

**Cour
Pénale
Internationale**

**International
Criminal
Court**

No.: ICC-01/04

Date: 9 March 2005

Original: English

PRE-TRIAL CHAMBER I

Before: Judge Claude Jorda, Presiding Judge
Judge Akua Kuenyehia
Judge Sylvia Steiner

Registrar: Mr Bruno Cathala

SITUATION IN THE DEMOCRATIC REPUBLIC OF CONGO

Public Document

**Decision on the Prosecutor's Position on Pre-Trial Chamber I's 17 February 2005
Decision to Convene a Status Conference**

The Office of the Prosecutor

Mr. Luis Moreno Ocampo

Mrs. Fatou Bensouda

Mr. Ekkehard Withopf

Mr. Fabricio Guariglia

PRE-TRIAL CHAMBER I of the International Criminal Court (the "Court");

NOTING the "Decision to Convene a Status Conference" issued by Pre-Trial Chamber I on 17 February 2005;

NOTING the "Prosecutor's Position on Pre-Trial Chamber I's 17 February 2005 Decision to Convene a Status Conference" (the "Prosecutor's Position"), filed on 8 March 2005, in which the Prosecutor expresses the view that he should have been entitled to make submissions and to be heard on the issue of whether the Pre-Trial Chamber has the authority to convene a status conference;

CONSIDERING that the Prosecutor's concerns in relation to the convening of the status conference should have been raised in accordance with the procedural mechanism provided for in the Rome Statute (the "Statute"), the Rules of Procedure and Evidence (the "Rules") and the Regulations of the Court;

CONSIDERING that article 82 paragraph (1) (d) of the Statute specifies the appropriate procedural remedy for the Prosecutor to raise his concerns;

CONSIDERING that the Prosecutor has not availed himself of that procedural mechanism within the time-limits provided for in rule 155 of the Rules;

CONSIDERING that, by failing to do so, the Prosecutor has waived his right to raise his concerns regarding the convening of the scheduled status conference;

CONSIDERING therefore that there is no procedural basis for the filing of the Prosecutor's Position;

NOTING furthermore that, in particular in paragraphs 5 to 7 of the Prosecutor's Position, filed by the Prosecutor as a public document, the Prosecutor discusses the content of and quotes parts of documents that were filed by Pre-Trial Chamber I on either a confidential basis or *ex parte* to be made available to the Prosecutor only;

FOR THESE REASONS

DECLINES to consider the submissions made in the Prosecutor's Position and therefore **REJECTS** all requests set out in paragraph 29 therein;

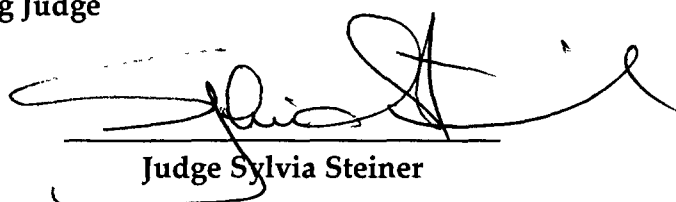
CONFIRMS that the scheduled status conference shall proceed;

REQUESTS the Registrar to remove from the public record the Prosecutor's Position and treat it as *ex parte* to be made available to the Prosecutor only, and **INVITES** the Prosecutor to redact, for the purpose of the public record in the situation of the Democratic Republic of Congo, the sections of the Prosecutor's Position which discuss the content of and quote parts of confidential documents.

Done in both English and French, the English version being authoritative.



Judge Claude Jorda
Presiding Judge

Judge Akua Kuenyehia

Judge Sylvia Steiner

Dated this Wednesday, 9 March 2005.

At The Hague,

The Netherlands.