

NOMINATION HEARINGS OF THE 114TH CONGRESS

HEARINGS

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS UNITED STATES SENATE

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION—MARCH 10 THROUGH DECEMBER 2, 2015
SECOND SESSION—FEBRUARY 11 THROUGH SEPTEMBER 20, 2016

Printed for the use of the Committee on Foreign Relations



Available via the World Wide Web: <http://www.gpo.gov/fdsys/>

NOMINATION HEARINGS OF THE 114TH CONGRESS

NOMINATION HEARINGS OF THE 114TH CONGRESS

HEARINGS

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS UNITED STATES SENATE

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION—MARCH 10 THROUGH DECEMBER 2, 2015

SECOND SESSION—FEBRUARY 11 THROUGH SEPTEMBER 20, 2016

Printed for the use of the Committee on Foreign Relations



Available via the World Wide Web: <http://www.gpo.gov/fdsys/>

U.S. GOVERNMENT PUBLISHING OFFICE

21-581 PDF

WASHINGTON : 2017

For sale by the Superintendent of Documents, U.S. Government Publishing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2104 Mail: Stop DCC, Washington, DC 20402-0001

COMMITTEE ON FOREIGN RELATIONS

ONE HUNDRED FOURTEENTH CONGRESS

BOB CORKER, TENNESSEE, *Chairman*

JAMES E. RISCH, Idaho

MARCO RUBIO, Florida

RON JOHNSON, Wisconsin

JEFF FLAKE, Arizona

CORY GARDNER, Colorado

DAVID PERDUE, Georgia

JOHNNY ISAKSON, Georgia

RAND PAUL, Kentucky

JOHN BARRASSO, Wyoming

BENJAMIN L. CARDIN, Maryland

BARBARA BOXER, California

ROBERT MENENDEZ, New Jersey

JEANNE SHAHEEN, New Hampshire

CHRISTOPHER A. COONS, Delaware

TOM UDALL, New Mexico

CHRISTOPHER MURPHY, Connecticut

TIM KAINE, Virginia

EDWARD J. MARKEY, Massachusetts

TODD WOMACK, *Staff Director*

CHRIS LYNCH, *Democratic Staff Director*

ROB STRAYER, *Majority Chief Counsel*

MARGARET TAYLOR, *Minority Chief Counsel*

JOHN DUTTON, *Chief Clerk*

NOMINATIONS

TUESDAY, MAY 19, 2015

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

Mileydi Guilarte, of the District of Columbia, to be United States Alternate Executive Director of the Inter-American Development Bank
Jennifer Ann Haverkamp, of Indiana, to be Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs
Marcia Denise Occomy, of the District of Columbia, to be United States Director of the African Development Bank for a term of five years
Sunil Sabharwal, of California, to be United States Alternate Executive Director of the International Monetary Fund for a term of two years
Brian James Egan, of Maryland, to be Legal Adviser of the Department of State

The committee met, pursuant to notice, at 2:45 p.m., in room SD-419, Dirksen Senate Office Building, Hon. John Barrasso, presiding.

Present: Senators Barrasso, Corker, Gardner, Udall, Cardin, Murphy, and Markey.

OPENING STATEMENT OF HON. JOHN BARRASSO, U.S. SENATOR FROM WYOMING

Senator BARRASSO. Well, good afternoon. Congratulations. I would like to call to order this hearing of the United States Senate Committee on Foreign Relations.

The committee is meeting today to examine the nomination of five individuals to serve our country's interests in international financial institutions in the State Department.

Again, congratulations on your nominations to these important positions. I want to welcome all of you and extend a warm welcome, on behalf of the committee, to all your families and friends who are here. And I hope that, when you get a chance to testify, each of you will introduce others that are here supporting you from your family.

Should you serve our Nation in these important positions, it is critical that each of you provide strong stewardship of American

taxpayer resources, demonstrate professionalism and good judgment, and vigorously work to advance the priorities of the United States.

During your testimony, I hope each of you will lay out your vision and goals for the positions to which you have been nominated for, and your plan to achieve them.

Joining us this afternoon are five nominees. I am pleased to introduce them to the committee.

Mileydi Guilarte, who is been nominated to be the United States Alternate Executive Director of the Inter-American Development Bank. And she is currently serving as the International Cooperation Specialist in the Bureau for Latin America and the Caribbean at the United States Agency of International Development. She previously worked at the United Nations, the World Bank, and the International Monetary Fund.

Jennifer Haverkamp is the nominee to be Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs. Ms. Haverkamp is currently an independent consultant and lecturer at George Washington University Law School. She has previously worked for the Environmental Defense Fund, serving as the Director of International Climate Program and the Managing Director for International Policy.

Marcia Ocomy is the nominee to be United States Director of the African Development Bank for a term of 5 years. She is currently a specialist leader at Deloitte Consulting and has been with Deloitte since 2009, where she has worked with the United States Agency for International Development on various assignments.

Sunil Sabharwal is the nominee to be the United States Alternate Executive Director of the International Monetary Fund for a term of 2 years. He is an independent investor and consultant in the international payment sector since 2006. During his career, he has worked at the European Bank for Reconstruction and Development, and held senior positions at First Data Corporation, Western Union, and GE Capital.

And then Brian Egan has been nominated for the position of Legal Adviser at the Department of State. He is currently working as Legal Adviser to the National Security Council, Deputy Assistant to the President, and Deputy Counsel to the President. In addition to previously working with the national security staff at the White House, he has also served as an attorney adviser at the Office of Legal Adviser of the Department of State.

Now I want to turn to the Ranking Member, Senator Udall, to offer his opening remarks.

**OPENING STATEMENT OF HON. TOM UDALL,
U.S. SENATOR FROM NEW MEXICO**

Senator UDALL. Thank you very much, Chairman Barrasso, for holding this hearing. And I, too, want to welcome our nominees who are with us this afternoon. We have five well-qualified candidates with impressive resumes being considered today.

As most of you know, our subcommittee's jurisdiction covers a lot of ground, some would say from the ocean floor out to space. The Bureau of Oceans and International Environmental and Scientific Affairs, I think, would agree with that. Their work, ranging from

environmental issues, such as climate change, to emerging issues, such as space, is crucial to our foreign policy. Congress has a vital interest in international institutions to promote economic growth, to support the development of international law, to support strong environmental standards and improve security and lives. All serve to strengthen social and international development and further important objectives of U.S. foreign policy.

The nominations we are considering today provide an excellent opportunity for the United States to continue to work closely with the international community. Our participation in the international development organizations help shape the discussions in multilateral forums to reflect U.S. priorities and interests, and also ensure that organizations like the Inter-American Development Bank, the African Development Bank, and the International Monetary Fund are well equipped to succeed in their missions. Those missions are essential to promote security, economic prosperity, and advocate for healthier lives through science and partnerships. That is a responsible course and brings greater stability, not only to specific regions around the world, but throughout the world.

So, I look forward to our discussions here today with this impressive list of nominees.

Thank you, Mr. Chairman. And I would yield back.

Senator BARRASSO. Thank you.

Senator Cardin, anything you would like to add?

Senator CARDIN. Thank you, Mr. Chairman.

I just really want to welcome our nominees, thank you for your public service, your willingness to serve, and I also thank your families.

Senator BARRASSO. Thank you both.

And all of the positions that the committee is discussing today are very important. I look forward to hearing the testimony.

Your full statements will be entered into the record in their entirety. And I ask that you try to summarize your testimony in about 5 minutes in order for members to have an opportunity to ask questions. Other members may be joining us at different times during the hearing. And again, please feel free to introduce your family members who are here today offering their support.

And, with that, Ms. Guilarte, may we please start with you?

STATEMENT OF MILEYDI GUILARTE, NOMINATED TO BE U.S. ALTERNATE EXECUTIVE DIRECTOR OF THE INTER-AMERICAN DEVELOPMENT BANK

Ms. GUILARTE. Thank you, Chairman.

Chairman Barrasso, Senator Udall, members of the committee, thank you for the opportunity to appear before you today.

I am honored that President Obama nominated me to serve as the Alternate Executive Director at the Inter-American Development Bank. I am also grateful to Secretary Lew and Assistant Secretary Marisa Lago for supporting me.

I am also grateful to my family, friends, and colleagues that are present today for their love, encouragement, and unwavering support. I would like to acknowledge my mother, Zenaida Guilarte, who is with me today.

If confirmed, I will bring to the IDB a deep understanding of Latin America, solid experience with international development, and a strong belief in the value of public service, and the commitment to relentlessly promote U.S. interests in the region.

Representing the United States at the IDB, an institution created to support the economic and social development of Latin America, is a humbling yet vital undertaking. If confirmed, I would be the first Latina in nearly 30 years to hold this important position.

Since I appeared before this distinguished committee a year ago, I have continued to strengthen my experience and engagement in Latin America at the United States Agency for International Development, primarily working on our response to last summer's surge of unaccompanied minors from Central America. Addressing the interrelated economic, political, and security challenges facing the region, and their consequences, are critical to the national security interests of the United States. If confirmed, I hope to continue supporting this difficult and challenging task.

Let me take the opportunity to tell you a little bit about my background, which has helped shape how I came to pursue a career in international development.

Born in Cuba, I left Havana for the United States at an early age with my family in search of a better life with only a single blue suitcase in our hands. I spent my formative years in Miami, where I worked side by side with my parents in flea markets each weekend to help make ends meet. These experiences taught me the values of discipline and hard work. I was the first member of my family to graduate from college. And I feel deeply blessed to have prospered in America.

While in graduate school, I focused on developing a social academic foundation to understand economic, political, and social issues as they impact development and democracy. After graduation, my deep commitment to the promotion of democracy and human rights led me to work and live in various countries around the world.

Through these experiences, I deepened my leadership skills and learned how critical the interaction between financial institutions, donor, and civil society are in the development of the world's poorest nations. At the World Bank and at the United Nations, I worked on conflict prevention, humanitarian assistance, and strengthening the emerging democracies. Most recently, at the United States Agency for International Development, I have worked on our response to address the root causes of the influx of unaccompanied minors while at the same time contributed to the interagency process that produced the administration's proposed \$1 billion request for Central America. These experiences allow me to appreciate the challenges of working within complex multilateral institutions and develop the skills to help promote effective initiatives in that environment.

Thinking about Latin America has been a constant throughout my life. The opportunity to represent our great country at the Inter-American Development Bank is a particular honor for me as an American born in Latin America. If confirmed, I will work diligently to advance U.S. objectives at the IDB by carefully

stewarding the resources of U.S. taxpayers and by promoting greater accountability, transparency, and effectiveness.

I look forward to working closely with the members of this committee and your staff. Thank you for your consideration. And I look forward to answering any questions you might have.

[The prepared statement of Ms. Guilarte follows:]

PREPARED STATEMENT OF MILEYDI GUILARTE

Chairman Barrasso, Senator Udall, members of the committee, thank you for the opportunity to appear before you today. I am honored that President Obama nominated me to serve as the Alternate Executive Director at the Inter-American Development Bank. I am also grateful to Secretary Lew and Assistant Secretary Marisa Lago for supporting me.

I am also grateful to my family, friends, and colleagues [that are present today], for their love, encouragement, and unwavering support. I specially would like to thank my mother, Zenaida, for inspiring me to be better each day.

If confirmed, I will bring to the IDB a deep understanding of Latin America, solid experience with international development, a strong belief in the value of public service, and the commitment to relentlessly promote the U.S. interests in the region.

Representing the United States at the IDB, an institution created to support the economic and social development of Latin America, is a humbling yet vital undertaking. If confirmed, I would be the first Latina in nearly 30 years to hold this important position.

Since I appeared before this distinguished committee a year ago, I have continued to strengthen my experience and engagement in Latin America at the United States Agency for International Development, primarily working on our response to last summer's surge of unaccompanied minors from Central America. Addressing the interrelated economic, political and security challenges facing the region and their consequences, are critical to the national security interests of the United States. If confirmed, I hope to continue supporting this difficult and challenging task.

Let me take the opportunity to tell you a little bit about my background, which has shaped how I came to pursue a career in international development. Born in Cuba, I left Havana for the United States at an early age with my family in search of a better life with only a single blue suitcase in our hands. I spent my formative years in Miami, where I worked side by side with my parents in flea markets each weekend to help make ends meet. These experiences taught me the values of discipline and hard work. I was the first member of my family to graduate from college, and I feel deeply blessed to have prospered in America.

While in graduate school, I focused on developing a solid academic foundation to understand economic, political and social issues as they impact development and democracy.

After graduation, my deep commitment to the promotion of democracy and human rights led me to work and live in various countries around the globe. Professionally, I have worked in countries as diverse as India, East Timor, the Philippines, and the Republic of the Maldives. Through these experiences, I deepened my leadership skills and learned how critical the interaction between financial institutions, donors and civil society are in the development of the world's poorest nations.

At the World Bank and at the United Nations, I worked on conflict prevention, humanitarian assistance, and strengthening emerging democracies. Most recently, at the United States Agency for International Development, I have worked on our response to address the root causes of the influx of unaccompanied minors, while at the same time contributed to the interagency process that produced the administration's proposed \$1 billion request for Central America. These experiences allowed me to appreciate the challenges of working within complex multilateral institutions and develop the skills to help promote effective initiatives in that environment.

Thinking about Latin America has been a constant throughout my life. The opportunity to represent our great country at the Inter-American Development Bank is a particular honor for me as an American born in Latin America.

If confirmed, I will work diligently to advance U.S. objectives at the Inter-American Development Bank by carefully stewarding the resources of the U.S. taxpayer and by promoting greater accountability, transparency and effectiveness. I look forward to working closely with the members of this committee and your staff.

Thank you for your consideration, and I look forward to answering any questions you might have.

Senator BARRASSO. Thank you so very much for your testimony.

Ms. GUILARTE. You are welcome.
 Senator BARRASSO. Thank you.
 Ms. Haverkamp.

**STATEMENT OF JENNIFER ANN HAVERKAMP, NOMINATED
 TO BE ASSISTANT SECRETARY OF STATE FOR OCEANS
 AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC
 AFFAIRS**

Ms. HAVERKAMP. Thank you, Mr. Chairman and Ranking Member Udall and distinguished members of the committee. It is a great privilege for me to appear before you today as President Obama's nominee for Assistant Secretary of State for the Bureau of Oceans and International Environmental and Scientific Affairs.

With your permission, I have a longer statement for the record.

I am deeply grateful to President Obama and Secretary Kerry for placing their trust in me for this position. And I look forward to again working with Under Secretary Novelli, my former colleague from the Office of the U.S. Trade Representative. If confirmed, I very much look forward to working with the Congress, and with this committee in particular, to advance U.S. interests through our global environmental, scientific, and health diplomacy.

I am also deeply grateful to my family, my support and inspiration. With me here today are my husband, Jeff Kehne, my father and mother-in-law, Bruce and Elizabeth Kehne, and my niece, Meagan Haverkamp. Our two children, Gregory and Adrienne, very much wish they could be here, but they are busy wrapping up their end-of-semester college activities far from Washington.

My parents, were they still alive, would have been enormously proud. My father, a college educator who served as a U.S. Navy lieutenant in World War II in the Pacific, and my mother, a teacher and homemaker who raised six children, believed deeply in the importance of education, hard work, and public service.

I am energized and eager to return to government and put my experience to work advancing American priorities and values. I would bring to the position a science background, having majored in biology in college and published ecological field research. I have dedicated most of my career to public service, and have worked for the last 22 years in the international realm. I served as the Assistant U.S. Trade Representative for Environment and Natural Resources for most of my 10 years at USTR, and, before, held positions of responsibility at the Department of Justice, the Environmental Protection Agency, and the U.S. Court of Appeals. More recently, I have worked and served on boards in the nonprofit sector, with a focus on finding practical solutions to confront climate change, conserve tropical forests, and advance clean energy.

I believe many aspects of my experience, especially at USTR, will have relevant parallels in the work of OES. These include strengthening the United States domestically through international engagement, finding ways to advance U.S. economic interests while protecting our environmental values, and promoting health and prosperity abroad, and leveling the playing field for U.S. companies through advancing environmental protections in other countries.

Turning to OES: Four decades ago, this Congress created the Bureau and gave it broad responsibilities for complex and consequen-

tial issues. In the years since, OES's signature issues of science, technology, and innovation, environment, oceans, and health have all played increasingly significant roles in strengthening the U.S. economy, advancing our foreign policy objectives, and buttressing our leadership positions around the world.

If confirmed by the Senate, my priorities would be interwoven and would encompass the themes of investments, innovation, and inspiration.

First, investments. I would continue and build upon the strong and effective investments Secretary Kerry is making in the oceans, the Arctic, climate change, wildlife conservation, and health. In each of these areas, achieving substantive and diplomatic gains depends upon making strong and effective investments in long-term policy development, interagency coordination, the best analysis, and partnerships with other governments, the private sector, and civil society.

Second, innovation. Advances in science and technology have sharpened the need to focus on science diplomacy. To remain the best innovators in the world, our scientists must have access to data, research results, and collaboration opportunities with their international counterparts. And science enables the United States to exert innovative leadership in averting catastrophes, whether from mercury contamination, an infectious disease like Ebola, or severe water shortages.

Third, inspiration. If confirmed, I would work to foster and capitalize on the tremendous talent and inspiration of the people in OES to build coalitions and yield important diplomatic wins.

In closing, I am eager to tackle the staggering pressures bearing down on the planet's people and natural resources—as Senator Udall said, from the ocean's depths to the ice-capped poles and to outer space, and to help shape foreign diplomacy in these areas for years to come.

If confirmed, I would work hard every day to successfully carry out the profound responsibility thereby conferred upon me.

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

[The prepared statement of Ms. Haverkamp follows:]

PREPARED STATEMENT OF JENNIFER ANN HAVERKAMP

Thank you, Mr. Chairman, Ranking Member Udall and distinguished members of the committee.

It is a great privilege for me to appear before you today as President Obama's nominee for Assistant Secretary of State for the Bureau of Oceans and International Environmental and Scientific Affairs (OES). I am grateful to President Obama and Secretary Kerry for placing their trust in me to help fashion solutions to the profound challenges facing our fragile world and the people it must continue to sustain. I am also grateful for the opportunity to again work with Under Secretary Catherine Novelli, whose dynamic leadership and excellent judgment I had the privilege to observe closely during our years together at USTR.

If confirmed, I very much look forward to working with the Congress, and this committee in particular, to advance the United States essential environmental, economic, and national security interests through our global environmental, scientific, and health diplomacy.

I am also deeply grateful to my family, who have supported and inspired me throughout my career in public service and international environmental and trade policy. With me here today are my husband, Jeff Kehne, my father- and mother-in-law, Bruce and Elizabeth Kehne, of Columbia (formerly Pikesville), Maryland, and my niece, Meagan Haverkamp. Our two children very much wish they could be

here but our son Gregory, a college junior, is studying mathematics abroad in Budapest and our daughter Adrienne is busy completing her freshman year of college.

My parents, were they still alive, would have been enormously proud to see this day. My father, a college educator who served as a U.S. Navy lieutenant in World War II's Pacific Theater, and my mother, a teacher and homemaker who raised six children, believed deeply in the importance of education, hard work, and public service. And I can thank our family's cross-country vacations, which Dad and Mom spent driving us to see our Nation's spectacular national parks and historic sites, for sparking my lifelong passion for nature conservation and outdoor recreation.

Professional background

I am energized and eager to return to government and put my experience to work advancing American priorities and values. My professional experiences have attracted me to this position and I might even argue this is a role I have been preparing for throughout my career.

I would bring to the position a science background, having majored in biology in college and published field research on the ecology of the North American tall-grass prairie. I have dedicated most of my career to public service, and have worked for the last 22 years in the international realm. For most of my 10 years at USTR I served as the Assistant U.S. Trade Representative for Environment and Natural Resources and was a career member of the Senior Executive Service. Before USTR I also held positions of responsibility at the Department of Justice, the Environmental Protection Agency, and the U.S. Court of Appeals. Though working at Foggy Bottom would be a new experience, over the years I have engaged actively with many of the Department's global environmental, fisheries, and economic issues and gotten to work with many of its outstanding officials.

