

Federal News Service
August 13, 2002 Tuesday

STATE DEPARTMENT REGULAR BRIEFING
PHILIP REEKER, DEPUTY DEPARTMENT SPOKESMAN
STATE DEPARTMENT BRIEFING ROOM, WASHINGTON, D.C.

An excerpt reads:

Q Is the State Department waiting for a European Union meeting, the meeting that -- the foreign ministers' meeting that the Spanish foreign minister referred to this morning and trying to line up people on the Article -- you know, the 98 agreements on the war crimes tribunal, or did the secretary try to line up the Spanish foreign minister? And will you continue here and abroad to try to get Europeans to sign on?

MR. REEKER: We'll certainly continue to discuss Article 98 agreements as a bilateral matter between the United States and friendly countries throughout the world. You'll recall, Barry, that last month, in the debate at the United Nations Security Council on the peacekeeping resolution -- that is, Resolution 1422 -- a number of our close allies who are strong supporters of the International Criminal Court -- that includes European Union members -- encouraged us to pursue Article 98 agreements as a means of resolving our concerns about the International Criminal Court. Article 98 agreements are completely consistent with and indeed are anticipated by the Rome Statute -- that is, the name derives directly from the statute, Article 98, which provides for this type of agreement.

With respect to the decisions of our allies who have become parties to the ICC, we have made it very clear that we do not intend to undermine the ICC as an institution, but at the same time we hope that all countries will continue to respect our decision not to become a party to the ICC. European Union countries have told us that they have not adopted a common position on our initiative to negotiate these bilateral agreements and are still considering whether to do so. And as Foreign Minister Palacio(s) told you earlier this morning, I believe they're having a meeting sometime after the summer break, at the end of this month.

Q Oh, so they'll make individual decisions is the expectation -- European countries.

MR. REEKER: I think you'll need to talk to individual European countries. We'll continue to approach these on a bilateral level. These are bilateral agreements, and we certainly would note that any suggestion that EU candidate countries hold off their decisions until the European Union looks at this -

Q Right.

MR. REEKER: -- that's, in our view, inappropriate, in terms of seeking to direct sovereign candidate countries' foreign policy choices in advance of EU accession.

Q Phil, on that -

MR. REEKER: Yeah.

Q -- when the EU says that this is not a bilateral issue, that this is an issue, at least for their members, that they're going to have to deal with as a group, you do not -- you disagree with that, and you will continue, even though the EU -- many EU countries have said that they don't want to negotiate a bilateral agreement with the United States, you'll continue to try and do that?

MR. REEKER: Well, what many EU countries told us in New York last month, during that discussion at the Security Council, was: Use this Article 98 provision. Pursue bilateral agreements through this as a means of resolving American concerns.

Q Okay. So -

MR. REEKER: And as we discussed at the time, that's exactly what we intended to do and, indeed, what we're doing now.

Q So you believe then that the EU position that this can only be done as a block and not individually is inconsistent with what they were saying?

MR. REEKER: I don't believe that that necessarily is the EU position. I'll let the EU speak to that themselves. EU member countries have told us that they have not adopted a common position on this. And so our initiative to negotiate bilateral agreements under Article 98 will continue.

Q Well, let me put it this way. How many Article 98 agreements with EU countries have you negotiated thus far?

MR. REEKER: That's a process that's just beginning, as we've talked about over the period that you've been away.

Q Okay, how many countries have said no, we want to wait until the EU decides as a block?

MR. REEKER: I'm not aware of any specific responses.

Q I can think of the Germans, the Netherlands.

MR. REEKER: I'll let those countries speak for themselves and we'll continue to consider -- to pursue the process which many of those Countries suggested we pursue when we discussed it at the U.N. Security Council last month. Yes, Elaine?

Q Do you have any comment on the fact that President Kostunica has come out against negotiating such -- (off mike)?

MR. REEKER: I hadn't see Kostunica's comments.

Q Could you take that question?

MR. REEKER: Our position on this is quite clear. I'm happy to look into his comments, but I'm not going -

Q He actually said he won't negotiate one. So -- and given that there are 5,000 American peacekeepers there, I thought -

MR. REEKER: Our positions and the location of American peacekeepers is something you're well aware of, and how they're covered under various international agreements. But I'm happy to try to look into that for you.

