

Annex A

PUBLIC

PROTOCOL CONCERNING EXCEPTIONS TO THE DISCLOSURE OF INFORMATION
PURSUANT TO THE STATUTE AND THE RULES IN THE FORM OF REDACTIONS
APPLIED *PROPRIO MOTU* BY THE PARTIES AND PARTICIPANTS TO THE
PROCEEDINGS UNDER RULE 81(2) AND (4)

“REDACTION PROTOCOL”

1. The following procedure applies to the redaction of information by the Parties and Participants to the proceedings, *proprio motu*, pursuant to Rules 81(2) and (4), which constitute exceptions to the disclosure of information pursuant to the Statute and the Rules. This protocol is to be interpreted restrictively with a view ensuring full respect for the rights of suspects or accused.
2. Parties and Participants may disclose evidence with redactions under Rules 81(2) and (4) without discrete application to the Chamber only in the specific cases covered in this Protocol with the exception of paragraph 5. When disclosing information in which redactions have been applied pursuant to this Redaction Protocol, Parties and Participants shall, in all cases, indicate the type of redaction applied, using the following codes:

Under Rule 81(2)

When redacting evidence under the following categories pursuant to Rule 81(2), the Parties and Participants must ensure that: (i) the information redacted genuinely prejudices further or ongoing investigations; and (ii) the information redacted does not impede the ability of the Defence to investigate.

- Category “A.2”: Contact information of the Prosecutor’s, VWU or other Court staff members who travel frequently to, or are based in, the field, insofar as disclosure of this information could hinder their work in the field and thereby put at risk the ongoing or future investigations of the Prosecutor (to be further specified as “A.2.1” for translators, “A.2.2” for interpreters, “A.2.3” for stenographers, “A.2.4” for psycho-social experts, “A.2.5” for other medical experts and “A.2.6” for other staff members falling within this category);
- Category “A.3”: Contact information of translators, interpreters, stenographers and psycho-social experts assisting during interviews who are not members of the investigating/disclosing party but who travel frequently to, or are based in the field, insofar as disclosure of this information could hinder their work so that the investigating/disclosing party could no longer rely on them, and thereby put at risk ongoing or future investigations of the disclosing party (to be further specified as “A.3.1” for translators, “A.3.2” for interpreters, “A.3.3” for stenographers, “A.3.4” for psycho-social experts, “A.3.5” for other medical experts and “A.3.6” for other persons falling within this category);
- Category “A.4”: Contact information of investigators, insofar as disclosure of this information could hinder their work in the field thereby putting at risk the ongoing or future investigations of the disclosing party;
- Category “A.5”: Contact information of intermediaries, insofar as disclosure of this information could hinder their work in the field thereby putting at risk the ongoing or future investigations of the disclosing party;

- Category “A.6”: Identifying and contact information of individual leads and sources, insofar as disclosure of this information could result in the individual leads and sources being intimidated or interfered with and would thereby put at risk ongoing or future investigations of the disclosing party (“A.6.1”); and contact information but not identifying information of leads and sources other than individuals, such as NGOs (“A.6.2”), international organisations (“A.6.3”); national governmental agencies (“A.6.4”), academic sources (“A.6.5”), private companies (“A.6.6”) and other sources (“A.6.7”);
- Category “A.7”: Means used to communicate with witnesses, insofar as disclosure of this information would reveal the location of a protected witness;

Under rule 81(4) of the Rules

When redacting evidence under the following categories pursuant to Rule 81(4), the Parties and Participants must ensure that: (i) such redactions are necessary and justified to protect witnesses, victims, their families and other persons due to the existence of demonstrated objective fears; and (ii) the information redacted does not impede the ability of the receiving party to investigate.

- Category “B.1”: Recent contact information of witnesses, insofar as necessary and justified to protect the safety of such witnesses due to the existence of demonstrated objective risks ;
- Category “B.2”: Identifying and contact information of family members of witnesses, insofar as necessary and justified to protect the safety of such family members due to the existence of demonstrated objective risks. Where family members of witnesses are involved in or related to the substance’s testimony such that their identity is material to the receiving party investigation into the reliability of the witness’ testimony, *proprio motu* redactions of the identity of these witnesses are not authorized pursuant to this category.
- Category “B.3”: Identifying and contact information of “other persons at risk as a result of the activities of the Court” (“innocent third parties”), insofar as necessary and justified to protect the safety of such persons due to the existence of demonstrated objective risks;
- Category “B.4”: Location of witnesses who are admitted in the International Criminal Court Protection Programme and information revealing the places used for present and future relocation of these witnesses, including before they enter the ICCPP;

3. When so disclosing evidence with redactions, the disclosing party shall, in all cases, assign unique pseudonyms to any persons whose identity is redacted. The disclosing party shall always indicate over the information redacted, which categories of redactions have been applied. All information redacted pursuant to this Redaction Protocol must appear covered in blank ink, in its entirety, with a view to informing the receiving party of the extent of the redaction applied. The use of the word redacted in square brackets ([REDACTED]) to depict is not permitted.
4. Should the receiving party consider that a particular redaction is unwarranted or should be lifted as a result of changed circumstances, the following procedure shall apply. In normal circumstances, the parties shall consult in good faith with a view to resolving the matter within no more than 72 hours. If they are unable to agree within 72 hours, the receiving party may apply to the Chamber for a ruling. In such case, the disclosing party shall have the burden to justify the particular redaction. An application to the Chamber by the receiving party triggers a 3-day compulsory response time for the disclosing party along with a concurrent 5-day period for the Chamber to adjudicate the matter. During the 30-day period before the confirmation hearing or during trial, 30 days before the scheduled testimony of a witness, the receiving party may apply directly to the Chamber for a ruling. Such application to the Chamber by the receiving party triggers a 2-day compulsory response time for

the disclosing party and a 1-day reply time for the receiving party, along with a concurrent 4-day period for the Chamber to adjudicate the matter.

5. The above procedure shall not apply to the non-disclosure of witnesses' identities prior to the commencement of trial and to the non-disclosure of entire items of evidence. In such cases, the Prosecutor shall submit to the Chamber a discrete application. Any statement or summary disclosed, in which the identity of a witness is redacted, must include the date of the disclosing party's application to the Chamber to redact the identity of the witness along with the filing number.
6. The disclosing party shall monitor the continued necessity of redactions, and shall re-disclose evidence with lesser redactions as soon as reasons justifying them cease to exist, or, if applicable, make an application under regulation 42(3) of the Regulations of the Court. The disclosing party shall review redactions applied pursuant to this Redaction Protocol in any document or statement disclosed, whenever a change of circumstances occurs in relation to the evidence disclosed. In respect of a witness' statement a change of circumstances includes but is not limited to: (i) the production of an investigation note related to the witness; (ii) the taking of an additional statement from the witness; (iii) receiving a document or new information from the witness; or (iv) obtaining information concerning the witness from another person or entity.
7. If the Prosecutor redacts evidence prior to disclosure on the basis of rule 81(1) of the Rules of Procedure and Evidence, she shall mark this in the redaction box as category "81(1)".