

The Association for Diplomatic Studies and Training
Foreign Affairs Oral History Program

RICHARD DRISCOLL

*Interviewed by: Robin Matthewman
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INTERVIEW

Q: So, good afternoon. It's February 11, 2022. And we are having our first conversation with Rick Driscoll. So, we'll start right at the beginning. Where and when were you born?

DRISCOLL: Thank you. I was born August 2, 1956, in Camp Zama in Sagamihara, Japan. That was a U.S. army base.

Q: Was your dad in the army?

DRISCOLL: Yes. My dad – Clarence Richard Driscoll – who went by Paddy Driscoll, was a career military officer. He joined the U.S. Army in 1939 as a private and then he went to West Point Military Academy. He graduated from West Point in May of 1945, and stayed in the army for thirty years. His last assignment was at the Defense Communications Agency in Arlington, Virginia. He retired as a full Colonel in 1969.

Q: Did you grow up overseas?

DRISCOLL: I lived on various army bases until we moved to Virginia in 1967. My dad's specialty was as an electrical engineer, and he had been assigned to the Signal Corps. He had a couple of assignments to Sandia Base in Albuquerque, New Mexico. At Sandia Base, he worked on the nuclear weapons program. All three of my siblings were born in Albuquerque. My dad had an assignment to a Signal Corps unit based at Camp Zama in Japan and so, that is why I was born there in 1956.

Q: So, the Driscoll family, were they—had they been in the States for a long time? Were they immigrants?

DRISCOLL: My father's side mainly came from Ireland, mostly County Cork, and there was a Scott from Glasgow in the mix too. His relatives left Ireland in the mid-nineteenth century. They stayed in the New York area. My dad was a New Yorker. He was born and grew up in Newburgh, which is near West Point. If it hadn't been for World War II, he probably wouldn't have gone to college. His family had little money. Thanks to the military he obtained a college education.

My mom was Margaret Maude Wait. Her family was from Kansas City. Her dad was a businessman who owned several shoe stores. You can trace my mom's side of the family back to the Ball family in Virginia, which was related to George Washington's mother.

Q: Did they meet in New York?

DRISCOLL: No. My parents met in Columbus, Ohio, at the Ohio State University. After graduating from West Point, my dad served as part of the occupying force in the U.S. Sector of West Germany for four years. Afterwards, he was sent to the Ohio State University to study electrical engineering. He was in a master's degree program, but the Army transferred him to his next assignment before he could complete his studies. My mom was an undergraduate at the Ohio State University, where she earned a BS in Education in September of 1950. They were married in January of 1951. After the wedding, they went to his next assignment at Sandia Base.

Q: And then you were born in Japan?

DRISCOLL: Yes, I was born at Camp Zama in Sagamihara, Japan. I have an older sister, Patricia, who was born in 1952 at Sandia Base, and an older brother, Mark, who was born there too in 1954. I was born in Camp Zama in 1956. We came back to Ft. Leavenworth for a year, and then returned to Sandia Base, where my younger brother, Michael, was born in 1959.

Q: From '56 to '67 you all were moving around, but you spent a lot of time in New Mexico?

DRISCOLL: Yes, the family moved around to various army bases until we moved to Virginia in 1967. In 1963, the Army sent my dad to Okinawa, and we lived there for three years. While there, my dad divided his time between Okinawa and Vietnam. He worked on setting up a telecommunications network in South Vietnam. Telecommunications had become his specialty, and the Signal Corps was constructing a telecommunications network throughout South Vietnam. In 1966, my dad was sent to Vietnam for a full one-year tour. While he was in Vietnam, we lived in Schofield Barracks in the mountains of Oahu, Hawaii. I was in fifth grade at the time. Fortunately, my dad came through Vietnam unscathed. For his last assignment, he worked at the Defense Communications Agency in the Washington, D.C. area. When we moved to Virginia, he bought a newly constructed house in Annandale in a small subdivision called Stone Haven. After retiring from the army with 30 years of service, my dad spent five years working with Computer Science Corporation, then another five years working for Satellite Business Systems, which was absorbed by IBM, and finally he worked five years for Amtrak. He stopped working altogether at age 65 and moved to Sun City Center, Florida. He lived there until his death from prostate cancer in 2002.

Q: So, from 1967 on, you were in the DC area?

DRISCOLL: Yes, I lived in Fairfax County from 1967 to 1981, other than my time away at the University of Virginia in Charlottesville.

Since my dad didn't have much savings and had four kids, we were all destined to go to state colleges. Three of us went to the University of Virginia and one went to Virginia Tech.

Q: Well, it's not easy to get into University of Virginia or Virginia Tech, so it sounds like you guys worked hard. How did you feel about all the moving around?

DRISCOLL: Moving around was fine. That was the only life I knew. One thing that helped was that wherever we moved almost everybody else we met was a transient too. The families on the military bases were constantly rotating in and out. Even when we arrived in Northern Virginia, many of the families had just arrived. The population was transitory. Our neighborhood was brand new. All the neighboring families moved in at the same time. I didn't meet many native Northern Virginians when I was going to high school.

Q: Were you in Lake Braddock High School?

DRISCOLL: No, I went to James Robinson Secondary School in Fairfax, Virginia.

Q: Did you have any particular interests growing up or sports or—?

DRISCOLL: I liked playing basketball and I liked reading and academics. In high school, my only extracurricular activity was joining the debate team, so I found friends there. We had an inspiring debate coach, Mrs. Marilyn Stafford. She had an amazing family. Her mother, Mae Boren Axton, co-wrote Heartbreak Hotel for Elvis Presley, and her cousin, Hoyt Axton, wrote Joy to the World. Another cousin, David Boren, was a Senator from Oklahoma, while his brother James Boren was a DC-based comedian who wrote the book "When in Doubt Mumble".

When I had free time, I would usually go play pickup basketball at a court nearby at the Canterbury Woods Elementary School. I would go there after school. There was a regular group of kids that played there. There I met one of my closest friends, who later was the best man at my wedding. Keith Hall became an economist and later served as the head of the Bureau of Labor Statistics and then as head of the Congressional Budget Office. I also met Mark Morin on that playground, and through him I met his sister, Julie Morin, who I married in 1981.

Q: So, the debate team. Did you always know you wanted to be a lawyer?

DRISCOLL: I think that participating in debate planted the idea of possibly becoming a lawyer, but I wasn't fixed on it when I went to college. Even during my senior year at college, I wasn't set on going to law school. Since I did well in math and sciences, I was thinking about going into business. I earned a Bachelor of Science in Management at the

McIntire School of Commerce at the University of Virginia. My last year of college, I thought about pursuing a MBA degree. Then, I looked at the required classes for an MBA, and they were similar to what I had studied in my last two years as an undergraduate. I wasn't keen on taking the same classes again merely to receive the MBA diploma. Consequently, I opted for the law, which I thought could be interesting. There are no lawyers in my family, so I had no real idea what that meant. And as it turned out, I found out that many of my fellow law school classmates had little understanding of what lawyers did in their day-to-day work. Of course, many other law school students were familiar with lawyers and their work through their parents or other relatives. However, many of my classmates were English majors, art history majors, or had other liberal arts degrees, and they were going to law school because they couldn't find a job elsewhere.

Q: Okay. Was there anything in your background that had an international bent there?

DRISCOLL: I had quite a bit of interest in international affairs from a young age—particularly having been born and lived outside the United States. Further, we traveled on vacation to various countries in the Pacific. When I was in college, I studied Japanese language with the thought of possibly working there some day. And at law school, I was selected to join the Editorial Board of the Virginia Journal of International Law, the oldest such student-edited law school journal in the country. I wrote a note about Iran and letters of credit, which the Journal published in 1980.

Further, international issues touched me personally. One of my first memories was the Cuban Missile Crisis of October 1962. I remember that very well because I wasn't sure who the Cubans were, but I was really scared of them. At that time, we were living at Sandia Base, and it seemed to me that many people were very nervous about the crisis. The sense on the base was that we would be a prime target if a nuclear war broke out. For a young kid, this was pretty scary.

Q: That's really interesting, that Sandia was feeling they would actually be attacked.

DRISCOLL: Yes, I think a lot of people believed it. And some people even had built atomic bomb shelters. I remember we visited a family that showed us their underground bomb shelter in their backyard. I guess the people on the base were so worried because their work revolved around nuclear weapons.

Q: Did your parents talk much about current affairs or things like that?

DRISCOLL: Not too much. My dad was away for work a lot. If he was in town, he would be home for dinner. His absences increased as I grew older. During our three years in Okinawa, he spent a large portion of his time in Vietnam, and then when we were in Hawaii, he was gone the entire year. Frankly, I really got to know him well after he had retired and finally slowed down. My mom had her hands full running a household with four kids, and she didn't discuss political or international affairs. They did like to talk about the places overseas they had seen or visited.

Q: After law school you went into corporate law because you'd been studying business, right?

DRISCOLL: I handled commercial law matters at a mid-size firm in Philadelphia. The firm was Dilworth, Paxson, Kalish & Kauffman. We chose Philadelphia because it had a lower cost-of-living than New York, and we wanted to try living somewhere other than the Washington, D.C. area. We moved to Philadelphia right after I married Julie in September of 1981. One thing that surprised me about the large law firms in Philadelphia at the time was that they were truly WASP firms. I hadn't realized that there were organizations that were composed almost exclusively of White, Anglo-Saxon Protestant men. Our firm was the opposite. It was mainly Jewish, Catholic, African-Americans, plus a good number of women lawyers. The firm had to hustle to get clients. My mentor, Marvin Weiss, was an excellent lawyer. He was friendly and patient with me as I learned the ropes. I also made a lifelong friend, Alexandra Sandler, from the litigation group in the office. A native of Philadelphia, Alexandra was a wonderful guide to the city. I enjoyed my time in Philadelphia, but I realized I didn't want to live there my whole life. After a few years, I started looking for a job back in the Washington, D.C. area and found a position at the U.S. Department of Justice in 1984. I loved working at Justice. Before I left the Justice Department, I had personally argued at least one case before every Circuit Court of Appeals in the United States and submitted a brief to the U.S. Supreme Court.

Q: Do you have to have any special training to be an appellate attorney?

DRISCOLL: You should, but I didn't get any special training. Although I didn't receive any special training, I had plenty of support from experienced litigators. The office did hand me a three-ring binder with a manual about appellate litigation. I was a lateral hire, whereas new lawyers out of law school did attend a training course. My office, the Appellate Section of the Tax Division, had about twenty lawyers. This included several veterans, meaning lawyers who had been there for four or more years. The office was mainly staffed by new hires. The Attorney General at the time was Ed Meese, and the Assistant Attorney General for the Tax Division was Glenn Archer, Jr. and later Roger Olsen. The Appellate Section Office Director was Michael Paup and the Deputy Director was Gary Allen. At the Appellate Section I worked with colleagues from a wide variety of law schools and from all across the United States. I made a dear friend in Matt Anderton, who after a few years went off to practice law in Yakima, Washington. Most lawyers in the Appellate Section did just what Matt did, they left Justice after three to five years. I did that too. A few of my colleagues remained for much longer periods, such as Fran Allegra, who stayed on and rose to become the Assistant Attorney General for the Tax Division, and later he became a judge on the U.S. Court of Federal Claims. My time at the Justice Department showed me that I liked public service. In particular, it gave me a taste for representing the United States. I wanted to continue to do that, but now as a diplomat overseas.

I took the Foreign Service written exam and passed. Then I did well on the oral exam. I liked the idea of becoming a Foreign Service Officer. Now I would have a chance to live

and work overseas, and they would teach me a foreign language or two. It was fabulous. I thoroughly enjoyed the Foreign Service.

Q: And your wife, was she supportive?

DRISCOLL: My wife, Julie Morin, was supportive of me joining the Foreign Service. My first assignment was to U.S. Consulate General Tijuana from 1988 to 1990. Back then, it was easy to cross the border into the United States. Julie daily crossed the border to attend classes at San Diego State University. In April of 1990, our son Robert, whom we called Bobby, was born. Julie graduated with a master's in business administration in May of 1990.

When our son Bobby was young, Julie was fine with taking care of him and just working part time at the posts where I served. Our next post after Tijuana was U.S. Embassy Caracas in Venezuela, from 1990 to 1992. In Caracas, Julie managed the Embassy commissary, which she co-managed with Dilcia Olson. This job required a couple of hours a day, so Julie could be home with our young son most of the time. After Caracas, we came back to the Washington, D.C. area and she stayed home to take care of our son. By 1996 when we went to U.S. Embassy Warsaw in Poland, our son was attending full day kindergarten. In Warsaw, she worked part-time in the administrative office of the American School of Warsaw. Later, she managed the Embassy's commissary and the "Eagle Club," which was a restaurant with a bar inside the Embassy. When she came back from Poland, we recognized that we would need to find a way for her to do satisfying work that had a career or else I would need to look at leaving the Foreign Service. Fortunately, Julie joined the U.S. Department of Agriculture and then became a Foreign Agricultural Service Officer. She is going to retire from the Foreign Service in the summer of 2023.

Q: Excellent. All right, so let's back up. Before we leave the Justice Department, were there any cases where you learned something that was useful later? Any interesting cases you had?

DRISCOLL: I learned about public speaking and the importance of being well prepared, especially when in an environment in which I had to respond to questioning. This was an invaluable lesson. I did have some interesting cases. For example, I had a case in the Federal Circuit Court of Appeals in Washington, D.C., against a group of taxpayers protesting against the defense budget. They had withheld about 40 percent of their taxes asserting that they were pacifists and due to these beliefs, they declined to pay that portion of their taxes that would go to the Defense Department. The court room was packed with pacifists in support of the taxpayers, plus my dad who came to watch too. Not surprisingly, we won the appeal. In one case, I had the privilege to work with former Professor Ernest Brown, who had come to the office after leaving Harvard Law School. Professor Brown and I jointly wrote the legal brief, and I handled the oral argument, in a major tax case against Canadian giant Marathon Oil. We won one argument and lost on the second one. In another case, I took on Bernie Cornfeld, who had founded Investors Overseas Services, a \$2.5 billion mutual fund that collapsed in the 1970s. He had run out

of funds and so his attorneys had dropped him. He argued his case himself, and to my disappointment he won.

While I was at Justice, we had a series of cases that involved people asserting that they didn't have to pay any federal income taxes. These people argued that the laws don't apply to them or that they were religious organizations. Many were militia members or white supremacists, who asserted frivolous arguments why the tax law didn't apply to them. While it seemed laughable, some of them were deadly serious. These were the same sort of people you saw at Ruby Ridge, where people got killed. A few of these people were violent. I recall that some of these people put rattlesnakes in the mailboxes of our investigators. Also, one of these groups placed a woman in our division as a secretary to spy on us.

Q: Oh. So, they're putting rattlesnakes in justices'—

DRISCOLL: No, not the judges. They put the rattlesnakes with their rattles cut off to maintain silence in our investigators' mailboxes.

Q: Oh, wow. And there was an actual militia kind of spy in your office?

DRISCOLL: There was. I learned about them catching her after I had already left Justice.

Q: Goodness.

DRISCOLL: Yes. This work could be scary. One time I went out to the West, I think it was in Montana, to argue one of these cases. I felt nervous because I was going to handle an appeal of a criminal conviction, and I sensed that people in the town were probably supportive of the defendant. Consequently, I didn't want to let the taxi driver or anyone else know what my real job was, which was to try to put the defendant in jail. In another incident, one day many of the attorneys in the office received brown paper wrapped packages in the mail. We attorneys were nervous about opening the packages, so we had one brave colleague open a package up as we stood by watching. Fortunately, it was just a cassette tape where the group was trying to explain their views.

Q: You joined the Foreign Service in November 1987. Was it a big class, the A-100 class?

DRISCOLL: I believe we had around forty people in my A-100 class. I know one of the drawbacks of such a large class was that my name was Driscoll and during the first couple of weeks they sat everybody alphabetically. I remember these very long tables, and so those with last names beginning with D were placed in the first row right in front of the speakers. I would notice that my classmates would be able to read the paper or do something else, but I had to stay alert as I was right there under the gaze of the lecturers.

There was an odd incident for myself and several others in the economic cone from my A-100 class. When we started at the State Department, arrangements were made for an experienced officer to discuss Foreign Service life with us. A small group of economic

cone officers and I had lunch with an experienced officer, Felix Bloch, who was working in the European and Canadian Affair Bureau. I recall little of the meeting other than I thought Bloch seemed a boring man. Instead of making economic work appear interesting, he made it sound bland. Two years later, I learned that Bloch had been arrested by the FBI for spying for the Soviet Union. I understand that the FBI didn't have enough evidence, so Bloch wasn't charged with espionage. This goes to show the truth of the adage that you can't judge a book by its cover.

Q: (Laughs) And were there any exciting classmates that you ended up staying in touch with or watching their careers?

DRISCOLL: Let's see. Rod Moore was the youngest member of our A-100 class, and he later served as the U.S. Ambassador to Bulgaria. I remember Adam Shub became the Consul General in Sao Paulo, and Mike Dodman became the U.S. Ambassador to Mauritania.

I was surprised by the large number of my A-100 classmates that left after just a few tours.

Q: I had a group of fifty at my class in June of that year, and there were twelve economic officers, I think. And only two of the economic officers were women, me and another woman. So, I don't know how the demographics were in your class.

DRISCOLL: I think we were about a third women. One of them, Michelle Connor, was killed in the bombing of U.S. Embassy Nairobi in Kenya on August 7, 1998. And we had just visited Kenya and the Embassy a few months before the bombing. We met with Michelle's family, but she was away at that time.

Q: Oh, that's really sad.

DRISCOLL: Our class included the remarkable Jim Huskey, who was a political officer. I don't know if you've ever run across him. He was a China expert and in his first posting he went to U.S. Embassy Beijing. He was there in Tiananmen Square when the shooting started. He was the only U.S. official to witness the Tiananmen Massacre on the night of June 3-4, 1989. His talk about what he saw and what happened there was fascinating. Later, Jim was in Kenya during the bombing of the U.S. Embassy Nairobi. He was inside the Embassy and his wife and kids were in another part of the building when the bomb went off. Fortunately, they all survived.

Q: Yes, thank goodness. Did you come in knowing Spanish? Did you have any language?

DRISCOLL: I had some Spanish from high school. I thought it was marvelous that they would pay me to learn Spanish. I had taken some Japanese language classes in college just because I was born there and was interested in the country. I hoped to be assigned there some day.

Q: They saw that you had a little bit of Spanish, and it was right to Mexico for you.

DRISCOLL: At that time, they sent large portions of A-100 classes to Mexico. My first assignment was as a Vice Consul at U.S. Consulate General Tijuana. There was a huge need for consular officers in Tijuana and Ciudad Juárez. At that time, the U.S. government was processing the many tens of thousands of people who were seeking amnesty under a 1985 law. For these people to legalize their status, they had to leave the United States and be adjudicated at a post abroad. In Mexico, there were only two places that could process these cases, Ciudad Juárez and Tijuana. A tidal wave of people sought to legalize their status. Many of these people were from California, especially from the Los Angeles area. It was my introduction to the Hispanic community and culture.

Q: How'd it go at FSI with the Spanish at the Foreign Service Institute?

DRISCOLL: When I took Spanish at FSI, they had classes filled to the maximum of six persons per class. It felt overcrowded, but we were studying full time. Clearly this was better than the thirty students in a class for one hour a day in high school. I think FSI brought us up to a minimal level where we could do basic work. I wanted to improve my language skills and to better understand the culture. So, I hired a private tutor when I arrived in Tijuana. I found a very charming person and excellent tutor, Eva Luz Burgos de Garcia, who became a dear friend and later on became our son's godmother.

Q: Right. Or they give you a certain level of sufficiency, which we call a 3-3, but if you're going to be able to keep the language and to keep working in the area you really need to get it higher up. So, I think, I did that too.

DRISCOLL: Exactly. I achieved a satisfactory score of 3 / 3+ in oral and reading skills when I left FSI training. My private tutor made a big difference in my skills.

Q: So, I was doing non-immigrant visas and arrest work in Mexico City in this same time period, and I got there in '88, February, Mexico, I think, in February of '88. And I did an exchange in Tijuana. It was really fun and it was very interesting because my clientele (laughs), my arrested American citizen clientele was a different kind of person, so.

DRISCOLL: Yes, American Citizen Services work was the most rewarding and interesting work at the Consulate General. There were many different types of cases. Kathy Peterson ran the section, and she was both very competent and caring about the U.S. citizens in trouble. We had millions of U.S. citizens crossing into Tijuana every year and a good number of them encountered some sort of trouble. We had eight jails in our consular district, and I eventually visited them all. Every morning our staff would check the various jails to see what the cat had brought in overnight. The Navy's Shore Patrol did the same thing looking for sailors and marines arrested overnight. If we found one of theirs, we would let them know; and if they found one of ours, they would reciprocate.

One of the things I did take away from my time in Tijuana was the massive corruption in the legal justice system. For example, the parking lots of the state and local police were

full of stolen cars with California plates, but the police were keeping them for their personal use. Worse, we knew that if an American fell into the hands of the police and the police thought that the person had information about the location of drugs or money, then the police would invariably torture the U.S. citizen. I learned from the Americans that the police frequently applied electric shocks or put a plastic bag over the person's head. The torture seemed to happen only if the police thought there might be drugs or money involved. If the person was suspected of committing murder or rape, then the police would often leave the person alone.

I recall helping to locate a young woman who had stopped taking her medicine and had become mentally incompetent. She was living on the dangerous streets of Tijuana and wandered around mumbling to herself. We were able to help her get off the streets, brought her to medical care in California, and then her mother was able to provide her with long term care.

In another case, we were notified of an abandoned baby girl in Tijuana with few clues about her and her family, though the circumstance pointed to her being a U.S. citizen born in San Diego County. Eventually, we reunited the little girl with her U.S. citizen mother, who had been in jail.

And in one instance, I accompanied the U.S. Coast Guard on board one of their helicopters down to a small village in Baja California to rescue the crew of another U.S. helicopter that had crashed. The first helicopter had been trying to rescue a sick U.S. citizen, but it crashed on landing due to dust blocking visibility. I admit I was concerned about whether our helicopter would have the same fate as the crashed first helicopter, but our pilot landed us safely.

On more than one occasion, I would help a U.S. citizen recover the cash that had been paid to a corrupt police officer. This involved the complaining U.S. citizen being presented with a lineup of local police officers and then the U.S. citizen would point out the officer who had extorted the money. At that point, the police captain would order the officer to return the cash and assure us that the police officer would be dismissed, though we never knew if the officer really was fired or not.

I once encountered a U.S. citizen in prison who had become despondent and had attempted suicide. When I met her, she said that she thought the authorities had lost her file and that she should have been released. I looked into the matter and indeed the prison authorities had lost track of her case and she was due to be released. I was glad to have been able to get her out of jail.

Q: On the visa side you were doing immigrant visas.

DRISCOLL: Mainly, immigrant visas. I found immigrant visa cases to be quite interesting. I hadn't been familiar with the Hispanic community in the United States before this tour. The key point that was driven home to me through these visa cases was how much there truly was a melting pot in the United States. Before, I had my doubts

about whether the typical Hispanic immigrant family would learn English or become immersed in the U.S. culture. I thought it might be hard for them since they would often live in majority Spanish speaking communities. What pleasantly surprised me was that the applicants' children usually spoke English perfectly and were well-aware of U.S. music and film culture. Not surprisingly, the grandparents often barely spoke any English, and the applicants themselves tended to speak just adequate English. Many of the applicants were agricultural workers or manual laborers. And then, I would see their children who were pursuing a wide range of careers. Many of them were going to college, and some were even pursuing graduate degrees, such as legal or medical degrees. Of course, there was a smattering of criminals. I saw that these immigrant families had blended in quickly with just one generation. Further, the children had an advantage, they were bilingual and had a foot in both worlds. I thought that these immigrants were real pluses to U.S. society. I came away with a positively changed perspective of these immigrant families.

Q: And then, you had to do an interview for each immigrant family.

DRISCOLL: Yes. Each applicant had to be interviewed. Furthermore, each person had to have a health examination. Sometimes we would do the interview before the results of the health examination had become available, which usually signaled that the doctor suspected something and was waiting for test results. The most common health issue was tuberculosis. This did weigh on my mind because we would interview the applicants standing at a booth with air flowing freely between them and me. When a health report was delayed, I was concerned that the applicant had an active case of TB or some other contagious disease. Some applicants did have these illnesses, though none of the officers or staff caught anything. That seemed to be a matter of good luck.

We also did many hundreds of non-immigrants a day too. Our cases were different from any other non-border U.S. post. The proximity to the border had a major impact on the work in the Non-Immigrant Visa section. We realized that if an applicant had really stayed in Tijuana for six months or more, then they were likely to stay for a while. Most of the people passing through Tijuana stayed only briefly before crossing legally or illegally over into California. Thus, if we thought that an applicant was going to stay in Tijuana, then we were much more likely to authorize a visa. Unlike other posts, a person didn't need significant wealth to have strong ties to Tijuana, often strong family ties would suffice even with a low paying job. The residents of Tijuana had for decades been crossing over to San Diego to do their shopping, where the prices were lower and there was more selection of goods. If an applicant had a steady job and the family was in Tijuana, I think that person had a good possibility of obtaining the visa. We had a different standard than if you were in Mexico City or another country.

Q: What was Tijuana like?

DRISCOLL: The key characteristic is that Tijuana is like San Diego, just much poorer. The two places share the same weather and geography. In fact, we could see the United States from our house in Tijuana. One noticeable difference was that the lawns were

green in San Diego due to watering, but water was much more precious in Tijuana and so it was desert-like with loads of scrub brush. They both shared the stark, rocky Pacific coastline.

Although the San Ysidro port of entry for cars and trucks was secure and well-guarded, a few hundred yards on either side there was just a chain at knee-high level that divided the United States and Mexico. A person stepped over the chain and, voila, they were in the United States. Every night thousands and thousands of people waited on the Mexican side of the chain for the dark when they would cross over. In the meantime, vendors would walk up and down the border selling tacos and drinks and ice cream. The people crossed *en masse* when it got dark, which would overwhelm the Border Patrol on the U.S. side. Many of the people crossing were going back to their jobs and homes in Los Angeles and elsewhere in California.

The Consul General in Tijuana was Larry Colbert, who died in 2022. He was a very good officer and boss. He was supportive of the junior officers. He wanted us all to do something in our cone that was in addition to our visa work. I was able to get out of the Consulate General and learn more about the maquiladora sector. Maquiladoras were assembly plants along the frontier where a company would bring in components from the United States, assemble a finished product, and then export the assembled products back all with favorable tariffs rates. I was surprised to learn that 70 percent of the televisions sold in the United States were assembled in Tijuana. Further, Hyundai assembled most of its containers there too. With Colbert's support, I researched and wrote a series of cables reporting about the sector, which got me nominated for the Director General's Award for Reporting.

The Consulate General had mostly first and second tour officers. Many of us formed lifelong friendships there. Janet DeLong was a first tour Administrative Officer, who had the best Spanish of anyone at the Consulate General. Paul Neureiter could process more non-immigrant visas than any other officer. Byron Sigel was an amazing Japan specialist, who spoke Japanese like a native and had received a PhD in marine biology at a Japanese university, which proved of little use to him in Mexico. And Howard Betts was one of the most caring Consular Officers I met. Howard would bring ice cream to the U.S. citizens when he visited a prison.

Tijuana was a bustling place.

Q: It has grown a lot since then too, right?

DRISCOLL: Tijuana has grown a lot since 1990, however, it has become much more difficult for people to cross the border. The chain at the border has been replaced by high fences. The Consulate General has moved from the center of town to a site much farther away. And the consular officers who used to adjudicate visas have been replaced by Department of Homeland Security civil servants who live in California and commute daily back and forth to the Consulate General. The maquiladora sector is still there and has expanded since I left.

Q: So, did you get to go out, go to the beaches and do other—?

DRISCOLL: We did get to explore Baja California. The towns of Ensenada and Rosarito have spectacular views of the ocean plus offer delicious lobster tacos. Sadly, both San Diego and Tijuana have very cold water at the beaches, which kept me out of the ocean. We would have to go to Cabo San Lucas in Baja Sur or to the Sea of Cortes to find water warm enough to swim in. We would drive to San Diego for much of our shopping, which anybody living in Tijuana did if they could. The land in Baja California is very rugged and mountainous. Since we left Tijuana, a wine sector has sprung up near Ensenada, called the Valle de Guadalupe. It produces nearly 90 percent of all the wine that comes from Mexico. The highway to Tecate, where the famous beer was made, was called La Rumorosa and offered incredible views, but it was quite narrow and dangerous as it wound through the mountains. Much of the area in Baja California was desert, both beautiful and harsh.

We had good timing to be at post during the 1988 state elections in Baja California. A man named Ernesto Ruffo was running for governor from PAN or Partido Acción Nacional. The Mexicans that I met thought that PAN would win if there were a fair election. PAN had never officially won an election anywhere in Mexico. In fact, the PRI (Institutional Revolutionary Party) had been declared the winner in every single Presidential and state governor election since the Mexican Revolution. When PRI supposedly won the state governor election in Baja California in 1984, enraged PAN activists burned down the election office.

Officers from the Consulate General went to monitor what was happening at the election center this time. On the evening of election day, the PRI candidate announced right after the polls had closed that she had won. People knew that the PRI couldn't possibly have won if the votes were counted honestly. Then a surprising thing happened. Mexico City announced that there were no results yet for Baja California, and the votes were still to be counted. I went down with other officers to watch the voting center in Tijuana. The military had sent a unit to guard the election center. I could see hundreds of young Mexican soldiers with their rifles staring out at the tens of thousands of PAN supporters who were encircling them. The PAN leaders kept making announcements for their people to remain calm and not to use their guns against the soldiers. We waited to see what would happen. In the end, the PRI allowed a fair election and PAN won its first ever state governorship in the history of Mexico.

Q: Right. The PRI, the Partido Revolucionario Institucional had won all the elections since the revolution of 1910.

DRISCOLL: Yes, from the time the PRI took power back during the revolution. They held a monopoly on power that lasted longer than that of the Communist Party in the Soviet Union. There were celebrations throughout Tijuana when PAN won. I was struck by these elections. I had taken for granted that votes would be counted honestly, rather than having politicians decide who won or not.

Q: Fascinating. So, I had forgotten to ask you, you came in as an economic officer, is that right?

DRISCOLL: I did, I was an economic officer.

Q: When they gave you your offer, was that part of it?

DRISCOLL: Yes. They offered me the options of economic or administrative or consular cone, but not the political cone. I felt best qualified to become an economic officer. Though, in reality, I didn't know what I was getting into.

Q: (Laughs) In your second tour, the entry level personnel people then basically told you where you were going, is that right?

DRISCOLL: Yes. Personnel told junior officers where they would go next. You didn't get to bid for posts until you had tenure, which was the third tour. Personnel told me that I would go to U.S. Embassy Caracas after Tijuana.

I was supposed to do a rotation in Caracas, with one year as a Vice Consul in the Consular Section and then a second year as an Economic Officer in the Economic Section. The ambassador there was Mike Skol. When I arrived, the officer who was supposed to do the rotation with me asked if he could stay in the Consular Section and would I mind doing the whole two years in the Economic Section. I quickly agreed. The new job introduced me to international environmental and scientific issues and to the OES bureau (Bureau of Oceans and International Environmental and Scientific Affairs). The environmental issues were the largest part of my portfolio. The dominant issue for the Economic Section was petroleum. The head of the Economic Section was Frank Parker, and the Energy Officer was Claudia Serwer. Claudia happened to be Mike Skol's wife, which made for interesting dynamics within the office. Helen Hudson handled the trade issues, and Stan Otto dealt with macroeconomic and finance matters. I would meet up with Helen again when we were both working in Kabul together in 2011.

One of the very first issues I had was working with the Venezuelan authorities with respect to the U.S. Marine Mammal Protection Act, which protected dolphins. The problem was that tuna boats inadvertently killed large numbers of dolphins in their nets. The law required that if a company wanted to export tuna to the United States, then it needed to show that no dolphins had been killed in the process. At that time, Venezuela had a good size tuna fleet and exported a significant amount of tuna to the United States. To avoid a ban on its exports, the tuna fleet needed to add observers on board the ships to monitor whether any dolphins were being killed. This was quite a struggle because the tuna fleet didn't want to pay to have these observers. Moreover, they were concerned that it would be almost impossible to achieve the goal of catching tuna without killing any dolphins. Dolphins like to swim with tuna.

Q: Was this the issue of the turtle excluder device?

DRISCOLL: The turtles were a separate issue.

The first issue was the dolphin problem. There were techniques and special nets that could be used to save the dolphins. Still, a boat needed an independent observer aboard to certify that no dolphins were killed. The OES Bureau was encouraging the Venezuelan tuna fleet to use these special nets and techniques. The nets had a gap near the top that would allow the dolphins to escape, but since tuna swam in deeper waters they wouldn't get out. I worked with the Fisheries Ministry to urge the tuna fleet to take these steps, which they reluctantly agreed to do.

After we had made progress on the dolphin-tuna issue, I had to return to these very same officials in the Fisheries Ministry because the United States now had an issue with turtles and shrimp. Venezuela had a significant shrimp industry, which exported shrimp to the United States. I understand that even to this day Venezuela exports shrimp to the United States. The problem was that shrimp nets would ensnare sea turtles, who would then drown. The solution to the shrimp issue was to have the shrimp boats install turtle excluder devices or TEDs in their nets. The device would kick out turtles caught in the net but retain shrimp and smaller fish. Bill Gibbons-Fly from the OES Bureau came down to Venezuela and we met with representatives of the shrimp industry. Bill showed them how the device worked. We explained to the Venezuelans that they should install the turtle excluder devices so they could continue to export to the United States. The shrimp industry agreed to do so, but they harbored a lot of bitterness. I believe that after I left the Venezuelan fleet finally got certified to export to the United States.

I handled an assortment of other environmental and scientific issues. For example, the Smithsonian was active in doing research in Venezuela studying various animals, such as howler monkeys. The U.S. Fish and Wildlife Service tracked the migratory birds that came down from the United States in the winter. The U.S. Geological Survey sent a team to demonstrate how to mine for gold without using mercury. Venezuela had problems with gold miners, called garimpeiros, illegally mining and poisoning the rivers in the Amazon basin with mercury. Many of these miners were Brazilians.

Q: Venezuela was new to you, right?

DRISCOLL: Yes. I had never been there before. Venezuela was a spectacular place with a wide range of nature. It had beautiful beaches, lush mountains, and stunning tepuis or mesas. One tepui held Angel Falls, the highest waterfall in the world, which I got to visit. In the job, I met the Director of the Los Roques Foundation, Bladimir Rodriguez and his wife Estrella, both of whom were biologists. Bladimir Rodriguez brought me out to Los Roques islands a couple of times to see their work. The Foundation worked to conserve sea turtles, which would climb up on shore to lay their eggs. The locals would dig up the eggs for a source of protein, and they would hunt the turtles for their meat. The foundation would pay to protect the turtle eggs.

I also handled health issues. It turned out that a community near Maracaibo had one of the largest concentrations of people in the world suffering from Huntington's disease, which is often called St. Vitus Dance disease. This was a terrible disease that was genetically inherited. Woody Guthrie died of it. And there was a study going on with U.S. medical researchers in the city of Maracaibo. Apparently, an English sailor had the disease and he moved to Maracaibo over a century ago. Many of his descendants had come down with it. The Ambassador, the U.S. medical researchers and I went to Maracaibo to see the work going on there.

Q: So, good. Two years. Anything momentous?

DRISCOLL: Yes, there was one thing. As we were about to leave post, one night there was suddenly a tremendous amount of shooting outside our apartment building. February 4, 1992.

Q: I know where this is going.

DRISCOLL: Our apartment building, which was called La Floresta and had 14 stories, was located across the highway from La Carlota, the military airport in Caracas. We were so close that you could almost throw a stone from our window and hit the airport. Around midnight of February 4, there was a tremendous amount of shooting going on outside our building. My first thought was that it was fireworks, but it soon became clear it was gunfire. I looked out the window at the entrance to our apartment complex and realized that somebody had knocked down the entrance gate to our complex and that the guard's shack at the entrance was abandoned. We soon learned that there were men on the roof shooting down at other men on the ground at La Carlota. It turned out that the men at La Carlota were Colonel Hugo Chavez's rebels and those on our roof were troops loyal to the President Carlos Andres Perez. The firefight went on all night long. My wife and I decided the safest place would be the bathroom. We were cowering in our bathroom with our two-year old son, who was quite curious. He wanted to go to the living room window and see what was going on. We had to restrain him. When we could inspect our building the next day, we could see that the outside had been shot up. There were bullet pockmarks all over the building, including around the fourth floor where we lived.

Q: And so, what was happening was that Hugo Chavez was implementing his first coup attempt.

DRISCOLL: This was his first coup attempt, yes. He led another coup attempt in November of 1992, but we had left post by then.

Q: He was trying to take over at the airport, the military airport?

DRISCOLL: Yes. He and his men tried to seize La Carlota and several other locations, including Miraflores, the presidential palace. Other rebels supporting Chavez did seize the Valencia airport. By coincidence, a colleague of mine, Victor Echevarria, who handled civil aviation and worked for the FAA (Federal Aviation Administration),

happened to be going to the Valencia airport that morning for a meeting with the military commander of the airport. Victor hadn't heard about the coup attempt or the seizure of the Valencia airport by rebels. When he arrived, he was met by some nervous young soldiers with red bandanas tied on their arms. The soldiers became more excited when Victor told them he was from the U.S. Embassy and had come to meet with the base commander, who unbeknownst to Victor at that moment was tied up and being kept hostage by the rebels. Fortunately, Victor realized something was amiss and put the car in reverse and got the hell out of there.

After the coup, we learned that most of the people who were killed were innocent civilians. For example, a young girl was killed by a random bullet in a nearby apartment. There certainly was a massive amount of shooting that night, and so not surprisingly this led to quite a few innocent deaths. That was our farewell to Venezuela. I was very surprised to learn that Chavez led a second coup in November of that year, and he did it from inside the prison.

Q: So, just to mention the time frames of these two postings. You went to Tijuana in 1988.

DRISCOLL: Yes. We were in Tijuana from 1988 to 1990 and then we were in Venezuela from 1990 to 1992.

Q: Then what happened?

DRISCOLL: I received tenure and a promotion to FS-03 while I was in Caracas. When I returned to the Washington, D.C. area, I took the nine-month economic course.

Q: And how did you like it? People have strong views on it sometimes.

DRISCOLL: I liked the course. It suited me well. Dr. Lisa Fox was the Director and Dr. Barry Blenner was the Deputy Director of the program. Both taught some of the units. This program was good for my family. I would leave the Foreign Service Institute for home by 5:00 pm or earlier, and so I had the early evening free to be with our young son. When he had gone to bed, I would study and do my assignments. This way I got to see a lot of my son when he was growing up.

For me, the course wasn't overly stressful especially since I had familiarity with many of the subject matters from my undergraduate studies. In fact, I graduated first out of nearly 30 students. I did learn things from the course that proved useful in my career. For example, there was a unit on how the IMF (International Monetary Fund) worked and how to interpret IMF data. This helped me because my next two assignments involved significant macroeconomic work in the former communist countries.

Q: Well, I think the idea was to get you caught up for a bachelor's level economics degree for those people that didn't have it. Some people might have been starting from scratch and other people had more background.

DRISCOLL: Right. I remember some classmates who seemed scared of statistics and macroeconomics, both of which involved a lot of math. I can understand that if math wasn't something you were good at then you might dread the course.

Q: And then, that's only nine months, so you would have had to bid on your next job before you had even started.

DRISCOLL: Right. I had always liked history and international affairs. I was amazed when the Berlin Wall came down in November of 1989. Suddenly, there was this incredible transition taking place in Eastern Europe and the former Soviet Union. I thought that this transition was a once in a lifetime event. I had been thinking that with Latin America and much of the developing world, they seemed to be on a perpetual economic rollercoaster. For example, this decade Argentina might be up, and the next decade it would be defaulting on the debt again. The developing countries rarely seemed to make sustained economic progress. Whereas the people in Eastern Europe were determined to completely transform their economies from communist to free-market ones. It was a unique event in history, and I wanted to witness it. I was assigned to work as a junior regional economic officer in the Office of Eastern Europe and Yugoslavia or EUR/EEY. We covered former communist countries from Yugoslavia to the Baltics.

