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No.: ICC-02/11-01/15

Date: 30 June 2015

TRIAL CHAMBER I

Before: Judge Geoffrey Henderson, Presiding Judge
Judge Olga Herrera Carbuccion
Judge Bertram Schmitt

SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE

IN THE CASE OF

THE PROSECUTOR

v. LAURENT GBAGBO and CHARLES BLÉ GOUDÉ

PUBLIC

**With confidential Annexes A, B and C available to the Defence and
Legal Representatives**

Prosecution's submission of its List of Witnesses and List of Evidence

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

Ms Fatou Bensouda

Mr James Stewart

Mr Eric Macdonald

Counsel for Mr Laurent Gbagbo

Mr Emmanuel Altit

Ms Agathe Bahi Baroan

Counsel for Mr Charles Blé Goudé

Mr Geert-Jan Alexander Knoops

Ms Claver N'dry

Legal Representatives of the Victims

Ms Paolina Massidda

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Defence Support Section

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

1. The Office of the Prosecutor (“Prosecution”) submits its List of Witnesses accompanied by a summary of the main facts outlining each witness’s expected testimony. The Prosecution also submits its List of Evidence, itemising the documents it will rely upon at trial.¹ The List of Witnesses is provided in confidential Annex A to this submission, a consolidated document containing the witness summaries in confidential Annex B and the List of Evidence in confidential Annex C.

Confidentiality level

2. The Prosecution submits annexes A, B and C as confidential since they contain the names and identifying information of witnesses and relate to evidentiary material that is currently to be treated as confidential.

Submission

3. The Prosecution currently intends to rely on 138 witnesses at trial. Witnesses are categorised according to the nature of their evidence, including crime-base witnesses, expert witnesses, insiders, investigators dealing with chain of custody of documentary evidence, analysts as well as media witnesses. The Prosecution expects to reduce the number of witnesses following discussions relating to agreements as to the evidence with the Defence.² By way of example, 10 witnesses are currently on the list, solely for the purposes of establishing the conditions of collection and chain of custody of documents the Prosecution intends to submit as evidence.
4. The Prosecution’s List of Witnesses is submitted with the metadata as mandated by the e-Court Protocol,³ with the exception of the “Appearance” field which is reserved for the witness’s mode of testimony. The necessary information to populate this field depends on a number of variables which will materialise in the

¹ See order ICC-02/11-01/15-58, para. 25.

² Pursuant to rule 69 of the Rules of Procedure and Evidence (“Rules”).

³ ICC-02/11-01/15-58, para.24; Unified Technical protocol (“E-court Protocol”) for the provision of evidence, witness and victims information in electronic form, 16 April 2014, ICC-02/11-02/11-59-Anx, pp.17-19.

course of the Prosecution's preparation for trial, particularly as contacts are made with witnesses – in conjunction with the Victims and Witnesses Section – to assess their health status and travel to The Netherlands. Witnesses may also be the subject of requests pursuant to rule 68(2) and (3) applications.⁴ The Prosecution is currently determining the most appropriate mode of testimony for its witnesses and will be in a better position to file such requests once it has submitted its Pre-Trial Brief.

5. Annex B contains a summary for each of the witnesses the Prosecution intends to call to testify.⁵ These summaries present the main topics expected to be heard during trial. The summaries should be used as a road map to each witness's expected testimony, but not as an exhaustive tool covering all aspects of a witness's evidence. All witness statements have been disclosed to the Defence. The authoritative document in terms of notice and with respect to the themes and evidence to be heard from a witness remains the statement (or transcripts of interviews). Consequently, the absence of a topic in the witness summary does not preclude the Prosecution from examining the witness on a particular topic contained in the statement. The summaries in Annex B include:

- a. witness code: the witness's name appears in the List of Witnesses, whereas the summaries only contain the witness code;
- b. witness type: includes the categories enumerated at paragraph 3 above. When a witness is also participating as a victim, the Prosecution has indicated the dual status of the victim and the victim participation number;
- c. ERN of statements and annexes;
- d. the foreseen language of testimony;
- e. the charges and incidents on which witnesses are expected to give evidence;

⁴ The Prosecution intends to file its motions for the admission of witness statements *in lieu* of live testimony in advance of the commencement of trial.

⁵ With the exception of witness P-0439 who is the subject of a regulation 35 submission filed simultaneously. The summaries are presented in chronological order of the witness code number.

- f. an estimated length of time required for the examination-in-chief of each witness.
6. The total time currently anticipated for the presentation of the Prosecution case is 522 hours. The Prosecution will endeavour to reduce this number of hours after the submission of its Pre-Trial Brief, following its discussions with the Defence relating to agreements as to evidence and with the submission of requests pursuant to rules 68 (2) and 68 (3).
7. The Prosecution's List of Evidence submitted in Annex C currently contains 4790 items of evidence. This list is also submitted prior to the submission of the Prosecution's Pre-Trial Brief and before discussions between the parties as to possible agreements on facts. The Prosecution will endeavour to reduce the number of items on its List of Evidence prior to the commencement of trial.
8. The Prosecution informs the Chamber that the List of Witnesses and List of Evidence may be subject to limited changes in light of the Prosecution's request pursuant to regulation 35 of the Regulations of the Court, filed concurrently. Notwithstanding the above, the lists contain the near totality of the evidence the Prosecution intends to rely on at trial and provide ample notice for the Defence to prepare for trial.



Fatou Bensouda, Prosecutor

Dated this 30th day of June 2015

At The Hague, The Netherlands