I believe many aspects of my experience at USTR will have relevant parallels in the work of OES: strengthening the United States domestically through international engagement; finding ways to advance U.S. economic interests while protecting our environmental values; promoting health and prosperity abroad and leveling the playing field for U.S. companies by advancing environmental protections in other countries; and recognizing that often the best way to protect biodiversity is through solutions that accommodate the local population's economic needs—by making the forests and elephants and coral reefs worth more alive than dead.

More recently, I worked in the nonprofit sector to find practical solutions to confront climate change, conserve tropical forests, and advance clean energy. Addressing and preparing for climate change, one of the most profound challenges facing our generation, is a key priority of the President and Secretary Kerry, and cuts across many aspects of OES's work and that of the Department more broadly.

Overview of OES

Four decades ago, Congress passed legislation creating OES with broad responsibilities for complex and consequential issues, around the same time Congress addressed increasingly harmful environmental degradation by passing landmark environmental and pollution control legislation. Over the years since those laws were enacted, OES's signature issues of science, technology, and innovation; environment; oceans; and health have played increasingly significant roles in strengthening the U.S. economy, advancing our foreign policy objectives, and buttressing our leadership position in the world. More and more, the Department's regional bureaus and embassies consider OES's deep bench of substantive experts a valuable tool in their bilateral diplomacy, as the host countries seek out U.S. scientific and technological cooperation or assistance to address challenges such as wildlife trafficking or resolving conflicts over access to water resources. For example, OES experts supported efforts by countries along the Nile River Basin to establish a cooperative framework for managing its limited water resources that is expected to contribute to the region's economic development, peace, and security.

As part of the first Quadrennial Diplomacy and Development Review (QDDR) in 2010, OES joined with the Department's Bureau of Economic and Business Affairs and the Bureau of Energy Resources to become the "E" family, now under Under Secretary Novelli's leadership. This collaborative relationship was reinforced in the recently released second QDDR. I would welcome the opportunities this structure presents for close collaboration with these offices, a situation resonant with my career experiences in international trade, environmental protection, and clean energy development.

If confirmed by the Senate, my priorities would be interwoven and would encompass the following themes: investments, innovation, and inspiration. First, I would like to continue the strong and effective investments Secretary Kerry is making, especially in the areas of oceans, the Arctic, climate change, conservation, and

health. In each of these areas, investments in long-term policy development; inter-agency coordination; partnerships with other governments, the private sector, and civil society; and the best analysis will be key to achieving sustained substantive and diplomatic gains.

Second, innovation. Our knowledge of science to educate and inform our partners and the public will guide my thinking and bring an innovative, equitable and cost-effective approach to problemsolving. Advances in science and technology have brought our world much closer together and sharpened the need to focus on science diplomacy. To remain the best in the world, our scientists need access to data, research results, and collaboration opportunities with their international counterparts. And science underpins the actions we take and enables the United States to exert innovative leadership in averting catastrophes, whether from mercury contamination, an infectious disease or severe water shortages.

Third, inspiration. I would work to foster and capitalize on the tremendous talent and inspiration of the people in OES to build coalitions and partnerships. The Bureau's professionals have been at the forefront of international efforts to achieve important wins on the conservation, health, climate change, science, space and trade fronts, keeping a steady eye on the prize throughout often contentious, hard-fought negotiations (including some that I have witnessed firsthand).

Priority issues for OES

Across the wide range of issues that fall within OES's responsibility, I'd like to elaborate on my key priorities, if confirmed:

Oceans

The oceans, covering almost three-quarters of the planet, are vital resources for food, for transportation, for energy, for tourism. Secretary Kerry has rightly made global oceans policy a top priority of the Department, and if confirmed I look forward to throwing my energy into those efforts.

The key initiatives coming out of last June's successful Our Ocean international conference include goals to advance sustainable fisheries, reduce pollution entering the marine environment, stem the increase of ocean acidification, and protect ocean areas. One OES priority in 2015 is carrying out a plan developed by President Obama's Task Force on Combating Illegal, Unreported, and Unregulated Fishing and Seafood Fraud. Implementing this plan to combat IUU fishing and seafood fraud will help level the playing field for American fishermen and fishing businesses who play by the rules.

I would also prioritize OES's role in promoting sustainable global fisheries for the world's people who depend on oceans for their food and their livelihoods. Over 1 billion people worldwide rely on food from the ocean as their primary source of protein. OES is involved in a wide range of negotiations addressing the conservation and management of global fish stocks. The economic benefit to the United States generated by the fisheries subject to these negotiations, or managed by the regional fisheries management organizations within which many such negotiations occur, is estimated at between \$12-\$15 billion each year. These negotiations affect economic interests and stakeholders in virtually all parts of the United States, including the Pacific and Atlantic coasts, Gulf of Mexico, Alaska, Hawaii and the U.S. Pacific territories.

I am grateful the Senate gave its advice and consent to U.S. ratification of four important fisheries treaties last spring, and look forward, if confirmed, to working with Congress, members of the Oceans Caucus and this committee to implement them. Illustrative of these agreements' contribution to safeguarding U.S. economic interests is the Agreement on Port State Measures to Prevent, Deter, and Eliminate Illegal, Unreported, and Unregulated Fishing. The Port State Measures Agreement combats these harmful fisheries practices through the implementation of robust, globally consistent requirements of parties, in their capacity as port States, to refuse port entry or access for landing fish, transshipment, packaging, processing, or servicing a ship if the ship is known to have engaged in IUU fishing. The U.S. fishing industry benefits when its competitors are compelled to also follow the rule of law, and I look forward to contributing to these efforts.

Arctic

As part of OES's responsibility for oceans and polar affairs, in recent years the Bureau has deepened its engagement with other Arctic countries, as the region's changing climate and receding ice cover have necessitated greater attention to emerging issues. As more Arctic waters become navigable and fishable, the need escalates for greater Arctic science cooperation, sustainable fisheries management, and protection of a fragile ecosystem newly opening to shipping, economic development and resource extraction. The Arctic is an excellent example of how U.S. envi-

ronmental and natural resource conservation interests are inextricably entwined with our economic and national security interests, and must be an integral part of our diplomatic efforts.

In April, the United States took over from Canada the 2-year rotating chairmanship of the Arctic Council, an intergovernmental forum made up of those eight nations with land territory above the Arctic Circle. The Council's priorities during the U.S. chairmanship will focus on stewardship of the Arctic Ocean, improving economic and living conditions for the people of the region, and addressing the effects of climate change in the Arctic. If confirmed, I look forward to working closely with Admiral Papp, the Department's Special Representative for the Arctic, as well as with other bureaus and government agencies, to make the best use of this important diplomatic opportunity.

Climate change

The Department's 2015 Quadrennial Diplomacy and Development Review focuses on four global policy priorities, including mitigating and adapting to climate change. As Secretary Kerry stated in his March 2015 speech before the Atlantic Council, climate change, like epidemics, poverty, extremism, and nuclear proliferation, is a challenge that respects no borders. He has also spoken frequently of our responsibility to future generations as stewards of the Earth.

If confirmed, I would look forward to supporting the Office of the Special Envoy on Climate Change (SECC), the Department's lead on international negotiations on climate change. Although OES does not lead this work, the Bureau lends its scientific and technical expertise to SECC. One example in particular is the work the Bureau is undertaking with Mexico and Canada to gain broad international support for an agreement to dramatically reduce hydrofluorocarbons (HFCs) in the atmosphere. The health and economic benefits that would be derived from eliminating 90 billion tons of carbon dioxide-equivalent through 2050 would be enormous. If confirmed, I would lend my professional expertise in the trade, economics, and environmental arena to ensure that the support the Bureau provides in confronting climate change is scientifically based, results oriented and of tremendous value to the American people.

Wildlife trafficking

Wildlife trafficking is a critical conservation concern and a threat to our country's national security. The illegal trade in wildlife has devastating impacts: it fuels corruption and undermines the rule of law, hinders economic development, contributes to the spread of disease, and is pushing some species to the brink of extinction. It is compromising the tourism-based economies of vulnerable African countries and, in some instances, is being used to finance organized crime, insurgencies, and possibly terrorism.

The toll on iconic species is horrific: the forest elephant populations in Central Africa, for instance, declined by approximately two-thirds between just 2002 and 2012. And while elephants and endangered rhinos slaughtered for their ivory first come to mind, many other species from most continents, including black coral, turtles and tortoises, iguanas, tropical birds, pangolins and primates, are all at risk. The United States is both a link in the transit chain and a final destination for some wildlife and wildlife products; our international efforts focused on reducing both supply and demand must and will be pursued in tandem with domestic actions.

The OES Bureau has an important role to play in carrying out the Implementation Plan for the National Strategy for Combatting Wildlife Trafficking, issued in February. The Plan provides details for how the National Strategy's goals will be achieved and how progress will be measured. OES is leading coordination of two elements of the strategy: the international cooperation and partnerships and demand reduction components. OES is also contributing, through its support for regional wildlife enforcement networks (WENs) worldwide, to the global enforcement element.

The United States ramped-up efforts are beginning to pay off. We have, notably, reached agreements with China to cooperate in our efforts to combat wildlife trafficking. But there is still an enormous amount of work to be done, and if confirmed I would ensure that the Bureau's resources are deployed effectively in the fight against this global scourge.

Global health diplomacy

Before the daunting challenges of Ebola fade in memory, the United States Government needs to incorporate its lessons learned into our broader global health diplomacy, to better inform our Nation's responses to the inevitable future pandemics, wherever and whenever they may arise. The Ebola outbreak is but the latest evidence that the world has far to go to be ready to prevent, detect, and respond

to these global health security threats, and OES is well-positioned to help address this problem. The Global Health Security Agenda, a 44-country effort launched by the United States in 2014, has now gained over 100 new concrete commitments to prevent, detect, and rapidly respond to infectious disease threats before they become epidemics like Ebola. The Bureau supports this vital priority by working among these countries and with relevant international organizations to achieve the Agenda's targets. Among other efforts, the Bureau is also working to expand the number of countries able to meet their obligations to the World Health Organization to develop certain core capacities to detect, assess, notify, and report public health emergencies of international concern.

OES plays a critical, though often behind the scenes, role in global health diplomacy. The Bureau works closely with the Department's regional and functional bureaus, special representatives and other U.S. entities (CDC, HHS, DOD, USAID, et al.) with important roles in global health policy. The strong relationships that U.S. expert agencies have developed with their international counterparts are vital to advancing global health. But as we learned from Ebola, in a crisis, to mobilize the global resources needed, and to coordinate the efforts of multiple entities, it takes the high level, cross-cutting diplomacy that the State Department does so well. If confirmed, I would apply myself to finding ways to strengthen the international and interagency coordination on shared global health priorities, and to advancing global pandemic readiness.

Science and technology—promoting innovation and entrepreneurship

As I mentioned earlier, I consider the deployment of U.S. scientific and technological expertise, and our leadership in innovation, to be an important engine of diplomacy and global development. Equally important is to support the Secretary's efforts to increase the role of science across the work of the State Department.

Innovation and entrepreneurship have been fundamental drivers of U.S. economic growth since our country's founding, and promoting innovation abroad is an especially promising area of U.S. diplomacy. In this vein, OES has developed a Global Innovation through Science and Technology (GIST) initiative, which trains young entrepreneurs. GIST, itself an excellent example of bringing an innovative approach to diplomacy, has to date led to businesses that generated over \$80 million in revenue. The program has worked in 86 emerging economies with over 2.6 million innovators and entrepreneurs around the world, providing training to over 4,500 startups. If confirmed, I would work to grow this program, which gives hope to young entrepreneurs and creates jobs in countries where the lack of economic opportunity can sow unrest and threaten our national security.

Closing

I am excited about the prospect of leading a bureau that brings to bear the best analysis to help pioneer scientific and technological breakthroughs. I am excited to tackle the staggering pressures bearing down on natural resources, from the oceans' depths to the ice-capped poles, to the savannas and to outer space, and to help shape foreign diplomacy in these areas for years to come.

If confirmed, I would work hard every day to deserve the extraordinary honor and carry out the profound responsibility thereby conferred upon me.

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

Senator BARRASSO. Well, thank you. Congratulations, again.

I will next move to Ms. Occomy.

**STATEMENT OF MARCIA DENISE OCCOMY, NOMINATED TO BE
U.S. DIRECTOR OF THE AFRICAN DEVELOPMENT BANK**

Ms. OCCOMY. Thank you, Chairman and distinguished members of the committee. I am grateful for the opportunity to appear before you today.

I am honored that President Obama has nominated me to serve as the U.S. Executive Director for the African Development Bank.

I grew up in Chicago in a family of excellent role models who taught me the importance of hard work, discipline, and focus to be successful in life. My grandmother was one of the first African-American women to attend Radcliffe College in the early 1900s, and later became a prominent writer during the Harlem Renaissance. My father entered the University of Chicago at the age of

15, excelling in math and later becoming a computer executive in the retail industry in Chicago. My mother taught public schools for over 30 years, dedicating her life to public service. They and many others have influenced my decision, in part, to pursue an international development career later in my life.

If confirmed as the U.S. Executive Director to the African Development Bank, my vision is to leverage my international development experience to support U.S. interests in seeing the African Development Bank carry out its mission to promote economic development and progress across Africa.

Boosting growth is important for the African Continent but also for the United States by opening new markets and providing new customers for American goods and services. I have years of experience as a fiscal reform adviser on USAID-financed projects in developing in post-conflict countries. I have advised Ministries of Finance as they underwent public financial management reforms to strengthen their revenues and to build financial systems and capacity to put the country on the path towards economic growth. I have worked in countries in Central Asia, the Middle East, Central Europe, and in Africa, Egypt, Senegal, and, most recently, in the newest independent nation, South Sudan. I have experienced first-hand when countries struggle to balance implementation of sound fiscal policies while seeking to maintain political stability and security. I was in South Sudan and directly involved in assisting the country in post-conflict recovery efforts. Prior to my fiscal reform project implementation experience, I worked as a policy analyst at OMB during the 1990s.

I also have experience leveraging public-private partnerships for important local economic development projects. As a University of Chicago graduate student on a Patricia Harris Fellowship, I worked with the Habitat Company, a leading real-estate development firm which partnered with the Chicago Housing Authority to build scattered-site housing for public-housing residents to better integrate them into the broader community. This project was a model for how the public and private sector can partner to address a social issue effectively. I recognize that leveraging private-sector investment solutions and technologies will be a critical aspect of the future development of Africa, as well. I look forward to supporting the African Development Bank to leverage the financing instruments, to encourage private investment in Africa, including through public-private partnerships.

During his July 2013 visit to Africa, President Obama launched the Power Africa Initiative, a \$7 billion, 5-year initiative to double access to electricity in sub-Saharan Africa, in partnership with African countries and the private sector.

When President Obama launched the Power Africa Initiative in Tanzania, African Development Bank president Donald Kaberuka joined him as a symbol of how the United States and Africa are working together to promote inclusive growth in the region.

Attracting private investors to Africa will require significant investment in infrastructure and a climate that is conducive to investment. Creating the right investment climate will depend on Africa's commitment and ability to improve governance, transparency, regional integration, and to build a skilled workforce. The

African Development Bank has played a leading role in assisting African countries to address those issues, but more work remains to be done.

If confirmed, I commit to being a good steward of U.S. financial contributions to the bank and to ensure that the bank furthers U.S. economic and security interests.

Mr. Chairman, members of the committee, thank you for considering my nomination. I look forward to answering your questions today.

[The prepared statement of Ms. Occomy follows:]

PREPARED STATEMENT BY MARCIA DENISE OCCOMY

Chairman Barrasso, Ranking Member Udall, and distinguished members of the committee, I am grateful for the opportunity to appear before you today. I am honored that President Obama has nominated me to serve as the U.S. Executive Director for the African Development Bank.

I grew up in Chicago in a family of excellent role models who taught me the importance of hard work, discipline, and focus to be successful in life. My grandmother was one of the first African American women to attend Radcliffe College in the early 1900s and later became a prominent writer during the Harlem Renaissance. My father entered the University of Chicago at the age of 15 excelling in math and later becoming a computer executive in the retail industry in Chicago. My mother taught public schools for over 30 years dedicating her life to public service. They and many others have influenced my decision in part to pursue an international development career later in my life.

If confirmed as USED, my vision is to leverage my international development experience to support U.S. interests in seeing the African Development Bank carry out its mission to promote economic development and progress across Africa. Boosting growth is important for the African Continent, but also for the United States, by opening new markets and providing new customers for American goods and services. I have years of experience as a fiscal reform advisor on USAID-financed projects in developing and post conflict countries. I have advised Ministries of Finance as they underwent public financial management reforms to strengthen their revenues and to build financial systems and capacity to put the country on a path toward economic growth, while building political capacity. I have worked in such countries as Kazakhstan, Kosovo, Iraq, Afghanistan, and in Africa—Egypt, Senegal and most recently in the newest independent nation South Sudan. I have experienced firsthand when countries struggle to balance implementation of sound fiscal policies, while seeking to maintain political stability and security. I was in South Sudan and directly involved in assisting the country in post conflict recovery efforts. Prior to my fiscal reform project implementation experience, I worked as a policy analyst at the OMB during the 1990s.

I also have experience leveraging public-private partnerships for important local economic development projects. As a University of Chicago graduate student on a Patricia Harris Fellowship, I worked with Habitat Company, a leading real estate development firm which partnered with the Chicago Housing Authority to build scattered site housing for public housing residents to better integrate them into the broader community. This project was a model for how the public and private sector can partner to address a social issue effectively. I recognize that leveraging private sector investment, solutions and technologies will be a critical aspect of the future development of Africa as well. I look forward to supporting the African Development Bank to leverage its financing instruments to encourage private investment in Africa including through public-private partnerships.

During his July 2013 visit to Africa, President Obama launched the Power Africa Initiative, a \$7 billion, 5-year initiative to double access to electricity in sub-Saharan Africa in partnership with African countries and the private sector. In announcing this key initiative the President noted, "America's been involved in Africa for decades but we are moving beyond a simple provision of assistance . . . to a new model, a partnership between America and Africa, a partnership of equals that focuses on (Africa's) capacity to solve problems and (Africa's) capacity to grow."

I embrace the President's vision. When President Obama launched the Power Africa Initiative in Tanzania, African Development Bank President Donald Kaberuka joined him as a symbol of how the United States and Africa can work together to promote inclusive growth in the region.

Attracting private investors to Africa will require significant investment in infrastructure and a climate that is conducive to investment in Africa. Creating the right investment climate will depend on Africa's commitment and ability to improve governance, transparency, regional integration and to build a skilled workforce. The African Development Bank has played a leading role in assisting African countries to address these issues, but more work remains to be done.

If confirmed, I commit to being a good steward of U.S. financial contributions to the bank and to ensure that the Bank supports our Nation's inherent values—recognizing that open societies are the strongest societies; transparent systems are the most successful systems; and countries that commit to equally helping their citizens be healthy and educated, with economic opportunities will be the most prosperous.

Thank you again for considering my nomination, and I look forward to answering any additional questions you may have.

Senator BARRASSO. Thank you very much for your testimony.
Now we will hear from Mr. Sabharwal.

STATEMENT OF SUNIL SABHARWAL, NOMINATED TO BE U.S. ALTERNATE EXECUTIVE DIRECTOR OF THE INTERNATIONAL MONETARY FUND

Mr. SABHARWAL. Chairman Barrasso, Ranking Member Udall, distinguished members of the committee, it is an honor to appear before you today to present my personal and professional credentials for the position of the United States Alternate Executive Director of the International Monetary Fund.

I am grateful for President Obama for nominating me to this important office, and to Secretary Lew for his confidence and support. I also do want to thank the committee staff who have taken time to meet with me in the confirmation process.

If confirmed I look forward to advancing our shared commitment to make the IMF an even more effective organization and one where U.S. interests are strongly represented, promoted, and defended.

I would like to introduce the members of my family who are here with me today: my wife, Gabrielle, of 24 years, who has given up her forensic sciences career to follow me around the world and help me raise the family; my son, Nicolas, who just finished his sophomore year at Duke University studying computer sciences. He is accompanied by two of his college friends. It is great to see interest in the political process amongst youth.

