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IZIA

## International Criminal Court Update

*The pace of ratification of the International Criminal Court (ICC) treaty has picked up since 1999, with over half of the 29 countries acting during the last half of 2000. Most observers expect it will take two years to reach the 60 ratifications necessary for the treaty to enter into force.*

- Many of the leading advocates—such as France, Germany, Italy, Spain, Belgium, Finland, Canada, South Africa, and Argentina—moved to ratify early, hoping to build momentum for others to follow suit (139 countries have signed the treaty).
- Support for the ICC generally is stronger in Europe, Latin America, and Africa, while it is weaker in the Middle East and Asia.
- Looking ahead, Sweden could act early this year, although the timing for all countries remains uncertain given the complexity of the process—including potential constitutional amendments.

*Several countries appear to be holding back on ratification to judge the outcome of ongoing Prepcoms resolving unfinished business—and the most important issue is defining the crime of aggression. The more generally the crime of aggression is defined, the more countries are likely to share US reservations that the ICC could be exploited in dangerous ways.*

- Rising Arab frustration with Israel, however, suggests that some of the Middle Eastern countries now lukewarm about the ICC could pursue ratification more actively because they see it as a potential tool against Israel.

Many countries welcomed the US signing of the treaty late last year, but they remain doubtful Washington will ratify. They have voiced general concern that the ICC will be hurt without active US support, but most of them last year rejected US demands for changes as undermining the core independence of the treaty.

- *The adoption of the Rome treaty in 1998 was driven in part by a strong wave of defiance against the United States, suggesting that—although that sentiment has subsided somewhat—it could resurface if countries perceived that Washington was actively trying to kill the treaty.*
- The drive for ratification also will likely be affected over the next two years by high-profile incidents such as human rights atrocities or peacekeeping mishaps that will encourage or discourage support for the ICC.

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### Dynamics in 25 Selected Countries

This chart provides a more detailed look at the prospects for passage in 25 of the 110 countries that have signed but not yet ratified the treaty. Based on a review of reporting over the last three years, the level of "commitment" is our general assessment of how hard the government is working for passage. The timeframe for passage in almost every country remains unclear.

Country	Commitment	Timeframe	Dynamics/points of leverage
Algeria	Low	??	Very sensitive about defending sovereignty given charges of human rights excesses. Algeria has serious reservations about the treaty and supported many US demarches.
Australia	High/Medium	Not soon	Government leaders support ICC, but key MPs share many fundamental US concerns and oppose ratification. Worried about accusations against Aussie peacekeepers in East Timor. Has supported US on excluding jurisdiction over non-party nationals. Cabinet has approved ratification bill and submitted to Parliament for hearings. Parliament's approval is not/not required, but it would have to pass implementing legislation. Have strongly supported US position on aggression. Minister of Defense and Attorney General publicly support ratification. Active in lobbying African and Latin American states.
Brazil	High	??	President Cardoso Oct 00 publicly called for ratification of ICC. Brazil considering "French solution" of a constitutional amendment to recognize ICC jurisdiction and eliminate need to change individual laws and constitution—such as ban on life sentences. Brazil opposed several US proposals as fundamentally changing the treaty. Ratification requires simple majority in House and Senate. Chamber of Deputies passed preliminary amendment in February 2000 to facilitate ratification. Brazil announced in 1998 acceptance of Inter-American Court of Human Rights, suggesting it will accept outside jurisdiction.
Chile	High	??	President and Foreign Minister strongly support—declare that human rights will be one of their prime objectives. Currently under consideration in Chamber of Deputies, where a majority supports it, but some Senators are expected to resist—may

			demand review by Constitutional Court. President sought preliminary ruling by Supreme Court, and a majority ruled it constitutional. If rejected by Senate, could be resubmitted within one year. Chilean Foreign Minister believed US move to exempt non-party actors from jurisdiction would gut treaty and discourage ratification.
Colombia	Medium	Not soon	Outspoken in insisting that ICC respect national sovereignty. President supports ratification, but first wants evaluation of treaty after Prepcoms completed and enactment of other laws on human rights. Some government officials argue ratification will help peace process with rebels. Proceeding very methodically. Colombians said they understood US reservations but would not support them. Must be approved by 2/3rds of both Chamber of Deputies and Senate and review by Constitution Court.
Costa Rica	High	??	Strong, consistent supporter of ICC. Unicameral parliament approved first reading in September 2000. Constitutional Court has ruled treaty does not conflict with constitution. Must be ratified by simple majority in Parliament for approval.
Czech Republic	High	??	Government has modified criminal code to make it compatible with ICC. Work on a ratification bill has begun.
Denmark	High	??	Ratification bill and implementing legislation were presented to Parliament in 2000. Strong supporter, and outspoken and unyielding toward US in formal ICC deliberations. <div data-bbox="873 1283 1382 1409" style="border: 1px solid black; height: 60px; width: 100%;"></div> Danish press sharply critical of US stance in past years.
Egypt	Medium	2 years?	Has wavered; initially strong supporter, then opposed, and now more supportive again but still has some reservations. Ratification largely depends on President pushing the issue. Constitutional court must rule it is acceptable. Outspoken in insisting that ICC respect national sovereignty. Feb 2001 expressed some concern at new US MLAT language including protection from ICC. Officials say current trend is toward

