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

Date: 6 November 2006

PRE-TRIAL CHAMBER I

Before: Judge Claude Jorda, Presiding Judge
Judge Akua Kuenyehia
Judge Sylvia Steiner

Registrar: Mr Bruno Cathala

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

Public Document

Corrigendum to information provided at hearing of 3 November 2006

The Office of the Prosecutor

Mr. Luis Moreno-Ocampo, Prosecutor
Ms. Fatou Bensouda, Deputy Prosecutor
Mr. Ekkehard Withopf, Senior Trial
Attorney

Legal Representatives of Victims

Mr Luc Walley Mr Franck Mulenda
Me Carine Bapita Buyangandu

Counsel for the Defence

Mr. Jean Flamme
Ms. Véronique Pandanzyla

1. On 2 November 2006, the Defence filed a Request to exclude video evidence which has not been disclosed in one of the working languages'.¹ In that motion the Defence requested that all videos are included within the list of Prosecution evidence to be used at the confirmation hearing should be excluded if they contain Swahili and if an English or French transcript of the videos had not been provided. At the time of filing the motion 'eleven out of the eighteen elements of video material disclosed by the Prosecution are not accompanied by transcripts and translations into either of the working languages of the Court; six of these videos are entirely or predominantly in Swahili.'²
2. The Defence then detailed the nine videos which should be excluded from the confirmation hearing.³
3. This Defence Request was further discussed during the status conference on 3 November. The Lead Counsel for the Defence responded to an inquiry from the Presiding Judge in the following manner:

15 ME FLAMME (interpretation): Simply, Mr President, I would
 16 like to say that we have someone in our team who speaks
 17 Swahili, but the person told us there are several kinds of
 18 Swahili. Swahili on the video is difficult to understand. So
 19 the Prosecutor is -- has delayed in regard to these
 20 transcripts.⁴

4. The Defence would like to correct any confusion that may result from this statement. In fact there is someone who is assigned to the Office of Public Counsel for Defence, rather than the Defence team, who is from Kinshasa, and was thus able to identify that the language spoken was Swahili. Nonetheless, it should be noted that the person speaks Lingala, and not Swahili, and was thus unable to comprehend what was being said in the video.⁵ The Defence apologises for any confusion this statement may have caused.

¹ ICC-01/04-01/06-642

² At paragraph 4

³ Page 4, footnote 10 detailing the following videos DRC-OTP-0082-0016, DRC-OTP-0102-0003, DRC-OTP-0116-0005, DRC-OTP-0080-0002, DRC-OTP-0102-0002, DRC-OTP-0116-001, DRC-OTP-0120-0295, DRC-OTP-0127-0058, DRC-OTP-0127-0064.

⁴ Livenote transcript, ICC-01-04-01-06-T-29-EN [03Nov2006Edited] 1-45 SZ PT 11/3/2006 page 41, lines 15-20

⁵ There is another person in the defence team who does speak Swahili. However, until today, he was in the DRC and thus did not have access to the videotapes in question. The memory space required for the videos was too large to store on the defence laptops, and the person in question did not have access to ringtail externally.

A handwritten signature in dark ink, appearing to be 'Jean Flamme', written in a cursive style. The signature is positioned above a horizontal line.

Jean Flamme, Counsel for Thomas Lubanga Dyilo

Dated this 6th day of November, 2006

At The Hague