

OPENING STATEMENT OF CHAIRMAN BILL DELAHUNT  
Subcommittee on International Organizations, Human Rights, and Oversight  
February 8, 2008  
\*Remarks Prepared For Delivery\*

The Subcommittee will come to order. This is the third in a series of hearings on the Declaration of Principles signed by President Bush and Iraqi Prime Minister Maliki on November 26 of last year. This Declaration appears to be a pledge by the two leaders to negotiate a number of substantial commitments.

Most significantly -- the Declaration suggests an indefinite U.S. military presence in Iraq with multiple responsibilities to be assumed by our armed forces. Let me read into the record excerpts from the Declaration which reflect some of the most significant of those responsibilities:

-- *Supporting the Republic of Iraq in defending its democratic system against internal and external threats...*

-- *Providing security assurances and commitments to the Republic of Iraq to deter foreign aggression against Iraq that violates its sovereignty and integrity of its territories, waters, or airspace....*

-- *...supporting the Republic of Iraq in its efforts to combat all terrorist groups, at the forefront of which is Al-Qaeda, Saddamists, and all other outlaw groups regardless of affiliation, and destroy their logistical networks and their sources of finance, and defeat and uproot them from Iraq.*

I would note that the Declaration of Principles is not just about military commitments. But it also includes a political and economic agenda that involves serious and possibly open-ended obligations.

For the third time in three months, we have invited the Administration to explain the import of this document to the Congress and to the American people. And for the third time, they have declined the invitation.

I would note for the record:

On January 29, Chairman Lantos sent an invitation to Secretary of State Rice, asking her or someone she designated to testify at this hearing. The

State Department responded that no representative would appear, on the grounds that the agreement to be negotiated was still in “preliminary form.” This contradicts a January 25 New York Times report that a 15-page draft proposal exists. The State Department informed me that Ambassador David Satterfield would be briefing members of the Foreign Affairs Committee in classified session yesterday. I could have attended that briefing and, according to the State Department, could have asked unclassified questions and received unclassified responses that I could then discuss in public. I find that unsatisfactory.

It is my position that the American people have a right to be fully and directly informed as to the intentions of this Administration regarding any agreement with the government of Iraq. The American people have paid dearly for that right.

Almost 4,000 of their sons and daughters have died in that conflict. And tens of thousands have been seriously injured.

Possibly hundreds of thousands of innocent Iraqi civilians have been killed. And millions have been forced to flee their homes and are now refugees in neighboring countries.

Furthermore -- the financial cost of this war is well on its way to a trillion dollars -- with no end in sight.

The record of this Administration in terms of consulting with Congress has been abysmal.

Senator Chuck Hagel, our Republican colleague in the other body, has said that during the run-up to the invasion of Iraq, the Bush administration considered Congress to be “an enemy and a constitutional nuisance.”

I find it particularly disturbing that the Bush Administration has even ignored State Department regulations requiring that:

*The appropriate congressional leaders and committees are advised of the intention to negotiate significant new international agreements, consulted concerning such agreements, and kept informed of developments affecting them...*

I have checked with the House leadership. And I have checked with the leadership of this Committee. As well as that of the House Armed Services Committee. And there has been no such consultation, unless you count the classified briefing that occurred yesterday.

There has been one exception to this lack of transparency. And that also occurred this week. Secretary Gates appeared before the Senate and House Armed Services Committees on Wednesday and seemed to minimize the Declaration of Principles as nothing more than a press release. He testified that the Administration is not seeking to make -- and in fact he pledged that it would not make -- any security commitments to defend Iraq. All that is being negotiated, he said, is a standard "Status of Forces" agreement that governs the conduct of U.S. forces in another country.

On its face, this would appear to be a major reversal of the Administration's position. It is all the more important now to remove any confusion and explore the apparent contradictions between the Declaration of Principles signed by President Bush and the testimony of Secretary Gates. We will reissue our invitations to the Administration once more in an effort to achieve definite clarity for the American people.

Our witnesses today will address at least four main questions:

Question 1. What is a Status of Forces agreement, and can it provide the authority for U.S. forces to engage in combat in and on behalf of another country? Dr. Douglas Macgregor, a retired Army colonel with a distinguished record in both combat leadership and military strategy, and someone who has negotiated, served under, and implemented Status of Forces agreements, will focus his testimony on that question.

Question 2. If, as the Declaration of Principles implies, the agreement were to include a commitment to defend the Maliki Government against internal and external enemies, could it be carried out by the Administration alone, or would Congress have to approve it as a treaty or a congressional-executive agreement? Constitutional scholars Oona Hathaway, a professor at the Yale Law School, and Michael Glennon, a professor at the Fletcher School of Tufts University who as Counsel to the Senate Foreign Relations Committee helped craft legislation in this area, will address this question for us.

Question 3. What consultation is required with the Congress, by law and by State Department regulations, on both the form of the agreement and the issues to be negotiated, and has such consultation occurred? Professor Glennon and former State Department Legal Adviser Michael Matheson, who is now a professor at the George Washington University Law School, will assist us with this.

And finally, Question 4. What procedures must be followed within the Executive branch as it makes decisions on what form the agreement should take and on how the negotiations are to be organized, and have they been properly taken to date? Professor Matheson will walk us through those procedures. I note that he can also guide us through the implications of terminating the UN Mandate and perhaps other UN resolutions regarding Iraq, as contemplated in the Declaration of Principles.

We are also pleased to have the benefit today of testimony on any and all of these questions from our witness who has been suggested by the Republican side, Professor Ruth Wedgwood of Johns Hopkins University, who has also served in a number of administration legal positions.

Before we hear from our witnesses, let me turn to my friend and Ranking Member Mr. Rohrabacher of California for his opening remarks.