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Brussels, 29 October 2008

To the Chief of Staff of the Congolese Armed Forces

Ngaliema, Kinshasa

Copy for information:

1. His Excellency the President of the Democratic Republic of the Congo
2. His Excellency the Minister of National Defence
3. His Excellency the Minister of Justice and Keeper of the Seals
4. The *Auditeur Général* of the Congolese Armed Forces

All at Gombe, Kinshasa

Re: Payment of the salary of Colonel Mathieu Ngudjolo Chui, who is currently in detention in The Hague, The Netherlands

Dear Sir,

I am writing in my capacity as permanent counsel for Colonel Mathieu Ngudjolo Chui, who is currently in detention in Scheveningen in The Hague, The Netherlands, in the case brought against him by the Prosecutor of the International Criminal Court in the situation in the Democratic Republic of the Congo. My client has informed me that his monthly salary is not being paid regularly and is about to be terminated entirely, since he did not submit biometric data as required some time ago by the competent services of the Congolese Armed Forces. He tells me that, as matters stand, his wife has received only the salary for August 2008 and that the payments for September and October have thus far not been made.

I must confess that my client is severely importuned as a result of this situation, since his salary is the only source of income of his family members, who have no other means of subsistence.

I recall that my client was arrested in Kinshasa on 6 February 2008 by the Congolese authorities under the cooperation agreement between the Congolese State and the Prosecutor of the International Criminal Court, and was transferred to The Hague in the Netherlands on 7 February 2008 to stand trial there for various offences ascribed to him. Since he still enjoys the presumption of innocence until such time as a final judgment proving his guilt has been issued, he is entitled to receive all benefits associated with his military status and rank of colonel. He has not, to my knowledge, been dismissed from the Congolese Armed Forces and remains a full member.

Furthermore, as he was in detention in Scheveningen, it was impossible for him to submit the biometric data which was being collected in the country at that time, when it was undeniably a matter of public knowledge that he was abroad, where he remains for the requirements of the judicial proceedings.

It goes without saying that a termination of the payment of his salary, which would plunge his family into dire straits, would be viewed as a further punitive measure. As a result, he might become demoralised or discouraged and might be inclined to conduct himself in a manner detrimental to the smooth conduct of his trial. Being as he is in prison, he would suffer as a result of the lack of any means of subsistence for his wife and children. Such circumstances are likely to interfere with his peace of mind, to distract him

and to turn his mind away from studying the significant amount of important materials pertaining to his case, for which the international community is awaiting explanations.

Hence I respectfully request that you instruct the payroll services of the Congolese Armed Forces to disregard my client's absence during the collection of biometric data and to continue to pay his salary to his wife, who is resident in Bunia, district of Ituri.

In the hope that my request will meet with your approval, I remain

Yours sincerely,

Jean-Pierre Kilenda Kakengi Basila
[signed]