

AFFIRMATION OF THE UNITED STATES RECORD ON THE ARMENIAN GENOCIDE RESOLUTION

SEPTEMBER 22, 2010.—Referred to the House Calendar and ordered to be printed

Mr. BERMAN, from the Committee on Foreign Affairs,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H. Res. 252]

The Committee on Foreign Affairs, to whom was referred the resolution (H. Res. 252) calling upon the President to ensure that the foreign policy of the United States reflects appropriate understanding and sensitivity concerning issues related to human rights, ethnic cleansing, and genocide documented in the United States record relating to the Armenian Genocide, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the resolution be agreed to.

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SUMMARY

H. Res. 252, the “Affirmation of the United States Record on the Armenian Genocide Resolution,” calls upon the President to ensure that U.S. foreign policy reflects appropriate understanding and sensitivity concerning issues related to human rights, ethnic cleansing, and genocide documented in the U.S. record relating to the Armenian Genocide and the consequences of the failure to realize a just resolution. It also calls upon the President in the President’s annual message commemorating the Armenian Genocide, to accurately characterize the systematic and deliberate annihilation of 1.5 million Armenians as genocide, and to recall the proud history of U.S. intervention in opposition to the Armenian Genocide.

BACKGROUND AND PURPOSE FOR THE LEGISLATION

H. Res. 252, the “Affirmation of the United States Record on the Armenian Genocide Resolution,” was introduced on March 17, 2009, by Rep. Adam B. Schiff (D–CA) and 76 original cosponsors.

The deportations of ethnic Armenians from the eastern Ottoman provinces that began in 1915 resulted in 1.5 million deaths. The United States Ambassador to the Ottoman Empire at the time, the Honorable Henry Morgenthau, later wrote that: “When the Turkish authorities gave the orders for these deportations, they were merely giving the death warrant to a whole race.”

Accordingly, H. Res. 252 calls upon the President to ensure that the foreign policy of the United States reflects appropriate understanding and sensitivity concerning issues related to human rights, ethnic cleansing, and genocide documented in the United States record relating to the Armenian Genocide. It relates facts and statements that the deaths of 1.5 million ethnic Armenians over a period of several years starting in 1915 in regions controlled by the former Ottoman Empire were the result of a purposeful campaign of genocide against the Armenian nation. It declares that the United States House of Representatives calls on the President to ensure that the foreign policy of the United States reflects appropriate understanding and sensitivity concerning issues related to human rights, ethnic cleansing, and genocide documented in the United States record relating to the Armenian Genocide and the consequences of the failure to realize a just resolution. It also calls upon the President, in his annual message commemorating the Armenian Genocide, to accurately characterize the systematic and deliberate annihilation of 1.5 million Armenians as genocide and to recall the proud history of United States intervention in opposition to the Armenian Genocide.

HEARINGS

The committee did not hold hearings on this legislation.

COMMITTEE CONSIDERATION

On March 4, 2010, the committee held a markup of H. Res. 252 and passed a motion to order the legislation reported favorably by a vote of 23 ayes to 22 nays, a quorum being present.

VOTES OF THE COMMITTEE

On the vote to order the legislation favorably reported:

Voting yes: Berman, Ackerman, Faleomavaega, Payne, Sherman, Engel, Watson, Sires, Green, Woolsey, Lee, Berkley, Crowley, Costa, Ellison, Giffords, Klein, Smith, Gallegly, Rohrabacher, Manzullo, Royce and Bilirakis.

Voting no: Delahunt, Meeks, Carnahan, Connolly, McMahon, Tanner, Ross, Miller, Scott, Ros-Lehtinen, Burton, Paul, Flake, Pence, Wilson, Boozman, Barrett, Mack, Fortenberry, McCaul, Poe and Inglis.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the committee reports that the findings and recommendations of the committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of House Rule XIII, the committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office, pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, no estimate or comparison prepared by the Director of the Congressional Budget Office is necessary for H. Res. 252.

