

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/04-01/10

Date: 30 March 2011

PRE-TRIAL CHAMBER I

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

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

***IN THE CASE OF
THE PROSECUTOR V. CALLIXTE MBARUSHIMANA***

Public Document

Decision on issues relating to disclosure

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

The Office of the Prosecutor

Mr Luis Moreno-Ocampo, Prosecutor
 Ms Fatou Bensouda, Deputy Prosecutor
 Mr Anton Steynberg, Senior Trial Lawyer

Counsel for the Defence

Mr Nicholas Kaufman

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
 Participation/Reparation**

**The Office of Public Counsel for
 Victims**

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

Mr Xavier-Jean Keita

States Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
 Section**

Other

In the case of *The Prosecutor v. Callixte Mbarushimana*, Pre-Trial Chamber I of the International Criminal Court (“Chamber” and “Court” respectively), Judge Cuno Tarfusser partly dissenting, renders the following decision.

1. On 7 February 2011, the Single Judge issued the “Decision Scheduling a Hearing on Issues relating to Disclosure between the Parties”,¹ whereby a public hearing (“Status Conference”) was scheduled for 14 February 2011 to be attended by the Prosecutor, the Defence Counsel (“Defence”) for Mr Callixte Mbarushimana (“Mr Mbarushimana”) and the Registrar, with a view to addressing matters regarding the disclosure for the purposes of the confirmation hearing in the present case, which is due to begin on 4 July 2011. The Status Conference was held on the scheduled date.

2. The purpose of the present decision is to establish (i) the system governing disclosure for the purpose of the confirmation hearing in the present case, and (ii) the time-frame for disclosure.

Submissions by the parties and participants

3. At the Status Conference, the Prosecutor expressed preference for the disclosure system adopted by the Chamber in the cases of *The Prosecutor v. Bahar Idriss Abu Garda*² (“Abu Garda case”) and *The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus*³ (“Abdallah Banda and Saleh Jerbo case”),⁴ indicating, however, that he should not be required to summarise evidence and indicate the relevance of each item disclosed pursuant to article

¹ ICC-01/04-01/10-52.

² ICC-02/05-02/09.

³ ICC-02/05-03/09.

⁴ ICC-01/04-01/10-T-2-ENG (“Transcript”), p. 8, lines 1-10.

67(2) of the Rome Statute ("Statute") and rule 77 of the Rules of Procedure and Evidence ("Rules").⁵ The Prosecutor urged the Chamber to follow the ruling of the majority, consisting of Judges Sylvia Steiner and Sanji Mmasenono Monageng, in the Abu Garda case, according to which potentially exculpatory evidence and material that is subject to inspection pursuant to rule 77 of the Rules should not be communicated to the Chamber or otherwise filed in the record of the case unless one of the parties intends to rely on it at the confirmation hearing.⁶ The Prosecutor further requested that, if the Chamber decides to deviate from that practice and to require the communication to the Chamber of such material, translation into a working language of the Court, pursuant to regulation 39 of the Regulations of the Court ("Regulations"), would not be required.⁷

4. The Prosecutor proposed to commence disclosure by giving the Defence access to a broad pool of evidence initially under rule 77 of the Rules and, in due course, re-disclosing this material as incriminating or potentially exculpatory evidence.⁸ The Prosecutor further submitted that the latest e-Court Protocol should be provided by the Registry or by the e-Court User Group for adoption in the present case.⁹

5. The Defence stated that it favoured the disclosure system adopted in the Abu Garda case, indicating, however, that it supported Judge Tarfusser's dissenting opinion that all exculpatory evidence identified by the Prosecution should be communicated to the Chamber.¹⁰ The Defence further requested the

⁵ Transcript, p. 9, lines 10-15.

⁶ Transcript, p. 8, lines 1-10.

⁷ Transcript, p. 8, lines 20-24.

⁸ Transcript, p. 11, lines 14-19.

⁹ Transcript, p. 13, lines 22-24.

¹⁰ Transcript, p. 17, lines 10-19.

