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No.: ICC-02/05-01/20
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PRE-TRIAL CHAMBER II

Before: Judge Antoine Kesia-Mbe Mindua, Presiding Judge
Judge Tomoko Akane
Judge Rosario Salvatore Aitala

SITUATION IN DARFUR, SUDAN

**IN THE CASE OF
THE PROSECUTOR *v.*
ALI MUHAMMAD ALI ABD-AL-RAHMAN (“ALI KUSHAYB”)**

Public with Public Annex A

Prosecution’s submissions on the evidence demonstrating that Ali Abd-Al-Rahman is also known as Ali Kushayb pursuant to ICC-02/05-01/20-196

Source: Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

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I. INTRODUCTION

1. At all times during the events alleged in the warrants of arrest,¹ Mr Ali Muhammad Ali Abd-Al-Rahman was also known by the nickname Ali Kushayb. The name Ali Kushayb should therefore be retained on the case file throughout these proceedings.
2. Evidence from multiple sources, as well as Mr Abd-Al-Rahman's own conduct and words, establishes that Mr Abd-Al-Rahman was also known as Ali Kushayb.
3. Pursuant to the "Decision on the Prosecutor's Request for Postponement of the Confirmation Hearing and related deadlines,"² this submission sets out the evidence that the Prosecution has identified which establishes that references to Ali Kushayb relate to Mr Abd-Al-Rahman. This evidence is as follows:
 - a. Prosecution witnesses know Mr Abd-Al-Rahman by his legal name as well as by his alias Ali Kushayb;
 - b. Details about Ali Kushayb provided by Prosecution witnesses match information relating to Mr Abd-Al-Rahman, in particular, his position of authority, ownership of a pharmacy in Garsila, place of origin and physical characteristics;
 - c. Mr Abd-Al-Rahman's own conduct demonstrates that he accepts that he is also known as Ali Kushayb;
 - d. Mr Abd-Al-Rahman has used the nickname Ali Kushayb when referring to himself; and
 - e. Other institutions have independently determined that Mr Abd-Al-Rahman and Ali Kushayb are the same person.

¹ ICC-02/05-01/07-3-Corr and ICC-02/05-01/07-74-Secret-Exp.

² ICC-02/05-01/20-196 at para. 38.

4. The Prosecution also appends as Annex A, a table summarising the evidence relied on to support the conclusion that Mr Abd-Al-Rahman was also known as Ali Kushayb during the relevant events described in the arrest warrants.

II. SUBMISSIONS

a. Prosecution witnesses know Mr Abd-Al-Rahman by his legal name and his alias Ali Kushayb

5. Several Prosecution witnesses who were familiar with Mr Abd-Al-Rahman provide evidence that he was also known as Ali Kushayb:
 - a. P-0117, a former high-ranking member of the army of the Government of the Republic of Sudan (“GoS”),³ knew Mr Abd-Al-Rahman personally as a soldier and provides a detailed description of him.⁴ He states that “Ali Muhammad Ali Abd-Al-Rahman [...] ha[d] the nickname of ‘Ali Kushayb’”.⁵ P-0117 also provides a photograph and resume of the person that he identifies with these names. This person in the photograph bears a striking resemblance to Mr Abd-Al-Rahman.⁶ The resume is entitled: CV Warrant officer (Police) Ali Muhammad Ali Abd-al-Rahman (Kushayb).⁷
 - b. P-0769, who worked for the Internal Security Service of Sudan,⁸ knew of Ali Kushayb through his work. In reference to a document from the Ministry of Defence dated 2005 that assigned vehicles and weapons to an individual named Ali Muhammad Ali Abd-Al-Rahman⁹, P-0769 states that “Ali MOHAMED ALI ABDELRAHMAN is known as Ali KUSHAYB”.¹⁰ He also saw signal communications from the Central Reserve Forces

³ P-0117, [DAR-OTP-0128-0042-R01](#) at 0044 and at 0045, paras. 8-15.

⁴ P-0117, [DAR-OTP-0128-0042-R01](#) at 0071, paras. 189-193.

⁵ P-0117, [DAR-OTP-0128-0042-R01](#) at 0071, para. 189.

