

**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

Case No. IT-95-5/18-PT

IN THE TRIAL CHAMBER

**Before: Judge O-Gon Kwon, Presiding
Judge Melville Baird
Judge Howard Morrison
Judge Flavia Lattanzi, Reserve Judge**

Registrar: Mr. John Hocking

Date filed: 29 September 2009

THE PROSECUTOR

v.

RADOVAN KARADZIC

PUBLIC WITH PUBLIC ANNEXES A - C

**RESPONSE OF THE UNITED STATES OF AMERICA
TO THE TRIAL CHAMBER'S 15 SEPTEMBER 2009
"INVITATION TO THE UNITED STATES OF AMERICA"**

Office of the Prosecutor:

**Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff**

The Accused:

Mr. Radovan Karadzic

United States:

**Ms. Karen K. Johnson
Ms. Anne Joyce
Mr. John J. Kim**



Embassy of the United States of America

Office of the Legal Counselor

Lange Voorhout 102

2514 EJ The Hague, the Netherlands

Telephone: +31 (070) 310 2378

Telefax: +31 (070) 361 7416

<http://netherlands.usembassy.gov>

September 29, 2009

Judge Kwon, Judge Morrison, Judge Baird, Judge Lattanzi
International Criminal Tribunal
for the former Yugoslavia
Churchillplein 1
2517 JW The Hague

Dear Judges Kwon, Morrison, Baird and Lattanzi:

The United States of America is in receipt of the Trial Chamber's invitation of September 15, 2009, in which a response is requested to Mr. Radovan Karadzic's "Motion for Binding Order: Government of the United States of America" filed on September 11, 2009 (hereinafter "the Motion").

The United States is grateful for the opportunity to assist the Trial Chamber as it reviews this matter. The United States has long been committed to assisting the important work of the International Criminal Tribunal for the former Yugoslavia and to ensuring that the interests of justice are served. This commitment includes cooperating with reasonable and justified requests for information from the Prosecution and Defense. Over the years, the United States has voluntarily provided a significant amount of information to parties before the Tribunal. Indeed, earlier this year, in response to a different request, we provided Mr. Karadzic with a number of documents and made senior U.S. government officials available for interview.

We were thus somewhat surprised when Mr. Karadzic chose to file the present Motion. The Motion, unfortunately, did not provide to the Trial Chamber the full nature or extent of communications between the United States and Mr. Karadzic. The attached correspondence (Annexes A-C) will provide a more complete picture of the state of affairs, but in essence, at the time of the filing of the Motion, Mr. Karadzic's team and the United States were in the midst of cooperative discussions, the United States had already expended hundreds of hours searching for potentially responsive material, and the United States had identified and expressed a willingness to provide a first tranche of responsive material.

Since the filing of the Motion, we have met with Mr. Karadzic's legal adviser, Mr. Peter Robinson, and made some further progress. At that September 25 meeting, Mr. Robinson indicated that his client was unlikely to narrow the request or to provide additional justification,

but he did take three positive steps: (1) he agreed to accept, under Tribunal Rule 70, any material provided by the United States in response to the request and to file a motion requesting that the Trial Chamber apply the provisions of Rule 70 to all such materials; (2) he agreed to accept material incrementally and then assess whether the full range of requested materials was necessary; and (3) he agreed to certain measures that would ease some of our national security concerns, including committing to accept documents with some redactions or in alternative formats. Thus, the dialogue and the cooperative process are ongoing. In fact, despite continued concerns with the nature and excessively broad scope of Mr. Karadzic's request, the United States remains committed to try to resolve these issues cooperatively and voluntarily, without the need for intervention by the Trial Chamber or the imposition of mandatory measures.

Under these circumstances, it is our firm belief that the threshold requirement for filing a Rule 54bis motion is absent: as the Appeals Chamber has expressed, such a motion can only be filed *after* a State has declined to cooperate. ("Only after a State declines to lend the requested support should a party make a request for a Judge or a Trial Chamber to take mandatory action as provided for under Article 29." *Prosecutor v. Milutinovic et al*, Decision on Request of the United States of America for Review (12 May 2006), at para. 32.) That is clearly not the case here.

