

Public

Annex B

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The table below identifies the revisions (“Revised language”) made to the 6 December 2024 Response (“Original language”). Paragraphs 3-7, 9-12 and 14 in the 6 December 2024 Response (which is now paragraph 15 in the amendment) remain the same.

Paragraph number	Revised language	Original language
1	The Prosecution respectfully submits that the Chamber dismiss Mongolia’s request for reconsideration ¹ of the Chamber’s Decision on Mongolia’s request for leave to appeal, temporary stay of the proceedings, and related matters, ² as it fails to meet the threshold conditions for granting such an exceptional remedy.	The Pre-Trial Chamber should dismiss Mongolia’s request for reconsideration ³ of the Chamber’s Decision on Mongolia’s request for leave to appeal, temporary stay of the proceedings, and related matters, ⁴ as it fails to meet the threshold conditions for granting such an exceptional remedy.
2		
	In addition, Mongolia’s continued re-litigation of the same issues in multiple filings before the Chamber is impermissible. Moreover, the Prosecution notes with regret unsubstantiated allegations of judicial impropriety that Mongolia has chosen to include in its submissions. ⁵ These should be summarily rejected as without foundation.	In addition, Mongolia’s continued re-litigation of issues in duplicitous filings before the Chamber is impermissible, and borders on abuse of the Court’s processes. Moreover, the Prosecution notes with serious concern Mongolia’s unsubstantiated allegations of judicial impropriety on the part of the Chamber when it rejected its request for leave to appeal. ⁶ Mongolia’s unprofessional approach should be sanctioned by the Chamber.

¹ ICC-01/22-112-Anx, 2 December 2024 (“Mongolia’s Reconsideration Request”).

² ICC-01/22-111, 29 November 2024 (“Decision on Leave to Appeal”).

³ ICC-01/22-112-Anx, 2 December 2024 (“Mongolia’s Reconsideration Request”).

⁴ ICC-01/22-111, 29 November 2024 (“Decision on Leave to Appeal”).

⁵ See e.g., Mongolia’s Reconsideration Request, paras. 63-67.

⁶ See e.g., Mongolia’s Reconsideration Request, paras. 63-67.

Paragraph number	Revised language	Original language
8	...In particular, besides merely asserting that the Appeals Chamber's resolution would advance the proceedings and pointing to the statutory powers of the Appeals Chamber in general terms, Mongolia did not elucidate or explain how an immediate resolution by the Appeals Chamber on any of the 16 proposed issues would advance the proceedings against President Putin....	...In particular, besides merely stating that the Appeals Chamber's resolution would advance the proceedings and pointing to the statutory powers of the Appeals Chamber in general terms, Mongolia did not elucidate how an immediate resolution of the Appeals Chamber on any of the 16 proposed issues would advance the proceedings against Putin . ⁷ ...
13	Instead of submitting its written reply, on the deadline of 25 November 2024, Mongolia chose to request an oral hearing in lieu of a written reply. ⁸ Mongolia chose this approach. With respect, it cannot now complain that it was not afforded the opportunity to place its submissions before the chamber when it had the opportunity to do so on 25 November 2024.	Instead of submitting its written reply, exactly on the deadline of 25 November 2024, Mongolia chose to request an oral hearing in lieu of a written reply. ⁹
14 (NEW)	Under article 64(2) of the Statute, the Chamber is mandated to conduct proceedings in a fair and expeditious manner. As such, the parties and other participants to the proceedings do not enjoy a right to open-	Such approach is impermissible. Under article 64(2) of the Statute, the Chamber is mandated to conduct proceedings in an expeditious and fair manner. As such, the parties and other participants to the proceedings do not enjoy a right to open-ended timelines, or choices of modes by which to

⁷ Decision on Leave to Appeal, para. 27.

⁸ ICC-01/22-108.

⁹ ICC-01/22-108.

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	ended timelines, nor can they compel a Chamber to accept a party's preference as to how arguments are presented or choices of modes by which to make their views before the Court. The mandate of courts to ensure fair and expeditious proceedings is accepted in other jurisdictions the world over, both domestic and international, ¹⁰ as a means to promote the proper administration of justice and other broader objectives. ¹¹	make their views before the Court. The mandate of courts to ensure fair and expeditious proceedings is accepted in other jurisdictions the world over, both domestic and international, ¹² as a means to promote the proper administration of justice and other broader objectives. ¹³
15 et seq	Paragraphs 15 – 19 newly renumbered	Paragraphs 15 – 19 originally numbered paragraphs 14 - 18
16	Furthermore, Mongolia's claim of "procedural injustice" based on alleged "haste" of the Chamber in issuing the Decision on Leave to Appeal, is entirely	Furthermore, Mongolia's claim of "procedural injustice" based on alleged "haste" on the Chamber in issuing the Decision on Leave to Appeal, is baseless. Not only was the Chamber entitled to issue the Decision as soon as it was ready, but also Mongolia's claim of judicial impropriety on the part of the Chamber is both unsubstantiated and a grave

¹⁰ See e.g., Patrick Robinson, *Ensuring fair and expeditious trials at the International Criminal Tribunal for the Former Yugoslavia*, EJIL 2000.

