

EU's Patten Tries Tough Love On U.S.

by Linda Gasparello  
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Chris Patten, European Union commissioner for external relations, was once described as a man who is "fearlessly outspoken yet unfailingly diplomatic." He exhibited both of those traits in a recent speech criticizing American exceptionalism and U.S. foreign policy.

Speaking in London to the Lord Slynn of Hadley European Law Foundation, Patten said: "Some policy-makers in the United States (particularly on the neoconservative right) have developed a profound suspicion about the structures and institutions of international society and international law. As a result, we have seen repeated examples, from Kyoto to Baghdad, of American unwillingness to be, as it were, 'constrained' by international law. The ongoing debates over the role of the United Nations in Iraq, both in sanctioning conflict and in mandating reconstruction, show clearly the limits of American tolerance. They also show quite clearly that this places limits on others' tolerance of American demands."

Patten, who chaired the British Conservative Party before becoming the last British governor of Hong Kong, then cited another example of American exceptionalism, which is "perhaps even dearer to the hearts of internationally minded lawyers and human rights advocates ... the American refusal to submit to the authority of an international criminal court, manifest both at the time of the court's establishments and subsequently, as the USA has tried to negotiate bilateral immunity agreements with states party to the ICC."

Diplomatically, Patten added that he had some sympathy for the concerns that America expressed during the negotiation of the Rome Statute, which created the International Criminal Court.

"The United States is, after all, called upon more than any other nation to send its troops overseas, making them more vulnerable to prosecution, including malicious prosecution," he said. "So the United States was right to seek safeguards to ensure that the ICC would be used only for its intended purpose: to prosecute perpetrators of genocide and other crimes against humanity, not to pursue some politically motivated vendetta against the United States."

Unfortunately, Patten added, the United States refused to take yes for an answer. He remarked that the U.S. was fully engaged in the Rome conference that prepared the ICC.

"Having gained a series of elaborate safeguards, the USA then revoked its intention to sign the resulting agreement," Patten said. "Apart from the feeling that the USA was acting in bad faith in international negotiations and may do so again, this sort of behavior does little to inspire confidence in American support of an international system based on universally accepted values, embodies in universally agreed laws."

If the United States fails to heed the criticisms and concerns expressed about Camp Delta in Guantanamo Bay, he warned, the nation "again risks giving ammunition to its fiercest, and most dangerous critics."

Patten said he regretted the American decision on the ICC because he is an admirer of the United States. "But the prospect of an international court without the globe's sole superpower will raise the suspicion of partial justice. We must not give into that suspicion," he insisted.

As for the ICC's current work in Congo, Patten said he supports and applauds it. "But we cannot be surprised if the alienated and the dispossessed find their anger and sense of grievance magnified by such actions. The legal saw is 'ubi jus, ibi remedium.' Where they will ask, is the remedium in the case of the USA. And where, therefore, the jus?

The full text of Commissioner Patten's speech is available on King Publishing Group's Web site ([www.kingpublishing.com](http://www.kingpublishing.com)).