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UNITED STATES OF AMERICA

1. What is the title, rank and position of the Legal Adviser?

The Legal Adviser of the U.S. Department of State has the formal rank of an Assistant Secretary of State. The Legal Adviser heads the Office of the Legal Adviser, a separate operating bureau of the Department, and functions as the principal adviser on all legal matters, domestic and international, to the Department of State, including the Foreign Service and diplomatic and consular posts abroad. The Legal Adviser is also the principal adviser on legal matters relating to the conduct of foreign relations, to other agencies and, through the Secretary of State, to the President and the National Security Council. The Legal Adviser is a Presidential appointee subject to confirmation by the U.S. Senate. The position of Legal Adviser of the Department of State was first established by the U.S. Congress in a statute adopted in 1931, although predecessor positions (Solicitor and Examiner of Claims) can be traced back to the mid-19th century.

2. What are the principal functions of the OLA?

The Office provides legal advice and services to the senior leadership of the Department of State and all its operating components on issues arising in the conduct of foreign affairs. The objective is to ensure compliance with applicable domestic law related to the foreign affairs function as well as the international legal obligations of the United States. Much of the work is advisory, but members of the Office are often actively involved in the formulation as well as implementation of policies and programs. Department lawyers frequently serve on or even lead delegations to international negotiations and conferences and represent the United States before international courts and tribunals.

The Office also provides advice within the U.S. government on questions of public international law. Its members have special expertise and responsibility for the negotiation, interpretation and ratification of treaties and other international agreements. The Office represents the United States, as agent, before international courts and tribunals (including the ICJ and the Iran-US Claims Tribunal). As in many other governments, it endeavors to ensure consistency in positions taken on issues of international law, especially in the negotiation of treaties and before international courts and tribunals. Members of the Office prepare the annual Digest of U.S. Practice in International Law.

3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

The Office of the Legal Adviser currently comprises approximately 265 fulltime employees, including 196 attorneys formally admitted to the practice of law, all of who have Juris Doctor (or equivalent) degrees and many of who have advanced (specialized) degrees in international law. 106 of the 196 are female and, of our 25 Senior Executive Service level attorneys, 11 are female. Other members include highly qualified paralegals, treaty analysts, information technology specialists, and budget, administrative, and other support personnel and they are roughly split 50/50 between the genders.

State Department lawyers are typically recruited from outside the government or from other government agencies and serve as members of the Civil Service (not part of the foreign or diplomatic service). The selection process for positions within the Office is intensely competitive. On occasion, appropriately qualified members of the Foreign Service may serve tours in the Office and members of the Office may leave to join the Foreign Service or other parts of the international affairs community.

With only a few exceptions, attorneys are based in Washington. Three attorneys are currently assigned to the U.S. Mission to the United Nations (New York), two to the U.S. Mission to International Organizations (Geneva), two to the U.S. Embassy in The Hague, one assigned to the U.S. Mission to the European Union (Brussels), and one assigned to the U.S. Embassy in Kabul. Recently, attorneys have been temporarily assigned to the U.S. Embassy in Baghdad. New attorneys typically rotate assignments within the Office after 2 years, and periodically thereafter, to broaden their experience and take on new challenges. Outside rotational assignments can include the National Security Council, other federal agencies, the U.S. Congress, as well as secondments to international organizations.

In addition to its full-time attorneys, the Office is able to draw on the services of outside experts (for example, professors of law or practicing specialists) in various international legal fields as consultants, when needed.

4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?

The U.S. government has a number of laws and regulations to promote diversity, including anti-discrimination laws and appointing authorities designed to facilitate the hiring of individuals with disabilities and veterans. The Office of the Legal Adviser follows all of these laws and regulations. Additionally, our Attorney Recruitment Committee is reaching out to an ever-widening range of law schools in order to promote diversity in the bureau.

5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?

The Department of State has a strong mandatory leadership and management training continuum that includes segments on diversity in the workplace that every attorney takes. Also, when promoted into the Senior Executive Service, attorneys must attend additional mandatory supervisory training, which continues to build on this diversity training.

6. Briefly describe the organisation and structure of the OLA.

The Legal Adviser reports directly to the Secretary of State. Currently, five Deputy Legal Advisers supervise some 23 Assistant Legal Advisers, who are experienced senior attorneys charged with managing one of the regional or functional offices described below (which vary in size from two to twenty staff attorneys). An Executive Director is responsible for overall management, budget, administrative, personnel, records management, and information resources support.

