

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

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

Date: 9 May 2006

PRE-TRIAL CHAMBER I

Before: Judge Sylvia Steiner, Single Judge

Registrar: Mr Bruno Cathala

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
THE PROSECUTOR
vs. THOMAS LUBANGA DYILO**

Public document

Filing of Incriminating Evidence

The Office of the Prosecutor

Mr Luis Moreno-Ocampo, Prosecutor
Ms Fatou Bensouda, Deputy Prosecutor
Mr Ekkehard Withopf, Senior Trial Lawyer

Counsel for the Defence

Mr Jean Flamme

Background

1. The Prosecution refers to the “interim system of disclosure” as set out by the Pre-Trial Chamber’s (public) “Decision Requesting Observations of the Prosecution and the Duty Counsel for the Defence on the System of Disclosure and Establishing an Interim System of Disclosure” of 23 March 2006 (23 March 2006 Decision),¹ reinforced by the Pre-Trial Chamber’s (public) “Decision Requesting Further Observations from the Prosecution and the Duty Counsel for the Defence on the System of Disclosure” of 27 March 2006 (27 March 2006 Decision).²

2. On 6 April 2006, the Parties submitted their observations on the “interim system of disclosure.”³ On 24 April 2006, a Hearing on the System of Disclosure for the Purpose of the Confirmation Hearing took place.⁴ On 2 May 2006, the Parties submitted their final observations on disclosure.⁵ Particular reference is made to these observations.

¹ See 23 March 2006 Decision, at pages 5 to 7.

² See 27 March 2006 Decision, at pages 5 and 6.

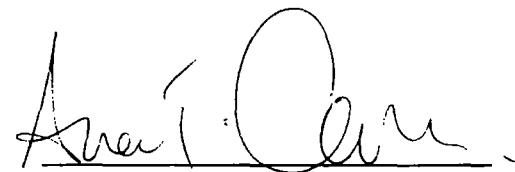
³ Reference is made to the (public) “Prosecution’s Observations on Disclosure”, 6 April 2006, and to the (public) “Observations de la défense concernant le système de divulgation, requis par les décisions du 23 and 27 mars 2006”, 6 April 2006.

⁴ Reference is made to the transcript of the 24 April 2006 Hearing, ICC-01-04-01-6-T-4-EN.

⁵ Reference is made to the (public) “Prosecution’s Final Observations on Disclosure”, 2 May 2006, and to the (public) “Observations of the Defence relating to the system of disclosure in view of the Confirmation Hearing”, 2 May 2006.

Filing of incriminating evidence

3. Being bound by the “interim system of disclosure” as imposed by the Pre-Trial Chamber by its 23 March 2006 and 27 March 2006 Decisions, including in respect of the filing of incriminating evidence,⁶ the Prosecution herewith files - pending the Pre-Trial Chamber’s final decision on the system of disclosure - in the record of the case of *The Prosecutor vs. Thomas LUBANGA DYILO*, forty-seven documents containing incriminating evidence (Article 61(3)(b) of the Rome Statute).⁷ This set of documents was disclosed to Counsel for the Defence on Monday, 8 May 2006.


Luis Moreno-Ocampo
 P.P.
Prosecutor

Dated this 9th day of May 2006
 At The Hague, The Netherlands

⁶ See in particular the 23 March 2006 Decision, at page 5.

⁷ The list identifying incriminating evidence - Article 61(3)(b) - is attached as confidential Annex 1. The documents containing incriminating evidence - Article 61(3)(b) - are attached as confidential Annexes 2 to 48. The Prosecution draws the attention of the Pre-Trial Chamber to the fact that documents falling within the scope of Article 61(3)(b) may also contain elements that are of potentially exculpatory nature. The Prosecution recalls its observation at the 24 April 2006 Hearing. See ICC-01-04-01-6-T-4-EN, at pages 32-33.