



UNITED NATIONS
NATIONS UNIES

**International Criminal Tribunal for Rwanda
Tribunal pénal international pour le Rwanda**

OR: ENG

TRIAL CHAMBER III

Before Judges: Dennis C. M. Byron, Presiding
Gberdao Gustave Kam
Vagn Joensen

Registrar: Adama Dieng

Date: 25 January 2008

THE PROSECUTOR

v.

**Édouard KAREMERA
Mathieu NGIRUMPATSE
Joseph NZIRORERA**

Case No. ICTR-98-44-T

**DECISION ON THE PROSECUTOR'S MOTION FOR ADMISSION
OF CERTAIN EXHIBITS INTO EVIDENCE**

Rule 89(C) of the Rules of Procedure and Evidence

Office of the Prosecution:

Don Webster
Alayne Frankson-Wallace
Iain Morley
Saidou N'Dow
Gerda Visser
Sunkarie Ballah-Conteh
Takeh Sendze
Deo Mbutu

Defence Counsel for Édouard Karemera
Dior Diagne Mbaye and Félix Sow

Defence Counsel for Mathieu Ngirumpatse
Chantal Hounkpatin and Frédéric Weyl

Defence Counsel for Joseph Nzirorera
Peter Robinson and Patrick Nimy Mayidika Ngimbi

INTRODUCTION

1. On 26 November 2007, the Prosecutor filed a Motion for Admission of Certain Materials Pursuant to Rule 89(C) of the Rules of Procedure and Evidence (“Prosecutor’s Motion”), requesting the Chamber to admit into evidence a total of 143 exhibits.¹ On 3 December 2007, Joseph Nzirorera filed a response opposing the admission of a number of these documents into evidence,² while Édouard Karemera requested an extension of time until the filing of the French translation of the Prosecutor’s Motion became available.³ On 4 December 2007, Édouard Karemera and Mathieu Ngirumpatse filed their respective Responses.⁴ Mathieu Ngirumpatse objected to the admission of certain documents, whereas Édouard Karemera objected to the admission of all documents on various grounds. During the hearing on 4 December 2007, the Parties made additional submissions, and the Prosecutor withdrew his request to admit TABS 7 and 84 of Annex A, as the documents had already been admitted as Exhibits DNZ380 and DNZ211.⁵

2. During the hearing on 5 December 2007, the Chamber noted that certain exhibits referred to in the Prosecutor’s Motion were not attached to it, and ordered the Prosecutor to provide them.⁶ The Chamber also delivered a preliminary oral decision (“Oral Decision”) on the remainder of the exhibits sought to be admitted.⁷ The Chamber will now provide the reasons for its Oral Decision, and rule on the admission of the remaining exhibits subsequently provided to the Chamber. The Chamber will also rule on the Motions of the Accused.

¹ Prosecutor’s Motion for Admission of Certain Materials Under Rule 89(C) of the Rules of Procedure and Evidence, filed on 26 November 2007. Those documents were classified in three Annexes to the Motion. Annex A contained 114 documents, Annex B contained 15 documents and Annex C contained 14 documents.

² Joseph Nzirorera’s Response to Prosecutor’s Second Motion to Admit Exhibits from the Bar Table, filed on 3 December 2007.

³ Requête aux fins de prorogation de délai, filed on 3 December 2007 (“Édouard Karemera’s Motion”).

⁴ Mémoire en réponse pour M. Ngirumpatse sur la ‘Prosecutor’s Motion for Admission of Certain Materials under the Rule 89(C) of the Rules of Procedure and Evidence’, filed on 4 December 2007; Mémoire complémentaire pour M. Ngirumpatse sur la ‘Prosecutor’s Motion for Admission of Certain Materials under Rule 89(C) of the Rules of Procedure and Evidence’, filed on 4 December 2007 (“Mathieu Ngirumpatse’s Response”); Réponse à la Requête du Procureur tendant à faire admettre certains documents en preuve sous le régime de l’Article 89(C), 4 December 2007 (“Édouard Karemera’s Response”).

⁵ *The Prosecutor v. Édouard Karemera, Mathieu Ngirumpatse, Joseph Nzirorera* (“Karemera et al.”), Case No. ICTR-98-44-T, T. 4 December 2007, p. 43.

⁶ *Karemera et al.*, T. 5 December 2007, p. 20.

⁷ *Karemera et al.*, Oral Decision on the Prosecutor’s Motion for Admission of Certain Exhibits into Evidence, 5 December 2007.

DELIBERATIONS

Édouard Karemera's Motion for Extension of Time

3. On 3 December 2007, Édouard Karemera requested an extension of time to respond to the Prosecutor's Motion, referring to an electronic message sent by the Prosecutor wherein an advanced draft translation of the Prosecutor's Motion was promised. Édouard Karemera submits that such an extension is in the interests of the fairness of the proceedings.⁸

4. This Chamber has been seized of similar motions on various prior occasions and has consistently considered that the defence teams are well suited to understand filings in both languages, while they are at liberty to choose the language of their own filings.⁹ Such a circumstance has not changed in relation to the defence team of Édouard Karemera. Moreover, the Accused has provided an extensive response to the Prosecutor's Motion, which the Chamber has duly taken into account. Édouard Karemera's Motion is therefore dismissed.

Applicable law on the admission of documentary evidence

5. Documentary evidence has been defined in the jurisprudence of the ICTR as including "anything in which information of any kind has been recorded".¹⁰ This includes maps, digital records, audio and video tapes, photographs and so forth.

6. The admissibility of evidence, including documentary evidence, is governed by Rule 89(C) of the Rules of Procedure and Evidence ("Rules") which allows the Chamber to admit any relevant evidence it deems to have probative value.¹¹ The probative value of a document is determined by its authenticity, and it is sufficient for the moving party to establish the *prima facie* relevance and probative value of the evidence for admission under Rule 89(C).¹² The assessment of those requirements at this stage of the trial will not, in any case, prevent the further assessment of the evidence where the Chamber will have to determine what

⁸ Édouard Karemera's Motion, p. 1.

⁹ *Karemera et al.*, Décision accordant une prorogation de délai supplémentaire (TC), 17 May 2007, para. 4 ; *Karemera et al.*, Décision accordant une prorogation de délai supplémentaire (TC), 24 May 2007, para. 4.

¹⁰ *The Prosecutor v. Alfred Musema*, Case No. ICTR-96-13-T, Judgement and Sentence (TC), 27 January 2000, para. 53 ("Documentary evidence consists of documents produced as evidence for evaluation by the Tribunal. For the purposes of this case, the term 'document' is interpreted broadly, being understood to mean anything in which information of any description is recorded. This interpretation is wide enough to cover not only documents in writing, but also maps, sketches, plans, calendars, graphs, drawings, computerized records, mechanical records, electro-magnetic records, digital records, databases, sound tracks, audio-tapes, video-tapes, photographs, slides and negatives.").

¹¹ *Karemera et al.*, Decision on the Prosecution Motion for Admission Into Evidence of UNAMIR Documents (TC), 20 October 2007, paras. 5-7; Decision on the Joseph Nzirorera's Motion for Admission of UNAMIR Related Documents (TC), 28 November 2007.

