



# Security Council

Sixty-eighth year

*Provisional*

**7080**<sup>th</sup> meeting

Wednesday, 11 December 2013, 3 p.m.

New York

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*President:* Mr. Araud . . . . . (France)

*Members:*

Argentina . . . . .	Mrs. Perceval
Australia . . . . .	Mr. Bliss
Azerbaijan . . . . .	Mr. Mehdiyev
China . . . . .	Mr. Zhao Yong
Guatemala . . . . .	Mr. Rosenthal
Luxembourg . . . . .	Ms. Lucas
Morocco . . . . .	Mr. Laassel
Pakistan . . . . .	Mr. Masood Khan
Republic of Korea . . . . .	Ms. Paik Ji-ah
Russian Federation. . . . .	Mr. Zagaynov
Rwanda . . . . .	Mr. Manzi
Togo. . . . .	Mr. Menan
United Kingdom of Great Britain and Northern Ireland . . . .	Mr. McKell
United States of America. . . . .	Mr. DeLaurentis

## Agenda

Reports of the Secretary-General on the Sudan and South Sudan

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*The meeting was called to order at 3.05 p.m.*

### **Adoption of the agenda**

*The agenda was adopted.*

### **Reports of the Secretary-General on the Sudan and South Sudan**

**The President** (*spoke in French*): In accordance with rule 37 of the Council's provisional rules of procedure, I invite the representative of the Sudan to participate in the meeting.

Under rule 39 of the Council's provisional rules of procedure, I invite Ms. Fatou Bensouda, Prosecutor of the International Criminal Court, to participate in this meeting.

The Security Council will now begin its consideration of the item on its agenda.

I give the floor to Prosecutor Bensouda.

**Ms. Bensouda:** In my last briefing to the Council in June (see S/PV.6974), I expressed my Office's frustration and despair at the Council's inaction and paralysis regarding the situation in Darfur. This is my Office's eighteenth report to the Council since the adoption of resolution 1593 (2005), by which the Council, acting under Chapter VII of the Charter of the United Nations, referred the situation in Darfur to the International Criminal Court.

Resolution 1593 (2005) represented hope for Darfur's victims — hope that there would be an end to their suffering; hope that there would be accountability for crimes, and that justice would not only be done but would be seen to be done; and hope, above all, that lasting peace and security would return to Darfur. That hope was strengthened even further when the Council mandated my Office to report on progress every six months in order to enable the Council to remain actively seized of their plight.

Sadly, with each report provided by my Office to the Council, the hopes of the victims of Darfur have faded. With this eighteenth report, it would be an understatement to say that all hope is lost. Over the years and despite the blatant disregard of the Government of the Sudan for the Council's resolutions and presidential statements, the situation in Darfur has continued to deteriorate and the plight of Darfur victims has continued to go from bad to worse. Not only does the situation in Darfur continue to pose a threat to international peace

and security, but other situations — such as that in Abyei, as well as the situation along the border between the Sudan and South Sudan — have also deteriorated. In 10 years, the situation in Darfur alone has cost the United Nations and humanitarian aid organizations more than \$10.5 billion, and has taken the lives of 47 aid workers, with many more injured and abducted.

Attacks on peacekeepers appear to have become the norm, with a record number of 57 killings. In this reporting period alone, peacekeepers from Tanzania, Rwanda, Zambia and Senegal have been killed. My Office salutes their sacrifices and recalls that intentional attacks on personnel involved in peacekeeping missions are crimes under the Rome Statute. Sadly, not enough seems to have been done to identify those responsible, despite the repeated insistence of the United Nations and the African Union that the Government of the Sudan must duly investigate. It is in the common interests of the United Nations, the African Union and the ICC to ensure that those responsible for attacking peacekeepers are swiftly brought to justice. I encourage the United Nations and the African Union to share information from their own internal investigations with my Office, in the interests of justice.

This year alone, 460,000 people have been newly displaced in Darfur. The number of people killed, abducted and displaced continues to grow each year. All these are crimes that will not stop unless the Council and the States parties to the Rome Statute show a determination to apprehend their authors.

Since 2004, the Council has adopted 52 resolutions and 17 presidential statements and issued 17 press statements on the Sudan situation as a whole. The Government of the Sudan's failure to cooperate with the ICC is but one of the many incidents of the Government of the Sudan's continuous failure and/or refusal to implement the Council's decisions. Inaction and paralysis within the Council have not only prolonged the suffering of Darfur's victims, but have bolstered Mr. Al-Bashir's resolve to ignore the Council, prompting him to even publicly boast in a 13 October 2011 speech that the Sudan does not implement Security Council resolutions.

The same, sadly, holds true today. Without stronger action by the Council and States parties, the situation in the Sudan is unlikely to improve. Alleged perpetrators of serious crimes against the civilian population will continue to commit crimes unless they are brought to justice. My Office has done its part, and it is now up to

the Council and to the States parties to heed the cries of the millions of victims of the crimes that continue unabated in Darfur. The time has come for the Council and States parties to seriously devise strategies for arresting those alleged to be responsible for these crimes. That is the only way to stop the seemingly endless suffering of the Darfur victims.

It is a serious indictment on the Council and on States parties that Mr. Al-Bashir and Mr. Hussein have been able to travel to various countries without fear of arrest. The Council's silence, even when notified of clear failures and/or violations by States Members of the United Nations of their obligations to comply with the Council's resolutions only serves to add insult to the plight of Darfur's victims. The question that Darfur's victims are undoubtedly asking themselves is: Has resolution 1593 (2005) become meaningless? What is the point of the Office of the Prosecutor's briefings if there is no concrete follow-up action taken by the Council? Why has none of the eight ICC Chamber communications transmitted to the Council by the Registrar not been acted upon?

At this point, we can do no more than recall the astute words of the Pre-Trial Chamber of the Court when it opined:

“When the Security Council, acting under Chapter VII of the United Nations Charter, refers a situation to the Court as constituting a threat to international peace and security, it is expected that the Council would respond by way of taking such measures which are considered appropriate, if there is an apparent failure on the part of the relevant State party to the Statute to cooperate in fulfilling the Court's mandate entrusted to it by the Council. Otherwise, if there is no follow-up action on the part of the Security Council, any referral by the Council to the ICC under Chapter VII would never achieve its ultimate goal, namely, to put an end to impunity. Accordingly, any such referral would become futile.”

In spite of the frustrations, challenges and obstacles, my Office's determination to carry out the mandate given to it by resolution 1593 (2005) has not and will not waver. We owe it to Darfur's victims to show them that we have not abandoned them and that we may be their only hope for justice. To this end, our judicial activities are ongoing; in particular, preparations for the trial of Mr. Abdallah Banda Abakaer Nourain are on track. My Office has focused on that case in particular,

taking into account that the trial is scheduled to start on 5 May 2014. The willingness of Mr. Banda to appear voluntarily is a clear sign of the confidence that he has in the system of justice provided at the ICC and his strong belief that he will receive fair, impartial treatment in accordance with the highest standards of procedural fairness and due process, including the right to be presumed innocent until proven guilty. A message to all other Darfur fugitives is that they have nothing to fear in coming to ICC if they are innocent. To be sure, any person brought before the Court will be afforded all the requisite facilities and enjoy the right to legal assistance and other necessary safeguards to ensure that he or she undergoes a fair trial that respects the due process guarantees stipulated in the Rome Statute.

