

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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Date: 31 July 2008

PRE-TRIAL CHAMBER III

Before: Judge Fatoumata Dembele Diarra, Presiding Judge
Judge Hans-Peter Kaul
Judge Ekaterina Trendafilova

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC
IN THE CASE OF
THE PROSECUTOR
v. JEAN-PIERRE BEMBA GOMBO**

Public Document

**Decision on the Evidence Disclosure System and Setting a Timetable for
Disclosure between the Parties**

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

The Office of the Prosecutor

Fatou Bensouda, Deputy Prosecutor

Petra Kneuer, Trial Lawyer

Counsel for the Defence

Nkwebe Liriss

Tjarda Eduard Van der Spoel

Aimé Kilolo-Musamba

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

1. **PRE-TRIAL CHAMBER III** (the “Chamber”) of the International Criminal Court (the “Court”) recalls that, following the surrender of Mr Jean-Pierre Bemba Gombo (“Mr Jean-Pierre Bemba”) to the Court on 3 July 2008, it held an initial appearance hearing on 4 July 2008, during which Mr Jean-Pierre Bemba was informed, *inter alia*, of the date of the confirmation hearing that the Chamber scheduled pursuant to rule 121(1) of the Rules of Procedure and Evidence (the “Rules”) for 4 November 2008.

2. The Chamber recalls that in view of the confirmation hearing, the parties in the evidence disclosure system, namely the Prosecutor and the defence, exchange between them evidence relating to the case and communicate it to the Chamber.

3. The Chamber observes that the evidence disclosure system for the purposes of the confirmation hearing and the role to be played by each of the Court’s organs in the exchange of evidence are addressed in articles 54(1)(a), 57(3)(c), 61, 67, 69 of the Rome Statute (the “Statute”), rules 15, 76 to 83, 121, 122 and 131(2) of the Rules, regulation 24*bis* and 26 of the Regulations of the Court and regulations 15 to 19, 21, 24 to 28 and 53(3) of the Regulations of the Registry.

4. By this decision, the Chamber wishes to set out (I.) the general principles relating to the system of disclosing evidence between the parties and its communication to the Chamber, (II.) the modalities for exchanging evidence and (III.) the necessary analysis to be performed by the parties of each piece of evidence to be exchanged.

I. General principles relating to the system for disclosing evidence between the parties and its communication to the Chamber

5. As previously stated by Pre-Trial Chamber II, “[i]t has been repeatedly highlighted that the Pre-Trial Chamber constitutes one of the most significant features of the procedural system enshrined in the Statute.”¹ When elaborating the principles relating to the system of disclosing evidence, the Chamber is guided by the underlying normative framework of the Court, mindful of the fact that the language used stems from different legal systems.²

6. The Chamber recalls that the Statute, the Rules, the Regulations of the Court and the Regulations of the Registry define the respective roles, powers, functions and obligations of each of the organs of the Court and that, at the pre-trial stage, each of the Court’s organs has a particular role to fulfil in ensuring the efficient organisation of the confirmation hearing, in determining whether or not to send the case to trial and in facilitating the conduct of the trial if the charges are confirmed.

7. The Chamber considers that the evidence disclosure system must enable the achievement of the goals set out in the previous paragraph. In order to guarantee the efficiency, transparency and simplicity of the system for disclosing evidence between parties, the Chamber wishes to specify the respective roles of the Prosecutor, the defence, the Chamber itself and of the Registry.

¹ ICC-02/04-01/05-77, para. 19.

² See C. Kress, *The Procedural Law of the International Criminal Court in Outline Anatomy of a Unique Compromise*, Journal of International Criminal Justice, vol. 1 (2003), p. 612 ; K. Ambos, *International criminal procedure . »adversarial », « inquisitorial » or « mixed »?*, International Criminal Law Review, vol. 3 (2003), p. 1 ; A. Orié, *Accusatorial v. Inquisitorial Approach in International Criminal Proceedings Prior to the Establishment of the ICC and in the Proceedings Before the ICC*, in A. Cassesse/P. Gaeta/J.R.W. D. Jones (eds.), *The Rome Statute of the International Criminal Court : A Commentary*, vol II (2002), p. 1485.

A - Role of the Chamber

1) Ensuring proper conduct of the confirmation hearing and contributing to the determination of truth

8. According to the second sentence of article 69(3) of the Statute, “[t]he Court shall have the authority to request the submission of all evidence that it considers necessary for the determination of the truth”.

9. The Chamber concurs with Pre-Trial Chamber I that, although this article appears in Part VI of the Statute entitled “The trial”, it establishes a general principle which applies to the various stages of the proceedings.³ This article, which generally concerns evidence, refers to the “Court” and not to the Trial Chamber only. The Rules confirm this interpretation. In fact, rule 63(1) in the first section (“Evidence”) of Chapter 4 of the Rules entitled “Provisions relating to various stages of the proceedings” states that “[t]he rules of evidence set forth in this chapter, together with article 69 of the Statute, shall apply in proceedings before all Chambers”.

10. The Chamber notes that, pursuant to rule 122(9) of the Rules, article 69 of the Statute shall apply *mutatis mutandis* at the confirmation hearing, subject to the provisions of article 61 of the Statute. Thus, the rules concerning evidence in article 69 of the Statute, including the authority of the Chamber to request the submission of further evidence, apply at the pre-trial stage of the proceedings, taking into account the specific purpose and limited scope of the confirmation of the charges. To that end, it needs to be noted that the application of article 69(3) of the Statute at the confirmation phase is restricted since, in contrast to the trial phase, the Chamber does not have to determine the guilt of the person prosecuted beyond

³ ICC-01/04-101-tEN, para. 43.

reasonable doubt. It has simply to determine whether there are substantial grounds to believe that the person prosecuted committed the crimes charged. Finally, the Chamber considers that the authority it derives from article 69(3) of the Statute at the pre-trial phase is crucial for the determination of the scope of the charges to be retained if the case is sent to trial.

11. The Chamber further emphasises that the search for truth is the principal goal of the Court as a whole.⁴ In contributing to this ultimate goal, the Pre-Trial Chamber, in particular, shall prevent cases which do not meet the threshold of article 61(7) of the Statute to proceed to the trial stage. In order to fulfil its duty, the Chamber considers it vital not only to conduct properly the confirmation hearing but to organise meaningfully the disclosure proceedings.

2) The Chamber's role under article 61 of the Statute

12. The Chamber recalls that article 61 of the Statute describes the various stages pertaining to the confirmation hearing.

13. Under article 61(7) of the Statute, the Chamber is obliged to determine whether there is sufficient evidence to establish substantial grounds to believe that the person prosecuted committed each of the crimes charged. Based on this determination, the Pre-Trial Chamber shall confirm the charges and commit the person to a Trial Chamber for trial on the charges as confirmed, decline to confirm the charges or adjourn the hearing.

⁴ During discussions, delegations insisted on the need to "bear in mind the additional historical dimension and truth-finding mission of the Court", Report of the Working Group on Procedural Matters, A/AC.249/1997/WG.4/CRP.11/Add.2, 11 December 1997, page 2.

14. The Chamber emphasises, moreover, that, as decided earlier by the Appeals Chamber, its role is particularly important since, under articles 61(7) and 61(9) of the Statute, it defines the parameters of the trial and therefore the extent of the Trial Chamber's authority.⁵ By setting the parameters of the trial, it simultaneously determines the extent of the Trial Chamber's authority to determine the truth which is the ultimate goal of any procedure before this Court.

