

TWENTY-SECOND REPORT OF THE PROSECUTOR OF THE INTERNATIONAL CRIMINAL COURT TO THE UNITED NATIONS SECURITY COUNCIL PURSUANT TO UNSCR 1593 (2005)

1. INTRODUCTION

1. This is the twenty-second report submitted to the United Nations Security Council (the “Council”) by the Prosecutor of the International Criminal Court (the “Prosecutor” or the “Office”) pursuant to paragraph 8 of the United Nations Security Council Resolution 1593 dated 31 March 2005 (“UNSCR 1593”). This report provides updates on the judicial activities since the Office’s last report to the Council on 29 June 2015, including with respect to on-going investigations and the cooperation received or lack thereof from the Republic of Sudan amongst others. The Report also highlights activities of the Office in monitoring crimes in Darfur.
2. The Council will recall that the International Criminal Court (the “Court” or the “ICC”) exercised its jurisdiction in relation to the situation in Darfur in accordance with article 13(b) of the Rome Statute and UNSCR 1593 through which the Council referred the situation in Darfur to the Court in 2005. As the Office has reported to the Council on numerous occasions in the past, the four persons against whom arrests warrants were issued, namely Messrs Ahmad Muhammad Harun, Ali Muhammad Ali Abd-Al-Rahman, Omar Hassan Ahmad Al Bashir, and Abdel Raheem Muhammad Hussein remain at large in Sudan and continue to occupy high-ranking positions within the Government of Sudan (“GoS”). Additionally, Mr Abdallah Banda Abakaer Nourain against whom an arrest warrant was issued on 11 September 2014 also remains at large in Sudan. The Office reiterates that the GoS is under an obligation to immediately arrest and surrender all of these individuals to the Court.
3. The Office notes that on 29 June 2015, the Council adopted Resolution 2228 (2015) (“UNSCR 2228”) *“[e]xpressing deep concern at the serious deterioration in the security situation in Darfur overall so far in 2015, and the profound negative impact of this on civilians, in particular women and children, in particular through a marked escalation of hostilities between Government forces and rebel armed groups, as well as an escalation of inter-communal conflicts over land, access to resources, migration issues and tribal rivalries, including with the involvement of paramilitary units and tribal militias, and a rise in criminality and banditry targeting the local population; further expressing deep concern that the deteriorating security*

situation, as characterized by attacks by rebel groups and Government forces, aerial bombardment, by the Government of Sudan, inter-tribal fighting, banditry and criminality, continues to threaten civilians; and reiterating its demand that all parties to the conflict in Darfur immediately end violence, including attacks on civilians, peacekeepers and humanitarian personnel.” In UNSCR 2228, the Council also emphasised its call to hold accountable those responsible for violations of international humanitarian law and violations and abuses of human rights. The Council determined that the situation in Sudan continues to constitute “a threat to international peace and security”, a condition that prompted the Council to adopt UNSCR 1593 referring the Darfur situation to the Court. It should be a matter of great concern to this Council that after ten years, the situation in Sudan remains largely unchanged.

2. RECENT JUDICIAL ACTIVITIES

4. On 4 September 2015, Pre-Trial Chamber II (“PTC II”) requested South Africa to submit its views by 5 October 2015 regarding the events surrounding Mr Al Bashir’s attendance of the African Union Summit in South Africa in mid-June 2015. PTC II made this request pursuant to regulation 109(3) of the Regulations of the Court, for purposes of proceeding under article 87(7) of the Rome Statute. On 2 October 2015, South Africa submitted a request that the time-limit set by PTC II be extended until the finalisation of the judicial process in South Africa.
5. On 15 October 2015, PTC II granted South Africa’s request for an extension of the time-limit to submit its views until such time as the ongoing relevant judicial proceedings before the courts in South Africa are finalised. PTC II further ordered South Africa to report to it any developments in the relevant domestic judicial proceedings as they occur, and that should no such developments occur prior to 15 December 2015, South Africa should submit a report detailing the status of the relevant domestic judicial proceedings no later than 31 December 2015. In its decision, the Chamber stated that the proceedings before the ICC are “fully independent” from the ongoing domestic proceedings in South Africa.
6. On 26 October 2015, the Office filed a submission with PTC II seeking the following relief: (a) the opportunity to be heard should domestic proceedings not be finalised by 31 December 2015; (b) confirmation that South Africa has a continuing obligation to arrest and surrender Mr Al Bashir should he travel to South Africa again; and (c) the lifting of confidentiality with respect to certain confidential filings relating to Mr Al Bashir’s travel to South Africa. The Court has not yet ruled on this submission.
7. During the reporting period, Mr Al Bashir has regularly travelled across international borders. On 26 October 2015, the Registry informed PTC II of Mr Al Bashir’s trip to the Islamic Republic of Mauritania on 26 July 2015 to participate in the fourth summit of the Great Green Wall of the Sahara and the Sahel Initiative. Other reported trips by Mr Al Bashir have included his visit to the

