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TRIAL CHAMBER VI

Before: Judge Robert Fremr, Presiding Judge
Judge Kuniko Ozaki
Judge Geoffrey Henderson

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

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

**Public
Confidential Annexes A and B**

**Prosecution's Submissions on the Provisional Agenda for the 20 August 2014
Status Conference**

Source: The Office of the Prosecutor

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

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I. Introduction

1. The Office of the Prosecutor (“Prosecution”) submits the following observations on the provisional agenda for the Status Conference pursuant to Trial Chamber VI (“Chamber”)’s order of 21 July 2014 (“Scheduling Order”).¹

II. Confidentiality

2. Pursuant to Regulation 23*bis*(1), the annexes to this document are classified as confidential because they reference disclosed materials designated as such and because they include references to identities of certain witnesses and innocent third parties.

III. Procedural History

3. On 9 June 2014, Pre-Trial Chamber II issued its decision confirming the charges against Bosco Ntaganda (“Accused”), committing him to trial (“Confirmation Decision”).²
4. On 16 July 2014, the Single Judge of Pre-Trial Chamber II (“Single Judge”) approved a request by lead counsel for the Accused, Marc Desalliers, to withdraw from the case, but required Mr Desalliers to continue to represent the Accused until new counsel is appointed.³
5. On 18 July 2014, the Presidency constituted the Chamber and transmitted to it the full record of proceedings.⁴
6. On 21 July 2014, the Chamber scheduled a status conference for 20 August 2014 and invited the parties to submit written submissions on the Chamber’s provisional agenda.⁵ The Chamber also requested the Prosecution to provide

¹ ICC-01/04-02/06-339.

² ICC-01/04-02/06-309.

³ ICC-01/04-02/06-333.

⁴ ICC-01/04-02/06-337.

⁵ ICC-01/04-02/06-339, para. 7.

certain information relevant to, *inter alia*, the protection of witnesses and other persons.⁶

IV. Prosecution's Observations

7. The Prosecution provides its observations below on each item enumerated in the Chamber's provisional agenda.⁷

A. Timing, volume and modalities of disclosure pursuant to rule 76

8. In accordance with rules 76 and 77 of the Rules of Procedure and Evidence ("Rules"), the Prosecution intends to disclose all statements or other witness-related materials to the Defence with sufficient time to allow for adequate preparation of the Defence's case. The Prosecution has already disclosed a substantial portion of the evidence upon which it will rely, including material that falls within the ambit of rules 76 and 77. For example, the Prosecution has disclosed the identities of all but nine of the 47 witnesses relied upon during the confirmation hearing.
9. The Prosecution intends to disclose the identities of five of these nine witnesses within the next three months, or at the latest, three months prior to trial, along with the identity and evidence of several additional witnesses upon whose evidence it intends to rely, but whose statements have not yet been disclosed. For the remaining four witnesses (of the nine witnesses whose identities were redacted at the pre-trial stage due to specific, elevated security concerns) and for a limited number of additional witnesses, the Prosecution

⁶ ICC-01/04-02/06-339, para. 8.

⁷ ICC-01/04-02/06-339, para. 5.

will request authorisation to disclose their identities (and that of their family members) 30 days before the start of trial.⁸

10. The Prosecution is also conducting further focussed investigations. While investigations were “largely completed” by the time of the confirmation hearing,⁹ the Statute does not prohibit post-confirmation investigations.¹⁰ Limited investigations post-confirmation are necessary, in particular, as: (a) additional evidence must be collected in light of the manner in which charges were confirmed by Pre-Trial Chamber II (for instance, the more specific geographical scope of the charges as confirmed by Pre-Trial Chamber II than as alleged by the Prosecution); (b) the Prosecution needs to expand its number of witnesses for trial; and (c) the Prosecution is investigating certain lines of defence (most of which were only first indicated and developed by the Defence at the time of the confirmation hearing).
11. The proposed timing of disclosure for any additional statements under rule 76 strikes an appropriate balance between the Prosecution’s and the Chamber’s protection obligations under article 68(1), the right of the Accused under article 67(1)(b) to have “adequate time and facilities for the preparation of the defence,” and the Prosecution’s disclosure obligations under rules 77 and 76 to ensure that disclosure is provided “sufficiently in advance to enable the adequate preparation of the defence”.

B. Measures to protect witnesses and other persons

12. The Prosecution anticipates that there may be ongoing security risks impacting the protection of witnesses and other persons throughout the trial.

