

WHY THE U.S. SHOULD NOT “UNSIGN” THE ICC TREATY

Unsigning would do real and lasting damage to U.S. foreign policy

The international community is about to reach an historic milestone: the creation of a permanent international court capable of bringing to justice those who have committed genocide, war crimes and crimes against humanity.

The International Criminal Court (ICC) will be established in early April 2002, when the 60th country ratifies the “Rome Statute” – the treaty that will establish the ICC. To date, 139 countries have signed the treaty and 56 have ratified. As demonstrated by the overwhelming number of signatures of this treaty, the global community is overwhelmingly in support of a permanent ICC.

Only one country is moving rapidly and aggressively in the opposite direction: the United States. The Bush Administration is considering denouncing the United States’ signature of the treaty – or “un-signing” it.

The un-signing of a treaty is unprecedented; never before has a country denounced its own signature of a treaty. Unsigning would be a grave mistake and could do real and lasting damage to U.S. foreign policy goals. **By denouncing its signature of the Rome Statute, the United States would:**

- **Establish a dangerous precedent.** If the U.S. “unsigns” this treaty, interest groups will seize this example to urge the President to un-sign other treaties, such as the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), or the Covenant on Economic, Social and Cultural Rights.
- **Open the door for autocratic leaders to ignore their international commitments.** Equally dangerous, other countries might well use the U.S. precedent to justify backing out of important international commitments – such as chemical and biological weapons treaties, treaties on children’s rights, the International Convention for the Suppression of Terrorist Bombings, and the International Convention for Suppression of the Financing of Terrorism.
- **Antagonize its allies.** Close U.S. allies, such as European Union member states, will excoriate the United States for eroding the international rule of law. The U.K. recently warned the U.S. not to risk a serious rift with its European allies by undermining the ICC just as the treaty is to be officially ratified. The European Union has adopted a ‘Common Position’ making the ICC central to its foreign policy, while all of the U.S.’s NATO allies – with the exception of Turkey – are supporters of the Court.

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- **Detract from the U.S.-lead coalition in the “war on terrorism.** In the current global environment, unsigning might well hobble U.S. efforts to congeal international cooperation with its ‘war on terrorism.’

- **Have no real effect on the ICC process.** Among the Bush Administration’s reserves about the ICC treaty, is concern from the Pentagon that U.S. soldiers could be brought before the Court. The U.S. government made this concern known as far back as during the Rome Conference, which led to the adoption of the Rome Statute, in July of 1998. Unsigning the treaty would achieve no more than to express U.S. concerns more stridently than they have already been expressed, publicly and privately and will neither slow down nor stop the establishment of the court.