Chamber to order the Prosecutor to ensure the translation of intercepted communications and to make them available to the Chamber well in advance of the confirmation hearing.¹¹ In response, the Prosecutor requested the Chamber not to depart from the current practice of the Court and submitted that if additional translations are made for the Prosecution's own purposes, they would be provided to the Defence.¹²

6. The Defence further submitted that the Prosecutor should review all evidence obtained in the situation in the Democratic Republic of the Congo ("DRC") on the condition of confidentiality pursuant to article 54(3)(e) of the Statute, with a view to giving the Defence access to such evidence under rule 77 of the Rules and article 67(2) of the Statute,¹³ and that the Prosecutor should be given a short time limit for disclosure of any material arising therefrom pertinent to the parameters of the jurisdictional challenge the Defence intends to make.¹⁴

7. The Defence suggested that, in addition to the existing metadata fields, additional metadata regarding the chain of custody and the relevance of every piece of evidence should be provided.¹⁵ With respect to the e-Court Protocol, the Defence submitted that it had no objections to the e-Court Protocol appended to the decision on disclosure in the Abu Garda case.¹⁶

¹¹ Transcript, p. 18, lines 12-16.

¹² Transcript, p. 27, lines 2-5.

¹³ Transcript, p. 15, lines 16-20.

¹⁴ Transcript, p. 17, lines 1-4.

¹⁵ Transcript, p. 19, lines 1-15.

¹⁶ Transcript, p. 18, lines 23-24.

8. The Registry submitted that the current e-Court Protocol would be provided for review by the e-Court User Group.¹⁷

System governing disclosure

9. The Chamber recalls its “Second Decision on issues relating to Disclosure” in the Abu Garda case (“Decision on Disclosure in the Abu Garda case”),¹⁸ whereby the Majority established (Judge Cuno Tarfusser partly dissenting) the following principles:

- a. disclosure is to be conducted *inter partes*, between the Prosecutor and the Defence;¹⁹
- b. 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 of communication requires the filing of the evidence to be presented at the confirmation hearing in the record of the case;²⁰
- c. based on 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 or permit

¹⁷ Transcript, p. 24, lines 1-6.

¹⁸ ICC-02/05-02/09-35.

¹⁹ Decision on Disclosure in the Abu Garda case, para. 8.

²⁰ *Ibid.*, para. 8.

their inspection in accordance with article 67(1)(b) and (2) of the Statute and rule 77 of the Rules) need not be communicated to the Chamber;²¹

d. 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;²²

e. 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 made available to the Defence together with their reference numbers. Following any act of inspection of the originals of the documents identified by the Defence, the Prosecutor is requested to file in the record of the case an inspection report (“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.²³

The Chamber, Judge Tarfusser partially dissenting, will apply the aforementioned principles to the present case.

10. As mentioned above, the partly dissenting opinion to the Decision on Disclosure in the Abu Garda case²⁴ departed from the Majority’s decision to order the parties to communicate to the Chamber only the evidence that they

²¹ *Ibid.*, para. 9.

²² *Ibid.*, para. 14.

²³ *Ibid.*, para. 11.

intend to present at the confirmation hearing, as opposed to “all evidence disclosed between the Prosecutor and the person for the purposes of the confirmation hearing”. The reasons for that dissent still stand and are hereby recalled and reiterated in their entirety, in particular the view that also material of a purportedly exculpatory nature falls within the scope of the parties’ duty of communication to the Chamber. However, since the views of the Majority likewise stand, disclosure in the present case will be governed by the same principles and rules as those adopted in the Abu Garda case.

11. The Chamber notes that, in support of his request not to be required to summarise and indicate the relevance of each item disclosed and/or made available to the Defence, the Prosecutor contends that this was not required in other cases and yet the disclosure system in those cases was considered “fair and efficient” or to have “operated successfully.”²⁵ In this regard, the Chamber recalls that the imposition of this obligation on the Prosecutor in the Abu Garda case was meant to “further improve the current system in order to facilitate the Defence’s assessment of the potentially exculpatory evidence disclosed or subject to inspection” and “enable the Chamber to better perform its role under rule 121(2)(b) of the Rules to ‘ensure that disclosure takes place under satisfactory conditions’”.²⁶ The Chamber accordingly required the following in the Abu Garda case:

- a. in order to facilitate the Defence’s analysis of the material disclosed under article 67(2) of the Statute, the Prosecutor shall 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;

²⁴ *Ibid.*, Partly Dissenting Opinion of Judge Cuno Tarfusser, p. 21.

²⁵ Transcript, p. 9, lines 10-17.

