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Date: 30 March 2016

TRIAL CHAMBER I

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

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, C, D, E and F available to the Defence and
Legal Representatives**

**Prosecution's Communication of Evidence Disclosed to the Defence on
18 March 2016 and 24 March 2016**

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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Legal Representatives of the Victims

Ms Paolina Massidda

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda

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Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Disclosure of 18 March 2016

1. The Prosecution provides notice of the disclosure on 18 March 2016 to the Defence teams of Charles BLÉ GOUDÉ and Laurent GBAGBO of Rule 77 package 33, containing thirteen items pursuant to rule 77 of the Rules.¹ Ten of these items were disclosed without redactions while three were disclosed with redactions to their image only, in accordance with decision ICC-02/11-01/11-737.²
2. Eleven documents have recently come into the Prosecution's possession.
 - a. Two of the documents are audio excerpts of radio talk shows relating to Witness P-0048,³ and a further eight documents are OTP-generated documents relating to their download. The Prosecution became aware of the online existence of these audio documents on 29 February 2016 and 1 March 2016.
 - b. One document is a medical and forensic report on exhumations in Yopougon,⁴ which contains ante-mortem forms relating to victims of the 12 April 2011 incident. This came into the Prosecution's possession in early March 2016.
3. These items were disclosed in compliance with the Prosecution's ongoing obligation under rule 77 of the Rules, to disclose documents which are material to the preparation of the Defence,⁵ in conformity with the Trial Chamber's Second Decision of 21 October 2015 ("Second Decision") related to the ongoing and late disclosure of rule 77 material.⁶

¹ 20160318 Rule 77 Package 33.

² See ICC-02/11-01/11-737-AnxA.

³ CIV-OTP-0091-0434 and CIV-OTP-0092-0462.

⁴ CIV-OTP-0091-0204.

⁵ See ICC-02/11-01/15-183-Conf, para. 34.

⁶ See ICC-02/11-01/15-306-Conf, paras. 17-20 and 34.

4. The remaining two items are victim applications of dual status Witnesses P-0442 and P-0433.⁷ These were disclosed pursuant to the Chamber's Decision on victim participation,⁸ and more broadly under rule 77 of the Rules, after it came to the Prosecution's attention in early March 2016 that these Witnesses enjoyed dual status. Following consultation on redactions with the Legal Representative of the Victims ("LRV"), these applications were provided without further delay to the Defence by email on 7 and 9 March 2016, ahead of formal disclosure *via* Ringtail.
5. The disclosed material was provided *via* TRIM electronically in a format that complies with the e-Court Protocol as approved for the trial stage.⁹

Disclosure of 24 March 2016

6. The Prosecution further provides notice of the disclosure on 24 March 2016 to the Defence teams of Charles BLÉ GOUDÉ and Laurent GBAGBO of:
 - a. INCRIM package 30, containing 21 items of incriminatory evidence.¹⁰ All items were disclosed without redactions. The package consisted of:
 - i. The corrected transcript of a witness statement, already disclosed as incriminatory;¹¹
 - ii. The corrected transcript of a video, where both the video and the original transcript have already been disclosed;¹²
 - iii. One video¹³ and eight related extraction documents,¹⁴ as authorised by the Trial Chamber's Fourth decision on matters related to disclosure and amendments to the List of Evidence;¹⁵ and

⁷ CIV-OTP-0091-0387 and CIV-OTP-0091-0392.

⁸ ICC-02/11-01/11-800, para. 56.

⁹ See ICC-02/11-01/15-58, para. 24.

¹⁰ 20160324 INCRIM Package 30.

¹¹ CIV-OTP-0076-1324.

¹² CIV-OTP-0091-0465.

¹³ CIV-OTP-0088-0029.

