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POSSIBLE EXTENSION OF THE U.N. MANDATE FOR IRAQ: OPTIONS

HEARING

BEFORE THE

SUBCOMMITTEE ON INTERNATIONAL ORGANIZATIONS, HUMAN RIGHTS, AND OVERSIGHT

OF THE

COMMITTEE ON FOREIGN AFFAIRS HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

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POSSIBLE EXTENSION OF THE U.N. MANDATE FOR IRAQ: OPTIONS

WEDNESDAY, JULY 23, 2008

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INTERNATIONAL ORGANIZATIONS,
HUMAN RIGHTS, AND OVERSIGHT,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:12 p.m., in room 2172, Rayburn House Office Building, Hon. William D. Delahunt (chairman of the subcommittee) presiding.

Mr. DELAHUNT. 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 Maliki in November of last year.

The Declaration of Principles initially embraced a pledge to establish an indefinite, open-ended presence of United States combat forces in Iraq in order to, among other commitments, and I am quoting from that document, "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, who will join us later, 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 U.N. mandate to December 31, 2008, as expressed in a letter from a majority of members to Prime Minister Maliki and to the United Nations Security Council, calling for the inclusion of a timetable for the withdrawal of United States troops; otherwise, they registered their objection to the extension of the mandate.

I would note for the record that all of the witnesses at this hearing agreed that Article 61 of the Iraqi Constitution, under that particular Article, any United States-Iraq agreement which would sup-

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plant the U.N. mandate would have to be submitted to the Parliament for approval. This was subsequently confirmed by correspondence with the United States 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 this letter.

Let me quote for the record from the 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 public."

On Monday of this week, a statement by Prime Minister Maliki, which was reported in the newspaper Azaman, reaffirmed the constitutional requirement that the agreement, and, again, I am quoting from the Prime Minister himself, requires the approval of the representatives of the people in Parliament.

Thus, it is indisputable that approval by the Iraqi Parliament is a prerequisite. When I was practicing law, we would describe it as a sina qua non, to any valid, legitimate, bilateral agreement. And yet, despite the recent dramatic change in public statements by both executive branches concerning a timetable for 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 of even implementing legislation necessary for the consideration of any international agreement by that body. And such enacting legislation requires a two-thirds vote itself.

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

I am not going to take any time today to debate what I feel to be the appropriate constitutional role of the U.S. Congress in this matter. We have had a hearing on that issue. However, most of the information that has come to Members both in the House and in the Senate has not come as a result of the detailed consultation with Congress that is provided for by the State Department's own regulations that are described 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 of this year, and I am quoting from that letter,

> "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 those discussions. Unfortunately, we do not believe that your administration has adequately fulfilled that pledge."

From the beginning, it has been my position that a short-term extension of the U.N. mandate is the best course of action. Of course, that would allow a thoughtful review and provide the new President and the next Congress as well as the political leadership

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in Iraq sufficient time to consider and analyze in a transparent process all of the concerns of both the American and the Iraqi publics. These issues are simply too important to be dealt with in a hasty, secretive fashion. And that is why Congresswoman DeLauro and I introduced legislation to that effect, which is H.R. 5626, for the record.

And I am pleased to see that former Prime Minister and a current member of the Iraqi Parliament, Dr. Ayad Allawi, who has graciously accepted the subcommittee's invitation to come to the United States to engage in a 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. We will have a conversation on his reasons and provide us with the benefit of his expertise, his thoughts, and his concerns about stability in Iraq and in the region.

And at this time, he has proffered a statement and a letter representing the 106 Iraqi parliamentarians requesting support from the United States Congress to ensure the independence and integrity of elections to be conducted in Iraq both at the provincial and at the national level. And, without objection, we will make this part of the record.

[The information referred to follows:]

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23 July 2008

Mr. Chairman; Ladies and Gentlemen:

It is my pleasure to be with you today to discuss the situation in Iraq.

We are here as allies and partners with aspirations for a long term productive strategic relationship between Iraq and the US.

We are arriving at a critical stage where crucial decisions have to be made on a measured and responsible withdrawal of multi national forces from Iraq. The surge in the last year has no doubt made a difference in the security situation, however, we are concerned that these security gains are still fragile and may not be sustainable.

Iraq is in the process of negotiating a security agreement with the United States to organize the security relations between our two countries and agree on the framework for final withdrawal. Such agreement should include diplomatic, economic, cultural, educational, and security aspects. Most

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importantly, it should be transparent and get the approval of the Iraqi Parliament and people. This may make the agreement welcomed by the people of Iraq, and create the right environment for trust and friendship.

The security agreement seems to have reached a deadlock and it appears unlikely that an agreement will be reached by the end of this year. At the same time, Iraq faces a deadline at the end of December when the current UN resolution expires. Without some remedy, the multi-national forces will have no legal cover. We therefore need to explore other options. Extension of the UN Security Council resolution under Chapter 7 is an option, but may be unacceptable in Iraq. A second option is a UN Security Council resolution, but under Chapter 6. This option and its ramifications need to be studied carefully because we are concerned about the protection of Iraqi assets from claims by international creditors. Either one of these two temporary options would give us more time to negotiate a more

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permanent agreement in a transparent, cooperative manner.

As we think about moving to the next stage of our relationship, it is appropriate to discuss a time frame for reduction of US forces. But at the same time such reduction must be linked to measures of progress in Iraq and the conditions prevailing in the country. There is currently an urgent need to build non sectarian national institutions that are professional and capable. Iraq needs an army, police and security forces with commitment to defending Iraq's sovereignty and unity. Both civil and security institutions have to be built on qualities such as capability and experience, rather than sectarian and ethnic backgrounds.

Although reconciliation featured high on the benchmarks laid by congress, and much talk has been made on reconciliation in Iraq, yet it largely failed in tackling the main issues of conflict, such as Debaathification, disenfranchising a large segment of

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the Iraqi population, sorting out the problems of millions of refugees and displaced people, and reviewing the constitution. Appropriate measures are urgently required on all these and other issues. Most important is sectarianism, which remains a major factor in Iraq's conflicts.

Progress continues to be very slow, if not stagnant, in public services and the economy. This involves the provision of electricity, water supply, health service, creating job opportunities, developing the economy and legislating the Hydrocarbon Law.

The major threat on Iraq's stability comes from neighbouring countries. Iraq's wealth, culture and sovereignty are being violated on daily basis by regional powers that use Iraq as a battlefield. We need international safeguards and the UN Security Council, in cooperation with the Arab League, Islamic Conference Organization and Gulf Cooperation Council, are asked to propose and monitor ways of protecting Iraq's borders and helping to stabilize Iraq.

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Iraq is about to enter a critical phase of its political development with provincial elections scheduled for the end of this year and national elections in 2009. These two elections will be defining events for the future of Iraqi democracy, stability, and nation-building. We are very concerned about the transparency and integrity of these elections. In the previous elections, which were held in 2005, the election campaign was marked by violence, intimidation, arrests, character assassination, and the use of religious symbols. Gross irregularities have occurred resulting in an election not reflecting the real desire of the Iraqi people.

These are some of the conditions that we feel should be linked to negotiations on a time frame for any draw down.

I look forward to continuing our discussions in the coming months to seek ways of overcoming the challenges and building an understanding based on shared and balanced interests.

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Thank you very much.

Dr. Ayad Allawi

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بسم الله الرحمن الرحيم

القائمة العراقية الوطنية

حكومة قوية
شعب آمن
وطن زاهر

To: **The Honorable William Delahunt,**
The Honorable Dana Rohrabacher,
The Honorable Howard Berman,
The Honorable Ileana Ros-Lehtinen,
The Honorable Members of the House Armed Services Committee
The Honorable Members of the House Committee on Foreign Affairs

Subject: **Independent Monitoring of Provincial Elections in Iraq**

Greetings Distinguished Ladies and Gentleman,

Iraqi officials are preparing for provincial elections throughout Iraq's governorates, to take place before the end of the year. These elections will have significant bearing on the future unity, stability, independence, and sovereignty of Iraq. Given the great importance of these elections, we must work to ensure that proper election procedures are followed, to secure fair and free elections, and to protect against election violations during the campaign and potential fraud. If left unchecked, election violations and counterfeiting could have lasting and dangerous consequences for the political process in Iraq and the security of the Iraqi nation as well as the region.

To safeguard the provincial elections, ensure transparency and accountability, and validate the credibility of the results, we the undersigned request the assistance of American or International organizations to monitor and observe the provincial election process in Iraq. Attached is a letter addressed by the signatories to the Presidency Board of the Iraqi Council of Representatives, calling for international monitoring of the elections.

It is our hope that the upcoming provincial elections will represent the sincere aspirations of the Iraqi people and be free of corruption and violations.

Sincerely,
Ayad Allawi
Head of the Iraqi National List
June 13, 2008

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القائمة العراقية الوطنية

حكومة قوية
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وطن زاهر

To the Honorable Presidency Board of the Council of Representatives

Subject: Monitoring of Provincial Elections in Iraq

In view of the upcoming provincial elections in Iraq and with respect to the significance of such elections on the lives, hopes, and aspirations of the Iraqi people, we the undersigned request the assistance of the United Nations, European Union, Arab League, and other relevant election observers to monitor, observe, and supervise the provincial election throughout Iraq's provinces to ensure fairness of the results and transparency of the political process.

In order to have effective, fair, and democratic election as well as guarantee the success, non-interference, and impartiality in the election process, we the undersigned are committed to exerting all our efforts. It is our sincere hope that the organizations mentioned above will assist in this process.

With our considerate regards,

MP Alia Nsaif Hassem
General Secretariat
Iraq National List
June 8, 2008

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No	Name	
1	Adnan Al-Danbous	
2	Alia Al-Ubaidie	
3	Khairalah Al-Basri	
4	Dr. Harith Al-Ubaidie	
5	Jamal Al-Batikh	
6	Dr. Haider Al-Suaidie	
7	Majeed Al-Zamily	
8	Wael Abdullateef	
9	Usama Al-Nijaify	
10	Hamid Majeed Mosa	
11	Dr. Salman Al-Jumaily	
12	Dr. Hussain Hassan	
13	Naif Al-Jibori	
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17	Shatha Al-Ubosi	
18	Hassan Al-Shimary	
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21	Shaikh Sabah Al-Saidie	
22	Maysoon Al-Damlouji	
23	Mufied Al-Jazairy	
24	Mohamed Khalaf Al-Jibouri	
25	Dr. Abdullateef Al-Badry	
26	Dr. Mohamed Ali Tamim	
27	Iman Jalal Mohamed	
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30	Dr. Ala'a Maki	
31	Nadira Aish Al-Ani	
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33	Raja'a Hamdoon Abdullah	
34	Husain Al-Falouji	
35	Rasheed Al-Azawi	
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Mr. DELAHUNT. Now, all of us should accept the need for a responsible and reasonable withdrawal of American 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, as I am sure all of my colleagues on the dais would concur.

