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No.: ICC-02/05-01/20
Date: 6 February 2023

TRIAL CHAMBER I

Before: Judge Joanna Korner, Presiding Judge
Judge Reine Alapini-Gansou
Judge Althea Violet Alexis-Windsor

SITUATION IN DARFUR, SUDAN

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

Public

Public Redacted Version of “Prosecution’s second request to submit material from the bar table”, 31 January 2023, ICC-02/05-01/20-860-Conf

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. The Prosecution requests Trial Chamber I (“Chamber”) to submit into evidence the items contained in the Annex (“Submitted Items”), in accordance with articles 64(9)(a), 69(3) and 69(4) of the Rome Statute, rule 63(2) of the Rules of Procedure and Evidence, and the Directions on the conduct of proceedings (“Directions”)¹ (“Application”).

2. In accordance with the Directions,² the Annex to this Application includes for each item: (i) the document ID; (ii) the date; (iii) the source identity; (iv) a short description of its content; (v) an index of the relevant portions; (vi) a short description of its relevance and *prima facie* probative value; and (vii) an indication as to whether the Defence agrees or objects to the tendering of the item.³

II. CLASSIFICATION

3. Pursuant to regulation 23*bis*(1) of the Regulations of the Court, the Application and the Annex are classified as confidential, since they contain information that may identify Prosecution witnesses, and describe the content of confidential material. The Prosecution will file a public redacted version of the Application as soon as practicable.

III. SUBMISSIONS

4. The Prosecution relies on its previous submissions on the legal framework for the submission of material into evidence from the bar table, as set out in its first application.⁴

5. As set out in the following sections, the Submitted Items are (i) relevant and probative, and (ii) the probative value of the Submitted Items outweighs any prejudicial effect.

¹ Directions on the conduct of proceedings, [ICC-02/05-01/20-478](#), paras. 55-56; Second Directions on the conduct of proceedings, [ICC-02/05-01/20-836](#), paras. 4-6.

² [Directions on the conduct of proceedings](#), paras. 55-56.

³ See Email of 27 January 2023 at 17:16.

⁴ See Prosecution’s request to submit lists of victims from the bar table, [ICC-02/05-01/20-835](#), paras. 6-10.

6. The Defence agrees to the submission of 23 of the Submitted Items,⁵ and objects to the introduction of the remaining Submitted Items from the bar table. The Prosecution thanks the Defence for their review of the items.

(i) The Submitted Items are relevant and probative

7. The Prosecution submits that introduction of the Submitted Items into evidence would assist the Chamber in its determination of the truth and ensure an expeditious trial. As detailed below, the Submitted Items are relevant to material issues at trial, of probative value, and bear sufficient indicia of reliability.

8. The Annex contains a table of the Submitted Items grouped into eight categories:

- a. Category A: Reports;
- b. Category B: Media Articles;
- c. Category C: Legislation;
- d. Category D: Government of Sudan Interview with the Accused;
- e. Category E: Material Seized from the Accused;
- f. Category F: Photographs;
- g. Category G: Audio/Visual Material and Related Documents; and
- h. Category H: Map Book.

a. Category A: Reports

9. This category contains reports and associated materials published by United Nations (“UN”) bodies and specialised agencies, such as the UN High Commissioner

⁵ DAR-OTP-0118-1135; DAR-OTP-0021-0353; DAR-OTP-0021-0412; DAR-OTP-0035-0109; DAR-OTP-0219-5715; DAR-OTP-0152-0189; DAR-OTP-0080-0024; DAR-OTP-0080-0041; DAR-OTP-0080-0047; DAR-OTP-0103-0598; DAR-OTP-0116-0895; DAR-OTP-0216-0234; DAR-OTP-0216-0763; DAR-OTP-0216-0235; DAR-OTP-0216-0765; DAR-OTP-0216-0237; DAR-OTP-0216-0767; DAR-OTP-0216-0239; DAR-OTP-0216-0770; DAR-OTP-0216-0241; DAR-OTP-0216-0773; DAR-OTP-0216-0243; DAR-OTP-0216-0776.

for Human Rights, UN International Commission of Inquiry on Darfur (“UNCOI”), UN High Commissioner for Refugees, Office for the Coordination of Humanitarian Affairs, African Union, World Health Organisation, Office of the UN Humanitarian Resident and Coordinator for Sudan, and the Sudanese National Commission of Inquiry. This category also contains material collected by the UNCOI in the course of its investigation,⁶ including a handwritten note relating to Mr Abd-Al-Rahman’s identity,⁷ and three documents relevant to the contextual elements of war crimes, in particular, the structure of the Government of Sudan (“GoS”) Forces.⁸

10. In addition, this category includes reports and associated materials from independent non-governmental organisations (“NGOs”), such as Human Rights Watch (“HRW”), Amnesty International (“AI”) and INTERSOS.

