

**Debate from the UK parliament on 25 February.  
International Criminal Court**

8. Mr. John Robertson (Glasgow, Anniesland): What recent discussions he has had with his counterparts in the USA about the International Criminal Court. [98789]

The Parliamentary Under-Secretary of State for Foreign and Commonwealth Affairs (Mr. Mike O'Brien): There have been no discussions on the International Criminal Court with US counterparts since 17 October. On that date, officials met at US request for preliminary discussions on the US request for a bilateral agreement under article 98.2 of the Rome statute. We await a further approach from the US side.

John Robertson: I thank my hon. Friend for his reply, but he will be aware that the US Government have sought bilateral agreements with other countries that revoke article 98 of the Rome statute to exempt US officials from prosecution by the international courts and, as has been already alluded to earlier, to strengthen economic sanctions, such as the termination of military aid to countries, if they do not comply with US demands. Does he agree that such action undermines the process to establish an effective International Criminal Court and that, without ratification by the US, the International Criminal Court will essentially be a toothless tiger?

Mr. O'Brien: We are strong supporters of the International Criminal Court and, of course, we will do nothing that conflicts with the statute. We understand US objections to the court, but we simply do not share them. Of course article 98.2 provides a procedure, and therefore acting within that article would comply with the statute. However, we will act on the basis of the guiding principles agreed by European Union Ministers on 30 September: no immunity for US citizens, no exemption for UK citizens and exemptions only for US citizens sent by their Government. Unfortunately, there is no common EU position on that. It appears that the French have opted for their soldiers to be excluded for seven years. The French seem to be taking a more American position on this issue.

Dr. Julian Lewis (New Forest, East): It has been suggested that one solution to the Iraq crisis would be for Saddam and his clique to go into exile. How would that be affected by the existence of the International Criminal Court in the unlikely event that he decided to go into exile, but did so in a country that had signed up to the ICC? Would not there be a clash between the terms of his exile and the possibility that someone could rightly bring him before the ICC for the many crimes that he has committed?

Mr. O'Brien: The hon. Gentleman raises an interesting point, which I shall consider in detail. Of course, Iraq is not currently a party to the ICC statute, so the court can exercise its jurisdiction only following the referral of an allegation by the UN Security Council under chapter VII of the UN charter. Therefore, if somebody was in a country that was adhering to the statute, I assume that the procedure would still be to use the UN charter chapter VII. I would have to consider in detail the legalities of that, and I will write to the hon. Gentleman.