

107TH CONGRESS  
1ST SESSION

# S. 857

To protect United States military personnel and other elected and appointed officials of the United States Government against criminal prosecution by an international criminal court to which the United States is not a party.

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## IN THE SENATE OF THE UNITED STATES

MAY 9, 2001

Mr. HELMS (for himself, Mr. MILLER, Mr. LOTT, Mr. WARNER, Mr. HATCH, Mr. SHELBY, and Mr. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

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## A BILL

To protect United States military personnel and other elected and appointed officials of the United States Government against criminal prosecution by an international criminal court to which the United States is not a party.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “American  
5       Servicemembers’ Protection Act of 2001”.

6       **SEC. 2. FINDINGS.**

7       Congress makes the following findings:

1           (1) On July 17, 1998, the United Nations Dip-  
2           lomatic Conference of Plenipotentiaries on the Es-  
3           tablishment of an International Criminal Court,  
4           meeting in Rome, Italy, adopted the “Rome Statute  
5           of the International Criminal Court.” The vote on  
6           whether to proceed with the Statute was 120 in  
7           favor to 7 against, with 21 countries abstaining. The  
8           United States voted against final adoption of the  
9           Rome Statute.

10           (2) As of April 30, 2001, 139 countries had  
11           signed the Rome Statute and 30 had ratified it. Pur-  
12           suant to Article 126 of the Rome Statute, the Stat-  
13           ute will enter into force on the first day of the  
14           month after the 60th day following the date on  
15           which the 60th country deposits an instrument rati-  
16           fying the Statute.

17           (3) Since adoption of the Rome Statute, a Pre-  
18           paratory Commission for the International Criminal  
19           Court has met regularly to draft documents to im-  
20           plement the Rome Statute, including Rules of Proce-  
21           dure and Evidence, Elements of Crimes, and a defi-  
22           nition of the Crime of Aggression.

23           (4) During testimony before the Congress fol-  
24           lowing the adoption of the Rome Statute, the lead  
25           United States negotiator, Ambassador David

1 Scheffer stated that the United States could not  
2 sign the Rome Statute because certain critical nego-  
3 tiating objectives of the United States had not been  
4 achieved. As a result, he stated: “We are left with  
5 consequences that do not serve the cause of inter-  
6 national justice.”

7 (5) Ambassador Scheffer went on to tell the  
8 Congress that: “Multinational peacekeeping forces  
9 operating in a country that has joined the treaty can  
10 be exposed to the Court’s jurisdiction even if the  
11 country of the individual peacekeeper has not joined  
12 the treaty. Thus, the treaty purports to establish an  
13 arrangement whereby United States armed forces  
14 operating overseas could be conceivably prosecuted  
15 by the international court even if the United States  
16 has not agreed to be bound by the treaty. Not only  
17 is this contrary to the most fundamental principles  
18 of treaty law, it could inhibit the ability of the  
19 United States to use its military to meet alliance ob-  
20 ligations and participate in multinational operations,  
21 including humanitarian interventions to save civilian  
22 lives. Other contributors to peacekeeping operations  
23 will be similarly exposed.”

24 (6) Notwithstanding these concerns, President  
25 Clinton directed that the United States sign the

1 Rome Statute on December 31, 2000. In a state-  
2 ment issued that day, he stated that in view of the  
3 unremedied deficiencies of the Rome Statute, “I will  
4 not, and do not recommend that my successor sub-  
5 mit the Treaty to the Senate for advice and consent  
6 until our fundamental concerns are satisfied”.

7 (7) Any American prosecuted by the Inter-  
8 national Criminal Court will, under the Rome Stat-  
9 ute, be denied procedural protections to which all  
10 Americans are entitled under the Bill of Rights to  
11 the United States Constitution, such as the right to  
12 trial by jury.

13 (8) Members of the Armed Forces of the  
14 United States deserve the full protection of the  
15 United States Constitution wherever they are sta-  
16 tioned or deployed around the world to protect the  
17 vital national interests of the United States. The  
18 United States Government has an obligation to pro-  
19 tect the members of its Armed Forces, to the max-  
20 imum extent possible, against criminal prosecutions  
21 carried out by United Nations officials under proce-  
22 dures that deny them their constitutional rights.

