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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 to V

**Prosecution's Communication of Evidence Disclosed to the Defence on
1, 5, 10, 17, 18 and 24 May 2017**

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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Introduction

1. The Prosecution hereby provides its monthly report relating to disclosures to Mr Gbagbo and Mr Blé Goudé on 1, 5, 10, 17, 18 and 24 May 2017.
2. All disclosed material was provided *via* TRIM electronically, in a format that complies with the e-Court Protocol as approved for the trial stage.¹

Request for Confidentiality

3. Annexes A,² B,³ C,⁴ D,⁵ E,⁶ F,⁷ G,⁸ H,⁹ I,¹⁰ J,¹¹ K,¹² L,¹³ M,¹⁴ N,¹⁵ O,¹⁶ P,¹⁷ Q,¹⁸ R,¹⁹ S,²⁰ T,²¹ U²² and V²³ appended to this communication contain the disclosure letters and lists provided to the Defence. The Prosecution requests that these annexes be received as “Confidential” since they relate to *inter partes* disclosure.

¹ See ICC-02/11-01/15-58, para. 24. Please note that the item contained in R77 package 75, which was disclosed via TRIM link in e-Court compatible format, is the picture of the CD cover. Copies of the content of the CD were provided to the Defence on a CD. Also note that apart from the items contained in INCRIM package 72, which were disclosed via TRIM link in e-Court compatible format, the Prosecution also provided the Defence with a CD containing the original version of the enhanced video CIV-OTP-0082-0357 previously disclosed as incriminatory evidence and included in the List of Evidence.

² Disclosure letter and list for INCRIM package 68 provided to the Defence of Laurent Gbagbo on 1 May 2017.

³ Disclosure letter and list for INCRIM package 68 provided to the Defence of Charles Blé Goudé on 1 May 2017.

⁴ Disclosure letter and list for R77 package 71 provided to the Defence of Laurent Gbagbo on 1 May 2017.

⁵ Disclosure letter and list for R77 package 71 provided to the Defence of Charles Blé Goudé on 1 May 2017.

⁶ Disclosure letter and list for INCRIM package 69 provided to the Defence of Laurent Gbagbo on 5 May 2017.

⁷ Disclosure letter and list for INCRIM package 69 provided to the Defence of Charles Blé Goudé on 5 May 2017.

⁸ Disclosure letter and list for R77 package 72 provided to the Defence of Laurent Gbagbo on 5 May 2017.

⁹ Disclosure letter and list for R77 package 72 provided to the Defence of Charles Blé Goudé on 5 May 2017.

¹⁰ Disclosure letter and list for R77 package 73 provided to the Defence of Laurent Gbagbo on 10 May 2017.

¹¹ Disclosure letter and list for R77 package 73 provided to the Defence of Charles Blé Goudé on 10 May 2017.

¹² Disclosure letter and list for INCRIM package 70 provided to the Defence of Laurent Gbagbo on 17 May 2017.

¹³ Disclosure letter and list for INCRIM package 70 provided to the Defence of Charles Blé Goudé on 17 May 2017.

¹⁴ Disclosure letter and list for R77 package 74 provided to the Defence of Laurent Gbagbo on 17 May 2017.

¹⁵ Disclosure letter and list for R77 package 74 provided to the Defence of Charles Blé Goudé on 17 May 2017.

¹⁶ Disclosure letter and list for INCRIM package 71 provided to the Defence of Laurent Gbagbo on 18 May 2017.

¹⁷ Disclosure letter and list for INCRIM package 71 provided to the Defence of Charles Blé Goudé on 18 May 2017.

¹⁸ Disclosure letter and list for R77 package 75 provided to the Defence of Laurent Gbagbo on 18 May 2017.

¹⁹ Disclosure letter and list for R77 package 75 provided to the Defence of Charles Blé Goudé on 18 May 2017.

²⁰ Disclosure letter and list for INCRIM package 72 provided to the Defence of Laurent Gbagbo on 24 May 2017.

²¹ Disclosure letter and list for INCRIM package 72 provided to the Defence of Charles Blé Goudé on 24 May 2017.

²² Disclosure letter and list for R77 package 76 provided to the Defence of Laurent Gbagbo on 24 May 2017.

²³ Disclosure letter and list for R77 package 76 provided to the Defence of Charles Blé Goudé on 24 May 2017.

