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# Security Council

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### **INTERNATIONAL CRIMINAL COURT PROSECUTOR TELLS SECURITY COUNCIL SUDAN'S GOVERNMENT**

#### **'NOT COOPERATING' IN DARFUR INVESTIGATION, MASSIVE CRIMES CONTINUE**

##### **Two Arrest Warrants Issued on 27 April, No Steps Taken to Apprehend, Surrender; Asks Council for Strong Message Requesting Compliance with Resolution 1593 (2005)**

"I report today to the Security Council that the Government of the Sudan has not complied with its legal obligations," the Prosecutor of the International Criminal Court said this morning, as the Council considered his report on the implementation of resolution 1593 (2005), which referred the situation in Darfur to the Court.

Luis Moreno Ocampo, the Court Prosecutor, recalled that after careful investigations, the Pre-Trial Chamber of the International Criminal Court had on 27 April issued arrest warrants against Ahmad Harun, former Minister of State for the Interior of the Sudan, and Ali Kushayb, a militia/Janjaweed leader who had committed crimes against humanity and war crimes in Darfur.

"The Government of the Sudan is not cooperating with my Office, or the Court", he said. The individuals had not been arrested and surrendered. The Sudan had taken no steps to prosecute them domestically. Ahmad Harun was still Minister of State for Humanitarian Affairs. The Sudanese Government's official website announced that he had been appointed to the African Union-United Nations Hybrid Operation in Darfur (UNAMID) national monitoring mechanism group, overseeing the African Union-United Nations hybrid force's deployment.

The Sudan, a United Nations Member State, was repeatedly challenging the Council's authority to give jurisdiction to the International Criminal Court. On 1 November, the representative of the Sudan had stated in the General Assembly that, since the Sudan was not a member of the Rome Statute, the Court held no jurisdiction there. "I will ask the Council to ensure respect for resolution 1593."

He said that in June he had informed the Council that his Office would monitor current crimes. In Darfur today, massive crimes continue to be committed. There were consistent indications showing a pattern of attacks by the Sudanese against civilians, in particular against those 2.5 million people forcibly displaced into camps. The Office also had reports of an increasing number of attacks against humanitarian personnel and peacekeepers, as had happened in Haskanita, with rebel involvement.

The Office would investigate current acts of violence against civilians, in particular the victims of displacement, he said. "We are witnessing a calculated, organized campaign by Sudanese officials to attack individuals and further destroy the social fabric of entire communities. All information points not to chaotic and isolated acts, but to a pattern of attacks," he said, continuing, "Calling those crimes chaos or 'sporadic violence' or 'inter-tribal clashes' is a cover up."

In the camps, he continued, 2.5 million people had been subjected to persecution and abuses, including sexual violence, illegal detentions and unlawful killings. Maintaining Harun in his position as Minister of State for Humanitarian Affairs was a direct threat to millions of victims and to the humanitarian workers and

peacekeepers seeking to protect them. “When will be a better time to arrest Harun?” he asked. “How many more women and girls have to be raped? How many persons have to be killed?”

He said that, on 29 October, 10 soldiers of the African Union Mission in the Sudan had been killed in the attack on their Haskanita base. The incident appeared to have been committed by rebel forces and represented an increasing trend in attacks against the African Union, United Nations and other international workers by various forces. He noted with concern that the Sudan was taking no measures to protect international forces.

He asked the Security Council to send a strong and unanimous message to the Government of the Sudan, requesting compliance with resolution 1593 and the execution of the arrest warrants. The same consistency was needed throughout the United Nations. It would be both inaccurate and confusing to convey in any way to the Government of the Sudan that the arrest warrants and the obligation to comply with resolution 1593 would go away. “You can make a difference, you can break the criminal system,” he said. “What is at stake is, simply, the life or death of 2.5 million people.”

Following Mr. Ocampo’s briefing, many speakers expressed their support for the International Criminal Court as a pillar in the international community’s fight against impunity and concern at the fact that the Government of the Sudan was not cooperating with the Court’s Prosecutor and had not arrested the two indictees. The Government, they said, had showed thereby its disregard for the Council, which had referred the situation to the International Criminal Court under Chapter VII of the United Nations Charter. Many speakers also supported Mr. Ocampo’s new investigations and asked for a strong Council statement.

