ICC-02/05-01/20-794-Anx1-Red 27-10-2022 1/19 T

## Annex 1 Public

| From:        | Trial Chamber I Communications   |
|--------------|--|
| Sent:        | 20 July 2022 12:58   |
| То:          | Abd Al Rahman Prosecution Team; D31AbdAlRahmanDefenceTeam  |
| Cc:          | FS Items Communication; Associate Legal Officer-Court Officer; Trial Chamber I<br>Communications   |
| Subject:     | Decision on the submission of evidence through witness P-0877  |
| Attachments: | P-0877 - List of Material for Submission; Defence Request for admission into<br>evidence of the material tendered through witness P-0877; Re: P-0877 - List of<br>Material for Submission; Re: P-0877 - List of Material for Submission; Re: P-0877 -<br>List of Material for Submission |

Dear Counsel, Dear colleagues,

The Chamber notes the submission of 4 items by the Defence (*see* attached email of 5 July 2022 at 14:17), which was unopposed.

On 5 July 2022, the Prosecution submitted a list of 46 items (*see* attached email of 5 July 2022 at 17:36), to which the Defence objected on 6 July 2022 (*see* attached email of 6 July 2022 at 17:57). On 7 July 2022, the Prosecution responded to the Defence's objections (*see* attached email of 7 July 2022 at 18:48). On 8 July 2022, the Defence replied to the Prosecution's response (*see* attached email of 8 July 2022 at 12:01).

First, the Defence identifies a category of items (16, 17, 20, 21, 22, 23, 24, 25, 31, 32 and 33), which it contends were not used with the witness during the hearing. In its reply, the Prosecution in fact notes that it added items 16, 17, 24, 25, 31, 32, 33, 41 in error. Therefore, that part of the request for submission is moot.

As regards the remaining items (20, 21, 22 and 23), the Chamber notes the Defence retracted its objections to these items in its reply. Accordingly, noting that these items were used in court with P-0877, the Chamber recognises them as formally submitted.

In a second category, the Defence identifies video clips shown to the witness. Although the Defence objects to the submission of the entire video, it does not object to the submission of the excerpts shown to the witness. These are items:

- Video DAR-OTP-0217-0279 (item 27), subtitled version: DAR-OTP-0220-5447 (item 43)
- Video DAR-OTP-0220-5152 (item 44), partially subtitled version: DAR-OTP-0220-5441 (item 39) and transcript (DAR-OTP-0220-5231, item 45) and translation thereof (DAR-OTP-0220-5245, item 46).

Specifically, the Defence does not object to the submission of the relevant short clip in **item 27** (time stamps 00:01:15 – 00:01:30 **and its subtitled version, item 43**), which was viewed by the witness for the purpose of **an excerpt** (time-stamp 03:14 to 04:00) from **item 39** (and its subtitled version item 44). In relation to item 39, the Defence also submits that it features inadmissible comments from persons who are not witnesses in the case. Finally, the Defence does not object to the submission of items 45 and 46, but contends that the transcription of the words spoken by **b** (and its subtitled version item 45), who is not a witness in the present proceedings, should be disregarded by the Chamber.

In principle, for the sake of practicality and to avoid potential submission of the same video, transcript or translation multiple times for different witnesses with different extracts, the Chamber considers it more

appropriate to authorise submission of the entirety of the audio-visual material and any accessory (related transcript or translation). Thus, with regard to **item 27**, the Chamber considers it more appropriate to authorise the submission of the entire video and related subtitled version (**item 43**). However, in assessing the evidence, the Chamber will take into account the submissions of the Defence.

With regard to **item 44 and related items 39, 45 and 46**, the Chamber equally finds that the entire video may be submitted. Moreover, the partially subtitled version, its transcript and translation (items 39, 45 and 46) may also be submitted as they are accessories to the main item of evidence (item 44).

With regard to the Defence's arguments concerning inadmissible comments from persons who are not witnesses in the case, the Chamber considers that this is not an issue that should impede the submission of the item at this stage but one that can properly be taken into account by the Chamber in due course, and particularly in its judgment under Article 74 of the Statute. This is in line with the approach taken by the Chamber in its Directions on the conduct of proceedings, adopting a system that recognises submission of items of evidence 'without a prior ruling on the admissibility of the evidence' and considering 'relevance, probative value and potential prejudice of the evidence (the 'standard evidentiary criteria') as part of the holistic assessment of all evidence submitted when deciding on the guilt or innocence of the accused' (*see* ICC-02/05-01/20-478, para. 25). Accordingly, the Chamber rejects the Defence's arguments in relation to items 44, 39, 45 and 46.

