



EIGHTEENTH REPORT OF THE PROSECUTOR OF THE INTERNATIONAL CRIMINAL COURT TO THE UN SECURITY COUNCIL PURSUANT TO UNSCR 1593 (2005)

INTRODUCTION

1. The Prosecutor of the International Criminal Court (ICC) submits the eighteenth report pursuant to paragraph 8 of UN Security Council Resolution (UNSCR) 1593 of 31 March 2005. This report outlines the judicial activities undertaken since the last report to the Security Council on 5 June 2013; on-going Office activities including the results of crime monitoring, and the cooperation received or lack thereof from the Republic of the Sudan and others.
2. In UNSCR 1593, the Security Council determined that the situation in the Sudan continued to constitute a threat to international peace and security and, acting under Chapter VII of the UN Charter, decided to refer the situation in Darfur, since 1 July 2002 to the Prosecutor of the ICC. The Court exercised its jurisdiction in relation to the situation in Darfur in accordance with Article 13(b) of the Rome Statute pursuant to UNSCR 1593.
3. On 30 July 2013, the Security Council adopted UNSCR 2113 (2013), *“expressing deep concern at the increased violence and insecurity in some parts of Darfur in recent months, including notably the escalation in inter-tribal fighting, and at confrontations between the Government of Sudan and the armed groups, expressing deep concern that such clashes...continue to threaten civilians, and that attacks on humanitarian personnel and peacekeepers continue to restrict humanitarian access to conflict areas where vulnerable civilian populations reside [...].”*
4. The resolution also *“express[es] deep concern at the hindrances to UNAMID in the implementation of its mandate, including movement and access restrictions [...], and at the significant increase in population displacements this year and the consequent increase in humanitarian assistance and protection needs, and at the fact that approximately two million internally displaced persons (IDPs) and refugees remain displaced, [and] further express[es] deep concern at the deteriorating conditions for the internally displaced in Darfur as well as for new refugees in neighbouring countries and Chadians who have fled Darfur, and at the situation*

of refugees and IDPs unable to reach camps, and therefore vulnerable to on-going violence or lacking humanitarian assistance [...]."

5. Finally, the resolution reiterated the Security Council's *"condemnation of all violations of international human rights and humanitarian law in Darfur and in relation to Darfur, calling on all parties to comply with their obligations under international human rights and humanitarian law, emphasizing the need to bring to justice the perpetrators of such crimes, and urging the Government of Sudan to comply with its obligations in this respect."*
6. The Office of the Prosecutor ("the Office") can only echo its shared concerns with respect to the current situation in Darfur, in particular regarding the on-going impunity for Rome Statute crimes reflected in the failure to arrest the four individuals subject to five separate warrants of arrest issued by the ICC against Messrs Omar Al-Bashir, Abdel Raheem Hussein, Ahmad Harun, and Ali Kushayb. While the four individuals have been somewhat limited in their movements, including the inability of Mr Al-Bashir to attend the September 2013 UN General Assembly session, both Messrs Al-Bashir and Hussein have travelled outside of the Sudan, including in Mr Hussein's case to Chad and the Central African Republic, both of which are State Parties to the Rome Statute.
7. The cost to the United Nations and humanitarian aid organisations of trying to manage this purposefully generated crisis has been estimated in a 19 August statement attributable to the United Nations Resident and Humanitarian Coordinator in Sudan, Mr Ali Al-Za'tari, on World Humanitarian day as *"more than ten and a half billion dollars...over the last decade."*¹ In other terms, according to the UN Office for the Coordination of Humanitarian Affairs (OCHA), 47 aid workers have been killed in Darfur since 2003, with 139 injured and 71 abducted. Since 2007, 51 peacekeepers working for the African Union-United Nations Hybrid Operations in Darfur (UNAMID) have been killed, with 13 killed in the last year alone. As Mr Al-Za'tari put it more recently: *"I think Darfur is one of the most critical questions for Sudan and for the entire world...The international community has to acknowledge and recognise that the suffering of the people is just beyond belief in Darfur. We should not accept that families are covered with plastic sheeting on ground that is scorched by sun. We cannot accept that women will have to walk long distances to bring water and be subject to attacks and abuse on the way back and forth. If that is not enough, I don't know what is enough for humanity to move and assist in Darfur."*

¹ See "Statement attributable to the United Nations Resident and Humanitarian Coordinator in Sudan, Mr Ali Al-Za'tari, on World Humanitarian day," dated 19 August 2013, available online at <http://khartoum.sites.uniconnetwork.org/2013/08/18/statement-attributable-to-the-united-nations-resident-and-humanitarian-coordinator-in-sudan-mr-ali-al-zatari-on-world-humanitarian-day/>.