The representative of the United States said the concerns of his Government regarding the International Criminal Court and the Rome Statute were well known and had not changed. The United States had always supported, however, bringing to justice those responsible for atrocities and war crimes in Darfur. He called on the Government of the Sudan to cooperate fully with the International Criminal Court, as required by resolution 1593. He shared the concerns about the increasing attacks against civilians, humanitarian workers and African Union and United Nations personnel.

Qatar’s representative, concerned about direct and deliberate attacks by factions of rebel movements still outside the framework of the Darfur Peace Agreement, said that violations of international humanitarian law fell within the jurisdiction of the Sudanese judiciary and the International Criminal Court. He called on the Government of the Sudan to prosecute all those found guilty of crimes against humanity in Darfur, and to take all action necessary to prevent impunity. The Prosecutor should always take into account the fact that International Criminal Court jurisdiction was complementary to national jurisdiction. Therefore, he should refer cases and investigations he conducted to the Sudanese judiciary, as appropriate. Moreover, the right of the Sudan to challenge the decision of the Court’s Pre-Trial Chamber by virtue of articles 19 and 82 of the Rome Statute was being ignored, by focusing only on the aspect of arresting the indictees and handing them over.

The representative of China said there should be a holistic treatment of all aspects of the situation in Darfur -- security, humanitarian and judicial. A balance should be achieved, and priorities should be established. Currently, the overall objective was restoring stability and improving security. Work on other aspects should contribute to that objective. The International Criminal Court had become involved on the basis of a Council resolution and should complement the efforts of the international community to move the political process forward. Ignoring the overall situation and simply stressing the ending of impunity would be unlikely to receive the cooperation of the Government of the Sudan and would not be conducive to the solution of the overall problems.

The representatives of Panama, France, United Kingdom, Belgium, Russian Federation, Slovakia, Indonesia, South Africa, Ghana, Peru, Congo and Italy also spoke.

The meeting started at 10:15 a.m. and adjourned at 12:06 p.m.

Background

The Security Council met this morning to consider the sixth report of the Prosecutor of the International Criminal Court to the Security Council pursuant to Security Council resolution 1593 (2005) (no official document number assigned yet).

#### Briefing by International Criminal Court Prosecutor

LUIS MORENO OCAMPO, Prosecutor of the International Criminal Court, presenting the report that was distributed in the Chamber, said that, on 31 March 2005, the Council had decided to refer the situation in Darfur to the International Criminal Court Prosecutor. On 5 April that year, he had received a sealed envelope from the Secretary-General with the conclusions of the United Nations Commission of Inquiry and a list of 51 names. He had read the document and sealed it again because, as the Prosecutor of an independent Court, he could not use that list in his subsequent work. Having found no national proceedings related to allegations of serious crimes in Darfur, he had opened a first investigation on 1 June 2005.

He said his Office had examined allegations of crimes committed by all parties and had looked impartially at incriminating and exonerating facts. It had collected evidence from a wide range of sources, including the Government of the Sudan. It had been provided with the report of the National Commission of Inquiry, as well as a report from the Ministry of Defence. It had identified direct victims living in 17 countries, who had given strong evidence. In December 2006, he had informed the Council that he would be ready to submit evidence to the Judges by February 2007, which he had done.

On 27 April, the Pre-Trial Chamber of the Court had issued arrest warrants against Ahmad Harun, former Minister of State for the Interior of the Sudan, and Ali Kushayb, a militia/Janjaweed leader who had committed crimes against humanity and war crimes in Darfur. There had been no challenge to admissibility from either the Government or from the individuals. The Court had transmitted the request to execute the warrants to the Government of the Sudan on 16 June. International Criminal Police Organization (INTERPOL) Red Notices had been subsequently disseminated. On 17 October, the Registry had asked for an update with a time limit of 15 November. The Court had received no response from the Sudan.

He said that under the terms of resolution 1593 (2005) “the Government of the Sudan and all other parties to the conflict in Darfur shall cooperate fully” with the Court and Prosecutor. “I report today to the Security Council that the Government of the Sudan has not complied with its legal obligations. The Government of the Sudan has not complied with resolution 1593. The Government of the Sudan is not cooperating with my Office, or the Court,” he said. The individuals had not been arrested and surrendered. While the Sudan continued to publicly insist that it was willing and able to prosecute those responsible for serious crimes, they had done nothing. The Sudan had taken no steps to prosecute them domestically.