15. Furthermore, if in the exercise of its filtering function the Chamber decides not to confirm the charges, this decision ends the prosecution of the suspect, thus avoiding superfluous proceedings as any warrant of arrest and other restrictive measures cease to have effect in accordance with article 61(10) of the Statute.

16. Thus, in order to fulfil properly its mandate pursuant to articles 61(7) and 69(3) of the Statute and to conduct an independent assessment of the case before it, the Chamber should not be confined to the evidence which the parties intend to rely on for the purposes of the confirmation hearing.

17. To arrive at the determination required by article 61(7) of the Statute, the Chamber is of the opinion that it must have accurate and in-depth knowledge of the case record.

18. As Pre-Trial Chamber I has stated, the Chamber's role is to distinguish those cases that should go to trial from those that should not.⁶

⁵ ICC-01/04-01/06-1432, para. 63; see also the decision of Trial Chamber I, ICC-01/04-01/06-1084, para. 39.

⁶ ICC-01/04-01/07-428-Corr., para. 6.

19. The Chamber considers that it cannot fulfil this filtering function at the pre-trial stage without having access to the evidence exchanged between the Prosecutor and the defence, in particular to exculpatory evidence.

3) Guaranteeing the rights of the accused

20. The relevant provisions on disclosure constitute a vital mechanism in the Court's criminal procedure for guaranteeing the fundamental right of every person to a fair and expeditious trial. They must be interpreted in a manner which is compatible with, *inter alia*, the right of the person prosecuted to be informed promptly and in detail of the nature, cause and content of the charges and with his or her right to have adequate time and facilities for the preparation of the defence.

21. At the pre-trial stage, under rule 121(1) of the Rules, the Chamber has the duty to ensure that the disclosure system provides no less than the minimum guarantees set out in articles 67(1)(a) and 67(1)(b) of the Statute and to ensure fairness in the disclosure system and respect for equality of arms between the parties.

22. The Chamber recalls that the right to a fair trial includes the right of the parties to submit any observations that they consider relevant and that this right should be practical and effective.⁷ The Chamber therefore has the duty to conduct a proper examination of the submissions, arguments and evidence adduced by the parties.⁸

23. To achieve this objective, the disclosure system must be such that it allows the Chamber to have access to the evidence exchanged between the parties in order

⁷ European Court of Human Rights (ECtHR), case of *Artico v Italy*, Judgment of 13 May 1980, Series A no. 37, p. 16, para. 33.

⁸ ECtHR, cases of *Perez v France* [GC], no. 47287/99, para. 80, ECHR 2004-I and *Albina c Romania*, no. 57808/00, para. 30, 28 April 2005.

to verify i) that the defence has received properly the evidence to be disclosed by the Prosecutor, and ii) that it had adequate time and facilities for preparation.⁹

4) Guaranteeing the effective organisation of the confirmation hearing and proper preparation for trial

24. The Chamber's function is to guarantee the effective organisation of the confirmation hearing so that it can fulfil its role of proper preparation of the trial.¹⁰

25. Creating and maintaining a record of the proceedings containing all evidence exchanged between the parties, the Registry will enable the Chamber to fulfil properly its function of preparing the trial, since the record of the proceedings created pursuant to rule 121(10) of the Rules is to be transmitted to the Trial Chamber pursuant to rule 131(2) of the Rules.

B - Role of the Prosecutor

26. The Chamber notes that, under article 54(1)(a) of the Statute, in order to establish the truth, the Prosecutor shall investigate incriminating and exonerating circumstances equally and gather evidence which may either establish or exclude the criminal responsibility of Mr Jean-Pierre Bemba.

⁹ ICC-01/04-01/06-102, Annex I, para. 5.

¹⁰ A. Orie, *Accusatorial v. Inquisitorial Approach in International Criminal Proceedings Prior to the Establishment of the ICC and in the Proceedings Before the ICC*, in A. Cassese/P. Gaeta/J.R.W. D. Jones (eds.), *The Rome Statute of the International Criminal Court : A Commentary*, vol II (2002), pp. 1484 and 1485.

27. The Prosecutor's obligation to investigate incriminating and exonerating circumstances equally has undoubtedly an impact on the volume of evidence which the Prosecutor has to disclose to the defence pursuant to article 67(2) of the Statute.

28. The Chamber is of the opinion that the Prosecutor's obligation to investigate incriminating and exonerating circumstances equally is a further reason why it must request communication of all exculpatory evidence.

29. The Chamber observes that, in the absence of exculpatory evidence, it would possess only a partial record, limited to incriminating evidence. As a result, in general terms, the Chamber would be unable to differentiate properly between the cases which warrant being committed for trial and those which do not. The Chamber must be able to exercise this function, which is also essential on the grounds of judicial economy, in particular where the defence decides – as is its right – not to present evidence under article 61(6) of the Statute.

C - Role of the defence

30. The Chamber is of the opinion that the obligation of the defence under the Statute and the related legal instruments relating to the disclosure of evidence is more limited than that of the Prosecutor. Thus, the defence is free to decide whether or not to rely on and present evidence at the confirmation hearing.

31. However, if the defence intends to rely on certain evidence at the confirmation hearing pursuant to rule 78 of the Rules, it has an obligation to disclose it to the Prosecutor and to communicate it to the Chamber.

32. In any event, pursuant to article 69(3) of the Statute and rule 79(4) of the Rules, the Chamber observes that it still has the authority to request the submission of any other evidence.

D - Role of the Registry

33. The Chamber is of the opinion that the Registry has essential functions which, if carried out in accordance with the provisions of the Statute and the related legal instruments, enable it to increase the efficiency of the evidence disclosure system.

34. Vis-à-vis the parties, the Chamber considers that the Registry first and foremost has the role of a simple carrier, a communication channel between them. The Chamber recalls that the Registry must under no circumstances be considered a third party with a role in the assessment of the evidence to be disclosed.

35. The Chamber observes that the Registry fulfils a support function for the parties and for the Chamber. The Registry must facilitate the rapid access of the Chamber to the evidence exchanged. It is also the organ which implements technically the parties' requests in respect of the level of confidentiality of the evidence disclosed between them and communicated to the Chamber and the extent and conditions of access to it.

36. Furthermore, pursuant to regulations 15 to 19, 24 to 28 and 53(3) of the Regulations of the Registry, the Chamber points out that the Registry has responsibilities related to the proceedings, insofar as it manages the access to and storage of the documents of the proceedings, registers the evidence exchanged,

notifies it to the persons authorised to access it and stores the original of the evidence disclosed and authenticates it as being official.

37. In order to be able to carry out these functions, the Registry is responsible for maintaining a record of the proceedings pursuant to rule 15 of the Rules. As regards specifically the evidence exchanged between the parties and communicated to the Chamber, pursuant to rule 121(10) of the Rules, the Registry creates and maintains the record of the proceedings containing the evidence disclosed and the parties and the Chamber have access to it.

38. The Chamber further considers that, pursuant to regulations 57 and 72 of the Regulations of the Registry, the Registry's responsibility for the official Court translation services enables it to manage any translation problems which may arise between the parties. The Chamber recalls in this respect that it is essential, in accordance with article 67 of the Statute, that the person being prosecuted has access to documents in a language which he or she fully understands and speaks.

39. The Chamber points out that, in the context of the process of disclosing evidence, the Registry must be able to exercise its functions and to transmit all evidence to be disclosed to the parties or communicated to the Chamber with the required expeditiousness.

II. Modalities of disclosure of evidence and communication of that evidence to the Chamber

A - General remarks

40. The Chamber observes that in the Statute and the Rules reference is made to the process of disclosure between the parties, namely the Prosecutor and the defence. Regarding the modalities of disclosure, the Chamber notes the relevant provisions in articles 61(3) and 67(2) of the Statute and rules 76 to 83 and 121 of the Rules.