Q: A big office then.

DRISCOLL: It was a big office at the start. The Office Director was Terry Snell, a smart person, who had extensive experience in Europe. Snell knew the region well, understood how the State Department worked, and he was a good manager. I liked Snell a lot. The Deputy Director of EUR/EEY was Tom Gerth, who was a good writer and was about to retire. I recall Gerth telling me that back in 1978, when he was handling Hungary issues, President Jimmy Carter decided to return the Holy Crown of St. Stephen to Hungary. At the end of World War II, the crown had been handed over to the U.S. Army by a Hungarian Army Colonel who feared what the Germans or Soviets would do with it if they gained possession of it. The crown was kept at Ft. Knox until it was returned in 1978. The crown has pearls on spikes around the edge, however, one pearl was missing. Gerth plus some other Foreign Service Officers purchased a replacement pearl, which was added before it was returned.

The Assistant Secretary for European and Canadian Affairs originally was Stephen Oxman. He was a political appointee who seemed out of his league. It appeared that few decisions would come out of his office. He didn't offer guidance on what to do about the burgeoning violence in Yugoslavia. His office was a black hole, many decision papers entered but few came out. He didn't last long. Soon, Richard Holbrooke showed up and replaced him.

Q: Showed up as assistant secretary?

DRISCOLL: Yes. Holbrooke came in as the Assistant Secretary for the Bureau of European and Canadian Affairs or EUR Bureau. Holbrooke arrived and promptly split the

office into two parts: North Central Europe and South Central Europe. I ended up in North Central Europe with Terry Snell as the Office Director. Chris Hill was brought in to be the Office Director for South Central Europe. I didn't realize it at the time, but Chris Hill was a Korea expert and later went on to become the U.S. Ambassador to South Korea. Both NCE and SCE reported to Deputy Assistant Secretary Robert Frasure, who was my reviewer. Sadly, Frasure died in August 1995 when his vehicle plunged off a road in Bosnia.

Q: And then, your portfolio was?

DRISCOLL: I was the junior of two regional economic officers for North Central Europe (EUR/NCE), which ran from the Baltics down to Slovenia. Paul Daley was the senior regional economic officer. I handled economic issues for Hungary, Slovakia, Slovenia, Croatia, Bosnia-Herzegovina, and Slovenia. I also backed up Daley on Poland, the Czech Republic, and the Baltics. In addition, I was the country desk officer for Slovenia, and when Czechoslovakia split apart, for Slovakia too. As I had expected, it was a fascinating assignment. There was a massive amount of financial and technical assistance that the West was pouring into these former communist countries to help with the transition to free-market democracies. Many U.S. agencies, such as the Treasury Department, the SEC, the and the Department of Agriculture provided technical advice. And these countries were eager to receive this advice. Of course, the countries also appreciated the substantial financial assistance too.

Q: And what did a desk officer do?

DRISCOLL: As a country desk officer I tracked U.S. agencies' involvement with the country and prepared briefing materials for the EUR Bureau Front Office. I also helped my embassies by being a conduit for information to and from Washington. Slovenia was different from the usual country because it was a newly created country, and it was caught up in the ongoing Yugoslavia conflict.

With respect to Slovakia, I drafted the briefing papers for Secretary of State Warren Christopher and Ambassador Holbrooke to use to convince Slovakia's new government to resolve the so-called "Hungarian problem". There were about 500,000 ethnic Hungarians living in Slovakia because of the 1922 Treaty of Trianon, and Hungary was quite concerned about their supposed mistreatment by the Slovaks. We had the Slovaks and Hungarians meet and then successfully persuaded them to sign an agreement, a peace treaty if you will, at the 1995 Paris Conference on European Stability. This agreement provided Hungary with assurances that these ethnic Hungarians would be treated fairly by Slovakia and could continue to use their native tongue. This defused a troubling political issue that threatened unrest in the region.

I also remember that we wanted to help Bosnia-Herzegovina and Croatia, so I went with Ambassador Charles Redman to the International Monetary Fund to urge the Fund to provide financial support to these countries. Shortly thereafter, however, Croatia threatened to attack the Temelin nuclear reactor in Slovenia, which had been built by

Westinghouse. We wanted to pressure Croatia not to attack Slovenia, so, Ambassador Redman and I went right back to the IMF and asked them to pause any assistance to Croatia. In addition, with Slovenia there were several disputes with Italy and Austria, including over who had the right to claim the Lipizzaner white stallions.

As the regional economic officer, I had much to do with trying to influence the international financial institutions to support financial assistance to the region. We worked closely with Dan Fried, who was then the Senior Director at the National Security Council responsible for Central and Eastern Europe. He was a Russia hand, but also knew Poland and Eastern Europe well. Fried led the inter-agency development of Presidential Review Directive 36, or PRD-36, concerning “U.S. Policy Toward Central and Eastern Europe.” This was completed in July of 1993. My economic officer colleagues and I drafted the economic portions of PRD-36. The document called for assisting the transition to free-market economies, graduating the central Europeans from financial assistance by promoting better linkages to the Western economies and thereby providing “trade, not aid,” and defending U.S. exporters’ interests as the European Commission sought to tilt the field in its favor through the Association Agreements these countries had signed as they prepared to join their customs union.

One step in implementing PRD-36 was organizing the White House Trade and Investment Conference that took place in Cleveland, Ohio, in January of 1995. This brought the leaders of Central Europe to meet with President Bill Clinton, Commerce Secretary Ron Brown, and Ambassador Holbrooke, plus gave a boost to U.S. investments in the region. I drafted building block messages for use in President Clinton’s speech at the conference. Much of my suggested input didn’t make it into the speech, however, the points about the United States providing generous tariff rates to Central and Eastern Europe did make it into Clinton’s speech, including the point that at the time the United States had overall lower tariff rates for these countries than did Brussels. This provoked a reply from the European Commission challenging that assertion, but the facts supported my point.

I handled many of the arrangements from the conference, such as invitations to foreign leaders to logistics for the U.S. senior officials. In addition, I served as Ambassador Holbrooke’s staff assistant while he was in Cleveland. I recall that the Secret Service wanted Ambassador Holbrooke to be seated in his chair at the conference center well before President Clinton began his speech. Ambassador Holbrooke preferred to meet with the foreign leaders instead, so I went and held his seat until Ambassador Holbrooke arrived at the very last minute. The Secret Service agents weren’t pleased, but Ambassador Holbrooke was.

Since I covered Hungary as the regional economic officer, I had regular contact with Ambassador Donald Blinken, both when he came to Washington and when I went to Budapest. His brother, Alan Blinken, was the U.S. Ambassador to Belgium at the time. Donald Blinken’s wife was Hungarian and had escaped the Holocaust and the Communists. Ambassador Donald Blinken was an investment banker and he understood well the workings of a market-economy. I thought he was an excellent choice to assist

Hungary with its economic transition. During a reception in Budapest at Ambassador Blinken's residence, I met George Soros, the Hungarian-American investment tycoon who founded the Open Society Foundation to assist the former communist countries' transition to free-market democracies. My office tracked the work of his Open Society Foundation, which advanced many of the same goals as the U.S. government in the region. Also, Congressman Tom Lantos, a Hungarian-American Jew who had escaped the Nazis in Budapest thanks to Raoul Wallenberg, was active in following the developments in the region. He often went to Hungary and wanted briefings in Washington on the state of progress of the transition in the region. I met him several times and was impressed by his intense interest in the subject and his support on Capitol Hill for the U.S. government's assistance to the region. Jeff Levine, who later became the U.S. Ambassador to Estonia, was the Hungary desk officer, and he and I worked closely on Hungarian matters. I would handle the Hungary desk when Jeff was out of the office.

As the regional economic officer, I worked closely with the U.S. Trade Representative (USTR) in the region. The Europe Office was then led by Assistant USTR Peter Allgeier and Cathy Novelli was the Deputy Assistant USTR for Europe and the Middle East. I participated in the negotiation of an agreement on intellectual property rights (IPR) with Hungary that AUSTR Allgeier led. This was my first instance of being directly involved in bilateral negotiations. AUSTR Allgeier was an astute negotiator and this agreement allowed us to remove Hungary from the Special 301 list. Later, I participated in the negotiation of textile quotas with the Hungarians, which Assistant USTR Jonathan Rosenblum led for our side.

During this period, I saw real life experiments on how best to privatize. There were two different models on trial. Under the approach taken by the Czech Republic, and I understand the Russians did this too, the government distributed scrip or equal shares to everybody of a privatized state-owned enterprise. Every citizen would receive a tiny sliver (less than one millionth percent interest) of the entity that was being privatized. These individual shares were worthless. Consequently, the public lacked effective control over these businesses, so the executives really controlled them. The advantage of this type of privatization was that it was fast and the government could claim they had been privatized.

Poland and Hungary took a different approach from that of the Czech Republic. In the end, I concluded that Poland's approach was more effective. In this approach, the government would act deliberately and take the time to hold a sale of a controlling interest in a state-owned enterprise to a single investor, usually a foreign company. Thus, Citibank and Deutsche Bank obtained control over some state-owned banks, and Daewoo gained control over the state automobile company. This process took much longer, but there was a real transfer of control. When the Poles privatized, you'd have a real change in control—somebody new would have effective control of the enterprise. I wasn't a fan of the Czech model.

Another tool we had was the "Enterprise Funds" in the former communist countries to help provide investment capital to develop the private sector.

Q: And then, there was also SEED money.

DRISCOLL: Right. There was an office led by Ambassador Ralph Johnson in the EUR Bureau. Ambassador Johnson oversaw the use of funds under the SEED Act or the Support for East European Democracy Act of 1989. Our office worked very closely with Ambassador Johnson's shop with regard to the use of SEED money. We would impart our advice and Ralph Johnson and his crew would spend the SEED money.

Q: Describe what the Enterprise Funds were.

DRISCOLL: The Enterprise Funds were created under the SEED Act. They had hundreds of millions of dollars for Poland and lesser amounts for the other countries. These funds would have private sector management and would invest in the private sector in the region. The funds were intended to make investments that would take on more risk than would a commercial bank. These investments would help jumpstart the private sector in the former communist country. Unfortunately, one of the funds got into trouble with the media. The fund had hired a couple of private sector investment bankers. However, to attract these bankers, the fund had agreed to pay them a salary comparable to that on Wall Street, which was more than the President was being paid. Politically, it looked bad to pay these executives more than the President. The press called it a scandal. As a result, we had to cap these bankers' salaries. To me, it seemed an artificial issue, because if you wanted to hire well qualified people, the enterprise fund would have to pay the going rate.

Q: And did you have a lot of contact with the economic officers in the embassies?

DRISCOLL: I had regular contact with the economic officers in the field. That is how I met Judy Garber. She was at the U.S. Embassy in Prague in the Czech Republic. I worked very closely with her then and when she was in the OES Bureau Front Office years later.

Q: And at that time, because of the time difference and communications, did you have, the way we did in Moscow, did you have the practice of doing these official informal cables at night, that you would send out at the end of the day?

DRISCOLL: We frequently used something called an official-informal cable. I don't think we sent one out every night. I don't think we had the same volume of traffic for Poland or the Czech Republic. This type of cable was helpful to sound out matters informally. This was before the internet and emails. It was hard to communicate with the posts on an informal basis.

Q: With the time difference.

DRISCOLL: Right. We had a six-hour time difference with our posts, which limited the time each day we could communicate with the field.

When I was in the office, three Foreign Service Officers resigned to protest the Clinton Administration's lack of support to protect the people of Bosnia-Herzegovina, who were being cruelly attacked by the Serbs. I would come into the office in the morning and learn that another colleague had resigned in protest. The war was horrific, and these officers had been shocked by the reports of the atrocities taking place there. It was frustrating for them to see this tragedy unfolding and the United States refusing to act to stop the violence. Due to concerns about leaks of information to the press, our offices were regularly searched after hours by Diplomatic Security.

I remember one meeting that captured the tragedy of the war for me. A Muslim leader and a Catholic leader came in to brief our office on the war in their part of Croatia. They said that before the war the people used to get along with each other. The leaders of the three main religious groups – Islam, Catholic, and Orthodox – would hold regular meetings to discuss issues. The religious leader of the Orthodox was a Serb. When the war came, the other two religious leaders said they couldn't get a meeting with their Orthodox counterparts anymore. The Serb didn't want to have anything to do with them. The others wanted the Orthodox leader's help to stop the massacres and the mistreatment of the people. The Serbs were knocking down the mosques and Catholic churches. It was sad to see how everything unraveled. These two representatives talked about the sad case of Dubrovnik, which had been a beautiful region and a tourist attraction. The Serbs were shelling it at the time, and the Serbs blew up this famous old bridge in Most. It had been a historic treasure. It was so tragic to watch what we had thought were civilized people going after each other with such brutality.

Q: Okay, so you went to Poland. Shall we move on to that?

DRISCOLL: Yes. I had been promoted to FS-02 while in EUR and I wanted to go to the region. My next assignment was to U.S. Embassy Warsaw. I was supposed to be the Deputy Economic Counselor, and the Economic Counselor was going to be John Cloud. Before I went, John Cloud was named the DCM (Deputy Chief of Mission) at the Embassy. Consequently, I stepped up and became the acting Economic Counselor until a replacement could be found. We were fortunate with our ambassador. He was Nicholas Rey, who was born in Warsaw and had escaped in 1939. Rey is a direct descendant of Mikolaj Rej, a famous 16th century Polish poet. Ambassador Rey was the real deal as far as the Poles were concerned.

Q: He was a political appointee?

DRISCOLL: Yes. He was an investment banker. Daniel Fried replaced Rey as Ambassador after my first year at post. I knew Ambassador Fried well, as we had worked together on the PRD-36 back when I was the regional economic officer for EUR/NCE and he was at the NSC.

Q: Well, I'll be very interested in your economic perspective on Poland at that time. I remember meeting a Polish economist who wrote about the economics of scarcity. He basically had explained to all of the Western economists how, if you didn't have the price

indicators, you had scarcity, and that's how the economy responded to signals. It was a very exciting time in Washington because many people in the U.S. government didn't know enough about transition from a communist system.

DRISCOLL: Exactly, it was an extraordinary time. That was why I wanted to be there. I thought that twenty years after the collapse of communism, Poland and Eastern Europe would become boring, much like Belgium or any other Western European country. They would have their problems, but they would be just the normal problems and pains of another developed country in Europe. This moment in history, however, was the once in a lifetime transition from a command economy to a market-based economy.

Q: And it was a country where they had been thinking about it for a while. They really had more expertise, I think, than a lot of the other countries, and certainly more than the former Soviet republics, which were really starting from much more scratch, it seemed.

DRISCOLL: Well, Poland had a leg up on the other former communist countries. Poland hadn't collectivized the farms, except for the part of Poland that they took from the Germans at the end of World War II. Remember, the Polish borders were moved about 100 miles to the west. The one part of Poland that was collectivized was the territory seized from Germany. The Polish government moved into that area the Poles that Stalin had evicted from the eastern part of the country, which the USSR absorbed. Still, the vast majority of the farms in Poland were in private hands, which was different from Ukraine or the other communist countries.

The first thing that surprised me when I arrived in Poland was how much people didn't like Lech Wałęsa. He had about a 10 percent popularity rating. In the United States, people thought Lech Wałęsa walked on water. He was known as the person that had stood up to the communists and the Soviets. I learned that he had become a huge disappointment to the Poles. Even the liberals and anti-communists disapproved of him. Simply put, he was a terrible manager and leader when he came into power. He appointed cronies and they were viewed as corrupt or incompetent. The Polish people quickly became disillusioned by him. For me, it was stunning to see the dichotomy between his image domestically and his image in the United States and the rest of the world. The whole time I was in Warsaw, visiting U.S. VIPs would want to meet with Wałęsa.

Another astonishing fact of the transition was how much economic pain the Poles were willing to accept to make it through the transition. I saw that the Solidarity government that came to power right after the fall of the communists offered bitter medicine and the country took it without much complaint. The Solidary government laid off huge numbers of workers. They closed many inefficient factories, steel plants, and coal mines. The official unemployment rate exceeded 30 percent. I was flabbergasted that a government led by labor union activists would take measures that resulted in so many hundreds of thousands of their union members being laid off. I thought that if we were ever to have 30 percent employment in the United States, we would have civil unrest and possibly a revolution.

Q: And this was a U.S. expert that was promoting shock therapy, right?

DRISCOLL: Professor Jeffrey Sachs of Columbia was closely associated with what was called “shock therapy” or the “Big Bang”. And it was one heck of a shock. Within Poland, Leszek Balcerowicz was the Finance Minister and the Deputy Prime Minister, and he agreed with Sachs. Balcerowicz formulated the economic transition program for Poland. It was called the “Balcerowicz Plan” that launched shock therapy in 1989.

With shock therapy, the former communist countries took painful measures to transition to a free-market economy all at once and without much of a social safety net for the population. Freeing prices meant the cost of living rose sharply and shutting down loss making enterprises caused unemployment to soar. And this was done by both the Solidarity government, which drew support from the labor unions, and the former communists when they returned to power. Both parties were supposed to be representing the worker and both took painful measures that laid off hundreds of thousands of workers.

The United States provided technical advisors, including an expert from Social Security to assist with pension reform based on the model used in Chile, a pay-as-you-go model. Previously, the state had promised defined benefits, but the state no longer had the resources to honor those promises. So, Poland moved to a defined contribution or pay-as-you-go system. The new system would be like the TSP (Thrift Savings Plan) used by U.S. Federal employees, where the benefits received depended on the money contributed plus earnings. I would report regularly on pension reform.

What complicated my work was that in 1998 there was a global financial crisis. It started in Brazil and spread to the Asian Tigers. Russia was soon affected by the financial crisis. Washington and U.S. Embassy Warsaw were afraid that Poland would be the next to have its financial markets collapse. I followed closely and reported on the health of the Polish financial market and economy. I was looking for early warning signs of crisis. I met frequently with Finance Ministry and Central Bank officials, as well as private sector analysts, and then fed the information back to Washington, particularly to David Lipton at Treasury Department. Fortunately, Poland weathered the storm.

Q: Just for the record here, so you had gone to Polish language training for nine—ten months before you went?

DRISCOLL: Yes. I was supposed to receive nine months of language training. Unfortunately, we lost a whole month because of a government shutdown for several weeks that December followed by a severe snowstorm that closed us down for an additional week. I wished that I had not lost that month because Polish is a difficult language to learn. In the end, I received a 3 / 3+ in oral and reading skills in Polish.

Q: So you were in school '95-'96.

DRISCOLL: Yes, I was in Polish language from September 1995 to May 1996. At that time, there weren't many Polish audiovisual materials you could listen to and no internet to help you. And during the shutdown, the teachers were forbidden to meet with us.

Q: Because they weren't getting paid.

DRISCOLL: No. The teachers would have gladly continued working with us without pay. And, in fact, we did quietly meet with them at restaurants for a meal and a chat, but only for a limited time each week. FSI had told the teachers that they were prohibited from working during the shutdown, so they honored those instructions in the main. This hour or so they met with us couldn't compensate for losing a whole week.

Q: Did your wife get to take Polish too?

DRISCOLL: She did, but she took just five months of Polish language classes. She ended up with a 2 / 2 in oral and reading skills.

Q: Okay. So, it sounds like you're a fairly talented language student. And you got to Poland in 1996, and you were there for three years?

DRISCOLL: Yes.

Q: And you were the economic counselor the entire time?

DRISCOLL: No. I was the acting Economic Counselor during the first year. The second year John Hoover arrived to fill the vacant Economic Counselor position. John Hoover is a Europe hand and a pleasant man to work with. We got along well together.

Q: Tell us about what your job was.

DRISCOLL: A top goal was reporting on the economic reforms and the state of the financial markets. I followed the macroeconomic indicators and the overall progress with the transition. Washington was very interested in how shock therapy was going. I focused on the economic reforms throughout my time in Warsaw. I would keep David Lipton and his Treasury Department colleagues up to date with developments and the state of play. Treasury even had an advisor seconded to the Polish Central Bank to assist in setting up a healthy financial market. The advisor also was advising on how to give value to the zloty, the Polish currency, and to establish monetary policy tools. We brought over other technical advisors too. There was an expert from the SEC to assist with establishing a stock market. My office provided support to these technical experts. These experts provided valuable insight to me about what was happening in the Polish government. Nobody knew if shock therapy was going to be a success or a failure in Poland. There was intense interest in Washington about what was going to happen with the Polish economy, and the level of unemployment and possible unrest due to privatization. An economic collapse would be a political disaster for us. I followed the various large

privatizations, such as the banks, the insurance company, and steel mills. There was a tremendous amount of interest in how those privatizations were going.

At one point, I learned that the Treasury Department was leaning toward opposing a loan proposal for support from the European Bank for Reconstruction and Development (EBRD) to help with the privatization of Poland's state-owned telephone company, TPSA. I worked with Ambassador Rey to have the decision reconsidered. Treasury did reverse itself, and TPSA was successfully privatized. Similarly, I was able to convince Treasury to provide support, about \$50 million, to assist in the privatization of the Polish state-owned insurance company, PZU.

One other part of my portfolio was working on environmental issues. In 1990, the United States had agreed to a debt-for-environment swap with Poland. We forgave the \$400 million of debt Poland owed us on the condition that Poland would channel those funds into an environmental fund, called EkoFundusz (or EcoFund). I was the U.S. government official on the executive board.

Q: They used the money to give grants or loans that are really—

DRISCOLL: Grants. They didn't provide loans. I was the U.S. representative on the executive board. I am proud to say, EkoFundusz helped fund the removal of all the large lignite furnaces in Kraków. Lignite furnaces emitted black soot and caused air pollution. Another project we funded included a water treatment facility on the Baltic Sea. Previously, the Poles just dumped the raw sewage into the Baltic. I had the dubious pleasure of visiting the sewage treatment plant when it opened. I was glad we built it, but I didn't need to see and smell it close up. (Laughs)

Q: So, with Kraków, my understanding is the communist government had put these dirty plants there on purpose. Because this had been a more liberal, academic, you know, bastion of liberalism, I guess.

DRISCOLL: Oh, did they? I hadn't heard that. There is no love lost between the Russians and the Poles.

On that point, right across from my house in the Sadyba neighborhood, which was in the southern part of Warsaw, the Poles had opened the Katyn Forest Museum. This museum was akin to the Auschwitz Museum. It memorialized a horrible tragedy that befell Poland. The Soviets invaded and took the eastern half of Poland in 1939. They put captured Polish officers and intellectuals in internment camps. Then in 1940, over 20,000 Polish prisoners were taken to the Katyn Forest and executed by the Soviet secret police, the NKVD. The Nazis found the mass graves when they invaded the USSR in 1943. In the middle of the war, the Nazis allowed the Red Cross to come in and investigate the site in order to show how evil Stalin was. Stalin claimed the Nazis killed these Polish prisoners. It was only with President Gorbachev did the Russians finally admit that it was the NKVD that had massacred the Poles. Anyway, this little museum near our house had

photos of the bodies, large piles of eyeglasses, clothes, and boots. Not surprisingly many Poles hold a low opinion of the Russians.

Of course, the Poles have grievances with the Germans. I recall that in Warsaw I would come across signs that would commemorate a massacre by the Germans or someplace used in the 1944 Warsaw Uprising. The sign would say that on this day the Nazis in retaliation for some act of sabotage would kill scores of people who were pulled off a passing tram. The savagery was incredible.

When I talked to our local employees, invariably they would note that someone in their family had been killed by the Russians, the Polish communists, or the Germans. Very, very sad.

Q: Okay. So, you got to work on these environmental issues.

DRISCOLL: Yes.

Q: Did it take much of your time?

DRISCOLL: No, not more than ten percent of my time. Still, EkoFundusz had hundreds of millions of dollars and there were many proposals to review for possible approval at the quarterly executive directors meeting. Professor Maciej Nowicki, a former Environment Minister, was the President of EkoFundusz. He was a brilliant man, a friendly person, and an excellent administrator.

Q: An excellent administrator of the debt for nature swap?

DRISCOLL: Yes. Professor Nowicki was the President of EkoFunduz, the \$400 million debt for nature swap.

Q: Did you have an AID (United States Agency for International Development) mission there too?

DRISCOLL: We did. We had a big USAID mission in Warsaw, but we already were looking for an exit ramp so that we could “graduate” Poland from USAID assistance. We did have the Polish-American Enterprise Fund, which has over \$200 million to invest in the private sector. Graduation was easy to contemplate because we could see that the shock therapy phase would end soon. There would be a soft landing, as the Europeans were already stepping in with their technical and financial assistance as part of the effort to integrate Poland into the European Commission, which would become the European Union. Poland had signed an Association Agreement with Brussels, which set out a roadmap for becoming a member state. It had requirements for Poland to align its key economic laws and regulations to those of Brussels. In addition, Poland sought to join the Organization for Economic Cooperation and Development or OECD. That entailed revising the rules on private investment. Accordingly, the Economic Section of the Embassy worked closely with the U.S. Mission to the OECD in Paris.

Q: So, it was a fun time to be there, I'm sure.

DRISCOLL: It was a wonderful time. The Poles were serious about economic reforms and were willing to endure substantial pain to implement them.

We had an interesting time in July of 1997 when President Bill Clinton came to Warsaw to give a speech about the recent expansion of NATO. I was assigned to handle the speech site at Castle Square in Stare Miasto (or Old City). The White House sent Hal Needham, the director of the movie *Smokey and the Bandit 2*, to oversee the arrangements. I was assigned to work with Needham. He was focused on the pageantry of the location and finding the best camera angle for the speech. Those of us working the site met President Clinton, who displayed an amazing ability to remember names of the people he met. I saw that he could recall the names and hometown of a person who he had just been introduced to a few minutes earlier. The Poles were enthusiastic about the visit. They had just been allowed into NATO, and they came out to show their appreciation. Needham had us handing out little U.S. flags for the crowds to wave.

Q: How big was your section in Poland?

DRISCOLL: We had four officers when fully staffed - the Economic Counselor and the Deputy, plus two junior officers. One outstanding junior officer was Katherine "Kemy" Monahan, who brought useful legal experience to her job following the reforms through the Sejm, the Polish legislature. The Economic Section was fortunate to have three of the best local employees that I ever worked with. Ewa Kurhanowicz had decades of experience at the Embassy and was thoroughly steeped in environmental matters and officials. She was invaluable in advising me on the numerous EkoFundusz issues and evaluating proposals. Ania Jaros had a great understanding of both economics and free markets; she had gone to college in England. And, Iza Misiwicz was a newly hired economic assistant, who was smart and dedicated. I learned that Ewa died a couple of years ago, but both Ania and Iza were still working at U.S. Embassy Warsaw.

One of the other junior officers in the Economic Section was George Kent, who was on his second tour. He had outstanding Polish language skills, and he knew the culture well. He was a great addition to the section. George later became a Deputy Assistant Secretary for the Europe Bureau, and recently was nominated to be the U.S. Ambassador to Estonia. He testified in the first Trump impeachment trial. George would wear a bowtie. At the impeachment hearing he dressed the same and spoke the same as when he was in Warsaw.

Q: Did he work for you?

DRISCOLL: Yes. He was a junior officer in Warsaw.

Q: I've interviewed a couple of people who worked in Eastern Europe—Romania, Bulgaria even Poland earlier—and there are all these stories about how cigarettes became a form of exchange, you know, paying for things in the—

DRISCOLL: Yes. I remember that story made it into the newspaper in Warsaw. The old Polish currency had dubious value. In fact, shortly before we arrived in Poland, the Central Bank struck off the last four zeroes on the zloty. High inflation had led to an almost worthless currency, where small items could cost millions of zlotys.

The transition also ushered in changes in the workplace culture. I recall a humorous story about McDonalds. McDonalds had just opened up its first stores in Poland and some of its employees were upset. Management had told the employees that they were supposed to smile and be nice to the customers. Being friendly to customers was a new concept.

(Laughs) In the old days, I'm sure in the Soviet Union too, sales clerks were kings and queens. A customer had to be nice to the clerk because money itself didn't matter much. What mattered then was whether the customer had something that the clerk might be interested in. Then the customer could make a barter exchange. That way the customer could find a pair of shoes that fit. But with the free market, money did matter, and the customers were on top. Now, clerks had to smile and be nice to customers. This was a comedown for salesclerks.

Q: In Moscow, that happened in the state-owned stores, which were still there, but they were becoming sort of irrelevant. So, what else was exciting during your time or interesting?

DRISCOLL: One issue that I worked on concerned insurance and the Holocaust. This matter was driven by the New York insurance commissioner, and it was an eye opener for me. At this time, Poland was trying to privatize PZU, the large state-owned Polish insurance company and we wanted this to go off smoothly. What I learned was that before World War II, many people in Poland and Eastern Europe saved their money through a financial instrument akin to whole life insurance policies. A person would buy an insurance policy as an investment, a way to save money and pass it on to the heirs. The biggest firm in this business were the Swiss insurance companies, especially Allianz, but many other insurance firms were also active in the region. At the end of World War II, many of the insurance companies refused to turn over the money they were holding for the beneficiaries of these policies. Many of these insurance companies would insist on only paying if the beneficiary could produce both the original of the policy and also a death certificate. Of course, very few of the beneficiaries had both the policy and a death certificate, especially those killed in the Holocaust or those who had fled as refugees to the United States. These insurance companies had the names of the policyholders and their beneficiaries, but they refused to pay up. Somewhere around 1997 or 1998, the descendants that were in New York and elsewhere in the United States started demanding action. I was asked to urge the Poles to provide information about Holocaust-era claims, especially regarding policies held by the state-owned insurance company PZU. In

addition, we wanted PZU to participate in the International Commission on Holocaust-era Insurance Claims, which was chaired by Secretary Lawrence Eagleburger.

Q: By this time Eizenstat and others had formed some offices to start going after some of this stuff, right?

DRISCOLL: Yes. Ambassador Stuart Eizenstat led the effort within the State Department to seek redress. The New York insurance commissioner had a lot of clout over the large insurance companies, such as Allianz, and was pushing for some remedial action. Other state insurance commissioners in the United States teamed up with New York in this effort. The commissioners threatened to bar these Swiss and other insurance companies from operating in New York and other states, if they didn't come up with a plan to compensate the beneficiaries. It turned out to be a substantial amount of funds. The International Commission on Holocaust-era Insurance Claims was formed to coordinate a resolution that involved the U.S. insurance commissions, the European insurance companies, and representatives of the policyholders. In the end, the international commission worked with 75 European insurance companies, including Poland's PZU, and resolved 90,000 claims, paying out nearly \$500 million.

Q: Did you have to work on particular cases, or you were just supporting the overall effort?

DRISCOLL: I was involved in supporting the overall effort, not individual cases. The Embassy handled the visit of a group of U.S. insurance commissioners and Ambassador Eizenstat's people to Warsaw. I worked with the Polish insurance company, PZU, so that it participated in the settlement. And I also engaged with Polish authorities to provide information about Holocaust-era insurance claims.

Q: Most of the families were in Israel or the United States?

DRISCOLL: Exactly.

Q: They weren't in Poland anymore.

DRISCOLL: Very few. Many of them were Jews who had left Poland.

On that topic, it was startling to me to see the changes from pre-war to post-war Poland. If you looked at Poland in 1939, you would see that nearly two-thirds of the country was Catholic Polish, about ten percent were Jewish, and another quarter were minorities, particularly Ukrainian and German. The cities were especially cosmopolitan. In Warsaw, almost a third of the population was Jewish before the war, and the Germans were nearly 90 percent of the population in Gdańsk. After the war, Poland became over 95 percent Polish Catholic. The other people had either died, fled, or been evicted. The Poles expelled the Germans from Gdańsk and from western Poland, and Stalin seized the eastern portion of Poland where the Ukrainians lived. Of course, the Jewish population suffered the worst. The few Jews who came back after World War II suffered again under

a campaign in the 1960's to expel them from Poland. I recall going to Gdańsk in 1998 and seeing beautiful German Lutheran churches that were now empty and unused. The congregations had been expelled decades ago. Poland's history is so tragic.

Q: Did you see any of these cases resolved while you were there?

DRISCOLL: Yes, the Holocaust-era insurance claims matter was settled.

Also, while I was there, we saw successful conclusions to several privatizations of large state-owned enterprises including some large banks, the telephone company TPSA, and the insurance company PZU. Moreover, Poland did revise the pension law, and we helped stand up a functioning Central Bank. Most importantly, Poland made a successful transition through its shock therapy stage. The economy had been transformed from a communist, command-economy to a healthy, growing free-market economy. We had been closely monitoring how people fared, and the Polish people not only survived, but thrived. And Poland did this in the face of the financial crises that was ravaging many countries in the developing world, especially with Russia, the Asian Tigers and Latin America. Fortunately, the Poles managed their external debt and their budget well, and they were not significantly affected by the crises elsewhere in the developing world.

Before it was put into practice, nobody could be sure whether the concept of shock therapy would work. Looking back now, we can see that it did. I recall the anxiety policy makers had when food prices were freed at the start of economic reforms. There could have been riots in the streets, but that didn't happen, and the economy and Polish people made it through those challenging early days. I came away feeling that it had been a great time to be there. The Poles accomplished amazing things during my time there, and I am proud to say that the U.S. government helped. The Poles transformed their economy. I still am in contact with some Polish friends and today there may be some bitterness about the current politics in the country. Still, they recall the pre-1990 world and recognize the enormous economic progress made since then. I was very fortunate to have been there.

Q: Good afternoon. It is July 25, 2022, and we are continuing our interview with Rick Driscoll. I think that we left off when you were leaving Poland where you had been the acting economic counselor, and the year is 1999. And so, what happened next? Were you bidding? Where did you decide to go?

DRISCOLL: While in EUR/NCE and later in Warsaw, I had had quite a bit of contact with the Assistant Trade Representative for Europe and the Middle East, who was then Cathy Novelli. She asked me to come join her team, and I thought that would be interesting. I had learned through my work as an economic officer of the interaction between the U.S. Trade Representative's office and the State Department, with its economic sections in mission abroad and in Washington, D.C. Generally, USTR would call the tune, and State Department would advise and implement. I thought it would be good to be on the other side of these interactions, to be on the side of USTR making

requests and instructions to posts versus being at post and trying to implement USTR's requests and instructions.

Q: Poland was already a member of the WTO (World Trade Organization) at this point?

DRISCOLL: Poland was a member of the WTO, but it hadn't yet joined the European Commission, which later became the European Union. It had initiated the process of acceding and had entered into an Association Agreement that paved the way to full membership. That process would take several more years to complete before Poland joined the European customs union. This interim period was important because prior to joining the customs union, trade relations between Poland and the United States were a matter of bilateral negotiations. This meant that USTR could play a significant role in managing trade relations with Poland because Warsaw still controlled its own tariffs and trade policy.

Q: USTR is a very small organization.

DRISCOLL: Yes. USTR was housed in the Winder Building right across 17th Street from the Old Executive Building. At the time I arrived, it was the last year of President Bill Clinton's Administration. USTR was led by Charlene Barshefsky, and her deputy was Susan Esserman. My portfolio was Central Europe, which included Poland, the Baltics, Hungary, Czech Republic, Slovakia and the Balkans. Plus, I covered Ukraine. I shared an office with Katrin Kuhlmann, who handled Russia and the rest of the former Soviet Union. She and I backed up each other when one of us went away.

Q: Oh, that's right.

DRISCOLL: You ran into her?

Q: Well, so, I had been the trade officer in Moscow while you were in Poland. When I came back to Washington I met her in a meeting, and she was grateful because she had been reading all these very lengthy cables on the trade and investment climate that I had written in the two years previously. I had given her all this material to work with.

DRISCOLL: Oh, yes. Just like Ukraine was new to me, Russia was new to her. And so, all that information from U.S. Embassy Moscow was really helpful to get up to speed, especially on the many complicated issues. I remember that we were trying to export chicken legs into Russia.

Q: That was a very big operational issue, but we had a big USDA office, FAS office, in Moscow that handled that. So, I worked mostly on the WTO accession and then a steel antidumping case.

DRISCOLL: Yes, I recall the steel case.

Q: But the WTO accession, you know, was a huge issue that went on for fifteen years, I think, with Russia, so.

DRISCOLL: Katrina and I had a friendly competition between us over which country would get into the WTO first: Ukraine or Russia. I noted a distinct difference in approaches. The Russian approach was to seek to gain a pass on having to comply with the requirements to join. Instead, the Russians would urge the United States to bend the rules and let them into the WTO as is. They stressed that if the United States was really a friend it would amend the rules for Russia. They wanted to have leeway on the rules, such as Most Favored Nation or MFN requirements. They didn't want to be required to give the Baltic states MFN rates. I remember that Russia wanted to be able to apply special treatment to the Baltics and other former Soviet Union states, if they wanted to do so. I guess they wanted to be able to crack the whip over those countries, without being restrained by their WTO obligations. The Russians would come into USTR with disbelief that a superpower country would have to accept the same rules that applied to little African states.

The Ukrainians weren't of that mode. They never thought that they would be exempted from having to comply with the requirements for joining. They were just slow in implementing the necessary legislative and regulatory changes. (Laughs)

The overarching trade issue with the Warsaw Pact countries was that the European Commission, later the European Union, was applying pressure on these candidate countries to align their trade positions early even before joining to that of Brussels. For example, Brussels was pressing the Czechs and the Slovaks to put higher tariffs on commercial aircraft than they have for European aircraft. This was the classic Airbus versus Boeing conflict. In response, we had to play hardball with them. We told them they should just say no to Brussels and continue to apply the same tariffs for both. We did have a trump card in our hand. These countries wanted to continue to benefit from GSP (Generalized System of Preferences). These preferences are a unilateral device on our side, where we elect to give selected countries lower tariffs or not.

Q: The Generalized System of Preferences actually is under the WTO, I think, so other—the EU does it too, but it was—when you said unilateral, it means the United States decided to either reduce the tariffs on certain goods to zero?

DRISCOLL: Yes, GSP allows a developed country at its option to grant a lower tariff rate to a developing country below the rate applied to other countries. This rate gives the recipient a comparative advantage in trade.

The GSP made a difference to the former Warsaw Pact countries. It covered many of their exports to the United States. Thus, the power to grant GSP gave us significant leverage in dealing with them. We explained to them that even though they were our good friends and they had just joined NATO, if they were going to impose tariffs on Boeing and give Airbus a better rate, then we were not going to be so inclined to continue to grant GSP when it had to be renewed next. That argument worked with the Czechs and Slovaks.

With Poland, we negotiated a more comprehensive trade package. These negotiations took place in 2001 during my second year at USTR. George W. Bush had just taken office and Robert Zoellick was the new U.S. Trade Representative. Cathy Novelli remained as the Assistant United States Trade Representative for Europe. I suggested, and she agreed, that we should negotiate a comprehensive agreement with Poland in return for supporting renewal of GSP for them. Our package included Poland reducing tariffs on various agricultural and industrial products, including automobiles. Chrysler was particularly keen to get its PT Cruiser into Poland. Gary Meyers from USDA came with me to handle the negotiations regarding agricultural products.

And so, I returned to Poland in early 2001. Gary Meyers and I flew over to Warsaw and through several days of tense negotiations, we concluded a trade deal. We felt intense time pressure as President Bush was going to fly to Warsaw at the end of the week. We had to wrap up negotiations before his arrival to be able to announce it during his visit. We spent days in a conference room, negotiating with the Poles right up until the very end. We settled the terms the night before President Bush's arrival. As President Bush was flying into Warsaw, we were heading to the airport to leave. The President announced on June 22 the conclusion of the agreement during his visit to Poland.

Q: Well, we do negotiate agreements right before a presidential visit. We call them deliverables, right?

DRISCOLL: Exactly. It felt good to conceive of and bring to fruition this deliverable. We weren't sure that the Poles would agree. We had quite a long "ask" list of products, from almonds to car parts. We gained much of what we asked for. The Poles agreed to lower these tariffs until they joined the customs union, which would be several years later. So, it improved our market access for that interim period.

