105TH CONGRESS 1ST SESSION H.R. 2121

To restrict foreign assistance for countries providing sanctuary to indicted war criminals who are sought for prosecution before the International Criminal Tribunal for the Former Yugoslavia.

IN THE HOUSE OF REPRESENTATIVES

JULY 9, 1997

Mr. CARDIN (for himself, Mr. HOYER, and Ms. PELOSI) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committee on Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

- To restrict foreign assistance for countries providing sanctuary to indicted war criminals who are sought for prosecution before the International Criminal Tribunal for the Former Yugoslavia.
 - 1 Be it enacted by the Senate and House of Representa-
 - 2 tives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

- 4 This Act may be cited as the "War Crimes Prosecu-
- 5 tion Facilitation Act of 1997".

1 SEC. 2. FINDINGS.

2 The Congress finds the following:

3 (1) In May 1993, the United Nations estab4 lished the International Criminal Tribunal for the
5 Former Yugoslavia.

6 (2) The mandate of the Tribunal is to prosecute 7 "genocide, crimes against humanity, grave breaches 8 of the Geneva Conventions, and violations of the 9 laws and customs of war" committed in the territory 10 of the former Yugoslavia from January 1, 1991, 11 until "a date to be determined after restoration of 12 peace".

13 (3) Parties to the Dayton Agreement, as well as 14 subsequent agreements, agreed to cooperate fully 15 with the "investigation and prosecution of war 16 crimes and other violations of international humani-17 tarian law". All members of the international com-18 munity are required by the Tribunal Statute to co-19 operate in "the identification and location of persons", "the arrest or detention of persons", and 20 "the surrender or the transfer of the accused" to the 21 22 Tribunal.

(4) Although 76 persons have been publicly indicted by the Tribunal, 66 remain at large. Of those
publicly indicted, there are 51 Bosnian Serbs, 1 Cro-

atian Serb, 3 Serbian Yugoslav Army officers, 18
 Bosnian Croats, and 3 Bosniacs.

3 (5) Credible reports indicate that some of the 4 indicted war criminals are living in areas of Bosnia 5 and Herzegovina that are under the effective control 6 of Croatia or Serbia-Montenegro. Many of the in-7 dicted war criminals have been sighted living openly 8 and freely in Croatia, the Croat-controlled areas of 9 the Federation of Bosnia and Herzegovina, 10 Republika Srpska, and Serbia-Montenegro.

(6) An estimated 2,000,000 persons have been
forced from their homes by the war, many of whom
remain displaced and unable to return to their
homes, in violation of the Dayton Accords, because
their homes are in a jurisdiction controlled by a different ethnic group.

17 (7) The fighting in Bosnia has ceased for more
18 than a year, and international efforts are now fo19 cused on the economic reconstruction and implemen20 tation of the civilian aspects of the Dayton Accords.

(8) The International Bank for Reconstruction
and Development, the European Bank for Reconstruction and Development, the International Monetary Fund, and individual donor countries, including
the United States, have begun disbursing funds to-

1 ward meeting an identified goal of \$5,100,000,000 2 for reconstruction of Bosnia. 3 SEC. 3. SENSE OF THE CONGRESS. 4 (a) IN GENERAL.—It is the sense of the Congress 5 that— 6 (1) reconciliation in Bosnia and Herzegovina 7 cannot be achieved if indicted war criminals remain 8 at large and refugees and displaced persons are un-9 able to return to their homes; 10 (2) reconstruction without reconciliation will 11 not be effective in ensuring stability in the long run 12 because, absent individual accountability, victimized 13 communities will assign collective responsibility, thus 14 perpetuating the cycle of hatred; and 15 (3) the Government of the United States should 16 ensure that multilateral and bilateral assistance is 17 provided to parties to the Dayton Agreement only if 18 doing so would promote reconciliation as well as re-19 construction, including the transfer of war criminals 20 to the Tribunal, the return of refugees and displaced 21 persons, and freedom of movement.

(b) ADDITIONAL PROVISION.—It is further the sense
of the Congress that the Tribunal, consistent with its mandate, should continue to investigate and bring indictments

against persons who have violated international humani tarian law.

3 SEC. 4. RESTRICTIONS ON FUNDING.

4 (a) BILATERAL ASSISTANCE.—

5 (1) IN GENERAL.—No assistance may be pro6 vided under the Foreign Assistance Act of 1961 or
7 the Arms Export Control Act for any country de8 scribed in subsection (d).

