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No.: **ICC-01/04-02/06**

Date: **2 June 2017**

TRIAL CHAMBER VI

Before: Judge Robert Fremr, Presiding Judge
Judge Kuniko Ozaki
Judge Chang-ho Chung

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

**IN THE CASE OF
*THE PROSECUTOR V. BOSCO NTAGANDA***

**Public
With Public Annex A**

Defence Updated List of Evidence

Source: Defence Team of Mr Bosco Ntaganda

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

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Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation / Reparation)**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
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Mr Herman von Hebel

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Victims and Witnesses Unit

Mr Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Other

I. INTRODUCTION

1. Counsel representing Bosco Ntaganda (the “Defence”) hereby provides notice of amendment of its list of evidence, and of disclosure, pursuant to Trial Chamber VI’s (“Chamber”) *Decision supplementing the Decision on the Conduct of Proceedings* (ICC-01/04-02/06-619) and providing directions related to preparations for the presentation of evidence by the Defence issued on 30 January 2017.¹ Annex 1 lists the material disclosed since 24 May 2017 and intended for use as exhibits.

II. PROCEDURAL BACKGROUND

2. On 30 January 2017, the Chamber ordered the Defence to file the final version of its List of Evidence by 26 April 2017.² The Chamber further noted that the current procedure in place for additions to the List of Evidence, “which should be kept to a minimum, will continue to apply”.³
3. The Prosecution, despite the Trial Chamber’s guidance that such “amendments ought to be kept to a minimum,”⁴ added 2,251 documents to its exhibit list after the prescribed deadline,⁵ and often tendered and used documents that did not appear on its exhibit list at all.⁶ The Defence notes

¹ Decision supplementing the Decision on the Conduct of Proceedings (ICC-01/04-02/06-619) and providing directions related to preparations for the presentation of evidence by the Defence, ICC-01/04-02/06-1757, 30 January 2017, p. 6.

² ICC-01/04-02/06-1757, p. 6, para. 11.

³ ICC-01/04-02/06-1757, p. 6, para. 11.

⁴ ICC-01/04-02/06-T-19-ENG 11:19-20.

⁵ The Prosecution amended its List of Evidence on 1 May 2015, 29 May 2015, 25 June 2015, 29 July 2017, 16 September 2015, 25 September 2015, 19 October 2015, 29 October 2015, 15 January 2016, 1 February 2016, 10 February 2016, 11 March 2016, 5 April 2016, 13 April 2016, 30 May 2016, 10 June 2016, 14 June 2016, 20 June 2016, 28 June 2016, 4 July 2016, 6 July 2016, 5 September 2016, 19 September 2016, 10 November 2016, 23 November 2016, 8 December 2016, 12 January 2017, 30 January 2017, 2 February 2017, 10 February 2017 and 8 May 2017.

⁶ See e.g. Defence email to Trial Chamber VI Communications, 21 January 2017, 21:33 (re. DRC-OTP-2099-1739, DRC-OTP-2099-0487 and DRC-OTP-2099-0489); Defence email to Trial Chamber VI Communications, 15 January 2017, 19:08 (re. DRC-OTP-2097-0548 and DRC-OTP-2099-0162); Defence email to Trial Chamber VI Communications, 3 December 2016, 21:56 (re. DRC-OTP-2089-0418 and DRC-OTP-2078-2680); Defence email to Trial Chamber VI Communications, 29 June 2016, 09:21 (re. DRC-OTP-2093-0213, DRC-OTP-2093-0214, DRC-OTP-2093-0218 and DRC-OTP-2093-0216); Defence

that, at the moment of tendering, the Defence seldom objected to the admissibility or use of such documents as long as it had had enough time to digest their content.

4. The Trial Chamber also held at the beginning of the Prosecution case that it was “unnecessary to rule specifically on amendments to the List of Evidence.”⁷

III. PROVISION OF AN UPDATED LIST OF EVIDENCE

5. In accordance with the Chamber’s instructions of 30 January 2017,⁸ the Defence hereby provides an Updated List of Evidence (Annex A).
6. This updated list reflects disclosure of: (i) one map and one audio/video disclosed on 24 May 2017; (ii) two witness-identifying documents disclosed on 26 May 2017, one of which has now been admitted as evidence without objection; (iii) and 180 photographs of BUNIA and MANDRO formally disclosed on 1 June 2017.⁹

RESPECTFULLY SUBMITTED ON THIS 2ND DAY OF JUNE 2017



Me Stéphane Bourgon, Counsel for Bosco Ntaganda

The Hague, The Netherlands

email to Trial Chamber VI Communications, 3 June 2016, 19:40 (re. DRC-OTP-2086-0617, DRC-OTP-2086-0647, DRC-OTP-2087-0724, DRC-OTP-2087-0750, DRC-OTP-2087-0776, DRC-OTP-2086-0948, DRC-OTP-2083-0213, and DRC-OTP-2086-0955); Defence email to Trial Chamber VI Communications, 10 September 2016, 22:34 (re. DRC-OTP-0198-0072; DRC-OTP-2063-0272; DRC-OTP-2088-0362; DRC-OTP-2092-0207; DRC-OTP-2092-0213; DRC-OTP-2092-0215; DRC-OTP-2092-0229; DRC-OTP-2092-0230; DRC-OTP-2092-0319; DRC-OTP-2092-0321; DRC-OTP-2092-0323 and DRC-OTP-2092-0325); Defence email to Trial Chamber VI Communications, 3 September 2016, 14:51 (re. DRC-OTP-2071-0012, DRC-OTP-2071-0014, DRC-OTP-2071-0032, DRC-OTP-2071-0034, DRC-OTP-2071-0052, DRC-OTP-2071-0054, DRC-OTP-2071-0075, DRC-OTP-2071-0077, DRC-OTP-2071-0082, DRC-OTP-2071-0084, DRC-OTP-2071-0110, and DRC-OTP-2071-0112).

⁷ ICC-01/04-02/06-T-19-ENG 11:18-19.

⁸ ICC-01/04-02/06-1757.

⁹ Courtesy copies of this Defence disclosure had been provided to the Prosecution and the Legal Representatives of Victims on 26 May 2017.