

117TH CONGRESS
2D SESSION

H. RES. 966

Expressing the sense of the House of Representatives regarding the need for investigation and prosecution of the crime of aggression and other international crimes committed by officials of the Government of the Russian Federation against the Government and people of Ukraine, and calling on the President to direct the United States representative to the United Nations to use the voice, vote, and influence of the United States to immediately promote the establishment of an appropriate regional or international justice mechanism to investigate and prosecute possible international crimes stemming from the Russian invasion of Ukraine, and further calling upon the President to convoke and convene the world's democracies for the purposes of establishing such an international justice mechanism at the earliest possible time, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 2022

Mr. SMITH of New Jersey (for himself, Ms. KAPTUR, Mr. WILSON of South Carolina, Mr. CHABOT, Mr. HARRIS, and Mr. SUOZZI) submitted the following resolution; which was referred to the Committee on Foreign Affairs

RESOLUTION

Expressing the sense of the House of Representatives regarding the need for investigation and prosecution of the crime of aggression and other international crimes committed by officials of the Government of the Russian Federation against the Government and people of Ukraine, and calling on the President to direct the United States representative to the United Nations to

use the voice, vote, and influence of the United States to immediately promote the establishment of an appropriate regional or international justice mechanism to investigate and prosecute possible international crimes stemming from the Russian invasion of Ukraine, and further calling upon the President to convoke and convene the world's democracies for the purposes of establishing such an international justice mechanism at the earliest possible time, and for other purposes.

Whereas Article 2(4) of the United Nations Charter (“UN Charter”) states that “All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations”;

Whereas Article 51 of the UN Charter states that “Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security”;

Whereas the Union of Soviet Socialist Republics (Soviet Union) and the Ukrainian Soviet Socialist Republic (Ukrainian SSR) were founding members of the United Nations (UN) and signatories to the UN Charter;

Whereas Ukraine declared independence from the Soviet Union on August 24, 1991, which was subsequently reaffirmed in a popular referendum on December 1, 1991;

Whereas, on December 2, 1991, then-President of the Russian Soviet Federative Socialist Republic, Boris Yeltsin, recognized that Ukraine was independent, and on Decem-

ber 8, 1991, the Soviet Union was dissolved by the Belovezh Accords and Ukraine was recognized as independent;

Whereas the United States recognized the independence of Ukraine on Christmas Day, 1991;

Whereas both Ukraine and the Russian Federation are successor states to the Ukrainian SSR and the Soviet Union that signed the UN Charter;

Whereas, on December 5, 1994, the Russian Federation signed the Budapest Memorandum, in which Russia agreed to: “respect the Independence and Sovereignty and the existing borders of Ukraine . . . refrain from the threat or use of force against the territorial integrity or political independence of Ukraine, and that none of their weapons will ever be used against Ukraine except in self-defense or otherwise in accordance with the Charter of the United Nations . . . [and] to refrain from economic coercion designed to subordinate to their own interest the exercise by Ukraine of the rights inherent in its sovereignty and thus to secure advantages of any kind.”;

Whereas, in February and March 2014, the Russian Federation military entered and occupied the Crimean region of Ukraine, the Ukrainian Autonomous Republic of Crimea, ejected the legitimate Ukrainian authorities, annexed the region to the Russian Federation, and subsequently sustained a brutal campaign of repression against Crimean Tatars, ethnic Ukrainians, and members of other minority ethnic and religious groups in the Ukrainian Autonomous Republic of Crimea, initiating a period of conflict in Ukraine;

Whereas, in April 2014, pro-Russian separatists began to seize territory in the eastern Donbas region of Ukraine and in August 2014 Russian Federation forces invaded Ukraine to support the separatists;

Whereas, on February 12, 2015, the Russian Federation signed the Minsk Agreement in which Russia agreed, inter alia, to “An immediate and comprehensive ceasefire in individual areas of the Donetsk and Luhansk regions of Ukraine . . . withdrawal of all heavy weapons by both parties . . . Restoration of full control over the state border of Ukraine by Ukraine’s government throughout the whole conflict area . . . [and] withdrawal of all foreign armed forces, military equipment, as well as mercenaries from the territory of Ukraine”;

Whereas the Russian Federation has failed to meet its obligations under the Minsk Agreement, and a state of conflict persisted until this year in the Donbas region;

Whereas, on February 21, 2022, Russian Federation President Vladimir Putin, alone among UN Member States, contrary to international law, and contrary to Russia’s commitments under the UN Charter, the Budapest Memorandum, and the Minsk Agreement, recognized two eastern Ukrainian oblasts in the Donbas region as independent states, which he called the Donetsk People’s Republic and the Luhansk People’s Republic;

