



BUSINESS MEETING

Thursday, March 13, 2008



U.S. SENATE COMMITTEE ON FOREIGN RELATIONS

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WASHINGTON, D.C.

1 The committee met, pursuant to notice, at 10:25 a.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, Boxer, Nelson,
4 Menendez, Cardin, Casey, Webb, Lugar, Hagel, Coleman, Corker, Murkowski, DeMint,
5 Isakson, and Barrasso.

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

6 **THE CHAIRMAN:** The committee will come to order. We have a quorum, I am
7 told.

8 Today, the committee meets to consider legislation to reauthorize the Global
9 AIDS, Tuberculosis, and Malaria programs of the U.S. Government. And, after we
10 finish action on the AIDS bill, we're going to consider several nominations.

11 The bill before the committee today is a bipartisan product, in the truest sense of
12 that word. It was introduced last week by Senator Lugar and me, Senators Kennedy
13 and Sununu, and has since been cosponsored by Senators Kerry and Hagel. And I
14 expect, and hope, it will have pretty universal support.

15 The bill is entitled the Tom Lantos and Henry J. Hyde — they're both smiling in
16 that; they were friends; they disagreed on a lot of things, but they were close friends —
17 Tom Lantos and Henry J. Hyde, United States Global Leadership Against — HIV/AIDS,
18 Tuberculosis, and Malaria Reauthorization Act of 2008, in recognition of the great

1 service to this issue by our recently departed friends from the House of Representatives.
2 It closely mirrors the compromise, reached in the House 2 weeks ago, which the
3 President has endorsed.

4 There are a few differences, but most of the major elements of the House bill are
5 in the Senate bill. And I hope that this is going to facilitate quick action.

6 The one objective Senator Lugar and I had, speaking — presumptuous of me —
7 I'm not speaking for Senator Lugar, but I know it reflects his view — was, we wanted to
8 get this up and out, because the quicker we get this moving, the more lives we're going
9 to be saving. And so, I hope this is going to facilitate quick action once we get to
10 conference.

11 In the last 5 years, the United States Government and its partners around the
12 world have made great strides in combating HIV/AIDS. Nearly 1.5 million people have
13 been saved from almost certain death by antiretroviral drugs, and 150,000 babies have
14 been born without HIV, because of the efforts to prevent the transmission of the disease
15 from infected mothers. Millions of people suffering from AIDS have received treatment
16 and care, and over 2 million orphans and vulnerable children have received care,
17 education, and support as a consequence of this effort. Across Africa, we've given
18 millions of people hope for a better and a longer life.

19 Even the most optimistic among us would not have predicted these dramatic
20 results. Great credit must go to President Bush. I'm often critical of President Bush, but,
21 as I said to him personally two weeks ago at the White House, and I say again now, he

1 deserves great credit. He challenged our Government, and the governments of Africa
2 and the world, to respond to a moral and strategic crisis. And credit also goes to the
3 thousands of dedicated people, serving here and abroad, and to the American people
4 for their generosity in supporting this program.

5 We've made great progress, but much more has to be done. Thousands of new
6 infections occur every day. For every person enrolled in a treatment program last year,
7 six more were infected.

8 The bill that we consider today will reauthorize the Global HIV/AIDS,
9 Tuberculosis, and Malaria programs for the next 5 years, and the authorization is for
10 \$50 billion over that period, of which \$9 billion is devoted to fighting TB and malaria,
11 two diseases that are major causes of death in the developing world. This figure is
12 higher than the President requested, which was \$30 billion, but that \$30 billion would
13 have barely kept pace with inflation, as we're already funding current programs at a
14 rate of nearly \$6 billion a year. With this additional funding, we expect additional
15 progress, and we call for a higher target for treatment than the President did.

16 Additionally, the President's request dealt only with HIV/AIDS, although initial
17 legislation in 2003 covered all three of the deadly diseases, as does the bill before us
18 today.

19 Our legislation also strengthens oversight, both to ensure that taxpayers' dollars
20 are well spent and to maximize the lifesaving impact of these programs. The bill keeps
21 the basic framework of the program intact, but makes important adjustments, based on

1 lessons learned over the past 5 years. First among these is the bill removes most
2 earmarks in law that set forth the percentages that must be devoted to treatment, to
3 care, and to prevention. A major study by the Institute of Medicine, as well as one by
4 the Government Accountability Office, concluded that these earmarks unduly limited
5 flexibility. Instead, we should let our professionals in the field, and their local partners,
6 tailor their responses to local conditions. The only earmark retained is a 10-percent
7 allocation for orphans and vulnerable children, for which there appears to be universal
8 support.

9 We chose to eliminate earmarks, to maximize flexibility. But, we recognize it's
10 imperative that priorities, such as antiretroviral treatment, are maintained. That's why
11 we required a timetable and yearly reports on progress in providing treatment.

12 The bill also seeks to better coordinate our HIV/AIDS program with other
13 development programs. Across the developing world, people infected by HIV/AIDS
14 face many other health and economic challenges. We need to better coordinate all of
15 our health programs to promote efficiencies and expand the number of people we
16 reach. Nutrition is the best example of how we could positively affect people's lives by
17 improving coordination.

18 The bill promotes local health capacities, an enormous challenge in Africa in
19 combating this disease. It also emphasizes the need to address the special
20 vulnerabilities and needs of girls and women, who make up almost six out of ten new
21 HIV/AIDS cases in Africa.

1 The bill pushes the U.S. Government to plan for the long term. We need to move
2 more from responding to emergencies toward building sustainability.

