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No.: ICC-01/11-01/11

Date: 7 June 2013

**THE APPEALS CHAMBER**

**Before:** Judge Akua Kuenyehia  
Judge Sang-Hyun Song  
Judge Erkki Kourula  
Judge Anita Ušacka  
Judge Sanji Mmasenono Monageng

**SITUATION IN LIBYA  
IN THE CASE OF**

***THE PROSECUTOR v.  
SAIF AL-ISLAM GADDAFI and ABDULLAH AL-SENUSSI***

*Public*

**The Government of Libya's Appeal against Pre-Trial Chamber I's  
'Decision on the admissibility of the case against Saif Al-Islam Gaddafi'**

**Source:** The Government of Libya, represented by:  
Professor Ahmed El-Ghani  
Professor Philippe Sands QC  
Professor Payam Akhavan  
Ms Michelle Butler

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

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**Legal Representatives of the Applicants**

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**REGISTRY**

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**Detention Section**

## **I. Introduction**

1. The Government of Libya (“the Government”) hereby files its appeal against Pre-Trial Chamber I’s “Decision on the admissibility of the case against Saif Al-Islam Gaddafi”, dated 31 May 2013 (ICC-01/11-01/11-01-344) (“the Decision”). It does so pursuant to articles 19(6), 82(1)(a), 82(3), 83(2)(a) of the Rome Statute (“the Statute”), Rules 154(1) and 156 of the Rules of Procedure and Evidence (“the Rules”), and Regulation 64 of the Regulations of the Court (“the Regulations”).

## **II. The Decision**

2. In the Decision, Pre-Trial Chamber I:

*REJECTS Libya’s challenge to the admissibility of the case against Saif Al-Islam Gaddafi;*

*DETERMINES that the case against Saif Al-Islam Gaddafi is admissible;*

*REMINDS Libya of its obligation to surrender Saif Al-Islam Gaddafi to the Court.<sup>1</sup>*

## **III. Applicable Law**

3. Pursuant to article 19(6) of the Statute, “decisions with respect to jurisdiction or admissibility may be appealed to the Appeals Chamber in accordance with article 82.” Accordingly, such an appeal lies as of right.

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<sup>1</sup> The Decision, page 91.

4. Article 82(1)(a) of the Statute provides that either party may appeal a decision with respect to jurisdiction or admissibility in accordance with the Rules of Procedure and Evidence.
5. Article 82(3) provides that an appeal shall not of itself have suspensive effect unless the Appeals Chamber so orders, upon request, in accordance with the Rules of Procedure and Evidence.
6. Article 83(2)(a) of the Statute provides in relevant part that:

*If the Appeals Chamber finds that the proceedings appealed from were unfair in a way that affected the reliability of the decision or sentence, or that the decision or sentence appealed from was materially affected by error of fact or law or procedural error, it may:*

*(a) Reverse or amend the decision or sentence...*

7. In accordance with Rule 154(1), such an appeal must be filed not later than five days from the date upon which the party filing the appeal is notified of the decision (in this instance, by 10 June 2013).
8. Rule 156(5) provides that when filing an appeal, the party appealing may request that the appeal have suspensive effect in accordance with article 82, paragraph 3.
9. Regulation 64 of the Regulations of the Court provides in relevant part that:

*(1) An appeal filed under rule 154 shall state:*

*(a) The name and number of the case or situation;*

*(b) The title and date of the decision being appealed;*

*(c) The specific provision of the Statute pursuant to which the appeal is filed;*

*(d) The relief sought;*

*(2) the appellant shall file a document in support of the appeal, with reference to the appeal, within 21 days of notification of the relevant decision. The document in support of the appeal shall set out the grounds of appeal and shall contain the legal and/or factual reasons in support of each ground of appeal.*

10. Pursuant to Regulation 64 (2), the Government will file a document in support of this appeal, setting out the grounds of the appeal, within 21 days of notification of the Decision, namely by 24 June 2013.

#### **IV. Relief Sought**

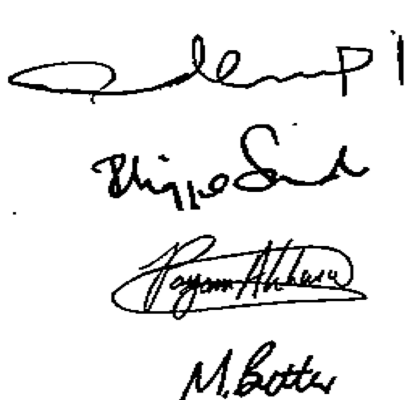
11. Pursuant to articles 19(6), 82(1)(a) and 83(2)(a) of the Statute, the Government respectfully requests that the Appeals Chamber:

(a) Reverse the “Decision on the admissibility of the case against Saif Al-Islam Gaddafi” of Pre-Trial Chamber I, dated 31 May 2013; and

(b) Determine that the case against Saif Al-Islam Gaddafi is inadmissible.

12. The Government further requests that the Appeals Chamber suspend the order for the surrender of Saif Al-Islam Gaddafi pending the conclusion of the present appeal, pursuant to article 82(3) of the Statute.

Respectfully submitted:



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Professor Ahmed El-Ghani  
Professor Philippe Sands QC  
Professor Payam Akhavan  
Ms Michelle Butler  
*Libyan ICC Coordinator and  
Counsel on behalf of the Government of Libya*

Dated this 7<sup>th</sup> day of June 2013  
At London, United Kingdom