No. 13-628

IN THE
Supreme Court of the United States

MENACHEM BINYAMIN ZIVOTOFSKY,
by his parents and guardians,
ARI Z. AND NAOMI SIEGMAN ZIVOTOFSKY,
Petitioner,

v.

JOHN KERRY, SECRETARY OF STATE,
Respondent.

On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The District Of Columbia Circuit

BRIEF FOR MEMBERS OF THE UNITED STATES SENATE AND THE UNITED STATES HOUSE OF REPRESENTATIVES AS *AMICI CURIAE* IN SUPPORT OF PETITIONER

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QUESTION PRESENTED

Congress regularly delegates limited administrative authority to the Secretary of State when exercising its law-making powers. Section 214(d) of the Foreign Relations Authorization Act, Fiscal Year 2003, Pub. L. No. 107-228, 116 Stat. 1350 (2002), delegates to the Secretary of State the responsibility, on request, of recording the birthplace of an American citizen born in Jerusalem as "Israel" on a Consular Report of Birth Abroad and on a United States passport.

The question presented is whether Section 214(d) is unconstitutional on the grounds that the President's recognition power is not only exclusive, but is also so broad as to render invalid a statute properly enacted under Congress's passport and other foreign affairs powers simply because the President has determined, in his sole and unreviewable discretion, that the statute is tangentially related to recognition.

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INTEREST OF *AMICI CURIAE*

Amici curiae Members of the United States Senate and the United States House of Representatives have a fundamental institutional interest in defending the constitutionality of the statute at issue, which passed overwhelmingly in both Houses of Congress, and in seeing the directives of the Legislative Branch enforced in the courts. *Amici* also have a fundamental interest in safeguarding Congress's passport and foreign affairs powers from Executive overreach, which was endorsed by the court of appeals in its overbroad reading of the recognition power. The names of individual *amici* are listed in the Appendix.[1]

INTRODUCTION AND SUMMARY OF ARGUMENT

The decision below invalidated an Act of Congress on constitutional grounds, and handed the President significant new, unreviewable powers at Congress's expense, effectively reinstating the court of appeals' political question holding in the guise of a decision on the recognition power question. Although this Court has danced around the edges of the question presented for more than 200 years, it has never squarely addressed it. It should take the opportunity to do so now.

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[1] No party's counsel authored this brief in whole or in part, and no person or entity other than *amici* or their counsel made a monetary contribution intended to fund its preparation or submission. Counsel of record for all parties received timely notice of *amici*'s intent to file this brief and consented to its filing.

This Court has already acknowledged the importance and unsettled nature of the question presented, and has already recognized its significant implications for the separation of powers and the role of Congress in foreign affairs: In granting certiorari to decide the threshold political question issue, this Court *sua sponte* directed the parties to brief and argue whether Section 214(d) of the Foreign Relations Authorization Act, Fiscal Year 2003, Pub. L. No. 107-228, 116 Stat. 1350 (2002)—which permits "an American born in Jerusalem [to] choose to have Israel listed as his place of birth on his passport" and report of birth abroad, *Zivotofsky v. Clinton*, 132 S. Ct. 1421, 1428 (2012)—impermissibly infringes the President's power to recognize foreign sovereigns. And in remanding the question for the lower courts to review "in the first instance," it made clear that its resolution "demands careful examination of the textual, structural, and historical evidence put forward by the parties," both with respect to whether the President holds the recognition power exclusively, and whether the statute improperly infringes that power, or is instead a proper exercise of Congress's authority to "regulat[e] the content and issuance of passports" without directing the Executive in the exercise of any formal act of recognition, *id*. at 1429–31.

The decision below found little in the text of the Constitution or Founding-era historical evidence to support the President's claim of an exclusive and expansive recognition power. It instead relied on scattered dicta from this Court's opinions, and a selective review of later historical evidence, to not only assign the recognition power to the President, but also to grant him the unreviewable authority to decide, in his sole discretion, whether any particular congres-

sional act unconstitutionally invades that prerogative. *See infra* pp. 6–10. This represents an abdication of the lower court's responsibility to decide the constitutional question at the heart of this case, and cannot be squared with this Court's holding on the political question issue. *See Zivotofsky*, 132 S. Ct. at 1427 (criticizing the D.C. Circuit for treating the political question and constitutionality questions as "one and the same," left to the Executive's "unreviewable" discretion). For whatever exclusive power the President may have to recognize foreign sovereigns, "there is, of course, no exclusive commitment to the Executive of the power to determine the constitutionality of a statute." *Id.* at 1428. Yet the decision below grants to the Executive alone the power to do just that.

