



## Security Council

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### **Letter dated 16 December 2020 from the President of the Security Council addressed to the Secretary-General and the Permanent Representatives of the members of the Security Council**

I have the honour to enclose herewith a copy of the briefing provided by Ms. Fatou Bensouda, Prosecutor of the International Criminal Court, as well as the statements delivered by the representatives of Belgium, China, the Dominican Republic, Estonia, France, Germany, Indonesia, the Niger, the Russian Federation, Saint Vincent and the Grenadines, South Africa, Tunisia, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Viet Nam, in connection with the video-teleconference on “Reports of the Secretary-General on the Sudan and South Sudan” convened on Thursday, 10 December 2020.

In accordance with the procedure set out in the letter dated 7 May 2020 from the President of the Security Council addressed to the Permanent Representatives of the members of the Security Council (S/2020/372), which was agreed in the light of the extraordinary circumstances caused by the coronavirus disease pandemic, this briefing and these statements will be issued as an official document of the Security Council.

*(Signed)* Jerry Matthews **Matjila**  
President of the Security Council



**Annex I****Statement by the Prosecutor of the International Criminal Court,  
Fatou Bensouda**

I welcome the opportunity to present my thirty-second report regarding the situation in Darfur, pursuant to resolution 1593 (2005), and to brief the Security Council on recent developments.

Before doing so, I congratulate South Africa on assuming the presidency of the Council for the month of December and wish it continued success in carrying out its essential duties.

As the world continues to navigate this uncertain era of the coronavirus disease (COVID-19) pandemic, I again brief the Council virtually.

Since my latest update in June (see S/2020/538), there have been significant developments in the Darfur situation. Today I will focus on two of those important developments: the ongoing case against Mr. Ali Muhammad Ali Abd-Al-Rahman, also known as Ali Kushayb, and the directly related issue of the status of cooperation between my Office and the Government of the Sudan.

Fifteen years after the referral of the situation in Darfur to the International Criminal Court (ICC), pursuant to resolution 1593 (2005), the victims of the crimes in Darfur finally have a chance to see justice in relation to one of the cases.

My written report sets out the main judicial developments in the case against Mr. Abd-Al-Rahman, who was transferred to the International Criminal Court on 9 June following his voluntary surrender to authorities in the Central African Republic, as the Council was made aware in my June report. My Office, assisted by the Registry of the Court, was able to secure the surrender and transfer of the suspect to the custody of the ICC, notwithstanding the operational challenges presented by the COVID-19 pandemic.

The Council will recall that the Court had issued two arrest warrants against Mr. Abd-Al-Rahman for multiple counts of war crimes and crimes against humanity allegedly committed in Darfur. The first warrant concerned crimes allegedly committed during attacks against civilians in the locations of Kodoom, Bindisi, Mukjar and Arawala between August 2003 and March 2004. The second arrest warrant concerned the crimes allegedly committed in the town of Deleig in March 2004.

Mr. Abd-Al-Rahman made his initial appearance before ICC Pre-Trial Chamber II on 15 June. The Pre-Trial Chamber scheduled the confirmation of charges hearing for 7 December and later postponed it to 22 February 2021.

On 3 December, in the light of the challenges my Office is facing, some of which I will address today, I requested the Pre-Trial Chamber to further postpone the confirmation hearing until 31 May 2021. The defence has yet to respond to that request, and the Pre-Trial Chamber will decide on that request in due course.

Despite limited resources, my Office is adapting to the new reality and pandemic-related restrictions in its pursuit of justice for victims in the Darfur situation. My team of investigators, analysts, advisers and lawyers has been working under difficult conditions, including conducting missions in Europe and Africa to expedite preparations for Mr. Abd-Al-Rahman's confirmation of charges hearing.

The planning, preparation and conduct of those missions have been heavily impacted — and at times unavoidably delayed — by the challenges that my Office, cooperating States and other partners have had to overcome to enable my team to

conduct its work in the circumstances of a global pandemic. I take this opportunity to express my appreciation to the team for their hard work and resilience over the past six months, in extremely challenging circumstances.

During the reporting period, my Office continued to monitor alleged crimes in Darfur that may fall within the Court's jurisdiction. There have been repeated allegations of attacks on civilians in Darfur, reportedly occurring mainly in June and July. Those attacks reportedly resulted in significant casualties. Alarming, there are continuing reports of sexual and gender-based violence and crimes against children. Such attacks must stop, and the protection of civilians must remain a priority.

I welcome the Juba Peace Agreement, signed on 3 October, between the Sovereign Council and the Sudanese Revolutionary Front and other movements. I am hopeful that the Agreement will help bring justice to the victims of atrocity crimes in Darfur and build sustainable and prosperous peace in the Sudan.

I commend the parties' agreement to create a special court for Darfur crimes and a truth and reconciliation commission. I also welcome the importance that the Juba Peace Agreement lends to the ICC and the emphasis placed on cooperation between the Sudan and the Court in relation to the five ICC suspects, including Mr. Abd-Al-Rahman.

Indeed, the parties are committed to facilitating the appearance of those wanted before the ICC, providing its prosecutors and investigators with access to victims, witnesses and investigation sites and allowing Court personnel to travel freely throughout the Sudan. The Juba Peace Agreement also states that the parties shall not interfere with ICC investigations and shall ensure the safety of victims and witnesses.

I also welcome the Sudan's recent repeal of the criminal law provisions that prevented cooperation with the ICC.

In October, I led the first mission by my Office to the Sudan in 13 years. In Khartoum, my team and I engaged in productive meetings with officials of the Government of the Sudan at the highest levels. I also held productive discussions with representatives of civil society organizations, international bodies and the diplomatic corps in Khartoum.

Those meetings enabled my team to explain the ICC proceedings and the status of the Darfur cases. Our discussions also presented an opportunity to hear directly from the Sudanese authorities about their plans for cooperation with my Office and their commitment to accountability and justice for the people of Darfur.

