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To Whom it may concern,

You are instructed to provide assistance to Trial Chamber III of the International Criminal Court in its assessment of the reparations to be paid in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*. You should provide a report (or reports) which assists the Chamber in deciding the form of any reparations, and, if appropriate, to whom and in what amounts reparations should be paid.

By way of background, Mr. Bemba was convicted of murder, rape and pillage in the Central African Republic (CAR) between October 2002 and March 2003. He was the commander in Chief of the *Mouvement de Libération du Congo* (MLC) and despatched 3 battalions of soldiers (about 1,500 men) to assist the then President, Ange-Felix Patassé, to repel an illegal coup d'État commenced by François Bozizé.

Since those events, the Central African Republic has been subjected to a series of civil wars in which many more war crimes and crimes against humanity have been committed.¹ Inevitably, many of those who suffered in 2002-2003 have suffered anew. Statistically, many of them must be dead, and many more displaced within and outside the CAR's borders. Others must have suffered further and separate harm in the more recent events.

Your report should, accordingly, address the following issues:

I. BENEFICIARIES OF REPARATIONS

A. Individual Beneficiaries

1. How many individual claimants of reparations exist in the Central African Republic, by reference to their being:
 - (i) Identifiable;
 - (ii) Alive; and
 - (iii) Contactable?

¹ Situation in the Central African Republic II, Article 53(1) Report, The Office of the Prosecutor, 24 September 2014: Described as "*massive ethno-religious cleansing*" thousands have been raped and murdered with "*particular cruelty*" by the anti Balaka and Seleka forces. "*Political instability and armed conflict have plagued the country since 2001.*" The ICC Prosecution attributes **thousands of rapes and murders** to the Seleka and anti-Balaka troops. The violence has been of such gravity and length as to force the displacement of **one million people** (one fifth of the total population); 400,000 Central Africans have sought refuge in neighbouring states. Seleka forces employ thousands of child soldiers. See paras. 9, 88, 115, 252-264.

2. Are the claims of harm suffered by each of the individuals identified in 1 above referable to the offences committed by the accused in terms of:
 - (i) The offence(s) of which they were a victim (*i.e.* rape, murder or pillage and NOT *e.g.* forcible transfer or deportation);
 - (ii) The location where the offence(s) was committed;
 - (iii) The dates on which the offence(s) was committed;
 - (iv) The alleged perpetrators of the offence(s) (*i.e.* they were MLC soldiers)?
3. Is the harm alleged by each of the claimants in 1 necessarily referable to the criminal offence? For example, can claims of HIV infection necessarily be related to any act of rape in 2002-2003, given especially the extraordinarily high instance of HIV in the CAR prior to and since that time?²

B. Groups of Beneficiaries

1. Is there any identifiable claim by any group of victims, institution or organisation?

II. TYPES OF HARM

1. Are there any categories of harm other than physical, psychological and material?
2. Does harm of any type survive the death of the claimant (*e.g.* does the next-of-kin of a victim of rape “inherit” the harm she has suffered in the event of her death)?

III. EXTENT OF MR. BEMBA’S LIABILITY

A. Concurrent Liability of Others

1. In *Katanga* the Chamber found that the accused should contribute approximately 27% towards the total amount of reparations found due on the

² See ICC-01/05-01/08-T-101-ENG, p. 29, line 12-25, p. 30, line 11 – p. 34, line 2. See also, *Ordonnance de réparation en vertu de l’article 75 du Statut*, ICC-01/04-01/07-3728, 24 March 2017, para. 111.

basis that he was not solely responsible for the harms caused.³ To what extent did the actions of the following contribute to events in the CAR in 2002-2003:

- (i) Bozizé's unlawful invasion/coup d'État?
- (ii) President Patassé's direction of the counter offensive?
- (iii) The actions of perpetrators?
- (iv) The failures of commanders in the field?
- (v) Any other factors?

