

June 30, 2003

State Department briefing with Richard Boucher

QUESTION: Do you have something on the deadline tomorrow concerning the Article 98 agreements and what would happen tomorrow unless the agreements are reached?

MR. BOUCHER: Let me run through the basics just so people know that July 1st, 2003, the key provisions of the American Servicemembers' Protection Act of 2002 come into effect. Specifically, the provision of military assistance to states that are parties to the International Criminal Court and that have not entered into non-surrender Article 98 agreements with the United States will be restricted.

Programs affected include Foreign Military Financing, International Military Education and Training, and provision of excess defense articles. Under this law, the U.S. must assess the provision of military assistance programs to states that are affected by the Act, and in implementing the Act, we will need to balance our broader bilateral interests with substantial consideration to the risks posed to U.S. citizens and servicemembers by the potential for politically motivated charges before the International Criminal Court.

The Act itself exempts certain states, that is, NATO members, major non-NATO allies, including Israel, Egypt, Australia, New Zealand, South Korea, Japan, Jordan, Argentina, Bahrain and the Philippines, and it also exempts provision of defense articles and services to Taiwan. It also provides the President with the flexibility to waive the restrictions for countries that have entered into Article 98 agreements with the United States and for other states, if determined to be important to the U.S. national interest. Current military assistance programs for which funding has already been provided will continue.

Funds that have not been provided as of July 1st will be frozen. While the immediate practical effect of the July 1st suspension of assistance on current programs will be minimal, there should be no misunderstanding that the protection of U.S. citizens and servicemembers from the International Criminal Court, from potential prosecution by the International Criminal Court, will be a significant and pressing matter in our relations with every state.

We encourage those states who have not yet concluded Article 98 agreements with the United States to do so. Our embassies and negotiating teams stand ready to work with interested governments to conclude such agreements on an expeditious basis. At this point, there are over 50 countries who have concluded Article 98 agreements with us, and there are, we think, about three dozen countries that would be at risk from this cutoff of assistance.

QUESTION: You said the effect would be minimal. Why do you say that? On what basis do you say that?

MR. BOUCHER: Well, I mean first of all, you have money that has already been expended for this year, for a good part of this year. We have what? - three months left for the fiscal year, so that a lot of the money for this fiscal year would have been expended already. There

may be countries that are entering into Article 98 agreements who might enter into Article 98 agreements, you know, at some point during those three months, in which case, it could be restored.

So, all told, you know, the immediate clampdown on funding won't necessarily be abrupt. But it is an important issue that will take hold over time and it will -- we will continue to pursue over time, I think.

QUESTION: Have you assisted or made any recommendations for waivers that the President should issue?

MR. BOUCHER: We have been working on that issue, but I don't have any answers for you right now.

QUESTION: And would you expect a sort of flurry of waivers to be issued in the next -- well, two questions: (1) Would you expect a series of waivers to be issued? And (2) Would that have to be done by midnight, tonight, or is the deadline actually midnight, tomorrow? Do you know?

MR. BOUCHER: I think it is midnight, tonight. I have to remember. I asked and somebody told me midnight. I think that meant midnight, tonight.

QUESTION: Okay.

MR. BOUCHER: But, yes, we would -- we would expect the President to be able to exercise his authority, as he deemed appropriate, and we will have an accounting for that after it is done.

Yes.

QUESTION: Aren't some of these programs beneficial to the U.S.? I mean, the U.S. wouldn't have the FMF and IMET programs unless the U.S. derived some benefit from it.

MR. BOUCHER: Well, we wouldn't be spending our money, taxpayer money, on these programs unless we felt they were beneficial. But that doesn't mean that they are necessarily -- automatically qualified for waivers. We will have to look at each of the programs involved and determine whether it is sufficiently important to our interests to -- for the President to decide to waive the restrictions and allow the assistance to proceed.

Okay, Nicholas.

QUESTION: Richard, would the NATO members include the seven new members?

MR. BOUCHER: The NATO invitees aren't automatically included as being invited at this point. They are subject to the provisions of the Act. We would note that Romania has signed an Article 98 agreement with us, and we continue to advise these countries, as well as others, of the importance of signing Article 98 agreements with us.

QUESTION: Richard, am I correct in understanding that the law requires that countries not only sign, but ratify Article 98s to avoid having the restriction on military aid?

MR. BOUCHER: That's right. That's right. So, again, you consider some who have signed -- whether there is some provision, some form of waiver that might be appropriate if you have signed, but haven't ratified.

QUESTION: And secondly, is it also the case that the President can waive specific -- he could choose to waive specific military aid while permitting others to continue? In other words, it's not a blunt instrument, the waiver?

MR. BOUCHER: He can waive specific programs of military assistance while allowing restrictions to be imposed on other parts of the program, yes.

Nicholas.

QUESTION: Richard, again, you said that you have got over 50 countries that have concluded. Can you say how many countries you are still negotiating with at this moment?

MR. BOUCHER: I can't say how many we are still negotiating with. We are certainly in touch with a number of other governments, and we would hope to be in touch with more -- as many as wish to conclude these agreements, we would expect to negotiate with.

Yes.

QUESTION: Richard, you said over 50. Can you fill us in on the last few? Because I think the last count we had was 46 or so, so there must have been some over the weekend or the last few days.

MR. BOUCHER: Yes. There have been a couple that are being worked on. I don't have the -- I have got the 43 who are publicly declared, but frankly, I don't have a breakdown as to which of those are the most recent -- so.

QUESTION: And you've got more than seven secret ones now?

MR. BOUCHER: More than seven who have signed agreement, but have asked not to be identified at this stage.

QUESTION: Exactly. How many of those?

MR. BOUCHER: There is more than seven.

QUESTION: More than seven?

MR. BOUCHER: Yes.

QUESTION: Okay.

MR. BOUCHER: And we respect their wishes in that regard.

QUESTION: Yeah, I'm not asking you to name them; I'm just asking how many there are.

QUESTION: Well, I'll ask you to name them. (Laughter.)

QUESTION: Richard, Representative Curt Weldon has an op-ed in The Philadelphia Inquirer today where he puts forward a 10-point plan that he suggests could bring about an end to North Korea's nuclear weapons program.

QUESTION: Could I ask --

QUESTION: Okay.

MR. BOUCHER: Okay.

QUESTION: Do you happen to know the number of all countries in the world who receive military aid from the United States?

MR. BOUCHER: I don't think I do, actually. No. That is something I will have to get.

Yes.