

## DEMOCRATIC REPUBLIC OF THE CONGO

### **Comments on the replies given by Uganda to the questions put by Judges Vereshchetin, Kooijmans and Elaraby during the oral proceedings in the case concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)***

13 May 2005

1. The Democratic Republic of the Congo has few comments to make on the replies given by Uganda to the questions put by Judges Vereshchetin, Kooijmans and Elaraby during the oral proceedings in the case concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*. In effect, Uganda seized this opportunity to repeat yet again the same scenario so often described to the Court, first in the written pleadings and then in the oral proceedings. It is the Democratic Republic of the Congo's view that Uganda thus confuses responding to the judges' questions with pursuing oral argument in the present case. For its part, the Democratic Republic of the Congo will refrain from addressing and disputing Uganda's replies point by point. The Court need simply refer to the Congo's written and oral pleadings to find all the points in response which Uganda has still not succeeded in identifying.

2. As for Uganda's reply to the question asked by Judge Kooijmans, the Democratic Republic of the Congo would however like to point out that no source is given for the nine maps presented, which therefore merely set out Uganda's unilateral position. The question put to Uganda afforded it the opportunity to provide to the Court, and to the Democratic Republic of the Congo, specific information on the location of its army, information which could have been obtained from military sources furnished by UPDF staff. Uganda has obviously chosen not to disclose this information, which would in all probability be detrimental to the credibility of its argument. Instead, Uganda has unilaterally drawn up maps which merely illustrate the position taken by its counsel and advocates in the present proceedings. Maps based on absolutely no tangible evidence. By contrast, the Democratic Republic of the Congo has supported its maps based on the cities conquered by the UPDF (judges' folder, tab 18), on neutral sources like IRIN (judges' folder, tab 3) and on the Harare Disengagement Plan (judges' folder, tab 41). In respect of this last point, Uganda's desperate attempt completely to disassociate its occupation from that by the rebel movements it controlled in the Congo (particularly the MLC) is obviously at variance with the Harare map. That map designates "Area 1" as being under the control of the UPDF and the MLC, not the MLC alone. The DRC has already explained how, given the regional topography, control over the main towns in the north and northeast of the Congo resulted in an occupation within the meaning of international law (Mr. Corten's statement, 25 April 2005, CR 2005/12).

3. As for Uganda's reply to Judge Elaraby's question, the Democratic Republic of the Congo takes note of the long discussion which Uganda devotes once again to interpreting the Lusaka ceasefire agreements. Specifically, the Democratic Republic of the Congo observes that Uganda argues that the legal validity of its presence in the Congo after expiry of the 180-day period derived from the violation by the Democratic Republic of the Congo of the timetable laid down in that agreement. In other words, Uganda claims that its presence was justified by the preceding violation of the agreement by the Democratic Republic of the Congo. However, as the Democratic Republic of the Congo has already pointed out, the counter-claim whereby Uganda requested the Court to find that the Congo had violated the Lusaka Agreement was dismissed by the Court in its Order of 29 November 2001. In the view of the Democratic Republic of the Congo, the lack of a connection between the question of a violation of the Lusaka Agreement and the subject of the

Congo's claim, i.e., essentially the lawfulness of the entry of Ugandan forces into Congolese territory and their continued presence there, can mean only one thing. The lawfulness of the presence of Ugandan troops in the Congo is simply not determined, one way or the other, by the Lusaka Agreement. The Agreement aims at putting an end to the conflict, without passing judgment on the responsibility borne for starting or pursuing it. That is the position which the Democratic Republic of the Congo has always taken and which it stands by, more than ever, in response to Uganda's reply.

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