



United States Department of State

Washington, D.C. 20520

August 27, 2020

The Honorable
Eliot Engel, Chairman
Committee on Foreign Affairs
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your August 17 letter to Secretary Pompeo regarding Chairmen Grassley (R-IA) and Johnson's (R-WI) investigations and documents produced to the Senate Committee on Finance (SFC) and the Committee on Homeland Security and Government Affairs (HSGAC).

The Department categorically rejects your baseless assertion that the Department may have acted inappropriately or violated any law by producing documents to two Senate Committees, in your words, in "what appears to be partisan misuse of resources." We welcome the opportunity to share the facts on this matter.

First, your accusation that the Department is politicizing its responses to Congressional oversight requests and producing documents only to Republicans while refusing to respond to oversight requests from Democrats is inaccurate and misleading. All of the documents produced by the Department in response to the two Senate Committees' investigatory requests are provided to the Republican Chairmen and the Democratic Ranking Members of those Committees, consistent with long-standing practice.

In addition, after reaching a mutual accommodation last year, the Department produced to your Committee, along with the Chairs and Ranking Members of the House Oversight and Reform Committee and the Senate Foreign Relations Committee (SFRC), more than 18,000 pages of documents pursuant to your investigation concerning alleged prohibited personnel practices.

With respect to the "outstanding" requests you have cited as evidence of the Department's partisan misuse of resources, many of those principally relate to the now-concluded impeachment inquiry. As the Office of Legal Counsel, Department of Justice made clear in an O.L.C. Slip Opinion of January 19, 2020 and Counsel to the President Pat Cipollone did as well in his letter of October 8, 2019, the Executive Branch, including the Department of State, would not and will not comply with those Constitutionally-invalid requests. Furthermore, the Department has, in fact, responded to all of the Committee's inquiries identified in your May 21, 2020 letter, consistent with the accommodations process. Enclosed for your reference is a summary of each of the Department's responses to those requests.

Second, with respect to Chairmen Grassley and Johnson's investigation, the Department has engaged in an accommodation process, consistent with longstanding principles of mutual accommodation, absent of political or partisan influences, based upon the clear statement of purpose in the Committees' initial November 2019 letter to the Department. That purpose was to "better understand what actions, if any, the Obama administration took to ensure that policy decisions relating to Ukraine and Burisma were not improperly influenced by the employment and financial interests of family members." If the letter the Department received had indicated that the Committees' expressed investigatory purpose was to "smear" Vice President Biden or any other political figure, or to score political points in any other way as you allege, the Department would have considered any potential response in that light. That, however, is not the request the Department received. As such, it certainly does not follow that the Department's participation in the Constitutionally mandated accommodation process with another Congressional Committee, conducting an authorized investigation, is inappropriate or unlawful because you disagree with the merits of your colleagues' oversight priorities.

Third, your letter suggests the Department should treat differently Committees that have "primary" jurisdiction of the Department of State and those that do not. This is a distinction without a difference in this instance. The Senate Committees' request was made, in part, by a Committee that is authorized by Rule XXV of the Standing Rules of the Senate to investigate "the efficiency, economy, and effectiveness of all agencies and departments of the Government." Because the Department of State is a part of the Government, the Committee has jurisdiction and the Department is responding to a duly authorized investigation by two committees of the United States Senate. We can assure you that if the House Foreign Affairs Committee (HFAC) made a request identical or substantially similar to the HSGAC inquiry, the Department would engage HFAC in the same process of accommodation.

Fourth, you claim that the Department has "rushed out" documents to the Senate Committees and characterized the Department's production process as a "rapid, all-hands on deck" response. In fact, the Committees' investigation was initiated nearly a year ago in November 2019, and the Department is still processing documents that are potentially responsive to the Senate Committees' requests.

Fifth, your August 20, 2020 letter claimed that Secretary Pompeo "committed to mobilize additional resources to search for yet more documents" during his July 30, 2020 testimony in front of the SFRC. This characterization is, again, inaccurate and lacks precision. In response to a question from Senator Johnson, Secretary Pompeo stated that the Department would do its best to be responsive, but he did not indicate one way or the other whether that effort would involve additional resources or working within existing resources. Here is the direct quote from Secretary Pompeo in response to Senator Johnson's question during the hearing:

"Senator, we'll do our best to be responsive. We understand the requests. We're working through it. Yes, I'm familiar with the information that you set forth there with respect to the behavior that took place in October of 2016 in the State Department."

In light of your August 20, 2020 letter, the Department would also like to clearly explain the role of the Executive Secretariat, which continues to be mischaracterized based upon a complete misunderstanding of a leaked document from the Department. The Executive Secretariat is

institutionally responsible for ensuring that the records of the Department are not accessed or released without Federal law and Department regulations being followed. As required by the Foreign Affairs Manual, the Secretariat coordinates searches for any documents via a written “tasker” – like the one that was inappropriately leaked and cited in your letter. This is a required step in the process of authorizing searches and collections in response to Congressional requests for documents as well as documents in response to Freedom of Information Act (FOIA) requests. The position of the Executive Secretariat in no way intervenes on policy issues or the final decisions on what documents are sent externally from the Department, whether to Congress or in FOIA, and it certainly is not partisan in nature. Finally, contrary to the characterization in your letter, the original request from the Senate Committees included specific date ranges and subjects. As is frequently the case, the Department’s search period reflects the incoming request letter from a Committee, and that was the case with this particular search as well. For practical reasons, taskers include a return date, which is an internal matter. Return dates are not arbitrary but are determined through consultations with the individuals who would be conducting the work.

The Department would also like to clarify the Department’s practice regarding so-called courtesy copies. The Department believes it is imperative that the Department and Committee operate from a shared, accurate understanding as it relates to the historical approach of the provision of so-called “courtesy copies”. The Department is aware of two examples cited by your staff or others that purport to demonstrate that the Department has a long-standing policy of producing courtesy copies of documents produced to one congressional committee to another congressional committee:

- (1) a June 1 email from your staff claimed that Department of State produced courtesy copies regarding a number of topics to then-Chairman of the Senate Judiciary Committee Chuck Grassley during the 114th Congress, and
- (2) the production of documents to the Select Committee on Benghazi in 2014 and 2015 that were also produced to other congressional committees.

There were instances during the 114th Congress when, at the request of Chairman Grassley, documents that the Department produced via the FOIA process were also provided to his Committee. These productions were made as a courtesy to Chairman Grassley because he had open investigations that related to the same subject matter as the responsive FOIA documents. This is consistent with the Department’s practice, as explained in our letters to you from June 3 and August 7, 2020, that there are instances when, by request from a Committee, documents produced via FOIA are provided to Committees as a “courtesy.” As another example, your Committee has received copies from FOIA productions related to your Committee’s investigation into prohibited personnel practices and continues to do so. Additionally, the Department recently provided you with courtesy copies of documents produced via FOIA that related to the Wuhan Institute of Virology, which correlated with one of your outstanding investigatory requests.

All other Department records previously produced to Chairman Grassley were provided in response to Senate Judiciary Committee investigations of specific matters within that Committee’s jurisdiction, as set out in numerous investigative letters sent by Chairman Grassley

to the Department. The Department would be happy to provide, upon request, an exemplary, non-exclusive, list of investigative letters sent by Chairman Grassley to which the Department was responding through 2018. In summary, while the Department provided courtesy copies of FOIA productions to Chairman Grassley, the Department is not aware of any “courtesy copy” documents originally produced for another Congressional Committee that were also produced to Chairman Grassley in the 114th Congress without there being an investigative request covering the subject-matter of such documents from his Committee.

The other example that has been cited of the Department’s production of so-called “courtesy copies” from the Department is in relation to the multiple congressional inquiries in the aftermath of the 2012 terrorist attack on the Department’s facility in Benghazi, Libya, that resulted in the death of four Americans, including U.S. Ambassador Christopher Stevens, foreign service officer Sean Smith, Tyrone Woods, and Glen Doherty. The Department evaluated each of the Committees’ requests in determining the appropriate response as part of the mutual accommodation process. The Department ultimately did provide tens of thousands of pages of documents to the Select Committee on Benghazi that it had previously produced to other Congressional Committees, as the Select Committee initiated a new investigation of previously investigated matters. It is important to note that these multiple productions of documents to different Committees was not based on a request for the same documents – it was based upon the fact that the stated scope of each investigation was very similar. As such, the Department reviewed all documents in light of all substantive committee requests and concluded that the documents reviewed were responsive to multiple investigations. In that instance, nearly all the Congressional Committees were seeking to learn what happened in 2012 in Benghazi and how to minimize the chance that something like that ever happened again.

In short, as previously indicated, it is not “longstanding” policy to provide courtesy copies of documents produced to one Committee of Congress to another Committee, simply based on only a request to receive courtesy copies of such documents. What is the case, is that if two Congressional Committees open an investigation into identical or very similar matters, the Department will respond to each, and if the mutual accommodation process results in production of documents, such productions are likely to significantly overlap and perhaps be identical.

As such, with respect to your July 31, 2020 subpoena related to the Department’s production of documents for Senate committees, the Department notes that your request is not focused on an identical or similar investigatory subject as the Senate Committees’ investigation. As such, if the core objective of the Committee’s interest is to receive documents produced to the Senate Committees, the Department respectfully recommends sending the Department a letter that substantively articulates a revised request. If you can confirm by letter that the Committee is, in fact, substantively investigating identical or very similar corruption issues involving Ukraine and corrupt influence related to U.S. foreign policy, the Department is ready to commence production of documents responsive to such a request. Such responsive documents are very likely to significantly overlap and perhaps be identical to what has been provided on that subject to the two Senate Committees, consistent with the precedents and accommodation process described above. If the Committee is not willing to request an investigation into this matter, an alternative approach the Department would respectfully suggest would be for you to discuss

within the Legislative Branch your request for courtesy copies of documents already produced to the Chairman and Ranking Member of the two Senate Committees.

With respect to the other documents sought in the subpoena, namely "Since January 3, 2019, any and all documents referring, relating to or regarding the actual, requested, or potential production of documents to Congress," the Department reiterates its position in two respects: (1) this attempt at compulsion is defectively premature because it bypasses the constitutionally required accommodation process, in that there was no previous request from the Committee in any way for these documents until the subpoena, and (2) it appears on its face to violate the Separation of Powers doctrine because it seeks to review the Executive Branch's constitutional function of responding to Congressional oversight requests and demands production of internal deliberative communications about responding to Congress that are subject to a heightened Executive Branch confidentiality interest.

Sincerely,

A handwritten signature in black ink, appearing to read "R M Kaldahl". The signature is written in a cursive, slightly stylized font.

Ryan M. Kaldahl
Acting Assistant Secretary of State
Bureau of Legislative Affairs

Enclosure:

As stated.

