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**International
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Court**

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Date: **7 October
2016**

TRIAL CHAMBER I

Before:

**Judge Cuno Tarfusser, Presiding Judge
Judge Olga Herrera-Carbuccia
Judge Geoffrey Henderson**

SITUATION IN COTE D'IVOIRE

**IN THE CASE OF
*THE PROSECUTOR v. LAURENT GBAGBO AND CHARLES BLE GOUDE***

Public

Public redacted version of "Defence Response to the "Prosecution's application submitting material in written form in relation to Witnesses P-0414, P-0428, P-0501, P-0549 and P-0550" (ICC-02/11-01/15-582-Conf)", 30 June 2016, ICC-02/11-01/15-607-Conf

Source: Defence of Mr Charles Blé Goudé

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

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I. Introduction

1. On 10 June 2016, the Prosecution filed its “application submitting material in written form in relation to Witnesses P-0414, P-0428, P-0501, P-0549, and P-0550” (“Prosecution Request”). The Prosecution Request asks to: (1) conditionally submit the prior recorded statements and related documents of Witnesses P-0414 and P-0428 under Rule 68 of the Rules of Procedure and Evidence (“the Rules”), (2) depart from the established rule to not allow witness preparation in the present case, and (3) submit a certain number of documents under paragraphs 43 and 44 of the Directions on the Conduct of Proceedings (“Paragraph 43 documents”) for Witness P-0501, 0549 and P-0550. The Defence for Charles Blé Goudé (“the Defence”) hereby submits its response to the Prosecution Request.
2. The Defence does not oppose the portion of the Prosecution’s Request that relates to:
 - i. the conditional submission of the prior recorded statement of Witness P-0501 made pursuant to Rule 68(3) of the Rules¹
 - ii. the submission of documentary evidence relating to witnesses P-0549 and P-0550 made pursuant to paragraphs 43 and 44 of the Directions on the Conduct of proceedings (“Directions”)
3. However, the Defence wishes to stress first, that it reserves its right to contest at a later stage any conclusion drawn by the Prosecution as to the probative value and the evidentiary weight of the aforementioned documents. Secondly, the Defence’s accepts that P-0501 testify under Rule 68(3) only if it is given the necessary amount of time to examine the witness.
4. The Defence objects to the portion of the Prosecution’s Request that relates to:
 - i. the conditional submission under Rule 68 of the Rules of the statement and related documents of Witnesses P-0414 and P-0428
 - ii. the permissibility of witness preparation for Rule 68(3) Witnesses

¹ The Defence leaves it to the discretion of the Chamber to determine whether supplemental questions will be allowed.

iii. the submission of documentary evidence related to Witness P-0501 under paragraph 43 and 44 of the Directions

II. Confidentiality

5. The Defence files the present response as confidential pursuant to regulation 23*bis*(2) of the Regulations of the Court (“the Regulations”) as it pertains to information that is not yet available to the public.

III. Procedural history

6. On 3 December 2015, the Chamber rendered its “Decision on witness preparation and familiarisation,” which prohibits any form of witness preparation in the present case.²
7. On 14 December 2015, the Prosecution filed a request for leave to appeal the Chamber’s “Decision on witness preparation and familiarisation.”³
8. On 13 January 2016, the Chamber rejected the Prosecution’s request for interlocutory appeal of its witness preparation decision.⁴
9. On 26 January 2016, on the eve of trial, the Prosecution requested three amendments to the witness familiarisation protocol.⁵
10. On 2 February 2016, the Chamber rejected two of the Prosecution’s proposed amendments to the Familiarisation Protocol because they would result in contravening the Chamber’s decision.⁶
11. On 27 May 2016, the Prosecution announced during a status conference that it would file 38 applications under Rule 68(3). It further stated there would be a total of 88 witnesses who would be present before the Chamber to testify.⁷ During the same status conference the Chamber directed the Prosecution to file by 10 June 2016, Rule 68 applications for the following witnesses: P-0414, P-0428, P-0501, P-0549, and P-0550.

² ICC-02/11-01/15-355

³ ICC-02/11-01/15-388.

⁴ ICC-02/11-01/15-399.

⁵ ICC-02/11-01/15-399-Conf.

⁶ See ICC-02/11-01/15-T12-Conf, p. 87.

⁷ ICC-02/11-01/15-T-45-CONF-ENG, p. 7 lines 1-5.

12. On 9 June 2016, the Chamber rendered its “Decision on the Prosecutor’s application to introduce prior recorded testimony under Rules 68(2)(b) and 68(3).”

