

AUMFs Against Iran’s Terror Proxies and Against its Nuclear Program Would Bolster Deterrence

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I. Executive Summary

Threats to the United States and its citizens from the Islamic Republic of Iran and its terror proxies have reached a fever pitch, with no clear U.S. policy for how to stop it. Tehran is [perched](#) on the nuclear threshold, effectively capable of breaking out at a moment’s notice. Simultaneously, Iran and its proxies have spent 11 months waging a regional war with global repercussions—targeting not just Israel but commercial shipping in the Red Sea and U.S. troops in Iraq, Syria, and Jordan. Iran even attempted to [hire assassins](#) to kill a former U.S. president and other former senior U.S. officials on American soil. Taming Iranian nuclear advances and ever-widening aggression will be an urgent priority for the next administration and Congress, with implications for all other U.S. national security interests. A rampaging Iran could fuel the war in Ukraine with more arms shipments, spark a nuclear arms race in the Middle East, raise energy and shipping costs, and distract U.S. attention and resources from competition with China, all in addition to wreaking more regional bloodshed and havoc.

It is vital that the United States have a comprehensive strategy for blunting Iranian transgressions in all their forms. Congress can help develop and bolster the credibility of such a strategy by approving conditional Authorizations for the Use of Military Force (AUMFs) to prevent a nuclear Iran and deter its further attacks.

The credible threat of military force has been the only tool to effectively and repeatedly convince Iran to back down. Israel’s 2012 [nuclear redline](#), President Donald Trump’s [2020 strike](#) on Quds Force commander Major General Qassem Soleimani after Iranian proxies killed an American, and President Joe Biden’s August 2024 [regional force build up](#) in the face of a threatened direct Iranian attack on Israel are all examples of the United States and its partners threatening to punish Iran if it continued its malign behavior—and Iran changing course rather than risk confrontation. Similarly, by now signaling a credible commitment to

hold Iran responsible for continued aggression—whether advancing its nuclear program or attacking U.S. troops, citizens, and interests with its proxies—the United States can increase the credibility of consequences for its worst transgressions. A cost-free yet meaningful means of convincing Tehran that it will face consequences for its aggression is for Congress to pass AUMFs against Iran: one explicitly authorizing military strikes against Iran’s nuclear program, and the other authorizing force against the designated foreign terrorist organizations backed by Iran, including Hamas, Hezbollah, and possibly the Islamic Revolutionary Guard Corps (IRGC).

Compared to other alternatives, this is an immediate option for bolstering deterrence, reining in Iranian escalation, and slowing Iranian nuclear advances. While effective, maintaining two carrier strike groups in the Middle East for the foreseeable future is both costly and untenable given [competing requirements](#) in the Indo-Pacific. Increased sanctions enforcement would take time to bite, and Iran has repeatedly [rebuffed](#) American diplomatic overtures when it has perceived there would be no consequences for its intransigence. Meanwhile, congressional passage of AUMFs against Iran would send a clear, unmistakable, and prompt signal to Tehran, without requiring further immediate U.S. action. Nor would an AUMF make U.S. use of force more likely than it currently is. Both Presidents [Trump](#) and [Biden](#) have struck at Iran-linked targets citing their Article II constitutional authorities without an AUMF. But by giving the president approval to use force, Congress would communicate to Tehran the determination of all branches of power and both political parties to hold it accountable. Contrary to arguments that the only alternative to diplomacy is war, the threat of force against Iran is the best means for *avoiding* the use of force—both by the United States and Iran.

Taking up an AUMF would have the further salutary effect of restoring the Congress’ constitutional role in national security matters. Members have in recent years repeatedly sought to reclaim their war powers by seeking to rescind existing AUMFs. On March 29, 2023, the Senate [voted](#) to repeal the 2002 and 1991 Iraq AUMFs. The Republican-led House of Representatives has yet to consider similar legislation during this Congress but, under Democratic leadership, previously [voted](#) to repeal the 2001 AUMF against Al Qaeda passed in the wake of 9/11. Yet as threats around the world rise, Congress cannot claim to be fulfilling its constitutional national defense responsibilities if it only rescinds AUMFs yet shirks away from proactively providing the president with clear, legal authorities for the U.S. military to respond to urgent dangers.