3 Perhaps most important, this legislation puts a major emphasis on prevention.
4 We cannot win the fight against HIV/AIDS unless we expand and improve efforts to
5 prevent its spread. Such efforts must include the so-called ABC approach — abstinence,
6 being faithful, and proper use of condoms — all of which save lives. This bill requires a
7 balanced approach to prevention, and one that responds to the local drivers of the
8 epidemic.

9 I now yield to my colleague Senator Lugar.

**STATEMENT OF HON. RICHARD G. LUGAR,
U.S. SENATOR FROM INDIANA**

10 **SENATOR LUGAR:** Mr. Chairman, I will read just two paragraphs from my
11 comments, and ask that it be made a part of the record.

[The prepared statement of Senator Lugar follows:]

[COMMITTEE INSERT]

12 **SENATOR LUGAR:** I just simply want to say we have an opportunity today to
13 establish policy, on a bipartisan basis, that will be a triumph for the United States. We
14 have the opportunity to save lives, on a massive scale, and preserve the fabric of
15 numerous fragile societies. And this is the reason, of course, that we've begun work on
16 this, last year. Things have progressed through many compromises, on a bipartisan
17 basis. And I applaud the chairman for calling this markup today, because many other

1 countries are in the process of making their decisions; and without prompt action on
2 our part, there will be grave gaps in the service of saving lives [inaudible].

3 **THE CHAIRMAN:** Thank you.

4 **SENATOR LUGAR:** Thank you, Mr. Chairman.

5 **THE CHAIRMAN:** Thank you, Senator.

6 Our colleague, Senator Dodd, asked to be recognized.

**STATEMENT OF HON. CHRISTOPHER DODD,
U.S. SENATOR FROM CONNECTICUT**

7 **SENATOR DODD:** Well, just briefly, Mr. Chairman.

8 I want to underscore your points about President Bush. We all know we're all,
9 certainly, critical — not hesitant to be critical, but I think we also need to be positive
10 when the administration has taken positive action. And I want to commend them, as
11 well.

12 And I want to mention Gordon Smith. He and I have introduced some
13 legislation dealing with global pediatric HIV/AIDS. And you were very generous, you
14 and Senator Lugar, to include several provisions dealing with that prevention from
15 mother-to-child AIDS, we can reduce that number down to less than 2 percent, in fact,
16 when you — we have some very sophisticated medications that could be available;
17 unfortunately, not as available as they should be. But, if we can do that, this bill really
18 takes a major step in that direction.

1 And I just want to thank both of you for including the language of Senator
2 Smith's and my proposal in this bill. And the bill can make a big difference.

3 Thank you.

4 **THE CHAIRMAN:** Well, the thanks, Senator, should go the other way. Thank
5 you and Senator Smith for bringing it to our attention. It is important.

6 Before we move to see if there's any amendments, I'd like to move the managers'
7 amendments, which I understand are — have been submitted by — they include
8 amendments submitted by Dodd, Kerry, DeMint, Feingold, Obama, Nelson, and
9 Cardin. They strengthen the language on pediatric AIDS treatment, prevention,
10 transmission of HIV from mothers to children — just referenced — and health capacity.

11 And so, to the best of my knowledge, they've been cleared with all the staffs on
12 both sides of the aisle, and I would move the adoption of the managers' amendment.

13 **SENATOR LUGAR:** Second.

14 **THE CHAIRMAN:** Is there any objection?

[No response.]

15 **THE CHAIRMAN:** There's been a second. If there's no objection, it is agreed to.

16 Now, let me open the floor to anyone.

17 And, by the way, Ambassador Dybul, thank you for being here. The
18 Ambassador is the Global AIDS coordinator, and he is here — and we appreciate it — in
19 case there's any questions that anyone may have of him.

20 But, Senator Boxer seeks recognition.

1 **SENATOR BOXER:** Mr. Chairman, I would like — if I could get some answers
2 to just two quick questions, I will not be offering an amendment, but I wanted to take
3 just about a minute or so —

4 **THE CHAIRMAN:** Take whatever time you need.

5 **SENATOR BOXER:** — thank you — to state that I'm really glad we're doing this
6 bill. This is crucial. And this is an area where there is bipartisan agreement. I am
7 disappointed that the bill before us today does not acknowledge the important links
8 between family planning and HIV/AIDS programs. The '08 report on PEPFAR,
9 prepared by the Bush administration's Global AIDS Coordinator, states — and this is
10 the Bush administration speaking — quote, "Voluntary family planning programs
11 provide a key venue in which to reach women who may be at high risk for HIV
12 infection. PEPFAR supports the provision of confidential HIV counseling and testing
13 within family planning sites, as well as linkages with HIV care and treatment for
14 women who test HIV positive," unquote.

15 The Global AIDS Coordinator has also said that, quote, "Voluntary family
16 planning clinics and programs are an important HIV/AIDS care delivery point and play
17 a key role in reducing morbidity from HIV/AIDS."

18 There is concern, Mr. Chairman, that the House version of this bill may extend
19 the global gag rule to the PEPFAR program, which is troublesome, since President Bush
20 himself issued an executive order in '03 specifically exempting PEPFAR from the global
21 gag rule.

1 So, I have these two questions. First, does anything in this bill prevent the
2 important linkages between family planning and HIV/AIDS programs?

3 **THE CHAIRMAN:** No, Senator, it does not.

4 **SENATOR BOXER:** The second thing is, does anything in this bill overturn the
5 executive order issued by President Bush in '03 that exempts PEPFAR from the global
6 gag rule?

7 **THE CHAIRMAN:** No, Senator, it does not.

