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

Date: **20 June 2011**

TRIAL CHAMBER II

Before: Judge Bruno Cotte, Presiding Judge
Judge Fatoumata Dembele Diarra
Judge Christine Van den Wyngaert

**SITUATION IN THE REPUBLIC OF THE DEMOCRATIC REPUBLIC OF THE
CONGO**

**IN THE CASE OF
THE PROSECUTOR v. GERMAIN KATANGA AND MATHIEU NGUDJOLO CHUI**

Public Document

**Prosecution's consolidated response to the applications for leave to appeal by the
authorities of the Netherlands and the Democratic Republic of the Congo against
the "Décision sur une requête en *amicus curiae* et sur la «requête tendant à obtenir
présentations des témoins DRC-D02-P-0350, DRC-D02-P-0236, DRC-D02-P-0228
aux autorités néerlandaises aux fins d'asile »"**

Source: The Office of the Prosecutor

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

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1. On 9 June 2011 Trial Chamber II issued its « Décision sur une requête en amicus curiae et sur la ‘Requête tendant à obtenir présentations des témoins DRC-D02-P-0350, DRC-D02-P-0236, DRC-D02-P-0228 aux autorités néerlandaises aux fins d’asile’ (articles 68 et 93(7) du Statut) ».¹
2. On 15 June 2011, the Prosecution sought leave to appeal the Decision (the “Prosecution’s Application”),² identifying the appealable issue as, “whether the Trial Chamber erred by halting the return of the three detained DRC prisoners pending a determination by the Dutch authorities on their asylum request”.
3. On 15 and 16 June 2011, the Kingdom of the Netherlands and the Democratic Republic of the Congo filed their respective applications for leave to appeal.³
4. Without regard at this stage to the merits of their positions, the Prosecution submits that the applications and arguments presented by the two States immediately affected by the Decision confirm the complexity and importance of the issue identified by the Prosecution and the appropriateness of certifying it for appeal under Article 82(1)(d).
5. It is imperative that the underlying questions are examined by the Appeals Chamber after hearing from all parties and participants, including the two States. The Prosecution therefore reiterates that the Trial Chamber should certify the matter for appeal.



Luis Moreno-Ocampo,
Prosecutor

Dated this 20th day of June, 2011
At The Hague, The Netherlands

¹ ICC-01/04-01/07-3003 (hereinafter, “Decision”).

² ICC-01/04-01/07-3021.

³ ICC-01/04-01/07-3020 and ICC-01/04-01/07-3023.