

Previous developments summarized by the CICC on the DRC situation: (most recent additions or updates)**

On 19 March 2005, Mr Lubanga was arrested and detained by the DRC authorities, together with the other leaders of Ituri-based military groups. Arrest warrant, dated 19 March 2005, issued by a DRC court, was based on charges of genocide and crimes against humanity pursuant to the DRC Military Criminal Court. (Referred to in 10 February 2006 Decision)

On 29 March 2005, another arrest warrant was issued by the DRC authorities against Mr. Lubanga, alleging crimes of murder, illegal detention and torture. (Referred to in 10 February 2006 Decision)

On 12 January 2006, the OTP applied for the issuing of an arrest warrant against Mr. Lubanga and the authorization to make and transmit the cooperation request for arrest and surrender to the relevant State authorities. The Prosecution requested the arrest warrant to be issued under seal, as well as to keep the application sealed and that any proceedings conducted in connection with the application be held *ex parte* and in closed session to prevent the accused from fleeing or to be put at risk. (Application not available to the public but referred to in, among other, the Decision of 10 February 2006).

On 20 January 2006, PTC I granted the Prosecution receipt of its 13 January 2006 Application, agreed to maintain the Application under seal and agreed to conduct closed sessions in connection with the Application. PTC I invited the Prosecution to provide: further information and material concerning ongoing proceedings and indications of possible release in the near future in the DRC regarding Mr Lubanga; a copy of the DRC arrest warrants against Mr Lubanga; certain full statements, supporting materials and information about security situation; information about a certain video; supporting materials regarding alleged practice regarding child soldiers; materials regarding objectives and involvement of the UPC and the FPLC; organizational charts of the UPC and FPLC; level of organisation of other armed groups; information about the authority of Mr Lubanga; and certain other statements in the Application. PTC I also convened a hearing with the Prosecutor for 2 February 2006 and that the agenda will be sent to the Prosecutor.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-27_English.pdf

On 25 January 2006, the OTP responded to the invitation of 20 January 2006 to submit additional materials, attaching copies of the DRC file on Lubanga's detention, the DRC arrest warrants against him (of 19 and 29 March 2005) and certain other documents and re-emphasizing the urgency of the 13 January application. The Prosecutor referred to: the unstable political situation in the DRC and the impact on the situation of Mr Lubanga and other prisoners, as well as on the ability of DRC authorities to execute arrest warrants of the Court; the status of investigations of the 'Ndoki incident', accusations of irregular arrests of Mr Lubanga and leaders of other military groups, and information about possible imminent release thereof. The Prosecutor also provided that Mr Lubanga denied

all allegations in the context of the DRC investigations into the 'Ndoki incident' and that the OTP focuses on different alleged crimes. The OTP also reemphasised the admissibility of the case and that the inability expressed in the initial referral still stands, reflected in the DRC proceedings against Mr Lubunga.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-39-AnxC_English.pdf

On 27 January 2006, the OTP submitted, in response to the invitation of 20 January 2006, that the invitation does not impose any procedural obligation to submit further materials and that there is no legal basis for the provision of 'supporting materials'. However, the Prosecution provided information about the whereabouts and security issues regarding victims and witnesses in relations to the issuing of an arrest warrant for Mr Lubanga and that the OTP together with the VWU has taken substantive measures, including a close net of permanent security checks, an Immediate Response System, Standard Operating Procedures, to ensure their protection, paying particular attention to children. The submission also included information about certain video cassettes, information about the UPC and the FPLC. (Submission not available to the public but referred to in the Decision of 10 February 2006).

On 31 January 2006, PTC I informed the OTP about the agenda for the 2 February hearing. (Agenda was not available to the public but information about this was made public on 22 March 2006).

On 2 February 2006, a closed hearing was held with the Prosecution dealing with the 13 January 2006 Application. The Prosecution responded to questions from the Chamber regarding, jurisdiction and admissibility (in particular about the existence of any DRC investigations into the subject crimes and the gravity and scale of the subject crimes); the past and current role of Mr Lubanga; the scope of ongoing OTP investigations in the DRC situation; the international or non-international character of the armed conflict in Ituri; the prosecution's request to disclose the existence of an arrest warrant to certain entities; the request of authorization for the prosecution to make and transmit a request for arrest and surrender; information about Mr. Lubanga's assets and properties; and witness protection.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-48_English.pdf

On 10 February 2006, PTC I decided to initiate the case against Mr Lubanga and to issue an arrest warrant (in a separate, until otherwise provided, sealed document) for Mr Lubanga's alleged responsibility for the following war crimes: enlistment and conscription of children under the age of fifteen and for using them to participate actively in hostilities.

The preliminary observations of PTC I addressed the "reasonable grounds to believe" standard and that this would often, but not only, be reached on the basis of the specific evidence and information provided in the OTP's application. PTC I concluded that the Chamber does not need to agree with the Prosecutor's legal characterization of the

relevant conduct to issue the arrest warrant; and it concluded that an initial determination of jurisdiction and admissibility of the case is a prerequisite for the arrest warrant, without prejudice to subsequent determinations on jurisdiction or admissibility.

Regarding jurisdiction, using the three conditions set out in the 17 January decision, PTC I concluded that there are reasonable grounds to believe that the alleged crimes fall under article 8 of the statute, and that the conditions of temporary and territorial jurisdiction were met.

Regarding admissibility, the Chamber used a two-tiered test. One, relating to national efforts concerning the case at hand (considering that no national proceedings encompassing the accused and the conduct concerned are taking place and that the Government has declared itself unable to undertake the necessary investigations and prosecutions of the alleged crimes in this situation); Two, the gravity threshold (considering: the systematic/large scale nature of conduct and the social alarm caused in the international community; the position/senior leadership of the accused; and the responsibility of the accused).

PTC I concluded that there were reasonable grounds to believe that continuous war crimes, within the jurisdiction of the Court had been committed (and that the conflict in Ituri was either of a non-international or an international character), that Mr Lubanga has incurred criminal liability for such crimes and exercised de facto authority according to the modes of liability in the Statute and that the arrest appeared to be necessary.

It was also decided that PTC I should prepare a cooperation request seeking arrest and surrender and that the Registrar should transmit such request to the DRC authorities and that, prior to the transmittal of this cooperation request, the Registrar could (if necessary) inform certain DRC authorities and others involved of the existence of the arrest warrant.

Further, that the Chamber should prepare cooperation requests for all States Parties regarding tracing and seizure of Mr Lubanga's property and assets to be transmitted once the arrest warrant is unsealed. PTC I also requested the OTP to transmit to the Chamber and the Registrar, in accordance with confidentiality obligations, information about risks to victims or witnesses in connection with transmission of these cooperation requests.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-2_tEnglish.pdf

See also ICC website (in Annex): http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-8-US-Corr_English.pdf

On 15 February, 2006, the Prosecutor submitted information to facilitate the transmission and execution of the Request for cooperation seeking arrest and surrender of Mr. Lubanga. In this submission, the Prosecution submitted that the system of making and transmitting requests for cooperation seeking arrest and surrender completely excludes the OTP from the process of transmission and that this poses grave difficulties for the successful execution of future requests. In response to the invitation to provide

information that would facilitate this process, the Prosecution informed the Chamber of its preparatory work, some conducted jointly with the Registry, including provision and explanation of standard operating procedures, facilitation of contacts with third states for the purpose of transportation of suspects to The Hague. With regards to potential risks to victims and witnesses associated with the transmission of the requests, the Prosecution informs that it has assessed the situation in the relevant areas and that it, together with the VWU, has set up a witness protection programme which is functioning satisfactorily. The Prosecution also reiterated its concerns about the security situation of Mr Lubanga in the prison in Kinshasa and that the DRC may not be able to protect Mr Lubanga once the existence of the arrest warrant against him is known.

<http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-69-AnxA.pdf>

On 24 February 2006, PTC I took a decision addressing the treatment of documents in the case against Mr Lubanga.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-8-US-Corr_English.pdf

On 24 February 2006, the confidential cooperation request to the DRC authorities for the arrest and surrender of Mr Lubanga was filed.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-9_French.pdf

On 6 March 2006, PTC I rectified typographical errors in the 24 February 2006 Decision.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-21_English.pdf

On 9 March 2006, PTC I issued a confidential request to the DRC to identify, freeze and confiscate Mr. Lubanga's assets within its territory.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-22_French.pdf

On 9 March 2006, the prosecution submitted formatted and redacted versions of certain documents in response to the 24 February 2006 Decision.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-39-AnxD_English.pdf

On 9 March 2006, the Registrar requested an extension of his mandate in relation to the execution of the arrest warrant against Mr. Lubanga. The Chamber decided to give the Prosecution until 10 March at 2 m to submit observations on this request.

(Request and decision not available to the public but referred to in the Summary of 26 April 2006,

http://www.icc-cpi.int/library/cases/Publishing_on_26042006_1.pdf)

On 10 March 2006, the Prosecution responded to the request by the Registrar on 9 March and the Chamber decided not to grant the Registrar's request.

(Request and decision not available to the public but referred to in the Summary of 26 April 2006,

http://www.icc-cpi.int/library/cases/Publishing_on_26042006_1.pdf)

On 10 March, the Prosecution requested the immediate unsealing of the arrest warrant upon a leak to the public or once the aircraft carrying Mr Lubanga has left the airspace of the DRC. The Prosecution referred to certain meetings with the Registry regarding the arrest and transportation of Mr Lubanga and the lifting of the UN travel ban as well as to the tentative time table for the arrest and surrender. It also referred to the cooperation difficulties caused due to leak, public discussion and misinformation about the unsealed arrest warrants in the situation of Uganda, and the fact that the various steps by various actors to undertake the arrest and surrender of Mr Lubanga increase the risk of a leak to the public. The Prosecution also submitted that the close net of measures as currently implemented with the VWU can control an added risk for victims and witness upon unsealing of the arrest warrant.

<http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-69-AnxB.pdf>

On 14 March 2006, the Registrar notified the DRC authorities of the 10 February Decision. (Notification not available to the public but referred to in the ICC Press Release of 17 March 2006)

<http://www.icc-cpi.int/press/pressreleases/132.html> and in the Decision of 17 March 2006).

On 15 March 2006, PTC I requested the Prosecution to identify formatting of certain documents and to file a redacted version of certain documents under seal and ordered the Registrar to reclassify certain documents (Lubanga case).

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-34_English.pdf

On 15 March 2006, the Chief Custody Officer requested the Registrar authorization to place a detained person in an observation cell. (Request not available to the public but referred to in the Registrar's Decision of 17 March 2006)

On 16 March 2006, PTC I ordered the Registrar to classify (under seal) and re-incorporate certain documents into the record of the Lubanga case.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-35_English.pdf

On 16 March 2006, a Decision to convene a closed meeting on 17 March with the Registrar (including representatives from the Court Management Section) and the

Prosecutor to deal with the Prosecution's request regarding the unsealing of the arrest warrant of Mr Lubanga and issues related to the current classification of documents in the Lubanga case and in the DRC situation.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-36_English.pdf

On 17 March 2006, PTC I unsealed the arrest warrant of 10 February 2006.

This was upon the request of the Prosecution to unseal the arrest warrant immediately after (and not before) the aircraft carrying Mr Lubanga has left the DRC. PTC I considered that arrest and surrender had been executed by the DRC authorities and that Mr Lubanga was under the custody of Court officials.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-37_English.pdf

On 17 March 2006, a meeting was held with the Registrar and the Prosecutor to deal, inter alia, with the Prosecution's request regarding the unsealing of the arrest warrant for Mr Lubanga. (Meeting not available to the public but referred to in the Decision of 17 March 2006).

On 17 March 2006, PTC I ordered the scheduling of the first appearance of Mr Lubanga to be held in a public hearing on Monday 20 March 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-38_English.pdf

On 17 March 2006, the Registrar ordered that the cell of Mr. Lubanga be monitored by video for a period of 8 days upon admission to the Detention Centre. It also directed the relevant officers to ensure, upon admission, the assessment of Mr. Lubanga's health and to ensure that he is located in a cell without any means of inflicting self-harm - to be reviewed in 8 days from the date of Mr. Lubanga's admission.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-52_English.pdf

On 17 March 2006, the OTP issued a Press Release about the issuing of the arrest warrant against Mr. Lubanga (founder and president of the Union des patriots congolais – the UPC – and commander-in-chief of its military wing – the FPLC) informing that the OTP had submitted an application for the issuance of an arrest warrant on 12 January 2006 alleging involvement in the commission of war crimes (conscripting and enlisting children under the age of fifteen and using them to participate actively in the hostilities).

The Press Release informs that this warrant is one in a series and that the OTP is currently investigating various crimes by a number of armed groups in the Ituri region, and that ongoing investigations will lead to other warrants being sought. The OTP stated that its independent investigations take place in conjunction with activities seeking to prevent and put an end to the commission of crimes in the region. It also states that the investigations have identified several groups responsible for the violence and that the

FPLC emerged as one of the militias which had committed the worst crimes. The OTP states that Mr Lubanga exercised de-facto authority and controlled, among other things, the commission of the alleged crimes listed in the arrest warrant.

<http://www.icc-cpi.int/press/pressreleases/133.html>

On 17 March 2006, the ICC issued a Press Release, informing about the first arrest of the ICC; that Mr Lubanga had appeared before the competent judicial authority in Kinshasa; that Congolese authorities and MONUC had cooperated with the Court; and that the French Government provided a military aircraft to transfer Mr Lubanga to The Hague.

<http://www.icc-cpi.int/press/pressreleases/132.html>

On 17 March 2006, the Prosecution submitted certain redacted documents and identified documents and annexes that had been formatted, in response to the 15 March request by the Chamber.

<http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-69-AnxF.pdf>

On 20 March 2006, Mr Jean Flamme was appointed counsel for Mr Lubanga.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-40_French.pdf

On 20 March 2006, Mr Jean Flamme gave his solemn undertaking before the Court, in accordance with Articles 5 and 22.3 of the Code of Professional Conduct for Counsel, to serve as counsel for Mr Lubanga.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-41_French.pdf

On 20 March 2006, PTC I decided to unseal certain documents in the record of the Lubanga case, and to keep certain documents under seal. The following documents were unsealed, and subsequently made public on the ICC website on 28 March 2006: a chart of the UPC Executive Political Structure (Sep – Dec 2002); a chart of the UPC Executive Political Structure (Dec 2002 – March 2003); an organizational chart of the FPLC

(Sep 2002 – Dec 2003); a time line of ‘key events and military engagements’ of various DRC groups (Jul 2002 – Dec 2003); a decision of 2 December 2005 by the DRC authorities to detain Mr Lubanga; the cooperation agreement between the DRC and the OTP; a map of FPLC training camps and sites of hostilities; an annex to the map listing distances to the camps and sites from Bunia; a map of the DRC and the Ituri District; photos of Mr. Lubanga; the 3 March letter from President Kabila to the Prosecutor; a BBC article about Uganda rebels; the decision by the Presidency to assign the situation of the DRC to PTCI.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-42_English.pdf

On 20 March 2006, PTC I issued an order authorizing photographs at the first public hearing on 20 March.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-44_English.pdf

On 20 March 2006, Mr Lubanga's Counsel requested an extension to the five-day time limit for the appeal of PTC I Decision on the Prosecutor's 10 February 2006 application; and to provide the accused and his counsel with access to the Prosecutor's entire case-file against the accused, detailing a number of particular filings.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-45_French.pdf

On 20 March 2006, Mr Lubanga appeared for his first appearance before the PTC I in the first public hearing of the Court. PTC I verified the identity of Mr Lubanga and concluded itself that Mr Lubanga had been informed of the alleged crimes and of his rights. The duty counsel of Mr Lubanga informed PTC I of the intention to request the extension of the deadline to appeal the 10 February Decision and to request access to all documents from the Prosecutor relating to the charges. The date for the confirmation of charges hearing was set for 27 June 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-T-3_English.pdf

On 22 March 2006, PTC I decided to unseal, reclassify and/or file as a public redacted version certain documents in the record of the Lubanga case.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-46_English.pdf

On 22 March 2006, PTC I issued a redacted decision concerning the 2 February 2006 hearing. The Decision outlines the issues that were to be discussed in the hearing relating to the Prosecution's application for the arrest warrant for Mr Lubanga, including; issues relating to jurisdiction and admissibility; the scope of ongoing investigations in the DRC situation; the international or non-international character of the armed conflict in Ituri; the prosecution's request to disclose the existence of an arrest warrant to certain entities; the request of authorization for the prosecution to make and transmit a request for arrest and surrender; and information about Mr. Lubanga's assets and properties.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-47_English.pdf

On 22 March 2006, PTC I issued a redacted version of the transcripts of the closed hearing of 2 February 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-48_English.pdf

On 22 March 2006, PTC I decided that it was not competent to deal with the application of 20 March 2006 by Mr. Lubanga's Counsel for an extension of a time limit and that the Appeals Chamber is the competent instance to decide whether the Defence can challenge

any matter concerning jurisdiction and admissibility dealt with in the 10 February decision, including the issue of the extension of the five-day time limit. The PTC I also granted the Prosecution two days to present its observations on the Counsel's application for access to all documents relating to the arrest warrant.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-50_English.pdf

On 22 March 2006, PTC I issued a decision designating Judge Sylvia Steiner as single judge in the case against Mr Thomas Lubanga Dyilo responsible for exercising the functions of the Chamber in that case, allowing the Chamber to work in a more appropriate and efficient manner.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-51_French.pdf

On 23 March 2006, the Registrar decided to classify its Decision of 17 March 2006 as a public document.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-52_English.pdf

On 23 March 2006, PTC I gave the Prosecution and Mr Lubanga's Counsel until 6 April to present observations regarding the most appropriate system of disclosure of evidence, both incriminatory and exculpatory, to be used at the confirmation hearing. Until a decision is reached on the referred system, PTC I established an interim system.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-54_English.pdf

On 23 March 2006, Mr Lubanga's Counsel sent a letter regarding disclosure of certain evidence or material. (letter not publicly available, but referred to in 27 March 2006 Decision)

On 24 March 2006, the Prosecution responded to the 20 March 2006 request of Mr Lubanga's Counsel by requesting PTC I to deny the Defence access to the Prosecution's entire case file and that, depending on the stage of the proceedings, Mr. Lubanga is or will be entitled to receive disclosure materials. Regarding the access to the specific filings, the Prosecution submitted that those documents form part of the Court's file

against Mr. Lubanga and are accessible to the Defence in its redacted version, since the reasons requiring formatting and redactions (protection of victims and witnesses) continue to apply.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-55_French.pdf

On 24 March 2006, Mr Lubanga's Counsel appealed the PTC I Decision of 10

February 2006, stating that the conditions for admissibility of the Lubanga case had not been met and hence requested the Appeal Chamber to declare the case inadmissible. The Defence reserved its right to elaborate on the grounds for the request in a separate filing.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-57-Corr_tEnglish.pdf

On 27 March 2006, PTC I requested further observations from the Prosecution and Mr. Lubanga's Counsel on the system of disclosure and decided that the interim system of disclosure of 23 March shall be followed to enable the prosecution to start disclosing any evidence or material it is prepared to disclose pending a decision on a system. PTC I also instructed the Registrar to organise the index of the record of the Lubanga case according to evidence procedures and requested Mr.

Lubanga's Counsel to file with the Registry a copy of the 23 March 2006 letter and any other request he might make regarding disclosure of evidence while the interim system of disclosure is applicable.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-58_English.pdf

On 27 March 2006, the Appeal Chamber decided on Judge Pillay as the Presiding Judge in the appeal of Mr Lubanga against the 10 February 2006 Decision by PTC I.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-59_English.pdf

On 28 March 2006, PTC I authorized the Prosecutor and the Defence to submit observations (before 7 April) regarding the status of VPRS 1 to 6 in the Lubanga case.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-60_French.pdf

On 28 March 2006, Mr. Lubanga submitted a request to the Registry for the provision legal aid in order to cover the costs of his legal representation. (Request not made public, but referred to in the 31 March 2006 Registry's Decision).

On 31 March 2006, PTC I issued a request to all the States Parties to the Rome Statute to identify, localize, freeze and confiscate Mr. Lubanga's assets within their respective territories. PTC I also requested to be informed of the name and address of any curator appointed pursuant to Congolese national law.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-62_French.pdf

On 31 March 2006, the Registry decided to provisionally consider that Mr. Lubanga does not poses sufficient means to pay for an adequate representation and accordingly that the Court will provisionally cover the expenses of his Counsel pending a better assessment of his financial situation. The Registry also requested Mr. Lubanga to submit the name of his Counsel of choice from the list.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-63_French.pdf

On 3 April 2006, the Prosecutor filed observations regarding the disclosure of potentially exonerating evidence: the Prosecution is not obliged to disclose at this stage of the proceedings potentially exculpatory evidence, although it might take a different approach in future cases; the Statute and the Rules provides for disclosure to the Defence first and for communication to the PTC afterwards; it is the decision of the Defence to make potentially exculpatory evidence public. Regarding disclosure of potentially exonerating evidence, the Prosecution informed that: it had disclosed certain documents to the Lubanga's Counsel; that it is filing these documents in the record; and that it has provided the Counsel with a first list detailing a number of documents and informed him that the Prosecution fundamentally disagrees with the interim system of disclosure and that it will not provide for inspection until the Court has finally decided on the meaning of inspection. It also states that the Counsel has not responded to this and that it will expand on this on 6 April.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-64_English.pdf

On 6 April 2006, the Prosecutor submitted confidential observations on disclosure with regards to the Lubanga case, in respond to the 23 March Decision. In a redacted version of the observations, the Prosecutor submitted that the 'interim system of disclosure' does not entirely reflect the law governing disclosure and expressed concerns in respect of the effectiveness and practicability thereof. Regarding disclosure of potentially exculpatory evidence: the Prosecutor is not obliged to disclose at this stage all materials, but only the evidence relevant to the current charges in the arrest warrant, and then first and directly to the Defence. The Prosecutor also submitted that that 'inspection of materials' (between parties) is a separate process from disclosure and filing into the records. The Prosecutor raised two main reasons for restricted disclosure in the Lubanga case (prejudice of further or ongoing investigations and victims and witness protection) and submitted that any Prosecution filings at this stage of the proceedings should be filed confidentially. It was also submitted that disclosure via the Registry, and not directly to the Defence, would include risks and that the distinction between incriminatory and potentially exculpatory evidence would lead to practical problems.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-67_English.pdf

On 6 April 2006, Mr Lubanga's Counsel submitted observations on the disclosure system in respond to the 23 March Decision. The Defence submitted that the 'interim system of disclosure' could encumber and delay the process since it places the Registrar as an intermediary for a communication system that should be done directly between the Parties. The Defence also requested all materials collected by competent authorities (including the file concerning the Mr. Lubanga Case and the entirety of the file regarding the DRC Situation), referring to the principle of 'equality of arms' and that it is important to verify if the file has not been artificially isolated from the larger context. The Defence also requested that the security measures taken in protection of victims and witnesses be lifted within a reasonable time before the Confirmation of Charges Hearing in order to

enable the accused to examine the validity of the totality of the evidence and study the non redacted versions of the filings.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-68_French.pdf

On 6 April 2006, the Prosecutor submitted certain redacted documents, in response to the 20 and 22 March Decisions of PTC I regarding unsealing and reclassifying certain documents.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-69_English.pdf

On 7 April 2006, Mr. Lubanga's Duty Counsel submitted observations concerning the status of applying victims (VPRS 1 – 6) in the Lubanga Case. The Defence requested the rejection of the applicants' status as victims in this case and hence deny its participation, based on: the fact that the applicants never requested participation in the Lubanga case specifically; and that such intent can not be presumed from the request to participate as victims of the DRC Situation; in their application, the applicants have not demonstrated any specific interest in the Mr. Lubanga case or any crime allegedly committed by the UPC; and the applicants have made no reference in their application to crimes related to the charges against Mr. Lubanga in the Arrest Warrant.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-72_French.pdf

On 7 April 2006, the Prosecutor submitted confidential observations concerning the status of applying victims (VPRS 1 – 6) with regards to the Lubanga case. A redacted version of the observations included the Prosecutor's request to deny the applicants participation in this case on the basis that none of the applicants have established relevant link between the alleged crimes forming the basis of the prosecution against Lubanga and the harm suffered by the applicants. The Prosecutor submitted that their participation would not be relevant to the current proceedings, but that they may not be precluded qualification as victims at a later stage should the case be extended to include the alleged crimes causing the harm suffered by them or if they could provide evidence that they suffered losses caused by the crimes currently forming basis of the prosecution.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-73_English.pdf

<http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-73-AnxA.pdf>

On 7 April 2006, PTC I decided to convene a hearing on disclosure, including restrictions and redactions of statements, with the Prosecution and the Defence on 24 April 2006. The Decision also ordered the attendance of the Registrar (or representative), the Court Management Section, Office of Public Counsel for the Defence and the VWU.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-74_English.pdf

On 10 April 2006, Mr Lubanga's Counsel requested the Court's admission of the Defence's appeal of 24 March and extension of time limit for filing a brief in support of this appeal to at least 21 days from the day of full and unredacted disclosure of the record. Further, that the Prosecutor must disclose his or her evidence from the moment the accused was arrested, and since this has not yet happened, it is unable to provide the grounds for its appeal.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-75_tEnglish.pdf

On 13 April 2006, the Prosecution and the Defence jointly requested PTC I to provide them with an agenda for the hearing on 14 April 2006 with a specific set of question and noted their common concerns regarding the interim system of disclosure.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-76_English.pdf

On 13 April 2006, the Head of the Division of Victims and Counsel informed Mr. Jean Flamme that Mr. Lubanga chose him as his Defence Counsel before the ICC. It was established that, in accordance with the Registrar's 31 March decision, the costs of his representation will be provisionally covered by the ICC in compliance with the Legal Aid programme. Mr. Flamme was reminded that the Defence Support Section will assist him on the practical matters pertaining to the performance of his duties.

See ICC Website:

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-77_French.pdf

On 19 April, the Chamber requested the Prosecutor to propose how to redact the French version of the transcripts of the 17 March closed hearing, for the purpose of making it available to the Defence.

See ICC Website:

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-78_English.pdf

On 19 April 2006, the Prosecutor filed a confidential "Submission of Potentially Exculpatory Material". (not publicly available but referred to in 22 May Decision)

On 19 April, the Chamber asked the Prosecutor to reply (by April 25 2006) to the Lubanga Defence's request for unrestricted access to entire record of the DRC situation.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-79_English.pdf

On 19 April 2006 the Chamber reclassified two documents as public.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-80_English.pdf

On 19 April 2006, PTC I published, in response to the joint request of 13 April 2006, the agenda for the hearing on 24 April 2006 regarding the disclosure of documents, and decided that the Registry should be prepared to address the hearing.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-82_English.pdf

On 21 April 2006, the Prosecutor filed 14 documents containing incriminating evidence and 10 documents containing potentially exculpatory evidence that had been disclosed to the Lubanga Defence. The lists of documents were attached, but confidential.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-87_English.pdf

On 24 April 2006, a hearing was suspended after the Prosecution had raised objections regarding certain agenda items being addressed in closed session. (Hearing not public but referred to in summary of 26 April 2006:

http://www.icc-cpi.int/library/cases/Publishing_on_26042006_1.pdf)

On 25 April 2006, the Prosecutor submitted a redacted version of the French transcripts of the 17 March meeting, as requested by PTC I on 19 April.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-84_English.pdf

On 26 April 2006, a hearing was reconvened (from 24 April) in closed session to adjust the agenda and to reconvene the meeting on 2 May *in camera*. The single judge reminded the Prosecution and the Defence that they had until 2 May to present their final observations on the matters before them. (Hearing not public but referred to in summary of 26 April 2006: http://www.icc-cpi.int/library/cases/Publishing_on_26042006_1.pdf)

On 26 April 2006, PTC I issued a summary of a decision convening an *in camera* meeting with the Prosecution on 2 May 2006.

http://www.icc-cpi.int/library/cases/Publishing_on_26042006_2.pdf

On 26 April 2006, PTC I issued a summary of Decisions on the Registrar's request for extension of his mandate in relation to the execution of the arrest warrant against Mr. Lubanga.

http://www.icc-cpi.int/library/cases/Publishing_on_26042006_1.pdf

On 26 April 2006, the Prosecutor responded to the requests of the Defence: to have access to the Prosecution's case and situation file against Lubanga; and to have unrestricted access to entire Court record of the DRC situation. The Prosecution reiterated that regarding the Prosecution's case and situation file, neither Mr. Lubanga, nor his Defence, have a right to access to materials that go beyond the Prosecution's disclosure obligations. The Prosecution submitted that the Defence has access to the

Court's Lubanga case file only, that substantial portions of the DRC situation file are publicly available and that the DRC situation file is not containing elements that are relevant to the Defence of Mr. Lubanga. Regarding the request to 'lift' redactions for the Defence, the Prosecution submitted that this should be rejected unless the Defence could identify particular facts justifying this and show that the underlying reasons for the redaction do no longer exist.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-86_English.pdf

On 26 April 2006, the Registrar submitted materials (the Statutes of the UPC) in the record that were presented at the closed hearing of 2 February 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-19_tEnglish.pdf

On 1 May 2006, the Prosecution responded to the Brief of the Lubanga Defence of 10 April (in support of its Appeal of 27 March), questioning whether this Appeal should be brought at all at this stage since Mr. Lubanga will be entitled to challenge jurisdiction and admissibility in due course. The Prosecution requested the Appeals Chamber to reject the request for an extension of time and the request to declare the Lubanga case inadmissible; and suggested that the Appeals Chamber re-direct the Defence to PTC I and to the available remedies available to litigate the admissibility of the case. With regards to time-limits, the Prosecution underlined the difference between notification, which triggers the relevant-limits, and access to the record which does not justify a right retroactive participation in already closed procedures. The Prosecution also submitted that at the timing of filing the Brief, the Defence had the documents based on which PTC I made its decision to issue the arrest warrant and that the possibilities of the Defence were not affected by the redactions. It was also submitted that the Defence should have developed arguments in this Brief demonstrating any error made by the Chamber to be corrected by the Appeal. The Prosecution also addressed the Brief in terms of admissibility, emphasising that no domestic proceedings have been initiated against Mr Lubanga regarding the crimes covered in the ICC arrest warrant and that the domestic custodial proceedings prior to the issuance of the arrest warrant is not a matter before this Court.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-89_English.pdf

On 1 May 2006, The Legal Representative for VPRS 1 to 6 filed a request to PTC I for an extension of the time limit to respond to the observations presented by the Prosecutor and the Defence with regards to the status of victims of VPRS 1 to 6 in the specific case against Mr Lubanga. According to the Legal Representative, the lack of security in DRC and the risk it represents to its inhabitants makes it impossible to collect the pertinent information to respond to both the Prosecutor and the Defence observations within the established time limit.

See ICC Website:

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-90_French.pdf

On 2 May 2006, the Prosecutor submitted final observations regarding disclosure requesting PTC I to abandon the interim system and to adopt another system providing: direct disclosure between Parties; clear distinction between disclosure of incriminatory and potentially exculpatory evidence; and by refraining from creating a "dossier" system. The Prosecution submitted that the interim system is extra-statutory and violates a number of principles of law. The Prosecution expressed that it envisages serious consequences regarding scope and selection of information it would disclose to the PTC should this system become the final system of disclosure. Further, that the system hampers effective disclosure, which had already been demonstrated by the delays of documents reaching the Defence through the Registry.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-91_English.pdf

On 2 May 2006, the Defence submitted observations relating to the system of disclosure in view of the upcoming Confirmation Hearing, in particular on the following issues: meaning of "within a reasonable time before the hearing" (raising the right to a public hearing, to be informed promptly and to have adequate time and facilitation to prepare from the first appearance in court) and "be informed" (about nature, cause and content, in original and in a language fully understood by the accused with full access). The Defence submitted: that the Prosecutor is obliged to disclose all materials which might be exculpatory in the broadest sense possible to ensure full equality and that the disclosure needs to be immediate and in its totality, both in the concerned situation and case. It is also argued that protective measures are to avoid publicity and should not be applied against the Defence itself, and that the Defence cannot challenge redacted evidence. The Defence submits that inspection is a way of disclosure and involves that a party actively discloses by providing copies to the other party. What has been disclosed should be communicated immediately to the PTC to enable the Chamber to judge about relevance and contents.

Regarding the Defence's obligation to disclose, it was submitted that the obligation does not relate to 'work-products' or anything covered by legal professional privilege, witness statements. Referring to the duty of the Prosecutor to prove his case and the lack of a duty of the accused to prove his defence, there is no obligation of the Defence to provide disclosure in advance and that the Defence should be able bring evidence up to the moment of the Confirmation Hearing itself. Regarding obligations to disclose intents to raise an alibi or a ground for excluding criminal responsibility the Defence concludes that no time-frame has been set.

The Defence also objected to the Prosecutor's request to have an 'ex parte hearing' to discuss protective measures since this would be contrary to the right of the accused to be present at his trial. Further, it was asked that any communication to the Defence should also be made to the accused in prison.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-92_English.pdf

On 2 May, a closed hearing was held to regarding disclosure and applications made by the OTP to the Chamber expressing that disclosure may prejudice further or ongoing investigations. (not publicly available but referred to in 19 May 2006 Decision)

On 8 May 2006, the Defence filed a motion regarding the ex parte hearing of 2 May, requesting PTC I to, among other: order the Prosecution to file redacted versions of 19 and 24 April applications; order that redacted transcripts of the hearing are provided to the Defence; to reject the application of the Prosecution not to disclose identification of witnesses just prior to trial; and order all future motions on non-disclosure and protective measures/hearings be filed/held inter partes (motion not publicly available but referred to in 22 May Decision).

On 8 May 2006, the Prosecution filed a confidential supplemental brief in respect of the 19 April filing. (not publicly available but referred to in the 22 May Decision.)

On 8 May 2006, the Prosecution filed a confidential supplemental brief in respect of the 21 April filing. (not publicly available but referred to in the 22 May Decision.)

On 9 May 2006, PTC I gave the legal representatives of victims VPRS 1 to VPRS 6 a 3 week deadline to present their observations as to the participation of the said victims in the Lubanga case. PTC I took this decision based on its previous decision to take into consideration VPRS 1 to VPRS 6's application to be granted victims status regarding every case deriving from the DRC investigation. The PTC recalls that the Lubanga case derives from the DRC investigation.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-96_French.pdf

On 9 May 2006, PTC I dealt with the transcripts of the *In Camera* meeting of 17 March and instructed the Registrar to proceed with the redactions of the French version, to classify them as confidential and to notify Mr Lubanga.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-97_English.pdf

On 9 May 2006, three new applicants (a/0001/06 to a/0003/06) filed confidential applications for participation as victims in the Lubanga case. (applications not publicly available but referred to in 18 May Decision)

On 9 May 2006, the Prosecution filed in the Lubanga case 47 documents containing incriminating documents. The set of document had been disclosed to Lubanga's Counsel on 8 May 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-111_English.pdf

On 12 May 2006, the Prosecution informed PTC I that it will not be in a position to disclose to the Defence the identities of certain witnesses on which the Prosecutor intends to rely at the confirmation hearing prior to the implementation of protective measures on Friday 28 July 2006. (Submission not publicly available but referred to in 24 May Decision).

On 15 May 2006, PTC I rejected the Defence request for full access to the entire file of the DRC investigation and decided the following: that the disclosure prior to hearing of materials to be used at the hearing (and other potentially exculpatory material) is to be shared directly between the Prosecution and the Defence; that the Prosecution shall inform the PTC about the evidence on which it intends to rely on at the confirmation hearing as soon as practicable by filing copies in the record of the Lubanga Case; that the Prosecution shall file a disclosure note signed also by the Defence including a list of items disclosed; that the Prosecution must disclose to the Defence all names and statements of witnesses it will rely on at the confirmation hearing (unless otherwise authorized); that inspection shall proceed as agreed by the parties and that the parties, upon request, shall provide to the other party electronic copies of materials subject to inspection and file an inspection report (including list of inspected items); that the Registry shall enable the Defence use of the necessary Court software and provide Mr. Lubanga with access to a computer in the Detention Unit; that filings of evidence before the confirmation hearing shall be confidential. PTC I also set a detailed timetable for disclosure in relation to the confirmation hearing, including status conferences on 24 May, 5 June and 16 June. The Chamber Considered (among other) that: disclosure before and during the confirmation hearing are governed by different provisions; disclosure will be conducted through two distinct procedures ("*disclosure stricto sensu*" and "*inspection*"); the scope of the confirmation hearing is limited to determining whether sufficient evidence exists to establish substantial grounds to believe that a person has committed the crimes charged. The Chamber also provided an annex explaining the considerations behind this 'final system of disclosure' (including internationally recognized human rights, fair trial standards, contextual interpretation of relevant provisions, effectiveness, protection of victims and witnesses, preservation of evidence, procedural rights of participating victims).

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-102_English.pdf

On 17 May 2006, PTC I rejected the Defence's request to have access to the entire file of the situation in DRC, considering that: the Defence has access to the index of the record; he must identify the specific documents on the record and provide reasons for requesting access to them (but failed to do so).

