

104TH CONGRESS
1ST SESSION

H. R. 772

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

FEBRUARY 1, 1995

Ms. MCKINNEY (for herself, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. BARRETT of Wisconsin, Mr. BERMAN, Mr. BISHOP, Ms. BROWN of Florida, Mr. CLAY, Mrs. CLAYTON, Mr. CLYBURN, Mr. COLEMAN, Miss COLLINS of Michigan, Mrs. COLLINS of Illinois, Mr. CONDIT, Mr. CONYERS, Mr. DEFazio, Mr. DELLUMS, Mr. DURBIN, Mr. ENGEL, Mr. EVANS, Mr. FALOMAVEAGA, Mr. FARR, Mr. FATTAH, Mr. FIELDS of Louisiana, Mr. FILNER, Mr. FLAKE, Mr. FOGLIETTA, Mr. FORD, Ms. FURSE, Mr. GONZALEZ, Mr. GUTIERREZ, Mr. HASTINGS of Florida, Mr. HEFNER, Mr. HINCHEY, Mr. HILLIARD, Ms. JACKSON-LEE, Mr. JOHNSTON of Florida, Mr. KENNEDY of Massachusetts, Mr. LEACH, Mr. LEWIS of Georgia, Mrs. MALONEY, Mr. MARKEY, Mr. MCDERMOTT, Mrs. MEEK of Florida, Mr. MILLER of California, Mr. MINGE, Mrs. MINK of Hawaii, Mrs. MORELLA, Mr. NADLER, Ms. NORTON, Mr. OBERSTAR, Mr. OLVER, Mr. OWENS, Mr. PASTOR, Mr. PALLONE, Mr. PAYNE, Ms. PELOSI, Mr. PETERSON of Minnesota, Mr. RANGEL, Mr. REED, Ms. RIVERS, Mr. RUSH, Mr. SANDERS, Mr. SAWYER, Mrs. SCHROEDER, Mr. SCOTT, Mr. SERRANO, Ms. SLAUGHTER, Mr. STARK, Mr. THOMPSON, Mr. TORRES, Mr. TUCKER, Mr. UNDERWOOD, Ms. VELÁZQUEZ, Mr. VENTO, Ms. WATERS, Mr. WATT of North Carolina, Mr. WILLIAMS, Ms. WOOLSEY, Mr. WYDEN, and Mr. WYNN) introduced the following bill; which was referred to the Committee on International Relations

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 1995”.

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 34 major wars in progress during
16 1993.

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

22 (4) International trade in conventional weapons
23 increases the risk and impact of war in an already

1 over-militarized world, creating far more costs than
2 benefits for the United States economy through in-
3 creased United States defense and foreign assistance
4 spending and reduced demand for United States
5 civilian exports.

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

15 (6) It is in the national security and economic
16 interests of the United States to reduce dramatically
17 the \$1,038,000,000,000 that all countries spend on
18 armed forces every year, \$242,000,000,000 of which
19 is spent by developing countries, an amount equiva-
20 lent to 4 times the total bilateral and multilateral
21 foreign assistance such countries receive every year.

22 (7) According to the Congressional Research
23 Service, the United States supplies more conven-
24 tional weapons to developing countries than all other
25 countries combined, averaging \$14,956,000,000 a

1 year in agreements to supply such weapons to devel-
2 oping countries since the end of the cold war, com-
3 pared to \$7,300,000,000 a year in such agreements
4 prior to the dissolution of the Soviet Union.

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

12 (9) Although a goal of United States foreign
13 policy should be to work with foreign governments
14 and international organizations to reduce militariza-
15 tion and dictatorship and therefore prevent conflicts
16 before they arise, during 4 recent deployments of
17 United States Armed Forces—to the Republic of
18 Panama, the Persian Gulf, Somalia, and Haiti—
19 such Armed Forces faced conventional weapons that
20 had been provided or financed by the United States
21 to undemocratic governments.

22 (10) The proliferation of conventional arms and
23 conflicts around the globe are multilateral problems,
24 and the fact that the United States has emerged as
25 the world's primary seller of conventional weapons,

1 combined with the world leadership role of the Unit-
2 ed States, signifies that the United States is in a po-
3 sition to seek multilateral restraints on the competi-
4 tion for and transfers of conventional weapons.

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

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

20 **SEC. 3. PURPOSE.**

21 The purpose of this Act is to provide clear policy
22 guidelines and congressional responsibility for determining
23 the eligibility of foreign governments to be considered for
24 United States military assistance and arms transfers.

