

Darfur Inquiry Threatens Fresh Controversy over International Court

By Mark Turner

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European and US United Nations ambassadors are struggling to head off what could be their most pointed battle yet over the International Criminal Court, as a UN commission of inquiry prepares to report in January on alleged genocide in Sudan's Darfur region.

According to diplomats, even if the inquiry does not determine genocide has occurred, it is likely to cite evidence of atrocities and prompt calls for criminal proceedings against the perpetrators.

Assuming Sudan does not take action itself, that would leave the UN Security Council with two options: an ad hoc tribunal, such as those for Rwanda and the former Yugoslavia, or referring the matter to the newly formed International Criminal Court (ICC).

Many countries feel ad hoc tribunals have proved too expensive, and European diplomats say it is time to put the ICC at the heart of UN justice policy. But the United States has adamantly opposed Security Council support for the ICC, which it fears could be used to prosecute US citizens for political reasons.

Diplomats warn an unseemly clash of ideologies could ensue. "Sudan is coming down the road towards us. Chances are this inquiry will make a recommendation that goes directly against US policy," said one UN diplomat. "The crunch is going to come on Sudan," said another.

So far the Security Council has resisted open hostilities over the issue, although there was disagreement over an investigation into massacres in Burundi. But diplomats suggest Europe could take a tougher stance over Sudan, including forcing a vote.

That could leave the US with the difficult choice of abandoning its position, or vetoing international justice for Sudan.

This month, a high-level panel on UN reform stoked the debate by urging the Security Council to use its power to refer cases to the court. "The Security Council should stand ready to refer cases to the ICC," it said.

European ambassadors recently decried disagreement over the ICC during a debate over protecting civilians in armed conflict, saying it undermined efforts to end impunity for human rights abusers.

"The Security Council's work is considerably limited by this division. It's a real problem," said Jean-Marc de la Sabliere, France's UN ambassador.

"When procedures against those responsible for massive violations cannot be taken by the state in question, the international community must react, unanimously."

There are signs that Britain, which supports the court but has proved wary of irritating the US, will show new resolve - although the Foreign Office in London is still undecided whether to push the issue over Sudan.

Efforts are under way to find a compromise. Gunter Pleuger, Germany's ambassador to the UN, said it was important to build bridges with the US, while insisting Berlin was committed to the court. "We need to advance even further universal acceptance of the ICC's jurisdiction," he told the Security Council.

John Danforth, the outgoing US ambassador to the United Nations, told the FT he was looking for a way around the problem.

"This has been such a thorn in everyone's side, it would be nice if we could figure out a mutually satisfactory way of resolving the issue," he said.

That would require "a little conversation both in Washington and here". Diplomats have taken recent statements by Mr Danforth as an olive branch, but are uncertain whether Washington will follow.

According to Human Rights Watch, the advocacy group, the debate could be a watershed.