Cc:

The Honorable
Michael McCaul, Ranking Member
House Committee on Foreign Affairs

Department of State Responses
to Committee on Foreign Affairs Oversight Requests

- **President Trump's communications with Russian president Vladimir Putin (March 4, 2019)**

Department Response:

- Counsel to the President Pat Cipollone responded on behalf of the Department via letter (March 21, 2019)

- **Jared Kushner's diplomatic activities (March 28, 2019)**

Department Response:

- The Department of State responded via letter and provided State Department logistical information responsive to the request and referring the Committee to the White House for general questions regarding Mr. Kushner's (June 12, 2019)

- **Allegations that the Administration politicized and distorted intelligence regarding nuclear, biological, and chemical weapons (May 16, 2019)**

Department Response:

- As requested in your letter, the Department provided the House Foreign Affairs Committee and House Intelligence Committee staff a classified briefing with 12 experts from various bureaus; HASC staffers were invited to the briefing but did not attend (June 11, 2019)

- **State Department spending of taxpayer funds at Trump properties (July 22, 2019)**

Department Response:

- The Department made its first production of documents responsive to the request via hard copy delivery to the Committee (August 26, 2019)
- The Department is processing another production in response to the Committee's follow up letter of March 2, 2020, which production should be transmitted in the coming week.

- **Subpoena to the Honorable Michael R. Pompeo, Secretary of State (September 27, 2019)**

Department response:

- Secretary Pompeo responded via letter (October 1, 2019)
- Counsel to the President Pat Cipollone responded on behalf of the Department via letter (October 8, 2019)

- **Allegations that the physical security of then-Ambassador Marie "Masha" Yovanovitch was threatened (January 15, 2020)**

Department Response:

- The Department provided Chairman Engel’s senior committee staff a classified briefing on the security of Department personnel and the U.S. Mission in Kiev to accommodate the request for information in the January 15 letter (January 17, 2019)
- The Department subsequently responded via letter confirming that the Bureau of Diplomatic Security had been following this matter and coordinating with the Federal Bureau of Investigations (FBI) and offered to provide additional information involving investigations sought by the Committee in the appropriate setting (January 22, 2019)

• **Allegations of mismanagement and nepotism by an Ambassador (February 5, 2020)**

Department Response:

- The Department responded via letter detailing steps taken to ensure Ambassador Marks was briefed on the laws, rules, and regulations that would govern her service (February 27, 2020)
- Ambassador Marks met with bipartisan HFAC staff (February 28, 2020)

• **Cables regarding the COVID-19 virus that you have claimed provide “substantial evidence” on the origins of the virus (April 15, 2020).**

Department Response:

- The Department produced the two requested Department of State cables redacted pursuant to the Freedom of Information Act via a letter (July 16, 2020)

• **The Administration’s decision to suspend U.S. funding of the World Health Organization in the middle of a global health pandemic (April 27, 2020)**

Department Response:

- The Department responded to your April 22 and April 27 letters regarding the World Health Organization (WHO) (May 12, 2019 and May 20, 2019)
- The President responded on behalf of the Department, which letter was included in the Department’s May 20 response, provided a detailed timeline of WHO’s failures and outlines the way forward (May 18 letter)

THE WHITE HOUSE

WASHINGTON

March 21, 2019

The Honorable Elijah E. Cummings
Chairman
Committee on Oversight and Reform
House of Representatives
Washington, D.C. 20515

The Honorable Eliot Engel
Chairman
Committee on Foreign Affairs
House of Representatives
Washington, D.C. 20515

The Honorable Adam B. Schiff
Chairman
Permanent Select Committee on Intelligence
House of Representatives
Washington, D.C. 20515

Dear Messrs. Chairmen:

Thank you for your letters of February 21, 2019 and March 4, 2019 to Acting Chief of Staff Mick Mulvaney. Those letters seek information relating to the Presidential Records Act (the "PRA") as well as the President's actions in conducting foreign diplomacy. As I have previously stated, we will continue to work to accommodate the Committees' legitimate oversight interests while at the same time respecting the separation of powers and the constitutional prerogatives of the President. This good faith approach is guided by and consistent with long-standing precedent reflected in the holdings of the Supreme Court and other courts, in similar positions taken by past administrations of all political parties dating back to the Founding, and in numerous opinions of the Department of Justice's Office of Legal Counsel. It also has repeatedly been recognized by Congress itself. It is in the spirit of seeking accommodation and cooperation where possible, and always guided by a respect for the constitutional roles of each branch of government, that I provide this response.

First, to the extent that your letters seek information related to the White House's compliance with the PRA, we have already provided several responses to similar requests for this information. Specifically, I refer you to the prior responsive letters from the Office of White House Counsel dated April 11, 2017, October 10, 2017, and December 10, 2018, which were provided to the Committee on Oversight and Reform, and which we believe fully address your questions. As stated in those letters, the Administration is committed to compliance with the PRA and takes appropriate steps to ensure that Presidential records are appropriately managed, preserved, and available for transfer to the National Archives and Records Administration. If

you have any remaining questions regarding this issue, we are available at your convenience to discuss this matter further.

Second, your letters also seek detailed information concerning the President's conduct of foreign relations and his communications with his most senior advisors regarding these matters. For example, the letter of March 4 expressly seeks detailed information related to the President's meetings and telephone calls with Russian President Vladimir Putin, as well as confidential communications between the President and his advisors before and after those meetings and telephone calls. The March 4 letter also asks that "all White House or Executive Office of the President employees, contractors, or detailees, whether current or former, with knowledge of these communications," submit for transcribed interviews concerning the same subject. While we respectfully seek to accommodate appropriate oversight requests, we are unaware of any precedent supporting such sweeping requests. Rather, the Supreme Court and administrations of both parties have consistently recognized that the conduct of foreign affairs is a matter that the Constitution assigns exclusively to the President.

It is settled law that the Constitution entrusts the conduct of foreign relations exclusively to the Executive Branch, as it makes the President "the sole organ of the federal government in the field of international relations." *United States v. Curtiss-Wright Export Corp.*, 299 U.S. 304, 320 (1936); *see also Chicago & S. Air Lines, Inc. v. Waterman S.S. Corp.*, 333 U.S. 103, 109 (1948) ("The President also possesses in his own right certain powers conferred by the Constitution on him as . . . the Nation's organ in foreign affairs."). In keeping with Supreme Court precedent, the Executive Branch has consistently taken the position, across administrations of both political parties, that the President has exclusive authority to conduct diplomacy with foreign nations. *See, e.g., Foreign Affairs with Respect to Haiti*, 20 Op. O.L.C. 5, 7 (1996) ("[T]he conduct of foreign affairs is an exclusive prerogative of the executive branch"); *Bill to Relocate United States Embassy from Tel Aviv to Jerusalem*, 19 Op. O.L.C. 123, 124 (1995) ("It is well settled that the Constitution vests the President with the exclusive authority to conduct the Nation's diplomatic relations with other States."); *Common Legislative Encroachments on Executive Branch Authority*, 13 Op. O.L.C. 248, 256 (1989) ("The President has the responsibility, under the Constitution, to determine the form and manner in which the United States will maintain relations with foreign nations.").

This unbroken recognition that the Constitution assigns the conduct of foreign affairs exclusively to the Executive Branch is critical to a fair assessment of the Committee's legitimate oversight needs, because the Supreme Court has also made clear that, "[s]ince Congress may only investigate into those areas in which it may potentially legislate or appropriate, it *cannot inquire* into matters which are within the exclusive province of one of the other branches of the Government." *Barenblatt v. United States*, 360 U.S. 109, 111-12 (1959) (emphasis added); *see also Scope of Congressional Oversight and Investigative Power With Respect to the Executive Branch*, 9 Op. O.L.C. 60, 62 (1985) ("Congress' power of inquiry must not be permitted to negate the President's constitutional responsibility for managing and controlling affairs committed to the Executive Branch.").

Accordingly, since the Founding, the Executive Branch has correctly and successfully asserted that information concerning the conduct of foreign affairs is, constitutionally, within the

exclusive control of the Executive Branch and Congress cannot demand its disclosure. “History is replete with examples of the Executive’s refusal to produce to Congress diplomatic communications and related documents because of the prejudicial impact such disclosure could have on the President’s ability to conduct foreign relations.” *Foreign Affairs with Respect to Haiti*, 20 Op. O.L.C. 5, 6 (1996) (citing *History of Refusals by Executive Branch Officials to Provide Information Demanded by Congress*, 6 Op. O.L.C. 751 (1982)). Indeed, the very first administration emphatically made this exact point when President George Washington declined a House committee’s request for copies of documents relating to the negotiation of the Jay Treaty with Great Britain. *See id.* at 753 (1982) (noting that President Washington sent a letter to Congress stating, “[t]o admit, then, a right in the House of Representatives to demand, and to have, as a matter of course, all the papers respecting a negotiation with a foreign Power would be to establish a dangerous precedent.”)

Even if the exclusive constitutional assignment of foreign relations authority to the Executive did not in itself limit congressional oversight power in this arena, it is equally well-established that privilege principles categorically protect the President’s diplomatic communications. The President must be free to engage in discussions with foreign leaders without fear that those communications will be disclosed and used as fodder for partisan political purposes. And foreign leaders must be assured of this as well. No foreign leader would engage in private conversations with the President, or the President’s senior advisors, if such conversations were subject to public disclosure (or disclosure to committees of Congress). For the same reasons, the President must be free to consult with his senior advisors—to ask frank questions, solicit and receive recommendations, weigh options, and debate policy alternatives. Otherwise, those advisors would be less likely to provide the President with candid advice.

This is why, from the Nation’s beginning, Presidents from all political parties have determined that the law does not require the Executive Branch to provide Congress with documents relating to confidential diplomatic communications between the President and foreign leaders. For example, the Clinton Administration determined that documents requested by a congressional committee were not subject to disclosure because the documents related to the President’s conduct of foreign affairs with Haiti. *See Foreign Affairs with Respect to Haiti*, 20 Op. O.L.C. 5, 5 (1996). In that case, the House Committee on Foreign Affairs (then known as the Committee on International Relations) requested, among other things, documents relating to communications between President Clinton and the leaders of Haiti. In response, Attorney General Janet Reno concluded that the President had the authority under the Constitution to protect the confidentiality of diplomatic communications. *Id.* As Attorney General Reno explained, the Constitution clearly gives the President “the authority to assert executive privilege to protect the confidentiality of diplomatic communications.” *Foreign Affairs with Respect to Haiti*, 20 Op. O.L.C. 5, 5 (1996); *see also In re United States*, 872 F.2d 472, 476 (D.C. Cir. 1989) (information protected under executive privilege “includes information that would result in disruption of diplomatic relations with foreign governments.”) (internal quotation marks omitted); *Halkin v. Helms*, 690 F.2d 977, 990 n.53 (D.C. Cir. 1982) (“The privilege extends to matters affecting diplomatic relations between nations.”).

That being said, the Constitution requires both the Executive and the Legislative Branch to engage in an accommodation process. *United States v. AT&T*, 567 F.2d 121, 127 (D.C. Cir.

