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**PEACE AND SECURITY COUNCIL  
151<sup>ST</sup> MEETING  
22 SEPTEMBER 2008  
NEW YORK**

**PSC/MIN/3 (CLI)  
ORIGINAL: ENGLISH**

**REPORT OF THE IMPLEMENTATION OF COMMUNIQUÉ OF 142<sup>ND</sup> MEETING  
OF THE PEACE AND SECURITY COUNCIL HELD ON 21<sup>ST</sup> JULY 2008  
ON THE SUDAN**

## **I. INTRODUCTION**

1. The present report is submitted in pursuance of the communiqué adopted by the 142<sup>nd</sup> meeting of Council held on 21 July 2008 and which reviewed the situation in Darfur in light of the application made by the Prosecutor of the International Criminal Court (ICC), on 14 July 2008, for an arrest warrant to be issued against the President of the Republic of the Sudan [PSC/MIN/Comm(CXLII) Rev.1]. In that communiqué, Council requested me to take all the necessary steps for the implementation of its decision and to mobilize the support of African Union (AU) partners to this end. This report provides an update on the developments of the situation in Darfur and the follow-up steps taken by the Commission.

## **II. ASPECTS RELATING TO THE APPLICATION BY THE ICC PROSECUTOR [PARA. 11 OF COMMUNIQUE PSC/MIN/COMM(CXLII) Rev.1]**

3. Council will recall that, in the communiqué adopted at the end of its 142<sup>nd</sup> meeting, it, *inter alia*:

- expressed its conviction that, in view of the delicate nature of the processes underway in the Sudan, approval by the Pre-Trial Chamber of the application by the ICC Prosecutor could seriously undermine the ongoing efforts aimed at facilitating the early resolution of the conflict in Darfur and the promotion of long-lasting peace and reconciliation in the Sudan as a whole;
- requested the United Nations Security Council, in accordance with the provisions of Article 16 of the Rome Statute of the ICC, to defer the process initiated by the ICC;
- invited the Commission to take all necessary steps for the establishment of an independent High-Level Panel made up of distinguished Africans of high integrity, to examine the situation in-depth and submit recommendations to Council on how best the issues of accountability and combating impunity, on the one hand, and reconciliation and healing, on the other, could be effectively and comprehensively addressed;
- in the meantime, and in line with the principle of complementarity as enshrined in the ICC Rome Statute and relevant Sudanese laws, urged the Government of the Sudan to take immediate and concrete steps to investigate human rights violations in Darfur and to bring to justice their perpetrators, and to keep the AU fully and continuously informed of progress made in this respect; and
- requested the Commission to regularly appraise the United Nations Security Council of the steps taken in pursuance of the above, to facilitate coordination between the AU and the United Nations.

3. Following the meeting of 21 July 2008, the Sudanese Embassy in Addis Ababa forwarded to the Commission a statement of the Ministry of Foreign Affairs welcoming Council's communiqué, in particular the request for the Security Council to defer the application of the ICC Prosecutor, adding that such a deferral

“(will) give room for the political process to reach the desired end and reinforce the efforts of the AU/UN Chief Mediator”. The Ministry also stressed that the “affirmation by (Council) of the principle of complementarity...offers the Sudanese judiciary the opportunity to bring to justice the perpetrators of human rights violations in Darfur, which, in turn, (will) increase the prospects of reconciliation, healing and maintenance of the social fabric”.

4. On my part, on 24 July 2008, I wrote to the United Nations Secretary-General. In that letter, I underlined the importance of the support of the Security Council to the roadmap outlined by Council in its communiqué, and requested that my letter, together with Council’s communiqué and the request contained therein, be conveyed to the members of the Security Council for their information and action as appropriate.

5. On 5 August 2008, I wrote to the Foreign Ministers of Tanzania (the current chair of the Union) and Nigeria (which chaired the Peace and Security Council for the month of July), for our respective representatives to the United Nations, in New York, to present the position of Council to the Security Council and to seek its support and understanding, as requested by Council in its communiqué. I am pleased to report that this *démarche* has since been undertaken. Earlier on, the Commissioner for Peace and Security, who was in New York on mission, had discussions with a number of United Nations officials, including the Secretary-General on 23 July 2008 and members of the Security Council, to brief them on the outcome of Council’s meeting.

