

**Testimony of Douglas W. Kmiec**  
**Ambassador-Designate to the Republic of Malta**  
**Senate Foreign Relations Committee**  
**July 28, 2009**

Madam Chair and Members of the Committee,

I am honored to appear before you today as President Obama's nominee to be the next United States Ambassador to the Republic of Malta. I am deeply honored by my nomination and am thankful to the President and Secretary Clinton for the trust and confidence they have shown in me.

I previously received the confirmation of the Senate in the 1980s to serve as head of the Office of Legal Counsel in the United States Department of Justice. I assumed this responsibility as a fiduciary. It was vital to administer with objectivity the laws of the United States. As a longstanding teacher of the Constitution at the University of Notre Dame, The Catholic University of America where I served as dean, and presently as Caruso Family Chair at Pepperdine University, I revere the genius of the American democracy premised upon the self-evident truths and unalienable rights of our founding Declaration.

The study and application of our Constitution in this globalized world increasingly intersects with international precepts and treaties. This is especially true in our relationship with the European Union, now including Malta. In recent years I have found myself addressing and comparing EU and American practice with respect to the integration of economic markets as well as the free movement of people and goods across state or national boundaries. In addition, in practice before the Court of International Trade and the U.S. Court of Appeals for the Federal Circuit, I have come to understand the importance of stable and fair-minded trading partners, and implicitly, the role that the American Embassy plays in opening foreign markets to American goods and services when our nation is given the opportunity to demonstrate honest dealing, the observance of fair labor conditions, and responsible environmental practices.

The Republic of Malta is a steadfast friend of the United States, and it has been so both before and after its 2004 admission to the European Union. Malta

occupies a strategic location in the Mediterranean Sea that is important to both trade and global security. In terms of trade and commerce, Malta is inviting of American investment as evidenced by its recent approval of an agreement for the avoidance of double taxation. In addition, Malta is well-known for its sound banking and financial practices which stand as an important lesson for us all in light of the economic distress precipitated by the disregard of standards of integrity and accountability elsewhere. Malta is presently heavily dependent upon fossil fuels. Given present-day environmental realities, this should present opportunities for American firms promoting renewable sources of energy to take advantage of both solar and wind based energy alternatives. An alert and energetic American Embassy can assist responsible U.S. investment initiatives of this type, and I would intend to do so if confirmed.

As for security matters, just this month, the United States signed a memorandum of understanding strengthening our assistance and cooperation in the search and rescue operations of Malta, which grows increasingly important in light of heightened refugee migration from North Africa. In addition, the United States and Malta have recently exchanged instruments of ratification for treaties regarding extradition and legal mutual assistance. I am certain the Committee recognizes how these steps can practically assist law enforcement to confront trans-national criminal enterprises that show no respect of international boundary. Indeed, even at this stage, Malta has assisted us just last month in the extradition of two suspects wanted in the United States for criminal trial.

I believe the trade opportunities and security role played by Malta adequately underscores the importance of a close relationship between our two countries. Malta, of course, is small in size, though that has never prevented it from occupying a large role when it has mattered on the world stage. It is well known that Malta's courageous resistance to attack during World War II prompted Franklin Delano Roosevelt to refer to Malta's valor as the nation that "stood alone but unafraid in the center of the sea; one tiny bright flame in the darkness."

The Republic of Malta is seldom in the darkness today. In part, that is because of its enduring reputation as a welcoming and beautiful location to many tourists and visitors. Malta has special significance as well by virtue of its historic

reputation as a place of sincere faith with strong family values. Today we are called upon to have a greater understanding of many differing faith traditions, and with that understanding, to find ways to reconcile our differences before they undermine the peace. This I believe to have been well articulated by President Obama on several occasions, most notably in Cairo.

By virtue of its extraordinary beauty, and I am informed, its many fine conference facilities, Malta has proven to be an ideal location for international discussion and agreement. It would be my hope, should the Senate give me the opportunity to serve, not only to strengthen the relationship between the United States and Malta for purposes of trade and security, but also for the more lasting and higher purpose of civil dialogue among leaders of many faiths and world views as a means of understanding and greater harmony. I believe a representative of the United States of America called upon to serve in a foreign venue should do no less to honor the principles of respect and freedom aspired to in our own history and Constitution.

Madam Chair and Members of the Committee, I thank you for the opportunity to appear before you. I look forward to responding to any questions the members may have.