

Annex III

Public

From: [REDACTED]
Sent: 11 September 2020 12:06
To: Trial Chamber X Communications; Dutertre, Gilles; Taylor, Melinda; [REDACTED]
 [REDACTED] Nsita Luvengika, Fidel; Kassongo, Mayombo; Doumbia, Seydou
Cc: [REDACTED]
Subject: RE: List of material for submission regarding Witness MLI-OTP-P-0010
Attachments: Defence List of Exhibits for P-0010 to be tendered FV.pdf

Dear Trial Chamber X,
 Dear Colleagues,

Pursuant to paragraph 34(ii) of ICC-01/12-01/18-789-AnnA, the Defence hereby attaches its submissions concerning the submission of Defence exhibits concerning P-0010.

Kind regards
 [REDACTED], on behalf of the Al Hassan Defence

-----Original Message-----

From: Dutertre, Gilles [mailto:Gilles.Dutertre@icc-01/12-01/18-2375-AnxIII-Red 11-10-2022 2/5 T]
 Sent: 11 September 2020 08:51
 To: Trial Chamber X Communications; Taylor, Melinda; [REDACTED]; Nsita Luvengika, Fidel; Kassongo, Mayombo; Doumbia, Seydou
 Cc: [REDACTED]
 Subject: List of material for submission regarding Witness MLI-OTP-P-0010

Chère Chambre de Première Instance X et Chers Collègues,

Conformément au paragraphe 34. ii. de l'annexe ICC-01/12-01/18-789-AnnA, l'Accusation vous prie de bien vouloir trouver en pièce jointe la liste des éléments dont la soumission est requise concernant le témoin P-0010.

Respectueusement,

Gilles Dutertre

Dévouement - Intégrité -
 Respect

Dedication - Integrity - Respect

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Defence List of Exhibits for P-0010

Count	Doc ID	Title	Type	Confidentiality Level	Main Date
1.	MLI-D28-0004-0109	Timbuktu Arabs flee as Mali faces challenge to create lasting peace	Media / press article	Public	10-Feb-13
2.	MLI-D28-0004-0177	How Qatar is funding the rise of Islamist extremists	Media / press article	Public	20-Sep-14
3.	MLI-D28-0004-0185	Qatar and Saudi Arabia 'have ignited time bomb by funding global spread of radical Islam'	Media / press article	Public	04-Oct-14
4.	MLI-D28-0004-0224	Case No: A2/2005/0308	Media / press article	Public	25-Jan-06

The Defence requests to tender the above items into evidence.

For MLI-D28-0004-0109, P-0010 acknowledged he wrote the article, and he recalled the contents that were put to him, and confirmed that they were consistent with the accounts he received.

For MLI-D28-0004-0177, MLI-D28-0004-018, P-0010 acknowledged that he either wrote or co-wrote these articles. The subject matter goes to issues of credibility, set out in MLI-D28-0004-0116 at 0142, as concerns allegations that Mr. Blair and the editor of the Telegraph were briefed by the UAE Foreign Minister in January 2013 in relation to journalistic coverage of Islamic groups (Muslim Brotherhood) and Sharia law in January 2013 (the time preceding with P-0010's trip to Mali, and the publication of various articles on Sharia law in Timbuktu). Since P-10 did not author or recognise the contents of the latter, the Defence will submit MLI-D28-0004-0116 through the bar, or a witness at a later point.

MLI-D28-0004-0224 is a judgment issued by the UK Court of Appeal, downloaded from open sources. P-0010 did not dispute that such a judgment was issued, or that it concerned the content of articles that he had published in the Daily Telegraph, based on documents that he had found. The judgment is relevant to issues of credibility insofar as it upheld findings that articles that P-0010 had written had gone beyond an objective reportage or comment of the information contained in the documents he found, but had presented information as if it were the truth, in a fervent/non-neutral manner, and further embellished this information with additional, prejudicial detail (0244-0246, 0250 (para 59), 0253 (para. 72-73)). The judgment further highlighted the prejudice resulting from adopting a dramatic and condemnatory tone, in circumstances where the content, which had not been verified and which were potentially unverifiable, is presented as fact (at 0254, paras. 75-76). These findings are relevant to the content and tone of P-0010's reporting in Mali and testimony insofar as he: presents unverifiable information as if it were composed of facts (ie. descriptions of fact as concerns what is

occurring in different times and locations based on unidentified individuals or sources), and uses dramatic language and descriptions, which suggests embellishment/lack of objectivity (MLI-OTP-0033-1793 at 1796 “laced with salt”).

P-0010 further described in both articles and in testimony the contents of the documents he found in a manner which goes beyond mere objective description, and extended to his own interpretation of his belief of the nature and significance of the documents:

Testimony

ICC-01/12-01/18-T-020-CONF-ENG ET 09-09-2020 14/46 SZ T, pg. 13, line 20 to pg. 14, line 1, where P-0010 stated that he had found ‘the records of the meeting of the leadership of al-Qaeda in the Islamic Maghreb’ which was of interest or significance because it ‘highlighted the names of the leaders of al-Qaeda in the Islamic Maghreb’ and ‘described their plans, it described what they intended to do once they had captured northern Mali’. See also ICC-01/12-01/18-T-020-CONF-ENG ET 09-09-2020 14/46 SZ T, pg. 16, lines 7-14, where P-0010 was shown MLI-OTP-0002-0756 and in response to the Prosecution asking “And is this the meeting record of AQIM leadership which you found in Timbuktu and which we have been discussing thus far?”, responded, “Yes, I believe it is.” and pg. 15, lines 7-14, where P-0010 was shown an article entitled ‘Mali: Telegraph finds al-Qaeda plan in Timbuktu’ (MLI-OTP-0033-1612), confirmed that he had written it and in response to the Prosecution asking “Is this the article you wrote about the meeting record of the AQIM leadership which you had found in Timbuktu?”, responded, “Correct”.

Reporting

MLI-OTP-0033-1616 “it shows that the group took a decision with profound consequences”.