

**Cour
Pénale
Internationale**

**International
Criminal
Court**

No.: ICC-02/04-01/05

Date: 5 December
2005

Original: English

PRE-TRIAL CHAMBER II

Before: Judge Tuiloma Neroni Slade, Presiding Judge
Judge Fatoumata Dembele Diarra
Judge Mauro Politi

Registrar: Mr Bruno Cathala

SITUATION IN UGANDA

Under Seal
Prosecutor, VWU, and Registry Only

Sealed Annex To Prosecutor's Application to Supplement the Record

The Office of the Prosecutor	
Mr. Luis Moreno Ocampo, Prosecutor Mrs. Fatou Bensouda, Deputy Prosecutor	

Sealed Annex To Prosecutor's Application to Supplement the Record

1. The OTP respectfully submits this sealed annex to the "Application for Pre-Trial II to Supplement the Record With A Description of Informal Communications Between Registry and the Chamber."

2. The OTP respectfully furnishes the following factual information bearing upon its application. Three weeks ago, on 17 November 2005, the Registrar informed the Prosecutor that, under the authority of Rule 13 of the Rules of Procedure and Evidence, he had suspended ICC staff movements in Northern Uganda because he had learned of a document which was purportedly authored by the LRA and had been received by the OTP. The Registrar had not seen the document before notifying the Prosecutor of his actions, nor had he consulted with the OTP about the document or his intention to suspend ICC operations.

3. The Registrar also notified the Prosecutor that he had informed the Presidency of the matter and also ensured that the Chamber was also aware of it.

4. After the OTP learned of the Registry's actions, the Prosecutor replied that he was surprised to learn that the Registrar had communicated with the Presidency and Chambers without first engaging in "consultations with the Prosecutor" as required by Rule 13(2). The Prosecutor also stated that the document referenced by the Registrar did not impact on security and that the Registrar's actions were especially unfortunate because through prior consultation with the OTP, the matter could potentially have been resolved and misunderstandings clarified.

5. The Prosecutor and the Registrar subsequently met. Among other things, the Registry admitted that the Chambers had been informed of the Registrar's actions, and the document on which it was based, by informal means.

These communications have not been made a part of the record of these proceedings.

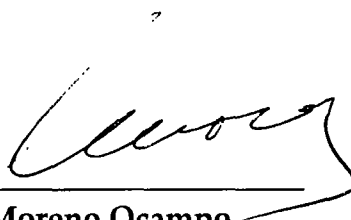
6. Following the meeting of the Prosecutor and the Registrar, the document referenced was fully and jointly evaluated at the working level, in the context of all other information bearing upon security. Agreement was reached, among the OTP, the VWU, and ICC Security Services, that the document did not affect the adequacy of either victim and witness protection measures or staff security measures.

7. More recently, the OTP has received information from the Registry that the Pre-Trial Chamber has requested, through informal communications, that the Registry file the document which had been provided to the OTP. The document itself is not, in the OTP's view, within the Registry's authority to provide to the Chamber. The OTP is the possessor of the document, which constitutes evidence and was furnished under restrictions of confidentiality¹.

8. For the foregoing reasons, in conjunction with the reasons stated in the accompanying public filing, the OTP respectfully requests that Pre-Trial Chamber II supplement the record with a description of: (a) the informal communications between the Registry and the Chamber in the past weeks regarding security matters, including those communications previously identified by the Registry to the OTP; and (b) any instruction provided by the Chamber to Registry on the matters just described, or relating to any other matter under adjudication. If the Chamber deems any information it places in the record to be confidential, then the information may be sealed, by means of an

¹ The document is not within the Registry's power to file. See Rule 13 (entitled "Functions of the Registrar" and providing that Registrar shall serve as "channel of communication of the Court" subject to the "authority of the Office of the Prosecutor under the Statute to receive, obtain and provide information and to establish channels of communication for this purpose").

accompanying order. If the Chamber deems that any of the legal principles stated in this application are in dispute, the OTP requests notice of the legal principle at issue, and an opportunity to submit full briefing on the matter.



Luis Moreno Ocampo
Prosecutor

Dated this 5th day of December, 2005

At The Hague, The Netherlands