41. The Chamber further notes that the modalities of disclosure will be subject to any decision taken by the Chamber in respect of restrictions on disclosure pursuant to rules 81 and 82 of the Rules.

42. The Chamber observes that the provisions on disclosure, especially rule 121(2)(c) of the Rules, draw a clear distinction between “disclosure” which is *inter partes* and “communication” to the Chamber. Therefore, the Chamber is of the view that the concept of “disclosure” should not be confused with the concept of “communication” of evidence to the Chamber. The Chamber is not a party to the proceedings and does not take part in the disclosure process. Pursuant to rule 121(2)(b) of the Rules, the Chamber shall ensure that disclosure takes place under satisfactory conditions. Thus, for the Chamber to be in a position to ensure that proper disclosure takes place and to make an informed decision in accordance with its statutory mandate, as already set out in part I, the Chamber shall be informed by way of communication of all the evidence disclosed between the parties.

43. The Chamber notes that under rule 121(2)(c) of the Rules “all evidence disclosed between the Prosecutor and the person for the purposes of the confirmation hearing shall be communicated to the Pre-Trial Chamber”. The reference to “all evidence” in rule 121(2)(c) of the Rules implies that communication to the Chamber comprises all the evidence disclosed between the parties and that it is not limited to the evidence which the parties intend to rely on or to present at the confirmation hearing. The *travaux préparatoires*¹¹ of that rule indicate that it was first placed in the section of disclosure as draft rule 5.12, preceding rules concerning both disclosure *stricto sensu* and inspection which have now become rules 76 to 79 of the Rules. However, delegations decided that draft rule 5.12 would be better placed in the rule concerning the confirmation hearing. Without any modification,¹² that draft rule was then transferred and incorporated into the present rule 121 of the Rules. In the Chamber's view, this is a further indication that the drafters intended rule 121(2)(c) of the Rules to cover all elements of disclosure referred to in what are now rules 76 to 79 of the Rules.

44. Furthermore, the Chamber notes that rule 121(2)(c) of the Rules is to be interpreted “in accordance with article 61 paragraph 3” of the Statute referring also to information which the Chamber may order to be disclosed pursuant to the second sentence of article 61(3) of the Statute. This allows the Chamber to have access to evidence other than that on which the parties intend to rely at the confirmation hearing.

45. The Chamber points out that Section II of Chapter IV of the Rules entitled “Disclosure” refers to two forms of disclosure according to the nature of the evidence, namely disclosure *stricto sensu* pursuant to rule 76 of the Rules, and

¹¹ Document PCNICC/1999/L.3/Rev.1, Proceedings of the Preparatory Commission at its first session (16-26 February 1999), 2 March 1999, p. 15.

¹² H. Brady, *Disclosure of Evidence*, in R. Lee (ed.), *The International Criminal Court, Elements of Crimes and Rules of Procedure and Evidence* (2001), p. 407, fn. 15.

disclosure by way of inspection either by the defence or by the Prosecutor pursuant to rules 77 and 78 of the Rules.

46. Furthermore, the Chamber notes that article 61(3) of the Statute does not follow this differentiation and encompasses both forms of disclosure as set out above.

47. Therefore, the Chamber considers that evidence previously inspected by the parties is to be communicated to the Chamber.

48. The Chamber observes that rule 77 of the Rules puts an obligation on the Prosecutor to disclose to the defence three types of evidence: any books, documents, photographs and other tangible objects in the possession or control of the Prosecutor, (i) which are material to the preparation of the defence or (ii) are intended for use by the Prosecutor as evidence for the purposes of the confirmation hearing or (iii) were obtained from or belonged to the person charged.

49. The Chamber notes that rule 77 comprises material which may be of incriminatory, exculpatory or mixed nature. Therefore, in order to enable the Chamber to make its own assessment of the evidence inspected, all of it has to be communicated to the Chamber.

50. The above applies equally to the material in possession or control of the defence that is to be inspected by the Prosecutor in accordance with rule 78 of the Rules.

51. In light of the aforesaid, the Chamber will have access to the following disclosed evidence:

a) evidence pursuant to article 67(2) of the Statute, namely all evidence in the Prosecutor's possession or control which the Prosecutor believes to show or tend to show the innocence of the accused, or to mitigate the guilt of the accused, or which may affect the credibility of the prosecution evidence.

b) evidence pursuant to rule 76 of the Rules, namely all names and statements of witnesses on whom the Prosecutor intends to rely at the confirmation hearing, regardless of whether the Prosecutor intends to call them to testify.

c) evidence in the possession or control of the Prosecutor, which is material to the preparation of the defence or is intended for use by the Prosecutor as evidence for the purposes of the confirmation hearing or was obtained from or belonged to the person charged and which are subject to inspection pursuant to rule 77 of the Rules.

d) evidence in the possession or control of the defence, which is intended for use by the defence as evidence for the purposes of the confirmation hearing and is subject to inspection pursuant to rule 78 of the Rules.

e) evidence the defence may present, in case it intends, pursuant to rule 79 of the Rules, to raise the existence of an alibi or to raise a ground for excluding criminal responsibility.

52. As described in part I of this decision, the Registry, acting as a channel of communication, will take all appropriate measures to facilitate the appropriate access to all evidence by the parties and the Chamber.

53. To this end, the Registry will establish a record of the case for the Chamber which will contain all evidence disclosed between the parties and communicated to it. The parties will have access to the record of the case through an electronic mechanism established by the Registry.

B - Registration procedure

54. In order to ensure the expeditiousness of proceedings and proper case management, the parties shall submit the evidence in due time, in proper format and within the official filing hours as set out in regulation 33(2) of the Regulations of the Court.

55. The Chamber draws particular attention of all concerned to the fact that all evidence is to be registered into the record of the case by the Registry and that, for the registration, they are to accord the Registry a reasonable time. The Chamber has been assured that up to 250 pieces of textual evidence can be processed within one working day. In case of video or audio evidence, additional time will be needed.

56. The Chamber further wishes to inform the parties about the registration procedure to be undertaken by the Registry.

57. Upon receipt, the Registry will register each piece of evidence to be disclosed and communicated to the Chamber and will assign to it a specific number, an "EVD number", in accordance with regulation 28 of the Regulations of the Registry. It will be assumed that every piece of evidence submitted by any party is authentic, accurate and complete. The parties will submit evidence in its original form and a corresponding electronic copy or, in case of tangible objects, an electronic photograph.

58. Before assigning the "EVD number" to the evidence, no additional authentication process, confirming that the electronic copy is an exact replica of the

original piece of evidence, will be conducted by the Registry, unless objections are raised by any party or the Chamber.

59. Such objections should be raised promptly with the Registry and may only relate to the provider, the completeness and legibility of the evidence submitted. In case of doubt in respect of such objections, the Registrar may make a formal submission to the Chamber pursuant to regulation 24*bis* of the Regulations of the Court. Objections shall not be raised with regard to the admissibility of evidence as this forms the subject-matter of judicial ruling according to articles 69(4) and 69(7) of the Statute.

60. In case a piece of evidence or part of it needs to be replaced in the record of the case upon an objection, the document shall be provided in accordance with the e-Court protocol (see Annex).

61. When submitting evidence under rule 76 of the Rules, the Prosecutor is reminded to provide a translation which will be reflected accordingly in the record of the case. That translation of the document shall be provided in accordance with the e-Court protocol (see Annex).

