

Public Affairs, American Embassy London
"On-the-Record" Briefing by Amb. Pierre-Richard Prosper
Ambassador-at-Large for War Crimes Issues

Attending: Richard Beeston, The Times
Owen Bowcott, The Guardian
David Gardner, Financial Times
David Manasian, The Economist
Joshua Rozenberg, Daily Telegraph
Robert Verkaik, The Independent

Question: I'm curious to find out on the ICC front, as I understand it the United States is trying to develop bilateral agreements with those countries where U.S. forces are serving to ensure that American personnel won't be subject to prosecution. How is that progressing? Where have you got to on that?

Ambassador Prosper: Well, we feel that we're making good progress with what we call the Article 98 Approach. I think the first point I want to make on that is we see it as a treaty-friendly approach. We're using the exact Article and provisions as provided for by the Rome Statutes. We've gone out to all states around the world, have been making our case that this is consistent with the treaty and we feel that it's legally permissible so at the end of the day it's a policy call. This week we've had numerous conversations, actually this week and last week, in our bilateral engagements in New York and elsewhere. We've, I believe, as of Wednesday we're up to eight agreements with several (inaudible) to be signed within the coming week or so and I think, which should at least double the number (inaudible) figures will change in the last 48 hours.

Question: What's the response from the United Kingdom government. I mean, obviously you're approaching the EU as a whole and I think there's a meeting at the end of this month. But are you getting reasonably favorable response from the United Kingdom given the U.K.'s approach to the court.

Ambassador Prosper: We feel that we are. First of all, what we're doing is, we're approaching each state independently and bilaterally. We do obviously know that the EU is trying to come to a unified understanding as to how to relate to this. We're pleased with what the pattern appears to be is that there's not a unified or a common position against the Article 98. Now it's just a matter of European countries trying to have a unified position toward or in favor of the Article 98 regarding a particular term. Our conversations with the UK have been very, very good in this matter. We believe that we will be able to reach an understanding that is satisfactory to both of our countries. One that respects our interests in what the United States is trying to do and one that also respects the UK's interest on particularly their right to be a party to the court and uphold the integrity of the court.

Question: But what do you say to people who say that, I mean you say it's treaty-friendly, they say that that's not what Article 98 was intended to do and they say that it must, that if Article 98 is to remain true to the Rome Treaty as a whole it must respect the fundamental principle that ICC (inaudible) national prosecutions is essential to guard against impunity, that's Kenneth Roth

of Human Rights Watch. In other words the argument that this is a treaty which of course you didn't sign and you're misusing it to try and undermine it.

Ambassador Prosper: I think Ken Roth, I know him very well, but he's wrong. He's just misreading Article 98. Article 98 clearly says that we are allowed to engage in these type of agreements, international agreements, with the states that allow for the conditions, to dictate the conditions of surrendering. Essentially it is that the consent of the sending state, which in this case would be the United States, is required before someone would be transferred to the court.

Question: But you are trying to undermine the Treaty?

Ambassador Prosper: No, we're not. What we're doing is we're detaching ourselves from the process. The President made it clear when we made our decision back in, on May 6 of last year, that we are not waging a war against the court. We are taking a position of principle. We disagree with the system, with the specific terms of the court regarding it's jurisdiction. We believe that the court is a noble idea but it's just flawed in it's implementation. Therefore, we respect the rights of states to be a party to the court, we just ask that they respect our right NOT to be a party to the court and we decide to take this (inaudible) divorce and detach ourselves from the process so it's not a source of tension or conflict between the United States and the Court and the United States and its allies who are parties to the court.

Question: You said that eight countries have now signed up and I think it's been said that Israel have bilateral agreements – it's been Israel, East Timor, Romania, what are the other ones. Can you name the countries?

Ambassador Prosper: Boy, you're quizzing me you know. Let me try and remember. No, I don't have the list. The last one I know was Mauritania. That's the last one I can say for sure.

Question: Do you know if any other European countries have, other than...

Ambassador Prosper: Not yet, not yet. We're respecting the fact that the EU is trying to come to a common understanding on the terms of the Article 98 and we've decided to really just allow to give them the breathing space that is required in order to come to that understanding.

