

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 15 May 2008

TRIAL CHAMBER I

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

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

Public

**Prosecution's submission of a public redacted version of its 2 May 2003
"Application for Leave to Appeal the Decision on Disclosure Issues,
Responsibilities for Protective Measures and other Procedural Matters"**

Source: Office of the Prosecutor

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

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**Unrepresented Applicants for
Participation/Reparation**

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**Victims Participation and Reparations
Section**

Other

Background

1. On 24 April, the Trial Chamber issued under seal - *ex parte* only available to the Prosecution and Registry, the "Decision on Disclosure Issues, Responsibilities for Protective Measures and other Procedural Matters" ("Decision").¹ Attached to the Decision were Annexes A-D.² On 28 April 2008, Judge Blattmann issued his separate and dissenting opinion to the Decision ("Judge Blattmann's Dissenting Opinion").³
2. On 2 May 2008, the Prosecution filed under seal and *ex parte* only available to the Prosecution and the Registry the "Prosecution's Application for Leave to Appeal the Decision on Disclosure Issues, Responsibilities for Protective Measures and other Procedural Matters" ("Prosecution's Application").⁴
3. On 8 May 2008, the Trial Chamber issued a confidential redacted version of the Decision to be notified to the Defence only,⁵ a public redacted version of the Decision,⁶ and a public version of Judge Blattmann's Dissenting Opinion.⁷
4. On 8 May 2008, the Trial Chamber further ordered the Prosecution to re-file the Prosecution's Application in appropriate form within two day of the notification of that order, with a view to enabling the Defence to respond to the Prosecution's Application.

Submissions

5. The Prosecution hereby files a public redacted version of the Prosecution's Application (Annex I).⁸ The Prosecution regrets that due to technical problems in

¹ ICC-01/04-01/06-1295-US-Exp.

² ICC-01/04-01/06-1295-US-Exp-AnxA, ICC-01/04-01/06-1295-US-Exp-AnxB, ICC-01/04-01/06-1295-US-Exp-AnxC, and ICC-01/04-01/06-1295-US-Exp-AnxD.

³ ICC-01/04-01/06-1295-US-Exp-Anx1, Separate and Dissenting Opinion of Judge Blattmann attached to Decision on Disclosure Issues, Responsibilities for Protective Measures and other Procedural Matters.

⁴ ICC-01/04-01/06-1304-US-Exp.

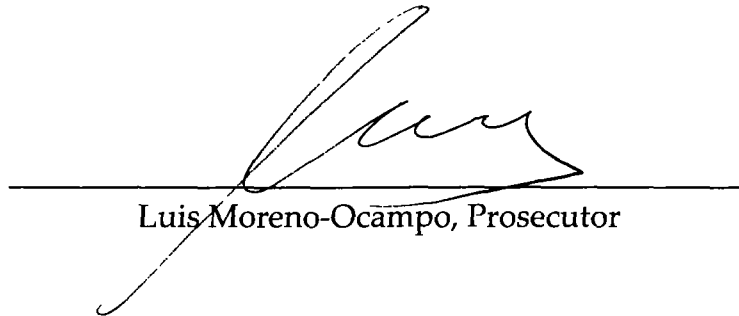
⁵ ICC-01/04-01/06-1311-Anx1.

⁶ ICC-01/04-01/06-1311-Anx2.

⁷ ICC-01/04-01/06-1311-Anx3.

⁸ This public version of the Prosecution's Application does not contain any identifying information of victims and witnesses. The Prosecution notes that Annexes A-D attached to the Decision have not been filed *inter partes* or publicly. However, in its public Decision of 8 May 2008, the Trial Chamber indicated that the original

the internal distribution of the document it was not able to timely react to the Chamber's order.



Luis Moreno-Ocampo, Prosecutor

Dated this 15th day of May, 2008
At The Hague, The Netherlands

Decision filed under seal and *ex parte* was accompanied by four under seal and *ex parte* annexes (see ICC-01/04-01/06-1311, para. 1. Therefore, while in the attached version of the Prosecution's Application, mere references to the existence of Annexes A-D or general statements included therein have not been redacted, the Prosecution was careful to make sure that any reproduction of the contents of those annexes as well as any reference to sensitive information from those Annexes is redacted. The Prosecution has endeavoured to maintain a format that enables the Defence to adequately respond to the Application, as instructed by the Chamber. However, the Prosecution respectfully submits that only the Chamber, either *proprio motu* or at the request of the Defence has the authority to vary the scope of its prior protective measures.