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No.: ICC-01/04-01/07

Date: 8 May 2009

TRIAL CHAMBER II

Before: Judge Bruno Cotte, Presiding Judge
Judge Fatoumata Dembele Diarra
Judge Hans-Peter Kaul

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
THE PROSECUTOR
*v. GERMAIN KATANGA AND MATHIEU NGUDJOLO CHUI***

**Public Document
with Confidential Annexes A and B**

**Prosecution's Communication of Potentially Exonerating Evidence Disclosed to
the Defence on 7 May 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 of Germain Katanga

Mr David Hooper
Mr Andreas O'Shea

Counsel for the Defence of Mathieu Ngudjolo Chui

Mr Jean-Pierre Kilenda Kakengi Basila
Ms Maryse Alié

Legal Representatives of Victims

Legal Representatives of Applicants

Ms Carine Bapita Buyangandu
Mr Hervé Diakiese
Mr Vincent Lurquin
Mr Jean Chrysostome Mulamba Nsokoloni
Ms Flora Mbuyu Anjelani
Mr Fidel Nsita Luvengika

Mr Jean-Louis Gilissen
Mr Joseph Keta

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

The Office of the Prosecutor ("Prosecution") herewith submits its report regarding the disclosure, on 7 May 2009, of thirteen documents pursuant to Article 67(2) of the Statute to the Defence of Germain KATANGA and Mathieu NGUDJOLO CHUI. Six of these documents had previously been mistakenly classified as incriminating material and disclosed as such¹ in redacted form pursuant to a Decision rendered by Trial Chamber II.²

Request for Confidentiality

Annexes A³ and B⁴ appended to this communication contain the "List of Disclosed Material" provided to each Defence team. The Prosecution requests that these annexes be received as "Confidential" since they relate to *inter partes* disclosure.



Luis Moreno-Ocampo, Prosecutor

Dated this 8th day of May 2009

At The Hague, The Netherlands

¹ See Prosecution's communication of incriminatory evidence disclosed to the Defence on 16 April 2009.

² See Trial Chamber II Decision ICC-01/04-01/07-1038-Conf Exp.

³ List of Disclosed Material provided to the Defence of Germain Katanga on 7 May 2009.

⁴ List of Disclosed Material provided to the Defence of Mathieu Ngudjolo Chui on 7 May 2009.