



# *The Association of the Bar of the City of New York*

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**PRESIDENT**

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The Honorable George W. Bush  
The White House  
Washington, D.C. 20500

Dear President Bush:

Today marks a momentous occasion: the inaugural session in The Hague of the International Criminal Court (“ICC”) and the swearing-in of the ICC’s first eighteen judges. The Association of the Bar of the City of New York (the “Association”), with more than 22,000 members in New York City, the United States and abroad, has been a longstanding supporter of the ICC. In 2001, the Association and the American Bar Association joined in a report supporting ratification of the Rome Statute by the United States government.

The swearing-in ceremony will be convened by the Dutch Prime Minister, and scores of world leaders, including the UN Secretary-General, presidents, prime ministers, foreign ministers and justice ministers, are attending. The eighteen ICC judges being sworn in today are from longstanding friends of the United States, such as Great Britain, Ireland, Canada, Finland, Costa Rica, South Korea, France and Germany. Eighty-nine countries have thus far ratified the Rome Statute of the ICC. We regret that no representative of the United States government will attend today’s historic ceremony in The Hague.

The ICC represents a vital step forward in international justice and will be an important tool in the maintenance of international peace and security. Its narrow jurisdiction covers only the most serious crimes of concern to the international community: genocide, war crimes and crimes against humanity, and the ICC can exercise jurisdiction only when national courts are unable or unwilling to prosecute. Moreover, stringent safeguards to prevent frivolous prosecutions will circumscribe the ICC’s exercise of jurisdiction, and the Rome Statute includes extensive rights and protections for defendants and persons accused of crimes that are comparable to the Bill of Rights. Indeed, these provisions were among the substantial contributions of the US government’s diplomats and lawyers who participated in the drafting of the Rome Statute.

The United States government, despite our history as a leader in promoting international justice, remains the only Western democracy opposed to the ICC. The Association is concerned that the active diplomatic campaign now being waged by the United States to undermine and discredit the ICC will damage our relations with allies and unnecessarily impede the work of the ICC. This campaign - which has been undertaken even though the ICC has yet

to bring its first case and its prosecutor has not even been named - includes the unsigning of the Rome Statute, blocking the Security Council's authorization of a peacekeeping mission without an anti-ICC resolution, threatening punitive measures against countries that support the ICC, and pressuring allies to exempt US citizens from the ICC's jurisdiction.

The US government's unyielding hostility toward the ICC is inconsistent with our country's historic commitment to international justice. The United States even refuses to send observers to the ICC's Assembly of State Parties, which is responsible for the legal and political oversight of the ICC. This inflexible antagonism toward the ICC may well be harmful to larger foreign policy interests. In particular, the U.S. government's anti-ICC campaign has hindered the process of creating coalitions to fight terrorism and to disarm Saddam Hussein.

The Association congratulates the eighteen judges being sworn in today. Today will be remembered as a landmark date in the effort to end impunity for war criminals and persons that commit genocide and crimes against humanity. On this historic occasion, we urge the United States government to reconsider its opposition to the ICC.

Thank you for the opportunity to express our views on this important matter.

Respectfully submitted,

E. Leo Milonas

cc: The Honorable Colin Powell  
The Honorable Donald Rumsfeld  
The Honorable Condoleeza Rice