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Eightieth year

9851st meeting

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Provisional

<i>President:</i>	Mr. Bendjama/Mr. Koudri	(Algeria)
<i>Members:</i>	China	Mr. Geng Shuang
	Denmark	Ms. Lassen
	France	Mr. Dharmadhikari
	Greece	Mr. Sekeris
	Guyana	Mrs. Rodrigues-Birkett
	Pakistan	Mr. Akram
	Panama	Mr. Moscoso
	Republic of Korea	Mr. Cho
	Russian Federation	Ms. Zabolotskaya
	Sierra Leone	Mr. Kanu
	Slovenia	Mrs. Blokar Drobič
	Somalia	Mr. Osman
	United Kingdom of Great Britain and Northern Ireland . .	Mr. Kariuki
	United States of America	Ms. Shea

Agenda

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

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

Adoption of the agenda

The agenda was adopted.

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

The President: 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 very much, Mr. President, for the opportunity to brief the Security Council once again today. I would also wish to express my thanks to His Excellency the Permanent Representative of the Sudan to the United Nations for his attendance. I am really pleased that, after this Council meeting, I will be speaking further with him.

As members know, of course, the past six months have reflected a further descent, indeed a tailspin, into deeper suffering and misery for the people of Darfur. Famine is present in Darfur. Conflict is increasing. Children are targeted. Girls and women are subject to rape. And the whole landscape is one of destruction and, we say, criminality. That descent is accelerating, if anything. It is accelerating as we speak. Today and yesterday in El Fasher, we are seeing developments in which serious allegations are emerging of more innocent civilians being targeted and vital civilian objects, such as hospitals, being attacked. There seems to be no respite for the Darfuri people.

It is the clear view of my Office, as reflected in the report before the Council, that, as we speak, international crimes are undoubtedly being committed in Darfur. They are being committed as we speak. And daily, unfortunately, we see crimes being used as a weapon of war against so many whom the law is meant to protect from those types of excesses. That is not — I want to make clear — a general assessment. It is not an assessment gleaned from unverified reports. It is a hard-edged analysis that my Office made on the basis of evidence and information collected and reviewed. We are particularly concerned about the stream of allegations about the targeting of women and girls and the allegations of gender crimes identified through our investigations. Those crimes are a priority of my Office.

In the past six months, we have tried to meet the situation on the ground by improving efficiency and trying to be responsive. We have done that by being in Chad and being in the other countries bordering the Sudan, where we have collected evidence from displaced communities about what they have suffered, what they have witnessed, what they have seen. We have conducted witness interviews. We have increased the scale and quantum of evidence that we have collected from digital and video sources, harnessing technological tools that my Office has put in place, so that we have a better insight into the linkage between perpetrators, alleged perpetrators, their structures and crime patterns. We have strengthened, as detailed in the report, partnerships with national authorities, by sharing information with national law enforcement so that they can also do their part and carry the burden of accountability more broadly, and that has found form in an increased number of domestic investigations by third countries.

On the basis of that action and as confirmed in my report, I can confirm today that my Office is taking the necessary steps to put forward applications for warrants of arrest in relation to crimes that we allege are being and have been committed in West Darfur. But I want to be very clear: my Office will only move, will only submit those applications, when we are satisfied, in accordance with our internal processes, that there is a realistic prospect of conviction. By founding applications before the judges of the International Criminal Court (ICC) on strong evidence that can withstand scrutiny, we have the best chance not only that judges may grant the applications but also that the individuals who may be apprehended can be subjected to due process to vindicate the rights of survivors.

I think that a simple message should be understood by those on the ground in El Fasher, in Geneina and across Darfur: now, better late than never — for goodness' sake — comply with international humanitarian law, not out of charity, not out of some political necessity, but out of the dictates of humanity and of black letter law. In the suffering of women, children and men in Darfur, we hear very close echoes of what gave rise to the original referral that the Council made in resolution 1593 (2005), 20 years ago. And I state that the pattern of crimes, the perpetrators and the parties track very closely with the same protagonists and the same targeted groups as existed in 2003 and that led to the referral. It is the same communities, the same groups suffering — a new generation suffering the same hell that has been endured by other generations of Darfuris.

That tragic, awful, unnecessary and preventable connection between the past and the present in Darfur emphasizes, we say, the need for, and the value of, the very significant progress that we have seen in this reporting period. For in this reporting period, just last month, I had the honour of appearing with the members of the Darfur Unified Team to present closing arguments before the Trial Chamber of the International Criminal Court in the case against Mr. Ali Muhammad Ali Abd-Al-Rahman, also known as Mr. Ali Kushayb. That trial means an awful lot. That trial focused on crimes allegedly committed between August 2003 and April 2004. And, fast forward, one sees similar crimes being committed now. That trial means a lot to Darfuris, to the different communities, the witnesses who came to The Hague and the communities whom we met in Germany, in Adré, on the border in Chad, on the border of Darfur, in Darfur itself and even, here, in New York, as we have affected communities in the public gallery. It means a lot to them, they say, that they are not forgotten. They have not been airbrushed out of public consciousness. They are not invisible; their lives are not without value and their lives are as important to the Council and the covenant made as the lives of people anywhere else. That process means a lot, as victim after victim has underlined, not simply because of the historical significance of a trial, or simply because of the importance of collective memory or truth-telling, but because of the fact that it gives victims hope that the promises made — however delayed — to honour the lives, the dignity and the value of the people of Darfur will be kept, not only by my Office or by the Court but also by the Council and the broader international community.

It is important — and I think that this is a point that I have also raised with the Darfuri community today and on other occasions — that the Abd-Al-Rahman case cannot be viewed as a final step. It is a beginning, a solid start, we say, to justice and accountability, but it needs support. It needs action, and definitely the impunity gap needs to be rendered smaller. More support is needed. To do that, we need the Council's support. We need the support of the Council, which made a very sombre finding under Chapter VII of the Charter of the United Nations that the situation in Darfur represented a threat to international peace and security. And how prescient the Council was. We see, 20 years later, in the absence of the warrants issued by the judges of the ICC being executed, the risk of destabilization in Darfur, more misery for the people of Darfur but also a real risk of destabilization of the area. The Council

was quite right, if I may say so and with the greatest of respect: the finding that the situation in Darfur constituted a threat to international peace and security was a very solid finding that led to the referral, but that threat clearly exists today, with the same ingredients, the same conditions of a threat to international peace and security. The right of individuals to be seen and to have justice delivered to them is important.

That also requires concrete action to be taken in relation to the warrants issued by the ICC in relation to former President Omer Al-Bashir, Mr. Hussein and Mr. Harun. It is particularly important — and I have made this clear in my interactions with the Government of the Sudan — that the transfer of Mr. Harun will have a particular impact at this time, because there is also a very clear nexus with the trial of Mr. Abd-Al-Rahman, which has just concluded. We believe that we know where Mr. Harun is. We have communicated that to the Sudan, and we must now find a way to deliver on the terms of the Security Council resolution and meet the expectations, not of abstract legal principles but of the victims, the representatives of the Darfuri community in the Court and the thousands watching and looking for the promises made to be promises kept, for the law to apply equally and for their hell to stop, or at least for the temperature to be turned down, to allow them to live without the burning conditions that they are currently enduring.

With respect to this reporting period, there were signs of cautious optimism regarding the cooperation with the Government of the Sudan. During the reporting period, we had further engagements with the Sudanese authorities. We made some progress in the prioritization of requests for assistance, and I was pleased to meet the Attorney General of the Sudan just last month. He came with a delegation to the closing of the trial of Mr. Abd-Al-Rahman, and we had some constructive discussions with him and made promises of more cooperation to come. I think it is only right to recognize the efforts made not only by him but by the focal point appointed by General Al-Burhan following my meeting with the General here in New York 18 months ago. The focal point has made a tangible positive impact on collaboration with my Office, but that progress must be consolidated and expanded in the next six months, in line with the terms, expectations and legal requirements of resolution 1593 (2005).

I also made efforts during the reporting period to engage with the Rapid Support Forces (RSF) to obtain information that is relevant to our investigations. Following a meeting with members of my Office and representatives of the RSF last week, I expect, hope for and require swift and meaningful action. I will be monitoring that, and I will be reporting on whether that promised cooperation and those responses to requests for assistance have been forthcoming in the next report.

The report that we are presenting today is the fortieth report on the situation in Darfur. One could say that it has taken too long, and I would agree, that too many lives have been lost, and that is true. But it underlines something that is very important, which is that the International Criminal Court is as strong as the support of its member States. It is as strong as the honour and desire to fulfil the obligations of the Charter of the United Nations and enforce one of the most serious findings that can be made, namely, that a situation meets the requirements of Chapter VII of the Charter. However, it also takes us back to a time when the Council spoke with one voice to combat impunity and try to respond collectively to suffering and misery and to people who feel that, in their daily lives, they are too small to be seen by their own countries, never mind powerful institutions in New York such as the Security Council. When the Council took that action, not only did it create a binding link by referring the case to the International Criminal Court as a judicial institution, but it provided, created, welded and forged an unbreakable link — or what one hopes is an unbreakable link — between the Council and the survivors and their families we are

seeking collectively to serve. It sought to put them first, along with their rights to the equal protection of the promise of the law, not politics or division.

