

S. HRG. 107-964

**NOMINATION OF THEODORE W. KASSINGER
TO BE GENERAL COUNSEL OF THE
DEPARTMENT OF COMMERCE**

HEARING

BEFORE THE

**COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE**

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

APRIL 26, 2001

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COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

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**NOMINATION OF THEODORE W. KASSINGER
TO BE GENERAL COUNSEL OF THE
DEPARTMENT OF COMMERCE**

THURSDAY, APRIL 26, 2001

UNITED STATES SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 2:32 p.m., in room SR-253, Russell Senate Office Building, Hon. McCain, Chairman of the Committee, presiding.

**OPENING STATEMENT OF HON. MCCAIN, U.S. SENATOR
FROM ARIZONA**

Senator MCCAIN. This Committee takes its advice and consent role very seriously, and I will note that Mr. Kassinger has responded in detail to the Committee's request for biographical and financial data. I have had the opportunity to review your responses to the Committee's questionnaire and I look forward to moving your nomination quickly along with the other nominations we have considered before the Committee yesterday. Prior to Mr. Kassinger's appointment, he was a partner in the law firm of Vinson & Elkins, where he had practiced since 1985. Mr. Kassinger also has a strong background in public service. From 1981 through 1985 Mr. Kassinger served as International Trade Counsel to the Senate Committee on Finance under the leadership of Chairmen Bob Dole and Bob Packwood. Previously Mr. Kassinger served as an attorney with the U.S. Department of State from 1980 to 1981 and the U.S. International Trade Commission from 1978 to 1980. Mr. Kassinger is currently serving the Department of Commerce as Senior Adviser to the Secretary. Mr. Kassinger, I want to welcome you to the Committee. I appreciate your willingness to serve, and if you have any family members here, please feel free to introduce them before you begin your remarks.

[The prepared statement of Senator McCain follows:]

PREPARED STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA

Good morning and welcome. Today I am pleased to have before the Committee Mr. Ted Kassinger, who has been nominated to serve as General Counsel of the Department of Commerce. I congratulate you Mr. Kassinger, on your appointment to this prestigious post.

This Committee takes its advice and consent role very seriously, and I will note that Mr. Kassinger has responded in detail to the Committee's requests for biographical and financial data. I have had the opportunity to review your responses to the Committee questionnaire, and I look forward to moving your nomination

quickly, along with the other nominations we considered before the Committee yesterday.

Prior to Mr. Kassinger's appointment, he was a partner in the law firm of Vinson & Elkins, where he had practiced since 1985. Mr. Kassinger also has a strong background in public service. From 1981 to 1985, Mr. Kassinger served as International Trade Counsel to the Senate Committee on Finance, under the leadership of Chairmen Bob Dole and Bob Packwood. Previously, Mr. Kassinger served as an attorney with the U.S. Department of State from 1980 to 1981, and the U.S. International Trade Commission from 1978 to 1980.

Mr. Kassinger is currently serving the Department of Commerce as senior advisor to the Secretary. Again, Mr. Kassinger, I welcome you to the Committee, and appreciate your willingness to serve. If you have any family members here, please feel free to introduce them before you begin your remarks.

Mr. KASSINGER. Thank you, Mr. Chairman. Indeed, I do. I would like to introduce my wife, Ruth; my daughters Anna, Austen and Alice; and my father-in-law and mother-in-law, Henry and Alice Good.

Senator MCCAIN. Welcome to the Committee today. I know this is a very proud moment for all of you, especially your daughters, and we want to welcome them. We're glad that they could be here at this important moment. I would like, before you make your brief opening statement, to recognize Senator Cleland.