⁸ See ICC-01/09-01/11-440, paras. 19, 20. Trial Chamber V authorised the disclosure of the identities of non-ICCPP witnesses with security concerns one month before trial following an application for delayed disclosure.

⁹ ICC-01/04-01/10-514, para. 44.

¹⁰ ICC-01/09-02/11-728, paras. 118, 120.

It will continue to monitor its witnesses' security and take appropriate measures.

i. Referrals to the ICCPP

13. Presently, the Prosecution does not foresee the referral of any additional individuals to the ICC protection programme ("ICCPP"). However, it will continue to assess the security situation of its witnesses and will keep the Chamber apprised of any further developments arising from its ongoing focussed investigations, or that affect the security situation of individual witnesses.

ii. Maintaining redactions approved by Pre-Trial Chamber II and Trial Chamber I pursuant to regulation 42(2)

14. Pre-Trial Chamber II authorised redactions in relation to 74 witnesses and other individuals contacted during the Prosecution's investigation. Trial Chamber I in *Lubanga* also authorised redactions which are maintained in this case pursuant to regulation 42(2) of the Regulations of the Court ("RoC").

15. A list of materials disclosed in redacted form by order of both Pre-Trial Chamber II and Trial Chamber I in *Lubanga* is attached as Annex A, pursuant to the Chamber's request.¹¹

16. The redactions authorised by Pre-Trial Chamber II and those continuing under regulation 42(2) should be maintained, for the reasons set out in Pre-Trial Chamber II's and Trial Chamber I's decisions, given that there has been no material change in the circumstances that necessitated these redactions. The Prosecution will continue to assess the changing security situation and

¹¹ ICC-01/04-02/06-339, para. 8.

seek to lift protective measures whenever appropriate.¹² As developed below in paragraphs 20 to 22, the Prosecution intends to submit a redaction protocol to the Defence and the Chamber dealing with timing for lifting redactions.

iii. Material that requires application for redactions

17. The Prosecution attaches a provisional list, at Annex B, of items for which the Prosecution intends to request redactions.¹³ The Prosecution stresses that this list is not exhaustive due to its ongoing assessment of disclosable evidence.

18. The list contained in Annex B includes: (a) witness statements; (b) photographs that will be used to produce a panoramic 360° interactive presentation of crime-scene locations; and (c) photographs, video footage, and other documentation collected during forensic exhumation missions.

19. The Prosecution will seek limited content and/or metadata redactions to these documents. Most of the non-witness related items will solely require redactions to the identity of investigators under rule 81(2), as well as redactions to the identities of innocent third parties pursuant to rule 81(4).

iv. Proposed protocol governing redactions and lifting existing redactions

20. In the interests of efficiency and judicial economy, the Prosecution proposes a protocol to implement future redactions and to lift approved redactions. The protocol would then be submitted to the Chamber for approval. The Prosecution proposes the adoption of a modified version of the “Protocol establishing a redaction regime” approved by Trial Chamber V in both the *Kenyatta* and *Ruto and Sang* cases (“Kenya Redaction Protocol”).¹⁴

¹² The suggested process for lifting redactions, including those authorised by Pre-Trial Chamber II, is discussed at sub-section (iv).

¹³ ICC-01/04-02/06-339, para. 8.

¹⁴ ICC-01/09-02/11-495-AnxA-Corr; ICC-01/09-02/11-495 (decision adopting the Protocol); ICC-01/09-01/11-458-AnxA-Corr; ICC-01/09-01/11-458 (decision adopting the Protocol). The Prosecution intends

21. The Kenya Redaction Protocol identifies redaction categories covered by “Standard Justifications,” which the parties can apply without seeking further authorisation from the Chamber.¹⁵ In contrast, the parties are required to seek authorisation for “Non-Standard Justifications” on a case-by-case basis.¹⁶ For standard justification redactions, a timeline for lifting redactions is also set out on a category-by-category basis. The Kenya Redaction Protocol equally provides a resolution mechanism for any disputes regarding redactions arising between the parties,¹⁷ as well as the maintenance of existing (pre-trial) redactions until their application is no longer necessary.¹⁸

22. Such a protocol would expedite the disclosure process, in turn providing the Defence with faster access to potentially relevant materials. It will be important to have such a protocol in place at the earliest opportunity, to ensure uniformity and consistency, and before any further disclosure takes place.

v. Protocol governing treatment of confidential information and contact with witnesses of the opposing party

23. During the pre-trial proceedings, the Defence and Prosecution agreed to a “Protocol on the Handling of Confidential Information during Investigations

to propose slight modifications to the Kenya Redaction Protocol: for example, it will seek pre-approval for redactions to identifying and contact information of investigators. This category of redactions is of paramount importance in protecting the ongoing investigation, and ensuring the safety of investigators and of those cooperating with the Court. Additionally, as certain investigators in this case will also work on other DRC cases, revealing their identity may impact these other investigations. Moreover, the concerns raised by the Defence in *Kenyatta* to justify the exclusion of investigators’ identifying information from the Standard Justifications category do not arise in this case.