I thought it was thrilling and nerve wracking to do these negotiations, yet at the same time it was quite a bit of fun. There were just the two of us – Gary Meyers and me – negotiating away. Of course, we had to coordinate with Washington and receive their blessing to the final deal, but we had a lot of leeway.

In 2001, I confronted one of the biggest issues I had to deal with during my time at USTR, which was Ukraine. It turned out that Ukraine had become the world's largest producer of pirated CDs and DVDs, according to the Recording Industry of America. It appeared that the pirates were engaged in this activity with the government's acquiescence. We heard reports that much of the production of pirated CDs and DVDs was taking place on military bases. These pirates had friends high up in the government, so the government wasn't cracking down on them. Due to this high level of piracy, USTR put Ukraine on the 301 Watch List.

Q: So, if it's related to intellectual property, it's Special 301.

DRISCOLL: Right, the Special 301.

Q: What are pirated CDs?

DRISCOLL: The pirates would use an optical media printer. They would obtain a master or an original of a CD or DVD and then they'd just copy, copy, copy.

Q: And sell them in the local markets?

DRISCOLL: They would sell them principally in Europe. The U.S. recording industry didn't care so much about lost sales in the local Ukraine market, but they were going to fight hard to protect the European market.

Q: And so, what did we do?

DRISCOLL: First, in March of 2001 we identified Ukraine as a Priority Foreign Country under Special 301 List. This action led to an investigation under Section 301 of the Trade Act of 1974, which concluded that Ukraine was failing to address the problem of pirated optical media production. We warned them that if they didn't address this problem within three months of the initiation of this investigation, we would likely impose trade sanctions. The warning didn't seem to get their attention. Consequently, we imposed trade sanctions. I led an interagency process to identify products that we might impose tariffs on. These products would have prohibitively high tariffs. We obtained input from our embassy in Kiev and from the U.S. private sector. The guiding principle for me was to squeeze the Ukrainian oligarchs so that they would weigh in with the Ukrainian government to stop the piracy. Ukraine at that time exported a lot of steel to the United States. One man we focused on was Victor Pinchuk, who was the son-in-law of the former Ukrainian President Leonid Kuchma. He owned some steel mills, and he could be helpful to us if he decided it was in his interest. We also suspended Ukraine's participation in GSP in August of 2001. We recognized that the GSP suspension alone wouldn't have much of an effect. We thought that targeted sanctions would be needed, and they were.

Q: At that time, the sanctions were not directly targeted on their assets, right?

DRISCOLL: Not at their assets, but rather focused on trade. We would apply 100 percent tariffs on \$75 million of their exports to the United States.

Q: Retaliatory tariffs?

DRISCOLL: Retaliatory tariffs, yes, exactly.

Q: On their exports, like the steel products that they send? And were you working closely with State too?

DRISCOLL: Yes, we had an interagency process, which included State Department, Commerce Department, and input from the private sector too. The regulatory process

required us to publish a list of potential products to be hit with these tariffs and ask for comments. Further, we had to obtain the NSC's (National Security Council) approval. It was quite a process to get everybody involved, consulted with, and signed off.

Q: So, when we actually did it, was there a very large reaction from the government?

DRISCOLL: Yes. The Ukrainians at last paid attention. They indicated they wanted to settle the matter. Consequently, Joe Popovich, the Assistant U.S. Trade Representative for Intellectual Property, and I flew to Kiev to come up with a resolution to this matter. We went to Kiev twice before we concluded an agreement. We negotiated an agreement called the Joint Action Plan to Combat Optical Media Piracy. This spelled out the steps Ukraine needed to take for the United States to drop the sanctions and take Ukraine off the Priority Foreign Country designation under Special 301.

At one point in the spring of 2001, there was a meeting between the U.S. Trade Representative and Ukrainian President Viktor Yushchenko, who was visiting Washington. In substantive terms, there was nothing special about the meeting. Of course, we asked him to have his government clamp down on the piracy. What stood out about the meeting for me was President Yushchenko himself. A few months earlier, he had been poisoned – presumably by the Russians – and he was recovering from the effects of the poison. His face had this greenish hue to it. I had never seen anything like it. The press had talked about his green complexion, but when I saw it close up, it was astonishing. It seemed amazing to me that he had survived the poison.

Q: He had an American wife, I think, just remembering from the news sources. I remember there was a lot of work to try to get him to the best medical care for that.

DRISCOLL: Yes, so that was pretty interesting.

Q: Did you meet Tymoshenko?

DRISCOLL: Yulia Tymoshenko? No, I never met her, though I knew who she was. However, in one of our visits in 2001 to Kiev I had an eerie dinner meeting with then Interior Minister Yuri Kravchenko. The Ukrainians had a dinner for us, which included Victor Pinchuk and various ministers, including Kravchenko. Right before our flight, the press in Ukraine had reported on a leaked audio tape recording of a call between Kravchenko and then President Leonid Kuchma. Kuchma had complained to Kravchenko about the journalist Georgiy Gongadze, who had been reporting on corruption in the Kuchma administration. On the recording, Kuchma had said that Gongadze should be “removed and thrown to the Chechens” and an aide said that Kravchenko should deal with the problem using “alternative methods”. Shortly afterwards, Gongadze was killed and decapitated; his body was found out in a forest. I was aware of this history and felt queasy about shaking hands with Kravchenko when I met him. Figuratively, he had blood dripping all over his hands. This type of gangster was not the type of interlocutor that I normally dealt with. I learned that a few years later that President Yushchenko had launched an investigation into the murder of the journalist. When the prosecutor wanted

to question ex-minister Kravchenko about the case, they found him dead at home from a gunshot, though it wasn't known whether it was suicide or murder.

Q: At that point they were still calling it Kiev?

DRISCOLL: That's right. They hadn't changed it yet.

Q: I read recently that it is Kyiv in Ukrainian and Kiev in Russian.

DRISCOLL: Yes. It is Kyiv now.

Q: Yes. And you worked closely with the embassy on these issues?

DRISCOLL: Correct. The embassy was very helpful, particularly Ambassador Carlos Pascual. The Embassy wanted this piracy matter resolved. It was hindering other parts of our bilateral agenda. In the end, once we had the Ukrainians' attention, a solution became possible. All along, we and the Embassy were convinced that if the government really wanted to stop this piracy, it wouldn't be a difficult thing. It wasn't as if the government had to guess where the piracy was taking place and who was doing it.

Q: So, did it stop?

DRISCOLL: It did stop. Although it did take until 2005 for Ukraine to take all the other legislative and enforcement steps spelled out in the 2001 agreement. Only then were the sanctions lifted.

Q: Okay, very good.

DRISCOLL: As we know, today CDs and DVDs are disappearing from use. However, at that time, the Recording Industry of America was keen to stop this piracy and they were pleased with this result.

Another matter I worked on at USTR was trying to advance OECD accession of the former Warsaw Pact countries because that would also help on trade matters. The Visegrád Four, which are Hungary, the Czech Republic, Slovakia and Poland, were all in the process of joining the OECD.

Q: And the OECD is?

DRISCOLL: The Organization for Economic Co-operation and Development, which is based in Paris.

The OECD offered guidelines that the United States wanted other countries to follow, especially in the financial sector and in the trade sector. For example, the OECD had guidelines about government procurement that we wanted others to adopt. We had an exception to the Buy America law for a country that provided reciprocal treatment for

U.S. firms. If a country allowed U.S. firms to compete in a government procurement competition in that country, say Poland, on an equal basis with a Polish firm, then we would allow Polish firms to compete in the United States on an equal basis for U.S. procurement. We convinced many of the Eastern European countries that it was a good idea. I saw it as a win-win situation. They would obtain access to the U.S. markets, and we were able to either maintain or expand our access to their markets.

Q: And during the WTO accessions, there's a special office in USTR that handles that. Did you get involved—did you go on those delegations' meetings or things?

DRISCOLL: Yes. I worked closely with Cecilia Klein and the Assistant U.S. Trade Representative for WTO Affairs, Dorothy Dwoskin, on WTO accession for Ukraine. While I did work on Ukraine's accession for the full two years, they didn't join the WTO until 2008.

Q: Any other high-profile things that went on? Anything with the Baltics or the Balkans?

DRISCOLL: Not with the Baltics or the Balkans. We just didn't have a lot of trade or investment issues with them. We were focused on the Visegrád Four. They were the largest economies and trading partners in the region. We did have a host of trade issues with them. I recall that Poland would play fast and loose with sanitary and phytosanitary rules. If Poland had a good wheat crop, then they would strictly enforce an absolute prohibition of U.S. wheat imports that had any ragweed in it. I learned that every U.S. wheat shipment has some small amount of ragweed in it. Ragweed is endemic in the United States. However, when Poland had a wheat shortfall and needed imports, then they ignored the rule.

Q: When they needed more imports, then they would ignore the rule?

DRISCOLL: Yes, exactly. It was very convenient for them.

Q: How could you counter that because it was—the rule was on the books?

DRISCOLL: The rules were on the books, but we could talk to them, just let them know that we were aware of the game that they were playing. This could come back to bite them in if they needed something from us in the future. What bothered us was that by 2000 ragweed had already become endemic in Poland, which undercut the rationale for keeping it out. The Poles weren't preventing the introduction of ragweed with the ban. It was too late for that. Still, I didn't make any headway on this issue during my time at USTR. I have noticed that many countries, not just the Poles, view sanitary and phytosanitary rules as a convenient tool to be used to control market access. Our efforts to keep the application of rules on a purely scientific basis faces a lot of headwinds. Other countries often think that since they made decisions about the application of their sanitary and phytosanitary rules based on politics, that we would do the same. They would want us to apply pressure on APHIS (Animal and Plant Health Inspection Service) or other U.S. technical agencies to ignore the science. That was something we didn't do.

Q: So, it sounds like it was fun. It wasn't high pressure.

DRISCOLL: (Laughs) It was a very small office, and it was great. I liked my colleagues at USTR, and the detail gave me a chance to work with many of State Department's economic officers throughout the region.

Q: But you were not tempted to stay?

DRISCOLL: No, I wasn't tempted even though AUSTR Cathy Novelli asked me to stay. I wanted to experience work at USTR, but spending more years on trade issues simply didn't appeal to me. I didn't live and breathe trade. For example, one of my colleagues, Mark Mowrey, had worked on MRAs (Mutual Recognition Agreements) with the European Union for years with little to show for it. That seemed quite frustrating.

Q: Okay, so this is about standards and about the recognition systems for standards—

DRISCOLL: Right, mutual recognition.

Q: That's an area I worked on a bit over—in the nineties. But I am not sure I understood it very well. It's very complicated, right?

DRISCOLL: You are right, it was complicated. I learned that we wanted the Europeans to recognize a standard approved by Underwriters Laboratories or UL, but the Europeans insisted on their own standards. Despite years and years of talks, Brussels would only recognize UL if it agreed to follow the EU standard. That was how the Europeans saw MRAs working. Moreover, the EU would apply pressure on EU candidates and other countries to adopt the EU standard and not recognize the U.S. standard. This put us at a competitive disadvantage.

Q: They would have to create a different product to sell there.

DRISCOLL: Exactly.

Q: To give an idea of MRAs (Mutual Recognition Agreements), I think you can think of a new drug. You would have to have a body that recognizes or that assess the safety and efficacy, like the FDA (Food and Drug Administration). If the Europeans have another body doing the same, you would like the Europeans to accept the decisions by the FDA, and we would have to have confidence in that other body. Right?

DRISCOLL: Right. Brussels pressured the future members in Eastern Europe to adopt their position, which many did. The Poles were the friendliest towards the United States, but the other ones fell under the sway of Brussels. This was a continual headache because we would work hard on an issue for year after year, and really made no progress.

Q: Okay. Around halfway through your time you had to decide what to bid on for your next job, right?

DRISCOLL: Yes. After coming back to Washington, I looked around at my options. I had just been promoted to FS-01 so I looked at positions at that grade. I had never worked in the Bureau for Oceans, Environment and Science or OES. That seemed interesting to me due to my contact with the OES Bureau in Warsaw and earlier in Caracas.

Q: Barshefsky was the USTR when you first started, but then—

DRISCOLL: Yes, Charlene Barshefsky was the USTR under President Clinton. Then we had Robert Zoellick, who was USTR under President Bush in 2001.

Q: Okay. So, before we move on, what was it like to work in Bob Zoellick's USTR?

DRISCOLL: Well, he was a new character, and we were trying to assess what he would do and how he would manage the staff. We knew he was brilliant. He did have quite a temper. I heard that at one memorable staff meeting he started shouting at everybody in German.

One benefit of Zoellick was that he had good working relations with other senior people in the Bush Administration. He seemed really looped into the White House, the State Department, and the Treasury Department. In fact, I thought he was better looped in than Charlene Barshefsky had been.

Q: He had served in State before that as the counselor and undersecretary for economic affairs. I believe that was first and then he became the USTR.

DRISCOLL: And later on, he became the Deputy Secretary of State. He was very sharp. One of the earliest things he had to deal with was the cleanup following the disastrous Seattle WTO conference.

Q: The battle for Seattle.

DRISCOLL: Seattle, yes. A disaster.

Q: What happened there?

DRISCOLL: President Clinton and USTR Barshefsky had hoped to use the Seattle WTO conference to launch efforts to increase globalization of trade in goods and in services. There was strong pushback. There were enormous and colorful protests in Seattle against globalization by environmentalists and labor activists. They practically closed the conference down. It reminded me of the protests in Chicago during the 1968 Democratic Convention.

Q: For having any trade liberalization.

DRISCOLL: Exactly. It was chaotic. My boss, AUSTR Cathy Novelli, went and we talked to her every day during the Seattle conference. She related how she and other delegates had to go through police lines and tear gas to get into the conference site. It was a nightmare. The Clinton Administration's hopes to make progress on new global agreements were dashed. With the arrival of Zoellick, we shifted gears and started instead to pursue regional and technical agreements, such as an information technology agreement. These agreements were voluntary and so countries could opt to join or not. It didn't have to include all WTO members as would a WTO general agreement.

Q: And that was a nice agreement because it was an area where liberalization was in people's interest. You remember what it was?

DRISCOLL: Yes, it was an agreement to lower or eliminate tariffs on a select group of information technology products.

Q: I think zero tariffs on computers and—

DRISCOLL: Yes, I don't know if it was zero or just lower rates on a select group of products. The agreement was only among the signatories, so even though WTO was universal, this one had limited participation. Another one we pushed was the Government Procurement Agreement, which was, again, among countries that volunteered to do this. If a country joined then we would treat your companies as if they were domestic firms, and the other country would treat our businesses as if they were domestics. I think Zoellick was smart to pursue this approach after Seattle, because I could see the world wasn't ready for another global agreement.

Q: They started to switch from these big global agreements because they were starting to get too hard to negotiate, right?

DRISCOLL: Right.

One of the last things I did at USTR was to support a meeting in July 2001 between Algerian President Abdelaziz Bouteflika and USTR Zoellick. President Bouteflika had come to Washington, D.C. to meet with President Bush. President Bouteflika sat in a big armchair, which made him look smaller than he was, and he looked in poor health. The room temperature was set high, yet he had a blanket wrapped around him. The meeting was friendly and went well, though I thought President Bouteflika was hoping to get the green light to start negotiating a free trade agreement similar to what Algeria's neighbor Morocco had with the United States. I finished my time at USTR shortly afterwards.

Q: So, you left USTR in 2001?

DRISCOLL: Yes. The summer of 2001.

Q: After that, he presided over negotiations, Central America Free Trade Agreement and bilateral agreements in the Andes. So, that happened a little later.

DRISCOLL: Yes. He was successful in creating a free trade zone that stretched the entire length of the Pacific coast, from Chile all the way up to Canada.

Q: But not Brazil or Argentina.

DRISCOLL: Right. I don't foresee Brazil pursuing a free trade agreement with us. And Argentina would follow Brazil's lead. Along the Pacific coast, however, we have the trilateral agreement with Canada and Mexico, CAFTA-DR (Dominican Republic-Central America Free Trade Agreement), which my wife Julie worked on the agriculture part, plus free trade agreements with Panama, Colombia, Ecuador, Peru, and Chile.

Q: All right. So, did you bid?

DRISCOLL: I did bid. I wanted to stay in Washington for a while to allow our son to benefit from the schools in Fairfax County, Virginia. I chose the office called ETC in the Bureau of Oceans, Environment and Science. ETC stood for Environment and Terrestrial Conservation. We called it the Green Office. They have since changed the name to the Office of Conservation and Water, though it still covered the issues that had been in my portfolio.

John Turner, a traditional conservative who valued wildlife and conservation, was the Assistant Secretary of the OES Bureau. Jeff Burnam was the Deputy Assistant Secretary covering our office. At the time, the Office Director was a Foreign Service officer, Kathleen Stephens. She later went on to be our ambassador to Korea. The Deputy Director was Stephanie Caswell, a civil servant who had come from the U.S. Forest Service. Stephanie had many years of experience with forests and the environment. She was an impressive expert and I got along well with her. The office covered quite a few subjects that involved working with various U.S. agencies. We handled international forest issues, invasive species issues, and endangered species issues, including CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora). Further, the office was responsible for the new fields of biodiversity and genetic resources.

I became one of three senior officers in ETC and led a team of four. Christine Dawson led the team responsible for biodiversity, including the Convention on Biological Diversity or CBD, and desertification. She later became the Office Director after Stephanie Caswell retired. Jan McAlpine headed the forest team, though she left a few years later to work at the UN Forum on Forests. I recall that Jan went out of her way to console me when she learned my dad had died of cancer in 2021. It was a very kind thing for her to do.

My team handled genetic resources, CITES, and invasive species. I split my time between managing the team and personally handling genetic resources issues. These issues had come to the forefront of the international environmental community's agenda

at the 1992 Rio Conference, where the Convention on Biological Diversity or CBD had been created. The CBD was one of the three treaties that came out of Rio, the other two being the UN Framework Convention on Climate Change (UNFCCC), and the United Nations Convention to Combat Desertification (UNCCD).

With respect to genetic resources, we were battling a widely held belief that the developed countries were robbing the genetic resources from Third World countries, and not equitably sharing the benefits with them. Genetic resources were sometimes referred to as “green gold”. Many had the misconception that there was a fortune waiting to be tapped in the genetic resources of animals or plants. These resources would cure cancer or somehow increase agriculture productivity. The issue of access to genetic resources was heating up at the time I joined OES because the United States and others were becoming more proficient at extracting and manipulating genetic resources, both for agricultural and for medical use. A very specific related issue was my work as part of a committee under the CBD to deal with access and benefit sharing under Article 8(j) of the CBD concerning “Traditional Knowledge, Innovations and Practices.” This group focused on benefit-sharing from traditional knowledge, such as indigenous medicines derived from local plants and animals.

I was put in charge of this relatively new issue of genetic resources. One of the first things on my plate when I arrived was handling the Food and Agriculture Organization (or FAO) based in Rome. Right before I arrived, the FAO had concluded the negotiations of the text of the International Treaty on Plant Genetic Resources for Food and Agriculture (or ITPGRFA). This treaty would govern international access to genetic resources of 64 high-profile agriculture crops. Together these crops accounted for 80 percent of the food the world consumed and the vast majority of international trade in agriculture. The list included, maize or corn, rice, wheat, potatoes, beans, and bananas. International access to genetic resources for those plants not covered by the ITPGRFA would be regulated by the Convention of Biological Diversity or CBD. The FAO treaty promoted free trade in the listed crops, while the other crops would be subject to the more complicated and burdensome rules of the CBD. In short, the FAO treaty was written by promoters of international agriculture trade, while the CBD was written by environmentalists with a different set of objectives in mind.

When I arrived in the office, the U.S. negotiating team had just returned from the final negotiating session in Rome. I was told that our negotiators had wanted several provisions changed in the text of the treaty, such as the inclusion of soybeans on the list of covered products. Our delegation reportedly stated that if the changes weren't made then, the United States would never sign the treaty. Unfortunately, our delegation couldn't achieve the desired text changes. They left the impression with others in Rome that the United States was through with the ITPGRFA. That was the situation when they handed me this portfolio. Moreover, I was faced with a one-year window in which FAO members could sign the agreement in order to be a founding member and to have a voice in drafting the implementing rules.

I came in with an open mind. I consulted the private sector and soon learned that all things considered they did want the United States to be a party to the treaty. They wanted us to sign within the one-year window to have that seat at the negotiating table with regard to drafting the implementing rules. Accordingly, I had to walk back our declaration of never signing this treaty. I spent an intense year working first with the private sector, especially the American Seed Trade Association (ASTA), to put the United States in a position to sign the treaty before the November 4, 2002, deadline specified in the treaty.

Q: This was going to help them get more market access because of lower tariffs?

DRISCOLL: The treaty would preserve relatively unencumbered international access to the genetic resources from the listed crops for U.S. farmers. Since the United States was a leading agricultural producer and we had substantial exports in agriculture the implications were enormous.

I worked closely with Katy Youel-Page, the assigned Attorney-Advisor from the State Department's Legal Advisor's Office, and Kathy White, an attorney from Department of Agriculture. We first had to reach an interagency decision to pursue signing the treaty. Then we would have to go through the administrative process for signing an international treaty. I met with Agriculture Secretary Ann Veneman and briefed her about our proposed course of action with the ITPGRFA. She endorsed our proposal to sign the treaty. Next, we had to win over the White House's Domestic Policy Council and the National Security Council (NSC). The White House Domestic Policy Council was relatively easy to persuade because they listened attentively to ASTA and the agriculture sector, which expressed strong support for signing.

The NSC was more skeptical. My old boss from Warsaw, John Cloud, was the Senior Director for International Economic Affairs at the NSC. He turned out to be a tougher case. I briefed him on the situation and the support from others in the Administration. Nonetheless, Cloud was hesitant about pursuing an international treaty, especially given the hostility of some in the Bush Administration and in the Republican-majority U.S. Senate to the United Nations in general and to multilateral international agreements in particular. In the end, the White House and the private sector convinced the NSC to allow us to pursue signing of the treaty.

We then held formal consultations with both trade policy and the agriculture advisory committees, both of which endorsed signing the treaty. My colleagues and I briefed the staff of the Senate Agriculture and Foreign Relations Committees. At that time, Senator Richard Lugar (R-Indiana) was the chair of the Foreign Relations Committee, and coming from a farm state, his staff was sympathetic to the agriculture sector's desire to join the treaty. We also met with the staff from Senator Jesse Helms (R-North Carolina) and they were ideologically opposed. On principle, Senator Helms didn't want the United States to become bound to a new multilateral treaty.

Once we had the White House, NSC, Agriculture Department and State Department in support of signing the ITPGRFA, I commenced the process to obtain the Circular 175 or C-175 authorization for the United States to sign the treaty. Here, we ran into an unexpected obstacle. The Assistant Legal Advisor for Treaties was of the view that he couldn't issue the required legal opinion because some of the implementing language was vague. He thought that this vagueness needed to be resolved before signing, however, that clarity might take years to happen. Fortunately, we had a great set of attorneys to help overcome this obstacle. Katy Youel-Page, working with Sue Biniaz and Bob Harris in the Legal Advisor's Office, were less concerned about the vagueness and they were able to produce the required favorable legal opinion.

As a result, the United States signed the ITPGRFA on November 1, 2002, which was three days before the November 4 deadline. We just squeaked by before the door closed.

Q: What was the commitment that we had to do that involved protecting biodiversity and genetic resources? What commitment did we have to do that initially we hadn't wanted to the year before?

DRISCOLL: This treaty didn't focus on conserving biodiversity, which the Convention on Biological Diversity or CBD did, rather it concerned access to genetic resources of the specified list of plants. Earlier, we had sought to include more plants on the list, in particular soybeans. Also, the ITPGRFA had restrictions on what could be patented or otherwise protected by intellectual property. The U.S. intellectual property community would have preferred not to have any restrictions on what could be included under intellectual property rights.

Q: So, we got whatever we could get, but we didn't want to be left out?

DRISCOLL: Yes. Overall, the U.S. agriculture sector was pleased with what was included on the list. It became a safe harbor from the complicated and burdensome regime under the Convention on Biological Diversity. This was due in large part to the different types of negotiators for the two treaties. The negotiators of the ITPGRFA under the FAO were mainly from their respective agriculture ministries. For us, it was a combination of State Department and USDA officials. However, the Convention on Biological Diversity was negotiated by officials from environment ministries, which were a different sort altogether and not so keen on promoting trade. There was much more ideology embodied within the CBD. I think farmers were much more practical. It really made a difference.

I was pleased to see that after 14 years the U.S. Senate finally ratified the treaty in 2016. It has been very difficult for the United States in recent years to ratify any treaty in recent years. The ITPGRFA was one of those few treaties to make it through to ratification.

Q: So, let me ask you about that. So, some treaties, including some environmental treaties, are hard to get approved in Congress because we in the U.S. like to have the law in place first. We don't like to enact new legal requirements through a treaty, right?

DRISCOLL: That's right.

Q: And in other cases, there seems to be nothing controversial at all, but these treaties just stay stuck. There is a long list of treaties that remain stuck. But there didn't seem to be any practical reason why not. So, in this position or then later when you worked on the Hill, did you have any insights into why it's so hard to get treaties approved?

DRISCOLL: Well, under the Constitution a treaty needed to be ratified by two-thirds of the Senate. This gave enormous power to any single Senator that had an objection either to the treaty or had some other grievance. Sometimes a treaty or other Senate confirmation was held hostage by a Senator until another unrelated matter was resolved. Further, there had been Senators who objected to multilateral treaties on principle. For example, Senator Jesse Helms (R-North Carolina) was adamantly opposed to any multilateral treaty. He wasn't opposed to individual bilateral treaties. Some Senators objected to dispute resolution provisions in a treaty, which they viewed as an infringement of U.S. sovereignty. They didn't want an international body in a position to make rulings that were binding on the United States. OES Congressional Affairs specialist Teresa Hobgood was invaluable in guiding us in our dealings with Capitol Hill. She knew whom to reach out to and how best to present our case for supporting the treaty.

Q: Genetically modified organisms, was that at all part of this discussion?

DRISCOLL: No. This treaty focused on international access to certain key genetic resources not on genetically modified organisms. The Convention on Biological Diversity dealt with international access to genetic resources in general. The Cartagena Protocol on Biosafety under the CBD covered international transfers of living modified organisms. I didn't handle the Cartagena Protocol, and, in fact, it didn't go into force until September 2003, after I had left the office.

The CBD was driven by demands from the Third World, aided by environmentalists in the United States and Europe. A core concept was that before someone could gain access to genetic resources there was a need for the Prior Informed Consent or PIC of the owner and there should be an access and benefit-sharing agreement that would cover any revenues realized from the genetic resources. This meant that someone trying to obtain genetic resources must figure out who owned the genetic resources in question, which could be tricky. The matter became immensely more difficult if it involved an indigenous group or drew on the traditional knowledge of indigenous people. Gaining the necessary permissions could become a bureaucratic nightmare or outright impossible.

One colleague I worked closely with on genetic resources was Dr. Len Hirsch, who was a senior policy adviser at the Smithsonian Institution's Office of International Relations. Now, the Smithsonian held massive collections of flora and fauna collected from around the world plus it had many ongoing international scientific research efforts. Under the CBD today, if you wanted to take some plant leaves or other biological samples back to

the United States, then you first needed to have the appropriate authorizations. The concern other countries had was not that the Smithsonian itself would unfairly exploit the sample, but that at some future date a researcher using a biological sample collected by the Smithsonian would develop a valuable commercial product. They wanted to have benefit-sharing with the entity that might commercialize the genetic resources. The CBD now insisted that the Smithsonian enter into an agreement with a researcher using its collection to share benefits of any development with the original provider of the genetic resources. Interestingly, the CBD only applied to samples collected after 1992, so developing a commercial product with a sample collected prior to 1992 was okay. Unfortunately, many collections did not track the dates of acquisition. I also received invaluable advice from Dr. Peter Bretting, USDA's National Program Leader for Crop Production and Protection. USDA was keenly interested in the issue of plant genetic resources, which is vital for food security and crop development.

At the time I was at OES, we worked on developing voluntary guidelines for collection of genetic resources. These guidelines would encourage – but not mandate - users of genetic resources to share the benefits with those who gave them access to them. These negotiations were concluded in Bonn, Germany, in 2002, and they became known as the Bonn Guidelines on Access and Benefit Sharing. I led the U.S. delegation, which included Dr. Hirsch from the Smithsonian and an attorney-adviser from the Office of the Legal Adviser, plus various U.S. agencies depending on the topic, such as the National Institutes of Health regarding medical products and the U.S. Patent and Trademark Office regarding intellectual property rights, and the Bureau of Indian Affairs with respect to indigenous people issues. Through my work in this area, I could see the world closing off research cooperation. For example, it became impossible to obtain permission to collect biological samples in various countries, such as the Philippines. This spelled the end to legal biological research cooperation in the Philippines.

Q: Because it was just too hard to implement?

DRISCOLL: Yes. But even where there was a clear process for authorizing access, many times the deciding official would deny a request out of fear that authorizing access could come back and bite the official. If the official were to authorize access and it turned out to be highly valuable, then the official could be blamed for not asking enough for the rights. It was always safer for a bureaucrat to just say no. Regardless, many countries hadn't even set up the bureaucratic process for handling requests for access to genetic resources. For whatever reason, the end result was that international biological research suffered.

Out of concern of criminal prosecutions or complaints against U.S. researchers working abroad, I tried to educate U.S. researchers about the new environment for access to genetic resources. We posted information on the State Department website, shared information with U.S. academic groups, and I attended in person a conference in New York of U.S. researchers to brief them on these new requirements and the risks of non-compliance. Our scientists risked criminal penalties, civil complaints, and harm to their reputation if they continued in the pre-CBD manner of collecting genetic resources. From now on, they would need prior informed consent and benefit-sharing agreement.

After I was gone, the CBD decided to move beyond the voluntary guidelines developed at Bonn in 2002 to a legally binding protocol. The Nagoya Protocol on Access and Benefit-Sharing entered into force in 2014. While the United States signed the CBD, it had not ratified it. Thus, we were not a party to the CBD and could not be a party to its underlying protocols, including the Nagoya Protocol.

Q: So, is this the first position where your legal background really helped a lot?

DRISCOLL: I think at USTR my legal background helped too because I would have to draft settlement agreements, and I had to understand the law, such as the Administrative Procedures Act. My legal background certainly helped me at OES with understanding the legal requirements for signing and ratifying a treaty. Of course, I worked very closely with the Legal Advisor' Office who were the experts in this area.

Q: Rick, we'll come back to any substance, but I wanted to ask you about your experience the first time working in OES, which is a bureau that has a lot of Civil Service expertise, which is really important for some of these technical issues.

DRISCOLL: When I first arrived, the Office Director was a Foreign Service Officer, Kathleen Stephens, and the Deputy Director was Stephanie Caswell, who was a civil servant. When Kathy Stephens left, OES decided to flip the two positions, so that the Office Director would be Civil Service, in this case Stephanie Caswell, and the Deputy Director would be Foreign Service. The office, like the OES Bureau itself, was mostly Civil Service. I would estimate that maybe three-fourth or more of the OES Bureau was Civil Service and one-fourth was Foreign Service. That was the case for my office. I thought it was a good mix. The Civil Service people had technical expertise, some with PhDs and others came with experience from relevant U.S. agencies, like the U.S. Forest Service or the U.S. Fish and Wildlife Service. We needed this technical expertise.

Q: They knew the science.

DRISCOLL: Yes, they knew the science.

Q: And they also knew these multilateral organizations.

DRISCOLL: Right, they were familiar with the organizations too. Still, I think the Foreign Service brought a special talent with international relations and negotiations. For example, my group handled CITES. One objective we had was to obtain agreement among the members of CITES to add mahogany to Appendix 2, which would lead to tightly regulating the trade in this wood. The problem we faced was mahogany was being illegally harvested in South America. Foreign Service Officers generally had developed the interpersonal skills to discuss with officials of countries and promote our objectives. Often, Foreign Service Officers could relate to officials from other countries and culture better than the Civil Service. We did need the technical experts of the Civil Service to provide the background and technical points, but technical expertise didn't necessarily

equate with interpersonal skills. Once we had the technical guidance, hopefully the Foreign Service Officer could be persuasive in working with other countries' officials. Thus, Harold Foster, the Foreign Service Officer I sent from my group to handle CITES negotiations, was able to adroitly use his interpersonal skills to work with the delegates from other countries to help win them over to our position on mahogany.

Q: It must have been different from your time in USTR dealing with environmentalists who perhaps adopted the more adversarial way. This must have been more collegial.

DRISCOLL: Yes. Our position on issues before CITES often were in line with those of the U.S. environmental groups.

In addition to CITES, my group handled invasive species. For example, our office was involved in the implementation of a U.S.-Canada treaty, which included a prohibition of introduction of invasive species. It was written in absolute terms, so there wasn't a *de minimis* exception. We came under pressure from Capitol Hill to try to create such an exception with regard to a proposed project in North Dakota called Devils Lake. At that time, the developers around Devils Lake were concerned that the lake was overflowing and threatened their construction project. They had a proposal to drain off excess water into a river that would flow into Manitoba, Canada. This was where the treaty limitation came into play because Canada was concerned about potential invasive species in the dumped excess water. Our legal advisors explained that the provision was an absolute ban on the introduction of invasive species. The State Department needed to approve the water diversion project for it to proceed, and in the end, we couldn't do that. This put us under political pressure as both senators from North Dakota were Republicans and the Bush Administration wanted to accommodate them. We had no leeway, according to our legal advisors, so we didn't provide the requested approval to the developers. On the other hand, we did get to use this same treaty provision for our benefit soon thereafter. Canada wanted to authorize a gold mine operation that would drain off into Alaska, and we blocked the project pointing to the contaminants that would come from this operation.

Q: This is a case where what we were trying to do in the U.S. government was in sync with what maybe the environmentalists would have wanted, right?

DRISCOLL: That is right. In the end, the State Department senior management accepted the advice of our office and the lawyers.

I did learn in my work of one famous case of exploitation of a genetic resource. This took place in the United States at Yellowstone National Park. A scientist went to Yellowstone and wanted to collect microbe samples from the hot water pools at Yellowstone. From these microbes, the scientist learned that they had the property of being able to multiply very rapidly. The scientist published the results of the analysis, and then a Swiss pharmaceutical company commercialized the discovery. The Swiss company created the Polymerase Chain Reaction (or PCR) process for testing, which was regularly used in cancer tests and even COVID tests. The Swiss firm made a fortune off this patent and Yellowstone and the United States received nothing.

Q: So, this is basic science and then some other foreign company uses it.

DRISCOLL: Yes. The Yellowstone case was the classic example of green gold or turning genetic resources into substantial profits without sharing the benefits with the source of the genetic resources.

Q: But there's no mechanism still for once something does make a lot of money for routing some revenue to the country of origin?

DRISCOLL: No, not then. Today, the National Park Service does require researchers to sign benefit-sharing agreements. I also worked very closely with the National Institutes of Health because at that time they were just collecting large quantities of genetic resources for testing of potential drugs. They were looking for new molecules. They were very interested in how these benefit-sharing agreements would work, and they were fine with signing agreements. I understand that since then, the National Institutes of Health was not so keen on collecting genetic resources from plants, but instead was making synthetic molecules and testing those. Their demand for natural molecules had waned.

Q: So, the benefits for humankind go far behind where it came from and the companies that make money. They just shouldn't overcharge.

DRISCOLL: Right. They shouldn't overcharge. You understand both sides, but a lot of these countries were under the false expectation that they would receive a flood of money from the sale of their genetic resources. This didn't happen.

Q: Did you work on CITES itself?

DRISCOLL: No. While I was the head of the group covering CITES, I had another Foreign Service officer, Harold Foster, handle CITES.

Q: So, CITES has some major impact, right?

DRISCOLL: It did. During my time, illegal mahogany trade was a major issue. Loggers were causing deforestation in the illegal harvesting of mahogany, which contributed to emissions of greenhouse gasses. A mahogany tree usually stood in the middle of a forest and these loggers would clear the area around it seeking access to the tree. This was a big problem in the Western Hemisphere. If mahogany was added to Appendix 2 of CITES then our officials at the port of entry would have the authority to block the entry of illegally harvested wood.

Q: Is there anything else you wanted to discuss on this tour? You were there from 2001 to 2003?

DRISCOLL: There was one other item, I was at OES on 9/11. I remember that day well. I was heading over to an interagency invasive species meeting to be held at the Interior

Department. There was a group of us from the office and the Pentagon hadn't been hit yet.

Q: Right, because that was around 11:00 something.

DRISCOLL: Yes. It was around 10:00 and so, the two airplanes had already hit the Twin Towers in New York. An announcement was made in the building telling us all to evacuate the building. Were you in the building at that time?

Q: I was in Honduras. My husband emailed me.

DRISCOLL: Right. At State, we were told to leave the building, and then we were left outside without any further guidance. Anyway, the group from my office had left the building and decided to just walk down to the Department of the Interior to see if the meeting was still on. When we reached Interior, which was about four blocks away, we found the Interior people also standing around outside. We realized that there wasn't going to be a meeting. About that time, we heard a loud boom, and I could see the smoke coming up from the Pentagon. I realized it was time to go home, but I had heard a rumor that the Metro was closed. Our young son was in elementary school, and either my wife or I had to pick him up from school in Fairfax County. I was trying to figure out how I was going to get back to Dunn Loring Metro Station, where I had parked my car. Eventually, I joined a large group that walked across the Theodore Roosevelt Bridge to Rosslyn. Along the walk, I came close enough to see the Pentagon, which still had smoke pouring out of it. When I got to Rosslyn, I found that the Metro was open, and thus, I took the Orange Line to Dunn Loring and picked up my son. We went home and watched the news.

Q: And did anything change in OES? That was at the beginning of your tour, so was anything changed because of the new emphasis on terrorism?

DRISCOLL: Frankly, I didn't see any significant changes in how OES operated during the time I was there.

There was one crazy incident that arose out of 9/11. We had a political-appointee OES Deputy Assistant Secretary who wanted OES support for a proposal he wanted to back. It seemed that some Russian biological weapons scientists claimed that they had created a microbe that could destroy poppy plants. Some people in Washington had heard of this microbe and were coordinating with people on Capitol Hill, to launch an initiative where these microbes would be sprayed over the poppy crops in Afghanistan. The idea was that destroying the poppy would hurt the Taliban financially. This Deputy Assistant Secretary wanted to have OES say that this proposal would be a safe thing to do from an environmental perspective. He said that his colleagues had already obtained tentative Congressional approval to fund this project. The biologists in my office thought this was a dangerous idea. First, there was no confirmation that the microbe would do what was claimed. Moreover, there were great concerns about what harm it might do to other plants and food crops in Afghanistan and in neighboring countries. It also might spread to the

legitimate poppy fields outside of Afghanistan, which provided most of the world's legal, medical morphine. OES would not sign off on this proposal.

OES did have a curious national security incident, but it had to do with Russia, not terrorism. The Russians had somehow installed a bug with a transmitter into the wooden bumper strip that was mid-way up on the walls of the OES Conference Room on the Sixth Floor of the Main State Building. The FBI had discovered this spying by trailing a Russian diplomat who was frequently found near the E Street Side of the building, which was where the OES Conference was located. They figured out there was a bug somewhere and then located it. I guess the Russian was listening and downloading recordings of meetings. For a while, there was a large portion of the wall bumper missing on one wall in the conference room where the bug had been placed.

Q: So, did they question how it had gotten there, whether or not it had been during a meeting or something like that?

DRISCOLL: Well, they didn't ask me or anyone else I knew in OES about it. The news of the incident appeared in the *Washington Post*, and I expected they expelled the Russian diplomat they caught. I had wondered whether the bugging was a mistake because OES probably had some of the least interesting meetings for the Russians. We would talk about animals and plants and pollutants.

There was a terrorism event associated with OES that occurred shortly after 9/11. Somebody mailed anthrax to the State Department.

Q: And other places too.

DRISCOLL: Yes, other places too. The mail with anthrax had been found within Main State Department and there was concern that some anthrax may have gone to a secondary mailroom near the OES offices. One day my colleagues were heading to a meeting near this mailroom, and we encountered in the corridor these people in white, hazmat suits. We asked them whether there was some sort of danger for us and whether we should leave. The people in the hazmat suits responded that everything was fine, and we should stay and carry on as normal. Still, my colleagues and I were quite skeptical about this advice. We thought the people were wearing the hazmat suits for a good reason.

