

Congress of the United States
Washington, DC 20515

October 29, 2008

The Honorable George W. Bush
The White House
1600 Pennsylvania Ave., N.W.
Washington, D.C. 20500

Dear Mr. President:

We write to express our grave concern that your administration has not begun consultations with the Government of Iraq and members of the United Nations Security Council on the extension of the UN mandate of the Multinational Force in Iraq. The Mandate, which is set to expire on December 31, is the sole instrument providing U.S. troops with the domestic and international legal authority to fight in Iraq. We strongly encourage you to lay the groundwork for an extension, and to explore the use of a voluntary Chapter VI mandate rather than the current, mandatory Chapter VII authorities as a way of addressing Iraqi concerns about sovereignty.

We understand that your preference, and that of the Iraqi Government, has been for a bilateral U.S.-Iraq agreement to replace the Mandate. However, the agreement is now three months behind your initial deadline of July 31 for signature by the two executive branches, and its required approval by both the Iraqi Parliament and the U.S. Congress by December 31 is uncertain. Our troops must be legally protected while you continue to seek agreement and then approval for the bilateral pact, and an extension of the Mandate is the only constitutionally valid way to do that.

As you know, under Article 61 of the Iraqi Constitution, for an international agreement to take effect it must be approved under a process that itself requires approval by two-thirds of the Parliament. Prior to being submitted to Parliament, the U.S.-Iraq accord also must be approved by both the Iraqi Political Council for National Security and the Cabinet, which are reportedly seeking various modifications to the draft text.

It is our understanding that these proposed Iraqi amendments deal with the core of the agreement, and include language pertaining to joint control of combat operations and the redeployment of and legal jurisdiction over U.S. combat forces. Moreover, both the upcoming elections here and, more importantly, the provincial elections in Iraq scheduled for next year are complicating the political calculus among the disparate factions in Iraq. In our view, these factors make it highly unlikely that even if an agreement is reached by the two executive branches, it can be properly ratified by Parliament before the Mandate expires.

It troubles us that your administration has started an Iraqi political process by submitting a draft text for public discussion and legislative approval, but has not done the

same here in the United States. In our view, the U.S. process should have begun nearly a year ago after you and Prime Minister al-Maliki signed the so-called "Declaration of Principles" outlining the parameters for negotiating the agreement. The lack of substantive consultation with Congress leaves us without a clear understanding of the compromises your administration made on the issue of immunity in Article XII of the draft text that media have published based on translations from Arabic, and whether these compromises will adequately protect our troops. We are also left without a clear understanding of the specific measures our government is committed to in case of any internal or external threats against Iraq, as detailed in reported drafts of Article XXVI, and of what contingencies our commanders may have to plan as U.S. troops redeploy.

These and other concerns will need to be addressed if Congress is to approve the agreement, yet we are deeply skeptical that you will in fact submit the accord to Congress for approval. In testimony earlier this year, Senior Advisor to the Secretary of State and Coordinator for Iraq, Ambassador David M. Satterfield, suggested that the joint congressional resolution authorizing the use of force in Iraq gives your administration the authority to engage indefinitely in offensive combat operations in Iraq.

We respectfully disagree. The joint resolution clearly provides you with authority to fight only to "defend the national security of the United States against the continuing threat posed by Iraq," which no longer exists, as Saddam Hussein's regime has been replaced with a friendly government, and to "enforce all relevant United Nations Security Council resolutions regarding Iraq." The UN Mandate is all that allows the administration to meet this second criteria, making a continuation of the Mandate, congressional approval of the U.S.-Iraq security pact as a congressional-executive agreement, or approval of the agreement as a treaty by the Senate essential to ensuring that our combat troops are on sound legal ground.

In light of these realities, we are deeply disappointed that rather than preparing for an extension of the Mandate, your administration is resorting to placing pressure on the Government of Iraq to approve the agreement. Commanding General of the Multinational Force in Iraq General Ray Odierno recently stated that without an agreement, "we would potentially have to cease all operations." Similarly, Secretary of Defense Robert Gates warned of "pretty dramatic" consequences and Chairman of the Joint Chiefs of Staff Admiral Mike Mullen told reporters "we are clearly running out of time" if the Iraqis do not approve the agreement.

We believe a far more prudent approach would be for your administration to begin immediately discussing an extension of the Mandate with Iraq and the members of the UN Security Council. We note that the Russian Government has explicitly stated that it will not block an Iraqi request for an extension. We understand that there has been resistance to the Mandate in Iraq from its inception in 2003 and at each of its annual renewals, because of concerns about Iraqi sovereignty. However, several Iraqi officials, including Prime Minister al-Maliki, have expressed an understanding that an extension will be necessary if the bilateral agreement is not valid before the end of the year. We urge you to explore the extension of the Mandate under Chapter VI of the UN Charter,

which covers voluntary acceptance of military forces, in order to mollify concerns that the current Chapter VII Mandate denigrates Iraqi sovereignty.

We fully support an enduring partnership with Iraq, but believe more time is clearly needed to build a national consensus both here, through congressional approval, as well as in Iraq to ensure that the agreement currently under consideration will allow for a mutually beneficial security relationship in the coming years. Accordingly, we strongly urge you to work with Iraq and the Security Council to prepare for an extension of the UN mandate that meets the needs of U.S. troops and the requirements of the U.S. Constitution.

Sincerely,



BILL DELAHUNT
Member of Congress



ROSA DELAURO
Member of Congress

cc: The Honorable Condoleezza Rice, Secretary of State
The Honorable Robert Gates, Secretary of Defense

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