I recognize that this is a different time, a different age and a different moment, but I hope it is not naive — and even if it is, it is an obligation — to make a simple request: let us not forget or completely abandon the sense of unity of which the Council is capable by putting people first and allowing their voices to be heard over the clamour of politics, division and strategic interests.

The trial that concluded last month was a tangible reassurance to victims that they have not been forgotten. That is something for which they thank the Council, for making the referral in the first place. But we also cannot look away from the fact that, if action is taken against the International Criminal Court, it will have a direct impact on our ability to deliver on justice for the survivors and the victims and for the people of Darfur whom we have met and who are in this building today. It is trite, it is obvious and it is right — individual Prosecutors and Judges come and go like ships that pass in the night, but the ICC as an institution has a special relationship with the United Nations and was established to protect the rights of the most vulnerable globally and across situations for which we have jurisdiction. It is supported in doing so by 125 States parties.

My prayer, my hope, my plea is therefore that we resolve to work together to renew and reinforce the bond created between the Council and the ICC and the victims of Darfur and those who suffer so much today. It is right, particularly today on the Day of Remembrance of the Holocaust and for the Prevention of Crimes against Humanity, when, in this building, so many of those present today have heard, the world has heard, the voices of witnesses to the awful pogroms and the persecution of the Jewish people and other minorities 80 years ago, when Auschwitz was liberated and scenes of hell were recorded and presented in Nuremberg and there was accountability and truth-telling. We must honour those victims of Auschwitz and the victims of the crimes we have seen in the intervening decades. They are perhaps on a different scale to the Holocaust, but a promise was made of “never again”. It is time to fulfil that promise of “never again”, for the rights of all victims who have suffered so many crimes, whether it be in Sierra Leone, Cambodia, Rwanda or the former Yugoslavia — in so many conflicts that we see today.

If we can work in that new way and if for a moment politics and division can be silenced and we can focus on people who are innocent and vulnerable, hopefully we will hear the cries of the people of Darfur for justice. They are in need, they are in danger, and the Council has already determined that they have a right, by dint of resolution 1593 (2005), to justice. It is time for us collectively to join hands and deliver on that promise to prevent the constant cycle of despair that generations of Darfuris have suffered.

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

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

Ms. Lassen (Denmark): I thank Prosecutor Khan for his report, his sober briefing and his tireless efforts in pursuit of justice and accountability. I also welcome the presence of the representative of the Sudan.

Twenty years ago, the international community took a momentous step: the Security Council referred the situation in Darfur to the International Criminal Court (ICC) (see S/PV.5158). Denmark, also a member of the Council at the time, voted in favour of that resolution (resolution 1593 (2005)). We did so as a tangible expression of our support for justice and accountability. We did so in the hope that that measure would bring an end to impunity in Darfur. It is therefore deeply distressing that, 20

years later, the worst of history seems to be repeating itself, as we just heard from the Prosecutor.

Allow me to focus on four key areas.

First, Denmark is gravely concerned by the alarming number of reported serious violations of international law, committed by all parties to the conflict in the Sudan. That includes the indiscriminate targeting of civilians, horrific sexual and gender-based violence and widespread crimes against children. Such crimes are utterly unconscionable.

Secondly, Denmark welcomes the recent conclusion of the first trial at the ICC concerning the violence in Darfur. That is a major milestone. Without the referral by the Council, that trial would not have taken place. The victims and survivors would not have seen justice. We also welcome the Prosecutor's announcement of imminent new applications for arrest warrants concerning the ongoing violence, which started almost two years ago. Real progress on accountability cases is important to end impunity and deter new atrocities, and a precondition for a lasting peace.

Thirdly, collaboration is essential to securing justice and ending the cycle of impunity in the Sudan. We are encouraged by the Sudanese authorities' cooperation with the Court. That is a key step towards accountability. We call on the Sudanese authorities to further strengthen its cooperation with the Court. That is particularly vital with respect to the whereabouts of Mr. Al-Bashir, Mr. Hussein and Mr. Harun, pursuant to their obligations under resolution 1593 (2005). In that context, we recall that the Council also urged all other States to cooperate with the ICC on its work regarding Darfur. We also greatly appreciate the continued and indispensable support offered by civil society and the communities affected to the Court. We commend the Court's initiatives to deepen that engagement.

Fourthly and finally, Denmark welcomes the important work of the Office of the Prosecutor, including outreach to victims and survivors and to the communities affected. We also look forward to hearing about the upcoming cooperation with the Independent International Fact-Finding Mission for the Sudan, which was established by the Human Rights Council. And on the basis of the significant field deployments of the ICC, we look forward to the swift issuance of further applications for arrest warrants related to the situation in Darfur.

We must not relent in our pursuit of accountability. When it prevails, it sends a powerful message that impunity has no place in our world. It represents the bridge between the pain of the past and the hope of the future. Denmark reaffirms its unwavering support for the International Criminal Court as an independent and impartial judicial institution and fully supports the Court in carrying out its mandate of ensuring justice for the victims of the most serious crimes under international law. Denmark is committed to working for the future of the people of the Sudan. They can count on our support.

Mr. Kanu (Sierra Leone): I would like to thank the Prosecutor of the International Criminal Court (ICC), Mr. Karim Khan, for his comprehensive, sobering and compelling briefing to the Council today. We extend our appreciation to him and his team for their fortieth report to the Council, submitted in accordance with resolution 1593 (2005). I welcome the participation of the representative of the Sudan in this meeting.

Sierra Leone commends the Prosecutor and his team for their tireless efforts in advancing accountability for the most serious crimes committed in Darfur, despite increasingly complex and growing challenges. We reiterate our full support for the Court's mandate and emphasize the importance of impartial, independent and

timely investigations and judicial processes, particularly for crimes that shock the conscience of humankind.

As we stated six months ago in our intervention in the Council (see S/PV.9697), the Court is an essential pillar of the international justice system, working in close collaboration with the Council to uphold accountability and the rule of law. Today we reaffirm our unwavering commitment to those principles and stress that justice for the victims of atrocity crimes, wherever they occur, must remain a priority for the international justice system.

As a State party to the Rome Statute, Sierra Leone takes this opportunity to reiterate the statement made by the Bureau of the Assembly of States Parties to the Rome Statute of the International Criminal Court, expressing deep concern over sanctions or threats of sanctions to be imposed on the Court and its personnel, as well as on individuals and entities assisting the Court in investigating, arresting, detaining or prosecuting certain individuals. The Bureau of the Assembly of States Parties to the Rome Statute has highlighted the fact that sanctions can significantly hinder ongoing investigations and other activities of the Court, while also jeopardizing the safety of victims, witnesses and sanctioned individuals.

The Rome Statute rightly embodies an international commitment to end impunity for the most serious crimes of concern to the global community. Protecting the integrity of the Court, including its judicial and prosecutorial independence, is essential for the Court to effectively fulfil its mandate of ensuring accountability for those crimes and delivering justice to victims in an equal manner.

Turning to the report of the Prosecutor, Sierra Leone is deeply alarmed by the deteriorating situation in Darfur, which Prosecutor Khan described as a reproduction of the very crimes that led to the referral of the Darfur situation to the Court, nearly 20 years ago. The crimes reported, including killings, pillaging, gender-based violence, attacks on camps for internally displaced persons and the targeting of civilian populations, constitute grave violations of international law and the Rome Statute.

We acknowledge the significant progress in the Court's investigation into crimes committed in West Darfur since April 2023. Through field deployments to Chad and other countries, witness interviews and extensive evidence analysis, the Office of the Prosecutor reports gathering critical evidence establishing reasonable grounds to believe that a wide range of Rome Statute crimes have been committed. We commend those efforts, including the issuance of one arrest warrant, with others expected soon. We also recognize the prioritization of crimes against women and children in that investigation, given their particularly egregious and devastating nature.

We welcome the continued progress in the landmark trial of Mr. Ali Muhammad Ali Abd-Al-Rahman, the first trial stemming from a Security Council referral. That historic trial addresses 31 counts of war crimes and crimes against humanity, including gender-based violence and crimes against children, committed during the conflict in several West Darfur towns and surrounding areas. During the reporting period, closing arguments were completed and courageous witnesses shared their accounts. For the victims of ongoing crimes in Darfur, that trial symbolizes hope and is a crucial step in their pursuit of justice and accountability.

However, we remain gravely concerned by the continued impunity of key suspects. As the Prosecutor highlights in his report, the ongoing violence in Darfur is directly linked to the failure to hold accountable those responsible for the crimes committed during the early years of the conflict. Addressing those past crimes is critical to breaking the cycle of impunity and preventing future atrocities in Darfur and surrounding areas.

Moreover, we are deeply conscious of the dire humanitarian situation in Darfur and the surrounding regions. That immense suffering serves as a stark reminder of the human cost of failing to address the root causes of conflict. Sierra Leone stresses that accountability and sustainable peace must go hand in hand, as that is the only way in which we can address the situation and pave the way for a lasting political resolution.

