

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: ICC-02/05-03/09

Date: 29 June 2010

PRE-TRIAL CHAMBER I

Before: Judge Sylvia Steiner, Presiding Judge
Judge Sanji Mmasenono Monageng
Judge Cuno Tarfusser

SITUATION IN DARFUR, SUDAN

***THE PROSECUTOR V. ABDALLAH BANDA ABAKAER NOURAIN AND
SALEH MOHAMMED JERBO JAMUS***

Public Document

Decision on issues relating to disclosure

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

The Office of the Prosecutor

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**The Office of Public Counsel for
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Section**

Other

In the case of of *The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus* (“Case”), Pre-Trial Chamber I at the International Criminal Court, Judge Cuno Tarfusser partly dissenting,

HEREBY RENDERS THIS DECISION

1. On 18 June 2010 the Single Judge issued a “Decision scheduling a hearing on issues relating to disclosure”,¹ whereby he convened a public hearing on 23 June 2010 (“Hearing”) to be attended by the Prosecutor, the Counsel for the Defence (“Defence”) and the Registrar, with a view to addressing matters which might be relevant in connection with the disclosure for the purposes of the confirmation hearing in the Case, scheduled to start on 22 November 2010.

2. The present decision aims at establishing (i) the system governing disclosure for the purpose of the confirmation hearing in the Case, taking into consideration the precedents and recent practice of the Chamber and the submissions of the parties at the Hearing, and (ii) the time-frame for disclosure.

System governing disclosure

3. At the Hearing, the Prosecutor expressed satisfaction with the disclosure system as implemented in the latest case before the Chamber, i.e. the case of *The Prosecutor v. Bahar Idriss Abu Garda* (“Abu Garda case”).² The Defence, whilst not specifically commenting upon the adequacy of the system of disclosure as put in place in that case, focussed on the need that the disclosure process take place in compliance with such time-frames as to allow it to receive the relevant materials as early as feasible. More specifically, it expressed the wish that disclosure happen well in advance of the confirmation hearing and of the thirty-

¹ ICC-02/05-03/09-47.

² ICC-02/05-03/09-T-5, at page 11, lines 18-19.

day deadline set forth in rule 121 of the Rules of Procedure and Evidence (“Rules”).³

4. The Chamber takes the view that, as highlighted by both the Prosecutor⁴ and the Defence⁵ at the Hearing, the Case presents indeed a significant degree of overlap with the one of *The Prosecutor v. Bahar Idriss Abu Garda*, since the facts underlying the charges contained in the summonses to appear for Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus are the same as those underlying the summons to appear issued for Abu Garda. Furthermore, the estimate provided by the Prosecutor at the Hearing as to the materials which he intends to rely upon at the confirmation hearing, as well as in respect of the potentially exculpatory material, is very close to the one provided in respect of the Abu Garda case.⁶

5. As to the system governing disclosure, the Chamber recalls its “Second Decision on issues relating to Disclosure” in the Abu Garda case,⁷ whereby the Majority established (Judge Cuno Tarfusser partly dissenting) the following principles:

- I. disclosure is to be conducted *inter partes*, between the Prosecutor and the Defence;
- II. the duty of communication to the Pre-Trial Chamber of “[a]ll evidence disclosed between the Prosecutor and the person for the purposes of the confirmation hearing” pursuant to rule 121(2)(c) of the Rules is aimed at placing the Pre-Trial Chamber in a position to properly organize and conduct the confirmation hearing. Such duty

³ ICC-02/05-03/09-T-5, pages 18-19.

⁴ ICC-02/05-03/09-T-5, at page 27. line 9.

⁵ ICC-02/05-03/09-T-5, at page 16, line 10.

⁶ ICC-02/05-03/09-T-5, pages 4-5.

of communication requires the filing of the evidence to be presented at the confirmation hearing in the record of the case;