¹⁵ ICC-01/09-02/11-495-AnxA-Corr, para. 6; ICC-01/09-01/11-458-AnxA-Corr, para. 6.

¹⁶ ICC-01/09-02/11-495-AnxA-Corr, para. 7; ICC-01/09-01/11-458-AnxA-Corr, para. 7.

¹⁷ ICC-01/09-02/11-495-AnxA-Corr, paras. 16-20.

¹⁸ ICC-01/09-02/11-495-AnxA-Corr, para. 14.

and Contact between a Party and Witnesses of the Opposing Party” (“Protocol”).¹⁹ The only two disputed provisions²⁰ were submitted to the Single Judge, who adopted the two provisions with amendments on 17 December 2013.²¹

24. The Single Judge instructed the parties to consult the Victims and Witnesses Unit (“VWU”) before official adoption of the text,²² “remind[ing] the Prosecutor and the Defence”, in the interim, “to abide by their obligations in respect of the confidentiality of information and protection of victims and witnesses.”²³ After consultation with VWU and the Common Legal Representatives, a revised version of the Protocol was circulated for final comment on 31 July 2014.

25. Upon receipt of any further observations from the VWU, the Common Legal Representatives and newly appointed Defence counsel, the Prosecution will submit the Protocol to the Chamber for approval. It is critical that the Protocol be formally adopted before disclosure of further confidential statements occurs, as it will expressly regulate contact with witnesses of the opposing party as well as the handling of confidential information. Without such a Protocol, when undertaking the disclosure of sensitive witness materials the Prosecution would need to consider implementing more comprehensive redactions to protect witnesses, which is resource and time-intensive.

vi. In-court protective measures

¹⁹ ICC-01/04-02/06-167-AnxA.

²⁰ ICC-01/04-02/06-185, paras. 5, 6-8, 16-18. The two disputed provisions were para. 21, concerning witnesses participating in the ICCPP, and para. 26, concerning witnesses who allegedly suffered from sexual and gender based violence.

²¹ The Single Judge ordered amendments to para. 21, and approved para. 26 in the form suggested by the Prosecution: ICC-01/04-02/06-185, paras. 15, 21.

²² ICC-01/04-02/06-185, para. 22.

²³ ICC-01/04-02/06-185, p. 11.

26. The Prosecution will seek in-court protective measures for several witnesses, and will submit applications for in-court protective measures no later than two months prior to each witness's testimony, barring unforeseen circumstances.

C. Material disclosed pursuant article 67(2) and rule 77

27. Thus far, the Prosecution has disclosed an extensive body of evidence to the Defence, totalling 6,934 items. This evidence includes 590 items disclosed as potentially exonerating pursuant to article 67(2), and 4,020 items disclosed pursuant to rule 77.

28. The Prosecution will continue its ongoing review of new evidence and evidence already in its possession for article 67(2) and rule 77 materials, and will ensure timely disclosure. The Prosecution reviews its evidence collection during the course of the pre-trial and trial phases as issues in the case evolve and in response to developing lines of defence. As a result, evidence review and disclosure is not static but continues.

D. Outstanding issues concerning materials collected under article 54(3)(e)

29. Since 27 March 2013, the Prosecution made periodic requests to the information providers to lift restrictions to items collected under article 54(3)(e). To date, the Prosecution has disclosed approximately 760 such items to the Defence.

