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for the former
Yugoslavia

Tribunal Pénal
International pour
l'ex-Yougoslavie

Press Release . Communiqué de presse
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TRIAL CHAMBER
CHAMBRE DE 1ÈRE
INSTANCE

The Hague, 19 November 2003
JL/P.I.S./802-e

GENERAL WESLEY CLARK TO TESTIFY IN THE MILOŠEVIĆ TRIAL
ON 15 AND 16 DECEMBER 2003

NO PUBLIC ACCESS ON THOSE DATES
RECORDING OF TESTIMONY TO BE MADE PUBLIC AFTER 48 HOURS

On 17 November 2003, Trial Chamber III issued an Order for General Wesley Clark to testify in the Milošević trial on 15 December 2003 and to be available to complete his testimony the following day.

The Trial Chamber also made public an earlier confidential Decision, dated 30 October 2003, setting out the conditions under which General Clark is to give his testimony. In this Decision, the Trial Chamber granted the addition of General Clark to the Prosecution's witness list, as well as extensive protective measures imposed by the Government of the United States of America (US Government) under Rule 70¹ of the Tribunal's Rules of Procedure and Evidence (RPE).

Background:

The US Government has agreed to allow General Clark to testify in the Milošević trial pursuant to Rule 70 of the RPE and as such, it is entitled to seek certain protective measures with respect to his testimony. These protective measures were requested through the Office of the Prosecutor.

The Trial Chamber is bound by an Appeals Chamber Decision (*Prosecutor v. Milošević*, "Decision on the Interpretation and Application of Rule 70" of 23 October, 2002) which grants the information provider (US Government) a right to impose certain conditions upon the testimony of a witness provided by it under Rule 70 of the RPE.

The protective measures requested by the US Government are sought to protect its national interests and the Trial Chamber has granted these protective measures on this basis.

On 30 October 2003 The Trial Chamber ordered as follows:

1. "General Wesley Clark ("the witness") may be added to the Prosecution witness list;
2. the witness's testimony shall be treated as information provided pursuant to and protected by Rule 70 (C) and (D);
3. two representatives of the US Government may be present in court during the testimony of the witness;
4. the evidence of the witness shall be given in open session subject to the protective measures set out below;
5. the evidence contained in paragraphs 61, 62, 63, 65, 66, 67 and 85 of the summary attached to the Motion as ex parte Annex A may be given in private session in order to protect the national

¹ Rule 70 of RPE entitled "Matters Not Subject to Disclosure" concerns the production of information to the Prosecution on a confidential basis.

Internet address: <http://www.un.org/ictv>

Public Information Services/Press Unit

Churchillplein 1, 2517 JW The Hague. P.O. Box 13888, 2501 EW The Hague. Netherlands

Tel.: +31-70-512-5356; 512-5343 Fax: +31-70-512-5355

- interests of the US and request may be made for additional evidence to be so given on the same ground;*
- 6. the public gallery be closed during the course of the witness's testimony;*
 - 7. the broadcast of the testimony be delayed for a period of 48 hours to enable the US Government to review the transcript and make representations as to whether evidence given in open session should be redacted in order to protect the national interests of the US, and shall be delayed for a period thereafter to enable the Trial Chamber to consider and determine any redactions requested, and, if ordered, for the redactions to be made to the tape of the testimony prior to its release;*
 - 8. the scope of examination-in-chief and cross-examination of the witness be limited to the content of the summary attached to the Motion as ex parte Annex A;*
 - 9. The Accused or Amici Curiae may seek to have the scope of examination expanded by prior agreement of the US Government (obtained directly from that Government or through the representation of the Office of the Prosecutor), once the summary of the evidence-in-chief to be given is disclosed to them; and*
 - 10. The Prosecution shall disclose the summary contained in ex parte Annex A forthwith".*

An advisory alerting journalists to the media arrangements that will be in place for them to view recordings of General Clark's testimony after 16 December 2003 will be issued in due course.