PERFORMANCE GOALS AND OBJECTIVES

The Act is intended to ensure that U.S. foreign policy reflects appropriate understanding and sensitivity concerning issues related to human rights, ethnic cleansing, and genocide documented in the U.S. record relating to the Armenian Genocide and the consequences of the failure to realize a just resolution; and in the President's annual message commemorating the Armenian Genocide, to characterize the systematic and deliberate annihilation of 1.5 million Armenians as genocide, and to recall the proud history of U.S. intervention in opposition to the Armenian Genocide.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the committee finds the authority for this legislation in article I, section 8 of the Constitution.

NEW ADVISORY COMMITTEES

H. Res. 252 does not establish or authorize any new advisory committees.

CONGRESSIONAL ACCOUNTABILITY ACT

H. Res. 252 does not apply to the Legislative Branch.

EARMARK IDENTIFICATION

H. Res. 252 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Section 1. Short title

The resolution may be cited as the “Affirmation of the United States Record on the Armenian Genocide Resolution.”

Section 2. Findings

The resolution states that the Armenian Genocide was conceived and carried out by the Ottoman Empire from 1915 to 1923, resulting in the deportation of nearly 2 million Armenians, of whom 1.5 million men, women and children were killed, 500,000 survivors were expelled from their homes, and which succeeded in the elimination of the over 2,500-year presence of Armenians in their historic homeland.

The resolution states that on May 24, 1915, the Allied Powers, England, France, and Russia, jointly issued a statement explicitly charging for the first time ever another government of committing a “crime against humanity.”

The resolution states that this joint statement stated “the Allied Governments announce publicly to the Sublime Porte that they will hold personally responsible for these crimes all members of the Ottoman Government, as well as those of their agents who are implicated in such massacres.”

The resolution states that the post-World War I Turkish Government indicted the top leaders involved in the “organization and execution” of the Armenian Genocide and in the “massacre and destruction of the Armenians.”

The resolution states that in a series of courts-martial, officials of the Young Turk Regime were tried and convicted, as charged, for organizing and executing massacres against the Armenian people.

The resolution states that the chief organizers of the Armenian Genocide, Minister of War Enver, Minister of the Interior Talaat, and Minister of the Navy Jemal were all condemned to death for their crimes; however, the verdicts of the courts were not enforced.

The resolution states that the Armenian Genocide and these domestic judicial failures are documented with overwhelming evidence in the national archives of Austria, France, Germany, Great Britain, Russia, the United States, the Vatican and many other countries, and this vast body of evidence attests to the same facts, the same events, and the same consequences.

The resolution states that the United States National Archives and Record Administration holds extensive and thorough documentation on the Armenian Genocide, especially in its holdings under Record Group 59 of the United States Department of State, files 867.00 and 867.40, which are open and widely available to the public and interested institutions.

The resolution states that the Honorable Henry Morgenthau, United States Ambassador to the Ottoman Empire from 1913 to 1916, organized and led protests by officials of many countries,

among them the allies of the Ottoman Empire, against the Armenian Genocide.

The resolution states that Ambassador Morgenthau explicitly described to the United States Department of State the policy of the Government of the Ottoman Empire as “a campaign of race extermination,” and was instructed on July 16, 1915, by United States Secretary of State Robert Lansing that the “Department approves your procedure . . . to stop Armenian persecution.”

The resolution refers to a Senate Concurrent Resolution 12 of February 9, 1916, resolved that “the President of the United States be respectfully asked to designate a day on which the citizens of this country may give expression to their sympathy by contributing funds now being raised for the relief of the Armenians,” who at the time were enduring “starvation, disease, and untold suffering.”

The resolution states that President Woodrow Wilson concurred and also encouraged the formation of the organization known as Near East Relief, chartered by an Act of Congress, which contributed some \$116 million from 1915 to 1930 to aid Armenian Genocide survivors, including 132,000 orphans who became foster children of the American people.

The resolution states that Senate Resolution 359, dated May 11, 1920, stated in part, “the testimony adduced at the hearings conducted by the subcommittee of the Senate Committee on Foreign Relations have clearly established the truth of the reported massacres and other atrocities from which the Armenian people have suffered.”

