counsel of the State Department leading L and its cadre of exceptionally talented lawyers, and you will also be the chief international legal diplomat for the United States.

You will be expected to provide objective legal advice to the Secretary of State, other department policymakers, and offices across the federal government.

I expect that, if confirmed, you will build upon the work of the current administration to return the United States to a place it once held on the global stage as a country that both observes and advances the rule of law.

As an attorney for the executive branch, you will no doubt be pressed to broadly interpret the President's Article Two authorities.

I will look to you for a vigorous and objective legal analysis, and I expect that consistent with our Constitution you will understand the interest and role of Congress in the area of foreign affairs and work in good faith with this committee to ensure that Congress' constitutional role in foreign affairs is fully and meaningfully respected.

Mr. O'Brien, I am pleased to have you before us, both because I believe you are an excellent nominee and because your presence signifies something that both Senator Risch and I worked towards, the establishment of a Sanctions Coordinator position in law.

It is a critical position, and the last administration's decision to leave it unfilled was, in my view, shortsighted and damaging. As you know, sanctions are one of the few meaningful tools we have in our foreign policy toolkit.

If confirmed, you will have three statutorily-mandated roles. You will be the lead sanctions diplomat, the lead for State on sanctions in the interagency process, and the lead within State in coordinating sanctions policy.

In short, your efforts will be instrumental to ensuring that our sanctions policy are fully aligned with and advancing our foreign policy. I look forward to hearing how you will approach that complex set of challenges awaiting you, if confirmed.

Dr. Van Schaack, congratulations on your nomination. I am glad to hear you can outrun my distinguished colleague from New Jersey. You have had a distinguished career that has prepared you well for this position.

If confirmed, you will be tasked with advising the Secretary of State and others in the U.S. government on how to prevent and respond to atrocities around the world. To say this is a critical task would be an understatement.

For decades, the United States has led the world in seeking responsible mechanisms of international justice to hold accountable the dictators, thugs, and warlords who commit atrocities against their own citizens.

And yet, when we look around the world today, we see rising impunity for perpetrators of atrocities against innocent civilians.

The genocide of Uighurs in China's Xinjiang region, the murderous assault on the Rohingya and other ethnic and religious minorities by the military junta in Burma, the Assad regime's machinery of torture and death in Syria, and the use of starvation and sexual assault as a weapon of war in Ethiopia are only some examples.

Strengthening international mechanisms for accountability is essential to helping prevent mass atrocity crimes, and I look forward to hearing your ideas on how best we can accomplish this.

Mr. Tsunis, I welcome your nomination, which comes at such a high point in the U.S.-Greece relationship. Greece is a critical U.S. ally, a strategic partner, and a lynchpin for security and democracy in the Eastern Mediterranean.

As the birthplace of democracy, Greece continues to be a beacon of freedom in southeastern Europe. In recent years, we have taken several important steps towards strengthening our strategic partnership with Greece.

Congress has reaffirmed its strong bipartisan support for Greece with the landmark Eastern Mediterranean Security and Energy Partnership Act in 2019, which I led with Senator Rubio and other members of this committee.

Last year, we made strides in strengthening NATO's southern flank with the passage of the U.S.-Greece Defense and Interparliamentary Partnership Act, which I also led with Senator Rubio and other members of this committee, and Secretary Blinken and Foreign Minister Dendias recently signed an updated and expanded Defense Cooperation Agreement, furthering our ability to stand with our allies.

Mr. Tsunis, if confirmed, you will inherit the strongest U.S.-Greece relationship in history, one that is well poised for even further growth.

You know Greece and the dynamics of the region well, and I am confident in your ability to bring the U.S.-Greece relationship into the next era.

With that, let me turn to the distinguished ranking member for his comments.

Senator Risch?

**STATEMENT OF HON. JAMES E. RISCH,
U.S. SENATOR FROM IDAHO**

Senator RISCH. Thank you, Mr. Chairman.

On the nomination of Legal Adviser to the Department of State, this position advises the Secretary on all legal issues related to the work of the department including matters of compliance with congressional oversight—obviously, a very important matter to his committee.

The use of force also in international agreements entered into by the United States are also matters on which advice is given.

Ms. Cleveland, I do not envy the task before you. You come to this nomination at a pivotal juncture in U.S. foreign policy as the United States faces some of what I believe are the greatest challenges of our time.

You will be in the room as the department grapples with difficult legal questions. But I wanted to emphasize another critical element of the job: an obligation and a commitment to keep Congress informed on these crucial legal questions.

I raise this point because so far in the Biden administration, State's legal opinions have been missing in action. I am sure they exist. I hope they exist. But they are not shared with this committee.

It is hard to understand administration policy and to do oversight without them. This lack of transparency damages confidence. Responses to questions on Nord Stream 2 sanctions have been delayed and are cursory when received.

The department has been unwilling to respond to the most basic factual questions about why certain entities have not been sanctioned under clear statutory requirements.

Questions about congressional oversight over potential reentry into the JCPOA have been insufficient. The administration's compliance with the Caesar Act has been lackluster at best, and it is accelerating outreach to Assad despite congressional inquiries.

These are just a few of the most egregious examples. Should you be confirmed, I expect you to take seriously congressional requests for information and transparency.

It is important to note that your job is to provide legal opinions, not legal facts. The law is never as black and white as legal advisers make it out to be, and since this body writes the laws, interpreting them in contradiction to congressional intent is dangerous.

On the nomination of Sanctions Coordinator, I am pleased the administration has nominated someone to this important position.

As the chairman indicated, he and I personally engaged to create this office under law and evaluate it to the rank of Ambassador with a direct report to the Secretary of State.

I believe the structure can improve U.S. sanctions policy in three chief ways: improve internal department communications about the goals of our sanctions regimes and most effective use of implementation tools and resources, improve U.S. interagency communication to ensure our sanction regimes are fully aligned with U.S. foreign policy objectives, and create a centralized point of contact for foreign governments to ensure effective communication with allies and partners on sanctions implementation and technical cooperation.

This particular position is so important now that this country more and more relies on sanctions to adjust other countries' actions and we do that in lieu of kinetic type of activity that we have engaged in in the past. This can be more important and actually more effective than kinetic action.

Should you be confirmed, I expect you to focus on determining structure process and resourcing that will set the office up for success now and in the future, and I ask for your commitment to cooperatively engage with our office and Congress on these issues, going forward.

On the nomination of Ambassador-at-Large for Global Criminal Justice, this office is tasked with aiding in interagency atrocity prevention efforts as well as driving response and accountability efforts for war crimes, crimes against humanity, and genocide.

This role is important in seeking accountability for crimes committed in countries such as Syria, Burma, Iraq, Ethiopia, Venezuela, and others in conflict.

While I remain a strong critic of the ICC, this office needs to work with the international community and our like-minded allies to find the proper avenues of accountability and justice for victims of atrocities. I look forward to hearing your thoughts on these issues.

Finally, on the nomination of Ambassador to Greece, Greece faces challenges on multiple fronts as it manages China's attempts to establish footholds in its economy, Russian malign influence campaigns to divide the European Union, and massive migration inflows.

Should you be confirmed as Ambassador, I hope your experience in business and development will help you navigate the difficult challenges regarding foreign influence and competition in Greece's economy.

Thank you, Senator Menendez.

The CHAIRMAN. Thank you, Senator Risch.

Now we will turn to our nominees. We would like to give you about five minutes or so to summarize your statements. Your full statements will be included in the record, without objection, and we will start with Ms. Cleveland.

STATEMENT OF SARAH H. CLEVELAND OF NEW YORK, NOMINATED TO BE LEGAL ADVISER OF THE DEPARTMENT OF STATE

Ms. CLEVELAND. Thank you, Chairman Menendez, and thank you, Senator Coons, for that generous introduction and your years of friendship and leadership.

Chairman Menendez, Ranking Member Risch, and distinguished members of the committee, it is an honor to appear before you as President Biden's nominee to serve as Legal Adviser of the Department of State. I am deeply grateful to President Biden and Secretary Blinken for their confidence and support.

I also want to express my gratitude to the members of this committee and your staff for your consideration. For over 20 years, I have taught my students about the importance of the constitutional role of Congress in U.S. foreign relations.

I have found my conversations with members of this committee enlightening, and I look forward to our continued engagement, if confirmed.

I would like to introduce my daughter, Electa Cleveland, my son, Richard Tuddenham, my brother, Grover Cleveland—and yes, that is his name—and my life partner, Roger Cohen, who are with me today.

My 97-year-old father, Melford Cleveland, is watching from his home in rural Alabama, and my ailing mother, Marcia Cleveland, who danced with the National Ballet of Washington here, is with us in spirit.

We all know the tremendous toll that government service inflicts on our loved ones. I want to thank my family for their steadfast enthusiasm and support and for all I have learned from them. I love you deeply.

My family has worked at all levels of national, state, and local government, and to them I owe my passion for public service.

My father, a law clerk to fellow Alabamian Justice Hugo Black, held his first legal position in the Office of the Legal Adviser of the State Department, the office to which, if confirmed, I would now return.

He then served for 20 years in the Justice Department before completing his career as an administrative law judge for the Social Security Administration.

My brother was legal counsel to King County in Washington State. My great-grandfather was Speaker of the House of the Massachusetts legislature, and my grandmother, Walter Frances Cleveland, was a public school teacher and a member of the Board of Electors of her rural Alabama community. She registered numerous Black Americans to vote after World War II.

Inspired by their examples, it has been my mission to serve the public good. I began as a law clerk to District Judge Lewis Oberdorfer and Supreme Court Justice Harry Blackmun.

I have spent more than two decades teaching students about the central place of law in U.S. foreign relations, first, at the University of Texas, then at Columbia University. Some of them are now among the excellent lawyers at the Office of the Legal Adviser, or L.

I know L well. I served as the Legal Adviser's counselor on international law from 2009 to 2011 and as an expert adviser to the office until 2013. I have been a member of the Secretary of State's Advisory Committee on International Law for over a decade.

Having provided legal advice to the department under both Democratic and Republican administrations, I understand L's important role. Its 300 attorneys and other professionals provide objective advice on the law to the department and the U.S. government. They problem solve, they identify legal constraints, and offer their best judgment to policymakers seeking to advance U.S. interests. They help explain U.S. government legal positions to this Congress, the public, and counterparts around the world.

I would bring a lifetime of knowledge to the office, if confirmed. My experience overseeing the definitive treatise on U.S. foreign relations law and serving as the U.S. government nominated expert to international bodies makes me keenly aware of the challenges

involved, particularly as states such as Russia, China, and Iran pose growing threats to our global legal order.

If given the honor of serving as Legal Adviser, I would seek to provide balanced, clear, practical, and objective legal advice of the highest quality.

I would do so with integrity, humility, and a full sense of the great responsibility I would bear. I would commit to maintaining close relations with Congress and this committee.

As a teacher, I often close my course with a quote from Oliver Wendell Holmes: “Go out and live greatly in the law, find your passion, and wear your heart out after the unattainable.” We may not always be able to secure all our aspirations as a nation for ourselves and humanity, but grounded in our values, our Constitution, and our laws, we must never waver from that quest.

It would be a privilege to serve the U.S. in this capacity and I look forward to your questions.

[The prepared statement of Ms. Cleveland follows:]

PREPARED STATEMENT OF SARAH H. CLEVELAND

Chairman Menendez, Ranking Member Risch, and members of the committee, it is an honor to appear before you as President Biden’s nominee to serve as Legal Adviser to the Department of State. I am deeply grateful to President Biden and Secretary Blinken for their confidence and support. I also want to express my gratitude to the Members of this Committee, and your staff, for your consideration. For over twenty years, I have taught my students about the importance of the constitutional role of Congress in U.S. foreign relations. I have found my conversations with Members of this Committee enlightening, and I look forward to our continued engagement, if confirmed.

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help explain U.S. government legal positions to Congress, the public, and counterparts around world.

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It would be an immense privilege to serve the United States in this capacity. I look forward to your questions.

The CHAIRMAN. Thank you.

Mr. O'Brien?

STATEMENT OF JAMES C. O'BRIEN OF NEBRASKA, NOMINATED TO BE HEAD OF THE OFFICE OF SANCTIONS COORDINATION, WITH THE RANK OF AMBASSADOR

Mr. O'BRIEN. Thank you, Mr. Chairman, Ranking Member. It is an honor to appear before the committee and to have been asked to undertake this assignment, if the Senate agrees that I am to be confirmed.

You each emphasized the role that this committee in particular plays in shaping U.S. sanctions policy. I already enjoy close relationships with some of your advisers. I expect to deepen those relationships and engage with this committee if I am confirmed to this position. I thank you for all the time that you have given and the staff has given to my nomination.

I am also honored to be on this panel. These three people are the best at what they do and I really hope we get the chance to work together if the Senate decides that that is to be.

I am here because of the support of my family—my wife, Mary, my children, Sean and Jamie, my sisters, Meghan and Nan.

I want to offer a special word of thanks to my dad, Jim, who is watching from Nebraska. His mother worked for Senator Burke many years ago. So he has had the opportunity to revisit some family history as I prepared for this hearing.

And I want to say a word about my late mother, Jane. She died a year ago last week. It has been a difficult year for my father. But I think now we are starting to see our way through this.

She believed strongly in community service, having supported efforts to bring refugees to Nebraska, to work with integrating the people mentally challenged into their own housing, to work with English as a second language students, and to promote the sports among girls.

I think that heritage of community service makes me hope that she would be proud of me for being willing to go back into government service. I know she respected American institutions and she would appreciate your role in deciding whether I am suited to go back into public service.

I have worked in government almost 15 years of my career, serving twice as Special Presidential Envoy. I worked as an attorney adviser in L in my opening position in the U.S. government, and so I have been around U.S. sanctions policy for more than 30 years.

I have seen how important sanctions are and I know it is vital that we enforce and fully implement the sanctions that we have on the books, and so I commit myself that that will be a major part of my work if I am confirmed.

In preparing for our consultations, I have been very impressed by the investment the executive branch has made in identifying sanctions targets and trying to develop the programs so that they can be effective.

There are several hundred people at State and Treasury as well as the Department of Commerce, the White House, the intelligence community, working on these issues.

As the Treasury Department noted in its review published several months ago, it alone has submitted almost 9,500 individual sanctions over recent years. There are 20 independent sanctions programs and scores of legislation and executive orders to be coordinated. So there is a lot of work to do to see that this is effective.

Mr. Chairman, you asked how I would intend to do this. One is with a lot of help. I will need the colleagues from across the executive branch and also those in this room and across the Congress to be sure that U.S. policy is clear and forceful.

I want to emphasize just a few points. First, sanctions are part of a strategy. They cannot be the strategy.

So I will work with the colleagues responsible for U.S. policy so that we are clear about what we intend by sanctions, they have clear goals, we understand the power structures we are trying to enforce, and we are adaptable so that when the targets of our sanctions seek to evade them we are able to respond.

Secondly, we have to understand both the effectiveness of our sanctions and their impacts and, in particular, we need to look at the humanitarian consequences of sanctions policy.

Nothing undermine sanctions more quickly than the idea that they are hurting the innocent bystanders, and so I look forward to working with you to be sure that we achieve the goals of our sanctions while not hurting those who are not the intended targets.

The third point is we have to work with our partners. Mr. Chairman, you mentioned that I would be a lead diplomat. I intend to work not only on my own but with all of my colleagues from across the administration such as ambassadors in post because we need everyone to speak with one voice about what the U.S. expects from our partners and what we can learn from our partners so that we work well together.

Finally, Mr. Chairman, sanctions are vital to the fight against corruption. This committee and others in Congress have been resolute in declaring corruption to be a threat to the United States.

President Biden has established a strong national strategy to combat corruption globally, and I see the role of sanctions as a critical part in this and also in bringing forward the use of all the tools that are available to fight corruption.

With that, we can attack not only the targets—the people who are responsible for human rights abuses and violations of law that cause us to want to sanction them—but we will be able to get at the networks of enablers that they rely upon to be able to attack our national security.

So with that, Mr. Chairman, Ranking Member, I appreciate the consideration so far and I look forward to further conversation.

[The prepared statement of Mr. O'Brien follows:]

PREPARED STATEMENT OF JAMES C. O'BRIEN

Mr. Chairman, Ranking Member, and distinguished members of the committee, I am honored to appear before you today. Thank you for considering my nomination, and I also thank the committee staff for meeting with me.

I am here because of the support of my wife Mary, our children Sean and Jamie, my father Jim, and my sisters Meghan and Nan. My mother, Jane, died just over a year ago. She was the bedrock of our family and instilled a love of community and public service that has shaped my life.

Mr. Chairman and Ranking Member, I welcome the opportunity to return to public service if I am confirmed. I began my career as an attorney-adviser in the State Department in 1989 and was proud to serve the U.S. Government and the American people until 2001, when I finished an assignment as presidential envoy for the Balkans upon the democratic transition in Serbia. In 2015, I became the first U.S. presidential envoy for hostage affairs, a position that allowed me to work with many brave Americans seeking the safe return of their family members. It was a privilege.

I am honored that President Biden and Secretary Blinken have nominated me to be Sanctions Coordinator. I thank the Committee for its strong advocacy—collectively and through several members—for the position. If confirmed, I look forward to consulting closely with Committee staff and with each of you.

Sanctions can be very powerful, and the use or threat of sanctions can be extraordinarily effective when in support of a coherent strategy and in concert with other elements of national power. The Executive Branch under both parties and, with the urging of Congress, has invested considerable resources in the U.S. capacity to design, implement, and enforce sanctions. From my informal count, there are hundreds of officials at the Departments of State and the Treasury, as well as in other agencies, working to develop and implement authorities that promote anticorruption, human rights, counterterrorism, counternarcotics, nonproliferation, and other core principles of U.S. policy. I am committed to making sure we preserve and enhance the effectiveness of sanctions. If confirmed, I look forward to working with these officials, as well as those responsible for other tools of foreign policy and economic statecraft.

The scale of this effort means that proposals for sanctions arise across the U.S. Government on different timelines and for disparate reasons. The recent U.S. Treasury review of its sanctions noted an increase in individual sanctions designations, under Treasury authorities alone, to more than 9,421 in 2021. Each must be coordinated by and with officials responsible for other facets of U.S. policy. This poses several challenges.

First, sanctions must be part of a strategy; they themselves cannot be the strategy. As the Treasury review notes and the Department of State has also expressed, each sanction, however well-justified, should support a clear policy objective and rest upon analysis of alternatives, effects, and support from our partners. This requires that its purpose be understood beyond the U.S. Government, that we work with other governments, including at the United Nations, and that we maintain and adapt sanctions regimes as technology changes and targets of sanctions react. The Office of the Sanctions Coordinator cannot do this alone and the office's success will require the leadership and cooperation of colleagues from across the Government, the Department, and especially from our embassies.

Second, we must do more to understand both the effectiveness and the effects of U.S. sanctions, in particular human consequences. Sanctions may serve many purposes, and we should know both what our aim is and whether we have hit it. We should also work to avoid causing unintended consequences and take into account the effects on U.S. businesses and competitiveness. The White House has announced a review of the humanitarian consequences of sanctions, and I look forward to being active in those discussions if I am confirmed before the review is complete.

Each of these goals requires that the U.S. Government and our partners engage regularly with the business community and with nongovernmental bodies and inde-

pendent journalists. These groups add to our understanding of the impact of our sanctions actions and where they may help us achieve our foreign policy goals.

Third, if confirmed, I look forward to engaging with our global partners whose cooperation will make sanctions programs more effective. This would again require that the Sanctions Coordinators' office work closely with US missions abroad and other officials who engage other governments.

Finally, sanctions are crucial to the fight against corruption. The administration has put forward a robust strategy, and Secretary Blinken has announced that the Department will appoint a senior anticorruption coordinator. If confirmed, I look forward to working with the coordinator to address the threat from corrupt actors and the networks that enable them.

Thank you again for the opportunity to appear before you today and for considering my nomination. I look forward to answering your questions.

The CHAIRMAN. Thank you.
Mr. Tsunis?

STATEMENT OF GEORGE J. TSUNIS OF NEW YORK, NOMINATED TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO GREECE

Mr. TSUNIS. Thank you.

Chairman Menendez, Ranking Member Risch, esteemed members of the committee, I am honored to appear before you today as President Biden's nominee to be the U.S. Ambassador to Greece, and I thank Senator Paul and Senator Casey for their introduction.

I thank the President and Secretary Blinken for their trust and confidence in me and I am grateful to this committee for considering my nomination.

But most of all, if you will permit me, I want to express my heartfelt thanks to my parents. They heard Emma Lazarus' calling and they immigrated to this country from Greece to build a better life for themselves and our family.

My family is very cognizant of the fact that if it was not for the Truman Doctrine, the world's first democracy would have been pulled into the Soviet orbit. If not for the Marshall Plan, Greece would have had descended into mass starvation and poverty, and very likely my family as well.

I would not be here today if it was not for the United States' willingness to provide opportunity for immigrants like my mom and dad and for first-generation Americans like me. I am humbled by the President's nomination and I view it as a chance to give back to the country that has given me and my family so much.

I would also like to thank my wife, Olga, whose mom and dad also immigrated from Greece, and our three children—James, Eleni, and Yanna. They are my bedrock of support.

I would like to thank former Senator Alfonse D'Amato, my former boss, who is here to offer moral support. Thank you, Senator.

It is not an exaggeration to say that I am blessed to live the American dream. After attending law school, I have worked in government as an associate in a small law firm and then a partner in a large firm until I followed my father in business as an entrepreneur when I founded Chartwell Hotels.

During my tenure as CEO, Chartwell has weathered recessions, pandemics, and experienced unprecedented growth. Having wit-

nessed the strength and resiliency of U.S. business in the international marketplace, I understand the importance of expanding our global business and trade and its effect on U.S. jobs as well. As an executive in the hospitality industry, I also understand how important it is to take care of people.

If confirmed, my top priority would be to ensure the safety and security of the Americans who live, work, and travel to Greece.

Throughout my career, I have maintained a strong interest in foreign and economic affairs. I have had the pleasure of contributing to public policy as a member of the Brookings Institution Foreign Policy Leadership Committee and a trustee with the Business Executives for National Security.

If confirmed, I arrive in Athens at a crucial moment in U.S.-Greece relations. Our relationship is at an all-time high. The Annual Strategic Dialogue has helped define the key pillars of the U.S.-Greece relationship, including cooperation on defense and security, law enforcement and counterterrorism, trade and investment, disaster preparedness, energy and climate, and people-to-people ties.

Greece continues to make progress on all fronts as it pursues economic revitalization, overcomes the challenges of the pandemic, and grapples with tensions in the Eastern Mediterranean. What happens in Greece matters, not just for Greece but for the Eastern Mediterranean region, NATO, the European Union, and the United States?

Opportunity is vital to the United States and to Greece. If confirmed, my top economic commercial goals will be to build on the efforts to accelerate trade and investment opportunities.

The United States and Greece have made tremendous progress on energy cooperation. If confirmed, I will encourage Greece to continue investing in renewable energy as well as projects important to regional energy security, including the interconnector with Bulgaria, the interconnector with North Macedonia, the Alexandroupolis Floating Storage Regasification Unit, and electricity interconnectors that can support both gas and renewable energy sources.

We are seeing an increased U.S. investment in Greece and renewables. I believe there is room for greater cooperation. The United States benefits from a strong growing bilateral defense relationship with our NATO ally, Greece. If confirmed, I will continue to deepen this key relationship.

Particularly noteworthy is the long-standing United States military presence at Souda Bay on the island of Crete from which the military conducted approximately 2,500 flights and 143 ship visits in 2021 alone.

Our defense relationship has grown significantly over the last five years, including through updates to the Mutual Defense Cooperation Agreement and greater training and deployment in Greece.

People-to-people ties are the bedrock of the U.S.-Greek relationship. If confirmed, I look forward to working with the Greek cultural institutions, NGOs, municipalities, individual citizens, the diaspora, this committee, to nourish these ties.

Finally, if confirmed, I will work with an outstanding Mission Greece team in an inclusive manner to bolster this already strong relationship.

Thank you for the opportunity to be here before you. I welcome your questions.

[The prepared statement of Mr. Tsunis follows:]

PREPARED STATEMENT OF GEORGE TSUNIS

Chairman Menendez, Ranking Member Risch, and esteemed members of the committee, I am honored to appear before you today as President Biden's nominee to be the U.S. Ambassador to Greece and I thank Senator Paul and Senator Casey for their introductions. I thank the President and Secretary Blinken for their trust and confidence in me, and I am grateful to this committee for considering my nomination.

But most of all and if you will permit me, I would like to express my heartfelt thanks to my parents. They heard Emma Lazarus' calling and immigrated to this country from Greece to build a better life for themselves and our family. My family is cognizant of the fact that if not for the Truman Doctrine, the world's first democracy would have been pulled into the Soviet orbit, and if not the Marshall Plan, Greece would have descended into mass starvation and poverty. I would not be here today were it not for the United States' willingness to provide opportunity for immigrants like my parents and for first-generation Americans like me. I am humbled by the President's nomination and view it as a chance to give back to the country that has given me and my family so much. I would also like to thank my wife Olga and our three children—James, Eleni, and Yanna—who are my bedrock of support. Thanks also to former Senator Alfonse D'Amato, my former boss, who's here to offer moral support. Thank you, Senator.

It is not an exaggeration to say that I have been blessed to live the American dream. After attending law school, I worked in government as an associate in a small law firm and then as a partner in a large firm until I followed my father into business as an entrepreneur when I founded Chartwell Hotels. During my tenure as CEO, Chartwell weathered the recession and experienced unprecedented growth. Having witnessed the strength and resilience of U.S. business in the international marketplace, I understand the importance of expanding our global business and trade. As an executive in the hospitality industry, I also understand how important it is to care for people. If confirmed, my top priority would be to ensure the safety and security of the many Americans who live, work, and travel in Greece.

Throughout my career, I've maintained a strong interest in foreign and economic affairs, and I've had the pleasure of contributing to public policy as a member of the Brookings Institution's Foreign Policy Leadership Committee and as a trustee with the Business Executives for National Security. If confirmed, I will arrive in Athens at a crucial moment in U.S.-Greece relations. Our relationship is at an all-time high. The annual Strategic Dialogue has helped define the key pillars of the U.S.-Greece relationship, including cooperation on defense and security, law enforcement and counterterrorism, trade and investment, disaster preparedness, energy and climate, and people-to-people ties. Greece continues to make progress on all fronts as it pursues economic revitalization, overcomes the challenges of the pandemic, and grapples with tensions in the Eastern Mediterranean. What happens in Greece matters—not just for Greece, but for the Eastern Mediterranean region, NATO, the European Union, and the United States.

Economic opportunity is vital to the United States and to Greece. If confirmed, my top economic and commercial goals will be to build on efforts to accelerate trade and investment opportunities.

The United States and Greece have made tremendous progress on energy cooperation. If confirmed, I will encourage Greece to continue investing in renewable energy as well as projects important to regional energy security, including the Interconnector Greece-Bulgaria, the Interconnector Greece-North Macedonia, the Alexandroupoli Floating Storage Regasification Unit, and electricity interconnectors that can support both gas and renewable energy sources. We are seeing increased U.S. investment in renewables. I believe there is room for even greater cooperation.

The United States benefits from a strong and growing bilateral defense relationship with our NATO ally, Greece. If confirmed, I will continue to deepen this key relationship. Particularly noteworthy is the long-standing U.S. military presence at Souda Bay on the island of Crete from which the military conducted around 2,500 flights and 143 ship visits in 2021 alone. Our defense relationship has grown signifi-

cantly over the last five years, including through updates to the Mutual Defense Cooperation Agreement and greater training and deployments in Greece.

People-to-people ties form the bedrock of the U.S.-Greece relationship. If confirmed, I look forward to continuing to work with Greek cultural and educational institutions, NGO's, municipalities, individual citizens, and the diaspora to nourish these ties.

Finally, if confirmed, I will work with the outstanding Mission Greece team, in an inclusive manner, to bolster this already strong relationship.

Thank you for the opportunity to appear before you. I welcome your questions.

The CHAIRMAN. Thank you.

Dr. Van Schaack?

STATEMENT OF BETH VAN SCHAACK OF CALIFORNIA, NOMINATED TO BE AMBASSADOR-AT-LARGE FOR GLOBAL CRIMINAL JUSTICE

Ms. VAN SCHAACK. Chairman Menendez, Ranking Member Risch, distinguished members of this committee and your staffers, thank you so much for the opportunity to appear before you today.

I am very touched by Senator Booker's lovely and somewhat hyperbolic introduction. It is a great honor to have been nominated by President Biden to return to the office where I once served as deputy and to be Ambassador-at-Large for Global Criminal Justice.

I am grateful to the President and to Secretary Blinken for the confidence they have placed in me and also for giving me the opportunity to return to public service to advance global justice on behalf of the American people.

I am very pleased to be accompanied today by my husband, Brent Lang, and one of my dearest friends, Kim Keating. Supporting me virtually are my mom, Carol, and my two kids, Miles and Brooke. They are joining us from their respective perches at the universities of the great states of Washington and Michigan, respectively.

I am also thinking today of my late father, Eric, who was a veteran of the U.S. Army and who would be so proud of his two daughters—me, as I sit here before you today, and my sister, who is a devoted pediatrician and also a veteran of the U.S. Army.

My family has been an endless source of love and support over the course of my career in international justice, and for that I am forever grateful.

I am confident that my previous professional experiences position me well to lead the Office of Global Criminal Justice, which, as was mentioned, helps to advise the department and the interagency and Congress on U.S. policies on atrocities prevention and response and also to advance international justice efforts around the globe.

I started my legal career in the Office of the Prosecutor of the two War Crimes Tribunals for the former Yugoslavia and for Rwanda during the Renaissance of the Field in the 1990s.

Since then, I have worked in the field of transitional justice and on behalf of victims of grave international crimes as a practicing lawyer, as an academic, as a civil society advocate, as a diplomat, and as a mentor.

If confirmed, I hope that I will bring lessons learned from all of these incarnations to the role of Ambassador-at-Large and also to draw inspiration from the aspirations of survivors for justice and accountability.

If confirmed, I look forward to working with colleagues in the department, the interagency, here in Congress, and within civil society to advance the following interlocking priorities.