8 **SENATOR BOXER:** Well, I thank you very much. Then I won't be offering any
9 amendments at this time.

10 **THE CHAIRMAN:** Anyone else wish to seek recognition?

11 **SENATOR KERRY:** Mr. Chairman, just before you race forward on it, which I
12 appreciate.

13 First of all, I want to thank you and Senator Lugar for upping the amount of
14 money, and for refining this bill, to a large measure.

15 I would like to also thank you for the two parts in it — one on the vaccines,
16 which is important, and the second on the policy with respect to HIV-positive people,
17 who are experts and knowledgeable and coming into the country to be able to take part
18 in conferences and other things, which is important.

19 And I think it is most appropriate that the bill you going to carry the name of
20 Tom Lantos and Henry Hyde. I appreciate that.

1 One thing I would point out to colleagues — and, you know, I know how these
2 work around here, and you do, too, Mr. Chairman, you've been here longer than most
3 of us — this is a bill that we wrote here in this committee. Senator Frist and I wrote this
4 in 2002, and started this program. And for 2 years, we fought for \$15 billion, and were
5 denied it and denied it, and finally the administration grabbed it, and the President
6 created it, and took the \$15 billion and then upped it. And we're pleased with that.
7 Obviously, we applaud that action.

8 But, I was recently in South Africa, and I was in a, you know, small school and in
9 several AIDS-related places, and I saw these big posters that — you walk out and it says
10 just "President's Emergency Plan." It doesn't even say which president. You don't even
11 know who it is. I personally think it is badly named. I just personally feel this. And I'm
12 not saying it because I had an original stake in it. This is the American people's
13 program. This is a United States program. Our reputation as a country is on the line
14 over there. And the President will leave in 10 months, and, you know, this continues to
15 be the American people's foreign policy and aid program. And I personally think —
16 you know, this is not personal to the President; I want to assure you of that, but it just
17 didn't make sense to me to see a poster that said "President's Plan." You don't even
18 know whether it's President Thabo Mbeki, President Museveni. I mean, who is it?

19 So, there's nothing — I think we could — you know, I think we need to do a
20 better job of explaining to people what we're doing in parts of the world, and this is one
21 of the things that we could do.

1 So, personally, I think it ought to be the — you know, either "The United States
2 Emergency Plan" or "The American People's Emergency Plan" or something, just as —
3 and not anything denying the President something, but because I think that is an
4 instrument of our affirmative aid in the world, of our efforts to reach out and connect to
5 people, and it is the American people who are spending the money.

6 **THE CHAIRMAN:** Well, Senator, you make — in a generic sense, you make a
7 good point that — one of the things that I'm sure all of us — and everyone around this
8 table travels around the world, particularly to parts of the world that are in real need of
9 development aid and the like — and the — one of the things that Senator Lugar and I
10 just recently held a hearing on relates to the impact of our development aid and the
11 impact of our diplomacy, having significant effect. When you and I were in Pakistan,
12 just recently, it was interesting to see our diplomats point out, as well as our foreign
13 interlocutors, that the single most significant thing we've done with regard to Pakistan
14 is the earthquake relief and how that radically changed people's attitudes about us for a
15 period. And Senator Hagel was along with us, as well.

16 So, the generic point that it — making clear that the program comes from
17 America — I, quite frankly, wouldn't care if it said "The President of the United States of
18 America's Plan" or "The People's Plan," as long as it is clear — which I was unaware of
19 — that it is clear that the United States of America is sponsoring this effort.

20 It used to be — and I'll conclude with this — it used to be I felt — I thought we
21 were being, sort of, self-consciously, you know, assertive when we would attach —

1 when I first got here, we would say, "This is a U.S. aid program." And it seemed to me
2 if aid was needed, it didn't matter to me whether or not the United States got credit for
3 it or not, as long as the aid went forward.

4 But, in light of the state of the Nation and the exercise of force that has not been
5 greeted well around the world, I've come to change my mind. I would say to the
6 chairman that it's important that the label be on it, so people know we do more —
7 which we do much more — than make wars. So, it is a point well taken.

8 And maybe we can — I would be delighted to join you and others in speaking
9 with the — our Ambassador on how it's advertised. But, I thank you for the
10 observation.

11 Yes?

12 **SENATOR COLEMAN:** Mr. Chairman, I just want to, again, thank you and the
13 ranking member for your leadership, and also thank you for including in this bill some
14 of the work that Senator Durbin and Senator Feingold and I have done on — with the
15 African Healthcare Capacity Act. So often we put money on the table, but we don't
16 have any capacity to deliver the money. And, I know, even in the manager's
17 amendment, we continue to work on this to expand the definition of "healthcare
18 professionals," "paraprofessionals." There is a critical crisis, in terms of the healthcare
19 delivery system itself, so the money alone is not enough, unless we can get it out. And
20 this bill addresses that. And we want the management to continue that, to make sure
21 that we're doing the things that need to be done to effectively deliver the services.

1 Thank you.

2 **THE CHAIRMAN:** Well, again, you're crediting the chairman and I. We really
3 — you and Senator Feingold and others — look, again, a generic point, very briefly —
4 all of the nations that are either failed, failing, or in dire shape — and my observation is
5 that the single greatest lacking element is capacity, whether it's the capacity from the
6 military, to capacity for their public health sector. And so, I — we couldn't agree with
7 you more. Thank you for your leadership in this. And we — it's very helpful.

8 Is there any further discussion on the AIDS legislation?

9 **SENATOR LUGAR:** I move adoption of the legislation.

