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No.: ICC-01/05-01/13
Date: 20 December 2013

PRE-TRIAL CHAMBER II

Before: Judge Cuno Tarfusser, Single Judge

SITUATION IN THE CENTRAL AFRICAN REPUBLIC

**IN THE CASE OF *THE PROSECUTOR v. JEAN-PIERRE BEMBA GOMBO,
AIMÉ KILOLO MUSAMBA, JEAN-JACQUES MANGENDA KABONGO, FIDÈLE
BABALA WANDU and NARCISSE ARIDO***

Public Document

With Confidential Annexes A and B

**Prosecution's Communication of Incriminatory Evidence and Rule 77 Material
Disclosed to the Defence on 20 December 2013**

Source: The Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

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Legal Representatives of Victims

Legal Representatives of Applicants

The Office of Public Counsel for Victims

The Office of Public Counsel for the Defence

States Representatives

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REGISTRY

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Defence Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section

Other

I. Introduction

1. The Office of the Prosecutor (“Prosecution”) herewith submits the report for Incriminating evidence and evidentiary materials under Rule 77 of the Rules of Procedure and Evidence (“Rules”) disclosed to the Defence teams of Messrs Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo and Fidèle Babala Wandu on 20 December 2013. On 4 December 2013, the Single Judge of Pre-Trial Chamber II (“Single Judge”) ordered the Prosecutor to disclose by 20 December 2013 “the evidence collected until 23rd November 2013, *on which she intends to rely for the purpose of the confirmation hearing*”.¹ In accordance with its on-going statutory obligations to disclose potentially exculpatory and Rule 77 evidence, the Prosecution additionally disclosed Rule 77 materials to the Defence teams.

2. This communication report is submitted in accordance with the Single Judge’s order “that any and all evidence disclosed for the purpose of the confirmation hearing shall be communicated to the Chamber”.²

II. Request for Confidentiality

3. The Prosecution requests that Annexes A and B appended to this communication report be received by the Single Judge as “Confidential” as they relate to confidential evidence disclosed *inter partes* that should not be released to the public.

III. Submissions

¹ ICC-01/05-01/13-T-2-CONF-ENG ET, page 31, line 25 to page 32, line 8. [Emphasis added]

² ICC-01/05-01/13-T-2-CONF-ENG ET, page 31, line 25 to page 32, line 3.

4. The annexes appended to this communication report contain the lists of evidentiary items disclosed to all four Defence teams. Annex A contains a list of incriminatory evidence, which includes materials collected by the Prosecution and annexed to its Application for Warrants of Arrests,³ as well as other evidence collected until 23 November 2013 that are intended to be relied upon at the Confirmation Hearing. The large majority of these items comprise of telephone data collected from the International Criminal Court's Detention Centre. The Prosecution reasonably selected 676 items from a collection of 4216 records. The disclosed material comprises of 301 audio files and 301 accompanying excel sheets with metadata, and 74 telephony metadata and number attribution records. These telephone calls involve, and are therefore known to, the related suspects. Additionally, summaries of some of these conversations have been disclosed.⁴

5. Annex B contains material that may be regarded as falling under Rule 77 of the Rules, such as information related to other persons associated with the facts of the present case. This will enable the Defence to determine the materials, if any, which it intends to inspect at an agreed time and location.⁵ The Prosecution will continue reviewing its collection to disclose all relevant information, including information material to the preparation of the Defence as soon as this becomes apparent.



Fatou Bensouda, Prosecutor

Dated this 20th December 2013
At The Hague, The Netherlands

³ See, ICC-01/05-67-Conf.

⁴ See, CAR-OTP-0072-0186.

⁵ ICC-01/05-01/13-T-2-CONF-ENG ET, page 32, lines 17-19: The Single Judge "Order[ed] the Prosecution to agree with the Defence on a location and time to permit the inspection of material relevant under our Rule 77, if any."