



Original: English

No.: ICC-01/04-01/06
Date: 22 January 2009

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 incriminatory evidence disclosed to the Defence
on 19 January 2009**

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

Ms Catherine Mabilie

Mr Jean-Marie Biju-Duval

Legal Representatives of Victims

Legal Representatives of Applicants

Mr Luc Walley

Mr Franck Mulenda

Ms Carine Bapita Buyangandu

Mr Joseph Keta Orwinyo

Mr Jean Louis Gilissen

Mr Jean Chrysostome Mulamba

Nsokoloni

Mr Paul Kabongo Tshibangu

Mr Hervé Diakiese

Ms Paolina Massida

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

Defence Support Section

Ms Silvana Arbia

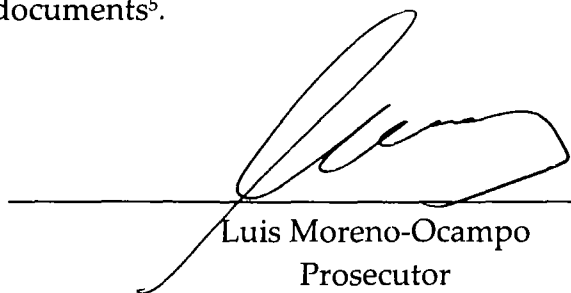
Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

1. The Prosecution informs the Trial Chamber that it disclosed to the Defence five items of incriminating evidence on 19 January 2009. These five items are listed in the attached "List of Disclosed Materials"¹.
2. These five items include:
 - a. four items previously disclosed with redactions which are now being re-disclosed in unredacted form in accordance with the Trial Chamber's "Decision on the prosecution's application for lifting of 5 annexes"² of 16 January 2009; and
 - b. one item previously disclosed as Rule 77 which is now being re-disclosed as incriminatory evidence in accordance with the Trial Chamber's "Decision on the prosecution's application to add ten items as incriminating evidence and its request for redactions pursuant to Rule 81(2), filed on 28 November 2008"³ of 16 January 2009.
3. The Prosecution informs the Trial Chamber that in respect of three items, the originals have previously been filed with the Registry⁴. The other two items are electronic documents which will not be provided the Registry as the containers also contain undisclosed documents⁵.



Luis Moreno-Ocampo
Prosecutor

Dated this 22nd day of January 2009
At The Hague, The Netherlands

¹ Confidential, Prosecution and Defence Only, Annex

² ICC-01/04-01/06-1623-Conf.

³ ICC-01/04-01/06-1624-Conf.

⁴ In respect of DRC-OTP-0160-0002 and DRC-OTP-0160-0190, the originals were filed in relation to "Submission of evidentiary materials following the Filing of Prosecution's Request for Authorization of Redactions in Documents" on 28 August 2006. In respect of DRC-OTP-0202-0244, the original was filed in relation to the ICC-01/04-01/07 disclosure of Pre-Trial INCR Package 17 on 19 November 2008.

⁵ DRC-OTP-0140-0009 and DRC-OTP-0140-0152.