At the same time, we must insist on legal protection for our troops, for our military. If there is no agreement, or if the agreement is of dubious legality because of concerns about the lack of approval by our respective legislative bodies, the question is, will our troops be sufficiently protected? A way must be found to make Iraqi sovereignty and protection compatible. I would submit that it is time to revisit the U.N. mandate, which has provided protection for our troops for over 5 years, to determine whether 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 and dignity and respect.

The option that I would put forth for consideration is to extend the United States mandate, but not under Chapter VII, which continues Iraq's involuntary ceding of sovereignty to the United Nation's Security Council. 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 from Dr. Allawi on this particular proposal, and I look forward to hearing from a very distinguished panel.

But before introducing our witnesses, let me turn to my friend and ranking member, the gentleman from California, Mr. Rohrabacher.

Mr. ROHRABACHER. Thank you very much, Mr. Chairman, for holding this hearing. And thank you very much for leading the discussion of various elements that are vitally important for the American people to see and hear and to understand if we are to chart a course for a future that will lead us where we want to go as a nation. The Status of Forces Agreement that you were talking about is something that you focused in on early on before anyone else was paying attention. The fact that that Status of Forces Agreement, the importance of it was something that you were able to highlight and bring to people's attention; your insistence that the Status of Forces Agreement is something that should be transparent, and both the United States Congress and the Parliament in Iraq should be players in, I think, played a very positive role in what we are trying to accomplish as a nation.

We need a broad base of support, a broad base of support of the American people for any long-term national security or military operation if it is to be successful. Unfortunately, President Bush undermined that type of broad based support when he entered Iraq stressing the argument that Saddam Hussein was on the verge of gaining the ability to have a nuclear weapon, or nuclear weapons, at his disposal. That, as anyone knows now, was not the case.

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Now, whether or not President Bush was mistaken and as we have heard over and over again that various people throughout the world believe that, there is intelligence reports that said that, or whether or not there was some sort of, I dare say, playing with the facts in order to gain temporary support from the American people for the operation, history will tell us that.

But we know now that that wasn't the case, and the American people know that. And that, I believe, has undermined the consensus that the President should have had in order to meet the challenges that have arisen in Iraq. And we need to proceed, however, now. We are there. We have been there for a number of years, and we need now to find a consensus on how we can proceed.

We do not need defeatism. We do not need nitpicking. We do not need people just to be negative about this President and the military operations there. We need to find out what is a good plan that we can all agree on where we are trying to go, and move in that direction. And of course, in our system, that means that the next President of the United States and the next Congress will be making those determinations, because there is nothing we are going to do right now in the Congress or by this President that will bind the next administration and the next Congress. It won't do it.

I mean, if the next President has a different point of view, the United States Government will go in a different direction, and the American people will decide who the heck the President is going to be. That is what it is supposed to be all about.

And so one thing is for certain, that right now we need to, number one, start thinking about what the overall strategy will be for the future, and we need to make sure that the United States Congress and the Parliament of Iraq are part of the formulation for that strategy no matter who the President is. And we can make sure that we do that right now by the type of demands that are being made right from this committee today. And that is that if there is a Status of Forces Agreement being looked at and being examined. We should be part of the process and the Parliament of Iraq should be part of the process. And perhaps, as the chairman seems to be indicating, support for a temporary extension based on certain parts of the current agreements that we operate under, that might be the best way to go, and we will see exactly what the panel of experts has to say about that.

I believe that, and let me just state for the record, I believe that even considering the fact that Saddam Hussein did not have nuclear weapons and it would have taken him decades now, that we know that, to come to a point where any nuclear weapon that he could have come into possession, he probably would have been dead before any type of nuclear weapon could have come into his possession. But the fact is that it would have happened over such a long period that it was irrelevant to the discussion at that time, which, unfortunately, was made a centerpiece of the discussion by the administration.

That considered, I still believe that America's commitment to rid the people of Iraq of the monstrous regime of Saddam Hussein was not only justified but a noble goal, and that our military personnel and all of us who have supported this effort can be proud that, when all is said and done, if we have the right strategy and make

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sure that we do what is right, that we can leave Iraq with honor and we can leave Iraq with a country that is run, not by maniacs and gangsters and mass murderers as it was under Saddam Hussein, but instead under people with more decent values, who are somewhat democratic and somewhat pro-West, but reflect what the will of the people of Iraq is all about. And if we leave a country that way, we will have succeeded, and perhaps the horrible costs that we have paid will have been worth it to the degree that that will be a positive force in the Middle East, which is an area in turmoil. But the cost is something we need to talk about.

I would also like to commend the chairman for the fact that the two of us seem to be in agreement that any Status of Forces Agreement should include a provision that the Iraqi Parliament as well as the United States Congress mandates that the Iraqi people will now have to start stepping up and carrying a much heavier burden for the cost of liberating them from radical Islam and liberating them from this horrific gangster, Saddam Hussein, who so tormented them for so many years.

We paid hundreds of millions and billions of dollars and have lost thousands of lives. It is now time for the Iraqi people to step up. And they need to pay not only in terms of their commitment in young people; they also need to help pay the financial costs for future military operations in Iraq, and that should be part of the Status of Forces Agreement.

Finally, let me just note that I appreciate the fact that we do have a panel of experts today to talk to us, but we also have with us a gentleman who I actually met many years ago. For those of you who know, I spent—many, many times I went into Afghanistan during the 1990s to work with the anti-Taliban forces that later became the Northern Alliance. And I knew Commander Massoud and those folks. But I was on my way to Afghanistan a number of times, and I always would stop in London to meet with the anti-Saddam Hussein resistance forces or the elements that were there and headquartered. And Prime Minister Allawi was one of those whom I met in London and had discussions about what the potential was for a free Iraq and the future. And I welcome him today and welcome his insights.

And one last insight, as I just came from a meeting with a number of Iraqis in my office who are promoting a certain type of nutrition supplement that will really help children and especially older people, and I asked them whether or not they thought, that they were happy that the United States had intervened the way we did—not the way we did—but intervened, even considering the cost and what that was and all this turmoil to get rid of Saddam Hussein, and every one of them said they were very grateful to the United States for getting rid of Saddam Hussein and understand the complications that have arisen since then, but all in all they were very happy that we have done this rather than having him stay in power all of these years. So with that said—and the mass graves that we have uncovered should never be forgotten. Saddam Hussein killed hundreds and thousands of his own people, and the Iraqi people are fully aware of that.

So with that said, I am looking forward to hearing the testimony, discussing the issue in-depth.

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I appreciate your leadership, Mr. Chairman.

Mr. DELAHUNT. Thank you, Dana.

And I am pleased that I am sure that we have an international audience, and I think that they are seeing evidence of how people can have serious disagreements but yet work well together and look after the best interests of our country and those countries with whom we deal.

But we do have an extraordinary panel. All three of our witnesses in the past have appeared before us. They are well known to us, and they each make substantial contributions to the dialogue that is now ongoing.

But before I begin, I want to note the presence of the congresswoman from California who has been a serious and profound contributor to the debate in this country on the issue of the war in Iraq, and that is the gentlelady Lynn Woolsey, and ask unanimous consent for her to participate as if she were a member of the subcommittee.

Hearing no objection, welcome, Lynn.

And let me begin with the introductions.

First to my left is Danielle Pletka, who is the vice president of Foreign and Defense Policy Studies at the American Enterprise Institute. She served as a senior professional staffer for the Near East and South Asia on the United States Senate Committee on Foreign Relations. Since coming to AEI, she has developed a conference series on rebuilding post-Saddam-Hussein Iraq, directed a project on democracy in the Arab world, and designed a project to track global business in Iran. She recently edited a publication on dissent and reform in the Arab world and coauthored a report on Iranian influence in the Levant, Iraq, and Afghanistan. She was also a member of the congressionally mandated U.S. Institute of Peace task force on the United Nations which released its final report in 2005.

And next we have Dr. Steven Kull, the director of the Program on International Policy Attitudes, the acronym is known as PIPA, testified during the kickoff and the wrap-up hearing for our inquiry into how the United States is viewed by the rest of the world. I don't have the time to list his various expert qualifications because he has just one that counts for me. There is nobody that we trust more to interpret polling and focus groups results for us. And today he will address and educate us on Iraqi opinion about the issues surrounding the United States-Iraq agreement, timetables, withdrawals, sovereignty, and the presence of the U.S. forces.

Thank you again, Steve, for joining us.

And then, last but not least, Mike Matheson, who spent a career in the State Department's Office of the Legal Advisor and in fact served as the acting legal advisor and 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 possible solution to the impending dilemma that we could very well face. And when it comes to how such a decision would be made by the United Nations Security Council, he wrote the book. And I have the book right here in the event that anyone wants to—I am not schilling for you, Michael. It is a book that is really a wonderful source.

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I think this is the fourth time that you have appeared before this subcommittee. We should give you an engraved chair by now.

But in any event, upon the conclusion of the hearing phase of this hearing, we will recess for 4 or 5 minutes, and then invite Dr. Allawi to come, and we will initiate the briefing for members of the panel.

So why don't we begin?

Again, as we introduced, Ms. Pletka, if you would proceed with your testimony.

STATEMENT OF MS. DANIELLE PLETKA, VICE PRESIDENT, FOREIGN AND DEFENSE POLICY STUDIES, AMERICAN ENTERPRISE INSTITUTE

Ms. PLETKA. Thank you, Mr. Chairman. I very much appreciate that, and members of the subcommittee.

Thank you for inviting me to testify this afternoon on the questions before you.

We are going to be going from the very general to the very specific here on the panel. So I hope that you will forgive that I am starting with the overview. Perhaps that is most appropriate. I have a very brief statement, so if you will permit, I will go through it quickly.

I am not a lawyer, nor am I an expert on public opinion, both of which are well represented here in the room today. So I propose to frame the issue in what I believe is the proper context.

