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TRIAL CHAMBER I

Before: Judge Cuno Tarfusser, Presiding Judge
Judge Olga Herrera Carbuccion
Judge Geoffrey Henderson

SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE

IN THE CASE OF

THE PROSECUTOR

v. LAURENT GBAGBO and CHARLES BLÉ GOUDÉ

PUBLIC

With Confidential Annexes 1 to 28

**Prosecution's Communication of Evidence Disclosed to the Defence on
3, 6, 13, 23 and 31 October 2017**

Source: Office of the Prosecutor

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

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Other

Introduction

1. The Prosecution hereby provides its monthly report relating to disclosures to Mr Gbagbo and Mr Blé Goudé, on 3 October 2017, 6 October 2017, 13 October 2017, 23 October 2017 and 31 October 2017.
2. All disclosed material was provided *via* RM electronically, in a format that complies with the e-Court Protocol as approved for the trial stage.¹

Request for Confidentiality

3. Annexes 1,² 2,³ 3,⁴ 4,⁵ 5,⁶ 6,⁷ 7,⁸ 8,⁹ 9,¹⁰ 10,¹¹ 11,¹² 12,¹³ 13,¹⁴ 14,¹⁵ 15,¹⁶ 16,¹⁷ 17,¹⁸ 18,¹⁹ 19,²⁰ 20,²¹ 21,²² 22,²³ 23,²⁴ 24,²⁵ 25,²⁶ 26,²⁷ 27²⁸ and 28²⁹ appended to this

¹ See ICC-02/11-01/15-58, para. 24.

² Disclosure letter and list for INCRIM package 84 provided to the Defence of Laurent Gbagbo on 3 October 2017.

³ Disclosure letter and list for INCRIM package 84 provided to the Defence of Charles Blé Goudé on 3 October 2017.

⁴ Disclosure letter and list for Rule 77 package 88 provided to the Defence of Laurent Gbagbo on 3 October 2017.

⁵ Disclosure letter and list for Rule 77 package 88 provided to the Defence of Charles Blé Goudé on 3 October 2017.

⁶ Disclosure letter and list for INCRIM package 85 provided to the Defence of Laurent Gbagbo on 6 October 2017.

⁷ Disclosure letter and list for INCRIM package 85 provided to the Defence of Charles Blé Goudé on 6 October 2017.

⁸ Disclosure letter and list for Rule 77 package 89 provided to the Defence of Laurent Gbagbo on 6 October 2017.

⁹ Disclosure letter and list for Rule 77 package 89 provided to the Defence of Charles Blé Goudé on 6 October 2017.

¹⁰ Disclosure letter and list for PEXO package 6 provided to the Defence of Laurent Gbagbo on 6 October 2017.

¹¹ Disclosure letter and list for PEXO package 6 provided to the Defence of Charles Blé Goudé on 6 October 2017.

¹² Disclosure letter and list for Metadata Update provided to the Defence of Laurent Gbagbo on 6 October 2017.

¹³ Disclosure letter and list for Metadata Update provided to the Defence of Charles Blé Goudé on 6 October 2017.

¹⁴ Disclosure letter and list for INCRIM package 86 provided to the Defence of Laurent Gbagbo on 13 October 2017.

¹⁵ Disclosure letter and list for INCRIM package 86 provided to the Defence of Charles Blé Goudé on 13 October 2017.

¹⁶ Disclosure letter and list for Rule 77 package 90 provided to the Defence of Laurent Gbagbo on 13 October 2017.

¹⁷ Disclosure letter and list for Rule 77 package 90 provided to the Defence of Charles Blé Goudé on 13 October 2017.

¹⁸ Disclosure letter and list for INCRIM package 87 provided to the Defence of Laurent Gbagbo on 23 October 2017.

¹⁹ Disclosure letter and list for INCRIM package 87 provided to the Defence of Charles Blé Goudé on 23 October 2017.

²⁰ Disclosure letter and list for Rule 77 package 91 provided to the Defence of Laurent Gbagbo on 23 October 2017.

²¹ Disclosure letter and list for Rule 77 package 91 provided to the Defence of Charles Blé Goudé on 23 October 2017.

communication contain the disclosure letters and lists provided to the Accused. The Prosecution requests that these annexes be received as “Confidential” since they relate to *inter partes* disclosure.