My visit to Khartoum further gave my delegation and the Government of the Sudan the opportunity to hold preliminary discussions on possible mechanisms for bringing to justice the suspects against whom ICC warrants have already been issued. I welcome the assurances of support, cooperation and the commitment to justice expressed by the authorities during my mission to Khartoum. I am also hopeful that the draft memorandum of understanding on modalities of cooperation, submitted by my Office to the Sudan shortly after the mission, can be swiftly concluded. At the present time, we are waiting for the authorities of the Sudan to provide their reaction to the draft.

In Khartoum, I stressed the urgent need for my investigators to be given access to the territory of the Sudan. I emphasized that time is of the essence as my team strives to meet the various deadlines set by the Court's judges in Mr. Abd-Al-Rahman's case. I reiterate that call and urge the Council to impress upon the Sudan the urgent need

for my investigators to access its territory, and in particular to conduct investigative missions in Darfur, without further delay.

I had hoped that my team would travel to the Sudan in November for an operational assessment mission to pave the way for fully fledged investigative activities immediately thereafter. Unfortunately, that mission was postponed at the request of the Sudanese authorities. No new dates have been offered, and the window of opportunity to conduct investigations prior to Mr. Abd-Al-Rahman's confirmation of charges hearing is rapidly closing.

Unless the mission is rescheduled soon, my Office risks losing a golden opportunity to directly engage with victims and witnesses in situ for the first time and to ensure that their evidence is made available to the judges at Mr. Abd-Al-Rahman's confirmation of charges hearing, currently scheduled for 22 February 2021.

The Sudan's immediate facilitation of access to its territory would demonstrate to the victims, the Sudanese people and the international community, including the Council, that the Sudan seriously intends to implement the principles adopted in the Juba Peace Agreement and resolution 1593 (2005), which referred the situation of Darfur to my Office. It would give further concrete expression to the assurances of cooperation conveyed to me in person during the recent historic visit of my Office to Khartoum. It would also signal that the Sudan is genuinely committed to the path of justice.

My Office stands ready to work collaboratively with the Sudan as it charts its way towards accountability for the atrocity crimes alleged to have been committed in Darfur.

Allow me to also take this opportunity to stress that the outstanding ICC arrest warrants against Mr. Omar Al-Bashir, Mr. Ahmad Harun, Mr. Abdel Raheem Muhammad Hussein and Mr. Abdallah Banda Abakaer Nourain remain in full force. To date, my Office has not received any official confirmation by the competent authorities of the Sudan on what actions they intend to take in relation to the remaining ICC suspects, who, with the exception of Mr. Banda, are reportedly in their custody.

I take this opportunity to appeal to the Council and, through it, to the authorities of the Government of the Sudan, to intensify dialogue with my Office in relation to those outstanding warrants. While fully respecting the principle of complementarity, we must ensure that all the ICC suspects are brought to justice through fair, objective and independent proceedings — either before the Court or in Sudanese courts — and guided by the requirements of the Rome Statute. The Council can play a decisive role in expediting that process and ensuring the Sudan's full, prompt and tangible cooperation with the ICC, consistent with its international obligations. The victims of atrocity crimes in Darfur deserve to finally see real progress in the pursuit of justice.

I would like to acknowledge and express appreciation for the productive cooperation between my Office and other States in Africa, Europe and beyond in relation to our investigative activities on the Darfur situation. The support and cooperation of all States in the implementation of resolution 1593 (2005) is essential for the success of my Office's investigations, particularly in the case against Mr. Abd-Al-Rahman. The progress my Office has been able to make to date, despite the significant challenges we face, would not have been possible without the principled cooperation of a number of States, including some of those who sit on the Council. Allow me to express my sincere gratitude for that unwavering support.

I must also express my heartfelt thanks and respect to the inspirational witnesses, victims and other individuals and organizations who continue to do everything in their power to pursue justice and accountability for crimes in Darfur.

Despite the many challenges faced by my Office in the course of its work, we remain undeterred by any obstacles to the pursuit of justice for victims in the Darfur situation, including political interference.

My recent mission to Khartoum and related high-level meetings represent a turning point in the Office's formal relationship with the Government of the Sudan. During those meetings, a number of officials at the highest level assured me that the Sudan's commitment to justice in Darfur was genuine and that the presence of my delegation in Khartoum was a demonstration of that. I do not doubt the sincerity of those words, but they must now be matched with concrete action, starting with unimpeded access for my investigators to witnesses, crime scenes and other evidence in Darfur.

My next report on the Darfur situation will be submitted in June 2021. It will be my last report to the Council as Prosecutor of the ICC. In that final report, I hope to be in a position to brief the Council on the activities that my Office has conducted on the ground in Darfur. Before then, I also hope to visit Darfur in order to engage with victims and pay personal tribute to the courage, resilience and patience they have demonstrated since the Council's referral first ignited their hopes for justice 15 years ago. Access to justice is what the victims expect, and it is what the Sudan, with the support of the Council, must immediately facilitate.

The developments in the Sudan give renewed hope for justice and accountability in Darfur. Those hopes must not be dashed. Those promising developments also convey a clear message — the politics that aims to undermine the progressive movement towards greater accountability for atrocity crimes has a limited shelf life, because it goes against the currents of modern history and the quest and need of humankind for a more just world.

**Annex II****Statement by the Permanent Representative of Belgium to the United Nations, Philippe Kridelka**

[Original: French]

I would like to thank Prosecutor Fatou Bensouda for her written report and her very enlightening briefing to the Security Council.

Today I would like to touch upon three points: the very encouraging developments in recent months in the fight against impunity in the Sudan; the importance for the Sudanese authorities now cooperating concretely with the International Criminal Court (ICC); and the role that Belgium has played in support of the Court during its mandate on the Security Council.

First of all, my country welcomes the concrete measures taken by the Sudan in favour of justice and accountability since the most recent Council meeting in June (see S/2020/538) with Prosecutor Bensouda. Having repealed the legislative provisions that prevented any cooperation with the ICC, the Sudanese authorities have made concrete commitments on transitional justice in the framework of the Juba Peace Agreement. In addition to the establishment of a truth and reconciliation commission and a special court for Darfur, the parties committed to provide full cooperation to the ICC in relation to suspects for whom arrest warrants have been issued.