The court of appeals' adoption of the broadest possible view of the President's recognition power also threatens to demote Congress from the President's counterweight in foreign affairs to his minion. The Constitution grants to Congress a wide array of foreign affairs powers. *See infra* pp. 11–12. The implementation of foreign policy—including with respect to matters that implicate recognition—*depends* on Congress's exercise of these powers. *See, e.g.*, Burmese Freedom and Democracy Act of 2003, Pub. L. No. 108-61, §§ 1–9, 117 Stat. 864 (codified at 50 U.S.C. § 1701 note (2012)) (imposing trade and visa bans against Burma's military regime); *infra* pp. 13–14 (discussing additional examples). Our constitutional framework contemplates not only cooperation between the branches of government in this arena, but also a measure of tension. Indeed, in its division of powers, the Constitution is "an invitation to struggle for the privilege of directing American foreign policy." Edward S. Corwin, *The President: Office and*

Powers, 1787–1984 201 (Randall Bland et al. eds., 5th ed. 1984). Since the Founding, Congress and the President have been engaged in that fruitful and dynamic struggle. The zones of exclusivity for either branch have been drawn narrowly.

The D.C. Circuit's holding threatens to upset the Constitution's careful balance of powers in foreign affairs. The upshot of the decision below is not only that the President has plenary power over questions of recognition, but also that the Executive is given carte blanche to treat as unconstitutional—and to refuse to comply with—any Act of Congress that it determines touches on recognition policy. The recognition power cannot be drawn so broadly as to envelop completely, at the Executive's sole discretion, the exercise of Congress's law-making authority in the fields of immigration, naturalization, foreign commerce, passport control, criminal law, and foreign policy. *See* U.S. Const. art. I, §§ 1, 8; *infra* pp. 15–16.

Whether the recognition power is not only held exclusively by the Executive, but is also so sweeping as to render Congress impotent to act simply because the President determines, in his unreviewable discretion, that particular legislation implicates recognition policy, undoubtedly presents "an important question of federal law that has not been, but should be, settled by this Court." Sup. Ct. R. 10(c). Review of this question would be warranted even if the court below had *upheld* the statute at issue. Here, where the court of appeals has "exercise[d] . . . the grave power of annulling an Act of Congress," due respect for a coordinate branch of government demands that certiorari be granted. *United States v. Gainey*, 380 U.S. 63, 65 (1965); Eugene Gressman et al., *Supreme Court Practice* 264 (9th ed. 2007) (collecting cases).

ARGUMENT

I. THIS CASE PRESENTS A QUESTION OF EXCEPTIONAL IMPORTANCE REGARDING THE NATURE AND SCOPE OF THE RECOGNITION POWER.

This Court fully understands the importance and unresolved nature of the constitutional question presented here. Indeed, in previously granting certiorari to review the political question issue in this case, this Court *sua sponte* directed the parties to brief and argue the recognition power question. *M.B.Z. ex rel. Zivotofsky v. Clinton*, 131 S. Ct. 2897 (2011). And in ultimately leaving that question to the court of appeals to decide "in the first instance," this Court prescribed a "careful examination" of the conflicting "textual, structural, and historical evidence put forward by the parties regarding the nature of the . . . passport and recognition powers." *Zivotofsky*, 132 S. Ct. at 1430–31.

The court of appeals—making its way in "relatively uncharted waters with few fixed stars by which to navigate," *Zivotofsky v. Sec'y of State*, 725 F.3d 197, 221 (D.C. Cir. 2013) (Tatel, J., concurring)—relied on inconclusive historical evidence and inapposite, scattered dicta from this Court's opinions to hold that the power to recognize foreign sovereigns not only rests exclusively with the Executive, but also stretches so far as to invalidate duly enacted federal legislation that, in the President's sole discretion, grazes the sphere of recognition. *See id.* at 207, 212–14 (majority op.). This Court should now grant certiorari "to resolve an important question left undecided" the first time it took this case. *F.T.C. v. Travelers Health Ass'n*, 362 U.S. 293, 297 (1960).