Senator BARRASSO. You will be paying for dinner tonight.
[Laughter.]

Mr. SABHARWAL. We did not talk about that yet. [Laughter.]

Who is missing—of course, the busiest person in the family is always the youngest, and that is my daughter, Isabella. She is 16, a sophomore at the Cathedral School, who simply did not want to give up her orchestra practice and her track-and-field practice 2 days before the D.C. State Championships, and her chemistry exam, shockingly. So, we are missing her.

I have submitted my written statement for the record. I do not intend to read that in its entirety here. However, I would like to point out, just briefly, that I arrived in this country 32 years ago from Communist Hungary. My family—my mother, brother, and I—we fled and arrived at the United States Embassy in Vienna, sought political asylum, and, through the support of a number of families, churches, organizations, charities, I managed to enroll col-

lege and start a professional career. I am extremely, eternally grateful to this country. And I am now looking to give back.

In the 27 or so years of my professional career, I had an opportunity to serve both on the public sector and predominantly on the private-sector side of things. In the public-sector capacity, I was an early American employee at the EBRD, the European Bank for Reconstruction Development, shortly after its inception, where I really found an appreciation of the role an IFI can play in funding infrastructure projects, creating institutions, and providing comfort to private-sector investment and engagement. However, as you have seen in the testimony, the majority of my experiences are in the private sector as an investor in financial services and financial technology.

With my various positions, I have had a chance to travel and live around the world. And I believe this professional background, coupled with my volunteer experiences with the sports movement and Olympic organizations, really have given me an opportunity to deal with people from every single continent from many, many countries. And this, I feel, has prepared me well to carry out the duties, if confirmed, of the U.S. Alternate Executive Director at the IMF. I think this is an important skill when you are dealing with an institution with up to 200 members and where you need their support to engage with you on a wide range of issues.

Thank you for the opportunity to appear here today. I would be pleased to answer any questions and, if confirmed, of course, working with you and your staff on a range of issues affecting the IMF.

Thank you.

[The prepared statement of Mr. Sabharwal follows:]

PREPARED STATEMENT OF SUNIL SABHARWAL

Chairman Barrasso, Ranking Member Udall, and distinguished members of the committee, it is an honor to appear before you today to present my personal and professional credentials for the position of United States Alternate Executive Director of the International Monetary Fund (IMF).

I am grateful to the President for nominating me to this important office and to Secretary Lew for his confidence and support. If confirmed, I look forward to advancing our shared commitment to make the IMF an even more effective organization and one where U.S. interests are strongly represented, promoted, and defended.

I would like to introduce members of my family, who are here with me today: starting with my son, Nicolas, who is a sophomore at Duke University with an interest in engineering and the sciences. My daughter, Izabella, who is a sophomore in High School at the National Cathedral School, and is vying to follow her grandfather to be an Olympian track athlete, and finally my wife, Gabrielle, with a Forensic Sciences background whose attention to detail has helped me get through all the documents needed prior to me sitting here in front of you. We also share a common passion for the sport of fencing as we met 25 years ago in Culver City, CA, in a fencing club and continue our involvement with the sport and the Olympic movement.

I was born in New Delhi, India, to an Indian father and a Hungarian mother. My parents separated when I was 9, and I moved to Budapest Hungary part of the Soviet Block at the time. Following my mother's refusal to join the Communist Party, she was refused a business permit, was constantly harassed for her religious beliefs—in the end giving the family no choice but fleeing the country and seeking asylum at the U.S. Embassy in Vienna. I had just finished high school.

Through the cooperation of the U.S. State Department, the United Nations, and charitable organizations, we received political asylum in the United States, more precisely in Columbus, OH, and with specific assistance by the Upper Arlington Lutheran Church. To date, I will never forget the reception we received in Columbus, in December of 1983 (just a couple of days before Christmas) and will remain

forever grateful to Professor Cole and his family who enabled me to enroll at the Ohio State University weeks after my arrival. While I put myself through college with the use of financial aid, work-study, and scholarships, my family moved to California. Upon graduation, I joined them to begin my professional career.

When I left Hungary in 1983, I thought it was for good. Little did we know that less than 10 years later, massive political changes would sweep the region free. One of the first institutions created to foster the transition of the region was the European Bank for Reconstruction and Development (EBRD), and I was fortunate enough to play a meaningful role in the region's transition as an American citizen and EBRD employee.

I established the EBRD office in Budapest in early 1992, a time in which Hungary was at the forefront of innovative foreign direct investment legislation and regulations. This experience allowed me to participate in landmark public and private sector transactions, including the first bank and telecomm privatizations, infrastructure projects, municipal finance, and venture capital deals of Central and Eastern Europe. In 1995, I transitioned to London to join the EBRD's headquarters staff as a member of its Financial Institutions team, which had the responsibility of investing in, and lending to, banks in the region. The 5 years I spent at the EBRD had shaped my early professional career and have had a significant impact throughout. I then spent about 10 years working for GE and First Data Corporation, most of it focused on investing in the financial services sector or companies that provide services to the financial services industry. For the last 8 years, I have served as an independent investor and adviser focused on the financial services, or "fintech" sector.

As a result of my global upbringing, through which I gained an ability to relate to people around the world, and my 25 years of tenure in the financial services sector—in both public and private domains—I am equipped with the experience necessary to carry out successfully the duties, if confirmed, of the U.S. Alternate Executive Director at the IMF. In addition, my language skills and volunteer experiences are also highly relevant in a body where we need to get representatives of nearly 200 countries to support us on a wide-ranging set of issues.

I look forward to answering your questions, and, if confirmed, to working with members of the committee on policy matters affecting the IMF.

Thank you for the opportunity to appear before the committee today. I would be pleased to answer any questions you may have.

Senator BARRASSO. Thank you for your testimony. Congratulations, again.

And now, finally, Mr. Egan.

**STATEMENT OF BRIAN JAMES EGAN, NOMINATED TO BE
LEGAL ADVISER OF THE DEPARTMENT OF STATE**

Mr. EGAN. Mr. Chairman, Ranking Member Udall, and members of the subcommittee, it is an honor to appear before you today as President Obama's nominee to serve as Legal Adviser to the Department of State.

I am humbled by the trust that the President and Secretary Kerry have placed in me, and I am grateful to the committee for considering my nomination. I also appreciate the opportunity I have had to meet with committee staff, before this hearing, for productive discussions on a range of topics.

Mr. Chairman, please allow me to introduce my wife, Amy, and my children, Sally, Niles, and Damon, who are happy to have a half day of school to attend this afternoon's event. As you know, government service often requires long and unpredictable hours, which take a toll on our families. And I want to thank my family for the sacrifices they have made to enable me to pursue my passion for public service. I would not be able to carry out my current responsibilities, and I could not contemplate assuming the duties that I hope you will see fit to entrust to me, without their love and support.

I would also like to introduce my father, Dennis Egan, who, by example, has taught me the importance of hard work, independent judgment, and kindness in raising myself and my five brothers and sisters.

I am particularly honored to have been nominated for this position because serving as the Legal Adviser would mark a homecoming for me. Although I began my career as a lawyer in private practice, my calling has always been public service, and I have spent the past 10 years as a government lawyer, starting as a career attorney in the Office of the Legal Adviser. From my time there, I know that the Office of the Legal Adviser plays a critical role in advancing U.S. foreign policy and national security by providing high-quality and objective legal advice to the Secretary of State and other policymakers. The over 200 career lawyers and other professionals who make up the office strive to promote and protect U.S. interests around the world every day, without regard to party or politics, and in areas ranging from counterterrorism, law enforcement, and nuclear nonproliferation to the promotion of American trade and business and the protection of American citizens abroad.

I have dedicated my career to public service, to play a part, however small, in helping address the many legal challenges that are faced by the greatest democracy in the world. If confirmed, I would seek to uphold the office's tradition of providing rigorous and objective legal analysis in furtherance of our Nation's interests at home and around the world.

In my career, I have had the good fortune of being able to work in a number of national security legal positions with lawyers from around the government. And since 2013, I have been the Legal Adviser to the National Security Council. In my current role, I have the privilege of working every day with the President, Ambassador Rice, and other senior national security officials on a broad range of complex domestic and international legal issues. And in this capacity, I have had the privilege of working closely with general counsels and other senior lawyers from around the government, including the Departments of Justice, Defense, Commerce, Homeland Security, and the Treasury, the Director of National Intelligence, the CIA, and, of course, the Department of State. I have benefited immensely from the wisdom and counsel of Mary McLeod, who has served as State's Legal Adviser in an acting capacity for over 2 years, and many of the other outstanding attorneys who serve in the office that is known as L at the State Department.

Prior to serving in my current job, I worked at the Treasury Department as Assistant General Counsel for Enforcement Intelligence from 2012 to 2013, and my first job after graduating college was with the Department of Justice, where I served as a legal assistant in the Antitrust Division for nearly 3 years.

My experience in government have taught me a considerable amount about leadership, responsibility, problem solving, and collaboration. And these experience have deepened my conviction that we are best able to confront the foreign policy challenges that we face as a nation when the executive and legislative branches work together to address those challenges. While we may not always see the same issues in precisely the same way, or reach the same con-

clusions, if confirmed, I would be committed to maintaining an open dialogue with this committee on the issues that I will be responsible for as Legal Adviser.

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

[The prepared statement of Mr. Egan follows:]

PREPARED STATEMENT OF BRIAN JAMES EGAN

Mr. Chairman, Ranking Member Udall, and members of the committee, it is an honor to appear before you today as President Obama's nominee to serve as Legal Adviser to the Department of State. I am humbled by the trust the President and Secretary Kerry have placed in me, and I am grateful to the committee for considering my nomination. I also appreciate the opportunity I have had to meet with committee staff before this hearing for what I found to be productive conversations on a range of topics.

Mr. Chairman, please allow me to introduce my wife, Amy, and my children, Sally, Niles, and Damon. As each of you can attest, government service often requires long and unpredictable hours, which take a toll on our families. I want to thank my family for the sacrifices they have made to enable me to pursue my passion for public service. I would not be able to carry out my current responsibilities—and I could not contemplate assuming the new duties I hope you will see fit to entrust to me—without their continued love and support. I would also like to introduce my father, Dennis Egan, who by example has taught me the importance of hard work, independent judgment, and kindness.

I am particularly honored to have been nominated for this position because serving as Legal Adviser would mark a homecoming for me. Although I began my career as a lawyer in private practice, my calling has always been public service. I have spent the past 10 years as a government lawyer, starting as a career attorney in the Office of the Legal Adviser.

From my previous time there, I know that the Office of the Legal Adviser plays a critical role in advancing U.S. foreign policy and national security by providing high quality, objective legal advice to the Secretary of State, other policymakers within the Department of State, and departments and agencies across the Federal Government. The over 200 career lawyers and other professionals who make up the Office of the Legal Adviser strive to promote and protect U.S. interests around the world every day. They do so, without regard to party or politics, in areas ranging from counterterrorism, law enforcement, and nuclear nonproliferation to the promotion of American trade and business and the protection of American citizens abroad.

I have dedicated my career to government service to play a part, however small, in helping to address the many challenges faced by the greatest democracy in the world. If confirmed, I would seek to uphold the Office of the Legal Adviser's tradition of producing rigorous and objective legal analysis in furtherance of our Nation's interests at home and around the world.

Beyond working at the Legal Adviser's Office, I have had the good fortune of being able to work in a number of other national security legal jobs, with lawyers from across the Federal Government. Since 2013, I have been the Legal Adviser to the National Security Council and Deputy Counsel to the President. In my current role, I have the privilege of working every day to enhance the security and prosperity of the United States and the American people by advising the President, Ambassador Rice, and other senior national security officials on a broad range of complex domestic and international legal issues.

I have worked closely with the General Counsels and other senior lawyers of departments and agencies throughout the government, including the Departments of Justice, Defense, Commerce, Homeland Security, and the Treasury; the Office of the Director of National Intelligence; the Central Intelligence Agency; and, of course, the Department of State. I have benefited from the wisdom and counsel of Mary McLeod, who has served as State's Legal Adviser in an acting capacity for over 2 years, and many of the other outstanding attorneys who serve in the Office of the Legal Adviser.

Prior to serving as Legal Adviser to the National Security Council, I worked at the Department of the Treasury as Assistant General Counsel for Enforcement and Intelligence from 2012 to 2013. In that capacity, I was responsible for a staff of approximately 50 attorneys who provided legal advice and counsel on combating terrorism financing and other financial crimes, ensuring the effectiveness of U.S. financial sanctions regimes, and other issues related to Treasury's enforcement and intel-

ligence responsibilities. And my first job after graduating from college was with the Department of Justice, where I served as a legal assistant in the Antitrust Division for nearly 3 years.

My experiences in government have taught me a great deal about leadership, responsibility, problemsolving, and collaboration. These experiences also have deepened my conviction that we are best able to confront the foreign policy challenges we face as a nation when the executive and legislative branches work together to address those challenges. While we may not always see the issues in precisely the same way or reach the same conclusions, if confirmed I would be committed to maintaining an open dialogue with this committee on the issues that I will be responsible for as Legal Adviser.

The challenges we face as a nation in the areas of foreign policy and national security are increasingly complex, and the legal issues that underlie some of these challenges are equally complex. Our Nation's leaders require the best possible legal advice to navigate these challenges, consistent with the Constitution and our commitment to the rule of law. If confirmed, I commit to you that I will do my best to provide that advice.

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

Senator BARRASSO. Well, thank you so much for your testimony. And welcome, to your family, as well.

Ms. Guilarte, the Latin American/Caribbean region have incredibly high energy costs, I think insufficient rates of investment; they rely on energy resources, such as Venezuelan oil, which may not be suitable, in the long run, in terms of sustainability. The countries are dependent on excess—on very expensive fuel. And I think we have an opportunity—and three members of this committee who are here today have all supported legislation—to make it a little easier for us to export U.S. natural gas, as well, and want to use the knowledge and the technology we have in the United States. Natural gas can be helpful in economies, because it provides a—much more affordable energy.

So, in your role, if confirmed, at the International—at the Inter-American Development Bank, you know, they talk about electricity demand in Latin America and the Caribbean, it is going to be doubling over the next decade. And they are looking at economic development role that natural gas can play. So, I am going to ask if you know of any steps right now that the Inter-American Development Bank is taking to provide the region with energy security and diversification through natural gas, and what role you would like to play in that.

Ms. GUILARTE. Thank you, Chairman, for your question.

I can understand your concern specifically about Venezuela and how their influence, especially on the ALBA members, especially those in the Caribbean and Central America, can have really a crisis situation, the way things are unfolding in Venezuela, and the impact that that could have in the region.

In terms of coal energy projects and what can be done better at the IDB, certainly all projects that come to the board are given full consideration. At the moment, there are no correlated projects—

Senator BARRASSO. And, I am sorry, I asked about natural gas.

Ms. GUILARTE. This—natural gas.

Senator BARRASSO. Natural gas, yes.

Ms. GUILARTE. If confirmed, what I can do, in my capacity, is that, one, I will make sure that those related projects that come to the board are given full consideration that it meets the needs of the country's energy demands, that we consider all relevant alternative approaches, and that ultimately they are sustainable, both finan-

cially and environmentally. I understand that the administration is also, through their Alliance for Prosperity, creating—in Central America—is looking at providing better and more diversified opportunities on energy efficiency approaches.

If confirmed, I look forward to working with you and members of this committee in ensuring that we look at all the range of options available.

Senator BARRASSO. Yes. But, I would say that, knowing that there was significant bipartisan support and an opportunity for affordable energy, it is something that I think would benefit that area.

Senator Corker, I am happy to turn my time over to you. I know you are on a tighter schedule, and you are chairman of this committee. So—

The CHAIRMAN. Well, I really appreciate you letting me do this. I know I am—you know I am here for just one of the witnesses and—or nominees. But, thank all of you for letting me do—thank you for your service to the country that is getting ready to be in, in a different role, anyway.

To Mr. Egan, I just wanted to ask a few questions. I think you know I was going to do this. So, thank you for your willingness.

Congress has long understood that the 2001 AUMF covered al-Qaeda and the associated forces of al-Qaeda. Would you please describe the administration's legal view of why it is that ISIS is covered by the 2001 AUMF? And again, thank you for your continued service.

Mr. EGAN. Thank you, Mr. Chairman, for your question.

The administration's position is that the 2001 AUMF does cover the ongoing military operations against ISIL. And I think the key fact which is reflected most recently in a speech that the general counsel from the Defense Department gave—Steven Preston—about a month ago, is that ISIL is essentially the remnants of a group that was formerly known as Al Qaeda in Iraq, a group that we fought in Iraq for a number of years and that broke from al-Qaeda in 2013. The administration's view is that the break of that group should not change the legal authority to use force against that group. Given that ISIL, as it is now known, continues to fight Americans and American interests in Iraq, they believe that they are the true successor to Osama bin Laden, and they are, in fact, competing for affiliation of groups with al-Qaeda right now. And that is why the administration's view is that ISIL is subject to the 2001 AUMF.

The CHAIRMAN. And does the administration currently have the statutory or article 2 authority to defend the United States or coalition-trained forces in Iraq and Syria if those forces come under direct threat from ISIS—al-Nusra, Assad regime forces, Hezbollah, or any other armed groups? As you know, we have a train-and-equip program that is underway. And, as you know—well, anyway, I will let you answer the question.

Mr. EGAN. Senator, I should have, of course, noted the administration's proposal, which this committee has considered, for new authorization to use military force, which would be specific to the threat posed by ISIL in Iraq and Syria. The administration's view is, at this time, we would have the authority to use force against

ISIL and against the Nusra Front to defend our personnel in Iraq and Syria. I would say, to the extent that those personnel came under attack, we would—the President would likely have article 2 authority against anyone who had attacked them. But, we do have an AUMF that this committee has—that you have considered, that reflects the President's view on the appropriate scope of military force against ISIL in Iraq and Syria.

The CHAIRMAN. Well, actually, that is not true. Martin Dempsey and several—Ash Carter and several witnesses who came before us said that they did not have the authority to defend against Assad if the train-and-equip people that are not our folks—they are not part of our coalition, they are people that we are training in Syria to deal with both ISIS—well, we—in this particular case, ISIS. We may have another program. There may be another alleged program against Assad. But, they actually say they do not have that authority.

So, you are saying that you believe we do have that authority now to defend them against barrel bombs from Assad.

They said they had not sought that authority, and there was actually an internal debate right now within the administration as to whether to seek that authority.

Mr. EGAN. Then, Senator, I apologize. Maybe I misunderstood your question. I thought you were asking about our authority to defend our—

The CHAIRMAN. Right.

Mr. EGAN [continuing]. Troops who are currently stationed in Iraq—

The CHAIRMAN. No.

Mr. EGAN [continuing]. Which I think is a slightly different question.

The CHAIRMAN. The Syrian opposition train-and-equip group, we do not have that authority, would you agree?

Mr. EGAN. We would have the authority to conduct military operations against ISIL and al-Qaeda under the same rationale that we do to conduct our own direct operations against those groups. I think the question of our authority to use force against the Assad regime is a more difficult question, and, you are correct, sir, that that is one that is under policy consideration within the administration right now.

The CHAIRMAN. To defend the very people that we are training to go in and be on the ground.

Mr. EGAN. That is correct.

The CHAIRMAN. Okay.

I will just ask one more. And I want to thank the chairman for allowing me to do this, and the ranking member.

With United States forces on the ground in Iraq conducting activities in both Iraq and in Syria, what authority to protect and defend those forces, if any, is currently available under the 2001 or 2002 AUMFs? And is there something additional you gain under the 2002 AUMF that is not in the 2001 AUMF? I think you know the committee is looking at a number of things, one of which is the relevance of the 2002 AUMF. And I would appreciate it if you would answer that.

Mr. EGAN. Thank you, Senator.

So, the administration's position is that both the 2001 AUMF and the 2002 AUMF provide authority for the current military operations in Iraq and Syria. The President's AUMF proposal would, among other things, repeal the 2002 AUMF. And that is because he believes that the authority we have in both his proposal and in the 2001 AUMF would be sufficient to conduct the operations that are ongoing in Iraq and Syria.

