

**Statement by Amb. J Enkhsaikhan in the open debate of the Security  
Council on the question of extension of UNMIBH**

**New York  
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**10 July,**

Mr. President,

I would like to thank you for holding this open debate of the Council in connection with the question of extension of the mandate of UNMIBH. Bearing in mind that this question affects the principles of United Nations' peacekeeping and the basis of international law-making, we believe that this meeting, especially consulting with the broader membership of the UN is very wise and timely. Like many other delegations, in the past three weeks we have been closely following the efforts within this Council to maintain peacekeeping missions without undermining the integrity of the newly established Rome Statute of the International Criminal Court (ICC).

United Nations Security Council, according to Article 24 of the Charter, is conferred with the primary responsibility for the maintenance of international peace and security. Member States consider this Council as the main UN body that is called upon not only to strengthen international peace and security, but also to safeguard their sovereignty and independence, in case of threats or crisis. It is because of this trust and faith that the Member States have agreed, in Article 25 of the Charter, to accept and carry out the decisions of the Council. Mongolia believes that the Security Council has played in the past and is expected to play in the future its unique role.

On 1 July this year the ICC was officially established and thus an important step has been made to strengthen peace through promoting and upholding international law and justice. The ICC is expected to be a permanent, independent and impartial international court. It will not be bound by mandates that are specific in time and place. Its provisions are consistent with the Charter of the United Nations and is based on the principle of respect for sovereignty of States, which is manifested, *inter alia*, in the principle of complementarity of its jurisdiction. In other words the Court would take action only when national legal systems are unable or unwilling to genuinely investigate or prosecute. Moreover, the Court has *ratione temporis* jurisdiction, i.e. it has jurisdiction only with respect to crimes committed after 1 July, 2002. Under Article 16 of the Statute, the Security Council can request, under chapter VII of the Charter, the deferral of investigation or prosecution of a case for a period of 12 months. The request may be renewed by the Council under the same conditions. Since previous speakers have dwelt on the importance of the Court in strengthening international peace and security, preventing and putting an end to impunity for the perpetration of such heinous crimes as genocide, crimes against humanity and war crimes, I shall not repeat. I would only say that in the short time since its adoption four years ago in Rome, 139

States have signed and 76 States have already ratified it. This alone demonstrates how much trust is being placed in the ICC and its activities.

Logically and legally, the two bodies, i.e. the Security Council and the ICC are expected to work together, and not one to the detriment of the other. No State should be placed in a situation when it is forced to breach its international obligations either under the Charter or the Statute. We believe that both the Security Council and the ICC should work together to strengthen international peace and security, the rule of law and international justice. Mongolia, one of the founding members of the ICC, is interested, like all others, in maintaining the integrity and effectiveness of the Court since the very first days its existence. We have faith in the integrity of the Court, since the Statute has adequate safeguards against its possible abuse. We believe that by its activities, the Court will be able to dispel any lingering doubts as to its impartiality and effectiveness. When considering the Court's jurisdiction, we should not forget that the main objective of ICC is prosecution of individuals for the most heinous crimes that have been defined in Articles 5, 6, 7 and 8 of the Statute. In other words looking at a tree nearest to oneself, one should not forget the entire forest that is behind it.

Since Mongolia is not a Member of the Council, my delegation will refrain at this stage from commenting on the content of unofficial, working documents connected with the question of extending the mandate of the UNMBIH. Besides, many States have expressed their views and apprehensions during the special plenary of the 10<sup>th</sup> PrepCom on the ICC on 3 July, 2002. At this meeting I wish to join all other delegations in underlining once again the vital importance of safeguarding not only the integrity of PKOs, but also of the Rome Statute, and thus of international law and treaty-making, the rule of law, as well as the integrity of the Security Council itself. Bearing in mind your personal experience, Mr. President, those of your colleagues at the Council and the views expressed by the delegations at this open debate, my delegations expresses the hope that the Council would be able to find a solution that would respect the spirit and letter of the Statute and would not undermine the effective functioning of the Court, of this Council and the PKOs. My delegation is prepared to work with other delegations, if needed, to join the search for the effective solution of this question of principle.

Thank you.