

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No: ICC-01/04-01/06

Date: 22 March 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
v. THOMAS LUBANGA DYILO**

Public Document

**DECISION TO UNSEAL AND RECLASSIFY CERTAIN ADDITIONAL
DOCUMENTS IN THE RECORD OF THE CASE AGAINST MR THOMAS
LUBANGA DYILO**

The Office of the Prosecutor

Mr Luis Moreno-Ocampo, Prosecutor

Ms Fatou Bensouda, Deputy Prosecutor

Mr Ekkehard Withopf, Senior Trial Lawyer

Duty Counsel for the Defence

Mr Jean Flamme

I, Judge Sylvia Steiner, judge at the International Criminal Court (the “Court”);

NOTING the Prosecution’s “Submission of Formatted and Redacted Documents”¹ (the “Prosecution’s Submission”) and Annexes A, A1 to A10, B, B1, B2, C and C1 to C 10 to the Prosecution’s Submission, filed by the Prosecution under seal and “*ex parte*, Prosecutor only” on 9 March 2006, in which the Prosecution submitted “‘formatted’ and – where applicable – redacted versions of the following filings, together with their respective annexes: (i) ICC-01/04-98-US-Exp and ICC-01/04-98-US-Exp-Anx1 to 10; (ii) ICC-01/04-104-US-Exp and ICC-01/04-104-US-Exp-Anx1 to 3; and ICC-01/04-106-US-Exp and ICC-01/04-106-US-Exp-Anx1 to 10”;²

NOTING the “Decision concerning the Redacted Version of the Prosecution’s Application and the Prosecution’s Submissions of Further Information and Materials”³ (the “Decision on Redacted Versions”) issued by Judge Sylvia Steiner acting as single judge of Pre-Trial Chamber I on 15 March 2006, in which the Prosecution is requested *inter alia*: (a) “to identify which of the documents filed in Annexes A, A1 to A10, B, B1, B2, C and C1 to C10 to the Prosecution’s Submission have been formatted”; and (b) “to file, as soon as practicable a redacted version of the filings mentioned below, together with their respective annexes, of which a formatted version was included in Annexes A, A1 to A10, B, B1, B2, C and C1 to C10 to the Prosecution’s Submission (i) ICC-01/04-98-US-Exp and ICC-01/04-98-US-Exp-Anx1 to 10; (ii) ICC-01/04-104-US-Exp and ICC-01/04-104-US-Exp-Anx1 to 3; and (iii) ICC-01/04-106-US-Exp and ICC-01/04-106-US-Exp-Anx1 to 10”;⁴

¹ ICC-01/04-01/06-32-US-Exp.

² Prosecution’s Submission, para. 3.

³ ICC-01/04-01/06-34.

⁴ Decision on Redacted Versions, pp. 3 and 4.

NOTING the “Decision to Unseal the Warrant of Arrest against Mr Thomas Lubanga Dyilo and Related Documents” (the “First Decision to Unseal”),⁵ issued by Judge Sylvia Steiner acting as single judge of Pre-Trial Chamber I on 17 March 2006, which states that Mr Thomas Lubanga Dyilo is currently under the custody of officials of the Court and that there is no longer any reason for the warrant of arrest against him or related documents to remain under seal;⁶

NOTING the “Decision to Unseal and Reclassify Certain Documents in the Record of the Case against Mr Thomas Lubanga Dyilo” (the “Second Decision to Unseal”),⁷ issued by Judge Sylvia Steiner acting as single judge of Pre-Trial Chamber I on 20 March 2006, in which a number of documents in the record of the case against Mr Thomas Lubanga Dyilo are unsealed and reclassified;⁸

NOTING the “Submission of Redacted Documents” filed under seal by the Prosecution on 18 March 2006 (the “Prosecution’s Further Submission”),⁹ and Annexes A, B, B1 to B10, C, C1 to C3, D and D1 to D10 to the Prosecution’s Further Submission,¹⁰ filed by the Prosecution under seal on 18 March 2006, in which the Prosecution submitted redacted versions of the following documents:
 (i) ICC-01/04-01/06-32-US-Exp; (ii) ICC-01/04-01/06-13-US-Exp-Anx1 and ICC-01/04-98-US-Exp-Anx1 to 10; (ii) ICC-01/04-104-US-Exp and ICC-01/04-104-US-Exp-Anx1 to 3; and ICC-01/04-106-US-Exp and ICC-01/04-106-US-Exp-Anx1 to 10;

⁵ ICC-01/04-01/06-37.

