



# Security Council

Seventy-eighth year

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Wednesday, 25 January 2023, 3 p.m.

New York

*Provisional*

*President:* Mr. Ishikane . . . . . (Japan)

*Members:*

Albania . . . . .	Ms. Dautllari
Brazil . . . . .	Mr. De Almeida Filho
China . . . . .	Mr. Liang Hengzhu
Ecuador . . . . .	Mr. Pérez Loose
France . . . . .	Mrs. Dime Labille
Gabon . . . . .	Mr. Biang
Ghana . . . . .	Mr. Boateng
Malta . . . . .	Ms. Gatt
Mozambique . . . . .	Mr. Fernandes
Russian Federation . . . . .	Mr. Kuzmin
Switzerland . . . . .	Mrs. Baeriswyl
United Arab Emirates . . . . .	Mr. Almazrouei
United Kingdom of Great Britain and Northern Ireland . . . . .	Mr. Wickremasinghe
United States of America . . . . .	Mr. Simonoff

## Agenda

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

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*The meeting was called to order at 3 p.m.*

### **Adoption of the agenda**

*The agenda was adopted.*

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

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

In accordance with rule 39 of the Council's provisional rules of procedure, I invite Mr. Karim Khan, 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 Mr. Khan.

**Mr. Khan:** It is a great pleasure to have the opportunity to once again brief the Security Council on the situation in Darfur. I also want to express my personal thanks to Ambassador Al-Harith Idriss Al-Harith Mohamed, Permanent Representative of the Sudan, for his presence today. I had the pleasure of sitting with him yesterday and having certain discussions in advance of today's briefing.

In my most recent briefing to the Council (see S/PV.9113) a few months ago, which I gave from Khartoum for the first time, I was quite candid regarding the expectations and hopes of the people of the Sudan. I identified their yearning for justice, and I mapped out a course that would hopefully help us, as an Office, and the international community to discharge our responsibilities to them.

We have tried to discharge those responsibilities through increasingly focused investigations with deliberate and considered action. We can therefore rightly deserve the trust that the people of Darfur so generously express every time that one meets them in the Sudan, or anywhere else around the world, for that matter. In order to deliver on that promise, I set out in my previous report new benchmarks that would help to identify where we are and where we are going in terms of delivering on resolution 1593 (2005).

I am pleased to report that we have made significant strides forward. That can be measured not by rhetoric

or simple words, but by quantifiable indicators in terms of the number of witnesses who have been heard and the testimony that was given by heroic survivors and witnesses who had the opportunity of coming before the International Criminal Court to give their accounts.

The trial of Mr. Abd-Al-Rahman, also known as Mr. Ali Kushayb, has made swift progress. Over the past eight months since the trial opened, over 78 sitting days 50 witnesses were heard before the International Criminal Court and, of course, a great deal of documentary evidence. Their testimony brought to life the harrowing accounts endured by victims and survivors that compelled the Security Council to refer the matter to the International Criminal Court almost 20 years ago. Those witnesses had the opportunity to confront the accused and have their accounts tested before independent impartial judges, creating a record that will pave the way at the end of the process for a determination to be made on what took place and whether the accused is responsible.

I cannot tire of commending the heroism, perseverance and dedication of the survivors who testified in that particular case. Their courage and perseverance — against all odds, really — are something that I find truly humbling. Those qualities are something that we see in victims in many parts of the world. Despite what they endured, they somehow truly represent the very best of us and the triumph of hope in the face of their awful, wretched experiences. It is something that we should take to heart, and not as something that is without value or impact. The accounts provided reflect the human experiences of people who could be our mothers, our fathers, our brothers, our sisters or our children — profound, in fact the most profound, suffering: the loss of family members, the loss of schoolfriends and displacement from homes. The disruption in children's education and the extremely challenging and difficult years — not months, but years and decades — that they have endured in refugee camps as internally displaced people in their own land, in neighbouring countries or around the world, where they sought refuge because of what was inflicted upon them in the Sudan.

The Court also heard about the stigma experienced by victims of sexual and gender-based violence and, indeed, that of the children who were the result of that. But, amid those truly chilling accounts, it is remarkable that hope was not extinguished. In their accounts, there is hope, which was heard from the mouths of witnesses.

If I may, I will present an example of that to the Court, and it is in our report. But I think that the most eloquent testimony is from those who experienced the loss that I described. I will quote from the Court transcript. One witness says:

“We need to know their stories. We need to know what they say about who killed their family members, who displaced them, who took away their belongings, who seized their cattle. Not a single person, not even a hundred people, can describe it enough. We have to show the victims that there is justice in this world.”

It is this prayer, this hope and this imperative that compelled the Council to refer the matter to the Court. It was not an exercise of politics; it was an exercise of humanity, in my respectful view, as well as a legal requirement to discharge the Council’s obligations under the Charter of the United Nations. And I am delighted to say that the trial is making swift progress, and the prosecution intends to close its case by the end of next month, as reflected in the report. That makes the pace of the trial the most efficient since the establishment of the Court. That has been achieved by targeted presentation of evidence, by agreements between the prosecution and the defence wherever possible. It has also been achieved by excellent trial management by the independent Judges of the International Criminal Court and by the diligent work of the men and women of the Registry, who often are invisible, but deal with issues related to the witnesses, such as bringing them to the Court, and with the Court proceedings, and the interpreters, translators and stenographers. I think it is only right to acknowledge all of their work. I think that even now, before the trial is concluded, there is much to be proud of and much to be emulated in the work by the organs of the Court, by the legal representatives of the victims and by the defence in other cases.

Five months have passed since my most recent visit to Darfur, and I believe a fair assessment compels us to reach the conclusion that the Office I have the honour to lead has made truly sincere efforts to keep the promises that I made to the communities I had the honour to look in the face, to listen to and to engage with. And through cumulative measures, the focused deployment of additional resources and the attempt to obtain more information, we have tried to bring back to The Hague, to the activities of my Office, the urgency that we felt so keenly in the camps of those displaced in Darfur.

But there remains a key and essential part of our collective work that must be addressed. As reflected in the report and as is patently obvious, cooperation from the Government of the Sudan is critically important if we are to meet the needs of the people of Darfur. It brings me no pleasure to say this, but the unfortunate truth is that the Government of the Sudan is not meeting the requirements of cooperation set out by this Council under Chapter VII of the Charter, as contained in resolution 1593 (2005), adopted all those years ago.

Many important promises were made, cooperation agreements signed and commitments undertaken by the most senior officials of the country. These agreements, made to my face during my last visit and signed in memorandums of understanding, have not been honoured. It is my unfortunate duty to say that cooperation has deteriorated, not improved, since my most recent briefing. My report attempts to fairly and accurately set out the unfortunate gap that exists between the words and the action of the Government of the Sudan.

Despite commitments made during my visit to the Sudan, access to the country has become more difficult. New administrative hurdles have been created, and Sisyphean efforts are required in order to simply obtain single-entry visas. The promise of multiple-entry visas has not been delivered. That is only the beginning of the story, because even when we obtain a single-entry visa, limited in temporal duration, we have to obtain internal travel permits to go, for example, to Darfur. And there have been decisions to say that we cannot obtain those before we travel, so teams must be deployed to wait in Darfur in order to do their job. The reason I think this is important is that we have a job to do. We will try to do it. But while internationals may sit in hotels in Khartoum waiting to get travel permits, we have children, women and men waiting in refugee camps, waiting for justice. And it is their patience, not mine, that I am quite focused on.

Access to documentation and witnesses remains restricted, and there are significant challenges, even in getting access to what should clearly be public, for example, the national archives. And in this reporting period, over the past six months, not one request for assistance, unfortunately, has been executed by the Government of the Sudan. More than 34 such requests remain outstanding, and I continue to wait for formal approval for what was promised to me orally and what

is in a signed memorandum of understanding, namely, the ability for us to establish an office in Khartoum.