¹² *Bagosora et al.*, Decision on Bagosora Motion to Exclude Photocopies of Agenda, 11 April 2007, para. 4.

weight would be given to each piece of evidence. This Chamber has previously held that in order to establish that evidence is relevant, the moving party must show that a connection exists between the evidence sought to be admitted and the proof of an allegation sufficiently pleaded in the indictment.¹³ To establish the probative value of the evidence, the applicant must show that the evidence tends to prove or disprove an issue.¹⁴

7. The purpose of Rule 89(C) is to ensure that the Chamber is not burdened by evidence for which no reasonable showing of relevance or probative value has been made.¹⁵ While a Chamber always retains the competence under Rule 89(D) to request verification of the authenticity of evidence obtained out of court, “to require absolute proof of a document’s authenticity before it could be admitted would be to require a far more stringent test than the standard envisioned by Sub-rule 89(C).”¹⁶ In this regard, the Chamber considers that it is now well settled that documents need not be recognised by a witness to be considered as having probative value.¹⁷

8. In dealing with objections arguing dubious reliability as a factor for excluding evidence, Trial Chambers have often drawn the distinction between admissibility and the assessment of the evidential value or weight of the document, which is to be decided by the Chamber after hearing the totality of the evidence.¹⁸ The Chamber must, nonetheless,

¹³ *The Prosecutor v. Pauline Nyiramasuhuko and Arsène Shalom Ntahobali*, Case No. ICTR-97-21-AR73, Decision on the Appeals by Pauline Nyiramasuhuko and Arsène Shalom Ntahobali on the “Decision on Defence Urgent Motion to Declare Parts of the Evidence of Witnesses RV and ABZ Inadmissible” (AC), 2 July 2004, para. 15; *The Prosecutor v. Pauline Nyiramasuhuko*, Case No. ICTR-98-42-AR73, Decision on Pauline Nyiramasuhuko’s Request for Reconsideration (AC), 27 September 2004, para. 12; *The Prosecutor v. Théoneste Bagosora, Gratien Kabiligi, Aloys Ntabakuze, Anatole Nsengiyumva*, (“*Bagosora et al.*”) Case No. ICTR-98-41-AR73, Decision on Aloys Ntabakuze’s Interlocutory Appeal on Questions of Law Raised by the 29 June 2006 Trial Chamber I Decision on Motion for Exclusion of Evidence (AC), 18 September 2006, footnote 40.

¹⁴ See *Karemera et al.*, Decision on the Prosecution Motion for Admission Into Evidence of Post-Arrest Interviews with Joseph Nzirorera and Mathieu Ngirumpatse (TC), 2 November 2007, para. 2; *Karemera et al.*, Interim Order on the Prosecutor’s Motion for Admission of Documents (TC), 8 August 2007, para. 7 (and cases cited therein).

¹⁵ *Bagosora et al.*, Case No. ICTR-98-41-T, Decision on Admission of Tab 19 of Binder Produced in Connection with Appearance of Witness Maxwell Nkole (TC), 13 September 2004, para. 9.

¹⁶ *The Prosecutor v. Delalic and Delic*, Case No. IT-96-21, Decision on Application of Defendant Zejnil Delalic for Leave to Appeal Against the Decision of the Trial Chamber of 19 January 1998 for the Admissibility of Evidence (AC), 4 March 1998.

¹⁷ See *Karemera et al.*, Decision on the Prosecution Motion for Admission Into Evidence of UNAMIR documents (TC), 30 October 2007 para. 6; *Bagosora et al.*, Decision on Request to Admit United Nations Documents into Evidence under Rule 89(C) (TC), 25 May 2006, para. 4; *The Prosecutor v. Tihomir Blaskic*, Case No. IT-95-14-T, Judgement (TC), 3 March 2000, para. 35; *The Prosecutor v. Kvočka et al.*, Case No. IT-98-30/1, Decision on Zoran Zigic’s Motion For Rescinding Confidentiality of Schedules Attached to the Indictment Decision On Exhibits (TC), 19 July 2001; *The Prosecutor v. Prlic et al.*, Case No. IT-04-74-PT, Revised Version of the Decision Adopting Guidelines on Conduct of Trial Proceedings (TC), 28 April 2006 and Case No. IT-04-74-T, Decision on Admission of Evidence (TC), 13 July 2006.

¹⁸ *The Prosecutor v. Pauline Nyiramasuhuko et al.*, Case No. ICTR-98-42, Decision on Inadmissibility of Evidence (AC), para. 15; *The Prosecutor v. Aloys Simba*, Case No. ICTR-01-76-T, Decision on the Admission of Prosecution Exhibits 27 and 28 (TC), 31 January 2005, para. 12.

determine whether sufficient indicia of reliability of the tendered document have been established. Evidence may be considered as inadmissible where it is found to be so lacking in terms of the indicia of reliability, that it is not probative.¹⁹ Indicia of reliability include: the authorship of the document; whether it is an original or a copy; the place from which the document was obtained in conjunction with its chain of custody; whether its contents are supported by other evidence; and the nature of the document itself, such as signatures, stamps, or the form of the handwriting.²⁰

9. Finally, the Chamber recalls that in determining the admissibility of evidence, a Chamber must also guarantee the protection of the rights of the accused as prescribed by Articles 19 and 20 of the Statute. Accordingly, the Chamber has an inherent power to exclude evidence if its probative value is substantially outweighed by its prejudicial effect or otherwise by the need to ensure a fair trial.²¹

10. In the present instance, the Prosecutor has argued that the admission of a document in another trial constitutes an indicium of reliability.²² This Chamber is of the view that such an argument cannot succeed, since the decision of one Chamber cannot bind another. Furthermore, the Chamber has to make its own assessment of the case before it. Therefore, where the Prosecutor has relied only on this basis for their submission, and the Chamber has not been able to find any additional indicia of reliability to establish the probative value of an item, it has denied the application for admission.²³

11. In addition, and pursuant to Rule 95 of the Rules, a request for admission can also be denied when the document has been “obtained by methods which cast substantial doubt on its reliability [...] [or when such] admission is antithetical to, and would seriously damage, the

¹⁹ *The Prosecutor v. Pauline Nyiramasuhuko et al.*, Case No. ICTR-98-42-AR73.2, Decision on Pauline Nyiramasuhuko's Appeal on the Admissibility of Evidence (AC), 4 October 2004, para. 7; *The Prosecutor v. Georges Anderson Rutaganda*, Case No. ICTR-96-3-A, Judgement (AC), para. 33; *Prosecutor v. Delalic and Delic*, Decision on Application of Defendant Zejnil Delalic for Leave to Appeal Against the Decision of the Trial Chamber of 19 January 1998 for the Admissibility of Evidence (AC), 4 March 1998.

²⁰ *Bagosora et al.*, Decision on Admission of Tab 19 of Binder Produced in Connection with Appearance of Witness Maxwell Nkole (TC), 13 September 2004, para. 9; and *Bagosora et al.*, Decision on request to Admit United Nations Documents into Evidence Under Rule 89(C) (TC), 25 May 2006, para. 4 (and sources cited therein).

²¹ See *Karempera et al.*, Decision on the Prosecution Motion for Admission Into Evidence of Post-Arrest Interviews with Joseph Nzirorera and Mathieu Ngirumpatse (TC), 2 November 2007, para. 3; *Karempera et al.*, Decision on Defence Oral Motions for Exclusion of XBM's Testimony, for Sanctions Against the Prosecution and for Exclusion of Evidence Outside the Scope of the Indictment (TC), 19 October 2006, para. 29; *Karempera et al.*, Decision on the Prosecution Motion for Admission Into Evidence of Exhibits from Other Trials (TC), 30 October 2007, para. 11.

²² See Prosecutor's Motion, para. 33 (“The admission of this material into evidence in other trials [...] suggests it is *prima facie* authentic.”).