⁶ *Idem*, p. 3.

⁷ ICC-01/04-01/06-42.

⁸ *Idem*, pp. 4 to 8.

⁹ ICC-01/04-01/06-39-US.

¹⁰ ICC-01/04-01/06-39-US-AnxA, AnxB, AnxB1 to AnxB10, AnxC, AnxC1 to AnxC3, AnxD and AnxD1 to AnxD10.

NOTING the decision of Pre-Trial Chamber I of 14 March 2006 designating Judge Sylvia Steiner as single judge of the Chamber in the case of the Prosecutor v. Thomas Lubanga Dyilo from 15 until 22 March 2006 at 12.00 hours;¹¹

NOTING articles 57 (3) (c), 67 (1) and 68 (1) of the Rome Statute (the “Statute”), rules 87 (2) (c) and 88 (4) of the Rules of Procedure and Evidence (the “Rules”), and regulation 8 (c) of the Regulations of the Court;

CONSIDERING that article 67 (1) of the Statute embraces the principle of public hearings, and that regulation 8 (c) of the Regulations of the Court requires all “[D]ecisions and orders of the Court and other particulars of each case brought before the Court as described in rule 15” to be published on the website of the Court;

CONSIDERING that the protection of victims and witnesses requires certain additional redactions in some of the relevant documents before they become public;

FOR THESE REASONS

DECIDE to unseal the following documents:

- ICC-01/04-01/06-39-US; and
- ICC-01/04-01/06-39-US-AnxA, AnxB, AnxB1 to AnxB10, AnxC, AnxC1 to AnxC3, AnxD and AnxD1 to AnxD10.

DECIDE that the following documents in the record of the case against Mr Thomas Lubanga Dyilo shall either remain or be reclassified as confidential:

- ICC-01/04-01/06-32-Conf-AnxA; and ICC-01/04-01/06-39-US-AnxB;

¹¹ ICC-01/04-01/06-33.

- ICC-01/04-01/06-32-Conf-AnxA9; and ICC-01/04-01/06-39-US-AnxB10;
- ICC-01/04-01/06-32-Conf-AnxB2; and ICC-01/04-01/06-39-US-AnxC3;
- ICC-01/04-01/06-32-Conf-AnxC1; and ICC-01/04-01/06-39-US-AnxD1;
- ICC-01/04-01/06-32-Conf-AnxC2; and ICC-01/04-01/06-39-US-AnxD2;
- ICC-01/04-01/06-32-Conf-AnxC3; and ICC-01/04-01/06-39-US-AnxD3;
- ICC-01/04-01/06-32-Conf-AnxC4; and ICC-01/04-01/06-39-US-AnxD4;
- ICC-01/04-01/06-32-Conf-AnxC5; and ICC-01/04-01/06-39-US-AnxD5;
- ICC-01/04-01/06-32-Conf-AnxC6; and ICC-01/04-01/06-39-US-AnxD6;
- ICC-01/04-01/06-32-Conf-AnxA5;
- ICC-01/04-01/06-39-US-AnxB3;
- ICC-01/04-01/06-39-US-AnxB8i to AnxB8vi;
- ICC-01/04-01/06-39-US-C2.

DECIDE that document ICC-01/04-01/06-39-US shall be reclassified as confidential, and that a public redacted version shall be filed by the Prosecution as soon as practicable.

DECIDE that document ICC-01/04-01/06-32-US-Exp shall remain under seal and “*ex parte*, Prosecution only” until otherwise ordered by the Chamber; that document ICC-01/04-01/06-39-US-AnxA shall be reclassified as confidential; and that, pursuant to the Second Decision to Unseal and the present decision, a public redacted version of document ICC-01/04-01/06-32-US-Exp shall be filed by the Prosecution as soon as practicable.