People's Republic of China on 3 September 2015, and to the Republic of South Sudan on 26 August 2015. Mr Al Bashir also attended a bilateral meeting with President Bouteflika in Algiers (Algeria) from 11 to 13 October 2015. The Office has also established that Mr Al Bashir travelled to the Federal Democratic Republic of Ethiopia, first on 14 August 2015, and most recently on 9 December to participate in Ethiopian Nations, Nationalities and Peoples' Day. Mr Bashir also travelled to the Kingdom of Saudi Arabia from 11 to 15 July 2015 and also on 3 and 10 November 2015. Mr Al Bashir also made an emergency landing at Lahore's International Airport in the Islamic Republic of Pakistan on or around 31 August 2015. On 26 October 2015, PTC II issued an urgent invitation to the Republic of India to arrest and surrender Mr Al Bashir after it was established that he was traveling to India on 26 October 2015 to attend the Indian-African Summit. Additionally, between 28 November 2015 and 8 December 2015, Mr Al Bashir visited the United Arab Emirates.

8. The Office recognises that the large majority of States to which Mr Al Bashir has travelled during the reporting period are not States Parties to the Rome Statute. However, the Office recalls that UNSCR 1593 "urges all states [...] to cooperate fully" with the Court. Accordingly, in the interests of justice and accountability, the Office once again requests the Council to use its powers under the Charter of the United Nations to ensure the immediate arrest and surrender of all Sudanese persons against whom arrest warrants are in force, including Mr Al Bashir, should they travel across international borders. This Council should be concerned by the reported international movements of Mr Al Bashir and should consider taking appropriate measures within its powers to ensure that he is arrested and/or that his movements are restricted.
9. On 19 October 2015, eight victims who had participatory rights in the *Al Bashir* case filed, through their Legal Representative, a notification of withdrawal from the case and the Darfur situation generally, citing a confidential settlement they had reached. The filing also referred to the perceived lack of progress in the *Al Bashir* case and purported decision of the Office to "suspend" active investigations into the case. Concerned about this development, and mindful of its continuous strong support for victims of the most serious crimes of concern to the international community as a whole to participate in the Court's proceedings, the Office filed observations on the withdrawal. The Office clarified that it is conducting investigations into the Darfur cases within the resource constraints it currently faces. These investigations will remain ongoing until all the suspects have been arrested and delivered to the Court. As clearly stated in its last briefing before the Council, the Office has not abandoned the victims of Rome Statute crimes in Darfur and continues to call for the arrest and surrender of all fugitives. The Office continues to expend all efforts to obtain the necessary assistance and cooperation from States to execute the outstanding arrest warrants with respect to the situation in Darfur, Sudan. Given that the Office and indeed the Court as a whole have no enforcement powers, the duty and responsibility to arrest rests primarily with States, and this Council, which referred the Darfur situation to the Court.

10. With respect to the case against Mr Banda, the Office filed a request with Trial Chamber IV for a finding of non-compliance against Sudan pursuant to article 87(7) of the Rome Statute for its failure to arrest Mr Banda. Mr Banda, who is allegedly responsible for the attack against the AU peacekeeping mission based in Haskanita, Darfur, and the killings of twelve AU peacekeepers, remains at large in Sudan. It has been over a year since the Trial Chamber issued its arrest warrant against him, and to date, there has been no response from Sudan on whether it will implement the Court's arrest warrant. In failing to arrest Mr Banda, Sudan is again frustrating the Court's work. On 19 October 2015, the Trial Chamber requested the GoS to file observations on the Prosecution's request for non-compliance by 9 November 2015. To date, no response has been received. On 10 November 2015, the Registry informed the Court that on 21 October 2015, it sent a *note verbale* via DHL to the Sudanese Embassy in The Hague bringing to the attention of the Sudanese authorities the Trial Chamber's request for Sudan to provide observations. Sudan again demonstrated its policy of refusing to cooperate with the Court. On 29 October 2015, the Registry received a notification from DHL that the Sudanese Embassy had refused the delivery of the *note verbale*, which was subsequently returned to the Registry. On 19 November 2015, Trial Chamber IV found Sudan in non-compliance in the arrest and surrender of Mr Banda and referred the decision to the President of the Court for transmission to the Council through the Secretary-General of the United Nations.
11. The preceding information on the current cases and investigations fully illustrates that the Office has not abandoned the cases in the Darfur situation. As stated, the warrants of arrests issued by the Court remain in place and must be executed. The Office continues to call for the arrest of all fugitives from justice and continues to expend all efforts that are feasible in order to obtain the necessary assistance from States to execute the outstanding arrest warrants. The crucial role that the Council can and must play in this regard cannot be overemphasised. Justice for the victims of the alleged crimes in Darfur remains a key focus for the Office.

