IT-05-88-T
D 15652- D 15642
14 MARCH 2008

15652
PK

UNITED
NATIONS

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991

Case No.: IT-05-88-T

Date: 14 March 2008

Original: English

IN TRIAL CHAMBER II

Before: **Judge Carmel Agius, Presiding**
Judge O-Gon Kwon
Judge Kimberly Prost
Judge Ole Bjørn Støle – Reserve Judge

Registrar: **Mr. Hans Holthuis**

Decision of: **14 March 2008**

PROSECUTOR

v.

VUJADIN POPOVIĆ
LJUBIŠA BEARA
DRAGO NIKOLIĆ
LJUBOMIR BOROVČANIN
RADIVOJE MILETIĆ
MILAN GVERO
VINKO PANDUREVIĆ

PUBLIC

DECISION ON PROSECUTION'S MOTION FOR ADMISSION OF EXHIBITS FROM THE BAR TABLE, MOTION TO AMEND THE BAR TABLE MOTION, AND ORAL MOTION FOR ADMISSION OF ADDITIONAL EXHIBIT

Office of the Prosecutor
Mr. Peter McCloskey

Counsel for the Accused
Mr. Zoran Živanović and Ms. Mira Tapušković for Vujadin Popović
Mr. John Ostojić and Mr. Christopher Meek for Ljubiša Beara
Ms. Jelena Nikolić and Mr. Stéphane Bourgon for Drago Nikolić
Mr. Aleksandar Lazarević and Mr. Miodrag Stojanović for Ljubomir Borovčanin
Ms. Natacha Fauveau Ivanović and Mr. Nenad Petrušić for Radivoje Miletić
Mr. Dragan Krgović and Mr. David Josse for Milan Gvero
Mr. Peter Haynes and Mr. Đorđe Sarapa for Vinko Pandurević

THIS TRIAL CHAMBER of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991 ("Tribunal") is seised of the "Prosecution's Motion for Admission of Exhibits from the Bar Table with Confidential Appendix", filed on 7 February 2008 ("Prosecution Motion"); the Prosecution's Oral Motion of 7 February 2008 Requesting Admission of Exhibit 65 *ter* number 3250 ("Prosecution Oral Motion"), and the "Motion to Amend 'Prosecution's Motion for Admission of Exhibits from the Bar Table with Confidential Appendix'", filed on 8 February 2008 ("Prosecution Motion to Amend"), and hereby renders its decision thereon.

I. PROCEDURAL HISTORY AND PARTIES' SUBMISSIONS

A. The Prosecution's Written Motions

1. The Prosecution Motion requests the admission of 46 documents offered "from the bar table" rather than through a witness.[1] The Prosecution Motion to Amend seeks the admission of an additional document.[2] The Prosecution therefore asks for the admission of a total of 47 documents in its written motions.

2. The Prosecution Motion incorrectly represents that 44 of the documents were added to the Prosecution 65 *ter* List of Exhibits on 11 January 2008 by the Trial Chamber's "Decision on Prosecution's Motion for Leave to Amend 65 *ter* Exhibit List with Intercept Corroborating Documents" ("Decision on Intercept Corroborating Documents").[3] The Prosecution Motion to Amend corrects the error, explaining that 32 rather than 44 of the documents were added to the Prosecution 65 *ter* List of Exhibits ("65 *ter* List") by the Decision on Intercept Corroborating Documents.[4]

3. The Prosecution Motion observes that the Decision on Intercept Corroborating Documents deemed 32 of the documents the Prosecution Motion asks to be admitted "*prima facie* relevant and of probative value to issues raised in the indictment."[5]

---

[1] Prosecution Motion, paras. 1, 7-8, 24, 27. The Prosecution Motion also requested leave to exceed the prescribed word limit for motions to permit necessary discussion concerning the materials. Prosecution Motion, para. 5.

[2] Prosecution Motion to Amend, para. 2.

[3] Prosecution Motion, para. 1. *See also* Decision on Intercept Corroborating Documents, pp. 4-5 (permitting Prosecution to add documents).

[4] Prosecution Motion to Amend, paras. 5-8.

[5] Prosecution Motion, para. 6. *See also* Decision on Intercept Corroborating Documents, p. 5.