STATEMENT OF HON. MAX CLELAND, U.S. SENATOR FROM GEORGIA

Senator CLELAND. Thank you, Mr. Chairman. I just want to say a few quick words regarding today's nomination of Mr. Kassinger and later the testimony of Dr. Michael Adams, the distinguished President of the University of Georgia. Mr. Kassinger has a distinguished record of public service, as an appointee in the Reagan Administration as well as his many years as a high-level staffer to Senator Bob Dole. Mr. Kassinger is a proud recipient of both his undergraduate and graduate degrees from the University of Georgia. I understand that his father was Director of Public Safety in Athens, Georgia, some years ago, and I have every reason to believe he will continue his fine career in public service in his new capacity, and you certainly have my support. As General Counsel for the Department of Commerce, the nominee will be the Chief Legal Officer of the agency and will oversee a variety of counsels ranging from the Patent and Trade Office to the Export-Import Offices. Mr. Kassinger is well-qualified to serve in this role. I'd like for all of you to support his nomination and working with him.

I think a little later, Mr. Chairman, the Committee will hear Dr. Michael Adams, the President of the University of Georgia. Dr. Adams is here to present his views in the current situation regarding college sport gambling. We are aware of the controversy surrounding the issue and I look forward to his testimony. Dr. Adams is no stranger to the Senate, having served Senator—Majority Leader, Howard Baker, for 6 years, 3 of which he was his Chief of Staff. He has helped to make the University of Georgia one of the finest public universities in the country, and is quickly becoming a leading national figure in all issues affecting our education. I am sure the Committee will benefit from his testimony. Mr. Chairman unfortunately, due to the previously scheduled hearings, I won't be able to stay for today's hearing, but I look forward to the testimony of witnesses. Thank you very much.

Senator MCCAIN. So we know which Committee is more important to you. Thank you very much Senator Cleland.

Mr. Kassinger.

**STATEMENT OF THEODORE W. KASSINGER, NOMINEE FOR
GENERAL COUNSEL, DEPARTMENT OF COMMERCE**

Mr. KASSINGER. Mr. Chairman, members of the Committee. Senator Cleland, thank you so much for those kind words.

I am honored to appear before you today as the President's nominee to serve as General Counsel of the U.S. Department of Commerce. I am grateful to President Bush for providing me this opportunity, and I am deeply gratified by the confidence and support shown to me by Secretary Evans. I would also like to thank this Committee for the courtesy it has extended to me throughout the appointment process.

The General Counsel of the Department of Commerce serves as the agency's chief legal officer, providing legal advice and guidance to the Secretary and other senior Commerce officials as they perform the vital work of the Department. The breadth of the Department's responsibilities and activities are mirrored in the complex legal environment within which it must operate. Competently handling the myriad issues faced daily by the Department, from regulation of international trade to management of marine fisheries to internal administration matters and a multitude of others, will present a formidable challenge. It is one that I welcome.

If confirmed by the Senate, I believe I would bring substantial relevant experience and knowledge to the position of General Counsel. In my nearly 16 years of private law practice, I represented and counseled clients engaged in a wide variety of international trade regulatory matters and proceedings, business transactions, litigations and arbitrations. Prior to joining my former law firm, I was privileged to serve on the staff of the Senate Committee on Finance, and as an attorney with both the U.S. Department of State and U.S. International Trade Commission. I thus fortunately have some knowledge of many Department of Commerce programs, and experience working with them.

I also have much to learn about the Department, and the laws and regulations that govern its operations. As I learn, I know I will be well supported by a deep staff of career, able lawyers. I am confident that I will perform my duties with the skill that President Bush and you should expect.

There is no more important role served by the General Counsel than to act as the Chief Ethics Officer for the Department. Secretary Evans has already requested that I make this responsibility a priority of my tenure. I share his strong commitment that the employees of the Department act with the utmost integrity and honesty, and I will strive to ensure that the Department's programs are implemented in that spirit.

As someone who has previously had the opportunity to serve government in both the Executive and Legislative Branches, I have a keen appreciation for the role of this Committee and other committees of Congress in enacting the laws under which the Department operates, and conducting oversight of the manner in which the Department implements those laws. I would welcome the opportunity

once again to assist you and your colleagues to carry out your responsibilities as the Department pursues its multiple missions.

