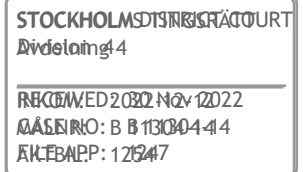


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Stockholm District Court  
Division 4  
B 11304-14



**Written elucidation of indictment pursuant to Chap. 45, sec. 10 of the Code of Judicial Procedure in case B11304-14 concerning complicity in crimes against international law, aggravated offence**

Introduction

The purpose of this account is to shed light on the indictment brought in the case, in addition to what is stated in the application for summons.

The indictment relates to crimes against international law through the use of an illegal method of combat which was sanctioned at a high level within the Sudanese regime. The involvement of Ian Lundin and Alexandre Schneider consists in promoting, through various forms of interaction with representatives of the Sudanese regime, the use of this high-level government-sanctioned method of warfare, which was carried out over a long period of time in order to gain control over areas of Sudan Ltd's oil exploration activities and thereby create conditions for the company's operations.

The statement of criminal act therefore describes the method of combat and how Ian Lundin and Alexandre Schneider were complicit in its application in and around Block 5A.

As the indictment does not relate to complicity in a number of individual, independent attacks, the statement of criminal act is not framed around specific attacks carried out by lower-level military and militia personnel, even though such attacks were widely carried out as part of the method of warfare.

Crimes against international law, aggravated offence, through the use of an illegal method of combat

During the period May 1999 to March 2003, the Sudanese military and militia forces that were allied with the regime (regime-allied militia forces) carried out a large number of offensive military operations, attacks, in and near Block 5A in order to take control of certain areas that were controlled by rebels or in any event were not controlled by the regime side, thereby creating conditions for Sudan Ltd's oil exploration activities. This is stated in paragraph 6 of the statement of the criminal act. In order to secure the operation, the regime forces needed to take control of geographical areas that were larger than the sites of the actual oil exploration, particularly in view of the civil war going on at the time in southern Sudan. In view of this, and the fact that oil exploration in Block 5A was planned in different locations over a wide area, offensive military operations were carried out over large areas

Offensive military operations directed against combatants of the opposing side are not illegal *per se*. The criminal conduct alleged in the indictment consisted

of the manner in which the regime side fought, the conduct of war, involving attacks on civilians in the manner set out in paragraph 7 of the statement of the criminal act, further described in paragraphs 7(a)-(f), to such an extent that the conduct was systematic and thus constituted a method of warfare, sanctioned at a high level of government. The method of warfare was primarily directed directly against civilians. Secondly, the method of warfare was indiscriminate, as attacks were systematically carried out in violation of the principles of distinction and proportionality. In both cases, the conduct was in breach of international humanitarian law and constituted a crime against international law, an aggravated offence, in accordance with Swedish law in force at the time.

The illegal method of combat was also used by regime forces in other parts of Sudan in the context of the civil war. However, it is only to the extent that the method of combat was used to secure areas related to the company's activities that are covered by the indictment.

The illegal method of combat resulted in an unknown number of attacks against an unknown number of civilians and their property in and near Block 5A. It is not possible to present a full account in time, place and manner of each and every attack in which the method of combat was used. The personal exposure of each of the injured parties, who constitute a small number of the civilians who suffered injury as a result of the criminal method of combat, is shown in the evidence of each person.

#### Place and time of the offence

The offensive military operations referred to in paragraph 6, in which the unlawful method of combat described in paragraph 7 was used, were carried out, according to the statement of the criminal act, in and near Block 5A during the period May 1999 - March 2003. Although the offensive military operations were carried out throughout the area during the entire period of the specified offence, they were conducted primarily during the periods in the areas detailed in paragraph 6(a)-(e) and Annexes 1-5. The geographical locations listed in paragraph 6(a)-(e) are examples, not exhaustive lists, of where offensive military operations were conducted in the areas defined in the annexes.

The offensive military operations were initiated when the military, in violation of the Khartoum Peace Agreement, together with the regime-led militia group SSUM, entered Block 5A on 2 May 1999 shortly after Sudan Ltd received positive test results for oil at Thar Jath. They were subsequently conducted in accordance with paragraphs 6(a)-(e), with varying degrees of intensity, also within the different periods. Around the end of March 2003, the offensive military operations ceased. Shortly before that, on 4 February 2003, the regime and the SPLA had concluded an agreement under which the disputed road construction to Leer, partly paid for by the Lundin companies, would be suspended.