It may be said that these are bureaucratic issues, that this is evidence of dysfunction, rather than obstruction. Time will tell, but one thing is clear — things are getting worse. They were better, and they can get better again if there is a will to cooperate with the will and international obligations of resolution 1593 (2005). With all due respect, a change of posture is needed by those charged with responsibility or those who have assumed responsibility in the Sudan — because what we are talking about is the potency and the credibility, not of the International Criminal Court or of the Office I lead, but also of the Council.

Can the decisions and obligations of the Council, when finally achieved, be disregarded? Can any individual, State or authority thumb its nose at the will of the Security Council? If the answer is yes, then what hope is there? If the answer is no, then what are the courses of action that member States or the Council can take or decide upon in order to encourage the implementation and the discharge of international obligations? I know that it may be a sensitive position in the Sudan, and perhaps there have been many sensitive moments there. We are trying to work in a way that helps the Sudan in its transition and that enforces instead of undermines peace and security and stability. But my obligation, by dint of the Statute, is quite focused. Over the most recent period, since 2005, not one domestic trial has taken place in the Sudan for the hundreds of thousands of people who were displaced, for the pictures of property being burned and destroyed and for the allegations of rape, of targeting children and civilians that we have heard in the courtroom and in many other areas as well. And if we do not see a change of approach, I may have no option in the next report but to commence certain other action by member States in the next period.

But I am open to engagement. I really am genuinely open — and I mentioned it to His Excellency yesterday — to innovative approaches, such as engaging with the African Union and with the Sudan, and building partnerships. But something has to be done, because partnerships require two people, two entities, to be engaged. As the saying goes: “It takes two to tango.” We cannot try to move alone — and if we do, we will not get to the destination we are compelled to get to, which is simply getting to the truth. Those who wish to frustrate accountability must not be allowed to run

down the clock. I expressed that in Khartoum and in my meetings yesterday, as well as on other occasions.

It is truly my sincere hope that we can partner together with the Sudan, and that the Sudan can seize the moment for its own sake and for the sake of its international reputation, the people that it represents and its future. I really hope that the road map towards accountability that I have presented can be seized, because it will be beneficial to international justice and, in my view, beneficial for the Sudan as well. We will strive to ensure that anybody who seeks to frustrate the work of the Court through non-cooperation will not be successful. That is why we have tried to the best of our ability to build new partnerships, to go to third States and international organizations and to strengthen the evidential base from a variety of other sources. I am pleased to note that, during the reporting period, we significantly strengthened that cooperation, and it is paying dividends. The innovations and new approaches put forward have allowed us to collect new evidence in relation to some of the individuals for whom there are outstanding warrants.

But more is needed. I think it is only right to also commend the States that assisted us during the reporting period. Everybody should be the friend of humankind. That must not be jeopardized by the fractures in the Council or in the international firmament that we witness around the world. This is not about politics, it is about basic humanity. We can — and it is my hope to — scythe a clearing through the thicket of disinformation that will also allow us to discharge our responsibilities in order to get to the truth and identify a proper road map so that I can discharge my responsibilities under the Rome Statute and to the Council, and to help identify a way to close the situation. As I have said repeatedly, these situations cannot be never-ending stories. During the reporting period, we conducted a comprehensive mapping process with a number of third States, which I think is going to be extremely important, and I hope to report more about that at my next briefing to the Council.

In addition to briefing those States, international organizations and partners that have tried to be on the side of humanity and justice, I also want to note that sometimes the most valuable contributions are offered by those who dedicate themselves completely pro bono. In that regard, I want to commend my Special Adviser on Darfur, who sits behind me, Mrs. Amal Clooney, for her dedication to the cause of justice. That is not

cosmetic. It really shows evidence that, when we work together, we can make a difference. But that is what it requires. It requires coming together in a way that is not political — and we are not political — to independently and impartially get to the truth. When I next brief the Council, I hope to report that there has been a revitalization and a renewed common effort between my Office and the Sudanese authorities to implement the mandate given to us by the Council. That would also reflect the promises made by the Government of the Sudan during my previous visits. But irrespective of that cooperation, I have every confidence that I will be able to report on further progress made in the current trials. I am also hopeful that new pathways for further accountability will have been set.

The question really must be not whether we can deliver on the mandate, but how. I believe that, through the adoption of the new strategy, by adding new resources and by running investigations more diligently, we can ensure that steps towards justice continue to be taken. The question of the moment, perhaps, is whether that can be achieved and whether it will be done in sincere partnership with the Government of the Sudan or not. And I myself, on behalf of my Office, sincerely hope that it will become a valued partner and willing to work with me to deliver justice in a manner that will allow us to tell the victims — to look them in the face and say that there has been justice and that their lives and experiences matter to all members of the Council. Then we can also close the situation and dispel the clouds that hang over the Sudan so that it can fulfil its destiny by fulfilling the aspirations of all its citizens, unencumbered by the burdens of the past that it will carry until justice is delivered.

The victims and the survivors can never be far from our thoughts. And I really think that in this Chamber it is important to remember them. If the members of Council could visualize the faces of children — some knocking deflated footballs around and some in an array of clothes that may have been worn by generations, by parents who themselves were born in the camps, because there are many challenges being faced — I think they would realize that there is a moment to suspend the normal political discourse. They would realize that in those moments of influence that we all have — the moments of authority that the Council continues to have — we need to be able to discharge responsibilities in a way that we can be proud of.

Since I commenced my responsibilities as Prosecutor about one year and a half ago, I have made very sincere and determined efforts, along with my deputies and the staff of my Office, to reform, restructure and improve the processes and functions of my Office and inject more professionalism so that I can better discharge my own responsibilities under the Rome Statute. And with the greatest of respect, perhaps the time has come — indeed perhaps it is long overdue — for the Sudan to be similarly determined to ensure its cooperation with my Office, as that is what is required of it as a function of international law pursuant to resolution 1593 (2005). Because as I said, judges will judge what is presented in the courtroom, but history of course judges us all.

**The President:** I thank Prosecutor Khan for his briefing.

I shall now give the floor to those members of the Council who wish to make statements.

**Mrs. Baeriswyl** (Switzerland) (*spoke in French*): I would like to thank the Prosecutor of the International Criminal Court (ICC), Mr. Karim Khan, for his valuable briefing, and to underline Switzerland's unwavering support for the ICC.

We have taken note of the Prosecutor's thirty-sixth report on the situation in Darfur, and we appreciate his efforts to present the activities of the Court and his Office in a transparent manner. Switzerland is pleased with the significant progress that has been achieved this year in the trial of Mr. Abd-Al-Rahman. That trial is essential for the victims and the affected communities, who have been waiting for more than 17 years for justice. It is also a historic trial because it is the first ever resulting from a Security Council referral.

We commend the victim-centred approach taken by the Prosecutor. We also thank the many witnesses who testified before the Court for their courage and determination, and we commend civil society for its tireless efforts to support those proceedings. We also commend the various third-party States and international organizations for their assistance, which played a key role as well. That trial gives a voice to the victims and survivors. It underscores once again the preventive and reconciliatory role played by the ICC. The Court is a vehicle for peace and security and therefore the spirit of both its mandate and that of the Council are the same.

In order for the ICC to carry out its mandate effectively, independently and impartially, it depends on the assistance of all of us. In that regard, we call on all Member States to comply with their obligations to cooperate, whether under the Rome Statute or pursuant to resolution 1593 (2005). We also invite the Sudanese authorities to support the ICC's efforts by taking concrete steps.

Combating impunity is a central element of Swiss foreign policy. It is also at the heart of the Juba Peace Agreement. Ensuring justice is not only a duty in terms of accountability but also an imperative for the future of the Sudan.

In conclusion, let me underscore once again the essential role of the ICC as an institution of last resort to try the most serious international crimes, bring justice to the victims and thereby contribute to a lasting peace. The ICC and the Office of the Prosecutor have our full support.

**Mr. Wickremasinghe** (United Kingdom): I would like to start by thanking the Prosecutor for the thirty-sixth report on the situation in Darfur, submitted pursuant to resolution 1593 (2005), and for his briefing today.

