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112TH CONGRESS
1ST SESSION

S. J. RES. 20

[Report No. 112-27]

Authorizing the limited use of the United States Armed Forces in support
of the NATO mission in Libya.

IN THE SENATE OF THE UNITED STATES

JUNE 21 (legislative day, JUNE 16), 2011

Mr. KERRY (for himself, Mr. MCCAIN, Mr. LEVIN, Mr. KYL, Mr. DURBIN, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. LIEBERMAN, Mr. BLUNT, Mr. CARDIN, Mr. KIRK, Mr. FRANKEN, and Mr. NELSON of Florida) introduced the following joint resolution; which was read twice and referred to the Committee on Foreign Relations

JUNE 29, 2011

Reported by Mr. KERRY, with amendments

[Omit the part struck through and insert the part printed in *italic*]

JOINT RESOLUTION

Authorizing the limited use of the United States Armed
Forces in support of the NATO mission in Libya.

Whereas peaceful demonstrations that began in Libya, inspired by similar movements in Tunisia, Egypt, and elsewhere in the Middle East, quickly spread to cities around

the country, calling for greater political reform, opportunity, justice, and the rule of law.

Whereas Muammar Qaddafi, his sons, and forces loyal to them responded to the peaceful demonstrations by authorizing and initiating violence against civilian non-combatants in Libya, including the use of airpower and foreign mercenaries;

Whereas, on February 25, 2011, President Barack Obama imposed unilateral economic sanctions on, and froze the assets of, Muammar Qaddafi and his family, as well as the Government of Libya and its agencies to hold the Qaddafi regime accountable for its continued use of violence against unarmed civilians and its human rights abuses and to safeguard the assets of the people of Libya;

Whereas, on February 26, 2011, the United Nations Security Council passed Resolution 1970, which mandates international economic sanctions and an arms embargo;

Whereas, in response to Qaddafi's assault on civilians in Libya, a "no-fly zone" in Libya was called for by the Gulf Cooperation Council on March 7, 2011; by the head of the Organization of the Islamic Conference on March 8, 2011; and by the Arab League on March 12, 2011;

Whereas Qaddafi's advancing forces, after recapturing cities in eastern Libya that had been liberated by the Libyan opposition, were preparing to attack Benghazi, a city of 700,000 people and the seat of the opposition government in Libya, the Interim Transitional National Council;

Whereas Qaddafi stated that he would show “no mercy” to his opponents in Benghazi, and that his forces would go “door to door” to find and kill dissidents;

Whereas, on March 17, 2011, the United Nations Security Council passed Resolution 1973, which mandates “all necessary measures” to protect civilians in Libya, implement a “no-fly zone”, and enforce an arms embargo against the Qaddafi regime;

Whereas President Obama notified key congressional leaders in a meeting at the White House on March 18, 2011, of his intent to begin targeted military operations in Libya and made clear that the United States “is not going to deploy ground troops into Libya”;

Whereas the United States Armed Forces, together with coalition partners, launched Operation Odyssey Dawn in Libya on March 19, 2011, to protect civilians in Libya from immediate danger and enforce an arms embargo and a “no-fly zone”;

Whereas, on March 28, 2011, President Obama stated, “America has an important strategic interest in preventing Qaddafi from overrunning those who oppose him. A massacre would have driven thousands of additional refugees across Libya’s borders, putting enormous strains on the peaceful—yet fragile—transitions in Egypt and Tunisia. The democratic impulses that are dawning across the region would be eclipsed by the darkest form of dictatorship, as repressive leaders concluded that violence is the best strategy to cling to power . . . So while I will never minimize the costs involved in military action, I am convinced that a failure to act in Libya would have carried a far greater price for America.”;

Whereas, on March 31, 2011, the United States transferred authority for Operation Odyssey Dawn in Libya to NATO command, with the mission continuing as Operation Unified Protector;

Whereas, in a letter to joint bipartisan congressional leaders on May 20, 2011, President Obama expressed support for a Senate resolution on the use of force in Libya and stated that, “Since April 4, U.S. participation has consisted of: (1) non-kinetic support to the NATO-led operation, including intelligence, logistical support, and search and rescue assistance (2) aircraft that have assisted in the suppression and destruction of air defenses in support of the no-fly zone and (3) since April 23, precision strikes by unmanned aerial vehicles against a limited set of clearly defined targets in support of the NATO-led coalition’s efforts.”; and