23 (9) In addition to exposing members of the  
24 Armed Forces of the United States to the risk of  
25 international criminal prosecution, the Rome Statute

1 creates a risk that the President and other senior  
2 elected and appointed officials of the United States  
3 Government may be prosecuted by the International  
4 Criminal Court. Particularly if the Preparatory  
5 Commission agrees on a definition of the Crime of  
6 Aggression over United States objections, senior  
7 United States officials may be at risk of criminal  
8 prosecution for national security decisions involving  
9 such matters as responding to acts of terrorism, pre-  
10 venting the proliferation of weapons of mass destruc-  
11 tion, and deterring aggression. No less than mem-  
12 bers of the Armed Forces of the United States, sen-  
13 ior officials of the United States Government deserve  
14 the full protection of the United States Constitution  
15 with respect to official actions taken by them to pro-  
16 tect the national interests of the United States.

17 **SEC. 3. WAIVER AND TERMINATION OF PROHIBITIONS OF**  
18 **THIS ACT.**

19 (a) **AUTHORITY TO INITIALLY WAIVE SECTIONS 5**  
20 **AND 7.**—The President is authorized to waive the prohibi-  
21 tions and requirements of sections 5 and 7 for a single  
22 period of one year. Such a waiver may be issued only if  
23 the President at least 15 days in advance of exercising  
24 such authority—

1           (1) notifies the appropriate congressional com-  
2           mittees of the intention to exercise such authority;  
3           and

4           (2) determines and reports to the appropriate  
5           congressional committees that the International  
6           Criminal Court has entered into a binding agree-  
7           ment that—

8                   (A) prohibits the International Criminal  
9                   Court from seeking to exercise jurisdiction over  
10                  the following persons with respect to actions  
11                  undertaken by them in an official capacity:

12                           (i) covered United States persons;

13                           (ii) covered allied persons; and

14                           (iii) individuals who were covered  
15                   United States persons or covered allied  
16                   persons; and

17                   (B) ensures that no person described in  
18                   subparagraph (A) will be arrested, detained,  
19                   prosecuted, or imprisoned by or on behalf of the  
20                   International Criminal Court.

21           (b) **AUTHORITY TO EXTEND WAIVER OF SECTIONS**  
22           **5 AND 7.**—The President is authorized to waive the prohi-  
23           bitions and requirements of sections 5 and 7 for successive  
24           periods of one year each upon the expiration of a previous  
25           waiver pursuant to subsection (a) or this subsection. Such

1 a waiver may be issued only if the President at least fif-  
2 teen days in advance of exercising such authority—

3 (1) notifies the appropriate congressional com-  
4 mittees of the intention to exercise such authority;  
5 and

6 (2) determines and reports to the appropriate  
7 congressional committees that the International  
8 Criminal Court—

9 (A) remains party to, and has continued to  
10 abide by, a binding agreement that—

11 (i) prohibits the International Crimi-  
12 nal Court from seeking to exercise jurisdic-  
13 tion over the following persons with respect  
14 to actions undertaken by them in an offi-  
15 cial capacity:

16 (I) covered United States per-  
17 sons;

18 (II) covered allied persons; and

19 (III) individuals who were cov-  
20 ered United States persons or covered  
21 allied persons; and

22 (ii) ensures that no person described  
23 in clause (i) will be arrested, detained,  
24 prosecuted, or imprisoned by or on behalf  
25 of the International Criminal Court; and

1           (B) has taken no steps to arrest, detain,  
2           prosecute, or imprison any person described in  
3           clause (i) of subparagraph (A).