B. *Novus Actus Interveniens*

1. Given that the Central African Republic has endured several years of bloody civil war since 2003, to what extent have supervening events affected Mr. Bemba's liability to repair any damage caused by his subordinates in 2002-2003, in particular:

- (i) To what extent have individual claimants been "victims" of subsequent events, whether as a result of a similar crime, other crime, or merely as a victim of war? How, for example, should one calculate today reparations for someone whose goods were pillaged in 2002, who then replaced them, only for him to be forcibly displaced and his house to be burnt down in 2012?
- (ii) To what extent have subsequent events superseded any liability or ability to repair any damage caused to communities, by reason for example of population change (by force or otherwise), destruction of property etc.?
- (iii) To what extent is it possible to attribute so-called indirect or trans-generational harm to the events of 2002-2003, given subsequent events?

IV. TYPES AND MODALITIES OF REPARATIONS

A. Individual Reparations

1. Is it feasible or fair to attempt any individual assessment and/or quantification in financial terms of the harm suffered by each of the claimants herein? If so, how and by whom should this be achieved?

³ *Ordonnance de réparation en vertu de l'article 75 du Statut*, ICC-01/04-01/07-3728, 24 March 2017, p. 129: The prejudice suffered by the 297 victims has been valued at US \$ 3,752,620, the part of Mr. Katanga's responsibility at US \$ 1,000,000.

2. If not, can a standardised award tailored to each of the 3 crimes be applied? How can that be calculated?
3. How can the awards be tailored to compensate the claimants without discrimination or unjust enrichment? What regard should be had to the cost of living in the CAR and the local value of property such as mattresses or livestock?
4. What regard needs to be had to any prior assistance received by the claimant, for example, assistance from government agencies, NGO's or payments received by victim/witnesses from the ICC?
5. How can any scheme of individual reparations be achieved? How can the court be sure that the payments will reach the hands of the claimants? What infrastructure or organisation could properly and effectively oversee it?

B. Collective Reparations

1. Given the pan-national nature of the crimes found in this case, to what "collective" could any award of reparations practically be directed?
2. To what extent does the population of any locality to which collective reparations might be directed, *e.g.* PK12, accurately reflect the "collective" of victims sought to be compensated?
3. What was the responsibility of the government of the CAR between 2003 and today to repair the damage to communities and infrastructure, and what efforts did it make?

BACKGROUND READING MATERIALS

N°	Document title	Number	Date
1.	Judgment pursuant to Article 74 of the Statute	ICC-01/05-01/08-3343	21 March 2016
2.	Appellant's document in support of the appeal	ICC-01/05-01/08-3434-Red	19 September 2016
3.	Ordonnance de réparation en vertu de l'article 75 du Statut	ICC-01/04-01/07-3728	24 March 2017
4.	Situation in the Central African Republic II, Article 53(1) Report		24 September 2014
5.	Report on Preliminary Examination Activities 2014		2 December 2014
6.	Prosecution's Observations on Reparations	ICC-01/05-01/08-3454	31 October 2016
7.	Office of Public Counsel for Victims' Submissions relevant to reparations	ICC-01/05-01/08-3455	31 October 2016
8.	The Trust Fund for Victims' Observations relevant to reparations	ICC-01/05-01/08-3457	31 October 2016
9.	Defence observations on reparations	ICC-01/05-01/08-3458-Conf	31 October 2016
10.	Observations de la Représentante légale des victimes relativement aux réparations	ICC-01/05-01/08-3459-Conf	31 October 2016
11.	Registry's observations pursuant to Trial Chamber Order ICC-01/05-01/08-3410 of 22 July 2016	ICC-01/05-01/08-3460	31 October 2016
12.	Submission by QUB Human Rights Centre on reparations issues pursuant to Article 75 of the Statute	ICC-01/05-01/08-3444	17 October 2016
13.	Submission by the International Organization for Migration to the International Criminal Court pursuant to article 75(3) of the statute: on the issues proposed by Trial Chamber III on the 12 August 2016	ICC-01/05-01/08-3447	17 October 2016
14.	Observations by the Redress Trust pursuant to Article 75(3) of the Statute and Rule 103 of the Rules	ICC-01/05-01/08-3448	17 October 2016
15.	Joint submission by the United Nations containing observations on Reparations pursuant to Rule 103 of the Rules of Procedure and Evidence	ICC-01/05-01/08-3449	17 October 2016