Question: Are there any parts of the world where you think you have a real problem, where there are American troops and that this issue, if unresolved, could lead to the withdrawal of U.S. forces. Are there any places where you haven't seen that flexibility?

Ambassador Prosper: We're talking about the ICC Article 98. We're looking at the world as a whole. We have not, in pursuing these agreements, we have not isolated a particular territory or a particular area where there may be conflict. It's a general and a broad concern that we have concerning this. Obviously there are more specific areas of interest, particularly the areas where we have significant deployment but this is really just a global approach that we believe is necessary in order to 1) again protect our interest, 2) to allow us to be detached from the process so it is not a source of tension or conflict in the future.

Question: Are the terms of these many Article 98 agreements be roughly the same or are they going to vary from country to country?

Ambassador Prosper: Well, they're overall the same. So far, what we've done with the agreements we reach and the ones that we believe are in line and will come into existence in the coming weeks, is it's been the same document. There may be a couple of variations where some countries feel that they need not have reciprocity. But, for the most part, the terms have been the same and we feel that that shall remain consistent and the reason being is because we're tracking the spirit and the language of Article 98. So there's really nothing to debate and the only point, once again, is if the state says they don't want that same protection, if you will, to apply to them then we honor that and remove the reciprocal aspect of the agreement.

Question: Can you give us an idea of what kind of topics are still under discussion with the EU countries in terms of the scope of the Article 98 agreement?

Ambassador Prosper: Well, I think it's just that they're looking at the scope. It's a matter of, I think the European countries trying to get a clear understanding in their minds as to the exact meaning of Article 98. I think we're past the point as to whether or not it's legally permissible and it's just a question of how the agreement is to be framed. We're waiting to hear back from some many of these states to see what their view is and once we do that we'll see if their view or the terms that they provide are acceptable and if not we'll just go back. I think it will be a bit of a back and forth which we understand, particularly because we want this to be a one-time negotiation, if you will, so that the understanding is clear and that we can move into the future and not have any difficulties regarding deployment and difficulties in our bilateral or even transatlantic relationships.

Question: But if you don't get a deal then there is a real threat to veto UN peacekeeping troops in the Balkans?

Ambassador Prosper: If we don't get a deal we'll have to look at all deployments of U.S. personnel or personnel that has significant U.S. involvement. And we'll have to look at that. We'll have to understand what the ramifications are regarding not having an Article 98 agreement, but at the end of the day we expect that we'll reach the agreements that are necessary in order for us to not to have to worry about this issue. But regardless, what I can say is that we know the role that we play and we need to play in the world regarding helping to protect, ensure and preserve international peace and security. We're not going to walk away or shy away from that responsibility. We'll just make sure that we have a clear understanding with the rest of the international community as we move forward in accepting our responsibilities.

Question: Who does the United States want covered in the Article 98 agreements that you're seeking with the European Union?

Ambassador Prosper: Well, obviously our, and again it's worldwide, our service members, our...we believe that officials should be covered, both present, obviously future and former...we want this to be a living document so we want it to not just, for example, this administration. We're representing the United States. It's a living document that needs to go into the future.

Question: So people in the employ of the government?

Ambassador Prosper: Basically, U.S. personnel. I'll leave it broad like that and it's a matter of we're discussing it with the states as we move along and we'll have to see what their views are.

Question: But not all U.S. citizens...?

Ambassador Prosper: Well, we do have concerns of U.S. citizens. I think we have a responsibility for, as an administration, to protect the overall interests of the United States and that will include U.S. citizens but I must say that obviously, and this goes for U.S. citizens, U.S. officials and U.S. service members, just the fact that we're seeking these Article 98s that are designed to require our consent before someone is sent to the ICC and we'd prefer that they're sent back to us does not mean that they will not be held accountable. This is not immunity that we are asking for. What we are asking for is that the person not go to the ICC. If the person commits a crime, we believe in the rule of law, we believe in accountability. We will ensure that there is an actual credible basis for investigation, prosecution, is investigated and prosecuted.

Question: But if you'd signed the Rome Treaty that would have happened anyway because that's the principle of the Rome Treaty.