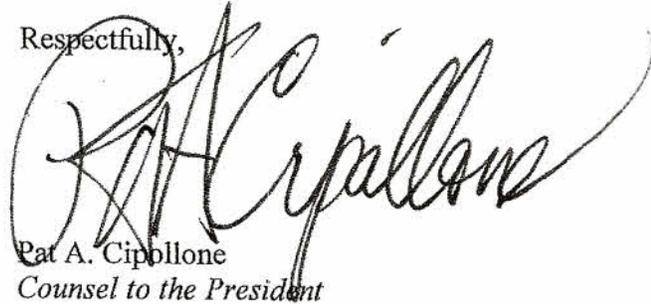
1977) (“[E]ach branch should take cognizance of an implicit constitutional mandate to seek optimal accommodation through a realistic evaluation of the needs of the conflicting branches.”). That process is not simply “an exchange of concessions or a test of political strength,” but rather “an obligation of each branch to make a principled effort to acknowledge, and if possible to meet, the legitimate needs of the other branch.” *Assertion of Executive Privilege in Response to a Congressional Subpoena*, 5 Op. O.L.C. 27, 31 (1981). The White House takes the accommodation process seriously. Since the beginning of the 116th Congress, we have made a principled effort at accommodation based on well-settled legal precedent. While we work to provide your Committees with information necessary for legitimate oversight, including by permitting the inspection of documents and offering briefings, as appropriate, the Committees appear up to now to be unwilling to make reasonable efforts in return to accommodate the legitimate interests of the Executive Branch. Rather, it appears that the practice of the Committees has been to request information that the Committees have no legal entitlement to receive and then to unfairly criticize the White House for simply adhering to consistent bipartisan past practice in its response. This White House is conducting the accommodation process based on well-settled law and in the very same manner as past Republican and Democratic administrations.

Importantly, the Committees’ letters cite no legal authority for the proposition that another branch of the government can force the President to disclose diplomatic communications with foreign leaders or that supports forcing disclosure of the confidential internal deliberations of the President’s national security advisors. To the contrary, the only justifications the March 4 letter cites to support the Committees’ information requests do not pass muster under the principles announced in the Supreme Court decisions cited above. The letter asserts that the Committees need to determine the “impact of [the President’s] communications on U.S. foreign policy” and to determine whether President Trump’s conduct of foreign relations is “in the national interest.” March 4 letter at 2. With all respect, the Constitution assigns the President the role of charting the course of U.S. foreign policy and determining which diplomatic communications advance the national interest. Policy disagreements with the President’s decisions on those matters do not create a legislative right to review the President’s diplomatic communications with foreign leaders. The only other justification cited in the March 4 letter is an asserted need for the Committees to assess whether “applicable laws, regulations, and agency procedures with respect to diplomatic communications” with foreign leaders “have been complied with and remain sufficient.” *Id.* But, other than references to the PRA (which is addressed above), the letter cites no such law or regulation. And under longstanding precedent detailed above, Congress cannot require the President to disclose his confidential communications with foreign leaders.

This office is adhering to well-established precedent in order to protect the ability of this President, and future Presidents, to manage effectively the foreign affairs of the United States and to receive the advice and assistance of their close advisors in conducting diplomacy. We welcome the opportunity to discuss the clear legal principles applicable to this matter at your earliest convenience.

Finally, your March 4 letter states that “staff on all three of our Committees will jointly schedule a meeting with the White House Counsel shortly to discuss this request and ensure the scope is properly understood by the White House,” but we have received no communication regarding this matter. In any event, as always, we would welcome the opportunity to meet with you to discuss this matter as part of the accommodation process. If you would like to discuss any of the issues addressed in this letter, please let me know.

Respectfully,

A handwritten signature in black ink, appearing to read "Pat A. Cipollone". The signature is written in a cursive style with a large, looping initial "P".

Pat A. Cipollone
Counsel to the President

cc: The Honorable Jim Jordan, Ranking Member, Committee on Oversight and Reform
The Honorable Michael McCaul, Ranking Member, Committee on Foreign Affairs
The Honorable Devin Nunes, Ranking Member, Permanent Select Committee on
Intelligence



United States Department of State
Washington, D.C. 20520

JUN 12 2019

The Honorable
Eliot L. Engel, Chairman
Committee on Foreign Affairs
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter of March 28 regarding your review of White House Senior Advisor Jared Kushner's February 2019 travel to the Middle East.

Please find enclosed Department of State logistical information responsive to your request. The Department refers you to the White House with regard to Mr. Kushner's travel generally.

Please protect the enclosed documents, as they include internal operational details. In sharing such information for the limited purpose of responding to the Committee's request, the Department is not in any way waiving any legal privileges that apply to this information. The public release of any portion of the enclosed documents is not authorized by this communication and, should you wish to disclose any document or portions thereof, the Department asks that you provide it with a reasonable opportunity to inform the Committee of any sensitive information that should be safeguarded.

We hope this information is helpful to you. Please let us know if we may be of further assistance.

Sincerely,

Mary Elizabeth Taylor
Assistant Secretary
Bureau of Legislative Affairs

Enclosures:
As stated.

THE SECRETARY OF STATE
WASHINGTON

October 1, 2019

The Honorable
Eliot L. Engel, Chairman
Committee on Foreign Affairs
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

We are in receipt of your September 27, 2019 letter requesting the Department to voluntarily make available five current and former Department officials for depositions.

I am concerned with aspects of your request, described more fully below, that can be understood only as an attempt to intimidate, bully, and treat improperly the distinguished professionals of the Department of State, including several career Foreign Service Officers, whom the Committee is now targeting. I have also been made aware that Committee staff has been sending intimidating communications to career Department professionals, who have specifically asked for Committee communications to be channeled through the Bureau of Legislative Affairs, as is customary. Let me be clear: I will not tolerate such tactics, and I will use all means at my disposal to prevent and expose any attempts to intimidate the dedicated professionals whom I am proud to lead and serve alongside at the Department of State.

Your letter also raises significant legal and procedural concerns. First, your letter raises fundamental legal questions related to the authority of the Committee to compel an appearance for a deposition solely by virtue of these letters. Your letter implies that you have sought to compel Department officials to appear for depositions on the identified dates, yet the Committee has not issued any subpoenas for depositions, and we are not aware of any other authority by which the committee could compel appearance at a deposition. The House Rules also require the Committee to provide a Notice of Deposition, but your letter contains no such notice and otherwise fails to meet the requirements of those rules. It therefore appears that your letter may only be read as a request for a voluntary appearance of the five Department officials.

Second, your letter provides a woefully inadequate opportunity for the Department and the requested witnesses to prepare. These individuals have retained, or may be retaining, private counsel, as is their constitutional right, and in the course of the Department's discussions with these individuals, several have indicated that they need more time both to retain and to consult with private counsel. In addition, State Department counsel must consult with these officials and their counsel, once retained, regarding the Department's legitimate interests in safeguarding potentially privileged and classified information. The proposed dates for the depositions do not provide adequate time for the Department and its employees to appropriately prepare.

Third, your letter, and subsequent communications by Committee staff, indicate that the Committee intends to prevent State Department counsel from participating in the depositions of current and former Department officials. This amounts to an attempt to circumvent the Executive Branch's unquestionably legitimate constitutional interest in protecting potentially privileged information related to the conduct of diplomatic relations. This information may also remain subject to federal rules relating to the unauthorized disclosure of classified information. As the Department of Justice has made clear, a congressional committee may not validly prohibit agency counsel from being present during an employee deposition, because such an exclusion "would impair the President's constitutional authority to control the disclosure of privileged information and to supervise the Executive Branch's communications with Congress."¹ Therefore, the five officials subject to your letter may not attend any interview or deposition without counsel from the Executive Branch present to ensure that the Executive Branch's constitutional authority to control the disclosure of confidential information, including deliberative matters and diplomatic communications, is not impaired.

Fourth, the invitations the Committee sent to the five Department officials include requests that each of them personally produce a vast amount of documents. These requests appear to duplicate the subpoena that was previously served on the Secretary of State. The requested records constitute the property of the Department of State and are subject to restrictions on the unauthorized disclosure of classified information and various Executive Branch privileges. By purporting to induce individual Department professionals and career Foreign Service Officers to produce materials that are not theirs to produce – which could potentially constitute a violation of numerous civil and criminal statutes and regulations if proper procedures are not followed – the Committee has engaged in an act of intimidation and an invitation to violate federal records laws.

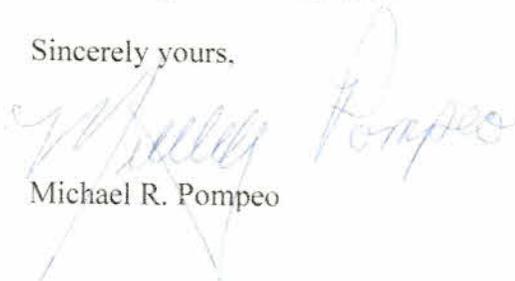
Finally, you have asserted that failure by Department officials to meet your demonstrably inadequate timeline for voluntary appearances "shall constitute evidence of obstruction." There is no legal basis for such a threat. Given the serious substantive and procedural deficiencies in the Committee's requests, including the Committee's apparent effort to circumvent Executive Branch constitutional interests in having Department counsel present at any depositions, the Committee's assertion lacks any recognized legal basis. I urge you to exercise restraint in making such unfounded statements in the future.

The Department also acknowledges receipt of the subpoena communicated by separate letter dated September 27, 2019 and intends to respond to that subpoena by the noticed return date of October 4, 2019.

¹ Department of Justice, Office of Legal Counsel, Slip Opinion (May 23, 2019) ("Congress may not constitutionally prohibit agency counsel from accompanying agency employees called to testify about matters that potentially involve information protected by executive privilege.")

Based on the profound procedural and legal deficiencies noted above, the Committee's requested dates for depositions are not feasible. The Department will be in further contact with the Committee in the near future as we obtain further clarity on these matters.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Michael R. Pompeo", is written over a large, faint, light-colored watermark or stamp that also contains the name "Michael R. Pompeo".

Michael R. Pompeo

Cc: The Honorable Michael T. McCaul, Ranking Member
House Committee on Foreign Affairs

THE WHITE HOUSE

WASHINGTON

October 8, 2019

The Honorable Nancy Pelosi
Speaker
House of Representatives
Washington, D.C. 20515

The Honorable Eliot L. Engel
Chairman
House Foreign Affairs Committee
Washington, D.C. 20515

The Honorable Adam B. Schiff
Chairman
House Permanent Select Committee on
Intelligence
Washington, D.C. 20515

The Honorable Elijah E. Cummings
Chairman
House Committee on Oversight and Reform
Washington, D.C. 20515

Dear Madam Speaker and Messrs. Chairmen:

I write on behalf of President Donald J. Trump in response to your numerous, legally unsupported demands made as part of what you have labeled—contrary to the Constitution of the United States and all past bipartisan precedent—as an “impeachment inquiry.” As you know, you have designed and implemented your inquiry in a manner that violates fundamental fairness and constitutionally mandated due process.