The CHAIRMAN. And so, just to summarize so that you have been asked the same question that every other administration witness that has these kinds of responsibilities, you believe that, today, there is no authorization necessary—no additional authorization necessary to deal with ISIS—or ISIL, as you would call them—or Daesh, as some may call them.

Mr. EGAN. Senator, as a legal matter, I believe that we have the authorization that we need. I think the President has been clear that he believes that there are other reasons that it is important for this committee to continue its work on the AUMF. But, as a legal matter, our view is that we have the authority we need to conduct military operations against ISIL.

The CHAIRMAN. Thank you.

And I will wish you the best, all of you, in your nomination testimony.

And thank you very much for this courtesy, both of you. Thank you.

Senator BARRASSO. Senator Udall.

Senator UDALL. Thank you very much, Chairman Barrasso.

Executive Director Guilarte, the Inter-American Development Bank has partnered with the Obama administration on several initiatives in Latin America. These include the Micro-Finance Growth Fund for the Western Hemisphere, announced at the fifth Summit of the Americas in April 2009, and the Women's Entrepreneurship in the Americas, announced at the sixth Summit of the Americas in April 2012. What are the objectives of these initiatives? And what have they accomplished so far?

Ms. GUILARTE. Chairman, I appreciate the question. I am sorry, Senator.

I am not familiar with the initiatives, in entirety, and I would appreciate if I can get back to the committee—

Senator UDALL. That would be great.

Ms. GUILARTE [continuing]. On your question.

Senator UDALL. If you could—

Ms. GUILARTE. Yes.

Senator UDALL. If you could answer that for the record, that would be terrific.

Ms. GUILARTE. I will.

Senator UDALL. Thank you very much.

Assistant Secretary Haverkamp, in 2013 President Obama issued an Executive order on combating wildlife trafficking, with some specific actions for the United States to take. Can you describe in more detail what the United States is doing to combat wildlife trafficking, and how the State Department is working to address these efforts?

Ms. HAVERKAMP. Thank you very much, Senator Udall, for that question.

Wildlife trafficking is a real scourge. And it is a problem, not just for the obvious reasons of the elimination of some iconic species, but it is also an economic problem for countries that depend on tourism. It is a national security problem because of the involvement of organized crime and extreme elements. It is also clearly a biodiversity concern. And it is, frankly, a health problem because of the potential for these illegally traded species to transmit diseases that affect people.

As you noted, the President has led this initiative. Recently, an implementation plan was released, where the Department of State, including the Bureau that I hope to lead, has a key role, in partnership with the Department of Interior and the Department of Justice. The focus that I would see having under this initiative is especially in the areas of public education, so that people are less likely to demand these products, and in the areas of enforcement, as well. Enforcement is an especially important concern for OES. There is a network of wildlife enforcement networks that OES has helped establish around the world, and I would be very interested in expanding that and helping to establish additional networks around the globe.

Thank you.

Senator UDALL. Thank you.

My home State of New Mexico is the world's—has the world's first commercial spaceport and two national laboratories. So, my State appreciates the role of science—that science and technology play in protecting American security and providing economic opportunities. What are OES's main priorities with regards to space policy and science and technology cooperation?

Ms. HAVERKAMP. Thank you for that question.

In the area of space, in particular, the President, in 2010, produced a national space policy; and OES's work is consistent with and in furtherance of that policy. Key among that is the promotion of commercial space activities, including the work on Spaceport America that could contribute to expanding the opportunities for space transportation.

Also, OES has an important diplomatic role in working with other countries to do things such as address space debris so that it is safer to have increased space travel, working, as I said, in expanding the opportunities for commercial use of space and also working with other countries on things like the sustained funding of the International Space Station, that sort of thing. But, very much the role of the commercial entities, like Spaceport America, is something that we would like to see more of.

Senator UDALL. Yes, I appreciate that answer.

Executive Director Occomy, it is my understanding that, in 2013, the African Development Bank approved a new 10-year strategy which will focus on economic growth plus operational priorities, including infrastructure development, regional integration, private-sector development, governments and—governance and accountability, and skills and technology. How would you assess the strategy?

Ms. OCCOMY. Thank you, Ranking Member Udall, for that question.

I understand that the strategy is going along. One thing that I would say is that the African Development Bank has a strong partnership with the United States. And part of carrying out its strategy is actually to support the United States with key initiatives, such as the Power Africa Initiative. The Power Africa Initiative is designed to increase electricity access across Africa, which is a key priority for the African Development Bank, and it is a key directive, in terms of implementing one of the core parts of the strategy.

Again, if confirmed, I will make every effort to work with the African Development Bank to effectively implement its strategy and to make sure that the elements and the initiatives that are implemented are in line with U.S. interests, particularly U.S. economic and security interests in Africa.

Senator UDALL. Appreciate that answer.

Thank you, Mr. Chairman.

Senator BARRASSO. Senator Gardner.

Senator GARDNER. Thank you, Mr. Chairman, and thanks for holding this hearing today. And thanks, to all the witnesses, for being here, and your families, as well. Thank you for your willingness to serve this country.

To Mr. Egan, just a couple of quick questions. Last week, we had a hearing before the East Asia Subcommittee, which also now addresses cyber issues. So, just a couple of questions on cyber. How do you envision your office interacting with Chris Painter's office as the Coordinator for Cyber Issues?

Mr. EGAN. Thank you, Senator.

I think that the issues of cybersecurity, cyber defense, are increasingly important, both as a policy matter—as you know, Chris Painter's office is deeply involved in international fora related to those issues—but also as a legal matter. I think you can look back to some remarks that my predecessor—hopeful predecessor—the Legal Adviser, Harold Koh, gave in 2012, where he kind of laid out the framework for how we would think about cyber activities from an international legal perspective. And I would anticipate, if I were confirmed by this committee and by the Congress, working very closely with Chris—and others at the State Department—to help further develop those rules in the interests of our own national security.

Senator GARDNER. Thank you.

And the Sony cyber attack carried out by North Korea was described by the President as an act of cyber vandalism and not cyber terrorism. In your legal opinion, where do you cross the line between cyber vandalism and cyber terrorism?

Mr. EGAN. Thank you, Senator.

An important legal question that came up in the context—would come up in the context of Sony or some future event is whether we would consider an act in cyber space a use of force, where the responses to use of force would apply. And considering a question such as that, I think we would look to the effects of the act. Did it result in death, destruction of significant amounts of property, and other similarly serious acts? I think it is hard to kind of speculate in the abstract, but those are the types of factors that I would anticipate looking to in addressing a question like yours.

Senator GARDNER. Thank you.

And, to Ms. Haverkamp, the United States assumed the chairmanship of the Arctic Council in 2015. How do you assess our viability in working effectively with Russia, given that nation's aggression in Ukraine and increased military activity in the Arctic?

Ms. HAVERKAMP. Thank you very much for that question, Senator.

In the Arctic Council, this is an entity that the United States helped create many years ago. It operates by consensus among the countries that all have territory north of the Arctic Circle. Russia has been a part of that process for a very long time. And, while the United States has very significant problems with some aspects—significant aspects of Russia's policy, so far in the Arctic Council, their interests seem to have been to work together with the other countries of that region.

Senator GARDNER. So, you do not, at this point, see Russia's policies as an obstacle to United States Arctic policies or objectives in the region?

Ms. HAVERKAMP. The agenda that the United States has put forward for its chairmanship is one that the other countries had to agree to by consensus. And so, Russia has joined that consensus in the objectives of Arctic Ocean stewardship, safety, and security; protecting the health and economic well-being of the Arctic peoples; and addressing the concerns of climate change in that region.

Senator GARDNER. So, when it comes to the Arctic, Russia is living by the terms of the agreement, or at least what we believe the agreement to be?

Ms. HAVERKAMP. Well, the U.S. chairmanship just began last month. And so, I think—my understanding is that people are hopeful. But, it may be too early to tell.

Senator GARDNER. Thank you.

And I am going to—may need help with the last name. Is it Mr. Sabharwal? Very good. One of the primary tasks facing the International Monetary Fund is stabilizing the economies of two European nations: Greece and Ukraine. The next 1.5 billion dollar—billion Euro—excuse me—billion Euro payment from Greece to the IMF next month—will Greece be able to make the payment, or are we heading toward default?

Mr. SABHARWAL. Thank you for the question, Senator Gardner.

As you know, when the IMF stepped into Greece, back in 2010, there was serious risk of contagion effect. And whilst Greece perhaps is a small percentage, in terms of GDP, of the European and the global economy, it was critical that it steps in at that time, together with the other institutions, the European Central Bank and the European Commission.

Greece was supposed to, and did, make a payment in full last week. And thereby, this week—this actually opened the doors for a new set of discussions later on, taking place this week in Latvia, where we do not refer to them as a troika anymore, because the Greeks do not like that word. We—the institutions—the ECB, the European Commission, and the fund—are discussing a way forward so that Greece is able to make the payments, not just in June, but also in July and August. Of course, I am not at the fund at this point, I am not in the administration. But, from what I understand, the parties intend, including Chancellor Merkel, who

wishes that Greece stays in the eurozone, the institutions, and, after, let us say, about a month of pause in dialogue, everybody is back at the table. So, we do believe there will be a constructive resolution here.

Senator GARDNER. Obviously, one of the other important issues that—I mentioned Ukraine. Just yesterday, the United States Government signed a \$1 billion loan guarantee for Ukraine. On March 11, the IMF approved a \$17.5 billion loan payment to assist the Government of Ukraine. Recently, I met with Finance Minister Natalie Yuresko, and she had assured me that Ukraine is on a path to economic reform that would satisfy both the needs and requirements of the United States Government and other international creditors.

Do you share in this view?

Mr. SABHARWAL. Thank you for the question.

So, Ukraine and that part of the world is relatively close to me, because I spent part of my life growing up there. And if you think—wind the clock back 20 years, 23 years, to the origin of Ukraine's independence, it really—what has happened, one bad economic policy and one less-than-adequate government followed another for 20-plus years. Actually, Natalie is someone who, when I was at the EBRD, she was actually working for one of the venture funds that we were supporting at the time. So, it is great to see actually someone so knowledgeable about the region coming from the private sector, being in the position that she is right now.

To answer your question, the IMF had identified about a \$40 billion need at Ukraine as a need to get into a financial and stable footing. Part of that 17 and a half billion is coming from the IMF; part of it from other institutions. And, of course, there is kind of a debt overhang in Ukraine, which I understand that the parties are in discussion as to how to manage that. As long as those discussions are ongoing, the fund will continue to be—proactively support Ukraine with its program. From what I understand, there is actually a team on the ground right now, a fund team on the ground. And the initial indications are that—whilst the issues are difficult, that the program is on track.

Senator GARDNER. Thank you, Mr. Chairman.

Senator BARRASSO. Thank you, Senator Gardner.

Senator Murphy.

Senator MURPHY. Thank you very much, Mr. Chairman.

Welcome, to all of our nominees. I wish you good speed in your confirmation process.

I wanted to pick up where Senator Gardner left off, Mr. Sabharwal, to talk a little bit more about Ukraine. I am glad to know that you have some expertise, or at least some familiarity, with the region.

So, you know, it is always struck me that our policy on economic assistance to Ukraine is anchored in the theater of the absurd. We are giving them loan guarantees, we are partnering with the IMF and other creditors to extend loans with fairly high spreads to them. This is in the midst of an invasion of their country. We are forcing them to make very painful—very necessary, but very painful reforms in exchange for this money. It sort of strikes me as if your neighbor's house is on fire, and, instead of just delivering

them the bucket of water, you sit and negotiate with them for a period of hours on the terms for the repayment of that water, instead of just putting the fire out.

And so, I wanted to talk to you for a moment about this issue of debt reduction. Larry Summers just wrote a column, in which he said that the case for debt reduction with respect to Ukraine is, "as strong as any I have encountered in the past quarter century." And it strikes me as incredibly reasonable that the United States should be playing a leading role in working with Ukraine's creditors for a writedown of their debt, given the fact that they are in the middle of a war in the eastern section of their country, and that—they have, frankly, undertaken reforms already that are quite impressive in scope and dwarf reforms that have been undertaken in prior administrations.

So, I just wanted to get your sense of what you thought the importance of debt reduction was, as part of the strategy moving forward for Ukraine, and what role you see United States representation as part of the IMF infrastructure playing in that conversation.

Mr. SABHARWAL. Thank you for the question.

As I mentioned before, the identified gap of financing in Ukraine, from what I understand, is around \$40 billion. Part of that is filled with the IMF facility of 17 and a half. And, in that, about one-fifth—15 million—billion is to come from, let us call it—whether it is a restructuring of the private-sector debt, maybe lengthening the maturity, a combination, lowering of interest rates. There could be a number of ways that the Government of Ukraine can achieve that, vis-a-vis its private-sector lenders.

I believe that the fund does not directly engage in the negotiations between the Ukrainian Government and the private-sector bondholders, but I do believe that the position of the Treasury and the position of the fund would be an encouragement—a strong encouragement of Ukrainian government to be at the table, continue good-faith negotiations with the private-sector lenders. And, whilst those are actually ongoing, the fund can continue with its program and continue to fund Ukraine as it tries to come out of its economic difficulties.

So, in summary, I would say the position would be of support, both from the Treasury—significant support—and the fund, but not a direct engagement of negotiations between two parties.

Senator MURPHY. Thank you for the answer to the question. I mean, I do not think that Ukraine, at this point, is largely the problem. My understanding is that it is the private creditors that are, right now, refusing to engage in a constructive process about debt reduction. And so, I would just counsel for a—if that is, indeed, the policy, that the IMF and our representation at the IMF is not going to get in the business of trying to unmask the fact that many of these creditors are refusing to engage in constructive conversations about debt reduction. I would, frankly, hope that we would have a little bit more active presence and participation, given that it is our money at risk. The United States has made loan guarantees. We have exposure here. And, to an even more important degree, if we do not unravel the economic mess in Ukraine, which I think debt reduction is a big part of, then the world's secu-

ity is at risk. That is not necessarily the IMF's responsibility, but it is certainly a U.S. interest.

Mr. SABHARWAL. Thank you very much, Senator.

I have taken note. And, if confirmed, I will take up the matter within Treasury and at the fund, itself.

Senator MURPHY. Mr. Egan, I just wanted to just build on some questions you were getting from Senator Corker. As you know, there is a deep disagreement between many of us in the administration on this interpretation of whether the existing AUMF covers ISIL. I certainly do not believe that it does. I think it is a strain, a reach of pretty incredible proportions. And part of our worry is that we are not sure where this rationale ends, that if ISIL is included under the umbrella of an authorization of al-Qaeda, then what about all of the other groups that are, as we speak, pledging allegiance to al-Qaeda? Does that mean that the 2001 AUMF lives on forever, in that any group in any part of the country can find itself now a subject of U.S. force simply because it has aligned itself with ISIS?

Can you share a little bit as to what you believe the tests are right now as to how this new doctrine of interpretation that the administration is using of the 2001 AUMF plays out with respect to these groups around the world who have pledged allegiance to ISIL?

Mr. EGAN. Yes. Thank you, Senator, for the question.

I think the administration's test as to whether a group is an associated force of al-Qaeda is something that has been talked about for a number of years. And that is, if a group is an organized, armed group that has joined the fight against the U.S. or coalition partners alongside of al-Qaeda, a group could be considered an associated force of al-Qaeda.

You are correct that our view on ISIL is different.

Senator MURPHY. But, this is different, because this is not an associated force of al-Qaeda. This is now an associated force of ISIS.

Mr. EGAN. The way that I would think about it, at least, is that they are a successor to Al Qaeda in Iraq. They are, in fact, the group that was formerly known as Al Qaeda in Iraq, which is what our intelligence community would say. They are, in fact, al-Qaeda's longest affiliate, going back to the early 2000s. And I think if you look at the facts behind ISIS and their history, ISIL—ISIS and their history, they are probably uniquely situated, and it is hard to see another group that would fit the bill as they did, a group that we were fighting against, going back several years, that continued to fight us, that believes that they are the true successors to Osama bin Laden. There just are not other groups out there that I am aware of that would fit that bill.

Senator MURPHY. And I would just hope that you will help us understand some of the terminology that is being used today. In the administration's proposed AUMF, they suggest that "associated forces" will be those that are engaged in hostilities against the United States or our coalition partners. Well, because ISIS now has, arguably, roots in almost every corner of the world, and we have coalition partners in every corner of the world, you can see a definition by which even Boko Haram, if it is engaged in hostilities against a group that—against a country which is a coalition

partner, now all of a sudden falls under an authorization that was intended for a very different group.

And so, I think many of us are worried about the—not the 2000 AUMF authorization, in and of itself, but this new authorization that is proposed, and how big and unwieldy it could become. I look forward to working with you on some of those very tricky questions.

Thank you very much, Mr. Chairman.

Senator BARRASSO. Thank you very much, Senator Murphy.

Just to follow up, Mr. Egan, a couple of things, in terms of treaties, executive actions, where it all fits in. The Senate has passed a bipartisan piece of legislation for the Iranian deal to make sure that the Senate has an opportunity to review that, not at the treaty level, which is a 67, but as a—more of a disapproval motion, and then whether that is vetoed. So, how do you see these differences, in terms of treaty and just a disapproval motion? And what qualifies for what?

Mr. EGAN. Thank you for your question, Mr. Chairman.

If I were confirmed, I think working with this committee on issues involving treaties, executive agreements, political commitments is one of what I would consider to be my most important responsibilities. I think that administrations from both parties have had a history of working with the Congress to identify agreements that would be treaties subject to the treaty clause in the constitution, other agreements that would be Executive agreements, and then political commitments of the type that the Iran deal is intended to be. And so, working through the nuances and making sure that this committee and the Congress understands how the administration is approaching a particular negotiation, I think, is one of the more important responsibilities I would take on if I were confirmed as Legal Adviser.

Senator BARRASSO. Yes. I mean, because the United States and other nations are attempting to negotiate an agreement on international climate later this year. And so, I wonder what conditions or provisions in a new climate change agreement would require advice and consent of the Senate, which would not, and, you know, will you commit to sending any new agreement for the Senate for advise and consent?

Mr. EGAN. Senator, I think each agreement would have to be looked at in each negotiation kind of on its facts. And I think Secretary Kerry, in his testimony before this committee, has identified a number of the facts that would be relevant to whether an agreement should be considered a treaty, an Executive agreement, or a nonbinding commitment. And I am not intimately familiar with the facts behind the climate negotiations, but I would commit to working with this committee to make sure that you were informed of the status of those discussions so that you could have an informed view on the nature of the arrangement being negotiated.

Senator BARRASSO. Thank you.

Ms. Haverkamp, the United States is currently participating in this climate negotiation, or will be soon, with the goal of reaching an agreement at the end of the year. Will you commit to ensuring that any new agreement the administration reaches internationally on climate change is brought to the Senate for advise and consent?

Ms. HAVERKAMP. Thank you for the question, Mr. Chairman.

My understanding of the status of the negotiations is that they are still at a fairly early stage, and focused primarily on what the substance of the agreement would be, and not yet really on the form. So, it is too early, I think, to say what might happen.

I do know that the mandate that the countries are negotiating under is one that creates a real opportunity for the United States, which is to create an agreement that involves contributions from all countries, not just the developed countries, which has been the case in the past. But, what form those contributions or commitments might take is something that has not yet been decided. The mandate gives countries a lot of flexibility in what type of decisions or agreements might come out of Paris.

Senator BARRASSO. And then, what role would you personally be playing in these negotiations, if you are confirmed, in terms of the climate change conference and the negotiations?

Ms. HAVERKAMP. As I believe you know, the lead for the U.N. climate negotiations at the Department of State is the Special Envoy, Todd Stern. And his office leads those negotiations. I would anticipate cooperating and collaborating with his office—

Senator BARRASSO. But, would he report to you? I mean, I am trying to get the pecking order.

Ms. HAVERKAMP. He reports to Secretary Kerry.

Senator BARRASSO. And you are not in that chain.

Ms. HAVERKAMP. Well, the—

Senator BARRASSO. You would not be, if confirmed, in the chain.