Ali Kushayb, against whom the Government had previously indicated that there was an investigation, had been reported on 30 September by the media to have been released for lack of evidence. Regarding Ahmad Harun, all public information indicated that he would neither be surrendered, nor subject to national proceedings. He had been maintained in his position of Minister of State for Humanitarian Affairs and had accompanied President Bashir to Darfur on 18 June. As of 18 November, the Sudanese Government’s official website announced that Ahmad Harun had been appointed to the African Union-United Nations Hybrid Operation in Darfur (UNAMID) national monitoring mechanism group, overseeing that force’s deployment.

The Sudan, a United Nations Member State, had not complied with its obligation under Resolution 1593 to arrest and surrender the indictees. The Government of the Sudan was repeatedly challenging the Council’s authority to give jurisdiction to the International Criminal Court. On 1 November, the representative of the Sudan had stated in the General Assembly that, since the Sudan was not a member of the Rome Statute, the Court held no jurisdiction there. “I will ask the Council to ensure respect for resolution 1593.”

He said that in June he had informed the Council that his Office would monitor current crimes. His Office had demonstrated how, in 2003-2004, Ahmad Harun, as Minister of State for the Interior, had coordinated a criminal system. He had recruited and used militia/Janjaweed to supplement the Sudanese Armed Forces, and had incited them to commit massive crimes against civilians. In Darfur today, massive crimes continue to be committed. He was, therefore, preparing to open two new investigations.

There were consistent indications showing a pattern of attacks by the Sudanese against civilians, in particular against those 2.5 million people forcibly displaced into camps. The Office also had reports of an increasing number of attacks against humanitarian personnel and peacekeepers, as had happened in Haskanita, with rebel involvement. The Office would investigate current acts of violence against civilians, in particular the victims of displacement. "We are witnessing a calculated, organized campaign by Sudanese officials to attack individuals and further destroy the social fabric of entire communities. All information points not to chaotic and isolated acts, but to a pattern of attacks," he said, continuing, "Calling those crimes chaos or 'sporadic violence' or 'inter-tribal clashes' is a cover up."

He said that the campaign of terror of 2003-2004 had achieved the forced displacement of 2.5 million people. Most of the villages had been burned down. But, in Darfur today, in the few remaining villages, civilians were still being attacked and forced to flee. Examples included the joint attack on Muhajiriya by allied Sudanese Government forces and militia/Janjaweed on 8 October. Some 48 civilians had been killed, people praying in a Mosque rounded up and slaughtered. That was not an inter-tribal clash. The Sudanese air force bombing of Adilla in August -- producing 20,000 new displaced persons -- had not been an inter-tribal clash.

In the camps, he continued, 2.5 million already displaced had been subjected to persecution and abuses, including sexual violence, illegal detentions and unlawful killings. Far from disarming the militia/Janjaweed as it had committed to, the Government of the Sudan had for the most part integrated them into its security apparatus and had stationed them in the vicinity of the camps. Rapes of women when they left the camps were systematic -- rape being a Rome Statute crime.

Instead of upholding their promises of facilitating returns, Sudanese officials were said to facilitate settlement of militias/Janjaweed supporters on land inhabited previously by Fur and Masalit, he continued. In addition, approximately 35,000 Chadians had also been encouraged to settle in destroyed villages or surrounding land. Victims were left with no hope for the present and no prospect for the future. That was how the slow destruction of entire communities was pursued, "in full sight of the international community".

As Minister of State for Humanitarian Affairs, Ahmad Harun, a man indicted by the International Criminal Court, was responsible for providing relief, for working with international aid organizations, and for coordinating with relevant security organs the security in the internally displaced persons camps. Formally, he shared the responsibility for the safety and well-being of the displaced population. In reality, he joined in constant abuses against them. Ahmad Harun had been present himself during specific operations against internally displaced persons camps in the past months. All indications showed that the so-called eruptions of violence and infighting in the camps reflected a well-designed strategy. Local civilians were killed or arrested, to undermine any structuring within the camps. Attempts were made by Sudanese officials to dismantle the big camps and to disperse their inhabitants into smaller groups, easier to control.

He said that the Humanitarian Aid Commission (HAC) was allowed to enter and gather intelligence within the camps and promoted organized disturbances with the assistance of factions close to the Government. It also played a pivotal role in hindering humanitarian assistance.

