

**NOMINATIONS OF CHRISTOPHER PADILLA,
CHRISTINA PEARSON, AND BENJAMIN SASSE**

HEARING

BEFORE THE

**COMMITTEE ON FINANCE
UNITED STATES SENATE**

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

ON THE

NOMINATIONS OF

HON. CHRISTOPHER A. PADILLA, TO BE UNDER SECRETARY, INTERNATIONAL TRADE, DEPARTMENT OF COMMERCE; CHRISTINA H. PEARSON, TO BE ASSISTANT SECRETARY, PUBLIC AFFAIRS, DEPARTMENT OF HEALTH AND HUMAN SERVICES; AND DR. BENJAMIN SASSE, TO BE ASSISTANT SECRETARY, PLANNING AND EVALUATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES

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NOMINATIONS OF HON. CHRISTOPHER A. PADILLA, TO BE UNDER SECRETARY, INTERNATIONAL TRADE, DEPARTMENT OF COMMERCE; CHRISTINA H. PEARSON, TO BE ASSISTANT SECRETARY, PUBLIC AFFAIRS, DEPARTMENT OF HEALTH AND HUMAN SERVICES; AND DR. BENJAMIN SASSE, TO BE ASSISTANT SECRETARY, PLANNING AND EVALUATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES

THURSDAY, NOVEMBER 1, 2007

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 10 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Max Baucus (chairman of the committee) presiding.

Present: Senator Stabenow.

OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM MONTANA, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. The hearing will come to order.

We have before us today the nominations of Christopher Padilla to be Under Secretary of Commerce for International Trade; Christina Pearson to be Assistant Secretary of Public Affairs, Health and Human Services; and Benjamin Sasse, to be Assistant Secretary of Planning and Evaluation, Health and Human Services.

Mr. Padilla, your nomination comes at a critical point in American trade policy. How we develop our international trade policy today will determine whether younger generations view trade as a force for economic development or a cause of economic hardship. How we act today will decide whether our children and grandchildren view China, India, and our other trading partners as an opportunity or as a threat.

The Under Secretary of Commerce can help decide these important questions. That position is responsible for ensuring that the administration vigorously enforces United States trade remedy laws so critical to firms around the country, including my State's lumber industry. In that role, the Under Secretary must ensure that the United States preserves key trade remedy disciplines in

the World Trade Organization's Doha Round negotiations, particularly zeroing.

The Under Secretary also supports and promotes U.S. exports by overseeing the operation of the Foreign Commercial Service, and the Under Secretary is essential to other elements of the trade agenda. I look forward to working together to expand Trade Adjustment Assistance, consider pending free trade agreements, and enforce our trade agreements.

I hope and trust that you will pursue all of these responsibilities to the utmost, and I hope and trust that we can cooperate to pursue an international economic agenda that allows future generations to look abroad for hope, for opportunity, for cooperation, and prosperity. I might say, this is a huge task. This is not going to be easy. We have huge challenges ahead of us. So many other countries are putting together trade agreements and we are not. We are being left behind. We are losing our role in the world. It is up to you, and up to many of us—but certainly you are a large part of it—to help turn that around.

The Finance Committee is also considering the nominees for the Assistant Secretary for Public Affairs and Assistant Secretary for Planning and Evaluation at the Department of Health and Human Services.

The Assistant Secretary for Public Affairs serves as the Secretary's principal counsel on public affairs matters. As such, this Assistant Secretary shapes and presents the face of HHS. This Assistant Secretary is the conduit for valuable health information to the Nation. This Assistant Secretary needs to provide centralized leadership and guidance for public affairs activities within HHS, and that responsibility extends to regional offices, conducting national public affairs programs, and, perhaps most importantly, administering appropriately the Freedom of Information Act and the Privacy Act.

The second Assistant Secretary at HHS before us today, the Assistant Secretary for Planning and Evaluation, runs the policy-setting arm of HHS. The Assistant Secretary advises the Secretary on policy developments in health, disability, human services, data, and science, as well as on economic policy. This Assistant Secretary has the responsibility of leading special initiatives, coordinating the Department's evaluation and research activities, and managing the cross-department planning activities, such as strategic planning, legislative planning, and review of regulations. Integral to this role, this Assistant Secretary conducts research and evaluation studies, develops policy analyses, and estimates the costs and benefits of policy alternatives under consideration by the Department or Congress.

Both of these positions require the ability to act in the best interests of the American people. They are the people we serve. We are just the hired hands. You are just the hired hands. Our employers are the people of the United States of America. These positions require you to function with integrity and clear-mindedness, not with political posturing as a motivation, but rather service of the American people.

The people of this Nation and around the world depend on the information coming out of HHS to be accurate, to be impartial—

which was not always the case in the past. It must be impartial, it must be accurate, both for short-term and long-term interests—and motivated by sound peer-reviewed science, not politically motivated, as has been the case sometimes in the past.

Additionally, the information coming out of HHS is used by millions to make important life-altering decisions. So I congratulate Ms. Pearson and Dr. Sasse on their nominations to these important positions. I encourage them to remember how many people will be depending on them, if they are confirmed. I remind them of how vital it is to put the needs of Americans before anything else.

I commend all the nominees for their willingness to serve. Service, whether at church, synagogue, community, family, friends, or government can be one of the most fulfilling parts of life. In fact, I think service is the most noble human endeavor. So I congratulate the nominees on their nominations, and I call on the nominees to carry out their positions in the finest traditions of public service.

I would now like to introduce the witnesses. Christopher Padilla has been nominated, as I've mentioned, to be Under Secretary, and Christina Pearson to be Assistant Secretary of Public Affairs, Health and Human Services. I believe that Senators Nelson and Hagel are here to introduce our third witness, Dr. Benjamin Sasse.

Senators Nelson and Hagel, why don't you introduce your witness first, then we will get on to the others? Thank you.

Senator NELSON. I will defer to the senior Senator.

The CHAIRMAN. All right.

**STATEMENT OF HON. CHUCK HAGEL,
A U.S. SENATOR FROM NEBRASKA**

Senator HAGEL. Thank you, Senator Nelson. Good morning, Mr. Chairman, Senator Stabenow.

Just as society must constantly adapt to an evolving health care environment, so must the Federal Government. As we know, the Department of Health and Human Services plays a defining role in the protection of our Nation's health.

Because the list of issues facing HHS is long and complicated, it must be guided by the most qualified individuals. I have particular confidence in one individual whom President Bush has nominated for the position of Assistant Secretary for Planning and Evaluation at HHS, a fellow Nebraskan, Dr. Benjamin Sasse.

Ben possesses the character, the experience, and knowledge to excel in this role. As Assistant Secretary for Planning and Evaluation, Ben will be responsible for policy coordination and development, as well as legislative development and strategic planning at HHS, as you have noted, Mr. Chairman.

His current position as counselor to the HHS Secretary for Policy and Strategic Initiatives has helped prepare him for this important role. As counselor, Ben has provided sound guidance to Secretary Leavitt on a wide array of policy matters. Prior to joining HHS, Ben was chief of staff of Nebraska Representative Jeff Fortenberry, and served as chief of staff of the Office of Legal Policy of the Department of Justice.

His educational accomplishments are equally impressive, as he holds bachelor's, master's, and doctor's degrees. He and his wife, Melissa, have two young daughters, Elizabeth and Alex, who are

here with us today, and I am sure Dr. Sasse will introduce other members of his family as well.

Mr. Chairman, I enthusiastically offer my support for this excellent nomination. I am proud to introduce, along with my colleague and friend Senator Nelson, to the Senate Finance Committee the President's nominee for Assistant Secretary for Planning and Evaluation, Dr. Benjamin Sasse.

Thank you.

The CHAIRMAN. Thank you, Senator.
Senator Nelson?

**STATEMENT OF HON. BEN NELSON,
A U.S. SENATOR FROM NEBRASKA**

Senator NELSON. Good morning, Mr. Chairman, Senator Stabenow. Thank you for conducting this hearing today and for allowing me to take a few minutes, along with my colleague and friend, to introduce a fine Nebraskan, Dr. Ben Sasse.

When Ben asked me to be here with him today to introduce him, I said, absolutely, I would be happy to do so. But as far as introductions go, I have one golden rule. I want to make sure that my introduction is such that the subject's father would enjoy it and the subject's mother would believe it. [Laughter.] At least, that is how I like to be introduced.

So I am here to introduce a fine Nebraskan young man, Dr. Ben Sasse. Ben grew up surrounded by, and participated in, the finest things Nebraska has to offer: hot summers, cold winters, green fields, and high yields. He comes from a great Nebraska family with a proud heritage.

He is here today as an excellent representative of our State, and I could go through the litany of accomplishments on his resume. I know you have all that. There is no question about his background and his qualifications for this position.

What I'd like to do is to talk a little bit more about Ben as Ben the man, instead of just the nominee. He is a family man. He hails from Fremont. His family is there. He has his wonderful wife, Melissa, and two young daughters here today. I know that he is going to introduce them and others. I know that his parents are swelling with pride today as he is considered for the position of Assistant Secretary for Planning and Evaluation.

His background as a teacher, a policymaker, an academic, and a bridge-builder make him the perfect candidate for this position. He is from the land of the Nebraska unicameral, where partisanship takes a backseat to progress. His tendency is to work in a constructive and bipartisan way. He is open to working with both sides to develop constructive approaches to problem-solving, and to come to consensus and agreement on the issues. I can attest to that because he is one of those who has been able to work with my chief of staff, who never suffers incompetence and always works for bipartisanship.

Now, I believe that Ben will continue that practice at the Department of Health and Human Services, where it is so essential, because health policy should be neither Republican nor Democrat, but should be American, to impact the lives of millions of Americans.

I cannot underscore enough how important it is to have our health care policy development being done in a constructive bipartisan, or even nonpartisan, manner. So many important issues in Washington are paralyzed by partisanship. I believe Ben will work to help break that cycle and forge new consensus on the critical health care policies we need to address in the years to come.

Mr. Chairman, I ask this committee to work to consider the confirmation of Dr. Ben Sasse for this position. He has my support, and I know that he will fulfill the duties of the job most capably.

Thank you very much for this opportunity.

The CHAIRMAN. Well, thank you, Senator. Thank you, Senator Hagel, both of you, very, very much.

Senator HAGEL. Mr. Chairman, thank you. If I could add one additional point.

The CHAIRMAN. Sure.

Senator HAGEL. I wish also to congratulate the other two nominees at the table this morning.

The CHAIRMAN. Sure.

Senator HAGEL. And just as you noted, Mr. Chairman, the importance of these jobs and the quality of these nominees. So, I add my congratulations. If I knew them better, I would make up something, maybe. [Laughter.] I could say something good about them.

The CHAIRMAN. Senator, you do not have to. You have already said it. Thank you very much. Thank you very much.

I might say to the nominees, too, the basic rule in this committee is, your statements will automatically be included in the record. I would ask you to speak about 5 minutes.

Before we do, though, I will start with Dr. Sasse, since you have just been introduced. Do you have family here that you would like to introduce?

Dr. SASSE. Yes, Mr. Chairman. Thank you. The three most important ladies in my life are here: my wife, Melissa McLeod Sasse—

The CHAIRMAN. All right.

Dr. SASSE [continuing]. And our daughters, Elizabeth and Katherine. They are being introduced to the workings of their government today. They are 6 and 3, though, if you talk to Katherine afterward, she will tell you she is 3 and 11/12ths. You will want to get that right. [Laughter.]

The CHAIRMAN. All three of you stand up, please, Mrs. Sasse and children. That is great. Give them a round of applause. That is wonderful.

[Applause.]

The CHAIRMAN. So what grades are your daughters?

Dr. SASSE. Elizabeth is a 1st-grader, and Katherine is in kindergarten.

The CHAIRMAN. That is neat. All right.

Dr. SASSE. And my father- and mother-in-law, Larry and Jill McLeod, and Melissa's grandfather, Colonel McLeod as well.

The CHAIRMAN. They are here?

Dr. SASSE. Right here.

The CHAIRMAN. Oh. Could you all stand up, please? That would be wonderful. Thank you very much.

[Applause.]

Dr. SASSE. Thank you.

The CHAIRMAN. You have quite a family. All right. Why don't you proceed? I might say, when you are finished, the other two, please give your statements. Senator Stabenow will take over. I have other duties I have to attend to. But we deeply appreciate the time and attention you are devoting to public service. Thank you very much.

Let us start with Dr. Sasse.

Dr. SASSE. Thank you, Mr. Chairman.

The CHAIRMAN. Then I know Senator Stabenow is also going to have you, Ms. Pearson, introduce family when we get to you, and also, Mr. Padilla, when we get to you. Thank you.

STATEMENT OF DR. BENJAMIN SASSE, NOMINATED TO BE ASSISTANT SECRETARY, PLANNING AND EVALUATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES, WASHINGTON, DC

Dr. SASSE. Thank you, Mr. Chairman. Thank you to Ranking Member Grassley and his staff for helping host this hearing as well today, and Senator Stabenow, for being here.

It is an honor to be considered to be Assistant Secretary for Planning and Evaluation at HHS, and it is an office in which I will be privileged to serve should the Senate deem fit to confirm the nomination.

As members of this committee know, ASPE serves as the principal advisory office to the Secretary of Health and Human Services on policy development and policy coordination. The office is responsible for major activities and research, strategic planning, program evaluation, and economic analysis.

ASPE work product is used by policymakers across the executive and legislative branches, as well as by researchers and analysts across the country. It has an especially competent and impressive career staff, and I would be honored to work alongside them and to ensure that the important research and analysis flowing from ASPE's four major divisions receive the attention that they deserve.

In my academic life, I have long been a student of the executive branch policy shops, of which ASPE is perhaps the finest example. At the Lyndon B. Johnson School of Public Affairs at the University of Texas where I am on faculty, I have the fortune of serving under Jim Steinberg, my dean, who is the former head of Policy Planning staff at the State Department in the mid-1990s.

Earlier in my career I was fortunate to spend time in the Office of Legal Policy at the Department of Justice. In each of these experiences with executive branch policy shops, I have seen close up the wonderful pedigree of providing dispassionate, objective policy advice to public officials, regardless of party or ideology, and it is a tradition in which I would be honored to serve.

In addition to personal experiences and relationships, though, I am also a historian by training, and I have developed a fond affection for the blue chip policy shops because of the vibrant role they have played in American policymaking and public life in the last 100 years.

I recognize that we do not have time for historical exploration at this point, but I would like simply to underline one of the most important of the many insightful aphorisms attributed to Daniel Patrick Moynihan. Senator Moynihan is best remembered in this room, of course, as one of the distinguished chairmen of this committee, but before his 24 years as your colleague he served in the Johnson administration's Labor Department as Assistant Secretary for Policy.

Based partly on his experiences there, he developed a great quip, that "everyone is entitled to their own opinions, but they are not entitled to their own facts." It is a sentiment I teach my students at the LBJ School, and I am happy to report that it is a guiding principle that healthily informs the daily work of ASPE.

Should I be confirmed, I pledge to this committee that I would labor to steward the resources of ASPE to make sure that all policymakers, regardless of political perspective, have available at their fingertips a wide array of the most important objective data on all the critical subjects before this committee, and before Secretary Leavitt.

Thank you, Madam Chairman and members of the committee, for this consideration. I am grateful for the time, and happy to answer any questions you may have.

Senator STABENOW. Well, thank you very much, and welcome to you and your family.

[The prepared statement of Dr. Sasse appears in the appendix.]

Senator STABENOW. We now turn to Ms. Pearson, and certainly welcome any family that you would like to introduce as well.

Ms. PEARSON. Thank you very much, ma'am. I would like to introduce, before I begin, my husband, Adam Horvath, who has been unfailing in his love and support, and I am very excited that we have our daughter with us, who is 20 days old today.

Senator STABENOW. Oh, my goodness.

Ms. PEARSON. Her name is Julia Jane Horvath.

Senator STABENOW. She is really getting her first taste of government here at a very early age. So, welcome. We welcome both of you and thank you for coming.

[Applause.]

Ms. PEARSON. Public service is something I am very proud of in my family, and I think it is exemplified by other members of my family who are here. My father, Wiley Pearson, is a retired U.S. Marine. He is also a former staffer for Senator Mikulski. My aunt, Mary Frances Pearson, who used to be a Tax Policy staffer on the Finance Committee and at the IRS, and also my uncle, Joe Howell, are here. So I thank them for coming here today.

Senator STABENOW. Welcome. Stand and be recognized. Welcome.

[Applause.]

Senator STABENOW. Thank you.

**STATEMENT OF CHRISTINA H. PEARSON, NOMINATED TO BE
ASSISTANT SECRETARY, PUBLIC AFFAIRS, DEPARTMENT OF
HEALTH AND HUMAN SERVICES, WASHINGTON, DC**

Ms. PEARSON. Thank you for scheduling this hearing during such a busy time. Before beginning, I would like to thank President Bush for nominating me, and it has been an honor to serve in his

administration. I would also like to acknowledge Secretary Leavitt and thank him for his support.

It is a privilege to be here today before this committee. My first internships and job after college were at the Senate Finance Committee, and my 4 years working for Senators Packwood and Roth were very important in shaping my professional career.

In these rooms, I developed a passion for public service and intense interest in health care, an appreciation for the media, and respect for the important role this committee plays in our government. It was also in the Finance Committee that I saw how health care policy touches the lives of every American every day.

During my tenure, we worked on vital health care legislation concerning HIPAA, Medicare and Medicaid, welfare reform, and SCHIP authorization. That experience led me to develop a special interest in health care and led me to be spokesperson for the American Hospital Association, and later for HHS.

As the chairman mentioned, at HHS the Assistant Secretary for Public Affairs has the responsibility of serving as the primary advisor on public affairs matters and providing centralized leadership across the Department. My previous experience has clearly shown that the administration and Congress have an important partnership.

I understand that a critical function of this office is to promote the close collaboration on the communications front, and, if confirmed, I am committed to consulting with this committee and working together in a bipartisan manner to achieve our mutual goal of advancing health care for the people we serve.

Through my various positions, I have developed a reputation as a person who is collaborative, responsive, and innovative in working with staff and media. If confirmed, I will bring to this position important perspective as a person who has acted as a spokesperson on health policy from a variety of angles, including legislative, Federal, and Association. I have a deep understanding of the vital role each of these plays in the development of health policy, and how critical it is to work together across the spectrum.

Becoming a mother recently has recommitted me to the important work under way in health care, and especially at HHS. By bringing more attention to critical new information, stressing steps every American can take to prevent chronic disease, and helping to adopt lifesaving technologies like electronic health records, and a myriad of other things that we do every single day, we are building a healthier America for my daughter, and for future generations. I can think of nothing more rewarding or important than to be here at HHS at this time.

Ma'am, it has been an honor to speak to the committee today. We all share a commitment to ensuring the health and well-being of the American people. If confirmed, I pledge to work collaboratively and transparently with you, the chairman, Senator Grassley, and other members of the committee to advance this important mission.

Thank you very much. I look forward to answering your questions.

Senator STABENOW. Thank you very much.

[The prepared statement of Ms. Pearson appears in the appendix.]

Senator STABENOW. And now we would like to welcome Mr. Christopher Padilla. Welcome. It was a pleasure having the opportunity to talk with you about critical trade issues that you know are so important to my State, and businesses and workers across America. So we welcome you today, and we certainly want to have an opportunity to welcome your family as well.

Mr. PADILLA. Thank you very much, Senator. I am pleased to introduce family who are with me here today: my wife, Christina, who may have a little trouble getting up. She sprained her ankle a couple of weeks ago. My parents, Arlene and Mario Padilla. I would also like to mention my sister Leslie, who could not be with us today, from Colorado.

Senator STABENOW. All right. Well, welcome.

[Applause.]

