



# Security Council

Seventy-ninth year

*Provisional*

**9538**<sup>th</sup> meeting

Monday, 29 January 2024, 10 a.m.

New York

*President:* Mrs. Broadhurst Estival. . . . . (France)

*Members:*

Algeria. . . . .	Mr. Bendjama
China. . . . .	Mr. Dai Bing
Ecuador. . . . .	Mr. Montalvo Sosa
Guyana. . . . .	Mrs. Rodrigues-Birkett
Japan. . . . .	Mrs. Shino
Malta. . . . .	Ms. Gatt
Mozambique. . . . .	Mr. Afonso
Republic of Korea. . . . .	Mr. Hwang
Russian Federation. . . . .	Ms. Zabolotskaya
Sierra Leone. . . . .	Mr. Kanu
Slovenia. . . . .	Mr. Žbogar
Switzerland. . . . .	Mrs. Chanda
United Kingdom of Great Britain and Northern Ireland. . .	Mr. McIntyre
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 10 a.m.*

### **Adoption of the agenda**

*The agenda was adopted.*

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

**The President** (*spoke in French*): In accordance with rule 37 of the Council's provisional rules of procedure, I invite the representative of the Sudan to participate in 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:** I thank you, Madam President, for this opportunity to brief the Security Council yet again. I would also like to express my gratitude for the Permanent Representative of the Sudan for his attendance at this Council meeting.

It would be remiss of me not to acknowledge, and express very real gratitude to, the Government of Chad and to the United Nations. It is because of Chad's cooperation that I am here on its territory in N'Djamena. It is because of the assistance on the United Nations that we are trying to move forward together to discharge the trust and obligation of independent investigations, which the Council tasked us with in resolution 1593 (2005). I think this briefing from Chad means an awful lot to the Darfuri communities. They have suffered so much for so long. And I have had the opportunity of visiting camps in Chad to hear the accounts of individuals who have suffered trauma and physical wounds. They also expressed, in every breath, their gratitude for Chad giving them shelter as they literally escaped for their lives with nothing except the clothes on their backs.

The events of the past six months, and the events that I have an obligation to report to the Council, make for sober reading. I have put them forward in my report, which representatives have all seen. But the situation is dire by any metric. One in three of the population in the affected parts of Chad is a refugee from the Sudan. It is

a huge number. They are arriving at a rate vaster than Chad, or the United Nations can respond to. They are entering this country on many occasions with wounds and injuries, which means that the mortality rates are unacceptably high by any usual metric. And we see many other consequences of the events in Darfur. The vegetation of Chad is fast disappearing in the affected areas. There is a proliferation of weapons from Darfur, which appear to be circulating in Chad. And rice supplies are diminishing. Resources are stretched. Many of the countries surrounding Chad and the Sudan are fragile; they are not without their own challenges and problems. And so I am compelled to conclude and report that it is my assessment that we are fast approaching a breaking point that, given the conflict in the Sudan, demands the Council's attention now more than ever.

The day before yesterday, I had the honour to meet victims. I went to Farchana. I went to the Adré transit area. And I heard directly — sitting on the floor with men and women, combined communities — about their accounts and what they have endured. I spoke to a survivor in Farchana, a tremendously courageous, elegant and brave Darfuri woman. I thought it was appropriate, with the Council's leave, to quote here, because her words were repeated by many others:

"I was displaced many, many times during the events of 2023. Finally, I was displaced to El Geneina. And then I fled to Adré and then moved to Farchana. And thereafter we came here barefoot, many of us with no belongings. We still have rancour. We still feel like we are not people, like we are less than human."

One other survivor in Adré recounted chilling accounts of sexual violence, including allegations of Darfuri women being raped inside a World Food Programme warehouse in West Darfur. Another person, a gentleman, made very clear the animus that they faced. It seems that they were not individuals embroiled in a conflict in two parties, but their accounts were that they were targeted. The gentleman said "we were verbally abused, especially the African tribes. We were called *ambai*, which means 'blacks', and were told that they were going to exterminate us. They said 'you should end up in Chad as refugees'".

You, Madam President, and the other members of the Council know very well that persecution, murder and rape in such circumstances constitute Rome Statute violations. But I also take the opportunity to

underline that racism, discrimination, rape, killings and persecution are also contrary to the basic tenets of Islam, to which the various parties to the conflict profess to adhere. I therefore think it apt to recall something that should bind us together and galvanize us to change course: the Prophet of Islam, the Prophet Muhammad, said in his very well-known last sermon that an Arab is not superior to a non-Arab, and neither is a non-Arab superior to an Arab; a black person is not superior to a white person, or is a white person superior to a black person, except on the basis of righteousness. He continued that that message should be relayed even to those who were not present on that day in 631 A.D.

The Rome Statute principles and law, which we apply at the International Criminal Court (ICC), is the shared heritage of humankind. It embraces cultures, religions and ethnicities, people of diverse and varied beliefs and backgrounds, and it constitutes the common ground for us to move forward. It was that collective spirit, that baseline of acceptable conduct, the most basic elemental safeguards, that compelled the Council in resolution 1593 (2005) to refer the Darfur situation to my Office. And as I drove away from Farchana and Adré contemplating the views, the reflections, the pain and the expectations of Darfuris living in the most basic of conditions, I think it put into very stark relief the imperative that we do not fail them and that they see justice and do not just hear the promise of justice that they have heard for far too long. The stories that I heard in those camps, sitting with those communities, are not isolated. They have been added to by investigations in other countries in the region by the diaspora. I visited and met 70 Darfuris in London two weeks ago who are also very active in this space to hear those accounts. The whole community has been uprooted and targeted for many years, and they really are concerned that the world is asleep to their suffering. That is what they feel; that is what they conveyed. They thought that they are too small, too invisible, too unimportant, too poor to be a real matter of concern to the ICC or the international community.

As reflected in my report to the Council, the alleged atrocities that have taken place in El Geneina form a central line of investigations that my Office is pursuing at the current moment, and I can confirm to the Council that we are collecting a very significant body of material, information and evidence that is relevant to those particular crimes. The scale of the conflict and the appalling humanitarian repercussions are clear from

investigations and from numerous reports of the United Nations and other organizations that are documenting and cataloguing information on the ground as the influx of people, the caravan of people, keeps coming into Chad and neighbouring countries.

The men and women of my Office are hearing the most harrowing accounts possible. The statistics, of course, are well known: 7.1 million people have been internally displaced in the Sudan since April 2023; 1.5 million people have fled to neighbouring countries around the Sudan; more than 555,000 Darfuris had fled into Chad up to December 2023 alone; and over the past nine months, between 4,000 and 6,000 have found refuge at the Farchana camp. And the Adré transit centre, which I also visited, has received 166,000 individuals. Those are numbers, and we can of course get lost in numbers. But they are individuals whose lives have been torn apart, each of whom has a story of woe, a story of suffering, and they have every expectation that, collectively, the Security Council, United Nations States Members, regional organizations and the ICC can live up to the promises that we have repeatedly made.

I hope that there is a dawning realization among the international community that it cannot be business as usual, in a negative sense. We cannot continue to apply the law in piecemeal fashion. The duty to uphold the law is required by the Charter of the United Nations. It is required by the Rome Statute. It is required by Security Council resolutions. And it is even required by self-interest, as properly understood. It compels us, in my respectful view, to take a different approach to the old problem in Darfur, because we are at risk of a widening and deepening conflagration. It is bad enough what is happening in Darfur, but there is a real risk that it could expand in the most profound way. From Libya on the Mediterranean to sub-Saharan Africa, from the Sudan on the Red Sea to the Atlantic, we see a number of areas where conflict seems to be triumphing against the rule of law and drowning out the voices of the most vulnerable people, who have a right to protection, who have a right to live in peace and who certainly have a right not to be targeted in relation to Rome Statute violations.

Judicial orders and court judgements alone cannot solve the problem. It would be wonderful if they could. It requires the Security Council, the whole of the United Nations family, the ICC member States, the international community writ large not to get

overwhelmed by an intractable problem but to come up with innovative solutions in order to address the catastrophe and to prevent the contagion of violence from spreading even wider. But even amid the darkness, we see a flickering flame of hope that may pierce the gloom, the despair that many feel. That is what the Darfuri people want. It is what they expect and, I think, it is the only way forward.

One of the men I met in Farchana posed a very profound question that I struggled to answer, and I will repeat it if I may. He said to me that, yes, the team had been in Chad in October and December, and they were doing all those things — they were collecting evidence, they were building partnerships with civil society, they were trying to reach out to anyone who would lend a hand of support for the most vulnerable. But he asked me what made me believe that the result would be any different than it was 20 years ago? One can imagine the difficulty of responding to that very simple and honest — and yet key — question. But the difficulty of the challenge and the complex politics that may surround the situation give no answer to the rights of the individual, to the rights of the community or to the obligation to enforce international law, and it cannot lead to paralysis and inaction on a scale that leads to such massive bloodshed and suffering.

