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Calling for the creation of an International Criminal Court with jurisdiction over internationally recognized crimes of terrorism, illicit international narcotics trafficking, genocide, and torture, as those crimes are defined in various international conventions.

IN THE HOUSE OF REPRESENTATIVES

March 2, 1989

Mr. LEACH of Iowa (for himself and Mr. KASTENMEIER) submitted the following concurrent resolution; which was referred to the Committee on Foreign Affairs

CONCURRENT RESOLUTION

Calling for the creation of an International Criminal Court with jurisdiction over internationally recognized crimes of terrorism, illicit international narcotics trafficking, genocide, and torture, as those crimes are defined in various international conventions.

Whereas the international community has defined as criminal conduct certain acts of international terrorism (including hijacking, crimes against diplomats and other internationally protected persons, and hostage-taking), illicit international narcotics trafficking, genocide, and torture;

Whereas certain acts of international terrorism are defined as international crimes by the following international conventions to which the United States is a party: the Convention on Offenses and Certain Other Acts Committed on Board Aircraft (Tokyo, 1963), the Convention for the Suppression of Unlawful Seizure of Aircraft (the Hague, 1970), the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Montreal, 1971), the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons Including Diplomatic Agents (New York, 1973), and the International Convention Against the Taking of Hostages (New York, 1979);

Whereas the Single Convention on Narcotic Drugs, 1953 (as amended by the 1954 Protocol), the 1971 Convention on Psychotropic Substances, and the Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, address illicit cultivation, production, manufacture, possession, use, and trafficking in narcotics;

Whereas acts of genocide are defined as international crimes by the Convention on the Prevention and Punishment of the Crime of Genocide (Paris, 1948), to which the United States is a party; and acts of torture are defined as international crimes by the Convention

Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (New York, 1984), which the United States has signed and is taking steps to ratify;

Whereas crimes of terrorism, drug trafficking, genocide, and torture, are, under the international conventions cited above, subject to the jurisdiction of national courts and penalties imposed by national legislation;

Whereas in spite of these international conventions, the effective prosecution of those who commit acts of terrorism, drug trafficking, genocide, or torture has been seriously obstructed in certain cases because of problems of extradition and differences between the legal and judicial systems of individual nations;

Whereas the jurisdiction of the International Court of Justice extends only to cases involving governments, and not to individual criminal cases;

Whereas the concept of an international criminal court has been under consideration for many years;

Whereas the League of Nations adopted in 1937 a Convention Against Terrorism which included a protocol on an international criminal court, although that convention never came into force;

Whereas the international military tribunals established in Nuremburg, Germany, and Tokyo, Japan, following World War II also establish a precedent for international criminal tribunals;

Whereas the Convention on the Prevention and Punishment of the Crime of Genocide provides that persons charged with genocide, or any of the related crimes enumerated in that convention, may be tried not only in a tribunal of the nation in which the act was committed but also in an international penal tribunal if that nation has accepted its jurisdiction;

Whereas in 1950, the United Nations General Assembly adopted resolution 489(V) creating a special Committee on International Criminal Jurisdiction (known as the 'Geneva Committee') to prepare proposals and a draft statute on an international criminal court;

Whereas in 1952, the United Nations General Assembly adopted resolution 687(VII) establishing another committee to study further the international criminal court proposal;

Whereas the American Bar Association in 1978 adopted a resolution urging the Department of State to open negotiations for a convention for the establishment of an International Criminal Court with jurisdiction expressly limited to certain specific acts of international terrorism, using crimes established by international conventions as a reference;

Whereas section 4108 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690) expresses the sense of the Senate that the President should explore the feasibility and advisability of an international criminal court relating to international drug trafficking or international crimes; and

Whereas the 20th century has witnessed the crime of genocide, the systematic practice of torture in many countries, and a serious rise in international drug trafficking and in the use of terrorism: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that--

- (1) the United States should pursue the establishment of an International Criminal Court to assist the international community in dealing more effectively with those acts of terrorism, drug trafficking, genocide, and torture that are condemned as criminal acts in the international conventions cited in the preamble of this resolution;
- (2) the establishment of such a court for the more effective prosecution of international criminals should not derogate from internationally established standards of due process and the rights of the accused to a fair trial;
- (3) the establishment of such a court should have, as one of its highest priorities, guarantees of the impartiality of the judges serving on that court;
- (4) the President should explore with other nations the feasibility of jointly convening an international conference for purposes of pursuing the negotiation of a multilateral convention establishing such an international criminal court;
- (5) the President should report to the Congress by December 31, 1990, on the progress made toward the establishment of an International Criminal Court to deal with criminal acts of terrorism, drug trafficking, genocide, and torture, as defined in international conventions; and
- (6) the Judicial Conference of the United States should report to the Congress by December 31, 1990, on the feasibility of, and the relationship to the Federal judiciary of, an International Criminal Court.