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.

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

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

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

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

(4) In a May 21, 2011, letter, President Obama notified congressional leaders that United States military forces had been deployed to Libya at his direction “to assist an international effort authorized by the United Nations Security Council”, and that “United Nations Security Council Resolution 1973 authorized Member States, under Chapter VII of the U.N. Charter, to take all necessary measures to protect civilians and civilian populated areas under threat of attack in Libya, including the establishment and enforcement of a ‘no-fly zone’ in the airspace of Libya.”.
(5) In a May 20, 2011, letter to congressional leaders, President Obama wrote that he “reported to the Congress that the United States, pursuant to a request from the Arab League and authorization by the United Nations Security Council, had acted 2 days earlier to prevent a humanitarian catastrophe by deploying U.S. forces to protect the people of Libya from the Qaddafi regime.”

(6) Section 8(a)(2) of the War Powers Resolution specifically states that the authority to introduce United States Armed Forces into hostilities “shall not be inferred . . . from any treaty here-tofore or hereafter ratified unless such treaty is implemented by legislation specifically authorizing the introduction of United States Armed Forces into hostilities or into such situations and stating that it is intended to constitute specific statutory authorization within the meaning of this joint resolution.”

(7) Section 2(c) of the War Powers Resolution acknowledged the constitutional powers of President as Commander-in-Chief to introduce forces into hostilities or imminent hostilities as “exercised only pursuant to a declaration of war, specific statutory authorization, or a national emergency created by
attack upon the United States, its territories or pos-
sessions, or its armed forces.”.

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

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

SECTION 2. STATEMENT OF POLICY.

It should be the policy of the United States—

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

(2) to prevent the need for United States and
international military intervention abroad through
the utilization of diplomacy to resolve issues of con-
cern to the United States and the international com-
munity; and
(3) that no funds appropriated or otherwise made available to any executive agency of the United States Government may be used to carry out any North Atlantic Treaty Organization military operation or deploy a unit or individual of the United States Armed Forces or an element of the intelligence community in support of a NATO military operation unless the President determines that such military operation is warranted and seeks express prior authorization by Congress, as required under article I, section 8 of the Constitution, except that this requirement shall not apply to a military operation—

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

(B) to directly thwart an imminent offensive military action to be launched against the United States or an ally with whom the United States has a mutual defense assistance agreement.
SEC. 3. PROHIBITION ON DEPLOYMENT OF UNITED STATES
ARMED FORCES OR ELEMENT OF THE INTELLIGENCE COMMUNITY.

(a) Prohibition on deployment.—Except as provided in subsection (b), no unit or individual of the United States Armed Forces or an element of the intelligence community may be deployed in support of a North Atlantic Treaty Organization military operation absent express prior statutory authorization from Congress for such deployment.

(b) Exception.—Subsection (a) shall not apply to a military operation—

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

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

(c) Definitions.—In this section—

(1) the term “deployment” has the meaning given that term in section 991(b) of title 10, United States Code; and
(2) the term “intelligence community” has the meaning given the term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

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