Cause for hope also finds form in the trial of Mr. Ali Kushayb, also known as Mr. Abd-Al-Rahman, which is currently before the trial chambers of the International Criminal Court. In the last reporting period, the legal representatives of the victims closed their case, and the defence case commenced, and defence witnesses are being called. But we are confronted with the ugly and inescapable truth that the failure of the international community to execute the warrants that have been issued by independent judges of the ICC has invigorated the climate of impunity and the outbreak of violence that commenced in April and that continues today. Without justice for past atrocities, the inescapable truth is that we condemn the current generation, and if we do nothing now, we condemn future generations to suffering the same fate. It cannot be a case of play, rewind and repeat, when the people who are seeing the ugly pictures are those who are affected the most.

Based on the work of my office, it is my clear finding and assessment that there are grounds to believe that, currently, Rome Statute crimes are being committed in Darfur by both the Sudanese Armed Forces and the Rapid Support Forces (RSF) and affiliated groups. We need to

do more — what does that mean? We have had many Council meetings. I once again ask for the Council's support and ask for the Sudan to comply in good faith with resolution 1593 (2005), to respond properly to requests for information and assistance and to allow investigators into the country. Cooperation must be significantly, substantially and meaningfully improved, notwithstanding the significant challenges facing the Sudan at the moment. We have not received a scrap of paper from the Sudanese Armed Forces. I met with General Al-Burhan in September 2023. He promised cooperation with the ICC, but despite that promise to me, made face to face, and despite the oft-cited investigative committee that the Sudanese Armed Forces say has been established to catalogue and investigate any allegations of crimes, we have received no information whatsoever. Thirty-five requests for assistance remain unanswered by the Government of the Sudan.

The only positive developments have been the appointment, finally, of a focal point by the Government of the Sudan and the issuance in December and then in January of single-entry visas into the Sudan after many months of requests — and of course, not the multiple-entry visas that we had been requesting and that I mentioned in my last briefing to the Council (see S/PV.9375).

Whatever small movement there has been in terms of the focal point and the visas, I do ask the Sudan and ask the Council to encourage much more accelerated, meaningful implementation of the letter and the spirit of resolution 1593 (2005), and the same really applies to the RSF. In November, we finally received the names of individuals who they contended were part of an investigative committee, but not a scrap of paper or a scintilla of information has been transferred from the RSF to the Office either, whether in relation to allegations against the RSF or in relation to any allegations regarding the Sudanese Armed Forces or any other affiliated or related armed actors.

By any analysis, the obligation to comply with international humanitarian law cannot be diluted to a ritual incantation to be uttered in some bit to pretend that a party to a conflict is complying with the rule of law or to point the finger at another party for breaches of international humanitarian law without an effort to apply those fundamental legal obligations sincerely and meaningfully for the protection of the most vulnerable.

I once again call on all parties involved in the conflict to transmit information relevant to our

investigations, including in relation to the events that are transpiring today and that also flared up in April 2023, to my Office without delay. I also call upon the parties to the conflict to respond meaningfully to the requests for assistance that have been transmitted to them by the defence team of Mr. Abd-Al-Rahman, otherwise known as Mr. Ali Kushayb. I have been very sincere. I have — and my office has — repeatedly urged the defence to seek the assistance of my office to facilitate defence investigations. I repeat that offer today and urge the defence to accept the offer. Therefore, for us to deliver on expectations, it requires the support of the Council and the support of all actors.

Innovative approaches were seen in the last period, and we have managed to collect evidence and information from other sources, notwithstanding all the difficulties in the Sudan that I have referred to. I am pleased to report that there has been progress in the case of Mr. Omer Al-Bashir, Mr. Hussein and Mr. Harun, in which we have received evidence that further strengthens those particular cases. The consequences are too great, for us to give up or be fatigued. In my respectful view and in my considered analysis, we have to find a way to break the cycle of violence and to uphold the potency of the Security Council's referral itself and of the finding that the events in Darfur threatened international peace and security. How right the Council was, because we see that the failure to grasp the nettle of impunity in Darfur has allowed the garden of the Sudan to become filled with weeds, and there is a real risk of that tangled weed spreading to other countries in the region.

The world, of course, is currently facing a pandemic of inhumanity, and we see across the world what can far too easily seem to be an inexorable rise in violence and further suffering. But it is my genuine belief that, even at this fraught moment, international law has a role to play and that we must find a way to make it effective for those who need it the most. Either the fundamental principles of the Charter of the United Nations, the primacy of the Security Council in maintaining international peace and security, the Nuremberg principles and the Rome Statute jurisdiction that was referred to by the Council have meaning for everybody, everywhere, or they have no meaning at all. We survey the globe at the moment, and we see that dire need for an equality of treatment. The umbrella of protection and justice must be equally effective for those people in Darfur as it is in other places of the world, and that is our challenge. That is our collective responsibility. We are also making

every possible effort to work with Council members, regional organizations, civil society, the Sudan, Chad and anyone else so that we can make sure that we move the dial away from impunity and towards justice and realize that, without accountability, there will be new cycles of violence and further insecurity and instability around the world. As conflicts flare up in other parts of the world, there is a real risk that many Darfuris fear — that their plight and the situation in Darfur will be the forgotten atrocity. If that happens, it will be the second time that the people of Darfur will have been failed and humankind, at large, will have failed. We must not collectively allow for that to happen.

**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. Shino (Japan):** Let me begin by thanking Prosecutor Khan for presenting the thirty-eighth report on the situation in Darfur and sharing with us what he has directly seen and experienced on the ground, not only in Darfur but also in affected areas, including Chad.

As we face increasing hostilities and humanitarian crises in various parts of the world, the role of the International Criminal Court (ICC) has never been as critical. Ensuring the rule of law is an essential condition to protect human dignity, as the Prosecutor said, must be equally respected everywhere and for the sake of everyone. To that end, Japan reaffirms its unwavering support for the ICC and the Office of the Prosecutor. We are committed to the fight against impunity for the most serious crimes under international law. Japan is deeply concerned about the reported catastrophic scale of the current conflict and the dire humanitarian repercussions in the Sudan. Reports of ethnically motivated attacks, sexual and gender-based violence and the massive displacement of people are alarming. Japan strongly calls on all parties in the Sudan to immediately stop the violence, uphold international humanitarian law to ensure the safety of civilians and respect the process of justice and the rule of law. Without justice, lasting peace in the region will not be achieved. In that context, we welcome the Office of the Prosecutor's investigation efforts into the current hostilities, in line with the Security Council's request in resolution 1593 (2005).

With regard to the activities of the Court during the reporting period, we are concerned that the



escalation of violence in the Sudan has been hindering the Prosecutor's activities. Cooperation from the Government of the Sudan is crucial in that process. It is concerning, in particular, that some suspects under ICC arrest warrants continue to remain fugitives from justice. We call on the Government of the Sudan to fully cooperate with the ICC in accordance with resolution 1593 (2005) by issuing the necessary documents and appropriately responding to ICC inquiries. In facing those challenges, the ICC's consistent efforts to make progress in the trial of Mr. Muhammad Ali Abd-Al-Rahman are worth noting. There must be no impunity for those responsible for atrocities. The violence in the Sudan in the early 2000s should never be forgotten, as accountability for past atrocities is central to preventing further international crimes and establishing durable peace in the Sudan. It is also encouraging to learn that the Office of the Prosecutor has engaged with civil society in the neighbouring region, in particular Chad, and has continued to collect the necessary evidence to achieve justice.

Japan maintains its support for the Court's activities mandated by the Security Council. The recent visit by Foreign Minister Kamikawa to the ICC this month demonstrates our trust in, and expectation for, the Court in its critical role to promote the rule of law to end impunity and human dignity. Japan's consistent financial and human resource contributions demonstrate its strong commitment to ensuring that the ICC will achieve its mandate, based on resolution 1593 (2005).

**Mrs. Chanda** (Switzerland) (*spoke in French*): Switzerland thanks the Prosecutor of the International Criminal Court, Mr. Karim Khan, for the presentation of his thirty-eighth report on the situation in Darfur. We also welcome the participation of the representative of the Sudan at this meeting.

As we meet here today, fighting continues to rage in the Sudan with no sign of abating, catastrophically affecting the civilian population. Millions of people have been displaced. Almost 25 million people are dependent on humanitarian aid. The many allegations of gender-based violence and violence against children mentioned in the report are of particular concern. As the Prosecutor stresses in his report, it is the collective obligation of all to ensure that, where the basic line of war crimes, crimes against humanity and genocide is or risks being crossed, focused and meaningful action is taken to protect the most vulnerable in Darfur. We reiterate our urgent call on the parties to cease hostilities

immediately and comply with their obligations under international human rights law and international humanitarian law.

In that regard, we welcome the Prosecutor's decision to investigate incidents in the current hostilities and thank him for the work of his Office despite the alarming security situation. It is imperative that the international community, in particular the international justice system, does not lose sight of the alarming developments in the Sudan. We reiterate our call on the Sudanese authorities and the Rapid Support Forces to comply with their obligation to cooperate with the Court, pursuant resolution 1593 (2005), to allow for the Court to carry out its mandate effectively, including in particular access to necessary documentation, witnesses and localities under their control where the situation permits. We welcome the appointment of a new focal point by the Sudanese authorities and the granting of visas for a forthcoming mission. We hope that those important steps will foster cooperation with the ICC. We welcome the strong collaboration between the Office of the Prosecutor and third countries and the many Sudanese civil society organizations that are actively involved in bringing justice to the victims. We are grateful to those who continue to risk their lives to document the facts on the ground.