Q: (Laughs) So, it was a good tour?

DRISCOLL: Yes. It was eye opening, especially because it gave me an introduction to multilateral diplomatic work and international organizations. I had had a bit of multilateral work at USTR where I handled some WTO matters and did go to Geneva for work. I decided for my next tour that I would like to do more multilateral work. I took the Deputy Director position in the International Organizations Bureau's Office of Technical Agencies, referred to as IO/T. The IO Bureau reorganized after I left, so the work of IO/T was shifted about and the IO offices were given new names.

Q: Yes, it was in the IO bureau (Bureau of International Organizations Affairs). And what kind of agencies did they cover?

DRISCOLL: We handled many international organizations, all of them were based outside of New York. They were mostly headquartered in Geneva, Paris, and Vienna. It was a long list of organizations. The better-known ones included UNESCO (the UN Environment, Science, Cultural Organization), the International Labor Organization (the ILO), the World Health Organization (the WHO), the World Intellectual Property Organization, the International Civil Aviation Organization, the International Maritime Organization, the International Telecommunications Union, and the UN Office on Drugs and Crime (UNODC). The most prominent organizations during my time in IO/T were UNESCO and the International Atomic Energy Agency or IAEA. I was the Deputy Director, and the Director was Don Booth. Midway through my assignment, Don Booth left the office because he had been nominated to be the next U.S. Ambassador to Liberia.

Q: Yes, I worked for him in '91 to '93 in EB.

DRISCOLL: Very nice guy. When Don Booth left, I reported directly to Deputy Assistant Secretary Terry Miller. Miller was a career Foreign Service Officer, and he was close to John Bolton, who was the Under Secretary of State for Arms Control and International Security. The Assistant Secretary for the IO Bureau was Kim Holmes, who proved a good leader dealing with the many challenges we faced, especially from those in Congress who were skeptical about the United Nations and other international organizations and reluctant to appropriate funds to pay the required contributions.

IO/T handled over thirty international organizations. We were not the technical experts on the substantive issues before these agencies. We handled the political and administrative issues, particularly budget matters. For the whole office, the biggest challenge was the budget. I worked with George Abrahams, the Director of IO/S, who managed budget issues for the IO Bureau. In almost all cases, we pursued zero nominal growth in the international organizations' budgets. The Bush Administration was skeptical of the United Nations and multilateral organizations, and it wanted to rein in their budgets. Zero nominal growth was not popular with other countries or with the leadership and staff of the international organizations. The United States would typically pay between 22 and 28 percent of the regular budget for an international organization.

Japan would pay the next largest amount, so that together we both normally covered 40 percent or more of an international organization's budget. Japan was looking to constrain budgetary growth, too. Their legislative body, the Diet, was concerned about budget growth. In many cases, the U.S. contribution was mandatory and set at a fixed percentage rate. With newer agencies, the U.S. contribution usually was voluntary, but there was a recommended percentage assigned to the United States and other member states. When the topic of budgets were raised, the United States and Japan would often be alone in pressing for zero nominal growth, while the Europeans were more receptive to calls for some budget growth, and the developing world countries would favor substantial growth

in the budget. The budgets of these agencies were a massive challenge we had to grapple with every day in IO/T.

With regard to the budgets, the United States at this time was in arrears to the United Nations, as well as to almost all the international organizations. When we did make our contributions, we would usually make them late in the year due to the U.S. budgetary cycle. Some international organizations had consequences for being significantly in arrears, such as denying the right to vote if the arrears were for more than two years. Thus, we would work with the office in the IO Bureau that managed budgets to make the international organization where we were about to lose our vote a priority in paying our contributions.

One matter that greatly surprised me was the decision by the Bush Administration in 2004 to rejoin UNESCO. In 1983, Ronald Reagan had withdrawn the United States over concerns that UNESCO was hostile to free-markets and free press and had become dominated by the Soviet Union and its allies. Our office handled the process of rejoining UNESCO. First Lady Laura Bush headed the U.S. delegation to the UNESCO conference when we rejoined. In 2019, President Trump withdrew the United States again from UNESCO. Don Booth devoted much of his time to managing the process of rejoining UNESCO, which meant that I had to pick up more of running the office. I did take care of establishing the new positions in the office to provide staff to handle the additional UNESCO work.

With regard to the International Atomic Energy Agency or IAEA, Under Secretary Bolton and Vice President Cheney were suspicious of the work of the agency earlier in Iraq and at the time in Iran. Their hostility was focused on the IAEA Director General Mohamed El Baradei, who they thought was untrustworthy and trying to interfere in U.S. domestic politics. During my time at IO/T, the IAEA was conducting monitoring of nuclear activity in Iran. IO/T would send out the instructions to the U.S. delegation to the IAEA in Vienna. I remember at one point we had received the instructions for the delegation cleared by the interagency community and were ready to send it out. Since this was a highly sensitive matter, the instructions were approved by Deputy Secretary of State Richard Armitage. We were about to send the cable when we heard from Fred Fleitz who was Under Secretary Bolton's Chief of Staff. Fleitz said that Under Secretary Bolton didn't want those instructions to go out. There ensued a battle between Under Secretary Bolton and Deputy Secretary Armitage on our approach to the IAEA. We waited until almost midnight for guidance about the instructions cable.

Q: Did they send it? Did Armitage change—?

DRISCOLL: In the end, the original instructions that Deputy Secretary Armitage had wanted to send were dropped completely. It was fascinating to me to watch the Deputy Secretary overruled by his Under Secretary. This reflected the political power Under Secretary Bolton had within the Bush Administration.

Q: Oh, he was convinced not to?

DRISCOLL: Well, I think Under Secretary Bolton went to Vice President Cheney.

Q: There's a lot in the oral histories about that period and the tensions between State, Defense and White House on getting instructions out to NATO.

DRISCOLL: I didn't know that, but that doesn't surprise me. I know that Under Secretary Bolton was hostile to the IAEA, especially towards Director General El Baradei. El Baradei had made comments that seemed critical of the Bush Administration and the justification for launching the Iraq War. El Baradei had inserted himself into U.S. domestic politics, which hurt his standing within the Administration and that of the IAEA.

Turning to another key issue during my time at IO/T, the World Health Organization or WHO was seeking to improve the international responses to epidemics. The WHO was developing new international health regulations because of the inadequacies highlighted by the poor global response to the SARS (Severe Acute Respiratory Syndrome) epidemic. One problem that was highlighted by the international response to SARS was the unwillingness of some countries to share genetic information, which was needed to develop a vaccine. Ann Blackwood handled WHO matters and was instrumental in bringing the development of the new regulations to a successful conclusion. I had a role in drafting a reservation in these regulations concerning biological, chemical, or radioactive agents used by the military. I worked with lawyers from the Defense, State and Health and Human Services to craft language for this provision, which the WHO agreed to incorporate in the new regulations. Fortunately, these regulations were in place during the COVID-19 pandemic. Unlike with SARS, we did see sharing of genetic information about the virus, which led to the development of vaccines in record time. Sometimes in reference to the global response to COVID-19 you could hear a favorable mention of the WHO's international health regulations.

Q: SARS was in the Far East, right?

DRISCOLL: SARS first arose in China in 2002 and spread to more than 30 countries, including the United States and Canada. It looked as though it was going to turn into much worse. Some countries were withholding samples of the virus because they were thinking that there was some money and acclaim involved if the sample led to a vaccine.

Q: But was it any particular country or was it just generally a problem?

DRISCOLL: I understand that a number of Asian countries did withhold the genetic information.

Q: Well, thank god you did that. You did a great service twenty years later.

DRISCOLL: Yes. I was pleasantly surprised about that. However, the credit within State really went to Ann Blackwood.

Returning to the IAEA, I remember a case in 2004 that was comic, but sad too. The IAEA sent two experts from Vienna to do a briefing with U.S. officials at a nuclear facility in the United States. These two experts drove up to the gate of this high security facility. The guard at the gate was asking questions about their visit and about them, such as where were you coming from, what were you doing, who were you going to meet with, and were you carrying any weapons. After many other questions, the guard asked them something like: “Do you have a bomb in the car?” For some reason, one of these experts just couldn’t take it anymore, and unwisely replied: “Yes, I’ve got a bomb in the trunk of the car.”

Q: He was saying it sarcastically?

DRISCOLL: Yes, he was being sarcastic. He was exasperated by all the questioning and may have thought it a silly question. This guard didn’t do sarcasm. The guard initiated a security threat protocol. The two experts were seized and held under arrest. Their hotel rooms were searched. My office received a frantic call from the IAEA in Vienna. They wanted our assistance in getting their two experts released and sent home. We helped to have them brought to the airport and leave the country. This highlighted that sarcasm and nuclear matters didn’t mix well.

Q: I’m sorry, where were they when they did this?

DRISCOLL: I believe it was Brookhaven National Laboratories in Upton, New York. This is one of the Energy Department’s laboratories.

I saw close up the internal conflict the Administration had with international treaties and organizations. This issue came to the forefront with the UN Convention on the Law of the Sea. The United States signed the treaty in 1994 and President Clinton submitted it to the U.S. Senate for ratification. The Department of Defense and the State Department supported ratification. The Convention would provide transit rights that the U.S. Navy would like to ensure. Also, it created a 200 miles Exclusive Economic Zone and special rights on the continental shelf, which would be good for U.S. businesses that would operate in that area. The opposition claimed that the Convention was an infringement on U.S. sovereignty. DAS Terry Miller commented to me that we didn’t need the Convention since our businesses could rely on the U.S. Navy to defend our interests. Despite DAS Miller’s reservation, the State Department voiced support for ratifying the Convention. However, the opposition in the Senate prevented ratification.

Q: But it didn’t happen. So, basically we observe it, and we expect others to observe it, but we’re not signatories.

DRISCOLL: Yes. We were a signatory, but not a member state with the Convention. And so, under the Vienna Convention on the Law of Treaties, a country takes on some obligations just by signing. If a country signs a treaty then, in the time period before it ratifies or accedes to it, it has an obligation not to “defeat the object and purpose” of that

treaty. We have an ongoing obligation to respect the spirit of the treaty. This is the case with UN Convention on the Law of the Sea, which we have signed but not yet ratified.

Q: Even if you haven't approved it?

DRISCOLL: Yes. And that's why—if you remember when President Trump came into office – he spoke of withdrawing from treaties that we had signed but not ratified, rather than just saying we won't ratify them. My time at IO/T was during an interesting period, especially since some in the Bush Administration were hostile to the United Nations and international organizations. I did learn about working with multilateral agencies and about multilateral negotiations, which are very different from bilateral negotiations.

Q: So, it can be very frustrating, but is it also fun?

DRISCOLL: It was both frustrating and fun. When we built a coalition of member states we could achieve useful objectives with an international organization. This required much work with allies. It also required us to deal with those who weren't your normal allies but might be willing to cooperate. In some cases, all that was needed to prevail was a majority of votes, and in other cases you needed a consensus without any country objecting. For newer international organizations, the United States had consistently pressed for decision making by consensus, which would give us a veto.

I think one of the most challenging environments for the United States to negotiate was at the International Labor Organization or ILO. This international organization was created before World War II, and it met in Geneva at the old League of Nations palace. At the ILO, the votes were divided 50 percent among governments, 25 percent among labor unions, and 25 percent among employer organizations. What had developed over the years was that usually the labor unions vote as a bloc and the employers also vote as a bloc. When those two blocs united, they had control since governments rarely could reach a consensus and, if they did, they still just have 50 percent. This was particularly tricky on budgetary issues since labor unions and employers were fond of budget increases and only a few countries tried to limit them. I recall having a vote on the budget at the ILO where it was just the United States and Japan against a budgetary increase and the rest of the hall was in favor. It could be quite demoralizing.

I remember my encounters with the head of the labor unions bloc, who happened to be the head of the French transport labor union. The last time I met him he had just come off a victory in France, where his union had gone on strike and forced Paris to its knees. He was one tough character.

I did meet with the ILO senior official responsible for the Middle East. He said that the ILO was working with United Arab Emirates to allow the workers to have a grouping, such as a council, though not a formal labor union. The ILO was under pressure from labor unions to give the laborers in the UAE and elsewhere in the Middle East a voice. At the same time, the UAE had a fear about laborers organizing because most of the laborers

were foreigners. We were supportive of this initiative, but we didn't need to press for it ourselves since the labor unions at the ILO were already doing so.

Q: Can you remember an instance where you built a coalition to get something done?

DRISCOLL: Yes. In one instance, I worked with the labor union representatives and the officials from European countries to draft and have adopted a resolution condemning the use of forced labor in Burma or Myanmar by the military government. At that time, the military was requiring villages to provide free labor for road construction projects. I did meet with the Burmese representatives to the International Labor Organization, who were educated and pleasant people. Unfortunately, these officials represented a reprehensible government. In this case, we successfully pressed for the adoption of this resolution.

Also at the International Labor Organization, after 9/11 the United States led an effort to establish new secure credentials for sailors. Before this time, ships would arrive at a port and hand over a piece of paper with a list of sailors and the sailors would be allowed off the ship. After 9/11, there was a need for a more secure identification of sailors with individual identification cards that held biometric information. I had to coordinate with other countries to gain support for this effort, particularly with the Philippines which provided many sailors in international shipping. I thought I had the consensus lined up for both the identification card and the biometric information to be collected, which would be fingerprints. Just at that point, I received new guidance saying that Washington no longer wanted to use fingerprints, but we preferred facial identification instead. I had to scramble for the rest of the conference to explain the change to facial identification. I was able to make this change and obtain a consensus in favor of the proposal as we wanted it. When I returned to Washington, I learned that I was witnessing a battle between big U.S. contractors, one that preferred fingerprint identification technology and the other facial identification technology. In the middle of the conference, one contractor somehow convinced the power in Washington to switch our approach. It made us look a bit foolish, but fortunately there was still a lot of support for security measures after 9/11.

Q: They'd have to buy these machines from a U.S. contractor or whatever.

DRISCOLL: The countries would have to use this technology, which would give the U.S. contractor with this technology an edge in the competition. Also, the U.S. contractor would likely pick up U.S. flag ships under the Jones Act that had to use U.S. sailors.

Working for a consensus is harder than a majority vote, but it also gives you leverage to block something that you don't like.

Q: So, how is the framework agreement on climate change?

DRISCOLL: The UN Framework Convention on Climate Change is a consensus-based decision-making body.

Q: This was during this period of time?

DRISCOLL: No, I worked on the UNFCCC years later.

Q: So, anything else on this position?

DRISCOLL: I came away from my tour at IO/T with some lessons. I learned that international organizations are expensive and can be exasperating. Also, you will often find some countries using the organization as a platform to attack the United States or its allies. For example, the Arab countries in just about every organization I was at used it as a platform to harangue Israel and the United States about Palestine. Similarly, there would be disputes between supporters of Taiwan and China. At any international conference, you could count on some speaker using the microphone to advance a particular political issue or concern. At the same time, many of these international organizations perform a critical role. For example, one of the things we worked on was the ITU, the International Telecommunications Union.

Q: That is very technical, right?

DRISCOLL: It was. The ITU allocates the global wavelengths. Without it, there could be clashes over who had the right to use a specific bandwidth. The United States had a great deal of interest in the bandwidths, especially the military. Thus, we needed an international agreement to allocate them and designate their usage.

A new international issue arose that had to do with domain names for the internet. Until recently, the Internet Corporation for Assigned Names and Numbers (ICANN), a California non-profit organization, set the internet protocols and domain names.

The rest of the world thought that it wasn't appropriate for a California organization to have such power over the worldwide web. They didn't have complaints about how ICANN had been doing its work in the past, but politically it looked wrong for ICANN to operate without some international supervision.

Q: Did that work out well?

DRISCOLL: I believe that there still is no agreement on what to do about supervision of ICANN, which still operates as a California entity.

Q: So, this is on the domain names for the internet, like in our case, ADST.org.

DRISCOLL: Yes, exactly.

Q: But when you got into Twitter things, like later, then you had—somebody took Donald Trump, so he had to do Real Donald Trump, right?

DRISCOLL: Right. Well, that was done by Twitter, a private company, and not by ICANN. Twitter wasn't an issue at the international organizations. When I was at IO/T, there wasn't the discussion about content on social media as there is today.

With regards to domain names, ICANN came up with a whole set of new ones. It allocated two letters for each country, for example Tuvalu was given "dot TV". Ever since, Tuvalu has been selling the use of that domain to businesses, such as Fire TV or Apple TV. ICANN created other domain names too, like dot com, dot org, and dot edu. As I said, Tuvalu sold rights to dot TV.

Q: They happened to have a good—

DRISCOLL: Indeed. Tuvalu happened to have a valuable domain name. The gods smiled on them.

Q: Good afternoon. It's August 1, 2022. And we're continuing our conversation with Rick Driscoll. Okay, Rick, I don't know if you had anything else you wanted to talk about on your tour as acting director of the technical agencies in the IO Bureau?

DRISCOLL: I think we covered my time in the IO Bureau. We can move on.

Q: Okay. And so, you decided to apply for a position on the Hill?

DRISCOLL: State Department partnered with the American Political Science Association or APSA to send about twenty people each year up to work on Capitol Hill. You spent a year in either the House of Representatives or the Senate. My friend, Ted Andrews, had participated earlier and recommended this program to me.

Q: Is this different from the Pearson program?

DRISCOLL: They are similar in many regards. The APSA program was run by Jeff Biggs. It included about two months of academic classwork through SAIS before you started on the Hill. The Pearson program had you commence on the Hill right away. The State Department considered the APSA's program long-term training, while Pearson was considered a detail assignment. Biggs arranged for us to receive briefings on how the Congress was organized and the appropriations process, how the CBO (Congressional Budget Office) worked, and what the Library of Congress did, and then we started working in a Senator's or Representative's office.

Q: And did you have any say in who you were going to work for in Congress?

DRISCOLL: Yes. You had to find a legislator or office that you wanted to work for and that wanted you to work there. Fortunately, many Senators and Representatives were familiar with the APSA and Pearson programs and were eager to have a Fellow for a

year. Moreover, the Fellow came at no cost to them. It was free labor. Usually, the legislator's office was losing a Fellow from the prior year so they wanted to fill the gap quickly.

Q: Who did you go to work for?

DRISCOLL: I worked for Senator Ted Kennedy (D-Massachusetts). At that time, the Democrats were in the minority in the Senate. He served on the Armed Forces Committee, and he was the Ranking Democrat on the Health and Labor Committee. His office wanted me as a foreign affairs expert. There was also a Fellow in the office from the U.S. Navy who advised him on military matters. He was a Navy Captain. I worked directly for Senator Kennedy's Senior Foreign Affairs Advisor, Sharon Waxman, who had worked at the State Department herself.

Q: So, what year was this that you went over to the Hill?

DRISCOLL: My APSA program ran from September 2005 to August 2006.

Q: Did you end up working on appropriations or more just giving advice on foreign policy issues that came up?

DRISCOLL: I did deal with appropriations occasionally. I mainly focused on foreign policy matters, and appropriations would play a small part of that work.

Throughout my time in Senator Kennedy's office, there was a tremendous focus on the ongoing war in Iraq. U.S. casualties were climbing and there seemed no end to the violence. One of my first tasks was to set up a meeting between Senator Kennedy and the family of a U.S. State Department employee killed in Iraq. Senator Kennedy had the practice of sending his condolences and then offering to meet with the family of a person from Massachusetts who was killed in Iraq. He did it quietly and never publicized the fact. I appreciated his quiet approach because everything was so polarized in the country, especially about the Iraq war. People knew that he had opposed the war. He would reach out to the family, and only if they wanted to, he would meet with them and give his condolences in person. In this case, it was a State Department employee who had been killed and because of that I helped arrange the meeting with the family. I accompanied him to the meeting. I found it very moving. What struck me most was how he started off the conversation. He said, my family had lost some members to public service, and I could empathize with you. He was referring to the assassinations of his two brothers and the death of his oldest brother in World War II. I thought Senator Kennedy was very comforting and supportive.

Q: And what happened?

DRISCOLL: The State Department employee had been killed by an IED (Improvised Explosive Device).

I tracked the latest developments in Iraq for Waxman and the Senator. A key event occurred on February 22, 2006, when the Al-Askari Mosque, or the Golden Mosque, in Samarra was bombed. This was one of the most important religious sites for Shiites. The office wanted to know about the significance of this bombing, and likely implications.

Q: Was the U.S. involved?

DRISCOLL: No, we had nothing to do with the bombing. There were various groups that claimed credit for the attack. This was a Shi'ite holy site, so the Sunni militants were to blame.

I followed the day-to-day fighting in Baghdad and throughout Iraq. I recall that bodies were constantly being found. A gruesome detail from this period was the large number of bodies that showed up with signs of torture. One thing that struck me was that the torturers frequently used electric power drills on their victims. It was clear that in 2005 the war in Iraq wasn't over.

One of the projects that I worked on was in the Defense appropriations bill. Senator Kennedy had heard that many of the Humvees were not adequately armored.

Q: Oh, there was a very famous press conference that Rumsfeld went to, and this young soldier got on TV and talked about it. Why are we having to find our own armor?

DRISCOLL: Yes, soldiers were finding makeshift armor for their vehicles. The Defense appropriations was such an enormous amount and much of the war was funded through a supplemental appropriations bill, which wasn't subject to the regular limitations on appropriations. As far as I could tell, the military received about anything that they requested. Thus, it surprised me that there weren't sufficient funds to up armor the Humvees. The Bush Administration didn't request sufficient funding and, in fact, was opposed to a proposal to provide such funding. I worked on drafting an amendment to the supplemental to add such funding to up armor the vehicles. I worked closely with the staff of Senator John McCain, who was a very good friend of Senator Kennedy. It was amazing how close the two were. And they jointly worked on getting this amendment through. My legal skills came in handy here. In order to submit an amendment to the supplemental appropriations, the Parliamentarian has to sign off on it, as it had to do with any budget reconciliation bill. I got the chance to meet and work with the Parliamentarian's office. The Parliamentarian decided when an amendment was allowed under the Senate Rules and what was not permitted or out of bounds. Senator Kennedy wanted to know whether his amendment would be acceptable to the Parliamentarian. I discussed the provision and the Rules, and in the end the Parliamentarian agreed that the amendment was allowable. The amendment was proposed, and despite the Administration's opposition, it was adopted.

Another amendment to the supplemental appropriations that I worked on was funding for two groups that promoted democracy abroad. They were the IRI (International Republican Institute) and the NDI (National Democratic Institute), which for many years

had been running democracy initiatives overseas. I remember these organizations working in Central and Eastern Europe after the Berlin Wall came down.

The Bush Administration had zeroed out the funding for these two groups. Again, I had to work with the Parliamentarian to review the Senate Rules and the proposed amendment. We found acceptable language for the amendment and were able to add funding for them for Fiscal Year 2006 through the supplemental. Again, I was surprised by the Bush Administration's opposition to this democracy initiative. It just didn't appear to be consistent with their announced objectives. I speculated that somebody below the cabinet level was trying to put the brakes on spending. Fortunately, I could demonstrate to the Parliamentarian that the amendment was permissible. Again, with Senator John McCain's support we had the amendment adopted.

One of the non-Iraq issues that came up during my time in the office had to do with an extradition treaty with the United Kingdom. The British wanted the Senate to ratify the extradition treaty that it had signed with the United States back in 2003. Senator Kennedy closely followed anything involving Ireland. I researched the matter and learned the British still had secret, non-jury courts called Diplock Courts. These criminal courts were established back in 1973 in Northern Ireland for non-jury trials for political and terrorism-related cases during the Troubles. Senator Kennedy was worried about the British seeking the extradition of suspected IRA (Irish Republican Army) members and then trying them in these secret courts. The defendants wouldn't have a lawyer and wouldn't see the judges.

Q: This is in Northern Ireland?

DRISCOLL: Northern Ireland, exactly. The idea was that the IRA wouldn't be able to identify who the judges were and then target them.

Q: So, how did this relate to the extradition treaty request?

DRISCOLL: Well, what Senator Kennedy wanted was to be sure that nobody would be extradited from the United States and sent to one of these secret courts. Even though the Good Friday Accords were in place and things were relatively calm in Northern Ireland, the British still had these Diplock Courts in place. In the past, the British had wanted to extradite some people from the Boston area.

Q: So, he was just trying to assure that—some countries do that with us, they say, Well, we will extradite if you agree not to charge the death penalty.

DRISCOLL: Exactly.

Q: So, this is something similar, right?

DRISCOLL: Right. The British had responded initially by saying trust us, we won't do anything bad. That didn't go over very well with Senator Kennedy. Eventually they

worked it out with assurances to Senator Kennedy that the British wouldn't use the Diplock Courts in connection with an extradition from the United States.

Another major project that I worked on concerned India and nuclear non-proliferation. The Bush Administration wanted to strengthen ties with India. In 2005, it agreed to help India with nuclear energy cooperation. U.S. law at the time, however, prohibited nuclear cooperation with any country that had developed a nuclear weapon, which India had done. Representative Henry Hyde proposed an amendment to the U.S. law to allow the United States to enter into a nuclear energy cooperation agreement, called a 123 Agreement. This refers to Section 123 of the U.S. Atomic Energy Act that governs nuclear cooperation with other countries. I was asked to brief Kennedy about the pros and cons of the Hyde legislation. The Indian-American community lobbied Kennedy to support the Hyde legislation, as did Under Secretary of State for Political Affairs Nicholas Burns. In the private meeting with Senator Kennedy, Burns noted his Boston College connections. On the other hand, the nuclear non-proliferation groups were adamantly opposed to making an exception for India. They thought it would be rewarding India's decision to develop a nuclear weapon. I briefed the Senator on the issue. In the end, he voted in favor of the Hyde legislation and providing India assistance with nuclear energy.

That was a wonderful year. I was able to see the Congress and the Senate in action. Also, I was able to attend the 2006 State of the Union address.

Q: So, he was older then?

DRISCOLL: Senator Kennedy was older then. His health was suffering, and he had severe back problems due to having been in a plane crash years earlier. He walked with a stoop. He was married to Victoria Reggie. I understand that he had calmed down from his earlier, partying days. He was gregarious and friendly. He would have parties at his house and he invited the staff to join him. He just seemed like a wonderful person. He had moved on past his rocky personal history.

Q: And in the workplace, was he very calm and patient or did he get wound up

DRISCOLL: Senator Kennedy was calm and thoughtful. He listened to what a person had to say. He didn't have a giant ego at this time. For example, whenever he had a piece of legislation he wanted to propose, the first thing he wanted us to do was to make sure that we found him a Republican co-sponsor. And he didn't mind if the Republican didn't want to share credit with Senator Kennedy. He really cared about getting things done.

He had a beautiful corner office in the Russell Building that had been his brother's old office when he was a senator. Like many Senators, he had a "Hideaway" office in the Capitol Building, which was a place where he could stay in between votes on the Senate without having to go all the way back to his office in the Russell Building. In his Hideaway, he had John Kennedy's rocking chair, as well as other family memorabilia. It was a wonderful place to visit, which he allowed us to do when he wasn't using it.

Q: Were there any other Kennedys in the Congress at the time?

DRISCOLL: Yes. His son, Patrick, was the Representative from Rhode Island, but it was sad.

Q: What was sad?

DRISCOLL: Patrick Kennedy had drug dependence issues. While I was there, he had a car accident while driving on South Capitol Street. This might have been related to the combination of the drugs that he was taking because he also had mental health issues. He was bipolar. Patrick had mental health challenges, and he was trying to work through them.

Q: Did he die in the car crash?

DRISCOLL: No, Patrick was going slowly at the time. His dad dropped everything to try to help his son when he heard of the accident. Interestingly, Patrick didn't seek reelection after his father had died. I think Patrick might have run only from a sense of duty to his dad. The only other Kennedy in office at that time was Kathleen Kennedy, who was the Lieutenant Governor of Maryland.

Overall, it was a fascinating office to work in, and Sharon Waxman was a good person, a very experienced legislative assistant, and knew foreign affairs. I felt I learned a lot from her.

Q: I assume that he didn't do any foreign trips with you?

DRISCOLL: No. During that year, I don't recall him taking any trips overseas. The Senator devoted much of his time to his work on the Health and Labor Committee and promoting the Child Health Insurance Program.

Q: Right. That was a Bush Administration initiative at the time, CHIP.

DRISCOLL: Yes. They worked together on CHIP. Senator Kennedy would work with the Bush Administration if he could promote his objectives. He had done so earlier with his support for the No Child Left Behind legislation.

He wasn't seeking headlines at that time. He believed in having at least some Republicans on any initiative that he pursued if he could.

Q: Did he say why?

DRISCOLL: He wanted to accomplish things, he said. At this stage in his life, he didn't have pride of ownership. He didn't have to receive credit.

Q: As long as it got passed.

DRISCOLL: Yes.

Q: Did you get to spend time with Senator McCain? Were you in meetings with him?

DRISCOLL: I often saw them meeting and talking in the hallways. There was a genuine friendship between the two. I was not in any private meeting with Senator McCain.

I did sit in on a private meeting with Senator John Sununu (R-New Hampshire) when he wanted to discuss Lebanese Druze leader Walid Jumblatt. Senator Sununu had a Lebanese background and was interested in the country. When Senator Sununu was doing something on Lebanon, he would invite legislative assistants from other interested offices for a briefing. I recall that Senator Sununu liked Jumblatt but was very worried about his safety. He feared for Jumblatt's life, saying that he was a "dead man walking".

One thing that I particularly liked about being on the Hill was the steady stream of interesting speakers. Lobbyist groups and NGOs would offer briefings on a wide range of topics. Often the speakers were leading experts or well-known people.

I did run into Tony Blinken occasionally as he was Senator Joe Biden's legislative assistant on the Senate Foreign Relations Committee.

Michelle Stefanick, another State Department fellow in the office of Senator Olympia Snowe (R-Maine), and I worked with our two respective Senators to introduce a resolution on recognizing the victims of terrorism. The resolution commemorated the victims of the August 1998 bombings of the U.S. Embassies in Nairobi and Dar-es-Salaam. The idea was to recall that attacks by Al Qaeda had begun before 9/11 and to recognize the loss of Embassy lives. Stefanick had been serving in Nairobi when the bombing occurred. I am glad to say that the resolution was passed unanimously by the Senate.

In the hallways, we would run into interesting people. Barack Obama was there. He was a first term Senator. He was a superstar from the start. There was generally a crowd around him wherever he went.

Q: Why was that?

DRISCOLL: He had this aura about him.

The other Senator that I did run into quite often as his office was down the hall was the junior Senator from Massachusetts, John Kerry. He seemed aloof and standoffish. He was friendly enough when talking to another senator or somebody important, but otherwise, he ignored other people.

If you were riding in an elevator or the Capitol train back and forth or whatever with him, he would ignore you. This was something that Ambassador Holbrooke would do. He didn't seem interested in people below his rank. Senator Kennedy was not that way.

Q: So, was Hillary Clinton in the Congress then?

DRISCOLL: She was. There was this sense that she was only temporarily in the Senate. She was going off to run for President and was just marking time as a senator.

By contrast, I thought Senator Kennedy at this point in his life was a "Master of the Senate," akin to LBJ in the Robert Caro biographies. Senator Kennedy knew everybody and how to accomplish things in the Senate.

Q: Were you tempted to stay longer or one year was enough?

DRISCOLL: No. The ASPA program is just one year. I was ready to get back to the State Department. Also, while I was on the Hill, the Democrats were in the minority in the Senate, which restricted what could be accomplished.

Q: It was not so much fun.

DRISCOLL: Fortunately, I was working in the Senate. To be in the minority in the House of Representative seemed dreadful to me. You would have almost no chance to make a difference. In the Senate, every senator was a king or queen, and could single-handedly propose amendments and block movement on matters. The filibuster meant that some Democrats were needed for any major legislation, other than the budget.

Q: All right. And so, you had already bid on your next job?

DRISCOLL: Yes. I was happy to be going to Brazil.

And more importantly, it was the Environment, Science, Technology, and Health Counselor or ESTH position. So, that was fabulous – a great position, interesting work, and a beautiful country.

Q: You did a stint in OES first?

DRISCOLL: Since Portuguese language training didn't start until January, I did a four-month bridge assignment in the Office of Science and Technology Cooperation in the OES Bureau or OES/STC. I was there from September 2006 to December of 2006. The Office Director was Bruce Howard, and we got along well. OES/STC had office space at State Annex 23 (SA-23) at 1990 K Street NW.

I handled North Africa and the Middle East, plus Brazil. Our embassies in Saudi Arabia and Jordan wanted to enhance our bilateral relationships. One avenue they sought to pursue was to strengthen bilateral scientific and technological cooperation. Accordingly,

in Washington I organized interagency working groups to determine whether the other offices within State Department and the U.S. interagency community wanted to enhance the bilateral cooperation. In both cases, the next step was to negotiate a Framework Science and Technology Cooperation Agreement. These agreements facilitate greater cooperation between U.S. scientific and technical agencies and their foreign counterparts, and they address costs and the sensitive question of intellectual property rights. In both cases, there was consensus to pursue a Framework Science and Technology Cooperation Agreement. After getting this decision to move forward, I took the steps to initiate the negotiations of a binding international agreement. I drafted the proposed text of the agreement from a model and then prepared the Circular 175 package, which is needed to obtain the legal authority to negotiate an international agreement. I also ordered an Arabic translation of the proposed agreement, and once I had obtained the C-175 authority, I sent the proposals out to the embassies to present to host country counterparts for their consideration. While working on this matter in the case of Saudi Arabia, I discovered that a U.S. agency had signed a legally binding cooperation agreement with its Saudi counterpart but had neglected to obtain the required C-175 authority. I worked with the Legal Advisor's Office to redress the issue, obtain the necessary C-175 authority, and with an exchange of diplomatic notes we corrected the deficiency.

In December 2003, Libyan leader Muammar Gaddafi announced he was shuttering his nuclear weapons program. The State Department wanted to reward Gaddafi for taking this step, which might become a model for other countries with nuclear weapons programs, namely, Iran and North Korea. To spur the U.S. agencies, such as from the National Science Foundation and the Energy Department, to engage in scientific and technological cooperation with Libyan counterparts, I organized a high-level meeting of their senior officials with the Under Secretary for Global Affairs Paula Dobrianksy. I recall that the Libyans were keen on cooperation with the Energy Department.

Since I was heading off to Brazil as the ESTH Counselor, Office Director Howard had me handle Brazilian matters. A curious issue arose with regards to cooperation in space. About ten years earlier, Brazil had become a partner in the International Space Station project and had agreed to provide a pallet, which was supposed to be built by Embraer. Fast forward and President Lula decided that he would rather spend the government's funds on social programs than on the space station. We had to decide what to do with this default. I worked with NASA and State's Legal Advisor's Office to suspend – rather than revoke – Brazil's participation in this international cooperative effort.

Q: That was the year Lula came in?

DRISCOLL: No, he was first elected President in 2002. President Lula came into office with different priorities than his predecessor. I appreciated that he didn't want to spend limited government resources on building a part of the space station. He would rather spend the money on health and social programs.

I was fortunate to be in the office when it was time to hold the next U.S.-Brazil Joint Committee Meeting (JCM) on Science and Technology Cooperation in Washington, D.C.

I helped to organize the U.S. delegation and to handle the logistical arrangements. These biennial JCM meetings brought together senior officials from over forty U.S. and Brazilian agencies. As a bystander, I was able to listen and learn about the wide range of cooperation, from health, environmental, advanced technologies, to agriculture. Also, I was able to introduce myself as the future ESTH Counselor to many of the officials, with whom I would be working with when I went to Brazil.

In January 2007 I went to study Portuguese and received a 3+/3+ grade in oral and reading skills. My family and I flew down to U.S. Embassy Brasilia in July of 2007. There, I took up my position as the ESTH Counselor.

Q: How big was your office?

DRISCOLL: The ESTH Office had three Foreign Service Officers, and two Brazilians. We also provided support for a number of technical specialists based in Brazil from the Centers for Disease Control (CDC), Health and Human Services (HHS), the Smithsonian Institution, and the U.S. Forest Service (USFS).

Further, we had the OES regional ESTH center (or Hub) for South America in Brasilia, which reported to me. The idea for the Hubs was to provide smaller embassies in a region with support on ESTH issues from one location. These other embassies did not even have a full-time ESTH officer. Instead, an Economic Officer would have to handle ESTH issues as just part of a larger portfolio. It made little sense to me to have the South America Hub in a country where we had a large ESTH Office. The Hub had one Foreign Service Officer, Jimmy Story, plus two local employees. Shortly after I arrived, Jimmy Story was transferred to Sao Paulo and so my office had to temporarily staff the Hub too. Jimmy later went on to become the U.S. Ambassador to Venezuela. Fortunately, we were able to contract an outstanding environmentalist, Anne Braghetta, who was the spouse of a Foreign Service Officer, to serve as the head of the Hub. Subsequently, we worked with the OES Bureau to move the Hub for South America to Peru.

Q: Where did the Hub move to?

DRISCOLL: The Hub moved to U.S. Embassy Lima. I vigorously pushed for that to happen as soon as possible. I learned that the Hub had spent a significant amount of its limited time and resources on Brazil, instead of in countries that needed the help more. In addition, there were no direct flights from Brasilia to the other capitals in South America. This made supporting the other embassies in South America more difficult for the Hub staff. To go to another post, a Hub staff member would have to fly to Rio de Janeiro or to Sao Paulo and then fly to Lima or wherever. Of course, the rest of South America spoke Spanish, and our local staff spoke Portuguese as their native tongue. Once the Hub moved over to Lima, I thought it became more effective. Still, it took two years to complete the transfer to Lima.

Q: Did Julie go to work in the Ag office?

DRISCOLL: My wife, Julie Morin, did eventually work as an Agriculture Attaché at the Embassy. Her position at the Embassy did not become open for several months. Before that time, she was allowed to telework as a pork analyst for USDA. Julie found out that many of the Brazilians that worked in agriculture had studied in the United States, such as at Iowa or Oklahoma or Texas A&M. It turned out that earlier the Brazilian university system had not offered much in the way of agriculture studies. Thus, those Brazilians interested in the subject usually went to study in the United States.

Q: Really? That's surprising.

DRISCOLL: Prior to the 1980s, the Brazilians didn't have an agriculture college program. The government wanted people to study in this field and so they paid them to study abroad, primarily at U.S. schools. Over time, Brazil assembled a strong group of agriculture scientists. They set up the Brazilian Agricultural Research Corporation, called EMBRAPA. This group had close collaborative ties to USDA, including a regular scientist exchange program with USDA's Agriculture Research Service. A key accomplishment by the Brazilian scientists was that they figured out how to grow soybean in the harsh plains of Brazil, called the Cerrado. This was difficult to do because of acidity, temperatures, and water issues. The scientists discovered how to fix nitrogen to the roots of the soybean plants. This discovery opened up the plains in the state of Mato Grosso and led to Brazil to become a world leader in soybean production.

Q: I just want to back up a second. Was Phil Chicola there as DCM?

DRISCOLL: Yes, he was the Deputy Chief of Mission for my first year. Cliff Sobel was the Ambassador. He was a political appointee.

Q: So, was he there for your whole tour of duty?

DRISCOLL: No. Chicola left after my first year, and he was succeeded by Lisa Kubiske. Even though Ambassador Sobel was a political appointee, he was allowed to stay on for about six months after President Obama entered office in January 2009.

Q: I remember it was very interesting to watch how the transition team handled the Bush political appointees. They told them they were all leaving. There was an appeal process, but very few appeals were successful.

DRISCOLL: You are right. In Costa Rica in 2017 we had the opposite situation. A President Obama political appointee was allowed to stay on for nearly six months after President Trump entered office. Supposedly this was done to allow his children to finish their school year.

So, Ambassador Sobel stayed several months in 2009. And then, we had Tom Shannon. He was the Ambassador for the rest of my tour. Ambassador Shannon was a career Foreign Service Officer and later briefly served as acting Secretary of State. Ambassador Shannon was the consummate diplomat. Interestingly, one of Ambassador Shannon's first

assignments had been as a junior officer at Embassy Brasilia. He had great relations with the various U.S. agencies and also within State Department.

