

12/06/2003

Press Release
SG/SM/8749
SC/7790

IN STATEMENT TO SECURITY COUNCIL, SECRETARY-GENERAL VOICES CONCERNS OVER EXTENDING UN PEACEKEEPERS' IMMUNITY FROM ICC ACTION

Following is the text of a statement, as delivered today, by Secretary-General Kofi Annan to the Security Council:

Last year, in resolution 1422, this Council requested that the International Criminal Court (ICC) should, "for a twelve-month period starting 1 July 2002 not commence or proceed with investigation or prosecution" of any case "involving current or former officials or personnel from a contributing State not a party to the Rome Statute over acts or omissions relating to a United Nations established or authorized operation", unless the Security Council decided otherwise.

The Council also expressed the intention to renew this request each 1 July for further 12-month periods for as long as it might be necessary. This is what you are now about to do.

In making this decision, you will again rely on article 16 of the Rome Statute. I believe that that article was not intended to cover such a sweeping request, but only a more specific request relating to particular situation.

But I accept that you are acting in good faith, and that your purpose is to make it possible for peace operations to continue, whether established or only authorized by this Council, and for all Member States to take part in them, whether or not they are parties to the Rome Statute. Indeed, I fervently share that hope, and I am grateful to you for giving priority to the continuation of this Organization's vital peacekeeping work.

I wish to place on record, however, that, in addition to my concern about its conformity with article 16 of the Rome Statute, I do not believe this request is necessary.

In the first place, I believe I can state confidently that in the history of the United Nations, and certainly during the period that I have worked for the Organization, no peacekeeper or any other mission personnel have been anywhere near committing the kind of crimes that fall under the jurisdiction of the ICC. Your request, therefore, deals, not only with a hypothetical case, but also with a highly improbable one.

Secondly, people serving in United Nations peacekeeping missions remain under the jurisdiction of their home States. Whenever one of them is accused of

committing a crime during a mission, that person is immediately repatriated and is dealt with by the national courts of his or her own country.

And thirdly, under article 17 of the Rome Statute, no case is admissible in the ICC if it already has been or is being investigated or prosecuted by a State which has jurisdiction over it, unless that State is unwilling or unable genuinely to investigate or to prosecute.

I assume that, in the case where a person serving in an operation established or authorized by this Council were to be accused of the kind of crime that falls under the jurisdiction of the ICC -- a case which we must all hope and expect would never occur -- the home State of that person would be the most anxious to investigate that accusation and, if the investigation showed that there was a prima facie case, to prosecute that person. The case would then not be admissible in the ICC.

We must all hope, therefore, that this resolution will be without effect, since the situation it is designed to guard against will never arise.

I felt it was reasonable last year to adopt this resolution for 12 months, to give Member States more time to study the Rome Statute -- which was only then entering into force -- and to digest its implications. And I can accept that you feel it is necessary to renew the request now for a further 12 months, since the Court is still in its infancy and no case has yet been brought before it.

But allow me to express the hope that this does not become an annual routine. If it did so, I fear the world would interpret it as meaning that this Council wished to claim absolute and permanent immunity for people serving in the operations it establishes or authorizes. And if that were to happen, it would undermine not only the authority of the ICC but also the authority of this Council, and the legitimacy of United Nations peacekeeping.

I am sure you understand, Mr. President, that such an outcome would cause me grave concern, and I would hope that that concern would be shared by all members of this Council.

* *** *