

Pierre-Richard Prosper, U.S. Ambassador for War Crimes Issues
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AMB. PROSPER: Thank you. Good afternoon.

Today, at the request of the president, our mission up -- in the United Nations deposited a note with the U.N. secretary-general as the depository of the Rome treaty for the International Criminal Court stating that the United States does not intend to become a party to the ICC treaty and accordingly has no legal obligation as a result of our signature on December 31st, 2000. The president decided that this step was appropriate and an important one in order make our position clear -- our position that we will not support the ICC, believing that the document is flawed in many regards.

The president has also made clear and is making clear that he is committed to combating war crimes, committed for the United States to play a leadership role in the world to address these abuses as they occur. We took this rare action but not unprecedented action today in order to give us the flexibility to protect our interests and the flexibility to pursue alternative approaches. The president has also made it clear that we respect the right of other states to be part of the ICC, but we ask them in turn to respect our right not to be part of the ICC process.

In pursuing accountability, we will seek an alternative approach, one that we feel is a better approach, more tailored at getting to the core and the heart of the problem that are facing today. And that approach is primarily to put the responsibility back to where it belongs, and that is with the states. We want to create an environment where the states have the capacity to address these issues, they have the political willingness to address these issues. We believe that if we can build these democracies and the rule of law in these states, it acts as a constraint against abuse and a constraint against excesses of power.

In support of this alternative mechanism, the United States will be prepared to support politically, financially, technically and logistically any state -- post-conflict state that seeks to credibly pursue accountability for violations of humanitarian law. We will support creative ad hoc approaches, such as we see in Sierra Leone, where there is a division of labor between the international community and the sovereign state. We will be asking Congress to help us in finding the necessary resources in order to combat these problems. We will seek to mobilize the private sector, to see if the private sector can play a role in this regard, either through funding or other contributions. We will seek to create a pool of experienced judges, lawyers, prosecutors, who will be willing to work on short notice, in order to help ingrain the rule of law in these

societies. And we will take steps within the United States to fill any gaps that we may have in our laws, to ensure that the United States does not become a safe haven for war criminals and indicted persons.

We will be looking to work with the international community. This is a multilateral approach. We will ask our allies and friends to join us here. We will ask the NGO community and the United Nations to join us in this regard because we do believe there is common ground. We believe that it cannot be disputed that the best way to combat abuses and atrocities is to rebuild and enhance the domestic willingness and capacity to deal with these issues as a front-line approach.

With that, I'd like to open the floor for any questions. Thank you.

MODERATOR: Please wait for the mike, introduce yourself and your organization.

Sir?

Q Good afternoon, Ambassador. My name is Paul Koring. I'm with the Globe and Mail of Canada. I realize hypotheticals are always difficult, but I'm trying to understand the degree to which Washington intends to have nothing to do with the ICC. In some of the ad hoc tribunals on war crimes, Washington and U.S. service personnel have been instrumental in providing either documents, evidence or witness testimony against those charged, both with respect to the Balkans and in Africa.

What would happen, for instance, if a third-party national brought before the ICC and the case rested, or rested in part on evidence gathered by either U.S. service personnel or the U.S. government; will you have nothing to do with this, even, for instance, in terms of the provision of witnesses and evidence?

Thank you.

AMB. PROSPER: I believe the ICC should not expect any support or cooperation from the United States government. If the prosecutor of the ICC seeks to build a case against an individual, the prosecutor should build the case on his or her own effort and not be dependent or reliant upon U.S. information or cooperation.

We have detached ourselves from the process; we have divorced ourselves from the process and do not intend to contribute in that regard.

Q My name is Katia Galinski (sp). I'm with the German newspaper, Frankfurter Allgemeine. And my question is that there were some reports that there is also the intention not to ratify the Vienna Convention on the Law of Treaties, and I was wondering whether you could confirm these reports.

AMB. PROSPER: No, those reports are erroneous. We did not have any plans to take any actions on the Vienna Convention. In fact, today our action is consistent with the convention and

out of respect for the convention, in that we filed the document with the United Nations notifying the depository of our intent toward the treaty. So this was a false report that was in a paper.

