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Republicans in threat to block overseas aid

By David Rennie

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Republicans in the United States Congress have moved to block hundreds of millions of pounds in economic aid to foreign nations, unless they agree to shield American personnel and troops from any possible prosecution by the International Criminal Court.

The economic threat was slipped, almost unnoticed, into a giant, £200 billion spending bill for 2005.

Republicans are concerned that American personnel or even political leaders might find themselves dragged into politically motivated prosecutions before the ICC, an international court established by treaty in 1998 to hear cases of war crimes, genocide and other crimes against humanity.

Their move bars any aid flowing to a nation that is a party to the ICC, unless that country signs a so-called Article 98 agreement with Washington. Those agreements amount to a binding promise not to hand any American citizen accused of war crimes to the ICC.

Those immediately affected include Jordan, which receives £138 million in annual US aid but supports the ICC and is barred by its own Jordanian law from undermining the court's powers.

The clause inserted in Congress does contain a "national security" waiver that would allow President George W Bush to exempt key allies from the penalty. An earlier measure barred US military assistance to nations signed up to the ICC, unless they also sign Article 98 pacts with the United States.

So far 96, mostly small and poor, nations have signed Article 98 agreements with the United States, despite opposition from allies including Britain, which believes American fears of frivolous prosecutions are exaggerated.

European Union states last year engaged in a diplomatic tug-of-war with Washington over the 10 accession states about to join the union, which were under strong US pressure to sign Article 98 agreements. Germany bluntly warned accession states not to sign the immunity pacts, saying they cut across a position agreed by the EU's then membership of 15 countries.

The United States signed the treaty establishing the ICC in the dying days of the Clinton administration but Mr Bush later revoked America's signature on the treaty.

There is no doubting the strength of feeling in Washington against the ICC. Mr Bush recently called it "a body based in The Hague where unaccountable judges and prosecutors could pull our troops, our diplomats up for trial".

Supporters of the court, including British officials, argue that the founding treaty, now signed by 139 countries, and ratified by 97, contains adequate safeguards against frivolous prosecutions or politically motivated attempts to charge US commanders with war crimes.