Ahmad Harun was a key actor, but he was not alone, he said. Failure to take any step to investigate or arrest him and failure to remove him from office were clear indications of the support he received from other high officials. The Prosecutor's Office would proceed to investigate who had the greatest responsibility for ongoing attacks against civilians; who was maintaining Harun in a position to commit crimes; and who was instructing him.

On the new investigation, he said that on 29 October, 10 soldiers of the African Union Mission in the Sudan had been killed, 8 injured and 1 unaccounted for after the attack on their Haskanita base. The incident appeared to have been committed by rebel forces and represented an increasing trend in attacks against the African Union, United Nations and other international workers by various forces, a trend that his Office was monitoring with concern. Attacks on humanitarian convoys had a devastating effect. He noted with concern that the Sudan was taking no measures to protect international forces. There were allegations that some Sudanese aircraft had been painted with United Nations or African Union colours and were used in Darfur. Such acts, among others, undermined the United Nations and African Union, created the impression of collusion and could encourage attacks against them.

He asked all Members of the Council, all Member States and all relevant organizations to volunteer specific information and thus assist in conducting the Office's new investigations. He thanked all those who had responded to the Court's requests for information on possible movements of the indictees. No State had been reluctant to share information. Regarding cooperation with the African Union, he said that he and Deputy Prosecutor Fatou Bensouda had met with members of the African Group in New York. On 20 June, he had updated the President of the African Union on the work in Darfur. He had also met with the representative of the Congo in August in his then-capacity as the President of the Security Council. Since June, the Deputy Prosecutor and he had met with United Nations Secretary-General Ban Ki-moon and Deputy Secretary-General Asha-Rose Migiro. He had also briefed the European Union and ministers of its Member States and continued constructive exchanges with the Secretary-General of the Arab League.

Summarizing the situation at the end of his statement, he said that maintaining Harun in his position was a direct threat to millions of victims and to the humanitarian workers and peacekeepers seeking to protect them. "When will be a better time to arrest Harun?" he asked. "How many more women and girls have to be raped? How many persons have to be killed? Must we really wait, again, for the destruction of entire communities?"

He asked the Security Council to send today a strong and unanimous message to the Government of the Sudan, requesting compliance with resolution 1593 and the execution of the arrest warrants. The same consistency was needed throughout the United Nations. It would be both inaccurate and confusing to convey in any way to the Government of the Sudan that the arrest warrants and the obligation to comply with resolution 1593 would go away.

The only realistic solution today was to arrest Harun, he stressed. It would send a signal to the perpetrators of crimes in Darfur that the international community was not only watching, but would hold them accountable for their actions. "You can make a difference, you can break the criminal system," he said. "What is at stake is, simply, the life or death of 2.5 million people."

#### Statements

RICARDO ALBERTO ARIAS (Panama) said the Rome Statute stipulated that the Council, acting under Chapter VII of the United Nations Charter, could refer to the International Criminal Court a situation in which crimes had been committed that were under the competence of the Court. The situation in Darfur had been referred to the Court by the Council. The Council had decided that the Government of the Sudan and other parties should cooperate. The Prosecutor had determined that two individuals should be prosecuted and arrest warrants had been issued.

He said the Government of the Sudan had ignored the warrants, which prevented the Court from fulfilling its duties. That represented disrespect for international obligations and disregard for the Council and violated the United Nations Charter. If the Council were to allow such acts, it would open the doors to the commitment of other such acts. He was concerned that the civilian population continued to suffer from coordinated attacks. Ongoing crimes against the dignity of human beings could not be allowed.

JEAN-MAURICE RIPERT (France) said that, through its resolution 1593, the Council had referred the situation in Darfur to the International Criminal Court. The Security Council had thus shouldered its responsibility to ensure that impunity did not go unpunished. Twenty months later, according to the report presented by the Prosecutor, crimes that came under the jurisdiction of the Court continued to be committed in Darfur, particularly against 2.5 million internally displaced persons, as well as international humanitarian personnel. Like the Prosecutor, he noted the organized and voluntary nature of systematic acts of violence in Darfur. The Government of the Sudan was not cooperating with the Court, and arrest warrants against Ahmad Harun and Ali Kushayb had not been executed. That was impeding the work of the Court. In fact, Ahmad Harun had been appointed to a position of power, and the movements and actions of Ali Kushayb were in no way impeded.