While the president already has authority under Article II to act against the twin threats of Iran’s nuclear program and proxy networks, the president will act with maximum authority with Congress’ affirmative blessing. Specifically, we recommend that:

- Congress does not repeal the 2001 or 2002 AUMFs unless they are replaced by new measures that strengthen the president’s ability to protect U.S. forces and interests in the Middle East.
- Congress pass a new, tailored, and conditions-based AUMF for the elimination of Iran’s nuclear program.
 - » Conditions that trigger the AUMF could include determination from the intelligence community that Iran is pursuing a nuclear breakout of enrichment and/or weaponization activity.
- Congress pass a new AUMF or an addition to the 2001 or 2002 AUMFs that specifically authorizes military strikes against Hamas, Hezbollah, the Houthis, other Iranian proxies, and Iranian forces involved in funding, organizing, or equipping terrorist groups.

II. Iran Unleashed: Regional Aggression and Nuclear Advances

For decades, Tehran has been on a bloody rampage across the Middle East and beyond.

Iran’s radical clerics and top generals rain down rockets, missiles, and drones on U.S. forces—[killing](#) three U.S. servicemembers in Jordan on January 28, 2024, and [injuring](#) seven U.S. servicemembers and contractors on August 5, 2024—and against partners across the Middle East. They also are making good on their [regular threats](#) to wipe Israel off the map.

On October 7, 2023, Hamas launched a heinous attack against Israel which has [killed](#) at least 34 U.S. citizens, including executing an American-Israeli hostage on August 30, 2024. Hamas’ operations were [bolstered](#) with historical funding from Iran of \$100 million per year, which had been [increased](#) to \$350 million annually in the past year. Both Iran and its proxies Hezbollah and the Houthis have [joined](#) Hamas in attacking Israel. From Lebanon, Hezbollah has launched over a thousand projectiles at Israel, including one that killed a dozen children on July 27, 2024. On April 13, 2024, Iran launched a [salvo](#) of over 300 suicide drones, cruise missiles, and ballistic missiles against Israel. As of July 16, 2024, the Iranian-backed Houthis have launched at least 70 missile and suicide drone attacks against U.S. and international vessels in the Red Sea, including [setting fire](#) to a fully loaded Greek oil tanker in August 2024.

Nor is Iranian aggression limited to the Middle East. Russian forces [bombard](#) Ukrainian civilians with Iranian-supplied suicide drones. Iran takes Americans and Europeans [hostage](#), demanding the release of their terrorist operatives in exchange. They capture foreign tankers to ransom for sanctions relief.

“[Iran is undeterred](#),” America’s top commander in the Middle East summed it up for Congress this spring. If we think Iran’s behavior is destabilizing today, [it will be far worse if it is armed with a nuclear bomb](#). With a nuclear arsenal, Iran would be unleashed.

That is why, for more than two decades, American presidents of both political parties [have pledged](#) they will not allow Iran to acquire the world’s deadliest weapon. Yet, current U.S. policy has not halted the steady advances of the regime’s nuclear program. Now, it is approaching the beginning of the end of its pursuit of a nuclear weapons capability. The regime is already capable of [producing](#) enough fissile material for a nuclear device in less than two weeks and seven more bombs-worth in a matter of months. Tehran has [enriched](#) small amounts of uranium to 83.7 percent purity, which is possible to use in a nuclear device under certain configurations. Meanwhile, General Mark Milley, then-Chairman of the Joint Chiefs, [disclosed](#) in March 2023 that on the nuclear weaponization track, the regime was only “several months” away from breakout of a functioning device—a shorter timeline than had previously been disclosed by U.S. and Israeli intelligence. A July 2024 [assessment](#) from the Director of National Intelligence omitted the State Department Compliance Report’s years-long language that Iran was [not](#) undertaking key nuclear weapons development activity.

A new administration will urgently need a new approach to dealing with these challenges, before the Middle East is consumed by war or Iran goes nuclear. Iran’s regional aggression has not been blunted by either limited and sporadic U.S. airstrikes against Iranian proxies nor by international entreaties for peace and de-escalation. Credible deterrence is the best solution, and Congress needs to step up and assist the executive branch in this endeavor.