Disclosure of 3 October 2017

4. The Prosecution provides notice of the disclosure, on 3 October 2017, to Mr Gbagbo and Mr Blé Goudé, of INCRIM package 84,³⁰ containing two previously disclosed items. One item was disclosed in unredacted form and one item contained redactions to its content only, in accordance with decision ICC-02/11-01/11-737 (“Redaction Protocol”).³¹ The package consisted of:
 - a. The statement of a Prosecution witness, re-disclosed with fewer redactions in light of that witness’s upcoming testimony;³² and
 - b. A partial transcript of a video, CIV-OTP-0064-0095, which had already been disclosed as incriminatory evidence.³³
5. Further details are provided in the disclosure letters and lists at Confidential Annexes 1 and 2.
6. The Prosecution provides notice of the disclosure, on 3 October 2017, to Mr Gbagbo and Mr Blé Goudé, of Rule 77 package 88³⁴ containing 23 items. Two

²² Disclosure letter and list for Rule 77 package 92 provided to the Defence of Laurent Gbagbo on 23 October 2017.

²³ Disclosure letter and list for Rule 77 package 92 provided to the Defence of Charles Blé Goudé on 23 October 2017.

²⁴ Disclosure letter and list for Metadata Update provided to the Defence of Laurent Gbagbo on 23 October 2017.

²⁵ Disclosure letter and list for Metadata Update provided to the Defence of Charles Blé Goudé on 23 October 2017.

²⁶ Disclosure letter and list for INCRIM package 88 provided to the Defence of Laurent Gbagbo on 31 October 2017.

²⁷ Disclosure letter and list for INCRIM package 88 provided to the Defence of Charles Blé Goudé on 31 October 2017.

²⁸ Disclosure letter and list for Rule 77 package 93 provided to the Defence of Laurent Gbagbo on 31 October 2017.

²⁹ Disclosure letter and list for Rule 77 package 93 provided to the Defence of Charles Blé Goudé on 31 October 2017.

³⁰ Annexes 1 and 2.

³¹ See ICC-02/11-01/11-737-AnxA.

³² Item 1 in the Prosecution’s List of Disclosed Material.

³³ Item 2 in the Prosecution’s List of Disclosed Material.

items were disclosed in unredacted form and twenty one items contained redactions to their content only, in accordance with the Redaction Protocol.³⁵ The package consisted of:

- a. Twenty one victim applications.³⁶ The Registry transferred these victim applications to the Prosecution in unredacted form,³⁷ and to the Defence in redacted form.³⁸ The Prosecution reviewed these applications to lift redactions to information deemed material to the preparation of the Defence. Following consultation with the Legal Representative for Victims, the Prosecution provided the Defence with lesser redacted versions of these applications;
- b. Notes of the hearing held in Côte d'Ivoire in February and March 2017 obtained by the OTP in early September 2017;³⁹ and
- c. The *curriculum vitae* of an expert witness.⁴⁰ This is an updated version of the original *curriculum vitae* already disclosed as incriminatory evidence.⁴¹

7. Further details are provided in the disclosure letters and lists at Confidential Annexes 3 and 4.

³⁴ Annexes 2 and 3.

³⁵ See ICC-02/11-01/11-737-AnxA.

³⁶ Items 1-21 in the Prosecution's list of Disclosed Material.

³⁷ The Registry transferred the victim applications in this case to the Prosecution on multiple occasions, namely 16 May 2012 (ICC-02/11-01/11-121), 4 December 2012 (ICC-02/11-01/11-309), 18 January 2013 (ICC-02/11-01/11-364), 19 June 2014 (ICC-02/11-02/11-88), 30 June 2014 (ICC-02/11-02/11-95), 10 July 2014 (ICC-02/11-02-11-104), 19 June 2015 (ICC-02/11-01/15-91), 20 August 2015 (ICC-02/11-01/15-184) and 10 September 2015 (ICC-02/11-01/15-211).