For example, you have denied the President the right to cross-examine witnesses, to call witnesses, to receive transcripts of testimony, to have access to evidence, to have counsel present, and many other basic rights guaranteed to all Americans. You have conducted your proceedings in secret. You have violated civil liberties and the separation of powers by threatening Executive Branch officials, claiming that you will seek to punish those who exercise fundamental constitutional rights and prerogatives. All of this violates the Constitution, the rule of law, and *every past precedent*. Never before in our history has the House of Representatives—under the control of either political party—taken the American people down the dangerous path you seem determined to pursue.

Put simply, you seek to overturn the results of the 2016 election and deprive the American people of the President they have freely chosen. Many Democrats now apparently view impeachment not only as a means to undo the democratic results of the *last* election, but as a strategy to influence the *next* election, which is barely more than a year away. As one member of Congress explained, he is “concerned that if we don’t impeach the President, he will get reelected.”¹ Your highly partisan and unconstitutional effort threatens grave and lasting damage to our democratic institutions, to our system of free elections, and to the American people.

¹ Interview with Rep. Al Green, MSNBC (May 5, 2019).

For his part, President Trump took the unprecedented step of providing the public transparency by declassifying and releasing the record of his call with President Zelenskyy of Ukraine. The record clearly established that the call was completely appropriate and that there is no basis for your inquiry. The fact that there was nothing wrong with the call was also powerfully confirmed by Chairman Schiff's decision to create a false version of the call and read it to the American people at a congressional hearing, without disclosing that he was simply making it all up.

In addition, information has recently come to light that the whistleblower had contact with Chairman Schiff's office before filing the complaint. His initial denial of such contact caused *The Washington Post* to conclude that Chairman Schiff "clearly made a statement that was false."² In any event, the American people understand that Chairman Schiff cannot covertly assist with the submission of a complaint, mislead the public about his involvement, read a counterfeit version of the call to the American people, and then pretend to sit in judgment as a neutral "investigator."

For these reasons, President Trump and his Administration reject your baseless, unconstitutional efforts to overturn the democratic process. Your unprecedented actions have left the President with no choice. In order to fulfill his duties to the American people, the Constitution, the Executive Branch, and all future occupants of the Office of the Presidency, President Trump and his Administration cannot participate in your partisan and unconstitutional inquiry under these circumstances.

I. Your "Inquiry" Is Constitutionally Invalid and Violates Basic Due Process Rights and the Separation of Powers.

Your inquiry is constitutionally invalid and a violation of due process. In the history of our Nation, the House of Representatives has never attempted to launch an impeachment inquiry against the President without a majority of the House taking political accountability for that decision by voting to authorize such a dramatic constitutional step. Here, House leadership claims to have initiated the gravest inter-branch conflict contemplated under our Constitution by means of nothing more than a press conference at which the Speaker of the House simply announced an "official impeachment inquiry."³ Your contrived process is unprecedented in the

² Glenn Kessler, *Schiff's False Claim His Committee Had Not Spoken to the Whistleblower*, Wash. Post (Oct. 4, 2019).

³ Press Release, Nancy Pelosi, Pelosi Remarks Announcing Impeachment Inquiry (Sept. 24, 2019).

history of the Nation,⁴ and lacks the necessary authorization for a valid impeachment proceeding.⁵

The Committees' inquiry also suffers from a separate, fatal defect. Despite Speaker Pelosi's commitment to "treat the President with fairness,"⁶ the Committees have not established any procedures affording the President even the most basic protections demanded by due process under the Constitution and by fundamental fairness. Chairman Nadler of the House Judiciary Committee has expressly acknowledged, at least when the President was a member of his own party, that "[t]he power of impeachment . . . demands a rigorous level of due process," and that in this context "due process mean[s] . . . the right to be informed of the law, of the charges against you, the right to confront the witnesses against you, to call your own witnesses, and to have the assistance of counsel."⁷ All of these procedures have been abandoned here.

These due process rights are not a matter of discretion for the Committees to dispense with at will. To the contrary, they are constitutional requirements. The Supreme Court has recognized that due process protections apply to all congressional investigations.⁸ Indeed, it has been recognized that the Due Process Clause applies to impeachment proceedings.⁹ And precedent for the rights to cross-examine witnesses, call witnesses, and present evidence dates back nearly 150 years.¹⁰ Yet the Committees have decided to deny the President these elementary rights and protections that form the basis of the American justice system and are protected by the Constitution. No citizen—including the President—should be treated this unfairly.

⁴ Since the Founding of the Republic, under unbroken practice, the House has never undertaken the solemn responsibility of an impeachment inquiry directed at the President without first adopting a resolution authorizing a committee to begin the inquiry. The inquiries into the impeachments of Presidents Andrew Johnson and Bill Clinton proceeded in multiple phases, each authorized by a separate House resolution. *See, e.g.*, H.R. Res. 581, 105th Cong. (1998); H.R. Res. 525, 105th Cong. (1998); III Hinds' Precedents §§ 2400-02, 2408, 2412. And before the Judiciary Committee initiated an impeachment inquiry into President Richard Nixon, the Committee's chairman rightfully recognized that "a[n] [inquiry] resolution has always been passed by the House" and "is a necessary step." III Deschler's Precedents ch. 14, § 15.2. The House then satisfied that requirement by adopting H.R. Res. 803, 93rd Cong. (1974).

⁵ Chairman Nadler has recognized the importance of taking a vote in the House before beginning a presidential impeachment inquiry. At the outset of the Clinton impeachment inquiry—where a floor vote was held—he argued that even limiting the time for *debate* before that vote was improper and that "an hour debate on this momentous decision is an insult to the American people and another sign that this is not going to be fair." 144 Cong. Rec. H10018 (daily ed. Oct. 8, 1998) (statement of Rep. Jerrold Nadler). Here, the House has dispensed with any vote and any debate *at all*.

⁶ Press Release, Nancy Pelosi, Transcript of Pelosi Weekly Press Conference Today (Oct. 2, 2019).

⁷ *Examining the Allegations of Misconduct Against IRS Commissioner John Koskinen (Part II): Hearing Before the H. Comm. on the Judiciary*, 114th Cong. 3 (2016) (statement of Rep. Jerrold Nadler); *Background and History of Impeachment: Hearing Before the Subcomm. on the Constitution of the H. Comm. on the Judiciary*, 105th Cong. 17 (1998) (statement of Rep. Jerrold Nadler).

⁸ *See, e.g., Watkins v. United States*, 354 U.S. 178, 188 (1957); *Quinn v. United States*, 349 U.S. 155, 161 (1955).

⁹ *See Hastings v. United States*, 802 F. Supp. 490, 504 (D.D.C. 1992), *vacated on other grounds by Hastings v. United States*, 988 F.2d 1280 (D.C. Cir. 1993).

¹⁰ *See, e.g., III Hinds' Precedents* § 2445.

To comply with the Constitution's demands, appropriate procedures would include—at a minimum—the right to see all evidence, to present evidence, to call witnesses, to have counsel present at all hearings, to cross-examine all witnesses, to make objections relating to the examination of witnesses or the admissibility of testimony and evidence, and to respond to evidence and testimony. Likewise, the Committees must provide for the disclosure of all evidence favorable to the President and all evidence bearing on the credibility of witnesses called to testify in the inquiry. The Committees' current procedures provide *none* of these basic constitutional rights.

In addition, the House has not provided the Committees' Ranking Members with the authority to issue subpoenas. The right of the minority to issue subpoenas—subject to the same rules as the majority—has been the standard, bipartisan practice in all recent resolutions authorizing presidential impeachment inquiries.¹¹ The House's failure to provide co-equal subpoena power in this case ensures that any inquiry will be nothing more than a one-sided effort by House Democrats to gather information favorable to their views and to selectively release it as only they determine. The House's utter disregard for the established procedural safeguards followed in past impeachment inquiries shows that the current proceedings are nothing more than an unconstitutional exercise in political theater.

As if denying the President basic procedural protections were not enough, the Committees have also resorted to threats and intimidation against potential Executive Branch witnesses. Threats by the Committees against Executive Branch witnesses who assert common and longstanding rights destroy the integrity of the process and brazenly violate fundamental due process. In letters to State Department employees, the Committees have ominously threatened—without any legal basis and before the Committees even issued a subpoena—that “[a]ny failure to appear” in response to a mere letter *request* for a deposition “shall constitute evidence of obstruction.”¹² Worse, the Committees have broadly threatened that if State Department officials attempt to insist upon the right for the Department to have an agency lawyer present at depositions to protect legitimate Executive Branch confidentiality interests—or apparently if they make any effort to protect those confidentiality interests *at all*—these officials will have their salaries withheld.¹³

The suggestion that it would somehow be problematic for anyone to raise long-established Executive Branch confidentiality interests and privileges in response to a request for a deposition is legally unfounded. Not surprisingly, the Office of Legal Counsel at the Department of Justice has made clear on multiple occasions that employees of the Executive Branch who have been instructed not to appear or not to provide particular testimony before Congress based on privileges or immunities of the Executive Branch cannot be punished for

¹¹ H.R. Res. 581, 105th Cong. (1998); H.R. Res. 803, 93rd Cong. (1974).

¹² Letter from Eliot L. Engel, Chairman, House Committee on Foreign Affairs, et al., to George P. Kent, Deputy Assistant Secretary, U.S. Department of State 1 (Sept. 27, 2019).

¹³ See Letter from Eliot L. Engel, Chairman, House Committee on Foreign Affairs, et al., to John J. Sullivan, Deputy Secretary of State 2-3 (Oct. 1, 2019).

following such instructions.¹⁴ Current and former State Department officials are duty bound to protect the confidentiality interests of the Executive Branch, and the Office of Legal Counsel has also recognized that it is unconstitutional to exclude agency counsel from participating in congressional depositions.¹⁵ In addition, any attempt to withhold an official's salary for the assertion of such interests would be unprecedented and unconstitutional.¹⁶ The Committees' assertions on these points amount to nothing more than strong-arm tactics designed to rush proceedings without any regard for due process and the rights of individuals and of the Executive Branch. Threats aimed at intimidating individuals who assert these basic rights are attacks on civil liberties that should profoundly concern all Americans.

II. The Invalid "Impeachment Inquiry" Plainly Seeks To Reverse the Election of 2016 and To Influence the Election of 2020.

The effort to impeach President Trump—without regard to any evidence of his actions in office—is a naked political strategy that began the day he was inaugurated, and perhaps even before.¹⁷ In fact, your transparent rush to judgment, lack of democratically accountable authorization, and violation of basic rights in the current proceedings make clear the illegitimate, partisan purpose of this purported "impeachment inquiry." The Founders, however, did not create the extraordinary mechanism of impeachment so it could be used by a political party that feared for its prospects against the sitting President in the next election. The decision as to who will be elected President in 2020 should rest with the people of the United States, exactly where the Constitution places it.

