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ASSEMBLY OF THE UNION

Sixteenth Ordinary Session

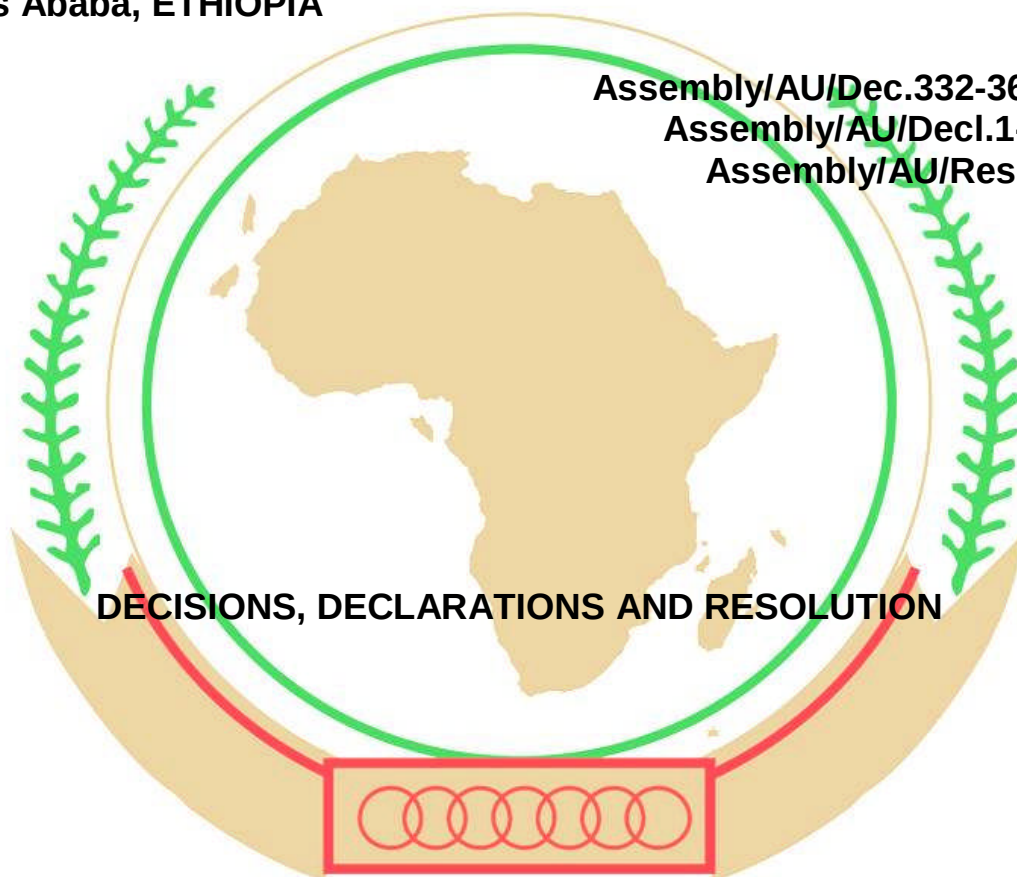
30 - 31 January 2011

Addis Ababa, ETHIOPIA

Assembly/AU/Dec.332-361(XVI)

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

Assembly/AU/Res.1(XVI)



DECISIONS, DECLARATIONS AND RESOLUTION

**DECISION ON THE IMPLEMENTATION OF THE DECISIONS
ON THE INTERNATIONAL CRIMINAL COURT Doc. EX.CL/639(XVIII)**

The Assembly,

1. **TAKES NOTE** of the Progress Report of the Commission on the Implementation of Decision Assembly/AU/Dec.296 (XV) adopted in Kampala, Uganda on 27 July 2010;
2. **REITERATES** its commitment to fight impunity in conformity with the provisions of Article 4(h) of the Constitutive Act of the African Union;
3. **DEEPLY REGRETS** that the request by the African Union (AU) to the United Nations (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; and **REQUESTS** the African members of the UN Security Council to place the matter on its agenda of the Council;
4. **ALSO DEEPLY REGRETS** the Decisions no.: ICC-02/05-01 of the Pre-trial Chamber I of the ICC dated 27 August 2010 informing the UN Security Council and the Assembly of the States Parties to the Rome Statute (ASP) about the visit of President Omar El-Bashir of the Sudan to the Republic of Chad and the Republic of Kenya on 21st July and 27th August 2010 respectively;
5. **DECIDES** that by receiving President Bashir, the Republic of Chad and the Republic of Kenya were implementing various AU Assembly Decisions on the warrant of arrest issued by ICC against President Bashir as well as acting in pursuit of peace and stability in their respective regions;
6. **SUPPORTS AND ENDORSES** Kenya's request for a deferral of the ICC investigations and prosecutions in relation to the 2008 post election violence under Article 16 of the Rome Statute to allow for a National Mechanism to investigate and prosecute the cases under a reformed Judiciary provided for in the new constitutional dispensation, in line with the principle of complementarity, and in this regard **REQUESTS** the UN Security Council to accede to this request in support of the ongoing peace building and national reconciliation processes, in order to prevent the resumption of conflict and violence; and **REQUESTS** the African members of the UN Security Council to place the matter on the agenda of the Council;
7. **TAKES NOTE** of the outcome of the Ninth Assembly of States Parties to the Rome Statute of the International Criminal Court (ICC) regarding the consideration of the proposed amendment to Article 16 of the Rome Statute;

8. **ALSO TAKES NOTE** of the Decision of the Ninth ASP-ICC to hold informal consultations on the proposed amendments to the Rome Statute in the context of a Working Group before its Tenth Session scheduled in December 2011 and **CALLS UPON** all African States Parties to the Rome Statute of the ICC that have not yet done so to co-sponsor the proposal for the amendment to Article 16 of the Rome Statute and indicate such willingness to the UN Secretary General, the Depositary of the Rome Statute, with copy to the AU Commission;
9. **UNDERScores** the need for African States Parties to the Rome Statute of the ICC to speak with one voice during the forthcoming negotiations at the level of the New York and The Hague Working Groups respectively and **REQUESTS** the Group of African States Parties in New York to ensure that the proposal for amendment to Article 16 of the Rome Statute is properly addressed during the forthcoming negotiations and to report to the Assembly through the Commission. In addition, they should ensure that the position of the ICC Prosecutor goes to an African during the forthcoming elections for Prosecutor scheduled for December 2011;
10. **REQUESTS** the Commission to follow-up on this matter and to report regularly on the implementation of the various Assembly decisions on ICC.

