

Congress Moves to Cut Aid to Allies That Support World Criminal Court

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WASHINGTON, D.C., Dec 8 (OneWorld) Amid persistent tensions between the United States and its allies, the Republican-led Congress is expected to ban tens of millions of dollars in U.S. economic aid to some of its closest friends overseas unless they formally agree to exempt U.S. citizens from the jurisdiction of the International Criminal Court (ICC).

The ban, which was inserted into the current omnibus Appropriations bill at the insistence of the right-wing leadership of the House of Representatives two weeks ago, was opposed by the State Department and more-moderate Republican and Democratic lawmakers.

But the White House, which had used its political clout in the House over the past week to persuade reluctant Republicans to back the intelligence reform bill, apparently decided against trying to strip the ban, the so-called Nethercutt Amendment named for its chief sponsor, outgoing Washington State Rep. George Nethercutt, from the overall bill.

Analysts here agreed that the ban will also further aggravate U.S. ties with the UN and Europe, the ICC's major champions, at a time when a growing number of Republican lawmakers are clamoring for the resignation of UN Secretary General Kofi Annan and cutting U.S. financial support for the world body because of the oil-for-food scandal. "This will simply add salt to the wounds," said one Congressional aide this week.

"Now is a time when the U.S. should be reaching out to assist countries interested in developing a more democratic and peaceful world," said Raj Purohit, legislative director of Human Rights First (HRF), the New York-based group formerly known as the Lawyers Committee for Human Rights.

"With the Nethercutt Amendment, the U.S. is sadly withdrawing its support for such activities because of a shortsighted campaign against the ICC," he added.

Other rights activists noted that the timing of the ban's approval is particularly unfortunate, given ongoing court martials of U.S. soldiers accused of war crimes in Iraq and ongoing disclosures of abuses committed by U.S. troops against detainees both in Iraq and at detention facilities at the U.S. naval base at Guantanamo Bay, Cuba.

In the latest revelations, documents released Tuesday by the American Civil Liberties Union (ACLU) showed that U.S. special operations forces (SOF) threatened Defense Intelligence Agency (DIA) officials who witnessed evidence of abuses inflicted on detainees in Iraq if they reported what they had seen.

"For the Congress to demand immunity (from the ICC's jurisdiction) for U.S. citizens at a time when members of the U.S. armed forces are clearly shown to have been involved in torture and abuse of prisoners will touch a raw nerve internationally," said Richard Dicker, international justice program director for Human Rights Watch (HRW).

"The Nethercutt amendment marks a brutal escalation in this administration's disastrous crusade against the ICC," he added.

The ICC, whose mandate is to investigate and prosecute war crimes, crimes against humanity, genocide, and other atrocities, was established at The Hague two years ago under the 1998 Rome Statute.

The Statute, which has been signed by 139 countries and ratified by 97, including all members of the European Union and all of Washington's NATO allies except Turkey, was also signed by the United States under President Bill Clinton, but the Bush administration, in an unprecedented action in May 2002, explicitly renounced the treaty.

At the same time, it launched a major diplomatic offensive to press countries that adhered to the treaty to conclude "bilateral immunity agreements" (BIAs) with Washington that would shield U.S. nationals or foreign nationals working for the U.S. from the ICC's jurisdiction.

It also sought and initially obtained a UN Security Council resolution that provided blanket exemption from the ICC for soldiers and officials serving in UN peacekeeping operations whose home country had not signed the treaty. In the wake of the Abu Ghraib prison scandal last spring, however, the Council members refused to extend the exemption.

The administration has insisted that the ICC threatens U.S. sovereignty and that, given Washington's global military dominance and the unique responsibilities for maintaining international peace that go with it, U.S. nationals would be particularly vulnerable to politically inspired prosecutions by the ICC. During the recent presidential campaign, Bush himself repeatedly denounced the ICC which he said would be dominated by "unaccountable judges and prosecutors."

ICC supporters, including Bush's closest foreign ally, British Prime Minister Tony Blair, have argued that Washington has nothing to fear from the tribunal so long as its government is willing to investigate and prosecute serious crimes that might otherwise fall under the ICC's jurisdiction. Under the Rome Statute, the ICC can only take jurisdiction if the country involved is either unable or unwilling to pursue prosecutions on its own.

To put pressure on countries to sign a BIA with Washington, Congress passed a law in 2002 that gave the administration the discretion to cut off military aid to non-NATO countries that ratified the ICC. Over the past year, the administration has done precisely that with about three dozen

countries, almost all of them poor nations in Latin America, the Caribbean, Africa, and Central Europe.

The Nethercutt Amendment would deprive the same nations of economic support funds (ESF), a category of economic assistance that accounts for about US\$2.5 billion in the current foreign-aid bill.

As written, the legislation could waive the ban for national-security reasons for Washington's NATO or "non-NATO allies," which include Australia, New Zealand, Egypt, Israel, Japan, Jordan, Argentina, and South Korea. The amendment also exempts from the ban beneficiaries of the new Millennium Challenge Account (MCA), which goes to poor countries that adhere to political and economic policies approved by Washington.

But even if Bush exercised his waiver authority in every case, a number of key U.S. partners in the developing world and hundreds of millions of dollars in economic assistance would be affected by the Nethercutt ban, including South Africa, Costa Rica, Ecuador, Jordan, Mali, Liberia, Benin, Niger, Peru, Trinidad and Tobago and several other Caribbean island-states, Uruguay and Venezuela.

Cyprus, for example, could lose \$13.5 million for the promotion of reconciliation between its Greek and Turkish communities, while South Africa, Ecuador, Paraguay, Peru, and Venezuela stand to lose millions of dollars earmarked for democracy-promotion, economic-growth, health, and environmental programmes.

Jordan, a key U.S. ally that adjoins both Iraq and Israel, stands to lose as much as \$250 million in economic support, a loss that the Republican chairman of the House Foreign Operations Subcommittee, James Kolbe, warned last summer could have serious consequences for Washington's interests in the region. "I don't see how that will help us in the war against terrorism," he said at the time.

It is also certain to feed growing international concerns about the Washington's unilateralism. On his trip to Canada last week, Bush tried to allay these concerns, but, as the Congressional aide said this week, "actions speak louder than words."

"This measure targets democracies that uphold the rule of law and work alongside the U.S. to further our foreign-policy priorities," said Don Kraus, executive vice president of Citizens for Global Solutions (CGS). "We should not be punishing them over agreements that are not necessary and do not provide additional protection for our troops than they already have through existing (bilateral) Status of Forces Agreements and Status of Mission Agreements for U.S. soldiers and diplomats."