30. In January 2014, the Prosecution informed Pre-Trial Chamber II that it had identified 171 items containing information falling within the scope of rule 77, and for which lifting requests were still pending.²⁴ Pre-Trial Chamber II reviewed these items and decided that their non-disclosure did not cause prejudice to the rights of the Defence for the purposes of the confirmation of

²⁴ ICC-01/04-02/06-201, ICC-01/04-02/06-216, ICC-01/04-02/06-239.

charges hearing, in large part because the Prosecution had disclosed similar evidence covering the relevant information.²⁵

31. The Prosecution reported on the status of disclosures and responses to its requests for lifting to Pre-Trial Chamber II every two weeks.²⁶ The Prosecution awaits the lifting of restrictions in relation to 30 of these 171 items. All remaining items have been disclosed to the Defence.
32. As part of its further, ongoing review of material in its possession, the Prosecution identified close to 100 additional items containing rule 77 information, and is seeking the lifting of restrictions to disclose them. At present, the Prosecution does not anticipate any significant issues in the timely disclosure of these documents, but will inform the Chamber and Defence in a timely manner if any such issues arise.
33. The Prosecution continues to prioritise the review of article 54(3)(e) material in its possession in view of the need to make timely requests for the lifting of conditions. At present, the Prosecution does not foresee immediate difficulties in obtaining the lifting of article 54(3)(e) restrictions to material in time for trial. However, as already mentioned, what constitutes rule 77 or article 67(2) material may evolve over time and cannot be anticipated in advance, which could have an impact on the timeliness of future requests.

E. Expert witnesses

²⁵ ICC-01/04-02/06-229, p. 10; ICC-01/04-02/06-247, p. 10.

²⁶ See ICC-01/04-02/06-243; ICC-01/04-02/06-262; ICC-01/04-02/06-270; ICC-01/04-02/06-285; ICC-01/04-02/06-290; ICC-01/04-02/06-297; ICC-01/04-02/06-300; ICC-01/04-02/06-304; ICC-01/04-02/06-307; ICC-01/04-02/06-315.

34. The Prosecution intends to call expert witnesses on the historical context of the case, on sexual violence, trauma, and satellite image analysis. As noted above, the Prosecution also intends to call forensic experts in relation to exhumations conducted at crime scenes. The Prosecution is actively considering calling experts on other matters, and will provide timely updates to the Chamber as further information is available.

35. The Prosecution is cognisant of the fact that, in the interests of justice and judicial economy, various Trial Chambers have favoured the joint instruction of experts by the Parties.²⁷ As Mr Desalliers informed the Prosecution that he is unable to address this issue, the Prosecution will engage in discussions with new Defence counsel and will inform the Chamber of the outcome.

F. Evidence to be introduced under rule 69 as agreed facts

36. In the interests of judicial economy, the Prosecution will endeavour to reach an agreement with the Defence pursuant to rule 69 on agreed facts and will inform the Chamber of the outcome.

G. Victims' applications and participation at trial

i. Continuation of Common Legal Representative framework

37. The Prosecution supports the framework for the participation of victims established during the confirmation process. This framework consists of two groups of victims—one composed of UPC/FPLC child soldiers, and another of the victims of the UPC/FPLC attacks—each represented by a Common Legal Representative.²⁸

38. As the Single Judge observed, this framework appropriately balances the relevant interests at stake. On the one hand, it responds to the “serious

²⁷ See, e.g., ICC-01/04-01/06-1069, paras. 14, 15; ICC-01/05-01/08-695, para. 11.

²⁸ ICC-01/04-02/06-160; ICC-01/04-02/06-150, para. 8; ICC-01/04-02/06-211.

concerns expressed by victim applicants in the present case towards the possibility to have one legal team representing both Hema and Lendu/non-Hema victims.”²⁹ On the other hand, it ensures that the “proceedings are conducted in a fair and expeditious manner as provided for in article 67(1) of the Statute”, as it “guarantee[s] the right of victims to meaningfully express their views and concerns through a legal representative in accordance with rule 90, in a manner which is not inconsistent with or prejudicial to the rights of the Defence, as mandated by article 68(3) of the Statute.”³⁰

ii. *Continued participation of victims approved for participation during confirmation hearing*

39. In addition, the Prosecution supports a process whereby victims who were authorised to participate during the pre-trial stage are authorised to participate in trial proceedings without filing a new application. However, it recommends following the model adopted by Trial Chamber V in *Kenyatta* and *Ruto and Sang*, requiring the Registry to review these victims’ applications, “assess whether they still fall under the definition [of a victim, as revised pursuant to the Decision on the Confirmation of Charges]”,³¹ and report to the Chamber on and inform the Common Legal Representative of any individuals who no longer fall within the revised definition of a victim for the purpose of the trial.

40. This process best accounts for: (a) the need to ensure that the group of victims authorised to participate at trial is consistent with the parameters of the charges as confirmed;³² (b) the presumption under rule 89 that an individual’s

²⁹ ICC-01/04-02/06-211, para. 76.