We welcome the swift progress made in the trial of Mr. Abd-Al-Rahman as a historic step towards seeking accountability for survivors and affected communities in Darfur after many years. In that light, the United Kingdom would like to commend the tireless commitment of the International Criminal Court (ICC) for more than 17 years to help deliver justice for the people of Darfur. As we heard, the trial of Mr. Abd-Al-Rahman enabled victims and witnesses to courageously tell their stories and to demonstrate to other victims that justice can be delivered. Such progress is an example of how strong cooperation with the ICC can translate into meaningful action. It is therefore deeply disappointing that sufficient cooperation has been lacking from the Sudanese authorities, despite their reassurances to the Prosecutor during his visits to the Sudan. Stronger engagement would demonstrate that the Sudanese authorities are serious about delivering their commitments on transitional justice, as outlined in the 2020 Juba Peace Agreement and the initial framework agreement signed on 5 December 2022.

The United Kingdom urges the Sudanese authorities to immediately enhance their cooperation with the Court, in particular in the following three areas. First, we call

on the Sudanese authorities to provide prompt access to documentary archives and witnesses relevant to the Court's investigations. Secondly, a permanent presence is vital for the Office of the Prosecutor to deepen its engagement with affected communities. We therefore urge the Sudanese authorities to help to facilitate the establishment of a field office in Khartoum, remove the unnecessary bureaucratic impediments preventing Court staff from being permitted multiple entry visas to the Sudan and give access to Darfur to ICC staff. Thirdly, the United Kingdom calls on the Sudanese authorities to respond swiftly to the Court's outstanding requests for assistance, noting that 34 requests currently remain outstanding, with no responses received in the current reporting period.

Finally, we welcome and encourage the continuation of cooperation between the Court and third States, which has proved particularly vital in the absence of cooperation by the Sudanese authorities. The United Kingdom would like to reiterate its support for the Court in delivering justice for the people of Darfur. In that respect, we call for action to deliver on the four ICC warrants that remain outstanding in the Darfur situation, and we call for the surrender of Mr. Banda, who remains a fugitive from justice.

**Mr. Simonoff** (United States of America): I thank Prosecutor Khan for his report and his briefing today on the ongoing investigations and prosecutions of the International Criminal Court (ICC) with regard to the situation in Darfur. We appreciate his dedication and the unwavering commitment of the judges, attorneys and staff of the International Criminal Court to the pursuit of justice for the people of Darfur.

We continue to monitor the ongoing trial proceedings in the case involving former Janjaweed commander Mr. Abd-Al-Rahman, also known as Ali Kushayb. That is a landmark case — the first trial against any senior leader for atrocities committed by the Omer Al-Bashir regime and government-supported forces in Darfur and, more importantly, the first real opportunity for justice that the victims of Darfur have had. We acknowledge the bravery of all the witnesses and victims who have come forward. We also appreciate the work of Court personnel who have facilitated their participation and ensured their safety and security.

This is a crucial moment for the Sudan's future. Just a few weeks ago, the parties signed a framework political agreement for the restoration of the Sudan's democratic transition. More than one year after the

military takeover, that agreement and the recent launch of the second phase of dialogues on outstanding issues are promising steps towards the establishment of a final agreement to form a civilian Government. The framework political agreement also reflects the values of the 2019 revolution, recognizing the diversity of the Sudanese people and committing to creating a new State based on core democratic principles and human rights norms. The fact that those negotiations have happened at all is a testament to the Sudanese women, men and young people, who have persistently and courageously taken to the streets to demand their rights and call for civilian rule, despite facing violence at the hands of the Sudanese security forces.

But some of the hardest challenges lie ahead, as the parties begin to address a set of thorny issues in the second phase of the dialogues, including transitional justice, the Juba Peace Agreement and security sector reform. The violence that we have continued to see in Darfur, Blue Nile and elsewhere demonstrates the importance of addressing those issues in inclusive dialogues. As negotiations move forward, we underscore the importance of full respect for the freedoms of association, expression and peaceful assembly. The impact of decades of dictatorship under Al-Bashir will not be erased overnight. The Sudan will need a holistic transitional justice strategy to address the needs of victims, rebuild trust, repair relationships among communities and set the Sudan on a path in which human rights are respected.

As part of that broader strategy, we strongly urge the Sudan's authorities to comply with their international legal obligations pursuant to resolution 1593 (2005) and move forward in cooperating with the ICC in the areas that the Prosecutor has repeatedly outlined as priorities. There are three suspects subject to ICC arrest warrants who are currently in Sudanese custody: Omer Al-Bashir, Ahmed Harun and Abdel Raheem Muhammad Hussein. Cooperation with the ICC on those cases is central to finally delivering justice in Darfur. It would be a clear signal that the Sudan's leaders are committed to the principles of justice and accountability as set forth in the framework political agreement. The Sudanese authorities must continue to permit ICC teams to travel within the country. In addition, they must act on the many outstanding requests from the Prosecutor for evidence, other information and assistance, including by providing unimpeded access to key witnesses and taking steps to facilitate an enhanced ICC field presence.

Over the next few months, we will continue to stand with the Sudanese people as they work to find common ground on how transitional justice, including accountability for the violence during many decades of conflict, can advance truth, justice, reconciliation and healing.

**Mr. Kuzmin** (Russian Federation) (*spoke in Russian*): I thank Mr. Karim Khan. As always, he has given an excellent and emotional briefing.

Darfur is the first pilot project of the Security Council to engage the International Criminal Court (ICC) in international efforts to normalize the situation in a specific country, namely, the Sudan, in order to address the intercommunal divisions there and promote national reconciliation. That project was launched pursuant resolution 1593 (2005) almost 18 years ago. Since then, two Prosecutors have been replaced and the composition of the Court has been almost completely overhauled. After 18 years, we have finally arrived at the first trial. In that context, I would like to share some general observations.

First, an ordinary, routine event — namely, the trial of the accused Ali Kushayb, who, incidentally, voluntarily surrendered himself to the International Criminal Court in the summer of 2020 — is, for some reason, being portrayed as a historic milestone in the work of international criminal jurisdiction. Some momentum as regards the Darfur dossier is being presented exclusively to the individual credit of the Court. At the same time, setbacks and failures are being attributed to the sins of third parties, such as a lack of proper cooperation on the part of States, unfulfilled promises and dashed expectations, inter alia. Such behaviour, by the way, is typical not only of the ICC, but also of the International Residual Mechanism for Criminal Tribunals, which inherited the worst practices of its predecessor, the International Tribunal for the Former Yugoslavia. The Sudan is now being reproached for the cooling of relations with the Office of the ICC Prosecutor. Perhaps the issue lies in the fact that the credibility of the ICC as an unbiased, non-politicized body has been significantly undermined in the international community.

Secondly, the persistent attempts of the ICC to singlehandedly rewrite the existing norms of international law are cause for concern. What is noteworthy in that connection is the judgment of 6 May 2019 on the Jordanian appeal, with the participation of the African Union and the League of Arab States.

The Court's conclusions clearly demonstrated how far removed the ICC is from sober assessments of its jurisdiction. Despite the ICC's misinterpretation of the question of immunities, not one country complied with the illegitimate arrest warrant for the Sudanese President Omer Al-Bashir during his official visits, thereby recognizing his immunity under customary international law and the very Statute of the ICC itself.

Thirdly, since the Security Council referred the situation in Darfur to the ICC, it would be useful for the Council to more proactively follow the work of the Court in that area. Of course, this is not a matter of total oversight. There has been no need — at least thus far — to resort to excessive measures, such as imposing individual sanctions against the Prosecutor and other Court officials, following the example of the United States. It is important to consistently make it clear to the Court that its action to bring those responsible to justice is not an end in itself, but part of a larger effort by the international community to consolidate the peace processes in the Sudan.

