

**Statement by H.E. Ambassador Ellen Margrethe Løj, Permanent
Representative of Denmark to the UN,
on behalf of the European Union on 10 July 2002**

"Mr. President

1. I have the honour to speak on behalf of the European Union. The countries of Central and Eastern Europe associated with the European Union, Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia, and associated countries, Cyprus and Malta, as well as the EFTA country belonging to the European Economic Area, Iceland, align themselves with this statement.

2. I should like to thank you and all the members of the Security Council for giving us the possibility to express ourselves on this important matter.

Mr. President,

3. The recent entry into force of the Statute of the International Criminal Court is a major leap forward in the progressive development of international law. The Court is not just a judicial institution designed to investigate and prosecute acts of genocide, crimes against humanity and war crimes. It is also a strong political statement in the fight against impunity for the most serious crimes of concern to the international community as a whole. It is an essential contribution to the preservation of peace and the strengthening of international security.

4. From the outset, the EU has been a strong supporter of the ICC. It is a declared objective of the EU to support the early establishment and effective functioning of the Court and to advance universal support for the Court by promoting the widest possible participation to the Statute. In our Common Position, adopted by the EU Council of Ministers, we have pledged to share our experiences on implementing the Statute; pledged to provide technical and financial assistance to the best of our ability; and pledged to participate actively in the preparatory work in order to ensure an efficient and dynamic Court.

5. It is understandable that the United States is seeking protection from politically motivated accusations. The EU however believes that these concerns have been met and that sufficient safeguards against politically motivated accusations have been built into the Statute. Furthermore, the statute's principle of complementarity places the primary responsibility for investigation and prosecution with domestic jurisdictions. The ICC may only step in when a state is unwilling or unable genuinely to carry out an investigation or a prosecution. In that case, the European Union believes that the Court will prove to be an effective, competent and fair legal institution. Finally, the ICC does not impinge on the rights of third states; it is based on the territorial and national jurisdiction of the States Parties, and such jurisdiction is asserted by all states.

6. Various solutions to the concerns expressed have been offered. One of them invokes the procedure laid down in Article 16 of the Rome Statute. This article states that "no

investigation or prosecution may be commenced or proceeded with under this Statute for a period of 12 months after the Security Council, in a resolution adopted under Chapter VII of the Charter of the United Nations, has requested the Court to that effect." Article 16 should only be invoked in conformity with the Statute.

7. Furthermore, the European Union has carefully examined the letter of the Secretary-General conveyed to the US Secretary of State and circulated to members of the Security Council. We have especially noted the following passage:

"I think that 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 the kind of crimes that fall under the jurisdiction of the ICC. The issue that the United States is raising in the Council is therefore highly improbable with respect to United Nations peacekeeping operations. At the same time, the whole system of United Nations peacekeeping operation is being put at risk."

8. We fully agree with the Secretary-General's statement, and we welcome the fact that the Security Council has agreed on a technical extension of the mandate of UNMIBH until July 15 and thereby allowing time to reach a solution on this extremely important matter.

Mr. President,

9. Let me stress that the European Union attaches great importance to the continued and major contributions of the United States to peacekeeping missions around the world.

10. It is not least in the Balkans that the United States plays an indispensable role; and we are well aware that the United States and the European Union share the view that the people of Bosnia do not deserve to pay the price of this unfortunate situation.

11. At the same time, we commend the invaluable contributions that individual peacekeepers have made and continue to make under dangerous and difficult situations. Our adherence to the Rome Statute in no way diminishes our commitment and our responsibility to them and to their missions. It is not an expression of distrust, but rather of complete trust.

Mr. President,

12. It is therefore with particular gratification that we note the assurances by US representatives that the US commitment to the people of Bosnia and to peacekeeping missions remains undiminished.

13. UNMIBH, together with SFOR, has contributed significantly to the overall progress that has been achieved in the region since the end of the war in 1995. Bosnia is now a more stable and democratic country, with a perspective for integration in the European structures.

14. But the risk for a setback is still real. Thus, the Secretary-General stated in his last report that: "the systemic weakness of the rule of law in Bosnia and Herzegovina, and continued obstruction, interference and illegal activities of entrenched political extremists and criminal organizations will require continued international attention".

15. An abrupt end to the UN International Police Task Force in Bosnia would create a vacuum that could have a negative impact on the general elections in October. These elections are the first to be organized by the Bosnian authorities themselves since the war. It is the responsibility of the international community to continue to support these endeavours.

16. It has been the common wish of the Security Council and the European Union to secure an orderly transition between the UN International Police Task Force and the European Union Police Mission, which plans to take over on 1 January 2003. Uninterrupted support of police reform in Bosnia is crucial to the continued implementation of the Dayton Peace Accord. The European Union has indicated that if necessary it would take measures in order to avoid a gap in the international police presence in Bosnia. It is evident that an abrupt end to the UN International Police Task Force would make these efforts difficult.

17. Finally, Mr. President, let me express the profound concern of the European Union for the potential consequences to UN peacekeeping in general. Peacekeeping is an indispensable element in the United Nations' efforts to maintain and restore international peace and security. Over the years UN peacekeeping has proven its worth in so many conflicts around the world. And in most recent years vast progress has been achieved towards a further improvement of the UN's capacity for peacekeeping.

18. We strongly urge all members of the Security Council to do their utmost in order to reach a solution that does not harm the integrity of the Rome Statute of the International Criminal Court and which ensures the uninterrupted continuation of UN peacekeeping operations.

Thank you, Mr. President"