H. J. RES. 37

Directing the removal of United States Armed Forces from hostilities in the Republic of Yemen that have not been authorized by Congress.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 30, 2019

Mr. KHANNA (for himself, Mr. POCAN, Mr. McGovern, Mr. Smith of Washington, Mr. HOYER, Mr. ENGEL, Ms. JAYAPAL, Ms. LEE of California, Mr. Ted Lieu of California, Ms. GABBAIRD, Mr. BUCK, Mr. BIGGS, Mr. SCHIFF, Mrs. LOWEY, Mr. JONES, Mr. KENNEDY, Ms. SCHAKOWSKY, Mr. GALLEGO, Mr. PANETTA, Mr. COURTNEY, Mr. COOPER, Mr. CASTRO of Texas, Ms. SÁNCHEZ, Mr. GARAMENDI, Mr. CARBAJAL, Mr. GRIJALVA, Mr. SARBANES, Mr. CICCHILLI, Mr. LUYÁN, Mr. LIPINSKI, Ms. OMAR, Mr. HIMES, Ms. OCASIO-CORTEZ, Mr. HASTINGS, Mrs. WATSON COLEMAN, Mrs. CAROLYN B. MALONEY of New York, Ms. TLAIB, Mr. CARTWRIGHT, Mr. CROW, Mr. COHEN, Mr. LOEBSACK, Mr. LOWENTHAL, Mr. LEVIN of Michigan, Ms. McCOLLUM, Mr. SERRANO, Mr. KRISHNAMOORTHI, Mr. DANNY K. DAVIS of Illinois, Mr. COX of California, Ms. CLARKE of New York, Ms. JOHNSON of Texas, Mr. DEUTCH, Mrs. DINGELL, Ms. JUDY CHU of California, Ms. CLARK of Massachusetts, Ms. SHERRILL, Mr. RUPPERSBERGER, Ms. NORTON, Mr. CISNEROS, Mrs. NAPOLITANO, Ms. MOORE, Mr. HUFFMAN, Mr. DeFazio, Mr. TONKO, Mr. WELCH, Mr. ROSE of New York, Ms. VELÁZQUEZ, Ms. BLUNT ROCHESTER, Ms. DELBENE, Ms. BONAMICI, Mr. MOULTON, and Mr. NEGUSE) submitted the following joint resolution; which was referred to the Committee on Foreign Affairs

JOINT RESOLUTION

Directing the removal of United States Armed Forces from hostilities in the Republic of Yemen that have not been authorized by Congress.
Resolved by the Senate and House of Representatives
of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds the following:

(1) Congress has the sole power to declare war
under article I, section 8, clause 11 of the United
States Constitution.

(2) Congress has not declared war with respect
to, or provided a specific statutory authorization for,
the conflict between military forces led by Saudi
Arabia, including forces from the United Arab Emir-
ates, Bahrain, Kuwait, Egypt, Jordan, Morocco,
Senegal, and Sudan (the Saudi-led coalition),
against the Houthis, also known as Ansar Allah, in
the Republic of Yemen.

(3) Since March 2015, members of the United
States Armed Forces have been introduced into hos-
tilities between the Saudi-led coalition and the
Houthis, including providing to the Saudi-led coal-
tion aerial targeting assistance, intelligence sharing,
and mid-flight aerial refueling.

(4) The United States has established a Joint
Combined Planning Cell with Saudi Arabia, in which
members of the United States Armed Forces assist
in aerial targeting and help to coordinate military
and intelligence activities.

(5) In December 2017, Secretary of Defense
James N. Mattis stated, “We have gone in to be
very—to be helpful where we can in identifying how
you do target analysis and how you make certain
you hit the right thing.”.

(6) The conflict between the Saudi-led coalition
and the Houthis constitutes, within the meaning of
section 4(a) of the War Powers Resolution (50
U.S.C. 1543(a)), either hostilities or a situation
where imminent involvement in hostilities is clearly
indicated by the circumstances into which United
States Armed Forces have been introduced.

(7) Section 5(c) of the War Powers Resolution
(50 U.S.C. 1544(c)) states that, “at any time that
United States Armed Forces are engaged in hos-
tilities outside the territory of the United States, its
possessions and territories without a declaration of
war or specific statutory authorization, such forces
shall be removed by the President if the Congress so
directs”.

(8) Section 8(c) of the War Powers Resolution
(50 U.S.C. 1547(c)) defines the introduction of
United States Armed Forces to include “the assign-
ment of members of such armed forces to command, coordinate, participate in the movement of, or ac-
company the regular or irregular military forces of any foreign country or government when such mili-
tary forces are engaged, or there exists an imminent threat that such forces will become engaged, in hos-
tilities”, and activities that the United States is con-
ducting in support of the Saudi-led coalition, includ-
ing aerial refueling and targeting assistance, fall within this definition.

(9) Section 1013 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (50 U.S.C. 1546a) provides that any joint resolution or bill to require the removal of United States Armed Forces engaged in hostilities without a declaration of war or specific statutory authorization shall be con-
sidered in accordance with the expedited procedures of section 601(b) of the International Security and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 765).

(10) No specific statutory authorization for the use of United States Armed Forces with respect to the conflict between the Saudi-led coalition and the Houthis in Yemen has been enacted, and no provi-
sion of law explicitly authorizes the provision of tar-
geting assistance or of midair refueling services to warplanes of Saudi Arabia or the United Arab Emirates that are engaged in such conflict.

SEC. 2. REMOVAL OF UNITED STATES ARMED FORCES FROM HOSTILITIES IN THE REPUBLIC OF YEMEN THAT HAVE NOT BEEN AUTHORIZED BY CONGRESS.

Pursuant to section 1013 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (50 U.S.C. 1546a) and in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 765), Congress hereby directs the President to remove United States Armed Forces from hostilities in or affecting the Republic of Yemen, except United States Armed Forces engaged in operations directed at al-Qaeda or associated forces, by not later than the date that is 30 days after the date of the enactment of this joint resolution (unless the President requests and Congress authorizes a later date), and unless and until a declaration of war or specific authorization for such use of United States Armed Forces has been enacted. For purposes of this resolution, in this section, the term “hostilities” includes in-flight refueling, non-United States aircraft conducting missions as part of the ongoing civil war in Yemen.
SEC. 3. RULE OF CONSTRUCTION REGARDING CONTINUED MILITARY OPERATIONS AND COOPERATION WITH ISRAEL.

Nothing in this joint resolution may be construed to influence or disrupt any military operations and cooperation with Israel.

SEC. 4. REPORT ON RISKS POSED BY CEASING SAUDI ARABIA SUPPORT OPERATIONS.

Not later than 90 days after the date of the enactment of this joint resolution, the President shall submit to Congress a report assessing the risks posed to United States citizens and the civilian population of Saudi Arabia and the risk of regional humanitarian crises if the United States were to cease support operations with respect to the conflict between the Saudi-led coalition and the Houthis in Yemen.

SEC. 5. REPORT ON INCREASED RISK OF TERRORIST ATTACKS TO UNITED STATES ARMED FORCES ABROAD, ALLIES, AND THE CONTINENTAL UNITED STATES IF SAUDI ARABIA CEASES YEMEN-RELATED INTELLIGENCE SHARING WITH THE UNITED STATES.

Not later than 90 days after the date of the enactment of this joint resolution, the President shall submit to Congress a report assessing the increased risk of terrorist attacks on United States Armed Forces abroad, al-
lies, and to the continental United States if the Government of Saudi Arabia were to cease Yemen-related intelligence sharing with the United States.