8. The Office recalls paragraph 27 of Security Council Presidential Statement 12 of 6 August 2013, in which the Council *“recalls that justice and rule of law are of key importance for promoting and maintaining peace, stability and development in the world. In this regard, the Security Council emphasizes that ending impunity is essential in a conflict and post-conflict society’s efforts to come to terms with past serious crimes under international law, and in preventing future serious crimes under international law. In this regard, the Security Council highlights that regional and sub-regional organizations and arrangements can contribute to accountability through support for enhancing the capacity of national justice systems, as appropriate, and through cooperation with international mechanisms, courts and tribunals, including the International Criminal Court.”* The Office echoes this call on regional organizations to support the efforts of the Court to bring the four individuals under ICC warrants of arrest to justice. The Office also reiterates its call in the past for the full implementation of the report of the African Union High-Level Panel on Darfur, which set out a full raft of helpful recommendations on ending impunity throughout the Sudan.

9. The Office also takes this opportunity to recall paragraph 9 of Security Council Presidential Statement 2 of 12 February 2013 (PRST 2), in which the Council *“notes that the fight against impunity and accountability for the most serious crimes of international concern has been strengthened through the work on and prosecution of these crimes in the International Criminal Court, in accordance with the Rome Statute, in ad hoc and “mixed” tribunals as well as specialized chambers in national tribunals. In this regard, the Security Council reiterates its previous call on the importance of State cooperation with these courts and tribunals in accordance with the states’ respective obligations, and expresses its commitment to an effective follow up of Council decisions in this regard. The Council intends to forcefully continue to fight impunity and also draws attention to the full range of justice and reconciliation mechanisms, including truth and reconciliation commissions, national reparation programmes and institutional and legal reforms, including guarantees of non-recurrence. The Council reaffirms its readiness to adopt appropriate measures aimed at those who violate international humanitarian law and human rights law.”* The twelfth session of the Assembly of States Parties of the ICC, in its omnibus resolution adopted on 27 November 2013, welcomed the adoption of PRST 2, and *“encourage[d] further strengthening of the Security Council’s relationship with the Court, such as through support for international justice in peacekeeping mandates, holding of annual open debates on the Court and identifying other means to institutionalize cooperation.”* The Office agrees that strengthening this relationship through practical means is essential for ensuring cooperation in the Darfur situation.

1. RECENT JUDICIAL ACTIVITIES

10. The Office's judicial activities are on-going: in particular, preparation for the trial of Mr Abdallah Banda is on track. The Office has focused on this case in particular, as the trial date is upcoming, which is itself due in large part to the willingness of the defendant to appear voluntarily following on summonses to appear.
11. On 3 July 2013, the defence submitted an application pursuant to Articles 57(3)(b) and 64(6)(a) of the Rome Statute for an order for transmission of a cooperation request to the Government of Nigeria. The Trial Chamber granted the request.
12. On 28 August, the Appeals Chamber issued its Judgment on the appeal of Messrs Banda and Jerbo against Trial Chamber IV's "Decision on the Defence's Request for Disclosure of Documents in the Possession of the Office of the Prosecutor." The Appeals Chamber set out the procedure to be followed when assessing whether certain information is "material to the preparation of the defence," and when assessing whether there are any restrictions on disclosing the same. The matter has been remanded to the Trial Chamber.
13. On 5 September, the Defence submitted a Request for Termination of proceedings against both accused based on the alleged failure of the Office to disclose certain evidence. On 27 September, the Prosecution filed its submission opposing the request as being unfounded. A decision is yet to be rendered regarding this request.
14. On 25 September, the Trial Chamber issued an order directing the Prosecution to provide the Chamber with additional details regarding the documents requested by the Defence. This followed from the Appeals Chamber's Judgment of 28 August against Trial Chamber IV's "Decision on the Defence's Request for Disclosure of Documents in the Possession of the Office of the Prosecutor." The Office has complied with this order.
15. On 4 October, after taking note of the reports of the death of Mr Jerbo, the Trial Chamber terminated the proceedings against him without prejudice to the possibility of resuming proceedings should information become available that he is alive. The case against Mr Banda continues and the trial is due to commence on 5 May 2014.
16. In the cases of Messrs Al-Bashir and Hussein, the Chambers have tracked their travels and interacted extensively with States about meeting their obligations to arrest and surrender these individuals to the Court.
17. On 14 July, Mr Al-Bashir travelled to Abuja, Nigeria. The Office immediately notified the relevant Pre-Trial Chamber of his travel and the Chamber issued a decision