3. ONGOING INVESTIGATIONS

12. In its June 2015 report to the Council, the Office clarified that it had not closed its investigations into the alleged crimes committed in Darfur. On the contrary, the Office has always underscored the need to ensure that justice is brought to the victims of the crimes in Darfur and is continuing to investigate the cases within its mandate and means. However, given the Council's failure to exercise its powers under the Charter of the United Nations to ensure execution of arrest warrants in Sudan, as well as the Council's failure to provide required funding for the Office's investigations in Darfur, the Office had no choice but to scale down its investigations relating to Darfur. In spite of all these difficulties, the Office's commitment to bringing justice to victims of Darfur remains unshaken.

13. To this end, and during the reporting period, the team of lawyers and investigators assigned to the Darfur cases, in particular the cases against the GoS suspects, has taken various investigative steps in order to obtain evidence pursuant to the Office's investigation mandate under article 54(1) of the Rome Statute. For example, the team reviewed the cases to identify areas that needed further action, interviewed witnesses, gathered documentary evidence and worked on developing systems to gather information directly from victims and witnesses in Darfur. The team is also monitoring allegations of on-going crimes in Darfur. Investigators continue to follow promising leads which have the potential for yielding evidence. More extensive investigations will be required to achieve additional positive results. The Council can demonstrate its commitment to the Darfur victims by supporting the provision of the required resources for the Office to effectively carry out its mandate with respect to Darfur.
14. As the Office has indicated in various other contexts, its ability to effectively and fully discharge its mandate in 2016 will be hampered by the lack of sufficient resources. The Office recalls the provisions of article 115(b) of the Rome Statute in accordance with which funds of the Court may be provided by the United Nations, subject to the approval of the General Assembly, in particular in relation to the expenses incurred due to referrals by the Council. The situation in Darfur is one such referral envisaged under article 115(b) and it is incumbent upon this Council to devise innovative means for providing the much needed resources for Office's investigative activities.

4. STATUS OF COOPERATION

15. The Office reiterates that under UNSCR 1593, the Council decided that the *"Government of Sudan and all other parties to the conflict in Darfur, shall cooperate fully and provide any necessary assistance to the Court and the Prosecutor."*
16. Sudan, as the territorial State, has the primary responsibility to implement the outstanding warrants, consistent with its sovereign authority. It has consistently refused to do so. In addition, any willing State may arrest and surrender to the Court all persons against whom ICC arrest warrants are in force in the situation in Darfur, Sudan. In this context, it should be recalled that UNSCR 1593 lifted any immunities that Mr Al Bashir may have enjoyed, as the ICC Chambers have explained in several decisions.
17. The Office appreciates the cooperation it continues to receive from States Parties and non-Parties to the Rome Statute, international organisations and civil society, and acknowledges public declarations voicing concerns regarding States that continue to receive Mr Al Bashir on their respective territories.
18. The Office reminds the Council that the 19 November 2015 decision of Trial Chamber IV finding Sudan in non-compliance in the arrest and surrender of Mr Banda to the Court was the eleventh finding communicated to the Council on the issue of cooperation, with respect to either the GoS or

other States – in relation to the obligations arising from UNSCR 1593. This recent finding of Trial Chamber IV in the *Banda* case also means that Sudan has now been found non-compliant for failing to arrest and surrender all five persons subject to Court arrest warrants in the situation in Darfur, Sudan. As a result of these failings, Sudan has been referred to the Council by the President of the Court four times, pursuant to regulation 109(4) of the Regulations of the Court.

