

103D CONGRESS
1ST SESSION

H. R. 3538

To prohibit United States military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 1993

Ms. MCKINNEY introduced the following bill; which was referred to the
Committee on Foreign Affairs

JULY 22, 1994

Additional sponsors: Mrs. UNSOELD, Mr. OBERSTAR, Mr. WAXMAN, Ms. FURSE, Mr. McCLOSKEY, Mr. EVANS, Mr. McDERMOTT, Mr. RAHALL, Ms. WOOLSEY, Ms. SHEPHERD, Mr. ABERCROMBIE, Mr. KOPETSKI, Mr. DELLUMS, Mr. SANDERS, Mr. PENNY, Mr. SERRANO, Mr. MARKEY, Mr. PAYNE of New Jersey, Mr. OLVER, Mr. KREIDLER, Mr. FORD of Tennessee, Mr. STARK, Mr. JOHNSON of South Dakota, Mr. MINGE, Mrs. MALONEY, Mr. BLACKWELL, Mr. WYNN, Mrs. MINK, Mr. JACOBS, Mr. WYDEN, Mr. MEEHAN, Mr. RANGEL, Ms. NORTON, Mr. DURBIN, Mr. FALOMAVAEGA, Mr. CLAY, Mr. MILLER of California, Ms. VELÁZQUEZ, Miss COLLINS of Michigan, Mr. THOMPSON of Mississippi, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. CLYBURN, Mr. LEWIS of Georgia, Mr. DEFazio, Mrs. MEEK, Ms. BROWN of Florida, Ms. PELOSI, Mr. HAMBURG, Mr. EDWARDS of California, Mr. ANDREWS of New Jersey, Mr. OWENS, Ms. CANTWELL, Mr. FARR of California, Mr. UNDERWOOD, Mr. HINCHEY, Mr. WATT, Mr. GONZALEZ, Mr. MATSUI, Ms. ROYBAL-ALLARD, Mr. KILDEE, Mr. CONYERS, Mr. YATES, Mr. SAWYER, Mr. PALLONE, Mr. DIXON, Ms. MARGOLIES-MEZVINSKY, Mr. TORRES, Mrs. SCHROEDER, Mr. TUCKER, Mr. LEACH, Mrs. CLAYTON, Mr. REED, Mr. BARRETT of Wisconsin, Mr. ENGEL, Ms. ESHOO, Mr. FIELDS of Louisiana, Mr. FILNER, Mr. VENTO, Mr. FLAKE, Mr. FOGLIETTA, Mr. GUTIERREZ, Mr. HASTINGS, Mr. KANJORSKI, Ms. WATERS, Ms. KAPTUR, Mr. KENNEDY, Mr. NADLER, Mr. ROSE, and Mr. STUDDS

A BILL

To prohibit United States military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms.

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 “Code of Conduct on
5 Arms Transfers Act of 1993”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) Approximately 40,000,000 people, over 75
9 percent civilians, died as a result of civil and inter-
10 national wars fought with conventional weapons dur-
11 ing the 45 years of the cold war, demonstrating that
12 conventional weapons can in fact be weapons of
13 mass destruction.

14 (2) Conflict has actually increased in the post
15 cold war era, with 26 wars in progress during 1992.

16 (3) War is both a human tragedy and an ongo-
17 ing economic disaster affecting the entire world, in-
18 cluding the United States and its economy, because
19 it decimates both local investment and potential ex-
20 port markets.

1 (4) International trade in conventional weapons
2 increases the risk and impact of war in an already
3 over-militarized world, creating far more costs than
4 benefits for the United States economy through in-
5 creased United States defense and foreign assistance
6 spending and reduced demand for United States ci-
7 vilian exports.

8 (5) The newly established United Nations Reg-
9 ister of Conventional Arms can be an effective first
10 step in support of limitations on the supply of con-
11 ventional weapons to developing countries and com-
12 pliance with its reporting requirements by a foreign
13 government can be an integral tool in determining
14 the worthiness of such government for the receipt of
15 United States military assistance and arms trans-
16 fers.