In that regard, we welcome the launch of the work of the Independent International Fact-Finding Mission for the Sudan, established by the Human Rights Council. Switzerland also supports the Court's digitalization efforts, including through the launch of a digital platform. In taking advantage of new technologies, while, at the same time, maintaining its integrity, will enable the Court to optimize its effectiveness. Switzerland is also following the trial of Mr. Ali Abd-Al-Rahman with great interest and welcomes the speed of the proceedings and the central role accorded to victims and witnesses.

The Prosecutor just reminded us of what the High Commissioner for Human Rights judiciously underscored last year: past impunity in Darfur has fuelled the current cycle of violence. In order to break the cycle, the perpetrators of serious crimes must be held accountable. Switzerland would like to underscore its resolve in fighting impunity and its unwavering support for the Court, as an independent judicial body responsible for investigating the most serious crimes affecting the international community as a whole. It

represents a beacon of hope for victims and deserves our full support.

**Mr. Simonoff** (United States of America): I thank Prosecutor Khan for the report and his briefing to the Security Council today on the ongoing investigations and prosecutions of the International Criminal Court (ICC) related to the situation in Darfur.

Twenty years ago, the Court began receiving reports of very similar patterns of violence in Darfur, when former President Al-Bashir chose to combat rebellion through the collective punishment of communities. Never punished for their role in atrocities, some of the same actors are victimizing some of the same communities that survived genocide 20 years ago, while taking advantage of the ethnic divisions and unresolved grievances exacerbated by decades of conflict to mobilize support for the current fight. We see the Rapid Support Forces (RSF) deploying the same methods of violence we condemned in the early 2000s — murderous attacks on civilians along ethnic lines, widespread sexual violence and the burning and looting of villages. Also a feature of past violence, the Sudanese Armed Forces' bombing in Khartoum, across Darfur and in many other areas puts civilians at further risk.

Across the Sudan today, air strikes, shelling and the obstruction of humanitarian aid have led to devastating civilian casualties, a growing humanitarian and displacement crisis and the destruction of infrastructure. The ethnically targeted attacks by the Rapid Support Forces and allied militias in Darfur echo the genocide that began more than 20 years ago. The reports are appalling: Rapid Support Forces and affiliated Arab militias targeting non-Arab groups, particularly the Massalit, and attacks on communities and internally displaced persons sites; and RSF and allied forces going into communities and hunting men and boys, shooting people desperately fleeing their homes and stealing everything of value while burning the rest. The attacks in El Geneina and Ardamata alone have left thousands, mostly Massalit civilians, dead. Although some have managed to flee to safety, the streets have been choked with the bodies of those who could not escape.

The deliberate, systematic sexual violence committed against women and girls across the Sudan is an outrage to our shared humanity. Across Darfur, in Khartoum and in many other cities and villages,

reports indicate that women and girls are attacked in their homes or kidnapped from the streets and subject to rape and gang rape. Eyewitnesses have seen handcuffed women and girls on the back of trucks being transported towards Darfur. This dire situation demands, in addition to justice, immediate, unfettered and sustained access for survivors to vital medical and psychosocial services.

In December, Secretary Blinken announced his determination that the RSF and allied militias are responsible for crimes against humanity and, in Darfur, ethnic cleansing, and that members of the Rapid Support Forces and Sudanese Armed Forces committed war crimes. Given the situation, we appreciate that this situation is a priority for the Office of the Prosecutor. We also welcome the concrete steps that the Office is taking to advance accountability, as outlined in the report, including by creating a dedicated team of experts and staff for Darfur, making multiple visits to the region for evidence collection and victim outreach and deepening the Office's engagement with Sudanese civil society organizations and experts.

Atrocities are not the inevitable consequences of war, but the result of choices made by leaders, including ignoring their obligations under international law. The International Criminal Court is a critical tool in the ongoing fight against impunity. In July, we welcomed the Prosecutor's announcement that atrocity crimes committed during the current fighting may be subject to investigation and prosecution. We also continue our long-standing support for accountability in the existing cases before the Court, including with respect to the ongoing trial of former Janjaweed commander Abd-Al-Rahman and the fugitives from justice.

In that vein, the United States announced today that it has designated Ahmad Harun, former Minister of State for the Interior under Al-Bashir, under our War Crimes Rewards Programme. Through the Programme, the United States can pay an award of up to \$5 million for information that leads to Harun's arrest, transfer or conviction for war crimes or crimes against humanity before the ICC. We call on all countries to cooperate with the ICC on the suspects subject to arrest warrants. The Sudanese authorities must permit ICC teams to travel within the country and respond to outstanding requests for evidence and other information and assistance, including by providing unimpeded access to key witnesses and responding to the Office's request for information with respect to the

whereabouts of Al-Bashir, Harun and Abdel Raheem Muhammad Hussein.

In conclusion, pursuing peace and justice in the Sudan will take the dedicated efforts of the entire international community, given the magnitude of violence that has been unleashed across the country by the Sudanese Armed Forces and the Rapid Support Forces. Let us work urgently to end the impunity that breeds further violence, address the humanitarian crisis and support the Sudanese people and their aspirations for a peaceful future.

**Mr. Dai Bing** (China) (*spoke in Chinese*): I listened carefully to Prosecutor Karim Khan's briefing, and I welcome the presence of the permanent representative of the Sudan in today's meeting.

We have taken note of the report of the International Criminal Court (ICC). The relevant cases currently before the ICC were referred in 2005. The Court should continue to strictly abide by the principle of complementarity, as stipulated in the Rome Statute, maintain its independence, objectivity and impartiality, fully respect the Sudan's judicial sovereignty and reasonable opinions and stay in close communication and cooperation with the Sudan.

The restoration of normalcy and order in the Sudan is a prerequisite for guaranteeing judicial justice. The current protracted conflict in the Sudan is exacerbating civilian suffering and humanitarian crises, which is heart-wrenching. China has noted the good offices efforts by the African Union, the Intergovernmental Authority on Development and other regional organizations, and supports strengthened communication between regional organizations and the Sudanese authorities with a view to encouraging a ceasefire and cessation of hostilities as soon as possible and safeguarding the Sudan's sovereignty, security and territorial integrity.

In carrying out its work on this situation, the International Criminal Court should focus on the overall picture of peace and stability in the Sudan and play a constructive role in ensuring a proper settlement of the Sudan issue. The issue of Darfur has a long history, with various complex conflicts between the various tribes and communities. The conflict in the Sudan has made the situation in Darfur even more fragile. The ICC should remain cautious in handling the relevant cases, contribute to easing the situation in Darfur and avoid aggravating animosities and differences.

China supports maintaining international peace and security by punishing the most serious international crimes. In the face of major crises and regional hotspots that are of great concern to the international community, international criminal justice institutions should discharge their functions and exercise their power in accordance with the law, apply international law equally and uniformly, refrain from politicization and double standards and effectively uphold international fairness and justice.

I would like to conclude by reiterating that China's position on the ICC remains unchanged.

**Mr. Montalvo Sosa** (Ecuador) (*spoke in Spanish*): I would like to begin by welcoming the participation of the representative of the Sudan in this meeting. I thank Prosecutor Khan for presenting the report and for his briefing this morning.

Listening to that briefing served as a reminder to us that, in the context of the situation in the Sudan and its security and humanitarian consequences, accountability is one of the indispensable elements for peace and stability. In my statement, I would like to refer to three elements of the report.

First, in spite of the deterioration of the security situation in the Sudan, my delegation recognizes the efforts of the Office of the Prosecutor to continue the implementation of the investigation and prosecution strategy. Ecuador welcomes the incorporation of a new line of investigation on crimes that have allegedly been committed since the outbreak of hostilities in April 2023. The parties to the conflict must be aware that violations of international humanitarian law are not without consequences and that whoever commits such violations must face justice.

Secondly, my delegation notes with interest the progress in the trial in the case *Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman*, as well as the prospects for its possible conclusion during the first half of 2024. This is the first case before the Court that is related to the situation in Darfur and the first stemming from a referral by the Security Council. Its conclusion is therefore particularly important. Similarly, Ecuador supports the efforts of the Office of the Prosecutor to determine the whereabouts of the culprits who are still at large, including Mr. Al-Bashir and Mr. Banda. My delegation respectfully calls on the Government of the Sudan to respond to requests for information regarding their whereabouts.



Thirdly, the briefing underscores that progress has been made in the investigations thanks to the cooperation of third States and non-governmental organizations. Although Ecuador supports those initiatives, we believe that it must be stressed that the cooperation of the Government of the Sudan is essential in fulfilling the mandate of the Office of the Prosecutor. In that context, the appointment by the Government of the Sudan of a new focal point is a positive development and, among other things, will make it easier for a team from the Office of the Prosecutor to visit the country in the coming months. Such visits must be facilitated. Moreover, it is important for the Sudanese authorities to address the 35 requests for assistance that are pending.