10 **THE CHAIRMAN:** Is there a second?

11 **SENATOR KERRY:** Second.

12 **THE CHAIRMAN:** I think we should have a roll-call vote on it, if you would,
13 please, on this.

14 **THE CLERK:** Mr. Dodd?

15 **SENATOR DODD:** Aye.

16 **THE CLERK:** Mr. Kerry?

17 **SENATOR KERRY:** Aye.

18 **THE CLERK:** Mr. Feingold?

19 **SENATOR FEINGOLD:** Aye.

20 **THE CLERK:** Mrs. Boxer?

21 **SENATOR BOXER:** Aye.

1 **THE CLERK:** Mr. Nelson?

2 **SENATOR NELSON:** Aye.

3 **THE CLERK:** Mr. Obama?

4 **THE CHAIRMAN:** Aye, by proxy.

5 **THE CLERK:** Mr. Menendez?

6 **SENATOR MENENDEZ:** Aye.

7 **THE CLERK:** Mr. Cardin?

8 **SENATOR CARDIN:** Aye.

9 **THE CLERK:** Mr. Casey?

10 **SENATOR CASEY:** Aye.

11 **THE CLERK:** Mr. Webb?

12 **SENATOR WEBB:** Aye.

13 **THE CLERK:** Mr. Lugar?

14 **SENATOR LUGAR:** Aye.

15 **THE CLERK:** Mr. Hagel?

16 **SENATOR HAGEL:** Aye.

17 **THE CLERK:** Mr. Coleman?

18 **SENATOR COLEMAN:** Aye.

19 **THE CLERK:** Mr. Corker?

20 **SENATOR CORKER:** Aye.

21 **THE CLERK:** Mr. Voinovich?

1 **SENATOR LUGAR:** Votes aye, by proxy.

2 **THE CLERK:** Ms. Murkowski?

3 **SENATOR MURKOWSKI:** Aye.

4 **THE CLERK:** Mr. DeMint?

5 **SENATOR LUGAR:** Votes no, by proxy.

6 **THE CLERK:** Mr. Isakson?

7 **SENATOR ISAKSON:** Aye.

8 **THE CLERK:** Mr. Vitter?

9 **SENATOR LUGAR:** Votes no, by proxy.

10 **THE CLERK:** Mr. Barrasso?

11 **SENATOR BARRASSO:** No.

12 **THE CLERK:** Mr. Chairman?

13 **THE CHAIRMAN:** Aye.

14 **THE CLERK:** The vote is 18 ayes, 3 nays.

15 **THE CHAIRMAN:** The legislation passes.

16 And, again, let me thank everyone. This is — we met with the President, just 10
17 days or so ago, to — I want to thank the White House for working so closely with us
18 and getting this done and out. And hopefully we'll get to conference quickly, and get
19 this resolved, and move it.

20 Now, the last — the next item on the agenda, if I can find the agenda here, is our
21 three nominations: William R. Steiger, to be Ambassador to the Republic of

1 Mozambique; Mr. Mark Kimmitt, Assistant Secretary of State for Political-Military
2 Affairs; and Foreign Service Officer Promotion List, dated February 6, 2008 — Allan P.
3 Mustard, et al.

4 Is there any objection to any of the nominees?

5 The Senator from Florida?

6 **SENATOR BILL NELSON:** Mr. Chairman, I always seem to always get the dog
7 duty.

[Laughter.]

8 **SENATOR BILL NELSON:** The committee asked me —

9 **THE CHAIRMAN:** We should leave that to Georgia. That's where the dogs are.

[Laughter.]

10 **SENATOR BILL NELSON:** — to read the State Department report on Mr.
11 Kimmitt. And what I discovered was that the State Department report does not include
12 the inspector general's report that was asked by this committee — the inspector general
13 of the Department of Defense — and was received by this committee on January the
14 15th. So, I have suggested to the State Department that they should include the
15 inspector general's report of DOD, which is quite critical of the nominee. And so, I
16 would not be prepared, until we have that final report, for the nomination to go
17 forward.

18 **THE CHAIRMAN:** Well, Senator, if I could respond. I, quite frankly, agree with
19 your implied skepticism about the nominee, or at least the report. If, in fact, the

1 inspector general's report, which I — we asked for, is included, routinely, with the
2 White House report, I worry — that is a problem. All they're going to do is overlay it,
3 number one. It's available to both of us — to them and to us. But, I want to make it
4 clear, the inspector general does not work for the White House. The inspector general
5 report is a product of our request. So, I have no objection to you holding this over, but
6 maybe you and I could talk, afterwards. I do not want to set a precedent, where an
7 inspector general report, that we seek and is written for the committee, is in any way
8 have to be signed off on, added to, be part of the executive branch's reference to us. We
9 made it available to them. They're aware of it.

10 And I would say, to my colleagues, our friend from Florida is correct, in that it
11 would — might — it is a critical report, but it is available. Both reports are available —
12 the report from the White House, the report from the inspector general. I just want to
13 make sure, Bill, that we don't get into the position where we dilute the — our — this
14 committee's jurisdiction by implying that the inspector general report has to be
15 somehow signed off, made available to, or be part of the administration's report to us.
16 That's — I realize that is an institutional issue, but I think it is relatively important.

17 So, if you wish to hold it over — I would prefer just to vote on it, but if you wish
18 to hold it over, that's fine by me, for anyone who wishes to find out more about these
19 two reports.

