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No.: ICC-01/04-01/06
Date: 1 December 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 Prosecution and Defence only annex**

**Prosecution's communication of original versions of incriminatory evidence
disclosed to the Defence on 28 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 Franck Mulenda

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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

Submission of originals of incriminatory evidence

1. The Prosecution informs the Trial Chamber that it disclosed to the Defence eleven items of incriminating evidence on 28 November 2008. These eleven items are listed in the Lists of Disclosed Items in Annex 1¹.
2. These eleven items include eight items related to the Prosecution's expert witness Gerard Prunier which the Trial Chamber ordered the Prosecution to submit during the Status Conference on 25 November 2008².
3. The Prosecution herewith submits original versions of eight items.

¹ Confidential, Prosecution and Defence Only – Annex 1.

² ICC-01/04-01/06-T-99-ENG ET WT 25-11-2008, page 16, lines 6 to 13. In respect of the expert witness' *curriculum vitae*, the Prosecution refers to its submissions in paragraph 5 of "Prosecution's filing of the expert report and curriculum vitae of Mr. Prunier", ICC-01/04-01/06-1505.

Item for which no physical original is being filed

4. The Prosecution informs the Trial Chamber that three items³ have been disclosed to the Defence in redacted form⁴. In light of these redactions⁵, the originals of these items have not been filed with the Registry.



Luis Moreno-Ocampo
Prosecutor

Dated this 1st day of December 2008
At The Hague, The Netherlands

³ DRC-OTP-0193-0068, DRC-OTP-0193-0074 and DRC-OTP-0193-0078.

⁴ The redactions are made pursuant to Rule 81(1) and Rule 81(4) of the Rules of Procedure and Evidence. The redactions made pursuant to Rule 81(4) were authorised by the Trial Chamber in Annex 2 of its Decision issuing a confidential and public redacted version of "Decision on disclosure issues, responsibilities for protective measures and other procedural matters"; see ICC-01/04-01/06-1311-Anx2, page 18, para. 30 and ICC-01/04-01/06-1295-US-Exp-AnxC, page 27, para. 87. Redactions to internal work product pursuant to Rule 81(1) do not require the Trial Chamber's authorisation.

⁵ Reference is made to the "Prosecution's communication of originals of incriminatory evidence disclosed to the Defence pursuant to the order of the Trial Chamber of 9 November 2007", ICC-01/04-01/06-1054, para 9.