**STATEMENT OF HON. CHRISTOPHER A. PADILLA, NOMINATED
TO BE UNDER SECRETARY, INTERNATIONAL TRADE, DE-
PARTMENT OF COMMERCE, WASHINGTON, DC**

Mr. PADILLA. Senator, as Chairman Baucus said, having the opportunity to serve the United States in public office is a rare and special privilege, so I was deeply honored that President Bush nominated me to serve as Under Secretary of International Trade at the Commerce Department. I appreciate very much the President's confidence, and that of Secretary Gutierrez, and I hope to have the chance to work for them and with you in advancing our Nation's economic interests.

As all of you know quite well, public service is a family undertaking, so I want to thank my family for their unwavering support for my time in government these past 5½ years. I appreciate the committee holding the hearing today. Senator, I appreciate the time you took to meet with me, and a number of other Senators have done so. I look forward to continuing that close collaboration, if I am confirmed.

I understand very well the comments that you made in our meeting, and that Chairman Baucus made, about the importance of international trade, an issue that touches every American, that touches some more than others, and the special sensitivity we need to have in enforcing our trade agreements and making sure that trade provides a level playing field and basic fairness for American workers and businesses.

I learned early on, myself, about market access barriers in my very first job as a junior marketing staffer at AT&T more than 20 years ago, when I tried unsuccessfully to sell U.S.-made telecommunications equipment to government-owned phone companies in Europe.

With nowhere else to turn, I recall taking a trip to Washington and meeting with the staff of the Commerce Department's International Trade Administration. Almost a year later, after a lot of high-level commercial diplomacy, some technical and procurement barriers that had affected us were relaxed and exports started flowing.

That was my first interaction with the people of ITA, but I have been fortunate throughout my career to be a frequent customer of the Commerce Department's services. When I worked at Eastman Kodak Company, I filed antidumping cases with the Commerce Department's Import Administration on unfairly traded imports of photo paper from Japan. During my time at Lucent Technologies, I worked with the Commerce Department on technical standards that were blocking the sales of U.S.-made equipment in South Korea.

During my time at USTR, at the State Department, and in my current post as Assistant Secretary for Export Administration, I have relied on the many talented Americans and foreign nationals who staff our Commercial Service posts overseas. The people of ITA are well-known for their commitment to American competitiveness, and, if I am confirmed, I look forward to having the opportunity to lead them and to renew some old friendships.

My personal experiences have led me to some core principles that would guide me, if confirmed. First, I am optimistic about America, and I believe strongly that Americans can compete and win in the global economy. All that Americans ask for is a fair and reasonable chance to compete. The Commerce Department helps to provide that, by tearing down trade barriers, by opening new markets, by promoting competitiveness, and by relentlessly promoting America's products and services in foreign markets.

Second, Senator, I believe that promises made should be promises kept, and that means the Commerce Department must vigorously enforce not only our trade remedy laws, but also compliance with the more than 270 international trade agreements to which the United States is a party. Not only is this important in itself, as you and I discussed, but public support for open markets, speaking face-to-face to people about trade, requires that trade be perceived as fair, and that means that trade laws and agreements must be enforced.

Third, I know from experience that trade policy works best when there is close cooperation between the executive branch and the Congress. I am very familiar with article 1, section 8 of the Constitution and the constitutional power to lay and collect duties and impose taxes, as well as to regulate commerce with foreign nations. If confirmed, I would look forward to working with this committee and the Congress on issues vital to our country.

Finally, Senator, I have always believed that an important source of America's strength is our openness: our openness to goods and services, to investment, but also to ideas, and, if I might say as the proud son of an immigrant, to people. Our openness and our dynamism are what set us apart as a country. They make us nimble and innovative. They allow us to respond to emerging challenges.

I know from experience that when other countries are open too, Americans can compete anywhere in the world. If confirmed as Under Secretary, I look forward to working with you in making the case for trade, expanding opportunity and hope, and keeping America prosperous and strong. Thank you very much.

Senator STABENOW. Thank you very much.

[The prepared statement of Mr. Padilla appears in the appendix.]

Senator STABENOW. Before proceeding with some other questions, there are three standard questions—I believe you are aware of those—that we need to ask for the record to each of you.

So I will ask the first one to Dr. Sasse, and we will ask each of you to respond.

Is there anything that you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated? Dr. Sasse?

Dr. SASSE. No, Senator.

Senator STABENOW. Ms. Pearson?

Ms. PEARSON. No.

Mr. PADILLA. No.

Senator STABENOW. All right. Thank you.

Second, do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Dr. SASSE. No, Senator.

Ms. PEARSON. No.

Mr. PADILLA. No.

Senator STABENOW. All right.

Finally, do you agree, without reservation, to respond to any reasonable summons to appear and testify before any duly constituted committee of Congress, if confirmed?

Dr. SASSE. Yes, I do.

Ms. PEARSON. Yes, Senator.

Mr. PADILLA. Yes, I do.

Senator STABENOW. All right. Thank you very much.

Let me proceed. And let me also indicate, as I know all of you are aware, as we come to the end of the year and the session and the multiple committees that are operating, that there is great interest on behalf of the committee members, and certainly the record will be made available to them. So, we all share great interest and concern in the areas which you represent.

Let me first ask of Dr. Sasse, when we look at how to manage and reorganize large institutions—and you are looking at very challenging areas, particularly in the area of health care—the health care system is clearly in need of dramatic help. I believe we have a broken system and need to look broadly at what we are going to do so that when we are spending twice as much as any other country on health care, that in fact everyone is covered. Hopefully, in doing that, we can spend less.

One of the areas that has been focused upon by your Secretary and by the President has been health information technology. As you may be aware, this is something that I have focused on. Senator Snowe and I have legislation, other colleagues certainly have expressed interest. Can you speak about how, as Assistant Secretary, you would use the adoption or recommend the adoption of health IT as we look at how we do a better job in our health care system?

Dr. SASSE. Yes, Senator. Thank you for the question. In a \$1.9 trillion sector, I think you are absolutely right that health information technology is under-applied to the sector relative to all other areas of the American economy. I do not think that anyone doubts

that there are potentially hundreds of billions of dollars of cost savings and, as importantly, higher-quality care to be delivered to Americans if we would apply health information technology more reasonably in this area. I am aware of your work and interest in the area, and I share it.

I would point to the Secretary's announcement on Tuesday in Cincinnati this week of the largest health IT demonstration project in CMS history, where CMS is going to be recruiting 1,200 physician practices from 12 regions across the country. Those are not yet determined, but there will be at least 100 practices in each of those regions, seeking to find ways that we can share some of those savings with those physicians who are using health IT to deliver higher-quality care.

I think there are great opportunities in this space, and I think it is an exciting step forward, and we certainly hope that the private sector payors will also begin to move to incentivize EHR and enable higher-quality care delivery.

Senator STABENOW. Thank you. We are working in the committee, looking for opportunities to be able to both incentivize the areas of health IT, and certainly e-prescribing. In my home State of Michigan, there has been a very substantial effort that has now been reported upon this week, a 2-year effort that has resulted through e-prescribing, not only in saving dollars, but in dramatically reducing the drug interactions that have occurred in the past when a physician is not aware of other drugs or other combinations that someone has been taking, or possible drug interactions, or any number of other issues that relate to quality.

I would encourage you, as you gather information, to look at what has been done in southeastern Michigan. This has been an effort done with our manufacturers, led by the auto makers and Blue Cross Blue Shield, but it has shown very clearly, in a relatively short amount of time, what can be done with just one piece of health IT, which is to electronically be able to move prescriptions from physicians to pharmacies, and so on. So, I think this is very important.

Dr. SASSE. I look forward to looking into the Michigan example. Thank you.

Senator STABENOW. Thank you.

And, Ms. Pearson, I do not know if you would want to comment at all. You mentioned health IT in your comments. I do not know to what extent you have been involved in this as well, but I certainly would welcome any comments you would have on that.

Ms. PEARSON. Thank you, ma'am. One of the important roles that we have in Public Affairs is working with the policy staffers, such as Dr. Sasse and others, on communicating the policy. That is very important. In health IT, we are working to create awareness and educate the media about positive examples, such as the one you cited in Michigan and others, of the power of health IT to transform health care.

It is often a very hard topic to talk about from a public affairs standpoint because it could be perceived as technical or harder to understand, so we are really working on finding real-life examples such as that to help reporters understand how important this could be in driving down costs, improving quality, and making health

care a much better experience for Americans. So, an important part of our role in Public Affairs is to work with the policy people to heighten awareness of the power of health IT.

Senator STABENOW. Thank you.

Another important area that certainly is in the news, and something this committee has worked very hard on on a bipartisan basis, is the Children's Health Program, which you mentioned before being involved in when it was instituted, I believe you indicated, 10 years ago.

Ms. PEARSON. Yes.

Senator STABENOW. Now we are reauthorizing and hoping to expand it to 10 million low-income children and working families who are not able to receive Medicaid, but as you know are not earning at a level that would allow them to be able to purchase or have private insurance at their employment.

And one of the concerns of the committee, one of the deep concerns, has been inaccurate statements that have been made by the administration about what is, in fact, in the bill. We certainly recognize differences in philosophy, differences in approaches, but there have been outright inaccuracies in terms of whether or not undocumented immigrants are covered under the legislation—which is, in fact, not accurate—and clearly spelled out in the legislation, as well as income levels, and so on.

What role do you have in preparing comments or statements in this kind of a situation? Because clearly there has been tremendous frustration and disappointment about purely inaccurate statements that have been made by the President and others in the administration about what the bipartisan legislation we wrote actually entails.

Ms. PEARSON. Everyone shares a commitment to reauthorizing SCHIP, and it is a very important priority for the Department. In Public Affairs, my role is not as a policy expert, my role is to work with the policy experts in developing public statements and fact sheets, and also talking about the administration's position. So what we strive to do is work with all of our experts across the Department to develop and communicate those statements out on the administration's position.

Senator STABENOW. Just for the record, it is of deep concern that there have been many inaccuracies indicated. I know our chairman, ranking member, and leaders on the committee have dedicated themselves to doing whatever we need to do to be able to come forward with a strong bipartisan proposal that covers more children. We need to start with accuracy and what is in the legislation so we can move forward, solve problems, and get the job done.

Mr. Padilla, there were a number of issues that you and I talked about in your office. Certainly I was pleased to see that you had brought cases before the ITC when you worked at Eastman Kodak. I appreciate your background. As the chairman said, we have many challenges as it relates to trade, and certainly in my State, when you spoke about fair and reasonable trade policies, there is a broad belief in our State, whether you are a business, large or small, or a worker, that it has not been fair. We are happy to compete, we want to export our products, but in fact we have not, as a Federal

Government, been standing up for our businesses and making sure the trade laws are enforced accurately.

We could go down the list, from currency manipulation to a \$12 billion counterfeit auto parts industry that is bringing in unsafe auto parts. We certainly now can look to the safety, whether it is toothpaste, toys, or dog food. I mean, every day there is a new item that is being recalled or is in the press that relates to a lack of safety standards. So this has broad implications for all of us.

But when we look at companies that are trying to bring specific cases before the ITC, particularly for smaller companies—any size company, but for smaller companies—the costs of those are sometimes just beyond their ability to address. I have many businesses in Michigan that have had patents stolen—have had other unfair practices—that literally have just stopped making the product because it was too costly for them to proceed to a remedy that should be available to them if we are going to have, in fact, fair enforcement on trade.

So I am wondering what you believe are ways that we could make it easier for companies, particularly small companies, to bring cases before the ITC.

Mr. PADILLA. Well, I believe there are a number of things we can do. The largest part of the International Trade Administration is the Commercial Service. In fact, the Commercial Service has more than 100 offices throughout the United States and 80 offices overseas. They, in our Import Administration, have a very strong customer service ethic. Having been in three different private sector companies, and having gone through myself what it takes to file a dumping case—and that was with the resources of a big company behind me—I know what it takes and I know what the time frames are.

What I would want to bring is a customer service mentality. I spoke with Senator Lincoln about this in a meeting I had with her yesterday. We are more than happy to send people out through our Commercial Service offices to meet with domestic industry at their premises or in your State and explain how the dumping laws work, how you do not necessarily have to hire a very high-priced Washington law firm to proceed with a case, and how you can move with a case in the most expedited manner possible.

In other areas such as intellectual property, which you mentioned, the Commerce Department has recently launched a new website, *www.stopfakes.gov*, and that was after a case that I was involved with when I was at USTR when we had a small glue company in Indiana. The owner did not even export his glue. He sold it mostly domestically.

He was on a business trip, exploring opportunities, I believe it was in Dubai, and he saw his glue being sold, except it was not his glue, it was Chinese counterfeit glue. They had counterfeited everything, right down to the picture of his wife holding the glue on the packaging of the product. It was for those kinds of companies that *stopfakes.gov* was launched.

In the Trade Compliance Center, which handles those kinds of complaints and others, we get more than 150 such complaints in the Commerce Department every year. If I am confirmed, I would work hard to make sure we use our outreach to help small- and

medium-sized companies, because they are usually the ones most affected by unfair imports, and they are also the ones who have the biggest fear about how they can export to new foreign markets.

Senator STABENOW. Thank you.

When former Commerce Secretary Kantor was here speaking on trade enforcement, he talked about the lack of credibility that we have on enforcement. I see that every day, with businesses coming into my office expressing concern about lack of enforcement. He also talked about the fact that our trade enforcement office is actually the smallest of any other developed country. Here we are, the greatest country in the world, a major exporter doing commerce around the world, and yet we have a very small actual enforcement office.

I wonder if you might speak about the proposals. I have had legislation with Senator Graham for some time now to create a separate trade enforcement mechanism, to call it a U.S. trade prosecutor or trade enforcement office. The chairman and ranking member have a larger trade enforcement bill, which I am pleased to be one of the co-sponsors of. So we are, in this committee, very concerned about broadening and strengthening the enforcement efforts so that there is more confidence that, in fact, actions will be taken.

I wonder if you might speak to that.

Mr. PADILLA. Yes, I would be happy to, Senator. I would view myself as, if not the chief, at least one of the chief enforcement officers, should I be confirmed, because the Commerce Department is responsible for the application of more than 260 antidumping and countervailing duty orders that are in effect.

I might add, about one-third of those are focused on China. The administration has not been shy about bringing trade enforcement cases. There are more than 30 such cases that have been initiated against China.

I am proud to say, Senator, we have recently unveiled a new tool, which is the use of the countervailing duty law, against Chinese-subsidized imports. The first such case was just announced actually a week or so ago for glossy paper, and there are six more pending. I think that is an important new tool that I would certainly apply, if confirmed.

With regard to other kinds of trade enforcement, Senator, you mentioned auto parts. The USTR, with the full support of the Commerce Department, I know, has brought a case against China for unfair barriers on auto parts. I know that counterfeiting of auto parts is a huge problem. By one count, more than 70 percent of all auto parts sold in China itself are counterfeit and responsible for a large number of traffic deaths.

So I am very familiar with the several enforcement bills that you mentioned, Senator. I believe that there are some aspects of those bills where we could work with you that would buttress the authority of the Commerce Department. For example, making clear that we do have the authority which we have to apply the countervailing duty law against China. I know you have other proposals for things like more administrative law judges at the ITC. Enforcement is not just one agency's responsibility.

Commerce has a role, USTR, the International Trade Commission, and others. What I can commit to is, if I am confirmed, I will spare no effort on enforcement, having been involved in some fairly significant enforcement activities in my private sector career in the past.

Senator STABENOW. Thank you.

I am pleased to see that the administration is moving forward on a number of cases. I do have to say, from my perspective, it was not quick enough. We are at the end of a second term. I wish we had seen these actions at the beginning of the first term. We have lost 3 million manufacturing jobs in this country. Certainly that is not all due to unfair trade practices, but there are hundreds of thousands of jobs that have been lost because we have not stood up for American businesses and American workers.

This committee has passed a currency bill related to anti-dumping onto the floor. There are other initiatives. You mentioned countervailing duties. We are committed, I believe, the House and Senate, to making sure that we are strengthening our laws that relate to unfair trade.

Let me ask, as it relates now to the Doha Round where, in fact, I think our laws are being threatened when we look at our trade laws, where foreign delegations have made it a central priority to weaken our trade laws right at a time when we are working and committed to strengthening them, as we have seen what this means to middle-class families, what this means to communities, what this means to States.

This is a very serious issue, I believe, in whether or not we keep our standard of living in this country. We want to export our products, we do not want to export our jobs, and that is what is happening right now.

I am worried that the administration has not done enough to prepare our trading partners for the fact that Congress will not approve agreements that actually weaken trade laws.

Do you agree that the United States should reject any outcome that results in a weakening of critical trade laws, and do you believe that the administration has adequately and accurately expressed the strong feelings of Congress on this issue? And, finally, what would you do to ensure that our trade laws are not weakened in the Doha Round, or in other international negotiations?

Mr. PADILLA. Well, thank you for the question, Senator. We have a very clear mandate, established by Congress and Trade Promotion Authority, to maintain the strength and effectiveness of U.S. trade remedy laws in these, and other, international trade negotiations. Let me state clearly, Senator, that, if confirmed, I will not agree to any result that would not accomplish that clear objective.

We have, in the case of one practice in particular, I know, a particular concern on the part of this committee, and that is zeroing. I know that a letter was sent last month to Secretary Gutierrez and Ambassador Schwab on this subject. That is a long-established practice in our dumping law. The United States has used that practice for 86 years, and we do not want to allow unfairly dumped products to be masked by other sales.

We have had that issue through extensive litigation in the WTO, through conflicting judgments from different panels in the WTO, and, if I might say, some highly flawed legal analysis, in my opinion, from the WTO's appellate body. The appellate body appears to have created prohibitions on the use of zeroing where none existed or were intended by the negotiators in the Uruguay Round.

The United States has proposed very clear and precise rules for zeroing in the rules negotiations, and we have made clear—and I would make clear if confirmed—that the outcome on zeroing, and on rules generally, is vitally important and we would, and I would, indicate that it would be very difficult to conceive of any balanced outcome to the rules negotiations that does not address this issue.

I know we are working very hard in Geneva to push our proposal. Assistant Secretary David Spooner was there earlier this week. He was explaining to other countries how these WTO rulings would affect their dumping laws as well in a negative way. If I am confirmed, I will spare no effort, either in Geneva or in other capitals, to defend our trade remedy laws.

Senator STABENOW. Well, let me follow up, as you talk about the WTO and litigation, because we have numerous cases, as you know, that are in front of the WTO that cover everything from environmental issues, to tax issues, to trade remedy issues, and so on. There are many very important issues that affect our National policies and affect our economies.

Are there steps you think we can take to more effectively litigate at the WTO? Given that our trading partners frequently utilize the services of attorneys representing private parties to assist them in litigation at the WTO, should we be doing more to utilize the resources of private parties that are supportive of the government's position in a case and bring particular expertise on the subject matter? And, finally, are there other resources that the government can use that would impact our effectiveness and our litigation effort?

Mr. PADILLA. Well, Senator, that is a very important topic. I have some personal experience working in the WTO dispute settlement system from when I was at Kodak, together with some staff who now work for this committee. We worked together on an issue there. I think you will find, if you look in the record, some fairly strong statements by me about some shortcomings of the WTO dispute settlement process, particularly with regard to the Japan film case.

Having said that, and having been not shy about voicing those concerns, I would say that, on balance, this is a system that serves the United States pretty well. Of the 123 cases completed, we have won or settled 87, we have lost 36, the remainder are in litigation. While we have a number of very troubling decisions, including the one I was involved with, the zeroing decision that I just mentioned, we also, I think, have to place very significant importance on respecting the dispute settlement system.

And whether we agree with particular decisions or not, there is value in this system, and I believe it serves the interests of the United States. I do believe that there are reforms that could be made, and the United States is pursuing those in the current WTO Doha discussions.

One of the questions you asked was about outside counsel. I do think that USTR and Commerce can, and should, rely heavily on outside counsel, think tank experts, and others. I am not sure that they should be in the room for the actual arguments before the panel. I do think there is some value in keeping this as a government-to-government process. But certainly there are many experts on whom I would hope to draw and on whom I have drawn in the past, and would look forward to doing so in future cases.