As a result, certiorari would be appropriate even if the court below had found Section 214(d) to be constitutional. But it is particularly important for this Court "to review the [court of appeals'] exercise of the grave power of annulling an Act of Congress" on constitutional grounds. *Gainey*, 380 U.S. at 65; *see also, e.g.*, *United States v. Morrison*, 529 U.S. 598, 605 (2000) ("Because the Court of Appeals invalidated a federal statute on constitutional grounds, we granted certiorari."); Gressman, *supra*, at 264 (collecting cases). Due respect for a coordinate branch of the federal government demands that this Court review a decision by an inferior court invalidating an Act of Congress—particularly one that passed unanimously in the Senate and with near unanimity in the House of Representatives. The court of appeals should not have the last word on the constitutionality of Section 214(d).

1. As Judge Tatel recognized below, this Court "has had no occasion to definitely resolve the political branches' competing claims to recognition power," *Zivotofsky*, 725 F.3d at 222 (Tatel, J., concurring), let alone determine "that the President exclusively holds [that] power," *id.* at 212 (majority op.). Review is warranted on that basis alone, as this "important question of federal law" decided by the court of appeals "has not been, but should be, settled by this Court." Sup. Ct. R. 10(c).

To reach its holding, the court of appeals marshaled scattered dicta from this Court's prior decisions. All of the decisions the court below invoked address the binding effect of the Executive's decision on the *judiciary*—not Congress—absent any congressional opposition. *See, e.g.*, *Williams v. Suffolk Ins. Co.*, 38 U.S. 415, 420 (1839) (noting that "[if] the ex-

ecutive branch . . . assume[s] a fact in regard to the sovereignty of any island or country, it is conclusive on the *judicial* department" (emphasis added)).[2] None of these cases—which were naked "attempts to have the courts second-guess presidential recognitions," Richard B. Collins, *Nineteenth-Century Orthodoxy*, 70 U. Colo. L. Rev. 1157, 1164 n.47 (1999)—involves or discusses, let alone turns on, a conflict over recognition between Congress and the Executive. As a result, "[w]hat power Congress has to affect the recognition power by legislation has not been tested." *Id*.

Nor can any exclusive recognition power be implied from these cases. Under Justice Jackson's classic formulation, the Executive's exercise of power either "pursuant to an express or implied authorization of Congress" or "in absence of either a congressional grant or denial of authority" are substantively and analytically distinct from the circumstances present in this case: actions of the Executive "incompatible with the expressed . . . will of Congress." *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 635–37 (1952) (Jackson, J., concurring). Thus, that this Court previously deferred to an *unopposed*

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[2] *See also, e.g.*, *Guaranty Trust Co. v. United States*, 304 U.S. 126, 137–38 (1938) (accepting as "conclusive" the determination of the State Department because "[w]hat government is to be regarded here as representative of a foreign sovereign state *is a political rather than a judicial question*, and is to be determined by the political department of the government" (emphasis added)); *United States v. Belmont*, 301 U.S. 324, 328, 330 (1937) ("[W]ho is the sovereign of a territory is not a judicial question, but one the determination of which by the *political departments* conclusively binds the courts." (emphasis added)).

exercise of the recognition power by the Executive, does not—and cannot—suggest that such power is exclusive.

2. The dicta on which the court of appeals relied is not only scattered but also incomplete. For centuries, this Court has maintained that the judiciary is bound by the recognition decisions of *both* political branches. In *Oetjen v. Central Leather Co.*, the Court declared that the question "'who is the sovereign, de jure or de facto, of a territory is not a judicial, but a political question, the determination of which by the *legislative and executive departments* of any government conclusively binds the judges, as well as all other officers, citizens and subjects of that government.'" 246 U.S. 297, 302 (1918) (emphasis added) (quoting *Jones v. United States*, 137 U.S. 202, 212 (1890)). And in *United States v. Palmer*, this Court instructed that "the courts of the union must view such newly constituted government as it is viewed by the *legislative and executive departments* of the government of the United States." 16 U.S. 610, 643 (1818) (emphasis added). Even the cases relied on by the court below make clear that the exercise of recognition is a function of the "political departments," *Belmont*, 301 U.S. at 328—that is, both Congress and the Executive.

Tellingly, the only dicta from this Court to the effect that political recognition is "exclusively a function of the Executive"—*Banco Nacional de Cuba v. Sabbatino*, 376 U.S. 398, 410 (1964)—"simply mak[es] this statement in passing without any citation." Jean Galbraith, *International Law and the Domestic Separation of Powers*, 99 Va. L. Rev. 987, 1018 (2013). And that case did not involve any conflict between Congress and the Executive with re-

spect to recognition. Yet the court of appeals felt constrained to follow this statement, pursuant to D.C. Circuit law, which treats this Court's dicta as binding on the circuit court. *Zivotofsky*, 725 F.3d at 212.