Finally, during our briefings, we continue to hear voices advocating for the work of the ICC on the two situations referred to it to receive either partial or full United Nations funding. Let us consider the reality as set out in paragraph 7 of resolution 1593 (2005), acting under Chapter VII of the Charter of the United Nations:

“none of the expenses incurred in connection with the referral including expenses related to investigations or prosecutions in connection with that referral, shall be borne by the United Nations and that such costs shall be borne by the parties to the Rome Statute and those States that wish to contribute voluntarily”.

We are confident that the Sudanese people are more than capable of delivering justice on their own, but the activities of the ICC raise many questions.

**Mr. Fernandes (Mozambique):** I thank Mr. Karim Khan, Prosecutor of the International Criminal Court (ICC), for his update on the situation in the Sudan. I also wish to acknowledge the presence of the Permanent Representative of the Sudan.

We recognize the important role of the ICC in combating impunity in cases of systematic violations of human rights and its important contribution to international peace and security. The Juba Peace Agreement and the National Plan for the Protection of Civilians in Darfur brought forth useful insight in

that regard by underscoring the importance of justice, accountability and the protection of human rights. We believe that addressing injustices is crucial in paving the way towards accountability, reconciliation and durable peace and security in the Sudan. In that regard, the ICC's mandate should be a supplementary instrument to the peace process in the Sudan through closer collaboration with all relevant national stakeholders.

Mozambique notes that, under the transitional Government, the country has achieved encouraging progress towards peace. The expression of commitment to the Juba Peace Agreement and to combating cross-border criminal activities, as well as efforts to promote cooperation with neighbouring countries, are, in our view, positive steps. The Security Council referred the situation in Darfur to the ICC almost 18 years ago through resolution 1593 (2005). It is important that this organ reflect on the impacts of the decision taken in 2005 on the peace process in the Sudan. It's it is our understanding that there is also a need to privilege national, regional and continental judiciary and reconciliation mechanisms and bodies, such as the transitional justice provisions of the Juba Peace Agreement and the African Court on Human and Peoples' Rights, while reinforcing complementarity among them.

Mozambique expresses its support for the peace process in the Sudan and welcomes the launch of the final phase of the political process facilitated by the tripartite mechanism of the African Union, the United Nations and the Intergovernmental Authority on Development. Mozambique commends the progress made by the Government of the Sudan in supporting the reinforcement of the presence of the Office of the Prosecutor in the country and welcomes the commitments by the Sudanese authorities with a view to strengthening cooperation with the Office. The report of the Prosecutor shows some windows of opportunity for constructive engagement with the Government of the Sudan to promote an environment of healing and reconciliation and to reinforce efforts to restore long-lasting peace in the Sudan. In that context, we encourage the Office of the Prosecutor to maintain and engage in dialogue with the Government of the Sudan and all stakeholders to create the enabling conditions for constructive discussions on the way forward. We also encourage the Office of the Prosecutor to continue to engage with the African Union in the process.



In conclusion, it is our expectation that the Government of the Sudan and the Office of the Prosecutor will continue to seek ways of working together in delivering justice for the Sudanese people.

**Mr. Pérez Loose** (Ecuador) (*spoke in Spanish*): I thank the Prosecutor of the International Criminal Court, Mr. Karim Khan, for the presentation of his report, and I welcome the presence of the representative of the Sudan at this meeting.

We have closely followed the trial of Ali Muhammad Ali Abd-Al-Rahman, the first case at the Court related to the situation in Darfur and the first based on a referral from the Security Council. As others have noted this afternoon, we too note that it has taken more than 17 years for him to stand trial for the crimes he has been charged with, which began in April 2022. We encourage the Office of the Prosecutor to focus its work on the conclusion of the case, as it will send a message of hope to the victims that the perpetrators of atrocity crimes will face justice. We also call on the Sudanese Government to execute the arrest warrants issued by the Court against four defendants, three of whom are in the custody of the Sudanese Government, including former President Omer Al-Bashir, and work with the Court to bring them to justice. We appreciate the update provided by the Prosecutor on the progress made in implementing the renewed investigation and prosecution strategy, which has allowed for a more targeted approach that includes benchmarks.

In that regard, we note with concern that non-compliance with several of the benchmarks has been caused by insufficient cooperation from the Government of the Sudan. As detailed in the Prosecutor's report, despite the commitments made by the Sudanese authorities during his August 2022 visit, obstacles to the investigative work persist, such as the lack of access to documentation and archives, the lack of responses to requests for assistance and restrictions on the issuance of visas. In addition, permanent changes have been made in the appointment of focal points at national institutions in the Sudan. We urge the Government of the Sudan to fulfil its commitments to cooperate with the Court and its bodies in accordance with resolution 1593 (2005), the memorandum of understanding concluded with the Office of the Prosecutor and the pledges made by the country's authorities. Their cooperation is critical not only to meeting the goals set out by the Prosecutor in his report, but, even more important, to avoiding the

perpetuation of impunity for those responsible for the incidents that occurred in Darfur.

We acknowledge the cooperation that the Prosecutor has reported having received from third countries and international institutions, which has made possible obtaining new forms of evidentiary material relating to the suspects identified. We are convinced that the referral of cases by the Council to the International Criminal Court can become an effective mechanism for combating impunity. To that end, we must strengthen the level of cooperation and coordination between the Court and the Council and ensure the provision of the resources required for its implementation. Ecuador is a founding member of the International Criminal Court, and one of the pillars of its foreign policy is respect for international law and the fight against impunity. Therefore, we reiterate our support for the work carried out by the Office of the Prosecutor, which we believe will contribute to achieving national reconciliation and sustainable peace in the Sudan.

**Mr. Liang Hengzhu** (China) (*spoke in Chinese*): I thank Prosecutor Karim Khan of the International Criminal Court (ICC) for his briefing and welcome the Permanent Representative of the Sudan at today's meeting.

The political situation in the Sudan has been improving. Earlier this month, the final phase of the political process was launched in the Sudan, which is another important sign of progress since the signing of the political framework agreement by the main parties in the Sudan in December 2022. We welcome the developments and sincerely hope that all parties in the Sudan will put the interests of the country and its people first, actively participate in the final phase of the negotiations and put the political transition back on the right track as soon as possible. We also expect the Sudan to continue to make further achievements on the road to peace, stability and development.

Re-establishing the rule of law and achieving justice in Darfur are the shared goals of the international community. China appreciates the Sudanese Government's use of justice and accountability as an important means to achieving lasting peace, through establishing a transitional justice commission, consistent with the terms of the Juba Peace Agreement, the signing of the memorandum on understanding concluded with the Prosecutor and welcoming his visits, among other efforts. It should be self-evident that the implementation of the Juba Peace Agreement and building the judicial

capacity of the Sudanese Government require financial support. The international community should eliminate political interference, provide tangible assistance to the Sudan and respond constructively to the lifting of Security Council sanctions — an issue about which the Sudan is concerned

In conclusion, I would like to reiterate that China's position on the ICC's involvement in the Sudanese issue remains unchanged. We hope that the Court will strictly adhere to the principle of complementary jurisdiction, respect the judicial sovereignty of the Sudan in earnest, fully heed the relevant opinions of the Sudanese Government, maintain its independence, impartiality and objectivity in the investigations, prosecutions and trials and ensure that its work is conducive to promoting judicial justice and achieving lasting peace in the Sudan.

**Mr. De Almeida Filho (Brazil):** I would like to thank Prosecutor Karim Khan of the International Criminal Court (ICC) for his thirty-sixth report to the Security Council pursuant to resolution 1593 (2005). The resolution is certainly a landmark in the history of international criminal justice. It was the first time that the Security Council availed itself of its power to refer a situation to the Court, although it had allowed for selective immunities. I also welcome the delegation of the Sudan to this meeting.

These briefings are welcome opportunities for the Council to discuss the implementation of resolution 1593 (2005) and express the Council's support for the work of the International Criminal Court. There is no sustainable peace without justice. I reiterate Brazil's unwavering support for the ICC as a fundamental tool for providing accountability for the most serious crimes under international law.