Ms. HAVERKAMP [continuing]. The arrangement is that there is a significant office within the Bureau that I would head, which is the Office of Global Change, and which provides a lot of the staff support, you might even say “the backbone” of technical expertise, to the Special Envoy’s team. And there is a role that that group plays, in terms of the negotiations, in terms of technical expertise, and also in overseeing some of the adaptation foreign assistance funding that the Department provides.

Senator BARRASSO. It seems to me there is some duplication of climate change resources at the State Department. And so, I would ask, Are you committed to eliminating duplication and redundancies at the State Department? You know, I am trying to figure out, How does the Office of Climate Change in the Bureau interact with the Office of Special Climate Envoy? It does seem, I think, to a lot of taxpayers, as duplicate use of taxpayer dollars, at this point.

Ms. HAVERKAMP. Senator, I certainly embrace the idea of the Department using taxpayer dollars efficiently and effectively. And, if I am confirmed, I would take a very close look at that.

Looking more broadly at the question of Special Representatives and Special Envoys, it does seem that there are certainly times when an issue is of a certain priority or urgency, such as the U.S. chairmanship of the Arctic Council, which calls for bringing in a special office to lead that particular effort. Another example is the Ebola crisis, where the State Department created a Special Representative for Ebola, and that office has just recently been dismantled, and then some of that work brought back to OES.

Senator BARRASSO. Thank you.

Ms. OCCOMY, the African Development Bank's goal is to promote economic growth, reduce poverty in 53 African member countries. The U.S. Director should support, I believe, low-cost, dependable energy sources as a means to help countries spur economic growth. Now, these nations include some of the poorest countries in the world. African countries have substantial fossil fuel resources, including oil, coal, and natural gas. Do you believe the African Development Bank should end all financing for projects dealing with fossil fuels?

Ms. OCCOMY. Thank you, Chairman, for that question.

As you know, Africa has vast needs. And promoting access to affordable, reliable, efficient energy infrastructure and resources is actually a major focus of the African Development Bank, which includes projects related to coal, natural gas, and oil. If confirmed, I would vote in favor of projects that are consistent with U.S. policies and laws and are within the African Development Bank's operating guidelines.

You know, what is really interesting is that the administration's policies recognize the unique needs of the poorest countries, including those in African, and, as such, supports the United States to be in favor of coal power generation plant projects, but under certain conditions whereby, you know, those projects promote the most efficient coal technologies and—in the poorest countries without, you know, economically viable alternatives.

So, in essence, you know, the African Development Bank has been long committed to addressing the electricity access needs across African. And a demonstration of that is the Bank's strong collaboration with the United States in the Power Africa Initiative. So, if confirmed, I will continue to support and to promote the strong collaboration between the United States and the African Development Bank, and in the consideration of, you know, reliable, affordable energy infrastructure and services projects to help address the electricity needs across Africa, particularly sub-Saharan Africa.

Senator BARRASSO. Thank you.

Senator Markey.

Senator MARKEY. Thank you, Mr. Chairman, very much.

So, Mr. Egan, can you outline what you do believe are the limits—again, in terms of the use of the Authorization for the Use of Military Force that was passed in 2001, in terms of the President's inherent ability to use it to engage affiliates of ISIS, ISIL, or other groups? I mean, Senator Murphy asked about Boko Haram. Can you envision a situation where that would be something that could be justified as having been authorized under the 2001 authorization?

Mr. EGAN. Thank you, Senator.

I think the limits of the existing 2001 authorization are that it authorizes the use of military force against al-Qaeda, the Taliban, and their associated forces. And I think "associated forces" is an important limitation. It is not enough for a group to declare their affiliation with al-Qaeda in order to be covered by the authorization. They actually have to be, in international law terms, a co-belligerent with al-Qaeda. They—

Senator MARKEY. What is the phrase?

Mr. EGAN. A cobelligerent, sir. So, somebody who, for example, posts on the Internet their agreement with al-Qaeda, that would not, in and of itself, be enough to come within the AUMF. But, there has to be some degree of organizational affiliation between the two groups for the 2001 AUMF to apply.

Senator MARKEY. Okay. Are there any geographical limits?

Mr. EGAN. No, Senator, not in the existing 2001 AUMF.

Senator MARKEY. Yes. So, any group that could meet the test that you laid out, regardless of their geographical proximity to Afghanistan, could, in fact, be covered, in terms of the deployment of U.S. forces.

Mr. EGAN. I think that that is true, Senator, although I think that, if you look at the administration's history of its reliance on the 2001 AUMF, the groups against whom we have used that authority have been fairly limited, although I recognize this committee's and the Congress' questions about our use of the authority against ISIL.

Senator MARKEY. Yes.

So, Ms. Haverkamp, on climate change, I think there is big breakthrough that occurred between this administration and China. And I give you a lot of credit for that. Just a huge moment in history. As you are looking forward to Paris, do you see some additional opportunities to foster cooperation in a way that can advance our goals of reducing the dangerous greenhouse gases that are being sent up into the atmosphere?

Ms. HAVERKAMP. Thank you very much for that question, Senator.

While much of the attention is focused on Paris, and that is a very important forum for making advances on climate change, there are other fora where progress can and needs to be made. One very important one this year is the Montreal Protocol, where there has been significant progress recently on countries agreeing to try to address HFCs, which is a potent greenhouse gas, in that forum. And if I were confirmed, I would want very much to be part of the effort to get agreement by the end of this year, in the Montreal Protocol, on adding HFCs to its mandate and working toward the elimination of them.

Senator MARKEY. Secretary Kerry has done a great job in focusing upon illegal fishing. How do you see your role in furthering that agenda to make sure that we are stamping out illegal fishing around the world?

Ms. HAVERKAMP. Thank you for asking. That is a really important part of the mandate of the State Department and the responsibilities of the Bureau I would hope to lead.

As you know well, something like a billion people around the world depend on the oceans for the protein in their diets. And many, many people depend on the fishing industry for their livelihoods. Illegal, unreported, unregulated fishing is a very big problem. And there is a Presidential task force on that, which the State Department cochairs with NOAA. I would hope very much to be part of the efforts of implementing the work of that task force, which includes ramping up enforcement, educating people, expanding partnerships with other countries, and developing, for the United States, a traceability program.

Along those lines, I know the folks at the State Department are very pleased that this committee gave its advice and consent to the Port State Measures Agreement, which is an important aspect of addressing this problem. And I understand that tomorrow there may even be markup of implementing legislation for that and other fisheries agreements, which I very much consider important progress in addressing these issues. And, if confirmed, I would very much want to make that one of my priorities.

Senator MARKEY. Yes. And, you know, on the question of exportation of American natural gas, there is no question that the more of that that we do is—the harder it is going to be to meet our greenhouse gas objectives in the United States, because it is going to drive up the price of natural gas here and, as a result, make coal much more affordable here in the United States for utilities to be burning. So, it is going to run totally contrary to the goals that we are going to set, going forward. The Energy Information Agency said that there could be a 50-percent rise in the price of natural gas here domestically if we export all the natural gas that the Department of Energy is now approving for its export. So, that is just going to really drive a stake into our ability to be able to meet the promises that we are going to be making.

And sometimes I think we forget that we should also be focusing on exporting of energy efficiency technologies overseas. The Ukraine, for example, is the second least efficient energy-efficient country in the world. Only Uzbekistan is less energy efficient. So, if they just reached Poland's level of efficiency, they would back out all of their imported natural gas. And I think sometimes we do a disservice to these countries by not first focusing upon energy efficiency and promising them the larger projects that ignore the easy gains that they can make if they, in fact, use energy efficiency in a much more expansive way.

So, I thank you, Mr. Chairman, very much.

Senator BARRASSO. Well, thank you very much, Senator Markey.

Ms. Haverkamp, November 30, 2012, you wrote a blog at the Environmental Defense Fund stating, "The agriculture sector, itself, contributes a substantial share of the emissions that cause climate change, often in the form of powerful greenhouse gases like methane and nitrous oxide." In the same blog, you say, "The major emitters' paucity of vision, ambition, and urgency, has brought us to the brink of catastrophe."

How has the American farmers, who you state are responsible for, "a substantial share of the emissions that cause climate change" brought us, as you say, "to the brink of catastrophe"?

Ms. HAVERKAMP. Thank you, Mr. Chairman.

The factors that contribute to climate change are many. But, the land-use sector is a major contributor, especially in developing countries. And that includes deforestation, it includes overuse of fertilizers, it includes, frankly, a fair amount of methane from rice production around the world. So, I think that that is a concern that is a worldwide concern, not just one that would affect American farmers. And when I was at Environmental Defense Fund, one of the things I worked on was addressing deforestation and helping rural farmers in India and Vietnam with finding low-carbon ways to improve their agricultural practices.

Senator BARRASSO. So, from 2011 to 2014, you were director of the International Climate Program at the Environmental Defense Fund. While in that position, you wrote another blog post stating, "One of Doha's notable developments was that, for the first time, the talks broached the subject of compensation from rich countries for the loss and damage incurred by the most vulnerable nations due to climate change." You went on to say, "The sobering reality is that grappling with the dangerous effects of climate change can no longer be put off to some future date. They are already inflicting harm."

So, do you believe U.S. taxpayers owe millions of dollars, if not more, in climate reparations to small developing nations?

Ms. HAVERKAMP. No, Senator, I do not. And the issue of loss and damage in the U.N. climate negotiations is one that does not need to be put in that box. And my understanding, though I am not close to the negotiations currently, is that it is in the adaptation context, in helping countries to adapt to significant effects of climate change that are coming, and some of which are already here.

Senator BARRASSO. But, when you said, "The dangerous effects of climate change can no longer be put off. They are inflicting harm." You blame the agriculture sector, contributing a substantial share of the emissions. So, you talk about rich countries, like the United States, owing money to developing countries, in the form of climate reparations. So, a good—it sounds like you believe American agriculture is partially to blame for climate change. As the poultry growers in Delaware, cotton farmers, Tennessee, cattle ranchers in Wyoming—are they responsible? Do they owe money for the loss and damage that they have, under, you know, your phraseology, "inflicted on developing nations" because of climate change?

Ms. HAVERKAMP. Mr. Chairman, I do not believe that owing reparations is part of what I was talking about. I believe that the agricultural sector can contribute in a very positive way to addressing climate change. And there are many opportunities, frankly, to help agriculture farm more efficiently if they are able to use more targeted fertilizer or, for example, again, with rice, use less water, so that there is less methane produced from the rotting of the submerged vegetation. I think that one reason that climate change is a profound challenge is that there are so many different contributions to the problem, and there are not easy solutions. It is something that requires a lot of effort and contributions from everyone

Senator BARRASSO. Thank you.

Ms. OCCOMY, in your testimony, you committed to being a good steward of U.S. financial contributions to the bank. And we agree. It is critically important U.S. resources are used in a responsible and efficient manner. So, do you believe requiring borrowers—people that come to the bank to borrow money—that they accept higher-cost energy projects, in terms of only being able to borrow for costs for energy projects that are approved by some people that have a specific position, from a climate change standpoint—do you believe requiring borrowers to accept high-cost energy projects is a responsible use of taxpayer dollars when affordable, reliable alternatives are readily available?

Ms. OCCOMY. Thank you, Chairman Barrasso, for that question.

Again, you know, a major focus of the work of the African Development Bank is to promote access to modern, reliable, efficient energy services and infrastructure.

Senator BARRASSO. Even if it is more expensive. I mean, that is the question. Is modern, newer, not been around for thousands of years under the ground, but something built up and—

Ms. OCCOMY. Absolutely. When a project comes before us to review and to consider the U.S.'s determination as to whether to support that project, it is important to look actually at the full lifecycle costs. Sometimes there may be higher costs up front relating to implementing a modern, more efficient form of energy. But, over the lifecycle of the project, it should not be higher. So, I think it is important, not necessary to look just at the upfront investment costs, which seem to be higher, but to look at the full lifecycle costs of the project and to take that into consideration, and also to look at, generally speaking, potential environmental and social costs associated with not implementing a more modern, efficient, reliable source of energy.

So, I think it is important, you know, not just to look solely at perhaps higher costs up front, but to look at the full lifecycle costs of the project, the environmental, social costs, and so forth.

Senator BARRASSO. So, the social cost of carbon, the lifecycle of the project—in my multiple trips to Africa, people wanted affordable—first, they wanted electricity. They wanted electricity. I mean, it is an astonishing thing, as you travel to these areas that just completely go dark at night, due to lack of electricity. They want affordable energy today. And I do not think any of the many, many people I visited in so many communities give any consideration to the lifecycle cost of the project or the social cost of the project. And they believe—and I agree with them—that their lives could be made so much better with available electricity, affordable electricity today.

And I just—so, I think about this, and I think that—you know, should the economic feasibility, the potential to provide maximum access to energy with maximum efficiency, not be the biggest factors when evaluating projects to get electricity that is affordable to those people today? Is that not the thing that could actually help so many people worldwide, in terms of the long-term—you talk about lifecycle—I am talking about their life, that lifecycle of that individual, of that human being, who views the whole thing as their lifecycle, not some investment project lifecycle.

Ms. OCCOMY. Thank you, Chairman.

You know, as I stated earlier, the administration's policies do recognize that there are unique needs for the poorest countries, particularly those in Africa. And taking that into consideration, under certain administration policies, the United States can vote in favor of coal power generation plants if it is—under certain conditions, if the project promotes more efficient coal technologies and there is no other economically viable alternative.

So, I think the criterion really is, you know, looking at all of the alternative approaches to address the energy needs, particularly for the poorest countries, and then to figure out, What is the most economically viable alternative to address that need? So—

But, the United States can support coal projects in consideration of the current policies.

Senator BARRASSO. You know, I just recently learned that the African Development Bank—because you mentioned the word “voting” and how you can vote—and I learned that the bank is actually having elections for the new president, I think, in a couple of weeks. I do not even know how that is structured. Could you kind of run through that for me?

Ms. OCCOMY. Yes. Thank you for raising that point.

I welcome the African Development Bank’s open, transparent, merit-based process for selecting a president. The bank will be selecting a president on May 28 at its annual meeting of eight candidates who have been put forth by their countries. I am not aware of who the United States is supporting of the eight candidates. But, if confirmed, I look forward to working with the newly elected president to implement his or her’s vision for the African Development Bank, going forward.

Senator BARRASSO. So, is it an annual—you said at their annual meeting they are going to do this, of the eight candidates. Is it for a 1-year term, and they are just trying to figure out how—

Ms. OCCOMY. Right. Oh, I am sorry.

Senator BARRASSO [continuing]. How we decide how that—

Ms. OCCOMY. Right.

Senator BARRASSO [continuing]. How we vote for—

Ms. OCCOMY. Right. So, at the annual meeting, the president is elected. And this is after a very deliberative process, where the candidates have put forth their positions at different venues. In fact, they were here at the spring meetings for the World Bank and the IMF, and there was a side meeting where they presented their candidacies and agenda—you know, agendas for those in the international development community. So, in general, it is a very open, you know, transparent, merit-based process.

The—excuse me—the term of the president, I believe, is for 4 years. And that term can be—he can—he or she—

Senator BARRASSO. Right.

Ms. OCCOMY [continuing]. Can be reelected—

Senator BARRASSO. Run for—

Ms. OCCOMY [continuing]. For another term.

Senator BARRASSO. Yes.

Ms. OCCOMY. And so, President Kaberuka, the end of his second term—

Senator BARRASSO. Oh, so—that is right, it is—

Ms. OCCOMY [continuing]. Is coming up.

Senator BARRASSO [continuing]. Open now to—

Ms. OCCOMY. And so, now that is why—

Senator BARRASSO [continuing]. Eight people.

Ms. OCCOMY [continuing]. They are electing a new president.

Senator BARRASSO. Good.

Thank you. Thank you. That helps clarify.

Mr. Sabharwal, a quick question for you. I think Senator Gardner asked you about Greece being able to make the recent 750 million euro payment, almost defaulted. They have another payment due in June. You know, I would ask if you would talk a little bit more about that, what the impact of a default would be, how effec-

tive this International Monetary Fund's program is in Greece, and what is the argument for having the IMF continue to loan more money to Greece, you know, given the situation.

Mr. SABHARWAL. Okay. Thank you for the question, Mr. Chairman. So, there are multiple questions there.

First of all, the significance of putting this policy in place was, of course, the contagion effect that was going to be significantly affecting the eurozone, which, in turn, as one of our major trading partners, going to affect the U.S. economy.

The second point I would make, that, as a percentage of total financing from the institutions, the IMF's share has actually decreased from about 26 percent, when it was put in place, to about 17 percent today. That is because of the different, kind of, repayment terms that there are between the IMF and the other institutions that are part of the package, the ECP and the European Commission.

We are encouraged that the discussions and negotiations are ongoing between the other parties. There was a period when there were no discussions, no constructive dialogue. But, we think that that period has passed. We are looking at meetings taking place later on this week in Latvia on the matter, and we believe that a resolution will be reached that will enable Greece to pay its obligations to the IMF as they come due. The IMF has really never lost money, so it has always been in a position that perhaps some nations have fallen into arrears for a period of time—for instance, Liberia—but they have recovered very successfully. So, we are fully confident that the discussions between the institutions and Greece will be successful.

Senator BARRASSO. Thank you.

Senator Udall, additional questions?

Senator UDALL. I would submit most of my—the rest of my questions for the record and just thank the witnesses, and thank their families for the very supportive role that they play.

Thank you, Mr. Chairman.

Senator BARRASSO. And you make an excellent point there.

We thank each of you for your testimony, your willingness to serve our Nation. It is my hope each of you will be dedicated to advancing American interests all across the globe.

Members of the committee will have an opportunity, until the close of business on Thursday the 21st, to submit questions for the record. We ask you try to respond promptly in writing to the committee in order your nomination to be considered in a timely manner.

Thank you very much. Congratulations, again.

Hearing is adjourned.

[Whereupon, at 4:20 p.m., the hearing was adjourned.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

RESPONSES OF MILEYDI GUILARTE, NOMINATED TO BE U.S. ALTERNATE EXECUTIVE DIRECTOR OF THE INTER-AMERICAN DEVELOPMENT BANK, TO QUESTIONS FROM MEMBERS OF THE COMMITTEE

DIRECTOR-DESIGNATE GUILARTE'S RESPONSES
TO QUESTIONS FROM SENATOR BARRASSO

Question. What are the Inter-American Development Bank's relative strengths compared to the other international financial institutions? In what areas does the Inter-American Development Bank have a comparative advantage?

Answer. As a regional development bank, the Inter-American Development Bank (IDB) has a sole focus on Latin America and the Caribbean, and its breadth and depth of knowledge of the economic, social, and political dynamics of the region and its borrowing member countries is its main relative strength. It has offices in every one of its borrowing member countries to ensure continuous policy dialogue and supervision of its projects. The IDB has developed broad-based sectoral/thematic comparative advantage in infrastructure, particularly energy; citizen security; and social sector development, including conditional cash transfer programs. The IDB also effectively works across countries on regional initiatives, including customs and trade facilitation, and transport and energy infrastructure.

Question. In January 2015, Vice President Biden stated, "An integrated North America, working to promote energy security beyond our borders can be a major asset for the entire hemisphere. And it's profoundly in the self-interest of the United States to see the Caribbean countries succeed as prosperous, secure, energy-independent neighbors."

- ◆ How can the Inter-American Development Bank help support greater regional interconnection of energy markets and infrastructure?

Answer. The IDB has a number of ongoing programs that actively support greater regional interconnection of energy markets and energy infrastructure investment. With significant assistance from the IDB over many years, Central American governments recently succeeded in integrating their electricity markets through an initiative known as the Central American Electrical Interconnection System (SIEPAC). To achieve this success, the IDB, in cooperation with the United States, facilitated a dialogue in 2013 among Central American governments that resulted in a ministerial declaration outlining the governments' commitment to regional energy trade. And in November 2014, the Central American governments supported a Mesoamerican Energy Investment Summit in Guatemala that drew over 500 participants to highlight the investment potential in the region and to celebrate the completion of the SIEPAC transmission line. The IDB has also provided direct financing totaling \$253.5 million and an additional \$25 million in technical assistance to support Central America's energy infrastructure and to facilitate creating the regional energy market.

