



Coalition for the International Criminal Court

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COUNTRIES OPPOSED TO SIGNING A US BILATERAL IMMUNITY AGREEMENT (BIA): US AID LOST IN FY04 & FY05 AND THREATENED IN FY06

As of 15 November 2006, a total of **54** countries have rejected US efforts to sign bilateral immunity agreements (BIAs), despite unrelenting US pressure and the threat and actual loss of military assistance as mandated by the US law from 2002 known as the American Servicemembers' Protection Act (ASPA). All of the governments listed below have spoken out publicly against signing such agreements which is seen as a US attempt to create a two-tier system of international justice. In addition to government opposition to BIAs, some regional groups – such as the European Union and MERCOSUR – have also passed resolutions condemning the signing of such agreements, as they expressly violate the letter and spirit of the ICC treaty.

As a result of ASPA, in Fiscal Years 2004 and 2005, at least **19** ICC States Parties lost **all** International Military Education and Training (IMET) and Foreign Military Financing (FMF) funds as indicated below. In addition to those countries who lost all IMET and FMF funding, in FY05 Kenya lost 98% of its IMET and FMF, and in FY04 Malta lost 83% of *all aid* that the country receives from the US. Also in FY05, **7** ICC States Parties and **2** intergovernmental programs were impacted by additional US legislation passed at the end of 2004, known as the Nethercutt Amendment (NA), which threatens to cut Economic Support Funds (ESF). ESF funds a wide range of initiatives including, assistance for programs eliminating sweatshops and the trafficking of persons, post-conflict reconciliation, democracy-building and wheelchairs. For more information on the NGO campaign against these efforts, visit: <http://www.iccnw.org/?mod=bia>

On 2 October 2006, President Bush waived IMET aid prohibitions to 21 ICC State Parties that have refused to conclude a BIA. Additionally, the Defense Authorization Act for FY 2007, which was signed by President Bush on 17 October, restores IMET funding previously denied under ASPA. Furthermore, on 28 November 2006, President Bush waived ESF aid prohibitions to 14 ICC State Parties. These developments, however, did not reinstate FMF aid threatened by ASPA, and three countries that receive ESF aid – Ireland, Brazil, and Venezuela – remain threatened with the loss of almost \$15 million in ESF cuts. For further information, visit: http://www.iccnw.org/documents/CICCFs-UpdateWaivers_final.pdf

* Source: US State Department, Congressional Budget Justification for Foreign Operations: <http://www.state.gov/s/d/rm/rls/cbj/>

Please Note: A hyphen (-) indicates that a country did not request aid in a particular category. “No Aid Lost” indicates that the country received all of the requested aid. **Italicized** numbers indicate that a country lost **all** of its IMET and FMF funding.

AFRICA (6)

	Lost post-ASPA (FY04)	Lost post-ASPA (FY05)	Lost post-Nethercutt (FY05)	Total Lost (FY05)	Threatened post-ASPA ¹ (FY06)	Threatened post-Nethercutt ² (FY06)	Total Threatened (FY06)
Benin ³	\$500,000	\$250,000	-	\$250,000	n/a	n/a	n/a
Kenya ⁴	-	\$7.51 million	\$1.25 million ⁵	\$7.83 million	\$7 million	n/a	\$7 million
Lesotho ⁶	\$125,000	\$50,000	-	\$50,000	n/a	n/a	n/a
Mali	\$350,000	\$175,000	-	\$175,000	-	-	-
Namibia	\$225,000	\$100,000	-	\$100,000	-	-	-
Niger	\$200,000	\$100,000	-	\$100,000	-	-	-
South Africa	\$7.6 million	\$50,000	\$8,000	\$58,000	-	n/a	n/a
Tanzania	\$230,000	\$100,000	-	\$100,000	-	-	-
Safe Skies ⁷	-	-	\$1.53 million	\$1.53 million	-	n/a	n/a

¹ Unlike FY04 and FY05, post-ASPA figures for FY06 only relate to threatened FMF funds as waivers for IMET were issued in October 2006.

² Unlike FY04 and FY05, post-Nethercutt figures for FY06 reflect the waiver issued on 28 November 2006 exempting 14 countries from Nethercutt restrictions.

³ Benin signed a BIA in September of 2005. Aid was affected for FY05 but not for FY06

⁴ Kenya received full funding under ASPA in FY04 since it was not yet an ICC State Party.

AMERICAS (14)

