

DISSENT CHANNEL

TO: S/P - Peter Berkowitz

FROM: Undersigned Personnel

SUBJECT: (SBU) Dissent Channel: Recommendation that Secretary Pompeo publicly affirm the results of the U.S. Presidential election, and support all lawful efforts to mitigate ongoing threats to American democracy.

(SBU) The following is a Dissent Channel message from the undersigned personnel to the Director of Policy Planning (S/P).

(SBU) **Summary:** We are writing to register our dissent from recent actions by the current Administration to disregard the results of the U.S. Presidential election, including the Secretary of State's failure to issue a statement unequivocally acknowledging that President-Elect Biden won the 2020 election. We further dissent from the President's incitement of insurrectionist violence against the United States of America, in particular violence against the U.S. Congress, and the Secretary's failure to condemn the President's role in that violence.

(SBU) **Background:** President-Elect Biden won the 2020 Presidential election in a genuinely free and fair election. This fact has been confirmed following substantial and thorough review through multiple mechanisms, including by judicial review in both State and Federal courts, the certification of results by each of the States of the Union, and now by Congress's confirmation of President-Elect Biden's victory through its counting of the electoral college votes. Nonetheless, President Trump has asserted that the election was stolen from him, sought to undermine the validity of the democratic and electoral processes of the United States, and attempted to threaten and pressure State officials into "finding" the votes to support his baseless claims. Further, on January 6, 2021, President Trump urged a group of his supporters to march on the U.S. Capitol to address what he falsely called "an egregious assault on our democracy" as Congress was engaged in the constitutionally mandated count of the electoral college votes. The subsequent violent attack by insurrectionists responding to the President's incitement against the Congress overwhelmed police and interfered with the discharge of Congress's constitutionally mandated duties. Notably, even at the height of the violence, President Trump did not take timely and appropriate action to defend Congress from the insurrectionists. Instead, President Trump further inflamed the situation by repeating his baseless claim that the election had been stolen and using that fiction to praise and justify the motivations of those who sought to disrupt the orderly and lawful transition of power.

(SBU) **Discussion:** Beyond the grave threat such actions present to our Republic, as well as to the Constitution we have all taken an oath to support and defend, President Trump's conduct severely undermines U.S. foreign policy, including efforts to promote peace, democracy, and the rule of law abroad. The serious adverse foreign policy consequences of recent events pose an immediate threat to the credibility of the United States and the Department, and consequently to our national interests. Top United Nations officials expressed sadness and dismay in the wake of the violence at the Capitol on January 6. Numerous media outlets quoted foreign leaders and politicians expressing similar sentiments and observed that election-related violence played into the propaganda of our adversaries. Further media reports noted that the German Foreign Minister tweeted that "[t]he enemies of democracy will be delighted at the terrible images from Washington DC." Indeed, some of our adversaries, including China, Iran, Russia, and the Maduro regime in Venezuela, have already capitalized on the situation to comment on the state of American democracy and attempt to justify their own repressive policies and abuses of human rights. The President of Iran is quoted as stating, "What we saw in the United States last night showed annihilation of Western democracy in the world." These actions and the international criticism they have garnered undercut the credibility of ongoing efforts to support democratic actors, processes, and institutions in states such as Belarus, Venezuela, and Burma and undermine the United States' international standing more broadly. As you wrote in the Report on the Commission on Unalienable Rights: "The more the United States succeeds in modeling the principles it champions, the more powerful will be its message and the more inspiring its example for people longing for freedom."

(SBU) Secretary Pompeo issued a statement on January 6th that condemned the actions of individual trespassers at the Capitol, but failed to repudiate the false claims of electoral fraud by the President and others that gave rise to such violence. We believe this is a grave omission that serves to undermine both U.S. and foreign confidence in the election result, a result that has, as noted above, been confirmed through multiple mechanisms. We believe it is critical for the Secretary to publicly and directly affirm that President-Elect Biden won the 2020 presidential election in a genuinely free and fair election. We ask that the Secretary issue an additional statement unequivocally confirming that President-Elect Biden won the 2020 presidential election in a genuinely free and fair election and condemning the President's role in inciting Wednesday's violence.

(SBU) Although he has failed to substantiate his claims of widespread electoral misconduct and fraud, President Trump has continued to seek to undermine the election results and disrupt the U.S. Congress's constitutionally mandated procedural role in counting the electoral college votes. These actions include threats of criminal

prosecution against Georgia's Secretary of State through exhortations that he "find" additional votes for President Trump; incitement of the President's followers to engage in violence against the United States, resulting in the storming of the U.S. Capitol; and disruption of Congress's constitutional mandate to confirm the count of electoral college votes.