Mr. Karadzic explained his reason for filing the Motion as follows: in light of the imminent start of the trial, he "can no longer afford to wait" for the requested material (Motion, paragraph 34). Mr. Karadzic thus appears to be using the mechanism of a Rule 54bis motion to try to make a case to the Chamber as to why the projected start date of his trial should be delayed. Mr. Karadzic is, of course, free to seek to push back the projected start date of the trial, but this does not erase the fact that the threshold requirement for filing a Rule 54bis motion – a State's refusal to provide information – has not been met in the present case. The Tribunal's power to issue binding orders to sovereign States is an exceptional and extraordinary one, and one to be reserved for those situations in which it is truly necessary and appropriate to the circumstances.

We would like to assure the Trial Chamber that we remain prepared to cooperate and are moving forward on this information request as expeditiously as we can. But the task is not a simple one. Mr. Karadzic's request is lengthy, extremely broad, and involves a number of different actors, including the U.S. Congress. We also continue to have concerns about the request. For example: its focus on intelligence information raises a number of issues; the paucity of the information provided by the Defense still leaves us unable to evaluate properly the extent to which the request is reasonable or justified; and we still question why the United States is well-placed to provide some categories of material, especially as they relate to the purported actions of other sovereign States or international organizations (this is especially true as he appears to have addressed overlapping requests to those very States or organizations). Nevertheless, the United States has been carefully reviewing the request and searching its holdings to identify responsive information. Owing in part to the extraordinary breadth of the request, these searches have returned voluminous quantities of largely unresponsive materials that nonetheless require careful review. That review can entail the need to determine whether there are limitations on our ability to release the material – for instance, in cases where the information does not belong to the United States. In addition, any responsive materials that are classified need to be submitted to special departments for a separate review for possible

declassification. As indicated to Mr. Karadzic in our letter of September 10, 2009, our efforts continue. Seeking to speed up this process by imposing early deadlines is unlikely to achieve the desired result of providing a comprehensive response to Mr. Karadzic's request, and would only further complicate an already complex and multi-layered endeavor.

In sum, not only has the United States not declined to lend the requested support, we have affirmatively offered to provide some documents in response to the request, and are prepared to continue searching for more. We are also prepared to continue to engage with Mr. Karadzic and his legal team in an effort to discuss and resolve any and all outstanding questions and concerns. For these and the above-stated reasons, we respectfully request that the Trial Chamber dismiss the pending Motion. The United States understands that such dismissal would be without prejudice. In the event that circumstances change – for example, if we inform Mr. Karadzic that we have identified responsive material that we are unable to provide and he is unwilling to drop the request – we will be prepared to address the issue on the merits at that time.

Again, the United States thanks the Trial Chamber for the opportunity to present our views, and please be assured that we remain available to respond to any questions or requests.

Sincerely,

A handwritten signature in black ink, appearing to be 'K. Johnson', written in a cursive style.

Karen K. Johnson
Deputy Legal Counselor

ANNEX A



Embassy of the United States of America

Office of the Legal Counselor

Lange Voorhout 102

2514 EJ The Hague, the Netherlands

Telephone: +31 (070) 310 2378

Telefax: +31 (070) 361 7416

<http://netherlands.usembassy.gov>

August 6, 2009

Mr. Peter Robinson
P.O. Box 1844
Santa Rosa, CA 95402

Via email: peter@peterrobinson.com

Re: Prosecutor v. Karadzic, Case IT-95-05/18-PT, International Criminal Tribunal for the former Yugoslavia (ICTY)

Dear Mr. Robinson,

This is in response to Mr. Karadzic's trial-related request for documents, dated June 2, 2009. We have been actively working on this request, but, as you know, the request is lengthy and complex, and has required coordination across the United States Government. Moreover, as we noted to you in an exchange on July 15, 2009, we have also needed to litigate your request for subpoenas against U.S. officials. We are nonetheless pleased to inform you that the United States takes the request seriously and is prepared to work with you on a cooperative basis, as we have done in the past.

The US Government is committed to assisting the ICTY's work and to ensuring that the interests of justice are served. This commitment includes cooperating with reasonable and justified requests from defense. The document request in question, however, does not offer information that would allow us to conclude that the request is either reasonable or justified. For example, the request contains no explanation or justification regarding the material sought, including why and how it would be useful in defending Mr. Karadzic, what it is you are in fact seeking to establish, or why the United States is the appropriate source of the information sought. Instead, the request simply asserts that the information requested is "necessary" for Mr. Karadzic's defense.