The failure of the international community and the Council in particular to put pressure on the Government of the Sudan to arrest and surrender persons against whom arrest warrants have been issued continues to present an ongoing challenge for my Office in moving forward with the other trials. Within my Office's limited resources, security challenges and lack of cooperation on the part of the Government of the Sudan, my Office's activities in these other cases are limited to preserving evidence and maintaining contacts with witnesses. That is the only way we can ensure a smooth kick-start of judicial proceedings in the event that the fugitives are arrested.

The report submitted to the Council for this briefing provides an overview of allegations of crimes that continue to be committed in Darfur and that cry out for full investigation. It is particularly noteworthy and indeed disturbing that persons against whom arrest warrants have already been issued are allegedly implicated in the commission of these crimes. If it has not been clear to the Council before, it should now be clear that lasting peace in Darfur will remain elusive for as long as those alleged to be responsible for the commission of these crimes remain at large. The alleged crimes include attacks by the Ministry of Defence, either targeting or indiscriminately affecting civilians and other persons, as well as alleged attacks by rebel movements, alleged criminal acts affecting displaced persons, and alleged abductions of and attacks on humanitarian aid workers and peacekeepers, among others.

The plight of displaced persons is particularly worrying. Much as the precise numbers of displaced persons may be in doubt, there is reason to believe

that the crisis may even be worse than imagined and is exacerbated by lack of access to humanitarian aid, such as food, water and the most rudimentary shelter in the form of plastic sheets. Allegations of the hijacking or stealing of humanitarian aid food deliveries by the Government of the Sudan's Humanitarian Aid Commission are also of concern to my Office, as they have reportedly left hundreds of thousands of internally displaced persons suffering.

Alleged aerial bombardments affecting civilians also feature in our overview. There is no doubt that civilians continue to bear the brunt of all these armed attacks. My Office has taken note of a recent survey that identifies violence in Darfur as the major cause of death among refugees, and the apparent ongoing pattern of incidents previously highlighted by my Office wherein thousands of militia members enter targeted towns in Land Cruiser vehicles, on horseback and on camels and confront local tribe members. Those attacks have allegedly resulted in civilians killed and injured, with tens of thousands displaced at a time. My Office has also noted increasing clashes between Arab tribes that have in the past supported the Government of the Sudan's Janjaweed militia, including related concerns that the Government of the Sudan is increasingly willing to fan the flames of violence, even among its traditional allies, to deflect their demands for greater compensation for their involvement in the military campaign of the past 10 years.

My Office notes the pervasive and corrosive effect of organized sexual and gender-based violence on women and girls, which is a key concern for my Office, and the fact that it remains seriously underreported. Sexual and gender-based violence is undoubtedly a threat to peace and security in Darfur. My Office notes attacks on human rights defenders, civil society members and community leaders, which likewise have a corrosive effect on the ability of communities to speak up in search of justice, peace and security. Those communities are also increasingly exposed to unliveable conditions by attacks on humanitarian aid workers and peacekeepers, which diminish the assistance they can receive and which prevent the United Nations Mission in Darfur from being able to execute its mandate. The interference of the Sudan's National Intelligence and Security Services in the work of humanitarian aid workers has caused substantial deterioration in the level of health coverage that they have provided as a stop-gap to the total lack of local services.

On the matter of non-cooperation, the Council has yet to respond to eight formal communications from the Pre-Trial Chamber, including concerning the non-cooperation of the Government of the Sudan in the *Harun and Kushayb* case. The Council's silence and inaction contribute to the Sudan's continued determination to ignore the Council. The Office recalls the statement of the Chamber in these cases that the ICC has no enforcement mechanism and thus relies on the States' cooperation, without which it cannot fulfil its mandate and contribute to ending impunity.

Let me conclude by noting the Assembly of States Parties' omnibus resolution from its recent 2013 session — resolution ICC-ASP/12/Res.8 — in particular its reference, in paragraph 13, to the Security Council's presidential statement S/PRST/2013/2, of 12 February 2013. The resolution encourages further strengthening of the Security Council's relationship with the Court, such as through support for international justice in peacekeeping mandates, the holding of annual open debates on the Court and identifying other means to institutionalize cooperation. Rome Statute States parties have an essential role to play in making that stronger relationship a reality. That is certainly essential if we dare hope to make progress towards ending impunity in Darfur. I still believe that is possible. I hope the Council does as well.

**The President** (*spoke in French*): I thank Prosecutor Bensouda for her briefing.

I now give the floor to the representative of the Sudan.

**Mr. Osman** (Sudan) (*spoke in French*): Allow me, at the outset, to congratulate you, Mr. President, on your assumption of the presidency of the Security Council for this month.

(*spoke in Arabic*)

I should like to say, for the purposes of the record of this meeting, that our participation today does not mean that we recognize the International Criminal Court (ICC) or that we are going to cooperate with it, since the Sudan is not a party to the Rome Statute. My statement is addressed solely to the Security Council, in line with the 1969 Vienna Convention on the Law of Treaties.

What we have heard from the ICC Prosecutor reminds one of the statement made by the Minister for Foreign Affairs of a Member State of the Council to

justify her country's failure to join the ICC: that the privileges conferred upon the Prosecutor amounted to powers greater than those of Governments. The briefing we have heard today is a perfect example of that. The Prosecutor has addressed the Council as if she were giving members orders.

While serving to highlight that justification, the briefing also did not address the crux of the matter and strayed into addressing the relations between the Sudan and South Sudan, as well as the status of Abyei — almost as if the Prosecutor had become a judge and had more power than Governments. The briefing serves to underscore the fact that the ICC has taken on the role of a judge and become the political rival of the Sudan. The Prosecutor provided alleged information without citing the sources or without any member of her team having been given impartial information. The information came from biased sources.

The briefing ignored all the positive developments in Darfur as a result of the implementation of the Doha Document for Peace by the Darfur transitional Authority, including all the steps taken by the special court to begin to bring to justice those alleged to have committed crimes in Darfur. The Prosecutor also did not mention the willingness of the Sudanese judicial system to combat impunity, nor its ability to do so. We have provided the Council with a great deal of information concerning the special court for Darfur and the trials of those who committed crimes. That serves to highlight the willingness of the Government of the Sudan to end impunity and the fact that the judicial system in my country is willing and able to do so.

Perhaps the Council has taken note of the position of the African Union following its contact group to the region in November. I also wish to recall the emergency Summit held in Addis Ababa in October. Perhaps that will serve to remind us that the African Union has lost entire confidence in the ICC given the distortion of the Rome Statute owing to the politicization of international justice, which many had warned against. We also recall the decision taken by African leaders that no African President should not be brought before the ICC or any foreign court while they are in office. A failure to respect Africa's will and its right to deal with its own cases would run counter to the right of people to democracy and freedom. Great strides have been made to implement all aspects of the the Doha Document for Peace, including justice and reconciliation.

As I mentioned at the beginning of my statement, we have provided the Council with ample information on the measures taken by the prosecutor of the special court for Darfur. Those measures have resulted in sentences of capital punishment against six people on the Abu Zereiga incident. We also recently provided the Council with information on an investigation into crimes against peacekeepers of African Union-United Nations Mission in Darfur and aid workers, as well as information on all ongoing judicial proceedings. We will also transmit to the Council information about the sentences of the court.

All that clearly shows the willingness and ability of the Sudanese justice system to deliver justice. It also serves to highlight the fact that national legal measures are ongoing in Darfur — in contrast to the briefing and the report that was presented to the Council.

**The President** (*spoke in French*): I shall now going to give the floor to members of the Security Council.

**Mr. Masood Khan** (Pakistan): We thank Ms. Fatou Bensouda, Chief Prosecutor of the International Criminal Court (ICC), for the briefing on her eighteenth report to the Security Council. We have heard the statement made by Elhag Ali Osman, Permanent Representative of the Sudan.

