

## **STATEMENT ON BOTSWANA'S POSITION REGARDING THE AFRICAN UNION'S DECISION TO HAVE THE INTERNATIONAL CRIMINAL COURT (ICC) WITHDRAW CHARGES AGAINST KENYAN LEADERS**

Botswana signed and ratified the Rome Statute establishing the International Criminal Court (ICC) in September 2000, with a view to support efforts of the international community to bring to justice, perpetrators of war crimes, genocide as well as gross abuses of human rights. Botswana has since then, demonstrated commitment to the effective implementation of the objectives and ideals of ICC.

Regarding the ICC's impending case against President Uhuru Kenyatta and Vice President William Ruto, Botswana's position is not diametrically opposed to Kenya's request for a referral of the ICC investigations and prosecutions in relation to the 2007 post election violence in Kenya, to allow for Kenya's national mechanism to investigate and prosecute the cases under a reformed Judiciary provided for in the new constitution.

Botswana's standpoint is that Kenya as a sovereign state and state party to the Rome Statute has every right to demonstrate to the ICC that they have the capacity to investigate and prosecute the alleged crimes against humanity. Botswana has already acknowledged that Kenya has made great strides in reforming her political and judicial systems and continues to do so. In fact in 2009, Botswana spoke out at the African Union Council meeting encouraging Kenya to engage ICC with a view to have the case withdrawn for prosecution in Kenya. Botswana therefore continues to be of the view that Kenya should direct her request to the ICC as the competent authority to deal with this matter.

Botswana's only reservation was that the African Union as a non-state party to the Rome Statute, does not have a mandate to direct the ICC or to deal with this matter in the manner envisaged.

Botswana is encouraged by the fact that President Uhuru Kenyatta and Vice President William Ruto have committed to cooperate with ICC. It is also our conviction that their request for withdrawal of the case for prosecution in Kenya does not imply that they are deviating from their undertaking to cooperate with ICC.

Botswana urges the Kenyan authorities to continue along these lines, and follow the process laid down in the Rome Statute.

**30 May 2013**