First, I would work to ensure that the United States provides steady leadership for international justice efforts around the world to tackle impunity and to ensure fair and effective proceedings in regional, international, hybrid, or national courts.

Second, if confirmed, I would ensure that the Office of Global Criminal Justice provides trustworthy expertise to department leadership, to our embassies and posts around the world, on the whole range of transitional justice mechanisms that are available to states emerging from situations of armed conflict or violence.

Third, I would work with other relevant offices to strengthen the atrocities prevention architecture across the United States government to ensure a timely early warning and a robust response.

Fourth, I would commit to fully implementing the vitally important pieces of legislation that have emerged recently from Congress, including the groundbreaking Global Magnitsky and Global Fragility Acts, the Uighur Human Rights Policy and Forced Labor Acts, and the Elie Wiesel Act.

As you all well know, this a deeply bipartisan portfolio and, if confirmed, I look forward to building strong partnerships with members of Congress and all of your dedicated staff to ensure the robust execution of U.S. laws.

Fifth, I pledge to be a careful steward of the funds that Congress has entrusted to the Office of Global Criminal Justice, including with respect to the groundbreaking War Crimes Rewards program.

And finally, if invited to serve, I look forward to joining a tremendous team of civil servants, Foreign Service officers, and subject matter experts who are working tirelessly on a daily basis on behalf of victims of grave international crimes.

In this regard, I support work to diversify the department. I will mentor with care the next generation of U.S. diplomats and I will ensure the ability to foster morale within our office, notwithstanding its difficult subject matter.

Needless to say, there is much work to be done, given the rise of authoritarianism, the endurance of brutal conflicts around the world, and retrenchments in states' respect for human rights.

The United States was present at the founding of the Field of International Justice and, if confirmed, I will devote all of my energies to building upon this proud Nuremberg legacy within contemporary U.S. foreign policy.

I hope with these brief remarks I have conveyed my passion for the work, the broad-based expertise I would bring to the role of Ambassador-at-Large for Global Criminal Justice, and my enduring commitment to enhancing U.S. foreign policy around atrocities prevention and response.

Thank you, Mr. Chairman, Ranking Member Risch, members of the committee, for your consideration of my nomination. It would be a great honor to return to the State Department, and I look forward to your questions and, if confirmed, to working diligently with all of you all on these matters. Thank you.

[The prepared statement of Ms. Van Schaack follows:]

PREPARED STATEMENT OF BETH VAN SCHAACK

Chairman Menendez, Ranking Member Risch, and distinguished members of this committee—thank you for the opportunity to appear before you today. I am very touched by Senator Booker’s generous introduction.

It is a great honor to have been nominated by President Biden to serve as Ambassador-at-Large for Global Criminal Justice and to return to the State Department office where I once served as Deputy. I am grateful to the President and to Secretary Blinken for the confidence they have placed in me and for giving me the opportunity to return to public service to advance global justice on behalf of the American people.

I am pleased to be accompanied today by my husband, Brent, my mom Carol, and my kids Miles and Brooke, who are joining us from the universities of the great states of Washington and Michigan, respectively.

I am thinking today of my father, a veteran of the U.S. Army, who would be very proud of his two daughters: me, as I sit before you today, and my sister, a devoted pediatrician and also an Army veteran. My family has been an endless source of love and support over the course of my career in international justice and for that I will be forever grateful.

I am confident that my previous professional experiences position me well to lead the Office of Global Criminal Justice, which helps to advise on the United States’ policies around atrocities prevention and response and to liaise with international justice efforts around the world.

I started my legal career in the Office of the Prosecutor of the Yugoslavia War Crimes Tribunal in the 1990s, during the renaissance of the field of international criminal law. Since then, I have worked in the areas of international and transitional justice, and on behalf of victims of grave human rights abuses—as a practicing lawyer, a diplomat, a civil society advocate, an academic, and a mentor. If confirmed, I will bring lessons learned from all these incarnations to the role of Ambassador-at-Large and draw inspiration from the demands of survivors for justice and accountability.

First, I would work to ensure that the United States provides steady leadership in efforts to advance justice around the world—in international, regional, hybrid, or national courts and tribunals—to tackle impunity while ensuring fair and effective proceedings.

Second, if confirmed, I would ensure that the Office of Global Criminal Justice provides trustworthy expertise to Department leadership and our embassies and posts around the globe on the whole range of transitional justice tools that are available to states, including civil and criminal justice processes, truth-telling and historical memory exercises, reparations, psycho-social rehabilitation, and other measures to protect against a recurrence of violence.

Third, I would work with other relevant offices to strengthen the atrocities prevention and response architecture across the U.S. Government to ensure timely early warning and a robust response.

Fourth, I would commit to fully implementing the vitally important pieces of legislation Congress has enacted, including the groundbreaking Global Magnitsky, Uyghur Human Rights Policy and Forced Labor, and Elie Wiesel Acts as well as the suite of statutes allowing for the prosecution of individuals who stand accused of committing grave international crimes. As you well know, this is a deeply bipartisan issue, and—if confirmed—I look forward to building strong partnerships with members of Congress to ensure the robust execution of U.S. laws around atrocities prevention and response.

Fifth, I pledge to be a careful steward of the funds Congress has entrusted to the Office of Global Criminal Justice, including the War Crimes Rewards Program.

And finally, if invited to serve, I look forward to joining a tremendous team of civil servants, foreign service officers, and subject matter experts who are dedicated to working tirelessly on behalf of victims of atrocity crimes the world over. I commit to contributing to efforts to diversify the Department, to mentoring with care the next generation of U.S. diplomats, and to maintaining morale notwithstanding the office’s difficult subject matter.

Given the rise of authoritarianism, the endurance of brutal conflicts around the world, and retrenchments in states’ commitments to respect human rights, there is much work to be done. The United States was present at the founding of the field of international justice, and—if confirmed—I will be committed to building upon this proud Nuremberg legacy within contemporary U.S. foreign policy.

I hope with these brief remarks I have conveyed my passion for this work, the broad-based expertise I can offer, and my enduring commitment to enhancing U.S. foreign policy around atrocities prevention and response.

Thank you Mr. Chairman, Ranking Member, and members of this committee for your consideration of my nomination. It would be a great honor to return to the State Department and to the Office of Global Criminal Justice. I look forward to your questions and, if confirmed, to working diligently with you on these issues.

The CHAIRMAN. Thank you. Let me just take a moment also to acknowledge Senator D'Amato. We appreciate your service to our country and we welcome you to the committee here today.

We will turn to a round of five-minute questions by members. Before I do, I have questions that are asked on behalf of the committee as a whole. I ask each of you to give me a verbal yes or no response to each of these questions.

They are questions that speak to the importance that this committee places on responsiveness by all officials in the executive branch and that we expect and will be seeking from you. So please just provide a yes or no answer.

Do you agree to appear before this committee and make officials from your office available to the committee and designated staff when invited?

We will go down the aisle.

[All witnesses answer in the affirmative.]

The CHAIRMAN. Do you commit to keep this committee fully and currently informed about the activities under your purview?

[All witnesses answer in the affirmative.]

The CHAIRMAN. Do you commit to engaging in meaningful consultation while policies are being developed, not just providing notification after the fact?

[All witnesses answer in the affirmative.]

The CHAIRMAN. Do you commit to promptly responding to requests for briefings and information requested by the committee and its designated staff?

[All witnesses answer in the affirmative.]

The CHAIRMAN. Thank you. All four nominees have answered yes to all of the questions. The chair will reserve his time.

Let me turn to the distinguished Ranking Member, Senator Risch, for his questions.

Senator RISCH. Thank you, Mr. Chairman.

Ms. Van Schaack, what are your thoughts on the ICC?

Ms. VAN SCHAACK. Yes, thank you for that question, Senator Risch.

The United States has a long history of supporting international justice institutions, as I mentioned, dating back to the Nuremberg era, to the 1990s with the Renaissance of the Field of International Justice and now to contemporary investigative mechanisms working around the globe to document and hold accountable those who stand accused of committing grievous international crimes.

I think the International Criminal Court is a part of that larger system. I think in an ideal world domestic courts would handle the bulk of these matters and there is work to be done with respect to U.S. foreign policy and programming to help develop domestic capacity so that domestic courts can handle that.

But in situations in which those domestic courts are genuinely unwilling or unable to do so, there may be a role for international institutions to step in.

The United States has a long-standing objection to the International Criminal Court exercising jurisdiction over the nationals of nonparty states, such as the United States, and I will continue to advance that objection, if confirmed, as I have done in the past.

But I do think that there are situations around the globe where there is a role for the International Criminal Court to play when the state has accepted jurisdiction or the court has jurisdiction by virtue of a referral from the Security Council exercising its peace and security mandate under the U.N. Charter.

Senator RISCH. I think that is an excellent analysis, really. I have objected to our participation in ICC just because of the way they have acted over the years and it is unfortunate, because the idea of an ICC, as you point out, going back to the Nuremberg trials is certainly, a laudable idea.

The difficulty, of course, is we wind up with such a tremendous prejudice against us and, for that matter, Israel finds itself in the same position, that we cannot subject ourselves to the jurisdiction of the ICC.

Those of us who work in the law are always stunned by how other countries—less developed countries—approach the law and have such a different view of what justice is than we do.

So at the present time, in any event, our membership in the ICC is probably—not probably, is not in the cards, and your answer to the fact that it does provide some jurisdiction and relief in some areas, I think, is appropriate.

But at the present time, our submission to that just is not appropriate. Are you in agreement with my analysis of the ICC?

Ms. VAN SCHAACK. Yes. Thank you for that analysis. I do think, and, as I mentioned, there is a role to be played and that we should be in a position to support proceedings before the court if it aligns with our foreign policy priorities, if it advances our national security interests, and if that work is, ultimately, in keeping with our core values around justice and accountability.

Senator RISCH. Thank you much. I appreciate that.

Ms. Cleveland, let me—I want to tell you that we are hoping for big things from you. This committee is getting what my staff calls the Heisman from the legal department. That is, we get a stiff arm and that is about all.

Just as an example, we asked for the department's response regarding the sanctions that are supposed to be put in place under Nord Stream 2, and this is a quote from the response we got from the legal team. Quote: "We want to know why the sanctions were not put in place." This is a quote: "We applied the statute. We looked at the relevant facts and determined the entity met the exception."

That is not what I expect from a lawyer, and gosh, you have got a heavy lift over there. And we are not the enemy on this committee.

Certainly, we are a different branch of government and sometimes have competing interests. But it is really important that we work together, particularly, in some of these areas.

So your thoughts?

Ms. CLEVELAND. Thank you, Ranking Member Risch, and I have heard this concern clearly from both your staff and Chairman

Menendez, and other members of your committee. I know it is a bipartisan concern.

As a teacher of U.S. foreign relations for over 20 years, I have always led my class with the importance of the constitutional role of Congress in foreign relations, including oversight, and I would firmly commit to making sure that your role is supported by receiving the information you need from the Office of the Legal Adviser, if I were confirmed.

Senator RISC. That answer works for me. I hope you can execute. Thank you, Mr. Chairman.

The CHAIRMAN. Amen to that.

Senator Cardin?

Senator CARDIN. Thank you, Mr. Chairman, and let me thank all four of our nominees for their willingness to serve our nation, and we also thank your families.

Mr. O'Brien, I appreciated our conversation where we went over the importance of congressional sanction laws, including the Global Magnitsky, and the importance of coordinating those activities between the administration and Congress so that we can be all on the same page on this.

We need to be more aggressive in the use of sanctions, and I look forward to working with you as we identify areas in which we think we can make some progress.

Professor Van Schaack, I want to talk a little bit about the legislations that you mentioned. They are bipartisan, including the Elie Wiesel Anti—Atrocities Prevention Act, and that was bipartisan.

I introduced it with Senator Young. It requires certain reports with Congress. The objective here is to prevent atrocities. That is, certainly, our goal. In order to do that, we have to have accountability for any activities and crimes that are committed.

I know that Secretary Blinken will be talking about this later this month in regards to compliance with the Atrocities Prevention Act, but I would like to get your views as to how aggressive you will be in the use of that statute and the use of your office working with Congress to deal with atrocities prevention and accountability for those who commit these crimes.

Ms. VAN SCHAACK. Thank you so much for that question and, frankly, for your leadership in this area. It is much appreciated, I know, from victims and survivor organizations around the world.

I can tell you that I would wake up every morning in this position, if I were confirmed, to think how can I push this portfolio forward today—what can I do today to advance justice around the world.

And I think the Elie Wiesel Act provides an incredibly important framework and a set of tools to strengthen the United States' response around both atrocities prevention and our ability to provide accountability for victims when it comes to perpetrators of grave international crimes.

I think there are a whole range of things we can do and each situation is unique in terms of the vectors of violence, the way in which resiliencies operate, the triggers for violence, the role of peace builders within those societies.

And so each situation will require, I think, a bespoke response and that is one place where I think the Office of Global Criminal

Justice, working with like-minded offices around the building and within the interagency, can work to coordinate a whole range of responses that would incapacitate perpetrators, document abuses, provide financial, operational, technical, diplomatic support to existing justice efforts to documentation efforts, and I think the office, while small, can play a really important coordination role in this regard.

So, if confirmed, I would pledge to, as I mentioned, work hard because, frankly, the victims of the world deserve our best efforts in this regard.

Senator CARDIN. And let me just add one additional part that I hope you would call upon us and Congress if you need additional support, resources, or legislation in order to support your efforts.

Because I agree with you, there is no higher priority than preventing atrocities and there are so many areas in the world today in which we see the circumstances that very clearly are moving towards atrocities and genocide.

You know you have partners here in Congress. Please work with us in order to make U.S. leadership effective in preventing atrocities.

Ms. VAN SCHAACK. Thank you. I will, Senator.

Senator CARDIN. Professor Cleveland, I just really want to underscore what Senator Risch said because there is bipartisan support in this committee, what the chairman said in his opening comments about the use of Article Two. I would add to that the way in which delegated authority under the AUMF is handled by the administration.

I recognize you have a client and you have to serve that client. But I also recognize that an open process with Congress and a very transparent process is critically important to the integrity of the rule of law, and the message that you have been teaching your students about the constitutional protections we have and their authorities of the Article One—the legislative branch of government.

So there would be no surprise that many of us totally disagree with the interpretations under the 2001 AUMF. We recognize the history over many administrations.

My question to you is not to get into the specifics on the 2001 AUMF but to have your commitment to work with us in a very open, transparent way as to how we can best serve our country and Congress carrying out its responsibilities.

We recognize that the President has Article Two powers. But we also recognize that when we delegate authority under an AUMF there has got to be a reasonable interpretation of that authority because it will affect future actions by Congress where we want to give some flexibility to the President but we will be reluctant if we do not have an understanding as to how these authorities are going to be interpreted.

Ms. CLEVELAND. Absolutely, Senator. Under Article One, Congress has the power to declare war and AUMFs are an exercise of that authority.

They are not a blank check for future use of force by the executive branch, and I would certainly commit to working closely with this committee on the shared goal, I think, with this administra-

tion of narrowing and making more specific a successor or revised version of the 2001 AUMF.

Senator CARDIN. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Paul?

Senator PAUL. Mr. O'Brien, you mentioned in your opening remarks that sanctions need to be part of a strategy. I could not agree more. I would argue, though, that the vast majority of our sanctions have no strategy or have an incomprehensible strategy.

I will give you a couple of examples. For example, we are going to be debating later today or tomorrow whether or not we should sanction Nord Stream 2.

I have asked the sponsors of the bill what their strategy is, what is the behavioral change you would like on the part of Russia or Germany, and they said, we just do not want the pipeline.

We do not want them to sell oil to each other, sell natural gas to each other. And it is, like, well, that is not really a strategy that is achievable and not really one that, really, should be the role of the United States between two sovereign nations to say, oh, you cannot sell natural gas to each other.

The other problem with the sanctions is we are really eager to put them on people but we never articulate a reason to take them off. The threat of sanctions can actually have some effect.

For example, Germany and the United States came to an agreement last summer and they did issue a very succinct statement saying that if Russia were to invade or otherwise violate the integrity of Ukraine that there will be repercussions with regard to the pipeline and that—I think the threat of an action may have some deterrence.

But if we just say tomorrow we are no longer going to let you sell gas between Russia and Germany, I do not know what deterrence that effect has and what does—when are we going to remove those sanctions.

If you do not articulate what you are going to do to—what the other country needs to do to remove the sanctions, why have the sanctions at all?

There are categories of sanctions where I do not think you are really trying to change a country's behavior. You just want to punish people. So you want to punish people for being corrupt? Fine.

I voted for those, and maybe those have a deterrent effect the same way we have a punishment for crime here deters other people from committing those crimes. You can make that argument.

But it is hard to imagine—so, for example, we have sanctions on members of the Russian legislation—legislature because they advocated for the takeover—they complimented Putin for the takeover of Crimea.

When will those be removed, when Russia gives back Crimea? I guess that will be in the next Ice Age or something. They are never going to be removed. And so if we do not offer to remove sanctions or give countries a reason why we will remove sanctions, then they are of no value.

I would argue that it is very difficult to see a behavior that China has changed or Russia has changed or even Iran. People say,

well, the sanctions against Iran worked. They were international so they were more formidable.

But the reason they also worked is we finally went to Iran and said, if you do this we will do this. If you do not offer to do something, if it is always just punishment, punishment, punishment, and all you are going to do is say, we are unhappy with you, they are of no value. In fact, they just make it worse and make international relations worse.

I know you do not make the policy. We do, and this is more of a speech directed towards my fellow senators than you. But the question I would ask you is what behavior do you see that has changed in Russia or China because of our sanctions? Not the criminal sanctions. I am talking more about sanctions concerning policy.

Mr. O'BRIEN. Sorry. Thank you, Senator.

I agree with a lot of the analysis, and I look forward to working with you and making sure that we do set clear expectations, that the targets of our sanctions know what behavior they are supposed to undertake in order to have—to see sanctions relief, but that our partners also agree with us that the sanctions are part of the strategy and that we agree on when success has been achieved.

I think you raise a number of questions applying across sanctions policies, I think, requires a sort of deeper dive.

With regard to Russia and China, each of them in some way is acting as a malign and revisionist power at the moment. I think it is important that we attack the roots of that power and not simply some of the symbols.

And so I look forward to working with colleagues both in the executive branch and here to be sure that we understand what we are trying to accomplish when we do use sanctions, and that piece, I think, is important.

I oversaw a sanctions program years ago where it became clear that by relieving certain sanctions we could moderate some behavior, but that other sanctions were very effective at disrupting the core real power structure in the society and really did change policy behavior, and I think that that kind of analysis may be available to us, but that is something I look forward to working with you and your colleagues more on.

And I will just close by saying that one theme throughout my consultations with both majority and minority and with members of the committee has been the desire to have more conversation while sanctions are under consideration, and I will commit to that because I think a discussion about what our goals are early can often avoid the kind of showdown that happens when we are looking at a specific action. And so I will be happy to be part of those conversations, going forward.

The CHAIRMAN. Thank you. Let me thank the Senator for his—I think there are some very worthy insights, both as it relates to Nord Stream and beyond as it relates to how do we also consider how sanctions are relieved as a measure for people to be induced to do something because they want the relief from it. So we appreciate those insights.

Senator Booker?

Senator BOOKER. Thank you very much, Mr. Chairman. What I want to get back to with Dr. Van Schaack is just the issue of the ICC, which is, frankly, a lot more complicated, I think, given some of the decisions by the Trump administration and others.

I look at the Horn of Africa, for example, and the challenges we are facing with a lot of African countries because of the steps the ICC has taken, failing to do, as you said in your wonderful analysis to Senator Risch, looking less likely that they are going to comply or invite in the ICC's authority, and it creates a very difficult environment in a region in the Horn of Africa that is ripe with internationally human—international human rights violations.

And so I am wondering how you create that balance of the legitimacy of the ICC along with the urgency to get the participation of many of those nations.

Ms. VAN SCHAACK. Yes. Thank you for that question and I share your concern about the situation in the Horn of Africa and the deterioration there and, frankly, the risk of civilians in—either caught in the crossfire or being directly targeted by so many of the armed groups there—the Tigrayan forces, the National Forces, and even Eritrea's involvement in the Horn.

Ethiopia is not a member of the ICC so there is not an obvious pathway there. So it will be incumbent upon the nation to undertake its own transitional justice process as part of a larger political settlement, and I know that the administration is working hard to try and encourage that through diplomacy, those sorts of movement towards bringing the parties to the table and reaching some sort of a negotiated solution.

A transitional justice program would have to involve everything from acknowledging harm to the survivors to restitution of property if that is necessary, and, ultimately to accountability to those most responsible.

The ICC may play a role, eventually. It would require either a Security Council referral or an acceptance of jurisdiction by Ethiopia.

As you mentioned, some African states and other states around the globe have voluntarily self-referred matters to the court on the recognition that their domestic system is unable to handle it or that there might—it might be helpful to have an international body dealing with certain cases while the domestic system deals with other cases.

And so, if confirmed in the role, I would look forward to working with our incoming Special Envoy to the Horn of Africa, others across the regional bureaus, et cetera, to try and encourage the parties in the Horn of Africa to reach a genuine transitional justice program that involves a measure of accountability for victims.

Senator BOOKER. And that alignment between where the ICC is resonating with our diplomatic gains, where there is—in countries who are members—are other areas, as you potentially ascend to this position, that—beyond the Horn—that you have really good ambition that we can make an impact from your office?

Ms. VAN SCHAACK. Absolutely. We have already seen in Central Africa that direct assistance and cooperation by the United States has led to some recent successes in the court.

I am thinking, for example, of the cases against Dominic Ongwen, who is the top commander of the Lord's Resistance Army, which is wreaking havoc in northern Uganda and elsewhere in the region.

In addition, Bosco Ntaganda, who was recently convicted of a whole series of war crimes and crimes against humanity, including the use and abuse of child soldiers and sexual violence as leader of the M23.

The United States was instrumental in bringing those individuals to The Hague and in assisting the prosecutor there with those prosecutions, and I think that is a role that we can play, going forward, again, as I mentioned, so long as the work of the court is consistent with our foreign policy priorities and that we are in a position to be supportive.

Senator BOOKER. I really appreciate it, and just to reiterate what I said earlier, your experience, your work in public service, your expertise, and your nationally recognized stature on these issues gives me great excitement about the difference you are going to make in a very important job that can, literally, save lives and prevent atrocities.

And real quick in my remaining time, Mr. Tsunis, I have a lot of concerns about China's continued investment in strategically important ports around the world.

We have seen China buy and invest in critical ports with stakes in ports in and along Africa's east coast, in critical shipping lanes in Asia and even in Europe, such as ports in Greece.

How do you assess China's investment in critical infrastructure, such as the Port of Piraeus, and what can the U.S. do to counter Chinese potential to lock on this port—lock up these areas and other critical infrastructure in Greece?

Mr. TSUNIS. Thank you for your question, Senator, and it is a very seminal one.

China has engaged in economic encroachment and malign influence. It is part of a very concerted effort and plan, and it is going to continue. The Risch China Report not only highlights various examples of this but it also speaks to transatlantic cooperation on how we counteract this.

I am proud to say that Greece chose a European partner for 5G and they are very clear eyed about what China is doing. I will also say that at the time of the purchase of the—of the tender of the Port of Piraeus, China was the only offer.

We need to show up. We need to be aggressive. It is very clear that they are looking to make critical infrastructure investments in interconnectors, grids, and ports, and then use that economic influence and through more geopolitical influence to promote the interests of the PRC and the Communist Party of China.

If confirmed, I pledge to work with the administration, this committee, the government of Greece, to counteract this, and as a business person I understand what it is to compete aggressively in business transactions.

Senator BOOKER. I really appreciate that, and not only the nuances of your answer, but you showed great diplomacy there by mentioning Ranking Member Risch's very important report.

The CHAIRMAN. We give the Ranking Member and his staff credit that that was actually a very good report.

Senator Young?

Senator YOUNG. Thank you, Chairman. Congratulations to all of our nominees and thank you for your interest in serving our country.

Ms. Cleveland, in August this committee held a hearing examining my legislation with Senator Kaine that would repeal the 1991 and 2002 authorizations for the use of military force against Saddam Hussein's regime in Iraq.

I would remind anyone who is within earshot of this committee that Saddam Hussein is dead—no longer in power, therefore.

I appreciated hearing from your predecessor on this issue, Acting Legal Adviser Richard Visek. I believe repealing these outdated AUMFs sends a critical signal that the United States is no longer an adversary of Iraq but a partner.

More importantly, it reasserts Congress' prerogative, which you have duly affirmed and acknowledged in your testimony today, on the critical decisions related to going to war.

If confirmed, would you support moving forward with the repeal of these authorities?

Ms. CLEVELAND. Thank you, Senator, for this important question and for your very important leadership on this issue. I know that repeal of the 1991 and 2002 AUMFs is supported by this administration, and I absolutely would work with this committee to achieve that.

Senator YOUNG. Thank you.

And in your view, Ms. Cleveland, do you believe repealing these outdated AUMFs would impede military activities or counterterrorism operations around the world?

Ms. CLEVELAND. No, Senator. The administration has made clear, including in the August hearing, that the current authorities under the 2001 AUMF and the President's Article Two constitutional authority to act to defend the United States when necessary are sufficient to address current counterterrorism and other challenges.

Senator YOUNG. Thank you. And knowing that you are a law professor and trained in all things legal, you are no doubt skilled in entertaining hypotheticals before courts of law, courts of public opinion, and other venues.

I am going to give you a very plausible scenario. If you are to be confirmed and U.S. personnel in Iraq are attacked by Iranian-backed militias, is there anything whatsoever that would stop the President of the United States under Article Two authority from responding to such an attack if these AUMFs—again, pertaining to 1991 and 2002 authorizations against Saddam Hussein's regime in Iraq—were repealed?

Ms. CLEVELAND. No, Senator.

Senator YOUNG. Thank you.

Mr. O'Brien, congratulations to you as well, sir. India is currently taking delivery of the Russian S-400 system and potential action, which has led some of my colleagues to call for sanctions under CAATSA.

The Indians are also in the process of acquiring new frigate ships from Russia. Both are important systems for the Indians.

As most here know, the Indians have a lot of legacy systems from previous decades and they are interoperable with the Russians' systems, and the Indians seek to defend their land border from Chinese incursions and defend the Indian Ocean from an increasingly adventurous and lawless Blue Ocean Navy and the People's Liberation Army.

India is a vital ally in our competition against China and, thus, I believe we should resist taking any actions that might drive them away from us and the Quad.

I am, therefore, strongly supportive of waiving CAATSA sanctions against India, given our shared foreign policy interests.

Mr. O'Brien, does our experience with Turkey provide any warning or lessons for how to proceed with India? I believe they are very different circumstances and, of course, different security partnerships. But how do you believe we should think about the possibility of sanctioning our friends and not just threats?

Mr. O'BRIEN. Thank you, Senator. Thank you for your leadership on sanction issues, generally, and I look forward to working with you on this and other issues, going forward.

As you say, I think it is difficult to compare the two situations with a NATO ally that is breaking with legacy defense procurement systems and then with India a growing—a partner of growing importance but that has legacy relationships with Russia.

The administration has made clear that it is discouraging India from proceeding with the acquisitions of Russian equipment and there are important geostrategic considerations, particularly with the relationship to China.

So I think we have to look at what the balance is and, of course, India has got some decisions in front of it so it would be premature to say more. But this is something I look forward to working with you and other interested members.

Senator YOUNG. All right. I am over my time and I, too, look forward to working with you. I enjoyed our visit and anticipate supporting your confirmation. Thank you.

The CHAIRMAN. Thank you.

Senator Hagerty?

Senator HAGERTY. Thank you, Mr. Chairman, and congratulations to all of our nominees who are here today.

Mr. Tsunis, I would just like to, first, congratulate Senator Book-er for a very insightful question about the Port of Piraeus.

But I also want to comment on your very thoughtful answer and approach as a business person. We need more people with your sort of background in these important diplomatic posts.

So congratulations to you on your nomination. Thank you for bringing that perspective—that valuable perspective to diplomacy.

Mr. O'Brien, I would like to ask a question of you regarding sanctions with respect to Iran. In my prior post as U.S. Ambassador to Japan, I worked very hard to get Japan to agree to so-called secondary sanctions, to get them to stop buying Iranian crude oil.

In fact, we worked very hard to make that happen around the world, and we reduced Iran's crude exports by 75 percent. Today, Iran has accelerated its exports through more clandestine activity.

Their exports now are approaching the levels they were before these sanctions were ever imposed.

And we have a team negotiating in Vienna that is wondering why Iran will not come to the table. Well, Iran is getting the revenues that it needs, it is getting the fuel that it wants to continue to become a nuisance around the world.

They are the largest state sponsor of terror and they are generating revenue in this regard because we are not properly implementing these sanctions. Iran is being allowed to produce more oil.

Can you speak to what you will be able to do to help properly implement these sanctions and stop this?

Mr. O'BRIEN. Thank you, Senator. It is an incredibly important question.

For all of the arguments that have gone on about the right approach to Iran, I think there is strong bipartisan agreement that Iran is a malignant actor.

It is, as you say, a sponsor of terrorism. It brings instability across its region and its nuclear program allows it to threaten oil supplies and the globe. So this, plus the ballistic missile program, are all items that we have to find a way to address.

I will work to implement sanctions fully and effectively. That means working with our partners, and thank you for your work bringing the Japanese along and other allies who had been large consumers of Iranian oil and petrochemical products.

We are now in a situation where a smaller set of states have decided to scoff at international sanctions, and so we have to adapt our program to be able to stay one step ahead of them.

There is real impact if Iran is forced merely to work on a bartering or cash and carry basis. But we need to try to start shutting off those avenues and so not just with regard to Iran, but globally.

I thank the Congress and the administration for setting a new policy course dealing with anti-corruption activities because the ability to interdict the flow of money, the sort of opaque flows of money that allow for sanctions evasion, will be a tremendously important tool for addressing these concerns, going forward.

So that is something, as I learn more, I will be happy to speak with you about.

Senator HAGERTY. I would appreciate your continuing to follow up with this committee.

I would like to touch on another area of concern. That is North Korea. Again, while I have served as U.S. Ambassador to Japan, North Korea launched intercontinental ballistic missiles over Japan. They even tested what I believe was a hydrogen bomb while I was there. We imposed maximum pressure at that time.