Whereas, on June 9, 2011, Secretary of State Hillary Clinton recognized the Transitional National Council “as the legitimate interlocutor for the Libyan people during this interim period.”: Now, therefore, be it

1 *Resolved by the Senate and House of Representatives*

2 *of the United States of America in Congress assembled,*

3 **SECTION 1. SENSE OF CONGRESS.**

4 It is the sense of Congress that—

5 (1) the men and women of the United States

6 Armed Forces and coalition partners who are en-

7 gaged in military operations to protect the people of

8 Libya have demonstrated extraordinary bravery and

9 should be commended;

1 (2) the United States Government should con-
2 tinue to support the aspirations of the people of
3 Libya for political reform and self-government based
4 on democratic and human rights;

5 ~~(3) the goal of United States policy in Libya,~~
6 ~~as stated by the President, is to achieve the depart-~~
7 ~~ure from power of Muammar Qaddafi and his fam-~~
8 ~~ily, including through the use of diplomatic and eco-~~
9 ~~nomic pressure, so that a peaceful transition can~~
10 ~~begin to an inclusive government that ensures free-~~
11 ~~dom, opportunity, and justice for the people of~~
12 ~~Libya; and~~

13 (4) the funds of the Qaddafi regime that have
14 been frozen by the United States should be returned
15 to the people of Libya for their benefit, including hu-
16 manitarian and reconstruction assistance; and the
17 President should explore the possibility with the
18 Transitional National Council of using some of such
19 funds to reimburse NATO countries for expenses in-
20 curred in Operation Odyssey Dawn and Operation
21 Unified Protector;

22 (3) *the military goals of United States policy in*
23 *Libya are to protect civilians and enforce the terms*
24 *of United Nations Security Council Resolution 1973*
25 *(2011), which require—*

1 (A) that all attacks against civilians in
2 Libya must stop;

3 (B) that Muammar Qaddafi stop his troops
4 from advancing on Benghazi, pull them back
5 from Ajdabiya, Misrata, and Zawiya and other
6 cities, and establish water, electricity, and gas
7 supplies to all areas; and

8 (C) that humanitarian assistance be al-
9 lowed to reach the people of Libya;

10 (4) the political goals of United States policy are
11 to achieve the departure from power of Muammar
12 Qaddafi and his family, including through the use of
13 diplomatic and economic pressure, so that a peaceful
14 transition can begin to an inclusive government that
15 ensures freedom, opportunity, and justice for the peo-
16 ple of Libya;

17 (5) the funds of the Qaddafi regime that have
18 been frozen by the United States should be used to re-
19 imburse the United States, as a NATO member, for
20 expenses incurred in connection with Operation Odys-
21 sey Dawn and Operation Unified Protector, and for
22 humanitarian and reconstruction assistance; and to
23 ensure full payment of awards as issued by the For-
24 eign Claims Settlement Commission; and

1 (6) *the costs associated with the reconstruction*
 2 *and stabilization of Libya following the conflict there*
 3 *should be borne primarily by the people of Libya and*
 4 *by the members of the League of Arab States, which*
 5 *requested military intervention in Libya.*

6 **SEC. 2. AUTHORIZATION FOR THE LIMITED USE OF UNITED**
 7 **STATES ARMED FORCES IN LIBYA.**

8 (a) **AUTHORITY.**—The President is authorized to con-
 9 tinue the limited use of the United States Armed Forces
 10 in Libya, in support of United States national security pol-
 11 icy interests, as part of the NATO mission to enforce
 12 United Nations Security Council Resolution 1973 (2011)
 13 as requested by the Transitional National Council, the
 14 Gulf Cooperation Council, and the Arab League.

15 (b) **EXPIRATION OF AUTHORITY.**—The authorization
 16 for such limited use of United States Armed Forces in
 17 Libya ~~expires one year after the date of the enactment~~
 18 ~~of this joint resolution~~ *expires on the date that NATO oper-*
 19 *ations end or one year after the date of the enactment of*
 20 *this joint resolution, whichever comes first.*

21 (c) **WAR POWERS RESOLUTION REQUIREMENTS.**—

22 (1) **SPECIFIC STATUTORY AUTHORIZATION.**—
 23 *Consistent with section 8(a)(1) of the War Powers*
 24 *Resolution (50 U.S.C. 1547(a)(1)), Congress declares*
 25 *that this section is intended to constitute specific stat-*

1 *utory authorization within the meaning of section*
2 *5(b) of the War Powers Resolution (50 U.S.C.*
3 *1544(b)).*

