

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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Date: 7 March 2011

TRIAL CHAMBER I

Before: Judge Adrian Fulford, Presiding Judge
Judge Elizabeth Odio Benito
Judge René Blattmann

***SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO IN THE CASE
OF THE PROSECUTOR v. THOMAS LUBANGA DYILO***

Public

Redacted Decision on the “Quatrième requête de la Défense aux fins de dépôt de documents”

Decision/Order/Judgment to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

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Other

Trial Chamber I ("Trial Chamber" or "Chamber") of the International Criminal Court ("Court"), in the case of *The Prosecutor v. Thomas Lubanga Dyilo*, delivers the following Decision on the "Quatrième requête de la Défense aux fins de dépôt de documents":¹

I. Background

1. On 20 May 2010, the Chamber issued its Decision on Intermediaries,² ordering the disclosure of information relevant to the prosecution's intermediaries and granting the defence request for a schedule setting out the known contacts between the intermediaries, between the intermediaries and the witnesses, and between the witnesses.³ The Chamber ordered that it "should indicate, *inter alia*, the dates of meetings, the names of those present and the location."⁴
2. In response to the Chamber's order, the Office of the Prosecutor ("prosecution" or "OTP") disclosed a table of contacts to the defence on 7 June 2010.⁵ On 9 June 2010 the prosecution disclosed an updated table containing "the additional disclosable information on the known contacts among the witnesses whose evidence falls within Article 67(2) of the Rome Statute and Rule 77 of the Rules of Procedure and Evidence".⁶
3. On 22 June 2010, the prosecution disclosed to the defence a third version of

¹ Quatrième requête de la Défense aux fins de dépôt de documents, 26 November 2010, ICC-01/04-01/06-2644-Conf with 43 confidential annexes.

² Decision on Intermediaries, 12 May 2010, ICC-01/04-01/06-2434-Conf-Exp. This decision was issued as confidential *ex parte* to the prosecution and VWU only and a corrigendum was issued on 27 May 2010, ICC-01/04-01/06-2434-Conf-Exp-Corr. A confidential redacted version was issued on 20 May 2010, ICC-01/04-01/06-2434-Conf-Red and a corrigendum was issued on 27 May 2010, ICC-01/04-01/06-2434-Conf-Red-Corr. A public redacted version was issued on 31 May 2010, ICC-01/04-01/06-2434-Red2.

³ ICC-01/04-01/06-2434-Red2, paragraphs 147 and 150.

⁴ ICC-01/04-01/06-2434-Red2, paragraph 147.

⁵ Annex B to Prosecution's communication of information on intermediaries and witnesses pursuant to Trial Chamber's Order of 12 May 2010, 7 June 2010, ICC-01/04-01/06-2466-Conf-AnxB.

⁶ Prosecution's Submission of its "Updated Schedule on the Contacts Between Witnesses" pursuant to Trial Chamber's Order of 12 May 2010, 9 June 2010, ICC-01/04-01/06-2469-Conf, paragraph 1 and ICC-01/04-01/06-2469-Conf-AnxA.

the table of contacts, containing only the intermediaries and witnesses who have testified before the Chamber.⁷

4. On 18 October and 24 November 2010 the prosecution disclosed to the defence updated tables of every contact between the intermediaries, between the intermediaries and the witnesses, and between the witnesses.⁸
5. On 13 October 2010, the Chamber issued its "Decision on the defence request for disclosure of screening notes", ordering the prosecution to disclose tables of contacts concerning intermediaries DRC-OTP-WWWW-143 ("intermediary 143"), DRC-OTP-WWWW-316 ("intermediary 316") and DRC-OTP-WWWW-321 ("intermediary 321"), which were to set out all the relevant information from its "situation contacts management system", but excluding protected information and any assessments that fall within the scope of Rule 81(1) and (3) of the Rules of Procedure and Evidence ("Rules").⁹
6. On 25 and 29 October 2010, the prosecution disclosed to the defence three tables detailing contacts between the prosecution and intermediaries 143, 316 and 321.¹⁰ On 16 November 2010, the prosecution disclosed to the defence a table with one entry setting out that on 12 November 2009 intermediary 183 indicated to an OTP investigator that he had spoken to intermediary 316 in May or June 2009.¹¹

⁷ ICC-01/04-01/06-2644-Conf, paragraph 4 and ICC-01/04-01/06-2644-Conf-Anx4.