requesting Nigeria to arrest Mr Al-Bashir and surrender him to the Court. Mr Al-Bashir reportedly suspended his visit after calls for his arrest. Taking into account the response from Nigeria – in its response, Nigeria repeated its commitment to cooperating with the Court, asserted that it was the African Union and not Nigeria that had invited Mr Al-Bashir, and that Mr Al-Bashir’s sudden departure occurred at the time that officials of relevant bodies and agencies of Nigeria were considering the necessary steps to be taken in respect of his visit in line with Nigeria’s international obligations – on 5 September, the Chamber reminded Nigeria of its obligations to execute the pending decisions concerning Mr Al-Bashir and requested his arrest should a similar situation arise in the future.

18. On 18 September, the Office notified the Pre-Trial Chamber that Mr Al-Bashir was reportedly planning to travel to the United States to attend the 68th session of the UN General Assembly. The Pre-Trial Chamber issued a decision on the same day reminding the United States of the two outstanding warrants of arrest issued against Mr Al-Bashir and inviting the United States to arrest and surrender him to the Court. Subsequently, Mr Al-Bashir did not attend that session of the UN General Assembly.
19. On 9 October, the Office notified the Pre-Trial Chamber of the possibility of Mr Al-Bashir’s travel to Addis Ababa on 11 October and subsequently to the Kingdom of Saudi Arabia on 13 October. The Chamber immediately invited the Federal Republic of Ethiopia and the Kingdom of Saudi Arabia to arrest the suspect and surrender him to the Court, in the event he enters their territory. In both cases, Mr Al-Bashir completed the contemplated travel and the warrants of arrest were not executed.
20. On 18 October, the Office notified the Pre-Trial Chamber of the possibility of Mr Al-Bashir’s travel to Kuwait. On the same day, the Pre-Trial Chamber invited the State of Kuwait to arrest Mr Al-Bashir and surrender him to the Court, in the event he enters its territory. Mr Al-Bashir travelled to and fro Kuwait as planned.
21. In relation to Mr Hussein, on 3 September, the Registrar notified the relevant Pre-Trial Chamber of a planned travel by the suspect to the Central African Republic. Shortly afterwards, the Chamber requested observations from the Central African Republic regarding the alleged failure to arrest and surrender Mr Hussein.
22. On 18 September, the Pre-Trial Chamber requested the Republic of Chad to submit observations regarding whether Mr Hussein visited Chad and regarding the alleged failure to arrest and surrender him.

23. On 13 November, the Pre-Trial Chamber issued two decisions on cooperation: one in relation to the Central African Republic and the other relating to the Republic of Chad. The Chamber reminded both States of their statutory obligations to execute the pending decisions concerning the arrest and surrender of Mr Hussein to the Court and requested both States to immediately arrest Mr Hussein and surrender him to the Court should he enter their territory.

2. ON-GOING OFFICE ACTIVITIES

24. The Office has continued to undertake investigative steps in preparation of the case against Mr Banda. It has also undertaken steps to maintain its evidence for the other cases.

25. The overview of allegations of crimes reflected in this section point to a need to undertake new investigations in the context of Darfur. The lack of arrest and cooperation from the Government of the Sudan has presented an on-going challenge for the Office.

26. The Office continues to monitor relevant crimes allegedly committed in Darfur, whilst its investigations face challenges due to security and access issues.

27. It is now over 10 years since the conflict in Darfur started. Since 2004, when the Security Council adopted Resolution 1547, the Council has adopted 52 resolutions and 17 presidential statements on the Sudan, in addition to 17 press statements. The UNSCR 2113 on Darfur, determined that the situation in the Sudan continues to constitute a threat to international peace and security. The Government of the Sudan's failure to cooperate with the ICC is but one of the many incidents of the Sudan's continuous failure and/or refusal to implement the Security Council's decisions. This has bolstered Mr Al-Bashir's resolve to ignore the Security Council prompting him to even publicly boast in a 13 October 2011 speech that the Sudan did not implement Security Council resolutions.