Democrats themselves used to recognize the dire implications of impeachment for the Nation. For example, in the past, Chairman Nadler has explained:

The effect of impeachment is to overturn the popular will of the voters. We must not overturn an election and remove a President from office except to defend our system of government or our constitutional liberties against a dire threat, and we must not do so without an overwhelming consensus of the American people. There must never be a narrowly voted impeachment or an impeachment supported by one of our major political parties and opposed by another. Such an impeachment will produce divisiveness and bitterness in our

¹⁴ See, e.g., *Testimonial Immunity Before Congress of the Former Counsel to the President*, 43 Op. O.L.C. __, *19 (May 20, 2019); *Prosecution for Contempt of Congress of an Executive Branch Official Who Has Asserted a Claim of Executive Privilege*, 8 Op. O.L.C. 101, 102, 140 (1984) ("The Executive, however, must be free from the threat of criminal prosecution if its right to assert executive privilege is to have any practical substance.")

¹⁵ *Attempted Exclusion of Agency Counsel from Congressional Depositions of Agency Employees*, 43 Op. O.L.C. __, *1-2 (May 23, 2019).

¹⁶ See President Donald J. Trump, Statement by the President on Signing the Consolidated Appropriations Act, 2019 (Feb. 15, 2019); *Authority of Agency Officials To Prohibit Employees From Providing Information to Congress*, 28 Op. O.L.C. 79, 80 (2004).

¹⁷ See Matea Gold, *The Campaign To Impeach President Trump Has Begun*, Wash. Post (Jan. 21, 2017) ("At the moment the new commander in chief was sworn in, a campaign to build public support for his impeachment went live").

politics for years to come, and will call into question the very legitimacy of our political institutions.¹⁸

Unfortunately, the President's political opponents now seem eager to transform impeachment from an extraordinary remedy that should rarely be contemplated into a conventional political weapon to be deployed for partisan gain. These actions are a far cry from what our Founders envisioned when they vested Congress with the "important trust" of considering impeachment.¹⁹ Precisely because it nullifies the outcome of the democratic process, impeachment of the President is fraught with the risk of deepening divisions in the country and creating long-lasting rifts in the body politic.²⁰ Unfortunately, you are now playing out exactly the partisan rush to judgment that the Founders so strongly warned against. The American people deserve much better than this.

III. There Is No Legitimate Basis for Your "Impeachment Inquiry"; Instead, the Committees' Actions Raise Serious Questions.

It is transparent that you have resorted to such unprecedented and unconstitutional procedures because you know that a fair process would expose the lack of any basis for your inquiry. Your current effort is founded on a completely appropriate call on July 25, 2019, between President Trump and President Zelenskyy of Ukraine. Without waiting to see what was actually said on the call, a press conference was held announcing an "impeachment inquiry" based on falsehoods and misinformation about the call.²¹ To rebut those falsehoods, and to provide transparency to the American people, President Trump secured agreement from the Government of Ukraine and took the extraordinary step of declassifying and publicly releasing the record of the call. That record clearly established that the call was completely appropriate, that the President did nothing wrong, and that there is no basis for an impeachment inquiry. At a joint press conference shortly after the call's public release, President Zelenskyy agreed that the call was appropriate.²² In addition, the Department of Justice announced that officials there had reviewed the call after a referral for an alleged campaign finance law violation and found no such violation.²³

Perhaps the best evidence that there was no wrongdoing on the call is the fact that, after the actual record of the call was released, Chairman Schiff chose to concoct a false version of the call and to read his made-up transcript to the American people at a public hearing.²⁴ This

¹⁸ 144 Cong. Rec. H1 1786 (daily ed. Dec. 18, 1998) (statement of Rep. Jerrold Nadler).

¹⁹ The Federalist No. 65 (Alexander Hamilton).

²⁰ See *id.*

²¹ Press Release, Nancy Pelosi, Pelosi Remarks Announcing Impeachment Inquiry (Sept. 24, 2019).

²² *President Trump Meeting with Ukrainian President*, C-SPAN (Sept. 25, 2019).

²³ Statement of Kerri Kupec, Director, Office of Public Affairs, Dept. of Justice (Sept. 25, 2019) ("[T]he Department's Criminal Division reviewed the official record of the call and determined, based on the facts and applicable law, that there was no campaign finance violation and that no further action was warranted.").

²⁴ See *Whistleblower Disclosure: Hearing Before the H. Select Comm. on Intel.*, 116th Cong. (Sept. 26, 2019) (statement of Rep. Adam Schiff).

powerfully confirms there is no issue with the actual call. Otherwise, why would Chairman Schiff feel the need to make up his own version? The Chairman's action only further undermines the public's confidence in the fairness of any inquiry before his Committee.

The real problem, as we are now learning, is that Chairman Schiff's office, and perhaps others—despite initial denials—were involved in advising the whistleblower before the complaint was filed. Initially, when asked on national television about interactions with the whistleblower, Chairman Schiff unequivocally stated that “[w]e have not spoken directly with the whistleblower. We would like to.”²⁵

Now, however, it has been reported that the whistleblower approached the House Intelligence Committee with information—and received guidance from the Committee—*before* filing a complaint with the Inspector General.²⁶ As a result, *The Washington Post* concluded that Chairman Schiff “clearly made a statement that was false.”²⁷ Anyone who was involved in the preparation or submission of the whistleblower's complaint cannot possibly act as a fair and impartial judge in the same matter—particularly after misleading the American people about his involvement.

All of this raises serious questions that must be investigated. However, the Committees are preventing anyone, including the minority, from looking into these critically important matters. At the very least, Chairman Schiff must immediately make available all documents relating to these issues. After all, the American people have a right to know about the Committees' own actions with respect to these matters.

* * *

Given that your inquiry lacks any legitimate constitutional foundation, any pretense of fairness, or even the most elementary due process protections, the Executive Branch cannot be expected to participate in it. Because participating in this inquiry under the current unconstitutional posture would inflict lasting institutional harm on the Executive Branch and lasting damage to the separation of powers, you have left the President no choice. Consistent with the duties of the President of the United States, and in particular his obligation to preserve the rights of future occupants of his office, President Trump cannot permit his Administration to participate in this partisan inquiry under these circumstances.

Your recent letter to the Acting White House Chief of Staff argues that “[e]ven if an impeachment inquiry were not underway,” the Oversight Committee may seek this information

²⁵ Interview with Chairman Adam Schiff, MSNBC (Sept. 17, 2019).

²⁶ Julian Barnes, et al., *Schiff Got Early Account of Accusations as Whistle-Blower's Concerns Grew*, N.Y. Times (Oct. 2, 2019).

²⁷ Glenn Kessler, *Schiff's False Claim His Committee Had Not Spoken to the Whistleblower*, Wash. Post (Oct. 4, 2019).

as a matter of the established oversight process.²⁸ Respectfully, the Committees cannot have it both ways. The letter comes from the Chairmen of three different Committees, it transmits a subpoena “[p]ursuant to the House of Representatives’ impeachment inquiry,” it recites that the documents will “be collected as part of the House’s impeachment inquiry,” and it asserts that the documents will be “shared among the Committees, as well as with the Committee on the Judiciary as appropriate.”²⁹ The letter is in no way directed at collecting information in aid of legislation, and you simply cannot expect to rely on oversight authority to gather information for an unauthorized impeachment inquiry that conflicts with all historical precedent and rides roughshod over due process and the separation of powers. If the Committees wish to return to the regular order of oversight requests, we stand ready to engage in that process as we have in the past, in a manner consistent with well-established bipartisan constitutional protections and a respect for the separation of powers enshrined in our Constitution.

For the foregoing reasons, the President cannot allow your constitutionally illegitimate proceedings to distract him and those in the Executive Branch from their work on behalf of the American people. The President has a country to lead. The American people elected him to do this job, and he remains focused on fulfilling his promises to the American people. He has important work that he must continue on their behalf, both at home and around the world, including continuing strong economic growth, extending historically low levels of unemployment, negotiating trade deals, fixing our broken immigration system, lowering prescription drug prices, and addressing mass shooting violence. We hope that, in light of the many deficiencies we have identified in your proceedings, you will abandon the current invalid efforts to pursue an impeachment inquiry and join the President in focusing on the many important goals that matter to the American people.

Sincerely,

Pat A. Cipollone
Counsel to the President

cc: Hon. Kevin McCarthy, Minority Leader, House of Representatives
Hon. Michael McCaul, Ranking Member, House Committee on Foreign Affairs
Hon. Devin Nunes, Ranking Member, House Permanent Select Committee on
Intelligence
Hon. Jim Jordan, Ranking Member, House Committee on Oversight and Reform

²⁸ Letter from Elijah E. Cummings, Chairman, House Committee on Oversight and Government Reform, et al., to John Michael Mulvaney, Acting Chief of Staff to the President 3 (Oct. 4, 2019).

²⁹ *Id.* at 1.



United States Department of State

Washington, D.C. 20520

January 22, 2020

The Honorable
Eliot L. Engel, Chairman
Committee on Foreign Affairs
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Engel:

Thank you for your January 15 letter expressing concern over the possible surveillance of a U.S. ambassador. The safety of the men and women who conduct diplomacy on behalf of the United States is a matter of critical importance to the Department. We are glad you share our passionate commitment to this principle.

The Department provided your senior committee staff a classified briefing on January 17 on the security of Department personnel and the U.S. Mission in Kiev. As indicated in the briefing, the Bureau of Diplomatic Security has been following this matter and coordinating with the Federal Bureau of Investigation (FBI) since the concerning information first became known to the Department late on January 14, the same time these messages were released to the public. We are aware that some Congressional personnel may have possessed copies of text messages pertaining to this possible surveillance as early as January 12, and that Congressional personnel may have additional relevant information in their possession as additional messages were released to the public late last week.

As you can understand, any effort by the Department to either investigate a potential security concern, or to take steps to ensure the safety of specific officials, relies on the timely transmission of all relevant information to the Diplomatic Security Service. For this reason, I ask that you please transmit as soon as possible any additional information that you or your colleagues may have which could assist us in further understanding, investigating, and responding to any potential threat to Department personnel or facilities. Any such information can be passed by Congressional personnel to the Department through the Offices of the Sergeants at Arms, which maintain close and continuing relationships with law enforcement agencies, including the Bureau of Diplomatic Security.

While the Department is not in a position to provide information involving investigations, we hope that the classified briefing provided to your staff on January 17 has accommodated the request for information contained in your January 15 letter. Should the committee have additional questions within the scope of the information discussed in the January 17 briefing with your staff, we would be happy to review and respond in the appropriate setting.

Thank you for supporting the Department's continued efforts to ensure the safety of its personnel.

