



**STATEMENT OF THE PROSECUTOR OF THE INTERNATIONAL CRIMINAL
COURT, MR. LUIS MORENO-OCAMPO, TO THE UN SECURITY COUNCIL
PURSUANT TO UNSCR 1593 (2005)**

Mr. President, Excellencies

I welcome this opportunity to brief the Council on the activities of my Office since my last report in June this year.

My Office is currently completing an investigation and the collection of sufficient evidence to identify those who bear the greatest responsibility for some of the worst crimes in Darfur. The evidence provides reasonable grounds to believe that the individuals identified have committed crimes against humanity and war crimes, including the crimes of persecution, torture, murder and rape, during a period in which the gravest crimes occurred in Darfur.

Throughout the process I have devoted considerable resources and given careful attention to the issue of admissibility. In November this year I requested an update from the Government of the Sudan relating to their national proceedings. Since the submission of my report to the Council, I have received a formal response from the Government of the Sudan reporting that 14 individuals have been arrested for violations of international humanitarian law and human rights abuses. These indications do not appear to render the current case inadmissible and I am therefore planning to finalise the submission for the Judges by February 2007. In their response the Government notes their “previous cooperation concerning the investigation of crimes against humanity in Darfur” and reaffirms their “[commitment] to the principle of continuing cooperation with the ICC.” I will therefore request their cooperation to facilitate a visit by

representatives of my Office to the Sudan in January to gather information on these developments.

By making these advances I am fulfilling my responsibilities under the Rome Statute, as well as the task set by this Council in Resolution 1593. Since the adoption of the resolution, the violence in Darfur has continued and the suffering of the people of Darfur, including the millions of displaced persons, has been made worse. There are also worrying reports of a spill-over of violence into Chad and the Central African Republic.

This Council has recognised that justice for the victims will contribute to enhancing security and will send an important warning - beyond the borders of Darfur - to those individuals who might otherwise resort to violence and the commission of crimes to achieve their aims.

Mr. President

My Office cannot investigate all of the hundreds of alleged criminal incidents and prosecute all the alleged perpetrators of the crimes in Darfur. I have therefore focused on the most serious incidents and the individuals with the greatest responsibility for those incidents.

Following an analysis of the universe of crimes alleged to have been committed in Darfur, I focused the collection of evidence on a series of incidents that occurred in 2003 and 2004, during a period and in a location where the highest numbers of crimes were recorded.

The Office has collected evidence from a wide range of sources, thoroughly investigating incriminating and exonerating facts in an equal, independent and impartial manner. These sources include statements from victims, as well as Sudanese officials, thousands of documents collected by the International Commission of Inquiry and information provided by the National Commission of Inquiry, as well as documents and materials generated by this Council, states and other international organisations.

The Government of the Sudan has participated in the process. I would like to recall that in May 2006 the Sudanese authorities provided a written report responding to questions submitted by my Office. This report outlined the various phases of the conflict from the Government's

perspective, offered information relating to the activities of the military and security structures operating in Darfur, as well as the other parties to the conflict, and the legal system governing the conduct of military operations. The report was supplemented by a meeting between representatives of my Office and military officers in Khartoum in June 2006. In August 2006 representatives of my Office again travelled to the Sudan and interviewed two high-ranking civilian and military officials. These individuals, due to their positions and functions, had knowledge and information relating to the activities of the security forces in Darfur and the conduct of the other parties to the conflict.

Reaching the victims was at all times a priority for my Office. Since the start of the investigation the Darfur team has conducted more than 70 missions to 17 countries, screening hundreds of potential witnesses and taking more than 100 formal witness statements, many of which were with victims.

It is based upon a careful evaluation of this evidence that my Office has identified some of the gravest criminal incidents and some of the individuals who could be considered to bear the greatest responsibility. The evidence proves that numerous crimes within the jurisdiction of the Court were committed, including crimes against humanity (such as persecution, murder and wilful killing, rape and other forms of sexual violence, inhumane acts, cruel treatment, outrages upon personal dignity and pillaging) and war crimes (such as wilful killings, extra-judicial killings, rapes and intentionally attacking civilians).

Mr. President

In previous reports to the Council I have highlighted the fact that the ICC is a Court of last resort. Cases will be prosecuted before the ICC in situations where: (i) there has not been a national investigation or prosecution of the case being brought to the Court by my Office; or (ii) where there is, or has been, such an investigation or prosecution, but it is vitiated by an unwillingness or inability to genuinely carry out that investigation or prosecution.

During each of the four missions to the Sudan my Office met with judicial and legal officers, representatives of the Darfur Special Courts, as well as officials from the Ministry of Justice and other relevant Government departments. In June this year the Office had information indicating

that the Special Courts had tried 6 cases involving less than 30 suspects. These suspects included 18 low-ranking military officers and the remainder were civilians. The Judicial Investigation Committee had not completed any investigations or prosecutions and the Special Prosecutions Commission was continuing investigations into one incident and had acquitted individuals charged with war crimes in relation to another incident. In November 2006 the Government of the Sudan provided additional information to the Office relating to reported prosecutions of rapes, cases involving members of the police forces and regular armed forces.