The question of the United Nations, the extension of the United Nations mandate that governs the allied presence in Iraq has received what I believe is undue attention and has distracted from the very real question of American interests. Presumably, one's position on the wisdom of the initial decision to topple Saddam Hussein notwithstanding, few responsible American leaders are interested in leaving Iraq if in so doing they create an environment that poses a threat to American security or that of our allies.

For that reason, many have suggested that it will be the judgment of the commanders in Iraq, briefed to informed policymakers, that should help dictate the way forward. This is not always politically attractive to advocates of ending the war without regard to the circumstances on the ground, but it is what I believe to be the responsible course.

Americans, Iraqis, and many others have fought and died to secure an Iraq that can never again threaten its own people, its neighbors, or the United States and our allies. Again, while there are those who opposed the war and continue to oppose the efforts currently taking place, there are few responsible leaders who are interested in frittering away the gains built by our men and women in uniform.

The Status of Forces and Strategic Framework agreements currently under discussion are intended to underpin sustained success rather than institutionalize a foreign presence in Iraq. And while some within Iraq have suggested that the contrary is true—and there I have in mind Muqtada al-Sadr and several others—in fact, providing a long-term framework is the best way for the United States to ensure that it is our elected leadership that determines

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the most appropriate environment for American troops and contractors to continue their work.

The United Nations Security Council resolutions that provide Chapter VII authorization for the coalition presence in Iraq have allowed weak Iraqi governments to cede authorities to the United Nations. In light of the earlier immaturity of the Iraqi political system, that was appealing for a number of years.

However, it is no surprise that the multiethnic, multisectarian, democratically elected Iraqi leadership is now chafing to take control of its own security arrangements. This is exactly what the negotiations between the United States and Iraq will permit.

Some have suggested that Iraqi parliamentarians who have expressed concern about the shape of any bilateral agreement with the U.S. should carry the day. Their views, however, are theirs alone. These parliamentarians are responsible to their constituents. Their opinions regarding immunity for American service people, contractors, the nature of American bases in Iraq, and all else, are questions to bring to their side of the table. We have our own side.

Still others, including you, Mr. Chairman, in a most interesting Washington Post opinion editorial, have insisted that it behooves the President to shelve these negotiations and request a renewed United Nations mandate, whether under Chapter VII or Chapter VI. Many find this position a little bit confusing. Should the next President and Commander in Chief wish to walk away from Iraq or from the many countries where we have Status of Forces Agreement, he can do so. If the Congress wishes to use the powers endowed it by the Constitution to limit the obligation of funds for particular activities, whether in Iraq or elsewhere, presumably it, too, can do so.

However, if we are to be swayed by the argument that a President with 5 months of tenure remaining in his term should cede decision-making to the United Nations, I wonder exactly where this guiding principle will lead. Perhaps the President should not negotiate with Iran or North Korea. Perhaps we should step away from trade negotiations. And if so, why for 5 months? Why not for a year? After all, the next President will inherit the fruits of all of these decisions, benign or otherwise.

Mr. Chairman, conduct of the war and the protection of our national security is not a popularity contest. Mob rule does not decide how a President deploys troops in his role as commander in chief nor how the Congress allocates money with its power of the purse. There are vital questions to be answered in the months and years ahead about Iraqi burden-sharing, protection of long-term American interests in Iraq and in the wider region, and about how best to sustain the victory that the surge has brought.

I commend your committee for asking many of these questions, and I commend especially our commanders who have earned, I believe, the right to help inform the answers. Thank you very much.

[The prepared statement of Ms. Pletka follows:]

PREPARED STATEMENT OF MS. DANIELLE PLETKA, VICE PRESIDENT, FOREIGN AND DEFENSE POLICY STUDIES, AMERICAN ENTERPRISE INSTITUTE

Mr. Chairman, members of the subcommittee, thank you for inviting me to testify this afternoon on the question of the extension of the United Nations mandate for Iraq.

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As I am not a lawyer, nor an expert on public opinion—both of which are represented already on this panel today—I propose to frame the issue in what I believe is the proper context. The question of the extension of the United Nations mandate that governs the allied presence in Iraq has received undue attention, and distracted from the very real question of American interests. Presumably, one's position on the wisdom of the initial decision to topple Saddam Hussein notwithstanding, few responsible American leaders are interested in leaving Iraq if in so doing they create an environment that poses a threat to American security or that of our allies.

For that reason, many have suggested that it will be the judgment of the commanders in Iraq, briefed to informed policymakers that should help dictate the way forward. This is not politically attractive to advocates of ending the war without regard to the circumstances on the ground, but it is the responsible course.

Americans, Iraqis and others have fought and died to secure an Iraq that can never again threaten its own people, its neighbors or the United States and its allies. Again, while there are those who opposed the war and continue to oppose the efforts currently taking place, there are few responsible leaders who are interested in frittering away the gains built by our men and women in uniform.

The status of forces and strategic framework agreements currently under discussion are intended to underpin sustained success rather than institutionalize a foreign presence in Iraq. And while some within Iraq have suggested that the contrary is true—namely Muqtada al Sadr, the Iranian proxy who leads his own rogue militia—in fact, providing a long term framework is the best way for the United States to ensure that it is our elected leadership that determines the most appropriate environment for American troops and contractors to continue their work.

The United Nations Security Council resolutions that provide Chapter VII authorization for the coalition presence in Iraq have allowed weak Iraqi governments to cede authorities to the United Nations. In light of the earlier immaturity of the Iraqi political system, that was appealing for a number of years. However, it is no surprise that the multi-ethnic, democratically elected Iraqi leadership is now chafing to take control of its own security arrangements. This is exactly what the negotiations between the United States and Iraq will permit.

Some have suggested that Iraqi parliamentarians who have expressed concern about the shape of any bilateral agreement with the United States should carry the day. Their views, however, are theirs alone. These parliamentarians are responsible to their constituents. Their opinions regarding immunity for American service people, contractors, the nature of American bases in Iraq and all else are questions to bring to their side of the table. We have our own side.

Still others, including you, Mr. Chairman, in a Washington Post opinion editorial, have insisted that it behooves the President to shelve these negotiations and request a renewed United Nations mandate. Many find this position confusing. Should the next President and Commander in Chief wish to walk away from Iraq—or from the many countries where we have a status of forces agreement—he can do so. If the Congress wishes to use the powers endowed it by the Constitution to limit the obligation of funds for particular activities, presumably it too can do so.

However, if we are to be swayed by the argument that a President with five months of tenure remaining in his term should cede decision-making to the United Nations, I wonder where exactly this new guiding principle will lead. Perhaps the President should not negotiate with Iran? Or North Korea? Perhaps we should step away from trade negotiations? And if so, why for five months? Why not for a year? After all, the next President will inherit the fruits of all of these decisions, benign or otherwise.

Mr. Chairman, conduct of war and the protection of our national security is not a popularity contest. Mob rule does not decide how a President deploys troops in his role as commander in chief, nor how the Congress allocates money with its power of the purse. There are vital questions to be answered in the months and years ahead about Iraqi burden sharing, protection of long term American interests in Iraq and in the wider region, and about how best to sustain the victory that the surge has brought. I commend your committee for asking these questions. And I commend our commanders who have earned the right to help inform the answers.

Thank you.

Mr. DELAHUNT. Thank you, Ms. Pletka.

And Dr. Kull, would you please proceed?

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STATEMENT OF STEVEN KULL, PH.D., DIRECTOR, PROGRAM ON INTERNATIONAL POLICY ATTITUDES (PIPA)

Mr. KULL. Thank you for inviting me to speak. Today I will be addressing the question of how the Iraqi people view the presence of United States troops in Iraq and, more importantly, what they want to see happen in the future. As I will demonstrate, the Iraqi people are showing signs of impatience with the presence of United States troops.

Now, one may ask why this matters. Obviously, the Iraqi people will not be negotiating agreements about United States forces in Iraq. As long as the government wants United States troops there, one may believe that it does not really matter what the Iraqi public thinks. However, it does appear that the Iraqi Government is paying attention to the Iraqi public.

As you probably know, 144 of the 275 members of Parliament signed a letter calling for a timetable for the withdrawal of United States troops, citing as a key reason the attitudes of the Iraqi people. This call for a timetable was then reiterated in the June 3rd letter presented to the United States Congress from representatives of the Iraqi Parliament that you mentioned. And just in the last few days, Prime Minister Maliki has been increasingly aligning himself with this public pressure. This may well be influenced by the prospect of upcoming elections.

So, if the United States Government wants to play a constructive role in the future of Iraq, I think it behooves us to understand better the dynamics of public opinion and thus the forces of the political universe within which Iraqi leaders are operating.

So turning now to the polling data. Is the story simply that Iraqis want United States forces to leave Iraq? I will be presenting substantial data that say that Iraqis do want United States troops to leave within a near-term time frame. But I will then also show some data suggesting that their attitudes are not quite that simple; that there is some interest in a continuing relationship with U.S. forces but only in the context in which the relationship between the United States and the Iraqi Government is fundamentally changed from what it is now.

I will start with the most recent polling. In March of this year, ORB conducted for the British Channel 4 a poll asking Iraqis what they would like to see happen with the multinational forces: 70 percent said they wanted them to leave; with 78 percent of them wanting them to leave within 6 months or less, and 84 percent within a year. And thus, for the sample as a whole, 6 in 10 said that they want the troops out within a year or less.

In a poll conducted in February of this year for a consortium of news outlets led by ABC News, 73 percent said they oppose the presence of coalition forces in Iraq; 61 percent said that the presence of United States forces in Iraq is making the security situation in Iraq worse.

Now Iraqis have been asking for a timetable for withdrawal for some time now. At the beginning of 2006, WorldPublicOpinion.org found that 7 in 10 wanted U.S.-led forces out according to a timetable of 2 years or less. About a year later, we asked again, and 7 in 10 favored a timetable of 1 year or less. And in late 2006, the U.S. State Department conducted polls in numerous Iraqi cities

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and consistently found about two-thirds calling for the United States to leave.

Now, some might think that the Iraqi people should be impressed with the results of the surge on stability in Iraq, but most insist they are not. They are not convinced that it has really helped the situation, or at least that is what they say.

Iraqis seem to shrug off concerns about the security implications of a United States withdrawal. Asked by ABC News what impact it would have on the overall security situation, "if American forces left the country entirely," only 29 percent said that it would become worse; 46 percent said it would get better. In the WorldPublicOpinion.org poll, 6 in 10 predicted that if United States-led forces were to leave Iraq, interethnic violence would go down. The same number predicted that day-to-day security would improve.

