

BUSH UNDER FIRE OVER WAR CRIMES COURT

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President George Bush came under fire in the Lords today over efforts to exempt Americans from trial by the International Criminal Court.

If he wished to appear as "a champion of international legality" it would be "more persuasive if he behaved like that", said Labour's Lord Archer of Sandwell.

The peer insisted that American "neuroses" over the jurisdiction of the Court were groundless. The US wants Americans exempted from trial in the Court on alleged war crimes resulting from peacekeeping operations.

Lord Archer said the US fears were groundless because the Court's jurisdiction would only be activated if the country of an accused did not bring them to trial.

He added: "Can it be explained to the American government that for a country which is demanding that those who commit horrific crimes should be held internationally accountable it is hardly consistent to undermine the jurisdiction which exists for that very purpose."

The issue arose during question time when Lord Archer of Sandwell asked whether the Government would negotiate a bilateral immunity agreement with the US under Article 98 of the Statute of the ICC.

Junior foreign office minister Baroness Amos said any agreement would be consistent with the Government's obligations under the statute and within the guiding principles agreed between EU foreign ministers on September 30.

Baroness Amos said the Government believed there were "adequate safeguards" in the statute. "However we do understand US objections although we do not share them. We value the US role in international peacekeeping and we want to enable the US to continue to play that role and it is in that spirit that we are looking at the possibility of a bilateral agreement," she said.

Tory former Chancellor Lord Lamont suggested it was "common-sense" in the short term to comply with the US government.

He said: "..even if we in this country disagree with the grounds of the American administration, given their importance in international peace keeping is it not common-sense in the short-term at least to comply with what they want?"

Baroness Amos said the Government was concentrating on a bilateral agreement for precisely this reason.

Liberal Democrat Lord Goodhart told peers the US attitude was simply "an echo" of its attitude elsewhere - such as refusing to sign the Kyoto agreement on climate change or enter into the convention for the rights of the child.

Baroness Amos said the Government had tried to meet US concerns over the statute while also preserving its importance.

For Tories, Lord Howell of Guildford said Britain should do everything possible to avoid deterring the US from an effective peacekeeping role.

"We on this side would encourage the Government to seek a bilateral agreement."

Baroness Amos reiterated that the Government was "going down this road" because of the value it attached to the US role in international peacekeeping.

Partial Transcript:

Lord Archer of Sandwell asked Her Majesty's Government: Whether they propose to negotiate with the United States a bilateral immunity agreement under Article 98 of the statute of the International Criminal Court.

The Parliamentary Under-Secretary of State, Foreign and Commonwealth Office (Baroness Amos): My Lords, we are beginning discussions with the United States on the possibility of a bilateral agreement. We will ensure that any agreement which emerges will be consistent with our obligations under the statute of the International Criminal Court and within the guiding principles agreed between EU Foreign Ministers on 30th September.

Lord Archer of Sandwell: My Lords, I thank my noble friend for that reassurance, and recognise the part played by the United Kingdom Government in preserving what has been achieved. Will she confirm that the American neuroses are quite groundless because the jurisdiction of the court will be activated only if an accused's own country fails to bring him to trial? Can it be explained to the American Government that, for a country which is demanding that those who commit horrific crimes should be held internationally accountable, it is hardly consistent to undermine the jurisdiction which exists for that very purpose, and that if President Bush wished to appear as a champion of international legality, it would be more persuasive if he behaved like one?

Baroness Amos: My Lords, I agree with my noble and learned friend that in our view adequate safeguards exist in the statute. However, we do understand US objections, although we do not share them. We value the US role in international peacekeeping and we want to enable the United States to continue to play that role. It is in that spirit that we are looking at the possibility of a bilateral agreement.

Lord Lamont of Lerwick: My Lords, will the Minister confirm that the Italian Government have said that they are also sympathetic to a bilateral agreement and that Israel, Romania and several other countries have made such bilateral agreements? Given that there is overwhelming opposition in Congress to submitting to the jurisdiction of the court; given that the President of the United States has said that he would rather withdraw from international peacekeeping operations than submit to the jurisdiction of the court, even if we in this country disagree and believe groundless the fears of the American

Administration; and given their importance to international peacekeeping is it not common sense, in the short run at least, to comply with what they want?

Baroness Amos: My Lords, we are contemplating a bilateral agreement precisely for those reasons. That is why the EU guiding principles agreed on 30th September are so important. Those state parties to the ICC statute which have signed bilateral agreements are East Timor, the Gambia, Honduras, the Marshall Islands, Romania and Tajikistan, although they all still require parliamentary approval. With respect to Italy, a US team will be visiting a number of European countries in October, including the United Kingdom, and I think Italy is one of the countries on the itinerary.

Lord Goodhart: My Lords, the Minister may be aware of Shakespeare's words in Measure for Measure:

"O! it is excellent To have a giant's strength, but it is tyrannous To use it like a giant".

Does she agree that that exactly describes the way in which the Bush Administration is behaving? Does she agree that the USA is using its strength tyrannously to force other countries into signing Article 98 agreements? Does she also agree that the attitude of the USA over this matter is simply an echo of its attitude over other matters such as its refusal to sign the Kyoto Protocol or to enter into the Convention on the Rights of the Child?

Baroness Amos: My Lords, noble Lords will be aware that there are a number of areas in which our policy differs from that of the United States. What we have sought to do with respect to the ICC statute is to meet United States' concerns while at the same time preserving the importance that we attach to that statute. Contained in the guiding principles, which were agreed at the General Affairs and External Relations Council meeting in September, are a number of limitations on the scope of the arrangements with respect to impunity, reciprocity and scope of purpose. I am happy to write to the noble Lord with the detail of that agreement if that would be helpful.

Lord Howell of Guildford: My Lords, as the United States is by far the most heavily committed peacekeeping nation by virtue of its size and strength, surely in practice we should be doing everything possible to avoid deterring it from an effective peacekeeping role and therefore doing everything possible under Article 98(2), without in any way undermining the Rome statute, to meet the Americans' worries and assist them. Is that not the right way forward? We on this side would encourage the Government to seek a bilateral agreement.

Furthermore, have not the Germans stated that in no way do they wish to join in any bilateral agreement? If so, does that cause any problems with the European Union as a whole? Are we in fact bound by the European Union in what we should do to help our American allies?

Baroness Amos: My Lords, I hope that in the answers I have already given it is clear that I endorse the comments which were made by the noble Lord when he opened his question with respect to the importance and the value that we place on the role of the United States in

international peacekeeping, which is why we are going down this road. With respect to Germany, I again make it clear that the European Union agreed these guiding principles, which will apply to all member states should they wish to enter into bilateral agreements. The guiding principles do not prevent individual member states from entering into those agreements.

Baroness Williams of Crosby: My Lords, does the Minister agree that a number of countries have taken advantage of the bilateral agreements which a small number have signed, and that those are hardly representative of the international community as a whole? Will she say therefore what in her view will be left of the usefulness of the International Criminal Court, which is intended to be an attempt to bring the rule of law to bear on all countries in the world at a time when it is crucial to do so?

Baroness Amos: My Lords, I again repeat that we are strong supporters of the International Criminal Court and that we will do nothing which conflicts with the statute. Therefore, in entering into a bilateral agreement our support for the ICC will remain.