⁶ P-0117, [DAR-OTP-0128-0110-R01](#) at 0111.

⁷ P-0117, [DAR-OTP-0128-0107-R01](#) (Translation [DAR-OTP-0215-6789-R01](#) at 6791).

⁸ P-0769, [DAR-OTP-0212-0018-R01](#) at 0020, para. 17.

⁹ P-0769, [DAR-OTP-0212-0108](#) (Translation [DAR-OTP-0215-4658](#) at 4660).

¹⁰ P-0769, [DAR-OTP-0212-0018-R01](#) at 0047, para. 248; at 0048, para. 249 and at 0086, para. 585.

referring to Mr Abd-Al-Rahman by both his legal name and his nickname Ali Kushayb.¹¹

- c. P-0012, a former member of the Popular Police Force¹², states that he knew Ali Kushayb prior to 2002 and met him on several occasions.¹³ He states that “Ali KUSHAYB[’s] . . . real name is Ali Muhammad ALI”.¹⁴
 - d. P-0879, a student during the conflict states that he was “aware that Ali KUSHAYB is not his real name...[and] that his real name was something similar to ABDELRAHMAN”.¹⁵
6. In addition, two Prosecution witnesses use the name Ali Kushayb in conjunction with variants of Mr Abd-Al-Rahman’s legal name, indicating that they are referring to the same person:
- a. P-0123 states that he spoke to Ali Kushayb on numerous occasions and that “Ali Abdelrahman is part of the actual name of Ali KUSHAYB”.¹⁶
 - b. P-0131, a military intelligence officer, states that he knew a Janjaweed recruiter named ‘Ali Muhammad Abd-a[l]-Rahman Kushayb’.¹⁷ He further provides a sketch using the name “Ali Muhammad Ali Abd al- Rahman- ‘Kushayb’” to refer to a Janjaweed leader in the Wadi Salih region of Darfur.¹⁸
7. Evidence from a further two Prosecution witnesses confirm that the name “Kushayb” is a nickname:

¹¹ P-0769, [DAR-OTP-0212-0296-R01](#) at 0322, paras. 203-206.

¹² P-0012, [DAR-OTP-0119-0503-R01](#) at 0505, paras. 9-10.

¹³ P-0012, [DAR-OTP-0119-0503-R01](#) at 0512, para. 38.

¹⁴ P-0012, [DAR-OTP-0119-0503-R01](#) at 0511, para. 33.

¹⁵ P-0879, [DAR-OTP-0217-0033-R01](#) at 0039, para. 32.

¹⁶ P-0123, [DAR-OTP-0209-0029-R01](#) at 0034, para. 21.

¹⁷ P-0131, [DAR-OTP-0158-0964-R01](#) at 0988, lns. 866-871; [DAR-OTP-0158-1024-R01](#) at 1082, lns. 1954-1966; [DAR-OTP-0158-1091-R01](#) at 1094, lns. 75-93.

¹⁸ P-0131, [DAR-OTP-0134-0041-R01](#) (Translation [DAR-OTP-0203-0040-R01](#) at 0041); [DAR-OTP-0134-0032](#) (Translation [DAR-OTP-0158-1359-R01](#) at 1393-1402).

- a. P-0884 knew Ali Kushayb from as early as 1998 and states that he was informed that the name Kushayb was a nickname.¹⁹ According to P-0884, ‘Kushayb’ was a type of alcohol.²⁰
 - b. P-0129 similarly knew of Ali Kushayb and stated that “ALI must be his first name [because] KUSHAYB can only be a nickname”.²¹
8. This body of evidence, obtained over the course of approximately thirteen years, establishes that Mr Abd-Al-Rahman was also known as Ali Kushayb at the time of the events alleged in the warrants of arrest.

b. Details about Ali Kushayb provided by Prosecution witnesses match information relating to Mr Abd-Al-Rahman, in particular, his position of authority, ownership of a pharmacy in Garsila, place of origin and physical characteristics

9. Witnesses describing Ali Kushayb provide information that is consistent with or match information relating to Mr Abd-Al-Rahman.

i. Position of Authority

10. The evidence establishes that both Mr Abd-Al-Rahman and Ali Kushayb were known to be Janjaweed leaders in Wadi Salih region. In this regard, the Janjaweed was an organised and hierarchical structure.²² Senior commanders were called “Akids” or “Aqids”²³. An Akid was a word used to mean a colonel or something similar in the Janjaweed.²⁴ The number of Akids was dependent upon the region,

¹⁹ P-0884, [DAR-OTP-0216-0503-R01](#) at 0511 para. 40 and at 0512, para. 42.