17 (6) It is in the national security and economic
18 interests of the United States to reduce dramatically
19 the \$1,000,000,000,000 that all countries spend on
20 armed forces every year, \$200,000,000,000 of which
21 is spent by developing countries, an amount equiva-
22 lent to 4 times the total bilateral and multilateral
23 foreign assistance such countries receive every year.

24 (7) According to the Congressional Research
25 Service, the United States supplies more conven-

1 tional weapons to developing countries than all other
2 countries combined, averaging \$15,600,000,000 a
3 year in agreements to supply such weapons to devel-
4 oping countries since the end of the cold war, com-
5 pared to \$7,000,000,000 a year in such agreements
6 prior to the dissolution of the Soviet Union.

7 (8) In recent years the vast majority of United
8 States arms transfers to developing countries are to
9 countries with an undemocratic form of government
10 whose citizens, according to the Department of State
11 Country Reports on Human Rights Practices do not
12 have the ability to peaceably change their form of
13 government.

14 (9) Although a goal of United States foreign
15 policy should be to work with foreign governments
16 and international organizations to reduce militariza-
17 tion and dictatorship and therefore prevent conflicts
18 before they arise, during 3 recent deployments of
19 United States Armed Forces—to the Republic of
20 Panama, the Persian Gulf, and Somalia—such
21 Armed Forces faced conventional weapons that had
22 been provided or financed by the United States to
23 undemocratic governments.

24 (10) The proliferation of conventional arms and
25 conflicts around the globe are multilateral problems,

1 and the fact that the United States has emerged as
2 the world's primary seller of conventional weapons,
3 combined with the world leadership role of the Unit-
4 ed States, signifies that the United States is in a po-
5 sition to seek multilateral restraints on the competi-
6 tion for and transfers of conventional weapons.

7 (11) Congress has the constitutional respon-
8 sibility to participate with the executive branch in
9 decisions to provide military assistance and arms
10 transfers to a foreign government, and in the formu-
11 lation of a policy designed to reduce dramatically the
12 level of international militarization.

13 (12) A decision to provide military assistance
14 and arms transfers to a government that is undemo-
15 cratic, does not adequately protect human rights, is
16 currently engaged in acts of armed aggression, or is
17 not fully participating in the United Nations Reg-
18 ister of Conventional Arms, should require a higher
19 level of scrutiny than does a decision to provide such
20 assistance and arms transfers to a government to
21 which these conditions do not apply.

22 **SEC. 3. PURPOSE.**

23 The purpose of this Act is to provide clear policy
24 guidelines and congressional responsibility for determining

1 the eligibility of foreign governments to be considered for
2 United States military assistance and arms transfers.

3 **SEC. 4. PROHIBITION OF UNITED STATES MILITARY ASSIST-**
4 **ANCE AND ARMS TRANSFERS TO CERTAIN**
5 **FOREIGN GOVERNMENTS.**

6 (a) PROHIBITION.—Except as provided in subsections
7 (b) and (c), United States military assistance and arms
8 transfers may not be provided to a foreign government for
9 a fiscal year unless the President certifies to the Congress
10 for that fiscal year that such government meets the follow-
11 ing requirements:

12 (1) PROMOTES DEMOCRACY.—Such govern-
13 ment—

14 (A) was chosen in free and fair elections
15 and permits free and fair elections to take
16 place;

17 (B) promotes civilian control of the mili-
18 tary and security forces, and has civilian insti-
19 tutions that determine national security policy
20 and control the operations and spending of the
21 armed forces, security forces, and police or
22 other law enforcement forces;

23 (C) promotes the rule of law, equality be-
24 fore the law, and respect for individual and mi-

1 nosity rights, including freedom to speak, pub-
2 lish, associate, and organize;

3 (D) promotes the strengthening of the po-
4 litical and civil infrastructure of democracy, in-
5 cluding democratic legislatures and local gov-
6 ernment structures and institutions of civil soci-
7 ety that emphasize pluralism and autonomy
8 from the central government; and

9 (E) promotes strong internal and autono-
10 mous institutions and groups to monitor the
11 conduct of public officials and to combat cor-
12 ruption.