19. The Office expects to be informed on what steps, if any, the Council has taken to ensure Sudan's cooperation with the Court and its compliance with the obligations arising from the Rome Statute. In this regard, the Office notes that under article 17(3) of the *Negotiated Relationship Agreement between the International Criminal Court and the United Nations*, the Council shall, through the Secretary-General, inform the Court through the Registrar, of any action taken by the Council under the circumstances, when referrals under article 87(7) have been made. This applies equally to all instances of findings of non-compliance against other states in relation to the situation in Darfur, Sudan.
20. Thus far, the Council appears not to have taken any action. This situation invariably undermines the credibility of the Council and the mechanism and purpose of referrals of situations by the Council to the ICC. In the same vein, it has a great adverse impact upon the faith of victims of grave atrocities around the world in the international criminal justice system. The Office will continue to trust States Parties in the Council, as well as other Council members, in their efforts to ensure that the Council produces concrete responses to non-cooperation decisions regarding situations it has referred to the Court.

5. MONITORING OF CRIMES

21. In UNSCR 2228, the Council expressed serious concern at the continuing deterioration of the security situation in Darfur, twelve years after the outbreak of the conflict in early 2003.
22. To this end, the Council “[d]emand[ed] that all parties in Darfur immediately end attacks targeting civilians, peacekeepers and humanitarian personnel, and comply with their obligations under international human rights and humanitarian law; and affirms the Council’s condemnation of all violations of international humanitarian law and violations and abuses of human rights.” The Office can only echo such a call.
23. Restrictions of movement, including denials of access to violent conflict areas, denial of clearances imposed on United Nations missions and non-governmental organisations, access denials and restrictions imposed on humanitarian actors, bureaucratic impediments imposed by the GoS, press censorship and various curtailments to civil society organisations activities are just some of the tactics allegedly used by the GoS to restrain the reporting of incidents of relevant crimes in Darfur.

This negatively impacts the ability of the Office to monitor alleged ongoing criminal activities by limiting the availability of its sources.

24. Nevertheless, since the Office's last report to the Council on 29 June 2015, 360 incidents have been reported, including aerial bombardments, ground attacks and inter-tribal clashes. Compared to the 500 incidents outlined by the Office in its previous report, figures for this reporting period show a decrease in the number of incidents. This decrease was predictable as the GoS' military campaign "Operation Decisive Summer 2", targeting rebel groups, was due to finish during this reporting period. Of the reported incidents, 68 per cent were attributed to GoS or GoS-associated military groups. A further 22 per cent were attributed to unknown perpetrators and the remaining 10 per cent to new settlers, herders and tribes. The Office recalls that some of the reported incidents appear to constitute crimes within the jurisdiction of the Court, while others appear to be related to combat operations and common crimes.

5.1 Alleged aerial bombardments affecting civilians

25. Aerial bombardments by the Sudanese Air Force ("SAF"), which were launched pursuant to the military campaign "Operation Decisive Summer 2", continued through June 2015. The majority of strikes occurred in Jebel Marra, an area of Sudan Liberation Army/Movement - Abdel Wahid ("SLA-AW/SLM-AW") rebel military activity.
26. There were 17 reported incidents in which some 50 civilians died as a result of airstrikes. The airstrikes reportedly destroyed villages and farmland and killed livestock. Among the most serious incidents, on 26 May 2015, the SAF reportedly bombed the South of Karkego, North Darfur, killing seven people, including two children and three women. On 16 June 2015, the SAF reportedly bombed the villages of Raweeta and Bargo, North Darfur, killing 17 persons. On 20 June 2015, the SAF reportedly bombed the area of Ruvata, killing one SLM fighter and causing injury to four others. Around 500 livestock were also killed in this attack. Furthermore, on 23 June 2015 Antonov planes reportedly bombed villages about 12km North-east of Fanga, killing two children. Additionally, 45 cows and 97 goats and sheep – means of livelihood for the village – were also killed in the attack. On 25 and 27 June respectively, the SAF reportedly dropped seven bombs in the area East and West of Fanga using an Antonov, and 12 bombs on the village of Kakori, in the area East Jebel Marra. As a result of this last incident, at least nine people were killed, including two children, and large portions of farmland were destroyed. The Office is concerned about these and other incidents, although the information at its disposal is currently

insufficient to determine whether these bombardments were disproportionate and/or indiscriminately targeted civilians.

27. Recent reports suggest that as of 15 October 2015, the GoS resumed its aerial bombardments and has continued through the month of November 2015 in the East Jebel Marra.