In addition to Central America, the IDB has been working with Andean countries on the Andean regional electric integration process. The IDB has provided a variety of technical assistance to help in this effort and is the technical secretary of the Andean Electrical Interconnection System (SINEA).

The IDB has done considerable work with the Caribbean to assess the potential of regional energy markets, including how best to develop and use sustainable sources of energy, such as natural gas and renewable energy sources.

Question. What steps is the Inter-American Development Bank currently taking to provide the region with energy security and diversification through natural gas?

Answer. The IDB is committed to financing reliable, low-cost generation in Latin America and the Caribbean. The IDB is helping many clients develop favorable policy and regulatory frameworks for energy access, in addition to support for the private sector to increase the use of efficient technologies.

Now that the SIEPAC is complete, thanks in large part to the efforts of the IDB, Central American economies are looking to introduce natural gas to substitute for heavy fuel and diesel generation in the coming years. To support that effort, the IDB has completed prefeasibility studies for natural gas in power generation in both Central America and the Caribbean, and is supporting analysis of some natural gas projects, including the proposed Mexican natural gas pipeline project with El Salvador, Honduras, and Guatemala.

Question. Do you believe that American liquefied natural gas exports would improve energy diversification in the Western Hemisphere and promote economic growth in the region?

Answer. Natural gas can be a useful part of a country's or region's energy diversification strategy like renewables and energy efficiency. As is the case for any energy infrastructure project, mobilizing the finance required to introduce natural gas into a given country requires open, transparent, and stable investment climates and appropriate legal, policy, and regulatory frameworks.

Question. What specific actions is the U.S. Government taking to work with the Inter-American Development Bank, the World Bank, the Organization of American States and American companies in coordinating efforts on cross-border trade in electricity, regional interconnection, and energy development?

Answer. Working with regional partners, including the IDB, the World Bank, and the Organization of American States (OAS), the United States is supporting the Connecting the Americas 2022 initiative (Connect 2022) under the Energy and Climate Partnership of the Americas (ECPA). The most recent meeting of the ECPA was hosted by the Mexican Government on May 25–26, 2015. Connect 2022 seeks to achieve universal access to electricity and create a business climate that accelerates interconnection and renewable energy. Connect 2022 coordinates technical assistance for regulatory and institutional reform, builds on extensive bilateral and subregional government efforts to connect grids and empower regional energy integration, supports IDB and World Bank power sector programs, and catalyzes private investment to promote greater access to cleaner and low-cost energy.

The administration's Central America strategy, as well as the Northern Triangle's Alliance for Prosperity—for which the IDB serves as Secretariat—also advance Central American energy security by emphasizing energy sector reform and development. In addition, President Obama, in his April 2015 visit to Panama for the Summit of the Americas, launched a new Central American and Caribbean Energy Security Task Force to help these smaller markets promote policies that attract private investment in lower carbon power sources and reduce their dependency on imported oil.

The U.S. Department of Commerce maintains an Office of Business Liaison in the IDB to work with the American business community to identify business opportunities, provide advice and counsel on strategies for approaching those opportunities, and advocate before the IDB and borrowing country governments on behalf of interested American businesses.

The IDB also hosts the Americas Business Dialogue (ABD), which serves as a platform for private sector entities in Latin America and the Caribbean to engage with governments on potential reforms, and which includes efforts to maximize the potential of the region's energy market as one of its four areas of focus.

Question. In 2012, the United States joined leaders of the Western Hemisphere in committing to an initiative called "Connecting the Americas 2022." The initiative aims to achieve universal access to electricity through enhanced electrical interconnection by 2022.

- ♦ What is the status of this initiative and what progress has been made in reaching the initiative's goals?

Answer. Working with regional partners, including the IDB, the World Bank, and the OAS, the United States is supporting the Connecting the Americas 2022 initiative (Connect 2022) under the ECPA. The most recent meeting of the ECPA was hosted by the Mexican Government on May 25–26, 2015. Connect 2022 seeks to achieve universal access to electricity and create a business climate that accelerates interconnection and renewable energy. Connect 2022 coordinates technical assistance for regulatory and institutional reform, builds on extensive bilateral and subregional government efforts to connect grids and empower regional energy integration, supports IDB and World Bank power sector programs, and catalyzes private investment to promote greater access to cleaner and low-cost energy.

Significant progress has been made in Central America, which has been a leader in furthering the Connect 2022 efforts. SIEPAC and the related regional transmission line, completed in September 2014, now connects six Central American countries from Guatemala to Panama and establishes a regional market.

In addition to Central America, the IDB and the United States have been working with Andean countries on the Andean Regional electric integration process. The IDB has provided a variety of technical assistance to help in this effort and is the technical secretary of SINEA.

Question. How is the Connecting the Americas 2022 complementing or adding to the work being done at Inter-American Development Bank?

Answer. The IDB has been a key partner in the Connect 2022 initiative, providing complementary support to the efforts of the United States. With significant assistance from the IDB over many years, Central American governments recently succeeded in integrating their electricity markets through the SIEPAC initiative. To achieve this success, the IDB, in cooperation with the United States, facilitated a dialogue in 2013 among Central American governments that resulted in a ministerial declaration outlining the governments' commitment to regional energy trade. And in November 2014, the Central American governments supported a Mesoamerican Energy Investment Summit in Guatemala that drew over 500 participants to highlight the investment potential in the region and to celebrate the completion of the SIEPAC transmission line. The IDB also has provided direct financing totaling \$253.5 million and an additional \$25 million in technical assistance to support Central America's energy infrastructure and to facilitate creating the regional energy market.

In addition to Central America, the IDB has been working with Andean countries on the Andean Regional electric integration process. The IDB has provided a variety of technical assistance to help in this effort and is the technical secretary of the SINEA.

The IDB has done considerable work with the Caribbean to assess the potential of regional energy markets, including how best to develop and use sustainable sources of energy such as natural gas and renewable energy sources.

Question. What kind of technical assistance and capacity-building programs is the United States providing to support the Connecting the Americas 2022 in Central America, the Caribbean, and the Andean region?

Answer. In collaboration with the IDB, the State Department and USAID are providing policy and technical assistance to improve regional electricity market development and trade in Central America. Additionally, the U.S. and Mexican Governments have been working with Guatemala on plans to pass through Mexican electricity and gas to benefit Central America as a whole.

In Chile and Peru, the State Department is working with utilities to assess inter-connection options in support of connecting the Chilean and Andean electrical grids.

In the Caribbean, the U.S. Trade and Development Agency (USTDA) and the Overseas Private Investment Corporation (OPIC), in coordination with the State Department, USAID, and the Department of Energy, are launching a \$20 million facility to encourage investment in clean energy projects in the region. The facility will provide early-stage funding to catalyze greater private and public sector investment in clean energy projects.

Question. The United States is the largest contributor to the Inter-American Development Bank. Regional developing countries are required to have a controlling majority vote at the Bank. A March 2013 report by the Inter-American Development Bank's Office of Evaluation and Oversight stated that the effectiveness of reforms has been limited. The report found that, "reforms face inherent tensions with the demand-driven orientation of the Bank, and approaches are needed that can help meaningfully identify where Bank capabilities and borrower demand intersect."

Please describe the steps you would take to improve the effectiveness of the reforms.

Answer. If confirmed, I would work closely with IDB Management and fellow Board members to follow up on the implementation of the recommendations from the 2013 Office of Evaluation and Oversight Report to improve and deepen the effectiveness of the reforms undertaken as part of the Ninth General Capital Increase of the IDB. Some examples of those reforms are the recently approved revision of the policy for the Independent Consultation and Investigation Mechanism, the IDB's grievance mechanism for people affected by IDB projects; the update of the IDB's macroeconomic sustainability assessments; the IDB Governors' approval of a reform to consolidate the IDB's private sector activities within one entity; and improvements to IDB's framework for measuring development effectiveness, including enhancing its project completion reports and the guidelines for country strategies. If confirmed, I will encourage the Office of Evaluation and Oversight to continue reporting independently on the status of reforms and seek full implementation of action plans from IDB Management to continue improving the effectiveness of those reforms.

Question. What reforms would be your top priority at the Inter-American Development Bank?

Answer. If confirmed, I would work to ensure that the consolidation of the private sector activities of the IDB is implemented in a way that enhances efficiency and improves development effectiveness. I would promote sound use of financial resources, including through adherence to capital adequacy policies and prudential limits. I would also work to further the IDB's results focus to improve the impact of IDB activities in addressing inequality and bolstering growth in a region that is critical to the national and economic security of the United States. Given the IDB's pivotal role as Secretariat for the Northern Triangle's Alliance for Prosperity, I would also work to ensure that U.S. national interests remain a priority through the administration's Central America strategy.

Question. Do you believe meaningful reforms can take place while borrower countries maintain a majority of the voting power?

Answer. Yes. I believe that a number of meaningful reforms have already taken place at the IDB, particularly in the context of the Ninth General Capital Increase. As the majority owners of the IDB, the borrowing member countries have a strong interest in ensuring that the IDB's resources are deployed effectively and efficiently to address the challenges in the region. If confirmed, I will seek to work with all shareholders, including the borrowing member countries, to further implement and deepen the reform agenda at the IDB.

RESPONSES OF JENNIFER ANN HAVERKAMP, NOMINATED TO BE ASSISTANT SECRETARY OF STATE FOR OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS, TO QUESTIONS FROM MEMBERS OF THE COMMITTEE

ASSISTANT SECRETARY-DESIGNATE HAVERKAMP'S RESPONSES
TO QUESTIONS FROM SENATOR BARRASSO

Question. Are you committed to eliminating duplication and redundancies at the Department of State?

Answer. I strongly support using taxpayer funds in the most effective and efficient manner. In properly managing the Department's programs and resources, it is of fundamental importance to continually look for and implement ways to improve the economy, efficiency, and effectiveness of operations.

Question. In fiscal year 2014, what percentage of the work of the Bureau of Oceans and International Environment and Scientific Affairs involved international climate change? In fiscal year 2014, what percentage of the Bureau's funding was spent on international climate change programs?

Answer. My understanding is that approximately 14 percent of the Bureau's salaries and operating expenses in fiscal year 2014 involved international climate change. Approximately 78 percent of the Bureau's Fiscal Year 2014 Economic Support Fund (ESF) resources were allocated for adaptation, clean energy and sustainable landscapes programs.

Question. Please provide examples of specific projects funded by the Bureau for adaptation, clean energy, and sustainable landscapes in fiscal year 2014. What were the tangible results and impacts of the funding?

Answer. In the case of adaptation, my understanding is that the OES Bureau provides funding for two multilateral specialized adaptation funds, the Least Developed Countries Fund (LDCF) and the Special Climate Change Fund (SCCF), which support hard-won development gains in the face of climate variability and change. Examples include:

- ◆ In Nepal, the LDCF is providing community-based early flood warning to nearly 32,000 vulnerable people and reducing the risk of glacial lake outburst floods through artificial drainage.
- ◆ In Indonesia, the SCCF is strengthening the resilience of 40 rural communities by adjusting subsistence farming practices to be more resilient to variable and extreme climatic conditions and helping communities to improve water resources in the face of projected changes in rainfall patterns.
- ◆ In the Philippines, the SCCF is strengthening the resilience of vulnerable farming communities by stimulating private sector engagement in climate risk reduction, developing Weather Index Based Insurance and financial literacy training for farming households, preparing early warning system plans, and conducting vulnerability adaptation assessments.

In the case of clean energy, my understanding is that, with \$20 million the OES Bureau has provided to the U.S.-Africa Clean Energy Finance Initiative (U.S.-

ACEF), to date, OPIC and USTDA expect to leverage a total of nearly \$2 billion in investment to increase access to clean energy for Africa. The U.S.-ACEF program is designed to help promising clean energy projects develop into viable candidates for financing by providing small amounts of early-stage funding for essential inputs, such as technical and feasibility studies. U.S.-ACEF serves a catalytic role to advance these projects and help attract far larger levels of private sector follow-on investment, which can help to fuel economic growth in the region while providing access to modern clean energy services. For example, in Tanzania, \$600,000 was made available to a U.S. energy developer to help fund a feasibility study which is expected to mobilize \$139 million in capital for a 55-megawatt solar photovoltaic project at the University of Dodoma (UDOM) campus.

In the case of sustainable landscapes, my understanding is that the OES Bureau supports the SilvaCarbon program, a joint effort of eight U.S. Government agencies that enables developing countries to better understand and manage their forests by leveraging U.S. technical expertise on forest and forest carbon mapping and monitoring. This technical capacity provides an essential foundation to enable countries to prioritize their efforts to preserve forests, reducing emissions from deforestation and safeguarding other benefits like biodiversity and water quality. With technical assistance from SilvaCarbon:

- ◆ Ecuador has completed its first national forest inventory;
- ◆ Colombia was able to generate estimates of forest cover change annually for the first time;
- ◆ Gabon has developed a draft national land-use plan; and
- ◆ Peru finalized its first forest dynamics map, which provides essential information needed to estimate forest cover and deforestation rates.

Question. How does the Office of Climate Change in this Bureau interact with the Office of the Special Climate Envoy Todd Stern? In what areas is there overlap in responsibilities and duties?

Answer. My understanding is that the Special Envoy for Climate Change leads the international climate change negotiations for the U.S. Government and oversees policy aspects of international climate activities in the State Department. The Special Envoy has an office focused on high-level meetings, negotiations, and policy-making.

OES's Office of Global Change handles a large portfolio of issues. In relation to the international climate change negotiations, the office provides staff-level support for the Special Envoy and Deputy Special Envoys. Its officers serve as working-level negotiators, and the office provides staff support for high-level diplomatic meetings to advance U.S. objectives. These distinct roles are complementary and I understand that there is no duplication in duties between these offices, which work closely together.

Question. Please describe the current staffing, resources, and responsibilities of the Office of Climate Change. In addition, please describe when the Office was created and under what statutory authority.

Answer. At the present time, the Office of Global Change in the OES Bureau has 18 permanent, full-time direct hire staff. It also has nonpermanent positions, including six fellows and temporary staff, and five contractors. The Office of Global Change provides staff-level support and technical expertise for the Special Envoy and Deputy Special Envoys in international negotiations related to climate change, supports several international climate change initiatives, and oversees implementation of OES programs related to climate change. The office has expertise on issues such as climate change mitigation, adaptation, sustainable landscapes, finance, science, and technology, as well as on management of programs. The Office of Global Change was established in 1989 pursuant to constitutional and statutory authorities regarding management of the day-to-day conduct of U.S. foreign relations.

Question. Please describe the current staffing, resources, and responsibilities of the Office of the Special Climate Envoy. In addition, please describe when the Office was created and under what statutory authority.

Answer. The Special Envoy for Climate Change serves as the chief U.S. negotiator under the United Nations Framework Convention on Climate Change (UNFCCC), which was ratified by the United States on October 15, 1992. In this role, he helps develop the administration's international policy on climate, and represents the United States internationally at the ministerial-level in all bilateral and multilateral negotiations regarding climate change. Todd Stern was appointed on January 26, 2009.

The Special Envoy's office was established under the constitutional and statutory authorities regarding management of the day-to-day conduct of U.S. foreign relations. The Special Envoy for Climate Change and his immediate office were established to provide greater senior level focus to ensure that the interests of the United States are adequately protected, given the complex and high-level nature of the international climate discussions.

The Special Envoy's office coordinates the deployment of federal expertise and resources in the UNFCCC negotiating process, helping to ensure the best possible outcomes for the range of U.S. stakeholders. In addition to the Special Envoy, the office currently has seven full-time staff and three contractors.

Question. The United States is currently participating in international climate negotiations with the goal of reaching an agreement by the end of the year.

- ◆ What form of an international agreement is the United States advocating for at the international climate change negotiations?
- ◆ Will the agreement be legally binding on the United States and other countries, including funding commitments for any provision contained within the agreement?
- ◆ What kinds of agreements or commitments currently under negotiation would require congressional action, such as the advice and consent of the Senate, and what might not? Please explain your reasoning.

Answer. A 2011 decision of the Parties to the United Nations Framework Convention on Climate Change, adopted in Durban, South Africa, launched a process to develop a "protocol, another legal instrument, or an agreed outcome with legal force under the Convention applicable to all Parties. . . ."

The Durban decision makes clear that the purpose of a future Paris agreement is to further the objective of the Convention (i.e., to avoid dangerous anthropogenic interference with the climate), yet leaves the Parties with substantial flexibility regarding its form and the legal nature of its provisions.

It is my understanding that at this stage, the international discussions are more focused on the substance of the agreement than on issues related to its form, such as whether it should be a protocol or whether particular provisions should be legally binding. The administration has indicated that the United States seeks an agreement that is ambitious in light of the climate challenge; that reflects nationally determined mitigation efforts in line with national circumstances and capabilities; that provides for accountability with respect to such efforts; that takes account of evolving emissions and economic trends; and that promotes adaptation by parties to climate impacts.

- ◆ Can the administration enter into a politically binding international agreement without congressional approval?

Answer. I understand the term "politically binding" in your question to refer to arrangements that do not give rise to legal obligations under U.S. or international law. It is my understanding that such nonbinding arrangements have been utilized by Presidents of both parties throughout our history to address a range of diplomatic and national security matters and do not require congressional approval.

- ◆ What state, local governing entity or community would not be subject to a politically binding treaty?

Answer. I understand the term "politically binding" in your question to refer to arrangements that do not give rise to legal obligations under U.S. or international law. Accordingly, any such nonbinding arrangements would create no legal obligations for any state, local governing entity, or community.

- ◆ How does the administration plan to legally commit to the President's November 2014 pledge to cut U.S. greenhouse gas emission to 26–28 percent below 2005 levels by 2025?

Answer. I understand that the administration does not intend to legally commit the United States to the 26–28 percent target. Moreover, I understand that the administration favors an approach to the Paris agreement under which emissions targets are not legally binding.

- ◆ Please describe any existing statutory authorities the administration may expect to rely on to implement the Intended Nationally Determined Contribution (INDC.) Does the administration believe it has the full statutory authority to implement its recently announced INDC now or will the administration need Congress to provide additional authorities?

Answer. I understand that the administration carefully evaluated available statutory authorities in the development of the INDC. My understanding is that several

U.S. laws, as well as existing and proposed regulations thereunder, are relevant to the implementation of the U.S. target, including the Clean Air Act (42 U.S.C. § 7401 et seq.), the Energy Policy Act (42 U.S.C. § 13201 et seq.), and the Energy Independence and Security Act (42 U.S.C. § 17001 et seq.). Since 2009, the United States has completed the following regulatory actions:

Under the Clean Air Act, the United States Department of Transportation and the United States Environmental Protection Agency adopted fuel economy standards for light-duty vehicles for model years 2012–2025 and for heavy-duty vehicles for model years 2014–2018.

Under the Energy Policy Act and the Energy Independence and Security Act, the United States Department of Energy has finalized multiple measures addressing buildings sector emissions including energy conservation standards for 29 categories of appliances and equipment as well as a building code determination for commercial buildings.

Under the Clean Air Act, the United States Environmental Protection Agency has approved the use of specific alternatives to high-global warming potential hydrofluorocarbons (high-GWP HFCs) in certain applications through the Significant New Alternatives Policy program.

At this time:

Under the Clean Air Act, the United States Environmental Protection Agency is moving to finalize by summer 2015 regulations to cut carbon pollution from new and existing power plants.

Under the Clean Air Act, the United States Department of Transportation and the United States Environmental Protection Agency are moving to promulgate post-2018 fuel economy standards for heavy-duty vehicles.

Under the Clean Air Act, the United States Environmental Protection Agency is developing standards to address methane emissions from landfills and the oil and gas sector.

Under the Clean Air Act, the United States Environmental Protection Agency is moving to reduce the use and emissions of high-GWP HFCs through the Significant New Alternatives Policy program.

Under the Energy Policy Act and the Energy Independence and Security Act, the United States Department of Energy is continuing to reduce buildings sector emissions including by promulgating energy conservation standards for a broad range of appliances and equipment, as well as a building code determination for residential buildings.