6. Meanwhile, on 3 and 4 August 2008, I, together with the Commissioner for Peace and Security, visited Khartoum, for consultations with President Omar Hassan Al Bashir and other senior Government officials, including Vice Presidents Salva Kiir Mayardit and Ali Othman Taha. During the discussions, I reiterated the need for sustained efforts to ensure the implementation of the relevant provisions of Council’s communiqué of 21 July, and urged the Sudanese authorities to take speedy and effective action to combat impunity and promote healing and reconciliation. On their part, the Sudanese authorities briefed me on the steps they were taking in pursuance of Council’s communiqué, in particular bringing to justice the perpetrators of human rights violations. , with the possible involvement of Sudan’s African and Arab partners. On 5 August, the Sudanese Justice Minister announced the appointment of the Special Prosecutor. The Commission for Peace and Security had further discussions with the Sudanese authorities, including Vice President Ali Osman Taha, in Khartoum, on 11 September 2008, to review the situation. It should be noted that Sudan has now confirmed that it is prepared to involve lawyers designated by the AU and the Arab League in the judicial proceedings, to give them enhanced credibility.

7. With respect to the High-Level Panel referred to in para. 11 (ii) of Council’s communiqué, I would like to indicate that its composition will be finalized shortly, together with that of the Secretariat that will support its work. It is my expectation that the Panel will be able to hold its inaugural meeting in early October in Addis Ababa and then travel immediately to the Sudan for preliminary contacts with the Sudanese authorities and other stakeholders.

8. I should also indicate that other international organizations have also discussed the issue of the application made by the ICC Prosecutor and its possible

implications for the ongoing peace efforts in the Sudan. On 19 July 2008, the Council of the League Arab States at ministerial level convened in Cairo to examine the situation. At the end of the meeting, the Arab League Council, among others, rejected the application by the ICC Prosecutor; stressed the ability of the Sudanese judiciary to promote justice and called on it to complete the trials it has already initiated; and invited the Security Council to shoulder its responsibilities for the maintenance of peace and security and to avoid any situation that could threaten the ongoing efforts in the Sudan. The Arab League Council invited the Secretary-General to pursue his contacts with the United Nations and the AU, with the view to achieving national reconciliation and the restoration of peace.

9. On 22 July 2008, the Secretary-General of the Arab League wrote to me to inform me of the outcome of the visit he undertook to Khartoum on 20 and 21 July 2008, and the discussions he had with President Al Bashir and other Sudanese officials on the recommendations of the Arab League Council. He indicated that a package of measures had been agreed on that occasion, which revolved around the following: the need for renewed efforts to find a political solution to the conflict in Darfur; the request to the Sudanese criminal courts to take the necessary steps to bring to justice the perpetrators of human rights violations and other necessary measures; the commitment of the Government of the Sudan to address the consequences of the conflict, including through measures such as compensation; and the deferral by the Security Council of the process initiated by the ICC. In response to that letter, I wrote to the Secretary-General of the Arab League on 5 August 2008, stressing the convergence of approaches between our two institutions and the need for continued coordination between the League and the AU, to further the objectives being pursued. Subsequently, I had further consultations with the Arab League Secretary-General in Ankara, on the margins of the Africa-Turkey Cooperation Summit.

10. The Council of the Arab League, which met again at ministerial level in Cairo on 8 August 2008, decided to establish a Ministerial Committee on Darfur under the joint chairmanship of the Prime Minister and Minister of Foreign Affairs of the State of Qatar, the Secretary-General of the Arab League and the Chairperson of the Commission. The Committee will carry out its mandate in close collaboration with the Joint Chief Mediator. The Arab League Council reiterated its appeal to the UN Security Council to defer the process initiated by the ICC.

11. On 31 July 2008, the Security Council adopted resolution 1828(2008), which extended the mandate of UNAMID for a further period of 12 months. In that resolution, the Security Council took note of Peace and Security Council's communiqué, "having in mind concerns raised by members of Council regarding potential developments subsequent to the application by the ICC Prosecutor and taking note of their intention to consider these matters further".

12. Finally, I would like to inform Council that the Commission seized the opportunity of the 10<sup>th</sup> Africa-EU Ministerial Troika meeting, held in Brussels on 16 September 2008, to brief the EU representatives on the content of Council's communiqué of 21 July 2008. The European side took note of the information provided, and both sides agreed to work closely together to ensure continued progress in the peace process in the Sudan.