⁸ ICC-01/04-01/06-2644-Conf, paragraph 4 and ICC-01/04-01/06-2644-Conf-Anx5 and ICC-01/04-01/06-2644-Conf-Anx6. The 18 October 2010 and a copy disclosed the defence on 5 November 2010 were evidently incomplete, and did not receive ERN numbers. ICC-01/04-01/06-2644-Conf, footnote 4.

⁹ ICC-01/04-01/06-2585-Conf, paragraph 22, reclassified as public pursuant to the Chamber's order of 10 November 2010, ICC-01/04-01/06-2585.

¹⁰ ICC-01/04-01/06-2644-Conf, paragraph 6, and ICC-01/04-01/06-2644-Conf-Anx7 (DRC-OTP-0233-0406), ICC-01/04-01/06-2644-Conf-Anx8 (DRC-OTP-0233-0518), and ICC-01/04-01/06-2644-Conf-Anx9 (DRC-OTP-0233-0458). According to the defence, the prosecution had previously sent courtesy copies of these charts to the defence via email. ICC-01/04-01/06-2644-Conf, footnote 7.

¹¹ ICC-01/04-01/06-2644-Conf, paragraph 7, referring to ICC-01/04-01/06-2644-Conf-Anx10 (DRC-OTP-0234-0221).

7. On 26 November 2010, the defence filed its “Quatrième requête de la Défense aux fins de dépôt de documents” seeking leave to introduce 43 documents into evidence.¹²
8. By email of 3 December 2010, the Chamber informed the parties and participants that the fourth and fifth defence requests on admission of documents (including the present application) would be dealt with after all the submissions had been filed on the abuse of process motion.¹³
9. On 10 December 2010, the defence submitted its request for a permanent stay of the trial on the basis of abuse of process, arguing that the prosecution has failed to fulfil its responsibilities under the Rome Statute (“Statute”) and that as a consequence a fair trial is no longer possible.¹⁴
10. On 23 February, the Trial Chamber issued the Decision on the “Defence Application Seeking a Permanent Stay of the Proceedings” in which it refused the defence application.¹⁵ However, the Chamber emphasised that it:

[...] will be able, in due course, to reach final conclusions on the alleged impact of the involvement of the intermediaries on the evidence in this case, as well as on the wider alleged prosecutorial misconduct or negligence based on the suggested failure by the Office of the Prosecutor to supervise or control the individual intermediaries and to act on indications of unreliability (together with the consequences of any adverse findings in this regard, which the defence alleges taints all the prosecution's evidence).¹⁶

Evidence relating to the allegations in the defence abuse application will, therefore, be considered by the Chamber in due course.

11. The documents that are the subject of the request consist of (i) the tables disclosed by the Office of the Prosecutor pursuant to orders of the Chamber;

¹² ICC-01/04-01/06-2644-Conf, paragraph 1.

¹³ Email communication from a Legal Officer to the Trial Division on 3 December 2010.

¹⁴ Requête de la Défense aux fins d'arrêt définitive des procédures, 10 December 2010, ICC-01/04-01/06-2657-Conf.

¹⁵ ICC-01/04-01/06-2690-Conf.

¹⁶ ICC-01/04-01/06-2690-Conf, paragraph 198.

- (ii) a book written by Gil Courtemanche entitled “Un lézard au Congo”; and
- (iii) administrative documents relating to intermediary 143.¹⁷

12. The prosecution opposes the application to admit the tables and the book “Un lézard au Congo” but it does not object to the introduction of the administrative documents relating to intermediary 143.¹⁸

13. A detailed summary of the submissions of the parties as regards each of the three categories of documents is included below, as part of the analysis of these requests.

II. Applicable Law and relevant Decisions

14. In accordance with Article 21(1) of the Statute, the Trial Chamber has considered the following provisions:

Article 64 of the Statute

Functions and powers of the Trial Chamber

[...]

2. The Trial Chamber shall ensure that a trial is fair and expeditious and is conducted with full respect for the rights of the accused and due regard for the protection of victims and witnesses.

[...]

9. The Trial Chamber shall have, inter alia, the power on application of a party or on its own motion to:

(a) Rule on the admissibility or relevance of evidence.

[...]

