

ANNEX 1

- CONFIDENTIAL -

**Buitenlandse
Zaken**

M. Bruno Cathala
Registrar
International Criminal Court
Maanweg 174
2516 AB THE HAGUE

Bezuidenhoutseweg 67
2594 AC The Hague

<i>Date</i>	February 27, 2008	<i>Contact</i>	Dr E. Lijnzaad
<i>Our ref.</i>	DJZ/IR-2008/40	<i>Tel</i>	(070) 3484855
<i>Page</i>	1/2	<i>Fax</i>	(070) 3485128
<i>Encl.</i>			liesbeth lijnzaad@minbuza.nl
<i>Re</i>	GERMAIN KATANGA (ICC - 01/04 - 01/07-222) Application for interim release		www.minbuza.nl
<i>Cc</i>	PV NY, TIS, DKP/DIO, DJZ		

Dear Sir,

Further to the decision of pre-trial Chamber I in the case of GERMAIN KATANGA (ICC – 01/04 – 01/07-222), I would like to inform the Court of the views of the Netherlands.

As the host State, the Netherlands will be under an obligation to facilitate the transfer of persons granted interim release into a State other than the Netherlands once the Headquarters Agreement between the International Criminal Court and the Netherlands will have entered into force on 1 March 2008.

As to the question by the Single Judge on the conditions, if any, that would have to be met in order for the Netherlands to accept GERMAIN KATANGA's interim release on to Netherlands territory, I would like to inform the Court of the following.
The Netherlands considers that it is under no obligation to accept the entry into its territory of any person granted interim release by the International Criminal Court. Such obligation is not foreseen by the statute of the International Criminal Court, or by the Headquarters Agreement. The Netherlands will not accept that silence on the part of the Defence as to the State to which the person seeks to be released would, by default, imply a release to the host State. This would be an incorrect reading of the applicable legal framework, and would go beyond the undertakings of the Netherlands as a host State.

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As stated before, on the basis of article 47 of the Headquarters Agreement between the International Criminal Court and the host State, the Netherlands will facilitate a possible transfer of mr. GERMAIN KATANGA into a State other than the Netherlands should he be granted interim release.

Yours sincerely,

i.a. 

E. Lijnzaad
Legal Adviser