62. The parties are reminded to include in their submission of evidence the following documentation: (i) a list of evidence enlisting all pieces of evidence enclosed with their respective document ID as defined in the e-Court protocol (see Annex) and (ii) a list of recipients including the level of confidentiality applicable to each item vis-à-vis any party.

63. In view of the principle of publicity of proceedings, the evidence submitted shall in principle be registered as public unless there is a need to classify it otherwise.

III. Required analysis of the evidence exchanged between the parties

64. The Chamber observes that under article 61(5) of the Statute, the Prosecutor “shall support each charge with sufficient evidence to establish substantial grounds to believe that the person committed the crime charged”.

65. Furthermore, pursuant to article 67(1)(a) and (b) of the Statute, not only must the accused “be informed promptly and in detail of the nature, cause and content of the charge, in a language which the accused fully understands and speaks” but must also “have adequate time and facilities for the preparation of the defence”.

66. Bearing in mind these objectives, the Chamber is of the view that the defence has to have all necessary tools to understand the reasons why the Prosecutor relies on any particular piece of evidence and that, consequently, the evidence exchanged between the parties and communicated to the Chamber must be the subject of a sufficiently detailed legal analysis relating the alleged facts with the constituent elements corresponding to each crime charged.

67. In the Chamber’s opinion, the most important factor in both safeguarding the rights of the defence and enabling the Chamber to exercise its functions is not for the Prosecutor to disclose the greatest volume of evidence, but to disclose the evidence which is of true relevance to the case, whether that evidence be incriminating or exculpatory. In fact, disclosure of a considerable volume of evidence for which it is difficult or impossible to comprehend the usefulness for the case merely puts the defence in a position where it cannot genuinely exercise its rights, and serves to hold back the proceedings.

68. The Chamber considers that disclosure of truly relevant evidence presupposes an in-depth analysis by the Prosecutor of each piece of evidence prior to its disclosure, whether that evidence is incriminating or exculpatory.

69. This analysis consists of presenting each piece of evidence according to its relevance in relation to the constituent elements of the crimes presented by the Prosecutor in his application under article 58 of the Statute and taken into account by the Chamber in its decision of 10 June 2008¹³. Each piece of evidence must be analysed – page by page or, where required, paragraph by paragraph – by relating each piece of information contained in that page or paragraph with one or more of the constituent elements of one or more of the crimes with which the person is charged, including the contextual elements of those crimes, as well as the constituent elements of the mode of participation in the offence with which person is charged. The same analysis technique shall apply *mutatis mutandis* to photographs, maps, videodiscs, tangible objects and any other support disclosed by the Prosecutor.

70. The Chamber considers that this analysis should be presented in the form of a summary table which shows the relevance of the evidence presented in relation to the constituent elements of the crimes with which the person is charged. It should enable the Chamber to verify that for each constituent element of any crime with which the person is charged, including their contextual elements, as well as for each constituent element of the mode of participation in the offence with which he or she is charged, there are one or more corresponding pieces of evidence, either incriminating or exculpatory, which the Chamber must assess in light of the criteria set under article 61(7) of the Statute.

¹³ ICC-01/05-01/08-14-tENG.

71. The Chamber is of the opinion that, after each exchange of evidence between the parties, the summary table should be updated and filed, taking into account the analysis of the new evidence exchanged between the parties and communicated to the Chamber.

72. The Chamber considers that the sole purpose of these instructions to the parties is to streamline the disclosure of evidence, to ensure that the defence be prepared under satisfactory conditions, to expedite proceedings and to prepare properly for the confirmation hearing. The hearing will be conducted more efficiently if the parties have duly complied with the proposed methodology in that, pursuant to rule 122(1) of the Rules, the order in which the evidence contained in the record of the proceedings is presented at the confirmation hearing follows the order of the counts set out in the document containing the charges under article 61(3) of the Statute.

73. Accordingly, the Chamber is of the opinion that the analysis of each piece of evidence and the regular registration of the summary tables analysing each piece of evidence at each instance of disclosure as referred to in paragraph 69 of this decision will permit the Presiding Judge to organise the presentation of evidence by the parties according to the crimes charged with one party responding to the other on each count consecutively. As highlighted above, this mechanism will serve to ensure respect for the rights of the defence, better organisation of disclosure and efficiency and expeditiousness of the proceedings for the determination of whether there is sufficient evidence to establish substantial grounds to believe that the person charged committed each of the crimes he or she was charged with.

FOR THESE REASONS, THE CHAMBER

a) **decides** that the disclosure process between the parties shall be facilitated through the Registry as described in letter (m) below.

b) **orders** the parties submitting any evidence to submit the original of the evidence as well as its electronic copy or, in case of tangible objects, its electronic photograph to the Registry.

c) **orders** the parties to submit any evidence with the appropriate metadata in accordance with the e-Court protocol as set out in the Annex to this decision.

d) **orders** the parties to submit the evidence in due time and within official filing hours of the Registry.

e) **decides** that, when submitting any evidence to the Registry, the parties shall provide the following accompanying documentation:

1. A list of evidence enlisting all pieces of evidence enclosed with their respective document ID;
2. A list of identified recipients for each evidentiary item reflecting also the access and the level of confidentiality for each item vis-à-vis any party;
3. An analysis of each piece of evidence reflecting its relevance as described in part III of this decision.

f) **orders** the parties to comply with the registration procedure of any evidence as described in part II of this decision.

g) **orders** the Registrar to register electronic copies of any evidence in the record of the case and to store its original in the Registry vault.

h) **orders** the Registrar to provide the parties with access to any evidence as indicated by the party in the list of recipients.

i) **orders** the Registrar to grant to the Chamber unrestricted access to all evidence disclosed between the parties.

j) **orders** the Registrar to make all necessary arrangements and to provide Mr Jean-Pierre Bemba Gombo with unrestricted access to a computer terminal in the Detention Centre for the purpose of accessing the evidence and materials disclosed between the Prosecutor and the defence of Mr Jean-Pierre Bemba Gombo.

k) **orders** the Registrar to report any related practical or security concern to the Chamber as soon as possible.

l) **orders** the parties to provide factual and legal basis for any proposal to classify (as non-public) the evidence submitted.

m) **decides** to establish the following calendar for the disclosure between the parties and the related communication to the Chamber, subject to any ruling of the Chamber

pursuant to rules 81 and 82 of the Rules and the implementation of any protective measures for witnesses, victims or other persons at risk:

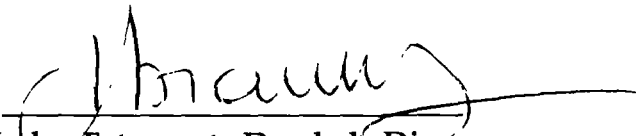
1. **orders** the Prosecutor to disclose to the defence through the Registry all evidence in the Prosecutor's possession or control under article 67(2) of the Statute as soon as practicable and on a continuous basis.
2. **orders** the Prosecutor to disclose to the defence through the Registry all evidence under rule 76 of the Rules as soon as possible and no later than **3 October 2008** in original and a language which Mr Jean-Pierre Bemba Gombo fully understands and speaks.
3. **orders** the Prosecutor to permit the defence to inspect at a location agreed upon by them all evidence under rule 77 of the Rules as soon as possible and no later than **3 October 2008**.
4. **orders** the Prosecutor to submit after inspection to the Registry electronic copies, or electronic photographs in the case of tangible objects, of such evidence subject to inspection in order to be registered as evidence in the record of the case and to submit the original form of the respective piece of evidence to be stored in the Registry vault.
5. **orders** the defence to permit the Prosecutor to inspect at a location agreed upon by them all evidence under rule 78 of the Rules as soon as possible and no later than **20 October 2008**.
6. **orders** the defence after inspection to submit to the Registry electronic copies or, in the case of tangible objects, electronic photographs of the evidence subject to inspection in order to be registered as evidence in the record of the case and to submit the original form of the respective piece of evidence to be stored in the Registry vault.
7. **orders** the defence, for the purposes of the confirmation hearing and in case it intends, pursuant to rule 79 of the Rules, to raise the existence of an alibi or to raise

a ground for excluding criminal responsibility, to comply with the technical modalities of the disclosure procedure as set out in this decision.


n) **decides** that any delays in the disclosure process, which emanate from procedures pursuant to articles 54(3)(e), 72 and 93 of the Statute, shall be brought to the attention of the Chamber as soon as possible.

o) **orders** the parties to submit any request under rules 81 and 82 of the Rules at the latest on **3 September 2008**.