4. The Prosecution Motion and Prosecution Motion to Amend argue that the remaining fifteen items are relevant and have sufficient indicia of reliability for admission.[6] Twelve of the fifteen items are submitted to corroborate intercepts.[7] The three remaining documents include:

— Exhibit 65 *ter* number 1144a-c, an intercept dated 13 July 1995 indicating speakers expressing concern that war criminals might get away;[8]

— Exhibit 65 *ter* number 536, a press release from the International Committee of the Red Cross ("ICRC") reporting that wounded people were evacuated from Potočari and Bratunac on 17 and 18 July 1995 with the agreement of General Milan Gvero;[9] and

— Exhibit 65 *ter* number 108, an order dated 5 July 1995 in the name of General Milenko Živanović about preparations for military action in the event of possible actions by NATO air forces and Rapid Reaction forces around the Srebrenica enclave.[10]

B. The Prosecution's Oral Motion

5. Also on the day the Prosecution closed its case, the Prosecution represented that it had reviewed its collections again and found another copy of an order dated 13 July 1995 in Gvero's name that calls for preventing Muslim groups from passing to Tuzla and Kladanj—a document identical to Exhibits P01059 and P00045.[11] Gvero has stipulated that Exhibit P01059 was given to the Prosecution by Nenad Petrusić, and P00045 was given to the Prosecution by Dragan Obrenović[12] but the Prosecution wanted the third copy of the document to be admitted since "there appears to be a challenge to the authenticity" of the documents.[13] The Prosecution represented that the third copy of the order, which it designated Exhibit 65 *ter* number 3250, was discovered in its "Drina Corps Collection" during its collections review.[14]

6. The Gvero Defence asked the Trial Chamber to decide the request concerning Exhibit 65 *ter* number 3250 together with the documents the Prosecution Motion also sought to be admitted from

---

[6] Prosecution Motion, paras. 8-27; Prosecution Motion to Amend, paras. 2-4.

[7] Prosecution Motion, para. 8-9.

[8] Prosecution Motion, para. 24; Exhibit 65 *ter* number 1144a, "Intercept dated 13 July 1995, 18:29 hours" (English translation), p. 1.

[9] Prosecution Motion, para. 27; Exhibit 65 *ter* number 536, "ICRC Press Release dated 18 July 1995", p. 1 (English version).

[10] Prosecution Motion to Amend, para. 3; Exhibit 65 *ter* number 108, "Drina Corps Command Order No. 08/8-68, Drina Corps Air Defence Plan, type-signed by General Živanović, dated 5 July 1995", p. 1.

[11] Prosecution Oral Motion, T. 21183-21184 (7 February 2008). The Trial Chamber admitted Exhibits P01059 and P00045 on 7 February 2008. T. 21187 (7 February 2008).

[12] T. 21182-21183 (7 February 2008).

[13] *See* T. 21184-21185 (7 February 2008); T. 21182-21183 (7 February 2008). *Compare* T. 21154 (6 February 2008).

[14] T. 21182-21183, 21184-21185 (7 February 2008).

the bar table.[15] The Trial Chamber agreed and stated the Prosecution Oral Motion would be decided with the Prosecution Motion.[16]

C. The Defence Responses

7. All the Accused except Gvero joined to file a "Consolidated Joint Defence Response to Prosecution's Motion for Admission of Exhibits from the Bar Table and Motion to Amend Prosecution's Motion for Admission of Exhibits from Bar Table" on 21 February 2008 ("Consolidated Defence Response"). The same day, Gvero separately filed "General Gvero's Response to Prosecution's Motion for Admission of Exhibits from the Bar Table with Confidential Appendix") ("Gvero Response").

8. The Consolidated Defence Response requests that the Prosecution Motion be denied because the Prosecution Motion's late timing unjustly prejudices the accused.[17] The Consolidated Defence Response observes that the Prosecution Motion requesting admission of numerous documents was filed on the day the Prosecution closed its case.[18] The Consolidated Defence Response argues that the late timing of the Prosecution Motion means the Accused will effectively be denied the ability to cross-examine Prosecution witnesses concerning the materials and challenge the proposed evidence through information elicited in cross-examination.[19] The Gvero Defence makes a similar argument and also requests denial of the Prosecution Motion in whole.[20]

9. The Consolidated Defence Response also contends that though the Tribunal permits admission of documents from the bar table, the general rule is that a Trial Chamber must hear evidence from one or more witnesses who can speak about a proposed exhibit before the Trial Chamber can be satisfied there is sufficient relevance and reliability to permit admission.[21] The Consolidated Defence Response argues that only Exhibits 65 *ter* numbers 48, 108 and 1144 were used in court with witnesses.[22] The Consolidated Defence Response therefore argues that if the

---

[15] T. 21185-21186 (7 February 2008).

