

Union Calendar No. 321

104TH CONGRESS
2^D SESSION

H. R. 3308

[Report No. 104-642, Part I]

A BILL

To amend title 10, United States Code, to limit the placement of United States forces under United Nations operational or tactical control, and for other purposes.

JUNE 27, 1996

Committee on International Relations discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

APRIL 24, 1996

Mr. LONGLEY (for himself, Mr. ARMEY, Mr. DELAY, Mr. COX of California, Mr. SPENCE, Mr. GILMAN, Mr. BUYER, Mr. CHAMBLISS, Mr. CUNNINGHAM, Mr. DORNAN, Mr. EVERETT, Mr. HANSEN, Mr. HEFLEY, Mr. HERGER, Mr. HILLEARY, Mr. HOKE, Mr. HOSTETTLER, Mr. HUNTER, Mr. JONES, Mr. KIM, Mr. MCKEON, Mr. METCALF, Mr. RADANOVICH, Mr. SAXTON, Mr. TALENT, Mr. THORNBERRY, Mr. TIAHRT, Mr. TORKILDSEN, Mr. WATTS of Oklahoma, and Mr. WELDON of Pennsylvania) introduced the following bill; which was referred to the Committee on National Security, and in addition to the Committee on International Relations, 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

JUNE 27, 1996

Reported from the Committee on National Security

JUNE 27, 1996

Referral to the Committee on International Relations extended for a period ending not later than June 27, 1996

JUNE 27, 1996

Committee on International Relations discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To amend title 10, United States Code, to limit the placement of United States forces under United Nations operational or tactical control, and for other purposes.

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 Armed
5 Forces Protection Act of 1996”.

6 **SEC. 2. FINDINGS AND CONGRESSIONAL POLICY.**

7 (a) FINDINGS.—Congress finds as follows:

8 (1) The President has made United Nations
9 peace operations a major component of the foreign
10 and security policies of the United States.

11 (2) The President has committed United States
12 military personnel under United Nations operational
13 control to missions in Haiti, Croatia, and Macedonia
14 that could endanger those personnel.

15 (3) The President has deployed over 22,000
16 United States military personnel to the former
17 Yugoslavia as peacekeepers under NATO operational
18 control to implement the Dayton Peace Accord of
19 December 1995.

20 (4) Although the President has insisted that he
21 will retain command of United States forces at all

1 times, in the past this has meant administrative con-
2 trol of United States forces only, while operational
3 control has been ceded to United Nations command-
4 ers, some of whom were foreign nationals.

5 (5) The experience of United States forces par-
6 ticipating in combined United States-United Nations
7 operations in Somalia, and in combined United Na-
8 tions-NATO operations in the former Yugoslavia,
9 demonstrate that prerequisites for effective military
10 operations such as unity of command and clarity of
11 mission have not been met by United Nations com-
12 mand and control arrangements.

13 (6) Despite the many deficiencies in the con-
14 duct of United Nations peace operations, there may
15 be unique occasions when it is in the national secu-
16 rity interests of the United States to participate in
17 such operations.

18 (b) POLICY.—It is the sense of Congress that—

19 (1) the President should consult closely with
20 Congress regarding any United Nations peace oper-
21 ation that could involve United States combat forces
22 and that such consultations should continue
23 throughout the duration of such activities;

24 (2) the President should consult with Congress
25 before a vote within the United Nations Security

1 Council on any resolution which would authorize, ex-
2 tend, or revise the mandate for any such activity;

3 (3) in view of the complexity of United Nations
4 peace operations and the difficulty of achieving unity
5 of command and expeditious decisionmaking, the
6 United States should participate in such operations
7 only when it is clearly in the national security inter-
8 est to do so;

9 (4) United States combat forces should be
10 under the operational control of qualified command-
11 ers and should have clear and effective command
12 and control arrangements and rules of engagement
13 (which do not restrict their self-defense in any way)
14 and clear and unambiguous mission statements; and

15 (5) none of the Armed Forces of the United
16 States should be under the operational control of
17 foreign nationals in United Nations peace enforce-
18 ment operations except in the most extraordinary
19 circumstances.

