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THE REPUBLIC OF UGANDA

MINISTRY OF JUSTICE AND
 CONSTITUTIONAL AFFAIRS,
 P.O. Box 7183,
 Kampala, Uganda

In any correspondence on
 this subject please quote No. **ADM/70/269/02**

27 March 2008

The Registrar
 International Criminal Court
 Maanweg 174, 2516 AB
 The Hague
 The Netherlands

Fax: +31 (0)70 515 85 55

Dear Sir,

**REQUEST FOR INFORMATION FROM THE REPUBLIC OF UGANDA ON THE
 STATUS OF EXECUTION OF THE WARRANTS OF ARREST**

This is in reference to the request by the Pre-Trial Chamber II dated 29th February 2008 regarding the above subject matter.

The request is in response to the signing of the "*Agreement on Accountability and Reconciliation between the Government of the Republic of Uganda and the Lord's Resistance Movement/Army*" on 29th June 2007 (hereinafter called "the Agreement") and the "*Annexure to the Agreement on Accountability and Reconciliation*" on 19th February 2008 (hereinafter called "the Annexure").

Here below we convey the response of the Government of Uganda to issues raised by the Pre-Trial Chamber II for your onward transmission.

**A. THE STEPS THAT THE REPUBLIC OF UGANDA HAS UNDERTAKEN OR
 INTENDS TO UNDERTAKE WITH A VIEW TO IMPLEMENTING THE
 PRINCIPAL AGREEMENT AND ANNEXTURE**

Under Article 2.1 of the Principal Agreement, the Government of Uganda and the Lord's Resistance Army undertook to "promote national legal arrangements, consisting of formal and non formal institutions and measures for ensuring justice and reconciliation with respect to the conflict".

Under Article 3.1, it was agreed that traditional justice mechanisms, such as *Culo Kwor*, *Mato Oput* and *Tonu ci Koka* and others practiced in the communities affected by the conflict shall be promoted with necessary modifications.

In Article 4, it is agreed that formal criminal and civil justice measures shall be applied to any individual who is alleged to have committed serious crimes or human rights violations in the course of the conflict (provided that, state actors shall be subjected to existing criminal justice processes and not to special justice processes under this Agreement).

The Annexure provides an implementation mechanism in respect of the above. Paragraph 7 provides that a special division of the High Court of Uganda shall be established to try individuals who are alleged to have committed serious crimes during the conflict. Paragraph 9 envisages the enactment of a legislation providing for the law applicable, rules of procedure and the recognition of the traditional and community justice processes in the proceedings.

The establishment of the special division of the High Court and the enactment of the relevant legislation shall take place after the signing of the final peace agreement. Accordingly, the Government of Uganda is yet to take any steps towards the implementation of the Agreement or the Annexure.

However, in terms of the steps that are to be taken, the Government intends to put in place a task force that will determine and advise on what actual institutional and legislative framework should be put in place. Since the Agreement and the Annexure simply provide a general framework, it is intended that the task force shall be representative of various stakeholders and experts in the area of transitional justice.

B. THE EXACT COMPETENCE ATTRIBUTED TO THE SPECIAL DIVISION OF THE HIGH COURT, SPECIFICALLY, COMPETENCE *RATIONE MATERIAE* AND *RATIONE PERSONAE*

The competence and powers of the High Court of Uganda are encapsulated in Article 139(1) of the Constitution of the Republic of Uganda which provides that the High Court shall have unlimited original jurisdiction in all matters and such appellate and other jurisdiction as may be conferred on it by [the] Constitution or other law. The special division of the High Court contemplated under the Annexure shall have all the competence already available to the High Court.

As already indicated, the Government of Uganda is yet to work out the finer details and specifics of implementing the Agreement and Annexure. Accordingly, the specifics of the competence of the special division with regard to *ratione materiae*, *ratione personae* and other related aspects are yet to be worked out.

However, it is important to right away clarify that that both the Agreement and the Annexure do not provide for or contemplate immunity or impunity.

C. THE CATEGORIES OF OFFENCES AND ALLEGED PERPETRATORS ADDRESSED BY THE TRADITIONAL JUSTICE MECHANISM AND OTHER ALTERNATIVE JUSTICE MECHANISMS

As you will note from paragraph 20 of the Annexure, it is envisaged that the Government of Uganda will, in consultation with the relevant players, examine traditional justice mechanisms in affected areas in order to determine the appropriate roles and applicability of such mechanisms in accountability and reconciliation process.

It is the understanding and intention of the Government of Uganda that traditional justice systems will be applicable to minor offences whereas the special division of the High Court shall try individuals responsible for the "most serious crimes" in accordance with international standards.

The categorization and identification of offences and individuals to be tried by the special division of the High Court and under the traditional justice system is to be done in the period that will follow the anticipated conclusion of the final peace agreement.

D. THE IMPACT OF THE ESTABLISHMENT OF THE SPECIAL DIVISION OF THE HIGH COURT AND RECOURSE TO TRADITIONAL JUSTICE MECHANISMS ON THE EXECUTION OF THE WARRANTS AND ON THE COOPERATION PROVIDED BY THE REPUBLIC OF UGANDA TO THE COURT FOR THEIR EXECUTION

The special division of the High Court is not meant to supplant the work of the International Criminal Court and accordingly, those individuals who were indicted by the International Criminal Court will have to be brought before the special division of the High Court for trial.

As indicated in our submission to the Pre-Trial Chamber in December 2007, the Government of Uganda referred the situation in northern Uganda to the International Criminal Court because the leadership of the Lord's Resistance Army was beyond the borders of Uganda and the international community was not being helpful. Uganda's inability to have the LRA leadership tried was due to this challenge rather than due to reasons related to the competence of its courts to handle cases connected with the situation. It is expected that once the peace agreement is signed and the Lord's Resistance Army submits to Ugandan jurisdiction as required, the perpetrators of the atrocities in northern, the indictees inclusive, shall be subjected to the full force of the law.

As to the execution of the warrants, the Government of Uganda remains committed to executing them should the LRA leadership fail to subject themselves to the process of justice in Uganda. The Government further remains committed and prepared to meet its obligations under the Rome Statute and under the bilateral agreements it has concluded with the International Criminal Court.

The Government of Uganda will keep the International Criminal Court informed of any developments relating to the Juba peace process.

Kindly accept assurances of my highest regard.

J. Kiggundu

Kiggundu Jane F B (Mrs)
AG. SOLICITOR GENERAL

c.c. Hon. Amama Mbabazi
Minister in Charge of Security
Office of the President
KAMPALA