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NOMINATIONS OF: ERIC L. HIRSHHORN, MARISA LAGO, AND STEVEN L. JACQUES

HEARING

BEFORE THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

ON

NOMINATIONS OF:

ERIC L. HIRSCHHORN, TO BE UNDER SECRETARY FOR EXPORT ADMINISTRATION, DEPARTMENT OF COMMERCE

MARISA LAGO, TO BE ASSISTANT SECRETARY FOR INTERNATIONAL MARKETS AND DEVELOPMENT, DEPARTMENT OF THE TREASURY

STEVEN L. JACQUES, TO BE ASSISTANT SECRETARY FOR PUBLIC AFFAIRS, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

NOVEMBER 5, 2009

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NOMINATIONS OF:

ERIC L. HIRSCHHORN, OF NEW YORK, TO BE UNDER SECRETARY FOR EXPORT ADMINISTRATION, DEPARTMENT OF COMMERCE;

MARISA LAGO, OF NEW YORK, TO BE ASSISTANT SECRETARY FOR INTERNATIONAL MARKETS AND DEVELOPMENT, DEPARTMENT OF THE TREASURY;

STEVEN L. JACQUES, OF KANSAS, TO BE ASSISTANT SECRETARY FOR PUBLIC AFFAIRS, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

THURSDAY, NOVEMBER 5, 2009

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Committee met at 9:40 a.m. in room SD–538, Dirksen Senate Office Building, Senator Christopher J. Dodd, Chairman of the Committee, presiding.

OPENING STATEMENT OF CHAIRMAN CHRISTOPHER J. DODD

Chairman DODD. The Committee will come to order. Let me welcome everyone here this morning, and I apologize for being a couple minutes later getting underway. We are here this morning to consider several nominations. I want to thank each of the nominees for their willingness to serve and, of course, to thank the President for sending us what I believe to be very, very competent and qualified nominees as well. And I thank all of those who are in the audience here this morning.

I want to make some brief opening comments. I will turn to Senator Shelby very quickly, and then we will turn to our—we have several guests here this morning, one in particular, Steve Solarz, my dear, wonderful friend. We were elected to the House together just a couple of years ago.

Senator REED. Me, too.

Chairman DODD. And Jack served with Steve, so we have all served with him, a wonderful Member of Congress who is here, and I will introduce him appropriately in a few minutes.

Well, this morning we meet in open session to consider three of the President's nominees. These critical nominations arrive before this Committee at a time of heightened security and continuing economic turmoil, as we all know. If confirmed, these qualified, highly qualified individuals I believe will play an important role in safeguarding our national interests and returning our country to the prosperity that we all seek.

Our first nominee is Eric Hirschhorn who has been nominated to be the Under Secretary for Export Administration, and we thank him for his willingness to serve. If confirmed, Mr. Hirschhorn would serve as head of the Commerce Department's Bureau of Industry and Security, overseeing the implementation of our Nation's export controls for dual-use products, that is, goods and technologies that have both military and commercial applications. In that capacity, Mr. Hirschhorn may be tasked with developing and carrying out reforms to our Nation's export control system, which I understand is a high priority for the Secretary of Commerce, Gary Locke.

Additionally, Mr. Hirschhorn would be responsible for implementing certain improvements to the Defense Production Act, as authored by Senator Shelby and myself and very recently signed into law by President Obama. These enhancements will help the United States industry's ability to deliver supplies to the Government during national crises.

Our next nominee, Marisa Lago, has been nominated to be Assistant Secretary for International Markets and Development. It gives me a great deal of pleasure to note that this position was created as part of the Foreign Investment and National Security Act, the FINSA law, as it is called, which was passed unanimously by this Committee and signed into law during the last Congress. And, again, I commend all the members of the Committee that worked on that, including my partner and friend, Senator Shelby. It was one of those efforts we did together here to make a difference, and we believe it is doing all the things we hoped it would.

The Assistant Secretary supports the Under Secretary for International Affairs in advising the Secretary and Deputy Secretary of the Treasury in the formation and execution of United States international economic policy as related to foreign investment in the United States and security policy through the Committee on Foreign Investment in the United States, the CFIUS bill, which, again, was a subject of considerable debate and discussions. We reformed that law in this Committee as well. And, again, I thank my fellow Committee members for the tremendous effort we made during that legislation. It was a very explosive debate, you may recall, over the acquisition of ports in our country by foreign governments, and it created quite a stir for a time, and the Committee responded to all of that in a very sound piece of legislation.

Ms. Lago is a Harvard Law School classmate of our colleague, Jack Reed, and I am going to turn to Jack in a minute here to introduce her.

Our final nominee is Mr. Steven Jacques, who has been nominated to serve as Assistant Secretary for Public Affairs in the U.S. Department of Housing and Urban Development. As Assistant Secretary for Public Affairs, Mr. Jacques would be the principal ad-

viser to HUD Secretary Donovan and his staff on public information, opinion, and events. In addition, Mr. Jacques would advise the Secretary on public education and information regarding one of the most critical institutions, of course, our homes—whether it is raising awareness of mortgage rescue scams or ensuring that families facing homelessness know where to turn in their communities. The need for HUD to raise public awareness in my view could not be more vital.

I would also like to note that our former colleague Senator Robert Dole and Representative Emanuel Cleaver, among others, have sent letters of support for Mr. Jacques that will be entered as part of the record here this morning.

Chairman DODD. I look forward to hearing the testimony of our nominees, and, again, I congratulate all of you for your willingness to serve and the President for nominating you, and we hope we can move you along fairly quickly so that you can meet your obligations.

With that, let me turn to Senator Shelby.

STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. Thank you, Mr. Chairman.

The core mission of the Bureau of Industry and Security is to keep sensitive dual-use items away from dangerous countries, organizations, and individuals. Performing this function must be done in a manner that preserves the innovative and productive capacity of the United States.

Mr. Hirschhorn, the Under Secretary for Export Administration has an enormous responsibility, as you know. Every decision you make entails a national security assessment, a foreign policy statement, and a fundamental business decision that affects the bottom line of U.S. companies and our workers. It will be your job to objectively provide solutions narrowly tailored to maintain an effective national security umbrella over the country's healthy promotion of exports.

Ms. Lago, the work you have been nominated to perform focuses primarily on foreign direct investment security issues, particularly as they pertain to the Committee on Foreign Investment in the United States, CFIUS, as Senator Dodd referred to. You will need to work the CFIUS process in a timely way while remaining cognizant of the national security implications of each covered transaction. This can be a very difficult balance to strike, as you well know.

Mr. Jacques, you are also nominated for a very important position at the Department of Housing and Urban Development. You will serve as a key point of contact for a multi-billion-dollar agency that plays a role in the lives of millions and millions of Americans. As the Department's public liaison, you will be expected to establish an active and an open relationship with the American people. We look forward to hearing how you intend to do so, and I congratulate all three of you on being nominated by the President.

Thank you.

Chairman DODD. Thank you very much, Senator.

I am going to turn, if I can briefly, to Senator Solarz—Congressman Solarz. I just elevated you.

Senator SHELBY. Well, he would have made a good Senator.

Chairman DODD. He would have made a very good Senator, I tell you, and just a wonderful friend, and I have fond memories of being sworn in together in January 1975 and working together. There was no more talented and gifted Member of the Congress than Steve Solarz. I just recall on countless occasions his inquiries. Whether serving in a committee or just in informal conversations with visiting dignitaries from other countries, no one was more perceptive and incisive in their examination of people who came before us. And so it is a pleasure to have you back. I regret in some ways you are not sitting on this side of the dais, my friend. You would have been a wonderful United States Senator. But we are honored to have you here this morning, so the floor is yours.

STATEMENT OF STEPHEN J. SOLARZ,
FORMER REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. SOLARZ. Thank you very much. It is a pleasure——

Chairman DODD. Is that microphone on, Steve?

Senator SHELBY. Put your microphone on, Steve.

Chairman DODD. You have to push that button there.

Mr. SOLARZ. Thank you very much, Mr. Chairman. Let me say first of all it is a pleasure to see some of my former colleagues in the House who have gone on to bigger and, arguably, better things in the Senate. But it is a particular honor to be able to testify today before a Chairman and on behalf of a nominee for both of whom I have the greatest respect and affection.

As you indicated, Mr. Chairman, we go back a long way together. We have known each other for 34 years when we were both elected in 1974 as members of the Watergate class. And in the words of my old district back in Brooklyn, I want you to know that I "shep naches," which means I derive great pride and pleasure from your achievements since then.

But believe it or not, I know the nominee Eric Hirschhorn even longer than I know you, because back in 1971, as a back-bench member of the New York State Assembly, a minority within the minority, where the measure of my influence was that with an assembly of 150 members, I was given New York State Assembly license plate 152.

[Laughter.]

Mr. SOLARZ. Together with several of my other colleagues equally situated in the Assembly who had the quaint notion that we ought to understand the bills we were voting on, we pooled our meager staff resources and hired a young attorney by the name of Eric Hirschhorn to brief us each Monday morning when the legislature reconvened on the bills that were on the calendar for that week.

During the course of that experience, I came to feel that what Winston Churchill once said about Harry Hopkins when he dubbed him "Lord Root of the Matter" could be said with equal applicability to Eric Hirschhorn because he had the ability to go to the heart of the matter, the legislation before us.

Also like Hopkins, Eric has the rare capacity to disagree without being disagreeable, and I think that would be an asset in this position.

After he left us in Albany, he came to Washington, where he

After he left us in Albany, he came to Washington, where he went to work as a legislative assistant for Congresswoman Abzug, whom you may have heard of, who was another member of the New York delegation. He went on to become the Deputy Assistant Secretary for Export Administration in the Commerce Department under President Carter. And for quite some time afterwards until now, he has been a partner in Winston & Strawn, one of the major American law firms.

