

106TH CONGRESS  
1ST SESSION

# H. R. 2381

To prohibit United States economic assistance for countries that ratify the treaty known as the Rome Statute of the International Criminal Court, a treaty that provides for the establishment of an International Criminal Court, an illegal and illegitimate institution that violates the principles of self-government and popular sovereignty, as well as accepted norms of international law, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 29, 1999

Mr. NEY introduced the following bill; which was referred to the Committee on International Relations

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## A BILL

To prohibit United States economic assistance for countries that ratify the treaty known as the Rome Statute of the International Criminal Court, a treaty that provides for the establishment of an International Criminal Court, an illegal and illegitimate institution that violates the principles of self-government and popular sovereignty, as well as accepted norms of international law, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Protection of United  
3 States Troops From Foreign Prosecution Act of 1999”.

4 **SEC. 2. FINDINGS.**

5       The Congress finds the following:

6           (1)(A) A treaty is a contract between sovereign  
7 nations and, like a private contract, cannot force a  
8 nation to be subject to its terms if that nation has  
9 not agreed to be bound by its terms.

10           (B) The treaty known as the Rome Statute of  
11 the International Criminal Court, adopted in Rome,  
12 Italy on July 17, 1998, by the United Nations Con-  
13 ference of Plenipotentiaries on the Establishment of  
14 an International Criminal Court (hereinafter re-  
15 ferred to as the “ICC Treaty”), by claiming the un-  
16 precedented power to investigate and try citizens of  
17 any nation—even the citizens of nations that are not  
18 party to the treaty—based upon events taking place  
19 in the territory of a nation party to the treaty, is en-  
20 tirely unsupported in international law.

21           (2)(A) Under the terms of the ICC Treaty, an  
22 institution, to be called the International Criminal  
23 Court (hereinafter referred to as the “Court”), is to  
24 be established upon the ratification of the ICC Trea-  
25 ty by 60 nations.

1           (B) The creation of this permanent, supra-  
2           national Court, with the independent power to judge  
3           and punish elected officials of sovereign nations for  
4           their official actions, represents a decisive break  
5           with fundamental United States ideals of self-gov-  
6           ernment and popular sovereignty.

7           (C) The creation of the Court would constitute  
8           the transfer of the ultimate authority to judge the  
9           acts of United States officials away from the people  
10          of the United States to an unelected and unaccount-  
11          able international bureaucracy.

12          (3)(A) In its design and operation, the Court is  
13          fundamentally inconsistent with core United States  
14          political and legal values.

15          (B) For example, a defendant would face a ju-  
16          dicial process almost entirely foreign to the tradi-  
17          tions and standards of the United States and be de-  
18          nied the right to a trial by a jury of one's peers, rea-  
19          sonable bail, a speedy trial, and the ability to con-  
20          front witnesses to challenge the evidence against the  
21          defendant.

22          (4)(A) A prosecutor under the ICC Treaty  
23          would be able to appeal a verdict of acquittal, effec-  
24          tively placing the accused in "double jeopardy".

1           (B) Such appeals are forbidden in the law of  
2           the United States and have been inconsistent with  
3           the Anglo-American legal tradition since the 17th  
4           century.

5           (5) Because the guarantees of the Bill of Rights  
6           in the United States Constitution would not be avail-  
7           able to those individuals prosecuted by the Court,  
8           the United States could not participate in, or facili-  
9           tate, any such court.

10          (6)(A) If the United States were to join the  
11          ICC Treaty, United States citizens could face re-  
12          moval to jurisdictions outside the United States for  
13          prosecution and judgment, without the benefit of a  
14          trial by jury, in a tribunal that would not guarantee  
15          many other rights granted by the United States  
16          Constitution and laws of the United States, and  
17          where the judges may well cherish animosities, or  
18          prejudices against them.

19          (B) These are among the very offenses of the  
20          King and Parliament listed in the Declaration of  
21          Independence that required separation from Eng-  
22          land, revolution, and war.

