Allow me to thank you and your delegation for your endeavors during your presidency of the Council this past month. The adoption this month of two resolutions on Sudan – peacekeeping and sanctions - demonstrates the Council’s strong commitment to fostering peace and stability throughout Sudan. The Council has succeeded in keeping the momentum moving forward on international support for peace in Sudan.

The 10,000-strong peacekeeping force authorized by the Council will assist the parties to the Comprehensive Peace Agreement with implementing this historic peace accord. The sanctions resolution recognizes that conflict, violence, and atrocities in Darfur continue, and that the Council must take steps now to pressure the parties to end the violence in Darfur and to conclude a political settlement peacefully. We strongly urge the parties to the conflict in Darfur to cease the violence and atrocities and to resume political negotiations immediately in order to reach a political settlement peacefully.
As we all know, the contribution of the African Union has been and remains integral to the peaceful resolution of the conflict in Darfur. We commend the African Union and its leadership for its continued mission in Darfur. We continue to encourage the African Mission in Sudan (AMIS) to quickly ramp up to its authorized force level to enable it to expand its areas of patrol. We continue to strongly support the African Union's efforts to resolve the conflict in Darfur and urge all Member States to contribute to AMIS.

We strongly support bringing to justice those responsible for the crimes and atrocities that have occurred in Darfur and ending the climate of impunity there. Violators of international humanitarian law and human rights law must be held accountable. In September we concluded that genocide had occurred in Darfur, and we called for and supported the creation of the International Commission of Inquiry. UN estimates are that 180,000 people have died from violence, atrocities, and the hunger and disease caused by the conflict. Justice must be served in Darfur.
By adopting this resolution, the international community has established an accountability mechanism for the perpetrators of crimes and atrocities in Darfur. The resolution will refer the situation in Darfur to the International Criminal Court (ICC) for investigation and prosecution.

While the United States believes that the better mechanism would have been a hybrid tribunal in Africa, it is important that the international community speaks with one voice in order to help promote effective accountability. The United States continues to fundamentally object to the view that the ICC should be able to exercise jurisdiction over the nationals, including government officials, of states not party to the Rome Statute. This strikes at the essence of the nature of sovereignty. Because of our concerns, we do not agree to a UNSC referral of the situation in Darfur to the ICC and have abstained on this resolution. We decided not to oppose the resolution because of the need for the international community to work together in order to end the climate of impunity in Sudan, and because the resolution provides protection from investigation or prosecution for U.S. nationals and members of the armed forces of non-state parties.
The United States is and will be an important contributor to the peacekeeping and related humanitarian efforts in Sudan. The language providing protection for the US and other contributing states is precedent-setting, as it clearly acknowledges the concerns of states not party to the Rome Statute and recognizes that persons from these states should not be vulnerable to investigation or prosecution by the ICC, absent consent by these states or a referral by the Security Council. In the future, we believe that, absent consent of the state involved, any investigations or prosecutions of nationals of non-Party states should come ONLY pursuant to a decision by the Security Council.

Consistent with our longstanding views about the appropriate role of the Security Council, we expect that – by having the Security Council refer the situation in Darfur to the ICC – firm political oversight of the process will be exercised. The Council’s action today plays an important role in this regard; we expect that the Council will continue to exercise such oversight as investigations and prosecutions pursuant to the referral proceed.
Protection from the jurisdiction of the Court should not be viewed as unusual. Indeed, under Article 124, even parties to the Rome Statute can "opt out" from the Court's jurisdiction over war crimes for a period of seven full years, and important supporters of the Court have in fact availed themselves of this opportunity to protect their own personnel. If it is appropriate to afford such protection from the jurisdiction of the Court to states that have agreed to the Rome Statute, it cannot be inappropriate to afford protection to those that have never agreed. It is our view that non-Party states should be able to "opt out" of the Court's jurisdiction, as parties to the Statute can, and the Council should be prepared to take action to this effect as appropriate situations arise in the future.

Although we abstained on this Security Council referral to the ICC, we have not dropped, and indeed continue to maintain, our longstanding and firm objections and concerns regarding the ICC. We believe the Rome Statute is flawed and does not have sufficient protections from the possibility of politicized prosecutions. We reiterate our fundamental objection to the Rome Statute's assertions that the ICC has jurisdiction over the nationals, including government officials, of states that have not become a party to the Rome Statute.
Non-parties have no obligations in connection with this treaty, unless otherwise decided by the Security Council, upon which members of this organization have conferred primary responsibility for the maintenance of international peace and security.

We are pleased that the resolution recognizes that the none of the expenses incurred in connection with the referral will be borne by the United Nations, and that instead such costs shall be borne by the parties to the Rome Statute and those that contribute voluntarily. This principle is extremely important and we want to be perfectly clear that any effort to retrench on this principle by this or other organizations to which we contribute could result in our withholding funding or taking other action in response. This is a situation that we must avoid.

As is well known, in connection with our concerns about the jurisdiction of the Court and the potential for politicized prosecutions, we have concluded agreements with 99 countries – over half the member states of this Organization – since the entry into force of the Rome Statute to protect against the possibility of transfer or surrender of United States persons to the Court.
We appreciate that the resolution takes note of the existence of these agreements, and will continue to pursue additional such agreements with other countries as we move forward.

Recognizing that non-parties have no obligation under the Rome Statute, the resolution recognizes and accepts that the ability of some states to cooperate with the ICC investigation will be restricted in connection with applicable domestic law. For the United States, we are restricted by U.S. statute that reflects deep concerns about the Court from providing assistance and support to the ICC.

In the Darfur case the Council included, at our request, a provision that exempts persons of non-party states in Sudan from ICC prosecution. We respect the position of those countries that are parties to the Rome Statute of the International Criminal Court. But persons from countries not party who are supporting the UN’s or AU’s efforts should not be placed in jeopardy. This resolution provides clear protection for U.S. persons. No U.S. person supporting the operations in Sudan will be subject to investigation or prosecution because of this resolution.
This does not mean that there will be immunity for American citizens that act in violation of the law. We will continue to discipline our own people when appropriate.