



Original: English

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

Date: 9 October 2009

TRIAL CHAMBER II

Before: Judge Bruno Cotte, Presiding Judge
Judge Fatoumata Dembele Diarra
Judge Christine Van den Wyngaert

SITUATION IN THE DEMOCRATIC REPUBLIC OF 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 Incriminatory Evidence Disclosed to the Defence
on 9 October 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

Mr Jean-Pierre Fofé Djofia Malewa

Legal Representatives of the Victims

Mr Fidel Nsita Luvengika

Mr Jean-Louis Gilissen

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(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

Deputy Registrar

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

The Office of the Prosecutor ("Prosecution") herewith notifies Trial Chamber II of its disclosure, on 9 October 2009, to the Defence teams of Germain KATANGA and Mathieu NGUDJOLO CHUI, of 28 documents as incriminatory evidence.

Eight documents relate to witness P-267 and are being disclosed pursuant to decision ICC-01/04-01/07-1483-Conf-Exp-Red, as well as the order of the Chamber rendered during the closed session hearing held on 24 September 2009.¹ Two documents are the transcript and French translation of a video previously disclosed as incriminating material.² Their disclosure was authorized in decision ICC-01/04-01/07-1336. Five documents relate to P-419 and their disclosure was authorized in decision ICC-01/04-01/07-1515. The remaining documents relate to incriminating witnesses and are being re-disclosed either in un-redacted form or with fewer redactions, pursuant to the order of the Chamber rendered during the closed hearing held on 24 September 2009.

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 9th of October 2009

At The Hague, The Netherlands

¹ ICC-01/04-01/07-T-69-CONF-EXP-FRA ET 24-09-2009.

² Video DRC-OTP-0080-0010.

³ List of Disclosed Material provided to the Defence of Germain Katanga on 9 October 2009.

⁴ List of Disclosed Material provided to the Defence of Mathieu Ngudjolo Chui on 9 October 2009.