Ambassador Prosper: Well the principle (inaudible) is flawed in our mind. And it's flawed because it's...what it does is, at the end of the day, it still grants the full power (inaudible) discretion in the ICC to not only review a domestic prosecution but to disagree with it and reassert jurisdiction. We could have a good faith prosecution in the United States, or even here in the United Kingdom, where a person is either acquitted by a jury, a judge, (inaudible) and the ICC could just disagree with it and reassert jurisdiction just because they didn't like it and they made their subjective opinion and it wasn't genuine. Or you could have a situation where a judge in his or her expert opinion decided that a particular piece of information or evidence was not admissible based on the grounds in which it was obtained and therefore the case is dismissed. The ICC could disagree with one of the United Kingdom's, the United States' appointed officials, experts in the area, overrule and decide to assert jurisdiction. So, it leaves this broad power and discretion in the hands of, essentially one, maximum three, individuals of the ICC. And this is...we're in the weeds here on this but the broader problem, the broader question is, when you look at breaches of international peace and security the ICC seeks to become a mechanism that addresses international peace and security. Traditionally, when there's violations or breaches of peace and security it is the United Nations that comes together and speaks on these issues and makes the determination as to what the appropriate response should be. There is a debate that takes place, there is discussion, there is deliberation and that goes into whether or not this is the appropriate time for the action and it discusses the scope of the action and what measures should be taken. What we're seeing actively taking place today with the ICC you will not have that debate. You will have the individual who will say "You know what, I am going to respond to this breach of peace and security" and take the particular action and we think that's dangerous, and it's not healthy for international affairs.

Question: So the United States would have preferred to see a more ad hoc arrangement as we had with the former Yugoslavia, with Rwanda, the Security Council empowering courts on specific cases to deal with international war crimes?

Ambassador Prosper: Yes, that was our position in Rome basically. We...in Rome we had no problem with a standing institution. It was just a question of how it received its jurisdiction. We thought that it would be best for the jurisdiction to be granted by the UN's Security Council that would make the determination that this is an appropriate response to a breach of international peace and security.

Question: Do you think Iraq might provide a case for any war crimes convictions?

Ambassador Prosper: Well the past, the history of Iraq, is such that there needs to be an accounting of the activities that took place. We're moving into the past now. One point we need to make here is that the ICC does not cover Iraq because the jurisdiction for the ICC came into existence on July 1 of this year. But if you look at the past history of Iraq it is such that we have some of the most heinous offenses that have been committed within our generation that's for sure. There needs to be accountability for this, for the deaths, the gassing of people. There needs to be an investigation into what happened. We have been consistent in our views regarding this. We have done our part to collect information and document information regarding the abuses by this regime and we are hoping that when the time is right that there will be accountability.

Question: In the form of what, another ad hoc tribunal?

Ambassador Prosper: Well it's not clear. We're open and I say the reason it's not clear because our position obviously is we think that this regime needs to go and if we have a free and democratic Iraq then it would be preferable that the new government takes the actions towards accountability because we believe that if the rule of law is to mean something it is best exercised by the concerned or affected states. That way it is engrained into society, it is something that becomes part of the society and it reinforces the society. Obviously if international assistance is needed we are prepared to assist and participate in any way we can. We've done this across the world where we have these hybrid processes that come into being, such as in Sierra Leone, in East Timor and we're still trying to make something happen in Cambodia. So we're prepared to do something like that and the greater the deficiencies the greater the international involvement.

Question: You mentioned Guantanamo Bay if I can move on to that in your introduction and as you know there are British citizens detained there as well as others. How can you, as a former prosecutor, be comfortable with a situation where people are detained and they're not being prosecuted or given any rights at all as far as we can see?