Article 67 of the Statute

Rights of the accused

1. In the determination of any charge, the accused shall be entitled to a public hearing, having regard to the provisions of this Statute, to a fair hearing conducted impartially, and to the following minimum guarantees, in full equality:

[...]

(b) To have adequate time and facilities for the preparation of the defence [...]

¹⁷ ICC-01/04-01/06-2644-Conf, paragraph 2.

¹⁸ Prosecution’s Response to the « Quatrième requête de la Défense au fins de dépôt de documents » of 26 November 2010, 20 December 2010, ICC-01/04-01/06-2665-Conf, paragraphs 2 – 3.

Article 69 of the Statute

Evidence

[...]

2. The testimony of a witness at trial shall be given in person, except to the extent provided by the measures set forth in article 68 or in the Rules of Procedure and Evidence. The Court may also permit the giving of *viva voce* (oral) or recorded testimony of a witness by means of video or audio technology, as well as the introduction of documents or written transcripts, subject to this Statute and in accordance with the Rules of Procedure and Evidence. These measures shall not be prejudicial to or inconsistent with the rights of the accused.

3. The parties may submit evidence relevant to the case, in accordance with article 64. The Court shall have the authority to request the submission of all evidence that it considers necessary for the determination of the truth.

4. The Court may rule on the relevance or admissibility of any evidence, taking into account, *inter alia*, the probative value of the evidence and any prejudice that such evidence may cause to a fair trial or to a fair evaluation of the testimony of a witness, in accordance with the Rules of Procedure and Evidence.

Rule 63 of the Rules

General provisions relating to evidence

[...]

2. A Chamber shall have the authority, in accordance with the discretion described in article 64, paragraph 9, to assess freely all evidence submitted in order to determine its relevance or admissibility in accordance with article 69.

3. A Chamber shall rule on an application of a party or on its own motion, made under article 64, subparagraph 9 (a), concerning admissibility when it is based on the grounds set out in article 69, paragraph 7.

Rule 64 of the Rules

Procedure relating to the relevance or admissibility of evidence

1. An issue relating to relevance or admissibility must be raised at the time when the evidence is submitted to a Chamber. Exceptionally, when those issues were not known at the time when the evidence was submitted, it may be raised immediately after the issue has become known. The Chamber may request that the issue be raised in writing. The written motion shall be communicated by the Court to all those who participate in the proceedings, unless otherwise decided by the Court.

2. A Chamber shall give reasons for any rulings it makes on evidentiary matters. These reasons shall be placed in the record of the proceedings if they have not already been incorporated into the record during the course of the proceedings in accordance with Article 64, paragraph 10, and Rule 137, sub-rule 1.

3. Evidence ruled irrelevant or inadmissible shall not be considered by the Chamber.

15. The Chamber's 13 June 2008 "Decision on the admissibility of four documents" sets out the Chamber's general approach to admissibility of

evidence other than direct oral evidence.¹⁹ The Chamber referred to the first sentence of Article 69(2) of the Statute, noting that notwithstanding the desirability that witnesses should give evidence orally in accordance with Article 69(2), there is “a clear recognition that a variety of other means of introducing evidence may be appropriate”.²⁰ The decision set out that the Trial Chamber’s approach in this context is governed by (i) its authority pursuant to Article 69(3) of the Statute to request the submission of any evidence that it considers necessary in order to determine the truth; (ii) its obligation pursuant to Article 64(2) of the Statute to ensure that the trial is fair and expeditious; and (iii) the “wide discretion to rule on admissibility or relevance of evidence” conferred on the Chamber by Article 64(9) of the Statute.²¹ In addition, Rule 63(2) of the Rules provides that “a Chamber shall have the authority [...] to assess freely all evidence submitted in order to determine its relevance or admissibility in accordance with article 69.”

16. Against that background, the Chamber established a three-stage, case-by-case approach to the admissibility of evidence other than oral evidence.²² First, the Chamber will determine whether the evidence in question is of *prima facie* relevance to the trial, in that it relates to matters that are properly to be considered by the Chamber in its investigation of the charges against the accused.²³ Second, the Chamber must assess whether the evidence has, on a *prima facie* basis, probative value.²⁴ The Chamber emphasised that “a decision on [the] particular piece of evidence will turn on the issues in the case, the context in which the material is to be introduced into the overall scheme of the evidence and a detailed examination of the circumstances of the disputed evidence”.²⁵ Third, where relevant, the Chamber must weigh the probative

¹⁹ ICC-01/04-01/06-1398-Conf; public redacted version issued on the same day, ICC-01/04-01/06-1399.

