

UNCLASSIFIED SODAN U2
2d: POL S-2 (CRIM)
UN ICC

THAD COCHRAN, MISSISSIPPI, CHAIRMAN
TED STEVENS, ALASKA
ARLEN SPECTER, PENNSYLVANIA
PETE V. DOMENICI, NEW MEXICO
CHRISTOPHER S. BOND, MISSOURI
MITCH MCCONNELL, KENTUCKY
CONRAD BURNS, MONTANA
RICHARD C. SHELBY, ALABAMA
JDD GREGG, NEW HAMPSHIRE
BERT F. BENNETT, UTAH
RY CRAIG, IDAHO
SAILEY HUTCHISON, TEXAS
MIKE DEWINE, OHIO
SAM BROWNBACK, KANSAS
WAYNE ALLARD, COLORADO

ROBERT C. BYRD, WEST VIRGINIA
DANIEL K. INOUYE, HAWAII
PATRICK J. LEAHY, VERMONT
TOM HARKIN, IOWA
BARBARA A. MIKULSKI, MARYLAND
HARRY REID, NEVADA
HERB KOHL, WISCONSIN
PATTY MURRAY, WASHINGTON
BYRON L. DORGAN, NORTH DAKOTA
DIANNE FEINSTEIN, CALIFORNIA
RICHARD J. DURBIN, ILLINOIS
TIM JOHNSON, SOUTH DAKOTA
MARY L. LANDRIEU, LOUISIANA

United States Senate

COMMITTEE ON APPROPRIATIONS
WASHINGTON, DC 20510-6025
http://appropriations.senate.gov

February 4, 2005

RELEASED IN FULL

J. KEITH KENNEDY, STAFF DIRECTOR
TERRENCE E. SAUVAIN, MINORITY STAFF DIRECTOR

The Honorable Condoleezza Rice
Secretary of State
U.S. Department of State
Washington, DC 20520

*Copies for Amb. Prosper
Schirmer, Berman,
DeLoach, Diehl
for TO ID*

Dear Secretary Rice:

In preparation for the upcoming supplemental budget request, I would appreciate answers to the following questions concerning the State Department document entitled "Proposal For A Sudan Tribunal", which I have enclosed for your review.

First, in testimony before the House International Relations Committee, the U.S. Ambassador-at-Large for War Crimes, Pierre-Richard Prosper, stated with respect to the International Criminal Tribunal for Rwanda (ICTR): "... at times, the professionalism of some of the personnel has been called into question with allegations of mismanagement and abuse ... the process, at times, has been costly, has lacked efficiency, has been too slow, and has been too removed from the everyday experience of the people and the victims." To date, has the ICC experienced any of these same problems? Are you confident that a new tribunal, which is an outgrowth of the ICTR, will not encounter any of these same problems? Given Ambassador Prosper's testimony, what leads the State Department to the conclusion (mentioned below) that the proposed Sudan Tribunal would be less costly?

Second, the State Department document states: "We therefore do not see a significant difference in cost between the ICC and an AU-UN hybrid court; in fact the hybrid court may be less costly." My understanding is that the ICC is fully funded by its member states, while current law prohibits any U.S. assistance to the ICC. Assuming the Department's estimates of \$30m to \$100m over a 3 to 5 year period for the operation of the hybrid court are correct, which option is likely to cost more in terms of U.S. tax dollars expended? Also in terms of U.S. tax dollars expended, what is the estimated difference in cost between the two options?

Third, the document states: "The ICC, for example, has a limited presence in Africa, and its staff is occupied with the Uganda and Congo investigations. The ICTR, in contrast, has extensive infrastructure on the ground and it has established relationship agreements with governments throughout the continent." My understanding is that the ICTR staff are also "occupied with investigations", or has the ICTR ceased investigations into aspects of alleged crimes, including ascertaining the whereabouts of indictees, within the ICTR's mandate? How does the number of relationship agreements that the ICTR has in place with African nations compare with the number of African nations that have ratified the Rome Treaty and have, therefore, agreed to cooperate with the ICC (as well as other obligations)?

S

UNCLASSIFIED

Fourth, the document states that because the proposed Sudan Tribunal would share "physical infrastructure" (which I take to mean office space) with the ICTR, it could "begin operations right away." Is it not correct that the usual cause of delay in setting up such courts is the need to recruit qualified judges and prosecutors, which the document acknowledges would have to be done from scratch in this case? Given the length of time it took to recruit judges and prosecutors for the ICTR, the Yugoslav War Crimes Tribunal, and the Special Court for Sierra Leone, how long do you estimate it will take for a Sudan Tribunal to be fully staffed and ready to begin investigations? How would this compare to the amount of time it would take for the ICC to begin work in Sudan?

Fifth, the document states that "any court that takes on Sudan war crimes would require an expansion of its staff and budget." Isn't it true that the ICC has set aside funding for a third major investigation, in addition to its ongoing investigations in Uganda and Congo?

Sixth, the document states: "our preferred funding option for the Tribunal is UN assessed contributions." Given the fact that the United Kingdom, France and virtually every member of the European Union has ratified the Rome Treaty and the Russian Federation is a signatory, what is your analysis of the likelihood of obtaining funding for a new court from assessed contributions? Will funding for a new court come from within the existing budgets for Function 150 or will the total amount of funding for Function 150 be increased? If the former option is selected, what programs will be cut to offset spending for the court?

Finally, as of February 3, 2005, has the State Department undertaken any consultations with the victims of the atrocities in Sudan to determine the venue in which they would prefer these crimes to be tried?

I regret any inconvenience this long list of questions may cause the Department of State. However, with the presentation of the Fiscal Year 2006 budget and the supplemental requests forthcoming during times of record deficits, it is critical that the Appropriations Committee have answers to these questions. I would respectfully ask that these questions be answered before the supplemental request is submitted.

Sincerely,



PATRICK LEAHY
Ranking Member
Foreign Operations Subcommittee

UNCLASSIFIED