

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: ICC-01/04-01/06
Date: 19 January 2009

TRIAL CHAMBER I

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

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

Public

Prosecution's Provision of a Tentative Consolidated List of Admissions

Source: [Office of the Prosecutor]

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

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Introduction

Pursuant to the Trial Chamber's Order at the Status Conference on 16 January 2009¹, the Prosecution herewith submits its tentative consolidated list of admissions for the Trial Chamber's consideration². If required, a final list of admissions will be submitted by 23 January 2009, as ordered by the Trial Chamber.³

1. In or about April 2003, VICTOR NGONA represented the UPC at the Pacification Commission of Ituri.
2. The UPC named its airline company 'MBAU PAX', combining the name of a Lendu village and 'PAX'.
3. In or about February 2003, the UPC attempted to sensitize the Lendu community in or around Atute towards pacification.
4. In or about the end of February 2003, the UPC invited the Lendu to meetings in Sangi, Kobu, Tomali and Ngongo in order to discuss pacification.
5. During the attack on Mongbwalu in November 2002, the type of weapons used by the UPC was the same as the weapons used by the Ugandans against the Lendu in the attack on Kobu.
6. Some children under the age of 15, including orphans of war with no other alternatives or children attracted by the power of having a weapon joined the FPLC on their own initiative⁴.
7. The people in the UPC were mainly Hema with only a few Lendu and Balulu, but persons of all different tribes were accepted.
8. From September to December 2003 Uganda and Rwanda had a role in the events in Ituri and supplied ammunition and weapons to the UPC.⁵
9. Thomas LUBANGA DYILO had a political role in the UPC and did not fight at the front lines.⁶

¹ ICC-01/04-01/06-T-104-ENG 16 January 2009, page 52 lines 4 to 8.

²The Prosecution submits that the proposed admissions render it unnecessary to lead evidence on these issues. However, such admissions do not preclude the parties from leading evidence on the international or non-international character of the conflict.

³ *Ibid.*

⁴ The Prosecution intends to argue that the children's voluntariness to join the UPC/FPLC or the consent of their parents/family is legally irrelevant. The prohibition to conscript or enlist children under the age of 15 into an armed group is absolute. ;

⁵ Proposed Admissions of Facts 1 to 8 inclusive are referenced in See ICC-01/04-01/06-1181-Conf-Exp, 21 February 2008.

10. Thomas LUBANGA made radio speeches stating that the Lendus were manipulated by foreigners.⁷
11. Thomas LUBANGA made public statements stating that the Lendus were manipulated by foreigners.⁸
12. In and around November 2003 Rwanda and mercenaries from both Rwanda and Uganda were involved in the events in the DRC.
13. Rwanda and mercenaries from both Rwanda and Uganda were involved in the events in the DRC.
14. It has been said that Rwanda's clear intent was to strengthen their hold on the Kivus and even gradually making them part of their own territory.
15. The President of Uganda had encouraged cooperation between Lubanga and Tibasima.
16. Uganda allied with the rebel movement RCD-K in order to exploit the natural resources.
17. Young children voluntarily joined the UPC/FPLC.⁹
18. Other militia groups in Ituri also used child soldiers.
19. Bosco said that the underage soldiers are orphans who were being looked after by the UPC.
20. Children joined the UPC voluntarily¹⁰.
21. On or about 16 September 2002 a Rwandan airplane dropped arms, ammunition, and uniforms at Mandro.
22. Uganda was present in Ituri throughout 2002. During this period it helped Hema militias to attack Lendu villages and Lendu militia to attack Hema villages. Reportedly, it was Uganda who provided the Hema militias its first weapons.¹¹
23. It has been said that Thomas Lubanga signed an agreement with the political-military movement under the control of the Ugandans for the provision of food to soldiers.
24. It has been said that for the purpose of the administration of Ituri, the Ugandans imposed the nomination of Thomas Lubaga Dyilo as Minister of Defence of RCD/K-ML.

⁶ See ICC-01/04-01/06-1301-Conf-Exp, 2 May 2008. The Prosecution notes that it will lead evidence that Thomas Lubanga commanded the FPLC.

⁷ *Ibid*

⁸ *Ibid*.

⁹ Reference to footnote 4.

¹⁰ *Ibid*.

¹¹ Proposed Admissions 12 to 22 inclusive emanate from ICC-01/04-01/06-1496-Conf-Exp, 12 November 2008 and 17 November *Ex Parte* Hearing.