²³ See the Annex to this Decision.

integrity of the proceedings".²⁴ However, this Chamber notes that according to the jurisprudence of this Tribunal, Rule 95 does not require automatic exclusion of all unlawfully obtained evidence.²⁵ In applying Rule 95, the Tribunal will consider "all the relevant circumstances and will only exclude evidence if the integrity of the proceedings would indeed otherwise be seriously damaged".²⁶ The International Criminal Tribunal for the Former Yugoslavia ("ICTY") Trial Chamber in the *Brdjanin* case held that, when deciding on the exclusion of evidence, "the correct balance must be maintained between the fundamental rights of the accused and the essential interests of the international community in the prosecution of persons charged with serious violations of international humanitarian law."²⁷

12. The Chamber notes that, in the present case and in their respective submissions, the Accused argued that certain exhibits violated Rule 95 of the Rules. The Prosecutor, in its Motion, had discussed the matter in anticipation of such objections.²⁸

13. Édouard Karemera challenged certain documents on the basis of Rule 95, submitting that documents which were seized at the time of the allegedly illegal arrest of Joseph Nzirorera should not be admitted.²⁹ Édouard Karemera makes the same submission in relation to materials seized from both Mathieu Ndirumpatse³⁰ and himself.³¹ He also referred to documents seized from Pauline Nyiramasuhuko³² and from Jean Kambanda³³ where, allegedly, no inventory report has been produced.

²⁴ *Karemera et al.*, Decision on the Prosecution Motion for Admission Into Evidence of Post-Arrest Interviews with Joseph Nzirorera and Mathieu Ndirumpatse (TC), 2 November 2007, para. 4; *Bagosora et al.*, Decision on Bagosora Motion to Exclude Photocopies of Agenda, 11 April 2007, para. 2.

²⁵ *The Prosecutor v. Protais Zigiranyirazo*, Case No. ICTR-2001-73-T, Decision on the Voir Dire Hearing of the Accused's Curriculum Vitae (TC), 29 November 2006, para. 13 ("*Zigiranyirazo* Decision"); *Prosecutor v. Casimir Bizimungu, Justin Mugenzi, Jérôme-Clément Bikamumpaka, Prosper Mugiraneza* ("*Bizimungu et al.*"), Case No. ICTR-99-50-T, Decision on Casimir Bizimungu, Justin Mugenzi and Jerome Bicamumpaka's Written Submissions Concerning the Issues Raised at the Hearing of 31 March 2006 in Relation to the Cross Examination of Witness Augustin Kayinamura (Formerly INGA) (TC), 1 November 2006, para. 12 ("*Bizimungu* Decision"); *Prosecutor v. Brdjanin*, Case No. IT-99-36-T, Decision on the Defence "Objection to Intercept Evidence" (TC), 3 October 2003, para. 54 ("*Brdjanin* Decision").

²⁶ *Zigiranyirazo* Decision, para. 13; *Bizimungu* Decision, para. 12; *Bizimungu et al.*, Decision on Prosper Mugiraneza's Renewed Motion to Exclude His Custodial Statements from Evidence (TC), 4 December 2003, para. 29; *Brdjanin* Decision, para. 61.

²⁷ See *Karemera et al.*, Decision on the Prosecution Motion for Admission Into Evidence of Post-Arrest Interviews with Joseph Nzirorera and Mathieu Ndirumpatse (TC), 2 November 2007, para. 4; *Brdjanin* Decision, para. 62.

²⁸ Prosecutor's Motion, paras. 42 *et seq.*

²⁹ Annex A, TABS 17, 25, 29 and 257-268.

³⁰ Annex A, TAB 74.

³¹ Annex A, TABS 94, 117, 118, 119.

³² Annex A, TAB 19 and 116.

³³ Annex A, TABS 45, 114 and 115.

14. Mathieu Ngirumpatse raised the same objection in relation to documents seized from certain accused before the Tribunal when, in his view, the arrest or the seizure was illegal³⁴ and when the said accused were not called to comment on those documents. He argued that the illegality surrounding the seizure of such materials should lead the Chamber to exclude those documents.

15. Joseph Nzirorera has made the same objection in relation to the material seized at his home in Bénin.³⁵ While Édouard Karemera and Mathieu Ngirumpatse have not detailed any further their argument in relation with Rule 95, Joseph Nzirorera has more specifically explained that the search of his house took place in his absence; that no inventory, report, photograph or contemporaneous record has been produced; that there is no record of the chain of custody; that the seal has been removed before any inspection, despite an order of the Trial Chamber to the contrary; and that it took five years for the Prosecutor to return certain documents it did not intend to use. He has concluded that his rights were seriously violated, and the remedy should be the non admission of evidence obtained by such violations.

16. The Chamber considers that the aforesaid lack of detail in the submissions of Ngirumpatse and Karemera on Rule 95 violations makes it difficult for the Chamber to assess the admission of the documents under this Rule. The Chamber also considers that whether the arrest of an accused is illegal does not by itself affect the reliability of any document seized from him. It would have been necessary for the Accused to show circumstances or factors that would either cast doubt on the reliability of a document, or establish that the admission of such documents into evidence would seriously damage the integrity of the proceedings.

17. As to the argument of Ngirumpatse that the author or owner of some documents is not called at the bar to comment on them, the Chamber recalls that there is no requirement for documentary evidence to be adduced in the presence of a witness. Moreover, the Chamber considers that the submissions made by Joseph Nzirorera, and the circumstances he raised, separately or cumulatively, do not affect the *prima facie* reliability of the documents, and the admission of the said items would not seriously damage the integrity of the trial.

³⁴ He mentioned his co-accused Nzirorera (Annex A, TABS 17, 25, 29, 257-268) and Karemera (Annex A, TABS 94, 117, 118, 119), Kambanda (Annex A, TABS 2, 45, 114, 115, 116), Nyiramasuhuko (Annex A, TABS 19, 116), and Ndindiliyimana (Annex A, TAB 239).

³⁵ See Annex A, TABS 17, 25, 29, 257-268. See list in the Prosecutor's Motion, para. 29, and the table annexed to this Decision. Joseph Nzirorera has provided in his submissions a chronology of events in relation to his arguments on Rule 95: Annex A of "Joseph Nzirorera's Response to Prosecutor's Second Motion to Admit Exhibits from the Bar Table", 3 December 2007.

18. The Chamber therefore finds that the arguments based on Rule 95 cannot succeed in the present case.

19. The Chamber will now consider each item proposed for admission in accordance with the category and tab number assigned in Annexes A, B and C of the Prosecutor's Motion.

ANNEX A

20. The Prosecutor sought the admission of 97 exhibits in Annex A. The Chamber rules that (i) the request in relation to two of those exhibits is moot because they were already admitted into evidence,³⁶ and (ii) fifteen of them should be excluded, and sixty-nine admitted. In the present decision, the Chamber deems it necessary to reconsider its oral ruling in relation to two items that were admitted and one that was excluded, and the reasons will be provided hereinafter.

Excluded exhibits

21. In its Oral Decision, the Chamber had already excluded TABS 19, 95, 122, 129, 140, 143, 145, 146, 223, 226, 234 and 236, for reasons detailed below. The Chamber moreover reconsidered TABS 22 and 63, which are also excluded.