Now, all this said, it would seem the Iraqis are——

Mr. ROHRABACHER. Excuse me. What poll was that that you just quoted?

Mr. KULL. The last one? WorldPublicOpinion.org, the 6 in 10.

Mr. ROHRABACHER. Thank you.

Mr. KULL. Now, all this said, it would seem that the Iraqis are giving a pretty unequivocal message for United States-led forces to leave Iraq within a fairly narrow timeframe.

But there are other poll questions in which the Iraqi people express a desire for some degree of continued involvement.

The very same ABC News poll that delivered some of the harshest criticism of U.S. troops also asked whether the U.S. should have a "future role" in a number of areas, and remarkably high numbers said that it should. Three-quarters favored the United States providing training and weapons to the Iraqi army, and 8 in 10 favored the U.S. participating in security operations against al-Qaeda or other jihadist operating in Iraq, something that would be, of course, at odds with the U.S. completely withdrawing all of its forces.

Support for nonmilitary forms of involvement have also been high. The WorldPublicOpinion.org poll found 68 percent favoring "helping Iraqis organize their communities to address local needs, such as building schools and health clinics."

More broadly, the Channel 4 poll asked Iraqis whether they want the United States to play a larger or smaller role in the future of Iraq, and only 22 percent said that they want the U.S. to play a smaller role. The largest number, 40 percent, said they want the U.S. to play a bigger role, and another 13 percent said they want America to play the same role as it is now or the same size role.

So what is going on here? How is it that, on one hand, Iraqis think the presence of United States troops make the security situation worse and that they should leave within a year, and on the other hand, it would be very nice if they were to train Iraqi forces and help fight al-Qaeda?

Here is my interpretation. There are two frames through which Iraqis view United States-led forces in their country. One frame, the weaker frame, is that security in Iraq is still fragile and that the United States may be able to offer some aid to Iraq.

The other and more dominant frame is that the United States has effectively occupied Iraq. As early as 2004, Gallup asked Iraqis

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whether they primarily thought of coalition forces as liberators or occupiers, and 71 percent said occupiers.

In a variety of ways, Iraqis signaled that they not do not feel that they have genuine sovereignty. In our September 2006 poll, 77 percent said that they assumed that the United States plans to have permanent bases in Iraq. And, more importantly, 78 percent said that they thought that, if the Iraqi Government were to tell the United States to withdraw its forces, the U.S. would refuse to do so.

Now, our analysis of the poll found that frustration with this situation may be related to support for attacks on U.S. troops. At that time, a disturbingly high 61 percent of Iraqis said that they approved of attacks on U.S. troops. Now, what was curious was that approximately half of these same people who approved of the attacks said that they did not actually want the troops to leave immediately. Rather, it appears that they supported the attacks because they thought it was necessary to put pressure on U.S. troops to leave eventually, something they weren't sure was going to happen.

So what does this suggest? It suggests that what is key here is that the United States needs to address the feeling held by most Iraqis that they are not being treated as a sovereign power. Now, one way that has been widely discussed is for the U.S. to set a timetable for withdrawal. This would make it unambiguous that the U.S. troops will eventually leave and the government will take full control.

Some have argued that a timetable would weaken the government because it would send a signal to the insurgents that the U.S. is not determined to stay the course. However, WorldPublicOpinion.org has found that only one in four Iraqis appear to agree. Rather, 53 percent have said that a timetable would strengthen the government. Presumably, this would be because it would contribute to the perception that the government is, or at least will soon be, the real power in the country.

More fundamentally, the United States must find ways to show respect for the Iraqi Government. It should be recognized that for the United States to have such powers as the right to arrest and imprison Iraqis independent of the oversight of the Iraq Government weakens the perception that the Iraqi Government is in charge.

Most important, though, convincingly sending the message that the United States will only be in Iraq as long as the government wants it to be is central. The idea proposed by Michael Matheson of basing the U.N. mandate governing the presence of U.S. troops on Chapter VI rather than Chapter VII could be a meaningful way of codifying that United States troops are in Iraq at the will of the Iraqi Government.

So, in closing, it is clear that the Iraqi people are quite eager for the United States to lighten its military footprint in Iraq. And, more importantly, it appears that they are eager to regain their sense of sovereignty. And as long as they do not have this sense, they are likely to continue to have a fundamentally hostile attitude toward all aspects of the United States presence in Iraq.

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However, as Iraqis gradually regain this sense that their country belongs to them, they will likely move toward wanting some ongoing relationship with the U.S., both economic and military, to help them find their way out of this troubled period in their long history.

Thank you for your attention.

[The prepared statement of Mr. Kull follows:]

Prepared Statement of Steven Kull, Ph.D., Director, Program on International Policy Attitudes (PIPA)

Thank you for inviting me to speak. Today I will be addressing the question of how the Iraqi people view the presence of US troops in Iraq and, more importantly, what they want to see happen in the future. As I will demonstrate, the Iraqi people are showing signs of impatience with the pace of US withdrawal.

Now one may ask why this matters. Obviously the Iraqi people will not be negotiating the agreements about US forces in Iraq. As long as the government wants US troops there, one may believe that it does not matter what the Iraqi public thinks.

However, it does appear that the Iraqi government is paying attention to the Iraqi public. As you probably know, 144 of the 275 members of Parliament signed a letter calling for a timetable for the withdrawal of US troops, citing as a key reason the attitudes of the Iraqi people. This call for a timetable was then reiterated in the June 3rd letter presented to the US Congress from representatives of the Iraqi Parliament. Just in the last few days Prime Minister Maliki has been increasingly aligning himself with this public pressure. This may well be influenced by the prospect of upcoming elections.

Thus, if the US government wishes to play a constructive role in the future of Iraq it behooves us to understand better the dynamics of public opinion and thus the forces of the political universe within which Iraqi leaders are operating.

Furthermore, Iraqis' attitudes about US forces are likely to affect their readiness to cooperate with coalition efforts to fight the insurgency, or even their readiness to support the insurgency. There is evidence that many Iraqis do support attacks on US troops and that this attitude is related to perceptions of US long-term intentions in Iraq. Thus dealing with these perceptions is critical to the success of the mission.

So turning now to the polling data: is the story simply that Iraqis want US forces to leave Iraq? I will indeed be presenting some data that say that Iraqis want US troops to leave within a near-term time frame.

But I will then show some data suggesting that their attitudes are not quite that simple: That there is some interest in a continuing relationship with US forces, but only in a context in which the relationship between the US and the Iraqi government is fundamentally changed from what it is now.

I will start with the most recent polling. In March of this year ORB conducted a poll for the British Channel 4, asking Iraqis what they would like to see happen with the Multinational Forces. Seventy percent said they want the Multi National Forces to leave, with 78 percent of this group wanting them to leave within six months or less and 84 percent within a year. Thus about six in ten of the whole sample said they want the troops out within a year or less.

In a poll conducted in February of this year for a consortium of news outlets led by ABC News, 73 percent said they oppose the presence of coalition forces in Iraq. Sixty-one percent said that the presence of US forces in Iraq is making the security situation in Iraq worse.

Iraqis have been asking for a timetable for withdrawal for some time now. At the beginning of 2006 WorldPublicOpinion.org found that 7 in 10 wanted US-led forces out according to timetable of two years or less. About a year later 7 in 10 favored a timetable of one year or less.

In late 2006 the US State Department conducted polls in numerous major Iraqi cities and consistently found about two-thirds calling for the US to leave.

While some might think that the Iraqi people should be impressed with the results of the surge on stability in Iraq, most insist that they are not. In the Channel 4 poll only 26 percent said that the surge had succeeded while 53 percent said that it had not. The ABC News poll found only about a third saying that the surge had a positive effect on security and slightly over half said that it had made security worse.

Iraqis seem to shrug off concerns about the security implications of a US withdrawal. Asked by ABC News what impact it would have on the overall security situ-

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ation "if American forces left the country entirely," only 29 percent say that it would become worse. Forty-six percent said it would get better and 23 percent said it would be the same. Asked about the British withdrawal from Basra, 6 in 10 say that the security situation there is the same or better. In the WorldPublic-Opinion.org poll 58 percent predicted that if US-led forces were to leave Iraq inter-ethnic violence would go down, and 61 percent predicted that day-to-day security would improve.

Now, all this said, it would seem that the Iraqis are giving a pretty unequivocal message for US-led forces to leave Iraq within a fairly narrow time frame. However, there are other poll questions in which the Iraqi people express a desire for some degree of continued involvement.

The very same ABC News poll that delivered some of the harshest criticism of US troops also asked whether the US should have "a future role" in a number of areas. Remarkably high numbers said that it should. Seventy-six percent favored the US providing training and weapons to the Iraqi army. Eight in 10 favored the US participating in security operations against al-Qaeda or other jihadists operating in Iraq—something that would, of course, be at odds with the US completely withdrawing all its forces.

Support for non-military forms of involvement has also been high. The World-PublicOpinion.org poll found 68 percent favoring "helping Iraqis organize their communities to address local needs such as building schools and health clinics."

More broadly, the Channel 4 poll asked Iraqis whether they want the US to play a larger or smaller role in the future of Iraq. Only 22 percent said they want the US to play a smaller role. The largest number—40 percent—said they want the US to play a bigger role and another 13 percent want America's role to remain the same as now.

So what is going on here? How is it that on one hand Iraqis think the presence of US troops makes the security situation worse and they should leave within a year, and on the other hand that it would be very nice if they were to train Iraqi forces and help with the security situation vis-à-vis al Qaeda?

Here is my interpretation. There are two frames through which Iraqis view US-led forces in their country. One frame—the weaker frame—is that security in Iraq is still fragile and that the US may be able to offer some aid to Iraq.

The other and more dominant frame is that the United States has effectively occupied Iraq. As early as 2004 Gallup asked Iraqis whether they primarily thought of coalition forces as liberators or occupiers. Seventy-one percent said occupiers.

In a variety of ways Iraqis signal that they do not feel that they have genuine sovereignty. In our September 2006 poll 77 percent said that they assumed that the US plans to have permanent bases in Iraq. More importantly, 78 percent said they thought that if the Iraqi government were to tell the US to withdraw its forces, the US would refuse to do so.