Considering the above, the Chamber hereby recognises the following items as formally submitted:

- By the Prosecution: items 1-15, 18-23, 26-30, 34-40, 42 and 44-46.
- By the Defence: items DAR-OTP-0220-5119, DAR-OTP-0219-4112, DAR-OTP-0217-0479 and DAR-OTP-0219-0490.

The Registry is therefore directed to proceed in accordance with paragraph 31(iv) of the Directions on the conduct of the proceedings (filing 478).

Kind regards,

(on behalf of Trial Chamber I)

| Issa Abdel Badih, Ahmad   |
|---|
| 05 July 2022 14:17  |
| Trial Chamber I Communications  |
| Abd Al Rahman Prosecution Team; V47 Abd Al Rahman LRV Team; Associate Legal                 |
| Officer-Court Officer; D31 Abd-Al-Rahman Defence Team                                       |
| Defence Request for admission into evidence of the material tendered through witness P-0877 |
|   |

Dear Trial Chamber I,

Pursuant to the procedure set out in paragraphs 31-33 of the *Directions on the conduct on proceedings* (ICC-02/05-01/20-478), the Defence hereby seeks the admission into evidence of the material used through Witness P-0877 listed below.

For ease of reference, the relevant Transcript pages indicating the ERN of the material and the relevant excerpts where the material was discussed are also identified below:

- DAR-OTP-0220-5119 (Tab 59 of OTP's List of Materials), Victim application form, T-55 RT ENG, p. 83 In.16-19;
- DAR-OTP-0219-4112 (Tab 51 of OTP's List of Materials), Media/Press article , T-55 RT ENG, p. 80 ln 25 to p. 81 ln. 1;
- DAR-OTP-0217-0479 (Tab 13 of OTP's List of Materials), Sketch, T-55 RT ENG, p. 51 ln 4-9;
- DAR-OTP-0219-0490 (Tab 15 of OTP's List of Materials), Sketch, T-55 RT ENG, p. 69 ln 4-9.

Kind regards,

Ahmad Issa, Case Manager in the Defence team of Mr. Abd-Al Rahman

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| From:        | Edwards, Iain   |
|--------------|---|
| Sent:        | 08 July 2022 12:00  |
| То:          | Sachithanandan, Pubudu; Sabatini, Claire; Trial Chamber I Communications  |
| Cc:          | D31 Abd-Al-Rahman Defence Team; V47 Abd Al Rahman LRV Team; Abd Al Rahman Prosecution Team; Associate Legal Officer-Court |
|              | Officer   |
| Subject:     | Re: P-0877 - List of Material for Submission  |
| Attachments: | Defence reply OTP P-0877.docx   |
|              |   |

Dear Trial Chamber, Dear colleagues,

The Defence thanks the OTP for its detailed responses. It has assisted in narrowing down the areas of disagreement.

Please find attached a final schedule setting out our replies to the Prosecution's responses.

Kind regards,

lain Edwards

| From: Sachithanandan, P                                       | ubudu                           |  |                      |       |
|---|---------------------------------|--|----------------------|-------|
| Sent: 07 July 2022 18:48                                      |                                 |  |                      |       |
| To: Edwards, Iain   | ; Sabatini, Claire              | ; Trial Chamber I Communicati                          | ons                  |       |
| Cc: D31 Abd-Al-Rahman [                                       | Defence Team                    | ; V47 Abd Al Rahman LRV Team                           | 1                    | Abd A |
| Rahman Prosecution Team Associate Legal Officer-Court Officer |                                 |  |                      |       |
| Subject: Re: P-0877 - List                                    | of Material for Submission      |  |                      |       |
| Dear Trial Chamber,   |                                 |  |                      |       |
| Dear colleagues,  |                                 |  |                      |       |
| •   | rosecution's responses to the D | Defence. The responses are set out in tabular form for | ease of review.      | _     |
| Tab   | ERN                             | Defence objection                                      | Prosecution response |       |

