



Coalition for the International Criminal Court

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**ICC JUDGES MOVE DARFUR REBELS CASE TO TRIAL
FOR CRIMES AGAINST PEACEKEEPERS**

Pre-Trial Judges Confirm War Crimes Charges for Commanders Banda and Jerbo

WHAT: On 7 March 2011, Judges of Pre-Trial Chamber I (PTC I) of the International Criminal Court (ICC) confirmed charges of war crimes against *Abdallah Banda Abakaer Nourain (Banda)* and *Saleh Mohammed Jerbo Jamus (Jerbo)*, sending their case to trial. Rebel commanders Banda and Jerbo are alleged to have been involved in an attack on peacekeepers of the African Union Mission in Sudan (AMIS) at the Haskanita Military Group Site (MGS Haskanita) in North Darfur, Sudan, on 29 September 2007.

WHY: The Judges found sufficient evidence to try Banda and Jerbo as co-perpetrators for three war crimes: 1) violence to life in the form of murder, whether committed or attempted; 2) attacking personnel or objects involved in a peacekeeping mission; and 3) pillaging. The crimes were allegedly committed during an attack carried out on 29 September 2007 against the AMIS peacekeeping mission stationed at the MGS Haskanita in the locality of Umm Kadada, North Darfur. The attack allegedly killed twelve and severely wounded eight AMIS personnel, originating from several countries including Senegal, Mali, Nigeria and Botswana, all of which are states parties to the Rome Statute, the Court's founding treaty.

WHO: The decision is the result of a one-day confirmation of charges hearing held on 8 December 2010. The hearing was held in the absence of the two suspects, who had waived their right to be present at the hearing. Banda and Jerbo had appeared at the Court on 17 June 2010 in compliance with summonses to appear issued by the Chamber under seal on 27 August 2009 and unsealed on 15 June 2010.

NEXT STEPS: Banda and Jerbo will now face trial at the International Criminal Court. The Presidency will assign a Trial Chamber to be responsible for conducting trial proceedings. Before the start of the trial, a number of preparatory hearings will be held to deal with issues such as the disclosure of evidence to the defense and participation of victims to the trial, among others.

COMMENT: "The decision confirming charges against Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus shows that the rule of law does exist in the Darfur situation," said William R. Pace, Convenor of the Coalition for the ICC – a civil society network in 150 countries advocating for a fair, effective and independent ICC and improved access to justice for victims of genocide, war crimes and crimes against humanity. "However, none of the arrest warrants issued against Ahmad Muhammad Harun, Ali Kushayb or President Omar Hassan Ahmad Al-Bashir have been executed, and the Sudanese government has openly defied and consistently refused to cooperate with the Court and the international community," he explained. "We reiterate our call on all states to ensure these suspects also face justice, on the government of Sudan to cooperate with

the Court in accordance with its UN Charter obligations and on all states parties to the ICC to robustly fulfill their obligations under the Rome Statute.” Mr. Pace added. “The UN Security Council cannot avoid its responsibility to ensure greater assistance to the Court, particularly in the Darfur situation given that it referred the adjudication of crimes committed there to the Court in the first place.”

BACKGROUND: On 20 November 2008, the ICC Prosecutor requested summonses to appear for three commanders allegedly connected to the Haskanita incident: Banda, Jerbo and Darfur rebel leader Bahar Idriss Abu Garda. Abu Garda appeared voluntarily before the ICC on 18 May 2009, and a public ICC hearing was held in October 2009 to examine the available evidence against him. On 8 February 2010, ICC Pre-Trial Chamber I unanimously declined to confirm charges of war crimes against Abu Garda, on the ground that it lacked evidence that he participated in the plan to attack the Haskanita base.

The investigation into the situation in Darfur, Sudan, was officially opened by the ICC Prosecutor on 6 June 2005, after being referred to the Court by the United Nations Security Council through Resolution 1593 on 31 March 2005. Since the referral, and in addition to the cases against Banda and Jerbo, public arrest warrants have been issued in the Darfur investigation against Ahmad Muhammad Harun, Ali Kushayb and Omar Hassan Ahmad Al-Bashir, as well as the summons to appear for Abu Garda. None of the outstanding arrest warrants have been executed, and the Sudanese government has openly defied and consistently refused to cooperate with the Court and the international community, a finding of which was made by the Pre-trial Chamber by way of judicial decision and forwarded to the UN Security Council for their attention.

Background: *The ICC is the world’s first permanent international court to prosecute war crimes, crimes against humanity and genocide. There are currently 114 ICC states parties to the Rome Statute, the Court’s founding treaty. Central to the Court’s mandate is the principle of complementarity, which holds that the Court will only intervene if national legal systems are unable or unwilling to investigate and prosecute perpetrators of genocide, crimes against humanity and war crimes. There are currently six active investigations before the Court: the Central African Republic; the Democratic Republic of the Congo; Darfur, the Sudan; Kenya; Libya; and Uganda. The ICC has publicly issued 12 arrest warrants and three summonses to appear. Three trials are ongoing. The Office of the Prosecutor has made public that it is examining at least ten situations on four continents, including Afghanistan, Chad, Colombia, Côte d’Ivoire, Georgia, Guinea, Honduras, Republic of Korea, Nigeria, and Palestine.*

Coalition NGO experts are available for interviews and background. List available upon request by contacting maillet@coalitionfortheicc.org

The Coalition for the International Criminal Court includes 2,500 civil society organizations in 150 different countries working in partnership to strengthen international cooperation with the ICC; ensure that the Court is fair, effective and independent; make justice both visible and universal; and advance stronger national laws that deliver justice to victims of war crimes, crimes against humanity and genocide. For more information, visit: www.coalitionfortheicc.org

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