- III. based upon the limited scope and purpose of the confirmation hearing, those materials subject to disclosure on which the parties do not intend to rely at the confirmation hearing (including materials of potentially exculpatory nature or otherwise material for the preparation of the Defence that the Prosecutor must disclose to the Defence in accordance with article 67(1)(b) and (2) of the Statute and rule 77 of the Rules) need not to be communicated to the Chamber;
- IV. as a record of the *inter partes* exchanges, following any act of disclosure of materials under article 67(2) of the Statute, the Prosecutor is requested to file in the record of the case a disclosure note ("Disclosure Note"), signed by both parties and containing a list of the items subject to disclosure and their reference numbers;
- V. similarly, with respect to material under rule 77 of the Rules, the Prosecutor is requested to file in the record of the case a pre-inspection report ("Pre-Inspection Report"), containing a list of the items submitted to the Defence together with their reference numbers. Following any act of inspection of the originals of the documents or materials identified by the Defence, the Prosecutor is requested to file in the record of the case an inspection report, (the "Inspection Report") signed by both parties, which must include a list of the items inspected, their reference numbers, a brief account of how the act of inspection took place and whether the Defence received the copies which it requested during the inspection;
- VI. in order to facilitate the Defence in the analysis of the material disclosed under article 67(2) of the Statute, the Prosecutor shall

⁷ ICC-02/05-02/09-35.

include in the Disclosure Note, together with the list of the items disclosed and their reference numbers: (i) a concise summary of the content of each item; and (ii) an explanation of the relevance of such item as potentially exculpatory;

VII. in order to facilitate the Defence in the identification of the items which it wishes to inspect physically, the Prosecutor shall include in the Pre-Inspection Report, with respect to those items which are material to the preparation of the defence, together with the list of the items submitted and their reference numbers: (i) a concise summary of the content of such items; and (ii) an explanation of the relevance of such items for the preparation of the defence;

VIII. the disclosure process between the parties shall be facilitated through the Registry, in accordance with the e-court protocol adopted in the Abu Garda case, as subsequently amended and attached to this decision as Annex I.

6. As recalled above, Judge Cuno Tarfusser appended a partly dissenting opinion to the Decision on disclosure in the Abu Garda case. His dissent was based on a reading of the relevant provisions and, more broadly, of the role of the Pre-Trial Chamber other than the one adopted by the Majority and focused on the scope of the duty of communication to the Chamber of the disclosed material. The reasons for that dissent still stand and are hereby recalled and reiterated in their entirety, in particular as regards the view that also material of a purportedly exculpatory nature falls within the scope of the parties' duty of communication to the Chamber. Since the views of the Majority equally stand, however, disclosure in the case will be governed by the same principles and rules as adopted in the Abu Garda case.

Time-frame for disclosure

7. According to rule 121(3) of the Rules, the Prosecutor shall provide to the Pre-Trial Chamber and the person, no later than 30 days before the date of the confirmation hearing, the Prosecutor Charging Document and the List of Evidence which he or she intends to present at the confirmation hearing. According to rule 121(6) of the Rules, the Defence shall file the Defence List of Evidence, if any, no later than 15 days before the confirmation hearing.

8. These provisions need to be read in light of regulation 33 of the Regulations of the Court. In order to ensure the minimum required by rules 121(3) and 121(6) of the Rules, the Prosecutor shall provide the Prosecutor Charging Document and the List of Evidence no later than 20 October 2010, while the Defence List of Evidence, if any, shall be provided no later than 4 November 2010.

9. The dates set forth in the previous paragraph represent the final deadline, beyond which, pursuant to rule 121(8) of the Rules, no charges or evidence shall be taken into consideration by the Pre-Trial Chamber. They have to be read, however, against the background not only of the need to ensure the expeditiousness of proceedings, but especially of the fundamental right of the suspect "to be informed promptly and in detail of the nature, cause and content of the charge in a language which [he] fully understands and speaks" (article 67(1)(a)). This right appears critical for such crucial evidence as that provided by prosecution witnesses, in respect of which rule 76(1) of the Rules mandates that the defence be provided with their names and copies of their statements "sufficiently in advance to enable the adequate preparation of the defence". Along the same lines, rule 76(2) of the Rules requires the Prosecutor to "subsequently advise the defence of the names of any additional prosecution

witnesses and provide copies of their statements when the decision is made to call those witnesses". Furthermore, the Chamber take due account of the paramount principle that any and all material, including material covered by article 67(2) of the Statute, shall be disclosed as soon as practicable.

10. Based on the above, and in light of the significant overlap between the Case and the Abu Garda case, the Chamber takes the view that it is appropriate that the Prosecutor disclose to the Defence any material which were already disclosed in the Abu Garda case which he intends to rely upon in the Case or which are covered under article 67(2) of the Statute no later than Friday 9 July 2010. A status conference will be held on Tuesday 13 July 2010, during which the parties will be requested to provide updates as to the development of the disclosure process, in light of which the subsequent deadlines for disclosure will be addressed and determined.

