

Statement of C.J. Mahoney
Nominee for the Legal Adviser at the Department of State
Senate Foreign Relations Committee
July 21, 2020

Chairman Risch, Ranking Member Menendez, and Members of the Committee,

I thank you and your staff for holding this hearing, and I appreciate the opportunity to speak with you this morning about my nomination to be Legal Adviser at the Department of State.

I'd also like to thank my fellow Kansans, Senator Roberts and Senator Moran, for your kind introductions. Our state has long been well represented in the United States Senate. Senator Roberts and Senator Moran are worthy successors to the great Kansans who came before them, most notably my fellow Russell, Kansas native, Senator Bob Dole.

If there's one thing I'd like the Committee to take away from my comments today it is this: I don't seek this position because I have some ideological axe to grind. Despite my detour as a trade negotiator for the past two years, professionally I think of myself first and foremost as a trial attorney. My only goals, if I am confirmed as Legal Adviser, will be to ensure that policymakers at the Department of State receive the best legal advice possible and to uphold the fine traditions of the Office of the Legal Adviser.

Since its creation in 1931, the Office of the Legal Adviser, or L as it is referred to in the Department, has played a critical role in defending America's rights under international agreements, helping to ensure our own compliance with international law, and offering honest, professional advice to the Department. Over the years, the Office has been led by some of the nation's preeminent legal scholars and consistently staffed on the front lines by some of its very best attorneys.

In preparation for this hearing, I reached out to each of the living former legal advisers—Republican and Democrat—going all the way back to the Nixon Administration. They provided me with candid advice and invaluable insight into their experiences, both of which I will carry with me into the job if I am confirmed. And I am honored that several former Legal Advisers and other State Department and Executive Branch officials have signed bipartisan letters supporting my nomination.

Before joining USTR, I spent two years as a law clerk and over a decade as a lawyer in private practice at Williams & Connolly. Along the way, I had the good fortune to be mentored by lawyers who represent the very best of the legal profession, both in terms of skill and integrity.

First among them is one of my personal heroes, Justice Anthony Kennedy. Justice Kennedy's fairness, personal decency, and concern for individual liberty makes him, in my view, one of the towering figures in American—and international—law.

In private practice, I tried commercial and criminal cases in federal courts and before international arbitration panels. I learned the craft of zealous advocacy, but also the importance of strict adherence to the high ethical standards of the profession. I learned that a lawyer is only as effective as he is credible and that, quite often, a lawyer's most important obligation is to tell the client precisely what he does *not* want to hear. I am proud that 110 of my former law partners—who are arrayed across the political spectrum and known to many of you—have sent the Committee a letter testifying to my experience and supporting my nomination.

For the past two years, my primary task was the negotiation and implementation of the USMCA. I was one of the principal negotiators in talks with Canada and Mexico, and led the Administration's efforts to secure congressional passage of the agreement. Working closely with your colleagues on the Finance Committee, Senators Grassley and Wyden, in addition to many other members on both sides of the aisle, I helped design and personally negotiated several of the agreement's most important provisions, including the first-of-its-kind rapid response labor enforcement mechanism. I worked extensively for over two years with labor, environmental, and business groups to bridge differences and build a broad base of bipartisan support for the new Agreement. And in the end, USMCA passed with 90 percent of members in both the House and Senate voting in favor.

As Legal Adviser, I would have a different focus—to provide legal advice to the Department—not to set policy. But you have my commitment that I will also make myself available to members of this Committee to answer your questions and will strive in good faith to support your important policy and oversight work. I submit that my record at USTR lends credibility to that commitment. I'm proud to have played a part in bringing about greater bipartisan consensus in trade policy. I like to think that's possible in foreign policy as well. I am certainly committed to that goal.

In closing, I'd like to thank another Kansan, Secretary Pompeo, for the confidence he has placed in me, and the President for nominating me to this position. I'd like to thank Ambassador Lighthizer—himself an honorary Kansan by virtue of his long association with Senator Dole—for giving me the opportunity to serve under him at USTR, for his friendship, and for supporting me—albeit begrudgingly—in what I hope is my next job.

Mostly, I'd like to thank my wife Becca and my two children, Eleanor and Patrick, for supporting my desire to serve in government and for their love and patience.

Members of the Committee, I thank you again for this opportunity and I look forward to your questions.