U.S. Initiative on the International Criminal Court

The United States is taking the initiative to address its fundamental concern about the proposed International Criminal Court (ICC) without seeking any amendment or other modification to the Rome Treaty. We are making this proposal because we remain concerned about the ICC's extension of jurisdiction over certain personnel from states that are not party to the Treaty.

Our proposal would prevent the ICC from requesting the surrender or accepting custody of a non-party national where that national was acting under the overall direction of its state as long as that state acknowledged such action. It is critical that irresponsible nations not be allowed to take advantage of this privilege. Our proposal therefore enables responsible non-party states to perform their international responsibilities while continuing to subject to the Court's jurisdiction those individuals from states whose actions prompted the call for the very establishment of the ICC.

As a key participant in the negotiations leading to the Rome Treaty and the ongoing UN Preparatory Commission on the ICC, the United States has consistently fulfilled its obligations in worldwide military deployments and peacekeeping operations, and has done so with the full support of most nations that support the ICC. The U.S. proposal would be part of an international agreement between the United Nations and the Court that is required by the Rome Treaty. Our proposal is fully consistent with the Rome Treaty, which requires the ICC to honor international agreements concerning the actual surrender of nationals to the ICC.

The ICC would be a much stronger and more respected institution with the United States as a participant and supporter. Rejection of this proposal could result in the unintended consequence of yielding a less viable and vibrant ICC. The United States strongly supports the establishment of an appropriate international criminal court to hold accountable the perpetrators of genocide, crimes against humanity, and serious war crimes. The ICC has such potential. Nonetheless, responsible nations whose objectives are to maintain or restore international peace and security as well as to pursue humanitarian missions must be able to act in harmony with the ICC, both prior to and after joining the Rome Treaty. The United States seeks a properly constituted ICC that would not place at risk those individuals from countries that accept the responsibility of pursuing these noble goals.