Our analysis of this poll found that frustration with this situation may be related to support for attacks on US troops. A disturbingly high 61 percent of Iraqis said that they approved of attacks on US troops. What was curious was that approximately half of these same people who approved of attacks on US troops said they did not actually want the troops to leave *immediately*. Rather, it appears that they supported the attacks because they thought it was necessary to put pressure on US troops to leave *eventually*.

So what does this suggest? It suggests that what is key here is that the US needs to address the feeling held by most Iraqis that they are not being treated as a sovereign power.

One way that has been widely discussed is for the US to set a timetable for withdrawal. This would make unambiguous that US troops will eventually leave.

Some have argued that a timetable would weaken the government because it would send a signal to the insurgents that the US is not determined to stay the course. However, WorldPublicOpinion.org has found that only one in four Iraqis appear to agree. Rather, 53 percent have said that a timetable would strengthen the government. Presumably this would be because it would contribute to the perception that the government is, or at least will soon be, the real power in the country.

More fundamentally, the US must find ways to show respect for the Iraqi government. It should be recognized that for the US to have such powers as the right to arrest and imprison Iraqis independent of the oversight of the Iraqi government weakens the perception that the Iraqi government is in charge. Most important, though, convincingly sending the message that the US will only be in Iraq as long as the government wants it to be is central. The idea proposed by Michael Matheson of basing the UN Mandate governing the presence of US troops on Chapter VI rather than Chapter VII could be a meaningful way of codifying that US troops are in Iraq at the will of the Iraqi government.

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In closing, it is clear that the Iraqi people are quite eager for the US to lighten its military footprint in Iraq. More importantly it appears that they are eager to regain their sense of sovereignty. As long as they do not have this sense, they are likely to continue to have a fundamentally hostile attitude toward all aspects of the US presence in Iraq. However, as Iraqis gradually regain this sense that their country belongs to them, they will likely move toward wanting some ongoing relationship with the US, both economic and military, to help them find their way out of this troubled period of their long history.

Thank you for your attention.

Mr. DELAHUNT. Thank you very much.

Professor Matheson.

STATEMENT OF MICHAEL J. MATHESON, ESQ., VISITING RESEARCH PROFESSOR OF LAW, THE GEORGE WASHINGTON UNIVERSITY LAW SCHOOL

Mr. MATHESON. Thank you very much, Mr. Chairman. It is always an honor to be here. And thank you especially for your very kind introduction and for the free publicity for my book.

Mr. DELAHUNT. There is going to be a run on "Council Unbound."

Mr. MATHESON. I finally hope so.

I have submitted a written statement. I suggest it be included in the record and that I give an oral summary.

Mr. DELAHUNT. Without objection.

Mr. MATHESON. As we discussed in previous hearings, United States forces are currently in Iraq as part of a multinational force which was authorized by the Security Council under Chapter VII of the charter. That mandate, of course, has been periodically renewed, the latest renewal expiring at the end of this current calendar year. The status and the privileges and immunities of U.S. forces as part of the MNF are still governed by CPA 17, which is the order issued by the Coalition Provisional Authority during the initial occupation period and which was continued in force after the occupation by the provision of the Iraqi Constitution. But according to the terms of CPA 17, it also expires when the current U.N. mandate expires and MNF troops leave the country. So if a long-term arrangement for this mandate and status is not concluded by the end of the current year, then some other action will have to be taken for that interim period necessary to conclude negotiations.

One obvious possibility for that would be the one you have suggested; namely, for an extension by the Security Council of the current U.N. mandate, which could be done under either Chapter VI or Chapter VII of the U.N. Charter.

The basic difference between the two is that measures under Chapter VII can be imposed on states and have legal obligatory force with respect to those states, whether or not they consent to the operation. To do this, the council has to determine that there is a threat or breach of the peace.

On the other hand, measures under Chapter VI don't have necessarily the same obligatory force, and therefore, military missions authorized under Chapter VI would typically rest on the consent of the state involved.

Let me talk about those two options briefly. First of all, Chapter VII. The extension of the current mandate under Chapter VII would of course automatically continue the authority of the forces of the MNF that are contained in current resolutions. It would also

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have the effect of continuing the current status and privileges and immunities of those forces through a modality of CPA 17, which would continue in force. And I think this would also confirm the continuing applicability of the 2002 congressional authorization, part of which, as you recall, authorizes the use of U.S. forces to enforce Security Council resolutions.

Now, there is no reason in principle why this could not be done under Chapter VII. This need not amount to a derogation from Iraqi sovereignty or rest upon a finding that the Iraqi Government was a threat to the peace. It could rest upon a determination that the situation in Iraq was a continuing threat to the peace because of the acts or the threats by other elements. Chapter VII has been applied in many different situations with respect to many countries without derogating from their sovereignty. In fact, all U.N. members, including the United States, are currently subject to obligations under two important Chapter VII resolutions at the present time.

Even if the MNF mandate were not extended under Chapter VII, Iraq would remain under Chapter VII regime in other respects, for example, with respect to the deduction of sums from their oil export revenues to pay compensation to victims of the Gulf War and also with respect to Iraqi obligations with respect to WMD.

There is one respect in which Iraq might even find benefit from a further Chapter VII resolution in that Iraqi oil proceeds are currently immunized from attachment under a Chapter VII resolution which expires at the end of this year, and to continue that would require another Chapter VII resolution.

Mr. DELAHUNT. If I can interrupt for just a moment. Could that same protection be afforded the Iraqis under a Chapter VI extension?

Mr. MATHESON. Technically, no, because you would have to have mandatory effect on other states. So technically, I think you would need a Chapter VII extension. Now, Chapter VI. If for some reason, which may be political or perceptions of sovereignty, it becomes undesirable to have a Chapter VII extension, I think the same effects could be had by action by the Council under Chapter VI. And this would be based expressly on the request or the consent of the Iraqi Government. In the past, a number of military operations have been authorized by the Council under Chapter VI based upon the consent of the states in question and some of these have had rather robust military missions.

A Chapter VI resolution would not require a finding of a threat to the peace. And since it would rest expressly on the consent of the Iraqi Government, presumably there would be no question of a derogation from Iraqi sovereignty. This could all be made abundantly clear in the text of the resolution and in communications by the United States and Iraqi Governments to the Council and in separate exchanges by the United States and the Iraqi Government or agreements to that same effect, and perhaps all of these things should be done.

I think in Chapter VI extension would have the same essential operational consequences as a Chapter VII resolution in this case. The existing mandate and authority of the forces of the MNF would continue, this time based on the consent of Iraq. The status and

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the privileges and the immunities of those forces would continue under CPA 17 which would still have effect. The provision in the 2002 congressional authorization with respect to the enforcement of Security Council resolutions would continue in effect. And all of this—none of this would depend on whether the Council had acted under Chapter VI or Chapter VII.

In one way, I think the shift from Chapter VII to Chapter VI for the MNF could be seen in Iraq as a positive reaffirmation of their resumption of full sovereignty and their interest in dispelling the notion that some kind of international protectorate continues. This would all be strengthened by the limited duration of this which would only be designed to tide over the period that would be necessary to complete negotiations on a permanent arrangement. And for purposes of Iraqi law, though I am no expert on this, I think this would fit within the current provisions of CPA 17 which, as I have said, has been extended by a provision of the Iraqi Constitution itself.

Now, these are not the only options for extending the current authority and status of United States forces in Iraq. The two governments could do this by concluding a simple agreement between them, which would continue the current mandate and status of the MNF for a temporary period while the permanent negotiations are completed. This could be done by a simple exchange of notes or by some other bilateral document. Now, this would raise questions as to whether further legislative action would be required under either the United States or Iraqi domestic system. If there were concerns in this regard, I think such questions could be addressed by a further Security Council resolution which would confirm the agreement and approve the extension of the mandate and I think that depending on how it is drafted, this would bring the arrangement within both CPA 17 and the 2002 congressional authorization, and so hopefully would obviate the need for further legislative action.

Let me conclude by saying that under any of these options, the two governments would be given this temporary breathing room that they may retire to negotiate a long-term solution beyond the end of the current calendar year and then to secure whatever legislative action may be desired or necessary under either of their two systems. United States forces would continue to have appropriate authority and appropriate status and protection, while Iraqi concerns about its sovereignty and about its long-term interests hopefully would not be compromised by any of these solutions. That concludes my oral summary, and of course, I would be glad to answer any questions.

[The prepared statement of Mr. Matheson follows:]

PREPARED STATEMENT OF MICHAEL J. MATHESON, ESQ., VISITING RESEARCH PROFESSOR OF LAW, THE GEORGE WASHINGTON UNIVERSITY LAW SCHOOLPOSSIBLE EXTENSION OF THE UN MANDATE FOR IRAQ: OPTIONS

I have been asked to discuss possible options for extension of the current mandate and status of U.S. forces in Iraq for some interim period in the event that a long-term agreement for this purpose is not concluded by the time the current UN mandate expires at the end of 2008.

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THE CURRENT MANDATE

As we have seen in previous hearings before the Subcommittee on this subject, U.S. forces are currently present in Iraq as part of the Multinational Force (MNF) authorized by the UN Security Council under Chapter VII of the UN Charter. Security Council Resolution 1511 in October 2003 authorized the MNF "to take all necessary measures to contribute to the maintenance of security and stability in Iraq," which includes the use of force against terrorists and insurgent groups and the freedom of movement necessary to accomplish this mission.[1] This authorization and mandate has been periodically renewed by the Council, the latest extension continuing through December 31, 2008.[2]

The status, privileges and immunities of U.S. forces in Iraq are still governed by an order issued in June 2004 by the Coalition Provisional Authority as the occupying authority during the initial period of U.S. operations in Iraq. That order, known as Coalition Provisional Authority Number 17 (or CPA 17), grants immunity to all MNF personnel from Iraqi arrest and criminal jurisdiction, and regulates other matters usually covered by Status of Forces agreements (SOFAs), such as contracting, travel, taxes and fees. CPA 17 was continued in force beyond the end of the occupation by a provision of the Iraqi Constitution. However, by its own terms, CPA 17 will terminate when the UN mandate ends and MNF elements have left Iraq. At that point, if no further action were taken, U.S. forces would no longer have authority to operate in Iraq and would be subject to the full scope of Iraqi law, including the possibility of prosecution in Iraqi courts.

OPTIONS FOR EXTENDING THE MANDATE

If a long-term agreement for the mandate and status of U.S. forces is not concluded by the end of this year, then it would be necessary to find some other means to provide for their mandate and status for some interim period while negotiations on long-term arrangements continue. This could be done by extension of the current mandate pursuant to action by the Security Council under either Chapter VI or Chapter VII of the UN Charter.

