

105TH CONGRESS
2D SESSION

H. R. 4545

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

SEPTEMBER 10, 1998

Ms. MCKINNEY (for herself, Mr. ROHRABACHER, Mr. SMITH of New Jersey, Ms. PELOSI, Mr. PORTER, Mrs. LOWEY, Mr. KENNEDY of Massachusetts, Mr. WOLF, Mr. CAMPBELL, Mr. LEACH, Mr. LANTOS, Mr. BERMAN, Mr. FALEOMAVAEGA, Mr. ENGEL, Mr. MENENDEZ, Mr. PAYNE, Mr. BROWN of Ohio, Mr. HASTINGS of Florida, Mr. HILLIARD, Mr. LUTHER, Mr. ROTHMAN, Mrs. MORELLA, Mr. RIGGS, Mr. LOBIONDO, Mr. MORAN of Virginia, Mr. DEFazio, Ms. FURSE, Mr. ABERCROMBIE, Mr. ALLEN, Mr. ANDREWS, Mr. BARRETT of Wisconsin, Mr. BLUMENAUER, Mr. BLAGOJEVICH, Mr. BONIOR, Mr. BROWN of California, Mr. CARDIN, Mr. CLAY, Mr. CLEMENT, Mr. CLYBURN, Mr. CONYERS, Mr. DELAHUNT, Mr. DIXON, Mr. FARR of California, Mr. FATTAH, Mr. FILNER, Mr. HINCHEY, Ms. NORTON, Ms. HOOLEY of Oregon, Mr. LEWIS of Georgia, Mrs. MALONEY of New York, Mr. MARKEY, Mr. MARTINEZ, Mr. McDERMOTT, Mr. MCGOVERN, Mr. MEEHAN, Mrs. MEEK of Florida, Mr. MILLER of California, Mr. MINGE, Mr. NADLER, Mr. OLVER, Mr. OWENS, Mr. PASCRELL, Mr. RANGEL, Ms. RIVERS, Ms. ROYBAL-ALLARD, Mr. SERRANO, Ms. SLAUGHTER, Mr. STARK, Mr. STRICKLAND, Mr. STUPAK, Mrs. TAUSCHER, Mr. TIERNEY, Mr. TOWNS, Mr. UNDERWOOD, Mr. VENTO, Ms. WATERS, Mr. WATT of North Carolina, Ms. WOOLSEY, and Mr. WAXMAN) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committee on National Security, 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

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 1998”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to provide clear policy
8 guidelines and congressional responsibility for determining
9 the eligibility of foreign governments to be considered for
10 United States military assistance and arms transfers.

11 **SEC. 3. PROHIBITION OF UNITED STATES MILITARY**
12 **ASSISTANCE AND ARMS TRANSFERS TO**
13 **CERTAIN FOREIGN GOVERNMENTS.**

14 (a) PROHIBITION.—Except as provided in subsections
15 (b) and (c), United States military assistance and arms
16 transfers may not be provided to a foreign government for
17 any fiscal year beginning after the date of the enactment
18 of this Act unless the President certifies to Congress for
19 that fiscal year that such government meets the following
20 requirements:

1 (1) PROMOTES DEMOCRACY.—Such govern-
2 ment—

3 (A) was chosen by and permits free and
4 fair elections;

5 (B) promotes civilian control of the mili-
6 tary and security forces and has civilian institu-
7 tions controlling the policy, operation, and
8 spending of all law enforcement and security in-
9 stitutions, as well as the armed forces;

10 (C) promotes the rule of law, equality be-
11 fore the law, and respect for individual and mi-
12 nority rights, including freedom to speak, pub-
13 lish, associate, and organize; and

14 (D) promotes the strengthening of politi-
15 cal, legislative, and civil institutions of democ-
16 racy, as well as autonomous institutions to
17 monitor the conduct of public officials and to
18 combat corruption.

19 (2) RESPECTS HUMAN RIGHTS.—Such
20 government—

21 (A) does not engage in gross violations of
22 internationally recognized human rights,
23 including—

24 (i) extrajudicial or arbitrary
25 executions;

- 1 (ii) disappearances;
- 2 (iii) torture or severe mistreatment;
- 3 (iv) prolonged arbitrary imprisonment;
- 4 (v) systematic official discrimination
- 5 on the basis of race, ethnicity, religion,
- 6 gender, national origin, or political affili-
- 7 ation; and
- 8 (vi) grave breaches of international
- 9 laws of war or equivalent violations of the
- 10 laws of war in internal conflicts;
- 11 (B) vigorously investigates, disciplines, and
- 12 prosecutes those responsible for gross violations
- 13 of internationally recognized human rights;
- 14 (C) permits access on a regular basis to
- 15 political prisoners by international humani-
- 16 tarian organizations such as the International
- 17 Committee of the Red Cross;
- 18 (D) promotes the independence of the judi-
- 19 ciary and other official bodies that oversee the
- 20 protection of human rights;
- 21 (E) does not impede the free functioning of
- 22 domestic and international human rights orga-
- 23 nizations; and

1 (F) provides access on a regular basis to
2 humanitarian organizations in situations of con-
3 flict or famine.