25. It has been said that Uganda ordered its army, which was still present in Ituri, to force Thomas Lubanga away from Bunia in 6 March 2003.
26. It has been said that the term "les effacés" is one used to describe the coalition between the UPC militia and the Rwandan combatants.
27. It has been said that in early 2003 the Ugandans organised a meeting in Aru, seemingly between the FNI and the UPC.
28. It has been said that in early 2003 Uganda's President, MUSEVENI, organized the meeting in Arua with Floribert NGABU.
29. It has been said that in early 2003 the UPC, as well as the FNI, participated in the meeting in Arua, organised by the Ugandans.
30. It has been said that in early 2003 the Ugandans organised a meeting in Kampala among the different armed groups of Ituri.
31. It has been said that in early 2003 the Ugandans organised a meeting among some armed groups of Ituri (the FNI, the PUSIC and the FPDC) in order to create a bigger armed group, the FIPI.
32. Some Ugandans played a role (in particular, colonel MAYOMBO) in organising the meeting to create the FIPI.
33. During the relevant time period there was an alliance between RCD-K/ML and the Kinshasa government and the provision of weapons by the latter to Lendu combatants.
34. It has been said that there was an alliance between DRC regular army and Lendu rebel group RCD-K/ML (and its armed wing APC); Kinshasa relied on Lendu combatants to re-conquer Ituri.
35. It has been said that the military needs of the UPC in 2002 and 2003 were obtained from Rwanda, including ammunitions, arms, and uniforms and that a person called SAFARI was responsible for obtaining them.
36. It is said that UPC soldiers were trained in heavy arms and mines by Rwanda.
37. Children joined the UPC voluntarily.¹²
38. It has been said that the term "Rwanda" was written on boxes of ammunition and arms sent by airplane.
39. It has been said that from 2000 to 2001 recruits coming from Ituri received military training in Kyankwanzi, Uganda.
40. It has been said that a high ranking Rwandan called SAFARI told the troops at Mandro through an instrument that Rwanda was assisting the UPC.
41. It has been said that the UPC and RCD and Rwanda had a military cooperation agreement with each other.
42. It has been said that the Rwandans were involved in massacres in Ituri.

¹² Reference to footnote 4.

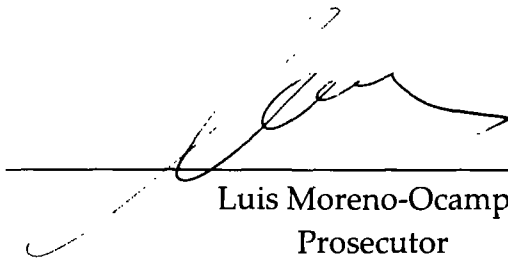
43. It has been said that the UPC employed Bosco NTAGANDA and Jérôme KAKWAKU who were known in the region as being Rwandan.
44. It has been said that the Rwandans collaborated with the UPC because some of the anti-personnel mines used by the UPC came from Rwanda.
45. It has been said that Rwanda gave support to the UPC during the relevant period, but for a short period.
46. Up until July 2002 LOMPONDO negotiated with the Ugandans how to administer BUNIA.
47. Up until July 2002 LOMPONDO was in charge of the administration, but it was the Ugandans who ensured security in the city of Bunia.
48. Uganda soldiers have been seen with UPC militia in Bogoro.
49. The Ugandans supported the Lendu (NGUDJOLO) fighting the UPC in Bunia.¹³
50. A 12 or 13 year old boy was forcibly conscripted by the RCD of MBUSA NYAMWISI in 1998 to 2001. He and about 165 other children were subsequently sent to Chakwanzi in Uganda to receive military training. Once repatriated, most of these children were re-recruited by the different militia operating in Bunia, inter alia the APC and RCD/K/ML.
51. An 11 year old boy was forcibly recruited by the FRPI in 2001. In Medu camp he was regrouped with six other children from Bunia.
52. In the Lendu military camp in Zumbe, Irumu territory, young boys aged between 12 and 17 years were militarily trained in 2003. The training included physical exercises, combat techniques and the use of weapons.
53. An 11 year old girl was used by the FNI in the battles of Nyangaray and Lipri in 2001/2002.
54. A 13 year old boy together with a few other minors enlisted in the FNI military camp in Zumbe in 2001. He spent four months there.
55. In 2002 / 2003 there were many children between 10 and 15 years amongst the soldiers in the camp in Aveba, which was a Ngiti camp.
56. Around 2003 there were kadogo between 12 and 15 years in all FRPI camps. They killed and they took part in hostilities. In Kagaba, children were used as escorts.
57. Amongst the soldiers in the Ngiti Nyamalinga, Bolo, Bavi and Tcheido camps were children also girls in the period between September 2002 and 2004. Amongst the Walendu Bindi, there were always children who participated in military attacks."
58. In 2002, amongst the Ngiti combatants there were adolescents.
59. In 2002, amongst the Lendu combatants there were children of 14 to 16 years of age, boys and girls; they took part in fighting.

