

## OPENING REMARKS OF CHAIRMAN BILL DELAHUNT

at a hearing of the House Foreign Affairs Committee Subcommittee on International Organizations, Human Rights, and Oversight entitled

### POSSIBLE EXTENSION OF THE UNITED NATIONS MANDATE FOR IRAQ: OPTIONS

July 23, 2008

The Subcommittee will come to order.

Today's hearing is the seventh in a series held by this Subcommittee regarding the so-called Declaration of Principles and any possible agreements based on that document – which was signed by President Bush and Prime Minister al-Maliki last November.

The Declaration of Principles initially embraced a pledge to establish an indefinite, open-ended presence of U.S. combat forces in Iraq in order to – among other commitments:

*\* Support the Republic of Iraq in defending its democratic system against internal and external threats;*

and to

*\* Provide security assurances and commitments to the Republic of Iraq to deter foreign aggression.*

These were extraordinary promises by President Bush. Many of us were taken aback not only by the breadth and depth of these commitments – but by the position of the Bush administration that it was unnecessary to submit such an agreement to the United States Congress.

This unprecedented claim to executive branch authority prompted Senator Clinton to file a bill in the Senate, and our colleague Rosa DeLauro of Connecticut to file a similar one in the House – the effect of which would be to require the submission of such an agreement to Congress for its approval.

In our first hearing, on December 19, 2007, we reviewed the role that the Iraqi Parliament expected to play in the approval of the extension of the UN Mandate to December 31, 2008 – as expressed in a letter from a majority of members to Prime Minister al-Maliki and the UN Security Council calling for the inclusion of a timetable for the withdrawal of U.S. troops – otherwise, they would not support the extension. I would note that all our witnesses at this hearing agreed that under Article 61 of the Iraqi Constitution, any U.S.-Iraq agreement which would supplant the UN Mandate would have to be submitted to the Parliament for approval.

This was subsequently confirmed by correspondence with the Congress by Members of the Iraqi Parliament representing a majority of that body – and in the appearance before this Subcommittee on June 3 of this year by two parliamentarians whose parties had signed that letter. Let me quote from that letter:

*We, the undersigned members of the council, wish to confirm your concerns that any international agreement that is not ratified by the Iraqi legislative power is considered unconstitutional and illegal, in accordance with the current rulings and laws of the Iraqi Republic.*

On Monday of this week a statement by Prime Minister al-Maliki, quoted in the newspaper Azzaman, reaffirmed the constitutional requirement that the agreement -- and I quote the Prime Minister -- "*requires the approval of the representatives of the people in parliament.*"

Thus it's indisputable that approval by the Iraqi parliament is a prerequisite -- a *sine qua non* as we used to say in my days as a sophisticated member of the Bar -- to any valid, legitimate bilateral agreement.

And yet -- despite the recent dramatic change in public statements by both executive branches concerning a timetable for the withdrawal of American troops by 2010 -- it is still very much in question whether an agreement can be consummated by December 31, 2008 -- given both the Iraqi parliament's limited calendar and the lack even of the implementing legislation necessary for the consideration of any international agreement -- legislation that will require a two-thirds vote for enactment.

Furthermore, we hear from our colleagues in the Iraqi Parliament that they feel they have not been adequately informed as to the substance of the agreement and its implications for Iraqi sovereignty.

I'm not going to take the time today to debate the Constitutional role of the United States Congress in this matter – as we have had a hearing on that issue. However, most of the information that has come to us in the House and Senate has not come as a result of the detailed consultation with Congress that is provided for by the State Department's own regulations, contained in Circular 175.

As Chairman Berman of the full Committee and Chairman Skelton of the Armed Services Committee recently said in a letter to President Bush dated June 12:

*Senior officials of the administration, including two Cabinet Secretaries, have pledged to keep Congress apprised of the progress of the negotiations throughout the course of the discussions. Unfortunately, we do not believe that your administration has adequately fulfilled this pledge.*

From the beginning it has been my position that a short-term extension of the UN Mandate is the best course of action – a course that will allow thoughtful review and provide the new president and the next Congress as well as the political leadership in Iraq sufficient time to consider and analyze in a transparent process all of the concerns of both the American and Iraqi publics. These issues are too important to be dealt with through a hasty, secretive approach. That is why Congresswoman DeLauro and I introduced legislation to that effect -- H.R. 5626.

