

AFRICAN UNION

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COMMUNIQUE ON THE 3 FEBRUARY 2010 JUDGMENT OF THE INTERNATIONAL CRIMINAL COURT APPEALS CHAMBER ON DARFUR

The African Union Commission has learnt of the judgment rendered by the Appeals Chamber of the International Criminal Court (ICC), directing the ICC Pre-trial Chamber I to reconsider whether or not the indictment of President Omar Hassan Al Bashir, announced on 4 March 2009, should be extended to cover the charge of genocide.

This decision comes at a particular time in the history of the Sudan. Indeed, over the coming months, the Sudan will be witnessing momentous events, in particular the holding of national elections, in April 2010, and the holding of a referendum on self-determination for Southern Sudan, scheduled for January 2011. For the African continent, the successful completion of these processes and, more generally, the implementation of the Comprehensive Peace Agreement (CPA) are of utmost importance.

It is in light of the above that the AU has been actively involved in the efforts aimed at assisting the Sudanese people meet the challenges facing them. In particular, mention should be made here of the steps being taken to follow-up on the far reaching recommendations of the AU High Level Panel on Darfur (AUPD) on the three interlocking issues of peace, justice and reconciliation. The overall objective is to facilitate the democratic transformation of the Sudan in line with the vision articulated in the CPA. The AU's efforts also include its support to the relaunching of the political process between the parties, under the auspices of the AU/UN Joint Chief Mediator and with the facilitation of the State of Qatar, to enable the Darfurians effectively to participate in the upcoming general elections and in the debate surrounding the 2011 referendum, as well as the continued deployment and enhancement of UNAMID.

The African Union has always emphasized its commitment to justice and its total rejection of impunity, in line with the relevant provisions of its Constitutive Act. At the same time, the AU reiterates that the search for justice should be pursued in a manner not detrimental to the search for peace. The latest decision by the ICC runs in the opposite direction.

It is in light of the above that the AU requested the United Nations Security Council to defer the process initiated by the ICC, making use of the provisions of Article 16 of the ICC Rome Statute. The African Union observes with concern that the UN Security Council has, to date, not given due consideration to this request, in spite of the AU's repeated appeals and the serious risks and dangers associated with the pursuit of the ICC process in the context of the ongoing search for peace and reconciliation in the Sudan, as well as for stability in the region. At its 14th

Ordinary Session held in Addis Ababa from 31 January to 2 February 2010, the Assembly of Heads of State and Government of the AU expressed deep regret at the failure of the UN Security Council to exercise the powers entrusted to it under Article 16 of the ICC Rome Statute and reiterated its request for the deferral of the proceedings initiated against President Al Bashir.

The African Union is confident that, with genuine support from the international community, the Sudanese people have the capacity to triumph over their long-standing divisions and accelerate the process of the pursuit of democracy and development. On its part the AU, which was the first to take the initiative and assume responsibility for peace and protection in Darfur, will remain actively engaged, as the crisis in Sudan is also Africa's crisis; indeed, it profoundly affects the continent's largest country at a critical moment in its national history, as well as its many neighbours and the continent as a whole.

The African Union is convinced that the achievement of lasting peace, justice and reconciliation in Sudan requires Sudanese ownership and Africa's leadership, with the full support of the international community.

Addis Ababa, 4 February 2010