While the Council had decided that the Government of the Sudan should cooperate fully with the Court and provide all necessary assistance to it, in light of the investigation conducted by the Prosecutor, that Government had denied those crimes and protected those individuals. It had not provided follow-up or legal proceedings, in view of the investigation. The lack of cooperation prevented the Court from exercising its jurisdiction. Thus, the Government of the Sudan had not implemented its obligations under 1593.

He added that, as mentioned by the Prosecutor, Ahmad Harun was currently charged with 50 counts of crimes, including crimes against humanity. The Council must support the efforts of the Court to carry out the mandate entrusted to it. The Government of the Sudan must be reminded of its obligations and responsibilities. The Council owed it to thousands of victims and internally displaced persons still living in camps. The Council must express its support for the Court. That was indispensable for peace and security in the region, as well as the establishment of the African Union-United Nations Hybrid Force. The Council should adopt a declaration reminding Sudan of its obligations.

JOHN SAWERS ( United Kingdom ) said the report issued was a disturbing account of recent events in the Sudan that concerned the International Criminal Court. The United Kingdom strongly supported the Court as a pillar in the fight against impunity of serious crimes of international concern. It was important that those accused of the most serious crimes were brought to justice. He was concerned that the two individuals against whom arrest warrants had been issued remained at large. The Government of the Sudan had not cooperated with the Court in execution of the warrants, but had adopted a course of protecting the indictees. The position of Mr. Harun within the Government of the Sudan was of particular concern.

He said the Government of the Sudan had defied the Court and the Council. He was concerned about ongoing crimes against civilians in Darfur, as well as against humanitarian workers and United Nations and African Union personnel. The numerous incidents had illustrated the grave humanitarian situation in Darfur. His Government urged the Government of the Sudan to comply with its obligations and cooperate with the Court. He also called on other parties to cooperate fully with the Court and its Prosecutor. The Council should give full and public backing to the Court.

JOHAN VERBEKE ( Belgium ) recalled his Government's firm support for the International Criminal Court, in particular noting its work vis-à-vis Uganda, the Democratic Republic of the Congo and the Central African Republic. The situation in Darfur was a bit different; the issue was not one of support for the Court in general, but one of respect for a Security Council resolution that had been adopted under Chapter VII of the Charter of the United Nations. That resolution unambiguously stated that the Government of the Sudan shall cooperate with the Court and the Prosecutor and provide them with any necessary assistance. In fact, from the report that had been submitted to the Council, it appeared that the Government of the Sudan had not only failed to cooperate with the Prosecutor, but had also shown official support to the two individuals named in the summons that had been issued for their arrest.

Such provocations represented contempt towards the presumed victims of crimes against humanity and war crimes, and contempt towards decisions taken by the Security Council, he said. For that reason, Belgium favoured a clear reiteration by the Security Council of the terms of resolution 1593 (2005) and the obligations that it contained, not only for justice to be done, but also for due respect to be given to the Council. The report from the Prosecutor described the level of violence that had become a concern today in Darfur, and indicated that crimes falling within the competence of the Court were being committed in a large scale and in a systematic manner. In that regard, the activities of the Prosecutor would be followed very closely.

ILYA ROGACHEV ( Russian Federation ) paid tribute to the efforts of the Prosecutor and said that it would be erroneous to limit the work of the Court in the Sudan to only combating impunity. His delegation viewed those activities from a broader perspective, as part of overall efforts to settle the situation in the region. It was with great regret that, at present, the cooperation between the Court and the Government of the Sudan had practically collapsed. The present atmosphere of the lack of trust was not assisting the investigation. It was necessary to step up efforts to ensure constructive dialogue between the parties. He called on the Government of the Sudan to take the necessary measures in that regard, including within the framework of existing legal procedures and mechanisms.

An important part of building a climate of trust would be paying attention to crimes committed by rebels, he continued. Such work of the Prosecutor would facilitate the peace process and encourage all parties of conflict to seek dialogue and cessation of violence. Another important element would be full involvement of the Sudanese legal system in the investigations. Full promotion of the dialogue between the International Criminal Court and the African Union would also facilitate the resolution.