28. The UN Secretary-General's report on UNAMID submitted on 12 July 2013 pursuant to UNSCR 2036 (2012) states: *"Inter-communal fighting involving militia in Central, Northern and Southern Darfur and clashes between Government forces and the armed movements in Central and Eastern Darfur significantly increased the risk of physical violence perpetrated against the civilian population."*

29. The UNSCR 2113 "[r]eiterat[es] its condemnation of all violations of international human rights and humanitarian law in Darfur and in relation to Darfur, calling on all parties to

comply with their obligations under international human rights and humanitarian law, emphasizing the need to bring to justice the perpetrators of such crimes [...]." The UN Secretary General report on Darfur states: "*[i]ncidents of human rights violations and abuses, including those related to the violations of the right to life and physical integrity, continued unabated, while lack of accountability for those violations remained endemic.*" In this context, the Office wishes to reiterate the need for bringing to justice alleged perpetrators of past and on-going crimes in Darfur.

2.1 Monitoring of current crimes

30. The Office continues to monitor a number of trends that could constitute Rome Statute crimes, including: alleged attacks by the Ministry of Defence, either targeting or indiscriminately affecting civilians and other persons, as well as alleged attacks on civilians by rebel movements; alleged acts affecting the persons displaced and alleged abductions of, and attacks on, humanitarian aid workers and peacekeepers, among others.

2.2 Alleged aerial bombardments affecting civilians

31. In relation to Sudanese Armed Forces aerial strikes, the 10 September 2013 UN Human Rights Council Report on the situation of Human Rights in Sudan alleges that "*[c]ivilians continue to bear the brunt of all these armed attacks [...] which result in serious violations of human rights and international humanitarian law, including arbitrary deprivation of life, injury to persons, destruction and looting of homes, businesses and livestock and mass displacements.*"

32. These attacks have reportedly taken place throughout Darfur but with a particular focus on East Jebel Marra, an area in rebel control in which many civilians have taken shelter. The Office has taken note of more than a dozen such attacks, most of which were conducted over multiple days, and which reportedly resulted in civilians killed, injured and livestock and civilian dwellings and other necessities being destroyed. The Office has taken note of the details of these attacks, including dates, localities and numbers of victims in its consideration for future investigations.

2.3 Alleged ground attacks affecting civilians

33. The reporting period was marked by tensions arising from clashes between the Sudanese Government and armed rebels Sudan Liberation Army Minni Minawi (SLA-MM), Sudan Liberation Army Abdul Wahid (SLA-AW), Justice and Equality Movement

(JEM), Liberation and Justice Movement (LJM-K), inter-communal clashes and conflict resulting from control over access to land and natural resources. Such events resulted in civilian casualties, substantial population displacement in need of humanitarian assistance, and looting of civilian property. A recent retrospective mortality survey released has found that between January and May 2013, tens of thousands of refugees from Darfur and Chadians fled Darfur for neighbouring Chad and that most of the deaths in that group were caused by violence experienced in Darfur, in particular during mass shootings. Refugees also reported burning and looting of their villages.

34. Militia attacks on civilians continue along the same pattern as incidents indicted in the past by the Office, with thousands of militia members entering a targeted town in Land Cruiser vehicles, on horseback and on camels and confronting local tribe members attempting and failing to defend their communities. These attacks have resulted in civilians killed and injured, with tens of thousands displaced at a time.
35. Violent clashes have also broken out between the Arab tribes that have in the past supported the Government of the Sudan's militias during the conflict. This has also killed and displaced many tens, even hundreds of thousands of civilians. The UN Secretary-General has reported that "[t]he clashes have tended to be triggered by minor incidents and altercations. However, they have been exacerbated and fuelled by underlying disputes over access to land and other natural resources [...]." On 19 June, a Sudan expert from Human Rights Watch, Jehanne Henry argued that "*Inter-ethnic fighting in Darfur today should be understood as a consequence of Sudan's support for certain ethnic groups to fight alongside the government, the so-called "Janjaweed" militia, and of failing to rein them in, disarm them, or provide any accountability for past serious crimes.*" Omer Ismail, a Darfuri activist and Enough Project Senior Advisor, has also stated publicly that "*[a]s the regime struggles to stay afloat economically and pacify Janjaweed militias looking for greater compensation, Sudanese government officials are increasingly willing to fan the flames of violence, even against some of their traditional allies. The refugees we talked to in Chad explained that the 'chameleon is switching its colors.'* Now, for economic reasons, government-backed Arab militias are even attacking other Arab communities."
36. Since the height of genocide in 2003-2005, the Government of the Sudan has relied on militia groups, acting as proxies, to carry out the Government's security interests in Darfur where Sudan Armed Forces are weak. In recent years, the Government budget has declined, leaving the Sudanese Government unable to fulfil patronage obligations. To appease weakened alliances and loyalty among militia groups, based on the information available to the Office, the Government secures its interests by allowing

these militias to loot and pillage even their own former allies with complete impunity and keep the spoils as a form of compensation.

