

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

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

Date: **7 April 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 Annex A

Narcisse Arido's Request to Amend 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

Fatou Bensouda

James Stewart

Kweku Vanderpuye

Counsel for Jean-Pierre Bemba Gombo

Melinda Taylor

Counsel for Aimé Kilolo Musamba

Paul Djunga Mudimbi

Steven Powles

Counsel for Jean-Jacques Mangenda Kabongo

Christopher Gosnell

Arthur Vercken De Vreuschmen

Counsel for Fidèle Babala Wandu

Jean-Pierre Kilenda Kakengi Basila

Roland Azama Shalie Rodoma

Counsel for Narcisse Arido

Charles Achaleke Taku

Beth Lyons

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

Unrepresented Applicants

**The Office of Public Counsel for
Victims**

The Office of Public Counsel for the Defence

Xavier-Jean Keïta

REGISTRY

Registrar

Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and

Other

Reparations Section

I. SUBMISSIONS

1. The Arido Defence requests Trial Chamber VII's ("Trial Chamber") permission to amend its prior list of evidence.¹ Confidential Annex A to the present request contains an amended complete list of evidence that reflects the proposed changes. The present request is submitted in anticipation of the pending bar-table motion deadline of 8 April 2016 set in place by the Trial Chamber.²

2. The amended list consists of (a) documents for which permission has already been granted or for which a request has been made but no permission yet granted (b) documents which have previously been disclosed, and (c) documents recently disclosed. Also, the annexed list has several items which have been removed from the prior defence list of evidence (d).

3. Pursuant to Regulation 23*bis* of the Regulations of the Court ("RoC") and Regulation 24 of the Regulations of the Registry ("RoR"), Annex A to this request is submitted confidentially as it refers to material which is confidential.

A. Previously granted and requested amendments

4. On 24 February 2016, the Single Judge of Trial Chamber VII granted³ the Arido Defence request⁴ to add 20 items to its list of evidence for the purposes of its opening statement.

5. On 16 March 2016, the Arido Defence requested by email the addition of CAR-D24-0004-0106 and CAR-D24-0004-0107 to its list of evidence so that it could expeditiously seek the party's views with regards to providing them to witness CAR-D24-P-0001 ('D24-1') as part of the familiarisation process.⁵ The Single Judge granted this request by email on 17 March 2016 as the Prosecution had not contested their inclusion.⁶

6. As a precaution to avoid any dispute, the Arido Defence also requested permission to add two items to its list of evidence. CAR-D24-0004-0108 and CAR-D24-0004-0184 are transcripts from the present case. They were stamped to be easily referred to in testimony with witness D24-1.

¹ ICC-01/05-01/13-1557-Conf-AnxB.

² ICC-01/05-01/13-T-42-CONF-ENG ET, p. 43, lines 1-5.

³ ICC-01/05-01/13-1655.

⁴ ICC-01/05-01/13-1644.

⁵ Email of 16 March 2016, subject line 'Request for inclusion of items on Arido List of Evidence and Witness Familiarisation Package - CAR-D24-P-0001'.

⁶ Email of 17 March 2016, subject line 'Ruling on Contested Items in D24-1 Familiarisation Package'.

B. Requested inclusion of previously disclosed material

7. The Arido Defence requests permission to add CAR-OTP-0093-0634 to its list of evidence. This document was notified on the 10 March 2016, and disclosed by the Prosecution on 18 March 2016, thus it was not possible to both analyse it and add it to the list of evidence before the 21 January 2016 deadline.

8. The Trial Chamber has previously permitted the addition of material which has been available to all parties. The Arido Defence now requests the addition of eight items.⁷

C. Material recently disclosed by the Arido Defence

9. Item CAR-D24-0004-0278 was disclosed on 22 March 2016 shortly after receiving the document from the Counsel Support Section ('CSS').⁸ The Arido Defence had originally requested this material during a mission in June 2015. Upon following-up with the International Cooperation section via CSS to determine whether the material had been conveyed, the document was received from CSS on 17 March 2016 and a courtesy copy of item CAR-D24-0004-0278 was provided to the Prosecution and the other Defence teams on 20 March 2016.⁹

10. Item CAR-D24-0004-0314 and CAR-D24-0004-0317 are an email chain to CSS and two of the attachments to the email of 19 November 2015 in that chain respectively. These two items provide greater context to item CAR-D24-0004-0278. The material has been provided as a courtesy copy and will be disclosed to the parties on 7 April 2016.

11. The Arido Defence is withdrawing item CAR-D24-0004-0092 from its list and is replacing it with the recently disclosed item CAR-D24-0004-0309. The latter item consists solely of the witness summary for witness D24-1 which was previously disclosed, whereas the former consists of summaries for Arido Defence witnesses who ultimately were withdrawn and therefore did not testify.

12. Item CAR-D24-0004-0279 which was recently disclosed to the parties. This item provides an indication of the legal competences of the counsel who assisted Mr. Arido during his 23 November 2013 interview.

⁷ CAR-OTP-0075-0278, CAR-OTP-0075-0284, CAR-OTP-0075-0285, CAR-OTP-0075-0586, CAR-OTP-0075-0421, CAR-OTP-0075-0268, CAR-OTP-0075-0409, CAR-OTP-0075-0506, and CAR-OTP-0075-0591.

⁸ See Confidential Annex B to this filing

⁹ Email of 20 March 2016, subject line 'Provision of CAR-D24-0004-0278'.

13. CAR-D24-0004-0280 and CAR-D24-0004-0282 which were also disclosed recently. These public source materials are the decrees referred to during the opening statement of the Arido Defence.¹⁰

D. Items to remove

14. The Arido Defence also hereby notifies the Trial Chamber and parties of its decision to withdraw several items¹¹ from its list of evidence.

II. CONCLUSION

15. In light of the above, the Arido Defence respectfully requests Trial Chamber VII to grant the Arido Defence request to amend its list of evidence to that as reflected in Confidential Annex A.



Chief Charles Achaleke Taku, Counsel for Mr. Arido

Dated this 7th Day of April 2016

Cameroon

¹⁰ ICC-01/05-01/13-T-39-CONF-ENG, p. 20, lines 9-24 to p. 21 lines 1-11.

¹¹ CAR-0075-0478, CAR-OTP-0075-0482, CAR-OTP-0075-0507, and CAR-D21-0004-0310.