Since then, a formal dialogue has been initiated with the Office of the Prosecutor. The official delegation visit to Khartoum in October, led by the Prosecutor, provided an opportunity for talks at the highest level, where the Government of the Sudan expressed its firm commitment to work with the Office.

Secondly, I would like to call on the Sudanese authorities to give concrete expression to their strong commitments by lending practical cooperation to the ICC, in accordance with their international obligations as defined in resolution 1593 (2005). In furtherance of the principle of complementarity enshrined in the Rome Statute, that means doing everything possible to ensure the effective implementation of the judicial process, whether in The Hague or in the Sudan, with the support of the ICC, if necessary.

Belgium understands the particular situation in which the Sudan finds itself in this transitional period. Nevertheless, the ongoing proceedings concerning Mr. Abd-Al-Rahman require the Office to have access to Sudanese territory as soon as possible in order to contact key witnesses and collect additional evidence. My country therefore encourages the Sudan to expeditiously conclude a memorandum of understanding with the Office of the Prosecutor and to respond to its requests for assistance. We also invite United Nations missions and agencies to facilitate the Office's activities in the field to the best of their ability.

In the context of continuing violence against civilians, including women and children, it is more crucial than ever that the Sudan and the international community as a whole — including the Security Council, which has referred the matter to the ICC — mobilize to ensure justice for the victims of the most serious crimes in Darfur and the rest of the Sudan.

I would like to conclude by stressing the paramount importance of the support of the Security Council and its member States for the Court. As the focal point for the ICC in the Security Council, Belgium, together with the other States parties that are members of the Council, has ensured that the Court's interests are defended and promoted, including by securing the Organization's essential cooperation in

the context of peacekeeping operations. We have also taken every opportunity to reiterate our unwavering support for the ICC as an independent and impartial judicial institution. My country therefore continues to deplore the application of sanctions against the Court and, more particularly, against its Prosecutor and the members of his Office. Those measures hinder the proper functioning of the ICC and are unacceptable. Belgium therefore once again calls on the United States to reconsider those measures. Rest assured that we will continue to stand ready to act and to assist the Court, even beyond the Security Council.

## **Annex III**

### **Statement by the Deputy Permanent Representative of China to the United Nations, Dai Bing**

[Original: Chinese]

I listened carefully to the briefing given by Prosecutor Bensouda, and I welcome Ambassador Siddig, Permanent Representative of the Sudan, to this meeting.

The Sudan's peace process and political transition have made important progress. China welcomes the formal signing of the Juba Peace Agreement between the Sudanese transitional Government and the relevant parties, which is a crucial step in the Sudan's transition process and an important opportunity for the country to achieve comprehensive and lasting peace. China encourages the signatories to earnestly fulfil their commitments and promote the full implementation of the Agreement and calls on the parties that have not signed it to join the peace process as soon as possible. We hope that all parties will work together to realize the transition from peacekeeping to peacebuilding in the Sudan.

China notes that the Prosecutor and other officials of the International Criminal Court have been unilaterally sanctioned. Many countries, including many members of the Security Council today, have condemned that. China has always opposed unilateral sanctions that are inconsistent with international law. At the same time, it hopes that the International Criminal Court will strictly follow the principle of complementary jurisdiction in its work, truly respect national judicial sovereignty and avoid interference in the internal affairs of other countries. Regarding issues involving the Sudan, the legitimate and reasonable demands of the Sudanese Government and the African Union should be taken seriously, and the sovereignty of the Sudan and the opinions of the Sudanese Government should be fully respected.



**Annex IV****Statement by the Special Envoy to the Security Council of the Dominican Republic, José Singer Weisinger**

[Original: Spanish]

We are grateful for Prosecutor Bensouda's briefing this morning. As always, it is a pleasure to receive her reports and to discuss the progress made by her Office, which is crucial in the fight against impunity.

The Dominican Republic applauds the Juba Peace Agreement signed in October. To be able to hold our last meeting as non-permanent members of the Security Council on this subject with such welcome news for the Sudanese people fills us with satisfaction. We urge the signatory parties to the Agreement to implement it efficiently and without delay. The Agreement must become the basis for a hopeful future leading to the progress of a people who have already suffered enough.

There can be no peace without justice. We therefore welcome the openness that the Agreement proposes in the relations between the Sudanese authorities and the International Criminal Court. That new phase of collaboration will undoubtedly be essential to bring justice to the victims of the terrible acts committed in the Sudan as a result of the protracted conflict.

We acknowledge the efforts made by the authorities in the Sudan to receive Prosecutor Bensouda in Khartoum and urge the Sudanese Government to follow up the interesting results of that visit, especially by responding to the requests made by the Prosecutor to clarify decisive aspects of the case against the accused Mr. Abd-Al-Rahman.

We are pleased to see progress in the cases against Mr. Abd-Al-Rahman and Mr. Al-Bashir and urge the Government of the Sudan to cooperate so that the remaining outstanding arrest warrants can be successfully executed.

Furthermore, we regret the Prosecutor's reports on the deterioration of the security situation in Darfur. Intercommunal clashes, attacks against civilians by unidentified armed men, attacks on displaced persons camps, violence and rape of women and girls are exacerbating the chaos and blocking Sudanese society from living in peace under the rule of law.

We urge the parties to the conflict to continue working for peace. Death, displacement, hunger and sexual abuse have no place in a Sudan that is on the road to progress, whose resilient people carry the weight of war on their shoulders but look forward to a tomorrow free of guns and fighting.

Finally, the Dominican Republic reiterates its support for the work of Prosecutor Bensouda and her team, as well as that of the other offices of the International Criminal Court, whose work is essential if the Security Council is to fulfil its mandate to maintain international peace and security, as provided by the Charter of the United Nations.

**Annex V****Statement by the Deputy Permanent Representative of Estonia to the United Nations, Gert Auväärt**

I thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC), for her report and briefing.