What we are seeing now, though, is a resurgence of North Korea's belligerence. They are testing hypersonics. They are testing intercontinental ballistic missiles. Yet, the current administration has only begun to impose sanctions in December with only one tranche of sanctions.

Can you speak to what your plan would be for North Korea?

Mr. O'BRIEN. We will be happy to work with you on that as we go forward. As you say, the administration is putting in place its policy.

I think a strong sanctions program is a critical part of our approach to North Korea, not just unilaterally but with our friends and allies. And, again, your experience in Japan will make you a really important colleague in developing that, Senator.

Senator HAGERTY. I hope you will commit to keeping this committee informed on a regular basis of your progress with sanctions.

Mr. O'BRIEN. Yes.

Senator HAGERTY. Thank you.

Ms. Cleveland, I would like to turn to you, very quickly, to raise an issue that is deeply important to me. It has to do with one of my constituents, one of my constituents that is suffering in the Japanese criminal justice system, the so-called hostage justice system of Japan.

Secretary Blinken is well aware of the problem. Many members of the State Department are and are working on this.

But I would encourage you and ask that you take a hard look at all of the tools that the United States might implement to help Mr. Greg Kelly, who has been trapped in the system for over three years, to get him home, to get him released.

This is a situation that has bipartisan support by members of this committee, which I very much appreciate, and it is something that is greatly concerning to me, and it is an injustice that has gone on for far too long and it damages our national interest with one of our strongest allies, Japan, and America.

So I would very much appreciate your commitment to take a very hard look at that.

Ms. CLEVELAND. Thank you, Senator, for raising this very important humanitarian concern. I would absolutely work with you and this committee to look into this.

I am somewhat familiar with the difficulties with the Japanese criminal justice system, and they are a matter of concern to me. I will, certainly, take great interest in the situation of Mr. Kelly.

Senator HAGERTY. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Several members have not been able to attend the hearing because of Senator—former Senator Reid's memorial. As a matter of fact, the Chair himself is part of the committee to receive Senator Reid in state.

So the Chair and others will be submitting questions for the record. I would urge you to answer them fulsomely, fully, and expeditiously so that your nominations can be considered at a business hearing.

And with that and the thanks to the committee, this hearing is adjourned.

[Whereupon, at 10:48 a.m., the hearing was adjourned.]

Additional Material Submitted for the Record

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD
SUBMITTED TO SARAH H. CLEVELAND BY SENATOR ROBERT MENENDEZ

Question. I commend Secretary Blinken and other senior officials at the State Department for prioritizing diversity to ensure that the Department reflects the make-up this country.

- How do you intend to ensure that the Office of the Legal Adviser recruits and retains a diverse workforce?

Answer. As Secretary Blinken has expressed, our country's diversity is one of our greatest strengths. I agree that it is imperative that the Department recruits, retains, and supports a workforce that truly reflects the country it represents. As with the rest of the Department, the Office of the Legal Adviser (L) has a responsibility to cultivate a diverse workforce and an equitable, inclusive, and accessible workplace. I am committed to recruitment and retention practices that connect with and retain individuals who reflect the diversity of our country. If confirmed, I would work with the Office of Diversity and Inclusion, the Bureau of Global Talent Management, and the Office of Civil Rights to ensure L is implementing best practices for recruitment and retention, including diversifying its outreach and recruitment efforts.

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD
SUBMITTED TO SARAH H. CLEVELAND BY SENATOR JAMES E. RISCH

Question. Under the Constitution, the President and the Senate share the treaty-making power. Over the last few decades, the President has increasingly claimed the authority to unilaterally withdraw from treaties with no further action by the Senate or Congress. Reserving the right to object to such a claim of authority to which the Senate has not consented, some have argued that, in recent cases, the President has failed to adequately notify the Senate in advance of such a unilateral withdrawal.

- What is your view with respect to the Senate's role in treaty withdrawal?

Answer. The administration respects the constitutional role of the Senate in treaty making, and I share that respect. Treaty-making is a shared power, and Article II of the Constitution makes clear the role of the Senate in providing advice and consent with respect to the power to enter into treaties. The Constitution, however, does not expressly address the issue of treaty withdrawal, and the Supreme Court has not definitively resolved the issue. As a matter of longstanding practice, the President has acted on behalf of the United States in suspending or terminating U.S. treaty commitments and in withdrawing the United States from treaties, either on the basis of the treaty's terms (such as a withdrawal clause) or on the basis of international law that would justify such action. I believe that the Senate's understanding of, and support for, significant decisions regarding U.S. treaty obligations is very important. Accordingly, if confirmed, I would advise the administration to engage actively with the Senate and this Committee prior to the President making a decision to withdraw the United States from a treaty.

Question. Should the President, acting through the Secretary of State, notify the Senate in advance of any presidential decision to suspend, terminate, or withdraw from any treaty that has received Senate consent to ratification?

Answer. I believe that the Senate's understanding of, and support for, significant decisions regarding U.S. treaty obligations is very important. Accordingly, if confirmed, I would advise the administration to notify the Senate prior to the President making a decision to suspend, terminate, or withdraw the United States from any treaty that has received Senate consent to ratification.

Question. Should the Secretary provide to the Senate, through the Foreign Relations Committee and with adequate advance notice, a detailed written justification for the withdrawal?

Answer. I believe that the Senate's understanding of, and support for, significant decisions regarding U.S. treaty obligations is very important. I also believe it is important for the administration to explain both to the Senate and to the public the reasons for significant decisions regarding U.S. treaty obligations. Accordingly, if confirmed, I would advise the administration to provide adequate advance notice to the Senate prior to the President making a decision to suspend, terminate, or with-

draw the United States from any treaty that has received Senate consent to ratification, including providing a clear written public explanation of any decision to withdraw from a treaty.

Question. In your view, what does “advice and consent” mean? What is and should be the role of the Senate be with respect to entering into and terminating treaties?

Answer. The Constitution’s Treaty Clause provides that the President “shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur.” Accordingly, in order to consent for the United States to be bound by a treaty within the meaning of the Treaty Clause, the President must receive the concurrence of two-thirds of the Senators present when the Senate considers the treaty in question.

The Constitution does not expressly address the issue of treaty withdrawal, and the Supreme Court has not definitively resolved the issue. As a matter of longstanding practice, the President has acted on behalf of the United States in suspending or terminating U.S. treaty obligations and in withdrawing the United States from treaties, either on the basis of the treaty’s terms (such as a withdrawal clause) or on the basis of international law that would justify such action. I believe that the Senate’s understanding of, and support for, significant decisions regarding U.S. treaty obligations is very important, and I also believe it is important for the administration to explain both to the Senate and to the public the reasons for significant decisions regarding U.S. treaty obligations. Accordingly, if confirmed, I would advise the administration to provide adequate advance notice to the Senate prior to the President making a decision to suspend, terminate, or withdraw the United States from any treaty that has received Senate consent to ratification, including providing a clear written public explanation of any decision to withdraw from a treaty.

Question. What is the scope of the President’s authority to abrogate a treaty or other international agreement? Is it unlimited? If not, what are the limitations?

Answer. As a matter of longstanding practice, the President has acted on behalf of the United States in suspending or terminating U.S. treaty commitments and in withdrawing the United States from treaties, at least on the basis of the treaty’s terms (such as a withdrawal clause) or on the basis of international law that would justify such action.

Question. In your view, does the President have the authority to re-join a treaty without resubmitting that treaty to the Senate for advice and consent? Please explain.

Answer. The Constitution does not expressly address the question of the authority to re-join a treaty, and the Supreme Court has not considered it. Ordinarily, I would expect that the President would seek and obtain the Senate’s advice and consent in order to rejoin an Article II treaty from which the United States had withdrawn. There may be circumstances, however, in which other sources of authority would allow the President to rejoin a treaty without the Senate’s advice and consent. For example, in 2017, Congress passed legislation authorizing the President to rejoin the agreement establishing the Bureau of International Expositions, which the United States had ratified with the Senate’s advice and consent in 1968 and withdrawn from in 2002. *See* P.L. 115–32. The State Department’s Digest on the Practice of the United States in International Law, 2017 indicates that the United States rejoined that agreement in reliance on this statutory authority rather than on the Senate’s advice and consent.

Question. In testimony before the Senate Foreign Relations Committee, expert legal witnesses have suggested that Congress consider requiring the reporting of significant non-binding political commitments to Congress. Should Congress be informed of these non-binding arrangements? If so, in what form?

Answer. I respect the constitutional oversight responsibilities of the Committee and the importance of transparency to fulfilling that function. I am aware of the Committee’s strong interest in significant non-binding political commitments, and I believe that appropriate mechanisms should be identified to ensure that the Congress is informed of such commitments. I am generally aware of the ongoing conversations regarding this issue between the Committee and the State Department. I am not in the government and have not had occasion to consider the particular form such a mechanism might take. If confirmed, I would seek the views of both the State Department and the Committee before forming a considered view on this question. As a general proposition, though, I support establishing additional reporting and publication mechanisms to ensure that significant non-binding instruments are brought to the attention of the Committee.

Question. The Case-Zablocki statute (22 U.S.C. 112b) requires the Secretary to provide to the Congress the text of international agreements to which the United States has agreed to become a party. The intent of the statute is to ensure Congress is fully informed of executive decisions to create international, legally binding obligations on the United States.

In recent years, presidents have made “political” or “oral” agreements with potentially binding commitments on the United States. Successive administrations appear to have taken the view that such agreements fall outside the scope of Case-Zablocki and therefore do not have to be provided to the Congress.

In testimony before the Senate Foreign Relations Committee, expert legal witnesses have suggested that Congress consider requiring the written reporting of significant binding political commitments that have not been reduced to writing to Congress.

- What are your views regarding providing the Senate with the written text of any political or oral agreement intended to be binding on the United States under international law?

Answer. The Case-Zablocki Act, 1 U.S.C. 112b, provides that the Secretary of State shall transmit to the Congress the text of any international agreement (including the text of any oral international agreement, which agreement shall be reduced to writing), other than a treaty, to which the United States is a party as soon as practicable after such agreement has entered into force with respect to the United States but in no event later than sixty days thereafter. I believe this requirement extends to any agreement that gives rise to rights or obligations for the United States under international law.

Question. With respect to any oral international agreement or political commitment that creates or is intended to create a legally binding commitment for the United States under international law, will you commit, if confirmed, to working with Congress to establish a meaningful process for reducing such commitments or agreements to writing and transmitting to the Congress the text of such agreement?

Answer. Yes. The Case-Zablocki Act, 1 U.S.C. 112b, provides that the Secretary of State shall transmit to the Congress the text of any international agreement (including the text of any oral international agreement, which agreement shall be reduced to writing), other than a treaty, to which the United States is a party as soon as practicable after such agreement has entered into force with respect to the United States but in no event later than sixty days thereafter. I believe this requirement extends to any agreement that gives rise to rights or obligations for the United States under international law. While I have not had the opportunity to review the existing process, if confirmed, I commit to reviewing existing procedures and helping to advise on new procedures, if necessary, to ensure that the act is implemented.

Question. Although the State Department’s Circular 175 process calls for consultation with Congress on treaties and agreements, it does not provide much guidance on how such conversations should occur. As a practical matter, no established routine procedure for consultation with the Senate (formal or informal) currently appears to exist, at least from the perspective of the Senate side. In recent years, to the extent they occur, State Department briefings to the Senate Committee on Foreign Relations (SFRC) have been ad hoc and by affirmative request of the Committee.

The paucity of information has led some Senators to grow skeptical with respect to treaties presented to the Committee for advice and consent but completed without the opportunity for consultation. This problem is further complicated if the treaty requires implementing legislation on subject matter over which another Senate committee may have jurisdiction. As a result, some Senate Foreign Relations Committee Senators have expressed wariness with taking up such treaties. Avoidable misunderstanding and confusion can result, complicating or preventing required Senate action.

Alternatively, with a more regularized and institutionalized consultation process with SFRC, the Senate and administration can develop a more dynamic approach to these agreements. Enhanced and meaningful consultation can build support for these agreements and prove valuable in increasing Senate understanding of administration policy objectives over time.

- Will you commit to directing the Department to address this oversight and work with the Committee to establish a process under which the Department will, on a regular periodic basis, engage in meaningful, advance consultation with the SFRC regarding the Departments’ intention to negotiate significant international agreements and treaties?

Answer. I respect the Senate's constitutional role in treaty-making and believe that the Senate's understanding of, and support for, significant decisions regarding U.S. treaty obligations is very important. Accordingly, if confirmed, I would commit to reviewing existing procedures and work to help advise on new procedures if necessary to ensure active and consistent engagement with the Senate with regard to plans to negotiate significant international agreements and treaties.

Question. In general, will you commit to working with this Committee to ensure timely feedback on draft legislative text when solicited if you are confirmed?

Answer. Yes, if confirmed, I would work to help ensure timely feedback from the Department on draft legislative text consistent with relevant procedures.

Question. In October 1999, the Senate voted to reject the Comprehensive Test Ban Treaty by a vote of 51–48. Setting aside the fact that the United States Senate has not consented to ratification of the Vienna Convention on Treaties, please describe your views with respect to the scope of the “provisional application” doctrine.

Answer. In terms of its scope, the international law doctrine of provisional application of treaties applies to instances in which states have agreed to apply some or all of the terms of a treaty on a provisional basis pending its entry into force. Under U.S. law, if the advice and consent of the Senate, or congressional approval, is required but has not yet been obtained for an agreement to enter into force for the United States, a commitment that the agreement shall have provisional effect for the United States must rest on another agreement, on a statute, or on the President's own constitutional authority. With respect to the CTBT specifically, I understand that the treaty contains no article on provisional application, and is not provisionally applied.

Question. What are your views with respect to the legal effect of a Senate vote to reject a treaty?

Answer. Under Article II of the Constitution, the President may make treaties by and with the advice and consent of the Senate, provided that two-thirds of the Senators present concur. If two-thirds of the Senators present do not concur, the President may not make the treaty. The failure of a treaty to receive two-thirds approval in a Senate vote would not, however, preclude the Senate from reconsidering the treaty at a later time, or preclude the President from making the treaty if the treaty receives the concurrence of two-thirds of the Senators present in a subsequent vote.

Question. If rejected, does the President have authority to subsequently implement the provisions of that treaty in spite of that vote?

Answer. Under Article II of the Constitution, the President may make treaties by and with the advice and consent of the Senate, provided that two-thirds of the Senators present concur. If two-thirds of the Senators present do not concur, the President may not make the treaty.

Whether the President may take actions that are consistent with the provisions of a treaty to which the United States is not a party will depend on what the actions entail and whether the President has relevant sources of Constitutional or statutory authority or obligations to take them. A decision by the Senate not to give its advice and consent to the ratification of a treaty would not, by itself, repeal pre-existing statutes or other authorities or obligations under domestic law that could be relied upon to take actions consistent with a treaty, nor would it bar the President from carrying out such statutes or other authorities.

Question. Does such a Senate vote place limits on a future claim of presidential authority to provisionally implement the rejected treaty?

Answer. Whether the President may take actions that are consistent with the provisions of a treaty to which the United States is not a party will depend on what the actions entail and whether the President has relevant sources of Constitutional or statutory authority or obligations to take them. A decision by the Senate not to give its advice and consent to the ratification of a treaty would not, by itself, repeal pre-existing statutes or other authorities or obligations under domestic law that could be relied upon to take actions consistent with a treaty, nor would it bar the President from carrying out such statutes or other authorities.

Question. Please describe your views with respect to the binding legal effect of the Senate's inclusion of conditions to consent to ratification of a treaty under constitutional advice and consent, such as reservations, understandings, and declarations (RUDs). If the President decides to ratify a treaty to which the Senate has consented but has also included such RUDs in its resolution of consent to ratification, is the President legally bound to implement such conditions as included by the Senate in its consent to ratification resolution?

Answer. The Senate may attach reservations or other conditions to its advice and consent to a treaty as long as they relate to the treaty and are not inconsistent with the Constitution. If the President ratifies a treaty after obtaining the Senate's advice and consent, he or she is deemed to have accepted any such conditions.

Question. The War Powers Resolution requires congressional notifications when United States Armed Forces are introduced into hostilities or into situations where there is imminent involvement in hostilities.

- In your legal opinion, what do you think the term "hostilities" means?

Answer. For purposes of the War Powers Resolution, the Executive Branch has generally interpreted the term "hostilities" as situations in which U.S. armed forces are actively engaged in exchanges of fire with hostile forces. In addition to reporting in any case in which United States Armed Forces are introduced "into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances," the War Powers Resolution also requires notification to Congress in any case in which United States Armed Forces are introduced "into the territory, airspace or waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces" or "in numbers which substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation."

Question. Separate from military action authorized under the 2001 Authorization for the Use of Military Force (AUMF), do you believe the United States has been or is engaged in ongoing hostilities in Yemen? Please explain.

Answer. It is my understanding that the United States has provided limited support to Saudi-led coalition military operations against Houthi and aligned forces in Yemen, including certain logistical and advisory support. It is also my understanding that President Biden directed an end to U.S. support for the Saudi-led Coalition's offensive military operations against the Houthis in Yemen, but that U.S. forces, in a non-combat role, continue to provide military advice and other limited support to regional forces for defensive and training purposes only as they relate to the Saudi-led Coalition's campaign against the Houthis in Yemen. I understand that the administration has taken the position that such support has not amounted to engagement in hostilities for purposes of the War Powers Resolution. As I am not currently in government, I do not have access to all the relevant facts or legal analysis. However, if confirmed, I will look closely at this issue.

Question. Under multiple administrations, certain terrorist detainees held at Guantanamo Bay have not been released for good reason. What is your legal opinion regarding Guantanamo Bay detentions?

Answer. It is the position of this and prior administrations, based on now longstanding judicial precedent, that detainees at the Guantanamo Bay Detention Facility are held pursuant to the 2001 AUMF, as informed by the laws of war. The AUMF authorizes detention of individuals who were part of, or substantially supported, al-Qaida or Taliban forces and their associated forces that are engaged in hostilities against the United States or its coalition partners. The AUMF generally authorizes detention until the end of hostilities. Separate from the legal authority to detain, detainees designated for continued law-of-war detention are eligible for review by the Periodic Review Board, an administrative, interagency body established under Executive Order 13567 to determine whether detention of eligible Guantanamo detainees remains necessary to protect against a continuing significant threat to U.S. security. My understanding is that as of January 12, 2022, there are about 18 detainees that have been determined to be eligible for transfer. If confirmed, I will support the Department of State's efforts to identify appropriate transfer locations and negotiate security and humane treatment assurances.

Question. What is your view on the scope of the 2001 AUMF?

Answer. I share this administration's view that the 2001 AUMF is not a blank check for the use of force by the Executive Branch and that it does not authorize force against all terrorist groups. It has been the longstanding view of the Executive Branch that the 2001 AUMF authorizes the use of force against al-Qa'ida, the Taliban, and "associated forces." To be considered an "associated force," the Executive Branch has explained that an entity must satisfy two conditions: first, the entity must be an organized, armed group that has entered the fight alongside al-Qa'ida or the Taliban; and second, the group must be a co-belligerent with al-Qa'ida or the Taliban in hostilities against the United States or its coalition partners. If confirmed, I am committed to ensuring that Congress is well informed about these very important matters.

Question. What is your view on the scope of Article II authority on the use of force?

Answer. For over 20 years I have taught law students about the importance of the constitutional role of Congress in U.S. foreign relations, including the use of force. I recognize and respect Congress' constitutional power to declare war. I understand that this and prior administrations have taken the view that the President may order military action without the prior approval of Congress only when (1) that action serves an important national interest, and (2) the reasonably anticipated nature, scope, and duration of the operation and any anticipated responses would not rise to the level of "war" for purposes of the Constitution's Declare War Clause. Whether acting under statutory or constitutional authority, the President must also conduct such operations in accordance with international law, including the law of war principles of military necessity, humanity, distinction, and proportionality.

Question. Do you believe that the 2001 AUMF should be repealed or updated? Why or why not?

Answer. I understand that President Biden has committed to working with Congress to ensure that outdated authorizations for the use of military force are replaced with a narrow and specific framework that will ensure that we can continue to protect Americans from terrorist threats. I share that goal. If confirmed, I look forward to working with the Committee and Congress on this important and complex task.

Question. Is it possible for Congress to update the 2001 AUMF without negatively impacting current detention authority for terrorist detainees?

Answer. Yes. The administration believes that any new or updated AUMF should include language that avoids undermining the legal basis for ongoing operations that the President and Congress deem necessary to address ongoing threats, and provide for uninterrupted authority to continue those efforts. If confirmed, I would look forward to working closely with the Committee and Congress on this important issue.

Question. Do you believe that any legislative update to the 2001 AUMF should ensure that detention authority for terrorist detainees is not interrupted? Why or why not?

Answer. The administration believes that any new or updated AUMF should include language that avoids undermining the legal basis for ongoing operations that the President and Congress deem necessary to address ongoing threats, and provide for uninterrupted authority to continue those efforts. If confirmed, I would look forward to working closely with the Committee and Congress on this important issue.

Question. Do you believe that any legislative update to the 2001 AUMF should ensure that current military operations against terrorists around the world continue to be authorized?

Answer. The administration believes that any new or updated AUMF should include language that avoids undermining the legal basis for ongoing operations that the President and Congress deem necessary to address ongoing threats, and provide for uninterrupted authority to continue those efforts. If confirmed, I would look forward to working closely with the Committee and Congress on this issue.

Question. Do you believe that the 2001 AUMF authorizes the use of military force against associated forces of Al Qaeda?

Answer. Yes. It has been the longstanding view of the Executive Branch that the 2001 AUMF covers "associated forces" of al-Qa'ida or the Taliban, and that to be considered an "associated force" an entity must satisfy two conditions: first, the entity must be an organized, armed group that has entered the fight alongside al-Qa'ida or the Taliban; and second, the group must be a co-belligerent with al-Qa'ida or the Taliban in hostilities against the United States or its coalition partners. I share the administration's view that the 2001 AUMF is not a blank check for the use of force by the Executive Branch and that it does not authorize force against all terrorist groups. If confirmed, I am committed to ensuring that the administration engages with the Committee and Congress in determining the appropriate scope of the current or any future AUMF.

Question. Do you believe that any legislative update to the 2001 AUMF should contain geographic constraints? Why or why not?

Answer. President Biden has committed to working with Congress to ensure that outdated authorizations for the use of military force are replaced with a narrow and specific framework that will ensure that we can continue to protect Americans from

terrorist threats. I share that goal. Reforming the 2001 AUMF is an extremely complex task. As I am not currently in government, I do not have all the relevant facts and answers on what a new or revised authority should look like. If confirmed, I am committed to working with the Committee and Congress on this important task.

Question. Do you believe that any legislative update to the 2001 AUMF should include a hard sunset? Why or why not?

Answer. President Biden has committed to working with Congress to ensure that outdated authorizations for the use of military force are replaced with a narrow and specific framework that will ensure that we can continue to protect Americans from terrorist threats. I share that goal. Reforming the 2001 AUMF is an extremely complex task. As I am not currently in government, I do not have all the relevant facts and answers on what a new or revised authority should look like. If confirmed, I am committed to working with the Committee and Congress on this important task.

Question. Should the 2002 AUMF be repealed? Why or why not?

Answer. Yes. The administration supports repeal of the 2002 AUMF, and I do as well. President Biden has committed to working with Congress to ensure that outdated authorizations for the use of military force are replaced with a narrow and specific framework that will ensure that we can continue to protect Americans from terrorist threats. The administration has stated that the United States has no ongoing military activities that rely solely on the 2002 AUMF as a domestic legal basis, and that repeal of the 2002 AUMF would likely have minimal impact on current counterterrorism operations. The administration has made clear that the 2001 AUMF and the President's Article II authorities are sufficient to address current counterterrorism threats and defend U.S. national security. If confirmed, I look forward to working with the Committee and Congress on this issue.

Question. Do you believe the 2002 AUMF provided an independent legal basis for the strike against Solemani?

Answer. I was not in government at the time, so I cannot speak to the specific legal basis for the strike or the sensitive intelligence or other information upon which the legal and policy analysis at the time was based. If confirmed, I will look carefully at this issue.

Question. How would a repeal of the 2002 AUMF impact current detention operations?

Answer. As I understand it, repeal of the 2002 AUMF would not impact current detention operations because those operations rely on the authority of the 2001 AUMF.

Question. Do you commit to working closely with this committee and directing your staff to brief the committee on any use of force undertaken pursuant to the 2001 AUMF, 2002 AUMF, or Article II of the U.S. Constitution?

Answer. If confirmed, I commit to working closely with this Committee and directing my staff to regularly brief this Committee and to address any questions it may have regarding use of force undertaken pursuant to the 2001 AUMF, 2002 AUMF, or Article II of the U.S. Constitution.

Question. On November 23, 2020, then-President-elect Joe Biden announced his intent to appoint former Secretary of State John Kerry to be a "Special Presidential Envoy for Climate." In response to committee questions regarding whether Special Envoy John Kerry is legally required to be submitted to the Senate for Advice and Consent, the State Department has informed the committee an administration legal view that:

Envoys who have only a discrete and temporary mission and do not fill a "continuing position established by law," see *Lucia v. SEC*, 138 S. Ct. 2044, 2051 (2018), historically have not been considered "public ministers" or "Officers of the United States" to whom the Appointments Clause applies. See *Officers of the United States Within the Meaning of the Appointments Clause*, 31 Op. O.L.C. 73, 102–05 (2007)."

- Do you agree with this legal assessment? Why?

Answer. I am not in the administration, and therefore do not have access to any specific legal analysis underlying this opinion. However, it is my understanding that the O.L.C. Opinion you cite is the legal position of this administration, as it has been of prior administrations, and remains in effect. It is also my understanding that the President recently signed into law an NDAA amendment, supported by the Committee, which prescribes a specific role for the Senate regarding Special Envoys starting in January 2023, including by providing that the President shall nominate

for Senate advice and consent any Special Envoy or other appointee who will be “exercising significant authority pursuant to the laws of the United States” subject to certain exceptions.

Question. Special Envoy Kerry remains in his position. Is this position “temporary”?

Answer. Since I am not in government, I have not had access to the full factual record or any legal analysis surrounding this position. If confirmed, I would examine the issue and consult my colleagues at the Department of Justice regarding any such questions.

Question. For appointment clause purposes, at what point is a position no longer considered discrete and temporary?

Answer. Since I am not in the administration, I have not had access to any legal analysis surrounding this question. It is my understanding that such an assessment would consider the specific facts and circumstances of a particular position and would involve assessments made by the Department of Justice. If confirmed, I would examine the issue and consult my colleagues at the Department of Justice regarding any such questions.

Question. Is it possible for the Special Envoy Kerry’s position to be considered “discrete or temporary” if the position is retained for a complete four year Presidential term? Why?

Answer. Since I am not in the administration, I do not have access to the full facts and circumstances concerning this position. If confirmed, I would examine the issue and would consult with my colleagues at the Department of Justice regarding any such questions.

Question. The State Department’s legal analysis continued:

Moreover, even if Mr. Kerry both occupied a continuing position in the State Department, which the Secretary could fill under the ordinary statutory authorities for staffing the Department, and “exercis[ed] significant authority pursuant to the laws of the United States,” *id.*, so that he was an “Officer” for Appointments Clause purposes, he would at most be an inferior officer. *See, e.g., Edmond v. United States*, 520 U.S. 651 (1997). Therefore, the power vested in the Secretary to make such a personnel appointment in the State Department would satisfy the Appointments Clause.”

- Do you agree with this legal assessment? Why?

Answer. Since I am not in the administration, I have not had access to any legal analysis surrounding this question. It is my understanding that the O.L.C. Opinion upon which this is based is the legal position of this administration, as it has been of prior administrations, and remains in effect. It is also my understanding that the President recently signed into law an NDAA amendment supported by the Committee prescribing a specific role for the Senate regarding Special Envoys starting in January 2023.

Question. Do you agree with the assessment that at most Special Envoy Kerry would be considered an inferior officer?

Answer. Since I am not in the administration, I have not had access to the full factual record or any legal analysis concerning Special Envoy Kerry. I understand that the administration has concluded that Special Envoy Kerry is acting in a role and in a manner that does not require the advice and consent of the U.S. Senate. If confirmed, I would examine the issue and consult with my colleagues at the Department of Justice regarding any such questions.

Question. Section 5105 of the National Defense Authorization Act provides much needed congressional oversight over the appointment of special envoys.

- Do you commit to advising President Biden that he should submit a nomination for any appointee who will be “exercising significant authority pursuant to the laws of the United States” to the Senate for its advice and consent before the appointee takes office? For the purpose of ensuring compliance with this law, how would you define significant authority?

Answer. I am aware of the provisions in section 5105 of the National Defense Authorization Act for Fiscal Year 2022 (P.L. 117–81). This is new legislation, and since I am not in the administration, I have not had access to any legal analysis surrounding the question of “significant authority.” However, if confirmed, I will work with others at the Department and in the administration to ensure implementation of the statute with respect to special envoys and similar positions.

Question. For positions not exercising significant authority, Section 5105 requires the President or Secretary of State to notify the committee 15 days before such appointment: (1) a certification the position does not require the exercise of significant authority pursuant to the laws of the U.S.; (2) a description of the duties and purpose of the position; and (3) a rationale for giving the specific title and function of the position. Do you commit to advising the President and Secretary of State to provide substantively robust notifications to Congress and consult with the committee as appointments are contemplated?

Answer. I am aware of the provisions in section 5105 of the National Defense Authorization Act for Fiscal Year 2022 (P.L. 117–81). If confirmed, I will work with others at the Department and in the administration to ensure implementation of the statute, including all notification requirements.

Question. Section 5105 also provides a limited exception for temporary appointments exercising significant authority, pending notifications to SFRC. Do you commit to adhering to these limits? And do you commit to advising the President to provide substantively robust notifications to Congress and consult with the committee as such temporary appointments are contemplated?

Answer. I am aware of the provisions in section 5105 of the National Defense Authorization Act for Fiscal Year 2022 (P.L. 117–81). If confirmed, I will work with others at the Department and in the administration to ensure implementation of the statute, including limitations on appointments and notifications consistent with the requirements of the statute.

Question. I confirmed, do you commit to brief my office and this committee in a timely fashion with respect to sanctions policy developments and designations as they occur?

