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No.: ICC-01/04-01/07
Date: 26 October 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 25 October 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

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 Victims

Mr Fidel Nsita Luvengika

Mr Jean-Louis Gilissen

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

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 the pre-inspection report regarding the provision on 25 October 2010 pursuant to Rule 77 of the Rules of Procedure and Evidence to the Defence teams of Germain Katanga and Mathieu Ngudjolo Chui, of fourteen documents.

Four of these documents are related to P-12 and were informally provided to the Defence on 14 October 2010 via e-mail.¹ One of these documents² is being re-disclosed in unredacted form, but is subject to protective measures requested by the provider and granted by Trial Chamber II.³

The document related to P-317, is also being re-disclosed with fewer redactions.⁴

DRC-OTP-1041-0255⁵ is the lifted version of DRC-OTP-1015-0758. Initially, the document in question was registered under the ERN DRC-OTP-1015-0756, with the first two pages containing a cover letter by the provider, for which it refused to lift the 54(3)(e) restrictions on account of confidentiality of its correspondence. The document was included on OTP's internal disclosure lists under ERN number DRC-OTP-1015-0756 and lifting requests for this document were also sent to the provider with this reference. However, after delimiting the first two pages that contained the confidential letter by the provider for which lifting was refused, the document was referred back to the OTP with a new ERN number.

The remaining documents are related to P-28, P-279 and P-575 and are being disclosed as a result of OTP's recent investigations.

¹ See e-mails sent by the OTP on 14 October 2010; see also ICC-01/04-01/07-T-203-CONF-ENG ET 14-10-2010, p. 2, line 6-p. 4, line 1 and p. 31, line 19-p. 32, line 1.

² DRC-OTP-0043-0086. The redacted version of this document was disclosed in Pre-Trial PEXO package 10 on 24 October 2008.

³ See ICC-01/04-01/07-T-204-CONF-ENG ET 15-10-2010, p. 3, lines 2-14.

⁴ The more redacted version of this document was disclosed in Preconfirmation INCR package 8 on 18 April 2008.

⁵ Redactions that appear in this document have been applied by the provider.

Request for Confidentiality

Annexes A⁶ and B⁷ appended to this communication contain the “List of Disclosed Material” 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 26th day of October 2010

At The Hague, The Netherlands

⁶ List of Disclosed Material provided to the Defence of Germain Katanga on 25 October 2010.

⁷ List of Disclosed Material provided to the Defence of Mathieu Ngudjolo Chui on 25 October 2010.