11. The reports by the UN and GoS bodies emanate from official sources, and the reports by NGOs were prepared in the ordinary course of their activities. The reports in this category were largely completed and published prior to the initiation of the Prosecution’s investigation. These reports further contain other indicia of reliability, such as dates of publication, authors, letterhead, logos, stamps and methodology, as applicable.

12. The majority of the items in this category are not relied on to prove the acts and conduct or identity of the Accused, but rather to corroborate discrete facts such as the pre-conflict populations and tribal composition of relevant locations, the structure of the GoS Forces, the displacement of persons to/from relevant locations during the charged period, the dates of charged incidents, and the number, identities, gender and ethnicity of persons killed during charged incidents. The remaining items, all pre-dating the first International Criminal Court (“ICC”) arrest warrant for Mr Abd-Al-Rahman, are relied on to corroborate the link between Mr Abd-Al-Rahman and the

⁶ Inventory of materials collected by UNCOI at DAR-OTP-0001-0004.

⁷ DAR-OTP-0020-0945 (Translation at DAR-OTP-0153-0679).

⁸ DAR-OTP-0034-0166 (Translation at DAR-OTP-0153-0778); DAR-OTP-0048-0045; DAR-OTP-0051-0205 (Translation at DAR-OTP-0219-4294). The GoS forces included the Sudanese Armed Forces (“SAF”), also known as the Sudanese People’s Armed Forces, the Popular Defence Forces (“PDF”), the Central Reserve Forces (“CRF”), the Popular Police Forces (“PPF”), and the Sudanese Police (“Police”) (together, the “GoS Forces”).

nickname “Ali Kushayb”, his position as a Militia/*Janjaweed* leader in the Wadi Salih and Mukjar localities, and his presence during charged incidents.

Victim lists relating to the Deleig incident

13. Category A includes five lists of names and villages of origin of persons killed during the Deleig incident provided to the Prosecution or published in open source by international organisations AI, HRW, International Federation for Human Rights (“FIDH”), the Darfur Peace and Development Organization (“DPDO”), and the Sudan Advisory Council for Human Rights (“SACHR”) (received from the Sudanese Organisation Against Torture (“SOAT”).⁹ While some lists contain additional names, and the transliteration of some names from Arabic into English varies, the lists are similar in relation to both content and sequence of names.¹⁰

14. With one exception,¹¹ these lists were published between April and May 2004, directly following the Deleig incident in March 2004. The Prosecution has been unable to ascertain the specific original source/s of the lists, and therefore only relies on them to corroborate witness evidence regarding persons killed in Deleig, as well as to corroborate the list of Deleig victims provided by P-1018, which has already been submitted into evidence with the agreement of the Defence.¹²

b. Category B: Media Articles

15. Category B contains open source media articles published by news agencies. The majority of the items are relied on to corroborate evidence regarding the Accused’s link to the nickname “Ali Kushayb”, his background, position of authority as a leader of the Militia/*Janjaweed*, and the circumstances surrounding his surrender. These

⁹ AI, DAR-OTP-0002-0201 (April 2004); HRW, DAR-OTP-0003-0099 (May 2004); FIDH, DAR-OTP-0090-0377 (May 2004); SACHR (received from SOAT), DAR-OTP-0053-0068 (Translation at DAR-OTP-0153-0211) (15 May 2004); DPDO, DAR-OTP-0060-0222 (Translation at DAR-OTP-0153-0917) (27 May 2005).

¹⁰ The Prosecution notes that two of the names relate to persons killed during the Mukjar incident: Muhammad Umar Ahmad Zarruq and *Umdah* Yahya Ahmad Zarruq. See Annex 17 to the Trial Brief, [ICC-02/05-01/20-550-Anx17-Red2](#), no. 37 and 39.

¹¹ DPDO, DAR-OTP-0060-0222 (Translation at DAR-OTP-0153-0917) (27 May 2005).

