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107TH CONGRESS, 2d Session } HOUSE OF REPRESENTATIVES { REPORT 107–724

U.S. CONGRESS SERIALS

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 114, AUTHORIZATION FOR USE OF MILITARY FORCE AGAINST IRAQ RESOLUTION OF 2002

OCTOBER 7, 2002.—Referred to the House Calendar and ordered to be printed

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Mr. DREIER, from the Committee on Rules, submitted the following

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REPORT

[To accompany H. Res. 574]

The Committee on Rules, having had under consideration House Resolution 574, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of House Joint Resolution 114, Authorization for Use of Military Force Against Iraq Resolution of 2002, under a structured rule. The rule provides for seventeen hours of debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on International Relations.

The rule provides that it shall be in order for the Majority Leader or his designee, after consultation with the Minority Leader, to move to extend debate on the joint resolution and that such motion shall not be subject to debate or amendment. The rule waives all points of order against consideration of the joint resolution.

The rule provides that the amendment to the preamble and the amendment to the text recommended by the Committee on International Relations now printed in the joint resolution shall be considered as adopted. The rule makes in order only those amendments printed in this report.

The rule provides that each amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read and shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent. The rule waives all points of order against such amendments.

3-DAY LOAN
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The rule provides for one final hour of debate on the joint resolution, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on International Relations after the consideration of the amendments.

The rule provides one motion to recommit with or without instructions.

Finally, the rule provides that during consideration of House Joint Resolution 114, the Chair may postpone further consideration of the joint resolution to a time designated by the Speaker, either on the same legislative day or on the next legislative day.

The waiver of all points of order against consideration of the joint resolution includes a waiver of clause 4(a) of rule XIII (requiring a three-day layover of the committee report) because the report was not filed until Monday, October 7, 2002 and the bill could be considered as early as Tuesday, October 8, 2002.

SUMMARY OF AMENDMENTS MADE IN ORDER UNDER THE RULE

1. Lee: Amendment in the Nature of a Substitute. Urges the U.S. to re-engage the diplomatic process and stresses the U.S. government's commitment to the U.N. inspections process. (1 hour)

2. Spratt/Moran (VA)/Allen/Snyder/Price/Larson/Levin/Matsui/Clyburn: Amendment in the Nature of a Substitute. Authorizes the use of U.S. armed forces to support any new U.N. Security Council resolution that mandates the elimination, by force if necessary, of all Iraqi weapons of mass destruction, long-range ballistic missiles, and the means of producing such weapons and missiles. Requests that the President should seek authorization from Congress to use the armed forces of the U.S. in the absence of a U.N. Security Council resolution sufficient to eliminate by force if necessary, all Iraqi weapons of mass destruction, long-range ballistic missiles, and the means of producing such weapons and missiles. Provides expedited consideration for authorization in the latter case. (1 hour)

TEXT OF AMENDMENTS MADE IN ORDER UNDER THE RULE

1. An Amendment To Be Offered by Representative Lee of California, or Her Designee, Debatable for 60 Minutes

Strike the preamble and insert in lieu thereof the matter preceding the resolved clause, below, and strike the text and insert in lieu thereof the matter following the resolved clause, below:

Whereas on April 6, 1991, during the Persian Gulf War, Iraq accepted the provisions of United Nations Security Council Resolution 687 (April 3, 1991) bringing a formal cease-fire into effect;

Whereas, in accordance with Security Council Resolution 687, Iraq unconditionally accepted the destruction, removal, or rendering harmless of "all chemical and biological weapons and all stocks of agents and all related subsystems and components and all research, development, support and manufacturing facilities related thereto", and "all ballistic missiles with a range greater than one hundred and fifty kilometers, and related major parts and repair and production facilities";

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Whereas, in accordance with Security Council Resolution 687, Iraq unconditionally agreed not to acquire or develop any nuclear weapons, nuclear-weapons-usable material, nuclear-related subsystems or components, or nuclear-related research, development, support, or manufacturing facilities;

Whereas Security Council Resolution 687 calls for the creation of a United Nations special commission to "carry out immediate on-site inspection of Iraq's biological, chemical, and missile capabilities" and to assist and cooperate with the International Atomic Energy Agency in carrying out the "destruction, removal or rendering harmless" of all nuclear-related items and in developing a plan for the ongoing monitoring and verification of Iraq's compliance;

