



# U.S. Strikes on Houthi Targets in Yemen Raise War Powers Issues

February 9, 2024

Following attacks from Houthi-controlled areas of northern Yemen on shipping vessels and U.S. and allied naval forces in the Red Sea since November 2023, U.S. armed forces in the region have struck Houthi targets in Yemen on several occasions, beginning January 11, 2024. Some Members of Congress have [questioned](#) the President’s authority to take such action and asserted Congress’s constitutional role in such decisions, while others have [supported](#) the President’s decision. The War Powers Resolution (WPR; P.L. 93-148; 50 U.S.C. §§ 1541-1548) contains provisions designed to guide Congress to address presidential use of U.S. armed forces, requiring the President to inform Congress of certain deployments and providing a roadmap for congressional authorization or disapproval of unilateral presidential action.

## Presidential Reporting Under the War Powers Resolution

The WPR creates a process for presidential consultation with and notification to Congress concerning decisions to use U.S. armed forces. Pursuant to [Section 4](#), the President must notify the Speaker of the House and the President pro tempore of the Senate within 48 hours after “United States Armed Forces are introduced” into active or imminent hostilities, or otherwise into a foreign nation while equipped for combat. The notification must describe the “circumstances necessitating” the introduction, the “estimated scope and duration of the hostilities or involvement,” and the “constitutional and legislative authority” for the decision. The President is required to “provide such other information as the Congress may request” in connection with a notification.

President Biden has provided [multiple WPR notifications](#), beginning January 12, 2024, regarding the strikes in Yemen, stating they were intended to deter and degrade future Houthi attacks against U.S. forces and commercial vessels in the Red Sea. The President asserted that his authority under Article II of the Constitution permitted the military action. The notifications characterized the strikes as “discrete” and indicated the President would order additional strikes “as necessary ... to address further threats or attacks.” U.S. armed forces had used military force [previously](#) in response to Houthi attacks, but no publicly available WPR notification seemingly addresses these incidents.

**Congressional Research Service**

<https://crsreports.congress.gov>

IN12319

## “Hostilities” Under the WPR

The WPR contains provisions circumscribing the President’s authority to introduce U.S. armed forces into “hostilities.” While the executive branch might at times seek to [foreclose](#) congressional findings of hostilities, the WPR seems to seek the [involvement](#) of [Congress](#) in determining whether hostilities exist, to “insure that the collective judgment of both the Congress and the President will apply.”

The term “hostilities” is not defined in the WPR. According to executive branch [interpretation](#), the term applies only to active exchanges of fire between U.S. and “opposing units of hostile forces.” The House report accompanying the proposed WPR, however, [states](#) it also “encompasses a state of confrontation in which no shots have been fired but where there is a clear and present danger of armed conflict.” Such hostilities are “imminent” when “there is a clear potential either for such a state of confrontation or for actual armed conflict.”

In the current situation concerning the Houthis, determining “hostilities” might depend on interpretation of the term as well as the breadth of information considered. If hostilities exist only when active exchanges of fire are occurring, it could be argued that hostilities end after each round of counter-Houthi strikes. It could also be argued that hostilities have existed during the overall period when uses of force have occurred intermittently in the context of an ongoing state of confrontation between U.S. and Houthi forces, which extend back to at least [October 2023](#) and are [ongoing](#).

## Presidential Authority to Conduct Hostilities

In the January 12 notification, the President, in line with previous executive-branch [interpretation](#), asserted Article II authority to use military force to protect U.S. personnel, citizens, and national interests. [According](#) to the WPR, the President’s exclusive constitutional powers to introduce U.S. armed forces into hostilities are limited to defense of the United States and its armed forces against an armed attack creating a “national emergency,” and continuing hostilities must be backed by congressional authorization. It is [uncertain](#) in this situation whether the President’s assertion of inherent constitutional authority for using military force absent legislative authority comports with the WPR.

The President has also asserted that his actions were in part authorized to defend U.S. forces. It could be argued [previous](#) presidential [decisions](#) to deploy U.S. armed forces into areas of ongoing conflict, with Houthi and other forces in the Red Sea and in the wider Middle East region, created the conditions requiring such forces to defend themselves. The WPR seems to require the President to [submit](#) to Congress for approval or disapproval those deployments of U.S. armed forces resulting in hostilities, whether such hostilities are offensive or defensive in nature.

## Possible Employment of WPR Measures

Whether Congress chooses to legislate to authorize or terminate U.S. military action against Houthi forces, the WPR requires timely and substantive presidential reporting to inform that choice. While the President has provided relevant notifications, the contents address a [fraction](#) of related U.S. military [uses of force](#) and [operations](#). It could be argued that the justifications for military action in the notification contradict the WPR, potentially complicating Congress’s [consideration](#) of whether such “use of United States Armed Forces with respect to which such report was submitted” should continue. Some Members might request further information from the Administration concerning the military situation in the Red Sea (and possibly the [wider Middle East](#)) that directly addresses war powers authorities as set out in the WPR.

If Congress finds that U.S. forces are engaged in ongoing unauthorized hostilities with Houthi forces, the WPR and [related legislation](#) provide expedited consideration procedures either to [authorize](#), or [require termination](#) of, such hostilities. If Congress does not adopt either type of measure within 60 days, the

**President must terminate** the unauthorized use of U.S. forces related to the notification. According to the WPR's provisions, this 60-day period **is not a grant of authority** to conduct hostilities, but instead serves as a window for Congress to decide whether to cure the President's unauthorized use of the military.

## Author Information

Matthew C. Weed  
Specialist in Foreign Policy Legislation

---

## Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.