Sincerely,



Brian J. Bulatao
Under Secretary of State for Management
U.S. Department of State

cc:

The Honorable
Michael T. McCaul, Ranking Member
Committee on Foreign Affairs
U.S. House of Representatives
Washington, DC 20515



United States Department of State

Washington, D.C. 20520

February 27, 2020

The Honorable
Eliot L. Engel, Chairman
Committee on Foreign Affairs
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your February 5 letter regarding U.S. Embassy Pretoria and Ambassador Lana Marks. The Department shares your commitment to addressing any allegations or evidence of misconduct by Department personnel, to include prohibited management practices or violations of applicable ethics rules.

The Department's interest and objective has always been to set the Ambassador up for success which includes ensuring that her conduct conforms to the traditionally high ethical standards of the Department of State. Immediately upon her confirmation and prior to her departure to post in November 2019, Department leadership ensured Ambassador Marks was briefed on the laws, rules, and regulations that would govern her service. As soon as the Department became aware of potential issues regarding her compliance with these policies and procedures, senior leaders engaged her directly to provide her additional guidance and direction, both before and after she arrived at post. Department leaders continue to provide guidance and support to the Ambassador and the personnel at Embassy Pretoria as necessary to ensure the mission's success.

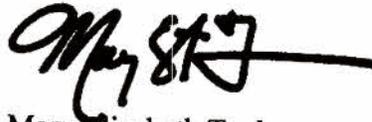
The Department has made a significant effort to substantively address the questions and concerns raised by your staff related to management practices and personnel matters at the Embassy. In November 2019, the Department responded to questions your staff sent by email confirming the Ambassador's son's status as a Member of Household (MOH) and detailing the relevant rules and regulations pertaining to MOHs at post. In January, the Department furnished additional, detailed responses to staff questions regarding the Ambassador's son, the Ambassador's social media use, and the voluntary curtailment and departure of the Deputy Chief of Mission in January.

The Department requested that the information not be shared publicly as it pertained to internal, sensitive personnel matters that are subject to privacy considerations. Considering these sensitivities as well as respecting the committee's important oversight role, the Department is prepared to consider providing the committee with additional information in response to specific and relevant inquiries so long as it can do so consistent with preserving the ability of the Department to duly execute its internal management obligations and protect the rights of all involved. Further, the Department would ask the committee to please share any information it

receives alleging prohibited conduct involving Department employees so that such allegations can be appropriately addressed as soon as possible.

We understand your staff and Ambassador Marks arranged to meet to discuss these issues this week. We look forward to working with the committee on these important matters.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary Elizabeth Taylor", with a long horizontal line extending to the right.

Mary Elizabeth Taylor
Assistant Secretary of State
Bureau of Legislative Affairs



United States Department of State

Washington, D.C. 20520

The Honorable
Eliot Engel, Chairman
Committee on Foreign Affairs
House of Representatives
Washington, DC 20515

JUL 16 2020

Dear Mr. Chairman:

In response to your May 4 letter, enclosed for your information are the two Department of State cables redacted pursuant to the Freedom of Information Act, under which they have been produced to plaintiffs and requestors.

In reviewing these records, please bear in mind that U.S. embassies around the world observe and report on many things: political conditions, economic conditions, developments in technology and human rights, among many other matters. This reporting includes developments in science and health care. Some embassies host personnel of U.S. technical agencies on the regular embassy staff. Even where such technical experts serve on embassy staff, there are also career Foreign Service officers who are trained to follow specific topics.

One of the enclosed cables (18 WUHAN 38) was written based upon a field visit by two such Foreign Service officers. The other enclosed cable (18 BEIJING 138) was not based upon a specific field visit, but was written by non-technical embassy staff, and represents a survey of historical and current information gathered from open sources and Embassy Beijing contacts along with limited impressions of embassy staff. These cables were reviewed by USG experts attached to the Embassy, who work on these matters on a regular and continuing basis. These cables are now two years old, and as with all topical reporting from U.S. embassies, represent a snapshot of observations at the time of their writing.

Should you need further assistance, please do not hesitate to contact us.

Sincerely,

Ryan M. Kaldahl
Acting Assistant Secretary
Bureau of Legislative Affairs

Enclosures: As stated.

Cc:

The Honorable
Michael McCaul, Ranking Member
Committee on Foreign Affairs

UNCLASSIFIED
SBU



MRN: 18 BEIJING 138
Date/DTG: Jan 19, 2018 / 190739Z JAN 18
From: AMEMBASSY BEIJING
Action: WASHDC, SECSTATE *ROUTINE*
E.O.: 13526
TAGS: SHLH, ETRD, ECON, PGOV, CN
Captions: SENSITIVE
Reference: 17 WUHAN 48
Subject: China Opens First Bio Safety Level 4 Laboratory

1. (SBU) **Summary and Comment:** The Chinese Academy of Sciences (CAS) has recently established what is reportedly China's first Biosafety Level 4 (BSL-4) laboratory in Wuhan. This state-of-the-art facility is designed for prevention and control research on diseases that require the highest level of biosafety and biosecurity containment. Ultimately, scientists hope the lab will contribute to the development of new antiviral drugs and vaccines, but its current productivity is limited by a shortage of the highly trained technicians and investigators required to safely operate a BSL-4 laboratory and a lack of clarity in related Chinese government policies and guidelines. (b)(5)

(b)(5)

(b)(5) End Summary and Comment.

China Investing in Infectious Disease Control

2. (U) Between November 2002 and July 2003, China faced an outbreak of Severe Acute Respiratory Syndrome (SARS), which, according to the World Health Organization, resulting in 8,098 cases and leading to 774 deaths reported in 37 countries. A majority of cases occurred in China, where the fatality rate was 9.6%. This incident convinced China to prioritize international cooperation for infectious disease control. An aspect of this prioritization was China's work with the Jean Merieux BSL-4 Laboratory in Lyon, France, to build China's first high containment laboratory at Wuhan's Institute of Virology (WIV), an institute under the auspices of the Chinese Academy of Sciences (CAS). Construction took 11 years and \$44 million USD, and construction on the facility was completed on January 31, 2015. Following

two years of effort, which is not unusual for such facilities, the WIV lab was accredited in February 2017 by the China National Accreditation Service for Conformity Assessment. It occupies four floors and consists of over 32,000 square feet. WIV leadership now considers the lab operational and ready for research on class-four pathogens (P4), among which are the most virulent viruses that pose a high risk of aerosolized person-to-person transmission.

Unclear Guidelines on Virus Access and a Lack of Trained Talent Impede Research

3. (SBU) In addition to accreditation, the lab must also receive permission from the National Health and Family Planning Commission (NHFPC) to initiate research on specific highly contagious pathogens. According to some WIV scientists, it is unclear how NHFPC determines what viruses can or cannot be studied in the new laboratory. To date, WIV has obtained permission for research on three viruses: Ebola virus, Nipah virus, and Xinjiang hemorrhagic fever virus (a strain of Crimean Congo hemorrhagic fever found in China's Xinjiang Province). Despite this permission, however, the Chinese government has not allowed the WIV to import Ebola viruses for study in the BSL-4 lab. Therefore, WIV scientists are frustrated and have pointed out that they won't be able to conduct research project with Ebola viruses at the new BSL-4 lab despite of the permission.

(b)(6)

(b)(6) Thus, while the BSL-4 lab is ostensibly fully accredited, its utilization is limited by lack of access to specific organisms and by opaque government review and approval processes. As long as this situation continues, Beijing's commitment to prioritizing infectious disease control - on the regional and international level, especially in relation to highly pathogenic viruses, remains in doubt.

(b)(6) noted that the new lab has a serious shortage of appropriately trained technicians and investigators needed to safely operate this high-containment laboratory. University of Texas Medical Branch in Galveston (UTMB), which has one of several well-established BSL-4 labs in the United States (supported by the National Institute of Allergy and Infectious Diseases (NIAID of NIH)), has scientific collaborations with WIV, which may help alleviate this talent gap over time. Reportedly, researchers from GTMB are helping train technicians who work in the WIV BSL-4 lab. Despite this, (b)(6) they would welcome more help from U.S. and international organizations as they establish "gold standard" operating procedures and training courses for the first time in China. As China is building more BSL-4 labs, including one in Harbin Veterinary Research Institute subordinated to the Chinese Academy of Agricultural Sciences (CAAS) for veterinary research use (b)(6) the training for technicians and investigators working on dangerous pathogens will certainly be in demand.

Despite Limitations, WIV Researchers Produce SARS Discoveries

6. (SBU) The ability of WIV scientists to undertake productive research despite limitations on the use of the new BSL-4 facility is demonstrated by a recent publication on the origins of SARS. Over a five-year study, (b)(6) (and their research team) widely sampled bats in Yunnan province with funding support from NIAID/NIH, USAID, and several Chinese funding agencies. The study results were published in PLoS Pathogens online on Nov. 30, 2017 (1), and it demonstrated that a SARS-like coronaviruses isolated from horseshoe bats in a single cave contain all the building blocks of the pandemic SARS-coronavirus genome that caused the human outbreak. These results strongly suggest that the highly pathogenic SARS-coronavirus originated in this bat population. Most importantly, the researchers also showed that various SARS-like coronaviruses can interact with ACE2, the human receptor identified for SARS-coronavirus. This finding strongly suggests that SARS-like coronaviruses from bats can be transmitted to humans to cause SARS-like disease. From a public health perspective, this makes the continued surveillance of SARS-like coronaviruses in bats and study of the animal-human interface critical to future emerging coronavirus outbreak prediction and prevention. (b)(5) (b)(5) WIV scientists are allowed to study the SARS-like coronaviruses isolated from bats while they are precluded from studying human-disease causing SARS coronavirus in their new BSL-4 lab until permission for such work is granted by the NHFCP.

1. Hu B, Zeng L-P, Yang X-L, Ge X-Y, Zhang W, Li B, et al. (2017) Discovery of a rich gene pool of bat SARS-related coronaviruses provides new insights into the origin of SARS coronavirus. PLoS Pathog 13(11): e1006698. <https://doi.org/10.1371/journal.ppat.1006698>

Signature: BRANSTAD

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MRN: 18 WUHAN 38
Date/DTG: Apr 19, 2018 / 190551Z APR 18
From: AMCONSUL WUHAN
Action: WASHDC, SECSTATE *ROUTINE*
E.O.: 13526
TAGS: SHLH, PGOV, CN, PREL, TBIO, KGHI, CDC, EAID, KHIV, IN, JP, TW, TSPL, PINS, SENV
Captions: SENSITIVE
Reference: A) 18 BEIJING 138
 B) 17 BEIJING 2458
 C) 11 MUMBAI 630
 D) 17 TOKYO 716
 E) 13 SEOUL 790
Subject: China Virus Institute Welcomes More U.S. Cooperation on Global Health Security

1. (SBU) **Summary with Comment:** China's Wuhan Institute of Virology, a global leader in virus research, is a key partner for the United States in protecting global health security. Its role as operator of the just-launched Biosafety Level 4 (or "P4") lab -- the first such lab in China -- opens up even more opportunities for expert exchange, especially in light of the lab's shortage of trained staff (Ref A). (b)(5)

(b)(5)

(b)(5) **End Summary with Comment.**

2. (U) Wuhan Institute of Virology researchers and staff gave an overview of the lab and current cooperation with the United States to visiting Environment, Science, Technology and Health Counsellor Rick Switzer and Consulate Wuhan Consul General Jamie Fouss in late March. In the last year, the institute has also hosted visits from the National Institutes of Health (NIH), National Science Foundation, and experts from the University of Texas Medical Branch in Galveston. The institute reports to the Chinese Academy of Sciences in Beijing.

