

United States Senate

WASHINGTON, DC 20510

January 23, 2024

The Honorable Joseph R. Biden, Jr.
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear President Biden:

We strongly condemn the repeated Houthi attacks against international cargo ships and U.S. military assets protecting those ships in the Red Sea. These attacks are unacceptable, unprovoked, and impede essential international commerce. These actions also put lives at risk, including those of U.S. servicemembers, and we mourn the loss of two U.S. Navy SEALs who tragically died while combatting these threats. We commend U.S. leadership of the multilateral coalition of Operation Prosperity Guardian in response to these attacks. Ensuring the safety of international shipping routes must be a shared global responsibility.

As Commander-in-Chief, you have the power and responsibility to defend the United States under Article II of the Constitution. Directing military action to defend U.S. personnel and military assets from attacks and imminent attacks is clearly within the boundaries of this presidential power. It could also be argued that directing military action to defend U.S. commercial shipping is within this power. However, most vessels transiting through the Red Sea are not U.S. ships, which raises questions about the extent to which these authorities can be exercised. We support smart steps to defend U.S. personnel and assets, hold the Houthis accountable for their actions, and deter additional attacks. We further believe Congress must carefully deliberate before authorizing offensive military action.

The Administration has stated that the strikes on Houthi targets to date have not and will not deter the Houthi attacks, suggesting that we are in the midst of an ongoing regional conflict that carries the risk of escalation. While the Houthis and their backers, namely Iran, bear the responsibility for escalation, unless there is a need to repel a sudden attack the Constitution requires that the United States not engage in military action absent a favorable vote of Congress. We have long advocated for deliberate congressional processes in and authorizations for decisions that put servicemembers into harm's way overseas. There is no current congressional authorization for offensive U.S. military action against the Houthis.

Protecting Americans, American interests, and our servicemembers who put their lives on the line every day remain our top priorities. Several of us are members of the Senate Foreign Relations Committee you once chaired; in the interest of ensuring that our response to the unfolding situation is strategic and authorized, we request your Administration answer the following questions:

- 1) What is your Administration's understanding of "self-defense" in the context of these strikes, especially if the strikes are not deterring ongoing and future attacks from the Houthis?

2) Your administration has to-date only submitted one notification to Congress under the War Powers Act, despite having conducted several rounds of strikes against Houthi targets. We request an explanation in writing of the legal authority under which the Administration has carried out each of these strikes and after carrying out any strikes against Houthi targets that occur after receipt of this letter, including any pre-emptive strikes.

3) Does your administration believe there is legal rationale for a President to unilaterally direct U.S. military action to defend ships of foreign nations?

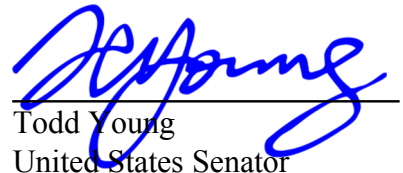
4) On what date were U.S. forces “introduced into hostilities” in Yemen and the Red Sea?

We ask these questions with a sense of urgency, and further encourage the development of a strategy that urgently reduces the risk of escalation of this crisis in the Red Sea. As tensions in the region rise, we believe that American participation in another war in the Middle East cannot happen in the absence of authorization by Congress, following an open debate during which the American public can be informed of the benefits, risks, and consequences of such conflict.

Sincerely,



Tim Kaine
United States Senator



Todd Young
United States Senator



Christopher S. Murphy
United States Senator



Michael S. Lee
United States Senator