### III. OTHER ASPECTS OF THE SITUATION IN DARFUR

(i) Resumption of the political dialogue and other related aspects [Para 11 of Communiqué PSC/MIN/Comm(CXLII) Rev.1]

13. In its communiqué of 21 July 2008, Council expressed its full support to the Joint AU/UN Chief Mediator, Djibril Yipènè Bassolé, and urged all the Sudanese parties to fully cooperate with him in order to facilitate the early resumption of the political dialogue and the conclusion of a comprehensive peace agreement. On 5 September 2008, I had discussions in Addis Ababa with Mr. Bassolé to whom I expressed my full support. The Joint Chief Mediator, who took up his functions in El Fasher on 28 August 2008, has since embarked on extensive consultations with the Sudanese parties and other stakeholders, with a view of preparing the ground for the resumption of the political process. I would like to recall that, during my visit to the Sudan referred to above, the Sudanese authorities reaffirmed their commitment to cooperate fully with the Chief Mediator and to facilitate the resumption and successful of the political process.

14. Meanwhile, President Al-Bashir took steps for the resolution of the Darfur crisis. In this respect, he undertook to contact and consult all political forces, to identify the axes of an initiative around which to engage the people of Darfur, stating that no Darfurian will be excluded. This initiative could involve a preparatory committee of all political parties, armed groups and a number of independent persons, in advance of a larger conference of tribal leaders and community dignitaries. Darfur's main armed groups, however, have not endorsed this initiative, due notably to its alleged control from Khartoum.

15. The implementation of the Darfur Peace Agreement (DPA), which was signed in Abuja in early May 2006, remains stalled, with Minni Minawi, the sole signatory other than the Government and who is also Special Assistant to the President and Head of the Transitional Darfur Regional Authority (TDRA), continuing to remain absent from Khartoum. He makes his return to Kharthoum contingent upon the fulfillment of a number of demands, including better implementation of the Agreement. However, UNAMID continues to implement some elements of the DPA, such as the establishment of community policing and the monitoring of human rights. UNAMID is also reconfiguring its political and civil affairs activities, including those related to the Darfur-Darfur Dialogue and Consultation (DDDC), so as to better support the work of the Joint Chief Mediator.

(ii) Deployment of UNAMID [para. 12 of Communiqué PSC/MIN/Comm(CXLII) Rev.1]

16. At its meeting of 21 July, Council urged the Government of the Sudan to extend unreserved cooperation to UNAMID and to take all required steps to guarantee the security and safety of its personnel. Against this background, I am pleased to report that, on the ground, the Government of the Sudan is extending greater cooperation and assistance to UNAMID . This includes escorting deployment convoys over the long and difficult route from El Obeid to El Fasher and Nyala, in Darfur; agreeing to open airports to 24-hour use; and a reduction in delays with respect to the granting of visas. Equally encouraging are the approaches by the Government, both in Khartoum and on the ground, to work together with the Mission

and its partners in alleviating the serious security and humanitarian conditions in the IDP camps.

17. At its meeting of 21 July 2008, Council also decided to extend, for a further period of 12 months, the mandate of UNAMID, as determined by United Nations Security Council resolution 1769(2007) of 31 July 2007, and requested the Security Council to do the same. As indicated above, the Security Council, by resolution 1828(2008) of 31 July 2008, decided to extend the mandate of the Mission.

18. At the time of finalizing this report, the Mission's strength in terms of uniformed personnel stood at 8,590 military personnel, 1,737 individual police officers and one Formed Police Units (FPU) against an authorized strength of 19,555 military, 3,772 individual police officers and 19 FPUs. Preparations are underway for the deployment of additional troops and FPUs. However, these efforts continue to be hampered by logistical challenges, including the extended lines of communication between El Obeid and Darfur and the delays in the movement of cargo into Darfur, as well as by insecurity. Other challenges confronting the Mission include the continued lack of critical force multipliers, such as helicopter attacks, utility helicopters and an aerial reconnaissance unit. For UNAMID to achieve full operational capacity and effectively carry out its mandated tasks, it is essential that these gaps be addressed in earnest.