³⁰ ICC-01/04-02/06-160, para. 19.

³¹ ICC-01/09-02/11-498, at para. 61; ICC-01/09-01/11-460, para. 62.

³² As the Appeals Chamber has confirmed, the harm suffered, whether direct or indirect, must be linked to the charges confirmed against the Accused: ICC-01/04-01/06-1432, at paras. 38-39, 65.

qualification as a victim continues for the “proceedings” as whole,³³ (c) the authority of the Chamber to revise a prior rule 89 decision, as necessary under rule 91; and (d) judicial economy in ensuring the most efficient means by which to review existing victims applications in light of the Registry’s expertise.

iii. Continuation of the existing process to new victims applications

41. The Prosecution considers that the start of the trial is an appropriate deadline for further applications from victims for participation.³⁴ This is without prejudice to the right of victims who may later seek to qualify for the purpose of reparations proceedings. To this end, the Prosecution supports the continuation of the application processes established by the Single Judge’s decision of 28 May 2013, based on the simplified form adopted therein.³⁵

H. Languages to be used in the proceedings

42. Based on the languages used during interviews, Prosecution witnesses will testify in English, French, Swahili and Lingala. However, as some of these witnesses’ mother tongue is Kilendu, they may wish to testify in this language. The Prosecution will obtain updated information on language preferences and will update the Chamber accordingly.

I. Commencement of the trial

³³ See, e.g., ICC-01/05-01/08-699, para. 17.

³⁴ See, e.g., ICC-01/04-01/06-1556-Corr-Anx1, para. 137(f).

³⁵ ICC-01/04-02/06-67.

43. The issues listed in the Chamber's provisional agenda and discussed above are among the numerous steps that must be completed prior to the commencement of the trial. The Prosecution proposes June 2015 as a realistic date for the commencement of trial, given the change in Defence counsel and the issues that need to be addressed before trial can commence.
44. In particular, this date will allow sufficient time for the Prosecution to: (i) conduct discussions with Defence regarding agreed facts under rule 69, use of Protocols, joint instructions of experts and necessary translations into Kinyarwanda of rule 76 statements; (ii) obtain final expert reports further to joint or separate instruction; (iii) assess materials in its possession (in light of developing lines of defence and the Prosecution's limited further investigations), including any necessary protective measures; (iv) provide translation of evidence where required; (v) complete the process of transcription of audio- and video-recorded evidence, including interviews conducted under article 55(2); and (vi) advance its focussed investigations.

i. Ongoing assessment of evidence and disclosure

45. As described above, the Prosecution continues to evaluate the evidence it has collected and to assess whether it should be disclosed, in light of developing defence lines and the Prosecution's further investigations. This includes the review of a large pool of handwritten and typed documents that cannot easily be searched by way of automated keyword searches due to the quality of the print or the lack of searchable characters in the text. The Prosecution anticipates that this latter review will be completed in one month, which will include its evaluation of necessary redactions or protective measures to material that must be disclosed and the submission of any requests for the lifting of conditions under article 54(3)(e).

46. Significant time is also devoted to assessing the evidence for any necessary redactions or protective measures. These depend on the current security situation which requires, not only up-to-date assessments for all witnesses, but also an assessment of redactions in place in the *Lubanga* proceedings. As the Prosecution is required to justify the level of confidentiality for disclosed documents,³⁶ their painstaking and ultimately time-consuming review is critical. Moreover, the Prosecution has met with witnesses who provide information that is disclosable under article 67(2) or rule 77, which results in security assessments being conducted and may result in requests for necessary redactions or protective measures. The process of review of redactions and other protective measures to assess whether they remain necessary is also time-consuming.

ii. Process of transcription

47. During its further investigations, the Prosecution is conducting a limited number of article 55(2) interviews, which must be transcribed. Although the disclosure obligation attaches only to the original form of the interview (the audio/video recording), in practice the Prosecution prepares and discloses the corresponding transcripts to assist the Defence in reviewing the material. Transcription is time-intensive. Typically, it can take five days to transcribe and quality control *one hour* of a bilingual interview. These interviews generally average up to 10-15 hours each. Moreover, the Prosecution is relying on a number of videos for trial, for which transcriptions will be provided. Transcription of these items is also time-consuming. It is estimated that the time taken can range up to six or seven days to transcribe and quality control each hour of material, especially if the quality is poor and there are multiple languages being spoken. Naturally, for both interview transcripts

³⁶ ICC-01/04-02/06-47, para. 28.