²⁶ Decision on Disclosure in the Abu Garda case, para. 13. *See also* paras 14-16.

and (ii) an explanation of the relevance of such item as potentially exculpatory;²⁷

b. in order to facilitate the Defence's identification of the items which it wishes to inspect physically, pursuant to rule 77 of the Rules, 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 that were made available to the Defence 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.²⁸

The Chamber sees no reason to depart from these requirements.

12. The Chamber further recalls that the disclosure process between the parties shall be facilitated through the Registry. In this respect, when submitting any evidence on which they intend to rely at the confirmation hearing, the parties shall comply with the e-Court Protocol adopted in the case against Abdallah Banda and Saleh Jerbo, as subsequently amended and attached to this decision.

13. As regards the Defence's request regarding additional metadata, including the chain of custody,²⁹ the Chamber notes that pursuant to the present decision, the Prosecutor will be required to provide a concise summary and explanation of the relevance of each item disclosed under article 67(2) of the Statute and rule 77 of the Rules.³⁰ In addition, in relation to the incriminating

²⁷ *Ibid.*, para. 15.

²⁸ *Ibid.*, para. 16.

²⁹ *See supra*, para. 7.

³⁰ *See supra* para. 11.

evidence on which the Prosecutor intends to rely at the confirmation hearing, the Prosecutor will be ordered to ensure that the detailed description of the charges (“Document Containing the Charges”) together with the list of the aforementioned evidence (“List of Evidence”) which he shall provide pursuant to rule 121(3) of the Rules, are organised in such a manner that: (i) each item of evidence is linked to the factual statement it intends to prove; and (ii) each factual statement is linked to a specific element of crime, a mode of liability, or both. The Chamber finds this information sufficient for the purposes of the preparation of the defence of Mr Mbarushimana and sees no need for the provision of the additional metadata requested by the Defence.

14. As regards information about the chain of custody, the Chamber is of the view that there is no need for the Prosecutor to include such information with respect to each piece of evidence disclosed or made available to the Defence. However, the Prosecutor shall provide such information if and when the Defence (i) makes a request for such information with respect to one or more specific documents and materials disclosed or made available to it by the Prosecutor and (ii) fully demonstrates the relevance of the information sought. In case of a dispute between the Parties on these matters, the Chamber will decide.

Other matters raised by the Parties at the Status Conference

15. Further, during the Status Conference, the Defence requested the Chamber to find that the telephone log referred to in the Prosecutor’s application for a warrant of arrest (“Application”)³¹ is subject to the Chamber’s

³¹ “Prosecution’s Application under Article 58”, 20 August 2010, ICC-01/04-01/10-11-Red2.

“Decision on the Defence Request for Disclosure”³² and to order the Prosecutor to disclose all information attesting to the legality of the means by which that log was produced. The Chamber notes that the telephone log was listed as one of the categories of evidence primarily relied upon by the Prosecutor in his Application.³³ However, the log was not annexed to that Application. The warrant of arrest was thus not based on this telephone log. It follows that the telephone log cannot be subject of the said decision. The Chamber takes note of the Defence’s statement that the said telephone log was disclosed by the Prosecutor as incriminating evidence.³⁴ The Chamber is therefore of the view that, if the Prosecutor intends to rely on this telephone log for the purposes of the confirmation of charges hearing, the Defence is entitled to receive the sought information and/or documents which are essential for the preparation of an application challenging the legality of the said log, in so far as this information and/or documents are in the possession or under the control of the Prosecutor.

16. As regards the Defence’s request for the translation of all intercepted communications,³⁵ the Chamber is of the view that since, consistent with the above conclusion of the Chamber, the material on which the parties do not intend to rely on at the confirmation hearing does not need to be filed in the record of the case, the language requirement set out in regulation 39 of the Regulations does not apply to such material. Consequently, the Prosecutor is not obliged to provide the translation of this material to the Defence, unless he intends to rely on any of those intercepted communications for the purposes of the confirmation hearing.

³² ICC-01/04-01/10-47, 27 January 2011.

³³ Application, para. 29(e).

³⁴ Transcript, p. 21, line 14.

³⁵ See *supra*, para. 5.