Let me start by reaffirming Estonia's unwavering commitment to promoting respect for international law and the rules-based international order. Estonia reaffirms its full confidence in the Court as an independent and impartial judicial institution, and expresses strong support for the work of the Court and its Prosecutor. The ICC has a particular role in eliminating impunity and ensuring justice for the victims of the crimes enshrined in the Rome Statute and has the right to do so without impediment.

In the first place, Estonia would like to highlight some of the positive developments that have taken place in the Sudan during the latest reporting period.

We welcome the signing of the Juba Agreement for Peace in the Sudan on 3 October and the importance that it affords to cooperation with the ICC, including full and unlimited cooperation with regard to suspects for whom ICC arrest warrants have been issued.

Estonia further commends the steps taken by the Office of the Prosecutor to enhance dialogue with the Government of the Sudan, in particular the Prosecutor's visit to the Sudan in October and the Government's firm commitment — expressed during that visit — to work with the Office in the interest of the victims, as well as the beginning of a formulation of a memorandum of understanding between the Government and the Court.

At the same time, Estonia remains concerned about the security situation in Darfur. We condemn the killing of, and all violence perpetrated against, civilians, especially women, children and displaced persons. That must stop and the perpetrators must be brought to justice.

We also hear the concerns of the Darfuri people regarding the impending withdrawal of the African Union-United Nations Hybrid Operation in Darfur and we urge the Sudan to step up its civilian protection capacities in order to prevent a security vacuum in the region. We hope that the Sudan will be cooperating closely with the United Nations Integrated Transition Assistance Mission in Sudan to help to build those capacities.

We recall the time-tested truth that peace cannot be achieved without justice. We welcome the voluntary surrender of Ali Muhammad Ali Abd-Al-Rahman, also known as Ali Kushayb, in the Central African Republic in June. We further take note of the plans of the Office of the Prosecutor to carry out vital investigative activities in the Sudan at the earliest opportunity and recognize the challenges related to the coronavirus disease pandemic.

Estonia calls on the Sudan to follow through on meaningful cooperation with the ICC. In order to ensure implementation of obligations arising from the resolution 1593 (2005), we call on the Sudan to grant the ICC full, prompt and unimpeded access to its territory. We further call on the Sudan to work with the Court to apprehend and hand over the remaining four suspects to the ICC to be tried for crimes committed under the Rome Statute.

In conclusion, we see time and time again that in any peace process, the rebuilding of a resilient society needs to include the elimination of impunity. In the name of ensuring justice for the victims of crimes committed, we remain expectant and hopeful that by the next reporting period there will be concrete positive steps taken in that direction.

**Annex VI****Statement by the Legal Adviser of France to the United Nations,  
Diarra Dime Labille**

[Original: French]

I thank Prosecutor Bensouda for her report and presentation, which once again confirms the relevance of the mission entrusted to the International Criminal Court in Darfur. The fight against impunity is one of the key elements of the transition in the Sudan, which France actively supports. Indeed, the prosecution and conviction of the perpetrators of the most serious crimes contribute to the restoration of democratic life and reconciliation in the country. We cannot emphasize enough that without justice, the building of a just and lasting peace in the region is not possible.

The Office of the Prosecutor must therefore be able to exercise its prerogatives without hindrance or obstruction. We welcome the legislative initiative of the Sudan's Sovereign Council, which allows for better cooperation with the Court, and the Juba Agreement for Peace in the Sudan, which also provides for stipulations to that effect. The conclusion expected shortly of a memorandum of understanding between the Court and the Sudanese authorities will complete the legal framework necessary for the implementation of that new initiative. We are therefore delighted that the Prosecutor was able to visit Khartoum in October for the first time in 10 years. Those positive developments should now lead to concrete progress on the ground, in response to the Court's requests.

First of all, access for investigators in Darfur, under satisfactory security conditions, must be quickly and freely granted. Such access is essential if the Court is to fulfil its mandate and bring justice to the victims of crimes against humanity and war crimes. France takes note of the progress of the proceedings in the case against Mr. Ali Muhammad Ali Abd-Al-Rahman, also known as Ali Kushayb, and calls on the Sudanese authorities to welcome the Court's requests for cooperation.

Secondly, while complementarity remains a cardinal principle, the execution of the four outstanding arrest warrants is crucial. France welcomes the continued dialogue between the Court and the Sudanese authorities in order to examine all the possibilities offered by the Rome Statute.

Lastly, the security and humanitarian situation in Darfur has deteriorated over the period covered by the report, marked by the death of some 100 civilians and the displacement of tens of thousands of people, the vast majority of them women and children. We encourage the Sudanese authorities to continue to implement their national plan for the protection of civilians, today with the support of the African Union-United Nations Hybrid Operation in Darfur and tomorrow with the assistance of the United Nations Integrated Transition Assistance Mission in Sudan, particularly with regard to reporting on human rights violations and strengthening the capacity of the Sudanese police.

France condemns in the strongest possible terms the violations of human rights and international humanitarian law, in particular gender-based and sexual violence, the victims of which are mostly minors. We are pleased that, under the leadership of Prosecutor Bensouda, the prosecution of sexual and gender-based crimes has become a priority for her Office.

A permanent and universal criminal court is more necessary than ever to bring the perpetrators of the most serious crimes to justice and to break the cycles of impunity and violence at work in too many crisis situations. The International

Criminal Court is the cornerstone of the fight against impunity at the international level. It plays an essential role within the multilateral system.

France reaffirms its full support for the Court, which must be able to act independently and impartially within the framework defined by the Rome Statute.

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## Annex VII

### **Statement by the Political Coordinator of Germany to the United Nations, Mathias Licharz**

There is a relationship between respect for human rights and the incidence of mass atrocities and war crimes. Respect for human rights is the best way to prevent those atrocities. It is particularly important today, Human Rights Day, that we remind this organ to ensure respect for human rights.

