

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6290

To prohibit the deployment of a unit or individual of the United States Armed Forces or element of the intelligence community in support of a North Atlantic Treaty Organization military operation absent express prior statutory authorization from Congress for such deployment.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 2012

Mr. KUCINICH (for himself and Mr. YOUNG of Alaska) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on Armed Services and Select Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To prohibit the deployment of a unit or individual of the United States Armed Forces or element of the intelligence community in support of a North Atlantic Treaty Organization military operation absent express prior statutory authorization from Congress for such deployment.

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. FINDINGS.**

4 Congress finds the following:

1           (1) Article I, section 8 of the Constitution vests  
2 solely in Congress the power to declare war.

3           (2) The Constitution provides the President  
4 with the power to act as Commander-in-Chief and  
5 with the limited power to utilize the United States  
6 Armed Forces to “repel sudden attacks”.

7           (3) The constitutional authority of Congress to  
8 declare war, and the requirement that the President  
9 seek Congress’ express prior statutory authorization  
10 to deploy United States Armed Forces are necessary  
11 to ensure the collective judgment of both Congress  
12 and the executive branch in making the decision to  
13 deploy United States Armed Forces abroad.

14           (4) In a May 21, 2011, letter, President Obama  
15 notified congressional leaders that United States  
16 military forces had been deployed to Libya at his di-  
17 rection “to assist an international effort authorized  
18 by the United Nations Security Council”, and that  
19 “United Nations Security Council Resolution 1973  
20 authorized Member States, under Chapter VII of the  
21 U.N. Charter, to take all necessary measures to pro-  
22 tect civilians and civilian populated areas under  
23 threat of attack in Libya, including the establish-  
24 ment and enforcement of a ‘no-fly zone’ in the air-  
25 space of Libya.”.

1           (5) In a May 20, 2011, letter to congressional  
2 leaders, President Obama wrote that he “reported to  
3 the Congress that the United States, pursuant to a  
4 request from the Arab League and authorization by  
5 the United Nations Security Council, had acted 2  
6 days earlier to prevent a humanitarian catastrophe  
7 by deploying U.S. forces to protect the people of  
8 Libya from the Qaddafi regime.”.

9           (6) Section 8(a)(2) of the War Powers Resolu-  
10 tion specifically states that the authority to intro-  
11 duce United States Armed Forces into hostilities  
12 “shall not be inferred . . . from any treaty here-  
13 tofore or hereafter ratified unless such treaty is im-  
14 plemented by legislation specifically authorizing the  
15 introduction of United States Armed Forces into  
16 hostilities or into such situations and stating that it  
17 is intended to constitute specific statutory authoriza-  
18 tion within the meaning of this joint resolution.”.

19           (7) Section 2(c) of the War Powers Resolution  
20 acknowledged the constitutional powers of President  
21 as Commander-in-Chief to introduce forces into hos-  
22 tilities or imminent hostilities as “exercised only  
23 pursuant to a declaration of war, specific statutory  
24 authorization, or a national emergency created by

1 attack upon the United States, its territories or pos-  
2 sessions, or its armed forces.”.

3 (8) The War Powers Resolution was passed by  
4 Congress over a presidential veto in the aftermath of  
5 the Vietnam war, to ensure that Congress had a di-  
6 rect role in the decision to introduce United States  
7 Armed Forces into hostilities.

8 (9) The introduction of United States Armed  
9 Forces into hostilities authorized by the United Na-  
10 tions or any other international body aside from the  
11 United States Congress is no substitute for a con-  
12 gressional declaration of war or authorization for the  
13 use of force.

14 **SEC. 2. STATEMENT OF POLICY.**

15 It should be the policy of the United States—

16 (1) to protect the role of Congress as a coequal  
17 branch of government and ensure the protection of  
18 its constitutional authority to declare war and sup-  
19 port the Armed Forces;

20 (2) to prevent the need for United States and  
21 international military intervention abroad through  
22 the utilization of diplomacy to resolve issues of con-  
23 cern to the United States and the international com-  
24 munity; and

1           (3) that no funds appropriated or otherwise  
2           made available to any executive agency of the United  
3           States Government may be used to carry out any  
4           North Atlantic Treaty Organization military oper-  
5           ation or deploy a unit or individual of the United  
6           States Armed Forces or an element of the intel-  
7           ligence community in support of a NATO military  
8           operation unless the President determines that such  
9           military operation is warranted and seeks express  
10          prior authorization by Congress, as required under  
11          article I, section 8 of the Constitution, except that  
12          this requirement shall not apply to a military oper-  
13          ation—

14                   (A) to directly repel an offensive military  
15                   action launched against the United States or an  
16                   ally with whom the United States has a mutual  
17                   defense assistance agreement; or

18                   (B) to directly thwart an imminent offen-  
19                   sive military action to be launched against the  
20                   United States or an ally with whom the United  
21                   States has a mutual defense assistance agree-  
22                   ment.

1 **SEC. 3. PROHIBITION ON DEPLOYMENT OF UNITED STATES**  
2 **ARMED FORCES OR ELEMENT OF THE INTEL-**  
3 **LIGENCE COMMUNITY.**

4 (a) PROHIBITION ON DEPLOYMENT.—Except as pro-  
5 vided in subsection (b), no unit or individual of the United  
6 States Armed Forces or an element of the intelligence  
7 community may be deployed in support of a North Atlan-  
8 tic Treaty Organization military operation absent express  
9 prior statutory authorization from Congress for such de-  
10 ployment.

11 (b) EXCEPTION.—Subsection (a) shall not apply to  
12 a military operation—

13 (1) to directly repel an offensive military action  
14 launched against the United States or an ally with  
15 whom the United States has a mutual defense as-  
16 sistance agreement; or

17 (2) to directly thwart an imminent offensive  
18 military action to be launched against the United  
19 States or an ally with whom the United States has  
20 a mutual defense assistance agreement.

21 (c) DEFINITIONS.—In this section—

22 (1) the term “deployment” has the meaning  
23 given that term in section 991(b) of title 10, United  
24 States Code; and

1           (2) the term “intelligence community” has the  
2           meaning given the term in section 3(4) of the Na-  
3           tional Security Act of 1947 (50 U.S.C. 401a(4)).

4           (d) EFFECTIVE DATE.—This section takes effect on  
5           the date of the enactment of this Act and applies with  
6           respect to North Atlantic Treaty Organization military op-  
7           erations initiated on or after such date of enactment.

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