

AFRICAN UNION

الاتحاد الأفريقي



UNION AFRICAINE

UNIÃO AFRICANA

Addis Ababa, ETHIOPIA P. O. Box 3243 Telephone: 00 251 11 551 7700 Fax: 00 251 11 551 7844
website: www.africa-union.org

**ASSEMBLY OF THE UNION
Seventeenth Ordinary Session
30 June - 1 July 2011
Malabo, EQUATORIAL GUINEA**

**Assembly/AU/Dec.363-390(XVII)
Assembly/AU/Decl.1-2(XVII)
Assembly/AU/Res.1(XVII)**

DECISIONS, DECLARATIONS AND RESOLUTION



**DECISION ON THE IMPLEMENTATION OF THE ASSEMBLY
DECISIONS ON THE INTERNATIONAL CRIMINAL COURT
Doc. EX.CL/670(XIX)**

The Assembly,

1. **TAKES NOTE** of the Progress Report of the Commission on the Implementation of Decision Assembly/AU/Dec.296 (XV) adopted by the Fifteenth Ordinary Session of the Assembly in Kampala, Uganda on 31 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. **STRESSES** the need to pursue all efforts and explore ways and means of ensuring 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 International Criminal Court (ICC) on deferral of cases by the UN Security Council, be 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 the agenda of the Council;
4. **ALSO STRESSES** the need to pursue all efforts in ensuring that the request by the AU to the UN Security Council to defer the investigations and prosecutions in relation to the 2008 post-election violence in Kenya under Article 16 of the Rome Statute be acted upon 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;
5. **REAFFIRMS** that by receiving President Bashir, the Republic of Chad, Kenya, and Djibouti were discharging their obligations under Article 23 of the Constitutive Act of the African Union and Article 98 of the Rome Statute as well as acting in pursuit of peace and stability in their respective regions;
6. **EXPRESSES DEEP CONCERN** at the manner in which the ICC Prosecutor handles the situation in Libya which was referred to the ICC by the UN Security Council through Resolution 1970 (2011). The Assembly **NOTES** that the warrant of arrest issued by the Pre-Trial Chamber concerning Colonel Qadhafi, seriously complicates the efforts aimed at finding a negotiated political solution to the crisis in Libya, which will also address, in a mutually-reinforcing way, issues relating to impunity and reconciliation. In this regard, the Assembly **DECIDES** that Member States shall not cooperate in the execution of the arrest warrant, and **REQUESTS** the UN Security Council to activate the provisions of Article 16 of the Rome Statute with a view to deferring the ICC process on Libya, in the interest of Justice as well as peace in the country;

7. **REQUESTS** the Group of African States Parties in New York and in the Hague as well as the African Members of the UN Security Council to closely follow-up on the implementation of the Assembly's Decisions on ICC;
8. **ALSO REQUESTS** the Commission in collaboration with the Permanent Representatives' Committee to reflect on how best Africa's interests can be fully defended and protected in the international judicial system, and to actively pursue the implementation of the Assembly's Decisions on the African Court of Justice and Human and Peoples' Rights being empowered to try serious international crimes committed on African soil;
9. **REQUESTS** the Commission to follow-up on this matter and to report regularly on the implementation of the various Assembly decisions on ICC.

