

DIRECTING THE PRESIDENT, PURSUANT TO SECTION 5(c) OF THE WAR POWERS RESOLUTION, TO REMOVE UNITED STATES ARMED FORCES FROM THEIR POSITIONS IN CONNECTION WITH THE PRESENT OPERATIONS AGAINST THE FEDERAL REPUBLIC OF YUGOSLAVIA

APRIL 27, 1999.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GILMAN, from the Committee on International Relations,
submitted the following

ADVERSE REPORT

[To accompany H. Con. Res. 82]

[Including cost estimate of the Congressional Budget Office]

The Committee on International Relations, to whom was referred the concurrent resolution (H. Con. Res. 82) directing the President, pursuant to section 5(c) of the War Powers Resolution, to remove United States Armed Forces from their positions in connection with the present operations against the Federal Republic of Yugoslavia, having considered the same, report unfavorably thereon and recommend that the concurrent resolution not be agreed to.

BACKGROUND AND PURPOSE

Representatives of the Federal Republic of Yugoslavia (FRY) and the ethnic Albanians from the Serb Province of Kosovo convened for negotiations in Rambouillet, France on February 7, 1999. After sixteen days of talks the negotiations recessed at the request of the Albanians, who wanted to return to Kosovo to consult with members of the Kosovo Liberation Army (KLA) and others among the Albanian community. Three weeks later the negotiations reconvened and the Albanian representatives signed the Rambouillet Accords which provided for substantial autonomy for the ethnic Albanians of Kosovo, a sharp reduction of Serbian police and military personnel in the province, and a NATO-led peacekeeping force comprised of 28,000 troops, of which the United States had agreed to provide 4,000.

On March 11, 1999, the House adopted H. Con. Res. 42, a concurrent resolution stating, in part, that “the President is authorized to deploy United States Armed Forces personnel to Kosovo as part of a NATO peacekeeping operation implementing a Kosovo peace agreement.”

Representatives from NATO had made clear to the government of the FRY that if the Albanians agree to the Rambouillet Accords and the FRY did not, NATO would undertake punitive air strikes against targets throughout the FRY. The FRY, objecting to the provisions for the NATO-led peacekeeping force, refused to sign the Accords, and the talks ended. On March 24, 1999 NATO launched the air strikes. On March 26, 1999, President Clinton reported to the Congress, “consistent with the War Powers Resolution”, that the United States had begun “a series of air strikes in the [FRY] in response to the FRY government’s continued campaign of violence and repression against the ethnic Albanian population in Kosovo.”

Serbian special police and military forces have, despite the NATO air strikes, been able to conduct an offensive operation in Kosovo involving in excess of 40,000 troops. Serbian forces have driven more than 850,000 of the 1.6 million Albanians out of Kosovo, and there are reports that there may be at least 500,000 more internally displaced within Kosovo. Albanian refugees have reported that they have witnessed mass killings, rapes and other atrocities. It is believed that there are 100,000 men of war-fighting age being held in Kosovo by the Serbs for forced labor or as potential human shields or hostages.

H. Con. Res. 82, introduced by Rep. Tom Campbell on April 12, 1999 is a concurrent resolution that directs the President, pursuant to section 5 (c) of the War Powers Resolution (Public Law 93-148, 50 U.S.C. 1541-1548) to remove U.S. Armed Forces from their positions in connection with the present operations against the Federal Republic of Yugoslavia within thirty days after passage or within such longer period as may be necessary to effectuate their safe withdrawal.

Section 5(c) of the War Powers Resolution provides in pertinent part that:

* * * at any time that United States Armed Forces are engaged in hostilities 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 Congress so directs by concurrent resolution.

Section 7 of the War Powers Resolution provides expedited procedures to govern the consideration of concurrent resolutions introduced pursuant to section 5(c).

Concurrent resolutions are resolutions approved by both houses of Congress but not presented to the President for signature into law. When the War Powers Resolution was enacted in 1973, it was widely believed that Congress could require the President to act in response to the adoption of concurrent resolutions. In 1983, however, the Supreme Court ruled in *INS v. Chadha* that provisions of law purporting to require the President to act in response to the

adoption of concurrent resolutions are unconstitutional because they deny the President his right to veto legislation to which he objects. It is generally accepted that section 5(c) of the War Powers Resolution was among the concurrent resolution provisions rendered ineffective by the *Chadha* decision.