| 20 | DAR-OTP-0217-0273 | the Defence does not believe that this item was used with the witness  | These are pages of a single list of victims, produced by the witness,  |
|----|-------------------|--|--|
| 21 | DAR-OTP-0217-0498 | the Defence does not believe that this item was used with the witness  | which were registered as individual ERNs.  |
| 22 | DAR-OTP-0217-0274 | the Defence does not believe that this item was used with the witness;   | The Prosecution showed the witness one (sample) page (OTP-DAR-0216-  |
| 23 | DAR-OTP-0217-0500 | the Defence does not believe that this item was used with the witness;   | 0492 / OTP-DAR-0220-3138) of the list<br>for the sake of efficiency.<br>Since this list is the basis for the<br>revised list (i.e. DAR-OTP-0224-0804)<br>prepared by the witness during<br>witness preparation, the Prosecution<br>submits that this (original) list of 97<br>persons provides useful context.<br>Submission of same does not<br>prejudice the defence.  |
| 26 | DAR-OTP-0217-0278 | given that DAR-OTP-0220-5444 will be submitted<br>without objection;   | DAR-OTP-0217-0278 is the original<br>video, from which DAR-OTP-0220-<br>5444 (the sub-titled version) was<br>produced.<br>While the sub-titled version was<br>played in court, this original version is<br>also submitted to ensure that the<br>original version of the video is on the<br>record in case there is any future<br>dispute regarding the<br>content/quality/other aspects of the<br>subtitled version. The submission of<br>same does not prejudice the defence. |
| 27 | DAR-OTP-0217-0279 | the Defence does not object to the submission of the<br>relevant short clip of this (unsubtitled) video which was<br>viewed by the witness solely for the purpose of<br><b>Example 1</b> , as agreed between the Parties.<br>The Defence objects to the submission of the remainder<br>of the item. Please see item 43. below; | This is the original version (without<br>subtitles) played to the witness. The<br>original version, without subtitles, was<br>used upon the request of the Defence.<br>The timestamps played to the witness<br>were:   |

| 43 | DAR-OTP-0220-5447 | the Defence objected, and maintains its objection, to<br>the use of this subtitled version of DAR-OTP-0217-0279   | (T-54 RT, page 43 lines<br>16-23).<br>In light of the above, the Prosecution<br>requests the Chamber to recognize<br>the submission of the entire video, to<br>have the relevant context on record,<br>and to retain on record as much of the<br>available footage of<br>Taking into the consideration the<br>Defence's submissions in court<br>regarding the statements made by<br>persons in the video, the Prosecution<br>will withdraw the subtitled version<br>(see tab 43 below) of this video.<br>The Prosecution withdraws this item,<br>since the original (DAR-OTP-0217- |
|----|-------------------|---|--|
| 39 | DAR-OTP-0220-5441 | the Defence does not object to the submission of an<br>excerpt from this video from time-stamp 03:14 to<br>04:00. The remainder of the video was not used with<br>the witness and in any event features inadmissible<br>comment from persons who are not witnesses in the | 0279, see row 27 above) was played<br>to the witness, and is being submitted.<br>This is a subtitled excerpt of DAR-OTP-<br>0220-5152. The entirety of DAR-OTP-<br>0220-5441 (i.e. timestamps 03:29-<br>04:30 of DAR-OTP-0220-5152) was<br>played to the witness.  |
| 44 | DAR-OTP-0220-5152 | case;<br>the Defence does not object to the submission of an<br>excerpt from this video from time-stamp 03:14 to 04:00<br>(please see item 39. above). The remainder of the video   | Consequently, the Prosecution<br>requests the Chamber to recognize<br>the submission of the entirety of DAR-<br>OTP-0220-5441<br>DAR-OTP-0220-5152 is the original<br>video, from which DAR-OTP-0220-5441<br>(the sub-titled excerpt listed at tab 39  |
|    |                   | was not used with the witness. In any event, if the partially subtitled version is submitted, it will be  | above) was produced. It is submitted<br>to ensure that the original version of<br>the video is on the record in case there   |

|    |                   | unnecessarily duplicative for this unsubtitled version to be submitted as well;  | is any future dispute regarding the<br>content/quality/other aspects of the<br>subtitled version.<br>In light of the Defence's submissions,<br>the Prosecution requests the Chamber<br>to recognize the submission of this<br>video, but to disregard the segments<br>that were not shown to the witness<br>(i.e. the segments prior to, and after,<br>timestamps 03:29-04:30).  |
|----|-------------------|--|--|
| 45 | DAR-OTP-0220-5231 | the Defence does not object to the submission of this<br>transcript, but submits that the record of the words<br>spoken by, who is<br>not a witness in the trial, should be disregarded by the<br>Trial Chamber; | This is the transcript of DAR-OTP-<br>0220-5441 (see tab 39 above). The<br>entirety of DAR-OTP-0220-5441 (i.e.<br>timestamps 03:29-04:30 of DAR-OTP-<br>0220-5152) was played to the witness.<br>Consequently the Prosecution<br>requests the submission of the entire<br>transcript. While it is open to the<br>defence to make submissions<br>regarding the weight to be given to<br>the words of the entire<br>is no procedural bar to submission of<br>the entire transcript   |
| 46 | DAR-OTP-0220-5245 | the Defence does not object to the submission of this<br>transcript, but submits that the record of the words<br>spoken by, who is<br>not a witness in the trial, should be disregarded by the<br>Trial Chamber. | This is the translation of DAR-OTP-<br>0220-5441 (see tab 39 above). The<br>entirety of DAR-OTP-0220-5441 (i.e.<br>timestamps 03:29-04:30 of DAR-OTP-<br>0220-5152) was played to the witness.<br>Consequently the Prosecution<br>requests the submission of the entire<br>translation. While it is open to the<br>defence to make submissions<br>regarding the weight to be given to<br>the words of the entire<br>is no procedural bar to submission of<br>the entire transcript |