13. On 10 June 2016, the Prosecution filed its “application submitting material in written form in relation to Witnesses P-0414, P-0428, P-0501, P-0549 and P-0550.”⁸

IV. Submissions

A. The Prosecution’s request to introduce the prior recorded testimony of Witness P-428 under Rule 68(2)(b) and of Witness 0414 under Rule 68(3) would be inconsistent with the Rules

A.1. Applicable Law to Rule 68 applications

14. The Defence refers the Chamber to its applicable law provisions set out in its responses⁹ to the “Prosecution application to conditionally admit the prior recorded testimony of Witnesses [REDACTED] under rule 68(2)(b) and the prior recorded statements and related documents of Witnesses [REDACTED] under Rule 68(3)” (“First Rule 68 Application”).

15. In its Decision on the Prosecution’s First Rule 68 Application, the Chamber determined that recourse to Rule 68(2)(b) was inappropriate for two witnesses whose “statements are significant for the determination of core issues materially in dispute,” and who “describe the direct perpetrators of the violence that they personally observed.”¹⁰ The Chamber also found that unlike Rule 68(2)(b) applications, Rule 68(3) applications carry a lower risk to the accused because of the Defence’s opportunity to question the witnesses.¹¹ However, in determining whether to allow for the conditionally submission of Rule 68(3) applications, the Chamber makes a case-by-case evaluation and considers: the importance of the evidence to the case and the volume and detail of the evidence, among other factors.¹²

⁸ ICC-02/11-01/15-582.

⁹ ICC-02/11-01/15-496; ICC-02/11-01/15-504.

¹⁰ See ICC-02/11-01/15-573 para. 18.

¹¹ ICC-02/11-01/15-573, para. 24

¹² ICC-02/11-01/15-573, para. 25.

16. Lastly, the scope of Rule 68's application should be consistent with the Chamber's Directions, and specifically paragraph 23 in which the parties are directed to avoid the submission of opinion evidence by witnesses.¹³

A.2. Objections to the conditional submission of the prior recorded statement and related documents of Witness P-0428 under Rule 68 (2)(b)

17. The statement of Witness P-0428 goes to prove the acts and conduct of the accused and relates to matters materially in dispute and should therefore not be introduced through Rule 68 (2) (b). In fact, for the reasons explained below, the Defence submits that the testimony of this witness should be excluded all together because it involves judicial qualifications such as "incitement to hatred and violence", which should be the preserve of the Chamber; and, secondly because it amounts to opinion evidence by a non-expert witness.

18. Witness P-0428 was [REDACTED] with a view to [REDACTED]. The witness states that :

[REDACTED].

19. The testimony of Witness p-0428, whose [REDACTED], undoubtedly goes to prove the acts and conducts of Mr Blé Goudé, who is charged *inter alia* with inciting Pro-Gbagbo youth to violence.¹⁴ The Prosecution currently seeks to introduce the statement of Witness P-0428, which explains the procedure with which [REDACTED]. The Prosecution will then later seek to introduce under paragraph 43 of the Directions the [REDACTED].¹⁵ The Defence argues that if the Prosecution had sought to introduce the statement of P-0428 and [REDACTED] amounting to "incitement to hatred", in annex, this would not be acceptable under Rule 68 (2) (b). Instead the Prosecution makes this a two tier process, first, seeking to introduce witness P-0428's testimony which [REDACTED], then later introduce the [REDACTED], under paragraph 43 of the Conduct Directions. The Prosecution is not

¹³ ICC-02/11-01/15-498-Anx-A, para. 23. The Defence also recalls the Chamber's "Decision on 'Defence's Motion to Preclude and Exclude the prospected Evidence of Witnesses [REDACTED], or, in the alternative, to restrict the Scope of Witness [REDACTED]'s intended evidence. ICC-02/11-01/15-539.

¹⁴ See paragraph 192 of the "Decision on the confirmation of charges against Charles Blé Goudé" ICC-02/11-02/11-186.

¹⁵ See footnote 21 of ICC-02/11-01/15-582

allowed to circumvent the stricter requirements of Rule 68 (2) (b) by instead trying to introduce the documents under paragraph 43 of the Directions.

