



UPDATE: Status of US ICC Legislation and Policy Review

Administration Review -- Concluded; US Nullification of Signature

On May 6, 2002, the Under Secretary of State Marc Grossman announced that earlier that morning a letter had been sent to the United Nations Secretary General stating that the US did not intend to ratify the Rome Statute for the ICC. This letter, signed by ICC opponent and Under Secretary for Arms Control John Bolton, in effect nullified the Clinton Administration's signature of the treaty. During the speech and subsequent questions answered by Ambassador for War Crimes Issues Pierre Prosper, the administration asserted that it would respect the decision of nations that have chosen to join the ICC; seek agreements from such nations exempting US personnel from the Court's jurisdiction; and not attack, seek to undermine, or wage war on the Court. Prosper also made it clear that the Court should not expect the US to cooperate in any way. For the full text of the Grossman speech and the Bolton letter, please visit <http://www.wfa.org/wicc>.

American Servicemembers' Protection Act (S. 587, H.R. 1794, various amendments) -- Still Alive But Not Yet Law

Despite multiple attempts to attach the American Servicemembers' Protection Act (ASPA) to bills in the House and Senate, no version of this legislation has yet become law -- but it is still very much in play.

On May 9, 2002, House Majority Whip Tom DeLay (R-TX) offered the ASPA as an amendment to the 2002 supplemental appropriations act as it was being considered (marked-up) by the House Appropriations Committee. The version of the ASPA that was attached was the less virulent September version that had been accepted by the administration. It contains broad waivers for the President, but its operative provisions would prohibit US cooperation with the ICC, bar military assistance to most countries ratifying the Rome Statute, restrict US participation in UN peacekeeping, and provide the President with sweeping war powers to use force against the US's closest allies. The amendment was passed on a vote of 38-18, with 5 committee members voting "present." The supplemental appropriations bill will now be considered on the House floor, where there is no chance that the amendment would be removed. To prevent the ASPA from becoming law, the Senate must not attach any version of the amendment to its supplemental appropriations bill and the House amendment must be removed in conference committee. Removal of the amendment in conference will most likely depend on a few key Senate Appropriations Committee members: Senators Byrd (D-WV), Inouye (D-HI), and Leahy (D-VT).

Another ASPA amendment is being considered in a House-Senate conference committee on the Foreign Relations Authorization Act (H.R. 1646, also known as the State Department Authorization Act). The House bill is being confereed with the Senate-passed Security Assistance bill (S. 1803), which contains some overlap, because the Senate authorization bill stalled in committee. The ASPA was originally attached by Representative DeLay to the House bill during a floor vote in May 2001. However, the version currently being negotiated in the House-Senate conference is a version with broader presidential waivers written by Senator Helms and originally offered in September 2001 in the Senate. This version has been accepted by the Bush administration.

Pro-ICC advocates should weigh in with these Senate conferees: Senator Biden (D-DE), Senator Sarbanes (D-MD), Senator Dodd (D-CT), Senator Kerry (D-MA), and particularly Senator Lugar (R-IN).

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