Senator STABENOW. Thank you very much.

As we bring this to a close, let me thank you all for being here. From my perspective, coming from the great State of Michigan, you represent areas that are incredibly important as we look at how we strengthen our standard of living in this country, whether it be health care costs, access for individuals, how we structure health insurance—critical as we compete in a global economy, probably the number-one cost in a global economy for our businesses—and certainly on the issue of trade.

Mr. Padilla, as you know, this is an issue that hits us right between the eyes as it relates to Michigan, a great State that manufactures items. We grow things, we make things. I do not think we can have an economy in the United States unless we grow things and make things and add value to them. How we are able to operate and how our laws work in a global economy, and whether or not there is a level playing field directly relates to the future success of our country. So, I look forward to working with all of you on these issues.

Let me also indicate that besides the questions I have asked today, there are members who will have written questions. In order to expedite the committee's consideration of your nominations, we ask that you would respond to written questions as soon as possible.

We welcome you, again, and welcome your families. Thank you very much for being willing to serve.

The committee is in recess.

[Whereupon, at 10:55 a.m., the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Statement of
The Honorable Christopher A. Padilla
Under Secretary-designate for International Trade
U.S. Department of Commerce

Committee on Finance
United States Senate

November 1, 2007

Chairman Baucus, Senator Grassley, and Members of the Committee:

Having the opportunity to serve the United States in public office is a rare and special privilege, so I was deeply honored that President Bush nominated me to be Under Secretary of Commerce for International Trade. I appreciate the President's confidence, and that of Secretary Gutierrez, and hope to have the chance to work for them and with you in advancing our nation's economic interests. And as all of you know quite well, public service is a family undertaking, so I want to thank my family – my wife Christina, my parents Mario and Arlene, and my sister Leslie – for their unwavering support.

I thank the Committee for holding this hearing today, and am grateful to the many Senators who have taken time to meet with me to discuss my nomination over the past several weeks. I look forward to continuing this close collaboration if I am confirmed.

Mr. Chairman, I learned early on about market access barriers in my first job as a junior marketing staffer at AT&T, when I tried – unsuccessfully – to sell U.S. telecommunications equipment to government-controlled phone companies in Europe. With nowhere else to turn, I took a trip to Washington and met with the staff of the Commerce Department's International Trade Administration (ITA). Almost a year later, after plenty of high-level commercial diplomacy, the technical and procurement barriers were relaxed and exports started flowing.

That was my first interaction with the people of ITA, but I've been fortunate throughout my career to be a frequent customer of the Commerce Department's services. When I worked at Kodak, I filed anti-dumping cases against unfairly traded imports of photographic paper from Japan. During my time at Lucent Technologies, I worked with ITA on technical standards that blocked U.S. sales in South Korea. In my time at USTR, at the State Department, and in my current post as Assistant Secretary of Commerce for Export Administration, I have relied on the talented Americans and local nationals working in our Commercial Service offices overseas. The people of ITA are well known for their commitment to American competitiveness, and I confirmed I look forward to renewing old friendships and meeting new people.

My personal experiences have led me to some core principles that would guide me if confirmed as Under Secretary. First, I am optimistic about America, and believe strongly that Americans can compete and win in the global economy. All America asks for is a reasonable chance to compete, which the Commerce Department helps provide by tearing down barriers, opening new

markets, promoting competitiveness, and relentlessly promoting America's products and services in foreign markets.

Second, I believe that promises made should be promises kept, and that means the Commerce Department must vigorously enforce our trade laws as well as monitor and enforce compliance with trade agreements. Not only is this important in itself, but public support for open markets at home requires that trade be perceived as fair, and that trade agreements and laws be enforced.

Third, I know from experience that trade policy works best when there is close cooperation between the legislative and executive branches of government. I assure you that I am well acquainted with the constitutional role of Congress in trade, and if confirmed would look forward to working with this Committee and the Congress on the vital trade issues facing our nation.

Finally, I have always believed that an important source of America's strength is its openness – to goods, services, investment, ideas and people. Our openness and dynamism set us apart, make us nimble and innovative, and allow us to respond to emerging challenges. And I know from experience that when other countries are open too, Americans can compete anywhere in the world. If confirmed as Under Secretary, I look forward to making the case for trade, expanding opportunity and hope, and keeping America prosperous and strong.

**SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.)
Christopher Alan Padilla
2. Position to which nominated:
Under Secretary of Commerce for International Trade
3. Date of nomination:
September 4, 2007
4. Address: (List current residence, office, and mailing addresses.)
5. Date and place of birth:
September 7, 1964
Kansas City, MO
6. Marital status: (Include maiden name of wife or husband's name.)
7. Names and ages of children:

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

Johns Hopkins School of Advanced International Studies	09/85-05/87	M.A.	05/87
Johns Hopkins University	09/82-05/86	B.A.	05/86
New Providence High School (NJ)	09/78-06/82	H.S. Diploma	06/82

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

Dates	Employer	Title
10/06-present	U.S. Department of Commerce 1401 Constitution Ave. NW Washington, DC 20230	Assistant Secretary for Export Administration
08/05-10/06	U.S. Department of State 2201 C Street, NW Washington, DC 20520	Chief of Staff and Senior Advisor to the Deputy Secretary of State
10/02-08/05	Executive Office of the President Office of the U.S. Trade Representative 600 17 th Street, NW Washington, DC 20508	Assistant United States Trade Representative for Intergovernmental Affairs and Public Liaison
05/97-10/02	Eastman Kodak Company 1250 H Street, NW Suite 800 Washington, DC 20005	Director, International Trade Relations
02/96-05/97	Lucent Technologies, Inc. 900 19 th Street, NW Washington, DC 20006	International Public Affairs Vice President
09/90-02/96	AT&T 1120 20 th Street, NW, Suite 1000 Washington, DC 20036	Director, Federal Government Affairs
06/87-09/90 10/88-09/90 06/87-10/88	AT&T 475 South Street Morristown, NJ 07060	Manager, International Business Development, Market Planner, International Marketing, Intern, 06/86-09/86

10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)

1996-2000	U.S. Department of Commerce Bureau of Export Administration Washington, DC 20230	Member, President's Export Council Subcommittee On Export Administration
1998-2002	U.S. Department of Commerce And Office of the U.S. Trade Representative	Member, Industry Trade Advisory Committee on Chemicals and Allied Products
1997-1998	U.S. Department of Commerce And Office of the U.S. Trade Representative	Member, Industry Trade Advisory Committee on Electronics and Instrumentation

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)

Organization	Office held (if any)	Dates
Central Atlantic Area Council Of the National Council of YMCAs (charitable foundation)	President, Board of Trustees	1991-present (president 1995-)

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)

Organization	Office held (if any)	Dates
Central Atlantic Area Council Of the National Council of YMCAs 1995)	President, Board of Trustees	1991-present (president since
Washington International Trade Association	Member, Board of Directors	1997-1999
Japan-America Society of DC	Member, Board of Trustees	1999-2002
Youth Service America	Member, Board of Directors	2000-2001
Summit Area YMCA		1982-1990
Johns Hopkins University Alumni Association		1987-present

13. Political affiliations and activities:

- a. List all public offices for which you have been a candidate.

None.

- b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

Marshal, Bush-Cheney 2004

- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

08/07	\$100	Republican National Committee
05/07	\$75	John McCain for President
10/06	\$200	Republican National Committee
05/06	\$200	Republican National Committee
01/06	\$200	Republican National Committee
11/05	\$50	Republican National Committee
05/05	\$50	Republican National Committee
09/04	\$250	Republican National Committee
05/04	\$100	Republican National Committee
07/04	\$250	Jim DeMint for Senate
06/04	\$1,250	George W. Bush for President
04/04	\$500	George W. Bush for President
02/04	\$250	George W. Bush for President
2004	\$200	Jon Huntsman for Governor
09/00	\$200	George W. Bush for President
02/00	\$250	John McCain for President
2000-2001	\$550/yr. approx.	Eastman Kodak Company KODAPAC (biweekly payroll deductions in calendar years 2000, 2001)

14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)

Phi Beta Kappa, May 1986
 Pi Sigma Alpha, National Policy Science Honor Society, May 1986
 Graduated with departmental honors from Johns Hopkins, 05/86
 YMCA John F. Sly Service to Youth Award, 04/95

15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)

Mark Foulon and Christopher A. Padilla, *In Pursuit of Security and Prosperity: Technology Controls for a New Era*, The Washington Quarterly, Spring 2007

"Market Access: What's at Stake", Paper presented at Symposium on the Doha Development Agenda, World Trade Organization, Geneva, April 29, 2002.

Howard Lewis and Christopher A. Padilla, *Export Controls for a Post-Cold War World* (Washington, D.C.: Economic Strategy Institute, 1993). This study is out of print. It was, however, summarized in testimony before the Senate Banking Committee:

"Renewal of the Export Administration Act", Testimony by Christopher A. Padilla, Chairman, Export Controls Working Group of the National Association of Manufacturers, Subcommittee on International Finance and Monetary Policy, Committee on Banking, Housing and Urban Affairs, February 3, 1994.

"The Democrats and the American Dilemma", SAIS Review of International Affairs, Johns Hopkins University, Summer-Fall 1987, Volume 7, Number 2.

16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with two copies of each formal speech.)

"Lemonade and (Un) Level Playing Fields: The Case for Free & Fair Trade", Remarks to the Vail Valley Business Forum, Vail, Colorado, August 23, 2007

Testimony by Christopher A. Padilla, Assistant Secretary of Commerce for Export Administration, Subcommittee on Terrorism, Nonproliferation, and Trade, House Committee on Foreign Affairs, July 26, 2007

"Developing a Corporate Export Compliance Program", Remarks to the National Association of Foreign Trade Zones, Atlanta, Georgia, May 21, 2007

"The Future of Export Controls", Remarks to the American Conference Institute Export Control Conference, Washington, D.C., May 15, 2007

Remarks to the Computer & Communications Industry Association 34th Annual Washington Caucus, Washington, D.C., April 17, 2007

"The Future of U.S. Export Controls on Trade with China", Remarks at the China-U.S. High Technology and Strategic Trade Seminar, Shenzhen, China, January 29, 2007

Remarks to the U.S.-India Business Council, Washington, D.C., January 19, 2007

"International Cooperation on Export Controls", Remarks to the

Washington International Trade Association, Washington, D.C., December 14, 2006

Address to the 11th Session of the Conference of States Parties, Organization for the Prohibition of Chemical Weapons, December 6, 2006, The Hague, Netherlands

Remarks at the Bureau of Industry and Security's Update 2006 Conference on Export Controls and Policy, Washington, D.C., October 16, 2006

Statement of Christopher A. Padilla, Assistant Secretary of Commerce for Export Administration-Designate, Senate Committee on Banking, Housing and Urban Affairs, September 27, 2006

"An Inside Look at United States Policy on Sudan", Podcast, Voices on Genocide Prevention Website, United States Holocaust Memorial Museum, April 6, 2006

"The Case for DR-CAFTA", Remarks to San Antonio Free Trade Alliance, October 26, 2004, San Antonio, Texas,

"Globalization and Outsourcing", Remarks to Center for Strategic and International Studies, March 10, 2004.

"A Tale of Two Economies", Remarks to Global Business Alliance of New England, March 4, 2004. Also delivered to Monterrey Congressional Forum on Trade Policy, Monterrey Institute of International Studies, January 8, 2004.

"U.S. Trade Policy in Latin America", Remarks to Forum Brasil, U.S. Chamber of Commerce, January 20, 2004.

17. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

I have twenty years of experience working in international trade in both the private sector and three different government agencies, and have been involved in nearly every significant U.S. trade initiatives since 1988. This blend of experience gives me insights into U.S. trade policy from two important perspectives: as an employee of major U.S. companies heavily involved in exports and imports, and also as a U.S. government official working to promote free and fair trade. Since coming to Washington in 1990, I have worked with many Members of Congress to build bipartisan support for the trade initiatives of three different presidential administrations.

During my international trade career in both the private sector and government, I've had the opportunity to work frequently with the people of the Commerce Department's International Trade Administration (ITA). I've sought help from ITA industry analysts and country officers on market access problems, worked on WTO and antidumping cases, served on an industry trade advisory committee, been a "customer" of the Advocacy Center, and relied on the expertise of the talented Americans and local nationals working in our Commercial Service offices. The people of ITA are well known and well respected for their unwavering commitment to American competitiveness, and if confirmed I look forward to renewing old friendships and meeting new people.

Early in my career at AT&T and Lucent Technologies, I learned from personal experience how market access barriers impede U.S. exporters in key international markets, and about the range of assistance available from the International Trade Administration. I filed petitions with Commerce and USTR under Section 1377 of the Trade Act of 1988 to address telecommunications market access issues in Japan and Korea, and worked on technical standards issues with ITA's Office of Telecommunications. Later, I worked closely with Commerce's Advocacy Center on U.S. government support for exports of AT&T telecommunications equipment to Indonesia, Egypt, and other markets.

During my tenure at Eastman Kodak, I coordinated efforts to work with Commerce's Import Administration on renewal of antidumping duties applied against European and Japanese imports of photographic paper, and was responsible for managing Kodak's petition under Section 301 of the Trade Act of 1974 concerning market access barriers in Japan. This petition had led to the filing of a major case at the World Trade Organization, giving me unique insights into the process of WTO dispute settlement. Later, I advocated Kodak's interests in the effort to negotiate China's accession to the WTO, and then helped to lead industry efforts in support of Permanent Normal Trade Relations with China.

Of particular relevance to this position, I have extensive experience working with Congress on international trade issues and legislation. At USTR, my work on international trade legislation such as Free Trade Agreements with Chile, Singapore, Australia, Morocco, Central America and the Dominican Republic gave me a solid appreciation of the central constitutional role of Congress in regulating foreign commerce and trade. In addition, my years at USTR helped me to deepen relationships with key stakeholders in international trade both domestically and internationally, giving me a full perspective of the many views of trade policy.

Later, at the Department of State, I worked on U.S.-China policy, Latin American issues, Sudan policy, and international economic matters. My combination of private sector and government experience in working with China will be important in dealing with the many challenges and opportunities in the U.S. commercial relationship with the PRC. In my current position, I have added an important national security perspective to my many years of experience in the economic aspects of trade.

Strong international and interagency cooperation is critical to an effective trade policy. I have extensive experience at USTR, State, and Commerce working multilaterally to build support for U.S. trade and foreign policies, and have established good relationships with officials in many foreign governments. Having served in the Bush Administration since 2002, I also have excellent working relationships with those would be my counterparts in other agencies, should I be confirmed for this position.

Finally, building broad public support for American engagement with the world is critical to our nation's success, and I have extensive experience discussing foreign and trade policies with the public. As a public official at State and USTR, I have actively reached out to explain U.S. policy and seek advice from a broad spectrum of business, labor, non-governmental, academic, and civil society groups.

I believe that my long-standing experience in this field well qualifies me to serve as Under Secretary of Commerce for International Trade.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

I am presently an employee of the Department of Commerce, but would be serving in a different capacity. I am currently serving as a Trustee (since 1991) and the President (since 1995) of the Central Atlantic Area Council of the National Council of YMCAs, a non-profit charitable endowment. I plan to continue serving in these positions.

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

As far as can be foreseen, I have no plans, commitments, or agreements to pursue outside employment, or to resume employment with any previous employer.

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.

No.

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

Yes.

C. POTENTIAL CONFLICTS OF INTEREST

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

I am eligible to receive benefits under defined benefit pension plans from both Eastman Kodak Company and Lucent Technologies (now known as Alcatel/Lucent). The Kodak pension is in the form of a defined benefit "cash balance" pension that I can roll over into an Individual Retirement Account at any time. The Lucent Technologies pension is a monthly payment that I am eligible receive on reaching age 65. Pursuant to an Ethics Agreement I executed on August 20, 2007 with the Department of Commerce, I will not participate personally and substantially in my official capacity in any particular matter that will have a direct and predictable effect on the ability or willingness of Eastman Kodak Company or Lucent Technologies to satisfy their financial obligations to me under the terms of the defined benefit pension plans held through these companies, unless I first obtain a waiver under 18 USC 208(b)(1).

Pursuant to an Ethics Agreement I executed on August 20, 2007, I will disqualify myself from participating personally and substantially in my official capacity in any particular matter that would have a direct and predictable effect on the financial interests of the Central Atlantic Area Council of the National Council of YMCAs, unless I first obtain a waiver under 18 USC 208(b)(1).

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 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.

On April 3, 2006, I recused myself from all matters at the Department of State related to the proposed merger of Lucent Technologies and Alcatel, because I learned that the Lucent Retirees Organization (LRO) had urged the U.S. government - including the Committee on Foreign Investment in the United States (CFIUS) - to oppose this transaction due to concerns over the possible impact on Lucent pensions. Although I am not a member of the LRO, I am eligible to receive a Lucent deferred pension on reaching age 65. Upon assuming my present position as Assistant Secretary of Commerce, I continued my recusal because of the role of the Department of Commerce in the ongoing monitoring of a National Security Agreement with Alcatel/Lucent. If confirmed, I would consult with Commerce ethics officials and continue this recusal during my service as Under Secretary.

3. 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. Activities performed as an employee of the Federal government need not be listed.

From 1996-1997, I was employed as International Public Affairs VP for Lucent Technologies. From 1998-2002, I was employed as Director, International Trade Relations for Eastman Kodak Company. In these positions, my responsibilities included advocating the interests of Lucent and Kodak on legislative issues related to international trade, including permanent normal trade relations with China, market access in Japan, legislation to renew the President's trade negotiating authority, congressional passage of various free trade agreements, and the U.S.-EU dispute over the U.S. Foreign Sales Corporation tax laws.

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with two copies of any trust or other agreements.)

I will consult with the Office of the General Counsel of the Department of Commerce and, if appropriate, divest myself of conflicting interests, recuse myself, or obtain a conflict of interest waiver under 18 USC 208(b)(1) if the interest is not substantial.

5. **Two** copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.

Copies of the ethics agreement with the Department of Commerce dated August 20, 2007 are attached.

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before 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 a 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 ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.

No.

5. Please advise the Committee of any additional information, favorable or

unfavorable, which you feel should be considered in connection with your nomination.

No other information.

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, 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.

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes.

Questions for the RecordQUESTIONS FOR CHRIS PADILLAChairman Baucus

1. The 2006 Softwood Lumber Agreement was designed to end decades of litigation between the United States and Canada. Unfortunately, however, Canada has already failed to comply with the terms of the Agreement. Several Canadian provinces have issued new subsidies to their lumber industry. And the Canadian federal government has failed to collect the required export tax. These violations have led to mill closures and job losses here in the United States.

What steps has the administration taken to enforce the Agreement? Have these steps been effective in bringing Canada into compliance? Do you have other ideas for ensuring Canada's compliance in the short term?

I share your concerns about Canada's implementation of the Softwood Lumber Agreement. I know the Administration has been working diligently to ensure that Canada is properly implementing the Agreement. First, the Administration exercised its option to bring to arbitration the issue of Canada's export tax collection. In addition, the Department of Justice is currently considering bringing to arbitration the issue of new subsidies in Canada.

I have been briefed extensively on the Agreement, and met with U.S. industry representatives to discuss it. I understand that Commerce hosts weekly meetings with representatives from USTR, State Department, Department of Justice, and Customs and Border Protection to review the ongoing implementation of the export measures called for by the Agreement and determine whether those provisions are being adhered to by Canada. In addition, this group examines Canadian assistance to its industry in light of commitments made in the Agreement, the status of arbitration, and any other issues that arise under the Agreement. In addition, I understand Administration officials regularly meet with the Coalition for Fair Lumber Imports and its members to confer and get their input on the operation of the Agreement. Administration officials also regularly meet with Canadian government officials responsible for enforcing the Agreement, including meetings of the Softwood Lumber Committee, a bi-national committee created by the Agreement as a forum for discussions relating to its administration. Administration officials have consistently pressed their counterparts in the Canadian government at the highest levels on issues regarding the proper collection of the export tax and disclosure of information to permit the United States to ensure compliance.