¹² See Decision on the Prosecution’s request to submit lists of victims from the bar table, [ICC-02/05-01/20-846](#), paras. 10-13.

articles were largely published prior to the issuance of the first ICC arrest warrant against Mr Abd-Al-Rahman. This category also contains two media articles detailing the circumstances of the death of the Accused's son, which is relevant to establishing the Accused's identity and link to the nickname "Ali Kushayb".¹³

16. In addition, this category includes a number of items, contemporaneous with the charged events, which are relevant to the contextual elements of war crimes (specifically, the organisational requirement of the rebel groups) and discrete facts relating to the incidents in Deleig and Bindisi, such as the numbers of displaced persons during the relevant period.¹⁴

c. Category C: Legislation

17. Category C contains legislative acts issued and adopted by the GoS, which entered into force before the charged incidents, relating to the powers of the President, and the structure of the National Security Council ("NSC"), GoS Forces and other government bodies. This category also includes UN Security Council resolutions on the situation in Sudan adopted during or shortly after the charged incidents, leading to the referral of the situation in Darfur to the ICC.

18. In addition, it contains a document issued by the Justice and Equality Movement, a compilation of decisions issued by the GoS State Security Committee of West Darfur, and a ceasefire agreement between the parties to the armed conflict. These items are relevant to the contextual elements of war crimes relating to the organisational requirement of rebel groups and crimes against humanity, in particular, the structure of the GoS Forces and the role of the NSC in setting out and implementing the GoS policy to commit an attack against the civilian population.

¹³ DAR-OTP-00000510 (Translation at DAR-OTP-00000811); DAR-OTP-00000701 (Translation at DAR-OTP-00000838).

¹⁴ DAR-OTP-0118-1135; DAR-OTP-0096-0231 (Translation at DAR-OTP-0153-0295); DAR-OTP-0209-0014; DAR-OTP-0064-0184.

d. Category D: Government of Sudan Interview with the Accused

19. Category D contains handwritten and typed versions of a record of an interview conducted by a GoS investigation committee with the Accused on 28 and 29 November 2006, and associated items.¹⁵ [REDACTED].¹⁶ [REDACTED]¹⁷ [REDACTED].¹⁸

20. The file was provided to the Prosecution in both handwritten and typed form, and is stamped and signed by a member of the GoS [REDACTED].¹⁹ [REDACTED].²⁰ In addition, as detailed below,²¹ in meetings with the Prosecution in January/February 2007, the GoS confirmed that it had arrested and interviewed the Accused in November 2006.²²

21. Several features of the interview are consistent with agreed facts in this case, as well as evidence provided by witnesses during the trial, establishing that the interview was with the Accused.²³ The name of the interviewee is given as “Ali Muhammad Ali Abd-Al-Rahman ‘Ali Kushayb’”, a Warrant Officer (*Musa'id*)²⁴ in the CRF, residing in Garsila.²⁵ The interviewee stated that he was the Emir of the *Fursan* of the *Mujahidin* in

¹⁵ Handwritten, DAR-OTP-0218-0231 (Translation at DAR-OTP-0219-7007); Typed, DAR-OTP-0218-0386 (Translation at DAR-OTP-0219-6910).

¹⁶ [REDACTED].

¹⁷ [REDACTED].

¹⁸ [REDACTED].

¹⁹ [REDACTED].

²⁰ [REDACTED].

²¹ See below, paras. 32-33.

²² DAR-OTP-0202-0215 at 0233, l. 616-620; DAR-OTP-0202-0190 at 0198-0199, l. 295-330; DAR-OTP-0202-0337 at 0344-0345, l. 263-296; DAR-OTP-0202-0396 at 0406, l. 331-343. A warrant was issued for Mr Abd-Al-Rahman's arrest on 14 September 2005, he was arrested on 28 November 2006, and interviewed on 28 and 29 November 2006.

²³ Although the age recorded in the interview (40 years old) is not consistent with the Accused having been born in 1949, the other identifying features establish that the interviewee is nonetheless the Accused. See Annex A to Third Joint Submission on Agreed Facts, [ICC-02/05-01/20-504-AnxA](#), Agreed Fact 1.

²⁴ The original handwritten and typed Arabic versions of the interview record his rank as *Musa'id*, which has been translated as “Sergeant Major” in the translation of the typed version.