Pakistan is not a party to the Rome Statute of the International Criminal Court, but we do recognize the rights and obligations of the States parties to the ICC.

During its term as a non-permanent member of the Council, Pakistan has consistently supported a peaceful and viable resolution of the conflict in Darfur through an inclusive political process, one that respects and upholds the unity, sovereignty and territorial integrity of the Sudan. We have noted from the Prosecutor's report that the trial of Abdallah Banda will start on 5 May 2014, and that the defendant will appear voluntarily before the Court.

It is mandatory for all States to protect the right to life of their citizens. The Government of the Sudan must therefore continue to take all the necessary measures to investigate human rights violations in Darfur and bring violators to justice. We welcome the steps taken by the Government of the Sudan towards the implementation of the Doha Document for Peace in Darfur and the establishment of the National Human Rights Commission. The international community must continue to fight impunity by utilizing a full range of



justice and reconciliation mechanisms, including truth and reconciliation commissions, national reparations programmes and institutional and legal reforms. The relationship between the ICC and the Security Council should be managed correctly and skilfully so that the independence of the Court is not compromised. The Court and the Council should have the necessary space to maintain statutory distance between them. The utilization of peacekeeping mandates for the objectives of the ICC mentioned in the report, for instance, should not blur the distinction between the jurisdictions of the Court and the Council.

A sustainable and viable peace in Darfur can be realized only through a broad-based, multipronged approach. Our efforts should provide impetus to an inclusive political dialogue, prevent attempts to derail the political process, through a policy of incentives and deterrence, promote justice and reconciliation, create a conducive security environment and address the human rights and humanitarian aspects of the conflict in Darfur. We agree with the Prosecutor that regional and subregional organizations and arrangements contribute to accountability. That is best done by enhancing the capacity of national justice systems. In that regard, we support the efforts of the United Nations and the African Union (AU), particularly the AU High-level Implementation Panel, towards achieving peace, stability, justice and reconciliation in Darfur. In addition, the League of the Arab States and the Organization of Islamic Cooperation should be closely associated with those efforts.

Overall, the security and political situation in Darfur shows a mixed record of progress and setbacks. We welcome the initial steps taken by the signatories of the Doha Document for Peace in Darfur towards implementing the Darfur development strategy and the work undertaken by the Darfur Regional Authority in developing various projects. It must be insured that those projects a tangible impact on the lives of ordinary people in Darfur. It is equally important that all pledges made at the Doha donor conferences be fulfilled at the earliest possible time. Simultaneous progress on both those tracks will strengthen the prospects for peace in Darfur. The Council should continue to encourage the engagement of the Joint Chief Mediator with the non-signatory armed opposition groups. Incidents similar to the killing of Mohamed Bashar should not be repeated. Similarly, the Council should send a strong political message to prevent the armed groups outside Darfur from further destabilizing the region.

Recently, inter-tribal clashes over natural resources have become a major security challenge in Darfur. We urge the Government of the Sudan to intensify its efforts to address the deep-rooted causes of conflict and friction in the region. Progress on all provisions of the Doha Document, particularly those related to land and property issues, will help improve the situation. The international community will have to take bold decisions to provide economic relief to the Sudan in order to ease fierce competition over resources. An essential first step is to lift the debilitating bilateral sanctions against the Sudan that adversely impact ordinary people and indirectly fuel disputes over resources.

The people of the Darfur region have faced a long conflict that has cast its shadow over the lives of an entire generation.

The conflict must not go on forever. We must help the people of Darfur reconcile their quest for peace and justice with the goal of a lasting political solution.

**Mr. Mehdiyev** (Azerbaijan): At the outset, I would like to thank Ms. Fatou Bensouda for her briefing and for presenting the eighteenth report of her Office to the Security Council, and to thank the Ambassador of the Sudan for his statement. We take note of the efforts of the Office of the Prosecutor aimed at investigating violations of international human rights and humanitarian law in Darfur.

The Doha Document for Peace in Darfur constitutes the primary basis for dialogue and sustainable conflict resolution. We note that some important steps have been taken to defuse intercommunal tensions and promote reconciliation in Darfur.

At the same time, the security situation in Darfur continues to be volatile. Intensified attacks by non-signatory armed groups and their attempts to expand combat operations to other regions of the Sudan have resulted in civilian casualties, substantial population displacement, the looting of civilian property and deterioration in the humanitarian situation on the ground. The allegations of continued sexual and gender-based violence in Darfur are a matter of particular concern. The reports of human rights violations and abuses committed against civilians should be properly investigated so as to bring those responsible to justice and prevent such violations from being repeated in the future.

The persistent refusals of non-signatory armed groups to join the peace process seriously hamper the

prospects for further progress in the implementation of the Doha Document. We believe that greater pressure should be exerted on those groups, including through targeted sanctions, to make them renounce violence and lay down their arms.

Unfortunately, the international presence in Darfur, including United Nations staff members, aid workers and peacekeepers, has continued to face attacks throughout Darfur during the reporting period. Azerbaijan strongly condemns all such attacks, which constitute a crime under international law. The ongoing investigation must be finalized in order to bring the perpetrators to justice and avoid impunity for such offenses. We note that the Office of the Prosecutor has put a priority on addressing that issue.

In conclusion, we once again stress the need for the international community's further support for the implementation of the Doha Document and the importance of rebel groups renouncing violence as vital prerequisites for ensuring durable peace and reconciliation in Darfur.

**Mr. Zhao Yong** (China) (*spoke in Chinese*): I have listened carefully to the briefing by Prosecutor Bensouda and the statement made by the Permanent Representative of the Sudan. The question of Darfur is very complicated and involves many elements, including the political process, security and stability, development and reconstruction, humanitarian assistance and justice and judicial order. Among those elements, the political element is key. Only by promoting sustained progress in the political process can lasting peace be achieved in Darfur and solid foundations be laid for progress in other areas, such as justice and the rule of law.

China believes that all of the efforts of the international community regarding Darfur should first facilitate pushing the political process in Darfur forward and then achieving other goals.

The Sudanese Government plays a key role in the promotion of the political process. Recently, the Sudanese Government has been committed to promoting the peace process in Darfur, implementing the Doha Document for Peace in Darfur in good faith, and diffusing intercommunal ethnic conflicts. In the mean time, it has invited rebels to join the national dialogue with a view to seeking a comprehensive political settlement for the question of Darfur. The rebels, on the other hand, have also reiterated that

they are ready to seek the reunification and territorial integrity of the Sudan. China welcomes that.

We call on the international community to provide active support and assistance to the Sudanese Government, and we hope that the International Criminal Court (ICC) will play a constructive role in that regard.

As for the ICC's work relating to the question of Darfur, China's position remains unchanged. We hope that, in that regard, the Council will take into due account the positions of the African Union, the League of Arab States and other organizations and countries in the region.

**Mr. McKell** (United Kingdom): I thank Ms. Bensouda for her report and for the briefing today. Sadly, we have not seen an improvement in the situation in Darfur since she last addressed the Council in June (see S/PV.6974). The situation in Darfur remains a serious concern. Over the past six months, we have continued to see heavy intercommunal fighting and sporadic clashes between Government and rebel forces, and we have received reports of continued aerial strikes by the Government of the Sudan. It has been reported that over 460,000 individuals have been newly displaced between January and November of this year.