And it seems to me that this combination of experiences makes him in a way the perfect candidate for this particular position. He knows the Congress, its sensitivities and concerns. He knows the executive branch, its procedures and politics. And he knows the private sector, its objectives and its perspectives.

And I think that the combination of these experiences clearly equip him to balance the competing desire of the private sector to export its goods and services and the needs of the Government to protect our vital national security interests. And I have no doubt, given a clash between those objectives, where national security is at stake, Mr. Hirschhorn will do what needs to be done to protect our vital interests.

So for all these reasons, I urge you to expeditiously facilitate his confirmation as the Under Secretary of Commerce for Export Administration.

Chairman DODD. Steve, thank you very much. Could not be more eloquent. Case over, I think, Mr. Hirschhorn. I would not say a word at that point.

[Laughter.]

Chairman DODD. Case made.

Jack.

Senator REED. Well, thank you very much, Mr. Chairman, and I will confess, Marisa does not have as good a lawyer as Mr. Hirschhorn.

[Laughter.]

Senator REED. But it will have to do.

I am just delighted and honored to be able to introduce Marisa Lago. Marisa is my classmate from Harvard Law School. She graduated with great distinction and was recognized as such by being awarded a clerkship in the First District, which suggests her legal skill which she has developed through her extraordinary career.

Unlike so many people who would have taken that clerkship and gone to a big law firm and done big things in some sense, she went to New York City Department of Planning to commit herself to helping people live better, neighborhoods to develop better, and she has followed through in so many different ways in public service, at the New York City Economic Development Corporation, and she served Mayor Menino in the city of Boston as the chief economic development officer. So she has committed herself to making a difference in the communities that are so important.

And I think significant for the job that she is about to assume—I hope—is that she was the chief in the Securities and Exchange Commission for International Activities under Chairman Arthur Levitt. In that sense, she handled all of the international aspects of SEC operations. She prepared herself well for the job that she will, I hope, assume, which is looking at complex merger and acqui-

sitions, which are at the heart of security transactions, but involving national security considerations. And I do not think we could find a better not only lawyer but, perhaps more importantly, person than Marisa Lago to do this.

So I think the President has chosen wisely, and I would hope that we could move this nomination expeditiously.

Chairman DODD. Well, that is good. Jack, thanks immensely, and that is a pretty good case to be made as well.

Mr. Jacques, you have a colleague of ours coming in as well, and when she gets here, we are going to recognize her to give you an appropriate introduction. We cannot have you sitting there and not get as good an introduction as you have heard for these other nominees.

What I would like to do, if I could, though, before we do that, there is always a courtesy we extend, and that is, if any of your family members are here—I do not know if they are or not. But, Mr. Hirschhorn, do you have any family members that are with us?

Mr. HIRSCHHORN. Yes, Mr. Chairman. My wife is here, Leah Wortham. She teaches up the road at Catholic University Law School. And my son Alex and my brother-in-law, Henry Howard, are all here today.

Chairman DODD. Terrific. I noticed going over your resume last night that each of your children have your wife's maiden name as their middle name.

Mr. HIRSCHHORN. Yes.

Chairman DODD. That is not a bad idea. That was a very smart move on your part.

[Laughter.]

Chairman DODD. Ms. Lago, any family members?

Ms. LAGO. Yes, thank you very much. I would like to introduce my best friend of 35 years, my husband, Ron Finiw. Ron is an architect, and some of you may have seen one of his buildings that graces our capital, the new International Law Center at Georgetown Law School.

Chairman DODD. Absolutely. Wonderful, terrific.

Ms. LAGO. And I am also joined by my brother, Paul Lago. Like me, Paul has dedicated his life to public service. He has been with the Defense Intelligence Agency for 20 years, including serving voluntarily as a civilian in Iraq. And my sister-in-law, Kelly Lago, who serves with the Bureau of Alcohol, Tobacco, and Firearms.

Chairman DODD. Clearly, a distinguished family. We are honored to have all of you with us.

Mr. Jacques, do you have——

Mr. JACQUES. Mr. Chairman, I am sorry to say that my wife could not make it here today, but my wife, Christine, is back in Kansas and she will be watching this on your website when it is up to make sure that I did OK.

Chairman DODD. I have a 4-year-old daughter named Christina. That is a connection we can make here.

[Laughter.]

Chairman DODD. I am going to ask you to rise, if you could, and to raise your right hand while I swear you in and give the oath, if you would. Do you swear or affirm that the testimony you are

about to give us is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. HIRSCHHORN. Yes.

Ms. LAGO. I do.

Mr. JACQUES. I do.

Chairman DODD. And do you agree to appear and testify before any duly constituted committee of the U.S. Senate?

Mr. HIRSCHHORN. Yes.

Ms. LAGO. Yes.

Mr. JACQUES. I do.

Chairman DODD. I thank you for that.

With that, why don't we begin in the order, Mr. Hirschhorn, that you were introduced? By the way, just to let you know, any and all documentation and support services or activities, rather, that you want to include in the record, we will make part of the record here today. And any of the comments and statements by any of the members—and I will leave the record open for a few days here for them to submit any questions they may have for you as well, and I would urge you to respond as quickly as you can to questions of members who may not be here this morning but would like to submit a few, if they could.

With that, Mr. Hirschhorn, the floor is yours.

STATEMENT OF ERIC L. HIRSCHHORN, OF NEW YORK, TO BE UNDER SECRETARY FOR EXPORT ADMINISTRATION, DEPARTMENT OF COMMERCE

Mr. HIRSCHHORN. Thank you, Mr. Chairman, and thank you also, Ranking Member Shelby and Senator Reed. I am quite honored to be here today. I appreciate the expression of confidence in me by President Obama and Secretary Locke, and I am hopeful that I can gain your confidence as well. I want to thank the Committee members and staff for making time for this nomination hearing in the midst of a busy legislative session. And should I be confirmed, I very much look forward to continuing to work with you.

I want to thank Steve Solarz for doing me the honor of introducing me. He has been a dear friend for many years, and I am delighted he could be here.

I had the privilege of working on export control, antiboycott compliance, and Defense Production Act issues at the Commerce Department in 1980 and 1981, so this would be a return for me. I found the career staff who administer that system, those laws—not only at Commerce but also the other agencies who were deeply involved in it—to be extremely capable and one hundred percent committed to the interests of our country. Should I be confirmed, I will be delighted to be working with them all once again.

As Secretary Locke has noted, the Bureau of Industry and Security "has a unique mission at the intersection of international trade and national security." Working closely with the Departments of State, Defense, and Energy, BIS evaluates thousands of export license applications each year to ensure that items proposed to be sold abroad are going to suitable end users for appropriate end uses. Getting this right is very important. It is equally important to have an enforcement program ensuring that those who flout the rules are caught and are punished. I am committed to ensuring

that BIS does the best possible job of performing these important functions as well as overseeing its role in ensuring an effective treaty compliance system and promoting continued U.S. leadership in strategic technologies.

President Obama has asked the agencies to take a hard look at the existing system in an effort to see whether it can be improved consistent with our national security. Of course, this Committee will be significantly involved in that process, and I hope you will give me the opportunity to help carry it out.

Since leaving the Government for private law practice in 1981, I have spent a good deal of my time advising clients whose activities are subject to U.S. export control and embargo regulations. My practice also has included considerable litigation, much of it involving railroad issues, and I have served as an internal ethics counselor for my law firm. Outside the firm, I have been an active member of the D.C. Bar's Ethics Committee and the D.C. Bar's Rules Review Committee.

Most of my practice has involved explaining to clients how the often complex regulations work, analyzing whether a proposed course of action requires advance Government permission, and, if a license is required, assisting the client in preparing the application. I have assisted clients with their internal compliance programs and have represented some regarding enforcement issues. I also have acted as an advocate for clients who believe that our export control system can be improved. I frequently have written and spoken in the area, and my writings include not only articles but also a book whose third edition will be published early next year. I believe that this experience will be of great help to me in what I hope will be my new job.

If I am confirmed by the Senate, my goal will be to perform competently and objectively, and that means to me hearing and considering all viewpoints on the matters that would come before me.

I recently read the remarks that my law school's dean delivered this fall to the incoming class. He spoke of two "fundamental truths." "First," he said, "excellence is its own reward." Second, "integrity is the bedrock of any successful career." I promise you that, if confirmed, I will strive to bring these qualities to everything I do.

Again, thank you, and I would be delighted to respond to any questions you may have.

Chairman DODD. Thank you very, very much.

Ms. Lago.

STATEMENT OF MARISA LAGO, OF NEW YORK, TO BE ASSISTANT SECRETARY FOR INTERNATIONAL MARKETS AND DEVELOPMENT, DEPARTMENT OF THE TREASURY

Ms. LAGO. Thank you, Mr. Chairman.

Chairman Dodd, Ranking Member Shelby, distinguished members of the Committee, I am so honored to have my nomination come before you today, and I do want to start by thanking the staff, many of whom are here today, who took the time this week to speak with me about CFIUS, principally, and also about other international financial matters.

I am so honored to have been nominated by President Obama to serve as Treasury Assistant Secretary for International Markets and Development, especially at such a critical time not just in our Nation's but also in the world's economies. I am grateful to Secretary Geithner for recommending me to the President. I had the pleasure of working with Secretary Geithner when he was last at Treasury, so I know what I would be getting into, if confirmed, and I look forward to having the opportunity to join his team.

I would want to recognize two people who are not here today: Louis and Maria Lago. My parents cannot be here. After six decades in the U.S., they now live in the village in Spain where my mother was born. But my love of public service stems from my parents. My father served in the U.S. Navy during World War II, and he then spent the rest of his career as a civilian employee at a Department of Defense facility, Picatinny Arsenal in New Jersey. So I grew up in this setting, and I wish they were here today. But thanks to the Internet, they will be able to watch the proceedings.