Disclosure of 1 May 2017

4. The Prosecution provides notice of the disclosure, on 1 May 2017, to Mr Gbagbo and Mr Blé Goudé, of INCRIM package 68,²⁴ which contained one item, which had previously been disclosed, in a lesser redacted form. The re-disclosed document contained the notes that Witness P-0109 made during his interview.
5. Further details are provided in the disclosure letters and lists at Confidential Annexes A and B.
6. The Prosecution provides notice of the disclosure, on 1 May 2017, to Mr Gbagbo and Mr Blé Goudé, of Rule 77 package 71,²⁵ containing 52 items disclosed in unredacted form. The package consisted of:
 - a. Three documents²⁶ received from Witness P-0109 during his interview, which were disclosed following the Prosecution's ongoing review and in preparation of P-0109's testimony; and
 - b. Forty-nine pictures²⁷ from the Presidential Residence taken during the OTP mission in February 2012, mentioned in the recently disclosed Addendum to CIV-OTP-0024-0641, under the registration number CIV-OTP-0098-0005.²⁸
7. Further details are provided in the disclosure letters and lists at Confidential Annexes C and D.

²⁴ Annex A and Annex B.

²⁵ Annex C and Annex D.

²⁶ Items 1, 2 and 3 in the Prosecution's List of Disclosed Material.

²⁷ Items 4 to 52 in the Prosecution's List of Disclosed Material.

²⁸ CIV-OTP-0098-0005 was disclosed on 28 April 2017.

Disclosure of 5 May 2017

8. The Prosecution provides notice of the disclosure, on 5 May 2017, to Mr Gbagbo and Mr Blé Goudé, of INCRIM package 69²⁹ containing three items disclosed in unredacted form. The package consisted of:
 - a. CIV-OTP-0027-0440, the corrected transcript of video CIV-OTP-0028-0008;³⁰
 - b. CIV-OTP-0098-0036, the corrected transcript of video CIV-OTP-0064-0136;³¹ and
 - c. CIV-OTP-0098-0039, the corrected transcript of video CIV-OTP-0064-0137.³²

9. Further details are provided in the disclosure letters and lists at Confidential Annexes E and F.

10. The Prosecution provides notice of the disclosure, on 5 May 2017, to Mr Gbagbo and Mr Blé Goudé, of Rule 77 package 72,³³ including four items. Two items³⁴ have redactions to the content and for one item³⁵ there is a redaction to the source in the metadata. The package consisted of:
 - a. Three documents³⁶ that were disclosed following the Prosecution's ongoing review and in preparation for Witness P-0440's testimony. These documents had been provided to the Defence by courtesy email of 3 May 2017;³⁷ and
 - b. One document,³⁸ an investigator report concerning Witness P-0109 that was disclosed in preparation of Witness P-0109's testimony. A copy of this investigator report had been provided to the Defence on 2 May 2017.³⁹

²⁹ Annex E and Annex F.

³⁰ CIV-OTP-0027-0440 had previously been disclosed in ICC-02/11-01/11 Pre-confirmation INCRIM package 14 on 15 January 2013 and ICC-02/11-02/11 Pre-confirmation INCRIM package 1 on 25 April 2014.

³¹ CIV-OTP-0098-0036 had previously been disclosed in ICC-02/11-01/15 Trial INCRIM package 67 on 28 April 2017.

³² CIV-OTP-0098-0039 had previously been disclosed in ICC-02/11-01-15 Trial INCRIM package 67 on 28 April 2017.

³³ Annex G and Annex H.

³⁴ CIV-OTP-0094-0444 and CIV-OTP-0098-0047.

³⁵ CIV-OTP-0046-0207.

³⁶ Items 1 to 3 in the Prosecution's List of Disclosed Material. The Prosecution notes that CIV-OTP-0094-0444 was recently collected from the Ivorian government, amongst a larger collection of autopsy reports that is being received in batches. Once all reports are received, an application may be made under regulation 35 of the Regulations of the Court for the reports to be disclosed as INCRIM.

³⁷ Email from Eric Macdonald on 3 May 2017, 14:36.

11. Further details are provided in the disclosure letters and lists at Confidential Annexes G and H.

Disclosure of 10 May 2017

12. The Prosecution provides notice of the disclosure, on 10 May 2017, to Mr Gbagbo and Mr Blé Goudé, of Rule 77 package 73⁴⁰ containing five items. One item⁴¹ has redactions to its content, in accordance with decision ICC-02/11-01/11-737-AnxA (“Redaction Protocol”). The package consisted of:

- a. Four publications⁴² referenced in Witness P-0606’s report CIV-OTP-0082-0359, collected and disclosed in preparation for Witness P-0606’s testimony; and
- b. One investigator report⁴³ regarding Witness P-0114, disclosed in preparation for Witness P-0114’s testimony.