III. Options for Stopping Iran’s Nuclear Advance

Experience has shown that the only scenario that has ever led Iran to slow its nuclear program has been during periods of economic pressure paired with the credible threat of military action. In 2003, after the United States had invaded countries on both sides of Iran and President George W. Bush decried it as the “evil empire,” Tehran temporarily [stopped](#) its nuclear weapons program, fearing it could be next. After reviving its program in subsequent years, Iran was careful to ensure its stockpile of 20 percent enriched uranium never exceeded Israeli Prime Minister Benjamin Netanyahu’s literal red line, [drawn](#) in front of the United

Nations in 2012. Convincing Iran’s leaders, once again, that it risks military action is now the only realistic option for halting its nuclear program short of the goal line.

A false choice is often presented to policymakers and the public on Iran: that they must choose between diplomacy and war. Other false corollaries of this claim are that both diplomacy and the threat of force are incompatible and that any preparation for the use of force will inevitably descend into war. Yet, it is precisely the threat of force that might be the best means for preventing war and even enabling diplomacy.

Until 2013, there was no deal constraining Iran’s nuclear program—and there was neither an Iranian bomb nor war. Since May 2018, when Trump [ended](#) U.S. participation in the Joint Comprehensive Plan of Action (JCPOA), we have likewise avoided open war and, so far, have prevented Iran from taking the final steps towards a nuclear weapon. However, Iran has now taken many of the intermediate steps towards that goal, and any next steps the regime takes to increase nuclear leverage are increasingly dangerous.

For too long, the United States has let itself respond to Iranian nuclear advances that shape our strategic decision space. We must reverse that dynamic: convincing Iranian leadership that pursuing a nuclear weapons capability is not a viable option for the regime and that its accumulation of high volumes of enriched uranium is a liability, not an asset to leverage. We must also neutralize Iran’s strategic advantage of having Hezbollah’s massive projectile arsenal aimed at Israel that establishes a measure of conventional deterrence against launching a strike against Iran’s nuclear assets.

In both of these contexts, an AUMF would be valuable. Any AUMF could be carefully tailored and limited as solely addressing Iran’s nuclear threat and providing support to Israel against the immediate blowback from Iranian proxies. This AUMF could also be conditional, only authorizing action if Iran exceeds certain Red Lines, like Senator Lindsey Graham’s (R-SC) recently introduced [legislation](#) authorizing force against Iran’s nuclear program. An AUMF does not necessarily need to authorize broader decapitation strikes against the regime. Tailoring an AUMF accordingly might tamp down on the risk that Iranian decision makers would misinterpret the AUMF as a threat to overall regime security and use this to press the case for a nuclear deterrent. Alternatively, threatening overall regime security could strengthen the U.S. deterrent against the regime risking breakout in the first place. Policymakers have flexibility both in legislative drafting and public messaging whether the need for this AUMF is limited to eliminating Iran’s nuclear enrichment and weaponization program and infrastructure.

Congress should also contemplate—and work with the executive branch in analyzing—Iran and its proxies’ kinetic responses and the authorities needed to adequately deter and manage this problem. The grey area in between these two limits is how Congress might treat Iran’s and Hezbollah’s ballistic missile programs, infrastructure, and stockpiles in the scope of the AUMF. The regime could use ballistic missiles as potential nuclear weapon delivery systems or as a response option to any U.S. strike, but the regime and Hezbollah also view their arsenals as their best conventional deterrent. Ensuring that Iranian decision makers are deterred more than they are provoked is important, and Congress should take care to receive the views of the intelligence community and Department of Defense in the drafting process.

Two outcomes should be avoided with any effort: first, if Congress formally considers such an AUMF but then rejects it. This would signal to Iran the United States lacks the determination to take difficult military decisions to enforce Biden’s [pledge](#) that that the United States is “prepared to use all elements of its national power” to stop Iran from getting a nuclear weapon. A similar risk would be if the AUMF was advanced without White House support, risking the president’s veto or an unhelpful signing statement. Even more dangerous would be if Congress went the entirely opposite direction and imposed a limitation on U.S. involvement in any strike against Iran’s nuclear program. This would send the unfortunate message to Iranian leaders that it could proceed with weaponization and not face a unified American and Israeli front. While several prior presidents have all proclaimed as U.S. policy that Iran will not obtain a nuclear weapon, that statement is only as good as the military capabilities and legal authorities Congress provides to back it up.