22. TAB 19 is a letter written by Munyazesa on the organisation of civil defense. TAB 95 is an interview report related to the *Interahamwe* and the MRND. TAB 122 is a photograph on ONATRACOM bus, and TAB 234 is a video where, at one point, the prime minister appears with Joseph Nzirorera. The Chamber considers that these five documents did not have sufficient indicia of authenticity. The Chamber finds that the origin of these documents is doubtful, as they are undated and bear no official stamp, seals, signatures, and/or the author of the document is unknown. Some of them have no indications as to the chain of custody and/or have been created after the events occurred and cannot be said to have probative value. In addition and specifically with regards to the video footage (TAB 234), the Chamber is not satisfied by the explanations provided in the Prosecutor's Motion and by the appearance of the exhibit, and considers that the Prosecutor has not made a *prima facie* showing of its authenticity. The Chamber notes that there is no mention of date or author, neither on the video footage itself nor in the Prosecutor's Motion. Furthermore, the Chamber finds that there is no information about the source and the chain of custody. Finally, the Chamber notes

³⁶ TABS 7 and 84 were already admitted into evidence as Exhibits DNZ380 and DNZ211.

that the video footage appears to be an extract and the Prosecutor has not indicated whether the full footage is available, or who extracted the parts under TAB 234.

23. TABS 129, 140, 143, 145 and 146 are photographs. The description provided by the Prosecutor in relation to those pictures has not been sufficient to establish their *prima facie* relevance with regards to the particular counts of the indictment. Moreover, the Prosecutor has not indicated in what way the contents of these photographs have been supported by other evidence.

24. With regards to TABS 140, 143, 145 and 146, the Chamber further notes (i) that the indication by the Prosecutor that the photographs were taken in 2005 by an Office of the Prosecution ("OTP") intern, and (ii) that there is no further information on the face of these photographs or any supporting evidence in the Prosecutor's Motion to support the submission that these photographs are indeed of the locations they purport to depict. In addition, the Chamber is not satisfied that the Prosecutor has made a *prima facie* showing of their reliability.

25. TABS 223 and 226 are maps. The Chamber considers that the arguments provided by the Prosecutor are insufficient to establish the relevance of these documents to the indictment, particularly given that no specific witness testimony, during which these items were used, was referred to.

26. TABS 234 and 236 are videos. Besides the objections regarding their authenticity, the Chamber is not satisfied that the Prosecutor has shown their *prima facie* relevance to charges alleged in the indictment. In addition and specifically in relation to TAB 236, the Chamber notes that the showing of Joseph Nzirorera and the Prime Minister in exile in Zaire after the genocide is not pled in the indictment.

27. The Prosecutor asserts that TAB 22 is a telegram from the Ministry of Interior to all prefects regarding the civil defence, while TAB 63 is a report on an event which occurred in Shyorongi commune in 1992 and it is addressed to the Minister of Justice. Those two documents were initially admitted into evidence on the basis of the synthesis provided in the table annexed to the Prosecutor's Motion as the documents had not yet been provided. Having now conducted a detailed review of the two documents, the Chamber considers that there is doubt as to their authenticity as they bear no stamp, signature, or date and specifically in relation to TAB 63, the author is also unknown. As a consequence, the Chamber excludes these two items.

Admitted Exhibits

28. In its oral decision, the Chamber admitted TABS 2, 3, 4, 8, 11, 12, 16, 17, 18, 25, 29, 33, 34, 37, 58, 65, 66, 72, 73, 74, 75, 76, 82, 88, 89, 90, 94, 103, 114, 115, 116, 117, 118, 119, 151, 152, 153, 154, 157, 158, 160, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 174, 175, 180, 181, 182, 184, 187, 191, 196, 197, 227, 238, 239, 248, 250, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268 and 276, for the reasons developed below. Moreover, TAB 5, for which the Chamber reserved its ruling, is now admitted. The Chamber also reconsidered the admission of TAB 45, which was previously excluded.

29. TABS 2, 3, 4, 5, 8, 11, 12, 16, 17, 18, 25 are documents related to civil defense including mission reports and order, letters and correspondences. TABS 29, 33, 34 and 37 are certificates and attestations of transport and transfer of arms and ammunitions to Colonel Bagosora. TABS 58, 65, 66, 72, 73, 74, 75, 76, 82, 88, 89, 90, 94 and 103 are MRND and/or *Interahamwe* related documents, such as letters, reports and press releases signed by Mathieu Ngirumpatse, Édouard Karemera and other officials. These documents bear dates, official stamps and/or signatures that support their authenticity. Some of the documents have been signed by the Accused, and the Prosecutor has indicated where they were obtained. In addition, a number of these documents, particularly the receipts for weapons purchases, (i) bear the logo of the company and the signature of its financial director, and/or (ii) are UN-generated material, which is self-authenticating. In those circumstances, the Chamber considers that the Prosecutor has provided sufficient grounds to establish their indicia of reliability for an admission.

30. As to TAB 5 in particular, the Chamber finds that the stamp of the Ministry of Defence and the signature of the Division Contrôle des Armes et Exploitation (“DIARME”) are enough to authenticate this document. It appears relevant to the distribution of arms to civilian in various areas and to civil defence in general.

31. TAB 45, relating to unpaid military contracts and civil defence, was excluded in the oral ruling. However, having reviewed the document again, the Chamber finds that it actually bears seal, stamps and signature and is relevant to military purchase during the genocide and to the count of genocide. It is therefore now admitted into evidence.

32. TABS 114, 115, 116, 117, 118 and 119 are the diaries of Jean Kambanda, Pauline Nyiramasuhuko and Édouard Karemera. The Chamber considers that they appear *prima facie* authentic and the Prosecutor has indicated that they were seized following the arrest of each

of those three Accused. The Chamber recalls that it has previously rejected the application of Rule 95 to exclude these items. Moreover, these diaries are relevant to the role of Édouard Karemera and his various locations during the events in question and during the functioning of the interim government.

33. TABS 151, 152, 153, 154, 157, 158, 160, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 174, 175, 180, 181, 182, 184, 187, 191, 196 and 197 are Radio Télévision Libre des Mille Collines ("RTL") and/or Radio Rwanda broadcasts and, as such, they are self-authenticating. Moreover, the Chamber notes that some of these materials were issued by the Ministry of Information and as such provided sufficient indicia of their source and authenticity for the threshold of admission. These documents are relevant to the general context of the events, and the counts of genocide, conspiracy to commit genocide and direct and public incitement to commit genocide, as some of them show speeches of the accused during rallies. The Chamber recalls its Oral Decision in which it ordered the Prosecutor to highlight the relevant portions of the transcripts contained in these TABS³⁷ and notes that the Prosecutor complied with this order by filing the materials on 19 December 2007.³⁸

34. Some items on the Prosecutor's list were already partially admitted in the instant case. These are TABS 152, 154, 164, 166, 168, 169, 171, 172, 181, 182 and 184.³⁹ As such, the Chamber had already made an assessment of the admissibility requirements. At this stage, the Chamber considers it appropriate to admit these items in their entirety.

35. TABS 227, 238 and 239 are audio/video material constituting contemporaneous recording of events for which the Prosecutor has indicated the sources, namely Insight News Television Limited and France 3. In addition, TAB 238 shows one of the Accused, Mathieu Ndirumpatse, at an MRND rally with Kajuga in 1992. The Chamber considers these documents relevant as they depict violence and killings in Rwanda, which are related to the issue of whether there was knowledge of the killings on the part of the government, and/or whether the relevant authorities exercised control. However, the Chamber will disregard any accompanying comments made by the journalists.

³⁷ *Karemera et al.*, Oral Decision on the Prosecutor's Motion for Admission of Certain Exhibits into Evidence, 5 December 2007.

