

ANALYSIS-U.S. takes more pragmatic view of world court

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WASHINGTON, May 7 (Reuters) - Long critical of the International Criminal Court, the Bush administration has now adopted a more pragmatic view of the court, a move experts say opens the door to a policy shift by the next president.

In a speech last month marking the 10th anniversary of the ICC, State Department legal adviser John Bellinger said while Washington still had strong concerns about the court, it would work with the ICC on issues such as holding people accountable for atrocities committed in Sudan's Darfur region.

Legal experts say this signals a change and while Bellinger says his speech should not be interpreted as warming up to the ICC, he concedes the administration shares some of the same goals as the court, especially when it comes to Darfur.

"There is some common ground," he told Reuters.

Since the prison abuse scandal at Abu Ghraib in Iraq and criticism over the U.S. detention facility at Guantanamo Bay, the United States has been accused of seeing itself as above the law and refusal to sign onto the ICC fueled that view.

"We should not allow our differences over the ICC to obscure the strong U.S. commitment to international criminal justice and to let people somehow think that the United States does not support international law and international criminal justice," Bellinger said.

The ICC came into existence in 1998 under the Rome Statute, which gave it jurisdiction over systematic war crimes, genocide and crimes against humanity. So far more than 100 governments have ratified the statute, excluding the United States.

The Clinton administration signed the Rome Statute at the end of 2000 but recommended that serious concerns be addressed before ratification. That signature was nullified by the Bush administration in 2002.

NEW APPROACH IN 2009?

Among the many U.S. objections to the court, which is based in the Hague, are fears that it could take on politically motivated cases against U.S. citizens or soldiers.

Bellinger declined to say what help the United States had provided the ICC on Darfur so far but experts say it indicates a softening of U.S. views toward the court.

"What you have is a policy going one way and practice going in another," said John Washburn of the American Nongovernmental Organizations Coalition for the ICC.

"What this will permit though is an emerging course of action which will make it possible for the incoming administration to make it the basis of their policy," said Washburn, whose group lobbies support for the ICC.

Signs that U.S. antagonism toward the court was waning emerged in March 2005, when the United States abstained -- rather than veto -- in a vote on a U.N. Security Council resolution to refer Darfur to the ICC.

A key opponent inside the Bush administration was the former ambassador to the United Nations, John Bolton, who strongly rejects any U.S. help on any cases, including Darfur.

"They are absolutely wrong. That is a weak-kneed position, an unwillingness to defend American interests," said Bolton, now with the American Enterprise Institute think tank.

DENIED LEGAL IMAGE

Bolton said the State Department yearned for acceptance from European governments, which was why it was offering cooperation on Darfur.

But supporters of the court counter it was the attitude of Bolton and others that dented America's legal image and a more pragmatic approach is needed now.

"This administration from 2002-2005 was engaged in a jihad (holy war) against the court. The leader of that effort was John Bolton," said Richard Dicker of Human Rights Watch.

The administration sought to punish nations that signed onto the court, cutting military aid to some Latin American and African countries, some of whom were helping in the fight against terrorism.

U.S. Secretary of State Condoleezza Rice admitted in 2006 that the cut in aid was "shooting ourselves in the foot" and after complaints by the Pentagon, President George W. Bush issued waivers allowing aid to those countries.

A former prosecutor in the Nuremberg war crimes trials, Benjamin Ferencz, said the next administration taking over in January 2009 must change course.

"It is hoped that a new administration will take a fresh look at that and live up to the promise we made at the time of the Nuremberg trials, that we would do whatever we could to sustain the rule of law in order to prevent aggression and crimes against humanity," Ferencz said.

ICC supporters say the next administration should attempt to repair ties by initially attending ICC meetings as observers and then by going to a conference set for 2010 in which the progress of the court will be reviewed.

But Bellinger predicts the next administration will have the same worries as the Bush White House over the ICC.

"The tone might change but the substantive concerns are likely to remain the same," he said.

(Editing by David Alexander and Bill Trott)