

Annex I

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From: Trial Chamber X Communications
Sent: 29 October 2020 10:01
To: 'D28AlHassanDefenceTeam [REDACTED]'; Al Hassan Prosecution Team; 'V43LRVTeam [REDACTED]'
Cc: Trial Chamber X Communications; Associate Legal Officer-Court Officer; FS Items Communication
Subject: Decision on submitted material for P-0152
Attachments: P-0152 OTP Reply.pdf; P-0152 OTP submission.pdf; P-0152 Defence Response.pdf; List of Material for Submission for Witness MLI-OTP-P-0152.pdf

Dear Counsel,
Dear Colleagues,

The Chamber notes the submission of items by the Prosecution (Email from the Prosecution dated 30 September 2020 at 19:02 and corresponding attachment) following the testimony of P-0152.

It is noted that the Defence objects to the submission of MLI-OTP-0030-1036 and MLI-OTP-0030-1037-R-01 (Email from the Defence dated 1 October 2020 at 17:45).

The Chamber also takes note of the Prosecution's response to the Defence objections (Email from the Prosecution dated 2 October 2020 at 10:30). It is noted that no items were submitted by the Defence.

The Chamber recalls that in its Decision on Prosecution's proposed expert witnesses (ICC-01/12-01/18-989-Conf, paras 53-54), the Chamber allowed the introduction of the expert report of P-0152 as well as the related materials including items MLI-OTP-0030-1036 and MLI-OTP-0030-1037-R01.

When confirming in court that the procedural prerequisites of Rule 68(3) have been fulfilled, it is not required that each piece of document must have been shown and individually confirmed by the witness.

Rather, it is sufficient that the witness is given the opportunity to confirm the report and related materials as a whole. In the instant case, and as explicitly foreseen by the Prosecution in its application to submit P-0152's evidence pursuant to Rule 68(3), the Prosecution proposed that during the witness preparation, the Prosecution would ask P-0152, *inter alia*, 'to review his Report and associated material, advise of any corrections or clarifications he wishes to make, and to confirm the accuracy of the Report' (*see* filing ICC-01/12-01/18-837-Conf, para. 19).

Accordingly, the Chamber does not consider that the mere fact that the Prosecution did not mention specifically and individually the related material in court, when asking the witness to confirm the contents of his report, is a valid reason for excluding the related material.

Considering that the formalities under Rule 68(3) have been satisfied, the Chamber recognises the formal submission of items contained in the table attached to the email submissions received from the Prosecution 30 September 2020 at 19:02. The Registry is therefore directed to proceed in accordance with paragraph 34(vi) of the Directions on the conduct of the proceedings (ICC-01/12-01/18-789-AnxA).

Kind regards,

[REDACTED]
On behalf of Trial Chamber X