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Aid cuts threatened by US over tribunal: Millions at stake for foreign allies

By Joe Lauria and Farah Stockman

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UNITED NATIONS -- The US government is quietly threatening to withhold hundreds of millions of dollars of foreign aid aimed at combating terrorism, resolving conflicts, and building democracy unless countries agree to shield Americans from prosecution at the UN permanent war crimes tribunal.

An amendment to the 3,000-page budget bill before the House of Representatives would punish countries, even close allies in the war on terrorism, that have joined the International Criminal Court and have declined to promise they would not send American citizens to the court without US permission.

Since 2002, the US government has withheld military aid from countries that refused to sign such a bilateral agreement. But the new amendment in this year's budget bill goes a step further, revoking other nonmilitary assistance to governments. The amendment targets an economic support fund designed to foster democracy and human rights around the world, as well as promote the rule of law in Muslim countries to bolster counterterrorism efforts.

Jordan would be hit hardest. It stands to lose \$250 million in a two-year old program to foster pluralism and secular education, potentially undermining the Bush administration's declared goal of spreading democracy in the Mideast.

Cyprus, Ecuador, Paraguay, Peru, Venezuela, and South Africa also could lose millions if the bill passes as expected Wednesday and is signed by President Bush. The bill also threatens to cut \$11 million in aid to eight African democracies meant to break up terrorist funding networks, improve airport security, and upgrade judiciaries. The fate of \$22 million in aid meant to heal divisions in Northern Ireland is also unclear.

Supporters of the amendment are "so irrationally paranoid of the International Criminal Court that they are literally willing to shoot themselves in the foot in opposing it," said William Pace, head of the Coalition for the International Criminal Court, based in New York, a global network of more than 2,000 organizations that support the tribunal.

"It will completely cut the legs out from underneath US credibility on peace initiatives, antiterrorist activities that the US is trying to fund, and support."

US officials say they have a right to punish countries who refuse to protect Americans from the court. Although the United States is not a party to the court, US officials worry that American soldiers could be prosecuted for war crimes in politically motivated proceedings when an alleged crime is committed on the territory of a nation that is a member.

"US dollars are not free," a State Department official said on condition of anonymity. "It should be no skin off the nose of Jordan or other countries to sign this agreement. All it is saying is that no one can go to the court without our consent. . . . Any American citizen would want their government to do that."

The agreements that Washington is seeking also provide protections from prosecution for non-US citizens who work for US intelligence agencies, according to Pace.

The earlier law cutting military aid, known as the American Servicemen's Protection Act of 2002, automatically exempted NATO members or major non-NATO allies vital to US national security and gave President Bush the authority to waive the ban for other countries. But the new amendment removes that

exemption and requires Bush to exempt NATO and major non-NATO allies if he wants their funding to go ahead, according to congressional aides.

Ireland, which is neither a NATO member nor considered a major non-NATO ally, stands to lose \$3.5 million for the Walsh Visa Program, which sends Protestant and Catholic youngsters to live and work together in the United States.

State Department lawyers are trying to determine whether the program is government assistance or nongovernmental aid that is not covered by the ban.

The fate of \$18.5 million in aid for the International Fund for Ireland, an organization that promotes business partnerships across the North-South divide, is also unclear. That money is requested through the targeted economic support fund, but appropriated into a separate account.

Congressional aides said they think Bush will waive the ban on Jordan, a major non-NATO ally that supported the US military campaign in Iraq. But a senior US official said last week that Jordan should not "expect unconditional waivers." Jordan has been lobbying intensely for the waiver, and King Abdullah II will visit Bush tomorrow.

As a strong supporter of the war crimes tribunal, Jordan has resisted a bilateral agreement. Its UN ambassador, Prince Zeid Raad, was elected the first president of the tribunal's governing body. His three-year term ends next July.

For Jordan, losing \$250 million in aid for schools, hospitals, and water projects, as well as for social and economic reforms, would have a major impact, said a Jordanian government lobbyist in Washington.

"It would hurt Jordan tremendously," the official said on condition of anonymity. "None of our Arab friends in the region could achieve the education reform we have, including reforming our curriculum.

"We are counting on the president understanding the importance of Jordan in the alliance against terrorism. . . . Jordan is a model for reform and democracy in the region. So if Jordan doesn't make it, then no one will," he said.

The United States has supported the ad hoc UN war crimes tribunal for the former Yugoslavia and the genocide court on Rwanda, but has aggressively opposed the creation of a permanent court. Given its extensive military presence around the world, US officials fear American soldiers could be unfairly prosecuted.

Over US objections, 120 countries agreed to create the court in 1998.

In 2002, the court was established at The Hague to hear charges of war crimes, genocide, and crimes against humanity.

Although the United States has never been a party to the court, US officials worked to shape it, lobbying for a provision that allows for bilateral agreements on the transfer of potential suspects to the court. US officials say that provision makes the bilateral agreements legal under the court, but Pace said many countries still contest their legality.

Bill Clinton reluctantly signed the treaty that created the court in the final weeks of his presidency, but Bush revoked it in May 2002.

Ninety-six countries have signed bilateral agreements with the United States, some of them secretly. That number includes countries that are not yet a party to the court.

The United States is seeking agreements with all 139 nations that have signed the court's statute, and are working hardest on the 97 nations that have ratified the statute, the final stage of joining the court.

The State Department official said the budget amendment has widespread support, though it ignited a heated debate in July when it was introduced by Representative George R. Nethercutt Jr., a Republican from Washington state. The Republican chairman of the foreign appropriations subcommittee, Representative Jim Kolbe of Arizona, opposed the amendment, saying it applies "a very, very heavy hand to the problem."

"At a time when we are fighting the war on terrorism, reducing this tool of diplomatic influence is not a good idea," Kolbe said.

Representative Tom DeLay, the House majority leader, insisted the amendment protected US soldiers from UN Secretary General "Kofi Annan's kangaroo court."

Calling the tribunal "a shady amalgam of every bad idea ever cooked up for world government," DeLay said the court "still asserts jurisdiction over the American people, including American soldiers fighting the war on terror and still salivates at the prospect of prosecuting one of us for anything the UN does not like."

But advocates for the court said safeguards against political prosecutions were written into its founding treaty, mainly to assuage US concerns. The most important is that nations not party to the court still retain the right to prosecute their citizens first in their domestic courts; the tribunal could intervene only if it ruled that a country was unable or unwilling to prosecute. But the court has no independent powers of arrest.

"This court is not going to be used for politically motivated attacks on US soldiers," Pace said, adding that the court has dismissed attempts by anti-American groups to bring charges against US soldiers over the war in Iraq.

Joe Lauria reported from the UN; Farah Stockman reported from Washington.