

104TH CONGRESS
1ST SESSION

S. 5

To clarify the war powers of Congress and the President in the post-Cold War period.

IN THE SENATE OF THE UNITED STATES

JANUARY 4, 1995

Mr. DOLE (for himself, Mr. HELMS, Mr. THURMOND, Mr. COHEN, Mr. WARNER, Mrs. HUTCHISON, Mr. MCCAIN, Mr. LOTT, Mr. NICKLES, and Mr. MACK) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To clarify the war powers of Congress and the President in the post-Cold War period.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Peace Powers Act of
5 1995”.

6 **SEC. 2. REPEAL OF THE WAR POWERS RESOLUTION.**

7 (a) WAR POWERS RESOLUTION.—The War Powers
8 Resolution (Public Law 95–148; 50 U.S.C. 1541 et seq.)
9 is repealed.

1 (b) CONFORMING REPEAL.—Section 1013 of the De-
2 partment of State Authorization Act, Fiscal Years 1984
3 and 1985 (50 U.S.C. 1546a) is hereby repealed.

4 **SEC. 3. CONSULTATION.**

5 The President in every possible instance shall consult
6 with Congress before introducing United States Armed
7 Forces into hostilities or into situations where imminent
8 involvement in hostilities is clearly indicated by the cir-
9 cumstances, and after every such introduction shall con-
10 sult regularly with the Congress until United States
11 Armed Forces are no longer engaged in hostilities or have
12 been removed from such situations.

13 **SEC. 4. REPORTING.**

14 (a) INITIAL REPORTS.—In the absence of a declara-
15 tion of war, in any case in which United States Armed
16 Forces are introduced—

17 (1) into hostilities or into situations where im-
18 minent involvement in hostilities is clearly indicated
19 by the circumstances;

20 (2) into the territory, airspace, or waters of a
21 foreign nation, while equipped for combat, except for
22 deployments which relate solely to supply, replace-
23 ment, repair, or training of such forces; or

1 (3) in numbers which substantially enlarge
2 United States Armed Forces equipped for combat al-
3 ready located in a foreign nation;

4 the President shall submit within 48 hours to the Speaker
5 of the House of Representatives and to the President pro
6 tempore of the Senate a report, in writing, setting forth—

7 (A) the circumstances necessitating the intro-
8 duction of United States Armed Forces;

9 (B) the constitutional and legislative authority
10 under which such introduction took place; and

11 (C) the estimated scope and duration of the
12 hostilities or involvement.

13 (b) ADDITIONAL INFORMATION.—The President shall
14 provide such other information as the Congress may re-
15 quest in the fulfillment of its constitutional responsibilities
16 with respect to committing the Nation to war and to the
17 use of United States Armed Forces abroad.

18 (c) PERIODIC REPORTS.—Whenever United States
19 Armed Forces are introduced into hostilities or into any
20 situation described in subsection (a) of this section, the
21 President shall, so long as such armed forces continue to
22 be engaged in such hostilities or situation, report to the
23 Congress periodically on the status of such hostilities or
24 situation as well as on the scope and duration of such hos-

1 tilities or situation, but in no event shall he report to the
2 Congress less often than once every 6 months.

3 **SEC. 5. LIMITATION ON PLACEMENT OF UNITED STATES**
4 **ARMED FORCES UNDER FOREIGN COMMAND**
5 **FOR A UNITED NATIONS PEACEKEEPING AC-**
6 **TIVITY.**

7 Section 6 of the United Nations Participation Act (22
8 U.S.C. 287d) is amended to read as follows:

9 “SEC. 6. (a) Any special agreement or agreements ne-
10 gotiated by the President with the Security Council pro-
11 viding for the numbers and types of United States Armed
12 Forces, their degree of readiness and general locations, or
13 the nature of facilities and assistance, including rights of
14 passage, to be made available to the Security Council for
15 the purpose of maintaining international peace and secu-
16 rity in accordance with Article 43 of the United Nations
17 Charter, shall be subject to the approval of the Congress
18 by Act or joint resolution.