Passing an AUMF would be a loud and clear pronouncement of America’s willingness to act militarily to prevent Iran’s nuclear program from becoming an active threat. To be clear, we do not wish for any open conflict with Iran, nor do we hope the authorities provided in a new law would prove necessary. But experience shows, and the United States has recognized since [President George Washington](#), “To be prepared for war is one of the most effectual means of preserving peace.”

IV. Options for Curtailing Iran’s Terror Proxies

United States citizens and servicemembers have been killed by Iran’s terror proxies for decades. The 1983 Beirut Barracks [Bombing](#) claimed the lives of 241 U.S. servicemembers. From 2003-2011, Iranian forces and proxies [killed](#) at least 603 servicemembers in Iraq under the leadership of Qassem Soleimani. Dozens more American have been killed or targeted in various operations and attacks across the world—including [at least 34](#) by Hamas since October 7, 2023. Yet the United States has rarely taken kinetic action in response to wipe out the leadership of these terror groups, and Congress has never passed an AUMF directly

authorizing the president to use military force against these terror groups. If and when the United States strikes these terror groups, these strikes would be on stronger legal foundation if carried out with the endorsement of Congress rather than by the executive branch acting on its own.

For decades, the U.S. government and Congress has treated Al Qaeda and ISIS differently from Iranian proxies despite their shared hatred of America, their use of barbaric methods, and their demonstrated willingness to kill American citizens. Only Al-Qaeda and its affiliated forces are subject to a [congressionally passed](#) AUMF, one passed a mere seven days after the 9/11 attacks. While Congress did not pass an AUMF for ISIS, the U.S. government and international partners created a counter-ISIS coalition that has mostly succeeded in [wiping](#) the group out of existence. Policymakers should ask: why is there a different standard in law and practice for groups like Hamas, Hezbollah, and the Houthis?

With the exception of the October 7 attacks and the Beirut Barracks Bombing, most terror attacks by Iranian proxies [have been](#) fairly low-profile, designed to obfuscate responsibility, and have not been covered by the media in a manner to pressure Congress into acting. One reason these groups, as well as the Islamic Republic, are so dangerous lies in their ability to sustain lethal operations at a low level, killing Americans without pushing U.S. leadership into overwhelming action on the legal front.

Rather than work to eliminate these terror groups, the United States' response for the past several decades has generally been to only reduce their growth by [limiting their funding streams](#), to [conduct pinprick strikes](#) against high-value targets, and to reach understandings or [diplomatic agreements](#) to curtail their aggression. This policy of seeking stability instead of confrontation has allowed these terror groups space and freedom to metastasize into the political and economic systems of their host countries and to destabilize local governments or take them over entirely, as with Hamas in Gaza.

The greatest impediment to eradicating these terror groups has been competing priorities: first, eliminating Al-Qaeda; then, stabilizing a post-Saddam Iraq; later, stabilizing a post-Taliban Afghanistan; in 2014, the priority shifted to eliminating ISIS; and, since 2015, Pentagon has understandably de-prioritize the War on Terror altogether in favor of strategic competition. Aiding Congress' aversion to authorizing new wars has been the president's assertion of existing and inherent Article II powers as Commander-in-Chief to take actions to protect Americans without prior congressional authorization. Under [the War Powers Resolution \(WPR\) of 1973](#), the president must simply notify Congress within 48 hours upon U.S. armed forces entering a conflict and must ask Congress for an AUMF if those hostilities continue for 60 days, and if not granted must withdraw U.S. forces following a 30-day

withdrawal period. However, all executive branches since President Richard Nixon have asserted the unconstitutionality of this portion of the WPR.

Despite grumblings from a few vocal members of Congress, the body as a whole has been more than willing to defer to the executive branch's use of Article II powers to broadly defend U.S. forces when needed. The benefit to this approach is that new AUMFs are not necessarily needed each time a new terror group harms or threatens U.S. citizens and forces; the president already has the tools necessary to deploy troops to neutralize threats. That is why any new AUMF must empower rather than constrain the president to take actions necessary to protect the United States, its citizens, and its interests.