¹¹ See e.g., *Katanga* Appeal Decision, [ICC-01/04-01/07-2259 OA10](#), para. 47 (underlining that the principle of expeditiousness is more than an fair trial right, but "[a]n independent and important value in the Statute to ensure the proper administration of justice"). Moreover, expeditiousness promotes, among others, the sustenance of public interest and public support for, and cooperation with the Court. Indeed, "[u]nreasonable delay [in commencing or finalising a trial] may also diminish public interest and public support for, and cooperation with, the Court. Without such support and cooperation the Court would find it difficult to have its decisions and orders respected or enforced". *Id.*, para. 46.

¹² See e.g., Patrick Robinson, *Ensuring fair and expeditious trials at the International Criminal Tribunal for the Former Yugoslavia*, EJIL 2000.

¹³ See e.g., *Katanga* Appeal Decision, [ICC-01/04-01/07-2259 OA10](#), para. 47 (underlining that the principle of expeditiousness is more than an fair trial right, but "[a]n independent and important value in the Statute to ensure the proper administration of justice"). Moreover, expeditiousness promotes, among others, the sustenance of public interest and public support for, and cooperation with the Court. Indeed, "[u]nreasonable delay [in commencing or finalising a trial] may also diminish public interest and public support for, and cooperation with, the Court. Without such support and cooperation the Court would find it difficult to have its decisions and orders respected or enforced". *Id.*, para. 46.

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	without foundation, ¹⁴ and accordingly should be rejected.	insult to the Chamber that merits judicial reprimand, as shown below. ¹⁵
B.	Mongolia's re-litigation of issues and unsubstantiated allegations are without foundation	Mongolia's re-litigation of issues and its unsubstantiated allegations of judicial misconduct on the part of the Chamber are impermissible
17	<i>First</i> , the Prosecution notes that, following its response to Mongolia's request for leave to appeal, Mongolia has submitted several filings that duplicate or seek to re-litigate issues, such as requests for an oral hearing, invitation of <i>amicus curiae</i> submissions and request for leave to reply to the Prosecution's response to its leave to appeal. ¹⁶ Any party or participant in proceedings should avoid such an approach to litigation which run counter to the requirement of fair and expeditious proceedings.	<i>First</i> , the Prosecution notes that, following its response to Mongolia's request for leave to appeal, Mongolia has filed several submissions that are replete with re-litigation of certain issues, including those already led in its request for leave to appeal. In those submission, as well as in the present Request for Reconsideration, Mongolia continues to re-litigate similar requests or remedies, such as an oral hearing, invitation of <i>amicus curiae</i> submissions and request for leave to reply to the Prosecution's response to its leave to appeal. ¹⁷ In the Prosecution's view, Mongolia, like any other party or participant to the proceedings, should avoid duplicative litigations, some of which may constitute an impermissible use of the Court's processes.

¹⁴ Mongolia's Reconsideration Request, paras. 63-67.

¹⁶ See e.g., Mongolia's Reconsideration Request, paras. 68-90. See also Decision on Leave to Appeal, para. 20 (finding that "the content of the Request for Hearing and *Amici Curiae* Submissions, submitted by Mongolia instead of the anticipated reply to the Prosecution's Response, overlaps with the Other Requests already included in Mongolia's Request for Leave to Appeal the Article 87(7) Finding") (emphasis added).

¹⁷ See e.g., Mongolia's Reconsideration Request, paras. 68-90. See also Decision on Leave to Appeal, para. 20 (finding that "the content of the Request for Hearing and *Amici Curiae* Submissions, submitted by Mongolia instead of the anticipated reply to the Prosecution's Response, overlaps with the Other Requests already included in Mongolia's Request for Leave to Appeal the Article 87(7) Finding") (emphasis added).

Paragraph number	Revised language	Original language
18	<p><i>Second, it is unfortunate that Mongolia has made various other unsubstantiated allegations, such as its assertion that the Decision on Leave to Appeal was rendered in “apparent haste,”¹⁸ “seemingly driven by an arbitrary desire to decide the matter before the ASP session,”¹⁹ and that “this undue haste suggests that factors external to the legal merits of the case may have influenced the Chamber’s decision-making process, which is inappropriate, undermines the integrity of the judicial proceedings, and erodes trust in the judicial system.”²⁰ These allegations should be rejected as wholly without foundation.</i></p>	<p><i>Second, and most concerning is Mongolia’s unsubstantiated allegations of judicial impropriety on the part of the Chamber. In a nutshell, Mongolia makes unsubstantiated and grave allegations that the Chamber issues the Decision on Leave to Appeal in “apparent haste,”²¹ “seemingly driven by an arbitrary desire to decide the matter before the ASP session,”²² and that “this undue haste suggests that factors external to the legal merits of the case may have influenced the Chamber’s decision-making process, which is inappropriate, undermines the integrity of the judicial proceedings, and erodes trust in the judicial system.”²³ These unsubstantiated allegations are unprofessional; they are a grave insult to the Court.</i></p>
19	<p><i>For the reasons set out above, Mongolia’s Reconsideration Request should be denied.</i></p>	<p><i>For the reasons set out above, Mongolia’s Reconsideration Request should be denied. In addition, the Chamber should find that Mongolia’s re-litigation of issues is impermissible and that its unsubstantiated allegations of judicial impropriety on the part of the Chamber are unprofessional and unacceptable.</i></p>

¹⁸ Mongolia’s Reconsideration Request, para. 63.

¹⁹ Mongolia’s Reconsideration Request, para. 64.

²⁰ Mongolia’s Reconsideration Request, para. 66.

²¹ Mongolia’s Reconsideration Request, para. 63.

²² Mongolia’s Reconsideration Request, para. 64.

²³ Mongolia’s Reconsideration Request, para. 66.