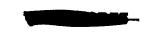
. . . .



THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA Alexandria Division

JNITED STATES OF AMERICA	ì
٧.) Criminal No. 01-455-A
ZACARIAS MOUSSAOLII) Hon. Leonie M. Brinkema

ON HIS CIPA SECTION FIVE DESIGNATIONS

Defendant, Zacarlas Moussaoui ("Moussaoui"), through counsel, and pursuant to the Court's Instructions from the CIPA hearing held on January 5, 2006, herewith files this Fifth Supplemental Status Report on his CIPA Section Five Designations.

I. Overview

During the CIPA hearing held on January 5, 2006, the Court instructed the defense to re-review its designations with respect to two categories of documents, provide greater specificity of the information within those documents that the defense may reasonably seek to disclose, and eliminate those documents that may be considered cumulative. These two categories, the Court instructed, should be re-reviewed within a week; all other documents were to be re-reviewed on a rolling basis thereafter.

As instructed, on January 12, 2006, Defendant provided the Court and the Government with his re-review of the initial two categories of documents, as well as



ווואטסקכ ודי נהת ווואסידו מאאסימסיגואו

1476

documents falling within a third category

See Defendant's

Third Supplemental Status Report on his CIPA Section Five Designations (filed Jan. 12, 2006, dkt. no. 1450). Then, on January 18, 2006, Defendant addressed two other categories of CIPA designated documents:

See Defendant's Fourth

Supplemental Status Report on his CIPA Section Five Designations (filed Jan. 18, 2006, dkt. no. 1450).

The instant pleading addresses the two remaining relevance categories:

² Also addrosped below is

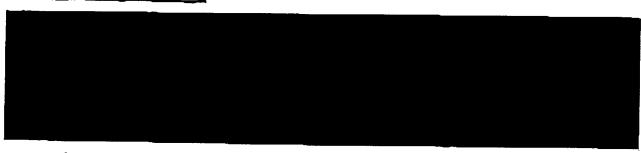
the status of any remaining designations not heretofore addressed.

Some of the documents in these two categories overlap with other categories.

11.

Documents failing within this category evidence that the defense reasonably expects to disclose in the second phase of the trial. Approximately 21 (in full or in part) designations fall into this category. The defense has re-reviewed these designations and is herewith withdrawing 5 designations in this category because they are cumulative or not needed.

Appended hereto, is a classified notebook of all of the remaining 16 designated documents that remain active in this category, organized by CIPA number. The CIPA number is written in the top right corner of each document. Also, at the front of the notebook is a Sub-Chart showing the status of all of Moussaoui's § 5 designations, organized by CIPA number, for every document falling within this category. That chart also identifies the specific information that the defense reasonably expects to disclose under CIPA § 5. Additional documents within this category may be withdrawn as the Government provides the defense with additional declassified versions.



This sub-chart is drawn, in large part, from Defendant's Chart of the Status of his CIPA § 5 Designations which was appended to Defendant's First Supplemental Status Report on his CIPA Section Five Designations (filed Dec. 16, 2005, dkt. no. 1423).

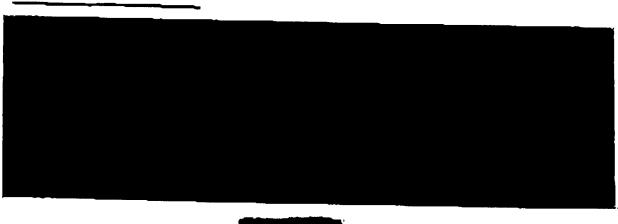


Ш.

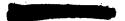
Documents falling within this category are relevant

Approximately 48 designations fall into this category. The defense has re-reviewed these designations and is trenewith withdrawing 15 designations in this category because they are cumulative/not needed or because a declassified version is acceptable.

Appended hereto, is a classified notebook of all of the remaining 33 designated documents that remain active in this category, organized by CIPA number. The CIPA number is written in the top right corner of each document. Also, at the front of the notebook is a Sub-Chart showing the status of all of Moussaoul's § 5 designations, organized by CIPA number, for every document falling within this category. That chart also identifies the specific information that the defense reasonably expects to disclose under CIPA § 5. Additional documents within this category may be withdrawn as the Government provides the defense with additional declassified versions.



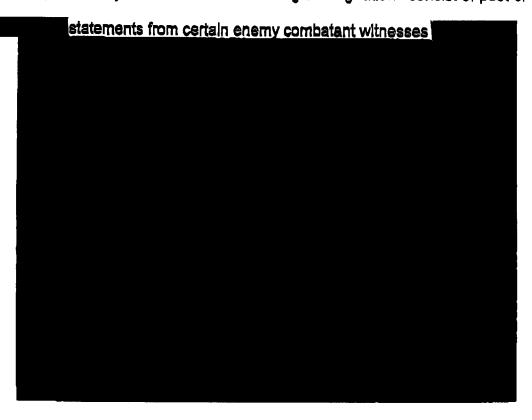
-4-



IV. Remaining Designations

Appended hereto is a classified notebook with the latest version of Defendant's Master Chart of the Status of his CIPA § 5 Designations which contains the status of all of Defendant's designations, including ones not addressed in the instant pleading or any of the sub-charts. The Master Chart also updates some of the designations in the sub-charts based on information since received in the Government's Initial CIPA Section 6 Response (filed Jan. 17, 2006, dkt. no. 1458). Below are additional comments on some other categories of designated documents.