Ambassador Prosper: Well, I'm comfortable with it because I look at it as a prosecutor and as a lawyer. And I recognize that there are two bodies of law. There is 1) the laws of war and 2) the criminal law that is at play here. Under the laws of war a state has the legal right to detain enemy combatants. This has happened since, essentially obviously the beginning of time but these laws came into being in the last...in the late 1800s and throughout the last century. We just need to look at history for example. I mean we were holding people without criminal proceedings in all

our wars, World War I, World War II, Korea, Vietnam, the Gulf War, Kosovo, you name it – it happens. It's legally permissible. This is what we are doing here. They are being detained as combatants. We have not moved into the point where we're doing criminal proceedings and again historically when you look at conflicts criminal proceedings generally occur after the end of hostilities. Look at World War II, once again, by way of example, that most of the people that were prosecuted the prosecutions occurred after the conflict was over. So, we're still in the conflict setting. We're using the laws of war. We're mindful that we may need to be moving into a criminal judicial process so we're preparing ourselves for that and we'll make the determination at the appropriate time whether the individual or individuals that we have in custody are to be fed into this judicial process or, if not, and the hostilities are over, they are to be released.

Question: But these hostilities are never going to be over. This is the one difference between the war on terror and the other wars you've named. You're never going to be able to say the war against terror is won and these hostilities are, therefore, never going to be over and these people are going to be held indefinitely.

Ambassador Prosper: Well we hope to be able to say that the war on terror is won, has been won. And that is why we are really impressing upon all states to fulfill their obligations under the UN Resolution that was passed last year that requires them to take the measures to investigate, prosecute, persons who commit these acts. And again we're very pleased with the progress and just in the last year we know that over 90 countries have arrested 2,400 terrorist suspects and that's progress, and I think if we continue to do this we're going to end a culture of impunity regarding terrorism. So we feel that if we remain vigilant and that if every state takes action and accepts their responsibilities and their duties we can win this war. We can't give you a precise date because it is a different type of conflict, it is an unconventional war but it is a war that can be won.

Question: Geneva Conventions require an independent arbiter, a judge, to decide whether somebody is a prisoner of war or does not qualify for that status. The United States has absolutely refused to consider doing such a process.

Ambassador Prosper: The Geneva Conventions state that when there is a doubt you need to have a...

Question: But there is a doubt. You haven't given prisoner of war status to anybody in Guantanamo.

Ambassador Prosper: No, when there's a doubt by...first of all it's something that when we say an arbiter it is an arbiter by the detained power. It's not an outside party that is required to come in. It's generally and historically has been military personnel from the detained power that will look at the case and say "You know, I'm not sure who you are, whether you are a lawful soldier or not" and then you have the hearings to find out exactly what their occupation was and so on. With the people we have in Guantanamo, the al-Qaeda personnel there is no doubt. We have people who are, to our face, telling us that they are al-Qaeda, that they are determined...that they have committed acts in the past, they are determined to commit acts of terrorism in the future,

they've trained with bin Laden. They've told us they've trained, also, with others, with the Taleban. They've given us information regarding camps and they say that "If you release me, I'll go out and do this again. My stated purpose is to kill Americans, Westerners..." and so on and we have no doubt. We know what they are. They are not legal combatants. They are...

Question: Criminals. But they've just confessed their crime according to that account, why not bring criminal charges?

Ambassador Prosper: Well, we may. And we have that in mind. We're looking at that, we're preparing for that, we're laying the groundwork but right now we have the ability and the authority under the laws of war and that's what we're doing. But, at the same time we do have a two-track process that is going. We have the detention as enemy combatants, the laws of war applying. On the side, because of our belief and our respect for the rule of law, we have another set of people who are looking at this from the judicial and criminal lens and are preparing ourselves for use of that body of law at the appropriate time.

Question: Do the...you've talked about these people who have confessed...do they include any of the British suspects who are detained there? This man Abassi for example who's bringing legal proceedings in this country?

Ambassador Prosper: Well, I'm not going to go into the specific cases but I can say that among the UK detainees are people that we know are hard-core al-Qaeda personnel that have been trained in camps and are committed to future acts of violence.

Question: How far have you got in your negotiations with the British government in returning the British subjects, detainees to this country to be prosecuted? That would be your preferred solution would it not?

Ambassador Prosper: Well, our preferred solution is to ensure that the people that are currently being detained in Guantanamo no longer pose a threat to the United States, the United Kingdom, to the international community as a whole. That's our first responsibility. With that in mind then we begin discussions with all our allies and with the UK we discuss this. We are having diplomatic relationships, we are having all other forms of relationships in order to understand each other's positions. We are prepared to begin a dialogue through different law enforcement channels. We are really explaining and making our position clear and we are trying to get a clear understanding from this government as to what their desires are and what the possibilities are and we are just going to keep going back and forth until we reach a mutual decision on what the best way forward should be regarding these nationals.

