

# **MEXICO - Mexico Defies Washington on ICC (Katherine Stapp, IPS)**

Tuesday 1 November 2005, posted by [Dial](#)

*NEW YORK, Oct 31 ([IPS](#)) - If Washington follows through on threats to slash aid to Mexico as punishment for its accession to the International Criminal Court (ICC), it risks further alienating key U.S. allies and drawing attention to its own increasingly shaky human rights record, say activists.*

"There will be a price to be paid by the U.S. government in terms of its credibility," Richard Dicker, director of Human Rights Watch's International Justice Programme, told IPS.

Mexico signed the Rome Statute of the ICC in September 2000, but did not ratify the treaty and formally deposit it with the United Nations until last week, on Oct. 28, making it the 100th nation to join the ICC.

Washington had warned Mexico that if it ratified the ICC and refused to sign an accord exempting U.S. nationals from the court's jurisdiction, it would cut 11.5 million dollars in funding from aid programmes for fighting drug trafficking, according to human rights groups. The amount is equal to almost 40 percent of the economic aid Mexico receives from the United States.

However, Foreign Relations Secretary Luis Ernesto Derbez said last week that Mexico would not sign such an accord, and was willing to lose the aid rather than give the United States special status.

Almost every country in the European Union, 27 African countries, and all but four Latin American countries (Chile, El Salvador, Guatemala and Nicaragua) have now joined the new court based in The Hague, which is empowered to prosecute individuals for genocide, war crimes and crimes against humanity committed after Jul. 1, 2002.

David Donat Cattin, a legal advisor for Parliamentarians for Global Action in Rome, said the ICC ratification was bogged down in Mexico's Lower House of Congress for more than two years. Legislators decided to approve it only after they made a trip to The Hague in September 2004 in which they discussed the implications of the statute with top ICC officials.

"Among the things that were discussed, I gave them a comprehensive preparatory briefing on the consequences that a ratification without a bilateral non-surrender agreement would have implied in terms of cutting off measures on aid from the U.S. to Mexico," Cattin told IPS.

"Therefore, it was not a coincidence that, at a time when the U.S. Congress decided to adopt the Nethercutt amendment, the Mexican Congress approved — as planned in September 2004 — the constitutional amendment accepting the ICC jurisdiction without hesitations," he explained.

"The same Mexican Congress is now clearly opposing an agreement of such a nature, hence, the government's position against the bilateral agreement is reinforced."

The Nethercutt amendment, passed by the U.S. Congress last year, cuts Economic Support Fund (ESF) aid to countries that have ratified the ICC treaty but have not signed a bilateral immunity agreement with the United States. This aid includes funding for international counter-terrorism efforts, peace process programmes, anti-drug trafficking initiatives, truth and reconciliation commissions, wheelchair distribution and HIV/AIDS education.

As of Sep. 29, the U.S. State Department reports that it has secured 100 "impunity agreements" or so-

called "Article 98 agreements" — although less than a third have been ratified by national parliaments or signed as an executive agreement, which would not require ratification.

"Our ultimate goal is to conclude Article 98 agreements with every country in the world, regardless of whether they have signed or ratified the ICC, regardless of whether they intend to in the future," said John Bolton, former U.S. Undersecretary for Arms Control and current U.S. ambassador to the United Nations — and one of the ICC staunchest opponents.

So far, 53 members of the ICC have refused to sign, and 14 have lost U.S. aid, according to the Coalition for the International Criminal Court, a network of more than 2,000 civil society organisations that support the ICC.

The U.S. campaign against the court also includes the American Servicemembers' Protection Act (ASPA), which authorises the president to invade The Hague to free U.S. personnel detained by the ICC, punishes states that join the treaty by refusing them military aid, and prohibits U.S. participation in peacekeeping missions unless immunity is guaranteed for U.S. personnel.

As a result of ASPA, at least 18 ICC states parties to the Rome Statute lost all U.S. military assistance in 2004.

Despite this retaliation, many countries have resisted signing deals with Washington. In Jordan, one house of parliament has tried to block the agreement, and Nigeria's parliament is now considering rescinding its immunity arrangement.

In June, Ecuador's president, Alfredo Palacio, angrily declared that, "Absolutely no one is going to make me cower." Ecuador has lost 15 million dollars since 2003 and stands to lose another seven million dollars this year in U.S. funding.

Criticism of the administration's hard line has also come from unlikely quarters.

Testifying before Congress in March, Gen. Bantz J. Craddock, the commander of U.S. military forces in Latin America, complained that the sanctions had excluded Latin American officers from U.S. training programmes and could allow China, which has been seeking military ties with Latin America, to fill the void.

"We now risk losing contact and interoperability with a generation of military classmates in many nations of the region, including several leading countries," Craddock told the Senate Armed Services Committee.

Experts say it is particularly notable that Mexico, which sells 88 percent of its exports in the U.S. market, is defying pressure from Washington.

"It's exactly because of the geographic and trade proximity between Mexico and the United States that Mexico's ratification takes on greater significance in terms of how isolated the U.S. government is in its attitude toward the ICC," Human Rights Watch campaigner Dicker told IPS.

"Its closest allies are firm supporters, and those states that are not supporters are ones that this administration would locate along the 'axis of evil'," he said. "I don't know if (Washington will pursue economic sanctions), but they would do so at the risk of alienating another U.S. ally and damaging whatever credibility they might have in championing support for rule-of-law initiatives in the future."

The court is currently investigating cases in Darfur, Sudan; the Democratic Republic of Congo; and Uganda, where it recently issued arrest warrants for five top leaders of the Lord's Resistance Army (LRA) believed to have orchestrated tens of thousands of killings, abductions, and gender-based crimes during the course of the Ugandan civil war.

"The principled position of Mexico's parliament and government may inspire other countries to resist pressures, or to ratify without a bilateral agreement," said Cattin. "The fact that 100 states parties agreed

to the binding legal regime of the ICC statute makes each of the them stronger vis-à-vis external pressure."

\*\*\*\*\*

+Coalition for the International Criminal Court (<http://www.iccnw.org/index2.html>)

+RIGHTS: Historic ICC Arrest Warrants Evoke Praise, Concern  
(<http://www.ipsnews.net/news.asp?idnews=30644>)

+POLITICS: Groups Urge Iraq to Join ICC (<http://ipsnews.net/news.asp?idnews=29801>)

---

[Source](#)