

105th CONGRESS
1st Session
H. J. RES. 89

Calling on the President to continue to support and fully participate in negotiations at the United Nations to conclude an international agreement to establish an international criminal court.

IN THE HOUSE OF REPRESENTATIVES

July 30, 1997

Mr. KENNEDY of Rhode Island (for himself, Mr. LEACH, Mr. DELAHUNT, Mr. STARK, Mr. MCNULTY, Mr. EVANS, and Ms. WOOLSEY) introduced the following joint resolution; which was referred to the Committee on International Relations

JOINT RESOLUTION

Calling on the President to continue to support and fully participate in negotiations at the United Nations to conclude an international agreement to establish an international criminal court.

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

SECTION 1. FINDINGS.

The Congress finds the following:

- (1) The preservation of international security and peace rests on adherence to the rule of law and principles of justice by the nations and peoples of the world.
- (2) International security and peace are threatened by serious international crimes, including war crimes, genocide, and crimes against humanity.
- (3) The commission of such serious international crimes can have a severely detrimental effect on the United States and on our national interests, presenting a potentially great human, social, and economic cost and leading to situations which jeopardize the lives of United States citizens and other individuals and shock the conscience of humankind.
- (4) The prosecution of individuals suspected of committing serious international crimes is often impeded by domestic, political, and legal obstacles imposed by the nations involved.
- (5) The international military tribunals established after World War II to try suspected war criminals demonstrated that fair and effective prosecution of war criminals could be carried out in an international forum by nations acting in concert under international law.

(6) Since its establishment in 1945, the United Nations has sought to establish a permanent international criminal court to try crimes committed in violation of international law, including the adoption in 1950 of United Nations General Assembly Resolution 489(V) that created a special Committee on International Criminal Jurisdiction to prepare proposals and a draft statute to establish an international criminal court.

(7) In 1978 the American Bar Association adopted a resolution urging the Department of State to open negotiations for a convention to establish an international criminal court with jurisdiction over international crimes of hijacking, violence aboard aircraft, crimes against diplomats and internationally protected persons, murder, and kidnapping.

(8) Beginning in recent decades with the 99th Congress, the Congress has repeatedly passed legislation pointing to the need for the establishment of an international criminal court to prosecute individuals who have committed the most serious international crimes and calling on the United States to pursue the possible establishment of such a court.

(9) The United Nations General Assembly adopted Resolution 44/39 on December 4, 1989, calling on the International Law Commission to study the feasibility of an international criminal court.

(10) The draft report of the International Law Commission issued in July 1990 expressed the Commission's agreement in principle with the idea of establishing a permanent international criminal court.

(11) In the 101st Congress, in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, Congress required the President and the Judicial Conference of the United States to report to the Congress on the establishment of an international criminal court.

(12) In 1992 the American Bar Association adopted a resolution calling on the United States Government to work toward solving the legal and practical issues regarding the establishment of an international criminal court.

(13) The United Nations General Assembly adopted Resolution 47/33 on November 25, 1992, calling on the International Law Commission to begin the process of drafting a statute for an international criminal court at its next session.

(14) The United Nations Security Council adopted Resolution 808 on February 22, 1993, establishing an International Criminal Tribunal for the Former Yugoslavia to prosecute persons responsible for violations of international law in the territory of the former Yugoslavia and adopted Resolution 955 in 1994 establishing the International Criminal Tribunal for Rwanda.

(15) In the 103d Congress, in section 517(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, it was expressed as the sense of the Senate that the establishment of an international criminal court would greatly strengthen international rule of law, such a court would serve United States interests, and the United States should advance this proposal at the United Nations.

- (16) The International Law Commission presented a draft statute for an international criminal court at its 46th session on September 1, 1994.
- (17) The United Nations General Assembly adopted Resolution 49/53 on December 9, 1994, establishing an ad hoc committee, open to all states, which met for 4 weeks in 1995 to review the major substantive and administrative issues arising out of the draft statute prepared by the International Law Commission and to consider arrangements for the convening of an international conference of plenipotentiaries.
- (18) Based upon the report of the ad hoc committee, the United Nations General Assembly adopted Resolution 50/46 on December 18, 1995, establishing a preparatory committee on the establishment of an international criminal court to further review the substantive issues arising out of the draft statute of the International Law Commission and to draft texts, with a view to preparing a widely acceptable consolidated text of a convention for an international criminal court as a next step toward consideration by a conference of plenipotentiaries.
- (19) The work of this preparatory committee in 1996 and 1997 has made encouraging and substantial progress toward achieving such a consolidated text.
- (20) The United Nations General Assembly adopted Resolution 51/207 calling for up to 9 weeks of negotiations by the preparatory committee in 1997 and the beginning of 1998 to complete the drafting of a widely accepted consolidated text of a convention for a diplomatic conference in June 1998.
- (21) President Clinton has expressed support for a permanent war crimes tribunal, stating in October 1995 that 'all nations around the world who value freedom and tolerance [should] establish a permanent international criminal court to prosecute, with the support of the United Nations Security Council, serious violations of humanitarian law.'
- (22) The crimes under negotiation for inclusion in the international criminal court's jurisdiction are the most serious and horrendous of international crimes, such as genocide and crimes against humanity, and the failure to punish such crimes offends worldwide standards of law and morality and threatens the establishment of peace and reconciliation.
- (23) The late 20th century has witnessed numerous incidents of crimes of genocide, crimes against humanity, and war crimes.
- (24) The time is right for the creation of a permanent international criminal court and the United States should continue to support strongly its establishment and participate fully in the preparation of provisions under which such a court can be established and can operate fairly and effectively.

SEC. 2. SENSE OF THE CONGRESS.

It is the sense of the Congress that the President, acting through the permanent representative of the United States to the United Nations--

(1) should continue to support and fully participate in negotiations at the United Nations and especially in the preparatory committee to establish an international criminal court with jurisdiction over serious international crimes, including war crimes, genocide, and crimes against humanity; and (2) should provide any assistance necessary to expedite the establishment of such a court.

SEC. 3. REPORT.

Not later than 30 days after the date of the final session of the preparatory committee described in section 2(1), the President shall submit to the Congress a detailed report on developments relating to, and United States efforts in support of, the establishment of an international criminal court.