| 16, 17, 23, 24, 31, 32,<br>33, 41   | DAR-OTP-0217-0262<br>DAR-OTP-0217-0492<br>DAR-OTP-0217-0276<br>DAR-OTP-0217-0504<br>DAR-OTP-0224-0165<br>DAR-OTP-0224-0166<br>DAR-OTP-0224-0167<br>DAR-OTP-0224-0799 |   | These items were added in error (and<br>are mostly duplicative of other<br>submitted items). The Prosecution<br>withdraws same. |               |
|---|--|---|---|---------------|
| Best regards,<br>Pubudu Sachithananda<br>Dévouement - Intégrité - Respect<br>Dedication - Integrity - Respect | an   |   |   |               |
| From: Edwards, lain Sent: 06 July 2022 17:57  |  |   |   |               |
| To: Sabatini, Claire<br>Cc: D31 Abd-Al-Rahman   | -  | nber I Communications<br>V47 Abd Al Rahman LRV Tear       | ~   | Abd Al        |
| Rahman Prosecution Tea  |  | Associate Legal Officer-Court Officer                     |   | ADU AI        |
|   | t of Material for Submission   | Associate Legal Officer-Court Officer                     |   |               |
| Dear Trial Chamber,   |  |   |   |               |
| Dear colleagues,  |  |   |   |               |
| •   | o the submission of the followin   | g items set out in the Prosecution's list related to witi | 1ess P-0877.  |               |
| -   |  | e that this item was used with the witness;               |   |               |
|   |  | e that this item was used with the witness;               |   |               |
|   |  | e that this item was used with the witness;               |   |               |
|   |  | e that this item was used with the witness;               |   |               |
|   |  | e that this item was used with the witness;               |   |               |
|   |  | e that this item was used with the witness;               |   |               |
|   |  | e that this item was used with the witness;               |   |               |
|   |  | e that this item was used with the witness;               |   |               |
|   |  | 44 will be submitted without objection;                   |   |               |
|   |  | to the submission of the relevant short clip of this (u   | osubtitled) video which was viewed by   | , the witness |
| solely for the purpose  |  | eed between the Parties. The Defence objects to the       |   |               |
| see item 43. below;   | ,  |   |   |               |
|   | 65: the Defence does not believ  | e that this item was used with the witness;               |   |               |
|   |  | e that this item was used with the witness;               |   |               |
|   |  | e that this item was used with the witness;               |   |               |
|   |  |   |   |               |

39. DAR-OTP-0220-5441: the Defence does not object to the submission of an excerpt from this video from time-stamp 03:14 to 04:00. The remainder of the video was not used with the witness and in any event features inadmissible comment from persons who are not witnesses in the case;

41. DAR-OTP-0224-0799: the witness was a viva voce witness. This item appears to have been included by the Prosecution in error;

43. DAR-OTP-0220-5447: the Defence objected, and maintains its objection, to the use of this subtitled version of DAR-OTP-0217-0279 with P-0877. Please see item 27. above;

44. DAR-OTP-0220-5152: the Defence does not object to the submission of an excerpt from this video from time-stamp 03:14 to 04:00 (please see item 39. above). The remainder of the video was not used with the witness. In any event, if the partially subtitled version is submitted, it will be unnecessarily duplicative for this unsubtitled version to be submitted as well;

45. DAR-OTP-0220-5231: the Defence does not object to the submission of this transcript, but submits that the record of the words spoken by

, who is not a witness in the trial, should be disregarded by the Trial Chamber;

46. DAR-OTP-0220-5245: the Defence does not object to the submission of this transcript, but submits that the record of the words spoken by

, who is not a witness in the trial, should be disregarded by the Trial Chamber.

The Defence does not object to the submission of the remainder of the items.