Another way to prevent mass atrocities is accountability. In that respect, Germany welcomes the progress made in the pursuit of justice for victims of the most severe crimes and atrocities in Darfur. The Juba Peace Agreement, which was signed in October, not only paved the way towards sustainable peace in the Sudan but also opened the door to full and unlimited cooperation with the International Criminal Court (ICC) and reaffirmed the Sudanese commitment to resolution 1593 (2005). Germany especially welcomes the establishment of a truth and reconciliation commission in relation to Darfur and, likewise, of a special court for Darfur crimes. Germany encourages the Sudanese authorities to implement concrete first steps to ensure accountability at the national level as soon as possible. Practical cooperation with the International Criminal Court also remains important.

In line with the principle of complementarity, it is indeed the primary responsibility of States to investigate and prosecute crimes under the Rome Statute. Germany encourages the Sudan to continue its efforts in support of justice for the victims. However, if crimes under international criminal law do not fall under the Sudan's national jurisdiction, it also needs to fully cooperate with the United Nations and the ICC. Those obligations were recently reaffirmed in the Juba Agreement for Peace in the Sudan, specifically the obligation to arrest and surrender suspects for whom arrest warrants have been issued.

Finally, we once again call on the States Members of the United Nations, in particular the members of the Council, to keep up their support for the International Criminal Court as a key element of our common fight against impunity. We ask them to respect the independence of the Court and abstain from undue interference. We call on those who have not yet joined the Rome Statute to do so.

## Annex VIII

### **Statement by the Deputy Permanent Representative of Indonesia to the United Nations, Muhsin Syihab**

Let me join others in thanking Ms. Fatou Bensouda for her briefing. Indonesia notes the thirty-second report of the Prosecutor of the International Criminal Court (ICC) on the situation in Darfur.

As the Sudan marches towards peace and stability, Indonesia believes that the country's commitment to pursue justice and accountability remains a critical element of its transition.

My statement will therefore focus on three key issues.

First, public confidence in the legal system is crucial. In that connection, we welcome the historic Juba Peace Agreement and the Government of the Sudan's national plan for the protection of civilians. We now need to focus on implementing those instruments.

To that end, public confidence in the legal system, especially law enforcement, is critical. Indonesia is concerned at the growing lack of public confidence in the legal system, especially among internally displaced persons.

Indonesia welcomes the Sudan's commitment to establishing a truth and reconciliation commission in relation to Darfur, as enshrined in the Juba Agreement for Peace in the Sudan. It is an important step to restore confidence in the overall transition. Furthermore, we call on the Government of the Sudan to work together with all legitimate stakeholders in Darfur to nurture public confidence in the legal system.

Secondly, we stress the need to strengthen the Sudan's legal system. Indonesia once again emphasizes the importance of the Sudan's effective leadership of its transitional process, including with regard to the pursuit of justice and accountability.

We commend the Sudan's effort to improve the effectiveness of its legal system, including by establishing a special court for Darfur crimes — a testament of the Sudan's constructive approach to improving its legal system — and we look forward to its further cooperation, especially with the United Nations Integrated Transition Assistance Mission in the Sudan, in that regard.

Thirdly, it is important to bolster the Juba peace agreement. The efforts to pursue justice must go hand in hand with wider efforts to sustain peace in Darfur. While peace cannot be complete and sustainable without justice, justice cannot prosper in the absence of peace. That requires credible efforts by the parties to achieve and maintain reconciliation and uphold the peace agreement.

Actions taken by the international community must not hamper efforts to fully implement the peace agreement, especially with regard to bringing in all parties outside the peace agreement. We expect that everyone — nationally, regionally and internationally — will work together to strengthen the implementation of the historic peace agreement.

In conclusion, Indonesia is confident that by working together to enhance the Sudan's national legal system, there can be further progress towards peace and stability in the Sudan. I therefore reaffirm Indonesia's long-standing support for lasting peace and stability in the Sudan.

**Annex IX****Statement by the Deputy Permanent Representative of the Niger to the United Nations, Niandou Aougi**

[Original: French]

At the outset, I would like to welcome the holding of this briefing devoted to the examination of the thirty-second, semi-annual report on the activities of the International Criminal Court (ICC) in Darfur and congratulate the Prosecutor, Ms. Fatou Bensouda, on her briefing to the Council.

Since the last briefing of the Office of the Prosecutor to the Council on 10 June (see S/2020/538), the Sudan has made efforts and encouraging progress in its quest for justice for the victims of atrocities committed in Darfur.

We therefore welcome the adoption in July by the Sudan's Sovereign Council of several legislative amendments, including the repeal of criminal law provisions that prevented cooperation with the ICC.

The signing of the Juba Agreement for Peace in the Sudan in October by representatives of the Government of the Sudan, the Sudanese Revolutionary Front and other movements in the country, in which the parties agreed to cooperate fully with the ICC in relation to individuals subject to arrest warrants, is an important development that we welcome.

My delegation therefore notes the adoption by the parties of several measures relating to the appearance of wanted suspects before the ICC, the facilitation of investigations in which they do not intend to interfere and the guarantee of security for victims and witnesses. We also note that the decision to establish a Darfur truth and reconciliation commission, as well as a special court for the crimes committed there, can only serve to complement the objectives of the ICC.

My delegation encourages continued dialogue between the Sudanese authorities and the ICC, within the framework of the principle of complementarity with national judicial institutions.

It is indeed important that the Court continue its activities with complete independence and impartiality in order to ensure that the persons prosecuted and the suspects can exercise their fundamental rights, including the right to a fair trial.

We regret the violations of children's rights, in particular those involving killing, mutilation and sexual violence, especially against girls, as noted in the special report of the Chairperson of the African Union Commission and the Secretary-General of the United Nations on the African Union-United Nations Hybrid Operation in Darfur and a follow-on presence (S/2020/1115), dated 13 November.

In conclusion, my delegation encourages the establishment of a regular and constructive dialogue between the Government of the Sudan and the ICC with regard to the drafting of a memorandum of understanding on facilitating the operations of the Office of the Prosecutor in the Sudan and reiterates its congratulations to Prosecutor Bensouda and her Office on their efforts and dedication to the fight against impunity.