5.2 Alleged inter-tribal clashes affecting civilians

28. Intense inter-tribal fighting has caused the largest loss of life during the reporting period. Inter-tribal clashes account for 50 per cent of the reported 760 deaths. Conflict between the Rizeigat, Habaniya and Ma'aliya tribes has intensified after small scale dispute over incidents of theft of livestock or other possessions. Incidents with higher numbers of casualties have included: i) in May 2015, a Rizeigat attack on a Ma'aliya village in which between 100 and 170 were reported killed, including 18 women and children, in Abu Karinka, East Darfur; ii) in July 2015, retaliatory fighting over livestock rustling between the Rizeigat and the Habaniya with an estimated report of 170 deaths from both tribes, in Abyad Tabaldiya, South Darfur; and iii) in August 2015, a Fellata attack on the Amoud El Aradeb market place in which between 7 and 120 deaths occurred from both tribes in Amoud El Aradeb, South Darfur.
29. The GoS claims that inter-tribal clashes in Darfur occur over access, use and management of resources including land disputes between communities, cattle rustling, and disputes over farmland between nomadic and sedentary communities during the migration and farming season. Many of the reported incidents of this kind, resulting in hundreds of deaths, have taken place between tribes regarded as ethnically Arab. In one example, eighteen women and children were reportedly killed in Abu Karinka, East Darfur, on 11-12 May 2015. For many other incidents, it is unclear, from the limited information available, to what extent the deaths and other acts of violence involve civilians or combatants.
30. Sources have reported links between these inter-tribal clashes and GoS forces. According to the Report of the Independent Expert on the situation of human rights in the Sudan of 24 August 2015 - (reference A/HRC/30/60) - based on the information collected from United Nations Mission in Darfur ("UNAMID") and other sources, "*[inter-]tribal clashes stemming from resource-related disputes, including land, are becoming a major source of insecurity as they increasingly involve well-armed individuals who have pledged their allegiance, sometimes on tribal lines, to either armed groups or the Government of the Sudan and its forces, namely, the Rapid Support Forces, the Border Guards and the Central Reserve Police.*" By the same token, some sources have also reported that GoS forces have played a positive role in preventing the escalation of inter-tribal clashes.

31. The GoS responded to the report of the UN Independent Expert as follows: “[t]he Rapid Support Forces are military forces carrying out their mission and operations under (sic) according to the constitution and law and they are part and parcel of chain of command of the national army. Furthermore, they have contributed to the improvement of security situations, liberation of areas occupied by the rebel forces, protection of civilians and contributed through its units in the reconstruction of a lot of infrastructures and services destroyed by the rebels, which helped for the return of IDPs to their areas.” The GoS added that the Independent Expert’s report “did not refer to the destructive acts of the rebels in impeding the flow of humanitarian aid efforts and threatening the security and safety of the workers in this field.”
32. The Office continues to monitor this issue in order to verify the alleged links between inter-tribal clashes and GoS forces and will in due course assess whether the reported inter-tribal killings constitute crimes that fall within the Court’s jurisdiction. The Office reiterates that such potential investigative activities may target any of the rival factions, if there is sufficient evidence showing their involvement.

5.3 Alleged widespread sexual and gender-based crimes

33. Alleged serious criminal acts of sexual violence continue in Sudan. At least 71 incidents of sexual crimes against women were reported involving some 156 victims. Of these incidents, 86 per cent involved gang-rapes and 55 per cent involved underage females. It also appears that 70 per cent of incidents occurred while women were engaged in everyday activities such as collecting firewood or water, or tending farmland. Frequently, sexual violence allegedly occurred in combination with killings and looting during ground attacks on villages by either GoS aligned troops or unknown assailants. Government aligned troops, unidentified assailants and “militant settlers” are allegedly the main perpetrators.
34. In September 2015, Human Rights Watch published its latest report on the Rapid Support Forces (“RSF”) attacks on civilians in Darfur. The report details allegations of mass rapes that occurred in January and February 2015 in Golo, West Darfur. Allegedly, large numbers of women and girls were raped in homes, the mosque and the hospital of Golo. The number of victims is difficult to evaluate, with figures ranging from 15 to 150 victims. Some of those interviewed by another source alleged even larger numbers, between 500 to 600 victims. The perpetrators have not been clearly identified, but the report alleged the involvement of forces associated to the GoS, such as Janjaweed or the RSF. These allegations are being taken seriously and the Office will conduct further analysis to ascertain the facts.

