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U.S. AT ODDS OVER WORLD TRIBUNAL

Bush administration suspends aid to nations that refuse to shield Americans from war-crimes court

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ROSEAU, Dominica - Translucent and beguiling, the Caribbean waters that surround this speck of a tropical island define tranquillity. And therein lies the problem.

Gone are the Dominican Coast Guard vessels that used to prowl the coast, stalking drug traffickers who whiz toward the United States in boats filled with cocaine. They've been grounded, victims of a spat over an international war-crimes court that has prompted Washington to withhold millions of dollars in aid over the past year from allies around the globe.

"The drug dealers feel they have free passage because we're not out patrolling," said Sgt. Eric Elizee, the Coast Guard commander, as he stared at his idled boats. With no money to fuel and repair the fleet, he said, "we just sit here and pray."

Dominica is not alone. A Bush administration policy of suspending military aid to nations that won't promise to shield Americans from the war-crimes tribunal, called the International Criminal Court, is reducing or canceling dozens of programs that further U.S. interests abroad, Newsday has found.

Among numerous examples, Croatia lost \$5.8 million that was earmarked primarily for training troops - a process that would aid its entry into the North Atlantic Treaty Organization.

Tanzania lost \$450,000 to bolster security, even though it was the site of a deadly U.S. Embassy bombing in 1998. Elsewhere in Africa, Washington withheld more than \$7 million from South Africa, \$500,000 from Benin and \$250,000 from Mali - funds earmarked for "strengthening regional stability" and decreasing reliance on U.S. peacekeepers.

Ecuador, a key ally in the U.S. war on drugs, lost \$15.7 million, much of it for military equipment that could help detect narco-traffickers on its border with Colombia, the primary source of cocaine entering the United States.

The war-crimes court, which opened two years ago in The Hague, Netherlands, with strong support from the United Nations, is the first permanent international body to try individuals for war crimes, genocide and crimes against humanity. It aims to prosecute cases when nations can't or won't do so themselves.

U.S. officials say Americans must be shielded from the court because rogue nations could use it to launch politically motivated lawsuits against the United States.

"Unaccountable judges, prosecutors, could pull our troops, our diplomats up for trial," President George W. Bush said of the court during his first debate with Democratic contender John Kerry, who supports the tribunal.

Returning unprompted to the topic in his second debate with Kerry, Bush acknowledged Washington was at odds with some nations over the court, but insisted: "Sometimes in this world you make unpopular decisions because you think they're right." Kerry did not respond on either occasion.

Safeguards in place

Critics acknowledge the United States may be unfairly targeted because of its superpower status, but insist the court has built in safeguards to prevent prosecution. Rather than helping U.S. citizens, they say, the funding freezes are further tarnishing Washington's image among allies already opposed to U.S. policies, including the invasion of Iraq.

"The United States is resorting to strong-arm tactics that have created a great deal of ill will while harming its own wars on drugs and terrorism," said Richard Dicker, director for international justice at New York-based Human Rights Watch.

Washington's campaign is forcing nations that have joined the court to apply a double standard of international justice, critics contend: immunity for U.S. citizens but prosecution for everyone else.

"The principal superpower, which should guide other nations toward the rule of law, is turning into a bully of the world," said Arthur Robinson, former president of Trinidad and Tobago and architect of the International Criminal Court.

Trinidad and Tobago lost \$450,000 in funding for its Coast Guard, most of it in training, for not signing a pact called an Article 98 that pledges to not surrender U.S. nationals to the court if they are suspected of committing crimes on foreign soil. It is among nearly two dozen nations whose military aid remains halted for not signing an Article 98 with the United States, the only government to seek such non-surrender pacts.

U.S. State Department officials insist the funding suspensions aren't harming national interests because the aid has been transferred to equally valuable programs elsewhere.

For governments that have "stepped up to the plate" by signing non-surrender pacts, "it's been a positive for the relationship," said Patricia McNerney, senior adviser to John Bolton, the U.S. undersecretary of state for international security. In many instances, she added, "more assistance has come their way."