The downside to Congress' aversion to updating existing AUMFs or passing new ones is that Congress has left itself on the sidelines as new terror groups emerge, allowing a core constitutional authority to atrophy. They have not given the president legal authorities that would strengthen the executive branch's hand in eliminating more terror groups. The Biden administration's aversion to citing the 2001 and 2002 AUMFs in notifications to Congress reflects even further aggrandization of the president's warmaking powers within Article II. As Congress continues to debate the 2001 and 2002 AUMFs, they should be sure to expand, not reduce, the scope of these authorizations against terrorist groups that target Americans to include authorizations of force against Hamas, Hezbollah, the Houthis, Iranian-backed militias in Iraq, and should consider the inclusion of Palestinian Islamic Jihad and the Islamic Revolutionary Guard Corps (IRGC) in certain circumstances.

V. AUMFs Would Bolster Deterrence and the Legislative Branch

The longer Congress remains silent on the president's ability to use force against Iranian threats, the more irrelevant the body will become. The Iranian regime barely speaks or complains about Congress because their leaders do not see the relevance of the institution. Not only would the passage of an AUMF—and the associated public attention around such an act—force the regime to second-guess its actions, it would restore Congress' role in oversight of major national security questions facing the United States.

A. *Maximum Authority*

Previous administrations have argued that Article II grants the executive branch the legal basis to conduct preemptive strikes without prior congressional authorization to respond to urgent threats, such as when President Bill Clinton [struck](#) military targets in Iraq in January 1998 to degrade Saddam Hussein's ability to manufacture weapons of mass destruction

(WMDs). Regardless of whether an AUMF is legally required for such action or not, it is surely the case that its presence strengthens overall U.S. posture. In February 1998, then-Senator Joe Biden [echoed this view](#) when questioning Secretary of State Madeline Albright on Clinton's strikes:

I recognize that the Administration asserts that it has the legal authority under the 1991 Gulf War [AUMF] resolutions to use military force against Iraq. Nonetheless, if the president decides that the military action is warranted, he would be wise to seek a specific legal authorization from this Congress. I would support such an authorization and believe it would receive overwhelming support.

As Supreme Court Justice Robert Jackson [wrote](#) in the Youngstown Steel case, “[w]hen the president acts pursuant to an express or implied authorization of Congress, his authority is at its maximum” but “in absence of either a congressional grant...there is a zone of twilight.” U.S. interests would be best served if the president were operating at the apex of his power and if Tehran knew it.

Not only would passage of an AUMF provide the executive branch with clear guidelines and a path for action, but it would restore Congress to its rightful place: leading and carrying out its constitutional war powers obligations. The longer that the executive branch carries out military operations in the absence of new authorizations, the more irrelevant Congress becomes. As threats around the world rise, Congress cannot claim to be fulfilling its constitutional national defense responsibilities if it only rescinds AUMFs yet shirks away from proactively providing the president with clear legal authorities for the U.S. military to respond to new and urgent threats.

B. Enemies Grow Bolder as Congress Grows Silent on AUMFs

As the Iraq War became unpopular, voters punished [politicians](#) for voting in favor of the 2002 AUMF. Since then, the legislative branch has been loath to exercise its national security powers, often to the detriment of U.S. interests.

For example, in 2013, Bashir al-Assad violated President Barak Obama's “red line” by using [chemical weapons](#) in the Syrian civil war. Obama [asked](#) Congress to authorize retaliatory U.S. strikes in response, but Congress chose not to provide any authorization. Obama used that refusal as a pretext to [ignore](#) his own ultimatum, highlighting the importance of ensuring Congress is aligned with the executive branch on vital strategic questions such as the commitment multiple presidents have made to not permit Iran to develop a nuclear weapon.

The failure of the president to secure congressional support prior to a crisis strongly contributed to the cascading national security challenges confronting Washington today.

Within a year, emboldened by American fecklessness, Iran [expanded](#) its regional campaign of violence into a new theater: Yemen. Russia seized Crimea, invaded eastern Ukraine, and intervened in Syria shortly thereafter. Those events, combined with the more recent disastrous U.S. [withdrawal](#) from Afghanistan in 2021, significantly contributed to Vladimir Putin’s decision to invade Ukraine, the unwillingness of United States’ Middle East partners to oppose Russia, and their growing preference for accommodation of Iran.

Iranian attacks and threats against U.S. personnel and interests are also inversely correlated with the perception of America’s willingness to use force in response. An [analysis](#) by the Jewish Institute for National Security of America (JINSA) shows that Iranian attacks increase the most during periods of diplomatic engagement, and in contrast, dropped the most following the United States’ ceasing participation in the JCPOA in May 2018. This follows a decades-long history of Iranian aversion to open and sustained military conflict with the United States when we have shown the willingness to act decisively.