Permit me to conclude by affirming to you my view that public service in the position to which President Bush has nominated me would be a special privilege, one that I commit to undertake with all my energy and devotion. Thank you again for the opportunity to appear before you today and for your consideration of my nomination. I would be pleased to respond to any questions you may have.

Thank you.

[The prepared statement and biographical information of Mr. Kassinger follow:]

PREPARED STATEMENT OF THEODORE W. KASSINGER, NOMINEE FOR GENERAL COUNSEL, DEPARTMENT OF COMMERCE

Mr. Chairman and Members of the Committee, I am honored to appear before you today as the President's nominee to serve as General Counsel of the U.S. Department of Commerce. I am grateful to President Bush for providing me this opportunity and I am deeply gratified by the confidence and support shown to me by Secretary Evans. I would also like to thank this Committee for the courtesy it has extended to me.

The General Counsel of the Department of Commerce serves as the agency's chief legal officer, providing legal advice and guidance to the Secretary and other senior Commerce officials as they perform the vital work of the Department. The breadth of the Department's responsibilities and activities are mirrored in a complex legal environment within which it must operate. Competently handling the myriad issues faced daily in the Department—from regulation of international trade to management of marine fisheries to internal administration matters and a multitude of others—will present a formidable challenge, but one that I welcome.

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Permit me to conclude by affirming to you my view that public service in the position to which President Bush has nominated me would be a special privilege, one that I commit to undertake with all my energy and devotion. Thank you again for the opportunity to appear before you today, and for your consideration of my nomination.

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

A. BIOGRAPHICAL INFORMATION

1. Name: Theodore (Ted) William Kassinger.

2. Position to which nominated: General Counsel of the U. S. Department of Commerce.
3. Date of nomination: April 4, 2001.
4. Address: Residence: (Information not released to the public). Office: Office of the Secretary U.S. Department of Commerce 14th: Street and Constitution Ave., NW Washington, DC 20230.
5. Date and place of birth: January 26, 1953; Atlanta, GA.
6. Marital status: Married—Ruth L. Good (wife's maiden name).
7. Names and ages of children: Anna L. Kassinger, 14; Austen E. Kassinger, 12; Alice C. Kassinger, 8.
8. Education: University of Georgia, September 1975–June 1978, J.D., June 1978; University of Georgia, June 1970–June 1975, B.L.A., June 1975, Athens High School, September 1968–June 1970, none (skipped senior year).
9. Employment Record: Law clerk, U.S. Dept of HEW, Atlanta, GA, June 1976–May 1977; Summer Associate, Smith, Currie & Hancock, Atlanta, GA, June 1977–August 1977; Instructor, UGA Business School, Athens, GA, September 1977–June 1978; Attorney-Advisor, U.S. International Trade Commission, Washington, DC, August 1978–April 1980; Attorney-Advisor, U.S. Dept. of State, Washington, DC, April 1980–October 1981; International Trade Counsel, U.S. Senate Committee on Finance; Washington, DC, October 1981–June 1985; Associate (1985–1989), Partner (1990–2001), Vinson & Elkins LLP, Washington, DC, July 1985–February 2001; Senior Advisor to the Secretary, U.S. Dept. of Commerce, Washington, DC, February 2001–present; Instructor, Georgetown Law Center, Washington, DC, January 1987–December 1987.
10. Government experience: University of Georgia School of Law, Board of Visitors.
11. Business relationships: Vinson & Elkins LLP—Partner (1990–2001), Ford's Theatre Society—Trustee (1998–present), The Concord Hill School—Trustee (1995–present), University of Georgia School of Law Board of Visitors (1999–present).
12. Memberships: District of Columbia Bar, Georgia Bar, American Bar Association, American Society of International Law (Interest Group Chair)¹, Council on Foreign Relations (term membership)¹, Trout Unlimited, The Nature Conservancy.
13. Political affiliations and activities: (a) None. (b) Bush-Cheney 2000 Presidential Campaign: Assisted policy staff of campaign. Bush/Cheney Presidential Transition: Served as coordinator of Commerce Department Transition Team. Dole for President Campaign 1996: Volunteer.(c) National Good Government Fund \$500, National Good Government Fund \$600, National Good Government Fund \$546, National Good Government Fund \$525, Vinson & Elkins Texas PAC \$1442, Vinson & Elkins Texas PAC \$636, Vinson & Elkins Texas PAC \$911, Vinson & Elkins Texas PAC \$1000, Vinson & Elkins Texas PAC \$2304, Vinson & Elkins Texas PAC \$970, Vinson & Elkins Texas PAC \$1100, Vinson & Elkins Texas PAC \$1465, Vinson & Elkins Texas PAC \$1803, Vinson & Elkins Texas PAC \$1520, Vinson & Elkins Texas PAC \$1668, Dole for President \$1000, George W. Bush Presidential Campaign \$1000, Republican National Committee \$1000, Bush-Cheney Recount Fund \$500.
14. Honors and awards: College Honorary: Gridiron Secret Society, Blue Key, Omicron Delta Kappa, Senior Superlative. Skipped senior year of high school to join University Honors Program. Awarded Law School scholarship.
15. Published writings: "Antidumping Duty Investigations," in *Law and Practice of United States International Trade Regulation*, Oceana Publications (1987, 1989, 1996 update with Rosemary E. Gwynn); *Basic Documents of International Economic Law* (chapters on the GATT Antidumping Code, Subsidies Code, Standards Code, and Procurement Code), CCH International and Westlaw (1990).