17. Finally, the Chamber notes that at the Status Conference the Prosecutor stated that he had provided access to the Defence to over 1,700 intercepted communications and over 4,000 associated files, and that he expected to disclose in due course more of these communications, as well as a collection of FDLR (*Forces démocratiques de libération du Rwanda*) press releases.³⁶ As such items were disclosed prior to the Chamber's decision on the system of disclosure, the Chamber directs the Prosecutor to ensure that such items were disclosed in compliance with the present decision. In case of any deficiencies, the Prosecutor shall re-disclose the said items in accordance with the principles set out in the present decision.

Time-frame for disclosure

18. According to rule 121(3) of the Rules, the Prosecutor shall provide to the Pre-Trial Chamber and the person in respect of whom a warrant of arrest or a summons to appear has been issued, no later than 30 days before the date of the confirmation hearing, the Document Containing the Charges together with the List of Evidence. According to rule 121(6) of the Rules, the Defence shall file a list of the evidence that it intends to present at the confirmation hearing ("Defence List of Evidence"), if any, no later than 15 days before the confirmation hearing.

19. These provisions need to be read in light of regulation 33 of the Regulations of the Court. Consistently with rules 121(3) and 121(6) of the Rules, the Prosecutor shall provide the Document Containing the Charges and the List of Evidence no later than 1 June 2011, while the Defence's List of Evidence, if any, shall be provided no later than 16 June 2011. The Chamber notes that

³⁶ Transcript, p. 9, lines 22-25 and p. 10, line 1.

pursuant to rule 121(5) of the Rules, if the Prosecutor intends to present new evidence at the hearing, he has to provide the Chamber and the Defence with a list of that evidence no later than 15 days before the date of the hearing.

20. In accordance with rule 121(8) of the Rules, charges and evidence presented after these dates shall not be taken into consideration by the Chamber. The Chamber points out that the imposition of such deadlines is justified by the need to ensure the expeditiousness of proceedings, and by 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) of the Statute). The Chamber also takes note of rule 76(1) of the Rules, which requires that the defence be provided with the names of the prosecution witnesses and copies of their statements "sufficiently in advance to enable the adequate preparation of the defence". Similarly, 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 takes 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.

21. The Chamber further recalls its "Decision on the Defence Request for Disclosure",³⁷ whereby the Chamber deferred its decision on the issue of disclosure of other "exculpatory and/or materially relevant information necessary for the pursuit of challenges under Article 19(2)(a) of the Rome Statute and Rule 117(3)", in so far as this information may be understood as being "material to the preparation of the defence", within the meaning of rule

77 of the Rules. The Chamber recalls that an effective exercise of the right to make a challenge to the admissibility of the case or the jurisdiction of the Court requires that the Defence has access to relevant documents.³⁷ The Chamber is of the view that when complying with his disclosure obligations, the Prosecutor shall give priority to materials relating to jurisdiction and admissibility. The Prosecutor shall make such materials available to the Defence as soon as practicable and no later than 13 April 2011. If the Prosecutor intends to request any redaction to the said materials, the Chamber directs him to make such requests as soon as practicable and no later than 5 April 2011.

FOR THESE REASONS, the Chamber, Judge Tarfusser partly dissenting,

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, when submitting any evidence on which they intend to rely at the confirmation hearing, to comply with the appropriate metadata in accordance with the e-Court Protocol annexed to the present decision;

ORDERS the parties submitting the evidence on which they intend to rely at the confirmation hearing 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;

³⁷ 27 January 2011, ICC-01/04-01/10-47, para. 19.

³⁸ *Ibid*, para. 13.

- ii. the originals of the evidence for which redactions pursuant to rule 81 of the Rules have been authorised, which shall be filed as *ex parte*;
- iii. a copy of the authorised redacted version of the evidence, if any, which, at this stage, shall be filed as confidential; and
- iv. an electronic copy of the original or of the redacted version, if any or, in case of tangible objects, their electronic photographs including the details required in the e-Court Protocol annexed 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, which should be signed by both parties and filed in the record of the case. The Disclosure Notes shall contain:

- i. a list of the material disclosed and its reference number;
- ii. a concise summary of the content of each item; and
- iii. an explanation of the relevance of such item as potentially exculpatory;

ORDERS the Prosecutor to permit, pursuant to rule 77 of the Rules, the Defence to inspect, starting as soon as practicable and no later than 13 April 2011, at a location, time and manner agreed by the parties, any books, documents, photographs and other tangible objects in its possession or control, which are material to the preparation of the defence and relate to jurisdiction and admissibility;

