

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

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

Date: 22 February 2008

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 vs. THOMAS LUBANGA DYILO**

URGENT

Public with Confidential, *Ex Parte* Prosecution Only – Attachment A and Annex

Prosecution's Request for Lifting of Redactions

The Office of the Prosecutor

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

Legal Representatives of the Victims

a/00001/06 to 1/00003/06 and 1/0105/06

Mr Luc Walley
Mr Franck Mulenda
Ms Carine Bapita Buyangandu

Counsel for the Defence

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

Background

1. On 13 February 2008, the Trial Chamber ordered that the evidence of a witness be disclosed on 22 February 2008.

Scope of Present Submission

2. The present application concerns one document. The document was disclosed to the Defence on 28 July 2006 because it was considered to be material to the Defence pursuant to Rule 77 in relation to information provided on the role of foreign powers in the conflict in the DRC.¹ The document was not disclosed as incriminating or potentially exonerating.
3. The document was disclosed with a redaction to protect the names of the authors of the report, pursuant to Rule 81(4). There are no redactions to the content of the document.
4. The Prosecution indicated in its filing on 12 December 2007 that these redactions were previously authorized and that once the witness is adequately protected, the Prosecution will file a request to lift the redactions.² The Prosecution is of the view that the authors of the report must be disclosed to the Defence.

¹ The document is DRC-OTP-0140-0496.

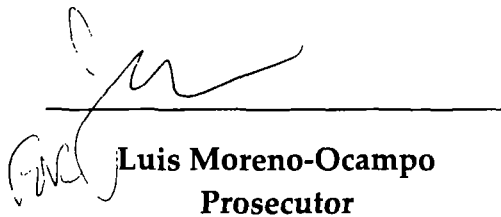
² "Prosecution's Application for Lifting of Redactions, Non-Disclosure of Information and Disclosure of Summary Evidence" Public with Conf Exp Annexes, 12 December 2007, ICC-01/04-01/06-1081 at Conf Exp Annex 75, page 42.

Ex Parte Filing

5. The Prosecution submits that the classification of the Annexes to the present filing as *Confidential-Ex Parte – Prosecution Only* is necessary.³ The Attachment A and its Annex provide information regarding redactions authorized for the protection of persons and these redactions are under review by the Trial Chamber.
6. The rights of the Accused are maintained to the extent that he has been made aware of the filing and its legal basis, but cannot be privy to the specifics of the information that needs to be addressed. The Prosecution submits that no alternative procedures exist to deal with this request.

Order Requested

7. Based on the foregoing, the Prosecution requests the Trial Chamber to authorize the lifting of redactions to one document.



Luis Moreno-Ocampo
Prosecutor

Dated this 22nd day of February 2008
At The Hague, The Netherlands

³ Decision on the procedures to be adopted for *ex parte* proceedings, 7 December 2007, ICC-01/04-01/06-1058 at para. 12. On 6 December 2007, the Trial Chamber determined that *ex parte* procedures are only to be used exceptionally when other procedures are not available. The Court must ensure that the use of the *ex parte* procedure is proportionate given the potential prejudice to the Accused.