4 (2) *APPLICABILITY OF OTHER REQUIREMENTS.—*

5 (A) *RULE OF CONSTRUCTION.—Nothing in*
6 *this joint resolution supersedes any requirement*
7 *of the War Powers Resolution (50 U.S.C. 1541 et*
8 *seq.).*

9 (B) *ENGAGEMENT IN HOSTILITIES.—United*
10 *States military operations in Libya since April*
11 *4, 2011, which have included non-kinetic support*
12 *to the NATO-led operations, including intel-*
13 *ligence, logistical support, and search and rescue*
14 *assistance, United States aircraft assisting in the*
15 *suppression and destruction of air defenses in*
16 *support of the no-fly zone, and precision strikes*
17 *by unmanned aerial vehicles, constitute hos-*
18 *tilities within the meaning of the War Powers*
19 *Resolution, and may be carried out only under*
20 *the conditions specified in section 5(b) of the*
21 *War Powers Resolution (50 U.S.C. 1544(b)).*

22 (d) *RESTRICTION.—*

23 (1) *IN GENERAL.—Except as provided in para-*
24 *graph (2), none of the funds appropriated under any*

1 *provision of law may be obligated or expended for the*
2 *purpose of—*

3 *(A) deploying units or members of the*
4 *United States Armed Forces on the ground in*
5 *Libya for the purposes of engaging in ground*
6 *combat operations, or participating in stabiliza-*
7 *tion or international peacekeeping operations*
8 *following the removal of Muammar Qaddafi*
9 *from government and during the transition to a*
10 *new government in Libya;*

11 *(B) awarding a contract to a private secu-*
12 *rity contractor to conduct any activity on the*
13 *ground in Libya; or*

14 *(C) otherwise establishing or maintaining*
15 *any presence of units or members of the United*
16 *States Armed Forces or private security contrac-*
17 *tors on the ground in Libya.*

18 *(2) EXCEPTION.—Notwithstanding paragraph*
19 *(1), funds may be obligated or expended to take an*
20 *action otherwise prohibited under such paragraph—*

21 *(A) for the immediate personal defense of*
22 *United States Government officials (including*
23 *diplomatic representatives) or for rescuing mem-*
24 *bers of NATO forces from imminent danger; or*

25 *(B) if, prior to such action—*

1 *(i) the President determines and cer-*
2 *tifies to Congress that the action is nec-*
3 *essary; and*

4 *(ii) legislation is enacted specifically*
5 *authorizing such action.*

6 **SEC. 3. OPPOSITION TO THE USE OF UNITED STATES**
7 **GROUND TROOPS.**

8 Consistent with the policy and statements of the
9 President, Congress does not support deploying, estab-
10 lishing, or maintaining the presence of units and members
11 of the United States Armed Forces on the ground in Libya
12 unless the purpose of the presence is limited to the imme-
13 diate personal defense of United States Government offi-
14 cials (including diplomatic representatives) or to rescuing
15 members of NATO forces from imminent danger.

16 **SEC. 4. REPORTS TO CONGRESS.**

17 The President shall consult frequently with Congress
18 regarding United States efforts in Libya, including by pro-
19 viding regular briefings and reports as requested, and re-
20 sponding to inquiries promptly. Such briefings and reports
21 shall *be delivered to Congress not later than 15 days after*
22 *the date of the enactment of this joint resolution, and every*
23 *30 days thereafter, and shall* include the following ele-
24 ments:

1 (1) An updated description of United States na-
2 tional security interests in Libya.

3 (2) An updated statement of United States pol-
4 icy objectives in Libya, both during and after
5 Qaddafi's rule, and a detailed plan to achieve them.

6 (3) An updated and comprehensive list of the
7 activities of the United States Armed Forces in
8 Libya.

9 (4) An updated and detailed assessment of the
10 groups in Libya that are opposed to the Qaddafi re-
11 gime, including potential successor governments.

12 (5) A full and updated explanation of the Presi-
13 dent's legal and constitutional rationale for con-
14 ducting military operations in Libya consistent with
15 the War Powers Resolution (50 U.S.C. 1541 et
16 seq.).