[16] T. 21186 (7 February 2008).

[17] Consolidated Defence Response, paras. 4-8, 16.

[18] Consolidated Defence Response, paras. 2, 4.

[19] Consolidated Defence Response, paras. 6-7.

[20] Gvero Response, paras. 2, 4, 11.a.

[21] Consolidated Defence Response, para. 11 (quoting *Prosecutor v. Boškoski and Tarčulovski*, Case No. IT-04-82-T, Decision on Prosecution's Motion for Admission of Exhibits from the Bar Table with Confidential Annexes A to E, 14 May 2007, para. 10; *Prosecutor v. Prlić, Stojić, Praljak, Petković, Ćorić and Pušić*, Case No. IT-04-74-T, Decision on Admission of Evidence, 21 July 2006 (English translation), 13 July 2006 (French original), p. 4).

[22] Consolidated Defence Response, paras. 10, 12.

Prosecution Motion is not denied as untimely, then the Trial Chamber should deny admission of all documents in the Prosecution Motion except Exhibits 65 *ter* numbers 48, 108 and 1144.[23]

10. If the requests to deny the Prosecution Motion as untimely or for lack of testimony by witnesses are denied, the Consolidated Defence Response requests in the alternative that the 32 intercept-corroborating documents added to the Prosecution 65 *ter* List by the Decision on Intercept Corroborating Documents be admitted solely as supporting material to intercept evidence and not for any other purpose because the Prosecution has failed to state any other ground of relevance.[24] Gvero makes a similar alternative request with regard to all intercept-corroborating documents.[25]

11. Gvero underscored that in any event, he requests the exclusion of Exhibit 65 *ter* number 536, the ICRC press release, and argues that the document should have been shown to witness Cornelis Nicolai and the defence should have had an opportunity to cross-examine Nicolai on the document.[26]

12. Gvero also asks that the Prosecution Oral Motion regarding Exhibit 65 *ter* number 3250 be denied, arguing he was prejudiced by the late submission of the document because if the defence knew the Prosecution was seeking admission of the document, it would have cross-examined Prosecution witness Tomasz Blaszczyk on the Drina Corps collection in general and the document in particular.[27]

D. The Prosecution Request for Leave to Reply and Reply to Defence Responses

13. On 28 February 2008, the Prosecution filed the "Prosecution's Request for Leave to Reply and Reply to Defence Responses to Prosecution Motion for Admission of Exhibits from the Bar Table and Motion to Amend Prosecution's Motion for Admission of Exhibits from the Bar Table" ("Prosecution Reply") addressing some of the defence arguments and reiterating the submissions in the Prosecution Oral Motion.[28]

---

[23] Consolidated Defence Response paras, 16-17.
[24] Consolidated Defence Response, paras. 14-15, 17.
[25] Gvero Response, paras. 5, 7, 11.b.
[26] Gvero Response, paras. 8, 11.bc
[27] Gvero Response, para. 10.
[28] Prosecution Reply, paras. 2, 5, 7, 8-9.

II. ANALYSIS

14. Rule 89(C) of the Rules of Procedure and Evidence provides that a Trial Chamber may admit any relevant evidence that it deems to have probative value.[29] The Appeals Chamber has held that the reliability of a proffered piece of evidence is pertinent to admissibility and not just to weight because a piece of evidence may be so lacking in indicia of reliability that it is not probative.[30] Evidence must therefore have sufficient indicia of reliability to be admitted.[31]

15. Trial Chambers have granted motions to admit exhibits from the bar table where the party offering the evidence shows relevance by clearly and specifically explaining how each exhibit fits into the case and the exhibits have sufficient indicia of reliability.[32] The Trial Chamber is mindful that "[t]endering evidence from the bar table rarely allows for proper contextualisation," generally leaving relevance and probative value to be assessed on the bare face of the materials,[33] but also notes that the practice has been permitted because it assists in expediting proceedings, helps avoid the calling of witnesses solely to present documents, and professional judges are able to assign due weight to the materials in light of the circumstances.[34]