Redactions and other protective measures

11. During the Hearing, the Prosecutor stated that he will request redactions to all the statements of the witnesses, i.e. 23 statements and transcripts.⁸ By the same token, he clarified that a number of the redactions he expects to seek would be the same as those approved by the Chamber in the Abu Garda case. The Prosecutor appropriately recalled regulation 42 of the Regulations of the Court, pursuant to which "protective measures once ordered in any proceedings in respect of a victim or witness shall continue to have full force and effect in relation to any other proceedings before the Court". The Chamber further recalls regulation 42(2) of the Regulations of the Court, whereby "when the Prosecutor discharges disclosure obligations in subsequent proceedings, he or she shall respect the protective measures as previously ordered by a

⁸ ICC-02/05-03/09-T-5 at page 6, lines 6-7.

Chamber and shall inform the defence to whom the disclosure is being made of the nature of these protective measures”.

12. Accordingly, the Chamber points out that materials which were disclosed in redacted form in the Abu Garda case which the Prosecutor wishes to use also in respect of this Case shall be disclosed to the defence in the same redacted form, without a need for an authorisation by the Chamber. An application to the Chamber shall be made only when there is either a need for revision and amendment of previously ordered protective measures or for ordering protective measures in respect of previously undisclosed material. All such requests shall be submitted to the Chamber as soon as practicable, in compliance with the calendar which will be established by the Chamber in due course.

FOR THESE REASONS

DECIDES that disclosure for the purpose of the confirmation hearing in the present Case before the Chamber shall be governed by the system established in the Abu Garda case, as reiterated in this decision;

ORDERS the parties to submit any evidence with the appropriate metadata in accordance with the e-Court protocol attached as Annex I to the present decision;

ORDERS the parties submitting evidence to simultaneously file with the Registry:

- (i) The originals of all evidence for which no redactions pursuant to rule 81 of the Rules are needed, which, at this stage shall be filed as confidential;

- (ii) the originals of the evidence for which redactions pursuant to rule 81 of the Rules have been authorised, which shall be filed *ex parte*;
- (iii) a copy of the authorised redacted version of the evidence, if any, which, at this stage, shall be filed confidentially; and
- (iv) an electronic copy of the original or of the redacted version, if any or, in case of tangible objects, its electronic photograph including the details required in the e-Court Protocol attached as Annex I to the present decision;

ORDERS that, when disclosing evidence under article 67(2) of the Statute, the Prosecutor shall provide the Defence with a Disclosure Note, signed by both parties, filed in the record of the Case and:

- (i) containing a list of the material disclosed and its reference number;
- (ii) concisely summarising the content of each item; and
- (iii) explaining the relevance of such item as of potentially exculpatory nature;

ORDERS the Prosecutor:

- (i) to disclose to the Defence any and all materials he intends to rely upon in the Case which were disclosed in the Abu Garda case and to file them with the Registry no later than Friday 9 July 2010, respecting all the protective measures ordered by the Chamber in the Abu Garda case, if any;
- (ii) to disclose to the Defence any and all materials under article 67(2) which were disclosed in the Abu Garda case and to file them with the Registry no later than Friday 9 July 2009;

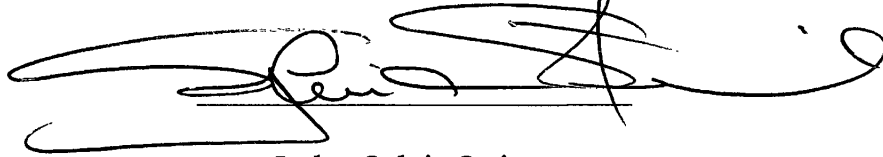
- (iii) to disclose to the Defence and to simultaneously file with the Registrar, as soon as practicable, any material other than those disclosed in the Abu Garda case which does not need to be redacted;
- (iv) to make *ex parte* applications for protective measures as expeditiously as possible and bearing in mind the date set for the confirmation hearing;

ORDERS the Registry to make all necessary arrangements to provide the Defence with access to and training in the software necessary to facilitate:

- (i) the *inter partes* exchanges between the Prosecutor and the Defence;
- (ii) the filing in the record of the Case in accordance with the e-Court Protocol annexed to the present decision; and
- (iii) access to the evidence filed by the parties on the record of the Case;

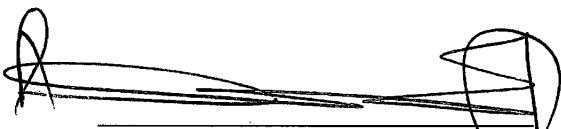
DECIDES to convene a status conference on 13 July 2010, at 15 hours, to be held in public session and to be attended by the Prosecutor, the Defence and the Registrar, at which updates as to the development of the disclosure process will be provided.