¹³ Proposed Admissions 23 to 49 inclusive emanate from ICC-01/04-01/06-1542 Conf-Exp, 08 December 2008.

60. Amongst the Ngiti and Lendu milita, there were 11 to 19 year old children in 2002; it is said that they were not many. They had arms, AK-47. There was a forced recruitment system.
61. In September 2002, amongst the Ngiti soldiers, there were relatively young children, including 12 year old children.
62. A 10 year old boy voluntarily and with his parents' consent in 2000 enlisted together with three other children into the APC in Bunia, Camp Ndroma. Many other children were in that camp. The 10 year old boy fought with the APC against the Ugandans.
63. An 11 year old boy joined a militia in ZUMBE in 2003. NGUDJOLO was the chief of the camp. The same boy participated in various attacks against the UPC, together with many other child soldiers, in Kasenyi. in Tchomia and in Bunia.
64. In the Lendu military camp in Zumbe, Irumu territory, young boys aged between 12 and 17 years were militarily trained. The training included physical exercises, combat techniques and the use of weapons.
65. A lot of girls were at the FNI camp in Lipri in 2001. They were partly enlisted and partly conscripted.
66. A 13 year old girl voluntarily joined the FNI militia group in 2001, at the FNI camp at Kagave. A lot of children served in the camp, most of them were conscripted. Amongst them were a significant number of girls.
67. Every family had to have someone in the FNI militia to safeguard the family.
68. In the beginning of 2003, the FNI had a military camp in Zumbe, Irumu territory; at this camp, in the beginning of 2003, there was at least one child soldier under 15 years.
69. A girl was abducted by the FRPI in 2003 and taken to Camp Kagabe. She was given a weapon and tasked to guard the camp and the prisoners.
70. In the FRPI camp in Kagabe there were a significant number of children, boys and girls.
71. FNI commander KPADHOLE had three children between 11 and 14 years as his bodyguards.
72. A 14 year old boy participated in the FNI attack in 2003 against the UPC.
73. There were many child soldiers in the FNI camp at Zumbe; the same applied to other FNI camps. Other FNI camps were Mongbwalu, Loga, Mbau and Kpandroma.

74. A 14 year old boy was abducted by a Ngiti commander. In the camp in Golgota the boy was brought to, there were also other children, including younger ones; one was 11 years old. The children were militarily trained. Amongst the children, there were also some girls.
75. After August 2002, there were armed child soldiers between 12 and 14 years at the Lendu ZUMBE camp. The child soldiers were made to guard the positions around the camp, in the directions of Mandro, Bunia, Kasenyi and Bogoro.
76. A 12 year old boy joined the military because the enemies, the Hema of the UPC, made his group suffer. There were many children in the FNI/FRPI Datule training camp: Bira, Lendu and Ngiti. The 12 year old boy participated in hostilities.
77. From 2003 to 2004 (or from 2004 to 2005), 952 children who were mainly associated with the FRPI militia were demobilised from the Aveba camp.
78. The recruitment by Ngiti and Lendu started at the end of 2002. The children had no choice and had to respond to a community call.
79. The FRPI towards the end of 2002 started using child soldiers in a generalised way.
80. There were many children in the FNI-FRPI. For some of them, the weapons were too big. In respect of some of them, the gun was longer than they were tall.
81. Before March 2003, there were many child soldiers in the Aveba camp, including less than 15 years. They had uniforms and weapons.
82. It has been said that Sambidu of the FNI received money from Kinshasa.
83. Etienne, Sambidu and the coordinator Martin were involved in arrangements to get weapons through officers from the government in Kinshasa.
84. Some of the Ugandans would not let the UPC come and re-inforce Bogoro.
85. The Ugandans created the FRPI for their support.
86. The Ugandans called together the FNI and FRPI to destroy the UPC.

87. After 6 March 2003 NTUMBA LUABA gave 20, 000 USD to feed the soldiers of FNI.
88. Sometime between 6 March and May 2003 a meeting was convened between FNI/FRPI and the FAPC and was chaired by the Ugandan General Kale KAHYIURA.
89. Master KIZA, of the FNI/FRPI, was in Uganda when the FNI took over Bunia, and the Ugandans brought him back by plane.
90. MUSEVENI gave money to FNI/FRPI so that they could help defeat the UPC.
91. There were two kadogo in the group of YUDA; two participated in battle. Children were allowed to fight. They fought in Tchomia.
92. There was one kadogo in the KUTE camp.
93. In March 2003 the FNI assisted the Ugandans when the UPC attacked Bunia.¹⁴



Luis Moreno-Ocampo
Prosecutor

Dated this 19th day of January 2009
At The Hague, The Netherlands

¹⁴ Proposed Admissions emanate from ICC-01/04-01/06-1545 – Conf-Exp, 08 December 2008.