4           (c) **AUTHORITY TO WAIVE SECTIONS 4 AND 6 WITH**  
5 **RESPECT TO AN INVESTIGATION OR PROSECUTION OF A**  
6 **NAMED INDIVIDUAL.**—The President is authorized to  
7 waive the prohibitions and requirements of sections 4 and  
8 6 to the degree they would prevent United States coopera-  
9 tion with an investigation or prosecution of a named indi-  
10 vidual by the International Criminal Court. Such a waiver  
11 may be issued only if the President at least 15 days in  
12 advance of exercising such authority—

13           (1) notifies the appropriate congressional com-  
14 mittees of the intention to exercise such authority;  
15 and

16           (2) determines and reports to the appropriate  
17 congressional committees that—

18           (A) a waiver pursuant to subsection (a) or  
19 (b) of the prohibitions and requirements of sec-  
20 tions 5 and 7 is in effect;

21           (B) there is reason to believe that the  
22 named individual committed the crime or  
23 crimes that are the subject of the International  
24 Criminal Court’s investigation or prosecution;



1 (C) it is in the national interest of the  
2 United States for the International Criminal  
3 Court's investigation or prosecution of the  
4 named individual to proceed; and

5 (D) in investigating events related to ac-  
6 tions by the named individual, none of the fol-  
7 lowing persons will be investigated, arrested,  
8 detained, prosecuted, or imprisoned by or on  
9 behalf of the International Criminal Court with  
10 respect to actions undertaken by them in an of-  
11 ficial capacity:

12 (i) Covered United States persons.

13 (ii) Covered allied persons.

14 (iii) Individuals who were covered  
15 United States persons or covered allied  
16 persons.

17 (d) TERMINATION OF WAIVER PURSUANT TO SUB-  
18 SECTION (c).—Any waiver or waivers exercised pursuant  
19 to subsection (c) of the prohibitions and requirements of  
20 sections 4 and 6 shall terminate at any time that a waiver  
21 pursuant to subsection (a) or (b) of the prohibitions and  
22 requirements of sections 5 and 7 expires and is not ex-  
23 tended pursuant to subsection (b).

24 (e) TERMINATION OF PROHIBITIONS OF THIS ACT.—  
25 The prohibitions and requirements of sections 4, 5, 6, and

1 7 shall cease to apply, and the authority of section 8 shall  
2 terminate, if the United States becomes a party to the  
3 International Criminal Court pursuant to a treaty made  
4 under article II, section 2, clause 2 of the Constitution  
5 of the United States.

6 **SEC. 4. PROHIBITION ON COOPERATION WITH THE INTER-**  
7 **NATIONAL CRIMINAL COURT.**

8 (a) CONSTRUCTION.—The provisions of this  
9 section—

10 (1) apply only to cooperation with the Inter-  
11 national Criminal Court and shall not be construed  
12 to apply to cooperation with an ad hoc international  
13 criminal tribunal established by the United Nations  
14 Security Council before or after the date of the en-  
15 actment of this Act to investigate and prosecute war  
16 crimes committed in a specific country or during a  
17 specific conflict; and

18 (2) shall not be construed to prohibit—

19 (A) any action permitted under section 8;

20 (B) any other action taken by members of  
21 the Armed Forces of the United States outside  
22 the territory of the United States while engaged  
23 in military operations involving the threat or  
24 use of force when necessary to protect such per-

1           sonnel from harm or to ensure the success of  
2           such operations; or

3           (C) communication by the United States to  
4           the International Criminal Court of its policy  
5           with respect to a particular matter.

6           (b) PROHIBITION ON RESPONDING TO REQUESTS  
7 FOR COOPERATION.—No agency or entity of the United  
8 States Government or of any State or local government,  
9 including any court, may cooperate with the International  
10 Criminal Court in response to a request for cooperation  
11 submitted by the International Criminal Court pursuant  
12 to Part 9 of the Rome Statute.

13           (c) PROHIBITION ON SPECIFIC FORMS OF COOPERA-  
14 TION AND ASSISTANCE.—No agency or entity of the  
15 United States Government or of any State or local govern-  
16 ment, including any court, may provide financial support  
17 or other cooperation, support, or assistance to the Inter-  
18 national Criminal Court, including by undertaking any ac-  
19 tion described in the following articles of the Rome Statute  
20 with the purpose or intent of cooperating with, or other-  
21 wise providing support or assistance to, the International  
22 Criminal Court:

23           (1) Article 89 (relating to arrest, extradition,  
24           and transit of suspects).