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

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

10 (1) PROMOTES DEMOCRACY.—Such govern-
11 ment—

12 (A) was chosen by and permits free and
13 fair elections;

14 (B) promotes civilian control of the mili-
15 tary and security forces and has civilian institu-
16 tions controlling the policy, operation, and
17 spending of all law enforcement and security in-
18 stitutions, as well as the armed forces;

19 (C) promotes the rule of law, equality be-
20 fore the law, and respect for individual and mi-
21 nority rights, including freedom to speak, pub-
22 lish, associate, and organize; and

23 (D) promotes the strengthening of politi-
24 cal, legislative, and civil institutions of democ-
25 racy, as well as autonomous institutions to

1 monitor the conduct of public officials and to
2 combat corruption.

3 (2) RESPECTS HUMAN RIGHTS.—Such govern-
4 ment—

5 (A) does not engage in gross violations of
6 internationally recognized human rights, includ-
7 ing—

8 (i) extra judicial or arbitrary execu-
9 tions;

10 (ii) disappearances;

11 (iii) torture or severe mistreatment;

12 (iv) prolonged arbitrary imprisonment;

13 (v) systematic official discrimination
14 on the basis of race, ethnicity, religion,
15 gender, national origin, or political affili-
16 ation; and

17 (vi) grave breaches of international
18 laws of war or equivalent violations of the
19 laws of war in internal conflicts;

20 (B) vigorously investigates, disciplines, and
21 prosecutes those responsible for gross violations
22 of internationally recognized human rights;

23 (C) permits access on a regular basis to
24 political prisoners by international humani-

1 tarian organizations such as the International
2 Committee of the Red Cross;

3 (D) promotes the independence of the judi-
4 ciary and other official bodies that oversee the
5 protection of human rights;

6 (E) does not impede the free functioning of
7 domestic and international human rights orga-
8 nizations; and

9 (F) provides access on a regular basis to
10 humanitarian organizations in situations of con-
11 flict or famine.

12 (3) NOT ENGAGED IN CERTAIN ACTS OF ARMED
13 AGGRESSION.—Such government is not currently en-
14 gaged in acts of armed aggression in violation of
15 international law.

16 (4) FULL PARTICIPATION IN U.N. REGISTER OF
17 CONVENTIONAL ARMS.—Such government is fully
18 participating in the United Nations Register of Con-
19 ventional Arms.

20 (b) REQUIREMENT FOR CONTINUING COMPLI-
21 ANCE.—Any certification with respect to a foreign govern-
22 ment for a fiscal year under subsection (a) shall cease to
23 be effective for that fiscal year if the President certifies
24 to the Congress that such government has not continued

1 to comply with the requirements contained in paragraphs
2 (1) through (4) of such subsection.

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

6 (1) the President submits a request for an ex-
7 emption to the Congress containing a determination
8 that it is in the national security interest of the
9 United States to provide military assistance and
10 arms transfers to such government; and

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

13 (d) NOTIFICATION TO CONGRESS.—The President
14 shall submit to the Congress initial certifications under
15 subsection (a) and requests for exemptions under sub-
16 section (c) in conjunction with the submission of the an-
17 nual request for enactment of authorizations and appro-
18 priations for foreign assistance programs for a fiscal year
19 and shall, where appropriate, submit additional or amend-
20 ed certifications and requests for exemptions at any time
21 thereafter in the fiscal year.

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

23 It is the sense of the Congress that the Committee
24 on International Relations of the House of Representa-
25 tives and the Committee on Foreign Relations of the Sen-

1 ate should hold hearings on controversial certifications
2 submitted under section 4(a) and all requests for exemp-
3 tions submitted under section 4(c).

4 **SEC. 6. UNITED STATES MILITARY ASSISTANCE AND ARMS**
5 **TRANSFERS DEFINED.**

6 For purposes of this Act, the terms “United States
7 military assistance and arms transfers” and “military as-
8 sistance and arms transfers” mean—

9 (1) assistance under chapter 2 of part II of the
10 Foreign Assistance Act of 1961 (relating to military
11 assistance), including the transfer of excess defense
12 articles under sections 516 through 519 of that Act;

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

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

19 (4) the transfer of defense articles, defense
20 services, or design and construction services under
21 the Arms Export Control Act, including defense arti-
22 cles and defense services licensed or approved for ex-
23 port under section 38 of that Act.

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