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-103_English.pdf

On 17 May 2006, the Prosecutor submitted a supplemental filing containing the final proposed redactions of the closed meeting of 17 March 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-104_English.pdf

On 17 May 2006, the PTC I issued a decision correcting the ex parte annex containing the redactions of the in camera meeting of 17 March 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-106_English.pdf

On 18 May 2006, the PTC I ordered that the Counsel for the Defence be provided with a redacted copy of the three applications of (a/0001/06 to a/0003/06) for participation in the Lubanga case. The Chamber ordered all organs of the Court to abstain from any direct contact with the applicants, and only contact the legal representatives of the victims.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-107_English.pdf

On 19 May 2006, PTC I took a decision regarding general principles governing disclosure by the Prosecutor where such disclosure may prejudice further or ongoing investigations. All such applications shall be filed between the parties, with a detailed annex (possibly ex parte). PTC I considered the right of the accused to be present at all proceedings and the exceptions to this (due to protection of victims and witnesses and for matters of national security information). Proceedings in the absence of the Defence shall be permitted only when Prosecutor shows importance, necessity, proportionality (of prejudice to the Defence versus benefits derived). Ex parte proceedings could mean either that a party is aware of proceedings but not participating, or is even unaware. The Chamber concluded that the excluded party: must be informed of an application by the other party of restricted disclosure in terms of proceedings; be allowed to respond to the application; and be provided with any decision (maybe redacted) taken by the Chamber in ex parte proceedings. However, the documents filed and the transcripts remain ex parte. It was also considered that some type of publicity of all decisions and orders (also confidential/under seal) of the Chamber should be provided (either by providing the document or a general announcement of their existence). If based upon good cause, such publicity/notice can be postponed. Further: non-disclosure of identity of witnesses to be relied upon at the confirmation hearing can only be authorized exceptionally; redaction of potentially exculpatory excerpts from statements of witnesses upon which the Prosecution relies at the hearing can not be authorized; investigations in the case must be brought to an end by the time of the confirmation hearing, subject to exceptional circumstances; any redactions in the charging documents shall be temporary and the amended charging document must be provided to the Defence 15 days prior to the confirmation hearing.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-108_English.pdf

On 22 May 2006, PTC I issued typographical and other formal corrections to the Decision of 19 May 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-115_English.pdf

On 22 May 2006, PTC I decided that the Prosecution should proceed according to the 19 May General Principles regarding non-disclosure of identity of witness and ordered to the

Prosecution to inform the Chamber by 7 June of a certain outcome referred to in the 19 April filing.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-118_English.pdf

On 22 May 2006, the Prosecution requested the re-scheduling of the confirmation hearing once certain protective measures are fully implemented. (Request not publicly available but referred to in 24 May Decision)

On 22 May 2006, the PTC I (referring to its Decisions of 15, 19 and (earlier on) 22 May regarding disclosure) rejected the Defence's requests (filed on 8 May) for the Prosecution to file redacted versions of its (confidential) filing of 19 April 2006 and its application for non-disclosure of 24 April 2006. The Chamber also rejected the Defence's request to be provided with a redacted transcript of the ex parte hearing convened on 2 May 2006 as well as the other requests in the 8 May Motion.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-119_English.pdf

On 22 May 2006 the Prosecution filed a motion for reconsideration of a few aspects of the 15 May Decision on Disclosure, submitting that the Chamber has the jurisdiction to reconsider its own interlocutory decisions and orders. The Prosecution notes that this is not explicitly provided for in the Statute, the Prosecution bases its request on a general principle of international law and the inherent power of the Court. To establish this principle, the Prosecution undertakes a comparative law study, a survey of different international and national jurisprudence proving the existence of this principle.

The Prosecution then requests that several points of the said ruling be reviewed by the PTCI; that translation of witness statements is for the Registry; that the OTP should store the originals of witness statements (not the Registry); and issues regarding the Draft Protocol on the Presentation of Evidence and identification of information.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-120_English.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-120-Anx1_English.pdf

On 23 May 2006 Mr. Lubanga's Counsel requested Mr. Lubanga's release, based on a long argumentation submitting that Mr. Lubanga's detention in DRC was arbitrary and therefore illegal under Congolese law. Based on international and national precedents, the Defence argues that, because the previous detention was illegal and the Prosecutor was aware of it, Mr. Lubanga's detention in The Hague violates the Rome Statute and that therefore Mr. Lubanga should be released.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-121_French.pdf

On 23 May 2006 the Prosecutor requested the PTCI to allow him a page extension for his application (for reconsideration or appeal of the 19 May Decision) to be filed the next day.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-122_English.pdf

On 23 May 2006 the PTCI rejected the Prosecutions motion for reconsideration filed on 22 May 2006. The PTCI adduces that such motion is not provided for in the Rome Statute or in the Rules of Procedure and Evidence and refers to the PTC II Decision of 28 October 2005.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-123_English.pdf

On 23 May 2006, the PTCI accepted the Prosecution's submission of the same day to extend the page limit for his application to be filed the next day.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-124_English.pdf

On 24 May 2006, a closed status conference was held.

On 24 May 2006, the Prosecutor submitted a motion for reconsideration and/or a leave to the appeal in the Lubanga case regarding issues of disclosure, in particular to determine the Chamber's intention regarding strict enforcement of the general principles identified in the 19 May Decision. The Prosecution requested a confirmation that the general principles provide preliminary guidance and reconsideration of the principles. If the principles will be reconsidered or just providing preliminary guidance, the OTP needs not to seek appeal. If they amount to already enforceable legal standards, then the OTP submits that they can have serious consequences for fairness and efficiency of the proceedings and that the OTP is therefore entitled to seek leave to appeal. The Prosecution specifies five aspects:

how and how far the decision establishes 'general principles' in advance of any controversy, and thereby pre-deciding conflicts not yet arisen, amounting to abstract and hypothetical interpretation or advisory opinions;

the problematic adoption of a strong presumption that the names and statements of a witness upon which the OTP intends to rely at the confirmation hearing must be disclosed;

the apparent and erroneous ruling that the investigations must end when the confirmation hearing starts, risking to impair trial efficiency and reward initially uncooperative governments;

the unduly narrow ruling that Rule 81(2) on non-disclosure cannot be used after the time of confirmation will impair the OTP's ability to continue to investigate and carry serious practical consequences for cooperation and investigations;

and that the ruling that an ex parte filing can never be made without giving contemporaneous notice of the existence of the filing to the other party is not grounded in the Statute or the Rules and erroneously forecloses that in rare instances such an application would be confidential.

The Prosecutor argued that if these general principles are to constitute binding rules, the Chamber has exceeded its powers and engaged in quasi-legislative functions. Further, that the rulings in this decision would significantly affect fairness and expeditiousness of the proceedings and that immediate resolution by the Appeals Chamber will materially advance the proceedings

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-125_English.pdf

On 24 May 2006, noting, among other, the Prosecution's submission of 12 May, PTC I decided to postpone the confirmation hearing in the Lubanga case until 28 September 2006 and outlined the timetable regarding disclosure, including status conferences (23 June, 14 July, 17 August, 4 September and 19 September).

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-126_English.pdf

On 29 May 2006 and noting the Defence's request for Mr. Lubanga's release from 23 May 2006, the PTC I requested the Defence to specify in the territory of which State the release was requested.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-128_French.pdf

**On 30 May 2006, the Appeals Chamber asked the Defence to respond to the Prosecutor's 1 May 2006 brief, and to provide further information on the 24 March 2006 appeal no later than 13 June 2006. Furthermore, the Appeal Chamber authorized the Prosecutor to respond within 10 days of notification of the document filed by the Defence pursuant to this decision.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-129_English.pdf

On 31 May 2006 the Defence Counsel submitted a conclusion brief in response to the PTC I request for the Defence to specify in which State Mr. Lubanga was requesting to be released. The Defence explained that he was not requesting Mr. Lubanga's provisional release based on Regulation 51 of the Regulations of the Court. The request was rather based on Rule 185 of the Rules of Procedure and Evidence which provides for the release of a person for "... any other reason". In this case, the request for release does not need to specify a country in the territory of which the person requests to be released.

As a secondary request, Mr. Lubanga's Defence states that, because he was arbitrary detained by the DRC's authorities, he does not wish to be transferred to DRC in the event of his release. He therefore requests to be released in the territory of either Belgium or Great Britain.

Additionally, the Defence states that the Prosecutor requested the postponement of the confirmation of charges hearing based on a previous motion of his office filed ex parte (during a hearing held in the absence of the Defence). The content of such motion remains therefore unknown to the Defence.

The Defence understands that this motion cannot be made public as it would disclose the identity of certain persons for whom protective measures are not yet in place. The Prosecutor is thus not yet in a position to serve the charges.

The above referred facts endorse the Defence's contention that Mr. Lubanga was not duly informed of the charges to be pressed against him in a detailed and rapid manner. His right to a fair trial has therefore been violated. Mr. Lubanga should therefore not be kept in detention.

Isolated detention. According to Regulations 99 to 101, Mr. Lubanga has the right to have regular contact with his co-detainees. Restrictions to this right should only be in place upon a decision of the Chamber following a motion. Mr. Lubanga was never informed that such a motion existed. His isolated detention is therefore illegal. This fact also constitutes grounds for his release.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-131_French.pdf

On 02 June 2006 PTC I requested the Registrar to submit his observations on the conditions of detention of Mr. Lubanga pursuant to the Defence Counsel's submission of a motion on 31 May 2006.

In that motion, Mr. Lubanga's Defence Counsel requested the release of his client based on the illegality of his detention. One of the reasons the Defence put forward to prove such illegality was that Mr. Lubanga was kept in isolation and no contact with his co-detainees was allowed. The Defence claimed that an order of isolation could only be issued by the Chambers.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-136_French.pdf

On 6 June 2006 the Prosecutor submitted 2 simultaneous observations regarding a/0001/06 to a/0003/06's applications to participate in the DRC situation and in the Lubanga case.

Lubanga case: according to the Prosecutor, in order to be recognized the status of victim, a person must satisfy a double test. First, the person needs to fulfill the criteria set out in Article 85 of the Rome Statute setting the definition of victim. Second, the Chamber must satisfy itself that the victim is directly affected by the proceedings in which he or she is applying to participate.

The Prosecutor argues that the victims must have a judicially recognizable personal interest in the case, that is, the interest must relate to the specific matters at issue in the case.

The Prosecutor concludes that the applicants meet the criteria to be qualified as victims except for some allegations presented involving killings. The Prosecution therefore asks the Chamber to grant the applications with those exceptions.

2) DRC situation: according to the Prosecutor, before an arrest warrant is issued, the victims right to participate in the proceedings is limited to cases in which the Prosecutor decides not to open an investigation or not to prosecute. In the DRC situation, the investigation is ongoing, therefore, the victims' participation is limited to cases. He bases his argument on the fact that the victims' "judicially recognizable personal interest" must relate to specific matters. The mere fact that a person is the victims of a crime under the jurisdiction of the Court does not satisfy the test of the "judicially recognizable personal interest".

Moreover, the Prosecutor finds that the victims' participation during the investigation is not appropriate for two reasons: it could jeopardize the integrity and objectivity of the investigations and the investigations need to be kept confidential to avoid putting the victims, witnesses and evidence at risk.

Based on the above arguments, the Prosecutor requests that the decision on the victims' applications be suspended until the Appeals Chamber decides on the Prosecutor's extraordinary review motion or, in the alternative, that the applications be rejected.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-140_English.pdf and
http://www.icc-cpi.int/library/cases/ICC-01-04-151_English.pdf

On 7 June 2006 the Prosecutor filed a communication informing the Court that he his efforts to obtain an information provider consent to release of certain exculpatory evidence were not yielding any result yet. The OTP will keep the Chamber updated in this issue.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-142_English.pdf

On 8 June 2006 the Prosecutor requested the Chamber to endorse the agreement reached with the Defence on inspection issues that departs slightly from the disclosure system established by the Judge. The Parties agreed that the Prosecutor will submit the documents in electronic format to the Defence.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-143_English.pdf

On 12 June 2006 the Defence asked the Appeals Chamber to be allowed to retract the Defence's appeal against the admissibility of the Lubanga Case filed on 24 March 2006 while retaining the right to defend his point of view as to the admissibility of the case. In case a retraction of the appeal would involve disallowing the Defence the possibility to contest the admissibility of the case in general, the Defence asked that the Appeals Chamber grant, in the alternative, an extension to submit the brief of appeal.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-146_OA2_French.pdf

On 12 June 2006, the Prosecution issued a disclosure note attaching a list of disclosed materials that have been disclosed to the Counsel on 9 June 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-147_English.pdf

On 13 June 2006 the Prosecutor requested the rejection of the Defence's application of 31 May 2006 for Mr. Lubanga's release. The Prosecutor refuted all the arguments set forth by the Defence, noting that the Defence's submission did not respect the Regulations on page limit and that the Defence quoted portions of confidential documentation in its filing. Further, the Prosecutor tackled different aspects of the Defence's submission:

Regarding procedural aspects: the Defence did not provide for a legal basis for its demand, other than Rule 185 which fails to provide any legal foundation for the release. For the sake of the expeditiousness of the trial, the Prosecutor assumes that the submission from the Defence is based on Article 19 (on challenges to the jurisdiction or admissibility of the case).

Regarding alleged illegality of Mr. Lubanga's arrest and detention in the DRC, the Prosecutor argued that the Defence failed to make any difference between Mr. Lubanga's detention before and after 19 March 2005 and that it was only on 19 March 2005 that Mr. Lubanga was placed in permanent detention in Kinshasa.

Moreover, the Prosecutor holds that the illegality of Mr. Lubanga's arrest under Congolese national law would not impact the legality of the ICC, since the arrest of Mr. Lubanga on 19 March 2005 was not triggered by the Court. The Prosecution nor the PTC I had any reason to believe that the arrest and detention of Mr. Lubanga in the DRC was illegal. The Prosecutor stated that both the OTP and the PTC I thought that the release could have happened as the investigations in the DRC were very difficult, not because the detention may be illegal. Even if the alleged illegality could be attributed to the Court, and the detention would be illegal, the release of the detainee would be a disproportionate remedy, according to the Prosecutor. The Prosecutor also stated that the transfer of Mr. Lubanga to the ICC was requested to the competent Congolese authorities.

The Prosecutor reject the allegation that Mr. Lubanga has been detained without being promptly informed, noting that Article 67(1)(a) of the Statute and the PTC I rulings on disclosure have been respected.

Regarding detention, the Prosecution held that the detention is the responsibility of the Registry, but that in the Prosecutor's view the law is being respected in this regard.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-150_English.pdf

On 14 June 2006 the Prosecution submitted a number of documents and materials it had previously shared with the Defence in pursuance of PTC I's 15 May and 24 May 2006 decisions on disclosure.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-152_English.pdf

On 19 June 2006, the Prosecutor submitted an application seeking authorisation from PTC I to redact information contained in several statements which if disclosed to the Defence could prejudice the ongoing and/ or further investigations. (Document not available to the public, but referred to in the PTC I's Decision of 31 July 2006.)

**On 19 June 2006, the Defence requested authorization to respond to the 13 June 2006 Response to the Defence's Application for Release. (Document not available to the public, but referred to in the PTC I's Decision of 13 July 2006.)

On 22 June 2006, the Prosecution submitted a series of documents that had already been shared with the Defence on 21 June 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-160_English.pdf

On 22 June 2006, the Prosecution submitted an "inspection report" concerning the inspection of materials that took place on 21 June 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-161_English.pdf

On 22 June 2006, the Prosecutor submitted a series of documents that had already been disclosed to the Defence on 20 April and 8 May 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-163_English.pdf

On 22 June 2006, the Prosecutor submitted a "disclosure note" (informative note) following the disclosure of potentially exculpatory evidence performed on 21 June 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-164_English.pdf

On 23 June 2006, PTC I rejected the motion for reconsideration (of the "Decision Establishing General Principles Governing Applications to Restrict Disclosure" of 19 May 2006) filed by the Prosecution on 24 May 2006 as such remedy is not provided for in the Statute or the Rules. The Chamber further granted the alternative leave to appeal requested in the same motion on 3 issues concerning disclosure, concluding that the issues identified met both criteria of, first, significantly affecting the fair and expeditious

conduct of the proceedings or the outcome of the trial and, second, an immediate resolution by the Appeals Chamber may materially advance the proceedings.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-166_English.pdf

**On 23 June 2006, during the Status Conference the Single Judge of PTC I issued an oral order whereby the Registry, the Office of the Prosecutor and the Defence were to prepare a joint proposal of a modified e-court protocol and submit it to the Chamber by 14 July 2006. (Decision not available to the public but referred to in 20 July 2006 joint submission.)

On 26 June 2006, the Prosecution requested the Appeals Chamber to grant it an extension of time to file its document in support of its appeal against the Decision of 19 May 2006 (for which leave to appeal was granted on 23 June 2006). The Prosecution additionally requests an extension of the page limit for the document in support of the appeal

On 27 June 2006, the Prosecution filed a corrigendum to his submission of 26 June 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-167_English.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-167-Corr_English.pdf

On 27 June 2006, the Appeals Chamber designated Judge Sang-Hyun Song as Presiding Judge in the appeal of the Prosecution against the "Decision Establishing General Principles Governing Applications to Restrict Disclosure" (filed on 24 May 2006).

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-168_English.pdf

On 28 June 2006, the Prosecution announced the temporary suspension of the investigation into the Lubanga case and that the Prosecution will not be amending or adding to the charges against Mr. Lubanga. The Prosecution alleges difficulties to pursue the investigation in DRC and to properly protect witnesses and victims as the reasons to suspend the investigation. The Prosecution notes that it reserves its right to apply for a new arrest warrant or submit further charges for confirmation if the investigation continues after the close of the present proceedings and if reasonable grounds for Mr. Lubanga's responsibility for additional crimes are established.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-170_English.pdf

On 28 June 2006, the Appeals Chamber granted the Defence a deadline to respond to the Prosecution's motion for extensions of time and page limits requested on 26 June 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-171_English.pdf

On 29 June 2006, the PTC I decided not to grant the participation of VPRS1 to VPRS6 in the proceedings of the case against Lubanga since they had not proven that there is a

causal link between their harm suffered and the crimes included in the arrest warrant against Mr. Lubanga. The Chamber reminds that the applicants may submit a fresh application at a further phase of the proceedings.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-172_French.pdf

On 29 June 2006, PTC I allowed the Defence to submit a response to the Prosecutor's submission of 13 June 2006 which responded to the Defence's request for Mr. Lubanga's release of 23 May 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-173_French.pdf

On 7 July 2006, the Prosecution submitted a file in response to the Defence's application of 3 July 2006. The Prosecution agreed to the extension of the time limit requested by the Defence and did not take any position as to the extension of page limit.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-187_English.pdf

On 10 July 2006, the Defence filed a confidential brief before PTC I, stating that its 23 May 2006 Application for Release is grounded, on the one hand, on the right not to be subjected to arbitrary arrest or detention in connection to the right to compensation for victims of unlawful detention, and, on the other hand, on the alleged inadmissibility of the case against Mr. Lubanga. (Document not available to the public, but referred to in the PTC I Decision of 13 July 2006).

On 10 July 2006, the Defence requested that the Appeals Chamber referred the admissibility challenge matter to PTC I, or as a subsidiary relief order the Registrar to take notice of the discontinuance of the Appeal. Here, the Defence argued that its 24 March 2006 notice of appeal should be considered a first challenge to admissibility and hence referred to the Pre-Trial Chamber. In view of the Defence, the contrary would violate the principle of equality of arms given that it would lose the right to challenge admissibility before the Appeals Chamber at a later time when it has sufficient time, resources and material to do so since to this date the Prosecutor has not disclosed his entire case file.

<http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-189-tEnglish.pdf>

On 11 July 2006, the Appeals Chamber, in response to the Defence submission of 3 July 2006, extended, by 5 days, the time limit for the filing of the Defence response to the brief the Prosecutor submitted on 5 July 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-190_English.pdf

On 13 July 2006, PTC I ordered the Defence to make clear within 10 days which procedural remedy it is using for its 23 May 2006 Application for Release.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-191_English.pdf

On 14 July 2006, the Prosecution requested PTC I to deny the Defence's Request of 3 July 2006 arguing that to set deadlines from the time of issuing French translations would

generate an undue delay of the proceedings. It was submitted that extensions of a time limit should be granted on a case-by-case basis.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-193_English.pdf

On 14 July 2006, the Prosecution requested PTC I to deny the Defence's request of 4 July 2006, arguing that the request is not supported by facts and lacks legal basis. Given that on two occasions the Defence has filed motions in English, the Prosecution is of the opinion that the latter understand English. Further, that the Defence had been receiving documents in English since 20 April 2006 without objection, and that the unreasonable delay in pursuing this remedy causes prejudice to the Prosecution.

In addition, the Prosecution argued that it must only make statements of prosecutions witnesses available in a language of the accused and requested the Chamber to cautiously consider the ICTY jurisprudence presented by the Defence since ICTY texts impose obligations on the Prosecutor that are not provided by ICC texts.

The Prosecution also based its submission in a number of jurisprudence from the European Court of Human Rights which establish principles regarding the obligation to provide for translated materials in the context of a criminal proceeding.

Finally, the Prosecution argued that if the Chamber considers that discovery materials other than Prosecution witnesses statements should be communicated in French, such responsibility to translate those materials befalls on the Registry.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-192_English.pdf

On 14 July 2006, in compliance with PTC I Decisions of 15 and 24 May 2006, the Prosecution submitted a number of confidential documents in both their physical and electronic versions that have been disclosed to the Defence on 13 July 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-194_English.pdf

On 14 July 2006, in compliance with PTC I Decisions of 15 and 24 May 2006, the Prosecution confidentially filed the "Disclosure Note", which includes the redacted list of potentially exculpatory evidence disclosed to the Defence on 13 July 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-196_English.pdf

On 14 July 2006, in compliance with PTC I Decisions of 15 and 24 May 2006, and the Single Judge's oral decision of 23 June 2006, the Prosecution confidentially submitted the "Pre-Inspection Note" in respect of the provision of materials to the Defence on 13 July 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-195_English.pdf

On 17 July 2006, the Defence modified the legal ground for the request for release submitted on 23 May 2006. The first request, based on the challenge to the admissibility of the case, was modified to challenging the jurisdiction of the Court.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-197_French.pdf

On 18 July 2006, the Prosecution filed before PTC I an amendment to the 19 June 2006 application in which the Prosecution amended the redactions for which it seeks authorisation from the Single Judge. (Document not available to the public, but referred to in the PTC I Decision of 31 July 2006.)

On 18 July 2006, the Prosecution responded to the Defence brief to the Appeals Chamber on 10 July 2006 and requested the Appeals Chamber to reject the request by the Defence to refer the matter to the PTC I. The Prosecution also insisted the Chamber to take notice of the discontinuance of the appeal as requested by the Defence.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-200_English.pdf

On 20 July 2006, the Defence responded, before the Appeals Chamber to the Prosecutors document of 5 July 2006 in support of the appeal, contesting the admissibility of the appeal by arguing that the Prosecution failed to demonstrate any serious errors of fact or law in the contested decision.

The Defence submitted the inadmissibility of the first and second grounds of appeal by asserting that those principles have already been ruled by PTC I in its 15 May 2006 Decision, for which the Prosecutor did not request leave to appeal.

Regarding the merits of the first ground of appeal, the Defence alternatively affirmed that the Statute and the Rules recognize the principle of disclosure of identity of witnesses and that the non-disclosure is an exception to be authorised by the PTC in consistence with the rights of the accused. Also, argued that to state that the procedural guarantees under article 67 of the Statute do not apply at the confirmation hearing lacks legal basis and runs counter to the presumption of innocence.

On the merits of the second ground, the Defence argued that the legal basis for deciding that the investigation cannot continue after the confirmation hearing lies only in the literal interpretation of article 61(4).

On the third ground, the Defence submitted that a request made by the Prosecution for the non-disclosure of materials that may affect the investigations must be open to both parties and that only the hearing of such matter must be ex parte.

<http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-199-tEnglish.pdf>

On 20 July 2006, in accordance with PTC I oral orders of 23 June 2006, the Prosecution, the Registry and the Defence submitted a joint proposal of a modified e-court protocol.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-201_English.pdf

On 21 July 2006, the Prosecution requested the Appeals Chamber for a leave to reply to the Defence submission of 20 July 2006. The Prosecution noted that in its response the Defence raised a number of procedural arguments not earlier raised before the PTC, hence, the Prosecutor seeks an opportunity to reply to those arguments.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-202_English.pdf

On 24 July 2006, in compliance with PTC I Decisions of 15 and 24 May 2006, and the Single Judge's oral decision of 23 June 2006, the Prosecution confidentially submitted the "Pre-Inspection Note" in respect of the provision of materials to the Defence on 21 July 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-209_English.pdf

On 24 July 2006, in compliance with PTC I Decisions of 15 and 24 May 2006, the Prosecution confidentially filed the "Disclosure Note", which includes the redacted list of potentially exculpatory evidence disclosed to the Defence on 21 July 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-208_English.pdf

On 24 July 2006, in compliance with PTC I Decisions of 15 and 24 May 2006, the Prosecution submitted a number of confidential documents (both physical and electronic versions) that have been disclosed to the Defence on 21 July 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-207_English.pdf

On 24 July 2006, PTC I invited the Government of the DRC and the victims participating in the case to produce observations to the submissions related to the Defence request for release of 23 May 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-206_French.pdf

On 24 July 2006, the Defence requested PTC I to forbid the Prosecutor to disclose redacted material without previous authorization of the Court.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-203_French.pdf

On 27 July 2006, the Single Judge decided to allow the parties at the status conference to be held on 17 August 2006 to elaborate on their positions with regards to the points of disagreement referred to in the joint proposal submitted on 20 July 2006. Also, decided that until a final decision is taken, the parties should comply with the requirements of the Draft Protocol included in the 20 July 2006 submission.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-213_English.pdf

On 27 July 2006, the Single Judge decided to give to the Prosecution until 7 August 2006 to respond to the Defence conclusions of 24 July 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-212_English.pdf

On 28 July 2006, in view of PTC I decision of 24 July 2006 inviting observations from the Government of the DRC and the victims, the Defence requested the Chamber leave to reply to any observations filed.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-215_English.pdf

On 28 July 2006, PTC I accepted a/0001/06, a/0002/06 and a/0003/06's applications to participate as victims in the Lubanga case and in the DRC situation, since a link could be established between the harm suffered by the applicants and the charges against Thomas Lubanga Dyilo on the one hand, and the investigations on the DRC situation on the other

hand.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-228_French.pdf

On 28 July 2006, the Prosecution submitted, in response to the Defence conclusions of 24 July 2006 before PTC I, that the limited scope of its redactions – which only concerns potentially identifying elements of prosecution witnesses - does not prejudice the Defence rights at this stage of the proceedings. Furthermore, the Prosecution affirmed that those redactions are, at this stage, the only remedy available to comply with its duty to take protective measures.

The Prosecution suggested continuing its practice and that when the Defence identifies to the Prosecution the documents it wishes to consult un-redacted, the Single Judge shall review the documents concerned and decide on the matter. The Prosecution also suggested filing the un-redacted documents on their original version "under seal – ex parte – Prosecution only".

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-214_English.pdf

On 31 July 2006, the Single Judge invited the Prosecution to revise some of the redactions proposed in its 19 June and 18 July 2006 application and to present filings in this relation by 1 August 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-222_English.pdf

On 31 July 2006, the Prosecution responded, before the Appeals Chambers, to the Defence submission of 20 July 2006. Although its request for leave to file this reply of 21 July 2006 had neither been granted nor denied by the Appeals Chamber, the Prosecution responded in order to comply with the time limit imposed by the Statute and jointly requested the grant of such leave.

The Prosecution stated that in this case, the competence of the Appeals Chamber is restricted to verifying the existence of errors in the appealed decision and that the failure of the Defence to raise these matters before the Single Judge cannot be cured by a belated submission before the Appeals Chamber.

Additionally, the Prosecution disputed the obligation to demonstrate a "serious wrong" for the determination of a right to appeal, arguing that an appellant is only required to demonstrate, and the Pre Trial or Trial Chamber to certify, that the concerned issue could significantly affect the fair and expeditious conduct of the proceedings or the outcome of the trial.

Also, the Prosecution submitted that the PTC I 15 May 2006 decision is of a preparatory nature and that all relevant elements of such decision must be seen as incorporated in the appealed PTC I decision of 19 May 2006 and that an overturning decision by the Appeal Chamber will affect both the appealed decision and the lesser included elements of the 15 May 2006 decision, ruling out any possibility for contradictory decisions.

Finally, the Prosecution stated that the fact that leave to appeal the 15 May 2006 decision was not sought cannot imply that the right to seek appeal for those issues has been waived. The Prosecution argued firstly that the appealed decision developed on some of the general principles from the 15 May 2006 decision and converted them into enforceable legal standards with no apparent room for further discussion in a case-by-

case basis. Lastly, the Prosecution submitted that the appealed decision overlaid additional and specific procedural requirements on the Prosecution.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-223_English.pdf

On 31 July 2006, in compliance with PTC I Decisions of 15 and 24 May 2006, and the Single Judge's oral decision of 23 June 2006, the Prosecution confidentially submitted the "Pre-Inspection Note" in respect of the provision of materials to the Defence on 28 July 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-227_English.pdf

On 31 July 2006, in compliance with PTC I Decisions of 15 and 24 May 2006, the Prosecution confidentially filed the "Disclosure Note", which includes the redacted list of potentially exculpatory evidence which also contains redacted excerpts of witness statements disclosed to the Defence on 28 July 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-226_English.pdf

On 31 July 2006, PTC I granted the request of the Prosecution for access to the Registry recommendations and to reclassify the latter as under seal and ex parte only available to the Prosecution. The Chamber also decided that, in the future, any request of the Prosecution for the assessment of the Victims and Witnesses Unit (VWU) on the available protective measures for a witness on which the Prosecution intends to rely at the confirmation hearing, and any assessment by the VWU at the request of the Prosecution on the same matter, be filed ex parte only available to the Prosecution.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-225_English.pdf

On 1 August 2006, the Defence requested PTC I for leave to reply to the Prosecution submission of 28 July 2006, and, in case leave is granted, to extend the deadline for such reply.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-229_English.pdf

On 1 August 2006, the Prosecution responded to the Single Judge decision of 31 July 2006 (inviting the Prosecution to revise proposed redactions) and further amended the redactions for which it seeks authorisation from the Single Judge. (Document not available to the public, but referred to in the PTC I Decision of 2 August 2006.)

On 2 August 2006, the Single Judge authorised some of the redactions as proposed in the Prosecution Application of 13 July 2006 as amended on 1 August 2006, and expressly authorised a different redaction for other parts of the information.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-235_English.pdf

On 2 August 2006, PTC I granted the Defence leave to reply to the Prosecution submission of 28 July 2006 and to extend the deadline for filing the reply until 15 August 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-236_English.pdf

On 4 August 2006, in compliance with PTC I Decisions of 15 and 24 May 2006, the Prosecution submitted confidential documents (both physical and electronic versions) that have been disclosed to the Defence on 28 July 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-271_English.pdf

On 4 August 2006, PTC I ordered the Registry to provide the Prosecution with non-redacted copies of the requests for participation of victims, and the Defence with redacted copies; and allowed the two parties to submit observations on these requests.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-270_French.pdf

On 4 August 2006, the Single Judge denied the requests submitted by the Defence on 3 and 4 July 2006 regarding documents in French and the date thereof. In addition, the Single Judge ordered the Prosecution to file a French version of the Charging Document and List of Evidence and, if applicable, of the Amended Charging Document and List of Evidence. Finally, ordered the Registrar to have always available and free of cost a French interpreter to assist the Defence team for the purpose of the confirmation hearing.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-268_English.pdf

On 7 August 2006, the Defence requested PTC I to grant leave to appeal the 28 July 2006 decision allowing Victims a/0001/06 to a/0003/06 to participate in the proceedings against Lubanga. The Defence argued that although Art. 82(1)(d) creates a strict control over interlocutory appeals, in interpreting the standards of fairness and expeditiousness, the Chamber should approach more leniently vis-à-vis applications from the Defence, hence, if the issues for appeal affect the rights of the Defence as set out in the Statute, then, according to the Defence, the issues will impact on the fairness of the proceedings.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-272_English.pdf

On 8 August 2006, the Single Judge decided to give the Prosecution and Victims Counsel until 18 August 2006 to file their responses to the request of the Defence of 7 August 2006 seeking leave to appeal the 28 July 2006 PTC I decision.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-317_English.pdf

On 9 August 2006, the Single Judge issued a decision rectifying the deadline for the submission of the responses of the Prosecution and Victims Counsel established in the 8 August 2006 decision to three days from the notification of the present decision.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-318_English.pdf

On 10 August 2006, PTC I invited the Prosecutor and the Defence Counsel to respond to the observations of the Counsels for Victims a/0001/06, a/0002/06 and a/0003/06 regarding their participation in the hearing of confirmation of charges.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-319_French.pdf

On 11 August 2006, in compliance with PTC I Decisions of 15 and 24 May 2006, the Prosecution submitted a number of confidential documents in both their physical and electronic versions that have been disclosed to the Defence on 10 August 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-326_English.pdf

On 11 August 2006, in compliance with PTC I Decisions of 15 and 24 May 2006, the Prosecution confidentially filed the "Disclosure Note", which includes the redacted list of potentially exculpatory evidence which also contains redacted excerpts of witness statements disclosed to the Defence on 10 August 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-325_English.pdf

On 11 August 2006, in compliance with PTC I Decisions of 15 and 24 May 2006, and the Single Judge's oral decision of 23 June 2006, the Prosecution confidentially submitted the "Pre-Inspection Note" in respect of the provision of materials to the Defence on 10 August 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-324_English.pdf

On 11 August 2006, the Counsels for Victims a/0001/06, a/0002/06 and a/0003/06 responded to the Defence's request for leave to appeal the decision on participation of victims. In its response, the Counsel for Victims asked PTC I to reject the latter request from the Defence as it was not aiming to appeal PTC I Decision of 24/28 July 2006, but PTC I decision of 18 May 2006 and of 24 July 2006 inviting Victims to submit observations. Additionally, the Counsels argued that the fact that PTC I accepted the participation of victims at this stage of the proceedings is not likely to affect the fair and expeditious conduct of the proceedings or the outcome of the trial.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-323_French.pdf

On 11 August 2006, PTC I designated Judge Claude Jorda as Single Judge for the Lubanga case and postponed the date of the status conference of 17 August to 24 August 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-321_English.pdf

On 14 August 2006, the Prosecution responded to the Defence submission of 7 August 2006 requesting leave to appeal PTC I decision of 7 August 2006 authorizing the participation of victims a/0001/06 to a/0003/06. The Prosecution submitted that, despite the flawed interpretation of the principle of fairness contained in Article 82 (1)(d), the Defence application has satisfied the requirements for leave to appeal set forth in that provision.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-331_English.pdf

On 14 August 2006, the Defence requested PTC I to stop the proceedings vis-à-vis the applications of victims a/0004/06 to a/0009/06, a/0016/06 to a/0046/06, a/0047/06 to a/0052/06, until and in case leave to appeal the decision of 28 July 2006 accepting the participation of victims a/0001/06 to a/0003/06 to the procedure is granted.

In the alternative, the Defence requested access to the un-redacted versions of the applications arguing that they do not fall under the scheme for protective measures, hence constituting an infringement of the Defence's right to a fair and public hearing.