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			ratification, but needs to bring national laws into conformity. Officials predict it will be up to two years before it is presented to the Assembly. Egyptian officials say they are not trying to lobby other Arab states to ratify.
Greece	Medium	??	Greece has joined Portugal is proposing that UN Security Council approval would be primary method for referring crime of aggression cases to ICC. Greece critical of past US proposals as back-door method of undermining treaty. Some NGOs predicted Greece would ratify last year, but no recent sign of movement.
Hungary	High	This year?	Implementing legislation is being prepared, with some potential issues to resolve regarding extradition and immunity. Hungary wanted to wait for some EU members to ratify first, and some officials now expect they will ratify this year. Hungary expects treaty will be ratified by 60 countries—including most Europeans. Dismissed US demands for changes as unacceptable to most signatories.
Iran	Low	Not soon.	Outspoken in insisting that ICC respect national sovereignty. Particularly concerned about how crime of aggression is defined. Some NAM members believed Iran worked in the past to undermine the ICC. Parliament must ratify; must be ruled constitutional by Council of Guard and approved by President.
Ireland	High	??	Strong supporter of ICC. Argued against many fundamental US demands for change, but worked to keep Washington engaged in the process. Work on implementing legislation has begun, but final ratification will require a constitutional amendment.
Israel	Low	??	Israel shares many basic US concerns about the ICC. It has engaged in negotiations to oppose the inclusion of "settlement activity" as a potential war crime. Ratification would require Knesset approval and Presidential signature.
Jordan	Medium	Not soon.	Jordan actively supports the ICC, but it is waiting for other Arab states to show more support before submitting ratification legislation to Parliament. Amman is

			concerned the ICC will not be viable without US participation. Jordan has explicitly said Israel's treatment of Arabs should be subject to ICC jurisdiction.
Mexico	Medium	??	The new administration in Mexico has expressed support for the ICC. Mexico has some concerns about potential "double jeopardy" created by the ICC and needs to amend its penal code as a prerequisite for ratification.
Nigeria	Medium	??	Nigeria is concerned about ICC jurisdiction over non-state actors given its active role in peacekeeping.
Philippines	Medium/Low	Probably not this year	The government signed the treaty at the 11 <sup>th</sup> hour,  Ratification is unlikely this year due to a full legislative calendar.
Poland	Medium	??	Poland actively supported creation of the ICC in Rome, but portrayed itself as  eager to help bridge gaps with the US. Ratification legislation has yet to be sent to Parliament.
South Korea	Medium	Not soon.	Observers say the ratification process could take two years, although there does not appear to be a need for a constitutional amendment. South Korea regularly has expressed support for US positions during negotiations but has not publicly sponsored or lobbied on Washington's behalf.
Russia	Low	??	Russia abstained on initial ICC vote at Rome, but signed treaty late last year.  
Sweden	High	As early as this spring?	Some observers believe the Parliament could ratify the treaty as early as this spring, although it is a complicated process. Sweden last year rejected US proposals as fundamentally undermining the treaty. Sweden criticized US for not promising to ratify treaty if Washington's proposals were adopted.
Syria	Medium/low	Not soon.	Syria has announced it will not ratify treaty until the crime of aggression is defined. Syrian officials expressed support for US

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			positions at times during negotiations, but press reports suggest Damascus envisions using the ICC against Israel.
Ukraine	Medium/low	??	The Foreign Minister and Justice Minister support the ICC, but the Constitution probably will have to be amended prior to ratification.
UK	High	??	The UK has been a strong and consistent supporter of the ICC, but no target date has been set for Parliamentary action. A Parliamentary committee has criticized the government for not moving faster on ratification. The Queen's speech late last year committed the government to ratify.