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or" organization? No.
2. Has anybody made a commitment to employ your services in any capacity after you leave government service? No.
3. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? Yes.

¹Not current member.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe *all* financial arrangements, deferred compensation agreements, and other continuing dealings with, business associates, clients or customers.

I have maintained assets in a 401(k) pension plan sponsored by Vinson & Elkins LLP, consistent with the plan's standard option and the practice of other former partners.

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

To avoid potential conflicts of interests, I intend to recuse myself from specific matters and to divest certain of my investments, as set forth in an Ethics Agreement into which I have entered with the Department of Commerce.

3. Describe any business relationship, dealing, or financial transaction which you have had during the last 20 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated?

The Commerce Department's ethics officials, together with the Office of, Government Ethics, have advised me of the possible conflicts of interest that might arise from my recent business arrangements and current investments. Implementation of the Ethics Agreement will resolve those potential conflicts. I am unaware of any other such potential conflict of interest.

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

During the course of my law practice over the past 10 years, I regularly represented clients in a variety of administrative proceedings and in connection with matters pending before or involving consideration by Federal agencies, including the Departments of Commerce, Treasury, Defense, and State; the International Trade Commission; and the Office of the U.S. Trade Representative. These matters included, for example, antidumping and countervailing duty investigations; other trade law investigations; export licenses and investigations; economic sanctions regulations; and regulation of foreign investments. I also participated in several matters for which my firm or I registered as lobbyists, or that indirectly related to legislative or rulemaking matters. These included advocacy concerning customs user fees, the sale of the Naval Petroleum Reserves, economic sanctions legislation, imports of ammonium nitrate from Russia, and financial aid to Russia. My former firm does not currently have available lobbying registration records beyond the prior 5 years, but I do not recall any other such matters.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

I have worked with government ethics counsel to identify potential conflicts and to address appropriately those conflicts through the Ethics Agreement (copy attached). I have no trust or other agreements relevant to these matters. Upon taking office, I will act upon the advice of the Department's ethics counsel to avoid conflicts of interest that might arise, recusing myself from matters as appropriate.

6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of the Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position? Yes.

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details. No.

2. Have you ever been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county, or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details. No.

3. Have you or any business of which you are or were an officer ever been involved as a party in interest in an administrative agency proceeding or civil litigation? If so, provide details. I have not been an officer of any business. None of the non-profit corporations for which I have served as trustee have been involved in such proceedings during my tenure, to my knowledge. During my time as a partner in Vinson & Elkins LLP, the firm was occasionally involved as a party in interest

in civil litigations, but I was not personally involved or implicated in any such proceedings.

