

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

*Original: English*

*No.: ICC-02/05-01/09*  
*Date: 27 February 2017*

**PRE-TRIAL CHAMBER II**

**Before:** Judge Cuno Tarfusser, Presiding Judge  
Judge Marc Perrin de Brichambaut  
Judge Chang-ho Chung

**SITUATION IN DARFUR, SUDAN**

**IN THE CASE OF  
THE PROSECUTOR *v.* OMAR HASSAN AHMAD AL BASHIR  
("OMAR AL BASHIR")**

**Public  
With one annex**

**Transmission of a letter from the Under-Secretary-General for Legal Affairs and the United Nations Legal Counsel, dated 23 February 2017, submitted pursuant to Pre-Trial Chamber II's Decision ICC-02/05-01/09-274**

**Source:** The Registry

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

**The Office of the Prosecutor**

Ms Fatou Bensouda

Mr James Stewart

**Counsel for the Defence**

**Legal Representatives of the Victims**

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants  
(Participation/Reparation)**

**The Office of Public Counsel for  
Victims**

**The Office of Public Counsel for the  
Defence**

**States' Representatives**

Competent authorities of the  
Republic of South Africa

**Other**

United Nations

**REGISTRY**

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**Registrar**

Mr Herman von Hebel

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

## **I. Introduction**

1. In accordance with rule 13 (1) of the Rules of Procedure and Evidence, the Registry hereby transmits as an annex to this submission, a letter from the Under-Secretary-General for Legal Affairs and the United Nations Legal Counsel dated 23 February 2017 with reference number 2010-OLC-000328.

## **II. Procedural History**

2. In a decision issued on 8 December 2016, Pre-Trial Chamber II (“Chamber”) convened “a public hearing on 7 April 2017, in order to discuss any issues relevant to the Chamber's determination of whether to make a finding of non-compliance by South Africa with the Court's request for arrest and surrender of Omar Al Bashir and refer the matter to the Assembly of States Parties and/or the Security Council of the United Nations under article 87(7) of the Statute”.<sup>1</sup>
3. The Chamber also invited “representatives of the United Nations to attend the hearing, and to make, if they so wish, written submissions prior to the hearing, by 17 March 2017”.<sup>2</sup>

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<sup>1</sup> Pre-Trial Chamber II, “Decision convening a public hearing for the purposes of a determination under article 87(7) of the Statute with respect to the Republic of South Africa”, dated 8 December 2016, ICC-02/05-01/09-274, p. 8.

<sup>2</sup> *Id.*

### III. Submission

4. On 24 February 2017, the Registry received the annexed letter from the Under-Secretary-General for Legal Affairs and the United Nations Legal Counsel, which it now transmits to the Chamber.

  
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Marc Dubuisson, Director of the Division of Judicial Services  
*per* delegation of  
Herman von Hebel, Registrar

Dated this 27 February 2017

At The Hague, the Netherlands