

Sanctioning Allies: Effects of the “Article 98” Campaign

The U.S. has been withholding all military aid since July 1, 2003, from 22 U.S. allies because they belong to the International Criminal Court (ICC) but have refused to sign bilateral immunity agreements (BIAs) with the U.S. for legal reasons. Signing these agreements would require ICC member states to breach their legal obligations under an international treaty (the ICC’s Rome Statute) and put ordinary Americans on their soil above the laws that they expect their own citizens and leaders to obey. The continued withholding of military assistance these allies is jeopardizing other national security priorities, such as:

- **Building cooperation in the War on Terror**
African and Latin American allies actively collaborating with the U.S. to fight terrorism within their own borders have had their military aid suspended.
- **Combating drug trafficking and transnational crime**
The U.S. has frozen military assistance to 10 Latin American allies, all of whom are strong partners in the war on drugs.
- **Helping African countries provide peacekeeping forces for regional conflicts**
Countries that have taken leadership roles in providing peacekeepers for African conflicts have had their military aid frozen, including Benin, Mali, and South Africa.
- **Slowing future NATO enlargement**
Some Eastern European countries hoping to join the next round of NATO enlargement have lost aid intended to help modernize their armies.
- **Bringing wanted war criminals like Radovan Karadzic and Ratko Mladic to justice**
By demanding impunity for U.S. nationals accused of grave crimes, the U.S. is undermining its own credibility to insist that other countries turn over their citizens for similar crimes.
- When first requesting the funds now being withheld, President Bush certified to Congress that the assistance would **“strengthen the security of the United States and promote world peace.”** Withholding military aid from these 22 countries over a legal technicality is doing more harm than good for the U.S.
- Under the American Servicemembers’ Protection Act (ASPA), President Bush can waive these restrictions for any country if he certifies that it is in the national security interest. **The President should extend this waiver to all ICC member states.**

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Damage to U.S. Foreign Policy Objectives:

Undermining cooperation in the War on Terror

Aid has been suspended to countries in Africa and Latin America who actively collaborate with the U.S. to fight terrorism within their own borders.

- The U.S. has supported efforts by Argentina, Brazil, and Paraguay to crack down on terrorist networks in the border region between the three countries.ⁱ Despite much progress, military assistance to Brazil and Paraguay is now frozen.
- Military training for friends in Africa was increased for FY04 “as a key foreign policy tool to promote continued cooperation – particularly important for those nations playing valuable roles with the U.S. in the war on terrorism.”ⁱⁱ These programs have now been suspended for eight African countries, including Tanzania, the location of a 1998 U.S. embassy bombing. (Other countries affected: Benin, Central African Republic, Lesotho, Mali, Namibia, Niger, South Africa.)

Undercutting efforts to combat drug trafficking and transnational crime

The U.S. has suspended military assistance to 10 Latin American allies, all of whom are strong partners in the war on drugs.

- The U.S. has been increasing its partnerships with Caribbean countries over the last decade to fight drug trafficking in its backyard. Following the imposition of sanctions on five Caribbean countries, the Caribbean Community (CARICOM) heads of state issued a statement that they were “deeply disturbed by the punitive action taken by the U.S. government,” adding that “this development was at complete variance with the spirit of the special relationship between the United States and the Caribbean.” (Countries affected: Barbados, St. Vincent and the Grenadines, and Trinidad and Tobago.)
- The bulk of the approximately \$3 million suspended for these Caribbean nations would have gone toward counter-drug operations. (The funds also include hurricane disaster assistance.) “It’s going to hurt the U.S. in the longer term,” posits Crispin Gregoire, Dominica’s ambassador to the UN. “The question that looms large is: Is the U.S. still committed to the war on drugs?”ⁱⁱⁱ
- According to the State Department, Ecuador has virtually rid the country of coca production and is now working closely with the U.S. to combat money laundering and the transshipment of drugs. From the Manta airbase in Ecuador, the U.S. monitors drug trafficking flights in the region.^{iv} Without a shift in U.S. policy, the U.S. will now withhold \$15.65 million in FY04 from Ecuador.
- Other strong allies in the war on drugs whose aid has been suspended include Brazil, Paraguay, Peru, Uruguay, and Venezuela.

Threatening the ability of regional leaders to provide peacekeeping forces for local conflicts

One major objective of the Foreign Military Financing program is to “improve key capabilities of friendly countries to contribute to ... peacekeeping and humanitarian crises,” thereby “helping to reduce peacekeeping engagements by the U.S.”^v This funding has now been suspended to some countries that have already taken leadership roles in regional peacekeeping efforts.

- In Africa, the frozen funds are intended to “improve peacekeeping capacity [and] enhance border and maritime controls, thereby strengthening regional stability” and decreasing reliance on U.S. peacekeeping capabilities.^{vi} South Africa, a leader in regional peace processes and major supplier of peacekeepers for African conflicts, will see \$7.2 million withheld in FY04.
- Benin and Mali, both promising new democracies that have taken a leadership role in African peacekeeping, have also seen their military assistance withheld.

