

Business Meeting

Tuesday, March 8, 2022

BUSINESS MEETING

TUESDAY, MARCH 8, 2022

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

The committee met, pursuant to notice, at 2:42 p.m., in Room SD-106, Dirksen Senate Office Building, Hon. Robert Menendez presiding.

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

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

The Chairman: This business meeting of the Senate Foreign Relations Committee will come to order.

Today, we are considering seven Foreign Service Officer promotion lists and 11 nominations for critical positions. We received a holdover request for two nominations that were originally noticed for this business meeting: Deborah Lipstadt to be the Special Envoy to Monitor and Combat Anti-Semitism, who has been pending 158 days, and Barbara Leaf, who has been pending 302 days to be Assistant Secretary of State for Near Eastern Affairs.

The chair will honor those requests and we will consider them at the next business meeting.

But let me just say, at a time when the United States and its allies are working to put every conceivable pressure on Putin to stop his unprovoked, brutal, and illegal war against Ukraine, we have to have these nominees in place.

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There is no substitute for an ambassador going in to see the leader of that country versus a charge d'affaires. There is no substitute. There is no substitute for having an Assistant Secretary of State meeting others in the world that are their counterparts. This game is costing us.

So for all of my friends who love to wave the flag of how important it is to be leading the rest of the world and how forward-looking we should be, you are not helping the cause. If you do not like a candidate, vote against them. But this process of just holding and holding and holding makes no sense whatsoever.

The administration has done a superb job of imposing sweeping sanctions, along with our allies, that are devastating the Russian economy, but there is more to be done.

These efforts will be enhanced with Jim O'Brien in place as the Sanctions Coordinator. Similarly, as we see Putin's army committing war crimes throughout Ukraine, we need to quickly confirm Sarah Cleveland and Beth Van Schaack, who will be instrumental in our efforts to hold Russian war crimes accountable.

And as the millions of Ukrainians who have not fled are facing lack of water, food, and heat, we need to confirm Ambassador McKean at USAID for Europe. The humanitarian situation is dire and it is only going to get worse.

Today, we are also considering other important positions, including Assistant Secretaries of State for International Security and Nonproliferation, for Arms Control and Verification, for Middle Eastern Affairs, our Ambassadors to Greece, Portugal, Honduras, and Jamaica, and the Executive Director of the International Bank for Reconstruction and Development.

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All of these positions matter. If anything is clear from this crisis, it is that every country, every multilateral body, has a role to play in coming to Ukraine's aid and rallying the world to stop Putin.

We need them in their place and I look forward to their swift confirmation.

Senator Risch?

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

Senator Risch: Thank you very much, Mr. Chairman.

I did not intend to get into that but I will reiterate the numbers again, and I am one who believes we need people in these positions. The people need to be vetted. The documentation has to be completed and we do our best in that regard.

In the 116th Congress where I was chairman and you were ranking member, the average time was 94 days, and in the 117th Congress where you are chairman and I am ranking member, the average time is 77 days. So if we are talking about who held up for how long, the numbers do not lie.

Anyway, in any event, let us move on to getting the job done.

I would like to express my support for Jim O'Brien to be Sanctions Coordinator. The current environment demonstrates how important this position can be.

With the United States and Europe finally rolling out new sanctions against Russia, it is more important than ever that we have someone who can coordinate across the U.S. interagency and serve as a conduit for our allies on alignment of our sanctions policies.

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While these sanctions are a good start, we need to do more. Mr. O'Brien should push the administration to truly isolate the Russian economy. It is vital this office receive the support and resources necessary to be successful.

That is why I worked with others to specifically provide direct hiring authority to his office. I expect that authority to be used early and often to get the right team in place as quickly as possible.

I, and many of my Republican colleagues, remain extremely concerned by reports that the administration has offered reckless concessions to the Iranians as a last-ditch effort to save this failed nuclear deal.

However, it is my hope that Mr. O'Brien can use his experience with other major sanctions regimes to talk some sense into this administration and highlight the negative impact these kinds of concessions will have on U.S. policy.

Regarding Sarah Cleveland to be Legal Adviser of the Department of State, this is one of the most important positions at the department, and no one is disputing her long record of legal and academic expertise in international relations and international law.

However, I am deeply concerned about Ms. Cleveland's record regarding legal opinions on abortion access. In the past, she contributed to and defended the U.N. Human Rights Committee opinion, which found that one country's domestic laws violated a citizen's international human rights by not providing and paying for an abortion.

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This finding is starkly inconsistent with U.S. laws prohibiting provisions or promotion of abortions abroad. For this reason, I am not able to support her nomination, but I hope to be able to work with her on this and many other issues she will handle if and when she is confirmed.

