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No.: ICC-02/11-01/11
Date: 16 January 2015

TRIAL CHAMBER I

Before: Judge Geoffrey Henderson, Presiding Judge
Judge Cuno Tarfusser
Judge Olga Herrera Carbuccion

SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE

IN THE CASE OF THE PROSECUTOR v. LAURENT GBAGBO

PUBLIC

With confidential Annexes A and B

**Prosecution's Communication of Evidence Disclosed to the Defence on
16 January 2015 and Notice of the Implementation of the Redaction Protocol**

Source: 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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Unrepresented Victims

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(Participation/Reparation)**

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Defence**

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Mr Herman von Hebel

Defence Support Section

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Introduction

1. The Office of the Prosecutor (“Prosecution” or “OTP”) provides: (i) notice of the disclosure of incriminating evidence and of the disclosure of material pursuant to rule 77 of the Rules of Procedure and Evidence (“Rules”), and (ii) notice of the implementation of the Redaction Protocol.

Disclosure of evidence

2. The OTP notifies Trial Chamber I of its disclosure, on 16 January 2015, of 766 incriminating items¹ and 190 documents disclosed pursuant to rule 77 of the Rules.²
3. The disclosed material was provided in a format that complies with the eCourt protocol as approved at the Pre-Trial stage.³
4. 674 items disclosed as incriminating and 164 documents disclosed pursuant to rule 77 of the Rules were disclosed with redactions to their image and/or metadata, in accordance with decision ICC-02/11-01/11-737 and its Annex.

Notice of the implementation of the redaction protocol

5. The “Decision on the Protocol establishing a redaction regime”⁴ (“Decision”) and its Annex A, the Redaction Protocol,⁵ require the disclosing party to identify the legal category of redactions applied to the disclosed evidence⁶ as well as to provide pseudonyms to persons redacted under redaction categories A.2 to A.6.⁷ The purpose of providing both a legal redaction category and a pseudonym is to allow the receiving party to better contextualise the information and to cross-

¹ 20150116 Pre-Trial INCRIM Package 34.

² 20150116 Pre-Trial Rule 77 Package 32.

³ ICC-02/11-01/11-30-AnxI.

⁴ ICC-02/11-01/11-737.

⁵ ICC-02/11-01/11-737, AnxA (“Redaction Protocol”).

⁶ Redaction Protocol, para 11.

⁷ Redaction Protocol, para 12.

reference relevant persons across multiple statements, thus increasing the usefulness of material disclosed with redactions.⁸

6. The Prosecution provides notice of the manner in which it is complying with the Decision and the Redaction Protocol. For the disclosure packages communicated on 16 January 2015, the Prosecution indicated the legal redaction category in the redaction boxes in the body of the document and provided the assigned pseudonyms by way of a new metadata field in the document called “ICC-02/11-01/11 Pseudonyms”. The Prosecution cannot physically include both a redaction category code and a descriptive pseudonym in the body of the document within the often limited space of a redaction box. Furthermore, this approach, as compared with the provision of separate documents (“redaction charts”), has the advantage of centralising the relevant information in both eCourt and in the parties’ Ringtail systems and allows the parties to search across the metadata of documents for this information, which facilitates the receiving party’s use of the pseudonyms.
7. The implementation of the Redaction Protocol adopted by the Chamber on 15 December 2014 in the Prosecution’s Ringtail database and the solution described in paragraph six above required additional time to finalise. This factor, combined with the large number of documents containing redactions disclosed to the Defence explains why the Prosecution was only in a position to disclose these items of evidence on this date.

⁸ See Decision, para 26. The Protocol does not specify the manner in which the pseudonyms should be provided to the receiving party, although the Decision refers to “a document identifying each individual intermediary by pseudonym” and “a separate document identifying leads and sources by pseudonym” (Decision, paras. 40 and 45).

Request for Confidentiality

8. Annexes A⁹ and B¹⁰ appended to this communication contain the disclosure notes provided to the Defence. The Prosecution requests that these annexes be received as “Confidential” since they relate to *inter partes* disclosure.



Fatou Bensouda, Prosecutor

Dated this 16th day of January 2015

At The Hague, The Netherlands

⁹ Disclosure note for Pre-Trial INCRIM Package 34 provided to the Defence of Laurent Gbagbo on 16 January 2015.

¹⁰ Pre-inspection report for Pre-Trial Rule 77 Package 32 provided to the Defence of Laurent Gbagbo on 16 January 2015.