20. Evidence which goes to prove the act and conduct of the accused cannot be introduced through Rule 68 (2) (b). Mr Blé Goudé is accused of incitement to violence, and therefore any categorisation of [REDACTED] items as alleged incitement to hatred should be considered as evidence going to prove his acts and conduct. Furthermore, the issue of whether a particular speech, for example, amo[REDACTED] unto incitement is materially in dispute, and therefore the testimony of a witness should not be introduced under Rule 68 (2) (b) (i).
21. The Defence further submits that Witness P-0428's statement should in fact be excluded all together. This is because as mentioned above, firstly, [REDACTED], which is the mandate of the Chamber. Only the Chamber can review evidence and determine whether it amounts to incitement; such [REDACTED] should not be entertained by the Chamber. Secondly, the qualification of [REDACTED] as amounting to incitement to hatred amounts to opinion evidence, which the Chamber has on several occasions ruled not to be admissible when the source is not an expert witness.
22. The Defence submits that the Prosecution may introduce [REDACTED] items, but these may not be accompanied by [REDACTED], attached to them by Witness P-0428, or any other witness for that matter.

A.3. Objections to the conditional submission of the prior recorded statement and related documents of witness P-0414 under Rule 68 (3)

23. The Prosecution's application for the submission into evidence of the prior recorded statement of Witness P-0414 including related documents under the Rule 68(3) of the Rules should be rejected by the Chamber for three reasons.
24. First, the number of annexed and related documents appears as unusual for a witness who is "of limited nature and is not central to the case" according to the Prosecution's

application.¹⁶ Second, Witness P-0414 is not the author of most of the documents attached to her statement or does not recognize such documents. Third, the reliability of the documents is not substantiated by the Prosecution.

A.3.i. Witness P-0414' statement and the related documents cover highly contentious issues

25. First, according to the Prosecution, "Witness P-0414's evidence is of limited nature and is not central to the case."¹⁷ The Defence is of the view that, on the contrary, Witness P-0414' statement and the related documents cover highly contentious issues.

26. Secondly, 100 pages of documents that are annexed and relate to the witness' testimony is unusual for a witness of "limited nature and not central to the case". Moreover, 95 pages of these pages are documents related or "attached" to the statement and not annexes.

A.3.ii. Most of the related documents cannot be submitted since they exceed the scope of Witness P-0414 testimony

27. Witness P-0414 is not the author of most of the documents. Indeed, she recalls having drafted only one of them with certainty, i.e. [REDACTED].¹⁸ For at least two documents [REDACTED], Witness P-0414 admits to not having seen the document or did not recognize it.¹⁹

28. For the foregoing reasons, these related documents exceed the scope of Witness P-0414's statement and intended testimony since the witness does not recognize the documents.

A.3.iii. The reliability of the statement and the supporting documents are not substantiated

¹⁶ ICC-02/11-01/15-582-Conf, p.10, para 25.

¹⁷ *Ibid.*

¹⁸ [REDACTED].

¹⁹ [REDACTED]

29. Reliability issues have been identified in these documents. First, no related documents are annexed or signed by Witness P-0414 or by any person. Therefore, the authenticity of the documents cannot be established.

30. Secondly, Witness P-0414 statement refers to [REDACTED]²⁰ but [REDACTED].

31. Lastly, on several occasions through her written statement, Witness P-0414 has raised reliability issues in respect of some related documents.²¹

B. The granting of the Prosecutor's request to conduct limited witness preparation for Rule 68(3) Witnesses would circumvent the general prohibition of witness preparation

32. The Prosecution Request constitutes the third attempt²² by the Prosecution to eviscerate the Chamber's decision to not allow witness preparation in the present case.²³ On the eve of trial, the Prosecution made a similar request, asking the Chamber to allow witnesses, once witness familiarization has started, to have contact with the calling party if said witnesses stated that their statements were incorrect.²⁴ In its ruling, on this proposed amendment to the Witness Familiarisation Protocol, the Chamber concluded that it would [REDACTED], and that it would [REDACTED] of the Chamber's decision disallowing witness preparation.²⁵ Moreover, the Chamber found that the differences between witnesses' statements and their testimony go [REDACTED]²⁶ [REDACTED].²⁷

33. Once again, the Prosecution is attempting to circumvent the Chamber's decision not to allow for Witness preparation in this case. After the Chamber decided not to allow witnesses to correct their statements in general, the Prosecution has not demonstrated why the Chamber should depart from its ruling in the context of Rule 68(3) Witnesses. Given the Prosecution's announcement that [REDACTED], the

²⁰ [REDACTED].

²¹ [REDACTED]

²² ICC-02/11-01/15-388; ICC-02/11-01/15-399; Prosecution Request.

