



Original: **French**

No.: **ICC-02/05**

Date: **18 December 2006**

PRE-TRIAL CHAMBER I

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

Registrar: Mr Bruno Cathala

SITUATION IN DARFUR, SUDAN

Public

Application requesting the presence and participation of the *Ad Hoc* Counsel for the Defence during the proceedings that the Office of the Prosecutor will undertake in Sudan

The Office of the Prosecutor
Mr Luis Moreno-Ocampo, Prosecutor
Ms Fatou Bensouda, Deputy Prosecutor
Mr Andrew Cayley

Ad Hoc Counsel for the Defence
Mr Hadi Shalluf

**MAY IT PLEASE THE PRESIDING JUDGE AND JUDGES OF PRE-TRIAL
CHAMBER I,**

CONSIDERING that the Prosecutor requested an update from the Government of the Sudan about national judicial proceedings;

CONSIDERING that the Prosecutor has indicated that in a formal reply, the Government of Sudan had informed him that 14 individuals had been arrested for violations of international humanitarian law and human rights abuses;

CONSIDERING that the Prosecutor reported to the United Nations Security Council¹ that he would request the cooperation of the Government of the Sudan to facilitate a visit by a team from his Office to the Sudan in January 2007 to meet the individuals in custody;

CONSIDERING that the *Ad Hoc* Counsel for the Defence is of the opinion that any meeting between the Office of the Prosecutor and the individuals in custody in the Situation in Darfur must be conducted in the presence of the Defence, and that this is a requirement and obligation under the Rules of Procedure;

CONSIDERING that Pre-Trial Chamber I is the judicial organ with jurisdiction in accordance with the Statute, the Regulations of the Court and the Rules of Procedure and Evidence to monitor the conduct of proceedings (see articles 56 *et seq.* of the Statute);

¹ ICC-OTP-20061215-193. The Prosecutor of the ICC is preparing to present evidence against the war criminals in Darfur – Fourth Report of the Prosecutor of the International Criminal Court to the United Nations Security Council pursuant to Resolution 1593 (2005). See also interview granted by the Prosecutor to the BBC in Arabic on 14 December 2006 regarding the situation in Darfur.

CONSIDERING that, pursuant to the Regulations of the Court, the Statute and the Rules of Procedure and Evidence, the *Ad Hoc* Counsel for the Defence in the Situation in Darfur hereby respectfully requests that Pre-Trial Chamber I:

- **GRANT** the *Ad Hoc* Counsel for the Defence leave to attend all criminal proceedings in the Situation in Darfur, be it within the Court, or outside, or abroad, that is, all proceedings provided for in the regulations of the Court, the Statute, the Rules of Procedure and Evidence, and general rules of criminal procedure: questioning, interviewing witnesses and victims, witness confrontations, etc.;
- **ORDER** the Office of the Prosecutor to inform the *Ad Hoc* Counsel for the Defence of any proceedings he intends to consider so that the rights of the Defence are guaranteed and safeguarded;
- **ORDER** the Office of the Prosecutor to invite the *Ad Hoc* Counsel for the Defence in the Situation in Darfur to attend and participate in all proceedings in order to safeguard the rights of the Defence under articles 54 and 55 of the Statute and rules 111, 112, 113 and 115 of the Rules of Procedure and Evidence;
- **ORDER** the appropriate Court service to facilitate and organise all Defence missions either within the Court, or outside, or abroad pursuant to rule 20.

ACCORDINGLY,

In order to safeguard and guarantee the rights of the Defence, the *Ad Hoc* Counsel for the Defence in the Situation in Darfur respectfully submits the present application to the Presiding Judge and Judges of Pre-Trial Chamber I.

[signed]_____

Hadi Shalluf
Ad Hoc Counsel for the Defence

Dated this 18th day of December 2006

At Paris, France