Humanitarian aid workers and peacekeepers continue to be attacked throughout Darfur. In particular, we would like to take this opportunity to condemn the attack on the African Union-United Nations Hybrid Operation in Darfur (UNAMID) on 24 November, which resulted in the death of one Rwandan peacekeeper, bringing the total killed in the past year to 13. Many others were injured in that attack, and we wish them a speedy and full recovery. Such attacks against UNAMID are unacceptable. We hope that the ongoing review of the Mission will address the challenges facing UNAMID. We call on all parties to ensure that the Mission is granted full and unfettered access across Darfur.

We thank the Prosecutor for her updates on the trial of Abdallah Banda and on the termination of proceedings against Saleh Jerbo following reports of his death.

It remains a matter of deep concern, however, that the Government of the Sudan continues to frustrate the pursuit of justice for the people of Darfur by shielding all of the others currently indicted by the International

Criminal Court (ICC). The Government of the Sudan has a clear and indisputable obligation to cooperate with the Court pursuant to resolution 1593 (2005). It has consistently and repeatedly failed to do so. We call once again on the Government of the Sudan to meet its obligations and to cooperate with the ICC, including with respect to the enforcement of the five separate arrest warrants issued by the Court.

During the reporting period, we once again saw some ICC States parties regrettably fail to comply with their obligations under the Rome Statute by not implementing the arrest warrants when visited by someone indicted by the Court. The United Kingdom urges all ICC States parties to meet their obligations under the Rome Statute with respect to the travel of fugitives from the Court.

The references in the report to crimes of sexual violence in Darfur are disturbing. We are grateful to the Office of the Prosecutor for its ongoing work in that regard. The United Kingdom believes that there is more that can and must be done to combat sexual violence and address the culture of impunity that has been allowed to develop for such crimes. That culture must be replaced with one of accountability. We encourage all States to cooperate with the Court so as to ensure that the alleged perpetrators of those and other serious crimes of concern against the people of Darfur are held accountable for their actions.

In a presidential statement in February this year (S/PRST/2013/2), the Council reiterated its previous call for States to cooperate with Courts and Tribunals, and expressed its commitment to an effective follow-up to Council decisions in that regard. It is now high time that the Council did so by looking urgently at what it can do to assist the Court so that it can complete the task we gave it when we referred the situation in Darfur to the Court over eight years ago.

**Mr. Zagaynov** (Russian Federation) (*spoke in Russian*): We would like to thank the Prosecutor of the International Criminal Court (ICC) for the eighteenth report to the Council and for her briefing today.

The ICC is called upon to make an important contribution to efforts to bring to justice those involved in the gravest crimes committed during the Darfur conflict. Their efforts in that regard complement the work of national legal institutions in combatting impunity. The Court needs to render an objective assessment of the acts committed by all parties involved

in various situations. The Court's effectiveness in meeting that challenge will decide its reputation and thereby how seriously States take the Court. With regard to the situation in Darfur, that means that a careful, unbiased investigation must be conducted into the cases of both Sudanese officials and leaders of rebel groups, who also have serious violations to answer for, which deserve the Court's attention. We are satisfied with the balanced approach of the Prosecutor in that regard.

In the eight years since the Council adopted resolution 1593 (2005), the ICC has achieved some success in investigating Sudanese cases. Some have reached the stage where further legal action is impossible without the presence of the accused in The Hague. That situation requires further steps by the Court in the context of seeking optimal approaches to the problem of combating impunity in the framework of the Rome Statute. In that connection, we note the importance of States discharging their corresponding obligations to cooperate with the Court under the norms of immunities for senior Government officials.

We welcome the Prosecutor's steps in bringing to justice the perpetrators of the attacks on African Union peacekeepers in Haskanita in 2007. A significant amount of work has been done on the cases of the rebel leaders Banda and Jerbo. We have taken note of information on the closure of the Jerbo case, due to the death of the accused. Nevertheless, it is important not to lose the momentum achieved in the Banda trial and to avoid delays for reasons of a non-objective nature.

We expect that the Court's discharge of its functions in the delivery of justice regarding the situation in Darfur will continue to be harmoniously integrated into the peace settlement and post-conflict reconstruction process.

**Ms. Lucas** (Luxembourg) (*spoke in French*): I would like to thank the Prosecutor of the International Criminal Court (ICC), Ms. Fatou Bensouda, for presenting her eighteenth report on the situation in Darfur. Since the Security Council decided to refer the situation in Darfur to the ICC, the Office of the Prosecutor has informed the Council in a transparent manner about its work, and we would like to thank it warmly for that.

The reports of the Office of the Prosecutor give the Council an opportunity to evaluate the ICC's progress in combating impunity and to become aware



of the numerous obstacles confronted by the Court. Unfortunately, the concerns that the Council has often expressed in the past remain pertinent. We must note once again with deep regret that the arrest warrants delivered by the ICC for four individuals accused of war crimes and crimes against humanity and, in one case, genocide have not yet been executed. We are deeply concerned to take note of the list that Ms. Bensouda has given in her report of cases of non-cooperation on the part of the Government of the Sudan with the Court in spite of their obligations under resolution 1593 (2005). We also regret that the President and the Minister of Defence of the Sudan have been able to travel to several countries in the region, including those that are parties to the Rome Statute.

During the past six months, the security and humanitarian situation in Darfur has continued to deteriorate significantly. Conflicts have become more and more frequent and more and more deadly in several parts of Darfur. Approximately 460,000 persons have been displaced between January and November 2013, which is more than double the total number of people displaced in the two years prior.

We are also very much concerned by attacks against civilians, especially through aerial bombardment; the many acts of sexual and gender-based violence; frequent attacks against those who come to assist the Sudanese people, particularly humanitarian workers and the Blue Helmets; and the repeated refusals to provide humanitarian access. Those crimes threaten a peace process that is already fragile, based on the Doha Document for Peace in Darfur. The Council condemned them clearly in its resolution 2113 (2013). Luxembourg encourages the Office of the Prosecutor to continue to monitor the situation in Darfur closely and to promote the investigations having to do with the crimes committed there.

Serious threats continue to weigh on the safety and security of the humanitarian staff and African Union-United Nations Hybrid Operation in Darfur (UNAMID) personnel. We condemn in the strongest possible terms attacks against UNAMID, which have caused 13 deaths among peacekeepers and many wounded people since the beginning of the year. To date, none of the investigations conducted by the Government of the Sudan on those attacks have resulted in the slightest condemnation. It is unacceptable that the Government refuses to cooperate with the ICC, while at

the same time it does not take the necessary measures at the national level to combat impunity.

We ask all Member States, whether or not they are States parties to the Rome Statute, and all regional and international organizations concerned to cooperate fully with the ICC, as required by resolution 1593 (2005). For its part, the Security Council must ensure effective follow-up of cases referred to the ICC. It must not shirk the inherent responsibility in the cases referred to the Court. Generally, we believe that it is vital to strengthen cooperation between the Council and the ICC. The two institutions are complementary. They pursue the same objectives, each one in the framework of its own mandate: preventing conflict, and combating impunity. We believe that the Council should think about what more it could do to assist the Court, especially to assist the Court to execute the mandates given to it.

One way of helping the Court would be to list individuals under an ICC arrest warrant on the sanctions Committee established pursuant to resolution 1591 (2005). Another specific measure that the Security Council could take would be to answer the correspondence that the Court has addressed to it on cases of non-cooperation. As recalled by Ms. Bensouda, the Court depends on the cooperation of States in order to be able to discharge its mandate. The silence of the Security Council in that context is not encouraging a change of attitude on the part of the Sudan.

