

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : **English**

No.: ICC-01/04-01/06

Date: 21 April 2006

PRE-TRIAL CHAMBER I

Before: Judge Sylvia Steiner, Single Judge

Registrar: Mr Bruno Cathala

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

Public document

Filing of Incriminating Evidence and Potentially Exculpatory Evidence

The Office of the Prosecutor

Mr Luis Moreno-Ocampo, Prosecutor

Ms Fatou Bensouda, Deputy Prosecutor

Mr Ekkehard Withopf, Senior Trial Lawyer

Counsel for the Defence

Mr Jean Flamme

Background

1. The Prosecution refers to the “interim system of disclosure” as set out by the Pre-Trial Chamber’s (public) “Decision Requesting Observations of the Prosecution and the Duty Counsel for the Defence on the System of Disclosure and Establishing an Interim System of Disclosure” of 23 March 2006 (23 March 2006 Decision),¹ reinforced by the Pre-Trial Chamber’s (public) “Decision Requesting Further Observations from the Prosecution and the Duty Counsel for the Defence on the System of Disclosure” of 27 March 2006 (27 March 2006 Decision).²
2. On 6 April 2006, the Parties submitted their observations on the “interim system of disclosure.”³ Particular reference is made to these observations.⁴

Filing of incriminating evidence and potentially exculpatory evidence

3. Being bound by the Decision on the “interim system of disclosure” as imposed by the Pre-Trial Chamber by its 23 March 2006 and 27 March 2006 Decisions, including in respect of the filing of incriminating and potentially exculpatory evidence,⁵ the Prosecution herewith files - pending

¹ See 23 March 2006 Decision, at pages 5 to 7.

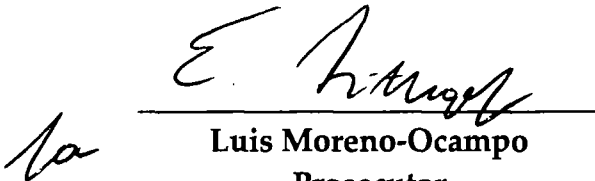
² See 27 March 2006 Decision, at pages 5 and 6.

³ Reference is made to the (public) “Prosecution’s Observations on Disclosure”, 6 April 2006, and to the (public) “Observations de la défense concernant le système de divulgation, requis par les décisions du 23 and 27 mars 2006”, 6 April 2006.

⁴ The Pre-Trial Chamber has scheduled a hearing on the system of disclosure for the purpose of the confirmation hearing for 24 April 2006.

⁵ See in particular the 23 March 2006 Decision, at page 5.

the Pre-Trial Chamber's final decision on the system of disclosure - in the record of the case of *The Prosecutor vs. Thomas LUBANGA DYILO* fourteen documents containing incriminating evidence (Article 61(3)(b) of the Rome Statute),⁶ and ten documents containing potentially exculpatory evidence.⁷ Both sets of documents were disclosed to Counsel for the Defence on Thursday, 20 April 2006.


 Luis Moreno-Ocampo
 Prosecutor

Dated this 21st day of April 2006
 At The Hague, The Netherlands

⁶ The list identifying incriminating evidence - Article 61(3)(b) - is attached as confidential Annex 1. The documents containing incriminating evidence - Article 61(3)(b) - are attached as confidential Annexes 2 to 15. The Prosecution draws the attention of the Pre-Trial Chamber to the fact that documents falling within the scope of Article 61(3)(b) may also contain elements that are of potentially exculpatory nature.

⁷ The list identifying potentially exculpatory evidence is attached as confidential Annex 16. The documents containing potentially exculpatory evidence are attached as confidential Annexes 17 to 26.