The basic difference between Chapters VI and VII is that under Chapter VII, the Council may impose measures on states that have obligatory legal force and therefore need not depend on the consent of the states involved. To do this, the Council must determine that the situation constitutes a threat or breach of the peace. In contrast, measures under Chapter VI do not have the same force, and military missions under Chapter VI would rest on consent by the state in question. Until now, Chapter VII has been used in the case of Iraq for various reasons, including the fact that it was initially necessary to use force and impose measures in the absence of Iraqi consent, and the need to adopt measures that would bind other states with respect to the disposition of Iraqi assets and other matters.

Action under Chapter VII. This option has been exercised by the Security Council on a number of occasions in the past with respect to forces in Iraq. By extending the current mandate and authority of the MNF, this would automatically continue the current status and immunities of U.S. forces under CPA 17, which remains in force "for the duration of the mandate authorizing the MNF under U.N. Security Council Resolutions 1511 and 1546 and any subsequent relevant resolutions."[3] It would also confirm the continuing applicability of the 2002 Congressional authorization for the presence of U.S. forces in Iraq, which authorized the President to use the armed forces to "defend the national security of the United States against the continuing threat posed by Iraq" and to "enforce all relevant United Nations Security Council resolutions regarding Iraq."[4]

It is true that at the time of the last extension, the Council declared that it would terminate the mandate whenever requested by Iraq, and Iraq advised the Council that it would not request a further extension.[5] However, Iraq could decide that a temporary extension for the purpose of permitting the completion of long-term arrangements would be desirable, or the Council could decide on its own that such a temporary extension would be called for. In adopting such a resolution, the Coun-

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[1] This mandate has been elaborated and expanded by the Council from time to time. *See, e.g.*, UN Security Council Resolution 1546 (2004) and the letters incorporated by reference in that resolution.

[2] UN Security Council Resolution 1790 (2007).

[3] CPA 17, as revised, goes on to say that the MNF mandate "shall not terminate until the departure of the final element of the MNF from Iraq, unless rescinded or amended by legislation duly enacted and having the force of law."

[4] Authorization for the Use of Military Force Against Iraq Resolution of 2002, P.L. 107–243.

[5] UN Security Council Resolution 1790 (2007).

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cil could take express notice of an Iraqi request for such an extension, as it has done in the past, and could expressly state that this would be only a temporary measure that would not affect Iraq's long-term status.

There is no reason in principle why this could not be done under Chapter VII. Such an extension need not amount to any derogation from Iraqi sovereignty or require a determination that the Iraqi Government is currently a threat to the peace. The Council could base its action on a finding that the *situation* in Iraq is a continuing threat to the peace because of the actions or threats of other elements inside or outside Iraq. Chapter VII has been applied in many countries without derogating from their sovereignty, and in fact all states (including the United States) currently have obligations under Chapter VII with respect to international terrorism and the proliferation of weapons of mass destruction to non-state entities. In fact, Iraq itself would continue to be subject to certain other aspects of the existing Chapter VII regime even after the expiration of the MNF mandate, such as the provisions for compensation for Gulf War victims from Iraqi oil export revenues,[6] and Iraq's obligations not to acquire weapons of mass destruction.[7]

The adoption of a further Chapter VII resolution could also have benefits to Iraq in that it could also be used to continue Council measures affecting other states that Iraq might find useful. Specifically, the current immunity from attachment of Iraqi petroleum products and the proceeds of their sale, which was continued in the same Council resolution that extended the MNF mandate, will expire on December 31, 2008, unless further extended by the Council.[8] This would have to be done under Chapter VII if it is to protect against attachment in other states.

Chapter VI. If a Chapter VII extension is nonetheless thought to be undesirable, the same results could be achieved through a Council decision under Chapter VI, based on the request or consent of the Iraqi Government. In the past, a number of peacekeeping and other military operations have been authorized by the Council under Chapter VI with the consent of the affected states.[9] This, for example, was the case with respect to a number of peacekeeping operations in the Middle East, South Asia and the Congo, sometimes involving robust military missions.

A Chapter VI resolution would not require any finding of a threat to the peace; and since the mission would rest expressly on the consent of Iraq, there would be no question of intrusion on Iraqi sovereignty. This could all be made abundantly clear in the text of the resolution and in communications to the Council by Iraq and the United States. It could also be useful to have a brief U.S.-Iraqi agreement or exchange confirming that the two governments had consented to the extension of the mandate and status of MNF forces.

Such an extension would in practice have essentially the same operative consequences as a Chapter VII resolution in the current circumstances in Iraq. The existing mandate and authority of U.S. forces within the MNF would continue, this time based on the consent of Iraq. The status and immunities of U.S. forces would continue under CPA 17, which continues to apply so long as the MNF authorization continues under Security Council resolutions, without regard to whether they are under Chapter VI or Chapter VII. Likewise, the provision in the 2002 Congressional resolution authorizing the use of U.S. forces to enforce all relevant Security Council resolutions, without regard to whether they are under Chapter VI or Chapter VII, would continue to apply.

Such a shift from Chapter VII to Chapter VI with respect to the MNF could well be seen in Iraq as a positive reaffirmation of the Iraqi desire to reassert its sovereignty and independent status and to avoid the appearance of a continuing international protectorate. The limited duration of such an interim extension would further emphasize that it is not aimed at the indefinite continuation of the current situation. It might also simplify matters for the Iraqi Government under its own law, since it would fall within the terms of CPA 17 that are already in force under the Iraqi Constitution, and hopefully would not require further action by the Iraqi Parliament. (As already noted, certain other aspects of the existing Chapter VII regime would continue, such as the provisions for compensation for Gulf War victims from Iraqi oil export revenues.)

I would stress, in passing, that I am not at all suggesting that Chapter VII should be abandoned in other cases as the usual vehicle for authorization of military operations where the robust use of force may be necessary. Chapter VII authority is

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[6] UN Security Council Resolutions 687 (1991), par. 16–19; 1483 (2003).
[7] UN Security Council Resolutions 687 (1991), par. 7–14; 1762 (2007).
[8] UN Security Council Resolution 1790 (2007), par. 3; UN Security Council Resolution 1483 (2003), par. 22.
[9] *See, e.g.*, M. Matheson, *Council Unbound: The Growth of UN Decision Making on Conflict and Postconflict Issues after the Cold War* (U.S. Institute of Peace, 2006), Chapters 4–5.

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often necessary or desirable, particularly where the Council cannot be confident that it will continue to have consent for the operation, or where there is doubt about the authority or stability of the regime giving consent, or where there is some other reason to give binding legal effect to the measures adopted by the Council. However, none of this is a problem with respect to a temporary extension of the MNF mandate with the consent of Iraq.

OTHER OPTIONS

The extension of the UN mandate is not the only possible option for ensuring that U.S. forces continue to have appropriate status and operational authority while negotiations for long-term arrangements are completed. The two governments might conclude a simple agreement extending the current authority and status of MNF forces for a temporary period to allow the completion of negotiations for long-term arrangements, or they might agree on a modified version of the current arrangements to deal with specific Iraqi concerns, such as the current immunity of contractor personnel. This could be done by a simple exchange or notes or by any other bilateral document that conveys the agreement of the two governments.

This could, however, raise questions as to whether further legislative action would be needed under either U.S. or Iraqi law, which could complicate the conclusion of any temporary arrangement. This possible problem could be resolved by the adoption of a Security Council resolution confirming the agreement and approving the extension of the current mandate. For purposes of Iraqi law, this would bring the arrangement within the existing authority of CPA 17; and for purposes of U.S. law, it would fall within the terms of the 2002 Congressional resolution. The Security Council could take such action under either Chapter VI or Chapter VII, with the same pros and cons as suggested above.

CONCLUSION

If a long-term agreement on the mandate and status of U.S. forces is not concluded by the time the current UN mandate expires at the end of this year, some action will be necessary to protect U.S. forces and to ensure that they can continue their operations during the interim period that would be required to complete negotiations on long-term arrangements. The method used in the past was an extension of the MNF mandate by the Security Council under Chapter VII, and there is in principle no reason why this could not be done again. But if this is not possible for political reasons, the same objectives could be reached through Chapter VI action of the Council, based on the consent of Iraq; or it could be done through an interim bilateral agreement, with confirmation by a further Council resolution. Any of these options could be carried out without the need for further action by Congress, and hopefully the same would be true with respect to the Iraqi Parliament. This would provide breathing room for the two governments to negotiate a satisfactory long-term solution and to secure whatever legislative action may be needed under their respective domestic systems.

Mr. DELAHUNT. Well, thank you, Professor. And I am sure that all those that have listened to your exposition of international law as relates to U.N. Security Council resolutions have discovered that it is arcane, it is esoteric and it is difficult to comprehend even for those of us who do have a legal background and a license to practice law. But I don't think that we can overstate the importance of closely examining what options are available because I believe that we are running up against a wall here in terms of the calendar and the information that comes to this committee vis-à-vis the position of the Iraqi Parliament as well as the reports that we read coming out of Washington and Baghdad about disagreement indicate to me that if we hope to achieve the protection for American troops as well as change the perception in Iraq that we are there to occupy from that misunderstanding of our intentions to one that we are there as liberators and that we want to leave in a responsible and reasonable way is difficult to balance.

But I think we are at a point in time when serious people have to sit down and think carefully how we can achieve that goal, which I think everybody wants. You know, I thought, Steven, your

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observations about occupation and liberators are very telling and your interpretation of the data itself. Ms. Pletka, from my perspective, this is not about ceding any authority to the United Nations. We have been operating under a U.N. resolution for the past almost 6 years now. So this is an issue that really requires some thought. But I am going to yield to the gentleman, the vice chair of the committee, the gentleman from Missouri for his questions. Mr. Carnahan.

Mr. CARNAHAN. Thank you, Mr. Chairman and ranking member, for calling and organizing this hearing and for the witnesses here today. I wanted to start with some questions directed to Dr. Kull and ask the others to respond if they would like. With renewed talks and growing consensus about timelines, we have heard from Prime Minister Maliki that United States forces may be able to leave Iraq by 2010, that we even heard President Bush and others in the administration talking about general time horizons. What effect do you think these recent statements will have on the Iraqi populations' opinion of the United States forces and does your data suggest there would be less public support for attacks on U.S. forces if such a timeline had been agreed to?