Done in both English and French, the English version being authoritative.


Judge Fatoumata Dembele Diarra
Presiding Judge


Judge Hans-Peter Kaul


Judge Ekaterina Trendafilova

Dated this 31 July 2008

At The Hague, the Netherlands

A N N E X

Case “*The Prosecutor v. Jean-Pierre Bemba Gombo*”

Technical protocol (“e-Court Protocol”) for the provision of evidence, material and Witness Information in electronic form for the confirmation of charges

I. Introduction

1. The International Criminal Court is using an electronic system to support its daily judicial proceedings pursuant to regulation 26(1) of the Regulations of the Court (the “Regulations”). The Registry is responsible for the implementation of this electronic system, taking into account the specific requirements of the judicial activity of the Court, including the need to ensure authenticity, accuracy, confidentiality and preservation of the record of proceedings (see regulation 26(2) of the Regulations). Pursuant to regulations 26(3) and 26(4) of the Regulations, documents and evidence other than live testimony shall be presented, whenever possible, in electronic form.
2. This Protocol is established pursuant to regulation 26(1) of the Regulations and is essential for the Registry’s implementation of the system described in this provision. It is designed to ensure that all the necessary information is available electronically during the proceedings to the Court. To this end, this Protocol defines the standards according to which the participants should prepare and provide evidence and material in electronic form with the Court. Furthermore, this Protocol defines metadata which should accompany the material submitted. These standards are designed to minimise the document management and technology costs to the participants and the Court and to allow for the efficient management of proceedings.
3. The Registry will provide an “in-court” presentation solution for viewing evidence and material.

II. Provision of evidence and material and of the Witness Information in electronic form

A. Evidence

4. In order to ensure that the evidence and material disclosed and the evidence which a participant intends to communicate to Pre-Trial Chamber III (the “Chamber”) in a hearing can be processed by the Court’s electronic system, it must comply with the system’s standards. Therefore, prior to the hearing, the participant will have to format the evidence and material and provide metadata for it in accordance with the standards set out in section II of this Protocol.
5. Once the evidence and material and the metadata have been formatted and prepared, the participant can provide them in electronic form to the Registry.

6. Upon receipt of the evidence and material and the related metadata in electronic form, the Registry will upload all data into the electronic system. No “authentication process”, confirming that the electronic copy is an exact replica of the original piece of evidence, will be conducted by the Registry, unless objections are raised by any party or the Chamber.
7. Such objections should be raised promptly with the Registry and may only relate to the provider, the completeness and legibility of the evidence submitted. The Registry will then address the objections to the provider. If errors are found in the data, the responsible participant shall re-issue the entire record that has been amended, including the table references, with a report outlining the Document ID(s) and the information that has been changed.

B. Witness Information

8. Should a participant intend to call a witness in a hearing before the Chamber, the participant shall prepare a Witness Information list in accordance with the standards set out below in section III and provide the list to the Registry.
9. Upon receipt of the Witness Information, the Registry will upload the data into the electronic system.

III. Standard for the provision of evidence and material in electronic form

10. The participants shall provide to the Registry evidence or material in electronic form either on one or more CD ROM/DVD or using the Court’s internal electronic infrastructure. The format, imaging standards and numbering regime shall comply with the requirements set out in sections A to C below.
11. Together with the evidence and material in electronic form, metadata information relating to evidence and material shall be provided in electronic form, as set out in section D below.

A. Format requirements

12. Evidence and material shall be provided in the following format:
 - Single page TIFF (Text Image File Format) for all evidence and material, and WMA (Windows Media Audio) for audio and WMV (Windows Media Video) for video material.
 - An OCR (Optical Character Recognition) text-file for evidence and material containing text including for any translation thereof.
13. The following requirements shall be met:

Data File Format

CSV (Comma Separated Values) including double quotes around the record and a header record. There shall be 1 document record per row in the table. Zipped files are acceptable or as agreed between the participants; or

	<u>XLS (Microsoft Excel Worksheet)</u> Excel format of the information relating to evidence and material (as set out in section D) and Witness Information (as set out in section E) (to be provided upon request); or
	<u>MDB (Microsoft Office Access Application)</u> : database file compatible with a Ringtail Legal database (export.mdb)
Media	<ul style="list-style-type: none"> ⦿ CD ROM - 650/700Mb, ⦿ DVD or, ⦿ ICC networking infrastructure (to be agreed)
Disk or folder content	2 Files for formats (i) and (ii) above – One main table and one image table (referencing each image on the disk). A header record shall be included for each file. Header record shall contain the metadata field names.
Disk or folder name	<p>If physical media (CD/DVD) then specify volume name as Participant-Situation-Case-Date-Sequential Number</p> <p>If ICC network then create a root folder \Participant-Situation-Case-Date-Sequential Number\ Where: Participant: Participant Codes (see Appendix A) Situation and Case codes: to be provided by the Registry Date: YYYYMMDD format Seq. Number: 2 digits padded with zeros (starting at 01) Example: PPP-0101-0202-20051201-01</p>

B. Imaging and data standards

14. When hard-copy documents are larger than A3 size they shall be provided to the Registry in hardcopy and recorded on the database as such by: (i) imaging a page that states that due to its size the originals reside at the Registry vault, or (ii) submitting a photograph of the evidence or material or artifact (in JPEG compression within color tiff files) as a representation of the original.
15. Originals (under A3 but larger than A4) can be reduced to A4 size and then imaged at the reduced size before submission to the Registry. Originals of these reduced documents shall be made available if required for viewing in the hearing or by the Chamber or by the participants.
16. Image and Data file formats and exchange shall be set out as follows:
 - a. **Medium** The files shall reside in the same media and location specified in paragraph 13, above, under a folder named "images".
 - b. **Image Directory Structure** Images must reside in directories and sub

- directories. The sub directory structure must reflect the levels in the numbering regime.
- c. **Content** Single page tiff files (i.e. a four-page document will have four distinct images).
 - d. **Resolution of Image** Black and White, Grayscale or Color images – 300 dpi (or above) TIFF subtype CCITT group 4 compressed, 1 bit (bi-tonal). For practical purposes, it is recommended that the physical file size of any image should not exceed 700 Kilobytes. It should be noted that 200 K is the average target size of all images.
 - e. **Suffix page numbering** In the event that additional pages are required to be inserted after bar-coding (or labeling) and imaging, the suffix pages convention will be applied to images as per paragraph 19.