The United States is in urgent need of demonstrating credible deterrence to Iran once again, because there are few threats more imminent than that of a nuclear-armed Iran.

VI. Recommendations and Considerations for Congress

- Congress should reject any attempts to repeal the 2001 or 2002 AUMFs unless they are accompanied by replacements that strengthen rather than constrain the president’s ability to protect U.S. forces and interests in the Middle East.
 - » Congress should also reject any attempts to place arbitrary time-based sunsets or geographic limitations on existing or future AUMFs. Our enemies will take advantage and exploit expiring authorities or even hide in areas where force is not authorized under geographic limitations to maximize their leverage and harm U.S. forces and interests.
 - » Congress should reject the notion that these AUMFs must be repealed just because they were passed years ago. It would be ludicrous to extend that logic to any other legislation, such as the Civil Rights Act of 1964 or the Clean Water Act of 1972. So long as threats remain, legal authorization to use force should remain as well.
- Congress should consider the passage of a new AUMF for the elimination of Iran’s nuclear program.
 - » Congress should consider a conditions-based trigger that enables this AUMF to come into effect, such as a determination from the intelligence community that Iran is pursuing a nuclear breakout of enrichment and/or weaponization activity.

- » Congress should tailor any such AUMF in a way that encourages Iran to back down from its pursuit of nuclear weapons through an effective deterrent message. Congress should not pursue such an AUMF if the president indicates they would veto such a bill, or if the AUMF would fail passage in a floor vote.
- Congress should consider either the passage of a new AUMF or an addition to the 2001 or 2002 AUMFs that specifically authorizes military strikes against Hamas, Hezbollah, the Houthis, other Iranian proxies, and Iranian forces involved in funding, organizing, or equipping terrorist groups.
 - » Congress should consider tailoring any such AUMF in a way that makes clear we have no desire for war with the Iranian nation and people—but that we are prepared to eliminate the Islamic Republic’s terror apparatus that has targeted and killed Americans for over 40 years.
 - » Accordingly, Congress could consider the addition of the IRGC to the scope of this AUMF, noting that we are not targeting the Iranian government’s conventional Artesh forces, only the regime’s external terror arm.

VII. Conclusion: Strengthening or Passing a New AUMF Empowers Congress and the President

Congress can singlehandedly reestablish the credibility of the military option against Iran’s nuclear program and bolster U.S. deterrence by signaling that it is willing to support such actions, should they prove necessary. Congress can and should demand firm accountability measures for any new or updated authorization, including regular briefings on the status of cooperation with Israel and other Arab partners and the details of military planning and security measures that would be needed before and after any strike. Congress can help the executive branch think through and plan for the difficult contingencies surrounding any strike. Stronger and more recent authorizations—and the president’s signature on such acts—would empower the president and ensure a stronger legal foundation for any military action, while meaningfully increasing congressional oversight.

Congress should send a strong and unambiguous signal to the regime in Tehran by providing the legal basis to destroy Iran’s nuclear program before it generates a nuclear weapon. Congress should send the message to Iran’s terror proxies that our president has full legal authorization to wipe them out. Such powerful signals would be of enormous assistance in ensuring that the president never has to resort to military force in the first place. And it would reflect the will of the founders: that the powers to engage in military hostilities are of such

consequence that they should lie—not with the president—but with the people and their elected representatives in Congress.

VIII. Background: AUMFs and Iran

Congress has not passed any AUMF that is directly focused on providing legal authorities to use force against Iran generally, or against its nuclear program specifically. However, existing legal authorities have been applied previously, and could potentially apply in the future, to certain scenarios involving Iran’s conventional and terror threats against Americans.

A. 2001 Counter-Terrorism AUMF

The [2001 AUMF](#) passed by Congress in response to Al-Qaeda’s attack on September 11, 2001, authorized the president to use force against “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, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.”