In conclusion, I would like to assure Ms. Fatou Bensouda of the full support of Luxembourg in the resolute action that her Office continues to conduct to combat impunity. We associate ourselves with her vibrant appeal for stronger action from the Security Council and States parties to the Rome Statute so that justice can finally be done for the victims of the Darfur conflict.

**Mr. Rosenthal** (Guatemala) (*spoke in Spanish*): We welcome the Prosecutor of the International Criminal Court (ICC), Ms. Fatou Bensouda, and we thank her for her eighteenth report to the Council, pursuant to resolution 1593 (2005).

We take note of the statement made by the Permanent Representative of the Sudan.

The report before us echoes the many appeals made by the Council in its resolutions, expressing once again the collective concern of this body over the current situation in Darfur and the lack of cooperation on the

part of the Government of the Sudan for the execution of the arrest warrants mentioned in the report.

We also take note of the updates presented in the report on recent judicial activities, particularly the preparations for the trial of Abdallah Banda, the registry of the trips made by other accused individuals and the interaction with other States in regard to fulfilling their obligations to execute the arrest warrants as States parties to the Court. We regret the fact that notifications have not been duly addressed in many of those cases.

On the other hand, we are pleased to see the investigative work being done by the Office of the Prosecutor to put an end to impunity in the region of Darfur. From a political point of view, it coincides with resolution 2113 (2013), which reflects the seriousness of the situation in Darfur and the very dangerous situation faced by African Union-United Nations Hybrid Operation in Darfur personnel in carrying out their mandate.

Once again, the report details supposed aerial bombardments carried out by the Sudanese Armed Forces targetting the civilian population, who naturally are extremely concerned. Similarly, during the recent period, tensions between the Sudanese Armed Forces and the rebel movements have continued, which, along with the intercommunal clashes over natural resources, have increased the tensions in the region, which is already suffering.

Also alarming are the reports on incidents related to sexual and gender-based violence and to crimes and attacks against human rights officials, humanitarian workers and peacekeepers. We are particularly concerned by the loss of 13 members of the peacekeeping forces and 47 humanitarian workers. Those events warrant exhaustive investigations, since they violate the integrity of the civilian population and have, consequently, a significant impact on the fragile peace process, which is based on the Doha Document for Peace in Darfur.

Guatemala, as a State party to the International Criminal Court, cannot ignore the suffering caused to the population and the serious crimes committed in Darfur, as well as the results of the investigations, which report actions that would constitute crimes against humanity. We reiterate that there cannot be peace without justice.

We express our concern about the failure to carry out arrest warrants against the four individuals

identified in the Prosecutor's report who are responsible for crimes against humanity committed in Darfur. While we understand how extraordinarily sensitive it is for the Government of the Sudan to carry out the investigations, we once again urge the Government to show its cooperation in accordance with resolution 1593 (2005). We are also concerned that some States parties to the Court are not complying with the cooperation required of them to execute those arrest warrants.

We consider it essential to strengthen cooperation between the Security Council and the International Criminal Court. In that context, our delegation hopes that the existing cooperation can be renewed by combining the legal and political perspectives for maintaining international peace and security. That, of course, does not mean that the Court should be politicized or that the Council should be judicialized; rather, the combination of both authorities, each in their respective field of action, could fulfil their common mandate of conflict prevention and combating impunity.

Finally, we would like to reiterate to the Prosecutor of the International Criminal Court Guatemala's support and cooperation in carrying out its mandate.

**Mr. Bliss** (Australia): I would like to thank Ms. Bensouda for her briefing, for the comprehensive report submitted to us and for the continuing efforts of the Office of the Prosecutor in relation to the situation in Darfur in difficult circumstances.

Australia is deeply concerned that, in the six months since the Prosecutor's last briefing (see S/PV.6974), there has been no improvement in the situation in Darfur. Violence has continued unabated. Furthermore, the Prosecutor's report makes it clear that crimes, including the targeting of civilians, sexual and gender-based violence, forced displacements and attacks on humanitarian workers and peacekeepers continue to be committed.

Australia remains concerned at the continued failure on the part of the Government of the Sudan to ensure the protection of civilians, and at its failure to cooperate fully with the African Union-United Nations Hybrid Operation in Darfur and the Special Representative for Darfur.

As the Council recognized when it referred the situation in Darfur to the International Criminal Court (ICC) eight years ago, the ICC has a crucial role to play in ensuring accountability in Darfur. Given the ongoing

violence and crimes being committed, that fact is no less true today than it was eight years ago.

While we welcome the Office of the Prosecutor's ongoing preparations for the trial of Abdallah Banda, it is clear that the Office has been unable to progress on other investigations and prosecutions owing to the Sudan's failure to cooperate with the Court. The ongoing failure to arrest and surrender, or to bring to justice, President Al-Bashir, Defence Minister Hussein, the Governor of Southern Kordofan, Ahmad Harun, and Ali Kushayb is of particular concern. While the adoption of policies of non-essential contact has somewhat limited the movements of the indictees in the most recent reporting period, Australia regrets that President Al-Bashir and Defence Minister Hussein have been able to travel outside of the Sudan, including to certain ICC States parties, without being arrested.

For eight years, the Sudan has ignored its obligations under resolution 1593 (2005). In response, the Council has been virtually silent. The inescapable conclusion is, as Ms. Bensouda has put it, that the Council's silence and inaction have contributed to the Sudan's continued determination to ignore the Council.

The Council's inaction on that issue lies in stark contrast to the Council's recognition of the importance of accountability processes. As Ms. Bensouda has reminded us, as recently as 6 August the Council recalled that

"justice and rule of law are of key importance for promoting and maintaining peace, stability and development in the world" (*S/PRST/2013/12, p. 5*).

The same presidential statement emphasised that

"ending impunity is essential in a conflict and post-conflict society's efforts to come to terms with past serious crimes under international law, and in preventing future serious crimes under international law" (*ibid.*).

The time has well and truly arrived for the Council to take concrete steps to assist the Court in relation to the situation in Darfur. We need to consider carefully what the Council can do to support the Court, which, after all, is only exercising its jurisdiction as a result of the Council's referral. As Australia has suggested before and as has been suggested earlier today, one obvious step for the Council to take would be for the Council's Sudan Sanctions Committee to give greater consideration to how the measures at its disposal could

assist the ICC on the execution of the outstanding arrest warrants. But we can do more. We support the view that we need a Council forum for legal experts to discuss ICC matters, so as to strengthen the Council's cooperation with the Court.

We note that differences of view have emerged among States in recent months on the role of the ICC in particular contexts. In that connection, it is noteworthy that the meeting of the Assembly of States Parties to the Rome Statute of the International Criminal Court in November demonstrated that, by adopting a flexible and constructive approach, appropriate solutions can be found to address legitimate concerns. It is essential, however, that all ICC States parties abide by their obligations under the Rome Statute, including in relation to cooperation with the Court.

Eight years after the Council's referral of the situation in Darfur to the ICC, conflict continues to be a daily reality. Rome Statute crimes continue to be perpetrated with impunity, and that only fuels further violence. It is crucial, therefore, that the Council provide stronger support for the Court's efforts to end impunity than it has to date.

**Mrs. Perceval** (Argentina) (*spoke in Spanish*): As is the custom in the Council, I will focus specifically on the topic of this debate, which is to analyse the eighteenth report of the Prosecutor of the International Criminal Court received by the Security Council, in accordance with resolution 1593 (2005).

Not as a reproach, but rather so as to exercise our memory, I would like us, Council members, to remember that in February, through resolution 2091 (2013), we noted that the population of Darfur was in an "urgent humanitarian crisis". We also reiterated the demand for an end to military actions, indiscriminate attacks on and other violence against civilians, the recruitment of child soldiers, other crimes against children and abuses against women.