Lastly, regarding Mallory Stewart to be Assistant Secretary of State for Arms Control Verification and Compliance, I have been very clear. I am deeply concerned about the administration's consultations with our allies and partners regarding a potential change in U.S. nuclear declaratory policy and Ms. Stewart's role in advising on those policies. I am troubled by the destabilizing positions that the administration has been advocating in the arms control space. With China's massive arms buildup and Russia's modernization, we and our allies must be postured to maintain deterrence. While I appreciate Ms. Stewart's and the department's recent cooperation in sharing more of those consultations, I am still not convinced the administration is listening to the concerns of our allies and partners.

So I will also be voting no on Ms. Stewart.

There are other nominees on this agenda that were re-nominated this year which I opposed in the past. Since I have not received any new information that would change my view on those nominees, I will be voting no on those nominations as well.

There are a few other nominees on this agenda I will not be supporting, but I understand there are other members who want to speak on these nominees so I will move on to that.

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Lastly, Mr. Chairman, I would ask that members be allowed to, however we vote, record their written no votes if they want to vote no on a person, and I would ask for a roll call vote on Cleveland and Stewart.

The Chairman: All right. We will get there.

Just one comment. I do not want to belabor the point. But one cannot compare the challenges we had with Trump nominees who, when they did not move quickly, it was because they had deep problems -- torture, sexual harassment, lying to the committee and the IRS, for which they were indicted.

I cannot expedite those people. The travesty is that they were all pushed through the committee and they were voted for.

So in any event, let me move to seek an en bloc consideration except for the ones you have asked for a roll call vote.

We will now consider en bloc the seven FSO lists and 11 of the 13 nominations that had been noticed for this business meeting. We will not consider the two nominees, Leaf and Lipstadt, who have been held over, and at the request of the ranking member, Cleveland and Stewart will have roll call votes.

Other than that, the list is fully before the committee. Is there any member who wishes to speak as to any of these nominations?

[No response.]

The Chairman: If not, I will entertain a motion to move them en bloc.

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Senator Cardin: So moved.

The Chairman: So moved.

Seconded?

[Chorus of ayes.]

The Chairman: All those in favor will say aye.

[Chorus of ayes.]

All those opposed will say no.

The ayes have it and those who are on the list en bloc will be favorably reported to the Senate.

Senator Risch: Mr. Chairman, I would like to be recorded as no on Kang.

The Chairman: You shall so be recorded.

Senator Cruz: Mr. Chairman?

The Chairman: Yes?

Senator Cruz: I would ask to be recorded as a no on Kang, Tsunis, O'Brien, Van Schaack, Dogu, and Kugler, please.

The Chairman: Do you have all of those, Clerk?

You do? Shall be recorded.

Senator Rubio: Mr. Chairman?

The Chairman: Yes?

Senator Rubio: I would ask that I be recorded as a no on Kang, Tsunis, O'Brien, Van Schaack, and Kugler.

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The Chairman: It shall so be recorded.

Seeing no others now, there is presently to be considered a vote on Sarah Cleveland to be the Legal Adviser to the Department of State.

And the clerk will call the roll.

The Clerk: Senator Cardin?

Senator Cardin: Aye.

The Clerk: Senator Shaheen?

Senator Shaheen: Aye.

The Clerk: Senator Coons?

Senator Coons: Aye.

The Clerk: Senator Murphy?

Senator Murphy: Aye.

The Clerk: Senator Kaine?

Senator Kaine: Aye.

The Clerk: Senator Markey?

Senator Markey: Aye.

The Clerk: Senator Merkley?

Senator Merkley: Aye.

The Clerk: Senator Booker?

Senator Booker: Aye.

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The Clerk: Senator Schatz?

Senator Schatz: Aye.

The Clerk: Senator Van Hollen?

Senator Van Hollen: Aye.

The Clerk: Senator Risch?

Senator Risch: No.

The Clerk: Senator Rubio?

Senator Rubio: No.

The Clerk: Senator Johnson?

Senator Johnson: No.

The Clerk: Senator Romney?

Senator Romney: No.

The Clerk: Senator Portman?

Senator Portman: No.

The Clerk: Senator Paul?

Senator Paul: No.

The Clerk: Senator Young?

Senator Risch: No by proxy.

The Clerk: Senator Barrasso?

Senator Risch: No by proxy.

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The Clerk: Senator Cruz?

Senator Cruz: No.

The Clerk: Senator Rounds?

Senator Risch: No by proxy.

The Clerk: Senator Hagerty?

Senator Risch: No by proxy.

The Clerk: Mr. Chairman?

The Chairman: Aye.

The Clerk: Mr. Chairman, the yeas are 11 and the noes are 11.

The Chairman: The motion is tied. In accordance with Section 3 of Senate Resolution 27, I will transmit a notice of a tied vote to the secretary of the Senate, thereby, giving either the majority or the minority leader the authority to make a motion to discharge the nomination.

The next nominee for a recorded vote is Mallory Stewart. The clerk will call the roll.

