



Original: English

No.: ICC-01/04-01/06
Date: 21 November 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
With Confidential Annexes A-C**

**Prosecution's Notification of Disclosure of Exculpatory and Rule 77 Material to
the Defence on 18 and 20 November 2008**

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

Counsel for the Defence

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Mr Jean-Marie Biju-Duval

Legal Representatives of Victims

Mr Luc Walley

Mr Frank Mulenda

Ms Carine Bapita Buyangandu

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

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

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. At the 18 November 2008 Status Conference, the Trial Chamber lifted the stay of proceedings.¹ As a result the Trial Chamber ordered the Prosecution to disclose all the items of evidence that were the subject of the stay of proceedings by 20 November 2008 at 1600 hours.²
2. The Prosecution hereby notifies the Trial Chamber that it has complied with the Trial Chamber's Order by disclosing all the pertinent items of hitherto undisclosed evidence, in the modalities approved by the Chamber³ and in accordance with its obligations under the Statute and Rules of Procedure and Evidence.
3. On 18 November 2008, the Prosecution disclosed to the Defence 148 items. This disclosure related to the items that could be disclosed in a fully un-redacted form. They are listed in Confidential Annex A. On 20 November 2008 the Prosecution disclosed a further 83 items of evidence, as listed in the attached Confidential Annex B⁴
4. Additionally, as the Trial Chamber ordered,⁵ the Prosecution provided the Defence with a chart that clearly illustrates the specific disclosure method employed for each of the 93 items of evidence which the Prosecution had not

¹ ICC-01/04-01/06-T-98-ENG RT 18 November 2008, page 3 line 25 and page 4 line 1.

² *Ibid* , page 4 , lines 2 to 9.

³ Namely, the un-redacted and redacted versions, summaries, alternative evidence, and admissions of fact.

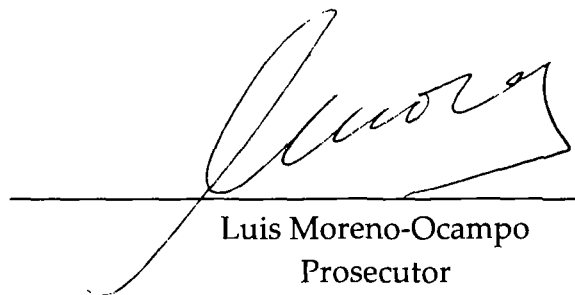
⁴ The total number of items therefore disclosed was 231. This total number of 231 includes in the 93 items that could not initially be disclosed to the Defence directly or in full un-redacted form. This includes alternative evidence for two of the 93 items of evidence which were not disclosed in either summary or redacted form.

⁵ The Trial Chamber ordered that the disclosure "must be done in a, and I quote, user-friendly, way", page 4, line 25 of the 18 November Status Conference.

initially been able to disclose to the Defence directly or in fully un-redacted form.

This is attached as confidential Annex C.

5. Further, the Prosecution recalled the specific restrictions imposed by the information provider in respect of nine of the items of evidence that were disclosed on 20 November 2008.⁶



Luis Moreno-Ocampo
Prosecutor

Dated this 21st day of November 2008
At The Hague, The Netherlands

⁶ These 9 items are identified in the Lists of disclosed materials provided to the Defence for Potentially Exculpatory Package 58 and Rule 77 package 59, which can be found at pages 9 and 10 of Annex B of the present filing.