Given the imprecision with which this Court has addressed the recognition power, it is not surprising that this Court's prior dicta alluding to the recognition power has generated significant confusion. This dicta not only is inapposite to the question presented, but also does not come from a well-constructed line of cases with a discernible development of the law over time. This Court should grant certiorari to reconcile these "prior decisions . . . [that are] inconsistent," Gressman, *supra*, at 253, and to "resolve" the "ambiguity in [its] own opinions," *Gonzaga Univ. v. Doe*, 536 U.S. 273, 278 (2002).

3. Against this backdrop of inconclusive dicta, it is not surprising that history and practice also offer scant guidance on the precise source, meaning, and scope of the recognition power. The court of appeals itself acknowledged that "[n]either the text of the Constitution nor originalist evidence provides much help in answering the question of the scope of the President's recognition power." *Zivotofsky*, 725 F.3d at 206; *see also* Robert J. Reinstein, *Recognition: A Case Study on the Original Understanding of Executive Power*, 45 U. Rich. L. Rev. 801, 820 (2011) ("[T]here is no originalist basis for the proposition that a plenary recognition power was vested in the President."). What little historical evidence is available yields no clear answer. In fact, while the President has traditionally taken the lead on questions of recognition, the historical record provides numerous instances "in which Congress played a decisive role

in recognition decisions," including where the Executive expressly acquiesced to Congress on such decisions, as noted by one of the principal authorities on the history of the recognition power relied on by the court below. *See* Robert J. Reinstein, *Is the President's Recognition Power Exclusive?*, 86 Temp. L. Rev. 1, 51 (2013).

Thus, the court of appeals' conclusion that "longstanding post-ratification practice supports the Secretary's position that the President exclusively holds the recognition power," *Zivotofsky*, 725 F.3d at 207, is incorrect as a historical matter. That conclusion "overstates executive and understates legislative power," Reinstein, *supra*, at 51. While this Court readily relies on longstanding and consistent post-ratification practice to discern constitutional meaning, *see, e.g.*, *Mistretta v. United States*, 488 U.S. 361, 401 (1989); *Marsh v. Chambers*, 463 U.S. 783, 790 (1983), it stands equally ready to set aside such evidence when it is "conflicting," *Clinton v. Jones*, 520 U.S. 681, 696, 705–06 (1997), as it is here, and to look instead to constitutional and separation of powers principles. *Id.*[3]

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[3] *See also, e.g.*, *Youngstown,* 343 U.S. at 634–35 (Jackson, J., concurring) (observing that "[a] century and a half of partisan debate and scholarly speculation . . . only supplies more or less apt quotations from respected sources on each side . . . . [that] largely cancel each other").

II. THE DECISION BELOW TRENCHES ON CONGRESS'S INTEGRAL ROLE IN FOREIGN AFFAIRS UNDER OUR CONSTITUTIONAL FRAMEWORK.

The decision of the court below effects a significant power shift in the direction of the President that should not be left to stand without review by this Court. Even assuming that there is some core recognition power held exclusively by the President, the court of appeals' adoption of the broadest possible view of that power—including the power to determine, in the President's sole discretion, that an Act of Congress infringes that power—lacks historical precedent and threatens to demote Congress from the President's counterweight in foreign affairs to his minion. This Court routinely grants certiorari in cases that are important to the "conduct of the Nation's foreign affairs," *Christopher v. Harbury*, 536 U.S. 403, 412 (2002); Gressman, *supra*, at 265–66—particularly where they raise separation of powers concerns. It should do so here.

1. The "conduct of the foreign relations of our Government" is shared between "the Executive and Legislative—'the political'—Departments." *Medellin v. Texas*, 552 U.S. 491, 511 (2008) (quoting *Oetjen*, 246 U.S. at 302). The Constitution equips Congress with a plethora of foreign affairs powers—including the power to "regulate Commerce with foreign Nations," "declare War," "establish an uniform Rule of Naturalization," "define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations," and "make Rules for the Government and Regulation of the land and naval Forces" (U.S. Const. art. I, § 8)—as well as general law-making and appropriations powers that necessarily implicate foreign policy (*id.* §§ 1, 9). The Con-

stitution also gives Congress foreign affairs powers that it exercises in tandem with the President, such as treaty-making (*id.* art. II, § 2).