16. As explained below, the Trial Chamber has reviewed the Prosecution's submissions and determines that there has been an adequate *prima facie* showing of relevance and probative value, including sufficient indicia of reliability, for the proposed exhibits detailed in the Prosecution Motion and Prosecution Motion to Amend. The Trial Chamber declines to admit, however, Exhibit 65 *ter* number 3250, referenced in the Prosecution Oral Motion—a document that the Prosecution submits is an "original copy" of an order already in evidence twice.[35]

17. The decision to admit an exhibit because an adequate *prima facie* showing of relevance and reliability has been made "is, in no way, a final decision of the Chamber about the ultimate

---

[29] *See also Prosecutor v. Galić*, Case No. IT-98-29-AR.73.2, Decision on Interlocutory Appeal Concerning Rule 92*bis*(C), 7 June 2002, para. 35 (noting that evidence must be relevant and have probative value to be admitted).

[30] *Prosecutor v. Kordić and Čerkez*, Case No. IT-95-14/2-AR73.5, Decision on Appeal Regarding Statement of a Deceased Witness, 21 July 2000, para. 24.

[31] *Prosecutor v. Strugar*, Case No. IT-01-42-T, Decision on the Admissibility of Certain Documents, 26 May 2004, para. 12.

[32] *E.g., Prosecutor v. Delić*, Case No. IT-04-83-T, Decision on Prosecution Submission on the Admission of Documentary Evidence, 16 January 2008, paras. 8, 9, 16; *Prosecutor v. Boškoski and Tarčulovski*, Case No. IT-04-82-T, Decision on Prosecution's Motion for Admission of Exhibits from the Bar Table with Confidential Annexes A to E, 14 May 2007, paras. 13-15, 22-23; ("*Boškoski* Decision on Prosecution Motion for Admission"). *See also Prosecutor v. Blaškić*, Case No. IT-95-14-T, Judgement, 3 March 2000, para. 35 ("*Blaškić* Trial Judgement") (noting that during the trial, the Trial Chamber "authorized the presentation of evidence without its being submitted by a witness").

[33] *Prosecutor v. Haradinaj, Balaj and Brahimaj*, Case No. IT 04-84-T, Decision on Prosecution's Motion to Tender Documents on its Rule 65 *ter* Exhibit List, 30 November 2007, para. 4.

[34] *Blaškić* Trial Judgement, para. 35.

[35] T. 21183-21184 (7 February 2008).

relevance or the reliability of the exhibit"—such evaluations are made at the close of trial and final deliberations, in light of all the evidence adduced during trial.[36]

A. The Exhibits

1. The Intercept Corroborating Documents

18. The Trial Chamber notes that 32 of the intercept corroborating documents have already been deemed "*prima facie* relevant and of probative value to issues raised in the Indictment."[37] The other 12 intercept corroborating documents are also *prima facie* relevant and of probative value. Ten of the documents—Exhibits 65 *ter* numbers 48, 50, 51, 2567, 141, 335, 338, 339, 341 and 342—are all typeset reports bearing processing stamps. Moreover, Exhibits 65 *ter* numbers 141, 341 and 342 also bear hand-written signatures. Stamps and signatures on documents have been considered by Trial Chambers as indicia of reliability.[38]

19. Exhibit 65 *ter* number 170 does not bear a processing stamp but has a hand-written notation of receipt. Moreover, the Prosecution submits—and the accused have not contested the submission—that Exhibits 65 *ter* numbers 48, 50, 51, 170 and 2567 derive from the Drina Corps collection, about which Tomasz Blaszczyk testified.[39]

20. Exhibit 65 *ter* 2752 is an address book with hand-written notations. The Prosecution submits—and the accused have not contested the submission—that the handwritten document was seized from General Krstić at his arrest and identifies General Krstić's phone number, which matches the number given in an intercept.[40]

21. The Trial Chamber declines the defence request to limit in advance the purposes for which the intercept corroborating documents will be served. Once a *prima facie* showing has been made,

---

[36] *Boškoski* Decision on Prosecution Motion for Admission, para. 11.

[37] Prosecution Motion, paras. 6-7; Prosecution Motion to Amend, paras. 7-8; Decision on Intercept Corroborating Documents, p. 5.

[38] *E.g., Prosecutor v. Prlić, Stojić, Praljak, Petković, Ćorić and Pušić*, Case No. IT-04-74-T, Decision on Admission of Documentary Evidence Relating to Prozor Municipality, 1 March 2007 (English translation), 20 February 2007 (French original), para. 26.