As my family's first college graduate, I have lived the American dream. As Senator Reed noted, upon graduating from Harvard Law School, the traditional route after having a clerkship in the First Circuit Court of Appeals would have been to go on to a law firm, and certainly those opportunities had been open to me. But I made the non-traditional choice because of a mentor in law school of joining New York City government, and I became absolutely hooked on public service, the ability to do good, to serve—the word "servant" in "public servant" matters to me—to make my home town a better place.

Over the past 25 years, I have had the ability to serve New York State, New York City, and Boston in senior capacities in economic development. In each of these roles, I have had to strike a balance among multiple competing interests—fiscal prudence, the interests of the business community, job creation, and neighborhood concerns. And one of the hallmarks, I believe, of my career has been forging consensus but also showing the leadership to make tough decisions when a decision needs to be made and not all are agreed.

I have also been fortunate to have served at the Federal level in the 4 years that I worked with Chairman Arthur Levitt at the Securities and Exchange Commission. As the head of International Affairs, I was involved in issues that ranged from trade in financial services to international accounting standards to enhancing the financial regulation in underregulated and uncooperative offshore financial centers. Throughout this time, I held a top secret security clearance because of the sensitive nature of the international matters with which I was dealing.

In the private sector, I headed compliance globally for Citigroup's investment banking, its markets and banking business. In this role, I was responsible for compliance matters that ranged from anti-money laundering to OFAC sanctions initiatives, to all of the regulatory requirements attendant to Citigroup's investment banking, trading, public finance, and transaction services businesses. I dealt routinely with both the securities and the banking regulators of not just the U.S. but the regulators in over 80 countries. I had a team of over 500 in 80 different countries around the world.

Turning to the future, if approved by this Committee and confirmed by the Senate, I commit closely to working with the Committee as a whole, individual members, and the staff to carry out the weighty responsibilities that are laid out in the landmark FINSA legislation and also to being part overall of the senior Treasury team that promotes economic growth, financial market stability, and open markets for U.S. firms. A critical component is going to be open, regular dialogue with the Committee, with the other agencies that are members of CFIUS, and with my colleagues in the Treasury Department. If I have the honor of being confirmed, I welcome the dialogue.

Chairman DODD. Thank you very much. Very good testimony.

Yes, Mr. Jacques.

STATEMENT OF STEVEN L. JACQUES, OF KANSAS, TO BE ASSISTANT SECRETARY FOR PUBLIC AFFAIRS, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. JACQUES. Thank you, sir. Chairman Dodd, Ranking Member Shelby, Senator Reed, it is an honor to be here today as the President's nominee for the position of Assistant Secretary for Public Affairs for the Department of Housing and Urban Development. As a student of government, I understand that the confirmation process is one of the most critically important constitutional responsibilities of the Senate, so I come to you with humility and great respect for this process.

Chairman DODD. Well, it was just perfect timing here, Mr. Jacques. You sit anywhere you would like, Claire.

Mr. JACQUES. I cede my time to Senator McCaskill.

[Laughter.]

Chairman DODD. Very smart nominee there.

Claire, it is perfect. We were waiting for you, and I announced ahead of time that as soon as you arrived, we would take a pause in the middle of the testimony, and we are delighted you are here this morning to present Mr. Jacques to the Committee.

STATEMENT OF CLAIRE MCCASKILL, SENATOR FROM THE STATE OF MISSOURI

Senator McCaskill. Thank you. It is not often that you get to introduce an old friend under these circumstances, and I am honored to be able to introduce Steve to the Committee this morning. He has a long history in Missouri both in politics, public policy, and public service—in all three. He, in fact, volunteered for a South Side St. Louis Democratic Club at the age of 11. So he actually—I think I was giving out "Vote for Haskell Holman" emery boards when I was 11 or 12, but you may have beat me by 6 months or so in terms of political involvement.

His father and mother lived in St. Louis. He graduated from Washington U. with a master's degree in international affairs and a bachelor's in political science. His dad and his family helped found a church in St. Louis. They did inner-city service—his dad was an optometrist. They did inner-city service for kids who could not afford to have optometry services, and his family kind of is responsible for his ethos of public service.

He was a deputy campaign manager for Representative Jerry Litton in his race for the U.S. Senate, a successful race that ended

tragically on the night of his victory in the primary in one of several tragic airplane accidents we have had in Missouri that have taken some of our best and brightest from us.

He worked in government in various capacities. He was Director of Communications for the U.S. State Department, Director of Communications and Senior Adviser to the Under Secretary of Export Administration, all during the Clinton administration. He has worked in higher education in Missouri and has continued to stay very involved with the public in every capacity since he began working in campaigns at the age of 11.

He is going to be a terrific addition to this Department. He is going to, I think, bring a trench perspective, the perspective of somebody who has been out there working in these neighborhoods, working in these communities. While he has been in Washington, he has not been here long enough that he has got that insular disease that detaches you from what is really going on out there, and Lord only knows we need more of that in every agency of the Federal Government.

So I am pleased that he has received this nomination. I am honored to be here today to support his nomination, and I certainly urge unanimous support from this Committee for his nomination to this administration.

Chairman DODD. Thank you very much, Senator McCaskill. We appreciate your being here. I served with Jerry Litton. I think Richard may have as well.

Senator SHELBY. He was right before me.

Chairman DODD. He was right before you? I often thought that had it not been for that tragic accident, Jerry Litton might have ended up President of the United States. He was that talented. His roundtable things he did in the early days going back, I do not know if that was your idea or not.

Mr. JACQUES. It was not.

Chairman DODD. If it was, you ought to be confirmed right now. [Laughter.]

Chairman DODD. It was a brilliant stroke for a Congressman in a small district in Missouri. I remember he had Henry Kissinger and Hubert Humphrey. He would get all these national figures to come to his congressional district to be part of those discussion groups and forums in the round, or in the circle. Circle in the round he would do. Very, very talented individual. Thank you, Claire, very much.

Mr. JACQUES. Thank you, Senator. Appreciate it.

Chairman DODD. Mr. Jacques, the floor is still yours.

Mr. JACQUES. Thank you, sir. And, no, that was Jerry Litton's own idea. He was his best adviser on those matters, a real professional.

I will pick up where I left off. I come to you from the great State of Kansas after a long career in public service in both the public and private sectors. A considerable portion of my career has been spent in politics and government, including many bipartisan endeavors. One of the great honors of my life has been the opportunity to serve as a senior fellow and associate director of the Robert J. Dole Institute of Politics at the University of Kansas. The primary mission of this wonderful institution is to show students

that a career in politics and government is an honorable profession. Former Senator Dole is obviously our prime exemplar, but the concept of "politics as an honorable profession" also includes many of the practitioners from the world of public service who have graced the institute with their wisdom.

Through my work in government, politics, higher education, and with civic and charitable organizations, nonprofit corporations, and businesses, I have been privileged to be able to provide timely, useful information to those who can benefit from it. This is my mission and the part of my career that provides me with the most satisfaction.

I view the primary mission of the Assistant Secretary for Public Affairs at HUD as ensuring that the people who need our services find out about those services and ultimately know how to access those services. Specific information that comes to mind are the resources that can help Americans avoid foreclosure, refinance their homes, find affordable rental housing, or rebuild their homes after a natural disaster.

My broad spectrum of experience has taught me the difference between simply "releasing" information and truly communicating that information. How do we reach those who do not have access to the Internet or email? How do we inform people who do not get newspapers or do not have the time to sit down and watch TV news because they are working two jobs and running a household?

I have been honored to serve as Director of Communications and Strategic Communications Planning for the U.S. State Department, where I participated in the successful NATO 50th Anniversary Summit, and the accession to NATO of the first 3 former Eastern Bloc countries—Poland, Hungary, and the Czech Republic. I was also honored to serve at the U.S. Department of Commerce as the Communications Director for the Bureau of Export Administration.

My public sector experience also includes two State universities—the University of Kansas, where I served at the Dole Institute, and the University of Missouri-Kansas City, where I served as associate vice chancellor for public affairs. At the University of Missouri, I worked hard to bring new positive media and community attention to the school's good works.

Since 1976, I have served on the national advance staff in nearly every Presidential election. I have used the skills I learned in the intense working environment of Presidential campaign advance to serve both Republican and Democratic public officials in the conduct of their official duties.

In the private sector, I have worked for numerous nonprofit and civic organizations, as well as municipalities. Among those clients I was most proud to serve was the Kansas City, Missouri, Police Department, for which I developed and implemented a public affairs campaign to increase the number of minorities and women on the police force. We were successful in dramatically increasing the number of high-quality individuals who applied and eventually became police officers.

I view the role of public affairs in government, academia, civic and nonprofit organizations as the nexus between policy and action. Not even the best policies have a hope of being implemented, or of helping people, without effective communication and outreach

to those who need to know and can act on the information they receive. You can build the proverbial better mousetrap, but no one will beat a path to your door unless they are aware of it.

I ask for your support, and in return I promise to actively search for every opportunity to provide you and your constituents with the information you need and want regarding the work of the U.S. Housing and Urban Development Department.

Chairman DODD. Terrific. Great statement. Thank you very much, Mr. Jacques. I appreciate it very much.

I am going to ask the clerk to put on 6 minutes. There are only three of us here right now and more may come, but we will try and move this along. A lot of questions, obviously, for you and a very important hearing.

Mr. Hirschhorn, the Secretary of Commerce recently gave a speech in which he criticized the current export control system for hampering American competitiveness and inadequacy focusing on certain national security items. The aerospace industry, as I know you must be aware, certainly in my State it is a very important industry. United Technologies is a major industrial corporation with Pratt and Whitney and Sikorsky Helicopters, the Electric Boat Division. We have a lot of defense work and aerospace work in our State of particular importance.