23          (7) The Court would be able to prosecute any  
24          individual United States citizen, including the Presi-  
25          dent, military and civilian officers and officials, en-

1 listed personnel, and even ordinary citizens who were  
2 involved in any action the Court determined to be  
3 within its jurisdiction.

4 **SEC. 3. PROHIBITION ON IMPLEMENTATION OF ICC**  
5 **TREATY.**

6 Notwithstanding any other provision of law, no Fed-  
7 eral department or agency shall—

8 (1) take any action that has the effect of ob-  
9 serving or implementing the provisions of the ICC  
10 Treaty; or

11 (2)(A) provide funding or other support for the  
12 International Criminal Court; or

13 (B) transfer any person to the custody of the  
14 International Criminal Court.

15 **SEC. 4. PROHIBITION ON FOREIGN ECONOMIC ASSISTANCE**  
16 **FOR COUNTRIES THAT RATIFY ICC TREATY.**

17 (a) SENSE OF THE CONGRESS.—It is the sense of the  
18 Congress that the President should inform both allies and  
19 adversaries of the United States that ratification of the  
20 ICC Treaty, in view of jurisdictional claims provisions in  
21 the Treaty that violate international law, will be consid-  
22 ered an unfriendly act directed at the United States, and  
23 that ratification by any foreign country will adversely af-  
24 fect bilateral relations between the United States and that  
25 country.

1 (b) PROHIBITION ON ECONOMIC ASSISTANCE.—  
 2 Chapter 1 of part III of the Foreign Assistance Act of  
 3 1961 (22 U.S.C. 2351) is amended—

4 (1) by redesignating the second section 620G  
 5 (as added by section 149 of Public Law 104–164  
 6 (110 Stat. 1436)) as section 620J; and

7 (2) by adding at the end the following:

8 **“SEC. 620K. PROHIBITION ON ECONOMIC ASSISTANCE FOR**  
 9 **COUNTRIES THAT RATIFY ICC TREATY.**

10 “(a) PROHIBITION.—Notwithstanding any other pro-  
 11 vision of law, United States economic assistance may not  
 12 be provided, directly or indirectly, to a foreign country  
 13 that ratifies the ICC Treaty.

14 “(b) DEFINITIONS.—In this section:

15 “(1) ICC TREATY.—The term ‘ICC Treaty’  
 16 means the Treaty known as the Rome Statute of the  
 17 International Criminal Court adopted in Rome, Italy  
 18 on July 17, 1998, by the United Nations Conference  
 19 of Plenipotentiaries on the Establishment of an  
 20 International Criminal Court.

21 “(2) UNITED STATES ECONOMIC ASSISTANCE.—  
 22 The term ‘United States economic assistance’ means  
 23 any assistance under part I of this Act and any as-  
 24 sistance under chapter 4 of part II of this Act, ex-

1       cept that such term does not include humanitarian  
2       assistance.”.

3   **SEC. 5. SENSE OF THE CONGRESS RELATING TO REFERRAL**  
4                   **BY UNITED NATIONS TO ICC.**

5       It is the sense of Congress that the President should  
6   instruct the United States representative to the United  
7   Nations to veto any attempt by the United Nations Secu-  
8   rity Council to refer a matter to the International Crimi-  
9   nal Court for investigation.

10   **SEC. 6. DEFINITIONS.**

11       As used in this Act:

12           (1) ICC TREATY.—The term “ICC Treaty”  
13       means the Treaty known as the Rome Statute of the  
14       International Criminal Court adopted in Rome, Italy  
15       on July 17, 1998, by the United Nations Conference  
16       of Plenipotentiaries on the Establishment of an  
17       International Criminal Court.

18           (2) INTERNATIONAL CRIMINAL COURT.—The  
19       term “International Criminal Court” means the in-  
20       stitution, known as the International Criminal  
21       Court, established upon the ratification of the ICC  
22       Treaty by 60 nations.

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