²⁰ ICC-01/04-01/06-1399, paragraph 22.

²¹ ICC-01/04-01/06-1399, paragraphs 20, 21 and 23.

²² ICC-01/04-01/06-1399, paragraph 26.

²³ ICC-01/04-01/06-1399, paragraph 27.

²⁴ ICC-01/04-01/06-1399, paragraph 28.

²⁵ ICC-01/04-01/06-1399, paragraph 29.

value of the evidence against its potential prejudicial effect.²⁶

III. Submissions and Analysis

17. Turning to the instant application, the Chamber has analysed the documents in the 43 defence annexes by reference to the three categories.

(1) Tables of contacts between intermediaries and witnesses

18. The defence seeks to introduce nine tables disclosed to it by the prosecution.²⁷

The tables in annexes 2 – 6 are successive versions of the same chart, showing the contacts between witnesses, between witnesses and intermediaries, and between intermediaries. The defence contends that the modifications to these tables tend to demonstrate the prosecution's reluctance to provide a complete and accurate picture of the links and contacts between its witnesses and intermediaries.²⁸

19. The prosecution opposes the introduction of the tables, which it is submitted were compiled "largely from information already in the possession of the Defence, thereafter supplemented by minor additions of purely internal information" and which cannot therefore properly be regarded as "evidence".²⁹

20. Further, the prosecution contests the defence claim that the purported relevance of the series of charts – that they provide proof of ongoing prosecutorial disclosure difficulties – justifies their admission into evidence.³⁰ To the contrary, the prosecution submits that by providing updated versions of the table the prosecution demonstrated its concern to provide accurate

²⁶ ICC-01/04-01/06-1399, paragraph 31.

²⁷ ICC-01/04-01/06-2644-Conf, paragraph 2.

²⁸ ICC-01/04-01/06-2644-Conf, paragraph 10.

²⁹ ICC-01/04-01/06-2665, paragraph 11.

³⁰ ICC-01/04-01/06-2665, paragraph 11.

information, which led it to “continue to look for verification and additional information [...] resulting in revisions and disclosures of updated versions”.³¹ In response to the defence suggestion that a table provided on 22 June 2010 was incomplete, the prosecution submits that its priority was to disclose information that it presumed was of the greatest interest to the defence.³²

21. The prosecution further submits that after the first table was prepared, it “undertook a meticulous and extensive review of in-house materials contained in different databases managed by different divisions” within the Office of the Prosecutor. It is contended that this review enabled the prosecution to detect and correct its errors and omissions.³³ Thus, the prosecution argues that its provision to the defence of updated versions of the tables is not proof of an attempt to withhold information but instead demonstrates the prosecution’s commitment to providing a complete and accurate schedule of the contacts between its witnesses and intermediaries.³⁴
22. The table of contacts was compiled and disclosed to the defence as a result of an order from the Chamber. The defence seeks to introduce all five versions of the table in order to advance submissions on the basis of a comparison between them. It is proposed that this exercise will demonstrate that the prosecution withheld information from the defence.³⁵
23. The Chamber considers that the developing versions of the table are, *prima facie*, relevant to the merits of this particular allegation (*viz.* that the prosecution was reluctant to provide a complete and accurate picture). Moreover, the table in its final form assists in identifying the links between some of the witnesses and the intermediaries, which are relevant to the

³¹ ICC-01/04-01/06-2665, paragraph 7.

³² ICC-01/04-01/06-2665, paragraph 8.

³³ ICC-01/04-01/06-2665, paragraph 9.

³⁴ ICC-01/04-01/06-2644, paragraphs 10 – 11.

³⁵ ICC-01/04-01/06-2644, paragraph 10.

Chamber's determination as to whether some intermediaries may have behaved improperly. This material will also assist the Chamber in its assessment of the credibility of some of the evidence given by the witnesses. The tables are, *prima facie*, reliable, given they were compiled by the prosecution in the performance of its duties. Furthermore, this step will not create any unfairness in the trial, given it is for the Chamber in due course to assess whether the tables assist with the alleged inappropriate conduct on the part of the prosecution.