We also acknowledge and welcome the cooperation extended by the Sudanese authorities and third States during the reporting period, particularly in supporting the Court's investigations and responding to requests for assistance. That cooperation, however, must extend to the arrest and surrender of suspects believed to be within the Sudan, as well as taking action to ensure accountability, under the complementarity principle. Fulfilling those obligations is vital to breaking the cycle of impunity and achieving sustainable peace in the Sudan.

We commend civil society organizations and grass-roots actors for their invaluable role in preserving evidence and supporting the Court's work. Those partnerships are essential for ensuring that the voices of victims are heard and that justice is delivered. Similarly, we welcome the Court's continued engagement with affected communities, particularly through outreach efforts in refugee camps in Chad and other locations. That engagement is crucial for restoring trust in the international justice system and reaffirming the Court's commitment to victims' aspirations for accountability. We encourage the Office of the Prosecutor to deepen those efforts, as they are vital to ensuring the legitimacy and effectiveness of the justice process.

Sierra Leone underscores the inextricable link between justice and peace. As highlighted in the Prosecutor's report, accountability is not only a moral imperative, but also a prerequisite for sustainable peace in Darfur and in the Sudan as a whole. Efforts to address the root causes of conflict, including systemic impunity, must be central to achieving a lasting political resolution.

In conclusion, Sierra Leone underscores that attempts to threaten or undermine the work of the ICC, including through coercive measures, not only weaken international justice actions; they also particularly weaken actions related to the Court's investigations in Darfur. Threats and sanctions are unacceptable, as they undermine the Court's independence and impartiality, and their negative impact extends to all situations before the Court. Sierra Leone reaffirms its strong support for the ICC and its mandate of delivering justice for the people of Darfur. We urge all Council members to fulfil their obligations under resolution 1593 (2005) and to fully cooperate with the Court on ensuring accountability for atrocity crimes. Together, let us work to protect the most vulnerable and uphold the principles of justice and human dignity.

Mr. Dharmadhikari (France) (*spoke in French*): At the outset, I would like to thank Prosecutor Karim Khan for presenting the fortieth report in accordance with resolution 1593 (2005).

France remains concerned by the continuing clashes in the Sudan. We condemn the violations of human rights and international humanitarian law perpetrated since 15 April 2023. An immediate ceasefire is essential to put an end to the suffering of the population. In view of the scale of the allegations of crimes committed in Darfur and in the rest of the country, it is urgent that the parties fulfil the commitments made in the Jeddah Declaration of Commitment to Protect the Civilians of Sudan by taking concrete measures to strengthen the protection of the civilian population.

Events in the Sudan are having a worrisome impact on the conduct of the Court's investigations. We call on the Sudanese authorities to step up their cooperation with the Office of the Prosecutor and to 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. We welcome the Office of the Prosecutor's extensive deployments on the ground in Chad, particularly in Adré, to gather testimony and evidence.

The fight against impunity is a key factor in building peace in the Sudan. France welcomes the continued progress in the case of Mr. Abd-Al-Rahman, also known as Ali Kushayb. The verdict, expected this year, will represent a crucial moment for the survivors and families of the victims. The conclusion of that first trial, conducted on the basis of a Security Council referral, will mark a key stage in the fight against impunity for the crimes committed in Darfur more than 20 years ago. We also welcome the progress made on further investigations into the suspects for whom arrest warrants have already been issued, namely, Mr. Omer Al Bashir, Mr. Abdel Raheem Hussein and Mr. Ahmad Harun. Finally, we welcome the increased cooperation between the Office of the Prosecutor, third States and international organizations, making it possible for the Court's various investigations to progress and new evidence to be obtained.

The Court — the only permanent international criminal justice institution with a universal remit — must be able to work impartially and independently, without outside interference. We condemn any attempt to intimidate the Office of the Prosecutor, including through sanctions. Sanctions against Court officials would have an impact on all situations, including the Office's efforts to investigate ongoing crimes in Darfur.

Mr. Moscoso (Panama) (*spoke in Spanish*): I thank the Prosecutor of the International Criminal Court (ICC), Mr. Karim Khan, for his briefing on the situation in the Sudan.

I would like to begin by expressing Panama's regret and condemnation of the most recent attack on a hospital in North Darfur on Saturday, in which at least 70 patients and their families were killed. We express our deepest condolences to those affected and urgently call for international humanitarian law to be enforced.

Panama, as a signatory to the Rome Statute of the International Criminal Court, recognizes and supports the work of the International Criminal Court in seeking justice for the victims of the grave crimes committed in Darfur. The fortieth report of the Prosecutor of the International Criminal Court to the Security Council pursuant to resolution 1593 (2005) notes that the situation in Darfur remains extremely serious. The people of Darfur continue to endure widespread violence, with an increasing number of attacks that constitute clear violations of international law.

The recent escalation of hostilities has further exacerbated the suffering. The information reported shows that crimes continue to be committed on a large scale, particularly in the context of the recent clashes in West Darfur, where murders, attacks on internally displaced persons camps, gender-based violence and other crimes have been confirmed, severely affecting the civilian population.

In the midst of that delicate situation on the ground, we must acknowledge the significant progress achieved and the work done by the International Criminal Court, and we applaud the progress made towards holding the aggressors accountable for their actions. The Court's determination to investigate criminal responsibility for those crimes is not only a necessary response to the atrocity, but also a key factor in ensuring long-term peace and stability in the region. Panama is committed to the principles of criminal accountability and supports the Court's continued efforts to ensure that those who bear the greatest responsibility for the crimes in Darfur are brought to justice. The trial of Ali Kushayb constitutes a historic moment for the Court and for the victims of Darfur and a milestone for the Security Council.

As a nation that adheres to the principles of international justice and criminal accountability, Panama believes that justice in Darfur is essential not only for the victims and survivors, but also to ensure lasting peace in the Sahel region. We stand in solidarity with the people of Darfur, with those who have suffered those atrocities first-hand, with those who have been indirectly affected and with all those who continue to work for a more just and promising future for the Sudan.

Mr. Akram (Pakistan): Pakistan welcomes the participation of the Permanent Representative of the Sudan in the meeting. We would also like to thank the Prosecutor of the International Criminal Court (ICC), Mr. Karim Khan, for his briefing.

Taking advantage of the presence of the Prosecutor, I would just like to depart from the agenda item to make a couple of personal remarks. Pakistan is not a party to the Rome Statute, which established the ICC. We are of course committed to the objective of accountability for international crimes, whether those crimes are committed in the Holocaust, in Darfur, in Gaza, in Afghanistan or elsewhere. The ICC can gain global credibility if it displays inclusivity, objectivity and impartiality in the cases and persons that it decides to investigate and prosecute. Some jurisdictions have thus far been immune from prosecution for widely reported crimes, including those committed in situations of prolonged foreign occupation and intervention. That is a conversation I hope I could extend with the Prosecutor at a later date.

We have reviewed the fortieth report of the Prosecutor of the ICC to the Security Council pursuant to resolution 1593 (2005). This is a 20-year-old mandate. We have noted the appreciation expressed in the report for the positive engagement of the Government of the Sudan during the reporting period. We have also noted the progress made in the trial of Mr. Abd-Al-Rahman — Ali Kushayb — who voluntarily surrendered to the ICC in 2020. The work of the ICC in relation to Darfur should continue to be guided by the mandate provided by the Council, and the Court should strictly abide by the principle of complementarity, exercise its powers independently, objectively, impartially and in accordance with the law, and fully respect the judicial sovereignty and legitimate concerns of the Sudanese authorities.

The conflict in the Sudan has caused immense human suffering. Almost a quarter of the Sudan's population — at least 11 million people — have been displaced. Three million have sought refuge in fragile neighbouring States. Another 25 million Sudanese face acute hunger. Countless innocent lives have been lost. The Sudanese people have seen unimaginable atrocities during the nearly two years of the recent conflict. Two days ago, more than 70 innocent lives were lost in the Rapid Support Forces (RSF) attack on a Saudi hospital in El Fasher. We extend our deepest sympathies to the victims and their families. The RSF has consistently displayed utter disregard for international humanitarian law. Similar atrocities have been committed in Geneina, El Gezira, El Fasher, Khartoum and other places.

Pakistan firmly upholds the unity, sovereignty and territorial integrity of the Sudan. We call for an immediate and unconditional ceasefire. The parties need to find a sustainable political solution through peaceful means. The humanitarian crisis in the country needs to be comprehensively addressed.

We call on the Sudanese Armed Forces and the RSF to engage in dialogue and diplomacy. We call on both sides to implement the commitments made under the Jeddah Declaration of Commitment to Protect the Civilians of Sudan and to facilitate humanitarian action so as to meet the emergency needs of the Sudanese people. The blatant violations of international humanitarian law with impunity must stop, and the suffering of the Sudanese people brought to an end.

Ms. Shea (United States of America): The United States acknowledges the efforts involved in arranging this report and briefing.

