

ANNEX I

**Cour
Pénale
Internationale**



Les Chambres

**International
Criminal
Court**

The Chambers

**Internal memorandum
Memorandum interne**

To À	Presidency	From De	Judge Kuenyehia
Date	15 July 2010	Through Via	
Ref.	01/04-01/06	Copies	
Subject Objet	Request for recusal pursuant to article 41 (1) of the Statute and rule 33 of the Rules of Procedure and Evidence		
	CONFIDENTIAL		

1. On 8 July 2010, Trial Chamber I rendered the "Decision on the Prosecution's Urgent Request for Variation of the Time-Limit to Disclose the Identity of Intermediary 143 or Alternatively to Stay Proceedings Pending Further Consultations With the VWU", staying the proceedings against Mr Thomas Lubanga Dyilo for the Prosecutor's non-compliance with orders of the Trial Chamber.¹ On 14 July 2010, the Prosecutor filed a request for leave to appeal Trial Chamber I's decision.² On 15 July 2010, Trial Chamber I granted the Prosecutor's request for leave to appeal its decision of 8 July 2010. Pursuant to article 41 (1) of the Statute and rule 33 of the Rules of Procedure and Evidence, I hereby request to be recused from this appeal and all future appeals in this case.

2. The reason for this request is my previous involvement in the case against Mr. Lubanga Dyilo during the pre-trial phase of the proceedings, in the course of which I, *inter alia*, issued a warrant of arrest³ and confirmed the charges against the suspects.⁴ I therefore have "previously been involved ... in that case before the Court" (second sentence of article 41 (2) (a) of the Statute).

3. Pursuant to rule 33 (2) of the Rules of Procedure and Evidence, I submit this request confidentially. However, I would not object if the Presidency wished to make public this

¹ *Prosecutor v. Thomas Lubanga Dyilo*, ICC-01/04-01/06-2517-Conf, para. 31. A redacted version of the decision was filed on the same day as ICC-01/04-01/06-2517-Red.

² "Urgent Prosecution's Application for Leave to Appeal the Trial Chamber I's decision of 8 July 2010 staying the proceedings for abuse of process", ICC-01/04-01/06-2520-Conf.

³ ICC-01/04-01/06-2.

⁴ ICC-01/04-01/06-803.

request or the reasons for its eventual decision on this request (second sentence of rule 35(2) of the Rules of Procedure and Evidence).