

November 5, 2002

Kingston, Pennsylvania 18704-5067

Dear Mr. _____:

Thank you for contacting my office regarding the International Criminal Court (ICC).

On July 1, 2002, the Rome Statute of the International Criminal Court entered into force and established the Court's jurisdiction, with the expectation that the Court will begin functioning by July 2003. The ICC will be the first permanent, international tribunal capable of trying individuals for the gravest violations of international humanitarian and human rights law, including war crimes, crimes against humanity, and genocide. President Bush announced on May 6, 2002, his decision to formally notify the United Nations that though the U.S. signed the treaty in December 2000, the U.S. will not ratify the Rome Statute due to concerns about subjecting U.S. servicemembers to politically-motivated war crimes prosecution. To this end, the UN Security Council passed a Bush Administration proposal, Resolution 1422, on July 12, 2002, that defers ICC prosecution by one year for all nationals from countries that have not ratified the Rome Statute.

On June 6, 2002, the Senate passed, by a vote of 75 to 19, S. Amdt. 3597, the American Servicemembers' Protection Act, introduced by Senator John Warner (R-VA). This amendment to H.R. 4775, the fiscal year 2002 Supplemental Appropriations Act, prohibits U.S. cooperation and assistance to the ICC and authorizes the protection of U.S. soldiers against criminal prosecutions carried out by the ICC. I opposed this amendment and instead voted for Senator Chris Dodd's (D-CT) amendment, S. Amdt. 3787, which would have allowed the U.S. to assist international efforts to bring to justice Usama bin Laden, Saddam Hussein, Slobodan Milosevic, and other foreign nationals accused of war crimes.

I feel that in light of the terrorist attacks of September 11, 2001, we have a right to bring criminals, such as Usama bin Laden, and drug traffickers to justice. My hope is that through an international criminal court, a coalition may act to fully prosecute such cases under the rule of law.

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I am concerned that the ICC may inappropriately subject Americans to criminal prosecution. National sovereignty is a very precious principle that the U.S. should not forgo. However, I have long been of the view that aggressive involvement in UN preparatory commissions would have helped to formulate ICC guidelines consistent with the national interests of the United States.

My efforts to bring international criminals to justice date to 1986, when the United States did not have jurisdiction to try terrorists in U.S. courts for acts committed abroad. However, following the murders of American citizens in the Rome and Vienna airports in December 1985, I successfully urged my colleagues to amend the Omnibus Diplomatic Security and Antiterrorist Act, Public Law 99-399, to include the Terrorist Prosecution Act of 1986. This law provides for the death penalty for anyone who assaults, maims, or murders a U.S. citizen anywhere in the world. In addition, I have long been supportive of U.S. assistance to the International War Crimes Tribunals for the former Republic of Yugoslavia (ICTY) and Rwanda (ICTR). For fiscal year 2003, I again urged the Senate Appropriations Committee to provide funding, a total of \$83.7 million, for these tribunals. In fact, during my trip to The Hague, Netherlands in March 2002, I had an opportunity to visit and learn of recent proceedings in the ICTY and ICTR.

Again, thank you for contacting my office regarding the International Criminal Court.

Sincerely,

A handwritten signature in black ink, appearing to read "Arlen Specter". The signature is fluid and cursive, with the first name "Arlen" being more prominent than the last name "Specter".

Arlen Specter

AS:anb