

**STATEMENT OF SECRETARY OF DEFENSE DONALD H. RUMSFELD
BEFORE THE SENATE APPROPRIATIONS COMMITTEE DEFENSE
SUBCOMMITTEE 2003
DEFENSE BUDGET REQUEST
MAY 21, 2002**

An excerpt reads:

International Criminal Court

We must also protect our men and women in uniform from the jurisdiction of the new International Criminal Court, which is expected to come into being this July 1".

The ICC's entry into force this summer means that Americans may soon be exposed to the risk of prosecution by a court that is unaccountable to the American people, and that has no obligation to respect the Constitutional rights of our citizens.

The United States has a number of serious objections to the ICC- among them, the lack of adequate checks and balances on powers of the ICC prosecutor and judges; the dilution of the UN Security Council's authority over international criminal prosecutions; and the lack of any effective mechanism to prevent politicized prosecutions of American service members and officials.

These flaws would be of concern at any time, but they are particularly troubling in the midst of a difficult, dangerous war on terrorism. There is the risk that the ICC could attempt to assert jurisdiction over U.S. service personnel, as well as civilians, involved in counter-terrorist and other military operations-something we cannot allow.

Unfortunately, the ICC will not respect the U.S. decision to stay out of the treaty. To the contrary, the ICC will claim the authority to detain and try American citizens-U.S. soldiers, sailors, airmen and marines, as well as current and future officials-even though the

United States has not given its consent to be bound by the treaty.

The United States understandably finds that troubling and unacceptable.

In fact, some have argued that the military departments need relief from strength because of the many demands we have placed on our forces. Before entertaining such a relaxation, I have asked the services to scrutinize those missions and assignments from which we can extract our forces and relieve some of the pressure. While the numbers are not large, one area that we must look to immediately are those missions for which our forces are assigned but in which there may be some exposure to prosecution by the International Criminal Court. As we consider U.N. peacekeeping mandates -- for example, the mission in East Timor -- I intend to work closely with the Secretary of State to ensure that our forces would be indemnified from prosecution before committing them.

To deal with the threat posed by the ICC, some have proposed legislation, including the American Servicemembers Protection Act, as passed by the House of Representatives. Such legislation will provide needed protections for our men and women in uniform, as they conduct the global war on terrorism and voluntarily risk their lives to defend our freedom and way of life.