³⁸ Prosecutor's Interoffice Memorandum, Submission of Hard Copies of RTL and Radio Rwanda Broadcasts Transcriptions, Relevant Portions Marked, and Annexes (hard copy), filed on 19 December 2007.

³⁹ TAB 152 was partially admitted as Exhibit P14. TAB 154 was partially admitted as Exhibits P14 and DK8. TAB 164 was partially admitted as Exhibits DNZ022 and DNZ023. TAB 166 was partially admitted as Exhibit P031. TAB 168 was partially admitted as Exhibit DNZ314. TAB 169 was partially admitted as Exhibit DNZ031. TAB 171 was partially admitted as Exhibit P015. TAB 172 was partially admitted as Exhibits DNZ083 and DNZ079. TAB 181 was partially admitted as Exhibit P83 in the instant case; and, TAB 182 was partially admitted as Exhibit DNZ296. TAB 184 was partially admitted as Exhibit DNZ081.

36. TABS 248 and 250 are statements by Colonel Théoneste Bagosora regarding the Interim government and its functioning. The Chamber is of the view that these documents are *prima facie* authentic, as they are dated and bear the signature of Théoneste Bagosora. They are moreover relevant, as they show Colonel Bagosora describing the three defendants within the decision-making process, as to who would be part of the interim government.

37. TABS 257, 258, 259, 260, 261, 262, 263, 264 and 265 are passports issued to Joseph Nzirorera and Kamanzi. The Chamber is satisfied that the Prosecutor has made a *prima facie* showing as to the authenticity of these items. They bear official stamps and handwriting, and the Prosecutor has explained their source. In this regard, the Chamber is mindful of the fact that the Prosecutor alleges that TABS 260 and 261 are false passports. However, the Chamber is of the view that this allegation does not affect whether the items are *prima facie* relevant and reliable for the purposes of admission. Rather, the veracity of the passport will be relevant to considering the weight of this evidence at a later stage in the proceedings. Finally, the Chamber recalls its reasoning on the allegations of unlawful arrest and seizure.

38. TABS 266, 267 and 268 are, respectively, a document showing the properties belonging to Joseph Nzirorera's family and letters by Joseph Nzirorera requesting political asylum in Zaire and Bénin. The Chamber is satisfied that the Prosecutor has made a *prima facie* showing as to the authenticity and relevance of these items. They are dated and they bear the signature of the accused Joseph Nzirorera. In addition, the Prosecutor has explained the source of these items and circumstances in which they were obtained following the seizure of Joseph Nzirorera's property. Finally, these documents provide relevant information about the Accused.

39. TAB 276 is a transcript of a video by the RTL of a speech delivered by Édouard Karemera in October 1993. The Chamber notes that this item is an extract of an exhibit previously admitted in the present case and it is therefore satisfied as to the *prima facie* showing of the authenticity of the document. The Chamber also considers that this item is relevant to counts of the indictment, as it shows a speech delivered by the Accused before the alleged commission of the crimes.

ANNEX B

40. The Prosecutor sought the admission of 15 exhibits in Annex B. The Chamber finds for reasons developed below that seven of them should be excluded while eight should be admitted.

Excluded exhibits

41. The documents excluded are TABS 8, 9, 10, 11, 12, 13, and 15, for which the Chamber gives its reasoning below.

42. TAB 8 contains RTLM radio broadcast tapes. TAB 9 is a report of the International Commission of Investigation on Human Rights Violations. TABS 10 and 11 are reports of commissions of enquiry and TAB 12 is a Human Rights Watch report. TABS 9 to 12 are dated between March and June 1993. TABS 13 and 15, are reports of the UN Commission on Human Rights from June 1995 and January 1996, respectively. The Prosecutor submits the following basis for a finding of *prima facie* authenticity for these TABS: TAB 8 was admitted into evidence in other trials.⁴⁰ TAB 9 is a self authenticating UN document⁴¹, TABS 10 and 11 are materials from the former government material which were preserved and disclosed by the present Rwandan government,⁴² TABS 13 and 15 are UN documents which previous Trial Chambers have found to be self-authenticating⁴³ and TAB 12 is similar to a UN document.⁴⁴ It further submits that TAB 8 is relevant to the origin of the radio broadcast tapes,⁴⁵ TABS 9 to 12 are contemporaneous documents of the events⁴⁶ and TABS 13 and 15 show observations on the methodology of the genocide.⁴⁷ All three Accused object on grounds of lack of probative value and relevance.⁴⁸

43. The Chamber finds that these documents are authentic because they are either UN documents, official reports that bear the logo of their institution, or because in some other instances they are signed and bear seal and stamps. As to TAB 8 in particular, it appears *prima facie* authentic as it originates from OTP. However, in determining the admissibility of the said items, the Chamber must also assess their relevance and determine whether they have any probative value.

44. The Chamber is of the view that the admission into evidence of some of these items in other trials does not infer any probative value or relevance to the instant case. Moreover, as

⁴⁰ Prosecutor's Motion, para. 33.

⁴¹ Prosecutor's Motion, para. 16.

⁴² Prosecutor's Motion, para. 26.

⁴³ Prosecutor's Motion, para. 15.

⁴⁴ Prosecutor's Motion, para. 20.

⁴⁵ Prosecutor's Motion, Annex B, TAB 8.

⁴⁶ Prosecutor's Motion, Annex B, TABS 9, 10, 11, 12.

⁴⁷ Prosecutor's Motion, Annex B, TABS 13, 15.

⁴⁸ Édouard Karemera's Response, p. 5; Mathieu Ndirumpatse's Response, para. 27; Joseph Nzirorera's Response, para. 119

previously stated in paragraph 10, the Chamber is not bound by the assessment made by the other Trial Chambers.

45. The Chamber is of the view that TABS 13 and 15 are after-the-fact reports and as such should not be admitted. For TABS 9, 10, 11 and 12 the method of enquiry used to produce the reports is not clear as the Prosecutor failed to provide any explanation of its method. This circumstance affects the probative value of these documents.

Admitted exhibits

46. The remaining documents are admitted on the basis of their authenticity or the establishment of their source or chain of custody, and their relevance and probative value.

47. In the first group, TABS 3, 6, 7, 14 are, respectively: a list of delegates at a summit of the Organization of African Unity ("OAU"), a memorandum of the US Department of State to the Acting Secretary, a list of delegates at a session of the OAU Council of Ministers, and a report of the Commission on Human Rights dated 28 June 1994.

48. In its Oral Decision, the Chamber rejected the objection of Édouard Karemera that the source of the documents was not provided.⁴⁹ The Chamber also rejected the objections of Mathieu Ngirumpatse that the Prosecutor did not show the probative value and origin of the documents.⁵⁰ The Chamber is satisfied that these documents bear indicia of authenticity as they bear dates, stamps and the header of the Organisation for African Unity or originate from the US Department of State or the United Nations. Their probative value is based on their link to the role of Mathieu Ngirumpatse in the Interim government in 1994, and the description of his official position. The report of the Commission on Human Rights, in particular, is contemporaneous with the events and provides for an insight of the situation in Rwanda in June 1994.

49. In a second group, there are TABS 1, 2, 4 and 5 which are: a notebook of Jean Kambanda seized following his arrest, a summary of Karemera's book *Le drame rwandais*, a news report from Radio France Internationale from April 1994 and a press report from the *Washington Post*, also dated April 1994.

50. Édouard Karemera objects on the ground that the search and seizure reports for these documents have not been produced, that the documents are not official and that their source is

⁴⁹ Édouard Karemera's Response, p. 5.

