

U.S. TO PULL OUT OF WORLD COURT ON WAR CRIMES

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WASHINGTON -- The Bush administration is launching a diplomatic offensive against the first permanent court established to try war crimes, annulling the U.S. signature on the treaty that created the forum and instructing American ambassadors to demand that foreign governments promise to exempt U.S. nationals from its jurisdiction.

In a letter to be delivered today to the United Nations, Undersecretary of State John Bolton writes that the U.S. "does not intend to become a party" to the International Criminal Court and therefore "has no legal obligation arising from its signature" on the treaty, known as the Rome Statute for the city where it was drafted in 1998. Mr. Bolton and other critics complain that the ICC's structure could allow for politically motivated prosecutions of U.S. officials.

Several administration officials, including Defense Secretary Donald Rumsfeld, are expected to outline today their reasons for renouncing the ICC treaty and explain the approach they prefer for prosecuting war crimes. That, officials said, would involve strengthening domestic justice systems in countries that suffer war crimes with the help of financial support from private interests and other countries, and expertise from academic institutions.

"A bunch of Europeans sitting in The Hague is exactly what is not needed" to further the cause of justice, a senior administration official said.

The move escalates a conflict between the U.S. and some of its closest allies, including members of the North Atlantic Treaty Organization. Britain, Canada, France, Germany, Italy and Spain all have ratified the ICC treaty. Among the world's largest countries, Russia signed the Rome Statute but hasn't ratified it, while neither China nor India has signed. Israel, which ICC critics see as a likely target of politically motivated prosecutions by the U.N. court, has followed the American lead, signing the treaty the same day as the U.S. but not ratifying it.

Although the Bush administration's opposition to the court long has been known, it was unable to prevent the ICC from being established last month. By the Rome Statute's own terms, the court was authorized when the 60th country ratified the treaty on April 11. The ICC is to open for business on July 1 in The Hague, and will have jurisdiction over war crimes, genocide and crimes against humanity committed thereafter.

U.S. renunciation of the treaty brought condemnations from human-rights groups that have pushed for the court, as well as Clinton administration officials who helped negotiate it. "It is an abandonment of the U.S. legacy and leadership," dating from the Nuremberg tribunals, in prosecuting war crimes, said William Pace, who heads the

Coalition for an International Criminal Court. The coalition includes such groups as Amnesty International, Human Rights Watch and the Lawyers Committee for Human Rights.

"This is extremely destructive of American interests," said David Scheffer, who, as President Clinton's war-crimes ambassador, signed the ICC treaty for the U.S. on Dec. 31, 2000. "We are ceding leadership on this issue to the Europeans, and it will take us many, many years and enormous effort to recover it."

Neither President Clinton nor President Bush asked the Senate to ratify the Rome Statute. Still, international law generally requires that a country not undercut a treaty it has signed, even if it hasn't been ratified. And "it's our firm intention to do a lot of things to undercut the court," a senior administration official said yesterday.

Among the steps the U.S. plans to take: refusing to contribute to the ICC or to honor any subpoenas or warrants it may issue, and asking foreign governments to sign agreements promising not to aid the court in any action against a U.S. national. Officials said countries that refuse to sign such agreements might face a cutoff of U.S. military assistance or other penalties.

Instructions on the diplomatic campaign were sent by cable to U.S. ambassadors around the world last night, another administration official said. Negotiations over those agreements are to be spearheaded by Marisa Lino, a State Department official who is well regarded at the Pentagon for heading negotiations over the use of military bases overseas.

Administration officials said President Bush decided to renounce the ICC treaty last summer, but the events of Sept. 11 and reluctance by some in the State Department delayed today's action.

The ICC poses "a real threat to U.S. freedom of action" in the war on terrorism and other campaigns, a senior official said, by exposing both military and political officials to potential criminal prosecution by the court. Some of the countries signing the Rome Statute "see the court as a way to intimidate or influence the United States," the official said, without naming them.

The main U.S. objection to the ICC is that the court's prosecutor and judges will have discretion regarding which cases to bring, including the imprecisely defined charge of "aggression." U.S. negotiators unsuccessfully sought to require approval of the U.N. Security Council before a prosecution could be launched, arguing that such a provision would prevent politically motivated prosecutions. Advocates of the court's structure made the opposite argument, saying the court had to function independent of the Security Council, which they feared would inject political considerations into a what should be a judicial determination.

