

# **Statement by Costa Rica on the Eighth Report of the Prosecutor of the ICC pursuant to Resolution 1593 (2005)**

**December 3, 2008**

(official record from the UN)

Mr. Urbina (Costa Rica) (spoke in Spanish): Allow me to begin by congratulating you, Sir, on your assumption of the presidency of the Council for this month. I am convinced that your abilities and experience will ensure your successful leadership of our work.

I thank the Prosecutor of the International Criminal Court (ICC) for his introduction of his report to the Council today. We often feel that the international community is not yet fully aware of the true significance of the creation and consolidation of the ICC. The Court undoubtedly represents a transcendent step in the process of strengthening international law. We have clearly stated on other occasions that, as a member of the Council, Costa Rica intends to the best of its abilities to represent the interests of the small States that make up more than half the membership of the Organization and whose independence, sovereignty and territorial integrity depend on awareness and the strict observance of international law. It is precisely for that reason that my country welcomed the creation of the Court and works assiduously to consolidate it. An international order that is unable to deliver punishment for the most serious crimes against humanity is one that cannot offer guarantees or protection to the millions of human beings who are subject to barbarity. We must raise our voices on behalf of those innocent victims and work to strengthen international law. Fortunately, acting under Chapter VII of the Charter, in 2005 the Council adopted resolution 1593 (2005), putting the capacities of the young ICC to the test. I am that sure that, in adopting that resolution, the Council was aware that it was not only testing the Court's capacities, but, more important, expressing its commitment to implementing the Court's decisions. In referring the case to the Court, we were not merely lending it our support, but also committing ourselves to implementing and cooperating in the implementation of its decisions.

If the judges of the Court accede to the new requests of the Prosecutor by issuing new arrest warrants, all of those responsible will have the opportunity to exercise their full legal rights under the Rome Statute. My delegation is concerned that such warrants will simply be added to the list of those that have yet to be implemented. In April 2007, the judges of the Court issued two arrest warrants against Ahmed Haroun and Ali Kushayb, but unfortunately those individuals remain free and continue to occupy important posts in the Government of the Sudan.

My Government regrets the pressure that has been applied on this Council to work for the suspension of the Court's decisions. We believe that the pressure should be applied on the Government of the Sudan so that they comply with the requirements of the Court, and not on this Council for it to suspend the Court's decisions.

Costa Rica agrees with and endorses the recommendations of Prosecutor Ocampo. This Council should begin to consider what should be our next steps to enforce the arrest warrants, to ensure that the Council's decisions in resolution 1593 (2005) are implemented.

We cannot today change the facilities provided by the Government of the Sudan for the deployment of UNAMID. They cannot be exchanged for more new crimes, for more impunity and for the deterioration of the humanitarian situation in the Sudan. Nor can we content ourselves with new calls for cooperation with the Court. We did that in presidential statement number 21 earlier this year, and cooperation with the Court continues to be zero. This afternoon the Council will hear Mr. Holmes, the Under-Secretary-General for Humanitarian Affairs, speak of the deterioration of the humanitarian situation in Darfur. We cannot be satisfied with the adjustments made for the deployment of UNAMID and say nothing about the deterioration of the humanitarian situation in the Sudan.

Costa Rica recalls once again that because of its very nature the Court is not equipped to arrest those persons. No court of justice in the world has that role. Costa Rica understands that execution of the arrest warrants is up to States and, ultimately, to the international community.

This is not the time to be content with meeting on a six-month schedule. To the contrary, this is the moment to increase the pressure to finally bring about the needed cooperation with the Court. This Council should not give in to the voices that insist that we are endangering the peace process in the Sudan. We already know, and we have been warned, that there may be reprisals. The situation could get even worse, but true peace will be closer to hand. We should know — as the poets of old have so often said — that night is darkest just before dawn. The Council cannot hesitate to enforce the decisions of the Court and to hold perpetrators responsible for the consequences of their actions.

It is urgent that we begin a process that takes a serious look into the issue of complying with the mandates of the Court. We need to revise the broad range of instruments available to the international community to meet its objectives and to place some of them at the service of the Court's effectiveness, because the Court's future depends on that effectiveness.

We are in the presence of a State that does not want to — or is not able to — protect its population, who are the target of war crimes, crimes against humanity, genocide and ethnic cleansing. How much longer will the Council delay in examining whether we are seeing the first case of the responsibility to protect, as stipulated in the 2005 World Summit Outcome?

We are, of course, concerned about the statements of the Sudanese authorities with regard to the security of internationally protected staff and the humanitarian workers. We are concerned about the acts committed against them every day. We recall that international humanitarian law proscribes any attacks on internationally protected staff, particularly on those who are attempting to assist populations at risk, as in the case we are looking at. We absolutely reject, and would condemn, any reprisals against international civil servants and humanitarian staff, and we will work within this Council to determine who is responsible if that turns out to be necessary.