²³ See ICC-02/11-01/15-388 and ICC-02/11-01/15-399.

²⁴ ICC-02/11-01/15-399, para. 18.

²⁵ ICC-02/11-01/15-T-12-Conf, p. 87, lines 1-4

²⁶ *Ibid*, p. 87, lines 5-7.

²⁷ *Ibid.*, p. 86, lines 5-7.

Prosecution attempts through its request to create a new avenue for witness preparation for nearly 43% of the witnesses that will testify in the present case. Unlike the amendment to the Familiarization Protocol involving vulnerable witnesses, the current request is not specific, and evokes scenarios that have been envisaged by the Chamber. It must be noted that the Chamber in issuing its decision on witness preparation was aware that the Prosecution might make Rule 68 requests. Thus, similar to its ruling on the proposed amendment to the Witness Familiarization Protocol, the granting of such a request would defeat the purpose of the Chamber's decision disallowing witness preparation. Moreover, in the context of Rule 68(3), the Chamber's ability to determine the credibility and reliability of witness' on the basis of the inconsistencies presented in their statements and their live testimony is of utmost importance given that the statement has been submitted in its entirety to the Chamber. The Prosecution's Request to have witness preparation for Rule 68(3) witnesses should therefore be rejected.

C. The Prosecution should not be allowed to introduce [REDACTED]²⁸ because it has failed to provide necessary information regarding their authenticity and probative value

34. The Prosecution wishes to introduce into evidence [REDACTED]. In the Prosecution's Request, the Prosecution claims that [REDACTED] "are admissible because they are relevant, and probative, as indicated in Annex 3".²⁹ In Annex 3, the Prosecution argues that [REDACTED] are relevant and probative because they [REDACTED]. The Prosecution further asserts that [REDACTED] are authentic because P-501 can authenticate them and [REDACTED].³⁰

35. Pursuant to Article 66(2) of the Statute, the burden of proof rests on the Prosecution to prove its case. Thus, in introducing a document, the Prosecution must demonstrate its relevance and probative value. If at the time of submitting evidence, the Prosecution is unable to make such a demonstration, then the evidence cannot be admitted.³¹ In regard to [REDACTED], the Prosecution has not adduced information that would allow for a *prima facie* finding that [REDACTED] have probative value.

²⁸ [REDACTED].

²⁹ Prosecution Request, para. 37.

³⁰ ICC-02/11-01/15-582-Conf-Anx-3, p. 5.

³¹ ICC-01/04-01/07-2635, Para. 13

36. In determining the probative value of an item tendered into evidence, the Court considers: (1) the reliability of the item, and (2) “the measure by which an item of evidence is likely to influence the determination of a particular issue in the case.”³² An inherent part of an item’s reliability is its authenticity, which means that the item is what it purports to be.³³ Under the jurisprudence of the Court, documents that do not “bear extrinsic indications as to their origin and author must always be authenticated by way of attestation or affidavit from an identified representative of the originating organization.”³⁴ Once a *prima facie* finding of authenticity has been made, the Court must determine whether the “evidence demonstrates such qualities that, when considered alone, could be reasonably believed.”³⁵

C.1. Objections to the alleged [REDACTED]

37. The Defence contests the authenticity and the probative value of the alleged [REDACTED] and consequently also its accompanying [REDACTED].³⁶

38. Unless a document is self-authenticating or the parties agree as to its authenticity, the tendering party must provide evidence demonstrating reasonable grounds to believe it’s authentic.³⁷ The [REDACTED] does not bare a single external indication as to its origin and author; it contains no official letterhead or stamp [REDACTED]. It is entirely handwritten, and the Prosecution has not [REDACTED] because they are illegible or only partially legible.³⁸ The people who are alleged to [REDACTED] did not sign the document. Rather, [REDACTED].³⁹

³² *Ibid.*, para. 20.

³³ *Ibid.*, para. 22.

³⁴ *Ibid.*, para. 24.

³⁵ *Ibid.*, para. 26.

³⁶ [REDACTED].

³⁷ ICC-01/04-01/07-2635, para. 23

³⁸ CIV-OTP-0088-0863, at 0864, 0866, 0868, 0870, 0872, 0874, 0876, 0878, 0880, 0882, 0884, 0886, 0888, 0890, 0892, 0894, 0896, 0898, 0900, 0902, 0904, 0906, 0908, 0910, 0912, 0914, 0940, 1020, 1022, 1036, 1112, 1132, 1134, 1136, 1314, 1316, 1318, 1320, 1322, 1324, 1326, 1330, 1332, 1334, 1340, 1342, 1344. [REDACTED]. See for example CIV-OTP-0067-0402, at 0410, 0411.

