



Security Council

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The Security Council,

Recalling the Statements of its President dated 6 February 2008 (S/PRST/2008/4) and 13 May 2013 (S/PRST/2013/5),

Reaffirming its strong commitment to the maintenance of international peace and security and recalling the need to fight impunity and to hold accountable all perpetrators of the 2007-2008 post-election violence in Kenya,

Acknowledging the reforms undertaken by the Government of Kenya, in accordance with the 2008 National Accord and Reconciliation Process and the Constitution of Kenya of 2010, particularly in the administration of justice, security and governance, fighting impunity, as well as the measures taken by the Government towards resettling of the internally displaced persons, providing reparations to the victims who suffered losses in the post-election violence, investigation and prosecution of post-election violence crimes, operationalization of the Witness Protection Agency, promotion and restoration of justice, peace, stability, national cohesion and national reconciliation and reintegration in Kenya,

Considering the decision of 21 March 2010 of the International Criminal Court (“the Court”) authorising the Prosecutor to commence investigations *proprio motu* into the situation in the Republic of Kenya, in relation to the post-election violence of 2007-2008 and under Article 15 of the Rome Statute of the Court, to which Kenya is a State party,

Noting with appreciation the cooperation that the Government of Kenya and all the indictees have extended to the Court for the past five years,

Further noting that Mr. Uhuru Muigai Kenyatta and Mr. William Samoei Ruto were, in March 2013, democratically elected President and Deputy President of the Republic of Kenya, respectively,

Taking into consideration that the Court commenced the trial in the case against the latter on 10 September 2013, while the trial in the case against the former is provisionally scheduled to commence on 5 February 2014,

Stressing that the proceedings initiated against the President and the Deputy President of the Republic of Kenya is distracting and preventing them from fully



discharging their responsibilities and extensive duties, as elaborated upon in the relevant provisions of the Kenyan Constitution,

Reiterating its deep concern that the increasing violence perpetrated by armed groups, the number of which is growing in several regions and sub-regions of Africa, continues to pose a serious threat to international peace and security, and *recalling* that terrorist violence negatively impact the efforts by African States to promote social and economic development, and undermines global stability and prosperity in Africa,

Commending the Government of Kenya for its contribution to the restoration of peace and security in the Horn of Africa and Eastern Africa, including Somalia, and for the action it has taken to fight against terrorism at national, regional and international levels,

Expressing deep concern over the current terrorist threat against Kenya and other countries of the Horn of Africa and Eastern Africa, and reiterating its determination to combat all forms of terrorism, in accordance with its responsibilities under the Charter of the United Nations,

Recalling its press statement of 21 September 2013 condemning the terrorist attack at the *Westgate Shopping Mall* in Nairobi and expressing its solidarity with the people and Government of Kenya at this difficult time,

Acknowledging that the ordinary extensive duties of Mr. Uhuru Muigai Kenyatta and Mr. William Samoei Ruto, as President and Deputy President of Kenya, are compounded by both the recent terrorist attacks and the persisting threat to the national security, and *considering* the decisive role of Kenya, under their leadership, as frontline state in the fight against terrorism,

Reaffirming the necessity to comply with the norms of international customary law on the immunity of high-ranking officials of the States and *acknowledging* their importance for the ensuring of stability of international relations,

Recalling that in accordance with article 1 of the Rome Statute the ICC shall be complementary to national criminal jurisdictions,

Considering article 16 of the Rome Statute of the Court under which no investigation or prosecution may be commenced or proceeded with for a period of 12 months after the Security Council, in a resolution adopted under Chapter VII of the Charter of the United Nations, has requested the Court to that effect,

Taking note of the letter dated 21 October 2013 from the Government of Kenya to the President of the Security Council, requesting the deferral of the investigation and prosecution against the President and Deputy President of Kenya, in accordance with article 16 of the Rome Statute of the Court and pursuant to Decision Ext/Assembly/AU/Dec.1(Oct.2013) dated 12 October 2013 of the Extraordinary Session of the Assembly of the African Union,

Mindful of its primary responsibility for the maintenance of international peace and security under the Charter of the United Nations,

Bearing in mind that in accordance with article 103 of the Charter of the United Nations in the event of a conflict between the obligations of the Members of the United Nations under the Charter and their obligations under any other international agreement, their obligations under the Charter shall prevail,

Acting under Chapter VII of the Charter of the United Nations,

1. *Requests* the International Criminal Court to defer the investigation and prosecution against President *Uhuru Muigai Kenyatta* and Deputy President *William Samoei Ruto* for a period of 12 months, in accordance with article 16 of the Rome Statute of the Court;
 2. *Invites* the Secretary General and the Court to report to the Security Council, within two months of the adoption of this resolution, on action taken on its implementation;
 3. *Decides* that Member States shall take no action inconsistent with paragraph 1 and with their international obligations;
 4. *Decides* to remain actively seized of the matter.
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