[39] Prosecution Motion, paras. 11-12. *See also* Tomasz Blaszczyk, T. 17419-174330 (2 November 2007) (testifying about how the Drina Corps wartime archive was obtained and turned over to the ICTY).

[40] Prosecution Motion, para. 21. *See also* Exhibit 65 *ter* number 2752, "Address Book of General Radislav Krstić", p. 1 (English translation) (listing phone number for Radislav Krstić).

the evidence is admissible. It is within the experience of professional judges to use evidence for their proper purposes.[41]

2. Exhibit 65 *ter* number 1144 a-c: Intercept Dated 13 July 1995

22. The Prosecution seeks to offer an additional intercept dated 13 July 1995 in which a speaker urgently seeks a list of war criminals from Srebrenica, Žepa and Goražde and expresses concern that war criminals will get away.[42] The Prosecution represents that in the intercept, a "participant expresses concern that the possible exchange of Muslim prisoners without having identified any war-criminals among them will allow them to get away."[43] The Trial Chamber notes that no participant in the intercept explicitly refers to Muslim prisoners or a prisoner exchange.[44] The Trial Chamber considers, however, that in the context of other evidence adduced during trial, the intercept may be relevant inferential evidence concerning Bosnian Muslim prisoners. Moreover, the Trial Chamber has detailed why it considers "the intercepts as a whole are *prima facie* relevant and probative" in its "Decision on Admissibility of Intercepted Communications" filed 7 December 2007 ("Intercept Decision").[45] In addition, Richard Butler has testified concerning this particular intercept.[46]

3. Exhibit 65 *ter* number 536: ICRC Press Release

23. The English version of the ICRC press release that the Prosecution asks the Trial Chamber to admit states that wounded were evacuated from Bratunac and Potočari on 17 and 18 July 1995 with the agreement of General Milan Gvero.[47] The English version of the ICRC press release bears a fax line indicating dispatch from ICRC Pale on 18 July 1995. The Bosnian version of the ICRC press release—designated as a "translation" on ecourt—also bears a fax line indicating dispatch from ICRC Pale on 18 July 1995 and an ICRC stamp. The Trial Chamber considers this exhibit to be relevant to issues in dispute in this trial and to have sufficient indicia of reliability.

---

[41] *See Blaškić* Trial Judgement, para. 35 (noting that professional judges have "the necessary ability for first hearing a given piece of evidence and then evaluating it so as to determine its due weight with regard to the circumstances in which it was obtained, its actual contents and its credibility in light of all the evidence tendered").

[42] *See* Exhibit 65 *ter* number 1144a, "Intercept dated 13 July 1995, 18:29 hours" (English translation), p. 1; Prosecution Submission, paras. 22-25.

[43] Prosecution Motion, para. 24.

[44] *See* Exhibit 65 *ter* number 1144a, "Intercept dated 13 July 1995, 18:29 hours" (English translation), p. 1.

[45] Intercept Decision, paras. 37-53, 78,

[46] Richard Butler, T. 20123-20125 (22 January 2008).

[47] Exhibit 65 *ter* number 536, "ICRC Press Release dated 18 July 1995", p. 1 (English version).

4. Exhibit 65 *ter* number 108: Order by General Milenko Živanović

24. The Prosecution Motion to Amend seeks admission of an order dated 5 July 1995 from General Milenko Živanović concerning military operations in the event of attack by NATO air forces and Rapid Reaction Forces.[48] The Prosecution asserts that the order has bearing on the planning of the Krivaja-95 operation and an alleged element of the operation, the disabling the United Nations in the Srebrenica enclave.[49] The Trial Chamber considers this an adequate explanation of relevance for purposes of admission.

25. As to indicia of reliability, the Prosecution submits that the document "bears the hallmark typewritten print of a tele-printer communication" and notes that the document is dated, carries a "strictly confidential number", a type-signature of General Živanović, a hand-written signature of a "Z. Spasojević", and a handwritten date and time, which the Prosecution submits indicates "formal receipt and processing of the communication."[50] The Trial Chamber has reviewed the document on E-Court and noted the type-set and format, the type-signature, and the hand-written notations. The Prosecution further submits—and the accused have not contested—that the document was seized from the Bratunac Brigade on 6 March 1998 pursuant to a search warrant.[51] The Trial Chamber considers that these are adequate indicia of reliability.