Question: I mean, as far as the British citizens are concerned do you find it strange that given that no judge in the United States has so far asserted jurisdiction over U.S. aliens, foreign citizens, in Guantanamo Bay that the English courts should be currently considering action brought on behalf of one of these British detainees which is designed to persuade our government to talk to your government about the way that they're being detained without trial. Do you find it odd or do you have any concerns about legal action being taken in this country over somebody detained by your forces?

Ambassador Prosper: I don't want to get into the specifics of a pending case. Obviously, I would hate to say something that would influence a case in one direction or another, but what I can say is legal proceedings are natural. We have had legal proceedings in the United States and then the conclusion by these judges is that they did not, and we should not, to seek to assert jurisdiction over the matter. The courts are doing what the courts do and it's not for me to form an opinion as to whether they should or should not be doing it and it's not for me to form an opinion as to what the decision should be.

Question: Is there any timescale at all about the detention of any of the Guantanamo Bay suspects? Is this really going on indefinitely, until you decide that the time is right to declare the war on terrorism over?

Ambassador Prosper: Well, again we have the parallel tracks. It's not...it's difficult to pinpoint a date and, as with any conflict, you never say when it's going to end. It would be nice, to be able to project out, I think a lot of people would like that – to be able to pick a date and say the war would be over, is over, the war on terror, the Gulf War, you name it – pick a war. But what we're doing is we're, again we're doing what we feel we need to do to ensure that the threat does not come back and we're detaining them under the law of war. But, at the same time, we are mindful of the state of affairs, we're mindful of the rule of law, we're mindful of just our moral obligations to the international community and we feel that when we are able to move or process these cases we will. And we're operating, again, on a parallel track and the tracks will meet at some point in time, I just can't say what day.

Question: But to (inaudible) you wouldn't have to wait until the war on terrorism was declared to be over to bring criminal prosecutions against these people. There's no particular link there is there?

Ambassador Prosper: There's no particular link. It is possible to bring criminal prosecutions while a conflict is under way.

Question: But if you had the confession why delay a criminal prosecution?

Ambassador Prosper: Well, I don't want to get into the details of particular cases and the depth of a confession but, as we know, in any criminal proceeding, a confession standing alone is generally not the type of case that one wants to bring to a court. Generally we want, in any criminal proceeding – I don't care if it's drunk-driving, or it's jay-walking, to terrorism – prosecutors want to do thorough investigations and bring more information to light that will help the (inaudible) make an adequate decision. And so we have one piece of information and that is from some of these detainees and that is the threat that they pose. But we're looking for more information that gives us really a full understanding of the depth of their activities. And so that's where we are.

Question: What tribunal would try them? Would this be a special commission? A military commission?

Ambassador Prosper: It's for the president to decide. We have the military commissions as an option. We have our federal courts as an option. We conceivably, depending on the individual and the events, could use the courts of New York. We look to our partners, our allies, the state of nationalities in these people, to see if they have the ability to bring proceedings. So there is a wide range of forms that are available.

Question: Because it makes quite a difference doesn't it? I mean, if you have a military commission it's a three-person commission, decide by majority, death penalty, no jury. That's different from prosecution in New York and that's different, again, from a prosecution here. So it makes quite a difference really doesn't it?

Ambassador Prosper: Well, it is different but it's not different from a prosecution in The Hague, for example. Just because it's not a jury trial does not make it an unfair process. It makes it a different process, but what it is is that it's a mechanism, military commissions are a mechanism that are designed to be flexible, to address the unique situation that we find ourselves in. The ICC, the Hague tribunal, the (inaudible) tribunal are those types of flexible mechanisms that are designed to deal with these mass atrocities that require different standards of admission of evidence and a different set of (inaudible) facts. It's flexibility that we have here.

Question: But the ultimate difference is the death penalty because The Hague, these (inaudible) tribunals, British courts can't pass the death penalty and your military tribunal, I presume your U.S. courts, could.

Ambassador Prosper: Our U.S. courts could, yes.

