

Union Calendar No. 378

114TH CONGRESS
2^D SESSION

H. R. 4678

[Report No. 114–496]

To prohibit modification, abrogation, abandonment, or other related actions with respect to United States jurisdiction and control over United States Naval Station, Guantanamo Bay, Cuba, without congressional action.

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 2016

Mr. ROYCE (for himself, Mr. YOHO, Ms. ROS-LEHTINEN, Mr. DUNCAN of South Carolina, and Mr. SALMON) introduced the following bill; which was referred to the Committee on Foreign Affairs

APRIL 15, 2016

Additional sponsors: Ms. JENKINS of Kansas, Mr. NUNES, Mr. COOK, Mrs. WALORSKI, Mr. SMITH of New Jersey, and Mr. WOODALL

APRIL 15, 2016

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To prohibit modification, abrogation, abandonment, or other related actions with respect to United States jurisdiction and control over United States Naval Station, Guantanamo Bay, Cuba, without congressional action.

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. SHORT TITLE.**

4 This Act may be cited as the “United States Naval
5 Station Guantanamo Bay Preservation Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) United States Naval Station, Guantanamo
9 Bay, Cuba, has been a strategic military asset crit-
10 ical to the defense of the United States and the
11 maintenance of regional security for more than a
12 century.

13 (2) The United States continues to exercise
14 control over the area of United States Naval Sta-
15 tion, Guantanamo Bay, Cuba, pursuant to the
16 Guantanamo Lease Agreements, which were initi-
17 ated and concluded pursuant to an Act of Congress.

18 (3) Senior United States military leaders have
19 consistently voiced strong support for maintaining
20 United States Naval Station, Guantanamo Bay,
21 Cuba, noting its strategic value for military basing
22 and logistics, disaster relief, humanitarian work, ter-
23 rorist detention, and counter-narcotics purposes.

24 (4) On February 29, 2016, Secretary of De-
25 fense Ashton B. Carter, discussing United States

1 Naval Station, Guantanamo Bay, Cuba, stated that
2 “it’s a strategic location, we’ve had it for a long
3 time, it’s important to us and we intend to hold onto
4 it”.

5 (5) On March 12, 2015, Commander of United
6 States Southern Command, General John Kelly, tes-
7 tified that the United States facilities at Naval Sta-
8 tion Guantanamo Bay “are indispensable to the De-
9 partments of Defense, Homeland Security, and
10 State’s operational and contingency plans. . . . As
11 the only permanent U.S. military base in Latin
12 America and the Caribbean, its location provides
13 persistent U.S. presence and immediate access to the
14 region, as well as supporting a layered defense to se-
15 cure the air and maritime approaches to the United
16 States”.

17 (6) In testimony before Congress in 2012, then-
18 Commander of United States Southern Command,
19 General Douglas Fraser, stated that “the strategic
20 capability provided by U.S. Naval Station Guanta-
21 namo Bay remains essential for executing national
22 priorities throughout the Caribbean, Latin America,
23 and South America”.

24 (7) Following a 1991 coup in Haiti that
25 prompted a mass exodus of people by boat, United

1 States Naval Station, Guantanamo Bay, Cuba, pro-
2 vided a location for temporary housing and the or-
3 derly adjudication of asylum claims outside of the
4 continental United States.

5 (8) In 2010, United States Naval Station,
6 Guantanamo Bay, Cuba, was a critical hub for the
7 provision of humanitarian disaster relief following
8 the devastating earthquakes in Haiti.

9 (9) The United States presence at United
10 States Naval Station, Guantanamo Bay, Cuba, has
11 its origins in Acts of Congress undertaken pursuant
12 to the powers of Congress expressly enumerated in
13 the Constitution of the United States.

14 (10) By joint resolution approved on April 20,
15 1898, Congress “directed and empowered” the
16 President “to use the entire land and naval forces
17 of the United States” as necessary to ensure that
18 the Government of Spain “relinquish its authority
19 and government in the island of Cuba, and withdraw
20 its land and naval forces from Cuba and Cuban
21 waters”.

22 (11) Congress declared war against Spain on
23 April 25, 1898, which lasted until December 10,
24 1898, when the United States and Spain signed the
25 Treaty of Paris, in which Spain relinquished all

1 claims of sovereignty over Cuba, and United States
2 governance of Cuba was established.