The resolution states that the resolution followed the April 13, 1920, report to the Senate of the American Military Mission to Armenia led by General James Harbord, that stated “[m]utilation, violation, torture, and death have left their haunting memories in a hundred beautiful Armenian valleys, and the traveler in that region is seldom free from the evidence of this most colossal crime of all the ages.”

The resolution states that as displayed in the United States Holocaust Memorial Museum, Adolf Hitler, on ordering his military commanders to attack Poland without provocation in 1939, dismissed objections by saying “[w]ho, after all, speaks today of the annihilation of the Armenians?” and thus set the stage for the Holocaust.

The resolution states that Raphael Lemkin, who coined the term “genocide” in 1944, and who was the earliest proponent of the United Nations Convention on the Prevention and Punishment of Genocide, invoked the Armenian case as a definitive example of genocide in the 20th century.

The resolution states that the first resolution on genocide adopted by the United Nations at Lemkin’s urging, the December 11, 1946, United Nations General Assembly Resolution 96(1) and the United Nations Convention on the Prevention and Punishment of Genocide itself recognized the Armenian Genocide as the type of crime the United Nations intended to prevent and punish by codifying existing standards.

The resolution that in 1948, the United Nations War Crimes Commission invoked the Armenian Genocide “precisely . . . one of the types of acts which the modern term ‘crimes against humanity’ is intended to cover” as a precedent for the Nuremberg tribunals.

The resolution that the Commission stated that “[t]he provisions of Article 230 of the Peace Treaty of Sevres were obviously intended to cover, in conformity with the Allied note of 1915 . . . , offenses which had been committed on Turkish territory against persons of Turkish citizenship, though of Armenian or Greek race. This article constitutes therefore a precedent for Article 6c and 5c of the Nuremberg and Tokyo Charters, and offers an example of one of the categories of ‘crimes against humanity’ as understood by these enactments.”

The resolution refers to a House Joint Resolution 148, adopted on April 8, 1975, resolved: “[t]hat April 24, 1975, is hereby designated as ‘National Day of Remembrance of Man’s Inhumanity to Man,’ and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day as a day of remembrance for all the victims of genocide, especially those of Armenian ancestry”;

The resolution states that President Ronald Reagan in proclamation number 4838, dated April 22, 1981, stated in part “like the genocide of the Armenians before it, and the genocide of the Cambodians, which followed it—and like too many other persecutions of too many other people—the lessons of the Holocaust must never be forgotten.”

The resolution refers to a House Joint Resolution 247, adopted on September 10, 1984, resolved: “[t]hat April 24, 1985, is hereby designated as ‘National Day of Remembrance of Man’s Inhumanity to Man,’ and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day as a day of remembrance for all the victims of genocide, especially the one and one-half million people of Armenian ancestry.”

The resolution states that in August 1985, after extensive study and deliberation, the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities voted 14 to 1 to accept a report entitled “Study of the Question of the Prevention and Punishment of the Crime of Genocide,” which stated “[t]he Nazi aberration has unfortunately not been the only case of genocide in the 20th century. Among other examples which can be cited as qualifying are . . . the Ottoman massacre of Armenians in 1915–1916.”

The resolution states that this report also explained that “[a]t least 1,000,000, and possibly well over half of the Armenian population, are reliably estimated to have been killed or death marched by independent authorities and eye-witnesses. This is corroborated by reports in United States, German and British archives and of contemporary diplomats in the Ottoman Empire, including those of its ally Germany.”

The resolution states that the United States Holocaust Memorial Council, an independent Federal agency, unanimously resolved on April 30, 1981, that the United States Holocaust Memorial Museum would include the Armenian Genocide in the Museum and has since done so.

The resolution states that reviewing an aberrant 1982 expression (later retracted) by the United States Department of State asserting that the facts of the Armenian Genocide may be ambiguous, the

United States Court of Appeals for the District of Columbia in 1993, after a review of documents pertaining to the policy record of the United States, noted that the assertion on ambiguity in the United States record about the Armenian Genocide “contradicted longstanding United States policy and was eventually retracted.”

