

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: 20 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

URGENT

Prosecution's additional further updated information on documents that were obtained by the Office of the Prosecutor from the United Nations pursuant to Article 54(3)(e) on the condition of confidentiality and solely for the purpose of generating new evidence and that potentially contain evidence that falls under Article 67(2)

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**

**The Office of Public Counsel for
Victims**

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States Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Background

1. The Prosecution makes reference to the background section of the "Prosecution's additional information on the Undisclosed Evidence"¹ and to the submissions and discussions during the status conferences of 6 May 2008² and of 28 May 2008.³
2. On 2 June 2008, the Prosecution filed the "Prosecution's information on documents that were obtained by the Office of the Prosecutor from the United Nations pursuant to Article 54(3)(e) on the condition of confidentiality and solely for the purpose of generating new evidence and that potentially contain evidence that falls under Article 67(2)".⁴ On 9 June 2008, the Prosecution provided additional information by the "Prosecution's updated information on documents that were obtained by the Office of the Prosecutor from the United Nations pursuant to Article 54(3)(e) on the condition of confidentiality and solely for the purpose of generating new evidence and that potentially contain evidence that falls under Article 67(2)".⁵
3. During the status conference of 10 June 2008, the Prosecution made further submissions,⁶ which it updated by the 11 June 2008 "Prosecution's further updated information on documents that were obtained by the Office of the Prosecutor from the United Nations pursuant to Article 54(3)(e) on the condition of confidentiality and solely for the purpose of generating new evidence and that potentially contain evidence that falls under Article 67(2)".⁷

¹ ICC-01/04-01/06 at paras.1 to 5.

² ICC-01/04-01/06-T-86-ENG, at pages 2 to 37, in particular at page 35, lines 20 to 25, page 36 and page 37, lines 1 to 23.

³ ICC-01/04-01/06-T-88-ENG, at pages 1 to 3, 43 to 48.

⁴ ICC-01/04-01/06-1364.

⁵ ICC-01/04-01/06-1387, confidential – *ex parte* – Prosecution and Defence only.

⁶ ICC-01/04-01/06-T-89-ENG.

⁷ ICC-01/04-01/06-1391.

4. On 13 June 2008, the Trial Chamber rendered the “Decision on the consequence of non-disclosure of exculpatory materials covered by Article 54(3)(e) agreements and the application to stay the prosecution of the accused, together with certain other issues raised at the Status Conference on 10 June 2008” (13 June 2008 Decision),⁸ and ordered the stay of the proceedings, halting the trial process in all respects.⁹
5. The Trial Chamber in the 13 June 2008 Decision scheduled a hearing for Tuesday, 24 June 2008, in order to consider the release of the accused.¹⁰

Purpose of the present filing

6. The Prosecution provides additional further updated information on the outcome of its continued discussions with the United Nations (UN) concerning the undisclosed evidence it obtained from the UN.

Additional further updated information

7. The Prosecution informs the Trial Chamber:

(1) that discussions with the United Nations over the lifting of confidentiality restrictions under Article 54(3)(e) are continuing and;

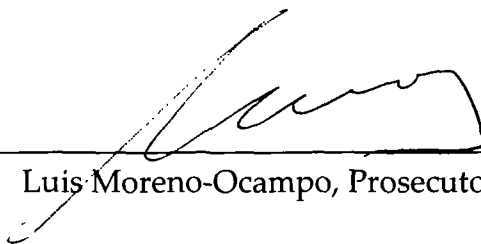
(2) that, in the case where no consent to lifting the restrictions can be given, a verbal agreement has been reached with the UN for all UN documents, which will shortly be confirmed in writing, that they will agree to the Judges viewing the material under appropriate conditions of

⁸ ICC-01/04-01/06-1401.

⁹ ICC-01/04-01/06-1401, at para. 94.

¹⁰ *Ibid.*

confidentiality, in particular to assess the adequacy of summaries through viewing the underlying material.¹¹



Luis Moreno-Ocampo, Prosecutor

Dated this 20th day of June 2008
At The Hague, The Netherlands

¹¹ The UN answer is to be formalized today.