The full list of organizations determined by the president that qualify as a target for force under the 2001 AUMF is classified, but judging from unclassified reports has consistently included Al Qaeda and its affiliates. The executive branch had not cited the 2001 AUMF as a justification to conduct strikes against Hamas, Hezbollah, the Houthis, or any other Iranian terror proxy until the January 4, 2024, strike in Iraq discussed in the following section. Since then, the White House has cited the 2001 AUMF in multiple strikes against groups in Iraq and Syria—but under the basis that those strikes were necessary to protect U.S. forces operating under America’s counterterror mission pursuant to the 2001 AUMF—not that the groups hit were affiliated forces of Al Qaeda. A key outstanding question is whether the Islamic Republic of Iran or the IRGC would qualify under this standard given its increasing support for and association with some of Al-Qaeda’s top leaders. On January 12, 2021, Secretary of State Mike Pompeo [announced](#) that Al Qaeda’s new base of operations was inside Iran, a disclosure that has since been [confirmed](#) by the United Nations and the Biden administration’s State Department. Administration lawyers could use these facts as grounds to interpret the 2001 AUMF to apply to the Iranian government pursuant to its status as a nation harboring Al Qaeda operatives, but there has not been such a legal finding by any executive branch to date.

B. 2002 Iraq AUMF

In 2002, Congress [granted](#) the president authority to use U.S. forces to “defend U.S. national security against the continuing threat posed by Iraq.” After the fall of Saddam Hussein and subsequent influx of terror groups into Iraq, the 2002 AUMF was used to target Al-Qaeda in Iraq. Upon the emergence of ISIS in 2014, the 2002 AUMF was also used to target ISIS both inside and outside of Iraq. In its 2018 War Powers Report, the executive branch [noted](#) the 2002 AUMF contained no geographic limitation on where force can be employed in order to counter threats to, or stemming from Iraq, and that it “reinforces the authority for military operations against ISIS in Iraq, *and to the extent necessary to achieve the purposes above, in Syria or elsewhere.*” [Emphasis added by these authors] In January 2020, the Trump administration cited the 2002 AUMF, as well as the president’s Article II powers, as justification for its strike that killed Iran’s Quds Force Commander, General Qassem Soleimani.

The Trump administration repeatedly defended the 2002 AUMF and its application to Iranian terror proxies operating inside Iraq as necessary to protect the national security of the United States, including against Iranian threats against U.S. servicemembers and diplomats in Iraq. The threats to American interests in Iraq and the broader Middle East has increased significantly over the past three years, with Secretary of Defense Lloyd Austin [testifying](#) to Congress in March 2023 that Iranian proxies had targeted U.S. forces eighty-three times during the Biden administration. Since October 7, 2023, these proxies have [launched](#) at least 73 attacks against U.S. forces in Iraq, 108 in Syria, and one in Jordan.

Prior to January 5, 2024, U.S. forces have attacked Iranian proxies in Iraq during the Biden administration solely relying on the president’s Article II powers. While intended to wean the United States off an AUMF that many criticize as being outdated, the result is that the constitutional authority for an increasing number of military actions has been taken solely through Article II powers instead of those originating from Congress. On January 5, 2024, the White House [sent](#) Congress a War Powers Resolution notification related to a strike on Iraq that killed the leader of an Iranian-backed terror group. Likely because U.S. forces have been engaged with Iranian proxies for longer than the 60-days permitted in the War Powers Resolution of 1973, the Biden administration finally cited both the 2001 and 2002 AUMFs in its legal justification, as well as the United States’ inherent right to self-defense as its international legal justification. While the Biden administration had previously testified to Congress that the 2002 AUMF was outdated and not necessary, this submission disproves their own claim. Policymakers must understand that repealing the 2002 AUMF without providing a replacement authorization would merely shift more power to the executive branch while the threats to U.S. forces in Iraq increase rather than decrease. Repealing the

2002 AUMF would tie the president's hands in the future if this scenario repeats itself in the future.

The 2002 AUMF remains an important legal authority to respond to Iranian-sponsored attacks against Americans *inside* Iraq and has been used in a limited fashion *outside* of Iraq. The executive branch should continue to invoke the 2002 AUMF when responding to attacks on our forces in Iraq. It is up to Congress to update or replace the authorization—until then, the executive branch should cite the AUMF as it was passed and remains in law. While the 2002 AUMF has not been invoked by a president to use force against targets inside *Iran*, a serious threat emanating from inside Iran to U.S. forces in Iraq could be contemplated to permit action against military targets in Iran. However, it would be a significant stretch of the legal authority to use the 2002 AUMF to strike Iran's nuclear program unless it directly targeted U.S. forces there.