20 **SENATOR DODD:** Mr. Chairman, I haven't had a chance to look at this, either.
21 I think your point is a good one. I know the Kimmitt family pretty well, and I know

1 there are some allegations in here, apparently. I haven't read it yet, but I gather there
2 are people who — unnamed individuals — and I realize that can happen when people
3 don't like their names used, fearful there may be retribution of some sort, but I hope
4 we'll be careful about allegations about people, where they don't want to associate their
5 names, because that's dangerous stuff, in my view.

6 And, again, I'm not objective about this, in a sense. I know Mark, and I know the
7 family. And so, I have — feel that he is a very competent individual. There may be
8 people — but, I hope, at some point, we will insist that if people are going to make
9 allegations against people, that they be willing to say who they are so we can
10 corroborate it, rather than just rely upon unsubstantiated allegations by people who
11 may have another ax to grind. That's the only point I wanted to make, Mr. Chairman.

12 **THE CHAIRMAN:** Let me just say one thing, because it is important here. A lot
13 of us know the Kimmitt family, and it has been a great family and a lot of service to the
14 country. I want to make it clear that the report in question has nothing about
15 malfeasance, there is nothing about any wrongdoing, there is nothing that goes to an
16 ethical question. It relates to mostly temperament issues and whether or not underlings
17 were — "underlings," that's the wrong phrase, but — his subordinates and his
18 management style was appropriate.

19 But, I want to make it clear, for the record and for the press that's here and
20 anyone else listening, there is no allegation, there is no reference, there is no intimation

1 of anything having to do with violation of an ethical standard and/or any malfeasance
2 relating to the way in which he's conducted himself.

3 Yes, Senator Lugar?

4 **SENATOR LUGAR:** Mr. Chairman, just — it's out of order, but I failed to say, at
5 the end of our last vote, that we would be remiss in not acknowledging the debt our
6 staffs have in preparing this. Shellie Bressler, Paul Foldi, and Shannon Smith should be
7 commended.

8 **THE CHAIRMAN:** By the way, I agree with that. This was a pretty herculean
9 job to get done in a week — or 10 days, and the staff did an incredibly, incredibly good
10 job, across the board.

11 **SENATOR LUGAR:** Let me just say, I'm willing to vote for General Mark
12 Kimmitt, who is nominated to be Ambassador — Assistant Secretary of State. Several
13 anonymous letters were sent to the committee, alleging that in his capacity as Deputy
14 Assistant Secretary of Defense for Middle East Affairs, General Kimmitt had committed
15 personnel violations, used inappropriate language, and engaged in overly aggressive
16 and confrontational management practices. In response, Chairman Biden requested the
17 Defense Department inspector general conduct an investigation.

18 The inspector general did not find evidence that General Kimmitt had violated
19 personnel regulations, engaged in physical intimidation, or used disparaging remarks
20 to his subordinates. The report did find that General Kimmitt's aggressive leadership
21 style, at times, had been intimidating to employees and inconsistent with standards

1 expected for senior government leaders. The report recommended counseling and
2 monitoring is warranted. The report also noted mitigating testimony of superiors, who
3 maintain that General Kimmitt had strengthened the overall performance of his office.

4 I would just say, finally, immediately prior to the business meeting in February,
5 another anonymous letter stated Mr. Kimmitt had improperly disclosed classified
6 information to foreign governments. A subsequent Defense Department IG
7 investigation was requested. The IG has since concluded the claim was not
8 substantiated.

9 Therefore, on balance, I will vote for General Kimmitt. I do not believe there is
10 sufficient reason to further delay his nomination.

11 **THE CHAIRMAN:** Well, I should have turned to you, to begin with, because
12 you've just summarized the report. That is an accurate summary, I think my friend
13 from Florida would say — at least, I — in my reading of the report, that's an accurate
14 summary. That is what was being asked to be incorporated by the White House.

15 Again, the Senator is within his rights. And because I always ask him to do these
16 hard jobs, I'm not going to take —

17 Senator Bill Nelson: Mr. Chairman, I'm not going to accept your dog duty
18 anymore.

[Laughter.]

19 **THE CHAIRMAN:** Oh, I said — that's why I'm saying it's okay with me,
20 Senator, if you want to —

1 **SENATOR BILL NELSON:** It is my obligation —

2 **THE CHAIRMAN:** It is.

3 **SENATOR BILL NELSON:** — to say to this committee, instead of bringing out
4 all the allegations in the IG report, I think you should have the opportunity to read
5 them for yourself. In some cases, they have not been characterized fully in the
6 statements that have been made here. And so, I think, in fairness to the members of the
7 committee, that it would be appropriate to hold it over until the next meeting, and then
8 the Senators can make the decision for themselves, having availed themselves of the
9 report.

10 **THE CHAIRMAN:** Let me ask you all a question. And, again, this is not in the
11 context of — well, let me just ask the question. The IG's report has been made available
12 to each of your offices for the last 2 weeks. Now, again, I genuinely respect the Senator
13 from Florida, and I have reservations about this nomination, but — so, if the purpose of
14 holding over is to give you all an opportunity to read the report, then — you've had
15 that for 2 weeks. Does anyone — in light of what's been discussed here, I think we —
16 well, the Senator has a right to hold this over, period. But, I just raise the question for
17 you to think about this.

18 **SENATOR WEBB:** Mr. Chairman?

19 **THE CHAIRMAN:** Yes?

20 **SENATOR WEBB:** It's my understanding that there has been other
21 communication, outside of the IG report to this committee, since the IG report came out.

1 **THE CHAIRMAN:** Staff tells me that, as late as yesterday, there were — another
2 anonymous call to the committee, covering the same territory, making — actually,
3 Brian, why don't you stand up and indicate — characterize it, because I am unaware of
4 it.