1           (2) Article 92 (relating to provisional arrest of  
2 suspects).

3           (3) Article 93 (relating to seizure of property,  
4 asset forfeiture, execution of searches and seizures,  
5 service of warrants and other judicial process, taking  
6 of evidence, and similar matters).

7           (d) RESTRICTION ON ASSISTANCE PURSUANT TO  
8 MUTUAL LEGAL ASSISTANCE TREATIES.—The United  
9 States shall exercise its rights to limit the use of assist-  
10 ance provided under all treaties and executive agreements  
11 for mutual legal assistance in criminal matters, multilat-  
12 eral conventions with legal assistance provisions, and ex-  
13 tradition treaties, to which the United States is a party,  
14 and in connection with the execution or issuance of any  
15 letter rogatory, to prevent the transfer to, or other use  
16 by, the International Criminal Court of any assistance  
17 provided by the United States under such treaties and let-  
18 ters rogatory.

19           (e) PROHIBITION ON INVESTIGATIVE ACTIVITIES OF  
20 AGENTS.—No agent of the International Criminal Court  
21 may conduct, in the United States or any territory subject  
22 to the jurisdiction of the United States, any investigative  
23 activity relating to a preliminary inquiry, investigation,  
24 prosecution, or other proceeding at the International  
25 Criminal Court.

1 **SEC. 5. RESTRICTION ON UNITED STATES PARTICIPATION**  
2 **IN CERTAIN UNITED NATIONS PEACE-**  
3 **KEEPING OPERATIONS.**

4 (a) POLICY.—Effective beginning on the date on  
5 which the Rome Statute enters into force pursuant to Ar-  
6 ticle 126 of the Rome Statute, the President should use  
7 the voice and vote of the United States in the United Na-  
8 tions Security Council to ensure that each resolution of  
9 the Security Council authorizing any peacekeeping oper-  
10 ation under chapter VI of the charter of the United Na-  
11 tions or peace enforcement operation under chapter VII  
12 of the charter of the United Nations permanently exempts,  
13 at a minimum, members of the Armed Forces of the  
14 United States participating in such operation from crimi-  
15 nal prosecution by the International Criminal Court for  
16 actions undertaken by such personnel in connection with  
17 the operation.

18 (b) RESTRICTION.—Members of the Armed Forces of  
19 the United States may not participate in any peacekeeping  
20 operation under chapter VI of the charter of the United  
21 Nations or peace enforcement operation under chapter VII  
22 of the charter of the United Nations, the creation of which  
23 is authorized by the United Nations Security Council on  
24 or after the date that the Rome Statute enters into effect  
25 pursuant to Article 126 of the Rome Statute, unless the  
26 President has submitted to the appropriate congressional

1 committees a certification described in subsection (c) with  
2 respect to such operation.

3 (c) CERTIFICATION.—The certification referred to in  
4 subsection (b) is a certification by the President that  
5 members of the Armed Forces of the United States are  
6 able to participate in the peacekeeping or peace enforce-  
7 ment operation without risk of criminal prosecution by the  
8 International Criminal Court because—

9 (1) in authorizing the operation, the United  
10 Nations Security Council permanently exempted, at  
11 a minimum, members of the Armed Forces of the  
12 United States participating in the operation from  
13 criminal prosecution by the International Criminal  
14 Court for actions undertaken by them in connection  
15 with the operation;

16 (2) each country in which members of the  
17 Armed Forces of the United States participating in  
18 the operation will be present is either not a party to  
19 the International Criminal Court and has not in-  
20 voked the jurisdiction of the International Criminal  
21 Court pursuant to Article 12 of the Rome Statute,  
22 or has entered into an agreement in accordance with  
23 Article 98 of the Rome Statute preventing the Inter-  
24 national Criminal Court from proceeding against

1 members of the Armed Forces of the United States  
2 present in that country; or

3 (3) the United States has taken other appro-  
4 priate steps to guarantee that members of the  
5 Armed Forces of the United States participating in  
6 the operation will not be prosecuted by the Inter-  
7 national Criminal Court for actions undertaken by  
8 such personnel in connection with the operation.