ORDERS the Prosecutor to permit, pursuant to rule 77 of the Rules, the Defence to inspect, starting as soon as practicable and no later than 2 May 2011, at a location, time and manner agreed by the parties, any remaining books, documents, photographs and other tangible objects in its possession or control which are material to the preparation of the defence, or intended for use by the Prosecutor as evidence for the purposes of the confirmation hearing, or were obtained from or belonged to the person;

ORDERS the Prosecutor to file in the record of the case Pre-Inspection Reports containing a list of the items made available to the Defence and their reference numbers; and, in relation to those items which are material to the preparation of the defence, to further include in the Pre-Inspection Reports:

- (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;

ORDERS the Prosecutor to provide the Defence, at its request during inspection, with electronic copies or electronic photographs, in the case of tangible objects, of all evidence or material subject to inspection;

ORDERS the Prosecutor, following any act of inspection, to file in the record of the case an Inspection Report signed by both parties and including:

- (i) a list of the items inspected and their reference numbers; and
- (ii) a brief account of how the act of inspection took place and whether the Defence received the copies which it requested during the inspection;

ORDERS the Prosecutor to file by 4 April 2011 a report on the existence of any materials protected under articles 54(3)(e), 73 and 93 of the Statute that have been identified as being of potentially exculpatory nature under article 67(2) of the Statute or which are material to the preparation of the defence pursuant to rule 77 of the Rules, including those materials that could be relevant to a challenge to jurisdiction and/or admissibility;

ORDERS the Prosecutor:

- (i) to disclose to the Defence, as soon as practicable, any material subject to disclosure which does not need to be redacted;
- (ii) to submit to the Chamber, as soon as practicable and no later than 5 April 2011, any request for redactions under rule 81 of the Rules with respect to material relating to jurisdiction and admissibility;
- (iii) to submit to the Chamber, as soon as practicable and no later than 18 April 2011, any request for redactions under rule 81 of the Rules with respect to other materials; and
- (iv) to make *ex parte* applications for protective measures other than redactions as expeditiously as possible and bearing in mind the date set for the confirmation hearing;

FURTHER ORDERS the Prosecutor, pursuant to rule 76 of the Rules, to disclose to the Defence, as soon as practicable and no later than 23 May 2011, or, when redactions are requested, no later than 5 days after the Chamber's decision regarding such redactions, in original and in a language Mr Mbarushimana fully understands and speaks, the names and the statements of

the witnesses – with authorized redactions pursuant to rule 81 of the Rules, if any – on which he intends to rely at the confirmation of charges hearing, regardless of whether the Prosecution intends to call them to testify;

ORDERS the Prosecutor to file in the record of the case by 1 June 2011 the Document Containing the Charges and the List of Evidence in the case of *The Prosecutor v. Callixte Mbarushimana* in a language which Mr Mbarushimana fully understands and speaks. In so doing, the Prosecutor shall further ensure that this is organised in such a manner that:

- (i) each item of evidence is linked to the factual statement it intends to prove; and
- (ii) each factual statement is linked to a specific element of crime, a mode of liability, or both;

ORDERS the Defence:

- (i) pursuant to rule 78 of the Rules, to permit, as soon as practicable and no later than 14 June 2011, the Prosecutor to inspect any books, documents, photographs and other tangible objects in its possession or control which are intended for use for the purposes of the confirmation hearing at a location and time and in a manner agreed by the parties;
- (ii) to provide to the Prosecutor, at his request during inspection, electronic copies or electronic photographs, in the case of tangible objects, of all evidence or material subject to inspection;

ORDERS the Defence in the event it intends to raise the existence of an alibi or to raise a ground for excluding criminal responsibility, pursuant to rule 79 of the Rules, to notify the Prosecutor no later than 14 June 2011;

ORDERS the Defence:

- (i) to submit no later than 13 May 2011 any request for redactions under rule 81 of the Rules;
- (ii) to make *ex parte* applications for protective measures other than redactions as expeditiously as possible and bearing in mind the date set for the confirmation hearing;

ORDERS the Defence to file in the record of the case no later than 16 June 2011 the Defence List of Evidence, if any, to be presented at the confirmation hearing;