C. Numbering regime

17. The participant providing evidence or material shall number each piece of evidence or material according to the following numbering regime. This number will be used as the unique Document Identification (“Doc ID”) for all evidence and material and will be used for reference purposes until the Registry registers and assigns and “EVD number” to them. The Doc ID will appear in readable format. The numbering regime will also be used to name the images files associated to a piece of evidence or material.
18. This numbering regime has four levels, SSS-PPP-FFFF-DDDD, whereby:
 - SSS is the prefix that acts as an identifier for the situation the evidence or material has been collected for. Padded characters will be used (i.e. must be 3 alpha/numeric characters, e.g. AUS);
 - PPP is the participant identifier. Padded characters will be used (i.e. must be 3 characters – may be alpha/numeric digit) in accordance with the prefixes in Appendix A attached (e.g. OTP);
 - FFFF is the evidence or material group/folder/batch number. Padded with zeros, maximum value of 9999 (e.g. 0120); and
 - DDDD is the unique “page” identifier within the document. Padded with zeros, maximum value of 9999 (e.g. 0087). The first page number of a document is also the document number. (see Appendix D).

Specific measures for corrigenda

19. Where corrigenda are provided by the participants pursuant to paragraph 7 of this protocol, the provider shall indicate in the field “Corrigendum Version” the number of the corrigendum version. The corrigendum version is indicated by the abbreviation “Corr” followed by the respective version number (two numeric characters, padded with zeros, starting at 01), e.g. Corr01, Corr02 etc.

The corrigendum suffix should be appended to the Doc ID on each page of the physical file, e.g. CAR-OTP-0004-0001-Corr01 (page 1), CAR-OTP-0004-0002-Corr01 (page 2).

The field "Host Document Number" of any corrigendum should indicate the Doc ID of the original document.

Specific measures for translation documents

20. Each translation shall be recorded as a "translation" in the field "Document Type", in the following manner: for any language required, the field takes the value "Translation", a blank space, a hyphen, a blank space, and then the 3 characters ISO code of the language in which the original document has been translated.

Example:

Translation – ENG

Translation – FRA

Specific measures for redacted documents

21. Redacted documents shall be provided as full documents with all the metadata anew. The Doc ID of a redacted version should carry a suffix RXX (XX reflecting the version number). For example: 1st redacted version of a document: Doc ID – CAR-OTP-0004-0001-R01.

The redaction suffix should be appended to the Doc ID number on each page of the physical file. For example: CAR-OTP-0004-0001-R01 (page 1), CAR-OTP-0004-0002-R01 (page 2), etc.

The field "Host Document Number" (see below table at section D) of any redacted version should indicate the Doc ID of the original unredacted version (for example: CAR-OTP-0004-0001).

22. For a translation of a redacted version, the "Host Document Number" should be that of the redacted version.

For example: French translation of the redacted version referred to in paragraph 21: Doc ID of the translation will have its own Doc ID and the "Host Document Number" will be: Doc ID – CAR-OTP-0004-0001-R01.

D. Provision of metadata information relating to evidence and material in electronic form

23. The following two tables list the format of the metadata that is transmitted to the Registry for evidence and material provided in electronic format, as ordered by the Chamber.
24. Table 1 is the table concerning evidence and material and contains the metadata for these items.

Table concerning evidence and material

Field Name	Data Type	Explanation	Example
Document ID	Text	<p>The unique identifier for each unique document (record) in the database.</p> <p>Redacted versions will receive the unique identifier of the host (unredacted) document with the suffix RXX (see paragraph 21 above)</p>	<p>SSS-PPP-FFFF-DDDD</p> <p>SSS-PPP-FFFF-DDDD-RXX</p>
Date Filed	Date	The date the participant files the metadata table with the Registry in the date format DD-MMM-YYYY	20-Aug-2005
Document Date	Date	<p>The date of the document as it appears on the document in the format DD-MMM-YYYY. The date should be entered which indicates when the document came into existence, or was signed, putting it into effect.</p> <p>If the item only has a partial date and a clear year, then the first day of that partial date shall be entered and the field "Estimated Date" tagged YES.</p> <p>Where a document has no determinable date the document will be recorded as undated.</p> <p>Where a document has more than one date appearing on it the date which is earliest in time shall be entered and the field "Estimated Date" tagged YES.</p> <p>Date ranges cannot be used due to this field being a true date field and only the earliest date in time shall be entered and the field "Estimated Date" tagged YES.</p> <p>If an agreement has an original date as well as a subsequent later date as a result of alterations being made to the document, then the</p>	<p>21-Mar-1997</p> <p>Only known August 2004: 01-Aug-2004</p> <p>Only known year 2004: 01-Jan-2004</p>

Field Name	Data Type	Explanation	Example
		<p>later date is taken as the document date and the field "Estimated Date" is left blank.</p> <p>If a newspaper clipping has the date/reference handwritten on to the document, then the document is dated according to the handwritten notation and the field "Estimated Date" is tagged YES.</p>	
Estimated Date	Boolean	<p>No = If the exact full date is on the document (for example 04-MAR-1963).</p> <p>Yes = Where we cannot be certain of the actual date. For example: if there is a partial date (e.g. August 1979), the date is stamped on, the date has been amended by hand or the only visible date is on the fax track.</p>	<p>No</p> <p>Yes</p>
Type	Text	A simple classification of the item, such as a letter, map, artifact. Attachment C contains a list of suggested document types.	Letter
Title	Text	When a piece of evidence or material has a title, the complete title shall be entered exactly as indicated on the item. If the item has no title this field shall be left blank.	Statement of witness A
Author	Text	<p>Person or persons who authored the document. To be completed using information on the face of the document. To be completed: LAST NAME, first name.</p> <p>Comma separates last name from first name. Semi-colon separates several authors.</p>	<p>SMITH, Brian</p> <p>GARCIA-MARQUEZ, Gabriel</p>

Field Name	Data Type	Explanation	Example
Author Organisation	Text	Organisation from which the document emanated. To be completed from information on the face of the document. Semi-colon separates multiple author organisations.	United Nations
Recipient	Text	Person or persons to whom the document was addressed. To be completed using information on the face of the document As follows: LAST NAME, first name. Comma separates last name from first name. Semi-colon separates multiple recipients.	POTTER, Harry
Recipient Organisation	Text	Organisation receiving the document. To be completed from information on the face of the document. Semi-colon separates multiple recipient organisations.	International Labour Organisation; World Trade Organisation
Parties to agreement	Text	Identifies parties to an agreement or other legal document Semi-colon separates multiple parties to an agreement/legal document	United Nations; ICC
Language of the item	Pick List	The language of the item is to be recorded in this field in accordance with ISO language code 639-3, indicating both the code and the full English description of the language in the ISO definition tables, as follows: ISO code, space, hyphen, space, full description. Where languages are not foreseen in the ISO tables, the ICC Registry language services (STIC) will decide on the appropriate code to be used. Indicate the language of the item as follows: ISO code, space, hyphen, space, full description.	ENG - English
Translation status	Pick List	When the document is a translation, choose one of the following options to indicate by whom the translation has been	ICC – draft

Field Name	Data Type	Explanation	Example
		<p>done:</p> <p>ICC = Registry services OTP = OTP services EXT = External services</p> <p>And whether it is a draft or has been revised.</p> <p>List to be chosen from: ICC – draft ICC – revised OTP – draft OTP – revised EXT – draft EXT – revised</p> <p>Indicate the translations status as follows: Code, space, hyphen, space, translation status.</p>	
Redaction Version	Text	This field records the number of the redaction version. It is reflected by “R” and the respective two digit number, padded with zero, starting at 01.	R01
Redaction Approval Date	Date	This field records the date (DD- MMM-YYYY) that redaction was approved by the Chamber.	30-May-2008
Corrigendum Version	Text	This field records the number of the corrigendum version. It is indicated by “Corr” and the respective two digit number, padded with zero, starting at 01.	Corr01
Excerpt	Boolean	This field records whether the evidence submitted is an excerpt.	Yes No
Host Document Number	Text	<p>Contains Doc ID of the host document to which an attachment is attached. There will never be multiple entries in this field, as each attachment should only ever have one host document.</p> <p>A host document and any attachments should be listed and numbered separately as per the rules listed in Appendix B.</p>	SSS-PPP-FFFF-DDDD
Participant	Pick List	This field records the participant who is providing the evidence or material to the Registry as per Participant Codes in Appendix A.	OTP