13. Further details are provided in the disclosure letters and lists at Confidential Annexes I and J.

Disclosure of 17 May 2017

14. The Prosecution provides notice of the disclosure, on 17 May 2017, to Mr Gbagbo and Mr Blé Goudé, of INCRIM package 70⁴⁴ containing 15 items. The package consisted of:

- a. Three transcribed statements related to Witness P-0449 that were re-disclosed with no or fewer redactions. For transcripts CIV-OTP-0063-1497

³⁸ Item 4 in the Prosecution’s List of Disclosed Material.

³⁹ ICC-02/11-01/15-896-Conf-AnxA-Red, pp. 6-8.

⁴⁰ Annex I and Annex J.

⁴¹ CIV-OTP-0098-0393.

⁴² Items 1 to 4 in the Prosecution’s List of Disclosed Material. For the relevant pages of the book (item 4 in the Prosecution’s List of Disclosed Material) referenced in Witness P-0606’s report (CIV-OTP-0082-0359), see CIV-OTP-0098-0096 at 0225-0228 (pages 234-241 of the book), 0234-0235 (pages 253-255 of the book) and 0268-0269 (pages 320-322 of the book).

⁴³ Item 5 in the Prosecution’s List of Disclosed Material.

⁴⁴ Annex K and Annex L.

and CIV-OTP-0063-1529 all redactions were lifted and CIV-OTP-0063-1332 was disclosed with fewer redactions. The remaining redaction to its content is in accordance with decision ICC-02/11-01/11-737-AnxA (“Redaction Protocol”);

- b. Six screenshots disclosed in preparation for Witness P-0449’s testimony: three screenshots of video CIV-OTP-0064-0113⁴⁵ and three screenshots of video CIV-OTP-0062-1007;⁴⁶
- c. A better quality image of the HP camera than the one that appears in Annex 2 of Witness P-0606’s report at CIV-OTP-0082-0350;⁴⁷
- d. Three screenshots disclosed in preparation for Witness P-0114’s testimony: two screenshots of video CIV-OTP-0077-0411⁴⁸ and one screenshot from Plan 6 of the Banco 360 degrees presentation;⁴⁹
- e. The English translation of CIV-OTP-0082-0338, related to Witness P-0606’s material;⁵⁰ and
- f. The transcript of video CIV-D15-0001-0586, now submitted pursuant to decision ICC-02/11-01/15-921.⁵¹

15. Further details are provided in the disclosure letters and lists at Confidential Annexes K and L.

16. The Prosecution provides notice of the disclosure, on 17 May 2017, to Mr Gbagbo and Mr Blé Goudé, of Rule 77 package 74,⁵² containing four unredacted items. The package consisted of:

- a. One investigator’s report dated 9 May 2017⁵³ with annex,⁵⁴ disclosed in preparation for Witness P-0114’s upcoming testimony;

⁴⁵ CIV-OTP-0098-0405, CIV-OTP-0098-0406 and CIV-OTP-0098-0407.

⁴⁶ CIV-OTP-0098-0410, CIV-OTP-0098-0411 and CIV-OTP-0098-0412.

⁴⁷ CIV-OTP-0098-0402.

⁴⁸ CIV-OTP-0098-0597 and CIV-OTP-0098-0598.

⁴⁹ CIV-OTP-0098-0599.

⁵⁰ CIV-OTP-0098-0057.

⁵¹ CIV-OTP-0094-0023.

⁵² Annex M and Annex N.

⁵³ CIV-OTP-0098-0398.

⁵⁴ CIV-OTP-0098-0399.

- b. One report of the Netherlands Forensic Institute (NFI) related to the incident of 3 March 2011.⁵⁵ As the report was not authored by Witness P-0601 and the Prosecution did not intend to rely on it, it was disclosed pursuant to rule 77.
- c. One table with chain of custody information related to video CIV-OTP-0007-0167.⁵⁶ This was re-assessed as subject to disclosure, in light of the video's inclusion in the Prosecution's upcoming motion to submit video evidence.