³⁸ The Registry transferred the victim applications in this case to the Defence on multiple occasions, namely 16 May 2012 (ICC-02/11-01/11-122 – to the Gbagbo Defence), 4 December 2012 (ICC-02/11-01/11-311 – to the Gbagbo Defence), 18 January 2013 (ICC-02/11-01/11-366 – to the Gbagbo Defence), 19 June 2014 (ICC-02/11-02/11-88 – to the Blé Goudé Defence), 30 June 2014 (ICC-02/11-02/11-96 – to the Blé Goudé Defence), 10 July 2014 (ICC-02/11-02-11-107 – to the Blé Goudé Defence), 19 June 2015 (ICC-02/11-01/15-91 – to both Defence teams), 20 August 2015 (ICC-02/11-01/15-186 – to both Defence teams) and 10 September 2015 (ICC-02/11-01/15-213 – to both Defence teams).

³⁹ Item 22 in the Prosecution's list of Disclosed Material.

⁴⁰ Item 23 in the Prosecution's list of Disclosed Material.

⁴¹ See CIV-OTP-0078-0542 at 0548-0549, item #4332 on the List of Evidence.

Disclosure of 6 October 2017

8. The Prosecution provides notice of the disclosure, on 6 October 2017, to Mr Gbagbo and Mr Blé Goudé, of INCRIM package 85⁴² containing two items. The two items were disclosed in unredacted form. The package consisted of:
 - a. Two *curriculum vitae* of an expert witness.⁴³ The first document, CIV-OTP-0102-0002, is the same version that was inadvertently disclosed as rule 77 in the previous disclosure package.⁴⁴ The second document, CIV-OTP-0102-0007, is the most recent updated version of the same *curriculum vitae*, which had already been disclosed as incriminatory evidence.⁴⁵ Both documents were disclosed ahead of this expert's testimony.
9. Further details are provided in the disclosure letters and lists at Confidential Annexes 5 and 6.
10. The Prosecution provides notice of the disclosure, on 6 October 2017, to Mr Gbagbo and Mr Blé Goudé, of Rule 77 package 89⁴⁶ containing two items. One item was disclosed in unredacted form and one item contained redactions to its content and metadata, in accordance with the Redaction Protocol.⁴⁷ The package consisted of:
 - a. One document related to an expert witness: a letter from the national Council of the Medical Association of Côte d'Ivoire dated 3 May 2012 authorising this expert to consult the medical files of the victims of the post-electoral crisis.⁴⁸ This document was disclosed upon review of materials in the Prosecution's possession, ahead of this expert's testimony; and

⁴² Annexes 5 and 6.

⁴³ Items 1-2 in the Prosecution's list of Disclosed Material.

⁴⁴ See *supra*, para. 6(c).

⁴⁵ See CIV-OTP-0078-0542 at 0548-0549, item #4332 on the List of Evidence.

⁴⁶ Annexes 7 and 8.

⁴⁷ See ICC-02/11-01/11-737-AnxA.

⁴⁸ Item 1 in the Prosecution's List of Disclosed Material.

- b. One document related to a Prosecution witness: an investigator's note⁴⁹ obtained by the Prosecution trial team on 4 October 2017 and sent in a courtesy copy *via* email on the same day, during that witness's testimony.
11. Further details are provided in the disclosure letters and lists at Confidential Annexes 7 and 8.
12. The Prosecution provides notice of the disclosure, on 6 October 2017, to Mr Gbagbo and Mr Blé Goudé, of PEXO package 6⁵⁰ containing one item. This item was disclosed in unredacted form. The package consisted of:
 - a. One partial transcript⁵¹ of a video, CIV-OTP-0074-0082, which had already been disclosed as potentially exculpatory.
13. Further details are provided in the disclosure letters and lists at Confidential Annexes 9 and 10.
14. The Prosecution provides notice of the disclosure, on 6 October 2017, to Mr Gbagbo and Mr Blé Goudé, of a Metadata Update package,⁵² containing one item, already disclosed as incriminating evidence and on the List of Evidence. The "Main Date" metadata field was updated.
15. Further details are provided in the disclosure letters and lists at Confidential Annexes 11 and 12.

Disclosure of 13 October 2017

16. The Prosecution provides notice of the disclosure, on 13 October 2017, to Mr Gbagbo and Mr Blé Goudé, of INCRIM package 86⁵³ containing 25 previously disclosed items in lesser or unredacted form. Twenty items were disclosed in

⁴⁹ Item 2 in the Prosecution's List of Disclosed Material.