He added that an important part of the Prosecutor's work was monitoring the humanitarian situation in Darfur. He was grateful to the Prosecutor for the information provided, although it was also the subject of other

reports and was discussed by the Council separately. In implementing resolution 1593, it would be desirable to focus attention on the situations that were clearly criminal in nature -- for example, attacks on civilians and peacekeeping convoys. It was regrettable that investigations had been unable to fully address the attack against peacekeepers in Haskanida. The report presented today showed that the investigations were entering a politically sensitive phase. Now, it was necessary to act with caution, taking into account the possible serious impact of any action on hundreds of thousands of people and the whole region.

LIU ZHENMIN ( [China](#) ) said the causes of the problems in Darfur were complex, and there should be a holistic treatment of all aspects of the situation -- security, humanitarian and judicial. A balance should be achieved, and priorities should be established. Resolving the problems required stabilization of the situation and improvement of the security situation. The international community was accelerating the deployment of the hybrid organizations and moving the political process forward. That was currently the overall objective and work on other aspects should contribute to that objective.

He said his Government was in favour of resolving the issue of impunity and encouraged the Government of the Sudan to continue to step up communication and strengthen cooperation with the International Criminal Court. Only with stabilization could the problem of impunity be resolved. The Court had become involved on the basis of a Council resolution and should complement the efforts of the international community to move the political process forward. Ignoring the overall situation and simply stressing the ending of impunity would be unlikely to receive the cooperation of the Government of the Sudan and would not be conducive to the solution of the overall problems.

PETER BURIAN ( [Slovakia](#) ) thanked the Prosecutor for his valuable and sobering briefing and commended him for his outstanding work. Slovakia was seriously concerned over the serious crimes in Darfur, especially intentional targeting of women and children. He also deplored ongoing attacks against international and humanitarian staff. In that connection, he underlined the responsibility of the Government of the Sudan to bring an end to crimes in Darfur and bring an end to impunity.

Bringing those guilty of crimes to justice should be an integral part of the solution in Darfur, he continued, noting with concern the Prosecutor's observation that the Government of the Sudan was refusing to cooperate with the Court and refusing to execute arrest warrants against Ahmad Harun and Ali Kushayb. That lack of cooperation was unacceptable. It was also unacceptable that Harun continued to serve as the Minister of State for Humanitarian Affairs, with authority over refugee camps. It was shocking that he also controlled the provision of humanitarian aid in Darfur. He agreed that Mr. Harun's presence in the Government produced an impression that the Government was supporting horrible crimes.

All States, including the Sudan, must provide all necessary assistance to the International Criminal Court and its Prosecutor, he said. He called on the Government to accept the jurisdiction of the Court and start cooperating, including by the arrest of the individuals in question and their surrender to the Court. The Council must send a strong and unanimous message to all perpetrators that it would not tolerate impunity. He supported the proposal for the adoption of a clear declaration of the Council, in that regard.

JEFF DE LAURENTIS ( [United States](#) ) said the concerns of the United States regarding the International Criminal Court and the Rome Statute were well known and had not changed. The United States had always supported, however, bringing to justice those responsible for atrocities and war crimes in Darfur. He shared the assessment that the ongoing situation in Darfur was alarming and that justice for crimes against civilians was needed to enhance security and send a warning. He was particularly troubled by the report that the Government of the Sudan was still not cooperating with the Court and had not taken steps to arrest the two individuals.

He called on the Government of the Sudan to cooperate fully with the International Criminal Court, as required by resolution 1593. The United States had imposed targeted economic sanctions against certain individuals, including a transport company that had moved weapons to the Janjaweed and companies controlled by the Government of the Sudan. He shared the concerns about the increasing attacks against civilians, humanitarian workers and African Union and United Nations personnel. Impunity for such acts must end. The United States, committed to peace, stability and provision of humanitarian aid to Darfur, urged those who had not signed the peace agreement or participated in the peace process to do so quickly.

MARTY NATALEGAWA ( Indonesia) condemned the continued gross violations of human rights and international humanitarian law in Darfur and said the perpetrators must be brought to justice without unnecessary delay. At the same time, some headway was being made in the political process and the deployment of UNAMID. Challenges remained, of course, including the boycott of the Sirte talks, and those pointed to the need for the Council to focus its current efforts on maintaining unity in the effort to attain a political framework for peace and a sustainable ceasefire, supported by effective peacekeeping. While peace could not be complete and sustainable without justice, justice could not prosper in the absence of peace.