♦ What was the process the administration used for determining the U.S. commitment? What consultations and inputs from Congress and the American public did the administration seek when working to establish the U.S. commitment?

Answer. I understand that the administration undertook an extensive, rigorous interagency process to identify and assess potential emission reductions that are both achievable and cost effective. This process examined options to reduce emissions of all greenhouse gases in every economic sector through existing statutory and executive authorities and voluntary programs.

It is my understanding that agencies responsible for implementing these existing statutory and executive authorities and voluntary programs have had wide ranging discussions with stakeholders from the public, private and nonprofit sector, including formal and informal consultations with Congress.

♦ What role does the Bureau of Oceans and International Environment and Scientific Affairs have in the international climate change negotiations?

Answer. The Office of Global Change in the Bureau of Oceans and International Environmental and Scientific Affairs handles a large portfolio of issues. In relation to the international climate change negotiations, the office provides staff-level support and technical expertise for the Special Envoy and support for high-level diplomatic meetings to advance U.S. objectives, and its staff serve as working-level negotiators.

♦ What role will you play in the negotiations? What specific advice, analysis, information, and support is the Office of Climate providing for the international climate negotiations?

Answer. It is my understanding that over the past 14 years, under this administration and the Bush administration, the OES Assistant Secretary did not play a direct, formal role in the international climate change negotiations.

The Office of Global Change in the OES Bureau provides staff-level support and technical expertise for the Special Envoy and Deputy Special Envoy in the negotiations. That includes expertise on issues such as climate change mitigation, adaptation, sustainable landscapes, finance, science, and technology, as well as program

management and support for high-level diplomatic meetings. Office staff also serve as working-level negotiators.

Question. In November 2014, President Obama announced a pledge of \$3 billion to create a brand new Global Climate Fund. His fiscal year 2016 budget request asks for \$500 million to start funding that pledge.

- ◆ What was the process the administration used for determining the appropriate commitment to the Global Climate Fund? What consultations did the administration have with Congress on this commitment?

Answer. It is my understanding that the administration undertook an interagency discussion among staff of the Department of Treasury, Department of State, Office of Management and Budget and the National Security Council to determine what the U.S. pledge should be as a good base of funding in the Green Climate Fund's initial few years. The key reference point was the Bush administration's \$2 billion pledge to the Climate Investment Funds (CIFs), which that administration had planned to provide over a 3-year period. In light of a legislative requirement related to a multiyear pledge, I understand that the administration consulted with relevant House and Senate staff 10 days before the GCF pledge was announced, and then met with staff on multiple other occasions during those 10 days.

- ◆ What impact evaluations have been completed on the previous \$2 billion in U.S. funding for international climate change already provided to the Climate Investment Funds?

Answer. My understanding is that an independent evaluation of the Climate Investment Funds (CIFs), carried out by the independent evaluation departments of the multilateral development banks, was released in June 2014 and is available at <http://www.cifevaluation.org>. Because of the early stage of most CIF investments (many of which are of very long duration), the evaluation focused more on institutional issues such as the process for developing country investment plans. Further CIF project-level evaluations will be conducted in the future. Each multilateral development bank that participates in the CIFs is including CIF programs or projects into their evaluation work program. Funding is being set aside in the CIF budget to support impact evaluations and other evaluation tools.

- ◆ When will the Climate Investment Funds be closed down? What will happen to the funding that remains or comes back into the fund?

Answer. My understanding is that the Trust Fund Committees of the Climate Investment Funds will make a decision in the future about the sunset of the CIFs, and when not to accept new contributions into the Funds. Then, once all contributions have been committed to projects, no new projects will be approved. Because the Climate Investment Funds are intended to sunset, my understanding is that financial reflows will probably not be used to finance future projects.

- ◆ Why is it responsible for the administration to recommend closing down the current Climate Investment Funds and creating a larger brand new Global Climate Fund if no evaluations have been done on the impact and results of U.S. funding to the current international climate change programs?

Answer. My understanding is that the administration supports having a robust evaluation program for the CIFs in order to inform future programs at the Green Climate Fund and elsewhere. An independent evaluation of the CIFs was released in June 2014 and is available at <http://www.cifevaluation.org>. Because of the early stage of most CIF investments (many of which are of very long duration), this evaluation focused more on institutional issues such as the process for developing country investment plans. We expect that further CIF project-level evaluations will be conducted in the future.

RESPONSES OF MARCIA DENISE OCCOMY, NOMINATED TO BE U.S. DIRECTOR OF THE AFRICAN DEVELOPMENT BANK, TO QUESTIONS FROM MEMBERS OF THE COMMITTEE

DIRECTOR-DESIGNATE OCCOMY'S RESPONSES
TO QUESTIONS FROM SENATOR BARRASSO

Question. Do you believe the African Development Bank should equally support all types of energy resources in order to provide sub-Saharan Africa with the electricity it needs to grow their way out of poverty?

Answer. Facilitating energy access and energy security for the people of Africa is a priority for the African Development Bank and the United States. I understand that energy access is essential to promoting the growth of African economies. If con-

confirmed, I will be committed to promoting energy access through an appropriate mix of energy resources consistent with U.S. laws and policies and the African Development Bank's own operating guidelines and policies.

Question. When reviewing projects at the African Development Bank, what criterion is used in determining whether the United States will support the project?

Answer. In reviewing projects at the African Development Bank (AfDB), the United States takes into account a range of different factors to determine whether or not to support a specific project. These factors include the degree to which the project will support a country's efforts to reduce poverty, whether the project is well-designed and mitigates foreseeable risks, whether the project is as sustainable (financially and economically) as possible, and whether the project meets both the AfDB's policies and U.S. legislative provisions.

Question. Do you believe economic feasibility and the potential to provide maximum access to energy with maximum efficiency must be the biggest factors when evaluating projects?

Answer. Economic feasibility and the degree to which a project increases energy access are important, but not the only factors in evaluating energy projects. The design of effective energy projects will also take into account other factors, such as improving the long-term financial sustainability of the country's energy sector; reducing the potential for corruption in the project; and mitigating the environmental, health, and social impacts of the project.

Question. Coal provides a low cost and reliable energy source which is important to countries looking for assistance in poverty alleviation and economic development. Do you agree with this statement? If not, why not?

Answer. The U.S. Government is committed to providing energy access and energy security to people around the globe as an important element of economic development. In the poorest countries, where energy needs are often the greatest, I understand that the President's Climate Action Plan allows for support for new coal power-generation projects under certain conditions that focus on promoting the most efficient coal technologies and where no other economically viable alternative exists. In wealthier countries, the U.S. may support new coal-fired power projects that deploy carbon capture and sequestration (CCS) technologies.

Question. Please list and provide information on all the countries in the African Development Bank that have oil, natural gas, and coal resources.

Answer. According to the latest data available from the Energy Information Agency at the Department of Energy, the African Development Bank's regional member countries with the largest reserves of oil are Libya, Nigeria, Algeria, and Angola. The largest proved reserves of natural gas are in Nigeria, Algeria, Mozambique, Egypt, Libya, and Angola. The largest recoverable reserves of coal are in South Africa, Zimbabwe, Mozambique, Tanzania, and Nigeria. Complete data for all countries with any proven reserves are below [Figure 1.] .

Question. What proportion of procurement contracts at the African Development Bank and the African Development Fund is awarded to U.S. businesses? What proportion of these contracts is awarded to Chinese businesses? What specific steps would you advocate for at the African Development Bank and the African Development Fund to increase the percentage of contracts awarded to U.S. companies?

Answer. In 2014, U.S. businesses received 0.54 percent of all procurement contracts by number and 0.26 percent of procurement contracts by value. Chinese business received 1.94 percent of contracts by number and 24.28 percent by value. If confirmed, I will advocate for maintaining transparent and competitive procurement practices and an increased focus on a value-for-money approach that considers costs over the full life cycle of projects rather than merely the lowest priced bid. U.S. firms are typically better positioned when such a value-for-money approach is taken. I understand that the African Development Bank is currently reviewing its procurement policies, which provides an opportunity to encourage a better focus on value-for-money approach to be reflected in the African Development Bank's updated procurement policies.

Oil, Proved Reserves		Natural Gas, Proved Reserves	
Country	Billions of Barrels of Proved Reserves	Country	Trillions of Cubic Feet of Proved Reserves
Libya	48.0	Nigeria	180.0
Nigeria	37.0	Algeria	159.0
Algeria	12.0	Mozambique	100.0
Angola	9.0	Egypt	77.0
Sudan and South Sudan	5.0	Libya	53.0
Egypt	4.4	Angola	9.7
Uganda	2.5	Cameroon	4.8
Gabon	2.0	Congo (Brazzaville)	3.2
Congo (Brazzaville)	1.6	Sudan and South Sudan	3.0
Chad	1.5	Tunisia	2.3
Equatorial Guinea	1.1	Namibia	2.2
Ghana	0.7	Rwanda	2.0
Tunisia	0.4	Equatorial Guinea	1.3
Cameroon	0.2	Cote d'Ivoire (Ivory Coast)	1.0
Congo (Kinshasa)	0.2	Gabon	1.0
Niger	0.2	Mauritania	1.0
Ivory Coast	0.1	Ethiopia	0.9
		Ghana	0.8
		Uganda	0.5
		Niger	0.2
		Somalia	0.2

Coal, Recoverable Reserves	
Country	Millions of Short Tons of Recoverable Coal
South Africa	33241.0
Zimbabwe	553.0
Mozambique	234.0
Tanzania	220.0
Nigeria	209.0
Swaziland	159.0
Morocco	134.0
Congo (Kinshasa)	97.0
Niger	77.0
Algeria	65.0
Botswana	44.0
Egypt	28.0
Zambia	11.0
Central African Republic	3.3
Malawi	2.2

Figure 1.

Question. What do you believe is an appropriate role for China to play at the African Development Bank and African Development Fund?

Answer. China is a nonregional shareholder of the African Development Bank and a donor to the African Development Fund. China should continue to engage constructively with other AfDB shareholders and AfDB Management to support Africa's development. As China's income and role in the global economy grows, it should support the poorest countries by contributing more to the concessional window, the African Development Fund.

Question. What is your view of China's recently launched Asian Infrastructure Investment Bank and the Chinese investment efforts in Africa? How will these efforts complement or duplicate efforts at the African Development Bank?

Answer. It is widely acknowledged that there is a pressing need to enhance infrastructure investment in Africa and around the world. China can provide an important contribution to Africa's development through its infrastructure investments, provided they maintain high-quality standards and operate within strong safeguards including established fiduciary, economic, and social safeguards. I believe that any new multilateral financial institution should share the international community's strong commitment to the high-quality standards of the existing multilateral development banks, including the African Development Bank. My understanding is that the AIIB intends to focus exclusively in Asia. However, if confirmed, I would encourage the African Development Bank to seek to ensure that any institution providing financing in Africa maintains these high-quality standards and operational safeguards.

Question. Please describe the planned \$2 billion African Development Bank—People's Bank of China African Common Growth Fund and the U.S. view of this initiative. Is the United States considering a similar arrangement for the administration's Power Africa Initiative?

Answer. China created and will contribute \$2 billion, over 10 years, to the Africa Growing Together Fund (AGTF) that will be housed at the AfDB. The AGTF will cofinance projects eligible for AfDB financing using a variety of funding modalities. The United States welcomes the additional financing that China will be making available to support Africa's development through the AGTF, especially as all projects financed from the AGTF must use the AfDB's standards, including those related to environmental and social safeguards and procurement rules.

While the United States has not considered a designated funding mechanism for its Power Africa partnership with the AfDB, the AfDB itself has pledged \$3 billion of its own funds toward reaching the goals set by Power Africa. Power Africa is working closely with the AfDB to identify priority Power Africa transactions and allocate resources accordingly. In addition, both the AfDB and Power Africa have seconded staff members to the other's organization to enhance coordination. Power Africa has also provided \$3 million to the African Legal Support Facility, an AfDB initiative that strengthens African countries' legal expertise and negotiating capacity in debt management and litigation, natural resources and extractive industries management and contracting, investment agreements, and related commercial and business transactions.

Question. The African Development Bank President Kaberuka recommended combining the African Development Bank and the African Development Fund lending windows into a single facility.

- ◆ Do you support this proposal? Did the 13th replenishment of the African Development Fund replenishment negotiations address this matter? What are the benefits and risks of providing market-rate and concessional assistance through the same facility?

Answer. I understand that while President Kaberuka expressed interest in this idea, AfDB Management has not actively proposed it during the negotiations on the 13th replenishment of the African Development Fund (AfDF) or since. The United States welcomes ideas from the multilateral development banks on how they can use innovative financial options to expand their lending capacity without additional resources from shareholders, and I understand that Asian Development Bank shareholders unanimously approved a similar proposal recently. I also understand that this approach would be more difficult for the AfDB due to the status of the AfDB and the AfDF as separate legal entities. The main benefit of such an approach is that the equity built up in the concessional window can be leveraged to create additional concessional and nonconcessional lending capacity. Risks include the need to ensure that the extra resources generated continue to benefit poorer countries and

the need to maintain an appropriate level of concessionality in lending to these countries.

Question. The elections for a new President of the African Development Bank is taking place on May 28, 2015.

♦ Who is currently running for President of the African Development Bank and what are the main priorities of each of the candidates?

Answer. Dr. Akinwumi Adesina, the Minister of Agriculture from Nigeria, was elected as the next President of the AfDB on May 28, 2015. The other candidates were:

Jaloul Ayed, former Minister of Finance, Tunisia;
Sufian Ahmed Beker, Minister of Finance, Ethiopia;
Kordje Bedoumra, Minister of Finance, Chad;
Cristina Duarte, Minister of Finance, Cabo Verde;
Samura Kamara, Minister of Foreign Affairs, Sierra Leone;
Thomas Zondo Sakala, former Vice President of the AfDB, Zimbabwe; and
Birama Sidibe, Vice President of the Islamic Development Bank, Mali.

Each candidate's vision statement is available at www.afdb.org/en/news-and-events/article/eight-candidates-in-the-running-for-the-next-afdb-presidency-submit-their-vision-for-the-bank-and-africa-14111/. All of the candidates prioritized building on the legacy of President Donald Kaberuka, supporting the private sector in Africa, reducing Africa's infrastructure deficit, enhancing inclusive growth and creating jobs for youth and women, building the capacity of fragile and conflict-affected states, and attracting the staff that the AfDB needs to play a leading role in these areas.

Question. What criterion does the United States use when deciding who to vote for as President of the Bank? What is your evaluation of these candidates?

Answer. The United States seeks candidates with a strong vision for supporting private sector-led growth and poverty reduction in Africa, a sound understanding of the AfDB's comparative advantages, a clear agenda for implementing the institutional reforms needed to make the AfDB more effective and to attract and retain high-quality managers and staff, and the ability to represent the AfDB as a leading development institution in Africa and globally. I welcome that there were several qualified candidates contesting the election.

Question. Which of the candidates is the United States supporting at the May 28, 2015 election?

Answer. The United States welcomed that there were several well-qualified candidates that contested the election. I was not involved in the voting process for the United States. If confirmed, I look forward to working with Dr. Adesina to continue strengthening the AfDB so that it remains a leading contributor to Africa's development and a key partner for U.S. development efforts.

RESPONSES OF BRIAN JAMES EGAN, NOMINATED TO BE LEGAL ADVISER TO THE
DEPARTMENT OF STATE, TO QUESTIONS FROM MEMBERS OF THE COMMITTEE

BRIAN EGAN'S RESPONSES TO
QUESTIONS FROM SENATOR CORKER

Question. Congress has long understood that the 2001 AUMF covered: (1) al-Qaeda; and (2) "associated forces" of al-Qaeda. Please describe the administration's legal view of why it is that ISIS is covered by the 2001 AUMF.

Answer. The 2001 AUMF authorizes the use of force against al-Qaeda, the Taliban, and associated forces. Based on ISIL's long-standing relationship with al-Qaeda and Osama bin Laden; its long history of conducting, and continued desire to conduct, attacks against U.S. persons and interests; the extensive history of U.S. combat operations against ISIL dating back to the time the group first affiliated with al-Qaeda in 2004 and was known as al-Qaeda in Iraq; and ISIL's position—supported by some individual members and factions of al-Qaeda-aligned groups—that it is the true inheritor of Osama bin Laden's legacy, the administration has concluded that the President may rely on the 2001 AUMF as statutory authority for the use of force against ISIL, notwithstanding the public split between al-Qaeda's senior leadership and ISIL. A contrary interpretation of the statute would allow al-Qaeda and its cobelligerents, rather than the President and the Congress, to control the scope of the AUMF by splintering into rival factions while still continuing to prosecute the same conflict against the United States.

Question. Does the administration currently have statutory or article II authority to defend U.S.- or coalition-trained forces in Iraq and Syria if those forces come under direct threat from ISIS, al-Nusra, Assad regime forces, Hezbollah, or any other armed groups?

Answer. The administration's position is that the 2001 AUMF would provide authority to conduct military operations in defense of U.S.- or coalition-trained forces against ISIL, the Nusrah Front, and other groups who are either part of or associated forces of al-Qaeda, in the same manner as it does for ongoing U.S. operations against those groups. The administration also believes that the 2002 Iraq AUMF would provide legal authority for military operations in some circumstances against ISIL in defense of U.S.- or coalition-trained forces in Syria.

The question whether the 2001 AUMF, the 2002 AUMF, or the President's article II authority would provide legal authority to defend those forces against Assad regime forces or other armed groups would be more difficult.

The 2001 AUMF authorizes the President to use "all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons." To be an "associated force" of al-Qaeda a group must be both (1) an organized, armed group that has entered the fight alongside al-Qaeda, and (2) a co-belligerent with al-Qaeda in hostilities against the United States or its coalition partners. The determination that a particular group is an associated force is made at the most senior levels of the U.S. Government, following reviews by senior government lawyers and informed by departments and agencies with relevant expertise and institutional roles, including all-source intelligence from the U.S. intelligence community.

The 2002 AUMF authorizes the President to "use the Armed Force of the United States as he determines to be necessary and appropriate in order to—(1) defend the national security of the United States against the continuing threat posed by Iraq; and (2) enforce all relevant United Nations Security Council resolutions regarding Iraq." Although the threat posed by Saddam Hussein's regime in Iraq was the focus of the 2002 AUMF, the statute, in accordance with its express goals, has always been understood to authorize the use of force for additional purposes. Those purposes include helping to establish a stable, democratic Iraq to succeed Saddam Hussein's regime and addressing terrorist threats emanating from Iraq. At a minimum, to the extent that military operations against ISIL in Syria are necessary in order to achieve these purposes, they are authorized by the 2002 AUMF.

The President has authority under the Constitution to use force not amounting to "war" in the constitutional sense, where he reasonably determines that such force serves a sufficiently important national interest, at least insofar as the Congress has not specifically restricted it by statute. Whether the use of military force constitutes a "war" within the meaning of the Declaration of War Clause would, as described in previous opinions from the Justice Department's Office of Legal Counsel, involve the need for a fact-specific assessment of the anticipated nature, scope, and duration of the planned military operations and of the exposure of U.S. military personnel to significant risk over a substantial period.

As a policy matter, the nature and extent of the support that the United States is prepared to provide to U.S.-trained Syrian forces is critically important and under active consideration, but as of this point has not been decided. If confirmed as Legal Adviser, I would look forward to working closely with this committee to explain the legal issues related to any decision that is made.

Question. With U.S. forces on the ground in Iraq and conducting activities in both Iraq and Syria, what authority to protect and defend those forces, if any, is currently available under the 2001 or 2002 AUMFs, and is there something additional you gain under the 2002 AUMF but not the 2001 AUMF?

Answer. The administration's position is that the 2001 AUMF and, at least in some circumstances, the 2002 AUMF provide legal authority for the ongoing U.S. military operations in Iraq and Syria, including the authority to use military force in defense of U.S. forces.