According to the Defence, a public finding by the Chamber that there are grounds to believe persons have suffered harm as a result of crimes allegedly committed by the accused has the same consequences as a charge. As a result, in order to meet the

requirements of informing the Defence of the nature and details of the charges/allegations raised by the applications, it is necessary to provide the Defence with details regarding the identity of the alleged victims.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-328_English.pdf

On 15 August 2006, the Defence filed a reply to the Prosecution's Response of 28 July 2006 to the conclusions of the Defence of 24 July 2006 regarding the disclosure of redacted documents by the Prosecution. In its reply, the Defence asked PTC I to order the Prosecution to disclose un-redacted versions of the material in question and to provide the Registry with the original version of this material. According to the Defence, the Prosecution has not adduced sufficient and objective justification for redacting the materials; therefore, the measure does not meet the requirements of necessity and proportionality.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-332_English.pdf

On 16 August 2006, PTC I rejected the Defence request of 14 August 2006 to access the un-redacted versions of the applications for participation of Applicants a/0004/06 to a/0009/06 and a/0016/06 to a/0046/06 and a/0047/06 to a/0052/06. PTC I also decided to grant the Prosecution and the Defence an extension until 25 August 2006 to submit observations on these applications for participation.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-334_French.pdf

On 17 August 2006, PTC I decided not to authorize victims a/0001/06 to a/0003/06 to participate to the statute conference, scheduled for the 24 August 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-335_French.pdf

On 18 August 2006, the Prosecution requested the Single Judge to order the Defence to inform PTC I by 24 August 2006 whether it will request a postponement of the date of the Confirmation Hearing. The Prosecution stated that it will disclose the names of its witnesses to the Defence by 28 August 2006 and expressed its concern with respect to the possibility that the Defence may request the further postponement of the date of Confirmation Hearing on the basis that the Defence will not be in a position to adequately participate in this hearing. The Prosecution finds it problematic if the date was to be re-scheduled after the Prosecution has disclosed the names of its witnesses in the "List of Evidences" in addition to their statements, as their safety and security situation will be unnecessarily further jeopardized.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-340_English.pdf

On 18 August 2006, PTC I rejected the Defence request for leave to appeal the decision of 7 August 2006 authorizing victims a/0001/06 to a/0003/06 to participate in the proceedings. The Chamber argued that the Defence failed to demonstrate how tailoring the definition of victim provided for in rule 85 to the scope of the Lubanga case may significantly affect the fair and expeditious conduct of the proceedings or the outcome of the trial.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-338_English.pdf

On 18 August 2006, the PTCI decided to convene an ex parte hearing with the Prosecution and the Representatives of the VWU to be held on 23 August 2006. http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-337_English.pdf

On 21 August 2006, the Prosecution confidentially requested the authorization of PTC I for redactions in a witness statement on which the Prosecution intends to rely at the confirmation hearing. (Content not publicly available, but referred to as: ICC-01/04-01/06-341-Conf in Decision: ICC-01/04-01/06-378 of 1 September 2006)

On 22 August 2006, PTC I rejected the Request of Victims a/0001/06 to a/0003/06 of 16 August 2006. The Chamber also decided, inter alia, that the Prosecution and the Defence shall have until 25 August 2006 to respond to the request for protective measures contained in the Request of 16 August.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-346_English.pdf

On 22 August 2006, the Prosecution filed Observations requesting PTC I to reject the Applications of applicants a/0004/06 to a/0009/06 and a/0016/06 to a/0046/06 to participate in the proceedings as victims. The Prosecution argued that the harm suffered by the referred Applicants has no causal link to the charges in the present case.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-345_English.pdf

On 23 August 2006, the Prosecution confidentially requested the authorization of PTC I for redactions in a witness statements on which the Prosecution intends to rely at the confirmation hearing. (Content not publicly available, but referred to as ICC-01/04-01/06-347-Conf in Decision ICC-01/04-01/06-378 of 1 September 2006)

OBSERVATIONS DES VICTIMES a/0001/06, a/0002/06 et a/0003/06 quant à l'exception d'incompétence soulevée par la défense dans la requête du 23 mai 2006.

On 24 August 2006, following the PTC's invitation of 24 July 2006 to submit observations, the representatives of the victims a/0001/06, a/0002/06 and a/0003/06 requested to dismiss the challenges to the jurisdiction of the Court raised by the defense as well as the request to release Thomas Lubanga. The victims' representatives challenged the allegation of an illegal detention by the Congolese authorities and the alleged irregularities of the arrest and the surrender of Lubanga.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-349_French.pdf

PROSECUTION'S RESPONSE TO "OBSERVATIONS CONCERNANT LES MODALITÉS DE LA PARTICIPATION DE VICTIMES"

On 25 August 2006, the Prosecution responded to the observations of 8 August 2006 filed by the Legal Representative of victims a/0001/06 to a/0003/06. In

his response, the Prosecution argued that the restrictive nature of the confirmation hearing –to determine whether the Prosecution has sufficient evidence to justify sending the case for trial- should impede victims to make open and closing submissions, question witnesses or file documents. Moreover, the Prosecution submitted that, in lights of the fairness of the proceedings, once victims have been admitted as participants at the confirmation stage their identity must be known by the Defence. Finally, the Prosecution submitted that disclosure obligations remain primarily a matter between the parties, and since the victims are not parties but participants in the proceedings, they should not be granted access to the entire record of the case and the situation.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-353_English.pdf

During the status conference in the case *The Prosecutor v. Thomas Lubanga Dyilo* held on 24 August 2006, Judge Sylvia Steiner, acting as single judge for Pre-Trial Chamber I, the single judge has issued the following decision on the specific request of the Prosecution to order the Defence to inform the Pre-Trial Chamber by 24 August 2006 at the latest whether the Defence will request the postponement of the Confirmation Hearing:

In the view of the single judge, only after the Filing of the Prosecution Charging Document and List of Evidence and after the Defence has had access to all incriminating evidence referred to in such a filing, including the statements of those witnesses for which the Prosecution intends to file rule 81 motions by Monday 28 August 2006, will the Chamber be able to properly assess all aspects concerning the question of whether or not the Defence will be in a position to comply with the deadlines provided for in the 24 May 2006 “Decision on the Postponement of the Confirmation Hearing and the Adjustment of the Timetable Set in the Decision on the Final System of Disclosure”. For this reason, the status conference of 5 September 2006 will be, in the view of the single judge, the best forum to deal with this issue.

Furthermore, the single judge is of the view that no additional risk is undertaken in relation to Prosecution witness if the request for the postponement of the confirmation hearing is made after the filing of the Prosecution Charging Document and List of Evidence. In this regard, the single judge points out that the name of those witnesses for which rule 81 (4) motions have been granted or are still pending on 28 August 2006 do not have to be revealed to the Defence on the Prosecution Charging Document and List of Evidence.

Finally, the single judge agrees with the Defence that the request for the issuance of such an order imposes on the Defence an obligation not provided for in the Statute nor in the Rules.

For these reasons, the single judge decides to:
REJECT the Prosecution request.

During the status conference in the case *The Prosecutor v. Thomas Lubanga Dyilo* held on 24 August 2006, Judge Sylvia Steiner, acting as single judge

for Pre-Trial Chamber I, the single judge has issued the following decision on the specific request of the Defence for suspension of time-limits for three pending filings

25 August 2006

Considering that the request of the Defence is based on regulation 35 of the Regulations of the Court, the single judge is of the view that regulation 35 applies for "applications to extend or reduce any time limit as prescribed in these Regulations or as ordered by the Chamber...". Hence, the time limit for requesting leave to appeal is not stipulated in the Regulations and was not ordered by the Chamber but is stipulated in rule 155 of the Rules of Procedure and Evidence; and therefore it cannot be modified by the Chamber

In relation to the other two deadlines, the single judge is of the view that the Defence has shown good cause.

For these reasons, the single judge decides to:
REJECT the Defence Request to suspend the time limit in relation to the request for leave to appeal of the "Décision relative aux requêtes de la défense et de l'accusation concernant la prorogation de délai";
DECIDE to grant the Defence until next Tuesday 5 September 2006 at 4pm to submit:

(i) The Defence's observations on the modalities of participation of victims

a/0001/06 to a/0003/06;

(ii) The Defence's response to the applications of applicants

a/0004/06 to

a/0009/06, a/0016/06 to a/0046/06 and a/0047/06 to a/0052/06

During the status conference in the case *The Prosecutor v. Thomas Lubanga Dyilo* held on 24 August 2006, Judge Sylvia Steiner, acting as single judge for Pre-Trial Chamber I, issued the following decisions:

25 August 2006

1- The status conference of 4 September 2006 as originally scheduled in the Decision on the Postponement of the Confirmation Hearing and the Adjustment of the Timetable has been postponed to the 5 September 2006 at 11.00.

2- A hearing in closed session with the Prosecution, the Defence and the Victims and Witnesses Unit on general measures concerning general recommendations on protection of the Prosecution and the Defence witnesses for the purpose of the confirmation hearing has been scheduled for Tuesday 29 August 2006 at 14.00.

3- A status Conference *ex parte* Prosecution only with the presence of a representative of the Victims and Witnesses Unit on the Prosecution's Applications pursuant to Rule 81 (2) and (4) will be held on Wednesday 30 August 2006 at 14.00.

Decision on the Prosecution's practice to provide to the Defence redacted versions of evidence and materials without authorisation by the Chamber

On 25 August 2006, PTC I decided that the Prosecution shall cease disclosing redacted documents to the Defence without previous authorization by the Chamber. PTC I further ordered the Prosecution to file, ex parte only available to the Prosecution, by 29 August the originals of the redacted documents which have already been disclosed to the Defence without previous authorization by the Chamber. PTC I decided that the issue of the authorization of the redactions in these documents will be dealt with in the ex parte hearing on 30 August 2006. PTC I gave the Prosecution time until 29 August 2006 to file applications for authorization for redactions in evidence other than witness statements included in the Prosecution charges document and list of evidence.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-355_English.pdf

Submission of the Rule 77 Pre-Inspection Note

On 28 August 2006, in compliance with the decisions of 15 May 2006 and 24 May 2006 and the oral decision of 23 June 2006, the Prosecution submitted to the Defence the “Pre-Inspection Note” in respect of the materials (13 documents) falling under Rule 77.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-362_English.pdf

Communication of Original Evidentiary Materials following Disclosure to the Defence of Incriminating Evidence

On 28 August 2006, the Prosecution submitted 40 items that on 28 August 2006 have been disclosed to the Defence together with a CD containing the electronic versions of the items, in compliance with the PTC’s decisions of 15 May 2006 and 24 May 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-361_English.pdf

Final Decision on the E-Court Protocol for the Provision of Evidence, Material and Witness Information on Electronic Version for their Presentation during the Confirmation Hearing

On 28 August 2006, PTC 1 decided upon the content of the E-Court Protocol, for the purpose of the confirmation hearing, in terms of presentation of evidence, material and witness information shall contain the following. The Chamber also decided which fields should be filled in by the Prosecution and the Defence, respectively, and when.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-360_English.pdf

Decision on the Defence’s Request to file a Reply

On 28 August 2006, PTC 1 decided to give the Defence and the Prosecution 10 days to respond to the observations of the DRC and the victims on the procedure in terms of challenging the jurisdiction of the Court (Article 19). PTC 1 rejected the requests of the Defence for an extension of time and page limit.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-359_English.pdf

On 28 August 2006, the Prosecution confidentially requested the authorization of PTC I for redactions in certain witnesses statements and transcripts on which the Prosecution intends to rely at the confirmation hearing. (Content not publicly available, but referred to as ICC-01/04-01/06-358-Conf in Decision ICC-01/04-01/06-378 of 1 September 2006)

On 28 August 2006, the Prosecution confidentially requested the authorization of PTC I for redactions in some documents on which the Prosecution intends to rely at the confirmation hearing or otherwise subject to inspection. (Content not publicly available, but referred to as ICC-01/04-01/06-357-Conf in Decision ICC-01/04-01/06-378 of 1 September 2006)

Submission of the Document containing the Charges pursuant to Article 61(3)(a) and the List of Evidence pursuant to Rule 121(3)

On 28 August 2006, the Prosecution filed, in accordance with PTC I Decision of 24 May 2006, the document containing the charges together with the list of evidence which the Prosecution intends to present at the Confirmation Hearing. The Prosecutor charges Thomas Lubanga Dyilo with three counts of war crime: 1) Conscripting children into armed groups; 2) Enlisting children into armed groups; and 3) Using children to participate actively in hostilities.

According to the Prosecutor's document, the alleged crimes were committed by the accused as co-perpetrator jointly with other FPLC officers and UPC members and supporters, between 1 July 2002 and 31 December 2003 in the district of Ituri (DRC), in the context of an armed conflict not of an international character.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-356_English.pdf

On 29 August 2006, the Prosecution confidentially requested the authorization of PTC I for redactions in forty-one documents previously disclosed to the Defence in redacted form without the prior authorization of PTC I. (Content not publicly available, but referred to as ICC-01/04-01/06-363-Conf-Exp in Decision ICC-01/04-01/06-378 of 1 September 2006)

Information on the "Prosecution's Request for Authorisation of Redactions in Documents" and the "Request for Authorisation of redactions in documents previously disclosed to the Defence"

On 30 August 2006, the Prosecution provided further information on two confidential requests for authorization presented on the 28 and 29 August 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-366_English.pdf

Corrigendum to the Decision on the Agenda of the Hearing of 1 September 2006
On 30 August 2006, the PTC 1 ordered the Registry to replace in the decision of 30 August 2006 (ICC-01/04-01/06-368 Confidential-Ex parte) the date of “24 April 2006” with the date of “1 September 2006”.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-371_English.pdf

Decision on the Agenda of the Hearing of 1 September 2006

On 30 August 2006, the PTC 1 decided to re-schedule the ex parte hearing with the Prosecution and the Victims and Witnesses Unit for 1 September 2006 and provided an agenda for the hearing.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-370_English.pdf

Communication of Original Evidentiary Materials following Disclosure to the Defence of Incriminating Evidence

On 30 August 2006, the Prosecution submitted 6 documents that on 29 August 2006 have been disclosed to the Defence together with a CD containing electronic versions of these items in compliance with the PTC’s decisions of 15 May 2006 and 24 May 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-369_English.pdf

On 30 August 2006, the Single Judge issued a confidential decision on the agenda of the hearing of 1 September 2006. (Content not publicly available, but referred to as ICC-01/04-01/06-368-Conf-Exp in decision ICC-01/04-01/06-378 of 1 September 2006)

On 30 August 2006, the Prosecution confidentially requested the authorization of PTC I for redactions in the transcript of interviews of certain witnesses for which the Prosecution had already requested the non-disclosure of their identity. (Content not publicly available, but referred to as ICC-01/04-01/06-367-Conf-Exp in Decision ICC-01/04-01/06-378 of 1 September 2006)

Prosecutor’s Application to separate the Senior Legal Adviser to the Pre-Trial Division from rendering legal advice regarding the case

On 31 August 2006, the Prosecution requested to separate the sole Senior Legal Adviser to the Pre-Trial Division from rendering legal advice to the judges of the PTC I regarding the Lubanga case because of previous involvement in the same case while employed as Legal Advisor to the OTP in 2004 and 2005. The Prosecution based its request on the standards relating to the appearance of judicial impartiality; impartiality of judicial staff; and on the requirement that a judge disqualifies himself from any case in which he was previously involved as prosecutor or investigator.

The prosecution also requested that in the event the Senior Legal Adviser was currently rendering legal advice relating to this case, he be separated from the case while this application is pending before the chamber. The prosecution argued it had exhausted other remedies by submitting internal

memoranda to the Presidency and the Pre-Trial Division requesting to isolate the Senior Legal Adviser from the case. The Presidency found that it lacked competence to examine the substantive issue and the Pre-Trial Division also declined to consider the matter on the merits.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-373_English.pdf

AND

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-373-AnxA-B_English.pdf

On 30 August 2006, the Single Judge issued a confidential decision on the supplementary agenda of the hearing of 1 September 2006. (Content not publicly available, but referred to as ICC-01/04-01/06-374-Conf-Exp in Decision ICC-01/04-01/06-378 of 1 September 2006)

Decision on the Supplementary Agenda of the Hearing of 1 September 2006
Request for Extension of Time, Clarification and Provision of Information
On 31 August 2006, the Prosecution requested an extension of a deadline and clarifications with respect to the e-Court Protocol. Further, the Prosecution requested the list of incidents to be used for legal coding of documents and witnesses.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-372_English.pdf

On 31 August 2006, PTC 1 decided to issue the supplementary agenda of the hearing of 1 September 2006 and to convene an ex parte hearing with the Prosecution and the Victims and Witnesses Unit in closed session on 4 September 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-375_English.pdf

Decision on the Prosecution's Request for an Extension of a time limit
On 1 September 2006, at a hearing, the Single Judge decided on the Prosecution's request for an extension of a time limit filed on 16 August 2006 and established that, from the day of the hearing, applicants a/0047/06 to a/0052/06 shall only be contacted through the Victims and Witnesses Unit.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-DecisionO-20060901_English.pdf

DECISION CONCERNING THE PROSECUTION'S REQUEST FOR REDACTIONS

On 1 September 2006, the Single Judge issued a redacted decision pointing out the paragraphs of the annexes to the Prosecution's request for redaction of 28 August 2006 to which the Prosecution should pay particular attention.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-378_English.pdf

DECISION ON THE PROSECUTION REQUEST FOR EXTENSION OF TIME, CLARIFICATION AND PROVISION OF INFORMATION

On 1 September 2006, the Single Judge granted the Prosecution an extension until 7 September 2006 to provide the data in relation to evidence other than witness statements. Also, as requested by the Prosecution on 31 August 2006, the Single Judge clarified a number of issues concerning the e-court

protocol; such as the definition of witness, the scope of the field “Related to Witness” and the basis for the list of incidents.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-376-Corr_English.pdf

Observations de la défense quant aux modalités de participation des victimes a/0001/06 à a/0003/06

On 4 September 2006, the Defence submitted Observations regarding the modalities of the participation of victims a/0001/06 to a/0003/06 in the proceedings. The Defence alleged that, contrary to the Single Judges decision of 18 May 2006, it had not received a copy of the redacted version of the three applications and, hence, requested PTC I to order the Registry to provide them with the requests for participation and to suspend the procedure until the 18 May 2006 Decision is executed. Furthermore, the Defence requested PTC I to determine the modalities of participation of the Applicants and to specify that the right of victims to participate during the pre-trial stage is limited to being informed of the developments of the procedure.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-379_French.pdf

Décision relative à la demande de participation des victimes a/0001/06 à a/0003/06 à la conférence de mise en état du 5 septembre 2006

On 4 September 2006, the Single Judge denied the right of victims a/0001/06 to a/0003/06 to participate in the status conference of 5 September 2006 as the issue of the modalities of participation is still pending and the hearing concerns only the disclosure system between the Prosecution and the Defence and the filing of the evidences that will be produced at the confirmation hearing.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-380_French.pdf

Information on the 4 September 2006 Confidential - Ex Parte - Prosecution Only Prosecution's Request for Authorisation of Revised Redactions in Documents

On 4 September 2006, the Prosecution informed the Single Judge on matters related to the confidential Request of 4 September 2006 to authorise the redactions of fourteen documents, as suggested by the Prosecution in the 28 August 2006 Request.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-383_English.pdf

Decision on the Agenda of the Status Conference of the 5th September 2006

On 4 September 2006, the Single Judge decided upon the agenda for the Status Conference of 5 September 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-385_English.pdf

Conclusions de la défense quant aux demandes de participation à la procédure des requérants a/00004/06 à a/0052/06

On 4 September 2006, the Defence filed Conclusions regarding the requests for participation to the proceedings of Applicants a/0004/06 to a/0052/06, asking PTC I to deny all the Applicants the status of victims.

The Defence argued that the Applicants had not requested anonymity, hence; the non-disclosure of the identity of the victims to the Defence is not justified and thus is prejudicial to the rights of the accused since, according to the Defence, the Chamber did not raise any objective grounds to support such a measure.

In the case the Chamber would consider the anonymity of the Applicants; the Defence maintain that it should be done according to strict conditions derived from the practice of international jurisdictions, i.e. to call for measures strictly limited to the necessary and to prove: the existence of a justified fear regarding security, that no elements jeopardize the credibility of the victim; and that all existing programme of protection of victims is defective. According to the Defence, none of these conditions have been met.

The Defence further argued that the participation of victims during the pre-trial stage is likely to cause undue delays in violation of the right of the accused.

According to the Defence, granting the Applicants the right to participate constitutes a violation of the presumption of innocence as it would imply that the Chamber examines elements of fact before the confirmation hearing in order to demonstrate the link between the harm and the charges enclosed in the arrest warrant. The Defence further contends that neither such harm nor its link to the charges has been demonstrated.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-386_French.pdf

Information on the Prosecution's Compliance with the Final Decision on the E-Court Protocol for the Provision of Evidence, Material and Witness Information in Electronic Version for their Presentation during the Confirmation Hearing

On 5 September 2006, the Prosecution informed the Single Judge that, in compliance with the 28 August 2006 Decision on the e-Court Protocol and the 1 September 2006 Decision, the Registry was provided with all the information as requested to be provided by the Prosecution.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-387_English.pdf

Decision concerning the compliance by the Prosecution with the pre-requisites to file Rule 81(4) motions

On 5 September 2006, the Single Judge, in considering the Prosecutions request for the non-disclosure of the identity of some witnesses, ordered that the Prosecution provide information on the nature of the annexes containing the applications for those witnesses and to refer those witnesses to the Victims and Witnesses Unit for assessment of the available and feasible protective measures.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-389_English.pdf

Prosecution's 25 August 2006 Observations on the Applications for Participation of Applicants a/0047/06 - a/0052/06

On 6 September 2006, the Prosecution submitted observations on the applications for participations as victims in the Lubanga Case of Applicants a/0047/06 to a/0052/06. The Prosecution requested that PTC I grant the Applicants the right to participate as victims in the case because the harm they suffered has a causal link to the charges in the case.

Furthermore, the Prosecution submitted that granting the Applicants victim-participant status should not hinder the Applicant's pre-existing status as Prosecution's witnesses. Accordingly, the Prosecution requested that the Applicants be viewed as having dual status, and consequently requested to have access to the Applicants with their consent and after giving appropriate notice to their legal representative, in order to be able to continue to prepare its case.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-390_English.pdf

Decision on Thomas Lubanga Dyilo's Application for Referral to the pre-Trial Chamber/in the Alternative, Discontinuance of Appeal

On 6 September 2006, the Appeals Chambers rejected the Defence application for referral to PTC I of the appeal against PTC I decision of 10 February 2006 by arguing that suggesting that an appellate issue may be referred to the Pre-Trial Chamber for adjudication is a contradiction in lights of the very distinct and different jurisdiction of the Appeals Chamber.

Furthermore, the Appeals Chamber dismissed the appeal by taking notice that, although the Appellant's notice of discontinuance did not meet the requirements, it is in the interest of justice to dismiss it since the Appellant has clearly abandoned the appeal.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-393_English.pdf

Decision convening an ex parte in camera hearing

On 7 September 2006, the Single Judge decided to convene an ex parte hearing with Prosecution on 8 September 2006 in the presence of the Victims and Witnesses Unit to clarify some of the Prosecution's redactions.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-402_English.pdf

Request submitted for Leave to Participate as Amicus Curiae in the Confirmation Proceedings

On 7 September 2006, Women's Initiatives for Gender Justice (Women's Initiatives) applied to the PTC I for leave to submit observations as amicus curiae, both in written form and orally, in the Confirmation of Charges Hearing in the Lubanga case, to be held on 28 September 2006.

Women's Initiatives submitted that it seeks to address the issue of the role and duties of the PTC in the determination of the charges. According to the applicants, the role of the Chamber is not limited to merely confirming or declining the charges brought by the Prosecution, but it needs to satisfy itself that the Prosecution has exercised its discretion correctly. As a

result, in case it is not satisfied, the PTC should request the Prosecution to consider providing further evidence or conducting further investigations or amending the charges.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-403_English.pdf

Decision on the Prosecution and Defence submission deadlines

On 7 September 2006, PTC I decided that the Prosecution has until 12 September 2006 to file, in terms of what the OTP will rely on at the confirmation of charges hearing: (i) a document containing the amended charges, if any, together with the list of supporting evidence; (ii) a list of any new evidence; (iii) any request regarding redactions in any evidence. PTC I also decided to suspend the 12 September time limit for the filing of the Defence List of Evidence and that at a status conference on 19 September, the new deadline for the presentation of the Defence List of Evidence; and the consequences of this new deadline for the starting date of the confirmation hearing will be discussed, in addition to those matters related to the inter partes disclosure process and the process of filing with the Registry the evidence on which the parties intend to rely at the confirmation hearing.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-407_English.pdf

Information on the Prosecution's compliance with the final decision on e-court Protocol during the Confirmation Hearing

On 8 September 2006, the Prosecutor provided information in accordance with the 28 August decision by the Single Judge regarding the e-court protocol for the Lubanga confirmation of charges hearing. Following the Prosecution's request for the extension of time and clarification on the protocol, the Single Judge on 1 September issued a decision on the matter. On 7 September, the Prosecution provided the Registry with all requested information. At the request of Counsel for the Defence, the next disclosure meeting with the Defence was postponed to 11 September.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-405_English.pdf

Oral decision made by the Single Judge at the in camera Hearing

On 8 September 2006, during an ex parte and in camera hearing with the Prosecution and the Victims and Witnesses Unit representatives, the Single Judge scheduled another ex parte and in camera hearing for 12 September, to discuss witness protection issues.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-Decision-20060908_English.pdf

Communication of re-disclosure of incriminating evidence in compliance with the e-court protocol

On 12 September 2006, the Prosecution informed the Single Judge of its re-disclosure to the defence of incriminating evidence other than witness statements as required by the e-Court Protocol.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-425_English.pdf

Information following the Pre-Trial Chamber's Decision on the Prosecution deadline and the Defense deadline

On 12 September 2006, in a heavily redacted submission, the Prosecutor filed information following the PTC's decision of 7 September, stating that the Prosecution does not intend to amend the charges or produce a list of new evidence, and requesting PTC I to grant leave to the Prosecution to add the statement of a new witness to the list of evidence.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-429_English.pdf

Submission of the Rule 77 Pre-Inspection note

On 12 September 2006, the Prosecution submitted the "Pre-Inspection Note" to the Defence in respect of the provision of materials that fall under Rule 77, and provided the Defence with an electronic version of two documents.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-427_English.pdf

Communication of the disclosure note following disclosure to the Defence of potentially exculpatory evidence

On 12 September 2006, the Prosecution filed a "Disclosure Note" which includes the "List of disclosed materials" detailing the items that have been disclosed to the Defence on 11 September.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-426_English.pdf

Request to appeal the submission of the Defence regarding the conditions of participation of victims A/0001/06 to A/0003/06

On 12 September 2006, Counsel for victims a/0001/06, a/0002/06 and a/0003/06 asked PTC I to allow the victims to respond to the Defence's reply to the victims' observations on the conditions of their participation in the confirmation of charges hearing. Counsel submitted the following preliminary observations: victims participating in the proceedings are entitled to be identified by pseudonym until further protection measures are taken; victims shall not be considered Prosecution witnesses and hence their identity shall not be disclosed to the Defence; the principle of proportionality shall be applied to balance the interests of the Defence to know the identity of the victims and the interest of the victims to protect their lives and security. Counsel further stated that in the current proceedings, according to article 19(3) of the Statute, victims are entitled to submit observations to the Court on questions of jurisdiction and admissibility.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-432_French.pdf (in French)

First decision on the Prosecution requests and amended requests for Redactions under Rule 81

On 15 September 2006, PTC I decided that the Prosecution must inform the Chamber by 25 September whether it will

- 1) withdraw any statements and documents from its evidence list;
- 2) assure the Chamber that certain witnesses have freely consented to the disclosure of their identities to the Defence after being informed of the security risks; or
- 3) seek authorization from the Chamber to rely of summary evidence of the mentioned evidence.

Additionally by this date, the Prosecution must file proposed summary evidence in a language that the defendant understands and speaks, according to a number of

instructions outlined in the decision. Where the OTP will request the Chamber's authorization to rely on summary evidence, the Prosecution must also, by this date, re-file certain documents and any redactions must respect the concerns raised by the Single Judge on 8 and 12 September 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-437_English.pdf

Decision inviting the Prosecution to revise proposed redactions under Rule 81
On 15 September 2006, PTC I decided to allow the Prosecution until 18 September to revise and file any redactions proposed in paragraphs of the witness statements and related documents referred in Annex I to the decision.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-438_English.pdf

Request according to Rule 83(4) of the Regulations of the Court

On 15 September 2006, the Defence asked PTC I to review the decision of the Registrar of 31 August 2006, to be allocated a co-counsel and two additional legal assistants, and sufficient resources to cover for travel and stay of the team.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-439_French.pdf (in French)

DECISION ON THE POSTPONMENT OF THE STATUS CONFERENCE

On 18 September 2006, PTC I postponed the Status Conference scheduled to take place on 19 September 2006 and decided to hold it on 26 September 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-440_English.pdf

PUBLIC DOCUMENT: DEFENCE RESPONSE TO REQUEST OF THE WOMEN'S INSTITUTE FOR GENDER JUSTICE TO PARTICIPATE AS AN AMICUS CURIAE

On 19 September 2006, the Defence responded to Women's Initiatives request to participate in the Confirmation Hearing as Amicus Curiae, arguing that to grant them such status would have a detrimental effect on the Court's capacity to focus its efforts and to try Lubanga in a fair and expeditious manner.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-442_English.pdf

COMMUNICATION OF ORIGINAL EVIDENTIARY MATERIALS FOLLOWING DISCLOSURE TO THE DEFENCE OF INCRIMINATING EVIDENCE

On 19 September 2006, in compliance with PTC I Decisions of 15 and 24 May 2006, the Prosecution submitted a number of confidential documents in both their physical and electronic versions that had been disclosed to the Defence on 15 September 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-443_English.pdf

COMMUNICATION OF THE DISCLOSURE NOTE FOLLOWING DISCLOSURE TO THE DEFENCE OF POTENTIALLY EXCULPATORY EVIDENCE

On 19 September 2006, in compliance with PTC I Decisions of 15 and 24 May 2006, the Prosecution confidentially filed the "Disclosure Note", which includes the redacted list of potentially exculpatory evidence which also contains redacted excerpts of witness statements disclosed to the Defence on 15 September 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-444_English.pdf

SUBMISSION OF THE PRE-INSPECTION NOTE FOLLOWING THE PROVISION OF MATERIALS TO THE DEFENCE

On 19 September 2006, in compliance with PTC I Decisions of 15 and 24 May 2006, and the Single Judge's oral decision of 23 June 2006, the Prosecution confidentially submitted the "Pre-Inspection Note" in respect of the provision of materials to the Defence on 15 September 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-445_English.pdf

DECISION ON A GENERAL FRAMEWORK CONCERNING PROTECTIVE MEASURES FOR PROSECUTION AND DEFENCE WITNESSES

On 19 September 2006, the Single Judge ordered the Defence to provide PTC I with a list of names of the members of their team who have access to non-public information concerning the witnesses on whom the Prosecution or the Defence intend to rely at the confirmation hearing, and that both the Prosecution and the Defence teams members who leave the teams return all such material or information. The Single Judge further ordered that the Prosecution and the Defence consult and receive training from VWU on all matters relating to that unit. Finally, as to build cooperation with the Court and enhance national capacity to protect witnesses, the Single Judge ordered the Registrar to urge the negotiations of cooperation agreements and ad hoc arrangements on matters related to the protection of witnesses.

The Single Judge further established a protocol for the parties to contact either witnesses accepted into the VWU witness protection programme or those for whom non-disclosure of identity has not been granted and who are not part of the VWU witness protection programme.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-447_English.pdf

RECORDING OF THE COMMUNICATIONS FILE BETWEEN THE REGISTRY AND THE DEFENCE COUNSEL

On 19 September 2006, in relation to the Defence's request of 15 September 2006, the Registry recorded and attached two communications between the Defence and the Registry to the case file.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-448_French.pdf

PROSECUTION'S REQUEST TO SCHEDULE A STATUS CONFERENCE BY 22 SEPTEMBER 2006 AND TO PROVIDE INFORMATION CONCERNING THE CONDUCT OF THE CONFIRMATION HEARING

On 20 September 2006, the Prosecution urgently requested to re-schedule the status conference from 19 September to 22 September 2006 at the latest. It further requested PTC I to provide information to the parties on how the Confirmation Hearing is to be conducted and, in particular, the order and the conditions under which the evidence contained in the record of the proceedings shall be presented.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-450_English.pdf

REQUEST FOR FURTHER INFORMATION REGARDING THE CONFIRMATION HEARING AND FOR APPROPRIATE RELIEF TO SAFEGUARD THE RIGHTS OF THE DEFENCE AND LUBANGA

The Defence requested PTC I:

- 1) To confirm whether the confirmation of charges hearing will take place on 28 September 2006;
- 2) in case of a postponement of the confirmation hearing to inform the Defence of the expected date so that it can organize itself accordingly;
- 3) to provide information regarding the format of the hearing;
- 4) to order the Prosecution to file any written legal submission for the confirmation hearing as soon as possible;
- 5) to grant the Defence the right to file legal and factual submissions in written form after the confirmation hearing, and;
- 6) in case that neither party intends to rely on 'live witnesses', to consider ordering that factual submissions be addressed in written form.

The Defence finally requested that Thomas Lubanga be immediately granted provisional release.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-452_English.pdf

FILING OF WOMEN'S INITIATIVES' LETTER TO THE PROSECUTOR

On 20 September 2006, a redacted letter to the Prosecutor annexed to Women's Initiatives' request of 7 September 2006 was made public. In the letter, Women's Initiatives outlined a number of leads and incidents and urged the Prosecutor to immediately open investigations into gender based crimes in the Lubanga Case.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-403-Anx1-Corr_English.pdf

DECISION ON THE REPORT OF THE CONFIRMATION OF CHARGES

On 20 September 2006, PTC I decided that the Status Conference scheduled for 26 September 2006, which will be primarily held to consult with participants on the proposed date of the Confirmation of Charges Hearing, would be delayed until further notice. PTC I also informed the participants that a hearing relating to the modalities of the Confirmation Hearing will be organised.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-454_French.pdf

SECOND DECISION ON THE PROSECUTION REQUESTS AND AMENDED REQUESTS FOR REDACTIONS UNDER RULE 81

On 20 September, PTC I authorised many of the Prosecution's proposed redactions to: various witness statements; documents relating to such statements and; the initials and identifying information of Prosecution witnesses in a number of documents not referred to in the Prosecution List of Evidence (given that by 25 September 2006 the Prosecution informs both PTC I and the Defence whether it intends to rely on such documents at the confirmation hearing). Further, PTC I ordered the Prosecution to disclose immediately to the Defence authorised redacted versions of documents which the Prosecution intends to rely at the confirmation hearing. Finally, PTC I deemed some annexed documents inadmissible.

PTC I gave the Prosecution until 25 September 2006 to obtain from the provider the consent to disclose to the Defence the unredacted version of the two documents not included in the Prosecution's request of 29 August 2006; and if that consent could not be secured, ordered the Prosecution to file the documents as disclosed to the Defence in order for PTC I to decide whether to authorise the redactions.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-455_English.pdf

REQUEST FOR LEAVE TO APPEAL THE FIRST DECISION ON THE PROSECUTION REQUESTS AND AMENDED REQUESTS FOR REDACTIONS UNDER RULE 81

On 21 September 2006, the Defence requested that PTC I grant it leave to appeal the decision of 15 September 2006. The Defence argued that denying the disclosure of witness statements on which the Prosecution intends to rely as evidence, even in redacted forms, and disclosing such statements only in summary form affects the fair and expeditious conduct of the proceedings.

Moreover, the Defence submitted that the Single Judge committed appealable errors in its decision by, inter alia, reversing earlier legal findings, violating the presumption of innocence by predicating conclusions on the assumption that the charges will be confirmed, not considering whether the proceedings will be conducted in a fair manner when analysing the admission of evidence, and failing to consider alternative solutions consistent with the requirements of fairness and equality of arms. The Defence added that the scope of protective measures, including redactions, is directly related to the fairness of the proceeding.

Finally, the Defence argued that the impugned decision is based on legal principles for which immediate resolution would materially advance the proceedings.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-456_English.pdf

PROSECUTIONS REQUEST FOR EXTENSION OF TIME

On 22 September 2006, the Prosecution requested PTC I to extend the deadline set for regular filing times from 25 September 2006 to 29 September 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-458_English.pdf

PROSECUTION'S RESPONSE TO THOMAS LUBANGA DYILO'S 21 SEPTEMBER 2006 REQUEST FOR LEAVE TO APPEAL, REQUEST FOR A PRELIMINARY RULING AND SUBSIDIARY REQUEST FOR AN EXTENSION OF TIME

On 22 September 2006, in response to the Defence request of 21 September 2006 for leave to appeal the 15 September 2006 decision, the Prosecution requested PTC I to reject the Application on the ground that it was filed outside the applicable time limit. Furthermore, and if such request is not granted, the Prosecution requested PTC I to be allowed to file supplementary submissions on the merits of the Application within two days after the decision is notified to the Prosecution.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-459_English.pdf

DECISION ON DEFENCE REQUEST PURSUANT TO REGULATION 83(4)

On 22 September 2006, PTC I ordered the Registry to take all necessary steps to ensure that an additional legal assistant joins the Defence team no later than 1 October 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-460_English.pdf

DECISION ON THE PROSECUTION'S APPLICATION FOR EXTENSION OF TIME

On 22 September 2006, in response to the Prosecutions request of 22 September 2006, PTC I decided to extend the deadline provided for in its 15 September 2006 decision from 25 to 29 September 2006. PTC I further decided that any proposed summary evidence filed by the Prosecution after the time-limit set in the present decision shall be rejected.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-461_English.pdf

DECISION ON THE MODALITIES OF PARTICIPATION FOR VICTIMS a/0001/06, a/0002/06 AND a/0003/06 AT THE CONFIRMATION OF CHARGES HEARING

On 22 September 2006, PTC I ordered the Registry to provide the Defence with a redacted copy of the notification form and the rest of the accompanying applications for participation.

Moreover, PTC I rejected a confidential request filed of the Victim's Representatives to reply to, and to be allowed in, an ex parte hearing and to be granted access to the entire file on the situation in the DRC.