²⁰ P-0884, [DAR-OTP-0216-0503-R01](#) at 0512, para. 42.

²¹ P-0129, [DAR-OTP-0128-0128-R01](#) at 0142, para. 47 and at 0153, para. 95.

²² P-0012, [DAR-OTP-0119-0503-R01](#) at 0510, para. 28.

²³ P-0012, [DAR-OTP-0119-0503-R01](#) at 0510, para. 28; P-0091, [DAR-OTP-0112-0142-R01](#) at 0161, para. 91; See also UNOCI, Information report, 11 January 2005, [DAR-OTP-0037-0016](#) at 0017-0018.

²⁴ P-0012, [DAR-OTP-0119-0503-R01](#) at 0510, para. 28; See also P-0116, [DAR-OTP-0127-0318-R01](#) at 0331, para. 65; P-0060, [DAR-OTP-0097-0328-R01](#) at 0333, para. 19.

population and tribe.²⁵ Within the chain of command, each region also had an overall Akid called an “Akid of Akids” or “Aqid Ogada”.²⁶

11. Witnesses who know Mr Abd-Al-Rahman by his legal name and his nickname Ali Kushayb state that he was the Akid of Akids of the Wadi Salih region.

- a. P-0012 states that “Ali KUSHAYB, whose real name is Ali Muhammad ALI, was the ‘aqid ogada’ for the whole of WADI SALIH”.²⁷ Similarly, P-0091 states that “Ali KOSHEIB [...] was the Agid Ougada (Overall Agid) of Wadi Saleh”.²⁸ In an information report provided by the United Nations Commission of Inquiry an individual states that “[t]he Akid of Akids in Ouedi Saleh is called Ali Mohamed Ali ‘kouchib’”.²⁹

12. Witnesses who only use the nickname Ali Kushayb describe his position of authority as a Janjaweed leader in the same manner as witnesses who provide evidence about Mr Abd-Al-Rahman’s position of authority.

- a. P-0129³⁰, P-0060³¹, P-0617³², P-0585³³, and P-0091³⁴, confirm that Ali Kushayb was the Akid of Akids or Aqid Ogada. In particular, P-0092 states that he heard Ali Kushayb say “I am the Agid Ougada of the Fursan. I supplied you with weapons, military equipments [sic] and everything”.³⁵

13. In addition, the evidence also shows that both Mr Abd-Al-Rahman and Ali Kushayb had the same subordinates when they held that position of authority.

²⁵ UNOCI, Information report, 11 January 2005, [DAR-OTP-0037-0016](#) at 0017-0018.

²⁶ P-0012, [DAR-OTP-0119-0503-R01](#) at 0510, para. 28; at 0511, para. 33; P-0091, [DAR-OTP-0112-0142-R01](#) at 0161, para. 91; *See also* UNOCI, Information report, 11 January 2005, [DAR-OTP-0037-0016](#) at 0017-0018.

²⁷ P-0012, [DAR-OTP-0119-0503-R01](#) at 0511, para. 33.

²⁸ P-0091, [DAR-OTP-0112-0142-R01](#) at 0161, para. 91.

²⁹ UNOCI, Information report, 11 January 2005, [DAR-OTP-0037-0016](#) at 0017; *See also* P-0085, [DAR-OTP-0110-0054-R01](#) at 0065, para. 43.

³⁰ P-0129, [DAR-OTP-0128-0128-R01](#) at 0134, para. 24; at 0135, para. 25.

³¹ P-0060, [DAR-OTP-0097-0328-R01](#) at 0333, para. 19.

³² P-0617, [DAR-OTP-0202-1496-R01](#) at 1531, paras. 96.

³³ P-0585, [DAR-OTP-0201-0037-R01](#) at 0044, para. 26; at 0048-0050, paras. 41-52 and at 0065, paras. 118-120.

