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No.: ICC-01/04-01/06
Date: 3 December 2008

TRIAL CHAMBER I

Before: Judge Adrian Fulford, President
Judge Elizabeth Odio Benito, Judge
Judge René Blattmann, Judge

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

Public

**Prosecution's submission of questions to the Court's expert on
background and context and on further matters concerning the Court's
and the Prosecution's experts on background and context**

Source: Office of the Prosecutor

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

The Office of the Prosecutor

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Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section

Other

Background

1. On 25 November 2008, the Trial Chamber ordered the Parties and Participants to set out any relevant matters and questions which they wish to have taken into account by Mr Roberto Garretón, the Court's expert on background and context.¹

Submissions on the Court's expert

Questions to the Court's expert

2. In the Prosecution's submission, the Court's expert on background and context should provide expert testimony on the following issues:²
 - (i) The situation of Ituri: its history, characteristics and its place/role within the Democratic Republic of the Congo leading up to and at the time relevant to the Document Containing the Charges; and
 - (ii) The conflict and reasons for tensions between the various communities involved in the conflict in Ituri, including the influence of regional powers and wealth-related issues.

¹ ICC-01/04-01/06-T-99-ENG at page 18, lines 12 to 16.

² These questions largely mirror the questions the Prosecution put to its expert on background and context, Mr Gérard Prunier.

Other relevant matters

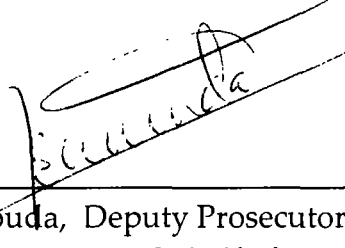
3. In order to meaningfully prepare for the examination of the Court's expert, the Court's expert should be instructed to publicly file his expert report three weeks prior to his anticipated testimony. The Parties and Participants should be given an opportunity to put potential follow-up questions in writing³ to the Court's expert no later than one week prior to his testimony in order to allow the Court's expert to adequately research, where deemed necessary.

Submission on the Prosecution's expert

4. The Prosecution informs the Trial Chamber that it considers it appropriate to call its expert on background and context immediately after the testimony of the Court's expert.⁴
5. The Prosecution proposes calling first the former child soldier witnesses in order to understand the particular conditions of the alleged crimes; subsequently the expert witnesses, in order to fully understand the context and to allow the Parties, Participants and the Trial Chamber to refine their questions; and finally those witnesses who establish the internal functioning of the UPC/FPLC and the role of Thomas Lubanga.

³ All questions by any of the Parties and Participants should be made available to all other Parties and Participants. These questions should not limit the scope of the examination of the expert witness.

⁴ Since the Prosecution is in contact with VWU on the sequence of its witnesses, the Prosecution (in making reference to ICC-01/04-01/06-T-99-ENG at page 16, lines 17 to 23) would appreciate if the Trial Chamber could confirm that it is its intention to call the Court expert on background and context as the first witness in trial.



Fatou Bensouda, Deputy Prosecutor (Prosecutions)
on behalf of
Luis Moreno-Ocampo, Prosecutor

Dated this 3rd day of December 2008
At The Hague, The Netherlands