PTC I decided that the participation of the Representatives of the Victims in the Confirmation of Charges Hearing shall be subject to constraints, i.e. they will only receive notification of public documents in the case file, they will only participate in the public sessions of the Status Conferences, they will be permitted to request the right to intervene during the Confirmation Hearing by presenting an initial and a closing statement, and they will not be permitted to introduce evidence or to interrogate witnesses.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-462_French.pdf

DECISIONS AUTHORISING THE DEPOSIT OF OBSERVATION REGARDING REQUESTS TO PARTICIPATE IN THE PROCEDURE a/0004/06 TO a/0009/06,

a/0016/06 TO a/0063/06 AND a/0071/06

On 22 September 2006, PTC I ordered the Registry to provide the Prosecutor and Defence with a non-redacted copy of the application for participation of a/0053/06 to a/0063/06 and a/0071/06 and a redacted copy of such applications to the Defence.

PTC I further ordered all organs of the Court not to contact the prospective witnesses and/or victims directly and to do so only through the legal representatives of the prospective victims, and, if necessary, through the VWU.

Finally, PTC I granted the Prosecution and the Defence until 9 October 2006 to present observations to the Requests for participation a/0053/06 to a/0063/06 and a/0071/06 and on the eventual granting of victim status to those requesting it.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-463_French.pdf

DECISION ON THE AGENDA OF THE STATUS CONFERENCE OF 26 SEPTEMBER 2006

On 22 September 2006, the Single Judge decided that the agenda for the Status Conference of 26 September 2006 shall include, inter alia, observations of the parties and participants with regards to the new date for the confirmation hearing and on the manner such hearing will be conducted, and matters related to disclosure and filing of evidence.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-464_English.pdf

DECISION ESTABLISHING A DEADLINE IN RELATION TO THE DEFENCE REQUEST FOR THE INTERIM RELEASE OF THOMAS LUBANGA DYILO

On 22 September 2006, the Single Judge decided to give the Prosecution and the Legal Representatives of Victims a/0001/06 to a/0003/06 until 9 October 2006 to file a response to the Defence request of 20 September 2006 for the interim release of Mr. Lubanga.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-465_English.pdf

DECISION ON THE PROSECUTION'S RESPONSE TO THE DEFENCE'S REQUEST FOR LEAVE TO APPEAL

On 25 September 2006, the Single Judge rejected the Prosecution's request of

22 September 2006 for the rejection of the Defence's request of 21 September 2006 for leave to appeal the decision of 15 September 2006. Furthermore, the Single Judge gave the Prosecution until 27 September 2006 to file supplementary submissions on the merits of the Defence Request for Leave to Appeal.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-466_English.pdf

REQUEST FOR LEAVE TO REPLY TO PROSECUTION RESPONSE DATED 22 SEPTEMBER 2006

On 25 September 2006, the Defence requested leave to reply to Prosecution's response of 22 September 2006. The Defence further asked PTC I to rule that the Defence's request of 21 September 2006 for leave to appeal PTC I decision of 15 September 2006 was validly filed within the time limit, and to reject the Prosecution's request for additional time to file a response to such request.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-476_English.pdf

PROSECUTION'S RESPONSE TO REQUEST FOR LEAVE TO PARTICIPATE AS AMICUS CURIAE IN THE CONFIRMATION HEARING

On 25 September 2006, the Prosecution filed a Response to Women's Initiatives' application of 7 September 2006 to participate as amicus curiae in the confirmation hearing. The Prosecution requested PTC I to declare the latter request inadmissible; to deny leave to the Applicant to file an amicus curiae brief and/or to participate in the confirmation hearing. According to the Prosecution, the application goes beyond the framework of the Rome Statute and Rules of Procedure and Evidence and thus cannot be discussed in the context of the confirmation proceedings since the issues addressed go beyond the case at hand; it aims at promoting the Applicant own interests without demonstrating any link to a matter capable of resolution in the proceedings; and it does not address a matter that falls within the authority of PTC I.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-478_English.pdf

PROVISION OF SUMMARY EVIDENCE TO THE PRE-TRIAL CHAMBER

On 25 September 2006, following the Decision of 15 September 2006, the Prosecution filed summary evidence to PTC I in respect of all witness statements, transcripts of interviews and investigator's notes; and requested authorization to disclose to the Defence the summaries of witness statements and transcripts with pseudonyms as to protect the identity of the

witnesses.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-479_English.pdf

DECISION ON REQUEST TO PARTICIPATE AS AMICUS CURIAE IN THE CONFIRMATION PROCEEDINGS

On 26 September 2006, PTC I decided not to grant leave to Women's Initiative to submit observations in the proceeding in the case against Lubanga since the request has no link to such case which is confined to charges related to enlistment, conscription and active use in military operations of children under the age of fifteen. Furthermore, PTC I invited Women's Initiatives to re-file their request for leave to submit observations in the record of the DRC situation.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-480_English.pdf

APPLICATIONS FOR PARTICIPATION a/0072/06 to a/0080/06 and a/0105/06

On 14 to 25 September 2006, confidential ex parte applications a/0072/06 to a/0080/06 and a/0105/06 were submitted to PTC I requesting the recognition of the right to participate as victims in the case against Lubanga and the Situation in the DRC.

(These documents are not public, but are referred to in PTC I decision ICC-01/04-01/06-494 of 29 September 2006)

PROSECUTION'S INFORMATION IN RESPECT OF THE SECOND DECISION ON THE PROSECUTION REQUEST AND AMENDED REQUESTS FOR REDACTION

On 25 September 2006, the Prosecution filed confidential-ex parte information in respect to the Second Decision of 20 September 2006 noting some documents on which the Prosecution does not intend to rely for the confirmation hearing, but that should, nevertheless, be disclosed to the Defence with redactions. Furthermore, the Prosecution filed two documents which were previously disclosed to the Defence with redactions required by the provider of the documents without prior authorisation of the Chamber.

(This document is not public, but is referred to as ICC-01/04-01/06-477-Conf-Exp in PTC I decision ICC-01/04-01/06-490 of 28 September 2006)

PROSECUTION'S SUBSTANTIVE RESPONSE TO THOMAS LUBANGA DYILO'S 21 SEPTEMBER 2006 REQUEST FOR LEAVE TO APPEAL

On 27 September 2006, the Prosecution responded to the substantive arguments of the Defence's request for leave to appeal the 15 September 2006 decision

file on 21 September 2006. The Prosecution argued that leave to appeal should not be granted on the basis that the primary issues are already before the Appeals Chamber and granting leave will delay and unnecessarily complicate the proceedings; and, that the other alleged issues do not arise from the decision, or leave to appeal for those issues based on the limited terms of the decision is premature.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-481_English.pdf

REQUEST FOR LEAVE TO APPEAL THE SECOND DECISION ON THE PROSECUTION REQUEST AND AMENDED REQUEST FOR REDACTIONS

On 27 September 2006, the Defence filed a request for leave to appeal the second decision on the Prosecution requests and amended requests for redactions of 21 September 2006. The decision allowed the Prosecutor to disclose to the Defence the unredacted components of a redacted document which, according to the Defence, will impede its ability to contextualise and challenge the credibility and authenticity of Prosecution. Therefore, the Defence seeks leave to appeal the decision on the grounds that it affects the fair and expeditious conduct of the proceedings, and an immediate resolution of the issue would materially advance the proceedings.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-483_English.pdf

SUBMISSION OF THE PRE-INSPECTION NOTE FOLLOWING THE PROVISION OF MATERIALS TO THE DEFENCE

On 27 September 2006, in compliance with PTC I Decisions of 15 and 24 May 2006, and the Single Judge's oral decision of 23 June 2006, the Prosecution confidentially submitted the "Pre-Inspection Note" in respect of the provision of materials to the Defence on 25 September 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-484_English.pdf

COMMUNICATION OF ORIGINAL EVIDENTIARY MATERIALS FOLLOWING DISCLOSURE TO THE DEFENCE OF INCRIMINATING EVIDENCE

On 27 September 2006, in compliance with PTC I Decisions of 15 and 24 May 2006, the Prosecution submitted a number of confidential documents in both their physical and electronic versions that had been disclosed to the Defence on 25 and 26 September 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-485_English.pdf

COMMUNICATION OF THE DISCLOSURE NOTE FOLLOWING DISCLOSURE TO THE DEFENCE OF POTENTIALLY EXCULPATORY EVIDENCE

On 27 September 2006, in compliance with PTC I Decisions of 15 and 24 May 2006, the Prosecution confidentially filed the “Disclosure Note”, which includes the redacted list of potentially exculpatory evidence which also contains redacted excerpts of witness statements disclosed to the Defence on 25 and 26 September 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-486_English.pdf

REQUEST FOR LEAVE TO APPEAL THE DÉCISION AUTORISANT LE DÉPÔT D'OBSERVATIONS SUR LES DEMANDES DE PARTICIPATION A LA PROCÉDURE a/0004/06 A a/0009/06, a/0016/06 À a/0063/06 ET a/0071/06

On 28 September 2006, the Defence requested from PTC I leave to appeal the 22 September 2006 decision authorising victims a/0004/06 to a/0009/06, a/0016/06 to a/0063/06 and a/0071/06 to present observations. The Defence submitted that the decision erred by relying on procedure and criteria that exceeded the scope of the Statute, by violating the principle of equality of arms, infringing the presumption of innocence and by failing to place any time limits on the ability of applicants to request to participate before the confirmation hearing. According to the Defence, these errors are integral components of the impugned decision.

In the view of the Defence, some of the contested issues are, whether PTC I may grant protective measures without providing the Defence or the Prosecution with a previous opportunity to present submissions; whether the range of protective measures which PTC I can order extends to redacting the identities of the applicants from the Defence; whether it is consistent with the requirements of fairness and equality of arms to give the Prosecution privileged access to the substance of the victims' applications; the failure of PTC I to apply rigorous and transparent criteria for determining whether these measures violated the presumption of innocence; and whether PTC I's obligation to ensure fairness in the proceedings requires some limitations to be placed on the timing of applications to participate as victims in the proceedings.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-487_English.pdf

PROSECUTION'S APPLICATION FOR EXTENSION OF TIME TO RESPOND TO THE DEFENCE'S REQUEST FOR LEAVE TO APPEAL THE 22 SEPTEMBER 2006 DECISION

On 28 September 2006, the Prosecution requested from PTC I an extension of time until 6 October 2006 to reply to the Defence's request for leave to appeal the 22 September 2006 decision.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-488_English.pdf

DECISION ON SECOND DEFENCE MOTION FOR LEAVE TO APPEAL

On 28 September 2006, PTC I granted the Defence's Request for Leave to Appeal the decision of 15 September 2006 with respect to three issues: whether the Decision on non-disclosure of identity of Prosecution witnesses lacked factual reasoning since it was issued during ex parte proceedings; whether the principles of necessity and proportionality were appropriately applied; and whether the use of summary evidence at the confirmation hearing in relation to Prosecution witnesses for which non-disclosure of identity has been granted is permissible under the Court's applicable law. PTC I rejected the Defence Request for Leave to Appeal other issues for which leave to appeal was sought.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-489_English.pdf

DECISION ON THE PROSECUTION INFORMATION IN RESPECT OF THE SECOND DECISION ON RULE 81 MOTIONS

On 28 September 2006, PTC I ordered the Prosecution to do its utmost to obtain the consent of the provider to disclose unredacted versions of documents to Defence including those documents which have already been disclosed with redactions. Furthermore, PTC I ordered the Prosecution to file, at least 15 days before the confirmation hearing: (i) a report of the documents which have been disclosed to the Defence with or without redactions indicating those which haven't been disclosed due to failure to obtain the providers' consent; (ii) and those redacted documents disclosed to the Defence which redactions have been requested by the providers.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-490_English.pdf

PROVISION OF SUMMARY EVIDENCE TO THE PRE TRIAL CHAMBER

On 29 September 2006, following the Decision of 15 September 2006, the Prosecution filed summary evidence to PTC I in respect of all witness statements, transcripts of interviews and investigator's notes; and requested authorization to disclose to the Defence the summaries of witness statements and transcripts with pseudonyms as to protect the identity of the witnesses.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-491_English.pdf

SOLEMN DECLARATIONS OF LUC WALLEYN AND FRANCK MULENDA, LEGAL REPRESENTATIVES FOR PARTICIPANTS a/0001/06 to a/0003/6

On 29 September 2006, the Victims Participation and Reparation Section filed to the solemn declarations of the Legal Representatives for participants a/0001/06 to a/0003/06.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-492_English.pdf

DECISION ON THE PROSECUTION'S APPLICATION FOR EXTENSION OF TIME

On 29 September 2006, PTC I rejected the Prosecution's request for an extension of time filed on 28 September 2006. PTC I argued that the Prosecution had not shown good cause for such an extension.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-493_English.pdf

DECISION AUTHORISING TO PRESENT OBSERVATIONS WITH REGARDS TO THE APPLICATIONS FOR PARTICIPATION a/0072/06 to a/0080/06 and a/0105/06

On 29 September 2006, PTC I ordered the Registry to give non-redacted copies of applications for participation a/0072/06 to a/0080/06 and a/0105/06 to the Prosecution, and redacted versions to the Defence in the case against Lubanga and the ad hoc Counsel for the Defence in the Situation in the DRC. Furthermore, PTC I ordered all the organs of the Court that any contact with the applicants should only be done through their legal representatives. Finally, PTC I granted the Prosecution and the Defence the opportunity to present observations until 16 October 2006 with regards to these application in the context of the Case against Lubanga, and similarly granted the Prosecution and the ad hoc Counsel for the Defence the opportunity to present observations until 8 December 2006 in the context of the Situation in the DRC.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-494_French.pdf

DECISION CONVENING AN EX PARTE HEARING

On 29 September 2006, the Single Judge convened an ex parte hearing with the Prosecution and the representatives of the VWU to be held in closed session on 3 October 2006 as to deal with the Prosecution First and Second Applications of 26 and 29 September 2006 respectively.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-495_English.pdf

RESPONSE OF THE DEFENSE TO THE DECISION FROM 19 SEPTEMBER 2006

On 3 October 2006, the Defence communicated to PTC I the names of the members of the Defence team who have access to confidential documents or any material concerning witnesses that the Prosecution and the Defence will rely upon at the confirmation of charges hearing, in response to the 19 September decision.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-496_French.pdf

PROSECUTION'S RESPONSE TO LUBANGA'S 27 SEPTEMBER REQUEST FOR LEAVE TO APPEAL THE SECOND DECISION ON PROSECUTION REQUESTS FOR REDACTIONS

On 3 October 2006, the Prosecution submitted that the 27 September Defence request for leave to appeal the decision of 21 September should be denied for three reasons: the issues raised by the applicant do not arise from the decision; the issues are already being comprehensively litigated before the Appeals Chamber; or the applicant should not be permitted to raise these issues at this stage as he has failed to address them in a timely manner through other mechanisms.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-497_English.pdf

PROSECUTION'S RESPONSE TO LUBANGA'S REQUEST FOR LEAVE TO APPEAL THE 28 SEPTEMBER DECISION AUTHORIZING THE DEPOSIT OF OBSERVATION REGARDING REQUESTS TO PARTICIPATE IN THE PROCEDURE a/0004/06 TO a/0009/06, a/0016/06 TO a/0063/06 AND a/0071/06

On 3 October 2006, the Prosecution filed a response to the 28 September Defence request for leave to appeal the decision from the 22 September, authorizing the parties to make observations on the request for participation in the proceedings of applicants a/0004/06 to a/0009/06, a/0016/06 to a/0063/06 and a/0071/06. The Prosecution submitted that the Defence's request identified three appealable issues: whether a Chamber may impose protective measures in the form of redactions of any identifying features from applications for victim participation without first providing the parties with an opportunity to be heard; whether and to what extent protective measures ordered in the current context could affect both the fairness and the expeditiousness of the proceedings; the regime established by the Chamber, allowing for full access to all applications by the Prosecution but not the Defence, can arguably affect the fair and expeditious conduct of the proceedings. Consequently the Prosecution does not oppose leave being granted in respect to those issues.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-498_English.pdf

DECISION ON THE DEFENCE CHALLENGE TO THE JURISDICTION OF THE COURT PURSUANT TO ARTICLE 19(2)(a)

On 3 October 2006, PTC I dismissed the defence challenge to the jurisdiction of the Court pursuant to Article 19(2)(a) of the Statute and therefore rejected Lubanga's request for release.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-512_English.pdf

AMENDED PROVISION OF SUMMARY EVIDENCE TO THE PRE-TRIAL CHAMBER

On 4 October 2006, the Prosecution submitted summaries and documents related to the witness statements and transcripts subsequent to an ex parte hearing on 3 October, where the Single Judge requested that the Prosecution re-file its request with certain amendments. The Prosecution had sought redactions or authorization for complete non-disclosure.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-513_English.pdf

DECISION ON THIRD DEFENCE MOTION FOR LEAVE TO APPEAL

On 4 October 2006, the Single Judge granted the Defence request for leave to appeal the decision from the 21 September in relation to: (i) whether part of decision based on Rule 81(2) lacks factual reasoning since it was issued during ex parte proceedings on redaction requests; (ii) whether the requirement that the Prosecution is prohibited to rely on evidence protected under Rules 81(2) and (4) at the confirmation hearing without adequate prior disclosure to the Defence is met by disclosing the unredacted components of a redacted document, particularly whether the Prosecution can rely at the confirmation hearing on the unredacted sections that has been disclosed to the Defence only in redacted form; (iii) whether the impugned decision creates a form of privilege for Prosecution sources which is not provided for in the Statute or Rules, under which conditions restrictions to the disclosure of Prosecution sources are permissible pursuant to Rule 81.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-514_English.pdf

DECISION CONCERNING THE PROSECUTOR PROPOSED SUMMARY EVIDENCE

On 4 October 2006, the Single Judge authorised the Prosecution to use summary evidence contained in annexes to the Third Prosecution Application from 4 October with redactions or the non-disclosure of documents proposed by the Prosecutor, with some exceptions. The Single Judge ordered the Prosecution to disclose the summary evidence and redacted documents as authorized; to comply with the Final Decision on the E-Court Protocol by 9 October; and to disclose to the Defence as soon as practicable the part of the proposed summary evidence and documents declared inadmissible which could be potentially exculpatory or otherwise be material for the Defence's confirmation of charges preparation. For the purpose of the confirmation of charges hearing, statements and transcripts and investigator's notes and reports are declared inadmissible.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-517_English.pdf

RESPONSE TO THE PROSECUTOR'S 31 AUGUST REQUEST TO SEPARATE THE SENIOR LEGAL ADVISOR TO THE PRE-TRIAL CHAMBER FROM RENDERING LEGAL ADVICE REGARDING THE CASE

On 5 October 2006, the Defence filed a response fully supporting the Prosecution's request of 31 August to separate the senior legal advisor of the pre-trial division from advising PTC I on the Lubanga case.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-516_French.pdf

SUBMISSION ON THE DECISION AUTHORIZING THE DEPOSIT OF OBSERVATIONS ON THE REQUESTS TO PARTICIPATE IN THE PROCEDURE BY A/0072/06 TO A/0080/06 AND A/0105/06

On 5 October 2006, the Defence requested that PTC I take notice of previous Defence objections and the request to leave to appeal the 22 September decision authorising the deposit of observations on the requests to participate in the procedure by applicants a/0072/06 to a/0072/06 to a/0080/06 and a/0105/06, and have this request apply to any future decisions which entail the same issues. The Defence believed that issues in both the 22 and 29 September decisions are identical and did not appeal the latter decision.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-519_English.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-525_French.pdf

DECISION ON THE PROSECUTION'S APPLICATION OF 5 OCTOBER

On 5 October 2006, the Single Judge ordered the Prosecution to immediately disclose to the Defence two statements included in the Prosecution's 5 October application with the redactions proposed by the Prosecution and to comply with the Final Decision of the E-Court Protocol by 9 October. Six documents contained in the Prosecutor's application would not be disclosed.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-524_English.pdf

REQUEST FOR AN EXTENSION

On 5 October 2006, the Defence requested an extension to submit observations on the requests for victims' participation in the proceedings. The Defence asked that delays start on the date of the receipt of the relevant documents and asked for a supplementary delay of two weeks starting from the date of receipt of redacted requests for participation of applicants a/0053/06 to a/0063/06 and a/0071/06 to a/0080/06, and a/0105/06.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-523_French.pdf

DECISION ON THE DATE OF THE CONFIRMATION OF CHARGES HEARING

On 5 October 2006, PTC I decided to postpone the confirmation of charges hearing to 9 November and hold a hearing on 26 October to discuss matters relating to the hearing. PTC I also decided on the deadlines for the disclosure of evidence and documents that the

parties will rely upon at the hearing.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-521_French.pdf

DECISION ON THE REPLACEMENT OF THE SINGLE JUDGE

On 5 October 2006, PTC I designated Judge Claude Jorda as the single judge in the Lubanga case from 6 October until the end of the confirmation hearing.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-520_English.pdf

COMMUNICATION OF ORIGINAL EVIDENTIARY MATERIALS FOLLOWING DISCLOSURE TO THE DEFENCE OF INCRIMINATING EVIDENCE

On 6 October 2006, the Prosecution submitted a document which had been disclosed to the Defence pursuant to Article 61(3)(b) on 5 October.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-527_English.pdf

SUBMISSION OF THE RULE 77 PRE-INSPECTION NOTE

On 6 October 2006, the Prosecution submitted the "Pre-Inspection Note" in respect to materials that fall under Rule 77 to the Defence on 5 October.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-526_English.pdf

DECISION ON THE REQUEST TO EXTEND THE DELAY TO 5 OCTOBER

On 6 October 2006, PTC I granted the Prosecution and Defence a 10-day extension from the receipt of the redacted participation requests of applicants a/0072/06 to a/0080/06 and a/0105/06, and to submit observations on the requests of applicants a/0053/06 to a/0063/06, a/0072/06 to a/0080/06 and a/0105/06.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-525_French.pdf

REQUEST FOR AN EXTENSION OF TIME

On 9 October 2006, the Defence requested an extension of time to file its appeal of the First Decision on the Prosecutions Request and Amended for Redactions under Rule 81. The Defence proposed to shift the filing deadline from 9pm on 9 October 2006 to 10am on 10 October 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-533_English.pdf

REQUETE D'APPEL DU CONSEIL DE LA DEFENSE DE LA "DECISION ON THE DEFENCE CHALLENGE TO THE JURISDICTION OF THE COURT PURSUANT

TO ART. 19.2(A) OF THE STATUTE" DU 3 OCTOBER 2006

On 9 October 2006, the Defence requested the Appeal Chamber to reconsider PTC I's 'Decision on the Defence Challenge to the Jurisdiction of the Court pursuant to article 19.2 of the Statute' dated 3 October. The Defence further requested that the Court declares itself incompetent to try Thomas Lubanga Dyilo and order his release from detention forthwith.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-532_French.pdf

PROSECUTION'S RESPONSE TO THE DEFENCE REQUEST FOR INTERIM RELEASE

On 9 October 2006, the Prosecution requested that PTC I dismiss the Defence's request that Thomas Lubanga Dyilo be granted interim release. In support of the request for dismissal, the Prosecution argued that the interests of justice required Thomas Lubanga Dyilo's continued detention, as the conditions set forth in Article 58(1) of the Rome Statute were met, and the accused had not been detained for an unreasonable period of time.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-531_English.pdf

OBSERVATIONS DES VICTIMES a/0001/06, a/0002/06 ET a/0003/06 SUR LA DEMANDE DE MISE EN LIBERTE INTRODUITE PAR LA DEFENSE

On 9 October 2006, the Representatives of victims a/0001/06, a/0002/06 and a/0003/06 requested PTC I to dismiss the Defence's request for interim release of Thomas Lubanga Dyilo. Among the reasons the victims' representatives put forth was the fact that an interim release would potentially imperil victims' safety and contradict the Court's seminal purpose of ending impunity. It was also stressed that a seven-month period of preventative detention was well within the realm of 'reasonable' according to the practice of the ad hoc tribunals.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-530_French.pdf

REQUETE CONFORMEMENT A LA NORME 83.4 DU REGLEMENT DE LA COUR

On 10 October 2006, the Defence requested PTC I to revise the Registrar's decision of 27 September 2006, and order the Registrar to pay members of the Defence team their fees and expenses in full at the end of each month, according to the decision taken by the Committee on Budget and Finance on 4-6 April 2005. The Defence requested that PTC I order the Registry to comply with the above order by 5th day of the following month, at the latest. The Defence further requested PTC I to order the Registrar to make clear the exact amounts in which transfers are made for expenses, travel and

accommodation expenses, and fees.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-551_French.pdf

PROSECUTION'S RESPONSE TO APPLICATION FOR AN EXTENSION OF TIME

On 10 October 2006, the Prosecution submitted that it does not oppose to the 'Request for Extension of Time' asked by the Defence on 9 October 2006

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-547_English.pdf

DEFENCE APPEAL BRIEF IN RELATION TO FIRST DECISION ON THE PROSECUTION REQUESTS AND AMENDED REQUESTS FOR REDACTIONS UNDER RULE 81

On 10 October 2006, the Defence requested that the Appeals Chamber allow the Defence grounds of appeal, and thereby direct the Single Judge to reconsider the impugned decision in accordance with the legal and factual findings of the Appeals Chamber. It also requested that the Appeals Chamber direct the PTC to apply the legal and factual findings of the Appeals Chamber to any pending motions or motions which have been decided in the interim.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-546_English.pdf

DECISION ON THE PRESIDING JUDGE OF THE APPEALS CHAMBER IN MR. THOMAS LUBANGA DYILO'S APPEAL PURSUANT TO THE DECISION OF PTC I OF 28 SEPTEMBER 2006

On 11 October 2006, the Appeals Chamber decided that Judge Sang-Hyun Song will preside over Mr. Lubanga's appeal pursuant to the decision of PTC I dated 28 September 2006 on the Second Motion for Leave to Appeal.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-558_English.pdf

DECISION ON THE PRESIDING JUDGE OF THE APPEALS CHAMBER IN THE "REQUETE D'APPEL DU CONSEIL DE LA DEFENSE DE LA DECISION ON THE DEFENCE CHALLENGE TO THE JURISDICTION OF THE COURT"

On 11 October 2006, the Appeals Chamber decided that Judge Georghios M. Pikis will preside over the application of appeal with respect the Decision on the Defence's challenge to the jurisdiction of the court.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-557_English.pdf

SCHEDULING ORDER FOR JUDGMENT ON THE PROSECUTOR'S APPEAL

On 11 October 2006, the Appeals Chamber issued that it will convene on Friday, 13 October 2006, for the purpose of delivering judgment in respect of the appeal against the decision of PTC I entitled "Decision establishing General Principles governing applications to restrict disclosure".

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-555_English.pdf

COMMUNICATION OF ORIGINAL EVIDENTIARY MATERIALS FOLLOWING DISCLOSURE TO THE DEFENCE OF INCRIMINATING EVIDENCE ON 9 OCTOBER 2006

On 11 October 2006, the Prosecution submitted the items that on 9 October 2006 were disclosed to the Defence.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-553_English.pdf

COMMUNICATION OF THE DISCLOSURE NOTE FOLLOWING DISCLOSURE TO THE DEFENCE OF POTENTIALLY EXCULPATORY EVIDENCE ON 9 OCTOBER 2006

On 11 October 2006, the Prosecution filed a 'Disclosure Note' including a list of disclosed materials and a spreadsheet containing excerpts of summaries of witness statements and transcripts of interviews that might be considered to be of a potentially exculpatory nature or otherwise material to the Defence's preparation for the confirmation hearing.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-552_English.pdf

DECISION ON THE REQUEST BY MR. THOMAS LUBANGA DYILO FOR AN EXTENSION OF TIME

On 12 October 2006, the Appeals Chamber granted an extension of time requested by the Defence on 9 October 2006 and accepted the filing of the "Defence Appeal Brief [.]," submitted on 10 October 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-562_English.pdf

OBSERVATIONS DE LA DEFENSE SUR LES DEMANDES DE PARTICIPATION A LA PROCEDURE a/0053/06 A a/0063/06 ET a/0071/06

On 12 October 2006, the Defence requested that PTC I reject applications a/0053/06 to a/0063/06 and a/0071/06 to participate as victims in the Lubanga case as inadmissible or in the alternative as ill-founded on the basis that the harm suffered by the Applicants has no causal link to the charges in the case at hand. It further requested to refuse victim status to applicants a/0053/06 to a/0063/06 and a/0071/06 with respect to the Lubanga

case.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-561_French.pdf

PROSECUTION'S OBSERVATIONS ON THE APPLICATIONS FOR PARTICIPATION OF APPLICANTS a/0053/06 TO a/0063/06 AND a/0071/06

On 12 October 2006, the Prosecution requested that PTC I reject applications a/0053/06 to a/0063/06 and a/0071/06 to participate as victims in the Lubanga case on the basis that the harm suffered by the Applicants has no causal link to the charges in the case at hand.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-560_English.pdf

REQUETE DEMANDANT L'AUTORISATION DE REpondre AU BUREAU DU PROCUREUR ET AUX REPRESENTANTS DES VICTIMES a/0001/06 A a/0003/06

On 13 October 2006, the Defence requested that PTC I allow it to respond to the observations presented by the Prosecution and the Representatives of victims a/0001/06 to a/003/06. It further requested that its response be permitted to exceed the twenty-page limit normally imposed on documents submitted to the Registrar.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-571_French.pdf

COMMUNICATION OF ORIGINAL EVIDENTIARY MATERIALS FOLLOWING DISCLOSURE TO THE DEFENCE OF INCRIMINATING EVIDENCE

On 13 October 2006, the Prosecution submitted hard and electronic copies of a document that on 11 October 2006 was disclosed to the Defence. Additionally, the Prosecution disclosed 10 documents related to the document as set out in the annexed "List of disclosed materials."

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-570_English.pdf

APPEALS CHAMBER'S REQUEST AND DIRECTIONS

On 13 October 2006, the Appeals Chamber requested the Prosecution and the Defence to submit by 17 October 2006 the documents in response to the Defence's 9 October request to appeal the 'Decision on the Defence Challenge to the jurisdiction of the Court'.

The Appeals Chamber further ruled that the observations of the DRC and the Victims a/0001/06 to a/0003/06 shall be submitted within 10 days after notification to them of the documents to be submitted by the Prosecutor and

the Defence or after the expiry of the deadline stipulated for that purpose.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-569_English.pdf

THE DEFENCE REQUESTS THE PROSECUTION TO PROVIDE LEGAL ARGUMENT IN ADVANCE OF THE CONFIRMATION HEARING AND A REDUCTION OF THE RESPONSE TIME-LIMIT

On 16 October 2006, the Defence re-iterated its 20 September 2006 request to PTC I to order the Prosecution to provide the Defence with its legal arguments at least 20 days before the confirmation hearing, as well as with a list and a copy of the cases, laws, conventions, books or articles which are cited by the Prosecution. The Defence also requested that the time limit for the Prosecution to file a response to this request be reduced from 21 to 5 days.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-573_English.pdf

REGISTRATION OF A LETTER SENT BY THE REGISTRY TO THE DEFENCE ON 27 SEPTEMBER 2006 REGARDING LEGAL ASSISTANCE PAID BY THE COURT

On 16 October 2006, following PTC I request, the Registry included on the records a letter to the Defence of 27 September 2006 which the Defence did not include in its 10 October 2006 request to PTC I to review the scope of legal aid.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-575_French.pdf

DEFENCE'S RESPONSE TO APPEALS CHAMBER'S REQUEST AND DIRECTIONS

On 16 October 2006, the Defence responded to the Appeals Chamber's request of 13 October 2006 that it will undertake to file its appeal brief by Monday 23 October 2006 while retaining its right to extend this delay to a later date, within the original time limit, if unforeseen events hinder its ability to file earlier. Furthermore, the Defence requested the Appeals Chamber not to order the Defence to file its appeal brief within an abridged time limit and to invite the Prosecutor to consider adopting a similar approach.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-579_English.pdf

COMMUNICATION OF ORIGINAL EVIDENTIARY MATERIALS FOLLOWING DISCLOSURE TO THE INCRIMINATING EVIDENCE

On 16 October 2006, in compliance with PTC I decisions of 15 and 24 May 2006 and of 11 October 2006, the Prosecution submitted a redacted document in both its physical and electronic versions that has been disclosed to the Defence on 11 October 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-578_English.pdf

DEFENCE APPEAL BRIEF IN RELATION TO SECOND DECISION ON THE PROSECUTION REQUESTS AND AMENDED REQUESTS FOR REDACTIONS UNDER RULE 81

On 16 October 2006, the Defence requested the Appeals Chamber to reverse the Single Judge's Second Decision of 21 September 2006 and to order the Prosecution to disclose unredacted versions of the documents subject of the decision, or, in the alternative, to direct PTC I to reconsider the Prosecutor's application in light of the Appeals Chamber's findings and to apply such findings to any pending motions. Furthermore, the Defence requested the Appeals Chamber to request the Prosecutor to consider submit its response in an expedite manner as to resolve this issue before the confirmation hearing takes place.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-577_English.pdf

PROSECUTION'S RESPONSE TO APPEALS CHAMBER'S REQUEST AND DIRECTIONS

On 16 October 2006, in response to the Appeals Chamber's request of 13 October 2006, the Prosecution argued that the minimum time necessary to effectively submit a response to the appeal filed by Defence on 9 October 2006 would be 14 days. The Prosecution added that any reduction in the time available for filing, should apply equally for both parties. Finally, the Prosecution argued that determining this appeal after the confirmation hearing is not cause for prejudice since PTC I decision remains in effect and hence the hearing will not take place in the absence of a ruling jurisdiction.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-576_English.pdf

DECISION ON THE DEFENCE REQUEST FOR INTERIM RELEASE

On 18 October 2006, the Single Judge rejected the request of the Defence for interim release of 20 September 2006 as well as the Defence's request of 13 October 2006 to reply to the observations filed by the Prosecution and the Victim's Representatives. The Single Judge concluded that as, in the present case, the conditions set forth in the Statute for the issuance of a warrant of arrest are still met, Mr. Lubanga's continued detention is required. Furthermore, the Single Judge also determined that, at this stage of the proceedings, the accused had not been detained for an unreasonable period of time.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-586_French.pdf

DEFENCE'S OBSERVATIONS ON THE APPLICATIONS FOR PARTICIPATION OF APPLICANTS a/0072/06 TO a/0080/06 AND a/0105/06

On 18 October 2006, the Defence requested PTC I to reject the status of victims of the Applicants by concluding that the applications are either inadmissible, or, in the alternative, not founded. The Defence argued that the applications refer to charges and

events not related to the charges established in the arrest warrant issued against Mr. Lubanga.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-585_French.pdf

PROSECUTION'S RESPONSE TO DEFENCE'S "REQUEST FOR AN ORDER OF THE PTC I TO THE PROSECUTION TO PROVIDE LEGAL ARGUMENT TO THE DEFENCE IN ADVANCE OF THE CONFIRMATION HEARING AND FOR A VARIATION OF THE TIME-LIMIT" OF 16 OCTOBER 2006

On 19 October 2006, the Prosecution requested PTC I to dismiss the Defence's request of 16 October 2006. The Prosecution argued that an obligation to provide details of any legal argument to be used at the confirmation hearing is not based upon the law of the ICC and that according to the Rules of Procedure and Evidence the provision of legal arguments in accordance to the Defence's request is not mandatory but discretionary. The Prosecution also stated that, if it decides to present further legal and/or factual submissions, the Rules of Procedure and Evidence establish that the period of disclosure is three days before the confirmation hearing and not twenty.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-592_English.pdf

DECISION ON THE PRESIDING JUDGE OF THE APPEAL CHAMBER IN LUBANGA'S APPEAL PURSUANT TO THE DECISION OF PTC I OF OCTOBER 2004, ENTITLED "DECISION ON THIRD DEFENCE MOTION FOR LEAVE TO APPEAL"

On 19 October 2006, the Appeals Chamber designated Judge Sang-Hyun Song as the Presiding Judge in the appeal filed by the Defence on 4 October 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-591_English.pdf

APPEALS CHAMBER'S CLARIFICATION IN RELATION TO THE DEFENCE CHALLENGE TO THE COURT JURISDICTION

On 19 October 2006, the Appeals Chamber did not order an abridgement of the time limit, but welcomed the commitment of both the Prosecution and the Defence to submit their respective briefs in relation to the appeal filed by the Defence on 9 October 2006, within a period shorter than the one envisaged by the Regulations of the Court.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-590_English.pdf

FORMATTED AND REDACTED VERSION OF PROSECUTOR'S OBSERVATIONS ON THE APPLICATIONS FOR PARTICIPATION OF APPLICANTS a/0072/06 TO a/0080/06 AND a/0105/06

