

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 3 June 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 Document
Prosecution's Submission on the Use of Visual Aids**

Source: [Office of the Prosecutor]

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

The Office of the Prosecutor

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Legal Representatives of Victims

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**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
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**The Office of Public Counsel for the
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Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Background

1. At the Status Conference of 12 March 2008, the Trial Chamber expressed its desire that the Parties engage in cross-party talks with a view to reaching an agreement on the use of visual aids at trial.¹
2. In its Scheduling Order of 21 May 2008, the Trial Chamber ordered the Prosecution and the Defence to make their respective submissions on the use of visual aids by 3 June 2008.²

Visual Aids

3. The Prosecution defines a visual aid as any original visual display that is used to explain previously disclosed evidence whether it be documentary evidence, video evidence or witness statements. Such visual aids will, as a rule, be generated solely from disclosed evidence and manipulated thereafter by the Parties, *inter alia*, by adding directional symbols, employing presentational techniques or utilising other explanatory devices. To this end, visual aids could, potentially, be displayed in the form of info-graphics, timelines, charts, slide-shows, animations, or any other similar graphic device.
4. The Prosecution seeks the use of visual aids in various scenarios, *inter alia*, during opening statements, for presentation to witnesses during their testimony and during closing submissions.

¹ ICC-01-04-01-06-T-78-ENG.

² ICC-01/04-01/06-1343, para. 8.

5. In its opening statement, the Prosecution, at this stage, intends to rely on two visual aids. The **first** visual aid is a computer-generated info-graphic comprising a map of the Ituri region on which attacks, committed by different armed groups between August 2002 and August 2003, have been indicated. The dates of these attacks and their locations have been identified from reports disclosed to the Defence. The **second** visual aid comprises another computer-generated info-graphic comprising a map on which the movements of alleged child soldiers are depicted including the camps where they underwent training and the locations of armed hostilities in which they were involved. The visits of the Accused and his alleged co-perpetrators to the aforementioned training camps will also be depicted on the same info-graphic. The source for the second visual aid is, primarily, the witness statements of the alleged child soldiers – all of which have been disclosed to the Defence.³
6. The Prosecution has yet to identify visual aids on which it intends to rely at the other stages of the trial proceedings.
7. The Prosecution has undertaken to disclose its visual aids to the Defence seven days before their proposed use at trial. It was indicated to the Defence that this should be a mutually reciprocal undertaking.

The Defence

8. The Defence has agreed to the reciprocal use of visual aids in opening statements, qualifying that there ought not to be any reference to the ERN numbers identifying specific documents or witness statements. Subject to

³ In addition, the Prosecution intends to show during the opening statement stills from video materials that form part of its List of Evidence and were disclosed to the Defence accordingly. Whilst these stills are not visual aids, the Prosecution wants to draw the attention of both the Trial Chamber and the Defence to it.

this qualification, the Defence has agreed to the use of the two info-graphics outlined in paragraph 5 hereinabove.⁴

9. The Defence informed the Prosecution that it agrees to the reciprocal use of visual aids during closing submissions inclusive of references to specific exhibits and their identifying information.
10. The Defence further indicated to the Prosecution that it would agree that intended reliance on visual aids, and the content thereof, be notified to the opposing party seven days prior to their use at trial.

The Prosecution's Submissions

11. The Prosecution, in not objecting to the Defence position as stipulated in paragraph 8 hereinabove, will refrain from making reference to specific ERN numbers or other similar citations to catalogued investigative material. The Prosecution, nevertheless, reserves the right to indicate such specific information in its two abovementioned info-graphics which may comport with the general purpose of an opening statement; namely to specify, *inter alia*, the evidence that the Prosecution will adduce in order to substantiate the charges against the Accused. More specifically, the Prosecution submits that the use of these two visual aids will substantially assist the court in understanding the contextual objective elements of the crimes alleged.
12. The Prosecution has not presently identified any visual aids which it wishes to present to any of its witnesses. It is therefore submitted that a specific decision on the use of visual aids at the evidentiary stage of the trial is redundant at the present moment in time.

⁴ Email from Maître Marc Desalliers to the Prosecution dated 2 June 2008 at 16:00.

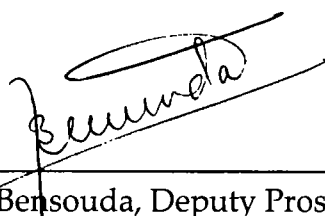
13. The Prosecution notes that the Defence has agreed to its position with respect to timely disclosure and that visual aids may be utilised in closing submissions.

Comparative Jurisprudence

14. Comparative international jurisprudence has recognised that the use of visual aids as means to understanding the evidence more clearly is welcome.⁵ The use of such tools, however, is subject to timely disclosure prior to their use at trial.⁶

Relief Sought

15. In light of the aforementioned, the Prosecution at this stage requests that the Trial Chamber permit the use of visual aids as outlined in paragraphs 4 and 5 above.



Fatou Bensouda, Deputy Prosecutor (Prosecutions)
on behalf of
Luis Moreno-Ocampo, Prosecutor

Dated this 3rd day of June 2008

At The Hague, Netherlands

⁵ *Prosecutor v. Boškoski and Tarčulovski*, IT-04-82, Status Conference, 21 March 2007 at p. 235.

⁶ *idem*.