The Clerk: Senator Cardin?

Senator Cardin: Aye.

The Clerk: Senator Shaheen?

Senator Shaheen: Aye.

The Clerk: Senator Coons?

Senator Coons: Aye.

The Clerk: Senator Murphy?

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Senator Murphy: Aye.

The Clerk: Senator Kaine?

Senator Kaine: Aye.

The Clerk: Senator Markey?

Senator Markey: Aye.

The Clerk: Senator Merkley?

Senator Merkley: Aye.

The Clerk: Senator Booker?

Senator Booker: Aye.

The Clerk: Senator Schatz?

Senator Schatz: Aye.

The Clerk: Senator Van Hollen?

Senator Van Hollen: Aye.

The Clerk: Senator Risch?

Senator Risch: No.

The Clerk: Senator Rubio?

Senator Rubio: No.

The Clerk: Senator Johnson?

Senator Johnson: No.

The Clerk: Senator Romney?

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Senator Romney: No.

The Clerk: Senator Portman?

Senator Portman: No.

The Clerk: Senator Paul?

Senator Paul: Aye.

The Clerk: Senator Young?

Senator Risch: No by proxy.

The Clerk: Senator Barrasso?

Senator Risch: No by proxy.

The Clerk: Senator Cruz?

Senator Cruz: No.

The Clerk: Senator Rounds?

Senator Risch: No by proxy.

The Clerk: Senator Hagerty?

Senator Risch: No by proxy.

The Clerk: Mr. Chairman?

The Chairman: Aye.

Clerk will report.

The Clerk: Mr. Chairman, the yeas are 12 and the noes are 10.

The Chairman: And the nominee is favorably reported to the Senate.

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With that, I believe that all of the business of the business meeting has concluded.

Senator Van Hollen: Mr. Chairman, if I could just briefly --

The Chairman: Senator Van Hollen?

Senator Van Hollen: Thank you, Mr. Chairman.

Just to raise a question about somebody whose name was not on the list today. That is the nominee for the Assistant Secretary of State for Democracy, Human Rights, and Labor. I think, given what is happening in Ukraine, it is more urgent than ever that that nominee be voted on before this committee.

The President's nominee was Sarah Margon. She was nominated on April 23rd of last year. Her hearing was on September 22nd of last year, almost six months ago.

And so I would just ask either the chairman or the ranking member why it is that she is not on this list even though she has had broad support from both Republicans and Democrats in the world of national security and human rights.

The Chairman: To answer the senator's question, I have offered her nomination for a vote several times to the ranking member and I have yet to get approval to have a vote on her.

And, as you know, we, so far, have operated under comity, and unless I have an approval to grant her a business meeting where she could be voted upon up or down, we have not been able to move forward.

Senator Van Hollen: Thank you, Mr. Chairman.

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I do not know if the ranking member wants to comment. I just -- again, to the chairman's earlier point on the need to have everybody on the field, especially at a moment like this when war crimes are very much a question, it seems to me we would not want to continue to hold up a vote on the Assistant Secretary for Democracy, Human Rights, and Labor.

The Chairman: Senator Risch?

Senator Risch: Mr. Chairman, I have said over and over again I am not going to consent to a hearing on her. She is objectionable for many, many reasons I have stated many, many times.

I agree with you, I think we should have somebody in that position. I would hope the White House would put somebody else forward or the chairman would hold a meeting. He is, certainly, entitled to do that. He operates on the condition of comity and this is the only one I have held up out of all the ones I have had.

I voted no on a lot of them, but I have consented to a hearing -- I am not going to consent to a hearing on her. So that is where we are on the position, and there is two ways to go. Either they can put a new person in for that position or the chairman can hold a hearing. But I am not going to consent.

Senator Van Hollen: Just for clarification.

I mean, we had the hearing back in September of last year. So we have had the hearing. The question is about --

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Senator Risch: That is true, and immediately upon the conclusion of that hearing I said I was not going to consent to her and I think the chairman would agree that he has been on notice since that moment that I would not consent to a business hearing on her. She is not acceptable.

Senator Van Hollen: Mr. Chairman, I will continue to work with you and the ranking member. I think this is, again, a very clear example of how obstruction is preventing the President from having a full team on the field.

And to the ranking member, as you well know, I mean, vote yes, vote no. But blocking the democratic process, especially on a nominee who is supposed to be our Assistant Secretary of Democracy, has a bit of an irony to it.

Thank you, Mr. Chairman.

The Chairman: Thank you.

I would just say that it is true that I could just hold a business meeting and break comity. I have bent over backwards not to do that, and I hope to still get an opportunity to get Ms. Margon before a business committee vote, and we will see what the future unfolds as it relates to not only her but other nominees as well.

But with that, seeing no other member seeking recognition, this business meeting is adjourned.

[Whereupon, at 2:59 p.m., the meeting was adjourned.]