(2) Tables of information from the "situation contacts management system"

24. Defence annexes 7 – 10 contain tables detailing the contacts between the prosecution and intermediaries 143, 321, 316 and 183.³⁶ The defence submits that they tend to demonstrate that the Prosecutor was aware of inappropriate conduct by the prosecution's intermediaries.³⁷ Further, it is alleged that these tables contain information that assists the defence in establishing the prosecution's knowledge of facts contradicting the statements of particular witnesses.³⁸

25. The prosecution resists the introduction of these tables, submitting that they are not evidence but instead constitute a "work product" containing information taken from an internal prosecution database established "primarily to record security related matters".³⁹ The prosecution suggests that the "appropriate" way to deal with this information is by way of calling a relevant witness to give evidence, and it notes that the defence questioned five witnesses on the content of this information.⁴⁰

³⁶ ICC-01/04-01/06-2644-Conf-Anx7, ICC-01/04-01/06-2644-Conf-Anx8, ICC-01/04-01/06-2644-Conf-Anx9 and ICC-01/04-01/06-2644-Conf-Anx10.

³⁷ ICC-01/04-01/06-2644-Conf, paragraph 11.

³⁸ ICC-01/04-01/06-2644-Conf, paragraph 12.

³⁹ ICC-01/04-01/06-2665-Conf, paragraphs 13 and 15.

⁴⁰ ICC-01/04-01/06-2665-Conf, paragraph 13.

26. Finally, the prosecution observes that the tables were provided to the defence as part of *inter partes* disclosure, pursuant to the Chamber's decision on the defence request for disclosure of screening notes.⁴¹ It is submitted that the tables were not produced for "judicial or evidential purposes" because the Chamber did not order their inclusion in the case record.⁴²
27. The tables are relevant to an issue at the heart of the abuse of process motion, in that they illuminate important aspects of the prosecution's relationship with four of its intermediaries whose professional behaviour has been challenged by the defence. The tables are *prima facie* reliable and probative of these issues (particularly, they may assist on the question of the alleged knowledge on the part of the prosecution of inappropriate behaviour by some of its intermediaries) given the tables were prepared by the prosecution from its own records. Any potential prejudice to the prosecution is outweighed by the likely probative value of this material, and the Chamber notes that the prosecution has had the opportunity to present evidence addressing the defence allegations of misconduct on the part of identified intermediaries. For these reasons, the Chamber admits into evidence the tables in annexes 7 – 10. In due course the Chamber will assess the weight and significance of this material.

(3) "Un lézard au Congo"

28. The defence submits that at the beginning of October 2010 it was informed of the publication of Mr Gil Courtemanche's book, "Un lézard au Congo".⁴³ It is suggested that the book is a fictional adaptation, or distortion, of the current trial, and the accused is thinly disguised as one "Thomas Kabanga".⁴⁴ The

⁴¹ ICC-01/04-01/06-2665-Conf, paragraph 14.

⁴² ICC-01/04-01/06-2665-Conf, paragraph 14.

⁴³ ICC-01/04-01/06-2644-Conf, paragraph 13.

⁴⁴ ICC-01/04-01/06-2644-Conf, paragraph 13.

defence submits that Thomas Kabanga is portrayed as being guilty of numerous crimes, including those for which Thomas Lubanga is currently being tried.⁴⁵ The defence argues that the decisions of the Chamber in the book are presented “in a manner which gives the reader an incorrect understanding of the trial.”⁴⁶

29. The author, Mr Courtemanche, apparently worked as a consultant for the prosecution between April 2008 and November 2009 and it is said that the book was “conceived, drafted, and distributed” whilst he occupied the position of consultant to the OTP.⁴⁷ It is submitted that “in authorizing one of his closest collaborators to publish a work containing comments incompatible with impartiality obligations [...] the Prosecutor seriously undermined the judicial process.”⁴⁸ It is argued that this book constitutes one of the means used by the prosecution to attempt inappropriately to influence the judicial process.⁴⁹

30. The prosecution resists the proposed introduction of a work of fiction published by a former consultant who, it is submitted, was never a member of the staff of the OTP and over whom the prosecution has no authority.⁵⁰ The prosecution submits that the book is irrelevant to the issues in the case,⁵¹ and that as a work of fiction it will not influence the judicial process; indeed, it is suggested that in order to ensure this does not occur, the book should be excluded from the evidence in the case.⁵²

31. The Chamber is not persuaded that this book is relevant to these proceedings, and particularly it is not accepted that it tends to demonstrate the prosecution

⁴⁵ ICC-01/04-01/06-2644-Conf, paragraph 14.

