Professor Paust was featured in a release posted to the Newswise website announcing his availability to reporters to discuss the Obama administration’s view of the current Libya action and the War Powers Act.

The following release was posted to the Newswise website on Friday, June 17, 2011 (available online at http://www.newswise.com/articles/expert-available-to-discuss-obama-s-libyan-war-powers):

**Expert Available to Discuss Obama’s Libyan War Powers**
Source: University of Houston

*Expert Available*

Newswise — The debate over whether President Obama has the authority under the War Powers Resolution (WPR) to continue U.S. military involvement in Libya has come down to interpretation of the word “hostilities.” A University of Houston Law Center expert on international law and treaties calls the administration’s contention that the armed conflict falls short of WPR “hostilities” “highly problematic.”

According to the WPR, which was passed in 1973, presidents must obtain authorization from Congress within 60 days – or 90 days in some circumstances – from the time they insert U.S. forces into “hostilities.”

A 38-page report sent to lawmakers by the Obama administration on Wednesday formally explains its compliance with the WPR and why Libya should not count as “hostilities.” The report states: “The president is of the view that the current U.S. military operations in Libya are consistent with the War Powers Resolution and do not under that law require further congressional authorization, because U.S. military operations are distinct from the kind of “hostilities” contemplated by the resolution’s 60-day termination provision. … U.S. operations do not involve sustained fighting or active exchanges of fire with hostile forces, nor do they involve U.S. ground troops.”

**University of Houston Law Center Professor Jordan Paust**, one of the country’s most-cited law professors on international law and treaties, said the president clearly has the power through his constitutional authority and international treaty obligations. He further contends that the administration’s definition poses a threat to American military personnel involved in the NATO-lead conflict.

“The approach of the Obama administration is highly problematic for U.S. military personnel,” says Paust. “Consider the fact that two U.S. Air Force pilots were shot down over Libya, with ‘boots on the ground.’ If they had been captured, would they not be POWs? Would they not be ‘combatants,’ as that word is used technically in the laws of war during an international armed conflict (and ‘hostilities’), and would, therefore, they not have ‘combatant immunity’ for lawful targetings during an international armed conflict (and could be prosecuted under relevant domestic law for murder, etc.)?”

Paust points to Section 8 of the WPR, which states “[n]othing in this joint resolution is intended to alter the constitutional authority of ... the president, or the provisions of existing treaties.”

“The world knows that we are at war over Libya, that we are in an international armed conflict and ‘hostilities’ over Libya,” says Paust. “But the president's powers at stake are the executive power and the power and duty faithfully to execute the laws, which include treaty authorizations to use military force based in United Nations Security Council resolutions. The WPR does not obviate presidential exercise of such constitutionally based powers.”

On Wednesday 10 members of Congress sued the Obama administration for not seeking authorization from Congress regarding the Libyan war effort.

Paust is available to comment as this issue works its way through Congress and the courts.

Paust is a recognized expert on international law, treaties and the incorporation of international law into U.S. domestic law. As this issue works its way through Congress and the courts, he may be reached at 713-743-2177 or jpaust@central.uh.edu.