Answer. If confirmed, I commit to working within the Department of State so that you receive such sanctions policy briefings in a timely fashion, which when appropriate would involve input from the Office of the Legal Adviser. As a teacher of U.S. foreign relations law for over 20 years, I have always led my class with the importance of the constitutional role of Congress in foreign relations, including oversight. If confirmed, I would endeavor to make sure that your oversight role is supported by receiving the information you and the Committee need from the Office of the Legal Adviser.

Question. On December 27, 2020, President Trump signed into law the Consolidated Appropriations Act, 2021. This legislation includes a provision that I supported which establishes an Office of Sanctions Coordinator within the State Department.

- If confirmed, do you commit to give this new office the attention, support, and resources needed to ensure its success and the fulfillment of its statutory mandate?

Answer. Yes. The Office of Sanctions Coordinator is an important contribution to the effective development and implementation of sanctions policy within the State Department and across the U.S. Government. If confirmed, I will work to ensure that the Office of the Legal Adviser robustly engages with and supports the Office of Sanctions Coordinator in performing its statutory function.

Question. On December 27, 2020, President Trump signed into law the Consolidated Appropriations Act, 2021. This legislation includes a provision that I supported which establishes an Office of Sanctions Coordinator within the State Department.

- If confirmed, do you commit to ensuring that this new office will fulfill its mandate vis-à-vis other offices and bureaus within the State Department to “serve as the coordinator for the development and implementation of sanctions policy” within the State Department?

Answer. Yes. If confirmed, I will ensure that the Office of the Legal Adviser robustly engages with and supports the Office of Sanctions Coordinator in performing its statutory function.

Question. On December 27, 2020, President Trump signed into law the Consolidated Appropriations Act, 2021. This legislation includes a provision that I supported which establishes an Office of Sanctions Coordinator within the State Department.

- If confirmed, do you commit to work with my office and this committee to ensure that this office succeeds and fulfills its statutory mandate?

Answer. Yes. If confirmed, I will ensure that the Office of the Legal Adviser robustly engages with and supports the Office of Sanctions Coordinator in performing its statutory function.

Question. Section 1263(d) of the Global Magnitsky Act requires that the President make a sanctions determination within 120 days after receipt of a joint request from the Chairman and Ranking Member of the Senate Foreign Relations Committee (or other relevant committee leadership). If confirmed, will you commit to help ensure Congress receives a specific determination to any such request within 120 days of submission?

Answer. Yes. Congressional engagement and transparency are important components of the Global Magnitsky Act. If confirmed, I commit to helping ensure that Congress receives such determinations in a timely manner consistent with the Act.

Question. What role should L play in genocide determinations?

Answer. I understand that the Secretary of State decides, as a matter of foreign policy, whether the U.S. Government should publicly characterize particular actions and abuses as a specific international atrocity crime, including genocide, based on an analysis of the law, available facts, and policy considerations. I also understand that the role of L, in coordination with relevant Department policy offices, including the Office of Global Criminal Justice, is to advise the Secretary in applying the law to the available facts. If confirmed, I will look forward to advising the Secretary on these critical issues and supporting the Department's important efforts to promote justice and accountability for genocide and other atrocities.

Question. Should the atrocities committed in Burma against the Rohingya and other ethnic and religious minorities be considered a genocide?

Answer. I am appalled by the Burmese military's brutal violence against Rohingya and other ethnic and religious minorities in Burma, and have previously taken the position that I consider such actions against Rohingya to constitute genocide. I understand that, in 2017, then-Secretary of State Tillerson concluded that the atrocities against Rohingya in northern Rakhine State constituted ethnic cleansing. I also understand that in his confirmation hearing, in January 2021, Secretary Blinken committed to reviewing whether these atrocities constitute specific international atrocity crimes, including genocide. Since I am not in the administration, I am not aware of the current status of that review. If confirmed, I will look forward to supporting Secretary Blinken in that process and advising Department policy offices and the administration in their ongoing efforts to promote respect for human rights as well as justice and accountability for atrocities in Burma.

Question. Should the atrocities committed in Syria by the brutal Bashir Al-Assad regime be considered genocide?

Answer. I understand that the Secretary of State decides, as a matter of foreign policy, whether the U.S. Government should publicly characterize particular abuses as a specific international atrocity crime, including genocide, based on an analysis of the law, available facts, and policy considerations. I also understand that, in 2019, then-Secretary of State Pompeo determined that the Assad regime is responsible for innumerable atrocities, some of which rise to the level of war crimes and crimes against humanity. I agree with that assessment. If confirmed, I will look forward to supporting the Department's efforts to address atrocities in Syria and to promote accountability for those responsible.

Question. The re-instatement and expansion of the Protecting Life in Global Health Assistance Policy, formerly known as the Mexico City Policy, during the last administration reignited a longstanding debate about aid conditionality and the "rights" of U.S. foreign assistance implementers and beneficiaries.

- Do foreign non-governmental organizations have a legally-enforceable "right" to United States foreign assistance, or is the provision of U.S. foreign assistance discretionary?

Answer. I understand that most foreign assistance is provided through a competitive process and that any revocation of a federal award must comply with applicable rules and regulations. Aside from these regulations, I am not aware that foreign non-governmental organizations have a legally-enforceable "right" to U.S. foreign assistance.

Question. Does Congress have the right to place conditions upon the use of the U.S. foreign assistance it appropriates?

Answer. Yes, consistent with the Constitution of the United States.

Question. Does the Executive also have the right to condition U.S. foreign assistance?

Answer. I am not in the administration and do not have access to all the legal analysis on this issue. However, it is my understanding that the Executive may condition U.S. foreign assistance consistent with all legal requirements, including in the Foreign Assistance Act of 1961 and the annual appropriations act. If confirmed, I look forward to working with Congress on decisions related to conditions on foreign assistance.

Question. You served as an independent expert on a U.N. Human Rights Committee case where the Committee found that Ireland had violated the human rights of a woman seeking an abortion and that Ireland should change its laws to ensure access to abortions in certain cases.

- Is access to abortion an internationally-recognized human right?

Answer. This administration is deeply committed to promoting and protecting the rights of women and girls, including in the areas of reproductive health and choice. International human rights law protects access to reproductive health and choice in various ways, such as prohibiting discrimination. However, the United States does not regard access to abortion services as an international human right.

Question. If confirmed, will you commit to ensuring full and complete compliance with current law, which prohibits the use of U.S. foreign assistance to perform or promote abortion as a method of family planning; support involuntary sterilizations; or lobby for or against the legalization of abortion overseas?

Answer. Yes. If confirmed, I commit to providing advice consistent with all provisions of law related to our foreign assistance, including restrictions related to the use of foreign assistance for the performance or promotion of abortion as a method of family planning, coercive abortion and forced sterilization, and lobbying for or against abortion.

Question. Section 1215 of the NDAA FY 2021 restricts funding for the Department of Defense for any activity to reduce force levels below both 4,000 and 2,000, until DOD submits a report to Congress or the President provides a written waiver. During the Afghanistan withdrawal, troop levels again exceeded 4,000 on the ground. Do you believe these restrictions were legally binding during the recent withdrawal? Why? Why has Congress not received either the required report or written waiver as mandated by law?

Answer. As I am not currently in government, I am not familiar with all of the legal analysis or facts surrounding past decisions to provide such reports or waivers. It is my understanding that the Department of Defense (DoD) Office of General Counsel would ordinarily be responsible for the legal advice on this limitation on the use of DoD funding and its associated reporting requirements, in consultation with, inter alia, the Secretary of State. If confirmed, I will look into this issue and will advise the Department of State regarding cooperation with DoD on relevant congressional reporting requirements, including DoD reports that require Secretary of State consultation.

Question. Section 1217 of the NDAA FY 2021 requires the administration to transmit any agreement or arrangement with the Taliban to Congress within 5 days. The State Department currently has an agreement or an arrangement with the Taliban governing continued evacuations of American citizens and LPRs. Why has the State Department not provided Congress any such agreement or arrangement as required by law?

Answer. As I am not currently in government, I am not familiar with all of the facts or legal analysis surrounding this question. I am aware that the United States and many other countries released a statement dated August 29, 2021 (available at <https://www.state.gov/joint-statement-on-afghanistan-evacuation-travel-assurances>), acknowledging that the Taliban publicly committed that foreign nationals and any Afghan citizen with travel authorization would be allowed to proceed in a safe and orderly manner to points of departure and travel outside the country. However, I personally am not aware of any specific agreement or arrangement between the State Department and the Taliban governing continued evacuations of American citizens and LPRs. If confirmed, I commit to reviewing this issue and providing legal advice to Department policymakers to ensure compliance with Section 1217 of the NDAA for FY 2021.

Question. Do you commit to providing Congress any agreement or arrangement, and relevant materials, made between the U.S. and the Taliban since August 14?

Answer. I understand that Secretary Blinken has committed to keeping Congress informed of any agreement or arrangement with the Taliban subsequent to the February 29, 2020 U.S.-Taliban Agreement which the Department has identified and is under the purview of the State Department, including providing any materials relevant to such agreement or arrangement, consistent with section 1217(b)(2) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (P.L. 116-283). If confirmed, I would provide legal advice to Department policymakers to ensure compliance with this provision

Question. The Department of Defense has opined that it will rely on the 2001 AUMF for continued counterterrorism operations in Afghanistan. What is the State Department's position on the legal authority for continued counterterrorism operations in Afghanistan?

Answer. I am not currently in government and cannot authoritatively represent the administration's legal positions. However, as I understand it, the United States has relied on the 2001 AUMF as the domestic law basis for the use of force in Afghanistan against al-Qa'ida, the Taliban, and associated forces, including ISIS-K. As a matter of international law, U.S. operations against al-Qa'ida and ISIS-K targets in Afghanistan to date have been conducted in national self-defense with the consent of Afghanistan. If confirmed, I would advise on the legal basis for any future counterterrorism operations based on the information available to me at the time.

Question. What is L's position on the repeal of the 2001 AUMF as it relates to counterterrorism operations and detention authorities?

Answer. I am not currently in government and cannot authoritatively represent the administration's legal positions. However, President Biden has committed to working with Congress to ensure that outdated authorizations for the use of military force are replaced with a narrow and specific framework that will ensure that we can continue to protect Americans from terrorist threats. It is my understanding that the administration's position is that the 2001 AUMF should not be repealed without replacement, and that any new or updated AUMF should include language that avoids undermining the legal basis for ongoing operations that the President and Congress deem necessary to address ongoing threats, and provide for uninterrupted authority to continue those efforts. If confirmed, I look forward to working closely with the Committee and Congress on this important issue.

Question. Can you commit to utilizing the deterrence mechanisms in the Caesar Syria Civilian Protection Act, which Congress passed on a bipartisan, bicameral basis as a powerful tool to uphold the Assad regime's isolation, including through additional sanctions?

Answer. As Secretary Blinken has made clear, the United States has not lifted sanctions on Syria. Caesar Act sanctions are an important tool to hold the Syrian regime accountable for the atrocities inflicted on its own people. If confirmed, I will look into this issue and will provide legal advice to ensure that the Department of State, in coordination with the Treasury Department, implements sanctions under the Caesar Act.

Question. Is a waiver under the Caesar Syria Civilian Protection Act necessary to authorize Jordan's Electricity Proposal and Egypt's Gas Proposal with the Syrian regime?

Answer. I am not currently in government and therefore do not have access to all the relevant facts and any legal analysis. I support efforts to resolve Lebanon's energy shortages in a way that is consistent with U.S. sanctions on Syria. I understand that the State Department is in contact with the governments of Jordan, Egypt, and Lebanon, as well as the World Bank, to gain a more complete understanding of how these arrangements would be structured and financed, and to ensure they are in line with U.S. policy and address any potential sanctions concerns. If confirmed, I will work closely with the Treasury Department and provide legal advice to ensure compliance with all U.S. sanctions programs in Syria.

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD
SUBMITTED TO SARAH H. CLEVELAND BY SENATOR JEANNE SHAHEEN

Question. The previous administration took several positions that were out of step with the international community, particularly on human rights.

- What steps does the Biden administration need to take to restore a U.S. foreign policy that is rooted in internationally agreed upon human rights norms and laws?

Answer. President Biden has committed to a foreign policy that is centered on the defense of democracy and the protection of human rights. In the last year, the administration has taken many steps to restore the place of the United States as a leader in human rights, including seeking and winning election to the United Nations Human Rights Council, putting forward U.S. candidates to serve as independent experts on a number of human rights treaty bodies and United Nations forums, and promoting accountability for human rights violations and abuses including through bilateral and multilateral engagement and application of targeted sanctions. If confirmed, I look forward to continuing to support the administration and the Department in engagement with this Committee, civil society, and the international community, to promote and protect human rights consistent with international law.

Question. Across the globe, the principles and institutions of the international legal system have been under attack in recent years, with the rise of nationalism and authoritarianism. What do you see as the most important steps the State Department can take to bolster the international system and strengthen international legal norms?

Answer. The administration shares your concern regarding the rise of illiberal and authoritarian states and their efforts to undermine human rights, democracy and the rules-based international order. The most important steps the State Department can take to bolster the international system and strengthen international legal norms are constructive engagement and to lead, in concert with other like-minded states, by the power of example. As Secretary Blinken stated before the United Nations General Assembly last fall, “it makes a difference when the United States shows up, listens, leads. It allows us to strengthen the rules and institutions that have helped defend our values and advance our interests for many years.” U.S. engagement with others in the international community, including through bilateral and multilateral work and participation in regional and international organizations, has helped shape and safeguard rules, agreements, and mechanisms that help keep our people safe and healthy, and our businesses competitive while upholding our democratic values. If confirmed, I would support the administration and the Department in engagement with the international community, in particular through the promotion and protection of international law, and I would look forward to consulting with this Committee on these efforts.

Question. I have long disagreed with the State Department’s interpretation of eligibility for the Special Immigrant Visa program as defined in the Afghan Allies Protection Act of 2009. Congressionally written statute says that individuals are eligible for the program if, among other requirements, they were or are employed in Afghanistan “by, or on behalf of, the United States Government.” The way that State has interpreted this language over the last two administrations has arbitrarily excluded those who worked for the U.S. as grantees or through certain types of contracts. These individuals spent 20 years on the frontlines of U.S. efforts to engage with the Afghan people, and certainly meet all other criteria for eligibility, including demonstrating an “ongoing serious threat” to their safety. And this group includes more women than under current State-determined eligibility.

- I hope that you will take a close look at this language and how it has been interpreted by the State Department. Do you commit to doing so, and communicating your legal opinion to my office?

Answer. Yes. I have not had access to the full factual record or legal analysis surrounding the Department’s interpretation of the statute. But I know that ensuring effective processing of SIV applications for individuals who provided faithful and valuable service to the United States in Afghanistan is a top priority for the Department. If confirmed, I would examine the issue and would be prepared to engage with Congress and your office on ensuring implementation of the Afghan Special Immigrant Visa program.

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD
SUBMITTED TO SARAH H. CLEVELAND BY SENATOR TODD YOUNG

Question. Do you believe international tax treaties require the approval of two-thirds of the Senate in order to be ratified as outlined by the U.S. Constitution?

Answer. Article II of the Constitution provides that the President may make treaties with the advice and consent of two-thirds of the Senators present. On many occasions, however, Congress has passed statutes authorizing the President to enter into international agreements on behalf of the United States, and the Supreme Court has recognized that such statutes can provide a valid legal basis for the President to enter into international agreements, like the Senate's adoption of resolutions of advice and consent pursuant to the Article II treaty process has done.

Whether Congress would wish to pass a statute authorizing the President to enter into an agreement addressing international taxation would, of course, be for Congress to decide. Historically, bilateral income tax treaties have been approved by the Senate via the Article II treaty process. To the extent that the Senate may prefer that future agreements addressing international taxation be approved via the Article II treaty process rather than via statute, this would be a matter within the Senate's control, as a statute could not pass without the Senate's approval. Tax treaties have long served to advance important economic interests of the United States and have enjoyed strong bipartisan support in the Senate. If confirmed, I would look forward to engaging with this Committee to continue the historic partnership between the executive branch and the Senate with regard to these important agreements.

Question. The United States is currently negotiating an important international agreement on taxes under the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting. One key element, referred to as Pillar One, will require countries to update international tax rules. It is my understanding that this includes modification of each of the United States' bilateral tax treaties. If that is the case, based on your training and experience as an attorney, do you believe the Pillar One agreement will need to be implemented through the formal treaty process?

Answer. Historically, bilateral income tax treaties have been approved by the Senate via the Article II treaty process. However, Congress could also authorize the President by statute to enter into international agreements regarding taxation. Whether the Senate would wish to do this for the multilateral convention contemplated under Pillar One would be for the Senate to decide.

Even where agreements are approved via the Article II treaty process, however, separate implementing legislation sometimes is required to allow the United States to give effect in its domestic law to the obligations it undertakes in an international agreement. Accordingly, even if an agreement such as the multilateral convention contemplated under Pillar One were approved via the Article II treaty process, enactment of separate implementing legislation could still be necessary before the United States could join the agreement and carry out its obligations thereunder. If confirmed, I would look forward to engaging with this Committee on issues related to the proposed Pillar One multilateral convention.

Question. Would you agree that an international tax agreement that makes fundamental changes to our international tax system and the global economy are related to the conduct of foreign policy?

Answer. Yes.

Question. If confirmed, how would you advise Treasury and coordinate with the Senate on the OECD agreement and the treaty process?

Answer. I believe the Senate's input will be very important as the administration considers the ways in which the OECD/G20 Inclusive Framework's two-pillar solution can be implemented expeditiously and effectively, including with respect to the multilateral convention contemplated under Pillar One. If confirmed, I would look forward to engaging with colleagues in Treasury and elsewhere in the administration and with this Committee on these issues.

Question. Does the CCP's treatment of China's Uyghur minority constitute genocide?

Answer. Yes. The administration has recognized that there is an ongoing genocide and crimes against humanity in Xinjiang province against the Uyghur minority and members of other ethnic and religious minority groups. I am also appalled by these actions. I understand that the Department has sought to impose consequences on those responsible for these atrocities, including through the imposition of financial sanctions and visa restrictions, as appropriate. If confirmed, I will support the Department's efforts to promote accountability for those responsible for genocide and crimes against humanity in Xinjiang.

Question. What evidence does it take to determine that the CCP was engaged in genocide in Xinjiang? Do findings by international tribunals or NGOs have any weight in State Department determinations?

Answer. I understand that, in January 2021, then-Secretary of State Pompeo determined that the PRC government, under the direction and control of the Chinese Communist Party, has committed genocide and crimes against humanity against Uyghurs and members of other ethnic and religious minority groups in Xinjiang, and that Secretary Blinken has stated that he agrees with that determination. As I am not currently in the Department, I cannot speak to what information the Secretary may have taken into account when making these determinations. However, if confirmed, I will look forward to advising the Secretary on these issues. I also look forward to supporting the Department's work to promote accountability for those responsible for genocide and crimes against humanity in Xinjiang, in consultation with this Committee.

Question. If confirmed, how would you advise the Secretary on the standards for making a genocide determination?

Answer. I understand that the Secretary of State decides, as a matter of foreign policy, whether the U.S. Government should publicly characterize particular actions and abuses as a specific international atrocity crime, including genocide, and that such decisions are based on an analysis of the law, available facts, and policy considerations. I also understand that the role of L, in coordination with relevant Department policy offices, including the Office of Global Criminal Justice, is to advise the Secretary in applying the law to the available facts. I also understand that, for the purposes of atrocity determinations, the Department looks to international law, including the definition of genocide in Article II of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, and U.S. domestic law. If confirmed, I will look forward to advising the Secretary on these issues and supporting the Department's efforts to promote accountability for genocide and other atrocity crimes.

Question. What are the legal consequences of making a genocide determination under the 1948 Convention on the Prevention and Punishment of the Crime of Genocide?

Answer. Under Article I of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention), States Parties have an obligation to prevent and punish genocide. The Genocide Convention, among other things, provides in Article VI that persons charged with genocide or any of the other acts punishable under Article III of the Genocide Convention "shall be tried in a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction."

Question. In March 2021, the International Criminal Court launched a one-sided political attack on Israel in the guise of a formal investigation against alleged Israeli war crimes in Gaza and the West Bank. This investigation comes even though Israel is not a party to the ICC and has a robust judicial system capable of investigating and prosecuting any alleged crimes. The ICC has also threatened action against the U.S. for actions in Afghanistan. In your view, what is the proper role of the International Criminal Court?

Answer. I agree with the U.S. Government's longstanding objection to the ICC's attempts to assert jurisdiction over nationals of non-parties, such as the United States and Israel, absent the State's consent or a Security Council referral. As Secretary Blinken has said, U.S. concerns about these cases should be addressed through engagement with all stakeholders in the ICC process. If confirmed, I will work with our partners and allies, together with the Office of Global Criminal Justice, to focus the Court on its core mission of trying alleged perpetrators of genocide, crimes against humanity, and war crimes where the relevant State is truly unable or unwilling to do so.

Question. President Biden has pledged to reopen a consulate in Jerusalem closed by the previous administration. Such a move would come after the United States recognized Jerusalem as Israel's capital. What is your understanding of U.S. obligations related to the opening of diplomatic facilities abroad? Do you agree with the administration's stated position that opening such facilities requires the consent of the host government?

Answer. I understand that the administration intends to reopen our Consulate General in Jerusalem to strengthen our ability to engage the Palestinian people and execute our assistance programs, public diplomacy outreach, and diplomatic reporting. I also understand that the reopening of the Consulate General in Jerusalem would not affect U.S. policy that the U.S. Embassy remains in Jerusalem, would not

alter the U.S. recognition of Jerusalem as Israel's capital, and would not constitute the recognition of a Palestinian state.

Additionally, I understand that to reopen the Consulate General, the United States would look to Israel to provide privileges and immunities to Consulate General officers and employees as they have in the past, and I would expect the Office of the Legal Adviser to support policymakers in any necessary discussions to that end. If confirmed, I would work to ensure that the Department complies with all applicable congressional consultation and notification requirements related to reopening the Consulate General in Jerusalem.

Question. The Biden administration is continuing to negotiate with Iran in Vienna on a nuclear deal to curb Tehran's nuclear program. The Iran Nuclear Agreement Review Act (INARA) gives Congress the right to review any agreement involving Iran's nuclear program. What is your view regarding INARA? Do you agree that under INARA any nuclear related agreement with Iran must be presented to Congress?

Answer. I understand that INARA requires that any "agreement" with Iran related to Iran's nuclear program be transmitted to Congress for a period of congressional review, and that "agreement" is broadly defined to include non-legally-binding political arrangements. I also understand that the administration has committed to ensuring that the requirements of INARA are satisfied. If confirmed, I commit to ensuring that policy makers obtain the legal advice they need in order to satisfy the requirements of INARA, including its transmission requirement.

Question. If the administration reaches an agreement to return to the JCPOA, do you believe that would need to come to Congress under the terms of INARA?

Answer. If confirmed, I am committed to ensuring that the administration carefully considers the facts and circumstances of any U.S. return to the JCPOA to determine the implications under INARA, and to ensuring that policy makers receive the legal advice they need in order to satisfy the requirements of INARA, including its transmission requirement.

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD
SUBMITTED TO JAMES C. O'BRIEN BY SENATOR ROBERT MENENDEZ

Sanctions Coordinator Position

Question. Sanctions are one of the few meaningful sticks we have in our foreign policy toolkit, yet State and successive administrations have often had difficulty developing and implementing them in a coordinated manner. The law creating your office gives you three key roles: the lead sanctions diplomat, the lead for State on sanctions in the interagency, and the lead within State in coordinating sanctions policy.

- I'd like to hear how you will approach each of these roles.

Answer. In my testimony to the committee on January 12, I outlined the importance of ensuring that sanctions are part of our national security strategy, support clear policy objectives, and rest upon a solid analysis of alternatives, effects, and support from our partners.

The three roles established in the law should reinforce one another. A senior voice and decision-maker focused on sanctions can affect deliberations in the Department and with other agencies; a point of contact for other agencies and partners should improve feedback about the design and adaptation of sanctions and the strategies of which they are a part; and engagement with partners should provide additional ideas about how U.S. policies are functioning and opportunities to strengthen international cooperation against sanctionable activities.

This is a lot for a newly-reconstituted, still-growing Office to undertake. It will require a clear set of priorities, to be set by the Secretary, and cooperation from senior policymakers across the administration and Congress. If confirmed I look forward to consulting with the committee on priorities and resources for the office.

Question. Once you are in office, I want to make sure there is a running dialogue between you and your team and me and my staff. Do you commit to that?

Answer. Yes. I would especially appreciate learning what concerns you are hearing about U.S. sanctions, recommendations for information on sanctions, and possible Congressional action related to sanctions.

State-Treasury Relationship

Question. I think there are real questions about whether the executive branch is structured appropriately on sanctions. Everyone seems to agree they are a foreign policy tool, but Treasury is the 900-pound gorilla in this area and regularly gets its way over State. The release of the Treasury sanctions policy review a few months ago is representative: it was a Treasury only report that barely had any input from State and did not address State-administered sanctions or human right sanctions like Global Magnitsky.

- How will you approach the inter-agency process to allow for State and Treasury to have a more balanced relationship on sanctions policy?

Answer. The first conclusions of the Treasury Report were that sanctions must be linked to broader U.S. policy and strong international partnerships. The Treasury report also correctly cited that “Treasury’s work on sanctions is conducted in close partnership with other parts of the Executive Branch, in particular the Department of State and the National Security Council, which lead the formulation of the foreign policy and strategic goals that sanctions serve, as well as the Department of Justice.” If confirmed, I will vigorously advocate for the State Department’s role in shaping and leading U.S. foreign policy and engagement with foreign partners. I expect to build on the close working relationship the State Department has with the Treasury Department and other agencies, as well as our foreign allies and partners, and to engage regularly as well with the National Security Council on any inter-agency disagreements.

Executive Branch Implementation of Mandatory Secondary Sanctions: When it comes to foreign policy in particular, the executive branch seems to take the position that mandatory equals discretionary, and there is often a failure to implement secondary sanctions as Congress intended. This is not just an issue of Congress versus the executive branch—private sector actors tell us that U.S. secondary sanctions are losing their bite because there are so rarely designations.

Question. Do you commit to being a strong advocate for full implementation and enforcement of mandatory sanctions?

Answer. Yes. I am interested in learning about the views of private sector actors mentioned in the question and, if confirmed, will consult with the Committee and other colleagues on that question.

Cuba

Question. The Treasury Department’s sanctions review report earlier this year underscored the importance of U.S. sanctions being tied to a specific policy objective. In the case of Cuba sanctions, Congress has defined in law clear policy goals and benchmarks that need to be met before sanctions are lifted. As you know, I care deeply about U.S. policy towards Cuba and I was concerned about previous efforts to lift U.S. sanctions on Cuba—in violation of the spirit of U.S. law—even while Cuba’s intransigent dictatorship refused to take any steps to permit a democratic opening in the country.

- What assurances can you provide that you will follow the letter and spirit of the law when you are coordinating U.S. sanctions on Cuba?

Answer. I understand and appreciate your deep commitment to the human rights of the Cuban people. If confirmed, I will work to advance U.S. policy on Cuba sanctions consistent with all relevant laws. I commit to engage with you on the issues if I am confirmed.

Question. Can I have your personal commitment that you will consult directly with me and my staff prior to any significant changes to U.S. sanctions on Cuba—whether those changes are proposed by you, others in the State Department, or by another part of the U.S. Government?

Answer. Yes. I understand and appreciate your deep commitment to the human rights of the Cuban people. If confirmed, I will engage with the relevant policy-makers on Cuba policy in the administration so that my office can remain informed. I commit to engage directly and routinely with you and your staff.

The Biden administration rightfully designated Cuban Defense Minister Lopez Miera under Global Magnitsky sanction, but it is clear that the challenges posed by the Cuban armed forces are bigger than one general. In addition to military involvement in human rights abuses, I’m concerned about the rise of a new generation of military oligarchs that control vast parts of the Cuban economy. Secretary Blinken made a commitment to me regarding a Magnitsky designation on the Cuban military.

Question. Can I get your commitment that you will make this designation a priority, if you are confirmed?

Answer. If confirmed, I will learn about work on this designation and consult closely with colleagues in the Department. I will consult with your staff and you about the topic. If a designation is warranted, I will advocate for it.

China

Question. I am deeply concerned that China is continuing to buy oil from the Iranians both subverting international sanctions and impacting the oil market. I am disappointed that the U.S. and the rest of the international community do not seem to be holding China accountable for these violations.

- What steps is the United States taking to urge/force China to comply with sanctions related to Iran's oil?

Answer. The United States has designated individuals and entities in response to Iranian sanctions evasion activities, including transactions involving the PRC. If I am confirmed, I will seek to learn what more might be done. I am told that the administration has also been raising this issue in diplomatic channels with Beijing as part of a dialogue on Iran policy and that Beijing has a strong interest in preventing Iran from developing a nuclear weapon given the profoundly destabilizing impact that would have in a region upon which the PRC depends for its oil imports.

Afghanistan:

Question. What further steps can the United States take to clarify and expand upon existing sanctions authorities on the Taliban and Haqqani Network, while ensuring that humanitarian aid goes directly to the Afghan people? What can we do to ensure that these steps don't result in a complete economic collapse that could cause a mass humanitarian crisis in Afghanistan?

Answer. If I am confirmed, I expect to take a leadership role in striking an appropriate balance between sanctions against listed Taliban members and the Haqqani Network and supporting the continued flow of humanitarian aid. This approach would include evaluating the effectiveness of the steps that have been taken.

The Department of the Treasury's Office of Foreign Assets Control (OFAC) issued six general licenses (GLs) aimed at facilitating economic activity and the flow of assistance to benefit the people of Afghanistan. Among other activities, these actions facilitate the official business of the U.S. Government, the official business of certain international organizations (including the U.N. and World Bank), and NGOs, and those acting on their behalf, providing humanitarian assistance and other critical support in Afghanistan as well as the export to Afghanistan of critical food and medicine.

Burma

Question. The 2021 coup in Burma makes clear—as a number of us here offered in 2014 and 2015, only to be ignored by the administration—that the way in which the United States dealt away its leverage and potential pressure in Burma was a mistake, undermining the ability of the democracy movement to get the military to relinquish power, and knee-capping efforts for genuine ethnic and national reconciliation, including the subsequent Rohingya genocide.