Given your experience with requesting and receiving U.S. Government information, you are no doubt aware of our long-standing practice to require such explanation. The absence of such explanation is a matter of particular concern here. As currently drafted, the request is lengthy and casts an extremely broad net. It could cover a potentially huge range of materials,

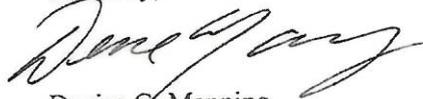
which, if they exist, may not be readily searchable or retrievable because of their nature and age (in some cases dating back 20 years). Indeed, as we have been examining the request – and in particular after performing some preliminary searches to see what may be entailed in responding to it – we have discovered that the effort involved in exhaustively searching for, and attempting to identify potentially responsive materials would be enormous and would take months and possibly years. Moreover, the request asks for types of information that by their nature implicate serious national security concerns.

Consequently, we ask that you provide us with an explanation of how each of the items requested might be used by Mr. Karadzic in his defense against the charges he is facing. Such an explanation should not be broad-brush, but should provide specific details on how the information will assist Mr. Karadzic in his defense. This will enable us to determine – before we invest substantial resources in attempting to identify, locate, retrieve, and possibly declassify materials – that there is an adequate justification for the requested material. In addition, in order to enable us to assess the reasonableness of the request, we ask that you explain why the United States is best or uniquely placed to provide the requested material. As part of this process, we hope that you will review the current request carefully and modify it to reduce the significant burden it imposes in its current form.

As one example, we note that some of the information you have requested appears to concern Mr. Karadzic's own statements or the activities of foreign governments, the United Nations, NATO, or private companies such as Military Professional Resources, Inc. Since as a general matter the relevant actors would be in a better position to provide the information or to make the necessary and appropriate disclosure decisions concerning their own information, we believe you should work to obtain the information from them, and focus your request to the United States on materials the United States is best positioned to provide. Indeed, as you have indicated, you already appear to be in the process of obtaining material from other States or entities, and thus, it is likely that much of the material you request from us may in fact be duplicative of material you are working to obtain from other sources, or may have access to from public sources.

We look forward to working with you in a cooperative and mutually satisfactory manner, and look forward to working with you to arrive at a request that is not duplicative, does not request information that may be obtained from other, including publicly available, sources, and is specifically tailored to the charges against Mr. Karadzic. As part of this process, once we have received your response and explanation, we would be available and willing to meet to discuss any outstanding issues or concerns.

Sincerely,



Denise G. Manning
Legal Counselor

ANNEX B

Dr. Radovan Karadzic
International Criminal Tribunal for the former Yugoslavia
The Hague, Netherlands

10 August 2009

Ms. Denise G. Manning
Legal Counselor
Embassy of the United States
Lange Voorhout 102
2514 EJ The Hague, The Netherlands

Dear Ms. Manning,

I would like to once again thank the United States government for the cooperation it extended to me and my defence team concerning the Holbrooke agreement. If you ever locate any notes or reports of the meeting at which Ambassador Holbrooke promised me that I would not be prosecuted in The Hague, I would most appreciate receiving that.

I have seen your letter of 6 August 2009 in which you have requested more information about the items requested in my letter of 2 June 2009. Here is the information that you have requested:

- (1) All reports or memoranda concerning the suspected delivery of arms by air at Tuzla Air Field, Bosnia in February 1995 and the efforts to conceal those deliveries, including:
 - (A) All reports written by or directed to Major General James Campbell or his assistant Jack Collins concerning the delivery of military supplies to Tuzla in February 1995.
 - (B) Flying orders, logs, or memoranda concerning all United States aircraft in the skies over the Tuzla area of Bosnia on 10 February 1995.
 - (C) Memorandum for the Record by Colonel USAF Douglas Richardson, "Tuzla Sitings" dated 17 February 1995
 - (D) All reports, minutes, or notes of the meetings of Ministers of Defence of UK, France, and Germany and US Secretary of Defence at Key West, Florida on 3-5 March 1995 concerning arms supplies to Bosnia

Ms. Denise Manning

--page two--

- (E) All reports or memoranda of investigation and interviews conducted by the Department of Defence, National Security Council, or Central Intelligence Agency concerning the delivery of arms, ammunition, or military equipment by air to Tuzla in February-March 1995.
- (F) All depositions, reports of interview, or transcripts of testimony and exhibits used therewith, before the U.S. House of Representatives Select Subcommittee to Investigate the United States Role in Iranian Arms Transfers to Croatia and Bosnia concerning the alleged air deliveries of arms, ammunition, or military equipment to Tuzla in 1995, including the depositions of Victor Jackovich, former US Ambassador to Bosnia, Colonel Richard Herrick, former DATT Zagreb, and Richard Holbrooke.
- (G) All depositions, reports of interview, or transcripts of testimony and exhibits used therewith, before the U.S. Senate Select Committee on US Actions Regarding Iranian and other arms transfers to the Bosnian Army 1994-95, including the transcript of the testimony of Richard Holbrooke.