So my questions are: What priorities should be considered in modernizing the cold war-era export licensing system? How can limited resources available to the Bureau of Industry and Security be better utilized to promote America's current national security needs? And the Export Administration regulations currently provide for exemptions if certain products are readily available overseas, and I wonder if you might share with us in your experience how has this foreign availability standard helped level the playing field for U.S. companies without compromising our security. Let me ask you that, but also let me in the same context—and I will give you a chance to respond to all of this.

This Committee voted just a few days ago unanimously, 23–0, to report our comprehensive sanctions legislation targeting Iran. Under our bill, the U.S. would assist other countries in halting the transshipment of sensitive U.S. technology to Iran. If these countries refuse to cooperate, then under the bill that was passed unanimously we could subject them to severe export controls.

So I wonder if you might discuss your commitment to working with our Committee and the Congress, obviously, to combat the efforts of Iran, North Korea, Syria, and others who trawl transshipment hubs for various parts to assemble high-tech weapons, which is going on. And what other risks are currently borne by the trade-sensitive technologies in the global marketplace and how serious are those threats posed by this proliferation, such as Pakistan scientist A.Q. Khan's selling missile and nuclear technologies around the world as an example of what can happen. So the juxtaposition of how we reconcile these goals here of recognizing we are in a post-cold war period, and yet there are, as we all know, continuing threats to our national security and people who are obviously engaged in the transshipment of technologies that can do us great damage. How do you respond to that?

Mr. HIRSCHHORN. I think this job is, above all, a national security job, and I expect to work closely with this Committee and with the Congress on making sure we have a system that is the best system we can have for that.

Diversion is certainly a problem that we have to look closely at. I think it requires a team effort among the agencies, because Commerce is not the only agency involved here, but certainly with Commerce doing its part to work with foreign governments to ensure that they have perhaps both the carrot and the stick to assist in keeping important, critical items out of the hands of dangerous people. I think that is what the job is about. I certainly consider it to be one of the foremost responsibilities I would take on.

Chairman DODD. Well, good. You might want to just in time want to explore that, because this obviously is a delicate balance as we move forward in these areas.

One of the—as you are aware, the foreign governments oftentimes impose foreign offsets on U.S. manufacturers in exchange for lucrative contracts. I recall that back—in fact, there was language that existed for a long time, including up to a few years ago—in fact, it may still exist—that in an effort to provide help to war-torn Europe, is the language, that we allowed for offset contracts. And what an offset contract is, if a certain country decides to award you a contract, as a business in the United States, you must in many cases provide subcontractors in that country a certain quantity of work. We actually have some countries where that agreement requires 100 percent or more of subcontract work in exchange for the larger contract.

It is very troubling. This goes on—there is a proliferation of these offset contracts, in my view. BIS is responsible for reporting annually the tens of thousands of U.S. jobs lost as a result of these offsets, and I wonder how you would characterize the process of offset contracts, what steps can be taken to ensure that American workers and suppliers are not disadvantaged by them.

Six years ago, I authored a law requiring an interagency team to work with foreign governments to limit the loss of jobs in the United States to the defense industry. I wonder if you would like to discuss the efforts and tell the Committee, if confirmed, of your commitment to revive this body's work.

Mr. HIRSCHHORN. Well, I must say that, I know less about offsets than I know about export controls, but I am certainly aware of it. I am aware of your interest in it and the importance of it. I think that it is very important that we maximize U.S. jobs, especially in these difficult times, but at other times, as well, and if working with foreign countries on offsets, as I understand this interagency committee did, will help do that, I think it is something we should take very seriously.

Chairman DODD. Well, I would be very interested in hearing back on that. It had clearly been lying dormant, but that idea—and again, we are living in a global economy. These things are very important. But there are a lot of antiquated ideas that exist out there. We do not provide—we do not have offset contracts. We do not require that at all.

And I am not suggesting we should, but it seems to me we ought to be doing something here to minimize this practice which goes on

which disadvantages very talented workers, the industrial base, absolutely critical in the 21st century. We have an aging workforce in many of these areas, and if we are beginning to lose business because of these offset contracts, it is going to be harder to replace those workers with the talented young people who can provide that kind of work that needs to be done. So I have a lot of interest in the subject matter and would hope that you would get back to us and share some thoughts with us.

Ms. Lago, very quickly, if I can, this Committee labored over the course of the last Congress to produce the landmark Foreign Investment National Security Act, which was unanimously approved by the Committee and the full Senate and signed into law in 2007. Again, I want to thank Senator Shelby and Jack Reed and others here. A lot of our staff and others worked very, very long and hard to get the kind of unanimity on a very complex and delicate issue, and I believe that, if implemented correctly, it will achieve two principal objectives. One, protecting our national security, which is critical, but two, ensuring that appropriate foreign investment in the United States is not inhibited, which we don't want to stop.

I wonder if you would agree with that assessment and how would you help to fill the mandate, if confirmed?

Ms. LAGO. Interestingly, Senator, in much the same way that Mr. Hirschhorn noted that his position is principally a national security position, I think that the position, this Assistant Secretaryship that was created by the landmark FINSA legislation is principally a national security position——

Chairman DODD. Yes.

Ms. LAGO.——and in your remarks, Senator, I have to echo your comment that there is not an inconsistency between having a bipartisan longstanding approach of encouraging—of nurturing open markets, open markets that benefit U.S. citizens and U.S. firms, while recognizing that a focus on national security on assuring through the CFIUS process that no national security risk goes unaddressed, those two are not at odds with each other. Actually, they reinforce each other.

Chairman DODD. Well, I appreciate that. Again, we want to work closely with you on this and monitor, so stay in touch with us.

Mr. Jacques, quickly, and then I will turn the time over to Senator Shelby, you have had a wonderful career, and I couldn't agree more that at a time like this, here we all work very hard to come up with what we believe are hopefully good ideas that will begin to make a difference, particularly when people are looking to see whether or not anyone is paying attention to what is happening with them, and so you are absolutely correct in your assessment.

Great ideas, creating that mousetrap you described, and if no one knows it exists out there—we saw this, again, Senator Shelby, and again, Senator Reed and I, we all worked on trying to come up with the best idea we could on mitigation on foreclosures. But you looked at it, it was so complex that the ability for an average person going through that, to understand it and how to access it, I think was one of the difficulties we faced. There were other problems, but that was one of them.

I wonder if you might share with us any thoughts you have had, and this is just very quickly, on how do you reach—what are some

of the ideas you would bring to the table on reaching those constituencies? We have listened to all sorts of people talk to us about how do we penetrate a marketplace where typically, in many cases, because they are holding down two or three jobs, because they are struggling to hold things together, there may be a health crisis in the family, all sorts of things which make it almost impossible for them necessarily to get information about what is available to them in the area of housing and related matters. What ideas do you bring to the table?

Mr. JACQUES. Absolutely, sir. Well, I come to this position with kind of a private sector mentality. Many, many years ago, in the mid-1980s, I believe, there was a study done that showed that people are bombarded with something like 5,000 marketing messages every single day and they call that the communications jungle, and cutting through that and penetrating with the information that the American people need to respond to the crisis, the foreclosure crisis, especially at this moment in time, is a challenge. And we have high technology and everybody now is more aware of the technology aspect of things, but also going down that spectrum, down to low-technology, word of mouth is still the most effective form of communication.

And to the extent that we can, I view this office within the Department as a service agency, as a service unit for both the Department, for the American public, and for Congress to be able to respond to people's understanding or lack of understanding in an effective way and just keep bombarding them, really. It is the shotgun approach, repeating, repeating, repeating the information that people need so that you can get through to people with what is the information they need? How do they access that information effectively? It runs the entire spectrum of communication.

I remember when I was at the State Department, a professor came in to speak about communicating in the electronic age and he said that there is no difference between public sector and private sector marketing. The only differences are legal and ethical. I bring that kind of a mentality to this, that you just have to make sure that you are doing every single thing in your power to reach out. And certainly feedback from this Committee and from Members of Congress, from your staff, in terms of how effective we are being in this regard, being a valuable part of that.

Chairman DODD. Well, one suggestion I would make to you, and as the Chairman of this Committee, I have served on this Committee a long time, and when we prepare for hearings, I have a terrific staff, we all do, who work really hard and really know these issues tremendously well, I will get acronyms for various organizations. I mean, I am looking at it, and I have been here a long time, and I have to go back and review, what does that acronym stand for? What are we actually talking about?

I think, too often, we talk to each other in this town and we don't talk to the people outside. We use language that even people here have a hard time understanding. So we need a translator sometimes to be able to talk about what these programs are and how they work and language that the average person can begin to understand. And so I urge you, as you look over statements being made, testimony being provided in committees, whether it is the

Internet or being carried on C–SPAN and others, that there be an ability to speak in plain English about what these ideas are and how people can understand them even better. It is just a thought, but as one here who pays a lot of attention to these issues, I find myself wondering what we are talking about sometimes with these various programs and ideas.

Mr. JACQUES. Thank you. It is one of the most important aspects, simple language.

Chairman DODD. Well, I thank you.

Senator Shelby.

Senator SHELBY. Thank you, Mr. Chairman.

Mr. Hirschhorn, our allies and trading partners, as you well know, do not always share the same export controls. So some of our restrictions are, quote, "unilateral." You have argued before this Committee in the past that, and I will quote your words, "unilateral controls don't work," and that we should not restrict trade any more than other countries do. U.S. unilateral export controls, however, include prohibitions on trade with Iran, as you well know, and other terrorist-supporting states.

My question to you is this. If confirmed, how will you reconcile your duty to enforce unilateral U.S. export controls with your opposition, or seemingly opposition, to such controls? Are you just stating the truth in your——

Mr. HIRSCHHORN. I think we can't doubt that there is a cost to unilateral controls.

Senator SHELBY. Sure, there is.

