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No.: **ICC-02/11-02/11**

Date: **20/08/2014**

PRE-TRIAL CHAMBER I

Before: Judge Silvia Fernández de Gurmendi, Presiding Judge
Judge Ekaterina Trendafilova
Judge Christine Van den Wyngaert

SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE

IN THE CASE OF THE PROSECUTOR v. CHARLES BLÉ GOUDÉ

Public Document

Defence request concerning the list of evidence

Source: Defence for Charles Blé Goudé

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

The Office of the Prosecutor

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James Stewart
Eric Macdonald

Counsel for the Defence

Nicholas Kaufman

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
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Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section Other**

Charles Blé Goudé ("the Suspect") hereby requests that the learned Pre-Trial Chamber adopt the proposal set out hereinafter with respect to the respective lists of evidence to be filed by the Parties.

Submission

1. The purpose of a "list of evidence" is to prevent the Parties from being surprised at the confirmation hearing by the production of evidence of which they are unaware. It is also designed to permit the Pre-Trial Chamber to carry out its functions in an efficient manner.

2. The Prosecutor is presumed to be aware of all the information which she, herself, has gathered in the course of her investigations and has, subsequently, disclosed to the Defence – whether it be incriminating or exonerating. Indeed, all of these materials have been entered into ECourt except for a couple of "PEXO" disclosure packages and a few "R77" disclosure packages.

3. The Defence, for its part, views itself as having been put sufficiently on notice of all the Prosecutor's disclosed materials currently in ECourt and does not require a list of evidence. Indeed, the Defence does not have the time or the inclination to review the Prosecutor's potential list of evidence with a fine-tooth comb in order to protest, at confirmation, the reliance on a certain item of evidence which does not appear in the said list (as permitted by Rule 121(8) of the Rules of Procedure and Evidence).

4. In the circumstances, the Defence is amenable to a reciprocal arrangement whereby its list of evidence and that of the Prosecutor will be presumed to include all items currently entered into ECourt and, thereby, available to the Pre-Trial Chamber. The Defence will disclose and supply the Prosecution with a list of any supplementary items of evidence on which it intends to rely within the time period stipulated in Rule 121(6) of the Rules of Procedure and Evidence.

5. The Defence believes that this proposal will serve the interests of justice because it will not artificially limit the ability of the Parties to rely on materials collated by the Prosecutor and disclosed to the Defence within the statutory time-limits. It will, furthermore, enable both Parties better to clarify the truth of what happened during the post-electoral period in Cote d'Ivoire.

6. The Defence makes this proposal, *inter alia*, because it wishes to reserve the right to select materials from the whole of the Prosecutor's evidence collection which it believes will be of assistance in countering the mysterious "fifth incident". The proposed arrangement is thus a fully justified concession given the late introduction of a new series of alleged acts of violence of which the Defence has not yet been put on notice. It would be manifestly unfair for the Prosecution to exploit the Defence's inability to prepare a comprehensive list of evidence (out of the Prosecutor's evidence collection) to counter all of these "new" facts within the space of fifteen days. The proposal will also avoid the unnecessary duplication of evidence should the Defence detail materials which are also on the Prosecutor's list of evidence.

Conclusion

In the circumstances, the Pre-Trial Chamber is respectfully requested to endorse the above detailed proposal.

A handwritten signature in black ink, reading "Nicholas Kaufman", is enclosed in a rectangular box. Below the box is a horizontal line.

Nicholas Kaufman
Counsel for Charles Blé Goudé

Done in Jerusalem, Israel
Wednesday, August 20, 2014