The fact that a concurrent resolution passed pursuant to section 5(c) may not legally require the President to withdraw U.S. Armed Forces from a foreign country does not mean that section 5(c)—and the associated expedited procedures of section 7—effectively have been repealed. Rather, the import of the *Chadha* decision is that any concurrent resolution passed pursuant to section 5(c) would not be binding.

In addition, because the *Chadha* decision does not address congressional procedures, the expedited procedures of section 7 remain available with respect to concurrent resolutions introduced under section 5(c). Under section 7, the Committee is required to report H. Con. Res. 82 within fifteen calendar days, or by Tuesday, April 27, 1999. The resolution “shall become the pending business of the House in question * * * and shall be voted on within three calendar days thereafter, unless such House otherwise determines by the yeas and nays.”

The Committee is generally sympathetic to the intent of the sponsor of the resolution to reassert the constitutional authority of Congress with respect to deployments of U.S. Armed Forces into hostilities abroad.

The Committee is of the view that, if adopted, H. Con. Res. 82 would have severe deleterious consequences for U.S. national security and severe repercussions within the North Atlantic Alliance, and that it would not address the situation that we, along with our allies, now face in the Balkans. Without continued U.S. participation in the NATO operation in the FRY, the Alliance is not capable of fulfilling its stated objective of securing a withdrawal of Serbian armed forces from Kosovo and creating the conditions for a safe return of refugees and the presence of an international military force. Failure by NATO to achieve its stated objectives after the use of massive air power, would embolden the leadership of the FRY, and other potential adversaries. The Committee feels that withdrawal of U.S. armed forces will only exacerbate the shortcomings of present U.S. policy.

COMMITTEE ACTION

INTRODUCTION AND CONSIDERATION OF THE RESOLUTION

The Committee on International Relations held a hearing on February 10, 1999 concerning U.S. policy in Kosovo and received testimony from Undersecretary of State for Political Affairs Thomas Pickering, and from Undersecretary of Defense for Policy Walter Slocombe. On March 10, 1999 the Committee received testimony from a number of private witnesses regarding Kosovo, including former Secretary of State Henry Kissinger, former Permanent Representative of the U.S. to the United Nations Jeanne Kirkpatrick and former Senator Bob Dole. On April 21, 1999, Secretary of State Madeleine Albright testified on the situation in Kosovo before the Committee. In addition to these public hearings, Administration

and U.S. military officials have briefed members in closed sessions, and there have been consultations conducted by the President with key members of the Congress.

H. Con. Res. 82 was introduced by Representative Campbell on April 12, 1999 and referred by the Speaker to the Committee on International Relations. The Committee began its mark-up of H. Con. Res. 82 on Wednesday, April 21, 1999, continued the mark-up on Thursday, April 22, 1999, and concluded its consideration of the measure and, a quorum being present, ordered it reported adversely, by record vote, on Tuesday, April 27, 1999.

RECORD VOTES ON AMENDMENTS AND MOTION TO REPORT

Clause (3)(b) of rule XIII of the Rules of the House of Representatives requires that the results of each record vote on an amendment or motion to report, together with the names of those voting for or against, be printed in the committee report. The following record vote was taken during the consideration of H. Con. Res. 82:

Description of Amendment, Motion, Order, or Other Proposition
(Vote during markup of H. Con. Res. 82—April 27, 1999)

(4:42 p.m.).—Bereuter motion to order the resolution reported adversely.

Voting Yes: Gilman, Hyde, Bereuter, Smith, Burton, Ballenger, King, Houghton, McHugh, Gillmor, Gejdenson, Lantos, Berman, Ackerman, Faleomavaega, Martinez, Payne, Menendez, Brown, Hastings, Hilliard, Sherman, Wexler, Rothman, Davis, Pomeroy, Delahunt, Meeks, Crowley, and Hoeffel.