9 **SEC. 6. PROHIBITION ON DIRECT OR INDIRECT TRANSFER**  
10 **OF CERTAIN CLASSIFIED NATIONAL SECU-**  
11 **RITY INFORMATION TO THE INTERNATIONAL**  
12 **CRIMINAL COURT.**

13 (a) DIRECT TRANSFER.—Not later than the date on  
14 which the Rome Statute enters into force, the President  
15 shall ensure that appropriate procedures are in place to  
16 prevent the transfer of classified national security infor-  
17 mation to the International Criminal Court.

18 (b) INDIRECT TRANSFER.—Not later than the date  
19 on which the Rome Statute enters into force, the President  
20 shall ensure that appropriate procedures are in place to  
21 prevent the transfer of classified national security infor-  
22 mation relevant to matters under consideration by the  
23 International Criminal Court to the United Nations and  
24 to the government of any country that is a party to the  
25 International Criminal Court unless the United Nations

1 or that government, as the case may be, has provided writ-  
2 ten assurances that such information will not be made  
3 available to the International Criminal Court.

4 (c) CONSTRUCTION.—The provisions of this section  
5 shall not be construed to prohibit any action permitted  
6 under section 8.

7 **SEC. 7. PROHIBITION OF UNITED STATES MILITARY ASSIST-**  
8 **ANCE TO PARTIES TO THE INTERNATIONAL**  
9 **CRIMINAL COURT.**

10 (a) PROHIBITION OF MILITARY ASSISTANCE.—Sub-  
11 ject to subsections (b) and (c), no United States military  
12 assistance may be provided to the government of a country  
13 that is a party to the International Criminal Court.

14 (b) WAIVER.—The President may waive the prohibi-  
15 tion of subsection (a) with respect to a particular  
16 country—

17 (1) for one or more periods not exceeding one  
18 year each, if the President determines and reports to  
19 the appropriate congressional committees that it is  
20 vital to the national interest of the United States to  
21 waive such prohibition; and

22 (2) permanently, if the President determines  
23 and reports to the appropriate congressional com-  
24 mittees that such country has entered into an agree-  
25 ment with the United States pursuant to Article 98



1 of the Rome Statute preventing the International  
2 Criminal Court from proceeding against United  
3 States personnel present in such country.

4 (c) EXEMPTION.—The prohibition of subsection (a)  
5 shall not apply to the government of—

6 (1) a NATO member country;

7 (2) a major non-NATO ally (including, inter  
8 alia, Australia, Egypt, Israel, Japan, the Republic of  
9 Korea, and New Zealand); or

10 (3) Taiwan.

11 **SEC. 8. AUTHORITY TO FREE MEMBERS OF THE ARMED**  
12 **FORCES OF THE UNITED STATES AND CER-**  
13 **TAIN OTHER PERSONS HELD CAPTIVE BY OR**  
14 **ON BEHALF OF THE INTERNATIONAL CRIMI-**  
15 **NAL COURT.**

16 (a) AUTHORITY.—The President is authorized to use  
17 all means necessary and appropriate to bring about the  
18 release from captivity of any person described in sub-  
19 section (b) who is being detained or imprisoned against  
20 that person's will by or on behalf of the International  
21 Criminal Court.

22 (b) PERSONS AUTHORIZED TO BE FREED.—The au-  
23 thority of subsection (a) shall extend to the following per-  
24 sons:

25 (1) Covered United States persons.

1           (2) Covered allied persons.

2           (3) Individuals detained or imprisoned for offi-  
3           cial actions taken while the individual was a covered  
4           United States person or a covered allied person, and  
5           in the case of a covered allied person, upon the re-  
6           quest of such government.