In conclusion, I would like to reiterate Ecuador's support for the International Criminal Court, which is one of the key tools, in line with the principle of complementarity, in combating what the Secretary-General, in a recent statement at the World Economic Forum in Davos, referred to as an epidemic of impunity.

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

Malta reiterates its strong condemnation of the ongoing fighting between the Sudanese Armed Forces and the Rapid Support Forces and their respective affiliated militias. We deplore the violence and irreparable cost to human life in Darfur and throughout the country, as well as violations of international human rights law and international humanitarian law, and call for the protection of civilians.

As we repeat our call for a ceasefire and an eventual return to the political transition process, we support enhanced coordination among regional and subregional mediation initiatives, to be complemented by efforts of the recently appointed Personal Envoy of the Secretary-General for the Sudan, Mr. Lamamra, and the Council. We affirm our steadfast support for, and solidarity with, the Sudanese people.

Accountability remains essential to ending the cycle of violence. Efforts must be made to enhance accountability measures for all atrocity crimes throughout the Sudan. We commend the efforts of the Prosecutor to accelerate investigations with respect to crimes committed in Darfur as part of the current hostilities, and in particular crimes committed in El

Geneina, by deploying investigative missions to the field and carrying out extensive open-source investigations and analysis.

Efforts to harness partnerships, in particular with civil society actors and victims' groups, are essential and contribute to empowering victims, witnesses and affected communities. Progress must also continue with regard to the core elements of the strategy for the situation in Darfur, outlined in previous briefings, including the trial in the Abd-Al-Rahman case. Making sure that investigations and prosecutions continue unabated is essential.

While commending States that have cooperated with the Court, including the Chadian authorities and refugee board, we encourage the Sudanese authorities to continue to abide by their obligations under resolution 1593 (2005). The newly appointed focal point and the issuance of visas are positive steps, and we hope that that will translate into requests for assistance being executed and access to documentary evidence being provided.

The prioritization of investigations addressing crimes of sexual and gender-based violence in all situations, including Darfur, is essential. The commitment to seeking accountability for sexual and gender-based crimes must result in strengthening the application of a gender analysis and securing new convictions. In that regard, the recent update of the Office's policy on sexual and gender-based crimes is welcome.

We underline the urgent need to provide survivors of sexual violence with access to integrated medical care, including sexual and reproductive health care, psychosocial support, legal assistance, reintegration and community-based prevention, in keeping with a survivor-centred and trauma-informed approach.

We take this opportunity to honour the women and women-led organizations at the front lines of the struggle to support survivors and hold perpetrators accountable, as well as leading civilian engagement, anti-war and humanitarian initiatives, in the context of current hostilities. The parties to the conflict in the Sudan must take full responsibility for preventing and responding to all forms of sexual and gender-based violence and must issue clear command orders that prohibit it.

We also refer to the broader work of the International Criminal Court (ICC), and in particular the launch of a new policy on children to help remedy their

historic underrepresentation and lack of engagement in international criminal justice processes. We commend such efforts that seek to take a child-sensitive, survivor-centred and intersectional approach to investigations and prosecutions. They help to better understand the ways children are targeted and affected by crimes under the Rome Statute. In situations such as in the Sudan, such policies are essential.

Our collective aim here is to ensure a durable and sustainable peace in the Sudan, which can be achieved only if there is justice for the victims and survivors of atrocity crimes. Malta reiterates its unwavering support to the ICC in all its efforts towards accountability.

**Mr. Afonso** (Mozambique): Mozambique wishes to thank Mr. Karim Ahmad Khan, Prosecutor of the International Criminal Court (ICC), for his important update. We acknowledge the presence of the Permanent Representative of the Sudan in today's meeting.

The situation in Darfur is of grave concern to the Council. Millions of people are displaced, in need of humanitarian assistance and protection. Thousands of civilians have been killed, and many others have been subjected to atrocities. The perpetrators of all those crimes must be held to account. In that regard, Mozambique welcomes the report just introduced by the Prosecutor on the implementation of resolution 1593 (2005). We take note of the progress made, under the outlined strategy, with regard to the lines of investigation defined, in particular in the context of the current hostilities in Darfur, especially since the escalation of violence in the country in April 2023.

Mindful of the gravity of the situation on the ground, we reiterate our call on the parties to the conflict to comply fully with international humanitarian law and international human rights law at all times. We wish to emphasize the need to implement the Juba Peace Agreement and the national plan for the protection of civilians in Darfur. The Juba Agreement clearly reaffirms the importance of independent and impartial justice, accountability and the protection of human rights in the peace process in the Sudan.

The current dire political, security and humanitarian situation in the Sudan jeopardizes the efforts to deliver justice to the Sudanese people. We believe a political solution to end the conflict is essential to pave the way to address international crimes that fall under the jurisdiction of the ICC. War crimes, crimes against

humanity and other heinous crimes against the civilian population must be prosecuted and punished.

We are cognizant of the need for the Office of the Prosecutor and the Court to observe the principle of complementarity, enshrined in the Rome Statute. In that connection, we underscore the importance of close cooperation between the Office and the Government of the Sudan. In that context, we welcome the initiatives aimed at enhancing cooperation between the Sudan and the ICC. We call for the removal of any obstacles that might impair the accomplishment of the noble objective of the implementation of justice. Cooperation with third parties, including States and international and regional organizations, is essential to the fulfilment of the Prosecutor's mandate, in line with resolution 1593 (2005). In that regard, prompt responses to the Office of the Prosecutor's requests are crucial to the success of the investigative activities.

As indicated in the report under consideration, it is our collective obligation to ensure that, where the basic line of war crimes, crimes against humanity and genocide is or risks being crossed, focused and meaningful action must be taken to protect the most vulnerable in Darfur. Combating impunity is, therefore, as much a precondition for lasting peace in the Sudan as it is elsewhere. We cannot forget the millions of Sudanese who seek justice, peace and reconciliation. It is therefore our collective responsibility to promote and encourage a negotiated settlement of the conflict in the Sudan and to support the accountability efforts of the Office of the Prosecutor.

**Mr. Kanu** (Sierra Leone): I thank you, Madam President, for convening today's briefing. Let me also thank the Prosecutor of the International Criminal Court (ICC), Mr. Karim Khan, for his informative and sobering briefing, and for his Office's thirty-eighth report to the Council. We also take this opportunity to commend the work of the Prosecutor and his Office. In acknowledging the existing challenges, we offer our full support to the Prosecutor, including his Office, as we urge for its independent, impartial and speedy investigations in all situations on their docket.

I welcome the participation of the Permanent Representative of the Sudan in this meeting.

As a State party to the Rome Statute of the ICC, and given that this is our maiden statement on one of the situations referred to the Court by the Security Council, Sierra Leone would use this occasion to outline

our known and principled view on the International Criminal Court, and in this context, its important role, together with the Security Council, to ensure accountability for atrocity crimes and to contribute to security, the prevention of armed conflicts and the preservation of peace. We also do so while noting our prioritization of accountability during our Security Council tenure.

Reflecting on our recent transitional justice experience, in particular the effective discharge of the mandate of the Special Court for Sierra Leone and the continuing contribution of the Residual Special Court for Sierra Leone, Sierra Leone reaffirms its commitment and unwavering support to and for an independent, impartial and effective ICC. The Court is the only permanent international criminal justice tribunal, founded on the principles of complementarity and cooperation, within the Rome Statute system. For that system to be effective, we emphasize the need for the strengthening of the domestic capacity of States Parties to investigate, prosecute and punish the perpetrators of atrocity crimes. The ICC will step in only as a last resort when States parties are unable or unwilling to do so. Therefore, in view of the unjustified but prevalent external threats to the Court, Sierra Leone reiterates its continuing willingness to support ongoing efforts to protect the integrity of the Court, its independence and that of its principal officials and staff. In noting the inconsistency that exists in ensuring effective international criminal justice accountability, including for ongoing violations of international law, we underscore our commitment to advocate and effectively contribute to the accountability efforts, as we do so on behalf of the often voiceless and vulnerable victims.

Let me now turn to the thirty-eighth report of the ICC Prosecutor to the Council. Sierra Leone is deeply concerned about the fragile political, worsened security and dire humanitarian situation in Darfur and in the Sudan. The December 2023 report by the International Organization for Migration is more than alarming. The report estimates that since April 2023, 7.1 million people have been internally displaced, more than 1.5 million have fled to neighbouring countries, and approximately 25 million are in need of humanitarian assistance and protection. The reported atrocities include thousands of civilians killed in Darfur and hundreds subjected to sexual violence. We therefore welcome the Office of the Prosecutor's significant prioritization of the accelerated investigations with respect to crimes

committed in Darfur, including since the outbreak of the ongoing hostilities between the Sudanese Armed Forces and the Rapid Support Forces. This, we note, is within the scope mandated by resolution 1593 (2005). We further welcome the Office of the Prosecutor's strategic objective of delivering on its mandate at the speed of relevance to affected communities and the prioritization of investigations addressing crimes of sexual and gender based-violence.