## Annex X

### **Statement by the Senior Counsellor of the Russian Federation to the United Nations, Maria Zabolotskaya**

[Original: Russian]

The Juba Agreement for Peace in the Sudan provides a unique opportunity to ensure long-term stabilization and a transition to progressive development in the Sudan. The authorities are ready to address the root causes of conflicts, including the conflict in Darfur, and progress has been made in the implementation of the peace agreement.

Khartoum has to solve the difficult tasks of restoring the country's economy and implementing peacebuilding initiatives, with the help of the United Nations Integrated Transition Assistance Mission in Sudan. The African Union-United Nations Hybrid Operation in Darfur has succeeded in reaching its goals. We believe it is necessary to proceed with the closure of the peacekeeping operation in line with the time frames stipulated in resolution 2525 (2020).

The situation in Darfur has not undergone any significant negative changes. Intercommunal clashes in some states due to transhumance-related circumstances have not changed the overall situation. In addition, the well-coordinated and prompt reaction of the authorities to those developments, as well as the active national strategy for the protection of civilians, on which Sudanese representatives have regularly updated the Council, once again proves the willingness of Khartoum to comprehensively overcome the root causes of conflict. We can only welcome such a stance.

Against that positive backdrop, we note that it has been 15 years since the Security Council entrusted the International Criminal Court (ICC) with the task of holding accountable all those who have committed crimes in Darfur. Those 15 years have not brought any progress, however. On the contrary, the work on the Darfur file has exposed the incompetence and political bias of the ICC, which for the sake of achieving short-term goals, has attempted to distort the effective norms of customary international law concerning the immunity of heads of State. In the meantime, in the absence of the celebrated "Hague justice", the Sudanese people have decided to take ownership of the situation and we can only support them in so doing.



**Annex XI****Statement by the Permanent Representative of Saint Vincent and the Grenadines to the United Nations, Inga Rhonda King**

Permit me to extend our appreciation for their remarkable work to Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC), and her team. We also thank her for today's presentation of the thirty-second report to the Security Council, pursuant to resolution 1593 (2005).

Since the Prosecutor's last report in June (see S/2020/538), we have witnessed considerable progress by the Sudanese transitional Government in its efforts to restore democracy, peace and stability in the country. That progress includes, inter alia, the conclusion of the Juba Agreement for Peace in the Sudan on 3 October and the Sudan's commitment to usher in a new era with the special political mission of the United Nations — the United Nations Integrated Transition Assistance Mission in Sudan.

Saint Vincent and the Grenadines welcomes those positive developments unfolding in our sister nation. The Juba peace agreement, which comprises provisions to promote human rights, the rule of law, transitional justice and reconciliation, as well as a scope for greater cooperation with the ICC, could be a pioneering instrument to transform the lives of all Sudanese people. In that respect, it is essential that the agreement be implemented comprehensively and in a timely manner.

Despite those notable advances, we remain concerned about the dire humanitarian and economic situation confronting the Sudan, which has been exacerbated by climate change and the coronavirus disease pandemic. We encourage the transitional Government and all international partners to decisively address those vexing issues. Intercommunal violence, together with grave violations against the most vulnerable groups, including women and children, are also very disturbing. We condemn those atrocities and call on the Sudanese authorities to renew their efforts to ensure that all perpetrators are held accountable and brought to justice. We also call on the international community, especially international donors, to renew their support to the Sudan and to increase their contribution to the humanitarian response plan.

As champions of a robust international legal system, it is incumbent on us all — both States parties and non-State parties to the Rome Statute — to comply strictly with our international obligations. In that context, Saint Vincent and the Grenadines encourages greater cooperation between the Sudan and the ICC, particularly in ensuring that the Office of the Prosecutor executes its mandate without hindrance. We note with gratitude the transitional Government's decision in July to amend legislation to repeal the criminal laws that had prevented cooperation with the ICC, as well as its commitment to conclude a memorandum of understanding with the ICC. The visit to Khartoum by the Office of the Prosecutor in October is also laudable. We are encouraged by those developments and stress that a strengthened relationship between the Sudan and the ICC augurs well for the respect of international criminal justice.

We underscore that cooperation and the principle of complementarity are *sine qua non*s for the ICC. As such, we emphasize that the ICC's jurisdiction can only be invoked in the case of the State's inertia to prosecute alleged perpetrators. To that end, we look forward to enhanced cooperation and the application of complementarity, in accordance with the Rome Statute, to ensure that the four outstanding ICC arrest warrants in the Sudan are resolved.

Saint Vincent and the Grenadines stands resolute in its condemnation of the grave injustice against the ICC and its officials through unilateral coercive measures in the form of sanctions. It is our view that those unilateral measures are unjustifiable, flagrantly violate our international rule-based system, seek to undermine the work of the ICC and must be withdrawn.

In conclusion, my delegation reaffirms its commitment to the ICC and repeats its call for non-State parties to the Rome Statute to become members of the ICC.

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**Annex XII****Statement by the Deputy Permanent Representative of South Africa to the United Nations, Xolisa Mabhongo**

At the outset, allow me to thank the Prosecutor of the International Criminal Court (ICC), Ms. Fatou Bensouda, for her comprehensive briefing on the situation in the Sudan.

South Africa continues to support the full implementation of resolution 1593 (2005), pursuant to which the situation in Darfur was referred to the Prosecutor of the ICC to investigate war crimes, crimes against humanity and genocide.

We are encouraged by the progress made in terms of the ongoing efforts to ensure justice for the victims of the Darfur conflict, particularly the developments in the ICC case against Mr. Abd-Al-Rahman, including the opening of the confirmation of charges hearing in February 2021. The questioning of Mr. Al-Bashir, Mr. Harun and Mr. Hussein by the International Commission of Inquiry on Darfur regarding crimes committed in Darfur is also promising.

The Sudan's commitment to full and unlimited cooperation with the ICC and the emphasis on the commitment to resolution 1593 (2005), as set out in the Juba Agreement for Peace in the Sudan, are commendable. Such commitments were already initiated during the first visit by the Prosecutor to the Sudan in mid-October and further cooperation between the Sudan and the Court is welcomed.