20 (c) DEFINITIONS.—For purposes of subsections (a)
21 and (b):

22 (1) The term “United Nations peace enforce-
23 ment operations” means any international peace en-
24 forcement or similar activity that is authorized by

1 the United Nations Security Council under chapter
2 VII of the Charter of the United Nations.

3 (2) The term “United Nations peace oper-
4 ations” means any international peacekeeping,
5 peacemaking, peace enforcement, or similar activity
6 that is authorized by the United Nations Security
7 Council under chapter VI or VII of the Charter of
8 the United Nations.

9 **SEC. 3. PLACEMENT OF UNITED STATES FORCES UNDER**
10 **UNITED NATIONS OPERATIONAL OR TAC-**
11 **TICAL CONTROL.**

12 (a) IN GENERAL.—(1) Chapter 20 of title 10, United
13 States Code, is amended by inserting after section 404 the
14 following new section:

15 **“§ 405. Placement of United States forces under Unit-**
16 **ed Nations operational or tactical con-**
17 **trol: limitation**

18 “(a) LIMITATION.—Except as provided in subsections
19 (b) and (c), funds appropriated or otherwise made avail-
20 able for the Department of Defense may not be obligated
21 or expended for activities of any element of the armed
22 forces that after the date of the enactment of this section
23 is placed under United Nations operational or tactical con-
24 trol, as defined in subsection (f).

1 “(b) EXCEPTION FOR PRESIDENTIAL CERTIFI-
2 CATION.—(1) Subsection (a) shall not apply in the case
3 of a proposed placement of an element of the armed forces
4 under United Nations operational or tactical control if the
5 President, not less than 15 days before the date on which
6 such United Nations operational or tactical control is to
7 become effective (or as provided in paragraph (2)), meets
8 the requirements of subsection (d).

9 “(2) If the President certifies to Congress that an
10 emergency exists that precludes the President from meet-
11 ing the requirements of subsection (d) 15 days before plac-
12 ing an element of the armed forces under United Nations
13 operational or tactical control, the President may place
14 such forces under such operational or tactical control and
15 meet the requirements of subsection (d) in a timely man-
16 ner, but in no event later than 48 hours after such oper-
17 ational or tactical control becomes effective.

18 “(c) ADDITIONAL EXCEPTIONS.—(1) Subsection (a)
19 shall not apply in the case of a proposed placement of any
20 element of the armed forces under United Nations oper-
21 ational or tactical control if Congress specifically author-
22 izes by law that particular placement of United States
23 forces under United Nations operational or tactical con-
24 trol.

1 “(2) Subsection (a) shall not apply in the case of a
2 proposed placement of any element of the armed forces
3 in an operation conducted by the North Atlantic Treaty
4 Organization.

5 “(d) PRESIDENTIAL CERTIFICATIONS.—The require-
6 ments referred to in subsection (b)(1) are that the Presi-
7 dent submit to Congress the following:

8 “(1) Certification by the President that it is in
9 the national security interests of the United States
10 to place any element of the armed forces under
11 United Nations operational or tactical control.

12 “(2) A report setting forth the following:

13 “(A) A description of the national security
14 interests that would be advanced by the place-
15 ment of United States forces under United Na-
16 tions operation or tactical control.

17 “(B) The mission of the United States
18 forces involved.

19 “(C) The expected size and composition of
20 the United States forces involved.

21 “(D) The precise command and control re-
22 lationship between the United States forces in-
23 volved and the United Nations command struc-
24 ture.

1 “(E) The precise command and control re-
2 lationship between the United States forces in-
3 volved and the commander of the United States
4 unified command for the region in which those
5 United States forces are to operate.

6 “(F) The extent to which the United
7 States forces involved will rely on forces of
8 other countries for security and defense and an
9 assessment of the capability of those other
10 forces to provide adequate security to the Unit-
11 ed States forces involved.

12 “(G) The exit strategy for complete with-
13 drawal of the United States forces involved.

