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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 1-4

**Prosecution request for an order giving effect to
conditions of testimony for United Nations staff**

Source: Office of the Prosecutor

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

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**Victims Participation and Reparations
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Other

Introduction

1. The Office of the Prosecutor (“Prosecution”) hereby seeks an order giving effect to conditions of testimony relating to witnesses P-0414 and P-0428 (“UN witnesses”), pursuant to article 64(6)(c) and (f) of the Rome Statute. The United Nations has consented to the testimony of these witnesses being given in these proceedings, and has waived their immunity from legal process, subject to certain conditions. These conditions are consistent with the Rome Statute and the Relationship Agreement between the International Criminal Court and the United Nations (“Relationship Agreement”).¹

Request for Confidentiality

2. The attached Annexes 1-4 are classified as confidential, as the witnesses’ names appear in the annexes and they may request protective measures prior to the commencement of trial.

Prosecution’s Submissions

3. In the context of its trial preparation, the Prosecution collected statements from witnesses capable of giving probative and relevant testimony relating to the United Nations peace-keeping operation in Côte d’Ivoire (the “ONUCI”), its role and mandate, as well as the information it gathered with respect to the parties to the conflict during the post-election violence in 2010-2011. Having identified appropriate witnesses, and in accordance with article 16(1) of the Relationship Agreement,² the Prosecution sought the consent of the United Nations to waive the immunity of these witnesses from legal process, in order to enable them to testify in the current proceedings.
4. Further to the Prosecution’s request, the United Nations waived the UN witnesses’ immunity from legal process to the extent necessary to permit them to

¹ Negotiated Relationship Agreement between the International Criminal Court and the United Nations, ICC-ASP/3/Res.1.

² Negotiated Relationship Agreement between the International Criminal Court and the United Nations, ICC-ASP/3/Res.1, art.16(1).

testify at trial. The Prosecution submits, at Confidential Annexes 1-2, letters of correspondence from the United Nations Office of Legal Affairs confirming the lifting of immunity for both UN witnesses, as well as the conditions for their testimony.

Conditions for the testimony of UN witnesses

5. The conditions required by the UN are identical for both witnesses. They include:
 - a. The attendance of a representative of the United Nations Secretary-General to attend the hearing(s) at which P-0414 and P-0428 will provide oral testimony before the Trial Chamber;³ and
 - b. That the representative be permitted to consult with and be consulted by P-0414 and P-0428 in the course of their testimony, and that he or she may be permitted to make submissions to the Trial Chamber that P-0414 or P-0428 not be required to answer a question or to supply certain information if doing so would either endanger the safety or security of the United Nations or would breach an obligation of confidentiality which it is incumbent upon the United Nations and upon the UN witnesses and officials of the United Nations.⁴
6. These conditions are consistent with article 16(2) of the Relationship Agreement, according to which “[t]he Secretary-General shall be authorised by the Court to appoint a representative of the United Nations to assist any official of the United Nations who appears as a witness before the Court.” The Trial Chambers in the *Lubanga* and *Katanga* cases granted similar requests.⁵
7. Moreover, the correspondence with the UN contains additional understandings that are broadly consistent with the Relationship Agreement and which the Prosecution will implement in conformity with the Statute and the Rules of

³ See Annexes 2 and 4.

⁴ See Annexes 2 and 4.

⁵ See ICC-01/04-01/06-T-205-Red3-ENG, pp.4-7; ICC-01/04-01/07-1590, paras.20-22.

Procedure and Evidence.⁶

Relief requested

8. For the foregoing reasons, the Prosecution respectfully requests an order from the Trial Chamber giving effect to the UN's conditions, as set out in the letters attached as Confidential Annexes 2 and 4, and summarised in paragraph 5 above.



Fatou Bensouda, Prosecutor

Dated this 3rd day of September 2015

At The Hague, The Netherlands

⁶ See Annexes 1 and 3.