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No.: **ICC-01/04-01/06**

Date: **7 June 2010**

**TRIAL CHAMBER I**

**Before:** Judge Adrian Fulford, President  
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  
with Confidential, Prosecution and Defence only Annexes A and B**

**Prosecution's communication of information on intermediaries and witnesses  
pursuant to Trial Chamber's Order of 12 May 2010**

**Source:** Office of the Prosecutor

**Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:**

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**Other**

## Introduction

1. On 12 May 2010, the Trial Chamber rendered its “Decision on Intermediaries” (“Decision”)<sup>1</sup>, ordering the Prosecution, *inter alia*, (i) to disclose confidentially to the Defence a short account of the professional backgrounds<sup>2</sup> of intermediaries 143, 316 and 321, and (ii) to provide confidentially to the Defence a schedule setting out the known contacts<sup>3</sup> between the 23 intermediaries, between the intermediaries and the witnesses, and between the witnesses<sup>4</sup>.
2. The Prosecution hereby complies with the afore-mentioned Orders. It notes, however, that the disclosure of information related to Intermediary 143 can only be undertaken once<sup>5</sup> the necessary protective measures have been effected.<sup>6</sup> The Prosecution submits that this is in line with the Chamber’s approach as promulgated in the Decision<sup>7</sup>.
3. Pursuant to the Decision<sup>8</sup>, the annexes to this filing should be classified as Confidential- only available to the Office of the Prosecutor and the Defence, since they contain confidential information not accessible to the public.

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<sup>1</sup> ICC-01/04-01/06-2434-Conf-Exp.

<sup>2</sup> ICC-01/04-01/06-2434-Conf-Exp, para. 150 (ii) – including, in particular, information on their work, if any, with the Congolese authorities, NGOs and children who were associated with armed groups.

<sup>3</sup> ICC-01/04-01/06-2434-Conf-Exp, para. 150 (v) – indicating, in particular, the dates of meetings, the names of those present and the location.

<sup>4</sup> For the purpose of this pleading, the Prosecution broadly uses the term “intermediary” to include individuals or organisations who facilitated initial contacts between potential witnesses and the Prosecution but did not otherwise provide intermediary services.

<sup>5</sup> This may take place within ten days – see T.298, page 20, lines 13 to 16.

<sup>6</sup> See ICC-01/04-01/06-T-297-CONF-ENG ET., page 30, lines 19-21.

<sup>7</sup> ICC-01/04-01/06-2434-Conf-Exp, para. 139 (d).

<sup>8</sup> ICC-01/04-01/06-2434-Conf-Exp, para. 150 (ii) and (v).

**I. Communication of information on the professional backgrounds of intermediaries 316 and 321**

4. In respect of the employment backgrounds of intermediaries 316 and 321, the Prosecution recalls that, on 17 November 2009, it disclosed to the Defence the statements of intermediary 316, and, on 26 January 2010<sup>9</sup> and 9 February 2010<sup>10</sup>, the statements of intermediary 321. These statements contain the core information on the professional record and related activities of intermediaries 316 and 321. The outstanding disclosable information related to 316 is contained in Confidential-Annex A attached to this filing.

**II. Communication of a schedule on the known contacts involving intermediaries and witnesses**

5. Pursuant to paragraph 150 (v) of the Decision, the Prosecution has attached hereto an overview schedule as Confidential-Annex B, which establishes a list of the contacts among intermediaries, between the intermediaries and witnesses, and/or between *trial* witnesses<sup>11</sup> themselves. The schedule indicates, where the information is available, (i) the circumstances under which the intermediaries and the witnesses, and/or the trial witnesses, met<sup>12</sup>; and (ii) the location and the date where these meetings took place<sup>13</sup>.

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<sup>9</sup> On 26 January 2010, the Prosecution disclosed to the Defence the transcripts of the interview which took place in October 2009.

<sup>10</sup> On 9 February 2010, the Prosecution disclosed to the Defence the transcripts of the interview which took place in January 2010.

<sup>11</sup> Following the Trial Chamber's extension of the deadline for the disclosure of information on known contacts between the witnesses or individuals whose evidence falls within Article 67(2) of the Rome Statute and Rule 77 of the Rules of Procedure and Evidence, the Prosecution will provide the outstanding disclosable information confidentially to the Defence in a separate schedule on Wednesday 9 June 2010.

<sup>12</sup> See column 7 of the schedule.

<sup>13</sup> See columns 5 and 6 of the schedule.



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Luis Moreno-Ocampo

Prosecutor

Dated this 7<sup>th</sup> day of June 2010  
At The Hague, The Netherlands