Information concerning the shipment of arms to the Bosnian Muslims at Tuzla is necessary because those arms were then sent to the so-called safe zones, including Srebrenica, and used to launch attacks against Serb civilians in nearby villages. This evidence will help show that my order for military action to shrink the safe zones was justified and necessary. It is also necessary to show that the United States was violating the UN arms embargo and/or aiding and abetting violations of this embargo and that therefore the credibility of evidence of my guilt emanating from the US government may be affected.

- (2) All reports or memoranda concerning the suspected delivery of arms to the Bosnian Muslims from Iran, Turkey, Pakistan, and Saudi Arabia during the period April 1992—December 1995 including:
 - (A) All reports of the CIA Zagreb station chief in February or March 1994 concerning efforts by Ambassador Peter Galbraith to obtain or assist in the delivery of arms, ammunition, or military supplies to the Bosnian Muslims
 - (B) All reports, memoranda, cables, or notes concerning the discussion between Ambassador Peter Galbraith and Iman Sefko Omerbasic in Zagreb, Croatia on 16 April 1994 concerning the supply of arms, ammunition, or military equipment to the Bosnian Muslims.

Ms. Denise Manning
--page three--

- (C) All reports of flights from Iran to Croatia suspected of containing arms, ammunition, or military supplies during the period February 1994—March 1995.
- (D) All reports, memoranda, or correspondence tending to indicate that Military Professional Resources Inc. (MPRI) of Virginia supplied or trained the Bosnian Muslims during the period February 1994—November 1995.
- (E) All reports, cables, memoranda, or notes of the August 1994 meeting between a J-5 officer of U.S. Joint Chiefs of Staff and Bosnian President Alija Izetbegovic at which the supply of arms, ammunition, and military equipment was discussed.
- (F) The report of investigation conducted by the Intelligence Oversight Board in 1994-1995 concerning allegations of U.S. government personnel assisting in the supply of arms, ammunitions, and military equipment to the Bosnian Muslims.
- (G) All reports, memoranda, correspondence, and photographs pertaining to the shipment of long-range rockets bound for Bosnia which were inspected by United States personnel in August-September 1995 in Croatia.
- (H) All reports, memoranda, notes, cables, and correspondence pertaining to the request of the Croatian government that the shipment of long range rockets destined to Bosnia in August-September 1995 be inspected by the United States, including discussions held by Croatian government representatives with Richard Holbrooke or Ambassador Peter Galbraith concerning this shipment.
- (I) All reports, memoranda, cables, and correspondence concerning the delivery, shipment, or use of arms obtained by the Bosnian Muslims in violation of the United Nations arms embargo from April 1992-August 1995 into the United Nations Safe Areas of Srebrenica, Zepa, and Gorazde

As with the Tuzla shipments, evidence that the United States gave the green light for massive shipments of arms from Iran and other Muslim countries in violation of the UN arms embargo is necessary because many of those arms were then sent to the so-called safe zones, including Srebrenica, and used to launch attacks against Serb civilians in nearby villages. This evidence will help show that my order for military action to

Ms. Denise Manning

--page four--

shrink the safe zones was justified and necessary. It is also necessary to show that the United States was violating the UN arms embargo and/or aiding and abetting violations of this embargo and that therefore the credibility of evidence of my guilt emanating from the US government may be affected.

- (3) All reports, memoranda or correspondence indicating the presence of United States Special Forces or intelligence agency personnel in Bosnia between April 1992 and August 1995 including the placement of any such individuals in UNPROFOR, the UN military observers, UNHCR, or in any UN or non-governmental organization.
- (4) All reports, memoranda, or correspondence which tend to show that United States military or intelligence personnel received permission to use UNHCR jeeps with special number plates for their operations in Bosnia between April 1992 and August 1995.

For the above two items, the evidence is necessary to show that allegations of checking humanitarian convoys, denying access to so-called humanitarian aid, and taking UN personnel hostages were necessary because these activities were polluted with military officers who were acting as spies for NATO, forward air controllers for air strikes, and conduits of information and intelligence to both NATO and the Bosnian Muslims. It is also necessary to show that the United States was violating the UN arms embargo and/or aiding and abetting violations of this embargo and that therefore the credibility of evidence of my guilt emanating from the US government may be affected.