In July, the Council adopted resolution 2113 (2013), in which it stressed the importance of full compliance with all of its resolutions on the Sudan and recalled the importance of ending impunity and ensuring justice for crimes committed in Darfur. In that respect, Argentina also notes that the Office of the Prosecutor is mandated to act in accordance with the provisions of the Council's resolutions that specifically address the responsibilities of that Office.

Furthermore, Argentina notes that the Prosecutor is mandated to deal with current crimes, including — as other members have mentioned — aerial and ground bombardments affecting civilians, high numbers of civilian deaths, sexual and gender-based violence, attacks on human rights and civil society activists, kidnappings, attacks on humanitarian workers and the staff of the African Union-United Nations Hybrid Operation in Darfur, impeded access of humanitarian personnel and peacekeeping forces and the forced displacement of civilians that has generated — according to what is known and accepted as accurate — some 430,000 newly displaced people.

As has also been noted in prior statements, the briefing on Darfur by the Prosecutor of the International Criminal Court (ICC), in addition to taking stock of the crimes committed, emphasized the crucial factor of cooperation. Despite any subjective opinion that one might entertain of the individual in the position of Prosecutor, an objective assessment of the functions of the Prosecutor — which, in accordance with the Statute, are established on the basis of the principles of cooperation and complementarity — would demonstrate that she is simply doing what she is supposed to do. The work of the ICC and the Prosecutor is to promote cooperation and complementarity; it is not to provoke or cause conflict.

In that context, the Government of the Sudan, pursuant to resolution 1593 (2005), is required to cooperate with the Court and to provide all necessary assistance. The resolution also calls on States not party to the Rome Statute and all Members of the United Nations to cooperate with the Court, without politicizing the situation, and to continue to fight against impunity.

The issue of cooperation with the Court includes cooperation in the execution of arrest warrants and follow-up by the Council through referrals to the International Criminal Court. The Prosecutor's briefing recalled — as many Council members have also done — that none of the eight formal communications from the Court to the Council has elicited any response or action on the part of the Council. I must add that the Council has not even acknowledged receipt of those communications. However, in presidential statement S/PRST/2013/2, we Council members committed to effective follow-up. To date, however, and despite our efforts, there has been no agreement on a mechanism to follow up referrals to the International Criminal Court.

Again, I believe that we must focus on dealing with that issue.

I wish to conclude by recalling that in resolution 2113 (2013), the Council urged all parties to the conflict to make every effort to reach a permanent ceasefire and a comprehensive peace settlement based on the Doha Document for Peace in Darfur, and to immediately cease all acts of violence and fulfil their responsibilities under international humanitarian and human rights law. It urged the Sudan to cooperate with the ICC in accordance with the Council's earlier resolution 1593 (2005).

For our part, we must assume our responsibilities under our own resolutions and ensure that the Court is provided with adequate funding when that debate takes place before the General Assembly, and must encourage all States members of the international community to cooperate in good faith with the International Criminal Court.

**Ms. Paik Ji-ah** (Republic of Korea): I thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court, for her briefing on recent developments in the Darfur situation. As the Prosecutor has explained in detail, the overall situation in Darfur has shown little improvement since her briefing in June (see S/PV.6974). Intertribal and intercommunal clashes still continue and hinder peacekeeping operations and humanitarian aid workers.

The lack of cooperation among the parties concerned and of capabilities and political will on the part of the Sudanese Government remain major obstacles to the effective functioning of the International Criminal Court (ICC). The ensuing delay in delivering justice to the fullest extent in that part of the region continues to take its toll on innocent people. Under those circumstances, it is commendable that the ICC has made progress in its judicial activities, especially the preparations for the trial of Mr. Abdallah Banda. My delegation hopes that the trial will go forward as scheduled, and that it will mark another milestone in the Sudan situation.

The efforts of the Office of the Prosecutor to garner international support to execute outstanding arrest warrants are also appreciated. Although it is regrettable that the warrants have not yet been fully executed, the efforts of the ICC to urge the State parties concerned to cooperate with it deserve due recognition.



Meanwhile, new allegations are being reported in the region. My delegation shares the serious concern of the Prosecutor regarding those allegations, including alleged aerial and ground attacks affecting civilians and alleged crimes against human rights activists and humanitarian aid workers. The allegations that the Sudanese Government is allowing militias to loot and pillage with complete impunity and its security organs to interfere in the work of aid workers are points of particular concern. In addition, the investigation into disturbing reports of sexual and gender-based violence should be made a priority, as the alleged victims are the most vulnerable and also make up the fundamental threads of that region's fragile social fabric.

In order to achieve stability in the Darfur region, all such allegations need to be thoroughly investigated and all of those responsible for such crimes should be held accountable. My delegation encourages the Prosecutor to keep up her investigating efforts until justice is delivered to the victims of such serious crimes.

On the issue of non-cooperation, there should be no doubt that the ICC requires the full cooperation of States parties in fulfilling its mandate. In cases that have been referred to it by the Security Council, the ICC also needs the Council's robust support. My delegation would therefore like to stress that it is incumbent upon the Sudan to cooperate fully with the ICC, in accordance with resolution 1593 (2005). The Council must also redouble its efforts to expand interaction and dialogue with the ICC with a view to further improving such cooperation.

We have taken note that the Prosecutor has called upon the Security Council to ensure compliance with the Council's resolutions by the Sudan and other Governments concerned with regard to the four suspects at large. The Council needs to consider what support it can provide to the ICC in that regard. At the same time, the Council, in close interaction with the ICC, should continue to closely monitor the Darfur situation. My delegation stands ready to work with other Council members and the ICC.

**Mr. Laassel** (Morocco) (*spoke in French*): I would first like to welcome Ms. Fatou Bensouda and thank her for her presentation of the eighteenth report of the International Criminal Court (ICC), in accordance with resolution 1593 (2005). Since her last report (see S/PV.6974), the situation in Darfur has continued to develop, with some positive progress at the political

level, in contrast to the deterioration of the security situation.

In regard to the political process, we welcome the positive progress that has been seen in the implementation of the Doha Document for Peace in Darfur and the Darfur Development Strategy adopted at the Doha donor conference held on 6 and 7 April. The traditional conflict-resolution mechanisms have been reactivated and have demonstrated their effectiveness. The joint efforts of Government and local authorities, traditional leaders and the African Union-United Nations Hybrid Operation in Darfur (UNAMID) are reasons for hope, but they should be strengthened and supported. The growing involvement not just of UNAMID but also of the Government and the regional authorities of Darfur has helped, if only a little, to reduce tensions and thereby to avoid an increase in the number of displaced persons, which is still at alarming proportions.

However, peace in Darfur cannot be achieved without first assuring peace and security for the people. The deterioration of the security situation is due mainly to violent intertribal clashes whose underlying causes are generally connected to the control of natural resources. Another aspect of the current insecurity that worries us greatly is the increase in attacks on UNAMID. The attacks are deliberate and demonstrate a willingness not merely to circumvent the political process but to intimidate UNAMID and cause its mission to promote peace and reconciliation to fail. The perpetrators and instigators of the attacks should be arrested and brought to justice. Rebel groups that are deliberately attacking civilians or are involved in attacks on Blue Helmets must also be pursued. We should take all these factors as a whole into consideration and act accordingly.