The Office is organized to provide direct legal support to the Department of State's various operating bureaus. This structure is intended to ensure the most timely and effective advice and to foster close attorney-client relationships.

- Thus, each of the Department's regional bureaus (Africa, East Asia and Pacific, Europe, Near East Asia, South and Central Asia, Western Hemisphere) has a

counterpart Assistant Legal Adviser and staff to assist in dealing with the broad range of issues arising in a regional or bilateral context.

- Dedicated components headed by Assistant Legal Advisers also support the various functional bureaus with worldwide responsibilities. These functional legal offices include Nonproliferation and Arms Control; Consular Affairs; Economic and Business Affairs; Human Rights and Refugees; Law Enforcement and Intelligence; Oceans, International Environmental and Scientific Affairs; Political-Military Affairs; Public Diplomacy; and United Nations Affairs).
- Several components of the Office focus on issues of general application to the Department's foreign affairs function, such as Diplomatic Law and Litigation (privileges and immunities, recognition, status of international organizations, litigation in U.S. and foreign courts); Private International Law (harmonization and codification of private law in such areas as international business transactions, arbitration, trusts, international child abduction and inter-country adoption, international negotiable instruments and the liability of operators of transport terminals); and Treaty Affairs (treaty law and procedure, including drafting, negotiating, applying, interpreting and publishing treaties and other international agreements of the United States; and constitutional questions including the relative powers of the President and the Congress regarding treaties and executive agreements).
- Over the past several years, a growing proportion of the Office's resources have been devoted to legal issues related to the overall management and operation of the Department as a government agency, rather than to international law. These practice areas now include Legislation and Foreign Assistance and Management (administrative and budget, appropriations, Freedom of Information); Buildings and Acquisitions (federal contracts, acquisition and development of real property abroad); Employment Law (human resources and labor relations, employee grievances); and Ethics (including professional responsibility issues and the financial disclosure reporting program).
- The largest single component, finally, is the Office of International Claims and Investment Disputes, which was initially established to handle claims before the Iran-U.S. Claims Tribunal and has since expanded to encompass virtually all claims under international law by the U.S. and its nationals against foreign governments, and by foreign nationals and governments against the U.S. Government. In addition to handling claims relating to expropriation and other property and investment disputes, and issues of state responsibility for denial of justice, wrongful death, and personal injury, this component handles claims before the UN Compensation Commission as well as the arbitration of investment claims under NAFTA and other agreements.

7. What is the OLA's place within the Ministry of Foreign Affairs?

The Office of the Legal Adviser is a separate operating bureau within the Department.

8. What are the main contacts of the OLA within Government?

The Office deals on a daily basis with a broad range of federal government departments, offices and agencies involved in the foreign affairs, national security, and law enforcement communities, including most frequently the Counsel to the President, the Legal Adviser to the National Security Council, the Department of Justice and the General Counsels of the Departments of Defense (including the various military services), Homeland Security, Commerce and the Treasury, the U.S. Trade Representative, and the Agency for International Development.

9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.

Members of the Office are in frequent contact with private practitioners on matters pertaining to the Department's work, including litigation, arbitration, contracts, and other regulatory issues. Indeed, many attorneys have come to the Office from private practice and many, upon leaving, go to law firms or corporate law offices.

The Office has traditionally had strong links to the academic community in the field of international law. A number of professors serve as consultants; often, a highly qualified academic holds a fulltime appointment within the Office as Counselor on International Law. A number of attorneys have left the Office and government service to pursue teaching careers in American and foreign law schools.

Practitioners and academics serve on the Secretary of State's Advisory Committees on Public and Private International Law, which function as consultative bodies on legal issues of current interest and debate under the guidance of the Legal Adviser.

Members of the Office are often active in the various professional societies concerned with international law, including in particular the American Society of International Law, the American Bar Association's Section of International Law and Practice, the American Branch of the International Bar Association, and the Inter-American Bar Association, as well as state and local bar associations, committees, and other groups. Lawyers are permitted to participate in professional and academic conferences and symposia in the legal and foreign policy communities, and to teach and publish in the field of international law, subject to certain ethical restrictions. At any given time, a number of attorneys teach in Washington-area law schools on a part-time basis. Lawyers are encouraged to provide pro bono legal services to needy members of the Washington, D.C. community.

10. Please provide a brief bibliography on the OLA, if available.

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