Mr. KULL. Yes. Yes, our data and our analysis suggest that there would be more positive attitudes toward U.S. forces and probably less support for attacks on U.S. troops as well. This isn't something that is going to change overnight. But everything that moves the discourse in a direction where the people are thinking in terms of the Iraqi Government as being in control of the situation and United States forces as having a limited presence there, not having a permanent presence is only going to be to the good in terms of these perceptions on part of the Iraqi people.

Mr. CARNAHAN. That gets back to your distinction between occupiers or being there to really help support the sovereignty of the Iraqi Government.

Mr. KULL. Right. Whatever they thought about the past, if they perceive that what is happening now is something that they can have confidence in, that they truly have their own government, then they are going to look to their government and see it as being the real center of power in the country and they will be less preoccupied with U.S. forces.

They do very much want to see some lightening of the U.S. military footprint. They do want to see a reduction in the number of troops. It is not simply a few phrases publicly said that is going to make this go away. They need to see some signs of some drawdown. That doesn't mean that it has to go all the way down to zero for them to be satisfied, because there are some indications that once it starts getting down to the point where they really feel that they are not dominated by the United States presence, they may want to have some residual force there to address some of these concerns, training Iraqis and helping fight al-Qaeda and so on.

Mr. CARNAHAN. I would be happy to hear from Ms. Pletka or Mr. Matheson. If not, I will go on to my next question.

Ms. PLETKA. I would only point out that unfortunately the connection between public opinion and what is happening on the ground is not always entirely clear. I imagine if we polled the Iraqi people and asked how many Jews were in the World Trade Center

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when it was attacked on 9/11, we would get an opinion that was not very close to reality either. At the end of the day, the Iraqi support for attacks on American soldiers has existed in the past, as you rightly pointed out, and will continue to exist in some measure in large part because of regional influence, because of political tension, because of interethnic fighting in the country.

But the real question is, do these people attribute to the U.S. forces their ability to live in peace and security at this very moment? And I think certainly anecdotally what we see and especially in areas that weren't peaceful until now like Basra and Ramadi and Diyala Provinces. What we see is anecdotally that people are very clear that they attribute their ability to live in peace and security to American forces and that they worry and that while they would like those American forces to go away, certainly in terms of the Iraqis that I talked to, that they would like them to go away.

But at the end of the day they do worry about the sustained security that they can live in and fear that there could be a return not only of al-Qaeda, but Muqtada al Sadr's group and other Iranian sponsored death squads that really made their lives a living hell over the last few years, and, by the way, made our lives pretty awful as well.

Mr. CARNAHAN. Dr. Kull again. You indicated that the Iraqis do not feel that the military surge had been successful. What do you think accounts for the discrepancy between what the Iraqi citizens, how they view that and how our United States commanders do? Are they measuring this differently in terms of Iraqis focusing more on security for the average Iraqi and American commanders focusing more on the number of attacks on U.S. soldiers? What do you think accounts for that?

Mr. KULL. They do see the situation getting better. It appears that they attribute this improvement more to the strengthening of the Iraqi army and the Iraqi police, more than to United States forces. Now, to some extent, maybe there is an element of bombast in this. They want to stick with the line that, "We don't need you, we can take care of ourselves, we are strong," and so they are just not inclined at the moment to credit U.S. forces. But there are signs that they do feel confidence in the Iraqi army and the Iraqi police. They are saying, "We feel ready to do this on our own; we are not dependent on U.S. forces." But they do see an improvement it is not that they are living in a completely different universe from U.S. commanders.

Mr. CARNAHAN. Thank you. Finally, then, I go to Mr. Matheson. I guess I wanted to see if you could sharpen your description of what happens at the end of this year if the mandate is not renewed. What will happen to the legal status and protections of U.S. forces, other U.S. personnel and U.N. personnel if this is not renewed?

Mr. MATHESON. Two things would happen. First of all, there would no longer be authority for the United States to use its troops for the missions they are currently carrying out. Iraq would have to grant authority or the U.N. would have to extend authority for that to continue to be the case. Secondly, the current privileges and immunity, legal protections that U.S. forces enjoy are dependent upon the U.N. mandate through this mechanism of this coalition

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provisional authority order I described which has now been confirmed in their Constitution. So that after that date in theory, U.S. forces could be subject to a local law, to local criminal jurisdiction, to local taxes and fees and so on unless there were some alternative arrangement put in place at least for that temporary period.

Mr. CARNAHAN. Thank you.

Mr. DELAHUNT. The gentleman from California, Mr. Rohrabacher.

Mr. ROHRABACHER. Thank you very much, Mr. Chairman. Dr. Kull, listening to your opening statement—and I am sorry to categorize this—there are bizarre contradictions in people's opinion as to what the reality is. I mean, it is contradictions within itself as you pointed out. And no matter how we try to explain it, I think just your testimony reinforces to me that the very worst way to make policy is to wet your finger and find out what public opinion is by which way the wind is blowing.

And that is not going to get you anywhere because most people, whether they are here in the United States or most people even in Iraq are not, you know, they aren't aware first of all the information or even a great portion of the information and they are paying much more attention to their specific human problem at the moment, whether it is a family problem or health or whatever is going on in their particular family.

So I would suggest that the poll indicates that we should be trying to figure out as leaders what is the right course of action and realize if we achieve the goals, if they are proper goals, public opinion will go along with us in the end. I think Abraham Lincoln said that very well a long time ago, that no matter what the polls are telling you right now, if you fail, they are not going to be with you and no matter how many people are against you right now, once you succeed, they are going to be a lot—a lot of people are going to say they were with you all along.

So with that said, I think it is indicative and here is another observation, I think at times it is very difficult for people who have posed and put themselves on the line on the issue of whether or not this war was worth it have a hard time acknowledging the success that we have seen emerge in this last 12 months. It was a very difficult decision for me to decide to continue supporting the surge. I mean, at that point—when they came to us and asked us—the President asked us to support the surge, it was not a rubber stamp on my part. It was something I had to think about and pray about and figure out if this was the right—it is always better if you are not going to succeed to cut your losses, especially when you consider that the losses are human lives and then admit that you were on a wrong course.

In this particular case, I thought about it and I believe we did go in the right direction with the surge, and I think it is very difficult now for people who even tried to talk me into going in the opposite direction, who they themselves decided to oppose the efforts of the surge as it went along to admit that it appears that the military surge demoralized radical Islamic leaders in Iraq, as well as some of the leaders that maybe perhaps—not radical Islamic, but anti-Western leaders in Iraq. And I think it has been successful and I think that surge will permit us to achieve what

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the long-term goal of those who have been negative about the policy and that is it will prevent us to leave with honor and it is also permitting us, I think, to be able to leave Iraq with succeeding to the point that we will leave an Iraq that is not going to be then immediately dominated by an anti-Western radical regime that threatens the stability of the world, and perhaps threatens the security of the United States; not to mention, of course, the well-being of the Iraqi people themselves.

So with that said, I think that we now are facing this issue as to how do we—where do we go from here and what is that strategy going to be, and again not paying attention to the polls, how do we get where we want to go and it seems to me that we have to make a decision by the end of the year as to what the Status of Forces Agreement will be or what we will do about the fact that there is no more U.N. mandate to rely on. And we have several different approaches. It has been suggested—I appreciate all of your testimony in that. I personally believe that it would be better for us to maneuver ourselves within a framework of reaching an agreement with the Iraqi people through their Parliament and make it a bilateral understanding that will perhaps give us a temporary respite from having to immediately come to this agreement and I think that would—now, didn't you say, sir, that this could be achieved with an exchange of letters or of some kind?

Mr. MATHESON. Yes, you could do it that way. The only question that would be left over would be your question of congressional authorization, whether that continues to apply or whether further action——

Mr. ROHRABACHER. We would, of course, want congressional authorization for this. It seems to me that doing this in a bilateral way, which includes in my definition anyway, a ramification by the United States Congress and their Parliament that seems to me a much better way than to try to do this through the structure of the United Nations. Let me remind everyone that—who would like to rely on the United Nations, that the U.N.—every problem that I have seen that the U.N. gets involved in elongates it more dramatically than if we would try to do a bilateral issue on our own. I mean, a sizeable number of the countries of the United Nations are run by gangsters and lunatics and these are countries that are—you know, would in no way—their governments are corrupt and they are not elected by anybody but who has the toughest—who is the toughest kid on the block, and it seems to me the fact that the United Nations has to deal with that reality makes it less effective. It is like looking at the Human Rights Commission and definitely—there you have some of the world's worst human rights abusers on the human rights commission.

So perhaps your testimony today has been—Mr. Chairman, I think has been valuable, because I think that it seems to me that that is the way we should proceed but also making sure that we proceed with the idea that that understanding has to be ratified by the Congress. Would you have anything that you would like to add to that, your—I think you mentioned earlier that you were looking at Chapter VI or—wouldn't it be better just to do this in a bilateral way?

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Ms. PLETKA. I apologize. I can't see who you are looking at. I don't think it makes—I don't think it makes a wit of difference. It is not fair to me with all respect to Mr. Matheson in understanding, I think that is a very inside baseball solution, that if it is intended mainly to assuage the concerns of the Iraqi people, that somehow they have subcontracted their sovereign decision making process to the United Nations Security Council, somehow I think that a shift of Chapter VII to Chapter VI isn't really going to answer the mail for the Iraqi Government on that front if that is the only purpose that is being served by that shift, and I think there are a number of detrimental aspects to that change as well, as Mr. Matheson rightly outlined. I don't really see the purpose.

Mr. ROHRABACHER. Well, let me note that in Kosovo, we actually have had a situation in Kosovo going on since 1999. And it has been operated under the auspices of the United Nations all of that time, almost 10 years, an 8-, 9-year period here. And I think we have reached the threshold now, Mr. Chairman, that the Iraqi people, I think, are well on their way to establishing an authority in their country based on Democratic elections and a government that they can handle it, and they don't need to do this under the auspices of the United Nations anymore. And it would be much better for us just to reach a bilateral agreement with them which would foreclose any permanent bases, which I personally wouldn't want to see either, but as well as permits us to perhaps move forward with a status forces agreement that will be agreed upon, and for a long-term relationship after we are given a 6-month respite. Yes, sir.

Mr. MATHESON. The option you are describing, bilateral agreement with appropriate legislative action in the two countries is perfectly fine for the permanent long-term arrange. The only practical problem is that you may come up against the deadline having not been able to do that, and you may find at a temporary bilateral arrangement with the same actions may not be feasible given the short time period you have. If that is the case, then you need to look the fallback for relying upon U.N. authority.