⁵⁰ Mathieu Ngirumpatse's Response, para. 13.

not indicated.⁵¹ Mathieu Ngirumpatse objects on the ground of lack of authenticity and identification of their origin, on their probative value and on the comments made on them by the Prosecutor.⁵² Joseph Nzirorera objects on the grounds of lack of relevance and probative value of the documents.⁵³

51. The Chamber recalls having already dismissed the arguments about the alleged illegality of the arrest of the Accused or the seizure of the documents.

52. The Chamber finds that these documents are sufficiently authentic as the chain of custody allows tracing their origin. They were seized directly after the arrest of Kambanda from which the document emanates or contain an authentic summary of a book written by an accused. The source and date are indicated on some of these documents what allows to authenticate them or they otherwise bear the copyright of a newspaper.

53. The Chamber also finds that these documents are relevant as they are contemporaneous with the events or reflecting on the role of the accused.

54. In relation to TAB 2, the Chamber rejected the summary of Édouard Karemera's book, and ordered the Prosecutor to submit the book in its entirety, with the relevant passages highlighted, within the two-week period specified by the Chamber during the trial on 5 December 2007.⁵⁴ The Prosecutor complied with this request on 19 December 2007.⁵⁵

ANNEX C

55. The Prosecution sought to admit into evidence 13 documents as presented in Annex C to its motion. In its Oral Decision, the Chamber ruled that 2 of them would be excluded and 11 admitted, for which the reasoning is further detailed in the following sections.⁵⁶

Excluded exhibits

56. TABS M and N are a final judgement of the Canadian Supreme Court concerning Léon Mugesera and a letter from de Bekker to Mathieu Ngirumpatse dated 24 January 1993.

⁵¹ Édouard Karemera's Response, p. 5.

⁵² Mathieu Ngirumpatse's Response, para. 17, 24, 25, 26.

⁵³ Joseph Nzirorera's Response, paras. 116, 117, 118.

⁵⁴ *Karemera et al.*, T. 5 December 2007, p. 20. ; *Karemera et al.*, Oral Decision on the Prosecutor's Motion for Admission of Certain Exhibits into Evidence, 5 December 2007.

⁵⁵ Prosecutor's Interoffice Memorandum, Prosecution submission pursuant to Trial Chamber III Oral Decision on Admission of Evidence of 5 December 2007 – Édouard Karemera Book and Annexes (hard copy) filed on 19 December 2007.

⁵⁶ *Karemera et al.*, Oral Decision on the Prosecutor's Motion for Admission of Certain Exhibits into Evidence, 5 December 2007.

57. The Prosecutor submits that these items are authentic on the basis that they were admitted into evidence in other trials, are self-authenticating or were received from Ms. Alison des Forges.⁵⁷ They would be relevant to the charge of conspiracy to commit genocide and the role of the Accused.

58. The Chamber finds that the judgement of the Canadian Supreme Court is self-authenticating and the letter from de Bekker appears to be authentic as it bears the signature of its author. However, these documents are found to be lacking relevance and probative value. The Prosecutor failed to show the relevance of the judgement in the present case, particularly how it can be linked to the Indictment. Moreover, the fact that a judgement emanates from a national supreme jurisdiction does not indicate that it has probative value in relation to another case. As to the letter, which reports the behaviour of the *Interahamwe*, the Chamber considers that the Prosecutor did not show how it is relevant to the case or can be linked to any of the Accused.

Admitted exhibits

59. TABS G and I are press releases related to the Broad-Based Transitional Government ("BBTG"). TABS J, K and L are letters addressing the difficulties in implementing the BBTG.

60. In its Oral Decision, the Chamber rejected the objections of Mathieu Ngirumpatse that those documents were not relevant and that in any event their authenticity was doubtful. The Chamber also rejected the objections of Joseph Nzirorera that Annex C provides no documentation on the source of the documents.

61. These documents provided sufficient indicia of their source and authenticity for the threshold of admission since they are dated and bear the signature of the Prime Minister, as well as official stamps of the MRND and the Prime Minister's Cabinet. They address the difficulties in implementing the BBTG pursuant to the Arusha Accords and are therefore relevant to an important contextual issue to the count of conspiracy to commit genocide.

62. TABS A, B, C, D and E are minutes of meetings of the *Comité militaire de crise* in April 1994 where MRND leaders were present. TAB H is a letter from government ministers to the Prime Minister dated January 1994 regarding the difficulties in implementing the BBTG.

⁵⁷ Prosecutor's Motion, para. 33.

63. In its Oral Decision, the Chamber admitted these documents. In doing so, it rejected the objections of Mathieu Ngirumpatse that there was insufficient information as to the source of the documents, that some of the notes are incomplete and were taken on the field in a difficult context, and as to the authenticity of the radio broadcasts.⁵⁸ It also rejected the objections of Joseph Nzirorera that there was no information on their source and that they were never listed as exhibits until one week before the closing of the Prosecutor's case.⁵⁹

64. TAB F, which is signed by Mr. André Guichaoua, explains the source, methods of recollection, transcription and chain of custody of TABS A to E. Therefore, the Chamber considers that these documents pass the threshold of authenticity for admission. However, it reiterates that it will still have to consider the weight of such evidence at a later stage. As to TAB H, it is formally required as a transcription of radio broadcasts admitted above (TAB 151) and as it originates from RTL, it is self-authenticating. The documents are relevant to the events of 7 – 9 April 1994 that led to the formation of the Interim government of 8 April 1994.

FOR THE ABOVE REASONS, THE CHAMBER,

In accordance with its Oral Decision of 5 December 2007,

I. GRANTS, in part, the Prosecutor's Motion to admit into evidence certain exhibits from other trials;

II. ADMITS into evidence TABS 2, 3, 4, 5, 8, 11, 12, 16, 17, 18, 25, 29, 33, 34, 37, 45, 58, 65, 66, 72, 73, 74, 75, 76, 82, 88, 89, 90, 94, 103, 114, 115, 116, 117, 118, 119, 151, 152, 153, 154, 157, 158, 160, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 174, 175, 180, 181, 182, 184, 187, 191, 196, 197, 227, 238, 239, 248, 250, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 276 of Annex A, and TABS 1, 2, 3, 4, 5, 6, 7 and 14 of Annex B, and Items A, B, C, D, E, F, G, H, I, J, K, L of Annex C of the Prosecutor's Motion;

III. ORDERS the reconsideration of the Oral decision of 5 December 2007, in relation to Items 22 and 63, which are now excluded, and of Item 45, which is now admitted;

IV. REQUESTS the Registrar to assign these documents an exhibit number in the instant case;

⁵⁸ Mathieu Ngirumpatse's Response, para. 29.

⁵⁹ Joseph Nzirorera's Response, paras. 121-124

- V. DECLARES** moot the Prosecutor's Motion as to TABS 7 and 84 of Annex A; and
- VI. DENIES** the Motion as to the admission into evidence of TABS 19, 22, 63, 95, 122, 129, 140, 143, 145, 146, 223, 226, 234, 236 of Annex A, TABS 8, 9, 10, 11, 12, 13 and 15 of Annex B; and TABS M and N of Annex C to the Prosecutor's Motion.

Arusha, 25 January 2008, done in English.

Dennis C. M. Byron
Presiding Judge

Gberdao Gustave Kam
Judge

Vagn Joensen
Judge

[Seal of the Tribunal]

Annex to the Decision on the Prosecutor's Motion of 26 November 2007 for Admission of Certain Exhibits Into Evidence, 25 January 2008.