On 19 October 2006, the Prosecution filed its observations in relation to applications for participation as victims in Lubanga's case a/0072/06 to a/0080/06 and a/0105/06. The Prosecution requested PTC I to grant Applicant a/0105/06 the right to participate as victim, since the harm suffered has a causal link to the charges in the case. Regarding Applicant a/0078/06, the Prosecution suggested that this applicant be required to provide documentary evidence in respect of her date of birth to determine if this applicant was a "child" in the terms of the Rome Statute at time of the events. The Prosecution finally requested PTC I to reject the applications a/0072/06 to a/0077/06 and a/0079/06 to a/0080/06, arguing that the harm suffered by these applicants has no causal link with the case against Mr. Lubanga.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-589_English.pdf

Decision of Single Judge on Defence's request to receive the legal and factual submissions of the prosecution prior to the confirmation hearing

On 20 October 2006, the Single Judge rejected the Defence request for an order of the Chamber to the Prosecution to provide legal argument to the Defence in advance of the confirmation hearing. The Single Judge also invited the Defence to place its request to file legal and factual submissions in written form after the confirmation hearing of 26 October 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-603_English.pdf

DECISION OF PTC I ON THE APPLICATIONS FOR PARTICIPATION OF APPLICANTS

a/0004/06 TO a/0009/06, a/0016/06 TO a/0063/06, a/0071/06 TO a/0080/06 AND a/0105/06

On 20 October 2006, PTC I granted Applicant a/0105/06 the status of victim in the case against Mr. Lubanga and rejected applications a/0004/06 to a/0009/06, a/0016/06 and a/0071/06 to a/0080/06, withholding its statutory right to re-examine applications a/0047/06 to a/0052/06 within the context of the investigations in the situation in the DRC.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-601_French.pdf

Prosecution's Response to "Defence Appeal Brief in Relation to First Decision on the Prosecution Requests and Amended Requests For Redactions under Rule 81"

On 20 October 2006, the Prosecution filed its response to the Defence appeal of 10 October 2006. The Prosecution requested the Appeals Chamber to deny the Defence grounds of appeal, and thereby maintain the initial findings in relation to restriction on disclosures issues imposed by PTC I.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-598_English.pdf

DEFENCE APPEAL FOLLOWING PTC I DECISION REJECTING THE REQUEST FOR INTERIM RELEASE OF LUBANGA

On 20 October 2006, the Defence requested the Appeals Chamber to reverse the PTC I decision of 18 October 2006 and to immediately grant Mr. Lubanga interim release or, alternatively, order his release with or without conditions, in accordance with the Rome Statute, so as to ensure that Mr. Lubanga is not detained for an unreasonable time prior to the trial due to an inexcusable delay caused by the Prosecutor.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-594_English.pdf

COMMUNICATION OF ORIGINAL EVIDENTIARY MATERIALS FOLLOWING DISCLOSURE TO THE DEFENCE OF INCRIMINATING EVIDENCE PURSUANT TO ARTICLE 61(3)(b) OF THE ROME STATUTE ON 19 OCTOBER 2006

On 23 October 2006, in compliance with PTC I Decisions of 15, 24 May and 17 October 2006, the Prosecution submitted a confidential document its electronic version that have been disclosed to the Defence on 19 October 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-605_English.pdf

DECISION ON THE PRESIDING JUDGE OF THE APPEALS CHAMBER IN THE 'DEFENCE APPEAL AGAINST 'DÉCISION SUR LA DEMANDE DE MISE EN LIBERTÉ PROVISOIRE DE THOMAS LUBANGA DYILO''

On 23 October 2006, the Appeals Chamber appointed Judge Erkki Kourula as Presiding Judge in the appeal of the Defence of 20 October 2006 against PTC I decision on the request for interim release of Mr. Lubanga.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-609_English.pdf

SUBMISSION OF THE RULE 77 PRE-INSPECTION NOTE FOLLOWING THE PROVISION OF MATERIALS FALLING UNDER RULE 77 OF THE RULES OF PROCEDURE AND EVIDENCE TO THE DEFENCE ON 19 OCTOBER 2006

On 23 October 2006, in compliance with PTC I Decisions of 15, 24 May and 17 October 2006 and the Single Judge's oral decision of 23 June 2006, the Prosecution confidentially submitted the "Pre-Inspection Note" in respect of the provision of materials to the Defence on 19 October 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-607_English.pdf

COMMUNICATION OF THE DISCLOSURE NOTE FOLLOWING DISCLOSURE TO
THE DEFENCE OF
POTENTIALLY EXCULPATORY EVIDENCE PURSUANT TO ARTICLE 67(2) OF
THE ROME
STATUTE ON 19 OCTOBER 2006

On 23 October 2006, in compliance with PTC I Decisions of 15, 24 May and 17 October 2006, the Prosecution confidentially filed the "Disclosure Note", which includes the redacted list of potentially exculpatory evidence which also contains redacted excerpts of witness statements disclosed to the Defence on 19 October 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-606_English.pdf

DÉSIGNATION PAR ME CARINE BAPITA BUYANGANDU, REPRÉSENTANT
LÉGAL DE LA VICTIME A/0105/06, DE GEORGE CURRIE GEBBIE POUR LA
REPRÉSENTER LORS DE LA CONFÉRENCE DE MISE-EN-ÉTAT DU 26
OCTOBRE 2006

On 25 October 2006, VPRS filed Ms. Carine Bapita Buyangandu's designation of Mr. George Currie Gebbie as legal assistant for victim a/0105/06. As stated by Ms. Bapits, Mr. Gebbie will be representing victim a/0105/06 during the hearing of 26 October 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-616_French.pdf

PROSECUTION'S INFORMATION PURSUANT TO THE 28 SEPTEMBER 2006
DECISION ON THE PROSECUTION INFORMATION IN RESPECT OF THE
SECOND DECISION ON RULE 81 MOTIONS

On 25 October 2006, in compliance with PTC I decision of 28 September 2006, the Prosecution submitted electronic versions of redacted documents disclosed to the Defence. According to the Prosecution, a total of 33 documents have not been disclosed to the Defence as the Prosecution was unable to secure the consent of the information providers.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-611_English.pdf

DEFENCE APPEAL AGAINST THE PTC I 3 OCTOBER 2006 DECISION
DISMISSING the challenge to the jurisdiction of the Court raised by M. Lubanga
pursuant to the Rome Statute and rejecting his request for release

On 26 October 2006, the Defence requested the Appeals Chamber to reverse PTC I decision of 3 October 2006 and to order the immediate release of Mr. Lubanga to a country other than the DRC. The Defence argued that the PTC I committed significant errors of fact and law by adopting an incorrect legal

test for the determination as to whether to exercise its jurisdiction over M. Lubanga; by failing to consider significant indicia which should have provided sufficient evidence to conclude that the acts of the DRC authorities could be attributed to the Prosecution; by applying an incorrect legal standard for assessing the relevant law of the DRC in the context of the Rome Statute's prescriptions on the arrest proceedings in the custodial State; and, by failing to consider the cumulative effect of the violations of Mr. Lubanga's rights and, hence, by failing to consider whether a lesser remedy would be appropriate.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-620_English.pdf

DEFENCE APPEAL AGAINST THE PTC I DECISION DENYING MR. LUBANGA'S REQUEST FOR INTERIM RELEASE

On 26 October 2006, the Defence requested that the Appeals Chamber reverse the PTC I Decision of 18 October 2006 on the request for the provisional release of Mr. Lubanga, and grant the Accused immediate provisional release. The Defence argued that PTC I violated its obligation to periodically review the detention of a suspect under the Rome Statute. Finally, the Defence argued that PTC I's analysis of the statutory conditions justifying the Accused's continued detention took into account irrelevant factors and failed to apply the principles of necessity and proportionality to see whether there was a less restrictive means of ensuring Mr. Lubanga's attendance at trial and the protection of witnesses.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-618_English.pdf

SOLEMN DECLARATION OF GEORGE GEBBIE, LEGAL REPRESENTATIVE FOR PARTICIPANT A/0105/06

On 26 October 2006, VPRS filed the solemn declarations of Mr. George Currie Gebbie, legal representative for participant a/0105/06.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-617_English.pdf

Prosecution's Response to "Defence Appeal Brief in Relation to Second Decision on the Prosecution Requests and Amended Requests for Redactions under Rule 81"

On 27 October 2006, the Prosecution requested the Appeals Chamber to deny the appeal of the Defence of 16 October 2006 against PTC I second decision of 21 September 2006. The Prosecution argued that PTC I took suitable measures in the interests of judicial economy by properly weighing all interests using the safeguards of protection of ongoing investigations set forth in the Statute and the Rules of Procedure and Evidence. Furthermore,

the Prosecution submitted that the purpose of the relevant rules is to exempt from disclosure any information which otherwise would be subject to disclosure if that may prejudice investigations, and, hence, that the Single judge rightfully interpreted that adequate disclosure does not require the Appellant to receive before the confirmation hearing the same disclosure that he would receive before trial. Finally, the Prosecution opposed the Defence suggestion of extra-statutory 'privileges' for the Prosecution's sources and stated that the Single Judge correctly applied the Statute and the Rules by engaging in a discretionary review while taking into account the interests of the source, the interests of the Appellants, and the nature and significance of the redactions.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-625_English.pdf

DECISION ON THE PROSECUTOR'S APPLICATION TO SEPARATE THE SENIOR LEGAL ADVISER TO THE PRE-TRIAL DIVISION FROM RENDERING LEGAL ADVICE REGARDING LUGANGA CASE, AND WHICH IS SUPPORTED BY THE DEFENCE

On 27 October 2006, the PTC I declared its lack of jurisdiction to entertain the Prosecution's Application and the Defence Response requesting to impede the Senior Legal Adviser to the Pre-Trial Division from rendering legal advice to PTC I on the case against Lubanga. Furthermore, PTC I informed the parties that the Senior Legal Advisor will be provisionally separated from the Pre-trial Division on the case against Lubanga pending determination of the matters raised by the Prosecution and the Defence by the plenary session of judges.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-623_English.pdf

COMMUNICATION OF THE DISCLOSURE NOTE FOLLOWING DISCLOSURE TO THE DEFENCE OF POTENTIALLY EXCULPATORY EVIDENCE PURSUANT TO ARTICLE 67(2) OF THE ROME STATUTE ON 26 OCTOBER 2006

On 27 October 2006, in compliance with the PTC I decisions of 15 and 24 May 2006, the Prosecution confidentially filed the "Disclosure Note", which includes the redacted list of potentially exculpatory evidence that have been disclosed to the Defence on 26 October 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-622_English.pdf

PROSECUTION SUBMISSION OF THE RULE 77 PRE-INSPECTION NOTE FOLLOWING THE PROVISION OF MATERIALS FALLING UNDER RULE 77 OF THE RULE OF PROCEDURE AND EVIDENCE TO THE DEFENCE ON 26 OCTOBER 2006

On 27 October 2006, in compliance with PTC I decisions of 15 and 24 May and 17 October 2006 and the Single Judge's oral decision of 23 June 2006, the Prosecution confidentially submitted, in both its physical and electronic versions, the "Pre-Inspection Note" in respect of the provision of one document to the Defence on 26 October 2006

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-621_English.pdf

DECISION ESTABLISHING A DEADLINE

On 30 October, PTC I, noting the Defence request to reclassify two documents as public, gave the Prosecution until 3 November to file a response.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-631_English.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-631-Corr_English.pdf

DÉCISION SUITE AUX INFORMATIONS FOURNIES PAR LE PROCUREUR LE 25 OCTOBRE 2006

On 30 October, following the Prosecution disclosure on 25 October, PTC I ordered that the Prosecutor obtain the consent of individuals who have provided information relevant to the Court's investigation, to distribute those documents not yet communicated to the Defence and to forward unredacted documents previously disclosed in a redacted form to the Defence. The Prosecution will provide PTC I a detailed report of the outcome and progress of these undertakings by 6 November.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-629_French.pdf

PROCURATION DE REPRÉSENTATION DES VICTIMES a/0001/06, a/0002/06 ET a/0003/06 À L'AUDIENCE DU 3 NOVEMBRE 2006

On 1 November, Paolina Massida was given the mandate to appear as legal representative for victims a/0001/06, a/0002/06 and a/0003/06 at the 3 November hearing.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-645_French.pdf

DECISION CONVENING A HEARING ON THE DEFENCE REQUEST FOR AN ORDER TO DISCLOSE EXCULPATORY MATERIALS

On 1 November, PTC I noted the need to have a hearing on the Defence request for disclosure of exculpatory materials. PTC I decided to convene a hearing on the Defence request to be held in a closed session on 2 November.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-640_English.pdf

PROSECUTION'S RESPONSE TO DEFENCE APPEAL AGAINST THE 'DÉCISION

SUR LA DEMANDE DE MISE EN LIBERTÉ PROVISOIRE THOMAS LUBANGA DYILO'

On 1 November, the Prosecutor requested that the Appeals Chamber deny the Defence appeal against the decision regarding the provisional release of Lubanga. The Prosecutor submitted that the allegations the appellant raises were advanced before the PTC and were fully addressed by the Prosecution and that the appellant cannot raise new arguments before the Appeals Chamber.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-637_English.pdf
http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-637-Anx_English.pdf

DECISION CONVENING A HEARING ON FRIDAY 3 NOVEMBER 2006

On 1 November, PTC I rejected the Prosecution's request for a hearing on an expedited basis on the proofing of a witness and decided to convene a public hearing on 3 November.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-636_English.pdf
http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-636-Anx_English.pdf

DECISION ON THE DEFENCE REQUEST FOR ORDER TO DISCLOSE EXCULPATORY MATERIALS

On 2 November, PTC I held that when a decision as to the authorization of redactions proposed by the Prosecution in relation to statements and summaries of criminal records not yet disclosed to the Defence had been made, the Defence shall immediately receive relevant materials.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-649_English.pdf

PROCURATION DE REPRÉSENTATION DE LA VICTIME a/0105/06 À L'AUDIENCE DU 3 NOVEMBRE 2006

On 2 November, the legal representative of victim a/0105/06 informed the Court of the assignment of replacement representation in respect of the scheduled hearing on 3 November.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-646_French.pdf

SUBMISSION OF LIST OF ADDITIONAL EVIDENCE

On 2 November, the Defence, noting the denial of its request for an extension, filed its additional list of evidence with PTC I.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-644_English.pdf

REQUEST TO EXCLUDE VIDEO EVIDENCE WHICH HAS NOT BEEN DISCLOSED ON ONE OF THE WORKING LANGUAGES

On 2 November, the Defence brought a motion to exclude from the confirmation hearing all video material in a language other than English or French and for which no translation was disclosed to the Defence prior to the 9 October deadline. This would result in the exclusion of 9 out of 18 videos.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-642_English.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-642-Corr_English.pdf

DECISION ON THE PROSECUTION APPLICATION PURSUANT TO RULE 81(2) OF 3 NOVEMBER 2006

On 3 November, PTC I authorized, with one exception, the redactions proposed in the Prosecution's Application. PTC I ordered the Prosecution to immediately disclose to the Defence the statements and interview transcripts in their authorized redacted form.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-658_English.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-658-Corr_English.pdf

DÉCISION DU GREFFIER SUR LA DEMANDE D'AIDE JUDICIAIRE AUX FRAIS DE LA COUR DÉPOSÉE PAR LA VICTIME a/0105/06

On 3 November, PTC I held that one legal representative is sufficient to ensure adequate legal representation for a victim in the confirmation of charges hearing and that the present decision will be reexamined once the investigation as to the needs of the victim has been finalized. The victim also has 15 days from the date of notification to request the reconsideration of this decision.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-650_French.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-650-Anx_French.pdf

DECISION ON THE PROSECUTION APPLICATION PURSUANT TO RULE 81(2) OF 3 NOVEMBER 2006

On 3 November 2006, PTC I decided that, save for a select few, the redactions proposed in the Prosecution Application are authorised. PTC I also ordered the Prosecution to disclose immediately to the Defence specific statements and/or transcripts of interviews, with the redactions authorised in the decision.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-658_English.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-658-Corr_English.pdf

Please note the corrected version of the summary below:

DÉCISION DU GREFFIER SUR LA DEMANDE D'AIDE JUDICIAIRE AUX FRAIS
DE LA COUR DÉPOSÉE PAR LA VICTIME a/0105/06

On 3 November, Registrar held that one legal representative is sufficient to ensure adequate legal representation for a victim in the confirmation of charges hearing and that the present decision will be reexamined once the investigation as to the needs of the victim has been finalized. The victim also has 15 days from the date of notification to request the reconsideration of this decision.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-650_French.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-650-Anx_French.pdf

COMMUNICATION OF ORIGINAL EVIDENTIARY MATERIALS FOLLOWING
DISCLOSURE TO THE DEFENCE OF INCRIMINATING EVIDENCE PURSUANT
TO ART. 61 (3) (b) RS ON 7 NOVEMBER

On 6 November 2006, in compliance with PTC I Decisions of 15 and 24 May 2006, the Prosecution submitted physical and electronic versions of confidential materials that on 1 November 2006 have been disclosed to the Defence. In addition to these items, the Prosecution has also disclosed to the Defence one video as detailed in the second 'List of disclosed materials.'

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-664_English.pdf

CORRIGENDUM TO INFORMATION PROVIDED AT HEARING OF 3
NOVEMBER 2006

On 6 November 2006, the Defence sought to correct any confusion that may have resulted from its statement of 3 November 2006 that one of its team spoke Swahili. In fact the person in question does not speak Swahili, and was simply able to discern that the language spoken in the video was Swahili, but could understand nothing. Further, the aforementioned individual is not part of the Defence team, but assigned to the Office of Public Counsel for Defence.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-663_English.pdf
<http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-663_English.pdf>

RESPONSE TO THE DEFENCE 'REQUEST TO EXCLUDE VIDEO EVIDENCE WHICH HAS NOT BEEN DISCLOSED IN ONE OF THE WORKING LANGUAGES'

On 6 November 2006, the Prosecution requested that PTC I deny the Defence's request to exclude video evidence which has not been disclosed in one of the working languages. The Prosecution argues that the translation obligations articulated in the Rome Statute and the Rules of Procedure and Evidence do not support the Defence's request and that the word 'materials' in Regulation 39(1) must be understood to refer exclusively to 'written' materials, and, finally, that the Defence's request is largely impracticable.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-662_English.pdf

DECISION SUR LA DEMANDE D'AUTORISATION D'APPEL DE LA DEFENCE RELATIVE A LA TRANSMISSION DES DEMANDES DE PARTICIPATION DES VICTIMES

On 6 November 2006, PTC I rejected the Defence's request for leave to appeal the Decision of 22 September 2006 authorising the submission of observations in respect of the applications to participate a/0004/06 to a/0009/06, a/0016/06 to a/0063/06 and a/0071/06.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-672_French.pdf

ORDONNANCE AUTORISANT LA PRISE DE PHOTOGRAPHIES A L'AUDIENCE DU 9 NOVEMBRE

On 6 November 2006, PTC I authorised the Registry to inform external photographers that they will be permitted to take photographs inside the Court immediately after all of the participants have taken their places, for a period of two minutes during the hearing of 9 November 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-671_French.pdf

PROSECUTION'S INFORMATION IN RESPECT OF THE 'DECISION SUITE AUX INFORMATIONS FOURNIES PAR LE PROCUREUR LE 25 OCTOBRE 2006

On 6 November 2006, in response to the Single Judge's Decision of 30 October 2006, the Prosecution provided PTC I with additional information in respect of documents the OTP obtained on the condition of confidentiality pursuant to Article 54(3)(e) of the Rome Statute.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-668_English.pdf

NOTIFICATION OF FILING EVIDENCE

On 6 November 2006, in conformity with PTC I Decision of 19 October 2006, the Defence disclosed the electronic versions of the evidence on which it intends to rely at the confirmation hearing.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-667_English.pdf

COMMUNICATION OF ORIGINAL EVIDENTIARY MATERIALS FOLLOWING DISCLOSURE TO THE DEFENCE OF INCRIMINATING EVIDENCE PURSUANT TO ARTICLE 61(3)(b) OF THE ROME STATUTE ON 3 NOVEMBER 2006

On 6 November 2006, in compliance with PTC I Decisions of 15 and 24 May 2006, the Prosecution submitted physical and electronic versions of items that on 3 November 2006 had been disclosed to the Defence.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-666_English.pdf

COMMUNICATION OF THE DISCLOSURE NOTE FOLLOWING DISCLOSURE TO THE DEFENCE OF POTENTIALLY EXCULPATORY EVIDENCE PURSUANT TO ARTICLE 67(2) OF THE RS ON 1 NOVEMBER 2006

On 6 November 2006, in compliance with PTC I decisions of 15 and 24 May 2006, and following the disclosure of potentially exculpatory evidence on 1 November 2006, the Prosecution filed the ‘Disclosure Note.’ The ‘Disclosure Note’ includes the ‘List of disclosed materials’ detailing materials that fall under Article 67(2) of the Rome Statute and that were disclosed to the Defence on 1 November 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-665_English.pdf

DECISION ON THE DEFENCE “REQUEST TO EXCLUDE VIDEO EVIDENCE WHICH HAS NOT BEEN DISCLOSED IN ONE OF THE WORKING LANGUAGES”

On 7 November 2006, in response to the Defence’s request of 2 November 2006, PTC I decided to declare inadmissible for the purpose of the confirmation hearing those video excerpts which are not translated into one of the working languages of the Court and whose translations are not made available to the Chamber and the Defence by 9 November 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-676_English.pdf

DECISION CONCERNING LIST OF ISSUES ON JURISDICTION, ADMISSIBILITY OR PROPER CONDUCT OF THE PROCEEDINGS

On 7 November 2006, PTC I requested the Prosecution and the Defence to file by 8 November 2006 the list of those issues of jurisdiction, admissibility

or concerning the proper conduct of the proceedings leading to the confirmation hearing that they intend to raise.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-675_English.pdf

SUBMISSION OF LIST OF ADDITIONAL ITEMS TO BE ADDED TO THE DEFENCE LIST OF EVIDENCE

On 7 November 2006, the Defence filed a list of the extra evidence that it wishes to add to the Defence list of evidence for the confirmation of charges hearing.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-673_English.pdf

DESIGNATION PAR MAITRE CARINE BAPITA BUYANGANDU, REPRESENTANT LEGAL DE LA VICTIME a/0105/06, DE GEORGE CURRIE GEBBIE POUR LA REPRESENTER LORS DE L'AUDIENCE DE CONFIRMATION DES CHARGES LES 9 ET 10 NOVEMBRE 2006

On 8 November 2006, VPRS announced that Mr. George Currie Gebbie would act in Ms. Carine Bapita Buyangandu's stead as representative for victim a/0105/06 on 9 and 10 November 2006, at the Confirmation Hearing.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-688_French.pdf

ORDONNANCE DEMANDANT AU GREFFIER D'ENREGISTRER UN DOCUMENT AU DOSSIER DE L'AFFAIRE

On 8 November 2006, PTC I ordered the Registrar to record an internal memorandum submitted by the President of the Pre-Trial Division Kaul to the President of the Pre-Trial Chamber Jorda in the case-file of The Prosecutor vs Thomas Lubanga Dyilo. In this internal memorandum the President of the Pre-Trial Division confirmed that his Decisions of 20 October 2006 to provisionally separate the Senior Legal Adviser from the case remain in effect until further notice.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-687_French.pdf

DECISION ON THE DEFENCE REQUEST TO POSTPONE THE CONFIRMATION HEARING

On 8 November 2006, in response to the Defence's request of the same day to postpone the confirmation hearing, PTC I decided that the hearing would start, as scheduled, on 9 November 2006. It further decided that both the Prosecution and the Defence would have time allocated to them on 9 November 2006 to raise a question or make a challenge concerning jurisdiction or

admissibility and to raise objections or make observations concerning issues related to the proper conduct of the proceedings leading to the confirmation hearing. PTC I further decided that a discussion on the questions, challenges, objections and issues raised by the Prosecution and the Defence on 9 November would take place in the morning session scheduled for 10 December 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-686_English.pdf

ORDONNANCE DEMANDANT AU GREFFIER D'ENREGISTRER UN DOCUMENT AU DOSSIER DE L'AFFAIRE

On 8 November 2006, PTC I ordered the Registrar to record an internal memorandum of PTC I President Jorda in the case-file of The Prosecutor vs Thomas Lubanga Dyilo. In this internal memorandum the PTC I President requests that the decisions of the Pre-Trial Division's President Kaul dated 20 October 2006 should remain in effect. These decisions concern the provisional separation of the Senior Legal Adviser from the case.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-685_French.pdf

REQUETE DE REPORT DE L'AUDIENCE DE CONFIRMATION DES CHARGES

On 8 November 2006, the Defence requested that the Confirmation Hearing scheduled for 9 November 2006 be postponed, on the basis of issues related to the proper conduct of the proceedings prior to the confirmation hearing.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-684_French.pdf

PUBLIC REDACTED VERSION OF REQUEST TO EXCLUDE EVIDENCE OBTAINED IN VIOLATION OF ARTICLE 69(7) OF THE RS

On 7 November 2006, the Defence requested that PTC order that the items seized from the residence of Mr. Tinanzabo in DRC be excluded from the Prosecution list of evidence; that PTC I order the Prosecution to immediately provide a more elaborate list of the evidence seized from the residence of Mr. Tinanzabo and; finally, that PTC I order the Prosecution to provide further information regarding all other search and seizure operations, and whether these operations were conducted in accordance with the applicable law of the DRC. The Defence argued that the Prosecution procured certain evidence in violation of internationally recognised human rights, and that to admit such evidence would be to seriously damage the integrity of the proceedings

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-683_English.pdf

PROSECUTION'S INFORMATION IN RESPECT OF THE "DECISION CONCERNING LIST OF ISSUES ON JURISDICTION, ADMISSIBILITY OR PROPER CONDUCT OF THE PROCEEDINGS"

On 8 November 2006, the Prosecution made observations on two issues related to the proper conduct of the proceedings prior to the Confirmation Hearing. Firstly, it noted that the Defence had neither provided the Prosecution an opportunity to inspect material in possession or control of the Defence pursuant to Rule 78 nor made available to the Prosecution its evidence as filed on 6 November 2006. Secondly, the Prosecution, with reference to the 7 November 2006 "Ordonnance demandant au Greffier d'enregistrer un document au dossier de l'affaire," restated its position that, pending a final decision on the ability of the Senior Legal Adviser to advise the Pre-Trial Chamber, the Senior Legal Adviser should remain provisionally segregated from the case of The Prosecutor vs Thomas Lubanga Dyilo.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-682_English.pdf

RESPONSE TO ORDER OF 7 NOVEMBER 2006

On 8 November 2006, the Defence submitted its response to the PTC I request of 7 November 2006 to file a list of issues on jurisdiction, admissibility or proper conduct of the proceedings leading to the confirmation hearing. Among other claims, the Defence asserted that its right to be informed in detail of the nature of the charge and to have adequate time and facilities to prepare for the confirmation hearing had been violated. It further averred that PTC I had conflated the procedure for opening submissions with the right of the Defence to challenge jurisdiction and admissibility.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-681_English.pdf

DECISION TO GIVE THE PROSECUTION ACCESS TO THE EVIDENCE INCLUDED IN THE DEFENCE LIST OF EVIDENCE

On 8 November 2006, PTC I ordered the Registry to give the Prosecution immediate access to the evidence included in the Defence List of Evidence filed on 2 November 2006 and filed on 6 November 2006 in accordance with PTC I Decisions of 5 October 2006 and 28 August 2006 ("E-Court Protocol").

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-680_English.pdf

DECISION ON THE PRACTICES OF WITNESS FAMILIARISATION AND WITNESS PROOFING

On 8 November 2006, PTC I ordered the Victims and Witnesses Unit to proceed with the practice of witness familiarisation for the only witness currently

scheduled to testify at the confirmation hearing and articulated the various measures which constitute this practice. PTC I also ordered the Prosecution not to undertake the practice of witness proofing as defined in different parts of the Prosecution Information. PTC I further ordered the Prosecution to refrain from all contact with the witness outside the courtroom from the moment the witness takes the stand.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-679_English.pdf

DECISION ON THE SCHEDULE AND CONDUCT OF THE CONFIRMATION HEARING

On 7 November 2006, PTC I decided that the confirmation will be conducted in accordance with the schedule set forth in Annex I. PTC I, among other things, decided that the Legal Representatives of the Victims may, in their opening and closing statements, inter alia, address points of law, including the legal characterization of the modes of liability with which the Prosecution has charged Thomas Lubanga Dyilo. PTC I further ruled that the Chamber may put questions to a witness before, during or after the witness is examined by the Defence or the Prosecutor. PTC I also announced a number of rules concerning the provision of pseudonyms to witnesses.

PTC rejected the Defence request seeking to be provided with a list of the questions that the Prosecution intends to put to the witness prior to the testimony of the said witness.

Finally, PTC I ruled that the confirmation hearing will be held in public session, unless otherwise ordered by the Chamber or specified in Annex I.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-678_English.pdf

ORDONNANCE DEMANDANT AU GREFFIER D'ENREGISTRER UN DOCUMENT AU DOSSIER DE L'AFFAIRE

On 8 November 2006, PTC I ordered the Registry to record in the case file of Prosecutor versus Lubanga the decision of the ICC President dated 7 November 2006.

In that decision the ICC President declined to convene a plenary of judges. The plenary was requested on behalf of the judges of PTC I and II in order to determine whether the Prosecutor's applications of 31 August 2006, to separate the Senior Legal Adviser from rendering legal advice in the cases before PTC I and II and the Response of the Defence of 4 October 2006 amounted to a request for the disqualification of the judges of those Chambers or to a question as to the disqualification of a judge and if so, to decide on the matter. In the decision of 7 November it is argued that,

absent any proper request for disqualification, there were no grounds to call a meeting of judges to address the issue.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-677_French.pdf

DECISION ON THE MOTION BY THE DEFENCE TO EXCLUDE ANONYMOUS HEARSAY TESTIMONY OF THE PROSECUTION WITNESS

On 9 November 2006, PTC I rejected the Defence “Request of 20 October 2006 for leave to reply to the Prosecution’s Response to the Defence’s motion to exclude anonymous hearsay testimony from the testimony of the prosecution witness”. It further rejected the Defence request for an order of the Chamber prior to the testimony of the Witness to prohibit the Prosecution from eliciting any evidence that the witness herself has not witnessed. PTC I further decided that all three grounds invoked in the UN letter filed by the Prosecution on 13 October 2006 fall within the scope of “grounds of confidentiality” according to rule 82 (3) and therefore, if invoked, entitle the witness not to answer questions of the Defence or the Chamber.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-693-Anx1_English.pdf

DECISION RECLASSIFYING DOCUMENT NUMBER ICC-01/04-01/06-690

On 9 November 2006, PTC I decided to reclassify the document ICC-01/04-01/06-690 as a confidential document and to issue the public redacted version included in Annex I to the present decision.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-693_English.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-693-Anx1_English.pdf

DECLARATION SOLENNELLE ET ENGAGEMENT DE MAITRE CARINE BAPITA BUYANGANDU, REPRESENTANT LEGAL DE LA VICTIME a/0105/06

On 10 November 2006, the legal representative for victim a/0105/06, Ms. Buyangandu, made a solemn declaration according to Art.5 of the Code of Professional Conduct for Counsel. Ms. Buyangandu also signed an undertaking to respect the obligations under Art.22 of the Code of Professional Conduct.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-692_French.pdf

DEMANDE CONJOINTE DES REPRESENTANTS LEGAUX DES VICTIMES AUX FINS DE RECEVOIR LES DOCUMENTS PUBLICS CONTENUS DANS LES LISTES DE PREUVES

On 10 November 2006, the legal representatives of the victims a/0001/06,

a/0002/06, a/0003/06 and a/0105/06 requested PTC I to order the Prosecution and the Defence to identify in their lists of evidence all items which they believe must remain confidential and to further order them to provide the legal representatives of victims, before the relevant sessions of the confirmation hearing, with the public documents, materials and lists of evidence they intend to rely on.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-691_French.pdf

SUBMISSION BY THE REGISTRAR OF A CORRESPONDENCE FROM THE LEGAL COUNSEL OF THE UNITED NATIONS IN RELATION TO THE UN REPRESENTATIVE TO ATTEND THE HEARING ON CONFIRMATION OF CHARGES

On 13 November 2006, the Registrar received a letter from M. Michel, Under-Secretary-General Legal Counsel of the United Nations, informing the Court that Ms. Catherine Marchi-Uhel would be acting as UN representative in connection with Ms. Peduto's testimony in the confirmation of charges hearing.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-700_English.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-700-Anx_English.pdf

DEFENCE RESPONSE TO PROSECUTION REQUEST FOR EXTENSION OF THE PAGE LIMIT

On 13 November 2006, Defence requested the Appeal Chamber to disregard the submissions of the Prosecution of 13 November 2006 requesting for an extension of the page limit. The Defence argued that its appeal brief in support of its challenge to jurisdiction did not exceed the applicable page limit.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-697_English.pdf

APPEALS CHAMBER'S DIRECTIONS

On 13 November 2006, the Appeals Chamber gave the Defence until Thursday 16 November 2006 to respond to the Prosecutor's request for extension of page limit for its brief regarding jurisdiction of the Court.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-698_English.pdf

PROSECUTION'S REQUEST FOR AN EXTENSION OF THE PAGE LIMIT

On 13 November 2006, the Prosecution requested the Appeals Chamber for an

extension of five pages to the page limit in order to adequately respond to the appeal lodged by the Defence on 26 October 2006, which, in view of the Prosecution, exceeded the page limit in its Appeal Brief.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-696_English.pdf

RAPPORT DU GREFFIER SUR LA COMPARAISON DES LANGUES PARLÉES DANS LES ÉLÉMENTS DE PREUVE VIDÉO

On 13 November 2006, the Registrar submitted his report to PTC I on the determination on whether or not the version of Swahili language spoken in one or more of the videos, which form part of the Prosecution evidence, is different to the version of Swahili language spoken by Thomas Lubanga Dyilo in another video.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-694_French.pdf

PROSECUTION'S INFORMATION WITH RESPECT TO THE PRE-TRIAL CHAMBER'S DECISION ALLOWING THE LEGAL REPRESENTATIVES OF THE VICTIMS ACCESS TO THE PUBLIC DOCUMENTS ON THE PROSECUTION'S AMENDED LIST OF EVIDENCE

On 15 November 2006, PTC I received the Prosecutor's list of documents, taken from their Amended List of Evidence, to which the Legal Representatives of victims a/0001/06, a/0002/06, a/0003/06 and a/0105/06 have been granted access.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-702_English.pdf

DEFENCE REQUEST FOR AN ORDER REGARDING NON-COMPLIANCE WITH THE TIME LIMITS

On 16 November 2006, the Defence requested the Appeals Chamber to reject the filing of the response of the Legal Representatives of the Victims arguing that such response did not comply with the specific time limits set by the Court.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-708_English.pdf

SUBMISSION OF THE RULE 77 PRE-INSPECTION NOTE FOLLOWING THE PROVISION OF MATERIALS FALLING UNDER RULE 77 OF THE RULES OF PROCEDURE AND EVIDENCE TO THE DEFENCE ON 7 NOVEMBER 2006

On 16 November 2006, in compliance with PTC I decisions of 15 and 24 May and 17 October 2006 and the Single Judge's oral decision of 23 June 2006, the

Prosecution confidentially submitted, in both its physical and electronic versions, the “Pre-Inspection Note” in respect of the provision of materials to the Defence on 7 November 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-707_English.pdf

COMMUNICATION OF THE DISCLOSURE NOTE FOLLOWING DISCLOSURE TO THE DEFENCE OF POTENTIALLY EXCULPATORY EVIDENCE PURSUANT TO ARTICLE 61(3)(b) OF THE ROME STATUTE ON 7 NOVEMBER

On 16 November 2006, in compliance with the PTC I decisions of 15 and 24 May 2006, the Prosecution confidentially filed the "Disclosure Note", which includes the redacted list of potentially exculpatory evidence that have been disclosed to the Defence on 7 November 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-706_English.pdf

COMMUNICATION OF ORIGINAL EVIDENTIARY MATERIALS FOLLOWING DISCLOSURE TO THE DEFENCE OF INCRIMINATION EVIDENCE PURSUANT TO ARTICLE 61(3)(b) OF THE ROME STATUTE ON 7 NOVEMBER 2006

On 16 November 2006, in compliance with PTC I Decisions of 15 and 24 May 2006, the Prosecution submitted physical and electronic versions of confidential documents that have been disclosed to the Defence on 7 November 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-705_English.pdf

RÉPONSE DES VICTIMES a/0001/06, a/0002/06 ET a/0003/06 À L' APPEL DE LA DÉFENSE CONCERNANT LA DÉCISION SUR LA DEMANDE DE MISE EN LIBERTÉ PROVISOIRE DE THOMAS LUBANGA DYILO

On 16 November 2006, the Legal Representative for Victim's a/0001/06, a/0002/06 and a/0003/06 requested the Appeal Chamber to reject the appeal of the Defence concerning the decision on the request for Mr. Lubanga's interim release by arguing that such a release would not be consistent with the aim of combating impunity and would constitute, amongst other things, a direct threat to the victims giving evidence. Finally, the Legal Representative regarded as sufficient that PTC I regularly re-examine its decision to keep Mr. Lubanga in detention.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-704_French.pdf

APPEALS CHAMBER'S DECISION ON THE “PROSECUTOR'S REQUEST FOR AN EXTENSION OF THE PAGE LIMIT”

On 16 November 2006, the Appeals Chamber dismissed and found superfluous the Prosecutor's application for an extension of the page limit of 13 November 2006. The Chamber reasoned that the Prosecution had mistakenly assumed the page limit for submissions to be 20 pages as opposed to the correct 100 pages.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-703_English.pdf

DECISION ON DEFENCE REQUESTS FOR DISCLOSURE OF MATERIALS

On 17 November 2006, PTC I held that certain previous redactions be lifted and relevant documents/videos be transmitted to the Defence by 17 November 2006 and that further correspondence in this matter be filed following correct procedures. Further, the Registrar is ordered to send cooperation requests to the UN in order to obtain interview notes of MONUC officials.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-718_en.pdf

DEFENCE'S INFORMATION ON THE ACCESS TO THE PUBLIC DOCUMENTS ON THE DEFENCE'S LIST OF EVIDENCE GRANTED TO THE LEGAL REPRESENTATIVES OF THE VICTIMS

On 17 November 2006, the Defence filed the list of documents from the Defence List of Evidence and Defence list of Additional Evidence to which the legal representatives of victims a/0001/06, a/0002/06, a/0003/06 and a/0105/06 have been given access.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-716_English.pdf

REASONS FOR THE APPEALS CHAMBER'S DECISION OF 16 NOVEMBER 2006 ON THE "PROSECUTION'S REQUEST FOR AN EXTENSION OF THE PAGE LIMIT"

On 17 November 2006, the Appeals Chamber decided that the Prosecution's application for extension of page limit is superfluous since the specification on length of documents filed regarding challenges to jurisdiction is identical whether the challenge is before the first instance court or on appeal.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-717_en.pdf

PROSECUTION'S RESPONSE TO DEFENCE APPEAL AGAINST THE DECISION ON THE DEFENCE CHALLENGE TO JURISDICTION OF 3 OCTOBER 2006

On 17 November 2006, the Prosecution refuted the Defence's claims of errors made on the part of PTC I with respect to a number of issues, including,

alleged violations of Accused's rights, interpretation and application of the law. Prosecution requested that the Appeals Chamber deny the Defence appeal in its entirety and all the relief sought therein.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-714_en.pdf
<http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-714-Anx.pdf>

OBSERVATIONS DE LA RÉPUBLIQUE DÉMOCRATIQUE DU CONGO

On 21 November 2006, following a request of the Appeals Chamber, the government of the Democratic Republic of Congo submitted its observations in relation to the Defence's Appeal of 9 October 2006 against the PTC I Decision of 3 October which dismissed the Defence challenges to the Jurisdiction of the Court and rejected the Defence request for release of Thomas Lubanga. The DRC government stated that, in their opinion, the Appeals Chamber should reject the Defence Appeal as unfounded.

