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

Date: 12 March 2010

TRIAL CHAMBER II

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

**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 Pre-Inspection Report for Material Provided to
the Defence under Rule 77 on 12 March 2010**

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 Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

The Office of Public Counsel for Victims

The Office of Public Counsel for the Defence

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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") submits the pre-inspection report regarding the disclosure to the Defence teams of Germain Katanga and Mathieu Ngudjolo Chui of fourteen documents pursuant to Rule 77 of the Rules of Procedure and Evidence ("Rule 77"), on 12 March 2010.

Disclosure of new material

1. The Prosecution disclosed, based on the new, simplified procedure set out by the Chamber regarding the disclosure of Rule 77 and potentially exonerating material,¹ nine new documents that relate to witnesses 363, 157, 249 and 159. The documents contain information that may be material for the preparation of the Defence, and do not require redactions.

Annex to the statement of P-363²

2. The document is an annex to the statement of witness 363, which is also being disclosed on this day as potentially exonerating material.³ The Prosecution did not disclose the annex prior to the 27 February 2009 deadline⁴ due to an oversight.

School records and a Forensic Report related to P-157

3. The Prosecution disclosed five documents containing alleged school records of witness P-157.⁵ These documents were obtained by the Prosecution on 4 and 5 November 2009 in the context of its investigations in the case of the *Prosecutor*

¹ ICC-01/04-01/07-T-105-CONF-FRA ET, 22 February 2010, p. 3, lines 16-25 and p. 4, lines 1-4.

² DRC-OTP-0206-0163.

³ See document DRC-OTP-0206-0163 in PEXO disclosure package 37 of 12 March 2010.

⁴ In its « *Ordonnance fixant le calendrier de communications des éléments de preuve à charge et à décharge avant le procès et la date d'une conférence de mise en état* », ICC-01/04-01/07-846, 23 January 2009, the Chamber ordered *inter alia* that all Rule 77 material be disclosed to the Defence no later than 27 February 2009.

⁵ DRC-OTP-0224-0347, DRC-OTP-0225-0002, DRC-OTP-0225-0038, DRC-OTP-0225-0064 and DRC-OTP-0225-0112.

v. Thomas Lubanga Dyilo. The Prosecution also disclosed a Forensic Report⁶ pertaining to the above mentioned school records. The Report was submitted to the Prosecution on 15 February 2010. For the foregoing reasons, the Prosecution was not in a position to disclose these documents prior to the deadline of 27 February 2009.

*Medical receipts of P-249*⁷

4. On 22 December 2009, the Prosecution requested permission to disclose as incriminating evidence a document containing medical receipts related to witness P-249.⁸ In its decision of 15 February 2010, the Chamber rejected the Prosecution's request of adding the document to its incriminating list of evidence.⁹ The Prosecution is now disclosing the document pursuant to Rule 77 as the information contained therein may be material for the preparation of the Defence.

*Document related to P-159*¹⁰

5. Witness 159 provided the document to the Prosecution on 10 March 2010. The Prosecution was therefore not in a position to disclose it prior to the deadline of 27 February 2009.

**Translations of disclosed material for inclusion in the familiarization packages of
Prosecution witnesses**

6. The remaining five documents are translations into Swahili or French of material that was already disclosed in relation to Prosecution witnesses 132, 249 and 373. The Chamber authorized, in an e-mail dated 19 January 2010, the

⁶ DRC-OTP-0223-0152.

⁷ DRC-OTP-1028-0100.

⁸ ICC-01/04-01/07-1738-Conf-Exp.

⁹ ICC-01/04-01/07-1869.

¹⁰ DRC-OTP-1053-0168.

disclosure of translations of documents related to Prosecution witnesses who will be testifying before this Court.

Request for Confidentiality

Annexes A¹¹ and B¹² 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 12th day of March 2010

At The Hague, The Netherlands

¹¹ List of Disclosed Material provided to the Defence of Germain Katanga on 12 March 2010.

¹² List of Disclosed Material provided to the Defence of Mathieu Ngudjolo Chui on 12 March 2010.