19 “(b) The President may not subordinate to the com-
20 mand or operational control of any foreign national any
21 element of the United States Armed Forces participating
22 in any United Nations peacekeeping activity unless—

23 “(1) the President satisfies the requirements of
24 subsection (c); or

1 “(2) the Congress enacts an Act or joint resolu-
2 tion specifically authorizing such subordination.

3 “(c)(1) The requirements referred to in subsection
4 (b)(1) are that the President submit to the designated
5 congressional committees (at the time specified in para-
6 graph (2) of this subsection) the following documents:

7 “(A) A determination by the President that—

8 “(i) the proposed subordination of United
9 States Armed Forces to foreign command is in
10 the national security interest of the United
11 States;

12 “(ii) the unit commanders of the United
13 States Armed Forces proposed for subordina-
14 tion to the command of foreign nationals will at
15 all times retain the ability to report independ-
16 ently to higher United States military authori-
17 ties;

18 “(iii) the United States will retain author-
19 ity to withdraw the United States Armed
20 Forces from the United Nations peacekeeping
21 activity at any time and to take action it con-
22 siders necessary to protect those forces if they
23 are endangered; and

24 “(iv) the United States Armed Forces sub-
25 ordinated to the command of foreign nationals

1 will at all times remain under United States ad-
2 ministrative command for such purposes as dis-
3 cipline and evaluation.

4 “(B) The justification for the determination
5 made pursuant to subparagraph (A)(i).

6 “(C) A memorandum of legal points and au-
7 thorities explaining why the proposed foreign com-
8 mand arrangement does not violate the Constitution.

9 “(2) The documents described in paragraph (1) shall
10 be submitted to the appropriate congressional committees
11 not less than 15 days before any element of the United
12 States Armed Forces is subordinated to the command and
13 control of a foreign national, except that if the President
14 determines that an emergency exists which prevents com-
15 pliance with the requirement that notice be provided 15
16 days in advance, those documents shall be submitted in
17 a timely manner but no later than 48 hours after such
18 subordination.

19 “(d) For purposes of this section, the term ‘appro-
20 priate committees of Congress’ means—

21 “(1) the Committee on National Security, the
22 Committee on Appropriations, and the Committee on
23 International Relations of the House of Representa-
24 tives; and

1 “(2) the Committee on Armed Services, the
2 Committee on Appropriations, and the Committee on
3 Foreign Relations of the Senate.”.

4 **SEC. 6. REDUCTION OF UNITED NATIONS ASSESSMENTS TO**
5 **THE UNITED STATES FOR PEACEKEEPING**
6 **OPERATIONS.**

7 (a) ANNUAL REPORT.—The President shall, at the
8 time of submission of the budget to Congress for any fiscal
9 year, submit to the appropriate committees of Congress
10 a report on the total amount of funds appropriated for
11 national defense purposes for any fiscal year after fiscal
12 year 1995 that were expended during the preceding fiscal
13 year to support or participate in, directly or indirectly,
14 United Nations peacekeeping activities. Such report shall
15 include a breakdown by United Nations peacekeeping op-
16 eration of the amount of funds expended to support or
17 participate in each such operation.

18 (b) LIMITATION.—In each fiscal year beginning with
19 fiscal year 1996, funds may be obligated or expended for
20 payment to the United Nations of the United States as-
21 sessed share of peacekeeping operations for that fiscal
22 year only to the extent that such assessed share exceeds
23 the total amount identified in the report submitted pursu-
24 ant to subsection (a) for the preceding fiscal year, reduced
25 by the amount of any reimbursement or credit to the

1 United States by the United Nations for the costs of
2 United States support for, or participation in, United
3 Nations peacekeeping activities for that fiscal year.

4 (c) DEFINITIONS.—As used in this section:

5 (1) The term “United Nations peacekeeping ac-
6 tivities” means any international peacekeeping,
7 peacemaking, peace-enforcing, or similar activity
8 that is authorized by the United Nations Security
9 Council under chapter VI or VII of the United Na-
10 tions Charter.

11 (2) The term “appropriate committees of Con-
12 gress” means—

13 (A) the Committee on National Security,
14 the Committee on Appropriations, and the
15 Committee on International Relations of the
16 House of Representatives; and

17 (B) the Committee on Armed Services, the
18 Committee on Appropriations, and the Commit-
19 tee on Foreign Relations of the Senate.