Kind regards,

Iain Edwards

| From: Sabatini, Claire  |   |                             |
|---|---|-----------------------------|
| Sent: 05 July 2022 17:35  |   |                             |
| To: Trial Chamber I Communications                                |   |                             |
| Cc: D31 Abd-Al-Rahman Defence Team                                | ; V47 Abd Al Rahman LRV Team  | Abd Al                      |
| Rahman Prosecution Team   | ; Associate Legal Officer-Court Officer                                       |                             |
| Subject: P-0877 - List of Material for Submission                 |   |                             |
| Dear Trial Chamber I,   |   |                             |
| In accordance with paragraph 31 of the "Directions on the cond    | duct of proceedings" (ICC-02/05-01/20-478), the Prosecution respectfully requ | lests the submission of the |
| items included in the attached list in relation to Witness P-0877 | 7.  |                             |
| Thank you.  |   |                             |
|   |   |                             |

Kind regards,

Cour

Pénale

Criminal Court

International

## **Claire Sabatini**

**Case Manager** Office of the Prosecutor internationale International Criminal Court Oude Waalsdorperweg 10, 2597 AK, The Hague Mail address: PO Box 19519, 2500 CM, The Hague, The Netherlands

## www.icc-cpi.int

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| Tab | ERN                   | Defence objection  | Prosecution response   | Defence reply                  |
|-----|-----------------------|--|--|--------------------------------|
| 20  | DAR-OTP-0217-0273     | the Defence does not believe<br>that this item was used with<br>the witness  | These are pages of a single list of victims, produced by the witness, which were registered as individual  | Objection no longer maintained |
| 21  | DAR-OTP-0217-0498     | the Defence does not believe<br>that this item was used with<br>the witness  | ERNs.<br>The Prosecution showed the witness  | Objection no longer maintained |
| 22  | DAR-OTP-0217-<br>0274 | the Defence does not believe<br>that this item was used with<br>the witness; | one (sample) page (OTP-DAR-0216-<br>0492 / OTP-DAR-0220-3138) of the<br>list for the sake of efficiency.   | Objection no longer maintained |
| 23  | DAR-OTP-0217-0500     | the Defence does not believe<br>that this item was used with<br>the witness; | Since this list is the basis for the<br>revised list (i.e. DAR-OTP-0224-0804)<br>prepared by the witness during<br>witness preparation, the Prosecution<br>submits that this (original) list of 97<br>persons provides useful context.<br>Submission of same does not<br>prejudice the defence.  | Objection no longer maintained |
| 26  | DAR-OTP-0217-0278     | given that DAR-OTP-0220-<br>5444 will be submitted<br>without objection;     | DAR-OTP-0217-0278 is the original<br>video, from which DAR-OTP-0220-<br>5444 (the sub-titled version) was<br>produced.<br>While the sub-titled version was<br>played in court, this original version<br>is also submitted to ensure that the<br>original version of the video is on the<br>record in case there is any future<br>dispute regarding the<br>content/quality/other aspects of the<br>subtitled version. The submission of | Objection no longer maintained |

|    |                   |  | same does not prejudice the defence.  |   |
|----|-------------------|--|---|---|
| 27 | DAR-OTP-0217-0279 | the Defence does not object<br>to the submission of the<br>relevant short clip of this<br>(unsubtitled) video which was<br>viewed by the witness solely<br>for the purpose of<br>for the purpose of<br>the purpose of the purpose of<br>the purpose of the purpose of<br>the purpose of the purp | This is the original version (without<br>subtitles) played to the witness. The<br>original version, without subtitles,<br>was used upon the request of the<br>Defence. The timestamps played to<br>the witness were: 00:01:15 –<br>00:01:30.<br>The Prosecution notes that witness<br>P-0877 and a case-<br>relevant individual (witness P-0979)<br>at the location. (T-54 RT, page 43<br>lines 16-23)<br>In light of the above, the Prosecution<br>requests the Chamber to recognize<br>the submission of the entire video,<br>to have the relevant context on<br>record, and to retain on record as<br>much of the available footage<br>Taking into the consideration the<br>Defence's submissions in court<br>regarding the statements made by<br>persons in the video, the<br>Prosecution will withdraw the<br>subtitled version (see tab 43 below)<br>of this video. | The Defence maintains that only the excerpt of this video that was shown to P-0877 and on which he actually commented (from time-stamp 00:01:15 to 00:01:30) should be submitted.<br>If the time comes when witness P-0979 appears to testify, the Prosecution can then seek submission of other excerpts of the video it deems of relevance to <i>that</i> witness and on which <i>that</i> witness can comment. But that time has not yet come. |

