

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

No.: ICC-01/04-01/06
Date: 27 September 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 with Confidential Annexes

**Communication of the Disclosure Note following Disclosure to the Defence of
Potentially Exculpatory Evidence pursuant to Article 67(2) of the Rome Statute
on 25 and 26 September 2006**

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
Ms Véronique Pandanzyla

**Office of Public Counsel
for the Defence**

Ms Melinda Taylor

1. In compliance with the Decisions of the Single Judge of the Pre-Trial Chamber of 15 May 2006¹, 24 May 2006² and 20 September 2006³ following the disclosure of potentially exculpatory evidence on 25 September 2006, the Prosecution herewith files the "Disclosure Note".⁴
2. The "Disclosure Note" includes the "List of disclosed materials" detailing the items that fall under Article 67(2) of the Rome Statute and that have been disclosed to the Defence on 25 September 2006.⁵ The "Disclosure Note" is signed by both Parties.
3. The document under number 1 in the "List of disclosed materials" has previously been disclosed to the Defence on 20 April 2006. The Prosecution re-disclosed this document following the Single Judge's decision that the Prosecution has to re-disclose it with less redaction.⁶ The documents under number 2 and 3 have previously been disclosed on 28 July 2006 and 13 July 2006 respectively. The Prosecution re-disclosed these two documents as they now contain different redactions, as authorised by the Single Judge.⁷ The document under number 4 is the French version of a document that has previously been disclosed in

¹ Decision on the Final System of Disclosure and the Establishment of a Timetable, 15 May 2006.

² Decision on the Postponement of the Confirmation Hearing and the Adjustment of the Timetable Set in the Decision on the Final System of Disclosure, 24 May 2006.

³ Second Decision on the Prosecution Requests and Amended Requests for Redactions under Rule 81, 20 September 2006 ("Second Decision").

⁴ Attached hereto as Confidential Annex 1.

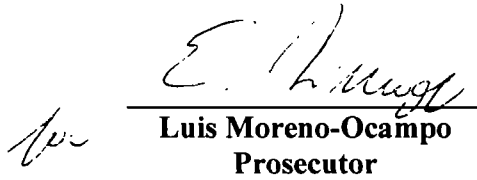
⁵ The Prosecution refers to its oral submissions at the occasion of the status conference of 14 July 2006. See (English) transcript, at pages 46 and 47.

⁶ Second Decision.

⁷ Second Decision.

English on 23 August 2006. As a matter of professional courtesy, the Prosecution disclosed the French version.

4. On 26 September 2006, the Prosecution disclosed three additional documents pursuant to Article 67(2) of the Rome Statute as detailed in the annexed "List of disclosed materials".⁸ The Prosecution provided these documents to the Defence as a professional courtesy as they are French versions of English documents already disclosed on 23 May 2006 and 10 August 2006.


Luis Moreno-Ocampo
Prosecutor

Dated this 27th day of September 2006
At The Hague, The Netherlands

⁸ Attached hereto as Confidential Annex 2.