

U.S. ISSUES WARNING TO EUROPEANS IN DISPUTE OVER NEW COURT

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NYT

Aug. 26, 2002

The Bush administration has warned European nations that the American role in NATO will change if the European Union refuses the United States' request for agreements to keep Americans out of the reach of the new International Criminal Court.

The foreign ministers of the European Union are scheduled to meet at the end of the week in Copenhagen, where they will begin deliberations on whether to grant the United States such an exemption.

The European nations are strong supporters of the court, which opened last month in The Hague and is the first permanent forum for trying people charged with genocide and other crimes against humanity.

The Bush administration is strongly opposed to the court, citing concerns that Americans would be unfairly singled out for politically motivated prosecutions abroad.

The debate complicates the administration's search for support among its closest allies for possible action against Iraq.

Secretary of State Colin L. Powell wrote letters to individual European governments dated Aug. 16, asking them to ignore the European Union's request to wait and make a united stand on the issue. He urged them instead to sign separate agreements with the United States "as soon as possible" under Article 98 of the treaty that created the court, which the United States says allows nations to negotiate for immunity for their forces on a bilateral basis.

"Unfortunately, some voices in the E.U. in recent weeks have suggested that E.U. governments should avoid making Article 98 bilateral arrangements with the United States, pending further consultations toward a common E.U. position," Secretary Powell wrote in the letter.

In a confidential document written by the European Commission, the European Union's executive body, the commission's initial legal assessment is against the United States' request, according to European diplomats who have read the document.

The conclusion states that "the bilateral agreements proposed by the U.S. are not covered by Article 98. A contracting party to the Statute concluding such an agreement with the U.S. acts against the object and purpose of the Statute."

A spokesman for the European Commission refused to comment, saying it is European Union policy to neither confirm nor deny the contents of confidential documents.

"This is too delicate a matter," said a European Union spokesman in Washington. "We should wait in about a week when the ministers have discussed the issues and come to a decision."

Pierre-Richard Prosper, the American ambassador for war crimes issues, said in an interview with the Danish news media last week that if the answer is no, the status quo between the United States and NATO "will obviously not exist, and we will have to see how we can work through this."

He also said that if countries that are candidates to become members of NATO did not sign such an agreement, "it will be an issue that we will have to discuss in the NATO context," according to a State Department transcript of the interview.

While several European nations viewed these remarks as a veiled threat, Philip Reeker, a State Department spokesman, said "there is no connection" between a decision by the United States in favor of a country's membership in NATO and the country's decision on granting an exemption. He said Mr. Prosper's remarks about NATO reflected the administration's deep concerns about the court.

"The Europeans know our concerns about peacekeeping and NATO," Mr. Reeker said. "We are not prepared to speculate on what alternative strategies we might pursue if our current policy falls short of our goal."

Last month, after debate over protection for American peacekeepers from the court's jurisdiction, the United Nations Security Council agreed to exempt United Nations peacekeepers from prosecution for a year.

The Bush administration then started a campaign to persuade most countries to sign agreements not to extradite Americans for trial before the court. It warned foreign diplomats that under a new American law, their nations could lose American military assistance if they became members of the court without pledging to protect Americans serving in their countries from its reach.

Romania and Israel have signed such agreements. Switzerland has said it will refuse to do so.

Human rights groups here worry that the administration's position will eventually undermine the court.

"The level of threats has increased dramatically," said Richard Dicker, director of the international justice program for Human Rights Watch in New York. "And threat inflation is a sign of a policy gone amok."