My view is that these steps have been productive, but I am unsatisfied that Canada is fully complying with the terms of the Agreement. If confirmed, I would be fully committed to ensuring that Canada does come into full compliance with the Agreement, and to taking steps necessary to ensure the integrity of the Agreement. Quite simply, the Agreement must be enforced. One of the key difficulties the Administration faces is collecting information to assure that Canada is collecting the export tax in the proper

amounts. Various ideas have been proposed, including an importer certification program that would require that importers certify that their entries of softwood lumber are in compliance with the terms of the Agreement. This idea appears to have merit, and I have heard other ideas as well. If confirmed, I would do everything I could to explore this option and any other options, and would seek to implement those measures I believe would ensure the integrity of the Agreement. I would be committed to being creative and proactive in finding ways to bring Canada into compliance.

2. Congress has serious concerns about the WTO's recent "zeroing" decisions, which overturned a long established U.S. methodology for calculating antidumping duties. These decisions have been widely derided for imposing obligations on the United States that are not found in the text of the WTO agreements. I was pleased to see that the administration submitted a proposal in the Doha negotiations that would overturn the WTO's decisions and explicitly permit zeroing.

What are your negotiators doing to ensure that the proposal is adopted? Should Congress take additional steps to address the zeroing decisions?

Since June of this year, U.S. negotiators have traveled to Geneva six times to advance our proposals and explain to other delegations the systemic implications for WTO antidumping rules and other countries' antidumping systems of the dispute settlement decisions on this issue. Most recently, Assistant Secretary for Import Administration David Spooner traveled to Geneva to meet with the Chairman of the Rules Negotiating Group, key trading partners, and WTO officials and emphasize the vital importance of this issue to the United States. The message has been very clear – the United States believes the outcome on zeroing is vitally important, and has said it would be difficult to conceive of any balanced outcome to the Rules negotiations that does not address it. If confirmed, I would spare no effort to deliver this message as well, in Geneva or in foreign capitals.

My understanding is that these efforts have helped to move discussions beyond those of simple ideological differences, and it is now evident that many participants recognize the potential implications of the Appellate Body's findings on zeroing for their systems. The United States has stressed that the best way to address these concerns is through language which clearly and comprehensively recognizes that dumping margins and determinations may be established on the basis of the international price discrimination found to exist, and need not be obscured or diluted by having to take account of non-dumped transactions in either the calculation of dumping margins or the collection of antidumping duties. If I am confirmed as Under Secretary, I will work to expand international understanding of this important issue.

3. The Commerce Department and the administration have many trade priorities, including Congressional passage of pending free trade agreements. These agreements are an important way of responding to the challenges of today's dynamic economy. At the same time, we need to ensure that we have mechanisms in place to help workers respond to such challenges. This is why I believe it is

important to have a robust TAA program that reflects today's economy. It is unimaginable for me that anyone would want to move forward on TAA without including service workers. The services industry makes up 80 percent of the U.S. economy.

What is the administration's position on expanding TAA and making it reflect today's workforce? Do you see a need for a strong TAA program given the trading environment we live in today?

I share the President's belief the Trade Adjustment Assistance (TAA) program is a critical component of our Nation's efforts to provide workers with the education and training, employment services, and other support needed to secure good jobs with good wages. As his nominee for Under Secretary for International Trade, I also believe that, while the benefits of trade are overwhelmingly positive, the Federal Government has a responsibility to ensure those benefits are broadly shared and that the negative impacts are offset through assistance to persons and firms that may be adversely impacted by trade.

As a manager who had to help certify workers' eligibility for TAA while I was employed at the Eastman Kodak Company, I do indeed see a need for a strong TAA program, one that includes needed reforms to give workers adversely impacted by trade access to the training and reemployment services they need to quickly return to work. If confirmed, I look forward to working with you to make TAA a more flexible and beneficial program for workers.

4. Mr. Padilla, we understand that the Japanese government is currently poised to make critical short term budgetary decisions in early December related to the expansion of price reductions based on market forecasting and the frequency of price cuts. Concerns have been raised about the potential effect of the proposals on the pharmaceutical industry based in the United States. How does the Commerce Department, and particularly the International Trade Administration, plan to address the concerns raised by Japan's proposals.

I understand that the Commerce Department shares the U.S. pharmaceutical industry's concerns about Japan's biennial price decisions, and is working to help U.S. industry. If confirmed, the message I would continue to convey to Japan is that Japan's reimbursement system needs to appropriately value innovative pharmaceuticals so that more such drugs can continue be developed in the future. I would stress to Japan that advanced drugs not only help patients, but by improving health outcomes, can ease the government's financial burden of providing healthcare to a rapidly aging population. Innovative drugs can create long-term savings by reducing the lengths of hospital stays in Japan, which has the longest average length of hospital stay among industrialized countries. I know the United States is also concerned about Japan's reimbursement pricing policies for medical technology, as well as its regulatory policies for pharmaceuticals and medical technology.

My understanding is that the Administration's approach involves many levels of the Commerce Department and includes other U.S. Government agencies. On October 26, Secretary Gutierrez sent a letter to the Japanese Health Minister, stating that Japan's reimbursement policies remain a priority of the Commerce Department, especially in light of the upcoming pricing decisions. In early December, I will raise this issue in Tokyo with my counterparts at various ministries as I participate in an Acting capacity in the U.S.-Japan Subcabinet Dialogue. On the working level, the Commerce Department has been pressing the Health Ministry on this issue, most recently in October in Tokyo and will raise it again this month. Commerce also issued recommendations on drug issues in October through its bilateral Regulatory Reform Initiative, and will raise its recommendations with the Health Ministry in meetings again this month in Tokyo.

Senator Hatch

Mr. Padilla, the protection of intellectual property has always been one of my top legislative priorities in the Senate for over 30 years.

Now more than ever, America's ingenuity continues to fuel our economy, and it is imperative that we protect new ideas and investments in innovation and creativity.

Piracy and counterfeiting are the new face of economic crime around the world, far exceeding traditional property crimes. Fostering strong intellectual property protection builds the economies of not only developed nations, like ours, but for any nation striving to achieve a vibrant and growing economy. Conversely, counterfeiting and piracy cripple growth and stifle innovation.

Nationally, my colleagues and I in the Senate are committed to curtailing piracy and counterfeiting. But this is a global problem and the solution will require a commitment – not only to beef up domestic enforcement, – but it will also require a concentrated government-wide effort to prevent the creation of pirated and counterfeited materials.

Furthermore, I believe any solution will take an integrated approach with both domestic and international prongs which incorporate educational, judicial, and enforcement components to halt this insidious attack on our intellectual property.

I note that earlier this year the International Trade Administration (ITA) has established a program with the American Bar Association through which American small- and medium-sized enterprises can request a free, one-hour consultation with a volunteer attorney knowledgeable in both industry IPR issues and a particular country to learn how to protect and enforce their IPR, such as trademarks, patents, or copyrights, in that country. I also understand that that expertise is now available for Brazil, Russia, India, China, Egypt, and Thailand. This, in my view, is a good start at protecting American ingenuity; however, In

order to accomplish this task, all stakeholders must cooperate and work in an integrated fashion with state, federal, and international governments.

1) With that said, what role do you think the Department should have in this important endeavor? In particular, what more should the Department of Commerce and more specifically the ITA be doing to combat piracy when approximately 70% of pirated goods are created overseas and then illegally imported into the United States?

The protection of intellectual property would be one of my top priorities if confirmed as Under Secretary. I understand that DOC is part of the interagency team implementing the Administration's Strategy Targeting Organized Piracy (STOP), an aggressive effort against global trade in counterfeit and pirated goods. Much has been done, but if confirmed I would look for ways to do more.

The ABA International IP Advisory Program you mentioned is one of a number of tools the Department has developed to help SMEs protect and enforce their IPR.

For example, I am aware that the US Patent and Trademark Office (USPTO) and ITA are conducting IPR public outreach campaigns to educate U.S. businesses and exporters, particularly SMEs. It is my understanding that DOC has created new resources, such as a brochure, website (www.StopFakes.gov), hotline (1-866-999-HALT), and toolkits with country-specific information, to provide SMEs with information about protecting and enforcing IPR at home and overseas. ITA is working to complete an online IPR training course to teach SMEs practical ways to protect and enforce their IPR, and has hosted an event to raise public awareness of the dangers of infringing goods.

I know ITA is working with the private sector to assist businesses seeking to protect and enforce IPR. If confirmed, I will continue efforts to work with the private sector. In response to DOC encouragement, the U.S. Chamber of Commerce and the Coalition Against Counterfeiting and Piracy (CACP) released the No Trade in Fakes Supply Chain Tool Kit illustrating best practices for keeping supply chains secure from infringing goods. ITA is also developing a program to promote protection of IPR at domestic and international trade fairs.

DOC, together with other USG agencies, is working to advance several IPR-related proposals at the G8, the Asia-Pacific Economic Cooperation (APEC), the Organization for Economic Cooperation and Development (OECD), the US-EU Summit, and the Security and Prosperity Partnership (SPP), and is working bilaterally with Japan through the DOC-METI Initiative.

2) Do you agree that there needs to be more cooperation among the agencies that deal with intellectual property rights issues within our government beyond the current interagency clearance process?

As each of these programs demonstrate, significant inter-agency coordination already is taking place to develop programs that meet the needs of U.S. businesses facing IP

infringement. However, if confirmed, I will work aggressively to ensure maximum cooperation among the agencies involved in working on IPR issues, and believe we should always look for more ways to improve inter-agency efforts on IPR.

3) On a slightly different topic, Mr. Padilla, we have a number of FTAs to consider in the coming months, each with their own challenges. However, I understand you recently travelled to Colombia and met with a number of people and were able to get a more personal understanding of the challenges and progress being made in that country. Could you share with me what you learned in Colombia and explain the importance of the Colombia FTA to the United States?

The Colombia Trade Promotion Agreement (CTPA) is an agreement that both Secretary Gutierrez and I feel passionately about, not only because of the enormous opportunities that it would provide for American manufacturers, farmers, and service workers, but because we have seen firsthand the remarkable transformation that is going on in Colombia under the leadership of President Álvaro Uribe.

I recently had the opportunity to travel to Colombia with Secretary Gutierrez and several members of Congress. It became vividly clear to me that the Colombia of today is not the Colombia of ten, or even five years ago and nowhere is this remarkable transformation more apparent than in Medellín. What was once a city that was the most violent in the world is now a thriving gateway to the global economy. Under the leadership of President Álvaro Uribe, violence levels are down, access to education and healthcare is up, and progress in reducing poverty is impressive.

This remarkable transformation is the product of a long and steady struggle to overcome decades of insurgency, drugs, poverty, and hopelessness. America has already invested heavily in helping Colombia in this endeavor through Plan Colombia, and the CTPA provides a unique opportunity to further strengthen this partnership. Most importantly, the TPA will allow U.S. exporters access to a large and growing market. Passing the pending TPAs would level the playing field because they move our commercial relationships beyond one-way preferences to full partnership and reciprocal commitments.

4) I know that while you worked at USTR, you were responsible for great deal of work on the DR-CAFTA. As you'll recall, many Members of Congress had considerable trepidation about its potential effect on the United States. Can you tell me about the progress to date with DR-CAFTA?

The DR-CAFTA has been a remarkable success for the United States, opening up new markets and creating new export opportunities for U.S. manufacturers, farmers, and service workers. U.S. exports to the CAFTA countries have increased 16 percent since the Agreement came into effect, including 20 percent growth to Nicaragua and 24 percent growth to Guatemala.

Most importantly, CAFTA immediately turned what had been a \$1.4 billion trade deficit with Central America into a \$2.3 billion trade surplus. U.S. exports of textile fabric and

yarn, machinery, plastics, autos, and grain are growing significantly. With steady economic growth in the CAFTA countries, I hope our exports will continue to grow in these sectors.

This agreement has also had a real and positive impact on the Central American countries that are part of the agreement. I recently met with a delegation of Guatemalan businessman and farmers, for example, who noted that investment in Guatemala has nearly doubled since the agreement has come into force, boosting economic growth and job creation. Farmers are now diversifying from subsistence crops such as corn and beans to new crops such as broccoli, snow peas, and peppers for sale in Guatemala, the United States, and in neighboring CAFTA countries. This agreement is fostering a new attitude of accountability and entrepreneurship in Guatemala and other Central American nations.

Senator Lott

1. WTO panels and its Appellate Body are trying to impose a ban on zeroing on the United States even though we never agreed to it. As these WTO zeroing decisions are returned to the Department of Commerce for implementation, it is essential that the Department explore all approaches that would keep the dumping orders in place. Unfortunately, the Commerce Department has terminated dumping orders and not fully considered other approaches that would have kept the relief in place. Will you make sure that Commerce exercises its full discretion in such cases to assure that the greatest degree of trade remedy is retained until these improper WTO decisions can be overturned?

If confirmed, I will make sure that Commerce continues to exercise its full discretion, within the limits of the law, if and when it takes action to come into compliance with any adverse WTO report. I understand that to date, Commerce has considered all legally permissible options. In so doing, Commerce has declined, and rightfully so in my view, to adopt proposals that were not legally defensible or otherwise appropriate under U.S. law.

2. I am very pleased that the Administration has made it a priority to fix these flawed decisions in the current Doha Round of negotiations. How will you support that objective and what will you do to see it achieved?

I understand that Assistant Secretary David Spooner and the U.S. Rules negotiating team are working diligently to advance the U.S. position on this important issue. Since June of this year, U.S. negotiators have traveled to Geneva half a dozen times to advance our proposals and to explain to other delegations the systemic implications for WTO antidumping rules and other countries' antidumping systems of the dispute settlement decisions on this issue. There appears to have been some progress here with discussions moving beyond those of simple ideological differences. It is evident that many participants now recognize the potential implications of the Appellate Body's findings on zeroing for their systems. The United States continues to stress that the best way to address these concerns is through language that clearly and comprehensively recognizes

the permissibility of zeroing under the Antidumping Agreement in all contexts of antidumping calculation and administration.

I also understand that Assistant Secretary David Spooner just recently returned from an important visit to Geneva where he made it clear that the United States cannot conceive of a balanced outcome to the Rules negotiations that does not properly address this important issue. If I am confirmed as Under Secretary, one of my highest priorities will be to secure a satisfactory outcome on this issue in the Doha Round, both in Geneva and in foreign capitals.

3. In WTO legal proceedings, the United States has, unfortunately, failed to exhaust all avenues in opposing the newly-discovered offset requirement. Will you urge USTR to exhaust all appeals of cases in which the WTO wrongly finds a requirement to offset dumping margins?

Commerce attorneys work very closely with their USTR colleagues when Commerce determinations are challenged at the WTO, drafting and presenting the substantive arguments. This close collaboration extends to issues of strategy and determining the most effective means of defending Commerce's determinations. If confirmed, I will ensure that Commerce continues to collaborate with USTR on such issues, including determining appropriate cases and issues to be appealed, and will ensure that all possible legal mechanisms are explored to defend U.S. trade remedy laws.

Senator Kerry

Trade Laws

Are you committed fully to ensuring that the Doha Round will in no way weaken existing trade remedy laws, in keeping with Congress's unequivocal statement in its 2002 grant of Trade Promotion Authority (and in subsequent resolutions) that Congress will not support any weakening of our trade remedy laws?

The Administration has a very clear mandate as established by Congress in Trade Promotion Authority (TPA) to maintain the strength and effectiveness of U.S. trade remedy laws. I am fully committed to that mandate and, if confirmed, I will not agree to any result that does not comport with that clear objective.

My next questions concern the matter of a fundamental antidumping method referred to as "zeroing" (the method used to capture the full amount of dumping by counting only unfairly traded sales in the dumping calculation to avoid masking dumping).

Do you agree that without the ability to employ zeroing, the antidumping law essentially would be severely undermined? Have WTO Appellate Body decisions prohibited the United States from employing zeroing to calculate the dumping

margin? Do you agree that nothing in the WTO agreements forbids employing zeroing to determine dumping?

Is it fair to say that the WTO Appellate Body created an affirmative obligation – members cannot engage in zeroing – that was never negotiated by the Member Parties, and one that the United States would not have accepted, given the fundamental importance of zeroing and its long-standing usage to determine the margin of dumping?

I share the concerns of Senators who are troubled by WTO dispute settlement rulings that find that zeroing, a long-standing methodology by which non-dumped transactions are not permitted to offset or reduce the dumping found on other transactions, is inconsistent with WTO obligations. This has been the consistent U.S. practice in antidumping cases both prior to and after the entry into force of the Uruguay Round agreements, and I do not want to allow unfairly dumped products to be masked by other sales; the practice of zeroing prevents this. This issue has been litigated extensively at the WTO. We have seen conflicting judgments from different panels, and in my view, seriously flawed legal analysis coming from the WTO's Appellate Body. The Appellate Body has created prohibitions on the use of zeroing where none existed in either the text of the Antidumping Agreement or the interpretations of the Agreement as reflected in the practice of major antidumping authorities throughout the world at the conclusion of the Uruguay Round. I find this to be very troubling and fully support the Administration's efforts to properly address this problem in the WTO Rules negotiations.

Will you confirm that as Undersecretary you will be committed to ensuring that zeroing will be expressly permitted without qualification as a result of the Doha Round?

The U.S. objective on zeroing is very clear – to urge the WTO to adopt clear, precise rules that permit the use of zeroing in both investigations and administrative reviews. That message is being delivered loud and clear and, if confirmed, I will take the lead to continue to make that point in unequivocal terms with our trading partners and WTO officials. The United States has made clear that this issue is vitally important, and that it would be difficult to conceive of any balanced result to the Rules negotiations that does not address it. I support this position, and would aggressively advance the U.S. position if confirmed.

Non-Market Economy

Turning to China, serious concerns have been raised about a possible change in nonmarket economy ("NME") practice that Commerce now is considering with regard to China. Is the Agency preparing to treat individual companies operating in China as if they were operating in a market economy country by designating them "market oriented enterprises" ("MOEs") and calculating a dumping margin based on prices and costs in China?

I understand that Commerce recently issued a second request for public comment on whether it should consider granting market-oriented treatment to certain individual exporters in non-market economy antidumping proceedings involving China. I understand that, because the comments received in response to the first request for comment raised complex legal and administrative issues, the Department felt that it was necessary to issue a second request for comment to focus on these issues. If confirmed, I will ensure that all comments received in response to these two requests are carefully analyzed before making any decision. Furthermore, if confirmed, let me assure you of my personal commitment to the vigorous enforcement of our trade remedy laws with regard to China and all other countries.

What is the legal basis for applying an MOE test? How does this square with Section 771(18) of the 1930 Tariff Act, as amended, which expressly requires specific factors to be considered - like the extent of government control over the allocation of resources - before a NME economy country can be considered a market economy country?

I understand that Commerce has not yet completed its analysis of the legal issues involved in a potential market-oriented enterprise test. Indeed, this is the primary issue that the Department is requesting comment on in the current *Federal Register* notice, responses to which are due on November 26th. I hope the public will use this opportunity to offer extensive input on the MOE concept, which as this point is at the early stages of consideration.

Is this consistent with Commerce's analysis in August of 2006 which concluded China's economy is still government-controlled and thus still appropriately designated a NME?

While Commerce concluded in August 2006 that China remains a non-market economy for purposes of the antidumping law, the Department did note that China has undertaken a series of economic reforms. Furthermore, in its recent decision to apply the countervailing duty law to China, Commerce found that China's economy no longer resembles a traditional Soviet-style command economy. My understanding is that, while this evolution allowed the Department to apply the countervailing duty law to China, it also raised questions about whether certain revisions to U.S. non-market economy antidumping practice should be considered, such as the adoption of a market-oriented enterprise test on which the Department is now requesting public comment.