The Constitution "contemplates that practice will integrate the dispersed powers into a workable government. It enjoins upon its branches separateness but interdependence, autonomy but reciprocity." *Youngstown*, 343 U.S. at 635. Accordingly, while the President properly takes the lead in performing the ceremonial act of recognition, in his role as the *instrument* of foreign policy, Congress plays an integral role in shaping that policy. *Cf.* Transcript of Oral Argument 38:7–9, *Zivotofsky v. Clinton,* 132 S. Ct. 1421 (2012) (Scalia, J.) [hereinafter Transcript of Oral Argument] ("[T]o be the sole instrument [of the U.S.] and to determine the foreign policy are two quite different things."). It has time and again done so.[4]

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[4] Some recent examples of Congress acting to shape recognition policy include the Syria Democracy Transition Act of 2012, S. 2152, 112th Cong. (2012) (calling for "the departure from power of [President] Bashar al-Assad"), and respective Senate and House of Representatives resolutions regarding Libya. *See* Calling for a No-fly Zone and the Recognition of the Transitional National Council in Libya, S. Res. 102, 112th Cong. (2011) (calling on the President to recognize Libya's Transitional National Council ("TNC") "as the sole legitimate governing authority in Libya"); Expressing the Sense of the House of Representatives Regarding the Regime of Mu'ammar al-Qadhaffi, H.R. Res. 188, 112th Cong. (2011) (declaring "the sense of the House of Representatives" that the TNC "should be considered the legitimate representatives of the Libyan people and nation," and calling for provision of "arms, supplies, and other materials needed to oust the Qadhaffi regime").

Indeed, the implementation of foreign policy—including with respect to matters that implicate recognition—*depends* on Congress's exercise of its foreign trade, immigration, naturalization, appropriations, passport, and general law-making powers. *See* U.S. Const. art. I, §§ 1, 8, 9; *see also, e.g.*, Consolidated and Further Continuing Appropriations Act, 2013, Pub. L. No. 113-6, tit. VII, 127 Stat. 198 (allocating funds appropriated for the Department of State, Foreign Operations, and Related Programs); Burmese Freedom and Democracy Act of 2003, Pub. L. No. 108-61, §§ 1–9, 117 Stat. 864 (codified at 50 U.S.C. § 1701 note (2012)) (supporting the U.S. recognition of the National League for Democracy by, *inter alia*, imposing trade and visa bans against Burma's military regime); Refugee Relief Act of 1953, Pub. L. No. 83-203, § 4, 67 Stat. 400 (amended 1954) (establishing quotas by country). When Congress acts in these spheres, its actions necessarily and properly touch on matters of recognition, without purporting to direct the Executive to alter formal recognition policy.

2. The Constitution contemplates not only cooperation between the branches in foreign affairs, but also a measure of tension. Indeed, in its sometimes oblique division of powers in this arena, the Constitution is "an invitation to struggle for the privilege of directing American foreign policy." Corwin, *supra*, at 201. Occasional friction between branches provides "'security . . . against a gradual concentration of the several powers in the same department,'" and is thus critical to our system of checks and balances. *Mistretta*, 488 U.S. at 381 (quoting *The Federalist No. 51*, at 349 (James Madison) (Jacob E. Cooke ed., 1961)). As Justice Jackson warned more than sixty years ago, the Executive's claim to plenary power

"must be scrutinized with caution, for what is at stake is the equilibrium established by our constitutional system." *Youngstown*, 343 U.S. at 638 (Jackson, J., concurring).

Since the Founding, Congress and the President have been engaged in that fruitful and dynamic struggle. The zones of exclusivity in foreign affairs for either branch have been drawn narrowly. Thus, Congress has enacted numerous statutes that register some degree of discord with the President's recognition policy. For example, after President Carter formally recognized the People's Republic of China, Congress enacted the Taiwan Relations Act, which provides that non-recognition does "not affect the application of the laws of the [U.S.] with respect to Taiwan" and commits the U.S. to helping Taiwan "maintain a sufficient self-defense capability." Pub. L. 96-8, 93 Stat. 14 (1979) (codified as amended at 22 U.S.C. §§ 3301–3316 (2012)); *see also, e.g.*, United States-Hong Kong Policy Act of 1992, Pub. L. No. 102-383, 106 Stat. 1448 (codified at 22 U.S.C. §§ 5721–5724 (2012)) (providing that U.S. laws "shall continue to apply" to Hong Kong "[n]otwithstanding any change in . . . sovereignty," unless modified by law or executive order); Joint Resolution of Dec. 21, 1982, Pub. L. No. 97-377, § 793, 96 Stat. 1830, 1865 (1982) (frustrating President Reagan's support for the Contras by prohibiting the expenditure of funds "for the purpose of overthrowing the Government of Nicaragua"). None of these statutes has ever "been considered invalid as an invasion of [the President's] autonomy." *Nixon v. Adm'r of Gen. Servs.*, 433 U.S. 425, 445 (1977). And for good reason: this kind of Congressional action sustains the Constitution's system of checks and balances by enabling Congress to exercise levers of authority in foreign affairs as-

