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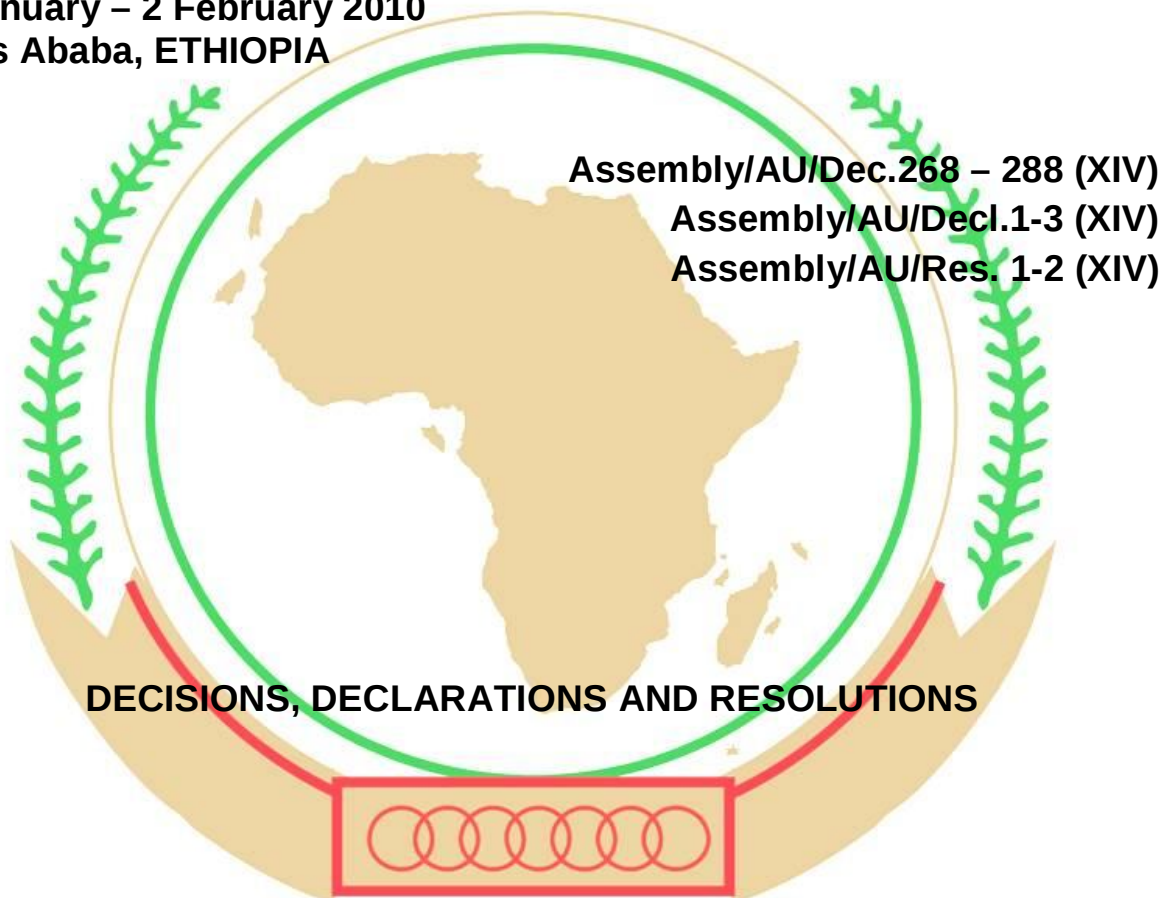
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ASSEMBLY OF THE AFRICAN UNION

Fourteenth Ordinary Session

31 January – 2 February 2010

Addis Ababa, ETHIOPIA



Assembly/AU/Dec.268 – 288 (XIV)

Assembly/AU/Decl.1-3 (XIV)

Assembly/AU/Res. 1-2 (XIV)