5.4 Forced displacement and militant settlers

35. In September 2015, the United Nations reported a global estimate of more than 2.6 million persons displaced across Darfur. It is unclear to what extent the reported displacement is caused by

deliberate attacks against civilians or civilians fleeing spontaneously due to the armed conflict, or other factors that may be relevant to determining whether crimes were committed.

36. The Office has also been made aware, and is carefully analysing a new alleged trend of massive settlement in Darfur of non-Sudanese populations of Arab origin, sometimes referred to as “Arab settlers.” Increasingly, reports from different sources note the arrival of thousands of foreign “Arab settlers” on the lands of Darfuri farmers. The farmland is then used for livestock grazing, destroying existing crops. Reports have emerged detailing conflict between those “militant” settlers and local farmers attempting to return to their land. Sources reported the violence attributed to those settlers as a major problem for the Fur and other non-Arab population.
37. It still is unclear whether these settlers are acting on their own initiative or if they follow some higher policy to occupy the area and consolidate the expulsion of non-Arab population. The Office will continue to assess whether this increase in arrivals of these settlers is part of a wider strategy to change the demography of the Darfur area.

5.5 Alleged abductions of, and attacks on, humanitarian and aid workers and peacekeepers

38. Eight incidents involving humanitarian workers and peacekeepers were reported during the reporting period; most of these taking place during patrols or convoys. In five of these incidents, persons were killed. Also, in September 2015, the United Nations reported a total of 69 “incidents and hostile acts against UNAMID and its personnel” from this and the previous reporting period. Whether these incidents fall within the Court’s jurisdiction still needs to be assessed.
39. For example, on 24 May 2015, a UNAMID national staff member was killed by unknown gunmen in Zalingei, Central Darfur. On 2 June 2015, a UNAMID vehicle convoy was attacked by unidentified armed men. Vehicles were taken and later recovered in Doma, South Darfur. It should be noted that this convoy was moving without protection, despite instructions not to travel without an armed escort. In another incident, on 5 July 2015, the driver of a mini-bus belonging to the AU-UN Mission in Darfur was shot by gunmen in Nyala city. The peacekeeping mission reported that a pregnant woman who was passing on the road was also hit by the mini-bus.
40. On 3 June 2015, an international NGO staff member was abducted by armed men in Kutum, North Darfur. His dead body was later found on 2 August 2015. In another incident, a World Food Program driver was abducted during an attack on an UNAMID-escorted convoy. The driver and the truck were recovered the next day.
41. In these and other attacks on humanitarian and aid workers and peacekeepers, the perpetrators are usually unknown. The general insecurity created by the ongoing conflict in Darfur has created extreme poverty in the populations and fuelled banditry and other forms of criminality. Incidents

of murders, theft and hijackings occur frequently in combination. The extent to which these incidents relate to the conflict is also unclear.

5.6 Alleged arrests and detention of political opponents and youth activists

42. During the reporting period, the GoS arrested opposition party members and activists. For instance, on 25 November 2015, the Sudanese national security forces detained Sadiq Youssef, the leader of the National Consensus Forces along with two other members of the main opposition coalition.

6. CONCLUSION

43. As the Office has repeatedly stated, the humanitarian situation, the ongoing crimes against civilians in Darfur, Sudan, and the continued non-cooperation of Sudan in refusing to arrest the persons against whom ICC arrest warrants are in force are simply unacceptable.
44. Terrible crimes allegedly continue to be perpetrated in Darfur. This Council and the international community, especially State Parties, must take concrete actions now to arrest all persons against whom arrest warrants have been issued by the ICC in connection with the Darfur, Sudan situation, so that the climate of impunity may end and the prospect of preventing further crimes may take root.
45. The Office continues to call on the Council to ensure that Sudan and other States which have failed to arrest persons against whom ICC arrest warrants are in force in the situation in Darfur, Sudan be held accountable for their actions. The Office reiterates that the 19 November 2015 Decision by Trial Chamber IV of the Court finding Sudan's failure to arrest and surrender Mr Banda was the eleventh decision on the issue of cooperation for communication to the Council. The Council's inaction regarding findings of non-cooperation in the situation that it itself referred to the Court undermines the credibility of the Council and the mechanism and purpose of referrals of situations to the ICC by the Council. It is imperative for the Council to recognise its crucial role vis-à-vis those States that have been found to be in non-compliance by the Court, and to fully assume its responsibilities to advance the objectives of the Rome Statute.
46. Only strong and committed action by the Council and States will stop the commission of Rome Statute crimes in Darfur and ensure that the perpetrators are held accountable. | OTP