The backdrop to this discussion is an ongoing siege by the Rapid Support Forces (RSF) on El Fasher and the suffering of civilians trapped by armed groups. At the outset, the United States condemns the recent attacks targeting the Saudi teaching maternity hospital in El Fasher, the Sudan, which reportedly killed 70 Sudanese civilians and injured dozens more.

There has been terrible suffering inflicted upon innocent civilians in the Sudan in this conflict. Since the renewed outbreak of hostilities in April 2023, combatants have directed shocking cruelty and violence towards defenceless Sudanese people. The brutal conflict has resulted in the world's largest humanitarian catastrophe, leaving 638,000 Sudanese people experiencing the worst famine in the Sudan's recent history, more than 30 million people in need of humanitarian assistance and tens of thousands dead.

The RSF and allied militias have systematically murdered men, boys and even infants on an ethnic basis and deliberately targeted women and girls from certain ethnic groups for rape and other forms of brutal sexual violence. Those same militias have targeted fleeing civilians, murdering innocent people escaping conflict, and prevented remaining civilians from accessing life-saving supplies. The other belligerent, the Sudanese Armed Forces (SAF), has also committed war crimes in the Sudan. The SAF has committed lethal attacks on civilians — including widespread bombing of civilian infrastructure, including schools, markets and hospitals — torture and extrajudicial executions. The SAF is also responsible for the routine denial of humanitarian access. Its repeated targeting of civilian infrastructure and attacks on civilians have brought unimaginable suffering to vulnerable communities and underscore that the SAF is not a credible representative of the Republic of the Sudan.

The United States does not support either side in the war. Both belligerents bear responsibility for the violence and suffering in the Sudan. The egregious actions of both the RSF and the SAF demonstrate the importance of a swift and durable negotiated end to the conflict. Those responsible for these terrible crimes must be held accountable. Many responsible for atrocities more than 20 years ago in the Sudan remain at large. We urge the international community to work to bring those individuals to trial, so they can be publicly held to account for their alleged crimes. The failure to achieve accountability decades ago is one reason conflict continues to burn. Several of the leading actors in the current conflicts and their affiliated groups were also directly engaged in criminality in Darfur in 2003 and 2004. The very same victims, especially non-Arab groups, are again being victimized. Those responsible for alleged international crimes have used the ongoing volatile environment to shield themselves from accountability. We, too, have seen reports of ethnic and sex-based violence, as described in the report presented today. It is important that States support evidence collection and analysis efforts.

The United States will continue to lead efforts to bring the conflict to an end. The horrific acts of violence committed by the SAF and the RSF must end. The warring parties must allow humanitarian access so that aid can flow to the Sudan's civilian population. It is long past time to halt the killing and to empower the Sudanese people in their pursuit of a peaceful and prosperous future.

Mr. Kariuki (United Kingdom): Let me begin by thanking Prosecutor Khan for his fortieth report on the situation in Darfur and for his briefing to the Council today. I also welcome the participation of the Representative of the Sudan in our meeting.

I will make three points.

First, the Prosecutor was clear that the conflict in the Sudan has gone on for far too long. My Foreign Secretary saw the scale of the suffering for himself when he visited the Adré crossing on the Chad-Sudan border on Saturday. As the Foreign Secretary said, this is the biggest humanitarian crisis in the world. For that reason,

the United Kingdom has announced a further £20 million to assist with increased food production and life-saving sexual and reproductive health services for refugees fleeing the Sudan. That builds on our announcement in November 2024 of the doubling of our aid to more than £226 million. Those funds are delivering emergency food assistance to almost 800,000 displaced people. They are providing improved access to shelter, drinking water, emergency healthcare and education. Further efforts to galvanize international support are also required. That is why my Foreign Secretary announced his intention to convene a meeting of Ministers for Foreign Affairs to ensure aid reaches where it is needed most and to re-energize efforts to end the conflict.

Secondly, the International Criminal Court (ICC) has a key role to play in ensuring that perpetrators are held accountable for crimes committed in Darfur. In that context, the United Kingdom welcomes the creation of a structured dialogue between the Office of the Prosecutor and civil society organizations. That can help to ensure that the voices of victims are heard. We also welcome the conclusion of the trial of Ali Kushayb in December 2024. As it is the first trial to be concluded in a situation referred to the Court by the Security Council, this represents an historic milestone. We look forward to hearing updates on any further applications for arrest warrants.

Thirdly, the United Kingdom reiterates its call for full cooperation with the Court. We welcome the constructive engagement by the Sudanese authorities with the ICC during this reporting period. We also urge them to cooperate with the ICC to ensure the arrest and surrender of those who are subject to outstanding arrest warrants: Omer Al-Bashir, Abdel Raheem Muhammad Hussein and Ahmed Harun.

Let me conclude by reiterating the United Kingdom's continued support for the Court and our respect for its independence. It must be able to carry out its work without interference. Sanctioning the ICC in response to one of its decisions would impede its ability to carry out that important work in Darfur, Venezuela, Ukraine and all situations where the Court is active.

Mr. Cho (Republic of Korea): I thank Prosecutor Karim Khan of the International Criminal Court (ICC) for his comprehensive and sobering report and briefing on the situation in Darfur. I also welcome the representative of the Sudan to this meeting.

This year marks 20 years since the Security Council referred the Darfur situation to the ICC, yet violence and instability persist. We are gravely concerned that the ongoing conflict since 2023 has plunged the Sudan into one of the world's largest humanitarian crises. Tragically, widespread human rights violations and Rome Statute crimes, including killings, pillaging against camps for internally displaced persons and sexual and gender-based violence, continue to be committed by the same actors involved in the atrocities of the early 2000s. That recurring violence serves as a stark reminder of the devastating consequences of impunity in Darfur and underscores the urgent need to uphold justice and accountability. In that vein, we support the Office of the Prosecutor's significant efforts to investigate the crimes committed during the ongoing hostilities in the Sudan. We note in particular the Office's efforts in submitting applications for arrest warrants against those responsible for crimes in West Darfur.

I would like to highlight three points.

First, we welcome the conclusion of the Abd-Al-Rahman trial, which is the first trial resulting from a Security Council referral. We look forward to a judgment being delivered this year. Although that marks just one case and its judgment has not been as timely as we had hoped, the proceedings send a powerful message that cases referred by the Security Council to the ICC will eventually lead to accountability. We also believe that that could provide some hope to civilians suffering from the

ongoing violence and serve as a clear warning to perpetrators who remain beyond the reach of justice.

Secondly, while we welcome the ongoing cooperative steps taken by the Sudanese authorities, we emphasize the need for that cooperation to address the remaining unresolved cases. The resolution of the remaining cases, including those involving the highest-level accused who remain at large, is key to securing accountability and breaking the cycle of violence and impunity. In that regard, we encourage the Sudanese authorities to continue their efforts to ensure the prompt execution of pending arrest warrants and to facilitate access for the gathering of additional evidence through constructive dialogue with the ICC.

Thirdly, we commend the Prosecutor's initiatives aimed at strengthening engagement with civil society and affected communities to collect further testimonies and evidence. In that sense, we also express our gratitude to the Chadian authorities for allowing access to refugee camps within their territory. We believe that expanding such partnerships with civil society, national institutions and other stakeholders will significantly contribute to collecting reliable evidence and ensuring accountability. Additionally, we hope to see strengthened collaboration with other mechanisms, such as the independent international fact-finding mission for the Sudan and the Panel of Experts of the Sanctions Committee established pursuant to resolution 1591 (2005) concerning the Sudan. We believe that collective efforts within the mandates of those mechanisms, such as joint investigations and data-sharing, will help to identify comprehensive solutions.

We extend our deep gratitude to the ICC for its unwavering commitment to ensuring accountability through its sustained and continuous efforts, even amid restricted access owing to the prevailing security situation in the Sudan. As a firm supporter of the ICC and the Chair of the 1591 Committee, the Republic of Korea remains committed to ensuring accountability, delivering justice and fostering lasting peace in the Sudan.

Mr. Osman (Somalia): I want to thank the Prosecutor of the International Criminal Court (ICC), Mr. Karim Khan, for his briefing. Allow me to also extend a welcome to the Permanent Representative of the Sudan.

The report before us comes at a critical time. The devastating conflict in the Sudan continues to claim numerous lives, creating an increasingly dire humanitarian crisis that demands our collective attention and action. Justice and accountability are paramount in any comprehensive approach to resolving the conflict in the Sudan. The pursuit of transitional justice cannot be separated from the process of stabilizing the country.

I wish to emphasize the following points.

First, we must explore all avenues for revitalizing national justice institutions to support the Sudan's ownership of that critical process. It is imperative that we create an environment that strengthens the Sudan's capacity to administer justice, paving the way for stability and lasting peace.

Secondly, we must strengthen and explore existing legal frameworks, utilizing the Juba Agreement for Peace in the Sudan despite its challenges. We must work within those frameworks and remain flexible in the face of new developments, supporting mechanisms that uphold the rule of law and justice.