| 43 | DAR-OTP-0220-5447 | the Defence objected, and<br>maintains its objection, to the<br>use of this subtitled version<br>of DAR-OTP-0217-0279 with<br>P-0877. Please see item 27.<br>above;   | The Prosecution withdraws this item,<br>since the original (DAR-OTP-0217-<br>0279, see row 27 above) was played<br>to the witness, and is being<br>submitted.   | Noted.  |
|----|-------------------|---|---|---|
| 39 | DAR-OTP-0220-5441 | the Defence does not object<br>to the submission of an<br>excerpt from this video from<br>time-stamp 03:14 to 04:00.<br>The remainder of the video<br>was not used with the<br>witness and in any event<br>features inadmissible<br>comment from persons who<br>are not witnesses in the case;  | OTP-0220-5152. The entirety of DAR-<br>OTP-0220-5441 (i.e. timestamps   | The Prosecution fails to address the argument that<br>from timestamp 04:00 to 04:30, a non-witness<br>is<br>speaking and his words appear in the subtitles. P-<br>0877 was not asked to comment on the words of<br>this non-witness. He was merely asked – by the<br>Presiding Judge – to identify him. The comment<br>from is inadmissible. The fact the whole<br>excerpt may have been shown to the witness does<br>not convert inadmissible evidence into admissible<br>evidence. The Chamber is requested to disregard<br>the parts of the excerpt that come after 04:00. |
| 44 | DAR-OTP-0220-5152 | the Defence does not object<br>to the submission of an<br>excerpt from this video from<br>time-stamp 03:14 to 04:00<br>(please see item 39. above).<br>The remainder of the video<br>was not used with the<br>witness. In any event, if the<br>partially subtitled version is<br>submitted, it will be<br>unnecessarily duplicative for<br>this unsubtitled version to be<br>submitted as well; | video, from which DAR-OTP-0220-<br>5441 (the sub-titled excerpt listed at<br>tab 39 above) was produced. It is<br>submitted to ensure that the original<br>version of the video is on the record<br>in case there is any future dispute<br>regarding the content/quality/other<br>aspects of the subtitled version. | However, for the reasons set out in respect of DAR-<br>OTP-0220-5441 at Tab 39 above, the Trial Chamber<br>is requested to disregard the parts of the excerpt<br>that come after 04:00, not simply the parts that   |

| 45 | DAR-OTP-0220-5231 | the Defence does not object   | witness (i.e. the segments prior to,<br>and after, timestamps 03:29-04:30).<br>This is the transcript of DAR-OTP-  | For the reasons set out in respect of DAR-OTP-   |
|----|-------------------|---|--|--|
|    |                   | to the submission of this<br>transcript, but submits that<br>the record of the words<br>spoken by), who is<br>not a witness in the trial,<br>should be disregarded by the<br>Trial Chamber;                               | 0220-5441 (see tab 39 above). The<br>entirety of DAR-OTP-0220-5441 (i.e.<br>timestamps 03:29-04:30 of DAR-<br>OTP-0220-5152) was played to the<br>witness.<br>Consequently the Prosecution<br>requests the submission of the<br>entire transcript. While it is open to<br>the defence to make submissions<br>regarding the weight to be given to<br>the words of <b>Constitution</b> ,<br>there is no procedural bar to<br>submission of the entire transcript | 0220-5441 at Tab 39 above, the Trial Chamber is<br>requested to disregard the transcribed words<br>spoken by . The witness was not asked to<br>comment on these words. These words are<br>inadmissible. The bald assertion by the Prosecution<br>that there is no procedural bar to submission of the<br>entire transcript provides no justification for the<br>submission of inadmissible evidence. |
| 46 | DAR-OTP-0220-5245 | the Defence does not object<br>to the submission of this<br>transcript, but submits that<br>the record of the words<br>spoken by, who is<br>not a witness in the trial,<br>should be disregarded by the<br>Trial Chamber. | This is the translation of DAR-OTP-<br>0220-5441 (see tab 39 above). The<br>entirety of DAR-OTP-0220-5441 (i.e.<br>timestamps 03:29-04:30 of DAR-<br>OTP-0220-5152) was played to the<br>witness.<br>Consequently the Prosecution<br>requests the submission of the<br>entire translation. While it is open to<br>the defence to make submissions<br>regarding the weight to be given to<br>the words of the entire transcript                                 | The Defence relies on the arguments advanced in respect of DAR-OTP-0220-5231.  |

| 16, | DAR-OTP-0217-0262 | These items were added in error Noted. |
|-----|-------------------|--|
| 17, | DAR-OTP-0217-0492 | (and are mostly duplicative of other   |
| 23, | DAR-OTP-0217-0276 | submitted items). The Prosecution      |
| 24, | DAR-OTP-0217-0504 | withdraws same.                        |
| 31, | DAR-OTP-0224-0165 |  |
| 32, | DAR-OTP-0224-0166 |  |
| 33, | DAR-OTP-0224-0167 |  |
| 41  | DAR-OTP-0224-0799 |  |