Mr. HIRSCHHORN. Often, they are important. I would have no trouble enforcing the laws as this Congress has enacted them, the regulations as they stand. None at all.

Senator SHELBY. In the past, you have suggested that the Commerce Department should be given more authority for the oversight of dual-use exports while the responsibilities of the Defense and State Departments in this area should be reduced. Do you continue to hold this view, and if so, what makes you confident that under this construct American technology will not fall in wrong hands?

Mr. HIRSCHHORN. I think the team approach that currently exists is an excellent approach that enables the Commerce Department, although it is handling the physical act of processing and licensing cases, to get the foreign policy advice of the State Department, to get military advice of the Defense Department—certainly, I don't think anyone thinks the Commerce Department is an expert on military policy—and the resources of the intelligence community, and that is certainly what is missing for a lawyer in private practice who is advocating for his clients. It is all behind the curtain for me, and I obviously will have a much better sense of the whole picture——

Senator SHELBY. You are saying to us you will do your duty in——

Mr. HIRSCHHORN. Absolutely, Senator.

Senator SHELBY. Ms. Lago, while foreign investment plays a crucial role in our economy—we all know that—national security considerations, I think, always should remain paramount, the security of this nation. Under what conditions might a foreign acquisition

of a U.S. company constitute a genuine national security threat to the United States?

Ms. LAGO. Thank you for the question, Senator. I think that Congress, this Committee, actually, the two of you, Senators Dodd and Shelby, deserve such praise for passing FINSA. That piece of legislation is so finely crafted to address just this concern. Obviously, the entire CFIUS process is premised on assuring that national security risks are addressed, and it is the composition of that committee that I think gives a high degree of comfort.

Looking at the broad array, 16 different agencies that are represented on the committee, the fact that every CFIUS process begins with an assessment from the Director of National Intelligence, that has at its core an assurance that those expert agencies, the expert agencies that Nominee Hirschhorn just mentioned, are bringing to bear their expertise.

With respect to particular cases, the confidentiality provisions that, again, very properly were built into the CFIUS process because of the sensitive commercial and national security information, mean that I haven't had the possibility—I appropriately could not have been briefed on particular matters. But there is one other facet of the CFIUS process that I think gives the comfort that the proper decision giving proper weight—predominant weight to national security concerns will prevail, and that is the creation of the new Assistant Secretary position——

Senator SHELBY. That is right.

Ms. LAGO.——which has someone appointed with the approval of the Senate, accountable, and reporting to the Committee following the conclusion of every CFIUS matter. And if confirmed, I would take that accountability seriously as well as the reporting and communication obligation.

Senator SHELBY. Generally speaking, how should analysts and strategists at CFIUS assess risk and threats to distinguish between the serious and the inconsequential? That is a big job.

Ms. LAGO. Certainly, Senator, and it is a job. I think, again, it is why this Committee, it is why Congress in reforming the CFIUS process so recently assured that the right folks were at the table, the folks with the level of national security expertise, the full gamut, from Homeland Security to the Department of Defense, so that on a case-by-case basis the proper experts could be brought to bear.

Another feature of FINSA that I think also assures that the right folks are at the table is the provision to appoint a co-lead agency. Treasury serves as the chair, but in FINSA, the emphasis was placed on choosing that lead agency that would have the most expertise about the particular transaction before the Committee.

Senator SHELBY. Do you anticipated as a result of FINSA an increase in CFIUS reviews that will generate the need for further resources being devoted to the CFIUS process?

Ms. LAGO. Thank you for raising that point, Senator. I think one of the challenges when one runs a process, an extremely important process that has strict time lines, is making sure that there are adequate resources brought to bear. The FINSA, the CFIUS legislation calls for strict time lines—30 days, an additional 45 days if an investigation is to occur. As there is increased request by non-

U.S. parties for investment in the U.S., there may be an increase in the workload of CFIUS and it is going to be incumbent, not just upon Treasury, but upon the other members of CFIUS, to make the appropriate and expert staff available to be able to carry out these obligations.

Senator SHELBY. OK. Thank you.

Mr. Jacques, last, one of the greatest challenges, I believe, that you will face, and Senator Dodd has already brought this up, will involve making HUD programs understandable to the average American. As Chairman Dodd noted, there can be a lot of jargon involved in government, especially at HUD. This challenge of how you will need to be able to cut through this so the average person can understand in simple English what they are getting is important to all of us, is it not?

Mr. JACQUES. Absolutely.

Senator SHELBY. Do you look at that as a big challenge, and do you think you can be the first one to break through that?

[Laughter.]

Mr. JACQUES. I——

Senator SHELBY. We hope you will.

Mr. JACQUES. It is a little bit challenging——

Senator SHELBY. It is.

Mr. JACQUES.——because when you are forcing the issue within an agency and trying to simplify things, it is a little bit tough sometimes to get through to people, but I commit to you that my staff will get tired of hearing me harp on that particular aspect——

[Laughter.]

Senator SHELBY. We won't get tired of hearing you.

Mr. JACQUES.——to keep things simple and to reach out to local stakeholders, community organizations, faith-based organizations, our local field offices to explain these things in simple terms and really reach the people with good information they can understand and understand how they can access our services.

Senator SHELBY. Thank you. We wish you well. And I congratulate you all again.

Mr. JACQUES. Thank you.

Chairman DODD. Thank you, Senator Shelby.

Senator Reed.

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

Ms. Lago, you have the interesting challenge, if confirmed, to coordinate 18 different agencies under the CFIUS. Could you give us an idea of similar challenges you have had in your career, coordinating multiple agencies with different cultures and different viewpoints?

Ms. LAGO. Thank you, Senator, for recognizing that it is a formidable challenge, but if confirmed, it is one that I would so welcome. It feels quite familiar, principally because of the work that I did while at the Securities and Exchange Commission. I was the SEC's lead representative in any number of international groups where we needed to forge consensus.

The one example that I would point out is I was the U.S. lead in the drafting of the IOSCO core principles of securities regulation. IOSCO is the International Organization of Securities Com-

missions, and there was a recognition that the investors would benefit from having a globally consistent set of principles.

In these negotiations, we ranged with companies—we worked with countries that ranged from the most developed economies to emerging economies, and it was critical both to assure that there wasn't a watering down, that the United States approach of fair, open markets, of transparency prevailed, while at the same time recognizing that other countries weren't at the same stage of development.

I was struck by Chairman Dodd's reference to language, to translation, echoed by Nominee Jacques, and I do think that having been brought up in an language other than English—English was not my first language—is very helpful. It teaches one to hear and to communication, and certainly that is a skill that I think would be essential, if confirmed. in the CFIUS process, the ability to hear what this multiplicity of agencies is saying, the ability to respect the varying viewpoints, the ability to look for consensus, but also, as the Chair, to lead and to drive that consensus. And so I do think that my work, principally at the Securities and Exchange Commission, but also in my other leadership roles that I have had over the years, would serve me well, if confirmed.

Senator REED. And you are now wondering how I could have graduated from Harvard Law School, but I copied from Marisa.

[Laughter.]

Senator REED. Sovereign wealth funds—should they be treated differently than others who were investing in American assets?

Ms. LAGO. Thank you for asking about the sovereign wealth funds. I found it interesting that 4 years ago, it was a term that was a little bit exotic, and now I would think that many average Americans are aware of the importance of sovereign wealth funds. Again, I would compliment the Committee for the FINSA legislation, which I think lays out the road map for how to treat sovereign wealth funds. Sovereign wealth funds are arms of government, and under FINSA, there is a heightened accountability when the proposed investment is by a foreign government. And so I think that FINSA itself lays out the appropriate approach.

If a sovereign wealth fund is the potential acquirer, then generally there will be an investigation. That is an additional 45-day review. And so this heightened accountability, I think, properly recognizes that sovereign wealth funds are not just any private sector investor, but rather are arms of government.

Senator REED. Thank you very much.

Mr. Hirschhorn, you have, as you all do, a very challenging job with multiple and, at times, conflicting demands. I think you rightly said your primary responsibility is national security, protecting our key technologies. But we are in a world where if we don't increase our exports, we are not going to be economically viable to develop the sophisticated technologies.

How do you—and I know this is a very, very, almost philosophical question—see the balancing? I know the priority is national security, but can we also accomplish that and still encourage imports in these areas? Exports, I should say?

Mr. HIRSCHHORN. I think we can. I think we have been trying to do that for many years. When I served in the Commerce Depart-

ment in the early 1980s, we were trying to do it, and people are still trying to do it. It is a difficult set of choices, and it is a question principally of risk tolerance. You could say in a sense that any sale involves a risk, but you have to make judgments and that is why we have a licensing mechanism. We look at this and say, OK, what is this technology? How serious is it? We look at who wants to use it, what they say they want to use it for, what we can find out, perhaps from the intelligence community, about what they want to use it for. And if confirmed, I intend to make sure that is done carefully and in a way that maximizes both values. They are not always in concert.

Senator REED. Let me just make a point from my perspective on the Armed Services Committee. So much of the technology transfer there is off-the-shelf in commercial or not the traditional military platform, a jet plane or a sophisticated computer. I wonder, would you be considering sort of—or how do you deal with this other trade? For example, the fertilizer that is used in IEDs? This is a rather extreme example, but in some respects, the competition in the old days was between the Soviet Union trying to get a hold of a very sophisticated device, and now the competition is people, guerrillas, who are trying to get a hold of fertilizer or priming cord or mining equipment. Is that something that you are going to be concerned with in your role?

Mr. HIRSCHHORN. Absolutely. That is a lot of what BIS does, because the State Department, which handles military exports, knows that what they are being asked to license is for a military—ordinarily for a military purpose. It certainly is something that was designed with a military purpose in mind.

