



BUSINESS MEETING

Tuesday, April 22, 2008



U.S. SENATE COMMITTEE ON FOREIGN RELATIONS

BUSINESS MEETING

Tuesday, April 22, 2008

U.S. SENATE
COMMITTEE ON FOREIGN RELATIONS
WASHINGTON, D.C.

1 The committee met, pursuant to notice, at 2:20 p.m. in Room S-116, The Capitol,
2 Hon. Joseph R. Biden, Jr., chairman of the committee, presiding.

3 PRESENT: Senators Biden [presiding], Dodd, Kerry, Feingold, Bill Nelson,
4 Menendez, Cardin, Casey, Webb, Lugar, Hagel, Coleman, DeMint, and Barrasso.

OPENING STATEMENT OF HON. JOSEPH R. BIDEN, JR., U.S. SENATOR FROM DELAWARE

5 THE CHAIRMAN: We do not have a quorum to do business yet, but in trying to
6 facilitate everyone's schedule — I think we may have a quorum now. Two more?
7 We're getting there.

8 Let me suggest that — all of your staffs have had the agenda. To the best of my
9 knowledge, there are only two items on the agenda, not only the nominations list, but
10 the promotions list and legislation and the treaty, as well, that require any discussion or
11 anything other than a voice vote, I am told by counsel. Now, obviously, I stand to be
12 corrected if any Senator has a different view.

1 On the nominations list, there are a total of 18 nominations listed. The only one
2 that I believe is going to require a vote is the first on our list: Mr. Mark Kimmitt, to be
3 Assistant Secretary of State for Political-Military Affairs. And when we get to the
4 legislative list, the Senator from Wyoming is not able to be here, but he wants to be
5 recorded, and does not want a roll-call vote. Well, here he is. I don't have to speak for
6 him. We have a quorum.

7 I would move item — on the nominations list, 2 through 18, en bloc.

8 SENATOR KERRY: I second that.

9 THE CHAIRMAN: All in favor say aye.

10 [A chorus of ayes.]

11 THE CHAIRMAN: All those opposed, no.

12 [No response.]

13 THE CHAIRMAN: The ayes have it, and all are agreed to.

14 Now, the one remaining nominee is open for discussion. He was held over, a
15 week, to this week. And that is Mark Kimmitt, to be Assistant Secretary of State for
16 Political-Military Affairs.

17 The floor is open for discussion, if any.

18 The Senator from Florida?

19 SENATOR BILL NELSON: Mr. Chairman, you always give me the dog duty.

20 [Laughter.]

1 THE CHAIRMAN: It's not intentional, Senator, although I do appreciate your
2 hard work.

3 [Laughter.]

4 THE CHAIRMAN: It's your penance for not being able to work out the Florida
5 primary.

6 [Laughter.]

7 THE CHAIRMAN: That was a bad joke. I ask unanimous consent that statement
8 be stricken from the record.

9 [Laughter.]

10 SENATOR BILL NELSON: I've only been trying to work that out for 10 months,
11 Mr. Chairman.

12 Mr. Chairman, Senator Webb wants to speak on this, as well.

13 THE CHAIRMAN: Well, with the Senator's permission, why don't we withhold
14 on that, and we will come back.

15 Let's move, if we can — all in favor of the adoption of the Foreign Service
16 promotions list, say aye.

17 [A chorus of ayes.]

18 THE CHAIRMAN: Opposed, no.

19 [No response.]

20 THE CHAIRMAN: The ayes have it. That is approved.

1 Now, legislative items listed in your agenda, number 20 through 23, is there
2 discussion of any one of those items? I believe the Senator from Wyoming wanted to
3 express his opposition, I'm told, to H.R. 3320, to provide assistance to the Museum of
4 History of Polish Jews in Warsaw, Poland, with an amendment. Is that correct, Senator?

5 SENATOR BARRASSO: Mr. Chairman, I don't have an amendment. I absolutely
6 support the efforts to support the history of the Jews and their tragic story, but I'm not
7 sure the U.S. Government should pay for museums throughout the world, so I would
8 like to be recorded as opposing the bill.