And I am pleased to see that former prime Minister, and current member of parliament, Dr. Ayad Allawi, who has graciously accepted my invitation to come to the United States to engage in dialogue with his counterparts here in the Congress on a range of matters, has independently arrived at the same conclusion. At the conclusion of the hearing portion of today's event, Dr. Allawi will brief us on his reasoning, and provide us with the benefit of his expertise, his insights, and his concerns about stability in Iraq and the region.

All of us should accept the need for a reasonable and responsible withdrawal of U.S. troops, because we recognize and respect the aspirations of the Iraqi people for sovereignty. A priority for the Iraqi people is the end of the

occupation and a full restoration of their rights and dignity as a sovereign people. And I support that worthy ambition.

At the same time, we must insist on legal protection for our troops.

If there is no agreement, or if the agreement is of dubious legality because of concerns about the lack of approval by the legislatures, will our troops be sufficiently protected?

A way must be found to make Iraqi sovereignty and protection for American troops compatible. I would submit that it is time to revisit the United Nations Mandate, which has provided protection for our troops for five years, to determine if there is an option that will give full, unqualified legal protection to American troops and at the same time meet the Iraqis' aspirations for sovereignty.

The option I recommend is to extend the UN Mandate -- but not under Chapter VII, which continues Iraq's involuntary ceding of sovereignty to the United Nations Security Council. However, Iraq could request a short-term extension of the Mandate under Chapter VI, which provides for voluntary agreements for the presence of foreign troops -- agreements that are requested, negotiated, and controlled by the host nation, with full recognition of their sovereignty. I look forward to hearing Dr. Allawi's thoughts on this option.

Before introducing our witnesses, let me turn to my friend and ranking member, Mr. Rohrabacher of California, for his opening remarks.

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Thank you, Dana -- I am always pleased to know that any international audience watching us can see American democracy at its clearest: there is obviously much we disagree on, but I know that we are both committed to searching for common ground, in the national interest.

Our first panel today consists of -- well, I won't say golden oldies, but old favorites. Dr. Steven Kull, the director of the Program on International Policy Attitudes, or PIPA, testified during the kick-off and the wrap-up hearings for our inquiry into international opinion of the United States. I won't list his various expert qualifications as a pollster, because he has just

one that counts the most to me: there is nobody we trust more to interpret polling and focus group results for us. Today, Steve is going to educate us on Iraqi opinion about the issues surrounding the U.S.-Iraq agreement – timetables, withdrawal, sovereignty, and the presence of U.S. forces. Thank you, again, Steve, for being here.

Michael Matheson, who spent a career in the State Department's office of the legal adviser and in fact served as the legal adviser, is now a professor at the George Washington law school. He is the author of the concept of using Chapter VI for Iraq, as a solution to the current dilemma. And when it comes to how such a decision would be made by the UN Security Council – well, you might say that professor Matheson wrote the book on the Security Council -- since I have the book right here: Council Unbound: The Growth of UN Decision Making on Conflict and Postconflict Issues after the Cold War. Mike, it is great to see you again. This is your fourth time before us on this topic -- would you like your name engraved on that chair?

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The Subcommittee will come to order, for a briefing. In this briefing we will hear from a remarkable man, one of the most prominent Iraqi political, the Honorable Ayad Allawi, the leader of the Iraqi National List party. After nearly 30 years in exile as a leader in the Iraqi opposition to the rule of Saddam Hussein, Dr. Allawi became interim prime minister in 2004. Since the elections of 2005, like the two Iraqi witnesses at our last hearing on this subject, he has been a member of the Iraqi Council of Representatives, or parliament.

We are truly pleased to have Dr. Allawi come before us to discuss the burning issue of the day in his country, which is the negotiation of an agreement between the United States and Iraq regarding the presence and activities of U.S. combat forces. Dr. Allawi, we deeply appreciate your willingness to come all the way to Washington to promote the dialogue that our two countries, our two parliaments, simply must begin. Welcome, and please proceed.

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