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Congress fighting war-crimes court: U.S. would cut aid for allies who back prosecuting troops  
By Rick Maze

Congressional leaders have decided they would rather protect U.S. troops from possible prosecution for war crimes by an international court than worry about hurting the feelings of longtime allies.

As such, Congress is poised to change a 2-year-old law so that even close NATO allies risk the loss of U.S. foreign aid unless they sign a bilateral agreement promising not to assist in any prosecutions of U.S. troops by the **International Criminal Court**.

The United States already has signed agreements with 92 nations featuring a promise that American troops and government officials will not be surrendered to the ICC for prosecution.

The United States helped shape the court, which was created to try war criminals who might otherwise escape prosecution, but backed away from the idea out of concern that U.S. troops on humanitarian and peacekeeping missions could be hauled in on trumped-up charges.

President Clinton signed the treaty that authorized the ICC in 2000, but President Bush renounced the signing and declined to play any part in the actual creation and operation of the court.

Because of how the treaty was written, the court has jurisdiction over any war crimes, genocide or crimes against humanity committed since July 1, 2002, the date the treaty was ratified by enough nations to take effect -- to include alleged crimes by citizens of nations that have not signed and ratified the treaty.

Shortly after the ICC was established, Congress passed the American Servicemembers Protection Act to try to insulate troops from prosecution by prohibiting any U.S. cooperation with the court and authorizing armed resistance toward any attempt to take a U.S. service member or government official, past or present, into custody.

As an extra measure of protection, the law also allowed the government to use U.S. military assistance and foreign aid as leverage to get other nations to agree to safeguard U.S. troops from the ICC. However, the law included exemptions for NATO members and major non-NATO allies, many of whom had signed and ratified the treaty.

That exemption is what lawmakers are looking to change under a provision of the consolidated appropriations act for 2005, set for passage just before Congress adjourns for the year. It would give the president authority to deny military assistance even to NATO members if they have not signed an agreement with the United States promising to protect U.S. troops and other personnel from the reach of the court.

The Senate Republican Policy Committee, led by Sen. John Kyl, R-Ariz., notes in a Nov. 17

statement that 19 NATO nations also belong to the European Union, which formally opposes special treatment for the United States regarding the ICC.

The policy committee says the United States also might have to resort to other threats, such as possibly not taking part in any United Nations peacekeeping missions or paying U.N. dues until permanent immunity is granted to U.S. personnel.

The Bush administration began negotiating with the U.N. Security Council for permanent immunity but halted talks in June when it became clear U.S. officials lacked the necessary votes to prevail.