Field Name	Data Type	Explanation	Example
Full Chain of Custody of Evidence and Material	Text	This field should list all entities/persons who had custody of the item in chronological order. The following format is to be respected: DD-MMM-YYYY from XXX to XXX Multiple entries are separated by semi-colon.	03-Dec-2004 From witness to OTP investigator
Date Source Restriction Lifted	Date	Date (DD-MMM-YYYY) on which the respective correspondence was received.	03-Dec-2007
Person or Witness from whom the document emanated	Text	In principle, the name of the person providing the document shall be reflected. In case that person is protected, a special reference number given to the person shall be stated. The LAST NAME is separated by comma from the first name.	SARKOZY, Michelle
Search limitations	Pick List	This field records the degree to which the text content of the electronic version of the evidence can be searched: Combined Data (<i>Meaning typed data and handwritten text or images</i>) Handwritten Text No text Typed - no Latinic script Typed data - Partly Searchable Typed data - Searchable Typed data - Unsearchable	Typed data - Searchable
Disclosure Phase	Pick List	This field records information in which phase of the proceedings disclosure took place. The values in the pick list include: Pre-confirmation, Pre-Trial, Trial.	Pre-confirmation
Disclosure Category and Defendant	Text	This field reflects the category of evidence and material which has been disclosed to the defendant(s) Category of disclosed evidence/material: INCR = incriminatory PEXO = potentially exculpatory MIXD = evidence of mixed nature,	INCR D01 PEXO D02

Field Name	Data Type	Explanation	Example
		<p>i.e. both incriminatory and potentially exculpatory.</p> <p>Defendant code: D01, D02 etc. (see Appendix A)</p> <p>Multiple entries are separated by semi-colon.</p>	
Batch	Text	This field reflects the sequential number of the batch maintained by the participant when disclosing the evidence/material (two numeric characters, padded with zeros, starting at 01).	01

Note: All text fields shall be in ISO 8859 Latin 1 (West European)

25. Table 2 below lists the filename for every page of every imaged piece of evidence or material. In order to derive the correct order of pages to a piece of evidence or material, the database query shall select the images matching the Item ID, ordered by the path.

Image Table

Field Name	Data Type	Explanation	Format
*Item ID	Text	Document ID (see explanations in the table above)	SSS-PPP-FFFF-DDDD
*Path	Text	<p>Full relative path and filename of the image file (maximum 100 characters). There will be a single file for each page of each document. The format is</p> <p>SSS-PPP-FFFF-DDDD.tif</p> <p>or</p> <p>SSS-PPP-FFFF-DDDD_R01.tif if the page is part of a redacted version</p> <p>or</p> <p>SS-PPP-FFF-DDDD_Corr01.tif if the page is part of a corrigendum version.</p>	SSS-PPP-FFFF-DDDD.tif
*Pages	Text	Number of pages per document (maximum 4 characters)	0003

E. Witness Information

26. The following table lists the format of metadata for the witnesses as confirmed by Pre-Trial Chamber III.
27. "Witness" for the purpose of this Protocol means a person who has provided statements which the Prosecutor or the Defence intends to rely on at the confirmation of charges hearing.

Table concerning Witness Information

Field Name	Data Type	Explanation	Example
ID number	Text	Number given to the witness. The ID number is structured as follows: SSS is the situation code PPP is the code for the participant introducing the witness PPPP: remains PPPP for any witness ID number and shows that this is a person XXXX is the witness number being a consecutive number assigned by the participant	CAR-OTP-PPPP-0001
Title	Text	This is the title of the witness such as Dr., Mr., Major, General etc.	Major
Name	Text	The LAST NAME and first name of the witness is separated by a comma.	POTTER, Sabrina
Other name(s) and/or nickname(s)	Text	Nickname or commonly used name of the witness if it differs from his/her actual name. Several names or nicknames are separated by semi-colon.	Sandy
Gender	Pick List	Gender of the witness	Female Male
Birth Date	Date	DD-MMM-YYYY	04-Aug-1963

Accuracy of the date of birth	Pick List	<p>This field records the known accuracy of the birth date of the person:</p> <p>Accuracy Unknown; Accurate to within 1 month; Accurate to within 6 months; Accurate to within 12 months; Accurate to within 18 months; Accurate to within 2 years; Accurate to within 5 years; Certain; Proven (<i>Meaning by authenticate birth certificate</i>).</p>	Proven
Expert	Boolean	This field records whether the witness is an expert	Yes No
Authority Introducing Witness	Pick List	Name of the participant whose list of evidence this witness appears on (as per Participant Code in Appendix A)	OTP
Witness Statement Doc ID	Text	<p>If the witness statement has been attributed a document ID in accordance with section D above, please indicate the Doc ID (first page).</p> <p>All prior witness statements should be recorded in this field, including the document ID.</p> <p>This is a one to many field and if more than one entry then they should be separated by semi-colon.</p>	AUS-OTP-0024-0001
Appearance	Pick List	<p>Please indicate how the witness will testify. Permissible values are:</p> <ul style="list-style-type: none"> ▪ Audio/Video ▪ In person ▪ Transcript 	In person

Expected Appearance Length	Text	Please indicate the length of time the witnesses testimony may take in hours and minutes format (hh:mm) to assist the Court in arranging the hearing.	02:00
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Note: All text fields shall be in ISO 8859 Latin 1 (West European)

IV. General provisions

Virus responsibility

28. It is the responsibility of the recipient of the electronic data to test for viruses. The sender shall take all reasonable precautions to ensure that their data is virus free.

Appendix A – Participant Codes

Prefix in numbering regime being PPP	Code
Chambers	PT1, PT2, etc for Pre-Trial Chamber TC1, TC2, etc. for Trial Chamber APP for Appeals Chamber Court Evidence tendered through the Court, (i.e. not by the Defense or OTP)
In Court Evidence	ICE This would also include any evidence generated on the SmartBoard
Prosecution	OTP
Defence If more than one Defendant Office of Public Counsel for Defence (OPCD)	D01 D02, D03, ..., D99 PCD would stand for OPCD.
Victim Representative More than one Victim Representative Office of Public Counsel for Victims	V01, V01, V02 PCV
State	SXX S is for State followed by the two character alpha country code of country intervening.

	Use ISO 3166-1 and the corresponding ISO 3166-1-alpha-2 English code elements. Example: SAQ -> ANTARCTICA
XXX	Documents which are handed up in Court in hardcopy are given an XXX number until the relevant participant provides the court with the electronic version in the proper format.

Appendix B - Methodology for Host/Attachment Determination

1. Document Delimiting

- Any document that stands on its own with individually identifiable characteristics should be delimited separately.
- The back of pages with any text or markings should be included within documents and not, without compelling reasons to the contrary, be delimited as separate documents.