- (5) All reports of intelligence or security services concerning the killings at the Markale market in Sarajevo, Bosnia on 5 February 1994 and 28 August 1995 and tending to show that the Bosnian Muslims may have been responsible for those killings.
- (6) All information tending to indicate that the Bosnian Muslims were responsible for killing their own people in Sarajevo during April 1992--August 1995.

For the above two items, the evidence is necessary to show that incidents in which the Bosnian Serbs are charged with killing civilians, and I am being charged with responsibility for those killings, were in fact perpetrated by the Bosnian Muslims in an effort to generate intervention by the United States and the international community.

- (7) All reports, memoranda, or notes of interviews with Islamic fundamentalists who were in Bosnia during 1992-95 and are now imprisoned in the United States or Guantanamo Bay concerning their activities in Bosnia, the assistance they received or provided to the

Ms. Denise Manning

--page five--

Bosnian Muslim government or army, and their understanding of the goals of the Bosnian Muslim government, including information obtained from the following individuals:

- (A) Khalid Sheikh Muhammed
- (B) Clement Hampton Rodney El
- (C) Bensayah Belkacem
- (D) Lakhmar Boumediene
- (E) Boudella al Hajj

This evidence is necessary to show that the Bosnian Muslims wanted an Islamic state in Bosnia and not a multicultural society as they falsely portrayed to the west. Asking these individuals why they went to Bosnia and what they were fighting for will provide me with evidence which will explain why we refused to live under Muslim domination and took the actions necessary to defend ourselves from that.

I note that Mr. Boymediene is no longer in the United States and I withdraw my request to interview him.

- (8) All reports or analysis of intelligence agencies from the period 1988-91 in which the breakup of the former Yugoslavia and/or a civil war in Bosnia was envisaged or predicted before Radovan Karadzic held any position of authority or influence.

This evidence is necessary to show that the breakup of Yugoslavia and civil war in Bosnia was envisaged before I ever arrived on the political scene and that therefore I am not responsible for those events. It is also necessary to show that western countries saw benefits to themselves from the dissolution of Yugoslavia and the war in Bosnia.

- (9) All reports, transcripts, or notes of statements made by Radovan Karadzic between 9 July and 4 August 1995 about the Srebrenica events including information from signals and human intelligence.

This evidence is necessary to show that I had no foreknowledge of massacres in Srebrenica and never instigated, planned, ordered, or aided and abetted any crimes there. It will show that I did not believe the initial reports of massacres in Srebrenica and therefore explain why I did not attempt to punish anyone at that time.

I believe that the United States is best placed to provide the information I have requested because it was the party most involved in violating and aiding and abetting the violations of the arms embargo, had the best sources and intelligence capacity in the world, and has the persons I wish to interview in its custody.

Ms. Denise Manning

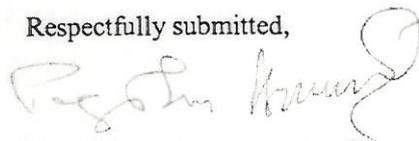
--page six--

I continue to authorize you to provide this information to my Legal Advisor, Peter Robinson, on my behalf. Mr. Robinson can be contacted by e-mail at peter@peterrobinson.com. You may also feel free to contact Mr. Robinson should you have any questions about this request.

I must note that the United States government is taking a long time to react to this request. That is understandable. However, I need to receive this material and to investigate it before my trial commences. So the United States should also understand that it is contributing to the delay in the time that my trial can commence.

I hope this information is useful to you. I know that Mr. Robinson is ready and willing to meet with you at any time to answer any further questions you may have or to otherwise facilitate the receipt of these materials.

Respectfully submitted,



Dr. Radovan Karadzic

ANNEX C



Embassy of the United States of America

Office of the Legal Counselor

Lange Voorhout 102

2514 EJ The Hague, the Netherlands

Telephone: +31 (070) 310 2378

Telefax: +31 (070) 361 7416

<http://the Netherlands.usembassy.gov>

September 10, 2009

Mr. Peter Robinson
P.O. Box 1844
Santa Rosa, CA 95402

Via email: peter@peterrobinson.com

Re: Prosecutor v. Karadzic, Case IT-95-05/18-PT, International Criminal Tribunal for the former Yugoslavia (ICTY)

Dear Peter,

This is in response to Mr. Karadzic's letter of August 10, 2009, and to your email of September 8, 2009, in which you stated you would be filing a motion for a binding order against the United States.