2.4 Alleged widespread occurrence of sexual and gender-based violence

37. The Office received reports on different incidents of sexual crimes against women committed by members and commanders of different armed groups. The investigation of sexual and gender-based crimes is a key priority for the Office.
38. The allegations of sexual and gender-based violence in Darfur continue along the same pattern documented in the past by the Office. Displaced women and girls are particularly vulnerable to attacks by pro-government militiamen, including allegations of gang-rape. The Office has taken note of at least a dozen such incidents throughout Darfur, some with the alleged involvement not only of militia members but militia leaders and local government officials. These allegations are strongly disturbing.
39. The Office stresses the fact that sexual violence in Darfur is still seriously underreported. The UN Secretary General mentioned in his report on the UNAMID operations in Darfur that “[...] *underreporting of sexual violence remained a challenge owing to social stigma and the lack of confidence in Government authorities to investigate and prosecute such crime.*”
40. The Office notes that the circumstances under which women must carry out their lives increase the risk that they are exposed to sexual violence. As stated by the UN Human Rights Council Independent Expert on the situation of Human Rights in Sudan: “[w]omen are forced by different circumstances to engage in routine livelihood activities [...] to support their families. These activities often expose them to security risks including sexual and gender based violence.” In this context, the Prosecution emphasises the UNSCR 2113 insofar as it “[d]emands that the parties to the conflict immediately cease all acts of sexual violence, and make and implement specific time-bound commitments to combat such violence, [...].”

2.5 Alleged crimes against human rights defenders, civil society members and community leaders

41. Attacks on human rights defenders, civil society members and community leaders continue, and pose a particular threat to civilian communities. Such attacks include one on students who refused to assist the National Party Congress group to prepare for a military event in support of the government-led mobilisation campaign against rebel groups operating in Darfur. There has been a repeated pattern of attacks on students in

Darfur and elsewhere in the Sudan who have demonstrated for justice and an end to impunity. While killings and detentions following demonstrations in Khartoum may be outside of the Court's jurisdiction, they demonstrate the on-going pattern which is of concern to the Office.

2.6 Alleged abductions of and attacks on humanitarian aid workers and peacekeepers

42. As evidenced by its case focusing on the attack on Haskanita, the Office has placed a priority on addressing attacks on humanitarian aid workers and peacekeepers. As referenced above, according to UN OCHA, 47 aid workers have been killed in Darfur since 2003, with 139 injured and 71 abducted. Since 2007, 51 UNAMID peacekeepers have been killed, with 13 killed in the last year.
43. Humanitarian aid workers and peacekeepers have been subject to attack throughout Darfur, both international workers and local Sudanese workers, the latter whom have arguably borne the brunt of such attacks. These attacks have led to the loss of humanitarian aid materials and equipment; the death, injury and detention of humanitarian aid workers, and peacekeepers. Ambulances have been fired upon, and offices and convoys have been looted, often compromising the work of the aid organizations and depriving civilians dependent on these services of basic medical and other care. The negative impact of detention, threats, injury and death on the morale and effectiveness of the humanitarian aid community cannot be overestimated, in terms of understanding its effect on their ability to serve civilian communities. Peacekeepers from Tanzania, Rwanda, and Zambia and Senegal have been killed. The Office salutes their sacrifice but cannot but point out that not enough has been done to identify those responsible, despite the insistence of the United Nations and the African Union that the Government of the Sudan duly investigate. The Office encourages the United Nations and the African Union to share their information from their own internal investigations with the Office, in the interests of justice.

2.7 Forced displacement

44. It has been reported that between January and 10 November 2013, 460,000 people have been newly displaced in Darfur.
45. The UN Security Council addressed the issue, expressing "*deep concern at the significant increase in population displacements this year and the consequent increase in humanitarian assistance and protection needs, and at the fact that approximately two million IDPs and refugees remain displaced [...].*" Accordingly, the Council expressed concern at the

restrictions imposed by the Government of the Sudan upon UNAMID movement and operations, including delays in the provision of visas for its personnel. As concluded by the UN Secretary General, “[...] access restrictions imposed by Government authorities and the armed movements continued to hinder the conduct of timely humanitarian needs assessments and the distribution of urgently needed relief aid to affected population.” Such denial of UNAMID access has also hindered the process of verifying the impact of attacks by militias on villages.