DECISIONS, DECLARATIONS AND RESOLUTIONS

**DECISION ON THE REPORT OF THE SECOND MEETING OF STATES PARTIES TO
THE ROME STATUTE ON THE INTERNATIONAL CRIMINAL COURT (ICC)
DOC. Assembly/AU/8(XIV)**

The Assembly,

1. **TAKES NOTE** of the Report of the Ministerial Preparatory Meeting on the Rome Statute of the International Criminal Court (ICC) held in Addis Ababa, Ethiopia on 6 November 2009 in conformity with Decision Assembly/AU/Dec.245(XIII) adopted in Sirte, Great Libyan Arab Jamahiraya, in July 2009, to prepare for the Review Conference of States Parties scheduled for Kampala, Uganda in May-June 2010;
2. **ENDORSES** the recommendations contained therein, and in particular the following:
 - I) Proposal for amendment to Article 16 of the Rome Statute;
 - II) Proposal for retention of Article 13 as is;
 - III) Procedural issues: Guidelines for the exercise of prosecutorial discretion by the ICC Prosecutor;
 - IV) Immunities of Officials whose States are not parties to the Rome Statute: the relationship between articles 27 and 98; and
 - V) Proposals regarding the crime of aggression.
3. **REITERATES** its commitment to fight impunity in conformity with the provisions of Article 4(h) of the Constitutive Act of the African Union;
4. **ALSO TAKES NOTE** of the Report of the Commission on the 8th Assembly of States Parties of the ICC (ASP) held in The Hague, Netherlands from 16 to 26 November 2009 and the outcome of the ASP meeting.
5. **WELCOMES** the submission by the Republic of South Africa, on behalf of the African States Parties to the Rome Statute of the ICC of a proposal which consisted of an amendment to Article 16 of the Rome Statute in order to allow the United Nations (UN) General Assembly to defer cases for one (1) year in cases where the UN Security Council would have failed to take a decision within a specified time frame.
6. **UNDERScores** the need for African States Parties to speak with one voice to ensure that the interests of Africa are safeguarded;

7. **WELCOMES** Resolution ICC-ASP/8/Res.6 on the Review Conference that establishes a Working Group of the ASP for the purpose of considering, as from its Ninth Session, amendments to the Rome Statute including among others the proposal for amendment to Article 16 of the Rome Statute together with the proposals from other States Parties or group of States Parties;
8. **TAKES NOTE** of the fact that the other proposals made by the Second Meeting of the African States Parties to the Rome Statute will not be considered during the Review Conference and **REQUESTS** accordingly, the African States Parties to raise the issue of the immunities of Officials whose States are not parties to the Rome Statute (the relationship between articles 27 and 98 under the topic "Cooperation" at the level of the Working Group of New York of the Bureau of ASP as well as during the stocktaking exercise of the Review Conference;
9. **ALSO TAKES NOTE** of the fact that there was no debate on the crime of aggression during the 8th ASP;
10. **DEEPLY REGRETS** that the request by the African Union to the UN Security Council to defer the proceedings initiated against President Bashir of The Sudan in accordance with Article 16 of the Rome Statute of ICC on deferral of cases by the UN Security Council, has not been acted upon, and in this regard, **REITERATES** its request to the UN Security Council;
11. **URGES** the African States Parties to the Rome Statute to follow-up on the concerns raised by Member States;
12. **TAKES NOTE** of the Review Conference of States Parties to the International Criminal Court scheduled to be held in Kampala, Uganda from 31 May to 11 June 2010, and **CALLS UPON** African Member States Parties to attend and effectively participate in the Conference;
13. **REQUESTS** the African Group in New York and the African Members of the Bureau of ASP, to follow-up on the implementation of this Decision in collaboration with the Commission and to ensure that the concerns raised by the Assembly of the Union and its Member States are properly addressed through consultations with other Regional Groups with a view to finding a durable solution and to report to the Assembly through the Commission on actions taken;
14. **ALSO REQUESTS** the Commission to follow-up on the implementation of this Decision and to report to the next Ordinary Session of the Assembly through the Executive Council in July 2010.