5 **SENATOR DEMINT:** Mr. Chairman, this is an anonymous —

6 **THE CHAIRMAN:** Yes.

7 **SENATOR DEMINT:** I would just request, if there's no name attached to it, that
8 we not bring it in.

9 **THE CHAIRMAN:** Well, this would be, quite frankly, helpful, because — there's
10 nothing new. Is that a correct assertion?

11 **MR. MCKEON:** That's correct.

12 **THE CHAIRMAN:** There is no — this, quote, "anonymous call" did not raise
13 any new issue that the inspector general had not already looked at. And so, the extent
14 that there's something coming in that's new of or consequence, it was not — that is not
15 the case. And, again, I'm saying this secondhand, but the counsel for the committee —

16 **MS. HAINES:** That's correct. We took three phone calls yesterday, all of them
17 anonymous, all of them corroborating information that was in the IG's report —

18 **SENATOR BOXER:** Mr. Chairman?

19 **THE CHAIRMAN:** So, there's nothing new.

20 **SENATOR BOXER:** Mr. Chairman, I would like to hold this over for a week,
21 because, to be honest —

1 **THE CHAIRMAN:** Good. We'll just hold —

2 **SENATOR BOXER:** — obviously, I didn't read it, as I should have.

3 **THE CHAIRMAN:** Okay

4 **SENATOR BOXER:** And I feel bad about it —

5 **THE CHAIRMAN:** All right, it will be held over for —

6 **SENATOR BOXER:** — but I want to do my duty. I can't vote today.

7 **THE CHAIRMAN:** That's — and that will mean a holdover til we get back from
8 the recess, but that's — it is the Senator's right to do that.

9 Now, is there any discussion about our ambassadorial nominee to Mozambique?

10 **SENATOR BOXER:** Mr. Chairman?

11 **THE CHAIRMAN:** Yes, Senator Boxer?

12 **SENATOR BOXER:** I'm not going to support this nomination, and I'm — I'm
13 not going to hold it up or anything, and I — people can vote the way they want to vote,
14 but there's something that occurred with this nominee. There was a story, of July 29th,
15 '07, the Washington Post front page, "Bush Aide Blocked Report." Now, the reason I
16 think this is key here, this is, I think, a competent individual who is going to go to
17 Mozambique, and what happened in the past, here, and the reason I'm going to vote no,
18 is because the person that he blocked was Surgeon General Richard Carmona. That's
19 the Surgeon General of the Bush administration, a wonderful, dedicated human being.
20 And he actually gave testimony before the House Committee on Government
21 Oversight. He said that he sought to release this document that had to do — and I'll tell

1 you what it had to do with — it was a Call to Action, and it would — they were trying
2 to —

3 **THE CHAIRMAN:** For clarification, this is the Surgeon General's testimony
4 now?

5 **SENATOR BOXER:** Correct. Yes. "The Surgeon General's report, in '06, that
6 called on Americans to help tackle global health problems has been kept from the public
7 by a Bush political appointee without any background or expertise in medicine or
8 public health, chiefly because the report did not promote the administration's policy
9 accomplishments,' according to current and former public health officials." And Richard
10 Carmona was the person who had authored the report, at — George Bush's own
11 person, here. And it was a pretty nasty situation. And Dr. Carmona's testified before
12 the Committee on Oversight, in '07. He said he was told by this gentlemen that, "This
13 will be a political document or you're not going to release it." And Carmona said, "I
14 refused to release it, because I would not put the political rhetoric into that document.
15 And they wanted it, and I said it would tarnish the Office of Surgeon General when our
16 colleague saw us taking a political stance, so I refused."

17 Now, the nominee says he didn't say any of that, so it's a "he said, he said" thing.
18 But, because of my admiration for Richard Carmona, I don't think he would go before a
19 congressional committee and lie.

20 I'm going to vote no on this, because I don't think you — I think people have to
21 be judged on their record.

1 **THE CHAIRMAN:** Thank you.

2 Senator Feingold?

3 **SENATOR FEINGOLD:** Thank you, Mr. Chairman. I do have some concerns
4 about Mr. Steiger's performance in his current position, but I do think he is qualified to
5 be Ambassador to Mozambique. I've met with him and staff, and considered his
6 current work at HHS, talked about his nomination, talked about his role as potential
7 Ambassador to Mozambique.

8 This embassy has been without an ambassador for 2 years. Mozambique is a
9 critical partner in the HIV/AIDS efforts that we were just talking about. It's really a
10 tremendous country. It has done wonderful things. Economically, it's one of those
11 places in Africa that, if we show the right signals, including sending an ambassador,
12 that we can really have a great future with this country.

13 Mr. Steiger is really well informed about Mozambique. After 15, 16 years of
14 going through nominees for Africa, you can't always say that. He knows this place
15 well. So, I — there are concerns that Senator Boxer is talking about, but we have to ask
16 ourselves, in the next few months, do we want to have an ambassador who is
17 competent in Mozambique, or not? And I think we do. So, I'm going to vote for him. I
18 think the President's entitled to some deference.

19 **SENATOR DODD:** I would just add, Mr. Chairman, a former colleague of ours,
20 Jim Sasser, called me a few weeks ago, and knows this family. Some of the older
21 members here remember this young man's father, Bill Steiger, who was a very

1 accomplished member of Congress, died at a very young age. And Jim Sasser knows
2 this — Bill Steiger [inaudible], but speaks very highly of him, having known him for
3 years and years, says he is a very, very competent individual. Obviously, his politics
4 are different than ours on this side of the table, but a very competent individual. I
5 would support him, as well.