46. Humanitarian activities in North Darfur were negatively affected allegedly by a delay in the issuance of residence permits for 20 staff members of the United Nations High Commissioner for Refugees in Sudan (UNHCR). On 6 August 2013, the UNCHR appealed to the Sudan authorities to renew work permits, emphasising that as a result of the non-renewal of visas “[...] for over a month, UNHCR has been unable to effectively undertake protection and assistance activities for IDPs in North Darfur.”
47. The interference of the Sudan’s National Intelligence and Security Services (NISS) in the work of humanitarian aid workers has caused substantial deterioration in the level of health coverage that they have provided as a stop-gap for the total lack of local services. Allegations of the hijacking or stealing of humanitarian aid food deliveries by the Government of the Sudan’s Humanitarian Aid Commission are also of concern to the Office, as they have reportedly left hundreds of thousands of IDPs suffering food shortages and in danger of starvation.
48. The process of displacement and re-displacement has led to real concerns about accuracy of numbers of those displaced, as well as access to humanitarian aid – food, water and the most rudimentary shelter in the form of plastic sheets – for those displaced, especially those who are not registered or whose whereabouts are unknown. There are real reasons to believe that the size and scope of the crisis is not fully known and may be seriously underestimated.

3. COOPERATION RECEIVED OR LACK THEREOF FROM THE GOVERNMENT OF THE SUDAN AND OTHER PARTIES

49. Under UNSCR 1593, the Security 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.” Pursuant to this resolution and the orders of the Court’s judges, the pending warrants of arrest have been transmitted to the Government of the Sudan for execution.

50. The Sudan, as the territorial State, has the primary responsibility and is fully able to implement the warrants, consistent with its sovereign authority. It has consistently failed to do so. At the same time, it has also failed to provide any meaningful measure of justice at the national level.
51. Since the June 2013 report to the Security Council, the Office notes that Mr Al-Bashir has travelled to Chad from 13 to 15 June; to Ethiopia on 30 June, and to Nigeria from 14-15 July for an African Union summit, a visit curtailed by the efforts of Nigerian civil society and the government; Mr Al-Bashir failed to travel to the United States for the 68th regular session of the UN General Assembly in New York.
52. As stated earlier in this report, Mr Hussein, also the subject of an ICC warrant of arrest, travelled to the Central African Republic on 19 August to attend a high-level official ceremony. The European Union issued a statement expressing its concern about the failure of the authorities in the Central Africa Republic to arrest Mr Hussein. Mr Hussein stated again on 12 November that military operations aiming to end the rebellion in Darfur had commenced.
53. The Office takes this opportunity to recall the eight communications from the Court informing the Security Council about non-cooperation in the Darfur situation, either by the Government of the Sudan or by other States, in relation to the four suspects at large.
54. In particular, the Office recalls the statement of the Chamber in these cases that *“the ICC has no enforcement mechanism and thus relies on the States’ cooperation, without which it cannot fulfil its mandate and contribute to ending impunity.”* The Council has not yet responded to these communications, neither has it taken any action.
55. The Council’s silence and inaction contributes to the Sudan’s continued determination to ignore the Council. As the Pre-Trial Chamber has further stated, *“[w]hen the Security Council, acting under Chapter VII of the UN Charter, refers a situation to the Court as constituting a threat to international peace and security, it is expected that the Council would respond by way of taking such measures which are considered appropriate, if there is an apparent failure on the part of the relevant State Party to the Statute to cooperate in fulfilling the Court’s mandate entrusted to it by the Council. Otherwise, if there is no follow up action on the part of the Security Council, any referral by the Council to the ICC under Chapter VII would never achieve its ultimate goal, namely, to put an end to impunity. Accordingly, any such referral would become futile.”*

4. CONCLUSION

56. The catastrophic humanitarian situation in the Sudan and continuing perpetration of serious crimes against civilians is simply unacceptable.
57. The Office calls on the Security Council to ensure the Sudan's compliance with UNSCR 1593, and calls on Rome Statute States Parties to promote cooperation and affect the arrest of individuals wanted by the ICC in the Darfur situation. The Office further notes that all States are urged by the Security Council to cooperate with the Court's investigations and prosecutions in Darfur. The Office will continue to monitor the Darfur situation.
58. Without stronger action by the Security Council and State Parties, the situation in the Sudan is unlikely to improve and the alleged perpetrators of serious crimes against the civilian population will not be brought to justice.