A. Post-9/11 statements from ECWs and other Approximately 21 of Defendant's CIPA § 5 designations consist of post-9/11



The defense has proposed substitutions

All of these ECW statements, but one, are the subject of pending litigation before the Court.

for these ECWs and, as indicated in previous fillings with the Court, should the Court agree to those substitutions, then, barring some unforseen circumstance, nearly all of these documents will no longer be needed and the § 5 designations for them will be withdrawn. The few documents that still may be needed

and the master chart specifies the information in those designations that the defense reasonably expects to disclose,

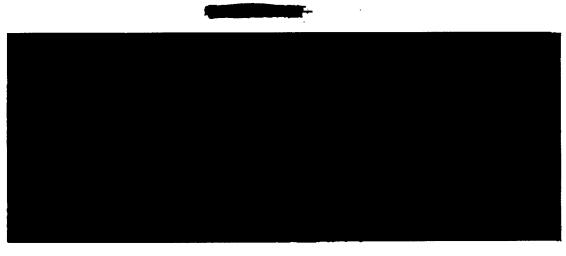
В.

Approximately 9 of Defendant's CIPA § 5 designations consist

addressing a variety of topics and spanning a number of relevance

categories.

-ô-



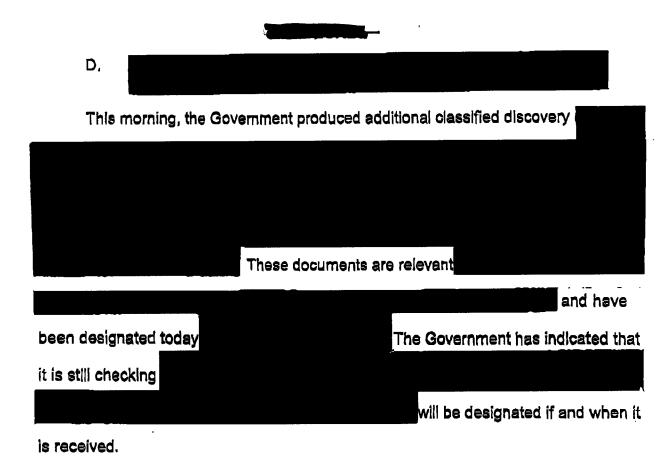
Except where indicated in the master chart, the entirety of these documents may reasonably be disclosed at trial.

C.

On January 18, 2006, the Government produced additional diassified documents

The next day, the defense notified the Government of the particular portions of those documents needed under § 5. The attached master chart provides the latest status of these designations.

Also, on January 21, 2006, the Government produced three boxes of *Jencks* and *Giglio* material in hard copy, videocassettes, and/or computer diskettes. Two of the boxes (one for the first phase of the trial and one for the second) contain unclassified material, and the third box (for phase 1) contains material that is classified. This latter box of documents, being just recently received, will be addressed in subsequent fillings with the Court.



Conclusion

The defense believes that the above information will significantly advance the CIPA process in this case. The defense is prepared, at the Court's convenience, for additional CIPA proceedings with respect to the above documents.

Respectfully Submitted, Zacarias Moussaoui

By Counsel

-8-

Gerad I Zerkin Sr. Assistant Federal Public Defender... Kenneth P. Troccoli Anne M. Chapman Assistant Federal Public Defenders Eastern District of Virginia 1650 King Street, Suite 500 Alexandria, VA 22314 (703) 600-0800

Edward B. MacMahon, Jr. 107 East Washington Street P.O. Box 903 Middleburg, VA 20117 (540) 687-3902

Alan H. Yamamoto 643 South Washington Stroct Alexandria, VA 22314 (703) 684-4700

CERTIFICATE OF SERVICE

I hereby cartify that on this 24th day of January 2006, a true copy of the foregoing pleading was served upon AUSA Robert A. Spencer, AUSA David J. Novak and AUSA David Reskin, S. Augmey's Office, 2100 Jamieson Avenue, Alexandria, VA 22314, by hand-delivering Green of same to the Court Security Officer.11

Kenneth P. Treccoli

Court's Order of October 3, 2002 (dkt. no. 594), on the date to the count section of the pleading was provided to the Count section of the designated classification specialist who will position and the citating and return a redacted version of it, if any, to defense could be provided to Was a substitution of the CSO and/or and the second s