6 **SENATOR LUGAR:** Mr. Chairman?

7 **THE CHAIRMAN:** Senator?

8 **SENATOR LUGAR:** Let me just say, following the subcommittee chairman,
9 Senator Feingold's, thoughts, we really have a critical problem in Mozambique. We've
10 not had an ambassador throughout the period that the Senator mentioned. Mr. Steiger
11 speaks Portuguese, is well qualified. The question raised is the one raised by our
12 colleague from California. And, once again, the investigation was held by the chairman
13 as to all of this. Mr. Steiger stated that such calls to action are, at least in part, policy
14 documents meant to influence thinking, not merely reports presenting scientific
15 findings. In response to a question posed by committee staff, Mr. Steiger maintained he
16 objected because such a text should mention the priority programs the U.S.
17 Government, including the Congress, has supported and is funding global health and
18 provide the right context for the leader. He noted that ten other agencies within HHS
19 objected to publication of the document, as it was written.

1 I would just say it's an honest argument, and I've simply made a note to myself
2 that all of us have to balance the tension between objective reporting and aggressive
3 policy advocacy. And that apparently was the question, at that stage.

4 So, I would hope the committee would send this Ambassador to Mozambique. I
5 think we need representation promptly.

6 **THE CHAIRMAN:** Anyone else?

7 Yes, Senator?

8 **SENATOR BOXER:** Yes. You know, I may be the only "no" vote. That's fine. I
9 just want — I hope that Mr. Steiger, if he does get this post, will certainly reflect on this
10 controversy that did follow him, because, here's the thing, he's going to a country with
11 high HIV/AIDS situation, and if he were to deep-six a report because he thought it was
12 politically incorrect, that would be very damaging. So, I hope my vote would send a
13 signal to him that, if he did, in fact, engage in this, he shouldn't, in the future, because it
14 — really, life or death, it's — we can't be political about everything.

15 **THE CHAIRMAN:** Senator, I'd like to —

16 **SENATOR BOXER:** You know, I agree with Chris that, you know, his politics
17 are different. This isn't politics. This is about, if it's true, stopping information from
18 getting out that could really help prevent AIDS. And, you know, we've — we had that
19 in the '80s — I hate to say I was here that long ago, but I was, in the House — we had
20 people actually in office who would not send out any information about AIDS, because

1 they didn't want to talk about it, they didn't think it was right, they thought it was
2 wrong. And a lot of people died.

3 So, I just think we need to just say to this — all of us say, this — whether we vote
4 for him or not, "Please, if this did occur, learn from it, and don't do it again," because we
5 need to get information out to people, whether it's politically correct or not.

6 **THE CHAIRMAN:** I have a brief comment, but I'll yield to Senator Kerry, and
7 then I'll conclude.

8 **SENATOR KERRY:** Just a brief comment. I think — first of all, I want to thank
9 Senator Boxer, because I think she is appropriately flagging something that did raise
10 serious questions within the scientific community. It was — it really raised hackles and
11 was viewed as suppressing scientific, slash, health policy information in favor of a sort
12 of more political view.

13 That said, I would agree with the chairman and the ranking member, I think that
14 it doesn't disqualify — I just don't think it rises to the level of disqualifying him from
15 undertaking the job. And I hope this will serve as an appropriate signal that these
16 things are noticed, and that they're important, and that, in his role as ambassador, there
17 will really be an expectation to serve this committee and the Congress and the
18 American people with the unvarnished truth, not a — not just a political point of view.

19 **THE CHAIRMAN:** Let me say that I agree with Senator Boxer's characterization
20 of what happened. I'd put it in the phrase that Chairman Lugar uses — he is always
21 very graceful about he phrases things — I think this was — to steal a phrase from you,

1 Senator — aggressive policymaking. I think this was a zealous then-young man who
2 was making and guarding a policy position, and I think he overstepped his bounds, in
3 my view.

4 But, I also agree with Senator Feingold, that, here we are in a position where if —
5 quite frankly, if he was not as qualified as he is on the merits to do the job in
6 Mozambique, this would be enough for me to vote against him. Were he of the run-of-
7 the-mill kind of nominee we have gotten, as the Senator pointed out, in many African
8 countries, I would vote no.

9 But — balancing the equities, here, I'm going to vote yes, but I want to make it
10 clear, for the record, I agree — personally, I agree with Senator Boxer's characterization
11 of what did transpire, and I believe the Surgeon General, and, later in our questioning,
12 the nominee acknowledged that policy failure to include certain policy positions in the
13 report was — and he explains why that was the case, but he did, in fact — he
14 cooperated, in my view, with the Surgeon General's assertion.

15 Having said that, I'm going to vote yes for him, for the reasons I've stated.

16 Is there any further discussion on this nominee? If not —

17 Yes, Senator?

18 **SENATOR MENENDEZ:** Mr. Chairman, I'm going to vote no on the nominee.

19 And, since I am, I just want to — I appreciate, very much, what Senator Feingold said
20 about the necessity of having someone in Mozambique, and I appreciate the experience
21 that he obviously has. But, in addition to what Senator Boxer has raised, as I've read the

1 committee report, you know, it's not just that one incident; there's these efforts to
2 reduce government scientist travel to international AIDS conferences. We just did the
3 PEPFAR legislation. And here, he uses his position to limit the number of people going,
4 because the Secretary of HHS received a bad reception in Barcelona. And he goes
5 through a series of e-mails on the record — these are not autonomous — or, you know
6 —

7 **SENATOR BOXER:** Anonymous.

