

ANNEX II

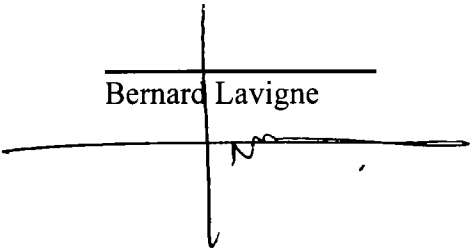
DECLARATION OF BERNARD LAVIGNE

I, Bernard Lavigne, do solemnly declare:

1. I am the DRC Investigations team leader, and have been employed in the Investigations Division of the OTP since the 27th of June 2004. My duties as team leader include the lead of investigations, the management of a team of investigators and analysts and the collection of information about the situation on the ground in order to assess the security of staff during missions.
2. I have been requested by the Appeals Section of the OTP to provide an accurate description of the current security situation in those areas of the DRC relevant to the Court's present activities, and in particular about relevant developments occurred after the arrest and transfer of Thomas LUBANGA DYILO to the seat of the Court.
3. In relation to the situation in Bunia and in the District of Ituri, the general situation is one of tension and a noticeable upsurge in violence has been observed in the recent weeks. While the increased violence and the renewed armed activities cannot be linked solely to the arrest and transfer of Thomas LUBANGA DYILO to the seat of the Court, this has contributed to the tensions and likely worsened them to a certain extent.
4. In particular, this seems to have been perceived as an opportunity by some of the active militiamen in the region to reach out to other groups and foster cross-militia alliances against Kinshasa authorities, on the grounds that the government did not respect its commitment of integrating all former militiamen but decided to transfer them to tribunals instead. Such groups aim at constituting a united Ituri front against central authorities and at confronting FARDC (official military forces of the DRC) on this basis.
5. In that regard, several militia groups have reportedly been conducting armed operations outside of Bunia and some serious attempts at infiltrating Bunia have been observed and reported, allegedly aiming at testing MONUC and FARDC current capacity to react and respond to an armed threat.
6. The actual groups responsible for the recent attacks and violence are difficult to identify, given the fragmentation of the former groups on one side and the constitution of alliances and platforms putting together several former militias with different ethnic origins, on the other side.
7. Such alliances and the renewal of large scale violence seem to be relatively openly business-oriented, with a view to gain or maintain control over specific areas rich in natural resource and over roads and borders as well as to surround the Bunia area.

8. In addition, the current conduct of the integrated FARDC troops deployed in Ituri to secure the district and reinstall the rule of law has contributed to the increased insecurity throughout the district, with repeated reports of human rights violations, in particular violence against civilian populations, looting and attacks against civilian and MONUC properties. While the progressive deployment of the first FARDC integrated brigades was scheduled to prepare the handover of the security apparatus in Ituri from MONUC to the national army, MONUC remains more than ever the only guarantee of safety for local populations and the only institution in a position to fill the institutional vacuum in the district.
9. Narrowing down the focus to the situation of OTP witnesses, most of them expressed serious fears and concerns as to possible retaliatory actions, in particular those among them who have retained close relations with the UPC political party.
10. The fact that some UPC members are trying to identify those witnesses who accused Thomas LUBANGA DYILO and lead to his arrest and transfer, and to retaliate against them, has been reported and is assessed as a credible threat. The risk of confusion in their mind between the OTP witnesses and the six victims who have been recognised as such by the Court and allowed to participate to the proceedings is very high.
11. Finally, regarding the situation in Kinshasa, it is worth noting that, although the risk is more diffuse, it is real and concerning. The situation in the capital is not one of conflict and armed operations; however, the arrest and transfer has entailed some resentment among certain individuals and officials of the DRC that should not be underestimated. OTP witnesses present in Kinshasa expressed concerns as well and, in one instance, already requested some additional protection.

I declare that the foregoing is true and accurate to the best of my knowledge.



Bernard Lavigne

The Hague, The Netherlands
5 April 2006