South Africa ardently supports the principle of complementarity and encourages all States to develop their legal systems to ensure accountability for the most serious crimes. South Africa therefore welcomes the establishment of a truth and reconciliation commission in relation to Darfur and a special court for Darfur crimes. An essential component of justice is that it be carried out and witnessed. The establishment of the truth and reconciliation commission and special court will not only ensure accountability for crimes committed but also that justice is witnessed by the victims in the Sudan.

While South Africa is encouraged by the significant progress that the Sudan has made, we remain concerned at ongoing reports of continued deaths and violence, as well as reports by the African Union-United Nations Hybrid Operation in Darfur of human rights violations related to children.

We urge all stakeholders in the Sudan to engage in constructive dialogue in order to restore peace and stability in the country. In that regard, the support of all stakeholders within the international community remains vital for both national and regional stability.

**Annex XIII****Statement by the Permanent Representative of Tunisia to the United Nations, Tarek Ladeb**

[Original: Arabic]

I thank the Prosecutor of the International Criminal Court, Ms. Fatou Bensouda, for her valuable briefing and for her Office's thirty-second report, pursuant to resolution 1593 (2005). I also salute her tireless efforts throughout her tenure to combat impunity for the most serious crimes.

Tunisia welcomes recent developments during the reporting period, which have been conducive to peace, justice, reconstruction and national reconciliation in our sister country, the Sudan. In that regard, we commend the Juba Agreement for Peace in the Sudan, signed between the Sudanese parties on 3 October, which constitutes a comprehensive post-conflict road map, particularly in the areas of combating impunity, addressing past violations, preventing future recurrences and establishing a smooth and peaceful transition in an environment of political and social harmony.

We are optimistic about efforts to bring about justice for victims in Darfur and a comprehensive reconciliation among the Sudanese people in the light of the arrangements provided for in the Juba peace agreement and based on the various domestic, national and international justice mechanisms, including the transitional justice process, with the support of the international community and the Security Council.

We welcome the steps taken to establish a new relationship of cooperation and complementarity between the International Criminal Court and the Sudanese authorities, based on constructive engagement and mutual respect in order to achieve the common objectives of ensuring accountability for the terrible crimes in Darfur, preventing their recurrence and ensuring the implementation of resolution 1593 (2005).

We expect that relationship to take into account the requirements and context of the transitional stage by providing the Sudanese authorities with the time and resources needed to deal effectively with the alleged atrocities, thereby translating the Rome Statute's principles of cooperation and complementarity into a genuine and objective reality.

Tunisia expresses its satisfaction with the stated commitment of the Sudanese authorities to ensuring accountability and the rule of law, as reflected during the Prosecutor's visit to Sudan from 17 to 20 October — the first of its kind — and at her meetings with senior Sudanese officials.

We hope those discussions lead to productive follow-ups that will enable the Court's investigators to travel throughout Sudanese territory with adequate safety and security precautions in support of ongoing investigations and prosecutions, pursuant to resolution 1593 (2005), and will ensure evidence-based accountability and access to witnesses and the affected local communities. We welcome the draft memorandum of understanding planned between the parties for that purpose.

Tunisia stresses that the best way to promote accountability in Darfur is by promoting dialogue and enabling national processes premised on both the primacy of domestic jurisdiction and the need for international justice.

We look forward to further advancing dialogue between the Office of the Prosecutor of the Court and the Sudanese authorities to explore the possibilities and

options available under the Rome Statute with a view to burden-sharing, harmonizing efforts and building the capacities of Sudanese judicial agencies.

In that regard, we welcome the agreement by the Sudanese parties to establish a special court to address the terrible crimes in Darfur and the gross violations of international human rights and humanitarian law perpetrated since 2002. We also welcome the role of the African Union in supporting the smooth implementation of measures for that special court.

We stress that optimism about the prospects for the imminent transitional stage in the Sudan should not mask the enormity of the challenges, which require that the international community redouble its efforts. The Sudanese authorities need assistance during this sensitive period, especially in the area of capacity-building and genuine Sudanese ownership of the transitional stage so that peace and justice can be mutually reinforcing and the foundations of democracy can be laid.

**Annex XIV****Statement by the Minister Counsellor and Legal Adviser of the United Kingdom of Great Britain and Northern Ireland to the United Nations, Chanaka Wickremasinghe**

I would like to start by thanking the Prosecutor for her thirty-second report on the situation in Darfur, pursuant to resolution 1593 (2005). The continued work of the Prosecutor and her team is an important part of the efforts towards ensuring accountability for the most serious crimes committed in Darfur. The International Criminal Court (ICC) also has an important role to play in global efforts to end impunity for those crimes of international concern and the United Kingdom fully supports its efforts to hold perpetrators to account and achieve justice for victims in Darfur.

Since the Council was last briefed on the situation in Darfur, pursuant to resolution 1593 (2005), we have continued to see the Government of the Sudan make welcome progress in implementing key reforms to ensure that justice and accountability are delivered across the country. Those include the repeal of criminal law provisions that had prevented cooperation with the ICC, as well as legal reforms on women's and children's rights.

Here, I would like to draw particular attention to the first visit of the ICC's Chief Prosecutor, Ms. Fatou Bensouda, to Khartoum — a historic moment for the new Sudan. The cooperation between the Court and the Sudanese authorities is a clear demonstration of the importance that the transitional Government has placed on the pursuit of justice for victims of atrocity crimes in Darfur, as is the recent Juba Peace Agreement, which pledges the signatories' preparedness for full and unlimited cooperation with the ICC concerning persons for whom arrest warrants have been issued.

While it is right that we recognize and applaud the progress that has been made, the United Kingdom acknowledges that this is one of many steps in the process of ensuring justice and accountability are served and that issues of concern remain. As the Prosecutor details in her report, the security situation in Darfur deteriorated during this period, with spikes in violence resulting in the deaths, injury and further displacements of civilians. The continued persistence of human rights violations and incidents of sexual violence, particularly against children, is concerning and unacceptable.