9 (2) APPLICATION TO PRIOR APPROPRIATIONS.— 10 The prohibition on assistance contained in para-11 graph (1) includes the provision of assistance from 12 funds appropriated prior to the date of enactment of 13 this Act.

(b) MULTILATERAL ASSISTANCE.—The Secretary of
the Treasury shall instruct the United States executive directors of the international financial institutions to work
in opposition to, and vote against, any extension by such
institutions of any financial or technical assistance or
grants of any kind to any country described in subsection
(d).

21 (c) EXCEPTIONS.—

(1) IN GENERAL.—Subject to paragraph (2),
subsections (a) and (b) shall not apply to the provision of—

25 (A) humanitarian assistance;

1	(B) democratization assistance; or
2	(C) assistance for physical infrastructure
3	projects involving activities in both a sanctioned
4	country and nonsanctioned contiguous coun-
5	tries, if the nonsanctioned countries are the pri-
6	mary beneficiaries.
7	(2) FURTHER LIMITATIONS.—Notwithstanding
8	paragraph (1)—
9	(A) no assistance may be made available
10	under the Foreign Assistance Act of 1961 or
11	the Arms Export Control Act for a program,
12	project, or activity in any country described in
13	subsection (d) in which an indicted war criminal
14	has any financial or material interest or
15	through any organization with which the in-
16	dicted individual is affiliated; and
17	(B) no assistance (other than emergency
18	food or medical assistance or demining assist-
19	ance) may be made available under the Foreign
20	Assistance Act of 1961 or the Arms Export
21	Control Act to any program, project, or activity
22	in any area in any country described in sub-
23	section (d) in which local authorities are not
24	complying with the provisions of Article IX and
25	Annex 4, Article II of the Dayton Agreement

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relating to war crimes and the Tribunal, or
 with the provisions of Annex 7 of the Dayton
 Agreement relating to the right of refugees and
 displaced persons to return to their homes of
 origin.

6 (d) SANCTIONED COUNTRIES.—A country described 7 in this section is a country the authorities of which fail 8 to apprehend and transfer to the Tribunal all persons who 9 have been indicted by the Tribunal and are in a territory 10 that is under the effective control of those authorities.

11 (e) WAIVER.—

12 (1) AUTHORITY.—The President may waive the 13 application of subsection (a) or subsection (b) with 14 respect to a country if the President determines and 15 certifies to the appropriate committees of Congress 16 within six months after the date of enactment of this 17 Act that a majority of the indicted persons who are 18 within a territory that is under the effective control 19 of the country have been arrested and transferred to 20 the Tribunal.

(2) PERIOD OF EFFECTIVENESS.—Any waiver
made pursuant to this subsection shall be effective
for a period of six months.

24 (f) TERMINATION OF SANCTIONS.—The sanctions25 imposed pursuant to subsection (a) or subsection (b) with

respect to a country shall cease to apply only if the Presi dent determines and certifies to Congress that the authori ties of that country have apprehended and transferred to
 the Tribunal all persons who have been indicted by the
 Tribunal and are in a territory that is under the effective
 control of those authorities.

7 SEC. 5. DEFINITIONS.

8 As used in this Act:

9 (1) COUNTRY.—The term "country" shall not 10 include the state of Bosnia and Herzegovina, and 11 the provisions of this Act shall be applied separately 12 to its constituent entities of Republika Srpska and 13 the Federation of Bosnia and Herzegovina.

14 (2) DAYTON AGREEMENT.—The term "Dayton
15 Agreement" means the General Framework Agree16 ment for Peace in Bosnia and Herzegovina, together
17 with annexes relating thereto, done at Dayton, No18 vember 10 through 16, 1995.

19 (3) DEMOCRATIZATION ASSISTANCE.—The term
20 "democratization assistance" includes electoral as21 sistance and assistance used in establishing the in22 stitutions of a democratic and civil society.

(4) HUMANITARIAN ASSISTANCE.—The term
"humanitarian assistance" includes disaster and
food assistance and assistance for demining, refu-

gees, housing, education, health care, and other so cial services.

3 (5) TRIBUNAL.—The term "Tribunal" means
4 the International Criminal Tribunal for the Former
5 Yugoslavia.

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