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Date: **26 February 2015**

TRIAL CHAMBER I

Before: Judge Geoffrey Henderson, Presiding Judge
Judge Cuno Tarfusser
Judge Olga Herrera-Carbuccia

SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE

IN THE CASE OF THE PROSECUTOR v. LAURENT GBAGBO

PUBLIC

**Joint submission of the Prosecution and the Legal Representative of Victims
on the proposed familiarisation protocol**

Source: Office of the Prosecutor
Office of Public Counsel for Victims

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

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**Victims Participation and Reparations
Section**

Other

Mr Geert-Jan Alexander Knoop

1. Pursuant to Trial Chamber I's ("Chamber") decision of 18 December 2014,¹ the Office of the Prosecutor ("Prosecution") and the Legal Representative of the Victims ("LRV") jointly file this submission on the proposed "Protocol on the practices used to prepare and familiarise witnesses for giving testimony" ("Familiarisation Protocol") to be filed by the Victims and Witnesses Unit ("VWU").
2. There is agreement to amend paragraphs 21 and 61 to 67 as recently proposed by the Victims and Witnesses Unit ("VWU") in the Ntaganda case.²
3. The Prosecution and LRV jointly seek to amend paragraphs 24 and 39 of the Familiarisation Protocol, which address travel and accommodation arrangements for witnesses. The VWU does not agree with this proposal.³
4. Further to discussions between the parties, LRVs and the VWU, the Prosecution and the LRV propose deleting paragraphs 24 and 39 of the Familiarisation Protocol in their entirety and replacing them with the following:

24. The VWU shall arrange for witnesses to travel separately to the location of testimony. In exceptional circumstances and after prior notice to the parties and participants, and approval of the Chamber, witnesses may travel jointly if, in the VWU's assessment, their particular vulnerable situation so requires. VWU shall communicate the reasons for its recommendation in its notice to the parties, participants and Chamber.

...

39. The VWU shall arrange for witnesses to be accommodated separately at the location of testimony. In exceptional circumstances and after prior notice to the parties and participants, and approval of the Chamber, witnesses may be

¹ ICC-02/11-01/11-739.

² ICC-01/04-02/06-451-Anx1.

³ ICC-01/04-02/06-451-Anx1, paras.24 and 39.

accommodated jointly if, in the VWU's assessment, their particular vulnerable situation so requires. VWU shall communicate the reasons for its recommendation in its notice to the parties, participants and Chamber.

5. The Prosecution and the LRV submit that in order to guarantee the integrity of the proceedings, joint travel and accommodation of witnesses should occur only in exceptional circumstances, after an open discussion between all of the parties and participants (and not just between the calling party and the VWU), and with the approval of the Chamber.

Conclusion

6. The Prosecution and the LRV respectfully request the Chamber to adopt the Familiarisation Protocol as proposed by the VWU in the Ntaganda case with the amendments to paragraphs 24 and 39 as proposed above (*supra* para. 4).



Fatou Bensouda, Prosecutor



Paolina Massidda, Principal Counsel

Dated this 26th day of February 2015

At The Hague, The Netherlands