That hasn't been the case in Dominica, which in May reluctantly signed a non-surrender accord after as many as 15 Dominica citizens drowned in a capsized boat that the Coast Guard couldn't rescue because it had no cash for fuel. It is one of several nations that created an uproar domestically by signing an Article 98 because it needed the money.

As soon as Dominica signed, Bush authorized the release of the \$400,000 in suspended aid - almost the entire Dominican Coast Guard budget and a fortune to this country of 70,000 people. But Dominica has yet to receive a penny.

"Usually when you have a bear breathing down your neck, the best way to make the bear go away is to yield, but so far that hasn't worked," said Crispin Gregoire, Dominica's ambassador to the United Nations. "We are trying to help the United States fight the war on drugs, and this is what we get."

Mary Ellen Gilroy, deputy chief of mission for the Barbados-based U.S. Embassy for the Eastern Caribbean, blamed the delay on bureaucracy. Dominica "will get its money," she promised, but acknowledged: "I don't know when."

Washington's campaign against the court has shown mixed results. Though several governments have signed Article 98s, only about one-fourth of the accords have been deemed legally binding in the nations that penned them. None of the court's most prominent members, including all the European Union nations, has signed non-surrender pacts.

Underscoring continued international opposition to the U.S. policy, the UN Security Council refused in June to

exempt U.S. peacekeepers from prosecution by the tribunal as it had for two previous years. That refusal was motivated in part by the scandal over U.S. troops' abuse of Iraqis detained at Abu Ghraib prison. In retaliation, the Pentagon withdrew nine U.S. peacekeepers from nations that haven't signed Article 98s.

The campaign against the court also is being fought in the U.S. Congress. In July, the House of Representatives approved a measure that would extend the ban on military aid to virtually all forms of foreign assistance when nations don't sign Article 98s. It appears unlikely, however, that the bill will become law this session.

Exemptions and waivers

Congress passed a law two years ago authorizing the aid suspensions, but exempted NATO members and a handful of other allies. The law allows Bush to issue additional waivers to nations deemed vital to national interests. But few have been forthcoming, and even some nations that received them were threatened with funding cuts.

Jordan, one of the few U.S. allies in the Middle East, had a waiver, but Washington still threatened to withhold \$100 million in aid for training Iraqi policemen - who are desperately needed to replace U.S. troops in Iraq - if it didn't sign an Article 98.

Though U.S. officials capitulated after Jordan refused to sign, "It leaves a very sour taste, particularly because countries who support the International Criminal Court are traditional allies of the United States," one foreign diplomat close to the issue said.

Those allies include Croatia, where U.S. officials are withholding military aid even as they have asked the Croatian government to send troops to Iraq and expand its military presence in Afghanistan. Croatia already is facing fire at home for acceding to a request from Washington and other governments to send Croatians to a separate international court judging war crimes in the former Yugoslavia.

"It would be very difficult to explain to the Croatian public how we can have one way of treating our own citizens and another for citizens of another country," Croatian President Stjepan Mesic said last year.

Another ally that lost out is St. Vincent and the Grenadines, a West Indies archipelago near Dominica, which diverted funds from social assistance programs to keep its Coast Guard afloat after losing \$300,000 in U.S. aid. Consequently, the government couldn't afford to distribute enough galvanized steel and lumber to rebuild all 400 homes leveled last month by Hurricane Ivan, officials there said.

"It's been quite a strain on us," said Prime Minister Ralph Gonsalves. "But because we need to keep our tourists safe, I have to protect my borders."

Colombia sides with U.S.

Colombia's president Alvaro Uribe, arguably the staunchest U.S. ally in Latin America, signed an Article 98 last year to avoid losing \$130 million for training, helicopters and other equipment.

Though government officials deny kowtowing, opposition leaders insist Uribe buckled because of fear Washington would cut other vital aid such as trade deals that allow Colombia to sell half its exports to the United States.

"We were made to understand indirectly that it wasn't only the military aid at risk, but also our close bilateral relations with the United States, which are critical to us," said Colombian opposition Sen. Jimmy Chamorra, who unsuccessfully sought to have the Article 98 rescinded on grounds it wasn't ratified by the country's legislature.