17. Further details are provided in the disclosure letters and lists at Confidential Annexes M and N.

Disclosure of 18 May 2017

18. The Prosecution provides notice of the disclosure, on 18 May 2017, to Mr Gbagbo and Mr Blé Goudé, of INCRIM package 71⁵⁷ containing 151 stills (photographs) already used and included in the Expert Report of Witnesses P-0626 and P-0583, CIV-OTP-0089-1030. The Prosecution disclosed these still images in advance of Witness P-0626's testimony. Please note that the still images are all extracted from the high definition video file CIV-OTP-0077-0411, disclosed to the Defence teams on 23 March 2015,⁵⁸ and submitted onto the record of these proceedings on 11 February 2016.⁵⁹

19. Further details are provided in the disclosure letters and lists at Confidential Annexes O and P.

20. The Prosecution provides notice of the disclosure, on 18 May 2017, to Mr Gbagbo and Mr Blé Goudé, of Rule 77 package 75⁶⁰ containing one item disclosed in

⁵⁵ CIV-OTP-0098-0588.

⁵⁶ CIV-OTP-0007-0166.

⁵⁷ Annex O and Annex P.

⁵⁸ Pre-Trial INCRIM package 1.

⁵⁹ See ICC-02/11-01/15-T-21-CONF-ENG, p. 69.

⁶⁰ Annex Q and Annex R.

unredacted form. The package consisted of a CD titled "Attachment 7", which is an attachment to the Expert Report of Witnesses P-0626 and P-0583, CIV-OTP-0089-1030 ("the Expert Report"). Please note that CIV-OTP-0088-0571 is the picture of the CD cover, and copies of the content of the CD were provided to the Defence teams. Most of the content of the CD comprises still images extracted from the high definition video file CIV-OTP-0077-0411, disclosed to the Defence teams on 23 March 2015,⁶¹ and submitted onto the record of these proceedings on 11 February 2016.⁶² This CD was disclosed because it is an attachment to the Expert Report, and therefore relevant as a reference tool.

21. Further details are provided in the disclosure letters and lists at Confidential Annexes Q and R.

Disclosure of 24 May 2017

22. The Prosecution provides notice of the disclosure, on 24 May 2017, to Mr Gbagbo and Mr Blé Goudé, of INCRIM package 72⁶³ containing two items disclosed in unredacted form. The package consisted of:

- a. One transcript⁶⁴ related to an open source video⁶⁵ previously disclosed as incriminatory evidence and included in the List of Evidence.
- b. One updated curriculum vitae of Witness P-0601 dated 17 May 2017.⁶⁶ This supersedes the earlier version of Witness P-0601's curriculum vitae, dated 29 May 2015 and previously disclosed as incriminatory evidence and included in the List of Evidence.⁶⁷ The Prosecution disclosed this updated version in preparation for Witness P-0601's testimony.

⁶¹ Pre-Trial INCRIM package 1.

⁶² See ICC-02/11-01/15-T-21-CONF-ENG, p. 69.

⁶³ Annex S and Annex T.

⁶⁴ Item 1 in the Prosecution's List of Disclosed Material.

⁶⁵ CIV-OTP-0068-0075.

⁶⁶ Item 2 in the Prosecution's List of Disclosed Material.

⁶⁷ CIV-OTP-0083-1317.

23. On 24 May 2017 the Prosecution also provided the Defence with the original version of the enhanced video CIV-OTP-0082-0357 previously disclosed as incriminatory evidence and included in the List of Evidence. The original version is not compressed and does not include an on-screen time code, whereas CIV-OTP-0082-0357 has been compressed for the purposes of Ringtail and bears a time code. Therefore, the version disclosed to the Defence on a CD is the original file provided by Witness P-0606.

24. Further details are provided in the disclosure letters and lists at Confidential Annexes S and T.

25. The Prosecution provides notice of the disclosure, on 24 May 2017, to Mr Gbagbo and Mr Blé Goudé, of Rule 77 package 76⁶⁸ containing one item disclosed in unredacted form. The package consisted of one investigator report⁶⁹ regarding Witness P-0607, disclosed in preparation for Witness P-0607's testimony. A copy of this investigator report was provided to the Defence on 19 May 2017.⁷⁰

26. Further details are provided in the disclosure letters and lists at Confidential Annexes U and V.



Fatou Bensouda, Prosecutor

Dated this 6th day of June 2017

At The Hague, The Netherlands

⁶⁸ Annex U and Annex V.

⁶⁹ Item 1 in the Prosecution's List of Disclosed Material.

⁷⁰ See ICC-02/11-01/15-926-Conf-AnxA.