| #   | ERN<br>(e-Court/Nuix) | Туре                                 | Title  | Tendered<br>through<br>this<br>witness | To be<br>admitted<br>under rule<br>68(3) (if<br>applicable) |
|-----|-----------------------|--------------------------------------|--|--|---|
| 1.  | DAR-OTP-0215-8891     | Translation - ENG                    | Translation / Transcript of Audio / Video<br>Material / Material / Material  | Yes                                    | No  |
| 2.  | DAR-OTP-0215-8889     | Transcript                           | Transcript of Audio / Video Material   | Yes                                    | No  |
| 3.  | DAR-OTP-0217-0248     | Sketch                               | Annexure B1, B2  | Yes                                    | No  |
| 4.  | DAR-OTP-0217-0479     | Translation - ENG                    | Translation of Evidence / Annexure B1, B2 (1 <sup>st</sup> witness statement)  | Yes                                    | No  |
| 5.  | DAR-OTP-0217-0251     | Sketch                               | Annexure C1, C2 (1st witness statement)  | Yes                                    | No  |
| 6.  | DAR-OTP-0219-0490     | Translation - ENG                    | Translation of Evidence / Annexure C1, C2 (1 <sup>st</sup> witness statement)  | Yes                                    | No  |
| 7.  | DAR-OTP-0217-0254     | Sketch                               | Annexure D (1 <sup>st</sup> witness statement)   | Yes                                    | No  |
| 8.  | DAR-OTP-0224-0169     | Satellite images and related reports | Annex D - Google Earth Pro screenshot related<br>to two (2) GPS coordinates (2 <sup>nd</sup> witness<br>statement)                           | Yes                                    | No  |
| 9.  | DAR-OTP-0220-2937     | Translation - ARB                    | Translation of Evidence / Annex D - Google<br>Earth Pro screenshot related to two (2) GPS<br>coordinates (2 <sup>nd</sup> witness statement) | Yes                                    | No  |
| 10. | DAR-OTP-0217-0256     | Sketch                               | Annexure E (1 <sup>st</sup> witness statement)   | Yes                                    | No  |
| 11. | DAR-OTP-0217-0483     | Translation - ENG                    | Translation of Evidence / Annexure E (1 <sup>st</sup> witness statement)   | Yes                                    | No  |
| 12. | DAR-OTP-0217-0258     | Sketch                               | Annexure F (1 <sup>st</sup> witness statement)   | Yes                                    | No  |
| 13. | DAR-OTP-0217-0486     | Translation - ENG                    | Translation of Evidence / Annexure F (1 <sup>st</sup> witness statement)   | Yes                                    | No  |
| 14. | DAR-OTP-0217-0260     | Sketch                               | Annexure G (1 <sup>st</sup> witness statement)   | Yes                                    | No  |

| 15. | DAR-OTP-0217-0489 | Translation - ENG      | Translation of Evidence / Annexure G (1 <sup>st</sup> witness statement)   | Yes | No |
|-----|-------------------|------------------------|--|-----|----|
| 16. | DAR-OTP-0217-0262 | Sketch                 | Annexure H (1 <sup>st</sup> witness statement)   | Yes | No |
| 17. | DAR-OTP-0217-0492 | Translation - ENG      | Translation of Evidence / Annexure H (1 <sup>st</sup> witness statement)   | Yes | No |
| 18. | DAR-OTP-0217-0264 | Sketch                 | Annexure I (1 <sup>st</sup> witness statement)   | Yes | No |
| 19. | DAR-OTP-0217-0495 | Translation - ENG      | Translation of Evidence / Annexure I (1 <sup>st</sup> witness statement)   | Yes | No |
| 20. | DAR-OTP-0217-0273 | List / table           | Annexure K / IMG-20201019-WA0003 (1 <sup>st</sup><br>witness statement, victim list, page 4)                               | Yes | No |
| 21. | DAR-OTP-0217-0498 | Translation - ENG      | Translation of Evidence / Annexure K / IMG-<br>20201019-WA0003 (1 <sup>st</sup> witness statement, victim<br>list, page 4) | Yes | No |
| 22. | DAR-OTP-0217-0274 | List / table           | Annexure K / IMG-20201019-WA0016 (1 <sup>st</sup><br>witness statement, victim list, page 3)                               | Yes | No |
| 23. | DAR-OTP-0217-0500 | Translation - ENG      | Translation of Evidence / Annexure K / IMG-<br>20201019-WA0016 (1 <sup>st</sup> witness statement, victim<br>list, page 3) | Yes | No |
| 24. | DAR-OTP-0217-0276 | List / table           | Annexure K / IMG-20201019-WA0018 (1 <sup>st</sup> witness statement, coordinates)  | Yes | No |
| 25. | DAR-OTP-0217-0504 | Translation - ENG      | Translation of Evidence / Annexure K / IMG-<br>20201019-WA0018 (1 <sup>st</sup> witness statement,<br>coordinates)         | Yes | No |
| 26. | DAR-OTP-0217-0278 | Audio / Video Material | .mp4   | Yes | No |
| 27. | DAR-OTP-0217-0279 | Audio / Video Material | .mp4   | Yes | No |
| 28. | DAR-OTP-0220-3138 | Translation - ENG      | Annexure K Translation of Evidence (1 <sup>st</sup> witness statement, victim list, pages 1-2)                             | Yes | No |
| 29. | DAR-OTP-0216-0492 | List / table           | Annexure K (1 <sup>st</sup> witness statement, victim list, pages 1-2)   | Yes | No |
| 30. | DAR-OTP-0224-0164 | Photograph/s           | Annexure B photo 1 cropped (2 <sup>nd</sup> witness statement)   | Yes | No |