	Lost post-ASPA (FY04)	Lost post-ASPA (FY05)	Lost post-Nethercutt (FY05)	Total Lost (FY05)	Threatened post-ASPA (FY06)	Threatened post-Nethercutt (FY06)	Total Threatened (FY06)
Argentina ⁸	EXEMPT	EXEMPT	-	-	EXEMPT	-	EXEMPT
Barbados	Aid Amount Unknown	Aid Amount Unknown	Aid Amount Unknown	Aid Amount Unknown	Aid Amount Unknown	Aid Amount Unknown	Aid Amount Unknown
Bolivia ⁹	EXEMPT	\$3.8 million	\$34,000	\$3.834 million	\$1.8 million	n/a	\$1.8 million
Brazil	\$500,000	\$50,000	-	\$50,000	No Aid Lost	\$750,000	\$750,000
Costa Rica	\$400,000	\$50,000	-	\$50,000	-	-	-
Ecuador	\$15.65 million	\$2.3 million	\$1.1 million	\$3.4 million	\$750,000	n/a	\$750,000
Mexico	Not Yet ICC Party	No Aid Lost	No Aid Lost	No Aid Lost	\$2.5 million	n/a	\$2.5 million
Paraguay	\$300,000	\$250,000	\$821,000	\$1.07 million	-	n/a	n/a
Peru	\$2.7 million	\$1.3 million	\$4 million	\$5.3 million	\$300,000	n/a	\$300,000
St. Lucia ¹⁰	Not ICC Party	Not ICC Party	Not ICC Party	Not ICC Party	Not ICC Party	Not ICC Party	Not ICC Party
St. Vincent & Grenadines	Aid Amount Unknown	Aid Amount Unknown	Aid Amount Unknown	Aid Amount Unknown	Aid Amount Unknown	Aid Amount Unknown	Aid Amount Unknown
Trinidad & Tobago	\$450,000	\$50,000	-	\$50,000	-	-	-
Uruguay	\$1.45 million	\$650,000	-	\$650,000	\$150,000	-	\$150,000
Venezuela	\$700,000	\$50,000	No Aid Lost	\$50,000	No Aid Lost	\$500,000	\$500,000
Peru-Ecuador Peace	-	-	\$1.02 million	\$1.02 million	-	n/a	n/a

ASIA (1)

	Lost post-ASPA (FY04)	Lost post-ASPA (FY05)	Lost post-Nethercutt (FY05)	Total Lost (FY05)	Threatened post-ASPA (FY06)	Threatened post-Nethercutt (FY06)	Total Threatened (FY06)
Samoa	\$150,000	\$50,000	-	\$50,000	No Aid Lost	-	No Aid Lost

EUROPE (9)

	Lost post-ASPA (FY04)	Lost post-ASPA (FY05)	Lost post-Nethercutt (FY05)	Total Lost (FY05)	Threatened post-ASPA (FY06)	Threatened post-Nethercutt (FY06)	Total Threatened (FY06)
Austria	-	-	-	-	-	-	-
Croatia	\$5.8 million	\$50,000	-	\$50,000	-	-	No Aid Lost
Cyprus	-	-	\$108,000	\$108,000	-	n/a	n/a
Ireland ¹¹	-	-	No Aid Lost	No Aid Lost	-	\$13.37 million ¹²	\$13.37 million

⁵ This number represents the difference between the “expected” and the “actual” amounts of funding. For unknown reasons the ESF aid amount requested rose by almost \$1 million between the original request and the “expected” amount reported the following year.

⁶ Lesotho signed a BIA in 2006. A presidential waiver was issued exempting Lesotho from military aid cuts on 2 August 2006.

⁷ The Safe Skies Program provides funding to Kenya, Mali, Namibia, and Tanzania, among others.

⁸ Argentina is Exempt from ASPA but vulnerable under Nethercutt.

⁹ Bolivia signed a BIA on 19 May 2003 and received a waiver for FY04. However, the congress has publicly refused to ratify the agreement and the US did not renew the waiver for FY05.

¹⁰ Though it’s not a State Party, St. Lucia signed the Rome Statute on 27 August 1999 and has publicly stated that it will not sign a BIA.

¹¹ Ireland only requests and receives ESF aid. The aid comes through two programs: the International Fund for Ireland and the Irish Visa Program.

¹² This number represents the “expected” amount of funding. For unknown reasons the IMET aid amount requested rose by over \$1 million between the original request and the “expected” amount reported the following year.

EUROPE (CONT'D)

	Lost post-ASPA (FY04)	Lost post-ASPA (FY05)	Lost post-Nethercutt (FY05)	Total Lost (FY05)	Threatened post-ASPA (FY06)	Threatened post-Nethercutt (FY06)	Total Threatened (FY06)
Liechtenstein	-	-	-	-	-	-	-
Malta	<i>\$1.25 million</i>	<i>\$125,000</i>	-	\$125,000	-	-	-
Serbia and Montenegro ¹³	<i>\$250,000</i>	<i>\$250,000</i>	-	\$250,000	-	-	-
Sweden	-	-	-	-	-	-	-
Switzerland	-	-	-	-	-	-	-

NATO MEMBERS (24)

The following 24 countries have opposed BIAs, but are exempted from ASPA cuts as NATO members. None of the 24 countries have requested ESF funding in recent years; however, it is unclear whether they would be exempted from ESF aid cuts under Nethercutt.

Belgium	Greece	Norway
Bulgaria	Hungary	Poland
Canada	Iceland	Portugal
Czech Republic (non-ICC State Party)	Italy	Slovakia
Denmark	Latvia	Slovenia
Estonia	Lithuania	Spain
France	Luxembourg	United Kingdom
Germany	Netherlands	Finland ¹⁴

TOTALS

	Lost post-ASPA (FY04)	Lost post-ASPA (FY05)	Lost post-NA (FY05)	Total Lost (FY05)	Threatened post-ASPA (FY06)	Threatened post-NA (FY06)	Total Threatened (FY06)
Total Number of Countries Affected	19	21	9	25	6	3	9
Total Funding to ICC States Parties	\$38.83 million	\$17.31 million	\$9.87 million	\$27.18 million	\$12.5 million	\$14.62 million	\$27.12 million

¹³ As Montenegro gained independence in 2006, the "Aid Threatened" for FY2006 may apply only to Serbia.

¹⁴ Although Finland is not a NATO member, they are part of NATO's Partnership for Peace, and have publicly stated their opposition to signing a BIA