³⁴ P-0091, [DAR-OTP-0112-0142-R01](#) at 0150, para. 41; at 0151, para. 43, at 0159, para. 80; at 0161, para. 91.

³⁵ P-0092, [DAR-OTP-0112-0175-R01](#) at 0189, para. 63.

- a. P-0012 states that “Ali KUSHAYB, whose real name is Ali Muhammad ALI ... had four deputies: *Adam BONJOUSE, Al-Dayf SAMIH, Hamoda HAMDAN*, and Hamdan 'UMAR” (emphasis added).³⁶
- b. P-0757 states that *Al-Def AL-SEMEH* was a known subordinate of Ali Kushayb.³⁷
- c. P-0601 states that he heard HAMDAN say “I am *Hammudah HAMDAN* we are officers of Ali KUSHAYB” (emphasis added).³⁸
- d. An individual similarly reported to the United Nations Commission of Inquiry that “[t]he Akid of Akids in Ouedi Saleh is called Ali Mohamed Ali ‘kouchib’ and his deputy is called Mohamed Adam Mohamed Aboubaccar “*Benjous*” (emphasis added).³⁹

ii. *ownership of a pharmacy in Garsila*

14. Witnesses state that both Mr Abd-Al-Rahman and Ali Kushayb were known to own and operate a pharmacy in Garsila.

- a. Witnesses P-0012⁴⁰, P-0769⁴¹ and P-0123⁴² knew Ali Kushayb and Mr Abd-Al-Rahman by both of these names. They explain that the person they knew, owned a pharmacy in Garsila that sold veterinary or other medication. P-0123 further claims that the pharmacy was located close to the Agricultural Bank in Garsila.⁴³
- b. Other witnesses who knew Mr Abd-Al-Rahman by his nickname Ali Kushayb similarly state that he also owned a pharmacy.⁴⁴ Some of these

³⁶ P-0012, [DAR-OTP-0119-0503-R01](#) at 0511, para. 33.

³⁷ P-0757, [DAR-OTP-0211-0003-R01](#) at 0021, para. 70.

³⁸ P-0601, [DAR-OTP-0202-1588-R01](#) at 1605, para. 75.

³⁹ UNOCI, Information report, 11 January 2005, [DAR-OTP-0037-0016](#) at 0017-0018.

⁴⁰ P-0012, [DAR-OTP-0119-0503-R01](#) at 0512, para. 38.

⁴¹ P-0769, [DAR-OTP-0212-0018-R01](#) at 0086, para. 589.

⁴² P-0123, [DAR-OTP-0209-0029-R01](#) at 0041, para. 46.

⁴³ P-0123, [DAR-OTP-0209-0029-R01](#) at 0041, para. 46.

⁴⁴ P-0029, [DAR-OTP-0094-0119-R01](#) at 0131, para. 52; P-0085, [DAR-OTP-0110-0054-R01](#), at 0065 para. 42; P-0717, [DAR-OTP-0210-0187-R01](#) at 0195, para. 43; P-0044, [DAR-OTP-0095-0049-R01](#) at 0071, para. 106; P-0673, [DAR-OTP-0206-0138-R01](#) at 0152, paras. 87-88; P-0736, [DAR-OTP-0210-0248-R01](#) at 0254, para. 27 and 0255, paras. 29-30; P-0060, [DAR-OTP-0097-0328-R01](#) at 0334, para. 22; P-0585, [DAR-OTP-0201-0037-](#)

witnesses explain that the location of the pharmacy is the same as that linked to Mr Abd-Al-Rahman. For example, P-0884 visited the pharmacy on several occasions and states that it was located near the Agricultural Bank in Garsila. He also states that the pharmacy had a wooden inscription with the name “ALI MUHAMMAD ALI” inside it.⁴⁵ Witnesses P-0697⁴⁶, P-0724⁴⁷, P-0736⁴⁸ also state that a pharmacy owned by Ali Kushayb was located near the Agricultural Bank in Garsila.