5. Exhibit 65 *ter* number 3250: Document that the Prosecution Represents is a Third Copy of a Document Already in Evidence Twice

26. The Prosecution requests admission of Exhibit 65 *ter* number 3250, which the Prosecution represents is an "original copy" of a document already twice in evidence as Exhibits P01059 and P00045.[52] On the day the Prosecution closed its case, the Prosecution said it had examined its files again and found the document in its Drina Corps collection.[53] Based on its representation as to where the document was found, the Prosecution says the document is relevant to show that there is a third source for the document already twice admitted.[54] Therefore, in contrast to the other documents for which the Prosecution seeks admission, the explanation of Exhibit 65 *ter* number

[48] Exhibit 65 *ter* number 108, "Drina Corps Command Order No. 08/8-68, Drina Corps Air Defence Plan, type-signed by General Živanović, dated 5 July 1995", p. 1.

[49] Prosecution Motion to Amend, para. 3.

[50] Prosecution Motion to Amend, para. 4.

[51] Prosecution Motion to Amend, para. 4.

[52] T. 21183-21184 (7 February 2008). The Trial Chamber admitted Exhibits P01059 and P00045 on 7 February 2008. T. 21187 (7 February 2008). *See also* Exhibit 65 *ter* number 3250, "VRS Main Staff Order 03/4-1629, to the Drina Corps, dated 13 July 1995" (untranslated exhibit).

[53] T. 21183-21184 (7 February 2008).

[54] T. 21183-21185 (7 February 2008).

3250's relevance hinges on the claim that it was found in the Prosecution's Drina Corps Collection rather than the face value of the content, which is already available in the two admitted exhibits.

27. In its current form, however, nothing on the face of the document indicates to the Trial Chamber that it was found in the Prosecution's Drina Corps Collection. If the Prosecution wants to establish a third source for the document on the basis of a recent discovery within that Collection, it is necessary to offer evidence to that effect. A mere statement by the Prosecution is not sufficient. Therefore, in light of the fact that the document itself has been admitted already twice, the Trial Chamber declines to admit a third version.

B. Contentions Concerning Lateness of the Prosecution Motion

28. The accused have all pointed to the timing of the Prosecution Motion on the day the Prosecution closed its case and argue that the Trial Chamber should exercise its discretion to deny the Prosecution Motion because the late timing denied the accused the opportunity to cross-examine witnesses concerning the exhibits and lay a foundation to challenge the documents. The Trial Chamber notes that 44 of the 47 documents for which the Prosecution Motion and Prosecution Motion to Amend seek admission relate to the intercepts admitted on 7 December 2007[55] and 32 of the documents were added to the Prosecution 65 *ter* Exhibit List on 11 January 2008.[56] The Defence was on notice of the 32 documents at least since the filing of the "Prosecution's Motion for Leave to Amend 65 *ter* Exhibit List with Intercept Corroborating Documents" on 6 July 2007.

29. The Prosecution should have shown more diligence in seeking the admission of documents like 65 *ter* numbers 536 and 108, which are not offered as intercept corroborating documents. The Trial Chamber has decided, however, that the circumstances do not warrant refusing to admit the proposed evidence in the Prosecution Motion and Prosecution Motion to Amend. Any possible prejudice can be cured by calling relevant witnesses in the defence case.

III. DISPOSITION

30. For the foregoing reasons, pursuant to Rule 89, the Trial Chamber hereby **ORDERS** as follows:

1. Leave for the Prosecution Motion to exceed the word limit is granted.

2. Leave to file the Prosecution Reply is granted.

---

[55] Prosecution Motion, para. 6; Prosecution Motion to Amend, paras. 5-8; Intercept Decision, para. 79.

3. The Prosecution Motion is granted and the 46 documents described therein are admitted.

4. The Prosecution Motion to Amend is granted and Prosecution Exhibit 65 *ter* number 108 is admitted.

5. The Prosecution Oral Motion is denied.

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

Carmel Agius
Presiding

Dated this 14th day of March 2008
At The Hague
The Netherlands

[Seal of the Tribunal]

[56] Prosecution Motion, para. 6; Prosecution Motion to Amend, paras. 7-8; Decision on Intercept Corroborating Documents, p. 5.