Thirdly, we emphasize Sudanese ownership of the justice process through regional and African frameworks. We must scrutinize the role of external actors in fuelling the conflict and monitor those destructive roles with transparency. We recognize the significance of the cooperation between the Government of the Sudan and the ICC, including the memorandum of understanding signed in August 2021

and steps to incorporate ICC crimes into national laws. We note the establishment of a national coordination committee, headed by a Supreme Court judge, and the Government's efforts to investigate human rights violations.

We call for continued and enhanced collaboration between the ICC and the Sudanese authorities, ensuring a comprehensive approach to accountability that respects complementarity and national sovereignty. The protection of civilians must remain our highest priority. We urge all parties to facilitate humanitarian access and to support diplomatic efforts by the African Union, the United Nations and other mediators to bring the Sudanese parties to the negotiating table. The cycle of violence can only be broken through dialogue, accountability and a genuine commitment to protecting the rights and the dignity of all Sudanese people.

In conclusion, Somalia stands firmly with the people of the Sudan and the victims of these atrocities. The situation in the Sudan requires our unwavering attention and a commitment to pursuing justice and lasting peace. We call for a comprehensive approach that combines judicial accountability, humanitarian support and diplomatic efforts to bring lasting peace to the Sudan. The international community must remain committed to supporting the Sudanese people in their pursuit of justice, stability and reconciliation.

Mr. Sekeris (Greece): I would like to thank the Prosecutor of the International Criminal Court (ICC), Mr. Karim Khan, for his very comprehensive briefing. I welcome the presence of the Ambassador of the Sudan in the meeting.

The humanitarian consequences of the situation in the Sudan, notably in Darfur, are dire. The conflict, the intense warfare between warring parties and the escalation of hostilities further aggravate the human suffering of the Sudanese people. The Human Rights Council's independent international fact-finding mission for the Sudan reports thousands of killings and injuries, extensive displacement and the destruction of residential homes, hospitals, schools and other critical infrastructure. Furthermore, we remain extremely concerned about widespread atrocities and reports of Rome Statute crimes being committed.

While Greece supports all efforts aimed at dialogue and mediation, it firmly believes that there is no room for impunity. The current report of the Office of the Prosecutor rightly points out that those atrocities are the result of continued impunity for crimes that commenced two decades ago and feature many of the same protagonists. A lack of accountability continues to fuel the perpetration of ongoing crimes and is a feature of past ones.

Greece has always maintained that the international community should prioritize the safety of civilians. The referral of the situation in Darfur to the ICC, nearly 20 years ago, pursuant to resolution 1593 (2005), also supported by Greece during its previous tenure on the Council, allowed the ICC to exercise jurisdiction over crimes committed in Darfur since 1 July 2002, although the Sudan is not a State party to the Rome Statute. In view of the above, Greece, a staunch supporter of international justice and the rule of law, underscores the importance of the investigations of the Prosecutor regarding crimes committed in the course of the ongoing conflict that commenced in April 2023 between warring parties and their affiliated groups in Darfur.

We equally wish to welcome the progress in the Abd-Al-Rahman case. That is a case of unique significance, since it is the first related to the referral of the situation in Darfur to the ICC by the Council. We welcome the conclusion, to a large degree, of the first of the four components of that Darfur referral.

I would like to stress that we welcome the steps already taken by the competent Sudanese authorities regarding cooperation with the Office of the Prosecutor. Equally,

we underline the importance of strengthening such cooperation regarding requests for assistance concerning ongoing inquiries. And, more importantly, we stress the need to execute the warrants for the arrest of fugitives in line with and pursuant to obligations stemming from resolution 1593 (2005). We wish also to underline that unilateral measures against the International Criminal Court will have a negative impact on its work regarding the situation in Darfur.

Greece wishes to underscore the importance of the Office of the Prosecutor's prospective cooperation with the Human Rights Council's independent international fact-finding mission for the Sudan to support the lines of inquiry regarding crimes in Darfur since April 2023. We also welcome the developing cooperation between the Prosecutor, the victims and civil society organizations regarding the provision of information on the atrocities committed in the context of the current hostilities.

In conclusion, Greece supports all efforts aimed at dialogue and mediation that are inclusive and reaffirms its commitment to the unity and sovereignty of the Sudan, convinced that achieving a lasting peace goes hand in hand with justice.

Mrs. Blokar Drobič (Slovenia): I wish to thank Prosecutor Khan for the report and for reminding us, once again, why justice matters. I welcome the representative of the Sudan to the meeting.

I will start by reiterating Slovenia's strong and unwavering support for the International Criminal Court. The Court and its officials must be able to continue their work independently and impartially, without threats or sanctions. International law, justice and peace depend on it. It is crucial that that message be also sent by the members of the Council.

Regarding the situation in Darfur, allow me to make the following points.

The scale of violence, mass displacement, famine, indiscriminate targeting of civilians, brutal attacks on internally displaced person camps, sexual and gender-based crimes, and crimes against children — both in Darfur and across the Sudan — has reached unprecedented levels of horror. The appalling attack on the Saudi teaching maternal hospital in El Fasher, which reportedly claimed the lives of at least 70 people, is a grave violation of international humanitarian law and may amount to a war crime, undermining the fundamental principles that protect civilians and uphold human dignity in times of conflict. I repeat: 70 people in a maternal hospital. How could that ever be justified?

As the Prosecutor has noted, a wide range of crimes under the Rome Statute continue to be committed against the people in Darfur. We reiterate our urgent calls for all parties to immediately and unconditionally cease hostilities. We remind all parties of their obligation to respect international humanitarian law, in all circumstances and at all times. Those responsible for related violations must be held accountable.

In that regard, we recognize the progress made by the Prosecutor in his investigation in West Darfur, and efforts to collect and preserve evidence of alleged crimes in North Darfur. We commend the focus given to crimes against children and to sexual and gender-based crimes and support its continuation.

We note the intention of the Prosecutor to apply for additional arrest warrants, and we call on all States to ensure the immediate execution of all arrest warrants, in line with resolution 1593 (2005). It is high time for steps to be taken that can be felt by those on the ground and for justice to no longer be delayed.

We commend the continued efforts of the Prosecutor to deepen engagement with civil society and welcome new initiatives in that regard. We call for further support, including financial support, for the civil society organizations seeking to engage

with the Court. A victim-centred approach, while ensuring protection and support, empowers survivors and is extremely important for the people in Darfur.

We are particularly struck by the observation in the Prosecutor's report that the crimes ongoing in Darfur are a reproduction — in the types of criminal conduct, the communities affected and the alleged perpetrators — of the atrocities that the Council referred to the ICC over two decades ago. Do we need more evidence that without justice, we cannot achieve lasting peace? Darfur shows that impunity only breeds further atrocities, and their repetition is a grim reminder of the cost of inaction. Two decades ago, the Council showed its resolve and acted. Despite differing views on accountability mechanisms, surely we can agree that atrocities must stop.

We acknowledge the reported improved cooperation of the Government of the Sudan with the Office of the Prosecutor and strongly urge Sudanese authorities to promptly implement all outstanding arrest warrants.

Without the Security Council referral and without the cooperation of States, the Ali Kushayb trial would not have happened. Its conclusion will mark an important milestone in the cooperation between the Council and the ICC, which further proves that for peace we need justice. It sends a strong message to victims, to survivors and to perpetrators that impunity will not be tolerated.

Ms. Zabolotskaya (Russian Federation) (*spoke in Russian*): To begin, we would like to say that the Russian Federation would like to dissociate itself from the invitation to the so-called Prosecutor of the so-called International Criminal Court (ICC), British national Mr. Khan, to participate in today's meeting. We do not recognize that body, which makes a serious contribution to discrediting the very notion of international justice.

We have serious questions regarding the head of that pseudo-body, including ethical questions. Already in November, we drew the attention of our colleagues to allegations of sexual harassment made against that official by a young female colleague. Back then, the website of the pseudo-court even published information about the launching of an investigation into those allegations. Since then, however, there has been no news about the outcome. Our Organization has a zero-tolerance policy vis-à-vis sexual harassment. Why, then, is Mr. Khan speaking before the Council today? In our view, he should have suspended his duties while the investigation is under way.

However, it would not come as a surprise if this case, too, were to be swept under the rug. The ICC does not deem it necessary to combat the impunity of its own officials. We all remember how an "internal investigation" conducted by that body into the fakes in the case of Mr. Al-Qaddhafi turned out to be a farce. There was neither a report nor any conclusions drawn. By the way, we are interested in finding out where the reports that came out of that internal investigation are. No one was held to account, and yet those allegations, which were known to be false, were used by NATO countries to justify their military aggression against Libya. We stand convinced that justice will prevail and that ICC officials who were complicit in the destruction of that Arab country, Libya, just like the pseudo-legal structure itself, will be held to account eventually. We propose that anyone who has information on that issue come forward and make that information public.

On the whole, we see no benefit coming from the ritual listening to the empty reports of the ICC. In dealing with Libya and Darfur, that body has for many years been simulating a flurry of activity. It is exploiting the Council to raise its own profile. Meanwhile, we Council members, twice a year, have to waste our time, which could otherwise be spent on addressing numerous truly important issues on our agenda, including the situations in Libya and Darfur.

