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INDIA

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STATEMENT

BY

H.E. Mr. V.K. Nambiar
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Permanent Representative of India to the United Nations

on

The situation in Bosnia and Herzegovina

in the

Security Council
New York

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Mr. President,

Please accept my delegation's congratulations on assuming the Presidency of the Security Council for the month of July.

While the agenda item under consideration today is the situation in Bosnia and Herzegovina, the issue that has so far prevented the Council from adopting a substantive resolution on the agenda item is the immunity to peacekeepers from the jurisdiction of third parties, including international criminal tribunals, with respect to possible allegations of criminal offences committed during peacekeeping operations.

Mr. President,

We appreciate the opportunity given to non-Council members to share their perspective on the ongoing debate in the informal consultations of the Security Council on this important and, indeed, divisive issue. We shall do so in a constructive spirit and *with* a sense of responsibility as a major contributor to UN's peacekeeping operations.

Mr. President.

UN peacekeepers, by definition, are deployed to serve the cause of international peace, often in lands unknown to them, far removed from their homes or national interests. They operate under strict mandates and tight rules of engagement established by the UN. They are drawn from a number of countries and are supervised from the UN headquarters, in addition to the political leadership of the concerned mission. Moreover they are accountable to their own governments for *their* actions in the field. It is, therefore, highly unlikely that UN peacekeepers would commit criminal offences of an egregious nature or gross, premeditated and systemic crimes. As of now UN peacekeepers are provided immunity under the Status of Forces Agreement. Such immunity is provided for sound practical reasons that have stood the test of time. Exposing them now to allegations and possible harassment through charges of crimes committed during their exercise of functions as peacekeepers, apart from laying them open to the possibility of motivated charges, are likely to put these forces on the defensive, constrict their capacity to take firm action when required and, eventually adversely affect the preparedness of potential troop contributors to provide troops to the UN for peacekeeping functions.

Mr. President.

Over the past five decades, UN peacekeepers have contributed immensely to the preservation of peace in different parts of the world. Their record has been a matter of pride for all of us. This is particularly true for

countries like India that have contributed peacekeepers in significant numbers. In our knowledge there has been no instance of a UN peacekeeping force having been accused of committing an egregious crime. We are of the view that, in practical terms, the possibility of UN peacekeepers being involved in crimes which would bring them within the purview of international tribunals such as the International Criminal Court is extremely remote. In taking a decision on *this* matter, therefore, the Council will do well to bear in mind the actual historical experience and ponder whether there is need at all to seek a cure for an ailment that does not exist.

As a measure of abundant caution, the Council should ensure that troops' for UN peacekeeping are drawn from countries that uphold healthy democratic traditions and where respect for the rule of law, constitutional order, civilian control over armed forces and basic transparency in the functioning of institutions are observed. Troops that usurp power at home and undermine or emasculate constitutional structures are unlikely to promote or reinforce the rule of law elsewhere.

Mr. President,

As representatives of a democracy, the largest in the world I with an independent judiciary whose contribution to the jurisprudence of the right of the individual is likely to have few equals, we find it difficult to accept an outside authority purporting to sit in judgment upon the actions of our troops. Quite apart from the exemplary discipline and commitment to the cause of peace displayed by them, we see them as answerable for their behaviour to authorities within the established hierarchy of command and to our own established institutions, not to institutions whose jurisdiction we do not recognise.

Notwithstanding this, we understand the dilemma of the countries that have signed: the statute of the International Criminal Court and taken upon themselves certain specific obligations thereunder. We recognize that they are free to submit their nationals, including their troops, to the jurisdiction of the ICC as a national decision.

Mr. President,

The Council's decision on this issue will have wide ramifications for UN peacekeeping operations as well as upon troop contributing countries. India is not a signatory to the ICC Statute for reasons that are well-known. We would urge that the Council give careful consideration to the views of major troop contributing countries that are not party to the ICC, before taking a decision. The Council should not allow UN peacekeeping operations, an important tool for the maintenance of international peace and security in its hands to be undermined by its own decisions.