DECIDE that document ICC-01/04-01/06-32-Conf-AnxA5i shall remain confidential; that document ICC-01/04-01/06-39-US-AnxB6i shall be reclassified as confidential;

and that, pursuant to the Second Decision to Unseal and the present decision, a public redacted version of document ICC-01/04-01/06-32-Conf-AnxA5i shall be filed by the Prosecution as soon as practicable.

DECIDE that document ICC-01/04-01/06-32-Conf-Anx10 shall remain confidential; and that, pursuant to the Second Decision to Unseal and the present decision, a public redacted version of document ICC-01/04-01/06-32-Conf-Anx10 shall be filed by the Prosecution as soon as practicable.

DECIDE that document ICC-01/04-01/06-32-Conf-AnxC shall remain confidential; that document ICC-01/04-01/06-39-US-AnxD shall be reclassified as confidential; and that, pursuant to the Second Decision to Unseal and the present decision, a public redacted version of document ICC-01/04-01/06-32-Conf-AnxC shall be filed by the Prosecution as soon as practicable.

DECIDE that documents ICC-01/04-01/06-32-AnxA6i and ICC-01/04-01/06-39-US-AnxB7i shall be reclassified as confidential; and that, pursuant to the present decision, a public redacted version of document ICC-01/04-01/06-32-AnxA6i shall be filed by the Prosecution as soon as practicable.

DECIDE that documents ICC-01/04-01/06-32-AnxA6ii and ICC-01/04-01/06-39-US-AnxB7ii shall be reclassified as confidential; and that, pursuant to the present decision, a public redacted version of document ICC-01/04-01/06-32-AnxA6ii shall be filed by the Prosecution as soon as practicable.

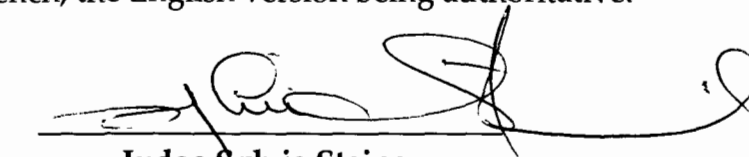
DECIDE that documents ICC-01/04-01/06-32-AnxA6iii and ICC-01/04-01/06-39-US-AnxB7iii shall be reclassified as confidential; and that, pursuant to the present

decision, a public redacted version of document ICC-01/04-01/06-32-AnxA6iii shall be filed by the Prosecution as soon as practicable.

DECIDE that the following documents shall either remain or be reclassified as public documents:

- ICC-01/04-01/06-32-AnxA1 and ICC-01/04-01/06-39-US-AnxB1;
- ICC-01/04-01/06-32-AnxA2 and ICC-01/04-01/06-39-US-AnxB2;
- ICC-01/04-01/06-32-AnxA3 and ICC-01/04-01/06-39-US-AnxB4;
- ICC-01/04-01/06-32-AnxA4 and ICC-01/04-01/06-39-US-AnxB5;
- ICC-01/04-01/06-32-AnxA4i and ICC-01/04-01/06-39-US-AnxB5i;
- ICC-01/04-01/06-32-AnxA8 and ICC-01/04-01/06-39-US-AnxB9;
- ICC-01/04-01/06-32-AnxB and ICC-01/04-01/06-39-US-AnxC;
- ICC-01/04-01/06-32-AnxB1 and ICC-01/04-01/06-39-US-AnxC1;
- ICC-01/04-01/06-32-AnxC7 and ICC-01/04-01/06-39-US-AnxD7;
- ICC-01/04-01/06-32-AnxC8 and ICC-01/04-01/06-39-US-AnxD8;
- ICC-01/04-01/06-32-AnxC9 and ICC-01/04-01/06-39-US-AnxD9;
- ICC-01/04-01/06-32-AnxC10 and ICC-01/04-01/06-39-US-AnxD10.

Done in English and French, the English version being authoritative.


Judge Sylvia Steiner
Single Judge

Dated this Wednesday 22 March 2006

At The Hague

The Netherlands