and video footage, translation of these transcripts into Kinyarwanda, where required, can start only once the quality control has been completed.

iii. Translation of materials into Kinyarwanda

48. As noted by the Single Judge,³⁷ and by the Interpretation and Translation Section,³⁸ the translation of materials into Kinyarwanda pursuant to rule 76(3) is a time-consuming exercise.³⁹ In advance of the confirmation hearing, the Defence requested limited translation into Kinyarwanda in the interests of expediency,⁴⁰ including drafts rather than final translations and in some cases limited portions of evidence, all without prejudice to its position for more translation at trial.⁴¹ Until the Prosecution can enter into further discussion with new Defence counsel on this issue, it is unable to provide accurate estimates for the time needed to prepare translations. Should the Defence take a different position at trial and request full, final translations of all rule 76 witness statements, which the Prosecution would oppose,⁴² this will require significant time. The exact time necessary for any further translations will depend on the number, length, and nature of the documents for which the Defence requests translation. It is estimated that it takes approximately three days for every 10 standard pages to be translated and reviewed. There have been a number of interviews conducted pursuant to article 55(2) that

³⁷ "translation into Kinyarwanda, in principle, takes more time than translation into the working languages of the Court", ICC-01/04-02/06-73, at para. 47.

³⁸ See ICC-01/04-02/06-114.

³⁹ See also ICC-01/04-02/06-65, at para. 20, outlining the estimation of time required for translations at the confirmation stage.

⁴⁰ ICC-01/04-02/06-107, paras. 4-6, 9, p. 5; ICC-01/04-02/06-144, paras. 4-5, p.4; ICC-01/04-02/06-187, para. 5.

⁴¹ ICC-01/04-02/06-107, paras. 7-8; ICC-01/04-02/06-137, paras. 20-21, p.8; ICC-01/04-02/06-144, p. 4; ICC-01/04-02/06-187, paras. 6-7, pp. 4-6.

⁴² The right of the accused to have prior statements made available to him in a language that he fully understands and speaks is not unlimited, as the Chamber must weigh this against the fairness and expeditiousness of the proceedings. See ICC-01/04-01/06-268, pp. 408, citing *Leudicke v Germany* [ECHR] Applications no.6210/73; 7132/75 (1978), para. 48 and *Kamasinski v Austria* [ECHR] Application No.9783/82, Judgement, 19 December 1989, para. 74.

comprise hundreds of pages, as well as a number of witnesses being relied upon for trial whose evidence includes transcripts of prior legal proceedings before the Court that are also very lengthy. The Prosecution has only two Kinyarwanda translators and one Kinyarwanda reviewer. Even minimum translation would require a significant amount of work. The three Kinyarwanda staff are also required to assist in the time-consuming exercise of implementing redactions in any materials translated into Kinyarwanda.

49. The time necessary for translations is a *critical* factor to be considered in the appropriate timeline for the commencement of trial.

iv. Change in Defence counsel

50. In determining an appropriate commencement date for trial, the Prosecution has also considered the reality that a new Defence team will require adequate time for preparation pursuant to article 67(1)(b), likely several months.

v. Provisional timeline of intervening steps

51. The Prosecution proposes a timeline to trial. Consultations regarding all necessary protocols, joint instructions to experts, and any initial agreements on facts would be completed at the latest by December 2014. During this period, the Prosecution would also finalise its assessment of evidence with a view to completing the disclosure of evidence that it intends to present at trial, by March 2015.

52. A list of Prosecution witnesses and evidence would also be provided by March 2015, thereby giving the Defence sufficient time to complete any necessary review and investigations. Expert reports would be provided by April 2015. An Amended Document Containing the Charges and Pre-Trial

Brief⁴³ would be filed approximately one month before start of trial to provide the Defence with adequate time to prepare. Redactions to identities of witnesses and family members, for whom rolling disclosure was sought and granted, would be lifted one month before trial.

V. Conclusion

53. The Prosecution respectfully submits these observations on the upcoming Status Conference.



Fatou Bensouda
Prosecutor

Dated this 14th day of August 2014

At The Hague, The Netherlands

⁴³ While not mandated by the legal texts of the Court, such briefs have been produced in *Lubanga* (ICC-01/04-01/06-1089), *Bemba* (ICC-01/05-01/08-669), *Katanga and Ngudjolo* (ICC-01/04-01/07-1588-Anx1), *Kenyatta* (ICC-01/09-02/11-796), and *Ruto and Sang* (ICC-01/09-01/11-625-AnxB-Red).