³⁹ CIV-OTP-0071-0906, para. 25.

39. Moreover, the entire document is in a deplorable state, [REDACTED].⁴⁰ All the pages appear to be muddled; many are ripped, and others crumpled beyond recognition.⁴¹ This raises serious concerns as to the integrity of the document, and whether it was [REDACTED].⁴² In regard to the added pages, it demonstrates that the document is easily modifiable, and that those who [REDACTED] took no measures to ensure data integrity.

40. Contrary to the Prosecution's submissions,⁴³ neither the statement of P-0501 nor his anticipated testimony can dissipate these doubts. Admittedly, P-0501 describes that in the ordinary course of [REDACTED].⁴⁴ He states that he recognizes [REDACTED],⁴⁵ and that he was on [REDACTED].⁴⁶ Thus, at most, he can only attest to [REDACTED]. He was not present at the [REDACTED], and he does not in his statement make any allusion to being the [REDACTED]. Further, he does not provide any information as to the poor state of the document, and thus serious concerns remain regarding its integrity.

41. Assuming *arguendo* that the document is authentic, the document's probative value is *de minimus* due to the limited influence it will have on the Chamber determining any issue of material fact. This document is unlikely to influence the Chamber's determination of whether [REDACTED] since it does not indicate: whether [REDACTED] and whether [REDACTED].⁴⁷ The document can only attest to [REDACTED].⁴⁸

42. If the Chamber would find the [REDACTED] has *prima facie* probative value, the best evidence rule dictates that in order to be relied upon, the Prosecution should produce [REDACTED]. Because the Prosecution alleges that as early as 2000, the

⁴⁰ See e.g. CIV-OTP-0067-0402, at 0536, 0537, 0538, 0627, 0631, 0640, 0642. Another example is CIV-OTP-0067-0402, at 0412, [REDACTED].

⁴¹ See for example CIV-OTP-0067-0402, at 0402-0429, 0642.

⁴² ICC-02/11-01/15- 207, para. 15.

⁴³ Annex 3 of Prosecution Request.

⁴⁴ CIV-OTP-0071-0906, paras. 20-24.

⁴⁵ CIV-OTP-0067-0402, at 0432, 0470-0471, 0486-0487, 0518-0519, 0551-0552, 0583-0584, 0602-0603

⁴⁶ CIV-OTP-0067-0402, at 0418-0420, 0432, 0454-0455, 0470-0471, 0486-0487, 0500-0501, 0507-0508, 0518-0519, 0524-0525, 0533-0534, 0551-0552, 0556-0560, 0564-0565, 0571-0572, 0576-0577, 0583-0584, 0596-0597, 0602-0603, 0605, 0609-0610. [REDACTED].

⁴⁷ See CIV-OTP-0071-0906, at paras. 20-26.

⁴⁸ CIV-OTP-0071-0906, para.20.

inner circle started conceiving the common plan, any [REDACTED] is relevant to its existence or non-existence.⁴⁹ Consequently, the Prosecution should also produce [REDACTED]. Without a complete picture of [REDACTED], it would be unfair to the Defence, and contrary to the Court's truth finding function to admit [REDACTED]. [REDACTED] should not be submitted without [REDACTED], which provide a [REDACTED] which the Prosecution alleges the common plan was conceived and implemented.⁵⁰

C.2. Objections to the alleged [REDACTED]

43. The Defence contests the authenticity and the probative value of [REDACTED].⁵¹ Unlike the [REDACTED], the [REDACTED]'s relevance according to the Prosecution consists of [REDACTED].⁵²
44. Despite these differences, the same authenticity issues arise from [REDACTED]. Thus, the Defence reiterates its submissions made in paragraph 38 of the present submissions, however, it notes that the [REDACTED].
45. The Prosecution's submission that P-0501 authenticates the [REDACTED] also lacks merit. While P-0501 states that [REDACTED], he was never charged with such a task in regard to [REDACTED]. In fact, he only identifies the [REDACTED] by looking at [REDACTED].⁵³ Unlike for the [REDACTED], P-501 provides no information as to the procedure of [REDACTED], and is not in a position to provide it since he never [REDACTED].⁵⁴ Therefore, P-0501 does not have the knowledge to certify the authenticity of the document, and cannot attest to the accuracy of its information, or the reasons for certain errors and deficiencies.⁵⁵ P-0501's expected testimony will not provide any relevant information on these issues since any conclusions drawn by him would constitute pure opinion evidence.