P4 Lab is Open and Transparent, Officials Emphasize

3. (SBU) The Wuhan P4 lab, referring to labs with the highest level of safety precautions, became fully operational and began working with live viruses early this year. Institute officials said they believed it is the only operational P4 lab in Asia aside from a U.S. Centers for Disease

Control (CDC)-supported facility in Pune, India (Ref C). China plans to stand up a second P4 lab in Harbin. Institute officials said Japan's biosafety labs are "old" and lack cutting-edge equipment, so they consider Japan's labs to be "P3 Plus" (Note: the Japanese government says it has one P4-level lab in the Tokyo suburbs, though its activities are limited, and Japan is building a new P4 lab in Nagasaki, see Ref D. Taiwan operates at least one P4 lab. South Korea was close to opening a P4 lab as of last year, see Ref E. End.Note.) Wuhan's lab is located about 20 miles from the city center in Zhengdian district, and the institute plans to gradually consolidate its other training, classroom and lab facilities at that location.

4. (U) Officials described the lab as a "regional node" in the global biosafety system and said it would play an emergency response role in an epidemic or pandemic. The lab's English brochure highlighted a national security role, saying that it "is an effective measure to improve China's availability in safeguarding national bio-safety if [a] possible biological warfare or terrorist attack happens."

5. (SBU) Institute officials said there would be "limited availability" for international and domestic scientists who had gone through the necessary approval process to do research at the lab. They stressed that the lab aimed to be a "worldwide, open platform" for virology. They said they welcomed U.S. Centers for Disease Control (CDC) experts, noting that the Chinese Academy of Sciences was not strong on human disease expertise, having only focused on it in the last 15 years, after the SARS outbreak. A Wuhan-based French consulate official who works on science and technology cooperation with China also emphasized that the lab, which was initiated in 2004 as a France-China joint project, was meant to be "open and transparent" to the global scientific community. "The intent was to set up a lab to international standards, and open to international research," he said. French experts have provided guidance and biosafety training to the lab, which will continue, the French official said. Institute officials said that France provided the lab's design and much of its technology, but that it is entirely China-funded and has been completely China-run since a "handover" ceremony in 2016.

6. (U) In addition to French assistance, experts from the NIH-supported P4 lab at the University of Texas Medical Branch in Galveston have trained Wuhan lab technicians in lab management and maintenance, institute officials said. The Wuhan institute plans to invite scientists from the Galveston lab to do research in Wuhan's lab. One Wuhan Institute of Virology researcher trained for two years at the Galveston lab, and the institute also sent one scientist to U.S. CDC headquarters in Atlanta for six months' work on influenza.

NIH-Supported Research Revises SARS Origin Story

7. (U) NIH was a major funder, along with the Natural Science Foundation of China (NSFC), of SARS research by the Wuhan Institute of Virology's (b)(6) (b)(6) (b)(6) (b)(6) This lends weight to the theory that SARS originated in bat populations before jumping first to civet cats (likely via bat feces) and then to humans, (b)(6) (b)(6) (b)(6) (b)(6)

(b)(6)
(b)(6) team has provided support in statistical modeling to assess the risk of more coronaviruses like SARS crossing over to human populations.

Ready to Help with the Global Virome Project

8. (U) Institute officials expressed strong interest in the Global Virome Project (GVP), and said Chinese funding for the project would likely come from Chinese Academy of Sciences funding already earmarked for One Belt, One Road-related initiatives. The GVP aims to launch this year as an international collaborative effort to identify within ten years virtually all of the planet's viruses that have pandemic or epidemic potential and the ability to jump to humans. "We hope China will be one of the leading countries to initiate the Global Virome Project," one Wuhan Institute of Virology official said. China attended a GVP unveiling meeting in January in Thailand and is waiting for more details on the initiative. The officials said that the Chinese government funds projects similar to GVP to investigate the background of viruses and bacteria. This essentially constituted China's own Virome Project, officials said, but they noted the program currently has no official name.

9. (SBU) The Wuhan Institute of Virology's (b)(6) is the (b)(6) (b)(6) (b)(6) which is designed to show "proof of concept" and be a forerunner to the Global Virome Project. (b)(6) with the EcoHealth Alliance (a New York City-based NGO that is working with the University of California, Davis to manage the (b)(6) recently planned to visit Wuhan to meet with (b)(6) (b)(6) noted that China has expressed interest in building the GVP database, which would put China in a leadership position. Other countries have confidence in China's ability to build such a database, but are skeptical on whether China could remain transparent as a "gatekeeper" for this information. (b)(6) said (b)(6) expressed frustration with the slow progress so far in launching GVP, noting that the effort lacked funding sources, needed to hire a CEO, and would have to boost its profile at G7, G20 and other high-level international meetings.

U.S.-China Workshop Explores Research Partnerships

10. (U) The Institute also has ongoing collaboration with the U.S. National Science Foundation, including a just-concluded workshop in Shenzhen, involving about 40 scientists from the United States and China, on the topic of the "Ecology and Evolution of Infectious Diseases." Co-sponsored by the Natural Science Foundation of China (NSFC), (b)(6) (b)(6) (b)(6) The workshop explored opportunities for U.S.-China research cooperation in areas like using "big data" to predict emerging infectious diseases, climate change's effect on vector-borne diseases, and pathogen transmission between wildlife, domestic animals and humans.

11. (SBU) Some workshop participants also expressed skepticism about the Global Virome Project's (GVP) approach, saying that gaining a predictive understanding of viruses with pandemic potential would require going beyond the GVP's strategy of sample collection, to take an "ecological" approach that considers the virome beyond vertebrate systems to identify

mechanisms driving pathogen evolution. A follow-on workshop will be held in June at the University of Berkeley. NSF and NSFC hope to jointly announce a funding call for collaborative projects later this year.

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United States Department of State

Washington, D.C. 20520

MAY 12 2020

The Honorable
Eliot L. Engel, Chairman
House Foreign Affairs Committee
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your April 22 and April 27 letters regarding the World Health Organization (WHO) and the global fight against the COVID-19 pandemic.

The United States provides over \$400 million each year to the WHO, a figure ten times the amount that China provides to the organization. As the largest contributors to the WHO by far, the United States and its taxpayers have a vital interest in the WHO's performance, transparency, and accountability. All member countries, especially the United States, deserve to have confidence in the WHO's objectivity and independence as it seeks to fulfill its global mandate to prepare for and respond to disease outbreaks and public health emergencies.

Unfortunately, the WHO's many apparent mismanagement steps in the early response to the COVID-19 outbreak casts serious doubt on its objectivity, independence, and effectiveness.

- On December 31, 2019, Taiwan contacted the WHO regarding reports of human-to-human transmission of the coronavirus, but the WHO did not share that information with its member states.
- On January 14, official WHO social media amplified reporting of Chinese authorities that there was "no clear evidence of human-to human transmission of the novel #coronavirus (2019-nCov) identified in #Wuhan, #China," even after the report from Taiwan and as doctors in Wuhan were warning there was human-to-human transmission. The WHO was ultimately forced to revisit this judgment shortly thereafter in light of the evidence.
- On January 22, the WHO decided that the coronavirus did not pose a Public Health Emergency of International Concern, only to be compelled to change course on January 30 in the face of the evidence.
- On January 30, even as Chinese officials were not providing accurate data or providing critical physical access to officials from the U.S. Center for Disease Control and Prevention or the WHO, the head of the WHO went out of his way to praise China, stating that "the speed with which China detected the outbreak, isolated the virus, and sequenced the genome and shared it with WHO and the world are very impressive and beyond words. So is China's commitment to transparency and to supporting other countries." There is no evidence to date to suggest China's record in dealing with COVID-19 or its transparency are so impressive as to be "beyond words."
- It was not until March 11 after the virus had killed more than 4,000 people and infected more than 100,000 people worldwide that the WHO declared COVID-19 a global pandemic.

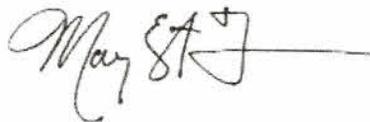
- Lastly, the International Health Regulations require countries to notify the WHO of an event that may constitute a public health emergency concern like COVID-19 and to provide the WHO timely, accurate, and sufficiently detailed public health information available. We have grave concerns that this mandatory reporting to the WHO did not happen in a timely manner with respect to China and its reporting to the WHO about the deadly coronavirus. It remains to be seen whether all of the data provided by China to the WHO was unreliable and went unchallenged by the WHO or if only some of the data was.

Therefore, on April 14, President Trump announced a pause in the provision of additional funding to WHO for 60 to 90 days while a full review of the WHO's performance during its initial response to COVID-19 is undertaken, including its relationship with China. This review process is under development and will include all relevant USG Departments. It will examine WHO's early response to the outbreak, such as the timing of WHO actions in relation to its declaration of a public health emergency of international concern (PHEIC), and the unfounded criticism of U.S. efforts to address the outbreak and protect the American people, through U.S. restrictions on travel from China to the United States.

The objective of the United States is to refocus the WHO on fulfilling its core public health mission of prevention, preparedness, and response, stopping outbreaks at their source, and effectively coordinating with stakeholders. The United States will advocate for reforms to improve and strengthen the way the WHO can restore the public's trust in it to handle this pandemic and future public health crises. These reforms would aim to improve transparency and data sharing, hold member states accountable for abiding by the International Health Regulations, increase access to medicines, ensure against undue influence, and restore independence to the organization.

The United States is fully invested in working with the global community to respond to this pandemic and is leading the world's humanitarian and health response to the COVID-19 pandemic. About \$900 million in emergency health, humanitarian, and economic assistance has been committed by the U.S. Government in addition to the funding already provided to multilateral and non-governmental organizations (NGOs) are helping communities around the world respond to the pandemic. During the review period for WHO, the Department of State, USAID, and the Department of Health and Human Service will work to identify potential alternative implementers to redirect global health funding to the types of activities the WHO would have undertaken with American resources during this period.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary Elizabeth Taylor". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Mary Elizabeth Taylor
Assistant Secretary
Bureau of Legislative Affairs



United States Department of State

Washington, D.C. 20520

May 20, 2020

The Honorable
Eliot Engel, Chairman
House Foreign Affairs Committee
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your April 22 and April 27 letters regarding the World Health Organization (WHO) and the global fight against the COVID-19 pandemic.