Brazil welcomes the Prosecutor's prioritization of Security Council referrals, including by allocating additional resources, as outlined in the report. In this regard, while reaffirming its commitment to the universalization of the Court's jurisdiction, Brazil reiterates the need for expenses incurred due to Security Council referrals to be borne not solely by States Parties to the Rome Statute, but also by the United Nations.

I would like to congratulate Mr. Khan's team for the progress made in the *Abd-Al-Rahman* case. This landmark trial is not only the first related to the situation in Darfur, but it is also the very first case before the Court that results from a Security Council

referral. More than two decades later, justice is finally being served.

The hearings before the Court brought to the fore the human suffering of people who lost their families and who could not even pay tribute to their loved ones with proper funeral services. As the first permanent impartial international criminal court, the ICC should not be an instrument of political pressure on developing countries, but a means to the realization of justice for the benefit of victims. Brazil reaffirms their right to reparations, including collective reparations.

Justice delayed is justice denied. We recognize the primary role to be played by the Sudanese authorities in effectively investigating the terrible crimes committed against the Darfurian population and bringing the perpetrators to justice. In the absence of such proceedings, it is even more important to support the ICC in its efforts to fulfil its mandated institutional role under the Rome Statute.

In that context, Brazil commends the efforts made by the Office of the Prosecutor towards the establishment of a field office in Khartoum, which will bring the Court closer to the victims and witnesses and reinforce its ability to collect evidence. Brazil urges the Sudanese authorities to fully cooperate with the ICC in order to provide unimpeded access to documentation relevant to investigations and to enhance the field presence of the Office of the Prosecutor in Khartoum, in accordance with its obligations set forth in resolution 1593 (2005).

Brazil deeply appreciates Mr. Khan's visits to Darfur and his meetings with internally displaced persons. We welcome the first thematic round table with civil society, dedicated to crimes against children, and express our support to the Office of the Prosecutor's initiatives to empower victims, witnesses and affected communities.

I would also like to reiterate our support for the 5 December political framework agreement, its ongoing phase of political talks and the restoration of a civilian-led transition to democracy in the Sudan. We fully endorse the vital facilitation work done by the trilateral mechanism composed of representatives of the African Union, the Intergovernmental Authority on Development and the United Nations. Brazil trusts that the signatories of the Agreement will agree on achievable, realistic and, above all, inclusive road maps sooner rather than later. We are confident that the

signatories will keep engaging in inclusive workshops to address complex yet critical challenges, such as accountability and transitional justice.

We concur with the Special Representative of the Secretary-General for the Sudan with regard to the hopes of a fair political solution to the long-standing crisis in Khartoum. As Special Representative Perthes pointed out recently, resolving the crisis would mean that the Sudanese people would soon form a civilian-led Government. We hope such a milestone will enable the Sudan, its leaders and the Sudanese people to work together further, appreciate the legitimacy of the institutions they are building and address the remaining challenges in Darfur.

Finally, as a proud founding member of the ICC, Brazil has an absolute commitment to international law and international justice. As a permanent, treaty-based tribunal, the ICC represented a breakthrough for ensuring accountability for the most serious crimes under international law. The international community must offer its support for and cooperation with the Court to be able to fulfil its crucial responsibilities.

**Ms. Gatt** (Malta): We thank Prosecutor Karim Khan and his team for presenting the report on the situation in Darfur and for their commitment to continuing the pursuit of justice. I also welcome the Permanent Representative of the Sudan to today's meeting.

Impunity sows the seeds of further violence. Ensuring accountability for the people of Darfur is essential if we are ever to stop the cycle of violence. We remain firm in our belief that there is room for a deeper and improved relationship between the Security Council and the International Criminal Court, in particular through referrals by the Council to the Court, to ensure accountability for atrocity crimes committed in all regions. The referral of the situation in Darfur demonstrates that when we act together, the Council can make real progress towards achieving accountability.

We welcome the progress achieved in the trial of Mr. Abd-Al-Rahman, and we are also pleased that the Prosecutor anticipates concluding his case in February. The enhanced cooperation with third States and international institutions, which secured new forms of evidentiary material, is commended. Most importantly, we want to applaud the profound courage and determination of the witnesses, especially the victims of sexual and gender-based violence, without whom that would have been impossible.

As mentioned in the report, a round table dedicated to crimes against children was organized. We strongly encourage these efforts and improved engagement with both civil society organizations and representatives of affected communities.

Let me also thank Prosecutor Khan for his open approach to reporting and the continued prioritization of Security Council referrals, as evidenced by the allocation of dedicated resources to this investigation. We take this opportunity to stand with him in underlining that the full cooperation of Sudanese authorities remains central for the investigative work on all cases and for delivering on the legitimate expectations of survivors.

We regret the lack of progress over the reporting period across the four priority areas identified by the Prosecutor and call for unimpeded access to documentation and witnesses, support for the establishment of a field presence in Khartoum and the required visas, and prompt responses to requests for assistance.

Before concluding, let me express Malta's commitment to the Sudan's path towards political stability, which is underpinned by a meaningful political transition. We welcome the signing of the political framework agreement last December which effectively lays the groundwork for a final accord that will usher in a new reality for the Sudan and its people. We reaffirm our full support for the efforts of the United Nations Integrated Transition Assistance Mission in the Sudan, the African Union, and the Intergovernmental Authority on Development, in making coordinated efforts in the peace process. We reiterate the importance of the full, equal and meaningful participation of women and youth in the transitional process and encourage the parties to include their aspirations in the final agreement.

Our collective aim in this context is to ensure a durable and sustainable peace in the Sudan. That aim can only be achieved if there is justice for the victims and survivors of atrocity crimes. The Office of the Prosecutor and the Court can count on Malta's unwavering support towards accountability.

**Mr. Biang** (Gabon) (*spoke in French*): I thank you, Mr. President, for organizing today's debate on the thirty-sixth report of the Prosecutor of the International Criminal Court (ICC) on the situation in Darfur pursuant to resolution 1593 (2005). I thank Prosecutor Karim Khan for his update on the activities of the Court

and welcome the participation of the representative of the Sudan in today's meeting.

We note of the ongoing judicial proceedings as part of the investigations conducted by the ICC during the reporting period with a view to concluding outstanding trials, as we believe that they will help to meaningfully shore up international criminal justice and build peace nationally, regionally and internationally. Significant progress has been made in the case against Ali Muhammad Ali Abd-Al-Rahman, including the charges brought against him, which is an important milestone.

Gabon welcomes the reassessment of the strategy of the Office of the Prosecutor, which is geared towards accelerating criminal cooperation in order to improve the coordination of investigations and prosecution, as well as legal assistance. We recall the commitments made by the Sudanese authorities to fully cooperate with the Court in support of its work, of course without renouncing their principal judicial jurisdiction or their national sovereignty.

The fact that, on 12 August 2021, the Sudanese authorities agreed to sign an agreement that establishes the modalities of the vital cooperation between the Sudan and the Office of the Prosecutor remains an important step. Of course, that agreement must be implemented to help the Court to renew its strategy in order to continue its investigations into allegations of war crimes and crimes against humanity, within the expected time frames and with respect for the principle of legality and in the spirit of mutual and extensive dialogue with the Sudanese authorities.

We support all initiatives facilitating the Court's update and follow-up on commitments made by the Sudan in the context of that agreement with the aim of building upon the initial momentum and envisaging additional support measures, including the allocation of essential resources. We welcome the partnerships that have been created or envisaged among the ICC and States parties, non-State parties, civil society organizations and regional and subregional organizations to strengthen legal cooperation on outstanding and recent cases, with evidence linked to new suspects or related cases.

We emphasize the importance of paying special attention to civil society representing the victims and the survivors of the conflict in Darfur, as well as to the protection of witnesses. We encourage the Prosecutor to continue to take steps to improve the effectiveness

and delivery of services, while noting that his visit to camps for displaced persons has helped to strengthen dialogue with those affected. We applaud capacity-building for investigators and the inclusion of Arabic-speaking experts in the team, which is valuable as it also guarantees the principle of legality and establishes trust specifically with victims and witnesses.