(SBU) Significant damage to American democracy is being done by the anti-democratic actions of President Trump, in plain view of the rest of the world. This damage did not begin with, and is not limited to, the President's incitement of political violence on January 6 in service of his attempt to unlawfully retain power. Yet the Secretary has so far failed to condemn this unprecedented assault on American democracy by a sitting President, in response to actions that would have likely received immediate condemnation from the Secretary and the Department had they been perpetrated by the leader of another nation. As the Secretary has said, "those who interfere in the electoral process . . . must be held to account" (Statement by Secretary Pompeo on the Upcoming Nigerian Elections, February 7, 2019). And this Administration knows that election disputes should "be handled in accordance with constitutional and legal processes" (Statement by Spokesperson Morgan Ortagus on Presidential Elections in Afghanistan, February 25, 2020). Although Secretary Pompeo issued a statement condemning the storming of the Capitol and violence, the statement did not acknowledge the free and fair election or recognize President-Elect Joe Biden as the legitimately elected incoming President of the United States. Indeed, on November 11, the Secretary had supported the false narrative that there would be a "second Trump Administration." Silence by the Department on this score and in the context of the President's ongoing claims of a stolen election sends the clear signal that America's top diplomat supports the President's claims. The damage to American democracy at home has already had and will continue to have direct consequences for our ability to promote democracy abroad, and to accomplish the mission of the Department.

(SBU) The undersigned of this cable are civil servants. We have sworn personally to protect and defend the Constitution of the United States, and we have dedicated ourselves to the service of our country. We have proudly served Presidents and Administrations of both parties, and we have done so with fierce dedication, and with gratitude for the opportunity to represent the United States. Since the beginning of this Administration, we have collectively worked on financial sanction and visa restriction packages against dozens of foreign individuals who undermine democracy abroad, including Guyana's leaders in 2020, for example, because, as the Secretary said, there are "consequences for individuals who seek to undermine democracy" and who "have repeatedly refused to accept the will of the people at the ballot box" (Statement by Secretary Pompeo on Imposition of Visa Restrictions on Guyanese Individuals

Undermining Democracy, July 14, 2020). We have cleared on the use of billions of dollars in foreign assistance to promote democracy around the world, including in countries with authoritarian regimes where incumbent leaders use force to stay in power. We have worked with the interagency and private sector to find ways to counter the disinformation that is so destructive to democracy, while respecting freedom of expression. We have reviewed numerous statements by Secretary Pompeo supporting free and fair elections and urging peaceful democratic transitions in other countries, such as his statement on January 5 calling on all Venezuelans “to rally around the cause of a peaceful democratic transition through free and fair presidential and parliamentary elections.” And we have defended the United States against international criticism that it does not respect its international and domestic legal obligations. In this context, we note that Article 25 of the International Covenant on Civil and Political Rights, to which the United States is a party, guarantees the right of every citizen to vote at genuine periodic elections that guarantee the will of the people.

(SBU) **Recommendations:** To protect our Constitution from the threat posed by this President, we urge Secretary Pompeo to: (1) immediately make a public, unequivocal statement affirming that Joseph R. Biden is the President-Elect as a result of free and fair elections; (2) publicly condemn in the strongest possible terms the role of the President in the assault on democratic values and American democracy, and particularly in inciting violence on January 6; and (3) support all lawful mechanisms to mitigate ongoing threats to American democracy, including by consulting with Vice President Pence and the other principal officers of the Executive Departments regarding the possible implementation of the procedures provided for in Section 4 of the 25th Amendment, if appropriate. We request all of these actions consistent with our own sworn duty to support and defend the Constitution of the United States, and with the Secretary’s own such duty.

(SBU) **Conclusion:** The promotion of democracy and the rule of law have long been core U.S. foreign policy objectives, and for good reason: the spread and strengthening of democracy and the rule of law around the world support the fullest expression of human freedom and, in doing so, serve U.S. national economic and security interests. The President’s recent conduct not only poses a grave threat to our own democratic and constitutional system of governance, including the peaceful transition of power, but also seriously undermines the United States’ standing in the world and ability to advocate for and support democracy and democratic values abroad. Many of us have spent our careers advocating for democratic values, respect for the rule of law, respect for human rights, and peaceful transitions of power abroad. These efforts, and future efforts in this regard, have been undermined by the actions of President Trump.

(SBU) Failing to publicly hold the President to account would further damage our democracy and our ability to effectively accomplish U.S. foreign policy goals abroad. With the vast powers of the Presidency at his disposal, if even for two more weeks, the President's conduct poses an immediate, grave, and intolerable risk to the security of the United States, our foreign policy, and the values the United States represents. His recent actions undermine the ability of State Department officials, whether civil servants or otherwise, to fulfill our sworn duty to serve our nation and protect and defend our Constitution. It is our responsibility, and the responsibility of the Secretary, not to remain silent.

(SBU) From the President's attacks on American democracy, and by extension on democracies and democratic values and aspirations worldwide, and from the Secretary's failure so far to condemn the President for those attacks, we dissent.