- c. According to one news report, Mr Abd-Al-Rahman himself claimed to own a pharmacy or at least have experience in the field of medicine. In an internet post captured from the Sudan Media Center website on 10 March 2007⁴⁹, Mr Abd-Al-Rahman is reported to have provided an interview to the Alintibaha newspaper. The interview purports to be the first given by Mr Abd-Al-Rahman and reports that he stated “[b]ecause of my experience in the Medical Corps. I opened something like a pharmacy in Garsila, a medicine store. This is my profession now and that is where I work”.⁵⁰ Moreover, documents Mr Abd-Al-Rahman had with him when he surrendered in the Central African Republic (“CAR”) state that he was a medical assistant.⁵¹ This in turn is corroborated in videos sent to the Prosecution from witness P-0869. In the videos as well as during a conversation with the Prosecution, Mr Abd-Al-Rahman states that he was a medical assistant.⁵² This is further supported by open source material.⁵³

[R01](#) at 0052, para. 60; P-0697, [DAR-OTP-0209-0155-R01](#) at 0158, para. 15; P-0724, [DAR-OTP-0210-0524-R01](#) at 0528, para. 23; P-0843, [DAR-OTP-0216-0600-R01](#) at 0612, paras. 55 and 58; P-0091, [DAR-OTP-0112-0142-R01](#) at 0159, para. 80; P-0011, [DAR-OTP-0088-0219-R01](#) at 0234, para. 91.

⁴⁵ P-0884, [DAR-OTP-0216-0503-R01](#) at 0512, para. 42.

⁴⁶ P-0697, [DAR-OTP-0209-0155-R01](#) at 0158, para. 15.

⁴⁷ P-0724, [DAR-OTP-0210-0524-R01](#) at 0528, para. 23.

⁴⁸ P-0736, [DAR-OTP-0210-0248-R01](#) at 0254, para. 27.

⁴⁹ The Sudan Media Centre website was previously operated by the National Intelligence and Security Service. It was shut down following the removal of Omar Al-Bashir as President of Sudan.

⁵⁰ [DAR-OTP-0124-0726](#) (English translation [DAR-OTP-0153-1646](#) at 1647).

⁵¹ [DAR-OTP-0216-0235](#) (English translation [DAR-OTP-0216-0765](#) at 0766).

⁵² [DAR-OTP-0216-0119](#) (Arabic transcript [DAR-OTP-0216-0795](#); English translation [DAR-OTP-0216-0797](#) at 0799, Ins. 12-13); [DAR-OTP-0216-0120](#) (Arabic transcript [DAR-OTP-0216-0800](#); English translation [DAR-OTP-0216-0802](#) at 0804, Ins. 7-8); [DAR-OTP-0215-6963](#) at 6966, Ins. 67-68.

⁵³ [DAR-OTP-0159-0672](#) at 0743.

iii. *Place of origin*

- a. Witnesses P-0769⁵⁴ and P-0123⁵⁵ who knew Mr Abd-Al-Rahman by his legal name as well as the nickname Ali Kushayb state that he originates from Rahad al-Berdi⁵⁶ in Sudan. Other witnesses including P-0119⁵⁷, P-0617⁵⁸ and P-0769⁵⁹ link Ali Kushayb to Nyala, South Darfur.⁶⁰
- b. During his first appearance Mr Abd-Al-Rahman informed the Court that he was from Rahad al-Berdi.⁶¹ Moreover, documents he had with him when he surrendered mention both Rahad al-Berdi as well as Nyala as being places of origin and/or residence for him.⁶²

iv. *Physical characteristics*

15. Several witnesses who provide physical descriptions of Ali Kushayb do so in terms that are consistent with the physical appearance of Mr Abd-Al-Rahman. These witnesses describe Ali Kushayb as being tall, slim and having a dark complexion.⁶³
16. The above evidence taken together establishes that Mr Abd-Al-Rahman and Ali Kushayb are the same person.

⁵⁴ P-0769, [DAR-OTP-0212-0018-R01](#) at 0086, paras. 585-587.

⁵⁵ P-0123, [DAR-OTP-0209-0029-R01](#) at 0037, para. 30.

⁵⁶ T-1, p. 43, lns. 3-5.

⁵⁷ P-0119, [DAR-OTP-0124-0196-R01](#) at 0216, para. 124.

