

US Senate Reservations and Conditions on ICC in  
UN Terrorism Treaty Ratifications

On December 5, 2001, the US Senate agreed to ratification of two United Nations treaties, the **International Convention for the Suppression of Terrorist Bombings** (UN Res. 52/164/1998; Treaty Document 106-6) and the **International Convention for the Suppression of the Financing of Terrorism** (UN Res. 54/109/1999; Treaty Document 106-49).

Among the reservations and conditions included by the Senate are a condition prohibiting extradition to the International Criminal Court (Congressional Record, Senate Executive Reports of Committee, November 27, S12053; December 5, CR S12461-63). The condition should apply only to and could be read only as limiting US obligations under these specific treaties, not as a comprehensive prohibition on extradition to the ICC under all circumstances.

Under Section 4 of its statement, the Senate set three conditions to ratification. While two of the conditions are standard language requiring Senate approval of changes to the treaties and asserting the supremacy of the US Constitution [CR S12461, Sec. 4 (1), (3)], the second condition specifically states, ***"The United States shall not transfer any person, or consent to the transfer of any person extradited by the United States, to the International Criminal Court established by the Statute adopted in Rome, Italy, on July 17, 1998, unless the Rome Statute has entered into force for the United States, by and with the advice and consent of the Senate, as required by Article II, Section 2, Clause 2 of the United States Constitution"*** (CR Dec. 5, S12461). This condition would limit US obligations under this treaty, but would not prohibit any extradition to the ICC.

Senator Harry Reid (D-NV) presented the resolution of advice and consent to ratification along with these reservations and conditions to the President during Executive Session on December 5, 2001.