

Mrs. Fatou Bensouda  
**Prosecutor of the International Criminal Court**

*Statement to the United Nations Security Council on the  
Subject of “Working Methods of the Security Council”*

*Checked against delivery*

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Thank you, Madam President, your Excellencies:

1. I am grateful to the Presidency of Argentina for inviting me to join this open debate before the Council and for preparing the extremely helpful concept-note to help steer our discussions this morning. I always welcome the opportunity to brief the Council in its public sessions. Indeed, my Office, and the Court as a whole, see the importance in engaging on various issues, including on how to advance dialogue on specific situations under investigation and prosecution by the International Criminal Court, as well as on thematic issues of mutual concern to both our organizations.
2. We believe that the rights of women and children, indeed, the rights of all civilians in times of conflict; the protection of peacekeeping missions and the rule of law are topics of common importance for both our institutions, as well as the crucial role justice plays in relation to the maintenance of international peace and security.
3. This open debate takes place almost exactly two years after a similar session was organized by Guatemala on the 17<sup>th</sup> of October 2012. Since then, I have been pleased to see increasing interaction between my Office and this Council, on both formal and informal levels. I would like to thank, in particular, States Parties to the Rome Statute who have served in the Council for their commitment to bringing the International Criminal Court into the discussions.
4. It is important that States Parties within and outside the Council work together and in one voice to make the most of the opportunities afforded by this Council for the promotion of justice and the international rule of law, and to think proactively about how the Council, the Assembly of States Parties, and the International Criminal Court can work in concert, within their respective mandates to advance these crucially important goals.

Madam President,

5. My Office has taken note of the concept-note's recommendation that the mandate of the Ombudsperson created by Security Council Resolution 1904 be extended to all sanctions committees, bearing on the experience of the Office of the Ombudsperson within the Al-Qaida sanctions regime. I agree with this recommendation. As it currently stands, almost all of the Security Council's sanctions regimes that overlap with situations under investigation by the International Criminal Court have included individuals against whom warrants of arrests have been issued by the International Criminal Court on their lists. This is true in particular for the situations of the Democratic Republic of the Congo, Côte d'Ivoire and the Central African Republic.
6. The biggest exception to this rule has been the Darfur situation; none of the four individuals under ICC warrants of arrest have been successfully included in the Darfur sanctions list established under Resolution 1590. The individuals included have been subject to travel bans and assets freezes. There are important areas of convergence between the sanctions regimes and the work of the ICC as a whole, which would benefit from a single focal point to address them. A pertinent example is the urgent need to confidentially lift travel bans for persons who have to be transferred to the International Criminal Court. I have full confidence in the current Ombudsperson, Ms. Kimberly Prost, and my Office and I look forward to the opportunity to work with her in the future.
7. As for the concept-note's second subject, that is the follow-up of Security Council referrals to the ICC, our work together could similarly benefit from a focal point. That focal point could take the form of the working group for international tribunals, although I am open to discussions about the advantages and disadvantages of different approaches. It may make sense to identify a mechanism similar to the office of the Ombudsperson for sanctions regimes, with someone who could help to secure the necessary resources of the Secretariat, States and other actors to address follow-up challenges on a case-by-case basis. Such a mechanism could also ensure that these efforts are properly documented for the purposes of lessons learned

and further refining our approach. With the help of my Office and other relevant actors, such a focal point could also organize situation-specific activities, not just on referral situations, but on situations of common interest, such as Central African Republic or Mali, bringing together all relevant actors from the United Nations, from States and elsewhere. These activities would help to assess progress achieved, identify challenges and areas in need of improvement and to facilitate enhanced coordination among these actors, with the goal of greater follow-up to the relevant Security Council resolutions.

8. As I have highlighted in previous briefings, follow-up on referrals is a concern for my Office, and I know it is one that we share with the Council. As with the Darfur situation, failure to implement aspects of resolutions referring situations to the International Criminal Court can reflect a much deeper problem. For example, by my Office's count as of last June, the Council had adopted fifty-five resolutions on the Sudan, with very few of them implemented. This suggests that resolutions requiring follow-up for each relevant situation should be reviewed collectively as well as individually. If the Council's repeated resolutions calling for disarmament of the Janjaweed had been respected, for example, it would have almost certainly had an impact on implementation of Resolution 1593 and on my Office's investigations. We must look at situations in their totality to understand how to contribute to ending impunity therein.

Madam President, Honourable members of the Council,

9. I respectfully call on this Council to consider using stronger language in its referrals, similar to the language used in past Council resolutions requiring cooperation from all States with the United Nations International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda. The language of the Darfur and Libya resolutions leaves a fair amount of ambiguity as to whether all States are obliged to cooperate. Similarly, stronger language on State obligations regarding privileges and immunities afforded to ICC staff as well as external counsel and their respective team members involved in ICC proceedings – when operating in

situation countries referred by the Council to the Court –could also be helpful.

10. There are many instances in which the International Criminal Court needs to call upon non-States Parties to the Rome Statute for their assistance, and while many have responded positively, those that have not, have effectively provided a safe haven for individuals against whom warrants of arrests have been issued by the ICC. I believe stronger language from the Council on this matter would be helpful to reiterate the need to fully cooperate with the Court and to uphold its judicial rulings.
11. I also hope that our deliberations will include serious discussion and commitment about designing effective arrest strategies. It is my sincere hope that the Council can definitively call on all UN Member States to provide the necessary assistance. The Council assumes a crucial role in the emerging system of international criminal justice and must embrace this role with all the opportunities for constructive engagement that it provides.
12. Again, a focal point for interaction between the Council and the ICC could be of practical assistance. If a focal point could take the lead in coordinating UN, ICC, Assembly of States Parties and individual State efforts to proactively track and document the whereabouts, activities and travel agenda of accused persons wanted by the ICC, and could survey and monitor obligations and responses of States vis-à-vis the arrest of these individuals, such detailed information could help to better inform the Security Council discussions about how to promote follow-up; this could also include whether to add elements of arrest strategy in peacekeeping mandates. A designated focal point for interaction between the Security Council and the ICC could equally help to document specific problems and progress achieved in securing bilateral cooperation. This focal point could make constructive recommendations to the Council about how to facilitate effective investigations and thereby ensure fuller follow-up to the Council's resolutions referring situations to my Office.
13. Finally, a designated focal point could address the question of the outstanding response of the Security Council to the ICC's findings of non-

cooperation, and subsequent correspondence with the Council. It is not only a question of focusing on non-cooperation of specific States, but of looking more positively and proactively at how to encourage cooperation as specific challenges arise.

14. Finally, given that the Office is currently in the process of discussing its proposed 2015 budget with the Court's States Parties, it is an opportune moment to equally inform the Council that the lack of State or UN financing for Security Council referrals has a real impact on the ability of my Office to conduct full and effective investigations in the Darfur and Libya situations. I encourage the Council to take this fact into consideration in light of the urgent need to revitalize both of these investigations.

Madam President,

15. Let me conclude by thanking the Council for this opportunity to speak candidly about the needs of the International Criminal Court to effectively execute its mandate.
16. I look forward to further interaction on specific challenges, and to seeking the intersections and synergies between the ICC's and the Council's separate and independent mandates that will move us forward in terms of our effectiveness in the pursuit of humanity's yearning to end impunity for mass crimes that shock our collective conscience and "threaten the peace, security and well-being of the world."
17. The time for general discussions is coming to fruition; let us delve into the details and find concrete solutions to face the specific challenges that will make the greatest difference to the victims of mass atrocities, and for the benefit of the maintenance of international peace and security.
18. I thank you, Madam President, Your Excellencies, for your attention. |OTP