Q Can I just -

Q Do you oppose -- are you against the Europeans establishing a common block position for all of them on this issue?

MR. REEKER: Well, they've told us that they have not adopted a common position on our initiative. Many of them recommended, as I said already, that we pursue Article 98. The statute, which they are signed up to, anticipates this by having Article 98 to address the types of concerns we have about this. And as I've said before, we respect the states that have made their decisions to accede to this statute creating the International Criminal Court. We respect the decisions they've made and we hope they respect our decision not to accede to that, as we avail ourselves of the procedure that their own statute allows.

And that is to prevent our nationals from falling into the potentially highly politicized jurisdiction of that court.

Q Mr. Prodi yesterday was quoted through his spokesman as saying that the aspirant members, the countries that want to join the EU, should not sign or make any steps towards negotiating an Article 98 agreement with the United States. How do you view those remarks?

MR. REEKER: If you've been listening what I said earlier -- I said the commission spokesman's comments, which I did see quoted this morning, suggesting that EU candidate countries hold off any decision until the EU makes some decision of their own -- we believe that those comments, in our view, are inappropriate in seeking to direct candidate-country foreign-policy choices in advance of EU accession.

Q Am I right in thinking that thus far, only two Article 98 agreements -- you have only concluded two Article 98 agreements -- with Romania and Israel?

MR. REEKER: That's right. We talked about them here. The first one was with Romania and one about a week ago, with Israel.

Q But Israel is not, in itself, a party to the ICC. So you have succeeded thus far in reaching -- I mean, I realize it's soon, but after the U.N. deal. But only one ICC member, Romania, has concluded such an agreement with you guys?

MR. REEKER: I guess that'd be right. Your observation about Israel I believe is correct. But confirm that with Israel. Elise.

Q Can we change the subject?

MR. REEKER: Anything else on this subject?

Barry?

Q Oh, yeah. Since you believe that it's inappropriate for the EU to try to direct foreign-policy choices, do you believe -

MR. REEKER: Why don't you finish that sentence?

Q Foreign-policy choices -- what's the last -- ?

MR. REEKER: We were talking about candidate countries.

Q Candidate -- right, right. Now the United States has warned that military assistance could be cut to countries that do not sign these agreements.

MR. REEKER: In fact, I'm not aware that we have made any particular warning about that. The secretary addressed that again this morning -

Q There's a law. Yeah.

MR. REEKER: -- in terms of the law. You can read the law and see exactly what it says. And I'll remind you that what the secretary said -

Q Doesn't that also -

MR. REEKER: We are not bludgeoning or threatening any of our friends. We're discussing with them our concerns about the ICC and pursuing a way of dealing with those concerns through Article 98. That's a way that many of these countries, themselves, recommended when we were discussing this at the U.N. Security Council last month. And so we are pursuing that. The statute itself anticipates this. That's why they created that. And we're simply asking these countries to respect our decision not to become part of that organization, just as we respect their decision to become a part of it, and we've made quite clear that we are not trying to undermine the ICC as an institution. We're simply looking for them to respect our decision.

Q Can I ask one more -- (off mike)?

MR. REEKER: Yeah.

Q When you said -- began by -- with a discussion of the Spanish foreign minister and how this relates to her, and the secretary said that this had in fact come up with her, I'm curious; did -- is the U.S. trying to open negotiations with Spain on an Article 98 agreement?

MR. REEKER: We're pursuing with many, many countries -

Q Right. But did -- what he said -

MR. REEKER: There was nothing specific. The question was asked of the secretary, and he responded to that. In fact, the question was asked, you know, was the U.S. pushing these countries? And the secretary made quite clear that we're discussing our concerns with them.

Q Right.

MR. REEKER: It's the same message we've had from here and we've talked about for many, many weeks, going back, certainly, to the U.N. Security Council discussion that took place last month.

Q But specifically with Spain, the secretary didn't suggest that maybe -- that it would be a good idea or that the U.S. would like to begin negotiations with Spain -

MR. REEKER: I don't think it came up in any specificity in the meeting. And you heard Foreign Minister Palacios' response as well.

Q Right. And her response to the question was essentially what she told the secretary when he raised it?

MR. REEKER: Yeah.

Q Okay.

