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“United Nations Chapter VII Mandates and the U.S.-Iraq Bilateral Agreement”

Subcommittee on International Organizations, Human Rights, and Oversight
Committee on Foreign Affairs
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Mr. Chairman, Congressman Rohrabacher, Members of the Subcommittee, it is a great pleasure for me to appear before you to testify on the continued application to Iraq of United Nations mandates imposed pursuant to Chapter VII of the United Nations Charter.

As you know, I was a late addition to this panel and therefore I have not been able to study this issue to the same degree as my distinguished co-panelists. I do, however, share the view that, as a general proposition, the struggling democracy that is today's Iraq should, to the maximum extent possible, be treated as a normal, sovereign nation. Restrictions that were imposed by the international community on Saddam Hussein's regime need to be reassessed in the vastly improved situation that prevails today. I therefore support the Bush Administration's undertaking in Article 25 of the U.S.-Iraq Security Agreement to “use its best efforts to help Iraq take the steps necessary” to regain its previous international legal standing.

I recognize that there are some very delicate issues, such as the degree to which the United Nations should remain involved in ensuring that Iraq fully compensates Kuwait for the damages inflicted by Saddam Hussein's 1990 invasion of Kuwait. This is an issue that ultimately should be worked out to the satisfaction of both governments, taking account of the need for justice and the importance to both countries of consolidating democracy in Iraq. Hopefully the U.S. Government can act as a facilitator to help both countries find common ground.

I believe the main contribution I can make to today's hearing is to share with the Subcommittee my experience as an official of the Bush Administration in seeking to free Iraq from one of the Chapter VII mandates that remained in place even after the removal of Saddam Hussein.

From 2005 to 2006, I represented the United States as a member of the College of Commissioners of the United Nations Monitoring, Verification, and Inspection Commission (UNMOVIC). This Commission was established in 1999 as the successor to a similar U.N. entity, the United Nations Special Commission (UNSCOM) that was established by the Security Council upon the conclusion of the first Persian Gulf War in 1991. Both entities were charged,

along with the International Atomic Energy Agency (IAEA), with inspecting and dismantling Iraq's weapons of mass destruction (WMD) and long-range missile programs.

UNMOVIC was financed using Iraqi funds in the U.N.-maintained oil-for-food account. This meant that UNMOVIC operated at no cost to the United Nations, and therefore there was no natural constraint on the size of its budget or staff. During my time as an UNMOVIC Commissioner, the organization's budget was in excess of \$10 million per year, which was substantially less than in previous years, but still a lot for an organization that had no real work left to do.

Shortly after I was appointed by U.N. Secretary-General Kofi Annan as a Commissioner, I came to the conclusion that UNMOVIC was no longer necessary and should be abolished. During the remainder of my time as a member of the College, I sought to build a consensus for eliminating the organization. This proved to be very challenging. I quickly discovered that there were a number of competing agendas at work, and because no country but Iraq was paying for UNMOVIC, there was almost no pressure to restrain these agendas.

One such agenda was that of the management and staff of UNMOVIC. To be blunt, they had good-paying jobs that they wanted to keep. As a result, they were forever finding unfinished tasks for the organization to complete, both inside and outside of Iraq. They were also very creative about proposing new missions for UNMOVIC. At various times they proposed that it could become a U.N. inspections mechanism for Iran; that it could become a standby WMD inspections mechanism attached to the U.N. Secretariat, available for deployment anywhere in the world when needed; that it could become an inspections mechanism for the Biological Weapons Convention; and that it could take over responsibility for administering Iraq's export control system, something that Iraq (and all other countries) were required to establish under U.N. Security Council Resolution 1540.

Surprisingly, I discovered that there was much sympathy for this view among some of my fellow Commissioners. Many Commissioners from less-developed countries, for example, were eager to ensure that nationals from their countries that were then employed by UNMOVIC remained employed.

Beyond this, I found that Commissioners from several G-8 countries were ideologically committed to the concept of a U.N. inspections capability for weapons of mass destruction, and therefore reflexively committed to preserving the organization. For these Commissioners the rationale made no difference; they seemed favored the preservation of UNMOVIC even if it had absolutely nothing to do.

Russia had a different agenda. It was determined to use UNMOVIC to underscore that the Bush Administration had invaded Iraq on the basis of faulty intelligence about Iraqi WMD programs. Therefore Russia took the position that it could only support abolishing UNMOVIC if the organization were given roughly a year to write a final report. In Russia's conception, this

report essentially was to be a review by UNMOVIC of the Duelfer Report prepared by U.S. Government experts, in which UNMOVIC's experts were to be given unfettered access to all of the information that the U.S. Government experts had considered in preparing the Duelfer Report.

None of these other agendas had the best interest of the Iraqi people at heart. Nor did they bear any serious relationship to UNMOVIC's original mandate of identifying and dismantling WMD programs in Iraq.

I was unable during my time as a Commissioner to make much headway against these agendas. Fortunately, after I left the College I was succeeded by two very able public servants, Frank Record, and then Robert Witajewski, both of whom shared my commitment to abolishing UNMOVIC. Mr. Record should be well-known to many in this room because, like me, he spent much of his career on the professional staff of this Committee. Mr. Witajewski is a now-retired career Foreign Service officer who distinguished himself in this and many other positions over a period of more than two decades.

Messrs. Record and Witajewski continued to pursue the abolition of UNMOVIC during their service on the College of Commissioners, and with the passage of time, encountered less resistance to the idea. The United Kingdom and France joined them in providing leadership on this issue, and eventually even Russia came around. Once consensus was achieved within the P-5, it became possible for the Security Council to act. Finally in June of 2007, with the adoption of U.N. Security Council Resolution 1762, UNMOVIC was abolished. I am pleased to say that the Iraqi money that other countries were happy to spend unnecessarily to finance UNMOVIC even after its mission was accomplished is no longer being squandered.

The main lesson I would draw from this experience for the remaining Chapter VII mandates on Iraq is that we need to expect institutional resistance to change, and must look skeptically at rationalizations for continuing to treat Iraq differently than other countries.

Mr. Chairman, I would be pleased to respond to any questions.