4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense? No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination. None.

E. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines set by Congressional committees for information? Yes, within the bounds of my authority.

2. Will you ensure that your department/agency does whatever it can to protect congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the committee with requested witnesses, to include technical experts and career employees with firsthand knowledge of matters of interest to the committee? Yes.

4. Please explain how you will review regulations issued by your department/agency, and work closely with Congress, to ensure that such regulations comply with the spirit of the laws passed by Congress. The General Counsel's Office of the Commerce Department is responsible for drafting and providing legal approval to regulations issued by the agency. I thus expect to play a direct supervisory role in managing the rulemaking process, to ensure that rules comport with the legislative authority for them.

5. Describe your department/agency's current mission, major programs, and major operational objectives. The Department of Commerce's statutory mission remains as the Congress established it in 1903: to foster and to promote U.S. commerce, international trade, manufacturing and fisheries. The continuing operational objective for the agency is to tailor that mission to the contemporary commercial world, in all its breadth. The major programs of the Department all touch on U.S. commercial interests in vital ways. These programs include: (1) Managing the nation's fisheries and coastal zones through NOAA; (2) providing weather data gathering and analysis services, also through NOAA; (3) supporting both U.S. commerce and national security through oceanic mapping and research; (4) working with the U.S. Trade Representative to negotiate and to implement effective international trade agreements; (5) through the Foreign Commercial Service and other offices and programs, promoting U.S. export opportunities, particularly by assisting new and smaller exporters to take advantage of world markets; (6) through NTIA and other offices, advising the President on telecommunications and information technology policies, and manage the allocation of the Federal radio spectrum; (7) fostering technology standards development, research, and policies; including the harmonization of international standards in a manner consistent with U.S. commercial interests; (8) supporting economic development opportunities by minority and disadvantaged businesses and communities; and (9) conducting the U.S. census and related economic research.

6. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

F. GENERAL QUALIFICATIONS AND VIEWS

1. How have your previous professional experience and education qualifies you for the position for which you have been nominated. The Department's General Counsel is the chief legal officer of the agency, with responsibilities for managing over 250 lawyers, directly or indirectly, regarding matters covering the full range of the Department's programs. As noted above, in nearly 23 years of practicing law and serving in the Federal Government, including the last 16 years with a major international law firm, I have acquired a broad range of skills directly relevant to the programs of the Commerce Department. I have substantial government and private, practice experience concerning a wide variety of transactional, litigation, regulatory, and public policy matters, particularly involving international trade and other commercial matters. I also assumed 9 substantial administrative and supervisory responsibilities for my law practice and firm. I thus have acquired the skills and, experience necessary to manage a large government law department, and in particular, to represent the Department of Commerce and to advise the Secretary of Commerce in connection with the programs within the agency's jurisdiction.

2. Why do you wish to serve in the position for which you have been nominated? I support the ideas and vision articulated by President Bush and Secretary Evans for promoting U.S. commercial interests and building the American economy. I wish

to contribute to the success of the Department's mission by contributing the knowledge and experience I have gained to public service.

3. What goals have you established for your first 2 years in this position, if confirmed?

- Hire, and increase the Office's ability to retain, experienced, able lawyers and staff.
- Become fully established in my role as the chief ethics officer of the Department.
- Improve the agency's rulemaking and other administrative processes, with the goal of reducing the litigation in which the Department now is regularly involved.
- Assist Secretary Evans to achieve the goals that he sets.

4. What skills do you believe you may be lacking which may be necessary to successfully carry out this position? What steps can be taken to obtain those skills? I generally possess the experience and skills that are necessary to carry out my responsibilities. As I have throughout my career, I expect to engage in a process of continuing education through self-study and working with career personnel to obtain and to improve the knowledge and skills I currently may lack.

