

One Hundred Seventh Congress  
Congress of the United States  
House of Representatives  
Washington, DC 20515

May 9, 2001

## VOTE NO ON DELAY AMENDMENT ON THE INTERNATIONAL CRIMINAL COURT

Dear Colleague

Tomorrow we will be debating the Delay Amendment to H.R. 1646, the Foreign Relations Authorization Act. For most of the 20th century, the United States has been a leader in international criminal law and bringing justice to perpetrators of atrocities and gross violators of human rights. The Delay amendment against the International Criminal Court, however, is a serious step backward to U.S. efforts and credibility in the continuing struggle to defend basic human rights throughout the world.

This amendment will convince our friends and allies that the U.S. will never support an international criminal court, that it will do all it can to undermine it, and that the U.S. cut off all assistance to any country that supports it. This blunt effort at intimidation will not encourage other countries to address our concerns; rather, it will marginalize all U.S. human rights efforts and particularly our efforts to change the court as other countries conclude that there is no reason to work with us. As Elie Wiesel wrote in the attached letter regarding virtually identical legislation Mr. Delay introduced last year on this subject, the Delay effort would erase "the legacy of U.S. leadership by ensuring that the U.S. will never again join the community of nations to hold accountable those who commit war crimes and genocide."

Furthermore, the timing could not be worse for U.S. foreign policy interests. At the same time when the United States is under severe criticism by our friends and allies for its perceived unilateralist foreign policy, and when U.S. senior officials are in Europe and Asia seeking cooperation on the Administration's plans for a missile defense system, this amendment will reinforce this perception of an unilateralist and arrogant United States.

Moreover, the Delay Amendment would hinder the United States from helping to convict the very war criminals that are responsible for hideous atrocities and have caused U.S. forces to be deployed around the world, such as Slobodan Milosevic-unless the U.S. first gets its way in granting immunity under all circumstances to U.S. persons. The only persons likely to benefit will not be, for example, the Christian victims in Sudan, but the despots and monsters who rely on narrow definitions of national self-interest to protect them from justice. The Delay amendment even threatens to cut off military assistance to countries where we have vital national interests. For example, if Colombia becomes a party, we may have to cut off assistance to fight the war against international narcotics.

And what is the risk here? That U.S. troops will commit genocide or crimes against humanity? The Court can only prosecute a national if that national's own government has not done a bona

vide investigation of the case. Only if there is no genuine investigation and the government was unable or unwilling to prosecute can the Court even begin a prosecution. The authors of this amendment appear to have lost all faith in our system of military justice.

There is nothing in this bill that the President could not do on his own; yet rather than pick up the phone and call the President, this amendment will force him and the nation to adopt a unilateral foreign policy that will not serve U.S. interests. And the ICC addressed by this amendment does not yet even exist.

At the end of World War II, the United States led the way in obtaining international justice by helping to establish the Nuremberg Tribunal. At the beginning of the new century, the Republican party seems intent on trying to kill and bury a new international tribunal that will further international justice. Let's not go down that road towards international isolationism and injustice.

Tom Lantos  
Patrick Kennedy