

Sent: Mon, 25 Mar 2013 13:08:08 -0400
From: DMCOS <dmcos@who.eop.gov>
To: [REDACTED]
Subject: update

P6/b(6)

Sir –

FYI on the below.

DM

From: Rodriguez, Miguel
Sent: Monday, March 25, 2013 9:43 AM
To: DMCOS; Nabors, Robert L.; Blinken, Tony; Monaco, Lisa
Subject: Corker on AUMF

FYI.

From CQ this morning.

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CQ NEWS – POLICY

March 25, 2013 – 6:37 a.m.

Corker Aims to Update Law Authorizing War on Terrorism

By Tim Starks, CQ Roll Call

A key senator plans to introduce legislation over the recess updating the 2001 law that has served as the foundation of many of the nation's counterterrorism policies since the attacks on the World Trade Center and the Pentagon.

The bill being prepared by Tennessee's Bob Corker, the top Republican on the Senate Foreign Relations Committee, which has jurisdiction over the issue, comes amid significant new bipartisan sentiment that the 2001 law (PL 107-40) — known as the Authorization for Use of Military Force or AUMF — has grown increasingly outdated. Many on Capitol Hill believe that the terrorism threat has evolved and that Congress needs to revisit it.

The AUMF has served as a legal rationale for such diverse counterterrorism operations as the war in Afghanistan, George W. Bush's warrantless surveillance program and the pursuit of al-Qaida's "associated forces" around the globe. The expanded use of drone strikes in areas outside the immediate war zone of Afghanistan, as well the mutation of the al-Qaida threat into other forms and unaffiliated offshoots, has led some to contend that the 2001 law is being stretched to its limit.

"There's a very thin thread between the AUMF signed on Sept. 18, 2001, and where we are today," Corker said. "This isn't about partisanship. This is more about

Congress legitimately being involved in this process. It needs to be reviewed, needs to be updated.”

Corker said he has been in discussions with other GOP senators, who have a wide range of ideological views about the AUMF — including some who would favor leaving it as is — so he wasn’t ready to provide many specifics about what the legislation would do as a result.

But he said the bill might contain a mechanism to require congressional approval before the executive branch expands its counterterrorism operations into another country, or a mechanism that would establish periodic reviews of the authority.

Expanded Authority?

Senators on both sides of the aisle have voiced reservations about the Obama administration’s overseas drone strikes, and not just those that target U.S. citizens affiliated with al-Qaida.

“Although the administration appears to rest its claim of authority on the Authorization for Use of Military Force passed by the Congress in 2001, it is not clear that Congress intended to sanction lethal force against a loosely defined enemy in an indefinite conflict with no borders or discernible end date,” House Judiciary Chairman John Conyers Jr., D-Mich., said at a Feb. 28 hearing.

Sen. John McCain, R-Ariz., said he believed the AUMF needed to be updated — particularly in connection to how drone strikes are conducted — and was having “ongoing discussions” with Corker and Armed Services Chairman Carl Levin, D-Mich., about it.

The Washington Post, citing anonymous Obama officials, reported this month that the administration was weighing whether it needed to ask Congress for expanded authority to keep pursuing the counterterrorism operations. But a White House spokesman on March 8 insisted the administration didn’t need any new powers.

“At this point, we feel like we have the authorities we need to go after elements of al-Qaida and those self-identified enemies of the United States and our allies and our interests, and we’re doing that very aggressively in order to protect the American people and our interests,” said the spokesman, Josh Earnest.

Corker met Friday with an unnamed White House official to discuss an AUMF update, but he wouldn’t discuss what the official told him, only that the senator reassured the official that the idea of the legislation was not to “go after” the administration.

Corker also said he believes Senate Foreign Relations Chairman Robert Menendez, D-N.J., has “expressed a degree of interest.” Menendez referred all questions to his office Friday; a spokesman did not provide answers to a request for comment.

Levin said Friday that it might make sense to reexamine the AUMF a year from now, but that he was open-minded about Senate Foreign Relations taking up a review.

“They have jurisdiction, but we would be deeply involved in it in the Armed Services Committee,” Levin said.

“It depends on the events in Afghanistan,” Levin said. “It is going to depend on whether there is a clear enough connection between al-Qaida in other parts of the world and that resolution, so we ought to look at it.”

Levin also said a revised AUMF could have an impact on terrorism detainees captured under its authority. The fiscal 2012 defense authorization bill (PL 112-81) effectively restated the 2001 AUMF in relation to the detention authority of the United States.

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