Sierra Leone takes note of the significant progress achieved in the trial of Mr. Ali Muhammad Ali Abd-Al-Rahman, with the conclusion of the case for the legal representatives of the victims and the opening of the defence case, as reported by the Prosecutor. This is a case of unique significance, as it is the first before the Court relating to the situation in Darfur resulting from a Security Council referral. We therefore appreciate the case being on track and likely to conclude in the first half of 2024.

In appreciating the significance of the principle of cooperation in the Rome Statute system, we welcome the reported cooperation of third States and international partners allowing the Office of the Prosecutor to secure evidentiary material relevant to persons of interest and individuals subject to arrest warrants in the context of the Darfur situation. In that same light, we urge cooperation from the Government of the Sudan. Although no request for assistance has been executed and no access to documentary evidence has been provided, as reported, we welcome the appointment of a new cooperation focal point in October 2023 by the Government of the Sudan, and the issuance of visas in December 2023 and January 2024 for a now postponed Office of the Prosecutor mission to Port Sudan.

Of course, the cooperation from the Government of the Sudan with the Court is guided by the principle of complementarity and the overarching responsibility to ensure accountability for the alleged atrocities, thereby closing the impunity gap. In looking forward to the next reporting period, we take note of the objectives of the Office of the Prosecutor and highlight the value to provide proactive and meaningful assistance with respect to efforts by national authorities to investigate potential perpetrators, on the basis of the complementarity principle. We should also highlight the significance of the intended increased engagement with affected communities and grass roots organizations to accelerate the investigative work. We

call for all the investigative work and engagements to be victim-centred.

In the light of the alleged significant breaches of international law and the crossing or risk thereof of crossing “the basic line of war crimes, crimes against humanity and genocide”, Sierra Leone calls on the parties to the conflict to agree to a durable ceasefire to pave the way for peace, stability and the restoration of democratic constitutional order. If regrettably the hostilities persist, we urge the parties to comply with their legal obligations in armed conflict, in particular to protect civilians and civilian objects and principally prevent genocide in Darfur.

In recognizing the nexus between peace and justice, Sierra Leone acknowledges the engagement by subregional and regional organizations, in particular the Intergovernmental Authority on Development and the African Union, as well as the United Nations, aimed at achieving a ceasefire, a permanent cessation of hostilities and the restoration of peace and stability in the Sudan. In that vein, we welcome the appointment by the Secretary-General of Mr. Lamamra as his Personal Envoy for Sudan to support the ongoing peace efforts.

We note that the continuation of hostilities in the Sudan is having a spillover effect on neighbouring countries, causing dire humanitarian and economic repercussions. Given all the ramifications and the nexus between peace and justice, a concrete political settlement to the Sudan conflict is imperative.

Let me therefore conclude by reaffirming Sierra Leone’s unwavering support for the Court and the Office of the Prosecutor in discharging the important mandate in the Darfur situation. We urge the Office of the Prosecutor and all stakeholders, including the Government of the Sudan and the Security Council, to persist in the collective efforts to prioritize protecting the most vulnerable in the Sudan to ensure accountability and achieve peace.

**Mrs. Rodrigues-Birkett** (Guyana): I thank the Prosecutor of the International Criminal Court, Mr. Karim Khan, for his sobering presentation of the thirty-eighth report on the situation in Darfur. I welcome the participation of the Permanent Representative of the Sudan in today’s meeting.

The International Criminal Court remains critical to ensuring justice for those who have suffered the worst crimes. Guyana supports the continued efforts of

the Office of the Prosecutor to fight impunity and to bring perpetrators to justice.

We are gravely concerned about the escalating violence in Darfur, indeed in the Sudan as a whole, which has resulted in numerous deaths, mass displacement of persons and further deterioration of an already dire humanitarian situation. Women and girls have suffered and continue to suffer from widespread sexual violence, including sexual slavery and gang rapes, kidnappings and other atrocities.

Guyana reiterates its call for an immediate cessation of hostilities, a permanent ceasefire and the resumption of the process towards reaching a lasting and inclusive political solution in the Sudan.

The parties to the conflict must be prevailed upon to respect human rights and international humanitarian law, ensuring that civilian populations and protected persons and objects are not targeted or subject to crimes.

Guyana welcomes the decision of the Prosecutor to accelerate investigations into the recent allegations of crimes in Darfur, with priority given to those committed against children and to crimes of sexual and gender-based violence. All perpetrators must be held accountable.

Cooperation and support from the relevant authorities are essential to the work of the Office of the Prosecutor. Guyana sees as positive steps the appointment, in October 2023, of a new cooperation focal point and the recent issuance of visas for representatives of the Office. However, we note that the progress achieved thus far in securing evidentiary material is based on cooperation from third States and international partners. We are concerned about the lack of response by the Government of the Sudan to requests by the Office for assistance and access to documentary evidence. We note that, following the outbreak of armed hostilities in 2023, there is uncertainty about the location of the International Criminal Court suspects and that a formal request to the Government of the Sudan by the Office of the Prosecutor for that information has not yet yielded a response. Guyana recalls the obligations, under resolution 1593 (2005), of the Government of the Sudan and all other parties to the conflict in Darfur to cooperate fully with and provide any necessary assistance to the Court and the Prosecutor. We urge the Government of Sudan and other relevant parties to support the investigative and evidence collection



efforts of the Prosecutor's Office so that there can be justice for the victims of those horrific crimes.

We note the progress made in the trial of Mr. Abd-Al-Rahman, which is likely to conclude in 2024.

Accountability for atrocities is critical for preventing further crimes and will contribute to the achievement of sustainable peace.

Guyana commends the Office of the Prosecutor for carrying out field-based and open-source investigations towards evidence collection and welcomes the engagements with civil society organizations, affected communities, victims and survivors. We reaffirm our unwavering support for the International Criminal Court and the work of the Office of the Prosecutor.

**Mr. Hwang** (Republic of Korea): I also thank the Prosecutor of the International Criminal Court (ICC), Mr. Karim Khan, for his comprehensive report and briefing on the situation in Darfur.

Regrettably, we are witnessing the recurrence of a tragedy that echoes the one that took place in Darfur 20 years ago. As Prosecutor Khan has just mentioned, there are an unacceptably high number of Rome Statute violations and widespread atrocities continuously committed throughout the country which may amount to war crimes, crimes against humanity and ethnic cleansing, and the crisis is deepening and widening by the day.

That extremely grim reality is also well depicted in the final report of the Panel of Experts on the Sudan established pursuant to resolution 1591 (2005), which was recently circulated, and which recorded up to 15,000 casualties in El Geneina alone. It is Sudanese civilians, in particular women and girls, who are bearing the brunt of the conflict, and that atrocity must end now.

As a firm advocate of criminal justice in line with international humanitarian law and international human rights law and a steadfast supporter of the ICC and the Chair of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan, the Republic of Korea is committed to doing its part to hold the perpetrators accountable and, ultimately, bring peace and security to the Sudan.

In that vein, I wish to underline the following points.

First, Korea notes the progress of the Court in its investigation of past atrocities in Darfur. Particular

attention is given to the remark in the Prosecutor's report that the trial of Ali Muhammad Ali Abd-Al-Rahman is likely to conclude in the first half of this year, marking one of the most efficient trials in the Court's history. That progress is significant as it was the first case referred to the Court by the Security Council. The successful conclusion of the case will send a message to the world that the Council and the Court are ready to fight against impunity for crimes that could threaten international peace and security.

Secondly, the Republic of Korea commends the efforts of the Office of the Prosecutor in taking steps to investigate recent allegations of crimes committed in Darfur. Dispatching investigative missions to neighbouring countries and engaging with civil society organizations was indeed a discreet and proactive approach to gathering information as a first step towards prosecuting perpetrators amid such a difficult and dire situation, while not compromising the safety of their members. Those efforts will send an unequivocal message to those committing ongoing violations of human rights and international humanitarian law in the Sudan — that they will be held accountable for their actions. I take this opportunity to encourage the Office of the Prosecutor to continue its efforts and urge the warring parties to cooperate with the investigation and take a stand to end decades of impunity.

In conclusion, I would like to recall that, as today's meeting demonstrates, it is the collective obligation of the International Criminal Court and the Security Council to ensure international justice is upheld. It is the duty of the Council to refer to the Court the situations in which grave crimes could impair international peace and security. That is why the Security Council should seriously consider other relevant bodies' recommendations, including the reports of the commissions of inquiry on human rights situations in several specific countries, in referring cases to the ICC as a means to discharge its primary responsibility for maintaining international peace and security.

**Mr. McIntyre** (United Kingdom): I thank Prosecutor Khan for his thirty-eighth report on the situation in Darfur and for his detailed briefing today. I also welcome the participation of the representative of the Sudan in today's Council meeting.

Let me begin with the proceedings currently ongoing before the International Criminal Court (ICC). The United Kingdom welcomes the continued progress

in the trial of Mr. Abd-Al-Rahman. That is the first trial to come before the ICC in the Darfur situation. The case is an important milestone for victims and for affected communities, which have suffered for far too long.

