

Congress of the United States
Washington, D.C. 20515

February 22, 2022

President Joseph R. Biden
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear Mr. President:

As you evaluate your possible course of action to address the potential conflict between Russia and Ukraine, we write to reassert the war powers vested in Congress under the U.S. Constitution and the War Powers Resolution of 1973. To date, you have rejected calls to station U.S. Armed Forces in Ukraine, stating that such an effort is “not on the table.” However, if the ongoing situation compels you to introduce the brave men and women of our military into Ukraine, their lives would inherently be put at risk if Russia chooses to invade. Therefore, we ask that your decisions comport with the Constitution and our nation’s laws by consulting with Congress to receive authorization before any such deployment.

Specifically, Article I of the U.S. Constitution grants Congress the power to finance and declare war, while Article II names the President as Commander-in-Chief of the U.S. Armed Forces. This crossover was intentionally written by the framers of the U.S. Constitution so Congress and the President would be required to cooperate on our nation’s military affairs. In addition, the War Powers Resolution of 1973 was passed into law after multiple presidential administrations failed to receive congressional approval for over a decade of unauthorized involvement by U.S. Armed Forces in hostilities in Southeast Asia. The purpose of this resolution was to reinforce the objective of the U.S. Constitution by ensuring that “the collective judgment of both the Congress and the President” would be utilized before the “introduction of United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances.”

Our nation’s laws are highly relevant to the ongoing situation in Ukraine. Were an attack by Russia to be imminent or underway, the War Powers Resolution would clearly require congressional authorization before the President may command U.S. Armed Forces to engage in hostilities.

The War Powers Resolution does not require authorization for the U.S. to advise and assist missions that do not involve hostilities. While your administration has reportedly relocated 160 Florida National Guardsmen out of Ukraine citing the “safety and security of our personnel [as your] paramount concern,”¹ we underscore that an imminent or active attack by Russia would compel you, under Section 8(c)² of the War Powers Resolution, to seek specific Congressional authorization if you aim to leave any remaining U.S. advisers, trainers, special forces, or other U.S. military personnel in areas of these imminent or active hostilities. You must also receive congressional approval before initiating any pre-emptive strike.

¹ <https://thehill.com/policy/defense/593982-pentagon-chief-orders-160-us-troops-in-ukraine-to-reposition-in-europe>

² Section 8(c) of the War Powers Resolution provides additional clarity on what can constitute the “introduction of United States Armed Forces” into hostilities, stating that it “includes the assignment of members of such armed forces to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such military forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities.

We strongly urge your administration to respect the separation of powers, U.S. law, and Congress's constitutional war powers authority. Should your administration seek to introduce U.S. Armed Forces into hostilities or decline to remove any U.S. military personnel currently deployed inside Ukraine from unauthorized hostilities or imminent hostilities, Congress stands ready to deliberate over the potentially monumental implications of such scenarios. The American people, through their representatives in Congress, deserve to have a say before U.S. troops are placed in harm's way or the U.S. becomes involved in yet another foreign conflict.

Thank you for your attention to this important matter.

Sincerely,



Peter A. DeFazio
Member of Congress



Warren Davidson
Member of Congress

Eleanor Holmes Norton
Member of Congress

Louie Gohmert
Member of Congress

Earl Blumenauer
Member of Congress

Andy Biggs
Member of Congress

Pramila Jayapal
Member of Congress

Kat Cammack
Member of Congress

Lloyd Doggett
Member of Congress

Michael C. Burgess, M.D.
Member of Congress

Jamaal Bowman, Ed.D.
Member of Congress

Jeff Fortenberry
Member of Congress

Ilhan Omar
Member of Congress

Paul A. Gosar, D.D.S.
Member of Congress

James P. McGovern
Member of Congress

Thomas Massie
Member of Congress

Ayanna Pressley
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Nancy Mace
Member of Congress

Mark Pocan
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Matthew Rosendale, Sr.
Member of Congress

Jared Huffman
Member of Congress

Ben Cline
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Peter Welch
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Yvette Herrell
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Rashida Tlaib
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Matt Gaetz
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Mark DeSaulnier
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Alex X. Mooney
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Paul D. Tonko
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David Schweikert
Member of Congress

Raúl M. Grijalva
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Bill Posey
Member of Congress

Jesús G. “Chuy” García
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Peter Meijer
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Darren Soto
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H. Morgan Griffith
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Alexandria Ocasio-Cortez
Member of Congress

Brad Sherman
Member of Congress

Cori Bush
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John B. Larson
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André Carson
Member of Congress

Gwen Moore
Member of Congress

Barbara Lee
Member of Congress