The resolution states that on June 5, 1996, the House of Representatives adopted an amendment to House Bill 3540 (the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997) to reduce aid to Turkey by \$3 million (an estimate of its payment of lobbying fees in the United States) until the Turkish Government acknowledged the Armenian Genocide and took steps to honor the memory of its victims.

The resolution states that President William Jefferson Clinton, on April 24, 1998, stated: “This year, as in the past, we join with Armenian-Americans throughout the nation in commemorating one of the saddest chapters in the history of this century, the deportations and massacres of a million and a half Armenians in the Ottoman Empire in the years 1915–1923.”

The resolution states that President George W. Bush, on April 24, 2004, stated: “On this day, we pause in remembrance of one of the most horrible tragedies of the 20th century, the annihilation of as many as 1,500,000 Armenians through forced exile and murder at the end of the Ottoman Empire.”

The resolution states that despite the international recognition and affirmation of the Armenian Genocide, the failure of the domestic and international authorities to punish those responsible for the Armenian Genocide is a reason why similar genocides have recurred and may recur in the future, and that a just resolution will help prevent future genocides.

Section 3. Declaration of policy

The resolution calls upon the President to ensure that the foreign policy of the United States reflects appropriate understanding and sensitivity concerning issues related to human rights, ethnic cleansing, and genocide documented in the United States record relating to the Armenian Genocide and the consequences of the failure to realize a just resolution.

In addition, the resolution calls upon the President in the President’s annual message commemorating the Armenian Genocide issued on or about April 24, to accurately characterize the systematic and deliberate annihilation of 1.5 million Armenians as genocide and to recall the proud history of United States intervention in opposition to the Armenian Genocide.

ADDITIONAL VIEWS

This committee has, over the past few years, debated the issues raised by proposed measures similar to House Resolution 252 (H. Res. 252). These resolutions, and H. Res. 252 in particular, represent the desire of the ethnic Armenian victims, as well as their survivors and descendants, to have the inter-ethnic violence that wracked the disintegrating Ottoman Turkish Empire early in the last century recognized as a genocide.

Concurrently, there have been repeated calls in recent years for the establishment of a joint historical commission to review all of the events involved in the wave of atrocities that occurred in the Ottoman Empire in the early 20th century.

Members of the committee, as articulated during consideration of H. Res. 252, have been encouraged by the recent willingness of the leadership of the Governments of Armenia and Turkey to agree to such a commission, as laid out in the two protocols they agreed to in October 2009. These two protocols called for: The opening of the border; a commitment to refrain from all forms of terrorism, extremism and violence; and the establishment of diplomatic relations. They also called for the establishment of a historical commission to conduct an impartial, scientific examination of records and archives relating to the devastating events of 1915. This is an effort worthy of support.

Therefore, any archives that may contain relevant documents regarding the atrocities, warfare and inter-ethnic violence in the Ottoman Empire in that period, which have not been fully opened, should be made immediately available to both countries, to a joint historical commission described in the two protocols, and to interested parties researching the events of that time. Philip H. Gordon, Assistant Secretary of State for European and Eurasian Affairs, stated on March 16, 2010, *“As President Obama has said, our interest is in a full, frank and just acknowledgement of the facts related to the events of 1915. But the best way to do that, we believe, is for the Armenian and Turkish people themselves to address this history as part of their efforts to build a future of shared peace and prosperity.”* The committee should take steps to encourage such transparency and cooperation.