5. Please discuss your philosophical views on the role of government. Include a discussion of when you believe the government should involve itself in the private sector, when should society's problems be left to the private sector, and what standards should be used to determine when a government program is no longer necessary. The Federal Government is entrusted with defending the national security, conducting international trade and other diplomatic relations with foreign states, defending individual liberty, including rights granted under the Constitution and Federal laws, and working with State and local governments and the private sector to provide for the common welfare. The government has an important role to play in and with the private sector where necessary to ensure competitive opportunity, to promote free enterprise, and to protect public health and safety. Government programs should be established and continually evaluated based on need, cost-effectiveness, and alternative means of accomplishing the same ends.

6. *In your own words*, please describe the agency's current missions, major programs, and major operational objectives. As noted in my answer to Question E5 above, nearly a century ago Congress defined the Commerce Department's mission: to foster and to promote U.S. commerce, international trade, manufacturing and fisheries. That mission today must be pursued in a commercial world that is far more globalized than in 1903, that is, increasingly knowledge-based and electronically interconnected, and that is innovating at a rate never before experienced. The Department accordingly must continually evaluate its programs in light of the current competitive environment. In general, the Department's objectives should be to contribute to the creation of a competitive environment in which free enterprise thrives while the nation's commercial interests and natural resources are protected. Each of the major programs identified in my answer to Question E5 can and should be implemented toward that end.

7. In reference to question No. 6, what forces are likely to result in changes in the mission of this agency over the coming 5 years. While the statutory mission of the agency is unlikely to change in the next 5 years, several factors will affect how the mission is accomplished. These include: Increased global trade and investment, under both existing and new trade agreements; the continued expansion of e-commerce, both domestically and transnationally; technological innovations that will drive continual introduction of new products, new markets, and new efficiencies in the conduct of business; and scientific discoveries that will improve management of fisheries, the marine environment, weather analysis, and other endeavors.

In further reference to question No. 6, what are the likely outside forces which may prevent the agency from accomplishing its mission? What do you believe to be the top three challenges facing the department/agency and why? I am unaware of any outside force that may prevent the Commerce Department from accomplishing its mission. Three challenges will be: (1) Competing with the private sector for highly qualified people, particularly those with particular scientific and technical skills for which there are shortages; (2) focusing the Department's technology policy initiatives in a way that fosters, not hinders, a competitive environment; and (3) in the area of fisheries management, finding the means to promote the health of both the commercial fishing industry and fisheries stocks without continuous judicial intervention.

9. In further reference to question No. 6, what factors in your opinion have kept the department/agency from achieving its missions over the past several years? By definition, the Department's mission of fostering U.S. commerce is on-going. Individual programs within the agency have faced specific challenges, however. For example, the expiration of the Export Administration Act in 1994 has required the Bu-

reau of Export Administration to operate under emergency authority while seeking new authorizing legislation. The National Marine Fisheries Service has been the target of recurrent legal challenges, sometimes resulting in conflicting judicial mandates. In general, there has been an extraordinary need to devote time and resources to Departmental management in light of new statutory accountability requirements.

10. Who are the stakeholders in the work of this agency? The Commerce Department's mission and programs are directed to the benefit of all Americans.

11. What is the proper relationship between your position, if confirmed, and the stakeholders identified in question No. 10. The General Counsel is a public servant with the special responsibility of ensuring that the Department's programs are carried out legally and ethically. That responsibility requires a relationship defined by attention to the requirements of law and the exercise of independent judgment.

12. The Chief Financial Officers Act requires all government departments and agencies to develop sound financial management practices similar to those practiced in the private sector.

(a) What do you believe are your responsibilities, if confirmed, to ensure that your agency has proper management and accounting controls? It would be my ultimate responsibility to advise the CFO on the obligations of the laws and regulations that the CFO must take into account while administering his duties.

(b) What experience do you have in managing a large organization? Vinson & Elkins is a large, multinational law firm, having over 700 lawyers and annual revenues exceeding \$300 million. As a partner in the firm, I chaired and participated in numerous management-related committees; carried various individual assignments related to strategic analysis and planning; and supervised various lawyers and other personnel in the provision of legal services to clients.