ORDERS the Prosecutor to provide the Defence with information and/or documents which are essential for the preparation of an application challenging the legality of the telephone log referred to in paragraph 29(e) of the Application, if the Prosecutor intends to rely on the said log for the purposes of the confirmation of charges hearing;

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

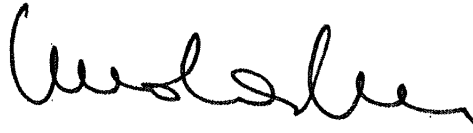
- i. the *inter partes* exchanges between the Prosecutor and the Defence;
- ii. the filing in the record of the case of the evidence to be presented at the confirmation hearing in accordance with the e-Court Protocol annexed to the present decision; and

iii. access to the evidence filed by the parties on the record of the case;

ORDERS the Registry to make all necessary arrangements to provide Mr Mbarushimana with access to and training in the use of the software necessary to facilitate his access from the detention centre to the evidence disclosed or made available by the parties; and

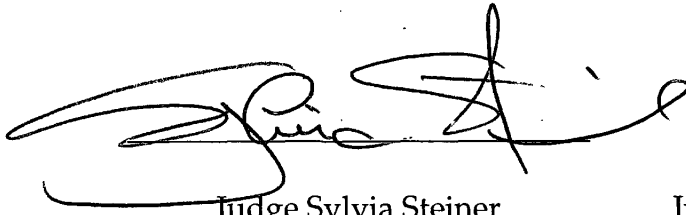
REJECTS the Defence's request for translations of all intercepted communications unless the Prosecutor intends to rely on them, and for additional metadata.

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

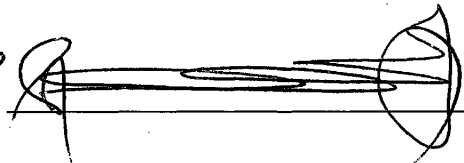


Judge Cuno Tarfusser

Presiding Judge



Judge Sylvia Steiner



Judge Sanji Mmasenono Monageng

Dated this Wednesday, 30 March 2011

At The Hague, The Netherlands

Annex

Unified 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

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

XLS (Microsoft Excel Worksheet) Witness Information Excel format (see witness information under Part D) and Evidence List format respectively (see evidence and material under Part E) is to be provided, or

MDB (Microsoft Office Access Application): database file compatible with a Ringtail Legal database (export.mdb)

Media

- ⊙ CD ROM - 650/700Mb,
- ⊙ DVD or,
- ⊙ ICC network 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

If physical media (CD/DVD) then specify volume name as

Participant-Situation-Case-Date-Sequential Number

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

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) can be submitted 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

The translation suffix (ex: trFRA or trENG) should be appended to the Doc ID number on each page of the physical file. For example: DRC-OTP-0004-0001-trFRA (page 1), DRC-OTP-0004-0002-trFRA (page 2), etc.

Specific measures for redacted documents

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.

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.

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	20-Aug-2005

Field Name	Data Type	Explanation	Example
		date format DD-MMM-YYYY	
Document Date	Date	<p>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.</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 "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>21-Mar-1997</p> <p>Leave blank</p> <p>04-Aug-2004</p> <p>22-Sep-2001</p>
Estimated Date	Boolean	No = If the exact full date is on the document (for example 04-MAR-1963).	No or Yes

Field Name	Data Type	Explanation	Example
		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.	
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
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	Pick List	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	Pick List	<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	Pick List	<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	Pick List	<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 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>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>	ICC – draft
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
		<p>No text Typed - no Latinic script Typed data - Partly Searchable Typed data - Searchable Typed data - Unsearchable</p>	
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; {Defendant Code} : This <u>may</u> be used if there is more than one defendant and disclosure is made to each on different dates. [Batch 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>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
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Field Name	Data Type	Explanation	Example
ID number	Number	<p>Number given to a witness or victim.</p> <p>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-PPPP-0001 or DRC-DEF-PPPP-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, Female or Unknown</p>	Male
Birth Date	Date Field	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 situation 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	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 Legal Representatives for Victims	PCV would stand for OPCV VZB; V04; V99....(each team is assigned a unique code across all the cases)
State	XXX, the three identifying letters chosen for the situation concerning the State Example: DRC for Republic Democratic of Congo
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 bear the DOC ID number of the original document with a suffix “tr” as set out under paragraph 23. Translated documents 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 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
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