Q: And did Lisa Kubiske come down?

DRISCOLL: Yes, Lisa Kubiske came to Brasilia in 2008. Ambassador Sobel had picked her to be his new DCM after Chicola left. She remained at post when Ambassador Shannon arrived, and she overlapped with the rest of my tour. Ambassador Sobel was a nice enough person, but he wasn't very interested in much of my portfolio.

Q: So, he wasn't interested in the Science and Technology office?

DRISCOLL: No. Ambassador Sobel didn't seem very interested in the environment, or in science and technology. He did show interest in one specific health issue for his last year. One of his friends from the United States had launched a project to fight malaria through the increased use of anti-malarial nets. Consequently, Ambassador Sobel wanted to promote anti-malarial cooperation efforts between his friend's non-profit organization and the Brazilian health ministry.

Q: So, was there an avian flu outbreak?

DRISCOLL: It was H1N1 or swine flu. It was spreading rapidly throughout South America in 2009.

Q: What were your key goals on the ESTH front, Environment, Science, Technology and Health?

DRISCOLL: By far, the biggest issue throughout my three-year tour was climate change. A closely related issue was supporting U.S. and international efforts to reduce the massive rate of deforestation and consequent loss of biodiversity. There were two aspects of this challenge – domestic and international. First, the United States sought to help the Brazilian authorities and organizations domestically with monitoring and reducing deforestation and loss of biodiversity. A host of U.S. agencies working in Brazil to provide technical assistance in combating deforestation. In fact, the U.S. budget contained funding for this assistance. NASA worked with the Brazilian National Institute for Space Research (or INPE) to share satellite data and methodologies for analyzing the data on loss of forest coverage. The U.S. Forest Service and the Smithsonian Institution sent scientists and experts on a long-term basis to Brazil to help in studying the forests, the water cycle, and biodiversity in the Amazon Forest. The United States paid for the construction of tall towers in the forest that allowed scientists and monitoring equipment to operate above the forest canopy and take measurements of CO₂ and oxygen. The U.S. Agency for International Development (or USAID) trained firefighters. Many of these U.S.-funded scientists and technical experts needed logistical or administrative support with their work. My office would assist them with travel to and from the country and to liaise with the Brazilian counterparts. Further, these visitors provided valuable insights to me and my office that fed into our reporting. USAID in Brasilia was fortunate to have

Eric Stoner working for them as an environmental advisor. Stoner had lived in Brazil for decades and knew the environmental issues, the numerous NGOs operating in the sector, and many of the Brazilian officials working on the subject. He would provide me with much helpful assistance and advice.

A curious note about the domestic assistance was the regular funding provided by Congress. Even though preventing deforestation or biodiversity loss wasn't a priority for the Bush Administration, the Congress annually included a budget line item for funding biodiversity and anti-deforestation efforts in the Amazon. I give much credit for this to Mark Plotkin, the Co-Founder and President of the non-governmental organization (NGO) the Amazon Conservation Team. He was instrumental in keeping this line item in the budget. Plotkin could do this because he had a good working relationship with Senator Patrick Leahy (D-Vermont), who carried much weight with the Senate Appropriations Committee. I met with Plotkin to obtain his perspective on the challenges with Amazon. Further, I met with Brazilian officials at INPE, their version of the EPA called IBAMA, and the Brazilian Forest Service to ensure the bilateral cooperation was going forward well and to report back to Washington. I was lucky to accompany Eric Stoner on a field trip to the Xingu River in the Amazon, where there was a USAID-funded training program for indigenous firefighters. That had to be the most remote place I had ever been to in my life. It seemed we were a thousand miles from the nearest town, and the indigenous tribe lived in simple longhouses covered with palm fronds. I don't believe I had even seen so many stars at night.

Moreover, I met with the many U.S., international, and domestic NGOs operating in Brazil. The Nature Conservancy (TNC) was particularly effective because it could work with businesses and farmers at the same time as with environmentalists. Ana Cristina Barros at TNC proved to be one of my best contacts during my time in Brazil. She had excellent relations with senior Brazilian environmental officials. While I was there, Barros and TNC partnered with the agriculture giant Cargill to establish the Brazilian Soy Moratorium. This was an initiative that brought together businesses, associations, NGOs, and the Brazilian government and set up a voluntary certification system to demonstrate compliance with a commitment to refrain from farming soybeans in deforested areas of the Amazon biome. TNC could talk with government and business representatives and come to an agreement. This was something that the more strident NGOs, such as Greenpeace, could never do.

The second aspect, the international challenge, was much more difficult for me and the Embassy. The United States wanted Brazil to take a constructive stance in the international community calling for the developing countries to take steps to address climate change. The United Nations Framework Convention on Climate Change (UNFCCC), concluded in 1992, sets forth the principle that the Parties to the UNFCCC should protect the climate system "in accordance with their *common but differentiated responsibilities* and respective capabilities" or "CBDR" principle. Brazil was a leader in contending that CBDR really meant that only the United States and other developed countries had an obligation to take steps to reduce greenhouse gas emissions. As the Brazilian chief climate change negotiator, Everton Vieira Vargas, Under Secretary for

Environmental Matters at Brazil's Ministry of External Affairs (MRE) or Itamaraty, as it was called, told Jim Connaughton, the Chair of the Council for Environmental Quality (CEQ), Brazil and other developing countries had no obligations whatsoever to take any action to combat climate change. The developed countries caused this problem, and they would have to solve it. This refusal to take actions was frustrating for Connaughton, who had come to Brasilia in 2008 to meet with Vargas and other Brazilian officials. I arranged the meetings for Connaughton and took notes there.

My work with Connaughton and with George Banks, an energy and climate policy advisor on the White House staff, gave me a much more favorable opinion of the Bush Administration on climate change than it often gets credit for. President George W. Bush did not deny that climate change was occurring or refuse to call for domestic and international efforts to address the problem. In April 2008, he announced a national goal to cap U.S. greenhouse gas emissions growth by 2025. Further, he announced that he would attend the July meeting of the leaders of the major economies to seek a long-term agreement on addressing climate change. This forum, called the Major Economies Meeting, and slightly renamed by President Obama to the Major Economies Forum (MEF), significantly helped facilitate what eventually became the Paris Climate Change Accord in 2015.

Apart from the climate change and deforestation issue, the ESTH supported an impressive amount of bilateral scientific and technology cooperation between U.S. and Brazilian agencies. This ranged from space to agriculture to health sectors. There was a tremendous amount of interest in Brazil and it was difficult for these U.S. agencies to understand how to work with the Brazilian bureaucracy. The Director of DARPA, Dr. Anthony J. Tether, came down to Brazil and I accompanied him to meetings with Brazilian university and government researchers. He commented that there was far more research going on in Brazil than in all the rest of South America combined. Similarly, senior officials from the National Science Foundation and the National Institutes of Health, and the Office of Naval Research all visited Brazilian counterparts. I would arrange the meetings and accompany these U.S. officials. My job was trying to assist the U.S. agencies to understand and work with Brazilian counterparts and vice versa. What complicated the bilateral cooperation was that the foreign ministry, called Itamaraty after their former offices in that royal palace in Rio de Janeiro, was hypersensitive about possible infringement of their sovereignty. Itamaraty had to sign off on every bilateral cooperation agreement. Thus, it was important for me to brief Itamaraty about possible cooperation arrangements and assure them of our respect for their sovereignty.

Q: So, basically, you try to get to the point where you could work directly with the other ministries?

DRISCOLL: Early on I realized that handling relations with Itamaraty was critical for any bilateral cooperation effort. An enthusiastic Brazilian technical agency couldn't overcome reluctance from Itamaraty, which sometimes U.S. officials didn't fully appreciate. We needed to work with both the Brazilian technical agencies and the foreign ministry. Itamaraty was quite protective of its prerogative to approve or not any bilateral

cooperation. For example, the U.S. Army Corps of Engineers wanted to work with the Brazilian water agencies, which they had done in the past. The Brazilians would pay the expenses of the Army Corps of Engineers, and this made technical cooperation possible. The problem for us was that the Army Corps of Engineers, as did some of our other technical agencies, would talk with their technical counterpart and work out an arrangement, without bringing in Itamaraty. You didn't want to spring something on Itamaraty, so I sought to keep them in the loop from the start.

Q: What was the U.S. Army Corps of Engineers trying to do?

DRISCOLL: Brazil had several waterway projects planned, including building huge hydroelectric dams on the Xingu River, and improving water transportation. Their water authorities had a high regard for the U.S. Army Corps of Engineers' technical abilities. At one point, the Brazilian water authorities were talking with the U.S. Army Corps of Engineers about the possibility of reversing the flow of the Sao Fernando River. They thought that this change in the waterflow would help with commercial water transport. The U.S. experts were eager to help do this, especially given their experience with managing the water flows in the Everglades. I was alarmed by the U.S. involvement in such a project that would likely have significant adverse environmental impact as well as hurt the local fishing communities that lose water due to such a diversion. While it wasn't my place to comment on the merits of such a project, I was concerned that word of U.S. involvement in it would hurt our standing in Brazil and with the environmental community. After discussions with U.S. Army Corps of Engineers, they agreed to focus on the more traditional projects. I kept Itamaraty apprised of the ongoing discussions so that they would not feel surprised or a need to block this technical cooperation.

With respect to space technical cooperation, we had a complicated cooperative relationship with the Brazilian Space Agency (or AEB in Portuguese). AEB had the most advanced space program in South America. It helped that Brazil had so many aerospace engineers connected with Embraer, the Brazilian aircraft manufacturer. I helped NASA with arranging to use AEB's massive testing chamber near Sao Paulo to test the SAC-D, an Argentinian Earth observation satellite that included NASA Aquarius sensors for measuring the salinity of the oceans. The chamber was the only one of its kind in South America. It would be depressurized and then would violently shake the satellite to see if it could survive a launch or not. After passing the tests in Brazil, the satellite was successfully launched from Vandenberg Air Force Base in June of 2011. I coordinated with AEB to fly in the SAC-D satellite and then later to transfer it by U.S. military aircraft to California. I arranged for AEB President Sergio Maurício Brito Gaudenzi to meet with then head of NASA Charles Bolden in Washington, D.C.

The Ukrainian Embassy in Brasilia met with us several times on space cooperation. They wanted to have NASA agree to put satellites on Ukrainian heavy lift Cyclone-4 rockets and launch them from AEB's Alcantara spaceport. A decade earlier there had been some interest by NASA in using Alcantara because of its location on the equator, but a 2003 explosion there had destroyed the facility. And by the time the spaceport was ready to reopen, AEB had linked itself to this Ukrainian project. For national security reasons, we

wouldn't put U.S. satellites on a foreign rocket. Moreover, the prospects of a joint project with AEB became less appealing due to its close collaboration with the Chinese space agency through the China-Brazil Earth Resources (CBER) project. In 2006, we did send up a Brazilian astronaut, Marcos Cesar Pontes, to the International Space Station. Pontes later became the Minister of Science, Technology and Innovation.

AEB was helpful to my office in recovering a piece of a U.S. rocket launcher that fell into a farmer's field in Brazil. I had seen reports on the Brazilian news about an object falling from the sky onto a farm, but they didn't know what it was. I then heard from the U.S. Air Force that this object belonged to them, and they would like it back. We eventually tracked the part down and arranged for a U.S. Air Force transport plane to come pick it up from the AEB facility near Sao Paulo. I went down with the U.S. Air Force crew and the Defense Attaché to take possession of the space object. We flew the piece to the Embassy in Brasilia and stored it in the office next to mine until a larger Air Force plane could be arranged to take it all the way back to the United States. While it was in my section, numerous local and U.S. employees heard about it and came to take a peek at the object that fell from space.

Biofuels was an area of substantial bilateral cooperation. The Brazilian were able to produce biofuels very efficiently. There was great enthusiasm for cooperation with Brazil on biofuels in the last year of the Bush Administration. The Brazilians were the world leaders in biofuel production from sugar cane, while the United States used corn for biofuel production. Both countries wanted to produce the next generation of biofuels, which would use sugar cane residue called bagasse, or vegetation other than sugar and corn to produce ethanol. There was criticism about biofuels using food crops to produce energy, which undermined global food security and drove up food prices. The Bush Administration saw a convergence of interests with Brazil in promoting the development of the next generation of biofuels. I helped with the negotiations of the Memorandum of Understanding (MOU) on biofuels research and then in its implementation. We arranged for Brazilian biofuel research experts to go to Colorado to work with U.S. researchers at NREL (the National Renewable Energy Laboratory). Further, we helped the National Science Foundation to develop a joint biofuels research program with Brazil. These new technologies produced biofuels from the residues and waste from corn and bagasse. The cooperation extended to trying to promote the use and production of biofuels by other countries, especially in the Western Hemisphere.

I was quite impressed with how successful the biofuels program was in Brazil. The country had attempted a biofuel program earlier in the 1970s, but that had failed. The problem then was that Brazil had cars that either ran solely on gasoline or on ethanol, but you couldn't switch. The availability of biofuels depended on the harvesting of the crops, and not every fuel station offered biofuels. Thus, it was risky to have a biofuels-only car because you couldn't count on the availability of fuel. By the 2000s, Brazil had a remarkable solution. They arranged for new cars to be fully flex-fuel, meaning they could run on either gasoline or ethanol or any combination. I learned from a General Motors Brazil executive that it didn't require much to make this possible. The extra cost for going completely flex fuel was minor, under \$50 per car. By means of a minor adjustment

to the tax law, this induced car buyers to purchase fully flex fuel cars, which could use any proportion of gas or biofuels. A car owner could go from 100 percent biofuels to 100 percent gasoline or anywhere in between. With the tax law change, essentially, every car that was assembled in Brazil became a flex fuel vehicle.

Q: What was the tax?

DRISCOLL: The General Motors executive said it was a tax credit worth about \$50, which made a flex fuel car the same price as an ordinary car. I don't know if they still have that credit or use a mandate now. Not much needed to be done to make a car fully flex fuel. Apparently, biofuels were more corrosive than gasoline, so you needed to have different, more sturdy hoses, but that was about it. It really was simple.

In addition to biofuels cooperation, I was proud of the work I did to support cooperation with Brazilian Forest Service. I helped the U.S. Forest Service organize a team to come work with the Brazilians on the use of forest concessions, which was being used in the United States. This had proven to be an excellent land management technique. The Brazilian Forest Service was a relatively new agency and had just a few people to manage huge swaths of forested areas. The U.S. Forest Service, which had an outstanding coordinator in Michelle Zweede, sent experts down to train the Brazilians in the use of concessions, which involves working with the private sector. The Brazilians were appreciative of this technical assistance. Coincidentally, one of the experts on forest management and reduced impact logging was Johan Zweede, Michelle's father who was a former Caterpillar representative. Johan founded Instituto Floresta Tropical, which was a leader in training logging companies how to minimize damage when extracting trees of commercial value in a forest.

Moreover, I helped the Brazilian National Park Service in its development. The Brazilian service was recently created and had responsibility for 34 national parks. Only one of the parks was profitable – the Corcovado Park in Rio de Janeiro with the famous statue of Christ the Redeemer at the top. The Brazilian director wanted to emulate the U.S. National Park Service. He lamented that his parks weren't generating visitors and revenues and that the park staff acted like police, handing out fines and prohibiting access when closed, rather than serving as guides. I knew the international affairs people at the U.S. National Park Service and arranged for them to provide technical assistance. We sent the Brazilian director and some senior staff members to the United States to meet with National Park Service counterparts in Washington, D.C., and at several parks around the country. They learned about how planning and budgeting was handled in our parks, and the training of staff. They formed a sister park relationship with some U.S. national parks too. As a follow up, I arranged for a team of U.S. National Park Service planners to come to Brazil and work with their counterparts. As part of their trip, the U.S. visitors went to some of the most interesting Brazilian national parks, including the one at Iguazu Falls. The Brazilians welcomed the technical assistance. One of my personal disappointments was that I was not able to accompany the team on their week-long tour of the Brazilian parks. I couldn't get away from the office for a whole week, so I had to send Jorge Nogueira, the outstanding Brazilian assistant to the ESTH Section.

Q: Too bad. You would have liked that.

DRISCOLL: I would have loved to have gone on this trip to see the parks. The group received VIP treatment and special behind the scenes tours because the Director of the Brazilian National Park Service accompanied them.

I did try to arrange to visit Brazil's nuclear energy laboratory. While nuclear weapons were an issue for others in the Embassy, nuclear energy fell within the OES purview. The idea was to see what, if anything, was happening at their facilities. Before the return of democracy, both Brazil and Argentina had started nuclear weapons development programs. While there was no reason to suspect something was amiss, it would be good to see what was going on there. It would increase transparency in their activities. I made some initial steps to getting in and it seemed on track. However, I had to move on to my next assignment before I made an on-site visit to their facilities. I don't know if my successor was able to follow up or not.

One event that I was fortunate to attend was a private dinner hosted by Ambassador Sobel and his wife for former President Jimmy Carter and Rosalyn Carter, plus a few senior officers from the Embassy. The Carters came to Brazil as part of a program run by the Carter Center based in Atlanta to eliminate river blindness. River blindness was a serious problem in parts of the Amazon, and of course, it was a major problem in parts of Africa. At the dinner, Rosalyn recounted her story of how in 1977 she visited Brazil as the First Lady, when there was a military dictatorship in place. She met with politicians from the opposition and activists against the regime. During the visit, she loudly criticized Brazil for the lack of democracy. In response, the Brazilian government revoked the mutual defense treaty with the United States, and it kicked USAID out of the country. Rosalyn Carter concluded that her public pressure and the pro-human rights posture of President Carter helped with the return of democracy to Brazil, which took place in 1988. I heard a very different version of the same incident from some Brazilians who came to the opposite conclusion. They thought that Carter's public pressure tactics caused a setback and delayed the return of democracy for years. The Brazilians insisted that a quiet, behind the scenes approach would have been more effective. It was a delight to have dinner and an interesting conversation with the Carters. Also, I found it interesting to see how reasonable people could look at the same incident and draw opposite conclusions.

Q: So, it might have been a little later after you left, but there was also the issue that we had been putting pressure on Iran to comply with non-proliferation and the sanctions were about to hit the Iranians. The Brazilians started trying to help Iran get back into good graces at a time that we had already made a decision. And it did not go well. People did not appreciate what Lula was doing. Did that happen while you were there?

DRISCOLL: Yes. I recall that development. The political section at the Embassy handled Iran issues. It didn't surprise me to see Brazil siding with a developing country against

the United States. Brazil was a founding member of the BRIC group, which consisted of Brazil, Russia, India, and China.

Q: And South Africa, so it became the BRICS. Those are the emerging markets.

DRISCOLL: Yes. I thought BRICS was a sad development. While Brazil could be seen as having much in common with the large democracies of Asia and Africa, India and South Africa, I didn't see much of an alignment with military superpowers and autocracies, China and Russia. I thought BRICS was dominated by China and Russia, and so Brazil, India and South Africa were being played.

I wanted to note how proud I am of the work we did in connecting the Brazilian environmental law enforcement agency IBAMA with the U.S. Department of Justice's (DOJ/ENR) Environment and Natural Resources Division. Since I had worked in DOJ previously, I reached out to a colleague, Karen Wardzinski, to arrange a cooperative program. I also met with Brazilian officials at IBAMA to measure their interest in working with DOJ. They too were quite eager to do so. During his visit to Brasilia in 2009, Attorney General Eric Holder agreed to propose a cooperative program that included joint efforts to address the problem of illegal logs from Brazil going to the United States. With Wardzinski's assistance, we found the funding and launched a DOJ/ENR program that sent a team of DOJ attorneys to Brazil to train IBAMA law enforcement officials on how to assist in preparing environmental cases for use in U.S. courts. This was important because the U.S. imports a tremendous quantity of illegal plants and animals from Brazil. International illegal logging had been an enormous problem that law enforcement in both countries wanted to tackle. I was pleasantly surprised to discover a decade later that the DOJ training and bilateral cooperation program was still ongoing. This coordination between law enforcement officials helped DOJ/ENR build and prosecute cases in U.S. courts against those bringing in this illegal wood, plants, and animals from Brazil.

I would often accompany senior level U.S. officials who were traveling through Brazil and were interested in deforestation, biodiversity, or climate change issues. I recall spending several days with Senator Bob Corker (R-Tennessee) who was considering how he would vote on climate change legislation being developed in the U.S. Senate. There was much discussion about providing emissions credits for preventing deforestation, particularly in Brazil. In the 1990s, Brazil was clearing as much as 27,000 square kilometers of forest a year, which made it one of the top greenhouse case emitters in the world. These credits would have been provided to Brazil in return for reducing its rate of deforestation. Senator Corker was concerned that such a credit system could be scammed and came to Brazil to investigate. I took the Senator to the Amazon Forest in a small seaplane, and I introduced him to Brazilian specialists who monitor the rate of deforestation using satellite data. Senator Corker left Brazil with the impression that a reliable system could be implemented. Regrettably, the legislation never received sufficient support to be voted upon in the U.S. Senate.

One of the highlights of my tour had to do with the Tropical Forest Conservation Act.

Q: That's the debt for nature swaps.

DRISCOLL: Yes. The Tropical Forest Conservation Act, or TFCA, authorized creating an arrangement whereby the debt owed to the United States by a foreign country would be paid instead to an entity that would protect tropical forests in the debtor country. The debt required the use of appropriated funds from the U.S. budget to compensate for the revenues lost to the U.S. Treasury. When I arrived in Brazil, there was a debt of under \$40 million owed to the United States and there had been plenty of interest in using the TFCA to support forest conservation in Brazil. The Treasury Department and the State Department wanted to conclude a TFCA agreement with Brazil. They had set aside the necessary appropriated funds. Brazil was opposed to such an arrangement. In particular, Everton Vieira Vargas, the Under Secretary for Environmental Matters at Itamaraty, was against the proposal. The Foreign Minister was Antonio Patriota. Their objection stemmed from concern that this arrangement would give foreigners a role in setting forest policy in Brazil. That would be considered an infringement on Brazil's sovereignty.

Q: Okay, so, the TFCA or Tropical Forest Conservation Act, that came out of, actually George H.W. Bush Administration with the Enterprise of the Americas. Certain countries—like Costa Rica and Indonesia—had a very large program. But I guess I'm inferring from your comments that it had really languished in Brazil. So, it would be interesting to know exactly, like, what you and what the Brazilians did to turn it around and what kind of response you got from Washington.

By the time I arrived, the U.S. Treasury Department was working on moving the funds set aside for Brazil to support a TFCA proposal in Peru as an alternative. State Department was frustrated with Brazil on this issue, and it also was leaning towards shifting the money elsewhere. I thought the original idea of a TFCA program in Brazil made sense and wanted to make another attempt at concluding an arrangement with Brazil. I thought the best way to alleviate Brazil's concerns about sovereignty was to bring in someone who could walk them through the elements of a TFCA arrangement and listen to their concerns. I knew the ideal person for that job. My old boss in OES/STC, Stephanie Caswell, had worked for over a decade with Everton Vargas and they had an excellent working relationship. They had built a bond of trust and friendship. Stephanie Caswell and Everton Vargas had worked closely together in international settings to deal with intrusive proposals from Europe about forest management. I contacted Stephanie to see if she would come to Brasilia to head a U.S. delegation to meet with Everton Vargas and see if we could move forward with a TFCA program. She said that she was just about to retire, but she could make a visit in the weeks before she left government service. In the meantime, I was able to have OES Assistant Secretary Claudia McMurray encourage Brazil to pursue a TFCA program during her March 2008 meeting with the Vice Minister of Environment. We needed both Itamaraty and the Environment Ministry to support the proposal if it was going to go forward.

I urged my Treasury Department and State Department colleagues to agree to make another run at Brazil with TFCA. They agreed to do so, holding off shifting the funds

elsewhere. I knew that they would prefer a program with Brazil, but if that didn't seem likely soon, they were set on shifting the funds. Later in 2008, Stephanie Caswell led an inter-agency U.S. delegation to Brasilia. Most importantly, she met at length with Everton Vargas to assuage concerns about sovereignty and to explain how the TFCA program wouldn't give the United States control over Brazil's forest policy. At the end of the negotiations, Vargas and Itamaraty were willing to proceed with a TFCA program.

Q: They had to figure out how to structure the board of the foundation.

DRISCOLL: To address Itamaraty's concerns about sovereignty, we needed to carefully structure the decision-making body that considered and approved conservation projects. We made sure that the Brazilian government had enough votes on the board that they could stop anything that they didn't like. They would have sufficient votes to veto a proposal, but they would lack a majority so they couldn't make decisions without support from others. The veto gave them the comfort they needed to proceed.

I want to note the critical support of Ana Cristina Barros from The Nature Conservancy in Brazil who helped encourage the Brazilian government to agree to a TFCA arrangement. She was instrumental in identifying FUNBIO to serve as the Executive Secretary of the TFCA Account Committee, basically, the administrator of the TFCA program. FUNBIO was a trusted and reliable environmental NGO and the Brazilian authorities felt confident with FUNBIO in that role.

Q: It was like a foundation that would give grants to NGOs in the field, is that right?

DRISCOLL: That's right. Proposals could come from NGOs, but they also could be submitted by Brazilian state and local authorities.

Well, the text was negotiated, and we were looking forward to concluding the TFCA arrangement when Marina Silva, the Environment Minister, resigned. She had been a vocal supporter of the proposal within the Brazilian government, and without her active backing the proposal seemed likely to wither and die. Itamaraty was no longer opposing the proposal, but it wasn't their priority to advance it. Only the Environment Ministry could push the proposal through the cabinet. The new Environment Minister, Carlos Minc, came from Rio de Janeiro and he hadn't shown much interest in the TFCA proposal. It wasn't a priority for him as it had been for Marina Silva. I arranged for a meeting between Ambassador Sobel and Minister Minc to discuss the TFCA. At this meeting, Minc said the idea of the TFCA was fine, but it was clear that he had other priorities he wanted to advance. He asked what the TFCA money could be used for, and I seized this opportunity. I pointed out that the TFCA could support projects in any tropical forest, not just the Amazon Forest. I told him that this included the Mata Atlantica or the forested area that ran along the Atlantic Coast of Brazil, which included Rio de Janeiro. Minc became animated and was thrilled by the prospect of possible funding for projects in the Atlantic Forest. He then expressed enthusiastic support for the proposal. That did the trick.

Q: And did they limit the scope to the Atlantic Forest or was it broad?

DRISCOLL: We gave them the discretion. We did make it explicit in the TFCA agreement that the funds were available for the Atlantic Forest, as well as the Cerrado and Caatinga biomes, which were outside of the Amazon. At that time, the Norwegians had recently pledged US\$1 billion for the Amazon Forest, and the Germans had pledged a large sum for the Amazon Forest too. It seemed that the TFCA funds could best be used in the other tropical forests in Brazil.

The Brazilian government sent the TFCA proposal to the Brazilian Senate. It was approved and the TFCA agreement was signed in August 2010. The Brazil TFCA program had US\$21 million that was used to fund 90 conservation initiatives in the Atlantic Forest, as well as the Cerrado and Caatinga biomes. The sad thing for me was that at the time of the signing in August 2010, I had just left Brasilia and had arrived in Afghanistan.

Q: Were there any other issues in the office you wanted to talk about?

DRISCOLL: There were several other issues that kept us busy. Our health cooperation efforts were quite extensive. Our office supported a National Institutes of Health (NIH) program for joint medical research with Brazilian researchers. Brazil had outstanding researchers, especially in the area of tropical diseases. My office administered an electronic processing system for proposals for joint research from Brazilian medical researchers, which NIH would consider and approve funding. Each year, we'd receive almost 200 proposals and around \$15 million in joint research projects would be approved.

Further, the Centers for Disease Control (or CDC) assigned three medical experts to work in Brazil, who would coordinate their work through my office. I recall that the CDC specialists were fascinated by the diseases that were present in the Amazon region, which until then had received scant scientific study. The CDC people played a quiet, but important role during the H1N1 or swine flu pandemic in 2009. When the pandemic first reached South America, the Brazilian authorities would regularly announce that they had zero confirmed cases of H1N1. The reason for that we learned from our CDC colleagues was that the Brazilians weren't testing anybody. The Brazilian health authorities were trying to develop a Brazilian test for H1N1. They didn't want to be using the U.S. or some other country's tests. It is too bad the health sector was being politicized.

Q: Did H1N1 hit hard there?

DRISCOLL: Officially no, but unofficially yes. Our CDC colleagues who worked with Health Ministry officials learned that in all likelihood there were many cases of H1N1 based on the symptoms, just none were confirmed. The CDC colleagues were able to quietly bring in U.S. test kits, and the Brazilian health officials were able to adapt them and call them their own. The secret was to have the cooperation below the radar. And then, the Brazilian health authorities started testing and detecting H1N1 cases.

An area that really took off when President Obama entered office was climate change cooperation and collaboration. The Obama Administration wanted to work closely with Brazil on climate change with the aim of reaching a new international agreement under the UNFCCC. The Special Envoy for Climate Change Todd Stern sought to formalize cooperation in a Memorandum of Understanding (MOU) on Cooperation Regarding Climate Change. He wanted to use the March 2010 visit of Secretary of State Hillary Clinton to Brasilia as a tool to rapidly negotiate and conclude such an MOU. The key provision called for establishing a bilateral Climate Change Policy Dialogue with a view to building on the 2009 Copenhagen Accord to reach a new international agreement under the UNFCCC. The Copenhagen Accord had been an agreement reached by President Obama, President Lula, and the leaders of China, India, and South Africa, that would become the basis of the 2015 Paris Agreement. The Copenhagen Accord was not formally adopted by the UNFCCC, but it did gain the support of over 110 countries. We were under a tight deadline to conclude the MOU, and I was the intermediary between Itamaraty and Todd Stern's office. I negotiated with Luiz Alberto Figueiredo Machado, who had replaced Everton Vargas as the Under Secretary for Environmental Matters. He later became the Foreign Minister and now is Brazil's Ambassador for Climate Change. It was challenging to conclude the negotiations so quickly. We needed to have the document translated into Portuguese and had to have the approvals of the Legal Advisor's Office and of our translation services. After several late nights and intense efforts by all parties, we cleared the substantive and procedural hurdles. The MOU was signed as part of Secretary Clinton's visit.

Before I left Brasilia in July 2010, we had another Joint Committee Meeting on Science and Technology (JCM) in Washington, D.C. The enthusiasm from the Brazilian side was impressive. They sent over 30 senior officials from their scientific and technological agencies. I spent the months ahead of the JCM meeting with Brazilian officials to encourage their participation and to brief the U.S. about the opportunities and what to expect from the Brazilian side. The Brazilian Minister of Science and Technology, Sergio Machado Rezende, was supportive of the JCM and increased cooperation with the United States. He too pressed other Brazilian agencies to actively participate.

One concrete development from this JCM was the concept of trilateral cooperation. This meant U.S. and Brazilian agencies working together to provide technical assistance to developing countries. NASA had its Landsat satellites that provided climate data free to anyone. Similarly, Brazil had its CBERs satellites, which it operated with China. Jointly we could help developing countries in Africa and Asia to download and analyze the imagery and data. Brazil was very good with forest imagery analysis. This could help in measuring deforestation in the Congo, for example.

Another area for trilateral cooperation was in the health sector. We thought of leveraging Brazilian expertise, language, and cultural ties to help other developing countries, particularly with Haiti and with Lusophone Africa, such as Sao Tome and Principe, Angola, and Mozambique. Back in 2010, Brazil was leading the UN effort on the ground to help rebuild Haiti. I worked with Itamaraty and the Health Ministry to arrange the

terms of the cooperation, whereby the United States would fund the Brazilian health experts to assist other developing countries.

Q: Did that work out?

DRISCOLL: Yes. This approach made a lot of sense. The Brazilians wanted to be seen as an assistance provider, rather than a recipient, but they didn't have the funds to do so. The United States could provide – at a lower cost – health experts from Brazil that spoke Portuguese. So, if we were willing to fund it, Brazil was fine with sending Brazilian doctors abroad. While I was in Brasilia, the first health projects with Sao Tome and Principe started up.

Q: And then, you mentioned that Tom Shannon was the ambassador for part of your time there. He had come from working in Washington for many years in the White House as the assistant secretary. He was the expert on Latin America at the policy level. He understood the importance of our relationship with Brazil. So, what was it like working with Tom Shannon as an ambassador?

DRISCOLL: Ambassador Tom Shannon was a consummate diplomat and great manager. He was quite interested in environmental issues. He was also supportive of developing staff. He was a genial person, and friendly to everyone of all ranks. Well, it also helped that he spoke the language because our last ambassador did not speak Portuguese. Ambassador Shannon had gravitas when dealing with Brazilian officials; he had the connections with Washington. He trusted and relied on the staff. And he had a special place in his heart for Brazil, which had been his first assignment. He knew the whole region backward and forward. He could relate to his counterparts. Due to his outstanding knowledge of the Western Hemisphere, I recall that he was asked by Washington to help out on non-Brazil matters, such as Venezuela and Cuba.

I did have one curious matter that involved him. When he had first been at the embassy as a staff assistant, I think it was in 1983, Shannon had become involved in celebrating the 70th anniversary of Teddy Roosevelt's famous journey up the River of Doubt in Brazil. After losing the election of 1912, Teddy Roosevelt and his son Kermit joined the famous Brazilian explorer Colonel Candido Rondon in 1913 to map a river that went through the Amazon. It was called the River of Doubt because nobody knew where it went. After the expedition, the Brazilians named it the Roosevelt River in his honor. The party of about twenty men had a harrowing journey through unexplored and dangerous territory. He became very ill and barely survived. The journey is recounted in the book called *River of Doubt*. In 1983, on the 70th anniversary of that epic journey, there was a reenactment and then staff assistant Shannon was actively involved in providing Embassy support. When I was there, there was already interest in preparing for the 100th anniversary, which would be in 2013 when presumably Shannon would still be Ambassador. The ESTH Office had helped organize the 1983 event and we were gearing up for the 2013 event, which Ambassador Shannon was interested in doing if he could.

Q: And Lula was the president the whole time you were there?

DRISCOLL: Yes.

Q: But the corruption charges against him were starting?

DRISCOLL: Yes. As I was leaving there was the *Lava Jato* or Car Wash Operation, which revealed serious cases of corruption. The scandal involved extensive bribery through the state-owned oil company Petrobras, plus corruption involving the construction giant Odebrecht. Even before that scandal, the *mensalaõ*, or monthly bribe scandal, had become public. In that corruption scandal, President Lula's Workers Party was caught paying regular monthly bribes to deputies in Congress to win support for government proposals.

Q: That was a payment to members of the Brazilian Congress?

DRISCOLL: Exactly. The Workers Party made monthly payments to deputies in Congress to keep their support for the government. I believe that the earlier Presidents had been corrupt too. For example, President Fernando Collor de Mello, was impeached for corruption. On reflection, I don't think that the corruption was worse under President Lula, it just received more attention. Also, I think the public's tolerance for public corruption had diminished by that time. The other factor that came into play was that the press was much freer, and they were better able to publicize these scandals. So, I think these other scandals were going on beforehand, it's just that they didn't get much publicity and now, they did. Overall, I thought President Lula did a positive thing in Brazil when he created the Bolsa Familia.

Q: The anti-poverty program?

DRISCOLL: Yes, Bolsa Familia or Family Basket was an anti-poverty program. The government would pay poor families some money, but there were conditions attached. In particular, the family had to keep the kids in school, rather than going off to work. A family had to take health measures for the children too. So, a poor family just didn't get money with no strings attached, it had to do the right thing within the family. This program lifted a lot of people out of extreme poverty. I think President Lula helped millions of very poor people.

President Lula reminded me of a famous campaign promise by a politician in Brazil, who campaigned under the slogan: "*Eu roubo, mas eu faço*", which means I rob, but I do things. President Lula was the first poor or working-class person to lead Brazil from the time the Portuguese arrived in 1500. Generals and emperors and the elites had run the country from the start. Yet, here was a man raised in poverty and with an elementary school education rising to the top. He understood poverty and he could relate to the working class. While it was sad that there was corruption in his time, I believe on balance he represented the Brazilian people well and lifted many of them out of extreme poverty.

Q: You were there three years. And so, the financial crisis occurred while you were there.

DRISCOLL: Yes.

Q: And it didn't hit Brazil that hard?

DRISCOLL: When I was there, Brazil seemed on top of the world. They had won the rights to the 2016 Summer Olympics. Then they obtained the rights to host the 2014 World Cup, which with the prolific scoring talent of Neymar they felt sure to win for the sixth time. Economically, there was a boom in exports of iron ore, and wood and other raw materials, especially to China. On the agriculture side, their productivity was increasing, and Brazil was a world leader in the production and export of soybean, corn, sugar, and coffee. Moreover, Brazil had discovered enormous offshore petroleum reserves, called Pre-Sal or under the salt layer on the ocean floor. Domestically, the economy was doing well despite the economic crises elsewhere in the world, and President Lula was a very popular president. When I left in July 2011, Brazil seemed to have finally arrived as a global leader.

Before leaving the topic of Brazil, I want to underscore that the ESTH Section had an outstanding staff. We had K.C. Moore, who had an environmental law background, who proved to himself to be a superb officer. He was too good because the Ambassador poached him from my office in the middle of his tour to serve as his staff assistant. Jeremy Long replaced K.C. Moore, and he was critical to making the Joint Commission on Science and Technology a success. The ESTH Section had a great Brazilian assistant, Jorge Nogueira, who years later went on to work in EMBRAPA's Genetic Resources and Biotechnology branch. The administrative assistant in the ESTH Section, Daisy Costa, turned out to be an exceptional oil painter and musician and dancer. She was very dedicated and helpful, especially to the junior officers and interns in the Section.

Q: It is August 18, 2022, and we're continuing our conversation with Rick Driscoll. The year is 2010, is that right?

DRISCOLL: That's right. I arrived in Kabul on August 10, 2010.

Q: Okay. And you have gone from the fat to the fire. You're going from Brazil right to Afghanistan. Is that right?

DRISCOLL: Yes, that's correct. At that point, I knew State Department was sending about a thousand Foreign Service employees to Iraq and to Afghanistan each year. I wasn't opposed to going, I had just wanted to wait until my son had graduated from high school. Once our son went off to college in 2009, I bid on Afghanistan. I felt it was my turn to go and that by going I was letting some other Foreign Service Officer stay with his or her family. I thought others had covered for me while Bobby was in school, and now I wanted to reciprocate.

I chose Afghanistan rather than Iraq because I thought Americans would be more welcomed in Kabul. My impression was that many Iraqis looked on us as invaders, which I could understand. Whereas in Afghanistan, many of the people in Kabul and the northern part of the country had opposed the Taliban, and they might be pleased that the United States had helped to expel the Taliban from power.

Q: Did your wife stay in Brazil?

DRISCOLL: She did. She was a Foreign Agriculture Service Officer and still had one year left on her tour in Brasilia. She was an Agriculture Attaché there. Fortunately, they let her remain in the house that we had lived in for the previous three years, even though both our son and I had left post by the summer of 2010. It was a nice, large house in Brasilia.

When I arrived in Kabul, I had to share a “wet hooch” for the first three months. This was a metal container with a bathroom and shower. I had one roommate. I was lucky because in some hooches there were bunk beds and up to six people stayed in them. I was on the waitlist for a one-person hooch, which I received after a few months. I arrived as the surge in military personnel was taking place. At its peak, the United States had about 130,000 troops in Afghanistan while I was there. This put enormous pressure on the State Department to have a similar surge in personnel. Consequently, new arrivals poured into the country and those at the Embassy were assigned to live in hooches placed around the Embassy grounds rather than in the limited space available in the apartment units on the grounds.

I had bid on a stretch Senior Foreign Service position as head of the Rule of Law office. I thought this would be interesting as I have a legal background. By the time I arrived, I learned that due to the surge, there was now an ambassador assigned to oversee the rule of law activities. This was Ambassador Hans Klemm, and his deputy was Brigadier General Daniel Fincher from the U.S. Air Force Judge Advocate General (JAG) or legal staff.

Q: So, in addition to the military surge, there was a surge of civilians?

