

THE INTERNATIONAL CRIMINAL COURT: BOTH SIDES LOSE

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In the end, America retreated a little-but nobody is particularly happy.

LIKE all good diplomatic compromises, it allowed both sides to claim some sort of victory-if they wanted to, that is. Weeks of bitter wrangling between America and its allies over the newly established International Criminal Court came to an end on July 12th, when the United Nations Security Council unanimously passed a resolution extending temporary immunity from the court's jurisdiction to America's UN peacekeepers.

The United States had shocked friends and foes alike when it threatened to veto the routine renewal of all UN peacekeeping missions, beginning with the mission in Bosnia, if the Security Council did not grant all UN peacekeepers a permanent immunity. The court's supporters on the council dug in their heels and refused to pass such a resolution. They were backed by all other council members, including even Russia and China, who themselves show no signs of joining the court.

The compromise eventually agreed was a resolution brokered by Britain. It extends immunity for 12 months to all soldiers or officials, from countries which have not ratified the treaty, who are involved either in UN missions or those authorised by the UN. This covers most international interventions.

America can claim to have gained protection for its personnel from politically motivated prosecutions by the court. It had originally sought permanent immunity, then a 12-month immunity that would be extended automatically, forever. Instead, it has had to settle for an immunity that relies on a specific provision of the court's treaty, and which has to be renewed by the council every 12 months. This means that any one of the council's five permanent members could veto a renewal, though this looks unlikely after all the fuss.

End of round one

Following the clash, feelings remained raw on both sides. While claiming to have won a "degree of protection" for Americans serving abroad, John Negroponte, America's UN ambassador, remarked that "should the [court] eventually seek to detain any American, the United States would regard this as illegitimate-and it would have serious consequences. No nation should underestimate our commitment to protect our citizens."

The court's supporters insisted that it already features plenty of protections against frivolous prosecutions, and that the chances of any country's peacekeepers being prosecuted were virtually nil. What America had really been trying to do, they claimed, was to wreck an institution which it cannot control. "This is a sad day for the United

Nations," declared Paul Heinbecker, Canada's UN ambassador, after the Security Council vote. European ministers grumbled about American bullying. A coalition of human-rights groups complained that the council's compromise resolution twisted both the court's treaty and the UN charter.

Conflict over the court is unlikely to go away. The court has pretty wide support. The treaty establishing it has been ratified by 76 countries, including all members of the European Union, Canada, Australia and New Zealand. Since 1998, when the treaty was agreed, the court's backers have been trying quietly to soften America's opposition into indifference. Some even imagined that once the court had proved its worth, for instance by putting on trial an obvious villain, America might even decide to join itself. That now looks a forlorn hope.