2. Host / Attachment / Unattached

- Documents that make reference to attached documents should be linked with the host and attachment structure.
- Translated documents will have their own Doc ID number but will be linked in the database through the host and attachment structure where the original document will play the "host" and any translations of that document will be "attachment(s)".
- Redacted versions and corrigenda versions of the host document will have their own Doc ID and be linked in the database through the host and attachment structure where the original document will play the "host" and any redaction version or corrigendum will be the "attachment".
- Transcripts of media should also be linked through the host attachment structure where the original media item will play the "host" and any transcriptions of that item will be "attachment(s)".
- Documents which have been created in the Court (for example by a witness drawing on the "original" document and captured by the smartboard technology) will be given an ICE (In Court Evidence) number and will be linked to the "original" document through the "host/attachment" field where the "original" document will be the "host" and the "newly" created document will play the "attachment".
- Annexures and appendices should be delimited as one document unless the annexures can be regarded as having individual and identifiable characteristics. E.g. a binder with tabbed appendices where the appendices have identifiable characteristics (e.g. each doc has a date, title, author etc) would result in the first document being the host and subsequent appendices being the attachments.

Appendix C - Document Types

#	Type	Explanation
1.	Extra page	Any extra page that is not part of a document, such as cover sheets (other than covering letters), dividers, separators pages, empty files.
2.	Surrogate page	These sheets mark the place of evidence that cannot otherwise be included in the system.
3.	Calendar / Diary	Any chronological overview or record by an individual (printed, electronic or handwritten); any form of calendar.
4.	Contact list	Any list containing primarily names or contact details.
5.	List / table	Any other list or table that does not primarily contain names or contact details.
6.	Minutes of meetings	Any record of the proceedings or outcome of a meeting which is clearly identified as such.
7.	Report	Any report that is not publicly available (including a chronology that is not a calendar nor a diary), which will generally be regarding past events (contrasted with an internal memorandum, which will contain advice, opinion, or instructions for future action); or any report that is publicly available (usually from a NGO, IGO or government).
8.	Other notes	Any notes recorded by a person other than an investigator, and that are not a memorandum or report, and are not a dated and chronological record (which is a diary).
9.	Notebook	Any notebook (not just a few pages) that includes handwritten notes.
10.	ICC Statement - General	Any statement taken by someone who is a member of the ICC.
11.	Non-ICC Statement (Note / Screening / Transcript)	Any type of witness statement that is not an ICC witness statement, ICC interview notes or non-ICC interview notes; notes taken during an interview by someone who is not a member of the ICC; written version of a statement that was initially recorded by a person who is not a member of the ICC by audio and/or video means, but has been reduced to written form at a later date.
12.	ICC Statement - ICC investigator interview notes	Notes taken during an interview by someone who is a member of the ICC.
13.	ICC Statement - ICC transcribed statement	Written version of a statement that was initially recorded by a member of the ICC by audio and/or video means, but has been reduced to written form at a later date.
14.	ICC Statement - ICC screening	Screening assessment taken by someone who is a member of the ICC.

#	Type	Explanation
15.	ICC Statement – Electronic Media	A statement which is recorded by a member of the ICC by audio and/or video means
16.	Transcript	Written version of audio/video material that cannot be considered the recording of a statement (e.g. transcript of film).
17.	Correspondence (letter)	Any letter, including covering letters and documents drafted as a letter that were also transmitted by fax.
18.	Correspondence (e-mail)	Any email, including emails attaching reports, letters or other documents.
19.	Correspondence (fax)	Any type of fax, or record that a fax was sent. If the document concerns a letter that also has been faxed, it should be classified as a letter.
20.	Correspondence (internal memorandum)	Any type of memorandum between people within a group / organization / government (not the ICC), including e.g. mission orders.
21.	Correspondence (envelope)	Any envelope, whether posted or not.
22.	Correspondence (invitation)	Any kind of public or private invitation to attend any place or event, that clearly identifies an addressee.
23.	Contract / agreement	Any kind of commercial contract including employment contracts
24.	Financial document (bank record)	Records kept by any financial institution, including internal records and records that are sent or otherwise provided to customers. This includes details of accounts and account statements.
25.	Financial document (invoice)	Any invoice or bill issued, seeking payment or other remuneration.
26.	Receipt	Any receipt issued, acknowledging payment for any kind of commercial transaction, or the receipt of goods.
27.	Financial document (other)	Any other document of a financial nature, including cheques.
28.	Identifying document	Any official document that identifies a person, such as a passport, identity card, membership card of an organization.
29.	Personal data	Any document that records data relating to a person / group / organization which is given in text-format possibly with photographs, including Biography / Curriculum Vitae / Resume / Profile.
30.	Travel related and other administrative document	Any documents relating to travel, including route plans, tickets, itineraries.
31.	Photograph/s	Any document with mainly photographic images (even if those images were captures from another media such as video). The document may have wording, such as captions.
32.	Map	Any document representing the layout of a location, including clear sketches that indicate a geographical location.
33.	Sketch	Any draft of any object / person / location which is not clearly a map.
34.	Organisation diagram	The structure of a group / organization, including command

#	Type	Explanation
		structure, where in diagram format.
35.	Legislation / government instruction / public guidelines	Any legal or official document issued by the legislative body or government [official body] such as decrees, directives, ministerial instructions, etc.
36.	Internal guidelines / instruction /orders	Any guidelines or instructions, given by a non-public or non-governmental entity and which are not technical instructions.
37.	Technical manual	Any kind of technical manual
38.	Certificate	Any type of certificate given by a private or public body.
39.	Media / Press article	Media articles that are public, regardless whether they are taken from Internet, newspapers, newsletters, etc. including press briefings and press releases.
40.	Presentation	Any presentation given in a relatively public environment, including public presentation, public speech or declaration, slides, but that is not a witness statement.
41.	Court Document (Non ICC)	Any legal document (submissions, claims, judgments, brief) in court procedures conducted before any court except the ICC.
42.	Court Document (ICC)	Any legal document (submissions, judgments) in court procedures conducted before the ICC.
43.	Complaint	Any document containing a complaint to an official instance.
44.	Physical item	Any physical item which is not a document (on either physical or electronic media).
45.	Pre-Registration Form	An ICC pre-registration form documenting the collection of evidence.
46.	Audio / Video Material	An audio or video recording.
47.	Translation - ENG	Any translation into English of one of the above
48.	Translation - FRA	Any translation into French of one of the above.

Appendix D - Numbering Example

Document A	Document B	Document C
Original file: documentA.pdf	Original file: documentB.pdf	Original file: documentC.xls
Situation: UGA	Situation: UGA	Situation: UGA
Batch: 0123	Batch: 0123	Batch: 0001
Participant: Office of the Prosecutor (OTP)	Participant: Office of the Prosecutor (OTP)	Participant: Defence
No Pages: 5	No Pages: 3	No Pages: 4
Images:	Images:	Images:

From UGA-OTP-0123-0001.tif To UGA-OTP-0123-0005.tif	From UGA-OTP-0123-0006.tif To UGA-OTP-0123-0008.tif	From UGA-D01-0001-0001.tif To UGA-a_0011_08-0001-0004.tif
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Doc ID		Image Location	Image Files	Page No
A	UGA-OTP-0123-0001	images\UGA\OTP\0123\	UGA-OTP-0123-0001-tif	1
			UGA-OTP-0123-0002-tif	2
			UGA-OTP-0123-0003-tif	3
			UGA-OTP-0123-0004-tif	4
			UGA-OTP-0123-0005-tif	5
B	UGA-OTP-0123-0006	images\UGA\OTP\0123\	UGA-OTP-0123-0006-tif	1
			UGA-OTP-0123-0007-tif	2
			UGA-OTP-0123-0008-tif	3
C	UGA-V01-0001-0001	images\UGA\V01\0001\	UGA-a_0001_06-0001-0001-tif	1
			UGA- a_0001_06-0002-tif	2
			UGA- a_0001_06-0003-tif	3
			UGA- a_0001_06-0004-tif	4