DRISCOLL: Yes. The Embassy was bursting at the seams with so many additional people. Moreover, the State Department was placing many people in locations outside of Kabul. Each province had a Provincial Reconstruction Team (or PRT) and this meant putting State Department staff there too. The Embassy was seeking to convert four of the larger PRTs into full-fledged, permanent consulates. These were at Kandahar in the South, Herat in the West, Mazar-e-Sharif in the North, and Bagram in the East. Many of the PRTs engaged in rule of law activities, as did the many military commanders throughout the country. The International Security Assistance Force (or ISAF) was the name for the multinational military mission in Afghanistan, which was led by Lieutenant General David Petraeus while I was there. ISAF could never tell us how many people it had working on rule of law in the country, though at one point we estimated it was over 300.

The surge also brought a host of VIP visitors, from President Obama and Vice President Biden, to Senators McCain, Lieberman and Graham – the “Three Caballeros” – to a host of other senators and representatives. We had USO Tours with Robin Williams and Jon Stewart come visit us at the Embassy. I had limited contact with the media that was frequently around. I did meet with the one-eyed reporter from The Sunday Times, Marie Colvin, about our anti-corruption efforts in Afghanistan. My British counterpart, Wendy Hart, also met with Colvin to discuss rule of law efforts. Wendy Hart and I coordinated our responses.

Q: As you said, they added a position with Hans Klemm. I think that up to that time, the ambassador in the front office of Kabul for assistance was just one person, and then, I think the year that you arrived they also divided the assistance work into two parts, the economic assistance and the rule of law, is that right?

DRISCOLL: When I arrived at U.S. Embassy Kabul in August 2010, U.S. Army Lieutenant General Karl Eikenberry was the Ambassador. The Deputy Ambassador, the equivalent to the Deputy Chief of Mission, was Ambassador Tony Wayne. Ambassador Hans Klemm was responsible for rule of law and justice sectors.

Ambassador Bill Todd dealt with economic and assistance matters. Ambassador Todd told me he was proud to be the only CPA (Certified Public Accountant) ambassador in the Foreign Service. He had the challenging job of following the money and keeping track of all those assistance programs. Ambassador Todd wasn't alone in tracking the money. We had three Inspectors General with staff and offices on the Embassy compound – the State Department's Inspector General, USAID's Inspector General, and the Special Inspector General for Afghanistan Reconstruction or SIGAR.

Q: In the rule of law office, what was your budget?

DRISCOLL: Well, we didn't have any of our own money, instead we leveraged other agencies' funds and personnel resources. For example, USAID funded an anti-corruption project called the Independent Joint Anti-Corruption Monitoring Committee (or MEC). Two people seconded from USAID worked in my office to implement it. Similarly, the U.S. Marshal Service funded the creation of an Afghan Marshal Service, however, our office handled coordination between the U.S. Embassy and the Afghan Supreme Court, which supervised the Afghan Marshal Service.

There were some big contracts in the justice sector and those were handled by either the Bureau of International Narcotics and Law Enforcement Affairs (called INL) or USAID. Further, there were large sources of funding from the international community and from other countries too. Afghanistan was awash in assistance money. I recall Ambassador Eikenberry saying at a staff meeting that he didn't want to hear from anyone that we couldn't do something because of a lack of money. In fact, the U.S. pipeline of money to Afghanistan was more than a billion dollars. This was money that had been appropriated but not yet spent.

Bruce Turner was the Director and Baxter Hunt was the Deputy Director of the INL Office at Embassy Kabul. INL plowed tens of millions of dollars each year into the justice sector. They supported the construction and staffing of prisons in each of the 34 provinces. The FBI had funding for ten agents plus support staff to train Afghan criminal investigators and prosecutors. The DEA stood up an impressive wiretapping system, which the other law enforcement and intelligence agencies benefitted from. DEA also had funding to support the Afghan anti-narcotics law enforcement officials. Other agencies paid for anti-money laundering efforts, customs and border crossing buildings and staffing, and the Afghan presidential security detachment. USAID paid for setting up and operating law schools. I believe that USAID funded about nine law schools, and I think five of them were based on sharia law. USAID also funded the training of judges and public defenders.

Q: Like public defenders here?

DRISCOLL: Yes, that was the idea. The concept of providing attorneys to defendants was a new one in Afghanistan. USAID had designed the program so that one group of public defenders was hired directly by the Ministry of Justice and a second group was employed indirectly through an NGO by means of a contract. Unfortunately, what happened sometimes was that the direct hire public defenders did not vigorously advocate on behalf of the defendant. This was explained by their concern over possibly offending their employer – the Ministry of Justice – which was trying to convict the defendant. The public defenders provided by the NGO did much better. They were more inclined to be what we would consider a public defender.

Q: So, was there a new legal system? Was it an existing legal system based on sharia law and a mix, or?

DRISCOLL: The legal system was not new. Afghanistan had a formal legal code that they based heavily on Egypt's. It supposedly was consistent with sharia law. For much of Afghanistan, the formal legal code didn't have a bearing on their lives. In the rural areas, where most Afghans lived, disputes were handled informally by the elders without reference to any formal legal code, using the jirga or shura. Many of those cases involved land disputes or family rights issues, such as property distribution. In the cities, however, there often were more complicated matters, including commercial cases, and the formal courts were used. In those cases, the legal code became important.

The international community supported work on updating the civil code, the criminal procedural code, and the criminal code. The United Nations Assistance Mission in Afghanistan (UNAMA) based in Kabul led these efforts. The draft codes recommended by the international community were far along, but none had been adopted by the Afghan government before I left in August 2011.

Q: The laws had some of the older penalties like stoning or things like that as well?

DRISCOLL: I don't think the formal legal code has such penalties. Stoning and cutting off hands were penalties from the informal justice system.

The biggest source of cases for the formal system were land disputes. Outside the cities, few people held a written title to the land they lived on. We were supportive of an effort by the UNDP (United Nations Development Programme) to register land titles, called a cadastral mapping system. We had heard a disturbing rumor that Ashraf Ghani, then an advisor to President Karzai, had a strong view about land titles. Reportedly, he took the stance that if a supposed landowner could not produce the written title to a plot of land, then by default the land reverted to the government. Fortunately, this was not the policy of the government. Still, many pieces of valuable land were seized or stolen by government officials and powerful warlords.

Q: Was he still minister of finance? What was he in the 2000s?

DRISCOLL: No. Ashraf Ghani served as the Finance Minister from 200-2004. When I was there, he was the Chair of the Transition Coordination Commission, which handled the handover of security responsibilities from the International Security Assistance Force (called ISAF) forces to Afghan forces. Of course, he became President in 2014 and fled when the Taliban took over in August of 2021. The whole time I was in Afghanistan, Hamid Karzai was president. Ghani did play a major role in the political world.

Q: Had the Taliban redistributed land during their rule? Or that didn't come up so much?

DRISCOLL: That didn't come up. I don't believe that the Taliban had a land redistribution program. Land rights were handled as they had been for hundreds of years. The Taliban did have the reputation for making swift and fair decisions in land dispute cases. On the other hand, the formal courts that we were supporting had a reputation of being corrupt and unjust.

Q: Let's back up. So, your office had staff.

DRISCOLL: When I arrived, the Rule of Law Office had me as the Director, which was a Senior Foreign Service slot, plus a newly arrived mid-level Foreign Service Officer who served as the Deputy Director. Then we had two USAID employees who had been seconded to our office, plus a U.S. Army Judge Advocate General (JAG) Lt. Colonel, and two spouses of employees who needed temporary work. We had unfilled vacancies for two local employees who were supposed to serve as interpreters. It took about four months for us to fill the two local vacancies. Without my requesting any of them, other people were assigned to the office, including a U.S. Navy Captain who was both a lawyer and helicopter pilot, Art Cody, a U.S. Army JAG Colonel, a U.S. Air Force Lt. Colonel, who was an electrical engineer instructor from the Air Force Academy, another USAID contractor, and two more State Department Foreign Service Officers (including Helen Hudson with whom I worked back in Caracas), and one more spouse of an employee.

Q: Okay, so that's a good lead in. What was your mandate? What were your goals?

DRISCOLL: The main task of the Rule of Law Office was to keep track of and try to coordinate the rule of law efforts by the U.S. government and by the international community. We established a weekly meeting of representatives of the various U.S. civilian and military groups with activities in the justice sector, plus representatives of the British Embassy. This was called the “Rule of Law Deputies Committee” and chaired by Ambassador Klemm or his deputy, Brigadier General Fincher. The Committee was very large. It had representatives from my office, INL, USAID, DEA, FBI, Homeland Security, Customs, the U.S. Marshals, the anti-corruption Joint Inter-Agency Task Force led by Brigadier General H.R. McMaster, the Joint Task Force 435 dealing with detainees held U.S. forces led by former U.S. Navy SEAL Vice Admiral Robert Harward, the U.S. military’s Rule of Law Field Force – Afghanistan led by U.S. Army JAG Brigadier General Mark Martins, which also dealt with detainees but further promoted rule of law out in the field. My office organized the meeting, prepared the agenda, and sent out notes following each meeting.

While the Rule of Law Deputies Committee provided coordination within the U.S. government, my office served as the liaison with the broader international rule of law community, from the UN offices, such as the UN Assistance Mission in Afghanistan (or UNAMA) and the UN Development Programme (or UNDP), to the bilateral embassies, such as the United Kingdom, France, Germany, Spain, Italy, and Japan, to the international and domestic NGOs engaged in the justice sector. Further, I worked closely with the anti-corruption Joint Task Force led by Brigadier General H.R. McMaster, which he named Shafafiyat (or transparency in Dari). There were many NGOs operating in Afghanistan, some as contractors for USAID, and others had sprung up since 2001. For example, I would meet with NGOs that supported women in legal disputes. We learned that most of the women in prison were there because they had tried to run away from an abusive husband or family situation. We would try to link these groups up with USAID, which sometimes had funding available to support their activities. It was quite a challenge to get a handle on what the international community was doing in the justice sector. We wanted to avoid wasteful efforts or duplication. Sometimes we could help others in spending their resources, such as when Japan had funding for rule of law projects, but they didn’t have a good idea on how to spend the money, or when Australia was looking at which judges to train. We would meet with them and discuss possibilities that would coincide with the U.S. objectives.

Another major goal of my office was working with the Afghan Attorney General to stand up the Independent Joint Anti-Corruption Monitoring Committee (or MEC), which was funded by USAID. In addition, we had the goal of implementing an initiative to enhance vetting of U.S. contracting. Moreover, we worked with the ISAF planning staff to develop the desired conditions for turning over the 300 plus districts to the Afghan authorities.

Apart from the activities and goals we planned for, there were frequent unexpected crises in the rule of field that had to be dealt with. On my arrival, I had to deal with the fallout from the Wikileaks problem. The Embassy had about 48 hours advance notice of the

contents of cables that were about to be released to the public. My deputy and I reviewed hundreds of these classified cables to see if they contained any disclosures that could potentially put someone in our area mentioned in the cable at risk. These cables would refer to an Afghan contact who had provided useful information, sometimes derogatory towards the contact's superiors or friends. If the name of the contact were released the person could be subject to retribution by his superiors or to death threats from the Taliban. On more than one occasion, we identified an instance where we recommended advance notice be given to an Afghan contact because the name and content of their private conversation with a U.S. official was about to be revealed.

On a side note, Wikileaks gravely undermined Ambassador Eikenberry's relationship with President Karzai. The Ambassador provided a frank and pessimistic assessment of President Karzai, even going so far as to say he had mental issues and that occasionally President Karzai "was off his meds". After that blunt private assessment was leaked, President Karzai's relationship with Ambassador Eikenberry went very cold and never recovered. I thought it probably would have been better if Ambassador Eikenberry had been called back after Wikileaks. On the other hand, President Karzai seemed to have a better relationship with Lieutenant General David Petraeus, the commander of ISAF forces. Though President Karzai regularly criticized ISAF for doing night raids.

Q: And the categories of rule of law were the court system, building up the legal profession—

DRISCOLL: The rule of law field was very broad indeed. The United States supported everything from training judges, lawyers, marshalls, wiretappers, criminal investigators, prosecutors, and public defenders, to setting up a prison system, dealing with detainees, and reforming the legal code.

With respect to training judges, the United States and the international community would send groups of Afghan judges over to Egypt because the Egyptians were well versed in Sharia law and because much of the Afghan procedural and criminal code had been borrowed from Egypt. I served as the Embassy's point of contact with the Afghan Supreme Court. I regularly met with Justice Dr. Abdul Malik Kamawi to coordinate the technical assistance efforts. We needed Dr. Kamawi to authorize the specific Afghan judges to participate in our training programs. Similarly, Dr. Kamawi would designate where to send newly appointed judges. There were many districts in Afghanistan with judicial vacancies, and ISAF wanted to have those vacancies in the districts recently cleared of Taliban filled first. Also, I gained Dr. Kamawi's support for use of the Afghan Marshal Service to protect the Afghan Supreme Courts and subsidiary Afghan courts.

While I was in Afghanistan, we successfully stood up the Independent Joint Anti-Corruption Monitoring Committee (or MEC). The lead in my office was Jim Wasserstrom, who had been seconded from USAID. The MEC concept had independent outsiders shine a light on corruption. This approach had proven effective in other developing countries, and we sought to replicate that in Afghanistan. The MEC had a panel of three independent outsiders and three Afghans that reviewed and reported on

allegations of corruption. Wasserstrom was able to convince Dragos Kos, an anti-corruption expert from Slovenia, to fill the senior position. Kos was fearless and smart. The challenge we had was convincing Mohammad Ishaq Alako, the Afghan Attorney General, to fill the three Afghan slots on the panel. After numerous meetings where we pressed for action, the Attorney General finally filled the Afghan positions and the MEC went into action in 2011. Wasserstrom was an interesting person himself. He was a whistleblower on corruption within the UN program in Kosovo.

One project that I enthusiastically supported was the effort to enhance the vetting of contractors. A number of reports had come out in the U.S. press saying that significant amounts of money paid to Afghan contractors were ending up in the hands of the Taliban. This shouldn't have been too surprising. The U.S. government was paying Afghan groups for protection of our supply lines, which stretched to the border with Pakistan. There were not that many attacks on our supply lines, which I thought was mostly due to paying the protection money. The forces that were supposedly protecting the routes would sometimes be the same forces that would attack if they weren't paid off. We thought that some of those forces had ties to Taliban or similar groups.

ISAF and USAID wanted to create an enhanced vetting process for Afghan contractors to try to do a better job of weeding out those with ties to the Taliban. I supported the creation of this working group and I even assigned one of my staff to work on this effort full-time for the whole year I was there. During the time I was still at post, malign actors were flagged in over ten percent of the contracts by this new vetting system.

Q: What were you trucking in?

DRISCOLL: Practically, everything – fuel, food, parts, and some weaponry – was transported by land. I believe that all our food was shipped in by trucks. This meant that whenever Pakistan was angry with the United States, it would close the border and cut our food supply.

Q: For the whole embassy. You weren't just doing this for—

DRISCOLL: It wasn't just for the Embassy. The Pakistani closed all supplies into Afghanistan whether for military or civilian purposes.

Q: So, your role in this changing contractors—

DRISCOLL: I supported the proposal of enhanced vetting of Afghan contractors. And when the proposal was approved, I contributed to the staffing of the team that was doing the vetting. I wasn't required to do so, but thought the project was such an important one. I made it a high priority for the office and dedicated one staff member to this work.

In 2011, an enormous financial scandal shook the country. Kabul Bank went bankrupt. It was the largest financial institution in Afghanistan and the one that the U.S. government and international organizations relied on to make their financial transactions. The

Chairman of the Board of Directors was Sherkhan Farnood, a former World Series of Poker Europe winner, and his former bodyguard Khalil Fruzi, was the Chief Executive Officer.

At first, the bad loans appeared to amount to around \$150 million, however, that number quickly soared to over \$900 million. Most of the bank's deposits had been siphoned off in phony loans made to a small clique of friends of government officials. As a postmortem analysis concluded, Kabul Bank was an enormous "Ponzi Scheme". This crisis not only threatened the Afghan formal economy, but it also posed a grave threat to the U.S. government and the international community's operations in Afghanistan. The immediate crisis for the U.S. government was how to continue to make necessary financial transactions in the country. We used Kabul Bank to pay every single soldier in the Afghan National Army and every single police officer in the Afghan National Police. The first challenge was to sustain enough of Kabul Bank's operations to continue to handle the payments from the U.S. government to Afghan agencies and to the soldiers and police.

Farnood had been very shrewd when setting up Kabul Bank. He had given shares at a steep discount to one of President Karzai's brothers and to a brother of the First Vice President Muhammad Qasim Fahim. The presence of these highly connected shareholders stymied efforts by Afghan officials to investigate the bank failure and to recover stolen assets. On the other hand, Farnood and the others that diverted the funds from Kabul Bank turned out to be poor investors. When the funds from these fraudulent loans were traced, they frequently ended up being invested in real estate projects in Dubai, which turned out to be bad investments. They lost much of their value, leaving little to be recovered.

I was part of a small group at the Embassy, led by U.S. Treasury Department officials, that closely followed developments and reported back nightly to Washington. We also offered recommendations on possible next steps. Since the U.S. government and the international community desperately needed some functions of Kabul Bank to remain, we couldn't insist that the Afghan central bank close it down. We recommended and it was decided to keep part of Kabul Bank alive – like a zombie – just for the purpose of handling our transfers. Apart from the necessity of keeping the transfer operations going, we needed to report on the extent of the problem and the steps being taken by the Afghan government to address the crisis. This scandal could not be swept under the rug. There was enormous political heat from Washington for action to be taken against the perpetrators of the fraud. President Karzai was reluctant to prosecute anyone since his brother was involved, as well as a brother of the First Vice President. The scandal undercut what little confidence the U.S. government had in President Karzai and his government.

Q: It was a private bank?

DRISCOLL: It was.

Q: And we at the same time were training bank regulators at the Central Bank, right?

DRISCOLL: The U.S. Treasury Department had advisors working with the Bank of Afghanistan Governor Abdul Qadeer Fitrat and his staff to stand up a functioning central bank, including supervising the banking sector.

The crisis went undetected for so long because the outside auditor, A.F. Ferguson & Company, a Pakistani franchise under PricewaterhouseCoopers, had given Kabul Bank a clean bill of health earlier in the year. The auditor claimed that it had been shown false books and documents, but it isn't clear whether the auditing team had been bribed.

Q: They had bribed the auditors. And there was no deposit insurance?

DRISCOLL: My guess is that the auditors probably were bribed, but I don't know for sure. If they weren't bribed, then they were just bad at their jobs.

There was no deposit insurance in Afghanistan. Nonetheless, the U.S. government had to step in and pump enough money into Kabul Bank to allow it to be viable to make the financial transactions we needed, especially, to handle the pay to the army and the police. We made sure those people received their pay, but the average depositor at Kabul Bank was simply out of luck.

Q: After that did we help them create a deposit insurance system?

DRISCOLL: I don't think we helped the Afghans set up a deposit insurance system.

The law enforcement group I worked with was very interested in the informal money transfer system, called "hawala", which was frequently used in Afghanistan. This system involved paying a person in one location, such as Kabul, to transfer money to a recipient elsewhere, such as in Dubai. There isn't an electronic wire transfer or actual transfer of money. Rather, relying on trust and confidence between the agents on both ends, they would make the payment to the recipient and later they would settle up between themselves. This age-old system was ideal for drug trafficking, money laundering and criminal activity, as well as for legitimate uses. The law enforcement community tried to understand and monitor the system. There was no easy way to close it down.

I was also working with the military planners on their post-surge strategy. As the surge was ending in 2011, ISAF wanted to set parameters for when they could declare success in a district and hand it over to the Afghans. One of the things that the military wanted before it withdrew from a district was to be able to say that a district had a functioning judicial system, with a judge and prosecutor. The ISAF planners and I would work with the Afghan Supreme Court on staffing of district courts. What frequently happened is that the judge and prosecutor in a district where there had been fighting was either killed or fled. The Supreme Court was reluctant to send new personnel to a recently cleared district because it still was dangerous. Few judges or prosecutors would want to go to a recently cleared district. Frankly, I thought it better to focus first on filling the many

staffing vacancies in peaceful districts to build support for the government. This is where the Embassy differed from the military.

Q: The U.S. military?

DRISCOLL: Yes, U.S. military or ISAF.

Q: Were the PRTs attached to military units?

DRISCOLL: Yes. The PRTs were always attached to ISAF units. When I was there, we were in the process of converting four PRTs into consulates in Herat, Mazar-e-Sharif, Kandahar, and Bagram.

Q: But while you were there, did the PRT folks that dealt with rule of law kind of look back to you for guidance?

DRISCOLL: No. Not at all. The staff at PRTs would design their own rule of law projects with their local military commander. Often these commanders interpreted a rule of law activity as constructing something, such as a new courthouse. I understand that these projects were more jobs programs than a justice sector program. The idea was to give some gainful employment to the local men with the hope that they would be friendly to us. And so, building a courthouse did dual service, creating construction jobs and providing a place to hold trials when there is a judge and prosecutor around.

Q: Once the courthouse was built, then they would want you to provide judges and—

DRISCOLL: Yes, they would want us to convince the Supreme Court to send some judges. (Laughs)

Q: But it hadn't been planned ahead of time.

DRISCOLL: No, there was no coordination and usually the only reason they built the courthouse was to employ some men in construction.

Q: So, it was doomed to failure?

DRISCOLL: Well, eventually, the building might be useful for something at some point, right?

Q: Right.

DRISCOLL: We were trying to educate and train lawyers and prosecutors and judges. However, that takes time. You can construct a building faster than you can educate and train a judge.

Q: It takes time to build lawyers.

DRISCOLL: Yes, it would take years to train a lawyer. The Afghan Supreme Court would allow us to run their candidates for judges through a two-year training program operated by UNAMA. Of course, the justice system needed trained prosecutors. We had a group of around ten FBI lawyers and agents helping train prosecutors and criminal investigators. The FBI had collaborated with the Afghan Attorney General to establish the Major Crimes Task Force, which sought to expand the capacity of Afghan criminal investigators and prosecutors to handle high-level investigations of corruption, kidnapping, and organized crime. The Major Crimes Task Force often used wiretaps to advance their investigations. The DEA (U.S. Drug Enforcement Administration) had built up a wiretap center that could handle around 200 wiretaps a night, both for criminal and national security purposes.

A wiretap that occurred in 2010 before I arrived at post, caused a rupture in our working relationship with Afghan law enforcement authorities. A person in a low-level position in the Afghan government was caught on a wiretap offering a judge a used car worth around US\$ 10,000 to drop a criminal case against his relative. The FBI thought that these circumstances would prove a good test case for the work of the Major Crimes Task Force. It looked like a clear-cut case of bribery. The Afghan Attorney General approved the arrest of the person, though the Attorney General would complain later that the FBI hadn't given him all the information about the case.

It turned out that this supposedly low-level person was a key member of a powerful informal group with close ties to President Karzai. Within a few hours the President intervened and had the person released and the case dropped. Worse, he ordered the complete suspension of collaboration between the FBI and Afghan officials. The Embassy was shocked by the strong reaction of President Karzai and dismayed by the negative impact on collaboration in law enforcement. I arrived at Embassy Kabul to find a despondent and bitter group of FBI agents and lawyers.

Q: Did they consider it all the Embassy's fault?

DRISCOLL: Well, the Afghans were suspicious of the Embassy's law enforcement efforts to begin with, and this case seemed to them to indicate that we were purposely trying to embarrass President Karzai and his government. For my part, I think that it was just bad luck that this supposedly model test case for the Major Crimes Task Force turned out to involve a key operative for President Karzai. The bitter taste of this case lasted for the whole year I was in Afghanistan. The case did underscore that the Afghan government was not interested in prosecuting corruption.

While the civilian anti-corruption efforts were stymied after this incident, ISAF pursued a different anti-corruption course. Brigadier General H.R. McMaster was brought in by Lieutenant General David Petraeus to head ISAF's Shafafiyat Anti-Corruption Task Force. I or someone from my office would regularly attend his weekly staff meetings to assist in coordination between his Task Force and the Embassy. McMaster's staff of about two dozen soldiers identified and studied Afghans who were suspected of being corrupt

and also looked at their links to others, especially to the Afghan government. He set up a rank order list of bad actors, which merited consideration for possible action by ISAF or the Afghan government. This was a list of Afghans who were troublesome, but who weren't so bad as to be added to the Joint Prioritized Effects List (JPEL) for kill or capture operations by ISAF. From the start, President Karzai's half-brother Ahmed Wali Karzai was at the top of the list. Ahmed Wali Karzai was the powerbroker in Kandahar Province. However, ISAF worked closely with him in fighting the Taliban in the province. He was killed by a bomb hidden in a turban right in July 2011. It was clear to me that this list of corrupt, powerful Afghans wasn't going to result in action unless a high-level political decision was made in Washington to do so. That didn't happen during my time in Kabul. To my recollection, only one person on the list suffered any consequences. That case involved an Afghan military officer who had stolen millions of dollars' worth of medical supplies from an Afghan Army hospital. I understand that Lieutenant General Petraeus weighed in with his Afghan counterpart for action. Supposedly the Afghan officer was dismissed or transferred somewhere else, though I don't think we could confirm that. While I never doubted that the list of corrupt Afghan officials that Shafafiyat prepared was accurate. I doubted that we really were going to risk taking action against any of them. And we didn't.

Q: So you discussed criminal law, there's anti corruption, counternarcotics. Did you work on commercial law and family law and were there any good news fronts?

DRISCOLL: My office didn't. I know that USAID and the international community did provide some assistance for women in the area of family law. This assistance was through support to NGOs active in this area. Too often, the husband's family would try to deny the inheritance to a widow or would like to take a bride's dowry and then mistreat her.

There was one instance of good news with our help to the Afghan courts. The U.S. Marshal Service had been training a special unit of law enforcement officers to form an Afghan Marshal Service. This training paid off on June 29, 2011, when the Taliban attacked the Intercontinental Hotel in Kabul. The Taliban had been going down the hallway in the hotel and shooting people in the hotel rooms. An Afghan Supreme Court Justice was in a second-floor room, and he wisely jumped out the window before the Taliban reached his room. He landed on the asphalt below and broke many of his bones, but he was alive. The Afghan police stood off and waited for ISAF to clear the Taliban attackers. The Afghan Marshal Service did not wait, and they followed their training. They rushed into the fray to rescue the Justice and saved his life. To our amazement, this Supreme Court Justice turned out to have U.S. citizenship, as well as being Afghan. With Lieutenant General Petraeus' help, we arranged to have the Afghan Justice flown out on the regular flight to Germany that brought wounded ISAF soldiers to military hospitals there.

Q: The marshals were Afghan?

DRISCOLL: Yes. They were Afghans. The U.S. Marshals trained them.

Q: And police professionalization, that wasn't part of your mandate?

DRISCOLL: No. The U.S. military had contractors to train both the Afghan National Army and the Afghan National Police. The police proved to be a double-edged sword for us. ISAF wanted to put the Afghan National Police out in the field to help in the fight with the Taliban. All too often, the local population would be angered by the presence of the police because the police would set up checkpoints and start demanding bribes of local residents to allow them to pass. We worked with ISAF to try to set up a hotline to call if this was happening. It hadn't become operational before I left Afghanistan. In short, the Afghan National Police were a mixed blessing, and they weren't very professional.

Q: Did you and your teamwork with parliament at all on new laws?

DRISCOLL: We supported the work of UNAMA in preparing draft legislation to reform the criminal code and the criminal procedure. The Embassy didn't have a separate effort in that regard. I didn't have contact with the legislature.

Q: At this point, was the violence everywhere, or was it mostly like in Kandahar?

DRISCOLL: The violence was mostly in the south and east, especially in the region where the Pashtun tribes lived, such as Kandahar and Helmand. Once in a while the Taliban would lob a rocket at the Embassy from the nearby hills, but they didn't hit the Embassy while I was there. They did have a major attack on the Embassy shortly after I left. Occasionally, I would hear gunfire outside the Embassy. And one time I visited a military compound in the outskirts of Kabul that had been attacked the day before. The base had received reports of a second attack coming and was on high alert when we showed up. My group arrived in two SUVs, but the soldiers wouldn't open the gate, which left us vulnerable and stranded in the middle of a busy road. Eventually the soldiers flagged us in and quickly closed the gate again and manned the ramparts. There was no second attack during our visit.

Q: You went out to restaurants and things?

DRISCOLL: Sometimes. You had to obtain approval from the RSO (Regional Security Officer) to leave the Embassy. You couldn't go out to a restaurant just because you wanted to do so. If you were going to have a meeting, you could do so at a restaurant. What I would do is ask Wendy Hart, my British counterpart, to call a meeting at a restaurant so we could eat out. (Both laugh.) The British had more leeway than we did with their movements and going to restaurants.

I did get to climb the hills outside of the city with a squad of law enforcement officers, who were doing their physical training. My friend, Mark Knight from the Drug Enforcement Agency (DEA) whom I had known in Brasilia, invited me to join them one day. The trail was rugged and off to one side were caution signs that warned that beyond the signs there was a Soviet minefield. That sure was an incentive to stay on the trail laid

out. The others ran up the hill in full “battle rattle” or with their helmets, heavy bullet proof vests, and their M-4 rifles. These guys were in great shape, so while I was last and panting at this high altitude, they seemed to make the run easily.

Right before I left Afghanistan, I organized a visit from the Embassy to see the tomb of the first Mogul Barbur, who died in 1530. A U.S.-Afghan NGO had repaired the tomb and the gardens surrounding it in Kabul. The site was beautiful and quiet.

Q: The military was trying to leave around 2011, but the development assistance was just getting going, right?

DRISCOLL: Well, no, I think we realized that 2011 was the peak for development assistance too. As ISAF left the field, we had to retrench the development assistance. It was unsafe for Embassy people to be out in the field without protection. Also, we knew that the surge had brought a wave of money, but it wasn't going to last.

Q: Obviously, it's gone now, but—

DRISCOLL: Yes. With all the military gone from the field, we couldn't do much beyond Kabul. As for the four planned consulates, I don't know whether we ever officially opened them before 2021.

Q: I think we closed Mazar-i-Sharif early on.

DRISCOLL: Okay. Kandahar would be the most challenging place. It is located right in the belly of the beast, the heart of the Pashtun region.

While I was at post, there was a major prison break from the Kandahar prison, which released hundreds of Taliban fighters. Still, the most dangerous prisoners were kept at the maximum-security prison on Bagram air base, which I visited several times. The Bagram prison raised an interesting issue because that was where we kept Third Country nationals, such as Egyptians and Pakistanis. Thus, we had the same issues that we had with prisoners at Guantanamo Bay. We had these prisoners that we couldn't take to the United States, and we didn't want to release them. However, we couldn't send them back to their home country. ISAF and the Embassy worked at great length on an agreement to transfer the Bagram prison over to the Afghans. Senator Lindsey Graham, who was a U.S. Air Force JAG reserve Colonel, came to Kabul for his reserve duty, and he worked on the transfer agreement. I found it amusing that Senator Graham would go around saying to “just call me Colonel.” Bagram was a tough case, though the prison was transferred to the Afghans several years ago.

Q: Did you get out of Kabul? Where were you able to go?

DRISCOLL: I did get out of Kabul on several trips. I went to Herat to see a recently constructed courthouse and prosecutor's offices. I always went to Bagram, Bamyan, Wardak, and Kunduz. At Bamyan, I had lunch with the female governor, and we got to

visit the ruins of the two giant Buddhas that the Taliban destroyed in March of 2001. The Japanese were paying for reconstruction work at that time. Also at Bamyan, I saw Shahr-e Gholghola, which means the “City of Screams.” At this place, Ghengis Khan destroyed the fort and killed all its residents in 1221 in revenge for defenders of the city killing his grandson. It is a terrifying site even to this day.

I could go to meetings around Kabul. I felt fortunate to have been able to leave the compound. Many of our interlocutors did not want to come to the Embassy, so we would meet them at their office or at a hotel or restaurant. There were no incidents involving any of my staff in Kabul, though we had a U.S. law enforcement official killed in Kandahar.

Q: Somebody from your office who was visiting there or—?

DRISCOLL: The person killed was from the DEA. He was visiting the Kandahar port of entry and was killed by a suicide bomber. Shortly after I left, a Foreign Service Officer was killed at one of the PRTs.

Q: And when you went you only had the driver. You didn't have any security with you?

DRISCOLL: We had no security with us. The Afghan driver dropped us off and left. We carried a transmitter for emergencies, which supposedly would call in a quick reaction team if something bad happened. Sometimes we had a scheduled pick up to return and other times we had to call for a lift. I would get nervous if a meeting took longer than an hour. We were conspicuous as Americans and more than an hour out in the city unprotected would give some bad person a chance to call in gunmen to ambush us. Many of the places we met at – whether hotels or restaurants or offices – had been attacked by the Taliban previously, including the Afghan Supreme Court building and the Justice Ministry. I recall that Ambassador Klemm and I were once at a meeting with the Deputy Justice Minister, and we were sitting on a couch near a window in his office, while his desk was back in the shadows of the office. The Deputy Justice Minister explained that recently a sniper had taken a shot at him through the window and so he had rearranged the furniture. Now, he was protected, but his guests were in the line of fire. In fact, the stairway up to his office was pockmarked by bullets from when the Taliban had stormed the building a year earlier. Fortunately, that time his British bodyguards had held off the Taliban long enough to get the Deputy Justice Minister out to safety. They never patched up the pockmarks and it was a constant reminder of the lack of security in the area.

Q: So, did you get trips home?

DRISCOLL: Yes. The State Department did pay for trips out of Afghanistan. I went to the United States once. I wanted to see my brother-in-law, David Styles, who worked for the State Department's Foreign Service Institute in Arlington. David was dying of brain cancer, and he subsequently passed away a couple of months after I saw him. I took another trip to see my wife Julie in Brazil, so I got to go back to our old house. And then, Julie and I met up in Spain for another R&R (Rest and Recreation).

The Kabul Airport functioned like a regular airport. We flew on charter flights operated by a German company. The plane even had stewardesses. We would fly to Dubai and then change planes to our final destination.

My R&R right before Christmas was one of the two most poignant moments in Kabul. An Afghan children's choir had been brought in to sing Christmas carols for the Embassy and military staff. When they sang the line "I'll be home for Christmas," I looked around and realized that this audience wasn't going to be home for Christmas, just like the soldiers in World War II who first heard the song. I knew I was fortunate to have received permission to start my R&R the next day. Another emotional moment was at the start of every weekly staff meeting when Ambassador Eikenberry would read the names of the U.S. military and civilians killed during the last week. We all stood in silence out of respect for those killed. I kept track and by the end of my tour over 120 Americans had been killed in Afghanistan.

Q: Did you feel that you could see some development going on?

DRISCOLL: Yes. I know I sound discouraged by my time in Afghanistan, but one thing always cheered me up. When I drove around Kabul, I would see boys and girls in their blue and white uniforms going to school. They were getting educated, which I thought would eventually change the society. I am still hopeful that all those years of educating the children will have a positive effect on the future of Afghanistan.

The other thing that I noticed was that just about everyone had a cellphone. Even the poorest farmer had a cellphone. I think cellphones pose a threat to the Taliban rule. It allows people to share information and learn of the outside world. I recall that the Taliban at first had tried to stop the use of cellphones, and then due to popular push back, it allowed them. We would hear of problems because with cellphones boys could communicate with girls without their parents knowing.

Q: (Laughs) Well, I know what you mean about the kids being the future. When I was in Guadalajara, I got to go to a couple of the moot court competitions that were part of our assistance to prepare Mexico for having oral arguments. And the young students, they were just incredible. They were incredibly good at arguing their cases and playing each of the roles.

DRISCOLL: Isn't that wonderful? We supported moot court competitions in Afghanistan. I got to judge the final rounds.

Q: It can't do anything but fill you with excitement.

DRISCOLL: Right. The younger generation gave me hope for the future. I know that many of those people are still in Afghanistan. I hope they can change the future of their country. I think we need to see how events play out in Afghanistan now. I don't think the whole story's been written with the arrival of the Taliban. I learned that the Taliban are not really more religious or more conservative than much of the country. In fact, since

most of the rank-and-file Taliban were uneducated farm boys from the Pashtun area, they were less read in the Qur'an than the educated scholars elsewhere in the country. I heard that older religious people in the north, such as in Mazar-i-Sharif, would be offended by an uneducated youth stating what the Qur'an says, such as that you must wear a beard this way or you can't listen to music. In fact, the hostility to education by the Taliban was not found in the Qur'an. Further, many of the Taliban fighters didn't have wives or children, so they didn't understand family issues or challenges.

Q: I guess some of the Taliban were raised in refugee camps in Pakistan?

DRISCOLL: Many came from the Pashtun tribe region in southern Afghanistan and in refugee camps in Pakistan.

Q: Any other reflections on what it was like to work on rule of law at that time?

DRISCOLL: One difficulty we had was trying to assess how well the assistance money was being spent. This is true in the rule of law area. You can quantify the number of lawyers and judges and prosecutors trained. The challenge is to determine if they are doing their jobs properly and serving justice. I mentioned this was a problem with the public defenders' program where some didn't try to defend their clients. The goal was to promote a fair and just legal system that would be respected by the public. This would help to build public support for the government. ISAF did have a simple metric for success in the justice sector, namely, that a district had a judge and a prosecutor and a building. This didn't mean there was an increased sense of fairness or that justice was being meted out. The metric was a challenge with anti-corruption efforts. How do you measure whether Afghanistan was more or less corrupt? We had three inspector generals on the ground in Kabul – USAID, State Department, and the Special Inspector General for Afghanistan Reconstruction or SIGAR. They were trying to evaluate the technical and financial assistance that was going to Afghanistan.

The Congress had established a requirement that for our assistance to continue the U.S. government each year had to certify that Afghanistan was making progress in fighting corruption. That is not the exact language in the appropriations. Not surprisingly, every year the Executive Branch would certify that progress was being made on corruption in Afghanistan. I recall one staff meeting near the end of his time in Kabul, Ambassador Tony Wayne joked that we should send a report that Afghanistan wasn't making progress on corruption. The bitter FBI agents said that they would be glad to write such a report up for him. Of course, we didn't send in such a report and again the certification was made for the year even with the Kabul Bank scandal having recently taken place.

I think the high stress levels at the Embassy merits discussion. Most people at the Embassy were on a one-year tour and arrived in the summer. Ambassador Eikenberry had ordered the Embassy staff to work six and a half days a week, with Friday morning being the only time off for the U.S. staff. As a rule, we would work Friday afternoons because of the demands for information from Washington. Ambassador Eikenberry reportedly explained that since U.S. military personnel were working seven days a week in

Afghanistan, the civilians at the Embassy would do the same. I could tell that after a few months of this heavy workload and stress, the staff members at the Embassy were becoming exhausted and were quick to snap at each other. One of our U.S. military colleagues tried to commit suicide. I knew that I frequently felt exhausted and stressed during the tour in Kabul. I saw my staff get into shouting matches and come close to fisticuffs a few times. Once the head of a law enforcement agency in a meeting with Ambassadors Wayne and Klemm and a U.S. general got in an argument that looked like it would end in a fistfight. Ambassador Wayne had to intervene to calm the two men down so the meeting could proceed. I understand that Ambassador Ryan Crocker, who succeeded Ambassador Eikenberry, resumed the practice of allowing a two-day weekend.

The stressful environment in Kabul did help to form lasting friendships. To this day, I maintain close contact with Omar Qudrat, who was an Afghan-American lawyer working with ISAF, and with Garrett Menning, who was a USAID contractor.

Q: Did you report to Ambassador Klemm or Ambassador Todd or both?

DRISCOLL: I reported to Ambassador Klemm, who reported to Ambassador Tony Wayne. I worked with Ambassador Todd, but I wasn't in his chain of command.

Q: Right. And so, all that was smooth?

DRISCOLL: Yes. Things ran smoothly even with the various ambassadors. Ambassador Tony Wayne was a wonderful diplomat and manager—he was a delight to work for. And I liked working with Ambassador Bill Todd on various projects. All of these ambassadors seemed to be realistic about the situation in Afghanistan and weren't ideological or had rose-tinted glasses on.

Q: At this time, they weren't necessarily experts on the region anymore, right?

DRISCOLL: (Laughs) No, the various ambassadors weren't experts on Afghanistan. Though Ambassador Eikenberry had been in country since 2009 and so was well-versed on the issues and people by the time I arrived in 2010.