3 (12) Nearly three years later, in the Act of
4 March 2, 1901 (Chapter 803; 31 Stat. 898), Con-
5 gress granted the President the authority to return
6 “the government and control of the island of Cuba
7 to its people” subject to several express conditions
8 including, in article VII of the Act of March 2,
9 1901, the sale or lease by Cuba to the United States
10 of lands necessary for naval stations.

11 (13) Pursuant to the authority granted by arti-
12 cle VII of the Act of March 2, 1901, the United
13 States negotiated the Guantanamo Lease Agree-
14 ments, which specified the area of, and United
15 States jurisdiction and control over, what became
16 United States Naval Station, Guantanamo Bay,
17 Cuba.

18 (14) On October 2, 1903, when approving the
19 Lease to the United States by the Government of
20 Cuba of Certain Areas of Land and Water for Naval
21 or Coaling Stations, signed in Havana on July 2,
22 1903, President Theodore Roosevelt cited the Act of
23 March 2, 1901, as providing his authority to do so:
24 “I, Theodore Roosevelt, President of the United
25 States of America, having seen and considered the

1 foregoing lease, do hereby approve the same, by vir-
2 tue of the authority conferred by the seventh of the
3 provisions defining the relations which are to exist
4 between the United States and Cuba, contained in
5 the Act of Congress approved March 2, 1901, enti-
6 tled ‘An Act making appropriation for the support
7 of the Army for the fiscal year ending June 30,
8 1902.’”.

9 (15) Obtaining United States naval station
10 rights in Cuba was an express condition of the au-
11 thority that Congress gave the President to return
12 control and governance of Cuba to the people of
13 Cuba. In exercising that authority and concluding
14 the Guantanamo Lease Agreements, President Theo-
15 dore Roosevelt recognized the source of that author-
16 ity as the Act of March 2, 1901.

17 (16) The Treaty of Relations between the
18 United States of America and the Republic of Cuba,
19 signed at Washington, May 29, 1934, did not super-
20 sede, abrogate, or modify the Guantanamo Lease
21 Agreements, but noted that the stipulations of those
22 agreements “shall continue in effect” until the
23 United States and Cuba agree to modify them.

24 (17) The Constitution of the United States ex-
25 pressly grants to Congress the power to provide for

1 the common defense of the United States, the power
2 to provide and maintain a Navy, and the power “to
3 dispose of and make all needful Rules and Regula-
4 tions respecting the Territory or other Property be-
5 longing to the United States”.

6 **SEC. 3. PROHIBITION ON MODIFICATION, ABROGATION, OR**
7 **OTHER RELATED ACTIONS WITH RESPECT TO**
8 **UNITED STATES JURISDICTION AND CON-**
9 **TROL OVER UNITED STATES NAVAL STATION,**
10 **GUANTANAMO BAY, CUBA, WITHOUT CON-**
11 **GRESSIONAL ACTION.**

12 No action may be taken to modify, abrogate, or re-
13 place the stipulations, agreements, and commitments con-
14 tained in the Guantanamo Lease Agreements, or to impair
15 or abandon the jurisdiction and control of the United
16 States over United States Naval Station, Guantanamo
17 Bay, Cuba, unless specifically authorized or otherwise pro-
18 vided by—

19 (1) a statute that is enacted on or after the
20 date of the enactment of this Act;

21 (2) a treaty that is ratified with the advice and
22 consent of the Senate on or after the date of the en-
23 actment of this Act; or

24 (3) a modification of the Treaty Between the
25 United States of America and Cuba signed at Wash-

1 ington, DC, on May 29, 1934, that is ratified with
2 the advice and consent of the Senate on or after the
3 date of the enactment of this Act.

4 **SEC. 4. GUANTANAMO LEASE AGREEMENTS DEFINED.**

5 In this Act, the term “Guantanamo Lease Agree-
6 ments” means—

7 (1) the Agreement Between the United States
8 of America and the Republic of Cuba for the Lease
9 to the United States of Lands in Cuba for coaling
10 and naval stations, signed by the President of the
11 United States on February 23, 1903; and

12 (2) the Lease to the United States by the Gov-
13 ernment of Cuba of Certain Areas of Land and
14 Water for Naval or Coaling Stations, signed by the
15 President of the United States on October 2, 1903.

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