

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

No.: ICC-01/04-02/06  
Date: 28 September 2010

**PRE-TRIAL CHAMBER I**

**Before: Judge Sanji Mmasenono Monageng, Single Judge**

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO**

***IN THE CASE OF  
THE PROSECUTOR  
v. BOSCO NTAGANDA***

**Under Seal**

**Prosecution's Response to the "Order for the submission of information of documents to be reclassified"**

**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
Legal Representatives of Victims	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

1. On 24 September 2010, the Single Judge of Pre-Trial Chamber I ordered the Prosecution to provide, by 28 September 2010, information on whether the seal may be lifted on a number of documents filed in the present case, and if so, whether these documents should be reclassified as confidential or public.
2. The Prosecution hereby responds to that order.

### **Submissions regarding the unsealing of two filings**

3. In respect of documents ICC-01/04-02/06-4-US-Exp and ICC-01/04-02/06-15-US-Exp, the Prosecution submits that these may be unsealed and reclassified as confidential and *ex parte* only available to the Prosecution. The Prosecution is presently reviewing the documents internally, and liaising with interested third parties as necessary, with a view to determining any redactions that may be required, and will shortly thereafter file public redacted versions of the documents.
4. The Prosecution submits that redactions to these two documents will likely be necessary:
  - a) in order to protect information in other documents which remain under seal or available only on an *ex parte* basis;
  - b) to safeguard the confidentiality of information pertinent to the protection of witnesses, cooperation with state parties and other actors necessarily involved in the handling of ICC warrants, and the timing and implementation of the transmission of requests for arrest and surrender; and
  - c) in order not to disclose the Court's strategy and efforts to foster cooperation in obtaining the arrest and surrender of Bosco NTAGANDA, who remains at large.

**Submissions regarding the unsealing of ICC-01/04-02/06-22-US-Exp (and annexes)**

5. In respect of documents ICC-01/04-02/06-22-US-Exp, ICC-01/04-02/06-22-US-Exp-Anx1, ICC-01/04-02/06-22-US-Exp-Anx2 and ICC-01/04-02/06-22-US-Exp-Anx3, the Prosecution submits that filing ICC-01/04-02/06-22-US-Exp may be unsealed and reclassified as public. Annexes 1-3 may be unsealed and reclassified as confidential and *ex parte* only available to the Prosecution, as they contain information that requires redactions in order to protect witnesses, further or ongoing investigations and cooperation issues. Indeed, in the "Decision on the "Prosecution's Application to Lift the Seal on Proceedings before the Pre-Trial Chamber"" on 16 November 2009, the Single Judge accepted the need for redactions to these documents, and ordered public redacted versions of the original documents to be filed.<sup>1</sup>



---

Luis Moreno-Ocampo

Prosecutor

Dated this 28<sup>th</sup> day of September 2010  
At The Hague, The Netherlands

---

<sup>1</sup> Public redacted versions of Annex 1 (ICC-01/04-02/06-102) and Annex 2 (ICC-01/04-02/06-108) have subsequently been placed on the record. The Pre-Trial Chamber also ordered the Registrar "to file a public redacted version of the transcript of the 2 February 2006 Hearing (ICC-01/04-T-8-US-Exp-EN) with the redactions proposed in Annex 3 of the Prosecution Application" but this does not yet appear to have been placed on the record.