¹⁴ CIV-OTP-0088-0003 and annexes CIV-OTP-0088-0007, CIV-OTP-0088-0008, CIV-OTP-0088-0009, CIV-OTP-0088-0020, CIV-OTP-0088-0030, CIV-OTP-0088-0031 and CIV-OTP-0088-0032.

iv. One forensic expert report¹⁶ and nine related video extracts,¹⁷ also as authorised by the Trial Chamber's Fourth Disclosure Decision.¹⁸

b. Rule 77 package 34, containing five items pursuant to rule 77 of the Rules.¹⁹

Two of these items were disclosed without redactions while three were disclosed with redactions to their image only, in accordance with decision ICC-02/11-01/11-737.²⁰ The package consisted of:

i. Two press articles that came into the Prosecution's possession in March 2016, relating to Witnesses P-0009 and P-0011.²¹ These items were disclosed in compliance with the Prosecution's ongoing obligation under rule 77 of the Rules, to disclose documents which are material to the preparation of the Defence,²² in conformity with the Trial Chamber's Second Decision of 21 October 2015 ("Second Decision") related to the ongoing and late disclosure of rule 77 material.²³

ii. Three victim applications of dual status Witnesses P-0489, P-0188 and P-0350.²⁴ These were disclosed pursuant to the Chamber's Decision on victim participation,²⁵ and more broadly under rule 77 of the Rules, after it came to the Prosecution's attention in mid-March 2016 that these Witnesses enjoyed dual status. Following consultation on redactions with the LRV, these applications were provided without further delay to the Defence by email on 21 and 23 March 2016, ahead of formal disclosure *via* Ringtail.

¹⁵ ICC-02/11-01/15-467, para. 10 ("Fourth Disclosure Decision").

¹⁶ CIV-OTP-0089-1030.

¹⁷ CIV-OTP-0089-1114, CIV-OTP-0089-1115, CIV-OTP-0089-1116, CIV-OTP-0089-1117, CIV-OTP-0089-1118, CIV-OTP-0089-1119, CIV-OTP-0089-1120, CIV-OTP-0089-1121 and CIV-OTP-0089-1122.

¹⁸ ICC-02/11-01/15-467, para. 11 and p. 8.

¹⁹ 20160324 Rule 77 Package 34.

²⁰ See ICC-02/11-01/11-737-AnxA.

²¹ CIV-OTP-0091-0518 and CIV-OTP-0091-0520.

²² See ICC-02/11-01/15-183-Conf, para. 34.

²³ See ICC-02/11-01/15-306-Conf, paras. 17-20 and 34.

²⁴ CIV-OTP-0091-0495, CIV-OTP-0091-0509 and CIV-OTP-0091-0540.

²⁵ ICC-02/11-01/11-800, para. 56.

- c. One metadata re-issue package,²⁶ containing one item in which the date of the document has been corrected.²⁷
7. The disclosed material was provided *via* TRIM electronically in a format that complies with the e-Court Protocol as approved for the trial stage.²⁸

Request for Confidentiality

8. Annexes A,²⁹ B,³⁰ C,³¹ D,³² E³³ and F³⁴ 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 30th day of March 2016

At The Hague, The Netherlands

²⁶ Metadata Re-issue 24 March 2016.

²⁷ CIV-OTP-0045-0544.

²⁸ See ICC-02/11-01/15-58, para. 24.

²⁹ Disclosure note for Rule 77 Package 33 provided to the Defence of Laurent Gbagbo on 18 March 2016.

³⁰ Disclosure note for Rule 77 Package 33 provided to the Defence of Charles Blé Goudé on 18 March 2016.

³¹ Disclosure note for INCRIM Package 30 provided to the Defence of Laurent Gbagbo on 24 March 2016.

³² Disclosure note for INCRIM Package 30 provided to the Defence of Charles Blé Goudé on 24 March 2016.

³³ Disclosure note for Rule 77 Package 34 provided to the Defence of Laurent Gbagbo on 24 March 2016.

³⁴ Disclosure note for Rule 77 Package 34 provided to the Defence of Charles Blé Goudé on 24 March 2016.