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No.: ICC-02/05-01/09
Date: 18 November 2013

PRE-TRIAL CHAMBER II

Before: Judge Ekaterina Trendafilova, Presiding Judge
Judge Hans-Peter Kaul
Judge Cuno Tarfusser

**SITUATION IN DARFUR, SUDAN
IN THE CASE OF**

The Prosecutor v Omar Hassan Ahmad AL BASHIR ("Omar Al Bashir")

**Public document
with Public Annex A**
Prosecution's urgent notification of travel in the case of *The Prosecutor v Omar Al Bashir*

Source: Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

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Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
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Other

Introduction

1. The Prosecution notifies Pre-Trial Chamber II (the “Chamber”) of the possibility of travel by President Omar Al Bashir (“Omar Al Bashir”) to attend a four-way African summit on 18 and 19 November and the third Arab-African Summit which will be held in the capital of Kuwait during 19-20 November 2013.
2. The Prosecution requests that the Chamber seek information from the relevant authorities of the State of Kuwait regarding the above and take any measures the Chamber deems appropriate to secure execution of the pending warrants of arrest against Omar Al Bashir, including informing the U.N. Security Council of the impending travel.

Procedural Background

3. On 31 March 2005, the Security Council acting under Chapter VII of the Charter of the United Nations adopted Resolution 1593 (2005) referring the situation in Darfur to the Court. The Security Council decided in the context of cooperation with and assistance to the Court that “...while recognizing that States not party to the Rome Statute have no obligation under the Statute, urges all States and concerned regional and other international organizations to cooperate fully”.
4. On 14 July 2008, the Prosecution filed its application for an arrest warrant for Omar Al Bashir.¹ On 4 March 2009, the Chamber issued an arrest warrant for Omar Al Bashir for seven counts of crimes against humanity and war crimes. In the decision, the Chamber found that “under Article 58(1) of the Statute, the arrest of Omar Al Bashir appears necessary at this stage to ensure (i) that he will appear before the Court; (ii) that he will not obstruct or endanger the ongoing investigation into the crimes for which he is allegedly responsible under the Statute; and (iii) that he will not continue with the commission of the above-mentioned crimes.”²

¹ ICC-02/05-157.

² ICC-02/05-01/09-3.

5. On 5 and 6 March 2009, the Registry submitted 3 filings to the Chamber, detailing transmission of the warrant of arrest and the requests for its implementation to the Government of the Sudan,³ to all Rome Statute States Parties⁴ and to the members of the UN Security Council.⁵
6. On 12 July 2010, the Chamber issued a second arrest warrant for Omar Al Bashir for three counts of genocide.⁶ The Registry subsequently transmitted requests and supplementary requests for the arrest and surrender of Omar Hassan Ahmad Al Bashir to States Parties, Non-States Parties Members of the United Nations Security Council and the Republic of the Sudan.

Reports of Omar Al Bashir's planned travel to the State of Kuwait

7. News reports indicate that Omar Al Bashir will travel to the State of Kuwait on 18 November 2013 to attend a four-way African Summit with the South Sudan President Silva Kiir Mayardit, Ugandan President Yoweri Kaguta Museveni and Ethiopian Prime Minister Hailemariam Desalegn on 18 and 19 November to discuss African affairs. Subsequently Omar Al Bashir will attend the third African Arab Summit which will be held on 19 and 20 November 2013 in Kuwait City.⁷
8. The Prosecution considers that the reports are credible and warrant intervention by the Chamber.

³ ICC-02/05-01/09-5.

⁴ ICC-02/05-01/09-7.

⁵ ICC-02/05-01/09-8.

⁶ ICC-02/05-01/09-95.

⁷ Sudan Vision Daily, The Third Afro-Arab Summit: Cooperation for Economic, Agricultural and Food Security Investment, 18th November 2013 - <http://news.sudanvisiondaily.com/details.html?rsnpid=227643>;
 Sudan Tribune, Bashir, Kiir to meet in four-way summit in Kuwait, 17th November 2013 - <http://www.sudantribune.com/spip.php?article48834>;
 Kuwait News Agency, Four-way African Summit to be held in Kuwait, 16th November 2013 - <http://www.kuna.net.kw/ArticleDetails.aspx?id=2344655&language=en>;
 Sudan News Agency, President Al-Basher leaves for Kuwait Monday to Participate in Arab-African Summit, 17th November 2013 - <http://suna-sd.net/suna/showNews/3JArzMHUMhxSdTP1YFobfOlQX7Uoi9tF0KP5p4D5ry0/2>

Relief Sought

9. The Prosecution requests that the Chamber take steps to ensure that the arrest warrants are executed. In particular, the Chamber should seek information from the relevant authorities of the State of Kuwait regarding the possible visit of Omar Al Bashir and remind those authorities of the existence of warrants of arrest against Omar Al Bashir for serious crimes under the Statute. The Chamber should also consider reminding the relevant authorities of the State of Kuwait of the decision of the Security Council in Resolution 1593 (2005) urging “all States” to cooperate fully with the Court.⁸ Finally, the Chamber should consider informing the U.N. Security Council of the situation⁹ in order to enable the Council to take appropriate action.



Fatou Bensouda

Prosecutor

Dated this 18th day of November 2013

At The Hague, the Netherlands

⁸ See, for example, ICC-02/05-01/09-162.

⁹ See in this context ICC-02/05-01/09-129.