We note, however, that the other suspects with outstanding arrest warrants have not yet been surrendered to the Court. To date, those in power in the Sudan have failed to provide the ICC with the necessary cooperation. We therefore call upon the Sudanese authorities to respond substantively to the Office of the Prosecutor's request for information, as to the whereabouts of Ahmed Harun, Abdel Raheem Muhammad Hussein and Omer Al-Bashir. We also urge the Sudanese authorities and all other relevant parties to cooperate fully with the ICC, including in relation to the 35 outstanding requests for assistance referred to by the Prosecutor in his thirty-eighth report and in this briefing today.

Turning to the current situation in the Sudan, the United Kingdom is alarmed by the continuation of the conflict, including in Darfur. We are deeply concerned about allegations that further atrocities have been committed in recent months, including credible reports of arbitrary arrests and detentions, violence targeting specific ethnic groups and conflict-related sexual violence. The United Kingdom condemns alleged atrocities committed by all parties to the conflict and reminds both the Sudanese Armed Forces and the Rapid Support Forces that the Prosecutor's mandate in Darfur is ongoing.

In this very challenging context, we welcome the Office of the Prosecutor's deployment of investigative teams to the region. We also welcome the Office's other ongoing work on the ground, including with victims, affected communities and civil society organizations in the region.

Let me conclude by expressing our continued support to the Court in delivering justice for the people of Darfur and ending the cycle of impunity.

**Mr. Žbogar** (Slovenia): I would also like to thank Prosecutor Khan for his very sobering briefing today on the situation in Darfur. Slovenia reaffirms our strong support for the International Criminal Court and the work of the Office of the Prosecutor. We also want to welcome the participation of the Permanent Representative of the Sudan in today's meeting.

The increasing violence in the Sudan is deeply troubling, particularly its effects on civilians in Darfur and across the nation. We are alarmed by the Prosecutor's statement that we are reaching a breaking point, as well as by the increasing pressures on the Sudan's neighbours, especially Chad. The urgent need for a cessation of hostilities cannot be overstated. We call on all involved in the conflict to silence their guns and prioritize protecting the lives of the Sudanese people.

Upholding international law and protecting civilians is not an option but a legal obligation and a moral imperative. We are deeply concerned about the reports of continued violations of international humanitarian law and human rights law, including the systematic and widespread use of different forms of sexual and gender-based violence, in Darfur and in other areas of the Sudan. We commend the Prosecutor's efforts in accelerating the investigation of those crimes, committed in Darfur, and his decision to prioritize the investigations of crimes of sexual and gender-based violence.

We note that the current hostilities in the Sudan present a significant challenge to the Prosecutor's work. Civil society organizations, affected communities, women's organization, victims and survivors are an important source of evidence and can provide valuable testimony of the crimes committed. We therefore welcome the Prosecutor's engagement in that regard and urge third countries and international partners to continue their timely cooperation with the Court and the Prosecutor's Office.

The efforts of the Office of the Prosecutor to collect evidence, including by deploying investigative teams on the ground, are essential, and we call on all sides to ensure access and the safety of those teams. We note the appointment of the new cooperation focal point by the Government of the Sudan and call on the Sudanese authorities to fully cooperate with the Office of the Prosecutor. Locating the fugitives and executing arrest warrants, as well as requests for assistance, in a timely manner, are not a matter of choice, but a legal duty to be fulfilled.

We welcome the progress made in the trial of Ali Abd-Al-Rahman. That landmark trial is a signal to the people of the Sudan that our commitment to fighting impunity for the most serious crimes is not an empty promise. It is a beacon of hope for the survivors who

were given a voice and the power to seek justice. Their testimony showed incredible courage.

In March 2005, the Security Council deemed the situation in the Sudan as a threat to international peace and security. We regret that, after almost 20 years, it continues to be so. A climate of impunity emboldens perpetrators of international crimes. Justice, accountability and the protection of human rights are crucial to ending the cycle of violence and suffering and preventing further crimes. There is no peace without justice.

**Mr. Bendjama** (Algeria): Let me first convey my thanks to the Prosecutor of the International Criminal Court (ICC) for his briefing. I also wish to welcome the presence among us of the Permanent Representative of the Sudan.

Nineteen years ago, Algeria was sitting in this same Council when resolution 1593 (2005) was adopted in order to refer the situation in Darfur to the ICC. Here we are today, considering the thirty-eighth report submitted to us by the Prosecutor, which comes in the context of the devastating conflict raging in the Sudan since April 2023, claiming many lives, particularly in Darfur.

Justice and accountability remain essential in the endeavour of formulating a comprehensive approach to the resolution of the conflict in the Sudan. In that regard, Algeria wishes to underline the following.

First, conducting transitional justice and ensuring accountability cannot be dissociated from the whole process of stabilizing the Sudan. Therefore, it is critical to explore all ways of creating a conducive environment for the revitalization of national justice institutions to support the Sudan's ownership of that process.

Secondly, it is also important to make good use of the available legal frameworks to define the path towards transitional justice and accountability. The Juba Agreement for Peace in the Sudan represents a comprehensive tool to be fully explored despite all the challenges on the ground.

Thirdly, Sudanese ownership of such a process also comes about through regional and, most importantly, African areas. The African Union has always played a prominent role in efforts towards stabilizing the Sudan since the first Darfur crisis. That organization can, through its tools and mechanisms, deliver a fair and transparent accountability process.

Algeria expresses its deep concern about the continued deterioration of the situation in Darfur and the recent clashes between the warring parties, especially since April 2023. Recent reports of the deadly clashes in West Kordofan state are of extreme concern considering their heavy tolls of innocent lives and mass displacement. We firmly condemn those atrocities.

There is a need to provide further support to all diplomatic efforts being deployed by the Intergovernmental Authority on Development, the African Union and the United Nations to bring the Sudanese parties to the dialogue table and to negotiations for a peaceful settlement of the conflict.

While looking at the violations committed in Darfur, we must not lose sight of the role of external actors in fuelling the hostilities and facilitating arms transfers, thus pushing any prospect of settling the crisis further away. Let us be clear: foreign interference in the conflict in the Sudan must be firmly and publicly rejected.

While we consider this file through regular briefings of the Council on the situation of the Sudan and Darfur from the ICC Prosecutor, I am sorry but I cannot help thinking that prompt action on the part of the same Court on the Palestinian case — submitted to it many years ago — would have saved the lives of 26,000 innocent souls and alleviated the suffering of the besieged population in Gaza. As of today, the call for help and for justice from the Palestinians has not yet been heard. There is no room for double standards. Palestinian lives also matter.

**Ms. Zabolotskaya** (Russian Federation) (*spoke in Russian*): The position of the Russian Federation regarding the so-called International Criminal Court (ICC) is well known and remains unchanged. The hollow, semi-annual briefings of the ICC to the Security Council have become an anachronism, given that the Security Council has truly important matters on its agenda.

Regarding the Darfur file, there is nothing new to be gleaned from the report of the so-called Prosecutor of this entity. He has once again reaffirmed that, for some 20 years, the ICC has been engaged in sabotaging the mandates of the Security Council, shifting the blame to national authorities, the complex security situation or a lack of resources. Continuing to report on the only trial under way, regarding Ali Kushayb, does not change that picture.

In that regard, we suggest that the Council, as in the case of Libya, withdraw the Darfur situation from the ICC. There is essentially nothing that the pseudo-court can do to help the Sudan. However, it is quite capable of causing serious harm. We have witnessed how Libya's statehood was destroyed by NATO, with fakes fabricated by the ICC used as justification. As we have repeatedly noted, the pseudo-justice of the ICC has an "on" and "off" button, and the remote control is in the hands of its Western sponsors. We are witnessing that today in Gaza as well. In that regard, the ICC is demonstrating selective blindness with regard to a situation that has been under its consideration since 2015.

However, let us return to the investigation of the situation in Darfur. Its dynamics have changed in accordance with the political orders of its Western sponsors. It began with persistent attempts in its initial months to substantiate alleged acts of genocide, followed by a sluggish imitation of work. Now, however, it has become interested in current events in the Sudan, and it is notable that that interest, as in other cases, happens to coincide with the interest of Western countries.

In that regard, we would like to stress that the Security Council has not referred the current situation in Darfur to the ICC. A decision taken 20 years ago cannot be interpreted as the Council's intention to entrust the investigation of this fundamentally new conflict to this entity. Such action would clearly go beyond the scope of resolution 1593 (2005). Neither the ICC nor its puppet Prosecutor has the authority to interpret the will of the Council or to pause or start investigations as it sees fit. The question of how to help the Sudan to overcome the current difficult situation must be addressed without the participation of the pseudo-judicial entity, which has little to do with actually delivering justice. As the Ambassador of Algeria rightly pointed out today, it is important in that regard that efforts to deliver justice be in the hands of the Sudanese people themselves so that such efforts contribute to peace, whereas the ICC is an instrument of external interference in the situation.

The regrettable, if not outright tragic, effects of the Council's involvement of the ICC in the situations in Libya and Darfur teach us one thing only: the Council made a mistake by transferring these situations to the ICC, a mistake that must not be repeated. It is important to assess the damage that this entity has caused to specific countries.

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

I would like to thank Prosecutor Khan for his briefing, and I welcome the presence of the representative of the Sudan in the Chamber today.