- How do we regain traction and leverage, what sanctions do you think would be appropriate to reimpose, what new sanctions might be necessary, including targeting MEC and MEHL and MOGE, so that perhaps this time we can get Burma right?

Answer. The United States has been steadfast in its support for the people of Burma since the military coup d'état on February 1, 2021. Immediately following the coup, President Biden issued an Executive Order 14014, authorizing sanctions in response to the coup. In total, the U.S. Government has sanctioned 58 individuals and 20 entities. These include top military commanders and senior officials of the regime, as well as businesses that generate revenue for the military and its leaders. As I understand them, sanctions against individuals and entities connected to the military regime impose a continuing and direct cost on the military regime, which is responsible for the horrific violence perpetrated against the pro-democracy movement and the people of Burma.

While I am not part of the administration and the administration does not preview future sanctions, if the violence and abuses in Burma continue, I anticipate that the administration will continue to use all available tools to put pressure on the regime to cease the violence, release all those unjustly detained, and restore Burma's path to democracy. The announcement of anti-corruption initiatives may

also provide important tools for addressing the networks that enable corruption, human rights abuses, other sanctionable activity, and sanctions evasion.

In all these aspects, coordinating sanctions with allies and partners is important to make our actions as impactful as possible. Our coordinated response shows that the international community is united against the coup, the horrific violence, and suppression of Burma's democracy. If confirmed, I am committed to continuing close U.S. coordination with likeminded partners, including the UK, Canada, and the EU, who have imposed sanctions on the military regime since the coup.

Venezuela

Question. I have authored every piece of major legislation on Venezuela that Congress has passed; this includes sanctions provisions, as well as policies in support of a negotiated solution to the Venezuelan crisis. While the entire world obviously knows that Maduro has no genuine interest in negotiations, our sanctions very clearly give us leverage to push a process forward. However, I am concerned that some in the administration would lift some sanctions for nothing in return from Maduro.

- If confirmed, will you ensure that the administration doesn't cede leverage to forge a negotiated solution without meaningful concessions from the Maduro regime?

Answer. If confirmed, I will work closely with the interagency and foreign partners and allies to advance U.S. foreign policy objectives in Venezuela. My personal experience across several continents is that the prospect of accountability, including through sanctions, can be important leverage for peace negotiations, and I expect to discuss this with responsible officials.

Hong Kong

Question. During the previous administration the United States rolled out a series of sanctions designations related to China's treatment of Hong Kong and Hong Kongers. None of those sanctions appeared to have had any deterrent or shaping effect on Beijing's calculus.

- What are the lessons that you take from that?

Answer. The Department of State remains deeply concerned about the degradation of the autonomy of Hong Kong, and, if confirmed, I will continue the Department's work to employ a variety of policy tools in response to the deteriorating situation. Sanctions are one such tool. As I noted in my testimony, sanctions must be part of a strategy; they themselves cannot be the strategy.

In addition, working with partners and allies is also key to create effective sanctions regimes. If confirmed, I look forward to engaging with our global partners whose cooperation will make sanctions programs more effective. This would again require that the Coordinator's Office work closely with U.S. missions abroad and other officials who engage other governments.

Question. Did we use sanctions in a way that was ineffective? Did we misalign targets? Or are there natural limits to what sanctions can leverage without a broader and more coherent policy framework?

Answer. The Biden administration has made the U.S. and allied approach to China and the relationship with China central to U.S. foreign policy. If confirmed, I look forward to learning more about the role that sanctions can play in that strategy and will consult with the Committee accordingly.

On Hong Kong itself, sanctions cannot substitute for a broader policy or achieve broader goals by themselves. If confirmed, I am interested in learning more about how sanctions in this instance can reinforce the China strategy and principles important to the international order here and elsewhere. Hong Kong's traditional role in the international financial system is particularly relevant in the consideration of how sanctions might be relevant and effective, both with regard to Chinese policy and to institutions and individuals seeking to benefit from that policy. If confirmed, I will work closely with my colleagues in the Department and other agencies to consider potential future sanctions that will advance our foreign policy interests regarding the deteriorating situation in Hong Kong.

Ethiopia

Question. The administration has designated four Eritrean entities and two Eritrean individuals under the E.O., but has not designated any Ethiopians, or made designations of actors supplying arms or materiel to parties to the conflict.

- Can we expect to see additional designations related to the Executive Order Imposing Sanctions on Certain Persons with Respect to the Humanitarian and Human Rights Crisis in Ethiopia issued on September 17th?

Answer. If confirmed, I will work with colleagues to continue to use all policy options available to stop the fighting and human rights abuse, get the Ethiopian Government and Tigray People's Liberation Front to the negotiating table, secure the withdrawal of Eritrean forces from Ethiopia, enable access to critical humanitarian assistance, and support an inclusive national dialogue process.

North Korea

Question. "Maximum pressure" on North Korea under the previous administration was neither. And as we stand at the start of 2022 it's clear that the sanctions regime currently in place has been badly broken. The Panel of Experts at the U.N. has been sidelined. There is tension between Washington and Seoul. And North Korea continues to march happily along with their nuclear and ballistic missile programs. Moreover, under successive administrations there seems to have been a disconnect between the bilateral and multilateral sanctions that we impose on North Korea and our diplomatic posture.

- Given the orientation of the new administration towards North Korea how would you recommend revising and refining our sanctions in a way that will actually be effective to compel different behavior from North Korea?

Answer. The United States has a vital interest in deterring the DPRK, limiting the reach of its unlawful and dangerous WMD and ballistic missile programs, and, above all, keeping the American people and America's allies safe. It is important for the international community to send a strong, unified message that the DPRK must halt provocations, abide by its obligations under U.N. Security Council resolutions, and engage in sustained and intensive negotiations with the United States.

United Nations sanctions on the DPRK remain in place, and we will continue to promote their implementation, including through diplomacy at the United Nations and with the DPRK's neighbors. If confirmed, I will work closely with our partners to ensure U.S. sanctions advance our policy goals, including ending the DPRK's unlawful WMD and ballistic missile programs.

Nicaragua

Question. Starting in February 2020, I publicly advocated that U.S. sanctions needed to be aimed towards the single diplomatic goal of forging conditions for democratic elections. Instead, the Trump administration sanctioned at random without any clear strategy. Although Ortega's fraudulent elections are now behind us and numerous opposition candidates are still in jail, it remains clear that Nicaragua needs new democratic elections. Congress passed my RENACER Act in November, which calls for a deeper marriage between our sanctions and diplomatic goals.

- If confirmed, can you commit that you personally will meet with my staff during your first 90 days to discuss how we can best utilize U.S. sanctions to advance our diplomatic goals in Nicaragua?

Answer. Our sanctions strategy has been and continues to be aimed at advancing our foreign policy goals by, among other things, promoting accountability for the Ortega-Murillo regime's actions to undermine democracy, including by preventing free and fair elections, and respect for human rights. If confirmed, I commit to meeting with you and your staff within the first 90-days to discuss the use of U.S. sanctions to advance our diplomatic goals in Nicaragua.

Mali

Question. Following actions in the U.N. Security Council, the Trump administration issued an Executive Order in 2019 with respect to those who undermine peace and security in Mali. Five individuals implicated in armed group activities and/or illicit trafficking were designated in late 2019, concurrent with U.N. designations, but there have been no subsequent design actions despite the fact that there have been two military coups, worsening violence in northern and central Mali, and recent public reports that the current junta plans to delay elections and engage the Wagner Group, a U.S. and EU sanctioned Russian private military company. And there has never been a government official sanctioned, despite ample evidence of malfeasance documented in U.N. Panel of Experts' reports.

- What do you intend to do to ensure that the Mali sanctions program is furthering U.S. foreign policy goals in Mali?

Answer. If confirmed, I will work closely with my colleagues in the Department and other agencies to determine what tools would be helpful and consistent with

the efforts of our ECOWAS and European partners to achieve our policy goals in Mali. I would unfortunately anticipate that further action in the U.N. Security Council would be challenging given Russia's relationship with the Malian authorities.

Question. Also, what more can the administration do to help counter Russia's malign influence in Mali—and elsewhere in Africa?

Answer. If confirmed, I will work with colleagues in the Department and other agencies to identify opportunities to further counter Russian malign influence through the African continent. The administration has noted that Africa can play a central role in driving global economic growth, especially through the digital and green transitions. As U.S. institutions and businesses look to play important roles across the continent, support for the rule of law and anti-corruption efforts, including through sanctions, will be an important part of U.S. policy, with regard to Russia and other actors.

Democratic Republic of the Congo

Question. The U.S. has levied sanctions against individuals and entities in the Democratic Republic of the Congo based on several different statutes and programs. Among these are recent visa restrictions against wildlife traffickers under section 212(a)(3)(C) of the Immigration and Nationality Act (INA), and corruption-related sanctions under the Global Magnitsky Act.

- With so many different sanctions programs in place to address such a wide range of problems in the DRC, what is your assessment of the overall effectiveness of US sanctions in DRC, and of the relative effectiveness of each program?

Answer. The United States' commitment to promote accountability for corrupt actors and other spoilers of the DRC's democratic processes is clear. If confirmed, I will continue to advocate for the use of all relevant authorities, including both domestic and U.N. sanctions, to support the reform efforts of the DRC Government and target armed groups, human rights abusers, corrupt actors, as well as those that profit from the illicit trade in natural resources, such as wildlife and minerals, at the expense of the Congolese people. Anti-corruption initiatives, such as those announced in December, provide additional tools to address the networks that enable corruption, human rights abuses, sanctions evasion, and other sanctionable activities.

Our sanctions authorities, especially when implemented multilaterally, underscore our continued work with partner nations to designate individuals and entities who threaten peace and security in the DRC. I would also evaluate how best to use the tools available to address the growing threat from ISIS-DRC, also known as the Allied Democratic Forces.

Central African Republic

Question. It is unclear that those sanctioned in the Central African Republic (CAR) have significant holdings in U.S. financial institutions or other foreign banks, own property abroad, or have an interest in obtaining U.S. visas.

- How does this impact the effectiveness of current sanctions on CAR?

Answer. The impact of sanctions goes beyond the direct financial implications of a target's U.S. assets and has the potential to impose significant reputational costs that limit a designee's ability to conduct sanctionable activity and may play a role in political settlements. Anti-corruption initiatives may provide additional tools to address the networks that enable corruption, human rights abuses, sanctions evasion, and other sanctionable activity.

Sanctions in CAR, especially when taken multilaterally, underscore U.S. and global support for the CAR Government's efforts to deter those who stoke violence and threaten peace for the Central African people. The December designation of armed group leader Ali Darassa at the U.N. is one such example, which the CAR Government and civil society welcomed. If confirmed, I will continue to work with partner nations to designate individuals and entities both domestically and at the U.N.

Question. What actions could the U.S. take that would impact those who undermine peace and security in CAR, and what actions will you take if confirmed?

Answer. If confirmed, I will carefully review all diplomatic tools available to respond appropriately to those who undermine peace and security in CAR, including both domestic and U.N. sanctions. Anti-corruption initiatives may provide additional tools to address the networks that enable corruption, human rights abuses, sanctions evasion, and other sanctionable activity.

Sanctions Enforcement in Africa

Question. The U.S. has sanctions regimes for several countries in Africa. Yet robust and effective implementation of sanctions in Africa has been a relatively low priority for policymakers and the agencies responsible for implementing sanctions.

- Do you commit to briefing SFRC staff about your assessment of the barriers to the effective implementation of US sanctions programs for Africa, and your plans to overcome them if confirmed?

Answer. If confirmed, I will continue the work of expanding the impact and efficacy of our sanctions across Africa as part of a larger policy framework to promote accountability among human rights abusers, corrupt actors, and those who threaten peace and stability. I would look forward to working closely with Treasury and Congress in evaluating and improving our sanctions and those of our partners.

I will advocate for sufficient resources and priority to implement and update designations made under these programs if that is a barrier. The administration has made clear that Africa will be an important driver of global economic growth, and access for U.S. and allied institutions and companies will depend on the rule of law and efforts against the networks that enable corruption, human rights abuses, sanctions evasion, and other sanctionable activity.

Question. Do we have enough people dedicated to effectively enforce sanctions designations related to conflicts and human rights abuses in Africa? If not, what steps are you planning to take to change that?

Answer. Promoting accountability among those who stoke violence, abuse human rights, and use public resources private gains is key for ensuring a prosperous and stable Africa. If confirmed, I will advocate for sufficient resources, in State and to the extent I can at Treasury, and policy focus on Africa sanctions in order to further these goals.

Syria

Question. While I appreciate the sanctions this administration has imposed under long-standing Syria authorities; I am concerned by the lack of any sanctions imposed by this administration under the bipartisan Caesar Act. Failure to do so would be a missed opportunity to hold the Assad regime, and its international enablers like Russia and Iran, accountable for their ongoing human rights violations against the Syrian people.

- If confirmed, what steps will you take to impose mandatory sanctions under the Caesar Act?

Answer. The Caesar Act is a powerful tool in limiting the ability of Assad and others in the Syrian regime to profit from the conflict, including profiting by forcibly taking the property of the Syrian people. If confirmed, I will look at every appropriate sanctions authority to promote accountability for the Assad regime's abuses and will coordinate with the U.S. Department of the Treasury, which implements the Caesar Act, to deploy those sanctions when opportunities are identified.

Question. How can those sanctions, as well as others under other Syrian authorities be better coordinated to ensure that legitimate humanitarian groups doing critical work in Syria are not caught up in de-risking efforts by financial institutions?

Answer. If I am confirmed, I expect that humanitarian issues will be an important topic for the Coordinator's Office. Outreach and dialogue are crucial in any sanctions program, particularly programs like those in Syria, where humanitarian assistance is essential.

I understand that during the previous year, the administration prioritized making sure that U.S. sanctions were not having an inadvertent negative impact on the flow of humanitarian aid, including in Syria. This included the Department of the Treasury in November amending the Syrian Sanctions Regulations to expand authorizations for NGOs to engage in certain additional humanitarian activities in Syria. If confirmed, I intend to work with humanitarian groups, the financial sector, and our international partners to continue to identify humanitarian needs and do the work required to ensure that appropriate exceptions and authorizations are in place with respect to the care of the Syrian people.

Iran

Question. I am concerned by the administration's recent decision to grant a specific license to South Korea, allowing for the payment of \$63 million in damages to an Iranian company with ties to the Iranian Government, which has shown time and again that it would rather funnel money to terrorist groups and other proxies than help its own people.

- If confirmed, will you commit to ensuring that such repatriated funds cannot be used by the Iranian regime to further its regional aggression against the U.S. and our allies and partners?

Answer. The administration has fundamental problems with Iran's actions across a series of issues, including its support for terrorism, its ballistic missile program, its destabilizing actions throughout the region, and its human rights abuses. If confirmed, I will ensure continued support for a comprehensive approach using a variety of tools, including sanctions, to counter the full range of Iran's destabilizing behavior.

On the funds in question, I am told that the license issued by the administration permit use of the U.S. financial system to facilitate the payment of an arbitral award to a group of private Iranian investors and does not involve the transfer or draw down of Iranian Government funds. If confirmed, I will be available to consult with you further on this.

Question. What further steps must be taken to prevent such funds from supporting nefarious Iranian activity?

Answer. The administration will continue to use its considerable leverage—including sanctions and joint action with allies and partners—to protect U.S. interests. As part of these efforts, we will continue to maintain and impose sanctions, including on Iranian entities providing support to terror groups and violent militias in the region.

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD
SUBMITTED TO JAMES C. O'BRIEN BY SENATOR JAMES E. RISCH

The Role of Sanctions Coordinator Within the State Department

Question. One of the chief goals of the position of Sanctions Coordinator is to improve internal Department communication about the goals of our sanctions regimes and most effective use of implementation tools and resources. What is your vision for the role of Sanctions Coordinator within the Department internally?

Answer. While Secretary Blinken ultimately will set priorities, the Coordinator will be the Secretary's "principal adviser" on sanctions issues, including on the numerous sanctions authorities delegated to the Secretary. This role will make the Office a tool for the Secretary to use in setting and conveying the Department's priorities and for resolving disputes among bureaus.

Authorities, of course, are only a starting point, and, if confirmed, I will devote significant effort to developing relationships with policymakers within the Department and interagency. The Sanctions Coordinator will need to provide clear, actionable guidance on sanctions priorities, design, and implementation; effective advocacy in Washington and globally; and constructive options for sanctions programs.

Question. How would you plan to improve communication within the Department about sanctions issues?

Answer. If confirmed, I would work to ensure that sanctions advance broader U.S. policy, taking into account expected impacts, likely responses, steps needed to mitigate collateral consequences, and follow-up needed to ensure ongoing effectiveness. Having and using such a deliberative process will help each Department bureau responsible for a sanctions program or policy initiative understand the broader context in which decisions are sanctions are being made.

Also, the Sanctions Coordinator office should be staffed and organized to be able to effectively engage closely and directly at the working level with relevant bureaus and offices to convey priorities and requirements. If I am confirmed, I would seek to provide assistant secretaries and Department leadership with timely, early guidance, including on likely reactions to sanctions and lessons learned from existing sanctions programs, with the aim of informing decisions both on sanctions and how sanctions have influenced previous policy goals.

Question. How would you deconflict with other offices to prevent duplications of effort?

Answer. The Department has excellent sanctions expertise, including on counterproliferation, counterterrorism, anticorruption, and counter-narcotics. If confirmed, I would seek not to add redundant expertise within the Coordinator's Office but would rather look to provide these existing programs and structures with coordinated policy guidance and expert assistance as needed to ensure that the threat or use of sanctions are part of broader policy goals. I would focus the Coordinator's Of-

office on providing clear guidance on priorities, goals, and scope early; advocating for timely decisions; and developing best practices so that each program benefits from the lessons of others. The Office's role in exercising authorities delegated to the Secretary, as set out in the statute establishing the office, will be an important tool. Consistent coordination and communication will be core to all the office's work.

Question. How would you plan to improve coordination with the regional bureaus on particular sanctions regimes?

Answer. I anticipate that the Coordinator's Office will have a liaison to each regional bureau, will coordinate with other relevant bureaus, and will seek to ensure that each bureau is able to take advantage of lessons from other sanctions programs and from discussions about sanctions on Capitol Hill and elsewhere. If I am confirmed, I expect to work directly with the relevant assistant secretaries, as directed by the Secretary, so that sanctions guidance can be incorporated into policymaking as early as possible.

Question. How would you plan to work with the Bureau for Economic and Business Affairs specifically?

Answer. If confirmed, I would work closely with the Bureau of Economic and Business Affairs (EB) on sanction issues, including on interagency and multilateral coordination efforts. EB houses much of the Department's expertise in designing and implementing sanctions, and it will be an especially important partner. EB also has a unique role in the Department through its established work engaging with the global business community and in assisting U.S. companies around the world. This will make it a particularly important partner in assessing the effectiveness and effects of sanctions and in ensuring good communications with the private sector.

The Role of Sanctions Coordinator Within the Interagency

Question. If confirmed, you will be responsible for coordinating U.S. sanctions policy across the interagency. How would you aim to improve U.S. interagency communication with regard to sanctions to ensure our sanctions regimes are fully aligned with U.S. foreign policy objectives?

Answer. If confirmed, I would work closely with all relevant U.S. departments and agencies. This will require, first, close coordination across the Department to ensure that all officials deliver a consistent message in all interagency policy bodies. In addition, if I am confirmed, I would work closely with, among others, the National Security Council, Treasury Department, Commerce Department, and the Intelligence Community. The Sanctions Coordinator should provide a focal point for international reactions to sanctions proposals and ensure that these views are understood and considered in the domestic policy-making process.

Question. If confirmed, in particular, how would you plan to work with the Department of the Treasury and its Office of Foreign Assets Control?

Answer. The Department's partnership with the Treasury, and with OFAC in particular, continues to be close. If confirmed, I will seek close working relationships with Treasury officials and those in OFAC. Both Departments play a central role in the development, implementation, and enforcement of sanctions and, in many instances, as Executive Order 13224, rely on the same set of authorities. This shared purpose requires close coordination on priorities, tactics, and designations as sanctions are considered, proposed, announced, and implemented. Effective information sharing also remains a critical component of this process, and, if confirmed, I would work to continue improvements made in this area so that State can appropriately fulfill its role in sanctions implementation.

Question. In the event of a policy conflict between your office and another agency, how would you approach resolving the conflict?

Answer. Disagreements during the policymaking process are expected and healthy, and, if confirmed, I would expect the Coordinator's office to engage directly with relevant agencies and the National Security Council to address any differences of opinion. Such a scenario could require further coordination within the Department or, if a disagreement remains with another agency, I would, as dictated by statute as the "principal advisor to the senior management of the Department and the Secretary" on sanctions, work to ensure that the views of the Coordinator's Office would be reflected in Department preparations for senior interagency policy meetings.

Interactions with Foreign Governments

Question. Another goal of creating this office and elevating this position to the rank of Ambassador was to create a centralized point of contact for foreign govern-

ments to ensure effective communication with allies and partners on sanctions, implementation, and technical cooperation. In your view, what challenges does United States face in its relationships with foreign allies and partners regarding sanctions policy and implementation?

Answer. If confirmed, I anticipate a significant amount of my time will be dedicated to partner engagement. When sanctions are implemented in coordination with our partners, we send a strong message of international resolve to deter or constrain malign activity and hold bad actors to account. They also increase the effectiveness of other efforts, as bad actors are further cut off from global financial and other networks that enable corruption, human rights abuses, and sanctions evasion.

The challenges of engaging with partners are also opportunities for further engagement. From my experience, I know that feedback from partners with different views can inform U.S. sanctions policy; reluctant partners can provide information as well as occasional public support; and capacity constraints in partners can provide opportunities to engage in strengthening domestic systems against corruption, sanctions evasion, and other weaknesses that can threaten U.S. and allied security. In this regard, if confirmed, I look forward to working with relevant stakeholder bureaus to support the Democracies Against Safe Havens initiative, to which the Department committed at President Biden's Summit For Democracy in December 2021. This initiative seeks to increase coordination and expand partners' capacity to establish and implement corruption-related sanctions regimes.

Question. Where does the United States need to improve communication with foreign countries on sanctions?

Answer. The United States maintains close relationships with our foreign allies and partners in the development and implementation of sanctions. This includes various bilateral and multilateral fora such as the U.N. Security Council, the G7 and routine engagements with Canada, the United Kingdom, the EU, Australia and New Zealand. Anti-corruption initiatives, in particular the Democracies Against Safe Havens initiative, provide a new opportunity to build effective coalitions that will make anti-corruption sanctions more effective and that can address sanctions evasion. A key goal of the Sanctions Coordinator, and in fact a large amount of the time I expect to dedicate in this role, will be in talking with and coordinating sanctions with key foreign partners.

Question. The United Kingdom was previously a key partner in navigating the European Union's (EU) financial sanctions institutions to effectively implement various sanctions regimes. Now that the United Kingdom is no longer a member of the EU, do you foresee gaps in U.S.-EU cooperation on sanctions? If so, how would you propose to fill those gaps?

Answer. The United States maintains a close relationship with both the United Kingdom and the European Union on sanctions development and implementation. Both relationships, though different in some ways post-Brexit, remain critical to the success of coordinated sanctions efforts. Each relationship will be central to developing measures that attack the networks enabling corruption, human rights abuses, and sanctions evasion. If confirmed, I will continue to advance these critical relationships and expect each of them to occupy core roles in global approaches to sanctions.

Resourcing and Personnel

Question. If confirmed, what kind of structure would you envision for the Office of Sanctions Policy?

Answer. If confirmed, I envision an office with the necessary resources to amplify and support the work of the State Department bureaus and offices. This would likely start with staff assigned as liaison to bureaus directly involved in sanctions and related policymaking.

It would also mean providing expertise and experience to look across sanctions programs so that best practices can be transmitted across the Department. The Consolidated Appropriations Act, 2021, Public Law 116-260, provides the head of the Office of Sanctions Coordination with direct hire authority through December 2022. I understand that this was done to ensure that the office could quickly hire qualified professionals with technical expertise in the use of sanctions authorities and in sanctions implementation. This is an especially important and appreciated tool to successfully stand up this office. If confirmed, I would be happy to consult with you on the status of staffing the office and on my intentions, upon reviewing the existing structure, for hiring and structuring.

Question. If confirmed, what are your plans for the use of this authority?

Answer. If confirmed, I will exercise the direct hire authority to ensure that the office is appropriately staffed and resourced with the expertise needed to carry out the office's mandate in support of the Secretary. It can be especially important in attracting personnel who will have experience that might not be common within the Department, for example, in understanding commercial networks that facilitate corruption, human rights abuses, and sanctions evasion.

Question. Do you commit, if confirmed, to keep this committee updated about the office's use of this authority, and to keep the committee apprised of whether an extension of this authority would serve the needs of the office and the goals of the legislation that created this office?

Answer. Yes, if confirmed, I commit to updating the committee on my use of the authority and whether an extension would serve the needs of the office and the goals of the legislation.

Syria

Question. Can you commit to advocating for robust enforcement of the sanctions tools provided in the Caesar Syria Civilian Protection Act?

Answer. Yes. Our sanctions, including under the Caesar Act, are an important tool to press for accountability from the Assad regime, with respect to its atrocious record of human rights abuses inflicted upon the Syrian people. If confirmed, I will commit to advocating for robust enforcement of the sanctions tools provided in the Caesar Syria Civilian Protection Act.

Question. How can sanctions be used to further U.S. national security objectives in Syria?

Answer. My experience is that individual accountability for those who commit human rights abuses can be an important tool in making and sustaining peace. If confirmed, I expect to engage with colleagues about the role that sanctions can play in advancing U.S. foreign policy in Syria and holding to account those responsible for serious human rights abuses.

Question. What role should sanctions play in ensuring accountability for the crimes committed in Syria, by both Syrians and non-Syrians alike?

Answer. My experience in advising on peace negotiations in Europe, Africa, and Asia is that those responsible for violations of international humanitarian law often are obstacles to peace. Sanctions (and prosecution) can be effective tools to create an environment conducive to peace, and, if confirmed, I look forward to engaging with colleagues on the role that sanctions could play. Sanctions will remain a critical tool to advance U.S. foreign policy in Syria and promote accountability of the Assad regime, those who support the regime, and other armed groups in Syria for their role in serious human rights abuses.

Question. A majority of the sanctions both the Trump and Biden administration have issued against the Assad regime are pursuant to an EO rather than the Caesar Syria Civilian Protection Act. Sanctions Under EO are not consistent with the legal requirements outlined in the Caesar Act. Please provide an explanation for sanctions issued under EO and not pursuant to the law.

Answer. I do not know the rationale, because I was not part of the Trump administration and have not been part of the Biden administration. If confirmed, I commit to exploring this issue and consulting with you further.

Question. Please provide your assessment of the importance of U.S. deterring reconstruction funding in Syria.

Answer. Secretary Blinken has stated that the United States does not support normalization with Syria; does not support reconstruction with Syria until there has been irreversible progress towards a political solution; and will not lift sanctions until there is irreversible progress toward a political solution. If confirmed, I will look further into the issue of foreign government reconstruction efforts in Syria.

Question. In your view, how can sanctions be used to prevent countries from providing reconstruction funds to an unreformed Assad regime?

Answer. Sanctions, including the Caesar Act, can be utilized to deter countries and international investors from providing funding the Assad regime is desperate to receive.

Question. Egypt and Jordan are respectively pursuing energy and electricity agreements with Lebanon that would pass through Syria and provide in-kind support to the Assad regime.

Answer. I have read press reports but do not know the facts of the situation. I am told that addressing the energy crisis in Lebanon is a key priority for the administration. If confirmed, I will commit to working with the Department, other agencies, and our foreign partners and allies to identify a solution that helps Lebanon in a manner consistent with U.S. sanctions on Syria. I will consult with the committee.

Question. In your view, does this meet the definition of a significant transaction under the Caesar Act? Why or why not?

Answer. If confirmed, I would consult on this question with colleagues including in the Office of Foreign Assets Control. I would be happy to discuss the outcomes of this conversation with you or your staff.

Question. Please elaborate on your thinking regarding the necessity of issuing a waiver to authorize projects that provide in-kind support to the Assad regime.

Answer. While I understand that the Secretary of State has the authority to issue a waiver in certain circumstances, the first step would be consultation between State and Treasury as to whether a waiver is necessary. If confirmed, I will look into this issue with colleagues and consult further with the Committee.

Question. How does your opinion on waivers apply to the projects currently being pursued by Egypt and Jordan?

Answer. If confirmed, I would consult on this question with colleagues, including in the Department of the Treasury's Office of Foreign Assets Control. I would be happy to discuss the outcomes of this conversation with you or your staff.

Hamas

Question. The Sanctioning the Use of Defenseless Shields Act of 2018 (P.L. 115–348) mandates sanctions on any member of Hezbollah or Hamas who “knowingly orders, controls, or otherwise directs the use of civilians protected as such by the law of war to shield military objectives from attack.” Under the law, the President is required to submit to Congress a list of, and impose financial sanctions on, each foreign person involved in the use of human shields by Hamas or Hezbollah “on or after the date of enactment.” Despite widespread reporting on Hamas’s use of human shields, as of September 21, 2021, no action has been pursued under this act.

- If confirmed, can you commit to advocating for the imposition of sanctions under The Sanctioning the Use of Defenseless Shields Act of 2018 (P.L. 115–348)?

Answer. If confirmed, I will advocate for the use of appropriate sanctions authorities to counter Hamas’ terrorist activity, including the use of human shields. Sanctions are a tool to advance support for humanitarian principles and international law.

Question. Please provide your assessment of Qatar’s role with respect to Gaza.

Answer. The administration views Qatar’s ongoing economic aid to the Gaza Strip as an important stabilizing mechanism. The administration also views Qatar as a valuable diplomatic mediator between Israel and Hamas. Most recently, Qatar assisted in securing a ceasefire between Israel, Hamas, and other parties in Gaza following a 11-day conflict in May 2021. If confirmed, I will consult with you and the committee on this issue.

Question. To what extent do you see Qatar as a stabilizing influence to Gaza?

Answer. The administration views Qatar’s ongoing economic aid to the Gaza Strip as an important stabilizing mechanism. If confirmed, I will consult with you and the committee on this issue.

