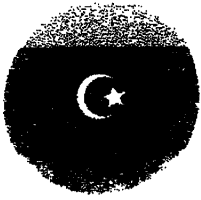


ANNEX 1

CONFIDENTIAL

*Pursuant to Pre-trial Chamber I's
Decision ICC-01/11-01/11-99, dated
4/4/12, this document is filed as "Public Redacted"*



المجلس الوطني الانتقالي - ليبيا

National Transitional Council - Libya

NTC-LIBYA RESPONSE TO THE PRE-TRIAL CHAMBER DECISION REQUESTING LIBYA TO FILE OBSERVATIONS REGARDING THE ARREST OF SAIF AL-ISLAM GADDAFI (ICC-01/11-01/11-39-Conf-Exp)

" Therefore, the Pre-Trial Chamber seeks from Libyan authorities on an urgent basis, information on the following issues: (i) whether Saif Al- Islam Gaddafi was arrested on account of the Court's warrant of arrest. (ii) whether the information received by the Pre-Trial Chamber as to Saif Al -Islam Gaddafi being held incommunicado is true. (iii) when and where could the Registrar, or one of her representatives, meet Saif Al- Islam Gaddafi in order to seek his views on being assigned council from the Court for purpose of proceedings before this court. (iv) how, when and where could an expert ne mandated by the court to examine Saif Al-Islam Gaddafi in order to assess his physical and mental state. (v) whether and when the Libyan authorities intend to surrender Saif Al- Islam Gaddafi to the Court.

The NTC Libya responds as follows to the above questions posed by the International Criminal Court (ICC):

- i. Saif Al- Islam Gaddafi was **not** arrested on account of the ICC's arrest warrant. He was arrested by NTC fighters from the town of Zintan during a gun battle in the context of the war for the liberation of Libya. He is continued to be held as a prisoner of war in Zintan town, and arrangements are being made for his transfer to Tripoli.
- ii. Saif Al- Islam Gaddafi is **not** being held incommunicado and he has been accessible to his family and others (Groups and individuals) interested in seeing him, for example people (or organizations) who already visited him includes: His [redacted] ^{Female Family Member's Name Redacted} Human Rights Watch, International Red Cross, Libyan Red Crescent, and local NGO's. he is being medically checked on a weekly basis by a certified Doctor ([redacted] ^{Doctor's Name Redacted}). Saif Al- Islam Gaddafi is still refusing to be visited or assisted by any international or local lawyer. Saif Al- Islam Gaddafi has also declared very firmly that he will not cooperate with any visitor from the ICC.
- iii. The NTC is willing to facilitate the Registrar or one of her representatives a visit to Saif Al- Islam Gaddafi at mutually convenient date and place to be agreed upon.
- iv. The NTC is willing to facilitate an expert's visit to Saif Al- Islam Gaddafi at mutually convenient date and place to be agreed upon.

✓

Handwritten signature

- v. Saif is currently being investigated by a team of local magistrates for the following crimes under national law : Murder, Mass Murder, Torture, Rape, and Financial Corruption and stealing a very large sums of public funds in Libya and abroad.(Case file numbers to be sent when they are fixed permanently according to the Libyan laws).

The investigations are progressing but more time is required to build a solid case for prosecution. It is NTC's considered view that execution of the request of surrender at this stage would interfere with this ongoing investigations. Pursuant to Article 94 of the statute, the NTC seeks the postponement of Saif's surrender to enable it to complete its investigations and prosecution. NTC stands ready to discuss the period of time for the completion of its investigations and prosecution and to provide periodic update on the progress in that regard. As a part of the ongoing investigations, NTC is considering whether to also institute national proceedings against Saif Al- Islam Gaddafi in relation to the same conduct for which he is sought by the Court. Once a decision has been taken in this regard, NTC would lodge an admissibility challenge before the Court on the basis of Article 19(2)(b).

The NTC wishes to state that currently it does not contest the admissibility of Saif Al-Islam Gaddafi's case before the ICC and merely seeks to postpone the execution of the surrender request pending the completion of national proceedings in relation to other cases against Saif Al- Islam Gaddafi.

The NTC is ready to take any measure that maybe sought by the Court to preserve the evidence for the purpose of any future proceedings before the ICC (as per Article 94(2)).

Thank you for understanding and co-operation

NTC-Libya



Prof. Ahmed El Gehani

local coordinator for the ICC

20
01
2012