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*Statement to the United Nations Security Council on the situation in
Darfur, the Sudan, pursuant to UNSCR 1593 (2005)*

New York
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Mr. President, Excellencies,

1. I thank the Security Council for this opportunity to present the work of the International Criminal Court regarding the situation in Darfur.

2. I would like to start briefing you on the case against the rebel commanders who led more than 1,000 troops to carry out a violent attack against the AU mission in Sudan, based in Haskanita, killing 12 peacekeepers and injuring 8 others. The attack also destroyed the camp and they looted vehicles, fuel, and money. It is the most serious attack against peacekeepers in Darfur, affecting the lives of millions of civilians under the peacekeepers' protection. This case shows the impartiality of the International Criminal Court and its commitment to protecting peacekeeping forces.

3. On 7 March 2011, the Pre-Trial Chamber confirmed the charges for war crimes against Abdallah Banda and Saleh Jerbo. The commanders are not disputing their actual participation in the attack and both have committed to surrender voluntarily to the International Criminal Court, to face trial and, if convicted by the Judges, to serve years in prison. They are claiming that President Al Bashir also has to appear before the Judges and respect the decisions of the Court and the Security Council.

4. On 16 May 2011, the Prosecution and the Defence indicated in a joint filing to the Trial Chamber that certain facts have been agreed by both parties, and that the Defence will only contest three specific issues during the trial:

- i. Whether the attack on the Haskanita base on 29 September 2007 was unlawful;
- ii. Whether the Accused were aware of the factual circumstances that established the unlawful nature of the attack; and
- iii. Whether AMIS was a peacekeeping mission in accordance with the Charter of the United Nations.

5. These are the issues to be discussed in Court, highly relevant for peacekeeping operations in the future. The dates for the hearings are not yet scheduled.

Mr. President, Excellencies,

6. Let me focus on the arrest warrants issued by the Court against President Al Bashir, which unveiled and documented war crimes, crimes against humanity and a genocidal policy of extermination implemented since 2003 against three ethnic groups, the Fur, Massalit and

Zaghawa; I will also touch on the arrest warrants issued against Ahmad Harun and Ali Kushayb.

7. As detailed in my written report, crimes against humanity and genocide continue unabated in Darfur. Air attacks on civilians and direct killings of members of these ethnic groups continue during the last six months. Direct targeting of villages continues, still causing further displacements. Most of the Fur, Zaghawa and Massalit now live in IDP camps. These millions of victims displaced are still subjected today to rapes, terror and conditions of life aimed at the destruction of their communities, constituting genocide.

8. The mandate of the International Criminal Court is to end impunity to prevent future crimes. We share this mission with the UN Security Council, the African Union and the Government of the Sudan. The efficacy of our common efforts will depend greatly on how we share information with each other and learn from it. The Prosecution is trying to improve its practice in this area, linking the information collected with the current behavior of the suspects.

9. The work of the Court has documented that the crimes in Darfur are the consequence of a strategic decision taken by the highest authorities of the Government of the Sudan, and is not the by-product of a conflict, inter-tribal clashes or even climate change.

10. One actor who learned is President Al Bashir. He has learned how to continue to commit crimes challenging the authority of the UN Security Council, and ignoring Resolution 1593, as well as other resolutions. He did not stop the commission of the genocide, but he is blocking the dissemination of information about the fate of those displaced. President Al Bashir and his supporters continue denying the crimes, attributing them to other factors (such as inter-tribal clashes), diverting attention by publicizing ceasefire agreements that are violated as soon as they are announced, and finally proposing the creation of special courts to conduct investigations that will never start.

11. At the same time, President Al Bashir is threatening the international community with retaliation and yet more crimes. This tactic is not new; it is the documented practice of massive criminals: denial, cover-up, and threat of repetition. Paradoxically, President Al Bashir has successfully transformed public knowledge of his criminal behaviour into a negotiating tool. Expelling the humanitarian organizations in March 2009 was the epitome of such a strategy. It allows for concealing the continuation of crimes, diverting the international community's attention and continuing the commission of crimes in the absence of any scrutiny. President Al Bashir is now asking for rewards for not committing new genocides outside Darfur.

12. The challenge to the Security Council's authority is further evidence that the extermination of the Fur, Massalit and Zaghawa, as well as any tribe deemed disloyal to the regime, is a policy defined by the top leadership of the Government of the Sudan. It is calculated to ensure that the armed forces and their associated militia will continue committing new crimes, with the same modus operandi, wherever and whenever they are instructed to do so.

13. The record of Ahmad Harun provides a clear demonstration of the risk of impunity and ignoring information about crimes. During the 1990s, Ahmad Harun used local militias to attack civilians in the Nuba Mountains, in Kordofan; between 2003 and 2005 he coordinated the attacks against civilians in Darfur as Minister of State for the Interior and Head of the "Darfur Security Desk". This information was ignored. During the visit of then Secretary-General Kofi Annan to Darfur, Harun was assigned as Annan's official interpreter in his meetings with the Fur leaders displaced in the camps; Harun deliberately mistranslated their complaints to cover up the crimes. In September 2005, Harun was appointed by President Al Bashir as Minister of State for Humanitarian Affairs in charge of the same millions of people that he forcibly displaced. In my seventh report to this Council, presented on 5 June 2008, three years ago, I expressed concern about Harun having been dispatched to Abyei to "address disputes" between the Masiryia and the SPLM/A. Following his dispatch, as I reported, Abyei was burned down, with 50,000 civilians displaced. In my ninth report, presented on 5 June 2009, two years ago, I expressed concern about Harun's appointment on 7 May 2009 as Governor of South Kordofan. He is now presenting himself as an efficient operator and is dubbed by some members of the international community as the man to talk to to get things done.

14. It is the challenging responsibility of the UN Security Council to use the information exposed by the International Criminal Court to stop the crimes in Darfur, to protect the civilians in Darfur. The Prosecution, fulfilling its mandate, is willing to assist.

Thank you very much.