BIS handles dual-use items, which could be like fertilizer. It could have a perfectly benign civilian use in agriculture, or it could be used to make a bomb, and that is true of many of the items that are controlled under the Commerce Control List. That is why there have to be judgments made about how sophisticated is this item, how available is it, who wants it, and why?

Senator REED. Thank you very much, Mr. Hirschhorn.

Mr. Jacques, good luck in your endeavors. You have got a great story to tell, but it hasn't been told, so good luck.

Mr. JACQUES. Thank you.

Senator REED. Thank you, Mr. Chairman.

Chairman DODD. Thank you, Jack, very, very much.

Senator Corker is here. Do you have any questions at all?

Senator CORKER. I don't. I think you all have done a really good job of ferreting out background and questions. I know we have some other business coming up right after this, so——

Chairman DODD. Yes, we do.

Judd, any comments or questions at all?

Senator GREGG. No, I am all set.

Chairman DODD. All right. Thank you.

Well, listen, all three of you, I appreciate immensely your willingness to serve. You are very talented and accomplished people. This is going to help us tremendously. This is a complicated area and I appreciate, Ms. Lago, your strong comments about the effort this Committee made over many, many weeks in crafting CFIUS legislation, including obviously the FINSA piece of it, and to adopt

it unanimously as we did and then unanimously by the Congress in a very delicate area. As I said, it was an explosive issue. This was, Bob, was in the foreign ports. That was the Dubai—I think it was the Dubai port. It really became sort of a major headline story day after day, and we went back and tried to wrestle with the conflicting goals, obviously, of expanding exports and increasing economic opportunity and simultaneously having an opportunity to make judgments about when the national security of the country might be jeopardized. Not an easy path to walk. And the staff on this Committee, both Democratic and Republican staff members, did a fantastic job and it was rewarded by our colleagues outside of this Committee adopting unanimously the efforts of the Committee. So I appreciate your strong comments. It was a major accomplishment in the midst of everything else that was going on. So we wish you well.

I am going to leave the record open for a few days because other colleagues of ours who could not be here this morning may have some additional questions for you, and I would urge you to get answers back as quickly as we can.

We would like to move along and get you confirmed, if we can. I strongly support your nominations. I think they are very exciting nominees to have working with us in Washington on these issues. Thank you.

I should have noted, by the way, and I apologize, I saw Steve, but I didn't see Mrs. Solars, who was in the audience. Good to see you being here this morning, as well. You were hiding behind him and I didn't spot you and I apologize to you, and a great friend, as well, and an honor and a pleasure to have both of you here with us this morning. Steve, welcome back to the Congress. You are welcome any time to be here, as well.

Senator CORKER. Mr. Chairman, I do want to thank each of you for your desire to serve in this way. We do very much appreciate competent people coming forward like you, so thank you.

Mr. HIRSCHHORN. Thank you, Senator.

Chairman DODD. Good. Thank you all. The hearing will stand adjourned.

[Whereupon, at 10:43 a.m., the hearing was adjourned.]

[Prepared statements and responses to written questions supplied for the record follow:]

PREPARED STATEMENT OF ERIC L. HIRSCHHORN

NOMINEE FOR UNDER SECRETARY FOR EXPORT ADMINISTRATION,
DEPARTMENT OF COMMERCE

NOVEMBER 5, 2009

Chairman Dodd, Ranking Member Shelby, and Members of the Committee, I am honored to be here today. I appreciate the expression of confidence in me by President Obama and Secretary Locke, and I am hopeful that I can gain your confidence as well. I want to thank the Committee members and staff for making time for this nomination hearing in the midst of a busy legislative session. Should I be confirmed, I look forward to continuing to work with you.

At the outset, I'd like to introduce my wife, Leah Wortham, who teaches law at Catholic University here in Washington; our son, Alex Hirschhorn; and my brother-in-law, Henry Howard. Our two daughters, Elizabeth and Anne, and my sisters Victoria and Jessica, are out of town and so cannot be with us. My family's support is very important to me.

I had the privilege of working on export control, antiboycott compliance, and Defense Production Act issues at the Department of Commerce in 1980 and 1981, so this would be a return for me. I found the career staff who administer the system—not only at Commerce but also the other involved agencies—to be extremely capable and one hundred percent committed to the interests of our country. Should I be confirmed, I will be delighted to be working with them again.

As Secretary Locke has noted, the Bureau of Industry and Security, or BIS, "has a unique mission at the intersection of international trade and national security." Working closely with the Departments of State, Defense, and Energy, BIS evaluates thousands of export license applications each year to ensure that items proposed to be sold abroad are going to suitable end users for appropriate end uses. Getting this right is very important. It is equally important to have an enforcement program ensuring that those who flout the rules are caught and punished. I am committed to ensuring that BIS does the best possible job of performing these important functions as well as overseeing its important role in ensuring an effective treaty compliance system and promoting continued U.S. leadership in strategic technologies.

Further, President Obama has asked the agencies to take a hard look at the existing system in an effort to see whether it can be improved consistent with our national security. Of course, this Committee will be involved significantly in that process. I hope you will give me the opportunity to help carry it out.

Since leaving the government for private law practice, I have spent a good deal of my time advising clients whose activities are subject to U.S. export control and embargo regulations. My practice also has included considerable litigation, much of it involving railroad issues. I also have served as an internal ethics counselor for my law firm, and as a member of the D.C. Bar's Ethics Committee and Rules Review Committee.

Most of my export control and embargo practice has involved explaining how the often complex regulations work, analyzing whether a proposed course of action requires advance government permission, and, if a license is required, assisting the client in preparing the application. I have assisted clients with their internal compliance programs and have represented some regarding enforcement issues. I also have acted as an advocate for clients who believe that our export control system can be improved. I frequently have written and spoken in the area; my writings include a number of articles and a book whose third edition will be published early next year. I think this experience will help me in what I hope will be my new job.

If confirmed, my goal will be to perform this job competently and objectively. That includes hearing and considering all viewpoints.

I recently read the remarks that my law school's dean delivered to this fall's incoming class. He spoke of two "fundamental truths." "First," he said, "excellence is its own reward." Second, "integrity is the bedrock of any successful career." I promise that if confirmed, I will strive to bring those qualities to my work.

Again, thank you. I would be pleased to respond to any questions you may have.

PREPARED STATEMENT OF MARISA LAGO

NOMINEE FOR ASSISTANT SECRETARY FOR INTERNATIONAL MARKETS AND DEVELOPMENT,
DEPARTMENT OF THE TREASURY

NOVEMBER 5, 2009

Chairman Dodd, Ranking Member Shelby, distinguished members of the Committee, I am honored to have my nomination come before you today.

I want to thank your staff for meeting with me to discuss CFIUS and other international financial matters.

I am honored to have been nominated by President Obama to serve as Treasury assistant secretary for international markets and development, especially at such a critical moment for our nation's—and the world's—economies. And I am grateful to Secretary Geithner for recommending me to the President. Having had the pleasure of working with Secretary Geithner when he was last at Treasury, I am looking forward to having the opportunity to join his team.

Before I begin, I would like to briefly introduce my family members who are here with me today. My husband, Ron Finiw, is my best friend of 35 years. Our nation's Capitol is graced by one of Ron's buildings: he was the principal architect for the international law center library at Georgetown Law School. I am also joined by my brother, Paul Lago. Paul shares my passion for public service. He is a senior intelligence officer at the Defense Intelligence Agency, where he has served for the past two decades.

My parents, Louis and Maria Lago, cannot be here today. After 6 decades in the United States, they now live in the village in Spain where my mother was born. But, my love of public service stems from my parents. My father served in the U.S. Navy during World War II, and spent the rest of his career as a civilian employee of the Department of Defense at Picatinny Arsenal in New Jersey.

As my family's first college graduate, I have lived the American dream. Upon graduating from Harvard Law School, I made the atypical decision to join New York City government, rather than the more traditional path of joining a law firm. I became hooked on public service, because of the ability to do good, to serve, to make my hometown a better place. Over the past 25 years, I have had the privilege of heading the economic development arms of government in both New York State and the city of Boston, and serving as the general counsel of New York City's economic development agency. In each of these roles, I have had to balance competing interests—of fiscal prudence, of the business community, of neighborhood concerns.

I have also been fortunate to have been able to serve at the Federal level. For 4 years, I headed the Securities and Exchange Commission's Office of International Affairs. Working closely with then-Chairman Arthur Levitt, I played a key role on numerous international initiatives involving trade in financial services, international accounting standards, and enhancing financial regulation in offshore financial centers. Throughout this time, I held a top secret security clearance.

In the private sector, I headed the compliance department globally for Citigroup's markets and banking business. In this role, I was responsible for compliance matters, including anti-money laundering and OFAC (sanctions) initiatives, for Citigroup's investment banking, trading, public finance and transaction services businesses. In addition to securities regulators, I dealt routinely with both domestic and non-U.S. banking regulators, as I had members of my team in over 80 countries.

Turning to the future, if approved by this Committee and confirmed by the Senate, I commit to working closely with this Committee to carry out the weighty responsibilities laid out in FINSA, and to being part of the Treasury team that promotes economic growth, financial market stability, and open markets for U.S. firms. A critical component will be open and regular dialogue with this Committee, with the other members of CFIUS, and with my colleagues in the Treasury Department. If confirmed, I will welcome this dialogue.

PREPARED STATEMENT OF STEVEN L. JACQUES

NOMINEE FOR ASSISTANT SECRETARY FOR PUBLIC AFFAIRS,
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

NOVEMBER 5, 2009

Chairman Dodd, Ranking Member Shelby, members of the Senate Committee on Banking, Housing and Urban Affairs, it is an honor to be here today as nominee

for the position of Assistant Secretary for Public Affairs for the Department of Housing and Urban Development.

