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No.: ICC-01/04-01/06

Date: 4 June 2007

PRE-TRIAL CHAMBER I

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

Registrar: Mr Bruno Cathala

**SITUATION IN THE DEMOCRATIC REPUBLIC OF CONGO
IN THE CASE OF
THE PROSECUTOR
*v. THOMAS LUBANGA DYILO***

Public Document

Motion and proposed Amicus Brief in relation to the pro se request for review of the Registry decision of 14 May 2007 by Thomas Lubanga Dyilo on behalf of the International Criminal Bar pursuant to Rule 103 of the ICC Rules of Procedure and Evidence

The Office of the Prosecutor

Mr. Luis Moreno-Ocampo

Ms. Fatou Bensouda

Mr. Ekkehard Withopf

Legal Representatives of Victims

Mr. Luc Walley, Mr. Frank Mulenda,

Me Carine Bapita Buyangand

Mr Thomas Lubanga Dyilo

**Counsel for the International Criminal
Bar**

Ms. Virginia Lindsay

1. Pursuant to Rule 103 of the Rules of Procedure and Evidence of the International Criminal Court, the Executive Committee of the International Criminal Bar (ICB) respectfully requests leave to file the attached Brief of Amicus Curiae to aid in the proper determination of the *pro se* request for review filed by Thomas Lubanga Dyilo on 25 May 2007 of the Registry Decision of 14 May 2007 denying his application for supplemental legal aid.

A. THE INTERNATIONAL CRIMINAL BAR IS AN APPROPRIATE ORGANISATION TO ACT AS AN AMICUS IN THE PRESENT MATTER

2. The International Criminal Bar (ICB) is an organization made up of individual Counsel and Bars and Law Societies and Associations of Counsel representing all of the major legal systems of the world. Its objectives are to:
 - a. Participate in the regulation of Counsel who practice before the Court;
 - b. Defend the principle of freedom of choice for one's Counsel;
 - c. Defend the principle of equality of arms;
 - d. Facilitate and encourage the work of Counsel before the Court and their effective communications with the different organs within the Court, and
 - e. Promote opportunities for Counsel to acquiring knowledge and competences necessary to practice before the Court.
3. The ICB was founded on 15 June 2002, at the Conference of Montreal and held its first general assembly in Berlin in March 2003, at which 400 people from more than 50 countries attended. Its governing structure ensures that all parts of the world and all of the major legal systems of the world are represented.
4. Since its inception, the ICB has attended and participated in the work of the Assembly of States Parties, and on 28 November 2005, the Assembly of States Parties to the Rome Statute formally invited the International Criminal Bar to attend and participate in the work of the Assembly. This decision has only confirmed the commitment of the ICB, and we have continued to consistently and effectively participate in the work of the Assembly.
5. The ICB actively participates in consultations with the Registrar on issues which include the Code of Professional Conduct for Counsel appearing before the Court, and the Court's legal aid system.

6. A substantial number of Counsel included on the Registrar's list of counsel for the International Criminal Court are members of the International Criminal Bar, and most of the elected positions provided for in the regulations of the Court are filled by members of the International Criminal Bar;
7. The International Criminal Bar has previously submitted an amicus brief before the International Criminal Tribunal for the former Yugoslavia, which was acknowledged in the decision of that matter.¹

B. THE *PROPOSED* AMICUS BRIEF WILL ASSIST THE PRETRIAL CHAMBER IN RESOLVING THE ISSUES RAISED IN THE REQUEST FOR REVIEW *SUB JUDICE*

8. Rule 103(1) of the ICC Rules of Procedure and Evidence states:

At any stage of the proceedings, a Chamber may, if it considers it desirable for the proper determination of the case, invite or grant leave to a State, organization or person to submit, in writing or orally, any observation on any issue that the Chamber deems appropriate.

9. Because the accused is having to act *pro se* and without the assistance of his chosen counsel in relation to legal issues that would benefit from treatment by trained professional Counsel, and because the International Criminal Bar is actively informed of the development of the legal aid system as recently revised and has information concerning the consultation process underlying the recent revisions, as well as having expertise relevant to issues relating to the level of work required in complex international criminal cases and the conditions under which this work must be performed, it is respectfully submitted that the proposed amicus brief will assist the Court in the proper determination of the case.
10. For the foregoing reasons, the ICB respectfully requests that the Pretrial Chamber I grant this motion and order that the attached Brief of Amicus Curiae be filed in the instant case

¹ See In the Matter of X, Public Redacted Version of the Decision on Application of X for Review of Decision of the Registrar Withdrawing Applicant's Name From Rule 45 List, 31 January 2006, at p. 3 ("Noting the Application to File Brief of Amicus Curiae and the 'Brief of Amicus Curiae, The International Criminal Bar, Supporting Application of X for Review of Decision of Registrar Withdrawing Applicant's Name from Rule 45 List', submitted on 21 November 2005").

and that Mr. Lubanga Dyilo's request for review be granted as necessary to ensure an effective defence.

Respectfully submitted,

A handwritten signature in black ink, reading "V. C. Lindsay".

Virginia Lindsay

Counsel on behalf of the Executive Committee of the International Criminal Bar

Dated this 4th day of June, 2007

At Paris