

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

No.: ICC-01/04-01/06
Date: 14 February 2006

THE APPEALS CHAMBER

Before: Judge Philippe Kirsch
Judge Georgios M. Pikis
Judge Navi Pillay
Judge Sang-Hyun Song
Judge Erkki Kourula

Registrar: Mr Bruno Cathala

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
THE PROSECUTOR
*v. THOMAS LUBANGA DYILO***

**Under Seal
Ex Parte, Prosecution Only**

**Prosecutor's Appeal against Pre-Trial Chamber I's 10 February 2006 "Decision on
the Prosecutor's Application for Warrants of Arrest, Article 58"**

The Office of the Prosecutor

Mr Luis Moreno-Ocampo, Prosecutor
Ms Fatou Bensouda, Deputy Prosecutor
Mr Ekkehard Withopf, Senior Trial Lawyer
Mr Fabricio Guariglia, Senior Appeals Counsel

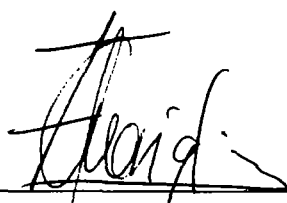
1. Pursuant to Rule 154 and Regulation 64, the Prosecution herewith files its appeal against Pre-Trial Chamber I's "Decision on the Prosecutor's Application for Warrants of Arrest, Article 58", dated 10 February 2006, (the "Decision"), issued in the Situation in the Democratic Republic of the Congo, Case No. ICC-01/04-01/06, *The Prosecutor v. Thomas Lubanga Dyilo*. Due to the fact that the Decision was issued *ex parte* and *under seal*, the same level of confidentiality is assigned to this appeal.
2. The Prosecution is bringing an appeal under Article 82 (1) (a) solely against the Pre-Trial Chamber's decision to declare the case against Bosco Ntaganda inadmissible,¹ and to consequently reject the Prosecution's request to issue a warrant of arrest against Mr Ntaganda.² The finding that the case against Mr Ntaganda is inadmissible under Article 17 (1) (d) of the Statute due to an allegedly insufficient gravity is clearly a "decision with respect to ... admissibility" within the purview of Article 82 (1) (a) and accordingly the applicable regime is the one set forth by this particular provision, together with Rule 154 and Regulation 64.
3. The Prosecution is seeking the following relief: (1) that the Pre-Trial Chamber's finding that the case against Bosco Ntaganda is inadmissible be reversed, and that the case be declared admissible by the Appeals Chamber; and (2) that, following such reversal, the matter be remanded to Pre-Trial Chamber I for the confined purposes of determining the remaining issues of whether there are reasonable grounds to believe that Mr Ntaganda has committed a crime within the jurisdiction of the Court (Article 58 (1) (a)), whether his arrest appears necessary (Article 58 (1) (b)), and, in the event of an

¹ Decision, paras. 77-89, and *disposif*, p. 66. The appeal will also encompass the reasons leading to the finding in question, as contained in paras. 43-64 of the Decision. These and any other relevant paragraphs will be identified and discussed in the document in support of the appeal.

² Decision, *dispositif*, p. 66.

arrest warrant being issued, identifying the organ responsible for making and transmitting the corresponding request for arrest and surrender.

4. The Prosecution will file within the time-limit prescribed by Regulation 64 (2) a document in support of the appeal, containing the specific grounds of appeal and the legal and factual reasons supporting each ground, and prepared in conformity with the other requirements set forth in that provision.


for **Luis Moreno-Ocampo**
Prosecutor

Dated this 14th day of February 2006

At The Hague, The Netherlands