Whereas United Nations weapons inspectors (UNSCOM) between 1991 and 1998 successfully uncovered and destroyed large stockpiles of chemical and biological weapons and production facilities, nuclear weapons research and development facilities, and Scud missiles, despite the fact that the Government of Iraq sought to obstruct their work in numerous ways;

Whereas in 1998, UNSCOM weapons inspectors were withdrawn from Iraq and have not returned since;

Whereas Iraq is not in compliance with United Nations Security Council Resolution 687, United Nations Security Council Resolution 1154, and additional United Nations resolutions on inspections, and this noncompliance violates international law and Iraq's ceasefire obligations and potentially endangers United States and regional security interests;

Whereas the true extent of Iraq's continued development of weapons of mass destruction and the threat posed by such development to the United States and allies in the region are unknown and cannot be known without inspections;

Whereas the United Nations was established for the purpose of preventing war and resolving disputes between nations through peaceful means, including "by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional arrangements, or other peaceful means";

Whereas the United Nations remains seized of this matter;

Whereas the President has called upon the United Nations to take responsibility to assure that Iraq fulfills its obligations to the United Nations under existing United Nations Security Council resolutions;

Whereas war with Iraq would place the lives of tens of thousands of people at risk, including members of the United States armed forces, Iraqi civilian non-combatants, and civilian populations in neighboring countries;

Whereas unilateral United States military action against Iraq may undermine cooperative international efforts to reduce international terrorism and to bring to justice those responsible for the attacks of September 11, 2001;

Whereas unilateral United States military action against Iraq may also undermine United States diplomatic relations with countries throughout the Arab and Muslim world and with many other allies;

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Whereas a preemptive unilateral United States first strike could both set a dangerous international precedent and significantly weaken the United Nations as an institution; and

Whereas the short-term and long-term costs of unilateral United States military action against Iraq and subsequent occupation may be significant in terms of United States casualties, the cost to the United States treasury, and harm to United States diplomatic relations with other countries: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States should work through the United Nations to seek to resolve the matter of ensuring that Iraq is not developing weapons of mass destruction, through mechanisms such as the resumption of weapons inspections, negotiation, enquiry, mediation, regional arrangements, and other peaceful means.

2. An Amendment To Be Offered by Representative Spratt of South Carolina, or His Designee, Debatable for 60 Minutes

Strike the preamble and insert in lieu thereof the matter preceding the resolved clause, below, and strike the text and insert in lieu thereof the matter following the resolved clause, below:

Whereas the Government of Iraq, without cause or provocation, invaded and occupied the country of Kuwait on August 2, 1990;

Whereas, in reaction to Iraq's aggression against Kuwait, President George H. W. Bush assembled a coalition of nations to liberate Kuwait and to enforce a series of United Nations Security Council resolutions adopted in opposition to Iraq's invasion of Kuwait;

Whereas the United Nations Security Council passed Resolution 660, condemning the invasion of Kuwait and demanding Iraq's immediate withdrawal, and thereafter passed Resolutions 661, 662, 664, 665, 666, 667, 670, 674, and 677, further demanding that Iraq withdraw from Kuwait;

Whereas the Government of Iraq defied the United Nations, flouting and violating each of these resolutions;

Whereas Iraq's defiance resulted in the adoption of United Nations Security Council Resolution 678 which authorized the use of all means necessary to repel Iraq from Kuwait and to compel its compliance with the above-referenced resolutions;

Whereas allied forces, led by the United States, attacked Iraqi forces on January 16, 1991, and drove them out of Kuwait;

Whereas, after the liberation of Kuwait in 1991, Iraq entered into a cease-fire agreement sponsored by the United Nations, pursuant to which Iraq agreed—

(1) to destroy, remove, or render harmless all chemical and biological weapons and stocks of agents and all related subsystems and components and all research, development, support, and manufacturing facilities related thereto;

(2) to destroy, remove, or render harmless all ballistic missiles with a range greater than 150 kilometers, and related major parts and production facilities;

(3) not to acquire or develop any nuclear weapons, nuclear-weapons-usable material, nuclear-related subsystems or com-

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ponents, or nuclear-related research, development, support, or manufacturing facilities; and

