

Human Rights Watch
July 9, 2002

Human Rights Watch Letter to United Nations Security Council
Subject: Extension of the United Nations Mission in Bosnia-Herzegovina and U.S. Proposals

Your Excellency,

We write to you in your capacity as a member of the United Nations Security Council. Human Rights Watch is deeply disturbed by the linkage the United States Government has made between the extension of the United Nations Mission in Bosnia-Herzegovina (UNMBIH) and its hostility to the International Criminal Court (ICC).

We commend your government and the majority of Council members for rejecting the U.S. proposals last week. These texts, purportedly based on the temporary, case-specific deferral provisions of Article 16 of the Rome Statute, would in effect have permanently exempted entire categories of peacekeepers from the authority of the ICC. In light of the current extension of the Bosnia peacekeeping mission until July 15, it is imperative that members of the Security Council hold firm and continue to withstand U.S. pressure.

As Secretary General Kofi Annan stated in his July 3 letter to U.S. Secretary of State Colin Powell, "the method suggested in the [U.S.] proposal...flies in the face of treaty law since it would force States that have ratified the Rome Statute to accept a resolution that literally amends the treaty."

Human Right Watch firmly agrees with the Secretary General that what the Bush Administration seeks is a de facto amendment of the Rome Statute. During the treaty negotiations, states considered and firmly rejected a provision giving the Security Council the powers that the U.S. government now wishes to grant it. The use of the Security Council to rewrite a multilateral treaty would create a dangerous precedent with serious consequences far beyond the ICC. By creating a two-tiered system of justice, the Bush Administration's proposal, as the administration knows and desires, would also severely damage the ICC's credibility and undermine its global support. We anticipate that the open meeting of the Security Council scheduled for Wednesday, July 10, will again demonstrate the breadth and depth of opposition to this unlawful effort from a broad spectrum of states and regional groups.

We understand that your government is likely to be under heavy pressure from the Bush Administration to accommodate its parochial views. However, so far, the U.S. side has shown no willingness to accept a compromise that respects the treaty's integrity and its states parties' obligations. Last week's negotiations demonstrate the impossibility, under these conditions of intransigence in Washington, of finding a principled compromise that upholds the integrity of the Rome Treaty. By casting its veto of the resolution extending the Bosnian police-training operations, the U.S. government has made its political point. Rather than continue the futile quest for a "compromise" that does not jettison principle, we urge the Security Council to begin managing the process of the consequences of the U.S. veto. Even with its veto, Washington has announced that it will leave U.S.

contingent of SFOR in place in Bosnia. The relatively small consequences of the U.S. action with respect to the Bosnian police-training operation can be minimized by turning attention now to a concrete plan to accelerate the transfer of authority to the European Union after a reasonable transition period.

There are strong reasons to doubt the Bush Administration's willingness to follow through on its threat to other U.N. peacekeeping operations. The U.S. government is unlikely to veto renewal of the peacekeeping operation for Southern Lebanon (UNIFIL), which is due by July 31, as it would abandon Southern Lebanon to anti-Israeli guerrilla forces. Picking and choosing which peacekeeping operations to veto would make the Bush Administration seem petty and arbitrary. The Bush Administration, therefore, is in a policy trap of its own making and will be constrained in carrying out its threats. Given this reality, the Security Council should not consider compromising something so important as the future credibility of the ICC.

Human Rights Watch has hailed the new court as the most important new human rights institution in fifty years. We count on you and your government to continue to stand firm to uphold the Rome Statute and to resist the pressure of any government that seeks to undermine it.

Sincerely,

Kenneth Roth
Executive Director

Joanna Weschler
U.N. Representative