

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

# S. CON. RES. 133

Expressing the sense of Congress that the United States should not use force against Iraq, outside of the existing Rules of Engagement, without specific statutory authorization or a declaration of war under Article I, Section 8, Clause 11 of the Constitution of the United States.

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IN THE SENATE OF THE UNITED STATES

JULY 30, 2002

Mrs. FEINSTEIN (for herself and Mr. LEAHY) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations

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## CONCURRENT RESOLUTION

Expressing the sense of Congress that the United States should not use force against Iraq, outside of the existing Rules of Engagement, without specific statutory authorization or a declaration of war under Article I, Section 8, Clause 11 of the Constitution of the United States.

Whereas, in accordance with United Nations Security Council Resolution 687 (1991), Iraq—

(1) agreed to destroy, remove, or render harmless all chemical and biological weapons and stocks of agents and all related subsystems and components and all research, development, support, and manufacturing facilities related thereto;

(2) agreed to destroy, remove, or render harmless all ballistic missiles with a range greater than 150 kilometers, and related major parts and production facilities;

(3) agreed not to acquire or develop any nuclear weapons, nuclear-weapons-usable material, nuclear-related subsystems or components, or nuclear-related research, development, support, or manufacturing facilities; and

(4) agreed to permit immediate on-site inspection of Iraq's biological, chemical, and missile capabilities, and assist the International Atomic Energy Agency in carrying out the destruction, removal, or rendering harmless of all nuclear-related items and in developing a plan for ongoing monitoring and verification of Iraq's compliance;

Whereas the regime of Saddam Hussein consistently refused to comply with United Nations Special Commission weapons inspectors in Iraq between 1991 and 1998 by denying them access to crucial sites and documents;

Whereas on October 31, 1998, Iraq banned the United Nations weapons inspectors despite its agreement and obligation to comply with United Nations Security Council Resolution 687 (1991);

Whereas Congress declared in Public Law 105–235 that “the Government of Iraq is in material and unacceptable breach of its international obligations, and therefore the President is urged to take appropriate action, in accordance with the Constitution and relevant laws of the United States, to bring Iraq into compliance with its international obligations”;

Whereas, in his State of the Union Address on January 29, 2002, the President of the United States stated that the

“Iraqi regime has plotted to develop anthrax, and nerve gas, and nuclear weapons for over a decade”;

Whereas it is believed that Iraq continues in its efforts to develop weapons of mass destruction, in violation of United Nations Security Council Resolution 687 (1991) and subsequent resolutions, and that the regime of Saddam Hussein has used weapons of mass destruction against its own people;

Whereas the development of weapons of mass destruction by Iraq is a threat to the United States, and its friends and allies in the Middle East;

Whereas Public Law 107–40 authorizes the President to use United States Armed Forces against “those 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 on international terrorism against the United States by such nations, organizations, or persons”;

Whereas no such evidence has been forthcoming linking Iraq to the September 11, 2001 attacks; and

Whereas Article I, Section 8, Clause 11 of the Constitution of the United States confers upon Congress the sole power to declare war: Now, therefore, be it

1        *Resolved by the Senate (the House of Representatives*  
 2 *concurring)*, That (a) it is the sense of Congress that—  
 3            (1) the United States and the United Nations  
 4        Security Council should insist on a complete pro-  
 5        gram of inspection and monitoring to prevent the  
 6        development of weapons of mass destruction in Iraq;

1           (2) Iraq should allow the United Nations weap-  
2           ons inspectors “immediate, unconditional, and unre-  
3           stricted access to any and all areas, facilities, equip-  
4           ment, records and means of transportation which  
5           they wish to inspect” as required by United Nations  
6           Security Council Resolution 707 of August 15, 1991,  
7           and United Nations Security Council Resolution  
8           1284 of December 17, 1999; and

9           (3) the United States should not use force  
10          against Iraq without specific statutory authorization  
11          or a declaration of war under Article I, Section 8,  
12          Clause 11 of the Constitution of the United States,  
13          except as provided in subsection (b).

14          (b) Subsection (a)(3) does not apply to any use of  
15          force in compliance with the existing Rules of Engagement  
16          (ROE) used by coalition forces to exercise the right of self-  
17          defense or under the National Security Act of 1947.

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