

# AMNESTY INTERNATIONAL

## Public Statement

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### **International Criminal Court: Immunity for peace-keepers is a set back for international justice**

Amnesty International is dismayed at the unlawful decision by all members of the Security Council to oblige the International Criminal Court (ICC) that seeks to exempt peace-keepers from prosecution. The Council acted on proposals initially introduced by the US, which opposes the ICC, and in close cooperation with the UK.

What the Security Council has done is to attempt to amend a treaty agreed between state parties, a power in this case only given to the Assembly of States Parties. Moreover, the Council is exceeding its powers by seeking to amend a treaty which is fully consistent with the UN Charter. In addition, by invoking Chapter VII of the UN Charter, the Security Council has wrongly characterized the US threat to veto peace-keeping operations as either a threat to peace, a breach of peace, or an act of aggression. None of those terms apply to a court created to establish accountability for the worst possible crimes under international law.

The United States put much pressure on the other members of the Security Council to do what the majority of UN member states unequivocally oppose. Investigations and prosecutions for the gravest crimes should never be obstructed, nor should double standards ever be created for peacekeepers or anyone else.

Security Council Resolution 1422 seeks to undermine the Rome Statute. Although the resolution's text uses words close to those in Article 16 of the Rome Statute, they are nothing but a smokescreen. The resolution still contravenes the letter, the spirit and the drafting history of that article - the inclusion of which Amnesty International strongly opposed. Article 16 provides for Security Council deferrals only in exceptional circumstances involving Security Council negotiations about the ending of threats to or breaches of international peace and security or aggression and on a temporary, case by case basis.

The changes made after weeks of wrangling in the Security Council when the US held approval of peace-keeping operations hostage as long as its demands for exemption were not met, are without substance. The resolution still attempts to prevent the ICC from investigating or prosecuting a case of a national of a non-state party to the Rome Statute who participates in a UN operation for genocide, crimes against humanity or war crimes, unless the powers represented in the Security Council decide otherwise.

By attempting to block countries who are party to the treaty from fulfilling their legal obligations, for a renewable period of one year, resolution 1422 strikes at the heart of the principles of justice embodied in the ICC.

Amnesty International applauds the resolve of the many countries not on the Security Council who have spoken out strongly in defence of the integrity of the Rome Statute and urges them to press the Security Council not to renew the resolution next year which attempts to grant US nationals immunity from investigation and prosecution for genocide, crimes against humanity, and war crimes in the ICC.

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