Of course, the effectiveness of those various measures continues to hinge on improvements in the political and security situation in the Sudan, which, as we know, is faced with manifold security, political and economic challenges. We commend international efforts, specifically the trilateral mechanism, which consists of the African Union, the United Nations and the Intergovernmental Authority on Development. We call upon all parties to demonstrate responsibility and restraint in order to ease tensions and put an end to the violence that claims new victims in Darfur.

As part of efforts to deliver justice for alleged crimes committed in 2003, we have no doubt that the Office of the Prosecutor will take into account the delicate political situation in the Sudan. To that end, the swift restoration of constitutional order will facilitate greater cooperation between the Court and the Sudanese authorities. However, we must not lose sight of the fact that the Sudan is at a pivotal point in its history, requiring special understanding, and that there are several priority decisions to be made with regard to the country's stability and security, responses to humanitarian challenges and, of course, accountability and justice for the atrocities that were committed.

In conclusion, Gabon wishes to reaffirm its full support for the efforts of the Prosecutor and his Office and encourages the Sudanese authorities to continue to fully cooperate with the Office of the Prosecutor. That partnership remains vital for the effective implementation of resolution 1593 (2005).

**Mr. Boateng** (Ghana): I would like to thank Mr. Karim Khan for his thirty-sixth briefing to the Security Council on the activities of the Office of the Prosecutor on the Sudan file. Let me also warmly welcome the representative of the Sudan to today's meeting.

The report demonstrates the Office's seriousness in dealing with impunity in the Sudan based on the swift progress made with regard to the trial proceedings in the case against Ali Muhammad Ali Abd-Al-Rahman. As will be recalled, this is the first trial at the Court

that is based on a referral from the Council. Ghana is therefore particularly encouraged by the courage of the victims and witnesses who have braved all risks by coming forward to provide their testimonies. The courage shown demonstrates that the victims of atrocity crimes, no matter how long it takes, will always strive for justice, as amply reflected in paragraphs 15, 16 and 17 of the report, which contains witnesses' testimonies.

We applaud the efforts of the Office for increasing the avenues through which it engages with witnesses and for launching a public appeal for information in relation to the situation in Darfur. The public appeal will allow individuals to contact the Office and provide information about what they know or witnessed in relation to cases on which the Office is seeking further information.

Ghana believes that the visit of the Prosecutor to the Sudan in August 2022, and in particular his visit to Darfur and camps for internally displaced persons, provided an important platform for dialogue and the strengthening of collaboration with local communities, as well as public relations efforts.

With regard to the cases linked to Wadi Salih and Mukjar, concerning crimes within the localities of West Darfur, including acts of murder, rape, destruction of property and pillaging, it is gratifying to note that the Office is working with the benchmark submitted to the Council during the thirty-fifth briefing (see S/PV.9113) to conclude its case in February.

On cooperation between the Office and the Sudanese authorities, Ghana wishes to take this opportunity to encourage the full cooperation of the competent Sudanese authorities, which remains central to accelerating the investigative work of the Office and making sure that the legitimate expectations of survivors are addressed. Ghana recalls that, in the thirty-fifth report, the Prosecutor detailed some areas that are key to the work of the Office. Unfortunately, the report indicates that those commitments have not been kept, and only little real progress has been made across the priority areas outlined by the Prosecutor in the previous report to the Security Council. We note the continuing concern with the issuance of visas, which seems to have taken a downturn, as applicants are now required to submit their curriculum vitae as part of the application process for the issuance of only single-entry visas. In that regard, we encourage the relevant Sudanese authorities to give consideration to the following: first, provide unimpeded access to

documentation and witnesses in the Sudan; secondly, support the establishment of a field presence in the Sudan; and, thirdly, ensure prompt responses to requests for assistance submitted by the Office to the Sudanese authorities.

In calling for the full cooperation of the competent Sudanese authorities, I wish to reiterate Ghana's position that such cooperation should not be overtaken by the principle of complementarity, which is a core principle of the Rome Statute. In that regard, we encourage the Office to continue to work with the Sudanese judicial system and provide the necessary technical and capacity-building support.

Ghana commends the continuous efforts of the Office to empower victims, witnesses and the affected communities by bringing its work closer to such communities through the proposed increase in the frequency of missions to Darfur, as well as the enhancement of the Office's permanent field presence, for which Ghana called for the cooperation of the Sudanese authorities.

We further note that, during the period under review, the Office broadened and deepened its engagement with third States and entities in support of its investigative and prosecutorial activities. It is gratifying to note that the significant cooperation and assistance received from a number of those States has helped with the progress made in the trial of Mr. Abd-Al-Rahman. We call on States and non-States parties to the International Criminal Court to continue to cooperate with the Office by giving timely responses to its requests so as to enable the latter to effectively and efficiently discharge its mandate pursuant to resolution 1593 (2005).

We urge the Office to continue its efforts to increase cooperation and dialogue with African States, as well as the African Union. As we have always emphasized, that approach not only could help to address the lack of cooperation between the Court and the Sudanese authorities, but also could garner the broadest support to address issues of accountability in other cases that the Court is investigating.

I wish to conclude by once again thanking Mr. Khan for his leadership of the Office and by commending States and non-States parties that are cooperating with, and assisting, the Office in carrying out its mandate pursuant to resolution 1593 (2005), being the first referral by the Security Council. We hope that the Council can be unified in its support for the work of

the Office as a strong message to would-be perpetrators of atrocity crimes that the international community abhors such crimes and that perpetrators will not enjoy impunity.

**Mrs. Dime Labille** (France) (*spoke in French*): Allow me too to thank the Prosecutor of the International Criminal Court (ICC), Mr. Karim Khan, for the comprehensive presentation of his twenty-sixth report on the activities of his Office. His visit to the Sudan, in particular to the internally displaced persons camps, in August 2022 brought hope to the victims of the conflict and local communities and is a welcome initiative.

The investigation into the situation in Darfur by the International Criminal Court, at the request of the Security Council, is all the more essential at this time of fragile transition in the Sudan. The political crisis continues to impede the peace process in Darfur. Building a lasting and inclusive peace in the region will not be possible without justice. The fight against impunity for the perpetrators of the most serious crimes is part of the restoration of democratic life, reconciliation and the success of the rule of law.

We appreciate that the events in the Sudan have had a very worrisome impact on the progress of the Court's investigations. We therefore call on the Sudanese authorities to cooperate fully with the Office of the Prosecutor and to fulfil their obligations under not only resolution 1593 (2005), but also the Juba Peace Agreement and the memorandum of understanding concluded the Office of the Prosecutor. All necessary assistance must be provided to the investigators, who must be given safe access to Sudanese territory, particularly to crime scenes, evidence and witnesses, including when the latter are held in detention centres. Under the agreements with the Sudanese Government, a local office of the International Criminal Court should be established in Khartoum as soon as possible.

France welcomes the significant progress in the case against Mr. Abd-Al-Rahman, also known as Ali Kushayb. That is the first case before the International Criminal Court to proceed to a trial on the situation in Darfur and the first following a referral by the Security Council. We commend the efficient conduct of the trial, thanks to the work of the Prosecutor and the judges, to ensure that justice is done within a reasonable time. The trial represents a crucial moment for the survivors and families of the victims. In that regard, we recall that it is essential that witnesses in that case be able to

testify in complete safety, without risk of reprisals and without hindrance.

In addition, while complementarity remains a cardinal principle, the enforcement of outstanding arrest warrants is crucial. We call on the Sudan to surrender Mr. Harun to the ICC as soon as possible. We once again urge Mr. Banda to surrender immediately to the Court so that he can be tried there. We commend the increased cooperation between the Office of the Prosecutor and third States and international organizations, which helped to advance the Court's various investigations and obtain new evidence.

While the Prosecutor is carrying out essential investigations into all the abuses within his jurisdiction, we reaffirm France's support for the International Criminal Court, the only permanent international criminal jurisdiction with a universal mandate.