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



Judge Sylvia Steiner

Presiding Judge



Judge Sanji Mmasenono Monageng



Judge Cuno Tarfusser

Dated this Tuesday, 29 June 2010

At The Hague, The Netherlands

ANNEX 1

Technical protocol (“E-court Protocol”) for the provision of evidence, witness and victims information in electronic form

I. Introduction

1. The International Criminal Court is using an electronic system to support its daily judicial proceedings pursuant to regulation 26, paragraph 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, paragraph 2, of the Regulations). Pursuant to regulation 26, paragraphs 3 and 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, paragraph 1, and is essential for 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, potential evidence and material in electronic form with the Court. Furthermore, this Protocol defines metadata which should accompany the materials 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 (potential) evidence, and witness and victims information in electronic form

A. Potential evidence

4. In order to ensure that potential evidence, evidence and material that a participant intends to submit to a Chamber in 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 potential evidence, evidence and material and provide metadata for it in accordance with the standards set out in section III D of this Protocol.
5. Once the potential evidence, evidence and material and the metadata have been formatted and prepared, the participant can provide them in electronic form to the Registry.
6. Upon the receipt of the potential evidence, evidence and material and the related metadata in electronic form, the Registry will upload all data into the electronic system.

7. Once the data has been uploaded into the system, the participant will be requested to control the quality of the data uploaded. If errors are found in the data, the responsible participant shall re-issue the entire record that has been amended including the table references. For images, only the single TIFF (Text Image File Format) file or the affected page(s) shall be re-issued in the appropriate directory/level structure named herein. Any updates shall be accompanied with a letter outlining the Document ID(s) and the information that has been changed.
8. If, prior to the hearing, the participant after the provision of the first lot of potential evidence, wants to provide additional items, the standards outlined in this Protocol shall be followed.

B. Witness and Victim Information

9. Should a participant intend to call a witness in a hearing before a Chamber, the participant shall prepare a Witness Information List in accordance with the standards set out below in section III E. and provide the list to the Registry. The same will apply when the appearance of a victim is scheduled.
10. Upon receipt of the Witness/Victim Information, the Registry will upload the data into the electronic system.
11. Once the data has been uploaded into the system, the participant will be requested to control the quality of the data uploaded.
12. If, prior to the hearing, the participant wishes to amend the Witness/Victim Information, the standards outlined in this Protocol shall be followed.

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

13. Participants shall provide to the Registry potential evidence, evidence or material in electronic form either on one or more CD ROMS, DVDs 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.
14. 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

15. Potential evidence, evidence and material shall be provided in the following format:
 - Single page TIFF for all potential evidence, evidence and material, and WMV (Windows Media Video), WMA (Windows Media Audio) for video and audio materials.
 - An OCR (Optical Character Recognition) text-file for potential evidence, evidence and material containing text including for any translation thereof.

16. The following requirements shall be met:

Data File Format	<p><u>CSV (Comma Separated Values)</u> 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</p> <p><u>XLS (Microsoft Excel Worksheet)</u> Witness Information Excel format (see witness information under Part E) and Evidence List format respectively (see evidence and material under Part D) is to be provided, or</p> <p><u>MDB (Microsoft Office Access Application)</u>: database file compatible with a Ringtail Legal database (export.mdb)</p>
Media	<ul style="list-style-type: none"> ⊙ CD ROM - 650/700Mb, ⊙ DVD or, ⊙ ICC network infrastructure to be agreed
Disk or folder content	<p>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.</p>
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 Code 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

17. 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 the originals reside at the Registry vault due to its size or (ii) by submitting a photograph of the potential evidence or material or artifact (in JPEG compression within color tiff files) as a representation of the original.
18. 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 Chambers or by the Participants.
19. 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 16, 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 (ie 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 22. |
| f. Video file sizes | For practical purposes and until such time as a feasible alternative can be found, it is recommended that the physical file size of any video material to be submitted should not exceed 700 Megabytes. Whilst the participants may continue to submit one large video file, those video materials which are greater than 700Mb should also be split accordingly and submitted as separate files or "pages" within the one Document. |