Q Paddy Smith, Irish Times. Arising from that question. Some of the criticisms of the American position in relation to this is that you took part in the drafting of this court's remit. You effectively succeeded in watering down some of the provisions that other countries wanted in there, and then you walked away, and that this is a sign of American bad faith on the issue. How do you answer those criticisms?

AMB. PROSPER: Actually, to the contrary, we strengthened the court. We tried hard to put in safeguards and make the court as reliable and as effective as possible. If you looked at the element of the offenses, if you look to the rules of procedure, it is U.S. involvement that really helped shape the court and shape it in a way that would make it more credible. The complementarity provision that was put in place, that everyone seems to tout, is a U.S. idea that we put forward with the hope of achieving the safeguards that we thought would be appropriate. But unfortunately, the true safeguards that we wanted were not put in place; but our contribution to the process, to the negotiations only helped to improve a flawed document.

MODERATOR: Mr. Bangura.

Q Thank you. My name is Ben Bangoura. I'm Washington correspondent for Guineanews and (Trade ?) News Senegal. What can you tell us about the U.N. war crimes tribunal in Sierra Leone? And what has been the major stumbling block to have this tribunal functioning normally?

AMB. PROSPER: Well, the special court for Sierra Leone is now on its way to actually coming into being. Recently the secretary-general made the decision to appoint the officials, the registrar, the prosecutor, who will be an American. We're hopeful that this process will actually be up and running this summer and begin to conduct the investigation into the years of abuses that occurred in Sierra Leone.

MODERATOR: (Off mike.) Nancy, could we have the mike? Quick follow-up.

Q Yeah. I understand that there was a major money issue involved in setting up this special court. What can you tell us about that? Is there any progress on that front?

AMB. PROSPER: Well, the money issue's resolved. There's sufficient money for three years of operation for the court. The issue early on was whether or not the court would be funded through voluntary contributions or through assessed U.N. contributions. We and others, the members of the committee that are friendly toward the court, viewed that the court should be a court funded through voluntary contributions. This is a new approach. We had to work out the mechanics, and now it is in place for the court to begin to function in the coming months.

MODERATOR: The gentleman in back. The gentleman in back.

Q Thank you. David Halton from Canadian Broadcasting Corporation. I was wondering if you could tell us, sir, whether any other countries in the international community share the U.S.

position on this, and also whether there's any concern about the kind of criticism voiced by Senator Feingold this morning, that the U.S. credibility in all multinational, multilateral endeavors is severely compromised by this move.

AMB. PROSPER: Yeah. Well, I'm not in a position to speak as to what other countries may or may not be thinking. But I think what I can say is that our approach, particularly our alternative strategy here, is a multilateral, multinational approach. I think Senator Feingold is mistaken when he thinks that this is going to affect our standing in the international community. We will be asking the members of the international community to join us in this effort.

It cannot be disputed that the way to go -- the ideal world is to rebuild the capacity of states in post-conflict situations, so that they are in a position to deal with this. It cannot be disputed that the ideal world is a world where there is no need for an international tribunal, where states are in a position to handle these issues themselves. So anyone who is committed to accountability, committed to achieving justice, will have to agree to the approach that we are putting forward, and that is getting to the grass roots, attacking the core of the problem, and rebuilding the capacity and willingness of states to tackle this issue.

Q Anne Toulouse with Radio France Internationale.

Could you explain why technically you had to withdraw from the treaty instead of simply not ratifying it?

AMB. PROSPER: Yeah. What we did today is, we made our intention clear to the United Nations as its depository. Under the treaty law, if you will, when one is a signatory, the person, they -- the state commits to not taking actions that would be designed to defeat the object and the purpose of the treaty. We, in order to maintain our flexibility -- not only to protect our interests but to pursue alternative judicial mechanisms -- decided to make clear that we will not be part of this treaty and thus be able to take different approaches that may be different to the object and purpose the ICC treaty. And in short, what we have now is flexibility -- not only to protect our interests in U.S. service personnel but to look elsewhere, to take alternative approaches to attack this problem.