Let me take advantage of the presence of the Sudanese authorities and representatives to make some more general remarks, which may also influence cooperation with the Court. France's commitment to the Sudan since 2019 is closely linked to the ongoing democratic transition. The political impasse in which the military authorities have found themselves has jeopardized many achievements of the past two years. The political instability particularly affects the security situation in Darfur. It led to an increase in violence, including intercommunal violence. Those responsible for that violence must be held accountable. We also reiterate our call for the deployment of the joint protection force provided for in the Juba Peace Agreement. The protection of civilians, including humanitarian and medical personnel, and the guarantee of full, safe and unhindered humanitarian access are the responsibility of the Sudanese authorities. Those issues must remain priorities.

The framework agreement signed on 5 December between the military and the Forces for Freedom and Change, which we welcome as an important step towards peace and democracy, must now allow for the restoration of a civilian-led democratic transition. In that regard, we support the efforts of the United Nations, the African Union and the Intergovernmental Authority on Development to facilitate dialogue between the Sudanese parties. It is now important that the Sudanese parties move forward as soon as possible to finalize the various workshops provided for in the framework agreement. Once a new civilian Government has been

formed, France will be able to fully recommit to its cooperation with the Sudanese authorities.

In conclusion, allow me to say that, alongside its partners, particularly European and others, France will remain mobilized in support of the political transition in the Sudan, as well as accountability for the perpetrators of crimes, including those within the jurisdiction of the International Criminal Court.

**Ms. Dautllari** (Albania): Let me thank Prosecutor Khan for his briefing. We commend him and his team, including the Special Adviser on Darfur, for their dedication to bringing about justice for the victims of the war crimes and crimes against humanity committed in Darfur. We strongly support the International Criminal Court (ICC) in fulfilling its mission. The ICC's commitment to accountability is the only anchor of hope for the survivors and the victims' families. The welcoming of Prosecutor Khan to Darfur in August 2022 demonstrates that.

We praise the progress made on the trial of Ali Muhammad Ali Abd-Al-Rahman, as mentioned by Prosecutor Khan. That is an important tangible step towards delivering justice to the people of Darfur. At the same time, as a landmark trial, that serves as a strong reminder to all the perpetrators of war crimes and crimes against humanity that justice will be served, however long it may take — for the sake of the people. Impunity, at the end, will be only history.

We regret to hear that 34 requests for assistance from Office of the Prosecutor remain pending and that the Office has faced unnecessary hurdles, even to access public archives and documentation. Those actions are nothing other than a further attempt to delay justice. We took note of the information shared by Prosecutor Khan on cooperation with the Sudanese authorities and urge them to stick to their written commitments and cooperate with the Office of the Prosecutor, in accordance with resolution 1593 (2005) and the memorandum of understanding with the ICC.

Albania calls on the Sudanese authorities to provide unimpeded, secure access to crime scenes, relevant documentation, public archives and Government witnesses and to support executing the ICC arrest warrants for senior officials so that they can face justice and allow the Court to establish a permanent office with a greater field presence. As Prosecutor Khan said, enhanced cooperation between the ICC Prosecutor and the Government of the Sudan is a must for the ICC to

achieve its mission. In our view, it requires honest and inclusive dialogue with representatives of the political spectrum and civil society, especially women and youth.

In conclusion, we believe that it is important that the Council keep its promise to ensure accountability, as set out in resolution 1593 (2005), give the right signals to promote justice and ensure accountability for the atrocities committed in the Sudan.

**Mr. Almazrouei** (United Arab Emirates) (*spoke in Arabic*): At the outset, I thank the Prosecutor, Mr. Karim Khan, for his thorough briefing on the updates relating to the activities of the International Criminal Court (ICC) in Darfur. I also welcome the participation of the Representative of the Sudan, Ambassador Al-Harith Mohamed, in today's meeting.

Last year alone, the Sudan went through exceptional circumstances. During that period, we witnessed tireless efforts by the Sudanese stakeholders, supported by international and regional partners, particularly the tripartite mechanism, in order to launch a new phase. Those efforts culminated in the signing of the political framework agreement last month by a wide range of Sudanese parties. That is an important step towards realizing the aspirations of the brotherly Sudanese people.

We also welcome the recent positive development that we witnessed early this year, namely, the launching of the final phase of the Sudan's political process. In that regard, we express our sincere wishes for the success of the Sudanese parties in their upcoming journey towards completing the transitional period.

In parallel to those developments, the Sudan continued its engagement with the Office of the Prosecutor, which included facilitating the Prosecutor's important visit to the Sudan in August 2022, during which he met with Government officials as well as relevant individuals in the Sudan. With the recent positive political developments, we hope that those engagements will continue and will be accompanied by a sincere and constructive dialogue between the ICC and the Sudan, based on the principle of complementarity stipulated in the Court's statute and in line with the national laws of the Sudan.

The United Arab Emirates stresses its support for the Sudan's efforts to implement transitional justice mechanisms in accordance with the provisions of the Juba Peace Agreement in order to ensure justice for the victims of Darfur. My country also supports the Sudan's

recent efforts to de-escalate tensions in Darfur through local reconciliation agreements, which contributed to its stability.

In conclusion, we emphasize that the Juba Peace Agreement has created a new reality in the Sudan, in general, and in Darfur, in particular, which requires the international community to provide the necessary support to the Sudan in order to complete the implementation of all the provisions of the Agreement.

**The President:** I shall now make a statement in my capacity as the representative of Japan.

Let me begin by thanking Prosecutor Khan for the thirty-sixth report on the situation in Darfur. The International Criminal Court (ICC) is key to upholding the rule of law; its contribution to the fight against impunity is critical. Japan would like to reaffirm our unwavering commitment to the ICC and our support for the tireless efforts, dedication and leadership of the Office of the Prosecutor.

In 2005, Japan, as a Security Council member at that time, supported resolution 1593 (2005) given the importance of the fight against impunity and the role of the ICC, which is essential for reconciliation among the parties to conflict in order to achieve sustainable peace and security. In that resolution, the Security Council decided that the Government of the Sudan and all other parties to the conflict in Darfur shall cooperate fully with, and provide any necessary assistance to, the Court and the Prosecutor. The Sudan is obliged to accept and carry out that decision. We recall that in resolution 1593 (2005), the Council also urged all States and concerned regional and other international organizations to cooperate fully with the ICC.

In that regard, we welcome the substantial progress in the trial of Mr. Abd-Al-Rahman, also known as Ali Kushayb — the first case referred to the Court by the Security Council. Now 18 years since the referral, we are finally witnessing what the Council has long sought — justice becoming a reality for the victims. We urge the Sudanese authorities to fully comply with their obligations under the resolution so that we can meet the long-overdue and legitimate expectations of survivors.

It is also encouraging to learn that the Prosecutor has increased engagement with victims, witnesses and affected communities through his visit to Darfur and camps for internally displaced persons. We commend the ICC's renewed strategic approach, including such engagement and empowerment. As the Secretary-

General mentioned in his statement earlier this month in the Chamber (see S/PV.9241), the ICC is the central institution of the international criminal justice system.

We would like to reiterate Japan's continued support for the Court and our readiness to continue providing both human and financial resources to it. Japan is honoured to assume the role of focal point of the Council for the ICC-related agenda, together with Switzerland, and we look forward to concrete progress on this topic.

I now resume my functions as President of the Council.

I give the floor to the representative of the Sudan.

**Mr. Mohamed (Sudan)** (*spoke in Arabic*): At the outset, I congratulate you, Mr. President, on your country's election to membership of the Security Council and also on your presidency during the current month. We are ready to cooperate with you on issues of mutual interest. I would also like to thank Mr. Karim Khan, Prosecutor of the International Criminal Court (ICC), for his briefing today on Darfur, as per resolution 1593 (2005).