The United States provides over \$400 million each year to the WHO, a figure ten times the amount that China provides to the organization. As the largest contributor to the WHO by far, the United States and its taxpayers have a vital interest in the WHO's performance, transparency, and accountability. All member countries, especially the United States, deserve to have confidence in the WHO's objectivity and independence as it seeks to fulfill its global mandate to prepare for and respond to disease outbreaks and public health emergencies.

Unfortunately, the WHO's many apparent mismanagement steps in the early response to the COVID-19 outbreak casts serious doubt on its objectivity, independence and effectiveness. Therefore, on April 14, President Trump announced a pause in the provision of additional funding to WHO while a full review of the WHO's performance during its initial response to COVID-19 was undertaken, including its relationship with China.

In a May 18 letter sent by President Trump to the Director General of the WHO, Dr. Tedros Adhanom Ghebreyesus, the President wrote that "this review has confirmed many of the serious concerns I raised last month and identified others that the World Health Organization should have addressed, especially the World Health Organization's alarming lack of independence from the People's Republic of China." The President's May 18 letter, which is enclosed, provides a detailed timeline of WHO's failures in responding to the pandemic and outlines the way forward.

The United States is fully invested in working with the global community to respond to this pandemic and is leading the world's humanitarian and health response to the COVID-19 pandemic. The Secretary of State outlined on May 20 the latest U.S. commitment of an additional \$162 million for COVID-19 response. The United States has committed more than \$1

people looks forward to the WHO making those reforms necessary to allow that organization to rejoin the fight against COVID-19 as a valued partner of the United States.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary Elizabeth Taylor". The signature is stylized and includes a long horizontal line extending to the right.

Mary Elizabeth Taylor
Assistant Secretary
Bureau of Legislative Affairs
Department of State



THE WHITE HOUSE
WASHINGTON

May 18, 2020

His Excellency
Dr. Tedros Adhanom Ghebreyesus
Director-General of the World Health Organization
Geneva, Switzerland

Dear Dr. Tedros:

On April 14, 2020, I suspended United States contributions to the World Health Organization pending an investigation by my Administration of the organization's failed response to the COVID-19 outbreak. This review has confirmed many of the serious concerns I raised last month and identified others that the World Health Organization should have addressed, especially the World Health Organization's alarming lack of independence from the People's Republic of China. Based on this review, we now know the following:

- The World Health Organization consistently ignored credible reports of the virus spreading in Wuhan in early December 2019 or even earlier, including reports from the Lancet medical journal. The World Health Organization failed to independently investigate credible reports that conflicted directly with the Chinese government's official accounts, even those that came from sources within Wuhan itself.
- By no later than December 30, 2019, the World Health Organization office in Beijing knew that there was a "major public health" concern in Wuhan. Between December 26 and December 30, China's media highlighted evidence of a new virus emerging from Wuhan, based on patient data sent to multiple Chinese genomics companies. Additionally, during this period, Dr. Zhang Jixian, a doctor from Hubei Provincial Hospital of Integrated Chinese and Western Medicine, told China's health authorities that a new coronavirus was causing a novel disease that was, at the time, afflicting approximately 180 patients.
- By the next day, Taiwanese authorities had communicated information to the World Health Organization indicating human-to-human transmission of a new virus. Yet the World Health Organization chose not to share any of this critical information with the rest of the world, probably for political reasons.
- The International Health Regulations require countries to report the risk of a health emergency within 24 hours. But China did not inform the World Health Organization of

Wuhan's several cases of pneumonia, of unknown origin, until December 31, 2019, even though it likely had knowledge of these cases days or weeks earlier.

- According to Dr. Zhang Yongzhen of the Shanghai Public Health Clinic Center, he told Chinese authorities on January 5, 2020, that he had sequenced the genome of the virus. There was no publication of this information until six days later, on January 11, 2020, when Dr. Zhang self-posted it online. The next day, Chinese authorities closed his lab for “rectification.” As even the World Health Organization acknowledged, Dr. Zhang’s posting was a great act of “transparency.” But the World Health Organization has been conspicuously silent both with respect to the closure of Dr. Zhang’s lab and his assertion that he had notified Chinese authorities of his breakthrough six days earlier.
- The World Health Organization has repeatedly made claims about the coronavirus that were either grossly inaccurate or misleading.
 - On January 14, 2020, the World Health Organization gratuitously reaffirmed China’s now-debunked claim that the coronavirus could not be transmitted between humans, stating: “Preliminary investigations conducted by the Chinese authorities have found no clear evidence of human-to-human transmission of the novel coronavirus (2019-nCov) identified in Wuhan, China.” This assertion was in direct conflict with censored reports from Wuhan.
 - On January 21, 2020, President Xi Jinping of China reportedly pressured you not to declare the coronavirus outbreak an emergency. You gave in to this pressure the next day and told the world that the coronavirus did not pose a Public Health Emergency of International Concern. Just over one week later, on January 30, 2020, overwhelming evidence to the contrary forced you to reverse course.
 - On January 28, 2020, after meeting with President Xi in Beijing, you praised the Chinese government for its “transparency” with respect to the coronavirus, announcing that China had set a “new standard for outbreak control” and “bought the world time.” You did not mention that China had, by then, silenced or punished several doctors for speaking out about the virus and restricted Chinese institutions from publishing information about it.
- Even after you belatedly declared the outbreak a Public Health Emergency of International Concern on January 30, 2020, you failed to press China for the timely admittance of a World Health Organization team of international medical experts. As a result, this critical team did not arrive in China until two weeks later, on February 16, 2020. And even then, the team was not allowed to visit Wuhan until the final days of their visit. Remarkably, the World Health Organization was silent when China denied the two American members of the team access to Wuhan entirely.
- You also strongly praised China’s strict domestic travel restrictions, but were inexplicably against my closing of the United States border, or the ban, with respect to people coming from China. I put the ban in place regardless of your wishes. Your political gamesmanship on this issue was deadly, as other governments, relying on your

comments, delayed imposing life-saving restrictions on travel to and from China. Incredibly, on February 3, 2020, you reinforced your position, opining that because China was doing such a great job protecting the world from the virus, travel restrictions were “causing more harm than good.” Yet by then the world knew that, before locking down Wuhan, Chinese authorities had allowed more than five million people to leave the city and that many of these people were bound for international destinations all over the world.

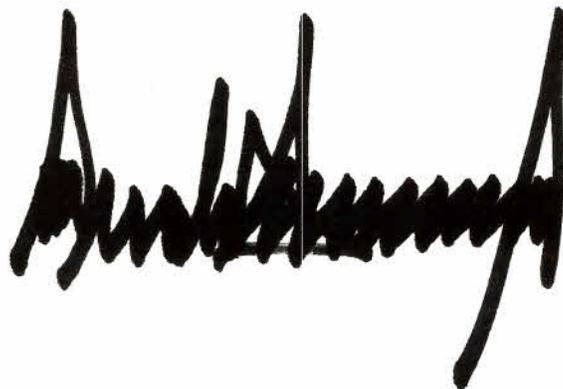
- As of February 3, 2020, China was strongly pressuring countries to lift or forestall travel restrictions. This pressure campaign was bolstered by your incorrect statements on that day telling the world that the spread of the virus outside of China was “minimal and slow” and that “the chances of getting this going to anywhere outside China [were] very low.”
- On March 3, 2020, the World Health Organization cited official Chinese data to downplay the very serious risk of asymptomatic spread, telling the world that “COVID-19 does not transmit as efficiently as influenza” and that unlike influenza this disease was not primarily driven by “people who are infected but not yet sick.” China’s evidence, the World Health Organization told the world, “showed that only one percent of reported cases do not have symptoms, and most of those cases develop symptoms within two days.” Many experts, however, citing data from Japan, South Korea, and elsewhere, vigorously questioned these assertions. It is now clear that China’s assertions, repeated to the world by the World Health Organization, were wildly inaccurate.
- By the time you finally declared the virus a pandemic on March 11, 2020, it had killed more than 4,000 people and infected more than 100,000 people in at least 114 countries around the world.
- On April 11, 2020, several African Ambassadors wrote to the Chinese Foreign Ministry about the discriminatory treatment of Africans related to the pandemic in Guangzhou and other cities in China. You were aware that Chinese authorities were carrying out a campaign of forced quarantines, evictions, and refusal of services against the nationals of these countries. You have not commented on China’s racially discriminatory actions. You have, however, baselessly labeled as racist Taiwan’s well-founded complaints about your mishandling of this pandemic.
- Throughout this crisis, the World Health Organization has been curiously insistent on praising China for its alleged “transparency.” You have consistently joined in these tributes, notwithstanding that China has been anything but transparent. In early January, for example, China ordered samples of the virus to be destroyed, depriving the world of critical information. Even now, China continues to undermine the International Health Regulations by refusing to share accurate and timely data, viral samples and isolates, and by withholding vital information about the virus and its origins. And, to this day, China continues to deny international access to their scientists and relevant facilities, all while casting blame widely and recklessly and censoring its own experts.

- The World Health Organization has failed to publicly call on China to allow for an independent investigation into the origins of the virus, despite the recent endorsement for doing so by its own Emergency Committee. The World Health Organization's failure to do so has prompted World Health Organization member states to adopt the "COVID-19 Response" Resolution at this year's World Health Assembly, which echoes the call by the United States and so many others for an impartial, independent, and comprehensive review of how the World Health Organization handled the crisis. The resolution also calls for an investigation into the origins of the virus, which is necessary for the world to understand how best to counter the disease.

Perhaps worse than all these failings is that we know that the World Health Organization could have done so much better. Just a few years ago, under the direction of a different Director-General, the World Health Organization showed the world how much it has to offer. In 2003, in response to the outbreak of the Severe Acute Respiratory Syndrome (SARS) in China, Director-General Harlem Brundtland boldly declared the World Health Organization's first emergency travel advisory in 55 years, recommending against travel to and from the disease epicenter in southern China. She also did not hesitate to criticize China for endangering global health by attempting to cover up the outbreak through its usual playbook of arresting whistleblowers and censoring media. Many lives could have been saved had you followed Dr. Brundtland's example.

It is clear the repeated missteps by you and your organization in responding to the pandemic have been extremely costly for the world. The only way forward for the World Health Organization is if it can actually demonstrate independence from China. My Administration has already started discussions with you on how to reform the organization. But action is needed quickly. We do not have time to waste. That is why it is my duty, as President of the United States, to inform you that, if the World Health Organization does not commit to major substantive improvements within the next 30 days, I will make my temporary freeze of United States funding to the World Health Organization permanent and reconsider our membership in the organization. I cannot allow American taxpayer dollars to continue to finance an organization that, in its present state, is so clearly not serving America's interests.

Sincerely,

A large, bold, handwritten signature in black ink, characteristic of Donald Trump's signature style, consisting of several sharp peaks and a long, sweeping tail.