

*United States Mission to the United Nations*

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*Statement by Ambassador John D. Negroponte, United States Permanent Representative to the United Nations, on the situation in Bosnia and Herzegovina, in the Security Council, July 10, 2002*

Thank you Mr. President:

A single important issue is usually enough to fill this historic chamber. Today, however, we consider two issues: the relationship between the Security Council and the ICC; and the future of peacekeeping in Bosnia.

Ever since we chaired the committee that drafted the Universal Declaration on Human Rights more than 50 years ago, the United States has consistently led the effort to strengthen international justice and accountability.

In the last decade the United States played a key role in the establishment of the International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda, and the Special Court in Sierra Leone.

Slobodan Milosevic is on trial for his crimes because a coalition of countries, led by the United States, not only gave political support to the work of the ICTY for former Yugoslavia, but also supplemented that support in practical ways, in cooperation with the new leadership in Belgrade.

Foday Sankoh and his followers will be brought to justice for their crimes in Sierra Leone because the United States sponsored a Security Council resolution requesting the establishment of a Special Court of which we are a key supporter and the largest financial contributor.

We continue to hope that the United Nations and the Government of Cambodia can agree on a reliable, independent, and impartial structure for trial of the Khmer Rouge leaders.

And we support the International Criminal Tribunal for Rwanda's request for additional judges in order to speed the important work of the Tribunal. We recently announced a Rewards for Justice program in Central Africa with the goal of bringing to Arusha the authors of the Rwandan genocide who are still at large.

Mr. President, as our record demonstrates, the United States believes in justice and the rule of law, and in accountability for war crimes, crimes against humanity, and genocide. We accept the responsibility to investigate and prosecute our own citizens for such offences should they occur. And we do not shirk from public and private protest -- here in New York, in the Human Rights Commission in Geneva, or wherever our voice can be heard--whenever and wherever such outrages are committed.

Mr. President, our commitment to peace and security in Bosnia and around the world is also not in question. The United States contributes almost 10,000 of its citizens to UN-established or UN-authorized peacekeeping operations, in addition to the thousands of troops we deploy in the Republic of Korea with UN authorization.

In Bosnia, the U.S. has more than 2,000 troops and nearly 50 civilian police. The senior UN official is an American citizen, on loan from my government. With such a record, it is clear that our veto of the UNMIBH resolution did not reflect rejection of peacekeeping in Bosnia. But it did reflect our frustration at our inability to convince our colleagues on the Security Council to take seriously our concerns about the legal exposure of our peacekeepers under the Rome Statute.

Peacekeeping is one of the hardest jobs in the world. While we fully expect our peacekeepers to act in accordance with established mandates and in a lawful manner, peacekeepers can and do find themselves in difficult, ambiguous situations. Peacekeepers from states that are not party to the Rome Statute should not face, in addition to the dangers and hardships of deployment, additional, unnecessary legal jeopardy. If we want troop contributors to offer qualified military units to peacekeeping operations, it is in the interest of all UN Member States to ensure that they are not exposed to unnecessary additional risks. This principle has been acknowledged over decades in UN Status of Mission Agreements and by parallel agreements such as in the Dayton Accords and the Military Technical Agreement for ISAF.

We should be very clear: the legal position of peacekeepers and the states contributing them has been an issue throughout the history of peacekeeping, and has been an important consideration for the governments that must decide whether to contribute their citizens to peacekeeping operations, or to help out in unexpected in crisis or emergency situations, as the U.S. frequently is asked to do.

The Secretary-General noted that peacekeepers have not been prosecuted for such crimes in the past. We agree. And this is an additional reason why we do not believe the ability of the ICC to pursue peacekeepers is central to its functions.

Does anyone really believe that the ICC should be aimed at the citizen soldiers of contributing states, deployed voluntarily at the request and with the authorization of the international community, solely for the purpose of maintaining peace and security?

Does anyone really believe that deferral of ICC action in the unlikely event of an accusation against peacekeepers, which would certainly be examined by national authorities, would undermine the court's ability to go after the gross violators at whom it truly is aimed? Some have suggested that the United States is taking too alarmist a view of the dangers that the ICC poses to troop contributors. I would argue that supporters of the ICC take too alarmist a view of the pragmatic solution that the U.S. is proposing.

Deferral of investigations and prosecutions, in keeping with the Rome Statute, cannot undermine the role the ICC plays on the world stage. Failure to address concerns about placing peacekeepers in legal jeopardy before the ICC, however, can impede the provision of peacekeepers to the UN. It certainly will affect our ability to contribute peacekeepers.

Mr. President, although we do not recognize the jurisdiction of the ICC and do not intend to become party to the Rome Statute, we do not question the good intentions of its architects. We respect the obligations of those states that have ratified the Rome Statute. Indeed, in the proposals we have put forward before this Council, we have sought to work within the provisions of that Statute. We hope that other states, in turn, will respect our concerns about our peacekeepers.

Our latest proposal uses Article 16 of the Rome Statute, as we were urged to do by other Council members, to address our concerns about the implications of the Rome Statute for nations that are not party to it, but which want to continue to contribute peacekeepers to UN missions. We respectfully disagree with analyses that say our approach is inconsistent with the Rome Statute.

Article 16 contemplates that the Security Council may make a renewable request to the ICC not to commence or proceed with investigations or prosecutions for a 12-month period on the basis of a Chapter VII resolution. We believe it is consistent both with the terms of Article 16 and with the primary responsibility of the Security Council for maintaining international peace and security for the Council to adopt such a resolution with regard to operations it authorizes or establishes. And for the Council to decide to renew such requests.

We have offered a solution to this problem that is consistent with the obligations of all UN Member States, including those party to the Rome Statute, that provides the protections we seek, and that strengthens the capacity of the United Nations to carry out peace operations. We urge other delegations to consider this balanced solution and work with us on a practical way forward.

Thank you.