20 **SEC. 7. PRIOR CONGRESSIONAL NOTIFICATION OF SECU-**
21 **RITY COUNCIL VOTES ON UNITED NATIONS**
22 **PEACEKEEPING ACTIVITIES.**

23 (a) NOTICE TO CONGRESS OF PROPOSED UNITED
24 NATIONS PEACEKEEPING ACTIVITIES.—Section 4 of the

1 United Nations Participation Act of 1945 (22 U.S.C.
2 287b) is amended—

3 (1) by redesignating subsection (e) as sub-
4 section (g); and

5 (2) by inserting after subsection (d) the follow-
6 ing:

7 “(e) NOTICE TO CONGRESS OF PROPOSED UNITED
8 NATIONS PEACEKEEPING ACTIVITIES.—(1) Except as
9 provided in paragraph (2), at least 15 days before any
10 vote in the Security Council to authorize any United Na-
11 tions peacekeeping activity or any other action under the
12 Charter of the United Nations (including any extension,
13 modification, suspension, or termination of any previously
14 authorized United Nations peacekeeping activity or other
15 action) which would involve the use of United States
16 Armed Forces or the expenditure of United States funds,
17 the President shall submit to the designated congressional
18 committees a notification with respect to the proposed ac-
19 tion. The notification shall include the following:

20 “(A) A cost assessment of such action (includ-
21 ing the total estimated cost and the United States
22 share of such cost).

23 “(B) Identification of the source of funding for
24 the United States share of the costs of the action
25 (whether in an annual budget request,

1 reprogramming notification, a rescission of funds, a
2 budget amendment, or a supplemental budget re-
3 quest).

4 “(2)(A) If the President determines that an emer-
5 gency exists which prevents submission of the 15-day ad-
6 vance notification specified in paragraph (1) and that the
7 proposed action is in the national security interests of the
8 United States, the notification described in paragraph (1)
9 shall be provided in a timely manner but no later than
10 48 hours after the vote by the Security Council.

11 “(B) Determinations made under subparagraph (A)
12 may not be delegated.

13 “(f) ADVERSE PERSONNEL ACTIONS AND CRIMINAL
14 PENALTIES.—Any officer or employee of the United
15 States Government who knowingly and willfully obligates
16 or expends United States funds to carry out any Security
17 Council action described in subsection (e) without the re-
18 quirements of that subsection having been met shall be
19 subject to the same adverse personnel actions and criminal
20 penalties as are described in sections 1349 and 1350, re-
21 spectively, of title 31, United States Code (originally en-
22 acted in the Anti-Deficiency Act).”.

1 **SEC. 8. AVAILABILITY OF APPROPRIATIONS.**

2 Section 4 of the United Nations Participation Act of
3 1945 (22 U.S.C. 2876), as amended by section 7, is fur-
4 ther amended—

5 (1) by redesignating subsection (g) as sub-
6 section (h); and

7 (2) by inserting after subsection (f) the follow-
8 ing:

9 “(g) AVAILABILITY OF APPROPRIATIONS.—(1) The
10 authority to obligate United States funds to carry out any
11 action pursuant to a United Nations Security Council res-
12 olution under chapter VI or VII of the United Nations
13 Charter may be exercised only to the extent and in the
14 amounts provided in appropriation Acts.

15 “(2) The President, acting through the United States
16 Permanent Representative to the United Nations, should
17 advise the Security Council of the requirement of this sec-
18 tion on each occasion when the United States supports
19 a Security Council resolution that may result in United
20 States assessed contributions to the United Nations ex-
21 ceeding amounts currently available to be obligated for
22 that purpose.”.

23 **SEC. 9. LIMITATION ON ASSESSMENT PERCENTAGE FOR**
24 **PEACEKEEPING ACTIVITIES.**

25 Section 404(b)(2) of the Foreign Relations Author-
26 ization Act, Fiscal Years 1994 and 1995 (Public Law

1 103-236) is amended by adding at the end the following
2 new sentence: “Any penalties, interest, or other charges
3 imposed on the United States in connection with such con-
4 tributions shall be credited as a part of the percentage
5 limitation contained in the preceding sentence.”.