9 Thank you, Mr. Chairman.

10 THE CHAIRMAN: I would move all of the pieces of legislation, en bloc, as well.
11 Is there a second?

12 SENATOR KERRY: Second.

13 THE CHAIRMAN: All those in favor, say aye.

14 [A chorus of ayes.]

15 THE CHAIRMAN: Opposed, no.

16 [No response.]

17 THE CHAIRMAN: The ayes have it. All pieces will be reported to the floor.

18 There is a treaty, item number 24 on the agenda, the Protocol of Amendments to
19 the Convention on the International Hydrographic Organization. Is there a motion to
20 approve?

1 SENATOR KERRY: So moved.

2 SENATOR BILL NELSON: Second.

3 THE CHAIRMAN: All those in favor, say aye.

4 [A chorus of ayes.]

5 THE CHAIRMAN: Opposed, no.

6 [No response.]

7 THE CHAIRMAN: The ayes have it.

8 That brings us back to — is Senator Webb here yet? Well, we should — in fact,
9 we've moved so rapidly through the agenda —

10 SENATOR BILL NELSON: Senator Webb went to 116 in Dirksen.

11 THE CHAIRMAN: Well, we have time. I suggest, unless anyone has anything
12 to bring up, why don't we just recess for 5 minutes, until the Senator gets here, so we
13 don't have a giant pause here, unless there is anything else anyone wants to discuss.

14 SENATOR BILL NELSON: We could discuss the Florida primary.

15 [Laughter.]

16 THE CHAIRMAN: Why don't we do that off the record.

17 Senator, do you have any comments? Are you going to make comments, as well?

18 SENATOR BILL NELSON: Yes, I am.

19 THE CHAIRMAN: Would you like to proceed?

1 SENATOR BILL NELSON: Mr. Chairman, you asked me to review the State
2 Department report, and the State Department report was done, and did not include an
3 inspector general's report that was done in the Department of Defense. And that came
4 as a result of you, Mr. Chairman and Senator Lugar, asking for an IG report when this
5 committee got some complaints about the nominee.

6 Now, let me tell you what the inspector general's report said. It concluded,
7 quote, "Kimmitt's leadership style was occasionally inconsistent with the standards
8 expected for senior government leaders." Moreover, the report concludes that
9 Kimmitt's leadership, quote, "contributed to management and morale problems within
10 the Middle East Office, specifically the Iraq Division." The conclusions understate the
11 negative information that has been called into this committee which sets forth, through
12 numerous interviews with Defense Department personnel, that Kimmitt has difficulty
13 controlling his anger, is frequently demeaning to subordinates, and would occasionally
14 threaten people with losing their job. And it notes that those threats were not acted on.

15 The inspector general found that Kimmitt was reported to bring some superb
16 qualifications and intellect to his position, but that his leadership style produced an
17 atmosphere of fear in the office that discouraged subordinates from free and open
18 communication with him.

19 Now, when we last discussed this, Senator Dodd said, "Well, these anonymous
20 sources" — he doesn't like the anonymous sources. And some of you — maybe it was

1 Senator Cardin — said, "Well, let's wait a while for this. The fact is that the inspector
2 general interviewed 11 witnesses that Kimmitt presented. They were not anonymous.
3 And many of those names that Kimmitt supplied, himself, raised these concerns with
4 respect to his management style. Two witnesses independently described the office as,
5 quote, "walking on eggshells in order to avoid his wrath." One witness described him
6 as making employees feel, quote, "afraid to do their jobs, afraid to move," end of quote.
7 A witness described — and this is all IG witnesses — a witness described an incident in
8 which Kimmitt accused him of being a traitor after he had accidentally received a high-
9 priority document meant for Kimmitt. Kimmitt established — this is the IG report —
10 Kimmitt established an office rule that no one in his office could contact another U.S.
11 Government employee of higher rank than themselves in another office. When he
12 found out that one of his subordinates had spoken to a person Kimmitt considered to be
13 above the subordinate's level, he told the person that, quote, "He should seek
14 employment elsewhere in the building," end of quote. Another witness testified that he
15 found an assistant of Kimmitt in tears no less than five times after run-ins with Kimmitt,
16 and that on two of those occasions the assistant had the impression that her job was at
17 risk. Kimmitt made templates to measure document formats and required that
18 documents be redone if they were a quarter or a tenth of an inch off specifications.

