

ANNEX I

**Cour
Pénale
Internationale**



Les Chambres

The Chambers

**International
Criminal
Court**

Internal memorandum
Memorandum interne

To À	Presidency	From De	Judge Kuenyehia, Judge Ušacka
Date	16 February 2010	Through Via	
Ref.	01/04-01/07	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. On 12 February 2010, Trial Chamber II filed a decision in the case of *Prosecutor v. Germain Katanga and Mathieu Ngudjolo*, entitled "Decision on the 'Defence Application for Leave to Appeal the Trial Chamber's Decision relative à la requête de la Défense de Germain Katanga en illégalité de la détention et en suspension de la procédure'",¹ granting Mr. Katanga leave to appeal its "Décision relative à la requête de la Défense de Germain Katanga en illégalité de la détention et en suspension de la procédure" of 20 November 2009.² 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 and all future appeals in this case.
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 arrest³ and confirmed the charges against the suspects.⁴ 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).

¹ ICC-01/04-01/07.

² ICC-01/04-01/07-1666-Conf-Exp), 20 November 2009. A public redacted version, ICC-01/04-01/07-1666-Red was filed on 3 December 2009.

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

⁴ See ICC-01/04-01/07-717.