Q India has said that it would not sign such an agreement -- the Article 98. Would you say that India's -- that the weapons deals between the United States and India are at risk because of this?

MR. REEKER: Ben, I haven't seen India's comments on that. We'll be pursuing these with many, many countries around the world, as I've made quite clear.

Federal News Service
August 12, 2002 Monday

STATE DEPARTMENT REGULAR BRIEFING
PHILIP REEKER, DEPUTY DEPARTMENT SPOKESMAN
STATE DEPARTMENT BRIEFING ROOM, WASHINGTON, D.C.

An excerpt reads:

Q: Hi. A question about the conversations that I understand that State Department has been having with foreign governments about military aid and linking that to the International Criminal Court. Do you have any details for us about what countries the U.S. has been talking to and how those conversations are progressing?

MR. REEKER: This is regarding the discussions we've been pursuing with many, many countries regarding so-called Article 98 agreements. And as we've discussed for some weeks now, we've asked our embassies to approach host governments about negotiating such agreements with the United States. And similarly, over the last couple of weeks, we've invited representatives of embassies here in Washington into the department, usually in groups, to be briefed again on our views about that.

As you'll recall, the Article 98 agreements are consistent with the Rome Statute -- that is, the statute that created the International Criminal Court -- and what we've been looking to do is work with countries to negotiate these Article 98 agreements. The United States is committed to effective action against war crimes and crimes against humanity. We very much respect states that have acceded to their own

statute creating the International Criminal Court. We respect their sovereign decision to do so. But we hope they'll respect our decision not to accede to that statute, and we hope they'll respect our decision to avail ourselves of the procedure made available by the statute to prevent our nationals from falling into the potentially highly politicized jurisdiction of that court. And so that's what we've been pursuing with many countries around the world and thus the nature of the discussions here in Washington, as well as through our embassies overseas.

Q Can you tell us what level those talks are happening at?

MR. REEKER: A variety of levels -- staff directors. There are also teams that'll visit countries overseas. So it's -- involve most countries through our -- the course of our normal diplomatic business. Terri?

Q What she asked about -- I hadn't heard this -- about financial aid to those countries being linked to their decision on this -- I think -- (to colleague) -- was that your question?

MR. REEKER: It's not financial aid. It has to do with military assistance --

Q Military -

Q Military aid. I'm sorry.

MR. REEKER: -- under the American Service Members Protection Act, which is a law passed by Congress. That hasn't actually been part of the talking points per se. We've been focused -- as you know, through our discussions here, we've been focused on the Article 98 agreements for some time.

Q Right. But is there -- is the military assistance linked to their decision on whether to support us on that or not?

MR. REEKER: There is -- if you look at the American Service Members Protection Act, there is a section that prohibits military assistance to a variety of countries or to countries that enter into the -- let me just find the exact citation here to give you the -- (consults materials) -- yeah, certain restrictions in the American Service Members Protection Act on a provision of U.S. military assistance to countries that are party to the Rome Statute of the ICC.

They go into effect July 1st, 2003. These restrictions do not apply to assistance to NATO member countries or major non-NATO allies or others, and it also provides the president with the authority to waive these restrictions where a country has signed an Article 98 agreement and also in other cases where it's in the national interests. So, the act does not prevent the United States from providing military assistance to any country when the president determines that such assistance is important to the national interests. But our concerns about the ICC are well known, as I indicated, and we're going to continue working with other countries on these Article 98 agreements.

Q One more follow-up on that.

MR. REEKER: Mm-hmm.

Q Can you confirm that this linking of military aid with support for the criminal court, that that is an official policy that the State Department is pursuing, not an idea that you are exploring?

MR. REEKER: Well, that's the law. I can give you the page if you want to look it up. It's a law passed by the Congress, signed by the president.

But our pursuit of Article 98 agreements is very much focused on our concern about the ICC. And you'll recall that many of our friends and allies recommended the Article 98 provision as the path to take to address our concerns. You'll recall we had a discussion about this issue at the U.N. Security Council some weeks ago, and in addition to the Security Council resolution that was passed there, we said that we would then look to Article 98 to provide us the avenue through which to negotiate these bilateral agreements with countries not affecting their decisions to be part of the ICC, but respecting our decision not to be a part of that.