Q: What was the attorney general's name? You remember?

DRISCOLL: Mohammad Ishaq Alako, he was both an Afghan and a German citizen. He had a German passport, so if things went south, he was going back to Germany.

Q: So, was he there for a while?

DRISCOLL: Yes. He was close to President Karzai. The only political misstep that I saw the Attorney General make was when he authorized the arrest of President Karzai's operative by the Major Crimes Task Force.

Q: He wasn't reassigned after that?

DRISCOLL: I believe he was worried about losing his position. He survived and after a few months, things calmed down.

Q: So, you were glad you did it, serving in Afghanistan?

DRISCOLL: I was glad to have served in Afghanistan. I was able to see close up the United States at war and also trying its best to help rebuild the country. Even today, I have hope that the younger generation that grew up and was educated in the last 20 years will reshape the country for the better. I just think it was an utter disaster that the Taliban did not educate the people. I think the vast majority of Afghans were illiterate.

Q: Well, the Taliban, they were only actually in power before we went in for, I don't know, six years, right? It was warlords before, and civil war. and—

DRISCOLL: Yes. You are right. The warlords also contributed to the social disaster and illiteracy that had crippled Afghanistan. I remember hearing that ISAF planned to spend about \$100 million on a literacy program for the soldiers and police. The primary goal of the program was to teach the Afghan national police and the Afghan soldiers how to read the numbers one to ten. That way they could read the serial number on the rifle that they had been issued.

Q: That was as basic as it goes, right?

DRISCOLL: At least in my office, we were generally dealing with Afghans that had some education, some of whom even had university or law degrees.

Before we move on, I wanted to mention an indelible moment from my time in Kabul. On the morning of May 2, 2011, Ambassador Klemm was holding his weekly staff meeting with the various heads of offices that reported directly to him. This was a much smaller group than the Rule of Law Deputies Committee. We were about halfway through the meeting, and it was my turn to give an update. There was an extraordinary announcement over the PA system that the whole Embassy should stop and watch the television news. It turned out that President Obama was announcing the successful raid on Osama bin Laden's compound in Pakistan from Afghanistan. Our meeting resumed, but I realized that at that point neither I nor anyone else had anything remotely interesting to say. As we expected, the Pakistanis out of anger about the raid closed the border crossings with Afghanistan. We had to survive about a week on the food supplies already trucked in, which were pretty limited after a couple of days.

Q: All right. Then what did you do as far as bidding for the next job?

DRISCOLL: I had lined up a position at U.S. Embassy Tokyo. I was going to be the ESTH (Environment, Science, Technology and Health) counselor. I thought that would be my dream job. I had talked with the DCM at Embassy Tokyo, and we were all set to make a handshake. Unfortunately, the weekend before making the handshake, the

incumbent left the position early and the Embassy decided to fill it right away. This meant that the position would no longer be available for me at the end of my tour.

Q: This is early in your tour, you're bidding as you're going to Afghanistan.

DRISCOLL: Yes. This was in the Fall of 2010, but it also was late in the bidding season. The Tokyo position included time for language training. Japanese is a hard language and requires a two-year course to become proficient. If the incumbent had not left the position early, there would have been no gap in coverage. His early departure made them scramble and they found an officer with language skills who could step in right away. Since my plans with Embassy Tokyo fell apart so late in the bidding season, I didn't have many options available. I decided to go back to Washington. I knew people in the OES Bureau's Office of Global Change (or OES/EGC) from my work at Embassy Brasilia. They reached out to me and asked me to join their office. I liked them and their portfolio, and so I agreed.

Q: It turned out to be a good time to do that, right?

DRISCOLL: Yes, it was a propitious time to work on climate change. Still, it took some time to swallow the disappointment of losing the ESTH position at Embassy Tokyo.

Q: Well, next time I see you to talk about the climate change negotiations.

Q: Good afternoon. It's August 24, 2022, and we're continuing our conversation with Rick Driscoll. Rick, you were just leaving Kabul during our last meeting, and the year was?

DRISCOLL: 2011.

Q: And you were coming back to the department, so why don't you tell us what the job was.

DRISCOLL: Yes. When I was in Brazil, I had quite a bit of contact with the Office of Global Change in the OES Bureau or EGC/OES, which handled climate change issues. When my preferred onward assignment to Japan fell through, EGC jumped in and asked me to work for them. That seemed fine with me. I was contacted by an old friend in the office, Drew Nelson, who shortly after I joined the office left to work for the Environmental Defense Fund in Texas. I liked the position because these were exciting times to be working on climate change now that Barack Obama was President. The United States was now going full speed ahead in the climate change field.

Q: So, this was the leadup to the Paris Agreement?

DRISCOLL: Yes. The 2015 Paris Agreement culminated a process that began in Copenhagen in 2009. What the United States was trying to do was find a model that would effectively deal with climate change, but also that would be acceptable to developed and developing countries. The world had experimented earlier with a model whereby only developed countries took action and that was also legally binding, namely the Kyoto Protocol. The United States didn't sign on to the Kyoto Protocol. It first tried to obtain commitments from developing countries for them to take action too. As could be seen in the 2009 visit by Jim Connaughton to Brazil, the developing countries would not budge and contended that only developed countries had to take action and they had to do so under a legally binding framework. The root of the problem is found in the United Nations Framework Convention on Climate Change, called the UNFCCC, which embraced the concept called "common but differentiated responsibilities and respective capabilities". The United States viewed this principle as reflecting the reality that the countries of the world needed to work together to address the problem, but that some had more responsibility and more capabilities than others. We didn't intend – or agree – that the interpretation by Brazil and others that this principle meant the developing countries had to do nothing.

The United States signed the UNFCCC in June of 1992 and President George H.W. Bush obtained the U.S. Senate ratification in October of 1992. The treaty sets out objectives and principles and calls for cooperation, as well as promoting assistance to developing countries. While the treaty requires no specific mitigation actions to be taken, it does include an obligation to report on the actions a country takes as well as reporting on greenhouse gas emissions. Developing countries quickly took the stance that they didn't have to do anything unless they were paid to do so by developed countries.

Q: This is compensating—

DRISCOLL: Not compensation, more like contracting. The developing countries would take action to reduce greenhouse gas emissions if the developed countries would pay for the actions, but not otherwise. The issue of compensating developing countries for the harm caused by climate change came to the forefront in recent years at the UNFCCC. It was referred to as "Loss and Damage".

The UNFCCC created a group of countries, listed in Annex One, that included the OECD members in 1992 plus the former Warsaw Pact and Soviet Union. These countries were considered developed countries. The Kyoto Protocol imposed legal obligations only on Annex One countries to reduce their emissions by five percent from 1990 levels. Although the former Soviet Union countries were included in the Kyoto Protocol, their economies had shrunk so much by 1992 that they were far below the emissions caps in the Protocol. Consequently, they were able to sell off their unused emissions allowances to European countries.

Q: This is called cap and trade, right?

DRISCOLL: Yes. On the surface, it looked like a cap-and-trade system, however, to a large extent this was fictitious due to “ghost emissions reductions.” These were the unused emissions that Russia sold to the Europeans. Russia didn’t have to take any steps to reduce its emissions, but due to the timing of the economic collapse, it sat on a mountain of unused emission credits. This let France and Germany and others off the hook. In a real cap-and-trade regime, one country actually would take steps to reduce its emissions, which it then would trade to another country in exchange for some form of compensation. There would be a real reduction in global emissions.

Q: Politically in the United States everybody wanted to know why China wasn’t doing anything.

DRISCOLL: Yes, that is true. After the Kyoto Protocol was concluded, the U.S. Senate passed a resolution by a vote of ninety-five to zero, saying that China and India would need to take action if the United States were to commit to take action. The U.S. negotiators sought to gain commitments from China and India to do something in parallel to actions by the developed countries under the Kyoto Protocol. Those two countries wouldn’t agree to that, so the Kyoto Protocol was never put up for a vote in the U.S. Senate. The Kyoto Protocol expired in 2012, and the legally binding regime was eventually replaced by the Paris Agreement.

When President Obama came into office, he brought with him Todd Stern, who had been on the White House staff under John Podesta during the Clinton Administration. Stern had been a lead U.S. negotiator on the Kyoto Protocol. Stern was made Special Envoy for Climate Change (or SECC) and lodged in the State Department. Stern was the chief U.S. negotiator on climate change. He reported directly to Michael Froman, then the Deputy National Security Advisor for International Economic Affairs. When I arrived in the office, John Kerry was the Secretary of State and he followed climate change issues closely. Secretary Kerry has said that he had attended every climate conference since 1992. Here, Secretary Kerry gave Stern and Froman pretty much free rein to handle the negotiations, though Secretary Kerry would pitch in when and how Stern asked him to do so.

By 2011, four points were very clear to the U.S. negotiators about what a new international agreement would have to look like. First, significant action had to be agreed to by the developing world. In 1992, the developed world emitted most of the greenhouse gasses, both historically and currently. The positions were reversing by 2015. China and India’s emissions were soaring and would soon exceed those of all the developed countries combined, while developed countries’ emissions were declining. In order to truly address global emissions, China and other developing countries would need to constrain their emissions. Even if developed countries were to cut their emissions by half, it would have little impact if China and developing countries were to continue on the path of increasing their emissions.

Second, any agreement would have to have voluntary or aspirational emissions targets, rather than the legally binding ones as in the Kyoto Protocol. Neither China nor India

wanted to have binding commitments in case for some reason they didn't meet them, which could lead to some penalties. China was particularly concerned that the penalties would take the form of trade barriers by the developed countries, which would hurt the economy. Further, if there were indeed binding commitments, then countries would put forward only lowball estimates so that they would be sure to meet them, whereas aspirational goals would produce greater ambition.

Third, the new international agreement would have to take the form of an "executive agreement," which is one that the Executive Branch does not have to submit to the U.S. Senate for its advice and consent. It was politically impossible to obtain the two-thirds support in the U.S. Senate needed for ratification if the agreement were deemed a treaty.

Fourth, the developing world would need to see some commitment, even if not legally binding, to provide financial and technical assistance. Fortunately, China would not be a recipient of financial assistance because by this time it had become an aid donor, rather than an aid receiver.

In 2009 at Copenhagen, the United States tried to promote a new international regime that would meet these four criteria. While the Europeans were willing to have legally binding targets, such as in the Kyoto Protocol, they recognized that developing countries would need to make commitments to reducing emissions and further that you could not bring in the United States or China into an agreement with legally binding targets. Copenhagen was meant to set the foundation for an international regime to replace the Kyoto Protocol, which was scheduled to expire in 2012. In Copenhagen, President Obama joined an already in progress meeting of the leaders of BASIC (Brazil, South Africa, India, and China) and there they sketched out the elements of the Copenhagen Accord. Thus, Chinese Premier Wen Jiabao, Indian Prime Minister Manmohan Singh, Brazilian President Luiz Inacio Lula, and South African President Jacob Zuma hammered out the details of the Accord. Secretary of State Hillary Clinton, who had arrived ahead of President Obama, had garnered the support of many developing countries by proposing a goal of developed countries providing developing countries US\$100 billion a year in financing for climate change activities. This offer won the strong support of many African countries and of small-island countries. In sum, the Copenhagen Accord provided that all countries would make an aspirational commitment to reduce their emissions and that the developed countries would step up efforts to provide financing to developing countries.

When the Copenhagen Accord was presented the next day at the UNFCCC conference floor, a small number of countries in the Bolivarian Alliance for the Peoples (or ALBA) group objected. ALBA was a creation of Fidel Castro and Hugo Chavez, and it included Cuba, Venezuela, Nicaragua, and Ecuador. The UNFCCC operates on the basis of consensus and so even a single objection can block agreement. Consequently, the Copenhagen Accord was "noted" by the Parties to the UNFCCC and became a voluntary arrangement rather than being adopted by the UNFCCC. The Accord included a global goal of keeping the global average temperature increase below two degrees Celsius. The Copenhagen Accord laid the groundwork for the Paris Climate Agreement six years later.

Even though voluntary and not legally binding, over a hundred countries representing over 80 percent of global emission, eventually participated in the Copenhagen Accord. Participants would indicate what actions they were planning to take, which would differ among countries. Brazil said it would try to reduce deforestation, which had made it a major emitter. China and India focused on constraining the use of coal and increasing the use of renewable energies and reforestation. These individual aspirational commitments would be called National Defined Contributions under the Paris Agreement.

Q: To guide the development of the Defined Contributions, did we have an idea of a percentage or amount of reduction in carbon dioxide emissions?

DRISCOLL: The scientific community had suggested the two degrees Celsius global goal found in the Copenhagen Accord. Many NGOs and countries wanted more ambition, and so, in the Paris Agreement the global goal was tweaked to keep temperature rise under two degrees and strive for just 1.5 degrees. This global target remained aspirational. Even back in 2009, the two degrees global goal looked very difficult to meet, and since then it had become practically impossible absent some new technological breakthrough or the development of means to extract carbon dioxide from the atmosphere at scale. In the negotiations, we would pay homage to the global goal, though recognizing the long odds against meeting it.

Q: It was the guiding principle and was the way that we would encourage countries to be ambitious.

DRISCOLL: We focused on China and, to a lesser extent, India. President Obama personally engaged with Chinese leader President Xi and with the Indian leader to encourage them to agree to take action. Todd Stern set up bilateral working groups with China and India to discuss what types of actions were possible, and provide technical help where possible. Presidents Obama and President Xi may not have gotten along on a lot of things, but they did on climate change. They issued several joint announcements about actions they would take to address climate change. This was a high priority issue for President Obama.

Q: And it was a constructive one, trying to work together.

DRISCOLL: Yes. President Obama didn't harangue or bully China or India on climate change, rather he remained positive and collaborative. He would discuss with them how everyone could take action.

Q: So, you came into an office that was rather large.

DRISCOLL: It was a large office and then expanded much more. When I got there, OES/EGC had about twenty-five people. When I left, the office had grown to nearly forty. One of my jobs was to handle the personnel matters for the office, including hiring staff. I hired about twelve people, which gave me an introduction to the human resources

world of the State Department. I learned about Schedule B appointments, which are short term positions, permanent positions, and contractors. We had just about every type of position you could imagine. In addition, I worked with other agencies to lend us some of their experts, including USAID, the EPA (U.S. Environmental Protection Agency), NOAA (National Oceanic and Atmospheric Administration), and the Federal Aviation Administration (FAA). These personnel loan arrangements were quite complicated because it entailed getting authority from the State Department and from the other agency. I devoted a lot of my time to managing human resources.

And further, Todd Stern had his own office, called the Office for Special Envoy Climate Change or SECC, located on the first floor. Within the building, Stern only reported to the Secretary of State John Kerry. His Deputy and later the SECC himself after Stern left in 2016 was Dr. Jonathan Pershing. Dr. Pershing knew the details of climate change issues better than almost anyone. Secretary Kerry called him “a walking encyclopedia.” Dr. Pershing was very personable. He was tall and had a full beard and mustache and usually had a big smile. He looked like a large, friendly bear. Stern was blunt and could be taciturn and cold. SECC had little interaction with OES Bureau Assistant Secretary Claudia McMurray and her Principal Deputy Assistant Secretary Dan Clune. The OES Deputy Assistant Secretary (DAS) responsible for climate change, Dan Reifsnyder, however, was an experienced climate negotiator in his own right. Stern coordinated closely with DAS Reifsnyder. The SECC office just kept growing, from five people when I arrived to about ten when I left.

Some of that growth was due to SECC’s role in overseeing the use of hundreds of millions of dollars of appropriated funds to support U.S. climate change efforts. Todd Stern and his staff would see how best to use the funds to leverage support in the international community for the U.S. position at the UNFCCC. For example, the United States helped pay for the travel and participation of delegates from developing countries, supported programs to reduce deforestation in other developing countries, and supported research on renewable energies. This funding was vital to show that the United States would do its share in reaching the aspirational goal of a 100 billion dollars a year in financing for developing countries.

My branch within the office managed a series of bilateral programs to assist partner countries to move toward cleaner and more efficient energy usage. The programs were called EC-LEDS, which stood for Enhancing Capacity for Low Emission Development Strategies. I supervised Alexia Kelley who managed these two-dozen bilateral EC-LEDS programs. I stood in for Alexia when she couldn’t lead a team of technical experts to Ukraine in 2016. On that trip to Kyiv, I learned of the inefficient use of gas that plagued the Ukrainian economy. We established technical assistance to help the Ukrainian authorities reduce these inefficiencies and so lower their consumption of gas. It was good to go back and see Kyiv after being away for over a decade. The city was much more modern and livelier than in 2001 when I first saw it.

Some of these 100 billion dollars a year in financing would go toward addressing a rapidly growing concern of developing countries, which was referred to as “adaptation,”

and not just to funding “mitigation” or reducing greenhouse gas emissions. By 2011, the world could see significant harm was being caused by climate change and could predict much worse in the future. Back in 1992 when the UNFCCC went into force, the world was more optimistic and thought that climate change could be satisfactorily addressed principally through mitigation efforts. By 2011, we had come to appreciate just how difficult it would be to reduce greenhouse gas emissions and that even with best efforts there would be some significant warming. Consequently, the world had a growing need for adaptation to prevent damage from climate change. Obviously, there is sea level rising, you also have the danger to crops because of the temperature changes, you have the increased threats to infrastructure, you have more violent storms, and so adaptation became a major issue. Unlike mitigation projects, which can generate revenues, adaptation efforts were almost always just costs. They were harder to finance, which increased the need for outside funding. And developing countries blamed Western countries for this harm. They had a legitimate grievance here with respect to historic emissions. And if we wanted their support for an international agreement, we needed to do something to help them. Thus, the U.S. delegation came up with this pledge, which was both quite impressive on first glance, but not so much on closer inspection. This was why we could announce a collective goal of providing 100 billion dollars a year in financing to help the developed countries.

Q: That's huge, right?

DRISCOLL: It is a huge sum on first impression. There was less to it than met the eye. First, the financing could be in the form of loans rather than grants. Second and most importantly, the amount included both private sector financing and governmental assistance. The International Energy Agency found that over 200 billion dollars a year was being invested globally in the energy sector. Much of that took place in the developing world and a significant amount was in the renewable energy or energy efficiency areas. China alone invested over 500 billion dollars per year in the energy sector, with a portion of that coming from private sector financing. Further, the United States and other countries would use a broad definition of climate change financing to include funding for assistance projects that have even a tangential connection to climate change. Still, we did significantly increase governmental assistance toward climate change. This included our contribution to the newly created Green Climate Fund, based in Korea. We had pledged to contribute three billion dollars to that Fund, and by the end of the Obama Administration we had provided one billion dollars. In fact, in January 2017, the State Department used its discretionary authority to make a 500 million dollars contribution to the Green Climate Fund. This took place just before the inauguration because we knew that the Trump Administration wasn't going to give anything to the Green Climate Fund.

Q: Okay, so you're in this office that grew from twenty-five to forty and then Todd Stern had a separate office. How did you all organize yourselves? What were your roles?

DRISCOLL: Although OES/EGC was a long-standing part of the OES Bureau, we took our direction on substantive issues from Todd Stern. Fortunately, our DAS Dan

Reifsnnyder made this relationship work smoothly. We had little interference in our operations by the OES Bureau or frankly anyone else in the State Department. We did have occasional hiccups when a person in SECC other than Todd Stern would try directly to give orders to the staff of OES/EGC. The staff could become perplexed about what task was a priority, that from the senior officials in OES/EGC or that from an official in SECC. These were minor problems, and by and large, the relationship between SECC and OES/EGC worked well.

The OES/EGC Office Director was Trigg Talley, who had over a decade of experience with the UNFCCC, and the Deputy Director was Christo Artusio, who had joined the office several years earlier and moved up to the Deputy Director position. Trigg and Christo found the office was becoming cumbersome to manage with its initial flat organization structure as it swelled in size. They decided to create branches each with a senior branch chief in charge. I came in as a Branch Chief, as an FS-01. The other Branch Chief was Dr. Griff Thompson, a GS-15. Since OES/EGC administered tens of millions of dollars each year, we had a team of budget specialists led by Nancy Ahson, a GS-14, to monitor and provide accounting for the appropriated funds. She reported to Griff Thompson.

My group of seven was responsible for mitigation issues, international transportation issues, adaptation, technology, and deforestation issues. I also had several cross-cutting responsibilities. Since I was the senior Foreign Service Officer in OES/EGC, I oversaw bilateral relations for the office. Each staff member of the office was assigned one or more countries to cover bilaterally. Thus, whenever the Secretary of State or other senior U.S. government official would meet with a counterpart from a country covered by the staff member, then that person would prepare a briefing paper or draft an insert about climate change into the briefing paper. I would manage the preparation of those briefing papers or inserts, and frequently had to do them myself if the staff person in our office was unavailable. Typically, the briefing paper or insert involved getting input from the subject matter leads, such as on finance or deforestation, plus a clearance from an Attorney-Advisor and approval by Todd Stern or Jonathan Pershing.

Further, I served as the head of the U.S. delegation to the UNFCCC's Subsidiary Body on Implementation (SBI). Here, I would manage the preparation of U.S. government position papers for the twice-a-year sessions. Also, I would ensure we had the appropriate people to attend the SBI meetings. This involved coordinating with other U.S. agencies, such as the Environmental Protection Agency (EPA) and the National Oceanic and Atmospheric Administration (NOAA). I would sit behind the U.S. flag during these week-long sessions. I had to be sure that we had each issue briefed with cleared points before the SBI session began. For a technical issue, I would bring in the technical expert to sit next to me. Depending on the matter, I would take the microphone to speak at the conference or I would have the specialist speak.

Q: How long were you in this office?

DRISCOLL: In total, I worked in the office for almost four years. I started on a one-year assignment, a so-called Y Tour, in summer of 2011 through October of 2012. I then worked as an Attorney-Advisor in the Office of the Legal Advisor for 18 months. I knew that the Paris conference was coming up, and Trigg and Christo asked that I return to help them in this crucial period. So, I returned to OES/EGC in June of 2014. I retired from the Foreign Service in July 2015, and came back to the office in September 2015 as a When-Actually-Employed or WAE officer at the GS-15 level. I stayed as WAE through March 2017.

Q: So, going back to the work. That was a large mandate - mitigation, adaptation, deforestation.

DRISCOLL: Yes. One major issue for the office that I didn't handle was climate change finance. This involved overseeing issues connected with the direct U.S. government contributions and funding through international financial institutions, such as the World Bank and the Green Climate Fund. In addition, the finance team had the task of promoting private sector financing so that we could show how we were doing with respect to the 100 billion dollars a year objective. I didn't handle finance issues, except when I was the acting Office Director or acting Deputy Director. I did take care of providing staffing for the finance branch, which expanded greatly during my time at the office.

One new matter I picked up on my return in 2014 was integrating climate change into the State Department's own activities. Secretary Hillary Clinton had called on the State Department to do Quadrennial Diplomacy and Development Reviews (QDDR), similar to what the Pentagon did every four years. The first QDDR came out in 2010, and the second started in 2014 and was completed in April 2015. The second QDDR called for integrating climate change into the work of the State Department. For me, this meant working with OBO or the Bureau of Overseas Building Operations to incorporate climate change analysis into new construction projects. Fortunately, the World Bank had recently taken a similar step of integrating climate change into their activities, so we could piggy-back on their work.

Q: We weren't in the Paris negotiations yet. What came first?

DRISCOLL: The 2009 Copenhagen Accord set the stage for the 2015 Paris Agreement. Throughout this period, Todd Stern was the chief negotiator with Jonathan Pershing as his Deputy. I didn't see much turnover with the other delegations. The Chinese climate change negotiator remained the same throughout. Stern developed a good working relationship with him and also with the EU delegation. The basic elements of the new international agreement to replace the Kyoto Protocol had been sketched out in 2009 in the Copenhagen Accord, but a tremendous amount of work was required to fill in the agreement and to build global support. The U.S. delegation had a brilliant lawyer who was indispensable to Stern. Sue Biniiaz, who subsequently became the Deputy Legal Advisor, handled UNFCCC legal issues since the start in 1990. She and Stern were constantly collaborating to ensure that the United States could accept the final terms of

the agreement. She ensured that the agreement would be an executive agreement, so that it wouldn't need to be submitted to the U.S. Senate for its advice and consent.

Q: I remember this very clearly because I was in EB from 2010 to 2013, right, but at some point, we started talking about sustainable development goals. That was another negotiation, but I remember that there was always, like, a watchguard. I always had to have somebody look at it to make sure it didn't have anything that could be construed as separate but differentiated. (Laughs)

DRISCOLL: You are right. The Sustainable Development Goals (SDGs) negotiations were handled by OES Deputy Assistant Secretary (DAS) Larry Gumbiner. They concluded in September 2015 with the adoption of 17 cross-cutting goals regarding economic development and the environment. Goal 13 dealt with Climate Action. The White House became concerned that if we weren't careful, the SDGs might incorporate a position that impeded the ongoing negotiations at the UNFCCC. Accordingly, Stern had me join the SDG negotiating team to monitor the negotiations and keep him informed. I got along well with DAS Gumbiner and we avoided inclusion of language in the SDGs that could have been detrimental to the UNFCCC negotiations. We had an Attorney-Adviser with us who also tracked the SDG language to avoid complications. Only rarely did we have to nitpick on proposed language. There was language that we definitely watched out for. For example, we were wary of developing countries trying to use only the phrase "common but differentiated responsibilities" but leaving off the rest of the phrase "and respective capabilities".

Q: Or you go to trade talks, and it was like, wait, watch out for that.

DRISCOLL: Exactly. As with trade talks, you need to be careful about language appearing in one place because it may come back to bite you somewhere else. So, constant vigilance about language in international fora was required with the UNFCCC negotiations. We worked to get helpful language into various international or regional statements, while striving to keep out harmful language. Thus, when the African Union met or ASEAN or APEC had its conference, we worked with the regional bureaus within State Department to promote our positions.

In 2012, I had to deal with a troublesome issue that arose. A group of island countries had proposed that the United Nations General Assembly (UNGA) refer the United States to the International Court of Justice (ICJ) for environmental harm due to sea-level rise resulting from climate change. Since the United States was responsible for about 50 percent of historic emissions up to that point in time, we were concerned that the ICJ might declare that the United States had responsibility to compensate those adversely affected by climate change. This proposal was gathering support from other developing countries and, to our dismay, from a few of our allies too, such as Japan and Germany. Our Mission to the UN (USUN) advised us that we would likely lose on this issue if it were to come up for a vote at the UNGA. The UNGA was not a friendly field for the United States because we did not have a veto, as we did in the UN Security Council, and it operated on a majority vote basis. Sending the United States to the ICJ would likely

have caused a political firestorm at home and could possibly have scuttled our efforts to negotiate a new international agreement.

I organized a campaign that had the Secretary of State and the regional bureaus, especially the East Asia and Pacific (EAP) Bureau, weighing in with countries to drop this dangerous proposal. Moreover, I arranged for U.S. Ambassador to the UN Susan Rice to meet with her Chinese counterpart to enlist their help in stopping this proposal. As the second biggest emitter of greenhouse gasses, I thought the Chinese would have cause to worry about the precedent set at the ICJ. Ambassador Rice succeeded, and the Chinese quietly made efforts to kill this proposal. I was in Tokyo and met with the Japanese to urge them to back off. They had initially supported the proposal to show solidarity with their Pacific neighbors. I also called our ambassador to the Marshall Islands, as the Marshall Islands led this initiative, and he reached the president of the Marshall Islands. In turn, the president of the Marshall Islands contacted their ambassador to the UN and instructed him to desist. At last, this fire was put out. Several months later, National Public Radio broadcast a report about the initiative and how the United States had run roughshod over the island countries.

As the senior Foreign Service Officer in the office, I regularly had to deal with political issues at the UNFCCC conferences. A perennial problem was the Arab bloc of states and their focus on Israel and Palestine. Other than Saudi Arabia, the Arabs were not active at the UNFCCC. The Arabs were on a campaign throughout the UN system to elevate Palestine's status. Palestine was an Observer in the back of the room with other observers, such as Greenpeace and NGOs. There were two U.S. laws that provided that the raising of Palestine to the status of a state member of an international organization would require the United States to withhold its contributions to that organization. Such a development at the UNFCCC would torpedo U.S. providing money to the UNFCCC and to the Green Climate Fund. This did happen at UNESCO, which granted Palestine full state member status. The result was that we withheld our contributions and eventually withdrew from UNESCO altogether. I worked with the Israelis, the Canadians, especially John Burnett from their Foreign Ministry, and the UNFCCC Executive Secretariat staff to avoid crossing the red line with regard to Palestine's status. I believe that colleagues talked with the Palestinian Authority to urge them not to press for this elevated status. As we were one of the major sources of funding for the Palestinian Authority, this may have helped. While I was in OES/EGC, Palestine's status did not cross the line in U.S. law. During this period, there were people on Capitol Hill that were watching developments closely. They were hoping to use a change in Palestine's status to scupper the Obama Administration's efforts to conclude a new international agreement on climate change.

I did go to Israel in May 2016 as part of the U.S. delegation to attend both the meeting of the U.S.-Palestinian Economic Dialogue in Ramallah and the meeting the next day of the U.S.-Israel Joint Economic Development Group in Jerusalem. I addressed climate change and clean energy technology issues at those meetings. While in Jerusalem, I met with the Israelis about possible joint or regional climate change activities, which could include the Palestinians. We also discussed the difficulties we would have if Palestine were to become a state member of the Paris Agreement, which might trigger the U.S. laws about

withholding funding for the UNFCCC. The Israelis were open to some projects involving the Palestinians. They doubted the Palestinians would agree as the Palestinians were mainly using meetings and opportunities as a platform to criticize Israel rather than trying to see where cooperation was possible. That assessment seemed accurate to me because at the earlier meeting with the Palestinians, they had used it principally to present a list of grievances. It seemed that with this issue, political messaging was the key concern for the Arabs.

Another political issue I dealt with throughout my time in the office was Turkey's status. In 1992, the world was divided between developing countries and developed countries, which were identified in Annex One as the OECD members at that time plus the former Warsaw Pact and Soviet Union countries. Turkey was a member of the OECD and so was included in Annex One. The problem was that Turkey wanted to take advantage of the 100 billion dollars a year in financing for developing countries. Turkey demanded that the UNFCCC reclassify Turkey as a developing country. This issue was on the agenda at the UNFCCC for consideration at every session. I handled this matter for the United States. We wanted to be friendly towards Turkey, however, we wouldn't press for this change. The developing countries were adamantly opposed to such a change – they did not want to let Turkey have a slice of their pie.

Turkey reacted by threatening to become the skunk at the party, threatening to block progress on the new agreement unless its demands were met. I worked with the Turkey desk at State Department to highlight sources of funding for Turkey other than those from the climate change world. For example, Turkey could benefit from financing from the European Bank for Reconstruction and Development or EBRD. The Turks bristled throughout the many sessions I attended, but they never blocked progress on the negotiations. I would regularly coordinate with my European Union counterpart about the Turkey issue. I thought it was ironic that the EU counterpart was Greek. I suspected that this Greek enjoyed saying no to Turkey. He took a much harder line on Turkey than we did.

Q: Slightly diabolical, huh?

DRISCOLL: I did wonder if the EU was trying to send the Turks a message. They could have designated anybody to represent them here, but they assigned a Greek.

Q: So, you would often get pulled in for these diplomatic issues?

DRISCOLL: Yes, the foreign policy issues were handed off to me, such as Israel, Turkey, and Taiwan. The Taiwanese would regularly meet us in Washington to press for some special status at the UNFCCC. They would stress their commitment to fighting climate change and say they should have a seat at the table. I couldn't give them any encouragement. Still, I would organize a meeting with Dr. Pershing and the Taiwanese at the UNFCCC conferences. We had to be very careful here because the key to a successful new international agreement was China signing on and offering to take substantial steps

to address climate change. And so, helping Taiwan too much could be fatal for our relationship with China at the UNFCCC and, thus, disastrous for the negotiations.

Q: Did you get involved at all with the ALBA countries from Latin America?

DRISCOLL: Oh, yes. The ALBA group with Cuba, Nicaragua, Venezuela, and Ecuador blocked the adoption of the Copenhagen Accord in 2009. They were trouble. President Obama re-established diplomatic relations with Cuba in 2015. The OES Bureau prepared possible environmental cooperative activities with Cuba, which seemed a relatively non-controversial area for increasing bilateral relations. I headed our office's development of proposals centered around sharing information on hurricane forecasting and also on adaptation of coastal areas, since Florida's coastline has many similarities to Cuba's coastline. Stern went down to Cuba in the summer of 2015 to discuss both bilateral relations and also the UNFCCC negotiations. I personally saw evidence of a shift in Cuba's stance. In breakout meetings, Cuba switched from trying to impede progress to either being neutral or even helpful.

On the last day of the UNFCCC conference in Paris, the Chair from France was calling for adoption of the draft international agreement by consensus, meaning without objection. The conference hall at Le Bourget was packed for this historic moment. Then Nicaragua raised its flag, and the delegate mumbled something about the draft agreement not being right and lacking social justice. He never said the magical words, namely, that Nicaragua "objects". The Cuban head of delegation went over and told him to calm down, which he did, and the Paris Agreement was adopted. I was very impressed that the Cuban did that. The French Chair then looked around, seeing no objection, gavelled it through, said, "We have consensus." The Nicaraguan delegate may have had second thoughts because he then said, "No, no, no, I object." But it was too late then. The Agreement had been gavelled through.

Q: Because they hadn't quite said it before that point.

DRISCOLL: Exactly. If you object you need to say it very clearly and loudly. Nicaragua failed to do that, which in part was due to Cuba's intervention.

Q: So, do you remember Minister Gutierrez, the environment minister in Costa Rica?

DRISCOLL: I recall that the Costa Ricans were an active and helpful voice from Latin America. They were leaders in the progressive grouping called the Independent Association of Latin America and the Caribbean or AILAC. This group took more constructive positions than did the Group of 77 or G-77, which represented the developing countries in general. AILAC called on the large developing countries, especially, China, India, and Brazil, to agree to take significant steps to control their emissions. Another group of small island countries, which faced the threat of sea level rise, similarly pressed for action by developing countries. The G-77 was riven by these different views within its group. Brazil, China, India, and South Africa formed their own bloc, called BASIC countries. The BASIC countries were reluctant to agree to major

steps to mitigate their emissions. I didn't have personal interaction with Costa Rican Environment Minister Gutierrez.

Q: So, I remember as deputy chief of mission having a meeting with Costa Rican Minister Gutierrez in late 2015. He was leading the Latin America group and he'd come back from Paris, and I said, "So, how did it go? What was it like?" And he said, "Oh, it worked out. I did this and this to help. Oh, but those Nicaraguans." (Laughs)

DRISCOLL: Costa Rica made a significant contribution to the Paris Agreement because Christiana Figueres, a Costa Rican diplomat and daughter of a former Costa Rican President, was the executive secretary of the UNFCCC during this time. She proved an effective manager of the process and was respected by all sides. And as I mentioned, AILAC played a constructive role within the developing countries group.

Q: Did you have—did Stern set up a roadmap? Like, we have to achieve this and then achieve that when we talk to each of the countries, or was it more organic?

DRISCOLL: Stern had a plan in mind from the start. The Copenhagen Accord laid out the outlines of the new international agreement. He then worked assiduously to win the support of China, India, and Brazil. Critical to his plan was having strong and reliable measurement tools. This was necessary to show that the developing countries were making significant and measurable commitments to control their emissions. The fear was that without reliable measurements, a large developing country would promise to reduce emissions by say ten percent from what they otherwise would have been. Since the projected emissions that were used as the base were subject to manipulation, this sort of commitment wasn't accurately measurable. Stern had our office negotiate reliable and measurable tests for emissions reductions. In many bilateral and group meetings, Stern worked with counterparts to support this approach and to announce real and measurable commitments.

One key tool that Stern used was the Major Economies Meeting that the Bush Administration had established. This brought together the countries responsible for nearly 80 percent of the world's greenhouse gas emissions. He renamed the group, the Major Economies Forum or MEF. The MEF met several times a year during the negotiations of the Paris Agreement. Here the countries could lay out their views, their redlines, and where they might have flexibility. Further, Stern met with many of the representatives of these countries in quiet bilateral meetings, where they could speak more frankly. He would travel often to have regular bilateral meetings with the Chinese and the Europeans and other key players in the negotiations.

Besides encouraging the developing countries to make good and measurable Nationally Determined Contributions or NDCs, Stern and the staff worked internally with U.S. agencies to produce a very ambitious U.S. NDC. As a result of his effort and President Obama's strong support, the United States announced an NDC of an economy-wide target to reduce net greenhouse gas emissions between 26 to 28 percent below 2005 levels by 2025. Stern and the State Department worked hard to have ambitious NDCs

from our friends and allies, the Europeans, Japan, and Korea. He arranged for Mexico and Canada to join with the United States to jointly announce their ambitious NDCs. Of course, he kept coming back to China, and there was a joint announcement by China and the United States with respect to our NDCs. China made commitments in four areas, including that they were going to peak carbon dioxide emissions around 2030 and make best efforts to peak early. This would mean a major reduction in emissions from their projected emissions under a business-as-usual model.

Q: Now, in that earlier period of your work on this, were they able to come up with an outline of what the agreement would look like?

DRISCOLL: Yes.

The elements of the agreement were known early on, the challenge was in the details. The basic requirement was for each country to submit its NDC and then to report on how it is doing with implementation. There were provisions promoting adaptation efforts and technology transfer. Of course, there needed to be a financing element. Two particularly controversial aspects were voluntary trading of emissions credits, which would help provide a source of funding for anti-deforestation efforts plus allow countries and companies to buy credits if they needed them. Some countries, especially Bolivia and Ecuador strongly opposed trading of credits, but Brazil and most other developing countries supported trading of credits. One issue that the developing countries pushed to include was “loss and damage”. We were concerned about making any commitment on payments under loss and damage. After five years of negotiations, we were able to include provisions on trading and also to finesse the loss and damage issue in the Paris Agreement.

There was a push from some progressive groups, including Costa Rica and AILAC and the Nordics, to include commitments on gender equality and human rights in the agreement. I had the lead for the U.S. delegation on those issues. Our concern was that Saudi Arabia and the other Muslim countries would balk at too strong language on gender equality. Likewise, there was concern on our part that some developing countries would object to the insertion of human rights into the commitments. We successfully contained these issues by referring to them in an aspirational manner in the preamble of the Paris Agreement. This was a disappointment to some human rights advocates and gender equality groups. Former President of Ireland and former UN High Commissioner for Human Rights Mary Robinson pressed for inclusion of such provisions. She was much more interested in putting gender and human rights front and center in the operative portions of the new agreement, than in concluding a new international climate change agreement. She met with me to argue the point; however, we were of the view that we shouldn't put the bigger agreement at risk for this issue.

I want to make clear that the United States wasn't opposed to promoting gender equality or human rights. Just the opposite. We looked for other ways at the UNFCCC to advance gender equality and human rights. I coordinated closely with Lorena Aguilar from Costa Rica in the development and eventual adoption of the Lima Work Program on Gender in

2014. This work program encouraged improved participation by women on national delegations and on the UNFCCC Secretariat and integrating gender consideration into the activities of the UNFCCC, such as with adaptation programs. One interesting note was that the Saudis had a young woman as their representative to the group developing the gender work program, but when it became serious and likely to be adopted the Saudis switched her out for one of the seasoned, grizzled older male negotiators. What we did do was avoid inserting the gender and human rights and other hot side issues into the text of the draft UNFCCC agreement. It would be difficult to get the new agreement adopted if it were loaded down with a host of side issues, which could be addressed in other ways. This strategy proved successful.

Q: Who ended up being the implementor of the monitoring, the reporting operation? Is that the World Bank or—?

DRISCOLL: No. The UNFCCC itself handles implementation. The Subsidiary Body on Implementation (SBI), which I led for the U.S. delegation, would review in turn each country's submissions both with respect to their NDCs and to the reports on their progress.

