



Coalition for the
International
Criminal Court

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FOR IMMEDIATE RELEASE

US Congress Passes Anti-ICC “Hague Invasion Act”

American Servicemembers’ Protection Act to be Signed by President Bush

(New York, 26 July 2002) – The NGO Coalition for the International Criminal Court (ICC) condemned this week’s passage of the anti-ICC American Servicemembers’ Protection Act (ASPA) by the United States House and Senate on Wednesday, July 24th, as part of a broader supplemental appropriations defense bill for use in the “war on terror.” It is expected that the bill, which authorizes the military invasion of ICC headquarters in the Netherlands, will be signed by President Bush before the August recess.

“This Congressional action is part of a multi-pronged effort of the US government to undermine international justice, international law and international peacekeeping,” stated William R. Pace, Convenor of the global Coalition for the International Criminal Court. Pace added, “As an American, I am ashamed of the lies and hypocrisy of the US government towards the ICC, and the disastrous reversal of US leadership on international law and justice during the new Bush Administration.”

This March, officials in the Bush Administration began an offensive against the international justice system by attacking the UN tribunals prosecuting war crimes committed in Yugoslavia and Rwanda, urging that their mandate be shifted to a condensed timeframe. On May 6th, 2002, the Bush Administration announced in a policy address and letter to UN Secretary-General Kofi Annan that it did not consider itself bound by the United States’ signature of the Court’s founding treaty, the Rome Statute, which occurred during the Clinton presidency. Simultaneously, the Bush administration began an anti-ICC campaign in the United Nations Security Council and in capitols around the world, where it continues to seek bilateral non-cooperation agreements exempting its citizens from the possibility of ICC prosecution.

In the UN Security Council, the US government threatened to shut down UN peacekeeping operations worldwide unless all those involved in UN operations were provided with immunity from prosecution by the Court. On June 30th, the US vetoed the renewal of the UN peacekeeping mission in Bosnia-Herzegovina, heightening the sense of urgency around its demands. UN Secretary-General Kofi Annan responded by sending a letter to US Secretary of State Colin Powell, characterizing the US proposal as an irresponsible threat to peacekeeping and the legitimacy of the Security Council that “fl(ew) in the face of international treaty law.” On July 12th, after two weeks of contentious negotiations, the Security Council succumbed to US pressure and unanimously approved a weakened version of the proposal, granting nationals of non-State parties exemption, from the jurisdiction of the Court for one year when engaged in UN authorized or sanctioned operations.

The passage of ASPA entrenches the US offensive at the national level through aggressive anti-ICC provisions, including the use of military force to free US nationals and citizens of allied countries detained by the Court, and the withdrawal of military assistance from some non-NATO States Parties to the Rome Statute. The legislation furthermore maintains that peacekeeping operations must exempt U.S. Armed Forces from criminal prosecution by the ICC and prohibits U.S. Armed Forces from engaging in peacekeeping missions unless there is a presidential waiver. According to William Pace, this legislation, “like the Security Council resolution proposed by the US, includes language, such as authorization of an invasion of the Netherlands, that is illegal in terms of international law, US Atlantic Alliance and NATO treaties.”

The severity and questionable constitutionality of earlier ASPA drafts submitted by Senator Helms and Congressman DeLay were modified through the incorporation of broad presidential waivers that, if used, could render the legislation null and void. Unlike earlier versions of ASPA, the adopted legislation also permits the US government to cooperate with international efforts to bring to justice war criminals, citing by name Saddam Hussein, Slobodan Milosovic and Osama bin Laden. Senator Dodd, who submitted this provision, stated that the law gives the President, “the discretion to cooperate with any and all international efforts to bring such criminals to justice, including to the ICC.”

The ICC, the jurisdiction of which was established by the July 1st entry into force of the Rome Statute, will be the first permanent, independent judicial body capable of trying individuals accused of genocide, war crimes and crimes against humanity. The Court, which is being set up and paid for by the nations that ratify the Rome Statute -- 76 to date -- and which already has an advance team operating in The Hague, is expected to begin hearing cases by mid-2003.

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