We back the endeavour of combating impunity. Yet, the ICC and its activities lost any link to the work of meting out justice long ago. It is nothing but a political spectacle that has been commissioned and is being performed. The ICC's backers have an on/off button, it would seem, and they use it deftly.

For example, as recently as November 2024, the United States representative, speaking in the Security Council during our consideration of Mr. Khan's report on the investigation of the situation in Libya, made complimentary remarks about the ICC and pledged to support that organization as long as necessary (see S/PV.9789). Such assurances were made against the backdrop of the United States law — I am referring to the American Service-Members' Protection Act, which is known among international lawyers as The Hague Invasion Act. That document allows for the use of any means necessary, including military force, to bring about the release of United States citizens or the citizens of allied countries who are apprehended on ICC arrest warrants.

No more than two months passed since the United States representative spoke in support of the ICC, when the House of Representatives of the United States Congress adopted a bill on sanctions against ICC officials, linked to the issuance of arrest warrants against the Israeli leadership. The new law would authorize sanctions against officials involved in investigations of crimes committed by United States nationals or their allies, as well as against those providing direct or indirect support to the ICC. That is particularly interesting because that pseudo-court enjoys the support of the United States itself, which, together with its allies, is bankrolling commissioned investigations. To that end, they even amended their own legislation, which had previously prohibited any cooperation with the ICC, given that it was examining the issue of crimes committed by United States servicemen in Afghanistan. What do they do now? Should they sanction themselves?

A similar law, by the way, was adopted by the British, whose special forces in Afghanistan stood out for their blood-curdling atrocities, including extrajudicial executions of civilians, including children. On 8 January, *The New York Times* published an extensive article on the matter. It is noteworthy that more than 10 years have elapsed since the events, but not a single British military officer, not to mention any commanders or political leaders, has been held to account for their atrocities. Instead of prosecuting them, the British leadership is only advising everyone "not to spread rumours". Surprisingly, that is doing nothing to prevent the United Kingdom from referring to the principle of complementarity and proclaiming that it is supposedly capable of investigating those crimes on its own.

What is truly important is that the ICC, as soon as Washington and London called on it, hastily and obediently wrapped up the preliminary examination of war crimes committed by NATO in Afghanistan and Iraq. No one was held to account for the deaths of hundreds of thousands of civilians. For that reason, we have absolutely no illusions about the ability of that politicized, corrupt and mendacious institution to deliver justice for the people of Gaza.

Western countries long ago turned the ICC into a mechanism for pursuing their geopolitical interests and neocolonial agendas. Selective justice has become the new norm for them. In some instances, they demonstrate unanimity on the basis of their bloc discipline. In other instances, when it comes to prosecuting their own nationals or their allies, they start talking about the need to respect the immunities of the high-ranking officials of States that are not party to the Rome Statute of the International Criminal Court.

The statements by European leaders in reference to ICC arrest warrants against the Israeli leadership are particularly telling. They show that there are "insiders" and "outsiders" among Heads of State. For the former, legal immunities are recognized

and respected; for the latter, they are denied. International law does not work that way. This situation proves what we said earlier. On trumped-up grounds of fighting impunity, the collective West is attacking not the immunities, but what they are supposed to guarantee — the principles of the sovereign equality and political independence of States. Those are the very foundations upon which the United Nations was established.

Turning to the situation in Darfur, the ICC's activities in imitation of an investigation are an excellent example of the catastrophic ineffectiveness and uselessness of that pseudo-Themis of The Hague. What those so-called "fighters against impunity" have managed to achieve since the Darfur file was referred to the ICC in 2005 was one trial against one accused individual. We see no grounds for anyone to continue to praise that so-called "achievement".

The politicized activities of the ICC did nothing to foster a peaceful settlement in Darfur. On the contrary, by issuing an arrest warrant against a sitting Head of State, in violation of universally recognized norms on the immunity of senior State officials, that pseudo-court made a political compromise more difficult and provoked tensions on the African continent. The deterioration of the situation in the Sudan clearly demonstrates how divorced from reality the idea of the notorious ICC justice being supposedly important for sustainable peace actually is.

For 20 years, that body has been thwarting the Security Council's referral for an investigation into the specific events in Darfur. Today, all of a sudden, it is interested in examining the situation, which no one actually referred to it. Clearly, the ICC is blatantly overstepping its mandate, in violation of resolution 1593 (2005). We would therefore like to once again call upon all responsible States to withdraw the Darfur file from the ICC before its politicized and unprofessional actions result in catastrophic consequences. All that that pseudo-court is capable of is serving as a neocolonial tool to further the interests of wealthy Western countries. It is no wonder that the ICC has consistently turned a blind eye to the crimes committed by its patrons.

We are convinced that the only way to achieve a sustainable and peaceful settlement in Darfur is through inclusive intra-Sudanese dialogue. It is only through an open discussion on an equal footing, taking into account the interests of all parties to the conflict, that can we create the conditions for a genuine national reconciliation process. The politicized activities of the ICC only preclude that. If there is anyone who is up to the task of delivering justice, it is the Sudanese themselves. Our job is to provide them with our full support and assistance.

Mrs. Rodrigues-Birkett (Guyana): I thank Prosecutor Karim Khan for his presentation of the fortieth report pursuant to resolution 1593 (2005) and for his sobering briefing. I also welcome the participation of the Permanent Representative of the Sudan in today's meeting.

Guyana welcomes the report on the implementation of the mandate in resolution 1593 (2005). We note in particular that the trial of Mr. Abd-Al-Rahman is the first trial to be completed on the basis of a referral by the Security Council for crimes committed in Darfur more than 20 years ago. We commend the Office of the Prosecutor for the efforts in bringing the trial to conclusion and look forward to the delivery of the decision this year.

It is recognized that the advancement that we are seeing in addressing crimes committed two decades ago comes at a time when the people of Darfur are enduring another wave of immense suffering. We are deeply concerned that since the commencement of armed hostilities in April 2023, the situation in Darfur has continuously deteriorated, with allegations of numerous crimes, including killings, pillaging, attacks against internally displaced persons camps, indiscriminate

targeting of civilian populations, gender-based crimes and crimes against and affecting children.

We note that the Prosecutor's report of ongoing investigations and that sufficient evidence has been collected to confirm that there are reasonable grounds to believe that a wide range of crimes under the Rome Statute have been, and continue to be, committed in Darfur and that final steps are being taken to present applications for arrest warrants with respect to those responsible. Guyana underscores that accountability is necessary for delivering justice for victims, holding perpetrators to account and preventing future atrocities. The swift investigation and prosecution of crimes can help to stem the current wave of terror in the Sudan. We agree with the report's statement that "lack of accountability for past crimes emboldens the perpetrators of today" and that the just-concluded trial of Mr. Abd-Al-Rahman not only is of value in relation to past crimes but can also affect the current situation.

We are encouraged by the reported cooperation between the Government of the Sudan and the Office of the Prosecutor, in particular the efforts of the Government to respond to requests for assistance from the International Criminal Court (ICC), both in the context of investigations into ongoing crimes and old cases. However, we emphasize that cooperation must also extend to the arrest and surrender of the outstanding suspects. We also urge the national authorities of third States to provide the necessary cooperation and assistance to the Office of the Prosecutor and note in that regard the facilitation provided by the Chadian authorities. We commend the Office of the Prosecutor for the continued engagement with civil society organizations, affected communities and victims, recognizing their crucial contributions to the investigations.

As efforts continue to seek justice for the people of the Sudan, Guyana reiterates its call for an immediate ceasefire and the resumption of the process towards reaching a lasting and inclusive political solution in the Sudan. We further reiterate that the parties to the conflict must respect international law, including international humanitarian law and human rights law.

Guyana underscores the critical role of the ICC as an independent and impartial judicial institution. The ICC represents the commitment of the international community to never allow heinous crimes, such as those committed during the Second World War, to go unpunished. We are deeply concerned about the recent sanctions imposed against the officials of the Court and emphasize that those measures are likely to obstruct its ongoing investigations into crimes, potentially delaying or denying victims across the world the justice that they are anxiously awaiting. We are also concerned at the impacts of such measures on our overall efforts to end impunity. We reiterate that the officials of the Court, its personnel and those cooperating with it must remain free from sanctions, threats and intimidation. I also take this opportunity to emphasize the role of the Security Council in promoting justice for victims and accountability for grave crimes as necessary measures to address threats to international peace and security.

In conclusion, Guyana reaffirms its unwavering support for the International Criminal Court and the Office of the Prosecutor.

Mr. Geng Shuang (China) (*spoke in Chinese*): I have listened carefully to the briefing by Prosecutor Karim Khan. I welcome the Permanent Representative of the Sudan to today's meeting.

China has taken note of the Prosecutor's fortieth report on Darfur. With respect to the contents of the report and the current situation in the country, I wish to make the following three points.