For its part, Morocco has always called for a political settlement among all the parties concerned in order to mitigate the suffering of the civilian populations and reaffirm our dedication to respect for international humanitarian law and human rights. We also reaffirm our dedication to the sovereignty and territorial integrity of the Sudan. Morocco has always shared its belief in the Doha Document for Peace and its conviction that it represents the only possible way out of the conflict and therefore should be more firmly supported, so as to enable the root causes of the conflict to be addressed.

The current situation in the Sudan deserves the wholehearted attention of the international community

in order to enable the country to return to peace and stability. The significant improvement in neighbourly relations with South Sudan is also an important element that we hope will have a positive effect on the evolution of the situation on the ground. The Sudan has shown its availability and willingness to cooperate with all parties concerned, witnessed by the many agreements that have been signed. However, the decision of the ICC to blame President Al-Bashir does not enjoy international consensus. The Organization of Islamic Cooperation, the Arab League and the Non-Aligned Movement, among others, have questioned the basis for taking such a step. Perhaps it is time to look at a process that would respect international justice without threatening the countries' peace and stability. We should also clarify the question of the cooperation of States that are not parties to the Rome Statute, which find themselves in a complex situation in many ways.

In conclusion, we believe that the long process that will enable a return to peace and stability cannot be achieved without the effective and coordinated cooperation of all parties concerned, including regional organizations and mediation mechanisms.

**Mr. Manzi (Rwanda):** I would like to thank Ms. Fatou Bensouda, the Prosecutor of the International Criminal Court (ICC), for her briefing on the Prosecutor's report to the Security Council. We also take note of the statement delivered by the Permanent Representative of the Sudan, Mr. Osman, and of the steps taken by the Government of the Sudan to implement the Doha Document for Peace in Darfur, restore peace and harmony in the communities of Darfur and appoint a special prosecutor for Darfur with a team to help ensure accountability for perpetrators of crimes in Darfur.

However, while we acknowledge that progress, there are also cases reported of human rights violations and abuses and active hostilities between the Government of the Sudan and armed groups that affect civilians. Repeated attacks on United Nations peacekeepers are now complicated by cases of intercommunal violence over land and other natural resources in the region. We encourage the Government of the Sudan to investigate, to bring the perpetrators to justice and to ensure that reparations are made and victims protected.

The Security Council has been an active partner in working for peace in Darfur for more than 10 years through its decisions and continuing support to the African Union-United Nations Hybrid Operation in Darfur (UNAMID). It has endeavoured to protect

Darfur's civilians. While there are challenges, we note that there are also opportunities that the Council should not squander if we do indeed want peace and security in Darfur. First, we commend the efforts of Mr. Mohamed Ibn Chambas, the Joint Special Representative and Joint Chief Mediator, to bring all stakeholders, especially the non-signatories of the Doha Document, to the negotiation table, and we urge the Council to rally behind those efforts.

While the Government of the Sudan and other signatories to the framework are making efforts to implement the Doha Document, it is unfortunate that three major groups in Darfur have not yet joined it. It is essential that the Council and all its members, especially those with influence on the parties concerned, to push them towards adhering to the Document, in order to end this long conflict. It is essential that the Government and the other signatories to the Document redouble their efforts to implement it, especially in the areas of security, landownership, the rule of law, civil service reform and justice, which, as the Secretary-General's recent report on UNAMID (S/2013/607) indicates, still lag far behind the implementation timeline. Equally important for ensuring the successful implementation of the Doha Document is that the donors from the Darfur donor conference should honour their commitments.

The other opportunity that the Council has been presented with concerns the justice system in place in Darfur. The Secretary-General's report on UNAMID indicates that since his appointment in 2012, the Special Prosecutor for Darfur has brought nine cases of serious crimes to trial, resulting in 42 convictions, and is currently investigating another 57 cases. In that regard, it would be wise for the ICC and the Council to support the work and initiatives of the Special Prosecutor. One way to do that is to monitor the status of his cases under either the Doha Document or, as was requested at our most recent meeting on UNAMID (S/PV.7048), through the Council ensuring that the Government of the Sudan regularly informs us about the status of investigations and prosecutions, mainly of the perpetrators of attacks on peacekeepers and humanitarian staff.

Regarding the indictment issued by the Prosecutor of the ICC against officials of the Government of the Sudan, including President Omer Hassan Al-Bashir, our position is well known. Rwanda endorses all seven decisions of the Assembly of Heads of State and Government of the African Union on the issue adopted since February 2009. We would particularly like to

reiterate our support for the African Union's view that the quest for justice should be pursued in a way that does not impede or jeopardize efforts to promote lasting peace. We believe that all African countries that have received President Al-Bashir in their territories have done so in conformity with the decisions of the African Union summits and in pursuit of the same goal of peace in the region. We take this opportunity to once again underscore the importance of genuine cooperation between the Security Council and regional and subregional organizations. That cooperation can never flourish without two-way, mutual respect.

Rwanda also calls on the Council and human rights and humanitarian actors to continue supporting UNAMID as it provides technical assistance to both State and non-State counterparts in order to build their capacity to recognize, analyse and productively address human rights issues in Darfur.

To conclude, let me reaffirm that Rwanda, as a member of the Security Council, a member of the African Union, and one of the major troop- and police-contributing countries in UNAMID, will continue to work towards sustainable peace and genuine reconciliation and accountability for the most serious crimes in Darfur while promoting complementarity and the equal sovereignty of nations.

**Mr. Menan** (Togo) (*spoke in French*): I thank the Prosecutor of the International Criminal Court (ICC) for her briefing on the eighteenth report of her Office. I would also like to thank the Permanent Representative of the Sudan for his briefing.

Before giving our comments on the report, I would once again like to emphasize here that Togo is not yet a State party to the Rome Statute of the ICC. We also reaffirm the position of the African Union regarding the status of sitting Heads of State and Government in relation to the ICC.

The report before us presents the challenges weighing on the hope for progress with respect to the judicial activities, ongoing investigations and cooperation with States in the fight against impunity that is being conducted by the International Criminal Court with regard to the situation in Darfur.

As to the judicial activities, and especially the case of Mr. Abdallah Banda Abakaer Nourain, Togo, as it has reiterated in its statements on the last three reports of the Prosecutor, hopes to see a development of ICC case law to facilitate cooperation of the Prosecutor

and States with the defence in order to mitigate the consequences of security problems encountered by the defence in accessing evidence for holding a hearing on the merits. We fear that the continuation of that situation will cause further delays of the start date of the trial scheduled for 5 May 2014, to the detriment of the right of the accused to be tried without undue delay and contrary to the expectations of victims for speedy justice. While it is true that there is no definition of a reasonable timetable in international law, and that everything depends on the complexity and the history of each case, objective indicators allow us to assert that a postponement of the start date could lead to an unjustifiable delay.

As to cooperation between the United Nations, the Security Council and ICC States, we regret the lack of Council follow-up on cases that it has referred to the Court. As Togo has mentioned in prior meetings on the subject, the Council must improve its cooperation and communication with the Court by answering or at least acknowledging that it has received notifications addressed to it. In addition, Togo hopes that relations between the ICC and States will strictly respect the principle of complementarity, which imposes on those States the primary obligation of pursuing and judging perpetrators of crime. With respect to ongoing investigations, my country reiterates its appeal for an end to intercommunal clashes and violence as well as persistent violations and abuses of human rights and humanitarian law involving militias despite the many calls for them to end.

We would encourage the Prosecutor to continue monitoring and advancing the investigations of crimes that continue to be committed. In that regard, we remain concerned by aerial bombings and indiscriminate ground attacks against civilians, including women and children, even in camps for internally displaced persons, widespread sexual and gender-based violence, and attacks on human rights advocates, members of civil society and community chiefs. We are also concerned by the recruitment of child soldiers and intentional actions aimed at provoking total or partial destruction of ethnic groups.