Q Thank you, Ambassador. You're so kind about doing one hypothetical, I'm going to try another one on you.

AMB. PROSPER: (Laughs.)

Q If a person indicted by the Court is in the United States, would he be in a safe harbor, because United States would not extradite a suspect or someone charged by the Court to the Court's jurisdiction?

AMB. PROSPER: Well, this -- actually, this neatly ties into the last question, because what we would do is, first of all, we want to be -- we're going to cure any defects in our laws to ensure that this doesn't happen, that the United States does not become a safeguard -- a safe haven for these individuals. But also, what we are prepared to do is that if an individual does come into the

United States, we will look to take action. We will look to send him back to his or her own state for action, if necessary. We will look to send he or she to the state where the crimes occurred, if necessary. We will not be looking toward the ICC, but we will be looking for judicial remedies that will ensure that this person is held accountable for his or her actions.

Q Do you plan any actions against states who are friendly towards the ICC?

AMB. PROSPER: We do not. The president has made clear that -- what he wanted to do today was to make our intentions clear and to not take aggressive action or wage war, if you will, against the ICC or the supporters of the ICC.

Again, he respects the decision of states to be part of this treaty consensually, but in turn, he also wants states to respect our decision not to be part of it.

Q I was just wondering, because there were some reports that the U.S. government is urging agreements that other states should not work together with the ICC as far as U.S. citizens are concerned, and otherwise they would refuse to give military help to them.

AMB. PROSPER: Well, the latter part of that question is not correct. But what we will be doing is we will be looking to states, letting our concerns regarding the ICC known, and let them know that we do not believe an American service member or political or diplomatic official should be brought before the court. We will deal with this issue if there is redress that is needed. But as envisioned by the ICC, in fact, we will reach agreement as to the nature of any deployment that we may have overseas to ensure that our personnel is protected.

Q Paddy Smith again. But you're making a clear distinction between U.S. service personnel and diplomatic personnel and citizens. I mean, should an American citizen be found, for example, involved in a conflict like in Bosnia and be accused of war crimes, do you have any problem with that citizen facing ICC? Do you have any problem with allies handing such a citizen over to the ICC for trial?

AMB. PROSPER: Well, it's difficult for me to speculate on a situation like that. But what I can say is our primary concern is toward our U.S. service members and officials acting in their official capacity.

Obviously, if we're in a situation where someone who happens to be an American citizen is acting in his or her own interests and in complete disregard for the law and complete disregard for what the United States stands for, that person will have to pay whatever price he or she has to pay for the abuses. But we will look out for the well-being of our citizens, and if we feel that an American citizen will be subjected to an unfair and unlawful process, as we have done in the past, we will speak out and take the appropriate action.

Q Slobodan Palovic (sp). I'm with Southeast Europe News Service.

Ambassador Prosper, may I switch your attention for the moment to the tribunal that your country supports very much. According to the press reports, during your recent visit to Croatia

you sounded very optimistic about the forthcoming apprehension of Karadzic and Mladic. What do you know that we don't know about? We would like to share it with you.

AMB. PROSPER: (Laughs.) Well, I can't share everything with you, but what I can say is that there is a deep commitment to see Radovan Karadzic and Ratko Mladic go to The Hague. I'm encouraged by the movement in Belgrade, the movement towards cooperation, with the recognition that there needs to be cooperation with the tribunal in the passage of the law. I'm encouraged that Belgrade will be issuing arrest warrants for all the at-large indictees that are on their territory. I hope and expect the government to take action to bring these people into custody because that is the only way we will move towards normalcy and make progress in the region.

In Bosnia and the Republika Srpska, I met with the officials there and made it clear to them that they're on the verge of being left behind by the region because the region is moving forward in fulfilling its international obligation. The region is moving forward towards normalcy towards the European Union. But the Republika Srpska will continue to suffer for its lack of cooperation and lack of willingness to actually play a role in this process.

