

WITHOUT FANFARE OR CASES, INTERNATIONAL COURT SETS UP

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THE HAGUE, June 28— Over strong objections from Washington, the new International Criminal Court opens its doors here on Monday, ready to receive complaints about gross abuses of human rights anywhere in the world.

In a modern steel-and-glass office block on the edge of The Hague, the first legal team will begin preparing the machinery necessary for the court to carry out its mandate. Created by the Rome Treaty of 1998, the court has jurisdiction over war crimes, crimes against humanity and genocide. The organizers say that it is likely to be at least a year before a first trial takes place.

"American opposition has certainly weakened the court, but it cannot at this point derail the institution or prevent it from starting business," a senior European diplomat here said.

The court's jurisdiction will apply only to possible crimes committed on or after Monday, July 1, 2002. Also, the court is authorized to try only individuals, not nations or armies.

The court is independent of the United Nations and was established as a permanent institution. It is intended to replace ad hoc tribunals, like the one that dealt with Nazi crimes in Nuremberg or the United Nations courts that are now dealing with Rwanda and Yugoslavia.

"We hope it will deter future war criminals and bring nearer the day when no ruler, no state, no junta and no army anywhere will be able to abuse human rights with impunity," said Kofi Annan, the United Nations secretary general.

The Bush administration and Congress have fought to undermine it and curb its reach. They are particularly opposed to the possibility that American soldiers on missions abroad might be subjected to the court's jurisdiction, and American officials have warned that the threat of trial could undermine the United Nations peacekeeping apparatus.

Human rights groups in the United States and diplomats in Europe who are critical of the American position said they think Washington is motivated by the fear that American policymakers, not just soldiers, could be held accountable before the court.

So far, 74 countries have ratified the Rome Treaty, and several, including Britain, France and Germany, are helping to finance the court and have offered to contribute staff members. The European Union is expected to pay about three-fourths of the budget, initially expected to be \$30 million a year. The Netherlands has pledged 10 years of free rent and \$70 million for starting costs.

Edmond Wellenstein, a Dutch official and coordinator of the task force setting up the court, said that the opening on Monday will be low-key.

"The difficult part, perhaps, will be dealing with people's high expectations," he said. "Some

people hope and even expect that the court can start trying cases on July 2."

The speed of the court's creation — it received the required ratification of 60 nations barely four years after the Rome Treaty instead of in the expected 10 to 20 years — has caught the Dutch government by surprise. It will build a permanent headquarters on the outskirts of The Hague, with a prison, legal library, hospital and other facilities on the site of a military barracks. But construction will only be completed in 2007. Until then, the current skeleton staff, which is expected to expand to 400, will be at an office building that used to house a telephone company.

In January, the member countries are to choose a prosecutor and the first three of an eventual 18 judges.

Legislation before the United States Congress that asserts a right to use "all means necessary" to free any Americans detained in the court's prison has provoked criticism, and some mocking, in the European Union. European lawyers here jokingly calculated that the future prison would be only one mile from the North Sea coast, making an American beach landing and a raid on the jail an easy feat.

Some legal experts believe that the threshold for getting a case to the new global criminal court is so high that it may take considerable time to get any cases at all, partly because of the many safeguards that were written into the court's mandate specifically at the request of American negotiators at the Rome conference.

For example, the prosecutor may investigate a case only when a national court is unable or unwilling to do so. The prosecutor may do so only after convincing a three-judge panel that an existing national investigation or trial was a sham or that local courts shielded an individual from criminal responsibility. The definition of war crimes is very specific, stipulating that large-scale crimes must be committed as part of a government plan or policy. This, legal experts say, would rule out a trial of any local commander or individual pilot who bombed or killed on a personal whim.

At the insistence of the United States, some war crimes were defined in even more strict terms than in the Geneva Conventions. For instance, the loss of civilian lives or damage to property needs to be "clearly excessive" compared with the military advantage of an attack.

Furthermore, before a prosecutor can begin an investigation, the court has to notify the suspect's government. National authorities will then have six months to conduct their own investigation to ward off the international prosecutor.

What Washington did not get is iron-clad immunity for all Americans.

"This would create a two-tier system of justice, one for Americans and one for the rest of the world," said Richard Dicker, director of the international justice program of Human Rights Watch in New York. "Major countries would not agree. And this would not be a court worth having."