⁵⁰ Annexes 9 and 10.

⁵¹ Item 1 in the Prosecution's List of Disclosed Material.

⁵² Annexes 11 and 12.

⁵³ Annexes 13 and 14.

unredacted form and five items contained redactions to their content only, in accordance with the Redaction Protocol.⁵⁴ The package consisted of:

- a. Five Prosecution witness statements⁵⁵ and twenty annexes to two Prosecution witness statements.⁵⁶ Following the Chamber's oral decision of 28 August 2017,⁵⁷ these documents were re-disclosed without redactions to the name of the interpreter used for these statements and associated annexes.

17. Further details are provided in the disclosure letters and lists at Confidential Annexes 13 and 14.

18. The Prosecution provides notice of the disclosure, on 13 October 2017, to Mr Gbagbo and Mr Blé Goudé, of Rule 77 package 90⁵⁸ containing nine items. Three items were disclosed in unredacted form and six items contained redactions to their content only, in accordance with the Redaction Protocol.⁵⁹ The package consisted of:

- a. One document related to an expert witness: a report from this expert witness dated 8 January 2013 in relation to his meeting with the father of one the victims of the 3 March 2011 incident.⁶⁰ This document was re-disclosed with fewer redactions upon review of materials in the Prosecution's possession, a courtesy copy having been disclosed prior to this expert's testimony;
- b. Five documents related to a Prosecution witness: five medical reports related this witness's eyesight⁶¹ that the OTP obtained on 15 April 2015. The Prosecution disclosed these items upon review of materials in the Prosecution's possession, in light of this witness's upcoming testimony;

⁵⁴ See ICC-02/11-01/11-737-AnxA.

⁵⁵ Items 1-3, 9 and 25 in the Prosecution's list of Disclosed Material.

⁵⁶ Items 4-8, and 10-24 in the Prosecution's list of Disclosed Material.

⁵⁷ See ICC-02/11-01/15-T-181-ENG ET, p. 2, l. 21 to p. 4, l. 18.

⁵⁸ Annexes 15 and 16.

⁵⁹ See ICC-02/11-01/11-737-AnxA.

⁶⁰ Item 1 in the Prosecution's List of Disclosed Material.

⁶¹ Items 2-6 in the Prosecution's List of Disclosed Material.

- c. One victim application: the Prosecution has undertaken a process of reviewing all victim applications with a view to lifting redactions to any information deemed material to the preparation of the Defence. Following consultation with the Legal Representative for Victims, the Prosecution re-disclosed this application with fewer redactions;⁶²
 - d. One document related to an expert witness⁶³ that the OTP obtained in late September 2017, and disclosed in light of this expert's upcoming testimony; and
 - e. One document related to expert Witnesses P-0584 and P-0583: a 2013 article these experts published in the Encyclopaedia of Forensic Sciences concerning forensic evidence.⁶⁴ The OTP obtained this document from Witness P-0584 on 6 October 2017 and sent in a courtesy copy *via* email on the same day, ahead of his testimony.
19. Further details are provided in the disclosure letters and lists at Confidential Annexes 15 and 16.

Disclosure of 23 October 2017

20. The Prosecution provides notice of the disclosure, on 23 October 2017, to Mr Gbagbo and Mr Blé Goudé, of INCRIM package 87⁶⁵ containing one previously disclosed item. This item contained redactions to its content only, in accordance with the Redaction Protocol.⁶⁶ The package consisted of:
- a. One statement of a Prosecution witness was re-disclosed with fewer redactions prior to the witness' testimony.⁶⁷

⁶² Item 7 in the Prosecution's List of Disclosed Material.

⁶³ Item 8 in the Prosecution's List of Disclosed Material.

⁶⁴ Item 9 in the Prosecution's List of Disclosed Material.

⁶⁵ Annexes 17 and 18.

⁶⁶ See ICC-02/11-01/11-737-AnxA.

⁶⁷ Item 1 in the Prosecution's list of Disclosed Material.