| 31. | DAR-OTP-0224-0165        | Photograph/s                      | Annexure B photo 2 cropped (2 <sup>nd</sup> witness | Yes | No  |
|-----|--------------------------|-----------------------------------|---|-----|-----|
| 51. |                          |                                   | statement)  | 165 |     |
| 22  | DAR-OTP-0224-0166        | Photograph/s                      | Annexure B photo 3 cropped (2 <sup>nd</sup> witness | Yes | No  |
| 32. |                          |                                   | statement)  | res |     |
|     | DAR-OTP-0224-0167        | Photograph/s                      | Annexure B photo 4 cropped (2 <sup>nd</sup> witness | Yes | No  |
| 33. |                          |                                   | statement)  |     |     |
| 34. | DAR-OTP-0219-4005        | List / table                      | Document 5  | Yes | No  |
| 35. | DAR-OTP-0219-4180        | List / table                      | Document 11   | Yes | No  |
| 36. | DAR-OTP-0219-4767        | Translation - ENG                 | Translation of Evidence / Document 5                | Yes | No  |
| 37. | DAR-OTP-0219-8795        | Translation - ENG                 | Partial Translation of Evidence / Document 11       | Yes | No  |
|     |                          | ICC Investigation notes           |   |     |     |
| 38. | DAR-OTP-0223-0517        | / report /                        | Inv Report GPS coordinates October 2020.doc         | Yes | No  |
|     |                          | correspondence                    |   |     |     |
| 20  | DAR-OTP-0220-5441        | Audio / Video Material            | Partially subtitled version of DAR-OTP-0220-        | Yes | No  |
| 39. |                          |                                   | 5152  |     |     |
| 40. | DAR-OTP-0224-0804        | List / table                      | Persons killed in the Mukjar executions             | Yes | No  |
|     |                          | ICC Investigation notes           | Corrections & Clarifications Log from witness       |     |     |
| 41. | DAR-OTP-0224-0799        | / report /                        | preparation session with P-0877 on 28 June 2022     | No  | No  |
|     |                          | correspondence                    | at ICC HQ   |     |     |
| 42. | DAR-OTP-0220-5444        | Audio / Video Material            | Subtitled version of DAR-OTP-0217-0278              | Yes | No  |
| 43. | DAR-OTP-0220-5447        | Audio / Video Material            | Subtitled version of DAR-OTP-0217-0279              | Yes | No  |
| 44. | DAR-OTP-0220-5152        | 20-5152 Audio / Video Material    | (extended DAR-OTP-0220-5441                         | Yes | No  |
| 44. |                          |                                   | without subtitles)                                  |     |     |
| 45. | DAR-OTP-0220-5231        | 2-OTP-0220-5231 Transcript        | Partial Transcript of Audio / Video Material /      | Yes | No  |
| 43. |                          |                                   |   |     |     |
|     |                          |                                   | Translation / Partial Transcript of Audio / Video   |     |     |
| 10  | DAR-OTP-0220-5245        | R-OTP-0220-5245 Translation - ENG | Material / Material Transcript of                   | Yes | No  |
| 46. | <u>DAK-011-0220-3243</u> | Translation - EING                | DAR-OTP-0220-5152 - 000314 to 000430 - FINAL        | res | INO |
|     |                          |                                   | - ENG.DOCX  |     |     |