This Annex deals with the three annexes attached to the Prosecutor's Motion and presenting the documents to be tendered into evidence. The table below recollects all the documents requested to be admitted and indicates the ruling and reasoning of the Chamber for each of them.

ANNEX A OF THE PROSECUTOR'S MOTION			
Tab.	Ruling	Reasoning	
		Authenticity	Relevance/Probative value
2	Admitted	Document seized from Kambanda following his arrest	Count of conspiracy to commit genocide. Civil defence
3	Admitted	Official stamp of the Ministry of Defence, signature of the author	General background of the case
4	Admitted	UN document, self-authenticating	Understanding of the Karemera book. Definition of the enemy by the army. Conspiracy to commit genocide. Creation of the civil defence
5	Admitted*	Stamp of the Ministry of Defence and signature	Distribution of arms to civilians in various areas. Civil defence
7	Already admitted		
8	Admitted*	Official stamp of the Ministry of Defence, signature of its author	General background of the case. Reference to a need to train locals in Gisenyi, and to the distribution of 900 weapons and 54000 bullets, possibly relevant to conspiracy
11	Admitted	Signature of Édouard Karemera, obtained from RPF	Widespread killings in Ruhengeri and Gisenyi. Youths

* The ruling on this item had been reserved in the oral ruling of the Chamber and was made in this Decision.

* The ruling on this item had been reserved in the oral ruling of the Chamber and was made in this Decision.

		Secretariat	given training and weapons. Counts of genocide
12	Admitted	Date and signature of its authors	Civil defence. Count of genocide
16	Admitted	Official stamp and signature	Civil defence. Count of genocide
17	Admitted	Official stamp and signature	Civil defence. Count of genocide
18	Admitted	Date and signature	Relevant to support given to army training
19	Excluded	Lack of authenticity: doubt as to the author, handwritten corrections in the text, no signature or stamp	
22	Excluded ¹	Lack of authenticity: no stamp, signature or date	
25	Admitted	Logo, signature and date	Civil defence. Count of genocide
29	Admitted	Signature and date	It suggests an arms purchase in South Africa by Joseph Nzirorera for the government. Relevant to the count of genocide.
33	Admitted	Signature and seal	Civil defence. Contemporary to events
34	Admitted	Signature and seal	Civil defence. Contemporary to events
37	Admitted	Signature	Civil defence. Contemporary to events
45	Admitted ²	Seal, stamps and signature	Showing military purchase during the genocide, count of genocide
58	Admitted	Date and signatures	Count of conspiracy to commit genocide
63	Excluded ³	Lack of authenticity: no signature, stamp, date, author unknown	
65	Admitted	Signature	It shows an association of Mathieu Ndirumpatse with the President, and the use of military intelligence. Count of conspiracy to commit genocide
66	Admitted	Signature and stamp	Reaction of MDR to <i>Interahamwe</i> killings, count of conspiracy

¹ This document was initially admitted. The Chamber reconsiders its decision, and herein excluded the document for the reasons stated in this Decision.

² This document was initially excluded. The Chamber reconsiders its decision, and herein admitted the document for the reasons stated in this Decision.

³ This document was initially admitted. The Chamber reconsiders its decision, and herein excluded the document for the reasons stated in this Decision.

72	Admitted	Signature	Power sharing proposal of MRND, count of conspiracy
73	Admitted	Date and signature	Power sharing proposal of MRND, count of conspiracy
74	Admitted	Stamp and signature	Power sharing proposal of MRND, count of conspiracy
75	Admitted	Stamp and signature	Power sharing proposal of MRND, count of conspiracy
76	Admitted	Signatures, obtained from RPF Secretariat	Power sharing proposal of MRND, count of conspiracy
82	Admitted	Signatures, obtained from RPF Secretariat	Power sharing proposal of MRND, count of conspiracy
84	Already admitted		
88	Admitted	Official stamp and signature	Activity of <i>Interahamwe</i> in Kigali, count of conspiracy
89	Admitted	Official stamp and signature	Activity of <i>Interahamwe</i> in Kigali, count of conspiracy
90	Admitted	Belgian files, obtained from « Service général des renseignements et de la sûreté »	Belgian assessment of the menace of <i>Interahamwe</i> , count of conspiracy
94	Admitted	Signature	Karemera's control over MRND
95	Excluded	Lack of authenticity: after-the-facts report, no signature	
103	Admitted	Seal, stamp and signature	Methods used in cabinet meetings by the Prime Minister
114	Admitted	Seized following Kambanda's arrest	Functioning of the government during the genocide
115	Admitted	Seized following Kambanda's arrest	Functioning of the government during the genocide
116	Admitted	Seized following Pauline Nyiramasuhuko's arrest	Functioning of the government during the genocide
117	Admitted	Seized following Édouard Karemera's arrest	Role and location of Édouard Karemera during the events
118	Admitted	Seized following Édouard Karemera's arrest	Role and location of Édouard Karemera during the events
119	Admitted	Seized following Édouard Karemera's arrest	Role and location of Édouard Karemera during the events
122	Excluded	Lack of authenticity: no date, no corroborating evidence, no indication of the chain of custody or author of photographs	
129	Excluded	Logo and chain of custody identified	Lack of relevance: Prosecution did not link this document to any particular count in the Indictment

140	Excluded	Lack of authenticity: no corroborating evidence or information on the pictures, while nothing shows that the pictures are indeed what they purport to depict	Lack of relevance: insufficient showing of relevance Probative value: no witness testified
143	Excluded	Lack of authenticity: no supporting evidence or information on the pictures	Lack of relevance: insufficient showing of relevance
145	Excluded	Lack of authenticity: no supporting evidence or information on the pictures	Lack of relevance: insufficient showing of relevance
146	Excluded	Lack of authenticity: no supporting evidence or information on the pictures	Lack of relevance: insufficient showing of relevance
151	Admitted	Source identified, RTLM, self-authenticating	Collaboration between MRND and RTLM, count of conspiracy
152	Admitted	Source identified, RTLM, self-authenticating	Speeches of the Accused and others at a rally. Counts of conspiracy and incitement
153	Admitted	Source identified, RTLM, self-authenticating	Collaboration between MRND and RTLM, count of conspiracy
154	Admitted	Source identified, RTLM, self-authenticating	Speeches of the Accused and others at a rally. Counts of conspiracy and incitement
157	Admitted	Source identified, RTLM, self-authenticating	Collaboration between MRND and RTLM, count of conspiracy
158	Admitted	Source identified, RTLM, self-authenticating	Historical background to commencement of genocide
160	Admitted	Source identified, RTLM, self-authenticating	Count of genocide
163	Admitted	Source identified, RTLM, self-authenticating	Count of genocide
164	Admitted	Source identified, RTLM, self-authenticating	Count of genocide
165	Admitted	Source identified, RTLM, self-authenticating	General context of the events
166	Admitted	Source identified, RTLM, self-authenticating	Count of genocide
167	Admitted	Source identified, RTLM, self-authenticating	General context of the events
168	Admitted	Source identified, RTLM, self-authenticating	Count of genocide
169	Admitted	Source identified, RTLM, self-authenticating	Count of genocide
170	Admitted	Source identified, RTLM, self-authenticating	General context of the events
171	Admitted	Source identified, RTLM, self-authenticating	Incitement speeches. General context of the events

