

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

No.: ICC-01/04-01/06
Date: 18 December 2007

TRIAL CHAMBER I

Before: Judge Adrian Fulford, Presiding Judge
Judge Elizabeth Odio Benito
Judge René Blattmann

Registrar: Mr Bruno Cathala

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

Public with confidential annex

**Prosecution's communication of originals of incriminatory evidence disclosed
to the Defence on 17 December 2007**

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

Ms Catherine Mabile
Mr Jean-Marie Biju-Duval
Mr Marc Desalliers
Ms Caroline Buteau

Submission of electronic copies of incriminatory evidence:

1. The Prosecution herewith submits electronic versions of the 241 items¹ disclosed to the Defence as incriminating evidence on 17 December 2007.
2. The items disclosed to the Defence on 17 December 2007 are listed in the annex "List of disclosed materials".²

Submission of originals of disclosed evidence:

3. In compliance with the Trial Chamber's 9 November 2007 "Decision Regarding the Timing and Manner of Disclosure and the Date of Trial" ("Trial Chamber's Decision"),³ the Prosecution also files the evidence in its original form with the Registry in respect of fifty-six items.
4. The Prosecution informs the Trial Chamber that six items have already been filed with the Registry in their original form.⁴

¹ These items include one video material, 29 statements of witnesses, nine summaries of witness statements, two screening notes and five investigator's notes.

² The list of disclosed materials is attached as – Confidential – Annex.

³ ICC-01/04-01/06-1019, para 22.

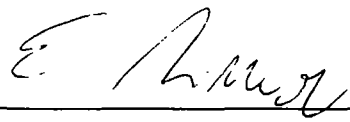
⁴ It concerns documents: DRC-OTP-0081-0007, DRC-OTP-0160-0052, DRC-OTP-0160-0129, DRC-OTP-0160-0144, DRC-OTP-0160-0151, and DRC-OTP-0160-0160.

Items for which no physical originals are being filed:

5. The Prosecution submits that twenty-nine items were collected in electronic format (namely on CDs). As a result, the Prosecution is not in possession of the physical originals of these items and will file with the Registry the CDs which contain these items instead.

6. The Prosecution furthermore submits that one hundred twenty-four items have been disclosed to the Defence in redacted form or are summarized in accordance with the Trial Chamber's oral decision of 13 December 2007.⁵ Consequently, the originals thereof have not been filed with the Registry.

7. For twenty-six items, the Prosecution is not in a position to file the originals because (i) in respect of twenty-five items, the items were collected in electronic format and the CDs contain both disclosed and non-disclosed material; and (ii) in respect of one item, the item is a document of which certain pages have Article 54(3)(e) restrictions and other pages have not.



 Luis Moreno-Ocampo
 Prosecutor

Dated this 18th day of December 2007
 At The Hague, The Netherlands

⁵ ICC-01-04-01-06-T-65-ENG ET WT 13-12-2007 1-22 NBT.