⁵⁸ P-0617, [DAR-OTP-0202-1496-R01](#) at 1531, para. 97.

⁵⁹ P-0769, [DAR-OTP-0212-0018-R01](#) at 0086 paras. 585-587.

⁶⁰ [DAR-OTP-0216-0234](#) (English translation [DAR-OTP-0216-0763](#) at 0764); [DAR-OTP-0216-0235](#) (English translation [DAR-OTP-0216-0765](#) at 0766); [DAR-OTP-0216-0237](#) (English translation [DAR-OTP-0216-0767](#) at 0768-0769); [DAR-OTP-0216-0239](#) (English translation [DAR-OTP-0216-0770](#) at 0771-0772); [DAR-OTP-0216-0241](#) (English translation [DAR-OTP-0216-0773](#) at 0774-0775); [DAR-OTP-0216-0243](#) (English translation [DAR-OTP-0216-0776](#) at 0777).

⁶¹ T-1, p. 43, lns. 3-5.

⁶² [DAR-OTP-0216-0234](#) (English translation [DAR-OTP-0216-0763](#) at 0764); [DAR-OTP-0216-0235](#) (English translation [DAR-OTP-0216-0765](#) at 0766); [DAR-OTP-0216-0237](#) (English translation [DAR-OTP-0216-0767](#) at 0768-0769); [DAR-OTP-0216-0239](#) (English translation [DAR-OTP-0216-0770](#) at 0771-0772); [DAR-OTP-0216-0241](#) (English translation [DAR-OTP-0216-0773](#) at 0774-0775); [DAR-OTP-0216-0243](#) (English translation [DAR-OTP-0216-0776](#) at 0777).

⁶³ P-0011, [DAR-OTP-0088-0219-R01](#) at 0235, para. 92; P-0012, [DAR-OTP-0119-0503-R01](#) at 0512, para. 38; P-0044, [DAR-OTP-0095-0049-R01](#) at 0071, para. 106; P-0060, [DAR-OTP-0097-0328-R01](#) at 0334, para. 22; P-0091, [DAR-OTP-0112-0142-R01](#) at 0159, para. 80; P-0092, [DAR-OTP-0112-0175-R01](#) at 0183, para. 36; P-0736, [DAR-OTP-0210-0248-R01](#) at 0254, para. 27.

c. Mr Abd-Al-Rahman's own conduct demonstrates that he is also known as Ali Kushayb

17. Mr Abd-Al-Rahman's own conduct, specifically, the circumstances surrounding his voluntary surrender, demonstrate that he is also known by the nickname Ali Kushayb.
18. On 26 December 2019, Prosecution witness P-0869, contacted the Public Affairs Unit of the International Criminal Court ("Court") via email.⁶⁴ P-0869 claimed that "Kushayb" wanted to cooperate with the Court and was willing to be a witness.⁶⁵
19. Following receipt of this email, the Prosecution communicated with P-0869 in order to assess his claim. These communications culminated in Mr Abd-Al-Rahman speaking directly over the telephone to the Prosecution and taking multiple steps in order to voluntarily surrender himself to the Court. This included travelling from Sudan to CAR. A journey the Defence have described as difficult and dangerous.⁶⁶ It would be strange and nonsensical for a person to surrender on an arrest warrant to a foreign court, requiring dangerous cross-border travel, with the knowledge that the warrant was for a different person entirely.⁶⁷
20. The Registry Report containing details about Mr Abd-Al-Rahman's surrender serves as further evidence of conduct which demonstrates his acknowledgement of the nickname Ali Kushayb. Specifically, the Registry Report states that "[a]ccording to the information provided by the CAR authorities, during the national proceedings, Mr Ali Kushayb was provided interpretation into Arabic, the language he understands and speaks perfectly. *The identity of Mr Ali*

⁶⁴ [DAR-OTP-0217-0030](#) (English translation [DAR-OTP-0215-6799](#) at 6800).

⁶⁵ [DAR-OTP-0215-7063-R01](#).

⁶⁶ ICC-02/05-01/20-12, para. 13; ICC-02/05-01/20-98, para 3; ICC-02/05-01/20-100, para. 16.