It is important to reiterate that the admissibility assessment is not a judgement on the Sudanese justice system as a whole, but an assessment as to whether or not the Government of the Sudan has undertaken genuine proceedings in relation to the case selected by my Office for prosecution. In this context, a case involves the specific incidents in which crimes were committed by identified perpetrators.

My Office has assessed whether or not the Sudanese authorities are conducting, or have conducted, genuine national proceedings in relation to the same incidents and individuals identified in the current case. As I indicated earlier, since submitting my report the Government of the Sudan has written to formally indicate that there are developments in the work of the *“Judicial Investigation Commission for Investigation and Inquiry [into] Crimes Violating Human Rights and International Humanitarian Law in Darfur”*, including the arrest of 14 individuals suspected of violations of international humanitarian law and human rights abuses. These indications do not appear to render the current case inadmissible. Therefore, by February 2007 I plan to finalise the submission to the Judges and enhance the necessary security measures.

I will request the Government’s cooperation in facilitating a visit by members of my Office to the Sudan in January to gather further information on these developments. It will be important during this visit to have access to relevant documents, as well as to the individuals in custody for the purposes of interview.

Mr. President

I share the grave concerns expressed by the Secretary General and the Council in relation to the on-going violence in Darfur, as well as the reports of a spill over of violence into Chad and the

Central African Republic. The perpetrators of these crimes are standing in the way of progress towards peace and security in Darfur, as well as the neighbouring states.

Despite the signature of the Darfur Peace Agreement by some of the parties to the conflict, there continue to be almost daily allegations of serious crimes, some of which may fall within the jurisdiction of the Court. Violent clashes between factions inside the movements, as well as between the different movements have led to significant numbers of civilians being killed. There are also disturbing reports of a repetition of similar patterns associated with earlier crimes, including reports of attacks on civilian locations by armed militias, supported by elements of the Sudanese security forces. Incidents of rape and sexual assaults continue to be reported at very high levels.

Attacks on humanitarian personnel and peacekeepers are another prominent feature of the current situation in Darfur. During July – September alone there are reports of the hijacking of 21 humanitarian vehicles and the ambushing and looting of more than 31 convoys, leading to the deaths of 6 humanitarian workers and 2 military observers. These and other such attacks have caused some organisations to withdraw from Darfur, further consolidating the plight and endangering the lives of the millions of displaced persons. Attacks on humanitarian personnel are prohibited under international humanitarian law and constitute a war crime within the jurisdiction of the Court. The Office continues to collect information relating to these attacks and to those responsible and may take further action before the Court, or provide the information to other relevant authorities where appropriate.

The persistent lack of security in Darfur is also reported to have spilled over into Chad and the Central African Republic, leading to allegations of crimes having been committed on the territory of those states. On 1 November the Government of Chad acceded to the Rome Statute, the Statute therefore entering into force on 1 January 2007. The Central African Republic is also a state party to the ICC. The Office is therefore closely following the situation in Chad and the CAR, as well as possible links to the situation in Darfur.

Mr. President

The cooperation of the African Union remains important to the progress of current and future investigations.

Following my briefing to the Council in June, I travelled to Addis Ababa, along with the President of the Court, to brief the AU Peace and Security Council on the activities of the Court, including in relation to Darfur. I also met with Professor Konare, AU Commission Chairperson and Ambassador Djinnit, Commissioner for Peace and Security. This visit provided a valuable opportunity to exchange views on the situation in Darfur and enhance understanding as to the procedures and work of the Court. I am planning to have a meeting in Congo Brazzaville with the President of the African Union in 2007 and I intend to hold further briefings with the African Union, as well as the Arab League in 2007.

There has also been progress in relation to the requests for assistance transmitted by my Office in February 2006 to the African Union Mission in the Sudan (AMIS). The first batch of information from AMIS was delivered in June and we are working to collect the remaining information requested, as well as preparing additional requests for assistance.

Mr. President

I have repeated on a number of occasions that the participation of the Government of the Sudan in the process is important to ensure an impartial investigation and as balanced a view of the events in Darfur as possible.

Various requests for assistance have been made in 2005 and 2006 to the Government of the Sudan. A detailed request was submitted to the Sudanese authorities in June 2006, including a request for specified documentation and access to civilian and military officials for the purposes of interview.

As I indicated earlier, in August representatives from my Office travelled to the Sudan and conducted formal witness interviews with two senior Government officials who because of their positions could provide information relating to the conflict in Darfur and the activities of the security forces and other groups. Meetings also took place with other officials who provided an update on national proceedings. A limited amount of documentation was also provided.

There are a number of outstanding requests for documents and interviews which remain an important feature of the fact-finding process. I will continue to seek this information from the Government of the Sudan and I will keep the Council informed of progress in this regard.

Mr. President, Excellencies

By its referral of the situation in Darfur to the Court, the Security Council has reaffirmed that peace and security require justice. This relates not only to past crimes, but also to the current crimes that are protracting the suffering of the millions of the most vulnerable, including those in the camps for the displaced, and threatening stability beyond the borders of Darfur. As my Office moves towards the completion of the investigation and the presentation of evidence in relation to the first case, it sends a signal to those who are considering committing further crimes that they cannot do so with impunity. The strength and impact of this signal depends on the support and cooperation of the Council, the Government of the Sudan and other relevant states.