I come to you from the great State of Kansas after a long career in both the public and private sectors. My work in public affairs and communications has taken me throughout the United States, where I have been blessed to become part of communities from the smallest of towns to the biggest of cities. The one constant theme throughout my career is that it has always been an invaluable education. All of you are state-wide elected officials, so you have seen the diversity of communities and people even within your own states. As national figures, you have witnessed firsthand the incredible diversity of our country, as well as the common bonds that make us all so similar in so many ways.

A considerable portion of my career has been spent in politics and government, including many bipartisan endeavors. One of the great honors of my life has been the opportunity to serve as a Senior Fellow and Associate Director of the Robert J. Dole Institute of Politics at the University of Kansas. The primary mission of this wonderful institution is to show students that a career in politics and government is an honorable profession. Former Senator Bob Dole is obviously our prime exemplar, but the concept of "politics as an honorable profession" also includes many of the practitioners from the world of public service who have graced the Institute with their wisdom.

Through my work in government, politics, higher education, and with civic and charitable organizations, non-profits corporations, and businesses, I have been privileged to be able to provide timely, useful information to those who can benefit from it. This is my mission, and the part of my career that provides me with the most satisfaction.

I view the primary mission of the Assistant Secretary for Public Affairs at HUD as ensuring that the people who need our services find out about those services, and ultimately know how to access them. Specific information that comes to mind are the resources that can help Americans avoid foreclosure, refinance their homes, find affordable rental housing, or rebuild their homes after a natural disaster.

My broad spectrum of experience has taught me the difference between simply "releasing" information and truly communicating that information. How do we reach those who don't have access to the internet or email? How do we inform people who do not get newspapers, or do not have the time to sit down and watch TV news because they are working two jobs and running a household?

I have been honored to serve as Director of Communications and Strategic Communications Planning for the U.S. State Department, where I participated in the successful NATO 50th Anniversary Summit, and the accession to NATO of the first three former Eastern Bloc countries, (Poland, Hungary and the Czech Republic). I was also honored to serve at the U.S. Department of Commerce as the Communications Director for the Bureau of Export Administration.

My public sector experience also includes two state universities—the University of Kansas, where I served at the Dole Institute, and the University of Missouri-Kansas City, where I served as Associate Vice Chancellor for Public Affairs. At the University of Missouri, I worked hard to bring new positive media and community attention to the school's good works.

Since 1976, I have served on the national advance staff in nearly every Presidential election. I have used the skills I learned in the intense working environment of Presidential campaign advance to serve both Republican and Democratic public officials in the conduct of their official duties.

In the private sector, I have worked for numerous non-profit and civic organizations, as well as municipalities. Among those clients I was most proud to serve was the Kansas City, Missouri Police Department, for which I developed and implemented a public affairs campaign to increase the number of minorities and women on the police force. We were successful in dramatically increasing the number of high quality individuals who applied, and eventually became police officers.

I view the role of public affairs in government, academia, civic and non-profit organizations as the nexus between policy and action. Not even the best policies have a hope of being implemented, or of helping people, without effective communication and outreach to those who need to know and can act on the information they receive. You can build the proverbial better mousetrap, but no one will beat a path to your door unless they are aware of it.

I ask for your support, and in return I promise to actively search for every opportunity to provide you and your constituents with the information you need and want regarding the work of the U.S. Department of Housing and Urban Development.

REPONSES TO WRITTEN QUESTIONS OF ERIC L. HIRSCHHORN FROM SENATOR SHELBY

Q.1. For many years, you have been executive secretary of a group of major trade association called the Industry Coalition on Technology Transfer (ICOTT). On behalf of ICOTT, you have advocated several steps that would weaken U.S. export controls—including abolishing controls on items that are not controlled by our major trading partners.

If you are confirmed, wouldn't you be required to enforce controls that you have spent a major portion of your career opposing?

A.1. If confirmed, I will act solely in the interests of the United States and will enforce the rules vigorously. During my prior service at the Commerce Department, I enforced the controls that were on the books and did so forcefully. This included unilateral controls, such as the embargo on grain and other agricultural products that we imposed on the Soviet Union in the wake of their invasion of Afghanistan.

The role of a lawyer in private practice is to advocate his clients' positions. Moreover, a private practitioner is not privy to all the foreign and military policy considerations, or to the intelligence data, that often are critical in deciding what items should be controlled, to which end users and countries, and for which types of end uses. I recognize the difference between the role of a private practitioner/advocate and the role of an official whose sole "client" is the United States and the national interest. If confirmed, I will act solely in the interests of the United States.

Q.2. The United States retains jurisdiction over re-exports of U.S.-origin goods abroad, beyond their initial export from American soil. Such "extraterritorial" application of export controls helps the United States prevent and punish diversion of American goods that might be used against U.S. soldiers, or to help Iran build weapons of mass destruction. You have previously recommended that this Committee "should consider terminating (or greatly limiting) the extraterritorial application of United States export controls." Without such application, however, it would be impossible to thwart companies like Mayrow General Trading, based in Dubai, which diverted U.S.-origin exports to Iran, exports that wound up in IEDs used against our forces in Iraq and Afghanistan.

If confirmed, how would you reconcile the need to maintain "extraterritorial" U.S. export controls with your opposition to such controls?

A.2. If confirmed, I will enforce our country's embargoes and export controls, including those that may have extraterritorial application.

Q.3. The Iran Sanctions Act is a tool adopted by Congress for the purpose of pressuring Iran to abandon its dangerous nuclear ambitions and its support for terrorism. The Act authorizes penalties against foreign firms that invest in Iran's energy sector. Congress is now working to strengthen this statute and to expand its reach to also penalize Iran's refined petroleum suppliers. You have previously criticized this statute before the Committee as a "secondary boycott" and an example of "unacceptable extraterritorial controls."

If confirmed, how would you reconcile your opposition to the Iran Sanctions Act with the possibility that the administration might need to enforce it?

A.3. As noted above, if confirmed, I will enforce the laws under BIS's jurisdiction vigorously, regardless of arguments I made as an advocate in private law practice.

Q.4. This Committee has just approved a bill which would authorize state and local governments to divest from companies which invest in Iran's energy sector. This bipartisan proposal has already been overwhelmingly endorsed by the House. The proposal is modeled on the Sudan Divestment and Accountability Act of 2007. That statute was adopted by Congress and signed by President Bush after the National Foreign Trade Council (NFTC) sued to prevent the state of Illinois from divesting from Sudan over the genocide in Darfur. You represented the NFTC in that lawsuit. Your firm, Winston and Strawn, became a member of NFTC, which is opposed in principle to "unilateral" and "extraterritorial" controls and sanctions. You became the NFTC's point of contact at your firm. Today, the NFTC continues to oppose Iran divestment legislation and other Iran sanctions measures in Congress.

Do you still oppose allowing divestment from companies dealing with Iran and Sudan?

A.4. I have never opposed allowing public pension funds to divest from companies dealing with Iran and Sudan. The NFTC, along with eight Illinois fire and police pension funds and nine individual retirees, hired my firm to challenge a law that imposed Illinois' own version of an embargo that already had been imposed, in substantially different form, by the Federal Government. The plaintiffs in that case did not take the position that the conduct of the Sudanese authorities was humane or worthy of support. Instead, the plaintiffs argued that the Illinois embargo conflicted with and undermined the Federal Government's policy.

The Federal district court in Chicago agreed that the Illinois law was preempted by Federal law. Rather than appeal the ruling, the State of Illinois repealed the law and enacted a substitute that, so far as I am aware, has not been challenged.

Q.5. Commerce Secretary Locke recently proposed to eliminate license requirements for dual-use exports to a large number of countries which are our "allies and partner nations." Although this proposal appears to be in the conceptual stage at present, it raises several troubling questions. Nearly all direct exports from the United States to Iran are prohibited by our embargo. But Iran's WMD and military procurement networks routinely seek to acquire U.S. origin dual-use goods through third countries. The United States exercises controls over such re-exports, and prosecutes foreign entities who re-export U.S. goods to Iran without U.S. authorization.

- If export license requirements are removed for items sent to the European Union, for example, how will the United States be able to stop re-exports?
- How will BIS deal with suspect entities located in these suggested license-free countries? Will additional resources be allocated to maintain and expand the Entity List for this purpose?

- Has the Department of Justice been consulted on this proposal, and if so, what was the response?
- More generally, how will you ensure that any proposals to decrease controls on sensitive U.S. exports will not make it easier for Iran to acquire such exports?

A.5. While I am aware of Secretary Locke's proposal, I am not employed by the Commerce Department as a consultant or otherwise, and did not prepare the proposal or any regulations that would implement the proposal. I share Secretary Locke's view that implementation of the proposal, as well as any additional reforms, must include strong, effective protections against reexport of United States-origin items to unauthorized parties or destinations.

REPONSES TO WRITTEN QUESTIONS OF ERIC L. HIRSCHHORN FROM SENATOR BUNNING

Implementation of the Iran Sanctions Act

Q.1. Mr. Hirschhorn, in June 1999 when you were Executive Secretary of the Industry Coalition on Technology Transfer (ICOTT), you testified before the Senate Banking Committee on the reauthorization of the Export Administration Act. In your testimony, you said the Committee should "consider terminating (or greatly limiting) the extraterritorial application of the United States export controls." One example you cited was the implementation of the Iran-Libya Sanctions Act of 1996. You noted United States insistence that

> origin goods and technology remain subject to United States export controls forever—no matter how many years may pass or how many different owners the items have—are but two examples of unacceptable extraterritorial controls.

- At the time of your comments, you were representing the interests of industry. However, you have now been nominated to fill a position with responsibility to enforce export controls for the United States. Do you still stand by your comments about export controls?
- If confirmed, will you support full implementation of U.S. export laws?

