



Original: **English**

No.: **ICC-01/05-01/13**

Date: **20 February 2016**

TRIAL CHAMBER VII

Before: Judge Bertram Schmitt, Presiding Judge
Judge Marc Perrin de Brichambaut
Judge Raul Pangalangan

SITUATION IN THE CENTRAL AFRICAN REPUBLIC

**IN THE CASE OF
THE PROSECUTOR v. JEAN-PIERRE BEMBA GOMBO, AIMÉ KILOLO
MUSAMBA, JEAN-JACQUES MANGENDA KABONGO, FIDÈLE BABALA
WANDU AND NARCISSE ARIDO**

Public with Confidential Annexes A and B

**Narcisse Arido's Transmission of Materials to be Relied Upon in the Defence
Opening Statement and Request for an Amendment to the Defence List of Evidence**

Source: Counsel for Narcisse Arido

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

The Office of the Prosecutor

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Victims Participation and

Other

Reparations Section

1. On 3 November 2015, Trial Chamber VII gave its ‘Directions on Defence Presentation of Evidence’¹ in which it directed the Defence “to notify any material they intend to use in the course of their opening statements to the Chamber and other parties eight days prior to commencing the Defence opening statements”².

2. In preparing the opening statement the Defence has concluded that reference to 19 items not on its list of evidence, but previously disclosed, may be referred to so as to provide further context to its arguments. These materials are CAR-OTP-0073-0141, CAR-OTP-0073-0183, CAR-OTP-0073-0185, CAR-OTP-0073-0187, CAR-OTP-0073-0190, CAR-OTP-0073-0239, CAR-OTP-0073-0266, CAR-OTP-0073-0269, CAR-OTP-0070-0005, CAR-OTP-0073-0058, CAR-OTP-0075-0786, CAR-OTP-0075-0786-R01, CAR-OTP-0073-0023, CAR-OTP-0080-0043, CAR-D21-0004-0310, CAR-D24-0002-0001, CAR-OTP-0090-0612, CAR-OTP-0090-0630, and CAR-OTP-0090-0831.

3. Thirteen of these items are on the Prosecution’s list of evidence³, 5 items have been available since 20 December 2013,⁴ and one item was disclosed by the Arido Defence on 11 October 2015.⁵ There has been access to the material for an extended period of time, and in much of the cases, the Prosecution appears to have indicated its provisional reliance or interest in the material through inclusion on its own list of evidence. Thus, this request is unlikely to cause prejudice to the parties.

4. CAR-D24-0004-0101, which is annexed to this request and will be disclosed promptly, is an email sent to the Arido Defence on 17 February 2016 that concerns an issue related to a verbal order from the Chamber.⁶ While the Arido Defence was not directly subject to the order, it has been diligently pursuing the issue as the outcome of the order could have important implications for the case against Mr. Arido. While the item indicates that the issue has been brought to Trial Chamber VII’s awareness, the Arido Defence requests the addition of this item to its list of evidence so that it can refer to it in its opening argument and likely its final brief. The

¹ ICC-01/05-01/13-1450.

² *Ibid.*, para. 4.

³ CAR-OTP-0073-0141, CAR-OTP-0073-0190, CAR-OTP-0073-0239, CAR-OTP-0070-0005, CAR-OTP-0073-0058, CAR-OTP-0075-0786-R01, CAR-OTP-0075-0786, CAR-OTP-0073-0023, CAR-OTP-0080-0043, CAR-D21-0004-0310, CAR-OTP-0090-0612, CAR-OTP-0090-0630, and CAR-OTP-0090-0831.

⁴ CAR-OTP-0073-0183, CAR-OTP-0073-0185, CAR-OTP-0073-0187, CAR-OTP-0073-0266, and CAR-OTP-0073-0269.

⁵ CAR-D24-0002-0001.

⁶ ICC-01/05-01/13-T-27-CONF-ENG, p. 71, lines 19-24.

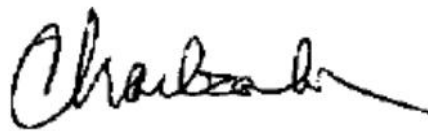
late inclusion of this item is justified because the Arido Defence did not have access to the information until 17 February 2016.

5. In light of this, the Arido Defence respectfully transmits the list of materials that may be referred to during its opening statement in confidential Annex A to this filing and respectfully requests Trial Chamber VII to:

- a. GRANT the amendment of the Arido Defence list of evidence to include the material referred to in paragraph 2;

and

- b. GRANT the Arido Defence inclusion of CAR-D24-0004-0101 onto its list of evidence.

A handwritten signature in black ink, appearing to read 'Charles Achaleke Taku', with a long horizontal flourish extending to the right.

Chief Charles Achaleke Taku, Counsel for Mr. Arido

Dated this 20th Day of February 2016

The Hague, The Netherlands