(4) to permit immediate on-site inspection of Iraq's biological, chemical, and missile capabilities, and assist the International Atomic Energy Agency in carrying out the destruction, removal, or rendering harmless of all nuclear-related items and in developing a plan for ongoing monitoring and verification of Iraq's compliance;

Whereas, in flagrant violation of the cease-fire agreement, Iraq sought to thwart the efforts of arms inspectors to uncover and destroy Iraq's stockpiles of weapons of mass destruction and long-range ballistic missiles, and the means of producing such weapons and missiles;

Whereas, because of Iraq's demonstrated will to attack neighboring countries and arm itself with weapons of mass destruction, the United Nations Security Council passed Resolutions 687, 707, 715, 1051, 1060, 1115, 1134, 1137, 1154, 1194, and 1205, demanding that Iraq destroy all weapons of mass destruction, cease further development of chemical, biological, and nuclear weapons, stop the acquisition of ballistic missiles with a range exceeding 150 kilometers, and end its support of terrorism;

Whereas Iraq has continued to defy resolutions of the United Nations Security Council and to develop weapons of mass destruction, has not stopped its support of terrorism, has refused to cooperate with arms inspectors of the United Nations, and since December 1998 has barred and denied all such inspectors any access to Iraq;

Whereas Iraq has materially breached its international obligations by retaining and continuing to develop chemical and biological weapons, by actively seeking a nuclear weapons capability and ballistic missiles with ranges exceeding 150 kilometers, and by supporting international terrorism;

Whereas the attacks of September 11, 2001, underscores the extent of the threat posed by international terrorist organizations, and makes clear the gravity of the threat if they obtain access to weapons of mass destruction;

Whereas the House of Representatives (in H. J. Res. 658 of the 101st Congress and H. Res. 322 in the 105th Congress) and the Senate (in S. Con. Res. 147 of the 101st Congress and S. J. Res. 54 in the 105th Congress) have declared support for international action to halt Iraq's defiance of the United Nations;

Whereas in the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190), Congress called upon "the President [to] consult closely with the partners of the United States in the Desert Storm coalition and with the members of the United Nations Security Council in order to present a united front of opposition to Iraq's continuing noncompliance with Security Council Resolution 687";

Whereas in H. Res. 322 of the 105th Congress, the House of Representatives affirmed that the "current crisis regarding Iraq should be resolved peacefully through diplomatic means, but in a manner which assures full compliance by Iraq with United Nations Security Council resolutions regarding the destruction of Iraq's capability to produce and deliver weapons of mass destruction";

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Whereas on September 12, 2002, President Bush committed the United States to "work with the United Nations Security Council to meet our common challenge" posed by Iraq and to "work for the necessary resolutions", while making clear that "the Security Council resolutions will be enforced, and the just demands of peace and security will be met, or action will be unavoidable"; and

Whereas Congress supports the efforts by the President to enforce through the Security Council the United Nations Security Council resolutions referenced above: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This joint resolution may be cited as the "Elimination of Weapons of Mass Destruction from Iraq Resolution".

SEC. 2. SENSE OF THE CONGRESS.

It is the sense of Congress that—

(1) the President should be commended for calling upon the United Nations to address the threat to international peace and security posed by Iraq's refusal to meet its disarmament obligations under United Nations Security Council resolutions;

(2) the President should persist in his efforts to obtain approval of the Security Council for any actions taken against Iraq; and

(3) the President should continue to seek, and the Security Council should approve, a resolution that—

(A) demands full and unconditional compliance by the Government of Iraq with all disarmament requirements imposed by United Nations Security Council Resolutions 687, 707, 715, 1051, 1060, 1115, 1134, 1154, 1194, and 1205;

(B) mandates the immediate return to Iraq of United Nations arms inspection teams, empowered with increased staff and resources and unconditional access to all sites they deem necessary to uncover and destroy weapons of mass destruction and ballistic missiles with ranges exceeding 150 kilometers, and the means of producing such weapons and missiles, without regard to any objections or conditions that Iraq may seek to impose; and

(C) authorizes, if the President deems advisable, a military force, formed under the auspices of the United Nations Security Council but commanded by the United States, to protect and support arms inspectors and make force available in the event that Iraq impedes, resists, or in any way interferes with such inspection teams;

(4) if the United Nations Security Council fails to pass a resolution that satisfies the conditions of paragraph (3), and if the President determines that use of the United States Armed Forces is necessary to compel Iraq to comply with all such disarmament requirements, the President should seek authorization from Congress to use military force to compel such compliance by invoking the expedited procedures set forth in section 5;

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(5) if the United States must resort to force, the President should endeavor to form a coalition of allies as broadly based as practicable to support and participate with United States Armed Forces, and should also seek multilateral cooperation and assistance, specifically including Arab and Islamic countries, in the post-conflict reconstruction of Iraq; and

(6) if the United States resorts to force, Congress will provide all possible support to the members of the United States Armed Forces and their families.