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Slowing preparations for NATO enlargement

Future candidates for NATO membership now face delays in achieving needed upgrades in their militaries. In a letter to a Zagreb newspaper in May, U.S. ambassador to Croatia Lawrence Rossin pointed out that “U.S. military assistance is significant” because “it helps prepare the Croatian Armed Forces for NATO membership,” implying that Croatia’s refusal to meet U.S. demands could harm Croatia’s NATO aspirations.

Weakening U.S. ability to bring wanted war criminals to justice

By demanding impunity for U.S. nationals accused of future acts of genocide, war crimes, and crimes against humanity, the U.S. is undermining its credibility to insist that these same countries turn over wanted war criminals like Radovan Karadzic and Ratko Mladic to the International Tribunal for the Former Yugoslavia.

- The U.S. required Serbia and Montenegro to demonstrate by June 15, 2003, that they were fully cooperating with the International Criminal Tribunal for the Former Yugoslavia (ICTY) in order to receive any U.S. assistance; two weeks later, Serbia’s military aid was suspended because it failed to agree to grant U.S. citizens impunity for similar grave crimes. “I think it would be very difficult to explain to our people that on the one hand we will sign a bilateral agreement with the United States in which we agree to protect their citizens, while at the same time we are arresting and extraditing our citizens for trial at [the ICTY],” explained Serbian Prime Minister Zoran Zivkovic.^{vii}
- The U.S. continues to pressure Croatia to locate, arrest, and extradite Croatian General Ante Gotovina and other indicted Croats. Many groups in Croatia would prefer that such matters be settled at home. Now the U.S. is demanding that the Croatian government promise that it will not extradite U.S. citizens to a similar international tribunal. Signing a BIA would “undermine the credibility of the government to cooperate with The Hague,” said Ivan Grdesic, Croatia’s ambassador to the U.S. “If we sign this [BIA], we will in the eyes and minds of the Croatian voters be acting on double standards.”^{viii} As Croatian President Stjepan Mesic puts it, “it would be very difficult to explain to the Croatian public how we can have one way of treating our own citizens, and another for citizens of another country.”^{ix}

Additional Information on Sanctioned Countries:

Benin

According to the State Department, “a panoply of military-to-military cooperation programs reinforces democratizing efforts”^x in Benin, a promising emerging democracy in West Africa. The military financing and training programs, now suspended, were helping Benin develop peacekeeping capabilities important for regional stability.

Costa Rica

Even though Costa Rica backed the U.S. efforts in Iraq and has cooperated with the U.S. on a growing number of narcotics seizures, it was still sanctioned on July 1. Costa Rica is a firm supporter of the Court and is unlikely to give in to U.S. demands. “We are not against the United States. We are in favor of the International Criminal Court, and that is how they should view it,” Foreign Minister Roberto Tovar emphasized. He said that the sanctions will affect the supply of spare parts for police vehicles and the granting of scholarships in the field of security.^{xi}

Croatia

Croatia has participated in peace operations in Afghanistan, helped in the fight against terrorism, and has sent stabilization forces to Iraq. The military aid withheld by the U.S. will set back its

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scheduled modernization of its army, delaying its candidacy for NATO. The loss of military equipment and financing is not the whole story, however. As the Croatian ambassador to the U.S., Ivan Grdesic, explained, Croatia's best relations with the U.S. come from dozens of Croatian military officers studying in the States.^{xii} This military training program has also been suspended.

Ecuador

According to the State Department, Ecuador still struggles with money laundering, border control, and illegal immigration. It is a large recipient of U.S. aid, which helps Ecuador combat these problems and coordinate with the U.S. on anti-narcotics and anti-terrorism operations.

Congressional Vice-President Antonio Posso said that the U.S. decision "is strange behavior that aims to punish poor Third-World nations." Retired army General Jose Gallardo, who served twice as Ecuador's defense minister, described the step as "a major roadblock to cooperation between the United States and other nations."^{xiii}

Mali

Mali is a promising strong new democracy, and the U.S. has provided aid to encourage regional stability and institutionalize respect for human rights. The military assistance that has now been suspended was intended to help Mali "achieve its potential in international peacekeeping efforts."^{xiv}

Namibia

The U.S. actively helped Namibia achieve independence in 1990 and has provided military assistance to strengthen regional security. Namibia's refusal to bow to U.S. demands is firm: "Let's go hungry if we must," said Defense Minister Erkki Nghimtina. "We will not change our decision."^{xv}

Paraguay

U.S. military training and exchange programs in Paraguay, now suspended, were designed to "help modernize, professionalize, and democratize the military" in a newly democratic country with a long history of military rule. Foreign Minister Jose Antonio Moreno Ruffinelli explained, "we decided not to sign that 'waiver' in the way that it was worded. We could have signed it had they agreed to the changes we proposed. They said they could not change it."^{xvi}

Peru

Having recently emerged from a period of authoritarian rule, Peru is anxious to institutionalize a human rights regime to strengthen its new democracy. It has thus taken a very strong and public stand against the U.S. demands for impunity. As a result, Peru will not receive \$2.7 million in military assistance next year intended to help Peru combat drug trafficking and terrorism.

