

**TESTIMONY TO SENATE FOREIGN RELATIONS COMMITTEE ON AUMF  
OCTOBER 30, 2017**

Chairman Corker, Ranking Member Cardin, and distinguished members, I appreciate the opportunity to speak to you today. I know the Senate's desire to understand the United States' legal basis for military action is grounded in your constitutional role related to foreign policy and national security matters. I understand your sense of obligation to the American people well in this regard.

In the 2001 Authorization for Use of Military Force, or AUMF, Congress authorized the President "to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons." Congress granted the President this statutory authority "in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons."

The 2001 AUMF provides statutory authority for ongoing U.S. military operations against al-Qaeda; the Taliban; and associated forces, including against the Islamic State in Iraq and Syria, or ISIS.

This Administration relies on the 2001 AUMF as a domestic legal authority for our own military actions against these entities, as well as the military actions we take in conjunction with our partners in the Global Coalition to Defeat ISIS.

The 2001 AUMF provides a domestic legal basis for our detention operations at Guantanamo Bay, where the United States currently detains members of al-Qaeda, the Taliban, and associated forces.

The 2001 AUMF also authorizes the use of necessary and appropriate force to defend U.S., Coalition, and partner forces engaged in the campaign to defeat ISIS in Iraq and Syria. In Syria, the efforts of the U.S.-led Coalition are aimed at the defeat of ISIS; the United States does not

seek to fight the Syrian Government or pro-Syrian-Government forces. However, the United States will not hesitate to use necessary and proportionate force to defend U.S., Coalition, or partner forces engaged in the campaign against ISIS.

The President's authority to use force against ISIS is further reinforced by the Authorization for Use of Military Force Against Iraq, or, in more plain terms, the "2002 AUMF."

In addition to authorities granted to the President by statute, the President has the power under Article II of the Constitution to use military force in certain circumstances to advance important U.S. national interests, including to defend the United States against terrorist attacks. As an example, President Reagan relied on his authority as Commander in Chief in 1986 when he ordered airstrikes against terrorist facilities and military installations in Libya following a terrorist attack by Libya in West Berlin which killed and wounded both civilians and U.S. military personnel.

The United States has the legal authority to prosecute campaigns against the Taliban, al-Qaeda, and associated forces, including ISIS, and is not currently seeking any new or additional congressional authorization for the use of force. The 2001 AUMF remains a cornerstone for ongoing U.S. military operations and continues to provide legal authority relied upon to defeat this threat.

However, should Congress decide to write new AUMF legislation, I submit to you today several recommendations that the Administration would consider necessary to a new AUMF:

First, new AUMF authorities must be in place prior to or simultaneous with the repeal of old ones. Failure to do so could cause operational paralysis and confusion in our military operations. Diplomatically speaking, it could cause our allies in the Global Coalition to question our commitment to defeating ISIS. And potential repeal of the 2001 AUMF without an immediate and appropriate replacement could raise questions about the domestic legal basis for the United States' full range of military activities against the Taliban, al-Qaeda, and associated forces, including against ISIS, as well as our detention operations at Guantanamo Bay.

Second, any new authorization should not be time-constrained. Legislation which would arbitrarily terminate the authorization to use force would be inconsistent with a conditions-based approach, and could unintentionally embolden our enemies with the goal of outlasting us. Any oversight mechanism in a new AUMF also would have to allow the United States the freedom to quickly move against our enemies without being constrained by a feedback loop.

Third, a new AUMF must not be geographically restricted. As is the case under the current AUMF, the Administration would need to retain the statutory authority to use military force against an enemy that does not respect or limit itself based on geographic boundaries. As ISIS's fraudulent caliphate in Iraq and Syria has crumbled, it has tried to gain footholds in new locations. As was discussed with the Senate during a closed defeat-ISIS briefing in July, the United States has a limited military presence in the Lake Chad Basin to support partners, including France, in their counterterrorism operations in the region. This information has also been conveyed to you in multiple periodic reports submitted to Congress consistent with the War Powers Resolution. The collapse of ISIS's so-called caliphate in Iraq and Syria means it will attempt to burrow into new countries and find safe havens. Our legal authorities for heading off a transnational threat like ISIS cannot be constrained by geographic boundaries. Otherwise, ISIS may re-establish itself and gain strength in vulnerable spaces.

The United States must retain the proper legal authorities to ensure that nothing restricts or delays our ability to respond effectively and rapidly to terrorist threats to the United States. Secretary Mattis and I, along with the rest of the Administration, are completely aligned on this issue. We fully recognize the need for transparency with you as we respond to what will be a dynamic regional and potentially global issue. We will continue to regularly update Congress to make sure you and the American people understand our foreign policy goals, military operations, and national security objectives.

I thank the Committee for supporting our efforts, and look forward to your questions.