21. Further details are provided in the disclosure letters and lists at Confidential Annexes 17 and 18.

22. The Prosecution provides notice of the disclosure, on 23 October 2017, to Mr Gbagbo and Mr Blé Goudé, of Rule 77 package 91,⁶⁸ containing four items. One item was disclosed in unredacted form and three items contained redactions to their content only, in accordance with the Redaction Protocol.⁶⁹ The package consisted of:

- a. Three victim applications: the Prosecution has undertaken a process of reviewing all victim applications with a view to lifting redactions to information deemed material to the preparation of the Defence. Following consultation and agreement with the Legal Representative for Victims on 16 October 2017, the Prosecution disclosed these applications with fewer redactions;⁷⁰ and
- b. One newspaper article related to a Prosecution witness, in light of his upcoming testimony.⁷¹

23. Further details are provided in the disclosure letters and lists at Confidential Annexes 19 and 20.

24. The Prosecution provides notice of the disclosure, on 23 October 2017, to Mr Gbagbo and Mr Blé Goudé, of Rule 77 package 92,⁷² containing 792 items. There were 11 items disclosed in unredacted form; 177 items contained redactions to their content and metadata; 595 items contained redactions to their content only and 9 items contained redactions to their metadata only, in accordance with the Redaction Protocol.⁷³ The package consisted of:

⁶⁸ Annexes 19 and 20.

⁶⁹ See ICC-02/11-01/11-737-AnxA.

⁷⁰ Items 1-3 in the Prosecution's List of Disclosed Material.

⁷¹ Item 4 in the Prosecution's List of Disclosed Material.

⁷² Annexes 21 and 22.

⁷³ See ICC-02/11-01/11-737-AnxA.

- a. Seven hundred and ninety-two documents related to expert Witness P-0564, including seven hundred and eighty-nine post-mortems reports and related documents that the authorities of Côte d'Ivoire transmitted to the OTP. The Prosecution disclosed these documents in advance of this expert witness' testimony.⁷⁴
25. Further details are provided in the disclosure letters and lists at Confidential Annexes 21 and 22.
26. The Prosecution provides notice of the disclosure, on 23 October 2017, to Mr Gbagbo and Mr Blé Goudé, of Metadata Update package,⁷⁵ containing three items, already disclosed as incriminating evidence and on the List of Evidence. The "Title" field has been updated for one document⁷⁶ and the "People/Organizations" field has been updated for another document.⁷⁷ Following the Single Judge's instruction per email dated 18 October 2017, the last document has been reclassified as public and the "ICC-02/11-01-/15 Confidentiality level" field has been updated.⁷⁸
27. Further details are provided in the disclosure letters and lists at Confidential Annexes 23 and 24.

Disclosure of 31 October 2017

28. The Prosecution provides notice of the disclosure, on 31 October 2017, to Mr Gbagbo and Mr Blé Goudé, of INCRIM package 88,⁷⁹ containing one previously disclosed item in unredacted form. The package consisted of:
- a. One statement of a Prosecution witness⁸⁰ was re-disclosed without redactions prior to his testimony.

⁷⁴ Items 1-792 in the Prosecution's List of Disclosed Material.

⁷⁵ Annexes 23 and 24.

⁷⁶ Item 1 in the Prosecution's List of Disclosed Material.

⁷⁷ Item 2 in the Prosecution's List of Disclosed Material.

⁷⁸ Item 3 in the Prosecution's List of Disclosed Material.

⁷⁹ Annexes 25 and 26.

29. Further details are provided in the disclosure letters and lists at Confidential Annexes 25 and 26.

30. The Prosecution provides notice of the disclosure, on 31 October 2017, to Mr Gbagbo and Mr Blé Goudé, of Rule 77 package 93⁸¹ containing one item. This item contained redactions to its content only, in accordance with the Redaction Protocol.⁸² The package consisted of:

- a. One investigator report dated 27 October 2017 regarding a preliminary meeting with a Prosecution witness on 13 September 2011, in light of his upcoming testimony.⁸³

31. Further details are provided in the disclosure letters and lists at Confidential Annexes 27 and 28.



Fatou Bensouda, Prosecutor

Dated this 1st day of November 2017

At The Hague, The Netherlands

⁸⁰ Item 1 of the Prosecution's List of Disclosed Material.

⁸¹ Annexes 27 and 28.

⁸² See ICC-02/11-01/11-737-AnxA.

⁸³ Item 1 in the Prosecution's List of Disclosed Material.