1 Now, one of Kimmitt's current supervisors, Mary Beth Long, stated, since
2 September of '06, two subordinates had come to her with complaints regarding his
3 conduct, and each incident she reacted by counseling Kimmitt.

4 Another prior supervisor testified that, quote, "He would speak with Kimmitt
5 about the latter's abrasive aspects three or four times a month, but noted that his need to
6 do so diminished over time."

7 So, I'm just telling you what the IG's report said. This Senator, on the basis of
8 that, in an atmosphere where we so value the interaction with subordinates, I don't
9 think that's the right atmosphere to have.

10 THE CHAIRMAN: Thank you.

11 Senator Webb, did you have comment?

12 SENATOR WEBB: That's kind of a hard chore for Senator Nelson to perform,
13 but I would associate myself with his conclusions.

14 THE CHAIRMAN: Are there any other comments?

15 SENATOR MENENDEZ: For the reasons Senator Nelson stated, that this is the
16 Assistant Secretary of State for Political-Military Affairs — now, you need an
17 environment under which all of the people working for you need to feel that they are in
18 common cause and not the subject of retribution or fear.

19 And, you know, it's not anonymous sources. These are the inspector general's
20 report, having interviewed these individuals. And if it was one case or two cases,

1 maybe you would say, "Well, maybe it's the individuals." But, I've always learned,
2 when there's a lot of circumstances that are verified, that it's not everybody else that's
3 the problem, it's the individual.

4 I cannot, in good conscience, vote for Mr. Kimmitt. I intend to vote against him.

5 SENATOR BILL NELSON: Mr. Chairman, I want to reassert that those were not
6 my words. I am relaying to you — because the Chairman asked me to do the
7 examination, I am relaying to you the words in the Department of Defense inspector
8 general's report.

9 THE CHAIRMAN: Let me say, I think the report is troubling. The report also
10 has some positive things to say about Mr. Kimmitt's capabilities, his intellect, and his
11 judgment. And I must tell you — so that I put fully on the record my prejudice here, I
12 must admit to you that I am putting my hope ahead of what the record says, and that is
13 that I hope that Mr. Kimmitt, having been made fully aware, as his superior had
14 indicated he had to speak to him less — and he raised this — I hope he understands,
15 with the delay, that his conduct has caused in the consideration of his nomination, as
16 well as the public nature of what is now not just something inside the Department,
17 inside one department within the Department, that it's public knowledge that he
18 brought upon himself, that he will be chastened.

19 But, I admit to you that, although — I don't know — I think I probably met Mr.
20 Kimmitt, but I am erring on the side of giving him the benefit of the doubt that this is a

1 management-changing event that he has gone through, because, in part, I'm prepared to
2 give him the benefit of the doubt because I knew his father so long and so well, and his
3 father gave me the benefit of the doubt as a 29-year-old Senator, or Senator-elect. But, it
4 is disturbing. I want to be completely honest, it is a close call. And I'm not sure — if I
5 did not know, by extension, the family through his deceased father, I'm not sure how I
6 would vote, to be very blunt about it, because the conduct is inappropriate.

7 And the point made by our colleague from New Jersey, this is a promotion, this
8 is an important position. And, again, I am going to let my hope triumph over my
9 concerns here. But, I have to admit to you, I think it is a very close call.

10 The Senator from Massachusetts?

11 SENATOR KERRY: I just have a question of the Senator from Florida.

12 Senator Nelson, you mentioned something about a subsequent more-recent event
13 or something as of September. Could you restate that?

14 SENATOR BILL NELSON: The original State Department report was completed
15 sometime last year. Then the IG report was done.

16 SENATOR KERRY: What was the date of the original statement?

17 SENATOR BILL NELSON: The State Department report was sometime last year.

18 SENATOR KERRY: That involved how many people — the original State
19 Department report involved how many people?

1 SENATOR BILL NELSON: The committee received the IG — our committee
2 received the IG report January the 15th of this year. And what I said about September
3 was, just before Kimmitt's hearing in September, the committee received a letter, from
4 an anonymous source, making several allegations regarding his management and
5 interpersonal skills. We went ahead with the hearing, but asked — this committee
6 asked the inspector general of the Department of Defense to investigate the complaint.
7 And it held off on a committee vote until receiving the IG report. Then the IG report
8 was received on January the 15th of this year. And that is the report that I quoted from.