A.1. As the question recognizes, my testimony of a decade ago was on behalf of a group of trade associations and their many members. I recognize that the role of a lawyer/advocate is far different from that of a government official. Moreover, my role as advocate was not informed by foreign policy considerations or by intelligence information, to which private individuals are not privy. If I am confirmed, my sole "client" will be the United States and the national interest, and I will fully and vigorously implement our country's export control laws. This includes regulations requiring that foreign companies seeking to reexport U.S.-origin technology abide by U.S. rules, including obtaining a reexport license where warranted.

Diversion of goods to Iran

Q.2. The transshipment of sensitive technology to Iran continues to be a problem. The UAE has been a major hub for illegal transshipments of goods to and from Iran. We have seen reports that

Dubai has been working to prevent these transshipments from going through, but it seems that the activities have moved north to the Emirate of Ras al-Khaimah. Also, Malaysia and Oman continue to be key intermediaries for Iran to illegally acquire U.S. technology.

- Will Iran and the enforcement of our export control laws remain a priority for the Commerce Department if you are confirmed?
- If confirmed, how do you intend to work with Oman, the UAE, and Malaysia to stop these illegal shipping networks? What steps do you think should be taken by these countries in order for them to successfully control items from being diverted to Iran?

A.2. Iran and the enforcement of our export controls will be a priority if I am confirmed. Countries that are diversion points should be pressed to prevent such conduct. I am not now in a position to recommend specific actions but would consult with appropriate enforcement and diplomatic personnel about what steps would be appropriate and likely to be effective.

Q.3. When Daniel O. Hill testified before this Committee in October, he indicated that the Bureau of Industry and Security only had five agents overseas working on issues related to the diversion of sensitive goods to Iran.

- If confirmed, will you increase the number of agents that are stationed abroad to monitor this problem?
- How will you cooperate with other U.S. agencies in stopping and prosecuting illegal export schemes?

A.3. My outsider's impression is that cooperation among the agencies enforcing our export control and embargo laws, including the Departments of Commerce, Justice, and the Treasury, is far greater than when I previously served in the Department of Commerce. If confirmed, I will be committed to such cooperation.

Before offering specific recommendations about the placement of enforcement resources, I would have to consult with BIS's career enforcement staff and others in the executive branch. I have no hesitation, though, in agreeing that rigorous enforcement is important in improving compliance with our export control laws.

Boycott of Israel

Q.4. The Commerce Department is responsible for enforcing U.S. anti-boycott laws which discourage, and in some circumstances, prohibit U.S. companies from furthering or supporting the boycott of Israel, sponsored by the Arab League and certain Muslim countries.

- If confirmed, will you fully enforce U.S. anti-boycott laws?
- In dealings with countries that participate in the boycott of Israel, will you make it a priority to encourage them to end their boycott?

A.4. Though it occurred nearly thirty years ago, I still take pride in having personally negotiated the first six-figure settlement under the Commerce antiboycott regulations. If confirmed, I will

fully enforce those regulations and will follow U.S. Government policy, which I understand encourages boycotting countries to end their boycotts.

REPONSES TO WRITTEN QUESTIONS OF MARISA LAGO FROM CHAIRMAN DODD

FINSA Objectives

Q.1. Ms. Lago. As we noted, this Committee labored over the course of the last Congress to produce the landmark Foreign Investment and National Security Act (FINSA), which was unanimously approved by this Committee and the full Senate, and signed into law in July 2007.

- I believe that if implemented correctly, it will achieve two principal objectives: (1) protecting our national security and (2) ensuring that appropriate foreign investment in the United States is *not* inhibited. Would you agree with this assessment? How would you fulfill this mandate, if confirmed?

A.1. Yes, I agree that FINSA provides CFIUS with a set of tools necessary to safeguard national security in a manner consistent with the United States' longstanding policy of welcoming foreign investment. In addition, by focusing CFIUS reviews solely on national security, FINSA provides foreign investors with confidence in our open investment approach while making clear that we will take any necessary action within our authority to protect national security. If confirmed, I will work to ensure that CFIUS continues to conduct rigorous and comprehensive national security reviews, seeks to resolve or mitigate any and all national security concerns so that transactions can proceed (and recommends that the President prohibit a transaction if the threat cannot be mitigated), and processes reviews fairly and expeditiously in accordance with statutory requirements and deadlines.

Control

Q.2. Ms. Lago. For over a year after FINSA was enacted, we worked with the Bush Administration to issue satisfactory CFIUS regulations. Of particular concern was the definition of "control." Ultimately, we were pleased the regulations recognized that even foreign entities holding *less than 10 percent* of voting interest, may still exercise control and thus prompt a CFIUS review.

- Please discuss the definition of "control" under this new set of regulations. What do you believe to be the various factors constituting an exercise of control, even if a foreign investor was acquiring a 5-percent (or less) stake in a U.S. company?

A.2. The regulations provide an illustrative list of important matters for CFIUS to consider in determining whether there is control. These include, for example, the total outstanding voting interest in an entity, board representation, proxy voting, special shares, negative rights, contractual arrangements, and formal or informal arrangements to act in concert. The facts and circumstances of each case vary, of course, and CFIUS must consider them in their totality in making this determination. Therefore, this list is not exhaustive and is not dependent on any particular numerical threshold

ownership interest. Instead, the regulations permit and expect that CFIUS will consider any "other means" by which an investor might exercise control.

Mitigation

Q.3. Ms. Lago. As you are aware, the CFIUS process is not simply an up-or-down vote on investment in the United States. Under FINSA, Treasury and other Departments often-times negotiate "mitigation agreements" with both foreign investors and U.S. entities, to address specific national security concerns.

- What priorities and principles would you adhere to in developing such arrangements?

A.3. As required by FINSA, any such arrangements must be based on a risk-based analysis conducted by CFIUS of the threat to national security posed by the covered transaction. Executive Order 11858, as amended in 2008, implements this statutory requirement by requiring that any CFIUS agency proposing risk mitigation measures must provide CFIUS, for its approval, with such an analysis and proposed mitigation measures the agency believes are reasonably necessary to address the risk. The Order also makes clear that, before using a risk mitigation agreement, CFIUS should determine whether any national security concerns that it has identified can adequately be addressed through the exercise of other existing legal authorities. If confirmed, I will work to ensure that the framework for use of mitigation measures defined in FINSA and the Executive Order continues to be implemented faithfully in each case, including ensuring that all national security concerns are resolved or mitigated before CFIUS concludes action on a transaction and that mitigation is used only when justified by, and proportional to, the national security risk posed by the transaction.

Q.4. How will you work to ensure that these agreements are continually monitored and enforced?

A.4. I understand that, as required by FINSA, CFIUS has developed and agreed upon methods for evaluating compliance with every risk mitigation agreement entered into or condition imposed, allowing CFIUS to adequately assure compliance. In addition, I understand that the mitigation agreements themselves generally contain provisions that facilitate compliance monitoring. I further understand that Treasury, as chair of CFIUS, convenes a quarterly meeting for agencies designated as lead agencies for monitoring any agreement to report to CFIUS on the state of compliance with such agreements. If I am confirmed, I will work to ensure that CFIUS as a whole, and each lead agency for mitigation monitoring, continue to be actively engaged in monitoring and ensuring compliance with mitigation agreements.

Reciprocity

Q.5. Ms. Lago, During the previous Administration, many trade discussions focused on the United States commitment to remain open to foreign investment. But I remain concerned that there oftentimes seemed to be a reluctance to promote reciprocity—that is, to insist that countries remove their barriers to U.S. investment.

- Under your stewardship in the Office of Investment Security and as manager of the Committee on Foreign Investment, would you undertake bilateral discussions on these matters, particularly with China to advance mutual economic interests?
- How should the United States use multilateral forums to advance such an agenda?

A.5. The U.S. open investment policy emphasizes openness both at home and abroad and, if confirmed, I will continue to push for robust open investment policies in other countries, including China. I understand that Treasury is already very engaged in this effort, both bilaterally and multilaterally. With regard to other countries' investment review processes, Treasury strongly supports the OECD's current program of peer review to ensure that its members' processes are—as I believe CFIUS is—consistent with the OECD's open investment principles: non-discrimination, transparency, predictability, accountability, and proportionality.

The Administration is also engaged in bilateral investment treaty negotiations, including with China. One objective of these negotiations is to lock in open investment policies such as non-discriminatory treatment of U.S. companies and increased market access. Multilaterally, the United States is an active participant in the OECD Investment Committee's pursuit of open investment policies among OECD members and observer countries, as well as the OECD's investment liberalization outreach efforts to developing countries.

Sovereign Wealth

Q.6. Over a year ago, the Bush Administration participated in an IMF forum in Santiago, Chile to develop the "Generally Accepted Principles and Practices" (or GAPP) for Sovereign Wealth Funds to observe when investing in various economies around the world.

- What is your assessment of the GAPP?

A.6. The GAPP aims to help maintain a stable and open global financial system by encouraging sovereign wealth funds (SWFs) to establish sound institutional and operational practices. The GAPP is credible in that it responds directly to the key macroeconomic, financial market, and investment issues raised by the rapid growth in the size and number of SWFs, and helps to demonstrate a significant positive shift in SWF practices.

Q.7. What sorts of principles and practices should the United States government be promoting regarding sovereign wealth investment?

A.7. The United States government should promote the principles and practices identified in the GAPP, which will help allay concerns that SWF investments may be politically motivated and reduce potential uncertainty and volatility in financial markets.

Key principles include:

- SWF investment decisions should aim to maximize risk-adjusted financial returns in a manner consistent with the SWF's investment policy, and based on economic and financial grounds.

- Financial information, including asset allocations, benchmarks, and historical returns, should be publicly disclosed.
- Investment policies, including policies for voting publicly traded equity shares, should be publicly disclosed.
- The governance framework for the SWF should be sound and should establish a clear and effective division of roles and responsibilities in order to facilitate accountability and operational independence in the management of the SWF to pursue its objectives.