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AND PENSIONS

## United States Senate

WASHINGTON, DC 20510-4607

February 8, 2018

The Honorable Rex Tillerson  
Secretary of State  
U.S. Department of State  
2201 C Street, NW  
Washington, DC 20520

Dear Secretary Tillerson:

Recent reports indicate that the State Department has a memo, cleared through the interagency process, detailing the Administration's legal basis for the April 6, 2017 U.S. strikes against the Shayrat military airbase in Syria. Since these strikes took place, I have been requesting that the Administration provide Congress with its detailed legal analysis for this action under domestic and international law. These requests include the letter I wrote to President Trump with Representative Schiff on April 24, 2017, questions for the record submitted to you and Secretary Mattis following your testimony at an October 30, 2017 hearing on Authorizations for Use of Military Force, and exchanges with Legal Adviser Jennifer Newstead during her confirmation process.

The Administration's responses, if received at all, have been insufficient. This includes your response that, "The April 6 U.S. missile strike on Shayrat airfield in Syria was not based on the authority of the statutory authorizations for use of military force that we have been discussing at this hearing. The President authorized that strike pursuant to his power under Article II of the Constitution as Commander in Chief and Chief Executive to use this sort of military force overseas to defend important U.S. national interests." This expansive view of the President's Article II powers – absent an immediate threat to the United States or our personnel abroad – does not justify U.S. military action without the authorization of Congress.

The fact that there is a lengthy memo with a more detailed legal justification that has not been shared with Congress, or the American public, is unacceptable. I am also concerned that this legal justification may now become precedent for additional executive unilateral military action, including this week's U.S. airstrikes in Syria against pro-Assad forces or even an extremely risky "bloody nose" strike against North Korea. I request a copy of this memo be given to Congress for immediate review. If portions of the memo are classified, a SCIF can be made available.

Thank you for your attention to this matter.

Sincerely,



Tim Kaine