17 **SEC. 5. REPORT ON COSTS AND IMPACT OF MILITARY OPER-**
18 **ATIONS.**

19 (a) *REPORT.*—*Not later than 15 days after the enact-*
20 *ment of this joint resolution and every 30 days thereafter,*
21 *the President shall submit to the President of the Senate*
22 *and the Speaker of the House of Representatives a report*
23 *containing the following information:*

24 (1) *The total cost incurred by the United States*
25 *Government in connection with military operations*

1 *in Libya since their commencement on March 19,*
2 *2011.*

3 (2) *The total cost incurred by the United States*
4 *Government in connection with military operations*
5 *in Libya during the preceding 30 days.*

6 (3) *The sources and amounts of any reimburse-*
7 *ments the United States has received from other coun-*
8 *tries for costs it has incurred in connection with mili-*
9 *tary operations in Libya since their commencement*
10 *on March 19, 2011.*

11 (4) *A list of United States Government direct*
12 *spending programs whose budgetary resources will be*
13 *reduced to pay for any unreimbursed costs associated*
14 *with United States military operations in Libya*
15 *since their commencement on March 19, 2011, and*
16 *the amount by which the budgetary resources of each*
17 *such program shall be reduced.*

18 (5) *An assessment of the impact of United States*
19 *military operations in Libya on the capacity and re-*
20 *sources of the United States military to carry out ef-*
21 *fective United States military operations against al*
22 *Qaeda and the Taliban pursuant to the Authorization*
23 *for Use of Military Force (Public Law 107–40; 50*
24 *U.S.C. 1541 note), passed in the aftermath of the Sep-*
25 *tember 11, 2001, terrorist attacks.*

1 (6) *An assessment of the impact of military op-*
2 *erations in Libya conducted by NATO member coun-*
3 *tries on the capacity and resources of NATO member*
4 *countries to participate effectively in other NATO op-*
5 *erations, including in Afghanistan.*

6 (b) *SUNSET.*—*The requirement in subsection (a) shall*
7 *terminate 30 days after the President notifies the President*
8 *pro tempore of the Senate and the Speaker of the House*
9 *of Representatives in writing that United States military*
10 *operations in Libya have ended.*

11 **SEC. 6. INVESTIGATION OF TERRORIST ATTACKS AGAINST**
12 **THE UNITED STATES ATTRIBUTABLE TO THE**
13 **GOVERNMENT OF MUAMMAR QADDAFI.**

14 (a) *CONTINUING INVESTIGATION.*—*The President shall*
15 *continue any investigative activities of any Federal agen-*
16 *cies with regard to the bombing of Pan Am flight 103 and*
17 *any other terrorist attacks attributable to the government*
18 *of Muammar Qaddafi against United States citizens, with*
19 *the goal of determining the identities of the individuals re-*
20 *sponsible for the attacks and bringing such individuals to*
21 *justice.*

22 (b) *REPORT.*—

23 (1) *IN GENERAL.*—*Not later than 180 days after*
24 *the date of the enactment of this joint resolution, and*
25 *annually thereafter, the President shall submit to*

1 Congress a report on investigative activities described
2 in subsection (a), including the following elements:

3 (A) A description of efforts by the President
4 to ascertain information through all available
5 channels, including inquiries with members of
6 the Transitional National Council and any suc-
7 cessor government in Libya, about the bombing
8 of Pan Am flight 103 and other terrorist attacks
9 attributable to the government of Muammar
10 Qaddafi against United States citizens, with the
11 goal of determining the identities of persons who
12 have knowledge about such attacks or were in-
13 volved in the planning, execution, or cover-up of
14 the attacks.

15 (B) An assessment of the cooperation of the
16 Transitional National Council and any successor
17 government in Libya in ascertaining such infor-
18 mation and in facilitating access to necessary
19 persons and documents related to the bombing of
20 Pan Am flight 103 and other terrorist attacks at-
21 tributable to the government of Muammar
22 Qaddafi against United States citizens.

23 (2) FORM.—The report required under para-
24 graph (1) shall be unclassified, but may contain a
25 classified annex.

1 (c) *COOPERATION.*—

2 (1) *IN GENERAL.*—*The President shall urge the*
3 *Transitional National Council and any successor gov-*
4 *ernment of Libya to cooperate with and participate*
5 *in the investigative activities described in subsection*
6 *(a).*

7 (2) *CONSIDERATION OF COOPERATION IN CER-*
8 *TAIN FUTURE DECISIONS.*—*The President shall con-*
9 *sider the cooperation by the Transitional National*
10 *Council and any successor government of Libya with*
11 *respect to the investigative activities described in sub-*
12 *section (a) when making decisions about the distribu-*
13 *tion of confiscated property and the provision of*
14 *United States assistance to the successor government.*

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