

## **ANNEX I**

**Cour  
Pénale  
Internationale**

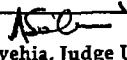
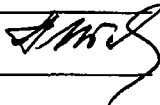
**International  
Criminal  
Court**



Les Chambres

The Chambers

Internal memorandum  
Memorandum interne

To   À	Presidency	From   De	Judge Kuenyehia, Judge Ušacka  
Date	28 July 2009	Through   Via	
Ref.	01/04-01/07 OA 9	Copies	Judge Nsereko, President of the Appeals Division
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. Today, the Appeals Chamber was notified of the Prosecutor's document in support of appeal<sup>1</sup> against a decision that Trial Chamber II had rendered on 24 June 2009 in the case *Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*.<sup>2</sup> Pursuant to article 41 (1) of the Statute and rule 33 of the Rules of Procedure and Evidence, we hereby request to be excused from sitting on this appeal.

2. The reason for this request is our previous involvement in the case against Mr. Katanga and Mr. Ngudjolo Chui during the pre-trial phase of the proceedings, in the course of which we *inter alia* issued warrants of arrest<sup>3</sup> and confirmed the charges against the suspects.<sup>4</sup> We 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, we submit this request confidentially. However, we would not object if the Presidency wished to make public this request or the reasons for its eventual decision on this request (second sentence of rule 33 (2) of the Rules of Procedure and Evidence). We note, however, that the Prosecutor's document in support of the appeal was submitted to the Appeals Chamber confidentially and *ex parte*.

<sup>1</sup> See ICC-01/04-01/07-1340-Conf-Exp.

<sup>2</sup> See ICC-01/04-01/07-1243-Conf-Exp.

<sup>3</sup> See ICC-01/04-01/07-1 and ICC-01/04-02/07-1.

<sup>4</sup> See ICC-01/04-01/07-717.