172	Admitted	Source identified, RTLM, self-authenticating	Government control. General context of the events
174	Admitted	Source identified, RTLM, self-authenticating	General context of the events
175	Admitted	Source identified, RTLM, self-authenticating	General context of the events
180	Admitted	Source identified, RTLM, self-authenticating	General context of the events
181	Admitted	Source identified, RTLM, self-authenticating	Count of genocide
182	Admitted	Source identified, RTLM, self-authenticating	Count of genocide
184	Admitted	Source identified, RTLM, self-authenticating	General context of the events
187	Admitted	Source identified, RTLM, self-authenticating	General context of the events
191	Admitted	Source identified, RTLM, self-authenticating	General context of the events
196	Admitted	Source identified, RTLM, self-authenticating	General context of the events
197	Admitted	Source identified, RTLM, self-authenticating	General context of the events
223	Excluded	Map created by ICTR investigators, not corroborated by other evidence	Lack of relevance: no link to the Indictment
226	Excluded	UN document, self-authenticating	Lack of relevance: no link to the Indictment
227	Admitted	Source identified, BBC, self-authenticating	Recollection of what happened during the events
234	Excluded	Source unknown, no date or author	
236	Excluded	Source identified, BBC, self-authenticating	Lack of relevance: this video depicting Nzirorera and the Prime Minister in Zaire in exile after the events is not relevant to the charges in the Indictment
238	Admitted	Source identified, Insight News Television Limited, self-authenticating	Recollection of what happened during the events. Count of genocide. Shows Mathieu Ndirumpatse at a rally in Kajuge
239	Admitted	Source identified, France 3, self-authenticating	Recollection of what happened during the events. Count of genocide
248	Admitted	Signature and date	Functioning of the Interim government. Count of conspiracy to commit genocide
250	Admitted	Signature and date	Role of the accused in the Interim government
257	Admitted	Official passport, number, stamps and seal, seized following Nzirorera's arrest	Shows movement of Nzirorera during the genocide and potentially fake passports

258	Admitted	Official passport, number, stamps and seal, seized following Nzirorera's arrest	Shows movement of Nzirorera during the genocide and potentially fake passports
259	Admitted	Official passport, number, stamps and seal, seized following Nzirorera's arrest	Shows movement of Nzirorera during the genocide and potentially fake passports
260	Admitted	Official passport, number, stamps and seal, seized following Nzirorera's arrest	Shows movement of Nzirorera during the genocide and potentially fake passports
261	Admitted	Official passport, number, stamps and seal, seized following Nzirorera's arrest	Shows movement of Nzirorera during the genocide and potentially fake passports
262	Admitted	Official passport, number, stamps and seal, seized following Nzirorera's arrest	Shows movement of Nzirorera during the genocide and potentially fake passports
263	Admitted	Official passport, number, stamps and seal, seized following Nzirorera's arrest	Shows movement of Nzirorera during the genocide and potentially fake passports
264	Admitted	Official passport, number, stamps and seal, seized following Nzirorera's arrest	Shows movement of Nzirorera during the genocide and potentially fake passports
265	Admitted	Official passport, number, stamps and seal, seized following Nzirorera's arrest	Shows movement of Nzirorera during the genocide and potentially fake passports
266	Admitted	Signature and date, circumstances in which it was obtained, seized following Nzirorera's arrest	Details about Joseph Nzirorera
267	Admitted	Signature and date, circumstances in which it was obtained, seized following Nzirorera's arrest	Information about Joseph Nzirorera
268	Admitted	Signature and date, circumstances in which it was obtained, seized following Nzirorera's arrest	Information about Joseph Nzirorera
276	Admitted	Transcript of video from RTLM, self-authenticating	Shows speech delivered before the commission of the alleged crimes. Counts in the Indictment
ANNEX B OF THE PROSECUTOR'S MOTION			
1	Admitted	Seized following Kambanda's arrest	Functioning of government during genocide and role of the accused
2	Admitted	Originates from the OTP, source and date indicated	Contemporary to events, general background

3	Admitted	Stamp and letterhead, originates from the Organization for African Unity assembly	Role of Mathieu Ngirumpatse in the Interim government
4	Admitted	Source, author and date indicated	Role of Mathieu Ngirumpatse in the Interim government
5	Admitted	Copyright of a newspaper	Role of Mathieu Ngirumpatse in the Interim government, contemporaneous with the events
6	Admitted	Originates from the US Department of State	Role of Mathieu Ngirumpatse in the Interim government, contemporaneous with the events
7	Admitted	Stamp and letterhead originates from the Organization for African Unity assembly	Role of Mathieu Ngirumpatse in the Interim government
8	Excluded	Originates from OTP	Lack of relevance: list of radio broadcast tapes, no relevance to the Indictment
9	Excluded	Official report, logo of the institution	Lack of probative value: the method of enquiry used to produce the reports is not clear
10	Excluded	Signature	Lack of probative value: the method of enquiry used to produce the reports is not clear
11	Excluded	Seal and stamp	Lack of probative value: the method of enquiry used to produce the reports is not clear
12	Excluded	Official report, logo of the institution	Lack of probative value: the method of enquiry used to produce the reports is not clear
13	Excluded	Originates from UN, self-authenticating	Lack of probative value: after-the-facts report, relating to the conduct of human rights operations deployed in Rwanda and the situation in 1995 and not to the methodology of the genocide
14	Admitted	Originates from UN, self-authenticating	Role of Mathieu Ngirumpatse in the Interim government
15	Excluded	Originates from UN, self-authenticating	Lack of probative value: after-the-facts report, relating to the conduct of human rights operations deployed in Rwanda and the situation in 1995 and not to the methodology of the genocide

ANNEX C OF THE PROSECUTOR'S MOTION			
A	Admitted*	Chain of custody clearly identified	Appreciation of the formation of the Interim Government
B	Admitted*	Chain of custody clearly identified	Appreciation of the formation of the Interim Government
C	Admitted*	Chain of custody clearly identified	Appreciation of the formation of the Interim Government
D	Admitted*	Chain of custody clearly identified	Appreciation of the formation of the Interim Government
E	Admitted*	Chain of custody clearly identified	Appreciation of the formation of the Interim Government
F	Admitted*	Attestation of André Guichaoua, signed	Appreciation of the formation of the Interim Government
G	Admitted	Official stamp and signature	Count of conspiracy to commit genocide and the implementation of the Broad Based Transitional Government (BBTG)
H	Admitted	Originates from RTLM, self-authenticating	Events of 7 - 9 April 1994 that led to the formation of the Interim government
I	Admitted	Date and signature	Count of conspiracy to commit genocide and the implementation of the BBTG
J	Admitted	Official stamp	Count of conspiracy to commit genocide and the implementation of the BBTG

* The ruling on this item had been reserved in the oral ruling of the Chamber and was made in this Decision.

* The ruling on this item had been reserved in the oral ruling of the Chamber and was made in this Decision.

* The ruling on this item had been reserved in the oral ruling of the Chamber and was made in this Decision.

* The ruling on this item had been reserved in the oral ruling of the Chamber and was made in this Decision.

* The ruling on this item had been reserved in the oral ruling of the Chamber and was made in this Decision.

* The ruling on this item had been reserved in the oral ruling of the Chamber and was made in this Decision.

K	Admitted	Official stamp	Count of conspiracy to commit genocide and the implementation of the BBTG
L	Admitted	Official stamp	Count of conspiracy to commit genocide and the implementation of the BBTG
M	Excluded	Canadian Supreme Court judgment, self-authenticating	Lack of relevance: not linked to the case Lack of probative value: no probative value inferred from the fact that it is a national Supreme Court judgment
N	Excluded	Signature	Lack of relevance: reports the bad behaviour of the <i>Interahamwe</i> , not linked to particular counts of the Indictment or any of the accused