

ANNEX 2



Ministerie van Buitenlandse Zaken

Protocol Department
DKP/NG-2011/643

The Ministry of Foreign Affairs of the Kingdom of the Netherlands presents its compliments to the Registry of the International Criminal Court ('Court' or 'ICC'). In answer to the Court's request for information regarding the procedure that needs to be followed in order for the Netherlands to be able to discharge its obligation pursuant to the asylum request before witness 19 is returned to the DRC, further to the Decision of the Trial Chamber I in the case of the *Prosecutor v. Thomas Lubanga Dyilo*, Case Nr. ICC-01/04-01/06-2766-Conf, dated 4 July 2011, the Ministry of Foreign Affairs of the Kingdom of the Netherlands has the honour to inform you as follows.

First, the Immigration and Naturalisation Service will need access to the detained witness at the ICC Detention Centre to conduct interviews to obtain information regarding, for example, the detained witness's identity, his background and the risks and treatment the detained witness fears to receive upon return. During these interviews an interpreter interpreting into Dutch would be required. Thereafter, the Immigration authorities will conduct an assessment of the facts and circumstances in connection with the asylum request. Further investigations may, and are likely to, be part of that assessment. Insofar as the Immigration authorities intend not to grant the asylum request, the detained witness will have the opportunity to present his views. Following a formal decision, the detained witness may seek judicial review of this decision, which may be followed by further litigation.

The foregoing administrative and judicial proceedings may take considerable time and the Netherlands requires the detained witness to remain at the ICC Detention Centre throughout. For the sake of good order, the foregoing is without prejudice to the pending request of the Netherlands to the Trial Chamber for leave to appeal the Trial Chamber's said decision.

The Ministry of Foreign Affairs of the Kingdom of the Netherlands avails itself of this opportunity to renew to the Registry the assurances of its highest consideration.

The Hague, 2 August 2011



To the International Criminal Court
The Hague