²⁵ Handwritten, DAR-OTP-0218-0231 (Translation at DAR-OTP-0219-7007 at 7008); Typed, DAR-OTP-0218-0386 (Translation at DAR-OTP-0219-6910 at 6911). See [Annex A to Third Joint Submission on Agreed Facts](#), Agreed Facts 13, 14. For evidence establishing that the Accused was a Warrant Office in the CRF, see P-0547, ICC-02/05-01/20-T-050-CONF-ENG ET, p. 48, l. 11-p. 49, l. 13 and p. 83, l. 7-25 and p. 86, l. 23-p. 87, l. 7; P-0547, ICC-02/05-01/20-T-052-CONF-ENG ET, p. 7, l. 11-23 and p. 8, l. 14-20; P-0874, ICC-02/05-01/20-T-082-CONF-ENG ET, p. 65, l. 8-12; P-0874, ICC-02/05-01/20-T-083-CONF-ENG ET, p. 11, l. 21-p. 13, l. 1; P-0769, ICC-02/05-01/20-T-097-CONF-ENG ET, p. 54, l. 23-p. 55, l. 18. For evidence establishing that the Accused was residing in Garsila in November 2006, see P-0883, ICC-02/05-01/20-T-072-CONF-ENG ET, p. 36, l. 2-13.

Garsila, that he is from the Ta'aisha tribe, and was born in Rahad al-Birdi.²⁶ He also stated that he was a Warrant Officer in the SAF until he retired in 1993 and then opened a pharmacy in Garsila.²⁷

22. Furthermore, several statements made by Mr Abd-Al-Rahman during his interview are consistent with evidence given by witnesses during the trial, including his participation in armed operations alongside GoS Forces in the Wadi Salih and Mukjar localities, in particular, in Mukjar, Deleig, Bindisi, Garsila and Tendy.²⁸ Mr Abd-Al-Rahman further confirmed his interactions with known associates, including Ahmad Harun ("Harun"), Abd-Al-Rahman Dawud Hammudah ("Hassaballah"), Muhammad Khatir Bhakit, Mustafa Ahmad Al-Tayyib, Kamal Ibrahim and Ja'afar Abd-Al-Hakam.²⁹

23. There is no evidence that Mr Abd-Al-Rahman was coerced or unduly influenced in giving this interview, or that it was not properly carried out in accordance with Sudanese law.³⁰ For example, the first day's questioning was postponed to the following day on account of Mr Abd-Al-Rahman health.³¹ On the second day, Mr Abd-Al-Rahman was able to correct a name that he had provided on the previous day.³² He then confirmed that everything else he had stated was correct, and the interview is signed on the final page under the text: "Signature: Ali Muhammad Ali Abd-al-Rahman".³³

²⁶ Handwritten, DAR-OTP-0218-0231 (Translation at DAR-OTP-0219-7007 at 7008-7009); Typed, DAR-OTP-0218-0386 (Translation at DAR-OTP-0219-6910 at 6911, 6913). See [Annex A to Third Joint Submission on Agreed Facts](#), Agreed Facts 4, 7.

²⁷ Handwritten, DAR-OTP-0218-0231 (Translation at DAR-OTP-0219-7007 at 7009); Typed, DAR-OTP-0218-0386 (Translation at DAR-OTP-0219-6910 at 6913). See [Annex A to Third Joint Submission on Agreed Facts](#), Agreed Facts 11, 15.

²⁸ Handwritten, DAR-OTP-0218-0231 (Translation at DAR-OTP-0219-7007 at 7010-7015); Typed, DAR-OTP-0218-0386 (Translation at DAR-OTP-0219-6910 at 6913-6917).

²⁹ Handwritten, DAR-OTP-0218-0231 (Translation at DAR-OTP-0219-7007 at 7010-7014); Typed, DAR-OTP-0218-0386 (Translation at DAR-OTP-0219-6910 at 6914-6915, 6917).

³⁰ When deciding on the relevance or admissibility of evidence collected by a State, the Court shall not rule on the application of the State's national law. See Article 69(8) of the Statute.

³¹ Handwritten, DAR-OTP-0218-0231 (Translation at DAR-OTP-0219-7007 at 7013); Typed, DAR-OTP-0218-0386 (Translation at DAR-OTP-0219-6910 at 6916).

³² Handwritten, DAR-OTP-0218-0231 (Translation at DAR-OTP-0219-7007 at 7016); Typed, DAR-OTP-0218-0386 (Translation at DAR-OTP-0219-6910 at 6918).

³³ Handwritten, DAR-OTP-0218-0231 (Translation at DAR-OTP-0219-7007 at 7016); Typed, DAR-OTP-0218-0386 (Translation at DAR-OTP-0219-6910 at 6918).

