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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

**With public Annexes 1 and 3 and Confidential – *ex parte* – Prosecution only
Annexes 2 and 4**

**Prosecution's additional provision of further information supplementing the
"Prosecution's application to lift the stay of proceedings"**

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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Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Background

1. On 10 July 2008, the Prosecution filed the “Prosecution’s application to lift the stay of proceedings”¹ (“10 July 2008 Application”). In the 10 July 2008 Application, the Prosecution informed the Trial Chamber of the arrangements the various information providers consented to in order to effectively comply with the conditions set by the Trial Chamber to lift the stay of proceedings.² Accordingly, the Prosecution requested the Trial Chamber to lift the stay of proceedings and to revoke the release of the accused.³
2. On 30 July 2008⁴ and on 8 August 2008⁵ respectively, the Prosecution provided further information supplementing its application to lift the stay of proceedings. In summary, the information provided in these filings detailed that as of 8 August 2008 out of the 152 documents received from the United Nations (UN) subject to Article 54(3)(e) restrictions 117 could be disclosed directly to the Defence,⁶ and that 35 items are still under consideration by the UN.⁷

Additional information

3. As a result of its ongoing review of the documents concerned, the UN has now conveyed to the Prosecution two further letters dated 11 August 2008 and 19 August 2008 respectively.⁸

¹ ICC-01/04-01/06-1430 Conf-Exp; the Prosecution filed the public redacted version (ICC-01/04-01/06-1431) on 11 July 2008.

² *Ibid*, at paragraphs 20 to 44.

³ *Ibid*, at paragraph 54. - In respect of the further procedural history, the Prosecution refers to paragraphs 1 to 8 of its 30 July 2008 “Prosecution’s provision of information supplementing the ‘Prosecution’s application to lift the stay of proceedings’”, ICC-01/04-01/06-1451.

⁴ ICC-01/04-01/06-1451.

⁵ ICC-01/04-01/06-1454.

⁶ 52 documents with no redactions and 65 documents with redactions.

⁷ Reference is made to paragraph 8 of the 8 August 2008 filing.

⁸ The 11 August 2008 UN letter with its Annexes I and II is attached as (public) Annex 1. Its Annex III is attached as Confidential – *ex parte* – Prosecution only Annex 2. The 19 August 2008 UN letter with

4. These letters provide for the lifting of Article 54(3)(e) confidentiality restrictions for another 19 documents.⁹ Accordingly, the Prosecution is now in a position to disclose directly to the Defence¹⁰ 136 out of the 152 undisclosed UN documents; 53 documents with no redactions and 83 in redacted form.

11 August 2008 UN Letter

5. As detailed in the 11 August 2008 letter, the UN has consented to lift Article 54(3)(e) restrictions in respect of 15 additional documents. Annex I to the letter specifies the one document that can now be disclosed without redactions; Annex II details 14 documents that can be disclosed with redactions.¹¹

19 August 2008 UN Letter

6. As detailed in the 19 August 2008 letter, the UN has consented to lift the Article 54(3)(e) restrictions in respect of another four documents. Annex I to the letter details three documents that can be disclosed with redactions; Annex II details the one document that can be disclosed with redactions and subject to the implementation of protective measures.

its Annex I is attached as (public) Annex 3. Its Annex II is attached as Confidential – *ex parte* – Prosecution only Annex 4.

⁹ For one of these documents (DRC-OTP-0038-0909) the UN in its 19 August 2008 letter has requested the implementation of protective measures.

¹⁰ Reference is made to footnote 9 and paragraph 6 of the 8 August 2008 filing; for two documents the disclosure is subject to the implementation of protective measures. - The Prosecution recalls the fact that the Defence is *not* prepared to accept any disclosure materials so long as the stay of proceedings remains in force. Reference is made to paragraph 11 and footnote 23 of the 8 August 2008 filing.

¹¹ To the extent that the 11 August 2008 letter in its first paragraph on page 2 makes reference to “22” documents, the UN have clarified that this is a typo; the correct number is 21 documents, as detailed in the last paragraph on page 1 of the letter.

Remaining documents

7. The Prosecution has identified one document¹² from the list of the outstanding 16 documents that is a duplicate of a document¹³ for which the UN has already consented to its disclosure; the Prosecution has taken this document off the list of outstanding documents and has provided the UN with the respective information.
8. In addition, the Prosecution has noted that the UN has inadvertently not included one document¹⁴ in Annex III to the 11 August 2008 letter, which currently remains under further review.
9. The UN will continue their review of the outstanding 16 items and will in due course - and as soon as possible - inform the Prosecution accordingly.

Relief Sought

10. In light of the aforementioned, the Prosecution reiterates its request to lift the stay of proceedings and to revoke the decision on the release of the accused.



Luis Moreno-Ocampo
Prosecutor

Dated this 22nd day of August 2008
At The Hague, The Netherlands

¹² DRC-OTP-0043-0080.

¹³ DRC-OTP-0055-0264.

¹⁴ DRC-OTP-0112-0669; the document concerned is listed in Annex III to the 18 July 2008 UN letter. This Annex was attached as Confidential - *ex parte* - Prosecution only Annex 2 to the 30 July 2008 filing.