

ACCORDS 'WOULD VIOLATE' COURT TREATY

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Signatories of the new International Criminal Court who sign bilateral accords with Washington aimed at exempting US personnel serving abroad from prosecution are violating the ICC treaty, according to the European Commission.

The legal opinion, seen by the Financial Times, was reached by the Commission's legal service. It could provide a lever against any state contemplating a bilateral agreement with the US and could sour EU-US relations further.

An EU spokesman would not confirm the findings, awaiting the outcome of this weekend's meeting in Denmark of EU foreign ministers. There is some concern that Britain and Italy, staunch allies of the Bush administration and its fight against terrorism, are considering bilateral arrangements with Washington.

The legal service had been asked to consider the implications of Washington's overtures to sign up to such bilateral agreements. The US initiative began last month and targeted, among others, all EU member states as well as candidate countries.

Diplomats and human rights experts said the ICC would be undermined by bilateral agreements with the US. "The US is imposing unacceptable pressure, especially on those countries that cannot resist," said Steve Crawshaw, London director of the Human Rights Watch. "The EU must maintain a united front. Any wavering by any member state will play into the hands of those countries that want to see the court fail," he added.

"We are coming under huge pressure from Washington," said an EU diplomat. "All it takes is one member state to give in and it undermines the credibility of the ICC. And candidate countries who support our united stance on the ICC could jump over to the US." In a concise three-page opinion, the Commission's legal service concluded that a "contracting party to the statute concluding such an agreement with the US acts against the object and purpose of the statute and thereby violates its general obligation to perform the obligations of the statutes in good faith."

It added that "(a contracting party's) legal obligation vis-a-vis its co-contracting parties and the court to surrender a person to the court upon request cannot be modified by concluding an agreement of the kind proposed by the US".

Copies of the opinion were sent to Romano Prodi, Commission president, and Chris Patten, external affairs commissioner.

Washington's attempts to forge bilateral accords were made in spite of a recent decision by the United Nations Security Council to give the US a 12-month immunity from any possible prosecution by the ICC. So far all 15 EU member states have resisted pressure from the Bush administration, led by Colin Powell, US secretary of state, his

colleague, Richard Prosper, responsible for war crime tribunals, and the Pentagon.