Once again, we express our concern about attacks and abductions of humanitarian workers and members of peacekeeping forces, which have cost the lives of brave soldiers-peacekeepers of the African Union-United Nations Hybrid Operation in Darfur. Togo calls upon the Office of the Prosecutor to advance the investigations

of the killing of African Union soldiers in 2007 and all other attacks that followed in order to shed light on the circumstances and identify the perpetrators so that they can answer for their actions.

In conclusion, we hope that there will be peace in Darfur as soon as possible. We believe that the international community must do much more to bring the parties together, in particular those who deliberately place themselves outside the Doha Agreement, so they can make up their minds to undertake to do what is necessary for the reconciliation and political settlement that the people of Darfur very much need.

**Mr. DeLaurentis** (United States of America): We are pleased to welcome Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC), to the Security Council. We would like to thank her for today's briefing on, as she noted, the eighteenth report by an ICC Prosecutor on the situation in Darfur since resolution 1593 (2005) was adopted.

The United States reiterates its appreciation to her and her Office for their work to advance the cause of justice for the people of Darfur. Her perseverance with the long-standing cases in the Court is highly commendable, particularly given the obstacles the ICC faces as a result of the Government of the Sudan's continued non-cooperation.

Justice will be the cornerstone of a stable and sustainable peace agreement in Darfur. The United States remains deeply concerned that the lack of progress on accountability for atrocities committed in Darfur continues to contribute to instability throughout the Sudan. Lasting impunity goes hand in hand with continued violence and insecurity.

The report of the Prosecutor is replete with stark reminders of the challenges her Office faces in seeking to address the atrocities suffered by the victims in Darfur. It once again details the blatant disregard of the Government of the Sudan for its obligation to cooperate with the ICC pursuant to resolution 1593 (2005). The most alarming element of the Prosecutor's briefing is that individuals subject to the ICC's arrest warrants in Darfur continue to remain at large. The Government of the Sudan has the responsibility to implement the warrants, yet it has consistently failed to do so, while also offering no meaningful measure of justice at the national level. The Government of the Sudan must fully cooperate with the ICC and its Prosecutor, and we continue to call on it to do so.

In a direct affront to the charges levelled against them, the individuals subject to outstanding arrest warrants also continue to cross international borders. The international community should remain united against those acts of defiance against justice by preventing such travel. States and regional bodies should ensure that the individuals in question are not invited to their countries and should not facilitate or support travel by those subject to the arrest warrants. We welcome the Prosecutor's continue pursuit of justice through her continued work on the case against Abdallah Banda. We look forward to the start of that trial and the defendant's continued cooperation.

Yet there are other very troubling elements of the report of the Prosecutor. Of particular concern are allegations of sexual and gender-based violence in Darfur. Such crimes shock the conscience, and the lack of accountability fuels the cycle of violence through resentment, reprisal attacks and further conflict.

We also continue to be deeply concerned by attacks on United Nations peacekeepers. While the Government of the Sudan claims to be investigating those deplorable incidents, there have been no results and no evidence that those killings are being seriously addressed. Local accountability initiatives, particularly the Special Criminal Court on the Events in Darfur, also remain wanting. We urge observers from the African Union and the United Nations to monitor the Court's proceedings, or lack thereof, and report publicly their observations.

In conclusion, accountability for genocide, war crimes and crimes against humanity in Darfur is both a moral imperative and an issue of peace and security. The United States places a high priority on promoting justice and lasting peace for all of the people of the Sudan. We once again commend Prosecutor Bensouda for her work to investigate and prosecute those most responsible for atrocities committed in Darfur.

**The President** (*spoke in French*): I shall now make a statement in my capacity as the representative of France.

I thank Prosecutor Bensouda for her report and her presentation on the proceedings and investigations being conducted by the International Criminal Court in Darfur on the basis of resolution 1593 (2005). I should like to make three comments.

First, based on the mandate entrusted to it by the Council, the Court has done its work: analysis of



national judicial proceedings in the Sudan — or, rather, the lack thereof; investigations; the issuing of arrest warrants against four individuals; judicial proceedings at The Hague against rebel leaders who have decided to voluntarily surrender; and witness protection efforts. The beginning of the first trial, against Abdallah Banda for attacks against peacekeeping troops, is an important milestone. That first public trial will make it possible to concretely raise the massive crimes committed in Darfur.

My second observation is somewhat darker. As the Prosecutor said this morning, impunity persists in Darfur and the most vulnerable — women in particular — remain the first victims. Four senior officials accused of war crimes, crimes against humanity and, one of them, of genocide continue to evade the efforts of the Court despite the arrest warrants issued against them.

My third point is: what can the Council do? There are courses of action. The first is to support the International Criminal Court. This meeting provides an opportunity to reiterate our confidence in the Prosecutor and to express our conviction that the Court contributes to the solution of conflicts in Africa and the world. It would undoubtedly be useful to demonstrate that support by ensuring that the next Council resolution on Darfur reflect the concerns of the Prosecutor concerning aerial bombardments, controlling and disarming militias, sexual violence, and the need for cooperation from the Sudan with the International Criminal Court.

On a parallel track, there is support the peace process. Since our last meeting (see S/PV.6974), the security situation has deteriorated again. Clashes between the Government, armed groups and now tribes are increasing, with the number of victims and displaced persons also increasing. There has been no progress in the peace process. Reconstruction is at a standstill and the resources being transferred to the Darfur Regional Authority are too scant. Under those conditions, people do not benefit from improvements, which is the only way to ensure their adherence to the peace plan. The reason is simple: the Darfur problem cannot be isolated. It is an integral part of national reform, which is the only way to provide lasting solutions to the people and encourage rebel groups to participate in genuine

negotiations. We must support the African Union in that regard.

In conclusion, I would like to say once again how much we appreciate the involvement of the Secretary-General and the Office of Legal Affairs for the sake of international criminal justice and the International Criminal Court. In particular, the directives of the Secretary-General on limiting contact with defendants are an essential tool. Those guidelines should be applied consistently. The image of the Organization and the effectiveness of international justice depend upon it.

I now resume my functions as President of the Council.

I give the floor to Prosecutor Bensouda to respond to questions and comments made.

**Ms. Bensouda:** The Government of the Sudan's representative speaks of the willingness and ability of the Sudan to investigate and prosecute. The Security Council is not the forum for addressing willingness and ability. It is the responsibility of the judges of the International Criminal Court (ICC) to assess willingness and ability on a case-by-case basis. The Government of the Sudan's representative has stated plainly that he does not respect the decision of the Council to mandate the Court and my Office to investigate and prosecute the most serious crimes committed in Darfur. The Government of the Sudan has been aware of the alleged crimes committed by Ali Kushayb, Ahmed Haroun, Abdelrahim Hussein and Mr. Omer Al-Bashir. The nature of those crimes has been made public for nearly nine years. Yet nothing on those cases has been done. I invite the Government of the Sudan to bring proof of that willingness and ability to the judges of the ICC. I agree that the Court and the Council have separate, although interrelated, mandates. However, the Government of the Sudan's refusal to challenge the admissibility of the cases before the ICC or to arrest and surrender the individuals concerned is a challenge — not only for my office but for the Council. We cannot afford to ignore that challenge any longer.

**The President** (*spoke in French*): There are no more names inscribed on the list of speakers.

*The meeting rose at 4.45 p.m.*