In some nations, relations are so frayed over the non-surrender agreements that foreign officials accuse

Washington of canceling programs beyond those required by law, as added punishment.

In Ecuador, Jorge Gross, a chief defense ministry aide, suspects his nation's refusal to sign an Article 98 - a decision that cost them counter-narcotics equipment including night-vision goggles, radars and bulletproof vests - prompted the Pentagon to cancel a program in which U.S. military would have built nine schools and surgically repaired birth defects on impoverished children. A U.S. Defense Department spokesman said the program was scrapped because Ecuador refused to let U.S. service members enter the country with their weapons.

In Dominica, some people view the funding freeze as part of a broader pattern. Many mention a case Washington won before the World Trade Organization seven years ago that blocked the former British colony from selling bananas at preferential prices to the European Union. That ruling helped U.S. banana companies but practically killed the banana industry in Dominica, making the country more desperate for cash.

"Maybe if the United States had let us sell our bananas, we wouldn't need their money to run the Coast Guard," suggested octogenarian Martin John, as he sat on a stoop in this tiny capital city, sporting a New York Yankees cap. "We've always been friends to the United States. Maybe we shouldn't be so friendly."

Strong-arm tactics

As of July, more than 90 countries were members of the two-year-old International Criminal Court in The Hague, the first permanent world body designed to prosecute war crimes and genocide. Of those, 30 member nations have concluded bilateral non-surrender agreements with the United States, exempting American soldiers from prosecution. Some of those that have refused to sign, however, have seen their foreign aid dry up.

ICC member nations that have concluded bilateral nonsurrender agreements with the United States (30)

Afghanistan o Albania

o Antigua & Barbuda

o Belize o Botswana o Burkina Faso

o Central African Republic

o Colombia o Djibouti

o Democratic Republic

of the Congo

o Dominica o East Timor o Fiji o Gabon

o Gambia o Georgia o Ghana o Guinea

o Honduras o Macedonia o Malawi

o Mauritius o Mongolia o Nigeria

o Panama o Senegal o Sierra Leone

o Tajikistan o Uganda o Zambia

ICC member nations that have not concluded bilateral non-surrender agreements with the United States (57)

o Andorra o Argentina*

o Australia* o Austria

o Belgium o Benin

o Brazil o Britain*

o Bulgaria

o Canada*

o Costa Rica

o Croatia o Cyprus

o Denmark*

o Eastern Caribbean
(Barbados and St. Vincent and the
Grenadines)

o Ecuador o Estonia* o Finland

o France* o Germany* o Greece*

o Hungary* o Iceland* o Ireland o Italy

o Jordan* o Latvia* o Lesotho

o Liechtenstein o Lithuania*

o Luxembourg* o Mali o Malta

o Namibia o the Netherlands*

o New Zealand* o Niger o Norway*

o Paraguay o Peru o Poland*

o Portugal* o Republic of the Congo

o Samoa o San Marino

o Serbia & Montenegro o Slovakia*

o Slovenia o South Africa o South Korea

o Spain o Sweden o Switzerland

o Tanzania o Trinidad & Tobago

o Uruguay o Venezuela

*Exempt from having to sign bilateral agreement

Status as of July

What it's costing them

Members of the International Criminal Court that have forfeited the most foreign aid as a result of an unwillingness to sign a bilateral non-surrender agreement with the United States.

NATION AMOUNT FORFEITED

Ecuador \$15.7 million

South Africa \$7.6 million

Croatia \$5.8 million

Peru \$2.7 million

Uruguay \$1.5 million

Malta \$1.3 million

Eastern Caribbean \$1 million#

Venezuela \$700,000

Benin \$500,000

Brazil \$500,000

Serbia & Montenegro \$500,000

Trinidad & Tobago \$450,000

Costa Rica \$400,000

Paraguay \$300,000

Mali \$250,000

(Figures are rounded)

Estimated total

SOURCE: GLOBAL SOLUTIONS