9 THE CHAIRMAN: I would say to the Senator from Massachusetts — and I
10 would let the Senator explain it — to the best of my knowledge, there's no information
11 that has been processed by this committee in the Defense Department IG report or any
12 other source subsequent to the submission of the IG report at my request. What caused
13 me to make the request is, at the hearing and subsequent to the hearing, there were
14 some anonymous reports that came forward, talking about the nominee's personal style,
15 management style, his temperament, and how he treated subordinates. And I thought
16 they were serious enough, on the recommendation of the Senator from Florida, that I
17 asked for the Defense Department inspector general to do a report.

18 Now, one of the things in — that report came in, in January of this past year, 5
19 months ago, or 4 months ago, not quite 4 months ago, and once that report was in, the
20 Senator from Florida raised a very pertinent point. He wanted to know whether or not

1 — when the recommendation came from the Department for this nominee, had they the
2 benefit of this IG's report? And what I did not want to do — and the Senator agreed —
3 I did not want to compromise the independence of this committee being able to ask for
4 its own independent reports, not having to go through the administration. So, there
5 was a little bit of confusion about wanting the administration to get this report formally
6 incorporated into their recommendations and send it back to us.

7 What we agreed upon, upon reflection, is, we would make the report available to
8 — available to the administration to give them an opportunity, as has occurred in the
9 past with a nominee, who I will not name, who — that Senator Lugar and I asked for a
10 report on. We went it to the White House and said, "Do you still want to stand by this
11 particular person?" And the White House said, "No, we don't want to stand by this
12 person," and they withdrew the name. This was sent back to the administration. The
13 administration reviewed the IG report. No one, to the best of my knowledge, doubted
14 any of its authenticity or questioned it, it was just concluded that it did not, in the eyes
15 of the administration, rise to the level for them to reconsider the nomination.

16 And so, this has been on the docket, essentially, since September of last year,
17 when the hearing was held by the Senator from Florida. And it has now come to a
18 head.

19 So, that's the chronology. Again, to the best of my knowledge — and I stand to
20 be corrected, if staff knows differently — there's nothing substantively different that has

1 occurred that we're aware of, in terms of the conduct of the nominee from the moment
2 the IG report was concluded until today.

3 SENATOR MENENDEZ: Just, may I ask the Senator from Florida, as he made
4 his report — I just want to make sure of one thing — I understood you to say, from your
5 report, that 11 individuals — Kimmitt offered 11 individuals to the inspector general. I
6 assume he would admit those individuals who would speak well of him, and, in fact,
7 several of those who were found by the inspector general to verify some of the charges
8 that were made by others. Is that a correct statement?

9 SENATOR BILL NELSON: Yes. The inspector general interviewed 30 witnesses,
10 including Kimmitt. Eleven of those 30 interviewed were recommended by Kimmitt, yet
11 many of those witnesses raised serious concerns with respect to his management style.

12 SENATOR MENENDEZ: And I think, Mr. Chairman, just to finalize the point,
13 when you, yourself, offer a series of individuals to the inspector general to speak and
14 say — you believe they would speak well on your behalf. In fact, several of them, in
15 fact, verified the allegations made by others. It just shows the disconnect the individual
16 has as it relates to understanding that he, in fact, is not managing in an appropriate and
17 professional manner. I think it is very telling that several of those individuals, even
18 self-recommended, actually verified that, in fact, the way in which he acted wasn't
19 appropriate.