Nord Stream 2

Question. If confirmed, do you commit that you will routinely and robustly engage with me and committee staff on sanctions relating to the NordStream 2 pipeline?

Answer. Yes.

Question. If confirmed, do you commit that you will timely and robustly respond to member and staff questions on sanctions relating to the NordStream 2 pipeline?

Answer. Yes.

Question. Should there be new authorities to better target human rights abusers?

Answer. The administration currently has numerous sanctions authorities that provide a basis to designate individuals and entities in connection with serious

human rights abuses including the Global Magnitsky sanctions program, various country-specific sanctions authorities, and a variety of Executive Orders.

If confirmed, I would like to see sanctions be part of an effective strategy to ultimately end the human rights abuses that give rise to sanctions. In that context, I look forward to examining the extent to which existing sanctions authorities provide both the leverage and flexibility to help policymakers achieve that goal. I would be happy to discuss what I learn with your staff and you, including whether legislative changes would improve the programs.

Question. How do you plan on working with the newly announced Coordinator on Global Corruption on corruption related sanctions?

Answer. I intend to work closely with the Coordinator on Global Corruption on the use of sanctions and visa restrictions, as part of our broader efforts to combat corruption globally, including both the targets of sanctions and the networks that enable them. As I noted in my testimony and consultations, anti-corruption tools provide additional weapons for effective strategies, with sanctions an important part of the whole. This will require close cooperation not only with the Coordinator on Global Corruption but with colleagues at Treasury, who have their own anti-corruption authorities; with colleagues who know the business environment and economic governance components, especially in the Bureau of Economic and Business Affairs; and with relevant colleagues in regional bureaus and embassies.

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD
SUBMITTED TO JAMES C. O'BRIEN BY SENATOR TODD YOUNG

Question. Treasury completed its comprehensive review of U.S. sanctions policy in October 2021 outlining the significant growth of programs and recommending steps to modernize sanctions. What key reforms or process changes would you most hope for, based on the findings from the report?

Answer. I have read the publicly released report from Treasury's review of its authorities. The conclusions are reasonable—that sanctions should be part of a strategy, rooted in cooperation, structured to mitigate unintended impacts, and able to be communicated and adapted as necessary—and, if confirmed, I will work to see them implemented in coordination with colleagues at Treasury. The re-establishment of the Coordinator's Office at State is an opportunity to learn how those conclusions apply to State's sanctions authorities, and, if I am confirmed, my role in representing the U.S. Government internationally on sanctions will require that lessons be discussed with our partners. I am especially interested in working with colleagues at Treasury and in other agencies on ways to ensure that the sanctions infrastructure and work force in the U.S. Government can be kept up to date and focused on priority areas.

Question. The report says the administration will “link sanctions to a clear policy objective.” If confirmed, how would you anticipate creating that linkage?

Answer. As the Treasury report outlines, sanctions should have clear objectives and be part of a larger strategy. If confirmed, I hope to ensure that each recommendation for sanctions explains the goal and broader strategy of which the sanctions are a part, that likely reactions are considered and follow-up recommended, and that recommendations for broader policies place sanctions in context. This should already be best practice, and one role of the Coordinator's Office will be to help policymakers assess the relevance of different sanctions programs in different contexts. If confirmed, I will work with Treasury, the team at the Department of State, and the interagency to incorporate rigorous economic analysis, technical expertise, and intelligence to ensure that sanctions are applied to the right set of circumstances.

Question. The report notes that the number of sanctions has increased almost 1,000 percent in the last two decades. Do we have too many sanctions programs?

Answer. Sanctions are increasingly a favored tool of foreign policy makers, both in the Executive and Legislative branches of government. If confirmed, I will work closely with Treasury and other agencies to identify lessons learned from our sanctions programs. It is important that our departments understand which programs work best (for example, achieve goals, can be integrated into other programs, are widely understood and can be adapted as circumstances change).

One outcome of this process should be to help with the selection of sanctions authorities for a particular purpose when more than one sanctions program is avail-

able. This may allow us to determine that some programs should receive more resources while others may remain narrowly focused or come under consideration (after consultations with Congress as appropriate) for discontinuation.

Question. If confirmed, how would you seek to better employ sanctions?

Answer. If confirmed, a large part of my job will be to identify what sanctions can and cannot do in a circumstance, what policies can make sanctions more or less effective, and what follow-up is needed to bring in necessary partners and to keep sanctions programs relevant as circumstances change and the targets of sanctions adapt. The ability of a senior State official to focus on this set of questions should affect the policy process.

Throughout, as I mentioned in my statement, and as is clear from public comments by senior State officials and from the Treasury review of its authorities, some themes will recur: sanctions must be part of a strategy; they themselves cannot be the strategy. Each sanction, however well-justified, should support a clear policy objective and rest upon analysis of alternatives, effects, and support from our partners. This requires that the sanctions' purpose be understood beyond the U.S. Government, that we work with other governments, including at the United Nations, and that we maintain and adapt sanctions regimes as technology changes and the targets of sanctions react.

The process for recommending sanctions is the first place that these topics should be discussed and evaluated. Discussions with partners about how sanctions programs are working also help us understand which sanctions programs merit further investment.

As these topics are addressed consistently and across sanctions programs—something that may be happening—the outlines of effective, consistent sanctions practice should emerge. Part of the Office's job will be to communicate this within the Department, to other agencies, and to our partners as advisable.

The Office of the Sanctions Coordinator cannot do this alone. If confirmed, I would coordinate with colleagues from across the Government, the Department, and especially from our embassies, on the use and evaluation of sanctions.

Question. What is your sense of the risks from alternative cross-border payments systems like China's CIPS or Russia's SPFS that are designed to avoid SWIFT and U.S. financial institutions and evade U.S. sanctions?

Answer. Every sanctions program must evolve as targets find alternatives to routes foreclosed by sanctions. In particular, if confirmed, I am very interested in evaluating how U.S. and international initiatives against corruption and in support of transparency and financial integrity can be brought to bear against sanctions targets and networks that enable corruption, human rights abuses, and sanctions evasion. New payment channels or technologies also will be important for sanctions programs to take into account as will the impact of sanctions in facilitating shifts to such technologies.

With regard to this particular risk, the dollar's role is underpinned by the United States' credible and longstanding commitment to transparency, the rule of law, contractual obligations and rights, deep and liquid financial markets, and sound economic governance. This has been crucial to the stability of the international monetary system. Foreign Central Bank Digital Currencies (CBDCs) by themselves do not now threaten this dominance, though we should continually and carefully monitor their deployment and adoption. Should I be confirmed, I will consult on it with you and the committee.

Question. Do you see digital currencies like China's eCNY as an effort to supplant the U.S. dollar in international transactions?

Answer. I look forward to consulting with you and my colleagues across the Government on this issue if I am confirmed. My understanding is that the dollar's role is underpinned by the United States' credible and longstanding commitment to transparency, the rule of law, contractual obligations and rights, deep and liquid financial markets, and sound economic governance. These attributes are crucial to the stability of the international monetary system. Foreign Central Bank Digital Currencies (CBDCs) by themselves do not threaten the dollar's dominance, though we should continually and carefully monitor deployment and adoption of the PRC's eCNY. Again, should I be confirmed, and should this become a future issue, I will consult on it with you and the committee.

Question. How should sanctions policies adjust to a new world of digital assets and multiple cross-border payment systems?

Answer. Every sanctions program must evolve as targets find alternatives to routes foreclosed by sanctions. In particular, if confirmed, I am very interested in

evaluating how U.S. and international initiatives against corruption and in support of transparency and financial integrity can be brought to bear against sanctions targets and networks that enable corruption, human rights abuses, and sanctions evasion. New payment channels or technologies also will be important for sanctions programs to take into account.

To be effective, sanctions must be calibrated to meet specific foreign policy objectives and adaptable to new and emerging economic and political systems. If confirmed, I will continue to review the use of sanctions as they relate to digital assets and will consult with you and the committee.

Question. You will be the first person to hold the position of sanctions coordinator at the State Department. Can you describe your role as you see it?

Answer. If confirmed, I would follow in the large footprints of Ambassador Dan Fried, and lessons from his time in office—in particular, the importance of continuous communication with senior policymakers within the Department; the centrality of a close relationship with OFAC and Treasury; and the need for the US Government to speak with one voice to our partners and others globally—will shape the work of the Office.

In addition, the statutory authority on which the reconstituted Office will rest will serve as a stable, lasting foundation for the Office so that it can become part of usual U.S. practice on sanctions. Secretary Blinken will set priorities, but the statute makes it clear that, if I am confirmed, I will be the Secretary’s “principal adviser” on sanctions issues, including on the numerous sanctions authorities delegated to the Secretary. This role will make the Office a tool for the Secretary to use in setting and conveying the Department’s priorities and for resolving disputes on sanctions programs before they reach the Secretary.

Authorities, of course, are only a starting point, and significant effort will be required in establishing relationships within the Department and interagency. To succeed, if confirmed, I will need to provide clear, actionable guidance on sanctions priorities, design, and implementation; effective advocacy in Washington and globally; and constructive options for sanctions programs.

Question. How will you coordinate with the Office of Terrorism and Financial Intelligence at Treasury and OFAC?

Answer. The Department’s partnership with the Treasury, and with OFAC in particular, continues to be close. Both Departments play a central role in the development and implementation of sanctions and, in many instances, as with Executive Order 13224, rely on the same underlying set of authorities. This shared purpose requires close coordination on priorities, tactics, and designations as sanctions are considered, proposed, announced, and implemented. Effective information sharing also remains a critical component of this process, and, if confirmed, I would work to continue improvements made in this area so that State can appropriately fulfill its role in sanctions design and implementation.

Question. If confirmed, are you fully committed to carrying out the sanctions laws passed by Congress, even if you, the President, or the Secretary of State may disagree with the views of Congress?

Answer. Yes. If confirmed, I am committed to supporting imposition of sanctions when statutorily mandated and will consult with you and the committee throughout that process.

Question. How would you respond if the President or Secretary of State asked you to turn a blind eye to a particular set of sanctions violations, or violations by a specific company or individual?

Answer. I anticipate situations where there will be disagreements, among partners, within the administration, and with members of Congress, about whether violations are confirmed, what responses will be appropriate and when, and how sanctions should interact with other parts of U.S. policy. If confirmed, I will commit to ensuring that the law is upheld and that decisions made are widely understood, and I intend to consult closely on such matters with you and the Committee.

Question. Will you ensure full transparency and communication with Congress on any new sanctions being considered, or any sanctions lifting or waiver being considered?

Answer. If confirmed, I commit to engage directly and routinely with you and your staff regarding significant changes to U.S. sanctions, including the lifting or waiving of sanctions. I would work closely with my colleagues in Legislative Affairs and with relevant policymakers to see that they also consult with the Committee.

Question. The Islamic Republic of Iran continues to be the leading state-sponsor of terror. Foreign Terrorist Organizations backed by Iran continue to wreak havoc across the Middle East. Earlier this year the Iranian-proxy terrorist group Hamas launched thousands of rockets at Israel. Just in the last two weeks we have seen repeated attacks by Iranian proxies on U.S. forces in Iraq and Syria. The U.S. has sanctioned Iran for both nuclear and non-nuclear offences. What are your thoughts on U.S. sanctions against Iran? If confirmed, are you fully committed to enforcing sanctions against Iran as mandated by law?

Answer. Yes, if confirmed, I will be committed to supporting the implementation of sanctions as required under U.S. law. The U.S. Government has wide-ranging sanctions authorities with respect to Iran, and these are a critical tool to impose costs on Iran for its destabilizing behavior. If confirmed, I am committed to using these sanctions authorities, together with the full range of available tools the U.S. Government possesses, in a comprehensive approach to counter the full range of Iran's destabilizing behavior.

Question. Over the last year, we have seen a significant decrease in the number of sanctions and enforcement actions taken by the administration against Iran and entities violating our Iran sanctions. One can speculate this is part of an effort to encourage the Iranians to return to the 2015 nuclear deal. Yet, it is not the law. The laws as passed by Congress require sanctions to be imposed on entities violating the law. If confirmed, will you strictly enforce sanctions on Iran? What role should negotiations have on whether or not U.S. law is enforced?

Answer. If confirmed, I am committed to supporting the implementation and enforcement of sanctions as required under U.S. law. Because I am not in the administration, I do not know the rationale for the recent pace of sanctions work, but I will learn this if I am confirmed. The framework of U.S. sanctions remains robust, and there are many aspects of our sanctions architecture that would remain in place in the event of a U.S. return to the JCPOA. The administration will continue to use its considerable leverage—including sanctions that would remain in place, the threat of sanctions re-imposition, and other joint action with our allies and partners—to protect U.S. interests. In the meantime, the Biden administration continues to maintain and impose sanctions, including on Iranian entities providing support to terrorist groups and violent militias in the region.

Question. Do you agree the Iranian Revolutionary Guard Corps is a foreign terrorist organization? Do you foresee any near-term scenario in which sanctions on the IRGC, or the FTO designation on the IRGC, would be lifted or waived?

Answer. I am under no illusion about the nature of the Iranian regime and in particular the threat posed by the Islamic Revolutionary Guard Corps (IRGC). The IRGC has been subject to U.S. sanctions for many years. In addition, the United States designated the IRGC as a Foreign Terrorist Organization (FTO) in April 2019. If confirmed, I will act in accordance with U.S. law to advance our national security interests.

Question. Can you commit that the administration is not, and will not, lessen sanctions to counter Iran's support for terrorism, as part of either negotiations with Iran or as part of a nuclear agreement with Iran?

Answer. Iran's actions across a wide array of issues are highly problematic—including its support for terrorism, its ballistic missile program, its destabilizing actions throughout the region, and its human rights abuses—and U.S. sanctions programs address each. If confirmed, I will advocate for a comprehensive approach using a variety of tools, including sanctions, to counter the full range of Iran's destabilizing behavior.

Question. If an agreement to return to the JCPOA is achieved, will you commit to not lift any sanctions on Iran until Congress has had the required time to review that agreement, as required by the Iran Nuclear Agreement Review Act (INARA)?

Answer. If confirmed, I will act consistent with all applicable U.S. laws, including INARA.

Question. Under the JCPOA, do you believe the U.S. has the right to sanction entities that engage in illicit activities, even if those entities received sanctions relief under the agreement? For example, should the Central Bank of Iran get a free pass for its financing of terrorism, simply because it received relief under the JCPOA?

Answer. The Biden administration has stated it remains committed to countering Iran's destabilizing activities, including its ballistic missile program and support for terrorist groups and violent proxies in the region. If confirmed, I will support contin-

ued sanctions on Iranian entities for sanctionable activity, including those supporting terrorist activity, and would work with our allies to hold Iran accountable.

Question. Do you agree human rights sanctions on Iran should be fully enforced regardless of any nuclear negotiations?

Answer. Yes. If confirmed, I will ensure continued support for a comprehensive approach using a variety of tools, including sanctions, to counter the full range of Iran's destabilizing behavior, which includes its human rights violations and abuses.

Question. As part of the recently passed National Defense Authorization Act, Congress required the administration to provide this committee an unclassified report detailing the impacts any revocation of unilateral United States economic sanctions on Iran may have on the military capabilities of the IRGC and Iran's terrorist proxies. President Biden said upon signing the bill, that he would not provide such a report. If confirmed, do you agree to provide any reports legally mandated by Congress?

Answer. I commit, if confirmed, to working with Congress to provide it the information it needs to perform its acknowledged oversight function, without regard to the form that takes, and I am happy to review this issue and work with you on a way forward.

Question. Do you believe an administration can simply ignore a legal mandate to issue a report required by Congress?

Answer. If confirmed, I will be committed to consulting with and providing information to Congress. On the specific question, I am happy to review this issue and consult with you on a way forward.

Question. China has long been one of the biggest violators of U.S. sanctions on Iran, particularly through purchases of Iranian oil. Yet, we have seen practically no sanctions by the administration on these purchases. If confirmed, how would you go about seeking better cooperation from China on sanction matters?

Answer. The United States has designated individuals and entities in response to Iranian sanctions evasion activities, including transactions involving the PRC. If confirmed, I would explore this topic further. I am told that the administration has also been raising this issue directly in diplomatic channels with Beijing as part of a dialogue on Iran policy. I am also told that Beijing has expressed a strong interest in preventing Iran from developing a nuclear weapon given the profoundly destabilizing impact that would have in a region upon which the PRC depends for its oil imports.

Question. Do you agree that any significant transaction involving Iran's energy sector, including the import of oil or petroleum products would violate U.S. sanctions?

Answer. Our current Iran-related sanctions authorities remain in effect unless they are lifted. This includes sanctions that apply to certain transactions involving, among others, Iran's energy sector.

Question. There are significant human rights concerns emanating from Burma following the coup there last year. Many believe that China is helping to support the military junta in power. Do you support exploring the application of sanctions on China for their support for the military junta in Burma?

Answer. The United States has been steadfast in its support for the people of Burma since the military coup d'etat on February 1, 2021. The U.S. Government has repeatedly announced new designations to specifically target current or former members of the military who played a leading role in the overthrow of Burma's democratically elected government and the violent crackdown against the people of Burma. In total, the U.S. Government has sanctioned 58 individuals and 20 entities. These include top military commanders and senior officials of the regime, as well as businesses that generate revenue for the military and its leaders. If confirmed, I will work with all relevant policymakers in the administration to target those responsible for the assault on Burma's democracy and the revenue streams that fund the military regime and that facilitate the purchase of arms used to commit brutal violence against the people of Burma.

Question. If confirmed, are you fully committed to the enforcement of sanctions targeting Hezbollah, including sanctions under the Hezbollah International Financial Prevention Act?

Answer. Yes. If confirmed, I will support the continued implementation and enforcement of sanctions against Hizballah and the continuing targeting of individuals and entities that support Hizballah. Most recently, on January 18, the United

States designated three Hizballah-linked financial facilitators and their Lebanon-based travel company, under Executive Order (E.O.) 13224.

Question. Do you support the long-held policy of the United States that there is no such thing as a terrorist and a political wing of the terrorist group?

Answer. Yes. I support the United States' position that it does not distinguish between the so-called "wings" of terrorist organizations.

Question. If confirmed, will you make it a priority to urge countries that only sanction Hezbollah's terrorist wing, to end this false distinction and sanction the terror group in its entirety?

Answer. Yes, if confirmed, I will support ongoing efforts to urge countries to take action against the entirety of Hizballah. Since 2019, such efforts have resulted in 15 additional countries announcing a total designation, ban, or other restrictions against the group. Most recently, the Australian Government announced its intent to expand its designation of Hizballah's "military wing" to encompass the entire organization.

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD
SUBMITTED TO GEORGE J. TSUNIS BY SENATOR ROBERT MENEDEZ

Question. How can the 3+1 format continue to expand its cooperation in other areas beyond energy?

Answer. If confirmed, one of my top priorities would be to encourage future areas of cooperation between U.S. partners, such as the 3+1 which brings the Republic of Cyprus, Greece, Israel plus the United States together on an array of issues including economics, counterterrorism, and climate in addition to energy issues. I would also welcome future interparliamentary engagement of the 3+1 as provided for in the U.S.-Greece Defense and Interparliamentary Act.

Question. Do you commit to advocating that the 3+1 is reinvigorated and becomes a central aspect of U.S. diplomacy in the Eastern Med?

Answer. Yes, if confirmed, I would support robust ties between the United States and Greece, Israel, and the Republic of Cyprus. The 3+1 presents a unique opportunity to deepen economic integration, cooperate on energy security, and combat climate change with our partners. I believe the United States should—and does—support regional efforts that enhance and promote cooperation and regional stability, including the 3+1 mechanism. If confirmed, I will work to deepen ties between the United States, Greece, the Republic of Cyprus, and Israel.

Question. Where do you see the potential for additional advancement on energy security?

Answer. As I see it, Greece is a strong proponent of energy diversification and security, and has made significant advancements in recent years, including through its focus on projects such as the Trans-Adriatic Pipeline (TAP), the Interconnector Greece-Bulgaria, the North Macedonia-Greece Interconnector, and the Alexandroupoli Floating Storage Regasification Unit (FSRU). If confirmed, I would work with Greece to mitigate regional energy security vulnerabilities. Supporting these efforts as well as Greece's clean energy initiatives, which offer complementary energy security benefits, is key to providing other options for Greece—and the broader region—beyond Russian energy supplies.

Question. What role do you see for Greece in countering Kremlin aggression, and how do you plan to support the Greek Government to stand strong against Kremlin influence?

Answer. Greece shares a long history with Russia, including through the Orthodox Church, and, like other countries in the region, depends on Russian energy supplies. From what I have seen, Athens is clear-eyed in its initiatives to reduce the region's dependence on Russian energy supplies and its stance with the EU and NATO to promote Transatlantic solidarity and the sovereignty and territorial integrity of all states. If confirmed, I would continue to encourage and expand Greece's initiatives in this regard and build on initiatives such as the Mutual Defense Cooperation Agreement and the annual U.S.-Greece Strategic Dialogue to deepen our strategic partnership.

Question. The strength of the U.S.-Greece relationship is on display when it comes to defense cooperation. The recent renewal of the Mutual Defense Cooperation

Agreement and increased U.S. presence at the Port of Alexandroupoli is a great sign of the strength of U.S.-Greece security cooperation.

- What will your priorities be for building upon this strong cooperation?

Answer. My understanding is the latest update to the Mutual Defense Cooperation Agreement permits the U.S. military to utilize Camp Giannoulis (Alexandroupoli) as well as Camp Georgoulas (Volos), Litochoro Range, and Souda Naval Base. If confirmed, I would seek to deepen our defense cooperation and ensure that any new commitments advance U.S. national security priorities. I would also support efforts to boost Greece's defense capabilities as outlined in the U.S.—Greece Defense and Interparliamentary Partnership Act passed as part of the National Defense Authorization Act of 2022.

Question. I am very concerned about directed energy attacks on U.S. Government personnel (so-called Anomalous Health Incidents). Ensuring the safety and security of our personnel abroad falls largely on individual Chiefs of Mission and the response of officers at post. It is imperative that any individual who reports a suspected incident be responded to promptly, equitably, and compassionately.

- Do you agree these incidents must be taken seriously, and pose a threat to the health of U.S. personnel?

Answer. Yes, I agree these incidents should be taken seriously. This is a sensitive ongoing issue that Secretary Blinken has said is a top priority. If confirmed, I will work to ensure affected employees and their family members get the care they need and work together with Washington and the interagency to protect against these incidents.

Question. If confirmed, do you commit to ensuring that any reported incident is treated seriously and reported quickly through the appropriate channels, and that any affected individuals receive prompt access to medical care?

Answer. If confirmed, I will consider it my primary responsibility to ensure the safety and security of the Embassy community. I will ensure anyone who reports unexplained health incidents receives immediate and appropriate attention and care and will share information with our workforce as appropriate.

Question. Do you commit to meeting with medical staff and the RSO at post to discuss any past reported incidents and ensure that all protocols are being followed?

Answer. Yes, if confirmed, my primary responsibility would be to ensure the safety and security of the Embassy community. I would meet with all relevant parties to ensure we were applying necessary safeguards and investigating possible causes.

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD
SUBMITTED TO GEORGE J. TSUNIS BY SENATOR JAMES E. RISCH

Question. How will you engage with the Greek Government to ensure its Exclusive Economic Zone (EEZ) and drilling rights are protected in the Eastern Mediterranean?

Answer. I understand that the United States has a long-held policy of encouraging countries to resolve their maritime delimitation disputes peacefully through dialogue and in accordance with international law. Greek PM Mitsotakis has consistently expressed his willingness to engage constructively with Turkey to do so, consistent with Greece's constructive approach across the region. If confirmed, I would encourage Greece to continue initiatives such as exploratory talks with Turkey to resolve disputes diplomatically.

Question. How will you engage with your counterpart at U.S. Embassy Ankara to facilitate progress in Greco-Turkish relations in United States interests?

Answer. If confirmed, I would make it a priority to remain frequently and directly in touch with Ambassador Flake in Turkey. I would welcome the opportunity to visit Mission Ankara early in my tenure and invite Ambassador Flake to Mission Greece to exchange best practices and discuss areas of opportunity. I would also encourage frequent communication among the teams at Mission Greece, Mission Turkey, and the Office of Southern European Affairs at the State Department, which coordinates regional policies.

Question. How will you facilitate U.S. and other western investment in Greece?

Answer. If confirmed, my top economic and commercial goal would be to build on efforts to accelerate trade and investment opportunities between our countries. Spe-

cifically, the renewable energy and technology sectors are two areas that the Government of Greece is prioritizing, and several U.S. companies have made significant investments in Greece in recent years. If confirmed, I would seek to continue this trend by encouraging the expansion of the Foreign Commercial Service's activity in Greece.

Question. What are the perceived risks to western investment, and how can they be mitigated?

Answer. Like most countries, Greece is still recovering from the COVID-19 pandemic, which had a significant impact on the country's economy. Yet, from what I understand, the Government's focus on reducing bureaucracy and digitizing services helped mitigate the full impact of the pandemic, and Greece's GDP grew by approximately 6 percent in 2021. If confirmed, I would work closely with Greece to continue to promote fiscal responsibility and facilitate investments. Greece could also benefit from a comprehensive, national security-focused investment screening process, ensuring the Government of Greece has the ability to identify, investigate, and mitigate national security risks.

Question. What role, if any, do you see the U.S. Development Finance Corporation playing in stimulating western investment in Greece?

Answer. The U.S. International Development Finance Corporation (DFC) could help invest in Greece's strategic infrastructure to level the playing field with our strategic competitors. If confirmed, I will seek to promote U.S. investment in Greece using tools made available by the European Energy Security and Diversification Act, including DFC products.

Question. What sectors do you see as potential areas of growth for U.S.-Greece business ties?

Answer. My understanding is that Greece is prioritizing its technology and renewable energy sectors. In recent years we've seen investment in Greece from several U.S. companies including Amazon Web Services, Applied Materials, Cisco, Digital Realty, Google, Microsoft, and Pfizer. If confirmed, I would seek to expand U.S.-Greece business ties in these sectors while encouraging Greece to consider U.S. business solutions in areas such as battery storage, offshore wind, and hydrogen.

Question. As Ambassador, how will you engage with the Government of Greece and encourage protect critical industries, assets, and technologies from malign Chinese influence?

Answer. I understand Greece continues to welcome foreign direct investment, including from the PRC, to mitigate the impact of the pandemic and recover from the decade long financial crisis. However, Greece has shown a willingness to weigh important national security and strategic considerations for critical infrastructure projects, for example effectively excluding Huawei from building its 5G infrastructure. Greece does not currently maintain a comprehensive national investment screening mechanism. If confirmed, I would support continued robust engagement sharing investment screening best practices and implementation. I would also seek to promote U.S. investment in the region to push back on problematic PRC investments in critical infrastructure and sensitive sectors, and on PRC disinformation campaigns designed to undermine the sovereignty of Greece's Government and voters.

Question. The Port of Alexandroupolis is undergoing privatization sale and has attracted bids from Chinese and Russian companies, which presents issues for U.S. and NATO use of the port. What tools do the U.S. and you as Ambassador have to preserve the ports strategic value by ensuring it does not fall victim to foreign influence?

Answer. The Port of Alexandroupoli is significant not only for commercial purposes, but also because it offers strategic access for U.S. and NATO maneuverability in the region. If confirmed, I would seek to employ the tools made available by the European Energy Security and Diversification Act, including the DFC, to bolster bids made by U.S. companies on critical infrastructure projects. I would also direct Mission Greece to maintain frequent contact with U.S. businesses seeking to invest in Greece's critical infrastructure, encourage competition by U.S. firms for strategic assets that Greece is privatizing, and support their bids through diplomacy and advocacy as appropriate.

Question. What do you believe Greece's role is in improving stability and good governance in the Balkans?

Answer. I see Greece as a driver of stability in the Western Balkans, where it has supported regional integration and conflict resolution. An example of this is the Prespa Agreement, in which North Macedonia changed its name and Greece agreed to support the country's NATO accession. Now Greece is actively championing the future EU accession of North Macedonia and Albania. I understand that although Prime Minister Mitsotakis opposed the Prespa Agreement while in the opposition, his government now supports Prespa as a means of promoting regional stability. If confirmed, I would support Greece's continued commitment to Prespa and look for ways to leverage the country's regional leadership in the areas of trade facilitation, counterterrorism, building security partnerships, and in strengthening EU and NATO integration.

Question. What internal and external risks does Greece face regarding its own stability?

Answer. My view is that Greece has made considerable progress in mitigating internal and external risks since the Government debt crisis of 2009 and with the Prespa Agreement of 2018. Greece is a stable, responsible, and decidedly pro-U.S. regional leader, and I believe this trend will continue into the foreseeable future as Greece's three main political parties all support a strong relationship with the United States and embrace Greek leadership in the region. While Greece is situated in a dynamic region of often significant sensitivities and tensions, Greece has previously shown restraint and a desire to resolve disputes diplomatically. If confirmed, I would continue to encourage Greece to consult closely with the United States on both internal and external areas of concern where we could cooperate.

Question. If confirmed as Ambassador to Greece, how do you see your role in the context of ongoing State Department efforts to promote stability and anti-corruption in the region?

Answer. Greece was an active participant in President Biden's Summit for Democracy in 2021, where it made commitments to update its National Authority on Transparency and whistleblower protections and improve its financial transaction transparency. Additionally, Prime Minister Mitsotakis' drive to reduce bureaucratic red tape and digitize government services is, in part, meant to increase transparency and further combat corruption. If confirmed, I would support Greece's ongoing reforms and encourage it to make good on the commitments in made at the Summit for Democracy. Greece also supports the EU prospects of its Western Balkan neighbors, and we can work together with the Greek authorities and the EU to implement the anti-corruption measures required for EU accession by these countries.

Question. What are the most effective ways Greece can further its defense cooperation, both with the U.S. and within NATO?

Answer. Our defense and security relationship with Greece has grown dramatically over the past five years, and Greece views the United States as its top security partner. My understanding is the latest update to the Mutual Defense Cooperation Agreement added four additional sites for the U.S. military to utilize in Greece: Camp Georgoulas (Volos); the Litochoro Range (near Mount Olympus); Camp Giannoulis (Alexandroupoli); and the Souda Naval Base. Greece can continue to further its defense cooperation with the United States and NATO by implementing the latest updates to the MDCA and continuing to meet defense modernization investment goals in accordance with the Wales Pledge. If confirmed, I would continue to deepen our defense cooperation and advance U.S. national security.

