



Original: **French**

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

Date: **29 April 2008**

THE APPEALS CHAMBER

Before: Judge Sang-Hyun Song, Presiding Judge
Judge Philippe Kirsch
Judge Georgios M. Pikis
Judge Navi Pillay
Judge Erkki Kourula

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

Public Document

**Defence Observations on the “Proposed Amicus Curiae Submission Of The
International Criminal Bar Pursuant To Rule 103 Of The Rules Of Procedure And
Evidence” (Annex A) dated 10 April 2008**

Source: Mr Thomas Lubanga Dyilo’s Defence Team

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

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BACKGROUND

1. By decision of 6 March 2008, Trial Chamber I granted the Defence leave to appeal the Oral Decision of 18 January 2008 on the three issues raised by the Defence in its request of 28 January 2008.¹

2. On 10 April 2008, the International Criminal Bar submitted written observations as an amicus curiae in connection with the appeals proceedings (“the Motion”).² The motion pertains solely to the following issue:

C) Whether the Chamber interpreted Rule 77 of the Rules of Procedure and Evidence in an excessively restrictive manner in concluding that the Prosecution is not under an obligation to provide the Defence with the material in its possession relating to the general use of child soldiers in the Democratic Republic of the Congo.

3. Neither the Defence nor the Prosecutor objected to the International Criminal Bar filing the observations contained in Annex A to its Motion submitted pursuant to rule 103 (“Proposed Amicus Curiae Submission Of The International Criminal Bar Pursuant To Rule 103 Of The Rules Of Procedure And Evidence”).³

4. On 22 April 2008, the Appeals Chamber issued a decision granting the International Criminal Bar leave to file as amicus curiae its observations as contained in Annex A of the Motion. It ordered the Defence and the Prosecutor to file any response by 4 p.m. on 29 April 2008.⁴

¹ ICC-01/04-01/06-1210.

² ICC-01/04-01/06-1273 OA11, Annex A.

³ ICC-01/04-01/06-1276-tENG OA11; ICC-01/04-01/06-1284 OA11.

⁴ ICC-01/04-01/06-1289 OA11.

OBSERVATIONS

5. The Defence has no observations to add as a result of the filing of the “Proposed Amicus Curiae Submission Of The International Criminal Bar Pursuant To Rule 103 Of The Rules Of Procedure And Evidence”.

6. **FOR THESE REASONS, MAY IT PLEASE THE APPEALS CHAMBER:**

TO TAKE FORMAL NOTE of these presents.

[signed]

Ms Catherine Mabile, Principal Counsel

Dated this 29 April 2008

At The Hague