France condemns the human rights violations perpetrated by the Sudanese Armed Forces and the Rapid Support Forces, as well as by militias affiliated with them, in several regions of the Sudan since 15 April 2023. We salute the investigative work being carried out by the Prosecutor's Office into those acts. In the light of the Prosecutor's report and the recent report of the Panel of Experts on the Sudan, we reiterate our call for all foreign actors to refrain from fuelling the conflict by arming, financing or logistically supporting the parties.

Building a lasting and inclusive peace in the region will not be possible without justice, and all parties in the Sudan must cooperate fully with the Office of the Prosecutor and honour their obligations under resolution 1593 (2005), the Juba Agreement for Peace in the Sudan and the memorandums concluded with the Office of the Prosecutor. The granting of visas to the investigation team of the Office of the Prosecutor is an encouraging first step.

France welcomes the resumption last October of the trial in the case of Mr. Abd-Al-Rahman, otherwise known as Mr. Ali Kushayb, despite all the difficulties and the intensification of hostilities. The trial represents a crucial moment for the survivors and families of the victims. We also 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, in order to deny impunity to the perpetrators of the crimes that have been committed.

The Prosecutor can count on France's support for the Court, which is the only permanent international criminal jurisdiction with a universal vocation.

I resume my functions as President of the Council.

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

**Mr. Mohamed** (Sudan) (*spoke in Arabic*): At the outset, I would like to warmly congratulate you, Madam President, on your country's assumption of the presidency of the Security Council for the current



month. We are confident that you will efficiently manage the work of the Council.

I thank the Prosecutor of the International Criminal Court for his efforts to launch the field investigation into the crimes committed in the Darfur region by the rapid support militia, which should have been called by its name and which falls within his jurisdiction, as he pointed out, as there are many sources and contacts with victims' groups, civil society activists and the Sudanese authorities for the purposes of the investigation, stressing that that is the top priority of his Office, which is expected to include El Geneina in West Darfur state and the other states of the region, which were ferociously and brutally attacked by the Rapid Support Forces (RSF) militia during the period between 24 April and 14 June 2023, as confirmed in United Nations reports.

I am concerned by what the Prosecutor of the International Criminal Court said today because what he said amounts to equating the position taken by the former regime from 2003 to 2020, or rather 2018 — with the new, post-revolution regime's approach of serious cooperation and positive engagement, in the course of which we have informed the Council of its details on numerous occasions. Prior to this meeting, I also provided the Council delegations with detailed information regarding the Sudan's involvement with the International Criminal Court dating back to 2020, and there is no need to repeat them here.

I am also concerned that all the Sudan's positive engagement has been reduced to a zero-sum equation, as if it did nothing, and as if the balance of cooperation lacks objectivity and is determined by the Office of the Prosecutor without strategic and operationally realistic engagement with the Sudan, which cooperates in compliance with resolution 1593 (2005), based on the principle of legal complementarity. Mr. Moreno Ocampo, the former Prosecutor, said that he had 2,000 pieces of evidence in his possession, and despite that, the Prosecutor's Office is asking us for documents. No one committing genocide is foolish enough to leave evidence in the Government's coffers, to be handed over to others to convict the perpetrator, as the Prosecutor surely knows, given his solid legal background.

Moreover, we handed everything we found over to the Prosecutor, or are in the process of handing it over. I ask the Prosecutor to shorten the route by travelling from Chad to Port Sudan because the Sudanese

authorities have received four visiting requests from his Office, and that visit has been postponed by the Office. However, that fact has not been mentioned before the Council by the Prosecutor. He did not mention why a visit by the delegation from the Prosecutor's Office was postponed. Following his meeting with the Prosecutor here in September, the head of the Transitional Sovereignty Council, Mr. Abdel Fattah Al-Burhan, assured the Prosecutor that he was ready to engage constructively, but we have not seen any signs of that engagement to date. I will respond to the points he raised, wherein he believes — and I hope it will remain a belief — that war crimes perpetrated in Darfur are committed by both parties.

Therefore, I say: the Rapid Force militia has launched under the watch of the entire world a series of systematic and large-scale attacks aimed at ethnic cleansing and killings targeting specific groups and motivated by revenge, claiming the lives of a large number of the Masalit tribe, ranging from 10,000 to 15,000 of its members, according to United Nations reports. It is well known that the crime of genocide can be perpetrated simply by inflicting serious physical and moral harm and exposing the victims to a particular situation with the intent of causing deliberate and physical destruction, the forced killing of children, forcible population displacement, rape, slavery, sexual violence and murder. It is left to the Prosecutor to judge the nature of those acts from a legal standpoint.

Infrastructure and the El Geneina teaching hospital have been destroyed, drug stores have been looted and homes have been burned, water and production sources have been destroyed, and the city and its localities have been besieged, as have roads leading to it. Those acts resemble the siege, arson, killing and destruction of Carthage by the Romans in the year 148.

On 26 April, the Rapid Force militia attacked the city's grand market, which was looted and goods from it transported out of the state, leaving the city vulnerable to famine. On 27 April, a number of city neighbourhoods were attacked, resulting in the deaths of hundreds of people, the burning of a shelter for displaced people and the targeting of civilians by snipers from elevated areas. The attack on the city was re-launched on 12 May by the Rapid Support militias, targeting the internally displaced persons' camp. United Nations reports clarified the position of the armed forces in Darfur at the time. Those attacks, which targeted shelters, were carried out using Katyusha rockets, 120-, 82-,

60- and 75-calibre mortars, ground-based anti-aircraft guns, heavy guns, rocket-propelled grenades and B-10 launchers. Even those who sought refuge in Chad were killed and looted, along a stretch of 27 km. The palace of the Masalit Sultanate was looted and burned, where Prince Abu Tariq Abd Al-Rahman Bahr Al-Din was assassinated.

On Friday 15 December, the Rapid Support militia, in collaboration with armed groups, attacked Wad Madani — the Sudan's second-largest city and one of its most important economic sites — displacing a quarter of a million or more of its citizens, disrupting the work of no fewer than 57 humanitarian organizations and repeating the series of rapes and degrading treatment of human dignity in a manner similar to that of the Inquisition in Andalusia in the fifteenth century.

Their crimes also included occupying hospitals and civilian objects and facilities and converting them into military headquarters, with cannons and snipers installed on their roofs to fire shells; aggressive storming of citizens' homes in the capital, which houses 12 million citizens, occupying them, stealing them and expelling their owners at gunpoint; burning markets and shops in the capital and the states; recruiting children and throwing them into war; and bringing in foreign mercenaries to strengthen the war effort of the Rapid Support Forces. It was confirmed that regiments of fighters were brought in from neighbouring countries and the Sahel. Also confirmed was the participation of Azawad, Séléka and Facl — the Accord Front — in the fighting alongside the Rapid Support Forces. That alliance will threaten the regimes in Mali, Mauritania, the Niger, Burkina Faso and Chad.

The crimes committed also include opening prisons, which paved the way for the escape of 15,000 prisoners, some of whom have convictions for serious terrorist crimes and for whom the Prosecutor has questions; detaining girls and subjecting them to gang rape, as repeatedly happened to 15 girls and minors in a certain building, and creating markets to sell them as slave girls for sexual slavery; and attacking the National Museum and the Centre for National Archives and Judicial Documents. I hope that the Prosecutor takes note of that.

The armed forces addressed the multilateral aggression, and a United Nations report unveiled the names of the countries that participated in it, including the United Arab Emirates.

With reference to paragraphs 12 and 13 of the thirty-eighth periodic report submitted pursuant to resolution 1593 (2005), we confirm that the armed forces have been keen, since the outbreak of fighting resulting from the rebellion of the Rapid Support Forces on 15 April 2023, which was sponsored by many countries in the region, to apply the rules of international humanitarian law to their military operations through the following approach, as noted by the International Committee of the Red Cross: defending their camps and avoiding expansion into civilian neighbourhoods and public and private facilities despite the rebel forces occupying those facilities and endangering the lives of thousands of civilians. They demonstrated the protection of civilians in a concrete manner by signing the Jeddah Declaration on 11 May. The Declaration demanded that the rebels evacuate the homes of civilian residents, facilities, and public and private properties that they occupied in clear and explicit violation of international humanitarian law — namely the 1977 Protocol I Additional to the Geneva Conventions of 1949, annex 19 — as well as basic service facilities that affect the vital environment of the population, through negotiation to avoid endangering the lives of the civilian population and putting their holdings at risk.

Despite that, the militia continued to expand within residential neighbourhoods and public facilities while deliberately and brutally targeting electricity, water and fuel plants and telecommunication towers, and occupying hospitals and turning them into military barracks. The militia also committed serious and grave crimes against defenceless citizens, including killing, looting, raping, destroying, burning, kidnapping and demanding exorbitant financial ransom and forcibly disappearing citizens. The militia besieges entire villages in various parts of the Sudan and asks citizens to pay ransom before allowing them to leave. All of those are criminal acts under international law and international humanitarian law.

The armed forces have formed a clash cell to identify and select targets and subject them to the standards and principles of international humanitarian law. That has become clear in the accuracy of the targets and the reduction of incidental losses. They are also used to recalculate the proportion of risks and losses while amending or cancelling targets to avoid causing incidental losses. A number of targets have been cancelled in this context, and alerts have been issued to the civilian population warning them to evacuate or

move away from some of the military targets controlled by the militia and used to launch attacks on the army and civilian targets.