In that light, the cooperation of the Government of the Sudan with the Court should be addressed in a comprehensive manner, in the context of achieving peace and security, he said. In addition, the role of the Court should be complementary to national criminal jurisdiction. Therefore, the implementation of resolution 1593 and the activities of the Prosecutor should neither nullify the principle of complementarity, nor prevent the Sudanese national court from invoking its jurisdiction against the perpetrators. Finally, it was particularly important in this precedent-setting case that, once the Council had referred an issue to the Court, it refrained from involvement in the Court's legal processes.

DUMISANI KUMALO ( South Africa) said that his country was a member of the International Criminal Court and remained committed to supporting its work. The Court was central in ending impunity for international crimes and in establishing conditions under which justice and the rule of law could be maintained. The Court, through its ability to deter the further commission of crimes, served as an advocate of adherence to the rule of law and he expected cooperation with its work. His delegation was acutely aware of the challenges facing the Prosecutor, arising primarily from the fact that the Court did not have its own police or army to effect its warrants of arrest, therefore depending on the cooperation of States. It would seem that there was a responsibility upon the Security Council to demand the cooperation of States, particularly in cases where the Council itself had referred cases to the Court.

In resolution 1593, the Council had called upon the Government of the Sudan and all other parties in Darfur to cooperate fully and provide the necessary assistance to the Court and the Prosecutor, he continued. While recognizing that States not party to the Rome Statute had no obligations under that Statute, the Council urged all States and concerned regional and other international organizations to cooperate fully. He urged the Government of the Sudan and other parties involved in Darfur to cooperate fully with the International Criminal Court. There could be no military solution to the conflict in Darfur. A political process inclusive of all parties should be vigorously pursued. At the same time, he hoped that UNAMID would be deployed on the ground, as soon as possible, to help stop the ongoing carnage in Darfur.

LESLIE KOJO CHRISTIAN ( Ghana) said the question of justice in the case of war crimes and crimes against humanity was an integral part of the peace process and the process of national reconciliation. The destabilizing effects of impunity were very real, as was the case in the Sudan. Resolution 1593 must, therefore, be fully implemented. He remained concerned at the lack of progress in the case of the two individuals against whom arrest warrants had been issued. The lack of cooperation by the Government of the Sudan with the Council and the Court was not in the interest of any of the parties. Firm persuasion and the pressure of the international community must be sustained. Under the provisions of the Rome Statute, the situation on the ground gave the Court a solid basis to exercise jurisdiction. It was of vital importance that the Sudanese people saw the Court as an important ally in the protection of their human rights.

NASSIR ABDULAZIZ AL-NASSER ( Qatar) said that everyone agreed on the need to achieve and uphold the principle of the rule of law, criminal accountability and justice, both in Darfur and other areas of conflict, especially by punishing those who had committed violations of international humanitarian law. Concerned about direct and deliberate attacks by factions of rebel movements still outside the framework of the Darfur Peace Agreement, he said all those violations were crimes within the jurisdiction of the Sudanese judiciary and the International Criminal Court. He called on the Government of the Sudan to pursue its investigations; to prosecute all those found guilty of crimes against humanity in Darfur, according to the Sudanese criminal law, international humanitarian law and relevant international conventions; and to take all action necessary to prevent impunity. The Prosecutor should always take into account the fact that International Criminal Court jurisdiction was complementary to national jurisdiction. Therefore, he should refer cases and investigations he conducted to the Sudanese judiciary, as appropriate.

He also called on the Prosecutor to continue performing his work in a discrete and professional manner and not to jump to conclusions on the nature of the crimes committed or persons accused of committing them



until he had fully and impartially completed the investigations and carefully evaluated the investigations and proceedings by the Sudanese judiciary. He called on the Government of the Sudan to cooperate with the Prosecutor to achieve those goals. His country had made strenuous efforts to urge the Government of the Sudan to cooperate with the Court, in accordance with international legitimacy.

“We should not deal with the ICC, nor with the Prosecutor as a political tool in the hands of the Security Council, but rather as an independent and impartial judicial body,” he continued. He supported the findings of the Prosecutor that there was considerable uncertainty surrounding the list of names submitted by the International Commission of Inquiry and persons that had been identified by the Sanctions Committees established pursuant to resolution 1591 (2005) or resolution 1672 (2006). Identification of indictees by the Office of the Prosecutor was not limited by the list of suspects established by those bodies. Expediting investigations, indictment of individuals or prosecuting all those suspected of committing violations of international humanitarian law, both at the national and international levels, must not come at the detriment of justice and the rights of indictees to a fair trial, taking into account all their procedural rights and standards and principles of due process. He called on all parties to take into account such national and international judicial procedures and not to influence them in any way, shape or form.