Mr. DELAHUNT. If my friend would yield for a moment.

Mr. ROHRABACHER. Certainly.

Mr. DELAHUNT. I don't think this is a question operating pursuant to a U.N. command. This is a resolution that was actually sought after by the United States, the MNF resolution authorizing the multinational force. The extensions in the past have been agreed to by the U.N.—rather by the United States and the Iraqis and what we have here is a real, I believe, a legal issue that has to be addressed because it is important that Iraqi sovereignty be respected and at the same time there is authorization presence of American troops if they are to remain there. And these are all issues that will be the subject of negotiations. It is clear, as Mr. Matheson pointed out, and as I have indicated, I think the achievement of a bilateral agreement, which would accomplish all of those, is quickly running out—running out of time.

Mr. ROHRABACHER. Mr. Chairman, I remember you used the phrase, we are running up against a wall. And when you said that, I thought you were referring to the fact that so far this year, we haven't actually passed any appropriation bills and we are about

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ready to end this session of Congress. We have—one thing about democracies and people who are free, one thing I have noticed about the human condition, not only do we have contradictions in our views on things and people aren't consistent, but they also put off major decisions until the very last minute, which sometimes makes it very difficult to implement a more positive scenario.

Mr. DELAHUNT. Asking the gentleman to yield again. I understand that and that is very true. But I would also point out to my friend that in most democracies, public opinion does matter. And that is the essence—I am sure that won't happen again. In most democracies, public opinion does matter, and it seems to be happening in Iraq. And when we have dramatic changes in positions as evidenced by the Government of Iraq now talking about a withdrawal by 2010, that clearly is a significant shift in terms of what we have heard in the past, and at the same time, to receive a letter from elected—and I think it is important to remember here—and we did celebrate the elections, the last elections and we all remember that—the purple finger.

The only elected officials that I am aware of in Iraq today are members of the Iraqi Parliament. 144 of them sent a letter to the Secretary General and—of the United Nations and to Secretary Rice of this country insisting on a timetable for withdrawal. We have received correspondence asking for a timetable for withdrawal. I would suggest that if we respect the sovereignty of this nascent democracy, that we would give them a timetable for withdrawal. But that is really not what we were here to talk about today. What we were talking about today is: How do we go forward?

I thought what was particularly interesting is in The Wall Street Journal certainly not a liberal bastion in terms of reporting, but there was an interesting headline, and I read the whole story, about a consensus is beginning to emerge. I think that you and I and everybody want to see our troops out and how do we get out, reasonable and in a responsible way and in a way that respects the wishes of the people in Iraq and work with them in the future in terms of bringing stability—not just to Iraq, but to the entire region. I know that is your goal, I know that is my goal and if you want to continue, you can. Otherwise I am going to turn it over.

Mr. ROHRABACHER. One last thought. And again, let me reiterate the reason why we see consensus is emerging in things and more positive signs like this, is because the United States made the right decision, didn't—the decision makers didn't wet their finger and say which way is the wind blowing right now, no, but they made a decision, what in the long run will put us in a position where we can leave Iraq with honor and with honor means with what is good for the Iraqi people is good for the American people as we made that decision with the surge, and right now quite frankly I have no doubt that we are going to begin our withdrawal from Iraq very soon because we have won the battle in Iraq, by and large, and the surge turned that tide.

And I think that what we are talking about right now represents the type of leeway we all have now and the free people of Iraq now, the decent people of Iraq have now because they have—those forces that were there, that were aiming to try to dominate that society

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with a form of radical Islam or some anti-Western clique, those forces have been basically defeated. And I am very proud that a year ago, we didn't succumb to yearning of our population and me as well, to let us just forget the future and call it quits right now and get the heck out of there so we don't lose any more of our beloved people.

And all of us have lost friends there and I tell you, I see the troops home every time there is a National Guard and Reserve group in southern California, I see them off at the airport and I also welcome them home with thanks, heartfelt thanks. So I see their faces and I see their families. This has cost us a lot, but, Mr. Chairman, I think if we do leave with honor, it is go—history is going to record that we did something noble in Iraq by ridding that country of a monstrous Saddam Hussein who slaughtered his own people. Thank you very much.

Mr. DELAHUNT. Thank you, Mr. Rohrabacher. And the gentlelady from California.

Ms. WOOLSEY. Thank you, Mr. Chairman, for letting me sit in today. When I saw it on the schedule, I thought this is probably the most important hearing going on in this Congress today. And earlier this month——

Mr. DELAHUNT. All our hearings are important, Ms. Woolsey. You are always welcome to come and participate.

Ms. WOOLSEY. Thank you very much. But I chair some important hearings also, but today was important. This is quite a subject. Earlier this month, Congresswoman Barbara Lee and Congresswoman Maxine Waters and I were joined by 29 of our House colleagues, as well as Senator Bernie Sanders from Vermont in sending a letter to Prime Minister Maliki acknowledging and supporting the right of his government, the Government of Iraq to insist that any security agreement between the United States and Iraq can include a timetable for complete redeployment of United States Armed Forces and military contractors. We did that because we truly believe in democracy and, of course, Members of Congress do. But so do the—we hope the parliamentarians that were elected in Iraq.

And I can't see how you win an occupation, so I can't get into we are in Iraq and we have won this big major battle. But we certainly have the Iraqi parliamentarians saying that they believe in democracy and they will listen to the people in their country, which is what democracy is all about. And the people in our country have been telling us since getting in to Iraq that we have made a mistake and they want us out. So both countries together can achieve the democratic, small "d," goal of ending this mistake in Iraq.

So however we do it, whatever agreement we have between now and after the end of the year and then a new administration. I don't know if it is going to be called a treaty or a status, but it must be approved by Congress. There is no question about that. And so far the level of consultation that we have received from the administration has been superficial at best. So we can't force the administration it appears to work with Congress. The least we can do is demand our constitutional right and we must and we must insist that we approve any international agreement. So my question to you three, if you could place a card in the congressional sug-

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gestion box, what would you recommend to strengthen the Congress's hand in dealing with the administration on this issue? What would you suggest we do so that we—it comes back to us?

Mr. KULL. I will jump forward here. I think I am in danger of repeating myself. Looking for opportunities to interact with the Iraqi Government presumably, the——

Ms. WOOLSEY. I am talking about interacting with our own Government on this one.

Mr. KULL. Okay. Just for starters, the form of communications between the U.S. Congress and the Parliament in a way that establishes a visible dialogue such that the impression is formed on the part of the Iraqi people that listening is occurring and that—a kind of joint decision making process is occurring. That is something that ideally could happen at the executive branch level as well. So that there is a perception of give and take, a perception of joint decision making. The more ways that one can show deference to the Iraqi Government, the better, the more comfortable people will be.

I don't think that ultimately the Iraqi people are expressing a contradiction here. To some extent it is something created by the polls. They ask, "Do you want the U.S. troops to leave?" and well, I can choose leave or stay, well, I am going to go for leave. And then they ask, "Do you want the troops to help out with this or that?" and they say, "Yes." It seems like a contradiction, but what they are really saying is we primarily want a reduction of the military footprint, but we do probably want some residual force, some residual help. It is not a——

Ms. WOOLSEY. If you would yield a minute. Do you think they would be just as happy to have nonmilitary representation in their country where we could help them with the reconciliation with the refugee problems, with rebuilding their infrastructure?

Mr. KULL. Yes. They are quite unequivocal they will want other forms of nonmilitary support helping working with their communities and all kinds of infrastructure issues, things like that.

So, yes, they do have complex emotions that come through that seem contradictory at times, it comes through that they are very angry and hostile and that is related to that sense of wanting to push something back that they feel is bearing down on them. But if it started backing off, then I think you would see some, "I am not saying go completely. We do need some help and as long as we are in this kind of relationship of mutual respect." I think you will find more of that coming up to the surface.

Ms. WOOLSEY. Mr. Matheson, I think you said something about permanent bases, that there is a sense by the Iraqi people that our bases are there permanently. Who said that? Did you say that, Doctor?

Mr. KULL. I said that. That is a widespread perception.

Ms. WOOLSEY. Of course. What is their perception of the largest Embassy, an Embassy larger than the Vatican in their country? What are they thinking about that?

Mr. KULL. We haven't asked specifically on that question. But I don't think that in itself is a problem. I think that they look forward to having diplomatic relations with the United States. It is more the bases are perceived as something from which the United States could potentially dominate Iraq, and also expand the United

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States footprint into the region. This is also a perception in other countries, and there is a lot of concern about that.

Ms. WOOLSEY. That is a pretty big footprint. It is the size of a city, that——

Mr. KULL. The Embassy. Well, I think probably the number of bases is more the focus than the size of the Embassy.

Ms. WOOLSEY. So we have at least five times voted in the House to—that there would not be any permanent bases as Barbara Lee's legislation—in Iraq. And each time that happens, the President erases it from his mind, I believe. And—but we do know a lot of us that that is going to be crucial in giving the sovereignty back to the country that they deserve. Does anybody have any other suggestions for dealing with the White House?

Mr. MATHESON. Well, I think what the committee has been doing is the right course of action, which is to take all these issues very seriously, to examine them in depth, to call public attention to them, to express a willingness to deal with the administration and to express the view that the Congress has a right to do so. And you need to keep doing all those things.

Ms. WOOLSEY. Thank you, Mr. Chairman.

Mr. DELAHUNT. Well, I want to, again, thank this distinguished panel for your contributions. And I am sure that we will see all three of you again on other occasions. And I take your admonition, Professor Matheson. I think it is important that we continue to have these discussions. We know that in some cases, C-SPAN and even international media outlets pick up these hearings, and I think it is important to continue to dialogue and to talk and to educate ourselves, educate each other, educate the various publics that are watching because these are—these are serious issues and we are at a particular moment in time. We obviously will have a change of administration. There will be a new Congress, that close attention is really required to the details as well as to the grand strategy that this Nation utilizes because oftentimes as the cliché goes, the devil is in the details. But again, thank you. We will take a 10-minute recess. We will actually adjourn this hearing. And in 10 or so minutes, we will commence with the briefing that will be provided for us by the former Prime Minister of Iraq, Dr. Allawi.

[Whereupon, at 3:43 p.m., the subcommittee was adjourned.]

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OF THE

COMMITTEE ON FOREIGN AFFAIRS HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

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