

111TH CONGRESS
2D SESSION

S. CON. RES. 59

Expressing the sense of Congress that the United States should neither become a signatory to the Rome Statute on the International Criminal Court nor attend the Review Conference of the Rome Statute in Kampala, Uganda in May 2010.

IN THE SENATE OF THE UNITED STATES

APRIL 21, 2010

Mr. VITTER (for himself, Mr. INHOFE, Mr. KYL, and Mr. CRAPO) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations

CONCURRENT RESOLUTION

Expressing the sense of Congress that the United States should neither become a signatory to the Rome Statute on the International Criminal Court nor attend the Review Conference of the Rome Statute in Kampala, Uganda in May 2010.

Whereas President William Clinton signed the Rome Statute on the International Criminal Court (“Rome Statute”) through a designee on December 31, 2000, but acknowledged “significant flaws” in the treaty, and recommended that President-elect George W. Bush not submit the treaty to the Senate for advice and consent;

Whereas the “significant flaws” identified by President Clinton—including the fact that the International Criminal

Court (“ICC”) claims the power to exercise authority and jurisdiction over the citizens of nations that have not ratified the treaty—persist and have not been remedied;

Whereas President Bush, through Undersecretary of State for Arms Control John Bolton, notified United Nations Secretary-General Kofi Annan on May 6, 2002, that the United States does not intend to become a party to the Rome Statute and therefore has no legal obligations arising from its signature on December 31, 2000;

Whereas the United States Government, acting through its elected representatives, is the sole arbiter regarding decisions on the use of military force in its defense or in the defense of its allies;

Whereas the Rome Statute undermines national sovereignty and established principles of customary international law by claiming the authority in certain circumstances to investigate and prosecute citizens and military personnel of a country that is not a party to the treaty and has not accepted the jurisdiction of the court;

Whereas the United Nations Security Council—upon which the United States holds a permanent, veto-wielding seat—is conferred under the United Nations Charter with “primary responsibility for the maintenance of international peace and security”;

Whereas the authority of the ICC inappropriately intrudes upon the United Nations Security Council’s primary responsibility under the United Nations Charter for the maintenance of international peace and security;

Whereas, in September 2009, the ICC Office of the Prosecutor announced that ICC personnel were investigating accusations of war crimes and crimes against humanity

allegedly committed by United States and NATO forces fighting in Afghanistan;

Whereas the parties to the Rome Statute have failed to establish a definition of the “crime of aggression”;

Whereas the United States Government has at various times been accused of “aggression”, including the congressionally authorized use of military force against Iraq in 2003;

Whereas the Rome Statute would subject United States citizens and military personnel charged with crimes before the ICC to trial and punishment without the basic rights and protections provided to criminal defendants and guaranteed by the United States Constitution, including a right to a jury trial by one’s peers, protection from double jeopardy, the right to confront one’s accusers, and the right to a speedy trial;

Whereas the first Review Conference on the Rome Statute will be held in Kampala, Uganda from May 31 to June 11, 2010, to consider amendments to the Rome Statute and to take stock of its implementation and impact; and

Whereas the draft provisional agenda of the Review Conference indicates that the Assembly of States Parties of the ICC has no intention of addressing the grave and persistent concerns of the United States regarding the Rome Statute: Now, therefore, be it

1 *Resolved by the Senate (the House of Representatives*
2 *concurring)*, That it is the sense of Congress that—

3 (1) the national interests of the United States
4 are neither preserved nor advanced by becoming a
5 State Party to the Rome Statute on the Inter-
6 national Criminal Court;

1 (2) the Rome Statute undermines the sov-
2 ereignty of the United States, hinders its ability to
3 defend itself and its allies with military force, and
4 conflicts with the principles of the United States
5 Constitution;

6 (3) President Barack Obama should declare
7 that the United States does not intend to ratify the
8 Rome Statute and that the United States does not
9 presently consider itself to be a signatory of the
10 treaty; and

11 (4) given that the Assembly of States Parties
12 has no discernable intention of addressing United
13 States concerns regarding the treaty, President
14 Obama should neither attend nor send a delegation
15 to the Review Conference of the Rome Statute in
16 Kampala, Uganda commencing May 31, 2010.

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