The crime scene is thus "in and near Block 5A", where the indicated areas 1-3, shown in Annexes 1-5, are intended to indicate the main area.

The period of the crime is May 1999 - March 2003, where the periods indicated in paragraph 6(a)-(e) refer to periods of time when the fighting, which included the illegal method of combat, was at its most intense and concentrated in the areas indicated in the annexes. Thus, it also covers occasions when the method of combat was used outside Areas 1-3 and the periods indicated, as long as the offence was committed in and near Block 5A during the period May 1999 to March 2003.

#### Complicity

The criminal involvement of Ian Lundin and Alexandre Schneiter in the high-level government-sanctioned method of warfare is described in paragraph 9 of the statement of criminal act, which sets out the actions taken and how they were communicated to representatives of the Sudanese regime, i.e. the regime that applied the criminal method of warfare. It was thus persons at a higher level within the Sudanese regime, with influence over the conduct of the war, who were promoted, and not directly those individuals within the military and militia who actually applied the method of combat in the field. As set out in the statement of criminal act, it is alleged that Ian Lundin and Alexandre Schneiter intended that their actions would lead to offensive military operations by the Sudanese military and regime-led militia and that they used the illegal method of combat to create conditions for Sudan Ltd's activities, including their consequences for civilians. However, it is not alleged that the defendants had prior knowledge of the time and place of each of the individual attacks that were carried out as part of the method of combat.

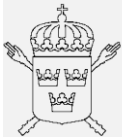
#### Relevant provisions of international humanitarian law

The indictment refers to Common Article 3 of the Geneva Conventions I-IV, which *per se* constitutes customary law, as well as customary international law.

The prohibition of targeting civilians, killing and injuring civilians and seriously violating the personal dignity of civilians follows directly from Article 3 and customary law as expressed, *inter alia*, in Article 8(2)(c)(ii) and (e)(i) of the Rome Statute and in the ICRC Customary Law Study.

The prohibition on indiscriminate attacks as well as attacks against civilian property is found in customary law. This is reflected in a number of sources which will be presented during the presentation of the case.

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#### **Amendment to statement of criminal act in case B 11304-14**

Paragraph 4 of the statement of criminal act is amended to read as follows:

4. The Lundin companies were represented during the relevant period by, *inter alia*,

a. Ian Lundin in his capacity as

- President and Chief Executive Officer (CEO) and a director of IPC at the time of the signing of the 1997 EPSA until its merger with Sands Petroleum AB in late 1997/early 1998
- Director of Sands Petroleum AB until its merger with IPC in late 1997/early 1998
- CEO and director of Lundin Oil AB from 8 May 1998 until Lundin Petroleum AB took over Sudan Ltd and the operations in Block 5A in 2001
- CEO and director of Lundin Petroleum AB from 8 June 2001 until 23 May 2002
- Chairman and director of Lundin Petroleum AB from 23 May 2002 until the termination of the Block 5A operations
- President and director of Sudan Ltd at the signing of the EPSA in 1997 until the termination of Block 5A operations

b. Alexandre Schneiter in his capacity as

- Vice President Exploration (prospecting director) of IPC at the signing of the 1997 EPSA until its merger with Sands Petroleum AB in late 1997/early 1998
- Vice President Exploration (prospecting director) of Lundin Oil AB from 8 May until Lundin Petroleum AB took over Sudan Ltd and the operations of Block 5A in 2001

- Vice President Exploration (prospecting director) of Lundin Petroleum AB from Lundin Petroleum AB 2001 taking over Sudan Ltd and operations in Block 5A until 23 May 2002
- Chief Operating Officer (COO), Executive Vice President and director of Lundin Petroleum AB from 23 May 2002 to 23 May 2003
- Head of the Technical Department at the signing of the EPSA until the termination of operations in Block 5A.
- Project Coordinator for oil exploration in Block 5A from at least July 2000 until at least August 2001
- Director of Sudan Ltd from 21 April 1999 until the termination of operations in Block 5A
- Representative on the Block 5A Technical Committee from at least July 2000 until at least October 2002
- Representative on the Operating Committee of Block 5A from October 1997 until the closure of Block 5A
- Representative in the Joint Management Committee (JMC) for Block 5A from May 1997 until termination of operations in Block 5A

Ian Lundin and Alexandre Schneiter, through their respective roles, had de facto a decisive influence on the operations of Sudan Ltd in Block 5A.

Henrik Attorps