Voting No: Goodling, Leach, Gallegly, Ros-Lehtinen, Rohrabacher, Manzullo, Royce, Chabot, Sanford, Salmon, Campbell, Brady, Burr, Radanovich, Cooksey, Tancredo, McKinney, Danner, and Lee.

Ayes 30. Noes 19.

OTHER MATTERS

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM FINDINGS

Clause 3(c)(4) of rule XIII of the Rules of the House of Representatives requires each committee report to contain a summary of the oversight findings and recommendations made by the Government Reform Committee pursuant to clause 4(c)(2) of rule X of those Rules. The Committee on International Relations has received no such findings or recommendations from the Committee on Government Reform.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this resolution.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the resolution does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES, CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, AND FEDERAL MANDATES STATEMENTS

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives requires each committee report that accompanies a measure providing new budget authority, new spending authority, or new credit authority or changing revenues or tax expenditures to contain a cost estimate, as required by section 308(a)(1) of the Congressional Budget Act of 1974, as amended, and, when practicable with respect to estimates of new budget authority, a comparison of the estimated funding level for the relevant program (or programs) to the appropriate levels under current law.

Clause 3(d) of rule XIII of the Rules of the House of Representatives requires committees to include their own cost estimates in certain committee reports, which include, when practicable, a comparison of the total estimated funding level for the relevant program (or programs) with the appropriate levels under current law.

Clause 3(c)(3) of rule XIII of the Rules of the House of Representatives requires the report of any committee on a measure which has been approved by the Committee to include a cost estimate prepared by the Director of the Congressional Budget Office, pursuant to section 403 of the Congressional Budget Act of 1974, if the cost estimate is timely submitted.

The Committee is not of the view that the reports referred to above need be submitted with respect to H. Con. Res. 82, but has requested them for the information of Members and provides them as a service to the Members. Accordingly, the Committee adopts the cost estimate of the Congressional Budget Office as its own submission of any new required information with respect to H. Con. Res. 82 on new budget authority, new spending authority, new credit authority, or an increase or decrease in the national debt. It also adopts the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act. The estimate and report which has been received is set out below.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 27, 1999.

Hon. BENJAMIN A. GILMAN,
*Chairman, Committee on International Relations,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: At your request, the Congressional Budget Office (CBO) has prepared the enclosed cost estimate for H. Con. Res. 82, a concurrent resolution directing the President, pursuant to section 5(c) of the War Powers Resolution, to remove United States Armed Forces from their positions in connection with the present operations against the Federal Republic of Yugoslavia.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jeannette Deshong.

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H. Con. Res. 82—Directing the President, pursuant to section 5(c) of the War Powers Resolution, to remove United States Armed Forces from their positions in connection with the present operations against the Federal Republic of Yugoslavia

The resolution would direct the President to remove U.S. military forces from their positions in connection with the present operations against Yugoslavia within 30 days after the resolution is passed or within as long a time as necessary for their safe withdrawal.

Uncertainty about the duration, intensity, and conduct of the present operations makes it impossible to estimate the savings from implementing the resolution. The Department of Defense has requested about \$5.5 billion to cover the costs in 1999 of actual and projected operations. Ultimately, the costs in 1999 and later years would depend on the scope, duration, and intensity of the operations, which CBO cannot predict. If fighting escalated to include U.S. ground forces, costs would be about \$400 million a month to deploy and sustain each increment of 27,000 troops and over \$1 billion a month to sustain an air campaign.

The estimate was prepared by Jeannette Deshong. This estimate was approved by Paul N. Van de Water, Assistant Director for Budget Analysis.

SECTION-BY-SECTION ANALYSIS

The Resolution consists of a single section entitled "Removal of United States Armed Forces from the Federal Republic of Yugoslavia." This section states that "Pursuant to section 5(c) of the War Powers Resolution (50 U.S.C. 1544(c)), the Congress hereby directs the President to remove United States Armed Forces from their positions in connection with the present operations against the Federal Republic of Yugoslavia within 30 days after the pas-

sage of this resolution or within any such longer period as may be necessary to effectuate their safe withdrawal.”