signed to it, while leaving to the Executive the final decision on the core question of formal recognition.

3. Section 214(d) does not impermissibly interfere with the President's power to effect recognition policy. To the contrary, it is the D.C. Circuit's decision that threatens to interfere with the necessary exercise of *Congress's* powers. The statute represents a valid exercise of Congress's "legislative Powers" over "Naturalization" and "Commerce with Foreign Nations," U.S. Const. art. I §§ 1, 8, and, by extension, immigration, *see Fong Yue Ting v. United States*, 149 U.S. 698, 714 (1893). It does not direct the Executive to issue any formal recognition or alter formal recognition policy. *Cf.* Transcript of Oral Argument 32:2–9 (Alito, J.) (emphasizing the difference between an "exclusive authority with respect to the formal recognition of a foreign country," and a "plenary," "unreviewable authority, with respect to anything that the President thinks has a bearing on the question of recognition"). It merely provides a U.S. citizen with the opportunity to fill in a particular field in that citizen's travel documents in a particular manner.

The court below acknowledged that legislation is not unconstitutional "merely [because it] touches on a policy relating to recognition," but then struck down Section 214(d) for exactly that reason, holding that the Executive's recognition power "'includes the power to determine the policy which is to govern the question of recognition.'" *Zivotofsky*, 725 F.3d at 213, 219 (emphasis omitted) (quoting *United States v. Pink*, 315 U.S. 203, 229 (1942)). The upshot of this decision is not only that the President has plenary power over questions relating in even the most tangential way to recognition, but also that the Execu-

tive is ceded the unreviewable authority to determine the scope of its own recognition power.

The court of appeals' decision thus places in the President's hands the unchecked power to determine for himself the legitimacy of broad swaths of otherwise valid legislation in critical areas comfortably within Congress's control, such as national security, immigration, and international trade, simply because the legislation implicates, however faintly, the subject of recognition—and to ignore any duly enacted Act of Congress thus categorized. *Cf.* Transcript of Oral Argument 33:5–25 (statement of the Solicitor General that any statute that "the Executive believes . . . constitutes . . . an incident of recognition" would be "within the scope of the Executive's power," and thus unconstitutional). The President's recognition power cannot properly be permitted to swallow Congress's legislative authority, or its integral role in the formulation and implementation of foreign policy, where the connection to formal recognition is so distant. This Court should grant certiorari to review this separation of powers question "of profound importance to the Nation." *Rumsfeld v. Padilla*, 542 U.S. 426, 455 (2004) (Stevens, J., dissenting).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

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APPENDIX

APPENDIX A:

Amici Curiae Members of The United States Senate

This Appendix provides *amici*'s affiliations for identification purposes.

Sherrod Brown (D-OH)
United States Senator
Member, Senate Finance Subcommittee on International Trade, Customs and Global Competitiveness

Lindsey Graham (R-SC)
United States Senator
Ranking Member, Senate Appropriations Subcommittee on the Department of State, Foreign Operations, and Related Programs

Carl Levin (D-MI)
United States Senator
Chairman, Senate Committee on Armed Services

APPENDIX B:

Amici Curiae Members of The United States House of Representatives

This Appendix provides *amici*'s affiliations for identification purposes.

Steve Chabot (R-OH-1)
United States Representative
Chairman, House Foreign Affairs Subcommittee on Asia and the Pacific

Eliot L. Engel (D-NY-16)
United States Representative
Ranking Member, House Committee on Foreign Affairs

Ed Royce (R-CA-39)
United States Representative
Chairman, House Committee on Foreign Affairs

Henry A. Waxman (D-CA-33)
United States Representative
Ranking Member, House Committee on Energy and Commerce