7           (c) AUTHORIZATION OF LEGAL ASSISTANCE.—When  
8           any person described in subsection (b) is arrested, de-  
9           tained, prosecuted, or imprisoned by or on behalf of the  
10          International Criminal Court, the authority under sub-  
11          section (a) may be used—

12           (1) for the provision of legal representation and  
13           other legal assistance to that person (including, in  
14           the case of a person entitled to assistance under sec-  
15           tion 1037 of title 10, United States Code, represen-  
16           tation and other assistance in the manner provided  
17           in that section); and

18           (2) for the provision of exculpatory evidence on  
19           behalf of that person.

20          (d) BRIBES AND OTHER INDUCEMENTS NOT AU-  
21          THORIZED.—Subsection (a) does not authorize the pay-  
22          ment of bribes or the provision of other incentives to in-  
23          duce the release from captivity of a person described in  
24          subsection (b).

1 **SEC. 9. ALLIANCE COMMAND ARRANGEMENTS.**

2 (a) REPORT ON ALLIANCE COMMAND ARRANGE-  
3 MENTS.—Not later than 6 months after the date of the  
4 enactment of this Act, the President shall transmit to the  
5 appropriate congressional committees a report with re-  
6 spect to each military alliance to which the United States  
7 is party—

8 (1) describing the degree to which members of  
9 the Armed Forces of the United States may, in the  
10 context of military operations undertaken by or pur-  
11 suant to that alliance, be placed under the command  
12 or operational control of foreign military officers  
13 subject to the jurisdiction of the International Crimi-  
14 nal Court because they are nationals of a party to  
15 the International Criminal Court; and

16 (2) evaluating the degree to which members of  
17 the Armed Forces of the United States engaged in  
18 military operations undertaken by or pursuant to  
19 that alliance may be exposed to greater risks as a  
20 result of being placed under the command or oper-  
21 ational control of foreign military officers subject to  
22 the jurisdiction of the International Criminal Court.

23 (b) DESCRIPTION OF MEASURES TO ACHIEVE EN-  
24 HANCED PROTECTION FOR MEMBERS OF THE ARMED  
25 FORCES OF THE UNITED STATES.—Not later than one  
26 year after the date of the enactment of this Act, the Presi-

1 dent shall transmit to the appropriate congressional com-  
2 mittees a description of modifications to command and  
3 operational control arrangements within military alliances  
4 to which the United States is a party that could be made  
5 in order to reduce any risks to members of the Armed  
6 Forces of the United States identified pursuant to sub-  
7 section (a)(2).

8 (c) SUBMISSION IN CLASSIFIED FORM.—The report  
9 under subsection (a), and the description of measures  
10 under subsection (b), or appropriate parts thereof, may  
11 be submitted in classified form.

12 **SEC. 10. WITHHOLDINGS.**

13 Funds withheld from the United States share of as-  
14 sessments to the United Nations or any other inter-  
15 national organization during any fiscal year pursuant to  
16 section 705 of the Admiral James W. Nance and Meg  
17 Donovan Foreign Relations Authorization Act, Fiscal  
18 Years 2000 and 2001 (as enacted by section 1000(a)(7)  
19 of Public Law 106–113; 113 Stat. 1501A–460), are au-  
20 thorized to be transferred to the Embassy Security, Con-  
21 struction and Maintenance Account of the Department of  
22 State.

23 **SEC. 11. NONDELEGATION.**

24 The authorities vested in the President by sections  
25 3, 5(c), and 7(b) may not be delegated by the President

1 pursuant to section 301 of title 3, United States Code,  
2 or any other provision of law.

3 **SEC. 12. DEFINITIONS.**

4 As used in this Act and in sections 705 and 706 of  
5 the Admiral James W. Nance and Meg Donovan Foreign  
6 Relations Authorization Act, Fiscal Years 2000 and 2001:

7 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**  
8 **TEES.**—The term “appropriate congressional com-  
9 mittees” means the Committee on International Re-  
10 lations of the House of Representatives and the  
11 Committee on Foreign Relations of the Senate.