Whereas, following Russian Federation President Vladimir Putin’s illegal February 21, 2022, recognition of the independence of the Ukrainian oblasts of Donetsk and Luhansk, President Putin ordered Armed Forces that he had massed on Ukraine’s border for several months to occupy these oblasts;

Whereas these and other actions perpetrated by the Russian Federation and all other national groups may constitute international crimes, to include the crime of aggression;

Whereas, on February 24, 2022, contrary to Russian Federation President Vladimir Putin's commitments under the UN Charter, the Budapest Memorandum, and the Minsk Agreement, he ordered his Armed Forces to mount a full scale invasion of Ukraine from the occupied Ukrainian oblasts of Donetsk, Luhansk, the occupied Ukrainian Autonomous Republic of Crimea, and the country of Belarus;

Whereas, on February 20, 2022, the Washington Post reported that United States Representative to the Office of the United Nations and Other International Organizations in Geneva, Ambassador Bathsheba Nell Crocker, informed UN High Commissioner for Human Rights, Michelle Bachelet, that the United States has "credible information that indicates Russian forces are creating lists of identified Ukrainians to be killed or sent to camps following a military occupation . . ." and ". . . credible information that Russian forces will likely use lethal measures to disperse peaceful protests or otherwise counter peaceful exercises of perceived resistance from civilian populations. . . .";

Whereas, on February 27, 2022, Russian Federation President Vladimir Putin publicly put his strategic nuclear forces on alert, thus exponentially escalating the seriousness of his invasion of Ukraine, and implicitly threatening NATO countries and others with nuclear annihilation;

Whereas the Russian Federation is a permanent member of the United Nations Security Council, with veto power;

Whereas the international community has previously established ad hoc tribunals and special courts and other justice mechanisms through the United Nations to bring justice in specific countries where there have been war crimes;

Whereas various tribunals, including the International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda, and the Special Court for Sierra Leone, have successfully investigated and prosecuted war crimes, and there are many positive lessons to be learned from these three ad hoc tribunals;

Whereas the crime of aggression is an international crime and recognized as such by most nations of the world; and

Whereas, if the United Nations is unwilling or unable to act, the world's democracies have an interest in seeing accountability for international crimes, to include the crime of aggression committed against a fellow democracy: Now, therefore, be it

1 *Resolved*, That it is the sense of the House of Rep-
2 resentatives that—

3 (1) the United States should urge the Govern-
4 ments of the Russian Federation, Ukraine, and
5 other groups involved in the war in Ukraine to im-
6 plement an immediate cease-fire and engage in nego-
7 tiations to end the bloodshed, while demanding that
8 the Russian Federation withdraw its forces from
9 Ukraine, the Ukrainian oblasts of Donetsk and
10 Luhansk, and the Ukrainian Autonomous Republic
11 of Crimea;

1 (2) the United States should publicly declare
2 that it is a requirement of basic justice that inter-
3 national crimes to include the crime of aggression,
4 whether committed by officials of the Government of
5 the Russian Federation, or members of other irreg-
6 ular separatist groups involved in the war in
7 Ukraine, should be investigated and prosecuted;

8 (3) the President should direct the United
9 States Representative to the United Nations to use
10 the voice, vote, and influence of the United States to
11 immediately promote the establishment of an inter-
12 national justice mechanism for Russian war crimes
13 and other crimes against Ukraine, and to prosecute
14 the perpetrators of such serious crimes committed
15 during the period of conflict in Ukraine;

16 (4) in the event that the United Nations is un-
17 able or unwilling to establish a tribunal for Russian
18 war crimes and other crimes against Ukraine, the
19 President should convoke and convene the world's
20 democracies for the purposes of establishing such a
21 regional or international justice mechanism;

22 (5) in working with other countries to establish
23 this regional or international justice mechanism for
24 Russian war crimes and other crimes against
25 Ukraine, the United States should assist all its part-

1 ners in this effort to develop judicial procedures that
2 enable the fair and open prosecution of those per-
3 sons guilty of perpetrating such serious crimes;

4 (6) the United States should encourage, sup-
5 port, and collect any and all information that can be
6 supplied to an appropriate regional or international
7 justice mechanism for Russian war crimes and other
8 crimes against Ukraine for use as evidence to sup-
9 port the indictment and trial of any persons respon-
10 sible for international crimes to include the crime of
11 aggression in Ukraine an immediate priority; and

12 (7) the United States should urge all other in-
13 terested states to apprehend and deliver into the
14 custody of an appropriate regional or justice mecha-
15 nism for Russian war crimes and other crimes
16 against Ukraine persons indicted for international
17 crimes and urge all interested states to provide any
18 and all data and information pertaining to such
19 crimes to that justice mechanism.

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