13. The Government Performance and Results Act requires all government departments and agencies to identify measurable performance goals and to report to Congress on their success in achieving these goals.

(a) Please discuss what you believe to be the benefits of identifying performance goals and reporting on your progress in achieving those goals. Identifying performance goals and reporting on the progress in achieving them ensures that public resources are devoted to appropriate, meaningful ends, with accountability for the outcome.

(b) What steps could Congress consider taking when an agency fails to achieve its performance goals? Should these steps include the elimination, privatization, downsizing or consolidation of departments and/or programs? The steps should respond to the reasons why the agency has failed to achieve its goals. If experience shows that a particular program does not have a worthwhile purpose or its purpose cannot be achieved in a cost-effective manner, then elimination or restructuring of the program may well be warranted. In other cases, less radical remedies may succeed in raising the performance of a worthwhile program to an acceptable level.

(c) What performance goals do you believe should be applicable to your personal performance, if confirmed? The General Counsel's performance should be measured by the success of the Office of the General Counsel in delivering timely and effective legal services to the Secretary and other Department personnel, and in carrying out of other responsibilities entrusted to that office.

14. Please describe your philosophy of supervisor/ employee relationships. Generally, what supervisory model do you follow? Have any employee complaints been brought against you? I believe in leading by example, and by encouraging employees to seek satisfaction in their jobs through learning and accepting responsibility for serving others well. I am unaware of any employee complaint ever having been brought against me.

15. Describe your working relationship, if any, with the Congress. Does your professional experience include working with committees of Congress? If yes, please describe. Having spent 4 years on the staff of the Senate Finance Committee, I have an especially deep respect for the responsibilities of Members of Congress. I expect to have a professional working relationship with Congress that is expressed through regular, two-way communication, backed by mutual desire to assist both the Members and the Department to fulfill their respective duties.

16. Please explain what you believe to be the proper relationship between yourself, if confirmed, and the Inspector General of your department/agency. The IG and the General Counsel should share the mutual goal of ensuring the Department and its individual employees carry out their responsibilities lawfully, efficiently, and with integrity. I would expect to provide the IG with legal advice, just as any other Department office, and I would likewise welcome the IG's suggestions concerning improvements in operation of the General Counsel's Office.

17. Please explain how you will work with this Committee and other stakeholders to ensure that regulations issued by your department/agency comply with the spirit of the laws passed by Congress. In drafting, reviewing, and interpreting the Department's rules, the General Counsel's Office will be guided by the letter and legislative intent of the laws authorizing the rules. Please also see my response to Question E4.

18. In the areas under the department/agency's jurisdiction, what legislative action(s) should Congress consider as priorities? Please State your personal views. President Bush supports reauthorization of the Export Administration Act, on a permanent basis, as soon as possible. It also appears to be important to resolve the funding status of the Patent and Trademark Office. Reauthorization of the Magnuson-Stevens Act and the Marine Mammals Protection Act are also high priorities.

19. Within your area of control, will you pledge to develop and implement a system that allocates discretionary spending based on national priorities determined in an open fashion on a set of established criteria? If not, please State why. If yes, please State what steps you intend to take and a timeframe for their implementation. Yes, where applicable. The General Counsel's Office generally would not be administering programs intended to carry out broad national priorities. Discretionary spending should be made on the basis of objective criteria developed in a methodical process.

Senator MCCAIN. Thank you very much, Mr. Kassinger. I did read your written responses to the many questions that were submitted to you. I think they're excellent. I look forward to moving your nomination as quickly as possible so that you can get to work as quickly as possible. Do my colleagues have any questions for the witness? If not, thank you, and congratulations Mr. Kassinger. You can see that your nomination is fraught with controversy. Thank you very much.

Mr. KASSINGER. Thank you Senators.

Senator MCCAIN. Good luck to you.

[Whereupon at 9:47 a.m., the hearing was adjourned.]