With respect to implementing the systems of credits related to REDD (or Reducing Emissions from Deforestation and Forest Degradation), there were rules in place on determining the quantity and quality of forests existing and the reduction in deforestation. There had been great concern from the U.S. side that countries would double count REDD. Meaning, that Brazil might try to take credit for reducing deforestation and then sell the same credit again to a European country for the reduced deforestation. I had two REDD experts on my team, Christine Dragisic and John Verdick, who succeeded in having the UNFCCC develop good rules on how REDD would function and when and how credits could be transferred. The concern about double counting credits with REDD was real. I recall instances of double counting from my time at Embassy Brasilia. The Brazilians would sell the same credits multiple times. First, the national government would take credit for the reduction in deforestation and receive a financial incentive from Norway, then the State of Para would sell the same credit to another European country, and then the City of Manaus might sell the credit again to Coca-Cola or Hilton Hotels that were trying to look green. This was why my team worked so hard to have reliable and measurable rules regarding the creation and transfer of such REDD credits.

Q: How was the text of the agreement negotiated?

After Copenhagen, there were consensus decisions by the countries on the process, which included how many rounds of negotiations and the subject matter topics to be included in the agenda. This agenda laid out the various elements of the new agreement, such as finance, mitigation measures, adaptation, and technology. At the negotiating sessions, two co-chairs – one from the developed countries and one from the developing countries – would hold numerous meetings to receive proposed draft text and discuss the alternatives. Before meetings, groups of countries and sometimes individual countries would submit their proposed texts. The United States was in the “Umbrella Group,”

which meant all the Annex One (or developed countries) not in the European Union group. Our group consisted of Australia, Canada, Iceland, Switzerland, Japan, New Zealand, Norway, Russia, Ukraine, and the United States. Israel was an observer with the group, though the United States tried various times to upgrade the status to full member but encountered resistance.

The working groups on each topic allowed any party to suggest new text during the negotiations. The various proposals were kept within brackets, meaning the text had not been accepted by all the parties. At the end of the session and sometimes mid-session, the co-chairs would prepare their own draft text which sought to capture the discussions. Of course, the co-chairs' proposal also was in brackets. Often one country or a group would submit poison pill proposals into the texts or to the proposals from the developed countries. This technique kept those proposals hostage until the real trading took place. Brackets were rarely lifted before the end of the negotiations, and only in those cases that dealt with a minor or non-controversial matter. The Chair or Presidency of each conference would produce a draft proposed text near the end of the meeting. This would reflect the discussions held in the working groups and privately with the various key countries and groups on what was possible and what was not. Stern and the other heads of delegations would do the horse trading among the topics during the last couple of days. There were a couple of iterations of the Presidency's text. The end result was that on the morning of December 12, 2015, the final Presidency's draft was presented to the Parties to the UNFCCC for adoption. It was a take-it-or-leave-it text and not really open for further negotiations. Despite the hiccup with Nicaragua, the adoption of the final text went relatively smoothly.

Q: So, simultaneously with the international work we must have had a group working on what our commitments were going to be, right?

DRISCOLL: Yes. And it was a delight to watch. Rick Duke, then a Special Adviser on Climate Change at the White House, pulled out all the stops to have an ambitious domestic program to reduce emissions. He particularly focused on power plants and transportation, the two largest sources of U.S. emissions. They used EPA authority to increase energy efficiency with appliances. The Obama Administration was constrained by existing legislative authority and knew not to expect any new authority from Congress. Since the EPA already had authority over mileage per gallon requirements, they used this tool. I believe they essentially doubled the emissions standards for cars and also raised them for trucks.

Q: I'm still driving my Prius, with fifty miles per gallon.

DRISCOLL: So, there you go. That's good. The Obama Administration had planned to put strict controls on power plants, which would mean the end of the use of coal. I believe that was struck down by the Supreme Court recently, however, President Biden was able to include a workaround in legislation last year.

Q: Okay, that gives you—gives the EPA authority—

DRISCOLL: Yes. The EPA has regulatory authority over greenhouse gas emissions, which covers a wide area.

The EPA authority combined with the Coast Guard's regulatory authority was critical to our work at the International Maritime Organization (IMO). With respect to the IMO, Jeff Lantz, the U.S. Coast Guard's Director for Commercial Regulations and Standards, led the U.S. delegation to IMO meetings, which were held in London. Lantz understood the complicated regulatory authority the Coast Guard had over international maritime. On climate change issues, I had the lead and worked with EPA emissions experts and with Ollie Lewis, an Attorney-Advisor in the Office of the Legal Advisor, and with Lantz. We developed a proposal for measuring and controlling greenhouse gas emissions from existing ships. The IMO had adopted a rule on new ships a few years earlier. We had to shape our proposal for existing ships around the Coast Guard's regulatory authority. For example, the Coast Guard couldn't board a vessel without a special reason, so this meant that our proposal relied heavily on self-reporting rather than requiring a significant presence by Coast Guard officials. Further complications came from the special characteristics of international maritime, where three countries (China, Korea and Japan) construct most of the ships, another handful are the major flag states (such as Liberia and the Marshall Islands), and then the owners may be from Europe or Asia. In the end, our proposal was developed after consulting with the many different actors in this area and it received broad support. It was the basis going forward for the first ever emissions regime governing existing ships.

Jeff Klein, an Attorney-Advisor in the Office of the Legal Advisor, gave me invaluable advice for international negotiations. He stressed that a good negotiator must know by heart the rules of procedures of the international organization. For example, with the IMO it was vital to have the matter you want to raise fit under an existing item on the organization's agenda or to have it added to the agenda. Otherwise, another delegation would object to its consideration. We needed to have our proposal fit under an IMO agenda item and we needed to have it submitted within the timeframe and in the format required by the rules. Since our proposal was very technical it exceeded the page limitation. We solved that problem by splitting it into two and formally submitted two proposals under an existing agenda item.

Q: So, what other tricks besides getting other countries to promote our proposals, what other tricks did he have up his sleeve?

DRISCOLL: Some of the best advice I received on international negotiations came from Mark Manis, the climate change negotiator from the U.S. Department of Agriculture. He stressed the importance of meeting with and getting to know the delegates from the other countries. This may sound like obvious advice, but I would often see members of our delegations and those of others just talking among themselves or with their close allies. In contrast, Manis would use these opportunities to meet with delegates from developing countries. In this way, you learn what their concerns are and get a better idea of what is a redline for them and where they have flexibility. I recall how this strategy came to

fruition in one UNFCCC session on climate change and agriculture. Manis took the microphone and suggested something that sounded reasonable to me, but the developing countries in a reflexive reaction didn't support the proposal from the United States. Then an African delegate proposed an alternative to what Manis had done. It also sounded sensible to me. The room adopted the African's proposal. Afterwards, Manis laughed and let me in on the joke. He had good working relations with that African delegate, and so they had orchestrated it so that the African would make the proposal that Manis had really wanted. Since the developing countries had rejected Manis's suggestion, they felt comfortable supporting the African's proposal, which Manis had wanted all along.

Before each UNFCCC conference I brought both Jeff Klein and Mark Manis to speak about the art of negotiating with the U.S. delegates. I stressed to the delegates that you should be using the coffee breaks and meal times to meet with other delegates, especially the most challenging ones. At the end of the day, we needed everyone to be able to accept a proposal for it to obtain the necessary consensus. This technique paid off well for one of our key negotiators on mitigation, Andrew Rakestraw. Rakestraw used his free time to establish a good working relationship with his Chinese counterpart. Subsequently, the two of them were selected to co-chair together a key working group on implementation rules. The already well-developed relationship helped to steer the working group to develop the important implementation rules that we sought. This was in contrast to the far too many times where the co-chairs operated at cross purposes and the meeting devolved into chaos.

When I ran into an undisciplined Vice-Chair of the UNFCCC's Subsidiary Body on Implementation or SBI, I employed Jeff Klein's advice about knowing the rules. The SBI as a whole was supposed to consider and adopt an agreement about adaptation hammered out in a smaller working group. The issue had been quite contentious, and it took long hours to reach agreement in the working group. The Vice-Chair had been a proponent of another proposal on adaptation. He tried to have the SBI as a whole adopt his preferred approach, rather than the one agreed to by the working group. He was hoping to ram through his preferred option before anyone noticed. I took the floor and, closely following the rules, explicitly voiced our objection. This blocked the Vice-Chair's attempt. Then I worked with my colleagues on the U.S. delegation to alert the other countries that had been in the working group about what was happening. We soon had a chorus of objections and demands that the Vice-Chair comply with the practice and put forward the agreed text. With the rules on our side, the Vice-Chair backed down and the desired and previously agreed to text was submitted and approved.

Another example of the value of knowing the rules and procedures happened when I was in Lima and asked by the Office Director to take over for a young, inexperienced negotiator in a working group dealing with a draft proposal on gender. I had five minutes advance notice and was just told the location of the group meeting. I was given no guidance about our objectives. I knew this meeting was scheduled to be a three-hour session, and that it would likely terminate on time as a second meeting was already scheduled for later that week. Upon entering the room, I quickly realized that everyone else was ready to adopt the draft text as is and, unless I did something, we would be

locked into that text. Accordingly, I informed the group that I was coming new to the text and asked them to walk me through each provision of the text. I asked plenty of questions. In this way, the full three hours were used up and the meeting adjourned and was set to resume later in the week. I had bought the time I needed to consult with our attorney and with our subject matter expert to determine what we could accept and what we needed to see deleted or changed. Thus, I was prepared for the follow up meeting, and the working group made the changes we wanted. We concluded our work on time and to the satisfaction of all. This underscores the point for me that you use the rules to buy yourself time if you are uncertain on an issue. Under the rules, it is very hard to reverse a working group's decision once it has been made.

So, what else? I did manage the Circular 175 process for the Paris Agreement.

There is a legal procedure in the U.S. government for negotiating and later for signing an international legal obligation, whether it is a treaty obligation or an executive agreement, including a Memorandum of Understanding. To obtain the negotiating or the signing authority you need to comply with the Circular 175 or C-175 process. This is authority that has been conferred on the Secretary of State, who can delegate it to another senior official within the Department. Every C-175 requires a legal opinion from the Legal Advisor's Office and sets forth the clearances that are necessary. It is quite an intensive process. You may need the clearance of practically every bureau in the State Department plus interested U.S. agencies, such as the Treasury Department or the EPA. If the subject matter affects the White House or one of its offices, they need to clear too. There was one office at the White House that definitely needed to clear the Paris Agreement.

Q: USTR?

DRISCOLL: Yes, USTR, because it wanted to be sure that the Paris Agreement didn't conflict with any of our trade agreements or our trade policies. We had carefully crafted the Paris Agreement to avoid such conflicts with our trade obligations. I was the one that ran this C-175 process to authorize the United States to sign the Paris Agreement.

Q: When you did that, then did some agencies put conditions on what the agreement could and couldn't do?

DRISCOLL: Well, we worked on the language in the C-175, particularly the description of the operative paragraphs of the Paris Agreement. We had worked so closely over the last several years with the U.S. agencies during the negotiations. Thus, there weren't new issues or surprises for them in the final text, and they could quickly review and clear the C-175 memorandum. Still, the Treasury Department was especially meticulous as they wanted to be precise on the fact that there were no new legally binding financial obligations. As the financial mechanism was aspirational and not legally binding, the Treasury Department cleared on the C-175 memorandum.

Q: Oh, so this was a C-175 for the final text, not for the intent to negotiate?

DRISCOLL: No, an earlier C-175 had provided authority for the State Department to negotiate the Paris Agreement. I handled the C-175 for signing the Paris Agreement, which was finalized in the summer of 2016. We then sent the C-175 package to the White House for President Obama to sign the U.S. instrument of acceptance of the Paris Agreement, which he did on August 9, 2016.

Q: What month and year was that?

DRISCOLL: President Obama signed the instrument of acceptance of the Paris Agreement, and Secretary Kerry submitted it on September 3, 2016, at a ceremony held at the United Nations. You may recall that Secretary Kerry was at the ceremony and held his granddaughter on his lap. The Paris Agreement entered into force on November 4, 2016, because the requirement for entering into force had been met, namely, that this was thirty days after more than 55 countries representing more than 55 percent of emissions had signed the Agreement. President Obama and the State Department had strongly encouraged countries to join early in order for the Agreement to go into effect before the end of President Obama's time in office.

The United States had been key to drafting the withdrawal provision of the Paris Agreement. Most other countries didn't think much about withdrawing from a treaty. The United States was one of the few countries that had exercised that option in recent years. Anyway, the provision we crafted said that a country could only withdraw three years after it had given formal notice of its intention to withdraw.

Q: So, except for the break when you worked in L/EB, you saw this effort from close to the beginning to the end?

DRISCOLL: Yes, I worked on climate change issues from September 2011 till I left the State Department in March of 2017 with an 18-month break when I worked at L/EB.

Q: And so, one of the big milestones that made it possible was the U.S.-China agreement, right?

DRISCOLL: Yes. In my view, getting China on board was vital both for achieving an international agreement and for taking serious, effective action about climate change. The projections showed that in the next twenty years China would produce more greenhouse gas emissions than all of the OECD countries combined. Thus, persuading China to take significant measures to control emissions was vital. Of course, we wanted an agreement that the United States and China could both support. The numerous meetings between President Obama and President Xi laid the foundation. Todd Stern and his Chinese counterpart built the Paris Agreement on that foundation. A host of U.S. agencies cooperated with Chinese counterparts in a series of strategic groups to cover everything from technology transfer to working on deforestation, reforestation issues, energy efficiency, and technology change. It was helpful that the Chinese were not seeking financial assistance from the United States, which would have been politically impossible

to provide. We just wouldn't give financial assistance to China. And so, it was nice to have that off the table.

What also helped was that the Chinese were feeling pressure from developing countries, not just developed countries. The small island states that were threatened by sea-level rise were vocal about the need for action by China, as well as the Africans and the AILAC countries. G-77 solidarity had fallen apart by the time of the Copenhagen Accord and China wanted to stay in the good graces of the developing countries. I believe that what increased the pressure on China was their concern that a reluctance to agree to take action could result in the United States and Europe imposing tariffs on Chinese goods in retaliation. An additional factor that helped with China was domestic concerns supported action. The air quality in Beijing and other major cities was horrible due to the use of dirty coal, so there was a domestic urgency for switching to cleaner energy. Plus, China produced much of the renewable energy equipment, such as solar panels and windmills, so they would benefit from supporting the use of these sources.

Q: Did you work on the China working groups?

DRISCOLL: No. The Chinese working groups were filled with technical experts, such as with respect to renewable energy or reforestation. I did meet and talk with the Chinese negotiators, such as at the IMO negotiations.

Q: Was there anything new in the deforestation provisions in this relative to Kyoto? Because earlier attempts at climate agreements had put a lot of emphasis on carbon sinks and things like that, so.

DRISCOLL: The Kyoto Protocol did not include forests so a country couldn't get a credit for reducing deforestation. Brazil had kept forests out of the Kyoto Protocol. Brazil changed its mind on forests, and so the Paris Agreement now provided for possible credits for reducing deforestation. Those credits were easy to describe but very hard to implement. The challenge came in trying to calculate what the deforestation would have been but for the credits. For example, Guyana wanted to earn credits for the large forests it had on its territory. The difficult part was that there had been very little deforestation in Guyana so the forests there were not threatened. On the other hand, Brazil and Indonesia had been clearing huge swaths of forests each year, and so if you could get them to slow down or stop, then you would be saving forests. Sadly, Guyana had a good record with conserving its forests and so I'm sorry to say, we weren't going to pay it much.

Q: So, I remember in Costa Rica after 2015 there was continuing work. Actually, we funded some work in Costa Rica to try to come up with some of these measurements using remote sensing and other techniques. But I think that Costa Ricans actually were the ones that developed and pushed REDD in the World Bank, right?

DRISCOLL: The Costa Ricans pressed for deforestation credits and also for payments for protecting biodiversity. Now, Costa Rica has a modest amount of deforestation, nowhere

near the scale of Brazil. Thus, there wasn't much room for deforestation credits for Costa Rica.

Q: It is a small country, but it has developed the mechanisms for stopping deforestation and actually encouraging reforestation.

DRISCOLL: Costa Rica had long been a leader in forest management and ecoservices. And they had the skills to measure changes in forestation. They were not going to get nearly as much money as Brazil. We would have to wait and see if the Paris Agreement's REDD provisions really made a difference. The concept made sense, but now it was going to be put to the test in the real world.

I have seen that one of the challenges pushed off at the Paris Agreement in 2015 is coming to the fore now, namely, the issue of Loss and Damage.

Q: What is that?

DRISCOLL: Loss and Damage was the idea that compensation was owed to the developing countries that had been harmed by climate change. This was a recognition that the world hadn't been able to mitigate emissions sufficiently. And despite efforts to adapt, there had been serious harm taking place. A classic case was an island that was losing its landmass to rising sea levels. Before the blame was almost exclusively assigned to developed countries, but now China, India and Brazil account for around 25 percent of total emissions and that percentage has been increasing. The United States and the European Union had been around 30 and 25 percent, respectively. I think there were too many fingerprints on this problem to easily assign blame and demand significant compensation. We will see what happens next, especially as the developing countries' share of total emissions just keeps going up.

Q: When the agreement was finalized was there criticism from the scientific or the environmental community that it didn't go far enough or wasn't going to do the job?

DRISCOLL: Yes. The environmental community thought that the commitments should have been much more ambitious. And the scientific community correctly pointed out that the commitments to date were not sufficient to make a major dent in the problem. However, what both groups didn't appreciate was that in the real world, there was only so much that is possible. I believe that the Paris Agreement achieved pretty much the most that could be done with the political will present in 2015. Secretary Kerry agreed that the commitments made in 2015 were not sufficient. However, he would underscore that the Paris Agreement called for the regular ratcheting up of the ambition of commitments every five years. And we saw in the 2021 Glasgow UNFCCC conference the commitments were made more ambitious, particularly China's updated pledge to peak its carbon emissions before 2030 and become carbon neutral before 2060.

The environmentalists and scientists said that the global goal of keeping global warming below two degrees Celsius was slipping out of reach. They were right. That looked to be

the case in 2015, and I think the prospects are worse today. I think it is unlikely that a new technology will appear in time to cut emissions sharply or that the world will start to extract greenhouse gasses from the atmosphere and store them somehow. Nonetheless, I am optimistic that the world will make a transition to a green economy. I am resigned to the fact that the increase in global warming will likely exceed two degrees.

Q: So, then the administration changed, and President Trump took us out of the agreement.

DRISCOLL: President Trump formally notified the withdrawal from the Paris Agreement on June 16, 2017, which meant the United States formally withdrew from the agreement in June of 2020. President Biden had the United States rejoin the Paris Agreement in January of 2021.

Q: Did we lose a lot of time in terms of having leverage with other countries?

DRISCOLL: Yes. We lost our leverage and our leadership position with the announcement that we were withdrawing. I was at the State Department until March of 2017, so very few of the new people had arrived. The new Secretary of State Rex Tillerson spoke about how he wanted to advance U.S. interests, but he said nothing specific about climate change.

With respect to the Trump Administration, I was with the U.S. delegation at the Marrakesh UNFCCC conference in early November 2016. The night of the Presidential elections there was supposed to have been an election night watch party. Since the results wouldn't come in until early the morning of November 7 and I had a lot of work to do that day, I skipped the event and tried to get some sleep. When the results came in, the U.S. delegates were shocked. Frankly, the whole conference was stunned, especially since Donald Trump had announced his intention to withdraw from the Paris Agreement. Later that week, Christo Artusio, the acting OES/EGC Office Director at that time, took the podium before all the delegates. He said that we didn't know what would happen next. He emphasized that the United States would continue to play a positive role in this field, from our people, to localities, states and businesses, to the development of new technologies, to providing assistance to those in need. The remarks received a standing ovation, including from the Venezuelans and Nicaraguans. I think this applause was in large part to recognize the central role the United States had played in creating the Paris Agreement. It was a touching moment.

Of course, overshadowing the moment was Donald Trump's intention to withdraw the United States from the Paris Agreement right away.

Q: They couldn't actually do it. They could only announce that they were going to.

DRISCOLL: Correct. The Paris Agreement had that provision we had included about a three-year period before you can withdraw. I was curious why Trump didn't withdraw us from the UNFCCC itself, which I believe would have made it much more challenging to

rejoin the Paris Agreement. And if the UNFCCC had to return to the Senate for advice and consent, then that would doom any chance of rejoining.

Q: And for the future, is there anything that you think is a good, hopeful sign? Is there some new carbon storage mechanism or magnetic cars or anything else that you think—?

DRISCOLL: I am optimistic about the world moving more quickly from a fossil fuel-based economy to a green economy. Today the price of generating electricity from renewable sources is at or below the price of fossil fuels. Moreover, we are seeing the shift to electric vehicles. Those are the two major sources of emissions – power plants and transportation. Back in 1992 when the UNFCCC was concluded, the price of energy from renewable sources was several multiples higher than the price from fossil fuel. Renewable energy was only possible through heavy subsidies or by government regulation. Today, coal is almost dead and wind and solar are cheaper than any other form of electricity generation. Battery and energy storage technologies are cheaper and vastly improved. Thus, the green solution becomes the sensible economic choice today. And now, we are rapidly moving towards electric vehicles.

Q: As long as we have green charge generation, that's a good thing?

DRISCOLL: Right, electric vehicles are greener if the electricity they use is from renewable sources. I am also optimistic about biofuels where electric vehicles aren't practical. Aircraft are using biofuels, which is different from the ethanol in cars. This biofuel is exactly the same as the fuel from petroleum. They call it a drop-in fuel.

Q: Are they using it yet?

DRISCOLL: Yes. I understand that some airlines are already starting to use a mixture of biofuel and regular aviation fuel. Lufthansa, United Airlines, British Airlines, and Virgin have been using it. Further, the U.S. military is trying biofuels for its aircraft.

Q: Before we move on to your time in L/EB and leave the topic of climate change, one of the uses of these oral histories is to help the folks at the Foreign Service Institute develop good lessons learned. Can you just summarize the key issues leading to the success we had in concluding the Paris Agreement.

DRISCOLL: The Paris Agreement embodied a good approach for addressing the international challenge of climate change. At its heart, the solution to the climate change problem was to move as fast as politically and technologically possible from a fossil fuel-based economy to a renewable energy economy. At the same time, it was important not to cripple the global economy. This was a tall order. The approach used with the Kyoto Protocol wouldn't work today because it excluded the largest emitters of greenhouse gasses. The Paris Agreement finally brought in China and India and the other developing countries. Still, I recognize that you can only push countries so far, since they must ensure the health of their economies. The only other agreement with such widespread economic ramifications has been the GATT and the World Trade

Organization. But those trade agreements only touch on a part of an economy, the portion engaged in international trade. The Paris Agreement reaches every aspect of an economy that uses electricity or fuel, which is practically everything.

Q: Well, it must feel great to have been a part of something so important.

DRISCOLL: I was glad to have contributed in a small way to the Paris Agreement. I remember that in the middle of contentious negotiations, I would have doubts and wonder how it would ever work out. It often seemed like us against them, the rest of the world being reluctant to take significant action. I saw that Todd Stern and the White House were confident that they could pull this off. And they did it. I think that their confidence flowed down to the team.

Q: Okay, so let's move on to your L/EB work. Can you talk about the dates and how it was that you ended up interrupting the climate work to go over there?

DRISCOLL: Yes. In October 2012, after the Lima UNFCCC conference, I went to work in the Legal Advisor's Office. I worked in the unit called L/EB because we provided legal advice to the Economic Bureau or EB. I was in L/EB for 18 months, until May of 2014.

Q: How many people—how many attorneys were working in that division?

DRISCOLL: L/EB had twelve attorneys. Our Assistant Legal Advisor was Wynn Teel and the Legal Advisor when I started was Harold Koh, a Yale Law School professor. L/EB had responsibility for legal matters that arose out of the work of the Economic Bureau or EB. I don't know how many people EB has.

Q: A couple hundred.

DRISCOLL: A couple hundred people created a great deal of work. There were always legal issues arising.

Q: They're always negotiating things.

DRISCOLL: With any international agreements, whether an aviation agreement or a tax treaty or an international telecommunications agreement, L/EB was active in the review and often in advising with respect to the negotiations. One large portion of the L/EB portfolio concerned drafting and implementation of legislation regarding economic sanctions, such as those against Iran. We had several attorney-advisors dedicated to the sanctions issues, and they were one of the hardest working groups I ever saw. Other L/EB attorney-advisors handled aviation, energy, telecommunications, intellectual property rights, and investment issues. I handled issues regarding the international financial institutions (or IFIs), U.S. financing agencies, such as the Millennium Challenge Corporation and the Export-Import Bank, and international tax and banking issues. Teel assigned an attorney-advisor to liaise with each EB office, which is how I came to attend

the regular staff meetings of EB's Office for International Finance and Development (EB/IFD).

Q: And was it unusual for a Foreign Service officer to do a tour in L?

DRISCOLL: It was rare for a Foreign Service Officer to serve in the Office of the Legal Advisor. I don't recall when they had done it before. They created the position for me as a special Y Tour. I had to work with personnel to establish the position for me. I was fortunate to have then Deputy Legal Advisor Sue Biniash pushing for this assignment. I had met Biniash back in 2002 when I had started work at OES/ETC and she was the joint Assistant Legal Advisor for L/OES along with her husband Bob Harris. During the many long hours working closely together at the UNFCCC, we had become well acquainted. She was the one who raised the possibility of doing an assignment in L. We had explored the possibility over coffee breaks and breakfasts at the various climate change meetings. I was excited about the prospects because I thought the work in the Legal Advisor's Office was the pinnacle of international law practice. Many places talk about working with international law issues. The Legal Advisor's Office really does that work and the issues are incredibly interesting and challenging. I had been interested in international law issues since I was on the editorial board of the Virginia Journal of International Law at law school. The legal work was great. Where else would I have a chance to analyze and apply the Vienna Convention on the Law of Treaties as part of my legal work? As a lawyer interested in international law, there is no better place to work.

Q: What were the key issues that you ended up working on?

DRISCOLL: My portfolio included three major issues. First, was the relationship between the United States and the various international financial institutions (or IFIs). This meant the World Bank, the International Monetary Fund, and the various regional development banks. Second, I provided legal advice regarding the U.S. international financing entities, such as the U.S. Export-Import Bank (or EXIM Bank), the Overseas Private Investment Corporation (or OPIC), and the Millennium Challenge Corporation (or MCC).

Q: The secretary usually chairs the MCC board.

DRISCOLL: You're right. The Secretary of State serves as the Chair of the Board of the MCC, which also includes the Secretary of the Treasury, the U.S. Trade Representative, and the Administrator of USAID. I would provide legal support for the Secretary of State for those MCC Board meetings.

And third, I handled international tax and banking issues. In particular, I worked on the Foreign Accounts Tax Compliance Act (or FATCA). FATCA required financial institutions outside the United States to provide the Treasury Department with information about bank accounts owned by U.S. taxpayers or citizens. The failure to agree to do so resulted in severe penalties for any transfers of funds abroad. In that case, the IRS (Internal Revenue Service) would take 10 percent out of every transfer of money

abroad by a U.S. citizen out of concern that the U.S. citizen was trying to hide money abroad without paying taxes. Of course, the taxpayer could claim the amount withheld back, but who knows if that would ever happen. Ten percent is a large figure, especially when before there had been no withholding in the past. Also, we are talking about over a trillion dollars of transfers a year that leave the United States.

Q: Well, let's talk about that one.

DRISCOLL: This was an enormous project with a tight deadline. The FATCA story arose from press reports about many U.S. citizens hiding their money in Swiss bank accounts and, thereby, avoiding their U.S. federal income tax obligations. Congress had had enough, and it passed this law forcing disclosure of those bank accounts. Congress decided not to limit FATCA to Swiss banks, and instead it applied the law to banks around the world. The first problem the Treasury Department and the State Department had was that if not structured carefully, the international agreement covering the disclosures would need to be submitted to the U.S. Senate for its advice and consent. This was the case for all the existing double income tax treaties between the United States and other countries. They all needed to be ratified by the Senate.

Q: So, this law required us to negotiate with each country an agreement that they would only do transparent banking?

DRISCOLL: Not really. The law was vague, which gave us leeway on what arrangements were possible. The approach that Treasury and my office preferred was to conclude a bilateral executive agreement under an existing income tax treaty that would cover all the banks in the other country. We often ran into the bank privacy laws of other countries. Switzerland and many other countries have laws that prohibit sharing bank account information with few exceptions, such as with a court order. If we had an existing bilateral tax information exchange agreement or a double tax treaty, then this other country would have a legal basis for sharing tax information with the IRS, since these international agreements have a requirement to share information requested by the other party. Unfortunately, we don't have that many of those agreements, all of which needed U.S. Senate ratification. Ironically, there was an international agreement to share tax information with Switzerland before the U.S. Senate, but it had not been ratified yet. The problem was that Senator Paul Rand was blocking ratification due to his concerns over sharing information about U.S. citizens with a foreign country, which was provided for in the agreement.

I worked closely with Danielle Rolfes, Treasury's International Tax Counsel, and her staff to develop a set of model agreements for countries to use, which depended on whether we had an existing international tax agreement with the country or not. In some cases, the other country wanted reciprocity. It wanted to have information about their citizens' accounts in U.S. banks. U.S. law prohibits the sharing of that information absent an overarching tax information exchange agreement or a bilateral double tax treaty. If a country didn't demand reciprocity, then it could just sign the model agreement where they agreed to submit the information and we agreed not to impose the FATCA penalty.

This was an executive agreement that didn't need to go to the Senate. For cases of reciprocity, it could only be done under the umbrella of a Senate-approved agreement.

Eventually Treasury and I developed a set of different model FATCA agreements. Something that would fit almost any circumstance.

Q: So, in the executive branch we came to the conclusion that it would be best to do agreements with each country?

DRISCOLL: Yes. An agreement covering all a country's banks was the simplest and cleanest model. In that case, Treasury only had to deal with its counterpart, rather than with the multitude of individual banks. Further, we had a tight deadline, and we would need well over a hundred agreements to cover the 190 countries. I had to review each individual FATCA agreement and provide an opinion that it met the guidelines. What would cause headaches was that the other country sometimes wanted to tinker with one or more provisions. We just didn't have time to individually negotiate agreements, and so tried to prevent any changes to the models. Still, if it was an important country, such as Germany, then we would take the time to look at the proposed changes.

Q: Do I remember correctly that Treasury was reluctant to work with us on this?

DRISCOLL: By the time I got to L/EB, Treasury was very happy to have our help. They were overwhelmed by this task. Of course, we depended on our officers in the embassies abroad to move this forward and to encourage the other party not to make changes.

When you were DCM at Embassy San Jose, did you work on the FATCA agreement with Costa Rica?

Q: No. This was happening when I was in EB's Office of Development Finance in 2011-2013 and I remember my sister office in OMA (Office of Macroeconomic Affairs), they had this responsibility, instead of Treasury.

DRISCOLL: I worked very closely and cooperatively with Treasury's International Tax Counsel's office. The models and explanations had to be published in the Federal Register. Altogether we published over 500 pages of regulations in the Federal Register.

A few sensitive political issues did arise. The biggest one involved China. The Chinese insisted on reciprocity of information sharing. The National Security Council called together a meeting at the White House to address the question. Senior officials from State, the NSC and Treasury gathered to discuss whether or not we should agree to share with the Chinese information about Chinese citizens with bank accounts in U.S. banks. The political concern was that the Chinese could use that information in a manner to target Chinese defectors and dissidents living in the United States. To the group's surprise, we learned that the IRS already was sharing some taxpayer information with the Chinese. Thus, in June 2014 we agreed with China on the terms of a FATCA agreement. I understand that it still hasn't been signed. We had the same issue with Russia and were

going to have a separate NSC meeting to discuss whether to agree to reciprocity with Russia. Just at the time, Russia seized Crimea and that froze negotiations of a FATCA agreement with Russia.

In an effort to expedite the FATCA process, I organized a briefing on FATCA at the State Department's large assembly hall on the Twenty-first Street side of the building. With the help of the regional bureaus, we sent invitations to the embassies of almost all the countries that might be interested in a FATCA agreement. I was trying to expedite the process. By the time I left L/EB in the summer of 2014, we had concluded about seventy FATCA agreements with another fifty or sixty in the works.

Q: And that was mostly you, that was mostly your work?

DRISCOLL: I had to review each FATCA agreement for State, and Treasury did the same. At its peak, I would have to review three or more FATCA agreements a week. In the midst of this process, some skeptical Senators questioned the power of the executive branch to enter into executive agreements with respect to FATCA. I drafted the reply, justifying where we could use such an executive agreement. Despite our urging countries to just accept the model as is, many wanted to make some changes in the model text, which required careful consideration and consultation with Treasury. Still, in the end, the law was successfully implemented.

Q: Just recently I heard that a lot of banks won't take U.S. citizen accounts because it's just too much trouble.

DRISCOLL: I have heard that too. Reportedly, quite a few banks overseas are reluctant to open an account for a U.S. citizen. If a bank has no U.S. citizens with bank accounts, then it doesn't need to submit an annual report.

Q: That's just our law and our policy.

DRISCOLL: Right. This reluctance to accept U.S. citizens is an expected adverse consequence of FATCA. I think Congress appreciated and accepted this tradeoff. They were making it more difficult to hide money abroad, which was the goal.

Q: I suppose over time it will work.

DRISCOLL: Yes. In fact, the OECD agreed to a global initiative to have all of its members have FATCA like laws, so that the authorities would automatically share information among themselves about the citizens of other countries. What was interesting was that the Treasury was going to require U.S. banks to report on accounts held by foreigners and would share that with their counterparts. This reciprocity requirement would kick in five years after the underlying FATCA bilateral agreement went into effect.

Q: Do you think they waited the whole five years before implementing?

DRISCOLL: Yes. The FATCA agreements with reciprocity provisions had a five-year window, where the information would initially only flow one way to the Treasury. After that, Treasury would have to start sending information the other way. This would give Treasury time to develop and promulgate the regulations for the collecting and sharing of this information.

After FATCA, the international financial institutions or IFIs took up most of my time at L/EB. We were told that the United States was now looking favorably on Ethiopia, Somalia, and South Sudan and we wanted to have the IFIs to help them. U.S. legislation had a raft of rules indicating when the U.S. Executive Director to an IFI must oppose a project for consideration. In some cases, we could have the President waive the condition, and I would have to prepare the appropriate directive. I identified the restrictions applicable with Somalia and South Sudan, and then prepared the necessary waivers. A legislative restriction regarding a prohibition on projects involving “resettlements” threatened a large infrastructure proposal for Ethiopia, which the Africa Bureau supported. I developed interpretative guidance that allowed us to support this particular project. In dealing with IFI restrictive legislation, I worked closely with Treasury Department’s Office of General Counsel attorneys David Joy, Him Das, and Jeffery Klein (formerly of State Department). Conversely, sometimes I had to notify the regional bureaus when an event triggered a new restriction. This happened when there was a military coup in Madagascar, which contravened one of the restrictions.

One tricky issue arose when Congress added a new restriction prohibiting the United States from supporting a proposal before an IFI for the financing of large hydroelectric dams. This provision had resulted from pressure by the environmental community on Capitol Hill. The regional bureaus, especially with respect to Africa and Pakistan, wanted to support such IFI financing proposals because they helped with economic development. I worked with David Joy from Treasury and an interagency working group to craft exactly what would be considered a large hydroelectric dam project subject to the provision. For example, building the dam itself would be prohibited, but related projects such as installing transmission lines or the roads to the dam would be acceptable. I sought to provide the State Department the most leeway possible, and this exercise helped to chart out where the United States could still support IFI financing in this area.

In my work on legislative restrictions for IFIs, I came across a long-overlooked provision that barred support of IFI financing in countries that did not try to restrict the practice of female genital mutilation. This was a serious problem in parts of Africa and the Middle East. I formed a State-Treasury working group together with the Office of Global Women’s Issues to see how we could use this provision as constructive leverage in those countries, while at the same time not freezing financing of projects by the IFIs.

In my work with the U.S. Export-Import Bank, I saw how the Chafee Amendment, created by Senator Chafee, could give the State Department a tool to advance our climate change agenda. The Chafee Amendment allowed the Secretary of State to block EXIM Bank financing of a project for foreign policy reasons. We were concerned that EXIM Bank might support financing of coal related projects overseas, which would lead to an

increase in greenhouse gas emissions. So, we developed a policy consistent with the Chafee Amendment that steered EXIM Bank away from such dirty projects.

Q: Was there a particular project that we were trying to affect?

DRISCOLL: No, there wasn't a particular project at that moment. However, EXIM Bank had financed projects connected with fossil fuel facilities abroad in the past and we expected that, absent this change in policy, EXIM Bank might finance future ones.

Q: We would have a legal basis to say no?

DRISCOLL: Correct. EXIM Bank had a process for considering proposals, such as the U.S. content and U.S. jobs involved, but at that time it had no policy with respect to fossil fuel projects. Thus, absent the Chafee Amendment as we applied it, the EXIM Bank might be compelled to support a proposal that was particularly bad on climate change. Without the Chafee Amendment, we would lack a legal basis to apply foreign policy consideration.

I was drawn into a Federal district court case questioning whether the Equal Protection Clause constrained the executive branch's foreign relations and treaty-making powers. This involved the status of Chinese nationals working in Guam. I drafted the brief that the Justice Department submitted and which prevailed in court. It reminded me of my days long ago working at the Justice Department.

Finally, I had an odd issue in L/EB involving Puerto Rico. Puerto Rico wanted to sign an income tax treaty with Spain. The Governor of Puerto Rico and the Spaniards were strongly in support of this. It fell to me to remind the Governor's Office that Puerto Rico was a part of the United States, and thus, the island didn't have authority to enter into a treaty by itself. We outlined the options available to Puerto Rico, such as amending the U.S.-Spain treaty to add a special provision for Puerto Rico or revising their domestic legislation. Senator Robert Menendez (D-NJ) had a great interest in Puerto Rico, and at the time was the Chair of the Banking Committee. I learned that the State Department had a special office that handles Puerto Rico and the territorial islands.

Q: And so, they didn't get to sign an agreement with Spain?

DRISCOLL: Right. In the end, the proposal was dropped because the alternatives were too daunting. Puerto Rico had one other alternative involving signing an aspirational letter about Spanish investing in Puerto Rico. However, it would have no legal effect and so that idea too was dropped. That was my introduction to Puerto Rico.

Q: You were at L/EB for a year-and-a-half. And then, what happened?

DRISCOLL: Yes. I worked over four years in the climate change office – OES/EGC – with an 18-month stint in L/EB. I knew I had just one year left before I would have to retire from the Foreign Service. My Time-In-Class or TIC was almost over. That was

when I heard from Christo Artusio in OES/EGC, who asked if I would come back to the office to help with the Paris negotiations. I was familiar with the issues, the people on the U.S. delegation, and many of our counterparts from other delegations. Moreover, I had extensive experience in international negotiations. Further, Christo wanted help in managing the office and handling the personnel issues, which I had done before.

I retired from the Foreign Service at the end of July 2015. I then took a month off and returned as a When Actually Employed or WAE, at the GS-15 level, to pick up the same duties that I had before. I stopped all work for State Department in March of 2017 as I prepared to accompany my wife Julie to her assignment at U.S. Embassy San Jose.

Q: So, it was a great run. Are there any reflections that you want to make on your time with the State Department?

DRISCOLL: First of all, I was honored and thrilled to have been able to work as a public servant at the State Department and at the Justice Department for three decades. I liked every job that I did, and I learned something from each of them. It was enlightening to see close up how the U.S. government works and how policy is made. I realize that I was part of a bigger organization and played a limited role. Still, on the margins I think I was able to help out here and there. In my time, some great things happened, particularly with the fall of the Berlin Wall. I was glad I could go to Eastern Europe to see the transition in person. I learned that international organizations and multilateral negotiations could be frustrating, but on balance, I thought they play a valuable and positive role in the world. I am also glad to have contributed in some small way to the Paris Agreement and to our climate change effort.

I am happy with my State Department career. I enjoyed working with my colleagues at the State Department and other U.S. agencies. They are a dedicated, smart, and professional group. Further, I liked the fascinating people that I met and the interesting places that I visited. And working in L was wonderful for me as a lawyer because that was the most interesting legal work I ever did. I am grateful to have had all this opportunity.

Q: Well, that's wonderful. Thank you.

End of interview