<http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-720_French.pdf>
http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-720_French.pdf

SUBMISSION OF THE RULE 77 PRE-INSPECTION NOTE FOLLOWING THE PROVISION OF MATERIALS FALLING UNDER RULE 77 OF THE RULES OF PROCEDURE AND EVIDENCE TO THE DEFENCE ON 17 NOVEMBER 2006

On 21 November 2006, in compliance with PTC I decisions of 15 and 24 May and the Single Judge's oral decision of 23 June 2006, the Prosecution submitted, in both its physical and electronic version, the "Pre-Inspection Note" in respect of the provision of materials to the Defence on 7 November 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-719_English.pdf

OBSERVATIONS DES VICTIMS a/0001/06, a/0002/06 ET a/0003/06 À L'APPEL DE LA DÉFENSE CONCERNANT LA DÉCISION RELATIVE À L'EXCEPTION D'INCOMPÉTENCE DE LA COUR EN VERTU DE L'ARTICLE 19-2-a DU STATUT

On 22 November 2006, legal representatives of victims a/0001/06, a/0002/06 and a/0003/06 requested that the Appeal Chamber reject the "Defence Appeal against the Decision on the Defence Challenge to Jurisdiction". Legal Representatives argued that issues raised by the Defence, including allegations that the arrest and detention of Accused were unlawful, had no bearing on the jurisdiction of the ICC.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-725_French.pdf

PROSECUTION'S INFORMATION IN RESPECT OF DISCLOSURE WITH

UNAUTHORISED REDACTIONS AND RULE 81 APPLICATION

On 22 November 2006, the Prosecution requested PTC I authorization to maintain redactions in three documents that - due to a previous oversight on behalf of OTP-.were disclosed to the Defence in redacted form without prior authorization of PTC I

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-724_English.pdf

REQUEST FOR LEAVE TO REPLY TO PROSECUTION'S FURTHER RESPONSE

On 24 November 2006, the Defence asked PTC I to disregard the Prosecution's Further Response of 22 November, in relation to the Defence's "Request to exclude evidence obtained in violation of article 69(7) of the Statute." In the alternative, the Defence requested that PTC I grant leave to file a reply to the Prosecution's Further Response.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-729_English.pdf

ORDER OF THE APPEALS CHAMBER

On 24 November 2006, in the Defence Appeal of 20 October 2006 on the temporary release of Mr. Thomas Lubanga, the Appeals Chamber allowed parties (Defence, Prosecution and Victim Representatives) until 29 November to file documents relating to the right of victims a/0001/06, a/0002/06 and a/0003/06 to participate, and the modalities of participation.

<http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-727_English.pdf>
http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-727_English.pdf

DEFENCE REPLY TO THE OBSERVATIONS OF THE GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF CONGO

On 27 November 2006, the Defence requested that the Appeals Chamber reject the legal submissions from the Government of the Democratic Republic of Congo on the basis that the submissions of the DRC were formulated by the Auditor General of the DRC Military Court, the same national entity which was responsible for the alleged wrongful acts which form the subject of the Defence's complaints. The Defence also states that the time limits imposed for submission filing enabled the Prosecutor and the DRC authorities to collaborate and file concurrent views and hence no weight should be accorded thereto. Further, the Defence asks that "appropriate inferences" be drawn from the Government's silence on contesting allegations brought forward by the Defence.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-730_English.pdf

DEFENCE REPLY TO THE OBSERVATIONS OF THE VICTIMS' REPRESENTATIVES

On 28 November 2006, the Defence requested that the Appeals Chamber reject submissions provided by victims' representatives and grant relief requested by Defence in its 26 October appeal. The Defence states that several of the arguments raised by victims' representatives go beyond the scope of the issues which are the subject of the appeal; that the rights of the accused must be respected including that the Court consider events prior to the issuance of Lubanga's arrest warrant under article 55; and that it is unlikely that Lubanga will be extradited to the country where the concerned violations originated, since he may suffer retaliation as a result of this case. Further, the Defence stated that there is no basis to believe that if Lubanga is granted interim release he would attempt to retaliate against victims since the identities of the persons in question have not been disclosed to the Defence.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-733_English.pdf

RÉPONSE DES VICTIMES a/0001/06, a/0002/06 et a/0003/06 CONCERNANT LA REQUÊTE DE LA DÉFENSE DU 16 NOVEMBRE 2006

On 29 November 2006, the legal representative for victims a/0001/06, a/0002/06 and a/0003/06 requested that the Appeals Chamber accept their 16 November filing and sought permission to participate in all actions directly concerning their personal interests, either through written or oral submissions and in accordance with any procedural conditions imposed by the Chamber.

<http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-739_French.pdf>
http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-739_French.pdf

COMMUNICATION OF ORIGINAL EVIDENTIARY MATERIALS FOLLOWING DISCLOSURE TO THE DEFENCE OF INCRIMINATING EVIDENCE PURSUANT TO ARTICLE 61(3)(b) OF THE ROME STATUTE ON 17 NOVEMBER 2006

On 29 November 2006, following a decision lifting redactions from the 17 November, the Prosecution submitted a document that has been re-disclosed to the Defence pursuant to Article 61(3)(b) in both its physical and electronic forms.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-738_English.pdf

FILING OF DISCLOSURE CORRESPONDENCE

On 29 November 2006, the Defence filed a request for disclosure of materials sent to the Prosecution on 27 November.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-737_English.pdf

PROSECUTIONS' RESPONSE TO 'DEFENCE REQUEST FOR AN ORDER REGARDING NON-COMPLIANCE WITH THE TIME LIMITS', PURSUANT TO 'ORDER OF THE APPEALS CHAMBER' OF 24 NOVEMBER 2006

On 29 November 2006, the Prosecutor filed a response addressing four issues: whether the victims' response was filed in compliance with the applicable regulations regarding time limits; whether the victims had the right to participate in the appeal without seeking leave of the Appeals Chamber; the appropriate modalities for any participation; and whether the victims' response impermissibly relies on evidence which is not part of the appeal record.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-736_English.pdf
http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-736-Anx_English.pdf

DEFENCE MOTION FOR CLARIFICATION AND REQUEST FOR AN EXTENSION OF THE PAGE LIMIT

On 29 November 2006, the Defence requested clarification on the scope for briefs to be filed in response to the 7 November decision, particularly that the Prosecution cannot make written submissions on issues not discussed during the confirmation hearing, as well as whether it was a PTC order or request to submit briefs only in French. Further, the Defence requested an extension of the page limit.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-735_English.pdf

DEFENCE RESPONSE TO THE APPEALS CHAMBER ORDER OF 24 NOVEMBER 2006

On 29 November 2006, the Defence requested that the Appeals Chamber reject the response of the victims' representatives since it was filed outside the permitted time limits. The Defence also claimed the right to reply to observations filed by the victims.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-734_English.pdf

SUBMISSION OF THE RULE 77 PRE-INSPECTION NOTE FOLLOWING THE PROVISION OF MATERIALS FALLING UNDER RULE 77 OF THE RULES OF PROCEDURE AND EVIDENCE TO THE DEFENCE ON 28 NOVEMBER 2006

On 30 November 2006, the Prosecution lodged the "Pre-Inspection Note" with respect to the provision of materials that fall under Rule 77 to the Defence on 28 November.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-744_English.pdf

DÉCISION SUR LA REQUÊTE DE LA DÉFENSE AUX FINS D'ÉCLAIRCISSEMENTS ET D'AUGMENTATION DU NOMBRE DE PAGE AUTORISÉ

On 30 November 2006, PTC I held that submissions for the 4 December filing may be made in either French or English and reminded parties that only issues that were discussed during the Confirmation of Charges hearing could be included in the written filing. PTC I further rejected the Defence request for an extension of the page limit for its submission.

<http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-743_French.pdf>
http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-743_French.pdf

FILING OF DISCLOSURE CORRESPONDENCE

On 30 November 2006, the Prosecutor filed its response to the 29 November Defence request for disclosure of materials, as a confidential annex.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-742_English.pdf

PROSECUTION'S RESPONSE TO "DEFENCE MOTION FOR CLARIFICATION AND REQUEST FOR AN EXTENSION OF THE PAGE LIMIT"

On 30 November 2006, the Prosecutor submitted that issues to be addressed in its 4 December filing, namely those pertaining to the mode of liability and the principle of legality, the form of the Document Containing the Charges and any other legal issue raised by Participants during the Confirmation Hearing, fall squarely within the parameters of what was discussed at the Confirmation Hearing and are therefore permissible. Further, the Prosecution requests PTC I to deny the Defence request for an extension of the page limit.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-741_English.pdf

PROSECUTION'S INFORMATION ON THE DEFENCE'S INQUIRY ON THE CURRENT STATUS OF DOCUMENTS OBTAINED BY THE PROSECUTION UNDER THE CONDITION OF CONFIDENTIALITY PURSUANT TO ARTICLE 54(3)(e) OF THE ROME STATUE

On 1 December 2006, the Prosecution updated PTC I on the disclosure-related

status of documents obtained under the condition of confidentiality under Article 54(3)(e).

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-747_English.pdf

OBSERVATIONS ÉCRITES DU REPRÉSENTANT LÉGAL DE LA VICTIME A/0105/06

On 1 December 2006, legal representative of victim a/0105/06 requested PTC I to confirm the charges against Lubanga on the basis that the elements of proof are sufficient to establish substantial presumptions as to his criminal responsibility for the alleged crime of enlisting and using child soldiers.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-745_French.pdf

Prosecution's Document Addressing Matters that were discussed at the Confirmation Hearing

On 4 December 2006, in accordance with a decision of PTC I dated 7 November 2006, the Prosecution submitted a document addressing matters that were discussed orally at the confirmation hearing. In the document the Prosecution referred to the following issues: the standard of “substantial grounds to believe that the person committed each of the crimes charged”, the principle of legality, the mode of individual criminal responsibility, the Defence's challenges to the form of the “Document Containing the Charges”, factual statements by the Defence and finally “statements by the defence in conflict with the Code of Professional Conduct for counsel”. The Prosecution concluded by requesting PTC I to confirm the charges against Lubanga as set out in the “Document Containing the Charges” and to commit Lubanga to a Trial Chamber for trial on these charges.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-749_English.pdf

OBSERVATIONS PRÉSENTÉES À L'AUDIENCE EN CONFIRMATION DES CHARGES POUR LES VICTIMES a/0001/06 – a/0002/06 – a/0003/06

On 4 December 2006, the Representatives of Victims a/0001/06, a/0002/06 and a/0003/06 requested PTC I to confirm the charges presented by the Prosecution. The Victims' Representatives submitted observations on a number of issues raised during the confirmation hearing, including, but not limited to, the quality of evidence and the mode of individual criminal responsibility.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-750_French.pdf

Order of the Appeals Chamber

On 4 December 2006, in the Defence Appeal of 26 October against the PTC I Decision denying the request for interim release of Lubanga, the Appeals Chamber ordered that the Prosecution and the Defence may file a response to the application of victims a/0001/06, a/0002/06 and a/0003/06 to participate in the Appeals proceedings.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-751_English.pdf

Urgent Defence Motion to Strike Prosecution's Documents and Request for an Order of Refiling

On 4 December 2006, the Defence submitted to PTC I the request to strike the Prosecution's Document filed on 4 December 2006 and to order the Prosecution to refile its Document without certain parts of it. The Defence is of the view that the Prosecution in this document addressed many issues that it did not discuss during the confirmation hearing and that this was not in compliance with PTC I decision of 30 November 2006. It further asserted that the Prosecution had inappropriately used the brief to launch personal attacks on members of the Defence Team and those associated with it.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-752_English.pdf

Prosecution's Response to "Defence Urgent Motion to Strike Prosecution's Document"

On 5 December 2006, the Prosecution requested PTC I to deny the Defence urgent request of 4 December 2006. The Prosecution is of the view it had provided sufficient information linking the various topics mentioned in its Document of 4 December 2006 to the corresponding period of the Confirmation Hearing. The Prosecution further submitted that in its view matters of any participant's professional conduct could be raised at any time during the proceedings.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-753_English.pdf

PROSECUTION'S DOCUMENT ADDRESSING MATTERS THAT WERE DISCUSSED AT THE CONFIRMATION HEARING

On 5 December 2006, the Prosecution filed the French translation of its "Document addressing matters that were discussed at the Confirmation Hearing" (public redacted version) submitted on 4 December 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-754_English.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-754-Anx_French.pdf

DEFENCE RESPONSE TO THE APPEALS CHAMBER ORDER OF 4 DECEMBER 2006

On 6 December 2006, the Defence requested that the Appeals Chamber deny the application for participation in proceedings before the Appeals Chamber filed by victims' representatives on 29 November 2006. The Defence referred to its prior observations on the modalities of victims' participation submitted on 29 November 2006. It further argued that the victims' representatives failed to file the application to participate in compliance with the deadline of 5 days imposed by Regulation 64 (5) of the Court. The Defence also asserted that the application failed to demonstrate how an interim release of Lubanga could put the victims at risk.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-756_English.pdf

PROSECUTION'S RESPONSE TO REQUEST OF VICTIMS TO PARTICIPATE IN THE APPEAL, PURSUANT TO 'ORDER OF THE APPEALS CHAMBER' OF 4 DECEMBER 2006

On 6 December 2006, in accordance with the Appeals Chamber's order of 4 December 2006, the Prosecution filed its response to the application of victims to participate in the Appeals proceedings which was submitted by the Victims' Representative on 29 November 2006. The Prosecution held that the Victims' Representative had not adequately substantiated the request to participate in the instant appellate proceedings and that a participation at this stage might not be appropriate, especially in light of the late filing of the initial response and the later request to participate.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-757_English.pdf

REGISTRATION IN THE RECORD OF MATERIALS PRESENTED DURING THE HEARING HELD IN OPEN SESSION ON 24 NOVEMBER 2006

On 5 December 2006, the Registry registered in the record of the case the following material submitted during the hearing on 24 November 2006: a birth certificate (redacted) and two maps of Ituri.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-761_English.pdf

DEFENSE BRIEF ON MATTERS THE DEFENSE RAISED DURING THE CONFIRMATION HEARING-LEGAL OBSERVATIONS

On 7 December 2006, the Defence, pursuant PTC I decision of 7 November 2006, submitted a brief on the questions of law as presented during the confirmation hearing. In its brief, the Defence requested PTC I to refuse to

confirm the charges against Mr. Lubanga and to order his immediate and unconditional release. Accordingly, the Defence argued a breach of the principle of legality, since the act of enlistment does not correspond to any underlying conduct which Mr. Lubanga could foreseeably have anticipated would entail individual criminal responsibility.

Furthermore, with regard to the modes of liability, the Defence submitted that the Prosecution failed to plea common purpose or indirect perpetration as material facts in the charging document, to identify the co-perpetrators or indirect perpetrators with sufficient precision as to identify whether they share the same intent and the extent of their contribution; and to specify whether there was an intention to charge Mr. Lubanga as a physical perpetrator.

With regards to the level of evidence, according to the Defence, the level which the Prosecution's evidence must meet is that of 'substantial grounds to believe that the person committed each of the crimes charged', this is, whether there is sufficient evidence to permit a properly instructed judge to convict. In the same manner, the Defence submitted that the burden of proof in relation to the evidence lies on the Prosecution, and even when the Defence has not explicitly contested any allegation by the Prosecution, the latter is still put to strict proof on this allegation.

Finally, on the admissibility and probative value of evidence, the Defence argued that even when the Statute provides for the possibility of the Prosecution to use summary evidence, it does not regulate whether they carry sufficient weight as evidence to support the charges alleged by the Prosecution, and, hence, the Defence is entitled to challenge the credibility of the authors of the statements and the probative value of the summaries.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-764_English.pdf

CONCLUSIONS DE LA DÉFENSE CONCERNANT LES FAITS DISCUTÉS À L'AUDIENCE DE CONFIRMATION DES CHARGES

On 7 December 2006, the Defence, pursuant PTC I decision of 7 November 2006, submitted a redacted brief concerning the facts as argued during the confirmation hearing. Among the general concerns expressed, the Defence submitted that the summaries, redaction authorised and anonymity on the witnesses' statements substantially reduce the probative value of such statements. Finally, the Defence disputed the whole of the testimony presented by Kristine Peduto because, according to the Defence, it does not fulfill the requirements of credibility and reliability. The Defence argued in its brief that this witness' statement presented serious contradictions, a chronic uncertainty, severe memory gaps, serious errors, as well as an

alarming ignorance of its environment of work and of the general context in Ituri.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-763_French.pdf

DEMANDE DES VICTIMES a/0001/06, a/0002/06 et a/0003/06 AUX FINS DE RÉPLIQUER AUX RÉPONSES DE LA DÉFENSE ET DE L'ACCUSATION DÉPOSÉES CONFORMÉMENT À L'ORDONNANCE DE LA CHAMBRE D'APPEL DU 4 DÉCEMBRE 2006

On 7 December 2006, the Victims' Representatives of victims a/0001/06, a/0002/06 and a/0003/06 requested leave for reply to the "Prosecution's Response to the Request of Victims to participate in the Appeal" and to the "Defense Response to the Appeals Chamber Order" both dated 6 December 2006. The Victims' Representatives argued that the issues raised by the two other parties were of fundamental importance and had a direct impact on the situation of the victims. In particular, they rejected the Defence's and the Prosecution's argument that the victims would have had to submit a new application to participate in the appeals proceedings.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-765_French.pdf

DISSENTING OPINION OF JUDGE PIKIS TO THE ORDER OF THE APPEALS CHAMBER ISSUED ON 4 DECEMBER 2006

On 11 December 2006, Judge Pikis disassociated himself from the Appeals Chamber decision of 4 December 2006 on the basis that in his opinion, it was the duty of the Chamber to have first decided whether the victims were entitled to participate as of right in the appeal proceedings. If so entitled, the next question would be whether their response should be rejected as filed out of time. If they had no such right, the order of 4 December 2006 would be superfluous.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-766_English.pdf

SCHEDULING ORDER FOR "JUDGEMENT ON THE DEFENCE APPEAL AGAINST THE DECISION ON THE DEFENCE CHALLENGE TO THE JURISDICTION OF THE COURT PURSUANT TO ARTICLE 19(2)(a) OF THE STATUTE OF 3 OCTOBER 2006"

On 11 December 2006, it was decided that the Appeals Chamber shall convene on Thursday, 14 December 2006, at 12 pm for the purpose of delivering an open court judgment in the above appeal.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-767_English.pdf

SCHEDULING ORDER FOR JUDGEMENT ON THE APPEALS OF MR. THOMAS LUBANGA DYILO AGAINST PRE-TRIAL CHAMBER I'S "FIRST DECISION ON THE PROSECUTION REQUESTS AND AMENDED REQUESTS FOR REDACTIONS UNDER RULE 81" AND "SECOND DECISION ON THE PROSECUTION REQUESTS AND AMENDED REQUESTS FOR REDACTIONS UNDER RULE 81"

On 11 December 2006, it was decided that the Appeals Chamber shall convene on Thursday, 14 December 2006, at 12:30 pm for the purpose of delivering an open court judgment in the above appeals.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-768_English.pdf

DECISION OF THE APPEALS CHAMBER

On 12 December 2006, the Appeals Chamber held that the victims' response of 16 November 2006 should be disregarded as having been filed without the leave of the Appeals Chamber and further, that their 7 December Request for Leave to Reply be rejected. The Chamber also granted victims a/0001/06, a/0002/06 and a/0003/06 the right to participate in the appeal, for the purpose of presenting their views and concerns respecting their personal interests in the issues raised on appeal, with submissions to be lodged by 15 December and Prosecution and Defence responses by 20 December.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-769_English.pdf

PROCURATION AUX FINS DE REPRÉSENTATION DES VICTIMES a/0001/06, a/0002/06 ET a/0003/06 À L'AUDIENCE DU 14 DÉCEMBRE 2006

On 13 December 2006, Paolina Massida was named as the Legal Representative for victims a/0001/06, a/0002/06 and a/0003/06 in respect of the 14 December 2006 Appeals Chamber hearing of the Defence appeal regarding jurisdiction.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-771_French.pdf

JUDGEMENT ON THE APPEAL OF MR. THOMAS LUBANGA DYILO AGAINST THE DECISION ON THE DEFENCE CHALLENGE TO THE JURISDICTION OF THE COURT PURSUANT TO ARTICLE 19(2)(a) OF THE STATUTE OF 3 OCTOBER 2006

On 14 December 2006, the Appeals Chamber upheld the PTC I decision entitled "Decision on the Defence Challenge to the Jurisdiction of the Court pursuant to article 19(2)(a) of that Statute". The Chamber agreed with PTC I that although breaches of the rights of the accused may provide ground for halting proceedings, no such violations had been shown and therefore dismissed the Defence appeal.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-772_English.pdf

JUDGEMENT ON THE APPEAL OF MR. THOMAS LUBANGA DYILO AGAINST THE DECISION OF PRE-TRIAL CHAMBER I ENTITLED "FIRST DECISION ON THE PROSECUTION REQUESTS AND AMENDED REQUESTS FOR REDACTIONS UNDER RULE 81"

On 14 December 2006, the Appeals Chamber reversed PTC I decision of 15 September 2006 entitled "First Decision on the Prosecution Requests and Amended Requests for Redactions under Rule 81". The Chamber further directed PTC I, in light of the present judgment, to decide anew upon the applications of the Prosecutor for the authorisation of redactions that gave rise to the 15 December decision.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-773_English.pdf

JUDGEMENT ON THE APPEAL OF MR. THOMAS LUBANGA DYILO AGAINST THE DECISION OF PRE-TRIAL CHAMBER I ENTITLED "SECOND DECISION ON THE PROSECUTION REQUESTS AND AMENDED REQUESTS FOR REDACTIONS UNDER RULE 81"

On 14 December 2006, the Appeals Chamber reversed PTC I decision of 20 September 2006 entitled "Second Decision on the Prosecution Requests and Amended Requests for Redactions under Rule 81", to the extent that it authorizes the Prosecutor to disclose to the Defence, witness statements and documents with redactions. Further, PTC I was directed to decide anew upon the authorisation of disclosure of witness statements and documents with redactions in light of the present decision.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-774_English.pdf

DÉCISION DÉSIGNANT UN JUGE UNIQUE

On 14 December 2006, PTC I designated Judge Claude Jorda as a single judge in the Lubanga case to exercise all functions until the conclusion of the preliminary stage of proceedings.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-775_French.pdf

CONCLUSIONS DES VICTIMES a/0001/06, a/0002/06 et a/0003/06 SUITE A L'ORDONNANCE DE LA CHAMBRE D'APPEL DU 12 DECEMBRE 2006

On 15 December 2006, the Legal Representative for victims a/0001/06 to a/0003/06 requested the Appeal Chamber to reject the Defence's appeal of 20 October 2006 against PTC I Decision on the request for interim release of

Mr. Lubanga. According to the Legal Representative, an interim release will not only represent a direct danger to the victims but could also be interpreted by others perpetrating similar offences as if such offences are not considered grave enough as to justify detention, and would hence lose its deterrent effect.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-778_French.pdf

PROSECUTION'S INFORMATION ON FURTHER DISCLOSURE OF INCRIMINATORY EVIDENCE

On 27 December 2006, the Prosecution informed PTC I of the further disclosure of incriminatory evidence, provided to the Defence on 21 December 2006. The Defence accepted disclosure of the documents concerning the assurance of the Prosecution that it would not file the incriminatory evidence in the record of the case against Thomas Lubanga Dyilo, as it would be inappropriate at this stage - after the Confirmation Hearing - to provide the Pre-Trial Chamber with further incriminatory evidence.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-784_English.pdf

SUBMISSION OF THE RULE 77 PRE-INSPECTION NOTE FOLLOWING THE PROVISION OF MATERIALS FALLING UNDER RULE 77 OF THE RULES OF PROCEDURE AND EVIDENCE TO THE DEFENCE ON 21 DECEMBER 2006

On 27 December 2006, the Prosecution identified six documents that fall within the scope of Rule 77 and submitted the Pre-Inspection Note. Further, the Prosecution provided the Defence with copies of these documents in their electronic form.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-785_English.pdf

SUBMISSION OF THE DISCLOSURE NOTE FOLLOWING THE DISCLOSURE TO THE DEFENCE OF POTENTIALLY EXCULPATORY EVIDENCE PURSUANT TO ARTICLE 67(2) OF THE ROME STATUTE ON 21 DECEMBER 2006

On 27 December 2006, the Prosecution filed the 'Disclosure Note', signed by both Parties, which contains the 'List of Disclosed Materials' that fall within the scope of Article 67(2) of the Rome Statute and which were previously disclosed on 21 December 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-786_English.pdf

REGISTRATION IN THE RECORD OF MATERIAL PRESENTED DURING THE HEARING HELD IN OPEN SESSION ON 27 NOVEMBER 2006

On 15 January 2007, in order to maintain a full and accurate record of all proceedings before the PTC, the Registrar registered material submitted by the Prosecutor during the open session on 27 November 2006 in the record of the proceedings.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-788_English.pdf

Annex 1: http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-788-Anx1_French.pdf

Annex 2: http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-788-Anx2_English.pdf

Annex 3: http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-788-Anx3_French.pdf

Annex 4: http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-788-Anx4_French.pdf

PROCURATION AUX FINS DE REPRÉSENTATION DE LA VICTIME a/0105/06 À L'AUDIENCE DU 29 JANVIER 2007

On 26 January 2007, the legal representative of victim a/0105/06, authorized Ms Paolina Massida, Principal Counsel of OPCV, to represent her in the public hearing of 29 January 2007.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-790_French.pdf

PROSECUTION'S INFORMATION ON FURTHER DISCLOSURE OF INCRIMINATORY EVIDENCE

On 25 January 2007, the Prosecution disclosed further incriminatory evidence. OTP disclosed the materials for use in the event that PTC confirms the Document Containing the Charges.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-791_English.pdf

COMMUNICATION OF THE DISCLOSURE NOTE FOLLOWING DISCLOSURE TO THE DEFENCE OF POTENTIALLY EXCULPATORY EVIDENCE PURSUANT ART 67 (2)

On 26 January 2007, in compliance with the decisions of 15 May 2006 and of 24 May 2006 and following the disclosure of potentially exculpatory evidence on 25 January 2007, the Prosecution filed the "Disclosure Note" as a confidential annex.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-792_English.pdf

SUBMISSION OF THE RULE 77 PRE-INSPECTION NOTE FOLLOWING THE PROVISION OF MATERIALS FALLING UNDER RULE 77 RPE TO THE DEFENCE

On 26 January 2007, in compliance with the decisions of 15 May 2006 and 24 May 2006 and the oral decision of 23 June 2006, the Prosecution submitted the "Pre-Inspection Note" in respect of the provision of materials to the Defence that fall under Rule 77 on 25 January 2007.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-793_English.pdf

ORDONNANCE AUTORISANT LA PRISE DE PHOTOGRAPHIES À L'AUDIENCE DE 29 JANVIER 2007

On 29 January 2007, PTC I authorised external photographers to take picture inside the Courtroom for one minute, once all the participants to the proceedings have taken their places.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-795_French.pdf

SUMMARY OF THE TRANSCRIPT OF HEARING ON THE DECISION OF PRE TRIAL CHAMBER FOLLOWING THE CONFIRMATION OF CHARGES HEARING

On 29 January 2007, PTC I confirmed the charges brought against Mr. Lubanga by the Prosecution and decided that Mr. Lubanga shall be committed for trial before a Trial Chamber for the charges of co-perpetration for war crimes consisting of enlisting and conscripting children under the age of 15 years and causing them to participate actively in hostilities from September 2002 to 13 August 2003.

PTC I established that the scope and purpose of a confirmation hearing is limited to committing for trial, only those persons against whom sufficiently compelling charges, that go beyond mere suspicion, have been presented. For this purpose, PTC I considered the evidence admitted during the confirmation hearing as a whole.

With regards to the material elements of the crime, PTC I found that the armed conflict was of an international character from July 2002 to 2 June 2003, since the presence of Uganda as an occupying power in Ituri internationalised the conflict, and from 2 June until the end of December 2003 it was not of an international character. PTC I also found sufficient evidence to establish substantial grounds to believe that children under the age of 15 years were enlisted and conscripted into the armed forces of the UPC and FPLC from July 2002 to 2 June 2003 and that children under the age of 15 years were still in such armed forces from 2 June 2003 to the end of December 2003.

Furthermore, PTC I considered the act “active participation in hostilities” to mean not only direct participation in hostilities or combat, but also to include active participation in combat-related activities. In this regard, PTC I found sufficient evidence to establish substantial grounds to believe that after military training, the children were deemed fit for combat and that FPLC commanders then put them on the frontline to fight. Concerning the interpretation of the term “national armed forces”, PTC I was of the opinion the UPC could be considered as such.

Finally, pertaining to mode of criminal liability, PTC I used the notion of control over the crime as a standard to determine the elements of the notion of co-perpetration. In this regard, according to PTC I, joint control over a crime indicates a division of the essential tasks for its commission between two or more concerted actors, in which none of them

has overall control over the offence, because they all depend on the other for its commission, and all of the, share control in the sense that any could disrupt the commission of the crime.

Concerning the time frame for which Mr. Lubanga has been charged, PTC I found sufficient evidence to establish substantial grounds to believe that only from September 2002, the date of the creation of the FPLC, until 13 August 2003, the date in which Mr. Lubanga was arrested in Kinshasa, Mr. Lubanga exercised joint control over the implementation of a plan which resulted in the enlistment, conscription and use of children under the ages of 15 years in hostilities.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-T-48_en.pdf

DEFENCE APPEAL AGAINST THE PRE-TRIAL CHAMBER'S 'DECISION SUR LA CONFIRMATION DES CHARGES' OF 29 JANUARY 2007

On 30 January 2007, the Defence requested the Appeals Chamber to reverse PTC I Decision on the confirmation of charges against Mr. Lubanga of 29 January 2007 and to order Mr. Lubanga's immediate release. In the Defence's view, the right to appeal this decision is based on the fact that it effectively denies the release of the accused.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-797_English.pdf

URGENT DEFENCE REQUEST FOR EXTENSION OF TIME AND PAGE LIMITS FOR BRIEF IN SUPPORT OF APPEAL AGAINST THE 'DECISION SUR LA CONFIRMATION DES CHARGES'

On 30 January 2007, the Defence urgently requested the Appeals Chamber for an extension of fourteen days and of twenty pages to the limits for the brief in support of the appeal against PTC I decision on the confirmation of charges against Mr. Lubanga. According to the Defence, the impugned decision can be characterised as a decision as to release a suspect in detention, which invokes an automatic entitlement to appeal, since it has the effect of denying the release of the suspect and, in the present case, by confirming the charges, PTC I denied an explicit request by the Defence for the release of Mr. Lubanga. Consequently, the Defence submitted that the volume and complexity of the material covered in the impugned decision, a response adequate to address such issues requires a considerable amount of work, especially considering the limited resources of the Defence team.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-798_English.pdf

DECISION ON THE PRESIDING JUDGE OF THE APPEALS CHAMBER IN THE "DEFENCE APPEAL AGAINST THE PRE-TRIAL CHAMBER'S 'DÉCISION SUR LA CONFIRMATION DES CHARGES' OF 29 JANUARY 2007"

On 31 January 2007, the Appeals Chamber designated Judge Georghios M. Pikis as Presiding Judge in the Defence's appeal of 30 January 2007 against PTC I decision of 29 January 2007 confirming the charge against Mr. Lubanga.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-799_English.pdf

DIRECTIONS AND DECISION OF THE APPEALS CHAMBER

On 1 February 2007, the Appeals Chambers decided to first consider whether the subject-matter of PTC I impugned decision of 29 January 2007 is in itself appealable within the terms of the Defence's appeal of 30 January 2007. For this purpose, the Chamber gave the Defence until 7 February 2007 to present its submission and the Prosecution until 13 February 2007 to present its response. The Appeals Chamber, subject to the outcome of the decision on the admissibility of the appeal, will then provide directions on the length and time limit of the brief in support of the appeal and the Prosecution's response to it.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-800_English.pdf

DEMANDE CONJOINTE DES VICTIMES a/0001/06 À a/0003/06 ET a/0105/06
RELATIVE AUX «DIRECTIONS AND DECISION OF THE APPEALS CHAMBER»
DEPOSÉES LE 1^{ER} FÉVRIER 2007

On 2 February 2007, the Legal Representative for victims a/0001/06 to a/0003/06 and the Legal Representative for victim a/0105/06 jointly requested the Appeals Chamber to be authorised to submit a response to the submission of the Defence in the terms of the Appeals Chamber decision of 1 February 2007. According to the victims' Legal Representatives, in the absence of decision of the Appeal Chambers on victims participation, victims should be considered as participants in the proceedings and be able to respond to every document presented by the other participants. Also, the victims' Legal Representatives stated that the interest of victims to participate in the appeal procedure is evident, since its result could ultimately affect the possibility of victims to request reparations.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-802_French.pdf

DECISION ON THE DESIGNATION OF A SINGLE JUDGE

On 2 February 2007, PTC I designated Judge Silvia Steiner as Single Judge in the Case of the Prosecutor against Thomas Lubanga Dyilo from 5 February 2007 through 19 February 2007 inclusively.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-804_English.pdf

DIRECTIONS OF THE APPEALS CHAMBER

On 5 February 2007, the Appeals Chamber gave the Defence and the Prosecution until 9 February 2007 to respond to the joint application of the Legal Representatives of victims of 2 February 2007 seeking to participate in the proceedings of the Defence appeal of 30 January 2007 against PTC I decision on the confirmation of charges.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-805_English.pdf

APPLICATION FOR LEAVE TO APPEAL PRE-TRIAL CHAMBER I'S 29 JANUARY 2007 "DÉCISION SUR LA CONFIRMATION DES CHARGES"

On 5 February 2007, the Prosecution applied to the PTC I for leave to appeal the 29 January 2007 Decision on the Confirmation of Charges. The application was limited to the substitution by the PTC I of the crime charged by the Prosecution, from that within the context of an armed conflict not of an international nature to that within the context of an international armed conflict. The Prosecution submitted that the requirements for leave to be granted were satisfied on the grounds that: the issue affected the fair and expeditious conduct of the proceedings or the outcome of trial; and that immediate resolution by the appeals chamber will materially advance the proceedings.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-806_English.pdf

DEFENCE LEAVE TO APPEAL REQUEST

On 5 February 2007, the Defence requested PTC I leave to appeal its decision on the confirmation of charges of 29 January 2007.