12 (2) **CLASSIFIED NATIONAL SECURITY INFORMA-**  
13 **TION.**—The term “classified national security infor-  
14 mation” means information that is classified or clas-  
15 sifiable under Executive Order 12958 or a successor  
16 Executive order.

17 (3) **COVERED ALLIED PERSONS.**—The term  
18 “covered allied persons” means military personnel,  
19 elected or appointed officials, and other persons em-  
20 ployed by or working on behalf of the government of  
21 a NATO member country, a major non-NATO ally  
22 (including, inter alia, Australia, Egypt, Israel,  
23 Japan, the Republic of Korea, and New Zealand), or  
24 Taiwan, for so long as that government is not a  
25 party to the International Criminal Court and wish-

1 es its officials and other persons working on its be-  
2 half to be exempted from the jurisdiction of the  
3 International Criminal Court.

4 (4) COVERED UNITED STATES PERSONS.—The  
5 term “covered United States persons” means mem-  
6 bers of the Armed Forces of the United States,  
7 elected or appointed officials of the United States  
8 Government, and other persons employed by or  
9 working on behalf of the United States Government,  
10 for so long as the United States is not a party to  
11 the International Criminal Court.

12 (5) EXTRADITION.—The terms “extradition”  
13 and “extradite” include both “extradition” and “sur-  
14 render” as those terms are defined in article 102 of  
15 the Rome Statute.

16 (6) INTERNATIONAL CRIMINAL COURT.—The  
17 term “International Criminal Court” means the  
18 court established by the Rome Statute.

19 (7) MAJOR NON-NATO ALLY.—The term “major  
20 non-NATO ally” means a country that has been so  
21 designated in accordance with section 517 of the  
22 Foreign Assistance Act of 1961.

23 (8) PARTY TO THE INTERNATIONAL CRIMINAL  
24 COURT.—The term “party to the International  
25 Criminal Court” means a government that has de-

1       posited an instrument of ratification, acceptance, ap-  
2       proval, or accession to the Rome Statute, and has  
3       not withdrawn from the Rome Statute pursuant to  
4       Article 127 thereof.

5               (9) PEACEKEEPING OPERATION UNDER CHAP-  
6       TER VI OF THE CHARTER OF THE UNITED NATIONS  
7       OR PEACE ENFORCEMENT OPERATION UNDER CHAP-  
8       TER VII OF THE CHARTER OF THE UNITED NA-  
9       TIONS.—The term “peacekeeping operation under  
10      chapter VI of the charter of the United Nations or  
11      peace enforcement operation under chapter VII of  
12      the charter of the United Nations” means any mili-  
13      tary operation to maintain or restore international  
14      peace and security that—

15               (A) is authorized by the United Nations  
16               Security Council under chapter VI or VII of the  
17               charter of the United Nations; and

18               (B) is paid for from assessed contributions  
19               of United Nations members that are made  
20               available for peacekeeping or peace enforcement  
21               activities.

22               (10) ROME STATUTE.—The term “Rome Stat-  
23      ute” means the Rome Statute of the International  
24      Criminal Court, adopted by the United Nations Dip-  
25      lomatic Conference of Plenipotentiaries on the Es-

1       tablishment of an International Criminal Court on  
2       July 17, 1998.

3               (11) SUPPORT.—The term “support” means as-  
4       sistance of any kind, including financial support,  
5       material support, services, intelligence sharing, law  
6       enforcement cooperation, the training or detail of  
7       personnel, and the arrest or detention of individuals.

8               (12) UNITED STATES MILITARY ASSISTANCE.—  
9       The term “United States military assistance”  
10       means—

11               (A) assistance provided under chapters 2  
12       through 6 of part II of the Foreign Assistance  
13       Act of 1961 (22 U.S.C. 2311 et seq.);

14               (B) defense articles or defense services fur-  
15       nished with the financial assistance of the  
16       United States Government, including through  
17       loans and guarantees; or

18               (C) military training or education activities  
19       provided by any agency or entity of the United  
20       States Government.

21       Such term does not include activities reportable  
22       under title V of the National Security Act of 1947  
23       (50 U.S.C. 413 et seq.).

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