

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

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

Date: 26 March 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 *v.* THOMAS LUBANGA DYILO**

Public

with confidential Prosecution and Defence only annexes

**Prosecution's communication of original versions of incriminatory evidence
disclosed to the Defence on 20 March 2008**

The Office of the Prosecutor

Mr Luis Moreno-Ocampo, Prosecutor
Ms Fatou Bensouda, Deputy Prosecutor
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Counsel for the Defence

Ms Catherine Mabilie
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Legal Representatives of Victims

a/0001/06 to a/0003/06 and a/0105/06

Mr Luc Walley
Mr Franck Mulenda
Ms Carine Bapita Buyangandu

Submission of originals of incriminatory evidence

1. The Prosecution informs the Trial Chamber that it disclosed to the Defence 58 items¹ as incriminating evidence on 20 March 2008. These items are listed in the annexed "List of disclosed materials".²
2. The Prosecution herewith submits original versions of 53 items.

Items for which no physical originals are being filed

3. The Prosecution informs the Trial Chamber that in respect of one item³, the Prosecution is not filing the original with the Registry because the last page of this item is the front page of another item⁴ which has not been disclosed.
4. In addition, the Prosecution draws the attention of the Trial Chamber to the fact that four items⁵ were disclosed to the Defence in redacted form on

¹ This includes 17 items for which Article 54(3)(e) restrictions have been lifted by the information providers. The Prosecution had filed two applications for authorisation to disclose and rely on these items as incriminating evidence on 24 January 2008 (ICC-01/04-01/06-1129-Conf) and on 28 February 2008 (ICC-01/04-01/06-1195-Conf). In light of the fact that at the Hearing on 13 March 2008 the Trial Chamber orally rendered a decision setting a final deadline for disclosure of the Prosecution's case by 28 March 2008 (ICC-01/04-01/06-T-79-FRA ET WT, page 6, lines 20-25), the Prosecution now discloses these items to the Defence.

² The List of disclosed materials is the Confidential, Prosecution and Defence Only – Annex 1.

³ DRC-OTP-0043-0287.

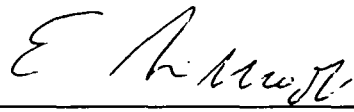
⁴ The Prosecution recalls its position that it should not be required to file with the Registry evidence which has not been disclosed to the Defence. In this particular case, additionally, the document was obtained pursuant to Article 54(3)(e) and the Prosecution does not have the consent of the provider to disclose it.

⁵ DRC-OTP-0172-0237, DRC-OTP-0180-0090, DRC-OTP-0180-0115 and DRC-OTP-0180-0125.

20 March 2008. The redactions were either authorized by the Trial Chamber in its Decision orally rendered on 18 January 2008⁶ or originally made by the information providers. In light of these redactions,⁷ the originals of the materials have not been filed with the Registry.

Submission of the trial witness list to the Defence

5. The Prosecution informs the Trial Chamber that it disclosed to the Defence an updated trial witness list. The version of the list disclosed on 20 March 2008 is attached to this filing.⁸



 Luis Moreno-Ocampo
 Prosecutor

Dated this 26th day of March 2008
 At The Hague, The Netherlands

⁶ ICC-01/04-01/06-T-72-CONF-EXP-ENG ET 18-01-2008 1-17 NB T, page 2, lines 8-17.

⁷ Reference is made to the "Prosecution's communication of originals of incriminatory evidence disclosed to the Defence pursuant to the order of the Trial Chamber of 9 November 2007", ICC-01/04-01/06-1054, para 9.

⁸ The List of "TRIAL WITNESSES – STATEMENTS/ SUMMARIES PREVIOUSLY DISCLOSED TO DEFENCE" is attached as Confidential – Prosecution and Defence Only Annex 2.