24. As the only account provided by the Accused presently available to the Chamber, the interview is relevant and probative. The interview contains explanations, as well as admissions against interest, in relation to charged incidents, and also links Mr Abd-Al-Rahman to the nickname “Ali Kushayb” in 2006 (prior to the issuance of the first ICC arrest warrant against Mr Abd-Al-Rahman).

e. Category E: Material seized from the Accused

25. Category E pertains to material seized from the Accused following his surrender to the Court. This includes physical items, as well as data extracted from mobile phone devices and SIM cards, along with a corresponding forensic report.

26. On 20 August 2020, at the Prosecution’s request, Pre-Trial Chamber II ordered the Registry to hand over to Prosecution items that were found among Mr Abd-Al-Rahman’s possessions at the time of his surrender, including eight documents, three mobile phones and two SIM cards.³⁴ On 25 August 2020, the Registry provided these items to the Prosecution.³⁵

27. The eight documents received by the Prosecution, which are various certificates and identification cards containing biographical details relating to Mr Abd-Al-Rahman and members of his family, are included in Category E.³⁶

28. Subsequently, the Forensic Sciences Section of the Office of the Prosecutor extracted data from the three mobile phones and two SIM cards. The forensic report documenting this process is included in Category E.³⁷ One of the extracted items, an

³⁴ Decision on the Prosecution’s request for evidence in the custody of the Registry (ICC-02/05-01/20-Red2) and the Registry’s request for instructions (ICC-02/05-01/07-86-US-Exp), ICC-02/05-01/02-123-Red, para. 9 and p. 10.

³⁵ Decision on the “Prosecution’s Report Relating to Items Obtained from the Registry Pursuant to Decision ICC-02/05-01/20-123-Conf”, [ICC-02/05-01/20-181](#), para. 7.

³⁶ DAR-OTP-0216-0234 (Translation at DAR-OTP-0216-0763); DAR-OTP-0216-0235 (Translation at DAR-OTP-0216-0765); DAR-OTP-0216-0237 (Translation at DAR-OTP-0216-0767); DAR-OTP-0216-0239 (Translation at DAR-OTP-0216-0770); DAR-OTP-0216-0241 (Translation at DAR-OTP-0216-0773); DAR-OTP-0216-0243 (Translation at DAR-OTP-0216-0776); DAR-OTP-0216-0244 (Translation at DAR-OTP-0216-0778); DAR-OTP-0216-0245 (Translation at DAR-OTP-0216-0780).

³⁷ DAR-OTP-0216-0807.

audio file containing a kind of poem dedicated to Ali Kushayb, is also included in Category E.³⁸

29. The items in this category are relevant to establishing the identity of the Accused. The Defence does not object to 12 of the 20 items in this category. In relation to the forensic report on data extraction, the Defence has previously indicated that it does not contest that the data was extracted from the devices by the FSS according to the proper standards.³⁹

f. Category F: Photographs

30. Category F contains the raw satellite imagery for locations relevant to charged incidents, as well as the contextual elements of crimes against humanity, which was shown to witnesses during the proceedings and used to produce visual aids.⁴⁰ This category also contains two photographs of persons alleged to have been killed during the Deleig charged incident,⁴¹ and an investigation report pertaining to the source of these photographs and the identities of the persons depicted in them.⁴²

g. Category G: Audio/Visual Material and Related Documents

31. Category G contains 25 items, comprising:

- a. 10 videos of meetings held between representatives of the GoS Ministry of Justice and the Prosecution during a mission to Khartoum in January/February 2007, with corresponding transcripts;⁴³

³⁸ DAR-OTP-0216-0792 (Transcript at DAR-OTP-0215-6816; Translation at DAR-OTP-0215-6831).

³⁹ DAR-OTP-0216-0807. *See* Email of 14 December 2022 at 10:17.

⁴⁰ DAR-OTP-0135-0002.

⁴¹ DAR-OTP-0220-4200.

⁴² DAR-OTP-0222-5202; DAR-OTP-0222-5203.

⁴³ DAR-OTP-0122-0002 (Transcript at DAR-OTP-0202-0092); DAR-OTP-0122-0003 (Transcript at DAR-OTP-0202-0108); DAR-OTP-0122-0007 (Transcript at DAR-OTP-0202-0140); DAR-OTP-0122-0008 (Transcript at DAR-OTP-0202-0172); DAR-OTP-0122-0009 (Transcript at DAR-OTP-0202-0190); DAR-OTP-0122-0010 (Transcript at DAR-OTP-0202-0215); DAR-OTP-0122-0011 (Transcript at DAR-OTP-0202-0241); DAR-OTP-0122-0012 (Transcript at DAR-OTP-0202-0273); DAR-OTP-0122-0015 (Transcript at DAR-OTP-0202-0337); DAR-OTP-0122-0018 (Transcript at DAR-OTP-0202-0396).