C. Numbering regime

20. The participant providing evidence or material shall number each piece of potential evidence, evidence or material according to the following numbering regime. This number will be used as the unique document identification ('doc id') for all potential evidence, evidence and material and will be used to reference them at all times during the proceedings. 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.
21. This numbering regime has four levels, SSS-PPP-FFFF-DDDD where:
- 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. This field represents the participant that electronically registers the item of potential evidence, which is the participant that

collected the item from the source¹. 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). The Registry shall ensure the uniqueness of the participant identifiers;

FFFF is the potential evidence, evidence or material group/folder/batch number. Padded with zeros, maximum value of 9999 (eg. 0120); and

DDDD is the unique “page” identifier within the document. Padded with zeros, maximum value of 9999 (eg, 0087). The first page number of a document is also the document number. (See appendix D below).

22. Where pages have been inserted due to human error, the following convention will be used: Insert a fifth level where a suffix (two numeric characters, padded zero, preceded with an underscore). For example:

SSS-PPP-FFFF-0001

SSS-PPP-FFFF-0001_01

SSS-PPP-FFFF-0002

Meaning that a page SSS-PPP-FFFF-0001_01 has been inserted after SSS-PPP-FFFF-0001 yet before SSS-PPP-FFFF-0002.

If evidence has been provided in an illegible or otherwise unusable form, the suffix is added to the ERN number of the material which has been re-submitted.

SSS-PPP-FFFF-0001_Corr

Specific measures for translated documents.

23. 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

24. 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 - DRC-OTP-0004-0001-R01.

¹ This is subject to the technical feasibility. Currently, the materials already registered by one party/participant are re-registered if submitted by another party. If re-registered a participant identifier of the party/participant re-registering the item shall be indicated.

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

25. 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 24:
Doc ID of the translation will have its own Doc ID and the "Host Document Number" will be: Doc ID - DRC-OTP-0004-0001-R01

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

26. The following two tables list the format of the metadata that is transmitted to the Registry for potential evidence, evidence and material provided in electronic format.
27. Table 1 is the table of potential evidence, evidence and material, containing the metadata for these items.

Table(potential) evidence and material

Field Name	Data Type	Explanation	Example
Document ID	Text	The unique identifier for each original document (record) in the database. The electronic version of the document (record) shall have the unique page identifier indicated on each page.	SSS-PPP-FFFF-DDDD Ex: CAR-OTP-0001-0001
Date Filed	Date	The date the Participant files the data table with the Registry in the date format DD-MMM-YYYY	20-Aug-2005
Document Date	Date	The date of the document as it appears on the document in the format DD-MMM-YYYY. The date to be entered is the one which indicates when the document came into existence, or was signed, putting it into effect. If the item only has a partial date	21-Mar-1997

Field Name	Data Type	Explanation	Example
		<p>and a clear year, then the first day of that partial date shall be entered and the field "estimate 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 1 date appearing on it the date which is earliest in time shall be entered and the field "estimate 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 estimate date field 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 later date is taken as the document date and 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>	<p>01-Jan-2005</p> <p>leave blank</p> <p>04-Aug-2004</p> <p>22-Sep-2001</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</p>	No or Yes

Field Name	Data Type	Explanation	Example
		track.	
Type	Text	A simple classification of the item, such as a letter, map, artifact. Attachment C contains a list of suggested document types.	Letter
Confidentiality Level	Pick List	A security classification of the item of potential evidence, evidence and material. The level "public" is assigned to items which can be seen by the general public. The level "confidential" is assigned to items which can only be seen by the parties/participants and chambers assigned to the case.	Public or Confidential
Title	Text	When a piece of (potential) 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.	Human Rights Report
Author	Text	Person or persons who authored the document. To be completed using information on the face of the document. The LAST NAME is separated by comma from the first name. Semi-colon must separate multiple entries. Other ways of addressing multiple entries can be agreed between the parties.	SMITH, Brian