13 (2) RESPECTS HUMAN RIGHTS.—Such govern-
14 ment—

15 (A) does not engage in gross violations of
16 internationally recognized human rights, includ-
17 ing—

18 (i) extra judicial or arbitrary execu-
19 tions;

20 (ii) disappearances;

21 (iii) torture or severe mistreatment;

22 (iv) prolonged arbitrary imprisonment;

23 (v) systematic official discrimination
24 on the basis of race, ethnicity, religion,
25 gender, or national origin; and

1 (vi) grave breaches of international
2 laws of war or equivalent violations of the
3 laws of war in internal conflicts;

4 (B) vigorously investigates, disciplines, and
5 prosecutes those responsible for gross violations
6 of internationally recognized human rights;

7 (C) permits access on a regular basis to
8 political prisoners by international humani-
9 tarian organizations such as the International
10 Committee of the Red Cross;

11 (D) promotes the independence of the judi-
12 ciary and other official bodies that oversee the
13 protection of human rights;

14 (E) does not impede the free functioning of
15 domestic and international human rights orga-
16 nizations; and

17 (F) provides access on a regular basis to
18 humanitarian organizations in situations of con-
19 flict or famine.

20 (3) NOT ENGAGED IN CERTAIN ACTS OF ARMED
21 AGGRESSION.—Such government is not currently en-
22 gaged in acts of armed aggression in violation of
23 international law.

24 (4) FULL PARTICIPATION IN U.N. REGISTER OF
25 CONVENTIONAL ARMS.—Such government is fully

1 participating in the United Nations Register of Con-
2 ventional Arms by annually reporting to such Reg-
3 ister—

4 (A) the number and type of conventional
5 weapons that such government possessed during
6 the preceding year; and

7 (B) the number and type of conventional
8 weapons transferred to and from the country of
9 such government during the preceding year.

10 (b) REQUIREMENT FOR CONTINUING COMPLI-
11 ANCE.—Any certification with respect to a foreign govern-
12 ment for a fiscal year under subsection (a) shall cease to
13 be effective for that fiscal year if the President certifies
14 to the Congress that such government has not continued
15 to comply with the requirements contained in paragraphs
16 (1) through (4) of such subsection.

17 (c) EXEMPTION.—The prohibition contained in sub-
18 section (a) shall not apply with respect to a foreign govern-
19 ment for a fiscal year if—

20 (1) the President submits a request for an ex-
21emption to the Congress containing a determination
22 that it is in the national security interest of the
23 United States to provide military assistance and
24 arms transfers to such government; and

1 (2) the Congress enacts a law approving such
2 exemption request.

3 (d) NOTIFICATION TO CONGRESS.—The President
4 shall submit to the Congress initial certifications under
5 subsection (a) and requests for exemptions under sub-
6 section (c) in conjunction with the submission of the an-
7 nual request for enactment of authorizations and appro-
8 priations for foreign assistance programs for a fiscal year
9 and shall, where appropriate, submit additional or amend-
10 ed certifications and requests for exemptions at any time
11 thereafter in the fiscal year.

12 **SEC. 5. SENSE OF THE CONGRESS.**

13 It is the sense of the Congress that the Committee
14 on Foreign Affairs of the House of Representatives and
15 the Committee on Foreign Relations of the Senate should
16 hold hearings on controversial certifications submitted
17 under section 4(a) and all requests for exemptions submit-
18 ted under section 4(c).

19 **SEC. 6. UNITED STATES MILITARY ASSISTANCE AND ARMS**
20 **TRANSFERS DEFINED.**

21 For purposes of this Act, the terms “United States
22 military assistance and arms transfers” and “military as-
23 sistance and arms transfers” mean—

24 (1) assistance under chapter 2 of part II of the
25 Foreign Assistance Act of 1961 (relating to military

1 assistance), including the transfer of excess defense
2 articles under sections 516 through 519 of that Act;

3 (2) assistance under chapter 5 of part II of the
4 Foreign Assistance Act of 1961 (relating to inter-
5 national military education and training);

6 (3) assistance under the “Foreign Military Fi-
7 nancing Program” under section 23 of the Arms Ex-
8 port Control Act; or

9 (4) the transfer of defense articles, defense
10 services, or design and construction services under
11 the Arms Export Control Act, including defense arti-
12 cles and defense services licensed or approved for ex-
13 port under section 38 of that Act.

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