First, China's position on the International Criminal Court (ICC) remains unchanged. Currently, proceedings in some of the cases referred by the Council to the Court are entering a critical stage. It is our hope that, in the subsequent phases of its work, the Court will continue to abide strictly by the principle of complementarity under the Rome Statute, maintain its independence, objectivity and impartiality, genuinely respect the Sudan's national judicial sovereignty and fully consider the Sudanese Government's reasonable views. In engaging with international and regional hotspot issues, it is important that the ICC apply international law consistently and avoid politicization and double standards.

Secondly, the ICC should strengthen its cooperation with the Sudan. We welcome the reference in the Prosecutor's report to cooperation between the Sudanese Government and the Office of the Prosecutor in relation to Darfur, which has included a visit to the ICC by a delegation headed by the country's Attorney General and responses to various requests for assistance in relation to investigations. In the course of investigations and judicial proceedings, the Court should adhere strictly to the mandate provided by the Council, fully consider the complexity and the sensitivity of the current situation in the country and ensure that any action taken is fully communicated to, and coordinated with, the Sudanese Government. Doing so will contribute to a final settlement of the Sudanese issue and will avoid undue intervention that could exacerbate current tensions.

Thirdly, the international community should make greater efforts to de-escalate the situation in the Sudan. The current conflict has lasted for almost 22 months, and the humanitarian situation is becoming increasingly dire. China calls on all parties to the conflict to implement the relevant Council resolutions, achieve a prompt cessation of hostilities and resolve their differences through dialogue in order to avoid exacerbating the humanitarian crisis further. The international community should step up mediation efforts and adopt innovative approaches to help the Sudan to swiftly restore peace and stability, thereby contributing to joint efforts to safeguard the sovereignty, independence and the territorial integrity of the country.

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

(spoke in Arabic)

I thank the Prosecutor of the International Criminal Court for his briefing. I also wish to welcome the presence of Permanent Representative of the Sudan in this meeting.

Twenty years ago, the Security Council decided to refer the situation in Darfur to the International Criminal Court, and today we are considering the Court's fortieth report pursuant to resolution 1593 (2005). Delivering justice and responsibility remain a key variable to ensuring a comprehensive approach to resolving the conflict in the Sudan. In that connection, I would like to make the following points.

First, we must ensure that transitional justice, accountability and peace efforts in the Sudan, and in Darfur in particular, are complementary. In this regard, the utmost must be done to revitalize and strengthen national judicial bodies with a view to supporting national ownership of the process. In that regard, we welcome the Government of the Sudan's adoption of a national plan for the protection of civilians in the Sudan — a plan grounded in the rule of law and human rights, among other principles.

Secondly, it is appropriate to examine and consider all available frameworks when it comes to determining the appropriate means of administering comprehensive transitional justice in which the Sudan takes the lead. In that context, the African

Union, through its various organs and structures, represents an important framework through which to work on finding appropriate mechanisms to achieve that endeavour.

Thirdly, recent developments in Darfur and the dynamics of the Sudanese conflict must be taken into account. The failure of the Rapid Support Forces to comply with resolution 2736 (2024) by continuing their siege of El Fasher, in blatant disregard of the Council's resolutions, is a source of very deep concern. Clashes continue in El Fasher, which is home to hundreds of thousands of residents, with unbearable consequences for civilians and civilian facilities, as one of the last hospitals in service in El Fasher was the target of a drone attack last Friday. That attack claimed more than 70 civilian lives. In the same context, a lasting solution to the conflict will not be within the reach of the international community if we do not put an end to foreign interference in the Sudan. We therefore reiterate our call for such interference to be publicly and firmly condemned.

The Darfur region and the Sudan more broadly are currently facing an unprecedented level of escalation in several areas, with an increased risk of the conflict spilling over into neighbouring countries. We therefore reiterate our call for an immediate and unconditional ceasefire to pave the way for a genuine and meaningful Sudanese political process. While we commend the recent measures taken by the Government of the Sudan, we encourage the parties concerned to further facilitate humanitarian access and to ensure its sustainability.

In conclusion, we must underscore the need to ensure the protection of innocent civilians in the Sudan and to uphold the language of dialogue.

(spoke in English)

I now resume my functions as President of the Council.

I give the floor to the representative of the Sudan.

Mr. Mohamed (Sudan) *(spoke in Arabic)*: I thank the Prosecutor for his comprehensive briefing and for his fortieth report, which recognizes the progress in terms of cooperation and positive engagement with the Government of the Sudan achieved through assistance requests to investigate the crimes committed long ago as well as more recently in Darfur. We also appreciate him welcoming the meeting with the Sudanese team headed by the Attorney General and the positive efforts of the contact points, headed by the Supreme Court judge, which played an important role in facilitating cooperation based on the principle of legal complementarity.

The situation in Darfur was referred by the Security Council to the International Criminal Court (ICC) as per resolution 1593 (2005), based on the Council's mandate noted in article 13 (b) of the Rome Statute. I would like to mention that we wasted many years between the referral decision in 2004 and May 2021, because there was no cooperation with the Court back then. We began to engage with the signing of a memorandum of understanding between the Government of the Sudan and the Office of the Prosecutor in August 2021.

Furthermore, advanced steps were taken to accede to the Rome Statute, which established the ICC, but the Sudan has not yet ratified the Rome Statute of 2002. We also introduced legislative amendments to incorporate the four crimes under the criminal jurisdiction of the ICC into national laws, including the Penal Act of 1991, the Armed Forces Act of 2007 and the Criminal Proceedings Act of 1992. As part of that cooperation, representatives of the Office of the Prosecutor visited the Republic of the Sudan several times. They met with officials at the highest levels and visited refugee camps in Darfur states. In August 2022, the Prosecutor briefed the Security Council from Khartoum — a first in the history of the ICC, demonstrating our political will to work with the ICC in the context of judicial complementarity, which gives the Sudanese judiciary priority over the ICC, as a court of last resort.

In the context of the efforts of the Government of the Republic of the Sudan to control cooperation, his Excellency the President of the Transitional Sovereign Council issued order No. 191 of 2023, by which a committee has been established to coordinate the liaison between the Sudan and the Office of the Prosecutor, headed by a judge from the Supreme Court and with membership from relevant national authorities.

We have also facilitated entry visas for the team of the Office of the Prosecutor, and the Minister for Foreign Affairs has directed our embassy in The Hague to grant them visas whenever they request them. Thanks to the ongoing communication between the committee and the Office of the Prosecutor, through various media, the committee responded, as much as possible during the war, to most of the Office's outstanding requests since 2020. The Office of the Prosecutor recognized that in writing and included it in his thirty-ninth report and in the executive summary of the current report.

On closing the loopholes to impunity, which was mentioned by several delegations today, and regarding the atrocities, the gross violations of human rights and international humanitarian law and the war crimes, the Government has established national mechanisms for justice, during the war, as follows: a committee on the investigation of violations perpetrated by the Rapid Support Forces (RSF), chaired by the Attorney General and with the membership of the relevant authorities; a committee to monitor violations, affiliated with the National Human Rights Commission; and the development of a reporting application for the armed forces and the police that documents various aspects of human rights violations, such as the occupation of homes and arbitrary checkpoints that hinder the passage of citizens, and criminal matters.

Conflict-related sexual violence is a war crime, and perpetrators should be held accountable. The reality is that 95 per cent of such crimes were committed by the Rapid Support Forces. The number of children affected by those violations who were killed, injured, forcibly displaced, missing or forcibly recruited is approximately 26,470. The number of citizens who were forcibly displaced as a result of the militia's actions and violations is approximately 14,197,735 civilians. The number of women and girls affected by those atrocities and violations amounts to 216,000. The number of civilians killed as a result of crimes amounting to genocide and war crimes in Geneina, West Darfur, perpetrated by the Rapid Support Forces in cold blood, where people were buried alive, reached more than 5,000. The number of civilians wounded in Geneina is more than 8,000. The number of people who were forcibly abducted as a result of the militias violations exceeded 5,000. That is in addition to those held in special detention sites, some of whom were released in the past two days, when the armed forces were able to liberate the headquarters of the general command.

The number of cars registered in the INTERPOL list of stolen vehicles reached more than 27,000. The number of inmates who escaped from prisons, including those convicted of terrorism crimes, for whom the RSF militia opened prisons is 19,790. In all, 31 central prisons were opened. The number of banks that were looted is still being calculated, but initial statistics refer to more than 26 banks. The number of countries that participated in those crimes through mercenaries and displaced persons is 13. The number of cases filed against the leaders and members of the rebel militia and collaborators amounted to 38,427 criminal lawsuits in various states of the Sudan. The total number of defendants arrested in all communications was 1,329. As a result, 1,218 criminal proceedings were referred to ordinary courts, and the total number of hearings in the various States has reached more than 2,500. More than 423 criminal proceedings have been adjudicated, while 795 are still pending before the courts. Some 375 search warrants have been issued for persons who have allegedly committed or incited others to commit crimes.

We have requested the secretariat of Interpol and the data management and criminal pursuit divisions to issue Red Notices and arrest warrants against 16 fugitives in order to prosecute them internationally before they are prosecuted through the Sudanese courts. Detainees include women and children, and many women are missing. We now have more than 500 missing persons.