The armed forces are committed to refraining from targeting residential areas, and no reports indicated that their members targeted civilians or committed rape or sexual violence. On the contrary, reality confirms that the civilian population, including women and children, flee to areas controlled by the armed forces, which affirms their commitment to protecting civilians.

Regarding what was stated in paragraph 13 of the report about the parties to the conflict's commitment to the standards of international law, we point out that the aggressive war approach adopted by the Rapid Support Forces has been denounced and condemned by many of the major human rights organizations in the world, including Amnesty International, Human Rights Watch and Council members, including the United States of America, the United Kingdom and others. Therefore, it must be clarified that the armed forces are still waging a defensive war to repel a multi-party attack and aggression in which many countries participated and which the United Arab Emirates sponsored with financial support and arms that made their way through Umm Jaras Airport, and this is not a secret. Article 51 of the United Nations Charter gives the Sudan the right to self-defence and to repel aggression, and at a later time those countries and parties will be prosecuted under the jurisdiction of the International Criminal Court and the International Court of Justice. Documentation is ongoing in that regard.

The duty of the armed forces is to protect the State from external aggression. Since the outbreak of the multi-party war of aggression, the armed forces have been adhering to the systematic systems followed in military operations and the rules of engagement, while the militia has continued to infiltrate citizens' homes and government facilities and to use citizens as human shields, which constitutes a violation of international humanitarian law. Therefore, various weapons are being used to ward off the systematic aggression, depending on the operational situation.

The militia was receiving heavy, high-quality weapons and anti-aircraft weapons across the international border with the help of the United Arab Emirates and Chad, in violation of resolution 1591 (2005) by introducing weapons into the states of Darfur, using them in the attacks against the cities

of the Darfur region and deliberately transferring the conflict to that area. The rebel militia's use of those weapons, including drones and artillery, resulted in the crimes noted by the Council since the militia's attack against the 16th division of the armed forces in Nyala.

We stress that the armed forces do not seek war but must confront the aggression. They chose their targets taking into account the principles and standards of international humanitarian law.

The militia's use of facilities and their transformation into military targets through attacks against the army threatening the life of civilians make those facilities lose protection according to Protocol I, article 19, under international humanitarian law. The scope of aggression and the multi-party aggression with mercenaries from the Sahel give the armed forces full right to address the foreign invasion and rebellion against the constitutional system and to use all kinds of deterrence in line with Articles 7 and 51 of the Charter.

The armed forces undertake recruitment in accordance with the National Council for Child Welfare guidelines and do not recruit children. They are committed to protecting children and refraining from recruiting children. Recently, the armed forces released 30 minors who were captured while fighting with the Rapid Support Forces and handed them over to the International Committee of the Red Cross on 10 September 2023.

With regard to criminal liability, the armed forces are excluded from it so long as their members act in a reasonable manner to defend themselves, the citizens and the State, which are being targeted by aggressive war and mercenaries.

As for the Rapid Support Forces and the crimes it has committed, the Rome Statute does not exempt the military commander or the actual military commander in his absence from criminal responsibility for crimes falling under the jurisdiction of the Court and committed by forces subject to his effective command and control, and it does not care about the inability of the commander to control those forces. That commander should have taken the necessary reasonable measures within his authority to prevent the perpetration of those crimes. The commander is held criminally accountable for crimes within the jurisdiction of the Court committed by subordinates. Even if the commander is incapable of commanding his subordinates, he is still criminally responsible before the International Criminal Court,

because he should have taken the necessary measures to prevent the perpetration of those crimes. Article 25 stipulates that the State that provides a militia with lethal weapons, shelter and materials to facilitate the perpetration of crimes or provides any kind of support to that end is also responsible because that qualifies as deliberate common criminal intent.

With regard to the violations of the 1949 Geneva Conventions, the militia has deliberately committed the following: bombing of facilities, shelling of cities, killing of soldiers and prisoners, and the transfer of foreigners to the Sudan, putting them in residential places and houses, the residents of which were forced to leave. Moreover, the militia deliberately attacked places of worship and churches, educational institutions, museums, hospitals and sick bays, and has taken hostages. They left nobody alive. That demonstrates their criminal intent. The militia also looted towns, raped women at gunpoint and practiced sexual slavery.

Concerning the national authorities' cooperation with the Prosecutor and his deputy, the meeting in September 2023 between the Prosecutor and General Abdel Fattah Al-Burhan, President of the Transitional Sovereign Council, culminated in re-establishing official engagement at the highest level between the two sides and in agreeing to the Prosecutor's visit to the Sudan and cooperation on investigations.

A decision was issued on 21 December 2023 by the Transitional Sovereign Council as decision No. 191 of 2023, regarding the establishment of a liaison committee of five members presided over by a judge from the Supreme Court. The Committee will establish the means of cooperation with the International Criminal Court. The Prosecutor submitted 35 requests related to the accused, including officers of the Sudanese Armed Forces. We do not know if those individuals are still alive, if they have been demobilized or if they are dead. He requested death certificates, the locations of certain people, flight records, flight information and police records for the period from August 2003 to July 2004. The majority of those requests are difficult to answer for the time being. However, we are awaiting the Prosecutor's arrival in Darfur for further discussion.

Regarding paragraph 21 of the report on the wanted persons, when the Prosecutor or his team visit Port Sudan, we will update them on the situation and the efforts made thus far. With regard to the documents requested by the Prosecutor, it has been proven that

such documents, the official archives and the National Library have been burned by the militia.

In conclusion, the scale of cooperation between the Sudanese authorities and the Prosecutor has made great progress at all levels, including the issuance of entry visas for the Prosecutor's team and the investigators. Since September 2023, they have not visited the country. We have been awaiting their visit to the country since December 2023. Four dates were set, but the team failed to show up on any of them. The delay of the visit is not due to visas but to a request from the Prosecutor. The Sudanese authorities have confirmed that the head of the liaison committee has directly contacted the Office of the Prosecutor in order to advance cooperation further and respond to questions. We are now simply awaiting the Prosecutor's arrival in Port Sudan to increase the level of cooperation, respond to his concerns and discuss the Court's mandate in relation to the current investigations. I would like to note that the head of the liaison committee visited The Hague. He stayed there for three days and met with the legal team of the Office of the Prosecutor. He is not yet in the Sudan. I hoped that would have been mentioned in the Prosecutor's report.

**The President** (*spoke in French*): I now give the floor to Prosecutor Khan to respond to the comments, and I would thank him for keeping his statement to a few minutes.

**Mr. Khan:** I start by expressing my gratitude to the members of the Council for the overwhelming support that has been articulated for the work of my Office and the International Criminal Court (ICC). What was really quite stunning during my trips to the refugee camps is the different people in the different locations saying spontaneously that the situation in Darfur now is the worst ever. They have experienced and lived through the events in 2003, 2004 and 2005, and this is worse than the situation that compelled the Council to refer the situation to the Court in 2005. They are very grateful to the Council for casting a lifeboat on the high seas for them to clamber aboard. They want justice. They see the ICC as a very important vehicle to ensure that they are not forgotten and do not drown unseen and unheard.

When I met with General Al-Burhan and General Hemedti in the Sudan and signed a memorandum of understanding, I repeatedly made commitments and promises — showed my willingness — to work for



African solutions to African problems and with hybrid options to make sure that we could imaginatively ensure, as I briefed the Council, that this referral did not become a never-ending story. I think that the representative of Algeria is quite right — it should not have taken 38 reports and almost 20 years to get more meaningful justice. If we are to achieve justice, we need a new approach.

We have not rejected any invitations to the Sudan. We received our visas. And, of course, the security situation in Port Sudan in January meant we had to delay, but I do hope that we can have that dialogue and that the proof of the pudding will be in the eating, in terms of the tangibles that come from the next engagement. I hope that the Government of Sudan and the Rapid Support Forces can provide information material, because cooperation is not without evidential significance. Attempts to repress and investigate violations are also extremely relevant from an investigative point of view.

I will end with the following. It is obvious to everybody that the real wealth of the Sudan is not the oil or the gold that is dug from the ground. It is the children from the soil. And we are seeing those innocent children orphaned on a significant scale. We are seeing mothers burying their infants. We are seeing

women, men, boys and girls violated, and too many are dying. I think we have to find an approach in which the promise to the ICC, by way of memorandums of understanding, the promises and obligations of the Juba Peace Agreement and the imperative of the Security Council in resolution 1593 (2005), in declaring the situation a threat to international peace and security give rise to effective measures, so as not to render the Security Council and the whole international system impotent in the face of yet another cycle of violence. We can do so, but it requires not inertia, but a dynamic new approach.

I stand ready to work with all members of the Council, all Member States, all civil societies and all victims to ensure that the voices of the victims are not drowned out but survive and are heard and that there is a juridical determination in relation to what they have endured for so long and right now.

**The President** (*spoke in French*): I thank Mr. Khan for his clarifications.

There are no more names inscribed on the list of speakers.

*The meeting rose at 12.20 p.m.*