Question. Do you believe that the United States is focusing too much energy on building the defense relationship with Greece rather than enhancing the capabilities of other NATO allies in the Eastern Mediterranean and Black Sea regions?

Answer. Greece is a vital NATO Ally that plays a critical role in maintaining peace and stability in the Eastern Mediterranean, the Western Balkans, and the Black Sea regions, and it should be incorporated into regional strategies focused on those areas. Given our military presence at Naval Support Activity Souda Bay in Crete, our military's frequent use of the port of Alexandroupoli for transport, and the opportunities of our expanded MDCA, we must continue to strengthen defense ties with Greece. Souda Bay is one of the few deep-water ports in the region suitable for U.S. aircraft carriers which could project power in the Eastern Mediterranean and Black Sea regions. Furthermore, Greece is increasingly becoming a hub for multilateral training and exercises with NATO Allies in the Eastern Mediterranean and Black Sea as well as regional partners. Thus, building our defense with relationship with Greece results in positive impacts well beyond its borders. If confirmed, I

would seek to deepen defense cooperation with Greece and further integrate it into regional strategies.

Question. In the State Department's 2021 Trafficking in Person's report, Greece remained on Tier 2. What are concrete steps you and your mission, if confirmed, can take to improve trafficking efforts in Greece as well as regionally?

Answer. Confronting the challenge of trafficking in persons is a moral absolute for me. My understanding is that Greece has made improvements in convicting traffickers and identifying trafficking victims over the last year, partly due to the implementation of the national referral mechanism. However, the Government should continue to decrease the length of court proceedings, strengthen specialized services to trafficking victims, and increase efforts to proactively identify victims among vulnerable populations, including unaccompanied children, migrants, and asylum seekers. If confirmed, I would work closely with the Government to address these issues.

Question. How will you work with the office to Monitor and Combat Trafficking in Persons to further this goal?

Answer. My understanding is that Embassy Athens maintains close contact with the Office to Monitor and Combat Trafficking in Persons and the Bureau for Population, Refugees, and Migration. If confirmed, I would direct the Embassy to continue close coordination with both offices and work on ways to improve Greece's ability to identify victims of trafficking and provide them with the necessary resources to prosecute traffickers and prevent the scourge of human trafficking.

Question. In the State Department's 2020 Human Rights Report, Greece was described as having significant human rights abuses like refoulement of refugees, acts of corruption, violence against minority groups, and more.

- What is your assessment of human rights in Greece?

Answer. My understanding is that Greece takes respect for human rights very seriously, which is demonstrated by the Government's willingness to prosecute human rights violators, particularly those who previously served in official capacities. Still, I'm aware of reports suggesting the sometimes unhealthy and unsafe conditions for migrants, credible reports of migrant pushbacks, as well as reports of societal discrimination against minority religious groups and LGBTQI+ persons. If confirmed, I would work closely with the Government to address these issues.

Question. If confirmed, what steps can you and your mission take to better improve the U.S. and international organization responses to migrant and asylum-seeking populations in country?

Answer. My understanding is the United States provided nearly \$5 million to the International Organization for Migration (IOM), the U.N. High Commissioner for Refugees (UNHCR), and UNICEF in Greece to protect the vulnerable refugee and asylum-seeking population from COVID-19, including ambulances that provided supplies and care, and several shelters for unaccompanied minors. This aid makes an important statement about U.S. priorities and has directly assisted migrant and asylum-seeker populations. If confirmed, I would ensure any assistance is wisely spent and continue to consult closely with appropriate offices in the Department and with international organizations to identify additional priority areas where Embassy Athens could assist.

Question. How will you engage with the Government of Greece on the numerous reports of refoulement?

Answer. This is a serious issue for me. While the Government of Greece displayed political courage in welcoming over 800 Afghans, including several prominent women and their families, I am concerned by credible reports of pushbacks of asylum-seekers made by UNHCR, IOM, international media, and numerous other organizations. If confirmed, I would continue to work within the Department and with the Greek Government and NGOs to promote the safety, integration, and resettlement of migrants in Greece. I also support the EU's call for an independent investigation into the credible allegations of pushbacks.

Question. If confirmed, how can you work with civil society to bolster human rights in country?

Answer. My understanding is that Embassy Athens maintains close contact with several NGOs, civil society leaders, and journalists to shed light on human rights conditions within Greece. Most recently, Mission Greece's hard work and broad network facilitated Greece's decision to temporarily welcome over 800 Afghans brought into the country by an NGO. Embassy Athens has also worked to secure grants for NGOs doing important work, such as sheltering unaccompanied minors in the coun-

try. If confirmed, I would encourage my team to think creatively about how we can empower civil society to help address human rights concerns in Greece.

Question. In the State Department's 2020 International Religious Freedom report, there were noted anti-Semitic and anti-Muslim acts along with rhetoric and attacks on Orthodox churches in Greece.

- What is your assessment of the status of societal and governmental respect for religious freedom?

Answer. Freedom of religion is an important principle for me. The Hellenic constitution allows freedom of worship, and the Government affords special protections for the Muslim minority, which consists of over 120,000 Greek citizens of Turkish, Pomak, and Roma descent who live in the Thrace region of northern Greece. In 2020, Greece authorized the first government-funded mosque in Athens in over 200 years, as well as six Jehovah's Witness Kingdom Halls, and other religious minority houses of prayer. If confirmed, I would support Greece's measures to uphold religious freedom and protect minority religious groups from hate crimes and discrimination.

Question. If confirmed, what steps can the U.S. mission take to bolster religious freedom on the ground?

Answer. Mission Greece maintains direct contact with various groups such as the Muslim minority in the north, refugees who have settled throughout the country, and Greece's small Jewish community. If confirmed, I would ensure that we continue this outreach and maintain close contact with civil society organizations, including religious actors; international organizations; and NGOs involved in Greece.

Question. Ongoing tensions between Greek and Turkish Cypriots are preventing any tangible progress from being made on the UNFICYP issue. If confirmed, do you commit to providing necessary support to the Greek Cypriots and to de-escalate tensions where possible?

Answer. The United States supports efforts to increase bicomunal cooperation between Greek Cypriots and Turkish Cypriots, including through the UNFICYP Technical Committees. If confirmed, I will continue to engage Greece, as a guarantor power, and express U.S. support for a Cypriot-led, U.N.-facilitated comprehensive settlement to reunify the island as a bizonal, bicomunal federation with political equality to benefit all Cypriots and the wider region. I will work with my colleagues in Nicosia and Ankara to encourage both sides to demonstrate the necessary openness, flexibility, and compromise to find common ground to restart formal talks.

Question. Would you support downsizing of the UNFICYP and the eventual closing of the peacekeeping part of the mission?

Answer. I believe UNFICYP continues to play an important role in maintaining the conditions necessary for the Greek Cypriot and Turkish Cypriot communities to find a common ground to restart formal talks. UNFICYP's work supervising ceasefire lines, maintaining a buffer zone, and supporting the Secretary-General's Good Offices remains an important stabilizing factor in Cyprus.

Question. The Office of Multilateral Strategy and Personnel (MSP) in the State Department's bureau of International Organizations is leading a whole-of-government effort to identify, recruit, and install qualified, independent personnel at the U.N., including in elections for specialized bodies like the International Telecommunication Union (ITU). There is an American candidate, Doreen Bogdan-Martin, who if elected would be the first American and first woman to lead the ITU. She is in a tough race that will require early, consistent engagement across capitals and within the U.N. member states. If confirmed, do you commit to demarch the Greek Government and any other counterparts necessary to communicate our support of Doreen?

Answer. Yes. Secretary Blinken publicly endorsed Ms. Doreen Bogdan-Martin's candidacy to lead the ITU in March 2021. If confirmed, I would work closely with the Bureau of International Organizations to voice support for Ms. Bogdan-Martin's candidacy, as well as the candidacies of other Americans endorsed by the Department to fill critical positions at the U.N. and its specialized bodies.

Question. What is your understanding of morale throughout Mission Athens?

Answer. My understanding is that like missions around the world, Mission Greece was significantly impacted by the COVID-19 pandemic, which forced employees to work from different locations and limit in-person interactions with key interlocutors. That, in addition to an ongoing renovation of the Embassy's chancery, has made life more challenging for Embassy Athens. I also understand that the Embassy team re-

mains highly motivated under the great leadership of Ambassador Pyatt, advancing U.S. interests as we deepen our relationship with Greece. If confirmed, it would be my goal to build on the high morale at Mission Greece and continue to advance U.S. interests through ever deepening improved bilateral relations.

Question. How do you intend to improve morale at Mission Athens?

Answer. If confirmed, I would empower my team, including the Deputy Chief of Mission, State Department and interagency colleagues, and locally employed staff, to share their views on new and meaningful ways to further the bilateral relationship. Furthermore, I understand the pandemic and ongoing renovations have made work more difficult for the Mission, so I would do everything in my power and consistent with local health regulations to facilitate in-person functions, progress the Chancery's overhaul, and advance the day-to-day business of U.S. diplomacy.

Question. How do you intend to create a unified mission and vision at Mission Athens?

Answer. My view is that to create a unified mission and vision, first you need a unified team. If confirmed, I would welcome input from all spectrums of the Mission community to ensure an inclusive environment where all voices are heard. Since Mission Greece is comprised of both Embassy Athens and Consulate General Thessaloniki, I would also encourage frequent and meaningful coordination between both teams to ensure unity of effort in achieving overall objectives as outlined in the Integrated Country Strategy.

Question. How would you describe your management style?

Answer. As a businessman, I understand the importance of building rapport and working with everyone in a professional and cooperative manner. As a hotelier, I understand the importance of making people feel welcome and comfortable. My management style is one of inclusivity and draws on the broad experiences and expertise of the teams that I lead. If confirmed, I commit to empowering my teams so that, together, we can conceive and implement the most effective ways of advancing U.S. policy priorities.

Question. Do you believe it is ever acceptable or constructive to berate subordinates, either in public or private?

Answer. No. If confirmed, I would treat all subordinates, Mission community members, and local contacts with the utmost respect. I believe in honesty and providing constructive feedback to subordinates in a courteous and professional manner, and I would endeavor to never publicly or privately berate a subordinate.

Question. How do you envision your leadership relationship with your deputy chief of mission?

Answer. If confirmed, I understand that I would be working with a Deputy Chief of Mission who has been on the job in Athens for over two years. I prize expertise and inclusivity and would actively seek counsel from my Deputy Chief of Mission as appropriate, particularly on issues related to State Department processes and procedures.

Question. If confirmed, what leadership responsibilities do you intend to entrust to your deputy chief of mission?

Answer. My view is that the Deputy Chief of Mission's role is to provide counsel, manage the day-to-day operation of a mission, including personnel issues, and assume the role of the Ambassador when necessary. If confirmed, I would delegate critical responsibilities to my Deputy Chief of Mission while I focus my efforts on the overarching U.S. policy priorities and maintaining the safety and wellbeing of mission personnel.

Question. Do you believe that it is important to provide employees with accurate, constructive feedback on their performances in order to encourage improvement and reward those who most succeeded in their roles?

Answer. Yes, I believe that accurate and constructive feedback is important in any position to facilitate improvement and growth. My understanding is the Department has annual review cycles in place, and if confirmed, I would ensure that evaluations were completed in a fair and transparent manner.

Question. If confirmed, would you support and encourage clear, accurate, and direct feedback to employees in order to improve performance and reward high achievers?

Answer. Yes, if confirmed, I would support clear, accurate, and direct feedback to employees so as to improve performance, identify areas for growth, and reward team

and individual accomplishments. I believe the Department manages several awards programs as well, which I would utilize to highlight the achievements of my team.

Question. In your opinion, do U.S. diplomats get outside of our Embassy walls enough to accomplish fully their missions?

Answer. My understanding is that diplomats want to get outside Embassy walls and prefer advancing U.S. priorities in-person, if possible. The global COVID-19 pandemic has made it harder for them to meet in person, but I understand the team in Greece did a remarkable job of innovating new approaches and pivoting to virtual spaces. Despite the pandemic, for example, our Public Diplomacy team was able to safely deliver a yearlong series of programming to commemorate U.S.-Greek friendship during Greece's bicentennial year in 2021 which included virtual and in-person programs throughout the country. If confirmed, I would encourage my team to continue to seek to engage with contacts in-person, or through whatever means they felt were most effective, in accordance with local health regulations and security conditions. I would work closely with medical staff and the Regional Security Officer at Post to ensure the safety of my team.

Question. How do you intend to improve the ability of U.S. diplomats to better access all local populations?

Answer. If confirmed, I would encourage Mission Greece to continue its broad outreach efforts not only with government contacts, but with NGOs, civil society, and vulnerable populations in the country. To the extent possible, I would also advocate for increasing the resources made available to the public diplomacy team for additional outreach activities. For example, Mission Greece has vast potential to engage in the areas of education and with Greek youth. The Greek Ministry of Education is seeking to expand partnerships with U.S. universities to implement joint- and dual-degree programs, as well as exchange programs. Mission Greece has six "American Spaces" in the country which provide an incredible platform for engagement with youth, particularly to promote STEM and entrepreneurship training across several regions of the country.

Question. What is the public diplomacy environment like in the Greece?

Answer. Greece benefits from a dynamic media environment and a public that is eager to engage with the United States. If confirmed, I would work closely with Mission Greece's Public Diplomacy Section to shape the media narrative about our deepening bilateral relationship and important regional developments. I would also work closely with the Public Diplomacy Section to support new avenues for engagement in education, women's empowerment, countering climate change, and others to promote the full range of our policy priorities and to deepen our people-to-people ties.

Question. What public diplomacy challenges do U.S. diplomats face there?

Answer. The global pandemic has presented unique challenges for public diplomacy efforts by postponing critical exchange programs and converting in-person events to virtual engagements. More specifically, my understanding is that Greece provides a receptive and engaging media environment, but that there are significant generational differences in media preferences. If confirmed, I will work closely with the Public Diplomacy Section to identify even more effective and non-traditional ways to engage with the country's youth on policy issues.

Question. How do you balance the importance of Main State versus the in-country mission when it comes to tailoring public diplomacy messages for foreign audiences?

Answer. My view on this is that the country mission is best placed to have a pulse on media environments and national audiences, while Main State offers a broader, more coherent perspective in harmony with other Department and national priorities. You need both perspectives to achieve effective public diplomacy messaging, and if confirmed I would work with the Mission Greece team and the Bureau for Eurasian and European Affairs to find the right balance.

Question. "Anomalous health incidents", commonly referred to as "Havana Syndrome", have been debilitating and sidelining U.S. diplomats around the world for years. They have caused serious, negative consequences for U.S. diplomacy, yet many believe that the Department is not doing enough to care for, protect, and communicate to its personnel. If confirmed, do you commit to taking this threat seriously?

Answer. Yes, these incidents are the subject of a sensitive ongoing investigation and remain a top priority for the Department. If confirmed, I will communicate with our workforce to provide care for affected employees and their family members and

work together with partners in Washington and the interagency to do what we can to protect against these incidents and, of course, to find the cause of what has been afflicting these members of our Embassy teams.

Question. If confirmed, do you commit to talking as openly as you can to Mission Athens personnel?

Answer. Yes, if confirmed, I will do my utmost to speak openly about this issue and ensure anyone who reports unexplained health incidents receives immediate and appropriate care. I will also consider it my primary responsibility to ensure the safety and security of the Embassy community.

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD
SUBMITTED TO GEORGE J. TSUNIS BY SENATOR JOHN BARRASSO

Question. How would you respond to requests for a U.S. commitment to assist Greece in the event of an invasion or similar act of aggression by Turkey?

Answer. If confirmed, my overall objective would be to support regional peace and stability, including between our two NATO Allies. The United States has been clear with Turkey that certain military maneuvers in the past have been unhelpful and provocative. If confirmed, I would work with the State Department and U.S. Government in tandem with my counterpart, Ambassador Flake, to defuse any crisis diplomatically.

Question. What were the new commitments made in the enhanced U.S.—Greece Mutual Defense Cooperation Agreement?

Answer. My understanding is the latest update to the Mutual Defense Cooperation Agreement extended the agreement term to five years, with an indefinite duration thereafter, stabilizing our defense cooperation with Greece, and bringing the agreement up to standard with those we have with other NATO Allies. The update also added four additional sites for the U.S. military to utilize in Greece: Camp Georgoulas (Volos); Litochoro Range; Camp Giannoulis (Alexandroupoli); and Souda Naval Base. If confirmed, I would seek to deepen our defense cooperation and ensure that any new commitments advance U.S. national security.

Question. Do you support the Eastern Mediterranean gas pipeline?

Answer. My understanding is, in line with U.S. climate priorities, the United States looks critically at new fossil fuel infrastructure projects to ensure U.S. public investment and support is not directed to carbon intensive sources and does not result in future stranded assets as we accelerate the clean energy transition. The East Mediterranean Gas Pipeline would constitute significant and expensive new fossil fuel infrastructure at a time when we and our partners are focused on investing in renewables and clean energy sources. At a time when Europe's energy security is—more than ever—a question of national security, if confirmed I would commit to deepen U.S. regional relationships, promote clean energy technologies and projects such as the proposed EuroAfrica and EuroAsia interconnectors, and counter climate change.

Question. How does the pipeline help reduce Europe's dependence on Russian gas?

Answer. I view Greece as a top U.S. partner in Europe on energy security and diversification. The Trans-Adriatic Pipeline, Interconnector Greece-Bulgaria, Interconnector Greece-North Macedonia, and the Alexandroupoli FSRU are examples of projects that will position Greece and Europe to reduce their dependence on Russian gas and break Gazprom's monopoly over the region. If confirmed, I would continue to work with Greece to identify projects that both advance our energy security goals and facilitate the transition to cleaner forms of energy. The administration remains committed to physically interconnecting East Med energy to Europe.

Question. In your view, what role does the Eastern Mediterranean gas pipeline play in promoting energy security and regional cooperation?

Answer. The Eastern Mediterranean Gas Pipeline is still at the conceptual level, technically challenging and commercially very expensive. Greece is, however, involved in a number of other commercially and technically viable natural gas projects that support energy security and regional cooperation such as the Interconnector Greece-Bulgaria, the North Macedonia-Greece Interconnector, the Trans-Adriatic Pipeline, and the Alexandroupoli Floating Storage Regasification Unit. If confirmed,

I would continue to work with Greece to identify projects that advance our goals of energy security and diversification.

Question. If confirmed, what steps would you take to support the Eastern Mediterranean pipeline and the establishment of liquefied natural gas terminals across the Eastern Mediterranean?

Answer. While I applaud Greece's ambitious decarbonization goals to phase out lignite by 2028, the reality is Greece will continue to utilize LNG as it transitions to renewable energy. If confirmed, I would support Greece's efforts to advance energy security and decarbonization and seek other initiatives that advance the goals outlined in the European Energy Security and Diversification Act of 2019, such as the proposed EuroAfrica and EuroAsia interconnectors. Understanding that the East Mediterranean Gas Pipeline would constitute significant and expensive new fossil fuel infrastructure at a time when we and our partners are focused on investing in renewables and clean energy sources, if confirmed, I would commit to deepen U.S. regional relationships, promote clean energy technologies, and counter climate change.

Question. What is your strategy to encourage additional natural gas development and infrastructure in the region?

Answer. If confirmed, I would make supporting U.S. investment in Greece's critical infrastructure a top priority, working with interagency partners, including the U.S. International Development Finance Corporation (DFC) and Congress, to identify projects for U.S. investment. I would strongly support U.S. commercial engagement in Greece. I agree wholeheartedly with Congress' intent in passing the European Energy Security and Diversification Act of 2019 and would continue to search for other strategic opportunities.

Question. What are some of the current challenges facing American energy companies currently operating or looking to operate in the Eastern Mediterranean?

Answer. I understand political and security tensions in the Eastern Mediterranean present challenges for U.S. energy companies currently operating or looking to operate there. The United States supports efforts to de-escalate tensions in the Eastern Mediterranean, including the continuation of exploratory talks between Greece and Turkey. I believe disagreements should be resolved peacefully through dialogue and in accordance with international law.

Question. If confirmed, how would you address those challenges in order assist American companies pursuing natural gas and oil operations?

Answer. As I understand it, the United States supports regional cooperation to bring durable energy security to the region, create new markets, drive energy innovation, and provide economic prosperity in the Eastern Mediterranean. If confirmed, I would encourage peaceful and diplomatic resolutions, which respect the sovereignty and territorial integrity of all countries. I would also work closely with U.S. companies to ensure they can compete for these projects, across all aspects of the energy sector, including the fastest growing technologies and markets.

Question. What is your strategy to counter Chinese investments in critical infrastructure investments in Greece?

Answer. I understand Greece continues to take steps to increase foreign direct investment, including from the PRC, to mitigate the impact of the pandemic and recover from the decade long financial crisis. However, Greece has shown a willingness to weigh national security and strategic considerations for certain critical infrastructure projects, for example effectively excluding Huawei from building its 5G infrastructure. Greece has taken an important step in approving a process expected to result in an investment screening mechanism in line with the EU investment screening framework. If confirmed, I would encourage Greece to adopt a national investment screening mechanism and continue efforts to share investment screening best practices, including from the U.S. experience with recent legislation implementation. As a businessperson, I know how to work with a team to formulate a winning economic bid, and if confirmed, that's exactly what I would do by vigorously promoting U.S. investment in the region and pushing back against problematic PRC disinformation and influence campaigns.

Question. In what ways do you believe the United States has not shown up or been aggressive? What is your strategy to change it?

Answer. The PRC is aggressive and strategic in acquiring strategic infrastructure, and I am cognizant of the fact that we need to play to win when we are competing with Beijing for strategic investment. Since 2016, China's state-owned shipbuilding

company, COSCO, has owned and operated the port of Piraeus, now the second busiest port by volume in Europe. This year Greece will privatize the ports of Alexandroupoli and Kavala, and it is critical that Greece selects a western partner to acquire them. If confirmed, I will seek to promote U.S. investment in the region, and employ the tools made available by the European Energy Security and Diversification Act, to ensure the United States is seen as a keenly interested and reliable business partner. The DFC, for example, has shown great promise to help level the playing field with our strategic competitors on projects that meet its criteria.

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD SUBMITTED
TO BETH VAN SCHAACK BY SENATOR ROBERT MENENDEZ

Israel

Question. Last year, the Prosecutor of the ICC confirmed the opening of a formal investigation into the Palestinian situation, which I believe was a politically-motivated decision to target Israel and wrongfully extends the Court's jurisdiction over personnel of a non-State Party.

- Will you commit to pushing back against the International Criminal Court's wrongful pursuit of a war crimes investigation against the State of Israel?

Answer. Yes. I agree with the serious concerns of the U.S. Government about the ICC's attempts to exercise jurisdiction over Israeli personnel. If confirmed, I will uphold the United States' strong commitment to Israel and its security, including by opposing actions that seek to target Israel unfairly.

Question. How will you work to promote reform within the Court to help ensure that it properly carries out investigations and respects the rights of non-State Parties?

Answer. As the Court approaches its twentieth anniversary, I am encouraged that States Parties, civil society, and other stakeholders have identified and committed to a broad range of reforms to help the Court fulfill its core mandate as a court of last resort, including through prioritizing resources, focusing on the most serious crimes of international concern, and continuing to develop the fundamental importance of the principle of complementarity. If confirmed, I commit to engaging with all ICC stakeholders, including some of our closest allies who are States Parties, to address our concerns and promote further reform.

Additional Tools and Mechanisms for Global Criminal Justice

Question. The ICC represents only one piece of the larger global criminal justice landscape. There are a range of international, regional, and domestic tribunals as well as international investigative mechanisms seeking to provide accountability for victims of mass atrocity crimes.

- How can the United States strengthen international mechanisms for accountability to enhance their ability to prevent mass atrocities?

Answer. There is a whole range of forms of assistance that the United States can provide to international mechanisms to enhance their ability to prevent, and respond to, mass atrocities. In addition to financial and programmatic assistance, this can include diplomatic support in international fora (to strengthen mandates and build multilateral support for these efforts), operational assistance in the field (e.g., identifying perpetrators, offering witness protection, or providing security), and technical support (e.g., providing evidentiary, forensic, and legal analysis). Helping such institutions better understand the context in which they are operating by, for example, sharing information, improves their ability to craft and implement effective responses. The United States can also enhance the environment in which these institutions are operating by constraining perpetrators through, among other things, sanctions and import/export restrictions, where available. The United States can also help with the rehabilitation of survivors through supporting psychosocial rehabilitation and other restorative measures.

Question. In your view, what tools and mechanisms have been most effective in promoting accountability?

Answer. The international community has developed a number of institutions and models for addressing the commission of grave international crimes. This includes international and hybrid criminal tribunals and specialized international crimes chambers. In addition, many states-including the United States-have empowered their domestic courts to prosecute international crimes under their national penal

codes. Hybrid institutions (i.e., tribunals with mixed international and domestic elements such as the nationality of key staff and the law to be applied) have proven particularly effective because they combine local legitimacy and knowledge with international expertise, skill, and resources.

Alongside these criminal accountability options, states emerging from periods of mass violence, repression, or conflict can also choose from a range of transitional justice mechanisms that advance the interlocking goals of truth-telling, reparation/rehabilitation, memorialization, vetting, and institutional reform. The Office of Global Criminal Justice advises State Department leadership, embassies and posts, the inter-agency, and other stakeholders on developing and deploying of these various options for ensuring retributive and restorative justice.

No accountability mechanism can be effective without solid documentation, including contextual and linkage evidence connecting individual perpetrators to the commission of international crimes. Consistent U.S. support for documentation (for both fact-finding and building criminal cases) and financial support to institutions, judicial and non-judicial, has been vital for achieving the accountability that has occurred in many courts and tribunals.

There also are actions that promote accountability for contemporary atrocity situations that go beyond these traditional tools. For example, when it comes to the genocide and crimes against humanity unfolding in Xinjiang, in addition to financial sanctions and visa restrictions, I understand that the United States Government has tightened export controls respecting entities implicated in human rights abuses in Xinjiang; issued Withhold Release Orders and a Business Advisory regarding heightened risks to U.S. businesses with links to Xinjiang given the existence of forced labor; and formally listed products that are believed to have been produced by forced labor. In addition, to these economic measures, the United States undertakes rigorous Leahy vetting to ensure that applicable U.S. assistance is not provided to security force units that are credibly implicated in gross violations of human rights. All this suggests that a “whole of government” approach, especially when done in concert with our allies and partners, is more effective.

Syria

Question. As I am sure you know, a German court recently found a former Syrian intelligence officer guilty of crimes against humanity and sentenced him to life in prison for his role in the Assad regime’s industrial-scale torture and murder of its own citizens. As the first ever trial and guilty verdict against a high-ranking Syrian regime official for crimes against humanity, this is an important landmark for ensuring accountability for the Assad regime’s barbarism, especially since the ICC does not have jurisdiction over Syria and efforts to take action through the form of a U.N. Security Council resolution face pushback from China and Russia.

- If confirmed, how do you plan on ensuring accountability for crimes in Syria?

Answer. I share Congress’ horror at the scale, scope, and brutality of the Assad regime’s atrocities. In my professional and academic career, I have devoted considerable energy to pursuing justice for Syria. If confirmed, I will strongly support U.S. efforts to promote accountability for these atrocities. My work in this area includes completing a Ph.D. on “Imagining Justice for Syria” that tracks international, regional, and domestic justice options (OUP 2020). Unfortunately, very few avenues for justice currently exist for the myriad international crimes that have been, and are being, committed in Syria. In the absence of any international, regional, or hybrid court with criminal jurisdiction over perpetrators, domestic proceedings-like those in Germany-are vital engines of accountability. In addition to holding individual perpetrators accountable, these judgments can offer all victims a sense of justice, develop important jurisprudence, find facts and reveal the truth about atrocities, deter other perpetrators, and inspire judicial efforts elsewhere.

Domestic investigations and prosecutions are being assisted by the work of grass-roots documentation organizations as well as international institutions, such as the U.N. Commission of Inquiry on Syria, created by the U.N. Human Rights Council, and a new international investigative mechanism established by the U.N. General Assembly: the U.N. International, Impartial, and Independent Mechanism (IIIM). The United States has supported, diplomatically and financially, the creation and operation of such documentation processes. If confirmed, I will work to ensure that the United States continues its crucial support of the IIIM’s mission to collect, consolidate, preserve, and analyze evidence of violations of international humanitarian law and human rights violations and abuses committed in Syria since 2011 for future accountability and transitional justice processes. This work is critical to facilitating criminal justice mechanisms and paving the way for a durable political solution that addresses the aspirations for justice of the Syrian people. I also believe

that GCJ has a particularly important role to play in supporting documentation and accountability efforts by Syrian human rights defenders and their international partners, many of whose efforts feed directly into the IIIM and its work.

Question. What actions will you take to support continued efforts, such as the trial in Koblenz, to bring about justice for victims of state oppression in Syria?

Answer. The road ahead for justice and accountability in Syria remains long, but I am encouraged by the progress made in this area over the last year, notably in Germany where, in January the first senior Syrian regime officer was convicted of crimes against humanity and in 2021 a lower-ranked officer was also found guilty for being an accessory to commit crimes against humanity. I welcome the January 13 Koblenz court verdict as a crucial victory for victims of the Assad regime's decade-long conflict against its own people.

I also welcome efforts by other national courts to investigate and prosecute crimes within their jurisdiction committed in Syria. If confirmed, I will look for ways to continue supporting Syrian human rights defenders and their international partners that document evidence of the Assad regime's atrocities and support key witnesses involved in the process. The evidence collected by these stakeholders, and shared with national law enforcement and judicial authorities, has been highly valuable to such accountability efforts.

Finally, there is the possibility of a case before the International Court of Justice (ICJ) against Syria under the Convention Against Torture. This treaty provides for the possibility of the ICJ exercising jurisdiction over disputes between state parties to the treaty, which cannot be settled through negotiation, and that are over the interpretation or application of the Convention, including claims of state responsibility. The Netherlands and Canada have indicated that they consider Syria to be in breach of its treaty obligations, including the obligations not to commit torture and to investigate allegations of torture. If confirmed, I would follow this matter closely to determine whether there might be ways for the United States to support our allies in this groundbreaking suit.

