

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.

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

3 **SECTION 1. FINDINGS.**

4 The Congress finds the following:

5 (1) The preservation of international security
6 and peace rests on adherence to the rule of law and

1 principles of justice by the nations and peoples of
2 the world.

3 (2) International security and peace are threat-
4 ened by serious international crimes, including war
5 crimes, genocide, and crimes against humanity.

6 (3) The commission of such serious inter-
7 national crimes can have a severely detrimental ef-
8 fect on the United States and on our national inter-
9 ests, presenting a potentially great human, social,
10 and economic cost and leading to situations which
11 jeopardize the lives of United States citizens and
12 other individuals and shock the conscience of hu-
13 mankind.

14 (4) The prosecution of individuals suspected of
15 committing serious international crimes is often im-
16 peded by domestic, political, and legal obstacles im-
17 posed by the nations involved.

18 (5) The international military tribunals estab-
19 lished after World War II to try suspected war
20 criminals demonstrated that fair and effective pros-
21 ecution of war criminals could be carried out in an
22 international forum by nations acting in concert
23 under international law.

24 (6) Since its establishment in 1945, the United
25 Nations has sought to establish a permanent inter-

1 national criminal court to try crimes committed in
2 violation of international law, including the adoption
3 in 1950 of United Nations General Assembly Reso-
4 lution 489(V) that created a special Committee on
5 International Criminal Jurisdiction to prepare pro-
6 posals and a draft statute to establish an inter-
7 national criminal court.

8 (7) In 1978 the American Bar Association
9 adopted a resolution urging the Department of State
10 to open negotiations for a convention to establish an
11 international criminal court with jurisdiction over
12 international crimes of hijacking, violence aboard
13 aircraft, crimes against diplomats and internation-
14 ally protected persons, murder, and kidnapping.

15 (8) Beginning in recent decades with the 99th
16 Congress, the Congress has repeatedly passed legis-
17 lation pointing to the need for the establishment of
18 an international criminal court to prosecute individ-
19 uals who have committed the most serious inter-
20 national crimes and calling on the United States to
21 pursue the possible establishment of such a court.

22 (9) The United Nations General Assembly
23 adopted Resolution 44/39 on December 4, 1989,
24 calling on the International Law Commission to

1 study the feasibility of an international criminal
2 court.

3 (10) The draft report of the International Law
4 Commission issued in July 1990 expressed the Com-
5 mission's agreement in principle with the idea of es-
6 tablishing a permanent international criminal court.

7 (11) In the 101st Congress, in the Foreign Op-
8 erations, Export Financing, and Related Programs
9 Appropriations Act, 1991, Congress required the
10 President and the Judicial Conference of the United
11 States to report to the Congress on the establish-
12 ment of an international criminal court.

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

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

23 (14) The United Nations Security Council
24 adopted Resolution 808 on February 22, 1993, es-
25 tablishing an International Criminal Tribunal for

1 the Former Yugoslavia to prosecute persons respon-
2 sible for violations of international law in the terri-
3 tory of the former Yugoslavia and adopted Resolu-
4 tion 955 in 1994 establishing the International
5 Criminal Tribunal for Rwanda.

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

14 (16) The International Law Commission pre-
15 sented a draft statute for an international criminal
16 court at its 46th session on September 1, 1994.

17 (17) The United Nations General Assembly
18 adopted Resolution 49/53 on December 9, 1994, es-
19 tablishing an ad hoc committee, open to all states,
20 which met for 4 weeks in 1995 to review the major
21 substantive and administrative issues arising out of
22 the draft statute prepared by the International Law
23 Commission and to consider arrangements for the
24 convening of an international conference of pleni-
25 potentiaries.

1 (18) Based upon the report of the ad hoc com-
2 mittee, the United Nations General Assembly adopt-
3 ed Resolution 50/46 on December 18, 1995, estab-
4 lishing a preparatory committee on the establish-
5 ment of an international criminal court to further
6 review the substantive issues arising out of the draft
7 statute of the International Law Commission and to
8 draft texts, with a view to preparing a widely accept-
9 able consolidated text of a convention for an inter-
10 national criminal court as a next step toward consid-
11 eration by a conference of plenipotentiaries.

12 (19) The work of this preparatory committee in
13 1996 and 1997 has made encouraging and substan-
14 tial progress toward achieving such a consolidated
15 text.

16 (20) The United Nations General Assembly
17 adopted Resolution 51/207 calling for up to 9 weeks
18 of negotiations by the preparatory committee in
19 1997 and the beginning of 1998 to complete the
20 drafting of a widely accepted consolidated text of a
21 convention for a diplomatic conference in June
22 1998.

23 (21) President Clinton has expressed support
24 for a permanent war crimes tribunal, stating in Oc-
25 tober 1995 that “all nations around the world who

1 value freedom and tolerance [should] establish a per-
2 manent international criminal court to prosecute,
3 with the support of the United Nations Security
4 Council, serious violations of humanitarian law.”.

5 (22) The crimes under negotiation for inclusion
6 in the international criminal court’s jurisdiction are
7 the most serious and horrendous of international
8 crimes, such as genocide and crimes against human-
9 ity, and the failure to punish such crimes offends
10 worldwide standards of law and morality and threat-
11 ens the establishment of peace and reconciliation.

12 (23) The late 20th century has witnessed nu-
13 merous incidents of crimes of genocide, crimes
14 against humanity, and war crimes.

15 (24) The time is right for the creation of a per-
16 manent international criminal court and the United
17 States should continue to support strongly its estab-
18 lishment and participate fully in the preparation of
19 provisions under which such a court can be estab-
20 lished and can operate fairly and effectively.

21 **SEC. 2. SENSE OF THE CONGRESS.**

22 It is the sense of the Congress that the President,
23 acting through the permanent representative of the United
24 States to the United Nations—

1 (1) should continue to support and fully partici-
2 pate in negotiations at the United Nations and espe-
3 cially in the preparatory committee to establish an
4 international criminal court with jurisdiction over se-
5 rious international crimes, including war crimes,
6 genocide, and crimes against humanity; and

7 (2) should provide any assistance necessary to
8 expedite the establishment of such a court.

9 **SEC. 3. REPORT.**

10 Not later than 30 days after the date of the final
11 session of the preparatory committee described in section
12 2(1), the President shall submit to the Congress a detailed
13 report on developments relating to, and United States ef-
14 forts in support of, the establishment of an international
15 criminal court.

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