SEC. 3. AUTHORIZATION TO USE FORCE IN ACCORDANCE WITH NEW UNITED NATIONS SECURITY COUNCIL RESOLUTIONS.

The President is authorized to use United States Armed Forces pursuant to any resolution of the United Nations Security Council adopted after September 12, 2002, that provides for the elimination of Iraq's weapons of mass destruction and ballistic missiles with ranges exceeding 150 kilometers, and the means of producing such weapons and missiles. Nothing in the preceding sentence shall be construed to prevent or otherwise limit the authority of the Armed Forces to use all appropriate force for self defense and enforcement purposes.

SEC. 4. PRESIDENTIAL CERTIFICATIONS.

In the event that the United Nations Security Council does not adopt a resolution as described in section 3, or in the event that such a resolution is adopted but does not sanction the use of force sufficient to compel Iraq's compliance, and if the President determines that use of the United States Armed Forces is necessary for such compliance, the President should seek authorization from Congress to use military force to compel such compliance by invoking the expedited procedures set forth in section 5 after the President submits to the Speaker of the House of Representatives and the President pro tempore of the Senate a certification that—

(1)(A) the United States has sought passage by the United Nations Security Council of a resolution described in section 3, and the Security Council has failed to pass such a resolution, and no other action taken by the United Nations Security Council has been sufficient to compel Iraq to comply with the Security Council resolutions referred to in section 2; or

(B) the United Nations Security Council has passed a resolution that does not sanction the use of force sufficient to compel compliance, and—

(i) the United Nations Security Council is unlikely to take further action that will result in Iraq's compliance with such resolution; and

(ii) the use of military force against Iraq is necessary to compel compliance;

(2) the use of military force against Iraq will not impair international cooperation in the fight against terrorism or participation in United States military actions undertaken pursuant to Public Law 107–40; and

(3) the United States is in the process of establishing, or has established, a coalition of other countries as broadly based as practicable to support and participate with the United States in whatever action is taken against Iraq.

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SEC. 5. EXPEDITED CONGRESSIONAL CONSIDERATION OF JOINT RESOLUTION AUTHORIZING USE OF FORCE.

(a) QUALIFYING RESOLUTION.—(1) This section applies with respect to a joint resolution of the Senate or House of Representatives—

(A) that is a qualifying resolution as described in paragraph (2); and

(B) that is introduced (by request) by a qualifying Member not later than the next legislative day after the date of receipt by the Speaker of the House of Representatives and the President pro tempore of the Senate of a certification by the President under section 4.

(2) For purposes of this section, a qualifying resolution is a joint resolution—

(A) that does not have a preamble;

(B) the title of which is the following: "Joint resolution authorizing the President to use all necessary means, including the Armed Forces of the United States, to compel the Government of Iraq to comply with certain United Nations Security Council resolutions." and

(C) the text of which is as follows: "The President is authorized to use all necessary and appropriate means, including the Armed Forces of the United States, to compel the Government of Iraq to comply with the disarmament provisions in the United Nations Security Council Resolutions 687, 707, 715, 1051, 1060, 1115, 1134, 1154, 1194, and 1205 and with any other resolution of the United Nations Security Council adopted after September 12, 2002, that requires the elimination of Iraq's weapons of mass destruction and ballistic missiles with ranges exceeding 150 kilometers, and the means of producing such weapons and missiles.".

(3) For purposes of this subsection, a qualifying Member is—

(A) in the case of the House of Representatives, the majority leader or minority leader of the House of Representatives; and

(B) in the case of the Senate, the majority leader or minority leader of the Senate.

(b) PLACEMENT ON CALENDAR.—Upon introduction in either House of a resolution described in subsection (a), the resolution shall be placed on the appropriate calendar of the House involved.