(Submission not public but referred to as ICC-01/04-01/06-807-Conf in http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-815_English.pdf)

PROSECUTOR'S INFORMATION ON FURTHER DISCLOSURE OF INCRIMINATORY EVIDENCE

On 6 February 2007, the Prosecutor informed the Single Judge of PTC I of the disclosure of further incriminatory evidence. Prior to the disclosure, the Prosecutor had informed the Defence orally that it would not file the incriminatory evidence on the case record, but would only notify the Chamber of such disclosure.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-808_English.pdf

MATERIALS FALLING UNDER RULE 77 OF THE RULES OF PROCEDURE AND EVIDENCE OF THE DEFENCE ON 5 FEBRUARY 2007

On 6 February 2007, in compliance with PTC I Decisions of 15 and 24 May 2006, and the Single Judge's oral decision of 23 June 2006, the Prosecution confidentially submitted the "Pre-Inspection Note" in respect of the provision of materials to the Defence on 5 February 2007.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-809_English.pdf

COMMUNICATION OF THE DISCLOSURE NOTE FOLLOWING DISCLOSURE TO THE DEFENCE OF THE POTENTIALLY EXCULPATORY EVIDENCE PURSUANT TO ARTICLE 67(2) OF THE ROME STATUTE ON 5 FEBRUARY 2007

On 6 February 2007, in compliance with PTC I Decisions of 15 and 24 May 2006, the Prosecution confidentially filed the "Disclosure Note", which includes the redacted list of potentially exculpatory evidence disclosed to the Defence on 5 February 2007.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-810_English.pdf

DEMANDE DE MODIFICATION DES DÉLAIS EN VERTU DE LA NORME 35 DE RÈGLEMENT DE LA COUR”

On 7 February 2007, the Defence requested the Appeals Chamber for modification of the time limits for making submissions before the Chamber envisaged by its directions of 1 and 5 February 2007 and to be allowed to supplement the submission filed on 7 February 2007 on the scope of the right to appeal, since it was prepared under the rigorous of illness of the Lead Counsel.

(Submission not public, but referred to as ICC-01/04-01/06-811-Conf in http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-834_English.pdf)

DEFENCE SUBMISSIONS ON THE SCOPE OF THE RIGHT TO APPEAL WITHIN THE MEANING OF ARTICLE 82(1)(b) OF THE STATUTE

On 7 February 2007, the Defence submitted that PTC I decision on the confirmation of charges of 29 January 2007, as a decision that has the effect of denying or granting release of a person being investigated or prosecuted, gives an automatic right of appeal.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-812_English.pdf

DECISION ORDERING THE DEFENCE TO FILE A PUBLIC REDACTED VERSION OF ITS “APPLICATION FOR LEAVE TO APPEAL THE PRE-TRIAL CHAMBER I’S 29 JANUARY 2007 ‘DÉCISION SUR LA CONFIRMATION DES CHARGES’ ”

On 7 February 2007, PTC I ordered the Defence to file a public redacted version of its 5 February 2007 application for leave to appeal PTC I’s decision on the confirmation of charges of 29 January 2007 to enable victims to potentially exercise their right to respond.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-813_English.pdf

DEMANDE DE MODIFICATION DE DÉLAIS EN VERTU DE LA NORME 35 DE RÈGLEMENT DU COUR

On 8 February 2007, the Defence requested that the deadline for the filing of a redacted version of its request for leave to appeal of 5 February 2007, the deadline for its response to the Prosecution request for leave to appeal of 5 February 2007, and any other deadlines for the Defence are extended in at least 14 days, subject to further medical advice.

(Submission not public but referred to as ICC-1/04-01/06-814-Conf in http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-815_English.pdf)

DECISION ON THE DEFENCE REQUEST FOR EXTENSION OF TIME LIMIT

On 8 February 2007, PTC I invited the Office of Public Counsel for the Defence to proceed with the redactions in the Defence request for leave to appeal of 5 February 2007 in consistency with the public redacted version of PTC I decision on the confirmation of charges, and to file the public redacted version until 12 February 2007. Furthermore, PTC I granted the Defence an extension until 22 February 2007 for the filing of its response to the Prosecution's request for leave to appeal of 5 February 2007.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-815_English.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-815-Corr_English.pdf

DEFENCE RESPONSE TO APPEALS CHAMBER'S DIRECTIONS OF 5 FEBRUARY 2007

On 9 February 2007, the Defence responded to the Legal Representatives of Victims' joint application of 2 February 2007. The Defence opposed to the request of the Legal Representatives to file a response to the Defence Appeal of 30 January 2007 against PTC I decision on the confirmation of charges. According to the Defence, the right to file a response to the party seeking to appeal a decision is linked to the right to appeal the specific decision, and that, within the context of the referred Defence appeal, there is no express provision in the Statute granting legal representatives of victims such right.

With regards to the request of the Legal Representatives to participate in the appeal proceedings by submitting written observations on any issues that affects their interests the Defence requested the Appeals Chamber to strictly limit the participation in the appeal proceedings to the evidence and the submissions made during the confirmation hearing and that the submission of the Legal Representatives should be filed at the same time as the Prosecution files its response to the Defence appeal. Furthermore, the Defence requested an automatic right to reply to any responses filed by the Legal Representatives.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-816_English.pdf

PROSECUTION'S RESPONSE TO THE JOINT APPLICATION OF VICTIMS A/0001/06 TO A/0003/06 AND A/0105/06 PURSUANT TO 'DIRECTIONS OF THE APPEALS CHAMBER' OF 5 FEBRUARY 2007

On 9 February 2007, the Prosecution requested the Appeals Chamber to deny the victims' application of 2 February 2007 to participate in the current stage of the proceedings of the Defence's appeal against the Confirmation of Charges, since they have not demonstrated how such participation would affect their personal interests. According to the Prosecution, the applications made by the victims should be deferred until after the admissibility of the appeal has been ruled upon.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-817_English.pdf

SCHEDULING ORDER FOR JUDGMENT ON THE APPEAL OF MR. THOMAS LUBANGA DYILO AGAINST THE DECISION OF THE PRE-TRIAL CHAMBER I ENTITLED "DECISION SUR LA DEMANDE DE MISE EN LIBERTÉ PROVISOIRE DE THOMAS LUBANGA DYILO"

On 9 February 2007, Appeals Chamber decided to convene a public hearing on Tuesday 13 February 2007 to deliver an open court judgment in the appeal of the Defence against PTC I decision of 18 October 2006 on the request for provisional release of Mr. Lubanga.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-819_English.pdf

RESPONSE TO THE « APPLICATION FOR LEAVE TO APPEAL PRE-TRIAL CHAMBER I'S 29 JANUARY 2007 DÉCISION SUR LA CONFIRMATION DES CHARGES » FILED BY THE PROSECUTOR

On 9 February 2007, the Legal Representatives of Victims a/0001/06 to a/0003/06 requested PTC I to deny the Prosecution's application of 5 February 2007 for leave to appeal against the decision on the confirmation of charges. The Legal Representatives argued that the problem raised by the Prosecution does not constitute a subject requiring a decision for its resolution, but rather a question over which there is conflicting opinion, which would not constitute an appealable subject. Also, the respondents stated that the Prosecution did rely on legal basis relating to an internal and an international armed conflict for each crime on the request for an arrest warrant and that the Prosecution changed its mind in the document containing the charges. Furthermore, the respondents submitted that PTC I did not have a need to request the Prosecutor to amend the charge since the crime is still the same. Finally, the Legal Representatives stated that the fact that PTC I confirmed the charges in no way prevents the Trial Chamber from modifying the legal characterization of facts and re-examining the characterization of the conflict in which the crimes were committed.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-820_tEnglish.pdf

PROCURATION AUX FINS DE LA REPRÉSENTATION DES VICTIMES A/0001/06,
A/0002/06 AND A/0003/06 À L'AUDIENCE DU 13 FÉVRIER 2007

On 12 February 2007, the Office of the Public Counsel for Victims notified the Appeals Chamber that it would represent victims a/0001/06, a/0002/06 and a/0003/06 before the Chamber on 13 February 2007 during the open court judgment on the Defence Interlocutory Appeal on Provisional Release.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-821_French.pdf

TRANSMISSION À LA PRÉSIDENTE DE LA DÉCISION SUR LA
CONFIRMATION DES CHARGES ET DU DOSSIER DE LA PROCÉDURE

On 14 February 2007, the Registrar transmitted to the Presidency the decision on the confirmation of charges and the record of the proceedings.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-822-Corr_French.pdf

OBSERVATIONS DU BUREAU DU CONSEIL PUBLIC POUR LA DÉFENSE SUR
LA DÉCISION DE LA CHAMBRE PRÉLIMINAIRE I "DECISION ON THE
DEFENCE REQUEST FOR EXTENSION OF TIME"

On 12 February 2007, the Defence submitted observations on the PTC I's Decision of 8 February 2007. It responded to the conclusion that the filing of a public redacted version of a Leave Appeal Request is not a matter that requires presence of lead counsel and observed that the decision raised technical issues about the nature of the Defence Counsel's role in protecting the rights of the accused. The Defence requested that PTC I take note of its observations and to consider alternatives to its decision.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-823_French.pdf

JUDGMENT ON THE APPEAL OF MR. THOMAS LUBANGA DYILO AGAINST
THE DECISION OF PRE-TRIAL CHAMBER I ENTITLED "DÉCISION SUR LA
DEMANDE DE MISE EN LIBERTÉ PROVISOIRE DE THOMAS LUBANGA
DYILO"

On 13 February 2007, the Appeals Chamber confirmed the PTC I "Decision on the Application for the interim release of Thomas Lubanga Dyilo" of 18 October 2006 and dismissed the appeal submitted by the Defence. The Chamber held that PTC I's review of a decision on detention or release under Article 60(3) is triggered by an application for interim release pending trial and not by a warrant of arrest alone. It also clarified that the decision on continued detention or release pursuant to Article 60(2) is not discretionary. The Chamber also held that victims must file an application for leave in order to participate in an interlocutory appeal

The Appeals Chamber furthermore rejected the Prosecution Request for Leave to Reply to the Appellant's Response to the Victim's Submissions pursuant to the Decision of 12 December 2006. In addition, the Registrar was directed to notify the victims of the Appellant's Response to the Victims' Submissions pursuant to the Decision of 12 December 2006, the Prosecutor's Application for Leave to Reply, and the Prosecutor's Amended Application for Leave to Reply, which had been filed confidentially. Judge Pikis wrote a separate opinion and Judge Song appended a dissenting opinion on the participation of victims.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-824_English.pdf

PROSECUTION'S RESPONSE TO THE DIRECTIONS AND DECISION OF THE APPEALS CHAMBER OF 1 FEBRUARY 2007

On 13 February 2007, the Prosecution submitted that the subject matter of the Defence appeal of the confirmation of charges decision is not an appealable decision within the meaning of Article 82(1)(b) of the Statute because appeals under this provision are limited to decisions denying or granting release. The Prosecution requested that the Appeals Chamber rejects the Defence appeal in its entirety.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-825_English.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-825-Anx_English.pdf

REVIEW OF THE "DECISION ON THE APPLICATION FOR THE INTERIM RELEASE OF THOMAS LUBANGA DYILO"

On 14 February 2007, PTC I reviewed its 18 October 2006 Decision on the Application for the Interim Release in accordance with Article 60(3) of the Statute and decided that Thomas Lubanga Dyilo would continue to be detained.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-826_English.pdf

DECISION OF THE APPEALS CHAMBER ON THE REQUEST OF COUNSEL TO MR. THOMAS LUBANGA DYILO FOR MODIFICATION OF THE TIME LIMIT PURSUANT TO REGULATION 35 OF THE REGULATIONS OF THE COURT OF 7 FEBRUARY 2007

On 16 February 2007, the Appeals Chamber rejected as inadmissible the "Defence Response to Appeals Chamber's Directions of 5 February 2007" filed on 9 February 2007. The Chamber extended the time for submitting the appellant's response to "Directions of the Appeals Chamber" of 5 February 2007 until 23 February 2007. It further decided that the appellant's submission on the scope of the right to appeal under Article 82(1)(b) may be supplemented by 23 February 2007, after which the Prosecution may supplement his response by 28 February 2007. The Appeals Chamber will deliver the reasons for this decision by 21 February 2007.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-827_English.pdf

SUPPLEMENTARY DECISION ON THE DEFENCE REQUEST FOR EXTENSION OF TIME LIMIT

On 16 February 2007, PTC I granted the Defence an extension until 22 February 2007 for filing the public redacted version of its Leave to Appeal Request that is consistent with the public redacted version of the “Décision sur la confirmation des charges”.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-828_English.pdf

REASONS FOR THE “DECISION OF THE APPEALS CHAMBER ON THE REQUEST OF COUNSEL TO MR. THOMAS LUBANGA DYILO FOR MODIFICATION OF THE TIME LIMIT PURSUANT TO REGULATION 35 OF THE REGULATIONS OF THE COURT OF 7 FEBRUARY 2007” ISSUED ON 16 FEBRUARY 2007.

On 21 February 2007, the Appeals Chamber provided reasons for its decision of 16 February 2007 on the request of the Defence for modification of the time limit of 7 February 2007. Firstly, the Appeals Chamber rejected as inadmissible the Defence response to Appeals Chambers’ Directions of 5 February 2007 submitted on 9 February 2007. As explained by the Chamber, the document did not contain the signature of the Lead Counsel and was submitted independently of the Counsel. Furthermore, the Appeals Chamber decided to, given that the inability of Counsel to perform his duties owing to illness, medically certified, does provide a good cause, extend the time limit until 23 February 2007 for submitting the Defence’s response to the application of victims for participation of 2 February 2007. Finally, the Appeals Chamber allowed the Defence to supplement its submission filed on 7 February 2007 on the scope of the right to appeal by 23 February 2007 and allowed the Prosecution, following the supplementation of the document of the Defence, to supplement its response by 28 February 2007.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-834_English.pdf

VERSION PUBLIQUE EXPURGÉE DE LA REQUÊTE DE LA DÉFENSE EN AUTORISATION D’INTERJETER APPEL DE LA DÉCISION DE LA CHAMBRE PRÉLIMINAIRE I DU 29 JANVIER 2007 SUR LA CONFIRMATION DES CHARGES

On 22 February 2007, in accordance with PTC I decisions of 7 and 16 February 2007, the Defence submitted the redacted public version of its application of 5 February 2007 for leave to appeal PTC I decision on the confirmation of charges. In its submission the Defence identified nine appealable issues, the resolution of which was necessary for the judicial determination impugned decision, namely:

- 1) Whether the Pre-Trial Chamber was permitted to admit Prosecution evidence into the confirmation hearing after the limit imposed by the Statute and Rules;
- 2) Whether the Pre-Trial Chamber acted *ultra vires* by making determinations on issues that were not raised by either party during the hearing and failing to grant parties the right to be heard on these issues;
- 3) Whether the Pre-Trial Chamber erred in holding the confirmation hearing whilst two appeals on redactions and on jurisdiction were still pending before the Appeals Chamber;
- 4) Whether the Pre-Trial Chamber erred in refusing the Defence request to withdraw the statements of witnesses on its list of amended evidence;
- 5) Whether the Pre-Trial Chamber erred in law in its definition of the evidentiary threshold of “sufficient evidence to establish substantial grounds to believe” from Article 61(7);
- 6) Whether the Pre-Trial Chamber erred in abusing its discretion in admitting all evidence from the Prosecution Amended List of Evidence;
- 7) Whether the Pre-Trial Chamber erred in admitting evidence that should have been excluded by virtue of Article 69(7);
- 8) Whether the Pre-Trial Chamber erred in reversing the burden of proof from the Prosecution onto the Defence;
- 9) Whether the Pre-Trial Chamber erred in permitting the trial to proceed on a vague indictment which includes irrelevant allegations and fails to specify critical information

Furthermore, the Defence argued that issues 4, 5 and 7 would have affected the outcome of the trial, and that issues 1, 2, 3, 6, 8 and 9 significantly affect the fair and expeditious conduct of the proceedings. Finally, the Defence submitted that there is possibility that an immediate resolution of the issue by the Appeals Chamber would materially advance the proceedings since a resolution of the issues raised is vital so that the future proceedings not be tainted with error.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-836_French.pdf
http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-836-Anx_English.pdf

DECISION OF THE APPEALS CHAMBER ON THE DEFENCE APPLICATION “DEMANDE DE SUSPENSION DE TOUTE ACTION OU PROCEDURE AFIN DE PERMETTRE LA DESIGNATION D’UN NOUVEAU CONSEIL DE LA DEFENSE”

On 23 February 2007, the Appeals Chamber decided to extend until 23 March 2007 for the Defence to submit a response to the Appeals Chamber’s directions of 5 February 2007 and to submit supplementation to the document entitled “Defence submissions on the scope of the right to appeal within the meaning of Art.82 (1) (b)” filed on 7 February 2007. Following such supplementation, the Prosecutor is allowed to supplement his response by 28 March 2007.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-838_English.pdf

REPOSE A LA DEMANDE DE LA DEFENSE EN AUTORISATION D'INTERJETER APPEL DE LA DECISION DE LA CHAMBRE PRELIMINAIRE I DU 29 JANVIER 2007

On 26 February 2007, the Legal Representatives of victims a/0001/06 to a/0003/06 requested PTC I to reject the Defence' 5 February application for leave to appeal against the decision on the confirmation of charges. The Legal Representatives submitted that the Defence' application will retard the proceedings before the Trial Chamber which would go against the interests of the victims. They further submit that a Trial Chamber would be perfectly entitled to correct any eventual violations of the rights of the Defence that the Pre Trial Chamber could have committed in its decision. In addition, they are of the view that the authors of the Rome Statute and the rules of procedure did not envisage the possibility to appeal against a decision confirming the charges.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-839_French.pdf

DECISION CONSTITUTING TRIAL CHAMBER I AND REFERRING TO IT THE CASE OF THE PROSECUTOR V. THOMAS LUBANGA DYILO

On 6 March 2007, the Presidency constituted Trial Chamber I, referred to it the case of The Prosecutor v. Thomas Lubanga Dyilo and suspended transmission of the record of proceedings of PTC I to the Trial Chamber until a new Defence Counsel is assigned to Mr. Lubanga Dyilo.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-842_English.pdf

PROSECUTION'S RESPONSE TO DEFENCE REQUEST FOR LEAVE TO APPEAL THE PRE-TRIAL CHAMBER'S 'DÉCISION SUR LA CONFIRMATION DES CHARGES' OF 29 JANUARY 2007 (PUBLIC REDACTED VERSION)

On 6 March 2007, the Prosecution opposed the Defence request of 5 February 2007 for leave to appeal PTC I decision on the confirmation of charges, except in relation to the Defence's claim that the PTC erred by not following the appropriate procedure for amendment of the charges.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-843_English.pdf

ELECTION OF THE PRESIDING JUDGE OF PRE-TRIAL CHAMBER I

On 7 March 2007, the PTC I declared Judge Akua Kuenyehia as the new presiding judge.

REASONS FOR "DECISION OF THE APPEALS CHAMBER ON THE DEFENCE APPLICATION 'DEMANDE DE SUSPENSION DE TOUTE ACTION OU PROCEDURE AFIN DE PERMETTRE LA DESIGNATION D'UN NOUVEAU CONSEIL DE LA DEFENSE' FILED ON 20 FEBRUARY 2007" ISSUED ON 23 FEBRUARY 2007

On 9 March 2007, the Appeals Chamber provided reasons for its decision of 23 February

2007 on the Defence's application of 20 February. On the Defence's first request to stay before the Court all acts and proceedings affecting the accused, the Appeals Chamber determined it had no power to order stay of all proceedings before another chamber and the Defence's request lacked procedural and substantive foundation in this respect. On the second request to stay the transmission of the record from the Pre-Trial Chamber to the Trial Chamber, the Appeals Chamber held, in majority reasoning, that the responsibility for the transmission of the record lied with the Presidency and that therefore the request should be made to the Presidency rather than to the Appeals Chamber. On the Defence's third request to stay proceedings before the Appeals Chamber until the services of a new Defence Counsel are secured, the Appeals Chamber determined that an extension of 28 days until 23 March 2007 was sufficient to allow the selection of counsel and the subsequent preparation of two expected filings of the Defence.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-844_English.pdf

DÉSIGNATION DE MAÎTRE CATHERINE MABILLE COMME CONSEIL DE LA DÉFENSE DE M. THOMAS LUBANGA DYILO

On 20 March 2007, the Division of Victims and Counsel informed the Appeals Chamber that Catherine Mabilille was appointed by Mr. Lubanga as his new Defence Counsel.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-845_French.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-845-Anx_French.pdf

DÉSIGNATION DE MAÎTRE CATHERINE MABILLE COMME CONSEIL DE LA DÉFENSE DE M. THOMAS LUBANGA DYILO

On 20 March 2007, the Division of Victims and Counsel informed PTC I that Catherine Mabilille was appointed by Mr. Lubanga as his new Defence Counsel.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-847_French.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-847-Anx_French.pdf

DECISION ON THE LIMIT FOR SUBMISSION OF OBSERVATIONS BY THE DEFENCE COUNSEL

On 22 March 2007, PTC I, in noting the appointment of Mr. Lubanga's new Defence Counsel, gave the Defence until 5 April 2007 to file a response to the Prosecution's request of 5 February 2007 for leave to appeal PTC I decision of 29 January 2007 on the confirmation of charges.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-848_English.pdf

PROSECUTION'S SUBMISSION IN ANTICIPATION OF A STATUS CONFERENCE

On 29 March 2007, the Prosecution, in anticipation of the Status Conference, submitted to the Trial Chamber observations on a number of up-coming pre-trial and trial matters that in the Prosecutions' view merit early consideration by the Trial Chamber: instruction of expert witnesses, disclosure, the E-Court Protocol, proofing of witnesses, protection of victims and witnesses and the outcome of the Confirmation of Charges Hearing. The Prosecution suggested that during the status conference the participants be given the opportunity to make oral and written submissions on the mentioned matters.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-853_English.pdf

APPEALS CHAMBER'S DECISION TO EXTEND TIME LIMITS FOR DEFENCE DOCUMENTS

On 3 April 2007, following the failure of the Defence to submit two documents within the time-limit prescribed by the 23 February 2007 decision, the Appeals Chamber decided to extend the time-limit until 4 May 2007, for the Appellant to respond and supplement its earlier submissions. Additionally the Chamber decided that in the event of failure to submit the documents owing to non-appointment of a Counsel, the Registrar is directed to appoint a Counsel to submit the documents by 11 May 2007. The reasons for the decisions will be delivered soon after the court recess.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-857_En.pdf

CLARIFICATION

On 3 April 2007, Thomas Lubanga Dyilo submitted four documents for clarification requesting the Trial Chamber I, PTC I, the Presidency and the Appeals Chamber respectively to stay all acts or proceedings until a counsel for the Defence has been effectively appointed. Mr. Lubanga emphasised that his present representation was not to be interpreted as an expression of the desire to represent himself alone. In the clarification, Mr. Lubanga also observed that Ms. Catherine Mabilille could not be considered the principal counsel, as the power of attorney had not yet been filed. On the standstill of the appointments procedure, Mr Lubanga expressed fear that the conflictive relationship between the Registrar and his previous Counsel over the issue of lack of resources, would repeat itself in light of Ms. Mabilille's reluctance to accept her appointment, thereby putting his defence at a disadvantage.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-858_Fr.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-859_Fr.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-860_Fr.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-861_tEnglish.pdf

DECISION ON THE REQUEST OF THOMAS LUBANGA DYILO TO SUSPEND THE PROCEEDINGS

On 5 April 2007, PTC I, considering that Ms. Catherine Mabilie, the Defence Counsel designated by Thomas Lubanga Dyilo, has yet to accept the position, the PTC I decided to suspend the pre-trial proceedings in relation to the Requests for Leave to Appeal on the Decision Confirming the Charges.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-862_En.pdf

OBSERVATIONS DU GREFFIER EN APPLICATION DE LA RÈGLE 20-1-D DU RÈGLEMENT DE PROCÉDURE ET DE PREUVE RELATIVES AU DOCUMENT INTITULÉ “CLARIFICATION”, DÉPOSÉ À LA PRÉSIDENTICE DE LA COUR LE 3 AVRIL 2007 PAR M. THOMAS LUBANGA DYILO

On 5 April 2007, the Registrar submitted observations to the Presidency in relation to the clarification submitted by Thomas Lubanga Dyilo on 3 April 2007. The Registrar requested the Presidency to order that the request for additional resources cannot be studied at this stage of proceedings when the designated Counsel for the Defence has not yet accepted the appointment. Furthermore, the Registrar requested that the Presidency invites the designated counsel to abide by the procedures applicable before the Court, and to announce without delay the acceptance of such appointment. On the same day, the same observations were submitted to the Trial Chamber and the Appeals Chamber respectively.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-863_Fr.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-864_Fr.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-865_Fr.pdf

CORRIGENDUM AUX OBSERVATIONS DU GREFFIER EN APPLICATION DE LA RÈGLE 20.L.D DU RÈGLEMENT DE PROCEDURE ET DE PREUVE RELATIVES AU DOCUMENT INTITULÉ « CLARIFICATION » DÉPOSÉ À LA CHAMBRE DE PREMIÈRE INSTANCE DE LA COUR LE 3 AVRIL 2007 PAR M. THOMAS LUBANGA DYILO

On 13 April 2007, the Registrar submitted several corrections to its 5 April 2007 observations on the “Clarification” submitted by Lubanga on 3 April 2007 that requested PTC I to stay all acts or proceedings which could impact the rights of the Defence until the effective pervasive appointment of counsel.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-864-Corr_French.pdf

CORRIGENDUM AUX OBSERVATIONS DU GREFFIER EN APPLICATION DE LA RÈGLE 20.L.D DU RÈGLEMENT DE PROCEDURE ET DE PREUVE RELATIVES AU DOCUMENT INTITULÉ « CLARIFICATION » DÉPOSÉ À LA CHAMBRE D’APPEL DE LA COUR LE 3 AVRIL 2007 PAR M. THOMAS LUBANGA DYILO

On 13 April 2007, the Registrar submitted several corrections to its 5 April 2007 observations on the “Clarification” submitted by Lubanga on 3 April 2007 that requested

the Appeals Chamber to stay all acts or proceedings which could impact the rights of the Defence until the effective appointment of counsel.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-865-Corr_French.pdf

STATUS OF PROCEEDINGS

On 13 April 2007, the Trial Chamber I affirmed that all proceedings before it are suspended in consideration of the decision of the Presidency of 6 March 2007 that decided to suspend the transmission of the record to the Chamber until the effective appointment of defense counsel.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-866_English.pdf

RÉPONSE AUX OBSERVATIONS DU GREFFIER EN APPLICATION DE LA RÈGLE 20-1-d DU RÈGLEMENT DE PROCÉDURE ET DE PREUVE RELATIVES AU DOCUMENT INTITULÉ CLARIFICATION DÉPOSÉ À LA PRÉSIDENTIE DE LA COUR LE 3 AVRIL 2007 PAR LUBANGA DU 5 AVRIL 2007

On 17 April 2007, Mr Lubanga, currently without a counsel representing him, filed his response to the Registrar's observations of 5 April 2007 and requested the Appeals Chamber, the Pre-Trial Chamber I and the Presidency: first, to disregard the Registrar's observations on the application of the legal assistance scheme as premature and irrelevant, given that he had not, on the relevant date, applied for additional resources to either the Registrar or Chambers and had merely requested that the proceedings be stayed; secondly, to take no action in relation to the requests within the Registrar's observations, pursuant to the Trial Chamber's decision of 13 April 2007. Mr. Lubanga underlined that his present submission must not be misinterpreted as an expression of his intention to represent himself.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-867_French.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-867-Corr_French.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-868_French.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-868-Corr_French.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-869_French.pdf

APPOINTMENT OF DUTY COUNSEL

On 19 April 2007, PTC I ordered the Registrar or his representatives to appoint a duty counsel for Lubanga. PTC I decided that the mandate of the duty counsel should be limited to the sole purpose of responding to the Prosecution's Application of 5 February 2007. PTC I further ordered the duty counsel to submit his or her response on the Prosecution's 5 February Application within 15 days from his or her appointment.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-870_English.pdf

REASONS FOR THE APPEALS CHAMBER'S DECISION TO EXTEND TIME LIMITS FOR DEFENCE DOCUMENTS ISSUED ON 3 APRIL 2007

On 20 April 2007, the Appeals Chamber reasoned for its decision of 3 April 2007 to extend the time limits for the submission of Defence documents by noting that the Appellant was still without Counsel which was not the fault of the Appellant.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-871_English.pdf

DECISION OF THE APPEALS CHAMBER UPON THE REGISTRAR'S REQUEST OF 5 APRIL 2007

On 27 April 2007, the Appeals Chamber dismissed the Registrar's requests of 5 April 2007. According to the Chamber, the remedies sought are not provided for in the Statute, Rules of Procedure and Evidence or Regulations of the Court. The Appeals Chamber also added that the remedies sought entail the exercise of original jurisdiction by the Chamber and it is not invested with such original jurisdiction in this regard. Finally, the Appeals Chamber stated that it was not an advisory body in regards to the functions of the Registrar.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-873_English.pdf

DECISION OF THE PRESIDENCY UPON THE DOCUMENT ENTITLED "CLARIFICATION" FILED BY LUBANGA ON 3 APRIL 2007, THE REQUESTS OF THE REGISTRAR OF 5 APRIL 2007 AND THE REQUESTS OF LUBANGA OF 17 APRIL 2007

On 2 May 2007, following the requests of the Registrar of 5 April 2007 and the requests of Lubanga of 17 April 2007, the President of the ICC decided that the transmission of the record of PTC I to Trial Chamber I remain suspended. He further requested the Registrar to take all appropriate steps to facilitate the appointment of Counsel for Lubanga without undue delay.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-874_English.pdf

VERSION PUBLIQUE EXPURGÉE DE L'ENREGISTREMENT DANS LE DOSSIER DE 'LA DEMANDE DE RESSOURCES ADDITIONNELLES EN VERTU DE LA NORME 83-3 DU RÈGLEMENT DE LA COUR'

On 3 Mai 2007, Mr Lubanga, currently without a Counsel representing him, submitted to the Presidency, the Appeal's Chamber and the Pre-Trial Chamber the redacted version of his request for additional resources for the defence team. In addition to the core team for the trial phase (which consists of 1 Counsel, 1 Co-Counsel, 1 Legal Assistant and 1 Case

Manager) Lubanga requested the following resources: one or several highly qualified defence attaché(s) from the transition period until the end of the trial phase; and two Legal Assistants (P2 and P1) from now on until the end of the trial phase. He also requested exceptional financial means for the management of the case during the transition phase and the adoption of a new investigation budget.

Lubanga mainly based his request for additional resources on the complexity of the legal and factual arguments and on the experiences gathered so far during the pre-trial phase.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-878_French.pdf
http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-879_French.pdf
http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-880_French.pdf

DÉSIGNATION DE MAÎTRE EMMANUEL ALTIT COMME CONSEIL DE PERMANENCE CONFORMÉMENT À LA DÉCISION DE LA CHAMBRE PRÉLIMINAIRE I DU 19 AVRIL 2007

On 4 May 2007, the Registry decided to appoint Maître Emmanuel Altit as Duty Counsel to represent Lubanga for the sole purpose of preparing a response to the Prosecution's 5 February 2007 Application for leave to appeal PTC I's Decision Confirming the Charges of 29 January 2007.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-881_French.pdf

DÉSIGNATION DE MAÎTRE ANNICK MONGO COMME CONSEIL DE PERMANENCE CONFORMÉMENT À LA DÉCISION DE LA CHAMBRE D'APPEL DU 3 AVRIL 2007

On 4 May 2007, the Registry decided to appoint Maître Annick Mongo as Duty Counsel to represent Lubanga for the sole purpose of submitting a response to the "Directions of the Appeals Chamber" dated 5 February 2007 and a document supporting the "Defence submissions on the scope of the right to appeal" dated 7 February 2007.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-882_French.pdf

ORDONNANCE DEMANDANT DES OBSERVATIONS AU GREFFIER SUITE À LA DEMANDE DE RESSOURCES ADDITIONNELLES FORMULÉE PAR LUBANGA

On 4 May 2007, PTC I ordered the Registrar or his representatives to file observations on the signature appended to Lubanga's application of 3 May 2005 and on its authenticity by 7 May 2007 at the latest.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-884_French.pdf

OBSERVATIONS DE GREFFIER SUR LA SIGNATURE APOSÉE SUR LA DEMANDE DE RESSOURCES SUPPLÉMENTAIRES DE THOMAS LUBANGA DYILO ET SUR SON AUTHENTICITÉ

On 7 May 2007, in response to PTC I request of 4 May 2007, the Registry submitted that there are no elements to conclude that Mr. Lubanga did not sign the document with an aim of submitting it electronically. Additionally, the Registry stated that a further analysis of the authenticity of Mr. Lubanga's signature would require the assistance of an expert to be authorised by the Chamber.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-886_French.pdf

PRESTATION DE SERMENT DE ME ANNICK MONGO

On 8 May 2007, the Appeals Chamber received the solemn undertakings of Ms Annick Mongo as Duty Counsel for the Defence in the Case against Thomas Lubanga Dyilo in accordance with Articles 5 and 22.3 of the Code of Professional Conduct for Counsel.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-889_French.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-889-Anx_French.pdf

PRESTATION DE SERMENT DE ME EMMANUEL ALTIT

On 8 May 2007, PTC I received the solemn undertakings of Mr Emmanuel Altit as Duty Counsel for the Defence in the Case against Thomas Lubanga Dyilo in accordance with Articles 5 and 22.3 of the Code of Professional Conduct for Counsel.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-890_French.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-890-Anx_French.pdf

DEMANDE D'EXTENSION DE DÉLAI

On 9 May 2007, the Defence, in accordance with the Appeals Chamber's decision of 3 April 2007, requested the Appeals Chamber an extension of the time limit until 21 May 2007 to present two documents on behalf of Mr. Lubanga.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-892_French.pdf

PROSECUTION'S RESPONSE TO DUTY COUNSEL'S "DEMANDE D'EXTENSION DE DÉLAI"

On 10 May 2007, in response to the Defence's request of 9 May 2007, the Prosecution submitted to the Appeals Chamber that it does not oppose to the extension of time to 21 May 2007, with the understanding that the time limit for the Prosecution to supplement its response to the Defence's 7 February 2007 Submission on the Scope of Article 82 (1) (b) would also be extended accordingly.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-894_English.pdf

DÉCISION PORTANT DÉSIGNATION D'UN JUGE UNIQUE

On 10 May 2007, PTC I designated Judge Sylvia Steiner as Single Judge in the case against Thomas Lubanga Dyilo from 10 May 2007 until the Chamber otherwise decides.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-898_French.pdf

OBSERVATIONS DE LA DÉFENSE CONFIRMANT LE DOCUMENT 'DEFENCE SUBMISSIONS ON THE SCOPE OF THE RIGHT TO APPEAL WITHIN THE MEANING OF ARTICLE 82-1-B OF THE STATUTE' DU 7 FÉVRIER 2007

On 11 May 2007, the Defence submitted observations to the Appeals Chamber. The Defence reminded the Chamber that the request of 9 May 2007 for an extension of time limit to submit a response remained before the Chamber. According to the Defence, in order to guarantee the interests of the defence of Mr. Lubanga, the Defence's submissions of 7 February 2007 on the scope of the right to appeal were resubmitted to the Chamber. Furthermore, as no additional observations were presented, the Defence argued that the Prosecutor should not be given the right to reply.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-900_French.pdf

RÉPONSE À LA DEMANDE DES VICTIMES A/0001/06, A/0002/06, A/0003/06 ET A/0105/06 D'AUTORISATION DE PARTICIPATION À LA PROCEDURE EN APPEL DE LA DECISION DE CONFIRMATION DES CHARGES

On 11 May 2007, the Defence responded to the Victims' request for participation of 2 February 2007. The Defence argued that the notion of the personal interest of victims must be interpreted with strict adherence to the Statute, and opposed the Victims' argument that they may participate on the matter of appealing the Confirmation of Charges and claimed that the victims' argument reveals their intention to become a party to the process. Reiterating that granting such participation would further stretch the overburdened Defence team, the Defence emphasized that only parties have the right to appeal, and the right of victims to participate is limited to decisions

that concern guilt or sentencing. Finally, the Defence argued that the unauthorized observations of the Victims are not in accordance with the Statute and should be rejected. Furthermore, the Defence requested the Chambers to decide that victims do not have the right to participate in an Appeal against the Confirmation of Charges.