Is it true that an "MOE test" would be enormously costly to implement both for litigants and the agency at a time when the Import Administration is strained for resources?

My understanding is that, in response to its first request for comment, several parties indeed raised concerns about the administrative feasibility of implementing any potential market-oriented enterprise test. Commerce has taken these concerns very seriously and has made them a primary focus of its second, follow-up request for comment.

Would this policy invent special trade law treatment for China in the midst of a massive bilateral trade deficit, which is yet again poised to hit another unprecedented record high in 2007 (in excess of \$250 billion)?

Commerce has not decided what changes, if any, to its non-market economy antidumping methodology are warranted. If confirmed, I am committed to taking the concerns of all interested parties into account before making any decision to change the current methodology. Please be assured that under my watch, if confirmed, Commerce will continue to administer the antidumping law in an open, impartial and objective manner, consistent with its statutory mandate and international obligations.

In the face of all this and the on-going manufacturing crisis in the United States (over 3 million manufacturing jobs lost since 2000), would you confirm that if appointed as Undersecretary you would not permit the drastic erosion of the antidumping law by resorting to the adoption of an MOE test that permits individual Chinese companies to be treated like market economy producers?

The Department is currently requesting comment about whether the ongoing evolution in China's economy that justifies the application of the countervailing duty law to China also warrants some modification of Commerce's non-market economy antidumping methodology. I understand that a determination has not been made concerning what, if any, such changes are warranted, but let me assure you that I am personally committed to vigorous enforcement of our trade remedy laws and, if confirmed, would not agree to any change that would prevent the Department from effectively countering unfairly traded imports.

Senator Smith

The U.S.-Canada Softwood Lumber Agreement was designed to alleviate the harmful effects of Canada's subsidy programs and unfair trade practices. The terms of the agreement were extensively negotiated between the two countries and agreed upon by both nations.

It is critical that Canada fully implements the terms of the agreement and does not unfairly support its industry at the expense of American manufacturers, workers, and communities. Since the agreement took effect in October 2006, it appears that Canada has failed to collect about 1/3 of the required export taxes, has failed to accurately administer its export quotas, and is providing new forbidden subsidies to its industry.

Can you elaborate on what measures you plan to take to ensure that the United States obtains an ironclad commitment from Canada to start honoring its obligations under the agreement?

I share your concerns about Canada's implementation of the Softwood Lumber Agreement. I know the Administration has been working diligently to ensure that Canada is properly implementing the Agreement. First, the Administration exercised its option to bring to arbitration the issue of Canada's export tax collection. In addition, the Department of Justice is currently considering bringing to arbitration the issue of new subsidies in Canada.

I have been briefed extensively on the Agreement, and met with U.S. industry representatives to discuss it. I understand that Commerce hosts weekly meetings with representatives from USTR, State Department, Department of Justice, and Customs and Border Protection to review the ongoing implementation of the export measures called for by the Agreement and determine whether those provisions are being adhered to by Canada. In addition, this group examines Canadian assistance to its industry in light of commitments made in the Agreement, the status of arbitration, and any other issues that arise under the Agreement. In addition, I understand Administration officials regularly meet with the Coalition for Fair Lumber Imports and its members to confer and get their input on the operation of the Agreement. Administration officials also regularly meet with Canadian government officials responsible for enforcing the Agreement, including meetings of the Softwood Lumber Committee, a bi-national committee created by the Agreement as a forum for discussions relating to its administration. Administration officials have consistently pressed their counterparts in the Canadian government at the highest levels on issues regarding the proper collection of the export tax and disclosure of information to permit the United States to ensure compliance.

My view is that these steps have been productive, but I am unsatisfied that Canada is fully complying with the terms of the Agreement. If confirmed, I would be fully committed to ensuring that Canada does come into full compliance with the Agreement, and to taking steps necessary to ensure the integrity of the Agreement. Quite simply, the Agreement must be enforced. One of the key difficulties the Administration faces is collecting information to assure that Canada is collecting the export tax in the proper amounts. Various ideas have been proposed, including an importer certification program that would require that importers certify that their entries of softwood lumber are in compliance with the terms of the Agreement. If confirmed, I would do everything I could to explore this option and any other options, and would seek to implement those measures I believe would ensure the integrity of the Agreement. I would be committed to being creative and proactive in finding ways to bring Canada into compliance.

Senator Crapo

The U.S. – Canada Softwood Lumber Agreement was intended to set aside the decades long trade dispute between the United States and Canada for 7 to 9 years. Only one year into the agreement, Canada's failure to honor key provisions of the agreement is disheartening. Certain export taxes are not being collected, billions of dollars in new subsidies have been announced and partially paid out, and quota requirements were ignored. Canada's violations have significantly worsened an already dismal lumber market, and have thus contributed to the disproportionate

loss of jobs in the United States. The U.S. response to Canada's agreement violations appears to have had little effect in stopping Canadian non-compliance with the agreement.

Beyond the steps it has already taken, how will this Administration restore confidence in this important agreement? If the mechanisms contemplated under the agreement fail to bring about compliance, what additional options are under consideration, and do you support additional enforcement steps?

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Senator Salazar

1. As Under Secretary for International Trade, you will have responsibility for enforcing our nation's trade laws. As you know, those laws are intended to ensure that our trading partners abide by the terms of our trade agreements and do not put American workers and businesses at a competitive disadvantage.

- **Do you understand how important it is for our trade laws to be enforced, both in terms of the very real economic aspects of international trade, and from the perspective of easing Americans' perceived fears about the consequences of free trade and globalization?**

From the outset of the Administration, the Commerce Department has taken as its mandate President Bush's instruction to pursue allegations of unfair trade vigorously. Since January 2001, Commerce has initiated more than 240 new dumping and subsidy cases. Currently, Commerce has in force 264 orders -- 230 antidumping duty and 34 countervailing duty orders -- affecting imports of products from 41 countries.

I know from my personal experience in the private and public sectors how important it is that the Department of Commerce gives top priority to the full implementation of our trade agreements. This is not only important in itself, but also because trade enforcement is vital to maintaining public support for trade. After a U.S. trade agreement enters into force, the United States continues to actively monitor it through the Trade Agreements Compliance Program. Through this program, the International Trade Administration (ITA) works to identify potential problems through its country and industry specialists, U.S. Export Assistance Centers, U.S. Foreign Commercial Service officers, and through active outreach to the private sector through Commerce's Compliance Liaison Program. I also know that ITA works with Congressional staff to designate Congressional Compliance Liaisons who can report trade barriers their constituents may encounter. It is my understanding that ITA staff are currently working on over 200 active cases where agreements are in place to assist in gaining access to foreign markets. From FY 2001 to FY 2007, ITA initiated resolved successfully nearly 160 compliance cases. Where warranted, Commerce does not hesitate to refer unresolved matters to USTR for potential WTO dispute settlement.

2. Much of the debate over the wisdom of trade agreements takes place while those agreements are being negotiated and considered by Congress. As a result, the impetus behind efforts to ensure the agreements are fair often flags the moment the agreements are formally approved. We need to do a better job of communicating to the American people that promoting fair trade policies doesn't stop when the political debate ends.

- **Will you work vigorously to uphold the terms of our free trade agreements after they have been completed and signed?**

Yes. If confirmed, I will work vigorously to uphold the terms of our FTAs that have entered or will enter into force. The Department of Commerce gives top priority to the

full implementation of and compliance with all our trade agreements. I have worked hard in my various private sector positions to seek vigorous enforcement of U.S. trade laws and agreements, so I know first-hand how important this work is to American companies and workers. If confirmed, I will spare no effort to enforce our trade agreements.

- **Can we do a better job of promoting trade enforcement efforts to demonstrate to the American people that our government is working to ensure the terms of our agreements are upheld? What will you do specifically in that regard?**

I know that ITA is working to promote public awareness of its trade compliance efforts by conducting public outreach about Commerce's Trade Agreements Compliance Program, and if confirmed I would seek new ways to get the word out about the vital importance of trade enforcement. The Trade Compliance Center of ITA offers on-line resources at www.trade.gov/tcc that include a hotline for submitting trade complaints and the texts of more than 270 U.S. trade agreements. In addition, the International Trade Administration has considerable resources available to conduct such outreach to companies. With export assistance centers in more than 100 U.S. cities, and extensive established networks of exporters, the Department of Commerce can do more to make workers, customers and suppliers more aware of U.S. government enforcement efforts as well ITA resources they may be able to utilize if they are having problems overseas. In addition, most key trade associations and all Members of Congress have appointed a Compliance Liaison to work with ITA's Trade Compliance Center (TCC) to help resolve foreign trade barriers affecting their constituents. If confirmed, I look forward to working with you to develop even more methods to promote trade enforcement among the American public.

3. As you know, several free trade agreements are currently pending before Congress, three of which are with Latin American countries – Peru, Colombia, and Panama. These countries are in a region of the world that I believe is particularly important both economically and diplomatically. Still, many members of Congress have raised concerns about one or more of these agreements, and part of your job description as Under Secretary for International Trade is to undertake trade promotion and trade advocacy efforts.

- **Will you pledge to push the Administration to work with Congress to help address some of the concerns that have been raised with respect to the Latin American FTAs, particularly Colombia and Panama?**

Yes, I pledge to work with Congress on the Latin American FTAs, particularly Colombia and Panama. In fact, I recently had the opportunity to travel to Colombia with Secretary Gutierrez and several Members of Congress. It became vividly clear to me that the Colombia of today is not the Colombia of ten, or even five years ago and nowhere is this remarkable transformation more apparent than in Medellin. What was once a city that was the most violent in the world is now a thriving gateway to the global economy.

Under the leadership of President Álvaro Uribe, violence levels are down, access to education and healthcare is up, and progress in reducing poverty is impressive.

This remarkable transformation is the product of a long and steady struggle to overcome decades of insurgency, drugs, poverty, and hopelessness. America has already invested heavily in helping Colombia in this endeavor through Plan Colombia, and the CTPA provides a unique opportunity to further strengthen this partnership. Most importantly, the TPA will allow U.S. exporters access to a large and growing market. Passing the pending TPAs would level the playing field because they move our commercial relationships beyond one-way preferences to full partnership and reciprocal commitments.

➤ **What will you do to promote these agreements to the public?**

I know from personal experience that trade is a vital component of America's broader strategy for promoting prosperity and stability in Latin America. If confirmed, I will promote the benefits of the Latin American FTAs by drawing from the International Trade Administration's (ITA) activities that engage the U.S. business community, which include outreach events throughout the United States, video conferences, webinars (presentation/meeting over the Internet), and conference calls to demonstrate the importance of trade to American workers and farmers. As an example of the current FTA promotion efforts underway, it's my understanding that ITA officials have explained the importance of the pending trade agreements at 68 events in over 20 states in the past three months. In addition, ITA has prepared state-by-state fact sheets on the pending FTAs, highlighting the benefits of the agreements for every state, and sectoral reports on the how the agreements will impact various sectors. These materials are posted on the U.S. Government (including ITA) websites that provide the latest information on the FTAs and exporting – TradeAgreements.gov and Export.gov.

➤ **What will you do to allay concerns that some Americans have about the consequences – both economic and political – of some of these agreements?**

I recognize that some Americans are concerned about these agreements, and if confirmed, I will utilize the International Trade Administration's various trade promotion activities to demonstrate as best I can the benefits of trade to American workers and businesses.

We know the U.S. economy benefited greatly from the trade agreements with Chile and Central America/Dominican Republic and I would cite the success of these agreements to illustrate the potential benefits of the pending FTAs. For example, in the four years since the United States signed a FTA with Chile, U.S. exports to Chile have more than doubled. In one year since CAFTA-DR was implemented, U.S. exports have grown by 16 percent, and the U.S. has moved from a trade deficit with Central America to a trade surplus. The FTAs with Peru, Colombia, and Panama will expand American access to 75 million new consumers, with a combined GDP of almost \$245 billion. Currently, more than 90 percent of imports from these countries already enter the U.S. duty-free under preference programs and the General System of Preferences (GSP), while U.S. exporters

pay hundreds of millions of dollars in tariffs. The pending free trade agreements will give U.S. exporters reciprocal market access, by immediately eliminating tariffs on 80 percent or more on U.S. products and services.

Senator Lincoln

1. The Commerce Department is requesting a second round of comments regarding whether it should treat individual Chinese companies accused of dumping as “market oriented enterprises” for purposes of antidumping proceedings. In my opinion, this concept is contrary to the clearly expressed intent of Congress that the non-market economy methodology apply to all imports from non-market economy countries except in very carefully defined circumstances. I believe that, if implemented, this measure would seriously weaken our trade laws, and present the Commerce Department with enormous administrative difficulties.

Can you elaborate on the Commerce Department’s efforts and ensure that it isn’t at odds with Congressional intent?

I am committed to a transparent, impartial, and objective process in considering any possible changes to Commerce’s non-market economy antidumping methodology. A key aspect of this process is to request public comment via the *Federal Register*, which gives interested parties an opportunity to express their views and concerns. I am personally committed to taking the views of all interested parties into account before deciding whether any change is warranted, and if confirmed, would not agree to any change that would prevent the Commerce Department from effectively countering unfairly traded imports.

2. Many of the comments already submitted to the Commerce Department pointed out that the Department has no statutory authority to provide market economy treatment to individual enterprises.

What is the Department’s legal basis for such a change, especially in light of explicit statutory language to the contrary?

It is my understanding that the Department has not yet completed its analysis of the legal issues involved in a market-oriented enterprise test and has, therefore, specifically requested further public comment on that particular question. Responses are due on November 26th. However, I understand that there is statutory authority for using firms’ actual prices and costs within a non-market economy under certain circumstances. That is the basis for the existing “market-oriented industry” test, which the Department has maintained since 1992. That said, Commerce has not yet determined whether it would be permissible or advisable for the Department to adopt a similar test focusing on individual enterprises.

3. The companies most likely to receive the “market oriented enterprise” designation will be the Chinese subsidiaries of U.S. and other foreign companies.

Couldn't this be seen as rewarding U.S. companies for moving production to China and then shipping their products back to the United States?

If confirmed, I am committed to taking the concerns of all interested parties into account before deciding whether any change to the Department's non-market economy antidumping methodology is warranted. Please be assured that I will ensure that Commerce will continue to administer the antidumping law in an open, impartial and objective manner, consistent with its statutory mandate and international obligations. If confirmed, I would not agree to any change that would prevent the United States from using its trade laws to effectively counter fairly traded imports.

4. Chinese companies are by far the most frequent violators of the U.S. antidumping laws.

Why would the Department weaken those laws with respect to the greatest offender?

I am personally committed to vigorous enforcement of the antidumping and countervailing duty laws with regard to China and all other countries. Furthermore, if confirmed, I will take the views of all interested parties into account in considering whether any change to the Department's non-market economy antidumping methodology is warranted. I understand that Commerce requested public comment on this issue because China's economy, while not a market economy, no longer resembles a traditional Soviet-style commercial economy either.

5. In return for an agreement by the United States to allow China to join the WTO, China agreed specifically that it could be treated as a nonmarket economy in dumping cases for up to 15 years after accession. Giving individual Chinese companies an exemption from the nonmarket economy rules would effectively relieve China of this obligation.

Why should the United States unilaterally surrender such an important benefit, a benefit that was a major subject of negotiation during China's WTO accession talks?

It is my understanding that Commerce has not yet completed its analysis of the applicable legal issues under U.S. law or the WTO with respect to a possible market-oriented enterprise test. Furthermore, Commerce reaffirmed in 2006 that China remains a non-market economy. China's Protocol of WTO Accession permits the continued use of the non-market economy methodology for 15 years after its accession to the WTO, provided that China remains a non-market economy.

6. For over 80 years, the U.S. Department of Commerce has based dumping calculations only on those transactions where there was dumping. This methodology prevents foreign exporters from masking dumping by "offsetting"

dumped sales with non-dumped sales. Without any support from the language of the WTO agreements, the WTO Appellate Body has held that this practice is GATT-illegal. The Administration was correct in protesting that these decisions are not supported by the WTO agreements, and has submitted a strong proposal in the WTO Doha negotiations to allow the “zeroing” practice. Now some countries, such as Japan, are claiming that this proposal cannot be the subject of negotiation because “the Appellate Body” has spoken. This strikes me as being akin to a rule that, once the Supreme Court has decided an issue, Congress cannot legislate regarding that issue.

Do you agree that all issues, including zeroing, are proper subjects for negotiation, whether or not the Appellate Body has considered the issue?

What is the Commerce Department doing to move the U.S. proposal forward and to counter strong opposition by Japan and other trading partners who think this issue should be off the table?

I would agree that all issues, including zeroing, are proper subjects for negotiation, regardless of the rulings by the Appellate Body. The United States has made it clear that WTO Members, not the Appellate Body, decide what the rules should be that govern international trade. While we recognize the importance of the WTO dispute settlement system, I believe that it is the Members who ultimately should determine what is to be negotiated and the meaning to be assigned to the results of those negotiations.

I understand that U.S. negotiators, led by a Commerce team, put forward two papers this summer in the WTO Rules negotiations that seek to restore the understanding that Members had at the end of the Uruguay Round, namely, that offsets are not required in antidumping calculations or duty collections. The team has been working hard to advance U.S. proposals and explain the adverse systemic implications for all Members that come from the dispute settlement rulings on zeroing. These efforts have helped to advance discussions beyond those of simple ideological or political differences and, as a result, Members more fully understand the potential implications of the Appellate Body’s rulings for their systems.

Assistant Secretary David Spooner recently traveled to Geneva to reiterate the U.S. position on this issue and emphasize that the United States cannot conceive of a balanced outcome to the Rules negotiations that does not properly address the issue of zeroing. The United States has made it clear that the best way to address these concerns is a comprehensive proposal like our own that confirms the permissibility of using zeroing under the Antidumping Agreement in all contexts of antidumping calculation and administration. If I am confirmed, I will vigorously promote acceptance of the U.S. position on this issue by our trading partners.

Senator Bunning

1. It is my understanding that the Department of Commerce is negotiating an amendment to the Suspension Agreement on Russian uranium imports with the Russian government. This agreement has protected domestic uranium enrichment operations from imports of low cost Russian products, provided a steady source of fuel for the growing domestic nuclear power industry. As you know, this agreement also enhances the fight against nuclear proliferation. I am concerned about reports that it may terminate early, before 2013, due to recent court decisions. Can you comment on the status of these negotiations and assure me that the Department of Commerce will work with the Department of Energy and Congress to support domestic uranium enrichment capacity?

I can assure you that if confirmed, I will work with the Department of Energy and Congress on this important issue.

I understand that U.S. and Russian government officials are consulting, most recently on October 30 in Geneva, on a potential amendment to the uranium suspension agreement that would allow Russia to make some sales of commercial low-enriched uranium (LEU) in the U.S. market. Currently, the only uranium allowed to enter for consumption in the United States is LEU down-blended from weapons-grade material pursuant to a separate agreement between the United States and Russia, the "HEU Agreement".

Commerce has worked closely with the Departments of State and Energy and the National Security Council during these negotiations to ensure that concerns with respect to national security, the domestic uranium industry, and security of supply are addressed. If and when an amendment is agreed, Commerce will release it for comment by interested parties.

I am aware that on September 21, 2007, the Court of Appeals for the Federal Circuit made its final ruling with respect to certain litigation in a separate antidumping proceeding on LEU from France. In that litigation, the Federal Circuit ruled LEU produced pursuant to certain contracts for the enrichment of uranium constitute the sale of a service and not of a good and as a result LEU is not subject to the antidumping duty law. Therefore, as long as the transaction is structured as a contract for enrichment services, imported LEU would not be subject to the antidumping duty law.