(c) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—(1) A resolution described in subsection (a) shall be considered in the House of Representatives in accordance with the provisions of this subsection.

(2) On or after the first legislative day after the day on which such a resolution is introduced, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the House of Representatives to move to proceed to the consideration of the resolution. All points of order against the resolution (and against consideration of the resolution) are waived. Such a motion is privileged and is not debatable. An amendment to the motion is not in order. It shall not be in order to move to postpone the motion or to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the House

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of Representatives shall immediately proceed to consideration of the resolution without intervening motion, and the resolution shall remain the unfinished business of the House of Representatives until disposed of.

(3) Debate on the resolution shall be limited to not more than a total of 20 hours, which shall be divided equally between the majority leader and the minority leader or their designees. A motion to further limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order.

(6) Immediately following the conclusion of the debate on the resolution, the vote on final passage of the resolution shall occur.

(7) A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(d) CONSIDERATION IN SENATE.—(1) A resolution described in subsection (a) shall be considered in the Senate in accordance with the provisions of this subsection.

(2) On or after the first legislative day after the day on which such a resolution is introduced, such a resolution, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of the resolution. All points of order against the resolution (and against consideration of the resolution) are waived. The motion is privileged and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the Senate shall immediately proceed to consideration of the resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the Senate until disposed of.

(3) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than a total of 20 hours, which shall be divided equally between the majority leader and the minority leader or their designees. A motion to further limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order.

(6) Immediately following the conclusion of the debate on a resolution and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on final passage of the resolution shall occur.

(7) A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(8) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

(e) ACTION ON MEASURE FROM OTHER HOUSE.—(1) If, before the passage by one House of a resolution of that House described in subsection (a), that House receives from the other House a resolution described in subsection (a), then the following procedures shall apply:

(A) The resolution of the other House shall not be referred to a committee and may not be considered in the House receiving it except as provided in subparagraph (B)(ii).

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(B) With respect to a resolution described in subsection (a) of the House receiving the resolution—

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the vote on final passage shall be on the resolution of the other House.

(2) Upon disposition pursuant to paragraph (1)(B)(ii) of a resolution described in subsection (a) that is received by one House from the other House, it shall no longer be in order to consider such a resolution that was introduced in the receiving House.

(f) LEGISLATIVE DAY DEFINED.—For the purposes of this section, with respect to either House of Congress, a legislative day is a calendar day on which that House is in session.

(g) SECTION ENACTED AS EXERCISE OF RULEMAKING POWER OF THE TWO HOUSES.—The provisions of this section (other than subsection (h)) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and, as such, shall be considered as part of the rules of either House and shall supersede other rules only to the extent they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedures of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(h) PRESIDENTIAL RECALL OF CONGRESS.—In the event that Congress is not in session upon submission of a Presidential certification under section 4, the President is authorized to convene a special session of the Congress to allow consideration of a joint resolution under this section.

SEC. 6. WAR POWERS RESOLUTION REQUIREMENTS.

(a) SPECIFIC STATUTORY AUTHORIZATION.—Consistent with section 8(a)(1) of the War Powers Resolution, the Congress declares that—

(1) section 3 of this joint resolution is intended to constitute specific authorization within the meaning of section 5(b) of the War Powers Resolution; and

(2) if a joint resolution described in section 5(a)(2) is enacted into law, such resolution is intended to constitute specific authorization within the meaning of section 5(b) of the War Powers Resolution.

(b) APPLICABILITY OF OTHER REQUIREMENTS.—Nothing in this resolution supersedes any requirement of the War Powers Resolution.

SEC. 7. REPORTS TO CONGRESS.

At least once every 60 days, the President shall transmit to Congress a report on matters relevant to this joint resolution. The President shall include in such report an estimate of expenditures by the United States and allied nations to compel Iraq's compliance with the above referenced United Nations Security Council resolutions and any reconstruction efforts in Iraq, including those actions described in section 7 of the Iraq Liberation Act of 1998 (Public Law 105–338; 22 U.S.C. 2151 note).

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SEC. 8. INHERENT RIGHT TO SELF-DEFENSE.

Nothing in this joint resolution is intended to derogate or otherwise limit the authority of the President to use military force in self-defense pursuant to the Constitution of the United States and the War Powers Resolution.

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