Field Name	Data Type	Explanation	Example
Author Organisation	Text	<p>Organisation from which the document emanated. To be completed from information on the face of the document.</p> <p>Semi-colon must separate multiple entries.</p> <p>Other ways of addressing multiple entries can be agreed between the parties.</p>	ACME
Recipient	Text	<p>Person or persons to whom the document was addressed. To be completed using information on the face of the document.</p> <p>The LAST NAME is separated by comma from the first name.</p> <p>Semi-colon must separate multiple entries.</p> <p>Other ways of addressing multiple entries can be agreed between the parties.</p>	SMITH, Brian
Recipient Organisation	Text	<p>Organisation receiving the document. To be completed from information on the face of the document.</p> <p>Semi-colon must separate multiple entries.</p> <p>Other ways of addressing multiple entries can be agreed between the parties.</p>	ACME
Parties to an agreement	Text	Identifies parties to an agreement or other legal document	ACME
Language of the item	Pick List	<p>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: example: ENG – English</p> <p>FRA - French.</p>	ENG - English

Field Name	Data Type	Explanation	Example
		Where languages are not foreseen in the ISO tables, the ICC Registry language services (STIC) will decide on the appropriate code to be used.	
Translation status	Pick List	<p>When the document is a translation, choose one of the following options to indicate by whom the translation has been done:</p> <p style="padding-left: 40px;">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>ICC – draft</p> <p>i.e.: DRC-OTP-0001-0001-tdraftENG</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
Excerpt History	Text	This field will record the date of the preparation of each excerpt	30-May-2008
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</p>	SSS-PPP-FFFF-DDDD

Field Name	Data Type	Explanation	Example
		rules listed in Appendix B.	
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
Chain of Custody	Text and Number	This field should list all entities/persons who had custody of the item, in chronological order. The following format is to be respected: YYYY-MM-DD from XXX to XXX Semi-colon must separate multiple entries.	03-Dec-2004 From witness to OTP investigator
Date Source Restriction Lifted	Date	Date on which the respective correspondence was received, giving authorisation lifting disclosure restrictions.	03-Dec-2007
Source Identity	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 as authorized by the Chamber. The LAST NAME is separated by comma from the first name. When the person is a victim, the victim code must be entered (i.e. a_001_08). The codes used for the protected individuals shall be the id number as described in Section E below.	DAVIS, Jonathan
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	Typed data - Searchable

Field Name	Data Type	Explanation	Example
		No text Typed - no Latinic script Typed data - Partly Searchable Typed data - Searchable Typed data - Unsearchable	
Disclosures	Pick List	<p>This field records information about disclosures and any other distribution of potential evidence made in the context of a case.</p> <p>The pick list values are generally comprised of the following parts: [Phase] [Category of disclosure] [Defendant Code][package or tranche number] [Date of the disclosure]</p> <p>In the situation of joined proceedings disclosure to each counsel may take place on two different dates. This pick list can record such variations. It also allows description of other distributions of documents, such as to the OPCV or any re-issue of corrected data etc.</p> <p>The possible values for the parts of the field include: [Phase] : Pre trial; Trial; Appeal; Revision [Category of Disclosure] : INCR; PEXO; Rule 77; MIXED {Defendant Code} : This <u>may</u> be used if there is more than one defendant and disclosure is made to each on different dates. [Package/Batch or Tranche number] : This is a sequential number maintained by the party disclosing the sequential count of disclosures made in that category. [Date of the disclosure]: dd-mmm-yyyy: The date of the actual disclosure recorded at the time of transfer or after the transfer takes place.</p>	<p>Pre confirmation INCR package 26 07-Nov-2006</p> <p>Add an example such as: "Pre confirmation INCR D02 package 26 07-Nov-2006"</p>

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

28. Table 2 below lists the filename for every page of every imaged piece of potential evidence or material. In order to derive the correct order of pages to a piece of potential 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 and Number	Document ID	SSS-PPP-FFFF-DDDD
*Path	Text (100 char)	Full relative path and filename of the image file. There will be a single file for each page of each document. The format is SSS-PPP-FFFF-DDDD.tif or SSS-PPP-FFFF-DDDD_01.tif (if it is an inserted page)	SSS-PPP-FFFF-DDDD.tif
*Pages	Text	Number of pages per document (maximum 4 characters)	0003

E. Witness and Victim information

29. The following table lists the format of metadata for the witnesses and victims.
30. "Witness" for the purpose of this protocol means: person who has provided statements on which the Prosecution or the Defence intends to rely at the hearing. "Victim" for the purpose of this protocol means a person authorised to participate in the proceedings or appearing before the Chamber in accordance with rule 93 of the Rules of Procedure and Evidence.