- b. 2 letters received by the Prosecution from the GoS Ministry of Justice containing, respectively, a list of 14 suspects identified during the domestic investigation, including Mr Abd-Al-Rahman (9 December 2006),⁴⁴ and a refusal to allow the Prosecution to interview Mr Abd-Al-Rahman, who was then in custody (31 January 2007),⁴⁵ and
- c. 1 open source video of Harun delivering a speech to a crowd of GoS Forces in which he uses the expression “*aksah amsah*”.⁴⁶ The meaning of the expression “*aksah amsah*” is a contested issue and has been the subject of witness testimony during the trial.⁴⁷

32. With respect to the 10 videos, during the meetings with the Prosecution in January/February 2007, the GoS Ministry of Justice representatives reported on the domestic investigation into crimes committed in Darfur, in particular, Mr Abd-Al-Rahman’s role in the charged incident in Deleig. They further noted Mr Abd-Al-Rahman’s relationships with known associates, including Lieutenant Hamdi Sharaf-Al-Din⁴⁸ and Hassaballah.⁴⁹ [REDACTED].⁵⁰

33. The information provided by the GoS in the meetings of January/February 2007, and in its letters of December 2006/January 2007, corroborates that a person by the name of Ali Muhammad Ali Abd-Al-Rahman, also known as Ali Kushayb, had been arrested and interviewed by the GoS in connection with his alleged role in the Darfur events. This is relevant to the issue of whether a person going by those names existed in November 2006, and the link between the nickname “Ali Kushayb” and the Accused. As detailed above,⁵¹ this information also supports the authenticity of the interview of the Accused conducted by the GoS in November 2006, approximately two months before the GoS meeting with the Prosecution.

⁴⁴ DAR-OTP-0123-0002.

⁴⁵ DAR-OTP-0123-0006.

⁴⁶ DAR-OTP-0193-0530 (Transcript at DAR-OTP-0219-9258; Translation at DAR-OTP-0219-9344).

⁴⁷ See e.g. ICC-02/05-01/20-T-087-CONF-ENG ET, p. 65, l. 14-p. 69, l. 20.

⁴⁸ See e.g. DAR-OTP-0122-0010 (Transcript at DAR-OTP-0202-0215 at 0221, l. 200-202).

⁴⁹ DAR-OTP-0122-0018 (Transcript at DAR-OTP-0202-0396 at 0404-0406, l. 277-330).

⁵⁰ [REDACTED].

⁵¹ See above, para. 20.

h. Category H: Map Book

34. Category H contains 81 items, which comprise the Map Book that was prepared by the Prosecution and distributed to the Chamber, Parties and participants during the trial proceedings as reference material. The Map Book includes: (i) overview maps showing the administrative division of West Darfur, and locations relevant to the charged crimes and contextual elements of crimes against humanity; (ii) satellite imagery of charged incident locations, namely, Kodoom, Bindisi, Mukjar, Deleig, and surrounding areas; (iii) an aerial photograph showing key locations in Deleig town;⁵² and (iv) satellite imagery showing relevant locations in Garsila.

(ii) The probative value of the Submitted Items outweighs any prejudicial effect

35. As detailed above, the probative value of the Submitted Items outweighs any prejudicial effect arising from their introduction into evidence for the following reasons:

- a. Each item is relevant and probative to the charges and will assist the Chamber in the determination of the truth;
- b. As outlined in the Annex, each item is relevant to one or more discrete issues in the Prosecution's case, such as the identity of the Accused, the contextual elements of crimes against humanity and war crimes, and one or more counts;
- c. Each item possesses indicia of reliability to warrant its admission and to enable the Chamber to fairly evaluate it; and
- d. Each item largely corroborates the witnesses' testimonies and other evidence being presented in the course of the trial.

⁵² DAR-OTP-0219-5483.

IV. RELIEF REQUESTED

36. The Prosecution requests that the Chamber recognise the Submitted Items contained in the Annex, as formally submitted.



Karim A. A. Khan KC
Prosecutor

Dated this 6th day of February 2023

At The Hague, The Netherlands