Question: So it does make quite a difference where they're tried in terms of the ultimate penalty.

Ambassador Prosper: Well, in the ultimate penalty whether it's U.S. proceeding or external, but then again there are some states that have the death penalty as well, that we have nationals of states where their state has the death penalty.

Question: Which countries are those? Do you know?

Ambassador Prosper: Well we have 40 different countries represented and I'm not going to go into a list which states but 40 is a large number.

Question: Saudi Arabia being one of them.

Ambassador Prosper: Saudi Arabia being one of them.

Question: That has the death penalty.

Ambassador Prosper: But we have 40 countries represented.

Question: What is the status of the fugitive who was caught last week in Karachi because he was actually wanted by the FBI wasn't he, with actual charges pending against him? Is he in Guantanamo Bay now do we know?

Ambassador Prosper: I don't have that information to be honest with you. I've been traveling. I'm obviously aware of the arrest.

Question: You said you were here, obviously, to give a talk yesterday. But have you had any meetings with government officials or are you planning any?

Ambassador Prosper: I did. Obviously I took advantage of my being here to continue our dialogue on a wide range of issues. Basically it's the same type of thing we're doing here. I just opened my portfolio to the government and we had conversations across the board on everything to see how we can continue to work together throughout the world to take measures to help prevent atrocities occurring and hold perpetrators accountable. We have a common goal in that regard and I think this is a common goal is world wide. Let's just go back to the ICC for a moment. Just because we're not a party to the ICC does not mean that we do not believe in accountability. We just have a different approach. An approach where we believe there is common ground and so what I was doing here in my discussions, we were discussing that common ground globally. Just to see how we can work because it is a global effort to combat genocidal war crimes and crimes against humanity. There are different tools at our disposal and we just need to all talk to one another and decide and figure out what the best approach may be. Whether you're for the ICC or against the ICC we still have to look at all the tools at our disposal because, for example, the ICC will not be able to address every conflict, every war crime that occurs around the world. It's a practical impossibility. So we do need to look at strengthening domestic institutions so that they act as the first line of defense against abuse. And this was part of my discussion yesterday with the government here, to see how we can pool our resources, our expertise together, our policies together, to really globally address the question of deficiencies in the rule of law and particularly, of course, conflict states so that we can reinforce it.

Question: Going to Iraq, you mentioned a figure of about 100,000 killed, you think, by the regime. Is that roughly the figure that you've come to in your investigations?

Ambassador Prosper: Well, our investigations are not complete but we look at what various human rights groups have put out there and the numbers do range from 60, I believe 60 to 100 thousand and it's a consistent range so we're not just picking the high end for the sake of picking the high end. We look at it and we recognize that there's enough out there to put some confidence in those figures and it will require a thorough investigation at some point in time to really determine what happened during this regime.

Question: Have you discussed with the British administration, during your stay here, the possibility of a prosecution of the Guantanamo Seven in this country? Is that something that has been raised?

Ambassador Prosper: Well, we've raised it globally, this question so it's not just with the UK. What we do is we look at when we have a national in Guantanamo Bay we begin to have the

discussions of not only explaining what we're trying to do and what we're doing but we also want to see what the possibilities are with particular states. But we recognize that our first and primary interest is to deal with the question of the threat and the threat to the United States, the threat to the rest of the world. And we're accepting that responsibility as I said and we do have some conversations regarding prosecutions but it's not precise conversations that deal with particular cases at this time. We're more speaking of the concept.

Question: Because the problem, obviously, is that if there were to be a prosecution of anybody here you would have to provide the evidence and, by all accounts, the evidence might not stand up in an English court because, I don't know, the confessions, as you say, which are not necessarily enough would not have been obtained under the circumstances that we would require confessions to be taken under for them to be admissible in court. So, it's not really going to be possible to prosecute anybody here unless you can provide much better evidence than we believe you have.

Ambassador Prosper: Well, again we have two bodies of law that are operating here. We're under the law of war umbrella so whatever information we're collecting is under that umbrella. When we move to the judicial umbrella we'll collect information that will fit under that umbrella and allow for prosecutions in the appropriate forms. It's just a matter of where we are in time as opposed to where we are in general.

