

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

No.: ICC-01/04-01/06
Date: 6 November 2006

PRE-TRIAL CHAMBER I

Before: Judge Claude Jorda, 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

**Prosecution's Information in respect of the "Décision suite aux informations fournies
par le Procureur le 25 octobre 2006"**

The Office of the Prosecutor

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

Legal Representatives for the Victims

Mr Luc Walley
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Counsel for the Defence

Mr Jean Flamme
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**Office of Public Counsel
for the Defence**

Ms Melinda Taylor

Background

1. On 30 October 2006, the Single Judge rendered the “*Décision suite aux informations fournies par le Procureur le 25 octobre 2006*”¹ (30 October 2006 Decision). The 30 October 2006 Decision followed a number of prior Court decisions on the subject matter and related filings of the Parties as further detailed in the 30 October 2006 Decision.²
2. In the 30 October Decision, the Single Judge requested the Prosecution to provide additional information³ by 6 November 2006 in respect of documents the Office of the Prosecutor (OTP) obtained on the condition of confidentiality pursuant to Article 54(3)(e) of the Rome Statute (Statute).

Information

3. In relation to the 33 documents referred to under i) in the 30 October 2006 Decision,⁴ the Prosecution provides the following information:
 - (i) The OTP has sent letters to the respective providers in respect of 23 documents on 3 November 2006, urgently requesting the lifting of the Article 54(3)(e) restrictions. To date, the OTP has not yet obtained any response.

¹ *Décision suite aux informations fournies par le Procureur le 25 octobre 2006*, public, 30 October 2006.

² See at page 2 of the 30 October 2006 Decision.

³ For details, see at page 4 of the 31 October 2006 Decision.

⁴ See at page 4 of the 31 October 2006 Decision.

- (ii) One document is the French version of an English document for which a request for lifting has been sent to the provider on 3 November 2006. The Prosecution will treat the French version in line with the provider's views on the English document.
- (iii) In respect of one further document, the OTP is in ongoing contact with the provider.
- (iv) In respect of two further documents, the OTP has, after initial contacts earlier on, re-contacted the respective providers by phone in the course of the week of 30 October 2006, emphasizing the urgency of the request. The providers informed the OTP that they would come back on the OTP's request. To date, the OTP did not obtain a response.
- (v) In respect of two additional further documents, the provider concerned had previously informed the OTP that it, as a matter of policy, considers the documents concerned as "internal work product", thus in no circumstances disclosable. Consequently, in order to not damage the OTP's relation to the provider, the Prosecution has not re-contacted the provider.
- (vi) In respect of the remaining four documents, the OTP is about to complete its internal process. Upon completion of this process, the OTP will contact or re-contact the providers.

4. In relation to the seven documents referred to under ii) in the 30 October 2006 Decision,⁵ the OTP provides the following information:

- (i) The OTP has re-contacted the provider concerned on 6 November 2006 in respect of five documents. The provider has informed the OTP that it does need additional time to re-consider the OTP's request.⁶
- (ii) In respect of one further document, the Prosecution draws the attention of the Pre-Trial Chamber to the following: The provider has repeatedly informed the OTP that redaction requests for reasons related to the security of its staff are considered by the provider as of highest concern. The redaction concerned is a phone number, falling within that category. In order to not damage the OTP's relation to the provider, the Prosecution has not re-contacted the provider.
- (iii) In respect of the remaining document the OTP was awaiting a response from the provider on 25 October 2006, the situation has not changed. The Prosecution thus refers to the information it has previously provided.


 **Luis Moreno-Ocampo**
Prosecutor

Dated this 6th day of November 2006
 At The Hague, The Netherlands

⁵ See at page 4 of the 31 October 2006 Decision.

⁶ The Prosecution will update the Pre-Trial Chamber of the further developments.