St. Vincent and the Grenadines

Prime Minister Ralph Gonsalves said his country could lose \$300,000 earmarked for coast guard and anti-drug operations. "Our friendship remains, it's just that we have a different position on this issue," he said.^{xvii}

Serbia and Montenegro

Serbia is eager to move towards accession to the European Union, the surest way of ensuring its continued stability and economic growth. The U.S. insistence on a bilateral immunity agreement puts Serbia, and other Eastern European countries, in an untenable position between the demands of the U.S. and the expectations of the EU, which maintains that the U.S. agreement is in violation of the legal obligations member states have to the ICC. "We are in a situation where one group of our friends is asking us to do something against another group of friends," commented President Svetozar Marovic. Because Serbia's future will depend on closer integration with its European

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neighbors, Marovic expects “our friends in the USA to support us” in upholding its commitment to the ICC.^{xviii} Instead, the Bush administration is withholding half a million dollars in assistance from Serbia and Montenegro in FY04.

South Africa

South Africa is the largest recipient of U.S. military aid in sub-Saharan Africa, which has enabled it to expand its peacekeeping capabilities. South Africa is a leader in regional peace efforts and has sent peacekeepers to conflicts across the continent, including the Congo. The country also closely cooperates with the U.S. to combat terrorism. When President Bush visited in July 2003, however, he received a cool reception. At the last minute, Bush canceled a visit to a South African military base, having allowed \$7.2 million in military assistance to South Africa to be suspended just the week before.^{xix}

Tanzania

A stable, democratic country, Tanzania was the location of one of the U.S. embassy bombings in 1998. Since then, relations between the U.S. and Tanzania have become closer and now encompass cooperation in anti-terrorism efforts and law enforcement.^{xx} Regardless, Tanzania’s military assistance is now frozen.

Venezuela

According to the State Department, Venezuela is a minor source of drugs but a major transit country for cocaine and heroin. Money laundering is also a major concern. The military training and education program for Venezuela, intended to improve coordination and capability to combat these transnational crimes, has been halted.^{xxi}

Other affected countries: Barbados, Brazil, Lesotho, Samoa, Trinidad and Tobago, Uruguay.

ⁱ Department of State, “Background Note: Brazil” and “Background Note: Paraguay.”

ⁱⁱ Department of State, budget justification for military assistance, February 2003.

ⁱⁱⁱ Ian James, “U.S. decision to cut military aid to Caribbean countries could handicap war on drugs, critics say,” Associated Press, 22 August 2003.

^{iv} Department of State, “Background Note: Ecuador.”

^v Department of State, budget justification.

^{vi} Ibid.

^{vii} “EU candidates resist US pressure over International Criminal Court,” Agence France Presse, 2 July 2003.

^{viii} Peter Slevin, “U.S. may cut aid over court immunity,” Washington Post, 1 July 2003.

^{ix} Interview, Croatian Radio, Zagreb, 2 Jun 2003. Translated from Croatian by BBC Monitoring.

^x Department of State, “Background Note: Benin.”

^{xi} “Costa Rica wants to be spared from a US freeze on military aid,” Notimex News agency, 2 July 2003. Translated from Spanish by BBC Monitoring.

^{xii} Slevin.

^{xiii} Michael Tarm, “U.S. decision to cut military aid disappoints recipients,” Associated Press, 3 July 2003.

^{xiv} Department of State, “Background Note: Mali.”

^{xv} “Country snubs US on ICC,” The Namibian, 30 July 2003.

^{xvi} “Foreign Minister confirms US military aid has been cut off,” ABC Color (web site), 3 July 2003. Translated from Spanish by BBC Monitoring.

^{xvii} Stevenson Jacobs, “Caribbean leaders say they won’t budge on International Criminal Court despite U.S. pressure,” Associated Press, 3 July 2003.

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^{xviii} "Serbia-Montenegro placed in 'unnatural, immoral' situation over ICC – President," Mina News agency, 16 June 2003. Translated from Serbian by BBC Monitoring.

^{xix} Dana Milbank and Emily Wax, "Critical of U.S. Policies, Africans Are Giving Bush Chilly Reception," Washington Post, 9 July 2003.

^{xx} Department of State, "Background Note: Tanzania."

^{xxi} Department of State, "Background Note: Venezuela."

All numbers are from the State Department's budget justification (February 2003) and include funds requested under the Foreign Military Financing (FMF) and International Military Education and Training (IMET) programs.