I felt that they understood my message. I believe that there will be a new attitude and it's just only a matter of time before Karadzic and Mladic find their way to The Hague.

Q (Inaudible -- Kosovic (ph), daily from Belgrade -- (inaudible). Given the fact that you have just told us that you are going to support national tribunal, does it mean that in future, for example, in Serbia you are going to support -- (inaudible) -- or our traditional system, and to be less supportive for ad hoc tribunals? And what is the U.S. position towards future ad hoc tribunals?

AMB. PROSPER: With Serbia, our position is as follows; is that we are prepared to support local prosecution for war crimes violations there by the government. We're prepared to support it politically, financially and technically. But before we can do so, we need to see the significant progress and cooperation with the tribunal in The Hague. Once we get to that point and the secretary of State is in a position to certify that there is cooperation, other benefits, obviously, will follow besides the aid that has been withheld, the benefits such as our holding a conference, in particular, working with the local authorities to build the domestic capacity to address these issues themselves.

Our view to the ad hoc tribunals, the current ones, Rwanda and Yugoslavia, is 100 percent support.

Future ad hoc tribunals? Well, we'll have to see what happens in the future. Our goal is to be in a position where states are able to deal with this. If they have problems, we'll slowly internationalize it, working with the states, either through technical support, human support, or whatever it may be.

Q (Off mike) -- follow-up?

MODERATOR: Please.

Q Given the fact that you're just told us that Belgrade made some good steps towards international tribunal, how far is it from the full support of U.S., I mean, in terms of signification?

AMB. PROSPER: Well, with each action, we're getting closer. We do need to look and see more, look forward and see more. I do not have a precise list or a formula that needs to be met, but it is a situation that we -- we look at every action, make a determination after every action, to see if it is enough. We're not quite there yet. We've received positive signals that there may be more surrenders coming, which will be vital in factoring in -- into the decision. And particularly if we see some more aggressive actions, such as actual true arrests, I think that will look -- the secretary will look very favorably upon that and make the appropriate determination.

MODERATOR: (Off mike.)

Q Yes. I want to follow upon Sierra Leone's special court tribunal. Do we know how much money -- being raised for that, for the -- and who are the donors?

AMB. PROSPER: I do not have the precise numbers for you. I believe the special court will cost anywhere between \$15 (million), \$20 million a year. The United States is the leading donor, at \$5 million a year, and there are other states that have contributed differing amounts.

Q Julia Vokoska (sp), Voice of America Macedonian Service. And Ambassador, I would appreciate your comment regarding the situation in Macedonia, which is apparently calming down now. But the exhumation in the village of Ljuboten ended at the end of last month, and the bodies were allegedly buried right after the shootout between the NLA and Macedonian security forces in August 2001. And this exhumation was monitored by the representatives of Hague tribunal, NATO, and OSCE and EU missions. I would appreciate if you can comment on that. And besides the Ljuboten case, there is the possibility for investigation of the case of molesting and sexual abuse of five building workers by the Albanian armed group.

MODERATOR: (Off mike.)

Q I'm sorry?

AMB. PROSPER: Five Albanian --?

Q Five. Five ethnic -- five building workers by the Albanian armed group.

AMB. PROSPER: Okay. Well, the situation in Macedonia is one that we obviously keep an eye on in order to ensure that, A, the situation remains stable; and B, that we're actually moving into the future and making progress. We're pleased to see that everyone is playing a role, particularly The Hague tribunal, NATO and so on.

But what we really want to do is see and create an environment where the local authorities are able to deal with these matters themselves. I think The Hague tribunal does have an

important role to play, but we should not depend on The Hague tribunal to take the actions in Macedonia; we should really look to see what the local institutions and local authorities can do, taking into consideration the political situation and the political agreements that have been reached.

MODERATOR: No more questions? In that case, I'd like to thank Ambassador Prosper, and thank you all.

AMB. PROSPER: Okay. Thank you.

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