⁴⁹ ICC-02/11-01/15-148-Conf-Anx2-Corr, para. 6.

⁵⁰ [REDACTED]

⁵¹ CIV-OTP-0067-0402

⁵² See *ibid.*

⁵³ See CIV-OTP-0071-0906, para. 66.

⁵⁴ *Ibid.* para. 17.

⁵⁵ [REDACTED]

46. In any event, if the Chamber deems that the document is authentic, the Prosecution has failed to establish the [REDACTED]'s probative value. In addition to presenting the same evidentiary deficiencies of the [REDACTED], the [REDACTED]'s reliability is further impugned due to the non-existent information regarding the procedure used to [REDACTED]⁵⁶. Thus, neither the Defence, nor the Chamber for that matter, is in a position to know whether the [REDACTED] reflects [REDACTED].⁵⁷ It is the position of the Defence that the anticipated [REDACTED] will be of minimal assistance to the Chamber in determining an issue of material fact, that would assist the Chamber finding the existence or not of an inner circle or a common plan.

C.3. Objections to the alleged [REDACTED]

47. The Defence contests the authenticity and the probative value of the [REDACTED].⁵⁸ The [REDACTED] contains much more detail than [REDACTED].⁵⁹ It is not, as P-0501 alleges, only [REDACTED], but instead it appears to be a [REDACTED].⁶⁰

48. Like the [REDACTED], the [REDACTED] cannot be authenticated through P-0501's testimony because he was [REDACTED].⁶¹ Due to the similarities between how P-0501 identifies the [REDACTED], the Defence reiterates its submissions made in paragraph 45 of the present submissions regarding the authenticity of the [REDACTED].⁶²

49. Even if it were agreed that the [REDACTED] was authentic, it does not demonstrate sufficient reliability for a finding that it is probative of a material fact. As the Defence submitted in regard to the [REDACTED], P-0501's knowledge of [REDACTED] does not extend beyond the [REDACTED]. Therefore, his anticipated testimony

⁵⁶ See para. 38 of the present submissions detailing the limited probative value of [REDACTED].

⁵⁷ [REDACTED].

⁵⁸ CIV-OTP-0067-0003

⁵⁹ See *ibid.*

⁶⁰ For example, the [REDACTED]

⁶¹ See CIV-OTP-0071-0906, para. 17

⁶² In regard to the deficiencies of [REDACTED]

together with his statement will not dispel certain doubts as to the integrity and the accuracy of the information contained in [REDACTED]. For example, [REDACTED].⁶³ With no further information, it is impossible to know which [REDACTED]. If [REDACTED], then it does not explain why [REDACTED].⁶⁴ Other irregularities include: [REDACTED],⁶⁵ and [REDACTED].⁶⁶ These numerous irregularities and inaccuracies point to an inconsistent practice for [REDACTED]. Its content therefore is untrustworthy and unlikely to influence the Chamber's determination of the existence of such [REDACTED]. Therefore the Prosecution's request should be rejected.

RELIEF SOUGHT

For the foregoing reasons, the Defence respectfully requests the Chamber to reject:

- the conditional submission under Rule 68 of the Rules of the statement and related documents of Witnesses P-0414 and P-0428
- the permissibility of witness preparation for Rule 68(3) Witnesses
- the submission of documentary evidence related to Witness P-0501 under paragraph 43 and 44 of the Directions

Respectfully submitted,

⁶³ [REDACTED]. Compare CIV-OTP-0067-0003, at 0069 with 0103, CIV-OTP-0067-0003, at 0070 with 0104, CIV-OTP-0067-0003, at 0071 with 0105, CIV-OTP-0067-0003, at 0072 with CIV-OTP-0067-0106, CIV-OTP-0067-0003, at 0073 with 0107, CIV-OTP-0067-0003, at 0074 with CIV-OTP-0067-0108.

⁶⁴ See *ibid.*

⁶⁵ [REDACTED]. See CIV-OTP-0067-0003, at 0015-0016

⁶⁶ See CIV-OTP-0067-0003, at 0380-0381.



Mr. Knoops, Lead Counsel and Mr. N'Dry, Co-Counsel

Dated this

7 October 2016

At The Hague, the Netherlands