As I indicated to you on September 9, we regret that you are considering this step, and we view the attempt to initiate a compulsory process against a cooperative State as incompatible with the requirement to make efforts to obtain a State's cooperation. We informed you last month that we were actively working on the information request and were prepared to work with you on a cooperative basis. Although your desire to expedite the process is understandable – and is a desire we share – there are some serious and valid concerns, discussed below, which have yet to be resolved and which make it impossible to resolve the request quickly. Moreover, during the first month or so after we received the request, we had to devote what resources we had to responding to an unnecessary attempt to subpoena U.S. government officials after we had already provided the information sought. Finally, as I have noted previously, shifting to a litigation posture will not assist your client's efforts to obtain information more quickly. Instead, it will only result in delay, since our efforts and resources will again be shifted away from searching and reviewing material to litigating with your client.

As we explained in our letter of August 6, although we had initiated a search for responsive material, the information request as drafted was lengthy and overly broad; offered no explanation for how or why the requested information was necessary to Mr. Karadzic's defense; appeared in parts duplicative and/or misdirected since it covered the alleged activities of other sovereign States, foreign individuals, and in one case a private company; potentially covered material that would not be readily searchable or retrievable; and in some instances asked for information that by its very nature implicated serious national security concerns. We asked you to narrow the request to reduce the significant burden it imposes, focus on the material that the United States is best positioned to provide, and explain how each of the pieces of information requested is necessary to assist Mr. Karadzic in his defense against the charges he faces.

Mr. Karadzic's August 10 response largely failed to address our concerns. Although it contained some explanation for why he wanted the material, and two of the categories of documents requested have been dropped (#s (5) and (6) in the June 2, 2009 request), there was no serious attempt to narrow the request. There was also no attempt to focus on information the United States was best placed to provide;

instead, Mr. Karadzic explained that the United States is best placed to provide the information because, as he alleges, "it was the party most involved in violating and aiding and abetting the violation of the arms embargo, [and] had the best sources and intelligence capacity in the world...." These are neither legitimate nor adequate rationales – even putting aside the fact that only two of the nine categories of information requested focus on arms transfer issues. In addition, the reference to "sources and intelligence capacity" indicates a desire to push for sensitive intelligence information that does nothing to address or ameliorate our legitimate national security concerns.

These are all serious and significant issues that remain to be addressed. We are still prepared to work with you cooperatively, but again ask that you make a concerted, good-faith, and substantive effort to respond to the concerns expressed in our August 6 letter as well as above, and to provide us with a request that is narrow and properly focused on materials that Mr. Karadzic needs to defend himself against the specific charges he is facing. In addition, we would welcome clarification and additional explanation for some of the information Mr. Karadzic offered in his August 10 letter as to why the requested information was necessary for his defense – see, for example, his vague and incomplete explanation for why he wants "all reports, memoranda, or notes of interview" with "Islamic fundamentalists who were in Bosnia in 1992-95 and are now imprisoned in the United States or Guantanamo Bay."

I would be happy to meet with you to discuss our concerns with the information request in greater detail and to work together to move this matter forward in a productive manner.

Despite our still-unresolved concerns, we have nevertheless been searching for and seeking to identify responsive materials. This task has continued to result in a voluminous return of largely unresponsive materials that nonetheless requires careful review to ensure we are responding as thoroughly as possible. We estimate that at this point we have already devoted hundreds of person-hours to searching for and reviewing these materials, which number in the thousands. Our efforts continue.

In the meantime, during the course of our search, we have identified some potentially responsive material that we are prepared to provide as an initial tranche, once you have secured an order from the Pre-Trial Chamber applying the provisions of Tribunal Rule 70 to any information that the United States shares with you. We have also identified some additional documents that require further review prior to release, but we hope to be in a position to make them available soon. You are familiar with our information-sharing practices, I know, and they were reiterated in a letter we sent you following our February 4, 2009 meeting, but I am happy to answer any questions you may have, as well as to resend you a draft model motion for a Rule 70 Order. In addition, consistent with our practice, we would require non-disclosure agreements from any members of the Defense team who would have access to the material.

I look forward to working with you on this matter.

Sincerely,



Karen K. Johnson
Deputy Legal Counselor