

U.S. Ties Military Aid To Peacekeepers' Immunity

By Elizabeth Becker

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WASHINGTON, Aug. 9 - The Bush administration, making use of a provision of the new antiterrorism law, warned foreign diplomats this week that their nations could lose all American military assistance if they became members of the International Criminal Court without pledging to protect Americans serving in their countries from its reach.

The threat to withdraw military aid - including education, training and help financing the purchase of equipment and weaponry - could be felt by almost every nation that has relations with the United States, though the law exempts many of its closest allies. The law gives the president authority to waive the provision and decide to continue military aid if he determines it is in the national interest.

This part of the new law, which passed Congress with broad bipartisan support and was signed last week by President Bush, provides the administration with its broadest and most coercive tool to keep American peacekeepers out of the hands of the new court.

Written by Representative Tom DeLay of Texas, the majority whip, the measure is intended to force as many countries as possible to sign bilateral agreements not to extradite Americans to the new court for trial, according to a Republican Congressional aide who worked on the measure.

Romania and Israel have signed such agreements.

The Bush administration opposes the court, the world's first permanent forum for trying individuals charged with genocide and other crimes against humanity, on the ground that it could subject Americans to politically motivated prosecutions abroad.

This week, the State Department invited foreign ambassadors in for briefings to lay out American opposition to the court and to warn them of the prohibition against military aid to countries that are a party to the treaty establishing the court.

"That is a fact under the law, it's right there in the law," said Philip Reeker, a State Department spokesman. "The president welcomes the law - I can't underscore how important this is to us to protect American service members."

Another provision in the law gives the president authority to free members of the armed services or other Americans who are in the court's custody by any "necessary and appropriate means," including use of the military.

Nations that are members of NATO and other major allies - including Israel, Egypt, Australia, Japan and South Korea - are exempted from the military assistance prohibition. The Pentagon said the measure could touch just about every other country on the globe.

"It is easier to list what countries do not receive American military assistance than those that do," said Lt. Cmdr. Barbara Burfeind of the Navy, a Pentagon spokeswoman. "Virtually every country but Cuba, Iraq, Iran and the other countries on the terrorist list receive some military training or aid from us."

Jonathan Grella, a spokesman for Mr. DeLay, said, "This is just an effective tool, and we have said numerous times that we have to do whatever it takes to protect our service members from this rogue court." The United States has about 9,000 peacekeepers stationed in nine countries.

After pitched debates with its European and North American allies, the administration won agreement from the United Nations Security Council last month to exempt American peacekeepers for one year.

After winning that temporary solution, the administration began seeking longer exemptions through a provision in the treaty known as Article 98, which allows nations to negotiate immunity for their forces on a bilateral basis.

Human rights groups condemned the administration's latest tactic of using the threat of withdrawing military assistance as a tool in those negotiations.

"This makes the remote possibility of American prosecution by the court trump every other definition of national interest - it is fixation to the point of craziness," said Kenneth Roth, the executive director of Human Rights Watch.

His organization sent a letter to every country that has signed or ratified the court treaty informing them that they should not necessarily feel compelled to sign an agreement because of the presidential authority to waive the provision on military aid.

Military assistance programs that could be terminated include international military education that brings foreign officers and students here for professional military training and financing for the purchase of American weapons and services. The goal of military assistance programs, the Pentagon says, is to "enable friends and allies to acquire U.S. equipment, services and training for their legitimate self-defense and multinational security efforts."

Threatening to end these programs appears heavy-handed even to some of those who share the administration's concerns about the court.

James B. Steinberg, vice president of the Brookings Institution and a deputy national security adviser to President Bill Clinton, said he shared some of the administration's concerns about the court. Still, he added, military assistance programs "reflect shared common interest between the United States and foreign nations and should not be used as a club to get these countries to sign agreements."

"It's a very awkward way to deal with allies, " Mr. Steinberg said. "We ought to be able to persuade them rather than coerce them. This has a very heavy feel to it."

Several foreign diplomats said they were angry and puzzled by this threatened cutoff of military assistance even to countries that provided valuable military cooperation to the United States in the world wars, the Vietnam War, the gulf war and the current campaign against terrorism. None agreed to be quoted by name.

"Why is this court so important that Washington would risk our military friendship?" asked a diplomat who represents a country that was a wartime ally of the United States.

Even diplomats from countries exempt from the prohibition and who sympathize with some of the Americans' concerns said they were uneasy.

"Military aid is given out after much careful thought," one diplomat said. "How has the world changed so suddenly that now this military assistance is no longer in American national interests?"