14 “(H) The extent to which the commander
15 of any unit of the armed forces proposed for
16 placement under United Nations operational or
17 tactical control will at all times retain the
18 right—

19 “(i) to report independently to supe-
20 rior United States military authorities; and

21 “(ii) to decline to comply with orders
22 judged by the commander to be illegal or
23 beyond the mandate of the mission to
24 which the United States agreed with the
25 United Nations, until such time as that

1 commander receives direction from supe-
2 rior United States military authorities with
3 respect to the orders that the commander
4 has declined to comply with.

5 “(I) The extent to which the United States
6 will retain the authority to withdraw any ele-
7 ment of the armed forces from the proposed op-
8 eration at any time and to take any action it
9 considers necessary to protect those forces if
10 they are engaged.

11 “(J) The extent to which United States
12 forces involved will be required to wear as part
13 of their uniform any badge, symbol, helmet,
14 headgear, or other visible indicia or insignia
15 that indicates affiliation to or with the United
16 Nations.

17 “(K) The anticipated monthly incremental
18 cost to the United States of participation in the
19 United Nations operation by the United States
20 forces which are proposed to be placed under
21 United Nations operational or tactical control.

22 “(e) CLASSIFICATION OF REPORT.—A report under
23 subsection (d) shall be submitted in unclassified form and,
24 if necessary, in classified form.

1 “(f) UNITED NATIONS OPERATIONAL OR TACTICAL
2 CONTROL.—For purposes of this section, an element of
3 the Armed Forces shall be considered to be placed under
4 United Nations operational or tactical control if—

5 “(1) that element is under the operational or
6 tactical control of an individual acting on behalf of
7 the United Nations for the purpose of international
8 peacekeeping, peacemaking, peace-enforcing, or simi-
9 lar activity that is authorized by the Security Coun-
10 cil under chapter VI or VII of the Charter of the
11 United Nations; and

12 “(2) the senior military commander of the Unit-
13 ed Nations force or operation is a foreign national
14 or is a citizen of the United States who is not a
15 United States military officer serving on active duty.

16 “(g) INTERPRETATION.—Nothing in this section may
17 be construed—

18 “(1) as authority for the President to use any
19 element of the armed forces in any operation; and

20 “(2) as authority for the President to place any
21 element of the armed forces under the command or
22 operational control of a foreign national.”.

23 (2) The table of sections at the beginning of sub-
24 chapter I of such chapter is amended by adding at the
25 end the following new item:

“405. Placement of United States forces under United Nations operational or tactical control: limitation.”.

1 (b) EXCEPTION FOR ONGOING OPERATIONS IN MAC-
2 EDONIA AND CROATIA.—Section 405 of title 10, United
3 States Code, as added by subsection (a), does not apply
4 in the case of activities of the Armed Forces as part of
5 the United Nations force designated as the United Na-
6 tions Protection Force (UNPROFOR) that are carried
7 out—

8 (1) in Macedonia pursuant to United Nations
9 Security Council Resolution 795, adopted December
10 11, 1992, and subsequent reauthorization Resolu-
11 tions; or

12 (2) in Croatia pursuant to United Nations Se-
13 curity Council Resolution 743, adopted February 21,
14 1992, and subsequent reauthorization Resolutions.

15 **SEC. 4. REQUIREMENT TO ENSURE THAT ALL MEMBERS**
16 **KNOW MISSION AND CHAIN OF COMMAND.**

17 (a) IN GENERAL.—Chapter 37 of title 10, United
18 States Code, is amended by adding at the end the follow-
19 ing new section:

20 **“§656. Members required to be informed of mission**
21 **and chain of command**

22 “The commander of any unit of the armed forces as-
23 signed to an operation shall ensure that each member of
24 such unit is fully informed of that unit’s mission as part

1 of such operation and of that member's chain of com-
2 mand.”.

3 (b) CLERICAL AMENDMENT.—The table of sections
4 at the beginning of such chapter is amended by adding
5 at the end the following new item:

“656. Members required to be informed of mission and chain of command.”.