⁴⁶ Draft translation of ICC-01/04-01/06-2644-Conf, paragraph 14.

⁴⁷ Draft translation of ICC-01/04-01/06-2644-Conf, paragraphs 15 – 18.

⁴⁸ Draft translation of ICC-01/04-01/06-2644-Conf, paragraph 19.

⁴⁹ ICC-01/04-01/06-2644-Conf, paragraph 20.

⁵⁰ ICC-01/04-01/06-2665-Conf, paragraph 17.

⁵¹ ICC-01/04-01/06-2665-Conf, paragraph 17.

⁵² ICC-01/04-01/06-2665-Conf, paragraph 18.

has attempted inappropriately to influence the course of the current trial: ultimately, it is a work of fiction, notwithstanding its suggested reliance, in part, on historically accurate or distorted events. There is no evidence that the prosecution invited or expected the judges to read this material, and in contrast to the press interview with a representative of the prosecution in March 2010, which was the subject of an earlier decision of the Chamber,⁵³ this book does not purport to provide accurate information on the current proceedings. Accordingly, it is wholly irrelevant to the issues in this case and the Chamber refuses the defence request to introduce it as evidence.

(4) Documents related to intermediary 143

32. The defence seeks to introduce 32 documents disclosed by the prosecution relating to intermediary 143, including contracts, service records, and “personal history forms” bearing his signature.⁵⁴ It is submitted that these documents provide useful personal and professional details for intermediary 143, including his work at [REDACTED] and in identifying former child soldiers.⁵⁵ The defence argues this material assists in determining the period during which the intermediary worked for the OTP and the tasks he undertook.⁵⁶ It is submitted that each of the documents possesses sufficient indicia of reliability, as they were obtained from the prosecution.⁵⁷

33. The prosecution does not oppose this application.⁵⁸

34. The history of intermediary 143’s employment with the ICC is a live issue in the case, as a result of, *inter alia*, the defence allegations as to his alleged excessive and unjustifiable financial claims, and his suggested misconduct

⁵³ Decision on the press interview with Ms Le Fraper du Hellen, 12 May 2010, ICC-01/04-01/06-2433.

⁵⁴ ICC-01/04-01/06-2644-Conf, paragraph 21.

⁵⁵ ICC-01/04-01/06-2644-Conf, paragraph 22.

⁵⁶ ICC-01/04-01/06-2644-Conf, paragraph 22.

⁵⁷ ICC-01/04-01/06-2644-Conf, paragraph 23.

⁵⁸ ICC-01/04-01/06-2665-Conf, paragraph 3.

with various witnesses.⁵⁹ The 32 documents (employment contracts, personal history forms, and service records), which include the dates of his employment with the ICC and the details of his work, are relevant to and probative of these issues. Although not all of the documents are signed by intermediary 143, they nonetheless possess sufficient indicia of reliability, not least given they come from the Prosecutor who does not oppose this application. In all the circumstances, their introduction will not prejudice the trial, and the Chamber grants the defence request to admit the documents in annexes 12 – 43.

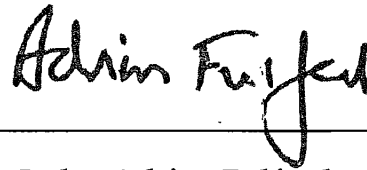
IV. Orders

35. Accordingly, the Chamber:

- i) Admits into evidence the tables in annexes 2 – 10 and instructs the Registry to assign them with EVD numbers.
- ii) Refuses the application to admit “Un lézard au Congo”, in Annex 11.
- iii) Admits into evidence the documents in Annexes 12 – 43 and instructs the Registry to assign them with EVD numbers.

⁵⁹ICC-01/04-01/06-2657-Conf, paragraphs 149 and 179 – 183.

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



Judge Adrian Fulford



Judge Elizabeth Odio Benito



Judge René Blattmann

Dated this 7 March 2011

At The Hague, The Netherlands