Achieving justice in Darfur is an important pillar of the aspirations of the Sudanese transitional Government in order to establish security and stability in the region. Justice is also one of the three pillars on which the December revolution in the Sudan was based. The Sudan therefore will continue to be committed to accountability within a permanent integrated legal context. There is no doubt that the basis and backbone of that justice is preventing impunity and ensuring accountability and redress for the victims in Darfur.

The Sudan's commitment to achieving justice in Darfur flows not only from our commitment to fulfilling our international obligations, but also in response to popular demands for the establishment of justice and the implementation of the slogans of the revolution. From that standpoint, the Sudan will continue its endeavours to take the means to achieve justice in Darfur, convinced that peace and justice are indivisible. While the Government is doing so, it pursues a comprehensive approach aimed at improving the overall lives of our citizens in Darfur.

The Juba Peace Agreement was signed to that end, and the authorities are currently working closely with all parties to the Agreement in order to implement it



in a manner that achieves comprehensive and sustained stability and peace despite the emerging difficulties. It is important to note that the issue of justice is one of the main matters dealt with in the Agreement by emphasizing cooperation with the ICC, adopting arrangements for transitional justice and establishing a special commission for that purpose. The authorities are also working in that context to implement their National Plan for the Protection of Civilians, with the participation of the parties to the Juba Peace Agreement. Based on what I have just said, I would like to mention the following three points.

Since achieving justice for Darfur crimes is a priority for the transitional Government, it has opened a door for cooperation with the ICC, as a memorandum of understanding was signed between the Sudan and the Court in August 2022 to frame that cooperation and facilitate the tasks of Court delegations and investigators visiting the Sudan. I would like to point out that the challenges referred to by the Prosecutor in his report related to Sudan's cooperation with his Office are mainly due to the Sudan's current circumstances and the challenges associated with its exceptional transition path. That is well known to the Security Council. We are confident that the democratic transition path will soon be resumed and a civilian Government will be formed. That, in turn, will reflect positively on cooperation with the Court.

During the period when the Sudan received requests for assistance from the Office of the Prosecutor, the transfer of the executive competence for cooperation between the Sudan and the ICC from the Ministry of Justice to the Ministry for Foreign Affairs was not completed, which prevented the decision on those requests according to the expectations of the Prosecutor. The Sudanese authorities facilitated the visit of the Prosecutor to Khartoum and Darfur, without restrictions, during which he met with officials, visited Darfur and heard from a wide range of stakeholders and victims. The fact that the Prosecutor addressed the Council in August 2022 from Khartoum (see S/PV.9113) is a proof of the magnitude of the cooperation between the Sudan and the Court, which was something that no one else could have imagined. The Sudan will continue on that cooperative path, but is it necessary that the country's exceptional political circumstances be taken into account.

The authorities are working to change the reality of life in Darfur, which is witnessing a fundamental

transition from war and conflict to peacebuilding, through the formation of a transitional justice commission as a means of achieving justice in cases in which it is difficult to use ordinary means of justice, and would operate by revealing the truth, achieving justice, providing reparations and facilitating reconciliation, which means through restorative justice. Once established, the commission will lead a broad dialogue to meet the aspirations of victims and achieve justice, as desired.

The Sudan has demonstrated its goodwill and will continue to do so. We are genuinely interested in cooperating with the ICC to achieve justice on Darfur, which has led to the signing of two agreements of cooperation with the ICC. Full and ideal cooperation is also related to completing the ratification of the Rome Statute, as per Sudanese law, because the modes of cooperation mentioned require a legal basis and detailed information about the locations and identities of the individuals concerned. In that unprecedented and exceptional circumstance, the Government of the Sudan is dealing with the ICC in the same manner that it deals with other international organizations and diplomatic missions. There are no restrictions on the Court or its activities. Implementing the requests for cooperation, as per article 99, paragraph 4 (a), of the Rome Statute, will take place at the right time and as per the processes specified by our national law, so long as it does not prohibit the requests.

With regard to the process of ratifying international conventions, every convention is submitted to the Ministry of Justice to verify its compliance with national law, then it is submitted to the Council of Ministers for approval, and finally it is submitted to the presidency of the Republic and the Legislative Council for ratification. There are a number of conventions that have not been ratified yet because the organs comprising the transitional phase are not fully formed. The report does not mention the reasons that prevented the Court from receiving the documents it demanded in its request for assistance of November 2022. The report simply mentions those as challenges that are unnecessary and impediments for the work of the Office of the Prosecutor.

Criminal justice falls within the transitional justice agenda, which was not fully implemented because of the many political priorities in the Sudan. The Sudan stands in solidarity with the victims of war crimes and crimes

against humanity and is committed to international law that addresses such heinous violations.

Criminal justice that is based solely on the principle of punishment does not provide reparation for the victims. Therefore, restorative justice should be adopted to meet the needs and rights of the victims who swarm the camps of refugees and internally displaced persons in Darfur, forming a very painful image.

Criminal justice also requires an integrated criminal justice system that is not in conflict with the Sudan's commitments flowing from its international obligations and human rights conventions. Haste will not make it possible to meet those requirements, as per the American proverb which says "unsafe at any speed". Due diligence and a careful approach are necessary to expand the participation base and to reflect the cultural diversity of the Sudan, which requires the means to include all stakeholders, of whom many are women and young people, so that we do not adopt a piecemeal approach so long as the final purpose is to end impunity. The agenda is in accordance with our national security vision. That cannot be achieved in an ideal manner because of the exceptional pressures on the transitional regime in the Sudan now, as the Council well knows.

Therefore, we believe that the situation with the ICC has experienced tangible progress, which I referred to in the beginning of my statement. However, there is a need for the organs of the transitional system to be completed so as to meet the demands of the ICC, especially given that the armed movements of Darfur have now become part of the Government and the Juba Peace Agreement.

Combating impunity is one of the purposes of achieving justice. That is not a disputable issue. As mentioned, that is one of the priorities of the transitional Government and one of the most important components for achieving peace in my country. Accordingly, we are firmly committed to combating impunity, in particular the international crimes related to Darfur. The Sudan cooperates with the ICC prosecutor, but we are faced with our current circumstances.

According to the Rome Statute, there is no time frame for trials. However, the Sudan must agree with the ICC in advance with regard to the legal choices. No details have been presented to clarify the aspects of the progress achieved through the cooperation of the Sudan with the ICC and the road map that was mentioned in the report, despite the efforts by the

Sudan and the facilitation it provided to the Court and to the Office of the Prosecutor, whose members I have met personally in Khartoum more than twice, which has enabled the Court to achieve progress on the case of Darfur. To my knowledge, the Court has not provided a specific written strategy, set of priorities or a work plan established with the Sudan to move forward and avoid disagreements.

The Sudan hopes that the Security Council will understand its current political situation, taking into consideration the complexity of the political transition and the ongoing efforts to ensure peace and security and their impact on the general situation in the Sudan. We also look forward to the support of the international community in achieving justice, peace, peaceful coexistence and sustainable development and on the likely influence of the Sudan on peace and security in the region.

There is no need for us to mention that the Sudan has cooperated with the international community in a number of areas, including unprecedented positive cooperation for countering terrorism, violent extremism, illegal migration, human trafficking, crimes related to drugs and transnational crime. All that, in turn, promotes the rule of law and the concept of combating impunity.

We call on the Security Council to take into consideration the current political situation and the fact that the required haste is sometimes based on subjective criteria. However, with our goodwill and what we will agree upon through dialogue, which we discussed yesterday during my meeting with the Prosecutor, we hope that all bureaucratic impediments will be removed and that we will clear a path towards criminal justice through ideal cooperation between the two sides in a manner that respects the Sudan's sovereignty, national entity and its criminal law, which is compatible with international law.

We know that the Sudan has thus far not signed the Rome Statute. However, our cooperation is in compliance with resolution 1593 (2005). Therefore, I am hopeful that the requests will be met within a time frame according to the circumstances in Khartoum, and not as per international standards. We are in a seriously critical situation that requires special understanding.

I thank the Council and extend all due respect to the Prosecutor.

*The meeting rose at 4.55 p.m.*