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No.: ICC-01/04-01/07

Date: 27 March 2009

TRIAL CHAMBER II

Before: Judge Bruno Cotte, Presiding Judge
Judge Fatoumata Dembele Diarra
Judge Fumiko Saiga

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

***IN THE CASE OF
THE PROSECUTOR
v. Germain KATANGA and Mathieu NGUDJOLO CHUI***

Public Document

**Prosecution's Response to the Defence Application
for an Amended Document Containing the Charges**

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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Unrepresented Applicants for Participation/Reparation

The Office of Public Counsel for Victims

The Office of Public Counsel for the Defence

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Other

1. On 12 March 2009, the Defence for Germain Katanga ("the Defence") petitioned Trial Chamber II ("the Chamber") requesting an order that the Prosecution submit an amended document containing the charges ("Application for an Amended DCC").¹
2. On 13 March 2009, the Chamber rendered its *Order Concerning the Presentation of Evidence and the E-Court Protocol* (the "Order")² directing the Prosecution on how to present its incriminating evidence in tabulated format. The Chamber stated, *inter alia*, that "a well-structured table can fulfil the function of an amended document containing the charges".³
3. On 19 March 2009, the Prosecution requested an extension of the time limit for complying with the Order⁴ and, subsequently, on 23 March 2009, submitted an application for leave to appeal the Order.⁵
4. On 23 March 2009, the Defence filed a response to the Prosecution's application for extension of the time limit to comply with the Order ("the Response").⁶ In the Response, the Defence interpreted paragraph 7 of the Order as constituting an invitation to the Defence to request reconsideration of the Order "in the event that it considers that it is able to demonstrate that a well structured table cannot 'fulfil the function of an amended document containing the charges'".⁷ The Defence, further, acknowledged that presentation of the incriminating evidence in the tabulated format envisaged in the Order would address many of the concerns raised in the Application for an Amended DCC. Accordingly, the Defence requested the right to

¹ ICC-01/04-01/07-954.

² ICC-01/04-01/07-956.

³ *Ibid.* at para. 7.

⁴ ICC-01/04-01/07-969.

⁵ ICC-01/04-01/07-982.

⁶ ICC-01/04-01/07-980.

⁷ *Ibid.*, para.2.

contemplate the manner in which the Prosecution complies with the Order before approaching the Chamber afresh with an Application for an Amended DCC.⁸

5. In light of the aforementioned, the Prosecution will not file a response to Defence's Application for an Amended DCC, as envisaged under Regulation 34(b).



Luis Moreno-Ocampo, Prosecutor

Dated this 27th day of March 2009

At The Hague, The Netherlands

⁸ *Ibid.*, para. 3.