White House Fact Sheet: Protecting American Constitutionalism and Sovereignty from the International Criminal Court

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SAFEGUARDING AMERICAN SOVEREIGNTY: President Donald J. Trump is committed to defending our national sovereignty and security interests.

* The International Criminal Court (ICC) is an international court established in July 2002, upon the entry into force of a multilateral treaty known as the Rome Statute.
* Though the United States originally signed the Statute in 2000, the Senate failed to ratify it.
* In May 2002, President George W. Bush authorized then-Under Secretary of State John Bolton to “unsign” it based on the United States’ view that it was fundamentally illegitimate.
  + The United States’ view was grounded in concerns over the broad, unaccountable powers granted to the ICC and its Chief Prosecutor by the Rome Statute, powers that posed a significant threat to United States sovereignty and our constitutional protections.
* The United States is not a party to the Rome Statute and has consistently voiced its strong objections to any assertion of ICC jurisdiction over American personnel.
  + The United States is not an outlier – more than 70 nations, representing two-thirds of the world’s population and over 70% of the world’s armed forces, are not parties.
  + Some of our closest allies, including Israel, have pointed out the ICC’s flawed approach as constraining liberal, democratic nations in exercising their right of self-defense.
* It is a fundamental principle of international law that a treaty is binding only on its parties, and that it does not create obligations for non-parties without their consent.
  + The Rome Statute cannot dispose of rights of the United States as a non-Party without United States consent.

PROTECTING UNITED STATES SERVICE MEMBERS: The Trump Administration will use any means necessary to protect our citizens, and those of our allies, from unjust prosecution by the ICC.

* On November 3, 2017, the Chief Prosecutor of the ICC released a statement regarding her request to begin an investigation into the situation in the Islamic Republic of Afghanistan.
* The Chief Prosecutor indicated this investigation would focus on Afghan National Security Forces, the Taliban, and the Haqqani network, alongside war crimes allegedly committed by United States service members and intelligence professionals during the war in Afghanistan since May 1, 2003.
* If the ICC formally proceeds with opening an investigation, the Trump Administration will consider the following steps:
  + We will negotiate even more binding, bilateral agreements to prohibit nations from surrendering United States persons to the ICC.
  + To the extent permitted by United States law, we will ban ICC judges and prosecutors from entering the United States, sanction their funds in the United States financial system, and, prosecute them in the United States criminal system.
  + We will consider taking steps in the United Nations Security Council to constrain the Court’s sweeping powers, including to ensure that the ICC does not exercise jurisdiction over Americans and the nationals of our allies that have not ratified the Rome Statute.
* This Administration will fight back to protect American constitutionalism, our sovereignty, and our citizens. As always, in every decision we make, we will put the interests of the American People first.