1 THE CHAIRMAN: If I may, I misspoke in one important regard, but — it is not
2 consequential, in my view, but I'll explain it — but let me respond directly to the point
3 the Senator from New Jersey made. That's the reason I'm giving him the benefit of the
4 doubt. The people that he recommended, several of those — and they may very well
5 have been the same ones who raised the red flag, without us knowing who they were,
6 back in September. It seems to me it's less a matter of, almost, intent than it is not
7 understanding how abrasive his conduct was to the ear of the subordinate. And,
8 therefore, being made aware of that now in such a public way, I am erring on the side
9 that that is not the case, as opposed to — as opposed to giving people who would
10 tender positive recommendations about him and explicitly excluding people who may
11 very well render negative assessments of him. So, it goes to being — as best light I can
12 put — and I admit as being tone deaf — the best light I can put on it. But, I admit it to
13 you at the front end, why I am prepared to give — the two reasons I'm prepared to give
14 him the benefit of the doubt.

15 Let me clarify one last thing before we vote. The inspector general — the hearing
16 was in September. I asked for an inspector general's report subsequent to the hearing.
17 The Senator from Florida reported on that. The inspector general delivered the report
18 in January. Just as we were preparing to vote on General Kimmitt's nomination, we
19 received the second letter, which alleged that General Kimmitt had mishandled

1 classified information. I asked the inspector general to go back and look at that,
2 investigate that complaint.

3 The inspector general, the same one who wrote what was included to be
4 described as a negative report, came back and said there was no basis for the allegation
5 that he had mishandled classified information. So, there was a subsequent — it did not
6 relate to his treatment of subordinates, but it was an allegation, allegedly from a
7 subordinate — I can't swear to that — relating to his handling of classified information,
8 which the inspector general concluded was not warranted, was not merited.

9 Is there any further discussion? I assume we want a roll-call vote.

10 Would the Clerk please call the roll?

11 The Clerk: Mr. Dodd?

12 SENATOR DODD: Aye.

13 The Clerk: Mr. Kerry?

14 SENATOR KERRY: No.

15 The Clerk: Mr. Feingold?

16 SENATOR FEINGOLD: Aye.

17 The Clerk: Mrs. Boxer?

18 THE CHAIRMAN: No, by proxy.

19 The Clerk: Mr. Nelson?

20 SENATOR BILL NELSON: No.

1 The Clerk: Mr. Obama?

2 THE CHAIRMAN: I don't have a proxy.

3 The Clerk: Mr. Menendez?

4 SENATOR MENENDEZ: No.

5 The Clerk: Mr. Cardin?

6 SENATOR CARDIN: No.

7 The Clerk: Mr. Casey?

8 Senator Casey: No.

9 The Clerk: Mr. Webb?

10 SENATOR WEBB: No.

11 The Clerk: Mr. Lugar?

12 SENATOR LUGAR: Aye.

13 The Clerk: Mr. Hagel?

14 SENATOR HAGEL: Aye.

15 The Clerk: Mr. Coleman?

16 SENATOR COLEMAN: Aye.

17 The Clerk: Mr. Corker?

18 SENATOR LUGAR: Aye, by proxy.

19 The Clerk: Mr. Voinovich?

20 SENATOR LUGAR: Aye, by proxy.

1 The Clerk: Ms. Murkowski?

2 SENATOR LUGAR: Aye, by proxy.

3 The Clerk: Mr. DeMint?

4 Senator DeMint: Aye.

5 The Clerk: Mr. Isakson?

6 SENATOR LUGAR: Aye, by proxy.

7 The Clerk: Mr. Vitter?

8 SENATOR LUGAR: Aye, by proxy.

9 The Clerk: Mr. Barrasso?

10 SENATOR BARRASSO: Aye.

11 The Clerk: Mr. Chairman?

12 THE CHAIRMAN: Aye.

13 What's the final vote?

14 The Clerk: I have 13 ayes and 7 nays.

15 THE CHAIRMAN: Before we leave, Senator DeMint asked unanimous consent
16 he be added as a cosponsor to S. Res. 532 — 523, I misspoke. Without objection, he will
17 be added.

18 SENATOR DODD: Mr. Chairman, I just want to note, on the 11 through 17, I
19 want to thank Senator Menendez and Senator Corker. We had a very good hearing on

1 these nominees to go to Central America and other places. Excellent nominees, I want
2 to say. By the way, it was a very, very good hearing.

3 THE CHAIRMAN: I thank the committee for their attention.

4 We are adjourned.

[Whereupon, at 2:45 p.m., the hearing was adjourned.]