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD
SUBMITTED TO BETH VAN SCHAACK BY SENATOR JAMES E. RISCH

Question. If confirmed, what are your biggest priorities in the first 100 days of your Ambassadorship?

Answer. If confirmed, I would "hit the ground running" during the first 100 days in office when it comes to executing upon the critical mandate of the Office of Global Criminal Justice (GCJ). I envision the first days in office being devoted to getting myself up-to-speed on the current workings of the office as well as the Executive Branch's atrocities prevention and response architecture and operations, particularly with respect to the Early Warning Task Force and related efforts. This would require me to acquaint myself with GCJ's staff and their respective portfolios, as well as the work of other offices across the Government, all with an eye toward understanding the scope of GCJ's expertise (and any gaps in coverage), building relationships across government, and identifying the most pressing areas of concern. Second, I would get immediately briefed on the status of existing atrocities determination processes as well as any upcoming key dates and deadlines, especially regarding Congressional reporting and the War Crimes Rewards Program. Third, I would scan the globe with my regional colleagues to map at-risk situations and better understand what U.S. and multilateral responses are already in train. Fourth, I would review all ongoing justice efforts around the world with the goal of identifying ways to enhance U.S. support for these endeavors. Finally, and to the degree permitted in light of the pandemic, I would hope to begin diplomatic outreach to atrocities prevention and response initiatives around the world, as well as my counterparts within the governments of U.S. friends and allies devoted to this work.

Question. What role should GCJ play in the interagency process on Atrocity Prevention, including as a participant in the Atrocity Prevention Task Force?

Answer. I believe atrocity prevention requires a whole-of-government approach, as Congress has recognized in enacting the Global Fragility Act of 2019 and Elie Wiesel Genocide and Atrocities Prevention Act of 2018. If confirmed, I will work closely with Department and inter-agency colleagues through the Task Force, and with Congress, to anticipate, prevent, mitigate, and respond to atrocities in line with those legislative priorities.

As I understand it, GCJ's primary role is to respond to atrocities as they unfold, advance justice for victims, support efforts to hold those responsible for atrocities accountable, and work to prevent recurrence by promoting robust and effective transitional justice mechanisms. This transitional justice work is an essential component of atrocity prevention. It contributes to reconciliation and greater stability, builds trust in institutions, breaks cycles of vengeance and retaliation, and demonstrates that atrocities are not acceptable. I also understand that J/GCJ plays a critical role in Department atrocity prevention training efforts, ensuring Department personnel and other government stakeholders understand how transitional justice mechanisms contribute to the full spectrum of atrocity prevention activities.

Question. Do you support the United States becoming a party to the Rome Statute of the International Criminal Court?

Answer. The United States has a long history of leadership in supporting criminal accountability for atrocity crimes through international, national, and hybrid tribunals. We have much to be proud of and our leadership is essential to confronting atrocities being carried out around the world. If confirmed as the Ambassador-at-Large for War Crimes Issues, a position filled under all administrations since the mid-1990s, I would be honored to carry forward that legacy. Although not a State Party to the Rome Statute, the United States has an important role to play with regards to the Court, as a global leader in promoting accountability for atrocities, as a permanent member of the U.N. Security Council, and as an Observer State to the ICC's Assembly of States Parties. The United States can be supportive of these efforts without becoming a member of the Court.

Question. Under what circumstances should the U.S. cooperate with the ICC?

Answer. There are situations in which it advances our national interest and our values to cooperate with or support the activities of the ICC—as recognized in legislation including the Dodd Amendment to the American Servicemembers Protection Act and legislation regarding the War Crimes Rewards Program. Like other international tribunals, the International Criminal Court can provide an important forum for accountability when national systems are unwilling or unable to do so, provided proper jurisdiction is established. The United States has recognized, for example, that the ICC's investigations in Libya, in Sudan, and across Central Africa further U.S. national interests. The United States facilitated the voluntary surrender and transfer to the ICC of Bosco Ntaganda and Lord's Resistance Army commander Dominic Ongwen—both later convicted of war crimes and crimes against humanity. Ongwen and Ntaganda were designated under the War Crimes Rewards Program, managed by the Office of Global Criminal Justice. These rewards were possible because of bipartisan legislation passed by Congress in 2013. I believe cooperation is appropriate where consistent with U.S. law and where the work of the Court aligns with U.S. foreign policy priorities, national security objectives, and core values.

Question. Do you believe that the ICC should be investigating alleged actions of U.S. service members and officials in Afghanistan? If yes, please explain.

Answer. The U.S. Government has a longstanding objection to the ICC's attempts to assert jurisdiction over nationals of non-States Parties, such as the United States, absent the consent of the State or a U.N. Security Council referral. If confirmed, I will support and maintain that objection. I am deeply concerned about the current human rights situation in Afghanistan, including allegations of atrocities carried out by ISIS-K and the Taliban, and welcome efforts to ensure accountability for such atrocities. The ICC Prosecutor's September announcement that he will prioritize investigations into alleged violations by ISIS-K and the Taliban, and deprioritize other aspects of the investigation, such as allegations against U.S. personnel, reflects the gravity of the current situation.

Question. Do you believe that the ICC has jurisdiction to investigate or bring to trial United States service members, officials, or other United States citizens? If yes, please explain.

Answer. As I noted in my testimony and above, the International Criminal Court should remain focused on those situations where the state in question has consented to jurisdiction or the Security Council has referred a situation to the Court, consistent with the U.S. Government's longstanding objection to the ICC's attempts to assert jurisdiction over nationals of non-parties, such as the United States.

Question. Do you believe that the ICC should be investigating a case involving alleged Israeli actions in the Palestinian territories? If yes, please explain.

Answer. I share the serious concerns of the United States Government about the ICC's attempts to exercise its jurisdiction over Israeli personnel. Israel is not a Party to the Rome Statute and has not consented to the ICC's jurisdiction.

Question. Do you believe that the ICC has jurisdiction to investigate or bring to trial Israeli service members, officials, or other Israeli citizens? If yes, please explain.

Answer. Israel is not a Party to the Rome Statute and has not consented to the ICC's jurisdiction. My understanding is that, while the Palestinians purported to join the Rome Statute in 2015, the United States does not believe that the Palestinians qualify as a sovereign state and therefore are not qualified to obtain membership as a state in, participate as a state in, or delegate jurisdiction to the ICC.

Question. Do you believe the ICC's reputation has been diminished by recent attempts to prosecute United States and Israeli nationals? If no, please explain.

Answer. If confirmed, I will work to uphold our strong commitment to Israel and its security, including by opposing actions that seek to target Israel unfairly. I will also continue to advance the U.S. Government's longstanding objection to the ICC's attempts to assert jurisdiction over non-parties, such as the United States and Israel. As Secretary Blinken has stated, our concerns with respect to such situations are best addressed through engagement with all stakeholders in the ICC process. If confirmed, I will lead that engagement.

Question. Do you believe that an ICC prosecution of United States services members and public servants would deny those U.S. citizens fundamental due process protections to which all Americans are guaranteed under the U.S. Constitution, such as a right to trial by jury? If no, please explain.

Answer. The ICC should not prosecute nationals of non-states parties such as the United States. If confirmed, I will maintain and support the United States' longstanding position in this regard.

Question. Do you believe the United States has an obligation to protect U.S. citizens who have served or are currently serving in Afghanistan against criminal prosecution by the ICC? If yes and if confirmed, what specific actions would you take to ensure that U.S. service members, officials, and citizens are not subject to ICC prosecutions? If no, please explain.

Answer. The ICC Prosecutor has indicated his intention to prioritize the ongoing violations by the Taliban and ISIS-K in his investigation into the Afghanistan situation, which appropriately reflects the gravity of the situation and the acute threats faced by civilians there. That said, the United States should defend U.S. personnel who served, or are serving, in Afghanistan against any potential criminal charges by the ICC.

Question. What additional international avenues exist to pursue justice and accountability for victims of atrocities outside of the ICC?

Answer. Since Nuremberg, the United States has supported various international and domestic transitional justice mechanisms in pursuit of justice and accountability for atrocity crimes, including ad hoc tribunals, hybrid courts (courts with international and domestic elements), and domestic judicial processes, as well as non-penal institutions engaged in truth-telling, reparation, memorialization, and institutional reforms. Essential to many of these efforts are also the independent investigative mechanisms, commissions of inquiry and fact-finding missions that lay the groundwork for justice and accountability through fact-finding, documentation, and evidence collection of human rights violations and abuses. All these mechanisms, to one extent or another, shape the architecture of accountability under international criminal law. If confirmed, I will commit to continuing U.S. leadership in supporting a range of transitional justice measures and exploring all avenues for justice and accountability in line with U.S. foreign policy and values.

Question. Beyond the ICC, what international accountability mechanisms do you support?

Answer. The twin goals of ending impunity and providing a measure of justice for victims can be advanced by various types of international accountability mechanisms designed to address atrocity crimes. As I noted in my testimony, each situation requires a bespoke response. The United States has played a historic leadership role in establishing and supporting many of these mechanisms, including the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda in the 1990s. This assistance, which included the detail and transfer of U.S. personnel, was critical to their success. In the current day, I

am proud that the United States has continued to look for ways to support-technically, financially, diplomatically, and operationally-new international, hybrid, and national mechanisms to respond to contemporary human rights crises, including the Special Criminal Court for the Central African Republic, the Kosovo Specialist Chambers, the Special Jurisdiction for Peace in Colombia, and the international mechanisms investigating crimes in Syria and Myanmar/Burma. This generation of accountability mechanisms reflects the understanding that ensuring justice for atrocities requires utilizing a range of transitional justice mechanisms, including those that promote truth-telling, institutional reform, and memorialization. If confirmed, I will support the creation and the strengthening of those mechanisms that reflect core U.S interests and values.

Question. If the U.S. is not a member or party to avenues listed above, do you believe it should be?

Answer. The United States supports all the mechanisms I referenced above. They have generally been created by elements of the United Nations-such as the U.N. General Assembly or Human Rights Council-or by national authorities with international involvement/assistance. The United States has been instrumental in standing up these institutions, and ensuring their success, through its votes and influence in multilateral institutions and the international sphere. Ultimately, how best to respond to a situation involving atrocity crimes must be assessed on an individual basis. Each atrocity situation requires a bespoke response, depending on the national and international context. If confirmed, I will commit to applying my expertise to providing the best advice and guidance to the Secretary as to whether a proposed or existing mechanism is genuine, credible, and advances U.S. foreign policy.

Question. In your view, what are some examples of special court or tribunals which did not work well?

Answer. While the international criminal justice framework has become more robust and effective since the establishment of ad hoc tribunals in the 1990s, there is always room for reflection, learning, and improvement. If confirmed, I will look for ways to continue the United States' efforts to enhance the technical capacities of special courts and criminal tribunals and to ensure that they are cost effective, especially given the generous financial contributions that the United States has made and continues to make. In addition, the United States also has an important interest in ensuring that any transitional justice mechanism-whether a court or a truth-telling body-is fair, independent from undue political influence, and respects human rights. Doing so confers legitimacy on the institution. I also believe that there are ways in which accountability mechanisms can engage more effectively with victims, survivor groups, human rights defenders, and civil society. If confirmed, I will do all that I can to ensure that such accountability mechanisms can fulfill their respective mandates effectively and efficiently.

The Bangladesh International Crimes Tribunal offers an example where greater reflection, learning, and improvement are warranted. A previous Ambassador-at-Large visited Bangladesh multiple times to encourage Bangladeshi authorities to ensure that this special court, convened to try crimes committed during the 1971 war of independence, afforded defendants the fair trial guarantees set forth in international human rights law given concerns that the proceedings were focused on members of the political opposition and unfolding in ways considered fundamentally unfair to the defendant. Unfortunately, this tribunal has not fully respected these guarantees. Another example is the Extraordinary Criminal Chambers in the Courts of Cambodia, which featured a unique hybrid structure that led to multiple impasses between international and national staff and generated allegations of political interference, although it did accomplish some measure of justice. This particular hybrid model should not be replicated in future institutions, although other hybrid institutions have proven effective in combining local legitimacy and knowledge with international expertise, skill, and resources.

Question. The Office of Multilateral Strategy and Personnel (MSP) in the State Department's Bureau of International Organizations is leading a whole-of-government effort to identify, recruit, and install qualified, independent personnel at the U.N, including in elections for specialized bodies like the International Telecommunications Union (ITU). If confirmed, do you commit to furthering these goals and contributing to the whole-of-government strategy to elect such personnel?

Answer. Yes. If confirmed, I will coordinate closely with colleagues in the IO Bureau, the interagency, and likeminded countries to identify, promote, and elect qualified, independent candidates to U.N. bodies. The United Nations system, including U.N. tribunals for atrocity crimes, and other international entities, have long benefited from the service of qualified, independent American personnel, reach-

ing back to U.S. Supreme Court Justice Robert H. Jackson, the Chief United States Prosecutor of the Nuremberg Trials. I was proud to see the United Nations Secretary General recently appoint Professor Margaret de Guzman to serve as a roster Judge on the International Residual Mechanism for Criminal Tribunals, continuing the long-standing tradition of American leadership at international organizations. If confirmed, I will strive to advance U.S. priorities and, with our partners, our shared commitment to promoting respect for democracy and human rights and protecting the founding principles and values of the U.N.

Question. Do you believe that the ICC has jurisdiction over U.S. citizens, in particular U.S. service members?

Answer. As mentioned, I will continue to advance the U.S. Government's long-standing objection to the ICC's attempts to assert jurisdiction over nationals of non-parties such as the United States, absent the State's consent or a Security Council referral.

Question. Do you believe that the ICC has jurisdiction over Israel and Israeli citizens?

Answer. As I noted in my testimony, I share the serious concerns of the United States Government about the ICC's attempts to exercise its jurisdiction over Israeli personnel. Israel is not a party to the Rome Statute and has not consented to the Court's jurisdiction.

Question. Previously, the United States expressed concern that changes the U.N. General Assembly made—starting in 2018 and until now—to narrow the focus of the reference to the remembrance of “1994 Genocide in Rwanda” to the “1994 Genocide Against the Tutsi in Rwanda.” The United States view has been that this change does not capture the fullness of the genocide, particularly the violence against other victims and non-Tutsi groups. Among the reasons, the U.S. has cited the dangers of revising language used to describe a past genocide, particularly the dangerous precedent that would create for other dates and references of remembrance. Meanwhile, the Rwandan Government points to the U.N. General Assembly's decision to affirm that the 1994 genocide specifically targeted the Tutsi in Rwanda.

- What is your view on this matter?

Answer. The 1994 genocide was one of the most horrific events of the late 20th century. In addition to the large numbers of Tutsi lives tragically lost, we also cannot forget the many Hutu and Twa who were killed during this time, some for their opposition to the atrocities being committed. Honoring and remembering all victims presents a fuller picture of this dark period in history. If confirmed, I will consider this matter carefully with my colleagues in other bureaus and offices.

Question. Should the United States review the underlying reasons behind the 1994 genocide and most of the Tutsi victims?

Answer. One of the strongest measures we can take to prevent atrocities from occurring again is to preserve the history of what has taken place and ensure that an accurate historical record is established. The International Criminal Tribunal for Rwanda, and now the International Residual Mechanism for Criminal Tribunals, have greatly contributed to establishing such a historical record, and through outreach and educational programs, providing future generations with access to this record. Examining and understanding the complex root causes of how such a horrific event could happen is necessary for the United States and the international community to ensure that it never happens again. Gathering these lessons learned is critical to enhancing the United States' programs for atrocities prevention and response.

Question. The Biden administration continues to refer to 'nascent talks' and the process of gathering evidence in the ongoing conflict in Ethiopia, among the reasons why it has not yet made an atrocities determination regarding the human rights abuses, violence and killings carried out by parties to the conflict.

- Should the United States continue to delay an atrocities determination regarding the Ethiopia conflict? If so, why? If not, what will you do, if confirmed, to impact this policy approach?

Answer. If confirmed I will look into the status of this issue and will consult regularly to ensure Congressional views are conveyed to the Secretary.

Question. Specific to the Ethiopia conflict, what would be the value of an atrocities determination, and how can it help shape current and future U.S. policy and assistance to Ethiopia?

Answer. An atrocity determination by the Secretary is one tool in our toolkit to address, respond to, and prevent atrocities. It may be appropriate at some point in Ethiopia, and, if confirmed, I look forward to providing the Secretary with my best advice on that point.

But as the Secretary has said, “regardless of what we call it,” the most important priorities are to stop the violence and ensure there is justice and accountability for abuses. We must insist that the parties to the conflict in Ethiopia commit to a comprehensive, transparent, and inclusive transitional justice process that addresses grievances, holds those most responsible for human rights abuses and violations accountable, acknowledges harms, restores property to lawful owners, guarantees non-recurrence, and facilitates country-wide reconciliation. If confirmed, I will work with colleagues in the Department to promote such efforts. The needs of victims should drive decisions about specific mechanisms.

Question. Speaking in your personal capacity, and based on what you know of the atrocities being committed in Ethiopia, how would you characterize the atrocities committed in the course of this ongoing conflict?

Answer. I am deeply concerned about the situation in Ethiopia. Reports of killings, sexual violence, and detention based on ethnicity are extremely disturbing. I have not fully analyzed whether these acts may constitute atrocity crimes, such as war crimes or crimes against humanity, but regardless of how one characterizes them, these horrific acts need to stop and those responsible need to be held accountable. If confirmed, I will work with others in the Department to promote an end to all human rights violations and abuses in Ethiopia, an inclusive peace agreement, and a commitment to comprehensive and inclusive transitional justice.

Question. Regarding atrocities determinations, should the U.S. generally give more weight to developing peace processes that often take months even years to form, over being forthright and being public in their atrocities determination?

Answer. An atrocity determination can be an important tool in efforts to prevent and stop ongoing atrocities. However, as the Secretary has said in the context of Ethiopia, “regardless of what we call it,” the most important priorities are stopping the violence and ensuring justice for victims. Whether an atrocity determination at a given time will contribute to these priorities must be considered on a case-by-case basis.

Question. During President Ellen Johnson Sirleaf’s administration, Liberia formed a Truth and Reconciliation Commission (TRC) in 2006 to look at the horrors of Liberia’s civil wars and the related crimes committed. The TRC published its final report in 2010 that included a set of findings and recommendations, including a call for a special war crimes court and for individuals linked to factions during the war from seeking office for 30 years. The TRC listed several senior politicians, senators, including President Sirleaf, in the report. The Sirleaf Government, or the current administration under President George Weah, never implemented the TRC report, but calls for a special war crimes tribunal remain.

- Do you believe Liberia’s leaders, including President George Weah, should meet previous commitments towards forming a court?

Answer. Liberia’s Truth and Reconciliation Commission (TRC) report recommended a mix of criminal accountability and restorative measures to address the crimes committed during the country’s civil wars to include prosecution of gross violations of human rights and violations of international humanitarian law and monetary reparations and memorialization of victims. To date, I understand the Liberian Government has not implemented the majority of the recommendations from the TRC report. In my view, to be effective, efforts to promote justice and reconciliation in Liberia must be Liberian-led. If confirmed, I will work to ensure the United States continues to be a partner to Liberia in justice and reconciliation efforts and will continue to encourage the Liberian Government and people to pursue such efforts in keeping with the recommendations of the TRC.

Question. What should be the international community’s role in working with the Liberian people to see this commitment become a reality? What should be the U.S. role?

Answer. In my view, to be effective efforts to promote justice and reconciliation in Liberia must be Liberian-led. If confirmed, I will work to ensure that the United States continues to partner with Liberia in justice and reconciliation efforts, and I will continue to encourage the Liberian Government and people to pursue such efforts.

Question. During your meeting with SFRC minority staff, you stated that, in your view, the 2002 AUMF is the United States’ “best argument” for the air strike against Qassem Soleimani on January 3, 2021. Can you elaborate on that view?

Answer. Thank you for these questions. My views expressed during meetings with your staff were my own, based on reading publicly available materials. Since I was not in government at the time, I cannot speak to the specific legal and policy analysis undertaken given the sensitive intelligence or other information available. I would therefore defer to experts in the State Department’s Office of the Legal Adviser (L), which provides legal advice to the Department on these issues. If confirmed as Ambassador at Large in the Office of Global Criminal Justice, I look forward to working with Congress on matters related to the prevention of, responses to, and accountability for atrocities, which are J/GCJ’s core responsibilities.

Question. Do you believe the 2002 AUMF provided an independent legal basis for this strike?

Answer. If confirmed as Ambassador at Large in the Office of Global Criminal Justice (J/GCJ), I would not be handling issues related to legal advice on authorizations for the use of military force.

Question. Do you believe the 2002 AUMF should be repealed?

Answer. These legal matters are not within the portfolio of the Office of Global Criminal Justice, which focuses on United States’ policy regarding atrocity situations around the world.

Question. In your legal opinion, how would a repeal of the 2002 AUMF impact current detention operations?

Answer. These legal issues fall outside the remit of the Office of Global Criminal Justice, and I would therefore defer to experts in the State Department’s Office of the Legal Adviser and the Department of Defense General Counsel on these matters.

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD SUBMITTED
TO BETH VAN SCHAACK BY SENATOR JEANNE SHAHEEN

Question. The Office of Global Criminal Justice is imperative to coordinating U.S. Government efforts to bring to justice perpetrators of genocide, crimes against humanity and war crimes.

- Given this purview, how do you view the situation in Syria, where we have seen a host of horrific and immoral crimes that violate international laws?

Answer. I share Congress’ horror at the scale, scope, and brutality of the Assad regime’s atrocities. In my professional and academic career, I have devoted considerable energy to pursuing justice for Syria. This includes completing a PhD on “Imagining Justice for Syria” (OUP 2020) that analyzes, tracks, and evaluates a whole range of international, regional, and domestic options. If confirmed, I will strategize and strongly support U.S. efforts to promote accountability for these atrocities. The United States played a key role in establishing the U.N. Commission of Inquiry on Syria and supported the creation of the U.N. International, Impartial, and Independent Mechanism (IIIM). If confirmed, I will work to ensure that the United States continues its crucial support of the IIIM’s mission to collect, consolidate, preserve, and analyze evidence of the violations of international humanitarian law and human rights violations and abuses committed in Syria since 2011 for future accountability and transitional justice processes. This work is critical to facilitating criminal justice mechanisms and to paving the way for a durable political solution that addresses the aspirations for justice of the Syrian people. I also believe that the Office of Global Criminal Justice has a particularly important role to play in supporting documentation and accountability efforts by Syrian human rights defenders and their international partners, many of whose efforts feed directly into the IIIM and its work.

Question. Could you speak to the importance of American leadership to deter crimes against humanity and war crimes?

Answer. The United States was present at the founding of the field of international criminal law in the post-World War II era. Since then, U.S. leadership has been instrumental in helping to establish and support modern justice institutions, including criminal tribunals, fact-finding bodies, and transitional justice mechanisms operating in post-conflict environments. This century, attention has shifted to

the imperative of preventing atrocities in addition to providing accountability after the fact. Mass atrocities threaten international peace and security, including through destabilizing regions; generating internal displacement and refugee flows; emboldening perpetrators and creating openings for violent extremism; disrupting economic relations and undermining progress on economic development; contributing to state fragility; necessitating costly ex post interventions; and undermining the credibility of international norms.

Given these effects, all states should be encouraged to commit to working together on prevention and civilian protection. The United States is uniquely situated to convene coalitions of like-minded states to ensure a robust multilateral response. In addition, it can provide tangible technical and operational assistance to human rights defenders, peacebuilders, investigators, government authorities, and civil society actors to understand and interrupt vectors of violence, protect civilians, address potential triggers, build societal resilience, and constrain perpetrators. The Office of Global Criminal Justice has proven central to coordinating U.S. Government efforts to bring to justice perpetrators of atrocities but also to help conceptualize ways to respond to situations at risk of experiencing mass violence. In this way, it plays an instrumental role in the prevention and recurrence of violence. If confirmed, I look forward to joining a tremendous team of subject matter experts who are devoted to this portfolio.

Correspondence Supporting Sarah Cleveland's Nomination

January 10, 2022

Senator Bob Menendez
Chairman, U.S. Senate Foreign Relations
Committee
423 Dirksen Senate Office Building
Washington, DC 20510

Senator James E. Risch
Ranking Member, U.S. Senate Committee on
Foreign Relations
423 Dirksen Senate Office Building
Washington DC 20510

Dear Chairman Menendez and Ranking Member Risch:

We are former Legal Advisers of the Department of State, having served in Republican and Democratic Administrations for the last forty years. We write to provide our strong bipartisan support for the confirmation of Sarah H. Cleveland, who has been nominated to be Legal Adviser by President Joe Biden. All of us know Ms. Cleveland and many of us have served with her on the Secretary of State's Advisory Committee on International Law. Although we may not endorse all of Ms. Cleveland's views, all of us do agree that she is well-qualified to serve as Legal Adviser of the Department of State and should be confirmed.

Ms. Cleveland is extremely familiar with the responsibilities of the Legal Adviser, having served as Counselor to the Legal Adviser from 2009-2011 and then as a member of the Advisory Committee on International Law (which is chaired by the Legal Adviser) from 2011 to the present. She has worked closely with many of the attorneys in the Legal Adviser's office as well as senior career and non-career officials in the Department of State. She is familiar with the important role of the office in the interagency process and has previously worked closely with lawyers at the Departments of Defense, Justice, Homeland Security, Treasury, and the National Security Council and U.S. intelligence agencies, among others. She already knows many of her counterparts as legal adviser in the foreign ministries of other countries. Her prior extensive experience in government will allow her to hit the ground running and to be especially effective in vigorously representing U.S. interests around the world.

In addition, Ms. Cleveland is also deeply knowledgeable about international law and U.S. foreign relations law. A native of Alabama, she has taught both subjects law for more than 20 years at Columbia Law School, the University of Texas School of Law, Harvard Law School, and Michigan Law School. She currently holds the Louis Henkin Chair in Human and Constitutional Rights and is Faculty Co-Director of the Human Rights Institute at Columbia Law School. She is the author of many articles on international and foreign relations law and human rights. As a result of her reputation, expertise and judgment in the field, Ms. Cleveland was selected to serve as Co-Coordinating Reporter to oversee preparation of the recent Fourth Restatement of the Foreign Relations Law of the United States.

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Senator Bob Menendez
 Senator James E. Risch
 January 10, 2022
 Page 2

Ms. Cleveland has a distinguished academic record. After graduating from high school in Alabama, she received her B.A. (with honors and Phi Beta Kappa) from Brown University; a Masters from Oxford University, where she studied on a Rhodes Scholarship; and her J.D. from Yale Law School. She then clerked for Judge Louis F. Oberdorfer on the United States District Court for the District of Columbia, and for Supreme Court Justice Harry A. Blackmun.

Ms. Cleveland is already well known and respected around the world as an international lawyer. She served as Vice Chair and member of the U.N. Human Rights Committee (2015–2018) and was the U.S. Observer Member and Member on the Venice Commission of the Council of Europe (2010–2019). For these positions, she was nominated or appointed by the U.S. Government.

In this period of growing international tensions, we believe it is critically important to have a confirmed Legal Adviser to represent the United States in meetings and negotiations with foreign officials and to be the voice of the U.S. government on international law matters, including by calling out violations of international law and human rights by China, Russia, Iran, Cuba, Venezuela and other countries. If confirmed, we believe Ms. Cleveland would be an important voice and advocate for the U.S. government on international law and human rights. Even an experienced acting Legal Adviser cannot be as forceful and effective an advocate for U.S. interests as a Legal Adviser appointed by the President and confirmed by the Senate.

For all of these reasons, we believe Ms. Cleveland is well-qualified to serve as Legal Adviser. We urge the Committee to recommend her confirmation and that the full Senate confirm her quickly.

Sincerely yours,

John B. Bellinger III
 Legal Adviser, 2005-2009

Conrad K. Harper
 Legal Adviser, 1993-1996

Brian J. Egan
 Legal Advisor, 2016-2017

Harold Hongju Koh
 Legal Adviser, 2009-2013

Jennifer G. Newstead
 Legal Adviser, 2018-2019

Abraham D. Sofaer
 Legal Adviser, 1985-1990

Davis R. Robinson,
 Legal Adviser, 1981-1985

William H. Taft, IV
 Legal Adviser, 2001-2005

EDWIN D. WILLIAMSON
WASHINGTON, DC

January 10, 2022

Senator Bob Menendez
Chairman, U.S. Senate Foreign Relations Committee
423 Dirksen Senate Office Building
Washington, DC 20510

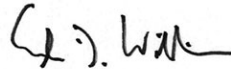
Senator James E. Risch
Ranking Member, U.S. Senate Committee on Foreign Relations
423 Dirksen Senate Office Building
Washington, DC 20510

Re: Nomination of Sarah H. Cleveland To Be State Department Legal Adviser

Dear Chairman Menendez and Ranking Member Risch:

I join my fellow former State Department Legal Advisers in urging the prompt confirmation of Sarah H. Cleveland, who has been nominated to be Legal Adviser by President Joe Biden. The State Department has not had a Senate-confirmed Legal Adviser since May 2019. For good governance reasons, it is important that your Committee promptly approve Professor Cleveland's nomination and send it to the Senate for an expeditious confirmation.

Very truly yours,



Edwin D. Williamson
State Department Legal Adviser 1990-93

January 10, 2022

Senator Bob Menendez
Chairman, U.S. Senate Foreign Relations Committee
423 Dirksen Senate Office Building
Washington, DC 20510

Senator James E. Risch
Ranking Member, U.S. Senate Committee on Foreign Relations
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In addition, Ms. Cleveland is also deeply knowledgeable about international law and U.S. foreign relations law. A native of Alabama, she has taught both subjects for more than 20 years at Columbia Law School, the University of Texas School of Law, Harvard Law School, and Michigan Law School. She currently holds the Louis Henkin Chair in Human and Constitutional Rights and is Faculty Co-Director of the Human Rights Institute at Columbia Law School. She is the author of many articles on international and foreign relations law and human rights. As a result of her reputation, expertise and judgment in the field, Ms. Cleveland was selected to serve as Co- Coordinating Reporter to oversee preparation of the recent Fourth Restatement of the Foreign Relations Law of the United States.

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