

1 International Criminal Court
2 Trial Chamber I - Courtroom 2
3 Presiding Judge Adrian Fulford, Judge Elizabeth Odio Benito
4 And Judge René Blattman
5 Situation in the Democratic Republic of the Congo -
6 ICC-01/04-01/06
7 In the case of The Prosecutor v Thomas Dyilo Lubanga
8 Wednesday, 24 March 2010
9 (The hearing starts at 3.01 p.m.)
10 (Private session at 3.01 p.m.)
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1 (Open session at 3.24 p.m.)

2 THE COURT OFFICER: We are in open session, your Honours.

3 PRESIDING JUDGE FULFORD: Email communications. Over the
4 last few weeks, email traffic - either directed to the Chamber or to
5 the legal adviser to the division or to individual legal officers in
6 the division - has increased dramatically. Although some of the emails
7 have been appropriately directed to the Chamber, we observe that we
8 do not need to receive copies of exchanges which are principally of
9 concern to the parties, the participants and the Registry.

10 The Chamber, in the event, is receiving an excessive and
11 unnecessary number of emails and more thought and greater care needs
12 to be taken before we are sent emails or copies of emails. In particular,
13 sending emails to the Chamber, or sending copies of emails to the Chamber,
14 should not be used as a device for putting pressure on the other party.
15 In the circumstances, we issue the following directions:

16 (1), the Chamber should generally only receive emails that
17 are addressed directly to it for a specific purpose; (2), an exception
18 to this is that the Chamber should receive notice of all the documents
19 the parties intend to use for their questioning; (3), objections to
20 the use of documents or particular lines of questioning should only
21 be relayed to the Chamber after the parties have first tried to resolve
22 the issue inter partes but have failed to agree. The Chamber should
23 not be copied in "CC" to the negotiations in this regard; (4), for
24 protective measures, the Chamber needs to receive specific requests
25 addressed to the Chamber with supporting reasons and the parties, and

1 where relevant the participants, should be informed of the request
2 and the grounds (in redacted form if necessary); (5), disclosure and
3 similar difficulties should, in the first instance, be addressed inter
4 partes only. The Chamber should only become involved if a solution
5 is not achievable; (6), generally, requests should be submitted by
6 way of filings entered with the Registry. In exceptional circumstances,
7 requests can be made by email if the matter is urgent and needs immediate
8 attention; (7), matters that call for consideration during a hearing
9 should not be notified to the Chamber by email shortly before the Court
10 sits. On more than one occasion we have received emails whilst the
11 Judges have been travelling down in the lift in order to come into
12 court; (8), emails should usually be sent within regular working hours,
13 and they will not be dealt with out of hours, save in exceptional
14 circumstances; (9), if possible, the Chamber should be asked to provide
15 guidance, in particular by the Registry, only after consultation with
16 the relevant party or parties and including the participants. If the
17 issue has been wholly or in part considered by the Chamber on an earlier
18 occasion, a full transcript reference (including the relevant pages)
19 should be provided.

20 Therefore, in short, this is a plea from us that the parties
21 and participants should not deluge the Chamber unnecessarily with a
22 mass of material which, on careful consideration, is wholly unnecessary
23 for us to read.

24 We need to say in open session that, bearing in mind that
25 the Prosecution does not oppose the inclusion of four additional

1 witnesses into the Defence list of witnesses to be called in this trial,
2 the Chamber grants the application for them to be added.

3 We will deliver the final oral decision at 4 o'clock, ex
4 parte Defence only, unless there are any other matters that anybody
5 wishes to raise in open session. No.

6 Thank you all very much. We'll sit with the Defence only
7 again at 4 o'clock.

8 THE COURT USHER: All rise.

9 (The hearing ends at 3.32 p.m.)