Annexed to the submission, the Defence resubmitted a previous filing by the Defence of 9 February 2007.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-901_French.pdf

DECISION OF THE APPEALS CHAMBER ON MR. THOMAS LUBANGA DYILO'S REQUEST OF 4 MAY 2007

On the 11 May 2007, the Appeals Chamber dismissed Mr. Lubanga's request of 4 May 2007 for an extension to the time limit for the appointment of duty counsel and a corresponding extension for the filings of the documents since, according to the Chamber, the Registrar had notified that duty counsel had been appointed.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-902_English.pdf

DECISION OF THE APPEALS CHAMBER ON THE DEFENCE APPLICATION FOR AN EXTENSION OF TIME OF 9 MAY 2007

On the 11 May 2007, the Appeals Chamber granted the Defence's request of 9 May 2007 and gave the Defence until 21 May 2007 to submit the relevant documents. Correspondingly, the Chamber gave the Prosecution until 28 May 2007 to submit its response.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-903_English.pdf

CORRIGENDUM

On 16 May 2007, a technical corrigendum of the "Response to the application by victims a/ 0001/06, a/0002/06, a/0003/06 and a/0105/06 for authorization to participate in the appeal proceedings relating to the Decision on the confirmation of charges" was issued.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-901-Corr_French.pdf

CLARIFICATION

On 14 May 2007, the Appeals Chamber issued a clarification in regards to a Defence application filed on 9 May 2007 requesting an extension of time. The Appeals Chamber stated that the appellant is free to add, detract or supplement a document filed on 11 May 2007 by the submission of a new

document within the extended time limit. In addition, an extension of time until 28 May 2007 was added to the Prosecution for supplementing its response filed on 13 February 2007.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-904_English.pdf

DEMANDE D'EXTENSION DE DÉLAI

On 14 May 2007, the Duty Counsel of the Defence requested an extension of time until 25 May 2007, or in the alternative until 22 May 2007, to submit a response to the Prosecution's 5 February 2007 Application for Leave to Appeal the Decision Confirming the Charges.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-905_French.pdf

DÉCISION SUR LA DEMANDE DE PROROGATION DE DÉLAI

On 16 May 2007, PTC I decided to extend the time limit until 22 May 2007 for the Defence to submit a response to the Prosecution's 5 February 2007 Application for leave to appeal the Decision Confirming the Charges.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-906_French.pdf

ARGUMENTS SUPPLÉMENTAIRES DE LA DÉFENSE AU DOCUMENT INTITULÉ 'DEFENCE SUBMISSIONS ON THE SCOPE OF THE RIGHT TO APPEAL WITHIN THE MEANING OF ARTICLE 82-1-B OF THE STATUTE' DU FÉVRIER 2007

On 21 May 2007, the Defence supplemented before the Appeals Chamber its submissions of 7 February 2007 with regards to the scope of the right to appeal the decision on the confirmation of. According to the Defence, the decision confirms the arrest warrant, which results in the confirmation of Mr. Lubanga's detention, which constitutes a denial of his release. Thereby, the decision would substitute the initial legal basis for the detention, the arrest warrant. The Defence argued that on the basis of the internationally recognised right to liberty, a decision denying a person's release can be subject to appeal in every instance. Consequently, every decision with the purpose of refusing release, including the confirmation of charges, is within the scope of article 82 (1) (b). Furthermore, the Defence submitted that, in the same way that a confirmation of charges decision can be a decision on jurisdiction or admissibility, and hence, subject to appeal, a decision on the confirmation of charges can also constitute a decision on the release of the accused. Finally, the Defence argued that the nature of the confirmation of charges and the adversarial character of the proceedings, suggest that the party contesting the decision has a right to have it set aside.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-908_French.pdf
http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-908-Corr_French.pdf
http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-908-Corr-tEN_English.pdf

RÉPONSE À LA DEMANDE DE L'ACCUSATION D'AUTORISATION
D'INTERJETER APPEL DÉPOSÉ DEVANT LA CHAMBRE PRÉLIMINAIRE I LE 5
FÉVRIER 2007

On 21 May 2007, the Defence, signed by Mr Lubanga himself, responded to the Prosecution's request of 5 February 2007 to PTC I for leave to appeal the decision on the confirmation of charges. According to the Defence, the Prosecution waived its right to appeal on the matter by inviting the Chamber to apply the same mechanism foreseen in Regulation 55 of the Regulations of the Court in reference to the future Trial Chamber, and by analogy acknowledging that PTC I has the same right to amend the charges on the basis of which it will decide upon the most appropriate forms of liability. In addition, the Defence submitted that it would be against an equitable process to authorise the Prosecution, an officer of justice, to defend a legal position simply because it is directly favourable to its case. Finally, the Defence argued that the Prosecution did not satisfy the cumulative criteria to obtain leave to appeal.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-909_French.pdf

RESPONSE À LA REQUÊTE DU PROCUREUR DU 5 FÉVRIER 2007 EN
AUTORISATION D'INTERJETER APPEL DE LA DÉCISION DE LA CHAMBRE
PRÉLIMINAIRE I DU 29 JANVIER 2007

On 22 May 2007, the Duty Counsel for the Defence, Mr. Emmanuel Altit, responded to the Prosecution's request of 5 February 2007 to PTC I for leave to appeal the decision on the confirmation of charges. According to the Defence, the Prosecution's request is not admissible and PTC I should not grant the Prosecution leave to appeal the Decision on the confirmation of charges since the cumulative criteria established in the Statute have not been satisfied. Additionally, the Defence argued that it would not be reflective of a fair administration of justice to allow the Prosecution to use a remedy when its criteria have not been satisfied in order to overcome its inability to convey evidence in support of the charges as determined by PTC I.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-913_French.pdf

DECISION ON THE PROSECUTION AND DEFENCE APPLICATIONS FOR LEAVE
TO APPEAL THE DECISION ON THE CONFIRMATION OF CHARGES

On 24 May 2007, PTC I rejected both the Prosecution and Defence Application for leave to appeal the Decision on the Confirmation of Charges. The Chamber found that the fair and expeditious conduct of the trial were not significantly affected by the Prosecution's allegation that the Chamber had determined issues not raised at the confirmation hearing without giving the participants the right to be heard. With regards to the issues presented in the Defence Application, the Chamber similarly held that the fair and expeditious conduct of the proceedings were not significantly affected by the alleged admission of Prosecution evidence after the time limit or by any other issues raised, nor did it find that the outcome of the trial was affected.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-915_English.pdf

DEMANDE D'INTERVENTION SUR "DEMANDE DE RESSOURCES ADDITIONNELLES EN VERTU DE LA NORME 83.3 DU RÈGLEMENT DE LA COUR" DÉPOSÉE DEVANT LE GREFFE EN DATE DU 3 MAI 2007

On 24 May 2007, Mr. Lubanga, in response to the Registry's decision of 14 May 2007 denying Mr. Lubanga's request for additional resources, requested PTC I to order the Registrar to take all necessary measures to guarantee that the additional resources required are granted to its future Defence Counsel. Mr. Lubanga argued that this request is due to his growing concern on such an imperative matter on which bad management would compromise its future. According to Mr. Lubanga, the Registry pushed him to self-represent himself due to the lack of adequate resources for his defence, which, in his view, constitutes an enormous risk to his defence. In addition, Mr. Lubanga reassured PTC I of his will to fully participate in the proceedings before the Court and requested PTC I to promptly intervene to take the proceedings and his defence out of the current situation.

The Registry's decision of 14 May 2007 denying Mr. Lubanga's request for additional resources of 3 May 2007 was attached to the filing; as well as a letter from Mr. Jean Flamme, Mr. Lubanga's former Defence Counsel, in which he argues that the working conditions for the Defence during the pre-trial phase have had an influence on his health situation.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-916_French.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-916-Anx2_French.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-916-Anx3_French.pdf

DEMANDE D'INTERVENTION, À TITRE D'AMICUS CURIAE, DE L'ORDRE DES AVOCATS DE PARIS

On 29 May 2007, the Paris Bar requested to be granted leave to intervene as amicus curiae and to be permitted to produce a memorandum on the economic, material and human resources indispensable for an effective defence in the

Lubanga case. If so granted, the Paris Bar further requested to be allowed to make oral presentations in order to support its memorandum.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-917_French.pdf

MOTION AND PROPOSED AMICUS BRIEF IN RELATION TO THE PRO SE REQUEST FOR REVIEW OF THE REGISTRY DECISION OF 14 MAY 2007 BY THOMAS LUBANGA DYILO ON BEHALF OF THE INTERNATIONAL CRIMINAL BAR PURSUANT TO RULE 103 OF THE ICC RULES OF PROCEDURE AND EVIDENCE

On 4 June 2007, the Executive Committee of the International Criminal Bar (ICB) requested PTC I leave to file an attached amicus curiae brief in support of Mr Lubanga's request of 25 May 2007 for review of the Registry Decision of 14 May 2007 denying the application for supplemental legal aid.

In the attached amicus curiae brief, the ICB requested from PTC I that sufficient resources be granted to assure Mr. Lubanga's effective assistance of counsel and a fair trial. It noted the fact that Mr. Lubanga was presently without counsel as his defence counsel, Mr. Flamme resigned for health reasons and a subsequent counsel declined an appointment due to the fact that the Registry would not assure the level of legal aid resources deemed appropriate by the counsel. The ICB, pointing to the fact that the Registry denied Mr. Lubanga's request for legal aid, called on PTC I for a review of the Registrar's decision.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-918_English.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-918-Anx_English.pdf

DÉCISION RELATIVE À LA DEMANDE DE RESSOURCES ADDITIONNELLES EN VERTU DE LA NORME 83-3 DU RÈGLEMENT DE LA COUR ET AUX REQUÊTES À TITRE D'AMICI CURIAE EN VERTU DE LA RÈGLE 103 DU RÈGLEMENT DE PROCÉDURE ET DE PREUVE

On 5 June 2007, PTC I decided with regards to Mr Lubanga's request of 25 May 2007 for review of the Registry Decision of 14 May 2007, and the amicus curiae briefs presented by the Paris Bar and the International Criminal Bar on 30 May and 4 June 2007 respectively, that given PTC I decision of 24 May 2007 denying leave to appeal the decision on the confirmation of charges, the Chamber is no longer competent to deal with Mr Lubanga's request or with any other issue in relation to the case of the Prosecutor against Thomas Lubanga Dyilo.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-919_French.pdf

DECISION TRANSMITTING THE PRE-TRIAL RECORD OF PROCEEDINGS IN

THE CASE OF THE PROSECUTOR V THOMAS LUBANGA DYILO TO TRIAL CHAMBER I

On the 5 June 2007, the Presidency transmitted to Trial Chamber I the full record of the proceedings against Mr. Lubanga before PTC I, including the decision confirming the charges and committing Mr. Lubanga for trial. In its decision, the Presidency noted that the proceedings can not suffer further delay and the matter of assigning defence counsel must be subject to judicial control.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-920_English.pdf

REQUEST FOR REVIEW OF DETENTION

On 6 June 2007, Trial Chamber I requested PTC I to review its ruling on the detention of Mr. Lubanga by 14 June 2007. According to Trial Chamber I, since it did not have sufficient time prior to the date of 14 June 2007 to familiarize itself with the case record in order to review Mr. Lubanga's detention in a fair and effective manner, PTC I should carry out that task.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-921_English.pdf

ENREGISTREMENT DANS LE DOSSIER DE LA CORRESPONDANCE ENTRE M THOMAS LUBANGA DYILO ET LE CHEF DE LA DIRECTION DU SERVICE DE LA COUR

On 6 June 2007, a letter from Mr. Lubanga addressed to the Head of the Division of Court Services was filed in the case records before Trial Chamber I. In his letter, Mr. Lubanga notes that in connection to PTC I decision of 4 August 2006, the Registry has terminated the provision of translation services into French for Mr. Lubanga of documents only available in English. Furthermore, Mr. Lubanga also notes that the translation of such documents is indispensable for the understanding of the substance and basis of the confirmation of charges decision and for the defence strategy in the trial phase. Consequently, Mr. Lubanga requested to be provided with a French interpreter for the translation of the relevant documents.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-922_French.pdf

OBSERVATIONS DU GREFFIER EN APPLICATION DE LA RÈGLE 20.1(D) DU RÈGLEMENT DE PROCÉDURE ET DE PREUVE RELATIVES AUX DEMANDES D'INTERVENTION, À TITRE D'AMICUS CURIAE, CONFORMÉMENT À LA RÈGLE 103 DE RÈGLEMENT DE PROCÉDURE ET DE PREUVE, DÉPOSÉES LES 29 MAI ET 4 JUIN 2007, RESPECTIVEMENT PAR L'ORDRE DES AVOCATS DE PARIS ET LE BARREAU PÉNAL INTERNATIONAL

On 7 June 2007, the Registrar requested the Trial Chamber I to declare admissible his observations on the requests for intervention as amicus curiae submitted by the Paris Bar and the International Criminal Bar on 29 May and 4 June 2007. The Registrar further requested to declare the requests of the Paris Bar and the ICB unfounded and to reject them. The Registrar submitted that in the present case the two entities would not fulfill the requirements of neutrality and impartiality necessary to be admitted as amicus curiae. The Registrar also argued that their intervention would not serve the interest of justice nor good administration. In the alternative, the Registrar requested to be authorized to submit additional observations on the substance in case that the Paris Bar's and the International Criminal Bar's requests were granted.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-923_French.pdf

ANNEX

On 8 June 2007, an annex was issued containing the Registrar's 14 May 2007 position on the defence's request for additional resources submitted on 3 May 2007. The Registrar stated that the request for additional resources regarding the trial phase would be premature at this stage and could only be evaluated later. Also, for the pre-trial phase the requests for additional resources (composition of the defence team and investigation budget) were declined.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-923-Anx1_French.pdf

SECOND REVIEW OF THE "DECISION ON THE APPLICATION FOR INTERIM RELEASE OF THOMAS LUBANGA DYILO"

On 11 June 2007, the Single Judge, having considered all of the circumstances, particularly the gravity of the crimes allegedly committed, the ability of the accused to abscond if granted provisional release and the consequent risk on the safety of victims and witnesses of the Court, assessed the reasonableness of the detention and decided that Mr. Lubanga should continue to be detained.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-924_English.pdf

DECISION OF THE APPEALS CHAMBER ON THE JOINT APPLICATION OF VICTIMS A/0001/06 TO A/0003/06 AND A/0105/06 CONCERNING THE "DIRECTIONS AND DECISIONS OF THE APPEALS CHAMBER" OF 2 FEBRUARY 2007

On 13 June 2007, the Appeals Chamber dismissed the joint application stating that the applicants did not put forward any grounds to justify whether or

how their personal interests are affected and thus failed to show the appropriateness of presenting their views on this preliminary issue. The Judge noted that this would not prejudice future claims of compensation by the Victims.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-925_English.pdf

DECISION ON ADMISSIBILITY OF THE APPEAL OF MR. THOMAS LUBANGA DYILO AGAINST THE DECISION OF PRE-TRIAL CHAMBER 1 ENTITLED “DECISION SUR LA CONFIRMATION DES CHARGES” OF 29 JANUARY 2007

On 13 June 2007, the Appeals Chamber dismissed Mr. Lubanga’s appeal against the decision of Pre-Trial Chamber I on the grounds that Article 82 (1)(b), which was the basis of the Appellant’s argument, specifically granted appeal applications only for decisions granting or denying release and that the decision of the PTC 1 entitled “Décision sur la confirmation des charges” of 29 January 2007, did neither grant nor deny release.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-926_English.pdf

ENREGISTRMENT DANS LE DOSSIER DE L’AFFAIRE DE LA « DÉCISION DU GREFFIER SUR LES RESSOURCES SUPPLÉMENTAIRES PUR LA PHASE DU PROCÈS, SOLLICITÉES PAR M. THOMAS LUBANGA DYILO DANS SA « DEMANDE DE RESSOURCES ADDITIONNELLES EN VERTU DE LA NORME 83.3 DU RÈGLEMENT DE LA COUR », DÉPOSÉE LE 3 MAI 2007 » DU 14 JUIN 2007

On 14 June 2007, the Registrar decided on Lubanga’s request for additional resources submitted on 3 Mai 2007. The Registrar granted, on an exceptional basis, the following resources on top of the resources provided for in the legal aid scheme:

- 1 additional legal assistant (P2) until the final pleadings
- the Co-Counsel (P4) allowed to join the team immediately (without having to wait until the first hearing before the Trial Chamber takes place)
- the former Counsel authorized to assist the defence team as a consultant during a period of 3 months
- an additional investigation budget of 55,315 EUR

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-927_French.pdf

ENREGISTREMENT DE LA PROCURATION DONNÉE PAR ME BAPITA AU CONSEIL PRINCIPAL

AU BUREAU DU CONSEIL PUBLIC POUR LES VICTIMES

On 21 June 2007, the Registry filed before Trial Chamber I a letter from the Legal Representative of victims a/0231/06 to a/0233/06 and a/0242/06 to a/0250/06 of 19 June 2007 authorising the OPCV to, , as of 20 June 2007, have access to all information concerning the applicants and requesting that all public and/or confidential documents of the DRC Situation and the Case against Mr. Lubanga of which she has been notified of, should be also notified to the OPCV.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-929_French.pdf
http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-929-Anx1_French.pdf

ENREGISTREMENT DE LA DÉSIGNATION ET DE LA DÉCLARATION D'ACCEPTATION DE MAÎTRE CATHERINE MABILLE COMME CONSEIL DE M. THOMAS LUBANGA DYILO

On 22 June 2007, the Registry filed, before Trial Chamber I, a letter from Mr. Lubanga of 20 June 2007 informing of his choice to be represented by Ms. Catherine Mabille, along with her declaration of accepting designation as Mr. Lubanga's Counsel.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-928_French.pdf
http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-928-Anx1_French.pdf
http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-928-Anx2_French.pdf

DECISION ON THE “DEMANDE URGENTE EN VERTU DE LA RÈGLE 21-3 DU RÈGLEMENT DE PROCÉDURE ET DE PREUVES” AND ON THE “URGENT REQUEST FOR THE APPOINTMENT OF A DUTY COUNSEL” FILED BY THOMAS LUBANGA DYILO BEFORE THE PRESIDENCY ON 7 MAY 2007 AND 10 MAY 2007, RESPECTIVELY

On 29 June 2007, the Presidency found that Mr. Lubanga's applications of 7 and 10 May 2007 to review the decision of the Registrar appointing duty counsel to represent him pursuant to orders of the Appeals Chamber and Pre-Trial Chamber I were properly addressed to the Presidency and dismissed the applications on the basis that duty counsel appointed for Mr. Lubanga by the Registrar satisfied the criteria set out in the Regulations of the Court.

This decision was reclassified as public on 18 July 2007 pursuant to decision ICC-01/04-01/06-935.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-937_English.pdf

DECISION REPLACING A JUDGE IN PRE-TRIAL CHAMBER I

On 22 June 2007, the Presidency decided to temporarily attach Judge Anita Usacka, who was assigned to the Trial Division, to the Pre Trial Division until further notice; and to assign Judge Usacka to Pre Trial Chamber I to replace Judge Jorda, with effect from 25 June 2007.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-930_English.pdf

ENREGISTREMENT DE LA PRESTATION DE SERMENT DE MAÎTRE
CATHERINE MABILLE ET DE SON ENGAGEMENT PRÉVU À L'ARTICLE 22.3
DU CODE DE CONDUITE PROFESSIONNELLE DES CONSEILS

On 6 July 2007, Trial Chamber I received the solemn undertakings of Ms. Catherine Mabilille as Mr. Lubanga's Counsel in accordance with Articles 5 and 22.3 of the Code of Professional Conduct for Counsel.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-932_French.pdf
http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-932-Anx1_French.pdf
http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-932-Anx2_French.pdf

DECISION NOTIFYING THE ELECTION OF THE PRESIDING JUDGE IN THE
CASE AGAINST MR. THOMAS LUBANGA DYILO

On 12 July 2007, the judges of Trial Chamber I elected Judge Adrian Fulford as Presiding Judge in the case against Mr. Thomas Lubanga Dyilo.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-934_English.pdf

DECISION ORDERING THE REGISTRAR TO RE-FILE, AS PUBLIC DOCUMENT,
THE PRESIDENCY'S DECISION ON THE "DEMANDE URGENTE EN VERTU DE
LA RÈGLE 21-3 DU RÈGLEMENT DE PROCÉDURE ET DE PREUVES" AND ON
THE "URGENT REQUEST FOR THE APPOINTMENT OF A DUTY COUNSEL"
FILED BY THOMAS LUBANGA DYILO BEFORE THE PRESIDENCY ON 7 MAY
2007 AND 10 MAY 2007, RESPECTIVELY

On 17 July 2007, the Presidency order the Registrar to re-file as a public document the Presidency's Decision of 29 June 2007 on the applications filed by Mr. Lubanga on 7 and 10 May 2007. According to the Presidency, there is nothing in the decision that touches upon legal professional privilege or that warrants the retention of the confidential ex parte classification.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-935_English.pdf

REQUEST FOR SUBMISSIONS ON THE SUBJECTS THAT REQUIRE EARLY
DETERMINATION

On 18 July 2007, in order to facilitate the preparation of the trial of Mr. Lubanga, Trial Chamber I set out non exhaustive preliminary proposals as to the subjects that require early determination, together with suggested dates for the filing of submissions on those issues and any hearing. Furthermore, the Chamber scheduled a hearing on 4 September 2007 in order to ascertain areas of agreement and to hear the parties' and participants' submissions where agreement has not been achieved or where the judges are not persuaded by any of the agreed proposals. Also, the Chamber directed the Registrar to inform those applicants who have requested to participate as victims in the proceedings of the timetable. Finally, the Chamber decided that only those victims who were granted victim status before PTC I may participate at this hearing.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-936_English.pdf

RÉPONSE DE LA DÉFENSE À L'INVITATION DE LA CHAMBRE DE PREMIÈRE INSTANCE À PRÉSENTER DES CONCLUSIONS SUR DES QUESTIONS DEVANT ÊTRE TRANCHÉES À UN STADE PRÉCOCE DE LA PROCÉDURE

On 7 August 2007, the Defence requested Trial Chamber I to grant them an extension of two months to become familiar with the file justifying this request with the need to establish a new team, which the Defence hopes to be constituted on 1 September 2007. Moreover, the Defence considered essential the proper familiarisation with the ample and complex file in order to reply comprehensively to the questions raised by the Chamber on 18 July 2007. For these reasons, the Defence expressed its intention to propose a new calendar at the audience scheduled on 4 September 2007.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-940_French.pdf

PROSECUTION'S RESPONSE TO THE « REPONSE DE LA DEFENSE A L'INVITATION DE LA CHAMBRE DE PREMIERE INSTANCE A PRESENTER DES CONCLUSIONS SUR DES QUESTIONS DEVANT ETRE TRANCHEES A UN STADE PRECOCE DE LA PROCEDURE »

On 15 August 2007, the Prosecution opposed the Defence's request to delay by two months the schedule established by the Trial Chamber. According to the Prosecution, a delay is unnecessary since the subjects for determination are predominantly of a procedural nature and thus do not require in-depth knowledge, and if a delay is granted key matters related to the preparation of the trial would not be determined and thus would significantly delay the commencement of the trial. Furthermore, the Prosecution supported the Defence's submission that additional time is required to make a determination on the procedures to be adopted for instruction of expert witnesses and thus proposed its inclusion in the list of subjects scheduled to be submitted by 21 September 2007 and to be heard in October 2007. The Prosecution finally suggested to add to the list of subjects that require early determination: 1) the place of the trial and 2) the manner in which evidence shall be submitted.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-941_English.pdf

DIRECTION SUSPENDING THE TIMETABLE ON THE SUBJECTS THAT REQUIRE EARLY DETERMINATION

On 17 August 2007, the Trial Chamber suspended the proposed timetable set out in the Chamber's request of 18 July 2007. It recognised that whilst attempts had been made to reach an agreement on the agenda and timetable, consensus had not been reached and therefore new directions on the agenda and timetable would only be issued after the 4 September hearing.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-942_English.pdf

AVIS DE LA DÉFENSE DE SON INTENTION D'AJOUTER UN ÉLÉMENT À L'AGENDA DES POINTS DEVANTS ÊTRE TRAITÉS LORS DE L'AUDIENCE DE MISE EN ÉTAT DU 4 SEPTEMBRE 2007

On 3 September 2007, the Counsel for the defence submitted to the Trial Chamber I that she wanted to add the issue of designating M. Biju-Duval as Co-Counsel for the Defence to the points to be discussed during the preparation hearing of 4 September 2007.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-943_French.pdf

ORDER SCHEDULING EX PARTE HEARING

On 5 September 2007, the Trial Chamber scheduled to convene on 7 September 2007 in order to hear further submissions with regard to the Prosecution's filing of 3 September 2007.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-945_English.pdf

ORDER SETTING OUT SCHEDULE FOR SUBMISSIONS AND HEARINGS REGARDING THE SUBJECTS THAT REQUIRE EARLY DETERMINATION

On 5 September 2007, the Trial Chamber I set out the timetable for the filing of submissions and for hearings on the issues that require early determination in the preparation for the Lubanga trial.

Hearing date 1 October 2007: date of the trial, languages to be used in the proceedings, disclosure of evidence and e-court protocol

Hearing dates 30, 31 October and 1, 2 November 2007: role of victims in the proceedings leading up to and during the trial, procedures for instructing expert witnesses, witness familiarization and witness proofing.

Hearing date 20 November: status of evidence heard by the PTC, status of the decisions of the PTC in trial proceedings.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-947_English.pdf

DOCUMENT DESCRIPTIF DES DIFFICULTÉS INFORMATIQUES
RENCONTRÉES PAR L'ÉQUIPE DE LA DEFENSE EN DATE DU 6 SEPTEMBRE
2007

On 6 September 2007, the Counsel for the Defence submitted to the Trial Chamber I a document listing IT and other technical problems encountered by the Defence Team since the beginning of August 2007.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-948_French.pdf

REQUEST FOR EXTENSION OF PAGE LIMIT

On 10 September 2007, in relation to the Trial Chamber I decision of 5 September 2007, the Prosecution requested the Chamber, due to the complexity of the issues, to extend the page limit of its filing in relation to the status before the Trial Chamber of the evidence heard by PTC I; the status of PTC I decisions in trial proceedings; and the manner in which evidence shall be submitted.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-949_English.pdf

DECISION REJECTING PROSECUTION'S REQUEST FOR EXTENSION OF PAGE
LIMIT

On 11 September 2007, Trial Chamber I rejected the Prosecution's request for extension of the page limit because it did not explicitly address the exceptional circumstances test outlined in Regulation 37(2). According to the Chamber, the Prosecution also did not provide adequate reasons of the complexity of the issues nor why it is difficult to address them sufficiently within 20 pages.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-950_English.pdf

PROSECUTION'S SUBMISSION REGARDING THE SUBJECTS THAT REQUIRE
EARLY DETERMINATION: TRIAL DATE, LANGUAGES TO BE USED IN THE
PROCEEDINGS, DISCLOSURE AND E-COURT PROTOCOL

On 11 September 2007, the Prosecution filed a submission to Trial Chamber I on subjects that require early determination. Accordingly, the Prosecution did not suggest any specific date for the commencing of the Trial but stated that the authority to decide on this matter should be solely of the Trial Chamber; however, it requested a commencing date as early as possible without disregarding fairness to all participants.

Furthermore, the Prosecution announced tentatively that its evidence to that point consisted of 417 items, excluding statements of witnesses, and that it anticipated a number of 45 to 50 witnesses for the Trial. Swahili should be the only additional

language to be used during the proceedings. Moreover, the Prosecution anticipated that non-confidential evidence would be disclosed by the end of October 2007 in a manner of intervals of two to three weeks. A system of disclosing material electronically is currently discussed with the Defence.

In addition, the Prosecution reiterated its invitation to the Defence to contribute to the keyword search list and to disclose any material relevant to the preparation of the defence. In its submission, the Prosecution supported the request of the legal representatives of the victims to have access to disclosed evidence. It furthermore submitted that it should be the decision of the Defence to communicate to the Trial Chamber any disclosed materials, and that originals of incriminatory evidence, in principle, should remain with the Prosecution and only be transmitted to the Trial Chamber upon its request and on a case-by-case basis.

Finally, regarding the introduction of an e-Court Protocol, the Prosecution stated that it generally supported the adoption of such a protocol, however opposed to certain implementation aspects of it and expressed its preference for an e-Court Protocol similar to the one prepared and submitted jointly by the Prosecution, Defence and Registry on 20 July 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-951_English.pdf

PROSECUTION'S SUBMISSIONS REGARDING THE SUBJECTS THAT REQUIRE EARLY DETERMINATION: PROCEDURES TO BE ADOPTED FOR INSTRUCTING EXPERT WITNESSES, WITNESS FAMILIARIZATION AND WITNESS PROOFING.

On 12 September 2007, the Prosecution submitted to Trial Chamber I its position on procedures to be adopted for instructing expert witnesses and reiterated its opinion of the advantages of a joint instruction of expert witnesses by all the parties or, failing that, use common experts instructed separately. According to the Prosecution, while witness familiarisation is part of the mandate of the Victims and Witnesses Unit, witness proofing should be performed by the Prosecution. The Prosecution holds that proofing is permissible, endorsed at the international and the national level. Furthermore, the Prosecution argued that the Rome Statute does not explicitly forbid the practice and a purposive review shows it supports the proposal that pre-trial witness interviews by parties to the proceedings are permissible. Finally, the Prosecution submitted that its office is best situated to proof witnesses it intends to call at trial and will record and disclose evidence derived from proofing sessions to the Defence.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-952_English.pdf

PROSECUTION'S SUBMISSION REGARDING THE SUBJECTS THAT REQUIRE EARLY DETERMINATION: STATUS OF THE EVIDENCE HEARD BY THE PRE-TRIAL CHAMBER; STATUS OF DECISIONS OF DECISIONS OF THE PRE-TRIAL CHAMBER; AND MANNER IN WHICH EVIDENCE SHALL BE SUBMITTED

On 12 September 2007, pursuant to the Trial Chamber I decision of 5 September 2007, the Prosecution filed a submission before the Chamber regarding subjects that require early determination. In its submission, the Prosecution argued that the Chamber should have independent authority to determine the admissibility and status of evidence presented before the Pre-Trial Chamber as well as on the status of the decisions made by the latter. Regarding the manner in which evidence shall be submitted; the Prosecution requested authorisation to present all incriminatory evidence at the beginning of the trial and that witnesses first be questioned by the party submitting evidence and subsequently, if considered necessary, by the Trial Chamber, as the Defence must always be the last to examine a witness. Finally, the Prosecution submitted that the questioning of witnesses be limited to matters relevant to the case and that the presentation of evidence be done from the bar table.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-953_English.pdf

CONCLUSIONS SUR DES QUESTIONS PRELIMINAIRES.

On 24 September 2007, the Legal Representatives of the victims a/0001/06, a/0002/06 and a/0003/06, with regards to the issues that require early determination, requested Trial Chamber I to be provided with the complete index of the Case file and to take note of their reserves concerning the trial date, languages to be used in the proceedings, disclosure matters and E-court Protocol.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-964_French.pdf

MOTION BY FORMER COUNSEL FOR LEAVE TO FILE WRITTEN CORRIGENDA TO ORAL ARGUMENTS

On 13 September 2007, Mr. Jean Flamme, former counsel for Thomas Lubanga Dyilo, requested Trial Chamber I leave to file a written correction of his oral submission on 9 November 2006 during the confirmation hearing before PTC I. According to Mr. Flamme, instead of saying: “I said that he accepted in his team somebody who attempted – who made an attempt on the life of my client.”, he should have said: “I said that he accepted in his team somebody who was a member of a government that attempted – that made and attempt on the life of my client.”

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-958_English.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-958-Anx_English.pdf

DEFENCE SUBMISSION ON THE SUBJECTS THAT REQUIRE EARLY DETERMINATION: TRIAL DATE, LANGUAGES TO BE USED IN THE PROCEEDINGS, DISCLOSURE OF EVIDENCE AND E-COURT PROTOCOL

On 24 September 2007, pursuant to the Trial Chamber I decision of 5 September 2007, the Defence filed a submission before the Chamber regarding subjects that require early

determination. The Defence requested that the trial starts not earlier than three months after the end of the disclosure of the Prosecution's evidence and the final list of witnesses. Furthermore, the Defence demanded that the disclosure of all documents in an unredacted form be completed by 31 October 2007. The Defence anticipated that its witnesses would speak mainly in French, Swahili (as spoken in Ituri) and Kilendu. Regarding an e-court protocol, the Defence requested that the system put into place by the Single Judge on 28 September 2006 be maintained.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-960-tENG_English.pdf

SUBMISSIONS OF THE LEGAL REPRESENTATIVE OF VICTIMSA/0105/06 IN RESPONSE TO THE ORDER SETTING OUT SCHEDULE FOR SUBMISSIONS AND HEARINGS REGARDING THE SUBJECTS THAT REQUIRE EARLY DETERMINATION

On 24 September 2007, Ms. Carine Bapita, the Legal Representative of Victim a/0105/06 submitted to Trial Chamber I, regarding the possible trial date, that she has not had an opportunity to familiarize herself with the full record of the case and that she is not in a position to provide details on the trial date until the Chamber has ruled on several issues regarding disclosure. Regarding languages at trial, the Legal Representative noted her client is not capable of using either French or English and suggested the Chamber to authorise her client to use Alur if invited to the proceedings. On the matter of reparations, the Legal Representative requested additional time to review all the relevant evidence before identifying languages other than French and English that may be necessary to the proceedings. On the disclosure of evidence and materials, Ms. Bapita requested access to the full index of the record of the case and reserved her right to submit her proposal regarding the disclosure of evidence and materials after she has had the opportunity to inspect the record of the case and reviewed other participants' positions. Finally, with regards to an e-Court Protocol, Ms. Bapita found some aspects to be problematic, on which she will elaborate at the hearing of 11 September 2007, and therefore, she requested the Chamber to reserve her right to make her submissions and/or further observations on issues at the hearing.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-961-tENG_English.pdf

THE TRIAL CHAMBER'S AGENDA FOR THE HEARING ON MONDAY 1 OCTOBER 2007

On 25 September 2007, Trial Chamber I issued the agenda for the 1 October 2007 hearing, in which the issues of the date of the trial; the languages to be used in the proceedings; the timing and manner of disclosure of evidence; an e-court protocol; procedures for *ex parte* proceedings; and a reporting system between the Registrar and the Chamber will be discussed. If necessary, the Chamber will extend the meeting until 2 October 2007.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-962_English.pdf

CONCLUSIONS CONJOINTES DES REPRESENTANTS LEGAUX DES VICTIMES
a/0001/06 A a/0003/06 AND a/0105/06 RELATIVES AUX MODALITES DE
PARTICIPATION DES VICTIMES DANS LE CADRE DES PROCEDURES
PRECEDANT DE LA PROCES ET LORS DU PROCES.

On 28 September 2007, regarding the modalities for the participation of victims in the proceedings, the Legal Representatives of the victims a/0001/06 to a/0003/06 and a/0105/06 jointly requested Trial Chamber I to be allowed, at this stage of the proceedings, to participate in all Status Conferences, to submit observations on every issue that can influence the proceedings, and to respond to observations made by the Prosecution and the Defence. Furthermore, the Legal Representatives argued that during the trial phase, victims should be allowed to participate in all hearings; to submit observations on every issue that can influence the proceedings; to express their views and concerns through their legal representatives, in particular, by means of an initial and final statement; be heard in person by the Chamber if so they wish, call witnesses and experts to support their claims for reparation, have access to the lists of witnesses and expert witnesses of the Prosecution and their declarations, and to be granted the protective measures necessary for their security, in particular, to keep their anonymity.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-964_French.pdf

ENREGISTREMENT DE LA PRESTATION DE SERMENT DE MAITRE JEAN-
MARIE BIJU-DUVAL ET DE SON ENGAGEMENT PREVU A L'ARTICLE 22.3 DU
CODE DE CONDUITE PROFESSIONNELLE DES CONSEILS.

On 28 September 2007, the Registry filed in the records the solemn undertakings of Maître Jean-Marie Biju-Duval as Mr. Lubanga's Associate Counsel in accordance with Article 22.3 of the Code of Professional Conduct for Counsel.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-965_French.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-965-Anx1_French.pdf

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-965-Anx2_French.pdf

CICC'S POLICY ON THE REFERRAL AND PROSECUTION OF SITUATIONS
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The Coalition for the ICC is not an organ of the Court. The CICC is an independent NGO movement dedicated to the establishment of the International Criminal Court as a fair, effective, and independent international organization. The Coalition will continue to provide the most up-to-date information about the ICC and to help coordinate global action to effectively implement the Rome Statute of the ICC. The Coalition will also endeavor to respond to basic queries and to raise awareness about the ICC's trigger

mechanisms and procedures, as they develop. The Coalition as a whole, and its secretariat, do not endorse or promote specific investigations or prosecutions or take a position on situations before the ICC. However, individual CICC members may endorse referrals, provide legal and other support on investigations, or develop partnerships with local and other organizations in the course of their efforts.

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