



United States Department of Defense

## News Release

On the web:

[http://www.defenselink.mil/news/May2002/b05062002\\_bt233-02.html](http://www.defenselink.mil/news/May2002/b05062002_bt233-02.html)

Media contact: [media@defenselink.mil](mailto:media@defenselink.mil) or +1 (703) 697-5131

Public contact: [public@defenselink.mil](mailto:public@defenselink.mil) or +1 (703) 428-0711

No. 233-02

May 6, 2002

**IMMEDIATE RELEASE**

---

### SECRETARY RUMSFELD STATEMENT ON THE ICC TREATY

Earlier today, this administration announced the president's decision to formally notify the United Nations that the United States will not become a party to International Criminal Court treaty. The U.S. declaration, which was delivered to the secretary general this morning, effectively reverses the previous U.S. government decision to become a signatory.

The ICC's entry into force on July 1st means that our men and women in uniform -- as well as current and future U.S. officials -- could be at risk of prosecution by the ICC. We intend to make clear, in several ways, that the United States rejects the jurisdictional claims of the ICC. The United States will regard as illegitimate any attempt by the court or state parties to the treaty to assert the ICC's jurisdiction over American citizens.

The U.S. has a number of serious objections to the ICC -- among them, the lack of adequate checks and balances on powers of the ICC prosecutors and judges; the dilution of the U.N. Security Council's authority over international criminal prosecutions; and the lack of an effective mechanism to prevent politicized prosecutions of American servicemembers 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. servicemembers, as well as civilians, involved in counter-terrorist and other military operations -- something we cannot allow.

Notwithstanding these objections to the treaty, the United States respects the decision of those nations that have chosen to join the ICC. But they, in turn, will need to respect our decision *not* to join the ICC or to place our citizens under the jurisdiction of the court.

Unfortunately, the ICC will not respect the U.S. decision to stay out of the treaty. To the contrary, the ICC provisions 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. When the ICC treaty enters into force this summer, U.S. citizens will 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 understandably finds that troubling and unacceptable.

Clearly the existence of an International Criminal Court, which attempts to claim jurisdiction over our men and women in uniform stationed around the world, will necessarily complicate U.S. military cooperation with countries that are parties to the ICC treaty -- because those countries may now incur a treaty obligation to hand over U.S. nationals to the court, even over U.S. objections. The United States would consider any such action to be illegitimate.

We obviously intend to avoid such actions. Fortunately there maybe mechanisms within the treaty by which we can work bilaterally with friends and allies, to the extent they are willing, to prevent the jurisdiction of the treaty and thus avoid complications in our military cooperation. Obviously, countries that have not ratified the treaty would be under no such obligation to cooperate with the court.

By putting U.S. men and women in uniform at risk of politicized prosecutions, the ICC could well create a powerful disincentive for U.S. military engagement in the world. If so, it could be a recipe for isolationism -- something that would be unfortunate for the world, given that our country is committed to engagement in the world and to contributing to a more peaceful and stable world.

For a strong deterrent, it is critical that the U.S. be leaning forward, not back. We must be ready to defend our people, our interests, and our way of life. We have an obligation to protect our men and women in uniform from this court and to preserve America's ability to remain engaged in the world. And we intend to do so.

[http://www.defenselink.mil/news/May2002/b05062002\\_bt233-02.html](http://www.defenselink.mil/news/May2002/b05062002_bt233-02.html)