Question: If Britain to say "Yes, we'll take all seven and we'll prosecute them here" are there any particular requests or conditions that America feels there should be placed in the exchange (inaudible)?

Ambassador Prosper: That will require me to speculate and I'm not prepared to speculate at this time as to conditions or demands because the factors could be different for different individuals because individuals pose different degrees of threat and it's just a matter of we'll have to look at the specific case as it moves through the system and make a determination at that time.

Question: You said that some of the Guantanamo Seven, the British, posed a threat to the United Kingdom, not just America. And that is an issue that you would need to resolve before you agree, even if you got to the stage of handing them over, before you would agree to do so. Is that right?

Ambassador Prosper: Our first and foremost responsibility is the question of a threat. The last thing we want to do is put someone back on the streets that would be on the next plane out of Heathrow or any other airport around the world and flies it into some tower in any city in the world. We have a responsibility and we're taking that seriously. There are lives at stake, security is at stake. So we, in any actions we take, we're going to look at that first and then begin to move forward.

Question: Do you have any concrete evidence that any of the Guantanamo Seven might pose that kind of terrorist attack.

Ambassador Prosper: I'm afraid my answer is I don't want to focus on the Guantanamo Seven because I don't want to get into specific individual cases. What I can tell is that we definitely have evidence that people in Guantanamo pose that kind of threat. That the moment they're released they are committed to acts of violence. We clearly have that evidence and it's not just from one or two individuals.

Question: But you don't want to say if that includes the British suspects?

Ambassador Prosper: The British suspects pose a threat. I'm not going to go into individual cases but they pose a threat to the United States and to the international community. I'll say that without hesitation.

Question: Excuse me Mr. Ambassador, you have time for one more question.

Question: Can we just get back to the ICC again, forgive me if you addressed this before I came in. (Inaudible) quite a lot of people in Europe still puzzled at the huge expenditure of political capital that was required by the United States to address potential cases which I think most people feel hypothetical in the extreme. Can you deal with that – it's out there in a lot of European countries? I mean, why was it judged so necessary to do this in the way that (inaudible)?

Ambassador Prosper: Well we, in the beginning, did not think it was necessary. We thought this was something that should have just been an understanding that could have been reached fairly quickly but, for one reason or another, the issue was raised to a different level. But the question of the protection of our personnel is one that is of fundamental concern to the United States because we don't really view it as such a remote possibility, or a vague, hypothetical. We do believe that if there is a real possibility that someone will use the International Criminal Court for political purposes, exploit the process, in order to use it as a weapon or a tool to attack the United States personnel and/or its policies. I think it's just there are insufficient safeguards in place within the framework of the ICC and we have made the decision that it is important for us, to us, to make our concerns known, make them clear, ensure that everyone understands that we view this as a treaty and that since we are not a party to the treaty the treaty does not apply to us and it's really that simple. And we're taking a stand on principle.

Question: Can I just ask you one very specific and perhaps minor question? I just wanted to check something, it's about the American Servicemembers' Protection Act. As you know that allows force to be used to rescue people from The Hague who are detained by the International Criminal Court, but I am right in supposing that it also covers people who are imprisoned by the Court and who might be imprisoned in other countries, such as this country because this country says it will take prisoners. It is right to say that that would authorize the U.S. to use force to invade this country to rescue any prisoners, any U.S. prisoners, doesn't it? I mean, that is right as a matter of law? You're going to tell me it won't but I mean it is true and you can see why people here might be offended that U.S. Congress passes legislation and the President signs it which authorizes the invasion of this country to rescue somebody who is detained in one of our prisons.

Ambassador Prosper: Well, the American Servicemembers' Protection Act is just that – it's a protection act. Our Congress is giving its opinion as to what the range of responses should be for this president, a future president, within the American Servicemembers' Protection Act there are waivers and what it does basically, it just says "Mr. President, this is within your range of tools in the toolbox but it's for you to decide what tools are necessary, it's not mandatory, it's not required" and what this President has done is that he obviously accepted the law but decided that what our range of tools should be is Article 98 and Article 98 is something that just takes away this issue of concern for us.

Question: So if you get the deal you won't invade us?

Ambassador Prosper: (Laughter). Thank you.

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