The Prosecutor’s reference to the lack of information on the measures taken by the Government to protect international forces -- apart from being non-documented allegations that had been denied by the Government of the Sudan -- constituted a departure from the jurisdiction of the report under the mandate in resolution 1593, he continued. The matter constituted a political issue that was not related to the work of the Court. That was the case, for instance, of assessing the Government policy and the allegations that Sudanese aircraft had been painted with the African Union and United Nations colours and flags, and submitting conclusions that such actions undermined the work of the United Nations and African Union.

He added that the right of the Government of the Sudan to challenge the decision of the Pre-Trial Chamber by virtue of articles 19 and 82 of the Statute was being ignored by focusing only on the aspect of arresting the indictees and handing them over. The Council must tread cautiously in that case. The invitation by the Prosecutor to the Council and regional organizations to urge the Government of the Sudan to cooperate with the Court must not be interpreted as a request for the Council to take action against the Sudan, for the issue was a legal and judicial one, which he did not want politicized in any way.

JORGE VOTO-BERNALES (Peru) said the Prosecutor had given a detailed and precise report that gave rise to great concern over, among other things, the lack of cooperation on the part of the Government of the Sudan with the Office of the Prosecutor, the fact that the arrest warrants had not been executed and that one indictee continued to work within the Government. The Prosecutor had also indicated that serious crimes against civilians in Darfur continued to be committed, with the knowledge of the military and civilian authorities of the Sudan. The Prosecutor had concluded that national jurisdiction had not launched legal proceedings.

He said the Council had referred the situation to the International Criminal Court in 2005 with the understanding that punishment of serious crimes perpetrated in Darfur would serve to restore peace. The Government of the Sudan had, therefore, the legal obligation to cooperate with the Court, because as a United Nations Member State, the Sudan was obliged to abide by Council resolutions. Its quality as a non-State party to the Statute of Rome was not relevant. He called on the Government of the Sudan to arrest and transfer the two individuals to the Court. The Council must act in a consequent manner regarding the maintenance of international peace and security and underline the need for the Government of the Sudan to cooperate with the Court.

LUC JOSEPH OKIO (Congo) said that the report of the ICC revealed ongoing deterioration of the humanitarian situation in Darfur, as well as crimes of genocide and crimes against humanity. He welcomed the efforts of the Prosecutor and his team. As his delegation had stated during the meeting last August, the Congo had always supported all actions to combat impunity.

Regarding Darfur, he said that the Congo deplored the lack of cooperation by the Government of the Sudan. All those involved in crimes must be brought to justice, and the Government should take the necessary steps under its jurisdiction. However, the Congo insisted that all perpetrators in Darfur, including the members of the rebel movements, should be brought to justice. Arrest of the two people cited by the Prosecutor should be the first step, and the second step should follow. Impartiality should be the basis for the actions of the Court and the Security Council. A firm and unanimous message should touch on all parties. The perpetrators of the attack

against African Union peacekeepers must answer for their actions, as well, and he called on the Court to pursue its inquiries in that incident. All perpetrators of atrocities and crimes against humanity must be made responsible for their crimes. That was the role of the Court, which the Congo would support. As already pointed out in today's debate, justice would be a factor in the achievement of peace and stability in the region.

Speaking in his national capacity, Council President MARCELLO SPATAFORA ( [Italy](#)) reiterated Italy's full support for the International Criminal Court and reaffirmed that the fight against impunity for war crimes and crimes against humanity must be a priority of the international community. Grave violations must be prosecuted and punished either at the national or the international level, as those violations represented a threat to international peace and stability.

He said that in 2005, the Council referred the situation in Darfur to the Court, stating that the Government of the Sudan and other parties must cooperate fully. Cooperation was a dynamic process, requiring dialogue, mutual confidence and mutual respect. That could not be achieved without the fulfilment of obligations. The multidimensional nature of the process must be kept in mind, because the dimensions of politics, security, development and the rule of law were mutually reinforcing. It was not a zero-sum game. He noted that the Office of the Prosecutor had documented attacks by rebel factions that warranted further investigation.

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