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Costa Rica Defies U.S. in ICC

by LADB Staff

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Costa Rica has refused to accord the US immunity from the jurisdiction of the International Criminal Court (ICC) in The Hague. The US has rewarded Costa Rica's act of sovereignty and efforts to protect itself by imposing sanctions, barring the country from receiving certain types of aid.

These sanctions have been in place for four years, but the issue surfaced again when Gen. Brantz J. Craddock, head of the US Southern Command (SOUTHCOM), paid what was characterized as a courtesy call on President Abel Pacheco, Security Minister Rogelio Ramos, and Foreign Minister Roberto Tovar.

In a somewhat confusing turn of events, both countries denied the issue had come up at the meeting, but Tovar told The Tico Times that his country had not changed its policy toward the ICC, and, implying that the issue had come up, added, "We respect the absolute power of the United States, but for the love of God, this is not the way to treat a country that is your friend." Officials of each country gave conflicting versions of how much money, and for what, is involved in the sanctions.

The US acted under the American Servicemembers' Protection Act (ASPA) of 2001. The law was amplified in 2004. The US has agreements with 100 countries, mostly developing countries in Latin America and Africa, whereby they will not prosecute US citizens before the ICC. The US has pursued immunity from the ICC on the grounds that its citizens would be subject to, said a State Department fact sheet, "politically motivated investigations and prosecutions."

The ICC, on its Web site, says, however, that its jurisdiction is limited to "only the most serious crimes of concern to the international community." Those crimes would include war crimes, genocide, and crimes against humanity. The ICC is independent of, but cooperative with, the UN. It is unrelated to the International Court of Justice (ICJ), also in The Hague.

Even so, Tovar was generous in his evaluation of the US position, but adamant about his own. "Costa Rica and I understand perfectly well the United States concern," he said. "It's a valid concern, but we must find another way that does not mean changing our position."

The ASPA of 2001 held little threat to Costa Rica, since it barred military assistance, and Costa Rica has no military. It does have a Coast Guard and police, however, and may have lost something there. But the 2004 enhancement to ASPA barred countries that would not sign from receiving economic aid through the Economic Support Fund (ESF). This is money for social projects.

The 2004 law appears to put the US in a legal bind. It has given money to Costa Rica for trade capacity programs, as they are called, which have been used to prepare the country for the Central America Free Trade Agreement (CAFTA). Costa Rica has not ratified CAFTA, and the US is banking

on its doing so (see NotiCen, 2005-05-12). A US Embassy spokesperson, Elaine Samson, said she thought the US could continue to support the CAFTA-related funding through ESF but might exclude Costa Rica from other programs.

Solid support for sovereign stance

There is solid support for Costa Rica's position at home and a good deal of anger. Union leader Albino Vargas said, "The US position is totally censurable, a classic imperial position of a country that has no moral credentials because it violates international law." Vargas is secretary-general of the Asociacion Nacional de Empleados Publicos (ANEP). Former vice president Elizabeth Odio said, "We feel the government is acting correctly and must continue in this direction, because Costa Rica has a judge on the ICC." Similar statements of support for their country's sovereign stance have come from a broad spectrum of Costa Rican society.

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