



Coalition for the
International
Criminal Court

For more information:
Adele Waugaman
telephone: (+) 1.212.687.2863 x17
email: ciccmedia@iccnow.org
web: <http://www.iccnw.org>

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U.S. Threatens to Cut Military Assistance to Nations Supporting the International Criminal Court

Law Pressures Non-U.S. Allies to Sign ICC Immunity Pacts

(New York, June 30, 2003) - A deadline set out in the "American Servicemembers Protection Act" (ASPA) that threatens U.S. military assistance to countries supporting the International Criminal Court (ICC) will pass tomorrow, the NGO Coalition for the International Criminal Court announced. The July 1, 2003 ASPA deadline, which coincides with the one year anniversary of the entry into force of the Rome Statute of the ICC, provides that any ICC State Party receiving U.S. military assistance will lose those funds unless a Presidential waiver is issued either on the basis of national security interests or because a country has signed a U.S.-requested ICC immunity agreement by that date.

The ASPA, signed into law last August, is part of a multi-pronged Bush administration campaign to gain broad-ranging exemptions from ICC jurisdiction over genocide, crimes against humanity and war crimes. The ASPA makes specific reference to the U.S. government's global initiative to conclude bilateral immunity agreements, which require that signing states not hand over any U.S. nationals or military personnel to the jurisdiction of the ICC. While the ASPA contains broad Presidential waivers and exempts all NATO and other major U.S. allies, it is unclear how these exemptions and waivers will be administered. Potentially at risk are fiscal year 2003 funds that have not yet been disbursed and over \$230 million in fiscal year 2004 assistance.

Since the U.S. began approaching states for signature of these agreements last July, as many as 49 mostly small, poor countries have reportedly signed these agreements, but only a handful have ratified them. The majority of signatories are countries in Africa and Asia that are not States Parties to the ICC.

Despite the intense pressure for signature of bilateral immunity agreements, a number of important U.S. allies and regional bodies have rejected them. Argentina, Canada, New Zealand, Sweden, Norway, South Africa, Trinidad and Tobago, Slovenia and Croatia, plus all 15 members of the European Union, are among countries that have refused the U.S. request. The EU Presidency last week welcomed a declaration by the 10 EU accession countries, and other associated states and EFTA countries, in which they affirmed the EU Common Position rejecting the U.S. bilateral immunity deals, and resolved that their national policies would adhere to that position. The EU has stated that the bilateral treaties proffered by the U.S. violate Article 98 of the Rome Statute.

"The Bush administration has renounced sixty years of U.S. support for international law and justice," said William Pace, convenor of the NGO Coalition for the ICC. "The only politically motivated 'prosecutions' are by the U.S. against the ICC." The ICC is a multilateral treaty-based organization that was signed by 139 countries, including the United States during the Clinton

administration. President Bush has opposed the court claiming that it could be used as a forum for frivolous prosecutions.

“What we’re seeing is that the Bush administration has been signing these immunity deals with the world’s poorest countries, many of which cannot stand up to a threat of the loss of aid,” said Heather Hamilton, director of programs at the World Federalist Association. “We’ve also seen that the U.S. government is exceeding the terms set out in ASPA by concluding these agreements with countries that are not formal supporters of the ICC,” she added.

A number of countries have reportedly received large sums of U.S. financial assistance upon signature of the bilateral immunity agreements. In the case of Sierra Leone, upon signature of a bilateral immunity agreement it was announced that the U.S. would invest \$25 million in the Sierra Rutile mines. In other instances, pressure for signature of a bilateral immunity agreement has included threats such as restricted accession to NATO, as has been reported in some of the Balkan states, and the withdrawal of ‘dual use’ funding, such as in the case of the Bahamas, where American Ambassador J. Richard Blankenship warned on public television that an “unfavorable” response could result in the loss of funding for the paving and lighting of an airport runway.

The ICC comprises the 90 countries that have ratified or acceded to the Rome Statute, including the overwhelming majority of U.S. allies. Seated in The Hague, the Netherlands, the ICC has recently elected all of its top officials, including 18 highly qualified judges, a prosecutor and registrar, who together bring to the court a diverse range of nationalities, cultures and languages, and top-level experience in international, humanitarian and criminal law.

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For further information:

In Brussels: Irune Quijera-Aguirrezabal, tel: + 32 2 502 6215

In Mexico City: José Antonio Bermudez Guevara, tel: + 52 55 5950 4054

In Manila: Evelyn Balais Serrano, tel: + 63 2 926 7882

In New York: Adele Waugaman, tel: + 1 212 687 2863 ext. 17

About the NGO Coalition for the International Criminal Court

The NGO Coalition for the International Criminal Court (Coalition) is a global network of over 2,000 members working together in support of an permanent, fair and effective International Criminal Court. Established in 1995, the Coalition is the leading online provider of information on the ICC. For more information, please visit <http://www.iccnw.org>.

Note to the editor:

The 49 countries reported to have signed U.S. bilateral immunity agreements, listed according to date of reporting of signature, are: Romania, Israel, East Timor, Tajikistan, Marshall Islands, Dominican Republic, Palau, Mauritania, Uzbekistan, Honduras, Afghanistan, Micronesia, Gambia, El Salvador, Sri Lanka, India, Nepal, Djibouti, Tuvalu, Bahrain, Georgia, Azerbaijan, Nauru, Rwanda, Democratic Republic of Congo, Tonga, Sierra Leone, Gabon, Ghana, Madagascar, Maldives, Albania, Bhutan, Philippines, Bosnia-Herzegovina, Bolivia, Egypt, Thailand, Uganda, Mongolia, Nicaragua, Tunisia, Seychelles, Togo, Mauritius, Bangladesh, Cambodia, Panama and Macedonia. Of these 49, 19 are States Parties to the ICC, 13 are African countries, 12 are Asian countries, 6 are Pacific states, 5 are European States (including Georgia and Azerbaijan), 5 are Latin American countries and 4 are from the Middle East/North Africa.