I echo the statement to the Council by my country's Permanent Representative on Tuesday (see S/2020/1183), and I call on the Government of the Sudan to build on the progress already made and intensify its efforts to improve judicial systems and rule-of-law institutions as part of the implementation of the national plan of the Sudan for protecting civilians after the exit of the African Union-United Nations Hybrid Operation in Darfur (UNAMID) (see S/2020/429, annex).

Finally, I would like to thank the Prosecutor and her team for their continued dedication and work with regard to the situation in Darfur during this reporting period. The United Kingdom welcomes the work of the Office of the Prosecutor since the surrender of Ali Kushayb to continue its investigative activities to strengthen and reinforce that case. We urge the Government of the Sudan to continue its work with the ICC and swiftly facilitate the Office's request for support for such efforts, including access to Darfur.

In conclusion, let me reiterate the United Kingdom's support for the welcome commitments that the Government of the Sudan has made to ensuring justice and accountability for the historic crimes committed not only in Darfur but also across

the Sudan. We urge the Sudan to build on that progress as it continues to implement the goals of the transition. We stand ready to assist as part of our wider commitment to supporting the people of the Sudan.

**Annex XV****Statement by the Deputy Legal Adviser of the United States of America to the United Nations, Julian Simcock**

I thank the Prosecutor of the International Criminal Court (ICC) for her briefing.

Despite the impacts of the coronavirus disease (COVID-19) pandemic, which are being felt everywhere, we are heartened to see continued positive developments in the Sudan over the past year. We have been encouraged by the concrete steps that parties in the Sudan have taken to build a more stable, secure and human rights-respecting future. We are particularly pleased that the Sudan's civilian-led transitional Government, the Sudanese Revolutionary Front and other groups signed a landmark peace agreement aimed at ending almost two decades of conflict. This important step forward, alongside the transitional Government's implementation of justice and accountability measures, including the formation of a special court in Darfur to try atrocity crimes, can help to address decades of violence committed with impunity against Darfuri victims. It will also increase the prospects for a just and enduring peace across the Sudan.

The sound of celebration in the streets as the Government welcomed rebels back to Khartoum is a sign that the Sudanese people are tired of war and conflict and are ready to move forward. Genuine accountability would be a positive step for the Sudan, a clear break from the past and a clear demonstration of its commitment to freedom and justice.

The United States will continue its efforts to deepen diplomatic relations with the new Sudanese Government and support the ongoing peace negotiations with several other armed opposition groups. We will continue to encourage them to use a survivor-centred approach during the negotiations and ensure that the voices of women, young people and other groups that have borne the brunt of the Al-Bashir regime's violence are heard. We must ensure that the crimes of the Al-Bashir era are not forgotten or ignored. In particular, we applaud the Sudanese women who were on the front lines to promote human rights and good governance, often at great risk to their personal safety.

The United States supports the Sudan's efforts to uphold democratic values, strengthen an independent justice system and pursue legal reform to ensure equality for all, regardless of gender, religion or ethnicity. We will continue to encourage open, inclusive national dialogues about how transitional justice mechanisms can facilitate truth, justice, reconciliation and healing during the Sudan's fragile and ongoing political transition.

There are few in the Sudan who deserve to face justice more than Omar Al-Bashir. Although we are encouraged by his recent conviction for financial corruption, we believe more needs to be done to pursue justice and accountability, specifically with regard to his alleged responsibility for acts of genocide committed in Darfur and other atrocities committed throughout the country.

As we have said for more than a decade, there will be no lasting peace in the Sudan until there is genuine accountability for all the crimes committed during the long years of conflict. The Darfur conflict, which killed an estimated 300,000 people, led to the displacement of millions more and entailed rampant sexual violence and the looting and burning of homes, demands justice. There are still almost 2 million internally displaced persons in Darfur. Those responsible for the crimes committed in the conflicts in Darfur and the Two Areas must be held accountable for their



misconduct. We must also ensure that those who oppose the Sudan's efforts to address its painful past have no power to hijack the Sudan's future.

The United States has historically been, and will continue to be, a strong supporter of meaningful accountability and justice for victims of atrocities through appropriate mechanisms. Perpetrators of atrocity crimes must face justice, but we must also be careful to recognize the right tool for each situation.

I must reiterate our long-standing and principled objection to any assertion of ICC jurisdiction over nationals of States that are not party to the Rome Statute, absent a Security Council referral or the consent of such States. Our concerns regarding the ICC and the situation in Afghanistan are well known.

Our position on the ICC in no way diminishes the commitment of the United States to supporting accountability for atrocity crimes, violations of international humanitarian law and gross violations of human rights.

## **Annex XVI**

### **Statement by the Deputy Permanent Representative of Viet Nam to the United Nations, Pham Hai Anh**

I thank Ms. Fatou Bensouda for her briefing. I welcome His Excellency Ambassador Omer Mohamed Ahmed Siddig, Permanent Representative of the Republic of the Sudan, to this meeting.

Viet Nam maintains its previously stated position on the Sudan, including as was expressed at the Council's meeting on Tuesday, 8 December (see S/2020/1183). We welcome the recent historic developments in the country, particularly the signing of the Juba Agreement for Peace in the Sudan on 3 October. We commend the continued efforts of the Government in that regard. It is critical that the Sudanese parties continue to fully implement the peace agreement so as to bring about lasting peace and development in the country. We also look forward to the full and timely operation of the United Nations Integrated Transition Assistance Mission in the Sudan to support the country's transition in this critical period.

At the same time, we are concerned about the reports of the increasing number of civilian casualties, including many women and children, over the past few months due to intercommunal violence. We call on the Government to take appropriate measures in addressing that issue, including acts related to violations of international humanitarian law.

Viet Nam reiterates its consistent position that the State has the primary responsibility for the implementation of international humanitarian law and the prevention and suppression of serious criminal acts, such as war crimes, crimes against humanity and the crime of aggression. While attaching importance to the establishment of accountability for violations of international humanitarian law and serious criminal acts, we maintain that it should be carried out in accordance with the fundamental principles of international law, including respect for the State's independence and sovereignty.

In that regard, we take note of the thirty-second report of the Prosecutor of the International Criminal Court pursuant to resolution 1593 (2005).

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