Table of Witness and Victim Information

Field Name	Data Type	Explanation	Example

Field Name	Data Type	Explanation	Example
ID number	Number	<p>Number given to a witness or victim. The ID number is structured as follows:</p> <p>SSS is the situation code</p> <p>PPP is the code for the participant introducing the witness</p> <p>P remains P for any witness ID number and shows that this is a person</p> <p>XXXX is the witness number being a consecutive number assigned by the participant</p>	DRC-OTP-P-0001
Title	Text	This is the title of a witness /victim such as Dr., Mr., Major, General etc.	Major
Name	Text	The LAST NAME is separated by comma from the first name.	SMITH, Robert
Other name(s) and/or nickname(s)	Text	<p>Nickname or commonly used name of witness/victim if it differs from their actual name.</p> <p>This is a one to many field.</p> <p>Semi-colon must separate multiple entries.</p>	Bob
Gender	Pick List	<p>Gender of the witness/victim.</p> <p>Permissible values Male,^o Female or Unknown</p>	Male
Birth Date	Date	DD-MMM-YYYY	04-Aug-1963
Estimated Birth Date	Boolean	This field records whether the age of the person is an estimate only.	No

Field Name	Data Type	Explanation	Example
Status	Pick List	<p>This field records the basis on which a person is called before the proceedings:</p> <p>Fact Witness Expert Witness Victim Fact Witness & Victim</p> <p>This is a multi value field</p>	Victim
Victim code	Text	If the person called before the proceedings is a Victim enter the victim code	a_0011_08
Participant Introducing Witness/Victim	Pick List	Name of the participant whose list this witness or victim appears on:- as per Participant codes 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 document ID.</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. Semi-colon must separate multiple entries.</p>	SSS-PPP-FFFF-DDDD
Application reference	Text	<p>If the victim's application has been attributed a document ID in accordance with section D above, please indicate the document ID.</p> <p>All prior victim's applications should be recorded in this field, including the document ID.</p> <p>This is a one to many field. Semi-colon must separate multiple entries</p>	SSS-PPP-FFFF-DDDD

Field Name	Data Type	Explanation	Example
Appearance	Pick List	Please indicate how the witness will testify or how the victim will express his/her views and concerns: Permissible values are; <ul style="list-style-type: none"> ▪ Audio/Video ▪ In person ▪ Transcript ▪ Written Statement 	In person
Expected Appearance Length	Text	Please indicate the length of time the witnesses testimony or victim's appearance may take in hours and minutes (hh:mm) format to assist the Court in arranging the hearing	02:00

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

IV. General provisions

A. Virus responsibility

31. 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.

B. Protocol updates

32. The Registry will co-ordinate consultation involving representatives from the Registry, Chambers and all interested participants to:
- Review suggestions to update and improve the protocol;
 - Determine codes to be set for any additional participants who may be added to the proceedings and to organize exchange of data with any such participants.
 - Attempt to resolve any issues which arise in the course of the application of this Protocol.
33. As appropriate updates to the Protocol text shall be implemented or submitted to the Chamber for approval.
34. The amended Protocol shall be filed in the record of the case and, where appropriate, the Registry may suggest updating the Protocols already implemented in other cases.

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
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 Defense (OPCD)	D01 to D99; DAB.... (each defense team is assigned a unique code across all the cases) PCD would stand for OPCD.
Office of Public Counsel for Victims (OPCV) Legal Representatives for Victims	PCV would stand for OPCV VZB; V04; V99....(each team is assigned a unique code across all the cases)
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 / Unattached²

- 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 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

It is acknowledged that this list is not exhaustive.

OTP, as the participant that commences coding potential evidence, evidence and material, shall provide and update periodically as required their list of document types³.

#	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.

² The Registry shall investigate an alternative way of relating the documents (records). This part of the protocol may be amended in the future depending on findings.

³ The impact of the proposed changes to the document types list should be investigated prior to the amendment of the latter.

#	Type	Explanation
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
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

#	Type	Explanation
		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 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

#	Type	Explanation
		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.	National judicial 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: Victim Counsel V01
No Pages: 5	No Pages: 3	No Pages: 4
Images:	Images:	Images:
From	From	From
UGA-OTP-0123-0001.tif	UGA-OTP-0123-0006.tif	UGA-V01-0001-0001.tif
To	To	To
UGA-OTP-0123-0005.tif	UGA-OTP-0123-0008.tif	UGA-V01-0001-0004.tif

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-V01-0001-0001-tif	1
		UGA-V01-0002-tif	2
		UGA-V01-0003-tif	3
		UGA-V01-0004-tif	4