

U.S. Department of State Office of the Spokesman Press Statement

Press Statement by James P. Rubin, Spokesman
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U.S. Position on Self-Initiating Prosecutor at the Rome Conference on Establishment of International Criminal Court

The United States strongly supports the creation of a fair, effective and properly constituted International Criminal Court (ICC). Yesterday evening at the Rome Conference, the United States expressed its concern about a proposal that the Court's prosecutor have the inherent power to initiate his or her own investigations absent a referral from state parties or the Security Council.

The United States advocates the creation of an effective office of the prosecutor that can act independently of political considerations and that will be impartial and fair. When a situation is properly referred to the Court, the prosecutor should be free to investigate the situation and file whatever charges are merited within the context of the overall referral.

Some states have suggested that the Court prosecutor should have the right to initiate investigations and seek indictments against anyone in any place. They argue that states will be reluctant to refer atrocities, so a prosecutor should have the ability to act on his or her own, accepting referrals from individuals and organizations in need. Although we respect the views of those who advocate this position, we believe that in balance, their proposal is unrealistic and unwise. If neither the Security Council nor any state endorses action by the Court, the prosecutor would act without a critical and essential base of international consensus.

It is our firm view that proposals for a self-initiating prosecutor complicate and perhaps compromise the prosecutor's central mandate--investigating thoroughly those crimes of most concern to the international community: genocide, crimes against humanity and the most serious war crimes. The prosecutor's office must not become a human rights ombudsman responsive to any and all complaints. Doing so will only flood the Court's docket, hinder its investigations into the most serious crimes, create controversy over the outer limits of the Court's jurisdiction, and undermine the core consensus and international support that is essential to an effective Court.

The United States rejects the notion that states will fail to respond to atrocities. Indeed, the United States and other states have, through the Security Council, established International Criminal Tribunals for the

former Yugoslavia and Rwanda, demonstrating that states can and will work to secure international justice. We remain confident that a state referral system will buttress the international support necessary for an effective ICC.