The U.S. Court of International Trade recently ruled that Commerce must apply the results of the French litigation to the antidumping duty "Sunset" proceeding on Russian Uranium. The Commerce Department's redetermination taking the French litigation into account is due to the Court on November 26.

Until the litigation on the Russian proceeding is completed, it is unclear what effect the French litigation will have on the Russian proceeding and the on-going suspension agreement negotiations.

I am told that Commerce officials are working closely with their interagency counterparts to develop strategies that will address all possible scenarios and to maintain a careful

balance between facilitating the continued development of new U.S. enrichment capacity and ensuring security of supply after the HEU agreement ends in 2013.

2. I am concerned about reports that the Commerce department is considering a change in its trade enforcement policies that would treat individual companies operating in China as if they were operating in a market economy country: designating them as market oriented enterprises ("MOEs"). Can you address whether these reports are accurate and describe the Department's rationale for the change, including examples of companies in China that would be entitled to MOE designation?

I understand that Commerce is requesting public comment on whether it should consider granting market-economy treatment to certain individual Chinese exporters in antidumping proceedings involving China. Commerce requested public comment on this matter because of its recent decision to apply the countervailing duty law to China, which no longer has a Soviet-era command style economy. As the Federal Register notice requesting comments noted, this evolution in China's economy permits the application of the countervailing duty law, but also raises questions about whether modifications to Commerce's antidumping practice with regard to China are warranted. However, Commerce has not yet determined what, if any, changes are warranted, so I cannot provide examples of companies that might be entitled to any form of market status.

Senator Rockefeller

Question 1 – Trade Remedy Laws and the Doha Round

As you know, Congress has direct through its grant of Trade Promotion Authority that the Administration's negotiation mandate in the Doha Round is to avoid weakening our trade remedy laws – including our anti-dumping and anti-subsidy laws. I understand that the Chairman of the Rules group is preparing to issue a draft text that could form the basis of future discussions on this topic. Foreign delegations seeking to weaken fair trade disciplines have reportedly put forward literally scores of detailed proposals aimed at undermining our laws, while the U.S. has put forward few proposals to strengthen them. Please describe what steps you intend to take to make sure that our laws are in no way weakened as part of the Doha negotiations.

Do you agree that any outcome that results in a weakening of these core disciplines is unacceptable and should be rejected by the United States?

If confirmed, I will be fully committed to working with the Congress to avoid the negotiation or adoption of any agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, and will remain in close contact with Members as the Doha Round proceeds. Not only was this the clear mandate given by Congress in Trade Promotion Authority, but I believe that strong and effective remedies against unfair trade practices, including those against dumping and unfair subsidies, are also critical for maintaining public support for trade liberalization.

In this negotiation, consistent with the Congress's trade promotion authority negotiating mandates, the Administration has taken steps to tackle three general problems: (1) seeking to ensure that our trading partners' trade remedy law practices are as transparent and impartial as our own, to provide fairer treatment for U.S. exporters and do away with the "black box" that often characterizes others' trade remedy regimes; (2) improving the baseline disciplines on the underlying distortions and practices that lead to unfair trade, such as subsidies; and (3) clarifying the trade remedy rules themselves so that WTO panels and the Appellate Body have less scope to find obligations that are neither set forth in the Agreements nor intended by the negotiators. I am committed to these goals and, if confirmed, will work hard to achieve them in any final package coming out of the Doha Round. I look forward to working with you and other Members of Congress in this effort.

Question 2 – Zeroing Negotiations

As you know, one of the most critical issues that has been the subject of Doha Round Rules talks relates to the antidumping methodology known as "zeroing." This methodology was struck down by the WTO Appellate Body in a series of decisions that have received widespread and compelling criticism – including from the Administration itself. The WTO Appellate Body essentially made up a new prohibition against zeroing that is nowhere found in the relevant agreements, that was never agreed to by the United States or other WTO Members, and that will dramatically affect (and undermine) the administration of our fair trade laws. It is my view and the view of many of my colleagues that this issue must be addressed and corrected as part of the ongoing WTO negotiations.

Do you agree that the WTO decisions on zeroing are without legal justification and represent the creation of new obligations that were never agreed to by the United States? What strategy will you follow to ensure that the zeroing issue is corrected and resolved in the WTO Rules talks? If confirmed, do you intend to make clear in your new position that resolution of the zeroing issue is an essential priority for the United States in the Rules talks?

I share your concerns about WTO dispute settlement rulings that prohibit the United States from employing a longstanding practice of not granting offsets for non-dumped sales (zeroing). The impact of unfairly dumped imports needs to be remedied and should not be diluted by giving an offsetting credit to sales that don't happen to be dumped. This is an important issue and a crucial component in these negotiations. If I am confirmed, I will stress the continued priority of this issue for the United States and I will spare no efforts to see that clear, precise rules permitting the use of zeroing are reflected in the outcome of the Doha Round Rules negotiation.

Question 3 – Response to Flawed Zeroing Decisions

I understand that the Administration is still considering options for implementing WTO decisions on zeroing as applied to antidumping administrative reviews. Given the wide recognition that these decisions are wholly unjustified and created new obligations to which the United States did not agree, and given the dramatic weakening of our laws that would occur if these decisions are implemented, what is your response to those who say that we should not act to implement in this area but should instead demand a negotiated resolution of the issue? Do you believe that the United States should implement WTO decisions that are clearly incorrect? How will you approach the implementation of the WTO's decisions on zeroing as applied to administrative reviews?

The WTO decisions on zeroing present a number of very troubling issues with respect to the proper interpretation of WTO rules. I am particularly concerned about the flawed, erroneous line of reasoning in the Appellate Body's reports on this issue, which I believe go beyond what the Uruguay Round agreements contain. In light of these concerns, the United States has been engaged in a two part response to the report: (1) conducting intensive consultations with the Congress in an effort to develop a response to the report (I understand that Commerce and USTR officials were just consulting with and updating Finance Committee and Members' staffs a little more than a week ago); and (2) pressing hard in the WTO negotiations in Geneva to get others to recognize that these rulings have implications for their antidumping systems, and to revise the Antidumping Agreement to make clear that there is no requirement to give credit for non-dumped sales in our determination and measurement of dumping in AD proceedings. Both aspects of this response are important because the failure to implement a WTO report may lead to retaliation that hurts American exporters. The United States places a great deal of importance on respecting the WTO dispute settlement system. However, flawed interpretations should not be allowed to stand and should be corrected by the WTO Membership, which is what the United States is working to accomplish.

Question 4 – The Credibility of the WTO Dispute Settlement System

WTO decisions with respect to zeroing and many other issues have received substantial criticism in the United States. Many of us have significant concerns that WTO panels and the Appellate Body are not respecting the applicable standard of review, are creating new requirements that were never negotiated or accepted by Members, and are improperly usurping the legitimate policy-making and legislative authority of national legislatures and regulatory bodies.

What steps can the United States take to correct the manifold abuses in the WTO dispute settlement system? Do you think the United States should establish a blue ribbon commission to review WTO dispute settlement decisions and advise Congress on their consistency with the applicable standard of review and substantive obligations of the agreements? Will you make this issue of overreaching by WTO panels and the Appellate Body a priority if you are confirmed?

I agree that some WTO panels and the Appellate Body have made findings that go beyond, in my opinion, what the WTO agreements require, and which create prohibitions that were not intended by the negotiators of the agreement. I will therefore, make this issue a priority and will personally engage on it.

Taken as a whole, the WTO dispute settlement system has worked well for the United States. Of the 123 cases in which the United States was either the complaining or responding party, we won or favorably settled 87 of them. Nevertheless, there are some areas in which the dispute settlement system has not performed well, including the area of trade remedies. I certainly agree with the Senator's comment that the role of WTO dispute settlement panels and the Appellate Body is to interpret the agreements reached by the Members, and not to create new rights or obligations that are not contained in those agreements. I am very concerned that in certain areas, including zeroing, panels and the Appellate Body seem to be creating obligations that were not agreed to by the WTO Members.

If confirmed, I will work closely with USTR to ensure that all appropriate steps are being taken so that WTO panels and the Appellate Body respect the agreed upon standard of review and the texts of the WTO Agreements. To that end, I know that USTR has proposed two strong candidates for the Appellate Body and is taking steps to ensure that, when the new members are appointed, the Appellate Body is more attentive to these concerns.

Question 5 – Antidumping Methodology for Non-Market Economies

I understand that the Administration has sought comments with respect to its antidumping methodology as applied to non-market economies like China. In particular, the Administration has indicated that it is considering the feasibility of evaluating whether individual Chinese companies could be treated as market-oriented in antidumping proceedings – even where the industry in which such a company operates otherwise does not meet the criteria of a market-oriented industry. This concept is contrary to the clearly expressed intent of Congress that the non-market economy methodology must apply to *all* imports from non-market economy countries except in very carefully defined circumstances.

Aside from questions about whether Commerce has legal authority to proceed in this manner, it seems completely implausible that a company operating in an industry that is not market-oriented could nonetheless be unaffected by these nonmarket influences (i.e., how its prices and costs would not be distorted by the larger environment in which it operates). The abuse that such a system would invite would also likely lead to understated dumping margins and take away much, if not all, of the benefit of the Department's recent change in policy to apply countervailing duty provisions to China.

Could you please describe your views on this proposal? Can you tell me why the Commerce Department is pursuing a course directly at odds with

Congressional intent? What is the Department's legal basis for such a drastic change, especially in light of explicit statutory language to the contrary? Do you believe it is possible for a company in a nonmarket industry to operate based on market principles and to have its prices and costs unaffected by the nonmarket forces impacting the larger industry?

Commerce recently issued a second request for public comment on whether it should consider granting market economy treatment to certain individual exporters in non-market economy antidumping proceedings involving China. Commerce requested these comments as a result of its recent decision to apply the countervailing duty law to China. In that decision, the Department noted that while China still has a non-market economy, it has evolved significantly away from a Soviet-era command economy, thus warranting the application of the countervailing duty law to China. Because this evolution in China's economy also raises questions about whether certain modifications to its antidumping methodology might be warranted, the Department requested public comment on this issue. If confirmed, I will ensure that the comments received in response to these notices have been carefully analyzed before making any decision.

Chinese companies are by far the most frequent violators of the U.S. antidumping laws. Why would the Department weaken those laws with respect to the greatest offender?

I am personally committed to vigorous enforcement of our trade remedy laws to China and all other countries. Furthermore, I recognize the importance of this issue and am committed to taking the views of all interested parties into account before deciding what changes, if any, to the non-market economy antidumping methodology are warranted. I would note that two rounds, so far, of public comment have been requested. My understanding is that Commerce has not yet determined whether to change any aspect of its practice and will do so only after careful analysis of the comments received.

Question 6 – Rewards for Off-Shoring to China?

The companies most likely to receive the "market oriented enterprise" designation will be the Chinese subsidiaries of U.S. and other foreign companies.

In effect, wouldn't this proposal reward U.S. companies for moving production to China and then shipping their products back to the United States?

Since no market-oriented enterprise test presently exists, I cannot speculate on whether subsidiaries of U.S. or other foreign companies would, in fact, be most likely to meet any such test. I am confident, though that the Department will take careful account of the concerns of all interested parties before deciding whether any change to its non-market economy antidumping practice is warranted. If I am confirmed, you can be certain that I will ensure that the Department continues to administer the antidumping law in an open, impartial and objective manner, consistent with its statutory mandate and international obligations.

Question 7 – Enforcing the Terms of our Trade Agreements

In return for an agreement by the United States to allow China to join the WTO, China agreed specifically that it could be treated as a nonmarket economy in dumping cases for up to 15 years after accession. Giving individual Chinese companies an exemption from the nonmarket economy rules would effectively relieve China of this obligation.

Why should the United States unilaterally surrender such an important obligation, which was a major subject of negotiation during China's WTO accession talks?

The Department has not yet completed its analysis of the legal issues under U.S. law or the WTO with respect to the introduction of a possible market-oriented enterprise test. Furthermore, Commerce reaffirmed last year that China remains a non-market economy. China's Protocol of WTO Accession permits the continued use of the non-market economy methodology for 15 years after China's accession to the WTO, provided that China remains a non-market economy.

**STATEMENT BY CHRISTINA PEARSON
NOMINEE FOR ASSISTANT SECRETARY, PUBLIC AFFAIRS
OF THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
BEFORE THE SENATE FINANCE COMMITTEE
November 1, 2007**

Mr. Chairman, Senator Grassley and members of the Committee,

Thank you for inviting me to appear before you today. I appreciate your scheduling this hearing during such a busy time and your consideration of my nomination as Assistant Secretary for Public Affairs at the Department of Health and Human Services.

Before starting my testimony, I'd like to introduce you to several members of my family. My husband Adam Horvath is here with our daughter Julia, who is our first child and was born 20 days ago. I am grateful for their constant love and support in all my endeavors. Also joining us are my parents, Wiley and Jane Pearson, and my aunt, Mary Frances Pearson. I'm especially proud of the strong tradition of public service in my family shown by my father, who is a retired US Marine and former policy staffer for Senator Mikulski, and my aunt, who was a tax policy staffer for this Committee and at the IRS.

I would like to thank President Bush for nominating me and it has been an honor to serve in his Administration. I'd also like to acknowledge Secretary Leavitt and thank him for his support. He has laid out an exciting vision that is helping to transform our health care system. It has been a highpoint in my career to work for him these past two years as we implemented the new Medicare Part D benefit, took steps to increase value, quality and access in health care, advanced adoption of health information technology and increased preparedness for a pandemic or biological attack.

It is a privilege to be here today and especially before this Committee. My first internships and job after college were with the Senate Finance Committee. My four years working with

Senators Packwood and Roth and the talented Finance staff really shaped the course of my professional life. In these rooms, I developed a passion for public service, an intense interest in health care, an appreciation for the media and a respect for the important role this Committee plays in our government.

It was also at Finance Committee that I saw how health care policy touches the lives of every American, every day. During my tenure, we worked on vital health care legislation concerning HIPAA, Medicare and Medicaid, welfare reform and SCHIP authorization. That experience led me to develop a special interest in health care, leading to jobs as a spokesperson for the American Hospital Association and HHS.

At HHS, the Assistant Secretary for Public Affairs serves the Secretary's senior advisory on public affairs matters, provides centralized leadership and guidance for public affairs activities within the Department's staff and operating divisions and regional offices and administers the Freedom of Information and Privacy Act. My previous experience has clearly shown that the Administration and Congress have an important partnership. I understand that a critical function of the Assistant Secretary for Public Affairs is to promote this close collaboration on the communications front. If confirmed, I am committed to consulting with this Committee and working together in a bipartisan manner to achieve our mutual goal of advancing the health and well-being of the American people.

Through my various positions, I have developed a reputation as a person who is collaborative, responsive and innovative in working with staff and the media. If confirmed, I will bring to this position important perspective as a person who has acted as a spokesperson on health policy from a variety of angles, including legislative, federal and association. I have a deep understanding of the vital role each of these plays in the development of health policy and how critical it is to work collaboratively across the spectrum. Further, my previous HHS experience has given me an appreciation for the dedicated public servants I work with as well as respect for the various roles the Department plays in health care and human services that enable me to better communicate and share important information to the public and the Hill.

Becoming a mother recently has recommitted me to the important work underway in health care, especially at HHS. By bringing more attention to critical new information, stressing steps every American can take to prevent chronic diseases, helping to adopt lifesaving technologies like electronic health records and a myriad of other things, we are building a better America for my daughter and future generations. I can think of nothing more rewarding or important than to work with you and others to build a healthier U.S.

Mr. Chairman, it has been an honor to speak to the Committee today. We all share a commitment to ensuring the health and well-being of the American people. If confirmed, I pledge to work collaboratively and transparently with you, Senator Grassley and other members of the Committee to advance this important mission. Thank you very much and I look forward to answering your questions.

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**SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.)

Christina Hampton Pearson

Other names used:

Chia Pearson

Christina Horvath

2. Position to which nominated:

Assistant Secretary of Public Affairs

US Department of Health and Human Services

3. Date of nomination:

September 25, 2007

4. Address: (List current residence, office, and mailing addresses.)

5. Date and place of birth:

Born in Beaufort, South Carolina on June 29, 1973

6. Marital status: (Include maiden name of wife or husband's name.)

7. Names and ages of children:

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

Class of 1995, Hamilton College
Bachelor of Arts
Attended August 1991 – December 1994

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

8/07 – present
Acting Assistant Secretary for Public Affairs
US Department of Health and Human Services
200 Independence Ave, SW
Washington, DC 20201

7/05 – 8/07
Deputy Assistant Secretary for Public Affairs
US Department of Health and Human Services
200 Independence Ave, SW
Washington, DC 20201

1/04 – 7/05
Director of Media Affairs
US Department of Health and Human Services
200 Independence Ave, SW
Washington, DC 20201

8/02 – 1/04
Director of Communications, Office of Public Health and Science
US Department of Health and Human Services
200 Independence Ave, SW
Washington, DC 20201

11/00 – 8/02
 Senior Associate Director for Media Affairs
 American Hospital Association
 325 Seventh Street, NW
 Washington, DC 20004

3/99 – 11/00
 Director of Media Relations
 Policy Impact Communications
 1275 Pennsylvania Avenue, NW
 Washington, DC 20004

1/95 – 3/99
 Deputy Communications Director
 US Senate Finance Committee
 219 Dirksen Senate Office Building
 Washington, DC 20510

- 10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)**

None

- 11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)**

1995 Class Agent, Hamilton College (Clinton, New York). In this volunteer position, I engage in fundraising activities directed to my 1995 classmates at Hamilton College. Funds raised help support scholarships, faculty salaries and campus upkeep.

- 12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)**

None

13. Political affiliations and activities:

a. List all public offices for which you have been a candidate.

None

b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

Volunteer, 72-Hour Volunteer Deployment Program
George W. Bush for President (Fall 2004)

Deputy Associate Director, Regional, Radio and Satellite Operations
2004 Republican National Convention (August 2004)

Volunteer, Mighty Victory Strike Force
George W. Bush for President (Fall 2000)

Deputy Director, Non-Network Media
2000 Republican National Convention (July 2000)

c. **Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.**

\$500 – Haley Barbour for Governor of Mississippi (2007)
\$300 – Haley Barbour for Governor of Mississippi (2005)
\$1000 – Bush/Cheney 2004 (2003)

14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)

None

15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)

None

16. **Speeches:** (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with two copies of each formal speech.)

None

1. **Qualifications:** (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

Throughout my twelve years working on health care policy and communications, I have developed a strong reputation as a person who is collaborative, responsive and innovative in advising our leaders on communications strategies.

If confirmed, I'll bring to this position important perspective as a person who has acted as a spokesperson on health policy from a variety of angles, including legislative, federal and association. From my previous positions, I have a deep understanding of the vital role each of these plays in the development of health policy and how critical it is to work collaboratively across the spectrum. Further, I have a deep understanding of the various roles HHS plays in health care and human services that enable me to better communicate and share important information with the public and the Hill.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. **Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.**

As my present employer is HHS, I will need to continue to maintain my connection if confirmed.

2. **Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.**

No

3. **Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.**

No

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

Yes

C. POTENTIAL CONFLICTS OF INTEREST

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

Per my ethics agreement, I have agreed to divest the following investments if confirmed:

Cisco Systems, Inc
ExxonMobil Corp.
Idearc Stock Fund
Idearc Stock Portfolio
Time Warner Inc
Verizon Stock Fund
Verizon Stock Portfolio

In addition, if confirmed, I will resign from my position as Class Agent for Hamilton College. For one year following my resignation, I understand I will continue to have a covered relationship with Hamilton College. If any questions or matters arise concerning Hamilton College, I will seek and follow the advice of the Department's ethics officials. Also, I understand that my spouse's financial interest in his employer is imputed to me. My husband is an information technology systems consultant for telecommunications and financial services companies and is employed by Acumen Solutions (Vienna, Va.). As stated in my ethics agreement, I will not participate personally and substantially in any particular matter which will have a direct and predictable effect on the financial interests of Acumen Solutions, Inc., unless I first obtain a written waiver pursuant to 18 U.S.C. § 208(b)(1).

