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European Parliament resolution on the General Affairs Council's  
position concerning the International Criminal Court

The European Parliament,

having regard to its previous resolutions on the International Criminal Court, in particular those of 19 November 1998, 18 January 2002, 28 February 2003, its resolution of 4 July 2002 on the draft American Service Members' Protection Act (ASPA) 4 and its resolution of 26 September 2002,

having regard to the Rome Statute of the International Criminal Court and in particular Articles 16, 86 and 98 thereof,

having regard to the declaration of 1 July 2002 on the International Criminal Court by the Council Presidency on behalf of the EU,

having regard to the EU Council conclusion on the ICC and its guiding principles adopted on 30 September,

A. whereas all the Member States and most applicant states have ratified the Rome Statute,

B. underlining that the US action from the very beginning was aimed at weakening the credibility of the ICC, exerting pressure on all the signatories and threatening to impose sanctions on states that ratified the Rome Statute in order to prevent its full establishment,

C. highlighting the fact that by supporting the enactment of the American Service Members' Protection Act (ASPA) in 2001 and withdrawing the signature of the US from the Rome Treaty in 2002 the Bush administration has proved openly its hostility to the ICC,

D. whereas the USA seeks to conclude a series of bilateral immunity agreements to prevent its officials, employees, military personnel or nationals from being surrendered to the ICC,

E. whereas the EU Council, at its meeting on 30 September 2002, adopted four 'guiding principles',

1. Is firmly committed to preserving the full integrity of the Rome Statute and the early establishment as an effectively functioning body of the International Criminal Court;

2. Welcomes the initial efforts of the Danish Presidency to preserve a united position of the EU Member States, but regrets that the General Affairs Council, against the clear will of the European Parliament, has not adopted a clear common position in response to the US Administration's efforts to conclude bilateral agreements with individual Member States and by doing this to undermine the universality of the International Criminal Court;

3. Regrets the vague indications contained in the Council's Decision on the ICC and calls on the Council to undertake further efforts to adopt a truly common EU policy on this issue;

4. Reiterates that no immunity agreement should ever create the possibility of impunity of any individual accused of war crimes, crimes against humanity or genocide;

5. Calls on National Parliaments in the EU and in the applicant countries to carefully scrutinise any activity their respective governments may undertake in relation to the Rome Statute of the ICC;

6. Firmly believes that under the Rome Statute ICC State Parties must refrain from undermining the full effectiveness of the Court and jeopardising the Court's role as a complementary jurisdiction to State jurisdictions;

7. Recalls its request to the Council to present to the Parliament a progress report on the ICC before the Copenhagen European Council in December, identifying any international agreement relating to the ICC and evaluating its compatibility with the Rome Statute;

8. Urges the Council to make all efforts to start a frank dialogue with the US Government and Congress in order to stop the pressure and the threat of sanctions against the countries which have ratified the Rome Treaty and encourage the US administration to approach the ICC in a spirit of cooperation;

9. Recalls that it expects the governments and parliaments of the Member States to refrain from adopting any agreement which undermines the effective implementation of the Rome Statute; considers in consequence that ratifying such an agreement is incompatible with membership of the EU;

10. Addresses the same request to the applicant countries, the countries associated with the EU in the Euro-Mediterranean partnership, the Mercosur, Andean Pact and San José Process countries, the countries involved in the Stabilisation and Association Process and the ACP countries which are parties or signatories to the Statute;

11. Instructs its President to forward this resolution to the Council, the Commission, the Government and Congress of the United States, the President of the Assembly of the state parties to the Rome Statute of the ICC and the National Parliaments of applicant countries and countries associated with the EU under various agreements, in particular the ACP Assembly, which will debate this issue at its upcoming meeting.

1 OJ C 379, 7.12.1998, p. 265.

2 OJ C 262, 18.9.2001, p. 262.

3 P5\_TA(2002)0082.

4 P5\_TA(2002)0367.

5 P5\_TA(2002)0449.

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