19. As of 11 September 2008, the civilian components of UNAMID stood at 2,512 personnel out an approved staffing table of 5,458 posts. Of these, 211 persons are on travel status. With respect to international staff, 53 per cent are African, and 27 per cent are women.

(iii) Security and humanitarian situation

20. Regarding the security situation, the last two months have been characterized by continued acts of banditry and lawlessness, including along commercial routes and in towns, disrupting humanitarian and civilian activity and compounding an already complex conflict. Fifteen cases of compound break-ins involving the humanitarian community were reported, leading to the withdrawal of two international NGOs. Car-hijacking abated somewhat during the rainy season, but increased again in September, with three incidents in Nyala in the first ten days of the month.

21. UNAMID continues to be exposed to attacks. On 8 July 2008, a UNAMID patrol was attacked near Shangil Tobaya, leaving 7 peacekeepers dead and 22 wounded. This was the most serious attack on UNAMID during its seven months of operation. On 16 July 2008, another UNAMID patrol was attacked by 20 unidentified gunmen in For Baranga, South-East of El Geneina; one peacekeeper was killed. A number of other incidents, including firings at UNAMID helicopters, on 11 August and 14 September 2008, have also taken place. I strongly condemn these attacks, and stress the need to identify their perpetrators in order to bring them to justice.

22. On 6 September 2008, the Government launched operations including air support in the Kutum and Jebel Marra areas of North Darfur, with the stated aim of combating growing crime and insecurity along key routes, so as to ensure the security of humanitarian activities. Other operations were also undertaken elsewhere in the region. The situation is also of concern in South Darfur, where tribal clashes continue to take place, resulting in numerous casualties.

23. The humanitarian situation in Darfur is compounded by continued armed clashes, which led to further new displacements estimated to date at 220,000 for 2008. Many of these persons join overcrowded camps, some of which are affected by flooding and worsening hygienic conditions. Humanitarian operations in Kalma and Bielel had to be momentarily suspended as a result of the floods.

24. The period under review was also marked by the incident that took place in the Kalma camp following the initiative taken by the Government of the Sudan to search for weapons in the camp. 33 IDPs were killed, while 47 others were wounded. UNAMID, together with NGOs, played a critical role in facilitating the evacuation of the wounded. New measures have been taken to improve the protection of IDPs by the UNAMID police.

25. On a positive note, WFP, in August, increased the caloric value of the food rations to 75 per cent of the normal scale. In July, WFP, ICRC and their partners distributed food to nearly 3.5 million conflict-affected people in Darfur. As indicated above, high levels of insecurity continue, however, to seriously hamper the humanitarian operation in Darfur. In the first eight months of this year, 208 humanitarian vehicles have been hijacked, 155 aid workers abducted, and 123 humanitarian premises violated. These figures are greater than those registered during the whole of 2007. Furthermore, while progress has been made in facilitating the work of the humanitarian agencies, they still face some bureaucratic constraints.

## **V. OBSERVATIONS**

26. The situation in Darfur remains volatile. There is need for all concerned to exercise restraint on the ground and genuinely commit themselves to the peaceful settlement of the conflict in Darfur. I appeal to the parties to extend the necessary cooperation to UNAMID and the Joint Chief Mediator.

27. At the same time, there is need for the international community to provide increased support to UNAMID. In this respect, I would like to urge the international community to provide the necessary support, particularly with respect to logistics and other equipment, to enable UNAMID carry out its mandate more effectively. It is equally important for the international community to rally strongly behind the efforts of the Chief Mediator.

28. Renewed and concerted efforts should be made for the Security Council to defer the process initiated by the ICC in line with the request made by Council. Indeed, as indicated by Council in its communiqué of 21 July 2008, it is important to ensure that the ongoing peace efforts are not jeopardized and to avert further suffering for the people of the Sudan and greater destabilization with far-reaching consequences for the country and the region.

29. In parallel, the Government of the Sudan should urgently and effectively take the steps required to bring to justice the perpetrators of human rights violations in Darfur, in line with the commitment it has made. On its part, the Commission will continue to work towards the early operationalization of the High-Level Panel and provide it with all the support required.

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# Report of the Implementation of Communiqué of 142nd Meeting of the Peace and Security Council Held on 21st July 2008 on the Sudan

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