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 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.

None

3. **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. Activities performed as an employee of the Federal government need not be listed.**

As a communications expert and spokesperson for the American Hospital Association, I advised the association's members and senior leadership on how to garner media attention and discuss the association's positions on various pieces of legislation. This included arranging media briefings and interviews, writing press releases and organizing public events to highlight positions. At Policy Impact Communications, I performed similar activities and advised clients on how to present their policies to the media. My clients included:

- American Hospital Association (seeking advice on presenting their position on Medicare and Medicaid reimbursement issues to the media),
- the Catholic Hospital Association (seeking assistance in introducing their president to the news media in DC to highlight the association's mission),
- the FM Watch coalition (comprised of mortgage companies and financial services associations seeking more media coverage of the need for additional oversight of Fannie Mae and Freddie Mac) and
- a coalition of wireless telecommunications companies such as Teligent, Winstar and Nextlink Communications (seeking help gaining media attention highlighting efforts to gain rooftop access rights for their new wireless technologies).

4. **Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with two copies of any trust or other agreements.)**

If confirmed, I agree to divest investments listed in question C1 and resign as Class Agent for Hamilton College. Also, as stated above, due to the financial relationship with my husband's employer, Acumen Solutions, without a waiver pursuant to 18 U.S.C. § 208(b)(1), I will not participate personally and substantially in any particular matter which will have a direct and predictable effect on the financial interests of that company.

5. **Two copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.**

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

Not to the best of my knowledge

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

Not to the best of my knowledge

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

Not in my individual capacity

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.

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. TESTIFYING BEFORE CONGRESS

- 1. If you are confirmed by the Senate, 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

- 2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?**

Yes

**United States Senate Committee on Finance
Confirmation Hearing
Ms. Christina Pearson
November 1, 2007**

Questions Submitted for the Record

Senator Grassley:

Questions for Dr. Sasse and Ms. Pearson on General Oversight:

The Constitution established a system of checks and balances intended to ensure the American people of fair, honest and transparent government. Congressional oversight of Executive Branch operations is a linchpin of the checks and balances system. Oversight of HHS programs and activities require the review of documents and interviews with agency officials, and it is critical that we have timely access to the documents and agency officials to inform our work.

In furtherance of our oversight responsibilities, we often ask GAO to evaluate HHS programs and activities. In addition, we may ask the HHS Office of the Inspector General (HHS OIG) to follow up on complaints regarding specific agencies and/or programs. This Committee, however, has encountered a number of significant and undue delays in response to its requests. A number of requests to the CMS, for example, remain outstanding and the deadlines have long passed.

1. Will you commit to working with the Congress, GAO and the HHS OIG in a timely and constructive manner to address the oversight and other needs of the Congress, and will you encourage others to do so?

ANSWER: Yes.

2. What specific steps will you take to ensure that the Congress, GAO and HHS OIG receive access to the information and agency officials we need to carry out reviews of HHS programs and activities, and to ensure that information is provided in a timely manner?

ANSWER: To the best of my abilities, I will provide information requested by Congress, GAO and the HHS OIG, and will encourage other members of the HHS leadership team to be as open and forthcoming as possible when information is requested.

3. Do you foresee any issues in providing particular categories of HHS information to Congress or GAO? If so, what are the issues and how will you address them?

ANSWER: I do not foresee any problems with sharing particular categories of information. In rare situations in which the Department may be bound by disclosure restrictions such as the Privacy Act or Trade Secrets Act, I would work to find ways to accommodate Congress' and GAO's needs for information.

Questions for Dr. Sasse and Ms. Pearson on False Claims Act

Ms. Pearson and Dr. Sasse, in 1986 I authored amendments to the federal False Claims Act. These amendments resurrected the False Claims Act and provided real penalties against those who defraud the federal government. As a result, the False Claims Act has helped the federal government recover over \$20 billion that would otherwise be lost to fraud or abuse of government programs, including Medicare and Medicaid.

Just last year, I continued this effort by adding a monetary incentive in the Deficit Reduction Act (DRA) for states to pass their own False Claims Acts. The DRA also requires that any provider receiving more than \$5 million annually from Medicaid inform their employees about the False Claims Act.

1. Ms. Pearson and Dr. Sasse: will you both in your new positions, commit today to vigorously support the False Claims Act, the Anti-Kickback Act, the Stark law, and other federal laws that are used to investigate, prosecute, and suppress fraud in HHS programs?

ANSWER: I wholeheartedly support your efforts to curb fraud and abuse against the federal government and will vigorously support all federal programs intended to suppress fraud in HHS programs including the False Claims Act, the Anti-Kickback Act, the Stark law and others.

2. Will you do your best to insure that your department does everything in its power to eliminate fraud and abuse from the programs it administers?

ANSWER: Yes, I will work to eliminate fraud and abuse in HHS-administered programs.

3. Will you and your staff cooperate fully with the Department of Justice, the HHS Office of the Inspector General, and whistleblowers to investigate, prosecute, and suppress fraud?

ANSWER: Yes, the Office of the Assistant Secretary for Public Affairs is committed to full cooperation with these entities to fight fraud.

4. Will you ensure that your department cooperates with state governments that prosecute False Claims Act cases for Medicaid fraud under a state False Claims Act?

ANSWER: I commend your work on the Deficit Reduction Act (DRA) to encourage states to pass their own False Claims Acts. Understanding states' prerogatives to pass and prosecute state False Claims Acts, I will lead in efforts to ensure that HHS fully cooperates with state governments that prosecute state False Claim Act cases.

5. Will you work to pass clear, uniform regulations outlining the procedures for paying states an increased share of Medicaid recoveries when they bring a False Claims Act under a qualifying state False Claims Act?

ANSWER: To the best of my abilities, I will work to insure clear, uniform regulations are promulgated.

6. And, finally, will you agree to take no administrative initiatives that would weaken the effectiveness of the False Claims Act or other laws and authorities used to investigate, prosecute, and suppress fraud in areas of your jurisdiction?

ANSWER: I will take no actions that would weaken the effectiveness of the False Claims Act, or any other anti-fraud laws and authorities used to investigate, prosecute and suppress fraud in HHS programs.

Questions for Dr. Sasse and Ms. Pearson on Furthering HHS Mission

1. Ms. Pearson and Dr. Sasse: in your respective positions of Assistant Secretary of Public Affairs and Assistant Secretary for Planning and Evaluation, how would you further the mission of HHS?

ANSWER: The HHS mission is to promote Americans' health and well-being and its programs touch the lives of every citizen, every day. If confirmed, I would serve as the Secretary's senior advisor on public affairs matters, provide leadership and guidance for public affairs activities with the Department's staff and operating divisions and oversee administration of the Freedom of Information and Privacy Act.

In these duties, I will be ably supported by the Department's dedicated career staff. Further, I am committed to working with HHS experts to provide accurate information. I will coordinate with agencies across the Department to ensure we are providing clear, consistent information and are responding to inquiries in a timely manner. Also, I will promote the use of "new media" – such as websites – in order to make HHS information more accessible to more Americans.

Senator Snowe:*Question for Ms. Pearson*

Ms. Pearson, as you are well aware, one of the top priorities for Congress this year has been the reauthorization of the S-CHIP program. As you can appreciate, in order to successfully work through this process, it is critical that all parties involved – both the Congress and the Administration – work from the same page on estimating the number of children who are uninsured.

In June, HHS announced the results of a study that suggest there are only 689,000 uninsured children who come from low-income families below 200 percent of the federal poverty level. The press release calls the study “One of the most rigorous scientific reviews to date of Medicaid and State Children’s Health Insurance Program eligibility among the uninsured.”

Serious concerns have been raised about the accuracy of these estimates. Previous estimates, from peer-reviewed journals such as *Health Affairs*, put the number at closer to 6 million children eligible but un-enrolled for S-CHIP or Medicaid. In addition, Governor Perdue of Georgia testified before this Committee in February that Southern states have experienced significant problems with HHS undercounting eligible children – leading to some of the most severe funding shortfalls in the country.

1. Your fellow nominee Dr. Benjamin Sasse quoted Senator Daniel Patrick Moynihan in his opening statement, who once said “Everyone is entitled to his own opinion, but not his own facts.” Does the Department of Health and Human Services continue to stand behind these numbers or is it possible that this study may not be as rigorous as the Department first believed. If the Department continues to stand behind this survey, how do you account for such a large discrepancy in the number of children who are eligible but un-enrolled? If it is possible that the Department has made a mistake, will there be an effort to correct these numbers in the future?

ANSWER: The Department continues to stand behind its estimates of the number of SCHIP-eligible children from families with income below 200 percent of the poverty level that have been uninsured for a full year. These estimates were obtained from the Transfer Income Model, version 3 (TRIM3), which is a comprehensive model that was developed for the purpose of simulating the major governmental tax, transfer, and health programs that affect the U.S. population. The TRIM3 estimate was prepared by outside experts at the Urban Institute. In addition, the nonpartisan Congressional Budget Office (CBO) and groups such as Kaiser have expressed general agreement with the Urban Institute’s findings.

In brief, these estimates differ from those obtained by other researchers for a variety of reasons, including:

- These estimates are for those that are uninsured for the entire year, whereas other (higher) estimates are for those that are uninsured for a shorter period, or perhaps a single point in time during the year;
- These estimates adjust for 1) the Medicaid undercount; 2) citizenship restrictions; 3) ineligibility due to income limits; 4) ineligibility due to asset limits; 5) ineligibility due to age restrictions; and 6) ineligibility due to multiple restrictions; and
- These estimates are for those children in families with income below 200 percent of the poverty level, whereas other estimates include children in higher income families.

A more detailed explanation of how these estimates were obtained can be found at <http://aspe.hhs.gov/health/reports/07/trim-uninsured-simulation/>.

Senator Salazar:

Question for Ms. Pearson

I believe that the role you play as Assistant Secretary for Public Affairs is a very important one because you will represent the public face of an agency responsible for the some of the most fundamental federal services where it is critical that Americans know they are receiving accurate information.

1. What steps will you take in this role to ensure that the information the Department is providing to the public is objective and reliable and not influenced by the politics of the day?

ANSWER: I share your commitment to ensuring Americans receive accurate information about HHS programs. To the best of my ability, I will coordinate with experts across the Department to ensure the information we provide reflects consensus of HHS staff and is based on the facts.

**U. S. Senate
Committee on Finance
November 1, 2007**

**Benjamin E. Sasse
Opening Statement, Confirmation Hearing**

Thank you, Mr. Chairman, Ranking Member Grassley, and members of the Committee. I appreciate the opportunity to appear before you this morning. Thank you too to those of you who either met with me individually or communicated your priorities and policy concerns via your staff members in meetings leading up to today.

I am also deeply grateful for the willingness of Senators Hagel and Nelson, my two home-state senators, to come before you to speak on my behalf. They are dedicated public servants greatly respected by me and by all Nebraskans.

Finally, I would like to thank President Bush and Secretary Leavitt for their confidence in me and for the opportunity to work on important health and human services issues. I have been privileged to work in the Administration on-and-off since 2003, and my last ten months with Secretary Leavitt and his team have been particularly rewarding. As members of this Committee know, the Secretary is a tireless leader and a fundamentally decent human being. Years from now, I have no doubt that I will look back on this period in my life as a time when I not only learned much about policy and management from Secretary Leavitt, but also learned a great deal about treating people with dignity and respect even amid sometimes stressful times.

Before making a very brief opening statement, I would like to take the opportunity to introduce the three most important ladies in my life. My wife, Melissa McLeod Sasse, is present today. And our daughters, Elizabeth and Katherine, ages six and three, are being introduced to the workings of their government today. I am also very glad to have Melissa's parents, my

mother- and father-in-law, Jill and Larry McLeod, with us. My parents, Gary and Jean Sasse and Larry and Linda Shepard, could not be here today, but I am grateful for their loving encouragement and support.

It is an honor to be considered to be Assistant Secretary for Planning and Evaluation at HHS, and it is an Office in which I would be privileged to serve should the Senate deem fit to confirm the nomination.

As members of this Committee know, ASPE serves as the principal advisory office to the Secretary of Health and Human Services on policy development and policy coordination. Its staff and leadership are responsible for major activities in research, strategic planning, program evaluation, and economic analysis. ASPE work product is used by policy-makers across the Executive and Legislative Branches, as well as by researchers and analysts across the country. It has an especially competent and impressive staff and I would be honored to work alongside them and to ensure that the important research and analysis flowing for ASPE's four major divisions get the attention they deserve.

In my academic life, I have long been a student of the Executive Branch policy shops, of which ASPE is one of the finest examples. At the Lyndon B. Johnson School of Public Affairs at the University of Texas, where I am on faculty, my dean, Jim Steinberg, is a former head of the policy planning staff at the Department of State from the mid-1990s. Earlier in my career, I was fortunate to spend time in the Office of Legal Policy at the Department of Justice. There I worked on issues surrounding federal, state, and local law enforcement cooperation, the priority targeting of violent crime, and public-private initiatives to ease the reentry of ex-offenders back into law-abiding society post-incarceration. The Executive Branch policy offices I have seen close up have a wonderful pedigree of providing dispassionate, objective policy advice to public

officials regardless of party or ideology – and this is a noble tradition in which I am honored to serve.

In addition to personal experiences and relationships, though, I also have – as a historian by training – a deep fondness for these “blue chip” policy offices because of the vibrant role they have played in American policy-making over the last century. I recognize that we do not have time for historical exploration at this moment, but I would like simply to underline one of the most important of the many insightful aphorisms attributed to Daniel Patrick Moynihan.

Senator Moynihan is best remembered in this room, of course, as one of the distinguished chairmen of your Committee. But years earlier, before his twenty-four years as your colleague, he served in the Johnson Administration as Assistant Secretary of Labor for Policy. Based partly on his experiences there, he developed the great quip that “everyone is entitled to their own opinions, but they are not entitled to their own facts.” It is a sentiment I teach my students at the LBJ School and it is a guiding principle that I am happy to report healthily informs the daily work of ASPE.

Should I be confirmed, I pledge to this Committee that I would labor to steward the resources of ASPE to make sure that all policy-makers – regardless of their political perspectives – have available at their finger-tips a wide array of the most important, objective data on the critical subjects before Secretary Leavitt and before all of you.

Thank you, Mr. Chairman and members of the Committee, for your consideration. I am grateful for your time, and am happy to respond to any questions you may have.

**SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.)

Benjamin Eric Sasse ("Ben")

2. Position to which nominated:

Assistant Secretary for Planning and Evaluation
U.S. Department of Health and Human Services

3. Date of nomination:

July 26, 2007

4. Address: (List current residence, office, and mailing addresses.)

5. Date and place of birth:

February 22, 1972
Plainview, Nebraska

6. Marital status: (Include maiden name of wife or husband's name.)

7. Names and ages of children:

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

Ph.D., Yale University (1998-2004), 2004
 M.Phil., Yale University (1998-2004), completed en route to 2004 Ph.D.
 M.A., Yale University (1998-2004), completed en route to 2004 Ph.D.
 M.A., St. John's College, Annapolis (1996-1998), 1998
 B.A., Harvard University (1990-1994), 1994
 Junior Year Abroad, New College, Oxford University (fall 1992), no degree.
 Fremont (Nebraska) Senior High School (1987-1990), 1990

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

12/06 to present: U.S. Department of Health and Human Services, Counselor to the Secretary, Washington, DC.
 9/05 to 12/06: LBJ School of Public Affairs at the University of Texas, Assistant Professor, Austin, TX. (I joined the LBJ Faculty for the fall semester 2004, but commuted part-time – and took occasional leave – until moving to Austin to take up full-time professorial duties beginning fall semester 2005.)
 7/05 to 9/05: Consulting work to the U.S. Department of Homeland Security, Washington, DC.

*** Please note: I have done freelance consulting activities under the name Platte Strategy Consulting. However, there was no corporate entity for these activities, and I was paid as Ben Sasse, sole proprietor.

1/05 to 7/05: U.S. House of Representatives, Chief of Staff to Congressman Jeff Fortenberry (Nebraska), Washington, DC.
 9/03 to 1/05: U.S. Department of Justice, Chief of Staff of the Office of Legal Policy, U.S. Department of Justice, Washington, DC.

*** Please note: Some of the following activities occurred concurrently.

8/98 to 5/04: Yale University, Graduate student/teaching fellow, New Haven, CT (however starting in fall 2002, I lived exclusively in Washington, DC, where I was writing and conducting my research).

11/96 to 2/04: Modern Reformation Magazine (part of Alliance of Confessing Evangelicals), part-time Editor/Consultant, Philadelphia, PA (but I did all my work remotely from wherever I was living/studying at the time).
 8/01 to 10/02: Westminster Seminary, Consultant/Acting Executive Vice President, Escondido, CA (again, I did not live in California, but commuted from Connecticut and then from DC).
 8/96 to 8/98: U.S. House of Representatives Page Program, Tutor/Proctor, Washington, DC.
 10/95 to 11/96: Christians United for Reformation (subsequently merged with the Alliance of Confessing Evangelicals – see Modern Reformation entry above), Consultant/Executive Director, Anaheim, CA (with commuting/remote work from northern Virginia beginning August 1996).
 9/94 to 11/95: Boston Consulting Group, Associate Consultant, Chicago, IL.

10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)

2006, assisted the Congressional Research Service in designing research project on the changing shape of American education markets, voluntary.
 2006, Selection Committee, State of Texas/One Star Foundation Volunteer Service Awards, voluntary.
 2005-2006, served on multiple committees at the University of Texas, associated with faculty employment; no compensation separate from faculty work.
 2003-2005, served on federal interagency working groups and committees, associated with employment at the U.S. Department of Justice; no compensation separate from that received for Department of Justice work.

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)

I have done extensive consulting work, often under the name Platte Strategy Consulting – a sole proprietorship. All of these arrangements are itemized in #9 (above). No corporate positions held.

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)

Multiple academic professional society memberships, primarily for the purposes of

receiving discount rates on academic journals and admission to academic conferences. No offices held. The organizations with which I have had relationships beyond receiving their journal:

- American Historical Association
- Organization of American Historians
- Economic History Society
- American Academy of Religion
- American Society of Church History
- Policy History Conference
- Baylor Institute for the Study of Religion
- RGK Center for Philanthropy and Community Service

I have twice served on non-profit boards or board of trustees' committees (on a voluntary basis) after completing (paid) consulting work for an organization:

- Westminster Seminary (Media/Communications Committee), Escondido, CA, summer 2004 to present; and
- Alliance of Confessing Evangelicals, fall 2002 to summer 2004.

Primary college memberships and associations were: Harvard Neighborhood Development Program (Coordinator); Agape Urban Relief Project (Director); Christian Impact; Wrestling Team.

I have consistently been a member of a Christian church wherever I have lived: Lutheran through college and then Presbyterian since.

13. Political affiliations and activities:

- a. List all public offices for which you have been a candidate.

None.

- b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

Voluntary service to the reelection campaign of U.S. Rep. Jeff Fortenberry (Nebraska - 01), 2005, unofficial.

Voluntary service to the transition of U.S. Rep.-Elect Jeff Fortenberry (Nebraska - 01), December 2004, unofficial.

- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

My wife and I have made very few political contributions. I believe that we made a small (i.e., less than \$200) donation to George Bush for President in the 2000 cycle.

However, neither the fec.gov nor the opensecrets.org websites reveal this gift, presumably because of traditional \$200 thresholds. I thus reply to this answer with some uncertainty.

