

Statement by France on the Eighth Report of the Prosecutor of the ICC pursuant to Resolution 1593 (2005)

December 3, 2008

(official record from the UN)

Mr. Ripert (France)(spoke in French): At the outset, I would like to thank Mr. Moreno-Ocampo for his report, submitted pursuant to resolution 1593 (2005).

In 2005, the Security Council referred the situation in Darfur to the International Criminal Court (ICC), pursuant to Chapter VII of the Charter, in response to the extremely serious violations of international humanitarian law committed in that region.

The most recent quarterly report of the Prosecutor unfortunately confirms that, six years later, these violations are continuing and that serious and repeated crimes falling under the jurisdiction of the ICC and within the purview of resolution 1593 (2005), continue to be committed in Darfur. Therefore, the submission to the Court remains fully justified.

In its preamble, the Rome Statute emphasizes that crimes as serious as those perpetrated in Darfur “threaten the peace, security and the well-being of the world” and affirms that “the most serious crimes of concern to the international community as a whole must not go unpunished”.

These words provide a full explanation of the Security Council’s action. We adopted resolution 1593 (2005) because the struggle against impunity is inseparable from the restoration of peace and security to Darfur. By its resort to article 13 of the Rome Statute, the Security Council, the principle organ for the maintenance of international peace and security, is fully carrying out the mission entrusted to it by the United Nations Charter.

Three investigations on the crimes committed in Darfur have been opened by the Prosecutor since the adoption of resolution 1593 (2005). The first led to the issuance by the Court of arrest warrants against Mr. Ahmed Haroun and Mr. Ali Kushayb for crimes against humanity and war crimes. The second led the Prosecutor to request the issuance of an arrest warrant of the President of the Sudan for genocide, crimes against humankind and war crimes. Finally, in the third, the Prosecutor placed before the Court charges on war crimes against three rebel commanders allegedly responsible for the Haskanita attack against African Union forces.

In the first instance, the Government of the Sudan is still not cooperating with the Court in the carrying out of the arrests of Mr. Haroun and Mr. Kushayb. At the moment, nothing leads us to believe that it intends to carry out these arrests. Mr. Haroun even continues to occupy his ministerial functions.

In the two other cases, we await the decision of the Court, which will make a fully independent ruling based on the merits of the indictments. As the Prosecutor has emphasized, no procedure has actually been begun within the Sudanese judicial system regarding the cases currently before the ICC.

France is dedicated to the authority of both the Security Council and the ICC, the judicial body authorized to punish the most serious crimes against international humanitarian law and human rights.

The responsibility for the present situation in Darfur falls neither on the Security Council, which has taken the measures it deems necessary for the maintenance and restoration of peace, nor on the ICC and its various bodies, to which the Council entrusted a mission which it is exercising in full independence.

The Sudanese authorities have the obligation to cooperate with the International Criminal Court with regard to the execution of the warrants issued for Mr. Haroun and Mr. Kushayb. They could, for example, themselves undertake to pursue the two accused under national jurisdiction in accordance with articles 17 to 19 of the Statute of Rome.

Furthermore, the Sudanese authorities bear a heavy portion of the responsibility for hindering international deployment and humanitarian activity in Darfur, for the cross-border activity of armed groups aimed at destabilizing the neighbouring country of Chad and for the absence to date of a potential political solution to the crisis.

Progress has recently been made in the deployment of the African Union-United Nations Hybrid Operation in Darfur, the renewal of moratoria on the restrictions on humanitarian operations and the resumption of diplomatic relations with Chad.

However, that does not constitute a radical change in the policy of the Sudanese authorities in Darfur. Attacks continue despite the proclamation of a unilateral cessation of hostilities; the Janjaweed militia show no signs of concern; the humanitarian situation continues to deteriorate. For their part, the rebels must assume their full responsibility in seeking to reduce violence, to respect international law and to effect the active resumption of the political process. As the Prosecutor has done in his report, I would like to recall the language of the presidential statement adopted by the Security Council, our Council, on 16 June: "The Security Council takes note of the efforts made by the Prosecutor of the International Criminal Court to bring to justice the perpetrators of war crimes and crimes against humanity in Darfur and ... the transmittal by the Registry of the International Criminal Court to the Government of the Sudan on 16 June 2007 of arrest warrants and the opening by the Prosecutor of other investigations on crimes committed by various parties in Darfur. "In this respect, the Council urges the Government of the Sudan and all other parties to the conflict in Darfur to cooperate fully with the Court, consistent with resolution 1593 (2005), in order to put an end to impunity for the crimes committed in Darfur" (S/PRST/2008/21).

That presidential statement remains fully relevant. The Sudanese Government's dispute of both the authority of the Security Council and the jurisdiction of the Court is not admissible. We must remind the Sudan of its obligations to respect the Security Council's resolutions and to cooperate with the International Criminal Court in the implementation of resolution 1593 (2005). In 2005, the Security Council gave the Court the task of fighting impunity in Darfur in the interests of justice and peace. The Sudanese Government must cooperate with the Court to carry out this mission, as do all other parties to the conflict in Darfur and, more generally, all States and regional and international organizations concerned.