

# Annex 3

Public

**From:** Pre-Trial Chamber II communications  
**Sent:** 08 August 2023 17:52  
**To:** D34 Mokom Defence Team  
**Cc:** OTP CARIIB-MM Communications; [REDACTED]; von Braun, Leonie; Associate Legal Officer-Court Officer; Pre-Trial Chamber II communications; Chamber Decisions Communication  
**Subject:** ICC-01/14-01/22 - Order to provide clarification regarding regulation 35 request - confidential

[ICC] RESTRICTED

Dear Counsel,

The Chamber notes the below Defence's email providing the list of evidence and requesting an extension of time regarding the disclosure of 5 Call Sequence Tables included in said list of evidence, under regulation 35 of the Regulations of the Court. It further notes the Prosecution's response sent by way of an email dated 8 August 2023 at 10:18, and the reply email from the Defence dated 8 August at 16:25. Regarding the request for extension of time limit, the Chamber orders the Defence to clarify by way of email when the specific CDRs that were used to prepare the CSTs have been provided by the Prosecution to the Defence, by no later than 9 August 2023, 14:00 hours. Furthermore, whereas the Defence has not complied with the Chamber's instruction to file the list of evidence into the record of the case, the Chambers instructs the Defence not to do so until the Chamber has issued a decision on its regulation 35 request.

Best regards,

[REDACTED], on behalf of Pre-Trial Chamber II

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**From:** [REDACTED]  
**Sent:** 07 August 2023 20:34  
**To:** Pre-Trial Chamber II communications [REDACTED]; OTP CARIIB-MM Communications [REDACTED]; Associate Legal Officer-Court Officer [REDACTED]  
**Cc:** D34 Mokom Defence Team [REDACTED]  
**Subject:** Mokom List of Evidence

Dear Pre-Trial Chamber, dear Prosecution,

Please find attached the Defence List of Evidence, following the Pre-Trial Chamber's instruction in its email of 3 August 2023. The List is comprised of:

- Material related to the 70 witnesses on which the Prosecution has indicated an intention to rely at the confirmation phase;
- Material marked as PEXO by the Prosecution at some point in time;
- Defence Disclosure;
- Items disclosed by the Defence from the Prosecution migration;
- Miscellaneous items; and
- 5 Call Sequence Tables (CSTs).

For this last category, the CSTs in question were only created and finalised by the Defence after the disclosure deadline of 14 July 2023. As such, we apologize for not having formally disclosed them by this deadline, but

we submit that they will be of assistance to the Pre-Trial Chamber in its assessment of the Prosecution evidence at the confirmation stage. Moreover, bearing in mind that these CSTs were prepared using Call Data Records migrated and/or disclosed by the Prosecution, we submit that no prejudice arises from their late inclusion in the Defence disclosed material. Therefore we respectfully request, pursuant to Regulation 35 of the Regulations of the Court, that Pre-Trial Chamber II allows this disclosure.

The Defence reserves the right to rely upon material from the OTP List of Evidence.

Kind regards,

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Case Manager

On Behalf of the Mokom Defence Team

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