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Date: 9 June 2009

TRIAL CHAMBER I

Before: Judge Adrian Fulford, Presiding Judge
Judge Elizabeth Odio Benito, Judge
Judge René Blattmann, Judge

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
THE PROSECUTOR
*v. THOMAS LUBANGA DYILO***

**Public Document with
Confidential *ex parte* Prosecution only Annexes 1 and 2**

**Prosecution's application for authorisation to lift redactions to witness DRC-
OTP-WWWW-0046's statement**

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

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Legal Representatives of Victims

Legal Representatives of Applicants

Mr Luc Walley

Mr Franck Mulenda

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Mr Joseph Keta Orwinyo

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Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

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Defence Support Section

Ms Silvana Arbia

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Prosecution's notice of lifting of Rule 81(2) redactions

1. The Prosecution informs¹ the Chamber of its intention to lift redactions authorised by Pre-Trial Chamber I² for which the Prosecution had applied pursuant to Rule 81(2) to protect further and ongoing investigations. These redactions appear in paragraphs 48 and 143 and on the annex included in the final two pages of witness DRC-OTP-WWWW-0046's statement, as provided in Confidential, *ex parte*, Prosecution only Annex 1.³

Application to lift Rule 81(4) redactions authorised by Pre-Trial Chamber I

2. The Prosecution seeks the Chamber's authorisation to lift a different set of redactions authorised by the Pre-Trial Chamber pursuant to Rule 81(4).⁴ These redactions included those that appear on paragraphs 132 and 196 of witness DRC-OTP-WWWW-0046's statement, as provided in Confidential, *ex parte*, Prosecution only Annex 1.⁵
3. The redactions had been made to the identity of non-governmental organisations mentioned in the witness's statement. These redactions are no

¹ ICC-01/04-01/06-T-62-ENG ET, page 23, lines 4-11 and ICC-01/04-01/06-T-65-ENG ET, page 2, lines 7-11.

² ICC-01/04-01/06-556-Conf, page 4.

³ In the Prosecution's 10 October 2006 application, these redactions were marked in yellow. See ICC-01/04-01/06-548-Conf, para 6 ("*These redactions appear in yellow*"), and the yellow redactions on pages 13, 39, 59 and 60 of ICC-01/04-01/06-548-Conf-Exp-Anx1.

In the Confidential, *ex parte*, Prosecution only Annex 1 to the present application, the redactions are visible on pages 13 (DRC-OTP-0155-0020), 40 (DRC-OTP-0155-0047), 60 (DRC-OTP-0155-0067) and 61 (DRC-OTP-0155-0068).

⁴ ICC-01/04-01/06-556-Conf, page 4.

⁵ In the Prosecution's 10 October 2006 application, the redactions on these two paragraphs were marked in grey. See ICC-01/04-01/06-548-Conf, para 5 ("*These redactions appear in grey*"), and pages 36 (para 132 only) and 56 (para 196 only) of ICC-01/04-01/06-548-Conf-Exp-Anx1.

In the Confidential, *ex parte*, Prosecution only Annex 1 to the present application, the redactions to paragraphs 132 and 196 are visible on pages 37 (DRC-OTP-0155-0044) and 57 (DRC-OTP-0155-0064).

longer necessary, because the United Nations has lifted its request for confidentiality as to that information.⁶

***Ex-parte* classification of the Annexes**

4. Given that the information which the Prosecution seeks leave to disclose to the Defence is currently subject to redactions partly approved by Pre-Trial Chamber I, the Prosecution submits that the *ex parte* classification of the Annexes is warranted until the Chamber decides on the present application.

Relief requested

5. Accordingly, the Prosecution asks that the Trial Chamber authorise the lifting of the redactions approved by Pre-Trial Chamber I pursuant to Rule 81(4) in paragraphs 132 and 196 of the statement of trial witness DRC-OTP-WWWW-0046, as they appear in Confidential *ex parte* Prosecution only Annex 1, at pages 37 and 57.



Luis Moreno-Ocampo
Prosecutor

Dated this 9th day of June 2009
At The Hague, The Netherlands

⁶ See, in this respect, the Confidential, *ex parte*, Prosecution only Annex 2, at pages 37 and 56-57, which contains a copy of the recently re-disclosed version of witness DRC-OTP-WWWW-0046's statement.