As for the legal nature of cooperation, we have signed a memorandum of understanding between the Government of the Sudan and the Office of the Prosecutor that takes into account article 86 (a) of the Rome Statute pertaining to non-State parties, in order to ensure the assistance provided for under part 9, pertaining to cooperation with the ICC and the Prosecutor, and to provide the necessary assistance in investigations carried out by the Court inside the Sudan. It also covers the surrender and transfer of suspects against whom arrest warrants have been issued, namely five persons, one of whom is currently on trial in The Hague. The mentioned memorandum of understanding establishes mechanisms for activating cooperation between the two parties. But ensuring that there are provisions in national legislation regarding that cooperation falls within the frameworks related to legal reform in the context of the transitional justice, which have not yet been completed.

With the Sudan's acceptance of cooperation with the Court, I would like to point out that extraditions of wanted persons should take place within a permanent and not a provisional legal context, as is the case currently, given the political transition and its challenges. Therefore, the Prosecutor can discuss its conditionality and probability with the central authorities in Khartoum when he visits the Sudan next month.

Regarding the legal basis for cooperation, full and comprehensive cooperation requires the ratification of the Rome Statute, on the basis of Sudanese law. Requests for cooperation must include the legal grounds, details of the facts and the whereabouts and identities of individuals.

The Government of the Sudan deals with the ICC as it deals with any intergovernmental organization or diplomatic mission, and there are no restrictions on the Court's communications, movements or activities. The execution of requests for cooperation, on the basis of paragraph (a) of article 99 of the Rome Statute, is done by agreement in a timely manner, as per our national legislation, unless prohibited by this law. It is worth noting that paragraph 4 of article 93 of the Rome Statute allows the Government of the Sudan to reject cooperation or assistance requests in full or partially if the request relates to the submission of documents or disclosure of evidence that affect our national security. The Government of the Sudan can lift its confidentiality requirement if necessary to comply with the request, and this takes time. The Sudanese judiciary will play a role in hybrid investigations that will be conducted in cooperation with the ICC, on the basis of legal complementarity.

There are also procedures pertaining to conciliation, appeasement, and medical and psychological care and the provision of legal services. Criminal investigation is a complex matter that requires an integrated legal and judicial framework to ascertain the facts, disclose them and preserve the rights of the accused. That requires a stable legal system, which is not currently available in the transitional conditions during the ongoing war. The legal reform process in the country has begun but has not been completed.

Fair criminal treatment requires a complete judicial policy and criminal justice system in which there are no contradictions between the law and the Sudan's obligations arising from its the international commitments and human rights agreements. In turn, that requires inclusivity and must take into account the cultural diversity of the Sudan. Therefore, the participation of people at the grassroots level and of stakeholders, including women and children, must be guaranteed. Criminal justice should not be partial, and our long-term objective is to end impunity. That

agenda is integrated with our vision of national security, which should aim at being inclusive. That cannot be properly achieved during a war.

The Constitution stipulates, in paragraph 5, the need to reform State institutions and to hold accountable officials of the previous regime who committed crimes. That requires an organizational structure and the exchange of legal expertise to ensure alignment with internationally recognized methods of investigation. This paragraph gives priority to the national judiciary. We had started to prosecute wanted persons, but we stopped because of the current war. We also amended the Code of Criminal Procedure and the Penal Code to add the four crimes.

Within the framework of cooperation between the Office of the Prosecutor and the liaison coordination committee with the International Criminal Court, a high-level legal delegation consisting of the Attorney General of the Sudan, in his capacity as the Chair of the national committee tasked with investigating violations of international and domestic law, and the Chair of the liaison coordination committee visited the ICC at the invitation of the Office of the Prosecutor, from 9 to 13 December 2024. We discussed collaboration between the two sides, the efforts of the focal points in responding to the requests of the Office of the Prosecutor and the information requested on previous cases. We also reiterated the political will to collaborate with the Prosecutor regarding the ongoing investigations carried out by the national committee tasked with investigating crimes and violations of international humanitarian law and domestic law since the start of the conflict in the Sudan in April 2023.

The coordination committee continues to work with the Office of the Prosecutor and made all the necessary arrangements to receive the delegation from the Office of the Prosecutor, facilitating meetings with senior officials in the Government. We also responded to the requests regarding the April 2023 atrocities and crimes in Darfur, and logistical support was provided for a defence witness in the case of Ali Muhammad Ali Abd-Al-Rahman, commonly known as Ali Kushayb, in the Sudan, whereby the delegation attended the closing statements in the case.

The coordination committee is conducting a high-level visit to the Nile, Kassala, Gedaref and Northern states, and is also visiting other countries to question witnesses in order to implement requests submitted by the Office of the Prosecutor. We also extended an official invitation to the Office of the Prosecutor to visit the Sudan, but although the Court team was able to visit the Chadian border, the National Commission was unable to do so because the Chadian authorities did not allow it.

We have agreed with the Office of the Prosecutor to maintain a positive and constructive approach, taking joint responsibility for justice for victims and ensuring that efforts on combating impunity, achieving legal accountability and investigating the situation in Darfur are carried out through African and national mechanisms or, as a last resort, through the ICC. President Abdel-Fattah Al-Burhan reiterated his openness and his readiness to reach an agreement regarding joint judicial action and achieving progress in that regard.

The Sudanese authorities facilitated access for the Prosecutor to witnesses, and we reiterated the need to discuss the ideal judicial model regarding those cases. We also reiterated that the office of the public prosecutor is independent from the executive authority. We also made a presentation about the crime of aggression against the Sudan, through repeated conspiracy by countries of the region and the use of mercenaries from Latin America.

The Sudan looks forward to the Court starting its investigation into the Darfur atrocities that remain under the jurisdiction of the ICC.

The Sudan responded to the 48 requests and questions submitted by the Office of the Prosecutor to the best of its ability during the war of aggression, despite limitations on movement and the targeting of civilian facilities and government institutions, the burning of files and the lack of financial resources.

The chair of the liaison coordination committee discussed, during his visit to The Hague, the need to invoke the competence of the ICC regarding the crime of aggression against the Sudan, supported by some countries in the region through a criminal partnership or criminal conspiracy, and war crimes, crimes against humanity, ethnic cleansing and genocide in Darfur through the targeting of specific ethnic groups with the aim of eliminating them for reasons including racial superiority.

The jurisdiction of the International Criminal Court is broader than national jurisdiction. That is why the Sudan demanded that the Court begin investigating the ongoing crime of aggression with its internal and external parties. The Sudan has pushed the level of cooperation to an optimal ceiling that was not available before, within the framework of the principle of complementarity and with respect for the sovereignty and the judicial system of the Sudan, in order to prevent impunity and provide restitution to victims in Darfur. The national commission to investigate crimes and violations of national and humanitarian law has begun its investigations and prosecution of perpetrators through INTERPOL. The atrocities and violations perpetrated by the Rapid Support Forces militia that the commission itself is documenting include 966 cases of rape and the crime of genocide against the Masalit ethnic group, whose Sultan, Mr. Saad Bahr Al-Din, addressed the Council concerning them, giving his conclusive testimony about the atrocities that he witnessed with his own eyes.

We will now briefly summarize the observations of the liaison coordination committee with International Criminal Court on the current report, as follows.

The Prosecutor praised the level of cooperation between the committee and the Office of the Prosecutor when he submitted his thirty-ninth report. The report did not address the committee's effective cooperation with the Office of the Prosecutor on preparing to cross-examine the defence witness in the Ali Kushayb case.

The report failed to mention the operationalization of the memorandum of cooperation pertaining to the request submitted by the Office of the Prosecutor to implement the memorandum against the accused, who, according to the request, is in Central Africa. Although the committee made efforts in that regard, the accused was not reached. The request was responded to, with the Office of the Prosecutor thanking the Committee for the efforts that it made in the context of good cooperation.

The report indicated that the Sudanese Government responded partially to eight requests. In that connection, we must point out the following. With regard to the request to provide information about the aircraft that landed at El Fasher airport in 2003, and referring to the competent authorities, the records, documents and papers were not obtained because they were burned and destroyed during the war. Consequently, we expected that the response would have sufficed to suspend the request, given that it was impossible to fulfil as a result of the legal concept known as *force majeure*.

There was a request for information on conversations and telephone communications between leaders and others since the outbreak of the war on 15 April 2023, for monitoring them and allowing technical teams to analyse and access them. In response to that request, it was explained that it was impossible to fulfil it. There is a request pertaining to the minutes of the meetings of the security committee in El Fasher between 2003 and 2005. And our response was that those documents do not exist. There are requests pertaining to the events in the Korma and Bindisi regions

and to the minutes of the meetings of the local security committees in the Darfur region, to which we also responded that it is impossible to locate the data or records.

In our opinion, it is necessary to establish urgent criteria that clarify the meaning of cooperation and response, taking into account the security situation left behind by the war and the deliberate destruction of documents, files, data and facilities by the Rapid Support Forces militia. Therefore, it is necessary to establish the approach of the cooperation document within the framework of legal complementarity through communication with the head of the liaison coordination committee with the International Criminal Court and the Prosecutor.

The meeting rose at 5.05 p.m.