



EXPLANATION OF VOTE - DRAFT RESOLUTION S/2013/660 ON THE INTERNATIONAL CRIMINAL COURT / KENYA

Mr. President,

The voting that just took place fills us with despair. This explains our abstention vote, which is, by itself, a source of great sadness for us. There are several reasons.

First, our delegation has dedicated time and effort to promoting a greater constructive interaction between the International Criminal Court and this Security Council. We believe that both multilateral bodies – one juridical, the other political – are united by their mission to prevent conflicts, fight against impunity, and demand accountability to perpetrators of mass atrocities. The text put to the vote today does not contribute to this constructive interaction; rather, it erects a barrier of distrust between the two bodies that is harmful to both and to the community of nations in general.

Second, that some countries submit to the Council's consideration a draft resolution in the full knowledge that it will not be adopted is contrary to our vocation of fomenting consensus and promoting the unity of the Council. In this instance, the contrary was achieved: it put on display a divided Council, when there was neither justification nor need to do so.

Third, and precisely for this reason, the exercise of this morning has the singular attribute of leaving a balance of only losers. No country or grouping was benefitted; all of us lost something. In our view, the voting was detrimental for the African Union, which perceives that its proposal was rejected; for the International Criminal Court, whose aspiration of universal membership is under assault, and for the Security Council, which presents itself, as stated, divided. We were all adversely affected.

Fourth, the considerable progress achieved lately in building a truly fruitful partnership between the Security Council and the African Union has been compromised, without any of the parties having sought such an outcome. Perhaps the damage is not irreversible, but clearly there has been a misunderstanding, and we were unable, both of us, to reverse the regrettable outcome, which was foreseeable for all.

Fifth and perhaps most importantly: achieving peace and security, on the one hand, and justice, on the other, frequently raises dilemmas in the short term. We can all agree that these concepts go hand-in-hand, in that for there to be peace, justice is needed, and justice can only be attained in situations of peace. But sometimes we sacrifice justice to achieve peace, and the threshold on how to resolve this dilemma is different in each of our countries. We understand the reasons being put forth with the best of intentions by those countries that invoke article 16 of the Rome Statute for the situation that is the object of this resolution, and we trust that those countries will also understand why some of us do not share their reasoning.

That takes me to my last point. It has been insinuated that not joining the vote that favors the resolution is somehow an expression of ill will towards the African Union and its member states. My delegation most categorically rejects such a suggestion. From our national vantage point, we frankly find it offensive, given our long and proven solidarity with all brotherly developing countries in multiple forums and numerous cases, as well as our presence in some African countries with Guatemalan Military Observers and troops. Our principled position regarding the resolution should under no circumstances be confused with contempt for those who proposed it.

Thank you.