The 2001 AUMF authorizes the President to use "all necessary and appropriate force against those nations, organizations, or persons" he determines were responsible for the 9/11 attacks, and it is not limited to a specific country or geographic region. This authorization clearly covers Usama bin Laden and al-Qaeda, and Congress and the federal courts have confirmed the Executive branch's view that the AUMF also authorizes the use of force against associated forces of al-Qaeda, each of which must be both (1) an organized, armed group that has entered the fight

alongside al-Qaeda, and (2) a cobelligerent with al-Qaeda in hostilities against the United States or its coalition partners.

The 2001 AUMF authorized the use of force against ISIL beginning in at least 2004, when ISIL, then known as al-Qaeda in Iraq, pledged its allegiance to Bin Laden. Bin Laden then publicly endorsed the group as al-Qaeda's official affiliate in Iraq. After its formal affiliation with al-Qaeda, the group conducted numerous terrorist attacks against the United States and its coalition partners, and in response, the United States engaged in extensive combat operations against it.

The 2002 Iraq AUMF provides an alternative source of legal authority for U.S. military operations against ISIL in Iraq and, at least in some circumstances, in Syria. Among other things, the 2002 AUMF authorizes the use of force to "defend the national security of the United States against the continuing threat posed by Iraq," including in defense of U.S. forces.

The President has made clear that he would welcome bipartisan congressional action on a new, limited authorization for the use of military force that would specifically address the threat posed by ISIL. The President's AUMF proposal, among other things, would repeal the 2002 AUMF because the President believes the authority he would have under his proposal and the 2001 AUMF would be sufficient to conduct the operations that are ongoing in Iraq and Syria, including any operations to protect and defend the U.S. Forces who are part of those operations.

Question. The administration believes it has authority under the 2001 AUMF to use "all necessary and appropriate force" against ISIS. Does the administration have article II authority, on its own, to conduct the military activities we are currently engaged in against ISIS, or is congressional authorization necessary?

Answer. The administration has concluded that the 2001 AUMF provides legal authority to use military force against ISIL in Iraq and Syria. The administration has also concluded that the 2002 Iraq AUMF provides legal authority for military operations against ISIL in Iraq and, in at least some circumstances, against ISIL in Syria. The military activities against ISIL in which the United States is currently engaged in Iraq and Syria are being conducted pursuant to those statutory authorities. Because of its conclusion that the 2001 and 2002 AUMFs provide the necessary legal authority for the President, the administration has not developed a legal position on the question posed; namely, whether the President could rely on article II authority alone to continue to conduct the ongoing military activities we are currently engaged in against ISIL.

The Constitution recognizes important roles for both the President and the Congress in relation to the use of military force by the United States. As the administration has previously indicated to this committee, the President has authority under the Constitution to use force not amounting to "war" in the constitutional sense where he reasonably determines that such force serves a sufficiently important national interest, at least insofar as the Congress has not specifically restricted it by statute. Any analysis of the President's constitutional authorities to conduct these same operations in the absence of the AUMFs would therefore require a fact-specific assessment of the national interests served by these operations and their anticipated nature, scope, and duration, among other factors.

The administration has been clear in describing the critical national interests that are served by our ongoing efforts to degrade and ultimately defeat ISIL in Iraq and Syria. At the same time, this and previous administrations have recognized the congressional interest, including as reflected in the War Powers Resolution, in providing express congressional authorization for the use of force by the U.S. military in major, prolonged conflicts such as the wars in Vietnam and Korea.

Regardless, the President has made clear that he believes that it is important that decisions to send members of our military into harm's way enjoy the support of Congress and the American people. This is the reason that the President has submitted the proposed ISIL AUMF to the Congress. I share that view, and, if confirmed, I would use my voice within the administration to support robust consultation with Congress on such matters, and to ensure that deliberations and consultations with Congress are fully informed by the important constitutional responsibilities of both branches of government in this area.

BRIAN EGAN'S RESPONSE TO A
QUESTION FROM SENATOR CARDIN

Question. Given the foreign policy objectives of the section 1504 rule, please discuss how you intend to engage with the SEC to ensure that they issue a strong rule that serves U.S. foreign policy goals.

Answer. Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act requires reporting issuers engaged in the commercial development of oil, natural gas, or minerals to disclose in an annual report certain payments to the United States or foreign governments for the commercial development of oil, natural gas, or minerals. Section 1504 advances U.S. foreign policy interests by ensuring transparency and reducing corruption in the extractives sector, supporting international initiatives related to extractive industry transparency, and more broadly, promoting energy security and supporting global economic development.

If confirmed as Legal Adviser, I will work with the State Department's policy bureaus to ensure that the SEC is appropriately aware of these foreign policy interests so that they may be given due regard in the rulemaking process.

BRIAN EGAN'S RESPONSES TO
QUESTIONS FROM SENATOR BARRASSO

Question #1. Do you believe a resolution adopted by the U.N. Security Council can preempt U.S. law?

Answer. No. U.N. member states are required under international law to accept and carry out decisions of the Security Council in accordance with the Charter of the United Nations. This does not, however, preempt the obligation to comply with applicable provisions of U.S. domestic law. When deciding whether to support or oppose proposed Security Council resolutions, the Department of State, working with other departments and agencies, carefully considers whether actions that would be required under the resolutions would be consistent with U.S. law. The United States has the right, under Article 27 of the U.N. Charter, to veto resolutions that would impose requirements that would be inconsistent with U.S. domestic law and thereby prevent their adoption.

Question #2. Could the executive branch use a U.N. Security Council resolution to justify action that U.S. law would otherwise not allow?

Answer. No. The executive branch cannot take actions that it is prohibited from taking under U.S. law. Thus, the fact that a U.N. Security Council resolution authorizes a particular action will not enable the executive branch to carry it out if the action is impermissible under U.S. law.

Question #3. If the U.N. Security Council adopted a resolution requiring countries to lift sanctions on Iran, would the U.S. be obligated to comply?

Answer. In the case of Iran, the Security Council adopted a series of resolutions beginning in 2006 requiring U.N. member states to impose certain sanctions on Iran. When the Security Council makes a decision requiring U.N. member states to impose sanctions, U.N. member states are required under international law to accept and carry out that decision in accordance with the Charter of the United Nations. A Security Council decision to lift these requirements would relieve U.N. member states of their international legal obligation to maintain the sanctions on Iran that were the subject of the Security Council resolutions, but would not prevent the United States or other U.N. member states from continuing to impose sanctions on a national basis under their domestic law. In any event, as explained in response to Question #1, the United States has the right, under Article 27 of the U.N. Charter, to veto resolutions that would impose requirements that would be inconsistent with U.S. domestic law and thereby prevent their adoption.

Question #4. What types of agreements are constitutionally required to take the form of a treaty and must be submitted to the Senate for advice and consent to ratification?

Answer. The Constitution's text does not specify particular types of agreements that must take the form of a treaty. As a matter of practice, the United States has entered into a variety of agreements approved by statute rather than through the procedures specified in the Constitution's Treaty Clause. These include the United Nations Headquarters Agreement; agreements establishing the World Bank, the International Monetary Fund, and other international financial institutions; the agreement establishing the International Labor Organization; the SALT I Interim Agreement; and trade agreements including NAFTA and the agreement establishing the World Trade Organization. This practice suggests that the executive branch, Senate, and House of Representatives together have understood themselves to have significant latitude to use regular legislative procedures as an alternative to the procedures specified in the Treaty Clause for the approval of international agreements when collectively they deem it appropriate to do so.

If confirmed, I would welcome the opportunity to work with this committee on issues related to the approval of treaties and other forms of international agreements. Administrations of both political parties have a history of working with the Congress to identify international agreements that would be subject to the Constitution's Treaty Clause and agreements that could be concluded with other forms of congressional approval or as a sole executive agreement.

Questions #5 & #6. Is the President only able to enter sole Executive agreements concerning matters under his exclusive constitutional authority, or may these agreements also concern matters over which authority is shared with Congress?

What domestic or international legal effect do "sole executive agreements" have when there is a conflicting federal statute?

Answer. In analyzing the scope of the President's authority with respect to international agreements, the Supreme Court has referred to the framework outlined in Justice Jackson's concurrence in *Youngstown Sheet and Tube v. Sawyer*, 343 U.S. 579 (1952). That framework indicates that the President's authority is at its maximum when he acts pursuant to an express or implied authorization from Congress; that when he acts in the absence of either a congressional grant or denial of authority, he can only rely upon his own independent powers; and that when the President takes measures incompatible with the expressed or implied will of Congress, his power is at its lowest ebb, for then he can rely only upon his own constitutional powers minus any constitutional powers of Congress over the matter. *Id.* at 635-638.

Consistent with this framework, the validity of any particular Executive agreement as a matter of U.S. law would depend on factors including the particular matter addressed by the agreement, the extent of the President's independent constitutional authority with regard to that matter, and whether Congress had legislated with respect to the matter. For example, where an Executive agreement conflicts with a federal statute, Justice Jackson's concurrence indicates that "Courts can sustain exclusive Presidential control in such a case only by disabling the Congress from acting upon the subject." It further observes that "Presidential claim to a power at once so conclusive and preclusive must be scrutinized with caution."

The fact that an international agreement may conflict with a federal statute does not affect the status of the agreement as a matter of international law. In *Medellin v. Texas*, the Supreme Court observed that, although the President lacked the authority as a matter of U.S. law to give effect to an obligation under an international agreement at issue in the case, "no one disputes that it constitutes an international law obligation on the part of the United States." 552 U.S. 491, 536 (2008).

Question #7. Under existing law, the United States is required to suspend direct foreign assistance to the government of any country whose duly elected head of government is deposed by military coup d'etat or decree or a coup d'etat or decree in which the military plays a decisive role. How is a coup d'etat defined under existing U.S. law?

Answer. The annual Department of State, Foreign Operations, and Related Programs Appropriations Acts provides that certain funds in the Act may not "be obligated or expended to finance directly any assistance to the government of any country whose duly elected head of government is deposed by military coup d'etat or decree or, after the date of enactment of this Act, a coup d'etat or decree in which the military plays a decisive role." This "military coup restriction" contains three elements that must be met in order to trigger the restriction: (1) whether the head of government was duly elected; (2) whether the head of government was removed from office, and (3) whether the removal was effectuated by the military or whether the military played a decisive role in the removal. Whether the military coup restriction could be triggered in connection with a particular change in government requires a detailed factual inquiry into all of the relevant circumstances.

Question #8. As noted, appropriations law requires the termination of certain foreign assistance if an elected head of government is deposed by a coup. At the time, an administration official was asked if it is "still U.S. policy that we are not determining that a coup was carried out in July in Egypt." He replied: "Nothing has changed in terms of approaching what you called the coup restriction; didn't make a determination, haven't made a determination, don't think we need to make a determination, are acting consistent with the provisions of the law and we'll continue to do so."

♦ In your opinion, did a coup occur in Egypt when Egyptian President Morsi was deposed from power?

Answer. The military coup restriction in the annual Department of State, Foreign Operations, and Related Programs Appropriations Act does not require a determination to be made with respect to a particular change in government, so long as any assistance provided to the relevant government could be provided even if the restriction were triggered. Accordingly, the administration took action to restrict certain assistance to Egypt consistent with the military coup restriction until new legislation was enacted with regard to assistance for the Government of Egypt.

The administration decided it was not in U.S. foreign policy or national security interests to characterize the events in Egypt as either a military coup or not a military coup. Such a characterization would implicate a highly polarized debate in Egypt. The administration concluded that inserting the United States into that debate would undermine U.S. interests in a peaceful resolution to the crisis, risk alienating roughly half of the population in Egypt, and potentially put U.S. facilities and personnel in the region at increased risk.

Question #9. After a head of government is deposed from power, how long does the State Department have to determine if a coup took place?

Answer. The military coup restriction in the annual Department of State, Foreign Operations, and Related Programs Appropriations Act does not require a determination to be made with respect to a particular change in government, so long as any assistance provided to the relevant government could be provided even if the restriction were triggered.

As explained in response to Question #7, three elements must be met in order to trigger the restriction: (1) whether the head of government was duly elected; (2) whether the head of government was removed from office, and (3) whether the removal was effectuated by the military or whether the military played a decisive role in the removal. Whether this restriction could be triggered in connection with a particular change in government requires a detailed factual inquiry into all of the relevant circumstances, and in some instances the facts on the ground may not be clear for a period of time.

Questions #10 & #11. How is it consistent with the law to never make a determination whether a coup actually happened when a leader is deposed from power?

What other statutory regimes is this method of legal analysis applied to?

Answer. The military coup restriction in the annual Department of State, Foreign Operations, and Related Programs Appropriations Acts provides that certain funds in the Act may not "be obligated or expended to finance directly any assistance to the government of any country whose duly elected head of government is deposed by military coup d'etat or decree or, after the date of enactment of this Act, a coup d'etat or decree in which the military plays a decisive role." If the standard in the legislation is met, assistance must be restricted consistent with the military coup restriction. On the other hand, so long as any assistance provided to the relevant government could be provided even if the military coup restriction were triggered, it is consistent with the law not to make a determination. Many countries receive no assistance from the U.S. Government; others receive assistance that would not be impacted by the military coup restriction (for example, assistance only for non-governmental activities). Therefore, the applicability of this provision varies with respect to the nature of our assistance. The Department of State's efforts to ensure compliance with the military coup restriction are consistent with its broader efforts to ensure compliance with all applicable funding restrictions.

Question #12. There has been a lot of discussion about the type and form of a comprehensive agreement on Iran's nuclear program. The administration claims that a final deal on Iran's nuclear program will be an Executive agreement instead of a treaty requiring the advice and consent of the Senate for ratification. What is the legal basis for this position?

Answer. The administration has made clear that the P5+1 discussions with Iran are directed toward the conclusion of a nonbinding arrangement. Nonbinding arrangements are not Executive agreements in that they do not create legal obligations under U.S. or international law. As White House Chief of Staff Denis McDonough indicated in a March 14, 2015, letter to Senator Corker, such non-binding arrangements have been utilized by Presidents of both parties throughout our history to address a range of diplomatic and national security matters and do not require congressional approval.

Question #13. What conditions or provisions in a new climate change agreement would not require the advice and consent to ratification by the Senate?

Answer. It is my understanding that the international discussions on a new climate change agreement are continuing and have not resulted in any final decisions

on any conditions or provisions of the new agreement. Accordingly, I am not in a position to speculate as to whether any of the terms of the final agreement will require Senate advice and consent.

The administration will continue to consult with the committee regarding the negotiations. During his confirmation hearing, Secretary Kerry assured this committee that any international agreement brought into force for the United States will be done consistent with the U.S. Constitution.

Question #14. What form of agreement is the United States advocating for during the international negotiations? Has the administration been pushing for the agreement to be legally binding during the negotiations?

Answer. A 2011 decision of the Parties to the United Nations Framework Convention on Climate Change, adopted in Durban, South Africa, launched a process to develop a "protocol, another legal instrument, or an agreed outcome with legal force under the Convention applicable to all Parties. . . ."

The Durban decision makes clear that the purpose of a future Paris agreement is to further the objective of the Convention (i.e., to avoid dangerous anthropogenic interference with the climate), yet leaves the Parties with substantial flexibility regarding its form and the legal nature of its provisions.

It is my understanding that at this stage the international discussions are more focused on the substance of the agreement than on issues related to its form, such as whether it should be a protocol or whether particular provisions should be legally binding. The administration has indicated that the United States seeks an agreement that is ambitious in light of the climate challenge; that reflects nationally determined mitigation efforts in line with national circumstances and capabilities; that provides for accountability with respect to such efforts; that takes account of evolving emissions and economic trends; and that promotes adaptation by Parties to climate impacts.

Question #15. Will the final agreement be legally binding on the United States and other countries, including funding commitments for any provision contained within the agreement?

Answer. Please see response to Question #14.

Question #16. Can the administration enter into a politically binding international agreement without congressional approval?

Answer. I understand the term "politically binding" to refer to arrangements that do not give rise to legal obligations under U.S. or international law. As White House Chief of Staff Denis McDonough indicated in a March 14, 2015, letter to Senator Corker in response to questions regarding negotiations with Iran, such nonbinding arrangements have been utilized by Presidents of both parties throughout our history to address a range of diplomatic and national security matters and do not require congressional approval.

Question #17. What state, local governing entity, or community would not be subject to a politically binding agreement?

Answer. I understand the term "politically binding" to refer to arrangements that do not give rise to legal obligations under U.S. or international law. Accordingly, any such nonbinding arrangements would create no legal obligations for any state, local governing entity, or community.

Question #18. Has the Palestinian accession and acceptance of the International Criminal Court jurisdiction triggered this prohibition on the Economic Support Fund assistance?

Answer. The administration continually reviews its assistance to ensure compliance with U.S. law, including those provisions pertaining to assistance to the Palestinian Authority.

At this stage, the administration does not believe that any of the legislative restrictions on Economic Support Fund (ESF) assistance to the Palestinian Authority have been triggered. At the same time, in light of the latest developments, the administration has indicated that it is reviewing our assistance for the Palestinian Authority to ensure that it supports our policy.

Question #19. Has the International Criminal Court Prosecutor's opening of a preliminary examination of the situation in the Palestinian territories, enabled by the Palestinian ad hoc declaration, triggered the prohibition on Economic Support Fund assistance? If the prohibition has not been triggered, what steps would the Palestinians or the International Criminal Court have to take for the prohibition to take effect?

Answer. The administration strongly disagreed with the decision by the ICC Prosecutor to open a preliminary examination of the situation in "Palestine" and has indicated that it will continue to oppose actions against Israel at the ICC as counterproductive to the cause of peace.

At this stage, the administration does not believe that legislative restrictions on ESF assistance to the Palestinian Authority have been triggered. At the same time, in light of the latest developments, the administration has indicated that it is reviewing our assistance for the Palestinian Authority to ensure that it supports our policy.

It is difficult to predict how events may develop in the future and an assessment of whether particular restrictions have been triggered would need to take into account the specific circumstances as they may evolve. If confirmed, I would expect to work with Secretary Kerry and other officials at the State Department to monitor the situation closely.

Question #20. What are the defects in Palestinian claims to statehood or sovereignty? What steps is the United States taking or planning to take to challenge Palestinian accession to the Rome Statute and acceptance of ICC jurisdiction?

Answer. The view of the United States is that the Palestinians have not yet established a state and are not eligible to become a party to the Rome Statute. We remain committed to achieving a negotiated two-state solution that would result in two states living side by side in peace and security. We continue to believe that the conflict between the Israelis and the Palestinians ultimately should be resolved by the parties reaching an agreement on final status issues.

With respect to the ICC, the United States has made clear its opposition to Palestinian action in seeking to join the Rome Statute of the International Criminal Court. This step is counterproductive, will damage the atmosphere with the very people with whom Palestinians ultimately need to make peace, and will do nothing to further the aspirations of the Palestinian people for a sovereign and independent state. Our actions have included formal submission by the United States of a diplomatic note to the treaty depositary for the Rome Statute setting forth our view that the Palestinians are not eligible to become a party to the treaty, and of a notification to the Registry of the Court itself to make clear that the Palestinians are ineligible to accept the jurisdiction of the Court under Article 12(3) of the Rome Statute. The United States issued a public statement strongly disagreeing with the decision by the ICC Prosecutor to open a preliminary examination of the situation in "Palestine" and indicating we will continue to oppose actions against Israel at the ICC as counterproductive to the cause of peace. The United States continues to make our opposition known to the Palestinians and the international community.

Question #21. Do you believe Russia is in "material breach" of its obligations under the Intermediate Range Nuclear Forces Treaty? What are the differences between an activity described as a "material breach" versus a violation?

Answer. The international legal doctrine of material breach allows one party to terminate a treaty or suspend its operation in whole or in part based on inter alia another party's violation of a provision essential to the accomplishment of the object and purpose of the treaty.

The administration has made clear its extremely serious concerns about Russia's violation of the Intermediate-Range Nuclear Forces (INF) Treaty's ban on the possession, production, and flight-testing of intermediate range missiles. However, the administration does not believe it is in the interest of the United States to suspend the INF Treaty at this time. As a result, the administration has not invoked the doctrine of material breach. The administration's current efforts are focused on convincing Russia to return to compliance and preserving the viability of the INF Treaty, which the administration believes continues to serve U.S. and allied interests.