⁶⁷ ICC-02/05-01/20-12, Annex 1 ([DAR-OTP-0215-2766](#))

Kushayb was verified and the Arabic versions of the Warrants of Arrests were notified to him” (emphasis added).⁶⁸

21. The Registry Report clearly indicates that the name that was used to verify Mr Abd-Al-Rahman’s identity was Ali Kushayb and not his legal name. Despite this information being conveyed, there is no indication in the Registry Report that Mr Abd-Al-Rahman objected to the use of the nickname Ali Kushayb to CAR authorities at the time he voluntarily surrendered or when he was formally notified of the arrest warrant.
22. In addition, items that Mr Abd-Al-Rahman had with him at the time of his surrender reinforce the link between him and the nickname Ali Kushayb. Pursuant to the Chamber’s instructions, a preliminary examination of three mobiles phones belonging to Mr Abd-Al-Rahman revealed an audio file. Analysis of this audio file shows it to be a poem of some kind that is dedicated, in part, to Ali Kushayb and mentions that name on five occasions. For example, it refers to “the Central Reserve Forces led by the hero Kosheib”.⁶⁹

d. Mr Abd-Al-Rahman has used the nickname Ali Kushayb when referring to himself

23. In addition to his conduct, in the period leading up to his surrender, Mr Abd-Al-Rahman used the nickname Ali Kushayb when referring to himself and confirmed that it is his nickname.
 - a. On 21 March 2020, the Prosecution was sent a video from P-0869. The video shows Mr Abd-Al-Rahman introducing himself as follows: “I’m Ali Muhammad Ali Abd-al-Rahman, and my nickname is Kushayb”.⁷⁰
 - b. On 6 and 7 April 2020, two telephone calls were arranged between the Prosecution, P-0869 and Mr Abd-Al-Rahman. During these phone calls, Mr Abd-Al-Rahman again introduced himself using the nickname Ali

⁶⁸ ICC-02/05-01/07-85-Conf-Exp, para. 13.

⁶⁹ [DAR-OTP-0215-6831](#) at 6833, ln. 4.

⁷⁰ [DAR-OTP-0216-0119](#) (Arabic transcript [DAR-OTP-0216-0795](#); English translation [DAR-OTP-0216-0797](#) at 0799, lns. 3-4).

Kushyab. Specifically, on 6 April 2020, Mr Abd-Al-Rahman stated “I am Ali Muhammad Ali Abd-Al-Rahman Bin Husayn Kushayb”.⁷¹ On 7 April he stated “I am Ali Mohammed Ali Abd-Al-Rahman, nicknamed Kushayb from Ta’isha tribe from the locality of Rahid Al-Bardi. I am born in 1949”.⁷²

24. There is evidence of another occasion in which Mr Abd-Al-Rahman has used the name Ali Kushyab when talking about himself. In a purported interview to the Alintibaha newspaper, it is reported Mr Abd-Al-Rahman stated that his name was Ali Muhammad Ali Abd-Al-Rahman and that he acquired the nickname Kushayb during his childhood because of his courage and ferocity.⁷³
25. The suggestion now that references to Ali Kushyab are references to another person when Mr Abd-Al-Rahman himself confirmed that his nickname is Ali Kushayb is implausible.

e. Other institutions have independently determined that Mr Abd-Al-Rahman and Ali Kushayb are the same person

26. Media organisations, other institutions and the GoS have, independently of the Prosecution, determined that Mr Abd-Al-Rahman and Ali Kushayb are the same person. These examples pre-date the Prosecution’s first application for an arrest warrant under article 58 of the Statute.
27. In December 2005, Human Rights Watch published a report concerning crimes in Darfur wherein it stated that numerous witnesses had described a Janjaweed militia leader in the “Wadi Saleh area” by the name of “Ali Kosheib”⁷⁴. It further stated that the name “Ali Kosheib” was “the nickname or nom de guerre of Ali Mohammed Ali, an ex-army soldier based in Garsila”.⁷⁵
28. Separately, a file compiled by the United Nations International Commission of Inquiry on Darfur and dated 25 January 2005, employed the name “Ali Mohamed

⁷¹ [DAR-OTP-0216-0127](#); [DAR-OTP-0215-6963](#) at 6966, Ins. 67-68

⁷² [DAR-OTP-0216-0128](#); [DAR-OTP-0215-6974](#) at 0679 at Ins. 112-115.