14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)

2006, Teaching Award Recipient, Lyndon B. Johnson School, University of Texas, Austin, TX
 2006, American Young National Leader Award, Atlantik-Brucke Foundation, Berlin, Germany (deferred)
 2005-2006, Policy Research Institute Award, University of Texas, Austin, TX
 2004-2005, Austin Community Foundation Fellowship, Austin, TX
 2004, Attorney General's Special Act Award (for helping "manage White House and inter-agency communications related to the creation of a National Intelligence Director"), Washington, DC
 2004, Theron Rockwell Field Prize (university-wide dissertation prize), Yale University, New Haven, CT
 2004, George Washington Egleston Historical Prize (best American history dissertation), Yale University, New Haven, CT
 2002, Annie G. K. Garland Dissertation Fellowship, spent conducting an academic year's worth of research at the Library of Congress, Washington, DC
 2000-2003, Harvey Fellowship, Mustard Seed Foundation, Arlington, VA
 1998-2002, Yale University Fellowship, Yale University, New Haven, CT
 1998, Masters honors thesis on John Calvin and the uses of law, high honors, St. John's College, Annapolis, MD
 1998, Finalist, Essay of the Year, St. John's College, Annapolis, MD
 1997, Finalist, Essay of the Year, St. John's College, Annapolis, MD
 1995, Received highest performance review in the Associate class, Boston Consulting Group, Chicago, IL
 1994, Undergraduate honors thesis on Martin Luther and the history of just war theory, magna-plus honors, Harvard College, Cambridge, MA.
 Many awards for college (e.g., Harvard College Scholarship, National Merit Scholarship, Coca-Cola National Scholarship, Century III Leaders/National Association of Secondary School Principals Scholar, etc.) will not be exhaustively itemized here simply because I have not kept records of them
 1990, Honorary Admiral in the Nebraska Navy (for public service), State of Nebraska, Lincoln, NE

15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)

My research has been in three areas: public policy (my post-graduate school life); U.S. history (my Ph.D. work at Yale); and theology (part-time editing jobs while in grad school).

Public Policy: Most relevant to this position, I have a book project under development on the importance of history to policy-makers and social scientists. This has not yet been shopped to publishers.

U.S. History: My Ph.D. work centered on twentieth century American politics. My dissertation on the politics of the 1960s won both Yale's George Washington Eggleston Historical Prize (top American history prize) and the Theron Rockwell Field Prize. The book version is under contract to be published by Princeton University Press when final copy-edits are completed. I have also published two encyclopedia articles on U.S. legal history:

***"Engel v. Vitale," in *Postwar America: An Encyclopedia of Social, Political, Cultural, and Economic History*, James Ciment, general editor (M. E. Sharpe, 2007).

***"Griswold v. Connecticut," in *Postwar America: An Encyclopedia of Social, Political, Cultural, and Economic History*, James Ciment, general editor (M. E. Sharpe, 2007).

Theology: While in graduate school, I did occasional, part-time editing for various theological publication projects. Most of this freelance work was done in connection with *Modern Reformation*, an evangelical journal (published six times annually) that focused on church history and the Protestant Reformation. My responsibilities centered on process and deadline management, as well as sidebar editing – including the summarizing of individual articles and specific issues of the magazine for "pull-quotes" and the table of contents preview notes. On limited occasions, I did enough rewriting of prior work that authors added my name as co-editor. Three primary articles and one edited work on which my name appeared:

***"We Wish for Laypeople Willing to Engage in an Ongoing Conversation on Confessional Christianity," *Modern Reformation*, January/February 2000.

***"Neither Reason Nor Free Will Points to Him: Luther's Assertion that the Whole Man is in Bondage," *Modern Reformation*, November/December 1998.

***"Theologians and Utilitarians: Historical Context for the Distance Learning Debate," *Modern Reformation*, May/June 1998.

***James M. Boice, *Here We Stand: A Call from Confessing Evangelicals* (Baker, 1996), a volume of collected essays by academic theologians on contemporary religion.

I would be happy to share copies of any of these materials with the Committee or to discuss them at your request.

16. **Speeches:** (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with two copies of each formal speech.)

None.

17. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

I am a diligent student and experienced practitioner of both health and human services policy-making, as well as of managing research processes. As a public policy professor and then policy counselor to the Secretary of HHS, I have studied and advised on the relevant subject matter. Additionally, I have experience helping run a federal executive branch policy shop, having previously served as chief of staff of the Office of Legal Policy in the U.S. Department of Justice.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

Yes – with one exception: I am currently on an unpaid leave of absence from my professorship in public policy at the University of Texas at Austin. I have no obligation to return to the University, but my position will remain unfilled until my government service concludes. Because of this opportunity, I submitted an approved letter of recusal for issues pertaining to the University of Texas at Austin upon becoming Counselor to the Secretary of HHS in 2006. (Copies of that recusal letter are attached.) I will continue to recuse myself from all issues pertaining to the University of Texas at Austin, and should any questions arise, I will seek guidance from the Department's ethics officials.

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

No.

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.

My unpaid leave of absence from the University of Texas at Austin is noted in the answer to B1. Other than that, no.

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

Yes.

C. POTENTIAL CONFLICTS OF INTEREST

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

None.

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 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.

My unpaid leave of absence from the University of Texas at Austin is noted in the answer to B1. I have retained an interest in a defined benefit pension plan sponsored by the State of Texas.

3. 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. Activities performed as an employee of the Federal government need not be listed.

None (except as a federal employee).

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with two copies of any trust or other agreements.)

As described in the answer to B1, as well as in my recusal letter (attached), I have agreed to recuse myself from any matters that could possibly cause a conflict of interest. Should any questions arise, I will seek guidance from the Department's ethics officials.

5. Two copies of written opinions should be provided directly to the Committee by

the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.

No issues beyond the recusal letter discussed in #4 above.

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

Not applicable.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

Not to the best of my knowledge.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

Not to the best of my knowledge.

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

Not to the best of my knowledge.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.

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. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, 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.

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes.

**United States Senate Committee on Finance
Confirmation Hearing
Dr. Benjamin E. Sasse
November 1, 2007**

Questions Submitted for the Record

Senator Grassley:

Questions on General Oversight:

The Constitution established a system of checks and balances intended to ensure the American people of fair, honest and transparent government. Congressional oversight of Executive Branch operations is a linchpin of the checks and balances system. Oversight of HHS programs and activities require the review of documents and interviews with agency officials, and it is critical that we have timely access to the documents and agency officials to inform our work.

In furtherance of our oversight responsibilities, we often ask GAO to evaluate HHS programs and activities. In addition, we may ask the HHS Office of the Inspector General (HHS OIG) to follow up on complaints regarding specific agencies and/or programs. This Committee, however, has encountered a number of significant and undue delays in response to its requests. A number of requests to the CMS, for example, remain outstanding and the deadlines have long passed.

1. Will you commit to working with the Congress, GAO and the HHS OIG in a timely and constructive manner to address the oversight and other needs of the Congress, and will you encourage others to do so?

ANSWER: Yes, and yes.

2. What specific steps will you take to ensure that the Congress, GAO and HHS OIG receive access to the information and agency officials we need to carry out reviews of HHS programs and activities, and to ensure that information is provided in a timely manner?

ANSWER: First, it is my understanding that all information about ASPE's work product is posted on its website. That site is available to Congress, GAO and HHS's OIG, as well as to the general public. I strongly support making ASPE-related information fully and widely available.

Additionally, to the best of my abilities, I will encourage other members of HHS leadership to be as open and forthcoming as possible when additional information is requested by any of the above entities.

3. Do you foresee any issues in providing particular categories of HHS information to Congress or GAO? If so, what are the issues and how will you address them?

ANSWER: I do not foresee any issues in providing particular categories of HHS information to Congress or the GAO. In fact, it is my understanding that the work done at the direction of the Assistant Secretary for Planning and Evaluation is publicly available on the ASPE website. I recognize that Congress and GAO have strong interests in acquiring information to aid their legislative and oversight functions. If confirmed, I will endeavor to find ways to accommodate the needs of Congress and GAO, while protecting appropriate Executive Branch interests.

4. Dr. Sasse, I see that you worked for the Office of Legal Policy at the Department of Justice and that you wrote an award winning dissertation on 20th century American politics. As you know I am a very big proponent of oversight. In the past the Department of Health and Human Services has limited my access to both individuals and documents in its possession. In my view withholding information from Congress is only justified in rare circumstances. In your opinion, in what circumstances do you think it is legitimate to withhold information from Congress?

ANSWER: My impression is that most congressional requests for information from the Executive Branch, including HHS, are handled in a routine manner and that only on rare occasions are the Executive Branch and Legislative Branch unable to agree about the disclosure of information. I am not an expert in this area of law or policy and so cannot provide the Committee with a description of the circumstances in which such disagreements may arise or how such disagreements might be resolved. It is my understanding that experts in the Department of Justice provide legal advice to Executive Branch Departments about how to address such situations.

Questions on the False Claims Act

Ms. Pearson and Dr. Sasse, in 1986 I authored amendments to the federal False Claims Act. These amendments resurrected the False Claims Act and provided real penalties against those who defraud the federal government. As a result, the False Claims Act has helped the federal government recover over \$20 billion that would otherwise be lost to fraud or abuse of government programs, including Medicare and Medicaid.

Just last year, I continued this effort by adding a monetary incentive in the Deficit Reduction Act (DRA) for states to pass their own False Claims Acts. The DRA also requires that any provider receiving more than \$5 million annually from Medicaid inform their employees about the False Claims Act.

1. Ms. Pearson and Dr. Sasse: will you both in your new positions, commit today to vigorously support the False Claims Act, the Anti-Kickback Act, the Stark law,

and other federal laws that are used to investigate, prosecute, and suppress fraud in HHS programs?

ANSWER: I wholeheartedly support your efforts to curb fraud and abuse against the federal government and vigorously support all federal programs intended to suppress fraud in HHS programs including the False Claims Act, the Anti-Kickback Act, the Stark law and others.

2. Will you do your best to insure that your department does everything in its power to eliminate fraud and abuse from the programs it administers?

ANSWER: Yes.

3. Will you and your staff cooperate fully with the Department of Justice, the HHS Office of the Inspector General, and whistleblowers to investigate, prosecute, and suppress fraud?

ANSWER: Yes.

4. Will you ensure that your department cooperates with state governments that prosecute False Claims Act cases for Medicaid fraud under a state False Claims Act?

ANSWER: Yes, to the best of my ability.

5. Will you work to pass clear, uniform regulations outlining the procedures for paying states an increased share of Medicaid recoveries when they bring a False Claims Act under a qualifying state False Claims Act?

ANSWER: Yes.

6. And, finally, will you agree to take no administrative initiatives that would weaken the effectiveness of the False Claims Act or other laws and authorities used to investigate, prosecute, and suppress fraud in areas of your jurisdiction?

ANSWER: Yes.

Questions on Furthering the HHS Mission

1. Ms. Pearson and Dr. Sasse: in your respective positions of Assistant Secretary of Public Affairs and Assistant Secretary for Planning and Evaluation, how would you further the mission of HHS?

ANSWER: The HHS mission is to enhance the health and well-being of Americans by providing for effective health and human services and by fostering sound, sustained advances in the sciences underlying medicine, public health, and

social services. ASPE's role in this process is critical. As the principal advisor to the Secretary on policy development, I am committed to bringing the best evidence to discussions about policy options, including the pros and cons of various policy decisions. This is the most effective means to carry out the role and duty of the Assistant Secretary for Planning and Evaluation and to advance the mission of HHS and the health of all Americans.

Senator Snowe:

Question for Dr. Sasse:

Dr. Sasse, your academic training is substantial and impressive. However, most of your work and experience is outside the area of health and human services policy. I do note one review which was recently published in a multi-volume work, *Postwar America: A Encyclopedia of Social, Political, Cultural, and Economic History*. Your contribution to that work reviewed the landmark 1965 case of *Griswold v. Connecticut*.

In that review, you describe a “*precarious constitutional basis of privacy rights*”. My concern here is not your view on that issue, but how the single case supporting your argument - the 1986 decision in *Bowers v. Hardwick* - was actually one on which Court reversed itself. And that decision, by a 6-3 vote in *Lawrence v. Texas*, occurred in 2003 - long before your review was published.

Given this was an encyclopedia entry - not an opinion piece - the omission of the fact that the Court reversed itself calls into question the objectivity and reliability of your analysis of this issue. As a Secretary for Planning and Evaluation, the Secretary - and indeed all of us - rely on you to present complete and objective information. Indeed I noted your admiration for Senator Moynihan's statement that we are all entitled to our opinions, but not our own facts. That is crucial as incorrect information - or disputes on the accuracy of information - simply impedes us from taking prompt and appropriate action.

1. Can you explain for us this omission, and further describe your commitment to assuring that the Congress will see data reported which is both complete and objective?

ANSWER: I agree that a complete discussion of the Constitution and privacy requires engagement with *Lawrence v. Texas*. Unfortunately, the encyclopedia entry in question was actually written before the case. I completed my entry approximately March 20, 2003. *Lawrence* was decided on June 26, 2003. (The encyclopedia was originally scheduled to be finished in early 2004, and I have no knowledge regarding why its publication timetable was ultimately delayed until this past year.)

It is also worth noting that the main interest of the encyclopedia is social and cultural history generally, rather than legal history particularly. As such, the entry in question aims to shed light on the cultural conflicts surrounding *Griswold*, and the entry at no point renders judgment on the legal merits of the cases discussed.

To your larger point that government researchers should see themselves in a ministerial posture providing comprehensive and dispassionate summaries of the cumulative scholarly inquiry into a given issue area: I agree. And I would reiterate my commitment to seeing ASPE provide complete and objective analyses related to the complicated health and human services challenges facing the Congress and the nation.

**Statement by Senator Ron Wyden
Finance Committee Hearing on the Nomination of
Christopher Padilla to be Under Secretary for International Trade
U.S. Department of Commerce
November 1, 2007**

Although my family circumstances prevent me from attending today's hearing, I wanted to express my support for Mr. Padilla's nomination to be Under Secretary of Commerce for International Trade. When I met with Mr. Padilla in my office, I was very encouraged by his willingness to work with me and others to encourage U.S. companies that benefit from international trade to voluntarily share the benefits they get from trade agreements with their workers.

In response to my request, Mr. Padilla subsequently wrote me about his own experience in the private sector working for companies that had voluntarily created programs to reward employees when the companies benefited from international trade agreements. Mr. Padilla expressed his belief that these types of voluntary programs could be duplicated by many other U.S. companies involved in the global supply chain and committed that, if confirmed as Under Secretary for International Trade, he would use his position and the resources of the International Trade Administration to encourage companies to adopt voluntary programs to share the benefits of trade to all workers, not just the executives. I would like to have a copy of Mr. Padilla's October 30 letter to me included in the record for today's hearing.

Again, I am very encouraged by Mr. Padilla's willingness to encourage companies to widen the winner's circle when they benefit from trade agreements, and I am pleased to support his nomination. I hope Mr. Padilla's personal commitment to use his position, if confirmed as Under Secretary for International Trade, to promote voluntary programs to share the benefits of trade more broadly will be the beginning of a new approach by the Administration not only in how they promote but also how they approach trade agreements.

RON WYDEN
OREGON

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WASHINGTON, DC 20510-3703

COMMITTEES:
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SPECIAL COMMITTEE ON AGING
SELECT COMMITTEE ON INTELLIGENCE
COMMITTEE ON FINANCE

October 24, 2007

Christopher Padilla
Assistant Secretary of Commerce for Export Administration
U.S. Department of Commerce
1401 Constitution Avenue, NW
Washington, DC 20230

Dear Assistant Secretary Padilla:

If you are confirmed as Undersecretary of Commerce for International Trade, one of your responsibilities will involve promoting free trade agreements. Because of this, I am writing to follow up on one of the issues we discussed in my office -- growing the economic winner's circle for international trade agreements.

As we discussed, there is a large and growing disconnect between the elites and workers over trade. When I travel around Oregon, where one out of seven jobs depends on international trade, workers on the shop floor tell me trade agreements simply mean that their plant is moving overseas or more imports will displace their jobs. The recent debates over free trade agreements show that more and more Americans don't see any benefit in trade agreements at best or at worst see trade agreements as a threat to their well-being. From my front row seat on the Finance Committee, it looks to me like those who have the most to gain from free trade agreements have done the least to convince the public of their usefulness.

Can you share with me your thoughts about encouraging companies to share some of the benefits they get from trade agreements by voluntarily giving their workers some form of trade bonus -- whether a reward for additional units exported or a percentage bonus based on comparable cuts in tariffs? I believe that such an approach would show workers that trade agreements produce real benefits for them, not just for the front office executives.

As we discussed during our meeting, you have personal experience with a voluntary program along these lines when you worked in the private sector. I would like to know more about your experience with voluntary programs to reward workers when a company benefits from trade, whether they were viewed as successful both by the workers and by the company, and what you will do to encourage companies to adopt voluntary trade bonus programs for their workers in your new role in Commerce, should you be confirmed.

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Thank you very much for your consideration of these questions. I look forward to receiving your response.

Sincerely,

A handwritten signature in black ink that reads "Ron Wyden". The signature is written in a cursive, flowing style.

Ron Wyden
United States Senator



UNITED STATES DEPARTMENT OF COMMERCE
Assistant Secretary for Export Administration
 Washington, D.C. 20230

October 30, 2007

The Honorable Ron Wyden
 United States Senate
 Washington, DC 20510

Dear Senator Wyden:

It was a pleasure meeting with you and your staff last week to discuss my nomination to be Under Secretary for International Trade at the U.S. Department of Commerce. As we discussed, this is an important time in the international trade arena and if confirmed, I look forward to working with you and other members of the Senate Finance Committee on issues of vital economic interest to our nation.

As we discussed, and as your letter made clear, many Americans are skeptical of the benefits of open international trade. This is unfortunate, since everyday Americans benefit greatly from the international trading system, whether through jobs supported by record-breaking U.S. exports, through the free flow of international investment that creates jobs in our economy and supports innovation and growth, or through affordable imports that give working families more choices and greater spending power. It is particularly ironic that companies which benefit the most from international trade often have workers who express some of the greatest skepticism.

I agree with you that we need to change the way we connect the benefits of trade to ordinary Americans, and especially to workers in firms that benefit from an open trading system. As proponents of trade, we need to share more anecdotes and human experiences illustrating the benefits of trade. I would hope to work with you and others to change this, drawing on my own experience in the private sector.

With my own past employers, I worked to create programs that would reward employees in units that benefited the most from international trade agreements. One initiative I worked on went beyond the traditional trade-education campaign to create rewards, including company-sponsored travel, for employees of certain sub-business units that were positively affected by China's entry to the World Trade Organization. These trips allowed shop-floor workers to see for themselves how the company's business in China generated more company exports to the PRC, and to meet – and demystify – the Chinese employees of the company. Several employees returned from these trips to tell their co-workers the compelling story of seeing containers of Made-in-USA products unloaded at company shipping docks in China.

I know of other major U.S. corporations that identified in every employee's pay-stub the percentage of wages attributable to expanded exports and tariff cuts in Free Trade Agreements (FTAs). Another firm created an employee "tool kit" to explain the



benefits of trade, and rewarded employees who did the most to get the message out to their fellow workers.

I believe these types of voluntary programs, with tangible benefits and rewards for employees, could be duplicated in many other U.S. companies involved in the global supply chain. If confirmed, I will use my interaction with the business community to encourage such voluntary programs, with the intent that every worker – not just company executives – will have a better understanding of the positive aspects of international trade. I would note that the International Trade Administration has considerable resources available to conduct such outreach to companies. With export assistance centers in more than 100 U.S. cities, and extensive established networks of exporters, the Department of Commerce is well positioned to urge that companies do more to tangibly link the benefits of trade to workers, customers, and suppliers.

Again, thank you for taking the time from your busy schedule to meet with me. I appreciated learning of your interest and concerns regarding international trade. Please be assured that, if confirmed, I look forward to continuing our dialogue on issues of mutual interest.

Sincerely,

A handwritten signature in black ink, appearing to read "Christopher A. Padilla", written in a cursive style.

Christopher A. Padilla