8 **SENATOR MENENDEZ:** — anonymous statements, these are a series of on-the-
9 record e-mails that go to that. And then a review of a few of the witnesses complaining
10 about his abusive behavior as a supervisor, and a high rate of turnover in his office. So,
11 I know we want someone in Mozambique, but when I add the totality of all of those
12 things, I question the fitness of the person, not in terms of his capacity on the issue of
13 Mozambique, but on his fitness to be an ambassador, as not only our advocate abroad,
14 but also as a person who runs that embassy. And so, when I look at all of these things, I
15 say, "Is that an evenhanded person who is going to be pursue an incredibly important
16 role in a way that has the integrity, as well as the balance, that is necessary to do so?" I
17 don't believe this candidate has it, so I will be voting no.

18 **THE CHAIRMAN:** Thank you.

19 Any further comment?

20 **SENATOR CORKER:** I will make one, since there have been so many.

[Laughter.]

1 **SENATOR CORKER:** You know, I don't know either of these gentlemen, and
2 I'm going to vote for both of them. It's a very short amount of time that's left, and we
3 certainly need people in these positions. But, since we've spoken for the record in the
4 past in this meeting, I want to say that it seems to me that — and for the record — on
5 Kimmitt, that we're holding his nomination, not because of anonymous calls — which I
6 hope we would never justify — you know, administrations will change, and I hope that
7 none of us will ever hold up a nominee because of anonymous calls — but it is because
8 Senators, in some cases, have not read the materials prior to coming here. And, you
9 know, we did work for a week to put this PEPFAR thing together. We worked really
10 hard, all of us did. We all agreed to hold our amendments until the floor. And I just
11 think it's regrettable that we haven't read the materials to be prepared for the meeting.
12 And that's the reason I understand we're holding them over, and not anonymous calls.

13 **THE CHAIRMAN:** I want to make it clear. The anonymous letters and calls —
14 when the inspector general did their review, they actually spoke to some of these
15 people whose names remain anonymous. So, it wasn't merely that they came over the
16 transom and there's not an individual. All of you understand how a background report
17 goes, with FBI reports; they're all anonymous. Yet, the FBI notes who they've spoken
18 to. They speak to John Doe. John Doe says so and so. And they say there's an
19 anonymous report. It's not merely that it's anonymous, nobody knows, including those
20 investigating. In this case, the inspector general — not all, but — spoke to some of those
21 people who initially got to us through either anonymous call or anonymous letter.

1 But, the point is well taken, and I appreciate you making it.

2 The Clerk will call the roll on the Ambassador to Mozambique.

3 **THE CLERK:** Mr. Dodd?

4 **SENATOR DODD:** Aye.

5 **THE CLERK:** Mr. Kerry?

6 **SENATOR KERRY:** Aye.

7 **THE CLERK:** Mr. Feingold?

8 **SENATOR FEINGOLD:** Aye.

9 **THE CLERK:** Mrs. Boxer?

10 **SENATOR BOXER:** No.

11 **THE CLERK:** Mr. Nelson?

12 **SENATOR NELSON:** Aye.

13 **THE CLERK:** Mr. Obama?

14 **THE CHAIRMAN:** We don't have a proxy. There is no proxy for him.

15 **THE CLERK:** Mr. Menendez?

16 **THE CHAIRMAN:** No, by proxy.

17 **THE CLERK:** Mr. Cardin?

18 **SENATOR CARDIN:** Aye.

19 **THE CLERK:** Mr. Casey?

20 **SENATOR CASEY:** Aye.

21 **THE CLERK:** Mr. Webb?

1 **SENATOR WEBB:** Aye.

2 **THE CLERK:** Mr. Lugar?

3 **SENATOR LUGAR:** Aye.

4 **THE CLERK:** Mr. Hagel?

5 **SENATOR HAGEL:** Aye.

6 **THE CLERK:** Mr. Coleman?

7 **SENATOR COLEMAN:** Aye.

8 **THE CLERK:** Mr. Corker?

9 **SENATOR CORKER:** Aye.

10 **THE CLERK:** Mr. Voinovich?

11 **SENATOR LUGAR:** Votes aye, by proxy.

12 **THE CLERK:** Ms. Murkowski?

13 **SENATOR MURKOWSKI:** Aye.

14 The Clerk: Mr. DeMint?

15 **SENATOR DEMINT:** Aye.

16 **THE CLERK:** Mr. Isakson?

17 **SENATOR ISAKSON:** Aye.

18 **THE CLERK:** Mr. Vitter?

19 **SENATOR LUGAR:** Votes aye, by proxy.

20 **THE CLERK:** Mr. Barrasso?

21 **SENATOR BARRASSO:** Aye.

1 **THE CLERK:** Mr. Chairman?

2 **THE CHAIRMAN:** Aye.

3 **THE CLERK:** Eighteen ayes, two nays.

4 **THE CHAIRMAN:** Eighteen ayes, two nays. The nominee is approved.

5 Before we leave, we've got a very important list — the Foreign Service Officer
6 Promotion List, dated February 6th, 2008. To the best of my knowledge, there's no
7 objection to anyone on the list.

8 **SENATOR LUGAR:** I move it.

9 **THE CHAIRMAN:** The Senator moves the list. All the —
10 Is there a second?

11 **SENATOR CORKER:** Second.

12 **THE CHAIRMAN:** All those in favor, say aye.

[A chorus of ayes.]

13 **THE CHAIRMAN:** The list is approved.

14 We are adjourned.

[Whereupon, at 11:10 a.m., the meeting was adjourned.]