⁷³ [DAR-OTP-0124-0726](#) (English translation [DAR-OTP-0153-1646](#), at 1647).

⁷⁴ [DAR-OTP-0107-1151](#) at 1177.

⁷⁵ [DAR-OTP-0107-1151](#) at 1228.

Ali Kushib, leader of Janjaweed” when describing persons of interest in relation to crimes committed in Darfur.⁷⁶ The Prosecution received this file before it commenced its own independent investigations.

29. In addition, the Ministry of Justice of the GoS informed the Prosecution in a letter, dated 9 December 2006, that it had arrested a number of individuals suspected of being involved in crimes violating international humanitarian law. The name “Ali Mohammed Ali Abdul Rahman, also known as Ali Koshein” was listed as being amongst those arrested.⁷⁷
30. Following receipt of this letter, on 29 January 2007, the Prosecution carried out a mission to Khartoum. During the course of its mission it met with the members of Sudan’s Judicial Investigations Committee. This meeting was video recorded. A member of Sudan’s Judicial Investigations Committee expressly verified and confirmed the spelling of Mr Abd-Al-Rahman’s legal name and nickname as being “Ali Muhammad Ali Abd-al-Rahman also known as Ali Kushayb”.⁷⁸
31. In a letter dated 31 January 2007, the Ministry of Foreign Affairs of the GoS again confirmed to the Prosecution that “Ali Mohammed Ali Abdul Rahman, [was] also known as Ali Kosheib”.⁷⁹
32. The use by the GoS of the name Ali Kushayb to refer to Mr Abd-Al-Rahman is also corroborated by witness evidence. P-0769 further claims that he saw signal communications from the Central Reserve Forces which “referred to Ali MOHAMED ALI ABDELRAHMAN and not his commonly used name of Ali KUSHAYB”.⁸⁰ Fourteen years later, the authorities in the GoS still refer to Mr Abd-Al-Rahman as Ali Kushayb.⁸¹

f. Ongoing investigations

⁷⁶ [DAR-OTP-0216-0702](#) at 0726, para. 98.

⁷⁷ [DAR-OTP-0123-0002](#) at 0003.

⁷⁸ [DAR-OTP-0122-0009](#) (English transcript [DAR-OTP-0202-0190](#) at 0196, Ins. 225-227 and 0197, Ins. 231-246.)

⁷⁹ [DAR-OTP-0123-0006](#) at 0006.

⁸⁰ P-0769, [DAR-OTP-0212-0296-R01](#) at 0322, paras. 203-206.

⁸¹ ICC-02/05-01/20-12, para. 13; ICC-02/05-01/20-98, para. 3; ICC-02/05-01/20-100, para. 16.

33. Following Mr Abd-Al-Rahman's first appearance, the Prosecution has taken steps to obtain further evidence confirming that he was also known as Ali Kushayb. However, restrictions brought about by COVID-19 has meant that in most instances the Prosecution has not been able to conduct face to face witness interviews. For this reason, the Prosecution includes an investigative note setting out relevant information that it has received from witnesses with whom it has carried out a screening telephone interview.⁸² These support the conclusion that Mr Abd-Al-Rahman was also known as Ali Kushayb. The Prosecution discloses these pursuant to the Chambers' instructions⁸³ and undertakes to provide finalised signed statements from these witnesses as soon as practicable.

III. RELIEF REQUESTED

34. For the foregoing reasons, the Prosecution requests the Chamber to find that at the time of the relevant events, Mr Ali Muhammad Ali Abd-Al-Rahman was also known by the nickname Ali Kushayb.

35. The Prosecution further requests that the nickname Ali Kushayb be retained on the case file throughout these proceedings.

36. Lastly, the Prosecution requests that the Registry be ordered to use the nickname Ali Kushayb on the Court's website as was previously the case.



James Stewart
Deputy Prosecutor

Dated this 7th day of December 2020

At The Hague, The Netherlands

⁸² [DAR-OTP-0215-7065-R01](#).

⁸³ ICC-02/05-01/20-196.