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Open letter to the members of the United Nations Security Council: The situation in the Sudan

Dear Ambassador,

As the Security Council is discussing the report of the Secretary-General on the Sudan (S/2005/57), I am writing to present Amnesty International's recommendations on the deployment of a United Nations peace support operation in the Sudan, proposed in the Secretary-General's report. Our brief memorandum (AFR 54/025/2005) attached, sets out specific recommendations on the new mission's human rights component, the protection of women and children, impunity, protection of civilians, refugees and the internally displaced, and arms control and collection.

Also before the Council is the report of the International Commission of Inquiry on Darfur, which concluded that crimes against humanity and war crimes have been committed in Darfur. The Secretary-General has called that report "one of the most important documents in the recent history of the United Nations".

Amnesty International has documented numerous crimes under international law committed on a large scale against civilians by all parties to the conflict in the south, in the border areas of Abyei, the Nuba mountains and Darfur, as well as in areas under Sudanese government control outside these conflict zones. We therefore believe that the proposed United Nations Mission in Sudan, UNMISUD, to be deployed under the Comprehensive Peace Agreement, must have, as our report sets out, a strong and well resourced human rights monitoring, protection and promotion component, dealing with all human rights as well as rule of law institution building. The human rights component must be able to ensure that human rights are effectively integrated in the overall work of the mission, must enjoy full political support and must be provided with adequate resources. It should be able to document and publicly report on the human rights situation in all areas of the country. Amnesty International therefore welcomes the strong emphasis given to human rights, the rule of law and the protection of civilians reflected in the Secretary-General's report.

Unfortunately, the first draft resolution presented by the United States of America on the establishment of the new United Mission in Sudan does not endorse the above strong human rights mandate. In fact, the draft's human rights provisions are extremely weak: the proposed text envisages that the civilian component of the mission, including judiciary, human rights and legal officials, would be mandated to do no more than coordinating the activities of various UN agencies for human rights. The draft would not provide the mission with a mandate to protect human rights or advance justice and the rule of law, but merely "to promote understanding

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[there]of". Also deeply troubling is that the draft resolution pays virtually no attention to gender related abuses committed in Sudan, even though rape occurred on a massive scale and has been widely and authoritatively documented.

Amnesty International therefore calls on the Security Council to adopt a resolution with strong human rights provisions, which condemns, in the operative part of the resolution, the systematic violations of human rights and international humanitarian that have been committed in Sudan. The resolution must empower a strong human rights component to contribute effectively to the promotion and protection of human rights in Sudan, to help investigate human rights violations with a view to ending impunity and to play its full role in local capacity building enabling the Sudanese to live in a state where the rule of law and human rights, including of the most vulnerable, are effectively promoted and protected.

While welcoming the attention to the prevention of sexual exploitation and abuse by peacekeepers in the United States' draft, the Security Council must adopt a resolution which condemns rape and other forms of sexual violence committed by government forces and militias on a widespread and systematic basis, which may amount to a crime against humanity, as the International Commission of Inquiry also found. The Council should call on UNMISUD to actively address the issue and ensure that a gender perspective and the protection of children are a prime concern and are fully integrated in all aspects of the mission.

Numerous Amnesty International reports have documented war crimes and crimes against humanity perpetrated on a wide scale in Darfur, and also in the south and border areas. Such crimes have gone completely unpunished. The International Commission of Inquiry on Darfur reached the same conclusions. The draft resolution calls for the perpetrators to be "brought to justice through internationally accepted means". The International Commission of Inquiry carefully analyzed all options. It concluded that the Sudanese justice system is unable and unwilling to address the situation in Darfur; that there appeared to be no political will to establish an ad hoc international criminal tribunal; that it would be very expensive and counter-productive to add the Sudan situation to the mandates of either the International Criminal Tribunal for the former Yugoslavia or the International Criminal Tribunal for Rwanda; and that mixed courts would not necessarily be acceptable to the government, would not provide swift justice or attract the required funds. The Commission thus concluded that "the ICC, the only truly international criminal institution, is the single best mechanism to allow justice to be made for the crimes committed in Darfur".

Amnesty International agrees and urges the Council, in its forthcoming resolution, to refer the situation in Darfur to the Prosecutor of the International Criminal Court and establish a Compensation Commission, to work with the compensation commission recently set up by the Sudanese government, to provide reparations to victims. Political self interest on the part of some Security Council members must not be allowed to have precedence over the paramount need of the Sudanese people to have justice and redress: their suffering has been too long and too great.

We hope that you will seriously consider these views in establishing a new and very important United Nations mission in the Sudan.

Yours sincerely,

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Amnesty International Representative at the United Nations
and Head of Office