Inevitably, in all committee and congressional debates on measures such as House Resolution 252, issues related to the broader national interests of the United States must be considered. Such issues are a necessary review of the potential implications of congressional action on a particular measure for the security, strategic, and foreign policy needs and priorities of the United States. Such consideration is not an attempt to judge the arguments for or against the case that the atrocities and events of the early 20th century in Ottoman Turkey amounted to genocide but, rather, is a necessary exercise to fully understand the implications of the com-

mittee's and Congress' actions with respect to H. Res. 252 on our Nation's continuing effort to combat global extremism, as well as on the success of our military operations and safety of our troops in Iraq and Afghanistan, given Turkey's role in our Nation's ability to carry out its mission in these two fronts. As noted by several former Secretaries of State in a letter to House Speaker Nancy Pelosi in 2007 regarding a measure similar to H. Res. 252, passage of such a resolution could undermine U.S. national security interests in the region, including the safety of our troops in Iraq and Afghanistan, by jeopardizing the U.S.-Turkey strategic relationship. Specifically, these former Secretaries of State wrote, "*Turkey is an indispensable partner to our efforts in Iraq and Afghanistan, helping U.S. military with access to Turkish airspace, military bases, and the border crossing with Iraq . . . Turkey is a linchpin in the transshipment of vital cargo and fuel resources to U.S. troops, coalition partners and Iraqi civilians. Turkish troops serve shoulder-to-shoulder with distinction with U.S. and other NATO allies in the Balkans.*" House Armed Services Committee Chairman Ike Skelton and House Readiness Subcommittee Chairman Congressman Solomon Ortiz also voiced concern, at that time, in a separate letter to Speaker Pelosi, and cautioned that "*approving [such a measure] in the House of Representatives would be counterproductive to U.S. national interests in the Middle East and could hinder America's ability to strategically redeploy U.S. military forces from Iraq.*" Further information on these and related issues was also provided at the time by the Executive Branch, in classified form, to assist the committee members in their consideration of the measure then before the committee.

When House Resolution 252 was scheduled for markup by the committee, the Minority on the committee and the Minority Leadership of the House requested current assessments from the Executive Branch regarding the bilateral relationship between the U.S. and both Turkey and Armenia and the potential implications for U.S. national security and strategic interests of committee adoption of the measure. Despite repeated inquiries, such updated materials were not provided in any form. However, news reports published in the days surrounding committee consideration of the resolution, highlighted the current Administration's opposition to the committee's action on H. Res. 252 on March 4, 2010:

"In a last-ditch attempt to avoid a vote, Secretary of State Hillary Clinton telephoned Howard Berman, the House Foreign Affairs Committee chairman . . . to highlight the potential fallout." (*The Times of London, March 4, 2010*)

". . . Clinton said her government would 'work very hard to make sure it does not go to the House floor.' US President Barack Obama's administration had been silent about the resolution until shortly before the vote at the House of Representatives, when it said it opposed its passage." (*The Jerusalem Post, March 5, 2010*)

"The U.S. Secretary of Defense said on Saturday. . . . 'We certainly hope that the Congress and the House of Representatives take this measure no further.'" (*Turkish English Language Daily-Todays Zaman, March 14, 2010*)

Further, as the United States is currently engaged in complex efforts to compel the Iranian regime to abandon its nuclear program and all other activities that threaten the United States, our interests, and our allies, the committee and the Congress should consider Turkey and Armenia's actions vis-à-vis Iran and the potential impact that adoption of H. Res. 252 could have on the ability of the U.S. to secure cooperation from both countries in isolating the Iranian regime. In recent months, Turkey has voted against stronger sanctions against Iran in the United Nations Security Council, has emphatically stated that energy agreements with Iran shall continue, and has signed agreements for a \$1 billion gas pipeline deal and for the liberalization of visas for travel between the two countries. For its part, Armenia, as the State Department noted in its 2008 Country Reports on Terrorism, has been "reluctant" to engage in international efforts to criticize or pressure Iran to abandon its nuclear ambitions. Armenia and Iran have instead continued to strengthen their cooperative relations on finance, transportation and energy-related projects. As this report is being written, Iranian Foreign Minister Manouchehr Mottaki and Armenian Foreign Minister Eduard Nalbandian have in fact announced the two countries' intention to further increase bilateral ties.

Ultimately, congressional action on issues addressed in H. Res. 252 affecting Armenia and Turkey should focus on encouraging the governments of the two countries to reinvigorate their earlier, tentative agreement, embodied in the protocols of 2009, to establish a joint historical commission to conduct an impartial inquiry, toward an improvement of relations between the governments and the people of Turkey and Armenia.

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