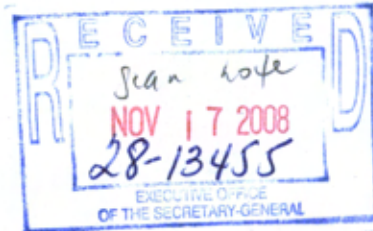


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Note to Mr. Nambiar

International Criminal Court – The situation in the Democratic Republic of the Congo
Trial Chamber I decisions in the case The Prosecutor v. Thomas Lubanga Dyilo

1. We wish to inform you that earlier today Trial Chamber I of the International Criminal Court has announced two important decisions with regard to the case against former Ituri warlord Thomas Lubanga Dyilo. The effect of these decisions is that the trial against Mr. Lubanga can now proceed.

2. Firstly, the Trial Chamber decided to lift the stay of proceedings that had been imposed on 13 June 2008. You will recall in this connection that this stay had initially been imposed because of the Chamber's conclusion that the Prosecutor had incorrectly used a provision in the Rome Statute that allows him to receive information and documents in confidence. Many of those documents that the Prosecutor held in confidence had been provided by the United Nations. The problem was resolved through intensive cooperation between this Office with dedicated support of DPKO and MONUC and the ICC Office of the Prosecutor. A way has been found to satisfy the concerns of the Court while at the same time maintaining the confidentiality of our sources. Thus the safety and security of UN officials and other persons in the DRC can be protected. Please note in this connection that throughout this process the United Nations has consistently been commended by various organs of the Court as well as by the Trial Chamber itself for its excellent cooperation and its good faith efforts to help resolve the issues that caused the blockage.

3. Secondly, the Trial Chamber announced its decision not to grant the release or provisional release of the accused. Mr. Lubanga will, therefore, remain in custody.

4. While the ICC has issued press releases, copies of which are attached for your information, the actual decisions have not been released yet. As soon as those decisions become available this Office will analyze them.

5. The beginning of the trial against Mr. Lubanga has now been provisionally scheduled for 26 January 2009. We will keep you informed of any important developments as we receive them.

Patricia O'Brien
18 November 2008

cc.: Mr. Le Roy
Mr. Holmes
Ms. Pillay
Mr. Pascoe
Mr. Veness
Ms. Coomaraswamy
Mr. Kim