4 (3) NOT ENGAGED IN CERTAIN ACTS OF ARMED
5 AGGRESSION.—Such government is not currently en-
6 gaged in acts of armed aggression in violation of
7 international law.

8 (4) FULL PARTICIPATION IN UNITED NATIONS
9 REGISTER OF CONVENTIONAL ARMS.—Such govern-
10 ment is fully participating in the United Nations
11 Register of Conventional Arms.

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

19 (c) EXEMPTIONS.—

20 (1) IN GENERAL.—The prohibition contained in
21 subsection (a) shall not apply with respect to a for-
22 eign government for a fiscal year if—

23 (A) subject to paragraph (2), the President
24 submits a request for an exemption to Congress
25 containing a determination that it is in the na-

1 tional security interest of the United States to
2 provide military assistance and arms transfers
3 to such government; or

4 (B) the President determines that an
5 emergency exists under which it is vital to the
6 interest of the United States to provide military
7 assistance and arms transfers to such govern-
8 ment.

9 (2) DISAPPROVAL.—A request for an exemption
10 to provide military assistance and arms transfers to
11 a foreign government shall not take effect, or shall
12 cease to be effective, if a law is enacted disapproving
13 such request.

14 (d) NOTIFICATIONS TO CONGRESS.—

15 (1) IN GENERAL.—The President shall submit
16 to Congress initial certifications under subsection (a)
17 and requests for exemptions under subsection
18 (c)(1)(A) in conjunction with the submission of the
19 annual congressional presentation documents for for-
20 eign assistance programs for a fiscal year and shall,
21 where appropriate, submit additional or amended
22 certifications and requests for exemptions at any
23 time thereafter in the fiscal year.

24 (2) DETERMINATION WITH RESPECT TO EMER-
25 GENCY SITUATIONS.—Whenever the President deter-

1 mines that it would not be contrary to the national
2 interest to do so, he shall submit to Congress at the
3 earliest possible date reports containing determina-
4 tions with respect to emergencies under subsection
5 (c)(1)(B). Each such report shall contain a descrip-
6 tion of—

7 (A) the nature of the emergency;

8 (B) the type of military assistance and
9 arms transfers provided to the foreign govern-
10 ment; and

11 (C) the cost to the United States of such
12 assistance and arms transfers.

13 **SEC. 4. PROMOTING AN INTERNATIONAL ARMS TRANSFERS**
14 **REGIME.**

15 (a) INTERNATIONAL COOPERATION.—Prior to the be-
16 ginning of each fiscal year, the President shall compile a
17 list of countries that do not meet the requirements in sec-
18 tion 3(a) and for which the President has not requested
19 an exemption under section 3(c). The President shall—

20 (1) notify the governments participating in the
21 Wassenaar Arrangement on Export Controls for
22 Conventional Arms and Dual Use Goods and Tech-
23 nologies, done at Vienna, July 11 and 12, 1996 (in
24 this section referred to as the “Wassenaar Arrange-
25 ment”), and such other foreign governments as the

1 President deems appropriate, that the countries so
2 listed are ineligible to receive United States arms
3 sales and military assistance under this Act; and

4 (2) request that the countries so notified also
5 declare the listed countries as ineligible for arms
6 sales and military assistance.

7 (b) MULTILATERAL EFFORTS.—The President shall
8 continue and expand efforts through the United Nations
9 and other international fora, such as the Wassenaar Ar-
10 rangement, to limit arms transfers worldwide, particularly
11 transfers to countries that do not meet the criteria estab-
12 lished in section 3, for the purpose of establishing a per-
13 manent multilateral regime to govern the transfer of con-
14 ventional arms.

15 (c) REPORT.—

16 (1) IN GENERAL.—Beginning one year after the
17 date of enactment of this Act, and annually there-
18 after, the President shall submit a report to Con-
19 gress—

20 (A) describing efforts he has undertaken
21 during the preceding year to gain international
22 acceptance of the principles contained in section
23 3; and

1 (B) evaluating the progress made toward
2 establishing a multilateral regime to control the
3 transfer of conventional arms.

4 (2) SUBMISSION OF THE REPORT.—This report
5 shall be submitted in conjunction with the submis-
6 sion of the annual congressional presentation docu-
7 ments for foreign assistance programs for a fiscal
8 year.

9 **SEC. 5. UNITED STATES MILITARY ASSISTANCE AND ARMS**
10 **TRANSFERS DEFINED.**

11 For purposes of this Act, the terms “United States
12 military assistance and arms transfers” and “military as-
13 sistance and arms transfers” mean—

14 (1) assistance under chapter 2 of part II of the
15 Foreign Assistance Act of 1961 (relating to military
16 assistance), including the transfer of excess defense
17 articles under section 516 of that Act;

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

21 (3) the transfer of defense articles, defense
22 services, or design and construction services under
23 the Arms Export Control Act (excluding any trans-
24 fer or other assistance under section 23 of such Act
25 to countries that are specifically identified and ap-

1 proved for such assistance in law), including defense
2 articles and defense services licensed or approved for
3 export under section 38 of that Act; or

4 (4) assistance under sections 2010 and 2011 of
5 title 10, United States Code, and assistance under
6 section 1004 of the National Defense Authorization
7 Act for Fiscal Year 1991.

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